

Year in Review: Bar Association Serves Members & Community

*Bar Association by the Numbers:
June 2018- May 2019*

8,167 Total Members
68% Active Members
18 Practice Area Sections
Nearly \$2 million earned by Bar
members from LRS referrals
100,356 unique visitors to nhbar.org
3,780 CLE Registrations
3,129 online CLE purchases

As the NH Bar wraps up another year of service to its members — and to the community at large — we pause to take a look back at notable events and accomplishments from the 2018-2019 Bar year.

Wearing Moore than one hat!

The beginning of the Bar year saw the arrival of George Moore, Esq. as the new executive director of the NH Bar Association. As a litigator from Devine Milimet and former president of the NH Bar Association (1999-2000), George was no stranger to the NHBA. He immediately jumped into the trenches, rolled up his sleeves and got to work reviewing programs, processes and procedures. He was eager to understand how we support our members, the court and the public in order to determine what was working well and where there were unmet needs. Most recently, George has announced the launch of TechConnect, a program which will offer online and email law practice technology support to NHBA members.

Streamlining processes to achieve member satisfaction

The Business Operations department worked closely with the technology staff at the Administrative Office of the Courts (AOC) on behalf of our members to streamline the process for updating and managing attorney contact information and support the court clerks

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Four County Jails Leading Expansion of Drug Treatment Services for Inmates



As State Adds Medication Assisted Treatment to Prisons, More County Jails Eyeing Solutions for Addicted Inmates

By Meaghan Breen

For inmates struggling with addiction inside New Hampshire's state prisons, a new medication assisted treatment (MAT) program launched in June could bring

relief. But in the state's 10 county-run jails, a patchwork of treatment services means inmates' access to MAT depends on geography — and advocates say those disparities could impede individuals' recovery and slow the state's progress in combatting the ongoing behavioral

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PRACTITIONER PROFILE

Judge Thomas Rappa Rocks On

By Kathie Ragsdale



Judge Rappa (middle) performs with the Parker Hill Road Band. Other members include Tim Cate, Chris Cate, Paul Amey, and Woody Woods (Courtesy photo)

Thomas A. Rappa Jr. was approaching 30 and working a construction job one day when he found himself on the roof of a cliff-side building with the wind blowing and the rafters swaying.

"I remember thinking, 'This is fun at 30, but I'm not sure how much fun it would be at 60,'" says Rappa, now a retired judge of the Circuit Court serving in senior status in the North Country. "That fall I entered Franklin Pierce (Law Center)."

A New Jersey native, Rappa had wanted to become a lawyer since he was a pre-teen, partly because of the potential income and partly for a loftier reason.

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THE DOCKET

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Lawyers & Texting. Part II of the Ethics Committee's ongoing series tackles file retention of texts. **PAGE 5**

Congratulations! Chief Judge Jeffrey Howard and Attorney Sandra Cabrera to be honored by Bar Foundation on September 12. **PAGE 10**

Stripes Optional. An inspiring book teaches lawyers "Tiger Tactics" for law practice management. **PAGE 15**

Bar Budget. Learn more about the Bar Association's budget and priorities for the 2020 Fiscal Year. **PAGE 20**

Workers' Compensation and Personal Injury Law

Helping injured workers during the state's ongoing opioid crisis, changes to work-related PTSD claims, and much more in this month's practice area sections. **PAGES 22-23; 26-30**

E-Filing Changes. Judicial Branch rolling out e-Filing for Superior Court criminal cases across the state soon. **PAGE 32**

Coming Soon: TechConnect

Introducing Affinity Consulting, Powering TechConnect



**By George Moore,
New Hampshire Bar Association
Executive Director**

Technology — love it or hate it — the effective use of it is essential in the modern law practice environment. Virtually every action a lawyer takes can be made much more efficient, or become a disaster, depending on the lawyer's capabilities to leverage ever-changing technology.

I am reminded of the old Xerox Corporation commercial at the onset of the technological revolution for running a small business. A Monk is standing in front of a copy machine the size of a Volkswagen, he places a paper in the feed slot; he adjusts it; he pushes a button. Then, suddenly, the window above the copier is suffused with heaven-sent rays of sunlight. The Monk lifts his hands and face to the window, and declares its "a miracle," as five copies pop out of the other side of the Volkswagen!

The point I want to make is that we don't need to know how it works, we just need to know what it can do for us. The key is that the Monk knows the right trays to use, and buttons to push, to bend the technology to do his bidding.

The NHBA is pleased to announce that it has hired its own legal consultants with technology expertise, Affinity Consulting Group! These nationally known consultants will be available to guide NH lawyers on their questions, such as difficulties in trying to make law firm technology work for them and how to select technology to accomplish the tailored needs of the lawyer and their firm.

This is not "tech support" or tech repair in the sense that your printer stops working. It is consulting on decisions

lawyers have to make to insure the best possible tech enhancement to their law practices.

Our partners in this venture are experts in both Apple and Microsoft systems. They specialize in legal applications. Make no doubt about it, they are not here to sell any product. Their consulting success will be your success, as measured by the Law Practice Management team at the NHBA. Their focus is to help solo practitioner and small firms navigate the mercurial changes of technology, which never seem to go slower. They are your TECH CONNECTION.

Connect from the comfort and convenience of your office with these highly regarded legal consultants. Options will be easily accessible! Look for the link to TECH CONNECT on the homepage of the NHBA website.

You can choose to email or have a scheduled phone/video call with a consultant with deep expertise in areas of legal-related technology. There is no limit to the number of times that you can call or email.

If you send an inquiry via email, one of Affinity's highly trained consultants will respond within two business days.

If you want to set up a telephone/remote video consultation, you can easily schedule an appointment for up to 30 minutes with a consultant. You may be asked to fill out a few very quick questions, such as whether your inquiry may relate to Apple or PC/Microsoft systems,



in order to direct you to a consultant with relevant experience.

And then there's the best part — it's free! And, on top of that, the number of the consults and/or e-mails you may request is unlimited, so you can truly drill down on the problem or question that is posed. Finally, if you go to the NHBA website resources page, you will find checklists and product comparison charts, brought to you by our partnership with Affinity.

We will be ironing out the final details, and plan to go live with a launch date in the latter part of September. So, after we launch — use it! Make your life easier. If there is sufficient interest, we may offer at some point in the future more TECH CONNECT programs, such as monthly webinars, print articles on technology trends, and blogs.

If you are a solo or small firm practitioner, make that Volkswagen printer work for you, and be like the Monk in the ad — let technology improve your job satisfaction and ease your burden.

**Stay tuned for more
details on Tech-
Connect, coming
in September's Bar
News and online at
www.nhbar.org!**

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Laura Keeler (right), NHBA member services and law practice management coordinator, attended the Second Annual “CLE by the Sea” on July 18 and met with national speakers Robert Ambrogi (left) and David Notowitz to discuss strategic solutions for solo & small firms.



Attorney Paul Kfoury Sr.'s 50 years of service to the New Hampshire Bar was recognized by his son, Paul Kfoury Jr., (right) and friend, Kirk Trombley (left), and other members of the firm of Trombley & Kfoury, with a framed plaque of his bar admission class and recent recognition by the New Hampshire Bar. The plaque will be proudly displayed in the firm's Bedford conference room.



Above: CLE by the Sea was presented by the Greater Newburyport Bar Association in partnership with NHBA and others. The program was held in Salisbury, Massachusetts on July 18. Panelists at the program included NH Bar Members Stuart Horowitz, Rebecca Jacobstein and Maura Tansley, speaking about New Developments in OUI Marijuana. In a panel discussion on “Which State Has Jurisdiction Under the UCCJA,” moderated by Christine DeBernardis, NH Judge John T. Pendleton was one of the featured speakers. Visit www.nhbar.org/nhbacle/ to find out what's coming this fall to the NH Bar Association's professional development calendar!



Middle Right: The 2019 Emerging Leaders Summit featured keynote speaker Governor Chris Sununu and was designed to help financial and legal professionals expand their knowledge of tools and strategies to assist them on their path to being true leaders. The August 6 program was presented by the NH Society of CPAs, NH Bankers Association, NH Bar Association, and the FPA of Northern NE. (Photo courtesy of the Governor's office)



Bottom Right: Jennifer Elder led the day's interactive programs.

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Animal Well-Being in Divorce: New Hampshire Leapfrogs New England

By Jay Markell

On June 25, 2019, Governor Sununu signed House Bill 361, which takes effect on August 24, 2019. This bill amends RSA 458-16-a, the divorce property statute. The new language states that “Tangible property shall include animals. In such cases, the property settlement shall address the care and ownership of the parties’ animals, taking into consideration the animal’s well-being.”

New Hampshire becomes the first state in New England to adopt this standard and is now one of a handful of states that deal with the needs of animals by statute. This law has some teeth in it because of the “shall” aspect of the statute. Previously, New Hampshire property law did not accord animals any special status. For all practical purposes, there was no difference between an end table and the family pet. Courts had no legislative frame of reference or standards from which they could decide cases.

Upon marriage in New Hampshire, all property becomes marital property un-

less a court finds otherwise, or there is agreement by the parties.

The new language addressing “the ownership, care, and well-being of animals,” is derived from Alaska’s groundbreaking law in AS 25.24.200(c), which took effect on January 17, 2017, and asks courts to consider the ownership of animals and their well-being in divorce cases.

Separately, the purpose of the language “tangible property shall include animals” differs from Alaska law, and makes it clear that animals are property, and do not have independent rights. The statute is broadly drawn, and does not have limiting language, so that courts may craft individual solutions for a variety of cases.



a) The Need for the Law: Pet Ownership Is Widespread.

Animals are often viewed as family members, and dogs and other social animals may suffer from the loss of human companionship. According to the 2012 U.S. Pet Ownership and Demographics Sourcebook, 36.5 percent of American households own dogs, 30.4 percent own cats, 3.1 percent own birds, and 1.5 percent own horses.

In New Hampshire, 52 percent of households have pets. There are also specialty and “exotic” animals such as fish, rabbits, rats, ferrets, gerbils, livestock, and the like, which are owned in smaller, but significant household percentages.

It is likely the most common application of the law will involve household or domestic pets.

b) New Statutes in other states.

This new law follows the evolving trend recognizing that animals, while

property, have needs that should be addressed. In 2019, both California and Illinois joined Alaska in enacting new legislation for divorce cases.

In California, Family Code, §2605, states that pending a final resolution of a case, a court may assign sole or joint ownership of pet animals, taking into consideration the care of the animal, and a party can be ordered to provide care. The term “care” in the law “includes, but is not limited to the prevention of acts of harm or cruelty, and the provision of food, water, veterinary care, and safe and protected shelter.” In California, a pet animal “means any animal that is community property and kept as a household pet.” California community property standards apply.

In Illinois, §750ILCS 5/503 (n) states that “if a court finds that a companion animal is a marital asset, it shall allocate sole or joint ownership and responsibilities to the parties” ... “taking into consideration

MARKELL continued on page 6

Five Takeaways on Firearms and Domestic Violence Laws From June DOVE Webcast

By Angelika Wilkerson

After DOVE’s live webcast on “Firearms Laws and Victim Safety” on June 19, we asked attendees to report on the most important thing they took away from the training. These were some of the top answers!



1. Not all “guns” are considered “firearms” under State and Federal law.

Firearm is defined by New Hampshire RSA 173-B as “...any weapon, including a starter gun, which will, is designed to, or may readily be converted to expel a

projectile by the action of an explosive.” (emphasis added) This language can also be found in Federal law. See 18 U.S.C. §921(a)(3)(A) This means that weapons that use other means to expel projectiles, such as high-powered air rifles, crossbows, and muzzle-loading guns are not considered firearms by statute. However:

2. Many objects may be considered “deadly weapons” under State law.

In addition to the “non-firearms” mentioned above, knives, baseball bats, etc. may qualify as deadly weapons, which New Hampshire RSA 625:5, V defines as “any firearm, knife or other substance or thing which, **in the manner it is used, intended to be used, or threatened to be used**, is known to be capable of producing death or serious bodily injury. (emphasis added)

Notice the level of intent required by

the operator of the “substance or thing”? If a firearm is not being used, intended to be used, or threatened to be used in a manner known to be capable of producing death or serious bodily injury, it is not considered a deadly weapon. Such determination is a question of fact for a jury. *State v. Mohamed*, 159 N.H. 559, 561–62 (2009).

3. The firearms prohibitions related to domestic violence criminal convictions and protective orders are not, necessarily, permanent.

When a conviction for a domestic violence misdemeanor is annulled, the defendant is no longer considered a prohibited person. Similarly, when a protective order legally expires or is withdrawn by the plaintiff, the prohibition is no longer in effect. To avoid a gap in protection, plaintiffs must file a motion to extend the protective order,

prior to the expiration date. However:

4. Confiscated weapons are not returned to an individual with restored ownership rights simply by proof that a protective order was withdrawn or dismissed.

In fact, New Hampshire Law Enforcement Protocols direct law enforcement to retain possession of confiscated weapons

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Lawyers and Texting: Part II

Editor's Note: This is part II of an ongoing series of Ethics Corner articles called "Lawyers and Texting" addressing this new method of communication, which brings with it ethical concerns regarding the New Hampshire Rules of Professional Conduct ("Rules"). To read Part I, see the June 19, 2019 issue of Bar News at www.nhbar.org/publications. Stay tuned for additional articles in upcoming issues of Bar News.

Texting and File Retention

Question:

About two years ago, I began using text messaging as a convenient way to communicate with my clients. I am about to replace my cell phone; do I have a professional obligation to preserve the client-related text messages stored on my old phone?

Answer:

Client communications transmitted via text message are likely to be considered documents¹ relating to a client representation that must be safeguarded and included in the client file. Restatement (Third) of The Law Governing Lawyers § 46(1) (2000) (hereinafter "Restatement"). The Restatement view further provides that for as "long as a lawyer has custody of [client] documents, the lawyer must take reasonable steps in arrangements for storing, using, destroying, or transferring them." *Id.* § 46 cmt. (b). Additionally, clients may, at any time, request to inspect their client file or take delivery of originals and copies of documents related to their representation. *Id.* § 46(3); see also N.H. R. Prof. Cond. 1.4(a)(4); 1.15(a); and 1.16(d). Indeed, should a client request information from counsel that is only available in a series of text messages stored on the attorney's mobile phone, the client is, nevertheless, entitled to that information and the attorney must promptly produce it. *E.g.*, N.H. R. Prof. Cond. 1.4(a)(4); Restatement § 46(2); and *Richmond's Case*, 153 N.H. 729, 740 (2006) (Discipline appropriate where attorney failed to promptly comply with the client's requests for information and documents related to the client's rep-

1. The Restatement defines a document to be safeguarded as any "writing, drawing..., photograph..., or other form of data compilation." Restatement § 46 cmt. (a).

resentation).

Model Rule 1.15 imposes upon attorneys a duty to safeguard client property. Importantly, the client file may be regarded as part of the client's property, and subject to Rule 1.15(a), which provides in part that "[a]ll client and third party property shall be identified as such and appropriately safeguarded."

In addition, Rule 1.16(d) provides that upon termination of representation, an attorney must take steps to the extent reasonably practicable to protect the client's interests, including surrendering papers and property to which the client is entitled. It is generally understood that the client's file belongs to the client and that the client is entitled to obtain the file upon request. *E.g.*, *Averill v. Cox*, 145 N.H. 328 (2000); N.H. Ethics Committee, Advisory Op. 2015-16/5 (2015). Although the Model Rules do not define the terms "client file" and "papers and property to which the client is entitled" materials maintained in electronic format are generally considered to be part of the client file, and subject to retention and turnover requirements to the same extent as hard-copy documents. N.H. Ethics Committee, Advisory Op. 2005-06/3 (2005).

Due to their transient and temporary nature, text messages pose special challenges to file retention. Attorneys using or planning to use text messaging for client communication should consider developing formal policies and procedures governing the content, use, and retention of those text messages. When developing policies and procedures, attorneys should keep in mind their professional obligations under Rule 1.1, to maintain sufficient knowledge and skill with the mobile telephone and texting technologies they choose to use to communicate with their clients. See N.H. R. Prof. Cond. 1.1 cmt. (8). Policies and procedures governing text messaging should also provide for the protection of confidential client information, the security of the mobile telephones and software platforms used to send, receive, and store client text messages, and the extent to which those messages may communicate significant information. See, N.H. R. Prof. Cond. 1.6 cmt. (18) and cmt. (19). Attorneys should also consider updating their communication response policies to include guidelines for promptly responding to all client text messages. See N.H. R. Prof. Cond. 1.4 cmt. (4).

Attorneys may wish to consider investing in technology for the easy retrieval of text messages from their mobile telephones and the conversion of those retrieved text messages into a form easily includable in their clients' files. There exist several applications and third-party computer programs that can be utilized to convert text messages into a useable format. Also, it is possible, although cumbersome, to take a screenshot of a text message that can be transmitted and saved as a distinct document in the client file. Another alternative may be to prepare a memo summarizing a group of text messages and saving that summary to the file.

Similar to client communications transmitted via traditional methods (e.g., email, facsimile, mail, and courier service), text message communications with clients are likely to be considered documents relating to a client's representation and to be

the property of the client. As such, New Hampshire attorneys must safeguard and include client text messages in the client's file and be prepared to produce them in a usable form promptly upon a client's request.

— By the NHBA Ethics Committee

This Ethics Corner Article was submitted for publication to the NHBA Board of Governors at its May 6, 2019 Meeting. The Ethics Committee provides general guidance on the New Hampshire Rules of Professional Conduct and publishes brief commentaries in the Bar News. New Hampshire lawyers may contact the Committee for confidential and informal guidance on their own prospective conduct or to suggest topics for Ethics Corner commentaries by emailing: Robin E. Knippers at reknippers@nhba.

Ethics Committee Publishes Insurance Opinion

The Ethics Committee has published an Opinion titled #2018-19/02 Insurance Opinion. The Abstract of that Opinion is below. A full copy of the Opinion can be found on the New Hampshire Bar Website at <https://www.nhbar.org/resources/ethics/>. The full opinion will be included in the annual Ethics Supplement to the *Bar News* in September.

ABSTRACT

The Ethics Committee previously issued two opinions addressing the relationship between an insurance company and the lawyer hired by the company to represent its insured. These opinions, which turned on a preliminary question of insurance law that remains unsettled in New Hampshire, are inconsistent with one another. Because it is not within the Committee's purview to decide this question of insurance law, after review the Committee withdraws one of the opinions and modifies the reasoning of the other. Lawyers are further advised that until this question is resolved by the New Hampshire Supreme Court, they should be clear whom they represent in their engagement letters and in communications with the insurance company.



Heather M. Burns



Michael S. McGrath

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until the Court issues an order that they be relinquished. This may require a motion for return of firearms, which the Court must grant if the defendant is not otherwise a prohibited person. See NH RSA 173-b, X.

5. A criminal conviction or protective order doesn't need to be titled "domestic violence" to prohibit gun ownership at a Federal level.

If the facts of the state crime underlying a conviction or protective order would qualify as domestic violence under federal law, the defendant may become a prohibited person, regardless of whether the crime

or restraining order are titled as such. See 18 U.S.C. § 922(g)(9); 27 C.F.R. §478.32.

If you are interested in viewing this program or similar future programming at no cost, reach out to attorney Angelika Wilkerson, DOVE assistant coordinator, at awilkerson@nhbar.org or Pamela Dodge, DOVE coordinator, at pdodge@nhbar.org to learn about opportunities for pro bono participation. This program is supported by Award No. 2015-VA-GX-0007 awarded by the Office for Victims of Crime, Office of Justice Programs and administered through the New Hampshire Department of Justice. Points of view in this document are those of the author(s) and do not necessarily represent the official position or policies of the U.S. Department of Justice.

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the well-being of the animal." In Illinois, companion animals do not include service animals.

c) Guidance for Courts and Practitioners in New Hampshire.

The point of the new law is to provide guidance. When evaluating a case, practitioners and courts alike might consider the following criteria: The cost of care, which includes feeding, grooming, health care needs, vet bills, and the like; dedication to the needs of the animal, such as who has shown greater care and affection; where relevant, who the animal(s) responds to, or bonds with; the presence of children, and their involvement, which may trigger a companion best interest of the children consideration; the lifestyle of the parties (travel away from home, for example), insofar as who can provide the best home and more stable environment; whether any changes to a parties' residence precludes or limits them from having animals; whether any animals are therapy or support animals or service dogs as defined in RSA 167-D or other relevant statutes and whether animals should be solely or jointly owned, and whether the parties should share ownership time with the animal(s). This list is without limitation, and there may be other relevant factors to be considered. This kind of guidance may cut down on the use of an animal as a bargaining chip in a divorce.

d) Commercial livestock

There are no words of limitation in the statute, and those dealing in commercial livestock of various types have separate laws, that govern care as well as humane slaughter and other conditions. To the extent any such animals are, or become marital property, governing statutes can be read together with general principles of equity, property and divorce law and be harmonized with this statute.

e) Conclusion

As society has evolved, attitudes towards animals have changed. Now animals in New Hampshire are recognized as different from other property, and following this progressive trend, their needs can be addressed and this benefits families. The Family Division can now clearly exercise jurisdiction over animals without a need for a domestic violence petition under the RSA 173-B, or filing of criminal charges for animal cruelty.

Note: The author credits and thanks the Humane Society for its support for the language in the statute, as well as its efforts supporting passage. The author also suggests that practitioners and courts alike freely use the standards in this article to improve the law, and support the administration of justice.

Jay Markell, Esquire is a senior attorney at Family Legal, P.C., Concord, NH, who drafted the legislation, and testified on behalf of its passage at the legislature's Child and Family Law Committee and the Senate Judiciary Committee.

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NHBA Thanks Tober Law

The Bar is extremely grateful to Tober Law in Portsmouth for stepping up in July and saving Lawline from being cancelled due to unforeseen circumstances preventing the previously scheduled volunteers from participating.

Many people who do not have easy access to an attorney for a quick question rely on Lawline and they would have been very disappointed had they been unable to get through.

Kelleigh Murphy of Tober Law graciously offered their office space for the 2-hour event. She was joined by attorneys Kirsten Wilson of Kirsten Wilson Law, Marcie Vaughan of Employment Practices Group, Jenny Proulx of Proulx Law Offices, and paralegal Kenneth Proulx of Proulx Law.

Thank you also to Kelly Bellows of Tober Law for helping with the administration aspect of Lawline. What a great example this was of attorneys from different firms coming together to provide an important public service.

Following last month's Lawline event, a Lawline caller contacted the Lawyer Referral Service to complement the attorney he had spoken with the night before who patiently listened and helped him with his question. He called to report how professional and caring the attorney was. Although his question may have been about a minor legal issue, to him it affected his life



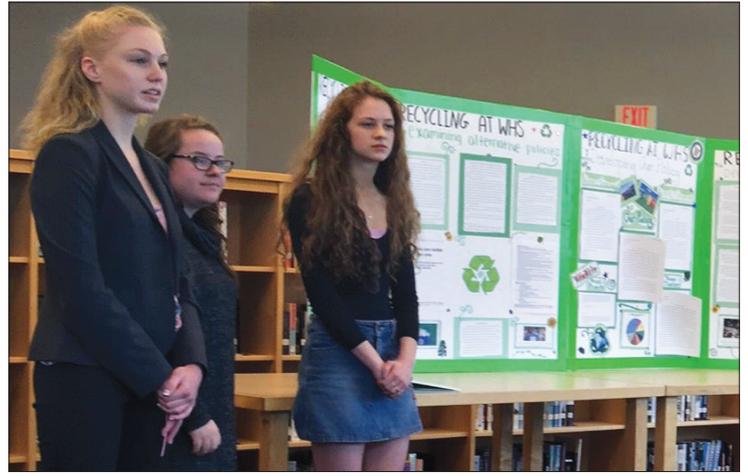
Attorney Kirsten Wilson of Kirsten Wilson Law was one of the Lawline volunteers.

greatly and the attorney was able to give him direction and put his mind at ease.

We are still looking to fill some spaces for 2020. If you are interested in volunteering for Lawline, please contact YBorghetti@nhbar.org.

Lawline is always held the second Wednesday of each month from 6 to 8 p.m. and is a great way to network and meet others in your profession! We have the months of February, March, April, October and December open.

Congratulations to Windham High's Project Citizen Team!



Three members of the student team from Windham High School that created the "Merits of Recycling" project, pictured during the State Showcase.

Results are in! Congratulations to Windham High School on their 2019 Project Citizen National Showcase display, the "Merits of Recycling at Windham High School," which was deemed "Exceptional" by the judges.

The 2019 Project Citizen National Showcase displays the know-how of students to solve their own local problems through civic engagement. Students from Florida to Washington tackled problems in their communities. Fifteen projects in both the traditional and digital formats were submitted, dealing with a variety of topics from homelessness, to school recycling, to suicide prevention and so much more.

"The passion and commitment of these students affirms that our communities are in very good hands," Project Citizen officials said.

"We the People: Project Citizen" promotes competent and responsible participation in state and local government. As a class project, students work together to identify and study a public policy issue, eventually developing an action plan to engage support for their policy proposal. The New Hampshire State Showcase was held on May 29 at Windham High and presented by NHBA in partnership with the NH Institute for Civics Education.

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Sections Engage in Springtime Learning and Discussion

By Dorene Hartford

On April 9, the Health Law Section held a roundtable discussion — led by Lucy Hodder of UNH School of Law, Jason Gregoire and Andrew Eills, both of Sheehan Phinney Bass & Green PA — on issues related to value-based payments in New Hampshire and regulatory barriers, including developments in information privacy and fraud and abuse regulations. The Section extends its appreciation to all panelists for an informative, engaging discussion.

The Intellectual Property Section and the Corporation, Banking & Business Law Section held a joint Section CLE on April 18, focusing on the topic of cybersecurity. Attorney Cameron G. Shilling, chair of Privacy and Data Security at McLane Middleton, discussed a variety of information security matters, including identifying threats to a firm's security, the current regulatory landscape, the risk management process and insuring against cyber crimes. A huge "thank you" to attorney Shilling for his presentation on these critical issues.

On April 24, the Alternative Dispute Resolution hosted Heather Kulp, ADR Coordinator from the New Hampshire Judicial Branch Office of Mediation and Arbitration, who provided an overview of the various ADR programs offered by the Judicial Branch, as well as an update on new developments. The ADR Section is grateful to Ms. Kulp for agreeing to speak to the group on these important programs.

The Trust & Estate Law Section held a roundtable discussion on May 1 to discuss topics of interest to the section for future programming. Megan Neal, the outgoing Section Chair, was honored at the meeting for her service as leader of the section for the last two years. Thank you, Megan.

Membership in one or more of the New Hampshire Bar Association's sections provides an opportunity for improving knowledge and skills in a particular practice area. Over 2,000 NHBA members currently belong to one or more of the Bar's 18 sections, which cover a wide array of practice areas from family law to utilities law. Learn more: www.nhbar.org/sections.

On May 15, the Municipal & Governmental Law Section met at the NH Municipal Association in Concord; Peter Loughlin provided a case update for municipal lawyers — a talk that never disappoints. Thanks to Peter for continuing the tradition of providing this update — it is always an event worth attending! As well, the Business Litigation Section met at Devine, Millimet & Branch in Manchester to discuss topics of interest to the section as well as planning/programming for future meetings.

On May 16, the Family Law Section held its annual year-end section meeting at the Concord Country Club. Guest speakers, attorney Joshua Gordon and NH Supreme Court Senior Associate Justice Gary Hicks, held a roundtable discussion addressing tips for setting a case up for a successful appeal; dos and don'ts of appealing family law cases; suggestions for working with separate appellate counsel; and more. The setting was lovely and the food delicious — a good time was had by all. Thank you to Attorney Gordon and Justice Hicks for the interesting and spirited discussion.

The Environmental & Natural Resources Law Section met on May 22 at the NH Bar Center. Guest speak-

ers included attorney Mark Beaudoin of Nixon Peabody and Eric Drake, COO of Pete & Gerry's Organic Eggs, discussing corporate structures that lead to environmental improvements. Thank you to our speakers for a very informative and engaging discussion.

Lastly, on May 29, the Labor & Employment Law Section hosted its year-end meeting/social event at the NH Bar Center in Concord. Attorney David Casey, attorney Peter Callaghan of Preti Flaherty, attorney John Rich of McLane Middleton, and Judge Richard McNamara of the NH Superior Court rounded out a panel of speakers addressing a variety of employment law issues, including employment contracts, settlement agreements, restrictive covenants, non-disclosure/confidentiality agreements, and tax consequences for confidentiality clauses in settlement of sexual harassment claims. The section also held its annual election, the results of which are on the following page. Following the business meeting, attendees enjoyed a variety of festive appetizers and good company. Thank you to everyone who attended, and especially to our panel of speakers — it was a wonderful event.



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Nationwide Verdicts and Settlements*

| | |
|----------------------------|--|
| VERDICT \$131 MILLION | Wrongful Death Victim killed by driver over-served at a restaurant/bar |
| VERDICT \$74.5 MILLION | Medical Malpractice Victim of birth injury |
| VERDICT \$45 MILLION | Wrongful Death Mother killed by drunk driver |
| VERDICT \$38.6 MILLION | Premises Liability Traumatic brain injury due to hotel balcony fall |
| VERDICT \$35.4 MILLION | Medical Malpractice Mother suffered stroke after giving birth |
| VERDICT \$30+ MILLION | Medical Malpractice Newborn suffered permanent injury |
| VERDICT \$29.5 MILLION | Medical Malpractice Failure to administer epinephrine |
| VERDICT \$12.25 MILLION | Medical Malpractice Unnecessary prostate surgery |
| SETTLEMENT \$12 MILLION | General Liability Man lost arm due to electrical burns |

*A list of additional record-setting verdicts and settlements for injury victims and their families may be found at: tl4j.com

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Election Season for NH Bar Association Practice Sections

Congratulations

Section election results are still rolling in, with the following Officers elected in June and July. Congratulations to the attorneys elected to section leadership positions for the 2019-2020 year.

Alternative Dispute Resolution Section

Steven H. Slovenski, of Slovenski Law Office, and Jared J. Bedrick, of Douglas, Leonard & Garvey, were elected co-chairs of the Alternative Dispute Resolution Section.



Slovenski Bedrick

Business Litigation Section (Right)

Owen R. Graham, of Hinckley Allen Snyder, was elected chair of the Business Litigation Section. Steven H. Slovenski, of Slovenski Law Office, was elected vice chair, and Tavish M. Brown, of Devine, Millimet & Branch, was elected clerk.

Federal Practice Section

Henry C. Quillen, of Whatley Kallas, was elected chair of the Federal Practice Section. S. Amy Spencer, of Shaheen & Gordon, was elected vice chair, and James J. Armillay Jr., of Shaheen & Gordon, was elected clerk.



Quillen Spencer Armillay



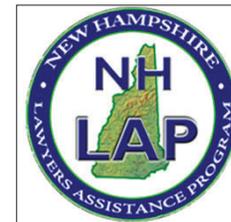
Graham Slovenski Brown

Wellness Tip of the Month: Be Alarmed

Set a timer on your phone or computer at 60-minute intervals while working at your desk. Use this reminder to stand, take 3 slow, deep breaths, squeeze your shoulders blades together then relax your shoulders. This reduces stress and corrects your posture. Sitting for long periods without a break slows metabolism, increases risk for depression and spinal injuries.



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Notable NH Verdicts & Settlements*

| | |
|-------------------------------------|--|
| VERDICT \$8,500,00.00 | Wrongful Death Cyclist killed by tractor trailer |
| SETTLEMENT \$4,250,000.00 | Medical Malpractice Delayed sarcoma diagnosis results in death |
| SETTLEMENT \$3,750,000.00 | Medical Malpractice Mismanaged labor and delivery results in birth injury |
| SETTLEMENT \$2,250,000.00 | Medical Malpractice Improper resuscitation at birth results in neurological injury |
| VERDICT \$1,950,000.00 | Medical Malpractice Inadequate surgical monitoring results in blindness |

*The complete list of our record-setting verdicts and settlements can be viewed at: www.lubinandmeyer.com

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Meet Our 2019 Award Recipients

Frank Rowe Kenison Award

Hon. Jeffrey R. Howard

U.S. Court of Appeals for the First Circuit

Chief Judge Jeffrey R. Howard has been a judge on the U.S. Court of Appeals for the First Circuit since 2002, serving as chief judge since 2015.

First as U.S. Attorney for New Hampshire, Judge Howard concentrated on the prosecution of complex drug enterprises, bank fraud and organized crime. He was a member of the U.S. Attorney General's Advisory Committee and received the Department of Justice's Edmund Randolph Award for his contributions. During his time as principal associate deputy attorney general, he was an advisor on matters involving drug enforcement, asset forfeiture, immigration, civil rights, and civil litigation.

As attorney general of the State of New Hampshire, Howard received several awards and recognition for his leadership against domestic violence and on behalf



of crime victims. During his tenure in the NH Department of Justice, he began as a consumer protection litigator and went on to serve as legal advisor to four governors, representing numerous state agencies and the public at large and managed hundreds of litigated criminal and civil cases and appeals.

A native of New Hampshire, Judge Howard graduated from Plymouth State University before receiving his JD from Georgetown University Law Center in 1981. He has served on the Boards of the American Heart Association and New Hampshire Children's Trust Fund for abused and neglected children as well as volunteering as a coach for youth athletic programs. In 2012, the UNH School of Law awarded Judge Howard an Honorary Doctor of Laws degree.

Robert E. Kirby Award

Attorney Sandra L. Cabrera

Waystack Frizzell

Sandra Cabrera is a partner at Waystack Frizzell Trial Lawyers in Colebrook, practicing in all areas of civil litigation and appellate matters in both federal and state courts.

After graduating from Rutgers with a degree in Environmental Policy and from Vermont Law School, Cabrera worked as a law clerk for the judges of the Strafford and Carroll County Superior Courts.

As an active member of the New Hampshire Bar Association, Cabrera is currently serving her third term on its Board of Governors as a Governor at Large. She has lectured on the topic of "Solo/Small Firm Practices" for the Bar's CLE programs and presents locally on the topic of estate



planning. Cabrera's position helps keep the North Country members connected and well-represented in bar activities. Most recently, she was key in assisting the Access to Justice Commission with the implementation of a Westlaw terminal at the Littleton Library for use by the public and lawyers practicing in the northern regions.

Additionally, Cabrera has served as the Coos County representative on the New Hampshire Women's Bar Association Board of Directors. In her own community of Colebrook, she spearheaded an effort to preserve and expand access to high quality early childhood education by forming the 501 (c)(3) nonprofit known as Colebrook Community Childcare.

Join the Foundation at the 2019 Annual Dinner on September 12 at the Manchester Country Club to honor award recipients and say goodbye to Chair Jack Middleton. Register: www.NHBarFoundation.org



Save The Date

"Reaching New Heights"

Photo credit: EMS Schools

2019 Annual Dinner

NEW THIS YEAR:

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Thursday, September 12 Manchester Country Club

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Community Notes

Sheehan Phinney attorney **Patrick J. Queenan** graduated from the Leadership Greater Nashua Program on June 6.

Attorney **Talesha Saint-Marc** will serve as chairwoman of the 2019 Manchester Go Red for Women Luncheon on October 4 at the Manchester Country Club in Bedford, New Hampshire. She is a shareholder in Bernstein Shur's Labor & Employment and Litigation & Dispute Resolution Practice Groups.

A group of Grafton and Sullivan County attorneys have formed the Upper Valley Estate Planning Group to offer what the Group describes as a "live, list-serve style" question and answer session for attorneys in the Upper Valley of New Hampshire and Vermont. The first meeting will be held at noon on September 10 at Jesse's Restaurant

Coming & Going

Shaheen & Gordon welcomed attorneys **Ron Abramson** and **Emily Assunta White** to lead the firm's Immigration Practice Group. Abramson and White came to Shaheen & Gordon with deep experience in immigration law, including family and individual, business-based, and healthcare immigration. They were most recently partners at **abramson Immigration + Solutions**, based in Manchester. The two will join Shaheen & Gordon's Manchester office.

Maine Cernota & Rardin, an intellectual property law firm based in Nashua, also known as MCR, is pleased to announce its affiliation with attorney **Walter Dawson**, formerly of Pearson & Pearson in Lowell, Massachusetts. For the past 24 years, Dawson has served as a Patent and Trademark Attorney for Pearson & Pearson, where he focused in intellectual property matters in electrical, mechanical, computer and many other technology areas.

Dennis S. Scott, of Nashua, has been appointed a supervisory administrative law judge with the U.S. Department of Health & Human Services, Office of Medicare Hearings & Appeals. Judge Scott will be sworn in at a ceremony scheduled for early

County, Local & Specialty Bar News

Manchester Bar Association

Save the date for the Manchester Bar Association's Annual Golf Outing on Tuesday, September 17 at Candia Woods Golf Club. The event will kick off at 1 p.m. with a shotgun start and will be followed by a cocktail hour and dinner beginning at 5:30 p.m. The scramble-style is fun even if you are a beginner golfer. We can help you find a team. The dinner is also spectacular. We hope you will join us!

NH Women's Bar Association

Registration is now open for our 22nd Annual Fall Reception, which will be held on Thursday, October 17 at 5:30 p.m. at the McAuliffe-Shepard Discovery Center in Concord.

in Hanover and will feature lunch and an hour of questions and discussion based on estate planning questions to be submitted by attorneys who practice in the Upper Valley. For more information or to register, please contact Eric Janson at Janson & Colgan – 603 448 3224 (eric@jansoncolganlaw.com) or Renee Harvey at Caldwell Law – 603 643 7577 (renee@estateandelder-lawgroup.com).

McLane Middleton donated over 100 water bottles to the Mount Washington Observatory's recent "Seek the Peak" event as part of its year-long Centennial celebration focused on its clients, the community, and its colleagues. Each month during 2019, the firm makes a donation to the community based on the number "100."

September.

The Bishop of Manchester recently announced the appointment of **Briand T. Wade** to serve as the Diocese of Manchester's new associate general counsel. He began work at the diocese on July 1. Prior to his employment at the diocese, Wade practiced law in the Seacoast area of New Hampshire for more than 30 years, first as a partner at Loughlin & Wade and later as the founding member of the Wade Law Firm.

Bernstein Shur welcomed **Matthew J. Saldaña** as an associate to the firm's Manchester office. Saldaña joins the firm's Litigation and Dispute Resolution Practice Group, where he will focus on commercial litigation matters. Prior to joining Bernstein Shur, Saldaña was an associate at Sidley Austin in Chicago, where he represented companies and individuals facing complex litigation matters as well as investigations by federal regulatory and law enforcement agencies.

Devine Millmet welcomed **Crystal M. Maldonado** as a shareholder with over 11 years of experience in family law. In addition, **David M. Howard** joined the firm's litigation team as an associate.

This annual event will include the presentation of the 2019 Marilla M. Ricker Achievement Award, which is given annually to an outstanding woman lawyer.

Space is limited and tickets will be required for this event. Tickets are free to NHWBA members, including honorary members. For non-members, there is a suggested donation of \$20. For more information and to register, visit www.nhwba.org.

Cheshire County Bar Association

The Cheshire County Bar Association hosts regular CLEs for its membership and the legal community. If you are interested in presenting a 1-hour CLE in Keene, please contact cheshirecountybar@gmail.com. We are currently scheduling the fall/winter series.

Robert D. Calamari

Robert D. Calamari, 86, of Durham, NH, who practiced law in New Hampshire for over 50 years, died on May 21, 2019 surrounded by his loving family.

Born in New York City on July 15, 1932, the son of Andrew and Mary Calamari. He earned a Bachelor's degree in Economics from Fordham College and a Doctor of Jurisprudence degree from Fordham University School of Law, where he met his wife, Rita, with whom he practiced law for many years in Lancaster, NH. After their retirement, they resided in Durham, NH.



He served in the US Army, Signal Corps, during the Korean War. During his years of practice, he served as County Attorney of Coos County and as federal magistrate for the Northern District of NH, as well as on numerous boards and commissions at the state and local levels.

He was predeceased by his parents, a brother Andrew Jr., and a sister Margaret. He is survived by his wife of 59 years, and by a son, Robert Jr., his wife Brenda, and a granddaughter Marissa of Lynnfield, MA.

He will be remembered for his loving heart and generous spirit. To know him was to love him.

In lieu of flowers, donations may be made in his memory to Cardinal Hayes

High School "Cardinal & Gold Fund," 650 Grand Concourse, Bronx, NY 10451. Visit www.kentandpelczarfh.com to sign an online guestbook.

Jennifer A. Demaree

Jennifer A. (Andrews) Demaree, Of Arlington, passed away suddenly on April 28th. Born in Hartford, CT on May 29, 1967, to Brian and Lucy Andrews. Jennifer spent her early childhood years in Tolland, CT before her family relocated to York, ME. She graduated from York High School in 1985, where she excelled in field hockey, basketball and track. Jennifer attended the University of Vermont where she met her husband and best friend, Marc Demaree. They graduated together in 1989, and were married on June 16, 1990.



Jennifer graduated from the University of New Hampshire law school in 1993, and then began a successful law career, passing the bar in Maine, New Hampshire, and Massachusetts. Her career spanned many areas, but her true success and many friends was found in work for Lahey Health.

Jennifer's greatest joy in her life was her family. She and Marc had two daughters, Ellie and Kate, who are successful students and athletes at Hamilton College and Arlington High School, respectively. There was not

IN MEMORIAM continued on page 12



Kathy Fortin and Arthur Greene

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In Memoriam from page 11

a day where Jennifer was not busy attending softball, volleyball, soccer or basketball games. An avid supporter of Arlington and Hamilton sports, she will be truly missed on the sidelines cheering for her daughters and their teammates.

Jennifer's second love was the beach. There was not a moment in her life when she was not planning the pilgrimage of her family to Cape Cod where they maintained a cottage in Wellfleet, just steps from the beach. Her days in Wellfleet were filled with family, friends, and anyone who enjoyed the sand in their toes. Jennifer could easily be found on the dunes of Lecount Hollow from the early morning, winnowing the days away entertaining friends and family, always maintaining her bright smile and infectious laugh. Those days were sure to end with the signature gin and tonic.

Jennifer is survived by her daughters, her husband, her parents, brother Peter Andrews and his wife and children, her uncle Craig Andrews and his wife Debbie, six cousins — and all of their children, as well as her husband's father Jim Demaree, her sister-in-law Leslie Goldsmith and husband Eddy and their children. Jennifer was a bond that held the family together and will forever be remembered and missed.

In lieu of flowers, please consider making donations to the Jennifer Demaree Arlington Girls Athletic Fund or the Histiocytosis Association. Donations to the Athletic Fund should be made via checks payable to "Fidelity Charitable" and sent to Fidelity Charitable, P.O. Box 770001, Cincinnati, OH 45277-0053. Please reference the "Jennifer Demaree Arlington Girls Athletic Fund" in the memo field of your check, and accompany your check with a Fidelity Charitable Contribution form that can be found at fidelitycharitable.org/docs/Contribution.pdf. Checks payable to the Histiocytosis Association should be sent to 332 North Broadway, Pitman, NJ 08071. Please visit devitofuneralhome.com to view an online guestbook.

—The Boston Globe

Joseph William Laird Mason

Joseph William Laird Mason, 78, of Sherburne Road in Lee, died on Tuesday, March 26, 2019 at home with his loving wife by his side.

He was born on April 14th, 1940 in Portsmouth, NH; the son of the late Murray and Dolores (Laird) Mason.

J. William served our country proudly in the US Air National Guard; He went to school and received a law degree and was locally self-employed as a lawyer. J. William was also a member of the Durham Community Church.

J. William is survived by his wife of 40 years, Gloria (Mitchell) Mason; their children, Joseph Mason of San Diego, Brendan Mason of Allentown, Cathi Mason of New York, Bruce Berquist of Tamworth, Cheryl Burke of Virginia, Dave Berquist of Barrington and Kevin Berquist of Barrington; siblings, Murray "Red" Mason of Rye, Nancy Robbeloth of Florida and Rose Maloney of Wells; many grandchildren and several great grandchildren.

To sign our online guestbook, please go to www.purdyfuneralservice.com.

Martin Francis Smith, Jr.

Martin Francis Smith, Jr., 91, of Dover, N.H., died Tuesday, June 25, 2019 at Belamy Fields Assisted Living in Dover. He was born October 17, 1927 in Dover, N.H. to Martin Francis Smith Sr. and Helen Cath-

erine (Sherry) Smith.

He married Priscilla Marie Chasse on October 11, 1952, and they had five children.

Martin served in the US Army as a Sergeant and saw duty in occupied Korea. He was released from duty in 1947 and returned to college. He was very proud of his service to his country. Martin was a graduate of The University of New Hampshire class of 1950 and a member of the Phi-Mu-Delta Fraternity. After college he worked in a variety of jobs. Martin began his career at General Electric in Somersworth, N.H., where he met Priscilla. Together they played on the company's tennis team. He went on to work as part of Senator Thomas McIntyre's staff and made many trips to Washington, D.C. His children had the benefit of meeting and spending time with Sen. McIntyre in his Washington office.

Martin was a staunch Democrat and consistently worked to support candidates from the party. He went on to work as Chief of Economic Development for northern New England in the Small Business Administration division in Concord, N.H. under Governor John King. Later, Martin spent twenty-four years working as the General Manager for the New England Real Estate and Buildings office for the United States Postal Service and retired from this position in 1987.

In retirement, Martin attended and graduated from Franklin Pierce Law School in 1992. He enrolled at the age of 60 fulfilling his lifelong dream of earning his law degree. After graduating, he became a member of the



NH Bar Association, Dover Planning Board, Director of the NH Society of Real Estate Appraisers, Chairman of the Commercial Investment Committee for the Strafford County Board of Realtors, and finally Martin was employed at Sanders and McDermott Law Office in Hampton, N.H. Martin received the NH Bar Associations President's Award for Pro-Bono services in 1999. For many years, Martin served as a certified ski patroller at The Highlands Ski Area in Northfield, N.H. All of his children enjoyed many years of skiing as a family in the mountains of New Hampshire and vacation weeks on the beautiful lakes.

His children will remember their father as a man who valued education and made sure each of his four daughters and his son had the best education that they desired.

Survivors include his wife of 67 years, Priscilla M. Smith; Marcia Stacy, wife of the late Gary Stacy of Dover, N.H.; Kathryn and Steven Corey of Blue Ridge, Ga.; Helen and Donald Rist of Dover, N.H.; Margaret Stanley and Greg Durlacher, of Amesbury, Mass.; and Martin F. Smith III and Deedra Benson of Dover, N.H.; six grandchildren, Alex and Carolyn Corey, Aaron and Abigail Rist, John Stanley, Martin F. Smith, IV; and one great-grandchild, Cooper Douglas Stanley. Martin was preceded in death by his parents in 1977.

Memorials in his name can be made to the Alzheimer's Association | Alzheimer's Disease & Dementia Help, <https://www.alz.org/>. Please go to www.taskerfh.com to sign the online guestbook.

In memory of our colleagues, the Board of Governors has made a contribution to the Bar Foundation.



We congratulate Sandra Cabrera on being selected as the recipient of the 2019 Robert E. Kirby Award.

We recognize in her the 'skill, civility, good humor, courtesy, perspective and excellent advocacy' that honors Attorney Kirby's life and career in the award made in his name.

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Devine Millimet Welcomes

Crystal M. Maldonado

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Shareholder | (603) 695-8624



Crystal joins Devine Millimet as a Shareholder and brings over 11 years of experience in Family Law. Her practice includes a variety of Domestic Relations matters from negotiation and litigation, to adoption and surrogacy, among other matters. A New Hampshire native, and graduate of Daniel Webster Scholars Program at UNH School of Law, Crystal continues to be involved in the community as President of the Board of the Friends of the Merrimack County Child Advocacy Center in Concord, NH. Crystal is also an Adjunct Professor of Family Law at UNH School of Law.

Crystal continues to be the speaker of educational presentations, and has been selected for a multitude of prestigious awards, including being chosen to Rising Stars.

Dispute Resolution & Litigation | Family Law | Family Law Litigation

David M. Howard

Associate | (603) 695-8558

dhoward@devinemillimet.com

David joins Devine Millimet's Litigation team as an Associate with more than six years of experience. He is licensed in the states of New Hampshire and Maine and has represented clients in both state and federal courts and before various administrative agencies. David's representation is in a wide variety of civil matters, including trust and wealth transfer litigation, commercial and residential real estate issues, and business disputes.

David graduated from UNH School of Law and has a Masters of Public Administration degree. He also served on the Board of Directors of the Chase Home in Portsmouth, NH from 2015-2018, and is a graduate of Leadership Greater Manchester, Class of 2014. Before becoming an Attorney, David was a teacher in the Manchester School District.



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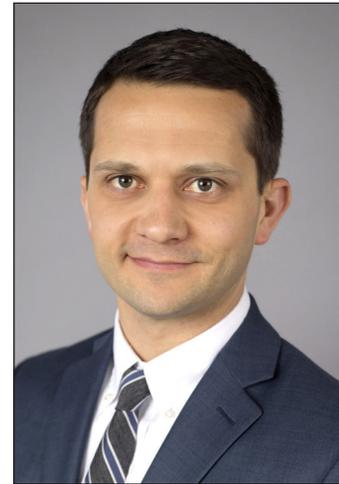
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Winer and Bennett, LLP

Attorneys at Law

is pleased to announce that

Brenner G. Webb



is now a Partner of the firm.

Brenner's practice will continue to focus on Personal Injury, Business Law and DUI Defense. We look forward to maintaining the firm's half century of exceptional client service.

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Join us in welcoming Attorneys Ron Abramson and Emily Assunta White to the firm.

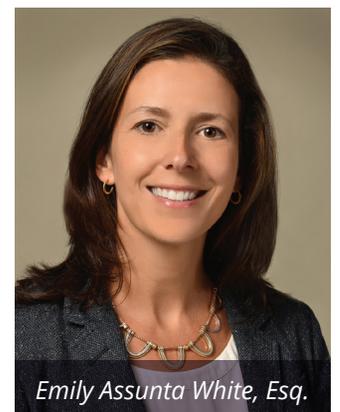
Ron and Emily come to Shaheen & Gordon with deep experience in Immigration Law, including family and individual, removal/deportation, business, and healthcare immigration.

Ron has successfully obtained all manner of business and family-based visas, has taught at national training programs, and has litigated federal cases all the way to the U.S. Circuit Courts. He also still selectively accepts criminal cases, especially where immigration-related concerns are involved.

Backed by a decade of managing complex immigration cases at two of Colorado's leading immigration firms, Emily has returned to her native New Hampshire where she frequently represents clients before the Boston Immigration Court and various U.S. Citizenship and Immigration Services (USCIS) offices throughout New England. Emily also represents large and small companies in affirmative and defensive I-9 audits.



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26th Annual Golf Tournament Raises Thousands to Support the Pro Bono Referral Program

The 26th annual Quid Pro Bono Tournament on August 8 was one for the books! Not only did the tournament raise thousands of dollars critical to the sustainability of the Pro Bono Referral Program but the day also included a first-ever hole-in-one winner

and the attendance of the Bar's oldest living member — Judge Arthur Bean, 100, who was one of 96 players on the course. The tournament was dedicated to the longtime honorary tournament chair, Justice William F. Batchelder (fondly known as "Judge Batch") who

passed away earlier this year.

Congratulations to the winning team, with a score of 56: Mike Ruedig, Judge Steven McAuliffe, Doug Long, Doug Homan; and, to the hole-in-one contest winner of a new car, A.G. (Jerry) O'Neil, Jr.

It was a memorable day indeed at the Lake Sunapee County Club for the players, Pro Bono staff, volunteers, and sponsors who supported the fundraiser. Thank you! The September issue of *Bar News* will list the sponsors in full.



From left to right: Mike Ruedig, Doug Homan, Doug Long and Hon. Steven McAuliffe.



From left to right: Mitchell Jean, Deborah Rein, A. G. (Jerry) O'Neil, Jr. and Hon. Michael Garner point to the winning hole-in-one golf ball.



Hon. Arthur Bean, the oldest living member of the NH Bar at 100, still has what it takes.

Golf Results

- 1st Place Team: Mike Ruedig, Judge Steven McAuliffe, Doug Long, Doug Homan – Score 56
- 2nd Place Team: Judge Arthur Bean, Bob Mielcarz, Rodney Stark, Mica Stark – Score 59
- 3rd Place Team: Michael Pignatelli, Ben Pignatelli, Adam Pignatelli, Thomas Leonard – Score 60
- 1st Place Mixed Team: A. Gerard O'Neil, Mitchell Jean, Judge Michael Garner, Deborah Rein – 64
- 1st Place All Women's Team: Kate Morneau, Cathy McKay, Susan Gagnon, Kristy Patenaude – 80

- Longest Drive Hole #6 (women) – Kristin Fields
- Longest Drive Hole #16 (men) – Joshua Parker
- Closest to the Pin #4 (women) – Ashley Dassotti Parnell 17'9"
- Closest to the Pin #4 (men) – Mica Stark 18 inches
- Closest to the Pin #8 – William Schultz 8'1"
- Closest to the Pin #12 (women) – Leslie Hoyt 8'2"
- Closest to the Pin #12 (men) – Doug Long 0"

- Putting Contest Men – Greg Robbins
- Putting Contest Women – Kathy McCleary



Pro Bono Board member Pam Peterson with her Devine firm team members couldn't contain their enthusiasm for the tournament.



The top placing women's team takes time out to pose for the camera—from left to right Kate Morneau, Susan Gagnon, Cathy McKay and Kristy Patenaude.

Do You Want To be a Tiger?

“Tiger Tactics: Powerful Strategies for Winning Law Firms,” by Ryan McKeen, Billie Tarascio, William Umansky, Theresa DeGray, and Jay Ruane
Amazon Digital Services (2019)
Paperback; 237 pages

Reviewed by Kathleen Fortin

The five authors of this book are seasoned lawyers deeply engaged in running their respective law firms. They are passionate about lessons they have learned on how to manage their firms effectively and their shared enthusiasm makes for an engaging narrative.

“Tiger Tactics” is not a standard how-to guide. It does not contain checklists or forms. Instead, it reads like a memoir. Throughout each chapter the authors offer their experiences, challenges, failures, and successes in running a business. All of them are dedicated to the belief that effective law firm management is the key to a law firm’s success. Clearly they do not aspire to mediocre results. As they say, “Show me a well run law firm, and I will show you a well run business.”

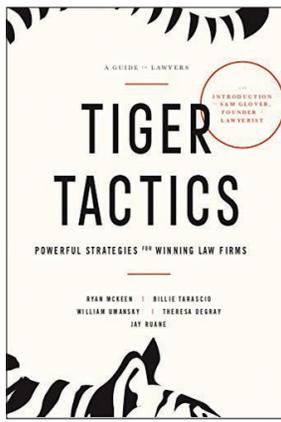
This book is a collaborative project of lawyers from Florida, Arizona, and Connecticut, with law practices that include family law, personal injury, and criminal defense. What are their Tiger Tactics? We first think of the tiger as a formidable hunter. The Chinese Year of the Tiger identifies those born in this year as possessing self-confidence, competitiveness, and bravery. All of these traits can

apply to the target audience for this book. It is aimed at helping those lawyers looking to grow a sustainable and thriving firm that serves the needs of its owners, employees, clients, and community.

The topics covered, their “battle-tested principals for success,” may not be entirely new to most lawyers. Vision, Planning, Goals, Marketing, and Client Service, are some of them. Though these may seem like commonplace aspects of law firm management, the candor and first-hand confessions of these authors are what make this book different from the typical books on law firm management.

Their comparison of a lawyer to a restaurant owner offers an analogy many lawyers may relate to. Imagine the one-man restaurant owner who is also the chef, manager, buyer, bookkeeper, dishwasher, custodian, and server all at the same time. “Many of us are the solo restaurant guy, working insanely hard, making minor miracles happen, all the while making little money and occasionally disappointing customers.”

Individually, the views presented are valuable and instructive. Collectively, their views offer convincing and powerful messages. On the topic of creating a Firm Vision, Jay Ruane says, “The key to vision is to have one. It can change... but you need to be working toward something.” Unfortunately,



most lawyers gloss over this, says Billie Tarascio. After going through a process with a facilitator, her firm’s vision has become “the law firm constitution.”

Theresa DeGray says, “You wear a million different hats and one of them is undoubtedly labelled “visionary.” William Umansky tells us he has learned that without a vision, “You will bounce around the universe of law in chaos.

Your future will be based on random events and you won’t know how to best respond when an opportunity presents itself to you.”

If you happen to enjoy analogies, Ryan McKeen offers another excellent one. Ryan planned to leave his employer and go out on his own. Others got on board. They planned every detail (or so they thought), and the new firm opened. “If our firm was a boat, it was a nice one. But a nice boat means very little if you don’t know where you are going.” For him, “nothing was as hard as cracking the vision nut.”

The suggestions offered by each author are practical. They range from approaches to your firm’s financial management, tips on client intake, hiring methods, and finding balance in your career.

They advise that two forms of marketing are necessary. While online marketing is important, in-person marketing and meeting

people is essential. In recommending that lawyers set aside \$5,000 each year for their personal development, they recognize that each lawyer will decide to do what is most meaningful to them. Whatever the choice, taking the time and making the effort can influence, directly and indirectly, a lawyer’s thinking and outlook on the business they are building.

Theresa’s advice sums up what all of her co-authors have learned on their own. “Work on the business instead of in the business once in a while.” It makes perfect sense and may even be a call to some firms to take urgent action, especially if they consider the authors’ view that every law firm falls into two categories — rising or falling. Whichever category your firm may fall into, this book will inspire you.

Kathy Fortin is a law firm consultant with Arthur G. Greene Consulting. Her years of law firm experience helps her to provide practical solutions to the issues consulting clients pose. Following a Master of Liberal Arts Degree from Dartmouth College, Kathy has become a published author of many articles, book reviews and essays. She can be reached at kwf@arthurgreene.com.



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– General Eric Shinseki,
United States Army (ret.)

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health crises.

Medication assisted treatment, a combination of FDA-approved medications and counseling used to treat substance misuse disorders, has become integral to the justice system's alternative sentencing programs, such as drug courts, but has been more limited in correctional facilities.

In recent months, however, federal rulings have backed inmates' access to medication to treat substance misuse disorders (see timeline), and jail officials across New Hampshire say they are picking up the pace to support mental illness and addiction behind bars.

Many of the state's jails are moving toward implementing MAT as an extension of programs already in place, which fall under the behavioral health umbrella and cover mental health issues in addition to substance use disorders.

"New Hampshire is in the midst of an opioid epidemic and we are very pleased that the trend seems to be that the jails and prisons are recognizing SUD [substance use disorder] for what it is — a disease — and MAT for what it is — potentially life-saving medication that people should have access to even while in jail," said Henry Klementowicz, staff attorney at ACLU of New Hampshire. "The evidence is clear that people taking [medication] have better outcomes."

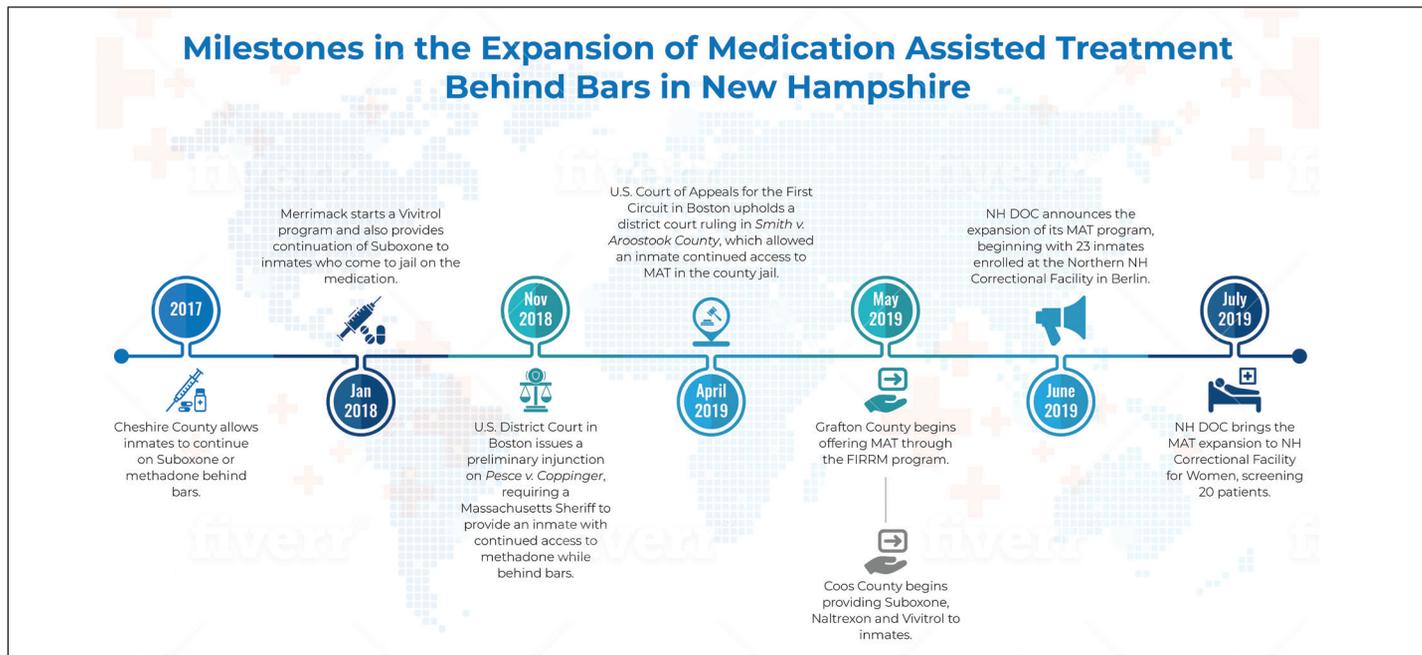
ACLU attorneys from Maine and Massachusetts helped represent the inmates in *Smith v. Aroostock County* and *Pesce v. Coppingier*.

20 percent of NH Prisoners Have Substance or Alcohol Use Disorder

In New Hampshire, more than 2,000 people were housed in local jails last year, according to the Prison Policy Initiative, in addition to the 2,700 people in the state-run prisons. Approximately 10 percent of male prison inmates and 15 percent of females had an opioid use disorder, according to the 2016 Annual Report of the NH Department of Corrections (the most recent report available). A further 4 percent of men qualified for Alcohol Use Disorder, and 4 percent of women fall under the Substance Use Disorder category. The state doesn't publish similar statistics on the populations inside the county jails.

Earlier this year, a report from the Substance Abuse and Mental Health Services Administration highlighted the critical need for MAT to support inmates' transitions back to local communities.

"Within three months of release from custody, 75 percent of people who were in prison or jail with an opioid use disorder



Above: Information provided by jail superintendents. Cover photo: NH Department of Corrections Chief Medical Officer Dr. Groblowski speaks with a Berlin inmate about the requirements to participate in the MAT program. (Courtesy of NH DOC)

experience a relapse to opioid use," wrote Jon Berg, senior public health advisor for the SAMHSA Center for Substance Abuse Treatment. "It is also alarming that incarcerated persons who are released to the community are between 10 and 40 times more likely to die of an opioid overdose than the general American population — especially within a few weeks after reentering society."

Studies show that MAT decreases drug use, overdoses, and disease for people with an opioid use disorder. In terms of criminal activity, MAT has a positive impact, decreasing arrests and re-incarceration, according to SAMHSA.

When an individual battling addiction is arrested and awaiting sentencing in jail, they experience a forced withdrawal, which results in a variety of physical and psychological symptoms, including intense agitation and anxiety, vomiting, insomnia, and abdominal cramping. There is also an increased risk for dehydration due to fluid loss. Because of this, most New Hampshire jails have a nurse or physician on staff to monitor inmates in detox, superintendents say.

Still, the expansion of MAT behind bars has been slow across the country — in 2018, a Pew Charitable Trusts analysis found that "fewer than 1 percent of the more than 5,000 U.S. prisons and jails, housing more than 2 million inmates, allow access to the FDA-approved medication."

The delay is particularly acute in county jails, due to a number of factors, including funding (jails can't be reimbursed from federal health care plans for MAT), community resources, and difficulties in

assessing a revolving door of new inmates.

New Hampshire's Department of Corrections recently announced that certain inmates eligible for MAT will be treated inside the state's three correctional facilities, beginning with 23 inmates in Berlin, thanks to funding from the State Opioid Response Grant transferred from the NH Department of Health and Human Services. The model is based, in part, on the Rhode Island Department of Correction's MAT program started in 2016, according to Laura Montenegro, NH DOC public information officer.

FDA-approved medications offered in New Hampshire's prisons will include: Naltrexone, a non-addictive opioid antagonist that blocks the effects of opioid medication and also reduces alcohol cravings, and the injectable form of the drug called Vivitrol; Buprenorphine, an oral combination opioid and opioid blocker that blocks the euphoria from other narcotics, and the drug's injectable form called Sublocade (the brand-name drug Suboxone is made up of Buprenorphine and Naloxone); as well as two other oral medications used to treat alcoholism.

"A patient is apt to more fully participate in and benefit from psychosocial treatment when his/her drug cravings are blunted or blocked by prescribed MAT medication," NH DOC Chief Medical Officer Dr. Thomas Groblewski said in a press release.

NH DOC's program reached the NH Correctional Facility for Women in late July, when 20 patients were assessed by medical and mental health professionals.

Across the border, after Vermont legislators approved the administration of Sub-

oxone and methadone behind bars, nearly a third of Vermont's prison inmates were receiving MAT by January 2019, according to the news outlet VTigger.

Many County Jails Begin Services with Vivitrol

Carroll County jail superintendent Jason Henry recognizes the significant connection between mental health and addiction issues. And, he acknowledges that often there is a high co-morbidity rate in these individuals, in that they typically suffer from more than one condition simultaneously.

To combat this, Carroll County offers services to inmates that address overlapping mental health and addiction related issues. It's a multi-pronged approach that includes therapy, access to licensed alcohol and drug counselors, AA meetings, mindfulness, and case managers, among others — but no MAT.

In some situations, Henry said inmates can begin receiving Vivitrol shots prior to release, which are expected to be continued when the individual returns to their community. The medication blocks opioid receptors in the brain, helping patients to prevent relapse to opioid dependence. Currently, there are no participants in the program.

Superintendent Ben Champagne, of Coos County, offers the services of Licensed Alcohol and Drug Counselors in addition to drug court for those struggling with addiction. The county is one of four jails in New Hampshire that offer comprehensive Medication Assisted Treatment — such as Suboxone — to inmates who meet



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the requirements. At least four other jails offer Vivitrol shots just prior to release.

“Our MAT program is not community-based; however, we do focus on successful re-entry and work with inmates to get into community-based treatment programs,” Champagne said in an interview.

The Cheshire County Department of Corrections also offers comprehensive MAT, including Suboxone and methadone.

“We do offer Methadone, but since we can’t prescribe that directly due to Federal regulations, we offer that in collaboration with Keene Metro Clinic,” said Doug Iosue, the Licensed Independent Clinical Social Worker for Cheshire County DOC. “We do not offer Naltrexone or Vivitrol. We would like to; however, there is for reasons unclear to me, a dearth of prescribers of these medications in our local community. If we were to start people on these meds at the jail, we would have trouble linking them up with an ongoing prescriber at release.”

Superintendent Tom Elliot of the Grafton County Department of Corrections in Haverhill said the jail has offered a program called FIRRM for a few years, and MAT was incorporated into the program in May. MAT is offered in-house and funded by Grafton County.

Elliot said the FIRRM participants have continued access to self-help groups and employment, provided they comply with the rules of the program. Those who complete the program are able to celebrate at a graduation in the presence of family and friends. In order to qualify for the FIRRM program, the inmate has to have been sentenced to a minimum of 12 months in the Grafton County House of Corrections and have 50 days or less of pre-trial confinement credit.

The FIRRM program is typically voluntary, unless the individual is sentenced by a judge. Currently, of the jail’s 64 residents, three people are enrolled in both the first and second level of FIRRM, and two in Level 3. A total of 28 people have been sentenced to FIRRM so far, and outside of the eight currently participating, 12 have graduated, with only one returning to jail for new charges. The remaining eight failed to complete the program due to rule violations.

Obstacles to Adding MAT

Many of the county jail officials, including in Belknap County, said they would like to offer medication assisted treatment beyond pre-release Vivitrol shots but are facing barriers.

Superintendent David Dionne of Hillsborough County, who recently announced plans to start MAT in the county’s jail, says one barrier is that roughly 90 percent of in-

Health Insurance Behind Bars

- The federal government prohibits Medicaid coverage for services provided to inmates, unless the services are provided outside the institution (e.g. at a hospital or nursing home) and the person is admitted there for at least 24 hours.
- In 2016, the federal government changed some of its restrictions around Medicaid to allow coverage for services provided to inmates in halfway houses or other community facilities under correctional supervision. New Hampshire has implemented these 2016 changes. The federal government also allows coverage for people on probation, parole, home confinement, and pre-trial release.
- Unlike some other states, New Hampshire suspends Medicaid for inmates, rather than terminating eligibility. This makes for an easier health care transition post-incarceration.
- Introduced August 2 by Congresswoman Annie Kuster and Senator Cory Booker, the “Humane Correctional Health Care Act” would end the Medicaid inmate exclusion policy.

— Anna Brown, Director of Research and Analysis, Citizens Count



This story is part of an ongoing Bar News series examining the justice system’s response to the state’s behavioral health crises, produced by the Granite State News Collaborative.

mates are not honest about their history of drug use when they are asked to initially self-report. As a result, the medical team is left scrambling to treat inmates effectively.

Although Carroll County does not currently offer methadone or Suboxone, Vivitrol shots are administered to some inmates prior to release. In recent years, Carroll County jail implemented an in-house behavioral health project called TRUST (Transitional Reentry Under Supportive Treatment) which serves as a re-entry system with aftercare for offenders who receive treatment during incarceration.

This program was possible due to a \$350,000 grant received in 2016. Candidates are screened in order to determine whether they meet the criteria for the program. Those who have entered into the 90 day in-house program have a 19 percent recidivism rate, compared to 50 percent seen prior to the establishment of TRUST.

Merrimack County DOC also offers Vivitrol shots. The medication begins inside the facility, and inmates are able to discuss their options with the medical professionals on staff. These Vivitrol doses were purchased through a Residential Substance Abuse Treatment grant. Further doses will be covered by an individual’s insurance, which the staff helps them sign up for before release.

Under the county’s SOAR program (Successful Offender Adjustment and Re-entry), the inmates that have been released and are living in the community participate in after-care meetings and have access to clinician and case management time.

New Approaches to a Long Crisis

Local advocates applaud the changes that county jails have made so far.

“Expanding medication-assisted treatment in the criminal justice system makes sense on many levels,” said Michele Merritt, president and CEO of New Futures, a nonpartisan, nonprofit organization that aims to improve the health and wellness of New Hampshire residents. “Approximately two-thirds of individuals who are incarcerated have substance misuse issues, yet for many, the only treatment options available to them are abstinence only, ‘cold turkey’-style programs. This leaves incarcerated individuals at a greatly heightened risk of overdose and death when they are released.”

And, New Hampshire’s changes are part of a national trend to expand MAT behind bars. In an open letter from 55 current and former sheriffs, prosecutors, and other law enforcement professionals, of-

ficials argued that providing MAT in jails and prisons is an essential part of their duty to protect public safety and the safety of individuals in custody.

The letter, published in April by nonprofits Law Enforcement Action Partnership (LEAP) and Fair and Just Prosecution included a signature from Richard Van Wickler, jail superintendent of the Cheshire County Department of Corrections.

“Decades of studies show that MAT use decreases illicit drug use, crime, and health costs to communities,” the letter said. “Continuing MAT care in county jails and prisons is essential to ensuring that formerly incarcerated people do not relapse and reoffend upon release. ...

“We recognize that this epidemic of drug overdose requires a new approach. Over 70,000 Americans died from drug overdose in 2017, more than have ever died in a single year from the epidemics of crack cocaine, H.I.V., car crashes, or gun violence. We will work within our own jurisdictions to respond effectively to the new realities of the opioid crisis. By doing so, we will avoid needless fatalities, reduce the use of illicit opioids, and improve safety in our communities.”

Van Wickler concurred in a statement from LEAP published with the letter:

“Modern corrections is no longer just detention of accused or sentenced individuals,” Van Wickler wrote. “Society demands that we also serve as a hospital, mental health institution, school, and rehabilitation center. Providing adequate and responsible healthcare to treat addiction through medication-assisted treatment is a requirement, not an option.”

Meaghan Breen is a freelance writer based in Keene. Anna Berry provided additional reporting.

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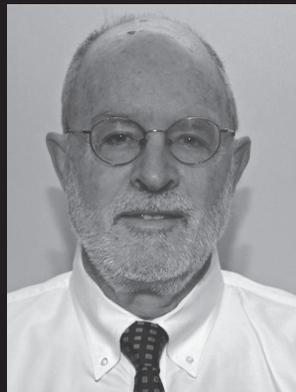
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Lawyer Referral Service connects members and the public

The NHBA Lawyer Referral Service had a busy year helping individuals find attorneys to handle their legal needs. In the 2018-2019 Bar year, LRS made 3,159 Full-Fee referrals and 657 Modest Means referrals that resulted in participating attorneys earning nearly \$2 million in legal fees. LRS made an additional 2,500 referrals to other community resources.

Expanding its services to members LRS, with input from the NHBA Ethics Committee and the Attorney Discipline Office, created a new subject matter panel for Attorney Discipline Issues. Now, attorneys who need representation for potential ADO issues may request referrals from LRS, remaining anonymous if they wish.

Helping the neediest in our community

When it comes to helping those in need, the NH Pro Bono Referral Service at the New Hampshire Bar Center reaches far and wide. This year saw the launch of, "NH Free Legal Answers," with Pro Bono joining this American Bar Association program that provides free legal advice to income eligible users. Volunteer attorneys access questions through a web-based interface and are able to help individuals with non-criminal legal questions.

"It is an exciting, technology-forward way to broaden opportunities for economically disadvantaged families and individu-



Attorney George Moore was named executive director of the Bar Association last August.

als to access basic legal information and advice," said Associate Executive Director for Legal Services Virginia Martin. "At the same time, the system provides a convenient way for private attorneys to give back."

The DOVE Project has been busy this year recruiting and training attorneys to provide help in cases of domestic violence. One seminar entitled, "Justice for Victims/Survivors: Their Protection, Your Privilege," featured a discussion panel of professionals that work with domestic violence victims; "tips from the bench" from Hon. Charles L. Greenhalgh; and a thought provoking mock final protective order hearing.

Furthermore, DOVE is invested in improving access for clients with Limited

English Proficiency. With dedicated funding from grants serving victims/survivors of domestic violence, Pro Bono now has a library of applications, generic client information, and satisfaction questionnaires translated into the six most commonly spoken languages in New Hampshire.

Pro Bono also helped NH residents throughout the year through monthly Lawline events, criminal annulment clinics, tax clinics and more. An outreach effort from the Low-Income Taxpayer Project alerted and advised veterans about potential refunds under the Combat-Injured Veterans Tax Fairness Act of 2016 and helped homeless and low-income veterans file amended returns to claim refunds due to them.

Law Related Education

The NHBA Law Related Education (LRE) program continued its work ensuring that NH students have access to a strong civics education and understand the rights and responsibilities conferred by citizenship.

"We the People: Project Citizen" hosted a showcase at Windham High School in May where 44 students presented their solutions to public policy issues that they chose to tackle. One team from Windham High School went on to receive recognition for their project on recycling in the National Showcase, which took place in California in July.

The second edition of "Beyond High School: Your Rights and Responsibilities," was published this spring in advance of Law Day. This year, the book was distributed to approximately 10,000 graduating seniors in 60 high schools across the state. To help spread the word, WMUR NH Chronicle re-aired the 2018 Beyond High School segment with an updated introduction featuring the release of the 2nd edition.

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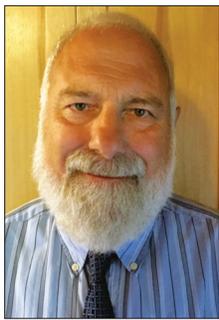
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Rappa from page 1

"I was really moved by stories of lawyers," he says. "'To Kill a Mockingbird' I remember vividly. I admired Atticus (Finch) so much. I thought it was not only a route to financial stability but there was a nobility attached to that profession."



Rappa

But the dream was put on hold for a decade when, after graduating from Middlebury College, the department store that had employed him while he was a student offered him a job as assistant manager.

The post brought him to New Hampshire — but also to the realization that retail was not "a career path I was going to pursue."

There followed a series of occupations — dairy farmer, logger, school maintenance worker, construction company owner — before that day on the windy rooftop.

"During many of those years, my gross income was less than \$10,000, probably less than \$3,000 several years," Rappa says. "It gave me a clear understanding of life in the North Country with limited resources. I believe that actually helped me be a better judge. I can empathize with the individuals that appear before me because I was there once."

After law school, he worked at various firms, starting with Karl Bruckner's law office in Woodsville, where he remained about three years. He worked with a law school friend for a time, then started a firm with another law school friend before opening his own practice in Woodsville.

"We were a full-service firm but my focus was on litigation and I did a significant amount of real estate work," Rappa says. "The demand was also high for family law work so I did a significant amount of that."

He had the firm for a dozen years and at one time had five associates, "all of whom — with one exception — are still practicing in the North Country," he says.

Meanwhile, two years out of law school, he was appointed to the bench part-time as a special justice, who serves when a presiding judge is unavailable or has a conflict.

Because he was a District Court judge, he was excluded from District Court practice so his cases were in Superior Court,

with some before the state Supreme Court.

"That was such a unique experience," Rappa reflects.

But the cases that stand out most in his mind are the ones he heard as a judge.

Rappa was appointed to the Lincoln District Court, which was consolidated into the Plymouth court a year later, "so for the first 17 years of my career, I was technically special justice of the Plymouth District Court," he explains. "During that time, I think I sat in every district court in New Hampshire. I'd be in Salem one day and Colebrook the next. It was on an as-needed basis."

Among his most high-profile cases is one from last year, when Rappa ruled that use of police dogs to sniff out drugs at a border patrol checkpoint on Interstate 93 amounted to a violation of the state Constitution, and that evidence against 18 defendants should be thrown out.

"That one stands out because of the nature of the case and the ramifications," Rappa says. "That case literally changed the way they're conducting those border crossings in the North Country."

"But there are a lot of cases that stand out not necessarily because of their impact on the legal world but because of the human impact on individuals involved."

He cites the case of a young man "who was on the wrong path and was probably going to end up placed out of his home for his minority if he didn't straighten up."

Facing the young man in court one day, Rappa says "for some strange reason" he turned to an empty glass in front of him to illustrate his point.

He told him that the glass represented YDC (the Youth Development Center, now the Sununu Youth Services Center). Then Rappa put some Wite-Out on a tissue, covered the glass with the tissue and said the tissue represented how close he was to ending up at YDC.

Rappa picked up an eye dropper of water and let a couple drops fall on the tissue for "Everytime your mother cries," he told the defendant, "and your grandmother sheds a few tears."

"I let a few more drops fall, and predictably the tissue became unable to support the weight of the Wite-Out," Rappa remembers. "I handed him the tissue and said, 'Every time you start to do something stupid, think of this.' Years later, a chief of police told me he still carries that tissue and he hasn't been in trouble since that day. Those are the kinds of things I remember."

Such efficacy and even-handedness has won the admiration of many of Rappa's colleagues, including Gina Belmont, senior administrator for the New Hampshire Circuit Court, who calls him "a one-of-a-kind professional."



Judge Rappa (middle) performs with his band, the Parker Hill Road Band, at the Grafton County Bar Association's spring meeting in May. Photo: Kristin Ross

"I was fortunate to experience Tom Rappa's mentorship and generosity when he hired me when I was just out of law school in 1996," Belmont says. "Over those early years, I witnessed firsthand his energy and passion for justice for his clients."

"Now as I see him as a judge, I see that same passion for justice being applied to all who appear in any courtroom over which he presides. Finally, as a judicial colleague, the same generosity that I experienced as a new lawyer is on display again as he freely shares his time, his support, and the benefits of his experiences to incoming new judges."

Rappa has received five pro bono awards during his legal profession, including the NHBA's L. Jonathan Ross Award for Outstanding Commitment to Legal Services for the Poor. He also served as town moderator in Bath for 30 years.

Rappa officially retired in May of last year but has remained a Circuit Court judge serving in "senior status, sitting on a per diem basis at the will of the administrative justice of the Circuit Court," he says. He is assigned to preside over the probate division and the district division in the 2nd Circuit Court in Haverhill, and also hears some juvenile and guardianship cases in the family division in Haverhill.

The schedule allows him to pursue another of his passions — music. A saxophone player since fourth grade, Rappa joined his brother in starting a rock-and-roll band in high school and eventually moved on to other instruments and genres.

He appeared with the NH Bar Association Big Band, and for nearly 30 years has played in bluegrass bands, most recently the Parker Hill Road Band.

He and his wife, Dianne, also enjoy boating, sailing, fishing, camping, skiing, snowmobiling and tennis when they are not at home in Bath, in the house Rappa himself constructed. They are the parents of two grown boys.

Rappa says he may fully retire in 2020, and colleagues say he will leave behind a singular legacy.

"I have known Tom since before he became a judge and appeared in cases over which I presided," says Judge Edwin W. Kelly, former administrative judge of the Circuit Court system. "He was then, and continues to be, one of the hardest-working, most ethical and thoughtful lawyers or judges I have had the pleasure of working with."

"He has been someone that judges from around the state have looked to for legal advice and guidance for many years and a judge who has devoted his career to assuring that everyone who appears in his courtroom is treated with respect and dignity. Judges for years to come will be influenced by his presence and the wisdom he has shared over his time on the bench."

Kathie Ragsdale is a freelance writer based in Chester and a frequent contributor to the Bar News.



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New Hampshire Bar Association Budget for Fiscal Year 2020

Dues Level Maintained for June 1, 2019 – May 31, 2020

The 2019-2020 fiscal year budget for the New Hampshire Bar Association was presented to and approved by the NHBA Board of Governors in mid-May.

The NHBA budget includes a net asset contribution of \$119,529 and reports an expected 1.28 percent increase in revenue and 2.15 percent increase in expenses over the prior year's budget. The net increase in expenses is partially due to additional funding for new programs offered by the NHBA such as TechConnect — brought to you by the legal technology experts at Affinity Consulting — expected to be available soon.

A conservative, creative approach and dedicated, motivated staff have enabled the budget to retain the capacity for member and public service — in particular, through continued support

of the NH Pro Bono Referral System, NHBA's Law Related Education programs, and NHBA's Lawyer Referral and Modest Means Services — without increasing membership dues.

Budget Highlights

The NH Bar Association Budget for the 2019-2020 fiscal year totals \$3.5 Million. (See below)

Revenue Breakdown

- **58 percent- Membership Dues and Fees.** Membership dues and fees are expected to increase by \$7,190 to \$1,965,170 over last year, due to a projected net increase of approximately 100 members in the fiscal

year.

- **31 percent- Registration and Fees**, of which the majority is Continuing Legal Education revenue (\$1,225,254)
- **8 percent- Publications and Merchandise Sales**, which includes Bar News advertising and subscriptions (\$279,448)
- **2 percent- Other**, which includes investment income and other miscellaneous revenue (\$55,741)
- **1 percent- Grants and other funding** for NHBA programs. (\$21,000)

Expense Breakdown

- **22 percent- Program Expenses** make up 22 percent of the total expenditure budget and relate to member and public programming

| NEW HAMPSHIRE BAR ASSOCIATION | | | |
|----------------------------------|------------------|------------------|----------------|
| | PROPOSED BUDGET | APPROVED BUDGET | |
| | May 31, 2020 | May 31, 2019 | Change |
| REVENUE | | | |
| Membership Dues & Fees | 1,965,170 | 1,957,980 | 7,190 |
| Registrations & Fees | 1,225,254 | 1,168,831 | 56,423 |
| Publications & Merchandise Sales | 279,448 | 261,868 | 17,580 |
| Grant & Funding Revenue | 21,000 | 49,350 | (28,350) |
| Other Revenue | 55,741 | 39,845 | 15,896 |
| General Support to Affiliates | - | (42,000) | 42,000 |
| TOTAL REVENUE | 3,546,613 | 3,435,874 | 110,739 |
| EXPENDITURES | | | |
| Personnel Expenses | 2,324,289 | 2,232,460 | 91,829 |
| Overhead Expenses | 545,955 | 520,023 | 25,932 |
| Program Expenses | 795,898 | 773,356 | 22,542 |
| TOTAL EXPENDITURES | 3,666,142 | 3,525,839 | 140,303 |
| Net Asset Contribution | 119,529 | 89,965 | 29,564 |
| NET CONTRIBUTION | - | - | - |

New Hampshire Bar Association Explanation of Largest Expenditure - Personnel Costs

| Department | Budget Year Ended, May 31, 2020 | | | | Budget Year Ended, May 31, 2019 | | | |
|--------------------------------------|---------------------------------|----------------------------------|-----------------------------------|---------------------|---------------------------------|----------------------------------|-----------------------------------|---------------------|
| | Personnel Costs | Full Time Staff Equivalent (FTE) | Positions All or Partially Funded | % Expense of Budget | Personnel Costs | Full Time Staff Equivalent (FTE) | Positions All or Partially Funded | % Expense of Budget |
| Executive | 337,042 | 3.150 | | 9.19% | 290,332 | 3.245 | | 8.23% |
| Business Operations | 644,498 | 8.700 | | 17.58% | 631,049 | 8.355 | | 17.90% |
| Program Development & Member Service | 660,148 | 9.200 | | 18.01% | 629,701 | 9.200 | | 17.86% |
| Marketing & Strategic Communications | 452,561 | 6.000 | | 12.34% | 442,370 | 6.000 | | 12.55% |
| Lawyer Referral Service - Full Fee | 123,981 | 1.900 | 1.900 | 3.38% | 132,569 | 1.900 | 1.900 | 3.76% |
| Modest Means Referral Service | 54,193 | 0.850 | 0.850 | 1.48% | 55,756 | 0.850 | 0.850 | 1.58% |
| Law Related Education | 51,866 | 0.800 | | 1.41% | 50,682 | 0.700 | | 1.44% |
| Total Personnel Costs | 2,324,289 | 30.600 | | 63.40% | 2,232,459 | 30.250 | | 63.32% |

New Hampshire Bar Association Budget for Fiscal Year 2020

and services (\$795,898)

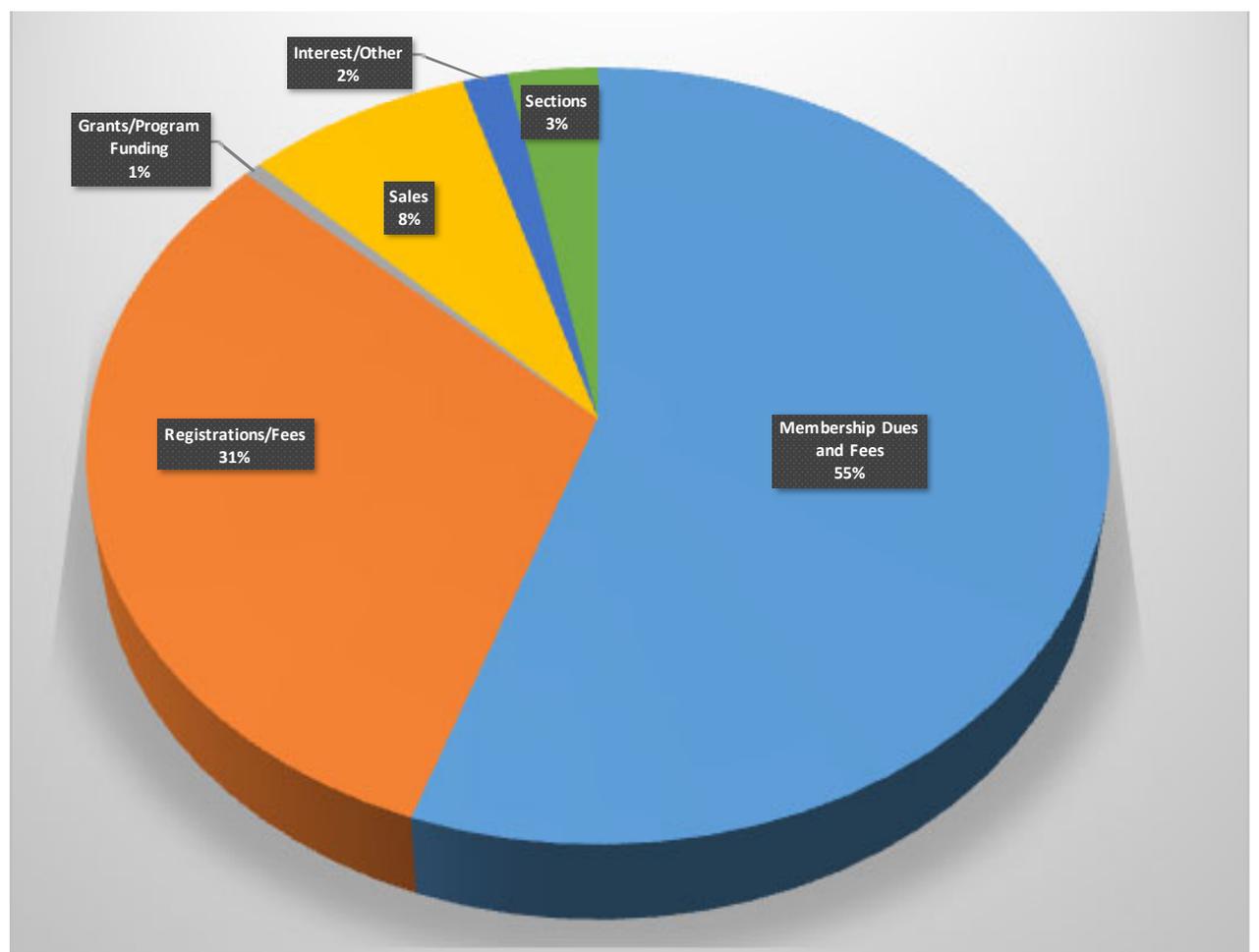
- **15 percent- Overhead costs** are kept at a minimum and are just under 15 percent of the total expenditure budget, with the largest expenses being facilities, information technology/data processing and credit card processing fees — these expenses make up \$388,017 of the \$545,955 total in overhead expenses.
- **63 percent- Personnel and Facility Costs.** The largest expenses are personnel (salary, wages and benefits) and facility costs for most service-intensive organizations. Virtually all activities at the Bar Center are service-related; hence the single-largest expense in the budget is staffing to provide programs and services at 63 percent of the total expenditure budget (\$2,324,289).

Staffing and Affiliates

The NHBA supports many affiliates that share the Bar Center offices including: NH Pro Bono Referral System, NH Bar Foundation and NH Minimum Legal Continuing Education (NH Supreme Court Rule 53).

In addition, NHBA staff also support the Public Protection Fund Committee by administering NH Supreme Court Rule 55 and assist NH Lawyer Assistance Program with marketing and other administrative endeavors.

**NH Bar Association
2019-2020 Budgeted Revenue Sources**



Notice of Budget Information Session — All Members Welcome

The annual Budget Information Session is scheduled for Wednesday, September 4 at 3:30 p.m., at the NH Bar Center, 2 Pillsbury Street, Suite 300, Concord, New Hampshire. Any questions or comments in advance may be emailed to NHBA Director of Business Operations, Paula D. Lewis, at plewis@nhbar.org.

New Hampshire Bar Association Largest Expenditures, Excluding Personnel Costs

| | Budget Year Ended, May 31, 2020 | | | Budget Year Ended, May 31, 2019 | | |
|--|---------------------------------|----------------------------------|---------------------|---------------------------------|----------------------------------|---------------------|
| | Budgeted Cost | Expense Funded by Grant or Award | % Expense of Budget | Budgeted Cost | Expense Funded by Grant or Award | % Expense of Budget |
| Overhead Expenses | | | | | | |
| Occupancy (mortgage interest, CAM, maintenance) | 209,100 | | 5.70% | 183,549 | | 5.21% |
| Miscellaneous (includes credit card fees) | 93,863 | | 2.56% | 91,556 | | 2.60% |
| Information Services (DP) | 85,054 | | 2.32% | 92,086 | | 2.61% |
| Professional Fees (includes annual financial audit) | 37,860 | | 1.03% | 36,020 | | 1.02% |
| Contract Labor | 25,520 | | 0.70% | 26,111 | | 0.74% |
| Program Expenses | | | | | | |
| Printing & Materials (includes CLE materials for membe | 88,592 | | 2.42% | 86,979 | | 2.47% |
| Affinity Partner Fees | 84,288 | | 2.30% | 70,494 | | 2.00% |
| Midyear Meeting Expenses | 74,084 | | 2.02% | 67,384 | | 1.91% |
| Facilities & Meals - Member CLE and Events | 55,155 | | 1.50% | 52,291 | | 1.48% |
| Legislation Program | 49,750 | | 1.36% | 49,750 | | 1.41% |
| Program Development & Training | 51,451 | | 1.40% | 43,776 | | 1.24% |
| Publicity & Advertising (including CLE advertising) | 41,709 | | 1.14% | 43,605 | | 1.24% |
| Practical Skills Member Workshops | 37,695 | | 1.03% | 39,035 | | 1.11% |
| Officers & ABA Delegate Allowance | 36,190 | | 0.99% | 24,390 | | 0.69% |
| Total Percentage of Budget | | | 26% | | | 26% |

Pain Management Challenges During a Fluctuating Local & Federal Drug Landscape

By Laura Del Camp

According to the National Council on Compensation Insurance's 2019 Executive Summary, the incidence of workers' compensation claims has been less frequent in recent years. One can imagine that this is, at least in part, due to the increased focus on injury prevention and early treatment in the workplace. On the other hand, treatment for managing pain in long-term cases has been a growing issue.

Palliative treatment is considered compensable under the workers' compensation statute in New Hampshire. *See, Appeal of Lalime*, 141 N.H. 534 (1996).

In the workers' compensation arena, palliative care is often associated with older claims where all of the recommended surgeries, procedures, etc. have been performed (or at least considered), and the last option available is simply managing a patient's pain as well as her expectations when living a completely pain-free lifestyle is not likely.

From concern over the risks posed by opiate prescriptions to questions of whether medicinal marijuana is a viable option, the challenges associated with managing long-term pain are influenced by events taking place on both a national and local level.

Pain Management with Opioid Prescriptions

The opioid crisis in New Hampshire is nothing new at this point. As a result of this crisis, prescriptions are trending in the way one would generally expect: in 2017, providers wrote approximately 52.8 opioid prescriptions per 100 people — the lowest rate reported by the National Institute on Drug Abuse since data became available in 2006. One could draw several plausible takeaways from this data. Perhaps providers are more scrupulous in what, how much, and to whom they prescribe. Perhaps patients are more mindful of the potential for opioid dependence and are wary to use certain prescriptions. Perhaps some patients are turning to medical marijuana to manage long term pain.

On one hand, there are workers' compensation claimants who continue to receive opiate treatment to manage pain. Many of these patients report significant relief, although the potential for developing a dependence is always there. Given



the local backdrop of the opioid epidemic, the risk of dependence is something that officials at the Department of Labor have become increasingly mindful of.

In response to the current social climate in New Hampshire, the Department of Labor created an Opioid Pilot Program that allows for mediation in cases involving opiate medications for workers' compensation claimants. The program is designed to provide an environment where claimants and insurance carriers can agree to explore "covered options for non-narcotic pain relief and recovery," according to an article in the February 20, 2019 issue of the *New Hampshire Bar News*.

The mediation program is based off a similar program that began in Massachusetts over two years ago. The Department has trained specially selected attorneys well-versed in workers' compensation law to mediate prescription-related issues that arise during a claim, regardless of whether the claim has already settled.

The initiative by the Department of Labor to recognize the risks of prescription drug addiction and to provide a framework for addressing those dangers is commendable. Hopefully, this program will help make the process of pain management both easier and safer for claimants to navigate.

Pain Management with Medicinal Cannabis

After HB 573 was signed into law by

then-Governor Hassan in 2013, eligible patients were able to seek medical marijuana from licensed treatment centers in New Hampshire in 2016. In order to be eligible, a patient must have a qualifying condition — one of which is chronic pain.

On March 7, 2019, the Supreme Court ruled on the issue of whether a claimant, who otherwise qualifies for medicinal cannabis, may be reimbursed for the expense of procuring same, in *Appeal of Andrew Panaggio*.

Mr. Panaggio sustained an accepted workers' compensation injury in 1991. His claim settled in 1997, and he currently treats for pain management. Upon experiencing adverse side effects from opioid medications, he solicited and received a medicinal marijuana card pursuant to RSA 126-X:4. He purchased medical marijuana and submitted the receipt to his workers' compensation insurance carrier for reimbursement. The carrier declined to reimburse Mr. Panaggio, claiming that the treatment was not causally related, reasonable, or made necessary by his work injury.

A Department of Labor decision upheld the carrier's denial, and Mr. Panaggio appealed to the Compensation Appeals Board (CAB). The CAB held that the treatment was causally related, reasonable, and medically necessary; however, it declined to order the carrier to reimburse Mr. Panaggio for the medicinal marijuana, citing that "possession of marijuana is still a federal crime," and that the

medicinal marijuana card he received pursuant to RSA 126-X "does not exempt a person from federal criminal penalties for the possession of cannabis."

The majority of the CAB panel also cited section 3, III(a) which reads, "Nothing in this chapter shall be construed to require...[a]ny health insurance provider, health care plan, or medical assistance program to be liable for any claim for reimbursement for the therapeutic use of cannabis."

Although the statute does not specifically identify casualty insurers such as workers' compensation carriers, the CAB reasoned that workers' compensation carriers provide similar payments as health insurers. Therefore, the CAB extended the scope of section 3, III(a) to workers' compensation carriers.

Mr. Panaggio appealed the CAB's order, arguing that: (1) the CAB erred in its interpretation of RSA 126-X:3, III; and (2) the CAB erred when it based its decision on the fact that possession of marijuana under federal law is illegal.

The Court concluded that New Hampshire's medical marijuana law, RSA 126-X:4, does not prohibit a workers' compensation carrier from reimbursing a claimant for the cost of reasonable and related medical marijuana; however, whether reimbursement for the cost of medical marijuana constitutes the commission of a criminal act remains unsettled law. The Court remanded the case for additional findings from the CAB on this issue.

It is evident that the available treatment and mechanisms for ensuring that injured workers can manage pain are in a state of flux. Over the next few years, it will be interesting to see how the state's mediation program expands, how the medicinal marijuana reimbursement issue is handled in light of the local opioid epidemic, and how the divergence between state and federal positions on medicinal marijuana takes shape.

Laura Del Camp is an associate at Bernard & Merrill, PLLC in Manchester. Her practice focuses on workers' compensation defense. She can be reached at laura@bernard-merrill.com.

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Newly-Enacted SB59 Creates Legal Presumption for First Responders that PTSD is Work-Related

By Jared O'Connor

On July 17, 2019, Governor Sununu signed into law Senate Bill 59, the culmination of months' worth of hearings conducted by the statutorily-created Commission to Study the Incidence of Post-Traumatic Stress Disorder in First Responders. Specifically, the Commission was charged with assessing the degree to which workplace culture, legal and administrative hurdles in filing claims affected first responders' willingness to seek appropriate treatment for work-related PTSD, and what legal remedies might be afforded in response.

In its final report submitted to the governor, the Commission recognized that existing law "clearly countenances stress claims," but it was felt that the general awareness of this fact was low, perhaps leading to workers' reluctance to file workers compensation claims for job-related mental stress.

Also contributing to this reluctance appeared to be a perception among many such workers that these claims were not only routinely denied (thus delaying compensable treatment), but that even filing such a claim could lead to "blackballing" of the affected worker.

Testimony taken from clinical psychologists and therapists who specialized in treating first responders affected by PTSD and its shorter-term diagnostic cousin, Acute Stress Disorder (ASD), confirmed that for this population, some



degree of PTSD/ASD all but inevitably follows from the day-to-day trauma to which first responders are exposed.

The Commission heard about or directly from workers who were shot, assaulted, or who routinely encounter the dead, dying or disfigured, including children. One need hardly be a psychologist to predict how this would affect a worker's psyche.

The Commission then considered whether it made sense to include in the law a presumption that PTSD/ASD which arises in this population of workers is

causally related to their employment. Defining the class of workers to which such a presumption might apply was also debated. It is possible, of course, that a worker in any occupation might develop PTSD/ASD as a result of exposure to an unexpected on-the-job trauma.

Consider, for example, a teacher involved in a school shooting incident; an office worker who becomes trapped in a burning building; a Domino's delivery driver involved in a gruesome car accident; or a convenience store clerk who is held up at gunpoint.

While the current definition of "injury" under workers' compensation law unquestionably covers workers like this who develop stress-related claims, these events are by their very nature quite rare. This is to be distinguished from the kind of physical trauma and mental stress that is inherent in the very job of being a first responder. A schoolteacher, when hired, is not willingly signing up to develop PTSD/ASD. But a cop, a firefighter, an EMT, a corrections officer? These workers understand that high stress, trauma and frequent exposure to circumstances most of us will never experience, or would actively run from, is part of the job description.

Accordingly, the Commission ultimately came to four conclusions. First, that explicitly calling out PTSD and ASD as injuries covered by workers compensation might help encourage first responders to seek treatment when experiencing symptoms — "that way the employees will know it is covered through Worker's Compensation."

Second, the members of the Commission voted 10-2 to add a presumption to the law that PTSD/ASD in first responders is work-related. Third was to expand the class of "first responders" to which this presumption would apply, and fourth was to continue the Commission's work for another year to review how the proposed changes were working in practice.

As signed into law by the Governor,

PTSD continued on page 30

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Professionalism & Ethics

Criminal Jury Instructions

The Drafting Committee of the Bar's Task Force on Criminal Jury Instructions has released over 260 pages of draft instructions, endeavoring to ensure that these draft instructions are balanced, comprehensible, and accurate statements of law. They are a work in progress and are intended to serve as model instructions applicable in the spectrum of criminal cases that may arise under New Hampshire law.

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Find upcoming NHBA-CLE programming at the end of this issue!

Insurer Bad Faith In Claim Settlement – What Can You Do?

By Peter E. Hutchins

Let's say you represent an innocent injured client in a third-party tort action or uninsured motorist claim. You present the adjuster with a settlement demand accompanied by all necessary supporting documentation. The adjuster fails to respond in a reasonable time, unreasonably refuses to make an offer, or makes an offer that comes nowhere close to fair settlement value. What do you do?

Unlike Massachusetts, New Hampshire has no direct statutory basis for suing an insurance company for "bad faith" in personal injury cases. The Massachusetts legislature has expressly applied its broader consumer protection act to insurance company claims settlement practices, allowing claimants to bring direct actions for bad faith. M.G.L. 176D §§ 2, 3. While New Hampshire does have a statutory "Unfair Insurance Trade Practices Act," RSA 417, a violation of the prohibitions contained in this act alone does not provide for a direct private cause of action. *Shaheen v. Preferred Mutual*, 668 F.Supp.716 (D.N.H. 1987). Moreover, our Supreme Court has ruled there is no tort action available for insurer bad faith. *Lawton v. Great Southwest Fire*, 118 NH 607, 614 (1978).

Just because there is no direct statutory action or tort available for victims of insurer bad faith, all is not lost. There are a variety of options available both to recover damages and importantly to exert the pres-

"Dumas establishes a duty on the part of insurers to act reasonably in evaluating and settling claims against their insureds. The concept is that an insured pays premiums to protect their personal assets, and their insurance company therefore must act reasonably to protect those assets by settling claims and obtaining a release."

sure necessary to obtain a fair offer and resolution for your client.

In first party claims, i.e., property damage and uninsured motorist, the implied duty of good faith which exists in every contractual relationship applies with equal force to insurance contracts. *Morvay v. Hanover Ins. Co.*, 127 NH 723, 725 (1986). Our courts have expressly recognized a cause of action for first party insurance breach of good faith and fair dealing. *Lawton, supra*. At 612; *Jarvis v. Prudential*, 122 NH 648, 654 (1982). In addition, the Lawton court observed that a plaintiff's recovery is not limited to the policy limits. *Lawton* at 611.

In addition, it can be reasonably argued in an uninsured motorist claim that an insurer's refusal to pay reasonable damages to its insured, in addition to breach of contract, constitutes a denial of coverage providing for an award of attorney's fees to a prevailing claimant. RSA 491:22-b. In every uninsured motorist action I file, I include both a count for breach of contract

and declaratory relief. This presents the carrier with potential exposure beyond the policy limits, and also exerts pressure on the adjuster to act reasonably.

Third party cases are more difficult since there is no contractual relationship between the insurer and the third-party claimant. The claimant can file an administrative action with the insurance commission under RSA 417, alleging a violation of the statute's prohibited conduct as well as insurance regulations pertaining to claims settlement. *See* Ins. 1001 and 1002. This may exert pressure on the carrier, and could result in the imposition of penalties or injunctive relief. A successful result at the commission may also open the door for a subsequent civil action for damages and attorney's fees. RSA 417:19. It may also result in a more experienced adjuster or supervisor taking control of your client's claim and/or the insurer seeking the advice of local defense counsel.

Another option is to file suit, and seek attorney's fees under New Hampshire law,

alleging that the claimant was "forced to seek judicial assistance to secure a clearly defined and established right, which should have been freely enjoyed without such intervention..." *Harkeem v. Adams*, 117 NH 687, 691 (1977); *Funtown USA v. Town of Conway*, 129 NH 352, 355 (1987). The prohibitions and requirements of RSA 417 and Insurance Reg. 1000 can be used as standards of conduct.

A final option is to seek to exert leverage and pressure by asserting a violation of what is known in New Hampshire as the Dumas doctrine. The three controlling cases are *Dumas v. Hartford*, 92 NH 140 (1942); *Dumas v. State Farm*, 111 NH 43 (1971); and *Gelinas v. Metropolitan*, 131 NH 154 (1988).

Dumas establishes a duty on the part of insurers to act reasonably in evaluating and settling claims against their insureds. The concept is that an insured pays premiums to protect their personal assets, and their insurance company therefore must act reasonably to protect those assets by settling claims and obtaining a release. The most relevant application is in the context of the failure of an insurer to resolve a case for or within the policy limits when a reasonable person would do so. The doctrine is based upon the insurer's duty of good faith to its insured, not to the plaintiff, since a failure to settle exposes the insured defendant's

SETTLEMENT continued on page 30

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I Wear Red Sneakers Because I'm Running ... A Business; Or, Key Performance Indicators for your Personal Injury Business

By Kirk Simoneau, the Red Sneaker Lawyer

When it comes to math, most personal injury lawyers only know how to divide by three. Don't worry if you don't get the joke, it just means this article isn't for you, but if you got it, it's time to learn how a little additional math can positively affect your personal injury business. Often, when talking to lawyers, I hear that a personal injury "practice" isn't a business; that, by its nature, it's too unpredictable to measure and can't be managed like a business or like those firms that bill by the hour. I've been measuring my personal injury law business since day one and if I can do it, it can't be hard, I'm just not that bright.

This article will briefly touch on only a handful of the most important Key Performance Indicators (KPIs) for a personal injury business in the hope of getting lawyers to start thinking differently about how they run their "practices." In business speak, a Key Performance Indicator is a quantifiable measure used to evaluate the success of an organization by tracking progress toward a desired result.

In other words; if you want your firm to have a seven-figure gross income, then your weekly revenue will be one of your KPIs. If you want to lose 50 pounds this year, then monitoring your weight changes week to week is a good KPI. If your rev-

enue numbers keep going up, then you know you're on track. If your weight keeps going up, however, you are off track.

KPIs measure the health, current, and future, of your business to help you predict what will happen next and what you should do next. Remember, though, those numbers, the revenue and weight, are top level and don't tell you very much. You have to measure whatever drives those figures. If you keep track of, for example, settlement values, you have a better chance of knowing what will happen to revenue. If you count calories and the amount you exercise, you'll have a better idea what is driving your weight.

The two most fundamental KPIs every personal injury law business owner must know are how much money is in the operating account at any given moment and how much money will be needed for the next 30 days. Ongoing, regular expenses like rent and equipment leases are easy enough, but I often hear that case expenses can't be planned. This is just plain wrong, but if you can't forecast 30 days out, start with a week ahead. Surely you know if you'll need to send an expert a check in a week. Cases with budgets and timelines are easier to manage. You know what expenses you'll have when. That helps with cash flow management.

Once you have those two numbers, cash on hand and upcoming expenses, or

are as close as you can get, compare them. If your expected spending exceeds cash on hand, don't panic you might not have to slash your budget or fire anyone, though that is a warning sign of an unhealthy practice, because there are other KPIs that can come to the rescue.

You need to know how many cases you currently have in "inventory" and their average value. I measure this by case type. A car crash case may be worth \$100 and a slip and fall \$50. Additionally, you need to know how long each of those case types, on average, takes to resolve. Let's say your average car crash takes 11 months and you have four of them that are nine months into the process, you can estimate \$400 of income in two months.

You'll develop these averages over time by starting the process of measuring. You should also be able to look back over your last couple of years of cases to feed the database. The more data you have, the better the prediction and the easier it is to track trends.

If you also start to measure potential client contacts, new client sign ups, your conversion rate and other marketing figures, you can predict what the future your revenue pipeline looks like — and you can also know whether it's time to ramp up marketing spending or efforts.

Obviously, there are far too many KPIs to cover in this space, not to mention

too many ways to apply each piece of data to your business, but, as you think about adding some KPIs to your regular reports, you should consider including, at a minimum:

1. The number of cases settled by lawyer per month and the average value of settled cases. This should be broken down by case type. If you want to dig deep, measure how much time, yours and your staff's, goes into the different case types. You might be surprised to learn that one area of your business is more profitable than another. In other words, if it takes a lot less time to settle car crashes than slip and falls, maybe you want to increase marketing efforts on the crashes.
2. Referrals by source and average fee by referral source so you know where to concentrate your efforts.
3. The number of upcoming mediations; measuring this helps fine tune all your other estimates. In the example above with 4 car crashes 9 months old, if two are set to mediate this month and two in three months, you'd need to adjust the timing on your income projections.

In the space here, I've only had time to cover the very basics so, if you want more

KPIs continued on page 30



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The "Grand Bargain" — No Longer Such a Bargain for Working People in New Hampshire

By Leslie Nixon

Workers' Compensation, "the grand bargain," dates back to the New Deal years when, with increasing industrialization and efforts to improve worker safety, resourceful lawyers began bringing lawsuits against employers to recover compensation for injured workers. As a result, management and labor turned to the state legislatures which enacted a compromise — no more lawsuits in exchange for guaranteed no-fault, but limited, compensation. In the years since, however, as a result of constant pressure by business and insurance interests seeking to reduce costs and make states more "business friendly," and also because of the declining power and influence of labor unions, worker benefits have been eroded. (The public interest group Pro Publica, working with National Public Radio, prepared an excellent investigatory series on these efforts, which is available on line at www.propublica.org/article/the-demolition-of-workers-compensation)

The purpose of this article is to describe the effect of two recent Supreme Court decisions on the system; *Appeal of Margeson*, 162 N.H. 273 (2011) and *Appeal of Carnahan*, 160 N.H. 73 (2010).

The outline of the workers' compensation system is simple. If a worker is hurt on the job, he or she is entitled to payment of all related medical bills and, for the period of time during which he or she is unable

"The Court left open whether the employer must prove that the worker is capable of full-time employment, but the decision suggests that. Nevertheless, the decision has led to a flood of litigation at the Department of Labor ..."

to work, 60 percent of his or her "average weekly wages." The beneficial purposes of the law for workers and taxpayers are two: To create an economic incentive for employers to make workplaces safer, and to provide sufficient income for workers and their families to keep a roof over their heads and food on their table, thus preventing them from having to rely on public assistance.

The disadvantages are several: No matter how serious and longlasting the disability, the disability rate is fixed at the worker's weekly earnings (AWW) and do not account for lost earning potential. It also does not include the cost of health insurance, so if the employer terminates coverage, the worker has to pay for replacement coverage from his reduced benefit. There is no compensation for pain and suffering or scarring. There is nothing to prevent an employer from firing the worker, unless the injury is fully resolved within 18 months of the date of the incident (DOI in comp language).

But by far the worst flaw in the system is that, once a worker is deemed "partially disabled," benefits (now called TPD

or temporary partial disability) drop down to 60 percent of the *difference* between a worker's AWW and what he or she is actually earning (if working restricted duty or part time) or is "able to earn." The latter is measured by a formula tied to the minimum wage, called the "diminished earning capacity," or DEC rate, and there is a cap of 262 weeks, calculated from the DOI. (This is not authorized by statute, but only a DOL Rule and has never been approved by the Supreme Court. There is a strong belief within the Workers' Compensation Bar (or at least those representing claimants) that if challenged it would not survive.) So a worker can have permanent, life-changing injuries and be out of work for 261 weeks but if, on the 262nd week, a determination is made that he or she is partially disabled, benefits stop. This provision was not always in the law, and is not the law in every state. But efforts made by some lawmakers to get it removed in the past legislative session were killed based on an estimate that employer costs would rise significantly.

So where does the Supreme Court come in? Until *Carnahan* it had always been the law that, even if a worker's doctor released him or her to return to work with restrictions, if those restrictions prevented him or her from returning to the former earning capacity, or AWW, TTD benefits had to continue. An employer was not without remedies — it could offer retraining, or a job within the worker's restrictions which paid the AWW. But in *Carnahan*, the Court made a distinction between a termination and a reduction in benefits; if an employer was seeking only to *reduce* benefits, it need only prove that the worker was capable of "gainful employment," which did not require a showing that the employment would pay the same AWW.

The Court left open whether the employer must prove that the worker is capable of *full-time* employment, but the decision suggests that. Nevertheless, the decision has led to a flood of litigation at the Department of Labor as soon as a worker's doctor releases him or her to re-

turn to work, however limited, or an "independent" doctor hired by the employer so-opines, a request is made for the Department of Labor to allow a reduction in benefits (which, if the 262 week cap has been reached, amounts to a termination). Except in rare cases where the worker has been retrained to work in a high-paying nonphysical job, he or she is forced to rely on some sort of public assistance to survive.

But at least that person has received some benefit — and has been able to obtain medical care. *Margeson* created a class of cases which had previously been assumed to be covered by the workers' compensation statute, because the injury happened on the job, but which no longer are. That is because they did not arise out of a "risk of the employment," that is, were due to a medical condition or to a work-related risk no greater than those in nonemployment life (such as falling down the stairs), they would not be covered.

While the preexisting medical condition scenario had always been the law (unless it was aggravated by work), the "neutral risk" scenario was new. The full extent to which it will be applied has yet to be tested, for example whether because a worker's job requires repeatedly climbing and descending stairs it is considered a risk greater than that in normal non-employment life, but in *Appeal of Kelly*, 167 N.H. 489 (2015) the court rebuffed the employer's attempt to extend *Margeson* to a scenario where there was already ample precedent that the law applies. That is the "traveling employee" situation, where employees are required to travel.

Many of us who represent claimants have been working to correct these injustices, both through case law and efforts to support legislation. However, I hope that even our Bar members who do not represent claimants or even practice workers' compensation law will be persuaded that the system is not a "gravy train," and that working people deserve better protection from the financial devastation that can befall their families when they are hurt. Forcing people to rely on public benefits hurts our economy, and the more benefits are cut back the less incentive there is for employers to maintain safe working places.

Leslie C. Nixon is a shareholder of Nixon, Vogelman, Slawsky & Simoneau in Manchester.



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Concurrent Claims Under the Federal Longshore & Harbor Workers' Compensation Act

By Doug Grauel

New Hampshire is not the first place people are likely to think of when they imagine the rough-and-tumble world of "On the Waterfront" or season two of "The Wire." Yet our 18 miles of coastline are home to plenty of commercial maritime activity, some of which may be subject not only to New Hampshire or Maine workers' compensation law, but also *concurrent* claims under the federal Longshore & Harbor Workers' Compensation Act.

What is the Longshore Act?

The Longshore Act is a federal workers' compensation law that broadly applies to work injuries occurring in "maritime employment" (more on this below) "upon the navigable waters of the United States (including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, dismantling, or building a vessel)." 33 U.S.C. 903.

The statute goes on to exempt work performed at facilities "engaged in the business of building, repairing, or dismantling exclusively small vessels," which are described in a technical definition mostly having to do with tons of displacement, and originating in an effort to exempt yacht building facilities from coverage under the Act.

Why does it matter?

It matters because workers' compensation jurisdiction between Longshore claims and state comp claims are, at least in New Hampshire, Maine, and Massachusetts, *concurrent*. This means that in certain cases, injured workers get "best-of-both-worlds" benefits. Plus, the Longshore act is just substantially more favorable to injured workers than any of the above state comp acts, and the forum can be friendlier as well. So, anyone handling a state workers' comp claim from New Hampshire, Maine, or Massachusetts in which the injured worker was hurt anywhere near the water, regardless of the type of work, is potentially overlooking a significant additional claim if they don't at least consider Longshore applicability.

Note that the above can be true even for long-settled claims: the author had a case that had been lump sum settled in the

state of New Hampshire some five years before the Longshore claim was even asserted, because the said author did not even learn Longshore law until after the settlement of the state claim. But owing to some helpful Longshore statute-of-limitations-tolling provisions, the Longshore claim was able to be brought and resulted in significant benefit to the client — bigger than the state lump sum settlement had been in the first place.

What is a Nonappropriated Fund Instrumentality, and why does it need its own Act?

A Nonappropriated Fund Instrumentality is something whose employees are "paid from nonappropriated funds of Army and Air Force Exchange Service, Navy Exchange Service Command, Marine Corps exchanges, or any other instrumentality of the United States under the jurisdiction of the armed forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the armed forces;" 5 U.S.C. 2105, and if its employees are injured while working, such employees may be covered, via the Nonappropriated Fund Instrumentalities Act (NAFIA--5 U.S.C. 8171) by ... The Longshore Act! NAFIA claims usually arise out of injuries to Post Exchange employees and others engaged in "Morale, Welfare, and Recreation" work, often known as "MWR," for military members and their families.

In New Hampshire, the "NavyMWR" programs at the shipyard may fall under NAFIA, allowing claims to proceed under both state workers' compensation law and Longshore concurrently.

The Longshore Act also applies to injuries under other so-called "extension acts" (NAFIA is but one), in which the substantive workers' compensation law that appears in the Longshore Act is used to adjudicate claims for workers elsewhere. Since the early 2000s, claims under the Defense Base Act (claims for injuries occurring largely, but not exclusively, overseas to military contractors or employees of civilian contractors such as NGOs) have been numerous. See *Overseas Contractor Work Injuries Under the Defense Base Act*, August 17, 2012 *NH Bar News*, p. 14.

One other extension, the Outer Continental Shelf Lands Act (claims arising out of work on offshore oil platforms and re-

lated facilities) does not seem to apply in New Hampshire so far. Let's hope it stays that way.

Back to "plain vanilla" Longshore claims: The "Situs" requirement

The above provisions outlining where work must be performed in order to fall under the statute are known as the "situs" provisions. In brief, in order to be covered under the Longshore Act, the injury in question must have occurred on or near the "navigable waters" of the United States, including the enumerated adjoining areas. "Navigable waters" is not a defined term in the Act, but the relatively recent history of the Act, which dates to 1927, sheds some light on things.

The statute until 1972 covered only injuries on the water, including any dry dock, but the scope of maritime activity by that time had expanded landward to the point where it was unworkable for coverage to be so restrictive. In 1972, the Act was amended to broaden coverage in response to the resulting problem of workers "walking in and out of coverage" as they went about the day.

The result of the 1972 expansion of coverage gave rise to today's "situs" case law. For workers' compensation practitioners in New Hampshire, a good rule of thumb is that any workers' compensation claim that happens anywhere near the water, or within a few miles of the water, should be considered for the possibility of Longshore coverage. Sometimes facilities a mile or more from the water can be considered "adjoining areas." Never assume the water is too far away.

The "Status" requirement

In "Work Injuries Under the Longshore & Harbor Workers' Compensation Act," in the August 15, 2018 edition of the *New Hampshire Bar News*, the then-recent case of *Luckern v. Bri-Weld Industries* was discussed. Since last year, the *Luckern* case was upheld on appeal. *Luckern*, BRB No. 18-0123, decision dated 10/23/2018. *Luckern* arose out of injuries to an iron worker engaged in construction on buildings at Portsmouth Naval Shipyard. Specifically, Mr. Luckern, an iron worker, was injured in the course of drilling holes in concrete outside the carpentry building at Portsmouth Naval Shipyard (located in Maine, but subject to New Hampshire workers'

compensation law through his New Hampshire-based employment).

Like the ALJ in the initial decision, the U.S. Department of Labor's Benefit Review Board focused on previous case law to the effect that work which is itself "integral to the loading, unloading, constructing, dismantling or repairing of vessels," See *Chesapeake & Ohio Ry. Co. v. Schwalb*, 493 U.S. 40, 23 BRBS 96(CRT) (1989) is maritime in nature. The employer/carrier did not appeal the BRB's decision to the First Circuit, which would have been the next jurisdictional "port of call" in that case.

Conclusion

The best way to think of it may be this: if an iron worker drilling holes in concrete for the purpose of installing handrails outside buildings on dry land at Portsmouth Naval Shipyard is engaged in "maritime employment" in a covered situs, then who else in New Hampshire may be as well?

Doug Grauel has been practicing law for 27 years. His office is in Concord where he handles workers' compensation claims in New Hampshire and Maine, Longshore & Harbor Workers' Compensation Act claims, Defense Base Act claims for overseas military contractors, and Social Security Disability claims. Doug holds a BS from Carnegie Mellon University and an MA and a JD from The Ohio State University.

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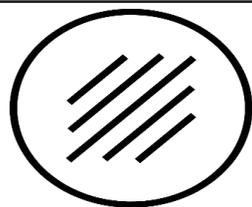


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the final version of SB59 made the following statutory changes.

The definitional section of the statute, 281-A:2, XI was amended to state that “‘Injury’ or ‘personal injury’ shall not include diseases or death resulting from stress without physical manifestation, *except that, if an employee meets the definition of an ‘emergency response/public safety worker’ under RSA 281-A:2, V-c, the terms ‘injury’ or ‘personal injury’ shall also include acute stress disorder and post-traumatic stress disorder.*”

The effect of this change is that, for all employees who are not “emergency response/public safety workers,” any mental stress claim continues to require some element of physical manifestation to be compensable. But, emergency response/public safety workers who present with ASD/PTSD no longer need exhibit physical symptoms to be covered.

The class of worker to receive this benefit was also expanded, by amending the definition of “emergency response/public safety worker” at RSA 281-A:2, V-c to include the oft-overlooked 911 operators who — again — are acutely connected to intense trauma as part of their everyday work. The definition now reads “call, volunteer, or regular firefighters; law enforcement officers certified under RSA 106-L; certified county corrections officers; **emergency communication dispatchers**; and rescue or ambulance workers including ambulance service, emer-

gency medical personnel, first responder service, and volunteer personnel.”

Finally and most significantly, the benefit for these first responders was extended to add a burden-shifting presumption of causal relationship to work, at RSA 281-A:17-c: “Notwithstanding RSA 281-A:2, XI and XIII, RSA 281-A:16, and RSA 281-A:27, there shall be a prima facie presumption that acute stress disorder and post-traumatic stress disorder in an emergency responder, as defined in RSA 281-A:2, V-c are occupationally caused.”

While the definitional changes took effect upon passage and are already law, the presumption does not become effective until January 1, 2021. The Commission will remain in force through November 2020 to assess whether the gradual rollout of this change has the intended salutary effect on New Hampshire’s first responders, and whether additional changes, substantive or procedural, may be required.

Note: the author was appointed as a member of the Commission described in the article. SB59 also made minor modifications to the standards for establishing work-related cancer, heart and lung disease in firefighters; discussion of these changes is beyond the scope of this article

Jared O’Connor, a shareholder at Shaheen & Gordon, has focused his career exclusively on the representation of injured workers. He was appointed as by the New Hampshire Association of Justice to sit as a member of the Governor’s PTSD Com-

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assets to an excess verdict. Importantly, it is irrelevant that the insured is personally judgment proof.

Asserting a *Dumas* claim is not only a way to exert pressure on the insurer, often forcing an insured to retain personal counsel at their own expense, but is also a way to preserve your client’s ability to seek recovery of the excess verdict against the insurer rather than seeking collection against the underinsured tortfeasor. If the insured tortfeasor retains personal counsel, that attorney often becomes your ally in pressuring the insurance company to pay the claim rather than expose the insured to an excess verdict. The *Gelinas* case cited above provides a good roadmap of how a subsequent *Dumas* action is pursued and litigated. This includes the claimant, following an excess verdict, taking an assignment of rights from the underinsured tortfeasor and pursuing collection of the overage verdict directly against the insurer.

I use the *Dumas* doctrine in cases where I believe my client’s case arguably or clearly has value in excess of the tortfeasor’s policy limits. I insert language at the end of my demand letters and sometimes mediation summaries laying out the doctrine even though specifically referencing *Dumas* in a policy limit demand letter may not be technically necessary. I do it for purposes of exerting pressure, and perhaps triggering a more comprehensive review of my client’s case at the company or even an obligation of the insurer to advise their insured to retain personal counsel. It may also be instructive to adjusters unfamiliar with New Hampshire bad faith law. The following is a sample of language I personally use in demand letters in appropriate cases:

“The value of this claim greatly exceeds your insured’s policy limits of \$250,000.00. Special damages (medical bills and wages) alone total \$195,000.00. Liability is clear, medical causation is established, the injuries are permanent, and Mr. Plaintiff’s economic and non-economic losses will continue indefinitely into the future.

“As you are aware, under New Hampshire law, XYZ Insurance Company owes to its insured the obligation to safeguard his personal assets by tendering policy limits in cases where the likely verdict of a jury would exceed those limits. See *Dumas v. Hartford Ins.*, 94 NH 484 (1947); *Dumas v. State Farm Mut. Auto Ins. Co.*, 111 NH 43

(1971); *Gelinas v. Metropolitan*, 131 NH 154 (1988).

“Should XYZ fail to tender the policy limits in this case within thirty (30) days, the demand will be withdrawn, and we will file suit and proceed to trial. We will seek collection of the excess verdict against your insured’s personal assets, as well as attorney’s fees and costs.

Again, this demand is subject to final verification that your insured has no other applicable liability or excess coverage available above the \$250,000.00 auto liability limits with XYZ, and if necessary receipt of permission to accept from my client’s UIM carrier.”

While bad faith actions are not easy in New Hampshire compared to other jurisdictions, options do exist that, when used properly and in appropriate circumstances, can serve to exert the necessary pressure to force an obstinate or unseasoned adjuster or their supervisors to act reasonably. Failing that, these measures serve to preserve your client’s rights to recover recognized damages and/or attorney’s fees for bad faith claims practices.

Peter Hutchins is a solo practitioner in Manchester, NH, concentrating in plaintiff’s personal injury litigation. Formerly with Wiggin & Nourie, attorney Hutchins has been in practice in New Hampshire for 36 years, and is a past president and current treasurer of the New Hampshire Bar Association, as well as a longstanding member of the CLE Committee and frequent lecturer at CLEs involving personal injury issues.

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information, let me or the *Bar News* know, and I’ll be happy to provide a series with more information. Of course, if you want me to shut up already, I’ll listen to that request too.

Your Friend,
Kirk, the Red Sneaker Lawyer.

Kirk is a trial lawyer who happens to wear red sneakers and owns a calculator. He is the Managing Director of Nixon, Vogelman, Slawsky & Simoneau in Manchester, NH.

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Merrimack County Diversion Center Adds Parenting Classes

By Anna Berry

The Merrimack County Diversion Center may be nearly three decades old but for Director David Croft, innovation is always on the table.

The retired police chief says changes in society, and particularly the state's ongoing opioid crisis, have led to new rehabilitation programs at the Center in Concord.

"Criminal justice is not new to substance misuse," Croft said. "I don't think I ever made an arrest of someone who was not under the influence or committing a crime to get under the influence [of a substance] ... [but] we can't expect to put them back into society without the necessary skills to survive."

With a goal to hold defendants accountable, "get them educated ... and send them out the door to keep them from re-offending in the future," he said the Diversion Center is continually adding programs to support that mission.

Most recently, Croft said the family courts have highlighted a new need.

"There was a big need for some type of parenting program," Croft said.

He added that "there wasn't anything out there that, one, could be cost effective for a lot of the clients [and] two, local."

Now, a recently-launched 10-week, \$250 program will allow clients to step into the rotation of evening classes on parenting at any time. Instructors include medical professionals and certified parenting experts covering topics such as child development and nutrition, positive parenting, family roles, effects of adult behaviors, and building character.

Further, attendees don't need to be involved in the criminal justice to take part. For example, Croft said people who are involved in a divorce proceeding or a DCYF case could take proactive steps to learn more about parenting before their case is heard.

Marital Master Thomas G. Cooper was instrumental in putting the new program together, Croft added.

In the first month, 12 people have been referred to the program by the court, by the recommendation of clients' counsel, and by the county attorney's office under plea negotiations.

Croft hopes the program will continue to grow.

"If we can turn folks' lives around, it saves the county taxpayers money," he said.

To learn more, visit <https://merrimackcounty.net/departments/adult-diversion>.



A ribbon-cutting ceremony was held at the new Hampton Courthouse (10th Circuit – District Division – Hampton) on August 2. Chief Justice Robert J. Lynn (right), Administrative Judge David D. King (middle) and Department of Administrative Services Commissioner Charles M. Arlinghaus (left) were part of the ceremony. Photo courtesy of NH Judicial Branch, by Brian Eddy

Family Division Expansion

The Circuit Court announces that three new Family Division locations are scheduled to open in January 2020 in Milford, Candia and Hampton.

Each of the new locations will handle all Family Division case types, i.e.:

- Divorce
- Parenting
- Name Change
- Abuse and Neglect
- Juvenile Delinquency
- Child in Need of Services
- Termination of Parental Rights
- Adoption
- Minor Guardianship

Starting in January, family cases from the following towns will go to the following new locations:

The towns of Amherst, Lyndeborough, Mont Vernon, Milford, Brookline, Mason and Wilton will go to the Milford Family Division.

The towns of Auburn, Candia, Deerfield, Northwood, Nottingham, and Raymond will go to the Candia Family Division.

The towns of Hampton, North Hampton, South Hampton, Hampton Falls and Seabrook will go to the Hampton Family Division.

As part of the shift of cases to the three new Family Division locations, and pursuant to SB 127 signed by Governor Sununu on July 12, 2019, cases from the towns of Newfields, Newmarket and Stratham will go to the Brentwood Family Division.

Detailed information about the transfer of open cases and the court days in the new locations will be made available later this fall.

NH e-Court Program Update

Phase 1 of E-Filing Superior Court Criminal Cases Launches Successfully!

The NH Superior Court began Phase 1 of mandatory electronic filing for attorneys in Rockingham Superior Court in early August 2019. The statewide rollout to all other NH Superior Court courts is planned for fall 2019.

As with all other e-filed case types, pleadings must be submitted electronically – including Waiver of Arraignment, Waiver of Extradition, and the Superior Court Bail Order at arraignment. Representatives from the County Attorney and Public Defender offices participated in the design and implementation of the electronic workflow and "real time" e-filing of arraignment paperwork. Attorneys practicing in the Superior Court on criminal cases are encouraged to

check the NH Bar e-Bulletin and the NH Superior Court website (<https://www.courts.state.nh.us/superior/index.htm>) for information on the training video for criminal e-filing.

Using laptops and other mobile computing devices in the courtroom is becoming essential as e-filing expands further into the NH court system. The good news is that moving to a paperless process offers the benefits of streamlined workflow and greater efficiency for courts, attorneys, and clients.

For attorneys who need a refresher on using technology inside and outside of the courtroom, the Bar Association is currently offering two videos of breakout sessions from a

recent CLE seminar on "Real World Tech Solutions" at a discounted rate.

Learn more about "simple digital security measures every lawyer must take" and tips and tricks for PDFs – including PDFing on a tablet, redaction, and encryption – online at <https://www.nhbar.org/e-court/>

Stay tuned to the **NH e-Court Program Update** and the **NHBA e-Bulletin** for more information on technology expansion in NH courts, including the rollout of laptops and signature pads for attorneys to borrow in selected NH Superior Court courtrooms and conference rooms.



Source: NH Judicial Branch

July 2019

CIVIL PROCEDURE

The State of New Hampshire v. Byron E. Witney
No. 2015-0149
July 16, 2019
Affirmed

- Issue: Whether the Superior Court lacked jurisdiction over an appeal of a class B misdemeanor from circuit court.

The defendant was convicted under RSA 642:2 (2019) of resisting arrest and appealed to the superior court. On appeal, prior to trial, the State advised the court they lacked jurisdiction because the defendant was convicted of a class B misdemeanor. The Court agreed with the State and after filing a motion to reconsider, the defendant appealed.

The Court reviewed jurisdiction *de novo*. The defendant's right to an appeal to superior court is conferred by statute. Class B misdemeanors are appealed on direct appeal, whereas class A misdemeanors are appealed to Superior Court or to the Supreme Court. The defendant argued that he was charged with a class A misdemeanor or that his statutory right to appeal was violated by classifying the offense as a class B misdemeanor.

Evaluating the language of the statute, the Court determined that resisting arrest is an unspecified misdemeanor that can be classified as either class A or B. RSA 625:9, IV. They found that resisting arrest under RSA 642:2 does not involve an "act of violence" and that the State did not provide notice that they sought class A misdemeanors penalties. Therefore, the offense was a class B misdemeanor and the defendant was not entitled to a *de novo* jury trial.

Gordon J. MacDonald, attorney general, (Stephen D. Fuller, senior assistant attorney general, on the memorandum of law) for the State. Wiberg Law Office, of Portsmouth, (Sven D. Wiberg on the brief), for the defendant.

PROPERTY LAW

Evelyn Tarnawa v. Richard Goode
No. 2018-0202
July 2, 2019
Affirmed

- Issue: Whether the Superior Court erred in granting a petition to partition.

The defendant continued to reside in property, under the terms of a never executed agreement, that was jointly awarded by will to the plaintiff and the defendant. When the defendant failed to pay property taxes, the plaintiff filed a petition for partition, which was granted by the court. The defendant appealed the denial of a motion for reconsideration and a motion to stay the order.

The Court, relying on *DiGaetano v. DiGaetano*, rejected the defendant's argument that the probate court had subject matter jurisdiction because it was acquired through the settlement of the decedent's estate. Where the probate court and the Superior Court have concurrent jurisdiction, the Court concluded that the matter did not require the probate court's expertise because the estate was tangential; it was merely the

manner by which they gained title. (*See Rogers*, 171 N.H. at 747).

Next, the defendant argued the claim was barred by *res judicata*. The Court reviewed *de novo* and disagreed with the defendant finding that the plaintiff could have filed a petition for partition when she became co-owner of the property but was not required to do so and "could ... reserve her right to file." (*Boddiker v. McPartlin*, 41 N.E.2d 756, 761 (Ill.1942).

Finally, the defendant argued, and the Court disagreed, that the action should have been dismissed on laches grounds or because of the action was really for breach of contract. On the breach of contract grounds, the Court found that plaintiff sought partition, not a remedy for breach of contract and that the plaintiff "does not have an adequate remedy at law." On the laches grounds, the Court found the trial court had not erred because the delay in petitioning for partition was reasonable and the defendant was not prejudiced by the delay, but in fact benefitted from the delay.

Law Office of Joshua Gordon, of Concord (Joshua L. Gordon on the brief and orally) for the plaintiff. Nixon, Vogelmann, Slawsky & Simoneau of Manchester (Leslie C. Nixon on the brief and orally) for the defendant.

Donald Toy v. City of Rochester

No. 2018-0172

July 30, 2019

Affirmed in part, Reversed in part, Vacated in part, and Remanded

- Issue: Did the trial court err in ordering the City to reacquire title to a parcel of land and to transfer title to the plaintiffs.

The City conducted a sealed bidding process to sell a lot of land. After receiving the bids, the City reached out to several of the bidders to inquire about their intended use of the land and asked one of the bidders ("Toys") but not the other ("Phillbrooks") whether they would accept a restrictive covenant as a condition of purchase, which they declined. The property was awarded to the Phillbrooks and the Toys brought suit. The trial court granted the Toys' request for declaratory judgment and injunctive relief and ordered the City to reacquire the land and transfer title to the Toys. The trial court denied the Phillbrook's motion for reconsideration and they appealed.

On the issue that the legal theories were not set forth in the Toys' complaint, the Court found that because New Hampshire is a notice-pleading state, while the restrictive covenant was not expressly articulated in the complaint, the defendants had notice that the issue would be raised at trial because it was included as part of the motion for summary judgement. Reviewing the issue *de novo*, of whether the trial court erred in granting the Toys' request for declaratory judgement and injunctive relief, the Court reviewed this case in the context of *Irwin Marine*. The Court found that the City had the authority to establish and conduct a sealed bidding procedure. Related to the Conditions of Sales, the Court found the City retained the right to reject any bidding it concluded would be in the best interest of the City. Additionally, the Court found the absence of an express declaration of "best interests" is not sufficient to show the City's exercise of discretion was "arbitrary, capricious, unjust or illegal."

At-a-Glance Contributor



Stacie Ayn Murphy Corcoran

2011 graduate of Suffolk University Law School, practicing in Mass. and NH

Next, the Court disagreed with the trial court that the City could not revise the terms of sale to include a restrictive covenant. Citing *Irwin Marine*, the Court went on to say the city can amend as long as its done in "a fair and equal manner." The Court found that not imposing the same restrictive covenant on the Phillbrooks was "outside the bounds of fairness." Finally, the Court reviewed the equitable relief and vacated the award and remand to the trial court to determine a suitable remedy and the issue of award of attorney fees.

Donald F. Whittum Law Office, of Rochester (Donald F. Whittum on the memorandum of law) and Carl W. Potvin, of Rochester, orally for the plaintiffs. Andrea K. Mitrushki, deputy city attorney, of Rochester, by brief and orally for the defendants.

CRIMINAL LAW

The State of New Hampshire v. David Vincelette

No. 2018-0130

July 9, 2019

Affirmed

- Issue: Did the Court err in finding the State presented sufficient evidence that the defendant intentionally violated the court's order.

The Town owned a nature preserve accessed by a deeded right-of-way over the defendant's land that had narrowed because the defendant had placed items there. The court ordered the defendant to remove the debris. At various points from September of 2015 to September 2016, upon the Town's filing a motion, the court found the defendant in contempt of that order. After being found in contempt a third time, the defendant was charged and found guilty of criminal contempt. On appeal, the defendant argued the State did not introduce

sufficient evidence that proved he violated the original order or that he acted with the requisite intent.

When circumstantial evidence is introduced for intent, the court "must consider whether the circumstances presented are consistent with guilt and inconsistent, *on the whole*, with any reasonable hypothesis of innocence" (*State v. Germain*, 165 N.H. at 362). The Court is not persuaded that the State failed to meet its burden to provide sufficient evidence to prove that the defendant's actions on May 16, 2016 violated the January 2016 order and that the defendant acted with the requisite intent in the charge for indirect criminal contempt. Intent for criminal contempt is "purposeful," subjective and can be established by circumstantial evidence. *State v. Thomas*, 168 N.H. 589, 601 (2016); *Linsky*, 117 N.H. at 875. The defendant knew an order existed, and a police video shows the defendant failing to comply with the order when he physically interfered with debris removal. No rational trier of fact looking at the totality of the evidence in the most favorable light to the State could not have found beyond a reasonable doubt that the defendant's "subjective, conscious object was to violate the January 2016 order." RSA 262:2, II(a); *Germain*, 165 N.H. at 362. Therefore, the Court held the evidence was sufficient to prove the defendant had violated the January 2016 order.

Gordon J. MacDonald, attorney general, (Susan P. McGinnis, senior assistant attorney general, on the brief and orally) for the State. Eric S. Wolpin, assistant appellate defender, of Concord, on the brief and Anthony Naro, public defender, orally, for the defendant.

The State of New Hampshire v. Jonathan L. Woodbury

No. 2018-0118

July 11, 2019

Affirmed

- Issue: Whether the evidence was sufficient to convict the defendant of falsifying physical evidence.
- Issue: Whether the trial court erred in denying the defendant's jury instructing interpreting language in RSA 641:6, I.
- Issue: Whether the trial court erred in imposing multiple sentences for assault.
- Issue: Whether the trial court erred in

AT-A-GLANCE continued on page 34

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At-A-Glance from page 33

failing to instruct the jury *sua sponte* on the defense of mutual combat.

The defendant, already in jail, was convicted of three counts of assault for attacking another inmate and one count of falsifying physical evidence for wiping blood off the floor. He appealed his concurrent sentences for falsifying evidence and the two counts of assault. The Court disagrees with the defendant that the evidence at trial was insufficient to find that he “impaired the verity or availability of the blood in an investigation” and reviewed the circumstantial evidence in the light most favorable to the State and in context with all evidence.

The Court found there was sufficient evidence to determine that the witness’ testimony is credible, because they can accept or reject parts of the witness’s testimony. Based on the totality of the evidence, the Court found that there was sufficient evidence to conclude the defendant knew or believed that an investigation was pending when he wiped the blood up. Finally, the Court found the testimony regarding the procedures for removing blood as part of an investigation sufficient to “exclude all reasonable exclusions” that it was done to “impair its verity or availability in an impending investigation.”

Examining the statute’s wording, the Court found the trial court did not err in failing to instruct the jury on the definition of “official investigation.” Construing the language of the statute according to its “plain and ordinary meaning,” the Court found that investigation was not meant to be qualified. Therefore, the trial court did

not err in failing to instruct the jury.

Next, the Court reviews whether the trial court erred in imposing multiple sentences for two charges. The Court reviewed the allegation of double jeopardy under State and Federal Constitution. The Court found the facts of each assault were dissimilar and the jury was provided with necessary evidence and a jury instruction that the Court presumes the jury followed.

Finally, the Court finds that there was insufficient evidence to support a finding in favor of a mutual combat defense and a new trial. The Court affirmed the defendant’s convictions and sentences. While the two combatants exchanged blows, there was no evidence that would support a rational finding for a defense because there was no express or implied agreement to voluntarily engage in mutual combat.

Gordon J. MacDonald, attorney general (Sean R. Locke, assistance attorney general on the brief and orally) for the State. Stephanie Hausman, deputy chief appellate defender, of Concord, on the brief and orally for the defendant.

The State of New Hampshire v. James Jaskolka

No. 2018-0424

July 30, 2019

Vacated and Remanded

- Issue: Did the trial court err in denying the defendant’s request to vacate his conviction.

In 1991, the defendant took a plea bargain. 27 years later, he filed a motion to vacate his conviction on the grounds he wasn’t advised his right to a jury trial. The

trial court denied his motion to vacate on various grounds. The defendant requested an evidentiary hearing which the trial court denied and the defendant appealed. On appeal, the Court found that the trial court did not have subject matter jurisdiction. The Court found it was a collateral attack on his conviction and that there are statutory limits on the circuit court’s jurisdiction. The Court discussed that a circuit court has jurisdiction to withdraw guilty pleas based on a defendant’s constitutional rights, using a writ of *habeus corpus* or *coram nobis*. *State v. Beaulieu*. Here, because the defendant’s motion was filed beyond the three-year statute of limitations, RSA 526:4, and because he was not in custody, a writ of *habeus corpus* or *coram nobis* would be the proper procedural vehicle to seek a review of the conviction. The Court found that unlike the supreme and superior courts, the circuit court absent statutory authority has no jurisdiction to consider the merit of his motion.

Gordon J. MacDonald, attorney general (Susan P. McGinnis, senior assistant attorney general, on the brief) for the State. Gregory J. Ahlgren, of Manchester, on the brief for the defendant.

CONTRACT LAW

The Skinny Pancake-Hanover, LLC v. Crotix

No. 2018-0648

July 11, 2019

Affirmed

- Issue: Did the court err in granting partial summary judgement to the defendant on the plaintiff’s breach of contract claim.
- Issue: Did the court err in dismissing the plaintiff’s claim for breach of implied covenant of good faith and fair dealing.

The plaintiff entered into a lease for a condominium with an option to purchase. On May 20, 2016 the plaintiff notified the defendant of their intent to exercise and the defendant declined by letter on May 26, 2016. The plaintiff filed a complaint in September 2016 for breach of contract, breach of implied covenant of good faith and fair dealing and several other causes of action. The court denied the plaintiff and defendant motions for summary judgment and motion to dismiss on the claim for breach of good faith and fair dealing. The court granted the defendant’s motion for partial summary judgement on the breach of contract frame because the May 20th correspondence was not unconditional acceptance of the option agreement. The plaintiff’s failure to properly invoke their option rights led to the court dismissing their claim for breach of implied covenant of good faith and fair dealing.

On appeal, the Court first focused on the breach of contract claim *de novo*. The option to purchase the condominium was an option contract that “must be absolute, unambiguous, without condition, or reservation and in accordance with the offer made.” *State Securities Co. v. Daringer*, 293 N.W.2d 102, 105 (Neb. 1980). The Court determined that the purchase and sale placed conditions, making the May 20th correspondence a counter-offer and insufficient to exercise the option to purchase.

Related to the trial court’s dismissal of the plaintiff’s good faith and fair deals claim, the Court found that the trial court’s denial of the amendment raised on appeal was not an “unsustainable exercise of dis-

cretion because the amendment would have added a new cause of action, *Bel Air Assoc.*, 154 N.H. at 236, and likewise would have contradicted the plaintiff’s previous arguments that its claims centered only on contract formation.”

Sheehan Phinney Bass & Green of Manchester (James P. Harris and Patrick J. Queenan on the brief and Mr. Harris orally), for the plaintiff. Cleveland, Waters and Bass P.A. of Concord (Bryan K. Gould and Cooley A. Arroyo on the brief, and Mr. Gould orally) and Schuster, Buttrey & Wing, of Lebanon (Barry C. Schuster on the brief, for the defendants.

Hoyle, Tanner & Associates v. 150 Realty, LLC & a.; McClean Communications, LLC v. 150 Realty, LLC & a.; at Comm Corporation v. 150 Realty, LLC & a.

No. 2018-0182

July 30, 2019

Affirmed

- Issue: Did the trial court err in deciding that the plaintiffs claims that parking rules and fees did not fall within the scope of the arbitration clause in their leases.
- Issue: Did the trial court err in determining that they could determine questions of arbitrability.

The plaintiff’s leased commercial space included parking spaces. The original owners sold the unit to the defendants who put new parking rules into effect assessing fees for parking spaces. The plaintiff’s filed suit and the defendants filed arbitration demands. The trial court granted a motion for summary judgement and the defendant appealed on the grounds that the arbitrator, not the court, could determine issues of arbitrability.

The Court applied contract law, whose proper interpretation is a question of law. On appeal, related to the question of arbitrability, the Court found unless there is contractual language to the contrary, courts not arbitrators decide the “threshold issue” of arbitrability. Absent any additional language that arbitration governs, such as forum, the “mere reference” of the AAA rules is insufficient. Here, the language of the agreement gave the parties the choice to submit to arbitration or pursue a claim at law.

Next, the Court turned to whether the dispute was subject to arbitration. The Court found that where there is an arbitration clause, there is the presumption of arbitrability, but the Court can determine that a “particular grievance” is not arbitrable based on the interpretation of the contract. Here, in reading paragraphs together, the Court found that arbitration can only be compelled when it’s related to the lessee’s default. The Court interpreted the relevant language of the CBA to determine if it is “susceptible to an interpretation that covers the dispute” but fails to see how the defendant’s claim “presents a colorable issue of contract interpretation” when the arbitration claim is based on violations of new unilaterally imposed rules that would alter a “material benefit previously bargained for” that the defendant did not challenge were unenforceable. Therefore, the Court affirmed the trial court’s decision.

Sheehan, Phinney, Bass & Green, of Manchester (James F. Ogorchock, Megan C. Carrier and Bryanna K. Devonshire, on the brief and Ms. Devonshire orally), for the plaintiffs. Hinckley, Allen & Snyder, of Manchester (Christopher H.M. Carter and Jamie S. Meyers on the brief and Mr. Carter orally) for the

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defendants.

MUNICIPAL LAW

Fred S. Teeboom v. City of Nashua, Daniel Moriarty v. Mayor, City of Nashua
No. 2018-0171
July 2, 2019
Affirmed

- Issue: Whether the plaintiff had standing to bring suit.
- Issue: Whether the court erred in dismissing the plaintiff's claims for declaratory, injunctive, and mandamus relief based on the court's determination that the City of Nashua's spending cap in the city charter was unenforceable because it violates state law.

The City of Nashua added a spending cap provision to the City charter, which includes exemptions to the spending cap in 1993. In April 2017, the Board of Alderman passed an ordinance to exempt the wastewater treatment funds from the combined annual municipal budget. Teeboom brought a suit to enforce the spending cap provision, contending that exempting the wastewater treatment funds violated that provision. The City countered that the provision was validly enacted and that Teeboom lacked standing. The court found that "spending cap provision unenforceable because it does not contain an override provision as required by state law and the charter provision allowing a supermajority of the board to exempt from the spending cap municipal bond and capital expenditures did not constate the requisite override provision... was unenforceable... and [Teeboom] lacked standing to bring his claims."

On appeal, the Court found that Teeboom's status as a taxpayer in conjunction with an "injury or impairment of rights can confer standing." The Court found that Teeboom is not required to show the budget directly increased his taxes, only that it be "fairly traceable to the challenged action ... and not the result of independent action of some third party."

Next, the Court turns to whether the spending cap is enforceable and reviews the statutes *de novo*. The Court reviews the "home rule amendment" Part I, Article 39 of the State Constitution, the town's adoption/ amendment of the town's form of government under RSA 49-B, 49-C and 49D, as well as savings clauses in RSA 49-B and 49-C both in pre-2011 and current form. The Court agreed with the trial court that the City's spending cap does not contain an override provision within the meaning of RSA 49-C:12, III and :33 and focused on the language of the provision to find that exempting municipal bonds and capital expenditures from the spending cap does not qualify an override provision.

Nonetheless, the Court looked at whether the spending cap is enforceable (RSA 49-B:13, II-a). The Court agreed with the City's interpretation of the statute because they gave meaning to all parts of the statute. The Court found that previously enacted spending caps are enforceable, regardless of whether they were lawful when adopted and that the City's interpretation of the spending cap was a "state interest" because it expressed the intent of the legislature to "require uniform practices." The Court found that in enacting SB-2 that the legislature was attempting to immunize challenges based on lack of authority and ensure that the override provision would allow the municipality "flexibility address local needs." Because the City Charter does not contain an override provision, the Court affirms the trial court determination that the spending cap is unenforceable.

Douglas, Leonard & Garvey, of Concord, (Charles G. Douglas, III on the brief and orally) for the plaintiff Fred S. Teeboom. Office of Corporate Counsel, of Nashua, (Steven A. Bolton and Dorothy S. Clarke on the memorandum of law, and Mr. Bolton orally) for the defendants.

FAMILY LAW

In RE J.W.
No.2018-0404
July 3, 2019
Affirmed

- Issue: Whether the court erred ruling that RSA 170-B:4 does not authorize the unmarried petitioners to jointly adopt a child.

The trial court dismissed the petitioner's motion and motion for reconsideration to allow the child's natural father and unmarried partner to adopt the child. On appeal, the Court examined RSA 170 B-4 and *Jason C.* and concluded that the language of the statute did not contemplate two unmarried adults jointly adopting. The Court, relying on *Jason C.* and supported by the Uniform Adoption Act 1971 version, disagreed with the petitioner that the statute contemplated the "unmarried parent of a child to adopt the child *jointly* with another individual." Historically, legitimate and illegitimate children were treated differently under the law and RSA 170-B:4 allowed an unmarried parent to adopt their own child. The Court concluded it did not permit an unmarried parent, regardless of the stability of the household, to adopt with another individual and that contemplating the otherwise would lead to results the legislature had not intended.

Finally, the Court reviews *amicus curiae* and dissenting arguments and found while considering adoption statutes liberally, with a view to effectuating policy, they are not permitted to rewrite the statute. Here, while the petitioner's record is "sympathetic," the statutory requirements are not met and they cannot grant a petition to adopt. Those requirements include: consent of a natural parent, which would terminate their own parental rights; "step-parent exception;" or adult adoption.

In contrast to the majority, the dissent believes that the petitioner's adoption petition should be granted because it's in the best interest of the child. The petition was brought jointly by the parties to retain the natural parent's parental rights and the statute should be construed liberally. The dissent read RSA 170-B:5, I, :7 and :25 together finding that the parental right of the natural father should not be terminated and that in conjunction with RSA 170-B:19, IV (2014) where surrender has already been obtained, adoption is in the best interest of the child. Where the statute allows unmarried adults to adopt, allowing adoption in this instance would fulfill the legislature's purpose of providing a "unified and stable household for the child."

In Re A.D.
No. 2019-0132
July 26, 2019
Affirmed

- Issue: Whether the trial court erred in dismissing the petition to adopt.

The child was placed in foster care with the petitioner, a social worker, and later reunited with the mother and then returned

to the petitioner. The petitioner began a relationship with the child's father, which was discovered by DCYF and the child was removed. The petitioner filed a motion to adopt, which was dismissed by the trial court for lack of standing because the child hadn't been placed in the petitioner's home "for the purposes of adoption." On appeal, the Court reviewed *de novo* and found that while the petitioner is of a category eligible to adopt under the adoption statute, she did not "meet the statutory conditions to adopt a child," because while the parent's rights have been terminated, DCYF was unwilling to consent to an adoption. RSA 170-B:2, XVII (2014).

Bianco Professional Association, of Concord (Crystal Maldonado and Thomas Colantuono on the brief) for the petitioner. Gordon J. MacDonald, attorney general (Laura E.B. Lombardi, senior assistant attorney general, on the brief) for New Hampshire Division for Children, Youth and Families.

SECURITIES LAW

Curtis S. Ridlon v. New Hampshire Bureau of Securities Regulation
No. 2018-0035
July 24, 2019
Reversed

- Issue: Whether the trial court erred in finding the New Hampshire State Constitution Part I, Article 20 guarantees the party subject to an administrative enforcement action by the New Hampshire Bureau of Securities regulation a jury trial.

The Bureau appealed the trial court's denial of their motion for declaratory judgement, ruling that Part I, Article 20 of the New Hampshire State Constitution affords Ridlon with the right to a jury trial. The Court, relying on State and Federal Law, reviewed when a jury trial is granted in civil cases, looking at the nature of the case and the relief sought, and whether a jury trial was customary in that instance prior to 1786. The Court found that the Seventh Amendment is not within the 14th Amendment due process rights and the State Constitutional approach to right to a jury is different.

The Court found that even if the amount in controversy is over the statutory limit, an assessment of the circumstances of the case using the statutory framework must be done to determine whether a jury trial is applicable. Here, the statutory framework was unknown to common law in 1786. The

Court evaluates both *Town of Henniker and Morrill* and disagrees with the parties interpretation that if the statutory minimum is met to collect a civil penalty the party has a right to a jury trial. In regards to the argument the claim can be considered common law fraud, after carefully reviewing the elements of both claims, the Court finds that RSA 421-B:1- 102(17) is broader and distinguishable from the common law tort because it has different elements and different standard of proof.

Finally, the Court disagrees with the dissent's view that there existed an implied statutory right to a jury trial, rather than one under the State Constitution. The dissent argues the majority focuses on the administrative action. They suggest that the right to jury trial can exist on appeal after a claim is adjudicated by an administrative agency and failure to provide an appeal contravenes Part I, Article 20. This Constitutional right is a protection against the government. *Wooster*, 62 N.H. at 201. The dissent argues that Ridlon is entitled to a jury trial because before 1784 and the adoption of the New Hampshire State Constitution, under common law, civil penalties were actions for debt that were triable before a jury; the nature of the relief sought was only available in a court of law; and the maximum penalty was over the statutory amount. Alternatively, the dissent evaluated whether under *Hallahan* there was an implied right to a jury trial, the Court finding that *stare decisis* does not compel them to perpetuate the *dicta* in *Hair Excitement* and *Franklin Lodge*. The comprehensiveness of the statutory scheme is not important, only the nature of the claim and the relief sought. The majority approach would "nullify the constitutional right of trial by jury by mere statutory enactments."

ADMINISTRATIVE LAW

Appeal of Northern Pass Transmission LCC
No. 2018-0468
July 19, 2019
Affirmed

- Issue: Did the New Hampshire Site evaluation committee err in denying the petitioner's application for a "Certificate of Site and Facility."

The Court reviewed the record and concluded that the Subcommittee's findings were supported by competent evidence, were not erroneous as a matter of law and that the petitioners would not have

AT-A-GLANCE continued on page 36



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“sustained their burden on appeal to show that the Subcommittee’s order was unreasonable or unlawful.” RSA 541:3. First, the Court reviewed the procedural background of the Subcommittee including: the motions received, the number of hearings held, witnesses heard, exhibits received, the vote taken unanimously by the Subcommittee and its decision to deny the application in a 287 written decision.

Next, the Court looked at the statutory framework, evaluating: the purpose, required findings, burden of proof and orderly development of the region. The Subcommittee based their review on RSA 162-H and had broad discretion in making a determination to issue a Certificate as long as Subcommittee makes a finding on the criteria and according to the rules in RSA 162-H. The Court determined that the applicant has the burden of proof to make their showing by a preponderance of the evidence and that *N.H. Admin. R. Site 301.15* applies in determining whether the proposal will unduly interfere with the regional development. Related to those areas, the Subcommittee found the petitioner’s reports and testimony in many cases lacked credibility or there were content issues with the reports that were submitted.

Then, the Court addresses the petitioner’s argument that the Subcommittee violated RSA 162-H “by failing to consider all relevant information, including mitigating measures and conditions and by failing to weigh potential impacts and benefits.” The Court disagrees with the petitioner concerning deliberate aesthetics, finding they discussed aesthetics related to the impact of the project on community uses, how it would “influence land uses in the vicinity” and providing numerous examples from the record of the various town’s Master Plans. They reasoned that the Master Plans represented the views of the communities. Next, the Court addresses the petitioner’s argument that the Subcommittee failed to consider mitigation measures and conditions that would have reduced or eliminated project impacts. The Court found that the Subcommittee had not ignored mitigation measures that were offered by the petitioners but found the petitioner’s analysis inadequate. Therefore, the Court held that the Subcommittee didn’t have to craft its own mitigation measures to “make up for the failure to satisfy the statutory and regulatory criteria” that would shift the burden to the Subcommittee. The Court disagreed with the petitioner that the Subcommittee failed to weigh the evidence and make a determination on the capacity market benefits, finding that the Subcommittee did not

find the petitioner’s expert credible.

Next, the petitioner asserted that the Subcommittee’s application of the orderly development standard was “both unlawful and unreasonable under RSA 541:6 and unconstitutional.” Reviewing the statutory teams and regulatory standards, the Court found that the petitioner’s argument was “insufficiently developed” for appellate review, but goes on to highlight that the regulations identify the definition of the terms, the documents and information that are required for the petitioner to satisfy their burden of proof. The Court finds that the Subcommittee based its denial of the application on the record and not on an *ad hoc* basis because they were in the best position to measure the “persuasiveness and credibility of the evidence” and their findings could reasonably be made based on the evidence presented. Then, the Court turns to the right-of-way, finding that their prior decisions were not an “administrative gloss” and that rule is not applicable here. Even though the project is within an existing right-of-way, the Court agreed with the Subcommittee that it was required to analyze the characteristics of the project to assess the impact of the project on land usage.

Finally, the Court found that record does not support the petitioner’s contention that the Subcommittee imposed on them an affirmative burden to address and resolve the views of the different governing bodies. The Court further found that the petitioners failed to demonstrate by a preponderance of the evidence that the project would not unduly interfere with the “orderly development of the region” because the Subcommittee took all of the relevant information into consideration and found the Municipal testimony persuasive.

McLane Middleton, of Manchester (Wilbur A. Glahn, Barry Needleman and Jeremy T. Walker on the brief and Mr. Glahn orally) for the petitioners, Northern Pass Transmission and Public Service Company of New Hampshire d/b/a Eversource. Gordon J. MacDonald, attorney general (Christopher G. Aislin, senior assistant attorney general, on the brief and orally) representing the public interest. City Solicitor’s Office, of Concord (Danielle L. Pacik, deputy city solicitor, on the joint brief and orally), for intervenor City of Concord; Mitchell Municipal Group, of Laconia (Stephen M. Whitely on the joint brief); for intervenors Towns of Deerfield, Littleton, New Hampton, and Pembroke; and Drummond Woodsum, of Manchester (C. Christine Fillmore on the joint brief), for the intervenors Towns of Bethlehem, Bristol, Easton, Franconia, Northumberland, Plymouth, Sugar Hill and Whitefield.

Supreme Court Orders

Pursuant to Part II, Article 73-a of the New Hampshire Constitution and Supreme Court Rule 51, the Supreme Court of New Hampshire entered the following order:

Following a public hearing held on April 12, 2019 on the recommendation made by the Advisory Committee on Rules (the Committee) to amend New Hampshire Rule of Professional Conduct (Rule) 8.4, and following a comment period on the court’s alternative proposal to amend Rules 8.4 and 4.4 set forth in its May 17, 2019 order, and after considering all comments submitted, the New Hampshire Supreme Court hereby amends the Rules by adopting Rule 8.4(g) and the comments thereto as specified in Appendix A attached to this order. The court makes no changes to Rule 4.4.

The Bar has shown a high level of interest in the proposed amendment to Rule 8.4 since March 2017, when the Committee first considered the question of whether to recommend that this court adopt the American Bar Association’s Model Rule of Professional Conduct 8.4(g)(Model Rule 8.4(g)). Since then, members of the Bar have expressed disparate views about Model Rule 8.4(g) and other proposals that were submitted to the Committee and this court. Model Rule 8.4(g) is of relatively recent origin, and a majority of jurisdictions have not yet considered whether to adopt it. Of those jurisdictions that have considered adopting Model Rule 8.4(g), several have declined to do so. As of this writing, only one state, Vermont, has adopted a rule that is nearly identical to the model rule. Maine has adopted a rule that is similar, but is not nearly identical, to Model Rule 8.4(g). As of this writing, Model Rule 8.4(g) remains under consideration in a number of jurisdictions.

In light of the nascent and ongoing discussion regarding the model rule, the court declines to adopt the rule proposed by the Advisory Committee on Rules. The amendment to Rule 8.4 that the court adopts today is similar to that proposed by the Attorney Discipline Office in a March 25, 2019 letter submitted prior to the April 12 hearing on the Committee’s proposal.

The court believes that a review of the operation of the rule that the court adopts today is appropriate once it has been in effect for a reasonable period of time. Accordingly, the court hereby directs the Committee to undertake such a review after the amended rule has been in effect for two years, and that the Committee pro-

vide the court with its recommendations, if any, upon completing that review. The court requests that the Committee work with the New Hampshire Bar Association Ethics Committee, the Attorney Discipline Office, and any other entities or persons the Committee believes would assist in the review.

The amendments to the New Hampshire Rules of Professional Conduct made by this order shall take effect on August 1, 2019.

Date: July 15, 2019
 ATTEST: Eileen Fox, Clerk
 Supreme Court of New Hampshire

LD-2019-0007, *In the Matter of Jeffrey M. Brown, Esquire*

On May 29, 2019, the Professional Conduct Committee (PCC) filed a recommendation that Attorney Jeffrey M. Brown be disbarred. The PCC’s recommendation was based on a stipulation signed by Attorney Brown and Disciplinary Counsel, in which Attorney Brown admitted that he had violated numerous Rules of Professional Conduct and conceded that disbarment was the appropriate sanction for his misconduct. In the stipulation, Attorney Brown expressly waived his procedural rights under Supreme Court Rule 37 and 37A, including the right under Rule 37(16) to be served with the PCC’s recommendation and to be heard on the recommendation prior to the imposition of discipline. Because the PCC’s recommendation was based on the stipulation agreed to by both Attorney Brown and Disciplinary Counsel as to Attorney Brown’s violations of the Rules of Professional Conduct and the appropriate discipline for the violations, and because Attorney Brown has waived his rights under Rule 37(16), it is unnecessary to serve Attorney Brown with the PCC’s recommendation or to provide an opportunity to be heard on the PCC’s recommendation prior to court action.

In the “Stipulation to Disbarment” approved by the PCC, Attorney Brown admitted that he charged unreasonable legal fees; paid personal expenses from his client trust account; made unauthorized withdrawals from his client trust account; misappropriated client funds; commingled personal funds with client funds; failed to competently manage and account for funds that he held as a fiduciary; failed to conduct monthly reconciliations or keep accurate client ledgers for his client trust

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July 2019

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CRIMINAL LAW; EVIDENCE

7/25/19 USA v. Romeo Tyree Hayes
Case No. 19-cr-35-01-JL, Opinion No. 2019 DNH 117*

In this prison assault case, the defendant and the prosecution both filed evidentiary motions in limine. The defendant planned to assert self-defense. The court: (1) granted in part the prosecution's motion to exclude evidence of specific instances of the alleged victim's prior conduct, allowing only evidence offered solely to corroborate the defendant's testimony regarding the victim's violent reputation; (2) denied the prosecution's motion to exclude statements made directly after the alleged assault because they qualified as excited utterances; (3) granted the defendant's motion to prohibit the prosecution from using impeaching him with evidence of his prior convictions; and (4) denied the defendant's motion to exclude a prison phone recording. 18 pages. Judge Joseph N. Laplante.

CRIMINAL PROCEDURE; FOURTH AMENDMENT

7/9/2019 United States v. Hernandez
Case No. 18-cr-118-LM, Opinion No. 2019 DNH 109

Charged with possession with intent to distribute, the defendant moved to suppress drug evidence obtained during a traffic stop of the rental vehicle he was driving. The court granted the motion. The court found the initial traffic stop justified based on the officer's observation of a minor traffic violation (following too closely). But the court found that the officer thereafter impermissibly extended the traffic stop without reasonable suspicion that defendant was engaged in criminal activity. The court found that the officer's request that defendant exit his vehicle, made after the officer had spoken with defendant and checked his license and registration, was not related to the purpose of the stop (a minor traffic violation). It further found that the officer's request added time, i.e. prolonged or extended, the traffic stop. Finally, the court found that the extension of the stop was not supported by reasonable suspicion because the facts relied upon by the officer did not distinguish defendant from an innocent traveler. The court suppressed the evidence later obtained during a search of the vehicle as fruit of the poisonous tree of the unlawfully extended stop. 36 pages. Chief Judge Landya McCafferty.

DEFAMATION

7/16/19 Olivia Karpinski et al. v. Union Leader Corp. et al.
Case No. 18-cv-1214-PB, Opinion No. 2019 DNH 110

Two private citizens alleged they were defamed in article published by New Hampshire Union Leader and sued the paper's owner, its executive editor, and the article's author for defamation, false light invasion of privacy, conspiracy, and violation of the New Hampshire Consumer Protection Act. The court held that the allegedly defamatory statements were protected by the fair

report privilege because they were "rough-and-ready" summaries of statements drawn from public records. The conspiracy and Consumer Protection Act claims failed for the same reason. Motion to dismiss granted. 22 pages. Judge Paul Barbadoro.

IMMIGRATION; HABEAS CORPUS

7/25/19 Hernandez-Lara v. Immigration and Customs Enforcement
Case No. 19-cv-394-LM, Opinion No. 2019 DNH 114

In this immigration-detention case, the court granted petitioner's petition for writ of habeas corpus and denied the government's motion to dismiss same. Petitioner, a non-criminal alien, was arrested and taken into Immigration and Customs Enforcement custody pursuant to 8 U.S.C. § 1226(a) pending removal proceedings. After a hearing, an immigration judge found that she had failed to carry her burden of proving that she was not a danger to the public and therefore denied her bond. She then sought habeas relief from this court, arguing that the immigration bail system violates the Due Process Clause because it places the burden of proof on non-criminal aliens to prove they are entitled to be released on bond. The court, joining every other district court to have ruled on the issue, held that the government, not the non-criminal alien, should bear the burden of proof at the bail hearing. The court further held that the Due Process Clause requires that the government's burden be proof by clear and convincing evidence. Because petitioner's bail hearing did not meet these requirements, the court granted her petition to the extent it requested a new bond hearing at which the government would bear the burden of justifying her detention by clear and convincing evidence. 21 pages. Chief Judge Landya McCafferty.

INSURANCE COVERAGE

7/23/19 John Wallace et al. v. Nautilus Insurance Company
Case No. 18-cv-747-LM, Opinion No. 2019 DNH 113

After incurring costs to replace their negligently constructed roofs, plaintiffs obtained an arbitration award against the construction company which included both the full replacement cost of their roofs and attorneys' fees. The construction company's liability insurer, the defendant in the case, determined that the award fell outside the scope of the relevant insurance policy. The plaintiffs brought suit against the defendant, seeking a declaration that the unpaid portion of the arbitrator's award is covered by the policy. In ruling on the parties' cross-motions for judgment on the stipulated record, the court held that, under New Hampshire law, damages for the costs incurred in replacing faulty workmanship was not "damages because of property damage." The court noted that the faulty workmanship itself was not damaged and that the arbitrator's decision to award the replacement cost of the roofs was not dependent on the plaintiffs incurring property damage. The court held, however, that the plaintiffs were entitled to attorneys' fees incurred in the arbitration, because such fees were included in "costs taxed against the insured" in a suit to determine coverage, which was covered under the policy. 31 pages. Chief Judge Landya McCafferty.

account; knowingly submitted false trust account certificates to the Supreme Court for the periods from June 1, 2014 to May 31, 2017; and generally failed to maintain his client trust account in accordance with the requirements of Rule 50. He conceded that his conduct violated the following Rules of Professional Conduct:

1. Rule 1.1, which requires a lawyer to provide competent representation to a client;

2. Rule 1.3, which requires a lawyer to act with reasonable diligence and promptness in representing a client;

3. Rule 1.5, which prohibits a lawyer from charging and collecting unreasonable fees;

4. Rule 1.15, which requires a lawyer to safeguard the property of a client, and Supreme Court Rule 50, which imposes certain requirements on lawyers regarding client trust accounts;

5. Rule 3.3, which prohibits a lawyer from knowingly making false statements to a tribunal; and

6. Rule 8.4(c), which makes it professional misconduct for a lawyer to engage in conduct involving dishonesty.

The court has reviewed the "Stipulation to Disbarment" and the PCC's recommendation that Attorney Brown be disbarred. After considering the nature, seriousness, and extent of Attorney Brown's misconduct, the court concludes that disbarment is the appropriate sanction in this case.

THEREFORE, the court orders that Jeffrey M. Brown be disbarred from the practice of law in New Hampshire. He is hereby assessed all expenses incurred by the PCC in the investigation and prosecution of this matter.

Lynn, C.J., and Hicks, Bassett, Hantz Marconi, and Donovan, JJ., concurred.

DATE: July 16, 2019
ATTEST: Eileen Fox, Clerk



In accordance with Supreme Court Rule 37(3)(d), the Supreme Court appoints Richard Guerriero, the Vice President of the New Hampshire Bar Association, to serve as the Board of Governors' representative on the Professional Conduct Committee, for a term commencing August 1, 2019, and expiring July 31, 2020.

Issued: July 16, 2019
ATTEST: Eileen Fox, Clerk of Court
Supreme Court of New Hampshire



Pursuant to Part II, Article 73-a of the New Hampshire Constitution and Supreme Court Rule 51, the Supreme Court of New Hampshire adopts the following amendments to court rules.

I. Electronic Filing. New Hampshire Rules of Criminal Procedure and Supplemental Rules of Superior Court for Electronic Filing

(These amendments are designed to facilitate the implementation of electronic filing in criminal cases in the superior court, which is currently scheduled to begin on August 6, 2019.)

1. Amend New Hampshire Rule of Criminal Procedure 3(c), as set forth in Appendix A.

2. Amend New Hampshire Rule of Criminal Procedure 6(b), as set forth in Appendix B.

3. Amend New Hampshire Rule of Criminal Procedure 10(b), as set forth in

Appendix C.

4. Amend New Hampshire Rule of Criminal Procedure 29(e)(1), as set forth in Appendix D.

5. Amend New Hampshire Rule of Criminal Procedure 29(e)(6), as set forth in Appendix E.

6. Amend New Hampshire Rule of Criminal Procedure 29(k)(4), as set forth in Appendix F.

7. Amend New Hampshire Rule of Criminal Procedure 29(k)(22), as set forth in Appendix G.

8. Amend New Hampshire Rule of Criminal Procedure 30(a), as set forth in Appendix H.

9. Amend New Hampshire Rule of Criminal Procedure 35(a), as set forth in Appendix I.

10. Amend New Hampshire Rule of Criminal Procedure 35(b), as set forth in Appendix J.

11. Amend New Hampshire Rule of Criminal Procedure 43(a), as set forth in Appendix K.

12. Amend New Hampshire Rule of Criminal Procedure 52, as set forth in Appendix L.

13. Amend the title of the Supplemental Rules of the Superior Court of New Hampshire for Electronic Filing in Specified Civil Cases as set forth in Appendix M.

14. Amend the Preamble of the Supplemental Rules of the Superior Court of New Hampshire for Electronic Filing as set forth in Appendix N.

15. Amend Rule 1 of the Supplemental Rules of the Superior Court of New Hampshire for Electronic Filing as set forth in Appendix O.

16. Adopt Rule 1B of the Supplemental Rules of the Superior Court of New Hampshire for Electronic Filing, as set forth in Appendix P.

17. Amend Rule 11 of the Supplemental Rules of the Superior Court of New Hampshire for Electronic Filing as set forth in Appendix Q.

II. Superior Court Rule 47

(This amendment makes a technical change to Superior Court Rule 47.)

1. Amend New Hampshire Rule of Criminal Procedure 47, as set forth in Appendix R.

Effective Date

These amendments shall take effect in Rockingham County on August 6, 2019, when electronic filing in criminal cases in superior court is implemented there, and shall take effect in the remaining counties as of the date set forth in a subsequent order of this court implementing electronic filing in the remaining counties.

Date: July 18, 2019
ATTEST: Eileen Fox, Clerk
Supreme Court of New Hampshire



Pursuant to Supreme Court Rule 38-A, the Supreme Court appoints Circuit Court Judge Elizabeth M. Leonard and Superior Court Judge Amy Messer to the Advisory Committee on Judicial Ethics, to serve three-year terms commencing September 1, 2019 and expiring August 31, 2022.

Issued: August 5, 2019
ATTEST: Eileen Fox, Clerk of Court
Supreme Court of New Hampshire



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NH REPORTS – COMPLETE and up to date set of NH Reports. \$5,000. Contact Dave Cole 603-643-4500 dcole@colelaw.com.



Transactional IP Attorney | Burlington, VT

DRM has a great opportunity for a mid-level associate for its rapidly growing transactional IP and licensing practice in its Burlington, Vermont office. The ideal candidate would have experience with software licensing, technology transfers, technology company joint ventures, data security and privacy law. DRM's business law group is engaged in wide a variety of sophisticated business transactions locally, nationally and internationally, including financing transactions, M&A and intellectual property transactions and joint ventures. We have been seeing an increasing demand for Transactional IP work over the past few years across a range of industries. The ideal candidate has 3 to 6 years of relevant experience, and wants to be part of a team of attorneys committed to delivering top-quality service to growing and successful businesses.

DRM is committed to investing in our attorneys' professional growth and development. We offer excellent mentorship, and training, as well as leading technology, competitive salary, and a comprehensive benefits package, including industry-leading paid parental leave and two generous retirement plans. Apply here: <https://bit.ly/2Kdl85g>



Looking for a change? Thinking of doing something different?

Alfano Law Office seeks an experienced corporate/commercial attorney who desires to assist in the management of the law firm while continuing his or her practice on a more limited scale. A minimum of ten years' experience in business formations and transactions is required. A working knowledge of federal and state employment laws would be highly valued.

Qualified candidates should send a resume and cover letter to:

Paul@alfanolawoffice.com
603-226-1188

Looking for a change? Tired of the admin work?

Ward Law Group is seeking a general practice attorney in our Manchester, New Hampshire office. This position would be ideal for a solo attorney who no longer wants to deal with the administrative side of a law firm or for any attorney who is looking to make a change. A minimum of seven years of experience is required for this position.

Ward Law Group is a growing personal injury/civil litigation/family law/estate planning focused firm with offices in Manchester and Littleton, New Hampshire. The position offers competitive compensation and benefits commensurate with qualifications and portables. Qualified candidates please send a cover letter and resume to: ljustzak@wardlawnh.com.

CORPORATE ATTORNEY

Devine Millimet, one of Northern New England's largest and most dynamic business and litigation law firms, is seeking a Corporate Attorney to join our Corporate Practice Group located in Manchester, New Hampshire. This attorney will work with a collegial and high-performing team of lawyers and other professionals to provide our business, non-profit and individual clients with innovative counsel and representation in a wide range of business matters.

The ideal candidate will have 4+ years of transactional and M&A experience, as well as general corporate law experience, and admission to the NH Bar. Admission to the MA Bar and/or an LLM in taxation or CPA a plus.

Devine Millimet offers competitive salaries and attractive growth opportunities, along with a comprehensive benefits package.

Since our founding in 1947, we have been about service – service to our clients, service to our community, service to each other, and service to our profession. If you are as passionate about service as we are, we invite you to apply directly. We are an equal opportunity employer.

Requirements

- Superior writing skills
- Strong interpersonal skills
- Effective analytical and problem solving skills
- Confident negotiating skills

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MILLIMET**

ATTORNEYS AT LAW

To apply please visit www.devinemillimet.com/careers/current-openings

Immigration Attorney

We are a regional and national immigration law practice located in Manchester, NH, with a global presence and a substantial client base. We are seeking an attorney with 3 to 5 years experience. Although prior immigration experience is preferred, it is not required. The ideal candidate should have experience in a broad range of business visas and a track record of superior client relations. This is an excellent opportunity for a motivated attorney who wants to be part of a dynamic team while growing his or her own immigration practice. Compensation based on experience and portfolio. If you want to practice immigration law with people excited about what they do, please send resume and letter of interest in confidence to hiring@goffwilson.com.

Manchester, NH
Boston, MA
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Immigration Law



800.717.8472 goffwilson.com

LITIGATION LEGAL ASSISTANT

Orr & Reno is looking for an experienced, enthusiastic, and energetic legal secretary to join our litigation group. The successful candidate will possess a professional demeanor and exceptional organization, written and verbal communication skills. The ability to be flexible, multi-task and prioritize is required. Must be detail-oriented, have superior computer skills (to include Microsoft Office Suite, Adobe, scanning and maintaining large, nuanced electronic files), be a team player and have the ability to work independently. This position supports multiple timekeepers. A minimum of 3 – 5 years legal assistant experience is required. This is a full-time, 40 hour per week position.

Orr & Reno offers a competitive salary and benefits package, which includes medical, dental, life, 401(k), paid vacation, holidays and sick leave.

Please send resume and cover letter to:

Orr & Reno, P.A.
Attention: HR Coordinator
PO Box 3550
Concord, NH 03302-3550
Fax: 603 223-9060

Email: resumes@orr-reno.com (please send in Word format only)
No phone calls please



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Associate Attorney Littleton Office

PRIMMER PIPER EGGLESTON & CRAMER PC, a regional law firm with offices in New Hampshire, Vermont, and Washington, DC, seeks an associate with 0-4 years' experience to join the firm's expanding business practice in our Littleton, NH, office.

The associate will represent local and regional business clients, nonprofit organizations, health care providers, institutions and other enterprises in a broad range of legal matters from business formation and acquisitions, counseling and general business matters, to financing, securities and lease transactions. The ideal candidate will have strong legal and educational credentials and a demonstrated ability to market his/her law practice.

We offer a competitive salary, comprehensive benefits and a dynamic work environment. Qualified candidates may submit letter of interest and resume by e-mail to careers@primmer.com. All inquiries are held in the strictest confidence.



Junior Business Law Associate | Burlington, VT

We are searching for a junior associate to work in its dynamic corporate practice in its Burlington, Vermont office. The ideal candidate would have a strong interest and aptitude in business transactions. DRM's business law group is engaged in wide a variety of transactions locally, nationally and internationally, including debt and equity financing transactions, sales of businesses, acquisitions, intellectual property transactions and joint ventures. The ideal candidate has 2 to 4 years of experience in a corporate or commercial law practice, and wants to be part of a team of attorneys committed to delivering top-quality service to growing and successful businesses.

DRM is committed to investing in our attorneys' professional growth and development. We offer excellent mentorship, and training, as well as leading technology, competitive salary, and a comprehensive benefits package, including industry-leading paid parental leave and two generous retirement plans. Apply here: <https://bit.ly/31rsx6x>



Tax Associate | Burlington, VT

Downs Rachlin Martin is seeking an attorney with at least 3 years of experience to join its tax practice at its Burlington, Vermont office. Qualified candidates should have substantial experience addressing complex commercial transactions, with a strong background in partnership and corporate tax matters. Experience should include structuring mergers and acquisitions, business formations, debt and equity financings, workouts, private equity and venture capital transactions. Experience with executive compensation, New Markets and other tax credit issues would be valuable in this position. Our practice includes controversy representation across a wide range of state and local tax matters necessitating excellent research, writing and verbal skills.

DRM is committed to client service and providing resources for professional growth and development. We offer excellent mentorship and training, as well as leading technology, competitive salary, and a comprehensive benefits package, including industry-leading paid parental leave and two exceptional retirement plans.

Please submit a cover letter and transcript along with resume for consideration. To apply, please visit DownsRachlinMartinPLLC.appone.com.

Corporate Associate

Do you like working with entrepreneurs? Are you interested in joining a collaborative and innovative legal practice? Cook, Little, Rosenblatt & Manson, p.l.l.c. is a highly-regarded boutique business law firm with an opening in its corporate practice group. Our ideal candidate has strong academic credentials and 2 - 5 years of sophisticated corporate experience. We offer competitive compensation, as well as a platform for you to develop client relationships, become involved with local organizations, work with high-growth businesses, and build your practice in a supportive and collegial environment.

To learn more about the firm, visit our website at www.clrm.com. To apply, please send your resume to Lisa Roy, Hiring Coordinator, at l.roy@clrm.com.



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RiverStone, a global insurance industry leader specializing in the acquisition and management of insurance portfolios, has created an Asbestos team tasked with changing the future of the national asbestos litigation through thoughtful, creative claim handling, litigation strategies, and system-wide initiatives. RiverStone is looking for a Claims Analyst to join its Asbestos team.

Prospective teammates should:

- Be creative, effective advocates with excellent oral and written communication skills
- Be comfortable challenging the status quo for the better
- prefer to work in a collaborative, multidisciplinary team toward a common goal

Successful candidates will:

- Negotiate directly with attorneys, policyholders, and co-carrier representatives
- Observe and participate in court proceedings with defense attorneys
- Analyze and use data to drive better results
- Evaluate complex coverage and liability issues that impact asbestos litigation
- Identify potential exposures to the company and report to senior-level management on significant pending matters
- Devise and implement creative strategies aimed at improving long-term results for all stakeholders, including policyholders, affiliate insurers, and injured claimants
- Receive individualized training to:
 - Develop skills and knowledge of the asbestos industry
 - Understand and evaluate complex coverage issues
 - Implement and integrate those skills to impact the course of asbestos litigation

Experience in mass tort litigation or insurance coverage is preferred but not required. RiverStone offers an exceptional health benefits program, paid maternity leave, company matching 401K, tuition reimbursement, employee stock purchase plan and additional site specific perks (on site gym, yoga classes, personal trainer and more). For additional information, and to apply online, please visit www.trg.com/join-us.



Patent Law Associate | Burlington, VT

This is a unique opportunity to work with and learn from a team of sophisticated intellectual property professionals in Burlington, consistently ranked among the best places to live in the U.S. by numerous publications and polls. Burlington provides a vibrant cultural environment, a thriving downtown, a welcoming community, easy access to mountains and lakes, and short commutes. Our intellectual property lawyers have worked at some of the largest firms, IP boutiques, and corporations in the U.S., but choose to live in Burlington because lifestyle is a priority. DRM serves a wide range of local, regional, national, and international clients.

Work for this Associate will include an initial emphasis on patent preparation and prosecution, with immediate and long term opportunities for client counseling, intellectual property transactional work, and intellectual property litigation.

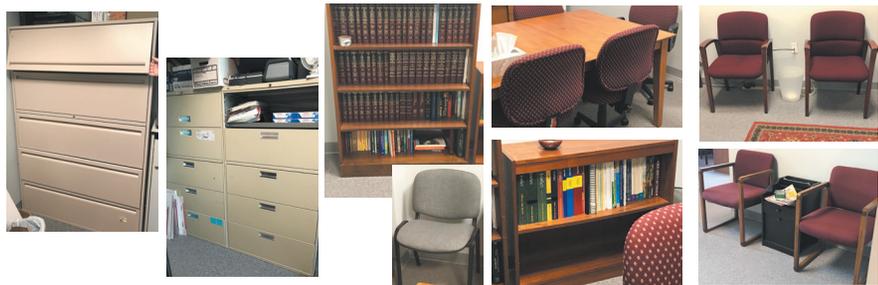
We have a strong preference for candidates who have:

- Chemistry background – BS or advanced degree in chemistry, biochemistry, or chemical engineering, or equivalent
- Three to five years of patent experience, including preparing and prosecuting patent applications in chemical/biochemical arts, or a former U.S. patent examiner in a chemical/biochemical art unit, with at least one year of patent experience outside of the U.S. Patent and Trademark Office;
- Experience with or willingness to prepare and prosecute patent applications in other arts, including software arts, medical-device arts, and electromechanical-device arts;
- Strong organizational and interpersonal skills and a high level of attention to detail;
- Excellent analytical and writing skills;
- Superb academic credentials; and
- Desire to work in a dynamic collegial environment.

DRM is committed to investing in our attorneys' professional growth and development. We offer excellent mentorship, and training, as well as leading technology, competitive salary, and a comprehensive benefits package, including industry-leading paid parental leave and two generous retirement plans. Apply here: https://www.appone.com/MainInfoReq.asp?R_ID=1492773&B_ID=83&fid=1&Adid=0&ssbgcolor=17143A&SearchScreenID=2521&CountryID=3&LanguageID=2

FOR SALE –Used Office Furniture

- (3) 5 drawer lateral file cabinets - putty color - 2 with key
- (5) waiting room chairs - 2 burgundy sled style; 2 burgundy regular; and 1 grey regular
- (1) wooden conference room table
- (6) conference room chairs - all rolling - burgundy - 5 with no arms & 1 with arms
- (2) solid wooden bookcases - 1 has 2 shelves; 1 has 4



Free (2) sets of NH RSA's - not updated. Great to use for display. A lot of older people expect attorney's to have law books in their office. Even though we all know we don't any more. Must be picked up in Nashua. Please contact Kathy at nhlawyermom@comcast.net.

FAMILY MEDIATION TRAINING

48 hours, Fall training commences September 20, 2019
N.H. Certified Family Mediation Training

Roundtable Mediation and Conflict Management's Family Mediation Training is a N.H. Certified Family Mediation Training Program. We provide mediation services in family, estate and elder care. Completion of the 48 hour course, including the 8 hours of domestic violence component, is pre-approved to fulfill the course of instruction toward certification by the New Hampshire Family Mediator Certification Board. This highly interactive training is taught by professionals, each with over 30 years experience in divorce mediation and training. Mediation technique, empowering individuals to constructively redefine parenting responsibilities; identifying, valuing and dividing assets and debt; ethics; and understanding the complementary practice of mediation with legal representation in working with families in transition. For more information or to register contact Candace Dochstader, M.A., C.F.M. or Esther Tardy-Wolfe, J.D., C.F.M. at 603-623-3500 or e-mail to connect@roundtablemediation.com. The cost is \$1800. *Early registration discount is available.*

State of New Hampshire Job Posting

NH INSURANCE DEPARTMENT **ATTORNEY III** (ASSOCIATE ENFORCEMENT LEGAL COUNSEL)

US: NH: CONCORD
 Position #41767, Labor Grade 30
 Salary Range: \$63,180.00-\$90,772.50
 Typical Starting Salary Not to Exceed Step 5, \$75,133.50

The New Hampshire Insurance Department is seeking a full-time attorney with litigation experience and familiarity with administrative law and civil enforcement proceedings. The responsibilities of this position include: prosecuting administrative enforcement actions against regulated entities and individuals; providing interpretation and enforcement of New Hampshire insurance statutes and administrative rules; collaborating with Enforcement Legal Counsel in executing investigation strategies; cooperating with the Insurance Department staff to identify and resolve alleged illegal misconduct in areas regulated by the Insurance Department; providing legal support and analysis to market conduct examinations teams and providing technical and drafting assistance for legislative proposals and administrative rules. This position serves as staff advocate "first chair" at administrative proceedings against producers and adjusters and serves as assistant to Enforcement Legal Counsel in complex administrative proceedings.

QUALIFICATIONS: J.D. from an American Bar Association recognized law school and five years' experience in the active practice of law.

License/Certification: Valid driver's license and/or access to transportation for statewide travel.

SPECIAL QUALIFICATION: Must be an active member of the New Hampshire Bar Association and in Good Standing.

Apply on line at: <http://das.nh.gov/jobsearch/NonStateEmployees.aspx>

For further information please contact:
 Kristin Venator
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Ins-Careers@Ins.nh.gov
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– Peter Hutchins
Hutchins Law Offices



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For pricing and additional information, please contact:



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Continuing Legal Education GUIDE

**August
2019**

[nhbar.org/
nhbacle](http://nhbar.org/nhbacle)

High Quality, Cost-Effective CLE for the New Hampshire Legal Community

Calendar Overview

SEPTEMBER

12 Thursday • 9:00 a.m. - 4:00 p.m.
A Practical Guide to Evidence Video Replay
• In Person Video Replay
• 360 min. including 60 min. ethics/prof.
• Concord • NHBA Seminar Room

13 Friday • 9:00 a.m. - 4:15 p.m.
MASTERS IN LITIGATION: Persuasion Strategies and Visuals for Litigators with Larry Kaye
• In Person • Webcast
• 360 min. credit
• Concord • NHBA Seminar Room

27 Friday • 9:00 a.m. - 4:15 p.m.
Writing and Speaking to Win with Steven Stark
• In Person • Webcast
• 360 min. including 60 min. ethics/prof.
• Concord • NHBA Seminar Room

OCTOBER

10 Thursday • 9:00 a.m. - 4:30 p.m.
**Employment Law 101
The Life Cycle of a New Hampshire Employee**
• In Person • Webcast
• 360 min. including 60 min. ethics/prof.
• Concord • NHBA Seminar Room

18 Friday • 9:00 a.m. - 4:30 p.m.
Administrative Law: Handling Professional Licensing and Certification Disputes
• In Person • Webcast
• 360 min. credit
• Concord • NHBA Seminar Room

25 Friday • 9:00 a.m. - 4:30 p.m.
Developments in the Law 2019
• In Person
• 360 min. including 60 min. ethics/prof.
• Manchester • DoubleTree by Hilton Downtown Manchester

30 Wednesday • 9:00 a.m. - 4:30 p.m.
Appellate Advocacy 2019
• In Person • Webcast
• 360 min. including 120 min. ethics/prof.
• Concord • NHBA Seminar Room

NOVEMBER

7 Thursday • 9:00 a.m. - 4:00 p.m.
Developments in the Law Video Replay
• In Person • Video Replay
• 360 min. including 60 min. ethics/prof.
• W. Lebanon • Fireside Inn

8 Friday • 9:00 a.m. - 4:00 p.m.
Developments in the Law Video Replay
• In Person • Video Replay
• 360 min. including 60 min. ethics/prof.
• N. Conway • White Mtn. Hotel

CLE HIGHLIGHT



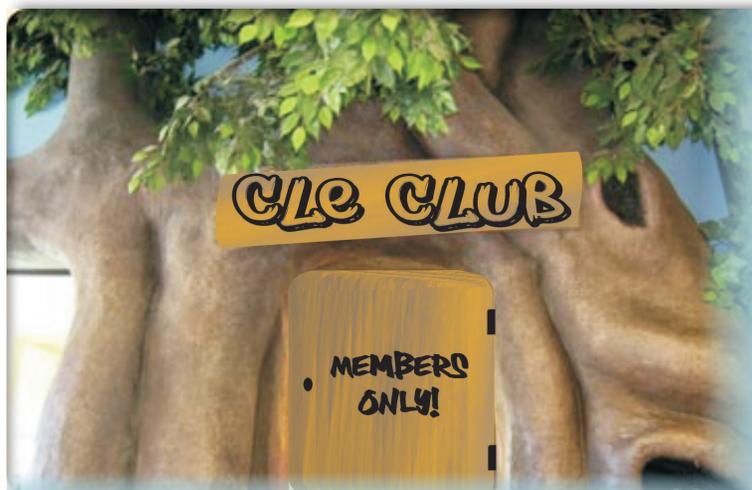
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4 Ways to Register

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Concord, NH 03301
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- Email** cmoore@nhbar.org
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MASTERS IN LITIGATION: Persuasion Strategies and Visuals for Litigators

with Larry Kaye



Friday 9:00 a.m. - 4:15 p.m.
Sep 13 360 min. credit



Persuasion Strategies for Every Litigator ~ Morning Program

Being able to persuade your audience is vital for every litigator.

In this fast-paced CLE session, veteran trial attorney Larry Kaye, president of The Winning Litigator, LLC, a full-service national trial consulting firm, will reveal 25 effective persuasion strategies to assist you in winning over judges, juries and mediators, including:

- Theme building strategies
- Strategies in packaging and presenting evidence
- Strategies in choosing case vocabulary and rhetoric
- Strategies in developing and presenting a mediation statement
- Strategies to get juries, judges and mediators to take the right notes
- Strategies for examining witnesses
- Opening statement and closing argument strategies
- Personal presentation and public speaking strategies

These strategies cover almost every aspect of the cycle of litigation. Whether you litigate jury or bench trials, arbitrations, or administrative proceedings, you'll take away an excellent group of persuasion strategies that you can apply immediately in your practice.

This CLE session is an excellent choice for seasoned veterans as well as newer attorneys.

Becoming Visual: Create Dynamic Litigation Graphics -- Even if You're Not an Artist ~ Afternoon Session

Litigation graphics and exhibit boards are one of your most important persuasion tools, and can be used especially effectively when

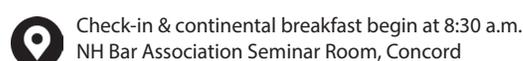
- A timeline or sequence is important
- There is a potential for information overload in a trial or mediation
- Language and processes are highly technical
- Calculations are complex
- Evidence seems disjointed and not compelling
- Complex trials require synthesis of volumes of evidence

In the afternoon, Larry will show you how to create effective litigation graphics, even if you are not an artist.

This session includes:

- How to determine when to use litigation graphics
- How to plan for your use of graphics for mediation and trial
- How to produce a huge variety of dynamic litigation graphics on a tight budget
- Tools and applications for creating litigation graphics
- How to choose color palettes and stock images for demonstratives
- When and how to work with a graphic artist
- Creative ways of using litigation graphics
- Techniques for maximizing the persuasive value of litigation graphics

***Additionally, participants are invited to bring for discussion and critique graphics they are working on, or have used in the past.**



PROGRAM PRICING

Early Bird! Full day Prepaid by August 16, \$225* • Prepaid after August 16, \$250*
Morning Only Live Webcast \$179; Afternoon Only Live webcast \$179; Both half day webcasts \$250
*Price includes continental breakfast, lunch, refreshments and materials.

Facilitated Video Replay

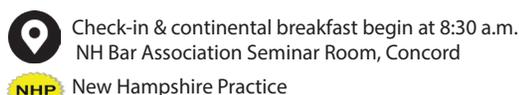
A Practical Guide to Evidence: What You Need to Know in Every Court

Thursday 9:00 a.m. - 4:00 p.m.
Sep 12 360 min. credit.
incl 60 min. Ethics/Prof.



Learn the Rules of Evidence from a practical point of view. The presenters focused on the rules, how litigators should use them and how courts interpret them in various courts and cases, from *pro se* proceedings in state district court to complex litigation in federal court. The presenters have years of experience actually in court applying the rules of evidence. If you are a litigator or prepare matters for litigation, this CLE will give you a solid, practical foundation to work from.

For more information go to our online catalog nhbar.increasechce.com



NHP New Hampshire Practice

PROGRAM PRICING

VIDEO REPLAY: \$195 NHBA Member; \$159 Members in practice less than 3 years; \$99 NHBA-CLE CLUB Members; \$139 Paralegals, law office staff; \$229 Other/non-NHBA affiliated.

Administrative Law Handling Professional Licensing and Certification Disputes

Friday 9:00 a.m. - 4:30 p.m.
Oct 18 360 min. Credit



This program will include an overview of the Administrative Procedures Act and the Right to Know Law as they pertain to the boards and agencies that make up the Office of Professional Licensure and Certification such as the Boards of Nursing, Medicine, Dentistry, Mental Health Practice, Pharmacy, Psychology, Alcohol and Drug Use, Accounting, Architecture, Guardian Ad Litem, Land Surveyors, Family Mediators, Professional Engineers, and others. The seminar will also provide an insight into the prosecution and defense of professionals whose license or certification is threatened or denied.

Who should attend?

Anyone who represents persons requiring licenses or certifications, including their businesses.

Faculty

Jack P. Crisp, Jr., Program Chair/CLE Committee Member, The Crisp Law Firm, Concord

Robert S. Carey, Orr & Reno, PA, Concord

Matthew G. Mavrogeorge, NH Attorney General's Office, Concord

Jill A. Perlow, NH Attorney General's Office, Concord

Additional faculty to be announced.



NHP New Hampshire Practice

PROGRAM PRICING

SEMINAR (preregistered): \$209 NHBA Member; \$159 Members in practice less than 3 years; \$99 NHBA-CLE CLUB Members; \$139 Paralegals, law office staff; \$249 Other/non-NHBA affiliated. Walk-in on the day of the program is an additional \$15.

For more information go to nhbar.org/nhbacle

WITH NATIONAL SPEAKER STEVEN STARK

Writing & Speaking to Win

Friday
Sep 27

9:00 a.m. - 4:15 p.m.
360 min. Credit
incl. 60 min. Ethics/prof.

Webcast
In person



WRITING TO WIN ~ Morning Program • 9:00 a.m. - 12:15 p.m.

Do you know what your writings are really saying to your clients and peers? Understanding the law is one thing, but knowing how to communicate it in a meaningful way is another. Being unclear in communication can cause costly errors and disastrous effects in the cases you handle.



All attendees will receive a copy of Steven Stark's book on **Writing to Win**

(see information on the brochure and online.)

- The Do's and Don't's of Legal Prose
- How to Write and Edit More Efficiently
- How to Apply Storytelling to Your Writing
- How Studying Advertisements Can Help Your Arguments

SPEAKING TO WIN ~ Afternoon Program • 1:00 - 4:15 p.m.

Be your best in the courtroom, boardroom and classroom. Whether you are called upon to give legislative testimony, a presentation to clients, or comments to the press, you'll come to understand what makes a great speaker effective, and discover how to use those techniques yourself.

- The Five Key Ingredients of Oral Legal Prose
- Conveying the Message Right as a Lawyer
- Enhancing the Message and Getting Started
- Delivery, Voice and Appearance
- Visual Aids, Humor and Dealing with Nerves
- Oral Argument before a Judge
- Technical Talks and Presentations to Legal Audiences
- Handling Questions
- Appearances on Television or Before the Press
- What to Say When You or Your Client Is in Trouble
- How to Deal with a Hostile or Indifferent Audience



Steven D. Stark, a writer, teacher, lawyer, artist, and consultant, is the author of four books, one e-book, and two poetry chapbooks. He has been a commentator for CNN, National Public Radio, and the Voice of America, where his role was to try to interpret American culture to the rest of the world. A former columnist for the Boston Globe and Montreal Gazette (where he wrote about the culture of world sports), he has written extensively on

American culture and politics in such publications as the New York Times, Los Angeles Times, Washington Post, and the Atlantic Monthly. A former lecturer on law at Harvard Law School, he has a vast background in the fields of legal writing, communication, and inter-cultural studies and has taught writing and speaking to thousands of lawyers, judges, business people, and government officials all over the world. He is a graduate of Harvard College and Yale Law School and devotes a substantial amount of his work to public interest, human rights, and pro bono organizations all over the world.

For more information and details go to nhbar.org/nhbacle

Check-in & continental breakfast begin at 8:30 a.m.
NH Bar Association Seminar Room, Concord

PROGRAM PRICING

Early Bird! Full day Prepaid by August 30, \$225* • Prepaid after August 30, \$250*
Morning Only Live Webcast \$179; Afternoon Only Live webcast \$179; Both half day webcasts \$250
*Price includes continental breakfast, lunch, refreshments and materials.

Employment Law 101 The Life Cycle of a New Hampshire Employee

Thursday
Oct 10

9:00 a.m. - 4:30 p.m.
360 min. Credit
incl. 60 min. Ethics/prof.

Webcast
In person



The basics of employment law will be covered in this information-packed program, covering hiring to firing of employees. Our experienced faculty will address leaves of absence, including the ADA and FMLA; wage, hour and payroll issues at the NH Dept. of Labor; discrimination, harassment, retaliation, and process and procedures at the NH Commission for Human Rights; performance management; and internal investigations. The ethical issues of proposed NH Rule of Professional Conduct 8.4, representing multiple parties, fee agreements, and settlement considerations will be addressed. This program is designed for the general practitioner and less experienced employment and corporate attorneys dealing with the non-unionized, private sector workplace.

Who should attend?

General practitioners, corporate attorneys, in-house counsel, less-experienced employment attorneys; any lawyer new to employment law or an experienced practitioner looking to brush up on the basics and pick up new practice tips.

Faculty

- Julie A. Moore**, Program Co-Chair/CLE Committee Member, Employment Practices Group, Wellesley, MA
- Daniel P. Schwarz**, Program Co-Chair/CLE Committee Member, Jackson Lewis, PC, Portsmouth
- Sarah E. Burke-Cohen**, NH Human Rights Commission, Concord
- Ahni Malachi**, NH Human Rights Commission, Concord
- Marie S. McKean**, St. Anselm College, Manchester
- Jennifer Shea Moeckel**, Cook, Little, Rosenblatt & Manson, pllc, Manchester
- Rudolph W. Ogden, III**, NH Department of Labor, Concord

Check-in & continental breakfast begin at 8:30 a.m.
NH Bar Association Seminar Room, Concord
NHP New Hampshire Practice

PROGRAM PRICING

SEMINAR (preregistered): \$209 NHBA Member; \$159 Members in practice less than 3 years; \$99 NHBA-CLE CLUB Members; \$139 Paralegals, law office staff; \$249 Other/non-NHBA affiliated. Walk-in on the day of the program is an additional \$15.



Virtual Learn@Lunch Webcast Series

Tune in on Tuesdays for our one hour webcasts.

Carrying a Firearm in NH: The Basics

September 10 • 12-1:00 p.m.

How to Help an Impaired Colleague-Navigating Rule 8.3

October 1 • 12-1:00 p.m.

Revised Uniform Fiduciary Access to Digital Funds Act

October 15 • 12-1:00 p.m.

and more!

Be sure to visit our catalog for archived Learn@Lunch or 1-Hour or Less Programs.

(Browse by Subject Matter from the CLE catalog home page.)

For more information go to nhbar.org/nhbacle

Developments in the Law 2019

Our most popular program is back!

Friday
Oct 25 9:00 a.m. - 4:30 p.m.
360 min. credit.
incl 60 min. Ethics/Prof.

In person 

This annual CLE seminar is a must for all practicing New Hampshire attorneys. In a convenient one-day program format, this program offers a complete survey of important legal developments affecting NH practice.

PROGRAM FACULTY

- Corey M. Belobrow**, Program Chair/CLE Committee Member, Maggiotto, Friedman, Feeney & Fraas, PLLC, Concord
- Christine S. Anderson**, Ansell & Anderson, PA, Bedford
- Thomas M. Closson**, Jackson Lewis, PC, Portsmouth
- Tracey G. Cote**, Shaheen & Gordon, PA, Concord
- Timothy A. Gudas**, NH Supreme Court, Concord
- Christopher M. Johnson**, NH Appellate Defender Program, Concord
- Gregory A. Moffett**, Preti, Flaherty, Beliveau & Pachios, PLLP, Concord
- Thomas J. Pappas, Primmer, Piper, Eggleston & Cramer, Manchester (tentative)*
- William C. Saturley**, Preti, Flaherty, Beliveau & Pachios, PLLP, Concord
- Laura Spector-Morgan**, Mitchell Municipal Group, PA, Laconia
- Roy W. Tilsley**, Bernstein, Shur, Sawyer & Nelson, PA, Manchester

 Check-in & continental breakfast begin @ 8:15 a.m.
DoubleTree by Hilton Downtown Manchester

 New Hampshire Practice

**Can't make the live program?
We will be coming to a location near you!**

As a member service, Video Replays of this program are being offered at various locations throughout the state!

Video Replay Locations:

- Fireside Inn, W. Lebanon
Thursday, November 7
- White Mountain Hotel, N. Conway
Friday, November 8
- Common Man Inn, Plymouth
Thursday, November 14
- Holiday Inn, Portsmouth
Friday, November 15
- Best Western, Keene
Thursday, December 5
- NH Bar Association, Concord
Friday, February 7, 2020

VIDEO REPLAY (pre-registered): \$195 Registration; \$99 NHBA•CLE CLUB Member.

PROGRAM PRICING

SEMINAR (preregistered): SEMINAR FEE (pre-registered): \$219 NHBA Member; \$159 Members in practice less than 3 years; \$99 NHBA•CLE CLUB Members; \$139 Paralegals, law office staff; \$95 Full-time students; \$249 Other/non-NHBA affiliated. Walk-in on the day of the Program is an additional \$15.

Featuring the entire NH Supreme Court

APPELLATE ADVOCACY 2019

Wednesday
Oct 30 9:00 a.m. - 4:30 p.m.
360 min. credit
incl. 120 min. Ethics/prof.

 Webcast
 In person



Special Resources:
Attendees will receive copies of the newly revised Appellate Practice Manual produced by NHBA•CLE.

NH SUPREME COURT

- Hon. Robert J. Lynn**, Chief Justice, NH Supreme Court
- Hon. James P. Bassett**, NH Supreme Court
- Hon. Patrick E. Donovan**, NH Supreme Court
- Hon. Anna Barbara Hantz Marconi**, NH Supreme Court
- Hon. Gary E. Hicks**, NH Supreme Court

FACULTY

- Doreen F. Connor**, Program Co-Chair, Primmer Piper Eggleston & Cramer, Manchester
 - Theodore M. Lothstein**, Program Co-Chair, Lothstein Guerriero, PLLC, Concord
 - Eileen Fox**, Clerk, NH Supreme Court, Concord
 - Timothy A. Gudas**, Deputy Clerk, NH Supreme Court, Concord
 - Stephanie C. Hausman**, NH Appellate Defender Program, Concord
 - Christopher M. Johnson**, NH Appellate Defender Program, Concord
 - Daniel E. Will**, NH Attorney General's Office, Dept. Of Justice, Concord
- Additional faculty to be announced.*

Whether you regularly appear before the NH Supreme Court, or only occasionally handle an appeal in that Court, this is a must-see seminar. Hear the latest insights on brief writing, oral argument, motions practice, electronic filing, and preservation issues from faculty members who, together, have briefed and argued hundreds of appeals, along with the Clerk and Deputy Clerk of the Supreme Court.

A special discussion and Q&A panel with the entire NH Supreme Court, including current NH Chief Justice Robert J. Lynn, Justices James P. Bassett, Patrick E. Donovan, Anna Barbara Hantz Marconi, and Gary E. Hicks will also be of importance to all practitioners.

Who Should Attend

Attorneys in civil or criminal practice who regularly appear before the NH Supreme Court or only occasionally handle appeals will benefit. Even litigators who don't do appeals will benefit from insights into best practices for preservation of issues. This program is not offered annually – it was last presented in 2015 – so don't miss this rare opportunity.

 Check-in & continental breakfast begin at 8:30 a.m.
NH Bar Association Seminar Room, Concord

 New Hampshire Practice

PROGRAM PRICING

SEMINAR (preregistered): \$209 NHBA Member; \$159 Members in practice less than 3 years; \$99 NHBA•CLE CLUB Members; \$139 Paralegals, law office staff; \$249 Other/non-NHBA affiliated. Walk-in on the day of the program is an additional \$15.

For more information go to nhbar.org/nhbacle

Co-sponsored by the NH Bar Association and the NH Society of CPAs

37th Annual Tax Forum

Wednesday 8:00 a.m. - 4:15 p.m.

Nov 20

410 min. Credit

In person



John E. Rich, Jr., Moderator
McLane Middleton Professional Association

Plenary Sessions:

- Federal Tax Update
- Hot Topics in Mergers & Acquisitions
- Blockchain and Cryptocurrency

Breakout Sessions:

Track I

Foreign Reporting

Track II

Gift & Sales to Intentionally Defective Grantor Trusts



A continuing education seminar for CPAs and Attorneys sponsored by the New Hampshire Society of CPAs and the New Hampshire Bar Association.

Check-in & continental breakfast begin at 7:30 a.m.
Grappone ConferenCenter, Concord

PROGRAM PRICING

SEMINAR FEE (pre-registered): \$249* (per registrant)

*Price includes continental breakfast, lunch, refreshments and written materials.

To Register go to NHSCPA.org



Recently Added Online Seminars

13th Annual Ethics CLE

Original Program 6/21/19 - 120 Ethics/Prof. Minutes

The Cybersleuth's Guide to Fast, Free and Effective Investigative Internet Research

Parts 1 & 2 (Morning & Afternoon)

Original Program 6/5/19 - 120 General & 60 Ethics/Prof. Minutes Per Session

10 Things Every Auto Dealer Should Know

Original Program 6/4/19 - 60 General Minutes

When We're 64: Answers to Elder Clients' Frequently Asked Questions

Original Program 5/31/19 - 300 General & 60 Ethics/Prof. Minutes

23 Mistakes Experienced Contract Drafters USUALLY Make

Original Program 5/29/19 - 300 General & 60 Ethics/Prof. Minutes

Recent Changes to Medicare Reimbursement for Outpatient Services at NH Hospitals

Original Program 5/28/19 - 60 General Minutes

Managing Student Loan Debt & Personal Finances

Original Program 5/22/19 - 165 General Minutes

Intellectual Property Law for the General Practitioner

Original Program 5/16/19 - 195 General & 30 Ethics/Prof. Minutes

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nhbar.inreachce.com

NHBA • CLE REGISTRATION FORM

Send with payment to: NHBA•CLE, 2 Pillsbury Street, Suite 300, Concord, NH 03301
(please complete one form for each registrant)

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Address _____

Phone _____ E-mail Address _____

Check box if NHBA•CLE Club Member

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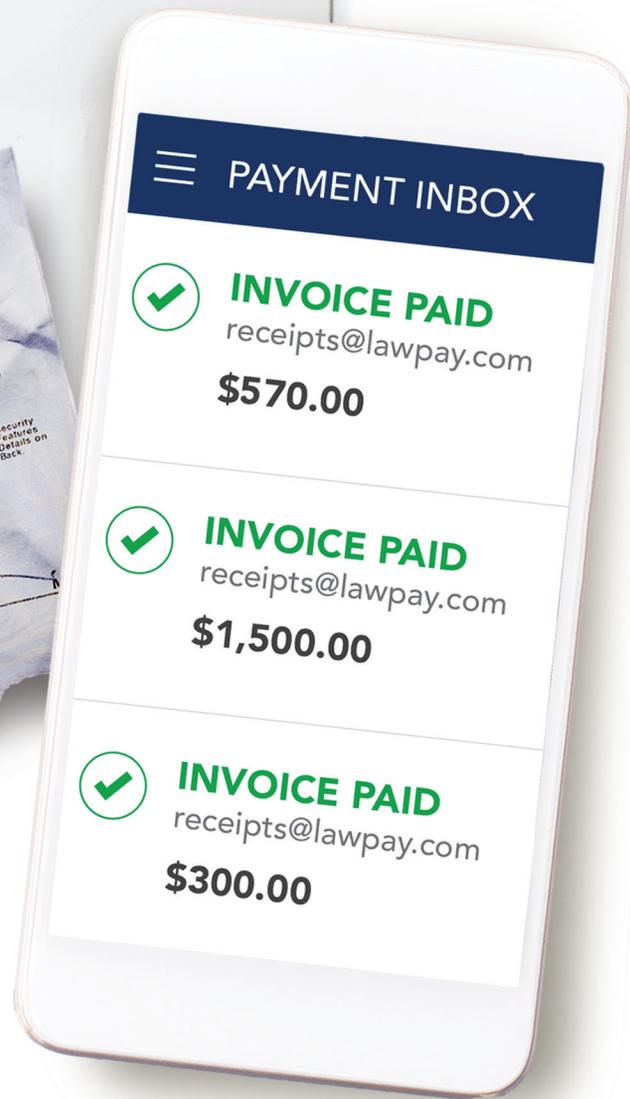
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For more information go to nhbar.org/nhbacle

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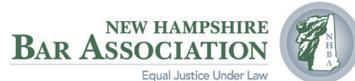
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