Preserving New Hampshire’s Past

By Kathie Ragsdale

Many current New Hampshire practitioners have no memory of the days when client communication was done by FAX, judges and lawyers were often golf buddies and the number of women on the bench could be counted on one hand.

But the New Hampshire Supreme Court Society is working to preserve the recollections of those who do, and to chronicle the changes that have occurred in the state’s legal profession over the past several decades.

Its Oral History Project is building a library of recorded interviews with senior members of the bar and bench to conserve their experiences and insights as a means of fostering “greater understanding of the legal system and its role as a force for good in today’s society,” according to the website devoted to the project.

Building on work started by the New Hampshire Bar Foundation, which recorded some 50 interviews with senior lawyers, judges and court staff through the 1990s, the Supreme Court Society launched the Oral History Project in 2011, according to Gregory Smith, former New Hampshire attorney general now in private practice at McLane, Graf, Raulerson & Middleton.

Smith chairs the society’s Oral History Project Committee, which also includes former Superior Court Justice Carol Ann Conboy, former Superior Court Justice John Lewis and Senior Assistant Attorney General Anthony Galdieri.

PRACTITIONER PROFILE

A Love of Community and the Law

By Kathie Ragsdale

Paul Fitzgerald is a home-grown Laconia practitioner who has spent decades combining a love of community with a love of the law.

A city resident since the age of 2, Fitzgerald has represented multiple municipalities and government entities but has also served as mayor of Laconia, chair of the Laconia Police Commission and board member of the Greater Laconia-Weirs Beach Chamber of Commerce.

He is also secretary and past president of the board of trustees of the Mount Washington Observatory and was co-founder of the Laconia Motorcycle Week Association, which has formed the annual, raucous motorcycle event into the more organized celebration that it is today.

“I think it’s important,” he says of civic participation. “Lawyers have a lot of training and a lot of experience that can help in the public service area. You can bring those ideas to bear in a positive fashion. And I think it’s important that we participate in society.”

An interest in the law came naturally to him, Fitzgerald says. His parents had many friends in Laconia who were attorneys or judges and his brother is retired Superior Court Judge Edward J. Fitzgerald III. So after graduating from St. Michael’s College in northern Vermont, where he took some

FITZGERALD continued on page 12

In a Polarized World Students Find Hope

By Scott Merrill

A mandatory civics education program in every state where students learn basic constitutional rights isn’t a requirement, not yet.

Although, if those who participated in this year’s We the People program are going to be shaping the laws of the future, it certainly could be.

Nathaniel Sar tel, a student at John Stark Regional High School who plans to study Civil Engineering next fall, thinks there is a lack of civics education that leads to an uneducated populace and low voter turn-out.

“I did a project last year on civic education and engagement that got me thinking and I made a Bill that called for civic education. I just think more people should be educated on basic constitutional rights.”

His teacher, Trevor Duval, joked, “this is why we keep him around.”

We the People is a program of the National Center for Civic Education that has been sponsored by the New Hampshire Bar Association since 1987. According to some of the students taking the class this year, including those from Hollis-Brookline, Milford High School and John Stark Regional High School, the class has changed their perception about the role of politics and their sense of civic responsibility.

It has WTP continued on page 8

Midyear Meeting

“Prejudice is ignorance and unless we make people accountable...unless we stop it at a young age, it’s going to continue to fester.”

—Karen Korematsu

(Full story: Page 24)
Midyear Meeting: A “Record Setting Success”

Our 2020 Midwinter Meeting was, by all accounts, a record-setting success. We had more than 550 participants at our CLE programs and over 640 participants at our Awards Luncheon.

At our recent Midwinter Bar meetings, we have presented programs on current-relevant topics for attorneys, and have afforded the opportunities for members of the bench and bar to meet and socialize in an environment of stimulating and topical discussions. This year was no exception. The topics were thoughtful and provocative, as well as timely, and relevant for lawyers in both public and private practice.

I have often said that I believe lawyers to be some of the hardest working, honest, diligent, and community-minded people I know. Both programs at our Midwinter Meeting highlighted the role of lawyers in situations where diligence, integrity, and a sense of community made a difference in correcting mistakes that harm individuals and our institutions, and who continue to make a difference in the lives of individuals in support of the rule of law.

The morning program featured James Robenalt, who gave a riveting talk about the Watergate break-in and fallout. His talk centered around John Dean and his role as the President’s lawyer, with an interesting analysis of the evolution of whistleblower protection since Watergate. He featured contemporary writings, original documents, and several of the infamous “Nixon Tapes” in his talk. The depth and breadth of his knowledge came out in an easy and informative presentation, and his understanding and analysis of ethical rules and responsibilities of lawyers with clients involved in criminal activity was provocative. Jim stayed behind after his talk and signed books and chatted with quite a few members.

In the afternoon, NHBA presented the ABA award-winning documentary, “And Then They Came For Us,” about the incarceration of 120,000 Japanese-Americans in the wake of the bombing of Pearl Harbor. The movie, and subsequent panel discussion, focused on the Coram nobis cases that overturned the convictions of Fred Korematu, Gordon Hirabayashi, and Minoru Yasui. Dale Minami, counsel for Fred Korematu, was joined on the panel by Hoyt Zia, Karen Korematu, and Mona Movaqafhi. The discussion revolved around...
The Firm also plays a significant role agreed to. "even had a chance to realize what you've SONH President Mary Conroy is a gem: Special Olympics United States Leader with Special Olympics. Ken is a two-time the catalyst for the Firm's close alliance you already know what it means to be in the water and on the pavement with their families. McGrath observes that: "It is remarkable how artistic some of these men and women are and how heartfelt all of the submissions are; they truly capture the essence of the holiday season." Later this year, as last year, Sheehan Director of Business Development Kelly Trudel will train with SONH athlete Pam Langille for a triathlon. They successfully trained and competed last year, side by side in the water and on the pavement with their running shoes and bikes. Kelly and Pam are just as focused this year! Sheehan’s partnership with SONH should remind us all of how lucky we are to work in New Hampshire, with such ready access to meaningful participation in our communities. Get involved!

Award Nominations Sought For 2020 Annual Meeting

The Bar’s Annual Meeting provides an opportunity to recognize the outstanding accomplishments of members of the legal community and their contributions to the justice system and the Association.

Please be sure to note the reasons for your nomination, either with the name of the nominee, or to be submitted soon after you have submitted a nominee’s name. Your inspiration for making the nomination - why you think a particular individual is especially deserving of the recognition intended by a particular award - will be of great importance as the nominees are considered and will really help the leadership’s choice(s). Often, the thoughtful assessment of a nominee by a nominee becomes the basis for wording used in presentation remarks, if not a presentation piece.

Nominations are sought for the following awards:

Justice William A. Grimes Award For Judicial Professionalism
To honor the memory of Justice William A. Grimes this award is presented to a judge that best fits the following:

“The judges therefore should always be men of learning and experience in the laws, of exemplary morals, great patience, calmness, coolness and attention. Their minds should not be distracted with jarring interests; they should not be dependent upon any man or body of men.”

John Adams, 1776

Distinguished Service to the Legal Profession Award
This award is presented to the nominee who best exhibits service to the legal profession.

E. Donald Dufresne Award for Outstanding Professionalism
To honor the memory of E. Donald Dufresne this award is presented to an attorney who best fits the following:

“A professional lawyer is an expert in the law that pursues a learned art in service to clients and in the spirit of public service, engaging in these pursuits as part of a common calling to promote justice and public good.”

Nominations for any of these awards should be submitted by April 19th to: aborowy@nhbar.org — or sent to: Allison Borowy, NHBA Annual Meeting Awards 2 Pillsbury Street, Suite 300 Concord, NH 03301-3502

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- Access to our exclusive Best Practices Database
- Free CLE webinars

PROGRAM HIGHLIGHTS
- $25,000 of claims expenses paid per claim in every covered claim before the deductible applies
- State Bar of NH Members save up to 5% in premium discounts
- Supplementary payments of up to $150,000 per policy period
- Four ways to reduce the amount you pay on your deductible by 50%
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For more information or a no obligation quote, contact Sue Morand at Amity Insurance: 866-642-2292 | smorand@amityins.com

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Lawyer Referral Services: Benefiting Bar Members and the Public

The Lawyer Referral Services Committee (formerly called The Delivery of Legal Services Committee) oversees Lawyer Referral Services (LRS) and the Modest Means Legal program. Both of these programs are focused on creating relationships with fee-generating clients across many areas of law. In 2019 alone participating attorneys earned more than $2 million in legal fees, with more than $5.8 million earned in the past three years. The top five fee generating areas of law in 2019 were:

- Torts, including personal injuries and medical negligence claims: $741,000
- Family law cases: $325,618
- Probate matters: $246,000
- Real estate matters: $179,773
- Criminal law cases: $107,042

Participating attorneys receive an average of 15 full fee referrals a year for only $100 and 10% of net collected legal fees. Other popular areas for fee-generating referrals include worker’s compensation cases, employment issues, business disputes and civil litigation, and consumer and administrative matters.

The LRS staff receives an average of 150 calls and online inquiries for referrals every week. Each inquiry is carefully screened to determine whether referral requirements are met and the type of potential case. Clients are then matched with member attorneys in that area of practice. In short, the LRS program generates pre-screened fee paying clients, while providing an important public service. LRS also uses the screening process to make over 2500 referrals to outside resources a year.

Just as important is the Modest Means Legal Program, which refers pre-qualified clients based on financial need to attorneys who have volunteered to accept reduced fees as a public service. This program was created several years ago to bridge the justice gap between the Pro Bono Referral program and the full fee LRS program, by identifying modest income clients unable to pay the standard legal fees. The Modest Means Program maintains a tiered system for client fees based on household size and income with caps that range from $80 to $125 per hour. Attorneys, of course, may choose to charge less. More than 2200 clients have been served by the program since 2016.

The Lawyer Referral Services Committee sets the rules for these programs, assists program staff as issues arise, and addresses inquiries and concerns by members and the public. The Committee is proud to have overseen these programs as they have grown over the years to provide important service to both the public and participating members of the Bar.

For questions about these programs contact the New Hampshire Bar Association at (603) 224-6942 or Lawyer Referral Services Committee Chair, Brad Kuster at (603) 226-1919.
Fix It: How History, Sports, and Education Can Inform Diversity, Inclusion, and Equity Today

Book by Kenneth O. C. Imo

From “CHAPTER 6: Hurdles: Tradition, Homophily, and Bias,” pages 79-82

“Hope is not blind optimism. It’s not ignoring the enormity of the task ahead or the roadblocks that stand in our path. It’s not sitting on the sidelines or stinking from a fight. Hope is that thing inside us that insists, despite all evidence to the contrary, that something better awaits us if we have the courage to reach for it, and work for it, and fight for it.” —President Barack Obama

Tradition and bias. Both hinder law firms’ diversity efforts. Law firms stubbornly cling to an antiquated recruiting process, working against their stated goal and best efforts to have more diverse recruiting classes. And, as several examples from a variety of contexts will show later in this chapter, unconscious bias is ubiquitous, so it should come as no surprise that it also impacts whom law firms retain and ultimately elect to their partnerships. Law firms cannot control the consequences of institutionalized inequality resulting in a lingering educational achievement gap that disqualifies many children from ever being viable law school candidates and eventually lawyers. However, firms can control how they pursue underrepresented law students and the opportunities they receive upon entering legal practice. This chapter explores both.

A 20th-Century Recruiting Model in the 21st Century: The First Hurdle

Professor Lauren Rivera’s ground-breaking book, Pedigree: How Elite Students Get Elite Jobs, argues that how law firms (and other “elite” employers) define and evaluate merit in their hiring practices advantages people from affluent backgrounds, resulting in a class ceiling. According to Rivera, employers evaluate candidates’ social networks and intellect on their extracurricular and likiure activities; evaluators receive little guidance on how to systematically judge merit, and the most viable candidates attend schools with pre-existing ties to top firms (and, for the most part, applications received at diversity fairs are not taken seriously). Professor Rivera’s research examined top-tier law firms, investment banks, and consulting firms, and Professor William Henderson of Indiana University School of Law has focused specifically on the legal profession. Henderson set out to determine if heavy reliance on law school pedigree results in a better candidate pool. His research in the area brought him to this conclusion: nope.

In “Solving the Legal Profession’s Diversity Problem,” Professor Henderson analyzes law firms’ overreliance on tradition in its recruiting practices. For generations, law firms have preferred students from the most selective law schools because students attending these schools endured a rigorous vetting process—as shown in Chapter 5, elite schools traditionally exclusively admit students with the highest undergraduate grade point averages (UGPA) and Law School Admissions Test (LSAT) scores—and many of the people making the hiring decisions are alumni of these schools. Law firms’ overreliance on recruiting students from elite schools is misguided and hurts their long-stated goal of promoting diversity in the legal profession. Henderson describes lawyers as a “highly filtered” population because to become a practicing attorney one must obtain a four-year degree, score high enough on the LSAT to attend an American Bar Association (ABA)-accredited law school, complete law school, and pass a state bar examination. That means these people are highly motivated and smart. Or, as psychologists would say, lawyers belong to a “range-restricted” population because, compared to the general population, this is a group with high cognitive ability that has endured a rigorous weeding-out process. Because lawyers choose a profession designed to weed people out, Henderson researched the correlation between under-graduate GPAs, LSAT scores, law school grades, and a person’s long-term success as a practicing attorney. Henderson relied on research conducted by Professors Marjorie Shultz and Sheldon Zedeck of the University of California (UC), Berkeley for empirical data.

The Shultz-Zedeck study identified 26 lawyer effectiveness factors as provided by industrial and organizational psychology research on attorneys. The professors created a survey to measure lawyer effectiveness on each of the 26 factors on a scale of 1 to 5 and evaluated more than 1,000 UC Berkeley and UC Hastings law alumni and approximately 200 UC Berkeley law students. Shultz and Zedeck measured the participants’ scale ratings against their undergraduate GPAs, LSAT scores, and law school grades.

The results included the following findings:
• For law school graduates, there was a modest, positive correlation between grades and LSAT scores and factors such as analysis and reasoning, researching the law, writing, and problem solving.
• There was a statistically significant negative correlation between first-year grades and LSAT scores, and networking and community service. In the law student sample, there was no positive correlation between undergraduate GPA and any of the 26 effectiveness factors.
• Undergraduate GPA had a negative association with practical judgment, seeing the world through the eyes of others, developing relationships, integrity, and community service.

The Schultz-Zedeck study also assessed various job-relevant indicators of future lawyer success that cannot be captured by relying solely on academic factors. They compared the participants’ survey ratings against performance on the Hogan Personality Inventory (HPI), a widely used personality assessment tool that is deemed a better indicator for lawyer effectiveness than other tools. The HPI measures personality traits that include confidence, composure under pressure, initiative, desire for leadership roles, extraveration, tact, self-discipline, creative potential, and achievement orientation. Shultz and Zedeck identified correlations between the HPI and the survey they created that suggest law firms should focus less on school pedigree and more on job-relevant behavior when recruiting candidates. Furthermore, their research did not reveal performance gaps based on race and gender with respect to lawyer effectiveness.

Henderson concludes the following from his research and the Shultz-Zedeck study:
• Lawyers do not need to attend elite law schools to succeed in law firms.
• The correlation between law school grades and future law firm performance has more to do with individual motivation than pedigree.
• More law school graduates have the aptitude to become high-performing partners than most law firm partners think.
• Law firms will see a more diverse and higher-performing candidate pool if they place less emphasis on academic pedigrees and more on job-relevant factors.

Read more in Fix It: How History, Sports, and Education Can Inform Diversity, Inclusion, and Equity Today.

Opinions in Bar News

Unless otherwise indicated, opinions expressed in letters or commentaries published in Bar News are solely those of the authors, and do not necessarily reflect the policies of the New Hampshire Bar Association Board of Governors or the Bar Association staff.

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SUCCESSFULLY LITIGATING EMPLOYMENT LAW CASES

Our employment lawyers have extensive experience in employment litigation and are among the most respected and successful advocates in employment law in New Hampshire. We are dedicated to achieving the best possible results for our clients.
Expanding The Cyber Regulations Landscape – How Can We Keep Up?

By Cameron G. Shilling

Lawyers and law firms face a multiplicity of laws governing information privacy and security, and the regulatory landscape expands continuously. Addressing each applicable law and responding to each emerging regulation is not operationally feasible or cost effective. We need a strategy that gets us and keeps us ahead of the regulatory curve.

Cyber regulations have expanded in two ways: (1) the scope of information covered; and (2) the types of obligations imposed. Early widespread cyber laws covered limited information, known as personally identifiable information (PII). PII consisted of an individual’s name in combination with social security, financial account or governmental identification number. Most such laws imposed only an obligation to notify regulators and affected individuals of a breach.

Initial regulatory expansion imposed obligations on businesses to affirmatively identify their cyber vulnerabilities, implement appropriate security measures and train employees. Massachusetts and California led with such laws, which impacted New Hampshire and other States, since the regulations apply to any business that has covered information about residents of Massachusetts and California. At the same time, federal regulations expanded to encompass many businesses that handle protected health information (PHI) for HIPAA covered entities.

Changes in Scope

Recent regulatory expansion has dramatically increased the scope of covered information. At first, such laws encompassed additional categories, like genetics, biometrics, geolocation, and social media information. However, now, regulations have grown to cover all information that is identifiable to an individual, including information as basic as name, address, and email, which is simply called personal information (PI). One example of such a law is New York’s artfully named Stop Hacks and Improve Electronic Data Security (NY SHIELD) Act.

Changes in Obligation

Recent regulations also dramatically expanded the obligations imposed on businesses with respect to the privacy of PI. Such laws require a business to notify individuals about what PI it collects about them and how it uses the PI, obtain consent from individuals before using certain sensitive PI, and honor rights that individuals have with respect to their PI such as requiring the business to correct inaccurate PI, give a copy of their PI to individuals and other businesses in a usable format, restrict use of their PI, and delete all PI that the business has about them.

These broad privacy regulations initially emanated from the European Union General Data Privacy Regulation (GDPR) and Canadian Personal Information Protection and Electronic Documents Act (PIPEDA). However, California adopted a similar law called the California Consumer Privacy Act (CCPA) effective January 1 this year, and many other States (including New Hampshire and Massachusetts) have such privacy bills pending in their legislatures. These laws apply extra-territorially to businesses that have PI about residents of those jurisdictions and who engage in business either with those individuals or in those jurisdictions.

Adding to this landscape, lawyers and law firms are ethically required to implement reasonable measures to safeguard client information. Those ethical obligations were discussed in the article Information Security Is Our Ethical Duty, N.H. Bar News (Feb. 20, 2019).

Addressing the Complexity of Regulation

Getting ahead of the regulatory curve requires lawyers and law firms to address both security and privacy for all PI. Doing so means, first, conducting a comprehensive assessment to identify what information the business has, how it is used, and what risks exist to the confidentiality, integrity, and availability of it. Given the complexity of regulations and the lack of experience most lawyers and firms have in this area, it is critical to retain a knowledgeable professional to guide client information. Those ethical obligations were discussed in the article Information Security Is Our Ethical Duty, N.H. Bar News (Feb. 20, 2019).

THE PRACTICE FOR MALPRACTICE.

Abramson, Brown & Dugan is pleased to announce that three of its attorneys were recently selected for inclusion in the 2019 edition of New England Super Lawyers Magazine. Super Lawyers is a “rating service of outstanding lawyers from more than 70 practice areas who have attained a high-degree of peer recognition and professional achievement. The patented selection process includes independent research, peer nominations and peer evaluations. A designation of top-rated practicing attorneys selected through extensive evaluation.”

Abramson, Brown & Dugan is the only law firm in New Hampshire with lawyers selected as New England Super Lawyers in the practice areas of Personal Injury – Medical Malpractice on behalf of injured plaintiffs. Attorneys Mark Abramson, Kevin Dugan, and Holly Haines were each recognized for their work in these practice areas and are the only three attorneys to have been recognized in New Hampshire.

We honor referral fees. Let’s work together for your clients’ Personal Injury and Medical Malpractice claims.

The Only Firm in New Hampshire with Lawyers Selected as 2019 SuperLawyers for Plaintiff Personal Injury Medical Malpractice.
Cybersecurity

Guide you through the process and select an appropriate compliance regime for the business.

Based on that assessment, you must then implement measures that remediate the risks, adopt policies that comprehensively address current and forward-looking privacy and security issues (including existing and likely forthcoming regulations), and train employees about information privacy and security. While this can seem daunting, lawyers and law firms that commit to the process can and do achieve compliance with information privacy and security regulations.

To kick off the new decade, the Bar News has launched this regular column devoted to cybersecurity and information privacy. Contact news@nhbar.org if you’d like to contribute an article on these critical issues facing the profession.

President

Developments in the law from Korematsu to Trump v. Hawaii, as well as present day border and immigration issues. We were thrilled to still have a full room at the end of the day for these exceptional discussions. Feedback on the program has been terrific, and we are grateful to everyone who helped with the Midwinter Meeting. We are proud of all of our award winners, and we are especially grateful to our speakers. We can’t forget a big shout out to the team at the Bar Association who, through their hard work and dedication, made it all look easy. We are already looking forward to another record-setting event at the annual meeting in Portsmouth this summer! Stay tuned!

President from page 2

Cybersecurity from page 6
also allowed them, they agree, to grapple with issues of constitutional democracy in an increasingly polarized political climate and to see first-hand how the constitution continues to shape American culture.

Because of the recent New Hampshire primary and the looming presidential election, questions of what candidate to vote for, what party to choose, and whether one’s vote makes a difference, are on the minds of many first time voters. While Sartel’s peers agree that voting is a privilege and an important responsibility it is more important, they agree, to be educated.

“I wouldn’t necessarily want someone to be voting without being educated on the issues just because they feel like they need to be voting,” said Josh Ide, a Hollis-Brookline senior on the student council who plans to study Economics in college. “I just wish everyone could have a chance to learn what we’ve learned. Take a step back from all the political polarization we see today and realize what our country is.”

Mary Martin, a senior from Hollis-Brookline who voted for the first time in the February primary, agreed with Ide. Martin will be attending Boston College where she will study Hispanic Studies and Political Science.

“People seem turned off by politics today. They think it’s a dirty game, but you have to remember government runs this country, it’s not about what it has turned into, so I agree with Josh, being civically engaged doesn’t just mean voting. It means being educated on the issues.”

“It’s a dangerous game,” Lily Coady, who plans to study political science next Fall, added. “Because both sides want dramatic action. I spoke with someone the other day who said they would either vote for Trump or Sanders, believes the We the People course has taught her a lot about the foundations of government and the ways it is connected to everyday life in the United States.

“In terms of politics, this is general, because I’m talking about the whole population in the country, but I think we’re moving towards a more politically involved group in the country, but as far as constitutional principles and what’s written down in law this is something that’s really important.”

Principal Rick Burns commended the program as an authentic learning experience for students.

“From an administrators point of view, this is the best example I can think of real competency based learning. This was their midterm. That type of experience allowed them to demonstrate what they learned. Very bright kids. I think other schools should be doing this.”

Hollis-Brookline took first place in this year’s We the People competition which also included Milford High School and John Stark Regional High School.

Teachers Dan Marcus, John Stark Regional High School, along with Trevor Duval, Hollis-Brookline and Dave Alcorn, Milford, are the teachers in this year’s classes.

Marcus, who teaches AP History and Civics at John Stark Regional High School, has also been involved with the We the People class for fifteen years. Only three schools participated in this year’s event and Marcus attributed this to both a decrease in federal dollars being spent on these programs and the need for teachers around the state to become involved.

“There are fewer federal dollars being spent but the Bar is amazing,” he said, speaking about the organization and its commitment to civics education. “They put together a great competition. Kids that do this program have a deep understanding of government and the constitution and they’re more likely to vote. For me it feels good to see understanding emerge. Kids expect it to be like math but they see that it involves interpretation.”

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OFFER $350,000 | Medical Malpractice (IA) | Unnecessary prostate surgery | VERDICT $12.25 MILLION
OFFER $1.75 MILLION | Medical Malpractice (IA) | Overdose of Pitocin leads to neonatal seizures | SETTLEMENT $9 MILLION
OFFER $2 MILLION | Medical Malpractice (IA) | Delay in treatment of cauda equina syndrome | SETTLEMENT $6.5 MILLION
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John Stark student Jessica Nitzschke, who turned 18 in time to vote in the February Primary and who plans to study law and environmental science next fall, said it’s a privilege to vote. She credits her awareness and confidence in Marcus’s class which maintained a rich engagement with current events, as providing valuable lessons.

“This is a responsibility that a lot of countries don’t have,” Nitzschke said, adding that voting for the first time was a little stressful at first. “I wanted to be safe so I actually went the Thursday before to register. I wasn’t sure if I had the proper ID. I also had to ask my Dad if I could vote for people from each party and he said, ‘nope.’ I felt like I did what I needed to do though.”

Dave Alcox’s student’s at Milford High School emphasized many of the same themes of their peers at Hollis-Brookline and John Stark Regional High School. Andrew Burns, who will be joining the Army this summer, said he is the lone republican in a house of democrats. Burns’s father is a democrat serving in the New Hampshire state legislature.

Party affiliation isn’t a problem, Burns explained, because he feels that his education has allowed him to talk about the issues and not simply his party.

“Everything is defined by parties,” Burns said, adding that kids he knows often either don’t care about politics or they simply pick a party based on their parent’s beliefs. “We don’t get enough civic education. Kids see things on the internet and they believe this or that but they don’t know why.”

Classmates Kat Raimano and Lauren Auger agree.

“We have so much information at the touch of a button that we don’t often take the time to learn more,” Raimano said, agreeing with Burns.

Auger added.

Dave Alcox, who will be retiring after this year, would like to see students given more responsibility. For him this involves education as well as active participation in the political process.

“If they’re 17 at the time of the primary they should be allowed to vote,” Alcox said. “If they’re already out canvassing, why not.”

Last April Alcox took some of his students on a trip to Washington D.C. where Burns and classmate Elizabeth Roadcap had the opportunity to attend a social media course at Georgetown. Burns said the trip was inspiring. “To sit on the steps of the Capital eating Ben and Jerries was pretty cool. Roadcap, who voted for the first time in February’s primary, said she watched the debates and listened to various candidate speeches. She is excited about voting in November and concerned about the polarization in politics today. One of her insights was similar to that made by the philosopher, Socrates, over 2000 years ago in the world’s first democracy in Athens, Greece. Socrates made his living and his name in history by questioning those around him who were more concerned with winning arguments than the truth. In the year 2020, Roadcap said this means, “being interested in what’s best for our country instead of just winning popular arguments.” Her hope is that, “people will begin to come together.”

Students in the We the People classes agree that civic education is necessary for citizens to make wise voting choices. With the one hundredth anniversary of the ratification of the 19th Amendment coming up in August, following a decade long struggle for women’s suffrage, young voters like Roadcap are excited about voting in February’s primary. Burns is concerned about the polarized nature of the political environment.

“Kids don’t think they can make a difference. But they can go out and do something,” Roadcap added.

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- Radiology error verdict $11,500,000.00
- Post-surgical infection verdict $10,700,000.00
- Product liability settlement $8,900,000.00
- Birth injury settlement $7,500,000.00
- Surgical error settlement $5,100,000.00
- Surgical error settlement $5,000,000.00
- Post-surgical infection settlement $4,000,000.00
- Wrongful death verdict $3,750,000.00
- Neurological birth injury settlement $3,500,000.00

LUBIN & MEYER’S strength lies in its demonstrated record of consistently obtaining more multi-million-dollar verdicts and settlements in the areas of medical malpractice and catastrophic personal injury law than any other law firm in the region.

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The NH Bar Foundation’s Board of Directors has approved $86,095 in Justice Grants to thirteen programs and organizations. Funded by your contributions, endowments and legacy gifts, the Justice Grant program supports the rule of law, access to justice and civic education projects across the state. Justice Funds are managed by the NH Charitable Foundation with a current value of over $1.3 million. Grants are awarded every two years. This year twenty-one applications totaling $163,220 were received. A Committee of three Board Directors and one Justice Society Member reviewed each application and made their recommendations for awards based on program merits, sustainability and funds available.

**Bridges: Domestic & Sexual Violence Support Services – AmeriCorps Court Advocate – $6,000**
to fund an AmeriCorps Court Advocate to support victims and survivors navigate through the judicial system.

*A.J. McDonough Family Fund / Hon. William F. Batchelder Fund*

**Disability Rights Center - NH – American Disabilities Act Anniversary – $3,800**
to fund a series of educational events highlighting the law’s legacy and future.

*Advancement of Justice Fund*

**NHBA - Law Related Education – Beyond High School: A guide to your rights and responsibilities – $5,000**
to fund publication costs for a book distributed to high school students

*Hon. William F. Batchelder Fund*

**NHBA- Law Related Education – We the People: Project Citizen – $6,000**
to fund training of teachers in the curriculum and teacher/student support.

*Advancement of Justice Restricted Fund / Richard P. Dunfey Fund / Advancement of Justice Fund*

**NHBA- Law Related Education – We The People: The Citizen and The Constitution – $6,000**
to fund training of teachers in the curriculum and teacher/student support.

*Advancement of Justice Fund*

**NH Historical Society – The Democracy Project: Renewing History and Civics in NH Schools – $10,000**
to fund underwriting the completion of two units of curriculum to be used in New Hampshire schools - “Establishing Government (“State and Federal Constitutions” and “Modern Civics”).

*Judge Richard F. Cooper Fund / Richard P. Dunfey Fund / Frederic K. Upton Fund / Arthur & Esther Nighswander Justice Fund*

**NH Legal Assistance – Civil Legal Needs Assessment Project – $10,000**
to fund a civil legal needs assessment for the State of NH that will help guide priority-setting and resource allocation by the Access to Justice Commission and the legal services programs.

*Vickie Bunnell Memorial Fund / Advancement of Justice Fund*

**NH Legal Assistance – Increasing Access to Property Tax Relief program – $7,075**
to fund outreach and improvement of tax relief notices to the public

*J. Albert and Mildred E. Lynch Fund*

**NH Legal Assistance – Tri-State Conference on Elder Financial Exploitation – $6,750**
to fund a conference to include attorneys in Vermont, New Hampshire and Maine about best practices and develop effective coordinated responses to elder financial exploitation

*A.J. McDonough Family Fund*

**NH Pro Bono Referral System – Attorney Training – $2,970**
to fund development and trainings for Pro Bono and Modest Means panel members on working with clients who have mental illness disabilities.

*AJ McDonough Family Fund / William A. Baker Fund*

**NH Public Radio – Civics 101 – $7,500**
to support production of the Civics 101 podcast and audience engagement.

*Advancement of Justice Restricted Fund / The McLane Fund*

**NH Public Radio – Prison and Justice Reporting – $7,000**
to fund production of two episodes continuing Supervision, a program produced in 2019 on a released inmate and his struggles to transition to a new life.

*Charles W. Dean Trust Fund*

**UNH Franklin Pierce School of Law – Warren B. Rudman Center – Rudman Center Summer Fellowships – $8,000**
to support law student summer internships at a legal non-profit or state agency

*Hon. William F. Batchelder Fund*

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Melanie Maynor
Law Office of Melanie A. Maynor
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Visit www.NHBarFoundation.org and click on IOLTA to find out more.

**For more information on the Foundation’s grant programs, visit www.nhbarfoundation.org.**
Ashley D. Taylor joined Pastori Krans as an associate. Taylor will focus her practice on employment law, family law, and complex commercial litigation.

Alysia M. Cassotis has become a member of the Wadleigh Starr & Peters law firm. Cassotis will focus her practice on the defense of health care professionals and institutions in medical malpractice litigation.

Barry Faulken has joined The Law Office of Thomas R. Hanna. Tom Hanna and Barry Faulken will continue to practice in the Keene office and can be reached by using BCM’s main line (603) 225-2585.

Debbie Martin Demers has joined Rousseau Law and Mediation.

NHLAP is now located at 125 Airport Road, Suite 5B, Concord, NH in the NH Hospital Association Building.

Nathan R. Deleault has joined Stebbins Bradley in its trusts and estates practice.

LawLine Thank You

The NH Bar Association would like to thank the New Lawyers Committee for hosting LawLine on Wednesday, February 12th. Attorneys Susanne Gillman, Katherine Hedges, Andrea (AJ) Schweitzer, and Keri Welch fielded about 43 calls from the public. A variety of questions were answered but most centered around landlord/tenant, criminal, debt collections, and family law.

When asked about their experience hosting LawLine Susanne Gillman said that, “My first time being a LawLine host was fun, just as I’d been told, and I got dinner before we even started.”

Judge Bean was an avid golfer and if not actively playing, he was critiquing the game on television with his ever-judicious sense on over 700 cases. He was a member and Honorary Fellow of the New Hampshire Bar Association and held membership in the Manchester Bar Association and the American Bar Association.

After his retirement, Judge Bean acted as a judicial referee within the court system and in private practice. As a mediator and arbitrator, he provided parties with his vast legal knowledge and downright common sense. As an adjunct to his budding career, Bean also graduated in 1957, and due to his bravery, was decorated four times with the Air Medal, two Distinguished Flying Crosses, the Coeur de Guer, and five battle stars, after flying a total of 29 missions altogether. As a bomber pilot, he frequently encountered horrific situations but nonetheless, considered himself, among other survivors, the fortunate ones. He went on to fly public duty as a Lieutenant Colonel and was promoted to full Colonel during his service in the reserves where he remained until 1970.

Judge Bean continued his education at the Boston University School of Law, and the National Judicial College located at the University of Nevada, Reno. As an adjunct to his budding career, Bean also operated the historic Robin’s Nest Restaurant in northern New Hampshire with his father while attending law school.

He was admitted to the New Hampshire Bar in 1951, and from then until 1957, he served in the New Hampshire Attorney General’s Office under Attorney Generals Gordan Tiffany and Louis Wyman. In 1957, he opened the Manchester law firm, Wyman and Bean, and continued there for twenty years. During that time, he served as the chair of the State of New Hampshire Personnel Commission, appointed by former Governor Walter Peterson. He also served as a member and chairman of the Eminent Domain Commission.

His aspirations for the legal system broadened, and he was appointed by then Governor Meldrim Thompson to the bench on July 15, 1977, where he was revered for his fairness and integrity as a Superior Court Judge until his retirement in 1988. As such, he served on various committees including the Judicial Conduct Committee, appointed by the New Hampshire Supreme Court.

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pre-law classes, he decided to enter what was then the new Franklin Pierce Law Center (now the UNH Franklin Pierce School of Law).

Upon graduation, he and classmate James Sessler founded their own Laconia firm, Fitzgerald and Sessler, and were together for some 30 years. When their interests diverged, Fitzgerald took over the Laconia practice and Sessler set up shop in Franklin.

Fitzgerald is now with the Wescott law firm, focusing on the municipal law work he has done since he was hired as city attorney for Franklin shortly after he became a lawyer. He has helped clients from municipalities to school districts deal with such issues as land use, public employment, taxation, cell tower regulation and labor contracts.

“I find it fascinating,” he says of the work. “There’s so much stuff you wouldn’t think would fit into the practice of law. I represented the Laconia Airport Authority so I had to learn a little bit about aviation. It’s remarkable the sweep of the subject matter.”

Longtime friend Jack B. Middleton, senior member of the litigation department at the Manchester-based McLane Middleton law firm, recalls trying a case involving the Wolfeboro Airport along with Fitzgerald and several other lawyers.

Their team represented the owner of the airport, who had decided to sell it and then changed his mind. The state wanted to proceed with the sale anyway, Middleton says, and “we fought the state for an extended period of time and the state to do with how the law was practiced four decades ago.”

He was court-appointed to represent a defendant in a first-degree murder case when he’d been practicing only two years – part of what was then akin to an apprenticeship system in the legal community. He associated with a more experienced practitioner, and their client accepted a plea deal on a lesser offense.

“That system provided a wealth of experience that I don’t think is available to young attorneys today,” Fitzgerald says. “It was invaluable.”

“There used to be a certain collegiality you would develop under the old system,” he adds. “You’d watch one another, learn from one another. Now it’s much more common to be specialized.”

Fitzgerald has faced some tough cases outside of the courtroom, as well.

He was elected mayor in 1991 and served four years when “it was a very tumultuous time here in Laconia,” he says. “There was an effort on the part of the Weirs Beach community to secede. A great deal of time and effort went into stopping the effort and healing some of the divisions that led to it.”

That was in addition to Laconia’s efforts to keep the town from opening a state prison at a former state school in town. Though the state succeeded in establishing the prison, it closed 18 years later.

That’s not to mention Fitzgerald’s involvement in reshaping the city’s famous/famous Motorcycle Week – an event which once featured motorcycle gangs all but taking over the town, riders calling out to women to bare their breasts and police having to break up a riot in 1965. Stricter law enforcement was eventually added and the number of events – but also the number of participants – declined, until local businesses sought to reinvent the rally in the early 1990s.

The Laconia Motorcycle Week Association was founded in the early to mid ’90s, according to Fitzgerald, himself a motorcycle aficionado and owner of a Harley Davison Dyna Glide.

“The idea was to take the event, which had some issues and problems with it, and do away with any unsavory elements,” he says. “We wanted to take the best of it and do away with some of the worst of it.”

Fitzgerald attended another nationally known motorcycle rally, in Sturgis, South Dakota, a couple of times to observe “the general tone of the rally and the degree of cooperation and camaraderie between the community and the rally attendees, as opposed to what had been here – and us versus them mentality.”

After the changes that were made to the Laconia rally, “there are a lot more actual events instead of a free-form party,” Fitzgerald says. “There are organized rides. It’s a much more positive and organized event than it once was.”

Fitzgerald and his wife, Cherylann, enjoy taking out the Harley a few times a week in warm weather and Fitzgerald also likes climbing in the White Mountains. He is a proud member of the 4,000 Footers Club, popular among trekkers who have climbed all the region’s mountains higher than 4,000 feet.

But he says he never forgets the people he has met during his long legal career.

The City of Franklin that hired him as city attorney when he was just starting out? “They’re still a client 44 years later,” Fitzgerald says.
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**Pastori Krans**

Proudly Welcomes its Newest Associate

**Ashley D. Taylor**

Ashley focuses her practice on employment law, family law, and complex commercial litigation.

Prior to joining Pastori | Krans, Ashley was in-house counsel for a Fortune 500 company in the telecommunications industry. Her experience managing outside litigation counsel gives her valuable insight into what clients need and expect from their litigation attorneys.

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**Wadleigh Starr & Peters**

is pleased to announce that

**Alysia M. Cassotis**

has become a Member of the Firm

Alysia’s practice focuses on the defense of health care professionals and institutions in medical malpractice litigation.

She is admitted in New Hampshire.

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NEW HAMPSHIRE BAR NEWS

www.nhbar.org

MARCH 18, 2020
January and February 2020 Attorney Honor Roll

The attorneys listed here each accepted one or more cases referred by the New Hampshire Pro Bono Referral Program during the months of January and February 2020. Gold stars indicate attorneys who accepted more than one Pro Bono case during the course of the month.

BELKNAP
David Bownes
Paul Maggiotto

CARROLL
Anne Barber
V. Richards Ward

CHESHIRE
Christian Lund
Marilyn Mahoney ★
Theodore Parent

GRAFTON
Quentin Blaine
Dennis Ducharme ★
Michael Fisher ★
James Laflam
John Loftus ★
Roderick MacLeish

HILLSBOROUGH (N)
Xiorlivette Bernazzani
Cindy Bodendorf
Daniel Bourque
Michael Croteau
Marilyn Mahoney ★
Jonathan Shirley
Ross Terrio

HILLSBOROUGH (S)
Stephen Bennett
Kathy Cellamare ★
John Hughes
Robin Melone ★
Lyndsay Robinson ★
Kierstan Schultz
Catherine Shanelaris
Robert Shepard
Emma Stilson

MERRIMACK
John Brandte
Stephen Cherry
Susanne Chisholm
William Gillen
Michael Iacopino
Carol Kunz
John Laboe
Robert Moore ★

Peter Tamposi
Dennis Thivierge

ROCKINGHAM
Leif Becker ★
Justin Caramagno
Bryan Clickner
Peter Hutchins
Marilyn Mahoney ★
Catherine McKay
Robert Moore ★
Rory Parnell
Katherine Stearns

SULLIVAN
Alice Ranson

Plymouth Periodic Payment Hearings –
Quentin Blaine ★
Kristin Sheppe
Kelsey Sullivan

Pro Bono Made Easy

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Save The Date

27th Annual Quid Pro Bono Golf Tournament

All Proceeds Benefit the New Hampshire Bar Association Pro Bono Referral Program

Thursday, Aug. 13, 2020
Lake Sunapee Country Club

For more information on sponsorship or participation, contact Susanne Alexander, Pro Bono Program Administrative Assistant, at 603.715.3203 or salexander@nhbar.org

www.nhbar.org
14 MARCH 18, 2020
NEW HAMPSHIRE BAR NEWS
The group is both interviewing additional bar/bench members for its video library, and arranging for restoration of many older videotapes, some of which were made on VHS cassettes and need to be digitized for longer durability.

Between the Bar Foundation’s old tapes and the new ones made by the committee, some 90 interviews have been recorded, with at least 30 of them posted on the group’s website. The site has been updated for easy access to the interviews. Additional ones will be posted as old tapes are restored and new ones processed.

Interviewees are people who “are easily recognized in the profession,” according to Smith, and include judges and attorneys with diverse practice areas in different geographical areas of the state.

“We ask them to make a recommendation as to who they think would be a good person to do the interview, and we almost always follow that recommendation,” he adds. “The objective is to find someone who knows them so the chemistry in the interview will be there.”

“The central theme is biographical—how people came to this profession, what their experiences were during their career and how much the practice of law changed over time,” Smith says.

One example is the recording of retired Supreme Court Chief Justice Linda Dalianis, who reflects on topics ranging from her most memorable cases to her experiences as one of the first women to sit on a trial court bench.

The interview with the late federal appeals court judge Hugh H. Brown discusses his ascent from the Bronx-born child of Irish immigrants through his near-death in World War II to his days sitting on the United States Court of Appeals for the First Circuit, where he gained renown for his opinions favoring free speech and individual rights.

Another World War II veteran, the late Stanley M. Brown, shares memories of growing up as a lumberman’s son, attending Dartmouth College and Cornell Law School and going on to become a prominent trial attorney, legislator, president of the New Hampshire Bar Association, and founding director of the New Hampshire Supreme Court Foundation. He also describes how, decades ago, court rules could be contained in a pamphlet rather than the double volumes that came later.

Technological advances are a common thread in many of the interviews, according to Doreen Connor, chair of the New Hampshire Supreme Court Society and a shareholder at Primmer Piper Eggleton & Cramer.

Several interviewees refer to “changes in technology and the pace of law and how law is delivered,” she says, “FAX machines as opposed to email or, worse yet, ‘I haven’t gotten that because it hasn’t come in the mail.’ Now everything is immediate, which is both good and bad. It allows you to respond to your client in real time but there’s also no time between work and home.”

Cultural changes are another theme, notes Smith.

Many of those interviewed in the 1950s and ‘60s, when the pool of those in the legal profession was smaller, recalled that “people in the bar and on the bench knew each other,” he says. “They may have played golf together or their families socialized. They described it as an advantage.”

Conboy—herself the subject of one of the profiles—has conducted a half-dozen interviews of fellow members of the bar and bench.

Her approach is painstaking. She schedules a meeting with the person—often a lunchtime appointment—a week or so before the recording date, requests a resume, asks about major issues or cases in which the interviewee has been involved, reviews some of the topics that might be discussed and indicates she’ll ask a broad question at the end to signal the interview is nearing a close.

During the interview, “I might say, ‘could you discuss your experiences with the changing technology?’” she says. “That’s all I have to do and they’re off to the races.”

Interviews usually begin with biographical background, she adds, then move on to the person’s experiences as a young lawyer, then to memorable cases and broader topics.

“For me, it’s a great experience because I get to spend time with these marvelous New Hampshire lawyers and judges and the preparation itself is so enjoyable,” she says.

Work on the Oral History Project has been largely voluntary, but Smith notes that both the Supreme Court Society and the Bar Foundation have been supportive and a $6,000 grant in 2018 from the Bar Foundation’s Stanley and Thalia Brown Fund helped accelerate conversion of the old library and allowed for an increase in the number of interviews conducted.

Additional funding would further advance those activities, he adds.

The Supreme Court Society is also seeking to raise awareness of the project, and will be posting links to new interviews in the Bar’s e-Bulletin. Smith emphasizes that the interviews might be of interest to those outside the profession, including students, historians and members of the general public.

“It truly is an effort to document, in an informal way, what it’s like and continues to be like to practice law in New Hampshire,” says Conboy. “I think this is a wonderful contribution to our history and people ought to be able to get to it easily.”


### In Memoriam from page 11

Eye. During his lifetime, he was a member of the Concord Country Club, the Wonnalancet Club, and a current member of the Manchester Country Club, whose worn red cap with the club’s insignia, he wore daily. Just last year, Judge Bean attended the 26th annual Quid Pro Bono Tournament at Sunapee Country Club among 96 other players on the course. As the Bar’s oldest living member at 100 years of age, his team placed second! In 2019, Judge Bean was the recipient of the UNH Granite State Award tradition-ally presented during commencement. Provost Wayne Jones Jr., however, took the honor to Bean at his home and at the same time, presented him with a long-overdue honorary degree - a moment which made the judge very proud. Judge Bean was ageless in so many ways and was an active member of Planet Fitness through much of 2019. Several days per week, he could be found at the gym pedaling contentedly on a bike or lifting free weights while other members looked on in utter amazement. Bean’s closest friends and family agree that his optimism and zest for life are the traits that garnered his many successes. When asked once what his secret to longevity was, Judge Bean was quoted as saying, “The only thing you have got to be is lucky. I think I was lucky.”

After an illustrious lifetime, Judge Bean passed away from natural causes on Sunday, February 12, 2020, in his home in Manchester, N.H., to Andrea (L’Etoile) and Charlie DeGrandpre. He was raised in Jaffrey, N.H., and longtime member of the Manchester, and then Portsmouth, N.H. communities, passed away in his sleep, on Wednesday, Feb. 12, 2020, in his winter home in Tarpons Springs, Fla. He had been living independently, and continuing to work right up until December 2019. He was 83.

The Honorable Arthur E. Bean, Jr. was right. He was lucky, as was Gail, and the rest of us who had the privilege to have known and loved a man who was destined for greatness in so many ways. Besides his wife, he leaves behind a son, David Bean and his wife Penny of Concord, NH, two granddaughters, Gretchen Bean and Roxanne Dombrowski, a son-in-law, Stan Dombroski, and three great-granddaughters; a stepson, Rocco Boulay of Manchester, a stepdaughter, Gina White of Chester, and several step-grandchildren and close friends who will miss him dearly. A Memorial service with Military hon-ors was held on Friday, March 6 at the New Hampshire Veterans Cemetery. Please visit www.goodwinfh.com to sign the online guestbook.

Charles DeGrandpre

Mr. Charles Allyson DeGrandpre, a native of Jaffrey, N.H., and longtime member of the Manchester, and then Portsmouth, N.H. communities, passed away in his sleep, on Wednesday, Feb. 12, 2020, in his winter home in Tarpons Springs, Fla. He had been living independently, and continuing to work right up until December 2019. He was 83.

Charlie was born July 7, 1936, in Manchester, N.H., to Andrea (L’Etoile) and Arthur DeGrandpre. He was raised in Jaf-frey N.H., with his older brother Gerald, and sisters Collette and Andrea (Mitzie). Charlie grew up dur-ing the wake of the Great Depression, but his father was fortunate enough to maintain steady em-ployment at the W.W. Cross Shoe Tack fac-tory in Jaffrey, so the family had things a little better than some. Hard work and the importance of a good education was strongly encouraged in the DeGrandpre household, and all four children went on to develop successful careers in banking, law, nursing, and education.

The DeGrandpre family was Catholic, and Charlie had extremely fond memories of his altar boy years. His priest, Father Frank became a real mentor to Charlie by introducing him to educational field trips, and secular stories of his travels. Charlie spoke so appreciatively of Father Frank for the rest of his life, crediting him with opening up a whole world of potential op-portunities to him.

In 1954 Charlie went off to college at Clark University in Worcester, Mass. on a full scholarship, where he received his B.A. with honors in history in 1958. He was then accepted to the University of Michigan School of Law, and received his J.D. in 1961. He was admitted to practice before the Supreme Court of New Hampshire in 1961, the U.S. District Court for the District of New Hampshire in 1964, the U.S. District Court of Appeals for the First circuit in 1968 and the U.S. Supreme Court in 1969. While attending Clark University, Charlie met his future wife Helga Moe. In 1961 they married, and moved to Manches-ter where Charlie began his legal career with the McLane, Graf, Raulerson and Middleton Law Firm, of Manchester, N.H.

Charlie served in the U.S. Army Re-serve from 1962 to 1968, and was honorably discharged as a First Lieutenant in 1968. In 1968 Charlie was accepted as a se-nior partner in the McLane firm. In the same year Charlie and Helga adopted their first baby, Sarah, then in 1970 a second child, Da-vid. 1968 was also the year Charlie started a long-running quarterly column entitled, “Lex Loci,” for the New Hampshire Bar Journal. Charlie was the author of a legal treatise entitled, Wills, Trusts, and Gifts, and was co-author of three volume treatise on New Hampshire Probate Law entitled, New Hampshire Probate Law and Procedure.

Charlie’s first marriage ended, and he moved back to Manchester in 1978 where two years later he married his second wife Patricia Fielding. She had two children from a prior marriage, Lizabeth and Peter Fielding. Over the years, Lizabeth (Field-ing) Giordano, became a close daughter to Charlie as well. Later, Charlie met and eventually married Marcia Makris, of Bath, Maine, with whom he shared the last 17 years, until her death in 2018. Marcia had a PhD in education, and loved to learn, and travel with Charlie. The two would read poetry, walk on the beach, compete over the New York Times Crossword Puzzles, and to Charlie’s sheer delight, Marcia became his one and only formidable enemy at Scrabble whom he tirelessly tried to beat! Many of us would say, he found his soulmate in Marcia.

In 1985, Charlie was elected a Fellow of The American College of Trust and Estate Counsel, and in 1989, he became the senior director of the McLane firm’s Portsmouth office. Charlie was former Chair of the New England lawyers have chosen the Stanhope Group, led by Peter Stanhope, for its reputation, results and expertise. The firm’s staff has the experience to assist in the court room, in mediation or in developing rebuttal testimony in litigation, taxation, and zoning matters.

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Bill moved to Derry in the late 1970s where he raised his three boys: Brad, Rory and Michael.

Family members include his wife, Bernadette N. Parnell; his three sons, Brad, Rory and Michael; his former wife, Jeanne Parnell; his seven grandchildren, Meaghan, Abigail, Gabriella, Elise, Lincoln, Cadence and Sebastian; his three stepchildren, Christina, Erin and Ryan, and their children; and his brothers, Larry, Ed and Howard and their children and grandchildren.

Known locally as “Cap’n Bill” for his love of fishing and his former role as a charter captain, he was deeply invested in the Derry/Londonderry and Woodstock communities. He served as coach of flag football teams, basketball teams, and soccer teams. He served in coaching and leadership roles in the Derry Soccer Club, Southern New Hampshire Youth Soccer League, and the New Hampshire Soccer Association. He was even the East Derry Fire Commissioner before stepping down because of family commitments. He also served as past Derry/Londonderry Chamber of Commerce and Derry Main Street Corporation president and in board roles. He was honored for his service to the community of Derry/Londonderry when he was named Citizen of the Year in 2016.

In Lincoln/Woodstock, he was an active Rotarian and past president of the Linwood Rotary Club, and was an active skier and former part-time ski instructor at Loon Mountain. He also played a significant role in the formation and creation of The Bridge Project, a 501c3 charity in the Lincoln/Woodstock area that helps those in need find necessary resources to assist in their recoveries. The Bridge Project remains one of his favorite charities, and he hopes everyone can remember him by continuing to support their mission and development.

Bill was the founding member of the Law Offices of Parnell & McKay, and was integral in the merger of the firm now known as Parnell, Michels & McKay in Londonderry. He was an active and well-respected litigator, having served as past president of the New Hampshire Trial Lawyers Association.

A memorial service was held on March 11 at Southern New Hampshire University. A celebration of life was held March 12 at the Woodstock Inn Brewery, North Woodstock. Memorial donations may be made to The Bridge Project (http://thebridgeprojectnh.org). Donations can be mailed to The Bridge Project, P.O. Box 598, North Woodstock, N.H. 03262.

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

To submit an obituary for publication, email news@nhbar.org. Obituaries may be edited for length and clarity.
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- Anger
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- Social Withdrawal

DON’T PANIC. AT THIS TIME THERE IS LITTLE IMMEDIATE RISK OF EXPOSURE TO COVID-19. This situation is manageable with common sense precautions. Limit agitation and worry by limiting time spent reviewing news coverage of this outbreak.

IF YOU ARE FEELING OVERWHELMED, DEPRESSED OR SUFFERING FROM PANIC ATTACKS DUE TO THIS ISSUE, PLEASE SEEK ADDITIONAL HELP THROUGH YOUR REGULAR HEALTH CARE PROVIDER OR WITH NHLAP.

SYMPTOMS OF COVID-19: Fever, Cough, Shortness of Breath
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NEW HAMPSHIRE BAR NEWS
In Re Guardianship of L.N. and Removal of Life Support

By Elizabeth Brown

On February 19, 2020, the New Hampshire Supreme Court issued an important decision in In Re Guardianship of L.N., for estate planning and elder law attorneys who routinely assist with guardianships and the preparation of New Hampshire Advanced Directives. The Supreme Court considered, as a matter of first impression, whether a Guardian under RSA 464-A:25 has authority to terminate life support without Court approval. The Supreme Court’s decision not only settles the question of authority of a court-appointed guardian, but also highlights assisting clients with preparation of Advanced Directives that specifically authorize agents to remove life support when medically appropriate.

In Re Guardianship of L.N involved L.N., who was an active and independent 69-year-old, suffered a serious stroke that resulted in her life being sustained by a ventilator and a nasal gastric tube for nutrition and hydration. L.N. did not have any living relatives who sought to serve as guardians and a close friend and a co-worker both petitioned for guardianship.

In considering the guardianship petitions, the Probate Court found beyond a reasonable doubt that L.N. was incapacitated and in need of a guardian over the person and the estate pursuant to RSA 464-A:9, III. The petitioners had requested a decision on whether the guardian should be granted authority to remove life-sustaining treatment from L.N. The Probate Court deferred the ruling for additional information. The evidence before the court was that L.N. did not show signs of “higher cortical functions, awareness,” and doctors testified that she did not have any realistic possibility of meaningful recovery. After further consideration of additional medical records, the Probate Court issued an order concluding that the authority granted by statute to a guardian does not “include the authority to remove a ward from life support without court approval.”

On appeal, the Supreme Court specifically considered whether the guardian had authority to withdraw life-sustaining treatment without court approval. The Supreme Court concluded that pursuant to RSA 464-A:25, a guardian of an incapacitated person had the powers and duties except for four specific powers: “psychosurgery, electro-convulsive therapy, sterilization, or experimental treatment of any kind unless the procedure is first approved by order of the probate court.” The Supreme Court determined that the Probate Court erred when it determined “the statutory authority granted to the guardian over the person… does not include the authority to remove a ward from life support without Court approval.” The Supreme Court concluded that RSA 464-A:25, I(d) does not contemplate a separate and explicit authorization for this medical treatment or procedural issue. The guardianship statute simply means that once the court has found the ward incapacitated, the guardian has the general authority to make decisions.

The Supreme Court then examined whether the general authority included authority to terminate life support. The Supreme Court concluded that right was included within the general grant of authority. In making this determination, the Supreme Court considered situations whereby the individual executed an Advance Directive. The Supreme Court concluded that in situations where a ward had a valid living will under RSA 137-J, a “guardian shall be bound by the terms of such document, provided that the court may hold a hearing to interpret any ambiguity of such document. If a ward has previously executed a valid, durable power of attorney for health care, RSA 137-J shall apply.” RSA 464-A:25, I(e). The Supreme Court found it persuasive that the agent under a valid durable power of attorney was bound to the ward’s wishes.

Consequently, the Supreme Court concluded that RSA 464-A:25, I(e) implies that the guardian has the authority to make decisions on behalf of the ward. For those reasons, the Supreme Court concluded the general power to give or withhold consent of medical treatment under RSA 464-A:25, I(d) includes the power to withdraw life-sustaining treatment in appropriate circumstances.

The Supreme Court also concluded that RSA 464-A:25 did not require a guardian seek prior court approval to authorize the withdrawal of life support. The Supreme Court noted that the legislature’s specific requirement that a guardian seek prior court approval for four specific types of treatment (psychosurgery, electro-convulsive therapy, sterilization or experimental treatment) “strongly indicates” that the legislature did not intend to require prior approval for the withdrawal of life support. The Supreme Court concluded that the award of guardianship would include the power to remove life support.

For practitioners who routinely practice in this area, the Supreme Court’s decision serves as an important reminder to draft Advanced Directives and Living Wills that include clear authority to remove life support for clients who do not want their life sustained by medical technology.”

“For practitioners who routinely practice in this area, the Supreme Court’s decision serves as an important reminder to draft Advanced Directives and Living Wills that include clear authority to remove life support for clients who do not want their life sustained by medical technology.”

Elizabeth A. Brown is an attorney with the Manchester office of Primmer Piper Eggleston & Cramer PC. She has over 20 years of experience representing individual and business clients in a wide range of legal issues, including estate planning, business succession planning, business formations, and corporate governance issues.
Electronic Wills – Here They Come

By Linda R. Garey and Christina Krakoff

In January 2017, SB 40 was introduced to the New Hampshire Senate to enact legislation allowing electronic wills, which at the time, generated much interest and controversy. The bill moved through the Senate, but died in the House in May 2017 and has not (yet) been reintroduced. But that day is almost certainly not far off.

At that time, Nevada was the only state to have adopted a statute providing for electronic wills. Since then, however, Indiana, Florida and Arizona have all adopted statutes in various forms permitting digital signatures on, and storage of, an electronic will. While these issues are a relatively recent topic of debate among estate practitioners around the country, the electronic execution and storage of documents is the preferred method for many commercial transactions.

In recognition of this trend, the Uniform Law Commission approved the Uniform Electronic Wills Act (the “Act”) in July 2019.

At the recent Heckerling Institute on Estate Planning Conference, a consensus that emerged was, at a minimum, that practitioners had better be ready to adapt and embrace this trend, because as Forbes Magazine columnist Bob Carlson observed, “... slowly, but surely, estate planning is catching up to modern technology.” Many attendees felt that adoption of electronic wills in some form is inevitable, particularly now that a Uniform Act dealing with this issue has been approved. Many states will soon be considering updating their probate codes to incorporate electronic wills and New Hampshire is likely no exception.

Rationale and Momentum
The practice of electronically signing and storing documents for commercial transactions is widely practiced and accepted. Financial institutions also allow clients to make beneficiary designations electronically online. Despite technological advances in other areas, the execution of many estate planning documents has remained embedded in paper and pen. While the reasons for the rituals of executing paper estate planning documents are widely understood, limiting the execution of wills to traditional methods misses an opportunity to join the wave of technological innovation and client convenience.

New Hampshire Law Today
In September 2001, New Hampshire enacted the Uniform Electronic Transactions Act which permits transactions to be conducted between parties via electronic records of legal documents and electronic signatures. RSA 294-E et seq. The Uniform Electronic Transaction Act, however, specifically does not apply to any law governing the “creation and execution of wills, codicils or testamentary trusts”. RSA 294-E:3 II(a). Today, New Hampshire law requires that a valid will be (1) in writing (2) signed by a qualified testator, and (3) signed by two or more uninterested witnesses. RSA 551:2. However, it is important to note that under RSA 551:5, a will made out of state that is valid according to the laws of that jurisdiction is effective in New Hampshire.

The Act – Key elements
The Act is designed to apply to wills and codicils, but not trusts (other than testamentary trusts). An electronic will is a will that is readable as text at the time the testator electronically signs the document.

The testator’s signature must be witnessed by two people who add their own electronic signatures. The Act provides two options for witnessing: the first requires witnesses to be physically present in the same location as the testator when signing the electronic will (similar to Indiana’s approach); the second only requires the witnesses to be “electronically present” through electronic means with the ability to see and hear the Testator in real time (similar to Florida’s statute). The Act also

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Meet the Downs Rachlin Martin trusts and estates attorneys active throughout New England — left to right: Alison Sherman (MA, NH, VT), Andre Bouffard (VT), Jake Wheeler (VT), William Dienstmann Miller (NH, VT), Tom Csatari (NH, VT), Roger Prescott (MA, NY, VT).
Selling Real Property in Probate – the Process and Potential Pitfalls

By Joyce M. Hills

Working with a client who is selling the real property of a decedent presents an added layer of complexity in a real estate closing. It is important to be aware of the process and pitfalls to ensure a smooth sale and timely closing.

This article will use the example of a daughter handling the settlement of her father’s affairs. It will make the following assumptions: the father was a resident of New Hampshire; a widower; had a will; the daughter was nominated as executor in her father’s will; and has contacted you to assist with the sale of her father’s home.

The Process

Identifying the Client. The first step, as always, is to identify the client and make sure that she has the proper authority to sell the property. In our example, record title to the property may be in the names of both parents, in just dad’s name, or in a trust. If title is in dad’s name alone, then the executor of his estate would be the client. If title is in the names of both parents, you will need to determine how the title was held between the parents to ascertain the client. If the title was held joint with rights of survivorship, the property would have passed to dad upon mom’s death by operation of law. If the title was held as tenants in common, then you will need to confirm that a probate estate was opened for mom to ensure you have clear title. Either way, daughter would still be client for dad’s estate but you may have another party involved for mom’s interest. If the probate records for mom’s estate indicate that dad acquired mom’s interest, then title is in dad’s name alone and no other party need be involved. Finally, if title is in the name of a trust, then the trustee, not the executor, would be the client.

Certificate of Appointment. Assuming you have confirmed that dad alone is the sole title holder, daughter will need to be formally appointed as executor by the court before she has authority to list or sell the home on behalf of dad’s estate. Just being named in a will as executor is not enough. To be appointed, daughter must file a Petition for Estate Administration along with other required documents, and in some instances a bond, with the Circuit Court Probate Division. Once the court approves the petition, the court will issue a Certificate of Appointment, also referred to as Letter of Appointment, and the daughter will then have the authority to list and sell the house on behalf of the estate, subject to the consent of the beneficiaries as outlined below.

Fiduciary Deed. An executor selling real estate out of an estate is acting as a fiduciary on behalf of the estate. As such, the executor should only sign a Fiduciary Deed (as opposed to a Warranty or Quitclaim Deed). It is important to reflect this in the purchase agreement.

Timing and Details. While the formal steps of the probate process are outside the scope of this article, it is important to note the administration process will last a minimum of six months but may last much longer. Buyers, or their lenders, may require an inventory listing the property be filed with the court prior to the closing. Once the property is sold from the estate, the proceeds should be paid to the estate and not to the beneficiaries of the estate. The estate’s taxpayer identification number (and not the executor’s social security number) should be used on all closing documents.

Potential Pitfalls

Disclosures. When completing the Property Disclosure, if daughter did not live at the property, then she would not have personal knowledge of things such as the maintenance of the septic tank or the installation of the water supply system. It is important that she not make any statements that cannot be verified. For example, the NHAR Standard Form for Residential Property Disclosure specifically states that it is to be completed to the best of the seller’s knowledge. If the executor does not know the correct answer, it is best for her to answer “unknown.”

Getting Everyone to Agree. The executor must sign the deed in her capacity as fiduciary of the estate. Additionally, where title to the property vests in the beneficiaries entitled to the real estate at the moment of the decedent’s death, certain beneficiaries will need to provide written consent to the sale of the property. It is important to identify these individuals and confirm that they are all available prior to the closing and do in fact consent to the sale in order to avoid any unnecessary delay.

Confirming clear title. As soon as post-closing, the estate’s taxpayer identification number (and not the executor’s social security number) should be used on all closing documents.

REAL PROPERTY continued on page 29
Antemortem Statutes and No-Contest Provisions

By David P. Eby

New Hampshire’s Antemortem Probate Statutes

Challenges to wills and trusts are not uncommon. Historically, such challenges take place after the death of a testator. To assist in these claims, New Hampshire has established a body of case law regarding undue influence, testamentary capacity, no-contest provisions, burden of proof, and the quantum of evidence needed. New Hampshire also allows validity proceedings before death. In fact, New Hampshire is one of only six states with a so-called antemortem probate statute. Other states with antemortem probate statutes are: Alaska, Arkansas, North Carolina, North Dakota, and Ohio.

Since 2014, individuals may bring their wills or trusts before the Probate Division with an approval request. RSA 552:18 provides for a proof of a will during lifetime and RSA 564-B:4-406 provides for a judicial proceeding to determine the validity of a trust during lifetime. The statutes require notice to “interested persons,” including a spouse, heirs, legatees and devisees under the estate planning documents, and others. The burden of proof and presumptions are the same as in an after-death proceeding. After a hearing, the court must declare whether the validity proceeding is before or after death. Indeed, the purpose of a no-contest provision is to discourage destructive and expensive litigation that has the potential of draining resources. Application of a no-contest provision in antemortem cases is premature. An argument can be made that New Hampshire law requires the enforcement of no-contest provisions in antemortem cases. Given the broad application and statutory authority of enforcement, they should be enforced whether the validity proceeding is before or after death. In a traditional will contest case, the challenger initiates the claim, creating a more important way. In a traditional will challenge, the challenger initiates the claim, creating the adverse proceeding, and asks the court to adjudicate the validity of the documents presented, requiring an evidentiary hearing. Because of the requirement of notice and the opportunity

No-Contest Provision

New Hampshire also recognizes the enforceability of no-contest provisions in wills and trusts. RSA 551:22, II (wills) and RSA 564-B:10-1014(b) (trusts) provide that no-contest clauses shall be enforceable according to the express terms of the provision. No-contest provisions, also known as in terrorem clauses, can be draconian, resulting in complete disinheriting after even an indirect challenge. As such, any will or trust challenger must carefully consider these clauses and the ramifications of a challenge.

No-Contest Provisions in Antemortem Cases

Although statutory provisions provide a specific mechanism for a beneficiary to seek guidance as to whether a pending or proposed legal action will trigger a no-contest provision (see RSA 551:22, III(c) (wills) and RSA 564-B:10-1014(c) (trusts)), the New Hampshire Supreme Court has not yet ruled whether in terrorem clauses are enforceable in the context of the antemortem paradigm. Case law from the other jurisdictions with antemortem statutes shed little light on this issue. So, should a court enforce no-contest provisions in an antemortem proceeding?

An argument can be made that New Hampshire law requires the enforcement of no-contest provisions in antemortem cases. Given the broad application and statutory authority of enforcement, they should be enforced whether the validity proceeding is before or after death. Indeed, the purpose of a no-contest provision is to discourage destructive and expensive litigation that has the potential of draining resources. Application of a no-contest provision in antemortem cases would discourage unfounded claims and assist in effectuating the intent of the testator or settlor. Testamentary freedom and absolute testamentary intent should be the goal.

However, antemortem proceedings are inherently different from their post-death cousins. A will becomes irrevocable and final only at death. Traditionally, once submitted to the court, a will is routinely “approved” (often with “self-proving” will language), thus becoming the controlling estate document. Only then may a disgruntled beneficiary or heir commence a challenge. The challenger asks the court to rule that the already-approved will was the product of undue influence or that the testator lacked testamentary capacity at the time of signing. If an action violates an in terrorem clause of the now-approved will, the challenger is indeed subject to disinheri-
tance. In stark contrast to the traditional will contest, in antemortem proceedings the court has not yet approved the will and it is not yet the governing document for disposition of the testator’s estate at death. In fact, the whole purpose of the proceeding is to determine document validity. Therefore, the language of the yet-to-be-approved will, including its no-contest provision, should not govern the parties at all. In other words, the court should not and cannot enforce a provision of a will that does not yet exist as the final governing document. The application of a no-contest provision is premature.

Antemortem proceedings differ from traditional will contest cases in another important way. In a traditional will challenge, the challenger initiates the claim, creating the adverse proceeding. By contrast, in an antemortem setting, the testator initiates the adverse proceeding, and asks the court to adjudicate the validity of the documents presented, requiring an evidentiary hearing. Because of the requirement of notice and the opportunity
SECURE Act Complicates Trust Planning for Inherited IRAs

By Audrey G. Young

Planning for a marital trust to hold retirement account assets has always required carefully drafted distribution and administrative trust provisions, especially when planning for spouses married for a second time. The SECURE Act, signed into law by President Trump on December 20, 2019, makes dramatic changes to the distribution rules for retirement accounts upon the death of the account owner. Currently, the general rule is that retirement accounts must be distributed to designated beneficiaries within ten years of the death of the account owner. Surviving spouses are one of five exceptions to the general rule (such beneficiaries are called “Eligible Designated Beneficiaries” in the statute) and still can qualify for a lifetime, or stretch, payout.

The SECURE Act layers on additional hoops for estate planners to jump through in order to ensure that a marital trust is eligible for the life-expectancy payout. This article will describe the existing rules for marital trusts holding retirement plan assets as well as the new rules under the SECURE Act relevant to marital trust planning. The article will also review options for distribution of any remaining retirement assets held in the marital trust upon the death of the surviving spouse as the applicable rules for distributions to successor beneficiaries were also upended by the new legislation.

The surviving spouse of the account owner can rollover an inherited IRA just as under prior law. Under the new law, the required minimum distributions (“RMDs”) would need to begin in the year the deceased spouse would have attained age 72. While a spousal rollover does minimize the income tax liability of the survivor, it does not protect the assets from creditors beyond the spouse’s lifetime or necessarily preserve the remaining balance of the account for children. Especially in second marriage situations, many attorneys advise their clients to transfer retirement account assets to a QTIP Marital Trust where the surviving spouse is the only beneficiary during his or her lifetime but the remainder is earmarked for heirs.

In order for the QTIP trust to utilize the lifetime payout option, it must be drafted as a “Conduit Trust.” A “Conduit Trust” is a trust with a provision governing retirement account distributions that requires the trustee to distribute to the individual beneficiary each distribution the trustee receives from the retirement plan. The IRS Regulations provide that the beneficiary of a Conduit Trust is the sole designated beneficiary of the trust as well as the retirement account and therefore that individual’s life expectancy may be used to determine the RMD. The IRS has ruled that the surviving spouse must receive not only all of the income of a QTIP marital trust but also all of the income of any retirement account payable to the trust. It is important that marital trusts state this explicitly to avoid IRS scrutiny. Many attorneys provide in their marital trust agreements that the trustee shall distribute to the surviving spouse the greater of the income of the retirement plan or the RMD each year and this language will continue to satisfy the IRS rules for a QTIP Conduit Trust.

A Conduit Trust is the only marital trust that will qualify the surviving spouse as an EDB and allow for a lifetime payout of the IRA to the surviving spouse. The IRS does not consider the beneficiary of an income only marital trust an EDB and thus the trustee of such a trust would have to withdraw the account within ten years of the account owner’s death. The conference report of the SECURE Act notes explicitly, nonetheless, that upon the death of the surviving spouse the ten-year payout rule will kick in for the successor beneficiaries unless such beneficiaries are otherwise EDBs. Depending on the ages of the successor beneficiaries and size of the retirement account, this new rule could cause large distributions to the successor beneficiaries. Not only could this be problematic if beneficiaries with little or no financial acumen are given a large lump sum distribution, but also such distributions would likely trigger a large tax liability. Depending on the ages of the successor beneficiaries, one solution is to provide for an Accumulation Trust. An Accumulation Trust and Estate Law

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The Midyear Meeting 2020: The Struggle for Justice is Alive and Well

Nearly 600 attorneys and guests attended the NH Bar Association’s Midyear Meeting on Friday, February 21st, at the DoubleTree by Hilton in Manchester NH to participate in a day of educational sessions, award presentations and networking.

The title of this year’s meeting, “Speaking Up: Power, Peril and Politics,” examined the historical events that shaped the legal and moral compass of our nation, encouraging participants to reflect on how these events are relevant today.

“The NHBA is thrilled to have produced cutting-edge MYM programs touching on legal ethics that effect everyday Americans,” remarked George R. Moore, Executive Director of the New Hampshire Bar Association.

President of the League of Women Voters of New Hampshire, Liz Tentarelli, began the day at the Gender Equality Breakfast. Tentarelli spoke to an audience of nearly one hundred about the history of women’s suffrage. She provided a thoughtful historical timeline of the struggle for the right to vote, reminding attendees that calls for women’s equality have been made, sitting on the fence is not enough, she said, adding, “We must get comfortable with being uncomfortable and not accepting the status quo.”

In the first educational session of the day, James D. Robenalt presented Lawyers as Whistleblowers, a look at the intrinsic details of the role that John Dean played as White House counsel during Watergate. The series of events that unfolded during Watergate brought about fundamental changes in legal ethics, requiring lawyers to “report up” and “report out” when crime or fraud cannot be stopped despite the best efforts of the lawyer.

Afternoon participants had a chance to view the American Bar Association’s Silver Gavel Award-Winning documentary, And Then They Came For Us: The Perils of Silence. Narrated by George Takei and others who were among the 120,000 Japanese Americans incarcerated during WWII, the story follows Japanese American activists as they speak out today against the Muslim registry and travel ban.

A discussion group, moderated by NHBA Board of Governors’ President, Edward D. Philpot, Jr. followed the film. Participants fielded questions and reflected on the importance of protecting civil liberties. Echoing the sentiment of the other participants on stage, Mona Movafaghi of Drummond Woodsum & MacMahon in Manchester, said “We need to speak in a civil way and get out of the boxing ring.” Movafaghi, who has also worked on the United States’ border with Mexico, quoted Laura Bush, who has said that the detainment of children taking place there is as bad as the Japanese-American situation during WWII.

Carol Ann Conboy, who was in attendance, praised both of the afternoon programs.

“Both programs were thought provoking. There were a lot of insights and variety as well as fascinating parallels to today’s legal climate. They caused me to think about the realities, about what it means to be American.” She added that, “Our country’s ideals were sorely misused. To the extent that we think it can’t happen to us. It can happen to us. The fear that was unsupported by evidence caused the suffering. Fear over evidence.”

Pleased with the turnout, NHBA President of the Board of Governor’s, Edward D. Philpot, Jr. noted, “This program has been extremely well received and we have really captured everyone’s attention delivering a terrific and top notch program for members of the bar.”

The theme of her speech was courage in the face of inequality and inequities. When inequity persists, and it does in our profession, despite the real strides that have been made, sitting on the fence is not enough, she said, adding, “We must get comfortable with being uncomfortable and not accepting the status quo.”

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Barbara R. Keshen was recognized with the Distinguished Service to the Public Award.

Kay E. Drought of NH Legal Assistance was recognized for Outstanding Service in Public Sector/Public Interest Law Award.

Lisa L. Wolford of the NH Attorney General’s Office Department of Justice was recognized for Outstanding Service/Public Interest Law Award.

Jack P. Crisp of the Crisp Law Firm was recognized with the Vickie Bunnell Award for Community Service.

Jacqueline A. Leary of McLane Middleton accepted her Pro Bono Rising Star Award.

Donna J. Brown of Wadleigh, Starr & Peters accepts her Pro Bono Distinguished Service Award from Brian C. Shaughnessy of Shaughnessy Rache (left) and NH Bar President Edward D. Philpot, Jr.

Roger B. Phillips of Phillips Law Office accepted the L. Jonathan Ross Award for Outstanding Legal Services to the Poor.

Christina A. Ferrari of Bernstein Shur Sawyer & Nelson received the 2020 Philip S. Hollman Award.

Gender Equality Committee Breakfast Speaker Liz Tentarelli, President of the League of Women Voters of NH.

Cindy M. Bodendorf accepted her Pro Bono Distinguished Service Award.

Barbara R. Keshen
Kay E. Drought
Lisa L. Wolford
Jack P. Crisp
Jacqueline A. Leary
Donna J. Brown
Roger B. Phillips
Christina A. Ferrari
Gender Equality Committee Breakfast Speaker Liz Tentarelli
Cindy M. Bodendorf
The SECURE Act’s New “Death Tax”

By Michael T. Jordan, Esq. and Susan R. Abert, Esq.

The Setting Every Community Up for Retirement Enhancement Act of 2019, better known as the SECURE Act, or simply, “the Act,” greatly changes the rules for inherited retirement plan assets such as individual retirement accounts (“IRAs”) owned by persons dying on or after January 1, 2020. Under the Act, most non-spouse beneficiaries of inherited IRAs can no longer elect to receive distributions over their life expectancies, after the death of the original account owner. Instead, in most cases, distributions must be made within ten years of the account owner’s date of death. Because IRA distributions are considered taxable income (unless made from nontaxable Roth IRAs), this compression of the permitted distribution period will increase the income tax owed by many beneficiaries of inherited IRAs.

Prior to the SECURE Act

Prior to the Act, inherited IRA accounts were subject to annual Required Minimum Distribution (“RMD”) rules, which in many cases permitted a designated beneficiary (generally, an individual person or “pass-through” trust) to stretch distributions out over the beneficiary’s life expectancy. This inherited IRA feature could result in years of additional tax-free growth of undistributed inherited IRA assets within the IRA account, after the original account owner’s death. Although the complete rules for determining RMDs for inherited IRAs prior to the SECURE Act are not within the scope of this article, the availability of what was known as the “stretch IRA” was a helpful tool for estate planners. An extended “stretch” RMD period for inherited IRAs could be obtained if an estate planning revocable trust was named as a beneficiary of the IRA, if it was structured as a “pass-through” trust, in which the life expectancy of a beneficiary could be used to determine the RMDs to the trust. These were (and can still be) useful with significant retirement plan assets, if any of the account owner’s beneficiaries have money management, marital, or substance abuse issues, or are minors or fairly young. The two types of “pass-through” trusts are conduit trusts, where all annual RMDs (and any additional discretionary distributions) are distributed to the beneficiary; and accumulation trusts, where IRA withdrawals may be accumulated within the trust. Accumulation trusts may be combined with “special needs trust” (SNT) provisions for disabled persons who require need-based public assistance programs, although in cases where the retirement account balance is modest, the costs of establishing and administering an accumulation trust are often not warranted, especially if there are non-retirement plan assets that could provide for this individual.

Changes Under the SECURE Act

The Act creates five categories of individuals who are considered “eligible designated beneficiaries.” Individuals in these categories can still stretch inherited IRA distributions over their life expectancies. They include: the surviving spouse; minor child (though the 10-year rule applies when the minor attains age 18); disabled individual; chronically ill individual; or an individual who is no more than 10 years younger than the original account owner. All other designated beneficiaries, including adult children of the account owner, must now withdraw the entire inherited account balance within 10 years after the original account owner’s death. There is no longer a calculated yearly RMD. The account must simply be fully distributed within 10 years. This greatly accelerates payment of income taxes on the underlying account balance and reduces the amount of time these assets can be invested.

The use of a “pass-through” trust (conduit or accumulation) is still permitted. However, in many cases they may create unintended large income tax burdens. Most pass-through trusts must now receive distribution of all plan assets within the 10-year period; only a conduit trust for an eligible designated beneficiary, or an accumulation trust (conduit or accumulation) is still permitted to stretch distributions until the beneficiary’s death. The Act creates five categories of individuals who are considered “eligible designated beneficiaries.” They include: the surviving spouse; minor child (though the 10-year rule applies when the minor attains age 18); disabled individual; chronically ill individual; or an individual who is no more than 10 years younger than the original account owner. All other designated beneficiaries, including adult children of the account owner, must now withdraw the entire inherited account balance within 10 years after the original account owner’s death. There is no longer a calculated yearly RMD. The account must simply be fully distributed within 10 years. This greatly accelerates payment of income taxes on the underlying account balance and reduces the amount of time these assets can be invested.

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Estate Planning After the SECURE Act

By, Michael P. Panebianco

In the final weeks of 2019, the federal budget bill was passed by Congress and signed by President Trump. The budget bill included changes to the federal tax code that were originally included in the SECURE Act (H.R. 1994) and which went into effect January 1, 2020. The changes affect retirement plans, such as IRAs and qualified retirement plans, e.g., a 401(k), both during lifetime and the way assets in those plans (“retirement assets”) may be distributed to beneficiaries after death. Accordingly, estate planning with retirement assets going forward will require an understanding of these changes and knowledge of available options in light of the new legal landscape.

Under prior law, most people were required to begin taking Required Minimum Distributions (“RMDs”) from their qualified plans or traditional (non-Roth) IRAs once they reached age 70 ½. Under the SECURE Act, the age was increased to 72 for those who were not yet required to take distributions under the old law. This means if you turned 70 ½ in 2019, the prior law applies and you must begin taking RMDs by April 1, 2020. Otherwise you can, but are not required, to take distributions once you are age 59 ½ without penalty, but must begin taking RMDs once you are 72. Although RMDs do not begin until age 72 under the new law, you can still cause distributions of up to $100,000 a year to pass directly to charity once you have reached age 70 ½. In addition, the new law removes the age cap for funding traditional (non-Roth) IRAs and deductible plans, so individuals over age 70 ½ are now permitted to make contributions to a traditional IRA, provided they have earned income, and there is a new exception to the 10% excise tax on withdrawals prior to age 59 ½: up to $5,000 for child birth or adoption expenses may be withdrawn.

With respect to estate planning, arguably the most significant changes brought about by the SECURE Act relate to how retirement assets are distributed and taxed after death to avoid penalties.

Under prior law, it was possible to stretch the distribution of retirement assets over the life expectancy of a beneficiary, if that beneficiary met the requirements of a “designated beneficiary” under the law. The ability to stretch out the distributions offered potential advantages in terms of income tax free growth of the retirement assets during the beneficiary’s life, the cumulative amount of income tax paid on distributions from the retirement account, and protection of the retirement assets from the beneficiary’s creditors, or even from a beneficiary who might not have the ability to handle significant amounts of money at one time. The law also permitted these advantages for retirement assets left in a trust, as long as the trust was structured to meet certain requirements.

The SECURE Act changed these rules so that most designated beneficiaries of retirement plans will be required to receive the full amount of an inherited qualified plan or IRA within 10 years after the death of the person who funded the plan or IRA. The exceptions to this general rule include the retirement plan owner’s surviving spouse, minor children of the owner (but not their grandchildren or someone else’s children), beneficiaries who are disabled or chronically ill, and individuals who are not more than 10 years younger than the plan owner. The exceptions to this general rule include the retirement plan owner’s surviving spouse, minor children of the owner (but not their grandchildren or someone else’s children), beneficiaries who are disabled or chronically ill, and individuals who are not more than 10 years younger than the plan owner. The excepted classes of beneficiaries are still permitted to take distributions over their expected lifetimes, as under prior law, though children who are minors at the time of the owner’s death must now take the full distribution within 10 years after reaching the legal age of adulthood, which is age 18 in New Hampshire and most other states. It is important to note that the beneficiary can...
Prenuptial and Postnuptial Agreements: Who Should Draft Them?

By Sarah Paris

Prenuptial agreements, with the authority outlined in RSA 460:2-a, and postnuptial agreements now deemed valid after the case In re Estate of Wilber, are valid estate planning tools in New Hampshire. Prenuptial agreements and postnuptial agreements are very similar in that they are both contracts to outline the rights of each spouse in the event of divorce or death. Given the contract involves two practice areas, family law and estate planning, it is imperative that the attorney drafting the agreement have knowledge of both. Attorneys have an ethical duty of competence, and in order to be considered competent the attorney must have knowledge of the legal rights each party would have in the event no contract exists. Despite prenuptial and postnuptial agreements being described as estate planning tools, both estate planning and family law attorneys draft these agreements. In New Hampshire, if you are looking for an attorney to draft a prenuptial or postnuptial agreement it will likely be done by a family law attorney. Who is better poised to draft these agreements, family law or estate planning attorneys?

The best attorney to draft these agreements is someone who practices in both areas. Given the need for competence, you need to have a working knowledge of the impact a prenuptial or postnuptial agreement will have on each of the parties with regard to both estate planning and rights of spouses in the case of a divorce.

A family law attorney has the knowledge to draft the provisions in the contract related to the rights of each spouse in the case of divorce. A family law attorney will also have the knowledge that the agreement cannot contain provisions that will “abrogate the statutory or common law rights of minor children of the contemplated marriage.” Both family law and estate planning attorneys have the ability to help the parties determine property divisions as it is standard protocol for both attorneys to investigate the assets owned by each party.

An estate planning attorney is better poised to advise their Clients concerning rules of probate regarding statutory shares, intestacy rules, and homestead rights. This knowledge is paramount, as a very common reason for Clients to pursue a prenuptial or postnuptial agreement is to protect the inheritance rights of children from a prior marriage. An estate planning attorney has the knowledge that one of the only ways to defeat a spouse’s right to their statutory share is through one of these agreements. Family law practitioners in this state are commonly employed to draft prenuptial and postnuptial agreements, but it is imperative that they have a working knowledge of the statutes and case law surrounding a spouse’s inheritance rights. As long as the family law attorney has gained this knowledge, usually by conferring with someone who practices estate planning, they are competent to draft and execute these agreements.

An estate planning attorney can become equally as competent as the family law attorney at drafting prenuptial and postnuptial agreements. Learning the rules surrounding the rights of spouses on the dissolution of their marriage puts the estate planning attorney in the same position as the family law attorney with regard to drafting these contracts. Given the fact that protection of assets for a spouse’s children from another marriage is one of the most common reasons for executing these contracts, it really makes sense for more estate planning attorneys to take on these contracts. It is important that the parties involved in executing a prenuptial or a postnuptial agreement also execute an estate plan that considers the provisions of the contract. If a proper estate plan is not in place, the parties may not end up accomplishing their true intentions, so it makes sense to do these documents contemporaneously with each other.

A prenuptial or a postnuptial agreement has the potential to be a difficult conversation for a client to have with his or her partner. As attorneys who frequently deal with family dynamics, both estate planning and family law practitioners will have the tools necessary to explain these documents to clients with tact. Both family law practitioners and estate planning practitioners will be able to recognize what areas may be sensitive for clients and will be able to diffuse any tension. Often, a collaborative

AGREEMENTS continued on page 32
What issues are raised by electronic wills?

One of the most controversial issues is the effect of having witnesses appear remotely. By having at least two witnesses appear in person, the ritual of the document signing signals to the Testator that executing their will is an important legal act. Second, witnesses are able to testify in the future if the will is challenged for undue influence or lack of capacity. There is concern that will contests may become more common with witnesses appearing remotely via telephone and/or video. Florida has adopted involved and lengthy processes under its notarial acts statute requiring the Notary to ask the testator a number of questions to determine if the testator is a “vulnerable person” under Florida law, which would require witnesses to be physically present at the time of signing. FSA 117.285.

Revocation of a typical will is accomplished by a subsequent document or some affirmative destructive act. Under the Act, a subsequent document may revoke an electronic will. However, is deletion of one electronic copy the same as the revocation of all electronic copies? How can beneficiaries be sure the testator revoked the document and not some other party?

Estate planning attorneys often hold the original signed documents for their clients, but who is responsible for the electronic will? While the Uniform Act is silent, statutes in Arizona, Nevada, Indiana and Florida all define a qualified “custodian” authorized to hold and maintain the electronic will. In some cases this qualified custodian is not the testator or attorney. With data breaches and other security concerns, these states and New Hampshire will need to be prepared for a growing need for secure maintenance of estate planning documents.

Conclusion

The need for New Hampshire practitioners to deal with electronic wills appears inevitable. Many of our clients are “snow birds” who spend time in states with electronic will statutes. New Hampshire probate courts will begin to see electronic wills being offered for probate. Though electronic wills may well provide convenience for our tech-savvy or elderly clients, there are plenty of issues regarding revocation, remote witnessing and notarization, and fraud prevention that need to be carefully considered for New Hampshire’s own electronic wills statute.

Linda Garey and Christina Krakoff are members of McLane Middleton’s Trusts & Estates Department. Admitted in New Hampshire, Linda can be reached at (603) 628-1325 or linda.garey@mclane.com. Admitted in Pennsylvania, Christina can be reached at (781) 904-2684 or Christina.krakoff@mclane.com.

Real Property

The executor of the estate owes more to its creditors than the total value of the estate assets, then the executor will need to obtain a License to Sell from the court that is overseeing the probate administration of the estate.

Out of State Considerations. There are additional complications if the decedent was not a resident of New Hampshire or if the property is located out of state. The probate process and related requirements to sell real estate differ from state-to-state. For example, when selling a New Hampshire property on behalf of an executor of a non-New Hampshire resident’s estate, the client will need to open a second probate estate in New Hampshire even if she has been appointed in the state of the decedent’s domicile.

Lastly, it is important to communicate with your client about the process and pitfalls and to set proper expectations.

Joyce M. Hillis is an attorney at Devine, Millimet & Branch. She focuses her practice in New Hampshire and to set proper expectations. To determine intent and validity, should not take relevant evidence and evaluate undue influence and testamentary capacity. Arguably, the testator, the very person to initiate the case and the very person asking the court to determine intent and validity, should not be allowed to nonetheless limit the court’s role as the fact-finder. The testator should not limit the ability of interested parties to bring forward appropriate evidence for the court’s review. The application of a no-contest provision unfairly interferes with exactly what the testator has asked the court to do: declare the will valid, which can only be determined where interested parties have the opportunity to participate and to present all relevant evidence.

Probate proceedings are not a common occurrence. However, as they become more prevalent, our Probate Division will need to work through these difficult issues. Until our Supreme Court provides definitive guidance on the application of no-contest provisions in the pre-death context, counsel may want to raise these issues for the court’s consideration in antemortem proceedings.

David P. Eby is a Shareholder at Devine, Millimet & Branch, PA in Manchester. New Hampshire. David chairs the Probate Litigation Practice group at the firm and routinely handles probate litigation matters before the Probate Division and the Trust Docket. He can be reached at (603) 695-8518 or deby@devinemillimet.com.

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Real Property (continued)

In New Hampshire, the executor does not need to obtain court approval to sell real estate unless the estate is insolvent. If an estate is insolvent, meaningful the estate owes more to its creditors than the total value of the estate assets, then the executor will need to obtain a License to Sell from the court that is overseeing the probate administration of the estate.

Out of State Considerations. There are additional complications if the decedent was not a resident of New Hampshire or if the property is located out of state. The probate process and related requirements to sell real estate differ from state-to-state. For example, when selling a New Hampshire property on behalf of an executor of a non-New Hampshire resident’s estate, the client will need to open a second probate estate in New Hampshire even if she has been appointed in the state of the decedent’s domicile.

Lastly, it is important to communicate with your client about the process and pitfalls and to set proper expectations.

Joyce M. Hillis is an attorney at Devine, Millimet & Branch. She focuses her practice solely in the area of trusts and estates. She can be reached at jhillis@devinemillimet.com.

Probate (continued)

To be heard, the testator effectively invites heirs and beneficiaries to join in the fight. In order to determine the testator’s intent, the court must take relevant evidence and evaluate undue influence and testamentary capacity. Arguably, the testator, the very person to initiate the case and the very person asking the court to determine intent and validity, should not be allowed to nonetheless limit the court’s role as the fact-finder. The testator should not limit the ability of interested parties to bring forward appropriate evidence for the court’s review. The application of a no-contest provision unfairly interferes with exactly what the testator has asked the court to do: declare the will valid, which can only be determined where interested parties have the opportunity to participate and to present all relevant evidence.

Antemortem proceedings are not a common occurrence. However, as they become more prevalent, our Probate Division will need to work through these difficult issues. Until our Supreme Court provides definitive guidance on the application of no-contest provisions in the pre-death context, counsel may want to raise these issues for the court’s consideration in antemortem proceedings.

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mulation trust for a disabled or chronically ill individual, will qualify for a "stretch" distribution. An accumulation trust will be subject to a significant income tax assessment on amounts distributed within 10 years of the owner’s death and retained in the trust (noting that it takes only $12,950 of income retained to become subject to the top federal income tax rate of 37%). Conduit trusts for a non-eligible designated beneficiaries are no longer as attractive, because the entire retirement plan balance must be distributed to the beneficiary within 10 years.

Planning Post SECURE Act.

When viewed as a whole, the Act seems to have been passed in order to greatly increase tax revenue by eliminating one of the two major estate planning techniques most often used by the middle class (the other being the stepped-up basis). Planning practices must be re-evaluated and ten or to make distributions over the entire ten-year period to take advantage of the stepped-up basis. The Act creates a category of "eligible designated beneficiaries," for whom the rules regarding inherited retirement accounts really have not changed.

For designated beneficiaries of inherited IRAs, the most efficient use of the 10-year distribution period is crucial. Because RMDs are no longer required, the beneficiary should work closely with a financial planner, attorney, and accountant. Distributions should be taken in years where other taxable income is lower. Delaying distributions until retirement may be beneficial, or taking inherited IRA distributions while deferring Social Security, as a strategy to increase one’s Social Security benefit.

Single account owners who do not have children should consider designating IRA beneficiaries who are no more than 10 years younger than the owner (such as a partner or sibling) who will be considered eligible designated beneficiaries.

Reviewing the terms of any existing pass-through trusts established for the beneficiaries of now-living account owners is critical. For example, the Act eliminates the yearly RMD for such trusts, and provides that the retirement account must be fully distributed within 10 years after the account owner’s death, unless the primary beneficiary is an eligible designated beneficiary. Conduit trusts for anyone other than eligible designated beneficiaries should allow the trustee to make discretionary IRA withdrawals, providing the Trustee with the flexibility needed to make distributions to the beneficiary at any time within the 10-year period.

Disabled individuals are eligible designated beneficiaries, and therefore can use the old "stretch" rules under the Act. To maintain eligibility for benefit programs, an accumulation trust which also meets the requirements of an SNT can still be used. An accumulation trust for a disabled person may make the most sense when the retirement plan account is large and the person is relatively young, thereby maximizing the time the underlying account can be invested tax-free. However, in situations with a modest retirement account and a shorter life expectancy, the expense and income tax liability may not be warranted.

Michael T. Jordan and Susan R. Abert are attorneys at Norton & Abert, P.C. in Keene. They have over 25 combined years of experience in their practice areas of Estate Planning, Estate and Trust Administration, Special Needs Planning, and Elder Law. More information is available at their website, www.nortonabellaw.com.
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Agreements from page 28

Approach to drafting these documents will yield better results, as the goal is to have two clients who still want to get married, or stay married, at the end of representation.

In a perfect world, the drafter of a prenuptial or postnuptial agreement would practice in both estate planning and family law. The trend in New Hampshire is for family law practitioners to draft these contracts, but there is great potential for estate planning attorneys to enter this arena. Although these contracts almost always contain provisions regarding the property rights of a spouse in the event of divorce, they are also considered an estate planning tool, as the inheritance rights of the spouse are also determined in these contracts. Given the collegial atmosphere that surrounds the New Hampshire Bar, it would be an easy task for an estate planning attorney to reach out to a family law practitioner and gain the knowledge needed to become competent in drafting these documents. In the end, family law and estate planning attorneys are equally poised to handle the drafting of prenuptial and postnuptial agreements.

Sarah Paris is an attorney practicing at Moreau Law in Nashua, NH where she focuses on estate planning.

Estate from page 27

wait until just before the expiration of the 10 year period and take it all out at once. There is no requirement that distributions occur annually throughout the 10 year period. As under prior law, if the surviving spouse is the beneficiary of the retirement plan, he or she can withdraw over their life expectancy, but, upon the spouse’s death, the next beneficiary, if not in a qualified group, must take the payout within ten years of the surviving spouse’s death.

The SECURE Act does not change the method of designating a beneficiary or beneficiaries to receive inherited retirement assets. Accordingly, if you have existing beneficiary designations in place, those designations are still valid. However, the desired result for your client may no longer be achieved unless the estate plan is revised. For example, the current estate plan may be structured so that, after death, the client’s retirement assets are given to a trust commonly referred to as a “conduit trust.” The basic idea of this plan is that the conduit trust, not the individual who is the beneficiary of the trust, is the owner of the retirement plan and the retirement assets paid to the conduit trust will pass immediately from the trustee to the beneficiary. This has been a commonly used technique because the distributions would be stretched over the expected lifetime of the trust beneficiary while ensuring the beneficiary would not prematurely withdraw all the assets from the retirement plan. However, under the SECURE Act, that same conduit trust may now require distribution of the retirement assets to the beneficiary within 10 years after the death of the plan participant or plan owner, or when the minor child reaches adulthood – which may be contrary to your client’s desire. One alternative is what is known as an “accumulation trust.” Like a conduit trust, an accumulation trust would be the owner of the retirement plan after the plan owner’s death, except retirement assets paid to the accumulation trust do not have to pass immediately from the trustee to the beneficiary as it would with a conduit trust. This allows the retirement plan assets to be protected by the terms of the trust rather than going outright to the beneficiary, which may be the client’s primary objective. Another potential option, in the right situation, is having a charitable remainder unitrust receive the retirement assets upon death, where payments would be made to the beneficiary over the course of their lifetime with the remainder distributed to charity upon the beneficiary’s death.

The specific changes brought about by the SECURE Act, and potential planning strategies related to the changes, are too extensive to cover in depth here, but all lawyers who do estate planning should familiarize themselves with the changes, and various planning options in light of the changes, some of which may present new opportunities for current clients.

Michael Panenbiano is an attorney at Sheehan & Phinney in Manchester. He advises and represents individuals and families on their estate planning, probate, and trust administration needs. He can be reached at (603) 627-8239 or mpatebiano@sheehan.com.

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Sitting Down with the Justices

By Scott Merrill

The Supreme Court of New Hampshire has a rich history dating back to the Colony of New Hampshire in 1776. Today, it is the court of last resort and for some it is shrouded in mystery. Justices decide on hundreds of cases every year but spend the majority of their time behind closed doors in conference, reading cases, and hearing oral arguments.

Lately, however, they’ve added road trips to their schedule.

The road trips, which include stops at various courts around the state, are one way the justices are responding to a 2019 Judicial Branch Commission report citing concerns that judicial branch leadership are not communicating effectively with employees. The goal moving forward, the justices agree, is to share information between the various levels of the court system and to inform people about the Court’s mission.

The question people want to know is ‘who are you?’, Justice Marconi said. “We’re going out to circuit courts and superior courts and maintaining connections with trial courts as well. I started taking clerks to see how cases resolve. There are fifty landlord tenant cases scheduled for March.”

On a cold and rainy day in early February the justices gathered around a large oak table in the David Hackett Souter Judicial Conference Room at the Supreme Court. In the center of the table was a silver water pitcher which reflected the light of the chandeliers above.

Dedicated in honor of Justice Souter in 2008, the room’s aesthetic is of colonial America and is decorated with various paintings from the Currier museum. Other features include a Tall Clock made by Jacob Jones in Pittsfield, NH in 1787 and given to the Supreme Court by the late Superior Court Judge Arthur E. Bean Jr., as well as a White Mountain Art era painting titled “Mt Lafayette” by Henry Ferguson from the 1870’s that was recently dedicated to the court.

An American flag and a state of New Hampshire flag stand on each side of a fireplace which crackled as the justices went back and forth, discussing their roles at the court, hopes for the future, their recent road trips, and a ritual involving that pitcher.

Justice Bassett described the commission report in 2019 as a wake up and a template for a lot of what the justices have been doing. “Based on the report we thought we should be reaching out more to branch employees,” he said.

Justice Hicks, the longest sitting justice

VETERANS TRACK COURT: HELPING HEAL THE “INVISIBLE WOUNDS”

By Kathie Ragsdale

Judge James H. Leary likes to tell the story of a young veteran who appeared before him on a drug possession charge about three years ago.

“He was this big, strapping, very handsome Marine, the picture boy for the Marine Corps,” recalls Leary, now a senior active status judge with the 9th Circuit Court in Nashua.

“I bring him up to the front of the courtroom and we’re talking and I say, ‘What’s going on?’ and he keeps his head down. Most of them look you in the eye. ‘Is there something wrong?’ and he said, ‘Yea.’”

The young Marine, Leary says, was exactly the sort of defendant who stood to benefit from something called the Veterans Behavioral Health Track, or Veterans Track – a program that allows veterans suffering from service-related issues like PTSD or substance abuse to avoid traditional court proceedings after being accused of a crime by agreeing to treatment, monitoring and other conditions.

Leary helped launch the first Veterans Track in Nashua in 2014 and the program is now offered in Manchester Circuit Court, Rockingham County Superior Court, and in Grafton County, where separate reviews are held for veterans following sessions of the county’s three Mental Health Courts.

“They know there’s a problem and they know they need help but they don’t have a clue what to do,” Leary says of veterans with issues related to their service. “What these programs do is provide them some direction so they can see what to do.”

That Marine went into in-patient treatment and graduated from the program two years ago, Leary says, is now working for the federal government at the Portsmouth Naval Shipyard and is “doing phenomenally.”

Veterans Track programs have won the backing of Buffalo, New York in 2008. Meanwhile, more than 180,000 U.S. veterans remain incarcerated, according to the Bureau of Justice Statistics.

New Hampshire’s programs suffer from a lack of statewide coordination or “ownership,” according to Jill O’Brien, co-chair of the interdisciplinary Justice Involved Veterans Task Force and associate director of community support services at the Greater Nashua Mental Health Center. She and her group are seeking to address the paucity of statewide data about Veterans Track graduates in the hope of increasing funding and expanding the program to other counties.

Veterans Track advocates say “invisible wounds” like PTSD, or post-traumatic stress disorder, and drug addiction – sometimes acquired while in combat – are predictable, and deserving of attention and redress when veterans leave military service.

“The criminal behavior is the symptom and not the problem,” says James Reis, a Portsmouth attorney who serves on the Veterans Track team in Rockingham County Superior Court and who helped start the program while serving as a public defender in early 2017. “We spend boatloads of money in training these folks and very little resources are expended when they came back.”

Referring to one veteran in the program, he adds, “He watched half his platoon get obliterated, he described picking up body parts, and then you come back to working at the Home Depot?”

Manchester attorney Lawrence A. Vogelman, who was then co-chair of the Justice Involved Veterans Task Force that started the first Veterans Tracks in the state, offers similar thoughts.

“One thing I feel strongly is, we sent them there, they got screwed up doing service to our country and I think we owe them something,” says Vogelman, who also runs a statewide practice offering free law services to veterans.

COURT continued on page 35
Robert James Peaslee, (1864-1936), served as Chief Justice for the New Hampshire Supreme Court from 1924-1934.


"Unlike others who have sat on the supreme court we’ve all been making close relationships with the trial courts," Justice Donovan, who was recently at court in Hillsborough, said.

"We’re also more involved with the Bar then others have been," Basset said. "Each of us sits on one committee."

At some point in the conversation Justice Hicks, who refers to himself as the old guy of the court, gestured towards the pitcher in the center of the table. "You probably don’t know the history of that pitcher. It belonged to Justice Peaslee. We use it to decide who reads cases," he said, explaining that "Some judges pick cases that they want to read but we do it by drawing them out of that pitcher."

The silver pitcher the judges draw from is a wedding gift to former New Hampshire Supreme Court Judge Robert James Peaslee, (1864-1936), born in East Weare, and was donated by his widow Nellie in 1912. Justice Peaslee served as a Chief Justice of the NH Supreme Court from 1924-1934 and as a Justice of the Supreme Court from 1898-1905, and 1908-1924. He also served as a judge of the NH Superior Court from 1901-1907.

He really develops a relationship with them and they get to know him," she says of Leary. "By the end, it’s usually a year, they trust him. He shares in their joys, their struggles, because they built that relationship over that time and he wants them to succeed, as well."

Still, challenges remain for Veterans Tracks in New Hampshire.

Buy-ins from county attorneys is critical to the program’s success and “more therapeutic or treatment-related sanctions are often not viewed as appropriate by individual prosecutors,” says Reis. “The culture of the county definitely dictates how successful treatment-oriented programs are.”

Judges who hear cases do so in addition to their usual responsibilities, and many others who work for the program are volunteers. Coordination among Veterans Tracks is so minimal that no one knows for certain how many veterans have participated in the program statewide – though O’Neill is trying to gather that information.

“We have a very well-developed program for the Drug Court – legislation, a Drug Court in every county, funding,” she says. “When it comes to Mental Health Court or Veterans Court (Track), these programs are operating standing alone. Where we really fall short is ownership, who’s responsible? Who’s ensuring that data is collected and reviewed?”

The current focus of the Justice Involved Veterans Task Force, she adds, is to bring stakeholders together and accumulate that statewide data “to help advance the conversation about pursing grant funding or fiscal legislation to support the non-V.A. eligible.”

Legislation is now pending to expand Mental Health Court, O’Neill says, and if a statewide Mental Health Court coordinator were to be appointed, perhaps that person’s responsibilities could be expanded to include Veterans Track.

“I’ve seen people go through the program and seen the enormous improvement and the need,” she says. “We’re working in an environment where there’s not enough judges, even to sustain the current programs. I want to be at the point where we’re expanding into different counties.”

Some advocates are also pressing for more awareness about the program, so more veterans can reap its benefits.

Leary recommends that Bar members representing people in criminal cases ask whether they or their family members have ever served in the military.

“If the answer is yes, they’re eligible for these services,” the judge says. “Make that part of your initial meeting with your client. Ask the question.”

The Peaslee Pitcher, used by the Justices to decide who reads cases.
In Re D.O., No. 2019-0369
Case for the Superior Court of New Hampshire

February 13, 2020

Reversed and remanded.

• Whether the Superior Court lacked subject matter jurisdiction over respondent’s appeal of an abuse and neglect ruling that was filed after the thirty-day statutory deadline.
• Whether the respondent demonstrated “good cause” for filing a late appeal of an abuse and neglect ruling.

The circuit court determined that the respondent had neglected his daughter. Although the appeal period for an abuse and neglect ruling under the Child Protection Act is thirty days after the court's final dispositional hearing, the respondent waited ninety-two days before he moved for permission to file a late appeal. The Superior Court denied the respondent's motion, finding no “good cause” to allow a late appeal.

The respondent appealed the Superior Court's denial, arguing that he was not required to show “good cause” for a late appeal. According to the respondent, the standard the Superior Court should have considered was whether the petitioner, the Division for Children, Youth and Families (DCYF), would have been prejudiced by a late appeal. The petitioner disagreed, contending that the respondent was required to show “good cause” for a late appeal in this case, and further argued that the Superior Court lacked subject matter jurisdiction over the appeal because he failed to file it within the prescribed deadline.

The Supreme Court held that the respondent’s failure to file a thirty-day appeal deadline did not deprive the superior court of subject matter jurisdiction. In its ruling, the Court distinguished its line of cases holding that compliance with a statutory deadline for filing an appeal of an administrative order is a necessary prerequisite to vesting jurisdiction in the appellate body. The Court found apposite a different line of case law that concerned statutory time limits for court hearings. This precedent recognized that not every mandatory time limit imposed by statute is intended to be jurisdictional, meaning that time limits do not vest a court with jurisdiction simply because they are mandatory.

In discussing the latter precedent, the Court teased out analysis of the two types of time limits on court hearings: those that involve no interest and those that involve a general interest in hastening adjudicative dispositions. Ultimately, the Court found that the purpose of the Child Protection Act was to protect the rights of all parties involved in abuse or neglect proceedings and construed the statutory time limit liberally to effect this purpose.

Perhaps in recognition of its wrangled logic, the Court explained that its prior decisions regarding other statutory appeal periods remain good law. The Court further suggested that the statute should that it indicates whether it intends for any existing and future statutory appeal periods to be jurisdictional.

In reversing the Superior Court’s ruling, the Court did not decide whether the standard for considering a late appeal required the respondent to show good cause for the tardiness, or on the other hand, required the DCYF to show prejudice to defeat the appeal. The Court found that the respondent prevailed under either standard. DCYF did not argue that the respondent’s failure to comply with the thirty-day appeal period caused any prejudice. The Court ruled that as a matter of law there was also “good cause” to grant the respondent’s motion to file his late appeal because: the respondent filed the motion to file the appeal after the court had already appeared in Superior Court; the respondent did not file his appeal earlier because his attorney was on maternity leave when the disposition of his case was entered and there was a misunderstanding about the filing; the attorney for the mother involved in this case, and importantly, the attorney for the child assented to the respondent’s motion; and the Superior Court noted that the parties preferred that the respondent’s and the mother’s related abuse and neglect cases be tried together.

Gordon J. MacDonald, attorney general
(Raw E. B. Lombardi, senior assistant attorney general, on the memorandum of law), for the State. Tammy L. Spory (on the brief of Smith-Weiss Shepard, for the respondent.

Criminal Law

State of New Hampshire v. Brian Eldridge,
No. 2018-0551
February 19, 2020
Affirmed in part and vacated in part.

• Whether the immunity afforded to a person who is the subject of a request for medical assistance under RSA 318-B:28-b applies to the offense of possession with intent to sell a controlled drug.
• Whether the defendant was required to waive the statutory immunity provided in RSA 318-B:28-b before he could instruct the jury on the lesser included offense of possession.
• Whether law enforcement’s initial warrantless entry into the defendant’s apartment was justified for the purpose of emergency aid to the defendant’s residence.

Finally, the Supreme Court upheld the trial court’s determination that law enforcement’s entry into the defendant’s apartment was justified under the emergency aid exception to the warrant requirement. The defendant did not dispute and did not provide any evidence that law enforcement was primarily motivated by a search for a crime when entering the defendant’s residence.

Gordon J. MacDonald, attorney general
(Danielle H. Sukowski, senior assistant attorney general, on the brief and orally), for the State. Christopher M. Johnson, chief appellate defender (on the brief and orally), for the defendant.

State of New Hampshire v. Paulson Papilon,
No. 2018-0355
February 13, 2020
Affirmed.

• Whether the defendant knowingly, intelligently, and voluntarily waived his right to counsel.
• Whether the trial court admitted evidence in violation of New Hampshire Rule of Evidence 404(b) concerning his offer to facilitate a murder of a police informant in a similar manner to the offenses for which he was presently charged.
• Whether the evidence was sufficient to support the defendant’s convictions.

The defendant was convicted of conspiracy to commit murder and as an accomplice to reckless second-degree murder associated with a “hit” he ordered on someone whom he suspected of snitching on his drug sales. The defendant appealed his convictions on the grounds that: (1) he did not knowingly, intelligently, and voluntarily waive his right to counsel when he asked to represent himself; (2) the trial court erred in admitting witness testimony that he had offered to kill another suspected police informant in a similar manner to the offenses for which he had been charged; and (3) the evidence was not sufficient to support his convictions.

The facts of this case are very interesting, but too intensive to be stated fully here. The
trial must have been interesting as well, particularly because after two days, the defendant asked the trial court for permission to represent himself. Despite the defendant's request, and against the advice of counsel, the defendant was denied permission to represent himself against self-representation, but after engaging in a colloquy with him, the trial court approved his request and appointed standby counsel for him. On appeal, the defendant first argued that he was denied the right to self-representation, and voluntarily waive his right to counsel because the trial court failed to inquire into his ability to represent himself, which should have included inquiry into his education, training, legal experience, and mental health, among other things. The New Hampshire Supreme Court rejected the defendant's argument, finding that no procedure was required in a colloquy on a defendant's request to represent himself. It is sufficient that, by the totality of circumstances, the record reflects that the defendant was aware of the dangers and disadvantages of self-representation and made a knowing, intelligent, and voluntary waiver of his right to counsel. Contrary to the defendant's assertion, a criminal defendant's ability to represent himself has no bearing upon his competence to choose self-representation. A defendant has a constitutional right to represent himself, whether or not that representation will be to his detriment. The Court then found that the testimony regarding the defendant's offer to kill another police informant unrelated to his case was admitted in error, but that the error was harmless. According to the Court, the trial court erred in concluding that this evidence was intrinsic to the defendant's case, and not just the error of the trial court. The Court found that the evidence was extrinsic because it was not necessary to complete the story of the defendant's conspiracy to murder or his liability as an accomplice to murder. In addition, the defendant's offer to kill a different police informant for the benefit of an acquiescence was not part of the same criminal episode as this case, and it was not part of a sequence of events leading to the instant charge. As such, this evidence is governed by Rule 404(b) of the New Hampshire Rules of Evidence and should not have been admitted. Nevertheless, there was overwhelming evidence of the defendant's guilt as a co-conspirator and as an accomplice to the murder in this case, and therefore the evidence concerning the defendant's offer to kill another snitch was inconsequential. In a footnote, the Court observed that this case presents a rare instance of a harmless Rule 404(b) error.

The defendant raised multiple arguments based on the sufficiency of the evidence grounded in contractual principles for the consent to the taking of his property by the town. The Supreme Court, however, found ample evidence of the defendant's guilt on both charges. The Court also explained that the defendant's conviction for conspiracy to commit murder was not logically inconsistent with his conviction as an accomplice to reckless second-degree murder. There was substantial evidence from which the jury could rationally found that the defendant was guilty beyond a reasonable doubt as a conspirator and as an accomplice to reckless second-degree murder. Gorden J. MacDonal, attorney general (Peter Hinckley, senior assistant attorney general, on the brief and orally), for the State. Kelly E. Donovan (on the brief and orally) of the Law Offices of Kelly E. Donovan, for the defendant.

Family Law

In the Matter of Sean Braunstein and Jericka Braunstein, No. 2019-0065 Family Law February 13, 2020

Abridged

• Whether the petitioner, the federal government's disability benefits count as income for child support purposes

The petitioner asserted that his monthly federal government's disability benefits did not qualify for inclusion as income for child support purposes pursuant to federal law, which, according to the petitioner, preempted state law. In support of this argument, the petitioner cited a federal statute that provided, “payments of benefits … under any law administered by the Veterans' Administration … shall not be liable, levied, or securable at any time under any legal or equitable process whatever, either before or after receipt by the beneficiary.” 38 U.S.C. § 3101(a) (2012).

The trial court rejected the petitioner’s argument, determining that veterans' and disability benefits are specifically enumerated in the statutory definition of income in RSA 455:1, IV, which is not preempted by federal law. In upholding the trial court’s decision, the New Hampshire Supreme Court cited Rose v. Arkansas State Police (1986), in which the United States Supreme Court determined that federal law did not preclude a state court from treating a veteran's disability benefits as income for child support purposes. The Court recognized an exception in the context of child support to the statutory prohibition against attachment, levvy, or seizure of a veteran’s benefits because federal veterans' disability benefits are intended to support the veteran's family and not just the veteran. Sean Braunstein (on the brief), self-represented respondent. Anthony Santoro (on the brief) of Granite State Legal Resources, for the respondent.

Real Property

Town of Dunbarton v. Michael Guiney, & a., No. 2018-0591 Real Property February 5, 2020

Reversed in part, vacated in part, and affirmed in part.

• Whether an area of land had become part of a public highway by prescription

• Whether a property line was fixed by the doctrine of boundary by acquiescence

• Whether the appellant was estopped from denying the existence of the ROW by doctrine of recitals in instruments because his deed has notice of the ROW. Estoppel by instruments requires a showing of detrimental reliance, and while the appellees relied on the ROW to access their property, there was no evidence that the appellees relied on the ROW being fifty-feet wide as they claimed. Judicial estoppel, however, did apply in this instance. The Court held that Guiney was judicially estopped from denying the existence of a fifty-foot ROW as claimed in all areas except the disputed area by virtue of positions he took in prior litigation. Steven M. Whitley (on the memorandum of law and orally) of Mitchell Municipal Group, for the Town. Michael J. Tierney (on the brief and orally) of Wadleigh, Starr & Peters, for the appellees. Patricia M. Puccincco (on the brief and orally) of Puccincco Law, for appellant.

The petitioner’s federal veterans' disability benefits count as income for child support purposes.
In accordance with Rule 58.2(A), the court appoints Circuit Court Judge James Leary, a current member of the Lawyers Assistance Program (LAP) Commission, to serve as chair of the LAP Commission upon the expiration of the term of Attorney Russell F. Hilliard as member and chair on March 1, 2020. In accordance with Rule 58.2(A) and (B), the court appoints Attorney Sean R. List to the LAP Commission, to serve a three-year term commencing March 2, 2020 and expiring March 1, 2023.

Issued: February 13, 2020
ATTEST: Timothy A. Gudas, Clerk Supreme Court of New Hampshire

Pursuant to Supreme Court Rule 37(4)(a), the Supreme Court appoints the following members to the Hearings Committee of the Attorney Discipline System:
Ms. Sarah J. Clauss
Ms. Elizabeth C. Courant
Ms. Virginia A. Joslyn
Attorney Mark T. Knights

These members are appointed to serve three-year terms commencing on April 1, 2020, and expiring on March 31, 2023.

Issued: March 10, 2020
ATTEST: Timothy A. Gudas, Clerk 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.

Court Fees – Reissued Summons

(These amendments clarify that the $25 fee for reissued orders of notice in the district and probate divisions also applies to reissued summons and correct a typographical error relating to the pro hac vice application fee.)
1. Amend Circuit Court – District Division Rule 1.28(B), as set forth in Appendix A.
2. Amend Circuit Court – Probate Division Rule 169(VI), as set forth in Appendix B.

Effective Date

The amendments shall take effect on February 24, 2020.

Date: February 20, 2020
ATTEST: Timothy A. Gudas, Clerk Supreme Court of New Hampshire

ATTEST: Timothy A. Gudas, Clerk Supreme Court of New Hampshire

Supreme Court Orders

US District Court Decision Listing

January and February 2020

* Published

CLASS ACTION: PRELIMINARY APPROVAL OF SETTLEMENT
01/29/2020 Rappuano, et al. v. Trustees of Dartmouth College
Case No. 18-cv-1070-LM, Opinion No. 2020 DNH 013

Plaintiffs filed this class action on behalf of themselves and other current and former female graduate and undergraduate students in the Psychological and Brain Sciences Department at Dartmouth College. They bring claims under Title IX and New Hampshire common law, alleging that Dartmouth took inadequate action to protect the students or stop the professors’ misconduct. The parties reached a proposed class action settlement agreement and submitted it to the court for preliminary approval under Federal Rule of Civil Procedure 23(e). The court found that it would likely be able to certify the proposed class for the purposes of settlement under Rule 23(a) and Rule 23(b)(3) and that it would likely find, at the final approval stage, that the proposed settlement is fair, adequate, and reasonable as required by Rule 23(e). Consequently, the court granted plaintiffs’ motion for preliminary approval of the class action settlement, ordered class counsel to direct notice of the class action settlement to the class, and scheduled a final approval hearing.

EMPLOYMENT LAW
2/28/20 Reyes-Caparros v. Barr

Note: the full text of the opinion will be available on the Bankruptcy Court’s website at www.nbh.uscourts.gov.

In re Sally, 2020 BNH 001, issued February 28, 2020 (Harwood, C.J.) (holding that under 11 U.S.C. § 330(a)(7), the graduated percentage commission of § 326 is presumptively reasonable compensation for the chapter 7 trustee; commission base does not include distributions of property that is not property of the estate; in reviewing fee applications for counsel to trustees, court will take particular care to ensure that counsel does not seek reimbursement for non-delegable tasks of the chapter 7 trustee.

US Bankruptcy Court Opinion Summary

EMTALA; MEDICAL MALPRACTICE
01/27/20 FOord v. Capital Region Health Care Corp., et al.
Case No. 17-cv-596-AJ, Opinion No. 2020 DNH 011

Plaintiff brought action under the Emergency Medical Treatment and Active Labor Act (EMTALA) and state law based on allegedly inadequate medical care provided to his deceased wife. The defendant hospital moved for summary judgment. The court granted the defendant’s motion, finding that the hospital had provided appropriate screening and had not failed to stabilize the patient before discharging her. The court also declined to exercise supplemental jurisdiction over the remaining state law claims. 18 pages. Magistrate Judge Andrea K. Johnston.

EXHAUSTION OF ADMINISTRATIVE REMEDIES UNDER NHLAD
01/27/20 Burrows v. The State Employees’ Association of New Hampshire
Case No. 19-cv-1048-LM, Opinion No. 2020 DNH 012

Plaintiff sued her former employers for retaliation under Title VII and, further, for discharge claim separate from his claim for retaliation under Title VII and, further, because the plaintiff failed to prove that he was constructively discharged. 29 pages. Judge Joseph N. Laplante.

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Petitioner filed a writ of habeas corpus challenging his detention by Immigration and Customs Enforcement (“ICE”) at the Strafford County Department of Corrections (“SCDC”). The court concluded that the petition stated facially valid claims and ordered service to be effected upon the respondents. The court further noted that its earlier order that had (1) scheduled a status conference, (2) specified a response deadline for the federal respondents, (3) deferred SCDC’s duty to respond, and (4) prohibited the transport of the petitioner outside of the court’s jurisdiction remains in full effect. Respondents were directed to provide the court with at least 48 hours’ notice of any scheduled removal or transfer of petitioner out of the court’s jurisdiction. 3 pages. Judge Paul Barbadoro.

INTELLECTUAL PROPERTY: COPYRIGHT AND TRADEMARK INFRINGEMENT

01/06/2020 D’Pergo Custom Guitars, Inc. v. Sweetwater Sound, Inc.
Case No. 17-cv-747-LM, Opinion No. 2020 DNH 003

D’Pergo alleges that Sweetwater used a copyrighted photograph of D’Pergo’s trademarked guitar necks and headstock on Sweetwater’s website to promote and sell Sweetwater products. Based on these allegations, D’Pergo brings claims of copyright infringement, trademark infringement, and violation of the New Hampshire Consumer Protection Act (“CPA”). Sweetwater moved for summary judgment on all D’Pergo’s claims and D’Pergo moved for summary judgment on its copyright infringement claim.

The court granted summary judgment to Sweetwater on the trademark infringement claims. It reasoned that D’Pergo’s guitar headstock design was not a protectable "trademark," but rather a "trade dress" and D’Pergo had previously waived any claim based on trade dress infringement. The court otherwise denied Sweetwater’s motion for summary judgment. It rejected Sweetwater’s argument that the CPA claims should be dismissed because the trademark infringement claims were dismissed. The court explained that even though Sweetwater’s conduct did not amount to trademark infringement, it might still violate the CPA because that statute sweeps more broadly than the Lanham Act. Finally, as to the copyright infringement claim, the court denied Sweetwater’s motion for summary judgment and granted D’Pergo’s cross-motion. It found that the undisputed record established Sweetwater’s liability for copyright infringement and that the question of whether and to what extent D’Pergo is entitled to damages would be left for the jury. 20 pages. Chief Judge Landya McCaffery.

SOCIAL SECURITY

2/10/20 Crowley v. Saul
Case No. 19-cv-560-JL, Opinion No 2020 DNH 018

Claimant appealed the Social Security Administration’s denial of his applications for a period of disability and disability insurance benefits. He argued that the ALJ erred by concluding that he retained the residual functional capacity to perform a limited range of light work. The court found no merit in claimant’s arguments and denied his motion to reverse. Specifically, the court concluded that the ALJ supportably discounted the opinions of claimant’s treating providers, supportably gave substantial weight to the opinion of a state agency physician, properly evaluated claimant’s subjective complaints, and did not misconstrue evidence in the record. 24 pages. Judge Joseph Laplante.

2/20/20 Giles v. Saul
Case No. 17-cv-659-PB, Opinion No. 2020 DNH 025

Counsel for claimant filed a motion for attorney’s fees under 42 U.S.C. § 406(b) (“Section 406(b)”) following his successful representation of the claimant. The Commissioner of the Social Security Administration (“SSA”) filed a reply, noting that the fee agreement upon which counsel based his claim for fees was similar to an agreement that the court had, in another case, found to provide no basis for awarding fees under Section 406(b); and (2) counsel’s reported hours and hourly rates differed substantially from the hours and rates he had reported earlier to the SSA when seeking payment under the Equal Access to Justice Act. The court determined that the fee agreement did not authorize the award of attorney’s fees under Section 406(b), but that counsel was nevertheless entitled to fees under the principles expressed in Gisbrecht v. Barnhart, 535 U.S. 789 (2002). Because counsel amended his reported hours and rates to conform with the earlier reported figures, the court found it unnecessary to address the discrepancy. 13 pages. Judge Paul Barbadoro.
ASSOCIATE ATTORNEY – Successful family law firm seeks an aggressive, individual for dynamic associate attorney level position in expanding family law practice located in the north end of Manchester, NH. Successful candidate must possess strong organizational and word processing skills as well as be a team oriented “people person” comfortable interacting with a wide variety of clients and situations. Some experience is a plus, but willing to train the right person interested in helping individuals with all of their family law needs. Please forward your resume, writing samples, references and salary requirements to Dorothy Darby, Office Manager, Dorothy@dorothydarbylawfirm.com, The Law Office of Shauna L. Brown, PLLC, 102 Bay Street, Manchester, NH 03104.

ASSOCIATE ATTORNEY – Muggato, Friedman, Feeney & Fras, PLLC, is currently seeking a full time Associate Attorney for their office in Concord, NH. The ideal candidate should have 3-5 years of litigation experience including depositions, motion practice, and case file management. Must be admitted to the bar in NH, and either ME or MA. Please send resume and references to dleinen@fflf.com.

ASSOCIATE ATTORNEY – Rath, Young and Pignatelli, P.C., a mid-size, full service Boston law firm is seeking a part-time, experienced Tax and Transactional Attorney for a position with the group’s Federal Tax and Transactional Team. This position is a full-time opportunity in the Boston, MA office. The associate hired will become part of a team handling a broad range of transactional and tax matters, including corporate, real estate, real estate finance, mergers and acquisitions, and tax structuring. Experience with renewable energy projects is a plus. The ideal candidate will possess excellent academic credentials and have significant transactional experience with real estate, corporate, or regional law firms. This is a rare opportunity to work with a team of experienced tax and transactional lawyers on transactions throughout the United States, with a particular focus on family law related transactions in the New England area. Please direct your resume to Clarissa.Pignatelli@rathlaw.com.

ATTORNEY – Busy Manchester law firm is accepting resumes for a full-time associate attorney for a family law practice. The candidate must have prior NH family law experience and be detail-oriented, and able to work in a fast-paced environment. This is a rare opportunity to work with a team of experienced local family law attorneys. Interested candidates should send resume and salary requirements to: D. F. Brindamour, Esq., City Law PLLC, 644 Pine St, Manchester, NH 03104 or dbrindamour@gmail.com.

LEGAL ASSISTANT – Casassal Law Office of Hampton, New Hampshire is seeking to fill a full-time legal assistant position. Applicants should possess excellent word processing skills. Attention to detail is a must. Salary based on experience. Please send resume to reeseasa@casassallegal.com.

ASSOCIATE ATTORNEY – Hage Hodes PA is expanding and is seeking a full-time litigation attorney to add to our litigation group practice. Applicants must be admitted to the New Hampshire Bar and have 1-5 years of litigation experience in plaintiff and defense. The ideal candidate will have strong written and oral advocacy skills. We offer a competitive salary and benefits package commensurate with experience.

To submit cover letter, writing sample, and resume by e-mail to rh@hagehodes.com. All inquiries kept confidential.

ASSOCIATE ATTORNEY – Donahue, Tucker & Candela, one of New Hampshire’s leading law firms, with offices in Exeter, Meredith & Portsmouth, NH is currently seeking a full-time Associate Attorney. The ideal candidate will have a minimum of 1 year of experience and be detail-oriented and able to be admitted to the NH Bar. Admission to the MA and/or ME bar a plus. Other considerations include a pleasant and a warm personality. If interested, please send your resume, writing samples and references to Amy Berlinski at aberlinski@dtccyan.com.

LIQUIDATION ASSOCIATE – Patch & FitzGerald seeks an energetic, organized liquidation attorney to join a seasoned team of practitioners. The successful candidate will have 5-10 years of experience in payments and personal injury law. You will be a member in good standing of the NH bar and have excellent interpersonal skills. Some travel required. Excellent salary and benefits package, flexible time during summer. Founded in 1997, Patch & FitzGerald is a statewide, boutique specialty firm focusing on workers compensation and personal injury law. For confidential consideration, please direct resumes to Duane Gauthier (dgauthier@patchfitz.com).

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TAX AND TRANSACTIONAL ATTORNEY
Rath, Young and Pignatelli, P.C., a mid-sized general practice law firm in Nashua, New Hampshire, is seeking an associate with 2-5 years of federal tax and transactional experience to join our growing national practice. The associate hired will become part of a team handling a broad range of transactions including, but not limited to, mergers and acquisitions, and tax structuring. Experience with renewable energy projects is a plus. The ideal candidate will possess excellent academic credentials and have significant transactional experience with real estate, corporate, or regional law firm. This is a rare opportunity to work with a team of experienced tax and transactional lawyers on transactions throughout the United States, with a particular focus on family law related transactions in the New England area. Please direct your resume to Clarissa.Pignatelli@rathlaw.com.

Commercial Real Estate
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CLASSIFIEDS continued on page 42
**Rath Young Pignatelli**

**ENVIRONMENTAL ATTORNEY**

Rath, Young and Pignatelli, P.C., a mid-sized general practice law firm in Concord, New Hampshire, is seeking an attorney with 10+ years of experience in environmental and administrative law, including environmental due diligence, compliance, permits and approvals, and administrative advocacy. The candidate should have substantial experience with administrative environmental actions brought by State and federal agencies. Experience with Clean Water Act and NPDES permits a plus. Send resume, letter of interest and writing sample to Diane Vlahos, Director of Operations, at dvl@rathlaw.com.

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Grab this exciting opportunity to join our team! Legal Secretary/Paralegal wanted for fast paced law firm. Both full and part-time candidates will be considered. Position requires excellent computer, communication, and organizational skills, attention to detail, and ability to assume responsibility. Education and/or legal experience in personal injury litigation and workers’ compensation are a plus. Competitive salary and benefits available for full-time positions.

Qualified candidates should forward resume to aogden@nco-law.com, or mail to:

Normandin, Cheney & O’Neil, Attn: Employment, P.O. Box 575 Laconia, NH 03247

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**DCYF – Attorney II & Legal Secretary II Positions**

In the latest State Budget, the N.H. Division for Children, Youth and Families’ Legal Services received additional attorney and legal secretary positions to support the important work done by DCYF. Under the supervision of the N.H. Department of Justice, DCYF Legal Services has openings for attorney and legal secretary positions:

**ATTORNEY II positions - Salary Range $57,954.00-$68,952.00:**
- #44561 (Keene)
- #44560 (Concord)
- #40092 & 43485 (Nashua)
- #11677 (Laconia)
- #40091 (Conway)

**LEGAL SECRETARY II positions - Salary Range $29,152.50-$33,871.50:**
- #44558 (Littleton & Berlin)
- #44557 (Nashua)
- #44556 (Keene)

Duties and responsibilities for the Attorney II and Legal Secretary II positions can be found at: http://das.nh.gov/jobsearch/employment.aspx

A paper application may be sent to: New Hampshire Dept. of Health and Human Services, 129 Pleasant Street, Concord, NH 03301. Please reference the position number that you are applying for in your application.

For questions about these positions please contact Attorney Deanna Baker, DCYF Legal Director at (603) 271-1220.

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**NEW HAMPSHIRE BAR NEWS**

**Looking for a change? Thinking of doing something different?**

Alfano Law Office seeks an experienced, Concord area 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 call or send a resume and cover letter to:

Paul@alfanolawoffice.com
603-226-1188

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**NORMANDIN, CHENEY & O’NEIL, PLLC**

**Help Wanted for Busy Law Office:**

Grab this exciting opportunity to join our team! Legal Secretary/Paralegal wanted for fast paced law firm. Both full and part-time candidates will be considered. Position requires excellent computer, communication, and organizational skills, attention to detail, and ability to assume responsibility. Education and/or legal experience in personal injury litigation and workers’ compensation are a plus. Competitive salary and benefits available for full-time positions.

Qualified candidates should forward resume to aogden@nco-law.com, or mail to:

Normandin, Cheney & O’Neil, Attn: Employment, P.O. Box 575 Laconia, NH 03247
UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW HAMPSHIRE
www.nhb.uscourts.gov

CASE ADMINISTRATOR
2020-018

The United States Bankruptcy Court for the District of New Hampshire is accepting applications for a full-time, permanent Case Administrator. Case Administrators perform various functions and are primarily responsible for managing and processing case information and maintaining the progression of cases from opening to final disposition in accordance with approved internal controls, procedures and rules. Full benefits are available with a starting salary range of CPS CL 24 $42,645 to $69,371, depending upon qualifications and experience, with promotion potential to CPS CL 26. Qualified applicants should submit a letter of interest, a resume, and a salary history for the past ten years in one PDF document to Thomas Van Beaver at: tom_vanbeaver@nhb.uscourts.gov. Position is open until filled. Preference will be given to applications received by Friday, March 27, 2020. Applicants deemed most qualified will be invited to participate in a personal interview at their own expense. EOE.

For additional information on the position and the application process please visit: https://www.nhb.uscourts.gov/employment-opportunities

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW HAMPSHIRE
www.nhb.uscourts.gov

ADMINISTRATIVE SUPPORT CLERK
2020-02B

The United States Bankruptcy Court for the District of New Hampshire is accepting applications for a full-time, permanent Administrative Support Clerk. This position provides a variety of administrative support services to the Office of the Clerk of Court including but not limited to clerical duties, filing, copy, research, special projects as assigned, data entry, records management, inventory, procurement, processing financial transactions, and creating and assembling a variety of reports. Full benefits are available with a starting salary range of CPS CL 24 $42,645 to $69,371, depending upon qualifications and experience, with promotion potential to CPS CL 26. Qualified applicants should submit a letter of interest, a resume, and a salary history for the past ten years in one PDF document to Thomas Van Beaver at tom_vanbeaver@nhb.uscourts.gov. Position is open until filled. Preference will be given to applications received by Friday, March 27, 2020. Applicants deemed most qualified will be invited to participate in a personal interview at their own expense. EOE.

For additional information on the position and the application process please visit: https://www.nhb.uscourts.gov/employment-opportunities

DIRECTOR FOR SPORTS BETTING ADMINISTRATOR IV - POSITION # 44598

The New Hampshire Lottery Commission has an opening for a full-time position to administer and direct the Sports Betting Programs.

Duties Include: Overseeing the sports betting initiative by ensuring compliance with financial goals, legal requirements, and experience, with promotion potential to CPS CL 26. Qualified applicants should submit a letter of interest, a resume, and a salary history for the past ten years in one PDF document to Thomas Van Beaver at tom_vanbeaver@nhb.uscourts.gov. Position is open until filled. Preference will be given to applications received by Friday, March 27, 2020. Applicants deemed most qualified will be invited to participate in a personal interview at their own expense. EOE.

For additional information on the position and the application process please visit: https://www.nhb.uscourts.gov/employment-opportunities

HEARINGS OFFICER

The N.H. Department of Labor, Hearings Bureau seeks a part time Hearings Officer. This position is conducted adjudicatory hearings and renders decisions in accordance with State laws and regulations for the Labor Department located Hugh Gallon Office Park.

Duties Include: As a representative of the Department, will conduct formal hearings, collect evidence, and evaluate, analyze and write a decision based on the claim, facts, and the law.

Requirements: Bachelor’s Degree from a recognized college with major in pre-law, economics, business administration or public administration, a driver’s license and five years’ experience in the conducting the hearings, preferably in the area of Workers’ Compensation, Wage and Hour, Managed care, or Self-Insurance.

How to apply: Please go to the following website to submit your application electronically through NH FIRST: http://das.nh.gov/jobsearch/employment.aspx. Please reference the position number that you are applying for: 16885 and 19279. In order to receive credit for postsecondary education, a copy of official transcripts with a seal and/or signature MUST be included with the application. Please have transcripts forwarded to the Human Resources Office with the recruiting agency. Position will remain open until a qualified candidate is found. EOE.

For questions about these positions please contact Sarah Fuller, Hearings Administrator at (603) 419-9092.
MARCH

20  Friday • 9:00 a.m. - 4:30 p.m.
19th Annual Labor & Employment Law
• In Person
• 360 min. including 60 min. ethics/prof.
• Concord • Grappone Conference Center

25  Wednesday • 9:00 a.m. - 4:00 p.m.
Workers’ Compensation
• In Person • Webcast
• 360 min. including 60 min. ethics/prof.
• Concord • NHBA Seminar Room

27  Friday • 9:00 a.m. - 4:30 p.m.
Nuts & Bolts of Criminal Law
• In Person • Webcast
• 360 min. including 60 min. ethics/prof.
• Concord • NHBA Seminar Room

LIVE WEBCAST
The Secure Act
Tuesday, March 31
Noon to 1:00 p.m.

APRIL

2  Thursday • 9:00 a.m. - 3:30 p.m.
In-House Counsel Essentials
• In Person • Webcast
• 325 min. including 75 min. ethics/prof.
• Concord • NHBA Seminar Room

3  Friday • 8:30 a.m. - 10:30 a.m.
Best Practices for Closing a Legal Practice
• In Person • Webcast
• 120 min. ethics/prof.
• Concord • NHBA Seminar Room

8  Wednesday • 9:00 a.m. - 4:30 p.m.
DWI Litigation: Back to Basics
• In Person • Webcast
• 360 min. including 60 min. ethics/prof.
• Concord • NHBA Seminar Room

MAY

7  Thursday • 9:00 a.m. - 2:00 p.m.
Business Split-Ups: Issues Arising from Corporate and Limited Liability Company Fractures
• In Person • Webcast
• 240 min. including 30 min. ethics/prof.
• Concord • NHBA Seminar Room

JUNE

13  Wednesday • 9:00 a.m. - 4:00 p.m.
19th Annual Labor & Employment Law Video Replay
• In Person
• 360 min. including 60 min. ethics/prof.
• Concord • NHBA Seminar Room

14  Thursday • 9:00 a.m. - 4:30 p.m.
Basic Construction Law 2020: The Revenge of Hammer and Nails
• In Person • Webcast
• 360 min. including 30 min. ethics/prof.
• Concord • NHBA Seminar Room

20  Wednesday • 9:00 a.m. - 4:30 p.m.
Signposts on the Tax Road
• In Person • Webcast
• 360 min. including 60 min. ethics/prof.
• Concord • NHBA Seminar Room

21  Thursday • 9:00 a.m. - 12:15 p.m.
Rules of the Roads … a look at NH road laws
• In Person • Webcast
• 180 min.
• Concord • NHBA Seminar Room

19 & 20  Fri. & Sat.
NHBA Annual Meeting
• In Person
• Credits TBD
• Portsmouth • AC Hotel by Marriott Portsmouth

17  Wednesday • 9:00 a.m. - 4:30 p.m.
Clearing the Hazes Cannabis & CBD in the Workplace - Legal Issues, Ethical Issues, and Medical Update
• In Person • Webcast
• 360 min. including 45 min. ethics/prof.
• Concord • NHBA Seminar Room

LIVE WEBCAST
The Secure Act
Tuesday, March 31
Noon to 1:00 p.m.

CLE HIGHLIGHT
Virtual
Learn@Lunch
Webcast Series

The Secure Act
March 31, 2020
12-1:00 p.m.

This program will review the highlights of the SECURE Act and provide guidance on trust planning for IRAs, including marital trust issues and disclaimer opportunities, in the post-SECURE world.

Robert A. Wells
CLE Committee Member
Edward F. Vinhateiro
and
Audrey G. Young
from McLane Middleton Professional Association

Stay tuned for more!

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

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

4 Ways to Register

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Website  www.nhbar.org/nhbacle

All webcast registrations must be made online.
19th Annual Labor & Employment Law Update

Friday 9:00 a.m. - 4:30 p.m.
Mar 20

This full day seminar will address cutting edge developments in employment and benefits law over the past year. This year's program will address significant developments in state and federal law which impact the workplace.

Faculty

Debra Dylesski-Najjar, Program Chair/CLE, Committee Member, Najjar Employment Law Group, PC, North Andover, MA
Eric R. Bernard, Bernard & Merrill, PLLC, Manchester
Heather M. Burns, Upton & Hatfield, LLP, Concord
Lauren Simon Irwin, Upton & Hatfield, LLP, Concord
Jennifer Shea Moekel, Cook, Little, Rosenblatt & Manson, PLLC, Manchester
Richard C. Nelson, Devine, Millimet & Branch, PA, Manchester
Jennifer L. Parent, McLane Middleton Professional Association, Manchester
James P. Reidy, Sheehan, Phinney Bass & Green, PA, Manchester
Nancy Richards-Stower, Law Offices of Nancy Richards-Stower, Merrimack
Marcie E. Vaughan, Employment Practices Group, Wellesley, MA
John R. Wilson, GoffWilson, PA, Manchester

Check-in & continental breakfast begin at 8:30 a.m.
Grappone Conference Center, Concord

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

Workers’ Compensation

Wednesday 9:00 a.m. - 4:00 p.m.
Mar 25

This program will offer input from experienced claimants and defense counsel attorneys of any experience level who practice workers’ compensation in New Hampshire, as the program will cover a wide range of topics at various levels of expertise.

Faculty

Corey M. Belobrow, Program Co-Chair/CLE Committee Member, Maggiotto, Friedman, Feeney & Fraas, PLLC, Concord
Margaret P. Sack, Program Co-Chair, Bernard & Merrill, PLLC, Manchester
Danielle N. Albert, NH Dept of Labor, Concord
Joseph D. Becher, Bernard & Merrill, PLLC, Manchester
Heather V. Menezes, McDowell & Morrisette, PA, Manchester
Jared P. O’Connor, Shaheen & Gordon, PA, Manchester
Anne M. Rice, Rice Law Office, PLLC, Laconia
Paul L. Salafia, Devine, Millimet & Branch, PA, Concord

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

Nuts and Bolts of Criminal Law

Friday 9:00 a.m. - 4:30 p.m.
Mar 27

This program will provide the newer attorney, or an attorney new to the field, with an overview of criminal law practice in New Hampshire. It will outline the basic concepts of criminal law practice, including the analysis of criminal cases, preparation for trial, sentencing and collateral consequences.

Faculty

Kathleen A. Broderick, Program Co-Chair, Manchester City Solicitor’s Office, Manchester
Patricia M. LaFrance, Program Co-Chair/CLE Committee Member, The Black Law Group, LLC, Nashua
Ronald L. Abramson, Shaheen & Gordon, PA, Manchester
Donald L. Blaszka, Germaine and Blaszka, PA, Derry
Deanna L. Campbell, NH Public Defenders in Rockingham County, Stratham
Hon. Kimberly A. Chatbot, 9th Circuit Family Division-Manchester
Roger C. Chadwick, Chadwick Fricano & Weber, PLLC, Nashua
Hon. N. William Delker, NH Superior Court, Concord
Jennifer M. Haggar, Rockingham County Superior Court, Kingston
Jeremy A. Harmon, Manchester City Solicitor’s Office, Manchester
Theodore M. Lothstein, Lothstein Guerriero, PLLC, Concord
Marianne P. Ouellet, Merrimack County Attorney’s Office, Concord

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

DWI Litigation: Back to Basics

Wednesday 9:00 a.m. - 4:30 p.m.
Apr 8

This full day program will focus on the practical essentials of DWI litigation, from basic issue analysis, to case preparation and case presentation, through ALS hearing and trial. The faculty includes prosecutors, defense lawyers, hearings officers from the Department of Safety, and the NH State Police Forensic Laboratory.

Faculty

Theodore M. Lothstein, Program Chair/CLE Committee Member, Lothstein Guerriero, PLLC, Concord
Allison M. Ambrose, Wescott Law, PA, Laconia
Jared J. Bedrick, Douglas Leonard & Garvey, PC, Concord
John E. Durkin, Burns, Bryant, Cox, Rockefeller & Durkin, PA, Dover
Anthony P. Eelee, Law Office of Anthony Eelee, Candia
Lisa Johnston, NH State Police Forensic Laboratory, Concord
Michael P. King, NH Dept of Safety Bureau of Hearings, Concord
Mark M. Seymour, NH Dept of Safety Bureau of Hearings, Concord

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

For more information go to nhbar.org/nhbacle
**Best Practices for Closing a Law Practice**

Do you know how to close your practice when the time comes? What are best business practices for operating your firm today to enable an effective firm succession/closure? Learn what you need to do today to ensure successful closure or succession of your practice.

- Your ethical responsibilities when closing your practice
- What you can do now in your practice to help prepare for retirement – no matter if you are 20 years away from retirement or only months away
- Real-world practice management techniques to implement now to make closing your practice easier
- Best practices – electronic and non-electronic methods
- Specific steps and tips you’ll need to close your practice

**Who should attend?**

Solo and small firm practitioners.

**Faculty**

Russell F. Hilliard, Program Chair/CLE Committee Member, Upton & Hatfield, LLP, Portsmouth

Gary W. Boyle (ret.), Littleton

Stephanie K. Burnham, Hage Hodes Professional Association, Manchester

Mark P. Cornell, Deputy General Counsel, Attorney Discipline Office, Concord

**Check-in & full breakfast begin at 8:00 a.m.**

NH Bar Association Seminar Room, Concord

**NH Practice In-House Counsel Practitioners!**

**In-House Counsel Essentials**

**Thursday** 9:00 a.m. - 3:30 p.m.  
**Apr 2** 325 min. credit incl. 75 min. Ethics/Prof.  
**Webcast**  
**In person**

This program will enable members of the NH Bar (as well as foreign jurisdictions) who practice in-house or have corporate clients to better understand the issues that are dealt with on a daily basis. Gain insight into topics that may not be on everyone’s agenda but can reap many benefits in the long run.

**Who should attend?**

This is an essential for any in-house counsel attorney who is looking to learn what issues their colleagues are facing today and how to effectively run an in-house department. Attorneys that have corporate clients will also benefit from the program to better understand the issues that their clients face and how best to navigate them through complicated scenarios.

**Faculty**

Eric A. Ivanov, Program Co-Chair/CLE Committee Member, Lactalis US Yogurt Division, Londonderry

Arnold Rosenblatt, Program Co-Chair/CLE Committee Member, Cook, Little Rosenblatt & Manson, pllc, Manchester

Andrew J. Burke, General Counsel - Barton & Associates, Inc., Peabody, MA

Steven J. Grossman, Grossman, Tucker, Perreault & Pfleger, PLLC, Manchester

Caroline K. Leonard, Gallagher, Callahan & Garrrett, PC, Concord

Jennifer Shea Moeckel, Cook, Little, Rosenblatt & Manson, pllc, Manchester

Julie A. Moore, CLE Committee Member, Employment Practices Group, Wellesley, MA

Edward J. Sackman, CLE Committee Member, Bernstein, Shur, Sawyer & Nelson, PA, Manchester

**Check-in & continental breakfast begin at 8:30 a.m.**

NH Bar Association Seminar Room, Concord

**NH Practice**

**Program Pricing**

SEMINAR FEE (pre-registered): $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.

**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)*

Name ____________________________ NHBA ID ____________________________

Firm/Organization ____________________________

Address __________________________________________________________________________________________

Phone ____________________________________________________________________________________________  E-mail Address __________________________________________________________________________________

Check box if NHBA-CLE Club Member  

Seminar Title ____________________________  Date of Live Attendance ____________________________  Book Only ____________________________  DVD Purchase ____________________________  Fee ____________________________

Check box enclosed (make all payable to NHBA)  

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Signature ____________________________

For more information go to nhbar.org/nhbacle
Business Split-Ups
Issues Arising from Corporate and Limited Liability Company Fractures

When a corporation or limited liability company dissolves and there is a dispute among the owners, there are a myriad of legal considerations and ramifications. This informative and insightful program will feature a panel of experienced practitioners discussing the legal issues that attorneys must help clients address during the dissolution of a business. The seminar will also look at resolving disputes among business owners that arise after an acquisition, merger or some other change of ownership.

Who should attend?
Lawyers who represent and advise businesses, engage in business litigation, and/or practice corporate law, should attend this program.

Faculty
Arnold Rosenblatt, Program Chair/CLE Committee Member, Cook, Little, Rosenblatt & Manson, PLLC, Manchester
Samantha D. Elliott, Gallagher, Callahan & Gartrell, PC, Concord
Scott W. Ellison, Cook, Little, Rosenblatt & Manson, PLLC, Manchester
Jamie N. Hage, Hage Hodes Professional Association, Manchester
James P. Harris, Sheehan, Phinney, Bass & Green, PA, Manchester
Richard J. Maloney, Maloney & Kennedy, PLLC, Auburn

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

PROGRAM PRICING
SEMINAR FEE (pre-registered): $169 NHBA Member; $85 NHBA•CLE Club Members; $219 Other/non-NHBA affiliated.
Walk-in on the day of the program is an additional $15.

Basic Construction Law 2020:
The Revenge of Hammer and Nails

From the same knowledgeable faculty who brought you Beyond Hammer and Nails I, II and the Next Chapter, this program is packed with essential knowledge and practical advice on basic construction law concepts. Be prepared, this lively crew is anything but boring. This year, our censors are ready. Topics will include:

- Project Delivery Methods
- Contracting Options
- Critical Contract Clauses
- Building Codes and Standards
- Residential Considerations
- Indemnity and Insurance
- Delay, Disruption and Acceleration
- Dispute Resolution

Join us and benefit from the experience of six New Hampshire attorneys with decades of combined experience handling complex construction cases.

Who should attend?
Attorneys, Engineers, Architects, Contractors and Construction Project Managers.

Faculty
Kelly J. Gagliuso, Program Chair, Bernstein, Shur, Sawyer & Nelson, PA, Manchester
Richard C. Gagliuso, Bernstein, Shur, Sawyer & Nelson, PA, Manchester
Matthew R. Johnson, Devine, Millimet & Branch, PA, Manchester
Edward D. Philpot, Jr, CLE Committee Member, Edward D. Philpot, Jr. Law Office, PLLC, Laconia
Hilary H. Rheume, Bernstein, Shur, Sawyer & Nelson, PA, Manchester
Frank P. Spinella, Jr., Wadleigh, Starr & Peters, PLLC, Manchester

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

PROGRAM PRICING
SEMINAR FEE (pre-registered): $209 NHBA Member; $159 Members in practice less than 3 years; $99 Other/non-NHBA affiliated. Walk-in on the day of the program is an additional $15.

Signposts on the Tax Road

Have you ever wondered what lurking tax issues might trip you up in your practice? Review common tax issues that could arise in general practice, including issues in: transfers of real estate, leasing of real estate, formation of business entities, advising business entities, divorce proceedings, estate planning considerations, estate and trust administration concerns and strategies, personal injury rewards and damages, personal injury settlements, and bankruptcy proceedings. Learn the basic tax issues that may arise in specific practice areas, be able to spot more complex tax issues, and acquire tools to recognize how to handle the issue. Discuss the ethical rules regarding competency, as well as how to avoid being “sideswiped” by a tax issue.

Who should attend?
Attorneys who would like more familiarity with the basic tax concepts involved in general practice areas or who would like to know the “red flags” to look for that indicate tax issues outside of their competency.

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

PROGRAM PRICING
SEMINAR FEE incl. 30 min. Ethics/Prof.

For more information go to nhbar.org/nhbacle
Rules of the Roads ...a look at NH road laws

This program will speak to various aspects of roads, both private and public, from the perspective of different stakeholders: municipality, landowner, surveyor and title attorney. How are roads created, relocated, discontinued and what is the difference between private and public roads? What about maintenance of the road? Who owns the road or some part thereof? How are they located and planned physically? What impact do these various issues have on the ability to obtain a building permit? Who regulates the various aspects of roads?

Who should attend?
Practitioners who seek a fuller understanding of NH roads from diverse perspectives: the types, creation, discontinuance, ownership, regulation, private roads, use and access, and maintenance, from the eyes of the municipality, property owner, surveyor and title practitioner.

Faculty

Carol E. Willoughby, Program Co-Chair/CLE Committee Member, First American Title Insurance Company, Concord
Laura Spector-Morgan, Program Co-Chair/CLE Committee Member, Mitchell Municipal Group, PA, Laconia
Paul J. Alfano, Alfano Law Office, PLLC, Concord
Michael B. Bemis, Steven J. Smith & Associates, Inc., Gilford
Christopher L. Boldt, Donahue, Tucker & Ciandella, PLLC, Meredith
Timothy A. Boucher, First American Title Insurance Company, Concord

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

New Hampshire Practice

Elder Abuse

This diverse and experienced faculty includes not only panelists from state resources, but also a case study of a retired NH Supreme Court Justice. This will include discussion of workplace “impairment,” as well as a discussion of worker’s compensation issues and whether insurance carriers are required to pay for medical marijuana and its derivatives.

Who should attend?
Lawyers, paralegals, trust officers, social workers, investment advisors, brokers, and real estate agents; and anyone who may encounter an elder who could be the subject to financial or physical abuse or self-neglect.

Faculty

Robert A. Wells, Program Chair/CLE Committee Member, McLane Middleton Professional Association, Manchester
Rachel G. Lakin, Bureau of Elder and Adult Services, NH Department of Health & Human Services, Concord
Kevin B. Moquin, NH Department of State Bureau of Securities Regulation, Concord
Debbie Noury, Fidelity Investment, Elder Financial Exploitation Investigations, Merrimack
Sunniva (Sunny) Mulligan Shea, NH Attorney General’s Office, Concord
Kevin B. Moquin, Bureau of Elder and Adult Services, NH Department of Health & Human Services, Concord
Rachel G. Lakin, Bureau of Elder and Adult Services, NH Department of Health & Human Services, Concord
Bryan J. Townsend, II, NH Attorney General’s Office, Concord

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

New Hampshire Practice

Clearing the Haze: Cannabis and CBD in the Workplace - Legal Issues, Ethical Issues, and Medical Update

This program will discuss employer’s options for dealing with employee use of marijuana and its derivatives, drug testing and “reasonable” accommodation, workplace “impairment,” as well as a discussion of worker’s compensation issues and whether insurance carriers are required to pay for medical marijuana and its derivatives.

Who should attend?
Program is intended for all attorneys dealing with workplace drug policies, drug testing, and assessing “impairment” in the workplace who want a current understanding of recent developments in state and federal law.

Faculty

Debra Dyleski-Najjar, Program Chair/CLE Committee Member, Najjar Employment Law Group, PC, North Andover, MA
Ted Dawson, Advantage Drug Testing, North Andover, MA
Jennifer A. Eber, Orr & Reno, PA, Concord
Debra W. Ford, Jackson Lewis, PC, Portsmouth
Kate Frey, New Futures, Concord
Christopher D. Hawkins, Devine Millimet & Branch, PA, Manchester
Michael D. Holt, NH Department of Health & Human Services, Concord
Eric A. Ivanov, Stonyfield, Londonderry
James P. Reidy, Sheehan Phinney Bass & Green, PA, Manchester
Kenji Saito, MD, MaineGeneral Health, Augusta, ME
Patricia Tilley, NH Department of Health & Human Services, Concord

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

New Hampshire Practice

For more information go to nhbar.org/nhbacle
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