

## Study Assesses NH's Legal Needs

By Scott Merrill

The New Hampshire Access to Justice Commission released its 2021 report on the civil legal needs of Granite Staters and its findings reaffirm what was already known—poverty itself creates problems that require legal assistance.

“Low-income people, older adults, and people with disabilities frequently experience multiple legal problems at once,” the report states.

The New Hampshire Access to Justice Commission was created by the NH Supreme Court with the purpose of implementing changes to improve citizens' access to the courts. One of the commission's duties consists of identifying and assessing current and future needs for access to justice in civil matters.

The report, released Jan. 28, was the result of a year-long collaborative effort between the Disability Rights Center-New Hampshire, New Hampshire Legal Assistance, Legal Advice and Referral Center, New Hampshire Pro Bono, and numerous volunteers.

Debt collection for those with disabilities was one of the areas that emerged in the report as an area of heightened need along with housing and domestic relations.

At a virtual press conference on Jan. 28, New Hampshire Supreme Court Justice James P. Bassett thanked U.S. District Court Judge Joseph N. LaPlante and Attorney Mark Rouvalis for their leadership on the commission report as well as Executive Director of New Hampshire Legal Assistance, Sarah Mattson Dustin, “for seizing the initiative with energy and for guiding us through this process.”

“This initiative and this report confirm the important role the Access to Justice Commission plays as we strive towards equal justice for everyone in New Hampshire,” Bassett said.

The needs assessment research team received input from nearly 1,000 people, including 540 people eligible for services from New Hampshire's four civil legal aid programs. Research methods included a telephone survey conducted by the Suffolk University Political Research Center, focus groups conducted by the University of New Hampshire Survey Center, and online surveying.

Mattson Dustin said that in some ways

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## School Resource Officers The ‘Gatekeepers’ of Juvenile Court Diversion

By Kathie Ragsdale

Nicole E. Rodler, chair of the New Hampshire Juvenile Court Diversion Network, calls school resource officers (SROs) “the gatekeepers” of the juvenile diversion system.

While their exact roles vary by school district and police department, SROs are generally tasked with keeping school campuses secure, protecting staff and students, mentoring students, and handling in-school juvenile offenses. They are the officers most likely to know the background and circumstances of young offenders because of their frequent contact with them in school (at least during non-pandemic times).

And that, officials say, makes them uniquely qualified to recognize which juvenile suspects might benefit from diversion programs and either refer them for that help or make recommendations for or against diversion when asked by another police or court agency.

“We're able to talk to the kids on the spot for the most part and get a good feel as to what they're about,” says Jamey Balint, a school resource officer at Alton Central School and Prospect Mountain High School in Alton, two schools with a combined student population of about 900. “You can't develop close relationships with all the students but those who really need the extra mother or father figure, we sometimes help fill that role, even if on a temporary, part-time basis.”

“We know the students, we know their background. We're not just a random juvenile detective,” adds Detective Shannon Jackson, a school resource



Sgt. Anthony DeLuca, a school resource officer at Rochester Middle School. Photo/Allegra Boverman

officer at McLaughlin Middle School in Manchester, which has about 720 students.

Brian Trefrey, who handles juvenile issues for the Nashua Police Department's Special Investigations Unit, says, “SROs fit into the system because we'll encourage their recommendations if they know the kid.”

But not all students in New Hampshire have equal access to SROs and even those who do might find their cases handled differently depending on which community they live in or where their offense occurred.

New Hampshire has roughly 101 school resource officers, according to Michelle Clarke, coordinator for the Governor's School Safety Preparedness Task Force. Meanwhile, it has some 505 pub-

lic schools, including 44 public charter schools, the state Department of Education says, meaning one SRO for every five public schools, with most based in the southern part of the state.

Diversion programs, and the people who facilitate them, also vary by community.

All SROs in Manchester are detectives. Elsewhere, they may be retired former full-time officers now working part-time as SROs, like Balint, formerly a patrol sergeant in Rochester.

Some are paid by police departments; others, by school districts.

In some locales, officers refer prospective diversion candidates to a prosecutor. In Rochester, that person is Lt. Anne M. Gould, who works closely with Rodler. Lt. Gould works closely with Rodler to determine which cases proceed. In others locales, police may refer candidates directly to a diversion program.

Some departments consider the diversion programs in neighboring communities so inferior they refuse to make referrals there, preferring to keep a juvenile in their local system even if he or she doesn't live there, or lives there but offended elsewhere.

“There is absolutely no standardization of the program, which is why we don't farm our kids out anymore,” says Gould, who cites the case of one teen who committed an offense in Rochester but lived 45 minutes away. “We farmed him out to another diversion program and the kid didn't finish, they didn't

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### PRACTITIONER PROFILE

## From the Hollows of New York to the Hills of New Hampshire George Bruno's Tireless Pursuit of Justice

By Kathie Ragsdale

The man who would one day found New Hampshire Legal Assistance, spare untold numbers of Americans from having their Social Security benefits attached, preserve New Hampshire's first-in-the-nation primary and become ambassador to Belize has roots some might find surprising.

Manchester attorney George Bruno grew up in a hollow in the Catskill Mountains of New York, in a coal and kerosene-heated house headed by a single mother,



a mile-and-a-half walk from the two-room schoolhouse with the pot-bellied stove where he was grateful for the reduced-price lunch the government provided him each day.

Even as a teen at the local Onteora High School, he dreamed of becoming

a lawyer, believing that “a lawyer

could do anything in life – manage a business, fight for people's rights, solve problems.”

He ended up dedicating much of his career to fighting for the poor, having once been part of their number.

Bruno went on to Hartwick College in Oneonta, New York, majoring in political science and American history, and hungered to go to law school in Washington, D.C. When no acceptance letters were forthcoming, he drove to George

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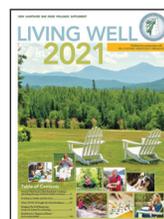
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### THE DOCKET

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Look for the “Living Well in 2021” supplement in the center of this issue focusing on lawyer well being.

**Virtual Justice.** Court diversion practitioners from NH and VT meet for an evening of lively discussion. **PAGE 23**

### Tax Law and Insurance Law

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EDITOR  
Scott Merrill  
603-715-3234  
smerrill@nhbar.org

ADVERTISING AND SPONSORSHIP  
SALES COORDINATOR  
Donna J. Parker  
(603) 715-3263  
dparker@nhbar.org

BAR PRESIDENT  
Daniel E. Will, Esq.

EXECUTIVE DIRECTOR  
George R. Moore, Esq.

DIRECTOR OF MARKETING,  
COMMUNICATIONS & MEMBER OUTREACH  
Lynne G. Sabean, Esq.  
(603) 715-3250  
lsabean@nhbar.org

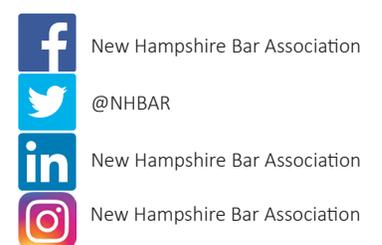
MEMBER SERVICES COORDINATOR  
Misty Griffith, Esq.  
(603) 715-3227  
mgriffith@nhbar.org

MARKETING AND DESIGN COORDINATOR  
Anne Breault  
(603) 715-3261  
abreault@nhbar.org

WEBSITE COORDINATOR  
Nancy Gross  
(603) 715-3253  
ngross@nhbar.org

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CONTACT US:  
**news@nhbar.org**  
2 Pillsbury Street, Suite 300  
Concord, New Hampshire 03301  
(603) 224-6942  
Fax (603) 224-2910  
**www.nhbar.org**



## NHBA Board of Governors – 2021 Elections - Open Positions

Active, qualified members may submit a petition for one of the following positions for which nominations are open.

Positions with an asterisk (\*) indicate an incumbent governor who is eligible to seek another term.

- Vice President (1-year term, and a 4-year commitment to board leadership track – President-Elect, President and Immediate Past President in subsequent years)
- Treasurer (3-year term)
- Secretary (3-year term)
- Governor at Large \* (two vacancies, three-year term)
- Public Sector Governor \* (3-year term) – Must currently be employed in a qualifying position – in government service, military service, law enforcement, public interest law services (including prosecution, public defense, legal advocacy in low-income communities or for individuals with disabilities at a nonprofit organization), or at an organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code, or at an organization recognized by the IRS as tax exempt under section 115.
- Out-of-State Governor \* (3-year term) - must currently have their primary office located in a state outside of New Hampshire
- County Governors (2-year term) representing:
  - o Cheshire \*
  - o Coos \*

- o Grafton
- o Merrimack \*
- o Rockingham

• Association Young Lawyer Delegate to the American Bar Association House of Delegates (two-year term) must meet these requirements: “such delegate was admitted to his or her first bar within the past five years or is less than 36 years old at the beginning of his or her term.”

• Association Delegate to the American Bar Association House of Delegates (the remaining year of a two-year term)

### Submitting a Nomination Petition

No fewer than 10 active member signatures are required for a nomination petition for a governor representing a county; no fewer than 25 active member signatures are required for vice president, secretary and treasurer, governor at large, public sector, out-of-state governor and Association ABA Delegate. Bar members may sign only one petition for a county position on the Board representing the county where the signer’s principal office is located. Blank petitions can be obtained either on the website (nhbar.org), or by contacting Debbie Hawkins ([dhawkins@nhbar.org](mailto:dhawkins@nhbar.org), 715-3269)

**Petition Deadline** – Petitions for nominations to the NHBA Board of Governors will be accepted no later than March 1, 2021.

**Election Information** - Online ballots will be accepted from April 1 to until April 15, 2021. Paper ballots can be mailed to eligible Bar members without an email address, or to those requesting one. Those eligible to vote are active-status members (dues fully paid).

## Upcoming NHBA Board Election – Ensure You Receive Your Ballot

Electronic voting for NHBA Board Election will take place starting at midnight, EST, on April 1, 2021. All Active members are eligible to vote. To ensure you receive your ballot information electronically, please be sure the email address we have on file for

you is accurate. If you need to update your email; please log onto the Member Portal, and use the update MyProfile link that is found on the Profile page. Please do this no later than March 15th. If you need assistance updating your email address, please contact [MemberRecords@nhbar.org](mailto:MemberRecords@nhbar.org).

Members eligible to vote in the Board election, without an email address on file with the Association, will receive a letter containing instructions on how to vote electronically, or if preferred, how to receive a paper ballot.

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Robert R. Deleault, USPTO Reg.  
Sarita L. Pickett, USPTO Reg.  
Frank B. Mesmer, Jr.

# Carving Out Time for Exercise is Easier Than You Think

By Crystal Reynolds

I'm too tired, I'm too busy, we're in a pandemic, I don't know what to do.

These are just a few of the common responses I hear as to why people cannot exercise. I get it—life happens, quarantine happens—and everything seems harder to accomplish these days. Even with our best intentions the day flies by, and before you know it, you're falling asleep. We spend our days juggling modified schedules, hybrid learning, working from home, virtual meetings, and sadly self-care is often crossed off the list. Carving out time to exercise can be challenging, but NOT impossible. I am going to share some of the easiest ways to sneak in exercise to your day if you follow one golden rule: Start with the things you are ALREADY doing in the course of your day and add in a few simple changes.

## At home

**1. Set the tone for your day by starting with some stretching.** Wake up 10 minutes earlier than you normally would. Do not check your phone, social media or email (this is important). Before you set your feet on the ground, complete some stretches while still in bed. Start with your arms extended straight from your shoulders with palms facing down. Draw your knees towards your chest and let both legs fall to the right side of your body (think windshield wiper). Remember to keep the knees stacked on top of each other the best way you can. Hold for five deep breaths. Repeat this process on the left side. Core challenge: Keep your legs extended straight

and try dropping them side to side.

**2. Since everyone brushes their teeth at least twice a day, this is an ideal opportunity to combine activities.** Try squatting while you are brushing your teeth. Yup, squat. The American Dental Association recommends that you should brush your teeth for two minutes. That's a total of 4 minutes of squats per day. Don't like squats? Try holding a stationary wall sit. Balance challenge: Add a calf raise to your squats by lifting one or both of your heel(s) off the ground.

**3. The average hour-long television program contains approximately 14 minutes of commercials.** Instead of running to the kitchen to get a snack, stop, drop and plank during commercials. Only watching sports? According to the Wall Street Journal a three-hour NFL game averages over one hour of commercials. Imagine what a difference that could make? Stability challenge: Start in an elbow plank and place your feet on paper plates on a carpeted surface (use facecloths for hardwood floors). Alternating between left and right legs, slide your feet away from the midline of your body as far as you can and bring it back.

## At work (even if you are working from home)

**1. An office job is not an excuse to be sedentary.** To make sure you don't zone out at your desk set a timer for 60-minute increments. Complete 3 sets of 8 tricep dips. Place your hands on the edge of your desk fingers facing towards your toes. Bending your elbows away from your body, lower yourself down toward the floor. To increase difficulty,



walk your feet farther away from the edge of your desk. Triceps challenge: Use a stationary office chair and try to touch your bottom all the way to the ground.

**2. Conference calls all day?** No problem. Phone time = steps. Take the opportunity to stand whenever you are on the phone. Take laps around your office or if you are WFH walk up and down the stairs. If you are stuck in a confined space, walk back and forth and side to side. Cardio challenge: Put your headset on and add in some jumping jacks.

**3. Take the long way - everywhere.** When you have to use the restroom, don't use the one closest to your workstation. Walk up a flight of stairs or down a long hallway to a different bathroom. Looking to hydrate? Locate the bubbler farthest away from your desk and fill-up there. Combo challenge: Fill up your reusable water bottle while walking to the restroom on another floor.

**4. Waiting impatiently for the elevator to pick you up?** Quit elevators and take the stairs. It will save you from having to worry about social distancing and help tone up your

legs. According to a study at Duke University, climbing two flights of stairs per day can lead to 6lbs of weight loss over one year. Power challenge: Try skipping two steps at a time.

## On the go

**1. You know the edge of the parking lot filled with all the empty spaces?** Park there. Pick a parking spot that is farthest away from your destination. It will save you from door dings and get in some additional steps. Weather not so great? Perfect occasion to turn your walk into a jog. Extra step challenge: When visiting the outlets, plaza or strip mall park your car one time and commit to bringing your purchases back to the car after each store you visit.

**2. Stopping at the grocery store?** Target? Lowes? Ditch the shopping cart completely. Adopt an "I can only buy what I can carry" policy. It will force you to be selective in what you are buying, save you from unnecessary purchases and help with upper body strength. Remember to alternate the arm you are holding the items in while you are shopping. When you're done checking out, equally distribute the weight of the bags as you are walking out. Farmer's carry challenge: Hold the bags a few inches away from your body like a suitcase and walk as slow as you can.

No matter how jam packed your schedule is make sure to sneak in movement whenever you can.

*Crystal Reynolds is an owner of 43 Degrees North Athletic Club and insists on carrying all her groceries in the house in one trip.*

## NHMCLE Board

# Credits for CLE Programs on Technology

By Corey Belobrow and Jack Crisp

Technology plays an increasingly important role in the practice of law. Email, encrypted email, cloud storage, PDFs, electronic court filings, computer legal research (does anyone even know how to use books still?) and a host



of other technology functions are essential to an effective, efficient, and modern law practice. It is not easy to keep up with the rapidly changing landscape of office and legal technology.

Fortunately, the New Hampshire Bar Association's Continuing Legal Education (CLE) Committee and other CLE providers offer courses to keep practitioners current on technology that impacts legal practice. The Supreme Court's Mandatory CLE Committee (NHMCLE) recognizes that this type of course qualifies for credit under the relevant Supreme Court Rule. The NHMCLE Committee sees quality courses teaching technology relevant to law practice as "educational activity of significant ... practical content reasonably directed at maintaining or enhancing his or her professional knowledge, skills and values." Rule 53.1(E), emphasis added.

To enhance attorneys' skills in relevant legal technology, the Bar Association's

CLE Program is offering a series of technology programs taught by lawyers, for lawyers. "Tech Tuesdays," with Barron Henley and Paul Unger, is a series that began on January 12th. If you missed any of the early programs, they are available "on-demand" in the NHBA CLE online catalog at [nhbar.inreachce.com](http://nhbar.inreachce.com). Topics include: Cloud Computing—Pros, Cons & Ethical Issues; Electronic Document Management for Lawyers; Powerpoint in the Courtroom; Using Dropbox Safely for Legal Professionals; Confidentiality when Negotiating Instruments; Avoiding Malpractice; Cybersecurity Plans.

However, not everything under the sun will qualify for CLE credit simply because it may be related to technology. Issues related to rainmaking or other marketing of your practice, for example, do not magically become credit-worthy by running them through a computer program. And teaching yourself to type – "not so much." But attorneys are encouraged to seek out education that results in enhancement of legal professional technology skills because those skills are essential to the practice of law today.

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**Surprise and disappointment**

**To the editor:**

I am writing to you to express my surprise and disappointment when I saw the front page photo of the 1/20/2021 edition showing the Trump supporter and his young children at the State House protesting the Electoral College session which had as its purpose the ratification set forth under the U.S. Constitution of the victory of Joseph Biden and Kamala Harris as President and Vice President. I am at a loss as to why you decided to memorialize their actions on the day upon which thousands of armed insurrectionists stormed the U.S. Congress for

the purpose of stopping the session using any means necessary. The nation witnessed an attempted coup on January 6, and I seriously question your judgment by giving the supporters of the attack any attention at all. Please discontinue my subscription to the *Bar News*, effective immediately.

Thank you,  
Frank McDonough

**Inappropriate photograph**

**To the editor:**

I was appalled by the decision to publish the photograph accompanying your article, "Security Stepped up at the State House in Concord" that appears on page 1 of the January 20, 2021 edition. Editorially, the photograph was grossly inappropriate.

A picture says a thousand words. This picture plays down the concerns of security personnel, and makes those concerns appear exaggerated and absurd. The visual impression it creates overwhelms the caption beneath the photograph. It suggests that the murderous Trump insurrectionists, who at that very moment the photograph was taken were rampaging through the Capitol attacking our Constitutional order, are as friendly, well behaved, and benign as Mr. Cederburg, his children, and their friend.

Sincerely,  
H. Boone Porter, III



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**ADR is a Failure**

I wish to propose a change to Superior Court Rule 32. Alternate Dispute Resolution (ADR).

ADR is required in all civil cases and is part of Structuring Orders. Preparation can be time demanding and expensive.

ADR is a failure. The ADR process, rather than facilitating the good faith resolution of cases by out-of-court settlement, has become a litigation tactic for many parties.

Most people who need a judicial remedy, whether, for equitable relief for damages, come to ADR handicapped by time and resources.

Under current practice, those who wish to avoid prompt case resolution come to ADR and create an impasse that cannot be resolved until trial.

Absent good faith on all sides and ongoing settlement discussions, almost always absent in cases ending in impasse, the ADR meeting comes and goes with no accountability. There is no procedural mechanism to break the impasse.

I intend no disrespect to the many hardworking and skillful mediators. If the ADR ends with impasse, the mediator is without any authority to act further.

The problem is two-fold:

1. Rule 32 requires that a report be made to the supervising judge but only that ADR failed; and,

2. The courts, based on the arcane New Hampshire practice that a court cannot participate in settlement discussion, will not act to facilitate case resolution. (The lack

of court intervention is premised on the absurd notion that the court may be biased if it has knowledge of why a case for which it is responsible has not settled).

What is needed is a change in Rule 32 that requires the mediator to prepare and file a sealed report to the court of the exact settlement offers and counter-offers of the parties. The report should include a case resolution proposal. With that information, the court responsible for the case must schedule one or more settlement conferences. The conferences must require the in-person attendance of counsel and litigants with settlement authority.

I propose Rule 32 be changed as follows:

"Rule 32 (b)(2). The mediator shall file an ADR report with the supervising court within 30 days of the conclusion of the ADR session. The report shall be sealed and marked confidential for the court's eyes only with copies to counsel of record. The report shall contain the settlement offer of each of the parties. The report shall include a case resolution proposal. The court shall schedule one or more Settlement Conferences as soon as possible but no later than 30 days after the ADR report is filed. All counsel of record shall attend the Settlement Conference accompanied by a representative of the parties with full authority to enter a case dispositive settlement. The court may conduct the Settlement Conference on such terms as it, in the exercise of its sound discretion, may choose."

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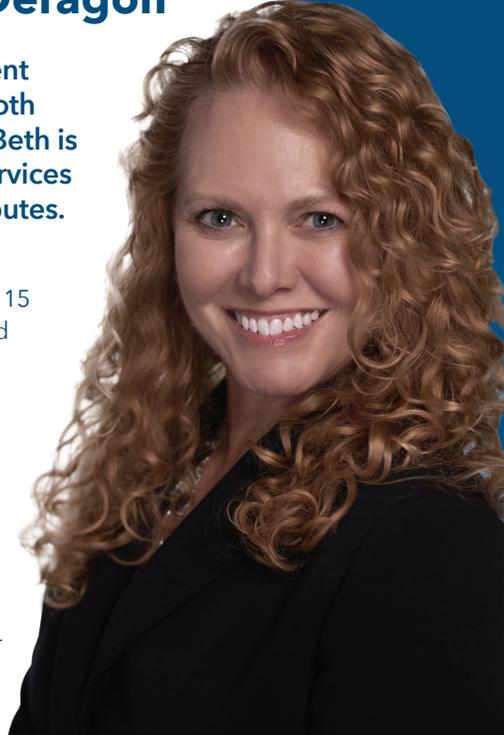
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# You Can't Handle the Truth<sup>1</sup>

Without my glasses, it looked like maggots climbing up the walls of my beloved Capitol building while their colleagues killed a cop, as they screamed slogans of hatred, including chants urging the hanging of the vice-president of the United States. I say "my" Capitol building, because as a true believer in participatory democracy, the Capitol of the United States is my church and even in the years I've lived away from Washington, D.C., when I close my eyes and envision the Capitol dome at sunset, tears well in my eyes. Raised in the 50's post World War II patriotism, when each school day began with prayers, the Pledge of Allegiance, the Battle Hymn of the Republic followed by the Marine Corps Hymn, I was raised all red, white and blue. My parents were children of immigrants; my Dad went to college after WWII on the GI bill and my Mom became a registered nurse thanks to the public health service's wartime Cadet Corps Nurse program. America was the land of opportunity. I was in fourth grade when a young, vigorous President Kennedy urged my generation to ask what we could do for our country and we craved to offer our lives to public service. Citizenship was glorious and that little girl growing up in a New England village just knew that by the time she was old, say, 70 years of age in 2021, the United States would have solved poverty, racism and inspired the world with the glories of democracy.

At home, in church and in school, honesty was the holy grail. Do not lie. Do not steal. Do not bear false witness. Do not lie. Do not lie. Tell the truth. Tell the truth. Always tell the truth.

When the country exploded in the wake of my lifetime's first Big Lie, revealed by the Pentagon Papers, that young men, both drafted and enlisted, had been sent to Vietnam to kill, be killed and maimed without honest accountings for why; when the director of the FBI of the United States tossed a briefcase full of incriminating documents into the Potomac River, when I first experienced large Washington, D.C. demonstrations as a student at G.W.U., including one where the Capitol Hill police opened up a wedge in our group to allow some actual Nazis from Virginia to drive their white station wagon into our crowd, where one of the Nazi's beat me with my own "Free Bobby" sign; when I first learned of the House Judiciary Committee and watched each night re-runs of each day's Watergate Hearing on public television (because it was too hot to sleep in my



tiny campus apartment, literally a stone's throw from the White House)... with all that was spinning, I entered law school in a barn up on Mountain Road in Concord, New Hampshire. Why law school? Because I had hope in a system based on truth; it had been lies which caused harm, caused war. The law was all about truth. And back then, truth mattered to both major political parties and both of those parties gravely, seriously and sadly searched for, and found - and believed in the truth, then performed their Constitutional duty, as the courts performed theirs and during that hot summer of 1974, Richard Nixon, president of the United States, because of his epic dishonesty, resigned the presidency apologetic and ashamed.

Truth was paramount in law school. We learned that there were ethics rules and they were sacred. We would not be allowed to sit for the bar exam if there were dishonesty blemishes in our record. We could not engage in moral turpitude. We took it so seriously that one classmate booted his fiance out of their apartment fearful that "living in sin" might mar his bright future. Following graduation, as an applicant for the bar of Virginia, I had to sit for an interview with a member of the bar whose "pass" on my character was a prerequisite for sweating through the bar exam in Richmond so I could argue my first motion in

the United States District Court, District of Columbia.

While I had learned on TV that sneaky lawyers could manipulate witnesses and hide evidence so that the truth was hidden from jurors, I learned from the Rules of Professional Responsibility that one could be disbarred for making a false statement of fact or of law to a tribunal, including by failing to correct an earlier statement; and that lawyers have duties to be fair to opposing counsel and to never engage in conduct intended to disrupt a tribunal. I was taught that arguing a weak point which a judge deemed frivolous could result in sanctions, both financial and professional, and that we were supposed to provide the court not only with our arguments, but also contrary, relevant authority. I was taught that as a representative of the bar, my conduct and statements even outside my office were expected to meet standards of honesty, for what we say, what we do, reflects on the third, and equal, branch of government, the judiciary.

Remember our patriotic fable? Our founding father, George Washington, chopper of the cherry tree, famously proclaimed, "Father, I cannot tell a lie." I suggest that fear of humiliation, fear of a loss of professional standing (even licensure), was cemented for this lawyer atop a lifetime of lessons which raised honesty to the highest platform of morality. Truth meant something. Means something. Something important. Something basic. Something solid. Truth matters.

And so, when members of our New Hampshire Bar proclaim, without evidence to the contrary, that the recently impeached president actually won the presidential election, that there was voting fraud justifying the multiple (frivolous) lawsuits seeking to disenfranchise heavily minority voting populations, thus fomenting hatred and disrespect to our Democracy, I say this: I am enraged and disgusted. I am also ashamed, ashamed that there has been no clear message from official spokespersons from either our courts or bar, that such lies are lies; and such lies have harmed our Democracy. A large percentage of our nation has pivoted away from truth. Lying is celebrated by the past president's supporters because the lies tell a story they prefer. We, members of the bar of New Hampshire, must confront these lies at every opportunity, and since the courts and bar associations can issue statements, it's about time they did. Nicholson's character was wrong. We can always handle the truth.

1. Jack Nicholson's most iconic movie snarl (next to "I'm Baaaaack")

Nancy Richards-Stower, political activist, is an employee rights attorney with an office in Merrimack, New Hampshire.



## 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 NHBA staff.

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# Law Firm Hacks Abound – Do You Think You Are Immune?

By Cameron G. Shilling

Hackers are intentionally targeting law firms, and are likely to continue doing so for the foreseeable future. Headlines have exposed recent breaches at some large and prominent firms, like Goodwin Procter, Seyfarth Shaw, Cadwalader, and Peabody & Arnold. But, it would be a mistake to believe that hackers targeted only those types of firms. The lists maintained on the websites of the Attorneys General for New Hampshire and Massachusetts reveal that hacks of small and medium sized firms are far more common and damaging.

No firm is immune from cyber threats. Small and medium sized firms are just as valuable targets, and generally more vulnerable. As trusted counselors, we all possess sensitive, personal, and privileged client information. For example, the rosters of breaches noted above show that the targets cover the spectrum from solo practitioners to large firm, and from general practice to specialty firms, especially in the areas of business transactions, tax, estate planning, family/domestic law, real estate, pensions and benefits, immigration, and personal injury.

## Sophisticated Ransomware Is the Biggest Threat

Ransomware attacks perpetrated a few years ago typically only encrypted computers and servers, yielding a demand

“In years past, hackers may have focused more effort on larger businesses that accumulated credit cards, social security numbers, governmental identification numbers, financial information, or health information. That is not true anymore.”

for ransom to obtain the decryption key. Cybersecurity evolved to counteract this threat, including through the use of a combination of advanced activity-based applications that detect ransomware activity and deactivate systems before all data is encrypted, with robust backups that can be used to restore encrypted data.

As a consequence, hackers evolved too. Now, sophisticated ransomware that is typically undetectable by routine anti-malware first extracts data from computers and servers and then encrypts it. Thus, if the target lawyer or law firm refuses to pay the ransom to decrypt its systems, the hackers re-demand ransom to refrain from selling the stolen client information on the dark web.

## No Target Is Too Small, and No Practice Area Is Ignored

In years past, hackers may have focused more effort on larger businesses that accumulated credit cards, social secu-

rity numbers, governmental identification numbers, financial information, or health information. That is not true anymore.

Because big firms generally have invested cybersecurity, smaller ones are now much softer targets. Also, while the foregoing type of information remains generally valuable, some types of its (like SSNs and governmental IDs) have been broadly compromised already, and other types (like credit cards and financial accounts) are surrounded by sophisticated protections. Broader personal information is equally or more valuable for hackers to perpetrate identity or financial crime. For those purposes, the client information we have is prized, like information about assets, finances, monetary and other transactions, family relationships, and sensitive information about their personal lives. Finally, hacking has increased its efficiency by segmenting the criminal enterprise, such as for code writing, phishing, deploying attacks, collecting and aggregating data, perpetrating crime, etc. That efficiency, in combi-

nation with greater automation in phishing and deploying attacks, have enabled hackers to exponentially expand their target population.

## We All Can Afford Cybersecurity, and Can't Afford to Ignore It

Two big hurdles for law firms is a lack of knowledge about how to address cybersecurity, and a misconception that doing so will be expensive or disruptive. Neither are prohibitive barriers.

With respect to the first issue, many articles (including here), CLEs, and other resources (such as the ABA Cybersecurity Handbook) exist to educate us on this topic. Also, the market now has a selection of information security professionals qualified to provide services to a wide variety of small, medium, and large firms.

With respect to cost, there is good news for smaller firms. Their relatively smaller technological and physical footprint generally makes it easier and more cost effective to assess their vulnerabilities and implement reasonable safeguards. By contrast, larger firms commonly have established technology systems and office spaces that were designed without necessarily addressing current cybersecurity controls, which means that they may have more vulnerabilities that can be costly and operationally challenging to mitigate. Additionally, we all allocate a certain amount



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of resources to technology, and an experienced professional can help configure that same budget to incorporate cybersecurity safeguards with limited or no additional costs.

The firms that have experienced hacks know all too well that we cannot afford to ignore these risks. Ransomware cripples a firm for days or weeks, can be exorbitantly expensive (particularly if a firm has no insurance coverage), and often results in loss of clients and business. Hackers will continue to target law firms. It is our duty to protect ourselves and our clients.

*Cam Shilling founded and chairs McLane Middleton's Information Privacy and Security Practice Group. The group assists businesses and private clients to improve their information privacy and security compliance, and address any security incident or breach that may arise. He can be reached at [cameron.shilling@mcclane.com](mailto:cameron.shilling@mcclane.com).*



The *Bar News* has launched this regular column devoted to cybersecurity and information privacy. Contact [news@nhbar.org](mailto:news@nhbar.org) if you'd like to contribute an article on these critical issues facing the profession.

# Mentorship Has Its Rewards

By Misty Griffith

The New Hampshire Bar Association has launched an exciting new Mentor Advice Program (MAP) to provide professional guidance to new attorneys. MAP seeks to promote positive relationships among members of the NHBA.

Having a mentor has obvious appeal to new lawyers looking for trusted advice, but there are also provides many intangible benefits to mentors. Both parties can learn from one another. Here are just a few of the rewards of serving as a mentor:

- 1. Increase your own knowledge.** Teaching someone else skills requires that you polish up your own skills. Passing on knowledge helps you master it yourself and can serve to remind you of important lessons you have learned over the course of your career.
- 2. Enhance your leadership skills.** Helping someone discern the best path forward, connecting with empathy, guiding and supporting another person are traits of a great mentor and valuable assets of a true leader.
- 3. Gain fresh new perspectives.** Mentoring gives you insight into the thoughts, ideas, and challenges facing someone at a different stage in their career, possibly someone in a different age generation. You may be surprised at what you can learn from your advisee.
- 4. Make a difference in someone's life.** Everyone has a former mentor, teacher, coach, colleague, or boss who has



Attorney David L. Nixon

shaped them in meaningful and sometimes life-changing ways. Mentoring is an opportunity for you to be that difference-maker for someone else.

- 5. Help shape future leaders.** This is one of the great legacies of mentoring. Our new lawyers are tomorrow's leaders. Mentor them well and take satisfaction that our profession will continue to be in good hands.
- 6. Enjoy a sense of fulfillment.** Mentoring is emotionally rewarding. It is gratifying to help someone be their best. This is a "feel good" factor that money can't buy.

Kirk Simoneau of Red Sneaker Law in

Manchester views mentoring as a way to pay tribute to the memory of his mentor, the late David Nixon. Simoneau says:

"I act as a mentor today to honor one of my mentors, David L. Nixon. Dave was a legendary New Hampshire trial lawyer, a partner to Governors and Chiefs of court, but, despite his success, he always took time to meet with and advise younger lawyers. Dave felt that too many young lawyers today are forced to go it alone and that creates a problem for the law in general and made the practice more difficult not just for the new lawyer but for the lawyers those new lawyers had cases with. After all, when you first start out, you don't know what you don't know and not knowing the unwritten rules slows everything down and makes our civil bar more adversarial than it need be. I still may not know what I don't know but I do know without Dave's mentorship, I wouldn't know much."

The NHBA encourages attorneys with more than five years of experience practicing in New Hampshire to volunteer their time as a mentor. Within the first two days of launching this important new program, over a dozen experienced attorneys have already volunteered to serve as mentors.

Sign up online today at <https://www.nhbar.org/mentor-advice-program/>. If you have any questions about the Mentor Advice Program, contact member services coordinator Misty Griffith [mgriffith@nhbar.org](mailto:mgriffith@nhbar.org).

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# Leadership Academy Moves Into the Future

In 2011, the New Hampshire Bar Association launched a new program meant to expose a hand-picked group of attorneys to knowledge and experiences that would prepare them to assume leadership roles in the legal community and beyond.

Since that time, NHBA Leadership Academy program organizers have selected Bar members with between three and ten years of practice as participants for an exclusive year-long program offered every other year. Program modules focusing on business, public interest and nonprofit entities, the media and all three branches of government. Interacting with leaders in each of those fields – including governors, legislators, judges, CEOs, authors, and educators -- is part of the experience. While COVID-19 prevented the Class of 2021 from being chosen and trained, plans are currently underway for a Class of 2022.

Now that the Leadership Academy has graduated six classes, *Bar News* reached out to its alumni to find out what they learned from the program, how it has helped them serve and lead others, and what other new attorneys might expect to gain by applying for the Class of 2022. Here's what they had to say:

Interviews by Kathie Ragsdale

## Donald H. Sienkiewicz, Class of 2011 (inaugural class)

**Question:** What has transpired in your career since graduating Leadership Academy?

When I was in the Leadership Academy, I was still trying to find my footing. I had recently been laid off from a Concord law firm where I was doing commercial

real estate. The great recession had just begun and the real estate market had collapsed. I was doing some litigation and I felt like my second career in the law was starting so I needed to strike out and get some broader exposure...

Estate planning is really complicated. I've been at it for 10 years now. I like breaking down complicated stuff for people. I really like the counseling and often therapeutic aspect of the work. It grew on me quickly.

**Question:** Why did you apply for Leadership Academy?

I wanted to see if I could serve my profession, but I really didn't have any idea how to do so. I also wanted to figure out how my profession could help me support myself, my wife and four kids. I just wanted to meet people and get some exposure to other areas of law and other ways of thinking about the law as a professional. This was a new opportunity the Bar Association had just created.

**Question:** How has it impacted your career?

I met a couple attorneys who I've stayed in touch with, have done a little referral work back and forth. I sit on the Finance Committee and Board of Governors of the Bar Association. It's a pleasure to come back and see some of the people I knew from the Leadership Academy. One of the people I knew in the academy recommended I get on the Board of Governors. I'm finding it pretty interesting.

**Question:** What were you surprised by?

I was surprised by how much work had been put into [the Leadership Acad-

emy]. I felt like they brought in very busy people to talk to our class and I felt at that point that I was kind of a nameless sole practitioner and I had exposure to some pretty powerful people who knew the inner workings of government and politics and industry and I thought that was pretty cool.

**Question:** Why would you recommend this program to others?

It's a great springboard and gives you a broader view of the law than what you just get from doing your technical area of practice.

**Question:** What was your biggest takeaway from the Judicial Module?

I got to shadow the district court judge in Goffstown and the police prosecutor. I was so impressed with the volume of cases that they handled and disposed of in just the morning and the way the judge and the cop and the police prosecutor and the public defenders collaborated to get people a fair shake in front of the person in the black robe and protect the public and serve justice and keep things moving.

The thing I walked away with was, wow, the cops and the District Courts (now the Circuit Courts), these people are the front line in keeping civil society together.

## Jim Cowles, Class of 2015

**Question:** What has transpired in your career since graduating Leadership Academy?

I was already on a number of nonprofit boards, but the Leadership Academy would have been the final push I needed to start getting involved more locally. I

served two terms as the Carroll County Governor for the NHBA from 2016 to 2020.

I currently serve on the board of Global Awareness Local Action (G.A.L.A.), which is working on opening the Makers Mill in Wolfeboro. Once it's up and running we will have a Community Makerspace & Vocation Hub that is the culmination of over a decade of sustainable community-building in the Mountains and Lakes Region of New Hampshire.

I'm on the board of "The Nick" in Wolfeboro, which is a 27-acre community recreational facility comprised of three little league baseball fields, an adult softball field, three full size athletic fields, a walking path, a playground, a 6-lane track and a dog park. It was started in 1997 by a group of citizens active in local area sports to address the shortage of athletic fields in Wolfeboro.

I'm also on the board of the Carroll County Bar Association which gets together two times a year (when we are not in the midst of a global pandemic). It was defunct for years until Leslie Leonard of Cooper Cargill & Chant and I helped get it restarted around the same time I participated in the Leadership Academy.

**Question:** Why did you apply for Leadership Academy?

For me, I joined because it was a great networking opportunity. That was the main thing. You wouldn't necessarily get exposed to the people you met who don't practice locally. That's important to maintaining the collegial Bar New Hampshire is known for.

**Question:** How has it impacted your



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OFFER \$350,000	<b>Medical Malpractice (IA)</b> Unnecessary prostate surgery	VERDICT \$12.25 MILLION
OFFER \$1.75 MILLION	<b>Medical Malpractice (IA)</b> Overdose of Pitocin leads to neonatal seizures	SETTLEMENT \$9 MILLION
OFFER \$2 MILLION	<b>Medical Malpractice (IA)</b> Delay in treatment of cauda equina syndrome	SETTLEMENT \$6.5 MILLION
OFFER \$15,000	<b>Medical Malpractice (IA)</b> Vasectomy performed instead of circumcision	VERDICT \$2 MILLION

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career?

The biggest impact was the networking opportunities with colleagues around the State I may otherwise never have met. Additionally, the modules with the legislature and media were both illuminating and gave insight into those important pillars of our society.

**Question:** Why would you recommend this program to others?

It's a good way to meet other attorneys and get yourself out there and get involved in doing things locally.

**Question:** What was your biggest takeaway from the Judicial Module?

I shadowed Judge (Jacalyn) Colburn in Nashua and was impressed with just the breadth of different topics they are making decisions about on a daily basis.

There was nothing surprising, but it was interesting to see it in practice.

### Susan Lowry, Class of 2015

**Question:** What has transpired in your career since graduating Leadership Academy?

I am now working at a different law firm. I was a lawyer at Boynton Waldron Doleac, Woodman & Scott. Now I'm at Upton & Hatfield. I'm generally doing the same type of things. I'm a litigator.

**Question:** Why did you apply for Leadership Academy?

One of the reasons I was interested in the Leadership Academy was to learn more about different areas of law and how they interplay with each other across the state. Being a seacoast attorney I really didn't get into the middle of the state or beyond, ever. Every month at the Leadership Academy was a different focus.

**Question:** How has it impacted your career?

Something I really wanted to do was expand my connections and knowledge. In that way it has helped me tremendously, not only the people you meet for the monthly programs but the people you're in the Academy with. Now I have people I can call on, refer cases to and generally interact with that I really appreciate.

I do attribute one thing to the Leadership Academy. I've been on the New Hampshire Bar Association board of governors, going into my third year as Rockingham County representative. Just being in the Leadership Academy caused another attorney to come up and say, I think you'd be really good in this capacity. I hadn't considered it and it's been a really good experience for me.

I do appreciate the resources the Leadership Academy has given me — the people I know I can call up, the connections I made through that program.

It's also provided a broader foundation for me to draw from when I'm working on my own cases.

**Question:** What were you surprised by?

I went in expecting to get a certain amount of knowledge and exposure and it far exceeded my expectations... I love living on the seacoast, working out of Rockingham County. But it really was great to meet other people from different parts of the state and see what other lawyers are facing in different parts of the state.

You've got people who are solo practitioners in the North Country or the southwest and that's a really different experience from someone in a larger firm in Manchester. I went for diversity and exposure and definitely got more than I expected to.

**Question:** Why would you recom-

# Leadership Academy 2021-2019

## 2010-2011

Christopher G. Aslin  
Anthony S. Augeri  
Deanne Chrystal  
Rachel A. Goldwasser  
Adam B. Hescock  
Abigail Sykas Karoutas  
Celia K. Leonard  
Sarah Mattson Dustin  
Patrick T. O'Day  
Matthew R. Serge  
Donald H. Sienkiewicz  
Christine M. Smith  
Patrick H. Taylor  
David C. Tencza  
Cathryn E. Vaughn  
Lisa L. Wolford

## 2011-2012

Mark E. Beaudoin  
Brooksley C. Belanger  
Christopher C. Buck  
Kysa M. Crusco  
Joel T. Emlen  
Francesca Hennessy  
Suzanne S. McKenna  
Meagan T. Munsey  
Lyndsee D. Paskalis  
Jamie L. Pond  
Thomas E. Walker Jr.

## 2012-2013

Joseph D. Becher  
Jonathan M. Boutin  
Darrell J. Chichester Jr  
Courtney H. Eschbach  
Lisa A. Fearon  
Seth J. Hipple  
Melissa L.B. Lyons  
Deborah Mulcrone  
Michael J. Ortlieb  
Anthony F. Sculimbrenne  
Kirk C. Simoneau

## 2014-2015

Nicholas F. Casolaro  
Amy C. Connolly  
James P. Cowles  
Joseph H. Driscoll IV  
Kristina Finley  
Susan A. Lowry  
Kathleen M. Mahan  
Jacob J.B. Marvelley  
Kristin A. Ross  
Lynne Guimond Sabeau  
Talesha L. Saint-Marc  
James C. Shaw  
Daniel J. Swegart  
Steven J. Venezia

## 2016-2017

Robert Berry Jr.  
Mary C. Bleier  
Jason B. Dennis  
Laura D. Devine  
Mariana Dominguez  
Christine F. Donlan  
Kristin G. Fields  
Rebeka M. Fortess  
Michelle C. Heaton  
Henry R. Klementowicz  
Molly M. Lynch  
Alexander E. Najjar  
Nathan P. Warecki

## 2018-2019

Alexandra S. Cote  
Nicole A. Forbes  
Joshua P. Lanzetta  
Brooke Lois Lovett Shilo  
Evan M. Lowry  
R.J. Meurin  
Kaitlin M. O'Neil  
Hilary Anne Holmes Rheaume  
Justin Squire St. James  
Corinne Allyson Taylor-Davis  
Stephanie L. Tymula  
Carole L. Waters

mend this program to others?

It does involve some work. You are taking time out of your regular work schedule to do that. People should be aware that you get out what you put in. But it's one of the best things you could do.

**Question:** What was your biggest

takeaway from the Judicial Module?

I shadowed with Judge Delker in Rockingham County. I really enjoyed shadowing with him, getting his perspective on what he thought of practicing law versus sitting on the bench. That was really impactful for me.



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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

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## IOLTA: Where the Money Goes and Who it Helps

In 1982 the New Hampshire Supreme Court adopted Rule 50 to establish the Interest on Lawyers Trust Accounts (IOLTA) Program in New Hampshire. Through IOLTA, interest earned on lawyers' trust accounts, is forwarded to the New Hampshire Bar Foundation to be used for charitable purposes. The banks have the discretion to set these interest rates. Because of this, where you bank matters. Each year the interest received is used to fund the IOLTA Grant Program. This year the NH Bar Foundation awarded a total of \$950,000 to 6 different nonprofit organizations. These organizations provide free or reduced-fee civil legal services to our most disadvantaged residents, as well as educational programs about the law and the courts.

A grant was given to the Legal Advice and Referral Center and they were able to help a woman and her two young children stay in their home. Rose was a 35-year-old single mother who was renting an apartment in Berlin. She had been dealing with a number of habitability issues, of which she had written to her landlord, for many months, however the landlord failed to take any action to remediate the problems. Because of this, Rose decided that she had no alternative but to withhold her rent un-

til the issues with the apartment were resolved.

Because part of rent being withheld included the months of April and May, the landlord served Rose with the demand for rent and a 30-day eviction notice at the beginning of August.

The landlord then hired an attorney who filed a writ of summons at the Berlin District Court right after the expiration of the eviction notice. There was a telephonic eviction hearing that took place on October 7th at which Rose attempted to use the withholding of rent as a defense. Unfortunately, she needed to use the unpaid rent for emergency bills, and she did not have it with her at the time of the hearing. Because of this, the court issued judgment in favor of the landlord.

After the hearing, Rose filed a notice of intent to appeal with the court and was able to pay weekly rent into the court. Because the deadline for perfecting her appeal was 30 days from the date of the hearing, Rose understood that unless she could perfect her appeal, a writ of possession would be issued to the landlord the beginning of November. Rose had no idea, nor the wherewithal, for perfecting her appeal.

In a panic, and not knowing where

else to turn, Rose eventually contacted LARC where she was able to speak to an advocate who obtained the pertinent facts in her case. Because Rose was now time-barred from filing a motion to reconsider, or even requesting a discretionary stay, the LARC advocate knew something had to be done quickly if Rose were not to be made homeless.

As Rose was being evicted for non-payment of rent, LARC gleaned sufficient facts from her to determine that she would be covered under the CDC eviction moratorium. The LARC advocate went over the CDC declaration with her to make sure she understood what to do. LARC then sent Rose a copy of the CDC declaration for her to review, sign, date, and give to her landlord. LARC followed up with Rose the next day and learned that she sent a copy of her CDC declaration to the landlord by way of a text message. Rose was concerned that her landlord might not have checked his text messages in the meantime.

The LARC advocate then drafted

a motion to stay execution of the writ of possession based on the fact that Rose was a covered person under the CDC moratorium. LARC emailed the motion to Rose instructing her to attach a copy of her CDC declaration to the motion as in exhibit. LARC then advised Rose to send a copy of the motion, with the exhibit attached, to the landlord's attorney and to file the original with the court.

Rose followed LARC's instructions and when LARC contacted her to follow up, they were given the good news that the motion to stay had been granted by the court and she and her family would now be able to remain in the apartment until the beginning of the next year, thus ensuring that no one would be made homeless during the holiday season!

"I am so glad organizations such as yours exist as I never would have known what to do and there was no way I could have paid for the legal help that you so generously gave to me. Thank you so much!"

## Justice Grant Spotlight

Biannually the NH Bar Foundation awards Justice Grants to qualified applicants. In 2020 \$86,095 was awarded to 13 different programs throughout the state. The Justice Grant money comes from funds donated to the foundation by a wide range of individuals over time, and it is invested for us by the NH Charitable Foundation. The investment income on these endowments is used to fund the Justice Grants. In 2020 the Justice Grants Committee awarded \$6,000 to the NH Bar Association's Law Related Education Program to support We the People: The Citizen and the Constitution. The We the People program is a nationally acclaimed civic education instructional program that enhances students' understanding of the institutions of American constitutional democracy while allowing students to discover the contemporary relevance of the Constitution

and Bill of Rights. The primary goal of We the People is to promote civic competence and responsibility among students in grades 3 through 12. Due to the pandemic, this year's state final mock congressional hearing was held virtually in early January. The program was led by Robin E. Knippers, the Law Related Education Coordinator for the NH Bar Association, and involved several volunteer judges and lawyers who all played roles assigned by the lesson plan. The final competition for state champion involved student teams from John Stark and Hollis Brookline school districts. These schools competed for the title of state champion and Hollis Brookline walked away with the win. The funds for this Justice Grant came out of the Advancement of Justice Fund which was established in 1990 through multiple generous donations.

## DOVE Project

### New Domestic Violence Prevention Projects Asst. Coordinator

Eylse McKay, originally from Candia, NH, worked as a litigation paralegal at Clearly Gottlieb in New York City. While in New York she partnered with The Legal Aid Society on a pro bono case seeking damages for sexual abuse perpetrated by the staff at Rikers Island's Rose M. Singer Center. It was this case, she says, that spurred her interest in working more directly with survivors of sexual and domestic violence.

Most recently, McKay worked for



REACH at YWCA New Hampshire's court-focused advocate.

"Spending the last 3 years in and out of courtrooms with survivors further convinced me that the importance of civil legal aid for the underserved in our communities can't be overstated. I'm thrilled to continue the work by joining the NH Bar's Pro Bono Referral Program as the assistant Domestic Violence Prevention Projects Coordinator."

### Prevention from Domestic Violence and Stalking Takes Wing

# THANK YOU, DOVE VOLUNTEERS!



The dove has long been a symbol of survival and hope. The award-winning NH Pro Bono DOVE (Domestic Violence Emergency) Project partners with crisis centers to connect survivors of domestic violence and victims of stalking with volunteer attorneys to help secure desperately needed final protective orders, working closely with staff at NHLA and LARC.

The Board and Staff of NHBA's Pro Bono Referral System extend our sincere appreciation to the attorneys who volunteer their time with DOVE and other pro bono efforts to make a difference for the needy and vulnerable (especially this year's Pro Bono award recipients recently recognized at the Feb 5 Midyear Meeting).



Learn more or volunteer at [DOVE@nhbar.org](mailto:DOVE@nhbar.org)

## In Memoriam

### Cathy Skeirik Roberts

Cathy Skeirik Roberts, the half Lebanese, half Irish, whirlwind of energy passed away on Friday, January 22, 2021 due to complications from a multi-year courageous battle with ovarian cancer.

Cathy lived a rich life, filled with engaging professional opportunities and many caring, close family members and friends. Cathy was always active - an avid skier, runner, biker, hiker, wind surfer and paddle boarder. She had a lifelong love of literature and always cherished a well-crafted novel. One of Cathy's most beloved pastimes was spending



time with her family at Goose Rocks Beach in Maine.

She was born on September 15, 1956 to Dr. Lewis Skeirik and Patricia Drummey Skeirik at the hospital at Fort Jackson, Columbia, South Carolina, where her father was stationed with the U.S. Army. In 1958, the Skeirik family settled in Georgetown, Massachusetts, where her father opened his dental practice. Cathy was raised, along with her siblings, in a wonderful colonial house dating back to 1754. She attended the local schools in Georgetown and enjoyed playing field hockey, basketball and softball.

She graduated from the University of Rhode Island in 1978, earning a B.S. in Dental Hygiene while also obtaining a Secondary School Teacher Certification in English. For the next two years, she was an English teacher in her hometown at Georgetown High School. She then discovered her true calling

and enrolled in the New England School of Law in Boston, Massachusetts, graduating in 1985.

She was accepted into the U.S. Navy Judge Advocate General's Corps and met her future husband, Brian Neale Roberts, who was also a JAG, on the first day of training in Newport, Rhode Island. Cathy was very proud of being in the U.S. Navy and served at Naval Station Treasure Island, California, first as a trial counsel (prosecutor) and then as the Staff Judge Advocate (legal counsel) for the commanding officer of the base. She tried many cases and knew she wanted to pursue a career as a trial attorney.

Upon her discharge in June 1989, she and Brian moved to Portland, Maine and were married on July 15, 1989 in Kennebunkport. Cathy was hired as an associate and then became a partner at the Portland firm of Thompson & Bowie and would spend the next 27 years at the firm. She relished the challenges of practicing law and especially loved mentoring new attorneys and staff members. She was respected by her peers as an excellent trial attorney and by her clients as a passionate advocate. Her practice included the areas of insurance defense, workers' compensation and her true calling, admiralty law.

In June 2016, she was hired by the Maine Attorney General's Office to work in the Litigation Division. A few months later, she was diagnosed with advanced ovarian cancer. As a new employee, she was very grateful to the then Attorney General and now Governor of the State of Maine, Janet Mills and to Litigation Division Chief Susan Herman for their steadfast support. Many thanks to the staff of the Attorney General's Office who donated

their hard-earned vacation days to Cathy during the recovery from her first operation. She returned to work and thoroughly enjoyed the work and her colleagues before finally entering retirement in 2019.

Cathy was predeceased by her beloved father, Dr. Lewis Skeirik. She is survived by her husband, Brian Neale Roberts of Falmouth, ME, her mother Patricia Drummey Skeirik of Georgetown, MA and Goose Rocks Beach, ME, her sister Marcia Braganca and husband, Joseph, of East Providence, RI, her brother Peter Skeirik DMD and his wife Pamela of Georgetown, MA, and her sister Lynne Skeirik and her husband James Patnode of Arlington, VA. Cathy was exceptionally close to her nieces Beth and Sara and her nephews, Daniel and Calvin and their children.

A celebration of Cathy's life will be held this coming September. Cathy had a zest for life. She especially enjoyed being on a nice beach with family and friends and having a beer. To those many individuals who are family and friends of Cathy, the next time you are on a beautiful beach in warm weather and you have a beverage in your hand, raise a toast to Cathy. She would like that.

In lieu of flowers, Cathy has asked that any memorial contributions may be made to the Maine Coast Heritage Trust, 1 Bowdoin Mill Island #201, Topsham, ME 04086.

To share a memory or leave a message of condolence, please visit Cathy's Book of Memories Page at [www.bibberfuneral.com](http://www.bibberfuneral.com)

MEMORIAL EVENTS: No memorial events are currently scheduled. To offer your sympathy during this difficult time, you can now have memorial trees planted in a National Forest in memory of your loved one.

## In the News

### Coming & Going

Shaheen & Gordon, P.A. is proud to welcome one of the preeminent litigators in New Hampshire to its already deep roster with the addition of **Brian M. Quirk**.

Nixon Peabody LLP is pleased to announce that **Stephen D. Zubiago** has been elected as the next CEO and Managing Partner of the Global 100 firm, succeeding Andrew Glincher, who served in the role for the past 10 years, leading the firm's expansion of client relationships and overall growth.

Sheehan Phinney welcomes **Jonathan R. Voegelé** to its Business Litigation Group. Voegelé will work primarily out of the firm's Manchester and Boston offices.

### Community Notes

Three NHWBA members have been named to the Union Leader's 40 Under Forty list for 2021! Congratulations are in order for Past Board Member **Sandra Cabrera** of Waystack Frizzell, Past President Christina A. Ferrari of Bernstein Shur, and Julie Morse of Orr & Reno.

**Nixon Peabody** has been selected as one of five law firms to pioneer the Move the Needle Fund (MTN). Created by Diversity Lab, MTN is a collaborative effort among law firms, in-house counsel, and community leaders to create a more diverse and inclusive legal profession.

## LawLine Thank You

The NH Bar Association would like to thank Attorneys Pamela Kozlowski, Dennis Hogan, Keri Sicard, Shawna Bentley, Justin St. James, Laurie Levin and Sheila Zakre for hosting January's LawLine on Wednesday the 13th. They fielded over 40 calls from the public on a variety of legal issues, including family law, probate, and criminal law. We are especially thankful to this group for stepping up due to a last minute cancellation.

We are currently seeking a LawLine host for December 8, 2021. Hosts are

needed for the month of December. LawLine is held on the second Wednesday of each month from 6:00 pm to 8:00 pm. The Bar forwards phone calls from people who are looking for general legal advice and information to the LawLine host's office, and the host assembles a small group of volunteers to answer them for two hours. The Bar also provides a light dinner for all volunteers. For more information or to volunteer to host a LawLine event in 2021, please contact NHBA LawLine Coordinator, Linda Sutton at [lsutton@nhbar.org](mailto:lsutton@nhbar.org).

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at [nhbar.org/nhba-mym-2021/](http://nhbar.org/nhba-mym-2021/)



## Some of the Faces at Midyear Meeting 2021



NH Bar Association President Daniel E. Will opens the 2021 Midyear Meeting by thanking Bar Association members for attending the first-ever virtual meeting on Feb. 5. Will is the New Hampshire Solicitor General and writes a column in the NH Bar Association's *Bar News*.

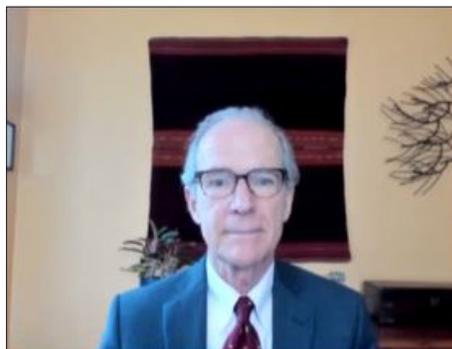
Midyear Meeting kicked off with a moment of surprise for Bar President Daniel E. Will at the the Double Tree Hotel in Manchester.

"Hey, I'm here at the Double Tree... and no one's here," Will said, followed by a camera scanning an empty convention hall. Will followed his quip by welcoming 543 online attendees and asking the audience to take a moment of silence to remember those members who have passed away over the past year.

While we look forward to the day when we can be together again in-person, Midyear Meeting 2021 was a success by all accounts.



Constitutional law scholar and Berkeley School of Law Dean, Erwin Chemerinsky, presented his CLE program, "An Amazing Time in the Supreme Court."



Attorney John B. Garvey received the 2021 L. Jonathan Ross Award for Outstanding Commitment to Legal Services for the Poor. Garvey has donned many hats throughout his engagement with the Pro Bono Program including mediator, professor, litigator and mentor.



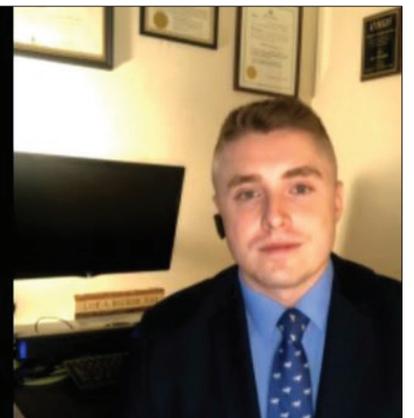
John Greabe, professor of law at UNH Franklin Pierce School of law, hosted the Q and A session with Dean Chemerinsky. Greabe was filling in for Maggie Goodlander who was unable to attend because of her position as counsel to the U.S. Attorney General.



Chief Judge Landya B. McCafferty was this year's winner of the Gender Equality Committee's Philip Hollman Award.



Lucy Hodder, Director of Health Law and Policy programs at UNH Franklin Pierce School of Law was this year's Outstanding Service in the Public Sector/Public Interest Law Award.



Pro Bono Rising Star Award winners Cassandra A. Brown, (left), of Brown & Bouchard PLLC, Concord, NH, and Leif A. Becker, (right), of Becker Legal PLLC, Portsmouth, NH.

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FEATURED PRESENTATIONS

**CLE: UNITED STATES  
SUPREME COURT UPDATE**



Constitutional law scholar **Erwin Chemerinsky** reviews key U.S. Supreme Court decisions of this term and last. A Q&A session, moderated by **Atty. John Greabe**, follows.

**CLE: THE 13<sup>TH</sup> AMENDMENT:  
FIXING THE FRAMERS' FAILURE**



**Robert J. McWhirter** believes that although the Constitution embodies "created equal" and "the People," the Framers failed to resolve the conflict between freedom and slavery. This talk on the history of the 13<sup>th</sup> Amendment discusses how America began to grow into itself. A Q&A session follows.

**REGISTER AT [nhbar.org/nhba-mym-2021/](http://nhbar.org/nhba-mym-2021/)**

# Governmental Executive Authority and Privacy in the COVID Era<sup>1</sup>

By Eric Tausig

*This is part one of three articles exploring the use of executive authority during pandemics. This section provides a history of quarantines. Parts two and three deal with the questions of law, ethics, and governmental powers.*

In January 2020, when the world was starting to learn about COVID-19, Vietnam quarantined thousands in state-run lock downs of entire villages in response to small clusters of infection. Three months later, Vietnam appeared to have beaten back the virus. Crucial to preventing a large outbreak was an aggressive involuntary quarantine that involved housing thousands in military barracks and dormitories. When a person was confirmed to be infected, many contacts, including asymptomatic persons, were immediately quarantined in state-run facilities instead of homes where they might infect others.

The Vietnam model<sup>2</sup> would be the ideal to ensure recovery, to open up the economy, and to avoid a recurrence, absent a vaccine. Unfortunately such an effort is overruled by US constitutional, statutory civil rights privacy and case law that proscribe such actions.

The Supreme Court has affirmed privacy as a constitutional right under *Griswold v. Connecticut*, *Eisenstadt v. Baird*, *Roe v. Wade*, *Lawrence v. Texas*,<sup>3</sup> etc..

With cries to keep the economy open and protests over Shelter at Home Orders, what steps can the states and federal government take to prevent the deaths of thousands of citizens?

Take Joseph LaLima of LaLima's Barber Shop, Kingston, NY, who defied NY Governor Cuomo's order continuing to barber in his home by giving haircuts to police, firemen, and EMT's at no cost. Subsequently, LaLima came down with the Corona Virus, was hospitalized, recovered and is declining to disclose his customers for tracing.<sup>4</sup>

The federal government and President finally recognized the need to test, but how useful is testing if positive individuals refuse to quarantine and to disclose contacts?

Can positive carriers, possible super-spreaders like Typhoid Mary,<sup>5</sup> be compelled to disclose their status?

Can exposed individuals be compelled to self-quarantine, or be incarcerated in involuntary quarantine?

If the "carriers" are minorities and the jobs they perform leave them unable to self-quarantine, are federal and state non-discrimination laws violated?

Will states require carriers to wear a special attire to insure physical distancing?

Will a COVID-Free passport/electronic chip as South Korea and Singapore use be in our future?

If "carriers" who refuse to quarantine become "Typhoid Mary's," do they have liability to others?

Do privacy and constitutional rights trump public health concerns?

Can COVID carriers be compelled to quarantine and involuntarily disclose contacts? That is the key to determining which law prevails. While few reported cases have yet started up the appellate ladder involving COVID-19, the question is fascinating and important for future governance.

## History of Quarantines

From Venetian times, a connection between seafaring and the spread of infectious disease has been recognized. The term "quarantine" comes from Italian meaning "forty," the days ships were detained before allowing disembarkation.

In 1647 the Massachusetts Bay Colony enacted a law to prohibit entry from a foreign source.<sup>6</sup> In 1754, the Port of NY regulated entry to control Yellow Fever.<sup>7</sup> In 1796, the new federal government enacted "An Act Relative to Quarantine" allowing Federal Revenue Officers to enforce State Quarantine laws.<sup>8</sup> In 1799, "An Act Respecting Quarantine and Health Laws"<sup>9</sup> gave the Secretary of Treasury the power of enforcement. After the Civil War, quarantine authority was shifted to the Secretary of War after Congress passed a "Joint Resolution Providing for a More Effective Quarantine on the Southern and Gulf Coasts" to control Yellow Fever.<sup>10</sup>

With Yellow Fever outbreaks came the 1878 "Act to Prevent the Introduction of Contagious or Infectious Diseases into the United States."<sup>11</sup> That act created the Division of Quarantine within the Marine Hospital Service (MHS) with federal quarantine responsibility. Section Two directed:

"[W]henver any infectious or contagious disease shall appear in any foreign port...infected with cholera or yellow fever...shall immediately give information to the Supervising Surgeon-General of the Marine Hospital Service..."<sup>12</sup>

The Yellow Fever epidemic's effects on larger cities like Memphis and New Orleans were no less catastrophic than its effects on small towns. In ten days, twenty-five thousand people fled Memphis, and one third of the remaining twenty thousand citizens succumbed to the disease. The effects on commerce were devastating. Communications and trade were stopped almost entirely throughout the lower Mississippi Valley, and trains were packed with fearful refugees. Meanwhile travel between towns was hampered by the many local quarantines which turned away newcomers at the point of shotguns. New Orleans estimated that it lost \$5,000,000 in commerce due to the 1878 epidemic.

The 1878 Act shifted regulatory control of quarantine regulations to the federal government. The Act authorized the Surgeon-General to create rules and regulations for quarantine enforcement, so long as those rules did not "conflict with or impair any sanitary or quarantine laws or regulations of any State or municipal authorities..."<sup>13</sup>

The caveat that federal regulations not contradict state laws reflected the view that quarantine and health regulation remain a state police power. In ways, the statute went further than simply allowing the Surgeon General to create regulations; it also authorized state and municipal health officers to "act as officers or agents of the national quarantine system." The statute provided that "there shall be no interference in any manner with any quarantine laws or regulations as they now exist or may hereafter be adopted under State laws."<sup>14</sup>

In 1888, Congress enacted "An Act to Perfect the Quarantine Service of the United States," that provided for penalties for violations of quarantine laws and established new quarantine stations.<sup>15</sup> In reac-

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tion to smallpox epidemics in Hong Kong, Congress authorized the construction of a quarantine station on California's Angel Island.

With yellow fever continuing, 1890 brought the Interstate Quarantine Act that authorized the MHS to prevent the interstate transmission of cholera, yellow fever, smallpox, and bubonic plague.<sup>16</sup>

In 1891 Congress provided for the exclusion of those with "loathsome or dangerous contagious disease[s]."<sup>17</sup> The Act mandated medical inspection of immigrants at port of entry. The Act was aimed to prevent the ingress of immigrants carrying yellow fever, cholera, and plague and was deemed pivotal after an 1890 cholera epidemic in Europe and Asia. Congress also authorized medical inspection of immigrants in the 1892 Immigration Act providing for the exclusion of "convicts, lunatics, idiots, and others unable to care for themselves."

In 1896, the Supreme Court passed upon the validity of federal quarantine powers under the Commerce Clause and the simultaneous power held by states to implement their own quarantines in *Bartlett v. Lockwood*<sup>18</sup> in 1896. The Court upheld the "authority of Congress to establish quarantine regulations to protect the country...and...its commerce from contagious and infectious diseases."<sup>19</sup> It also, however, recognized that this federal power did not invalidate state laws relating to the same policy domain, citing Congress's decision "in view of the different requirements of different climates and localities and of the difficulty of framing general law upon the subject, ...to permit the several States to regulate the matter of protecting the public health as to themselves seemed best."

Another 1896 case presented the question of whether state or federal laws would prevail in the case of conflict, in *Hennington v. Georgia* where Justice Harlan stated:

"If the inspection, quarantine, or health laws of a State, passed under its reserved power to provide for the health, comfort, safety of its people, come into conflict with an act of Congress, passed under its power to regulate interstate and foreign commerce, such local regulations, to the extent of the conflict, must give way in order that the supreme law of the land — an act of Congress passed in pursuance of the Constitution—may have unobstructed operation."<sup>20</sup>

This case established that federal power would help enforce state laws regarding maritime travel, it would neither negate the commerce power nor federalize state quarantine laws. This ruling left little question that Congress could enact quarantine laws and the Surgeon General could enforce them even if those laws conflicted with

state quarantine laws.

The 1893 Act had to avoid both Constitutional and political pitfalls from the "states' rights" side of the issue, but also opposition from those who wanted a comprehensive federal public health organization.

19th century legislation was directed at immigrants; 20th century legislation had to address immigration, tourism and business travel of a magnitude never contemplated by the 19th century legislation.

The most severe test came with the 1918 influenza pandemic, (Spanish Flu) caused by an H1N1 virus with genes of avian origin. Although no consensus exists regarding where the virus originated, in the US, it was first identified in military personnel returning from World War I.

Some 500 million people or one-third of the world's population became infected with this virus. The number of deaths was estimated to be 50 million worldwide with about 675,000 in the US. Mortality was high in children under 5, adults 20-40 years old, and 65 years and older. The high mortality in healthy people, including those in the 20-40 year age group, was unique.

While the H1N1 virus has been studied, the properties making it devastating are still not well understood. With no vaccine to protect against influenza infection and no antibiotics to treat secondary bacterial infections, control efforts were limited to nonpharmaceutical interventions such as isolation, quarantine, personal hygiene, use of disinfectants, and limitations of public gatherings, that were applied unevenly.

The global pandemic lasted two years, but there was a "second wave" caused by returning troops that were largely unregulated. In October 1918, more than 195,000 Americans died. Autopsies showed significant lung damage. The failure of the federal government to impose large scale quarantines with a shortage of nurses was blamed for the spread and high death rate.

A third wave developed in Australia, spreading back to Europe and the US. It is believed that President Woodrow Wilson contracted the Spanish Flu in 1919 while in Paris negotiating the Versailles Treaty to end World War I.<sup>21</sup> Ironically the White House stayed totally silent.<sup>22</sup>

1. © Eric Taussig, Law Office of Eric Taussig, Privacy Compliance Group LLP

2. *The Nation*, 4/24/20 by George Black

3. 381 U.S. 479 (1965); 405 U.S. 438 (1972); 410 U.S. 113 (1973); 539 U.S. 558 (2003)

4. ([https://www.nytimes.com/2020/05/15/nyregion/barber-virus-kingston-ny.html?campaign\\_id=44&emc=edit\\_](https://www.nytimes.com/2020/05/15/nyregion/barber-virus-kingston-ny.html?campaign_id=44&emc=edit_)

[ur\\_20200516&instance\\_id=18552&nl=new-york-today&regi\\_id=5305792&segment\\_id=28082&te=1&user\\_id=5d3cbc4a8023b3068f9563e0613ff347](https://www.nytimes.com/2020/05/15/nyregion/barber-virus-kingston-ny.html?campaign_id=44&emc=edit_)

5. Mary Mallon (September 23, 1869 – November 11, 1938), also known as Typhoid Mary, was an Irish-born cook believed to have infected 53 people, three of whom died, with typhoid fever, and the first person in the United States identified as an asymptomatic carrier of Spanish Flu.

6. Williams, Ralph Chester, M.D., The United States Public Health Service, 1798-1950. Commissioned Officers Association of the United States Public Health Service, Washington, D.C., 1951, pp. 63-65.

7. *Ibid*, pp.67-69.

8. "An Act relative to Quarantine", May 27, 1796. Fourth Congress, Session I, Ch. 31, 32

9. "An Act respecting Quarantine and Health Laws," February 25, 1799. Fifth Congress, Session III, Ch. 12

10. Joint Resolution providing for a more effective System of Quarantine on the Southern and Gulf Coasts," June 6, 1872. Forty-Second Congress, Session II, Res.

11. [www.nih.gov](http://www.nih.gov), NIH timeline and "An Act to Prevent the introduction of contagious or infectious diseases into the United States," April 29, 1878. Forty-Fifth Congress, Session II. Ch. 66.

12. An Act to Prevent the introduction of contagious or infectious diseases into the

United States," April 29, 1878. Forty-Fifth Congress, Session II. Ch. 66, Section 2

13. *Id.*, Section 2

14. *Id.*, Section 5.g

15. The penalties provided for in the Act included "a fine of not more than three hundred dollars" and/or "imprisonment for a period of not more than thirty days". The quarantine stations authorized by the Act included those at the Delaware Bay, at Cape Charles on the Chesapeake Bay, on the Georgia coast, at Key West, at San Diego Harbor, at San Francisco Harbor, at Port Townsend, and at the entrance to Puget Sound. "An Act to perfect the quarantine service of the United States," August 1, 1888. Fiftieth Congress, Session I, Ch. 727.

16. 51st Congress, Session I, Chapter 51, March 27, 1890: "An Act to prevent the introduction of contagious diseases from one State to another and for the punishment of certain offenses."

17. *Id*

18. 160 U.S. 357 (1896)

19. 160 U.S. 357; 16 S. Ct. 334. January 6, 1896, pp. 361-362.

20. *Hennington v. Georgia*, (1896) 163 U.S. 299, 309.

21. See *New Yorker*; 04/17/2020

22. *Id.*

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is pleased to announce that  
**Attorney Kirsten J. Allen**  
has joined the firm  
as an Associate Attorney

She will focus her practice on business and civil litigation,  
personal injury and insurance matters.

Kirsten is a 2020 graduate of the  
University of New Hampshire  
Franklin Pierce School of Law.

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*Welcomes Erin York to the firm*



**Erin York**  
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eyork@devinemillimet.com

Devine Millimet welcomes our newest Associate, Erin York to the firm's Manchester, New Hampshire office. Erin participated in the firm's 2019 Summer Associate Program and was offered a full-time position upon graduation.

Erin is a member of Devine Millimet's transactional department and engages with a variety of clients and colleagues. She works to provide and advocate for her clients whether they need assistance with corporate, real estate, or estate planning ventures.

Prior to working at Devine Millimet, Erin attended Boston College Law School where she was able to gain valuable legal experience through internships, clinics, and pro bono work. These opportunities included working at The Supreme Court of the Navajo Nation writing legal briefs for the Chief Justice, spending a summer at the Norfolk County Juvenile Court in Dedham, MA, and advocating for children through the Juvenile Rights Advocacy Program at Boston College.

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MILLIMET**  
ATTORNEYS AT LAW

*Welcomes Pierre A. Chabot to the firm*



**Pierre A. Chabot**  
Shareholder  
(603) 695-8780  
pchabot@devinemillimet.com

Pierre Chabot has joined Devine Millimet as a Shareholder in its Litigation Department where he advocates for organizations and individuals before administrative agencies, trial courts and appeals courts, in order to put their most difficult problems in the rearview. Pierre counsels clients through these challenges, helping them understand the range of potential outcomes, so that they can make intelligent decisions about whether to a fight a case all the way through an appeal, negotiate an early resolution, or to take some intermediate path that best meets their goals.

Employers, manufacturers, colleges, universities and healthcare providers engage Pierre's assistance to resolve a far-ranging set of challenges. For employers, he frequently handles claims of employment discrimination, retaliation and whistleblower cases, along with wage and hour disputes. He represents colleges and universities in employment cases, along with investigating and resolving general liability claims. For manufacturers, Pierre frequently defends cases alleging that their product injured consumers, including cases involving many hundreds of claimants. Additionally, for healthcare providers, he works to resolve allegations that their actions were the legal cause of a serious injury or even death.

Pierre graduated from Hofstra University School of Law, *cum laude*, and Middlebury College, *magna cum laude*, and is admitted to practice law in New Hampshire, the U.S. District Court of New Hampshire, the U.S. District Court of Vermont, the U.S. First Circuit Court of Appeals, and the U.S. Supreme Court.

**Business, Commercial & Financial Litigation | Dispute Resolution & Litigation | Personal Injury & Property Damage | Employment & Employee Benefits Litigation  
Labor, Employment & Employee Benefits | Educational Institutions | Insurance Defense | Engineering & Construction Law**

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# WADLEIGH STARR & PETERS PLLC

is pleased to welcome



**Tierney M. Chadwick**  
as Member of the Firm

Attorney Chadwick's practice consists of medical malpractice defense, legal malpractice defense, construction litigation, product liability insurance defense and toxic tort defense. She has represented individual healthcare professionals, attorneys, medical facilities, small businesses, and corporations throughout her career.

*and*

**Gretchen M. Wade**  
as Associate Attorney

Gretchen is a 2020 graduate of Ave Maria School of Law. Prior to joining us, she interned with Chief Judge, Landya McCafferty at the US District Court, District of NH, the NH Department of Justice Office of the Attorney General, and the United States Attorney's Office for the Middle District of Florida.



95 Market Street Manchester, NH 03101  
603.669.4140 [www.wadleighlaw.com](http://www.wadleighlaw.com)

# WELCOME

Sheehan Phinney welcomes  
Jonathan Voegele to the firm's  
Business Litigation Group.



**Jonathan R. Voegele**  
Litigation Shareholder  
603.627.8326  
[jvoegele@sheehan.com](mailto:jvoegele@sheehan.com)

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## DEVINE MILLIMET ATTORNEYS AT LAW

**Theo Vougias**  
*has been admitted as a Shareholder of the firm*



**Theo Vougias**  
Shareholder

(603) 695-8534  
[tvougias@devinemillimet.com](mailto:tvougias@devinemillimet.com)

Devine Millimet is pleased to announce that Theo Vougias has been elected as a Shareholder of the firm, effective January 1, 2021.

Theo joined Devine Millimet in August of 2014 and is a member of the firm's Trusts and Estates Practice Group. Theo assists individuals and families with the preparation of wills, revocable trusts, irrevocable trusts, special needs trusts, financial powers of attorney, advance directives for health care, and other documentation related to comprehensive estate planning. He also assists clients with trust and estate administration matters and has several years of experience in the area of elder law, special needs trust planning and estate and trust administration. He has previously presented on Special Needs Trusts and ABLE Account programs for the NH Bar.

Theo earned his B.S. from the University of Massachusetts at Lowell and his J.D. from the University of New Hampshire School of Law and is admitted to practice law in Massachusetts and New Hampshire. Theo is a member of the Trust & Estate section of the NH Bar and the NH Estate Planning Council. He is also a graduate of the Leadership Greater Manchester Class of 2019.

Theo is a lifelong member of St. George Greek Orthodox Cathedral, and currently serves on the Board of Directors for St. George Greek Orthodox Cathedral and Granite State Independent Living.

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DONAHUE, TUCKER & CIANDELLA, PLLC  
IS PLEASED TO ANNOUNCE THAT  
**CHRISTOPHER D. HAWKINS**  
HAS JOINED THE FIRM

Chris comes to DTC as a litigator with 20 years of experience representing clients on various issues including construction claims, municipal and land use law, complex commercial and civil issues, professional liability and discipline and negotiating contracts.



Chris is admitted to practice in  
New Hampshire, Maine,  
Massachusetts and Connecticut.

Offices in Exeter,  
Portsmouth, Meredith  
and Concord, NH

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## DOUGLAS, LEONARD & GARVEY, P.C.



is pleased to announce that

**Megan E. Douglass**

has been elected a member of the  
firm.

Megan concentrates in the areas of employment law, civil rights, education law, and personal injury. Megan, a graduate of Temple University and the University of New Hampshire School of Law, has been admitted to practice in New Hampshire since 2009 and has been with the firm since 2017.

DOUGLAS, LEONARD & GARVEY, P.C  
14 South Street, Concord, NH 03301  
603-224-1988 • 603-229-1988 (fax)  
[www.nhlawoffice.com](http://www.nhlawoffice.com)

## Upton & Hatfield<sup>LLP</sup>

### Congratulations to Our New Partners

Diverse Experience, Personalized Attention



Over an almost 20-year career, Sabrina has earned a reputation as an accomplished attorney representing a diverse group of clients. As a partner, she will continue as a member of the firm's Business, Real Estate, Estate Planning and Probate, and Personal Injury practice groups. She also handles the firm's Bankruptcy matters. Sabrina is a member of the New Hampshire, Massachusetts, and Florida Bar Associations.

Sabrina C. Beavens



Susan has a well-established practice representing individuals, businesses, and municipalities in the firm's Business, Employment Law, Personal Injury, and Municipal practice groups. She is admitted to practice in New Hampshire, the United States District Court for the District of New Hampshire, and the First Circuit Court of Appeals. Susan currently serves on the NH Bar Association Board of Governors and the Board of the Rockingham County Bar Association.

Susan A. Lowry



Michael focuses on serving the needs of municipalities and their local administrative boards. He is a member of the firm's Municipal practice group and his practice areas include General Counsel, Zoning and Land Use, and Insurance Law. He is a member of the New Hampshire and Massachusetts Bar Associations. Michael currently serves as the Vice Chair of the Municipal & Government Section of the NH Bar Association.

Michael P. Courtney



Law Office of  
**Manning & Zimmerman**  
PLLC

*Manning & Zimmerman welcomes  
Allison Siwacki, Esq. to the firm*

Attorney Allison Siwacki focuses her practice on personal injury matters, including car crashes, premises liability, and wrongful death cases. She also represents injured workers in their workers' compensation claims.



Allison earned her Law Degree from the University of New Hampshire Franklin Pierce School of Law, where she participated in the Daniel Webster Scholars program. We are thrilled to have her join our Team!

**87 Middle Street, Manchester, NH 03101**  
**(603) 624-7200**  
[www.MZLawNH.com](http://www.MZLawNH.com)

## Congratulations

Rainboth, Murphy & Lown is pleased to announce that James E. Coughenour, Jr. has been elected as a firm partner.



James E. Coughenour, Jr.  
Partner  
603.431.1993  
[jcoughenour@nhtrialattorneys.com](mailto:jcoughenour@nhtrialattorneys.com)

James has been a member of Rainboth, Murphy & Lown since October of 2013 and focuses his practice on worker's compensation and personal injury matters.

**RAINBOTH, MURPHY & LOWN, PA**  
439 MIDDLE STREET | PORTSMOUTH, NH 03801  
TELEPHONE: (603) 431-1993 | FACSIMILE: (603) 431-8333 | [WWW.NHTRIALATTORNEYS.COM](http://WWW.NHTRIALATTORNEYS.COM)



**SMITH-WEISS SHEPARD & SPONY, P.C.**

*Attorneys*

We are pleased to announce

**Brittney M. White**

has joined our firm as an Associate.

Attorney White earned her BS Degree in Law and Society at Western New England University and her JD from Western New England School of Law. She is admitted to practice in New Hampshire and the United States District Court for the District of New Hampshire.



Attorney White practices in the areas of criminal law, family law, abuse and neglect matters, probate administration, landlord-tenant law and she uses her persuasive writing skills to represent parties in appellate matters.

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(603) 883-1571



**WE HAVE RELOCATED**

**Van Dorn, Curtiss, Rousseau & Ross, PLLC**

84 Hanover Street  
Lebanon NH 03766

*Phone numbers and email addresses remain the same*



# Continuing Legal Education GUIDE

February  
2021

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

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

## Calendar Overview

### FEBRUARY 2021

**18** Thursday • Noon - 1:00 p.m.  
LLC Practice: Operating Agreements for NH Single-Member LLCs Whose Members are Individuals and for Those Whose Members are Entities

- Webcast
- 60 min.

**23** Tuesday • Noon - 1:00 p.m.  
Tech Tuesdays! Avoiding Death by Powerpoint/Courtroom Presentation Technology with Paul Unger

- Webcast
- 60 min.

**25** Thursday • Noon - 1:00 p.m.  
How Millennials Will Change 3 Key Ethics Concepts w/Stuart Teicher

- Webcast
- 60 min. ethics/prof.

### MARCH 2021

**9** Tuesday • Noon - 1:00 p.m.  
Tech Tuesdays! It's Time for an Upgrade: Much Better Methods for Drafting Complex Documents w/Barron Henley

- Webcast
- 60 min.

**10** Wednesday • 9:00 a.m. - 4:00 p.m.  
Signposts on the Tax Road

- Webcast
- 360 min. incl. 60 ethics/prof. min.

**11** Thursday • Noon - 1:00 p.m.  
LLC Formation Practice: Risks Under the NH Rules of Professional Conduct & Under NH Malpractice Law

- Webcast
- 60 min. ethics/prof.

**17** Wednesday • Noon - 1:00 p.m.  
Traps for the Unwary: Probate Administration & Litigation

- Webcast
- 60 min.

**18** Thursday • Noon - 1:00 p.m.  
What to Watch Out for in a Post-COVID World w/Stuart Teicher

- Webcast
- 60 min. ethics/prof.

**23** Tuesday • Noon - 1:00 p.m.  
Tech Tuesdays! Document Assembly Technology: What it Can Do for Your Practice & How to Evaluate the Players w/Barron Henley

- Webcast
- 60 min.

## CLE HIGHLIGHT

Join the "CLE Performer," Stuart Teicher, as he examines a variety of thoughtful topics with frankness and humor!



### How Millennials Will Change 3 Key Ethics Concepts

February 25 - 12:00 - 1:00 p.m.

60 Ethics Min.

The most talked about generation in a long time is bringing a changed mindset to the practice, and that's good. This program will focus on the impact of Rule 1.4 Communication, 5.1 Supervision, and 2.1 Advisor.

### What to Watch Out for in a Post-COVID World

March 18 - 12:00 - 1:00 p.m.

60 Ethics Min.

Supervising lawyers in a post-COVID world is going to be unique. Explore the challenges facing lawyers in a remote environment. (Rule 5.1, Rule 1.6 & Privilege Issues and Rule 1.1)

### Semicolons are Stupid and Other Legal Writing Myths

March 25 - 12:00 - 1:00 p.m.

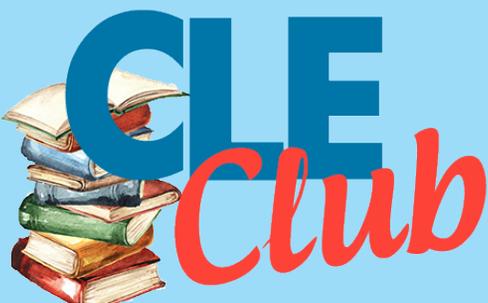
60 General Min.

Learn how small elements like punctuation take a lawyer's writing skills to new levels.

[nhbar.inreachce.com](http://nhbar.inreachce.com)

## How to Register

All registrations must be made online at [www.nhbar.org/nhbacle](http://www.nhbar.org/nhbacle)



The NHBA•CLE program is once again offering its *CLE Club* for NH Bar Members!

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<p><u>Breakfast/Short In-person, Live Webcasts &amp; Online Seminars</u></p> <p>Regular Price: \$99 • <b>CLE Club Price \$65</b></p>	

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## Tech Tuesdays *with* Barron Henley & Paul Unger



Barron Henley



Paul Unger

Join us for Tech Tuesdays with Barron Henley and Paul Unger from Affinity Consulting! These vital programs will take a deep dive into technology for the law office. All programs run from Noon to 1:00 p.m.

- ▶ **Avoiding Death by PowerPoint/Courtroom Presentation Technology** - Paul Unger 2/23/21
- ▶ **It's Time For an Upgrade – Much Better Methods for Drafting Complex Documents** - Barron Henley 3/9/21
- ▶ **Document Assembly Technology – What It Can Do For Your Practice and How to Evaluate the Players** - Barron Henley 3/23/21
- ▶ **Microsoft Excel Power Tips for Legal Users**- Barron Henley 4/13/21
- ▶ **Dropbox for Legal Professionals – How to use it Safely, and is it Right for your Organization?** - Paul Unger 4/27/21
- ▶ **Communication Breakdown – It's Always The Same (But It's Avoidable)** - Barron Henley 5/11/21
- ▶ **How to Protect Yourself and Preserve Confidentiality When Negotiating Instruments** - Barron Henley 5/25/21
- ▶ **Avoiding Malpractice: The Good, the Bad and the Ugly of Legal Technology** - Paul Unger 6/8/21
- ▶ **What Every Lawyer Should Know About Developing a Cybersecurity Plan** - Paul Unger 6/22/21

If you missed any of the previous TECH TUESDAY programs, they are now available ON-DEMAND.



## New Hampshire LLC Formation Practice Series

Are you forming an LLC Practice or are you looking for more information on the ins and outs of LLC Practice in NH? Look no further! These programs cover all the issues you need to know.

- ▶ **Operating Agreements for NH Single-Member LLCs Whose Members are Individuals & for Those Whose Members are Entities** - February 18, 2021 Noon - 1:00 p.m. 60 min.
- ▶ **LLC Formation Practice-Risks Under the NH Rules of Prof. Conduct & Under NH Malpractice Law** - March 11, 2021 Noon - 1:00 p.m. 60 min. ethics/prof.
- ▶ **Federal & NH Tax Provisions Useful or Required in the Operating Agreements of LLCs Taxable as Partnerships & S Corporations** - April 1, 2021 Noon - 1:00 p.m. 60 min.

### Faculty

**John M. Cunningham**, Law Office of John M. Cunningham, PLLC, Concord

**Amanda L. Nelson**, Artium Amore, PLLC, Dover

If you missed any of the previous NH LLCs programs, they are now available ON-DEMAND.



## Traps for the Unwary

*Brought to you by the NHBA's New Lawyers Committee*

Noon- 1:00 p.m.  
Webcast Only • 60 min.

- ▶ **February 10, 2021 - Litigation**  
Kirk Simoneau **NOW AVAILABLE ON DEMAND!**
- ▶ **March 17, 2021 - Probate**  
Andrea Schweitzer/Caitlin McCurdy
- ▶ **April 14, 2021- Family Law/Divorce**  
Katerina Kalabokis
- ▶ **May 12, 2021 - Landlord Tenant**  
Laurie Young/Katherine Hedges
- ▶ **June 2, 2021 - Automobile Accidents**  
Stephanie Tymula/Nicole Perreault
- ▶ **June 16, 2021 - Workers' Compensation**  
Laurie Young/Lance Tillinghast

Thank you to the NHBA's New Lawyers Committee for organizing these programs for NH Bar members!

If you missed any of the previous TRAPS FOR THE UNWARY programs, they are now available ON-DEMAND.



## Signposts on the Tax Road

**Wednesday, March 10, 2020**

9:00 a.m.- 4:00 p.m.

Webcast Only • 360 min. incl. 60 ethics/prof.

*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: 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 other areas.

### Faculty

**Lucy S. Rooney**, Program Chair/CLE Committee Member, Connolly & Rooney, PLLC, New London

**Daniel J. Connolly**, Connolly & Rooney, PLLC, New London

**Amy E. Drake**, McLane Middleton Professional Association, Manchester

**Nicole A. (Faile) Forbes**, Sheehan Phinney Bass & Green, Manchester

**Beth L. Fowler**, McLane Middleton Professional Association, Manchester

**Anu R. Mullikin**, Devine, Millimet & Branch, PA, Manchester

**Kristin A. Ross**, Van Dorn, Curtiss, Rousseau & Ross, PLLC, Orford



## Insurance Law 2021

**Thursday, May 6, 2021**

9:00 a.m.- 4:00 p.m.

Webcast Only • 360 min. incl. 60 ethics/prof.

This program features a faculty of some of the most experienced insurance law practitioners and civil litigators in the state, and will cover topics from auto and uninsured motorist coverage to homeowners and commercial liability policies and everything in between.

### Faculty

**Peter E. Hutchins**, Program Chair/CLE Committee Member, Law Offices of Peter E. Hutchins, PLLC, Manchester

**Doreen F. Connor**, Primmer Piper Eggleston & Cramer, PC, Manchester

**Todd J. Hathaway**, Wadleigh, Starr & Peters, PLLC, Manchester

**Russell F. Hilliard**, Upton & Hatfield, LLP, Portsmouth

**Tamara Smith Holtslag**, Peabody & Arnold, LLP, Boston

**Elizabeth L. Hurley**, Getman, Schulthess, Steere & Poulin, PA, Manchester

**Mark L. Mallory**, Morrison Mahoney, LLP, Manchester

**Christopher P. McGown**, Wadleigh, Starr & Peters, PLLC, Manchester

**Adam R. Mordecai**, Primmer Piper Eggleston & Cramer, PC, Manchester

**Roger D. Turgeon**, Turgeon & Associates, Haverhill, MA



For more information go to [nhbar.org/nhbacle](http://nhbar.org/nhbacle)

Washington University and asked to speak to the dean of admissions – without an appointment.

Once in the room, “The dean said, ‘I don’t know George, we’ve never admitted anyone from Hartwick College before, so we might be taking a chance on you,’” Bruno recalls. “I said, ‘well, you might be taking a good chance.’”

He got his L.L.B. from George Washington University in 1967.

On a fellowship, Bruno was then assigned to the Newark, New Jersey Legal Services Project, his first client being John Smith, a Black cab driver who was arrested and beaten by police, sparking six days of civil unrest.

“He was arrested for a moving violation and something we called the holy trinity of charges – disorderly conduct, assault upon a police officer and resisting arrest,” Bruno says. “Whenever a Black person was arrested in Newark in those days, in addition to the primary charge, they would also get charged with the holy trinity.”

Charges against his client were eventually dropped, “but John Smith was the sort of client that kept on giving,” Bruno says. “It wasn’t only a case of defending him in municipal court against the criminal charges, but it gave us the opportunity to address police violence, the makeup of the grand jury, the makeup of petit juries. I was part of a legal team that worked for him for several years going through municipal court, U.S. District Court, the 3rd Circuit Court of Appeals, the New Jersey superior courts, the appellate division, the state Supreme Court.”

Such work was part of the fellowship’s purpose, “challenging the establishment and the way things were always done and trying to eliminate injustice and pockets of discrimination,” Bruno says.

That challenging once involved knocking on a judge’s door at 10 p.m. one night seeking relief for a woman with two children whose landlord had turned off the heat. Standing in the doorway in his pajamas and robe, the judge signed a writ and the heat was shortly back on. “That was a good moment,” Bruno says.

So was the moment when he heard the U.S. Supreme Court’s decision in a case he had argued – at the age of 29 – on behalf of an Essex County, New Jersey woman who was receiving disability payments from the county and applied for federal Social Security disability payments. When she got a check for back payments of roughly \$20,000, the county promptly attached her bank account. Bruno argued it had no right to do so, and after arguments through multiple courts, the Supreme Court agreed, setting a precedent that would spare countless recipients a similar ordeal.

Bruno says he found the work with the Legal Services Project “career-forming.” It also brought him to New Hampshire.

After serving as the acting head of the Newark Project in his late 20s, Bruno decided to move back to the northeast “for the rural life I was more familiar with” and applied for a job to create New Hampshire Legal Assistance. He started on Feb. 1, 1971.

He recalls that some members of the Bar balked at the new organization, calling him a communist and a socialist, while others – including top legal names like Dave Nixon, Kimon Zachos, Ed McDermott, Jack Sanders, Dave Bradley and Fred Upton – helped get it off the ground.

Bruno speaks with pride of the office’s accomplishments during his tenure, including writing legislation to create a consumer advocate on the Public Utilities Commission, fighting a second reactor at the Seabrook nuclear power plant and creation of the New Hampshire Housing Finance Authority, a tenants’ bill of rights, welfare reform, state prison conditions reform and mental health reform.

More recently, he is representing Chen Guangcheng, a Chinese lawyer and human rights advocate who was jailed in China for his opposition to forced abortion under the Chinese “one-child” policy and who is now living in asylum in the United States. Bruno secured green cards for him and his family, and is now working with fellow attorney Lina Shayo to win them citizenship.

Immigration law has long been part of his practice and led him to establish his own firm, LawServe (now Mesa Law) in Manchester. In 2008, he interviewed a man named Enrique Mesa for a position as as-



President Biden with New Hampshire Immigration attorney George Bruno. Courtesy Photo

sociate attorney and Mesa eventually became a partner and later purchased the firm from him.

“George has always been very progressive by not only giving this first-generation Cuban American an amazing opportunity but he also did the same with my now law partner, Lina Shayo, who is a Kenyan American,” Mesa says.

With Meredith attorney Robert E. McDaniel, Bruno is now representing a non-citizen immigrant who worked for years as an undercover informant for federal law enforcement officials with the understanding he could remain in the United States if he did so – only to be told under the Trump administration he had 29 days to leave the country. The case is still pending before the First Circuit Court of Appeals.

“From this intense piece of litigation, I learned everything anyone needs to know about George Bruno,” says McDaniel. “I saw his refinement, his intellect, his quiet, well-mannered and disciplined personality, his precision and his firm and powerful presence. I know George as a dedicated and supremely professional attorney who is a credit to lawyers across the globe.”

Bruno also sees a relationship between the law and politics, believing “it’s the duty of the citizen to be involved in the civic affairs of one’s community... You can’t solve all problems in a courtroom.”

He was an unsuccessful candidate for Congress in the late 1970s, and for Executive Council in 1990, but was elected to the New Hampshire Constitutional Con-

vention from the town of Merrimack in 1980. An active Democrat, he has been a town committee member, state committee member, state party treasurer and state party chair, and served on the Democratic National Committee for 12 years.

While serving as state party chair, he had what he calls “the fight of my life” when the national party chairman, Charles Manatt, wanted to strip New Hampshire and Iowa of their first-in-the-nation primary and caucus standings. Bruno helped forge an alliance with Iowa, brought all the presidential candidates to New Hampshire and had them sign a pledge that if elected they would support continuing the New Hampshire and Iowa traditions. “They signed,” he says. “The national party chairman sent up a peace gesture in the end and the primary survived to live another day.”

Bruno was also an early “friend of Bill,” and organized Bill Clinton’s “come-back kid” campaign in New Hampshire that helped him land the presidency. The work led Clinton to appoint Bruno ambassador to Belize after his 1993 inauguration – a position Bruno held for three years.

Bruno has also worked for the U.S. Departments of State and Defense, and has traveled to more than 55 countries speaking on human rights and democracy, participating in election observation missions and conducting diplomacy. Now semi-retired, he continues to offer lectures through the Granite State College OLLI (Osher Lifelong Learning Institute) and other organizations, and is a principal in the consulting firm USA Group International.

Among the many awards he has received for his work are the Bar Association’s Daniel Webster International Lawyer of the Year in 2013 and the Temple Adath Yeshurun Brotherhood Man of the Year in 2018. In 1998, the Lawyers Committee for Civil Rights Under Law honored him for courage in the fight for civil rights.

He is characteristically modest about his accomplishments.

“That’s the beauty of New Hampshire,” he says. “You could sort of make your own life and work hard and hopefully accomplish something.”

## Membership Status Changes

*Presented to the Board of Governors January 21, 2021*

### Active to INACTIVE:

Webb, Brendan, Madison, WI (Dec. 2, 2020)  
Clark, Jacob, Burlington, VT (Dec. 14, 2020)  
Ladd, William, Cornish, NH (Dec. 18, 2020)  
Evelyn, Genna, Quebec, Canada (Dec. 18, 2020)  
Perez-Sparks, Sierra, New Haven, Conn. (Dec. 18, 2020)  
Loukes, Nicholas, Saco, ME (Dec. 31, 2020)  
Bittinger, William, Brooklyn, NY (Dec. 31, 2020)  
Stockwell, Jr., Craig, Lincoln, RI (Dec. 28, 2020)  
Palmer, Cori, Arlington, MA (Jan. 1, 2021)

### Active to INACTIVE RETIRED:

Vore, Courtney, Amherst, NH (Dec. 8, 2020)  
Kneeland, Richard, Pomfret Center, CT (Dec. 31, 2020)  
Karlin, Jeffery, Deerfield, NH (December 31, 2020)  
Brown, Nancy, Lebanon, NH (Dec. 31, 2020)  
Tober, Stephen, Portsmouth, NH (Dec. 31, 2020)  
Weinstein, Barry, Manchester, NH (Dec. 31, 2020)  
Landry, Timothy, Hopkinton, NH (Dec. 30, 2020)  
Bernard, Eric, Bedford, NH (Dec. 30, 2020)  
Hotchkiss, Darrell, Hanover, NH (Dec. 31, 2020)  
Babin, Kathryn, Plymouth, NH (Dec. 31, 2020)  
Smith, Lawrence, Alton Bay, NH (Dec. 31, 2020)  
Hall, Margaret, Milford, NH (Dec. 31, 2020)  
Gray, Kenneth, Portland, ME (Dec. 31, 2020)

### Active to MILITARY INACTIVE :

Gold, Samuel, New York, NY (Dec. 18, 2020)

### Active to SUSPENDED:

Burns, Christopher, Portsmouth, NH (Jan. 5, 2021)  
Jackman, Norman, Cambridge, MA (Jan. 5, 2021)  
Piper, Joseph, Belmont, NH (Jan. 5, 2021)  
McCarthy, Brendan, Manchester, NH (Jan. 6, 2021)  
O’Connell, Dennis, Peculiar, Mo. (Jan. 4, 2021)  
O’Neill, Deborah, Lynnfield, MA (Jan. 4, 2021)  
Cengher, Carly, Concord, NH (Jan. 4, 2021)  
Nadeau, Justin, Hampton, NH (Jan. 4, 2021)  
Eyet, Alina, Bernardsville, NJ (Dec. 30, 2020)

### Inactive to ACTIVE:

Denis, Michael, Durham, NH (Dec. 15, 2020)  
Driscoll, Christopher, Lynn, MA (Dec. 21, 2020)  
Ballard, Patricia, Concord, NH (Jan. 13, 2021)

### Inactive to INACTIVE RETIRED:

Cody, Leo, Billerica, MA (Jan. 1, 2021)

### Inactive to RESIGNED:

Cohn, Elliot, Santa Margarita, CA (Dec. 15, 2020)

### Inactive to SUSPENDED:

Brooks, Christopher, S. Royalton, VT (Jan. 6, 2021)  
Antinori, Michael, West Palm Beach, FL (Dec. 30, 2020)  
Lenzi, Matthew, Brooklyn, NY (Dec. 30, 2020)

Griffin, Georgia, Atlanta, GA (Dec. 30, 2020)  
Harris, Kristen, Avon, CT (Dec. 30, 2020)  
Derry, Eric, Norwich, VT (Dec. 30, 2020)

### Inactive Retired to SUSPENDED:

Donovan, III, Daniel, Amherst, NH (Dec. 30, 2020)

### Inactive Retired to DECEASED:

Berube, Michael, Somersworth, NH (Jan. 4, 2021)

### Inactive Retired to PRO BONO ACTIVE:

Allmendinger, James, Portsmouth, NH (Dec. 9, 2020)

### Honorary Active to HONORARY INACTIVE:

Beckett, William, Durham, NH (Dec. 31, 2020)  
Reische, Alan, Manchester, NH (Dec. 30, 2020)  
Basbanes, George, Dunstable, MA (Dec. 31, 2020)

### Honorary Active to DECEASED:

Drescher, William, Amherst, NH (Dec. 30, 2020)

### Suspended to INACTIVE:

Wade, Gregory, Boston, MA (Nov. 22, 2019)

### Suspended to DECEASED:

O’Brien, Edward J., Keene, NH (Jan. 14, 2017)

### Suspended to DISBARRED:

Reed, Michael, Raymond, NH (Jan. 13, 2021)

# Virtual Restorative Justice Event Discusses Diversion Programs in New Hampshire, Vermont

Event hosted by Granite State News Collaborative, NH Bar News, and Monadnock Ledger Transcript

By Adam Urquhart  
Granite State News Collaborative

Diversion programs are praised by participants and program directors alike as being a successful tool used to keep kids out of the criminal justice system.

While some youth caught breaking the law in both New Hampshire and Vermont may be fortunate enough to receive a second chance through the various diversion programs available, those same opportunities are not always available for adults, at least in New Hampshire. When dealing with individuals facing lower level criminal charges - such as a minor caught in possession of marijuana - many working in the criminal justice field look to these alternatives to incarceration as a successful tool used to handle the offender, rather than taking the costly punitive route inside a courtroom.

"I think it's a cost-effective program and I think that is certainly an argument you could bring to potential legislators, is it's much less expensive, as you know, to have community volunteers and non-profits providing these services compared to cases going through court systems where you have lawyers who are paid - it's just sort of, it's basic math," Willa Farrell, director of court diversion and pretrial services at the Vermont attorney general's office said.

However, diverting individuals down this alternative path does not equate to a get-out-of-jail-free card, so to speak. Rochester juvenile court diversion program graduate Dillon Guyer, recalls having to address the issue at hand right off the bat, which led him toward completing diversion when he got

in trouble as a high school senior for smoking pot.

"You have to accept guilt," Guyer said. "You have to admit responsibility. It's not just a walk in the park."

Guyer at the time had two options. He could complete the program or not graduate high school. Now, in the years since completing the program he has built himself up as both a business owner and community volunteer, while also continuing to be a strong proponent for these sorts of programs.

In January, he shared his story and experience navigating through diversion as a panelist during a restorative justice themed event hosted by the Granite State News Collaborative, with its partners at NH Bar News and Monadnock Ledger Transcript.

The online event drew dozens of professionals directly involved in this sort of work to discuss various points revolving around the concept of restorative justice and related topics, delving into the question of does diversion work?

The notion that this alternative does indeed work was made clear early on, and many online attendees would likely prefer this sort of community based, accountability-focused response to low-level offenders like Guyer as opposed to seeing an individual create a criminal record for themselves, especially among the youth - many of whom have endured Adverse Childhood Experiences (ACEs) in the years leading up to their criminal charge.

These ACEs are traumatic events an



individual experiences in their life that occur before age 18. These experiences include dealing with a divorce, emotional and physical neglect and substance use disorder to name a few.

Leading up to skipping school to smoke weed, Guyer's past included ACEs such as living in a divorced household and being one of five children. Four of the five children had a myriad of mental disabilities and physical disabilities, which Guyer explains resulted in him always being put on the back burner.

"I was always the kid that wasn't paid attention to," Guyer said. "I was always the kid that, as long as I was doing good in school, you know, as long as I wasn't hurting anybody else, I was okay."

However, as Guyer got further into adolescence he began experimenting with alcohol and marijuana around age 13, even going on to try drugs that he said some people don't even try in their entire life. He credits the Rochester juvenile court diversion program spearheaded by chair Nicole Rodler

for the current success he has achieved in the time since.

Panelist Carol Plante, who is the director at Hardwick Area Community Justice Center highlighted during the discussion how looking at ACEs is really important, citing that Vermont does a pretty good job with that. One thing she believes is not often acknowledged is trauma, adults living with trauma and responding out of their childhood traumas.

"I think with adults we want to look at an adult and say, 'oh, they're an adult. They can make their own decisions. They're fully informed and they're educated or whatever.' That's not necessarily the case. And so I think there needs to be an acknowledgement that that exists for a lot of people in addition to issues around inequities and everything else including all of the things that contribute to why people end up making some of the decisions that they do."

Farrell, who was also a panelist during the virtual conversation, cited how when people go into the system, it increases their risk of re-offending. She also believes that is an important argument for keeping people out of the system in an effective way that is likely going to be more effective in terms of people recognizing and understanding the effects of their behavior on others.

*These articles are being shared by partners in The Granite State News Collaborative. For more information visit collaborativenh.org.*

## SRO from page 1

let us know and by then it was too late to charge him with a crime. It just fell absolutely flat, which is not the purpose of a diversion program."

"Once we got burned we will never extend out any of our cases," Gould continued. "For that lack of communication and for it to be just left like that, that showed me it was a person who didn't give a crap."

Referring juveniles to other programs "would be less work on our part," she adds, "but we (she and Rodler) both are pretty passionate about the purpose behind the system, the rehabilitation of kids. When you're not held accountable for anything, no rehabilitation is going on. When no one takes you to task, how do these kids learn from it?"

The percentage of youths referred for diversion by SROs statewide is another unknown, as many of those cases are lumped with the other diversion recommendations within police departments.

Nor is data available on how often SROs handle in-school offenses without recommending either diversion or court action - instead relying on practices like "warn, counsel and release" for minor infractions.

"The SRO's position is a very complicated one in the schools," says Rodler. "It's very important to keep confidence in the officers, that counsel and release is effective, and that's what they're finding nationally, that the majority of juveniles outage delinquency. They just stop. If you're a teenager, your impulsivity is not under control. You do dumb things."

The willingness of parents to work



SRO Anthony DeLuca greets students at Rochester Middle School in Feb. Photo/Allegra Boverman

with youngsters in diversion programs is another variable cited by SROs. If the parents don't meet their part of the terms agreed to in the diversion plan, their kids are likely to end up in court - even if the kids have been holding up their share of the bargain.

Balint says he has had a few cases that have been referred back to court because of parents not cooperating with the diversion plan they agreed to. "It's unfortunate because the kids are pretty good kids," he says. "They're just making stupid mistakes and a lot of it has to do with the home front."

School resource officers in Nashua and Manchester are also involved in a program meant to prevent hostile encounters between young people and police from developing in the first place. The Mirror Project seeks to build good relationships

between officers and students through things like role-reversal play acting, where students are the police and vice-versa in a made-up situation like a fight in a park.

"With our kids, the ones most apt to be called down to the principal's office turn out to be the ones most involved, who interact most, in that program," says Jackson.

Sgt. Anthony DeLuca, a school resource officer at Rochester Middle School, points out that SROs typically consider themselves part of a team, and work with everyone from principals to school guidance counselors to keep youngsters out of the juvenile justice system and to provide education on things like good decision-making and the dangers of drug use.

"Most of the time it (diversion) is going to work if the kids and the parents want it to work," he adds. "If I got into trouble at

that age, I'd be praying for a program like this."

Diane Casale, coordinator for the Greater Derry Juvenile Diversion Program - serving Derry, Londonderry, Salem, Chester, Windham, Sandown, Atkinson, Plaistow and Auburn -- agrees.

"They're a very important part of the justice system," she says of SROs. "They're the first in line. We have the opportunity to work with youth and keep them out of the system and why would we not want to do that?"

## Granite State News Collaborative Restorative Justice Project

Over the past six months, the Granite State News Collaborative, in collaboration with the *Bar News* and the *Monadnock Ledger Transcript*, has been working on a series that explores restorative justice and court diversion in New Hampshire. Future articles in this series will focus on adult court diversion programs and a comparison between New Hampshire's and Vermont's programs. These articles will be published in the coming months as part of an ongoing project that examines and seeks solutions for issues of race and diversity in New Hampshire.

For more information, contact [melanie.plenda@collaborativenh.org](mailto:melanie.plenda@collaborativenh.org).

## Professor John Greabe Helps Students Navigate Unprecedented Times

By Ivy Attenborough

We all navigate the intensified political landscape in our families, workplaces, and classrooms. Most people choose to sidestep direct conversation about controversial topics to maintain harmony. But how do we address the hard questions while preserving order and dignity?

Professor John Greabe shows the UNH Franklin Pierce School of Law 1L class how it is done during Constitutional Law.

Although the partisan climate differs from 4, 8, and 12 years ago, Professor Greabe says that students have not. Difficult hypothetical questions about the constitutionality of statutes implementing the most controversial practices, he points out, have always been hard to answer.

“The topics are not harder to talk about. The question I want students to answer is ‘How do I develop constitutional arguments within charged contexts?’”

Rather than focusing on personal feelings about what is constitutional, Professor Greabe encourages students to build fact-based legal arguments to support those positions. Since so many of the topics of Constitutional Law are in the news, students are experiencing precedent in the making.

“There are constantly new things I am trying to add to make sure everything essential is included. It is definitely a challenge without removing other essential topics and cases,” Professor Greabe says, adding that he approaches the course without allowing biases to corrupt his method of teaching. “There is no denying that the former President defied traditional norms, on a purely factual basis.”



To avoid impacting how students perceive the material he teaches, Professor Greabe explains that he “finds it most effective to introduce everyone to the range of views, and to have students work out their own working hypotheses.” When students ask for his

personal opinions on a topic, Professor Greabe says he chooses not to give it.

“I want students to sincerely believe that all I want is for them to be familiar with the range of perspectives and to begin to work out their own theories,” he says, explaining that he does not want to corrupt students’ understandings of the concepts.

When it comes to navigating the pandemic, Professor Greabe notes that “the current 1L class seems particularly hungry for extra ways to connect.”

Because of this, he has created multiple ways to stay connected outside of class, such as virtual coffee chats and office hours, as well as an online discussion board. In most classes, students dread a discussion board because they can make it feel like you are shouting into the void with no real purpose other than to gain credit. In this class, the boards are optional. They allow students to continue discussions they deem worthy to maintain outside of class and engage with other students; in short, they have become the location where interesting debates can happen without taking away from the neces-

sary material.

Since there are so many new topics to cover, these optional sessions let students address questions that could take up remaining instruction time. Rather than seeing the number of discussions decrease, they have shifted to different modes. Students have maintained the level of respect Professor Greabe expects with online learning and he says that the amount of interaction has stayed relatively steady.

“People who have participated will always continue to participate.”

In his years teaching Constitutional Law, Professor Greabe has noticed that students often lack a strong foundation of civics, the study of citizenship. Not only is a strong civics education important for understanding the interaction between the Constitution and the legal system, he says, but it is also crucial for being an informed and active citizen in an everchanging democracy.

“In recent decades, teaching civics has been less of a priority,” he says.

As the demand for workers in STEM fields increased, schools have geared their curriculum towards training students for science and math focused jobs, Professor Greabe says.

“There is good reason for it. These are good jobs and fill a critical national need,” he says.

But current political events may be evidence of a decreasing focus on citizenship and democracy.

“If we are to have government by ‘We the People,’ we have to educate ‘We the People’ about that form of government.”

Professor Greabe suggests supplemental reading for students to complete prior to the start of the course to allow students who find their civics education lacking.

The decreasing focus on civics education creates other problems as well. People who were younger during world-changing events are growing up and becoming involved in politics with a different perspective than older generations. The collective experience of living through 9/11 or the Clinton impeachment may not have a shared meaning for people of younger generations. For example, at 21, I have no personal memory of the aforementioned events.

The context within which I view tragic terror attacks or massive political events is fundamentally different from those who could experience them before me. A difference in perspective, however, does allow for interesting and enlightening class discussions. Younger students are creating the lens they use to see the political world, and older students are noticing differences between past and current times. Professor Greabe is there to guide us all—young, old, experienced, and novice—as we navigate the unprecedented times in Constitutional Law.

*Ivy Attenborough is a first-year law student at UNH Franklin Pierce School of Law and a monthly contributor to Bar News.*

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### Needs from page 1

the report confirmed what was already known by those working in the legal aid community.

“Areas in which the civil legal aid programs already focus – such as housing and family law – remain acute needs for the communities we serve,” she said, adding that the problem of finding enough legal aid to meet New Hampshire’s needs continues to be a problem moving forward.

“There’s just not enough legal aid to go around. We need to look at new strategies, such as clinics that can leverage the efforts of volunteer attorneys and law students, and new tools, such as the online programming we’ve quickly learned to deliver during the pandemic.”

According to the report 20 percent of telephone survey respondents who had a household member with a disability had experienced problems with debt collection, compared to 9 percent of respondents who did not have a household member with a disability.

“We found that debt collection impacts people with disabilities more frequently than people without disabilities,” Mattson Dustin said. “The civil legal aid programs do not handle a high volume of consumer debt cases currently, and the report tells us that we need to look at expanding our work in that area. We also need to take a look at how we coordinate outreach across the whole legal aid network, including NHLA, LARC, Pro Bono, and DRC. We all share a goal of making the legal aid system easier to understand and access, and the report’s findings support making that goal a high priority.”

The study demonstrates that while economic insecurity, health and aging, are not civil legal problems on their own, they are interconnected with various civil legal problems. According to the report respondents identified problems with health/aging as causing the most harm in their lives and came

in second only to the COVID-19 pandemic. One of the individuals featured in the report who was able to take advantage of legal aid was Diane.

According to the report, Diane, 73, said she prided herself on paying her bills on time, and that losing her nursing job during the Great Recession didn’t change that. While looking for new work, Diane used her retirement savings to pay for rent, utilities, and groceries then turned to her credit card when the retirement money was gone. When she couldn’t find another nursing job, Diane took a part-time, minimum wage job through the Senior Community Service Employment Program but eventually credit card debt forced her to contact legal aid for help.

“I had no money and no family to help me,” Diane said. “I was sinking deeper and deeper and couldn’t see my way out. The frustrating part of it was that I was dutifully looking for work and coming up against a wall.”

Pro Bono paired Diane with a volunteer attorney who recommended she file bankruptcy. Diane initially resisted but is glad she took the advice.

“I was embarrassed,” Diane said. “But my lawyer told me I did not have to feel ashamed or embarrassed and helped me understand that bankruptcy was there for people like me who are in a pickle and need a new start. It is such a huge relief not to have that debt anymore.”

One of the conclusions of the study that Mattson Dustin said, “came through loud and clear,” is the shortage of low cost and no cost legal help in New Hampshire and around the country.

“LARC and Pro Bono plan to merge this year, and the merged program will collaborate even more closely with NHLA and DRC,” she said. “All of the legal aid programs need more funding to meet the demand for our services, but working together we can increase our collective impact.”

## The Role of the Additional Insured

By Kenneth E. Rubinstein and  
Nicholas A. Dube



Rubinstein



Dube

Insurance can be an effective tool for reducing and allocating risk. Insurance terms, however, can be confusing, and clients often misunderstand the level of protection they may be receiving. This is particularly the case when dealing with “Named Insureds,” “Additional Insureds,” and “Additional Named Insureds”—three terms that may sound alike, but have very different meanings and convey very different rights and obligations.

Liability insurance policies typically provide defense and indemnity for parties named in the policy, protecting against claims due to personal injury, property damage, or death. In defining the persons or entities entitled to these protections, the policies typically include three types of designations: “Named Insureds,” “Additional Insureds,” and “Additional Named Insureds.”

The “Named Insured” is the owner of the insurance policy, and the one who is actu-

ally named in the insurance contract as the primary insured on the policy. Where the insurance policy covers a business or corporate entity, the entity purchasing the policy is typically (though not always) a named insured. Most insurance policies require the insurer to send any premium notices, notices of cancellation, or other formal notices to the named insureds.

Insurance policies may also protect other individuals or entities, who are added to the policy through a policy amendment called an “endorsement.” The endorsement may name specific individuals or entities or may include a “blanket additional insured endorsement,” which does not name a specific insured, but instead offers a general description of the type of individuals or entities who are entitled to coverage under the named insured’s policy.

These “Additional Insureds” are entitled to defense and indemnity under the applicable policy where the claim at issue arises out of the acts or omissions of the named insured. Additional insureds will not receive defense or indemnity under a policy for causes that do not arise from the named insured’s actions. Because the additional insureds do not hold the same “primary” status as named insureds, additional insureds typically do not pay any policy premiums and do not usually receive notice of policy changes (unless special requirements are included in the policy). The cost of adding an additional insured endorsement is usually low, when viewed in comparison to the premiums for being the named insured. This is because insurance

companies typically consider that there is limited additional risk where they are already insuring the named insured, whose conduct must be implicated for there to be a covered claim.

Additional insured status is often used to fulfill another party’s duty to defend and indemnify as party of a contract. A common example occurs where a contractor hires a subcontractor to perform work on a construction project. The contractor will typically require the subcontractor to indemnify and defend the contractor for any liabilities that may arise from the subcontractor’s work, and will often require the subcontractor to have them listed as an additional insured under the subcontractor’s insurance policy.

This requirement is designed to ensure that the subcontractor will be able to fulfill its indemnity obligation should the need arise. Even where an underlying indemnity agreement is deemed unenforceable, an indemnified party may still be able to recover the costs of its liability under the policy as an additional insured. It is also beneficial for a party to be covered as an additional insured since it reduces the loss history of the additional insured, which can ultimately lead to lower premiums. Instead, any losses from claims post against the policies of primary insured, and their premiums would likely increase.

Where a contractor is listed as additional insured, the contractor is entitled to insurance protection if the subcontractor or its agents do something that creates liability for the contractor. However, if a third party unre-

lated to the subcontractor causes the damage, the contractor may not be covered. Likewise, if claim against the contractor is based upon the contractor’s own actions (without regard to the subcontractor’s performance), the contractor will not be entitled to coverage under the additional insured endorsement on the subcontractor’s policy.

“Additional Named Insureds” typically have the same rights as the named insured without the obligation for the policy’s premium. They are frequently corporate affiliates or owners of the primary named insured. Additional named insureds are entitled to indemnity and defense for claims against them without the requirement that claims must be related to the primary named insured. Insurance carriers are generally obligated to provide notices to additional named insureds regarding cancellation or policy changes.

An additional insured amendment is a useful vehicle to complete the risk transfer associated with a promise to indemnify. Parties using this approach should be careful, however, to fully understand the coverage they are receiving in order to avoid unnecessary gaps and uncovered risks.

*Kenneth E. Rubinstein is a Director with Preti Flaherty Beliveau & Pachios and co-chair of the firm’s Construction Law and Litigation Practice Group. Nicholas A. Dube is associate with Preti Flaherty and also is a member of the Construction Law and Litigation Practice Group.*

## Insurance Issues for Transgender Clients

By Catherine Tucker

Transgender persons are people who feel their assigned physiologically based sex does not match their true internal gender identity. Many transgender persons choose to live according to their gender identity rather than the sex designation they were assigned at birth. As lawyers, we can assist our transgender clients by reviewing their insurance policies and helping them formulate appeals and court challenges to inappropriate exclusions of care.



### Coverage for Medical Transition Care

Many transgender people choose to have some type of medical treatment to alter their physical appearance to be more in line with their preferred gender. This can include hormone treatments and gender confirmation surgery, along with therapy for the diagnosis of “gender dysphoria.” For those persons who desire surgery, having insurance coverage can be the deciding factor in determining whether they can have their desired surgery.

The availability of insurance coverage for transition related medical care varies widely around the country. The debate centers around whether the care is “medically necessary.” Historically, insurance companies have declared that medical transition care is merely “cosmetic” or “experimental.” Thus, such care was often specifically excluded from coverage. However, recent changes to

New Hampshire law have transformed the availability of such insurance coverage.

A 2020 amendment to New Hampshire law prohibits health insurance carriers from discriminating based on gender identity with respect to the availability of any covered services, medications, supplies, or durable medical equipment. RSA 415:15. Such discrimination is expressly deemed an Unfair Insurance Trade Practice which can be penalized by the Insurance Commissioner. RSA 417:4, VIII.(b). Subsequent to the passage of these new provisions, the New Hampshire Insurance Commissioner issued a bulletin explaining that insurance policies cannot have blanket exclusions for health care services related to gender transition. Bulletin INS 20-033-AB.

Therefore, insurance policies issued under New Hampshire law should (in theo-

ry) have full coverage for transition related medical treatment, subject to medically based guidelines. Lawyers should pay careful attention to any non-medically supported requirements, such as lengthy waiting periods, psychological testing, assessment under depression indexes, and second opinions.

### Coverage for Fertility Preservation

Before undergoing medical transition, transgender people may have the option of preserving their future fertility by freezing gametes. Adult and teenage physiological males may be able to produce sperm for storage, and adult and teenage physiological females can have eggs retrieved through in vitro fertilization (IVF) procedures. There is currently no good way to preserve fertility

TRANSGENDER continued on page 27

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Steve Lauwers  
slj@rathlaw.com



Adam Varley  
acv@rathlaw.com

## Businesses Largely Without First Party Insurance Coverage For Losses On Account Of Pandemic, Despite Coverage Lawsuits

By Tamara Smith Holtslag

It has now been more than a year since the first Covid-19 case was reported in the United States in January 2020, and March 13, 2021, will mark one year since Governor Chris Sununu issued the first executive order declaring a state of emergency in New Hampshire. It is an understatement to say that, over the course of the past year, New Hampshire business owners (especially small business owners, restaurants, retail shops, lodging and recreational services, which are staples of the New Hampshire economy) and their employees have suffered financially and otherwise as a result of the pandemic. It has been reported that hundreds of New Hampshire businesses have permanently closed since the pandemic began.

Some New Hampshire businesses, and certainly large numbers of business owners across the nation, have sought relief from their financial hardships in a variety of ways. As is relevant to this article, many have sought coverage for “business interruption” or lost revenue from their commercial insurers; and many such claims have been denied.



Unsurprisingly, then, there has been a surge in insurance coverage suits filed across the country. According to UPENN Law, which publishes a “tracker” for property casualty insurance coverage litigation related to the Covid-19 pandemic, at least 1,467 such cases (and likely more) have been filed across the nation as of this writing. Thus far, only one of those tracked cases has been filed in the New Hampshire Courts. However, where the policy provisions being interpreted by the courts are often standard form policy provisions, the body of decisional law that is the outgrowth of these cases will likely have persuasive value across jurisdictions.

Of those tracked “business interruption” cases, there have been 192 judicial rulings, with the rulings largely for the insurers, to wit: 146 cases (76%) were fully dismissed with prejudice; 38 cases (19.7%) were dismissed without prejudice; 2 cases (1%) were partially dismissed; and 6 cases (3%) resulted in summary judgment in favor of the policyholder. Some of the earliest rulings on such first-party coverage cases, starting with those of last summer - *Gavrilides Management Co. LLC v. Michigan Ins. Co.*, No. 20-258-CB, 2020 WL 4561979 (Mich.Cir.Ct. July 21, 2020), *Rose’s 1, LLC v. Erie Ins. Exchange*, No. 2020 CA 002424 B, 2020 WL 4589206 (D.C.Super. Aug. 06, 2020), and *The Inns By the Sea v. California Mut. Ins. Co.*, No. 20CV001274, 2020 WL 5868739 (Cal.Super. Aug. 06, 2020) - all had rulings in the

insurers’ favor.

In the one New Hampshire case noted, *Schleicher and Stebbins Hotels LLC v Starr Surplus Lines*, Case No. 217-2020-CV-00309, plaintiffs are owners of various hotels in NH, MA and NJ, alleging that the property damage they have suffered, along with the orders of civil authority associated with the coronavirus, has caused tens of millions of dollars in business income losses. The plaintiffs seek first party coverage under the “all risk” insurance policies issued to them by the defendant insurers, pursuant to provisions for “business interruption” and acts of “civil authority.” Various dispositive motions have been filed, and briefing is ongoing.

In neighboring Massachusetts, over two dozen coverage actions have been filed, with only one ruling on the merits thus far out of the Massachusetts Superior Court. In that case, *Verveine Corp. v. Strathmore Insurance Company, et. al.*, Docket No. SUCV2020-1378-BLS2, the plaintiff restaurant owners allege, like other suits being tracked, that their insurers wrongly denied coverage for the business losses that they incurred on account of the Governor’s orders, which forced them to operate at significantly reduced capacity. The plaintiffs sought coverage under the “Business Income (and Extra Expense)” and “Civil Authority” provisions.

On the first coverage point, the insurers in *Verveine* argued, and the court agreed,

that the “direct physical loss of or damage to property” as used in the Business Income and Extra Expense provisions, required that the physical state of the property in question must be altered in order for there to be coverage. In so holding, the Court noted the longstanding precedent that “physical loss” in the commercial insurance context does not include intangible losses, nor does it include the diminution in value. The Court also looked to the cases of other jurisdictions that have already ruled in similar Covid-borne coverage litigation, stating, “a majority of courts across the country called upon to decide insurance coverage claims involving losses occasioned by Covid-19 have concluded that restrictions on the use of the an insured’s property due to government orders are not ‘physical losses or damage’ within the meaning of provisions similar to the one before this Court.” The judge noted the absence of any allegation that the Covid-19 virus was actually present in the restaurants, only alleged loss of income. Moreover, the judge relied on *Couch on Insurance*, §148.46 (3d ed. 2019), noting that “‘physical loss’ has been ‘widely held to exclude losses that are intangible.’”

On the second point and the claim for coverage under the “Civil Authority” provision, the judge in *Verveine* summarily dispensed with the argument that such a claim was satisfied under the wording of the policy.

INSURANCE continued on page 27

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**Insurance** from page 26

In so holding, the court noted that the plaintiffs were still allowed to access and operate as restaurants, albeit at diminished capacity. The “Civil Authority” coverage, by contrast, is “available only when there is ‘damage to property other than property at the described premises’ and some action is taken by a civil authority that ‘prohibits access’ to the insured property,” neither of which the court found.

This ruling in *Verveine* is consistent with the majority of rulings across the country interpreting similar policy language, as noted above, suggesting that first-party coverage actions are unlikely the saving grace for struggling businesses in New Hampshire or elsewhere.

Hopefully, with vaccinations becoming more available for those who desire inoculation, and with Spring on the horizon, such coverage suits need not be the answer; and New Hampshire businesses can rebound in 2021.

*Tamara is a partner at Peabody & Arnold LLP who regularly advises clients and litigates insurance coverage and other civil matters in the Massachusetts and New Hampshire courts. She is the founder and Chair of the NHBA’s Insurance Law Section.*

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**Transgender** from page 25

for pre-pubescent boys and girls, and women older than 40 years old.

In New Hampshire, fully insured health plans are required to cover the costs associated with procuring sperm. Specifically, RSA 417-G:2, III. requires coverage for fertility preservation before a person undergoes transition related surgery or other medical treatment that is recognized to cause a risk of impairment of fertility. Benefits are for screening of the patient, collection of samples, preparation and freezing of samples, and short-term storage. Longer term storage is only an optional benefit, so patients need to be prepared for some out-of-pocket costs.

When it comes to storing eggs, the process is both expensive and intrusive, requiring hormone treatments, bloodwork, transvaginal ultrasounds, and surgical extraction of the eggs. Many patients choose not to undergo the procedures. For those who do wish to proceed, the availability of insurance coverage is critical. As with sperm, New Hampshire fully insured health plans are required to cover screening of the patient, collection of eggs, preparation and freezing of eggs, and short-term storage. Again, long-term storage is not a mandatory benefit. Lawyers should be aware that the law specifically forbids the use of arbitrary limits based on the number of attempts or dollar amounts of coverage utilized. RSA 417-G:3, I.(c). This does not mean unlimited attempts, however. A specific patient can be denied coverage based on their advanced age or if other factors make their success rate too low to justify the procedure. RSA 417-G:3.

What we are seeing is insurance carriers are not always tailoring their coverage policies to what New Hampshire law requires. For example, the policy may only permit one egg retrieval cycle. Therefore, attorneys need to be prepared to identify defects in coverage policies and pursue appeals and challenges based on these deficiencies. Attorneys should be aware that the appeals process can cause much distress for a transgender person because their medical transition is delayed during the appeal, so there is urgency to getting underway quickly.

**Coverage for Establishing Pregnancy**

When it comes time to use the stored eggs or sperm, there will be additional costs for the use of assisted reproduction to establish a pregnancy.

Some transgender males may wish to become pregnant themselves, and will go off hormone therapy to allow this to happen. As long as the person still has a uterus, this can be an option for them. If they still have ovaries, they may be able to establish pregnancy through sexual activity or insemination with sperm.

However, if the person needs to use their frozen eggs, then expensive IVF procedures are required. Specifically, the eggs need to be combined with sperm, cultured in the laboratory, and then a resulting embryo transferred to the patient’s uterus. RSA 417-G:2, II. provides insurance coverage for these steps as they constitute medically necessary fertility treatment.

In some cases, a gestational surrogate will be needed. Lawyers should be prepared for blanket denials for surrogacy-related

care. However, this is not consistent with New Hampshire law, which requires coverage for at least a portion of the process. Specifically, making the embryos is covered, but insurance companies are allowed to exclude costs related to the transfer of the embryo(s) to a gestational surrogate. RSA 417-G:3, IV. Lawyers should verify their client is receiving all statutorily mandated coverage when a surrogate is utilized.

Transgender females can utilize their own frozen sperm to establish pregnancy in either their spouse/partner or a surrogate. Lawyers should understand that the quantity of such sperm is limited. For best use of this limited resource, IVF is recommended because one vial of sperm can create many embryos. Intrauterine insemination and cervical insemination are less effective and can require multiple vials of sperm for one pregnancy. Therefore, lawyers should be on the lookout for coverage policies that require a set number of insemination attempts before authorizing use of IVF. For a client with 20 vials of stored sperm, the requirement of six insemination attempts may be acceptable, but this is not equally true for a client with only five vials.

Advising transgender clients with regards to insurance coverage requires a detailed knowledge of the medical care at issue. Lawyers need to be watchful of insurance requirements that do not comport with appropriate medical or legal requirements.

*Catherine Tucker is an attorney in Loudon, New Hampshire who focuses her practice on assisted reproduction law. Her pronouns are she/her/hers.*

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# 2020 Stimulus Bill Brings More Changes to Employee Benefit Plans

By John E. Rich, Jr.

On December 27, 2020, President Trump signed into law the COVID-Related Tax Relief Act of 2020, part of H.R. 133, the Consolidated Appropriations Act, 2021, (the “Act”). Although the initial political focus was whether the Act’s \$600 per individual direct payment was sufficient, the 5,593-page legislation contains numerous provisions that will impact employer sponsored benefit plans for years to come. The Act follows the 2019 SECURE Act and the 2020 CARES Act in making significant changes to the Tax Code and other federal laws impacting benefit plans. Below are some of the key provisions relating to welfare plans, retirement plans and other employer provided benefits.



“In addition to the changes to FSAs and DCSAs, the Act contains numerous welfare benefit plan changes designed to provide greater cost transparency and improve employee health care plan outcomes.”

remaining in FSAs and DCSAs from 2020 to 2021 and from 2021 to 2022. Employers are also permitted to extend the grace period for a plan year ending in 2020 or 2021 to 12 months after the end of the applicable plan year, with respect to unused benefits or contributions remaining in a FSA or DCSA account.

Employers are also permitted to allow employees to change FSA or DCSA elections in 2021 without a change in status and are permitted to allow former employees who stop participation in a plan during calendar year 2020 or 2021 to receive reimbursements from unused FSA benefits or contributions through the end of the plan year in which participation ceased (including any grace period). The Act also contains a special carry forward rule for DCSAs where the dependent aged out during the pandemic. Cafeteria plans will require retroactive amendments to adopt the FSA and DCSA changes but amendments do not have to be made until the end of the 2021 plan year at the earliest.

In addition to the changes to FSAs and DCSAs, the Act contains numerous welfare benefit plan changes designed to pro-

vide greater cost transparency and improve employee health care plan outcomes. For example, the Act contains several provisions prohibiting health plans and insurers from entering into contracts that keep cost and quality of care information from plan participants, employers or referring providers. The Act requires disclosure of direct and indirect compensation for brokers and consultants to employer-sponsored health plans and enrollees in plans on the individual market. In addition, Tax Code Section 9816 has been added which provides that for plan years beginning January 1, 2022, group health plans must implement procedures to prevent surprise medical bills typically occurring in connection with out-of-network medical providers when an emergency or other issue forces the use of the out-of-network provider.

### Retirement Plans

The Act provides relief for employers from the partial plan termination rules of Tax Code Section 411(d)(3) which requires full vesting of retirement plan accounts if a partial plan termination occurs. Normally, whether a partial termination has occurred

is a facts and circumstances determination made after the plan year has ended with a presumption of partial termination if a plan has suffered a 20% decline in participants. The Act provides that a plan won’t be treated as having a partial termination during any plan year which includes the period beginning on March 13, 2020, and ending on March 31, 2021, if the number of active participants covered by the plan on March 31, 2021 is at least 80% of the number of active participants covered by the plan on March 13, 2020.

The Act also enacted retirement plan disaster relief distribution, loan, and re-contribution rules that had been made part of the Tax Code previously in response to prior disasters. Under this version of disaster relief, “qualified disasters” include those occurring after December 28, 2019 that are declared disasters by the President. Individuals who reside in a disaster area may take plan distributions up to \$100,000 without being subject to the Tax Code 10% tax on early distributions and may repay the amount distributed during a three-year period. In addition, loan limit for loans from qualified plans are increased from \$50,000 to \$100,000 for individuals who reside in a disaster area and for new and outstanding retirement plan loans, the repayment period is also extended for one year. The COVID-19 pandemic is not a qualified disaster for these purposes.

PLANS continued on page 31

### Welfare Plans

The Act enacts a number of temporary changes to the rules for Section 125 cafeteria plan health flexible spending arrangement (“FSAs”) and dependent care flexible spending arrangements (“DCSAs”). The Act codifies and expands the rules enacted in IRS Notice 2020-29 for 2020 and extends them into 2021. Employers are permitted to allow employees to carry over any unused benefits or contributions



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# Key Federal Tax Issues in Forming Multi-Member LLCs

By John Cunningham

Ideally, any New Hampshire lawyer who handles LLC formations should be thoroughly versed not only in the Revised New Hampshire Limited Liability Company Act and in the legal issues potentially significant in forming single-member and multi-member LLCs, but also in the relevant federal and state issues; he or she should be both a law expert and a tax expert. This is because the legal and tax provisions in LLC operating agreements are often interactive: The way you address an operating agreement legal provision may affect the way you address a tax provision, and vice versa.

Thus, if you know LLC law but not LLC tax, you shouldn't form even a relatively simple single-member LLC except in coordination with an expert in LLC tax. And ideally, that expert should be an LLC tax lawyer, not an accountant, since the lawyer will know not only the relevant tax rules but also how to address them in operating agreements. Some accountants possess the former type of knowledge; very few possess the latter.

To illustrate, below are four major LLC federal tax issues that arise often in drafting operating agreements for New Hampshire multi-member LLCs. Even if you lack any



tax expertise, you should at least be aware of these issues and address them with the LLC tax expert with whom you associate yourself.

**1. Tax choice of entity.** Before you ever draft an operating agreement for a multi-member LLC, you need to determine which federal tax regimen will govern the LLC and its members, since any operating agreement should have at least basic federal tax provisions in it, and these provisions will vary dramatically depending on the federal tax regimen of the LLC in question.

The federal tax regimen choices are between Internal Revenue Code Subchapters C, K and S. In drafting the operating agreement for the LLC in question, you need to carry out a process known as "tax choice of entity." First, you must do a traditional tax choice of entity, in which you compare which of these three federal tax regimens is best from a federal income tax and Social Security Tax viewpoint. Second, you must do a tax choice of entity under Internal Revenue Code section 199A. Sometimes the determination under the first tax choice of entity differs from that determination under the second. If this happens, complex tailored drafting may be necessary, such as the use of S corporations to hold the LLC memberships of high-income members.

**2. The "Prop. Reg."** Many members and managers of multi-member LLCs who are individuals want to reduce the Self-Employment Tax (the "SET") they will owe on their shares of the income of their LLC. There is a little-known but powerful pro-

posed U.S. Treasury regulation designated Prop. Reg. § 1.1402(a)-2 that provides a lawful structure for achieving this reduction. The Prop. Reg. was issued on January 13, 1997 as a mere proposed regulation, and, for political reasons, it may never be issued as a final regulation. However, the Internal Revenue Service has stated a number of times in public forums that it views the Prop. Reg. as its Self-Employment Tax audit regulation. The Prop. Reg. can provide annual SET savings to individuals who are members of multi-member LLCs amounting to thousands of dollars. Whenever you form a multi-member LLC with one or more individuals as members, you need to determine whether the capital structure of the LLC should reflect the capital structure required by the Prop. Reg.

**3. Section 199A and section 761(c).** Section 199A provides that individuals who are members of multi-member LLCs and whose joint or individual taxable income for the relevant taxable year is less than their section 199A "threshold amount" can obtain annual federal income tax deductions of up to 20% of their net business income if their LLCs are taxable as partnerships. Section 199A threshold amounts for married couples are \$329,800; for most other taxpayers, it is \$164,925.

However, to maximize their LLC net business income and thus their pass-through deductions, it is critical that the operating agreements of these individuals provide that they will be compensated for their services to or for their LLCs in the form of distributions

of LLC income, not in the form of salaries (called "guaranteed payments" in partnership tax terms).

But if their operating agreements provide for guaranteed payments for past or current taxable years, these individuals may be able to realize the maximization of their section 199A pass-through deductions for their current and past taxable years by retroactive amendments of these agreements under IRC section 761(c).

**4. The Bipartisan Budget Act partnership audit rules.** Many individuals who are joining multi-member LLCs as members want to hold their memberships in revocable trusts that are key documents in their estate plans; and, for added liability protection, many other members may want to hold their memberships in single-member LLCs of which they are the members.

However, effective January 1, 2018, the Bipartisan Budget Act of 2015 imposes harsh new partnership audit rules on multi-member LLCs that have any members that are trusts or single-member LLCs. Under these rules, entities taxable as partnerships that have trusts or single-member LLCs as members are taxable (with certain narrow exceptions) as if they were C corporations.

Thus, you should normally advise individuals who will be members of multi-member LLCs whose operating agreements you are drafting that they should hold their memberships not through trusts or single-member

LLCs continued on page 31

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## Residential Rental Property Businesses May be Eligible for 2018 and 2019 Income Tax Refunds

By Kenneth H. Silverberg,  
Brian Kenney



Silverberg



Kenney



Many large residential real property (RRP) rental businesses have been hurt by the business interest deduction disallowance enacted in the 2017 Tax Cuts and Jobs Act (TCJA). Previously, it has been too costly for them to make the TCJA election to slow their depreciation and earn an exemption from the interest deduction limitation. The Consolidated Appropriations Act, 2021 (CAA) might enable them to file refund claims for 2018 and 2019 and avoid losing future interest deductions.

The TCJA imposed new limitations beginning in 2018 on the deduction for business interest expense for large taxpayers (those with annual gross receipts exceeding \$25 million). Businesses could choose either to carry over the excess interest expense or elect, under Sec. 163(j)(7) (the election), to ignore the new limi-

tations in exchange for depreciating their residential and nonresidential real property and their qualified improvement property under the slower Alternative Depreciation System (ADS) rules. The TCJA rule required a 40-year depreciation schedule for existing property in exchange for waiving the interest deduction limitation. Only projects placed in service after 2017 were eligible for the shorter 30-year schedule.

The depreciation price tag for making the election was too much for many RRP rental businesses, so they accepted the interest deduction limitations instead. Congress has now reduced the price and allowed businesses to reconsider, retroactively to January 1, 2018.

The CAA, which was signed by the president on December 27, 2020, changed the ADS rules, effective as of the same date

it introduced the interest deduction limitation, January 1, 2018. Now, all rental RRP existing and in-service before 2018 need only change from 27 1/2-year straight-line depreciation to 30-years.

This will make the election more cost-effective for RRP rental businesses that had substantial portfolios of property in service on December 31, 2017. If the election now makes sense at this reduced price, the CAA permits late elections back to 2018 so that taxpayers can claim refunds. (The Joint Committee estimated the federal budget impact of this change to be over \$1.2 billion in 2021 alone; presumably, most of this amount would come from amended-return-refunds paid to RRP rental businesses.)

This is good news for large RRP rental owners. Here's what we know.

Businesses that made the election for 2018 or 2019 but were forced to use the 40-year life for existing projects can now amend their returns for 2018 and 2019 to claim refunds for the additional depreciation.

Because the CAA change is a technical correction to the ADS depreciation law, it is neither a change in use of the property nor a change in accounting method.

Note that this shorter life is not available to RRP rental businesses that were already using the ADS system for this class of property before 2018, nor is it available to property financed by the use of tax-exempt bonds.

Businesses that did not make the election previously and that would like to do so now can amend their 2018 and 2019 returns and claim immediate refunds.

Once made, the election is irrevocable and will apply to all of this class of depreciable property. (Remember that the election only applies to real property and not personal property, like appliances and furniture.)

Making the election triggers a "change in use" for the affected existing property. Therefore, the change to conform to ADS depreciation rules is not a change-of-accounting method, which would require IRS permission. The applicable rules are Treas. Reg. 1.168(i)-4(d) and Section 4.02(2)(b)

REFUNDS continued on page 31

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**Plans** from page 28

**Student Loan Payments and Paid Family and Medical Leave**

The Act extends the prior CARES Act provision that allows employers to make payments of up to \$5,250, tax free, toward employees' student loans through the end of 2025. To take advantage of the provision, an employer must adopt a plan compliant with Tax Code Section 127. The Act extends the tax credit for paid family and medical leave set to expire on December 31, 2020 through 2025. The credit is equal to 12.5% of eligible wages if the rate of payment is 50% of such wages and is increased by 0.25 percentage points (but not above 25%) for each percentage point that the rate of payment exceeds 50%. The maximum amount of family and medical leave that may be taken into account with respect to any qualifying employee is 12 weeks per tax year.

In summary, the Act continues Congress' recent trend in the SECURE Act and CARES Act to adopt new rules and benefits that are beneficial to impacted employees. Employers need to examine these provisions to determine which optional provisions should be implemented for their workforce and gain an understanding of the impact of all new mandatory rules.

*John E. Rich, Jr. chairs the Tax Department at McLane Middleton, Professional Association. He specializes in employee benefits, pension, ERISA and tax-related matters. He can be reached at john.rich@mcclane.com or (603) 628-1438.*

**Refunds** from page 30

of Rev. Proc. 2019-8.

The amended returns, which claim the previously-deferred interest expense, must also adjust the previously-claimed depreciation, presumably to claim a net refund.

Both of these groups of businesses will implement the ADS 30-year lives for existing property by taking straight-line depreciation of the adjusted tax basis that remained on December 31, 2017, over the number of years that would remain if the property had originally been placed in service with a 30-year useful life.

The state and local tax impact of this change adds a layer of complexity onto an already difficult compliance task.

At this date, it's likely that only states with so-called "rolling conformity" to federal tax law and those with fixed-date conformity to a date after January 1, 2018, will conform to this technical correction.

Other state legislatures would have to take action to make the 30-year life available for property placed in service before 2018.

To determine the economic impact of this retroactive technical correction on partnerships whose partners have changed during the period, it's necessary to review the transfer documents to determine:

Who is entitled to the additional interest deductions and who bears the reduction in depreciation; and

What secondary effects result from the changes, such as adjustments to the partners' tax basis, which would, in turn, affect their gain recognition in a subsequent sale.

Low-income housing tax credit (LIHTC) projects and others owned by partnerships should carefully consider:

The difference between 30-year and 40-year useful lives can affect partners' capital accounts, which might, in turn, impact the allocation of tax credits; and

The election must also be applied to all nonresidential real property and all qualified improvement property of the electing trade-or-business and is irrevocable.

Therefore, LIHTC investors and others who must carefully monitor capital accounts may not find this new retroactive benefit attractive.

This article is not meant to provide legal advice with respect to any specific matter and should not be acted upon without professional counsel. If you have any questions or require any further information regarding these or other related matters, please contact your regular Nixon Peabody LLP representative. This material may be considered advertising under certain rules of professional conduct.

*Kenneth H. Silverberg, a partner at Nixon Peabody LLP, is an experienced tax attorney and former CPA-partner at Arthur Andersen & Co. He focuses on tax controversies, including tax audits, appeals and litigation against the IRS and state departments of taxation.*

*Brian Kenney is an associate in Nixon Peabody LLP's Community Development Finance group, where he concentrates his practice on financing community development projects through the use of tax credits and other financing sources.*

**LLCs** from page 29

LLCs, but rather, in their own name as individuals.

*John Cunningham is a New Hampshire lawyer licensed to practice in New Hampshire and Massachusetts. He is the principal of his own law firm, the Law Offices of John M. Cunningham, PLLC, and he is of counsel to the firm of McLane Middleton, P.A. His practice is focused on LLC law and tax, Internal Revenue Code section 199A and estate planning. His telephone number is (603) 856-7172. His e-mail is lawjmc@comcast.net. The link to his website is www.llc199A.com.*

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## New Hampshire Circuit Court Announces Emergency Landlord Tenant Mediation Project Pilot effort in two courts looks to reduce eviction case backlog due to COVID-19

The New Hampshire Circuit Court, through its Office of Mediation and Arbitration, is piloting a new project to resolve landlord-tenant disputes through mediation. Starting in two pilot courts this month, the Emergency Landlord and Tenant Mediation Pilot Project will work to reduce the backlog of eviction cases caused by the COVID-19 pandemic, and provide a practical, no-cost alternative to resolving these cases in court.

Working with a trained mediator, landlords and tenants who have filed an appearance with the court will have the oppor-

tunity to work out their eviction disputes in an informal setting. The mediation process is entirely voluntary and agreements reached through mediation may eliminate the need for the parties involved having to appear in court. Concord and Claremont Circuit Courts will serve as the initial pilot sites. During the pilot phase, participants in the mediation process will be referred to the project by the courts.

“Mediation gives landlords and tenants the opportunity to come up with creative solutions that are beneficial to both parties and tailored to their individual situ-

ations,” noted Margaret Huang, coordinator of the Office of Mediation and Arbitration, “and this emergency pilot project could not be better positioned to resolve these cases during the COVID-19 pandemic, when both landlords and tenants may have been seriously financially impacted.”

Administrative Judge David King agreed. “The Circuit Courts have managed an enormous number of cases during the pandemic, but landlord and tenant cases continue to be a concern. With the help of trained mediators, we feel both parties will find equitable outcomes and a more timely

access to court decisions than is currently possible.”

To assess the success of the program, both in terms of helping parties resolve cases without a trial, and in managing the court’s landlord and tenant docket, the court will review the results of the cases that have been referred to mediation. Depending on the results, landlord and tenant mediation services may be expanded to more courts statewide. For more information, see the New Hampshire Judicial Branch website: [www.courts.state.nh.us](http://www.courts.state.nh.us).

## Supreme Court At-a-Glance

January 2021

### Criminal

*The State of New Hampshire v. Melanie Parry, No. 2019-0407*

January 27, 2021

**Affirmed**

- Whether the trial court erred in denying Defendant’s requested jury instruction on the voluntary-act requirement set forth in RSA 626:1.
- Whether the prosecutor’s statement during closing argument that voluntariness is not an element of possession was contrary to the law.

The Defendant was convicted on one count of possession of a controlled drug. The Defendant argued that the trial court erred when it denied her requested jury instruction on the voluntary-act requirement set forth in RSA 626:1 and that the prosecutor’s statement during closing arguments that voluntariness was not an element of possession was contrary to the law.

The Defendant was a passenger in a vehicle that was pulled over. The police officer noticed an odor of marijuana when he approached the vehicle. When the officer questioned the occupants about the odor, the Defendant grasped her purse. The officer asked if he could search the Defendant’s purse, at which point she told the officer there was nothing illegal in her purse. She then consented to the search, and the officer found a crack pipe, a marijuana pipe, and two substances the officer believed were heroin and crack cocaine. Only the crack cocaine substance came back positive as crack cocaine. At trial, the Defendant argued that she did not know how the crack cocaine got in her purse, and that the driver may have put in there without her knowledge after the vehicle was stopped and before the officer arrived at the car.

The Defendant first argued that every criminal act requires that the defendant acted voluntarily, and the trial court’s instruction on possession failed to inform the jury of the voluntary-act requirement. The Defendant argued that the trial court erred by rejecting her initial proposed instruction about the voluntary-act requirement. The State countered that the instruction on possession adequately addresses the voluntary-act requirement.

The Court agreed in part with the State; the Court ruled that the instruction was adequate, not because the instruction adequately addressed the issue, but because there was insufficient evidence to demonstrate that Defendant’s possession was involuntary. The Court went on to discuss that, in some cases, a jury instruction on the voluntary-act requirement set forth in RSA 626:1 is warranted in drug possession cases, but only when some evidence suggests that the defendant’s possession was involuntary. Because the Defendant’s evidence was based on mere conjecture in this case, and because she had initially lied to the police officer about the contents of her purse, the trial court did not err in failing to provide a specific RSA 626:1 instruction.

The Defendant next argued that during the State’s closing argument, the prosecutor improperly stated the elements of possession and the trial court refused to offer a curative instruction. The prosecutor had stated that “voluntary is not an element. It is custody and control.” The Court was not persuaded by the Defendant’s challenge, and held that voluntariness is not, per se, an element of possession of a controlled drug. Because the Defendant had failed to provide anything more than mere speculation that her possession was involuntary, the State did not have the burden to establish beyond a reasonable doubt that her possession was voluntary.

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

*The State of New Hampshire v. Joshua Pouliot, No. 2019-0322*

January 13, 2021

**Affirmed in part and Remanded**

- Whether the trial court erred in denying Defendant’s motion to exclude certain evidence in violation of his Fifth Amendment rights.
- Whether the trial court erred in providing only a portion of confidential records pertaining to the victim to the Defendant.

The Defendant was convicted on three counts of aggravated felonious sexual

### At-a-Glance Contributor



**Ryan M. Borden**

Practicing at Ford, McDonald, McPartlin & Borden in Portsmouth, NH with a focus on bankruptcy representation of trustees, creditors and debtors, corporate law and commercial litigation.

assault and one count of felonious sexual assault. The Defendant argued that the trial court erred by denying his motion to exclude evidence that he answered “no comment” when police questioned him about sexual assault allegations during a non-custodial, telephonic interview. The Defendant contended that his “no comment” was an invocation of his Fifth Amendment privilege. He also argued the trial court may have erred by disclosing only a portion of confidential records pertaining to victim after conducting an in camera review of the records.

The Defendant first argued that the inclusion of his “no comment” statement and his silence in response to questioning about the sexual assault allegations violated his Fifth Amendment right against self-incrimination. The Court first analyzed whether the “no comment” statement and his silence in response to questioning were effective invocations of the privilege. The Court noted that the Defendant’s interview was non-custodial and no Miranda warning were provided. Using the same standard as applied to post-Miranda custodial interviews, the Court applied the totality of the circumstances analysis to his statements.

The Court held that in a non-custodial, pre-Miranda interview, a defendant must unambiguously invoke their Fifth Amendment privilege, and stated that it was applying the “express invocation” standard set forth in Justice Alito’s plurality opinion in *Salinas v. Texas* (S. Ct. 2013). The Court assumed, as the trial court did, that the Defendant may selectively invoke the Fifth Amendment privilege. The Court found that the “no comment” statement was not an unambiguous invocation of the privilege, because only the Defendant knew his reasoning for not answering. Ultimately, the Court found that the Defendant continued the

conversation and did not hang up for at least thirty minutes after first stating “no comment.” The Defendant failed to express during the interview that he did not wish to speak with the officer. The fact that the Defendant eventually hung up and terminated the call after repeatedly being asked about the sexual assault allegations demonstrated he knew how to unambiguously end the conversation. The Court affirmed the trial’s court refusal to exclude the “no comment” statement.

Next, the Defendant argued that the trial court may have erred in only disclosing a portion of certain confidential records pertaining to the victim after conducting an in camera review. The Court noted that it recently clarified the standard a trial court must apply in determining whether to disclose confidential records to a defendant in *State v. Girard* (2020). The Court stated that the trial court did not have the benefit of *Girard* when it conducted its in camera review, and therefore remanded that issue to the trial court for the limited purpose of reviewing the records in accordance with the standard established by *Girard*.

*Gordon J. MacDonald, attorney general (Zachary L. Higham, attorney, on the brief and orally), for the State. Anthony J. Naro, assistant appellate defender, Concord, on the brief and orally, for the defendant.*

### Probate

*In re Estate of Marie G. Dow, No. 2019-0752*

January 20, 2021

**Reversed and Remanded**

- Whether the trial court erred in applying Massachusetts’s pretermitted heir statute to determine whether petitioner was a pretermitted heir under his mother’s will.
- Whether the trial court erred in finding that the petitioner was not a pretermitted heir under his mother’s will and therefore not entitled to his intestate share of his mother’s estate.

The decedent executed her will in Massachusetts in 2014, at which time she was also a resident of Massachusetts. She moved to New Hampshire in 2017 and died a year later. Before her death, she sold her real property in Massachusetts. The parties did not dispute that her only

remaining assets consisted of personal property. The decedent was survived, in part, by her son (the petitioner) and her ex-daughter-in-law (the respondent). The decedent's will provided that the "rest, residue and remainder of [her] estate" was to be given to the respondent. The will further provided that the decedent had intentionally omitted to mention, or to devise or bequeath or give any of her property to anyone other than those mentioned in the will. Finally, the will provided that it was to be administered and enforced according to the laws of Massachusetts.

After the Massachusetts court rejected an attempt to probate the will in Massachusetts, the petitioner sought administration in New Hampshire, which was ultimately granted over respondent's objection. The petitioner sought a determination he was a pretermitted heir under the will, and the respondent objected. The probate court ruled Massachusetts' pretermitted heir statute applied. The probate court then ruled that because the decedent's will selected Massachusetts law and expressly stated anyone not named was purposely excluded, the petitioner was not a pretermitted heir under Massachusetts law.

On appeal, the petitioner argued that New Hampshire law should apply because, at the time of her death, the decedent was domiciled in New Hampshire and her estate consisted solely of personal property. The respondent argued that the clear language of the will (electing Massachusetts law) should govern.

The Court held that the law in New Hampshire is clear – personal property of a testator generally passes according to the law of the state of domicile. The Court found no reason to deviate from that rule, which also comports with the Restatement (Second) Conflicts of Laws.

The respondent argued that, based on *In re Farnsworth Estate* (1968) and *Royce v. Estate of Denby* (1977), the Court could give effect to the decedent's election of Massachusetts law. The Court distinguished *Farnsworth Estate* on the grounds that it was a case dealing with a testamentary trust created by will, and *Royce* on the grounds that the testator was incapacitated before becoming a domiciliary of New Hampshire and never regained capacity.

The Court noted that its prior case law did not address the facts in this case, where the decedent expressed her intent to have her will administered and enforced according to the laws of another state. The Court found that New Hampshire law does not permit application of another state's pretermitted heir statute to dispose of personal property. The Court also ruled

that although the Restatement (Second) Conflicts of Law supports a testator's ability to select rules of construction in bequeathing personal property, the Court has not yet adopted that provision and would not do so here, as New Hampshire's pretermitted heir statute is not a rule of construction but a conclusive rule of law.

Having found that New Hampshire's pretermitted statute applied, the Court held that because the petitioner was not expressly named in the will, he was a pretermitted heir under New Hampshire law. The vague reference excluding "any other than those mentioned in the will" was insufficient to demonstrate the decedent intentionally excluded the petitioner. The Court reversed the probate court on both the applicable law and the finding that the petitioner was not a pretermitted heir, and remanded for further proceedings consistent with the Court's ruling.

*Nadine M. Catalfimo, Salem, on the brief, and Casassa Law Office, Hampton (Lisa J. Bellanti, on the brief and orally), for the petitioner. Tyler Pentorilos, Haverhill, Massachusetts, on the brief and orally, for the respondent.*

### Real Estate

***Lauren Shearer v. Ronald Raymond & al, No. 2019-0688***  
**January 13, 2021**  
***Vacated and Remanded***

- Whether the owner of landlocked property has an easement for ingress and egress over a public highway that was discontinued by town vote prior to enactment of the statutory right of access.
- Whether the trial court properly ruled as to the width and permitted use of the easement.

Plaintiff appealed, and Defendants cross-appealed, the trial court's order finding that Plaintiff had an easement across Defendants' property to access his landlocked property. Plaintiff appealed portions of the order relating to the width and permitted use of the easement. Defendants' cross appeal presented an issue of first impression: whether the owner of landlocked property has an easement for ingress and egress over a public highway that was discontinued by town vote prior to the enactment of the statutory right of access.

Plaintiff purchased property in 2004 that lacked frontage on a public highway. Rather, it abuts a discontinued public highway, Bowker Road, laid out in 1766

and discontinued by town vote in 1898. Handwritten records from 1766 indicated the highway was to be three rods wide. Historically, Bowker Road was used to access residential property and farmland.

The Court first addressed Defendants' argument that the trial court erred in ruling that because Bowker Road was discontinued in 1898, Plaintiff had an easement across Defendants' property over Bowker Road to access his parcel by operation of common law. Defendants argued that, absent a statutory right of access in effect at the time of discontinuance, there was no easement solely because the public highway was discontinued. The Court found that, despite well established common-law principal relating to public highways, New Hampshire case law was silent as to whether a landowner retains a private right of access for ingress and egress over a highway after it has been discontinued. Bowker Road's discontinuance occurred before the statutory right of access existed. The Court found, however, that New Hampshire case law demonstrates that right of access to one's property is fundamental to property ownership. Adopting Defendants' position would be counter to this right.

The Court held that, absent a statutory right of access, an easement exists over a discontinued highway when it is reasonably necessary for access. Because the trial court did not rule on Plaintiff's prescriptive easement claim and therefore did not rule on whether the easement was reasonably necessary to access Plaintiff's land, the Court vacated the trial court's determination and remanded for the trial court to determine, in the first instance, whether an easement over Bowker Road is

reasonably necessary to access Plaintiff's property.

The Court then addressed Plaintiff argument that the trial court erred in its ruling on the width of the easement. The Plaintiff argued that the trial court relied too much on three historical maps, and should have used the town's handwritten notes from 1766 or current Department of Transportation guidelines for Rural Subdivision Streets in ascertaining the width. The Court found that the trial court was free to weigh the evidence presented to it, and the handwritten notes were not an express easement and did not constitute a deed, so the trial court was not required to rely upon it. The Court ultimately deferred to the trial court's weighing of the evidence and affirmed its ruling on the easement's width.

The Court then addressed Plaintiff's argument that the trial court erred in limiting the use of the easement residential and agricultural uses, because current zoning regulations provided the same limitations, and if the zoning regulations were changed, the easement would remain limited. The Court noted that the trial court applied the well-established "rule of reason" to ascertain the reasonable use of the easement over a discontinued highway. Because the Plaintiff failed to challenge the trial court's finding that the historical use of Bowker Road was limited to residential and agricultural purposes, the Court found no error in the trial court's ruling.

*Lauren Shearer, pro-se, on the brief, for the plaintiff. Getman, Schulthess, Steere & Poulin, Manchester (Clara E. Lyons, on the brief), for the defendants.*

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## R-2021-0001, In re January 3, 2021 Report of the Advisory Committee on Rules

The New Hampshire Supreme Court Advisory Committee on Rules (committee) has reported a proposed rule amendment to the New Hampshire Supreme Court with a recommendation that it be adopted. The proposal, which is set forth in Appendix A, is to amend Supreme Court Rule 42(XI)(f) so as to eliminate the provision that prohibits applicants who have failed the New Hampshire bar examination four times from being eligible for admission by motion without examination.

On or before March 19, 2021, members of the bench, bar, legislature, executive branch, or public may file with the clerk of the supreme court comments on the proposed rule amendment. An original and seven copies of all comments shall be filed. Comments may also be e-mailed to the court at: [rulescomment@courts.state.nh.us](mailto:rulescomment@courts.state.nh.us).

For background regarding this proposal, please see the January 3, 2021 Advisory Committee on Rules Report, which is available at [courts.state.nh.us/committees/adviscommrules/reports/index.htm](http://courts.state.nh.us/committees/adviscommrules/reports/index.htm). Copies of the January 3, 2021 Advisory Committee on Rules Report are also available upon request to the clerk of the supreme court at the N.H. Supreme Court Building, 1 Charles Doe Drive, Concord, New Hampshire 03301 (Tel. 603-271-2646).

The current rules of the New Hampshire state courts are available on the Internet at [courts.state.nh.us/rules/index.htm](http://courts.state.nh.us/rules/index.htm).

Date: January 15, 2021  
 ATTEST: Timothy A. Gudas, Clerk  
 Supreme Court of New Hampshire

### APPENDIX A

Amend Supreme Court Rule 42(XI)(f) as follows (proposed deletions are in strikethrough format):

(f) An applicant who has failed the New Hampshire bar examination within five years of the date of filing a motion for admission without examination shall not be eligible for admission by motion. An applicant who is not permitted to retake the New Hampshire bar examination pursuant to Rule 42(VIII)(c) shall not be eligible for admission by motion. An applicant who has resigned from the New Hampshire bar shall not be eligible for admission by motion, but may be eligible for readmission upon compliance with the requirements of Rule 37(15).

Pursuant to Rule 53.5, the Supreme Court reappoints Attorney Barry M. Scotch and Attorney Courtney Brooks to the Minimum Continuing Legal Education Board, to serve three-year terms commencing on February 15, 2021, and expiring on February 14, 2024.

Issued: January 27, 2021  
 ATTEST: Timothy A. Gudas, Clerk  
 Supreme Court of New Hampshire

Pursuant to its constitutional authority and powers of general superintendence over

the New Hampshire Bar Association and its members, and upon the recommendation of leadership of the New Hampshire Bar Association in light of the ongoing COVID-19 pandemic, the Supreme Court authorizes the New Hampshire Bar Association to offer a virtual practical skills course during the week of April 5, 2021, in lieu of an in-person course. Attendance at that virtual practical skills course shall be limited to persons who were admitted to practice law in New Hampshire more than two years ago upon examination, motion, or transferred Uniform Bar Examination score, but whose time for compliance with Rule 42, XIII has not yet expired.

An admittee's attendance at all required sessions of the virtual practical skills course offered during the week of April 5, 2021, shall be deemed to satisfy the "personal attendance" requirement of Rule 42, XIII(c).

Issued: January 28, 2021  
 ATTEST: Timothy A. Gudas, Clerk  
 Supreme Court of New Hampshire

### ADM-2020-0013, In the Matter of Alina Habba Eyet, Esquire

On December 30, 2020, Attorney Alina Habba Eyet was suspended from the practice of law in New Hampshire for failing to complete an annual trust accounting certification as required by Supreme Court Rule 50-A, for failing to fulfill NHMCLE requirements of Supreme Court Rule 53 for reporting year ending June 30, 2020, and for failing to appear for the December 3, 2020 show cause hearing.

On January 19, 2021, Attorney Eyet filed a petition for reinstatement with the court. The New Hampshire Bar Association also confirmed that Attorney Eyet has now filed her annual trust accounting certification and has fulfilled the NHMCLE requirements.

Attorney Alina Habba Eyet is hereby reinstated to the practice of law in New Hampshire, effective immediately.

Hicks, Bassett, Hantz Marconi, and Donovan, JJ., concurred.

ISSUED: January 28, 2021  
 ATTEST: Timothy A. Gudas, Clerk

### LD-2020-0010, In the Matter of John L. Allen, Esquire

On October 9, 2019, in case no. LD-2019-0012, the court suspended the respondent, Attorney John L. Allen, on an interim basis in response to a petition filed by the Attorney Discipline Office (ADO). Attorney Allen has taken no actions to lift the in-

terim suspension.

On November 18, 2020, the Professional Conduct Committee (PCC) filed this case as a petition recommending Attorney Allen's disbarment. In accordance with Rule 37(16), the court provided notice to Attorney Allen of that recommendation at the latest address provided by him to the New Hampshire Bar Association, see Supreme Court Rule 42E(c), and at the home address listed in the PCC record. The court ordered him to file a response on or before December 31, 2020, identifying any legal or factual issues relating to the PCC's recommendation that he wished the court to review. Attorney Allen did not file a response.

The court has reviewed the PCC's recommendation for disbarment and the PCC record. The PCC adopted a hearing panel report, which found, among other misconduct, that Attorney Allen failed to communicate with clients for an extended period, misappropriated at least \$690,444.95 in client funds, transferred \$943,496.09 from an IOLTA account to his operating account without client designation, commingled more than \$350,000 of operating-account funds with IOLTA accounts, and otherwise caused client matters to be out of trust. Those facts were undisputed because Attorney Allen failed to participate in the disciplinary proceedings. The PCC determined that Attorney Allen violated the following Rules of Professional Conduct: Rule 1.1 (requiring competent representation); Rule 1.3 (requiring diligence in representing clients); Rule 1.4 (requiring adequate communications with clients); Rule 1.15 (requiring safekeeping of client property); Rule 1.16(d) (requiring protection of client's interests upon termination of representation); Rule 8.1(b) (prohibiting failure to respond to lawful demands for information in the disciplinary proceedings); and Rule 8.4(b) and (c) (prohibiting criminal conduct or other conduct involving dishonesty, fraud, deceit or misrepresentation).

In light of the seriousness of Attorney Allen's misconduct, which includes violations of Rules of Professional Conduct 1.1, 1.3, 1.4, 1.15, 1.16(d), 8.1(b), and 8.4(b) and (c), the court concludes that disbarment is the appropriate sanction.

THEREFORE, the court orders that John L. Allen be disbarred from the practice of law in New Hampshire. He is hereby assessed all costs and expenses incurred by the attorney discipline system in the investigation and prosecution of the matter.

Hicks, Bassett, Hantz Marconi, and Donovan, JJ., concurred.

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DATE: February 2, 2021  
ATTEST: Timothy A. Gudas, Clerk

**ADM-2015-0059, In the Matter of  
Jesse J. Martineau, Esquire**

On October 13, 2015, Attorney Jesse J. Martineau was suspended from the practice of law in New Hampshire for failure to complete the practical skills course within two years of admission as required by Rule 42, XIII(a).

On November 4, 2020, Attorney Martineau filed a petition for reinstatement. On January 13, 2021, the court granted the petition and ordered that Attorney Martineau be reinstated upon meeting the following conditions: (1) payment of back dues in the amount of \$1,385.00; and (2) completion of six hours of continuing legal education (CLE), plus any CLE hours that were owed at the time of his suspension.

The court received confirmation from the New Hampshire Bar Association on January 29, 2021, that Attorney Martineau has met all the conditions for reinstatement.

Accordingly, Attorney Martineau is hereby reinstated to the practice of law in New Hampshire, effective immediately.

Bassett, Hantz Marconi, and Donovan, JJ., concurred.

ISSUED: February 3, 2021  
ATTEST: Timothy A. Gudas, Clerk

**ADM-2019-0016, In the Matter of  
Brian W. Buonamano, Esquire**

On November 7, 2019, Attorney Brian W. Buonamano was suspended from the practice of law in New Hampshire for failing to appear for a show cause hearing scheduled for October 31, 2019, and for failing to fulfill the following New Hampshire bar licensure renewal requirements:

1. Trust Accounting Certification – Attorney Buonamano had not completed an annual trust accounting certification, as required by Supreme Court Rule 50-A, and had not paid the delinquency fees of \$300 assessed for non-compliance.

2. NHMCLE Certification - Attorney Buonamano had not fulfilled NHMCLE requirements of Supreme Court Rule 53 for the reporting year ending June 30, 2019, and had not paid the delinquency fees of \$300 assessed for non-compliance.

Attorney Buonamano filed a petition for reinstatement on November 9, 2020. He has now fulfilled the above referenced requirements, and has also paid all delinquency fees assessed for late NHMCLE and trust accounting compliance.

Upon review of the petition for reinstatement, the court orders that Attorney Brian W. Buonamano be reinstated to the practice of law in New Hampshire, effective immediately.

Hicks, Bassett, Hantz Marconi, and Donovan, JJ., concurred.

ISSUED: February 10, 2021  
ATTEST: Timothy A. Gudas, Clerk

**ADM-2020-0022, In the Matter of  
Brendan P. McCarthy, Esquire**

On January 6, 2021, Attorney Brendan P. McCarthy was suspended from the practice of law in New Hampshire for failing to respond to show cause notices and/or appear at show cause hearings relating to untimely compliance with NHMCLE obligations and untimely payment of assessed delinquency fees.

Attorney McCarthy filed a petition for reinstatement on January 26, 2021, and paid the required \$250.00 filing fee on February 3, 2021.

After review of the petition for reinstatement, the court orders that Attorney Brendan P. McCarthy be reinstated to the practice of law in New Hampshire, effective immediately.

Hicks, Bassett, Hantz Marconi, and Donovan, JJ., concurred.

ISSUED: February 10, 2021  
ATTEST: Timothy A. Gudas, Clerk

In accordance with Supreme Court Rule 37(5)(a), the Supreme Court appoints Ms. Kelly G. Lewis to serve as a non-attorney member of the Complaint Screening Committee. Ms. Lewis's term shall commence immediately, and will expire on December 31, 2023.

Issued: February 11, 2021  
ATTEST: Timothy A. Gudas, Clerk of Court  
Supreme Court of New Hampshire



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January 2021

\* Published

## COMPASSIONATE RELEASE

01/08/21 *United States v. Jordan Manning*  
Case No. 16-cr-148-1-PB, Opinion No. 2021 DNH 006

Defendant moved for compassionate release based on his severe obesity. Defendant met his burden demonstrating that “extraordinary and compelling reasons” exist that would render him eligible for compassionate release. However, after considering the sentencing factors under 18 U.S.C. § 3553(a), the court concluded that a reduction in his sentence was not warranted. Defendant was involved in the distribution of over 100 grams of heroin while on probation for a state crime. His criminal history was extensive, and he has currently served less than half of his original sentence. Although the defendant has made commendable progress while in prison, the court concluded that the Section 3553(a) factors weigh against his immediate release. 10 pages. Judge Paul Barbadoro.

## CIVIL RIGHTS; CONSTITUTIONAL LAW; PLEADING REQUIREMENTS

1/28/21 *DeLima v. Google, Inc., et al.*  
Case No. 19-cv-978-JL, Opinion No. 2021 DNH 025\*

In this multi-count, pro se, claim against Google and Twitter, the court granted defendants’ motion to dismiss for failure to state a claim upon which relief could be granted. Plaintiff alleged that defendants violated the Copyright Act and “fair use” laws, the Sherman Antitrust Act, and unspecified civil rights statutes, owed her unpaid earnings, tampered with and violated her “virtual property rights,” defamed her, and intentionally inflicted emotional distress upon her. Her core allegation was that defendants effectively censored her YouTube channels, Google blogs, and Twitter accounts, resulting in a loss of alleged revenue she had been receiving from these platforms. The court found that the plaintiff’s claims were either barred by res judicata, invalid causes of action, unsupported by sufficient fac-

tual allegations, or barred by the Communications Decency Act, 47 U.S.C. § 230. The court dismissed the plaintiff’s claims with prejudice, except for a purported breach of contract claim, which it dismissed without prejudice and with leave to amend and re-file in the appropriate judicial district, as required by the mandatory forum selection clauses in the parties’ contracts. 21 pages. Judge Joseph N. Laplante.

## FALSE CLAIMS ACT

01/06/21 *Chalifoux v. BAE, et al.*  
Case No. 20-cv-401-PB, Opinion No. 2021 DNH 004

Plaintiff filed suit against BAE Systems, Inc. and ATR International, Inc., alleging violations of the anti-retaliation provisions of the False Claims Act (FCA) and the Fair Labor Standards Act (FLSA), as well as the New Hampshire Whistleblower Protection Act and common law wrongful termination. BAE moved to dismiss the FCA claim while ATR moved to dismiss all four claims. The court granted both defendants’ motions as to the FCA claim and denied ATR’s motion to dismiss the remaining three claims. Plaintiff’s FCA claim alleged that BAE’s contracts with the government were themselves fraudulent claims for payment. However, an FCA violation cannot be based on the underlying fraudulent activity but must instead be based on the claim for payment itself. Here, plaintiff failed to tie his promissory fraud theory to a claim for payment. Finally, plaintiff’s allegation that ATR refused to place him with other companies in retaliation for his complaints against BAE qualifies as a constructive discharge, which in turn can support the remaining three claims against ATR. 13 pages. Judge Paul Barbadoro.

## FIRST AMENDMENT; FOURTEENTH AMENDMENT DUE PROCESS; STANDING

1/12/21 *Frese v. NH Attorney General*  
Case No. 18-cv-1180-JL, No written opinion.

The plaintiff, a self-described “outspoken” New Hampshire resident twice charged with criminal defamation, filed a pre-enforcement challenge arguing

that New Hampshire’s criminal defamation statute, N.H. Rev. Stat. 644:11, was facially unconstitutional under the First and Fourteenth Amendments. In 2019, the court denied a motion to dismiss because the State failed to meet its burden under Rule 12(b). In 2020, the plaintiff amended his complaint, allowing the State to challenge anew on standing and sufficiency grounds. Additionally, the State newly argued that First Circuit precedent precluded the plaintiff from maintaining facial constitutional claims under the Fourteenth Amendment in the absence of an as-applied claim.

After considering the parties’ arguments, as refined by the State’s newly provided authority, the court found that (1) the plaintiff, given his history of criminal defamation prosecutions, had pled a pre-enforcement injury in fact sufficient to establish Article III standing under a Rule 12(b) challenge; (2) the plaintiff could not sustain a claim that criminal defamation statutes were unconstitutionally overbroad under the First Amendment; (3) First Circuit precedent did not clearly preclude the plaintiff from bringing a facial void-for-vagueness claim under a discretionary-enforcement theory; (4) the plaintiff’s allegations nevertheless failed to show that the criminal defamation statute was so standardless as to permit selective or discriminatory enforcement; and (5) the plaintiff did not plead an as-applied claim. Accordingly, the court granted the State’s motion and dismissed the complaint in its entirety. 35 pages. Judge Joseph N. Laplante.

## PRELIMINARY INJUNCTION; ANTI-INJUNCTION ACT

1/22/2021 *Rubygold Main Holdings, LLC v. Brian Gardner Carpentry, LLC*  
Case No. 20-cv-10062-JL, Opinion No. 2021 DNH 017

The court denied the plaintiff’s motion for a preliminary injunction seeking to enjoin or stay proceedings in New Hampshire Superior Court to enforce a judgment. The court concluded that the Anti-Injunction Act (28 U.S.C. § 2283) barred the requested injunctive relief and neither the three statutory exceptions to the Act nor a judicially created exception allowing “strangers” to a state court case to pursue a federal injunction ap-

plied. The plaintiff was in privity with a party to the state court litigation by virtue of its relationship as successor in interest to the party’s property and therefore not a stranger to the state court suit. 26 pages. Judge Joseph N. Laplante.

## TITLE VII VIOLATION

01/19/21 *Lemoine v. WB Mason*  
Case No. 20-cv-924-PB, Opinion No. 21 DNH 013

Plaintiff sued WB Mason for sexual orientation discrimination and retaliation in violation of Title VII and RSA 354-A. Defendant filed a motion to dismiss the retaliation claim, arguing that plaintiff’s complaint to her supervisor did not qualify as protected conduct because it was too vague to notify her employer of the type of discrimination she believed she was facing. The court denied the motion, ruling that the context surrounding plaintiff’s complaint, including a report to HR about an offensive video targeting sexual orientation and her colleagues’ knowledge of plaintiff’s sexual orientation, sufficiently placed defendant on notice that plaintiff was complaining about sexual orientation discrimination. 4 pages. Judge Paul Barbadoro.

## TITLE VII; AMERICANS WITH DISABILITIES ACT

01/22/21 *Morin v. Eastern Bearings, Inc.*  
Case No. 20-cv-615-PB, Opinion No. 2021 DNH 015

Morin sought reconsideration of an order dismissing his claims of harassment based on race/national origin and association with a disabled person. In his motion, Morin either repeated arguments that the court had previously considered and rejected or relied on new theories of liability. The court concluded that neither attempt was a proper use of a motion for reconsideration. In any event, Morin failed to show that the dismissal of his claims stemmed from a manifest error of law. Accordingly, the motion was denied. 6 pages. Judge Paul Barbadoro.

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**Legal Assistant**

We are seeking a legal assistant with 2-10+ years law firm experience and who is motivated and performs with great attention to detail. The successful candidate will possess a professional demeanor, exceptional communication and organizational skills, and have the ability to multi-task and prioritize while working with deadlines. Being able to work independently as well as in a team is key. Microsoft suite and Adobe experience is required.

We take great pride in having a collegial and enjoyable work environment. Workplace perks include 401k and with partial company match after 1 year, paid-time-off, health insurance, and flexible summer schedule with many early Fridays. For more details on who we are and what it is like to work at Pastori | Krans, check out our LinkedIn and Facebook pages. Please send your resume to [blandry@pastorikrans.com](mailto:blandry@pastorikrans.com).

## ATTORNEY II

The N.H. Department of Labor, Legal Bureau seeks a full time Attorney II. This position will analyze and interpret state statutes and regulations and to draft proposed legislation for Labor Department located Hugh Gallon Office Park.

**Duties include:** Representation of the Department of Labor at agency hearings and court proceedings. Litigation activities including drafting pleadings and motions, conducting discovery, legal research and writing; preparing witnesses for trial, negotiating settlements, and presenting evidence and oral argument at court hearings and trials.

**Requirements:** J.D. from a recognized law school, N.H. Bar membership, a driver's license and four years' experience in the practice of law,

preferably in the area Workers' Compensation, Wage and Hour, Managed care, and Self-Insurance.

**How to apply:** Please go to the following website to submit your application electronically through NH 1st: <http://das.nh.gov/jobsearch/employment.aspx>. Please reference the position number that you are applying for: #19278 Attorney II. 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 Lexie Rojas, Attorney IV at (603) 271-0201.



CLEVELAND, WATERS AND BASS, P.A.  
ATTORNEYS AT LAW

Cleveland, Waters and Bass, P.A., a mid-sized law firm located in Concord, New Hampshire, seeks to hire one or more senior or mid-level partners or senior level associates for the following practice areas:

- **Trusts and Estates.** Our ideal candidate will have 5+ years of experience in the preparation of estate planning documents, business succession planning, post-mortem planning and administering probate and trust estates.
- **Business.** Our ideal candidate will have 5+ years of experience with general business representation, corporate finance and business planning, employment law, and mergers and acquisitions.
- **Commercial Litigation.** Our ideal candidate will possess 5+ years of general commercial litigation experience in state and federal courts.

Although an existing book of business is preferred, our current client base can be expected to augment the candidate's practice. Excellent oral and written communication and practice management skills are essential for each of these positions. We will consider opportunities for merger with an existing group of attorneys from another firm.

Cleveland, Waters and Bass provides a professional and collegial work environment, competitive compensation and benefits, and the opportunity for rewarding work and personal growth.

PLEASE FORWARD INFORMATION REGARDING EXPERIENCE AND INTEREST IN STRICT CONFIDENCE TO PHILIP HASTINGS, PRESIDENT AT [HASTINGS@CWBA.COM](mailto:HASTINGS@CWBA.COM).

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## Classifieds

### POSITIONS AVAILABLE

**ASSOCIATE ATTORNEY WANTED.** Hayes, Windish & Badgewick is seeking an associate attorney to join our team. Preference is given to those with 3-5 years' experience in civil litigation, but those just starting with strong work ethic and motivation will be considered too. We are a small general practice firm with an emphasis on civil litigation, insurance defense, and workers' compensation matters. We seek a candidate who is interested has high ethical standards, strong skills in research and writing, along with the patience and desire to learn the profession. Competitive pay and benefits offered. Position to remain open until filled. Please send your resume and cover letter electronically to: Penny Webster, Office Manager, HAYES, WINDISH & BADGEWICK, [pwebster@woodstockvtlaw.com](mailto:pwebster@woodstockvtlaw.com).

**LITIGATION ASSOCIATE** – Patch & FitzGerald seeks an energetic, organized litigation associate to join a seasoned team of practitioners. The successful candidate will have 5+ years of experience in personal injury and Workers' Compensation, be a member in good standing of the NH bar, and have excellent interpersonal skills. Statewide travel required. Excellent salary and benefits package, flex 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 Diana Gauthier ([dgauthier@patchfitz.com](mailto:dgauthier@patchfitz.com)).

**REAL ESTATE ATTORNEY** – The candidate will be responsible for reviewing title work residential and commercial, closing real estate transactions, and communicating with clients, lenders, brokers and title companies. Will be reviewing closing documents for accuracy and legal sufficiency. Reviewing title abstracts, trusts and probate documents. Representing lenders, buyers and sellers in real estate closings. Interacting with clients. Participating in team and company meetings. Performing other related duties as assigned and contributing to the positive company culture. Must be currently licensed to practice law in the State of New Hampshire and with licensing in Maine or ability to obtain. Please provide resume and letter of interest to Matthew H. Weegar, Esquire, at [matt@alpinetitleservices.com](mailto:matt@alpinetitleservices.com).

**ASSOCIATE ATTORNEY** – Law Office of Manning & Zimmerman in Manchester is looking for an associate attorney to join our team. The ideal candidate has practiced 5-10 years and has experience in personal injury and workers' compensation. Comprehensive benefits including availability of disability, life and health insurance; participation in 401(k); paid CLEs, bar dues, and membership in various legal associations. Salary based on experience. Please submit a resume and cover letter in confidence to Anna Goulet Zimmerman at [Anna@MZLawNH.com](mailto:Anna@MZLawNH.com).

**ASSOCIATE** - Laboe & Tasker, PLLC, an established Concord, New Hampshire law firm, seeks a full-time attorney to join its Estate Planning, Trusts & Estates practice. The ideal candidate will be licensed in NH and have 3-8 years of experience in the drafting of all estate planning documents, as well as administering probate and trust estates. The ideal candidate will have excellent client interpersonal skills and possess a sincere willingness to work as part of a team. This is an excellent opportunity for someone who is looking for personal growth and future partnership potential. Please forward a cover letter, resume, and writing sample to [ktasker@laboelaw.com](mailto:ktasker@laboelaw.com).

**LEGAL ASSISTANT** – Concord, New Hampshire boutique law firm with a busy estate planning, business, and litigation practice seeks an experienced Legal Assistant to provide support to two attorneys. Applicant should be motivated, detail-oriented, organized, able to prioritize, and work as a team player. Excellent communication and writing skills, and experience with Microsoft Office are required. A minimum of 3 years of recent legal experience is required. Preference will be given to applicants with experience in multiple practice areas as well as familiarity with the NH Courts' e-filing system. Full and part-time options possible. Please email your resume with cover letter to [nhlegalposition@gmail.com](mailto:nhlegalposition@gmail.com).

**REAL ESTATE PARALEGAL** – Casassa Law Office of Hampton, NH has an immediate need for a Real Estate Paralegal. Previous experience with residential or commercial real estate is required. The position can be part-time or full-time and a flexible schedule will be considered. Benefits including health insurance are provided. Salary based on experience. Please send resume to [kathy@casassalegal.com](mailto:kathy@casassalegal.com).

CLASSIFIEDS continued on page 39

## BILLING COORDINATOR

Sulloway & Hollis, PLLC, a leading regional law firm, seeks a full-time Billing Coordinator for its busy Business Office.

The applicant must be well-organized, with strong attention to detail, have the ability to work independently and have a minimum of four to five years' hands on experience in the processing of legal bills. Additional experience with third party electronic billing is desired. This position will have additional responsibilities of performing client matter openings. May also perform a variety of other accounting and bookkeeping duties according to established policies and procedures to include maintaining positive contact with attorneys, staff, vendors and clients and observe confidentiality of clients and firm matters.

To qualify, applicant must possess a working knowledge of Microsoft word and excel. Experience with a variety of third party e-billing companies a plus. Strong math skills and a working knowledge of basic accounting preferable.

The firm provides excellent benefits and compensation. Qualified applicants should submit a resume and cover letter, via email, to Jennifer Iacopino, Human Resources Manager at: [jiacopino@sulloway.com](mailto:jiacopino@sulloway.com).



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## ASSISTANT COUNTY ATTORNEY Hillsborough County Attorney's Office – Manchester

**Position Overview:** We are seeking an attorney with high ethical standards and reliable judgment to represent Hillsborough County as a full time prosecutor. Although most hearings are currently conducted by video, experienced courtroom presence is necessary as in person hearings and jury trials will soon resume. Our office is a dedicated team that welcomes those who apply the same professionalism, hard work, and commitment to justice common to the core of our team. We seek to develop our attorneys toward their goals through mentorship, training, and flexibility to move toward the areas that capture their interest.

**General Responsibilities:** An Assistant County Attorney prosecutes a wide range of felonies taking the case from early investigation through

jury trial and sentencing. Critical skills include the ability to negotiate, analyze legal issues, and advocate, all in a fast paced environment. Communications is the foundation of success in the Assistant County Attorney role including communication with law enforcement, victims of crime, opposing counsel, and the rest of the prosecution team within the office.

**Qualifications:** Membership in good standing of the NH Bar Association or eligibility for admission by motion Criminal law experience – felony experience preferred.

**HOW TO APPLY:** Please send a resume and cover letter to: Hillsborough County Human Resources Department 329 Mast Road – Suite 112 Goffstown, NH 03045. [Careers@hcnh.org](mailto:Careers@hcnh.org). EOE

### Junior Business Law Associate | Burlington, VT

We are looking for a junior associate to join our dynamic corporate/commercial practice. The ideal candidate would have a strong interest and aptitude in business transactions. DRM's business law group is engaged in a wide variety of transactions locally, nationally and internationally, including debt and equity financing transactions, sales of businesses, acquisitions, intellectual property transactions and joint ventures. The ideal candidate has 1 to 3 years of experience in a corporate or commercial law practice, and wants to be part of a team of attorneys committed to delivering top-quality service to growing and successful businesses. We are committed to investing in our attorneys' professional growth and development. We offer excellent mentorship, and training, as well as leading technology, competitive salary, and a comprehensive benefits package, including industry-leading paid parental leave and two generous retirement plans.

### Litigation Associate | Burlington, VT

Downs Rachlin Martin – one of Northern New England's largest law firms - has a great opportunity for a litigation associate in its Burlington office. The ideal candidate would have excellent academic credentials and strong research and writing skills. DRM's litigation group is engaged in white collar defense and criminal and civil government enforcement matters, internal investigations, complex litigation including antitrust, securities and class actions, health care fraud, medical malpractice defense and professional licensing and in a wide variety of sophisticated commercial litigation. The ideal candidate has 1-3 years of relevant experience, and wants to be part of a team of attorneys committed to delivering top-quality service to individuals, institutions and growing and successful businesses.

### Patent Attorney | Burlington, VT or Lebanon, NH

DRM is seeking an experienced patent attorney having a portable book of business and a strong background in chemical/biochemical arts to join our Intellectual Property Group in either our Burlington, Vermont, or our Lebanon, New Hampshire Office. The ideal candidate will have the following: Six or more years of patent experience, including preparing and prosecuting patent applications in chemical/biochemical arts or electrical arts, or a former U.S. patent examiner in a chemical/biochemical art unit or an electrical art unit, with at least one year of patent experience outside of the U.S. Patent and Trademark Office. The ideal candidate will have a book of business, and be eager to develop new client relationships, and become part of a team of attorneys committed to delivering top-quality service to growing and successful businesses.

This is a unique opportunity to work with a team of sophisticated intellectual property professionals. Burlington is consistently ranked among the best places to live in the U.S. by numerous publications and polls. It provides a vibrant cultural environment, a thriving downtown, a welcoming community, easy access to mountains and lakes, and short commutes. Lebanon is located in the Upper Valley, a region along the New Hampshire-Vermont border that includes Dartmouth College, the Dartmouth-Hitchcock Medical Center, and over 120 tech companies, including biotech, medical tech, and software companies, among others, and provides ready access to the college town of Hanover and a wide variety of outdoor activities.

### Senior Corporate/Commercial Attorney | Burlington, VT

Downs Rachlin Martin – Northern New England's largest business law firm - has a significant opportunity for a corporate/commercial attorney to practice within its dynamic business law group in its Burlington, Vermont office. The ideal candidate will have over six (6) years of relevant experience working with colleagues and clients on matters involving venture capital transactions (entity formation, seed financings, capitalization tables, portfolio management), mergers and acquisitions (asset and stock purchases, mergers, due diligence) and debt and equity financings (mortgages, Uniform Commercial Code, promissory notes and loan agreements). The firm's business law group is engaged in a wide variety of transactions locally, nationally and internationally. The ideal candidate will have a partial book of business, and be eager to develop new client relationships. The ideal candidate will become part of a team of attorneys committed to delivering top-quality service to growing and successful businesses.

### Litigation Attorney | Lebanon, NH

Downs Rachlin Martin — one of Northern New England's largest law firms — has an exciting opportunity for a litigation attorney in its Lebanon office. The ideal candidate would have experience litigating in New Hampshire courts and an interest in doing sophisticated litigation.

### Corporate/Commercial Attorney | Lebanon, NH

Downs Rachlin Martin PLLC seeks an experienced corporate/commercial attorney to join its Lebanon office. The ideal candidate will be licensed to practice in New Hampshire, have a portable book of business with compatible clients and have a minimum of ten years of experience in corporate/commercial law. The ideal candidate will also be active in the New Hampshire business and civic community and be committed to growing DRM's regional presence. Relevant experience would include the formation of corporations, limited liability companies and other business organizations, commercial loan transactions, equity financings (including private equity and venture capital) and mergers and acquisitions (including sales of stock and assets, management buyouts, recapitalizations and reorganizations). Experience with ESOPs, B-corps or other focused practices would be highly valued. Apply here.

DRM serves a wide range of local, regional, national, and international clients. Our intellectual property lawyers have worked at some of the largest firms, IP boutiques, and corporations in the U.S., and are now at DRM because they have found they can continue to have sophisticated practices while enjoying the many benefits of living in the Vermont-New Hampshire region.

DRM is committed to investing in our attorneys' professional growth and development. We offer excellent mentorship and training, as well as leading technology, competitive salary, and a comprehensive benefits package, including industry-leading paid parental leave and two generous retirement plans.

Apply here: <https://www.drm.com/careers/attorney-job-openings>.

## Attorney - Corporate Practice Group

Do you like working with entrepreneurs? Are you interested in joining a collaborative and innovative legal practice? Cook, Little, Rosenblatt & Manson, p.l.l.c. is a highly-regarded boutique business law firm with an opening in its corporate practice group. Our ideal candidate has strong academic credentials and 2-4 years of sophisticated corporate experience. We offer competitive compensation, as well as a platform for you to develop client relationships, become involved with local organizations, work with high-growth businesses, and build your practice in a supportive and collegial environment.

To learn more about the firm, visit our website at [www.clrm.com](http://www.clrm.com). To apply, please send your resume to Lisa Roy, Hiring Coordinator, at [lroy@clrm.com](mailto:lroy@clrm.com).



## ATTORNEY PROSECUTOR Town of Tilton

Tilton Board of Selectmen seeks a qualified experienced Attorney Prosecutor to perform highly responsible, independent and professional administrative and supervisory work in planning, organizing and directing the activities of the Tilton Police Department Prosecutor's Office. This full time position includes a generous benefit package including Health, Dental, Disability Insurance, Retirement Plan, Life Insurance, and Paid Time Off. Salary commensurate with experience.

Qualifications must include a Juris Doctorate; State of NH law license, member in good standing of the NH Bar Association. One to three years of experience in criminal prosecution; three to five years of experience in criminal prosecution preferred. Experience in litigation through trial and appellate level. Thorough knowledge of NH RSA's, State & Federal Supreme Court Decisions and Municipal Government.

Job description available at [www.tiltonnh.org](http://www.tiltonnh.org). Submit letter of interest and resume to Town Administrator at 257 Main Street, Tilton, NH 03276, or email [jforrester@tiltonnh.org](mailto:jforrester@tiltonnh.org), no later than February 24, 2021.

The Town of Tilton is an EOE employer.



PRIMER PIPER EGGLESTON & CRAMER PC, a regional service firm with offices in New Hampshire, Vermont, and Washington, DC, currently has 4 positions open in its New Hampshire offices.

We are seeking a **FAMILY LAW TRIAL ATTORNEY** with 2-5 years of experience. Applicants must be interested in pursuing a career in family law handling complex divorce, legal separation, parenting and relocation issues, alimony, child support and property division. Qualified candidates will be experienced in or willing to learn about the psychology of divorcing spouses and family members, a reasonable understanding of DSM V, knowledge of forensic accounting and business valuation issues, ERISA as it pertains to divorces and familiarity with taxation issues in divorce. Candidates will also have worked with expert witnesses, preparing them for and examining them in deposition and trial. Experience in e-discovery, the handling of large-volume discovery matters and working with and directing paralegals is important. Applicants should also have some mediation experience. The ideal candidate will have a demonstrated ability to market their law practice and an involvement in bar association/community activities in positions of responsibility.

We are also seeking an **ESTATE PLANNING ATTORNEY** with 4 or more years of active estate planning experience. Applicants must be interested in pursuing a career as an estate planning attorney handling wills, trusts, business succession, and probate matters.

Both are an excellent opportunity for an experienced attorney to join a thriving, high-end domestic relations practice in our Manchester and Portsmouth, New Hampshire, offices.

We are seeking a **BUSINESS LAW/REAL ESTATE ASSOCIATE**. Qualified candidates will have 2-3 years' experience with business law and real estate matters. This position requires strong academic and excellent research, writing, and analytical skills.

We are also seeking an **INSURANCE DEFENSE/LITIGATION ASSOCIATE**. The position requires 1-3 years' litigation experience and will involve drafting discovery and motions, taking and defending depositions, and arguing motions before Federal and State courts. We are seeking candidates with strong academic credentials and excellent research, writing, and analytical skills.

We offer a competitive salary, comprehensive benefits and a great work environment. Qualified candidates may submit letter of interest and resume by e-mail to [careers@primer.com](mailto:careers@primer.com). All inquiries are held in the strictest confidence.

**Classifieds** from page 37

**PARALEGAL WANTED** – Wescott Law seeks an experienced abstractor to join our real estate team. Competitive compensation package. Flex/remote working options. The job includes registry and governmental archive research for complex real estate matters, as well as document preparation. Full or Part-Time. Please send your cover letter and resume to [aambrose@wescottlawnh.com](mailto:aambrose@wescottlawnh.com).

**LEGAL ASSISTANT.** Concord, NH boutique estate planning and trust administration law firm seeks a full time experienced legal assistant to work with multiple attorneys. Candidate must have a minimum of 2 years of experience, excellent editing and typing skills, ability to work independently in a team environment, and be detail oriented. Proficiency with MS Office Suite is required. Competitive salary and benefits package. Submit cover letter and resume to [th@fstlaw.com](mailto:th@fstlaw.com).

**REAL ESTATE LEGAL ASSISTANT** – Bernstein Shur Manchester, seeks a Real Estate Legal Assistant 2+ years of experience. Great opportunity to join a growing practice group. Real Estate Legal Assistant will provide administrative support to the Senior Real Estate Paralegal and team of dynamic attorneys. Candidates must be eager to learn RE law, how to conduct title searches; prepare title abstracts with the expectation to grow into a paralegal position. This position requires the legal assistant to work within the office. We maintain strict Covid-19 safety measures to ensure all employees are safe. Send resume and cover letter to: [mturcotte@bernsteinshur.com](mailto:mturcotte@bernsteinshur.com).

**LEGAL ASSISTANT.** Manchester Law Firm seeks full or part-time individual to answer phones and emails. Significant client communication skills required along with willingness to learn. The firm is also interested in training motivated individual to develop into a probate or personal injury paralegal. We hope the candidate desires advancement. Compensation package commensurate with experience. Degree strongly preferred. Respond to [mhigham@nhattorney.com](mailto:mhigham@nhattorney.com).

**REAL ESTATE PARALEGAL** – Concord firm seeing an experienced real estate paralegal. The job involves research at the registry of deeds, municipal offices, state archives and other places concerning the status of roads, along with conventional real estate work such as titles, document preparation and closings. Full or Part-Time. Submit cover letter and resume to [amguertin@alfanolawoffice.com](mailto:amguertin@alfanolawoffice.com).

**OPPORTUNITY FOR LAW PRACTICES**

**LAWYERS OR SMALL FIRMS** – Considering retiring or selling your practice? We are a growing Central, NH firm practicing in criminal defense, DWI, personal injury, family law, and estate planning. We are on the lookout for lawyers or small firms with a recurring client base who are hoping

to capture value for their business. Possibilities include an of-counsel relationship or a direct buyout as allowed by Rule 1.17. Email [nhlawfirmale@gmail.com](mailto:nhlawfirmale@gmail.com) if you would like to open a conversation. All inquiries will be treated with strict confidentiality and we request the same.

**OFFICE SPACE**

**OFFICE SUITE AVAILABLE.** Attorney office building in historic district of downtown Manchester. Rent includes offices with internet/phone access, kitchen, common areas, 4 conference rooms, library, copier and parking. Perfect for solo practitioner who desires a working environment with small group of experienced litigators. Call for further details. (603) 494-4882.

**RATH YOUNG PIGNATELLI**

**Accounting Clerk**

Rath, Young and Pignatelli, P.C. is seeking an experienced Accounting Clerk to assist with the daily operations of the Business Office. The ideal candidate will have excellent organizational skills, a diverse set of accounting skills and the ability to handle multiple projects concurrently in a fast-paced environment. **EXPERIENCE:** Bachelor's degree preferred with 3 to 5 years experience in a law firm or similar accounting environment. See website at [www.rathlaw.com](http://www.rathlaw.com) for a detailed description of the position. Send resume and letter of interest to Diane J. Vlahos, Director of Operations, at [djv@rathlaw.com](mailto:djv@rathlaw.com). The firm will not accept the submission of candidate resumes from search firms without a signed fee agreement with Rath, Young and Pignatelli, P.C.

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**Associate Estate Planning Strategist – New Hampshire**

Jordan Park provides comprehensive investment and financial advice to a targeted community of individuals, families, and institutions. Our clients have made extraordinary contributions to business, philanthropy, government, and society. We are empathetic problem solvers with depth and diversity of experience. We embrace complexity, shoulder problems, and navigate challenges to empower clients to achieve their optimal outcomes. Our mission is to enhance lives and legacies.

We are looking for an exceptional Estate Planning Strategist to support the growth of our firm based in San Francisco. This is an opportunity to work alongside a team that is united by a passion for service, a strong sense of integrity, and a desire to have a positive impact in the world.

**About the Role**

We are looking for a candidate who has a demonstrated ability to learn and implement sophisticated estate planning and estate/trust administration projects and a strong interest in all aspects of clients' financial, family, and tax matters, including gift and estate tax planning, estate and trust administration, charitable planning, and family business succession planning. The successful candidate will also have strong academic credentials, exceptional analytical and writing abilities, and outstanding interpersonal skills.

Primary responsibilities include:

- General knowledge of federal gift, estate, and GST tax law and California trust law.
- Knowledge of and/or experience with:
  - o Revocable trusts, wills, and powers of attorney
  - o Lifetime gifting strategies, including GRATs and sales to defective trusts
  - o GST tax planning
  - o LLCs and LPs in gifting strategies and/or privacy planning
  - o Trust administration
  - o Charitable giving
  - o Estate tax returns and gift tax returns
- Review and summarize client estate planning documents and debrief with the client team, offering explanation and ideas on tax approaches

and strategies

- Oversee the organization of client estate planning documents
- Work with the investment team on funding trusts
- Liaise with clients' legal and tax advisors
- Attend client meetings with client teams on an as-needed basis
- Stay current on estate planning strategies as a resource for Jordan Park

**About You**

This role might be right for you if you:

- Have a minimum of 2 years of estate planning experience at a top law firm
- Genuinely like helping people
- Have experience serving and interacting with clients
- Pay attention to the details and are accurate
- Enjoy solving problems
- Can communicate effectively with a broad range of stakeholders
- Are discreet in handling sensitive and confidential information
- Work well independently and as part of a team
- Have a bachelor's degree and LLM in Tax preferred
- Financial services experience considered, but not required

Jordan Park is always seeking great talent. We are proud to be an equal opportunity employer, and we consider qualified applicants without regard to race, color, religion, sex, national origin, ancestry, age, genetic information, sexual orientation, gender identity, marital or family status, veteran status, medical condition or disability. We comply with the San Francisco Fair Chance Ordinance and will consider for employment qualified applicants with arrest and conviction records.

For information about our privacy practices, including disclosures for California residents, please see our Privacy Notice. Jordan Park is an SEC-registered investment adviser (RIA).

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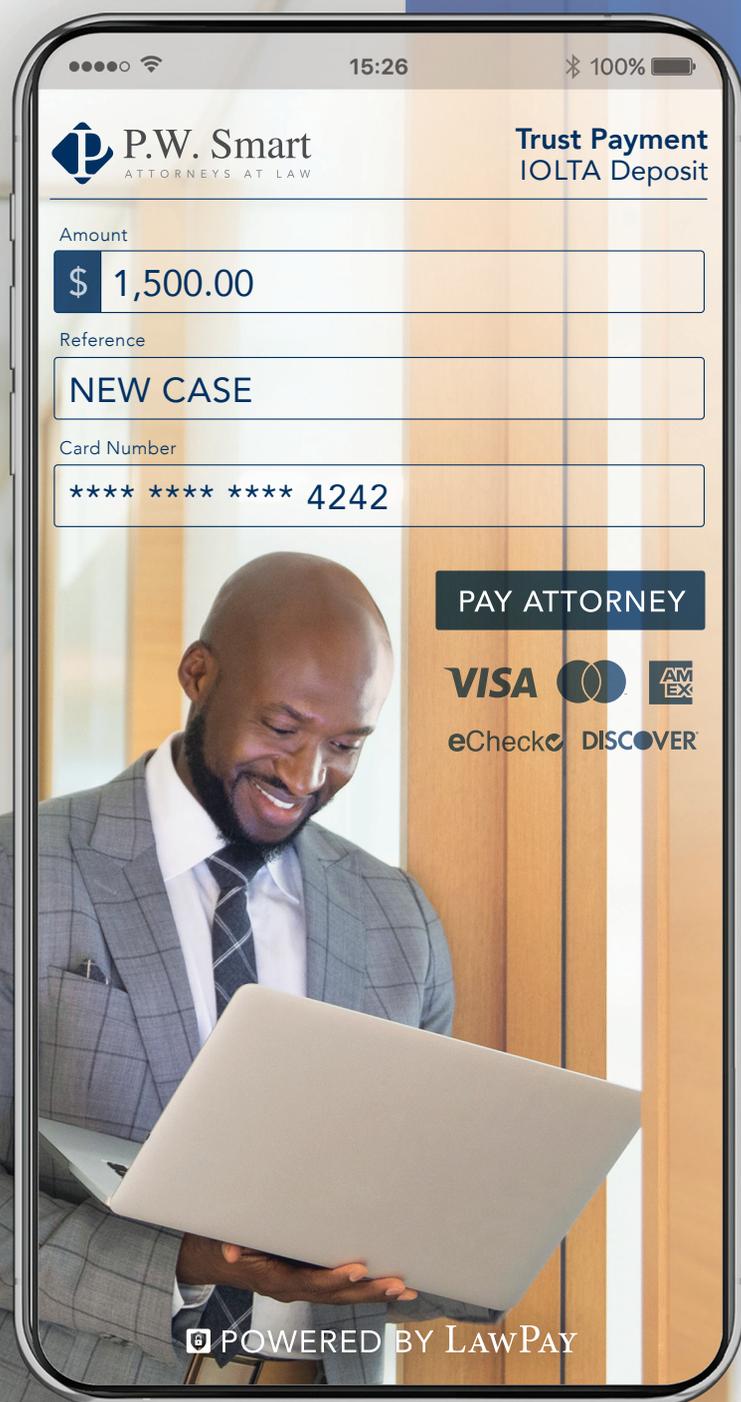


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