Juvenile Court Diversion is Cheap and Effective, but Inconsistent Across N.H.

By Jordyn Hume
Granite State News Collaborative

Only a few months away from graduating from Spaulding High School, Dillon Guyer made a seemingly small decision that would change his life. He remembers his 17-year-old self as a typical rambunctious teenager who skipped a few classes a day to smoke weed with his friends behind the school. Something anyone at that age may have done.

Dillon Guyer holds his one-year Drug Court Service Award with Nicole Rodler, chairperson of the New Hampshire Juvenile Court Diversion Network. Courtesy Photo

This time, they got caught.

But instead of calling the cops or taking him to the police department, the school’s resource officer brought Guyer to a school administrator, who recommended a different option.

“She looked me in the face and told me, ‘Dillon, I know you’re high. I know you’re being an idiot. But if you want to graduate you have to go to diversion,’”

DIVERSION continued on page 20

PRACTITIONER PROFILE

Lindsey Courtney: A Problem Solving Powerhouse

By Kathie Ragsdale

Lindsey B. Courtney knows how to tame a crisis, and that ability was never more tested than when COVID-19 hit New Hampshire.

Executive director of the state Office of Professional Licensure and Certification, the Manchester attorney had been in that position just a month when the pandemic struck, requiring urgent action by her office.

Patients who had once traveled out of state for their medical care were suddenly consulting providers by teleconference and all threats,” said Robert L. Quinn, Commissioner of the NH Department of Security. The statement follows information received by the FBI, first reported by ABC News, indicating “armed protests” are being planned at all 50 state capitols and the US Capitol in Washington, D.C. in the days leading up to President-elect Joe Biden’s inauguration on January 20.

“The Department of Safety works diligently and collaboratively with our local and federal partners to investigate any and all threats,” said Robert L. Quinn, Commissioner of the NH Department of Security. The statement follows information received by the FBI, first reported by ABC News, indicating “armed protests” are being planned at all 50 state capitols and the US Capitol in Washington, D.C. in the days leading up to President-elect Joe Biden’s inauguration on January 20.

“The Department of Safety remains committed to ensuring the safety and security of New Hampshire’s residents and visitors. The Department of Safety will continue to monitor any credible threats and is prepared to respond to any emergency.”

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Lessons From a Squirrel

By George Moore
NHBA Executive Director

I will avoid the clichés about what a bad year 2020 was, how it compressed a bad year into 12 months, and then some. It is complex, too. They represent a strange combination of security, anxiety, and pretend self-reliance. Most years, the cycle began a few spindly trees in March, with many of us gazing out at the woods, wondering whether we have enough and prettily stacked wood to store for the winter. And if a car doesn’t get them, a fox, coyote or hawk will.

I can’t deny that my scorn finds root in prejudice against those pesky rodents who raid the bird feeder and nest in the barn. But prejudice usually falls to facts, and it turns out that squirrel activity has some method to it. Not only do they rely on acute senses of smell to locate at least some of their stashes, but they actively deceive their competition. Biologist Sylvia Halkin, professor at Central Connecticut State University, reported that “[o]ne squirrel I was observing last winter saw me digging up one of its caches. It had buried another nut under the snow, but dirt mixed into the snow made it obvious where the nut was hidden. As I watched, the squirrel came back, dug up the nut, and carried it away to hide under a bush.” The relationship between squirrel and nut cache is more complex than appears.

My relationship with my wood piles is complex, too. They represent a strange combination of security, anxiety, and pretend self-reliance. Most years, the cycle begins the pri winter, when I cut a few spindly trees, congratulated myself on how far ahead of it I am, and settle down by the woodstove. By the late summer, I was observing bad year 2020 was, how it compressed a bad year 2020 was, how it compressed

Forward March into 2021

By Daniel E. Will

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President’s Perspective

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Forward March into 2021

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I will avoid the clichés about what a bad year 2020 was, how it compressed more bad news and events into 12 months than any time in recent memory. How those events, particularly the pandemic, continue to wreak havoc with so many lives, both economically and emotionally, and physically. This is just as true in New Hampshire as elsewhere around the country. No debating it – bad all the way around.

Instead, I’d like to focus on some positive initiatives within the NHBA that should help our members dig out from the shambles of 2020.

First, we have expanded our TechConnect benefit now includes more than 50 white papers, guides to best practices, written by Affinity experts, formerly practicing attorneys who have spent years working with law firms.

Second, we are developing, under the able guidance of our Member Services Coordinator, Misty Griffith, a focused and ainsured mentor program. This initiative pairs seasoned lawyers on various areas of practice with newer lawyers seeking generalized guidance in how to manage and grow a practice and avoid pitfalls. As the saying goes, young lawyers shouldn’t have to “reinvent the wheel.” The program will be on display at the Midyear Meeting in February, so be sure to go to the virtual member services booth at the exhibitor hall at the meeting.

Lastly, we are entering into an arrangement with a company, RPost, LLC, that will provide low cost encryption services for e-mail and documents. Misty Griffith will be writing a more detailed account of the range of services to be offered at a substantially discounted cost to our members. In addition to encryption, RPost will offer legal proof of e-mail and attachment delivery, and electronic signature and e-contracting capabilities.

So, as we dig out, the Association will be there to help. This particularly holds true for the vast majority of members who are in small firms or are solo practitioners. These member services are geared to your practices. We know you have been hit hard by the pandemic, and we stand ready to help rebuild, restore, and restore initiative to satisfying and profitable practices.
Start the New Year Right – Focus on Self-care

By Misty Griffith

There is a national movement to improve the health and well-being of legal professionals which emerged as an important initiative at the 2016 ABA Annual Conference and resulted in the creation of a National Task Force on Lawyer Well-Being. The focus is to create a positive, supportive culture that promotes health and well-being, as well as helps prevent and treat impairment.

Although the New Hampshire Bar Association does not have an official committee on well-being, much work in this area is already being done. We have a strong relationship with NHLAP, promoting their services in the Bar News and on our website, as well as a host of other important resources.

The Succession Planning Guide is a wonderful, free resource designed to guide and support the transition of older attorneys, and the monthly “Wellness Corner” in the Bar News offers useful information pointing readers to resources that they may tap into. Additionally, check out “Working Through COVID-19: A Lawyer’s Resource List” on our website’s homepage. This nationally recognized page is constantly adding current information and includes many wonderful “well-being” resources.

An important aspect of well-being is self-care. We must destigmatize self-care. Self-care is not selfish; it is necessary. Each of us can better serve the people around us when we are functioning at our best – well-rested, calm, and energized. Being tired and stressed-out leads to burnout, and the inability to serve anyone well, neither clients, family, friends, nor self. Self-care can make us happier and more productive, as well as having a positive impact on our relationships. Here are a few simple, free self-care strategies:

1. Turn off the phone. This is a challenge, but try putting your cellphone aside for 30 minutes every evening and spend some uninterrupted, undistracted time whether it is with your family, a good book, or even just your own thoughts as you take a walk.

2. Schedule (and prioritize) family time and/or self-time. Literally put it on the calendar and honor it the way you would any other important commitment.

3. Get out from behind your desk. At least once an hour, stand up and stretch or maybe take a walk around the office.

4. Control the controllables. Determine which things are within your control and concentrate on those. Don’t waste energy worrying about the things beyond your control.

5. Bask in the unconditional, nonjudgmental love of your pet. You are a great person. Just ask your pet.

6. Make time for the hobbies that give you great pleasure. It is always uplifting to do something you enjoy.

7. Cultivate positive friendships. Make spending time with good friends a priority. It is more challenging now because of COVID-19, but even a scheduled weekly phone call can be very uplifting and give you something to look forward to.

8. Drink a hot beverage in a mug, not a “to-go” cup. This will force a short break. Try to sit, relax, inhale the aroma, and clear your mind for just a few minutes.

9. Count your blessings. When you feel overwhelmed by negative things weighing on you, try to remember three things you are grateful for. Focus on the positive.

10. Get enough sleep, eat right, exercise, and drink plenty of water. We all know this advice, so try to do it. Celebrate improvements in these areas, and don’t give up!
Five More Tips For Bringing Your Video Advocacy To The Next Level

In the September 2020 edition of Bench Notes, I shared five tips for video advocacy. With the dawn of 2021 and inoculation for COVID-19 underway, the promise of a return to in-person hearings and trials is within grasp. But don’t table those WebEx skills just yet. I expect we have at least a few more months of virtual court proceedings ahead of us and some virtual hearings are likely to stay beyond the crisis.

Having now presided over months of video hearings, I still believe that you cannot replace an effective face-to-face confrontation of a hostile witness over the computer screen. A lawyer’s ability to use body language, facial expressions, and tempo to control a witness are muted if not impossible to pull off effectively over the internet. That said, video hearings are not without benefits: they are cost-effective and convenient for clients and efficient for the courts. A hearing for an emergency temporary restraining order, preliminary injunction, or a bail hearing for an incarcerated defendant can be scheduled on short notice with a video link to WebEx. Because the outcome of those early proceedings often shape the future trajectory of the case, the effectiveness of your lawyering skills is essential for your client. With this in mind, consider these pointers to take your presentation to the next level.

Save your bandwidth

Nearly everyone who has participated in video conferences, meetings, or hearings has experienced frustrating jerky lags in video, dropped audio, or the dreaded “death spiral” that means your bandwidth is not adequate. There are several easy ways to improve your connection and, thereby, performance.

• First, close all non-essential programs on your computer. Many programs are continuously connected to the internet. Having multiple open tabs in your browser may be sapping your speed. Likewise, if you are connected to the office server from home by a virtual private network close the VPN connection during the video hearing to save bandwidth.

• Use your phone, rather than your computer, for audio. When you join an online meeting only via your computer, the combined use of audio and video eats up your bandwidth. You’ll improve your connectivity if you use the meeting’s call-in number for audio and save your computer bandwidth for the video. When you call in, make sure to include the attendee ID number for audio and save your computer bandwidth for the video. When you call in, make sure to include the attendee ID you are provided with the hearing notice as it assures that your video and audio will be synchronized.

• If you are working from home and your kids are gaming online, they may need to take a break while you are in your hearings. Your internet connection will slow as more people tap into it. Just as too many simultaneous showers sap your hot water pressure, too much traffic on your internet will overwhelm the service.

• If you are using Wi-Fi to connect to the internet, consider hardwiring your computer directly to the router. This will improve speed. If you have only a Wi-Fi connection available, move your workstation as close to the router as possible.

Don’t be afraid to share

The adage “a picture is worth a thousand words” couldn’t be more true during the video hearings. The “share” function in WebEx allows lawyers to display a photograph, map or diagram of the scene; surveillance or body camera video; or the audio recording of a crucial 911 call. This is often the most compelling evidence in a case. Surprisingly, sharing this content is also the most under-utilized technique during virtual hearings.

Sharing exhibits virtually is easy once you know how, but it does take practice and a little advanced planning. For example, lawyers need to be careful to stop incoming email and text notifications so the court and opposition counsel do not see your confidential communications from clients or a reminder from home to pick up cat food. Also make sure you are provided with exhibits to mark up. All exhibits are easily accessible in your folder so you are not searching for the files while the judge and opposing counsel wait. To share videos on WebEx, you may need select the “optimize for video and motion” or “play multi-media” setting for the videos to play properly. There are lots of short, helpful tutorials online for more guidance on sharing content.

To take your video hearing to yet another level, consider incorporating TrialPad, Trial Director, or a similar litigation software program into your presentation. These programs allow you or your witness to mark up exhibits during testimony. They require an additional, relatively inexpensive, app such as Reflectr 3 to sync the litigation software from a tablet to WebEx, Zoom, or other video-conferencing platforms. It is worth the small investment for an impressive presentation.

Know who is in the room

During in-person courtroom hearings, we all know who is present. It is pretty easy to sense when the spectator in the back of the courtroom is sending subtle cues to the witness on the stand. That kind of nefarious influence is much harder to police in virtual hearings and depositions.

A good advocate needs to be prepared to head off that kind of witness coaching. The lawyer should ask the witness who is in the room and if the witness has access to chat, text, email, or other communication software. To be extra careful, instruct the witness to scan the room with the video camera so you can see who else is present. Also keep an eye on the testifying witness for other clues of improper influence. Does it appear that the witness is reading something or looking at another person off camera? Any good lawyer knows you need to read the witness’s body language and follow up on those tells with appropriate questions. These instincts are just as important in the video platform.

Use of Interpreters

Foreign-language translators or sign-language interpreters provide a vital service to ensure access to justice for everyone. During in-person court proceedings, most interpreters practice simultaneous translation by sitting next to the witness and whispering in the person’s ear. This allows for a relatively seamless presentation. Even during live hearings, lawyers need to make adjustments to accommodate the interpreter. It is essential to slow down to allow the interpreter to keep up. During video hearings, this is even more critical because interpreters must use sequential translation. This means once the lawyer stops speaking in English, the interpreter translates the lawyer’s words into the foreign language. After the witness responds in a foreign language and has stopped speaking, the interpreter translates the answer into English. The interpreter can only remember so much of what you have said, so ditch the legalese and speak in short, declarative sentences.

Small tips that make a big difference

As I noted in the prior Bench Notes, muting yourself when you are not speaking is essential to eliminate disturbing background noise. But you can do this without fumbling with the mouse. To unmute yourself quickly, hold down the spacebar, when you release it you will be back on mute.

For lawyers, clients, or witnesses who appear on the WebEx hearing via a smartphone, the WebEx app offers an easy connection to court hearings. You can quickly join a hearing using the app by scanning the meeting ID with your phone’s camera. This feature will automatically direct you to the hearing without having to type in the meeting ID or participant code that came with the hearing notice.

Remember, practice is essential for a smooth presentation. You can also use WebEx for free to hone your skills before the hearing by visiting https://webex.com/test-meeting.html. The New Hampshire Judicial Branch also offers instructions, best practice guides, and troubleshooting advice for video hearing on its website. Just visit https://www.courts.state.nh.us/webex/index.htm.
The Law, Race, Covid, and Epidemiology

By Anthony F. Sculimbrene

I love going to court. I love watching tri- als. I love watching lawyers make arguments (including the rare but entertaining dog cus- tody disputes). I also really enjoy seeing the same faces over weeks, months, and years. Court staff and folks at the sheriff’s offices are friends. Many of them, like Pete in Hillsbor- ough South Superior Court, have given me feedback that has made me a better lawyer. People that like going to the gym are called gym rats. If there is an equivalent of that for court, I am one of them. Heck, I even like checking out other states’ courts when I am on vacation. Losing in-person hearings due to COVID-19 has been really sad. Seeing court staff there, masked and still busily work- ing, is even sadder. But COVID-19 brought another is- sue to light in a strange way for me. The magnitude of the systemic prob- lems the justice sys- tem faces was made clear when research- ing Covid’s spread inside corrections facili- ties for Petitions for Corporate Release in federal court. Many of the outbreaks have been huge, blooming clouds of death hanging over our jails and prisons. These blooming clouds of death have been studied by scien- tists, including epidemiologists. Epidemiolo- gists, by their nature, deal with huge data sets. In talking to one while researching experts for a case, he told me: “a phenomenon is the proper object of study for an epidemiologist when it is so widespread that even non-epi- demiologists know about it.” Suffice to say, Covid fits that definition.

The epidemiologists studying Covid have noted the limitations the data placed on their conclusions. Its part of their job. For ex- ample, they would note that conclusions from Covid studies on corrections populations should not be applied to the general popula- tion because the corrections population is younger. Then, in one study (“Epidemi- ology of COVID-19 Among Incarcerated Indi- viduals and Staff in Massachusetts Jails and Prisons,” JAMA Research Letters, August 21, 2020), I saw a caveat that just stumped me—“Owing to structural racism and the criminalization of poverty, COVID-19 racial- ethnic inequities may be exacerbated among incarcerated individuals.”

Seeing this claim about pervasive dis- crimination in the justice system in a peer- reviewed scientific paper in a well-regarding journal, not as the point of debate, but as an a priori condition, was shocking. As some- one that has dealt with the system’s problems firsthand through many thousands of cases, I can attest to there being persistent issues with race and class, but seeing it in that light, as an uncontrovertible epidemiological phenomenon, did for me what Hume did for Kant—it shook me from my dogmatic slumber.

I love our court system. But the court system in America, and New Hampshire, is rife with systemic injustice that targets mi- norities and the poor. Here are but a few ex- amples. The police are allowed to lie to peo- ple, even people with intellectual disabilities and mental illness, to trick them into making statements. Police can stop people and invade their privacy—even if they are motivated by race—so long as there is some minimal, but pretextsual, justification. The police have a powerful immunity from civil suits, not found in statutes nor the Constitution, while doctors, members of the military, and other people with jobs that are similarly risky do not. We treat proven mental illness (addiction) as a crime. We scoff at the idea of debtor’s pris- ons, but cash bail is the same system with a different name. Selling huge amounts of fen- tanyl and other powerful drugs is fine so long as you are a pharmaceutical company. Nearly all corporations receive laughable “punish- ments” in criminal cases. The justice system is not a level playing field. It has concretized injustice over the years.

As dockets restart when vaccines be- come available, we have a chance to restart the justice system. We should do everything we can to reinvent it in the right direction. New Hampshire took a step towards racial justice when it eliminated the death penalty, but we have much more work to do as we fol- low the arc of the moral universe. As 2021 starts and we plan to return to full dockets across the State in the coming year, we have an opportunity to change.

We should embrace that opportunity.

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Cybersecurity Corner

Light at the End of the Tunnel or the Train: CMMC as a Model for the Future?

By Ande Smith

An old saw from the military is that the place you’re in isn’t hell, but you can see it from there. And so it goes for cyber regulation, including the unfortunately vague “reasonable” standards directed to lawyers under most Bar rules. Recently, a new standard and, more importantly, a process were launched—the Cybersecurity Maturity Model Certification. Few lawyers will have heard of this new cyber standard, but it’s one that may find its way in some form to all businesses, including the practice of law.

Cyber regulation is highly fragmented. Historically, it followed specific industry sectors, as in the Gramm-Leach-Bliley Act directed at financial services or later HIPAA for health care. Where there were gaps, the Federal Trade Commission hap hazardly took the job of protection. Today, we are in a period of vigilance, with an awfully expensive auditor checking on them. Despite this, billions of dollars of damages are reported, with an array of new standards drawn from old ones and will empower auditors to provide certifications to businesses, including not just direct vendors, but down the length of the supply chain. It is analogous to the paper tiger of Business Associate Agreements in HIPAA, but with audited oversight.

The CMMC program will roll out slowly in the coming years, both due to its complexity and expense. Mercifully, the maker of a hypersonic missile will be subject to different standards than the maker of a rubber gasket. Five tiers of maturity will exist over 17 cyber domains, collectively representing hundreds of practices that will be mandated variously based on the underlying risk as established in each defense contract.

While it is tempting to think of this system as another cul-de-sac of cyber regulation, it does not fit the existing model. It is not unreasonable to assume that other federal agencies—and not long after, states—will also audit their supply chains. The audit may expand to services as well, even when divorced from manufacturing. Later, regulators, who spent more than five years chasing the Home Depot, may just start at their outcome of an audited security program as a matter of right.

And with a viable model and an auditing infrastructure in place, it is a short leap to the private sector embracing the requirement—some companies like Microsoft already have.

“Reasonable” steps may be coming to a close.

"The future is never certain, but change is afoot in how we approach cybersecurity and rather like filing paper pleadings, the days of taking ‘reasonable’ steps may be coming to a close.”

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2021 BEST LAWYERS (& THE ONES TO WATCH).

MARK A. ABRAMSON
LAWYER OF THE YEAR 2021
MEDICAL MALPRACTICE - PLAINTIFFS & PERSONAL INJURY - PLAINTIFFS

KEVIN F. DUGAN
BEST LAWYER
MEDICAL MALPRACTICE - PLAINTIFFS & PERSONAL INJURY - PLAINTIFFS

EVA H. BLEICH
BEST LAWYER
MEDICAL MALPRACTICE - PLAINTIFFS 2021

HOLLY B. HAINES
BEST LAWYER
MEDICAL MALPRACTICE - PLAINTIFFS & PERSONAL INJURY - PLAINTIFFS

JARED R. GREEN
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PRODUCTS LIABILITY - PLAINTIFFS & PERSONAL INJURY - PLAINTIFFS

NICK ABRAMSON
THE ONE TO WATCH 2021

THE PRACTICE FOR MALPRACTICE.

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NEW HAMPSHIRE BAR NEWS

JANUARY 20, 2021
MEMBER BENEFIT SPOTLIGHT

Announcing New Member Benefit: RPost Provides Cybersecurity for Email and Electronic Signatures

In an increasingly digital world, cybersecurity for electronic communications is a necessity to protect sensitive information and maintain privacy. Attorneys have an ethical duty to keep communications with clients confidential and secure, and the need for working remotely has created the necessity for securely transmitting documents and obtaining electronic signatures. The New Hampshire Bar Association has partnered with RPost to offer our members a high quality, affordable cybersecurity option. RPost is a well-established global leader in providing secure electronic communications since 2000 and is a benefit provider for numerous bar associations.

As a preferred benefit provider, RPost will offer NHBA members a 20% discount on RMail and RSign software services. For members who take advantage of these products, RPost will provide expert customer onboarding, personalized training, and a friendly customer success advocate.

Rpost encryption technology is convenient to set up and easy to use, no matter what your comfort level with technology might be. It works on both PCs and Macs and integrates smoothly with Gmail and Outlook, as well as other email providers. RPost has years of experience in the industries – legal, medical, insurance – where personally identifiable information is exchanged, and its cybersecurity solutions meet compliance standards for HIPAA and Sarbanes-Oxley.

RPost offers two convenient cybersecurity products, RMail and RSign. RMail provides simple to use encryption for emails protecting confidential communications and providing security compliance. Additionally, RMail offers registered email with proof of delivery. RMail automatically tracks email and returns a receipt to prove the precise date and time an email is delivered and opened, as well as the content sent making it easy to prove precisely when important emails were opened. RMail features easy to use encryption at the click of a button, and it requires no special software for recipients. Additionally, RMail allows users to attach extra large files (up to one gigabyte) and deliver them directly to a recipient’s inbox.

RSign is a web-based process that provides a quick and intuitive way to prepare and send documents for electronic signature. RSign utilizes simple drag and drop document preparation. To prepare a document for electronic signature, simply upload the document then drag and drop input fields for signatures and dates anywhere on the document. The guided signing process will then lead each signer through a document, one field at a time making it easier to get an error-free completed document. RSign provides encrypted email delivery of documents directly to each recipient’s inbox making it convenient for recipients to receive, open, sign, and return a document with no special software.

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Combined, they have achieved well over $1.5 Billion in jury verdicts and settlements on behalf of their clients.

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NEW HAMPSHIRE BAR ASSOCIATION

2021 Midyear Business Meeting
February 18, 2021 – 3:00 p.m.

REMOTE MEETING

Please contact Debbie Hawkins for more information dhawkins@nhbar.org 715-3269

President Daniel Will - Presiding

AGENDA

1. Call to Order
2. Secretary’s Report
   • Draft Minutes of the 2020 Annual Membership Business Meeting for approval
3. Old Business
4. New Business - Vote on Proposed Constitution Change

Proposed Revision to the NHBA Constitution

Article II - Membership - Section 7

(This change is regarding the existing dues waiver process. It modifies the existing procedure to allow for a more efficient decision-making process. It also creates a process by which members can appeal a waiver request denial.)

5. Adjournment

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NEW HAMPSHIRE BAR NEWS

JANUARY 20, 2021

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Combined, they have achieved well over $1.5 Billion in jury verdicts and settlements on behalf of their clients.

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NEW HAMPSHIRE BAR ASSOCIATION

2021 Midyear Business Meeting
February 18, 2021 – 3:00 p.m.

REMOTE MEETING

Please contact Debbie Hawkins for more information dhawkins@nhbar.org 715-3269

President Daniel Will - Presiding

AGENDA

1. Call to Order
2. Secretary’s Report
   • Draft Minutes of the 2020 Annual Membership Business Meeting for approval
3. Old Business
4. New Business - Vote on Proposed Constitution Change

Proposed Revision to the NHBA Constitution

Article II - Membership - Section 7

(This change is regarding the existing dues waiver process. It modifies the existing procedure to allow for a more efficient decision-making process. It also creates a process by which members can appeal a waiver request denial.)

5. Adjournment

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TRIAL LAWYERS JUSTICE

Call today for a free consultation or a second opinion 866-TL4J-LAW

Let Us Help You Win Your Case

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President Philpot presented this change, which was proposed to remedy the logistical difficulty posed by the requirement that a candidate for the Out of State Governor board seat obtain 25 signatures on their nomination petition. There has only been one candidate since this seat was added in 2014 who was able to successfully submit the required nomination petition. When no petition is submitted, the board appoints someone to the seat.

The board discussed this proposal and the reasons for it. A board member expressed the opinion that the Out of State Governor should be required to get the out of state members signatures as they are the constituency for this seat. There was discussion as to whether out of state members know they have specific representation on the board of governors. President-Elect Daniel Will suggested communicating to these members that there is an Out of State Governor on the board to specifically represent their interests as out of state members.

ACTION
On motion to adopt the amendment to NHBA Bylaw Article VI Section 4 as presented. Passed with 1 nay vote.

To vote on proposed amendment to NHBA Bylaw Article IX Section 5 and 6

President Philpot explained that this change adds the Law Related Education Committee as a Standing Committee of the NHBA.

ACTION
On motion to adopt the amendment to NHBA Bylaw Article IX Section 5 and 6. Passed.

5. Board of Governors Recognition and Passing of the Gavel

Due to the cancelation of the 2020 Annual Meeting, the traditional Board of Governors recognition and passing of the gavel was completed as part of this annual business meeting.

President Edward Philpot welcomed three new board members: Jesse Friedman (Belknap County Governor), Leslie Leonard (Carroll County Governor) and James Shepard (Governor at Large) and recognized outgoing members, David McGrath and James Cowles. David is leaving the board after completing his four-year service from Vice President though Immediate Past President, Jim Cowles completed two terms as Carroll County Governor. Former board member John Curran, who was appointed by Governor Sununu to the Circuit Court bench and thus resigned from board in April was also recognized. John served two terms as Governor at Large, and a part of a two-year term as Merrimack County Governor. Lastly, Ed recognized three members that completed terms and were elected/appointed to different seats. Sandra Cabrera, former Coos County Governor and Governor at Large was elected as Vice President. Kristin Fields was elected a Governor at Large after completing two terms as the Belknap County Governor. Lastly, Jonathan Eck, after completing two terms as Governor at Large was appointed to serve as Merrimack County Governor until the 2021 election.

Ed Philpot gave his farewell speech and was presented with gifts on behalf of the Bar Association. President-Elect Daniel Will gave his incoming President’s address.

6. Adjournment

ACTION
On motion to adjourn. Passed. The 2020 Annual Business Meeting was adjourned at 2:37 p.m.

Respectfully submitted,
Deborah J. Hawkins, for Robert R. Howard, III, Secretary
Meet Anna Gleason, The New Hampshire Bar Foundation’s New Executive Director

Anna Gleason started her position as NHBF Associate Executive Director on Jan. 11. Before joining the Bar Association, she held the position of Development Specialist for the Muscular Dystrophy Association’s North East Region for over six years.

“I loved the work I did for the Muscular Dystrophy Association and it was relatively similar to what I’ll be doing for the Bar Foundation,” Anna says, explaining that her position there gave her a chance to play an integral role in leading the New Hampshire office to meet their annual budget.

Versatility is one of Anna’s strengths and as Development Specialist she was responsible for starting and managing successful fundraising events and drives as well as business planning, database maintenance, event planning and budgeting.

A resident of Henniker, where she lives with her three stepchildren and husband, Anna is no stranger to the legal community. She says she occasionally worked for her father, Judge James Gleason, when he was practicing as an attorney.

When asked what one of her first jobs at the Bar Foundation would be Anna says that learning as much as she can about the IOLTA program is on the top of her list.

For those who don’t know, The Bar Foundation carries out its mission by reliably administering the Supreme Court Rule 50 “Interest on Lawyers Trust Accounts” program, responsibly managing the Foundation’s Justice Grants program, and encouraging thoughtful philanthropy by members of the profession. The Bar Foundation is the charitable arm of the New Hampshire Bar Association, focusing on a variety of core issues such as the protection of legal rights, civics education, and civil legal advice.

In her spare time, Anna says she does a lot of skiing and tries to play as much hockey as possible. She played college hockey at the University of Maine before transferring to the University of Albany.

We are glad to have you as the Executive Director Anna!

Anna (far right) skiing with her family at Killington Ski Resort in VT. Courtesy Photo
Community Notes

Gary Franklin has been named the Managing Shareholder and Board Chair for the Primmer, Piper, Egglyon & Cramer law firm. Gary has spent the last 21 years building a successful litigation practice in Vermont, having previously worked in New York and California. The Firm also welcomes new board members, Alexandra Edelman and Kevin Henry.

Coming & Going

The law firm of McLane Middleton, Professional Association is pleased to announce that Benjamin B. Folsom and Kimberly A. Kramer have been elected as directors of the firm.

LawLine Thank You

The New Hampshire Bar Association would like to thank Minkow & Mahoney Mullen, P.A., for hosting Lawline on Dec. 9. Attorneys Peter Minkow and Teresa Mahoney Mullen fielded 30 calls from the public on a variety of legal issues, including family law, probate, and criminal law.

We are currently recruiting Lawline hosts for 2021. Hosts are needed for the months of February, March, April, June, July, October and December. Lawline is held on the second Wednesday of each month from 6-8 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.

Bradford Tyler Atwood

Bradford Tyler Atwood, 62, died unexpectedly at Dartmouth Hitchcock Medical Center on Nov. 16 of previously undiagnosed pancreatic cancer. Brad was a partner in Hughes, Atwood & Mullaly, a law firm in Lebanon, N.H. He graduated from Denison University and received a law degree from Vermont Law School in 1990.

Brad’s spirit of generosity was reflected in his commitment to community service. He was a trustee and director of the Gifford Medical Center and vice president of the board at Tri-Valley Transit. He served as president of the board at the Sharon (Vt.) Academy for many years and also served as chair of the Sharon selectboard.

Brad inherited his love for cooking from his mother and passed his passion in the kitchen down to his children. He was curious about the food of other cultures and traveled abroad to enrich his knowledge of varying cuisines. But the thing he liked best was sharing locally grown food with his neighbors in Sharon and East Barnard, Vt.

Brad encouraged wilderness training for all four of his children. As a family, they loved to camp, ski, hike and fish, and Brad was proud of their ability to navigate a place in nature by being both respectful and resourceful. Brad was a man of great sensitivity, taking delicate care of wild birds throughout each season, and cultivating an environment for lemons and limes in his den.

He is survived by his wife, Kelley McKenna, his four children, Caleb Atwood, Abra Atwood and her husband, Tom Callahan, Caroline Atwood and Bruce Atwood; and their mother, Lorraine Atwood. He is also survived by his sister, Heather Atwood, and her husband, David Rabin; his brother, Jonathan Atwood; his stepdaughters, Claire Crowley and Lily Crowley; his nieces, Isabelle Rabin, Georgia Rabin and Julia Atwood; and many cousins.

IN MEMORIAM continued on page 17

Michael Roger Berube

Michael R. Berube, 54, of Somersworth, NH, formerly of Henniker, NH, died on January 4, 2021 after fighting a courageous battle with brain cancer. Michael was born in San Diego, California on June 7, 1966. He is the son of Roger and Ellen (Murphy) Berube. Michael is survived by his daughter, Rachel Berube, of Henniker, NH, who is and always will be the love of his life. He is also survived by his sister, Catherine A. Berube and her husband Francis X. Bruton of Dover, NH and his sister Lori Berube and her partner Randy Nyberg of Somersworth, NH. Michael leaves behind...
The following members were admitted to the New Hampshire Bar Association on December 3, 2020.

Shealyn Connolly Anthony, Stoneham, Mass.  
Brandon Leon Arey, Woburn, Mass.  
Amanda Taylor Bailey, Newton, NH  
Lindi LaDon Beaudreault, New London, NH  
Jacqueline Bester, Littleton, Colo.  
Derek A. Buckley, Amesbury, Mass.  
Ezra Potter Cahn, Brooklyn, NY  
Dylan Dewey Clason, Scarborough, Maine  
Francis J. Coffey, Amherst, NH  
Timothy Patrick Connors, Hanford, VT  
Aylin Isabel Corapcioglu, Malden, Mass.  
Ashley Morgan Cruz, Salem, NH  
Laura A. Demerle, Sudbury, Mass.  
Scott Lewis Oldine, Framingham, Mass.  
Mary K. Doherty, Brooklyn, NY  
Erin Elizabeth York, Concord, NH  
Anthony Joseph Figliola, Barrington, RI  
Mary K. Doherty, Brooklyn, NY  
Nicholas Paul Frye, Brighton, MA  
Jason A. Fortgang, Portsmouth, NH  
Jenifer A. Foy, Portsmouth, NH  
Trenton A. Frye, Nashua, NH  
Adam Benjamin Weisman, Andover, Mass.  
Zachary James Waller, London, England  
Gretchen Maclaren Wade, Rye, NH  
Colette Christina Schmidt, Buffalo, NY  
Bailey Miranda Sanchez, Concord, NH  
Inessa Karan Shur, Wayland, Mass.  
Christine Marie Shields, Freedom, NH  
Inessa Karan Shur, Wayland, Mass.  
James John Steinkrauss, West Roxbury, Mass.  
Morgan Greene Taugnaf, Ridgefield, NJ  
Carl K. Toumayan, Middleton, Mass.  
Morgan Greene Taugnaf, Ridgefield, NJ  
Ericka Lezcano, Warren, RI  
Vincent M. Lentini, Roslyn Heights, NY  
Reid Calogero Lavoie, Lynnfield, Mass.  
Jessie Lynn Krall, Strafford, NH  
Christina Lee Krakoff, Manchester, NH  
Jennifer Judith Farrell, Mendon, NH  
Shaun Michael Filiault, Keene, NH  
Dustin N. Ferzacca, Concord, NH  
Leah Cole Durst, Brookline, Mass.  
Katherine Emma Coker, Boston, Mass.  
Kellen Geri Kehoe, Hopkinton, NH  
Craig Aron Stockwell, Lincoln, RI  
Myles Sean Lynch, Franklin, NH  
Seth Steven Dobieski, Concord, NH  
Derek A. Buckley, Amesbury, Mass.  
Andrews Sorg Domey, Wilmot, NH  
Seth Steven Dobieski, Concord, NH  
Jessica Elizabeth Conover, Rollinsford, NH  
Seth Steven Dobieski, Concord, NH  
Jessica Anne Silvestrone, Surry, Maine  
Trenton A. Frye, Nashua, NH  
Sheila Shahri, Toledo, Ohio  
Kathryn Anne Rickert, Concord, NH  
Katherine L. Rogers, Washington, DC  
Kathryn Anne Rickert, Concord, NH  
Kathryn Anne Rickert, Concord, NH  
Katherine L. Rogers, Washington, DC  
Seth Steven Dobieski, Concord, NH  
Thomas Edward Barnett-Young, Somerville, Mass.  
William Rand Bean, Manchester, NH  
Calvin Curtis Beauvais, Littelton, NH  
Alexandra Mullen Brill, Manchester, NH  
Katelyn E. Burgess, Bedford, NH  
Katharine Em, Boston, Mass.  
Kerrihah J. Gutierrez, Manchester, NH  
Robert G. Delo, Concord, NH  
Chris concentrates his practice on the defense of healthcare providers, healthcare institutions, and other professionals.  
Lewis Morgan Cruz, Salem, NH  
New Hampshire Bar Association Welcomes New Members

NEW HAMPSHIRE BAR NEWS

JANUARY 20, 2021

Welcome to Our Members

Laura Lee
lee@devinemillimet.com
Associate | (603) 695-8553

Laura Lee has joined Devine, Millimet & Branch as an associate in its Litigation Department, where she will work with individuals and businesses on a variety of matters, including telecommunications and technology cases. She is licensed in New Hampshire, New York, Massachusetts, Maine, and Vermont.

“We are thrilled to welcome Laura to the Devine Millimet team,” said David Eby, Litigation Department Chair. “Laura brings her expertise as a senior-level corporate executive to each of her cases. She is a valuable addition to our growing litigation team.”

Lee’s professional background includes senior leadership positions as EVP: Distribution at Crown Media Family Networks, home of Hallmark Channel, and various positions at EI Entertainment Television. During her twenty-year media career she gained vast experience negotiating complex content contracts, business development, developing and executing strategic initiatives, monetizing content copyrights, the art of persuasion, leading teams, and building partnerships.

Lee has received some of the media industry’s most prestigious awards. She was named one of Cable’s Most Powerful Women by Cablefax for multiple years, recognized as a Wonder Women by Multichannel News, and featured on the Multichannel News 40 Under 40 list. In addition, she was the recipient of Women in Cable’s Breaking the Mold Inspiration Award.

Lee earned her Bachelor of Science degree in Business Administration from the University of Maine and her Juris Doctor degree from Vermont Law School. During law school, Lee was a judicial intern for Justice Beth Robinson at the Vermont Supreme Court and litigation intern for the Washington County State’s Attorney’s Office. Also, Laura Lee was invited to participate in Vermont Law’s Advanced Appellate Advocacy program and chosen to join Innovative Trial Practice. Laura Lee also served as the Vermont Editor on the Vermont Law Review and as an Academic Success Program Mentor. In her spare time, she coached the Green Mountain Girls State March Team.

Gary Franklin has been named the Managing Shareholder and Board Chair for the Primmer Piper Eggleston & Cramer law firm. Gary has spent the last 21 years building a successful litigation practice in Vermont, having previously worked in New York and California.

Gary looks forward to working collaboratively with the Firm’s board of directors which includes seven attorneys representing our offices throughout Vermont, New Hampshire and D.C.

**Professional Announcements**

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Additional $50 charge for color

If you would like to place an announcement, email advertise@nhbar.org

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Gary Franklin
Managing Shareholder and Board Chair

**Rath, Young and Pignatelli**

Takes pride and pleasure in announcing that Kathryn E. Skouteris has joined the firm

Kate is Of Counsel, and a member of the Health Care and Insurance Practice Groups. Kate will be working from our Concord office and may be contacted by phone at (603) 410-4322 or ks@rathlaw.com.

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**Pastori | Krans**

PROUDLY WELCOMES ITS NEWEST ASSOCIATE

Brooke A. Moschetto

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

Prior to joining Pastori | Krans as an associate, Brooke was a summer associate for the firm in 2019. She recently graduated from Emory University School of Law, with honors.

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**Sheehan Phinney Bass & Green**

Congratulations

Sheehan Phinney Bass & Green is pleased to announce that Brian J. Bouchard has been elected as a firm shareholder.

Brian J. Bouchard
Shareholder
603.627.8118
bbouchard@sheehan.com

Brian is a member of the firm’s Business Litigation Group where he focuses on labor and employment, land use, and construction issues. As of February 1, 2021 he will be located in our newly opened Portsmouth office.
2020 Attorney Honor Roll

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

BELKNAP
Robert Hunt ★
Allen Lucas ★

CARROLL
Leif Becker ★
Quentin Blaine
Allen Lucas ★
James O’Rourke
Robert Young

CHESHIRE
Theodore Parent

GRAFTON
Kevin Carr
Patrick Hayes
Roderick MacLeish ★
Charles Sheng

HILLSBOROUGH (N)
Charles Sheng
Roderick MacLeish
Patrick Hayes
Kevin Carr

HILLSBOROUGH (S)
Leif Becker ★
Kevin Collimore
Michael Merra
Tanya Spony
Peter Tamposi

MERRIMACK
Courtney Brooks
Heather Burns
Meredith Farrell
Julie Fincks
Jessica Lawson
Petrar Leonard
Kathleen McKenzie
Dennis Thivierge

ROCKINGHAM
Leif Becker ★
Peter Doyle
Benjamin Folsom
Philip Kaili
Jacqueline Leary

STRAFFORD
Leif Becker ★
John E. Durkin
Sarah Lavoie

HILLSBOROUGH (S)
Leif Becker ★
John E. Durkin
Sarah Lavoie

SULLIVAN
Beth Fowler
Kenneth Walton

HILLSBOROUGH (N)
Meredith Farrell

HILLSBOROUGH (S)
Nicolas Brodich
Donna Brown
Andrew Winters

Fourth Quarter 2020 Law Firm Honor Roll

Our thanks to the following law firms who made it possible for their attorneys to participate in Pro Bono. This list includes firms whose attorneys accepted cases from October through December 2020. This list does not include the hundreds of firms whose attorneys have ongoing cases.

CARROLL
Cooper Cargill Chant PA

GRAFTON
Baker & Hayes
Brennan & Loftus PLLC

HILLSBOROUGH (N)
Atkins Callahan PLLC
Bernstein Shure Sawyer & Nelson PA
Devine Millimet & Branch PA
Normand Associates PA

HILLSBOROUGH (S)
Primmer Piper Eggleston & Cramer PC

SULLIVAN
Sheehan Phinney Bass & Green PA

STRAFFORD
Wadleigh Starr & Peters PLLC

OUT-OF-STATE
The Nixon Law Firm PLLC

Free Legal Answers Honor Roll

This list represents attorneys who have answered questions on Free Legal Answers in the months between October and December 2020.

CARROLL
Mindy Annand

GRAFTON
Krisztina Grassi

HILLSBOROUGH (S)
David Ayala

STRAFFORD
Maury Hershman

OUT-OF-STATE
Sarat Choudhury

John M. Lewis
Mediation and Arbitration Services

Experienced Problem-Solver, Simple to Complex Cases

9 Gerrish Drive, Durham, NH
jmlewisadr.com
603-828-8744
Thank You to Our 2020 Bar News Contributors

Susan R. Abert
Erin McCoy Alarcon
Charles P. Bauer
Robert L. Best
Mark Broth
Elizabeth Brown
Brian Buckley
Alexander W. Campbell
Gregory S. Clayton
Anna Cole
John M. Cunningham
Kolbie R. Deamonn
Michael A. Delaney
Jason B. Dennis
R. David DePuy
Beth A. Deragon
William J. Dodge
Amy E. Drake
Christopher M. Dube
Dennis T. Ducharme
Gregory M. Eaton
David P. Eby
Christopher M. Erchull
James V. Ferro
Joseph A. Foster
Geoffrey M. Gallagher
Linda R. Garey
Joshua Gordon
Douglas A. Grauel
Andrew Grosvenor
Chrsissy Hanisco
Terrie Harman
Scott H. Harris
Honey Hastings
Barbara Heggie
Christine Hilliard
Joyce M. Hills
Elaina Hoeppner
Helen Holden Slottje
Peter Hutchins
Ian Huyett
Anne Jenness
Michael T. Jordan
Naomi Katies McNeill
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Kevin McGrath
Kathryn H. Michaelis
Julie A. Moore
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Michael P. Panebianco
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Harsh Parikh
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Michael Redding
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Nancy Richards-Stower
Weston R. Sager
Jane Schirch
Kierstan Schultz
Tony Sculinimbrene
Jennifer Shea
Kirk Simonneau
Christopher J. Sullivan
Christopher Swiniarski
Ashley D. Taylor
Lisa N. Thompson
Catherine Tucker
Holly Vietzke-Lynch
Scott Wanner
John Ward
Debra Weiss-Ford
John Willis
John Wilson
Mark A. Wright
Catherine S. Yao
Audrey G. Young

When we invited you to the NHBA 2021 Virtual Midyear Meeting, no one expected you to be this guy...

Join us on Fri, February 5 for a perfectly “new normal” day of learning and networking on an easy-to-use online event platform. No matter how tech-savvy you may (or may not) be, you’ll enjoy CLEs by nationally-recognized speakers, award ceremonies, exhibitor booths, and more.

Sign up now at nhbar.org (and check out the Midyear Meeting Preview in the center of this issue).
Law Students Meet the Demands of Parenting on Top of Studies

By Ivy Attenborough

Many inside the law profession could not imagine conquering 1L during a global pandemic. Some students, though, manage parenthood on top of it all. Coda Campbell, a first-year law student at The University of New Hampshire Franklin Pierce Law School, and eight-year United States Army veteran, has two daughters, ages 3 and 5. Her day begins with a workout (if time permits), transporting her kids to school or daycare, and then schoolwork for eight hours straight.

“I’m glued to a chair the entire time. I don’t move besides getting lunch,” says Campbell, who went fully remote after classes temporarily went online due to an increase in coronavirus cases at the school.

After her daughters finish school each day, she begins her “mom time” until the girls go to bed. After that, she spends four hours upon hours of schoolwork with parental duties. And he likewise spends his days balancing schoolwork for eight hours straight. Moreover, the risk of exposing her children, and subsequently their daycare, which holds the children of essential workers, is too great to risk. Online learning at least allows Campbell to navigate the ever-changing conditions with flexibility while allowing her to focus on the health of her family and staying on top of her studies.

Chris Pappavaselio, also a student at the law school in Concord, is a 1L father and former teacher of seven years. He manages law school as a father of a 6-month-old and 2½-year-old. Like Campbell, he transferred to fully remote learning after COVID-19 cases increased at the school. And he likewise spends his days balancing hours upon hours of schoolwork with parental duties.

Pappavaselio highlights the importance of balancing concentration will be less time spent with my kids. That’s the strongest motivator possible to stay focused.”

A strict adherence to a schedule allows him to fit everything he needs to get done into his day and still have time to help his wife with dinner and to have time with his children. Without the help of his wife, who works part time from home, law school would be nearly impossible, he says, crediting her encouragement and support for his ability to go to back to school.

Attending law school during the pandemic has meant change for Pappavaselio and his family. Since he and his wife had their first child, they adjusted to him being at work while his wife worked part time and provided child care. Now, he is at home, but he spends the day focused in a home office. And while it can be hard for the older child to understand that Dad is at work, even though he’s in a different room, Pappavaselio says that “things have gone better than expected. Everyone, including the 2½-year-old, has been understanding.”

While a career in law will hopefully improve the lives of their families, Campbell and Pappavaselio each say they are driven by internal passions. And their social experiences, which would have been markedly different from those of traditional students, have been similar to other students in the era of COVID-19. Since social events have transitioned to an online format, more students than ever have been able to participate in club meetings and informative lectures.

“People are also more open to meeting different types of people than they would have before,” Pappavaselio says.

The experiences of Campbell and Pappavaselio highlight the importance of balance and support during law school. Both parents credit their partners’ backing and strong internal motivation for turning their legal aspirations into a reality. An efficient schedule allows them to spend time with their children while balancing finals, extracurricular clubs, and maintaining sanity.

COVID-19 has refocused many students’ priorities from strictly spending time studying to balancing final exams, classes, facilitating their children’s home learning, and trying to find time to breathe.

Ivy Attenborough is a first-year law student at Franklin Pierce UNH Law School of Law and a monthly contributor to Bar News.
In Memoriam from page 11

several nieces and nephews, Ellen Bruton, Aidan Bruton, Kate Bruton, Holden Longstreet, Elizabeth Parker and Haley Parker, as well as, his extended family throughout the United States and Canada.

Michael grew up living in many areas of the country in his youth due to his father’s military service. When his family returned to Somersworth, Michael attended Somersworth High School, graduated from Keene State College and then went on to graduate from Vermont Law School.

Michael practiced as an attorney for a labor union in Boston, Massachusetts, he worked as a prosecutor for the Massachusetts Department of Probation and Parole, as well as, serving as a prosecutor for the Greenfield, Massachusetts District Attorney’s Office. For the last ten years, Michael served as a hearings examiner for the NH Department of Motor Vehicles.

Michael loved his work family, as well as, his friends from Vermont Law School, who gave him great strength during his battle with cancer. Michael enjoyed traveling the world with his friends and going on his annual fishing trips with them. He looked forward to the good weather so he could ride his Triumph motorcycle and he was a connoisseur of music. Michael will be remembered for his easy laugh, his love for his family and friends and ability to always tell a good joke. He had the Irish gift of charm and laughter and was also proud of his French-Canadian heritage. Michael’s family will deeply miss his physical presence, his quick wit and ability to light up a room. Michael was a member of the Parish of St. Theresa in Henniker, NH and most recently, when he came home to live with his parents, he returned to his home parish of St. Ignatius of Loyola, Somersworth, where he was confirmed and served as an altar boy many years ago.

Michael’s family thanks his medical team at Massachusetts General Hospital, Brigham and Women’s Hospital, Dana Farber, Northeast Rehab, the Seacoast Cancer Center, Cornerstone Hospice and Watson Fields for all of their kindness and dedicated commitment to Mike’s treatment. The family also thanks Father Andrew Nelson, Northeast Rehab, the Seacoast Cancer Center, Cornerstone Hospice and Watson Fields for all of their kindness and dedication to Mike’s treatment. The family also thanks Father Andrew Nelson for his spiritual guidance and support.

There will be a private Mass of Christian burial at St Ignatius of Loyola parish of St. Ignatius of Loyola in Somersworth, NH, at 9 a.m. on Saturday, August 29, 1942, a son of William Drescher and Ottilie (Mietzko) Drescher. Bill was raised and educated in New York, and graduated from Roosevelt High School in Yonkers, NY. He was a graduate of the University of Pennsylvania and Boston University School of Law.

Bill began his law career in the 1960s and eventually opened the practice, Drescher & Dokmo in Milford, NH. He practiced law in New Hampshire for over 50 years. He was a member of the New Hampshire Bar and served as a District Court Judge for over 30 years.

He was an avid reader, lover of classical music, loved riding his bike, dining out and traveling. Bill was a member of the Church of Our Savior, Milford, NH.

For the those that knew him well they will, no doubt, recall him as one of the most intelligent and learned people – period. Bill possessed a command of the English language rivaled by only the likes of William Shakespeare.

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Bill was the greatest father, husband, and, indeed, friend anyone could ask for. Bill was predeceased by a grandson, Jacob Drescher, and a brother, Robert Drescher.

Family members include his loving wife of 47 years, Carol (O’Connor) Drescher, five children, Rob in Porter and Jose Prego of Nashua, NH, Perry Miller of Milford, NH, William T. and Faith Drescher of Lyme, NH, Stephen Drescher and Maureen Lamerdin of Incline Village, NV, and Christopher Drescher and Elizabeth LeBlanc of Brookline, NH; as well as his nine loving grandchildren, and a cousin, Patricia McCarthy.

Funeral services are private. A celebration of his life will be held at a later date.

In Memoriam from page 11

several nieces and nephews, Ellen Bruton, Aidan Bruton, Kate Bruton, Holden Longstreet, Elizabeth Parker and Haley Parker, as well as, his extended family throughout the United States and Canada.

Michael grew up living in many areas of the country in his youth due to his father’s military service. When his family returned to Somersworth, Michael attended Somersworth High School, graduated from Keene State College and then went on to graduate from Vermont Law School.

Michael practiced as an attorney for a labor union in Boston, Massachusetts, he worked as a prosecutor for the Massachusetts Department of Probation and Parole, as well as, serving as a prosecutor for the Greenfield, Massachusetts District Attorney’s Office. For the last ten years, Michael served as a hearings examiner for the NH Department of Motor Vehicles.

Michael loved his work family, as well as, his friends from Vermont Law School, who gave him great strength during his battle with cancer. Michael enjoyed traveling the world with his friends and going on his annual fishing trips with them. He looked forward to the good weather so he could ride his Triumph motorcycle and he was a connoisseur of music. Michael will be remembered for his easy laugh, his love for his family and friends and ability to always tell a good joke. He had the Irish gift of charm and laughter and was also proud of his French-Canadian heritage. Michael’s family will deeply miss his physical presence, his quick wit and ability to light up a room. Michael was a member of the Parish of St. Theresa in Henniker, NH and most recently, when he came home to live with his parents, he returned to his home parish of St. Ignatius of Loyola, Somersworth, where he was confirmed and served as an altar boy many years ago.

Michael’s family thanks his medical team at Massachusetts General Hospital, Brigham and Women’s Hospital, Dana Farber, Northeast Rehab, the Seacoast Cancer Center, Cornerstone Hospice and Watson Fields for all of their kindness and dedicated commitment to Mike’s treatment. The family also thanks Father Andrew Nelson, Northeast Rehab, the Seacoast Cancer Center, Cornerstone Hospice and Watson Fields for all of their kindness and dedication to Mike’s treatment. The family also thanks Father Andrew Nelson for his spiritual guidance and support.

There will be a private Mass of Christian burial at St Ignatius of Loyola parish of St. Ignatius of Loyola in Somersworth, NH, at 9 a.m. on Saturday, August 29, 1942, a son of William Drescher and Ottilie (Mietzko) Drescher. Bill was raised and educated in New York, and graduated from Roosevelt High School in Yonkers, NY. He was a graduate of the University of Pennsylvania and Boston University School of Law.

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Funeral services are private. A celebration of his life will be held at a later date.
By Scott Merrill

A class-action lawsuit filed against the state of New Hampshire by advocates of children’s rights groups received a harsh reaction from Governor Sununu on Jan. 5.

The suit, which cites structural deficiencies and claims the state is violating the constitutional and statutory rights of older youth in foster care, putting children at “severe risk of serious and tragic outcomes,” was brought by the ACLU of New Hampshire, Disability Rights Center - NH, New Hampshire Legal Assistance, the national advocacy group Children’s Rights, and the law firm Weil, Gotshal & Manges LLP.

“Unfortunately, in the overwhelming majority of these cases, children are being sent to live in congregate care facilities, instead of with relatives or foster families who could better meet their needs.”

Karen Rosenberg, Senior Staff Attorney at Disability Rights Center – NH

In a statement, Gov. Sununu refers to the suit as a “special interest lawsuit,” backed by Wall Street law firms, “which preys on child protection programs across the country.”

“This New York based entity doesn’t care about our kids. They are looking for attention for themselves, and their legal maneuvers will bring our progressive reforms to a grinding halt. Shame on every single person associated with this effort,” the statement says.

The Governor’s statement says his administration has made more progressive reforms to the state’s child welfare system “than any administration in history.”

But according to Karen Rosenberg, Senior Staff Attorney at Disability Rights Center – NH, the class action lawsuit which includes hundreds of youth, between 14-17 years-old with mental impairments who are in DCYF custody resulting from founded instances of abuse or neglect.

“We’re not saying that DCYF has done nothing helpful,” Rosenberg said. “But, this lawsuit is not about the DCYF’s efforts to reduce caseloads of its workers or the voluntary process put into place to properly place kids from being removed from their families, it’s about kids in those teen years, 14-17 years-old, who have ended up in court, in which abuse or neglect allegations have been founded and now decisions are being made about where they’re going to live. Unfortuantely, in the overwhelming majority of these cases, children are being sent to congregate care facilities, instead of with relatives or foster families who could better meet their needs.”

In addition to failing to place older foster youth in community-based family settings that will help them thrive, the lawsuit asserts that the state unconstitutionally denies older youth legal representation when placing them in restrictive group care settings and violates federal law by failing to adequately and timely provide and implement the treatment plan.

Too many older youth in New Hampshire are subject to unnecessary warehousing by a state system that prioritizes institutionalization over family and community. The physical, emotional, and mental harms associated with placement in congregate settings are well known and lead to tragic outcomes including homelessness, unemployment, incarceration, and a lack of educational attainment,” said Sheeren White, Senior Staff Attorney at Children’s Rights.

“The risks of serious harm to these youth are even more imminent during the COVID-19 public health emergency, because social distancing is virtually impossible in group care facilities.”

Compared to other states, New Hampshire disproportionately places older foster youth in group settings, which are known to have profoundly negative impacts on children’s social, emotional, and physical wellbeing. In 2019, the majority (70.3%) of foster youth in the Granite State ages 14 through 17 were housed in congregate care facilities— the national average for this age group is 31%. This is even worse for older youth with mental health diagnoses—in 2019, 90.5% were placed in congregate care settings compared to the national average of 39.8%.

“By unnecessarily institutionalizing older youth who could receive mental health treatment and supports in their communities and live successfully with family members or with foster families, New Hampshire unduly deprives children in care of the community-based services and family placements they need to grow into successful adults.”

Rosenberg said.

Lawsuit Seeks Protection for NH Residents Facing Placements in Nursing Facilities

By Scott Merrill

Some of the neediest people in New Hampshire are being unnecessarily institutionalized. That’s according to a lawsuit filed in federal court on Jan. 11. The suit, brought by New Hampshire Legal Assistance, Disability Rights Center – New Hampshire, AARP Foundation, and the Manchester office of Nixon Peabody LLP, pertains to New Hampshire residents who depend on the state to provide them with Medicaid-funded long-term care and the state’s failure to properly administer its Choices for Independence (“CFI”) Medicaid waiver.

The suit alleges that New Hampshire’s failure to deliver CFI services places a class of individuals at risk of unnecessary and dangerous institutionalization in long-term care facilities.

Some of our most vulnerable citizens are one crisis away from unnecessary institutionalization because they are not getting essential CFI services. Without these services, they linger for hours or days alone in bed or confined in their own homes, unable to attend to basic personal needs. The State has long been aware of these problems and we cannot wait any longer for a solution,” said Pamela Phelan, DRC-NH’s litigation director.

The suit names the New Hampshire Department of Health and Human Services (NHDHHS) Commissioner Lori Shibinette and NHDHHS as defendants and seeks to compel them to operate New Hampshire’s CFI waiver program in accordance with the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, the Medicaid Act, and due process provisions of the Constitution of the United States.

New Hampshire’s CFI Waiver is designed to provide vital assistance to qualified older adults who choose to continue living in their homes, and to avoid the need for costly and restrictive nursing facility placements.

“The point is to finance care for the neediest adults who choose to continue living in their own homes,” Peabody attorney Kierstan Schultz said. “If someone is found eligible it’s like a guarantee from the state you will receive the care and services you need in your home and won’t need to be living in an institution such as a nursing facility.”

Nixon Peabody attorney Kierstan Schultz said Medicaid is a program that offers medically necessary and long-term care assistance for low income Americans and anything the state pays for the federal government will match dollar for dollar, Schultz explained.

According to the complaint, New Hampshire’s CFI Waiver is currently operating the program in a manner that “systematically deprives CFI program participants of the home and community-based care to which they are entitled under the provisions of the waiver program.”

NHDHHS contracts with case management and other service provider agencies to deliver CFI Waiver services to CFI Waiver participants.

According to the complaint New Hampshire’s shortage of service providers has limited the delivery of personal care, home health aide, and homemakers to service providers, resulting, in part, “from the state’s failure to set adequate rates for CFI services relative to the compensation provided to nursing facilities and other competing businesses.”

Yet, the complaint continues, “Defendants have also failed to take reasonable non-monetary measures to increase the number of available CFI Waiver service providers. Developing an adequate number of service providers requires active efforts to recruit, train, and place would-be providers. Other health care professionals in New Hampshire have recognized the need for active recruitment of service providers and have sought and obtained the resources necessary to do so.”

One of the legal arguments made in the complaint focuses on the United States Supreme Court’s Olmstead decision which held that unnecessary institutionalization of individuals with disabilities is a form of discrimination under Title II of the ADA. 527 U.S. at 597, 601. In so holding, the Supreme Court interpreted the ADA’s “integration mandate” as requiring persons with disabilities to be served in the community where: (1) the state determines that community-based treatment is appropriate; (2) the individual does not oppose community placement; and (3) community placement can be reasonably accommodated. 527 U.S. at 607.

“While the ADA’s integration mandate has long been thought to apply to residential settings, it has long been clear that the mandates extend to institutional settings.”

When in her home, Stephanie is usually confined to her bed or wheelchair and she is at risk for falls.”

The complaint also states that Stephanie “is unlikely to receive any of the personal care and homemaker services she needs.”

One common theme for the plaintiffs is a failure on the part of NHDHHS to provide notification advising patients that their services are not being provided and that they have a right to a fair hearing to seek redress. This has led to significant breakdowns in service for the plaintiffs which creates a spiral effect, according to Schultz.

“Each of the plaintiffs are at risk of

Children’s Rights Advocates Sue State Over Treatment of Foster Care Youth

By Scott Merrill

The NH Department of Health and Human Services is named in two separate lawsuits filed by a variety of groups including ACLU-NH, New Hampshire Legal Assistance, Disabilities Rights Center - NH, AARP, as well as local and national law firms.
an unnecessary institutionalization and the chances that once they enter an acute care hospital they’ll be discharged to their home are very low,” she said. “The chances they will be discharged to a rehab facility or nursing facility are much higher.”

The Jan. 11 lawsuit comes after a year-long investigation into the CFI program, and the number of deaths in long term care facilities due to the coronavirus pandemic has illustrated the urgency of keeping people at home when possible, according to Schultz.

“The alarming number of Covid related deaths in our state has made the dangers of being forced to live in nursing facilities and hospitals clear,” she said.

In New Hampshire, 80% of all COVID-19 deaths have involved residents of long-term care facilities – double the national average.

“Failure to properly administer the CFI Waiver not only deprives participants of their right to live as they choose, but also greatly increases their chances of exposure to COVID-19 in nursing homes and other long-term care facilities,” Gadd said.

“This is a Medicaid waiver program that helps people transfer themselves from their beds to chairs and toilets, to get into and out of the shower, and to prepare meals. Without these services people can’t use the bathroom or shower and sometimes go long periods without liquids. With services they can maintain connections in their homes and this allows them to live independently and is generally much less costly than in-patient or institutional settings.”

DHHS was contacted for this article but did not immediately respond for a request for comment.

Congratulations to the Hollis-Brookline and John Stark Regional High School students who participated in the Virtual We the People State Finals Hearings. Members of the Bar Association and a volunteer from New Hampshire Public Radio, acting as judges of the ‘Mock’ Congressional Hearings were awe struck and WOWED by the students’ knowledge of the Constitutional principles they have been studying since school began last fall. Each student was recognized for their hard work and diligence and Hollis-Brookline High School, under the direction of teacher Trevor Duvall, came away from the hearings with the NH State Champion Title.

NHBA’s IT Coordinator Hank Plaisted is our wizard of technology, helping to ensure that today’s “We the People” State Hearings unfolds flawlessly.

We the People State Finals Held Virtually

Law Related Education Coordinator, Robin E. Knippers holds the first-place trophy up for participants. Photos Lynne Sabean

NH Bar Association, Executive Dept. Assistant Allison Borowy.

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Guyer remembers.

Guyer was sent to Rochester’s juvenile court diversion program based out of the police department, a community-based alternative to traditionally charging a juvenile with a crime. There are a total of 17 juvenile diversion programs across the state. They often use restorative justice principles in their processes: victim-centered approaches focusing on repairing the harm caused by crime, holding offenders accountable for their actions and focusing on community repair.

There are a few different ways juveniles can be diverted in New Hampshire: directly by a police officer, following a court hearing, or through a school as a pending charge, as was Guyer’s case. His is a good example of how a typical diversion process plays out for a low-level offense.

You go in, represent your case in front of a jury of your peers, you tell them what you believe happened, your specific details, and then they cross reference everything with the school report, or if there’s a police report,” he said.

And here’s the most important part: diversion may be offered to offenders, but they must be willing to complete a program that can stretch from three to 17 months depending on the crime. Generally, under the existing system, felony level cases such as drug violations or sexual assault, aren’t appropriate for diversion, according to Nicole Rodler, chairperson of the New Hampshire Juvenile Court Diversion Network.

“We’re undergoing a massive transformation in the juvenile justice system around how cases are being referred to diversion and other resources that are needed. So, a felony level case for a first-time offender in the new system might be referred for diversion but in the current system the charges will often be plead down and then they will go to diversion.”

Juvenile diversion cases involving first time offenses that are misdemeanors are the most common diversion cases, according to Rodler.

“Some programs will take cases that are violation level offenses but that’s not considered a juvenile court diversion because it’s a violation level offense and not a diversion,” Rodler said. “Guyer’s case is the perfect example.”

According to Rodler, most juvenile crimes come from other existing issues like mental illness, substance use, trauma, unemployment, lack of support or environment or adverse childhood experiences (ACEs).

Data from 2019 intake exams given to 142 minors who went through one of the network’s diversion programs in New Hampshire showed that 40.8 percent had experienced mental health symptoms in the two weeks before starting diversion, and 71.4 percent indicated they had used at least one substance in the previous year.

“Your youth in our state are struggling with ACEs and mental health and we know that nationally mental health services are lacking. We don’t have enough services to treat that here, and New Hampshire is not alone in that struggle,” Rodler said.

A long history of diversion

While the popularity of diversion and restorative justice programs are growing across the country and have historically been used in communities across the globe, including within indigenous tribes and religious cultures, many states still use punitive approaches to juvenile justice. But that is changing.

On a typical day in 2019, some 48,000 juveniles in the United States were confined in facilities away from home, such as runaways, runaways in care or group homes, according to the National Juvenile Justice Network.

It is especially important for juveniles to be treated differently due to their lack of criminal history and the result of their involvement in the criminal justice system. But youth confinement has fallen by 60 percent nationally since 2000, according to a national report unexpected to continue, according to the Prison Policy Initiative.

New Hampshire is tied for the third lowest youth incarceration rate in the country according to the ACLU, at 75 per 100,000, just behind Connecticut and neighboring Vermont.

That might have to do with New Hampshire’s long history with court diversion. Between 1969 and 1979, juvenile delinquency cases in the state had increased by 160 percent, with 38 percent of total statewide arrests in 1979 being juvenile, according to the 1981 Handbook on Diversion.

That year, major changes were made to the juvenile code, including the addition of RSA 169-B:10, which established referral to a court-approved diversion program as an alternative to a traditional court sentence or charge.

By 1981, two years after the statute was created, 29 diversion programs were in operation across New Hampshire, eventually growing to 35 at the peak, with various funding sources coming and going over time. The bill was tabled in 2011. A new clause was added to the statute, establishing that diversion should happen pre-court.

According to Rodler, New Hampshire is the state to note in the nation for pre-court diversion written into statute. But not all police departments are following the statute to a T. Some juveniles receive a court hearing without being diverted or are either not offered diversion for a number of reasons, or choose to accept a traditional charge to avoid commitment to a months-long program they may not be able to access. And some areas like Coos county didn’t even have access to juvenile diversion until July.

“T here’s a problem,” Rodler says, “as long as departments make efforts to divert a child, they are operating within statute. If there’s not a program available they can use funding resources. This is the state of probation. It is legal within the statute because the attempt was made.”

The ideal is that it’s not ever going to see a judge, she added. “So that means that a police department is the gatekeeper of that charge. When a youth...has a charge over their head, that police department would have to make a referral into a program, and that’s when that case should go forward to a program directly, not a court.”

Others within the network have said that has inflated by police. Lisa Spaulding is the assistant director of Valley Court Diversion Network, which offers adult and juvenile services in portions of Sullivan and Merrimack counties as well as Windsor County, VT.

“Even with the juvenile statute, we’ve seen deliberate ignoring of what’s supposed to happen, and they’re not held accountable, and that’s part of our battle,” Porcella says. “I have seen it in the past that they just dismiss the fact that that’s not what they’re supposed to be doing.”

Success: Recidivism and Cost

Guyer is an example of one of the many juveniles New Hampshire’s court diversion programs has helped. Now 28 years old, he has remained arrest-free since the day he was found smoking marijuana behind Spaulding High School, aside from a minor speeding charge last year. Today, he proudly owns Guyer Travel, a travel agency based in Dover.

He says he finds joy in giving back to the community that invested in him, to the troubled teenager with a lonely upbringing, 11 years ago. Recently, that meant filling backpacks with school supplies for local kids in need. It also meant keeping in touch with Rodler, who worked closely with him when he went through the diversion program.

Guyer credits diversion with most of his accomplishments today. He found his first job at the local Girls, Inc., the organization with which he had to do 40 hours of community service work in order to complete diversion. He regularly volunteered with the diversion network on peer juries and in schools for three and a half years after he finished the program.

If it wasn’t for diversion, Guyer says, “I honestly do feel that I would have succumbed to a lot of the opioid problems that are rampant here in New Hampshire.”

Guyer’s likelihood of re-offending within one year of completing a diversion program is 20 percent lower than if they had gone through the traditional justice system.

By comparison, 51 percent of juveniles who served time in New Hampshire’s youth detention centers were later sentenced to an adult sentence. That’s according to a study by the Annie E. Casey Foundation.

But since each state tracks recidivism differently, it is nearly impossible to compare New Hampshire’s with surrounding states’ rates.

“IT’s very effective,” said Sen. Bob Giuda (R-Warren), who sponsored a bill to add $300,000 to New Hampshire’s diversion programs last year. The bill was tabled in the Senate, but $600,000 in grant funding through DCYF was added to the state budget for diversion in 2020 for the first time in almost 10 years.

“The average cost of diversion versus going through the court system costs significantly less. That right there is a justification in terms of dollars and cents,” Giuda said.

In addition, diversion receives $310,000 each year through the governor’s commutation of the traditional justice system. Those monies, however, only fund drug and alcohol related programs and some administrative costs.

According to the state diversion network, member programs serve an average of 580 individuals per year on a budget of less than $1 million. By contrast, the Sununu Youth Development Center, New Hampshire’s only juvenile detention center, currently houses only 14 juveniles and re-
Addressing an imperfect system

Although Rodler says every town, city and jurisdiction in New Hampshire has access to juvenile court diversion, Moira O’Neill, director of the New Hampshire Office of the Child Advocate, says accessibili

ty is an issue, and that’s a major problem when it comes to equitable access. “In particular, there’s a lot of kids in the juvenile system who...they might get in trouble at school in one place and they get offered a diversion program, and then they move to another town and they don’t, be- cause it’s just not there,” O’Neill said.

“Not all children are treated the same throughout the state,” Scavarelli said. “Somed will have the opportunity to participate in a diversion program whereby they avoid the juvenile criminal justice system, whereas others will have to go through the system because they have no other option available to them.”

It’s something Rodler, O’Neill and other juvenile justice advocates across the state are trying to change by working with the Annie E. Casey Foundation’s probation transformation program, at Georgetown University, which was created to help states build systems that will keep youth from entering the criminal justice system. For New Hampshire, that means taking a second look at youth diversion and making the process more uniform.

Aside from Giuda’s bill, the legislature has not paid much attention to expanding accessibl
ty by creating statewide programs or providing more funding to support exist-
ing programs. Cannon thinks perhaps the referral of minors convicted of alcohol and drug related offenses to diver-
sion, but it died in the house due to other legis-
lation prioritized because of the coro-
navirus pandemic. He expects to continue work on juvenile diversion during the 2021 legislative session.

“Most of [New Hampshire’s] diversion work looks like it’s handled through the po-
lace department and it’s not currently cover-
ing the entire state,” said Jacquita Monroe, a senior associate at the Annie E. Casey Foundation. “How can they cover more young people and hopefully kind of home in on that in the juvenile system, it’s how to process them and how to work with the juvenile."

Recently, a constituent came to Cannon with concerns for her son, who had been ar-
rested numerous times for driving under the influence, an offense not accepted by some diversion programs. Cannon thinks perhaps he could have been helped out of a recidivi-

istic cycle if he had access to diversion.

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Calendar Overview

**January 2021**

26 Tuesday • Noon - 1:00 p.m.
Tech Tuesdays! Electronic Document Management for Lawyers with Paul Unger
- Webcast
- 60 min.

27 Wednesday • Noon - 1:00 p.m.
The Supreme Court 2020-21 Term: An Early Assessment and a Look Ahead with Paul Unger
- Webcast
- 60 min.

28 Thursday • Noon - 1:00 p.m.
LLC Practice: What Every NH LLC Formation Lawyer Should Know about the Revised New Hampshire Limited Liability Company Act and NH LLC Case Law
- Webcast
- 60 min.

**February 2021**

5 Friday • 9:45 a.m. - 4:30 p.m.
VIRTUAL EVENT - NHBA Midyear Meeting
United States Supreme Court Update with Dean Erwin Chemerinsky

9 Tuesday • Noon - 1:00 p.m.
Tech Tuesdays! Get The Waste Out of Your Practice - How To Apply Lean Six Sigma Principles to a Law Office with Baron Henley
- Webcast
- 60 min.

10 Wednesday • Noon - 1:00 p.m.
Traps for the Unwary: Litigation
- Webcast
- 60 min.

11 Thursday • Noon - 1:00 p.m.
Protesting Puts Lawyers in a Precarious Position with Stuart Teicher
- Webcast
- 60 min. ethics/prof.

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.

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

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There are several important events and programs mentioned in the document. Here are the key points:

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

Join us for Tech Tuesdays with Barron Henley and Paul Unger from Affinity Consulting! These vital programs cover a wide range of topics:

- Cloud Computing – Pros, Cons and Ethical Issues - Barron Henley
- Electronic Document Management for Lawyers - Paul Unger
- Get the Waste Out of Your Practice – How to Analyze Six Sigma Principles to a Law Office - Barron Henley
- Avoiding Death by PowerPoint/ Courtroom Presentation Technology - Paul Unger
- It’s Time For an Upgrade – Much Better Methods for Drafting Complex Documents - Barron Henley
- Microsoft Excel Power Tips for Legal Users - Barron Henley
- Dropbox for Legal Professionals – How to use it Safely, and is it Right for your Organization – Paul Unger
- Communication Breakdown – It’s Always The Same (But It’s Avoidable) - Barron Henley
- Communication Breakdown – It’s Always The Same (But It’s Avoidable) - Barron Henley
- How to Protect Yourself and Preserve Confidentiality When Negotiating Instruments - Barron Henley
- Avoiding Malpractice: The Good, the Bad and the Ugly of Legal Technology - Paul Unger
- What Every Lawyer Should Know About Developing a Cybersecurity Plan - Paul Unger

**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.

- **I. Best Practices in Drafting Operating Agreements for New Hampshire Multi-Member LLCs** - January 7, 2021 Noon - 2:00 p.m. ~120 min. - NOW AVAILABLE ON DEMAND!
- **II. What Every NH LLC Formation Lawyer Should Know about the Revised New Hampshire Limited Liability Company Act and NH LLC Case Law** - January 28, 2021 Noon - 1:00 p.m. ~60 min.
- **III. 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.
- **IV. 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.
- **V. 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.

**Traps for the Unwary**

*Bravo to the NHBA’s New Lawyers Committee*

- January 13, 2021 - Business Corporations
  - Katherine Hedges/Susanne Gilliam
  - NOW AVAILABLE ON DEMAND!
- February 10, 2021 - Litigation
  - Kirk Simoneau
- 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!

**Signposts on the Tax Road**

*Wednesday, March 10, 2020*

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

**Insurance Law 2021**

*Thursday, May 6, 2021*

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.

**For more information go to nhbar.org/nhbacle**
The (Un)Ethics of NDA's in Sexual Harassment Settlement Agreements

By Nancy Richards-Stower

If sunlight is antiseptic, then non-disclosure agreements ("NDA's") breed bacteria. In employee sexual harassment settlements, often-requested NDA's involve confidentiality, non-cooperation, and non-disparagement provisions. Employers are willing to "pay for silence" to protect their reputations and to avoid inspiring new claims. But lawyers on both sides should be careful about asking, or agreeing, to restrict the ability of the victim-plaintiff from sharing with others the facts underlying her claims.

Confidentiality Provisions. NDA's have been blasted into the public consciousness in the fall of 2017 with the "Me, Too Movement" following publication of sexual assault claims brought against Bill Cosby, Harvey Weinstein, and Jeffrey Epstein. The common theme: their victims settled their cases with agreements containing NDA's. Breach by publication of their allegations would trigger return of their settlement funds, and payments for liquidated damages and attorney fees. Secrecy pacts enabled rich and powerful men to rape again and again.

For victims of sexual harassment/assault, their injuries are exacerbated by confidentiality promises: "Keep these secrets! Otherwise someone else will know your settlement agreement and must return all settlement funds and pay our attorney fees. You can never again talk about the facts of these significant life-altering experiences to anyone besides your spouse, lawyer, doctor or tax advisor."

A week, a year or a decade after the case settles, the victim will want, even need, to talk about her experiences. It may be during a lunch with an old friend, a book club discussion, a night out with her sister or co-workers, or even during a new job interview. "Can you talk about your experiences, but common feelings of shame already burden- ing assault victims. That no one would likely find out, or report, the victim’s conversations is not the point (although it is one made repeatedly to me by experienced counsel). Lawyers cannot ask clients to make promises they probably cannot keep, at least with out harming themselves.

For employees concerned about post-settlement publication of their allegations or about the ability to bring invasion of privacy, defamation and retaliation claims provides both shield and sword. Reference to courts? Settlement provision can specify the procedure for responses to reference requests, including an agreed upon letter of recommendation, and identification of the corporate officer to whom all reference requests will be directed. Adding a "mediation first" provision as a prerequisite to future litigation provides additional protection. Mutual Non-Disparagement provi- sions. What IS disparagement? Non-Disparagement provisions are muzzles. When victims of sexual harassment tell the truth about their experiences, does this disparage their employers? Solution: make mutual promises of non-defamation. At least truth is a defense. Non-Cooperation provisions. In 1997, the EEOC issued its Enforcement Guidance on Non-Waivable Rights prohibiting em- ployers from interfering with their employ- ees' rights to file a charge, testify, assist, or participate in any manner in an investiga- tion, hearing, or proceeding under Title VII, the ADA, the ADEA and the Equal Pay Act. Subsequent court decisions held that em- ployers from requiring subpoenas preceding employee cooperation. Also, Rule 3.4 of the N.H. Rules of Professional Conduct reads in pertinent part:

A lawyer shall not
(1) request a person other than a client to refrain from voluntarily giving relevant information to another party unless:
   (a) the person is a relative or an em- ployee or other agent of a client; and
   (b) an agreement in which a restriction on the lawyer's right to practice is part of the settlement of a client controversy.
Also in play is N.H. R. Prof. Conduct 5.6(b) which reads in pertinent part: A lawyer shall not participate in offering or making:
(a) an agreement in which a restriction on the lawyer's right to practice is part of the settlement of a client controversy.

Does a confidentiality provision restrict future use or disclosure of allega- tions, or supporting evidence interfere with plaintiff’s lawyer’s use of that information in future litigation for other clients? N.H. Ethics Committee Advisory Opinion #2009-10/06 on Rule 5.6(b) opined that it was impermissi- ble for a settlement to prevent plaintiff’s attorney from disclosing publicly available information, including that the attorney had sued the defendant. But it also noted, "it is not uncommon for the parties to condition a settlement upon the mutual agreement of parties and their counsel to refrain from dis- closing certain information in which the par- ties have a privacy interest"; and "In most cases, a narrowly drawn settlement agreement that limits the disclosure of specific in- formation in which the parties or a party has a privacy interest will not be an impermissi- ble restriction on the right to practice under Rule 5.6(b)." It also referenced ABA Formal Op. 00-417: "The ABA has concluded that offering or agreeing to condition a settle- ment upon an attorney's non-disclosure of particular information, like 'the facts of the particular matter or the terms of the settle- ment[,] does not violate Rule 5.6(b)."

"DANGER WILL ROBINSON, DAN- GER!!" The above N.H. opinion did not men- tion, let alone analyze, Rule 3.4 or its inter- play with the EEOC rules. Accordingly, the scholarship behind Rule 3.4 opinions in oth- er locations, plus the special harm created by covering up sexual assaults, provide ample support for avoiding NDA's on the alleged facts in sexual harassment/suit cases.

Public Policy Favors Disclosure

In 2014, President Obama issued Ex- ecutive Order 13673 banning mandatory ar- bitration provisions for federal contractors, including because arbitration hides allega- tions of sexual harassment from the public. (revoked by President Trump on March 27, 2017.) In December 2017, Congress reacted to the "Me, Too!" revelations by stripping tax deductions for employers’ at- torneys fees under settlements containing under agreements containing NDA’s. By late 2018, seven states had passed legislation prohib- iting enforcement of NDA’s in sexual harass- ment cases and President Trump’s attorney pleaded guilty to campaign finance violations for payments to a porn star and a Playboy model under NDA’s.

There is general agreement (includ- ing in the above N.H. Opinion) that parties may keep confidential the amounts paid for settlement. However, public policy could also support revealing the size of settlement payments so they can be compared with the employer's budget for preventing harass- ment and assault.

1. The Robot warning the child, Will Robinson, about a threat in the 1960’s television series, "Lost In Space.”

Nancy Richards-Stower, an employee rights advocate and former member/chair of the N.H. Commission for Human Rights (1979- 1983) went into the College of Labor and Employment Lawyers in 2003. She has operated her solo practice in Merrimack, N.H. since 1988 and founded the N.H. Chap- ter of the National Employment Lawyers As- sociation in 1993. She frequently presents and publishes on employment law, mediates for the superior courts, and facilitates inex- pensive and prompt dispute resolutions. She created and owns Tyrots hottie.com® an online blind bid settlement service.

Capitol from page 1

Safety. “The New Hampshire State Police takes safety and security threats very seri- ously and has a team of experts working on operations plans to ensure safety.”

The Department of Safety reviews intelligence and communicates with local and national law enforcement, according to the statement, which also said the NH State Police and National Guard will be de- ployed if necessary.

According to a statement from the FBI’s Boston Division Office of Public Affairs, the FBI is currently supporting all state, local and federal law enforcement.

Our efforts are focused on identify- ing, investigating, and disrupting individ- uals that are inciting violence and engaging in criminal activity. As we do in the normal course of business, we are gathering infor- mation to identify any potential threats and are sharing that information with our part- ners.”

While the FBI memo released Jan. 11 pertains to threats against all 50 state houses, the Boston Division’s office was not aware of credible information of vio- lent activity in New Hampshire as of this writing.

“The FBI Boston Division is not cur- rently in receipt of any credible informa- tion regarding violent activity in or around the capitol buildings in New Hampshire or Maine, connected to the events of Jan. 6 or the upcoming inauguration in our area.”


The statement emphasized that the FBI’s focus is not on peaceful protestors, "but on those threatening their safety and the safety of other citizens with violence and destruction of property.”

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State House security in Concord is overseen by the office of the Chief Legis- lative Operating Officer, whose director, Terry Pfaff, said his office works with state and local authorities to secure the building. "Trump supporters have been on our property and none have had permits,” he said, when asked about the permitting process which is handled by the Department of General Services. “Our security can’t ar- rest them or make them leave.”

Permit requests for demonstrations on state house property are shared with Con- cord's Health and Licensing Officer, Owen Williams.

William’s office had received no per- mit requests for demonstrations at the time of this writing, she said, explaining that her office does not require permits for demonstra- tions or protests that don’t impact traf- fic or the public right-of-way and are ex- clusively citizens holding signs or verbally sharing their perspectives.

JANUARY 20, 2021
www.nhbar.org
NEW HAMPSHIRE BAR NEWS
Second-Round Stimulus Payments & Recovery Rebate Credits

**Amounts**

- The second-round economic impact payments (EIPs), known as stimulus payments, will be $600 per eligible person and $600 per each qualifying dependent.
- The same income phase-outs apply to both rounds of EIPs, starting at $75,000 for single filings, $112,500 for head of household, and $150,000 for married filing jointly.

**Timing of Payments & Credits**

- The IRS will begin issuing the second-round EIPs during the first week of January.
- No EIPs may issue after January 15.
- Any EIPs not received by the end of January may be claimed on a 2020 tax return as a refundable Recovery Rebate Credit (RRC). This applies to any missing EIP, whether first-round or second-round.
- The 2020 Form 1040 instructions will include a worksheet to calculate the amount of RRC to enter on the tax return. Commercial tax prep software will guide users through it.

**Offsets & Reductions**

- The IRS can offset an EIP or RRC only for child support arrearages.
- The RRC will operate as a refundable credit on the 2020 tax return. Thus, the amount of a person’s refund (if any) will depend on the person’s (1) taxable income, (2) tax payments already made, and (3) deductions and credits claimed. Most low-income wage earners will receive the full amount of their RRC.

**Eligibility**

- The EIPs and RRC can’t go to people who:
  - don’t have a Social Security number (SSN) valid for employment,
  - can be claimed as someone else’s dependent, or
  - are nonresident aliens.
- The SSN requirement applies to everyone, regardless of someone’s relationship to a person with an SSN valid for employment.

- Unlike the earlier relief act, the new law allows an SSN spouse to file jointly with a non-SSN spouse on a 2020 tax return and receive both rounds of EIPs as an RRC for:
  - the SSN spouse and
  - any qualifying SSN children claimed.
- However, children with SSNs are not eligible for either EIP or the RRC if no one who can claim them has an SSN valid for employment.
- There’s no prohibition on incarcerated people getting first-round or second-round EIPs.

**Filing Help**

- So far, the IRS has no plans to resurrect the Non-Filers Tool on the IRS website.
- The IRS might provide a free, EIP-only version of the 2020 tax return on its website. Check for updates on https://www.irs.gov/.
- For people at least 50 years old or with a 2020 household income below $56,844, free tax prep and filing help may be available at an AARP Foundation Tax-Aide site or a Volunteer Income Tax Assistance (VITA) site. People should visit https://nhtaxhelp.org/ or call 211 starting in mid-January to request this assistance.
- If someone is not able to get assistance from Tax-Aide or VITA, the NH Pro Bono Low-Income Taxpayer Project (LITP) may be able to help the person file a 2020 tax return to claim the RRC. Contact the LITP by emailing bheggie@nhbar.org or by calling (603) 715-3215.

**Additional Issues**

- More details will be worked out later.

**Earned Income Tax Credit Note**

- People may use either their 2019 or 2020 income to calculate eligibility for the Earned Income Tax Credit on a 2020 tax return, whichever is more advantageous.
was really an all-hands-on-deck effort.”

The process didn’t end there. Courtney’s office assisted with the New Hampshire Reopening Task Force and she drafted guidelines on how certain businesses – like cosmetology, barbering, body art and electrology – could open safely.

Meeting a challenge is second nature to the Gardner, Mass. native, who oversaw the dinner rush when she once managed a restaurant, started law school when her first-born was six months old, and began reorganizing the OPLC while also supervising the office’s relocation.

After attending local schools in Gardner, Courtney attended Northeastern University, where she studied political science and graduated magna cum laude, then took some time off – bartending and working at a bank.

Ironically, she decided while in college that law was not for her, when she did an externship at a large Boston law firm and found “the culture was a complete turnoff.” But she was drawn to serving the public and determined that law was one way to exercise that desire.

She went on to New England Law, again graduating magna cum laude.

After a classmate’s recommendation, she applied to clerk at the New Hampshire Superior Court upon graduation, was accepted, and found it “the best move for me, because it brought me to New Hampshire.”

“The practice of law is very different up here,” she adds. “It’s more collegial… You go into the courtroom and battle it out but then it’s ‘hey, how’s the family?’ and ‘how you doing?’ I think that’s very different from other states.”

After two years clerking, Courtney joined the Manchester firm of Abramson, Brown & Dugan, working primarily on malpractice cases – including the high-profile proceedings after some four dozen people were infected with hepatitis C at Exeter Hospital.

“I really felt that I was protecting the public, really helping people, and obtaining some form of justice through the malpractice work,” Courtney says. “I really enjoyed that.”

After four years, Courtney started working for the state Attorney General’s office, doing litigation work for the Department of Health and Human Services on everything from Medicaid work requirements to “psychiatric boarding,” the practice of keeping mental patients in emergency rooms because of a lack of hospital beds for them.

Lisa English, deputy director of the Governor’s Office for Emergency Relief and Recovery, was Courtney’s supervisor while both were at the Attorney General’s office, and remembers her friend as “a critical thinker who finds ways to creatively and efficiently solve problems.”

“She takes incredibly complex problems – complex legally, factually and with numerous interests at stake – and she finds a way to find a solution that will benefit the people of the state of New Hampshire,” English adds.

In September 2019, Courtney became director of the Division of Health Professions of the OPLC, taking over as executive director of the agency six months later.

The agency was created in 2015 to bring the state’s various licensing boards under one roof and when Courtney took over, “the agency definitely needed work in terms of efficiency,” she says.

“When I came on board, we had 54 different processes to accomplish the same task. The goal of the reorganization is to really centralize that process into one process. We really need to reduce the time frame with licensure. That’s going to assist New Hampshire with its workforce needs.”

With her at the helm, the agency’s two former divisions – the Division of Health Professions and the Division of Technical Professions – have become one Division of Licensing and Enforcement. Not long after the reorganization started, Courtney received a call from the governor’s office saying her office – and its roughly 100 workers – needed to be relocated to new quarters.

“Most of the people in the agency received a new boss, a new structure, sometimes a new job function,” Courtney notes. “The ability to handle change in this office – I’m really impressed with my staff.”

Courtney is also proud of the work she has done on behalf of women in New Hampshire, often through the Women’s Bar Association. She launched the Women to Women Project, which brings together female attorneys and inmates from the Women’s Prison in Goffstown in need of legal assistance.

“One of the biggest issues I think female incarcerated individuals face in terms of not relapsing and going back to their old ways is that they don’t know how to maneuver the legal landscape in terms of reuniting with their families, specifically their children,” Courtney says. “If they don’t have a plan for how to reunify, they’re more likely to repeat offenses.”

The program has been put on hold because of COVID-19, but Courtney hopes it will start again once the pandemic has settled down because “we had a really positive response from a lot of the people that participated.”

Attorney Caroline K. Leonard met Courtney eight years ago through the Women’s Bar Association and the two have worked closely together over the last three years as president and vice president of the board for the group, respectively.

“Lindsey’s work ethic is unbelievable; she is a powerhouse.”

“Lindsey’s work ethic is unbelievable; she is a powerhouse,” says Leonard. “Lindsey often can (and does) perform the work of three people. She has great common sense and gives refreshingly honest feedback in a gentle way that conveys what she intends without being harsh. She has boundless energy and a quick smile. I am proud to call her my friend.”

The mother of three children, Courtney credits her husband, fellow attorney Michael Courtney, with helping her maintain balance in her life.

With New Hampshire challenged by the same tight workforce as many other states, she sees her position as an opportunity to both streamline licensing processes and protect public welfare.

“It’s going to be amazing to see what this office can do when we’re not concentrating on COVID,” she says.

Governor Sununu signs Executive Order 2019-07 to address the Medicaid-to-Schools crisis. Courtney is standing second from right.

“Lindsey’s work ethic is unbelievable; she is a powerhouse.”

JANUARY 20, 2021
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NEW HAMPSHIRE BAR NEWS
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COVID Vaccine is Around the Corner but How Many Will Line Up? Can Employers Require Employees Receive the COVID-19 Vaccine?

By Madeline Hutchings and Jim Reidy

Just ten or so months into the devastating COVID-19 pandemic and thankfulness for vaccines have been approved for distribution by the U.S. Food and Drug Administration through an Emergency Use Authorization. A third vaccine should receive similar approval soon.

With effectiveness ranging from 90 to 95%, these vaccines are welcome relief as COVID-19 numbers continue to increase. States have been authorized to develop their own distribution plans, but there are common elements to most distribution plans. In New Hampshire, front line first responders, healthcare workers, and the vulnerable individuals in nursing homes and related facilities, were first in line. Many have already received the first of two vaccine doses. It is estimated that most Americans will have the opportunity to get the vaccine by May or June. However, just over half of those surveyed in recent months say that they will take the vaccine if it is available. Given that COVID-19 has been so disruptive many employers have asked if they can require their employees to take the vaccine. The short answer is: It depends.

On December 16th the U.S. Equal Employment Opportunity Commission (“EEOC”) issued guidance which confirmed that employers could indeed require employees to get the COVID-19 vaccine as long as it is “job related” and “consistent with business necessity.” A practical application of this standard involves requiring the vaccine for healthcare workers and others who, if not vaccinated, could present a direct threat of harm to themselves and others in the workplace. The Emergency Use Authorization issued by the FDA when it approved the Pfizer, and later the Moderna COVID-19 vaccine, included a provision that individuals should be allowed to opt out of the vaccine. That is consistent with the EEOC guidance that allows for employees to refuse the vaccine because of religious or medical reasons. In those cases, the employer should discuss with the employee possible reasonable accommodations, if any, so the employee could still perform the essential functions of the job.

In other words, some employers may indeed establish mandatory vaccination policies, on account of public health concerns related to their business fields. Even for these employers, vaccination must be necessary to the work of any employee covered by a policy. And employers need to be mindful of whether and when they must exempt an employee from a vaccination requirement, pursuant to certain anti-discrimination protections.

Since the start of the COVID-19 pandemic, employers have navigated how to prevent employees with COVID-19 from entering the workplace. Since March or April 2020 most employers have instituted daily screening policies that include asking employees about symptoms, temperature, exposure, and travel. While those are recommended by the CDC and state public health guidelines, employer inquiries and procedures are still subject to legal limitations related to, for example, confidentiality, and anti-discrimination. The Americans with Disabilities Act requires that mandatory medical examinations (which include screening procedures like diagnostic testing, as well as vaccinations) be “job-related and consistent with business necessity.” A private employer’s ability to establish a mandatory vaccination policy depends on the nature of the business. The policy must be job-related, no broader or more intrusive than necessary, and consistent with business necessity or justified by a direct threat. Employers generally may require vaccinations for employees working in high-risk environments (e.g., schools, hospitals) or with high-risk populations (e.g., in nursing homes and assisted living facilities).

Employers with mandatory vaccination policies may additionally need to accommodate (1) an employee’s sincerely held religious belief, pursuant to Title VII of the Civil Rights Act, or (2) an employee’s disability or medical condition, in accordance with the ADA. The Equal Employment Opportunity Commission (EEOC) has yet to issue specific guidance on COVID-19 vaccinations. But its prior guidance, in response to the 2009 H1N1 flu, remains relevant for employers seeking to navigate these two required accommodations:

- Under Title VII, an employer must reasonably accommodate an employee whose sincerely held religious belief, practice, or observance prevents him or her from taking the vaccine, unless doing so would cause undue hardship to the employer. According to the EEOC, “undue hardship” in this case means “more than a minimal burden on operation of the business.” To obtain an exemption on this basis, an employee’s belief must genuinely be religious; a non-religious belief is not sufficient, no matter how strong or sincere.
- Under the ADA, an employer must reasonably accommodate an employee who requests a workplace accommodation—including an exemption from vaccination—on the basis of a disability. However, an accommodation is not required where it would present undue hardship to the employer. In this context, “undue hardship” means significant difficulty or expense—a higher standard than under Title VII. Additionally, an employer does not need to provide an accommodation if, even with the accommodation, the employee would pose a “direct threat” (i.e., a significant risk of substantial harm to health or safety) to the employee or others.

Other federal and state laws create additional legal considerations when it comes to establishing a vaccination requirement. For example:

- The Occupational Safety and Health Act (OSHA) requires employers to provide a workplace free from recognized hazards likely to cause death or serious physical harm. Some employers may contend an employer’s failure to require vaccinations puts employees at risk.
- If a required vaccination results in harm to an employee, an employer may be facing a workers’ compensation claim. Not requiring vaccinations or related protections may result in negligence claims.
- The National Labor Relations Act protects the right of employees to engage in concerted activity. Taking adverse employment action against employees who object to a mandatory vaccination policy might result in an unfair labor practice charge.

In the face of these complex legal and safety concerns, there are several steps employers can take to keep their workplaces safe and protect their businesses from liability related to these inquiries and related policies including whether they can require vaccinations. Adopt a vaccination policy that (1) follows current CDC and applicable state guidelines and (2) is tailored to the workplace. Consider the need for mandatory vaccinations, and explore the adequacy of alternatives (e.g., diagnostic testing, job modification, remote work and the adequacy of PPE). Engage employees in an interactive process to explain policies, respond to questions, and consider reasonable alternatives when possible. Also consider the potential for harm to others in the workplace potentially posed by employees who, for good reason or not, refuse the vaccine. In some instances, employers may need to decide whether that person can remain employed.

VACCINE continued on page 30
Health Law

Business Court Analyzes Crime-Fraud Exception to Attorney-Client Privilege In Breach of Fiduciary Duty Cases

By Michael A. Delaney

On Oct. 15, in the matter of Atlantic Anesthesia, P.A. v. Ira Lehrer et. al, Docket No. 218-2019-CV-00933,-01683 (Hillsborough, SS., Northern District), the Business Court issued an order analyzing the crime-fraud exception to the attorney-client privilege in the context of an alleged breach of fiduciary duty. Commercial litigators should carefully review this decision.

Under Rule of Evidence 502(d)(1), if an attorney-client relationship has been misused by a client in furtherance of a crime or fraud, there is no attorney-client privilege. The purpose of the crime-fraud exception is to assure that the “seal of secrecy” between lawyer and client does not extend to communications made for the purpose of getting advice for the commission of a fraud or crime.” United States v. Zolin, 491 U.S. 554, 563 (1989) (citations omitted). Courts have required the privilege challenger to present evidence that (1) the client was engaged in or was planning criminal or fraudulent activity when the attorney-client communications took place; and (2) the communications were intended by the client to facilitate or conceal the criminal or fraudulent activity. In Re Grand Jury Proceedings, 417 F.3d 18, 21 (1st Cir. 2005) (citations omitted).

Atlantic Anesthesia does not present uncommon facts. Wentworth-Douglass Hospital (WDH) had contracted exclusively with the plaintiff, Atlantic, to provide anesthesia and pain management services to patients. Some of the defendant physicians were owners of Atlantic until 2014 when Atlantic became a wholly owned subsidiary of a national anesthesia management company, North American Partners in Anesthesia (NAPA). NAPA services more than 500 healthcare facilities nationally. Atlantic then began operating as NAPA-NH. The defendant doctors, who were former owners of Atlantic, became employees of Atlantic and served in various medical roles, including as chairman for the Department of Anesthesiology at WDH and as a medical director for an affiliated pain management institute.

In late 2018, WDH notified one of the defendant physicians that WDH was contemplating not renewing its contractual relationship with Atlantic. The defendant physicians then began discussions about whether they would stay with Atlantic or become employees of WDH. They jointly hired legal counsel to explore their employment options. WDH invited the defendant physicians to attend a meeting in May 2019. Before the meeting, WDH and the defendant physicians entered into a written Common Interest Agreement. Shortly after the meeting, WDH notified Atlantic that it would not renew its agreement for anesthesiology services at the end of the year. Atlantic then fired the defendant physicians and sued them alleging breach of contract, breach of fiduciary duty, tortious interference with contractual relations, and misappropriation of trade secrets.

During discovery, one of the defendant doctors objected to disclosing certain conversations with WDH under the common interest doctrine. The common interest doctrine is an exception to the general rule that the attorney-client privilege is waived when privileged information is disclosed to a third party. Micronics Filtration Holdings, Inc. v. Miller, 2019 WL 9104172 (D.N.H November 5, 2019) (LaPlante, J.). It applies to protect the attorney-client privilege when two or more clients retain an attorney on particular matters of common interest, and it also applies to communications made by the client or the client’s lawyer to a lawyer representing another in...
Public Health Emergency Leads to Expansion of Telehealth Coverage

By Alexander W. Campbell

Since the declaration of state and federal COVID-19 public health emergencies last March, many health care providers and patients have found themselves confronted with the first time with a new telehealth paradigm. Given the nature of how COVID-19 spreads and the need to maintain social distancing, health care visits and services that once took place in offices and hospitals have been occurring by phone, video call, and through online portals. To help facilitate the continued ability for patients to access health care, both the federal and New Hampshire governments have expanded the telehealth services that can be reimbursed and the practitioners who may provide them. While some of this expansion may only last as long as the public health emergency, other changes have already been made permanent.

Federal

Following the declaration of a public health emergency by U.S. Secretary of Health and Human Services Alex Azar on Jan. 27, 2020, HHS and its agencies have taken several steps to expand the availability of health care services via telehealth. The Centers for Medicare & Medicaid Services made several changes through waivers or other flexibilities, including: expanding the list of services that Medicare beneficiaries can receive via telehealth; removing the requirement that a beneficiary live in a rural area and travel to a local medical facility to receive telehealth services, thereby allowing beneficiaries to receive services from home; expanding the types of providers eligible for reimbursement for telehealth to include physical and occupational therapists and speech language pathologists; allowing hospitals to bill for outpatient services furnished via telehealth to patients in their homes; expanding the services for which audio-only telehealth is reimbursable, including many behavioral health and patient education services and certain E/M services; and reimbursing federally qualified health centers and rural health clinics for telehealth services.

On March 17, HHS’ Office of Civil Rights (OCR) issued a “Notification of Enforcement Discretion for telehealth remote communications during the COVID-19 nationwide public health emergency,” in which it announced that it would be exercising its enforcement discretion and would not impose penalties for noncompliance with HIPAA in connection with covered entities’ good faith provision of telehealth using non-public facing audio or video communication products during the COVID-19 nationwide public health emergency. OCR explained further that its discretion applies to providers’ use of popular applications that allow for video chats, including Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, or Skype, but that it does not apply to video communication applications that are public facing, such as Facebook Live, Twitch, or TikTok.

Also on March 17, HHS’ Office of Inspector General issued a policy statement notifying providers that they will not be subject to administrative sanctions for reducing or waiving any cost-sharing obligations federal health-care program beneficiaries may owe for telehealth services furnished during the COVID-19 public health emergency.

With the exception of some services that have been added to the list of Medicare telehealth services, these federal changes...

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a matter of common interest. Id. Here, the conversations took place after the doctor had executed the Common Interest Agreement with WDH in early May 2019. The plaintiff argued that the common interest doctrine was inapplicable to those conversations because there was no pending court action at the time when the contested communications were made. The defendants countered that the common interest doctrine extends more broadly to communications made in anticipation of litigation. The Business Court ruled that it need not reach a determination about the applicability of the common interest doctrine because there was a sufficient showing that the crime-fraud exception applied to the case. See Order, p. 4.

Noting that the New Hampshire Supreme Court has not yet weighed in on this issue, the Business Court held that a breach of fiduciary duty is sufficient to trigger the crime-fraud exception to the privilege. See id. It stated that “many courts have taken a broad view of this exception and applied it to types of conduct other than criminal fraud or crime.” Id. The Business Court reasoned that fraud must be understood broadly as a generic term that includes “all surprise, trick, cunning dissembling, and any unfair way by which another is cheated.” Id. The Business Court also cited several decisions from other state courts finding parallels to standard breach of fiduciary claims.

The Business Court further reasoned that “[i]n the crime-fraud exception to the privilege, the plaintiff must demonstrate the existence of a fiduciary duty, the existence of a breach of this duty, and that the communications relate to the breach of fiduciary duty.” Id. The Business Court then ordered an in camera inspection of the contested communications.

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in that position/organization, at least until this crisis has passed. COVID-19, in addition to being a novel virus, presents many novel workplace issues. While a vaccine is a light at the end of the tunnel, it is still important for employers to proceed with caution.

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are largely temporary and, absent Congressional action, will terminate upon the expiration of the public health emergency.

New Hampshire

On March 13, Gov. Sununu declared a state of emergency via Executive Order 2020-04. Emergency Order 8 was issued less than a week later, greatly expanding telehealth availability and insurance coverage in New Hampshire by: requiring all fully insured health plans, public employee health plans, and New Hampshire Medicaid, including Medicaid Managed Care Organizations, to cover in-network telehealth; permitting the use of telehealth by all medical providers; expanding the definition of permissible telehealth to include all modalities, including audio-only; removing any geographic conditions of coverage of telehealth; and requiring coverage parity between services provided in person versus via telehealth.

New Hampshire Medicaid has issued significant guidance on the expansion of coverage for telehealth services. The Office of Professional Licensure and the various individual licensing boards have also issued guidance to licensure providers on providing services via telehealth.

As part of its unorthodox 2020 legislative session, the General Court passed House Bill 1623 on July 21, which in large part makes permanent the changes in Emergency Order 8. New Hampshire Medicaid and private insurers regulated by the Insurance Department are required to pay for health care services provided through telemedicine on the same basis as health care services provided in person.

There is no restriction on eligible originating or distant sites for telehealth services; an originating site means the location of the member at the time the service is being furnished via a telecommunication system, and a distant site means the location of the provider at the time the service is being furnished via a telecommunication system. Insurers must cover all modalities of telehealth, including video and audio, audio-only, or other electronic media provided by medical providers to treat all members for all medically necessary services. Insurers must reimburse for telehealth services provided by a lengthy list of providers, including physicians, nurses, psychologists and other mental health practitioners, dentists, alcohol and drug use professionals, and dietitians.

Time will tell whether patients will continue to use telehealth in significant numbers following the conclusion of the public health emergency, but at least in New Hampshire the landscape has been established to ensure the continued availability of this vital health care delivery method.

Alexander W. Campbell is an associate in the Health Care Practice Group at Sheaheen & Gordon, P.A., assisting providers in regulatory compliance, contracting, provider transition, and litigation.
The Beast of Burdens (and Who Holds Them?) Under the New Hampshire Constitution

By Graham W. Steadman

I. New Hampshire's Constitutional Tradition

The New Hampshire Supreme Court has historically interpreted our state Constitution independently from its federal counterpart, finding in many cases that the state Constitution offers more protection than the Constitution of the United States. This independent strand provides New Hampshire courts and litigants with flexibility in addressing undecided state constitutional issues. But, because New Hampshire courts cannot interpret provisions of the state Constitution sui sponte, the progress and development of New Hampshire constitutional law depends on the advocacy and creativity of lawyers.

In some contexts, the state Supreme Court has afforded New Hampshire citizens more protection under the state Constitution than under analogous federal provisions. Just a few examples include the fact that New Hampshire lacks a good faith exception to the warrant requirement, tightly regulates the scope of motor vehicle stops, recently recognized a limited automoble exception, confers automatic standing, forbids the derivative use of unmirandized custodial statements, and requires the state to prove beyond a reasonable doubt that a defendant knowingly and intelligently waived his or her Miranda rights.

Consistent with principles of federalism, even when the New Hampshire Supreme Court has adopted a federal analysis (e.g., New Hampshire courts apply the same factors as federal courts when evaluating whether a person has a reasonable expectation of privacy) it has reached independent constitutional conclusions. Unlike under the federal constitution, New Hampshire residents have a reasonable expectation of privacy in their curbside garbage.

Understanding which party bears the burden of proof is a critical step in any litigation. This article seeks to highlight two unsettled areas of New Hampshire constitutional law concerning the burden of proof at suppression hearings. New Hampshire appears to have the most protective burden of proof on the issue of whether a suspect is in custody for purposes of Miranda warnings. As discussed below, the burden of satisfying the reasonable expectation of privacy test for searches and seizures remains unsettled; however, a recent New Hampshire Supreme Court case suggests that the burden may be on the state by a preponderance of the evidence.

II. Who Bears the Burden? – Custody

Under both the state and federal constitutions, Miranda warnings are only required when a suspect has been placed in custody. In New Hampshire, before the state may use statements made during a custodial interrogation, it must prove, beyond a reasonable doubt, that it did not violate a defendant’s rights under Miranda.

The “beyond a reasonable doubt” standard has been routinely applied to decide whether a suspect has knowingly and voluntarily waived his or her Miranda rights. State v. Bushey, 122 N.H. 995, 999 (1982); State v. Watson, 170 N.H. 720, 725 (2018).

Less clear, however, is who bears the burden of proof on the threshold issue of custody. Massachusetts, like New Hampshire, has interpreted its constitution more protectively than the United States Constitution. Massachusetts also applies the beyond a reasonable doubt standard in the waiver context. Com. v. Molina, 3 N.E.3d 583, 595 (Mass. 2014). Under both the state and federal constitutions, the state, not the defendant, has the burden of proof on the issue of custody. Moreover, the state must convince the court, beyond a reasonable doubt, that the defendant was not in custody for purposes of Miranda.

This is perhaps the most protective custody standard in the country, and should be on the radar of any New Hampshire attorney confronted with a custody issue.

III. Who Bears the Burden? – Reasonable Expectation of Privacy

Since adopting the reasonable expectation of privacy test in 2003, the New Hampshire Supreme Court has not had the opportunity to squarely address who carries the burden of proving (or disproving) a defendant’s reasonable expectation of privacy at a suppression hearing. However, in a case released last month, the New Hampshire Supreme Court assumed, without deciding, that the burden of proof rested with the state by a preponderance of the evidence. See State v. Guiter, 174 N.H. ___ (2020).

Under both the state and federal Constitutions, a reasonable expectation of privacy exists where: (1) a person has manifested a subjective expectation of privacy in the object of the search; and (2) society is willing to recognize that expectation as reasonable. The state generally bears the burden of proof at suppression hearings; however, in a majority of jurisdictions, including Massachusetts, it is the defendant who bears the burden of establishing his or her reasonable expectation of privacy. See e.g., Com. v. Molina, 948 N.E.2d 402, 407 (Mass. 2011).

There are persuasive arguments for and against assigning this burden to the state or the defendant under New Hampshire law. On the one hand, New Hampshire has a long history of imposing higher burdens of proof on the State in the search and seizure context. The New Hampshire Constitution confers “automatic standing,” allowing a defendant to challenge the search of any object where possession of it is an element of the crime. On the other hand, whether a reasonable expectation of privacy exists is usually a matter of standing that the claiming party must establish. However, this is not necessarily true in New Hampshire. Because of New Hampshire’s preservation of the automatic standing doctrine, it is possible to possess standing under the state Constitution, but lack a reasonable expectation of privacy. State v. Smith, 169 N.H. 602, 611 (2017) (defendant, charged with possession of heroin, had automatic standing but lacked a reasonable expectation of privacy in the common pathway of a rooming house and thus no search occurred). In such cases, the court’s analysis focuses on whether a search has occurred, not whether a defendant has standing to challenge it. In other jurisdictions, this inquiry is one and the same.

Defense attorneys and prosecutors alike should seek to develop this area of the law. In doing so, they should consider which result best comports with the spirit and history of the New Hampshire Constitution and public policy. Should the state always bear the burden? Should the state bear the burden only when the defendant has automatic standing? Should the defendant bear the burden in non-possessory cases where there is no automatic standing? These are uniquely New Hampshire questions requiring a state Constitutional solution.

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The COVID-19 Pandemic

Just as with all other spheres of our public and private lives, the pandemic is, of course, the biggest story of 2020 for the criminal justice system. Looking back at my schedule for the week of March 9, 2020, I had routine “in-person” (a qualifier unspoken and assumed at the time) court hearings, meetings with clients, a pre-sentence interview of a client by probation officer, a visit to a client at the Hillsborough County “Valley Street” Jail. But beginning on March 16, 2020, everything changed. After a period of complete shutdown, client meetings, court hearings and probation interviews were conducted on the telephone and WebEx. We continued to make in-person visits to clients in jail. But as of the time of writing this, nobody is visiting a client at the Valley Street Jail. Fully half of the inmates, and 27 staff members are infected with COVID-19. A shocking and disgraceful result of what a judge called the “deliberate indifference” of jail officials.

But at least, as of press time, those 102 inmates and 27 staff members are still alive. There have been at least 2,059 deaths among inmates and guards in prisons, jails and detention centers across the nation, along with more than 407,859 confirmed infections. Some state correctional systems have closed facilities and transferred inmates elsewhere, because so many correction officers are unable to work.

Law Enforcement Reform

In the immediate wake of the nationwide Black Lives Matter protests, the Governor’s Commission on Law Enforcement Accountability, Community, and Transparency met 26 times over 10 weeks, and ultimately released a report with shockingly revelations, including: The 16-week police academy includes “[…]very little […] devoted to defining and recognizing bias, including implicit bias, or overcoming and controlling the bias,” and “no training on the duty to intervene when another officer engages in the use of inappropriate force or other misconduct.”

The legislature enacted HB 1645, which bars police chokeholds, and mandates for the first time that police officers who observe misconduct by other police officers must report the misconduct to the chief of their department, and that then investigate and notify the Police Standards and Training Council.

In an era of ubiquitous smartphone ownership and heightened awareness about discriminatory practices and misuse of force, the First Circuit’s decision in Project Veritas Action Fund v. Rollins (12/15/20) may do more to deter and punish police misconduct than any other conceivable reform. The Court held that civilians have a First Amendment right to secretly film and make audiovisual recordings of police officers interacting with civilians and discharging their official duties in public spaces. The Court held that the right to record could be limited in certain situations, but struck down a Massachusetts statute that was not narrowly tailored to such situations.

Last January’s State v. Jones decision reminds us that “racially blind” policies merely perpetuate discriminatory practices. Two Concord police officers, dispatched for a “suspicious vehicle,” approached an African-American male sitting in a parked car to find out “what the occupants” business was or what the reason was for why the vehicle was there.” The passenger said she lived there, and the driver was visiting her. What are the circumstances where black and white drivers would have ended the encounter, if both vehicle occupants were white? Instead, the officers asked for the man’s identification and held onto it.

In another interesting case, the NH Supreme Court has repeatedly held that a driver’s obvious nervousness is not a relevant factor in determining reasonable, articulable suspicion of criminal activity. How then could the Court let stand a lower court decision that held a black driver’s “cordial demeanor” should have been held not to have been seized, while simultaneously refusing to consider his race in the analysis.

In 2020, the NH Supreme Court heard a constitutional challenge to HB 1645, the new law requiring police to report misconduct but not investigate it. In a per curiam opinion, Justice Gorsecky wrote, the NH Supreme Court has repeatedly held that a driver’s obvious nervousness is not a relevant factor in determining reasonable, articulable suspicion of criminal activity. How then could the Court let stand a lower court decision that held a black driver’s “cordial demeanor” should have been held not to have been seized, while simultaneously refusing to consider his race in the analysis.

In two decisions, the NH Supreme Court has repeatedly held that a driver’s obvious nervousness is not a relevant factor in determining reasonable, articulable suspicion of criminal activity. How then could the Court let stand a lower court decision that held a black driver’s “cordial demeanor” should have been held not to have been seized, while simultaneously refusing to consider his race in the analysis.

Reform of Drug Prohibition Laws

As a result of more successful ballot initiatives in 2020, one in three Americans – about 109 million people – now live in a State where recreational marijuana use is legal. We’re the only New England State that has not legalized marijuana, but the trend is unmistakable.

Last May, in State v. Perez, the New Hampshire Supreme Court granted a motion in limine in a marijuana possession case, removing the “possessing of 20 grams or less of marijuana” instruction from the jury instructions. The Court held that the possession of marijuana was a criminal offense, that odor alone would provide reasonable suspicion to detain a vehicle occupants and conduct further investigation. But in light of these legislative reforms, the Court in Perez adopted a more nuanced approach, recognizing the odor of marijuana only as “a relevant factor” in the totality-of-the-circumstances analysis.

As for the more harmful drugs, the New Hampshire Supreme Court grappled with the impact of HB 1645 on drug prohibition laws. Last January’s State v. Jones decision was one of the most breathtaking decisions of 2020. The Court held that in Oklahome (over 3 million acres, including most of the city of Tulsa), had been recognized by Congress in 1866 as home of the Creek Nation. This meant our Nation could not be invaded by certain serious crimes if committed by a Native American within that territory. In its opinion, Justice Gorsecky explained that Oklahoma’s longstanding tradition of disregarding treaty obligations did not turn might into right.

Unlawful acts, performed long enough and with sufficient vigor, are never enough to afford the law. To hold otherwise would be to elevate the most brazen and longstanding injustices over the law, both rewarding wrong and failing those in the right.

I’d like to end on an inspiring quote that reminds us that criminal litigation may be a competitive enterprise, but it is not a game. In United States v. Rosario-Perez, 957 F.3d 277 (1st Cir. 2020), the court found that a judge committed an error in rulings that admitted prosecution evidence that a defendant committed a murder in the course of a drug conspiracy, but excluded defense evidence that someone else committed the murder, based on a narrow reading of a hearsay rule. Chief Justice Howard wrote: “The rules of evidence are instituted not for the splendor of their being but rather to make courts administer fair and just trials.”

We all look forward to trials that are fair and just – where prosecutor and defense lawyer shake hands at trial’s beginning and end, and stand together at bench conferences, far less than six feet apart - conducted in person, in the courtroom!

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Locks And “No Trespassing” Signs In New Hampshire Search and Seizure Law

By Joshua Gordon

To most people, the area around one’s home feels private. To show that a police search was unconstitutional, a person must have both a subjective expectation of privacy in the place, and also an objective expectation of privacy which “society is prepared to recognize as reasonable” in the circumstances.

Generally, an expectation of privacy can be demonstrated by the amount of effort a person puts into making a place private. Courts in Arkansas, Montana, Oregon and Vermont, for example, have suppressed searches where the targets lived miles from the nearest person, and had lined their land with fences, locked gates, and “no trespassing” signs.

On the other hand, courts have routinely held that when owners have taken only minimal measures to ensure privacy of areas outside their “curtilage,” such as haphazard signage, a search is probably permissible. “Curtilage” is “those outbuildings which are directly and intimately connected with the habitation and in proximity thereto, and the land or grounds surrounding the dwelling which are necessary and convenient and habitually used for family purposes and carrying on domestic employment.”

Homeowners have an expectation of privacy in porches and outbuildings which are part of a home’s curtilage and obscured from public view, but not on driveways and walkways leading to the dwelling. In New Hampshire, there is an expectation of privacy in trash bags on the curb, even without locks or signs. Apartment dwellers can expect privacy in their personal living space, but not in common areas which are part of a home-style cooperative living.

Although New Hampshire arguably has not adopted a categorical “open fields” doctrine, which deems open to the police “any unoccupied or undeveloped area outside of the curtilage,” there is probably little difference in analysis— a valid search still requires the presence of subjective and objective expectations of privacy.

In December, the New Hampshire Supreme Court decided State v. John Gates.

Following footprints to an isolated farm from a snowy scene of a suspected arson, police entered the vestibule of a four-unit residential building, occupied by the defendant and members of his extended family. The vestibule was unlocked, had a window, contained a coat-rack and a snow-shovel, and was shared by the inhabitants. Behind one of its three unmarked doors was a “utility closet” also unlocked, with the usual water and electrical equipment, but also containing a pair of incriminating boots. They were wet, and their tread matched the footprints leading from the suspicious smoke.

The court found that the route the officers followed to the building was lawful because it was accessible by “other tenants, friends and visitors, the landlord, delivery people, repair workers, sales people, postal carriers and the like,” and was neither posted against trespassing, nor blocked with fences or gates.

The court also ruled that Mr. Gates did not have an expectation of privacy in the vestibule—even though it was a secluded family compound and was the common entrance for only two of the apartments—because its interior was visible through a window from the walkway that led to its door, which was unlocked.

As to the utility room, however, the court held that Mr. Gates had both objective and subjective expectations of privacy. Even though it was neither locked nor posted with a “private” sign, its interior could not be observed without opening the door, the public was not normally invited, and only the defendant used it for storage. While Mr. Gates did not testify at his suppression hearing, he showed a subjective expectation circumstantially, by putting his boots behind the closed door. The boots were therefore unavailable for the prosecution to match with the footprints.

While Gates did not directly hinge on locks and “no trespassing” signs, it is the latest in a line of cases in which the presence or lack of barriers have figured in search and seizure analysis. Even though it arose in a rural setting, Gates may be applicable to urban apartments where privacy can be scarce.

Joshua Gordon’s practice is devoted to assisting businesses, individuals, law firms, and institutional attorneys who find themselves litigating on the appellate level. Since 1993, Attorney Gordon has handled 229 federal and state appeals. Of those, 90 have resulted in full published opinions, some have been decided by summary decree, and others have settled when private resolutions were appropriate. He can be reached at 603-226-4225.
Striving for Balance: The Challenge of Holding Jury Trials during the COVID-19 Pandemic

By Tina Nadeau
NH Superior Court Chief Justice

When I became chief justice of the New Hampshire Superior Court, I could not have known that I would lie awake at night thinking about how to balance constitutional rights to a fair and speedy trial with the threat of a pandemic, one that can result in death or serious illness. Nor did I suspect that I would eventually learn so much about virology, filtration, and courthouse ventilation. Yet, since last March, I have done little else. We are all experiencing the strain and stress of the pandemic in our professional and personal lives; lawyers in particular are on the front lines every day defending constitutional rights while promoting public safety. I hope that the steps the judicial branch is taking is framework open access to justice while protecting attorneys, litigants, our staff and the public, will give those who must work in the courts some peace of mind.

Shortly after Gov. Sununu declared a state of emergency, I convened a working group of court employees to devise a plan for the safe resumption of jury trials and grand jury proceedings. I also consulted with a working group that included attorneys from the New Hampshire Public Defender’s Office, the Association of County Attorneys, the Department of Justice, the New Hampshire Association of Criminal Defense Attorneys, as well as the chief victim/witness advocate for the state. Among other things, they crafted group designed protocols to implement safe jury trials and grand jury proceedings during the pandemic. We worked closely with the state’s chief transmission officer and hired an infectious disease expert, Dr. Erin Bromage, professor of biology at UMass Dartmouth. In addition to his background in disease transmission, Dr. Bromage has engineering expertise in the ventilation and filtration systems of large facilities.

Relying on his expertise, we designed and implemented the State Court Jury Trial Plan, which includes extensive protocols for selecting juries, and procedures for the management of trials. The plan, which is regularly updated, can be found on the judicial branch website.

Among other protocols contained in the plan, all participants in jury proceedings are required to wear masks. Surgical-grade masks are provided to jurors and anyone entering the courthouse who does not have a mask. For witnesses, we have secured clear masks to ensure that jurors can view their demeanor while testifying. Though some attorneys have asked to speak without masks, those requests have not been generally granted. That is because now we know the virus spreads mainly through the distribution of aerosols and large droplets created when we breathe and speak. The amount of aerosols released by one person speaking is equivalent to the amount released by 75 people breathing. A fact I never thought I’d need to know to do my job.

In addition to mask protocols, each courtroom has been reconfigured so that all participants may remain sufficiently physically distanced. In some locations that means spreading the jury throughout the gallery and using the witness stand. In other courtrooms, such as Sullivan County, it means safe jury trials are simply not possible during the pandemic. Although we have been able to conduct a few jury trials safely since August, resuming the trial schedules has helped many attorneys resolve their cases through a negotiated plea.

In some counties, I decided to cancel the resumed jury trials in light of increasing infection rates, especially in courthouses that are not adequately ventilated. Those decisions are made weekly based on metrics recommended by Dr. Bromage and in some cases after directly consulting with him. Each day I review several websites that provide updated information regarding infection rates, number of daily cases per 100,000, test positivity rates and hospitalization rates. Other websites provide tools that assimilate the data and tell me by county the percent likelihood that one person in 25 will be infected with the virus. I then rely on advice from Dr. Bromage about the risk tolerance level for each county depending on the ventilation and filtration systems of the buildings.

For example, Hillsborough County, Northern District, is an optimally ventilated and filtered building. That means the system can tolerate a MERV 13 filter, which actually strips virus from the air, and has at least six to eight full air exchanges per hour. As a result, even if there is a 70 percent chance that one person in 25 will have the virus, we can still conduct trials safely in that building because the likelihood of transmitting the disease there is extremely low. For a less optimally ventilated building the tolerance level is much lower.

The good news according to Dr. Bromage is that as long as we are strictly following masking, distancing and sanitizing protocols we will not likely experience transmission of the disease, even if someone infected shows up in the courthouse. Based on his review of the current information regarding the virus, Dr. Bromage reports that the most likely way the infection is transmitted is when people are in a room not wearing masks, which occurs most often in workspaces where people are eating together. In fact, he has not yet seen reports of infection transmission in well-ventilated work spaces with strict mask compliance.

Even though we are attempting to conduct trials only when it is safe to do so, I appreciate that attorneys and advocates still need to prepare their cases by meeting with witnesses and clients under conditions that might not be ideal. Whether or not I decide administratively that trials in a given county must be cancelled, lawyers should always feel free to request a continuance whenever they believe they cannot effectively and safely prepare. Those decisions must be made on a case-by-case basis by the trial judge weighing the specific risks, constitutional rights of the defendant, and the parties’ need for a timely and fair trial.

We are all in this together, attempting to guarantee access to justice while trying to keep ourselves and our loved ones safe. There is light at the end of this tunnel, and I look forward to the day when I can watch talented lawyers practice their skills again in the courtroom confident that the pandemic is behind us.

Class-action lawsuit calls DCYF to Task

By Scott Merrill

A class-action lawsuit filed against the state of New Hampshire by advocates of children’s rights groups received a harsh reaction from Governor Sununu on Jan. 5.

The suit, which cites structural deficiencies and claims the state is violating the constitutional and statutory rights of younger youth in foster care, put children at “severe risk of dangerous and tragic outcomes,” was brought by the ACLU of New Hampshire, Disability Rights Center - NH, New Hampshire Legal Assistance, the national advocacy group Children’s Rights, and the law firm Weil, Gotshal & Manges LLP.

In a statement, Gov. Sununu refers to the suit as “a special interest lawsuit,” backed by Wall Street law firms, “which prey on child protection programs across the country.”

“This New York based entity doesn’t care about our kids. They are looking for attention for themselves, and their legal maneuverings will bring our progressive reforms to a grinding halt. Shame on every single person associated with this effort,” the statement says.

The Governor’s statement says his administration has made more progressive reforms to the state’s child welfare system “than any administration in history.”

But according to Karen Rosenberg, Senior Staff Attorney at Disability Rights Center - NH, the class action lawsuit which includes advocacy for younger youth, between 14 to 17-year-olds with mental impairments who are in DCYF custody resulting from founded instances of abuse or neglect.

“We’re not saying that DCYF has done nothing helpful,” Rosenberg said. “But, this lawsuit is not about the DCYF’s efforts to reduce caseloads of its workers or the volume of court proceedings, put into effect a system for kids from being removed from their families, it’s about kids in those teen years, 14- 17-year-olds, who have ended up in court, in which the neglect or neglect allegations have not been founded and now decisions are being made about where they’re going to live. Unfortunately, in the overwhelming majority of these cases, children are being sent to live in congregate care facilities, instead of with relatives or foster families who could better meet their needs.”

In addition to failing to place older foster youth in community-based family settings that will help them thrive, the lawsuit asserts that the state unconstitutionally denies older youth legal representation when placing them in restrictive group care settings and violates federal law by failing to adequately and timely provide and implement critical case plans.

“To many older youth in New Hampshire are subject to unnecessary warehousing by a state system that prioritizes institutionalization over family and community. The physical, emotional, and mental harms associated with placement in congregate care are well known and tragic outcomes including homelessness, unemployment, incarceration, and a lack of educational attainment,” said Shereen White, a former youth placed in Children’s Rights.

“The risks of serious harm to these youth are even more imminent during the COVID-19 public health emergency, because social distancing is virtually impossible in group care facilities.”

Compared to other states, New Hampshire disproportionately places older foster youth in group settings, which are known to have profoundly negative impacts on children’s social, emotional, and physical wellbeing. In 2019, the majority (70.3%) of foster youth in the Granite State ages 14 through 17 were housed in congregate care facilities—the national average for this age group is 31%. This is even worse for older youth with mental health diagnoses—in 2019, 90.5% were placed in congregate care settings compared to the national average of 39.8%.

“By unnecessarily institutionalizing older youth who could receive mental health treatment and supports in their communities and live successfully with family members or with foster families, New Hampshire unlawfully deprives children in its care of the community-based services and family connections they need to grow into successful adults,” Rosen- berg said.
December 2020

Supreme Court At-a-Glance

Criminal Law

State v. Breanna Cavanaugh, No. 2019-0608
Dec. 29, 2020
Reversed and remanded.

• The Court considered whether there was sufficient evidence to support the defendant’s conviction and whether the trial court erred in: (1) denying a request for a self-defense jury instruction; (2) precluding evidence of a victim’s prior inconsistent statements; and (3) rejecting the victim’s statements into evidence under the excited utterance exception to the hearsay rule; and (4) denying the defendant’s request to re-call a witness.

The jury could have found that the defendant’s teenaged daughter invited the sixteen-year-old victim to a party, which the victim thought was at the defendant’s house. The victim entered the defendant’s house through an unlocked front door and went upstairs to a living room, where he discovered there was no party, and the defendant’s daughter was not there. The victim whispered the defendant’s daughter’s name and then turned to leave when he did not get a response. He caused noise as he left, and the defendant and her boyfriend chased him as the victim ran to his truck. The defendant’s boyfriend shot at the victim at the defendant’s urging. The defendant was later convicted of two charges of being an accomplice.

The Court found that the defendant failed to demonstrate that the evidence was insufficient to support his conviction and therefore failed to demonstrate that there was a reasonable doubt, that the defendant acted in concert with or aided her boyfriend in causing shots to be discharged from his gun. The Court concluded that the evidence was sufficient for a rational trier of fact to find, “beyond a reasonable doubt, that the defendant acted in concert with or aided her boyfriend in causing bullets to be fired.” As to the charge of accomplice to a murder, there was both direct and circumstantial evidence that could show the defendant’s actions aided her boyfriend in causing shots to be discharged from his gun.

The defendant argued that the evidence was insufficient to support his conviction because the defendant did not mention that HSUS would assist. Although the application for the search warrant did not mention the HSUS, the Court found that in this case it was undisputed that HSUS would assist.

Because the Court found that there was a defect in the motion to suppress because the motion was not supported by a reasonable suspicion that the search would have been an appropriate remedy if there had been violations of the type alleged.

State v. Christina Fay, No. 2018-0402
Dec. 2, 2020
A affirmed.

• The Court considered a right to privacy amendment to the State Constitution, in an prosecution of a defendant for eighteen counts of cruelty to animals per-sonal to the State, N.H. Constitution, Art. 19, with the State, Theodore M. Loth-stead, Lohsteen Guerrero, Concord, for the defendant.

The defendant, who had been convicted on seventeen counts of cruelty to animals pur-suant to RSA 644-A, argued that the superior court erred in denying her motion to suppress evidence found during a warrantless search of a vestibule and utility closet. The police found that the facts of this case did not support a finding that it would be reason-able for a tenant to have an expectation of privacy in the utility closet. The Court noted that it is typically not objectively reasonable for a tenant to have an expectation of privacy in shared or common areas of an apartment building. But, the Court also found there is not a bright line rule, and each case must be considered on an individualized basis.

Dec. 9, 2020
Reversed and remanded.

• The Court decided whether the defendant had a legitimate expectation of privacy in the utility closet because there were factual differences that differentiated it from the vestibule, including that the contents were not visible from outside the closed door and the police did not have a key to the closet where the public would be expected to enter into it. Therefore, a warrant was required to search the utility closet. The State had not argued any exception permitting a warrantless search ap-plied. Thus, the Court found the evidence from the utility closet should be suppressed pursuant to the State Constitution. It did not review the defendant’s argument under the Federal Con-stitution.

When police responded to a fire, they found footprints in heavy snow that led them to a farm. The footprints disappeared at a shovelled walkway to the apartment building located on the farm. The defendant and the building were not locked, so the police entered. The police knocked on the defendant’s door, which led off from the vestibule, and questioned him. Meanwhile, another officer found that another door in the vestibule was unlocked, and he opened it looking for stairs to the upstairs apartments. Instead, it was a utility closet. The police found waste. The defendant argued that there was no probable cause because there was no officer, and no officer found that another door in the vestibule was unlocked, and he opened it looking for stairs to the upstairs apartments. Instead, it was a utility closet. The police found waste. The defendant argued that there was no probable cause because there was no officer, and no officer found that another door in the vestibule was unlocked, and he opened it looking for stairs to the upstairs apartments. Instead, it was a utility closet. The police found waste. The defendant argued that there was no probable cause because there was no officer, and no officer found that another door in the vestibule was unlocked, and he opened it looking for stairs to the upstairs apartments. Instead, it was a utility closet. The police found waste.
The Court reviewed a decision of the New Hampshire State Board of Education regarding the expulsion of a student for possession and use of mushrooms. The defendant argued that the government action is necessary to prevent the student from practicing his religion. The Court remanded the case to be decided in light of the Supreme Court's decision.

The Court also assumed for the purposes of the appeal that the use of mushrooms was a constitutional violation. The defendant argued that the government action is necessary to prevent the student from practicing his religion. The Court remanded the case to be decided in light of the Supreme Court's decision.

The Court decided whether the probate court had subject matter jurisdiction over themotion for reconsideration of a non-New Hampshire decedent's estate. The Court ruled that the probate court had subject matter jurisdiction over the motion for reconsideration of a non-New Hampshire decedent's estate.

The Court rejected the Probate Court's analysis of RSA 170-G:4. The Court ruled that the probate court had subject matter jurisdiction over the motion for reconsideration of a non-New Hampshire decedent's estate.
In the Matter of Lynne A. Saben, Esquire

On November 18, 2020, the Professional Conduct Committee (PCC) filed a recommendation that Attorney Lynne A. Saben be suspended from the practice of law for a period of one year and ordered to pay the costs associated with the investigation and enforcement of the disciplinary matter. The PCC’s recommendation approved a stipulation executed by Attorney Saben and the Attorney Discipline Office’s disciplinary counsel in which Attorney Saben agreed that she had violated several Rules of Professional Conduct and further agreed that the appropriate sanction for these violations was a one-year suspension. In the stipulation, Attorney Saben expressly waived her right to a hearing. In accordance with Rule 37(16), because this matter was resolved by a dispositional stipulation, the court may consider this matter without further notice and hearing.

Based on the parties’ stipulation, the PCC found that Attorney Saben violated the following Rules of Professional Conduct:

1. Rule 3.3, prohibiting a lawyer from making a false statement of fact to a tribunal;
2. Rule 3.4.3, prohibiting a lawyer from knowingly disobeying an obligation under the rules of a tribunal;
3. Rule 5.5, prohibiting a lawyer from practicing law in violation of the legal profession in the jurisdiction;
4. Rule 8.4(c), making it misconduct to engage in conduct involving dishonesty, fraud, deceit or misrepresentation; and
5. Rule 8.4(a), making it misconduct to violate the Rules of Professional Conduct.

After reviewing the PCC’s recommendations and record, the court accepts the PCC’s findings and its recommendation that Attorney Saben should be suspended from the practice of law in New Hampshire for a period of one year. Accordingly, the court orders as follows:

(1) Attorney Lynne A. Saben is suspended from the practice of law in New Hampshire for a period of one year.

(2) Attorney Saben is ordered to reimburse the Attorney Discipline Office for all costs and expenses incurred by the attorney discipline system in connection with this investigation and prosecution of this matter.

(3) Attorney Saben is ordered to comply with the provisions of Supreme Court Rule 37, to pay to the Attorney Discipline Office by January 29, 2021, the costs associated with the investigation of the legal profession in the jurisdiction, and to notify the Attorney Discipline Office by January 29, 2021, that she has fully complied with the requirements of Rule 37(13). A copy of the affidavit shall be sent to the Attorney Discipline Office.

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

DATE: December 9, 2020

ATTISS: Timothy A. Gudas, Clerk

In accordance with Rule 39(2)(a)(1), the Supreme Court appoints Judge Susan B. Caron as a regular circuit court judge member to the Committee on Judicial Conduct for the remainder of a three-year term, expiring August 31, 2023.

In accordance with Rule 39(2)(a)(1)(b), the Supreme Court appoints Judge Elizabeth M. Leonard as an alternate circuit court judge member to the Committee on Judicial Conduct for the remainder of a three-year term, expiring July 1, 2022. Judge Leonard is appointed to replace Judge Lucy V. Salder, who has resigned from the committee.

Attorney Daniel E. Donovan III was ordered to appear via Webex video conferencing on December 3, 2020, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why he should not be suspended for failing to pay his 2020/2021 bar dues and court fees, and $100.00 in assessed delinquency fees. Attorney Donovan did not respond to the order or appear for the December 3, 2020 hearing. Attorney Hantz Marconi is recommended to the court that Attorney Donovan be suspended from the practice of law in New Hampshire.

Issued: December 14, 2020

ATTISS: Timothy A. Gudas, Clerk

The Supreme Court makes the following appointments to the Access to Justice Commission, which was established by Supreme Court Order of September 27, 2017.

The following persons are reappointed to serve three-year terms beginning January 1, 2021, and expiring on December 31, 2023:

- Attorney Nick E. Abrahamson
- Ms. Marcia Allison
- Attorney Gina Belmont
- Attorney Sarah Blodgett
- Attorney Robert Dietel
- Attorney Christina Ferrari
- Attorney Breckie Hayes-Snow
- Attorney Rose Marie Joly
- Ms. Virginia Martin
- Attorney Kaitlin O’Neil
- Attorney William Pendolph
- Attorney Emily Gray Rice
- Attorney L. Jonathan Ross
- Honorable David W. Ruoff
- Ms. Mary Searles
- Attorney Catherine E. Shanlelis
- Attorney Brian Shaunghnessy
- Ms. Marcia Sink
- Ms. Susan Zago

The following persons are appointed to serve three-year terms beginning January 1, 2021, and expiring on December 31, 2023:

- Attorney Nathan Fennessy
- Attorney Margaret Huang
- Attorney Peter A. Nieves
- Attorney Georgia C. Griffin
- Attorney Hannah E. Lein
- Attorney Margaret J. O'Neil
- Attorney Anna B. Scipio
- Attorney Paul W. Sington

The following persons are reappointed to the Committee on Judicial Conduct for the remainder of a three-year term, expiring December 31, 2023:

- Attorney John E. Antinori
- Attorney Robert Dietel
- Attorney Robert Donovan
- Attorney William Pendolph
- Attorney Rosalie E. Richardson
- Attorney Kaitlin O’Neil

For the December 3, 2020 hearing, Attorney Donovan did not respond to the order or appear for the hearing. Justice Hantz Marconi is recommended to the court that Attorney Donovan be suspended from the practice of law in New Hampshire.

Issued: December 22, 2020

ATTISS: Timothy A. Gudas, Clerk

ADM-2020-0007, In the Matter of Michael R. Antoni, Esquire

Attorney Michael R. Antoni was ordered to appear via Webex video conferencing on December 3, 2020, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why he should not be suspended for failing to pay his 2020/2021 bar dues and court fees, and $100.00 in assessed delinquency fees. See Supreme Court Rule 42A. Attorney Antoni did not respond to the order or appear for the hearing. Justice Hantz Marconi is recommended to the court that Attorney Antoni be suspended from the practice of law in New Hampshire.

Issued: December 22, 2020

ATTISS: Timothy A. Gudas, Clerk

ADM-2020-0006, In the Matter of Daniel E. Donovan III, Esquire

Attorney Daniel E. Donovan III was ordered to appear via Webex video conferencing on December 3, 2020, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why he should not be suspended for failing to pay his 2020/2021 bar dues and court fees, and $100.00 in assessed delinquency fees. Attorney Donovan did not respond to the order or appear for the December 3, 2020 hearing. Attorney Hantz Marconi is recommended to the court that Attorney Donovan be suspended from the practice of law in New Hampshire.

Issued: December 30, 2020

ATTISS: Timothy A. Gudas, Clerk

ADM-2020-0010, In the Matter of Matthew Lenzi, Esquire

Attorney Matthew Lenzi was ordered to appear via Webex video conferencing on December 3, 2020, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why he should not be suspended for failing to pay his 2020/2021 bar dues and court fees, and $100.00 in assessed delinquency fees. See Supreme Court Rule 42A. Attorney Lenzi did not respond to the order or appear for the hearing. Justice Hantz Marconi recommended to the court that Attorney Lenzi be suspended from the practice of law in New Hampshire.

Attorney Matthew Lenzi is hereby suspended from the practice of law in New Hampshire due to his failure to pay 2020/2021 bar dues and court fees, his failure to pay delinquency fees, and his failure to appear for the December 3, 2020 hearing. Attorney Lenzi is ordered to notify his clients in writing that he has been suspended from the practice of law in New Hampshire and to notify the Attorney Discipline Office by January 29, 2021, that he has completed this task. On or before February 8, 2021, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to take inventory of Attorney Lenzi’s files and to take action to protect the interests of his clients.

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

Issued: December 30, 2020

ATTISS: Timothy A. Gudas, Clerk

ADM-2020-0011, In the Matter of Georgia C. Griffin, Esquire

Attorney Georgia C. Griffin is hereby ordered to appear via Webex video conferencing on December 3, 2020, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why she should not be suspended for failing to pay her 2020/2021 bar dues and court fees, and $100.00 in assessed delinquency fees. See Supreme Court Rule 42A. Attorney Griffin did not respond to the order or appear for the December 3, 2020 hearing. Attorney Griffin is ordered to notify her clients in writing that she has been suspended from the practice of law in New Hampshire and to notify the Attorney Discipline Office by January 29, 2021, that she has completed this task. On or before February 8, 2021, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to take inventory of Attorney Griffin’s files and to take action to protect the interests of her clients.

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

Issued: December 30, 2020

ATTISS: Timothy A. Gudas, Clerk

ADM-2020-0005, In the Matter of Kristen S. Harris, Esquire

Attorney Kristen S. Harris was ordered to appear via Webex video conferencing on December 3, 2020, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why she should not be suspended for failing to pay her 2020/2021 bar dues and court fees, and $100.00 in assessed delinquency fees. See Supreme Court Rule 42A. Attorney Harris did not respond to the order or appear for the hearing. Justice Hantz Marconi recommended to the court that Attorney Harris be suspended from the practice of law in New Hampshire.

Attorney Kristen S. Harris is hereby suspended from the practice of law in New Hampshire due to her failure to pay 2020/2021 bar dues and court fees, her failure to pay delinquency fees, and her failure to appear for the December 3, 2020 hearing. Attorney Harris is ordered to notify his clients in writing that he has been suspended from the practice of law in New Hampshire and to notify the Attorney Discipline Office by January 29, 2021, that he has completed this task. On or before February 8, 2021, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to take inventory of Attorney Harris’s files and to take action to protect the interests of his clients.

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

ORDERS continued on page 38
to appear for the December 3, 2020 hearing. Attorney Harris is ordered to notify her clients in writing that she has been suspended from the practice of law in New Hampshire and to notify the Attorney Discipline Office by January 29, 2021, that she has completed this task. On or before February 8, 2021, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to make an inventory of Attorney Harris’s files and to take action to protect the interests of her clients.

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

ISSUED: December 30, 2020
ATTÉST: Timothy A. Gudas, Clerk

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

Attorney Alina Habba Eyet was ordered to appear via Webex video conferencing on December 3, 2020, for a hearing before Justice Barbara Hantz Marconi, to show cause why she should not be suspended for the following:

1. Trust Accounting Certification - Attorney Eyet has not completed an annual trust accounting certification, as required by Supreme Court Rule 50-A.

2. NHMCLE Certification - Attorney Eyet has not fulfilled NHMCLE requirements of Supreme Court Rule 53 for the reporting year ending June 30, 2020.

Attorney Eyet did not respond to the order or appear for the December 3, 2020 hearing. Justice Hantz Marconi recommended to the court that Attorney Eyet be suspended from the practice of law in New Hampshire for failure to complete the requirements listed above, and for his failure to appear for the December 3, 2020 hearing. Attorney Eyet is ordered to notify her clients in writing that she has been suspended from the practice of law in New Hampshire and to notify the Attorney Discipline Office by February 3, 2021, that she has completed this task. On or before February 16, 2021, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to make an inventory of Attorney Eyet’s files and to take action to protect the interests of her clients.

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

ISSUED: January 4, 2021
ATTÉST: Timothy A. Gudas, Clerk

ADM-2020-0017, In the Matter of Justin P. Nadeau, Esquire

Attorney Justin P. Nadeau was ordered to appear via Webex video conferencing on December 3, 2020, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why he should not be suspended for the following:

1. Bar Dues and Court Fees - Attorney Nadeau has not paid his 2020/2021 bar dues and court fees, and the $100 in assessed delinquency fees. See Supreme Court Rule 42A.

2. Trust Accounting Certification - Attorney Nadeau has not completed an annual trust accounting certification, as required by Supreme Court Rule 50-A, and has not paid the $300 in assessed delinquency fees.

3. NHMCLE Certification - Attorney Nadeau has not fulfilled NHMCLE requirements of Supreme Court Rule 53 for the reporting year ending June 30, 2020, and has not paid the $300 in assessed delinquency fees.

Attorney Nadeau did not respond to the order or appear for the December 3, 2020 hearing. Justice Hantz Marconi recommended to the court that Attorney Nadeau be suspended from the practice of law in New Hampshire.

Attorney Nadeau is hereby suspended from the practice of law in New Hampshire for failure to complete the requirements listed above, and for his failure to appear for the December 3, 2020 hearing. Attorney Nadeau is ordered to notify his clients in writing that he has been suspended from the practice of law in New Hampshire and to notify the Attorney Discipline Office by February 3, 2021, that he has completed this task. On or before February 16, 2021, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to make an inventory of Attorney Nadeau’s files and to take action to protect the interests of his clients.

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

ISSUED: January 4, 2021
ATTÉST: Timothy A. Gudas, Clerk

ADM-2020-0019, In the Matter of Deborah L. O’Neill, Esquire

Attorney Deborah L. O’Neill was ordered to appear via Webex video conferencing on December 3, 2020, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why she should not be suspended for the following:

1. Bar Dues and Court Fees - Attorney O’Neill has not paid her 2020/2021 bar dues and court fees, and the $100 in assessed delinquency fees. See Supreme Court Rule 42A.

2. Trust Accounting Certification - Attorney O’Neill has not completed an annual trust accounting certification, as required by Supreme Court Rule 50-A, and has not paid the $300 in assessed delinquency fees.

3. NHMCLE Certification - Attorney O’Neill has not fulfilled NHMCLE requirements of Supreme Court Rule 53 for the reporting year ending June 30, 2020, and has not paid the $300 in assessed delinquency fees.

Attorney O’Neill did not respond to the order or appear for the December 3, 2020 hearing. Justice Hantz Marconi recommended to the court that Attorney O’Neill be suspended from the practice of law in New Hampshire.

Attorney O’Neill is hereby suspended from the practice of law in New Hampshire for failure to complete the requirements listed above, and for his failure to appear for the December 3, 2020 hearing. Attorney O’Neill is ordered to notify his clients in writing that he has been suspended from the practice of law in New Hampshire and to notify the Attorney Discipline Office by February 3, 2021, that he has completed this task. On or before February 16, 2021, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to make an inventory of Attorney O’Neill’s files and to take action to protect the interests of his clients.

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

ISSUED: January 5, 2021
ATTÉST: Timothy A. Gudas, Clerk

ADM-2020-0020, In the Matter of Norman H. Jackman, Esquire

Attorney Norman H. Jackman was ordered to appear via Webex video conferencing on December 3, 2020, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why he should not be suspended for the following:

1. Bar Dues and Court Fees - Attorney Jackman has not paid the $50.00 delinquency fee assessed for late payment of his 2020/2021 bar dues and court fees. See Supreme Court Rule 42A.

2. Trust Accounting Certification - Attorney Jackman has not completed an annual trust accounting certification, as required by Supreme Court Rule 50-A.

3. NHMCLE Certification - Attorney Jackman has not fulfilled NHMCLE requirements of Supreme Court Rule 53 for the reporting year ending June 30, 2020, and has not paid the $300 in assessed delinquency fees.

Attorney Jackman did not respond to the order or appear for the December 3, 2020 hearing. Justice Hantz Marconi recommended to the court that Attorney Jackman be suspended from the practice of law in New Hampshire.

Attorney Jackman is hereby suspended from the practice of law in New Hampshire for failure to complete the requirements listed above, and for his failure to appear for the December 3, 2020 hearing. Attorney Jackman is ordered to notify his clients in writing that he has been suspended from the practice of law in New Hampshire and to notify the Attorney Discipline Office by February 4, 2021, that he has completed this task. On or before February 16, 2021, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to make an inventory of Attorney Jackman’s files and to take action to protect the interests of his clients.

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

ISSUED: January 5, 2021
ATTÉST: Timothy A. Gudas, Clerk

ADM-2020-0014, In the Matter of Justin P. Piper, Esquire

Attorney Justin P. Piper is hereby suspended from the practice of law in New Hampshire due to his failure to fulfill NHMCLE requirements for reporting year ending June 30, 2020, to pay delinquency fees, and his failure to appear for the December 3, 2020 hearing. Justice Hantz Marconi recommended to the court that Attorney Piper be suspended from the practice of law in New Hampshire.

Attorney Joseph B. Piper is hereby suspended from the practice of law in New Hampshire for failure to fulfill NHMCLE requirements for reporting year ending June 30, 2020, to pay delinquency fees, and his failure to appear for the December 3, 2020 hearing. Attorney Piper is ordered to notify his clients in writing that he has been suspended from the practice of law in New Hampshire for fees of $300.00 assessed for non-compliance. See Supreme Court Rule 53.

Attorney Piper did not respond to the order or appear for the hearing. Justice Hantz Marconi recommended to the court that Attorney Piper be suspended from the practice of law in New Hampshire.

Attorney Dennis C. O’Connell is hereby suspended from the practice of law in New Hampshire for failure to complete the requirements listed above, and for his failure to appear for the December 3, 2020 hearing. Attorney O’Connell is ordered to notify his clients in writing that he has been suspended from the practice of law in New Hampshire and to notify the Attorney Discipline Office by February 3, 2021, that he has completed this task. On or before February 16, 2021, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to make an inventory of Attorney O’Connell’s files and to take action to protect the interests of his clients.

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

ISSUED: January 4, 2021
ATTÉST: Timothy A. Gudas, Clerk

ADM-2020-0021, In the Matter of Jackman, Esquire

Attorney Jackman did not respond to the order or appear for the December 3, 2020 hearing. Justice Hantz Marconi recommended to the court that Attorney Jackman be suspended from the practice of law in New Hampshire.

Attorney Dennis C. O’Connell is hereby suspended from the practice of law in New Hampshire for failure to complete the requirements listed above, and for his failure to appear for the December 3, 2020 hearing. Attorney O’Connell is ordered to notify his clients in writing that he has been suspended from the practice of law in New Hampshire and to notify the Attorney Discipline Office by February 3, 2021, that he has completed this task. On or before February 16, 2021, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to make an inventory of Attorney O’Connell’s files and to take action to protect the interests of his clients.

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

ISSUED: January 4, 2021
ATTÉST: Timothy A. Gudas, Clerk

ADM-2020-0022, In the Matter of Hicks, Bassett, Hantz Marconi, and Donovon, JJ., concurred.

ADM-2020-0018, In the Matter of Hicks, Bassett, Hantz Marconi, and Donovon, JJ., concurred.
Hicks, Bassett, Hantz Marconi, and Donovan, JJ., concurred.

ISSUED: January 5, 2021 ATTEST: Timothy A. Gudas, Clerk

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

Attorney Brendan P. McCarthy was ordered to appear via Webex video conferencing on December 3, 2020, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why he should not be suspended for the following:

1. Bar Dues and Court Fees - Attorney Burns has not paid his 2020/2021 bar dues and court fees, and the $100 in delinquency fees assessed for late payment. See Supreme Court Rule 42A.

2. NHMCL Certification - Attorney Burns has not fulfilled NHMCL requirements of Supreme Court Rule 53 for the reporting year ending June 30, 2020, and has not paid the $300 in assessed delinquency fees.

The New Hampshire Bar Association notified the court that Attorney Burns has since fulfilled the requirements above, with the exception of paying his 2020/2021 bar dues and court fees. However, Attorney Burns did not respond to the order or appear for the December 3, 2020 hearing. Justice Hantz Marconi recommended to the court that Attorney Burns be suspended from the practice of law in New Hampshire.

Attorney Christopher R. Burns is hereby suspended from the practice of law in New Hampshire due to his failure to timely comply with the requirements listed above, and for failure to respond to the show cause notice and/or appear at the show cause hearing. Attorney Burns is ordered to notify his clients in writing that he has been suspended from the practice of law in New Hampshire and to notify the Attorney Discipline Office by February 4, 2021, that he has completed this task. On or before February 16, 2021, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to make an inventory of Attorney Burns's files and to take action to protect the interests of his clients.

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

ISSUED: January 6, 2021 ATTEST: Timothy A. Gudas, Clerk

**ADM-2020-0023, In the Matter of Christopher C. Brooks, Esquire**

Attorney Christopher C. Brooks is hereby suspended from the practice of law in New Hampshire for failure to timely comply with the requirements of Supreme Court Rule 53 for the reporting year ending June 30, 2020, and for his failure to timely pay $300 in assessed delinquency fees. See Supreme Court Rule 53. Attorney McCarthy did not respond to the order, nor did he appear for the hearing. Attorney McCarthy was further ordered to appear via Webex video conferencing on December 17, 2020, for a hearing before Justice Hantz Marconi, to show cause why he should not be suspended for his failure to appear on December 3, 2020. Once again, Attorney McCarthy did not respond and/or appear for the hearing. Justice Hantz Marconi recommended to the court that Attorney McCarthy be suspended from the practice of law in New Hampshire. Attorney Christopher C. Brooks is hereby suspended from the practice of law in New Hampshire due to his failure to respond to and/or appear for the December 17, 2020 hearing. Attorney Brooks is ordered to notify his clients in writing that he has been suspended from the practice of law in New Hampshire and to notify the Attorney Discipline Office by February 5, 2021, that he has completed this task. On or before February 16, 2021, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to take inventory of Attorney Brooks's files and to take action to protect the interests of his clients.

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

ISSUED: January 6, 2021

ATTEST: Timothy A. Gudas, Clerk

The Supreme Court appoints Attorney Ramey D. Sylvester to the Access to Justice Commission, which was established by Supreme Court order dated January 12, 2017. Attorney Sylvester is appointed to serve a three-year term beginning immediately, and expiring on December 31, 2023.

Issued: January 13, 2021 ATTEST: Timothy A. Gudas, Clerk of Court

Supreme Court of New Hampshire

L.D. 2020-0009, In the Matter of Michael J. Reed, Esquire

On September 19, 2019, in case no. LD-2019-0011, the court suspended the respondent, Attorney Michael J. Reed, on an interim basis in response to an asserted-to petition filed by the Attorney Discipline Office (ADO). The asserted-to petition for interim suspension asserted that Attorney Reed had "abandoned client matters by failing to attend scheduled court hearings, failing to respond to clients and opposing counsel, and causing harm to clients."

While that interim suspension was in effect, the Professional Conduct Commission (PCC) filed a petition with this court, in case no. LD-2020-0004, recommending a one-year suspension based on Attorney Reed’s failure to respond to requests by the ADO for information during its investigation of him and his failure to attend a scheduled hearing before the PCC hearing panel. In accordance with Rule 57(16), the court provided notice to Attorney Reed of that recommendation and ordered him to file a response on or before April 24, 2020, identifying any legal or factual issues relating to the PCC’s recommendation that he wished the court to review. Attorney Reed did not file a response. On August 25, 2020, the court suspended Attorney Reed from the practice of law.

ORDERS continued on page 40
In this civil rights case involving a town’s application of a zoning ordinance against a resident, the court denied in part and granted in part defendant’s motion for judgment on the pleadings. Plaintiff sued the Town of Pittsfield over the Town’s order that he remove a 52-foot trailer on his property that depicted the word “TRUMP.” The court found that the plaintiff’s complaint alleged minimally sufficient facts to state a claim for unlawful viewpoint or content discrimination in violation of the plaintiff’s free speech rights. The court also found that the plaintiff alleged enough facts to support a claim that the Town applied the ordinance in an unconstitutionally vague manner, and to satisfy the “similarly situated” element of his “class of one” equal protection claim. The court granted the Town’s motion as to the overbreadth portion of plaintiff’s free speech claim because that claim was supported only by bald legal conclusions, and also granted the Town’s motion on plaintiff’s state law claims for negligent and intentional infliction of emotional distress because the plaintiff conceded he was no longer pursuing those claims. 18 pages. Judge Joseph N. Laplante.
positions available

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 law, be a good standing of the NH bar, and have excellent interpersonal skills. Statewide travel required. Excellent salary and benefits package. flexible time during summer. Founded in 1997. Patch & FitzGerald is a statewide boutique firm specializing in workers' compensation and personal injury law. For confidential consideration, please contact Dianne Gauthier (dgauthier@patchfitz.com). 

REAL ESTATE ATTORNEY – The candidate will be responsible for reviewing title work for residential and commercial closings and dealing directly 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 related duties as assigned. Must have a current license to practice law in the State of New Hampshire and with licensure in Maine or ability to obtain. Please provide resume and letter of interest to Matthew H. Weeger, Esquire, at matthew@alpinetitleservices.com.

assistant professor of law – The University of New Hampshire Franklin Pierce School of Law (UNH Law), a national leader in legal education with a commitment to inclusion and diversity, seeks an entry-level Assistant Professor of Law to begin August 2021. The successful candidate must have a background that demonstrates outstanding scholarship and teaching promise. They must also have significant interest in design and teaching online courses. Further, successful candidates must have a demonstrated ability to work collaboratively with diverse communities. To view a complete position description, please visit: https://jobs.unc.edu/posting/38342. Review of applications begins immediately. UNH is an EEO employer.

ASSISTANT CIVIL COURT EXECUTIVE WANTED, Hayes, Wndish & 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 in 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 Webber, Office Manager, HAYES, WNDISH & BADGIEWICK, webster@woodstockcflaw.com.

assistant city prosecutor/solicitor, city of concord, NH - The City is seeking a highly skilled attorney with recent experience in the areas of violent crime, property crimes and other matters. Starting Salary Range: $70,595.20 - $78,861.00 (DOQ) plus benefits. Top Wage: $102,211.20. Application: Submit cover letter, resume, and references to the following email address: solicitconcord@cityofconcordnh.gov. Online application at https://byt3.io/3oLyk. The position will remain open until filled. For more information visit www.concordnh.gov or call (603) 225-8335, or TTY at 1-800-735-2964 x 7-1-1. "An Equal Opportunity Employer. M/F/D/V and LGBTQ".

associate – An established Concord, New Hampshire boutique law firm seeks an experienced full-time attorney to join its Estate Planning, Trusts & Estates practice. Candidates must be licensed in NH and have 3+ 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 mhillgiposition@gmail.com.

LEGAL ASSISTANT, Manchester Law Firm seeks full or part time legal assistant to join the family department. Significant client communication skills required along with willingness to learn. The firm is also interested in training motivated individuals to develop into a probate or personal injury paralegal. We hope the candidate desires advancement. Compensation competitive. Salary based on experience. Pro Bono strongly preferred. Respond to mhillg@nehmattorney.com.

PROBATE PARALEGAL, Concord, NH Estate Planning Law Firm seeks a paralegal for estate and trust administration. Candidate must have a minimum of 3 years of experience administering estates and trusts, including probate court filings, account preparation, and compiling tax information for outside tax preparer. Must have excellent communication 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. Full time is preferred but will consider part time for the right candidate. Submit cover letter and resume to estatetrustconciliation@gmail.com.

classifieds

Executive Director for statewide legal services program in New Hampshire

Two of New Hampshire’s venerable and respected legal services programs - the Pro Bono Program of the New Hampshire Bar Association (Pro Bono) and Legal Advice and Referral Center (LARC) - have come together to be named, non-profit entity dedicated to providing high quality civil legal services to New Hampshire’s low-income communities. Services will be delivered in a variety of ways including limited and extended representation, self-help resources and information. The program will be the central point of intake, screening and referral for the State’s civil legal aid system, and will operate a vibrant volunteer attorney network.

This new organization seeks an Executive Director to provide leadership during the launch and into the future.

The product of an almost two year collaboration among the Boards and executive leadership of LARC, Pro Bono and NHNA have developed the fundamental structure and legal construct for the new organization. The new Executive Director will be hired to launch the new merged organization and public relations activities prior to the actual merger. This position is an exciting opportunity for a legal services visionary to build a distinctive, purposeful, and effective legal services program based on the historical strengths of the merging organizations.

Principal Functions:

1. Providing strategic and operational leadership to the new merged organization.
2. Leading and managing staff by building a team environment, encouraging professional development of staff, ensuring supervision and support of staff, and leading efforts in staff recruitment and retention, consistent with the provision of high quality services with an emphasis on valuing diversity and inclusivity in staffing.
3. Working closely with an independent controller to: develop an annual budget with approval from the Board of Directors; monitor the budget on an ongoing basis; oversee the annual audit; and assure best practices in financial monitoring.
4. Managing relationships with funders, including managing relations with the Legal Services Corporation, supervising the annual grant application and taking responsibility for reporting compliance to the LSC.
5. Ensuring and insuring compliance with grants for the organization.
6. Fully participating in the management of the Campaign for Legal Services and its fundraising.
7. Partnering with other providers of civil legal services to maximize collective impact, recognizing the special relationship the program has with its NHLA families.
8. Representing the program in the public sector, as spokesperson and advocate, maintaining the programs’ reputation and integrity, and seeking opportunities for advancing public awareness of the program.

Job Qualifications:

1. An attorney in good standing, especially one who is interested in or has experience in the delivery of legal services to low-income people.
2. A candidate must have substantial management and organizational skills and appropriate skills and experience will be considered. Relevant experience in budgeting, compliance, finance and fiscal controls.
3. A demonstrated track record of fundraising and grant writing success is a plus.
4. A candidate should be able to demonstrate experience in budgeting, compliance, finance and fiscal controls.
5. A candidate should have a demonstrated ability to work independently in a team environment, and be detail oriented. Proficiency with MS Office Suite is required. Competitive salary and benefits package. Full time is preferred but will consider part time for the right candidate. Submit cover letter and resume to hayeswng@unh.edu.

OPEN RANK PROFESSOR OF LAW TO SERVE AS THE DIRECTOR OF JD LEGAL WRITING – The University of New Hampshire Franklin Pierce School of Law (UNH Law), a national leader in legal education with a commitment to inclusion, diversity, and quality engagement for all, seeks to hire an Open Rank Professor to serve as the Director of the Legal Writing Program to begin August 2021. To view a complete position description, please visit: https://jobs.unc.edu/posting/38342. Review of applications begins immediately. UNH is an EEO employer.

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New Hampshire Legal Assistance (NHLA) seeks an experienced Immigration Law Staff Attorney to launch a new Removal Defense Project.

The Removal Defense Project will assist low-income people detained at Strafford County House of Corrections and facing removal from the United States. The Attorney will be fully integrated in NHLA's poverty law office, allowing for holistic representation of Removal Defense Project clients and family members by NHLA advocates specializing in areas such as housing and public benefits.

The Attorney will be based in NHLA's Manchester or Portsmouth office. Regular travel to the Strafford County House of Corrections in Dover, NH and the Boston Immigration Court in Boston, MA is anticipated, as well as occasional travel throughout New Hampshire, Maine, and Vermont.

Mileage reimbursement is provided.

Visit our website for more information: https://www.nhla.org/support/jobs

Cover letter and resume to officemanager@nhla.org by January 29, 2021.

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**Legal Assistant - Dover**

Shaheen & Gordon, P.A., Attorneys at Law, is seeking a Legal Assistant responsible for supporting trial attorneys with a diverse personal injury and workers' compensation practice in their Dover, NH office. This is a full-time, part-time, or flexible position. The ideal candidate will have at least 5 years' experience. To be successful in this role the candidate must demonstrate the ability to work as a member of a team, with strong attention to working independently.

Responsibilities include, but are not limited to:
- Preparation of general correspondence, motions and objections
- Management of civil files
- Have solid knowledge of Court Rules and all discovery deadlines
- Assist with discovery and document management
- Send and file legal papers in the correct court
- Familiarity with electronic filing systems in both State and Federal Court
- Strong computer skills, dictation, Microsoft Office, Outlook, Excel, Adobe, CorporateNet, NetDocuments, scanning and maintaining electronic files

**Legal Assistant - Manchester**

Shaheen & Gordon, P.A., Attorneys at Law, is seeking a full-time Legal Assistant responsible for supporting trial attorneys with a diverse personal injury and workers' compensation practice for their Manchester, NH office. The ideal candidate will have at least 5 years of experience. To be successful in this role, the candidate must demonstrate the ability to work as a member of a team, with strong attention to working independently.

The ideal candidate must have experience with the following job responsibilities, which include, but are not limited to:
- Requesting, reviewing, and organization of medical records
- Preparing medical evidence for hearings and trial
- Scheduling depositions, mediations, and independent medical examinations
- Management of personal injury/workers' compensation files
- Preparation of correspondence, motions, and objections
- Knowledge of court rules and discovery deadlines

**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, PLLC 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. To apply, please send your resume to Lisa Roy, Hiring Coordinator, at LRoy@clrm.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 Court's e-filing system. Full- and part-time options possible. Please email your resume with cover letter to nhlegalposition@gmail.com.

LEGAL ASSISTANT: Small Concord law firm seeks part-time assistant (4-8 hours per week) to assist with filing and other administrative tasks. Make your own hours at evening or during weekends if necessary. Candidate should be organized and detail oriented. Pay commensurate with experience. Please contact at NHlaw008@gmail.com.

FULL-TIME PARALEGAL/ADMINISTRATIVE ASSISTANT - BCM is looking for a Paralegal/Administrative Assistant to join Amy Maczeli and her land use and environmental law practice, including litigation, administrative, and transactional work. Primary duties include legal work and overall administrative management of client matters. Full-time. Based in Concord (working from home currently), ideal candidates will enjoy cloud-based legal practice software, paperless environment, fast pace, and flexible workplace. $30 to $32 per hour. Benefits included. Bachelor's degree required.

OFFICE SPACE: 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

CONCORD – Join a legal suite with receptionist services in Concord. Rent includes 1-3 offices, internet, conference room, storage and copier. Plenty of parking in large office building with multiple businesses and a cafe. Call 225-3862 for details.

MANCHESTER – First Class office space for solo attorney in Manchester’s Historic Housing District. Utilities and parking included. Call for details (603) 627-4111.

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PART-TIME PERSONAL INJURY PARALEGAL – Small Seacoast firm seeks experienced part-time (5-10 hours/week, very flexible) personal injury paralegal with 5+ years’ experience in PI – record requests, met Tag, coordination of benefits, liens, and demands. Working remotely is a possibility. Strong written/telephonic communication skills required, comfortable speaking with clients/third parties, detail-oriented. Microsoft Office skills. Compensation commensurate with experience. Email: michaelv@alainzcorp.com.

PART-TIME PARALEGAL – Manchester, NH. Law Firm seeks a part-time paralegal for estate planning, real estate administration and litigation support. Candidate must have a minimum of 5 years of experience drafting estate plans and administering estates and trusts, including probate court filings and inventory and account preparation. Must have excellent communication skills, ability to work independently and be detail oriented. Pay based on experience. Submit cover letter and resume to Robin@brownmuninlaw.com.

OFFICE SPACE

OFFICE SPACE 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

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Litigation Associate | Burlington, VT

Downs Rachlin Martin – one of Northern New Hampshire’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 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 Hampshire’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 reviews, 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 Hampshire’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 ESOs, 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.

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