In Vermont, Restorative Justice Under Statute May Not Lead to Equitable Services

By Jordyn Haime, Granite State News Collaborative

Being in the right state at the right time likely saved Ronald MacKinnon prison time when he made the decision to not seek immediate medical care for his wife.

Debbie MacKinnon, 52, was experiencing what was known as a seizure in the front seat of their drive from Keene to Brattleboro, Vermont, just across the border. She also knew she had a history of seizures and drug overdoses, which combined with the fact that she had been on her own since she was 16 and had been using drugs for years, she was sent to a Community Justice Center a year in county jail.

In Windham County Superior Court in Brattleboro, MacKinnon was charged with involuntary manslaughter, but that charge was dismissed. He pleaded guilty to reckless endangerment and failure to provide emergency medical care.

MacKinnon’s case is an example of how a person’s split-second decision can permanently alter the trajectory of their future. Had MacKinnon been prosecuted in Cheshire County, where he’s from, he would almost undoubtedly have been given a traditional charge, such as misdemeanor reckless conduct, said County Attorney Chris McLaughlin. A person convicted of misdemeanor reckless conduct in New Hampshire would face up to a year in county jail.

Instead, MacKinnon, who is now 73, was sent to a Community Justice Center.
It’s a Good Thing to Do

“Lawyers have a license to practice law, a monopoly on certain services. But for that privilege and status, lawyers have an obligation to provide legal services to those without the wherewithal to pay, to respond to needs outside themselves, to help repair tears in their communities.” — Justice Ruth Bader Ginsburg (March 2014).

“True peace is not merely the absence of tension; it is the presence of justice.” — Martin Luther King Jr. (1955).

Most people experience the legal system alone — without a lawyer. That means they are less likely to find peace by resolving a conflict and less likely to receive some version of justice at the end of their case. You can do something about that. You can take a pro bono case through 603 Legal Aid.

Why should you do a pro bono case through 603 Legal Aid? To be sure, we are not going to solve the access to justice crisis through the pro bono work of lawyers. And, let’s be frank, you are not going to make any money. You will lose money because you are going to give up time when you could be handling a paying case. That’s the reality, but don’t let it stop you.

You should do a pro bono case because you will be doing good. Whatever other moral issues we might dispute, it is a good thing to help a person in need. You have qualifications most people do not have. People need your help. They need your knowledge and skills. You can help another person simply by being lawyer and doing what you do. That’s a good thing.

You will also be doing good in other, more specific ways. Depending on your case and how it goes, you might:

• Prevent a person from being homeless;
• Preserve the relationship between a parent and child by protecting their rights; and
• Help a person with a criminal record get a fresh start by annulling their conviction;

• Help a person overcome financial problems by protecting them against unfair debt collection practices; or,

• Help a person plan for the future through a power of attorney.

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By Scott Merrill

More than a third of Americans are showing signs of clinical anxiety and depression, according to Census Bureau data released in late May.

While these numbers represent an increase from pre-pandemic findings, for attorneys across the country the risk of depression, anxiety, as well as substance misuse, was already at hazardous levels according to a 2016 study in the Journal of Addiction Medicine.

That study found 20.6 percent of attorneys scored at a level consistent with problematic drinking. Levels of depression, anxiety, and stress were also significant, with 28%, 19%, and 23% experiencing symptoms of depression, anxiety, and stress, respectively.

The study underscored the need for greater resources for lawyer assistance programs across the country as well as the expansion of available attorney-specific prevention and treatment interventions.

The New Hampshire Lawyers Assistance Program, which began in 2007, helps New Hampshire lawyers, judges, and law students who are experiencing mental health as well as substance misuse issues.

Jill O’Neill, who took over as New Hampshire’s first executive director, serving from 2007-2017, says some of those barriers for attorneys include issues of perfectionism and a fear of making mistakes. She teaches a course at UNH Franklin Pierce School of Law that deals with this subject, which she says is always well attended.

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Overcoming Barriers

Some of the barriers O’Neill is talking about were described in the Journal of Addiction Medicine study in 2016 as well as a 2020 study focusing on stress and resilience in the judiciary. Some of the stressors for judges in the report included: the importance and impact of decisions; a heavy docket of cases; unprepared attorneys; and public ignorance of the courts.

Cecie Hartigan, the interim director of NH-LAP since Feb. 2021, and the organization’s first executive director, serving from 2007-2017, says some of those barriers for attorneys include issues of perfectionism and a fear of making mistakes. She teaches a course at UNH Franklin Pierce School of Law that deals with this subject, which she says is always well attended.

“Many attorneys have to something like addiction, personality disorders, as well as depression,” she says. “And when you add the ethics rules to perfectionism, failure and mistakes, it’s just an option.” Hartigan says. “There’s a lot of anxiety going into court and people feel they need to appear invincible.”

While Hartigan says inroads have been made in terms of speaking openly about mental health and substance misuse, the battle continues.

“When you add the training, the rationalization, and the high intellect that many lawyers have to something like addiction, you can actually create a battle for people getting help. But it’s a beautiful thing when people do get help.”

Co-occurring disorders

Lisa Houle, a licensed mental health and alcohol and drug counselor in Concord who specializes in co-occurring disorders, has been part of the NH-Lawyer’s Assistance Program for over 10 years.

A co-occurring disorder is when one person has two or more mental health disorders or medical illnesses. Typically, Houle says, those abusing substances have an underlying mental health issue such as anxiety and/or depression.

“I’ve treated many, many lawyers, and I’ve spoken at the law school about the field of law having higher incidences of stress by nature as well as a higher incidence of anxiety-related disorders, substance use disorders, as well as depression,” she says.

Houle says lawyers are her favorite population to work with because of their personality dynamics.

“Typically lawyers have very driven type A personalities and are very perfectionistic,” she says. They have tendencies to overwork, but because of that drive, they also have a high rate of success and healing from having substance use disorders or any of the mental health problems that can go along with that personality type.”

Therapy, Houle says, typically lasts between one and two years but sometimes she receives phone calls from attorneys needing help after being out of therapy for long periods of time.

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Wellness Corner

In a Post-Pandemic World Lawyer Well Being is a Priority

NH-LAP Welcomes Jill O’Neill as Executive Director

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Jill O’Neill, who took over as NH-LAP’s executive director on July 6, says they face getting help with substance and mental health issues. O’Neill has spent the past 19 years with Greater Nashua Mental Health where she has filled a variety of roles providing services for individuals and families seeking care.

“My lifelong passion is helping people. I grew up with a parent who struggled with mental health and substance abuse issues and when I got to college I wanted to understand the biology behind it. Once I was able to start helping others it became a passion,” O’Neill says.

One of the programs she became familiar with during her tenure at Greater Nashua Mental Health was a court diversion program where she first witnessed the many stressors affecting attorneys.

“I was in court every single day and started establishing personal connections with various legal professionals. It was here that I really started to understand the dynamics of the legal culture and the stressors that come along with it,” O’Neill recalls.

O’Neill recalled waiting for hearings sometimes by just validating their concerns, sometimes by just validating their concerns, “When I learned about this position, I thought, ‘this is really important’,” she says. “When I learned about this position, I thought, ‘this is really important’”

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Wellness continued on page28
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By way of illustration, let’s look at just a couple of pertinent facts, and then draw the conclusions that to any rational person must logically follow from them: Within hours of the death of George Floyd, Officer Derek Chauvin had been suspended, and within a few days he had been indicted, none of which is “protesters.”

As in Minneapolis spin out of control in an orgy of violence, that organization had ample reason to know that further such demonstrations elsewhere were likely to degenerate in the same fashion (as indeed they did), at great cost to their largely black populations. Accordingly, after Minneapolis, and certainly after Portland, BLM owned the violence. To feign innocence and blame it on “opportunities” fails scrutiny by a candid world.

Equally strained is Attorney Colleton’s objection to use of the word “creature.” In the hyper-sensitized and easily offended world she inhabits everything may be about race, but to the vast majority of them, who were not simply clueless latter-day rebels-without-a-cause were rebels of quite a different and more sinister kind, for which there are plenty of very pointed names that are not merely semantic, and none of which is “protesters.”

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Get to Know TechConnect

By Misty Griffith

Some attorneys are technology gurus, but for everyone else, the New Hampshire Bar Association offers TechConnect: a unique benefit which provides members with free access to expert advice about legal technology. TechConnect was created by the NHBA to help our members navigate the sometimes bewildering array of technology available and choose options which are tailored to fit individual practice needs.

The NHBA TechConnect benefit offers free 30-minute consultations with an expert consultant from Affinity Consulting Group who specializes in legal technology and law practice management solutions for law firms of all sizes. Follow up consultations are also free. With cybersecurity concerns on the rise, now is an excellent time to take advantage of your TechConnect member benefit and schedule a free consultation to ensure that your law firm’s technology meets today’s needs. Many NHBA members have already benefited from free consultations to learn more about data backups, starting a solo practice, cybersecurity and ransomware, and case management software among other topics.

NHBA Executive Director George Moore says of the TechConnect benefit, “Think of the unique value – not a webinar, not an online tutorial, not an advertisement for a product disguised as best practice solution, but a personal real-time consultation with a true expert. It is almost guaranteed you will get more of your questions answered and decisions made in the half hour consult than hours surfing the internet or talking to product representatives.”

“Affinity Consulting does not sell computer hardware or software products, so they are able to offer an unbiased evaluation of the numerous options available and an independent recommendation customized for individual firms. The consultants at Affinity have law degrees themselves, so they understand the unique privacy and security needs of law firms and the requirements necessary for legal technology.”

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If you need help, contact Fastcase customer support (866) 773-2782 support@fastcase.com.

A Tribute to a Good Friend

Dear Bar Members:

It ended like a whisper, when it should have ended with thunderous applause. The retirement of one of New Hampshire’s all-time great trial lawyers passed without notice or comment – sadly, yet laudably, exactly the way he would want it to be. As Jeffrey Libowski, more prominently known as The Dude, once said: “This will not stand, ya know?”

John Edward Friberg, senior trial lawyer at the Wadleigh firm, recently tiptoed away from the practice of law in his usual humble way. He sought no fanfare, and I am certain that he would not approve of these inadequate brief comments. Which makes them even more necessary.

Jack defended well over 50 of my medical malpractice cases. We had countless depositions, hearings, mediations, and trials together over many years, more than a few in far-flung states. I can say without reservation that he was the most honest lawyer I ever met, and easily one of the most talented, his work always understatedly masterful. The impossible task of preparing clients and expert witnesses for his examinations always ended the same: my people being damaged, without them even knowing it, while they walked away singing his praises: “that Jack Friberg, what a great guy.”

With Jack, you never had to watch your back. His representations were truthful and reliable, and you didn’t need them in writing. Every judge who had him in trial (except one) adored and respected him, as did every juror we every picked. Jack was practical, well-prepared, and truly brilliant, as well as riotously funny. Some of the all-time great Jack Friberg stories would make you double over with laughter.

There are a number of terrific defense lawyers in New Hampshire, and the doctors should be far more grateful than they are. But there is, and was, only one Jack Friberg. The king of the malpractice defense bar for decades and a legend in his own right, he was my adversary in every case. But I am most proud to say that he is, and always will be, my close friend.

Then again, as the Dude would say, “yeah, well, you know, that’s just, like, my opinion, man.”

Friends of John Friberg

Medicare Malpractice Group

Medical malpractice is a unique practice area, and our firm has the resources and expertise to handle this type of complex, expensive litigation. We employ attorneys who concentrate on malpractice litigation. We also have the negotiating experience and judgment to obtain the best possible results for our client.
Lynn joined the Drug Enforcement Administration in Hartford, where he sometimes worked undercover, made arrests, and testified in court—and was involved in a shoot-out on the streets of New London.

“It was late at night, the bars were starting to empty out and the bad guys started shooting at us right on the main street,” he recalls. “We returned fire, and a guy ran away. Shortly thereafter, the local police arrested him. Luckily, nobody got hurt.”

The job also found him interacting frequently with Assistant U.S. Attorneys, and he was intrigued by their prosecutorial work in the courtroom. “I thought, ‘if they can do this, maybe I can, too,’” he remembers thinking.

Law school at the University of Connecticut ensued, and Lynn graduated magna cum laude in 1975. He went on to clerk for Judge J. William Ditter, Jr., of the U.S. District Court for the Eastern District of Pennsylvania, for two years.

He then spent a year and a half working for the Justice Department’s Organized Crime Task Force in Brooklyn, New York, before joining the U.S. Attorney’s Office in New Hampshire from 1978 to 1984. Five years in private practice followed.

His career on the bench began in 1992, when he was appointed to the New Hampshire Superior Court by former Gov. Judd Gregg, and was later named chief justice of the Superior Court by former Gov. Craig Benson. In 2010, he was appointed to the Supreme Court by former Gov. John Lynch. Gov. Chris Sununu appointed him chief justice of the Superior Court in 2018. He retired from that post in August of 2019 just before turning 70, the mandatory retirement age under state law.

Along the way, he earned the admiration of colleagues like retired Supreme Court Justice Carol Ann Conboy, who was appointed an associate justice of the Superior Court within months of Lynn, and worked closely with him for more than 25 years on both the Superior and Supreme Courts.

“During those years, we developed a friendship that I shall treasure all my days,” Conboy says. “When we became colleagues on the Supreme Court, we had the great privilege of debating and deciding matters, large and small, that directly affected the citizens of our state. Our friendship of course, did not prevent us from vigorously—some might say, volubly—arguing about the law. Sometimes, as our colleagues on the Court were quick to point out, we enjoyed arguing with each other just for the fun of it. But, for over a quarter of a century, we shared a deep mutual respect for each other’s commitment to the Rule of Law. I greatly miss our intellectual sparring.”

It is a view shared by Attorney General John Formella, who has known Lynn for about four years, since he was counsel for Sununu and Lynn was chief justice. The two worked together on a number of initiatives, including efforts related to mental health and the corrections system, as well as the judicial retirement system, and continued to do so after Lynn was elected to the legislature.

“He enduring drive to make this state a better place, even in ‘retirement,’ is a testament to his dedication to public service,” says Formella, who considers Lynn “a trusted colleague and friend.”

“Even after completing one of the more successful legal careers in our state’s history by serving as a Justice and Chief Justice of both our Superior and Supreme Courts, he continues to play a major public service role as a state representative, serving as a member of the Finance Committee among other key roles, and as a member of the Governor’s Judicial Selection Commission,” he adds. “By the time he is done, there will be very few who have made more of an impact on our state than Bob Lynn.”

In all, Lynn spent nearly 27 years on the bench, and presided over numerous cases that he still finds memorable, in part because of the skill of the lawyers who argued them. One such case was the murder trial of millionaire businessman John “Jay” Brooks, accused in the 2005 murder-for-hire death of a Derry handyman whom Brooks believed had stolen items from him during a moving job.

“At the end of the day, there was no evidence the victim had done that,” remembers Lynn, who also finds it interesting that the jury did not impose the death penalty prosecutor had requested. Instead, Brooks got a life sentence after being convicted on two counts of capital murder, first-degree murder and conspiracy to commit murder.

“There were very good lawyers on both sides of the case,” says Lynn. “The defense brought in an expert from Indiana for the death penalty part who was wonderful and Lynn, who also finds it interesting that the jury did not impose the death penalty prosecutors had requested. Instead, Brooks got a life sentence after being convicted on two counts of capital murder, first-degree murder and conspiracy to commit murder.

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His perspective on drug cases also evolved during his many years on the judiciary, as he saw how often low-level dealers and drug users were suffering from mental health issues as well as addiction. He now supports the alternatives offered by drug and mental health courts.

“We’re never going to be able to arrest our way out of the drug problem,” Lynn says. “I’m not suggesting I think there should be legalization or that dealers shouldn’t be pros- ecuted, but for the sort of low-level people who are just addicted themselves, constantly arresting them is not a smart model and treat- ment makes much more sense.”

Lynn says he was “really honored to have the chance to be chief justice” of the Supreme Court, and is proud of continuing the work started by his predecessor, former Chief Justice Linda Dalianis, in converting to an electronic filing system. That work, however, was interrupted by the COVID pandemic, which “really hurt the judiciary a great deal in terms of backlogs,” he says.

His tenure as chief justice was short—less than a year and a half—because of the state law mandating retirement age at 70, which also required Dalianis and Conboy to leave the bench within the last four years.

After his election as a state representative last year, Lynn introduced a proposed constitutional amendment to the state legislature that would extend the retirement age to 75. The measure did not pass, and he says he may introduce it again before he leaves office.

The lifelong Republican says he decided to run for office because “I’ve always been interested in politics but I had to swear off it for all the time I was a judge.”

As a founding member of our firm, Mark has devoted the past forty years to representing victims of medical malpractice and other wrongful death/catastrophic injury cases.

We could not be more proud to announce that Mark has added another impressive award to his long list of accolades.

MARK A. ABRAMSON LAWYER OF THE YEAR 2021 MEDICAL MALPRACTICE

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

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Abramson, Brown & Dugan

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Retired Supreme Court Chief Justice Robert Lynn at a recent tournament at the Hudson Fish and Game Club. Courtesy Photo
The New Hampshire Bar Association prides itself on the collegiality shared among its members and its commitment to equal justice for all. The events of the past year and a half have highlighted the need for everyone, nationwide, to do better. The NHBA is committed to doing just that. In furtherance of that mission, the NHBA has created the Diversity, Equity and Inclusion Commission.

The commission, chaired by Attorney Talesha Saint-Marc, is composed of a representative from the NHBA Board of Governors, a member of the judiciary, and association members of diverse backgrounds and perspectives. The commission is charged with “examining the views of our association’s membership regarding the role of the association in promoting diversity, equality and inclusivity.”

As part of its work, the commission recently crafted a diversity statement, which affirms the NHBA’s commitment to creating a more equitable and inclusive Bar Association. The statement will soon be featured on the NHBA website. The commission also worked with the New Hampshire Bar Foundation on its diversity and inclusion survey.

The survey seeks member feedback regarding issues of diversity, equality and inclusion. The commission will use the survey results to inform its work this fall.

The commission looks forward to working with the NHBA membership. If you have any questions or input that you would like to provide to the commission, please contact the commission chair, Attorney Saint-Marc, at tsaintmarc@nhbar.org, or NHBA staff liaison Alison Borowy at aborowy@nhbar.org.

The NHBA TechConnect benefit also offers the “Email an Expert” option, a hotline for advice dealing with specific questions that can be resolved with a simple explanation. A consultant from Affinity will email a response within two business days. This is an easy option that fits even the busiest schedule. If the question turns out to be more complex, a free follow-up consultation for a longer conversation can be arranged.

Recognizing that busy attorneys frequently delegate technology issues to administrative assistants and support staff, NHBA TechConnect benefits may be used by anyone in your firm, including nonlegal staff. This allows the person tasked with handling a firm’s technology issues to benefit from consultations and training opportunities.

Affinity Insight, formerly known as Affinity University, provides unlimited access to an online, on-demand library of video training tutorials. NHBA members have access to hundreds of hours of expert training in Microsoft Office Applications, PDF programs like Adobe, and legal specific software applications for practice management, time and billing, and document management. Taking advantage of these free trainings can help both attorneys and support staff leverage their technology to maximize its potential.

Go to the TechConnect page of the NHBA website to view dozens of whitepapers, checklists, and comparison charts written by experts who have spent years working with law firms to meet their practice and business management, as well as technology needs. These valuable resources are frequently updated to reflect the ever-changing advances in technology. The more than 80 whitepapers cover a broad range of topics including legal technology, cybersecurity, opening a practice, managing a practice, marketing, document management, law firm protection, and many more. Checklists developed by Affinity consultants can help provide a framework for tackling an unfamiliar process. When making a technology purchase, comparison charts offer a convenient side by side means to analyze how competing products compare on important features.

To take advantage of any of the TechConnect benefits, you must be logged in to the member portal because these are exclusive benefits offered only to NHBA members and their staff. All TechConnect benefits are provided completely free of charge. Why try to figure out the complexities of legal technology on your own when you can consult an expert for free?

To learn even more from the pros at Affinity Consulting Group, visit the NHBA CLE Catalog and look at the many offerings in the Law Practice Management and Technology category. The popular “Tech Tuesdays” CLEs led by Affinity experts Barron Henley and Paul Unger are available on demand and cover timely topics such as: “What Every Lawyer Should Know about Developing a Cybersecurity Plan;” “Dropbox for Legal Professionals – How to Use It Safely, and Is It Right for Your Organization?” and many other technology related subjects.

Check out TechConnect to see what this valuable, free benefit can do for you! Visit nhbar.org/techconnect to learn more or call Member Services Coordinator Misty Griffith (603)715-3227 or email mgriﬃth@nhbar.org.
Newton, Mass. only two streets from each other, although neither of them knew each other until college. “We even figured out that we’d seen the same movies on the same days as kids, but we didn’t get to know each other until college,” Sandra says. “We were on the same bus,” Bob points out but is quickly corrected by Sandra. “No, it was different years, you’re three years older than me,” she says.

“Bob’s father went to med school with my mother’s first cousin. Everyone just knew everyone. His parents went on a trip to Israel with my mother’s cousins.” Turning to her husband, she says, “Your uncle was a podiatrist who was my great aunt’s podiatrist.”

Sandra explains the couple could have retired but continue to work because they love what they do. “As long as we’re able to work and do it competently, we’ll keep working,” she says. “We could take a week off though,” Bob adds.

In the 60s, Bob and Sandra studied at Boston University during Vietnam War demonstrations, student strikes, and numerous bomb scares. “I remember those days,” Bob says. “I started doing everything and even demonstrated with little notice. Their involvement in severe personal injury and medical malpractice cases is proven to significantly increase claim value. Their results speak for themselves.

Combined, they have achieved well over $1.5 Billion in jury verdicts and settlements on behalf of their clients.
They say their move to Bernstein Shur in 1995 at their own firm focusing on corporate law gave them a chance to work together in a conference room at the firm on a rainy day in early July. I interviewed the Gagliusos, who live in Amherst, N.H., began practicing law together in 2018 was driven by practical concerns and priorities.

“You have to think about logistics. When we went on vacation, the whole firm was on vacation. Coverage was always an issue,” Kelly says. “And health insurance was another.”

“When you have one policy there’s no bargaining power,” Rick says. “We were paying something close to $30,000 for our own policy. We knew the people in the Portland office so the move here was very attractive.”

Kelly grew up in Nebraska and attended the University of Nebraska as well as the Nebraska College of Law. She later came to New Hampshire in 1989 to Deasy and Dwyer in Nashua where Rick was working.

Rick grew up on Pillsbury Street in Concord and graduated from Concord High School where his father was the music director. He later attended Harvard College and Boston University Law School where he graduated in 1979.

Before they were married, Rick had two children from a previous marriage and he and Kelly have one daughter.

The Gagliusos say they enjoy driving in to work together and sharing ideas about cases as well as traveling. But despite the amount of time the couple spend together, they also have very different interests.

For Kelly, one of those interests is poker.

“I have things that I do just for me. And Rick loves to read and do things outside. I play Texas hold ‘em poker with two different groups of women from Amherst, Merrimack and Hollis,” she says. “We play monthly during the school year just for fun.”

During the pandemic, Kelly says her poker group has continued to meet.

“It’s been one of the things that keeps me sane. We even found a way to play poker with each other on-line during Covid with an app. We would zoom while we played so that we could still talk and socialize.”

When asked how they’ve managed to make their relationship work throughout the years, Kelly says working together makes life less stressful because it allows the couple to share confidential material that would be difficult to do if her and Rick were working at separate firms.

“Working together allows us to talk about cases and bounce ideas off each other,” she says. “For me, and I think for Rick too, that has always been valuable. We trust each other in our judgements even though we have different approaches.”

According to Kelly, Rick takes his time, often “mulling things over.” Whereas she tends to make decisions more quickly. “But the combination of those approaches can be helpful,” she says.

“People wonder ‘how do you work together all day long and then live together the rest of the day,’” Rick says. “We don’t follow each other around at work. She has her work and I have mine. At our old firm we used to actually make appointments to have lunch together.”

While the couple says they love certain aspects of their job, Rick poses the classic, “if you won the lottery what would you do” question and both agree that if that were to happen it would be their last day. Some people we know would keep working. But that would be our last day.

“It’s cool to be at the point in our career where we know our areas of law really well. There’s always more to learn but it’s a fun place to be. It’s a part of your career that’s more satisfying than the early years,” Kelly says.

And for Rick, who also enjoys working on media law cases, “It seems I went over night from a lawyer trying to figure things out to a grey haired guy people call to bounce ideas off. I’m the recipient of a lot of those latches.”

As I leave Bernstein Shur and head out into the rain, I’m reminded of a line from the movie Shenandoah that applies to all the couples I spoke with. It’s in a scene where a Confederate soldier is asking a father (played by Jimmy Stewart) for permission to marry his daughter. The soldier tells the father he loves the daughter. But the father stops him.

“There’s some difference between lovin’ and likin’,” he says. “When I married Jennie’s mother, I-I didn’t love her - I liked her... I liked her a lot... one day it just dawned on me I loved her. I still do... still do.”

The one thing I’ve come away with after speaking with these couples who happen to be attorneys, the one rule perhaps, is that they genuinely like each other a lot.

Kelly and Rick Gagliuso

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

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- **CIVIL LEGAL SERVICES**
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SAVETHE DATE!
OUR (IN-PERSON!) ANNUAL DINNER & AWARDS CEREMONY WILL BE SEPT 21
Coming & Going

Tierney M. Chadwick, a member at Wadleigh, Starr & Peters P.L.L.C. in Manchester, has accepted an invitation to join the International Association of Defense Counsel, a global legal organization for attorneys who represent corporate and insurance interests.

The law firm of McLane Middleton, Professional Association announced on July 1 that Alexandra T. Breed has retired from the firm. Alexandra has been a director in the firm’s Trusts & Estates Department counseling individuals and families regarding advanced wealth preservation and transfer techniques, including estate planning, gift and gift taxes, charitable giving techniques, conservation easements, ownership and transfer of significant family properties and guardianships.

Community Notes

The Justice in Aging Project at New Hampshire Legal Assistance has written a new guide to help consumers learn about assisted living facilities in New Hampshire. It was published on June 15, World Elder Abuse Awareness Day.

LawLine Thank You

The New Hampshire Bar Association would like to thank attorneys Peter F. Burger, John A. Malmberg, Jonathan M. Eck, James F. Laboe, and Jeremy D. Eggleton, as well as assistant Katrina Kindel, from the law firm of Orr & Reno, for taking part in Lawline on Wednesday, June 9. They fielded more than 35 calls from the public on a variety of legal issues, including family law, probate, landlord/tenant, and criminal law.

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When asked why he participates in Lawline, Peter Burger said: “Giving people in need 10 minutes of your time, even if you cannot solve or answer their legal concern, is the least we can do as lawyers. Believe me, we get much more back than we give from this involvement.”

NH Bar Association New Members

The following members were admitted to the New Hampshire Bar Association on June 9, 2021.

philip arcidiacono, concord, mass.

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Matthew S. LaValley, Andover, Mass.
Christian M. Vogt, Stratham, NH

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Planning and Good Management Practices are the Key to Boosting Your Law Firm’s Success

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IN MEMORIAM continued on page 13
Larry Pletcher’s legacy: Keep the farm alive

By RAY DUCKLER
The Concord Monitor

A hailstorm about 30 years ago killed five rows of lettuce – each head an inch or more above the soil – at the Vegetable Ranch in Warner.

That translated into wasted work and wasted money, and that hurt, especially in the farming business. “I went into a corner and cried,” Carol Pletcher remembered.

Her late husband, Larry Pletcher, cool like James Bond, followed her in and took charge.

“Well, pull it all out and put it in the compost pile,” Carol remembers Larry telling her, remaining calm, on an even keel. “And then we can start over.”

Carol is not starting over. She’s resuming Larry’s work on the 125-acre fruit and vegetable farm, adding to his legacy, keeping his story alive. He died from a heart attack last month. He would have turned 75 last week.

Carol knows she’d be wise to adopt some of her husband’s demeanor. He opened the farm in 1988 and made it work.

“You need that kind of perseverance,” Carol said. “He started a small garden and thought organic was organic before there was organic. He got interested. We went to a conference to learn.”

That’s what Pletcher did. He learned new things, and he brought Carol along for the ride, before they had met at a party in New Hampshire mountains.

Asking Carol if she was attracted to Larry immediately, Carol told me, “Yes, I was. I think it was a good match.”

She loved the new worlds Larry introduced her to. “I loved the fact that he was so interested in being organic. He got interested. We opened the farm in 1988 and made it work,” she said.

“Like law. Larry grew up in New Jersey and went to nearby Princeton and then UCLA. He became a real estate lawyer. Next, he wanted to be a trial attorney. Carol said he was a natural. She said he showed the traits then that she’d admire later, when that hailstorm ambushed his garden. Focused. Vision. Act.

“He decided to take a course in trial work,” Carol said. “He had the voice. He had a great voice and he had the ability to think quickly on his feet, and he did not get flustered.”

She tried to show one of the aspects of his personality, saying, “If the world was coming to an end in two minutes, he would ask how you would like to spend it.”

The couple researched New England and chose to live in New Hampshire in the 1980s. Larry spent time reading and enjoying the arts with Carol. They loved seeing the Boston Symphony. That gave Larry an idea.

“He wanted to play the cello,” Carol said. “He took lessons, until a chainsaw damaged two of his fingers.”

He wanted to write books. Write about his experiences raising his daughter, Jennifer. A publisher noticed he could write, but spied the dad angle. The publisher wanted a book on hiking some of the great New Hampshire mountains.

“The Concord Monitor

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Larry’s method of research and reporting? Hike the Granite State’s 4,000 footers, of course. All 48. He had fenced in college, but was hardly in prime condition to do it.

“He did every one of them and hiked all by himself,” Carol said. “He was off and on in shape. Sometimes he would start jogging and lose 20 pounds. He was a member of the Y. He was pretty healthy. He always had just a little bit of extra weight.”

He spent his last three decades building the Vegetable Ranch in Warner. He pushed the organic angle, meaning, Carol said, “No agent orange or DuPont.”

Business was great last spring, even with the coronavirus greatly damaging, even ruining, other businesses. Larry said then that he was selling twice as much as normal at the Winter Farmers’ Market in Concord.

Other products also had record sales as the public remained leery to be near others, inside a grocery store. Twenty pounds of potatoes, 10 pounds of carrots, five chickens.

Carol hopes recent changes to the consumer landscape stay put. She hopes people will drive over, be outside, go organic, visit the cows that Larry kept as pets. She’s fully staffed and says the employees have been terrific to her since Larry died.

No one saw his death coming. He’d been fine, feeling good, but he suffered a stroke last month. Then, not surprisingly, Larry showed a fighting spirit. In fact, Carol and their daughter, Jennifer, thought he lay on the verge of a complete recovery.

But a heart attack that no one saw coming, in the middle of the night, soon followed. “We thought he was recovering,” Carol said.

Late last year, while still in good health, Pletcher was able to secure a conservation easement for the farm with the Five Rivers Conservation Trust.

“The easement, which Five Rivers said Pletcher offered at a “generous discount,” will go into effect after the land has been surveyed and protect it from future development.

“We know this is what he wanted,” Carol said. “It’s part of his legacy.”

Carol is taking care of everything else. She must deal with those pesky bears and deer, stop them from munching her vegetables. She knows what her husband wanted.

“We’ll do our damnedest to keep the farm going,” Carol said. “We’ll keep it going for this year and maybe for years to come.

“I don’t know what I’ll be doing in the future, but at least we know the farmland will still be there.”

These articles are being shared by partners in The Granite State News Collaborative. For more information visit collaborativenh.org.
In Memoriam from page 11

Robert, and David. Doris was the cherished grandmother of nine grandchildren.

A Mass of Christian Burial was held July 7, 2021, at St. Clare Church, 4 St. Clare Way, Westerly, RI 02891. To send condolences to the family please visit www.orencremation.com.

John F. Lake
John Lake, 95, passed away on July 4, 2021, at his home in Barnstead, NH, after a long illness. John was born in Philadelphia and at the age of 17 enlisted in the U.S. Marine Corps, serving in the South Pacific and in China during World War II. After graduating from Penn State University, he re-enlisted during the Korean Conflict and served at the Philadelphia Navy Yard, where he became interested in law. John received his JD from Rutgers University School of Law and practiced law for over 50 years in both New Jersey and New Hampshire. Although he could never sunburn, John was always willing to help the downtrodden and was well known for his kindness, wit, and pleasant demeanor.

Survivors include his wife of 31 years, Doris (Jordan) Lake; sons John (San Diego), Matthew (Colleen), and Annette (Howell) Lake; sons John (San Diego) and New Hampshire. He is survived by his wife Carol and his children Hazel and Edgar. A potluck Celebration Of Life was held on June 12 at 2 PM at the Vegetable Ranch. To learn more about Larry Pletcher’s colorful life read the article Larry Pletcher’s Legacy in this section.

James London Rogal
James London Rogal, 65, of Rowley, Massachusetts, beloved husband of Stefanie (Cloutier) Rogal, died on May 18, 2021 at the Kaplan House in Danvers following a tenacious seven-year battle with Parkinson’s disease. He was the son of three daughters, Liz, Rachel and Sondra, and the grandfather of Olivia. Jim was the son of the late Dr. Paul B. Rogal and Sondra London Rogal.

Jim grew up in Danvers and Topsfield, earned his B.A. from St. Lawrence University and J.D. from New England School of Law where he wrote for the New England Law Review Forum for Criminal and Civil Confinement. Jim practiced law for over 35 years, both on the North Shore and in Boston. His areas of expertise included criminal defense, real estate, foreclosure litigation and housing law. His most satisfying professional achievements were the two successful criminal appellate cases he argued before the Massachusetts Supreme Judicial Court overturning lower court convictions and creating new law in the Commonwealth.

Outside the courtroom Jim was an athlete and rabid Boston sports fan. He played on two championship over-50 basketball teams in Methuen, won two golf Glen Cup titles, was the longtime player/manager of the Yankees in the Topsfield Men’s softball league, skied Tuckerman’s, and played pickup hockey and basketball for decades. Each spring for 25 years he traveled across the country attending the NCAA Men’s Basketball tournament with his March Madness buddies.

Jim also gave back to his community, coaching youth sports and serving as both the Chairman of the Topsfield Planning Board and Board of Selectmen.

He was captivated watching his girls compete on the playing fields and performing on stage. An insatiable reader, he was a cherished friend with a sharp wit; who loved the beach, especially sunny days in Beverly and Salisbury and Anguilla. He contended dubiously that he never sunburned.

Jim faced his Parkinson’s diagnosis with the same tenacity and competitiveness that he displayed on the court and in the courtroom. He golfed and played tennis up to several weeks ago and participated in medical studies in the quest to find a cure for the brutal disease that took him too soon.

Jim was a wonderful family man and a cherished friend with a sharp wit, who laughed until he cried. He will be missed terribly.

Along with his immediate family, Jim is survived by his devoted siblings Pam Zlot (Andrei) and Peter Rogal (Laurie Nash), his Uncle Eddie, Aunt Joni, Uncle Jay, numerous nieces and nephews, and his cherished chocolate lab, Finn.

Timothy (Tim) J. Sullivan
Timothy (Tim) J. Sullivan, recently of Center Tuftonboro, died on Jan. 6 at 76. A Manchester native and longtime Wolfeboro attorney, he was a University of New Hampshire graduate, a U.S. Air Force veteran and earned his J.D. from the University of Wyoming. He is survived by his mother, Esther Theodore, his wife, Faith (Cloutier) Sullivan, his son, Sean Sullivan, his daughter, Shannon Jordan, his granddaughter, Skyler Sullivan, and his grandson, Joshua Mitchell.

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

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

Professional Announcements

Orr & Reno congratulates our colleague Jonathan M. Eck for his election as Vice President of the New Hampshire Bar Association.

Orr & Reno
603.224.2381 | www.orr-reno.com | Concord, NH
THANK YOU ALEXANDRA BREED!

McLane Middleton announces the retirement of Alexandra T. Breed, effective July 1, 2021.

A long-time director in the firm’s Trusts & Estates Department, Alexandra plans to spend her retirement in Gilford, NH working on land conservation projects, spending more time with her children and grandchildren, and enjoying recreating in the great outdoors.

We wish Alexandra all the best in retirement.

McLane Middleton

Than you Alexandra Breed!

Professional Announcements

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Additional $50 charge for color

Devine Millimet is pleased to announce that Lou Demato has joined our team as a Shareholder in our Corporate Department as a Business, Mergers & Acquisitions, and Tax Attorney helping clients navigate through and minimize the legal risks in all aspects of their businesses and related transactions. Lou brings almost two decades of experience leading sophisticated mergers & acquisitions transactions and counseling closely held businesses. He has extensive experience advising clients on the day-to-day aspects of their businesses and the corporate, partnership, and tax issues arising in mergers and acquisitions, representation and warranty insurance policies, restructurings, ESOPs, financing, private equity and structuring, and other commercial transactions.

Lou received his LLM in Taxation from the Boston University School of Law, his JD from Suffolk University Law School, and his BA in Economics from Syracuse University. Lou is admitted to practice in New Hampshire and Massachusetts and is a graduate of Leadership Greater Manchester. He has served on the boards of the New Hampshire Audubon and the City of Manchester’s Planning board, and currently serves on the board as Chair of the New Hampshire Bar Association’s corporate section.

Devine Millimet

Welcomes Louis D. Demato to the firm

Louis D. Demato
Shareholder
(603) 695-8623
demato@devinemillimet.com

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Proud to Welcome Attorney Thomas Palermo

Attorney Thomas D. Palermo joins the Criminal Defense Practice Group at Shaheen & Gordon. He will represent clients in a wide range of criminal offenses, both major and minor, including:

- White-collar crimes
- Homicide
- Assault
- Drug offenses
- DWI/DUI
- Sexual offenses

Prior to joining Shaheen & Gordon, Palermo was an assistant county attorney at the Carroll County Attorney’s Office, where he prosecuted felonies and misdemeanors from complaint to sentencing. He served as lead prosecutor and second chair on numerous jury trials.

Wishes to congratulate our esteemed colleague Kathryn Skouteris on her appointment as Vice President of the New Hampshire market at Harvard Pilgrim Health Care effective July 8, 2021

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Rath Young Pignatelli

Wishes to congratulate our esteemed colleague Kathryn Skouteris on her appointment as Vice President of the New Hampshire market at Harvard Pilgrim Health Care effective July 8, 2021

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NEW HAMPSHIRE BAR NEWS www.nhbar.org JULY 21, 2021 15
JOIN US FOR
“Legal Advocacy Fosters Victim Safety and Financial Self-Sufficiency”

Wed., September 15, 2021 - 12PM
(via Zoom)
(you will receive the URL when you register)

Register for the third annual event sponsored by the US District Court in coordination with the 603 Legal Aid Pro Bono Referral System’s DOVE Project promoting free legal services for under-resourced survivors of domestic violence, dating violence, sexual assault, and stalking. The legal needs are wide-ranging - from family law and estate planning to consumer issues, housing concerns, or federal tax liabilities.

FACULTY
Hon. David J. Burns, 9th Cir. Family Division - Manchester
Hon. Andrea K. Johnstone, U.S. District Court-NH
Tina Schumacher, Trauma Informed Training Specialist
Atty. Kirk C. Simoneau, Red Sneaker Law PLLC
Atty. Talesha L. Saint-Marc, Bernstein Shur Sawyer & Nelson PA
Atty. Scott Harris, McLane Middleton PA
Atty. Barbara G. Heggie, 603 Legal Aid Low-Income Taxpayer Project
Pamela Dodge, 603 Legal Aid DOVE Coordinator
Elyse McKay, 603 Legal Aid Assistant DOVE Coordinator

RSVP today to pdodge@603legalaid.org or emckay@603legalaid.org

THE POWER ACT: EMPOWERING THE FEDERAL BAR TO EMPOWER SURVIVORS

By Elyse McKay

In 2018, the Pro Bono Work to Empower and Represent (POWER) Act authorized the chief judge in each United States District Court to host an annual event to promote free legal services for under-resourced survivors of domestic violence, dating violence, sexual assault, and stalking. The DOVE Project, a project of 603 Legal Aid’s Pro Bono Program, is proud to partner with the Honorable Andrea Johnstone, Chief Magistrate of the U.S. District Court for the District of New Hampshire, to present our third annual event, “Legal Advocacy Fosters Victim Safety and Self-Sufficiency” on September 15, 2021 from 12:00pm to 1:00pm.

Although most know the DOVE Project for our collaborative partnership with volunteer attorneys and crisis centers to connect survivors with emergency legal assistance in 173-B and 633:3-a protective order cases, we aspire to provide the highest level of service for the other legal challenges that survivors face. Crisis center advocates work closely with us to issue-spot survivor-specific needs. More than ever, due to the pandemic, economic instability has been one of the leading factors keeping survivors from leaving abusive relationships.

According to the Network to End Domestic Violence (NEDV), financial abuse is present in 99% of abusive relationships. Financial abuse can manifest in myriad ways, from withholding access to household income, bank accounts, paychecks, assets and investments to threaten basic resources such as housing, food, medical treatment, and protection from an abusive partner. Ending the cycle of violence often necessitates addressing a wide range of legal issues—Federal income tax disputes, consumer debt, wills, medical & financial power of attorney, small claims defense, housing—so survivors can stabilize themselves and their families. We rely on the expertise and volunteer efforts of New Hampshire attorneys to help survivors navigate the court system and access justice in these areas.

In my three years as an AmeriCorps Victim Assistance Program (AVAP) and court-focused advocate, I have seen countless instances of survivors with needs that extend far beyond protective orders. In a particularly memorable case, I was able to connect a survivor I met at the local courthouse with extended legal services and wraparound resources. She was granted additional relief by her final protective order, but her abusive husband, frustrated at being thwarted and furious that she followed up by filing for divorce, filed a small-claims case based on the same facts. A staff attorney from New Hampshire Legal Aid assisted with her adversary process in order case, a family justice center facilitated her reporting of violations to an on-site detective, the victim witness advocate supported her through the criminal case, the Legal Advice and Referral Center provided her advice and consult on the divorce and mediation, and a volunteer attorney recruited through the Pro Bono Program helped her draft a motion to dismiss the small-claims case. While resources are not always available for full representation, this case was a prime example of different agencies working in concert to empower a survivor to access safety and financial stability through the civil and criminal justice systems. 603 Legal Aid continues to commit to providing the highest level of service possible and we could not do it without the altruism of our volunteer attorneys.

Judge Johnstone and the DOVE Project have brought together a panel of experts to speak to the economic barriers facing survivors, what members of the Federal Bar can do to help, and the supports that 603 Legal Aid’s Pro Bono Program offers to volunteer attorneys, including litigation reimbursement, interpreter services, malpractice insurance, and mentorship. Our panelists, Hon. David Burns of the 9th Circuit Family Division – Manchester; Tina Schumacher, Trauma Informed Training Specialist; Kirk Simoneau, Esq., of Red Sneaker Law; Talesha Saint-Marc, Esq., of Bernstein Shur Sawyer & Nelson PA; Scott Harris, Esq., of McLane Middleton PA; and Barbara Heggie, Esq., of 603 Legal Aid’s Low Income Taxpayer Project, will speak firsthand to the impact of volunteer efforts.

To RSVP to this free online event or to volunteer, please contact me at emckay@603legalaid.org or Pamela Dodge, DOVE Projects Coordinator, at pdodge@603legalaid.org.
A FULL DAY OF PROGRAMMING, INCLUDING

- AM Coffee Break with Newly-Appointed Judiciary
- President’s Welcome by Daniel Will
- Recognition of 50-Year Members
- Recognition of Retired and Newly-Appointed Judges
- CLE: “The Accidental Lawyer”
- Historic Annual Meeting Video
- Lunchtime Exercise Stretch
- President’s Awards
- Passing of the Gavel to Richard Guerriero
- Virtual Edible Garden Tour / Cooking Demo

“THE ACCIDENTAL LAWYER”: TERMS OF ENGAGEMENT

Watch it all and earn 180 minutes of ethics/professionalism CLE credits!

How many times has a conversation that’s started out with the seemingly innocuous “You’re a lawyer, right?” turned into trouble (like the possible inadvertent formation of an attorney-client relationship)?

This CLE helps lawyers deal with the dreaded sentence “Let me just ask you a quick legal question.”

In addition to the national presenters Chris Osborn and Michael Kahn, NH-specific experience and insight will be provided by Russell F. Hilliard, Katherine E. Hedges, Lindsay E. Robinson, and Talesha L. Saint-Marc.

REGISTER NOW AT NHBAR.ORG/NHBA-AM-2021
The attorneys listed here each accepted one or more cases referred by the New Hampshire Pro Bono Referral Program during April and May 2021 and by 603 Legal Aid during June 2021. Gold stars indicate attorneys who accepted more than one Pro Bono case during the course of the month.

**BELKNAP**
- Courtney Brooks
- W. Scott O’Connell
- Ethan Wood

**CARROLL**
- Casey Hewitt

**CHESHIRE**
- Kenneth Walton ★

**GRAFTON**
- Quentin Blaine
- Roderick MacLeish ★
- Thomas Trunzo

**HILLSBOROUGH (N)**
- Jacqueline Leary
- Kimberly Shaughnessy

**MERRIMACK**
- Paul Alfano
- Cindy Bodendorf
- Cassandra Brown
- Sarah Landres
- Amy Manzelli
- Robin Melone

**HILLSBOROUGH (S)**
- Thomas Neal ★
- Jon Roehlia
- Judith Roman
- Charles Russell
- Tony Soltani
- Dennis Thivierge ★

**ROCKINGHAM**
- Leif Becker ★
- Justin Caramagno
- Thomas Closson
- Michael Degieux
- Justin Pare
- L. Jonathan Ross
- Gregory Smith
- Joanne Stella

**STRAFFORD**
- Leif Becker ★
- H. Jon Meyer
- Roger Phillips

**SULLIVAN**
- Stephen Harris
- Roderick MacLeish ★
- Barbara Parker
- Lisa Wellman-Ally

**FREE LEGAL ANSWERS – NH HONOR ROLL**

This list represents attorneys who have answered questions on Free Legal Answers in the months of April through June 2021. Offered by Pro Bono Services at Your Convenience.

**NEW HAMPSHIRE BAR NEWS**

**SECOND QUARTER 2021 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 April through June 2021. This list does not include the hundreds of firms whose attorneys have ongoing cases.

**BELKNAP**
- Patrick Wood Law Office PLLC

**HILLSBOROUGH (N)**
- Backus Meyer Branch LLP
- McLane Middleton PA
- Nixon Peabody LLP
- Primner Piper Eggleston & Cramer PC
- Shaughnessy Racine PLLC
- Wadleigh Starr & Peters PLLC

**MERRIMACK**
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- Brown & Bouchard PLLC
- Alfano Law Office PLLC

**ROCKINGHAM**
- Jackson Lewis PC

**OUT-OF-STATE**
- Gregg Hunt Ahern & Embry

**FREE LEGAL ANSWERS – NH HONOR ROLL**

This list represents attorneys who have answered questions on Free Legal Answers in the months of April through June 2021.

- Nicholas E. Abramson
- Michael R. Chamberlain
- Martha L. Davidson
- Craig S. Donais
- Debra M. DuPont
- Christina A. Ferrari
- Michael B. Fisher
- Barbara G. Heggie
- Marta A. Hurgin

- Karyl R. Martin
- David W. McGrath
- Rory J. Parnell
- Pamela A. Peterson
- Jonathan Ross
- L. Phillips Runyon III
- Jane M. Schirch
- Brian C. Shaughnessy
- James Shepard
- Tony F. Soltani
- Kathleen A. Sternenberg
- Jonathan S. Teller-Elsberg
- Jennifer E. Warburton
The New Hampshire Bar Association’s Lawyer Referral Service (LRS) program provides guidance on selecting and hiring a qualified, conveniently located attorney for a variety of legal issues. The program consists of two components: Full-Fee and Modest Means.

The LRS Modest Means program is staffed by a panel of attorneys who recognize there are many NH residents lacking access to justice because they make too much to qualify for free services, but not enough to pay standard legal fees. A family of four, making $50K per year, cannot afford to pay $250 or more per hour in legal fees, but would not qualify for free services. Clients are referred, not appointed, so you may decline any case you do not wish to represent, for any reason. Additionally, no percentage fees are owed on Modest Means cases. NHBA’s Lawyer Referral Service will screen each client for case type, income eligibility, and the ability to pay the reduced rate and retainer. That is a lot of people who potentially lack access to justice!

Please consider joining the Modest Means program to represent these modest income clients at a reduced rate ($80 to $125 per hour). Clients are referred, not appointed, so you may decline any case you do not wish to represent, for any reason. Additionally, no percentage fees are owed on Modest Means cases. NHBA’s Lawyer Referral Service will screen each client for case type, income eligibility, and the ability to pay the reduced rate and retainer. Historically, neither of those choices turn out well. Modest Means clients are typically “the working poor.” They want to pay their way, but they just need a break. LRS-Modest Means is the only program that serves this population, which includes about 400,000 NH residents. That is a lot of people who potentially lack access to justice!

Modest Means is a way to assist your community while still earning legal fees. You may choose as many or as few case types as you would like. Choosing even just one subject area will be a big help! In return, you will receive a reduced legal fee from a grateful client, a 25% discount on membership in the Lawyer Referral full-fee service, reimbursement for language interpretation and translation services, discounts on occasional CLEs, and a sense of satisfaction knowing you are part of the solution for closing the justice gap in your community.

We would like to express our gratitude to the attorneys below who have accepted cases through the Modest Means program between January 1 through May 31st, 2021. This program wouldn’t exist without them!

BELKNAP COUNTY
Ambrose, Allison M.

CARROLL COUNTY
Albrecht, William
Grasso, Charles A.
Young, Robert

GRAFTON COUNTY
Fisher, Michael B.
Garrison, Joseph D.
Hayes, Patrick

HILLSBOROUGH – NORTH
Burnham, Stephanie K.
Collins, Brad T.
Kunz, Carol L.
Moore, Robert M.
Prieto, Joseph J.
St. Louis, Michael
Wołkowski, John A.

HILLSBOROUGH – SOUTH
Bloomenthal, Sandra F.
Bloomenthal, Robert T.
Hogan, Dennis C.
Krasov, Daniel R.
Lee, Michael C.
Merra, Michael F.
Mistovich, Paul S.
Morneau, Katherine J.
Petrakis, Kelly L.
Rosecan, Stephen
Torres, Rosangeliz

MERRIMACK COUNTY
Breitzkus, Daniel
Brown, Cassandra
Christie, Sarah D.
Hincks, Juli D.
Lothstein, Theodore M.
Neal, Thomas
Racine, Michael T.
Roever, Howard
Sternenberg, Kathleen

ROCKINGHAM COUNTY
Crulli, Lisa M.
Deshayes, Cheryl C.
Driscoll, Amy L.
Muir, Anthony
Sullivan, Mark F.

STRAFFORD COUNTY
Stella, Joanne M.

SULLIVAN COUNTY
Beaulac, Cindy Lee
Ranson, Alice C.

For more information, contact Sheila Vercacy, LRS-Modest Means Program Coordinator at 603-715-3235 or svercacy@nhbar.org. Download an application at nhbar.org/grow-your-business/mmlp.

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Mobile Device Management: What Can You Gain With It and Lose Without It?

By Cameron G. Shilling

Practicing law today requires the use of mobile devices, like cell phones, tablets, and laptops. Yet, because of their mobility and value, there is an increased risk that these devices will be lost or stolen. Mobile device management (MDM) is the solution to mitigating that risk, and also provides law firms with other technological advantages.

Segregate Law Firm Data

MDM is a type of application installed on a mobile device. Once MDM is installed, a firm can configure it to contain certain other applications and data. Simple MDMs house the e-mail accounts that the firm issues to its employees. Those types of MDMs are commonly available within existing e-mail platforms, including Microsoft Office 365 and Google.

More advanced MDMs facilitate containerization of not just e-mail, but also data accessed or saved using other applications, such as electronic records retention systems and time entry and expense reimbursement applications. Additionally, unlike simple MDMs, more advanced MDMs can be installed on laptops as well as cell phones and tablets. Such advanced MDMs are available from certain e-mail platforms, such as Microsoft Office 365’s Intune MDM, as well as from many established third-party developers.

Implementing an MDM enables a firm to segregate its client, business, and other information on mobile devices used by employees from the personal and other information that employees retain on those devices. The application also encrypts the firm’s information within the MDM container on mobile devices.

Lost and Stolen Devices Result in Breach

Mobile devices contain a plethora of valuable sensitive information about us and our clients and firms. Lawyers commonly receive and retain that information in the form of e-mail, attachments to e-mail, data accessed on the Internet, information communicated in apps, and records accessed and saved on laptops. Today’s mobile devices have sizable memory, retaining information long after it has been deleted and is inaccessible or unapparent to the user.

The loss or theft of a lawyer’s unencrypted mobile device results in a breach. State law requires us to notify affected individuals and regulators if the lost or stolen device contained personally identifiable information, such as a social security numbers, financial account numbers, governmental identification numbers, and passwords. Additionally, legal ethics are broader than state law, requiring lawyers to notify clients if the lost or stolen device contained information about clients. Implementing an MDM encrypts client and firm information on mobile devices, so that a lost or stolen device does not result in a breach.

MDMs Provide Other Advantages

In addition to preventing breach, MDMs afford other advantages for firms to manage information on mobile devices. For example, MDMs can remotely de-credential the mobile device of a departing employee, preventing the employee from accessing, using, and disclosing any client or firm information in the MDM after the employee departs. Firms also can control and back up data within MDMs, preventing loss of work product due to device failures. MDMs similarly permit firms to properly log employee access and activity with respect to client and firm information, and to locate lost or stolen mobile devices.

Additionally, lawyers and law firms are ethically required to adopt reasonable security measures to prevent the loss and theft of client information. The features of MDMs are critical for firms to implement such safeguards with respect to mobile devices. Lawyers rely heavily on cell phones, tablets, and laptops to sustain our practices. Given the importance of these devices and the sensitivity of the information that exists on them, we need to properly secure them through the use of MDM technology.

Cameron G. Shilling founded and chairs McLane Middleton’s Information Privacy and Security Practice Group. The group of four attorneys and one technology paralegal assist businesses and private clients to improve their information privacy and security compliance and address any security incidents or breaches that may occur.
Workplace Mask Requirements Post Vaccination

By Beth Deragon

As COVID-19 vaccination rates increase across New Hampshire and the state is no longer operating under a state of emergency, businesses are encouraging employees to work less from home and more from the office. While risk of COVID-19 transmission at the workplace is arguably lower than it was at the height of the pandemic, employers are still obligated to provide a safe work environment that requires understanding recent guidance from the CDC and OSHA.

Employers are grappling with the extent to which they can permit employees to work at the workplace without masks and the extent to which they can mandate vaccination for COVID-19. The CDC recently released guidance that individuals who are fully immunized from COVID-19 do not need to wear masks indoors or outside or to physically distance, except where required by federal, state, local, tribal, or territorial laws, rules and regulations. In general, people are considered fully vaccinated two weeks after their second dose in a two-dose series, such as the Pfizer or Moderna vaccines, or two weeks after a single-dose vaccine, such as Johnson & Johnson’s Janssen vaccine. The CDC also stated that fully vaccinated people have a reduced risk of transmitting COVID-19 to unvaccinated people. It is important to note that the CDC guidance does not have authority over local governing bodies. If local rules and regulations require stricter public health rules than the CDC guidance, the local rules and regulations must be followed. If local rules and regulations permit mask removal for fully vaccinated individuals, or two weeks after a single-dose vaccine, existing mask mandate in effect or modify the mask mandate to apply to unvaccinated and/or employees not fully vaccinated.

In deciding whether to modify its existing mask mandate, an employer can ask its employees to disclose their vaccination status and is permitted to offer incentives to employees to do so. Disclosure can include requiring proof of vaccination, such as showing a copy of the completed CDC-issued Vaccine Record Card or a printout of vaccine status from a health-care provider who administered the vaccine. If the employer chooses to retain a copy of the Vaccine Record Card or other proof of vaccination, it must be kept in a separate confidential medical file, consistent with the requirements of the Americans with Disabilities Act. The best practice is for employers to develop a written protocol for collecting and storing this information in a secure file separate from employee personnel files and keeping it confidential except for those managers/supervisors who have a legitimate business reason to know. The written protocol should be provided to employees in advance of the collection of information and warn employees not to provide any further medical information to avoid the ADA’s prohibitions on medical inquiries. If an employee reveals that he or she has not received a vaccine and/or does not intend to be vaccinated, the best practice is not to ask why. Asking why could elicit a reason that is protected under NH’s antidiscrimination law or the ADA.

Similarly, if an employer decides to mandate COVID-19 vaccinations, it should tell employees in advance of implementing the policy and be prepared to offer accommodations to employees who do not want the vaccine based on medical or religious grounds. In the case of mandated vaccination, employees who tell their employer that they do not want the vaccine must be granted a reasonable accommodation by the employer, which would include allowing an exception to the vaccine mandate for those employees. It is strongly recommended that only managers who have been trained on this issue be permitted to engage in this type of discussion with an employee so that the business does not run afoul of the law.

While dropping the mask mandate for fully vaccinated employees could reveal who is vaccinated and who is not, the revelation, by itself, is not a risk to the employer. However, the way in which management handles that information could be. Managers should be trained not to exclude masked employees from projects, meetings, and other employment opportunities because doing so could trigger disability, religious or disparate impact liabilities.

While the CDC has provided guidance on wearing masks, OSHA contains a “General Duty Clause” that contains a legal obligation for employers to provide their employees with a workplace free from recognized hazards that are causing or likely to cause death or serious physical harm. OSHA has interpreted this clause to require that employers mandate that employees wear masks to minimize the spread of COVID-19 in the workplace. The mask mandate can be removed for fully vaccinated employees who are not otherwise at risk from COVID-19 exposure. 2 “At-risk workers” are those who have certain conditions, such as a prior transplant, as well as prolonged use of corticosteroids or other immune-weakening medications, that may affect workers’ abilities to have a full immune response to vaccination. See the CDC’s page describing Vaccines for People with Underlying Medical Conditions, and further definition of People with Certain Medical Conditions.

Under the ADA, workers who cannot be protected through vaccination, cannot get vaccinated, or cannot use face coverings may be legally entitled to reasonable accommodations that protect them from the risk of contracting COVID-19. Employers should consider taking steps to protect these “at-risk workers” as they would unvaccinated workers, regardless of their vaccination status. In regard to unvaccinated employees, businesses must continue to provide a safe and healthy workplace. This includes physical distancing, face coverings, health screenings and providing notification to visitors to the workplace. The OSHA guidance also suggests “that unvaccinated customers, visitors, or guests wear face coverings, especially in public-facing workplaces such as retail establishments, if there are unvaccinated or otherwise at-risk workers in the workplace who are likely to interact with these customers, visitors, or guests. This could include posting a notice or otherwise suggesting unvaccinated people wear face coverings, even if no longer required by your jurisdiction. Individuals who are under the age of 2 or are actively consuming food or beverages on site need not wear face coverings.

The CDC guidance changed the mask rules only for fully vaccinated people. Existing COVID-19 workplace policies and protocols are still in effect for employees who have not been vaccinated or who are not fully vaccinated or who are considered “at-risk workers.” However, employers now have options as to how to approach the mask mandate issue. For example, they do not have to lift the mask mandate right now. Employers could wait until the CDC announces that everyone in the country – vaccinated or not – can take their masks off indoors. Alternatively, employers could decide to make a policy change based on the needs of the organization and should anticipate that there could be strong opinions and conflict about the new policy.

When rolling out the new policy, employers should tell employees that they are not allowed to confront each other about mask wearing or vaccination status and if they do so, it could result in disciplinary action. Given the strong feelings about mask wearing, any changes should involve careful communications, including clear policies, and be assessed on an ongoing basis due to the fluidity of government advisories.


ARNIE ROSENBLATT
EXPERIENCED MEDIATOR & ARBITRATOR
Litigating and resolving business and intellectual property disputes since 1981.

Fellow of American College of Trial Lawyers

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The Tech Never Stops w/Stuart Teicher
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**THU, JULY 29 • Noon – 1:00 p.m.**
Logic, Argumentation and Persuasion 2: Is That a Fact? w/Lenne Espenschied
- Webcast: 60 min.

**AUGUST 2021**

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Business Litigation
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Planning and Zoning 101
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Don’t Flub the Math! w/Lenne Espenschied
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Classical logic is built upon premises that are presumed to be true, but what exactly is “true” and how does it differ from fact?

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New advancements in tech are a given. And the ethics concerns with each of them are a given as well. Join Stuart as he discusses Tik Tok, Zoom, and a bunch of other new issues that should concern lawyers.

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Faculty

- Arnold Rosenblatt, Program Chair and CLE Committee Member, Cook, Little, Rosenblatt & Mansson, PLLC, Manchester
- Hon. David A. Anderson, Hillsborough County Superior Court Northern District, Manchester
- James Berriman, XACT Data Discovery, Boston, MA
- Peter G. Callahan, Preti Flaherty Belleau & Pachios, PLLP, Concord
- Samantha D. Elliott, Gallagher, Callahan & Garrrell, PC, Concord
- Jennifer L. Parent, McLane Middleton PA, Manchester
- Edward J. Sackman, Bernstein, Shur, Sawyer & Nelson, PA, Manchester
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- Laura Spector-Morgan, Program Chair/CLE Committee Member, Mitchell Municipal Group, PA, Laconia
- Kevin K. Baum, Hoefle Phoenix Gormley & Roberts, PLLC, Portsmouth
- Natch Greyes, New Hampshire Municipal Association, Concord
- James W. Kennedy, III, City of Concord, NH
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Faculty

- Corey M. Belobrow, Program Chair/CLE Committee Member, Maggiotto, Friedman, Feeley & Fraas, PLLC, Concord
- Christine S. Anderson, Ansell & Anderson, PA, Bedford
- Thomas M. Closson, Jackson Lewis, PC, Portsmouth
- Tracey G. Cote, Shaheen & Gordon, PA, Concord
- Timothy A. Gudas, NH Supreme Court, Concord
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By John M. Cunningham

For individuals and certain trusts that own interests in single-member LLCs classified for federal tax purposes as disregarded entities;

• Entities taxable as partnerships under Internal Revenue Code Subchapter K; and

• Entities taxable as S corporations under Subchapter S. Structuring their practices to maximize their section 199A deductions can obviously be of great economic importance to many New Hampshire lawyers and law firms.

In this article, I will assume that you, the reader, are not a specialist in federal income tax and, in particular, that you are not a section 199A specialist.

3) Phase-in ranges. Another central section 199A concept is that of phase-in ranges. The phase-in range for individuals filing separate is $50,000, and for individuals filing jointly it is $100,000. Phase-in ranges are a number of important roles under section 199A.

4) Law firm assets. In certain situations, section 199A provisions provide that the value of a law firm’s tangible assets, such as its real property, may significantly affect their section 199A deductions. A discussion of these provisions is beyond the scope of this article.

5) Schedule C taxpayers. In general, if your qualified business income is less than your threshold amount and you practice as a sole proprietor, in order to maximize your section 199A deduction you should generally be—and very probably are—taxable as a sole proprietor. That is, you should report your income on Schedule C of your Form 1040. In this situation, your section 199A deduction will be 50% of the W-2 wages that you pay your self as a sole proprietor and the W-2 wages you pay your employees. However, your section 199A deduction, like that of all other qualifying taxpayers, will be capped at 20% of your taxable income less capital gains.

6) Partnership taxation. If you practice in a law firm with two or more members and if the taxable income of all of your members is less than your threshold amount, your firm should generally be taxable as a partnership under IRC Subchapter K. In addition, your compensation for services to and for your firm and its clients should be paid by the firm to the members in the form of distributions of law firm income, not as guaranteed payments (the partnership tax term for salaries and bonuses). This practice is because guaranteed payments will reduce your qualified business income and thus your section 199A deduction; distributions will not.

7) Section 199A treatment of lawyers. However, although section 199A treats individuals in every type of business and profession equally if their taxable income is less than their threshold amount, it imposes a different set of rules for the section 199A deductions available to individuals in certain professional and financial occupations, including lawyers, if their threshold amount exceeds their threshold amount.

These occupations are referred to in section 199A as “specified service trades or businesses” (often referred to by tax professionals as “SSTBs”). If the taxable income of these individuals is at or above their threshold amount but does not exceed their taxable income plus their phase-in range, their section 199A deduction will decline as the excess of their taxable income over their threshold amount increases. However, if the individual’s income is greater than their threshold amount plus their phase-in range, individuals engaged in SSTBs will receive no section 199A deduction at all.

8) Elections. If you practice in either a single-member or multi-member LLC and you need to change your federal tax regime from that of a sole proprietorship or partnership to that of an S corporation in order to maximize your section 199A deductions, you should be aware that under the governing IRS regulations, called the Entity Classification Regulations, single-member and multi-member LLCs may not be S corporations for federal tax purposes even though they are LLCs for state-law purposes. However, if you practice as a state-law sole proprietor but would be taxable as an S corporation for section 199A purposes, you must first convert your state-law sole proprietorship to a single-member LLC, since S elections may be made only at the state-law business corporate level. Similarly, if you practice in a multi-share state-law business corporation but need to be taxable as a partnership for section 199A purposes, your must first convert your corporation to a multi-member LLC taxable as a partnership.

9) Conversions of state-law business corporations. For both legal and tax reasons, the conversion of LLCs to LLCs taxable as sole proprietorships or partnerships can be complex. However, a discussion of the tax issues involved is beyond the scope of this article.

10) Structuring law firms in which the taxable income of some of the members is below their threshold amount and that of other members is at or above that amount. What if you are a member of a law firm in which the taxable income of some of the members of your LLC is less than your threshold amount and that of others is at or above that amount? In this situation, you may be able to maximize the section 199A of all of your members if your LLC is structured as a single-member LLC taxable as partnership, its members whose threshold amount is less than their taxable income are partners of the partnership for federal tax purposes in their capacity as individuals, and those whose taxable income exceeds their threshold amount form single-member LLCs taxable as S corporations to hold their partnership interests.

11) Restructuring law firms that are taxable as C corporations. If your law firm is taxable as a C corporation, its shareholders cannot qualify for section 199A deductions, since C corporations are not pass-through businesses. However, there are various tax-effective methods of reorganizing these corporations to provide their shareholder with these deductions. For example, it may be useful for this purpose to convert the existing C corporation into a holding company, whose only function is to retain ownership of the firm’s assets, to purchase and dispose of these assets, and to lend income to the new LLCs as part of a newly created operating company in the form of a multi-member LLC taxable as a partnership. As discussed above, the members of this partner ship will be members in their capacity as individuals if their taxable income is less than their threshold amount, while the members whose taxable income is at or above their threshold amount will hold their partnership interests in the partnership as S corporations. This holding company/operating company structure will also provide you with powerful asset protection.

In conclusion, this article must re peat the warning with which I began it: Because section 199A is overwhelmingly complex, you must consult with a section 199A expert before you implement any of the guidelines in this article.

The Meaning of IRC Section 199a for New Hampshire Lawyers and Law Firms

John Cunningham is a lawyer of counsel to McLane Middleton, P.A. He is licensed to practice law in New Hampshire and Massachusetts. He is a leading expert on IRC Section 199A and co-author of Drafting Limited Liability Company Operating Agreements, the leading U.S. formbook on limited liability companies. For more information, go to llc199A.com. He writes a blog on section 199A published by a recognized publisher: Both books are published by Wolters Kluwer. His telephone number is (603) 856-7172; his e-mail address is lawmyn@comcast.net, and the link to his website is www.llc199A.com. He writes a weekly column on business law and tax for the Concord Monitor entitled Law in the Marketplace.
Off-Track: Federal Court Dismisses False Statement Charge Because, Well, the Government Didn’t Alleged a False Statement

Relevant Background

In the summer of 2018, Nathan Craigue owned a home exterior company that had been hired to work at a property in Concord. Craigue had two people do the work. One of the workers sustained severe injuries while working at the job site and ultimately died. An Occupational Safety and Health Administration inspector interviewed Craigue the day of the accident and then again two months later. According to the court’s order, at the second interview, the OSHA inspector asked Craigue if the job site workers were “employees of Craigue’s company,” to which Craigue responded: “I’ve always treated them— they would come and go as they please, so I would always treat them as not employees.”

The government charged Craigue with violating § 1001(a)(2) for allegedly making a false statement during that second interview. As the court succinctly put it, the indictment alleged that Craigue falsely stated that the workers were not his employees when he told the OSHA inspector that he “always treated” them as “not employees.” Craigue moved to dismiss the charge. He argued that the false statement that was alleged—that the workers were not his employees—did not “track” what he allegedly said to the OSHA inspector during the second interview—i.e., that he “always treated” them as “not employees.” Because of that discrepancy, Craigue contended, dismissal was appropriate since the indictment failed to allege that what he actually said was false. Judge McCafferty agreed.

Holding and Rationale

The court dismissed the § 1001(a)(2) charge at issue because it failed to allege a false statement that “tracked” the actual statement Craigue allegedly made to the OSHA inspector. As Judge McCafferty explained, “even if it is true” that the workers were “Craigue’s employees,” that does not mean “Craigue’s statement that he treated them as though they were not” was false. Order at 8 (emphasis added). And because § 1001(a)(2) prohibits “making of statements that are themselves false,” a charge predicated on a statement that itself is not alleged to be false, but instead is alleged to carry a “false implication,” fails to state an offense. That’s what happened here, according to Judge McCafferty.

In the end, although an indictment “need not say much,” one that brings a “one-thousand-one” charge must track the statement actually made by the defendant in alleging that statement was false. When there is a discrepancy between the statement made and the statement alleged to be false, as there was in Craigue, the indictment is defective and, in most cases, cannot be cured.

Judge McCafferty’s ruling was not the end of the road for the Craigue case. In a separate order issued the same date, the court denied Craigue’s motion to dismiss a second § 1001(a)(2) charge against him, and he went to trial on that charge in early June 2021. After the second day of testimony, the government voluntarily dismissed its case against Craigue with prejudice.
Vermont has the data to show that restorative justice really does reduce the like- lhood of reoffense. And since community justice and diversion are written into statute, the state is able to keep track of most important data that shows its progress.

A 2019 Vermont Court Diversion study found that the recidivism rate for all diversion participants statewide was 16 percent. Of the first-time offenders and those who had never been to diversion before, less than one percent committed another crime after completing the program. A 2014 study by the Crime Research Group found that pre-court or pre-charge intervention may be more successful than post-charge: about 21 percent of those sent to restorative panels reduced their crime if they were referred pre-adjudication, as opposed to 30 percent of those whose case had already been adjudicated, meaning their record wasn’t expunged after program completion.

It’s difficult to compare those numbers to New Hampshire’s because the state does not track overall diversion data. But on the juvenile side, the state’s youth diversion network found that 22 percent of juveniles reoffended after one year, and 41.7 percent reoffended after three years.

“The statute does not specify which crimes are eligible, but it does prohibit cases of domestic and sexual violence and stalking from being referred to community justice centers, except in societal reentry programs. Individual centers say they accept misdemeanor and felony non-violent crimes, anything from petty theft to possession of controlled drugs, and multiple offenses are accepted. I don’t like blanket rules for the most part. I like to look at each case individually, and the restorative justice cases work best when there’s community involvement and we’ve developed a way for the offender to talk to the victim,” said Tracy Shriver, a state’s attorney in Windham County, Vermont.

“No longer would it be a probation officer, but from the notion of a community justice center,” Miodownik said. “Instead, the program is viewed as a national leader when it comes to alternative and restorative justice: the state has a robust set of programs where restorative principles are used, from pre-court direct referrals, to post-adjudication, to prisoner reentry.”

Vermont is a different way to repair the harm the person caused. 'Then-commissioner John Gorczyk was saying, 'we want to be directly involved,'” said Mel Motel, executive director of the Brattleboro CJC.

“Vermont has the data to show that restorative justice really does reduce the like- lhood of reoffense. And since community justice and diversion are written into statute, the state is able to keep track of most important data that shows its progress.”
in 2011. Adult diversion is not written into statute at all, making services inconsistent across the state.

In New Hampshire, practitioners of adult diversion are hoping that forming a new adult diversion network could help with data tracking and sharing resources. But a similar effort in Vermont fizzled out about three years ago.

“It was partly a financial issue. Many of the justice centers have been level-funded for several years in a row and as the result of that is they were actually doing less well financially if costs go up, especially if you want to give a salary increase to someone,” said Carol Plante, former director of the Vermont Community Justice Network and current director of the Montpelier CJC. In 2019, CJC’s received a little under $3 million in department of corrections funding -- the programs’ main funding source -- according to Miodownik. Distributed across 18 programs, each gets about $70,000, and depending on size and need, he said. CJC’s have been receiving about that much funding between state appropriations and statewide grants since at least 2010.

Diversion is funded separately from CJC’s, by the attorney general’s office. In 2020, it got $3.1 million, an increase of about $300,000 from the year before.

A cost benefit analysis of the state’s court diversion programs found that diversion brought huge cost savings: a drug charge sent to diversion, for example, cost an average of $86.53, while the same charge put through the traditional justice system cost over a thousand dollars.

Plante’s CIC in Montpelier got $283,000 this year, she said, those funds divided among its many programs which beyond community justice services also provides transitional housing.

“Absolutely more could always be beneficial. Under the current budget, we had to reduce the restorative programs coordinator position from 35 hours to 24 hours,” Plante said. “That means that I am still doing some of that work as the director.”

“At the Brattleboro CJC, Motel says funding hasn’t been a major issue for maintaining the programs it has now. But ideally, she says, she’d like to see more funding going toward restorative and community based practices beyond her walls.

“In my ideal world, restorative justice, transformative justice, different ways of responding to harm, have a much bigger slice of the pie. I would like to see a world where the primary response and the priority for resources goes towards more community based responses,” Motel said.

In New Hampshire, the state’s new misdemeanor charges were sent to diversion rather than charged traditionally and inconsistently, it’s almost impossible to tell what kind of impact diversion programs have had on race and recidivism there.
Never Split The Difference

By Chris Voss

Hardcover, 288 pages

Reviewed by Jonas Cutler

“Separate people from the problem.”

In school many of us learned this from the Harvard Law School Program in Negotiation’s “Setting the Stage for High Impact Negotiation,” “Negotiating to Yes” by Roger Fisher, Bruce Patton and William Ury. The concept was to move people to a rational state of mind in a negotiation. To do this the negotiator attempts to overcome all parties’ emotions, which lock them to a position, allowing for a better range of possible outcomes. We learned to calibrate our goals against our BATNA (best alternative to negotiated agreement). This book, and the approach it offers, has been the standard for years and generally served us well, but it neglected the core of the problem: emotions. The result has been: I high, you low, we haggle for a period, then find “common ground” somewhere in the middle.

“Never Split the Difference” by Chris Voss presents a different approach that recognizes emotion will be present and provides a framework of how to use emotions to achieve desired outcomes. Voss was an FBI hostage negotiator, so “splitting the difference” wouldn’t do any good because anybody with only half a brain will shut down and return to the demands of the studs. What he learned is that “both parties are happy about the deal, but that both end up equally dissatisfied.”

Each chapter of “Never Split the Difference” provides a story or two from Voss’ history with the FBI that read like those on the Discovery channel or as part of the Crime Junkie podcast. Each story illustrates a negotiation point, and better yet the author discusses some of the “learning opportunities” he experienced.

According to Voss, when starting with the BATNA, people will tend to be tied to this — and if they can do just a little better, they have achieved a “win.” Human life involves the degree of our ability to leave the negotiation with a win, but the reality is we are left with far less than what was available, he argues. We all know that negotiation preparation, including establishing the goal, sets the stage, so instead the focus should be on the desired outcome rather than the BATNA. This mindset will serve well when pursuing the deal.

Negotiation is not a battle, and meeting head to head is rarely productive, Voss asserts. Instead, think of negotiation as discovery. Don’t commit to assumptions created during preparation but instead test them and adjust where necessary. To do this, slow down and quiet your internal dialogue. Do not ask questions geared to obtain a general yes, instead use questions designed to obtain a “no” answer, then ask for explanation. A “no” answer provides the speaker power and preserves the status quo. “No” does not necessarily mean forever, it means other terms and conditions exist, that are not being addressed. So what are those conditions? A “no” answer provides the opportunity to learn those conditions. This requires active listening, repeating back what you’ve heard to demonstrate understanding or potentially gain clarification. When you hear “that’s right” as a response, you know your counterparty now feels understood and respected and it is from here that a deal can be made.

According to Voss, people are driven more by emotions and the desire to avoid pain (such as embarrassment) than the desire to win. There is an inherent need for safety and security. “Creative solutions are almost always preceded by some degree of risk, anxiety, confusion, and the Accommodation and compromise produce none of that,” he says.

Voss cites numerous publications in support of his belief that emotions are a necessary element in the decision-making process. For instance, “Descartes’ Error: Emotion, Reason and the Human Brain” by Antonio Damasio, neuroscientist and head of the department of neurology at the University of Iowa College of Medicine, was the result of a study of people who had damage to the part of the human brain where emotions are generated. The study found that the subjects could explain in logical terms how they should decide between choices but were largely unable to do so. Paraphrasing Damasio, Voss says, “While we may use logic to reason toward a decision, the actual decision making is governed by emotion.”

“According to Voss, people are driven more by emotions and the desire to avoid pain (such as embarrassment) than the desire to win.”

I personally enjoyed Voss’ discussion on the meaning of “fair.” This word is often used in negotiation, without meaning or context: “I only want what is fair” or “you’re not being fair in this exchange.” Voss provides evidence that “fair” is not universal but instead a means of discovering and the desire to avoid pain. “Creative solutions are almost always preceded by some degree of risk, anxiety, confusion, and the Accommodation and compromise produce none of that,” he says.

According to Voss, people are driven more by emotions and the desire to avoid pain (such as embarrassment) than the desire to win.

Wellness

From page 3

their initial therapy seeking help again and I’m always glad when they reach out.”

Getting to the roots of mental health and substance issues is Houle’s objective in the work she does. But, she says, this cannot be achieved with “quick in-and-out interventions” such as cognitive behavioral therapy.

Some of these approaches are Band-Aids and I do that work every day and that’s fine. But that is not going to be more curative preventative work that’s going to last,” she notes. “The need to be willing to think this is a longer-term process if you want to get to the root pain and trauma.”

Talking About Suicide

Getting at the root of trauma requires asking hard questions says O’Neill. One of those questions is “are you thinking about committing suicide?”

The trauma and heart disease, suicide is the third most common cause of death and research indicates lawyers are the “most depressed” of 105 surveyed professions according to the American Bar Association.

Hartigan called attention to a recent video produced by the Texas Law Center on suicide in the legal profession. According to Hartigan, “The character and fitness process is a good place to reach people. Sometimes people come in with red marks on their foreheads that seem much as alcohol violations,” she says. “I explain to them that in the 70s, when I was driving drunk once, the police took me home. They need to hear that they can be honest.”

COVID Silver Linings

While the pandemic has produced increased mental health problems, Hartigan says there is lighter on the horizon.

“People have opened to the idea of holding virtual office hours for one lawyers assistance for one. They didn’t like the idea of me being in there but we’ve come a long way.”

And O’Neill pointed to the rethink- ing of values and lifestyle reflected in the record numbers of people working from home.

“Being able to take pause on the har- ner wheel of doing it all is important and things are shifting in the profession work- place,” she says. “This is why I think the wellness initiatives are really important around questions like ‘how do we not go back ever again to what we have done?’ and ‘how do we learn from this and create flexibil- ity to create balance and self care’.”

The Lawyer Well-Being Pledge

The New Hampshire Bar Association recently adopted the American Bar Association’s Lawyer Well-Being Pledge which is designed to address the profession’s troubling rates of alcohol and other substance- use disorders, as well as mental health issues.

Hartigan says the pledge initiative comes at a good time because there is a greater awareness of mental health.

“The choice for the Bar Association to take the pledge is a good movement in the right direction especially with the effects of Covid on mental health and substance issues,” she says. “I knew the full ex- tent of the pandemic but we have every reason to believe it has been hard on lawyers and one of the things these initiatives do is to educate people and remind them they do not need to be afraid to ask for help.”

The New Hampshire Bar Association is one of just several legal organizations in the state that have committed to the well- being pledge. Hartigan says she is hoping the New Hampshire Supreme Court will adopt the pledge’s “seven points” at an upcoming meeting later this year as well.

Hartigan also says she is hoping the momentum towards raising awareness about mental health and substance misuse continues at the law school in Concord. She teaches courses there on perfectionism — how to not let it overrule one’s life—and the character and fitness process that lawyers go through to become licensed.

The “character and fitness process is a good place to reach people. Sometimes people come in with red marks on their foreheads that seem much as alcohol violations,” she says. “I explain to them that in the 70s, when I was driving drunk once, the police took me home. They need to hear that they can be honest.”

Lisa J. Houle, MA, LCMHC, MLADC

5 Warren Street, Suite 22B

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Lease Rejection: Understanding the Capped and Uncapped Claims of a Landlord in Bankruptcy

Christopher M. Candon and Jaclyn N. Fisher

For businesses of all sizes, the cost associated with its office or retail space is a significant expense. This reality may be even more accentuated for small businesses that are tied to long-term lease obligations, resulting in the landlord being one of the largest and/or most influential creditors of the business. For the past 16 months, the COVID-19 pandemic has challenged businesses and landlords in navigating never-before experienced economic pressures. Many businesses were forced to shut their doors, unable to meet ongoing rent and other obligations, while others managed to get by and, with respect to rent obligations, negotiated lease modifications to provide some temporary relief. But now as stimulus funds are no longer as readily available, businesses may be faced with mounting pressure to pay postponed rent obligations while staying current on existing monthly rent and all other business obligations. If this burden is too much, businesses may be forced to consider bankruptcy in order to restructure debt and/or reject burdensome leases.

To properly evaluate a bankruptcy filing (or the threat of a tenant bankruptcy filing), both the business tenant and landlord need to understand how the Bankruptcy Code will treat a landlord’s claim for damages resulting from the termination of a lease of real property. Absent such understanding, any pre-bankruptcy negotiations may not be productive.

Under Section 502(b)(6) of the Bankruptcy Code, claims for damages resulting from the termination of a lease (i.e., lease rejection claims) may not exceed the amount of “rent reserved by such lease,” without acceleration, for the greater of one year, or 15 percent, not to exceed three years, of the remaining term of such lease…. Not surprisingly, the courts have struggled in applying this formula, largely settling on two approaches – the rent and time approaches.

The Rent and Time Approaches

Courts that have adopted the rent approach permit the landlord to compute the total amount of rent due for the remainder of the lease term and multiply that amount by 15 percent. This results in a capped claim for damages at a maximum of 15 percent of the total rent due for the remainder of the lease term. Although not universally applied, some courts hold that if the 15 percent amount exceeds the total amount of rent due for the lease for the next three years, the three-year amount would be the capped claim.

In the alternative time approach, courts view the 15 percent marker as a measure of time remaining under the lease term. In other words, the damages claim would be capped at the amount of rent due for the first 15 percent of the time remaining under the lease, such time period not to exceed three years.

In practical application, the mechanism for calculating the landlord’s capped claim for damages can be summarized as follows:

• Establish the “start date,” which is the earlier of (i) the date the bankruptcy case commenced, or (ii) the date on which the premises were repossessed by the landlord or surrendered by the tenant (herein, the “Cap Commencement Date”).

• Determine the projected amount of all rent charges that will come due for the year commencing on the Cap Commencement Date.

• Using the rent approach, determine all projected rent charges that will come due for three-year period commencing on the Cap Commencement Date. Whichever amount (the 15 percent computation or the three-year computation) is greater will be the governing amount of the cap.

• Using the time approach, determine the number of months remaining on the term of the lease, and multiply by 15 percent. The number of months is limited to 36 months (“not to exceed three years”). Then, determine the amount of rent for those months.

• Whichever of the two “caps” (the one-year cap vs. the 15 percent/three-year cap), calculated as provided above, results in a greater claim is the cap that will be utilized in computing the capped rejection damage claim.

Not All Damages Are Subject to the Cap

However, while much attention is given to the calculation of the capped claim, a landlord’s claim may involve more than just damages resulting from the termination of the lease and subject to the Section 502(b)(6) cap. Clearly, a landlord is entitled to an unsecured claim for all amounts due and owing under the lease through the earlier of its termination or the filing of the bankruptcy petition. This component of a landlord’s claim is not subject to the “cap.”

More controversially, courts have been divided on the issue of whether or in what instances less obvious claims result from the termination of the lease and, thus, are limited by the cap. For example, would a landlord’s claim for maintenance and repair costs associated with its rejected property be subject to the cap? What about the costs associated with the removal of a mechanic’s lien?

A landmark bankruptcy case provided guidance to the interpretation and application of the Section 502(b)(6) cap. In Saddleback Valley Community Church v. El Toro Materials Co. (In re El Toro Materials Co., Inc.), 304 F.3d 978 (9th Cir. 2007), the Ninth Circuit ruled that tort claims against the debtor tenant for collateral damages (i.e., damages unrelated to the loss of rental income) to the property were not subject to the cap under the Bankruptcy Code. In so ruling, the Ninth Circuit buttressed the courts that held the cap to be inapplicable to claims for a tenant’s breach of repair and maintenance obligations and cast doubt on the viability of the line of cases that held otherwise.

Since the El Toro case, many courts moved away from the once-held precedent that the Bankruptcy Code creates a broad cap on rejection damages in favor of what is now referred to as the “El Toro” test. More recently, the Ninth Circuit ruled again that the Bankruptcy Code does not create a cap on damages a landlord can receive for every breach of lease and rejected the “all or nothing approach,” adopting the “El Toro” test for determining when...

BANKRUPTCY continued on page 33
Federal Practice and Bankruptcy Law

Defenses to Preference Actions: New and Refined Tools to Keep in Mind

By Joseph A. Foster and Christopher M. Dube

One common interaction businesses have with the United States bankruptcy system is the unfortunate experience of being a defendant in a preference action. Generally, the business receives a demand letter from a bankruptcy trustee or is served with a complaint seeking to recover payments made by the debtor to the business in the 90 days leading up to the filing of the bankruptcy case. Preference claims add insult to injury as, more often than not, the debtor still owes the business for goods or services provided and the case is often brought in a jurisdiction hundreds or even thousands of miles away from the business’ location, making defending the action both inconvenient and often expensive.

Preference law is thought to assure equality of distribution in a bankruptcy proceeding by: (1) discouraging a race to collect receivables when a business is failing; (2) limiting the ability of a debtor to favor one creditor over another; and (3) encouraging trade creditors to continue supplying goods and services to the debtor as it attempts to avoid a bankruptcy filing.

While these goals may be laudable, there is also a sense that the power to bring the claims can be abused. Some trustees, with the two-year statute of limitations under 11 U.S.C. §546 approaching, make demand or commence an adversary proceeding without assessing the merits of the case even though they possess some ability to assess the defenses most commonly raised—payments made in the ordinary course of business, contemporaneous exchange, and subsequent new value. To some defendants, even those with meritorious defenses, the demand seems like a shakedown and many decide that paying some portion of the amount demanded is more cost effective than engaging counsel to defend the case.

In an attempt to somewhat level the playing field and help to assure claims that are brought have merit, Congress adopted two provisions as part of the Small Business Reorganization Act that became effective on Feb. 19, 2020.

Section 547(b) was amended to require a plaintiff in a preference case to conduct reasonable due diligence regarding the defendant’s known or reasonably knowable affirmative defenses before filing a preference action. The introductory sentence to Section 547(b) now reads (emphasis added), “Except as provided in subsections (c), (i) and (j) of this section, the trustee may, based on reasonable due diligence in the circumstances of the case and taking into account a party’s known or reasonably knowable affirmative defenses under subsection (c), avoid any transfer of an interest of the debtor in property…”

The full impact of the amendment is not yet known and it raises many questions. Is conducting some modicum of due diligence a condition precedent to bringing a preference action, failing which the action is subject to dismissal regardless of the merits of the case? What facts, if any, must the trustee plead to overcome dismissal? What constitutes “reasonable” due diligence? Answers to these questions and others will be debated as case law develops.

At least one court, noting the provision was adopted “to curb what [Congress] perceived as an improper use of preference actions in some instances,” interpreted the new requirements (reasonable due diligence and consideration of known or reasonably knowable affirmative defenses) as statutory prerequisites to a trustee bringing a preference claim that must be pled. See In re ECS Refining, Inc., 625 B.R. 425, 454

TOOLS continued on page 33

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The Small Business Reorganization Act And Its Evolving Case Law

By James S. LaMontagne

The opinion is a reminder that it is always important, but not always easy, to present your case as you would like it to be read. In the trial court, the judge may interpret your words in a different way than you intended. On appeal, the appellate court may interpret the judge’s decision in a different way than you intended. This can happen even if you have presented your case in the same way in both the trial court and on appeal.

If you argue a key fact to the trial court, you are stuck with that position on appeal even if you argue a different position to the trial court. This can be a problem if you have presented your case in the same way in both the trial court and on appeal. If you have presented your case in a different way in both the trial court and on appeal, your appeal will be denied.

What is more interesting from an appellate lawyer’s perspective is the First Circuit’s reliance on the “invited error” doctrine. In In re Freeman, 2021 Bankr. LEXIS 1249 (Bankr. N.D. Cal. 2020), the First Circuit held that the “invited error” doctrine does not apply to objections to a bankruptcy reorganization plan. The court held that the “invited error” doctrine does not apply to objections to a bankruptcy reorganization plan because the debtor’s objections were not made in good faith.

Reading the opinion reveals that trial counsel was struggling to make a very weak argument. That led to counsel taking inconsistent positions as the debtor’s救济 was not engaged in commercial or business activities on the petition date because the debtor had sold the business with no intent to return to it and was otherwise not active or involved in any commercial or business activities. The court ruled that the debtor did not render the debtor “engaged” in commercial activities.

In a decision decided shortly after the SBRA was enacted, the court in In re Wright, 2020 LEXIS 1240 (Bankr. S.D. Cal. 2020), ruled that the definition of “small business debtor” was not limited to debtors currently engaged in business or commercial activities and allowed the debtor to proceed under Subchapter V even though he was “addressing residual business debt” from businesses that had ceased operating more than a year earlier. While the Wright decision was later followed in In re Bonert, 2020 Bankr. LEXIS 1783 (Bankr. C.D. Cal. 2020), the support for this line of cases is weakening significantly.

Finally, on the issue of eligibility, and specifically, the issue of debt limits within Subchapter V, the bankruptcy court in In re Parking Management, 620 B.R. 544 (Bankr. MD. 2020), held that the Subchapter V debtor’s lease rejection claims (which caused the debtor to exceed the $7,500.00 Subchapter V debt limit) would not be considered in the debt limitation determination under section 1102 of the Code because the rejection claims were contingent claims as of the petition date.

Another issue that has garnished attention from the courts is whether or not to extend status conference and plan deadlines (60 and 90 days after the order for relief, respectively) (the “Deadlines”) when a debtor converts to Subchapter V after the Deadlines have expired. Under the Code, the Deadlines can only be extended if the need for the extension is attributable to circumstances for which the debtor should not justly be held accountable. In an order filed on the Hudson Corp., 618 B.R. 333 (Bankr. S.D. FL 2020), the court denied a debtor’s request to extend the deadlines after conversion, finding that where a debtor elects to proceed under Subchapter V after the statutory deadlines have passed, it cannot be said that the need for an extension of the deadlines is attributable to circumstances for which the debtor should not justly be held accountable. The court went on to write “that decision by a debtor should not foist upon creditors all of the added powers of a Subchapter V debtor without one of the most significant protections afforded to creditors — that the case proceed expeditiously.”

Not all courts are as rigid as Seven
rejection damages should be capped in bankruptcy cases. See In re Kupfer, 63 Banker. Ct. Dec. 136 (9th Cir. 2016). The “El Toro” test is considered a “simple” test that asks: Assuming all other conditions remain constant, would the landlord have the same claim against the tenant if the tenant were to assume the lease rather than reject it?

Courts in the Third Circuit have followed the lead of the Ninth Circuit and similarly adopted the El Toro test. For now, the First Circuit has yet to adopt the El Toro test for determining what claims of a landlord are subject to the Section 502(b)(6) cap.

As the challenges of the COVID-19 pandemic continue to unfold, the burden of lease obligations may rise to the forefront. As tenants consider options, landlords must understand how claims may be treated if the tenant’s possibilities include a potential bankruptcy filing and rejection of a lease. With that understanding, the landlord can consider lease modification requests or evaluate the risks of a bankruptcy filing.

Chris Candon is a member of the Management Committee and serves as the Chair of the Corporate Department at Sheehan Phinney. Chris focuses his practice on the representation of debtors and creditors in bankruptcy, Restructuring and Creditor’s Rights Practice Group. Jim’s diverse practice includes the representation of debtors and creditors involved in bankruptcy, financially distressed situations, and commercial disputes.


Finally, newly enacted Section 547(j) provides a safe harbor for commercial landlords and sellers of goods and services who choose to work with businesses impacted by the pandemic. A debtor or trustee may not avoid payments (other than fees, penalties, or interest the debtor would have owed without the deferral) made by a debtor or during the preference period for rent or supplier arrearages provided that the debtor and creditor amended the lease or contract after March 13, 2020, and the amendment deferred or postponed payments that were otherwise due under the lease or contract. The provision sunsets on Dec. 27, 2022, but still applies to cases filed before that date.

Our Bankruptcy and Creditors’ Rights Practice Group represents businesses and individuals in all aspects of insolvency matters from prosecuting and defending litigation arising in bankruptcy court, to counseling buyers of assets from businesses in bankruptcy, to assisting financially troubled businesses and individuals in out of court restructurings and workouts.

Our multi-disciplinary approach bringing trial lawyers together with business lawyers ensures that our team brings the experience and creativity needed to address the wide range of challenges our clients face, and our team partners with firms locally and throughout the country to satisfy their clients’ needs.
TPS was created by Congress. Critically, many TPS and DACA holders are employed as essential workers and have played a prominent role during the COVID-19 pandemic in the U.S. The Trump administration and the recent Supreme Court decision have further underscored the need for this legislation to move TPS and DACA holders beyond what some advocates have termed immigration purgatory.

DACA was created through an executive order in 2012 to provide relief from deportation and the ability to obtain work authorization to people who were brought to the U.S. as children. There are roughly 700,000 Dreamers in the U.S. today. TPS similarly provides relief from deportation and work authorization, however, it is for individuals from designated countries suffering from civil conflict or natural disasters. There are currently 12 countries with this designation, including Myanmar, El Salvador, Haiti, Honduras, Venezuela, Syria and Yemen, and more than 300,000 people hold this status today. TPS was created by Congress through the Immigration Act of 1990, granting executive power to designate and extend the status to immigrants in the U.S. based on certain criteria. Unlike asylum, which requires individuals to prove a well-founded fear of persecution on account of their race, religion, nationality, political beliefs or membership in a particular social group, TPS allows the government to help an entire class of people. In this way, TPS is a better option to obtain a green card, a requirement to the U.S. was unlawful, there is no viable way to get a green card is to apply at a U.S. consulate abroad. Since an unlawful entry in many cases leads to unlawful presence in the U.S., leaving the U.S. to go through consular processing would trigger a years-long bar to re-entry to the U.S. Thus, for the majority of TPS holders whose initial entry to the U.S. was unlawful, there is no viable option to obtain a green card, a requirement to eventually naturalize.


8. Colun, D. et al., “Many immigrants with
A Primer on International Law Through the Belarusian Hijack of a Commercial Airliner

By Naomi Kalies McNeil

It feels like a scenario pulled from a spy thriller. On May 24, 2021, Belarus forced down a Ryanair flight traveling from Greece to Lithuania through Belarusian airspace. Belarusian President Alexander Lukashenko claimed that there was a bomb on board and ordered Belarusian fighter jets to escort the plane and force an emergency landing. Once the plane was on the ground, Belarusian authorities arrested one of the passengers, Roman Protasevich, a Belarusian journalist and dissident. No bomb or other evidence supporting a credible threat to the plane was found, and no reputable authority accepts Belarus’s version of events.

By taking the unprecedented action of hijacking a commercial passenger flight, the Belarusian government clearly violated international law. Despite the clarity of the violation, the “flexibilities” built into international law and reluctance to litigate may leave Protasevich without any recourse.

The relevant treaties that apply to Belarus’ actions are the 1944 Chicago Convention on International Civil Aviation and the 1971 Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation. Belarus is a party to both treaties, joining in 1993 and 1973, respectively. Article 1 of the 1971 Montreal Convention criminalizes the intentional communication of false information that endangers the safety of an aircraft in flight. Belarus’ fake bomb threat clearly violated that provision. As a result, any of the other signatories could bring a case against Belarus in the International Court of Justice.

There is, however, a wrinkle with that course of action. When signing the 1971 Montreal Convention, Belarus submitted a reservation to the Convention’s dispute settlement provision, Article 14, objecting to ICJ jurisdiction to hear claims for violations by Belarus. Reservations are an international law mechanism whereby a signatory to a treaty formally reserves the right not to abide by certain provisions of the agreement. As a result, the ICJ does not have jurisdiction to hear a case accusing Belarus of violating the 1971 Montreal Convention.

Thus, the 1944 Chicago Convention provides a better way to hold Belarus accountable, even though it is an older treaty and only provides for a referral to the Council of the International Civil Aviation Organization. ICAO typically acts as a standards and measures regulator for international aviation, but it does have investigatory powers. ICAO could find that Belarus violated Article 3bis(b) of the Chicago Convention by forcing the flight to land, and the findings of the ICAO are appealable to the ICJ.

Once before the ICJ, the court can award full reparations, which, as it explained in the Chorzow Factory case, would require Belarus to “wipe out all of the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been commenced.” Applying that principle, Belarus would have to release Mr. Protasevich and allow him to leave the country. This is likely true despite the fact that Mr. Protasevich is a Belarusian national. In the Arctic Sunrise case, the International Tribunal for Law of the Sea ordered Russia to release a Dutch-flagged Greenpeace vessel and the full crew at the request of the Netherlands even though there were Russian nationals aboard and it was seized in Russia’s exclusive economic zone.

Thus, international law provides a mechanism to hold Belarus accountable, but it is an imperfect one. ICAO, like any administrative agency, will take time to investigate and issue a report, and an appeal to the ICJ would add years onto the process. Mr. Protasevich likely does not have that much time. The political alternatives, however, are unlikely to produce any quicker relief.

The go-to response for modern violators of international law is to isolate the offending state from the benefits of the international community through sanctions and travel restrictions. These responses can be swiftly implemented, but they are only effective against a state that wants the benefits of the international community. Isolation from Europe is not a problem for Belarus, as it has Russia to prop it up. When European Union member states began ordering their airlines to avoid Belarusian airspace and denying EU access to Belarus’ state airline, Russia retaliated in kind and denied EU airlines access to its airspace and airports.

In the modern era, states are often hesitant to litigate questions of international law out of the fear that they will be dragged to court themselves: Why invite other powers to question their own sovereign acts? But keen use of international courts might be the solution states need to deal with rogue leaders like Mr. Lukashenko who have no incentive to respond to international political pressure. A more active international judiciary might be able to draw out such states and give victims some form of relief.

Naomi Kalies McNeil is a law clerk for the Outagamie County Circuit Court in Appleton, Wisconsin. She holds a JD from UNH Law and an LLM in International Law with International Relations from the University of Kent’s Brussels School of International Studies.

Citizenship from page 34


Estella Rendall is a bilingual second-generation American Attorney with Goff-Wilson, P.A. originally from Texas, whose experience includes advising corporate and individual clients in employment- and family-based immigration matters. With a background of moving frequently to other countries, she has developed compassion for clients navigating their way through the mysteries of the U.S. immigration system. Contact Estella at ERendall@goffwilson.com.
The Judicial Branch Welcomes Feedback from Legal and Civic Communities

As the COVID-19 pandemic crisis recedes, the entire legal system faces challenges left in its wake. A recent virtual meeting among legal and civil stakeholders offers suggestions on where to go from here.

Representatives from 22 legal and civic groups joined leadership of the New Hampshire Judicial Branch and the New Hampshire Bar Association for a virtual town hall meeting on June 10. The meeting began with an introduction from Chief Justice Gordon MacDonald and included brief discussions of adaptations made during the previous year throughout the state’s court system that will continue as courts emerge from the COVID-19 pandemic.

The Year in Review
Chief Justice of the Superior Court
Tina Nadeau remarked on the Superior Court’s pivot to electronic operations and remote hearings as well as the innovative jury trial plan that allowed the state to quickly reopen jury trials last August. She also noted the coming implementation of the new digital evidence management system for all civil and criminal proceedings that the Superior Court will begin rolling out later this summer. Nadeau said remote hearings will continue where appropriate and when parties agree.

In the Circuit Court, Deputy Administrative Judge Susan Ashley touched on the recent administrative orders extending the use of remote hearings for non-contested matters, filing electronically for some specific case types, and e-mailing D/V stalk protection petitions. Ashley also noted that the Court was sympathetic to concerns voiced by attorneys and would work to support flexibility court by court.

Real People on Both Sides
Following Judges Nadeau and Ashley, each of the participants in the virtual meeting shared the observations of colleagues, staff and constituents about the impact of the pandemic on their practices and the judicial system during the previous year.

From public defenders to representatives of the Bar Association, to leaders of rights’ commissions and victims’ groups, to the attorney general and county attorneys, all echoed the need for flexibility and compassion, and after months communicating remotely, to recognize that on both sides of every legal dispute are real people who have been acutely affected by the stresses of the previous year.

Several remarked on the immense caseload facing attorneys in both private and public spheres, which are particularly acute among public defenders, county attorneys, and the private defense bar. “Clearing the backlog is going to be an effort, really, for the entire bar to undertake,” said Attorney General John Formella.

Robin Melone, president of the New Hampshire Association of Criminal Defense Lawyers, agreed. “I have no doubt that digging out of the pandemic backlog will be the most challenging thing that the criminal justice community has ever handled, but I am also greatly heartened by the response of our members who have stepped up to take cases to help alleviate the pressure on the public defender.”

Participants also remarked on the value of remote hearings and the need to improve technology within courthouses statewide to ensure that technical solutions work as well as possible going forward.

“As many of our members would like to continue telephonic and video hearings, for procedural matters and hearings that do not involve witness testimony,” said Caroline Leonard, president of the New Hampshire Women’s Bar Association.

By Mary S. Searles
A new display, Justices of the New Hampshire Supreme Court: 1776 to the present, is now hanging on the walls of the New Hampshire Law Library.

From the earliest days of the republic to the modern day, New Hampshire’s judicial system has been led by a succession of Supreme Court justices. Photos of their likenesses have been assembled into a new chronological wall display. Curated by law librarian Mary S. Searles, the display begins in 1776 with Chief Justice Meshech Weare and continues into 2021 with current Chief Justice Gordon J. MacDonald. Brief biographies of the justices provide a snapshot of almost 250 years of New Hampshire judicial history. All photographs of the justices are in black and white, with a color photo of the Supreme Court building as placeholder for the 13 justices whose images are unavailable. If the missing likenesses are found, the photos can be easily added to the modular display.

The display was conceived by Associate Justice James P. Basett and researched and designed by Searles, who was assisted by many interns. Searles and the interns scoured bar journals, bar proceedings, and law review articles to find information about, and likenesses of, the justices. They contacted courts, historical societies, and law schools to find portraits.

“The New Hampshire judiciary has a rich history,” notes Justice Basset, “and we felt that visitors to the Supreme Court and the Law Library would appreciate learning more about the people who have served the state as justices. We hope this display will provide insights into their roles and individual histories.”

Viewers can enjoy the permanent display, Justices of the New Hampshire Supreme Court: 1776 to the present, at the New Hampshire Law Library, Supreme Court Building, 1 Charles Doe Drive in Concord. Hours are Monday through Friday, 8:30 a.m. to 4:30 p.m.

E-mail MSearles@courts.state.nh.us if you know where portraits of the following justices can be found. But others, such as Sonya Bellafant, executive director of 603 Legal Aid, stressed the importance of in-person hearings. “Even though technology has really expanded the access to the court for our clients, I must see the court on the value and importance of continuing in-person hearings,” said Bellafant. “Facing an opponent, advocating for yourself with your legal-aid attorney, and allowing the judge and everyone else in the courtroom to observe it, is crucial.”

At the conclusion, judicial branch leaders took stock of the candid concerns voiced by all the participants.

“We are grateful for the advice shared by our stakeholders and deeply appreciative of their roles in the court system, especially during the past 15 months,” re-marked Chief Justice MacDonald. “And we look forward to continuing the conversation about how best to meet the challenges we all face in the year ahead.”

For More Information
A summary of stakeholders’ suggestions and all of the submitted written comments are available for review on the judicial branch’s website: https://www.courts.state.nh.us.

By Stacie Ayn Murphy Corcoran
2011 graduate of Suffolk University Law School, practicing in Mass. and NH

June 2021
Family Law
In Re M.M. June 2, 2021
Affirmed

• Whether the Court erred in finding that the July 2020 amendment to RSA 169-C:28 does apply to the case and bars the respondent’s appeal to the superior court for de novo review.

• Whether the circuit court erred in finding neglect.

M.M. had a history of trauma and mental health conditions. A CHINS petition was filed and M.M. was placed in residential care, during which time M.M. and his divorced parents received services. Upon discharge, M.M. became aggressive, resulting in M.M. being admitted to the hospital. M.M. stabilized, but neither the Father nor the Mother was able or willing to take custody of M.M. when they were discharged and DCYF filed a petition of neglect and obtained an ex-parte order to assume custody of M.M. The circuit court denied the Father’s motion to reconsider and the Father attempted to file a motion to reconsider with the superior court for de novo review. The Father was presented with a compliance notice for taking M.M. to the hospital. The Father disagreed. Because this is a question of the nature of the finding of neglect, the Father may contest the finding of neglect. The Court found that the circuit court “should have declined to make...in light of the ongoing CHINS matter” or alternatively that there was insufficient evidence to support the circuit court’s finding of neglect. The Court found that there is no provision of CHINS that supports this position and that the Father did not present other evidence to show DCYF or circuit court erred or alternatively was
In Re S.A.
June 18, 2021
Affirmed in Part, Reverse in Part, Remand

- Whether the court erred in terminating parental rights because they failed to correct conditions that led to the findings within 12 months.

In terminating parental rights, DCYF must prove a statutory ground beyond a reasonable doubt and that termination for the welfare of the child is in their best interest. Parental rights for S.A. and B.T. were terminated for unsanitary conditions, inadequate nutrition, improper supervision and inappropriate and violent discipline. Prior to termination, the court found the mother was partially compliant with DCYF “case monitoring and management” and “referred services access” but was not consistently addressing her mental health issue and continued to demonstrate “poor decision making.

At first, A.G’s father was granted sole responsibility which he lost when he gave the mother unsupervised visitation and A.G. was placed out-of-home and the mother’s rights were terminated for the reasons above.

At a permanency hearing, DCYF was ordered to file a petition to terminate the mother’s parental rights. At a trial concerning, evidence was presented that found that the mother was “successful in some areas” but was “unable to sustain her progress” and the court found beyond a reasonable doubt that the mother “failed to correct the conditions that led to the neglect finding within twelve months of that finding.” On appeal the mother argues that the evidence was insufficient. However, the Court, relying on Zachary G., found that because the record supports the mother’s access to services in her case plan that the trial court’s finding was reasonable. The mother also asserted, but the Court disagreed, that terminating her parental rights was not in the best interest of the children. Relying on the testimony of the GAL in the record related to the unsanitary conditions of the home, remiders to the mother during visitation regarding the children’s safety the Court cannot say the trial court erred. A.G.’s father appealed the termination of his parental rights, but was unable to show that the trial court had made a reversible error based on the evidence in record of his failure to “bond with the child” and lack of DCYF case plan compliance.

S.A.’s father, who is incarcerated and was either in non-compliance or partial compliance during the twelve month review period, appealed the termination of his parental rights. The father argued and relying on Haley K, the Court agreed that the trial court erred at the permanency hearing in finding that he failed to correct the conditions that led to the neglect finding because his efforts while he was incarcerated did not “lead to the correction of the conditions that led to [S.A.’s] neglect.” While he was physically unavailable, he made provisions by identifying his sister as a relative placement for S.A. within the statutory period so the Court reversed the termination of his parental rights and remanded it for further proceedings.

Office of the attorney general (Laura E.B. Lombardi, senior assistant attorney general, on the memorandum of law)

“tainted by error of law.” Based on the preponderance of evidence, the Court found a reasonable person could have found a “like-lihood of or actual serious impairment of the child’s physical, emotional and mental well being” that the Father was required to remedy by finding M.M. shelter, following up on DCYF recommendations, and reopening the parent plan to adjust his wife’s contact with M.M.

Gordon J. MacDonald, attorney general (Laura E.B. Lombardi, senior assistant attorney general, on the memorandum of law) for the petitioners. Amy B. Davidson, of Contoocook, on the brief for the respondent.

**Supervisory Justice**

Assignments commence on the first Monday of each month

Schedule is subject to change.

Effective 6/21/21

ORDERS continued on page 38
In this slip-and-fall case, the plaintiff asserts a negligence claim against the defendant Tourist Village Motel, Inc., the owner of the apartment building where he allegedly slipped on accumulated ice and snow. Tourist Village, in turn, brings a product liability claim against Androscoggin Valley Hospital (AVH), the lessee of the subject property and the plaintiff's employer. In its third-party complaint, Tourist Village alleges that AVH breached the indemnification and insurance procurement provisions in its lease agreement with Tourist Village. AVH moved for judgment on the pleadings, and the court denied the motion. First, the court concluded that it was premature to dismiss AVH's indemnification claim because resolution of the claim requires a determination as to Tourist Village's negligence in the underlying slip-and-fall case, which is still in the discovery phase. Second, the court found that AVH failed to meet the burden for judgment on the pleadings as to the insurance claim because the language in the pertinent lease provision is ambiguous. Judge Joseph N. Laplante. 13 pages.

MORTGAGE FORECLOSURE: TRUTH IN LENDING ACT; PLEADING REQUIREMENTS

Case No. 19-cv-1163-JL, Opinion No. 2021 DNH 103

In this pro se claim for damages arising from a mortgage foreclosure, the court granted in part and denied in part defendant Fannie Mae's motion to dismiss for failure to state a claim upon which relief can be granted. While plaintiffs did not oppose Fannie Mae's motion, and therefore waived any objection to the motion, the court carried out its obligation to independently examine the complaint to determine whether it was formally sufficient to state a claim. After this independent review, the court determined that all of the plaintiffs' claims against Fannie Mae were subject to dismissal except for their claim under the Truth in Lending Act. Fannie Mae had argued that the TILA claim was untimely, however, upon review of the operative documents included with Fannie Mae's motion, the court determined that the claim was in fact timely. Judge Joseph N. Laplante. 10 pages.

SECTION 1983: PRISONER CIVIL RIGHTS


In this 42 U.S.C. § 1983 lawsuit, Plaintiff Jeffrey M. Gray alleged that the defendants, four medical and dental providers at the Cheshire Correctional Institution, subjected him to deliberate indifference to his needs. Mr. Gray was subjected to extreme dental pain. The incident occurred in June 2016, and the complaint spans the period from then to roughly December 2017, by which time Gray developed an abscess on his broken tooth, numbness and pain in his face and jaw, and nerve damage to his lower lip. Three of the four defendants filed a motion to dismiss for failure to state a claim. The court denied the motion, finding that Gray sufficiently alleged that each defendant had knowledge of Gray's dental condition and the associated risk of harm, but did nothing to prevent that harm, thus stating deliberate indifference-based civil rights claims. Judge Joseph N. Laplante. 14 pages.
ATTORNEY – We are a growing Manchester family law firm that offers its attorneys competitive compensation and benefits package, control over their caseload, and flexibility in schedule. Sekelle Law PLLC is known and respected in the family law community, and for treating its clients with care, compassion, and open communication. We believe that it is vital to establish a work-life balance for all who work here. We are looking for an attorney who wants to grow their practice and desire independence to establish themselves in the family law field with a recognized firm. Sekelle Law PLLC offers a competitive compensation and benefits package. We also provide a friendly and supportive team-based work environment, an opportunity to grow your caseload and achieve autonomy in your schedule and ultimately your practice. Our ideal candidate has experience and motivation to work in family law, not afraid of a challenge, engages with people and co-workers, and possesses exceptional written and communication skills. Benefits include health, dental, vision, 401K, profit sharing, performance-based bonuses and savings. A minimum of 3 years in practice, with a focus of at least 1 year in family law is required. Send resume and cover letter describing why you are the ideal candidate and your salary requirements to heather@sekellalaw.com.

ASSOCIATE – Practice general New Hampshire Seacoast law, with emphasis on litigation and corporate counseling. We seek an associate admitted to the New Hampshire Bar. The candidate must be detail oriented, organized, self-motivated and willing to work in all areas of the law. All replies are confidential. Salary commensurate with experience. Qualified candidates should forward a resume, cover letter and references to: Kall & Lacroix, 681 Wallis Road, Rye, NH 03870 at lhighe@myfairpoint.net.

FAMILY LAW ASSOCIATE OR LATERAL HIRE – Keene-based law firm is seeking a Family Law Associate or lateral hire. Ideal candidates should have 2-5 years of experience in family law, or more, and possess the following: Strong writing and oral communication skills; knowledge of family law procedure, experience preparing answers, motions and other routine filings; significant case management experience; and the ability to competently and professionally communicate with clients, attorneys and staff. Qualified candidates must be in good standing and licensed to practice law in the State of New Hampshire. Salary commensurate with experience; benefits include 401k match, health insurance. If you are interested in applying for this position, email your Resume to Adam Kossayas kossayasbragdonline.com.

ATTORNEY – Bailey & Lefler, PA is seeking an attorney to practice in the field of Elder Law, including estate planning, Medicaid planning & Medicaid applications, guardianships & probate administration. Experience preferred but not necessary. Competitive salary and benefits. All inquiries will be held in strict confidence. Please e-mail resume to david@baileylefler.com.

LITIGATION ATTORNEY – Getman, Schuhett, Steere & Poulin, PA, seeks a full time attorney with preferably to work in all areas of experience, including defense and representation of clients. Must be admitted to the NH Bar with admission to the Maine, Massachusetts or Vermont Bar a plus. Please submit your writing sample, resume and references to Administrator at law@gsplawyers.com. All inquiries held in strict confidence.

LITIGATION ATTORNEY – Getman, Schuhett, Steere & Poulin, PA, seeks a part time attorney with preferably 2-5 years experience in litigation, including defense and representation of clients. Must be admitted to the NH Bar with admission to the Maine, Massachusetts or Vermont Bar a plus. Please e-mail cover letter, writing sample, resume, and references to Administrator at law@gsplawyers.com. All inquiries held in strict confidence.

ATTORNEY – Small established southern NH law firm looking for a full-time estate planning, probate attorney. Must be self-motivated, dependable, and able to work with many clients at once. Please send resume to bus.establishedlaw@gmail.com.

STAFF ATTORNEY: New Hampshire Public Defender is seeking an experienced criminal defense attorney. Applicants must have demonstrated commitment to indigent criminal defense and extensive practical experience. Applicants must be admitted to the New Hampshire Bar or be eligible for immediate admission by waiver. Interested attorneys should submit a resume, cover letter, and a law school transcript (uncollected or acceptable) to our Recruiting Coordinator through the Employment section on our website, www.nhpd.org.

ASSOCIATE ATTORNEY WANTED: Hayes, window & 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, and 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: pennywebster@hayeswindowandbadgewick.com.

ATTORNEY – Small, well established Lakes Region law firm looking for an attorney or firm to take it over in the near future. All terms negotiable. Interested persons should contact Brad Heller at 603-470-3200.

ASSISTANT TOWN SOLICITOR (PROSECUTOR) – The Town of Londonderry is seeking a full-time Prosecutor. Must be an active member of New Hampshire Bar. Main function is to prepare and prosecute cases in state court, and other court(s) as assigned. $75,000 DOQ, with excellent benefits. Criminal prosecution experience with the ability to lead a team of talented and hardworking associates and paralegals. Must have a demonstrated commitment to indigent criminal defense and extensive practical experience. Applicants must be admitted to the New Hampshire Bar or be eligible for immediate admission by waiver. Interested attorneys should submit a resume, cover letter, and a law school transcript (uncollected or acceptable) to our Recruiting Coordinator through the Employment section on our website, www.nhpd.org.

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**Director of Professional Development**

A member of the NHBA Management Team, the Director of Professional Development is responsible for managing the Professional Development Department staff, as well as activities related to the delivery of NHBA continuing legal education (CLE) programs. This position includes the coordination and support of the CLE Committee, CLE program development, budget responsibility, and coordination and support of NHBA’s Substantive Law Sections.

**NHBA Lawyer Referral Service Coordinator**

The Lawyer Referral Service Coordinator is a key member of NHBA’s Marketing, Communications and Member Outreach Department. This position coordinates a variety of legal access programs for the NHBA including the Lawyer Referral Service (Full Fee and Modest Means), LawLine, and Free Legal Answers-NH programs. This position’s daily activities include interfacing with the public, recruiting, and supporting NHBA members within the programs and overseeing the programs’ support staff.

**Front Desk/Purchasing Administrator**

The Front Desk/Purchasing Administrator greets all visitors to the NH Bar Center, whether they are calling in or appearing in person. Visitors include NHBA members, the public, vendors, partners, and others. Calls come into the Bar Center via its Net2Phone IP phone system, which has the latest IP phone technology. This position is also responsible for distributing daily mail, purchasing office supplies, and handling reservations for conference and meeting rooms at the Bar Center. The Front Desk/Purchasing Administrator assists with mailings or other office-related tasks as time allows.

**Database Coordinator**

The Database Coordinator is a key member of the Business Operations Department who administers and maintains the NHBA’s member database and assists with member database software maintenance, upgrades, and implementations. The Coordinator will communicate with all staff at the NH Bar Center, as this position is also the help desk for the database, including occasional requests for reports using SQL or Crystal Report Writer. The Database Coordinator also assists with annual member license renewal to include compiling membership statistics and also acts as project manager for database-related projects.

See complete listings for these and other positions at nhbar.org/about-the-bar/nhba-careers/

All positions are 100% in-office and only local candidates will be considered.

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**BUSINESS ATTORNEY**

Seeking experienced Business Attorney to join thriving Corporate and Commercial practice with a mid-sized, 100-year-old, firm located in the heart of the Lakes Region in New Hampshire. Ideal candidate will have a minimum of 3-5 years corporate experience and an interest in building a long-term career in the Lakes Region. Commercial and/or residential Real Estate experience a plus.

Candidate must be extremely organized, able to work independently and have strong written and oral communication skills. We look forward to welcoming an attorney who is committed to excellence in his or her practice and dedicated to client service. This is an outstanding opportunity for an experienced lawyer to grow his or her career and practice in a friendly, supportive environment with experienced attorneys and an established corporate client base.

Please forward resume and letter of interest to:

Normandin, Cheney & O’Neil, PLLC
P.O. Box 575, Laconia, NH 03247-0575
or email to Atty. Kaitlin O’Neil, at koneil@nco-law.com

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**TRUST & ESTATE PARALEGAL**

Sulloway & Hollis, PLLC seeks a full-time experienced Trust & Estate Paralegal to support our Tax, Trust and Estates Practice Group. Paralegal training and a background in Trust and Estate Administration is required.

The ideal candidate will have a strong working knowledge of probate and trust administration, as well as state and federal filings and a familiarity with trust accounting, a professional manner, excellent communication skills, be well-organized and able to work independently, and will contribute to the continued growth of a very active practice group.

To qualify, you must possess a strong working knowledge of Microsoft Word and accounting software. Applicants will have a degree from an accredited college or university. We offer competitive salaries commensurate with experience, an excellent benefits package, and a cohesive team atmosphere. Qualified applicants should submit resume and cover letter to:

Jennifer L. Iacopino, Human Resources Manager
jiacopino@sulloway.com

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**DCYF – Attorney II**

**NH Department of Health & Human Services**

**Position Number #44380 – Manchester District Office**

**Salary Range:** $57,954.00 to $82,894.50

The N.H. Department of Health and Human Services, under the supervision of the N.H. Department of Justice, currently has an attorney position available representing the Division for Children Youth and Families. This position is located in the Manchester District Office.

**Duties include:** Representation of the Division for Children, Youth and Families in litigation involving the Division’s child protection program. Litigation activities include drafting pleadings and motions, conducting discovery, legal research and writing, preparing witnesses for trial, negotiating settlements, and presenting evidence and oral argument at court hearings and trials.

**Requirements:** J.D. from a recognized law school, N.H. Bar membership, a driver’s license and/or access to transportation for statewide travel and four years’ experience in the practice of law, preferably in the area of abuse and neglect or family law.

**How to APPLY:** Please go to the following website to submit your application electronically through NH 1st: [http://das.nh.gov/jobssearch/employment.aspx](http://das.nh.gov/jobssearch/employment.aspx). A paper application may be sent to: New Hampshire Dept. of Health and Human Services, 129 Pleasant Street, Concord, NH 03301. Please reference the position number that you are applying for: #44380 Attorney II. Position will remain open until a qualified candidate is found. EOE.

For questions about this position please contact Attorney Deanna Baker, Legal Director at (603) 271-1220.
PART-TIME LEGAL ASSISTANT – Cornerstone, a New Hampshire Christian advocacy group, is seeking to hire a full-time legal assistant who shares Cornerstone’s mission of protecting religious liberty. Candidates must have experience as a legal assistant or legal secretary for a litigation attorney. The ideal candidate will have a general familiarity with filing procedures, court deadlines, service of process rules, etc. Qualification as a notary public is also a bonus but is not required. Please email your resume with cover letter to ihuyett@nhcorerstone.org.

SPECIALIST 3, CONTRACTS – Manchester, NH – Comcast is looking for an experienced Contracts Specialist to provide contracts support for our Multi-Dwelling Unit sales teams. This person will be responsible for ensuring that business and legal operations of the organization are handled within Company guidelines and procedures. Provides legal advice and guidance to staff and executives in contract negotiations and compliance, product development and operations. They will communicate new and/or modified contract terms, for new and existing products, to all affected internal teams (i.e. operations, sales, finance, audit, customer support and/or data management) for their incorporation into and/or adaptation of their departmental processes, and will negotiate and draft new agreements and/or amendments to existing contracts, interacting with in-house and outside counsel as appropriate. If interested, please apply online by following the link below: https://jobs.comcast.com/jobs/description?regular=external_or_internal=External&job_id=R306978

WILL SEARCH
ANYONE WILL KNOWLEDGE of a will for William J Murphy, deceased (2/7/2007). Has DOB is 9-09-47 and he went by Bill or Coach Murphy. Please contact Shannon Murphy at 603-781-2755 with any information.

Doreen Connor
dconnor@primmer.com

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RESEARCH POSITION
House Committee Services
NH House of Representatives
Non-partisan legislative office is seeking a qualified individual to join their professional research staff.

Duties: Provide non-partisan research services and technical and administrative support to House committees. Prepare concise and accurate oral and written reports. Qualified candidate must demonstrate competence in a range of research skills including collecting, monitoring, and analyzing material from a variety of information resources involved in public policy development, preparing legislative histories, conducting multi-state statutory searches, researching and summarizing state and federal laws and regulations, analyzing statistical data, and other duties as assigned. Individual must have strong verbal, written and organizational skills and be able to handle numerous assignments concurrently in an often fast-paced environment.

Minimum Qualifications: Bachelor’s degree in relevant field required. Advanced degree or relevant experience preferred. Please email cover letter, resume and writing sample to: HCSjobs@leg.state.nh.us

Assistant County Attorney
Sullivan County
The Sullivan County Attorney’s Office is seeking an innovative and creative attorney/prosecutor with an interest in public service.

Primary responsibilities involve:
Working with law enforcement to support the investigation of criminal cases and prosecuting criminal cases in both the Circuit Court and Superior Court in Sullivan County.
Preparation of pleadings, drafting of indictments and presentation of evidence.
Providing advice and guidance to local law enforcement during non-office hours.
Arguing the state’s position at hearings and addressing post trial/conviction motions.
Directing the Victim Witness Coordinator to assist victims and witnesses of crime.

Communicating with the news media.
Salary: $62,703 - $84,649
For a job description and to apply go to www.sullivancountynh.gov EOE
Litigation Attorney – New Hampshire
Orr & Reno PA is seeking an experienced (3-5 years) litigation attorney to join our growing law firm. Qualified candidates will be energetic and self-motivated, possess superior academic credentials, have stellar communication and writing skills and a demonstrated commitment to living and practicing in Northern New England.

Orr & Reno offers a collegial and team-oriented working environment along with a competitive salary and benefits package, which includes medical, dental, life, 401(k), paid vacation, holidays, and sick leave.

Please submit a cover letter, resume, transcript and writing sample to:
Orr & Reno, PA
Attention: HR Coordinator
PO Box 3550
Concord, NH 03302-3550
Fax: (603) 223-9060
Email: resumes@orr-reno.com (Word format)
EOE

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

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

Please send resume and cover letter to:
Orr & Reno, P.A.
Attention: HR Coordinator
PO Box 3550
Concord, NH 03302-3550
Fax: 603 223-9060
Email: resumes@orr-reno.com (please send in Word format only)
EOE
No phone calls or agencies please

Family Law Attorney – New Hampshire
Orr & Reno PA is seeking an experienced (3-5 years) Family Law attorney to join our growing law firm. Qualified candidates will be energetic and self-motivated, possess superior academic credentials, have good communication, writing and advocacy skills and a demonstrated commitment to living and practicing in New Hampshire.

Orr & Reno offers a collegial and team-oriented working environment along with a competitive salary and benefits package, which includes medical, dental, life, 401(k), paid vacation, holidays, and sick leave.

Please submit a cover letter, resume, transcript and writing sample to:
Orr & Reno, PA
Attention: HR Coordinator
PO Box 3550
Concord, NH 03302-3550
Fax: (603) 223-9060
Email: resumes@orr-reno.com (Word format)
EOE
No phone calls or agencies please

Attorney - Corporate Practice Group
Do you like working with entrepreneurs? Are you interested in joining a collaborative and innovative legal practice? Cook, Little, Rosenblatt & Manson, p.l.l.c. is a highly-regarded boutique business law firm with an opening in its corporate practice group. Our ideal candidate has strong academic credentials and 2-4 years of sophisticated corporate experience.

We offer competitive compensation, as well as a platform for you to develop client relationships, become involved with local organizations, work with high-growth businesses, and build your practice in a supportive and collegial environment.

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

RiverStone
MAKING A DIFFERENCE IN THE MOST COSTLY MASS TORTS IN US HISTORY

ARE YOU TIRED OF BILLABLE HOURS?
ARE YOU MOTIVATED BY COMPLEX LEGAL PROBLEMS?

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

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

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

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

Since 1908, Upton & Hatfield has provided legal services to New Hampshire people, businesses, and municipalities. Our firm serves the state from offices in Concord, Portsmouth, Hillsborough, and Peterborough. We are growing and seeking candidates for the following positions:

ATTORNEY with 3+ years’ experience for its Peterborough office to focus on estate planning, probate and trust administration, business transactions, and real estate, and to become involved in the communities in the Monadnock Region.

ATTORNEY with 3+ years’ experience for its Concord office to focus on business and real estate transactions and to become part of the Concord business community.

PROBATE PARALEGALS with 5+ years’ experience to assist with trust/probate administration, probate filings, and trust and estate account administration, including statement reconciliations, financial reporting, and preparation of tax information for outside tax preparers. Bookkeeping experience is a plus.

Upton & Hatfield offers a competitive compensation and benefit package. Please forward a cover letter and resume to Pamela Woodworth, Administrator, Upton & Hatfield, PO Box 1090, Concord, NH 03302-1090, or via email to hr@uptonhatfield.com. All inquiries will be held in strict confidence.
Shaheen & Gordon, P.A. is seeking a Paralegal with strong personal injury and medical malpractice experience in State Court in their Manchester, NH office. The ideal candidate will have at least three (3) to five (5) years’ experience. To be successful in this role the candidate must demonstrate the ability to work as a member of a team, in addition to working independently. As to the Responsibilities below, some on-the-job training will be provided.

Responsibilities to include, but are not limited to:
• Must have strong computer skills (programs used by the office: Microsoft Office, Outlook, Excel, Adobe, Centrebase, NetDocuments), scanning and maintaining electronic files
• Must have excellent communication skills via email, phone, and with clients, court staff and opposing counsel
• Must be highly organized with the ability to prepare case files for attorney to use at court hearings
• Experience with contacting claims adjusters
• Experience with requesting, reviewing and organization of medical records and bills
• Preparing medical evidence for trial
• Management of Personal Injury Files
• Management of Medical Malpractice Files
• Preparation of general correspondence, motions and objections
• Preparation of Demand letters

• Assist with discovery and document management
• Serve and file legal papers in the correct court and familiarity with electronic filing systems

We look forward to welcoming someone who takes pride in his / her work, who is enthusiastic and flexible, and who will thrive in a fast-paced environment. Experience is required.

Shaheen & Gordon is an Equal Opportunity employer and does not discriminate on the basis of race, color, religion, sex (including pregnancy), gender identity or expression, national origin, citizenship, veteran status, age, physical or mental disability, genetic information, marital status, sexual orientation, or any other consideration made unlawful by applicable federal, state or local laws in all aspects of employment, including but not limited to recruitment, hiring, training, evaluation, transfer, promotion, discipline, compensation, termination, and layoff.

Shaheen & Gordon presents a pleasant, supportive, challenging, non-smoking work environment. Salary commensurate with experience, with excellent benefits including health insurance, flexible spending account, and 401(k) plan employer match. Please submit your cover letter and resume to recruiting@shaheengordon.com.

No phone calls or agencies please

Personal Injury Legal Assistant

Shaheen & Gordon, P.A., Attorneys at Law, is seeking a Personal Injury Legal Assistant responsible for supporting trial attorneys in State and Federal Court in their Dover, NH office. The ideal candidate will have at least 3 to 5 years’ experience. To be successful in this role the candidate must demonstrate the ability to work as a member of a team, in addition to working independently.

Responsibilities
• Management of Personal Injury Files
• Preparation of general correspondence
• Preparation of Motions and Objections
• Requesting Medical Records
• Organization and review of Medical Records
• Have solid knowledge of Court Rules and all discovery deadlines
• Have NH Superior Court and U.S. District Court filing experience
• Strong computer skills, Microsoft Office, Centrebase, Adobe, Centrebase, Net-Documents, scanning and maintaining electronic files
• Must have excellent communication skills via email, phone, and with clients, court staff and opposing counsel
• Must be highly organized with the ability to prepare case files for attorneys to use at court hearings

In addition, excellent secretarial skills, the ability to multi-task and work independently and under pressure, communicate clearly, as well as being organized and able to prioritize is required. Attention to detail and proofreading skills are a must have. We look forward to welcoming someone who takes pride in their work, is enthusiastic, flexible and who will thrive in a fast-paced environment. Experience is required.

Shaheen & Gordon is an Equal Opportunity employer and does not discriminate on the basis of race, color, religion, sex (including pregnancy), gender identity or expression, national origin, citizenship, veteran status, age, physical or mental disability, genetic information, marital status, sexual orientation, or any other consideration made unlawful by applicable federal, state or local laws in all aspects of employment, including but not limited to recruitment, hiring, training, evaluation, transfer, promotion, discipline, compensation, termination, and layoff.

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EOE

Business Law Associate Attorney

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Associate will have the opportunity to work on a variety of cases and issues in a sophisticated business law practice, including business litigation, general corporate representation, mergers and acquisitions, real estate, municipal representation and health care law. In addition to research and writing, new lawyers are encouraged to work directly with clients, develop practical skills under the tutelage of experienced and expert lawyers in the firm, and cultivate their own particular areas of interest and focus.

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