Mapping the History of Lead Contamination in the Granite State

By Katie Ragsdale, Paul Cuno Booth, and Johnny Bassett, for the Bar News

When she was apartment-hunting for her family in 2009, Heidi Leno was thrilled to find a spacious unit in an older building on Union Street in Littleton available for rent. But weeks after she moved in with husband Charles, six-year-old daughter Courtney and Maureen, not yet two years old, something started to seem terribly wrong with Matthew.

The toddler, who had previously been sounding out his first words, suddenly stopped speaking. He was constantly constipated. He had terriers that would leave him screaming in the middle of the night and unable to go back to sleep. “I lived off of two hours of sleep every day,” Leno recalls.

A doctor’s visit showed that Matthew had blood lead levels of 4.6 micrograms per deciliter and Maureen 3.7. Months later, the levels had risen to 17 for Matthew and 18 for Maureen. At the time, the U.S. Centers for Disease Control and Prevention considered lead levels of 10 or higher to be “of concern,” though experts commonly say there’s no safe level of lead exposure in young children.

The Lenos moved out, and for the past 11 years have been engaged in a lawsuit with the landlord claiming that lead poisoning is responsible for the developmental disabilities with which Matthew still struggles. Now 13, he has been found to have an IQ of between 40 and 65. His doctors say he will likely never drive or hold a job. He is now attending virtual school because the bullying he experienced during in-person classes gave him suicidal thoughts, according to his mother.

He is far from alone. While New Hampshire has made progress on the issue in the past half-decade, 580 children were found to have elevated blood lead levels in 2019.

Elevated blood lead levels disproportionately found in vulnerable children

The burden falls disproportionately on more vulnerable families, including those living in poverty. Children enrolled in Medicaid made up fewer than 30 percent of those tested in 2019 but represented about half of kids found to have blood lead levels above 5 or 10 micrograms per deciliter. According to DHHS, young children living in poverty are at especially high risk of lead poisoning.

“All in all, it’s a very significant problem,” said Dr. Alan Woolf, a professor of pediatrics at Harvard Medical School and expert on lead poisoning.

“On average, income status and housing age are the strongest predictors of heightened risk of lead exposure in New Hampshire,” Beverly Drouin, section administrator of Healthy Homes & Environment at New Hampshire DHHS, said.

Similarly, at a national level, the Centers for Disease Control and Prevention says children in low-income households and in pre-1978 homes face the greatest risk.

Because of poor housing, some Black children are at higher risk for lead exposure, according to the CDC. Nationwide, their data shows that Black children and children from low-income families are more likely to have blood lead levels above 5 micrograms per deciliter. This mirrors the trend in New Hampshire, where NH DHHS data shows that Black children made up 2.4 percent of those tested in 2019, but 7.1 percent and 8.9 percent, respectively, of those with lead levels above 5 or 10 micrograms per deciliter.

“Families who are economically disadvantaged, people of color, children of color, immigrants and refugees are still disproportionately affected compared to non-minority because of the living circumstances they find themselves in, in older housing,” says Dr. Alan Woolf, a professor of pediatrics at Harvard Medical School and expert on lead poisoning.

LEAD continued on page 14

PRACTITIONER PROFILE

Charla Bizios Stevens: Striving for Authenticity

By Katie Ragsdale

Charla Bizios Stevens has been a trailblazer since the fifth grade, when she rebelled against the regulation that girls had to wear skirts to classes in her Haverhill, Massachusetts elementary school.

One day after gym class, when her female classmates still had on their athletic pants, she marshalled them to their next class without changing, proclaiming “If the boys can wear pants to class, the girls should be able to, too, because it’s so damn cold out.”

Though she did not prevail – the principal threatened to send them all home – her sense of righteous indignation and empowerment only grew. By the time she was 13, she was knocking on doors on behalf of Democratic presidential candidate, George McGovern, asking skeptical voters what they thought about the issues.

“I think I was always interested in legal issues, constitutional issues, individual civil rights,” says Stevens, now a director and shareholder at Manchester-based McLane Middleton. “I always knew I would go to law school from the time I was fairly young.”

She has also been a literal trailblazer, hiking the hills of the nation’s national parks and participating in numerous marathons, including the recent New York City Marathon, where she raised more than $6,100 for Children’s Hospital in Boston.

Raised in Haverhill, where she attended local public schools, Stevens went on to Merrimack College in North Andover, Merrimack College in North Andover, Merrimack College in North Andover.

STEVENS continued on page 9
By Teddy Rosenbluth, The Concord Monitor

The vaccination deadline for dozens of healthcare employees was indefinitely suspended in New Hampshire after a federal judge blocked a federal mandate Nov. 29.

The Biden administration required vaccines for employees of facilities that rely on federal Medicare and Medicaid dollars, which applies to about 70 nursing homes in the Granite State and nearly every hospital and large medical center.

Employees were to have received either their first dose of a two-shot vaccine or the one-shot Johnson & Johnson by Dec. 8.

A federal judge blocked the administration from enforcing that mandate on thousands of health care workers in 10 states that had brought the first legal challenge against the requirement. The federal government will be unable to enforce the vaccine mandate within New Hampshire and the nine other plaintiff states until further notice.

The court order said that the federal Centers for Medicare & Medicaid had no clear authority from Congress to enact the vaccine mandate for providers participating in the two government health care programs for the elderly, disabled, and poor.

The preliminary injunction by St. Louis-based U.S. District Judge Matthew Schelp applies to a coalition of suing states that includes New Hampshire, Alaska, Arkansas, Iowa, Kansas, Missouri, Nebraska, North Dakota, South Dakota and Wyoming. Similar lawsuits also are pending in other states.

Some New Hampshire facilities were facing threats from staff who said they wouldn’t go to work if the mandate was enforced.

“This is a big win for New Hampshire’s health care system,” Gov. Chris Sununu said in a statement. “Nursing homes were at risk of closure if the Biden mandate remained in place. This helps maintain the staff New Hampshire needs to care for our loved ones.”

Belknap County Nursing Home in Laconia was preparing to rehire about a third of its residents as they expected a large swath of employees to quit over the December deadline. Other health care organizations that implemented their own mandates have said they have seen negligible staff turnover.

The federal rule would have required COVID-19 vaccinations for more than 77 million workers nationwide at about 76,000 health care facilities and home health care providers.

Biden’s administration contends federal rules supersede state policies prohibiting vaccine mandates and are essential to slowing the pandemic. But the judge said the health care provider case was that federal officials likely overstepped their legal powers.

“CMS seeks to overtake an area of traditional state authority by imposing an unprecedented demand to federally dictate the private medical decisions of millions of Americans. Such action challenges traditional notions of federalism,” Schelp wrote in his order.

The court order against the health care vaccine mandate comes after Biden’s administration suffered a similar setback for a broader policy. New Hampshire joined other Republican-led states in a lawsuit challenging a separate rule requiring businesses with more than 100 employees to ensure their workers get vaccinated or else wear masks and get tested weekly for the coronavirus. A federal court placed a hold on that rule earlier this month.

Sununu sent a letter to the Assistant Secretary of Labor for Occupational Safety and Health Monday, asking OSHA to delay the large businesses vaccine mandate for two months, in case the lawsuit is not ultimately successful and New Hampshire businesses need to quickly come into compliance.

“Absent that action, families and businesses are left with mixed messages from Washington and face draconian decisions during the holiday season,” the letter read. “Heavy-handed decisions from Washington have left everyone confused – and the citizens and businesses of New Hampshire deserve clarity.”

(Material from the Associated Press was used in this report.)

These articles are being shared by partners in The Granite State News Collaborative. For more information visit collaborativenh.org.
Learning How to Navigate New Challenges

By Jill O’Neill, Executive Director NHLAP

As we contend with the ongoing challenges brought forth by the COVID-19 pandemic, what is now unfolding has been termed “The Great Resignation.” Many sectors are experiencing challenges in retaining their workforce while experiencing an increasing demand for services, and expectations to meet these demands while understaffed. The legal profession has not been unaffected.

A call to action is happening within the New Hampshire Judiciary due to the backlog of cases resulting in delayed court hearings or lack of available counsel for indigent clients. The legal system is further challenged by attorney vacancies that remain unfilled within the New Hampshire Public Defender program and high caseload numbers across the board. Thankfully, this has not gone unnoticed by our Judicial leaders. A committee set up to analyze the scope of the challenges has synergized the pursuit for available funding opportunities. The committee has identified concrete solutions to ease some of the burdens and create capacity to address the backlog.

When it comes to workforce retention, your staff is your investment. Many attorneys who have families are burning out and moving into other practice settings to find an employer that will offer some level of flexibility. Those who I have spoken with emphasize their dedication to their clients and strong work ethic but due to child care and elder care challenges need some level of flexibility. Others are contemplating early retirement to catch their breath from years of demanding work where personal sacrifices were the norm. These challenges are complex and ever-changing. However, failure to maintain an open dialogue about these challenges with curiosity, preferring to focus on the return to business as usual, will likely yield dispointing results. In my former role as the associate director of adult services, the largest department, at a local community mental health center, I initially pushed for staff to return to the office. As you would expect, I was met with opposition. I went through my own personal reckoning of learning why I was becoming cynical, losing satisfaction in the job I once loved.

In my quest, I recognized that I did adapt in responding to all the necessary changes. However, this did not equate to successfully making a full-rounded shift. Making the shift included a shift in perspectives that preceded and follow the actions. I needed to relearn how to find personal happiness, job satisfaction, adaptive skills as a manager, and find balance in my life to confront the disruptions and effects of the pandemic. To become a better manager, I had to really challenge my viewpoint; I could rationalize away why staff needed to be back in the office full time. Putting my own skills into practice, I became self-aware of my thinking patterns, boiling them down into two categories: productive thoughts and unproductive thoughts. I took the unproductive thoughts and approached them with curiosity, which led to an investigatory quest to improve as a manager and really lead.

I examined the evidence, what was working and what was not. This was a hard step because I had to embrace being vulnerable by accepting the good, bad, and ugly feedback. I had to accept that I had not been managing as effectively as I believed I was. This quest led to a change in my leadership style, shifting from a directive approach to leading by coaching. Through this journey, I now sit on the other side of the proverbial fence, pushing for employers to support a hybrid work model, allowing for more employee autonomy in how the job gets completed. As a leader, I understood to be successful, this created ownership to engage my group with clarity and build upon my management strategies. The outcomes: more engaged staff, maintained productivity levels, good client care, and the retention of my staff. It took some time and patience. What I also learned from my employees:

- Tracking what an employee does with their day does not benefit managers, rather it’s distracting and demeaning to the employee. However, employees benefit from tracking their daily activities that help to improve their time management, streamline workflows, and maximize time to serve clients, leading to billable events.
- Employees value their time outside of work hours. Many are not interested in or motivated by attending employer-sponsored events after work hours. Employees would prefer employer-sponsored events to take place during work hours, whenever possible.
- Employees seek consistent, clear, and frequent communication that does not create yet another meeting or lengthy e-mails, and that occurs using a singular platform rather than multiple platforms used for employee communications.

Embrace technology and the tools that can improve workplace efficiencies. Let’s be patient and support our peers who are on the learning curve in becoming familiar with the ever-evolving technologies.

An employee feeling valued has a lot to do with leaders acknowledging the big and little ways in which their employees contribute. Don’t get too busy or lack presence to notice. Employees who are appreciated in return will be more engaged.

Managers, leaders, and others: the people you work with often notice when you are not your best self. Recently, I’ve received some calls regarding lawyers trying to navigate another’s incivility towards them. Lack of self-awareness was a contributing theme. Prioritizing time for your self-care supports fitness for duty.

Jill O’Neill is the executive director of the New Hampshire Lawyers Assistance Program, which offers free consultation for all areas of attorney wellness serving legal professionals, firms, and leaders from other practice settings. For more information, please contact the New Hampshire Lawyers Assistance Program at (603) 491-0282, or you may send a message through our secure website at lapnh.org.
Dear Ethics Committee:

I have heard that a lawyer can pay a witness for reasonable expenses, but where is the line between expenses and paying a witness for testimony? How do I determine what is acceptable and what compensation is prohibited?

You are right to be cautious. New Hampshire Rule of Professional Conduct 3.4(b) states that a “lawyer shall not . . . offer an inducement to a witness that is prohibited by law.” In New Hampshire, there is very little statutory guidance on what is prohibited by law in this context. For example, until 2019, NH RSA § 516:16 set witness fees for other than law enforcement witnesses at $12.00 per half day, and mileage was reimbursed at the rate of $0.17 per mile. While that statute has been repealed, criminal statutes regarding witness tampering still apply. Specifically, NH RSA § 641:5 prohibits anyone from attempting “to induce or cause another person to testify or inform falsely.” Fortunately, there is more detailed guidance on permissible witness compensation from the American Bar Association as well as other commentators.

The American Bar Association comment to the Model Rule 3.4(b) states, “it is improper to pay a witness’s expenses” and goes on to note that “[t]he common law rule in most jurisdictions is that it is improper to pay an occurrence witness any fee for testifying.” Thus, witnesses can be paid for their expenses, but not for their testimony.

This distinction raises the question of which category payment for time spent testifying or preparing to testify should be placed. While the comments to the Model Rule may appear to be confusing at first glance, they can be reconciled, and this question can be answered. The general rule is that you cannot pay a witness for the content of their testimony. Thus, payment made to a fact witness for time spent preparing to testify and testifying can be categorized as an “expense.” The American Bar Association Committee on Ethics and Personal Responsibility has opined that a lawyer, on behalf of the client, “may compensate a non-expert witness for time spent in attending a deposition or trial or in meeting with the lawyer preparatory to such testimony, provided that the payment is not conditioned on the content of the testimony and provided further that the payment does not violate the law of the jurisdiction.” ABA Comm. on Ethics and Professional Responsibility, Formal Op. 96–402 at 1 (Aug. 2, 1996). The opinion explains that the lawyer must be clear regarding the nature of the payment. “As long as it is made clear to the witness that the payment is not being made for the substance or efficacy of the witness’s testimony and is being made solely for the purpose of compensating the witness for the time the witness has lost in order to give testimony in litigation in which the witness is not a party, the Committee is of the view that such payments do not violate the Model Rules.” Id. at 2. Of course, it is unethical to make a witness’s payment contingent on the outcome of the case. Restatement (Third) of the Law Governing Lawyers, §117. See also, Reimbursement of Litigation Consultant’s Attorney’s Fees, New Hampshire Ethics Committee Advisory Opinion 1992–93/10 (A lawyer may reimburse the out-of-pocket costs of a fact witness or an expert witness, provided those costs are reasonably related to the litigation.). The Maine Bar has recently addressed this subject and has issued an opinion consistent with ABA Formal Opinion 96–402. See, Payment to Non-Expert Witness as a Litigation Expense, Maine Board of Overseers of the Bar, Opinion #224, April 15, 2021.

In conclusion, if you are considering paying a fact witness, you should be clear with the witness, preferably in writing, that the payment is not for the content of the testimony. Reasonable compensation for the time and expenses related to the preparation for testimony and actual testimony itself is the only appropriate payment a lawyer can make.

For a comprehensive analysis of this issue, one should review, Compensating Fact Witnesses: The Price Is Sometimes Right, 42 Hofstra L. Rev. 905 (Spring, 2014). In addition, the New Hampshire Bar Association Ethics Committee addressed this issue in a “Practical Ethics” Article in 1992. This Ethics Corner is consistent with the analysis in that article. See Compensation of Fact Witnesses: Rule 3.4(b) of the N.H. Rules of Professional Conduct, N.H. Bar Ass’n Ethics Comm. (Oct. 18, 1992).

This Ethics Corner Article was submitted for publication to the NHBA Board of Governors at its November 18, 2021 Meeting. The Ethics Committee provides general guidance on the New Hampshire Rules of Professional Conduct and publishes brief commentaries in the Bar News and other NHBA media outlets. New Hampshire lawyers may contact the Committee for confidential and informal guidance on their own prospective conduct or to suggest topics for Ethics Corner commentaries by emailing: Robin E. Knippers at reknippers@nhbar.org

We the People: The Citizen and The Constitution

*State Finals*

Volunteers Needed for Friday, January 7, 2022

Schools will participate in State Finals, “mock congressional” hearings, demonstrating their knowledge in six units of study performing units before a panel of NHBA attorneys and judges. The top performing high school class will earn the opportunity to attend the National Finals in Washington, D.C. representing NH.

Volunteers are needed to act as judges and timers.

State Finals
Friday, January 7, 2022
(Snow Date Jan. 10)
9:00 a.m. to 12:00 p.m. Lunch Provided
1:00 p.m. to 4:00 p.m.
(State Champion named following last session)

To volunteer, go to https://www.nhbar.org/civics-education/we-the-people-volunteer-form/

For more information about Law Related Education Programs, or how to volunteer for WTP Hearings, contact LRE Coordinator Robin E. Knippers at reknippers@nhbar.org

MENTOR ADVISORY PROGRAM

LEARN FROM THE KNOWLEDGE & INSIGHT OF EXPERIENCED NEW HAMPSHIRE ATTORNEYS

Dozens of highly qualified mentors are ready to help:
let us match you with the one who’s just right for you!

Applications are available at nhbar.org/mentor-advice-program/
Sign up today!

For additional information, contact Misty Griffith, our Member Services Coordinator at (603)715-3227 or mgriffith@nhbar.org

NEW HAMPSHIRE BAR ASSOCIATION
MENTOR ADVISORY PROGRAM
Equal Justice Under Law

NEW HAMPSHIRE BAR ASSOCIATION
LAW RELATED EDUCATION

www.nhbar.org  DECEMBER 15, 2021
Unwind after Midyear Meeting with Virtual Tea and Chocolate Tasting

By Misty Griffith

Relax and unwind after Midyear Meeting with a Virtual Tea and Chocolate Pairing sponsored by the New Lawyers Committee at 4:00 p.m. on Feb. 18, 2022. The Virtual Tea and Chocolate Pairing is not limited to new lawyers but is open to all members. This delightful event provides a pleasant opportunity to de-stress and indulge at the end of the day. Participants will receive a gift box with three teas, three truffles, and other surprises ahead of the event.

The guided tea tasting will be led by Kasia Lindeberg, proprietor of Open Door Tea in Stratford, Connecticut. Kasia grew up in Communist Poland, cast aside due to her spirit and drive. She immigrated to the United States where she received her university degree in nutrition and met her husband, Steve. As the owner of Open Door Tea, Kasia brings with her the true authenticity of European style cafes and a strong passion for the history of tea and its benefits. Born and raised a tea-drinker, Kasia uses her passions for nutrition and tea to create special herbal tea blends designed to provide a variety of health benefits.

Open Door Tea sources its teas from small farms in the world’s best tea regions. The decadent artisan chocolates are handcrafted by MELT chocolate, and custom-made for pairing with each tea to provide maximum enjoyment.

Mindfulness meditation led by Jeannie Holst will provide a relaxing conclusion to the event. Jeannie is a certified mindfulness instructor who combines her psychology background and her love of tea to promote overall well-being.

Thanks to the generous sponsorship of the New Lawyers Committee this event costs only $20 per person for the first 100 participants, so be sure to reserve your spot early! The price will increase to $34 for additional participants. Registration will open in January. To allow adequate time for shipping, the reservation deadline for this event is Feb. 2, 2021.

Mentor Advice Program

Whether you are a new attorney seeking guidance or an experienced practitioner with wisdom to share, the Mentor Advice Program can connect you with the right match. MAP serves over 100 mentors and advisees statewide, and would love to include you. For more information contact NHBA Member Services Coordinator, Misty Griffith at mgriffith@nhbar.org, 603-715-3227.

Bar News

Do you enjoy writing? Bar News features a different area of law each month in its practice-area section. We invite our members to share their insight and expertise by writing an article, summarizing NH Supreme Court decisions in our Supreme Court At-a-Glance feature, or submitting an opinion piece or letter to Publications Editor, Scott Merrill, at smerrill@nhbar.org.

All of us at the NH Bar Association wish you much joy and happiness this holiday season.
Year in Review from page 1

nologies, accounting best practices, recruitment best practices, policies, and processes. Annual Attorney License Renewal Season just ended on November 17. At the writing of this update, the BOPs staff have assisted over one thousand members with renewing and/or addressing their license to practice law in the State of New Hampshire for the 2022 renewal year. The BOPs Department includes Member Records, Technology, Finance/Accounting, Human Resources, Facilities, Front Desk/Reception and administrative support for NH Bar Foundation, NH Minimum Continuing Legal Education (NHMCLE), Public Protection Fund, and NH Lawyer Assistance Program. To reach the BOPs Department for questions or assistance, please email billing@nhbar.org or call the member line 603 715-3279 (EASY).

Continuing Legal Education

Quality Live Webcast and On-Demand CLE: The Hallmark of 2021

Many of our members are eager to return to in-person learning but there’s no doubt that the Bar’s CLE program has delivered in 2021. Whether live webcasts or on-demand learning through online seminars, quick Learn@Lunch CLEs, CLEtoGo audio programs, remote learning opportunities abound this year with more than seventy CLE courses offered live, plus more from our CLE sharing network and the robust catalog of online, on-demand seminars. The Midyear Meeting, offered virtually for the first time in February, attracted 596 full-day attendees for its live webcast. Following a small Practical Skills course in April for attorneys who had to meet the Supreme Court requirement very quickly, this month’s Practical Skills enrolled more than 300 newly-admitted attorneys. The NHBA said a fond farewell to long-time Professional Development Director, Joanne Himmendael, at the end of September and welcomed Mary Jenkins. The staff and CLE Committee embrace the challenge of meeting NHBA members’ lifelong professional development needs. Check the calendar and catalog for upcoming learning opportunities.

Lawyer Referral Service

In 2021 LRS said goodbye to its long-time Coordinator, Sheila Vernacy and welcomed incoming coordinator Jennifer Grewald. Anna Wintarz joined the LRS team as referral and intake specialist in September. The department is grateful to the LRS Committee, which has generously shared their experience and insight.

LRS is receiving a steady and growing number of calls each month resulting in record numbers of referrals to our panel attorneys. Since January, LRS has provided more than 6,300 referrals. These were based on a wide range of legal issues, from medical malpractice and personal injury to family law and real estate matters.

The LRS/Modest Means Program has provided affordable legal help to nearly 1,000 people in 2021. This program helps those who earn a modest living and are able to afford the usual and customary fees for representation by providing referrals to attorneys who have agreed to charge reduced fees. In addition to referrals through both programs, LRS staff members provided thousands of callers with information about, and referrals to, community resources.

Lawyer Referral Service also oversees two pro bono services. The first is Lawline, one of the NHBA’s longest-running public services. Lawline is a hotline offered once a month and hosted by anonymous volunteer attorneys/firms who offer the public access to legal information and guidance. The second program is Free Legal Answers, available to the public who earn up to 400% of the federal poverty guidelines. Volunteer panelists anonymously answer questions that are posted. So far this year, hundreds of questions have been posted and answered.

Lawyer Referral Service sincerely thanks our committee, all of our panelists, and volunteers who have helped make 2021 so successful.

Member Services

The highlight of 2021 for Member Services was launching the Mentor Advice Program. Since MAP began accepting advisee applications in March, more than 45 new attorneys have been paired with experienced mentors for professional and ethical guidance.

NHBA added three new member benefit discount providers this year: RPost for email and electronic signature cybersecurity, Tracers for investigative research, and Smith.ai for virtual receptionists and online chat.

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603 Legal Aid

603 Legal Aid is a new legal services organization that resulted from the June, 2021 merger between the New Hampshire Bar Association’s Pro Bono Program and the Legal Advice and Referral Center. They relocated to 93 N State Street, Suite 200 Concord NH 03301. In late 2021, 603 Legal Aid welcomed Emma Sisti to the firm as the new pro bono manager.

In other efforts, 603 Legal Aid held a criminal record annulment clinic in October. Additionally, in partnership with NHLA, 603 Legal Aid is coordinating a response to the anticipated surge in nonpayment evictions due to unemployment and the pandemic. The experienced statewide centralized call center staff continue to assist applicants online and telephonically. Working with multiple community partners, they are providing immediate access to information, advocacy, and resources to hundreds of applicants.

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For a second year, the pandemic has brought a tremendous inflow of clients to the Low Income Tax Clinic, most of them seeking help with missing stimulus and advance Child Tax Credit payments. Highlights from the year include:

- 63 new “representation” cases, in which the clinic represented the client before the IRS
- 137 new “consultation” cases, in which the clinic provided the client with advice and counsel
- $87,355 released or refunded to our clients because of the clinic’s work
- 8 classes on the basics of the American tax system taught to refugees newly-arrived in New Hampshire
- 18 presentations to social service providers
- 3 presentations to colleagues in the nationwide Low-Income Taxpayer Clinic program
- 109 one-on-one consultations to social workers and colleagues

In addition, the tax clinic secured a grant from the NH Charitable Foundation and NH Housing Finance Authority for a new outreach project aimed at helping low-income New Hampshire residents receive all the federal tax benefits available to them, as well as any needed funds from the NH Emergency Rental Assistance Program. As a result, 603 Legal Aid was able to hire a new staff person for the tax clinic, Vanessa Valdés, as Community Educator & LITC Assistant.

DOVE, in collaboration with its Project Partners, developed and maintained access to legal representation for victims of domestic violence and stalking protection despite challenges to serve our constituents in person.
- Advocates created chat rooms and strategic opportunities to safely and confidently meet with victims.
- Maintained the decades-long relationship with the UNH Franklin Pierce School of Law delivering a virtual training to second year Daniel Webster scholars to represent domestic violence survivors in protective order hearings.
- Elise McKay, DOVE Assistant Coordinator, and experienced domestic violence prevention specialist, contributed to several years-long violence roundtable sessions for new circuit court judges.
- As DOVE assimilated to 603 Legal Aid, the Coordinator and Assistant Coordinator worked with our sister legal services agency, NHLA, to develop a streamlined statewide online intake process for income-eligible survivors seeking representation for protective order hearings.
- Post-merger with LARC, forming 603 Legal Aid, NH Bar Association continues to promote Pro Bono Program efforts to recruit and deliver ongoing support to our prospective and current volunteers through the Marketing and Communications Department.
- DOVE continued the collaboration with the U.S. District Court of New Hampshire, marshalling seasoned volunteer attorneys to present a panel on how to help survivors end the cycle of violence and financial abuse through not only assistance with protective order cases and family law, but with consumer law, tax controversies, small claims, housing, etc.
- Despite challenges posed by the pandemic, DOVE volunteer attorneys served over 115 survivors seeking protective orders and other civil legal needs to help them obtain autonomy and stability.

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On Dec. 2, the NHBA Leadership Academy conducted its Media Relations and Public Speaking Module, sponsored by Attorney Richard Uchida. The Leadership Academy Committee and NHBA staff would like to extend their thanks to those who donated so generously of their time and talents to make this day possible, including Peter Biello (New Hampshire Public Radio), Mark Hayward (New Hampshire Union Leader), Jeff Feingold (New Hampshire Business Review), Betsy Black (Toastmasters), and Jeff Strelzin (NH Department of Justice). Leadership Academy participants will next meet in January 2022 for the Judicial module, where they will meet judges, tour courts, and learn more about the judicial process.

At Reis & Kirkland, we provide skilled representation to victims of medical malpractice and other negligent conduct. Our dedicated team welcomes the opportunity to assist you and your clients.

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Corporate Transactions: Diligence and Agreements Should Address Cybersecurity and Privacy

By Cameron G. Shilling

All businesses maintain at least some information electronically, and the value of many depends on the information they have about operations, products and services, clients and customers, vendors, employees, etc. Cybersecurity is one of the largest and most prevalent risks businesses face. Thus, as attorneys, we need to work with clients anticipating potential acquisition to address cybersecurity compliance and liability before any contractual agreement occurs. Similarly, we need to work with acquirers to anticipate how significantly the value of the acquired business depends on its information, how to conduct due diligence that effectively identifies cybersecurity and privacy compliance and liability concerns, and how to address any such issues that arise in the terms of the transaction.

Businesses in regulated industries should expect acquirers to conduct extensive due diligence concerning cybersecurity compliance. Examples include businesses involved (either directly or as vendors to other businesses) in health care, banking, defense contracting, publicly traded entities, and a wide variety of professional services, including financial, accounting, tax preparation, legal, and insurance services. Even if not involved in regulated industries, almost all businesses operate using at least some of their information electronically, and the value of many depends on the information they have about operations, products and services, clients and customers, vendors, employees, etc. Cybersecurity is one of the largest and most prevalent risks businesses face. Thus, as attorneys, we need to work with clients anticipating potential acquisition to address cybersecurity compliance and liability before any contractual agreement occurs. Similarly, we need to work with acquirers to anticipate how significantly the value of the acquired business depends on its information, how to conduct due diligence that effectively identifies cybersecurity and privacy compliance and liability concerns, and how to address any such issues that arise in the terms of the transaction.

Achieving cybersecurity and privacy compliance for purposes of a transaction typically requires at least a year for a business that has not previously addressed those matters, and several months even for a business that has done so. Thus, starting to address cybersecurity and privacy long before a transaction occurs is important. Additionally, businesses that foresee acquisition should have compliance documentation ready to go, to ease the due diligence process.

All businesses are not equal with respect to cybersecurity and privacy compliance and liability. Acquirers need to understand just how significant such issues are to the value of the acquired business, and specifically how much due diligence is required to address those issues. The value of the acquired business depends on its information, conduct due diligence that effectively identifies cybersecurity and privacy compliance and liability concerns, and how to address any such issues that arise in the terms of the transaction.

Cybersecurity and privacy issues might impact the value of an acquired business, but rarely should derail an acquisition. If foreseen and properly addressed in the letter of intent or other initial documentation, these issues can be adequately resolved in the transactional agreements. Mechanisms to address these issues include specifically tailored representations and warranties, provisions concerning liabilities retained by the acquired business, adjustments to the purchase price, provisions for the hold back and qualified release of a portion of the purchase price, cyber liability tail coverage, and separate insurance concerning cybersecurity and privacy representations and warranties made by the acquired business.

The values of many businesses depend on their cybersecurity and privacy compliance and liability. As attorneys for acquired businesses, we must prepare our clients by starting to address these issues long before potential transactions. If we represent acquirers, we have more nuanced obligations to help our clients understand how significantly the value of the acquired business depends on its information, conduct due diligence that effectively identifies cybersecurity and privacy compliance and liability concerns, and address any such issues that arise in the initial and ultimate transactional agreements.

Cameron Shilling founded and chairs McLane Middleton’s Cybersecurity and Privacy Practice Group. The group assists businesses and private clients to improve their information privacy and security compliance, and address any such issues that may arise. He can be reached at cameron.shilling@mclane.com.
Massachusetts, majoring in political science. She subsequently received her J.D., cum laude, from Boston College Law School.

After graduation, she worked at three small law firms in New Hampshire before joining McLane Middleton some 20 years ago. Her focus is employment law, education law and health care practice, and she has extensive experience helping employers address issues of discrimination, harassment and wage and hour claims.

“I value her smart and practical approach to the complicated situations we help clients navigate every day,” Schorr says. “Charla asks the right questions that guide us to the right answers. She has maintained an important focus on our self-care in a demanding profession. Plus, that infectious laugh and wicked sense of humor!” Susan E. Schorr

Stevens also has a reputation for advising employers to “do the right thing” regardless of whether they are required to by the law, and to not require that a victim of sexual harassment be required to stay silent as part of a settlement. Unless victims are allowed to speak out, she points out, there is no way of knowing how many others have been victimized. “They leave people behind them and the problems were never fixed,” she says. “I do talk to clients about not having that confidentiality in the right situation, in a clear case. I think speaking up is also part of the healing for a lot of people who are victimized.”

Stevens’s work has won her the admiration of colleagues like McLane Middleton attorney Susan E. Schorr, who has worked with her as an education and employment lawyer for some five years.

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Stevens has also been something of a pioneer on the athletic front, running track in high school before her school had girls’ teams. “It was right on the cusp of Title IX and we had to run on the boys’ J.V. (junior varsity) team,” she recalls, “and our uniforms were not girls’ uniforms.”

Nevertheless, she adds, “I loved it.” Stevens took up marathon running 12 years ago, at the age of 50, and has completed 11 events, including the recent New York City Marathon, which she finished close to her personal best of four hours and 37 minutes. “I’m pretty happy I can still do it at this age,” she says. “What I lack in speed I make up for in enthusiasm.”

 Fellow runner Christy Balch met Stevens two years ago through another running friend, and last summer traveled with Stevens and two other runners to the west coast. “It was an epic, whirlwind, 10-day trip to some of the most spectacular sights this country has to offer,” she says.

“We hiked the Utah national parks and the Grand Canyon, all planned by Charla.”

Charla Stevens finishes the New York City Marathon in November of this year. Courtesy Photo

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Charla Stevens finishes the New York City Marathon in November of this year. Courtesy Photo

“I admire her timeless sense of self, organization, her determination and just how strong she is both mentally and physically,” Balch adds. “She is one of the kindest people I have ever met. I always say I want to be like her when I grow up.”

Another runner friend, Shannon Beaumont, met Stevens on a 12-mile group run five years ago and describes her as “generous, fun, easygoing, and just a joy to be around.”

“I don’t know her in a professional setting,” Beaumont adds, “but she has incredibly strong convictions and an unshakeable moral compass.”

A Bedford resident, Stevens also hikes in the White Mountains, near the North Woodstock getaway she owns with her husband, David Stevens.

She says her athletic endeavors contribute to her ability to do her job. “In terms of mental health and physical health, it just gives you energy to keep going, grounds you, stabilizes you,” she says. “I think there’s a certain amount of dedication or stick-to-it-ness you get that translates into whatever your job is.”

Stevens has also volunteered on a number of boards, including the Society for Human Resource Management, the American Bar Association’s National Task Force on Lawyer Well-Being, New Hampshire Lawyers Assistance Program, Granite United Way and Southern New Hampshire Medical Center.

“I love being busy and I love doing things that matter,” she says. “Also, I have a hard time saying no.”

Stevens also likes to reach out to other women lawyers finding their way in a profession that “is still male-dominated in terms of leadership and you’re still bearing the lion’s share of the home responsibilities.”

“The most important thing I can say is, always strive to be authentic,” she says. “If you’re not, that’s a big burden to carry. So many women struggle with impostor syndrome. You have to find things that bring you joy and do that.”
By Tom Jarvis

Sonya Bellafant, Executive Director of 603 Legal Aid, was among the 28 new admittees to the New Hampshire Bar on November 17th. A transplant from Nashville, Tenn., she became Executive Director of the Legal Advice and Referral Center in April 2021 and then oversaw the merger with the Pro Bono Referral Program to form 603 Legal Aid in June 2021.

Earlier in November, 603 Legal Aid was awarded a grant from the NH Bar Foundation in the amount of $32,500 to overhaul their website for increased accessibility and ease of use for their applicants. Bellafant was grateful for the grant, saying that it "will also help us expand the call center so we can manage more applicants, be they online or telephonic." Previous grants from the Bar Foundation have also enabled them to purchase equipment needed to establish a formal call center at their new location on 93 North State Street and to onboard a new, more efficient telephone system, Nextiva.

The Bar Foundation has made grants totaling over $32 million since 1977. The funding, through the IOLTA and Justice Grant Programs, supports organizations that provide legal services to low-income individuals with limited access to the justice system.

Bellafant indicated that she also hopes to expand 603 Legal Aid’s capacity for direct representation in 2022. She indicated that "often times, we are an applicant’s last resort, and some of these vulnerable individuals truly need an advocate to stand beside them in a court of law. Although the need incredibly exceeds the number of available civil aid attorneys in NH, our goal is to increase the amount of direct legal representation."

Of the experience of being admitted to the NH Bar, Bellafant said, “I am licensed in three states, but I’ve never been sworn into a state where I knew the judges that swore me in. It resonated with me and showed me how tight-knit and close the legal community is in New Hampshire.”

Senior Associate Justice Gary Hicks presided over the ceremony and praised Bellafant and her efforts with 603 Legal Aid. Based on those remarks, Associate Justice Patrick Donovan moved to admit Bellafant.

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“That was an incredible feeling. It made the process more personable and memorable,” Bellafant remarked. “Having been here in NH for so many months, I was anxious to be part of the Bar, and as a member of the Access to Justice Commission, I felt this was the final piece to making my inclusion in the NH legal community official. It resonated the importance of my work and how I’m in the right place at the right time.”

Executive Director of NHBF Grant Recipient Sworn into NH Bar

You have a choice at where you open an IOLTA account.

Leadership banks provide 1% interest or more.

The money earned from the IOLTA program helps tens of thousands of our most vulnerable NH citizens receive free or low cost civil legal services.
In Memoriam

Andrew Patrick McEvoy

Andrew Patrick McEvoy, 84, of Contoocook, NH, passed away on November 16, 2021 with his loving family present. Andrew was born in New York City in July of 1937 to Andrew and Rita.

After becoming an Eagle Scout and graduating from Quincy High School in 1956, he contributed to notable projects such as the John Hancock building and the Texas Towers in Nova Scotia.

He received a Bachelor of Science Degree in Civil Engineering at New England College.

After graduation, he held a position in the New Hampshire Highway Department. Andrew felt God leading him to a different arena and he followed that calling to Franklin Pierce Law School. Andrew enjoyed being an attorney and the many people he worked with over the years. He was invited to practice before the New Hampshire Supreme Court and the United States Supreme Court, which was a great honor. Andrew actively defended and advocated for justice, family, the poor, and his deeply rooted Catholic faith.

In 1960, he met Valerie, and they wed in 1964. Together they have three children, Alyson, Valerie Ann (Ann), and Andrew (Drew). Andrew was a strong, kind, loving, and supportive father. His faith and marriage was the foundation of his family. His knowledge and guidance were the pillars in which we were anchored.

In lieu of flowers, the family requests your support to defray medical bills and funeral expenses. As an expression of sympathy, cards and donations may be mailed to Mrs. Andrew Patrick McEvoy, 68 Carriage Lane, Contoocook, NH 03229 with donations made payable to Andrew C. McEvoy, 68 Carriage Lane, Contoocook, NH 03229 with donations made payable to

Andrew was a force of nature, determined to provide for his family and give them the life he felt they deserved. His family meant more to him than anything else in the world. After overcoming adversity in his childhood, he knew what mattered most. He was unendingly proud of Alyson, Ann, Drew, and his wife Valerie and always tried his best to support them.

Anyone who knew Andrew knew that he was the most loving father and husband a family could ask for. Andrew was predeceased by his father Andrew and mother Rita. He is survived by his loving wife Valerie, his children Alyson, Andrew, and her husband Gary, grand-children Kathleen and Colleen, his sister Maria and her husband Steven, nephews Matthew and Christopher, many cousins, nieces, and nephews.

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.

It’s Almost Time to Hit the Ice

Members of Team Justice and Team Liberty at Saint Anselm College in January, 2020. Team Justice defeated Team Liberty by a score of 8-5.

The 1st Annual Campaign for Legal Services Hockey Game will be held on February 27, 2022 at St. Anselm College’s Sullivan Arena, and we are looking for skaters, sponsors and spectators! If you are interested in skating to benefit NH Legal Assistance and 603 Legal Aid, it’s almost time to lace up! The event is open to non-lawyers as well those who are part of the legal network (i.e. paralegals, assistants, retired attorneys, clerks, stenographers, etc). The more the better.

If you are interested in skating, or know of anyone who is, please contact Rory Parnell at RParnell@FMMLawyers.com or Sarah Palermo at spalermo@nhla.org. All proceeds support civil legal aid for people in need across New Hampshire.

Community Notes

Sheehan Phinney shareholder, Peter A. Nieves, has been elected a Fellow of the American Bar Foundation (ABF). Membership is limited to just one percent of lawyers licensed to practice in each jurisdiction. Members are nominated by their peers and selected by the ABF Board.

Dianne Martin, former leader of the New Hampshire Public Utilities Commission, has been named director of the Administrative Office of the Courts. Ms. Martin will lead the office responsible for the Judicial Branch’s statewide functions of audit, communications, facilities, fiscal, legal, human resources, information technology, and security.

LawLine Thank You

The NH Bar Association would like to thank Cooper Cargill & Chant for hosting November’s LawLine on Wednesday the 10th. Attorneys Andrew Dean, Christopher Meier, Deborah Fauer, Leslie Leonard, and staff members Sara McCarthy, Melissa Arias, Monica Ellison, Bridgid Anderson, and John Gosnell fielded over 45 calls from the public on a variety of legal issues, including family law, probate, and criminal law.

We are currently recruiting LawLine hosts for 2022. Hosts are needed for the months of July, October, and December.

LawLine is held on the second Wednesday of each month from 6:00 pm to 8:00 pm. The Bar forwards phone calls anonymously from people who are looking for general legal advice and information to the LawLine host’s office, and the host assembles a small group of volunteers to answer them for two hours. The Bar also provides a light dinner for all volunteers.

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Katherine J. Morneau is the 2021 Bruce E. Friedman Award Winner

By Pamela Dodge, 603 Legal Aid DOVE Project Coordinator

Swearing the lawyer’s oath is a solemn acceptance of the unique privilege that is bestowed upon lawyers to practice law. Bruce Friedman, the late founder of the civil practice clinic at UNH Franklin Pierce School of Law and a legend in the world of civil legal services in New Hampshire, raised the bar (no pun intended) for delivering on this privilege. A relationship that runs deep, 603 Legal Aid Pro Bono Program, formerly of the NH Bar Association, and the law school have paid tribute to Bruce Friedman’s legacy over the past decade by honoring the accomplishments of a UNH Law graduate and NH Bar member who exemplifies Bruce Friedman’s commitment to public service.

The recipient of the 2021 Bruce E. Friedman award is respectfully bestowed on Katherine J. Morneau. Kate is a champion to her clients and a mentor to her colleagues, notably in her efforts to empower women in the legal profession in their individual efforts to bring civility to the practice of law and create healthier communities. Her work with clients and colleagues has earned her awards within her community and state wide, and these awards bespeak her passion and dedication to serve the public and the legal profession and the importance of promoting participation to new lawyers and law students to accessing justice.

Kate shares the theater with some of New Hampshire’s legal titans:
2021 Katherine J Morneau, Morneau Law
2019 Thomas Fredenburg (posthumously), Legal Advice & Referral Center

In emergency protective cases through the DOVE Project, and assisting in criminal record annihilations. Her career exemplifies the relevance of pro bono service to the legal profession and the importance of promoting participation to new lawyers and law students to accessing justice.

Join in the celebration honoring Katherine J. Morneau on January 19, 2022 from 5:30pm – 7:00pm. This virtual setting will feature networking opportunities with the law school and alumni. There are many opportunities so stay tuned!

In the spirit of thanks and engagement, throughout the months of December 2021 and January 2022, faculty and law students of UNH Franklin Pierce School of Law will be contacting alumni practicing law in New Hampshire. As a community partner the law school is invested in supporting the law school’s outreach to engage lawyers in opportunities that foster access to justice for Hampshire’s most vulnerable. There are many opportunities so stay tuned!

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Katherine Hanna

Katherine Hanna was recently recognized by both the New Hampshire Hospital Association and the Home Care, Hospice & Palliative Care Alliance for her continued work championing revisions to New Hampshire’s Advance Directive laws.

Katherine Hanna
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Healthcare Law

Well Deserved

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Healthcare Law

New Members Admitted to the NH Bar

The following new members were admitted to the New Hampshire Bar Association at a swearing-in ceremony on Nov. 17, 2021.

Mary R. Barnhill, Richmond, Va.
Sonya G. Bellafanti, Concord, NH
Nicole J. Benjamin, Providence, RI
Samuel L. Burgess, Concord, NH
Brian J. Carr, Boston, Mass.
Benjamin T. Carroll, Braintree, Mass.
Jordi A. Carroll, Boston, Mass.
Marc R. Clerc, South Easton, Mass.
Nona E. Gillis, Portland, Maine
Renee V. Fuller, Boston, Mass.
Bryan T. Granger, Keene, NH
Daniel C. Kelley, Boston, Mass.
Janene O. Kurtz, Portland, Maine
Mark L. Lucas, Conway, NH
Ryan P. McClure, Portland, Maine
Thomas P. McNulty, Boston, Mass.
Vincent J. Rinaldi Jr., Providence, RI
Jeb S. Penka, Windham, NH
Kristin S. Saroyan, White River Junction, Vt.
Jerel Saul, Paramus, NJ
Grayson M. Shephard, Manchester, NH
Brandon M. Shortell, Boston, Mass.
Andrew T. Sirulnik, Concord, NH
Molly R. Soiffer, Boston, Mass.
Aaron D. Van Buskirk, Waltham, Mass.
Devin C. White, White Winchester, Va.
William M. Zall, Nashua, NH
Amanda earned her Juris Doctor degree from Suffolk University Law School in 2018. Prior to joining our firm, Amanda worked in the Boston, Massachusetts and Manchester, New Hampshire offices of a regional law firm for three years handling complex insurance defense litigation matters including property damage, wrongful death, breach of contract, and personal injury claims in all phases of litigation. Welcome Amanda!

CONGRATULATIONS
MELISSA FAY, ESQUIRE

For sixteen years before joining Weibrecht & Ecker in 2014, Melissa practiced a blend of Family Law and General Practice in New Hampshire. When Melissa first joined the firm, she served as Senior Paralegal, where she consistently exceeded client expectations. We are now excited to formally announce her new role as Associate Attorney.

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Jay Jarosz
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Solal Wanstok
Associate
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Devine Millimet welcomes Solal Wanstok. As a member of Devine Millimet’s Litigation Department, Solal works with many practice groups on matters ranging from commercial and employment disputes to personal relations and probate litigation. He uses a tailored approach to adapt to the particular needs and objectives of each client. Solal strives to uphold Devine Millimet’s legacy of outstanding service to clients and community.

As a law student, Solal honed his litigation skills by working in Northeast Legal Aid’s Consumer Unit and taking part in Devine Millimet’s 2020 Summer Associate Program. He also spent a semester as a director at Vermont Law School’s Institute for Energy and the Environment. Solal spent his final year of law school studying abroad at CT-Patrie Cergy Universite, earning a French business law degree in the process.

Devine Millimet welcomes back Jay Jarosz. Jay is a part of Devine Millimet’s Corporate Department and small businesses and oil, where he works on a variety of matters involving corporate and real estate issues.

Before attending law school, Jay worked as a civil engineer-in-training. He gained valuable experience handling clients, facilitating land development, and coordinating with local administrative permitting boards. To pursue a career focused on the legal and transactional side of real estate, Jay decided to go to law school. He attended Suffolk University Law School, where he served as a Note Editor of the Suffolk University Law Review and authored and published an article titled, “You are Enough. Unless of Course, It’s Not: A Missed Opportunity to Reexamine the Amygdala of Penn Central.” Jay participated in the Devine Millimet 2020 Summer Associate Program, and later joined the Devine Millimet Corporate Department as an Associate to pursue his passion for real estate and transactional law.

Devine Millimet welcomes back Sydney Gillis. As a member of Devine Millimet’s Will, Trusts and Estate Planning practice group, Sydney is dedicated to understand the individual needs and unique objectives of each client, in order to craft customized estate plans that reflect every client’s goals. Prior to starting her career at Devine Millimet, Sydney attended the University of New Hampshire School of Law. During her first summer as a law student, Sydney gained valuable experience interning at a small New England law firm, with a focus on trust and estate planning. After that, she joined Devine Millimet as a Summer Associate in 2020, working on a wide range of matters, from probate litigation to corporate matters.

Before law school, while working as a legislative aide with the New Hampshire State House of Representatives, Sydney gained exposure to the development of New Hampshire state laws. Additionally, her work at the New Hampshire Women’s Foundation as a philanthropy intern provided her with insight into planning giving.

Devine Millimet is pleased to announce that Nancy Clark has joined Devine Millimet’s Corporate Department as an Associate. For more than 15 years, Nancy has leveraged her background in engineering and law to serve businesses, primarily in the industrial sector. Her work has been focused on matters related to real estate and land use, permitting, environmental law and compliance, and mergers and acquisitions. Nancy’s experience includes work on fortune 100 mergers, acquisitions and divestiture involving complex real estate assets and environmental challenges. Her work in the environmental arena includes air, water and waste permitting, environmental reviews and operating permits. Nancy also has extensive experience working on federal, state and International environmental policies and litigation concerning PFAS and other chemical contaminants. Nancy’s experience in these areas has required successful engagement and negotiation between businesses and with public and elected officials.

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The Lenos’ former landlord declined to comment for this story, but court documents show she denies responsibility for his condition, with her lawyer arguing that studies on elevated blood levels and intelligence indicate his exposure “would in no way account” for the severity of his disabilities. On the other hand, a report by the Lenos’ psychologist, with her lawyer arguing that studies on elevated blood levels and intelligence indicate his exposure “would in no way account” for the severity of his disabilities.
The number of children tested for blood lead levels has declined in recent years, according to preliminary data from the New Hampshire Department of Health and Human Services (DHHS). In 2019, about 73 percent of one-year-olds and 62 percent of two-year-olds were tested, according to the DHHS data. While the decline is concerning, the trend is troubling for lead removal in homes.

“New Hampshire has the capacity to address lead in 226 homes in the current grant cycle, prioritizing areas where the lead problem is most severe,” said Paul Chalfour, manager of the state’s Lead and Healthy Homes program. “This is not going away.”

Testing for blood lead levels, like so much of routine childhood health care, dropped during the COVID-19 pandemic and practices closed and then, after they reopened, concerns about the virus kept many families away. According to preliminary DHHS data, about 3,100 fewer Granite State children were tested in 2020, compared to 2019.

Testing for blood lead levels, like so much other routine health care, dropped during the COVID-19 pandemic and practices closed and then, after they reopened, concerns about the virus kept many families away. According to preliminary DHHS data, about 3,100 fewer Granite State children were tested in 2020, compared to 2019. Then, this year, the company that makes the widely-used LeadCare point-of-care testing machines issued a recall of many test kits due to a “significant risk of falsely low results.” The issue remains unresolved.

Three-quarters of blood lead testing in New Hampshire is done on LeadCare equipment, Gettens says. “New Hampshire has the recent experience and data to know, if our only option is to go back to a venous draw, our testing rates will drop.”

Lead abatement programs

Sullivan County is home to one of four lead-abatement grant programs in the state. When it comes to removing lead-paint hazards from New Hampshire homes, Kate Kirkwood, who oversees Sullivan County’s lead-abatement grant program, says more money than ever is being spent.

“We’ve all got more money than we’ve ever had before,” she says. “We have a lot of applications rolling in.”

“New Hampshire Housing aims to address lead in 226 homes in the current grant cycle, prioritizing areas where a child has had an elevated lead test.”

As approved by local members of the national plaintiff (AAJ) and defense (DRI) bar associations*

**The National Academy of Distinguished Neutrals (www.NADN.org) is an invitation-only professional association of over 900 litigator-rated mediators & arbitrators throughout the US and a proud partner of the AAJ and DRI. For more info, please visit www.NADN.org/about**
Hi, Vinay, it’s been a while since we worked together during the 2020 Presidential Primary, which is of course one of the most stereotypical things about New Hampshire and perhaps one of the best reasons to come to the States. Why don’t we begin with a little bit about your background: where you’re from, where you went to school, why you decided to practice law in the United States, and of course, anything else you’d like to say.

I’m from Sydney, Australia. I did my law degree there, but also did some studies in France. I’d lived in the US for a year straight after graduating, applied for the Green Card Lottery, and actually won—eight years after graduating, applied for the Green Card entry, such as an extremely high cost of a law degree and subsequent debt.

Furthermore, the legal culture here is noticeably different from that of the United States. Australia is a commonwealth nation, is extremely similar.

The United States has a distinct attitude towards lawyers to be quite different from the legal culture. Australia still retains much of the English formality—wigs, barristers, even an expected highly-formalized style of speaking. I know that India, another Commonwealth nation, is extremely similar.

The main thing that has stood out for me is the difference in legal culture. Australia still retains much of the English formality—which makes me uncomfortable. This is another job. In the US, lawyers seem to be less formal than their counterparts in Australia.

Along the way I became a practicing media lawyer. That meant sitting the Bar exam here. I have to admit, I didn’t really know what I was doing when I started. A few months in, I understood the best way to prepare was to get a Bar prep course. When I did this, I found my preparation improved dramatically.

It’s no secret that the Bar exam is a horrible experience—and it’s a particularly horrible one for a foreign lawyer. In Australia, law is taught and tested in a wildly different manner, which made me particularly unprepared for the style of the Bar. The most obvious difference is that law exams in Australia are open-book. The idea is that real practice does not involve memorization, so the key skill for testing is our problem-solving skills. Learning to remember thousands of rules was incredibly challenging, as I hadn’t had to do much memorization work since high school.

On a connected note, most Australian lawyers do not sit the Bar exam—only those who wish to be barristers do. As a result, I never had to sit an exam with more than one law subject tested in it, let alone the 15 or so tested in the US Bar exam.

Law is very much taught in Australia as an argument, so the very concept of multiple-choice questions in law would not make sense to Australian lawyers. Here, multiple-choice questions constitute half the Bar exam. It was very difficult adjusting to the idea that there is only one correct answer. However, a welcome change from this style of thinking was that the essay sections in the Bar exam were conceptually much easier than the long, complicated problem questions I would get in Australian law exams.

Subject-matter-wise, it was much less of a challenge than I expected. Many subjects overlapped, not only because common roots in English law, but that wonderful habit judges (and politicians) have of borrowing legal concepts across jurisdictions. Some subjects, as in torts, wills, and crime, law, were nearly identical. Even subjects like constitutional law, where you are obviously working off a different constitution, have overlapping concepts and styles of thinking.

Although you’re just starting out in practice, what are some of the biggest contrasts between the US legal system and Australia’s, or perhaps even more broadly, the Commonwealth nations in general?

The main thing that has stood out for me is the difference in legal culture. Australia still retains much of the English formality—which makes me uncomfortable. This is another job. In the US, lawyers seem to be less formal than their counterparts in Australia.

On a related note, I find the general public’s attitude towards lawyers to be quite different. In Australia, it is mostly seen as just another job. In the US, lawyers seem to be placed on a pedestal by the public—in a manner which makes me uncomfortable. This is likely a cultural difference. Australian culture strongly discourages status differentiation, likely due to its convict past and resulting anti-authoritarian attitudes.

Are there any benefits from transitioning into the US legal system from a foreign legal system?

I’d say there is for people looking to do international work. In a corporate setting, it’s obviously hugely beneficial to have prior experience in a market that a company is trying to break into.

In an advocacy setting, there has been a tendency to move towards global movement building, as often the issues being addressed area global in nature. Having international experience is similarly useful, whether it be through building coalitions or crafting solutions which are applicable across multiple countries.

No doubt, every legal system has its faults. What are some of the things you’ve found to be problematic with the US legal system, perhaps, but not necessarily contrasted with certain benefits or problems in the Australian legal system?

I feel I’ve addressed this above in some depth.

What area of law are you thinking about practicing and how do you have (or how have you most decided)

I’m looking to find my way back into the advocacy and political space in the medium-to-long-term. However, I’m in a new country, now is the best time to be trying to new things!

I’m particularly open to fields of practice involving new technology, such as space and cryptocurrency. It’s interesting to see how law, which is slow to evolve, adapts to quickly changing technology. These are areas of law badly in need of federal legislation to provide guidance, but political polarization is making that increasingly difficult. How the judiciary responds to these in the absence of legislation will be exciting to watch.

Do you plan on practicing internationally again, at some point?

Absolutely. When I do end up back in the advocacy space, I want to engage in international work. In a corporate setting, it’s interesting to experience in a market that a company is trying to break into.

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Do you plan on practicing internationally again, at some point?

Absolutely. When I do end up back in the advocacy space, I want to engage in international movement building. Working between the US and Australia is an obvious starting point for me, but I have no desire to limit myself to just those two countries. I’m particularly interested to see how advocacy operates in non-Western contexts.

Thank you, Vinay, and best of luck with the beginning of your legal career in the United States!

Travis Bennett is currently a 1L student at the University of New Hampshire Franklin

**BENNETT continued on page 17**
Uniting Through Writing

By Anna Elbroch

UNH Franklin Pierce School of Law’s Legal Writing program works with over 200 1L students across two programs, residential and hybrid, on legal analysis and writing. Our 1L class hails from seven countries and 38 states.

In the residential program, students come together in New Hampshire to learn how to solve legal problems and communicate their analysis. The hybrid program units working professionals to learn writing and analysis – a communication skill that unites lawyers everywhere – weekly over Zoom and in-person two weeks throughout the term, and through written assignments. The Legal Writing program is undergoing a transition, not only with the largest 1L class in over five years, but after the retirement of long-standing, beloved director Amy Vorenberg. As part of that transition, the Legal Writing program is committed to uniting students and the New Hampshire legal community through written communication.

In that vein, in October, UNH School of Law celebrated the National Day on Writing®, asking community members to respond to the following prompt: How does writing unite? Several themes emerged: writing empowers marginalized voices; writing is permanent, and writing is a form of communication that works across time and space and differences in worldview.

As lawyers, we empower the voiceless. One student, Kary, ‘24, wrote:

“Writing unites because it creates a balance by giving a voice to those who may not have the courage to speak up. There is power in a written statement. It is a medium where they, too, can have their opinions heard, understood, and acknowledged.”

As lawyers, we inhabit our clients’ experiences. A student, earning her LLM, Karla, ‘22 shared:

“Writing unites because it allows us to step into other people’s shoes and see the world from their perspective. To write, you must first listen, know, and understand. Through writing, you can amplify other people’s voices, connect with their stories, and allow others to understand a different point of view. A powerful piece of writing can connect people and make them realize that they are so much more alike than different.”

As lawyers, we make connections. Another student, Mithra, ‘22, provided:

“Communication is connection: lack of communication has begun wars and caused chaos. And what is a better way to communicate than with written words? Oral expression of thoughts and ideas form connections with the people who are present at the time they are made. But written words have the power to reach the hearts of generations of people. It offers a sort of permanence where in the readers may have access to it at any given time. It is for this reason why writing has the power to unite people, both present and future.”

As lawyers, we write to understand, to persuade, and to educate. Although being a gifted orator can impact our case, writing is the form of communication we rely on to resolve disputes, initiate cases, advocate to the court, negotiate with opposing counsel, and provide information to our clients. Our writing has power. John, ‘24 wrote:

“[Writing] allows us to share our thoughts across time and space. Once a thought is put to paper it becomes immortalized for all to benefit. There is no limit to who can benefit from a piece of writing; it only depends on who you can get to read it.”

We teach our students that effective, powerful written communication begins with three steps. First, we determine the communication genre. We identify the audience (e.g., the file, the court, the client, the public) and the function of the writing (e.g., Are we looking to educate our client on a plea offer? Are we looking to persuade the court the law supports our client’s position? Are we hoping to reach a resolution?). Our audience and purpose determine our tone, content, structure, and form of the communication.

Second, we analyze the legal problem step by step. After identifying the issue, we consider the various sources of applicable law, and based on these, synthesize legal rules that allow us to analyze and resolve the issue in light of our client’s particular situation. We apply the rules to our client’s situation, developing arguments that further our purpose.

Lastly, we write. We capture the analysis step by step, allowing any reader to easily access the law and how we reached our conclusion. We choose words intentionally, not wastefully. In the words of one student, Shreenu, ‘23: “An individual can share a thought, opinion, or idea in exactly the way they mean to share it.”

We labor over each word in each paragraph, in each section, ensuring the impact of each word on the audience and our purpose. Another student, Brittany, ‘23, wrote: “Writing allows us to carefully harness the power of language to patiently and intentionally interact.”

This power requires skill – a skill that takes time and practice. For some of us, our law school days may seem far away, but the critical role of writing continues throughout our careers. The UNH Law Legal Writing program wants to help. Starting in January 2022, we will provide tips and discussions about writing, from commas to gendered pronouns to the use of examples, in a new Writing Corner of the Bar News. We welcome feedback and topic ideas. Please submit your questions on style, grammar, or other writing topic. Join us as we “harness the power of language.”

Please provide any topic ideas here: https://forms.gle/stueFpsBLn7Sb9gVrE6

Anna Elbroch is the new Director of Legal Writing at UNH Franklin Pierce School of Law. She has prior experience as a public defender and in private practice representing children.

Bennett from page 16

Pieper School of Law. Prior to attending law school, Travis received a Bachelor’s degree in Political Science from Plymouth State University. During his third year of undergraduate studies, Travis was elected as NH’s youngest State Representative in 2014, serving in the NH Statehouse for two consecu-
By Scott Merrill

When books are made into movies, there’s often a flurry of new bookstores that show up in bookstores and online. Newly-branded covers remind shoppers that the books they’re holding was the inspiration for the movie. And as with all adaptations, the producers tend to take a fair amount of dramatic license.

I usually read the book before I see the film, but this wasn’t the case with Ken Feinberg’s What Is Life Worth, originally published in 2005 and re-released in 2021. Feinberg’s book was one of the guiding sources for the film, which aired on Netflix in September. I’d stumbled upon the film two months ago and as I watched it, I found myself emotionally drawn back to 9/11. The next day, I picked up the book.

What Is Life Worth is the account of Feinberg’s three-year struggle to compensate the victims of the 9/11 attacks 20 years ago. And as most books made into movies, it has its share of embellishments.

For instance, the movie has a scene where Feinberg meets with senators Ted Kennedy and Chuck Hagel on Sept. 22, 2001 to discuss how the fund should work. The movie makes it seem as though they’d sought Feinberg out because of work he’d done on other high-profile mediations as well as the Agent Orange settlements in the 1980s. The reality, according to Feinberg, is that he called Hagel himself and by Sept. 22, 2001, the Air Transportation Safety and System Stabilization Act—the bill that established the Victim’s Compensation Fund—had already been worked out in Congress.

As I was reading What Is Life Worth—trying and failing to get Michael Keaton’s image out of my head, just as I do when I think of Fight Club and Brad Pitt—I grew more and more interested in the ethical question the title of the book raises and the emotional turmoil it set off within me. Should the value of a life ever be reduced to money, and if so, who should decide? The first question may seem simple. Yes, the value of a life can be reduced to money and Feinberg is the one, in this case, who had to decide. But in his telling, he displays both a pragmatic and a deeply empathetic response to these types of questions. In fact, What Is Life Worth could be seen as a confession, a coming-of-age story, and a straightforward first-hand account of historical events and legal realities all rolled into one.

At times Feinberg reveals his shortcomings when dealing with individuals, such as the time at a town hall meeting when he told a group of grieving family members that “this is the only real game in town.” —“With a sinking feeling I realized what I had said. The room practically erupted in anger. One outraged wife spoke for the group. ‘To you this may be a game,’ she spat. ‘But not to us.’ Heads nodded around the room. What could I do? I apologized profusely and inwardly vowed to never, ever use that kind of language again. I never did.”

Compounding victims, Feinberg makes clear, is an everyday occurrence in courtsrooms across the country. It’s a question the law provides clear answers to in terms based on a person’s compensation, assets, as well as pain and suffering. It is justice determined by a formula that seeks to deliver fairness, even if it can never actually make up for the loss a person has suffered. But given the magnitude of 9/11 and Feinberg’s discretion to determine the ultimate amount of the awards, the question of getting it right and avoiding political and social upheaval was crucial. And this is where the reality of the hour-to-hour feel of the book outstrips the movie’s ability to clarify the lives. It is justice determined by language again. I never did.”

If you’ve seen the movie and find yourself looking for an authentic depiction of how the VCF was administered—and what the emotional toll was for those involved—you should read What Is Life Worth. I thought Keaton played Feinberg well—a little heavy-handed to be, according to Feinberg, who provided him some thoughtful advice regarding this role.

“Ken, just make sure that 15 percent of the families don’t receive 85 percent of the taxpayer’s money.” Pure economic loss calculations might call for the family of a Cantor Fitzgerald bond trader or Keefe Bruyette banker to receive double digit millions from the fund, even after deductions, but I would reduce such awards.

The movie seems to have taken the number 85 and made it appear that without 85 percent of the eligible pool coming into the fund, the fund would be viewed as a defeat or a disaster. But Feinberg makes clear this wasn’t the case. And in the end, 97 percent of all eligible families that lost a loved one came into the fund voluntarily. Only 94 people, 3 percent, decided to litigate, and those who did settled in later years.

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DECEMBER 2021

MON, DEC 20 – Noon – 1:00 p.m.
What Lindsay Lohan Teaches Lawyers About Substance Abuse w/ Stuart Teicher
  • Webcast; 60 NHMCLE ethics/prof. min.

MON, DEC 28 – Noon – 2:00 p.m.
Legal Tech for the Seasoned Attorney w/Barron Henley
  • Webcast; 120 NHMCLE min.

JANUARY 2022

THU, JAN 13 – Noon – 1:00 p.m.
The Status of Estate Planning Following the Passage of the Build Back Better Legislation
  • Webcast; 60 NHMCLE min.

THU, JAN 27 – Noon – 1:30 p.m.
Intellectual Property & the Creative Client
  • Webcast; 90 NHMCLE min.

FEBRUARY 2022

THU, FEB 3 – Time TBD
Consumer Law
  • Webcast; Credits TBD

MARCH 2022

THU, MAR 17 – Time TBD
Consumer Bankruptcy - A New Hampshire Overview
  • Webcast; Credits TBD

MAY 2022

THU, MAY 5 – Time TBD
Torts/Damages
  • Webcast; Credits TBD

WED, MAY 18 – 9:00 a.m. - 1:15 p.m.
Intellectual Property for the General Practitioner
  • Webcast; 225 NHMCLE min., incl. 30 ethics/prof.

THU, MAY 26 – 8:30 – 10:30 a.m.
16th Annual Ethics Program
  • Webcast; 120 NHMCLE ethics/prof. min.

LUNCH

LUNCH

LEARN

LEARN

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(if you missed any of the previously held programs, they are now available ON-DEMAND)

From Our Partners in the Sharing Network

Advising Immigrant Clients – Meeting Your Legal Obligations as a Defender
Original Program Date – November 8, 2021
  90 NHMCLE min.
This program will provide updated legal developments on immigration consequences in criminal proceedings.

From Cumberland School of Law Continuing Legal Education
Breaking Down the New Stark Regulations
Original Program Date – October 1, 2021
  50 NHMCLE min.
During this program, the speaker covers the many important changes stemming from the Stark Law (federal physician self-referral law).

From the Wyoming State Bar Association
Best Practices for Discovery: Procurement and Provision
Original Program Date – November 10, 2021
  60 NHMCLE min.
This program will discuss issues relative to obtaining discovery in criminal cases.

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Kenneth R. Feinberg is one of the Nation’s leading experts in alternative dispute resolution, having served as Special Master of the 9/11 Victim Compensation Fund, the Department of Justice Victims of State-Sponsored Terrorism Fund, the Department of Justice Boeing 737 Max Crash Victim Beneficiaries Compensation Fund, the Department of the Treasury’s TARP Executive Compensation Program and the Treasury’s Private Multiemployer Pension Reform program. He was also Special Settlement Master of the Agent Orange Victim Compensation Program. In 2010, Feinberg was appointed by the Obama Administration to oversee compensation of victims of the BP oil spill in the Gulf of Mexico. Most recently, he has served as Administrator of the NY State Dioceses’ Independent Reconciliation and Compensation Funds, the One Orlando Fund, the GM Ignition Switch Compensation Program, and One Fund Boston Compensation Program arising out of the Boston Marathon bombings. He is currently the Court-appointed Settlement Master in the Fiat/Chrysler Diesel Emissions class action litigation. He has been appointed mediator and arbitrator in thousands of complex disputes over the past 35 years.

Lisa Bragança helps defrauded investors recover losses and represents individuals and firms in federal and state financial regulatory investigations. She served as a Branch Chief in the Division of Enforcement of the Chicago Office of the Securities & Exchange Commission (SEC), where she handled investigations of accounting fraud, Ponzi schemes, insider trading, churning of investor accounts, and unsuitable investments. Since leaving the SEC, Lisa has helped recover millions of dollars of investment losses in court and in FINRA arbitrations. She has represented individuals and entities in numerous investigations by the SEC and other regulators into cryptocurrencies and token offerings, insider trading, financial fraud by public companies, and other alleged misconduct. Recently she served as a testifying expert on insider trading law. Lisa also writes and speaks about recovering investment losses, digital coin regulation, securities regulation, elder financial exploitation, and behavioral finance.

We’ve all heard the phrase, “diversity and inclusion,” but what does it actually mean to make a workplace or organization even more diverse and inclusive? Ellen (Ellie) Krug, a civil trial attorney in Cedar Rapids, is one of “25 Legal Advocates Fighting for Trans Rights.” She is also a monthly columnist for Lavender Magazine and a weekly radio host on AM550 radio. Her monthly newsletter, The Ripple, can be found at elliekrug.com. Ellie presently lives in Minneapolis and is the founder and president of Human Inspiration Works, LLC (humaninspirationworks.com).

Patrick Jaicomo is an attorney with the Institute for Justice and one of the leaders of U’s Project on Immunity and Accountability. Through the project, Patrick works to promote judicial engagement and ensure that government officials are held to account when they violate individuals’ constitutional rights.

Patrick argued Brownback v. King before the U.S. Supreme Court. That case, which involves the brutal choking and beating of an innocent college student by law enforcement officers working as members of a state-federal task force, will now return to the Sixth Circuit. There, the court will decide whether two claims brought in the same lawsuit can cancel each other out, simply because one of the claims was brought against the federal government. Patrick has litigated accountability issues—including qualified immunity and the restriction of constitutional claims against federal workers—across the country and at every level of the federal court system.

Registration Opens Next Month - Watch for Details!
Unconventional Responses to Unique Catastrophes:
Pension Reform program. He was also Special Settlement Master of the Agent
investment losses, digital coin regulation, securities regulation, elder financial
cryptocurrencies and token offerings, insider trading, financial fraud by public
companies, and other alleged misconduct. Recently she served as a testifying
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the One Orlando Fund, the GM Ignition Switch Compensation Program, and
Compensation Fund, the Department of Justice Victims of State-Sponsored
Terrorism Fund, the Department of Justice Boeing 737 Max Crash Victim
Chrysler Diesel Emissions class action litigation. He has been appointed
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out, simply because one of the claims was brought against the federal
In November 2020, Patrick argued Brownback v. King
Her monthly newsletter,
[Hum]
Gray Area Thinking
Getting to Ellen: A Memoir about Love, Honesty and
Gender Change
A hopeless idealist, Ellie has presented her inclusivity training, Gray Area
became one of the few attorneys nationally to try jury cases in separate
across the country and at every level of the federal court system.
Human Inspiration Works, LLC (humaninspirationworks.com).
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Consumer Bankruptcy
A New Hampshire Overview

THU, March 17, 2022 • Time TBD • Credit TBD

Trustees, practitioners and the US Trustee’s office discuss and explore the ins and outs of consumer bankruptcy in New Hampshire. The program will include an informal discussion with Chief Bankruptcy Hon. Bruce Harwood.

Faculty

Edmond J. Ford, Program Chair/CLE Committee Member, Ford, McDonald, McPartlin & Borden, P.A., Portsmouth
Hon. Bruce A. Hardwood, Chief Judge, United States Bankruptcy Court, District of New Hampshire, Concord
Michael S. Askenaizer, Law Offices of Michael S. Askenaizer, PLLC, Nashua
Kimberly Bacher, Office of the US Trustee, Concord
Ryan M. Borden, Ford, McDonald, McPartlin & Borden, P.A., Portsmouth
Eleanor Wm. Dahar, Dahar Professional Association, Manchester
Ann Marie Dirsa, Office of the US Trustee, Concord
William M. Gillen, Law Offices of William M. Gillen, Manchester
Lawrence P. Sumski, Sumski Law Office, Manchester

More information coming soon!

TECHNOLOGY
Staying Current with Webcasts on Emerging Technology Issues

Paul Unger  Barron Henley

Legal Tech for the Seasoned Attorney with Barron Henley
TUE, December 28, 2021 • Noon - 2:00 p.m. • 120 NHMCLE min.

For many in the generation of lawyers who didn’t grow up with technology, the new tools and procedures being thrust upon us are a constant source of discomfort and irritation. Learn to be more self-reliant and confident about the technology tools we simply cannot avoid while practicing law.

How to Better Manage Your Workload: Task, Goal & Deadline Management with Paul Unger
More Information Coming Soon!
In this interactive session, you will learn how to build a master task list that captures everything that you must do in a way that those items never get lost.

DECEMBER 15, 2021 www.nhbar.org NEW HAMPSHIRE BAR NEWS

For more information or to register, visit https://nhbar.inreachce.com

DID YOU MISS THESE NHBA•CLE PROGRAMS?
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Business Litigation
Original Program Date-September 14, 2021 • 310 NHMCLE min. incl. 45 min. ethics/prof.
This CLE covers a variety of topics pertaining to business litigation including non-compete and non-solicitation agreements; trade secrets; computer forensic issues; and much more.

Planning and Zoning 101
Original Program Date-October 7, 2021 • 360 NHMCLE min.
Planning and zoning law is the bread and butter of the land use practitioner. Whether you’re new to the practice or are an experienced attorney looking to refresh your knowledge of the subject area, this CLE is for you!

Juror Investigation Using Social Media
Original Program Date-October 5, 2021 • 60 NHMCLE ethics/prof. min.
This CLE is an overview of the ethical pitfalls that exist surrounding a lawyer’s research of jurors via social media. Also discussed is how a lawyer should decide whether juror investigation through social media is ethically required and practical suggestions on how to conduct this research when it is necessary.

Collaborative Law
Original Program Date-October 6, 2021 • 60 NHMCLE min.
Discussion of the Collaborative Law process and the new Collaborative Law Act that was recently signed into law that will govern the Collaborative law process in NH.

20th Annual Labor & Employment Law Update
Original Program Date-October 14, 2021 • 360 NHMCLE min. incl. 90 min. ethics/prof.
This seminar addresses cutting edge developments in employment law over the past year focusing on changes in the new administration and Covid’s impact on the workplace.

Legal Issues Associated with Commercial Websites
Original Program Date-October 26, 2021 • 60 NHMCLE min.
This CLE covers what operators of commercial websites need to know about (1) privacy and security risks when handling data; (2) common intellectual property issues arising from the operation of commercial websites; and (3) key provisions that should be in the terms of service government commercial websites.

Developments in the Law 2021
Original Program Date-October 28, 2021 • 360 NHMCLE min. incl. 60 min. ethics/prof.
This annual CLE seminar is a must for all practicing New Hampshire attorneys. This program offers a complete survey of important legal developments affecting NH practice.

Border Law & Confidential Client Information
Original Program Date-November 3, 2021 • 60 NHMCLE ethics/prof. min.
When traveling internationally, attorneys may need or want to bring work with them. But doing so gives rise to unique ethical considerations. This program explores attorneys’ ethical obligations when leaving and re-entering the United States, and suggests some best practices to safely navigate those obligations.

Nuts & Bolts of Family Law
Original Program Date-November 5, 2021 • 30 NHMCLE min.
This program discusses Rule 1.16 of the Rules of Professional Conduct and applicable Court Rules regarding withdrawal from representation, with specific reference to (1) withdrawal for nonpayment; (2) withdrawal for failure to communicate; and (3) ethical limitations on the information that can be included in a motion to withdraw.
Jurisdiction Over a Defendant Based on Marketing a Product Line?

By Benjamin B. Folsom

The United States Supreme Court this year found that state courts can exercise jurisdiction over an out-of-state defendant that markets a vehicle model in that state, even if the specific vehicle alleged to be defective was not sold, designed, or manufactured there. In Ford Motor Co. v. Montana Eighth Judicial District Court, 141 S.Ct. 1017 (March 25, 2021), the high court rejected the argument that jurisdiction must be predicated on a “causal link” between the defendant’s conduct in the forum state and the plaintiff’s claims. Instead, the defendant’s forum conduct need only sufficiently “relate to” the plaintiff’s claims, which it does if the defendant markets and services a particular model of vehicle in a state—even if the specific allegedly defective vehicle was not originally sold there.

The opinion addressed two appeals brought by Ford Motor Company, one each from state courts in Minnesota and Montana. In each case, the plaintiff was a resident of the forum state who alleged harm resulting from an auto accident involving Ford vehicles that occurred in the forum state. Plaintiffs asserted products liability and negligence claims against Ford.

In both cases, the particular vehicle involved in the accident was not designed, manufactured, or sold in the forum state. The vehicles were originally sold in other states and ended up in Minnesota and Montana via resales. However, Ford, as a global manufacturer and distributor of vehicles, did substantial business in Minnesota and Montana, including advertising, selling, and servicing the vehicle models (if not the specific vehicles) involved in the accidents—the Crown Victoria and the Explorer.

Ford argued that the state courts only had jurisdiction if the company’s conduct in the forum states gave rise to the plaintiffs’ claims. There had to be, Ford said, a causal connection between its forum conduct and the claims. Since Ford did not design, manufacture, or sell the specific vehicles involved in the accidents in the forum states, it asserted a causal link between its conduct in the forum states and claims was missing.

The Supreme Court disagreed, finding that the state courts had specific (or case-based) jurisdiction over Ford for these cases. (The Court determined, consistent with its recent precedent, that general (or “all purpose”) jurisdiction was lacking, because Ford was neither incorporated nor had its principal place of business in Montana or Minnesota and therefore was not “essentially at home” in either state.)

For specific jurisdiction to attach, a defendant must take some act to “purposefully avail” itself of conducting activities in the forum state, a deliberate reaching out such as exploiting a market or entering a contract centered there. Even then, a state court may exercise specific jurisdiction only where the claims “arise out of or relate to the defendant’s contacts” with that state. Ford admitted that it purposefully availed itself of conducting business in Montana and Minnesota, so its argument rested on its asserted lack of a nexus between its conduct there and the plaintiff’s claims due to the fact that the allegedly defective vehicles were not designed, manufactured, or sold in the forum states.

In rejecting Ford’s argument for an “exclusively causal test of connection,” the Court found the requisite nexus between Ford’s forum-state conduct and plaintiffs’ claims through the extensive relationship Ford cultivated with consumers in Minnesota and Montana regarding the vehicle models at issue. Ford sold new and used Crown Victoria and Explorer model vehicles within those states. Ford urged consumers to buy its vehicles, including those models, “by every means imaginable” through its extensive advertising in the forum states. It “systematically” served the market in those states for these models, including maintaining and repairing vehicles at dealerships and distributing replacement parts to independent auto shops.

Given that the accidents involving allegedly defective Ford vehicles occurred in the respective forum states, the plaintiffs were residents of those states, and Ford encouraged and facilitated the sale, acquisition, and ownership of the vehicle models at issue in the forum states, the Court found that Ford’s conduct in Minnesota and Montana sufficiently related to plaintiffs’ claims such that the state courts could exercise jurisdiction over Ford with respect to those claims.

The result is fair to Ford, the Court says, because Ford enjoys the protection of the laws of Minnesota and Montana with respect to its products (such as the enforcement of contracts and property rights). This comes with a reciprocal obligation on Ford’s part to ensure that the vehicle models that it extensively markets there be safe for their citizens to use. Ford is subject to the state’s effort to enforce that obligation. The Court further found that the result is predictable such that Ford could structure its conduct to lessen or avoid litigation in those states’ courts—such as refraining from marketing, selling, or servicing the model vehicles in those states.

The Court explicitly left open the possibility that it may be a different case if Ford had marketed a vehicle model only in states outside the forum state. Say, for example, Ford makes the strategic decision not to market or sell a convertible in Minnesota. A Minnesota consumer who had acquired the convertible via resale in the state sues in Minnesota alleging the vehicle was defective. The Court’s dicta implies a Minnesota state court may not have jurisdiction over Ford in that situation, even though Ford extensively markets and sells other vehicle models in Minnesota. If so, the contours of what constitutes a different model—or in the non-auto context, a different product or product line—will have to be fleshed out in subsequent decisions.

For now, the lesson from Ford is that a business that markets, sells, and services a product in a state should expect to defend lawsuits by that state’s residents in the state’s courts alleging that a product is defective, even if the particular product alleged to be defective was sold or acquired outside the state.

Ben Folsom is a director in McLane Middleton’s Litigation Department. He can be reached at (603) 628-1323 or benjamin.folsom@mclane.com.

Attorney John M. Cunningham

John forms LLCs, converts corporations to LLCs and represents clients in LLC disputes. He chaired the committee that drafted the NH LLC Act, and he is the author of the leading U.S. LLC legal and tax practice manual. Visit www.llc199a.com to learn more about John’s practice.

2 Kent St., Concord, NH 03301  05.5.12 lawjm@comcast.net

LLC LAW AND TAX | ASSET PROTECTION | 199A DEDUCTIONS
By John M. Cunningham

Every year, hundreds of New Hampshire lawyers assist their clients in forming multi-member LLCs under the Revised New Hampshire Limited Liability Company Act (the “New Hampshire LLC Act”), and, in so doing, they draft operating agreements for these clients. What are the principal elements of the duty of care with which these lawyers must comply in this drafting? Above all, the answer is that under Rule 1.1 of the New Hampshire Rules of Professional Conduct, they must have all the knowledge and skill to perform this task. If they lack this knowledge and skill, they must not do this drafting. However, in the paragraphs that follow, I’ll provide a somewhat more detailed overview of the above duty-of-care elements as I understand them. For concreteness, I’ll assume that the lawyer I’m addressing in these paragraphs is Mary Jones, a New Hampshire sole practitioner who holds herself out as a business lawyer and who, at least from time to time, drafts LLC operating agreements for clients forming multi-member LLCs.

Mary’s first duty of care in drafting these agreements is to determine which of the prospective members and managers of the relevant LLCs (collectively, the “participants”) should be her clients in the above drafting, and she must obtain the participants’ agreement as to her determination. Mary has three options in making this determination:

• She may represent only one of the participants;
• She may represent two or more of them in a joint representation if their interests in the LLC in question are substantially aligned and if they sign a written joint representation agreement authorizing the representation; or
• She may represent none of the participants, but only the entity itself.

In this third situation, she must expressly advise the participants that she is representing only the LLC, and that, if the participants want to protect their individual interests in the LLC, they must retain their own lawyers.

However, in my view, of this situation Mary should also advise the participants that her duty in representing the LLC is to draft an operating agreement which will provide a reasonable compromise of the LLC rights and duties of all the participants, and which all the participants will be willing to sign. If she provides them with this advice, obviously her duty of care will be, to the extent possible, to provide the participants with an operating agreement that reflects this compromise.

However, once she has determined who should be her clients in drafting the operating agreement in question, Mary will have a duty in drafting the agreement for any such clients to identify all the legal and tax issues potentially relevant to them to the extent she possesses the necessary expertise. If she lacks that expertise, she must expressly so advise her clients, and she must either refer them to an attorney who possesses this expertise, or she must advise them that she is not competent to make this referral.

The relevant tax expertise she will need in order to handle the relevant multi-member LLC tax issues will generally be as follows:

• She will need the expertise required to advise her clients as to which of the three federal tax regimens available to the relevant multi-member LLC under the U.S. Treasury Entity Classification Regulations—namely, Subchapter C, Subchapter K (partnership taxation) or Subchapter S—will be best for their LLC.

LLCs continued on page 26
online reviews. The study also determined that 3.3 is the minimum star rating of a business that a consumer will consider engaging with for a purchase.

This reliance on online reviews has been developing for a long time. A 2016 Harvard Business Review article determined that a one-star decrease in a Yelp rating for a local business could lead to a 5-9% decrease in revenue. More studies are now showing that positive and negative customer reviews even factor into a business’s search engine rankings on Google and other search sites. While taking the advice of a perfect stranger would ordinarily be worth big money.

It is precisely because of this industry drive for generating more and more online reviews and endorsements, and the growing incidence of fake reviews and misleading endorsements, that in late October 2021, the Federal Trade Commission (FTC) issued a Notice of Penalty Offense Authority, found in Section 5(m)(1)(B) of the FTC Act, allows the Commission to seek civil penalties if it proves that (1) the company knew the conduct was unfair or deceptive in violation of the FTC Act and (2) the Commission had already issued a written decision that such conduct is unfair or deceptive.

The Notice of Penalty Offenses is the tool to meet the first factor for seeking civil penalties under the Penalty Offense Authority as it puts the recipient on notice that certain conduct violates the FTC Act. In this recent round of notices in October, the Notice of Penalty Offenses concerning endorsements lists the following seven endorsement-related acts or practices that have been found through administrative decisions to violate the FTC Act:

- Fake reviews (or claiming directly or by implication that a third party has endorsed a product or service when that is not the case);
- Misrepresenting that an endorser is an actual, current, or recent user of the product;
- Continuing to advertise an endorsement unless the advertiser has good reason to believe the endorser continues to subscribe to the views presented in the endorsement.

The FTC revived its use of its Penalty Offense Authority, which had largely been dormant since the 1980s, after the U.S. Supreme Court’s April 2021 decision in AMG Capital Management, LLC v. FTC, 141 S.Ct. 1341, which limited the agency’s authority under Section 13(b) of the FTC Act to seek monetary relief for unfair or deceptive conduct. The Penalty Offense Authority, found in Section 5(m)(1)(B) of the FTC Act, allows the Commission to seek civil penalties if it proves that (1) the company knew the conduct was unfair or deceptive in violation of the FTC Act and (2) the Commission had already issued a written decision that such conduct is unfair or deceptive.

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to identify which specific federal tax issues are likely to be relevant to her clients under each of the above regimens.

• She will need to be able to determine which specific federal tax provisions will be best for her client in order to maximize the annual 20% federal income tax deductions potentially available to them under Internal Revenue Code Section 199A.

• If, as will normally be the case, the federal tax regimen of the multi-member LLC in question will be partnership tax, she will need the expertise necessary in order to determine whether the operating agreement in question should contain the provisions necessary in order to comply with the requirements of Prop. Reg. § 1.1402(a)-2 (the “Prop. Reg.”). The Prop. Reg. is the proposed Internal Revenue Service regulation that may well be adopted and which she must understand and which she must know of which she must have a comprehensive knowledge of to draft the legal provisions of the operating agreement to reduce or even eliminate any duties otherwise applicable to the parties under that act. If, for example, Mary is representing a participant who will be a manager of the LLC in question, it will often be appropriate for her to seek in the relevant operating agreement to reduce or even eliminate duties of care.

Three specific sets of legal provisions of which she must have a comprehensive understanding and which she must know how to draft are the following:

• The first is the set of provisions addressing the duty of loyalty under Section 110 of the New Hampshire LLC Act. Section 110 is among the most complex provisions in that act; among other things, it provides for eight subsidiary duties of loyalty. For many of her clients, it will appropriate for Mary to negotiate the waiver by the members of the relevant LLC of one or more of these subsidiary duties. This includes, for example, the duty not to compete against the LLC.

• The second is the set of provisions addressing events of dissociation—i.e., events, such as death, which will terminate a member’s membership rights. These events and the buyout consequences that should result from them are often the most complex provisions in a multi-member LLC operating agreement. The basic provisions in the New Hampshire LLC Act concerning events of dissociation are set forth in Sections 98 through 102, but these provisions do not address buyout issues and other essential dissociation issues relevant in the operating agreements of most multi-member LLCs.

• The third is the set of provisions addressing the rules that should govern dispute resolution in the operating agreement in question. For LLC members who wish to maintain the privacy of internal LLC disputes, the best dispute resolution methods may well be confidential mediation followed by arbitration.

However, if mediation fails and an LLC matter is subject to arbitration, serious issues may arise for Mary’s clients unless she is able to ensure, through the relevant arbitration provisions, that the arbitrator will be competent and unbiased and that all procedural issues arising in the arbitration will be resolved in a manner that is favorable—or, at a minimum, fair—to her client. These issues will almost certainly not arise for Mary’s clients if the operating agreement in question provides that, if mediation fails, these disputes must be resolved in the Business Docket of the New Hampshire circuit court. But it will often be appropriate for Mary to provide in an operating agreement that some types of LLC internal disputes must be resolved by arbitration and others by litigation.

John Cunningham is counsel to the firm of McLane Middleton, P.A. He chaired the committee that drafted the Revised New Hampshire Limited Liability Company Act, and he was the author of many of its provisions. He is the author of Drafting Limited Liability Company Operating Agreements, the leading U.S. LLC formbook and practice manual, and of Maximizing Pass-Through Deductions under Internal Revenue Code Section 199A, the leading handbook on Internal Revenue Code Section 199A. He is licensed to practice law in New Hampshire and Massachusetts. His practice is focused on LLC law and tax and in drafting and reviewing LLC operating agreements. This article is based substantially on Chapter 23 (“LLC Fiduciary Law”) in the above book.
Business Law and Business Litigation

FTC from page 25

dorsement;
• Using testimonials to make false or deceptive performance claims – even if the testimonial is genuine;
• Failing to disclose a connection between an endorser and seller of product if that connection might materially affect the weight or credibility of the endorsement or review, and if consumers wouldn’t reasonably expect that connection; and
• Misrepresenting, either explicitly or implicitly, that the experience of an endorser represents the typical or ordinary experience of users of the product.

“While the FTC’s warning to 700 businesses seems like a lot, and certainly targets the sources of many online reviews, smaller and mid-sized businesses need to pay attention to the FTC’s new focus on online marketing behaviors and should be updating their business practices accordingly.”

Applying these practices to today’s world of online review and endorsements, one can quickly identify several areas that require action. The first item is the fake online review. While the canned, bulk reviews from offshore posters are fairly easy to identify and avoid, internal marketing and sales personnel need to be warned against posting favorable early reviews for new products under their own or their friends’ personal user names in an effort to try to prime the pump for generating new customer reviews.

Second, businesses need to be checking the dates of when comments were posted. If the post is several years old, can a business still have a good reason to believe that the reviewer maintains the same views as expressed in the review? A good marketing policy and practice should consider unpublishing or deleting comments that extend beyond a reasonable period of use for a purchased product or service.

Third, for some online retailers, especially in the fashion and beauty space, engagement of social media influencers will need to be more transparent. Sending an item to a social media influencer which they then use and keep without purchase will need disclosure.

Finally, over-the-top reviews by endorsers that set unrealistic expectations about the use or experience with a product will need to be unpublished or at least flagged by the business in some way to allow others to know that the results were not typical.

While the FTC’s warning to 700 businesses seems like a lot, and certainly targets the sources of many online reviews, smaller and mid-sized businesses need to pay attention to the FTC’s new focus on online marketing behaviors and should be updating their business practices accordingly. Kristin Mendoza is the founder and principal of Abridge Law PLLC, a boutique business law firm serving startups and businesses in New Hampshire and Massachusetts.

Contribute to the Bar News

PRACTICE AREA SECTIONS

NH Bar News features a special content section each month dedicated to specific areas of the law, and welcomes member and non-member article submissions.

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Details and submission form at nhbar.org/solace/

Register online at www.nhbar.org/nhbacle
By Scott Merrill

A lawsuit alleging indifference and failure on the part of New Hampshire Department of Health and Human Services to keep older and disabled people from being unnecessarily institutionalized has been given the green light by a judge in U.S. District Court.

The lawsuit, filed in January 2021 by several organizations, including the AARP, Disability Rights Center-NH, New Hampshire Legal Assistance and the law firm of Nixon Peabody, represents three individuals and identifies a class of at least 3,500 people who claim institutionalization has been given the green light by a judge in a U.S. District Court.

The state’s attempt to dismiss the case was denied.

Geron Gadd, senior attorney with AARP Foundation and one of the attorneys representing the plaintiffs, said the problem stems from the state’s indifference to how the program operates.

“When plaintiffs don’t receive these services they’re in physical danger. They could be stuck in bed waiting on assistance, sometimes for days, unable to use the restroom, get dressed, to clean themselves, or to eat. Not getting these services can result in significant danger and risk.”

The CFI waiver program was created to help those who are eligible for Medicaid-funded long-term support to receive in-home care, thus avoiding the need for costly, restrictive, and potentially dangerous nursing facility placements.

Attorney Kierstan Schultz said the State is inefficiently administering this program and has caused the plaintiffs in the class to go without the services they’ve already been assessed to need and are eligible for.

“Plaintiffs claim DHHS have experienced frequent interruptions in their services and delays, and sometimes services have been stopped unexpectedly,” Schultz said. “That’s deficient administration.”

“One of the people represented in the lawsuit is referred to as Fitzmorris, a 36-year-old mother who became a tetraplegic as the result of an accident in 2018. Choosing to live with her teenage son in her own apartment and to avoid institutionalization, Fitzmorris was determined to be eligible for the CFI Waiver Program in November 2018. She was authorized to receive 37 hours a week of personal care, homemaker, and nursing services through the program. However, the lawsuit states that “other than brief periods of time since December 2018, Fitzmorris has not been provided those waiver services.”

Another plaintiff in the case, Bates, 59, has been diagnosed with cerebral palsy and scoliosis. She lives in a home she rents from her parents and wants to continue living there. She uses a wheelchair, has a mul- titude of health problems and requires assistance getting out of bed, dressing, toileting and bathing, the lawsuit states.

DHHS determined that Bates was eligible for waiver services amounting to 35 hours of services a week in 1992 but according to the lawsuit she is only receiving a few hours of services every week.

The lawsuit states: “When her service providers are not available, she must choose between staying in bed without food and water or calling a friend who has a limited availability to assist her. These circumstances are jeopardizing her health and putting her at risk of institutionalization. Plaintiffs allege that defendants’ shoddy administration of the CFI waiver program is the root cause of their service gaps.”

Gadd said the delays experienced by people in the CFI program, such as those experienced by Bates, can last for years.

“Sometimes these are years-long delays,” she said. “Occasionally they’re shorter and there are varying periods, but these are long delays in both the onset and the gaps in care.”

The Americans with Disabilities Act requires DHHS to provide CFI participants with an integrated setting and the lawsuit makes clear the state is violating its integration mandate, citing four alleged deficiencies:

1. Failure to recruit sufficient number of providers; failure to monitor whether CFI participants are receiving services they’re authorized to receive; failure to act when made aware of cessation or delay in services; and failure to give plaintiffs adequate notice of right to a fair hearing when they’re losing their services through no fault of their own.

2. The state’s argument, which was rejected in U.S. District Court, attempted to place responsibility on case management agencies and case managers.

3. The lawsuit alleges the state’s actions or omissions are responsible for service gaps, and it uses an analogous argument—rejected by the circuit court—made by the state that involved a class of plaintiffs who sued the commissioner on the ground they were held at private hospitals for too long without due process.

In that case, Doe v. Shihabette, the commissioner argued the plaintiffs’ injury was not “fairly traceable” to her conduct. Instead, she argued, it was the state’s circuit court system, law enforcement, the state legislature, and private hospitals, who were ultimately responsible for the complaints brought by the plaintiffs.

Disability Rights Center-NH Litigation Director, Pamela Phelan, said the state bears the ultimate responsibility for the administration of the CFI Waiver Program.

“So many New Hampshire residents who rely on the CFI waiver program face unjustified hardship and risk. This decision allows us to continue our work to secure much-needed improvements to the program,” she said.

DHHS has until Dec. 18 to answer the complaint regarding CFI waivers and until then Schultz said the attorneys representing the plaintiffs will be pressing forward with discovery.

“These participants continue to be at risk every single day this case continues on,” she said. “So, we’re always amenable to discussion with the state. We believe it would be so much better for the named plaintiffs and the other members of this class if the State would take the time and effort now, take the resources necessary to improve the CFI Program without any further delay. We’re always hopeful that’s an option.”

DHHS and the New Hampshire Attorney General’s office were contacted for this story but declined comment.
condition of good behavior with respect to her suspended sentence and ordered imposition of a “reasonable portion” of the sentence minus the 10 days previously served. Defendant’s hearing was set to determine how much of the suspended sentence would be imposed, but this was postponed due to the COVID-19 restrictions and ultimately conducted via telephone on April 6, 2020. The defendant opposed the order citing state and federal due process rights and requesting that the hearing be conducted until such time that it could be conducted in-person. This request was denied and the hearing was conducted telephonically following which 70 days of defendant’s suspended sentence, minus 10 days served, was imposed.

On appeal, the Court reiterated that a suspended sentence can only be revoked “on the basis of violation of a condition of good behavior if the trial court finds, by a preponderance of the evidence, that the defendant engaged in criminal conduct.” (Citations omitted). The defendant did not dispute the conviction for theft arising out of events occurring in June 2019. The defendant also did not dispute that she posed another person without permission or authority in December 2020. The defendant instead argued that she did not prove that she missappropriated herself in the phone number, “the defendant incorrectly informed the court for the purpose of obtaining confidential information … that is not available to the general public.” RSA 638:26, I(d)(2016).

The Court reviewed the defendant’s arguments that RSA 638:26, I(d) required a declaration by statute or court rule that the information obtained was confidential or was considered confidential in a valid, binding, and enforceable contract in statutory context, the Court agreed with the State that the statute itself states that it pertains to the information fraud to obtain information that “is not available to the general public.”

However, the Court also assumed without deciding defendant’s arguments that the statute would provide an adequate notice to a person of ordinary intelligence if applied to information that was not confidential by statute or court rule. The Court found that RSA 106-B:14:2(d)(2020), which requires arrest information as confidential, “is not available to the general public.” Pursuant to its constitutional and statutory authority and powers of general superintendence over the New Hampshire court system, and in accordance with Supreme Court Rules 19 and 54, the Supreme Court orders as follows:

1. This Order supersedes and replaces Circuit Court Administrative Order 2011-50, and Supreme Court Orders dated January 11, 2008, and October 17, 2017, on the use of recording equipment.

ORDERS continued on page 30
2. The Supreme Court acknowledges its obligation to provide open access to court proceedings and its responsibility to provide constituents with a forum that is safe, dignified, and free from unnecessary disruption. The court is also obligated to ensure that constituents can conduct their business and observe court operations without fear of intimidation, annoyance, or embarrassment. The purpose of this Order is to balance all interests of ensuring access while maintaining a safe and dignified environment that is free from unnecessary disruption.

3. All persons are prohibited from photographing, recording (audio, video, or any other media), broadcasting, transmitting, or televising in the lobby or other, non-courtroom area, unless the presiding judge for that court, after consultation with court security personnel, determines that a designated staging area is appropriate under the circumstances of a given case. A designated staging area means any area within the lobby area of the courthouse where cameras or audio recording equipment may be located. If the presiding judge determines that a staging area is appropriate, no cameras or audio recording equipment may be used in any area outside the designated staging area within the lobby area or other public area of the courthouse. The court security personnel shall have the authority to enforce this Order by requiring anyone who violates it to leave the courthouse.

4. Law enforcement officers with a body-worn camera may activate the recording function of the camera inside a courthouse only if done in accordance with RSA 105-D. Such recordings shall not be utilized for training under RSA 105-D:2, XVIII(b) without an order authorizing their use from the presiding judge for the court where the camera was activated. No such recordings shall be made public unless subject to production under RSA 91-A:5, X. If disclosure under RSA 91-A:5, X is required, any member of the public inside the courthouse depicted in such video shall be edited to mask their identity under the invasion-of-privacy protections provided for in RSA 91-A:5, X.

5. Supreme Court Rule 19, District Division Rule 1.4, Family Division Rule 1.29, Probate Division Rule 78, and Superior Court Rule 204 (collectively the “Recording in Courtroom Rules”), related to the use of cameras, broadcasting equipment, and recording devices during courtroom proceedings, shall be strictly enforced. No person shall photograph, record, or broadcast any court proceeding without providing advance notice to the presiding judge. A written request shall be provided to the court clerk on the form prescribed by the court. The form is available on the Judicial Branch website, www.courts.nh.gov, or from the Judicial Branch Communications Office.

6. This Order and all Recording in Courtroom Rules apply whether the proceeding is live or being broadcast via an electronic platform, including but not limited to WebEx, Zoom, Teams, or any other electronic platform.

7. Unless otherwise prohibited by the presiding judge, those entering State courthouses may possess and use cell phones, smart watches, computers, pages, and similar electronic devices within the courthouse. However, such devices shall be set on silence mode, and no telephone calls made or received while in any courtroom or judge’s chambers without specific advance authorization by the presiding judge. In no event shall any such devices be used in a manner designed to photograph, record (audio or video), broadcast, transmit, or televise any proceeding, scene, discussion, or event unless specifically authorized by the presiding judge.

8. If any person refuses to comply with the conditions of this Order, or if a person’s behavior is otherwise disruptive to the proper administration of justice, and such person is ordered to leave the courthouse and refuses to do so, security may request assistance from local law enforcement officials or take such other measures to ensure the safety and security of the public and court personnel. Such persons who are disruptive and/or refuse to leave the courthouse may be subject to arrest at the discretion of local law enforcement officers.

Date: November 16, 2021

ADM-2021-0014, In the Matter of Jerry Bolnick, Esquire

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

On August 26, 2021, the Attorney Discipline Office (ADO) filed a certified copy of the March 4, 2020 order of the Supreme Court of California, suspending Attorney Jerry Bolnick from the practice of law for two years, with the possibility of the second year being stayed if Attorney Godin completed an appropriate term of probation and provided proof of his rehabilitation, fitness to practice, and present learning and ability in the law. The matter came before that court on a “stipulation of facts, conclusions of law and disposition.”

According to the court-ordered stipulation, Attorney Bolnick violated multiple acts of misconduct in his handling of an estate, including “appearing for a party without authority, violating the [California] Probate Code, grossly negligently mismanaging an estate, and maintaining estate funds in trust, collecting an illegal fee, and grossly negligently making misrepresentations.” Among other acts, Attorney Godin filed a petition in court for final distribution of estate funds, even though he lacked the necessary authority or verification from the client for that filing; his petition stated that the probate court had granted authority to marshal assets, when the court had not granted such authority; and his petition contained several other false and misleading statements, resulting in gross negligence, concerning the procedural posture of the case and the status of the estate.

In accordance with the stipulation, the California Supreme Court suspended Attorney Godin for one year. Attorney Bolnick had the right to make a showing as to why a lesser suspension was appropriate because the misconduct “did not harm the administration of justice”; the court ultimately approved the petition for a final accounting of estate assets; Attorney Godin “did not intentionally misappropriate client funds”; “there is no evidence that [he] owes restitution”, he had no prior record of discipline, and he acknowledged wrongdoing by entering the stipulation.

The Supreme Court of California imposed a two-year suspension, but allowed for a possible stay of the second year’s suspension subject to the probationary terms and conditions set forth in the disciplinary order approving the stipulation. When the ADO filed in this court a certified copy of the California disciplinary order, the ADO contended that the imposition by this court of substantially similar discipline to California’s two-year suspension, “subject to confirmation by the California disciplinary office that [Attorney] Godin complied with the terms of the probation imposed by the California Supreme Court,” constitutes substantially similar discipline.

In accordance with Supreme Court Rule 37(1)(d), Attorney Godin had the right to file a motion to confirm the court if he believed that the imposition of identical or substantially similar discipline is unwarranted. Attorney Godin filed a response that proposed a two-year suspension on the same terms and conditions as imposed in California, with the suspension beginning on the date of his California suspension.

Rule 37(1)(d) provides for the imposition of reciprocal discipline by this court unless the respondent attorney or the ADO demonstrates,
or the court finds, based upon the face of the record from which the discipline is predicated, that: (1) the procedure followed by the jurisdiction imposing discipline was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; (2) the imposition of the same or substantially similar discipline by the court would result in grave injustice; or (3) the misconduct established warrants substantially different discipline in New Hampshire.

Hantz Marconi and Donovan, JJ., concurring.

Attorney Discipline Office shall advise the court completed this task. On or before January 4, 2022, the court ordered to notify his clients in writing that he has fulfilled the requirements listed above, and for failure to respond to the show cause notice and/or appear at the show cause hearing. Attorney Foster is ordered to notify her clients in writing that she has been suspended from the practice of law in New Hampshire and to notify the Attorney Discipline Office by December 20, 2021, that she has completed this task. On or before January 4, 2022, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to make an inventory of Attorney Foster’s files and to take action to protect the interests of her clients.

MacDonald, C.J., and Hicks, Basset, Hantzel Marconi, and Donovan, J., concurring.

Issued: November 19, 2021
ATTTEST: Timothy A. Gudas, Clerk

PROCEEDINGS

Pursuant to Supreme Court Rule 37(4), the Supreme Court appoints Elaine Holden to the Hearings Committee of the Attorney Discipline System, to serve a three-year term commencing on January 1, 2022, and expiring on December 31, 2024. The court designates Attorney Barbara R. Keshen, a current member of the committee, to serve as its chair commencing on January 1, 2022, and designates Attorney Brooksay C. Belanger, a current member of the commission, to serve as its vice chair commencing on January 1, 2022.

Issued: November 18, 2021
ATTTEST: Timothy A. Gudas, Clerk

The Access to Justice Commission was established by Supreme Court order dated January 12, 2007. The court reappoints the following persons to the commission, to serve three-year terms beginning September 1, 2021, and expiring on August 31, 2024:

- Attorney Mark Rovaleski, as a co-chair
- Honorable Susan W. Ashley
- Attorney Jaye Rancourt
- Attorney Deborah Schachter
- Attorney Heather Kulp
- Attorney George Moore
- Attorney Pamela Pfeil
- Attorney Sarah Dustin

The court appoints the Honorable John Curran to the commission, to serve a three-year term beginning October 18, 2021, and expiring on October 17, 2024.

The court has been notified that Virginia Marin and Attorney Breckie Hayes-Snow have resigned from the commission.

Issued: November 18, 2021
TTEST: Timothy A. Gudas, Clerk

ATTTEST: Timothy A. Gudas, Clerk

Attorney Suzanne Foster was ordered to appear at the New Hampshire Supreme Court on October 26, 2021, for a hearing before Justice Anna Barbara Hantzel Marconi, to show cause why she should not be suspended for the following:

1. Bar Dues and Court Fees – Attorney Foster has not paid her 2021/2022 bar dues and court fees, and the $100 in delinquency fees assessed for late payment. See Supreme Court Rule 42A.

2. Trust Accounting Certification - Attorney Foster has not fulfilled NHMCLE requirements of Supreme Court Rule 53 for the reporting year ending May 31, 2021, and has not paid the $300 in assessed delinquency fees.

Hantz Marconi and Donovan, JJ., concurring.

Issued: November 19, 2021
ATTTEST: Timothy A. Gudas, Clerk

ISSUANCE

Written for New Admittees, But Useful to All Members

Available in a convenient digital format for immediate reference from anywhere

Download a copy today at nhbar.org/member-guide/
Attorney Mooradian did not respond to the order or fulfill the requirements above; however, Attorney Martin has not paid her 2021/2022 bar dues and court fees, and the $100 in delinquency fees assessed for late payment. See Supreme Court Rule 42A.

Attorney Mooradian is ordered to notify the court if it believes that an attorney should be appointed to make an inventory of Attorney Mooradian’s files and to take action to protect the interests of her clients.

Issued: November 24, 2021

Attorney MacDonald, C.J., and Hicks, Bassett, Hantz Marconi, and Donovan, J.J., concurred.

Attorney MacDonald, C.J., and Hicks, Bassett, Hantz Marconi, and Donovan, J.J., concurred.

Attorney MacDonald, C.J., and Hicks, Bassett, Hantz Marconi, and Donovan, J.J., concurred.

Attorney MacDonald, C.J., and Hicks, Bassett, Hantz Marconi, and Donovan, J.J., concurred.
November 2021

* Published

**FABRICATION OF EVIDENCE**


Plaintiff in this case sued several officers of the Manchester Police Department arising out of his arrest and subsequent prosecution. Defendants moved for judgment on the pleadings with respect to plaintiff's fabrication of evidence claim, which is based on his allegation that the officers falsely stated that he had punched one of them during his arrest. Defendants argued that this claim is barred by Heck v. Humber, 512 U.S. 477 (1994), judicial estoppel, and collateral estoppel. All three arguments rested on the premise that the plaintiff had admitted to punching the officer when he pleaded guilty in state court to felony resisting arrest. Because the pleadings did not support the notion that plaintiff had admitted to punching the officer, the court denied the motion. 10 pages. Judge Paul Barbadoro.

**AMERICANS WITH DISABILITIES ACT, MEDICAID ACT, DUE PROCESS**


Plaintiffs in this class action are disabled individuals enrolled in New Hampshire’s Choices for Independence Waiver (“CFI Waiver”), a Medicaid program administered by the New Hampshire Department of Health and Human Services (“DHHS”). The CFI Waiver program provides home and community-based care services to adults who otherwise would be Medicaid-eligible for nursing home care. The complaint alleges that DHHS and its Commissioner have failed to remedy defects in the administration of the program, leading to significant gaps in plaintiffs’ waiver services that place them at risk of unnecessary institutionalization. Plaintiffs seek declaratory and injunctive relief on behalf of themselves and a putative class, alleging violations of Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, the Medicaid Act, and the Fourteenth Amendment’s due process clause. Defendants moved to dismiss the complaint for failure to state a claim. The court denied the motion. Defendants’ argument that the disability discrimination claims must be dismissed because private entities, not defendants, are responsible for the alleged service gaps, failed to persuade because the complaint plausibly alleged that defendants’ own omissions or omissions are responsible for the service gaps. For the same reason, the court rejected defendants’ argument that the Medicaid Act and due process claims fail for lack of state action. Lastly, the court declined to dismiss plaintiffs’ claims concerning adequacy of notice of their right to challenge service gaps in an administrative hearing because defendants did not show that plaintiffs can prove no set of facts under which their claims might be proper. 38 pages. Judge Paul Barbadoro.

**SOCIAL SECURITY DISABILITY**

11/30/2021 Lamy v. Kijakazi Case No. 21-cv-174-PB, Opinion No. 2021 DNH 183

Daniel Lamy challenged the denial of his applications for disability insurance benefits pursuant to 42 U.S.C. § 405(g). He argued that the Administrative Law Judge (“ALJ”) who found him not disabled failed to properly evaluate the medical opinion evidence supporting his applications. The court remanded the case to the Social Security Administration for further proceedings because the ALJ erroneously relied on an opinion of a non-examining consultant that was inconsistent with subsequent medical evidence. 15 pages. Judge Paul Barbadoro.
ATTORNEY – Boxer Blake & Moore PLLC, a regional law firm located in Springfield, Vermont, seeks an attorney to join its civil litigation practice. The position requires prior relevant experience and/or exemplary academic credentials, demonstrated research and writing ability, and strong recommendations. Current license to practice law in Vermont or genuine interest in pursuing admission to the VT bar at earliest opportunity are required. Please respond to Boxer Blake & Moore PLLC, c/o Dennis A Smith, P. O. Box 948, Springfield, VT 05156-0984 or via email to demanith@boxerblake.com.

ATTORNEY: Partner track opportunity in a well-established Southern NH law firm. Experience in one or more of the firm’s practice areas is preferred, but newly admitted attorneys with a strong work ethic and motivation will be considered too. We are a general practice firm, licensed in NH and MA. We offer competitive salary and benefits, family-friendly work environment, protective sick leave, paid vacations, liberal leave policies, and development opportunities. Interested candidates are encouraged to apply. Submit resume to Jennifer Evans, Boon & Boon, 20 Central Square Suite 2A, Keene, NH 03431 or bboonette@boonboonlaw.com.

LITIGATION ATTORNEY – Getman, Schuhfeldt, Stevens & Poulakos, P.A. seeks an attorney with 2+ years of litigation experience, and insurance defense familiarity helpful. Must be admitted to the New Hampshire Bar and with admission to the Massachusetts or Vermont Bar a plus. Please email cover letter, writing sample, and references to Masters@getmanlegal.com. Applicants internal will be considered only.

ASSOCIATE ATTORNEY POSITION – Conard & Conard, a national business law firm with 75+ offices across 38 states, is currently seeking an experienced family law associate for an immediate opening in its Bedford, NH office. The candidate must be licensed to practice law in the state of New Hampshire, have a minimum of 3-5 years of litigation experience with a client-focused family law practice. Conard & Conard offers a great working environment with opportunities and incentives including employer paid insurance premiums for health, dental, orthodontia, disability and life. The ideal candidate will have prior experience working with clients to meet their personal and financial needs, have a positive attitude and excellent communication skills, and be comfortable working in a fast-paced environment. Interested candidates should submit their resume, cover letter and three references to Connections@conardconard.com. All inquiries will be held in strict confidence.

ASSOCIATE ATTORNEY WANTED: Hayes, Windham & Beggash is seeking an associate attorney to join our team. Preference is given to those with 3-5 years of experience in civil litigation, but those just starting with strong work ethic and motivation will be considered too. We are a general practice firm with an emphasis on civil litigation, insurance defense, and workers’ compensation matters. We seek a candidate who is interested in this high ethical standards, strong skills in research and writing, with a passion and desire to learn the profession. Competitive pay and benefits. Position to remain open until filled. Please send your resume and cover letter electronically to Penny Webster, Hayes, Windham & Beggash;猟hayes@woodstocklaw.com.

LITIGATION ATTORNEY – Getman, Schuhfeldt, Stevens & Poulakos, P.A. seeks a litigation attorney with 2+ years of litigation experience, and insurance defense familiarity helpful. Must be admitted to the New Hampshire Bar and with admission to the Massachusetts or Vermont Bar a plus. Please email cover letter, writing sample, and references to dmasmith@frasca-lawyers.com. All inquiries will be considered only.

ASSOCIATE ATTORNEY – Getman, Schuhfeldt, Stevens & Poulakos, P.A. seeks an associate attorney with 2+ years of litigation experience, and insurance defense familiarity helpful. Must be admitted to the New Hampshire Bar and with admission to the Massachusetts or Vermont Bar a plus. Please email cover letter, writing sample, and references to Masters@getmanlegal.com. Applicants internal will be considered only.

ASSOCIATE ATTORNEY WANTED: Hayes, Windham & Beggash is seeking an associate attorney to join our team. Preference is given to those with 3-5 years of experience in civil litigation, but those just starting with strong work ethic and motivation will be considered too. We are a general practice firm with an emphasis on civil litigation, insurance defense, and workers’ compensation matters. We seek a candidate who is interested in this high ethical standards, strong skills in research and writing, with a passion and desire to learn the profession. Competitive pay and benefits. Position to remain open until filled. Please send your resume and cover letter electronically to Penny Webster, Hayes, Windham & Beggash;猟hayes@woodstocklaw.com.

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OPERATIONS SUPPORT CLERK

The United States District Court for the District of New Hampshire is accepting applications for an Operations Support Clerk. The successful candidate will be public-service oriented, industrious, creative, intelligent, diplomatic, energetic, forward thinking with exceptional interpersonal and communication skills. The Operations Support Clerk provides office and case management assistance as well as performs a variety of administrative tasks to ensure the seamless and efficient management of the office. This is a full-time position with benefits and a starring salary range of $38,911 to $63,235, depending upon experience, with promotion potential to $57,578 to $93,600. For additional information, please visit the court’s website at www.nhd.uscourts.gov, select “Court Information” on the navigation bar, and then select “Employment.” http://www.nhd.uscourts.gov/employment-0.

General Counsel

HealthTrust, a quasi-governmental, non-profit risk pool that provides health, dental, disability and other employee benefit coverage/services to its member political subdivisions seeks an experienced, detail oriented and enthusiastic in-house General Counsel to effectively provide vision and strategic leadership regarding all legal issues.

- Provides advice and counsel to the Board of Directors and Executive Director.
- Serves on the organization’s leadership team.
- Manages and responsible for organization’s legal issues, including corporate governance, regulatory compliance, contracting, personnel matters, taxation, HIPAA and other privacy laws, Right-to-Know, and real estate.
- Supervises and supports the HR team, the internal auditor/HIPAA Officer and HealthTrust’s Benefits & Coverage Counsel – who is primarily responsible for drafting benefit plans and compliance with laws and regulations applicable to such plans.
- Drafts, negotiates, and interprets contracts across the wide array of complex substantive areas including PPA, PBM, IT and wellness services.
- Oversees and evaluates litigation and manages outside litigation attorneys.

Requirements:
- A Juris Doctor degree from an accredited institution, superior academic credentials, and a license to practice law in New Hampshire.
- Experience of at least 12 years in general business or corporate administration, with a demonstrated ability to manage complex transactions or projects.

Legal Assistant/Paralegal

Hoefl Phoenix Gormley & Roberts, PLLC is a general civil law practice located in Portsmouth, New Hampshire. We are seeking an on-site Legal Assistant/Paralegal to support our corporate and litigation practices. You will provide overall support to attorneys’ business needs.

Responsibilities include:
- working with attorneys to form and maintain business relationships.
- The majority of law firms have an infrastructure created before women were permitted to practice law. Although the demographic of attorneys has changed; this century-old business model remains (with a few minor adjustments). Firms “work-life” balance policies often equate to allowing parents to both “parent” and “work” in equal parts of their day. The result? Exhausted, burnt-out parents/attorneys who feel as though they are unsuccessful at home and work because they cannot give their full efforts to either. We hate that model, so we changed it.
- Seeking two attorneys with 3-10 years’ experience in Estate Planning, experience in Family and Criminal Law is a plus. New Hampshire Bar admission required. Competitive pay commensurate with experience. Connolly Law, PLLC is an established law firm with offices in Exeter and Manchester, New Hampshire. Qualified applicants should direct resume and cover letter in strictest confidence to Amy Connolly, Esq. at Amy@familynhlaw.com. Equal opportunity employer.

Commercial Litigation Associate

Our Litigation Department’s Complex Commercial Disputes Practice Group is seeking to hire a litigation associate to join our Manchester, NH office.

Qualified candidates will have two to four years of litigation experience, including written discovery, defending and/or taking depositions, legal research, drafting of pleadings, and participation with motion practice. Ability to work in a fast paced, leanly staffed environment with a varied caseload is critical. New Hampshire State Bar admission is required. Ideal candidates will have strong academic credentials, excellent research and writing skills, superb judgment and communication skills, and a commitment to providing excellent client services.

More than a third of Nixon Peabody’s lawyers are litigators. We have decades of experience representing clients at every level of the judicial system; in international forums; and in mediation, arbitration, and other methods of alternative dispute resolution. We help our clients manage virtually all forms of disputes, from relatively simple matters to highly complex cases.

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DCYF – Attorney II
NH Department of Health & Human Services
Position Number #15803 – Manchester District Office

Starting Salary Range: $58,636.50 to $83,869.50

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/jobsearch/employment.aspx. Please reference the position number that you are applying for: #15803 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.

Sulloway & Hollis, PLLC, continues to expand our regional practice, with opportunities for talented attorneys to join our Real Estate practice group. We offer a dynamic and sophisticated practice, a collegial and flexible working environment that includes some work from anywhere capacity, and support to our attorneys with mentoring and business development training, together with a competitive compensation package and excellent benefits.

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- Monitor filing deadlines
- Obtain documents, domestically and internationally
- Draft forms
- Translate oral and written communications
- Communicate with clients, agencies, courts, other parties

**Qualifications**
- Must be fluent in Spanish and English
- Must have excellent communication skills via email, phone, and in person
- Must be highly organized
- Must pay close attention to detail, have the ability to multi-task, think in a fast-paced work environment, and possess strong proofreading skills
- Competency in Microsoft applications including, Word, NetDocuments, Centerbase, Outlook, Excel, Adobe, scanning and maintaining electronic files
- Accurate filing and copying

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Corporate/Securities Associate

Boutique B-Corp corporate law firm located on the waterfront in Burlington, VT seeks an experienced corporate/finance associate to join our team.

The ideal candidate has 1+ years of hands-on general corporate and private and public securities law experience, including drafting public company filings, structuring mergers, acquisitions and other sophisticated corporate transactions, and commercial contract negotiation and drafting. Must be able independently to advise clients and their financial and accounting advisors on strategic transactions. The right candidate will possess a genuine interest in business and economic activity demonstrated through participation in multiple business-related organizations and/or legislative initiatives on behalf of clients. Must be exceptionally client-focused and thrive in a face-paced, entrepreneurial environment. The right candidate will find this position an exceptional opportunity for growth. Ability to waive in or take the Vermont bar exam preferred, but will consider candidates working remotely.

If you are interested in expanding your career in a beautiful city and state with outstanding cultural and recreational activities, please contact Linda Dissinger with a cover letter and a resume at: ldissinger@merritt-merritt.com.

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CORPORATE TRANSACTIONAL ATTORNEY
Rath, Young and Pignatelli, P.C. seeks an associate attorney with 3-5 years of experience as a corporate lawyer involved in real estate transactions, entity formations and structuring, mergers and acquisitions, bank lending, contract drafting and negotiation, and other skills normally expected of a corporate/transactional associate. Visit our website at www.rathlaw.com for a more detailed description of the position. Send resume, letter of interest and writing sample to Diane Vlahos, Director of Operations, at dv@rathlaw.com. The firm will not accept the submission of candidate resumes from search firms without a signed fee agreement.


Rath, Young and Pignatelli, P.C.
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RATH YOUNG PIGNATELLI

LITIGATION ATTORNEY
Rath, Young and Pignatelli, P.C. seeks to add an associate attorney to its busy and growing commercial litigation team. Candidate should have 3 to 5 years of litigation experience, including drafting and arguing motions and pleadings before state and federal courts, taking depositions and other discovery, and preparing cases for trial. The Firm has an interesting and wide-ranging litigation practice and offers substantial opportunities to grow your career. The candidate may also have the opportunity to be involved in the Firm’s other practice areas including Health Care, Financial Institutions, Labor and Employment, and Taxation. Send resume and letter of interest to Diane Vlahos, Director of Operations, at Rath, Young and Pignatelli, P.C. at dv@rathlaw.com

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

Legal Coordinator
NH Department of Health & Human Services
Position Number: #15086
Salary Range: $58,636.50 to $83,869.50

Duties include: Serves as client counsel to the DHHS providing legal advice to the DHHS on a wide-range of legal issues. Functions as general counsel, administrators, and coordinates legal activities for the Department in various program areas including administration of public assistance programs, elderly and adult services and human resources. The position also provides primary legal resource coverage as directed. The person in this position works under the general direction and supervision of the Chief Legal Counsel.

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 five years’ experience in the practice of law.

How to APPLY: Please go to the following website to submit your application electronically through NH 1st: http://das.nh.gov/jobs/search/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: #15086 Legal Coordinator. In order to receive credit for postsecondary education, a copy of official transcripts with a seal and/or signature MUST be included with the application. Please have transcripts forwarded to the Human Resources Office with the recruiting agency. Position will remain open until a qualified candidate is found. EOE.

For questions about these positions please contact Frank Nachman, Chief Legal Counsel at (603) 271-9228.

Attorney III
NH Department of Health & Human Services
Position Number: #41026
Salary Range: $63,180 to $90,772.50

Position is with the N.H. Department of Health and Human Services (DHHS), physically located in Concord at the Department of Justice. The position is under the joint supervision of the N.H. Department of Justice and the DHHS and represents DHHS.

Duties include: Serves as client counsel to the DHHS providing legal advice to the DHHS on a wide-range of legal issues, including employment, policy and administrative matters. Reviews DHHS contracts. May represent DHHS in litigation. 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 five years’ experience in the practice of law.

How to APPLY: Please go to the following website to submit your application electronically through NH 1st: http://das.nh.gov/jobs/search/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: #41026 Attorney III. In order to receive credit for postsecondary education, a copy of official transcripts with a seal and/or signature MUST be included with the application. Please have transcripts forwarded to the Human Resources Office with the recruiting agency. Position will remain open until a qualified candidate is found. EOE.

For questions about these positions please contact Frank Nachman, Chief Legal Counsel at (603) 271-9228.
Family Law Attorney

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ASSISTANT COÖS COUNTY ATTORNEY

The Office of the Coös County Attorney currently has an opening for a full-time Assistant County Attorney. The Assistant County Attorney is primarily responsible for representing the State in the prosecution of felony crimes in Coös Superior Court. The position may also involve administering a federal grant, discussing legal aspects of cases with staff and police, and counseling law enforcement on legal matters. Trial or jury trial experience is preferred, and experience prosecuting criminal cases and working with victims of crime is a plus. Other responsibilities may include being available to take calls and to provide advice and guidance to local law enforcement during non-office hours.

Minimum Qualifications: Juris Doctor degree and be a member in good standing of the New Hampshire Bar Association.

Application Process: Please send a resume and cover letter to the address below.

John G. McCormick, Coös County Attorney
55 School Street, Suite 141
Lancaster, NH 03584
603-788-5560 (fax)
sue.corrow@cooscountynh.us

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- 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:
  o Develop claim specific skills and knowledge
  o Understand and evaluate complex coverage issues
  o Implement and integrate those skills to impact the course of litigation

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