Gender Equality in NH Law Revisited: NHBA’s 2022 Survey Yields New Statistics

By Tom Jarvis
NHBA Staff

The 2022 Economics of Law Practice Survey of the New Hampshire Bar Association, performed by the University of New Hampshire’s Survey Center, is now complete with a 24 percent response rate. The survey was last conducted in 2015. A supplement providing key takeaways is included inside this issue of the Bar News. With the inclusion of new gender-related statistics, I took the opportunity to revisit the topic of gender equality previously discussed in my March 2022 article.

According to the survey, “there has been a dramatic increase in the percentage of women in the practice, especially among younger attorneys,” concluding that overall, 40 percent of NHBA members are women. This shows a seven percent increase from the 2015 survey. Delving further, of the respondents under 30 years old, 61 percent are women, and approximately half of the respondents between the ages of 30 and 49 are women. From there, as the ages increase, so do the percentages. Looking at just the statistics of women under 50, though, it’s a safe assumption that the younger generation is evening things out.

Lindsey Courtney, president of the New Hampshire Women’s Bar Association, said the numbers don’t surprise her and she believes the profession is headed in the right direction.

“It’s starting to be more representative of the community in general,” she says. “I went to law school approximately 15 years ago, and even at that time we saw women had a slight edge in terms of numbers over men, as it relates to student applications. I don’t think gender bias is as widespread as represented by the fact that more women are entering the legal profession.”

The new survey also finds that a significant pay gap in gross income persists in the legal profession, with men earning 44 percent more than women overall. However, like the percentages of female bar members, the pay gap considerably narrows with the younger generation. Among the respondents from the ages of 24 to 40, women earn 16 percent less and from ages 41 to 50 women earn 22 percent less. The gap is most pronounced among those between 51 and 60 years of age, being at 58 percent.

According to the survey, the statistics may be influenced by societal factors rather than management bias. There are several well-known theories behind gender pay gaps, such as men gravitating toward higher-risk-versus-reward contingency cases, while many women drift to more steady, guaranteed income with family and estate law.

“There are quite a few females who do personal injury work, but it is a male-dominated area,” Chair of the NHBA Gender Equality Committee Lyndsay Robinson says. “I don’t think women are afraid to practice in those areas of law, it’s just not a guarantee. Women probably feel a need to provide and so by practicing in an area of law where there is persistent, steady income, they can keep their families fed.”

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2022 Economics of Law Practice Survey Key Takeaways – SUPPLEMENT

PRACTITIONER PROFILE

Garry Lane: Finding Joy in the Law and in the Sky

By Kathie Ragsdale

Garry Lane has always found joy in the exhilaration of performing – whether it was in the courtroom or in the sky.

The former business litigation attorney took up flying at the age of eight or nine, encouraged by his aviator parents. “They had to prop me up with a cushion so I could see,” he remembers.

That, coupled with an early fascination with renowned defense attorney, F. Lee Bailey, led to an eventual career in law with an unusual sub-specialty in aviation litigation.

Now an insurance claims analyst, Lane grew up in Rochester, New Hampshire, and got his pilot’s license at the age of 17, the earliest he could. He was drawn to the more sophisticated aspects of the sport.

“I like instrument flying because it’s like a video game,” Lane says. “You fly in the clouds for hours, then you break out in a rainstorm.”

Eventually, he also got into aerobatic gliding – the kind of aerial showmanship usually seen at air shows. His glider was rated for minus-5 Gs and plus-7 Gs, referring to units of acceleration.

Though Lane was never a show performer, he can rattle off a litany of maneuvers he performed in that glider – inside and outside loops, cloverleafs, hammerheads, and tail slides, where the pilot goes into a dive and pulls up at 100 mph until the plane is out of speed, uses rudders to hold it, then drops down tail-first before leveling out.

“It’s dangerous if your plane is not designed for it, or if you don’t keep your skills up,” he says.

Lane stopped aerobatics when he retired from practicing law, “but still fly a glider in retirement, recently acquiring a used glider to fly with a friend from New York,” Lane says.

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Supporting members of the legal profession and their service to the public and the justice system.

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October 19, 2022
We get great value through our New Hampshire Bar Association memberships, and part of that value is derived from an extensive array of NHBA membership benefits and services that are designed to assist members with every aspect of their practice. Thanks to the hard work and expertise of our very professional Bar staff, which includes an Executive Director, an Assistant Director of Marketing, Communications, and Member Outreach, and a Member Services Coordinator that are all members of the NHBA, the Bar offers a diverse and carefully tailored slate of member benefits that each of us can prosper from. With their contributions and the member-focused approach, the NHBA staff understands the needs of New Hampshire lawyers. They have gone to great lengths to very thoughtfully and thoroughly evaluate and regularly reevaluate NHBA offerings and the support, tools, and services available to our members. Please explore these offerings and use those that would most benefit you and your practice.

Many of the benefits of your Bar membership are obvious, such as the Bar News that arrives with your mail each month and is always readily available in a concise, useful format on the NHBA website. Another frequently used tool is the online member directory on the NHBA website, which serves as an easy-to-access and central means of finding another member’s contact information. Some of the NHBA member benefits have long been in place and are well known, but others could be easily overlooked. I thought it wise to take this month as an opportunity to remind our members of the numerous benefits of a NHBA membership that each of us could put to good use every month.

One regularly utilized NHBA member resource is the free conference rooms and meeting spaces at the Bar Center that are available for members on a space-available basis through the front desk coordinator. These meeting spaces provide quiet, professional rooms where you can meet with clients or opposing counsel. Plans are also currently underway to create a shared lawyer workspace and lounge in the Bar Center, which will serve as a convenient space for lawyers to work in between court hearings in the Concord area, to log on and work for a few hours following a deposition that ends early, or to relax and review newspapers and legal publications over lunch while on break from a trip up or down Interstate 93.

Another popular NHBA member resource is Fastcase, which is a free online legal research database available through the member portal. Fastcase allows members to access primary federal and state case law and statutes at no charge. A relatively newer member benefit, but one that has been in place for a few years now, is the TechConnect program. TechConnect, which is offered through Affinity Consulting, provides members with the opportunity to register for complimentary consultation sessions with independent technology experts (i.e., not consultants hawking products and earning a sales commission). Members are eligible to sign up for complimentary consultations and advice on a broad range of technological matters. This service does not help you figure out how to restore your lost draft document, but it is an invaluable resource for, by way of example, vetting timekeeping software or soliciting input on secure file-sharing platforms. TechConnect also offers a library of precorded video trainings that provide tips and pointers on how to use well-known computer programs more effectively in your law practice and lessons on assorted legal industry-specific software.

Our association’s own committees and sections are yet another benefit to our members. There are many productive NHBA committees and sections, and one of those is the Ethics Committee. The Ethics Committee’s final ethics opinions and Ethics Corner articles on a wide range of topics that attorneys might encounter are readily available through the NHBA website, in a single location where those resources can be easily located. The NHBA Ethics Committee page provides a means for accessing online Ethics Committee tools and submitting qualifying questions for consideration and possibly response by the Committee.

In recent years, the NHBA has committed substantial effort to rebuilding its Mentor Advice Program, which matches newer attorneys with experienced practitioners so “show the ropes” to the newer lawyer mentees. The mentoring program is particularly useful for new lawyers who are sole practitioners or work in small firms, but it can also be a valuable resource for lawyers who seek advice from experienced practitioners outside of their own law firms.

Two months ago, I wrote about the numerous means members have through the NHBA to contribute to our broader society. Some of those opportunities include volunteering with NH Free Legal Answers, where lawyer volunteers can, whenever convenient for them, find legal questions posted by income-qualified users and self-select the questions that the lawyer volunteer wishes to answer. The NHBA’s Law Related Education Committee also affords members an opportunity to engage with future generations through programs in schools and with various community groups.

Some members might also be unaware that their NHBA membership affords members discount programs, including Clio, My Case, LawPay, and several others. Please review the NHBA Member Benefits and Services webpage nhbar.org/resources/member-services-benefits to learn more about these offerings.

This overview is not intended as a comprehensive list. All of us can find available member benefits through the New Hampshire Bar, depending on what our particular needs are. If there is a certain kind of service that the NHBA might reasonably offer that could assist you with practicing law in New Hampshire, the odds are pretty high that it is available to you through the NHBA. Please do not forget that these resources and benefits exist. When you have a need for assistance, support, or resources, ask yourself whether the NHBA might have offerings that exist to assist you and then search for those potential tools through the NHBA.

Please consult the NHBA website for additional information and to explore the many automatic benefits of your membership. More information is available in the NHBA Member Guide at nhbar.org/member-guide.
Prominent NHLA Advocate, Elliott Berry, to Retire After 47 Years of Exemplary Service

By Tom Jarvis

Elliott Berry, a renowned and stalwart advocate for disadvantaged Granite Staters for close to 50 years, has announced his upcoming retirement on October 31, 2022.

Berry is the managing attorney and director of the Housing Justice Project for the Manchester office of New Hampshire Legal Assistance. Following his graduation from Boston College Law School in 1975, he went straight to work for NHLA. It has been his only job – aside from teaching short-term teaching stints each fall in Beijing, China from 2006 through 2009.

It was very clear to me that I wanted to do something that could make some social change and benefit lower-income people, so [NHLA] was an ideal job," Berry says.

One of Berry’s main focuses has been housing for residents of the state with limited means. He has represented thousands of individuals and families facing eviction and/ or housing discrimination and has brought a series of cases successfully challenging municipal zoning ordinances that created significant barriers to the construction housing for low-to-moderate-income people. He also successfully wrote the landlord/tenant statute, RSA 540.

“One of the things I’m proud of is the number of people I’ve been able to help, directly and indirectly, avoid being thrown out onto the street,” Berry says.

Lauren Greenwald, a staff attorney of NHLA’s Fair Housing Team calls Berry a “giant” in the legal community.

“He is the state’s preeminent authority on landlord/tenant law, having been involved with the creation of much of the substantive law that exists today,” Greenwald says.

“So many people in New Hampshire have Elliott to thank for dramatically impacting their quality of life through the preservation of their housing.”

Former executive director of NHLA John Tobin says Berry “has really written the rules about housing law and landlord/tenant law in New Hampshire to an amazing degree.”

“He has had an incredibly sweeping and enduring influence on housing laws in our state – and that’s an understatement,” Tobin says. “He’s a brilliant lawyer. Most of the time, the lawyers on the other side end up being very fond of him.”

Retired paralegal Candace Gebhart worked closely with Berry since 2005, most recently on NHLA’s Housing Justice Project.

“He’s the housing guru of New Hampshire,” Gebhart says of Berry. “What’s really annoying is that he quotes the [RSA 540] statute word for word, verse, and subsection. Not just 540, but the mobile home statute and local welfare statutes, as well. He’s a brilliant man and was certainly the best boss that I ever had. I was very fortunate to get thrown in with him.”

Berry was also the co-founder of the New Hampshire Community Loan Fund, nationally recognized for its manufactured housing loan program.

“I was very involved in legislation that created opportunities for manufactured housing owners to create cooperatives and become the owners of the parks that they live in,” Berry says. “There are now over 120 resident-owned cooperatives in the state.

Another significant area in which Berry has made a positive impact was the state prison system. In the late 1980s, he became heavily involved in litigation to improve conditions for inmates housed in the men’s state prison, resulting in a comprehensive consent decree in 1990. The case paved the way for later litigation he brought, such as a lawsuit that resulted in the creation of the women’s state prison.

“[Before the lawsuit], women felons did time in county jails, which were totally inadequate for long-term incarceration and had nothing in the way of rehabilitative programs,” Berry says. “We got an order that the State create a prison for women – which was the one in Goffstown – but it was supposed to be temporary. By 2012, nothing had been done, so we filed suit and forced them to create a new facility that had programs and services that were substantially equivalent to what the men had.”

Retired NHLA attorney Alan Linder, who worked with Berry on the inmate cases, says Berry has always been the go-to person at NHLA for all staff and that he is "both a state jewel and a national treasure".

"He has devoted a good part of his life to helping others," Linder says. “He has achieved a measure of justice for thousands and thousands of persons. He has done this well and he has done this with humility and a catching sense of humor. It has been an honor and a privilege for me to have been able to work with Elliott and to learn from him.”

Brian Shaughnessy, member of the 603 Legal Aid Board, says he has collaborated with Berry many times and has conversely been on opposite sides. "Elliott is a lawyer’s lawyer and a quintessential New Hampshire lawyer," Shaughnessy, who has collaborated with Berry many times, says. "It is said that in practicing law in New Hampshire, there is a lot of common sense and a lot of civility, and Elliott brings both of those qualities to the table in each and every case. He is the embodiment of the perfect professional.”

When Berry was an undergrad at the University of Michigan, he majored in Far East studies and learned to speak fluent Mandarin. Each year, from 2006 through 2009, he would take time away from NHLA to travel to Beijing, China for short-term teaching positions. These typically lasted for a month or two.

“I jumped at the chance,” Berry says. “The first year, I did a four-week course, which was an introduction to Anglo-American jurisprudence, with a lot of constitutional law. It was a blast. [In subsequent visits], I ended up helping them run their moot court program and co-coached their team in their international arbitration competition. The students treated me with such respect, and I made a lot of friends there that I still have to this day. I’m grateful to John Tobin for letting me do that.”

Berry met his wife, retired attorney Campbell Harvey, while she was clerking for the judge on his first inmate conditions lawsuit. They married in 1980 and had two children, Jake and Maggie. In 1981, Harvey started the first all-female law practice, Harvey & Mahoney, and was the author of RSA 173h, the domestic violence statute.

“The pair of them have had an amazing influence on our legal system,” Tobin says. “They both deserve long-term, enduring recognition.”

Berry’s son Jake, who is the Vice President of Policy at New Futures, says a lot of his work is at the State House and his father is mentioned quite a bit.

“Nine out of 10 legislators that I talk to in the halls speak very, very highly of [my father] and the work that he has done,” Jake Berry says. “But that 10th legislator thinks he’s a pain in the butt. I think my dad would take just as much pride in that 10th one, though.”

Stephanie Savard, Director of the NH Coalition to End Homelessness and Chief External Relations Officer at Families in Transition says she was fortunate to work with Berry.

“He is a force to be reckoned with but in a way that is so respectful,” Savard says. “If I could ever be so lucky to have an Elliott Berry speaking up on my behalf – that would be a big win. He damn well deserves a retirement.”

Berry’s decision to retire was not an easy one, but after 47 years of advocating for the disadvantaged, he decided it was time.

“The emotional callouses you have to develop to stay in this work as long as I have, have started to take a toll,” Berry says. “And the toll that the vicarious trauma was taking on my ability to be as empathetic as I would like to be was getting to be enough. When you start becoming insufficiently reactive to active to terrible stories your clients are telling you, it just told me that it’s time. I don’t want to not be outraged.”

Berry believes that Granite Staters will be left in good hands with the current NHLA staff and says it helps him to rest easy knowing that. When asked what he would say to a young Elliott Berry just starting out he says the following:

“When I started, I tended to be a bit of a hothead and I was self-righteous – and with somewhat unrealistic ideas about what I could achieve. Having high goals and aspirations is fine but park the self-righteousness and the hotheadedness at the door, because I learned over time how much more you can accomplish when you work hard to understand where the opposing party is coming from. Don’t take it for granted that you are a better person than they are.”
October is Pro Bono Month, and the week of October 24 is Celebrate Pro Bono Week. Celebrate Pro Bono is an annual opportunity to shine a spotlight on the amazing pro bono work by lawyers, paralegals, and law students across the country. The national theme for this year’s celebration is “Law in Everyday Life.”

The merger of Legal Advice & Referral Center and the NHBA Pro Bono Referral Program in June 2021, concurrent with the rollout of a single statewide intake for 603 Legal Aid and New Hampshire Legal Assistance (NHLA) has improved and increased the delivery of civil legal aid in New Hampshire. Clients can access high-quality legal services with one call or application, rather than spending time trying to find the right agency to serve them. Every day, we strive to close the access to justice gap in this state.

The Pro Bono Department at 603 Legal Aid has had several big wins that are cause for celebration during Celebrate Pro Bono. First, we want to celebrate Shaheen & Gordon for their commitment to take on 20 pro bono cases per year, beginning in 2023. Thanks to the leadership of Lyndsay Robinson, Tracey Goyette Cote, and Tim McLaughlin, Shaheen & Gordon’s commitment will enable the Pro Bono Department to serve more individuals seeking representation on a wide array of civil legal service needs.

Second, the Pro Bono Department has placed 221 cases with 145 different pro bono attorneys to date. This is 60 more cases placed and 85 more attorneys who have volunteered than in the same period in 2021. We have increased placement across all our projects, the largest increase being in general pro bono placements. We are excited to continue to see these numbers grow as recruitment and reengagement of pro bono attorneys continues to increase.

Third, pro bono has seen unparalleled support from the New Hampshire Supreme Court. In October 2021, the Court voted to increase the bar’s pro bono commitment by 20 cases per year. This important change will further improve the delivery of legal aid in New Hampshire. The Court has also been vocal and active in developing a culture in New Hampshire where lawyers utilized this privilege to serve those most in need.

For a decade, 603 Legal Aid has provided pro bono representation to our most vulnerable community members in a privilege. As we at 603 Legal Aid continue to try to close the gap and level the playing field in court for the people of New Hampshire, we will continued to seek new ways to step up and volunteer their time. No matter your area of expertise, there are clients who need you. We have training, support, and mentors available for new attorneys or attorneys seeking to take cases outside their standard practice area. We have volunteer opportunities available through clinics and unbundled services for attorneys who do not want to commit to taking on a full representation case. Any time you can give to help a client will be time well spent and most welcomed.

Contact Emma M. Sisti, 603 Legal Aid Pro Bono Department Manager, at esisti@603legalaid.org or 603-584-4145 for more information on becoming a pro bono attorney and to register online at 603legalaid.org/volunteers.

By Emma M. Sisti 603 Legal Aid Staff

Welcome New Bar Staff

Vera Vaitones has joined the NHBA’s Marketing and Communications team as the Communications Coordinator.

She has a bachelor’s degree in graphic design, which she obtained from Colby Sawyer College in 2019, and has received the Baccalaureate Award, as well as the Capstone Award for her studies. Vera has always had an interest in art, which stemmed from the discovery of an Olympus waterproof camera in a mudflat when she was 10 years old. Ever since then, photography has been a passion, which spilled into the realm of graphic design, as she enjoys creating and being able to manipulate aspects of art through Photoshop and InDesign. Besides taking photos, Vera also keeps busy with many hobbies that include stained glass projects, writing fiction, making rosaries, and knife throwing, to name a few.

Prior to joining the NHBA, Vera worked as an Administrative Assistant at Pinkerton Academy, where she created posters and banners for the counseling department and used her creative abilities to help others. “I realized I really like doing that kind of work and being able to help other people,” says Vera.

This is the same motivation she has for the NHBA, as she hopes her work can bridge the gap between creativity and professionalism. “Fast forward to here, and it’s great because not only am I able to do what I’m passionate about, but I am able to help people and get people interested in the law, in the NHBA, and the events we have here.”

Pro Bono Program

Pro Bono is important to the NHBA and 603 Legal Aid. This month, the NHBA is sponsoring a Pro Bono Referral Marathon. To learn more about this event and to register, please visit 603legalaid.org/volunteers.

By Emma M. Sisti

603 Legal Aid Celebrates Pro Bono with a Week of Festivities

603 Legal Aid’s Pro Bono Program is hosting a seminar to prepare attorneys to represent victims/survivors of domestic violence and stalking. With just 6-10 hours, attorneys can make a difference for clients living in fear for their safety and their loved ones. Join us for this DOVE seminar and hear from experienced professionals who work together to help victims/survivors get the protection they need. This year’s faculty will include professionals representing crisis centers, the legal community, and the Judiciary.

Monday, Nov 14, 2022 9:00am – 3:30pm
NHBA CLE Center (Lower Level) 2 Pillsbury St, Concord, NH 03301
Dear God, My Tether is Broken!

By Nancy Richards-Stower

The thing I loved about the law was that it tethered me. It made me feel safe, or at least gave me the potential of safe. Predictable. When you know what is coming, you can prepare. Whether that is for the best or the worst, the preparing provides some control, some security, some freedom to protect what you love. I love my family, my country, my globe, my universe.

Coming of age, when all things were possible and, dare I say it, young (a young president, a young civil rights movement, a young environmental movement, a young gender equality movement, a young sexual revolution), there was always plenty of time to work hard to fix what was wrong. Back then, the law made this certain: once the cog advanced forward, that was the new starting point. The goals of equality and justice were gaining with every little tooth in that cog. Women, making up half the planet, would gain respect, power, and political savvy. Women and men would end wars, would gain respect, power, and political influence. Women, making up over half the world, would gain the right to vote. The goals of equality and justice advanced forward, that was the new start.

When a woman became president and refused to let the law be tethered to his (HIS!) judges. That’s what he dictated to his special brand of Kool-Aid. And go, and nearly half the country became addicted to his (HIS!) judges. The handful who would go, and nearly half the country became addicted to his (HIS!) judges.

Two hundred years of history (real and judicial) – fell with Bush v. Gore (5-4). The bedrock of democracy – count all votes and hold a recount of all votes if the results are unclear – fell with Bush v. Gore (5-4). The bedrock of democracy, the holy beacon of democracy, fell (5-4) in Shelby County v. Holder. Two hundred years of history (real and judicial) shot out of the Supreme Court (again, 5-4) in Heller, where “militias at the ready” were twisted into permission for crazed white supremacists to walk down American streets during demonstrations with AK-47’s strapped to their insecure bodies. And then an amoral, uneducated, and uncaring-in-his-history became president and refused to let go, and nearly half the country became addicted to his special brand of Kool-Aid.

I speak only of my own lifetime. I am 71 and can’t believe it. When I was a little girl, 71 was “almost dead.” Perhaps I am. But the dissonance of crazed megalomaniacs has somehow danced around those cogs and we have slipped backwards in important places.

In accountability and honesty, for one. I recall when government, private, and religious agencies empowered by good will to make us safer and have better lives attracted the talent who used their short time on earth to improve the conditions for which their agencies were created, and to pave a smooth path to the future. Government service was highly honored.

Judges seemed to be fair. The handful of Judge Horribles in my 40-plus years of practice have been thankfully few. I kept the faith that when more diversity hit the courts, those judges born of privilege and their assumptions as to what was “plausible discrimination” eventually would be informed by a judge of different color or gender who personally experienced the uncomfortable hall she walked into an all-male professional assembly. Or whose first (and last) county bar association meeting in 1979 began with a recognized bar leader preceding his remarks with a sexist joke. Or whose first multi-party-complex litigation had the state court judge ask her among her six male colleagues, “What’s a rape like you doing among thorns like these?” Then again, those were less dire than those male firefighters who urinated in my female client’s boots.

But mostly, the law helped me keep the faith that motivated my life of what I meant to be a life of service in the advancement of my country. Then the earthquake: a bedrock of democracy – count all votes and hold a recount of all votes if the results are unclear – fell with Bush v. Gore (5-4). The bedrock of voting rights, the holy beacon of democracy, fell (5-4) in Shelby County v. Holder. Two hundred years of history (real and judicial) shot out of the Supreme Court (again, 5-4) in Heller, where “militias at the ready” were twisted into permission for crazed white supremacists to walk down American streets during demonstrations with AK-47’s strapped to their insecure bodies. And then an amoral, uneducated, and uncaring-in-his-history became president and refused to let go, and nearly half the country became addicted to his special brand of Kool-Aid. That’s what he called them. And Dobbs v. Jackson Women’s Health Organization, the 6-3 opinion (Chief Justice Roberts had to run to catch up with the runaway Trump-made majority) granted the white-male-

Can any lawyer reading this deny that we would be held in contempt if we whimpered, shouted, insulted, and cried like Kavanaugh did at one of our motion hearings, or if we filed the totally unsubstantiated garbage “voting fraud” lawsuits that lawyers filed all over this nation? I have spent sleepless nights wondering if I placed quotes in the right place of a brief for fear of violating my duty of candor to the court. Why? Because I think (and thinking makes it so, right?) that all sitting judges in New Hampshire will reject the dark clouds sweeping the country and hold up the law in all its deserved light and glory. Then, I can get my tether back, at least in New Hampshire.

Nancy Richards-Stower, a political activist and member of the New Hampshire Bar since 1979, had her solo estate rights law office in Merrimack for over three decades. She currently operates that NH/MA practice remotely from Maine. She invented, owns, and operates TruthSettle.com®, an online settlement service.
Committee Corner

An Interview with Retired Justice Linda Dalianis

By Marcia Brown

The New Hampshire Bar Association’s Gender Equality Committee’s (GEC) mission is to investigate issues of gender discrimination and equality in the legal profession and in the legal system. As part of its work, the GEC awards the Philip S. Holman Award in recognition of Judge Holman’s stalwart advocacy for gender equality in the legal system. Recipients demonstrate dedication to promoting respect and fair treatment toward all members of the judicial system. This article is part of the GEC’s series of interviews of past Holman Award recipients to gain their perspective on how far our profession has come in gender equality.

In 2018, Justice Linda Dalianis received the Holman Award. I had the opportunity to sit with Justice Dalianis and discuss the past and the present state of gender equality – in particular, how women are faring in our profession. Her care and admiration for our profession was palpable. Even in retirement, she is passionate about improving our equality.

For those who don’t know, Justice Dalianis was the 50th woman admitted to New Hampshire’s Bar Association. Think of this, law schools now routinely graduate classes that are 50 percent or more women, as compared to men. But back in the 1970s, that was not the norm. In 1974, when Justice Dalianis graduated from law school, there were only six women being admitted to the NH Bar. Of the 49 women lawyers before her, only about one-third were still living and practicing at the time of her graduation. Justice Dalianis and her peers were still charting new territory, often by themselves. That perspective is reflected in her answers to the questions below.

Has receiving the Philip S. Holman Award influenced your practice? If so, in what way?

This question prompted a laugh. The answer is “no,” because Justice Dalianis retired shortly after receiving the award. But even more humorous was Justice Dalianis’s recounting of how during a NH Women’s Bar Association Fall Reception, she posed with other Holman Award recipients for a photo. It was only after the photo that she discovered that she was not a Holman Award recipient. A memorable photobomb! The GEC sprang into action to cure that oversight and in 2018, for the first time, a feeder program. Justice Dalianis explained that when she was young, she wanted to be a veterinarian. To illustrate these societal views, Justice Dalianis explained that when she was young, she wanted to be a veterinarian. When she started to receive course catalogs and looked at the veterinarian course offerings, her heart sank. She discovered that all these colleges only admitted men. Later, in college, she learned that law schools did admit women, and our profession benefited from her decision.

Once in the legal profession, Justice Dalianis and her women peers were charting new territory. Justice Dalianis recalled: “so-cy at the time didn’t think us women could be lawyers, certainly not litigators.” To illustrate these societal views, Justice Dalianis explained that when she was young, she wanted to be a veterinarian. When she started to receive course catalogs and looked at the veterinarian course offerings, her heart sank. She discovered that all these colleges only admitted men. Later, in college, she learned that law schools did admit women, and our profession benefited from her decision.

How have you promoted gender equality and fair treatment since winning the Holman award?

As I stated above, Justice Dalianis and her peers were charting new territory. Justice Dalianis recalled: “society at the time didn’t think us women could be lawyers, certainly not litigators.” To illustrate these societal views, Justice Dalianis explained that when she was young, she wanted to be a veterinarian. When she started to receive course catalogs and looked at the veterinarian course offerings, her heart sank. She discovered that all these colleges only admitted men. Later, in college, she learned that law schools did admit women, and our profession benefited from her decision.

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In retirement, Justice Dalianis continues to conduct herself as a role model for women and gender equality. She freely gives of her time to sit on panels to tell the story of the first women entering our legal profession. She hopes that by telling the story of those early years and reminding us of how society viewed women’s and men’s roles at that time, that our newer members will see how far society’s view on the careers of women has changed, and how far we’ve come as a profession. That success is to be applauded.

What activities have you or others engaged in that you think have had a meaningful impact in promoting or advocating for gender equality in the legal system?

As I stated above, Justice Dalianis and her peers were charting new territory. Justice Dalianis recalled: “society at the time didn’t think us women could be lawyers, certainly not litigators.” To illustrate these societal views, Justice Dalianis explained that when she was young, she wanted to be a veterinarian. When she started to receive course catalogs and looked at the veterinarian course offerings, her heart sank. She discovered that all these colleges only admitted men. Later, in college, she learned that law schools did admit women, and our profession benefited from her decision.

Once in the legal profession, Justice Dalianis and her women peers were charting new territory. Justice Dalianis recalled: “society at the time didn’t think us women could be lawyers, certainly not litigators.” To illustrate these societal views, Justice Dalianis explained that when she was young, she wanted to be a veterinarian. When she started to receive course catalogs and looked at the veterinarian course offerings, her heart sank. She discovered that all these colleges only admitted men. Later, in college, she learned that law schools did admit women, and our profession benefited from her decision.

In retirement, Justice Dalianis continues to conduct herself as a role model for women and gender equality. She freely gives of her time to sit on panels to tell the story of the first women entering our legal profession. She hopes that by telling the story of those early years and reminding us of how society viewed women’s and men’s roles at that time, that our newer members will see how far society’s view on the careers of women has changed, and how far we’ve come as a profession. That success is to be applauded.

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yrs.” She is proud of the work she did during her leg of carrying that baton.

What changes have you seen in gender equality since receiving this award?

Justice Dalianis has close to a 50-year perspective on changes in gender equality. When she became a lawyer, women lawyers were referred to as lady lawyers. Justice Dalianis believes that the legal profession has moved centuries ahead in the past 40 years.

“One society could see that women lawyers could be just as good, bad, and spectacular as men, women lawyers have become ho-hum. We were no longer a novelty,” she says. “That is a huge change.”

Is there an area that stands out to you where there can be further change? If so, what can be done to bring about that change?

This is where Justice Dalianis waxed about her efforts to introduce NH eCourt. On the surface, this may not seem like a tool for gender equality, but Justice Dalianis’ sights were set on the long game. As Chief Justice, she was essentially the CEO of an 800-staff organization. Streamlining that organization meant making the hard decision to downsize staff but with it brought the ability to share resources, electronically, over multiple court systems. Having been a working parent herself, she sought to bring flexibility and remote capabilities to all practitioners. One of the issues frequently raised in the past was “being out front without shrieking” and “carrying the laboring oar.” She is proud of the women who have continued to choose the legal profession.

“Over time, we have proven to society that we are equally as capable as men,” Justice Dalianis says. There is a need to continue that. She reflected that people, and professions, need time to get used to change.

As far as advice, Justice Dalianis says, “I think it is important for more men to join the effort because men have a role.”

She spoke fondly of her late husband and how he too was blazing a gender-equal path.

“We had a partnership – he was taking care of our children just as much as I was, which was unique among men at that time… [Back then] men were not as free as they are today to be involved in child rearing,” Justice Dalianis reflects. “There was a stigma on what roles men could play.”

Justice Dalianis is glad to see that so many lawyers could be just as good, bad, and spectacular as men, women lawyers have become ho-hum – We were no longer a novelty.” She says, “I think it is important for more to join the effort because men have a role.”

What advice would you give someone who is interested in promoting gender equality in the legal system?

The bulk of Justice Dalianis’ career was spent leading by example, “being out front without shrieking” and “carrying the laboring oar.” She is proud of the women who have continued to choose the legal profession.

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New Admittees to the New Hampshire Bar

The following members were admitted to the New Hampshire Bar Association at a swearing-in ceremony on Sept. 14, 2022.

Jennifer A. Doherty, Boston, Mass.
Darlene D. Toolin, Boston, Mass.
Elizabeth Barr, Boston, Mass.
Kate V. Lipman, Boston, Mass.
Craig P. Magner, Winthrop, Mass.
David S. Levinson, Braintree, Mass.
Kathy A. Camilli, Boston, Mass.
Michael P. Hilferty, New York, NY
Joseph W. Scott, Encino, Calif.
David M. Lieberman
Brian J. Stone
Maia L. Dunlap, Laconia, NH
Timothy J. Kopczynski, Concord, NH
Avery J. Topel, Concord, NH
Zachary Frish, Concord, NH
Arthur Langford III, West Hampstead, NH

The following member was admitted to the New Hampshire Bar Association at a swearing-in ceremony on Sept. 20, 2022.

Kimberly Kirkland
Randy Reis

Providing skilled representation to victims of medical negligence and other negligence

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www.reisandkirkland.com
(603) 792 - 0800

EMPLOYMENT LAWYERS FOR EMPLOYEES

Samantha Heuring, C. Kevin Leonard, Chuck Douglas, Megan E. Douglass and Benjamin T. King

DOUGLAS, LEONARD & GARVEY, P.C.

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mail@nhlawoffice.com www.nhlawoffice.com
Each Month Your Peers Share Their Favorite Fictional Attorneys

A monthly column that talks about everyone’s favorite lawyers from books, film, and television.

By Tom Jarvis
NHBA Staff

Unless you live under a rock, you’ve likely encountered a fictional lawyer at some point in your life. In literature, legal dramas (sometimes referred to as courtroom dramas) have been around since printed books were invented. From 1866 with Crime and Punishment to 1960 with To Kill a Mockingbird to modern times with virtually anything written by John Grisham, you’ve likely read a book featuring a fictional lawyer.

If books are not your bag, you’ve probably seen a legal drama on the big screen, such as Anatomy of a Murder or A Few Good Men. Even the comedy genre has legal hits, like Legally Blonde, and Liar, Liar to name a few. And since the 1950s, there have been a slew of small screen offerings – arguably more popular than movies these days – that centered around lawyers, for instance Perry Mason, Law & Order, Damages, Ally McBeal, Suits, Better Call Saul, and Boston Legal. Even Marvel has a few superheroes that are lawyers by day, namely Matt Murdock (Daredevil) and Jennifer Walters (She-Hulk: Attorney at Law).

The adventures of these fictional lawyers are almost always riddled with sensationalism and legal inaccuracies; however, taken at face value, they can be very entertaining. Have you ever thought about who your favorite fictional lawyer is? Why are they your favorite? And how do you think they would fare in a present-day New Hampshire courtroom? The Bar News welcomes your answers to these questions and will now feature a monthly column featuring a handful of your responses.

Matthew Brekus, Seyfarth Shaw, LLP

“Alan Shore from Boston Legal. He approached the law with a seriousness and a gravity that respected his clients and the issues before them. But he also had a sense of humor and showed how at the end of the day, attorneys are still people – even if his hijinks and antics were often outlandish. I don’t think he would do well [in a NH court]. Alan Shore could be bombastic, irreverent, and cutthroat at times. I suspect that on the more serious trials of the show he would fit in amongst the litigators of NH, but the episodes where he tried to ‘pull a rabbit out of his hat’ would have landed him in hot water in our small bar.”

Kate Morneau, Morneau Law

“Elle Woods from Legally Blonde. Sorry, I know that will make people cringe but it’s true! She was an underdog who was underestimated. She used that to her advantage to help others and was able to relate to her clients in a way that ‘traditional’ lawyers were unable to. I appreciated having this movie to watch with friends during law school to lighten things up. I think things have changed greatly for women lawyers in the past 20 years. My grandmother was Clerk of the Court and I can remember when women lawyers couldn’t not wear pants to court. I think NH courts can remember when women lawyers could not wear pants to court. I think NH courts would welcome any attorney who was able to think creatively about ways to solve legal problems.”

Cathy Shanelaris, Shanelalis & Schirch, PLLC

“Alicia Florrick from The Good Wife. Alicia started off being a victim and inured to over time building her confidence, experience, and fierceness as an attorney. It was fun to watch her transformation. Her confidence in her work and practice is inspiring and encouraging, although we don’t need to always be so tough to do good work. Likely, her antics would be greatly discouraged by our courts.”

Kirk Simoneau, Red Sneaker Law, PLLC

“Alan Shore from Boston Legal. I subscribe to the belief that jurors expect lawyers, especially in closings, to be like the lawyers they see on TV, and Alan’s closings were works of art. His wordplay and passion, not to mention irreverence, made for entertaining television. If a real lawyer, in real practice, can entertain as he educates his jury, he has a better chance of keeping the attention of twelve strangers. And, come on, it was just good television.”

FICTIONAL continued on page 17

Best Lawyers

The Practice for Malpractice

HOLLY B. HAINES - LAWYER OF THE YEAR - 2023
PERSONAL INJURY - PLAINTIFFS

Holly has devoted the past twenty years to representing victims of medical malpractice and other catastrophic personal injury cases. We are proud to announce that Holly has added another impressive award to her list of accolades.

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OCTOBER 19, 2022
www.nhbar.org
NEW HAMPSHIRE BAR NEWS
Planning for Disaster: Do You Have a Recovery Plan?

By Hank Plaisted

NHBA Staff

Most of the press around technology these days is focused on cybersecurity, and with good reason. Keeping your (and your clients’) data safe from criminals is of utmost importance. The risk of exposing information has serious implications, and it essentially mandates a security policy and plan for any size organization. But lost in the worries about cyber threats is the age-old threat of actual physical harm from weather, fires, building failures, and other external factors. A solid Disaster Recovery Plan (DRP) includes these risks, as well as security concerns. So, let’s look at what the technology component of a good DRP includes.

First and foremost, it should be noted that a DRP is a living and malleable document. Technologies change rapidly, staff and business partners come and go, and even business practices are altered, all of which can impact an organization’s ability to respond to a disaster. An annual review of your organization’s DRP should be considered standard for your business. Similarly, anyone can write a plan, but how will you know it works? Strategically testing your DRP to identify problems and pitfalls can be the difference between a smooth and successful recovery versus an ongoing disaster.

The key elements of the DRP involve:

Time – Attorneys clearly understand that time is money. This is never more evident than when it comes to planning for disasters. There are two elements to consider when thinking about your DRP that can help you understand the cost of downtime and guide your decision(s) about how you will recover.

What is the maximum amount of time your firm can tolerate before operations return to normal, or close to it? Recovering from a catastrophe will be expensive. How expensive may depend on your threshold for being out of operation. It is 30 minutes, 12 hours, two business days, etc. In other words, how much revenue can you stand to lose before it threatens your firm’s viability?

What is the maximum number of hours or days of work/data you can afford to lose if you need to move to a backup? Can you afford to lose a day’s worth of data entry or only one hour? This is essentially the question of “how much work are we willing to do over again?” Knowing the answer to this question is what drives your backup solution, a key component of your DRP.

Inventory Analysis – In this era, some data, software, and hardware are absolutely necessary for your business to function. These critical systems must be identified and prioritized in a DRP. Other systems may be important, but not disruptive to operations if they are unavailable or take longer to recover. Finally, there is probably a subset of technology that is highly or conveniently, but not essential. Understanding how to tier your technology systems relative to maintaining business continuity is a key to creating a DRP that efficiently brings your business back up within the time criteria you have identified.

Staff & Business Partner Roles – A detailed list of your staff and their role(s) in the disaster recovery process is essential. Similarly, you will almost undoubtedly need the assistance of other business partners. Depending on the size of your organization and the scope of the disaster, you may need to work with your landlord to secure a temporary space for your business. If you utilize a Managed Service Provider (MSP) for technology services, you will certainly be relying on them for obtaining equipment, restoring data, etc. A robust DRP clearly identifies where staff and partners are responsible for which steps in the process. It’s worth noting that if one or more of your business partners are critical to success of your recovery plan, be sure that your contract includes a Service Level Agreement (SLA) that clearly delineates the expectations and obligations, with documented means to resolution for any failure in meeting the same.

Response Procedures – Many businesses jump right to the procedure component of the plan without thinking deeply enough about the aforementioned elements. In fact, some organizations’ DRP is nothing more than a list of steps. It is essential to document the specific procedures that will be taken to get your business up and running, but the development of those procedures is contingent on understanding and documenting your business goals, as noted in the time and inventory analysis elements.

Communications – While not strictly limited to the technology area of your DRP, you will undoubtedly use technology tools to communicate with your staff and clients. You will need to know how you can access these tools, and who is responsible for crafting the message you will share with your clients. Your plan should include how you will reach out, including the format and channels (email, social media, etc.) you will utilize. Documenting this in advance is an invaluable aid to saving time and avoiding confusion during a very stressful time for your firm.

By now, it should be clear that a Disaster Recovery Plan is much more than just a list of things to do in the event of an emergency. A well-crafted DRP is thoughtfully prepared, periodically revised, and hopefully never used. If it is, a good one can be the difference between keeping you in business, or the unfortunate alternative.

Hank Plaisted is the New Hampshire Bar Association’s Information Technology Coordinator.
Even in 2022, the COVID-19 pandemic continues to challenge New Hampshire households with low income. Throughout this turmoil, New Hampshire Legal Assistance (NHLA) has solved civil legal problems with the support of the New Hampshire Bar Foundation and other donors that believe in equal access to justice for all people.

NH’s affordable housing crisis shines a bright light on the need for legal aid. Soaring rents have limited affordable housing options. Competition is acute for anyone looking for a place to live and can be even tougher for people like Tony and Cheryl, who have a housing voucher that helps pay their rent. When they faced eviction due to the landlord’s family wishing to move into the unit, NHLA helped the couple negotiate for an extended period to vacate the property. That extra time enabled Tony and Cheryl to find a new place that would accept their voucher.

With the end of the federal eviction moratorium last fall, the number of Granite Staters facing eviction proceedings rose significantly. In partnership with 603 Legal Aid, NHLA responded with innovative court-based “eviction clinics,” where people receive on-the-spot legal services to prevent eviction. There, NHLA helped tenants prepare for hearings, negotiate with landlords, and obtain additional time to apply for federal assistance. Since September 2021, these clinics – currently running in Manchester and Nashua courthouses – have helped nearly 200 households.

Helping victims and survivors of domestic violence stay safe continues to be a top priority for NHLA. It handles protective order cases as well as related family law matters such as divorce and parenting rights and responsibilities cases. An NHLA attorney recently helped Clara secure a five-year protection order against her ex-husband. Clara and her children endured many years of being subjected to her ex-husband’s erratic and threatening behavior. The five-year protective order will allow Clara’s family to move on after living in fear and uncertainty for so long.

The ongoing pandemic has transformed the state and federal public benefits landscape – a tangle of laws, regulations, and policies that can be difficult to navigate in ordinary times. NHLA has helped clients access benefits for which they are eligible, and more recently, to contest alleged “overpayments.” Last winter, Richard came home to find a notice telling him he owed thousands of dollars in overpaid unemployment insurance benefits. Richard cares for his elderly mother and was very concerned about this sudden major debt. NHLA was there to help him understand the paperwork and communicate with Employment Security, proving that he was not overpaid.

To learn more about NHLA, visit nhla.org.

IOLTA Grants Help NHLA Provide Necessary Civil Legal Aid Services

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CALL FOR NHBA AWARDS NOMINATIONS

Each year, the New Hampshire Bar Association presents awards at its Midyear Member Meetings to recognize outstanding achievement and service among Granite State attorneys. We encourage you to nominate your peers for the following awards.

VICKIE M. BUNNELL AWARD FOR COMMUNITY SERVICE
This award honors the memory of Vickie M. Bunnell, “A Country Lawyer,” and applauds the community spirit that is a hallmark of our profession. It is presented annually to an attorney from a small firm (four or fewer attorneys) who has exhibited dedication and devotion to the community by giving of their time and talents, legal or otherwise.

DISTINGUISHED SERVICE TO THE PUBLIC AWARD
This award is presented to the nominee who best exhibits service to the public on behalf of the administration of justice.

OUTSTANDING SERVICE IN PUBLIC SECTOR / PUBLIC INTEREST LAW AWARD
This award is presented to a NHBA member (or an organization employing NHBA members) who has at least five years of service in government service, military service, law enforcement, public interest law services, or at a 501(c)(3) non-profit organization.

PHILIP S. HOLLMAN AWARD FOR GENDER EQUALITY
This award is presented by our Gender Equality Committee and honors Judge Hollman’s efforts as a stalwart advocate for gender equality in the legal system. Award recipients are those who:
• exhibit dedication to promoting respect and fair treatment toward all members of the judicial system
• seek to promote gender equality through leadership and educating others
• have taken initiatives in matters of gender equality and been a role model in this area

Details and full requirements for each award, as well as a list of past recipients, can be found at nhbar.org/bar-awards/

Submit nominations by NOVEMBER 11, 2022 to NHBA MYM Awards, 2 Pillsbury St., Suite 300, Concord, NH 03301-3502 or email Debbie Hawkins at dhawkins@nhbar.org.

MARK YOUR CALENDARS!
Awards to be presented at NHBA’s Midyear Member Meeting on FRIDAY, FEBRUARY 17, 2023.
Hamblett & Kerrigan, PA is pleased to announce that Attorneys Kent M. Barker, Brian C. Kelly and Brenner G. Webb have joined the firm as Directors and Shareholders.

With the addition of these experienced attorneys, Hamblett and Kerrigan, PA will expand its robust Estate Planning and Probate, Business, Real Estate, and Employment Law Practice with practice areas including Criminal Defense, Personal Injury, Workers’ Compensation, and Family Law.

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www.nashualaw.com

Attorney Bonnie Sisak is a seasoned criminal defense attorney with over fifteen years of legal experience. Before joining Connolly Law, she spent over a decade with the New Hampshire Public Defender’s Office. She successfully represented hundreds of clients in defending misdemeanor and felony charges, including, Homicide, Arson and Assault. She focuses her practice on DUI and Criminal Defense.

Attorney Sisak graduated with honors from UNH with a bachelor’s degree in Sociology and Political Science. She graduated from UNH, Franklin Pierce School of Law in 2006. In law school, Attorney Sisak externed with JAG, coached Moot Court, and completed the advanced Criminal Clinic.

20 Hampton Road, Suite A, Exeter, NH 03833
(603) 580-2887
familynhlaw.com

Attorney Sandra Kenney brings to Connolly Law over a decade of legal experience. She focuses her practice in Wills, Trust and Estates. In addition to crafting personalized estate planning documents, Attorney Kenney assists her clients with routine estate administration, Medicaid planning, guardianship, durable powers of attorney, living wills and QDROs.

Attorney Kenney is also an experienced and trusted Family Law attorney. She represents clients in all marital cases including IVF, adoption and surrogacy matters.

Attorney Kenney obtained her bachelor’s degree in Biological Science from Rutgers University and her Juris Doctor from Hofstra University School of Law. She graduated both schools on the Dean’s List and is fluent in Mandarin.

20 Hampton Road, Suite A, Exeter, NH 03833
(603) 580-2887
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PORTSMOUTH LAW FIRMS TO JOIN FORCES

Hoefle, Phoenix, Gormley & Roberts, PLLC and Shaines & McEachern, PA are joining forces, effective October 3, 2022. The resulting law firm will operate under the name Hoefle, Phoenix, Gormley & Roberts, PLLC, from its offices at 127 Parrott Avenue Portsmouth, NH 03801.

The combined talents of two of Portsmouth’s most experienced and respected firms will enhance clients’ access to a wider range of premier quality legal services, delivered in a timely and cost-effect manner.

The firm has fourteen lawyers. The practice focuses on real estate, corporate, litigation, land use, estate planning/ probate and bankruptcy.

For additional information contact Dan Hoefle.
Adam was born on July 24, 1970, in Honolulu, Hawaii, on the island of Oahu. He lived there with his parents and younger brother, Jeremy, until he was 15, at which point he moved to England while his parents were obtaining their doctorate degrees. He finished high school in Toronto, and then explored the world for a bit before heading to law school in 1995, where he met his soon-to-be wife, Andrea. They married in 1999 and settled in Portsmouth, New Hampshire, where they raised two loving children, Nick and Morgan, currently ages 20 and 17.

Adam’s legal career began at Tyco, where he met a remarkable group of friends and mentors. After several career changes, he found a home at Straumann Group as vice president and North American leader. After several years in this role, he moved to the Straumann Group as vice president and North American leader. After several years in this role, he found a home in California, New Hampshire in 2021 to help him and his family during his cancer treatment.

The family will have a small celebration on the water to honor him. At Adam’s insistence, a larger celebration of life event will occur in the coming months rather than immediately. Adam preferred that people celebrate his life with laughter rather than shed too many tears.

Donations may be made in Adam’s memory to the Seacoast Cancer Center in Dover, New Hampshire.

John Braman Pendleton

John Braman Pendleton ascended to his final peak on the morning of September 26, 2022, surrounded by his loving children. John was born on July 28, 1936, in Bronxville, New York, to Erma Fay Stockecker and Leonard Thurston Pendleton. He spent his early years in Pelham, New York, and later moved to Shaker Heights, Ohio. He attended high school at the university school. John earned his bachelor's degree from Amherst College in 1958, and his Juris Doctor from the University of Michigan Law School in 1962. In 1960, he married Georgina Weston Anderson and moved to Concord, New Hampshire, to practice law and pursue his love of New Hampshire’s nature. The couple welcomed four children into their lives, Cynthia Wilder, (Bill Cronin); Julia Braman; John Thurston, (Sarah Penelope); and Richard Brigham, (Cindia Kaernert). The couple were loved by their friends and families and involved in constant social engagements, tennis and swimming, philanthropy, and organizations.

After Georgia’s passing in 1979, John married Elizabeth Vail Carruthers (Betsy) in 1980. John embraced Betsy’s six children, Peter (Lisa), Nancy, Ted, and Elizabeth, (Larry Closson). He adored each of his sixteen grandchildren, taking them on their traditional “grampa hikes” and supporting each in their individual endeavors. In addition to his wife, children, and grandchildren, John leaves a loving sister, Cynthia Fay, and (Harry Rubicam) of Scottsdale, Arizona. John was welcomed and loved by so many in his extended families.

John practiced law for 35 years in Concord and had a multitude of impressive accomplishments that would spin heads. John possessed a wicked sense of humor and silliness that would often emerge with a creative poem, playful challenges, or pranks. John was a lover of the arts, music, an avid historian, reader, and writer, completing his book of memoirs in 2015, Together. John was tough whether playing a sport, trying a case, or fighting a disease. The determination he continued to show to get stronger and come home from the hospital after his operations was remarkable and extremely affecting to those who cared for him and his visiting children. John B. Pendleton was loved and will be remembered for all that he gave and all the lives he touched.

A memorial service will be held at the First Parish Church, 180 York Street in York, Maine at 1:00 pm, October 8th, 2022. In lieu of flowers, donations in John’s memory can be made to the John Pendleton Scholarship Fund at Proctor Academy.

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 obituaries@nhbar.org. Obituaries may be edited for length and clarity.

Considering Inactive Status?

Do So Before December 1 to Avoid NHMCLE Credit Requirements

The NHMCLE Board, which implements NHMCLE pursuant to Supreme Court Rule 53, reminds all bar members that if they are seeking to or expect to take inactive status, they should do so before December 1 of the reporting year. Rule 53.2 B 4 provides that: “Lawyers who change from any New Hampshire Bar Association active membership status to any inactive membership status before December 1 of any reporting period, and who maintain inactive membership status for the remainder of that reporting period are not required to meet the minimum CLE requirements of Rule 53.1(B) for that reporting year...” Emphasis added.

The NHMCLE Board has encountered many lawyers who take inactive status after December 1, but who fail to obtain the credits required under Rule 53. Lawyers who are considering inactive status in the near future should be mindful of the December 1 deadline so that they are not required to complete the mandatory CLE for that reporting period.

New Hampshire bar members should also note that the Supreme Court Advisory Committee on Rules is considering proposed changes to various parts of the NHMCLE Rules (Supreme Court Rule 53). Members can find the proposed changes on the Court’s website under Advisory Committee on Rules dockets #2022-011 and dockets #2022-012. Comments on the proposed rule changes should be submitted by December 1, 2022, for the Advisory Committee’s public hearing on December 9, 2022.
Is it Time to Change Your 401(k) Provider?

The ABA Retirement Funds Program has just made that decision much easier.

The ABA Retirement Funds Program (“Program”) is working with plan sponsors to address many top concerns. Fiduciary protection, revenue transparency, and governance play an important role in how your firm’s plan is structured. As the retirement landscape continues to change you need a provider that strives to maximize the value of your plan, improve retirement outcomes, and help you manage your plan expenses. We have been doing just that for nearly 60 years.

The ABA Retirement Funds Program is an employer-sponsored 401(k) plan designed specifically to address the retirement needs of the legal community. The Program is structured to provide affordable pricing whether you are a sole practitioner or a large corporate firm.

Now is the time.
Contact an ABA Retirement Funds Program Regional Representative to set up a complimentary consultation and plan comparison. Call today and experience the difference.

800.826.8901
abaretirement.com
joinus@abaretirement.com
It’s Not Just About Yoga and Mindfulness: Structural Change is Needed to Support Well-Being

By Charla B. Stevens

Attorney well-being was a big topic before the pandemic sent everyone into isolation and a new world of remote meetings and work from home. In 2016, the Hazelden Betty Ford Center with the American Bar Association Commission of Lawyer Assistance Programs released a study on attorney substance use and mental health concerns. Cited often, the statistics are worth restating: 21 percent of employed attorneys are problem drinkers, 28 percent struggle with depression, and 19 percent have symptoms of anxiety. Starkly stated, in a firm of 100 attorneys, 21 could be problem drinkers or 28 may be experiencing depression. Attorneys in the first 10 years of practice experience these issues in higher percentages.

Anecdotal information and follow up surveys by various entities have confirmed that these numbers have risen since the pandemic, given the isolation and financial stress it imposed on many. Although the discussion began before 2020, the pandemic sent everyone into isolation and a new world of remote meetings and work from home. In 2016, the Hazelden Betty Ford Center with the American Bar Association Commission of Lawyer Assistance Programs released a study on attorney substance use and mental health concerns. Cited often, the statistics are worth restating: 21 percent of employed attorneys are problem drinkers, 28 percent struggle with depression, and 19 percent have symptoms of anxiety. Starkly stated, in a firm of 100 attorneys, 21 could be problem drinkers or 28 may be experiencing depression. Attorneys in the first 10 years of practice experience these issues in higher percentages.

The studies have pointed to the culture and pressures of legal practice as a major contributing factor to the lack of wellness and well-meaning law firm leaders seem at a loss as to what to do.

In July 2019, the Mass SJC Steering Committee on Lawyer Well-Being issued a report on the status of attorney mental health in every practice setting and law school making detailed recommendations, many of which are beginning to be implemented.

How can we do better?

Reduce stigma. Encourage people to come forward, share your own experiences to bring normalcy to the conversation and let people know they are not alone. Have knowledgeable resources with answers for your employees.

Keep Human Resources and Wellness Separate. Not for lack of trying, but human resources has not shed itself of the mantle of being the arm of management and the bearers of bad news. Many large firms have invested in the position of Chief Wellness Officer charged with implementing wellness programs and monitoring culture.

Respect the Setting of Boundaries and Model Healthy Behavior. Allow employees to set boundaries and respect them. Absent emergencies. Take vacations and unplugging and let your co-workers know you are doing it, so they understand that it is not only acceptable, but required.

Review Billable and Non-Billable Quotes. 1,800 billable hours, serve on firm committees, take a CLE, serve on boards, go to evening and morning functions, and publish newsletters. 1,800 billable hours easily becomes 2,500 work hours. Set reasonable expectations and communicate them clearly. Think about not rewarding people for exceeding them so that exceeding becomes the benchmark.

Improve Training and Mentorship and Train on Workplace Civility. How many excellent lawyers are terrible managers? Are they trained on how to manage? Do they manage how they were managed in 1980, through bullying and intimidation? Don’t permit it.

Courts and law firms are addressing these issues, but the conversation is just beginning and requires all of us to participate fully and candidly. The pandemic taught the layyers that attorneys can work anywhere and be productive and successful. It also taught us that there is no “one size fits all” when it comes to work style and preferences. It is critical to cast the net wider and respect the differences among us so that we can have a healthier and happier profession.

Charla Stevens retired from practice as an employment attorney in 2021 and currently is a Commissioner of the NH Lawyer’s Assistance Program and a member of the ABA Section of Litigation Mental Health and Wellness Task Force.
Community Notes

This month, Devine Millimet celebrated their 75th anniversary. Just out of Yale Law School and practicing in a Concord, New Hampshire law firm, Joe Millimet first met Maurice Devine when they represented opposing sides in an automobile accident case. They immediately liked and respected each other’s professional style. This respect has been a cornerstone value of the firm since its founding in 1947, when Joe Millimet and Maurice Devine became partners.

New Episode of the Bar Discourse Now Streaming

The fourth episode of The Bar Discourse is now available to stream on Soundcloud at soundcloud.com/thebardiscourse.

NHBA talks with attorney Joseph Steinfield about his new book, Time for Everything: My Curious Life, as well as his first book and his law practice.

NHBA Ethics Opinion Noted in Top 10 Ethics Developments

In the Forum on Construction Law at the American Bar Association’s 2022 Fall Meeting held September 28-30 in Memphis, Tennessee, the NHBA’s ethics opinion on crowdfunding was noted as one of the top 10 ethics developments of the last year in ethics and lawyering.

Fictional

I believe Alan would do just fine [in NH] and probably pay a lot of fines. After all, there are some words – seven of them – you can’t use. I have a very similar grandstanding cheeky style and it has worked out pretty good for me. The key, I think, is that Alan wasn’t just a cocky blowhard giving a speech or performance; he knew the facts and the law. In my experience, you can only succeed if you can combine the performance aspects of courtroom lawyering with a mastery of the law and facts. Beyond that, if you watched the show, you saw Alan talk through his cases with his senior partner, Denny Crane. Denny may have lost a step, but by discussing the cases, Alan always discovered something more than he would have on his own. The conversation with a more experienced lawyer was part of his success formula. I still do that today. Of course, my Denny Crane is a guy named David Slawsky. For the record, David does not have mad cow.

Stephanie Tymula, LTC Matters

“Everyone that knows me, knows that I am obsessed with Jimmy McGill, aka Saul Goodman. In the show, Saul Goodman drives around town with his LWYRUP license plate on his ‘97 Cadillac Deville. While watching the show, my husband and I commented on the plate, and one day when I walked out to my car, my husband had installed new plates for my Cadillac: LWYRUP! The meaning of the plate and origin has been a light-hearted conversation starter, especially when walking out to my vehicle from the courthouse with clients. Despite Jimmy’s questionable ethics and flashy suits, he is a very likeable, charismatic character that tries really hard and makes you feel sorry for him. However, I think the New Hampshire Judges would see right through his pitches and flashy suits!”

As this will be a monthly column, we welcome your ongoing submissions. If you’d like to share your favorite fictional lawyer, contact NHBA Editorial and Marketing Coordinator Tom Jarvis at tjarvis@nhbar.org. Please include your favorite fictional lawyer, why they are your favorite, and your opinion on how they would fare in a present-day New Hampshire courtroom.

Strength in Numbers

The Warren B. Rudman Center at UNH Franklin Pierce School of Law is proud of its community impact in 2022:

• 67 Rudman Summer Fellows
• 22,248 volunteer hours
• Approximately $1.33 million worth of pro bono legal services to non-profit and government agencies located largely in NH

Community Impact

The Rudman Summer Fellows Program provides stipends for select UNH Franklin Pierce School of Law students who devote their summer employment to public service with government agencies or non-profits.

Public Service

The Rudman Summer Fellows Program provides stipends for select UNH Franklin Pierce School of Law students who devote their summer employment to public service with government agencies or non-profits.

Thank You

We are grateful to our host employers and to all our generous donors, including our major sponsors listed below, for supporting the Rudman Summer Fellows Program in 2022:

• Anonymous Donor
• James M. Carroll
• William S. Green Memorial Fund
• McLane Middleton Professional Association
• NH Bar Foundation
• Sheehan Phinney
• Dr. and Mrs. Douglas Williamson
leadership academy. I considered it to be there that I first learned about the NHBA... I read as a first-year associate in a small firm, I had reservations about just how "practice-oriented" it was. I was surrounded by hundreds of attorneys who graduated at the NHBA's Annual Meeting, and many of them Leadership Academy alumni. I realized they had signed up for a two-day workshop on mediation, not meditation.

Two years later, as a member of the third class of Daniel Webster Scholars, I was sworn into the New Hampshire Bar the day before I graduated law school. At that time, there was some grumbling from longtime practitioners about how "unfair" it was that the DWS graduates did not have to endure the months-long hazing ritual known as studying for and taking the New Hampshire bar exam. No matter how many times they were reminded that we had just finished a two-year bar exam, the DWS program was still in its toddlerhood. Because certain firms had reservations about just how "practice-ready" we were, I felt as if I had to prove myself as an attorney more than others did.

As a first-year associate in a small firm, I read New Hampshire Bar News avidly. It was there that I first learned about the NHBA Leadership Academy. I considered it to be "DWS 2.0" and added a reminder in my Outlook calendar for when I would qualify to apply. Because my firm had already put one of its attorneys through the eight-month leadership program, getting the required employer buy-in was easy.

My Leadership Academy classmates came from a wide variety of backgrounds. The Class of 2015 included small solo practitioners, those who aspired to open their own firms (and later did), associates at larger firms, public sector attorneys, and everything in between. What we had in common was a passion for the law and a calling to be a bar leader.

Each Leadership session informed and educated us on a different aspect of Granite State law practice. (My favorite was the judicial module, where we shadowed a judge for a day.) The program's curriculum was developed by NHBA staff and volunteer attorneys, many of them Leadership Academy alumni themselves. Its capstone event was a graduation at the NHBA's Annual Meeting, surrounded by hundreds of attorneys who were just the type of practitioner I'd aspired to be.

Leadership Academy made me a better attorney because of the breadth and thoroughness of its training, as well as the long-standing friendships I made. Today, as an employee of the NHBA, I witness how the program brings participants to the next level of their careers. The next Leadership Academy Class starts in October 2023 with applications available around early March.

If you are interested in Leadership Academy or want to share your story about how the program has improved your practice, please contact me at 603-715-3250 or lsabean@nhbar.org.

| Gender | from page 1 |
---|---|
| come instead of waiting for a settlement or a judgment to come down on those types of cases could be part of the reason why women may be less likely to practice in those areas of law. | Another theory behind gender pay gaps is that while the playing field is currently changing with men taking parental leave, historically women were the caregivers who needed time off or reduced hours to take care of children. |
| | I think what we see as women enter the profession, the historical way that we promote law of the right attorneys, may not necessarily be conducive to family life. |
| | Courtney says, although she does feel that things are improving: "I feel very encouraged by the direction the legal profession is going in, though. When I had children it was amazing the difference in the amount of encouragement I received. For my first two children, I didn't receive paid parental leave but fast forward to my youngest, I did." |
| | Both Lyndsay Robinson and Lindsey Courtney agree that one of the positive impacts of COVID-19 was that some firms made dramatic shifts in their business models. |
| | "Flexible scheduling is very important, whether you have family commitments or other commitments, work-life balance is really important," Courtney says. "I think people need to rethink the old model of what the business, like billable hours, looks like in going in, though. [When I had children] it was amazing the difference in the amount of encouragement I received. For my first two children, I didn't receive paid parental leave but fast forward to my youngest, I did." |
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| | The Class of 2015 included small/solo practitioners about how "unfair" it was that many women may not advocate for themselves during their initial interviews as much as men do. |
| | Women may not necessarily feel comfortable advocating in every situation," Robinson says. "As a society, some women may believe they are being perceived as being too greedy if they are asking for more increments? That's just not attractive to the business as opposed to just six-minute increments? That's just not attractive to people who are dealing with other commitments. We have to learn how to pivot to be more attractive as a profession. The numbers of people entering law school are not going up. We have to ask ourselves why that is. |
| | Another plausible theory of gender pay gaps is that if they know they want to have a family someday, they just accept what is offered to not look greedy. Some women end up taking a pay cut because they will go part-time after they have children. |
| | Robinson encourages both men and women to attend the Gender Equality Committee’s annual negotiations workshop to help them better advocate for themselves in interviews. |
| | With the gap noticeably narrowing in the younger generation, both Robinson and Courtney are optimistic that things are improving each year. |
| | I think we are headed in the right direction," Courtney says. "More change is still needed, but I think we’ll see that in time. Employers are starting to be flexible and that could very much impact where women find themselves in 10 years." |
| | If the trend of narrowing the gender gap continues, then by the time the younger generation retires it may even close. And as far as women being treated differently, conversations with younger attorneys and judges who haven’t endured the days where women weren’t allowed to wear pants in court illustrates a significant improvement. |
| | Circuit Court Judge Sandra Cabrera, who was confirmed in July 2022, says that she has had a very fortunate experience in her career. |
| | Perhaps I am an example of progress being made," she says. "I haven’t experienced the same stories that were expressed in [the March 2022] article. My experience has been that I’ve had good mentors and good leaders to look up to in both the bar and the judiciary. Now, there aren’t as many women with young children who have those experiences. You’re seeing more and more women coming into the bar and having children and staying in. And that wasn’t always the story." |
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CONTINUING LEGAL EDUCATION GUIDE

Have an idea for a CLE? Reach out to the Professional Development team or a member of the CLE Committee.

OCTOBER 2022

TUE, OCT 25 – 12:00 – 1:00 p.m.
Can a Lawyer…? What a Google Search Teaches about Ethics
• Webcast; 60 NHMCLE ethics min.

MON, OCT 31 – 9:00 a.m. – 4:30 p.m.
21st Annual Labor & Employment Law Update
• 365 NHMCLE min., incl. 60 ethics
• Concord • NHBA Seminar Room

NOVEMBER 2022

MON, NOV 7 – 9:00 a.m. – 4:30 p.m.
Developments in the Law 2022
• 360 NHMCLE min., incl. 60 ethics
• Manchester • DoubleTree by Hilton

TUE, NOV 8 – 12:00 – 1:00 p.m.
What “A Letter From a Birmingham Jail” Teaches about Inclusion in the Law
• Webcast; 60 NHMCLE min.

WED, NOV 9 – 9:00 a.m. – 12:30 p.m.
Bankruptcy & Municipalities in NH
• Webcast; 195 NHMCLE min.

WED, NOV 16 – 9:00 a.m. – 4:30 p.m.
Navigating the Healthcare World
• 365 NHMCLE min.
• Concord • NHBA Seminar Room

DECEMBER 2022

WED, DEC 7 – Time TBD
Appraisals for Lawyers 101
• Webcast; Credits TBD

TUE, DEC 13 – 8:30 a.m. – 4:45 p.m.
Practical Skills for New Admittees-Day 1
• 360 NHMCLE min., incl. 120 ethics/prof.
• Concord • Grappone Conf. Center

WED, DEC 14 – 8:30 a.m. – 12:00 p.m.
Practical Skills for New Admittees-Day 2
• 180 NHMCLE min.
• Concord • Grappone Conf. Center

FEBRUARY 2023

FRI, FEB 17 – 9:00 a.m. – 4:30 p.m.
Midyear Meeting 2023
• Manchester • DoubleTree by Hilton

NOTE for in person seminars – NHBA COVID-related safety measures may include limited seating and additional restrictions. Please read the NHBA's current protocol at https://www.nhbar.org/covid-related-protocol/. In registering for and attending an NHBA-sponsored CLE or other meeting or event, participants agree to the NHBA's current health and safety protocols, the NHBA COVID-19 safety acknowledgment, and liability waiver and release of claims. (https://nhba.s3.amazonaws.com/wp-content/uploads/2022/03/28094948/COVID-Safety-Acknowledgement-Liability-Release.pdf)

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WE DO THE REPORTING FOR YOU!
How to Register
All registrations must be made online at https://nhbar.inreachce.com/
(if you missed any of the previously held programs, they are now available ON-DEMAND)

Now Available On Demand in Our Online Catalog

Americans with Disabilities Act
From Indiana Continuing Legal Education Forum
Original Date: March 25, 2022
90 NHMCLE min.

An In-Depth Look at Attorney-Client Privilege
From the Bar Association of San Francisco
Original Date: June 14, 2022
60 NHMCLE ethics min.

American Discovery for Foreign Disputes
From the Bar Association of San Francisco
Original Date: August 4, 2022
60 NHMCLE min.

Civil Discovery
From the Bar Association of San Francisco
Original Date: August 16, 2022
60 NHMCLE min.

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Live Programs • Timely Topics • Great Faculty • Online CLE • CLEtoGo!™ • DVDs • Webcasts • and More!
Tuesdays with Stuart Teicher, The CLE Performer

Can a Lawyer…? What a Google Search Teaches about Ethics
Tuesday, October 25, 2022 – 12:00 – 1:00 p.m. – 60 NHMCLE ethics/prof. min.
Join Stuart Teicher as he explores the propriety of lawyer behavior as recommended by the recommendations of the Google search engine. Topics include: - Can a lawyer criticize a judge? Rule 8.2 - Can a lawyer represent a family member? Rule 1.7 - Can a lawyer drop a client? Rule 1.16.

What “A Letter from a Birmingham Jail” Teaches about Inclusion in the Law
Tuesday, November 8, 2022 – 12:00 – 1:00 p.m. – 60 NHMCLE min.
In 1963, Dr. Martin Luther King, Jr. was arrested in Birmingham, Alabama for violating the States’ law against mass public demonstrations. From his jail cell, Dr. King penned an important response to clergy-people who criticized the protest that got him arrested. Join the CLE Performer, Stuart Teicher, Esq., as he evaluates the text of that letter and explains how the content of that critical piece of correspondence can help lawyers improve inclusion in the practice of law.

Breaking Out of the Form: Smart Direction for Better Drafting
Tuesday, November 22, 2022 – 12:00 – 1:00 p.m. – 60 NHMCLE min.
It’s time to write contracts differently! Stuart Teicher, Esq. (the “CLE Performer”) uses his unique style to explain why lawyers need to break free from the restrictions of the past — those dreaded forms.

21st Annual Labor & Employment Law Update

Monday 9:00 a.m. - 4:30 p.m. 365 NHMCLE min. incl. 60 ethics/prof. min.
NHBA Seminar Room, Concord

This year’s seminar will address cutting edge developments in employment law over the past year focusing on recent agency and court decisions, new laws, and COVID’s impact on the workplace, benefit programs, and how we litigate. All faculty members have extensive practical and teaching experience in the labor, employment and benefits law fields and are members of the New Hampshire Bar. This fast-paced advanced program is designed as an update for attorneys with knowledge of labor, employment and benefits law.

Faculty
Debra Dyleski-Najjar, Program Chair/CLE Committee Member, Najjar Employment Law Group, PC, Andover, MA
Alexandra H. Clausss, Downs Rachlin Martin, PLLC, Burlington, VT
Brooke L. Lovett Shilo, Upton & Hatfield, Concord
Jennifer Shea Moeckel, Cook Little, plc, Manchester
Julie A. Moore, CLE Committee, Employment Practices Group, Wellesley, MA
Jennifer L. Parent, McLane Middleton Professional Association, Manchester
James P. Reidy, Sheehan Phinney Bass & Green, Manchester
Nancy Richards-Stower, Law Offices of Nancy Richards-Stower, Yarmouth, ME
Talesha L. Saint-Marc, Bernstein, Shur, Sawyer & Nelson, PA, Manchester
K. Joshua Scott, Jackson Lewis, PC, Portsmouth
Kevin W. Stuart, Bernard & Merrill, Manchester
Mark M. Whitney, Whitney Law Group, LLC, Marblehead, MA

Developments in the Law 2022

Monday 9:00 a.m. - 4:30 p.m. 360 NHMCLE min. incl. 60 ethics/prof. min.
DoubleTree by Hilton, Manchester

This annual CLE seminar is a must for all practicing New Hampshire attorneys! This program offers a complete survey of important legal developments affecting New Hampshire practice.

Faculty
Corey M. Belobrow, Program Chair, Friedman Feeney, PLLC (of counsel), Concord
Tracey G. Cote, Shaheen & Gordon, PA, Concord
Thomas M. Closson, Attorney at Law, Nashua
Alyssa G. Garrigan, Ansell & Anderson, PA, Bedford
Timothy A. Gudas, Clerk of Court, New Hampshire Supreme Court, Concord
Christopher M. Johnson, NH Appellate Defender Program, Concord
Gregory A. Moffett, Prent Flaherty Beliveau & Pachios, PLLP, Concord
Thomas J. Pappas, Primmer Piper Eggleston & Cramer, PC, Manchester
William C. Saturley, Prent Flaherty Beliveau & Pachios, PLLP, Concord
K. Joshua Scott, McLane Middleton Professional Association, Manchester
Thomas M. Closson, Attorney at Law, Nashua
Alyssa G. Garrigan, Ansell & Anderson, PA, Bedford
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Thomas J. Pappas, Primmer Piper Eggleston & Cramer, PC, Manchester
William C. Saturley, Prent Flaherty Beliveau & Pachios, PLLP, Concord
Laura Spector-Morgan, Mitchell Municipal Group, PA, Laconia
Roy W. Tilley, Jr., Bernstein Shur Sawyer & Nelson, PA, Manchester

Bankruptcy & Municipalities in NH

Wednesday 9:00 a.m. - 12:30 p.m. 195 NHMCLE min.
NHBA Seminar Room, Concord

Every general practitioner in New Hampshire represents clients in real estate law and transactions; every transaction entails consideration of the municipality and its police powers, rights and liens. This program will provide guidance to navigate those powers, rights and liens in the context of bankruptcy. For lawyers representing a municipality this program will address important issues of the treatment of the municipality in bankruptcy. For lawyers who do not represent a municipality, this program will benefit any who deal (or find themselves forced to deal) with a municipality in connection with the bankruptcy of their client, their client’s borrower, their client’s landlord or their client’s real estate seller.

Faculty
Edmond J. Ford, Program Chair/CLE Committee Member, Ford, McDonald, McPartlin & Bordon, PA, Portsmouth
Christopher M. Candor, Sheehan Phinney Bass & Green, PA, Manchester
James W. Kennedy, City Solicitor, City of Concord
Richard K. McPartlin, Ford, McDonald, McPartlin & Bordon, PA, Portsmouth
Charles R. Powell, Devine, Millimet & Branch, PA, Manchester
Peter C.L. Roth, NH Department of Revenue Administration, Concord

For more information or to register, visit https://nhbar.inreachce.com
Navigating the Healthcare World: Understanding the New Laws & Complex Healthcare System

Wednesday 9:00 a.m. - 4:30 p.m.
Nov. 16
365 NHMCLE min.
Webcast
In person

This full day seminar will address cutting edge developments in the health system focusing on recent changes that impact access to and delivery of care for both insured and uninsured patients. The program is geared toward the non-healthcare lawyer who needs to understand and navigate the healthcare system to advocate for themselves, their families, and their clients.

Debra Dyleski-Najjar, Program Chair/CLE Committee Member, Najjar Employment Group, PC, North Andover, MA
Judith F. Albright, Rath, Young & Pignatelli, PC, Concord
Kenneth C. Bartholomew, Rath, Young & Pignatelli, PC, Concord
David R. Craig, David R. Craig & Associates, New Boston
Andrew B. Ellis, Sheehan, Phinney, Bass & Green, Manchester
Lucy C. Hodder, UNH Franklin Pierce School of Law, Concord
Lawrence W. Vernaglia, Foley & Lardner, LLP, Boston, MA
Thomas Wright, Turning 65 Workshop, Portland, ME

Go to https://nhbar.inreachce.com/ for more details.

Join Us For In-Person CLEs!

Eager to connect with colleagues face to face again? Excited about making new connections? Looking for some dedicated time toward earning your CLE credits?

Its time to take a break from the computer and venture into the classroom again. Join us for our in-person CLE courses and seminars. Its a great way to connect with colleagues, network, and attain more knowledge of the current legal landscape.

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375 NHMCLE min.
Grappone Conference Center, Concord
In person

Plenary:
Federal Tax Update
Data Security
National Legislative Update/How to Work with the IRS

Breakouts:
Track I:
International Taxation
Important Topics for Tax Year 2022 & Beyond

Track II:
Section 678 BDOTs
Estate Planning Update & Multi-State Considerations

Faculty
John E. Rich, Jr., Program Moderator, McLane Middleton Professional Association, Manchester
Frederick J. Coolbroth, Jr., NH Dept. of Revenue Administration, Concord
Lisa Crowley, NH Dept. of Revenue Administration, Concord
Matthew Foley, Bigelow & Company, Manchester
Beth L. Fowler, McLane Middleton Professional Association, Manchester
Joyce McKenna Hillis, Devine, Millimet & Branch, PA, Manchester
Edward Karl, AICPA, Washington, DC
Melanie Lauridsen, AICPA, Washington, DC
Ora LeMere, NH Dept. of Revenue Administration, Concord
Joseph F. McDonald, McDonald & Kanyuk, PLLC, Concord
Andrew L. Plourde, KPMG, LLP, Boston, MA
Andrew R. Prunier, KPMG, LLP, Boston, MA
Kathleen Queally, Special Agent, FBI Boston, MA
Sarah Shannonhouse, AICPA, Washington, DC
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NEW HAMPSHIRE BAR NEWS

Membership Status Changes

Presented to the Board of Governors September 30, 2022

Active to INACTIVE:

DelSignore, Edward, Boston, Mass. (June 1)
Klanck, Michael, Nashua, NH (June 24)
Davison, John, Manchester, NH (June 10)
Fitch,_pushButton, Nashua, NH (July 10)
Dwyer, John, Merrimack, NH (June 10)
Anderson, Kenneth, Gilford, NH (May 31)

Lorsbach, Elizabeth, Amherst, NH (June 30)
Fauver, Deborah, Concord, NH (July 12)
Welzenbach, Mark, Ellington, Conn. (June 29)
Giangregorio, Ralph, Londonderry, NH (June 17)
Gregory, Dennis, Manchester, NH (June 4)
Hawthorne, Stanford, Windham, Maine (July 25)
Siegrist, John, Manchester, NH (July 15)
Richards, Edward, Portsmouth, NH (June 30)
Denley, William, Portland, Maine (July 12)
Ouellette, Andrew, NH (July 28)
Silva, Michael, Fitchburg, Mass. (July 29)
Carrillo, Luis, San Francisco, Calif. (July 14)
Marcum, John, Southborough, MA (August 18)

Limited to ACTIVE:

Hayes-Snow, Louise "Brekke", Concord, NH (July 7)
Mofavaghi, Mona, Hollis, NH (July 20)

Limited to FULL-TIME JUDICIAL:

Tessier, Joseph, Milford, NH (August 15)

Active to MILITARY ACTIVE:

Russell, William, Stafford, Va. (June 6)

Limited to ACTIVE to INACTIVE RETIRED:

Chabot, Richard, Marlborough, MA (June 23)
Mahoney, Marilyn, Goffstown, NH (June 30)

Limited to INACTIVE to INACTIVE RETIRED:

Zaremba, Christopher, Boston, Mass. (June 1)

Active to FULL-TIME JUDICIAL:

Olszyn, Ryan, Merrimack, NH (July 25)

Active to MILITARY INACTIVE:

Russell, William, Stafford, Va. (June 6)

Active to INACTIVE:

Rafael, John, Concord, NH (July 1)

Limited to INACTIVE to RESIGNED:

Doyon, Elizabeth, Boston, Mass. (July 7)

Limited to ACTIVE to DECEASED:

Pastel, Wayne, Woburn, Mass. (July 31)
Visentin, Amy, Lenzburg, Switzerland (June 1)

Limited to INACTIVE Retired to FULL-TIME JUDICIAL:

Hayes-Snow, Louise "Breckie", Concord, NH (June 7)

Active to INACTIVE:

Zaremba, Christopher, Concord, NH (July 12)
Smith, David, Manchester, NH (June 17)
Williams, John, Concord, NH (June 13)
Condon, Caitlin, Hopkinton, MA (July 14)
Blessing, Jacqueline, Concord, NH (June 28)
Slipakoff, John, Lebanon, NH (June 25)
Ghielmetti, Rachel, Manchester, NH (July 15)
McKenna, Daniel, Derry, NH (July 28)
Fojo, Robert, Manchester, NH (May 18)

Active to DECEASED:

McHugh, Jr., John, Englewood, Fla. (July 27)
Lachman, Susan, Concord, NH (June 12)
Southard, James, Norton, Mass. (July 31)
Carrier, Michael, Norwich, Conn. (July 31)

Military to INACTIVE:

Mansfield-Nemore, Dennis, Concord, NH (July 30)
Habba, Alina, Bedminster, NJ (July 25)
DeCosty, Erin, Clinton, NY (July 13)
Barnaby, Keith, Phoenixville, Penn. (July 29)
Wilford, Andrew, Savannah, Ga. (July 25)
Everett, Joshua, Ridgefield, Conn. (August 25)

Active Retired to LIMITED ACTIVITIES:

Pike, Caitlin, Center Harbor, NH (June 22)

Active Retired to ACTIVE:

Getman, Lawrence, Bow, NH (June 30)
Majka, Joseph, Colonia, NJ (July 21)

Active Retired to SUSPENDED:

Fojo, Robert, Manchester, NH (May 18)

Active Retired to SUSPENDED:

McKenna, Daniel, Derry, NH (July 28)

Active Retired to INACTIVE:

Kirsch, Gregory, Bodega Bay, Calif. (July 7)
Bolton, William, Arlington, Mass. (August 15)
Tudor, Thomas, Fairfield Station, Va. (June 16)
Doer, Ross, Augusta, Maine (June 21)
Funk, W. John, Portland, Maine (June 22)

Active Retired to RESIGNED:

Ogogoroch, James, Merrimack, NH (June 30)
Amrine, Robert, Hudson, NH (June 1)
Kelley, Peter, Manchester, NH (July 15)
Sabella, Alphonso, MA (July 6)

Active Retired to INACTIVE RETIRED:

Moquin, Kevin, Gortin, Ireland (June 30)
Daly, Camille, Seabrook, NH (June 30)
Howard, Susan, Peterborough, NH (July 1)
Cunningham, Keith, Portland, Maine (June 15)
Barber, Ann, Windham, NH (June 25)

Active Retired to ACTIVE:

Shannon, Francis, Fort Lauderdale, Fla. (June 31)
Panas, James, Dracut, Mass. (July 25)

Active Retired to INACTIVE:

Shannon, Francis, Fort Lauderdale, Fla. (June 31)
Panas, James, Dracut, Mass. (July 25)

Active Retired to SUSPENDED:

Bernard, David, Portsmouth, NH (July 10)

Active Retired to INACTIVE:

Shannon, Francis, Fort Lauderdale, Fla. (June 31)
Panas, James, Dracut, Mass. (July 25)

Active Retired to SUSPENDED:

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Active Retired to SUSPENDED:

Bernard, David, Portsmouth, NH (July 10)
lanized he wasn’t doing it often enough to feel safe.

He went to Davidson College in Davidson, North Carolina, before transferring to Amherst College in Amherst, Massachusetts, where he received a BA in economics. He took a year off before going on to the University of Virginia Law School.

“Eventually, we reached an agreement on the Guinness Book of Records. Bantam’s right to publish a softcover version represented Bantam Books in a case involving a team of us would work through the night and off to court and it was just exciting, exhilarating. It’s a thrill.”

“I just had this desire to get into court,” Lane says. “I don’t know if it’s a psychological thing of needing stimulation. To me, a lawyer is a litigator. Although I can draft a contract, to me that’s kind of boring. I love the excitement. I did a lot of trial work in Connecticut. A team of us would work through the night and go off to court and it was just exciting, exhilarating. It’s a thrill.”

One of his most memorable cases was in federal court in New York when he represented Bantam Books in a case involving an out-of-state client. “I was local counsel for an out-of-state claimant from Rochester who was killed in an air show when a balloonist jumped from a plane above and was beheaded by the propeller of his client’s plane. The collision damaged the wing of the plane, which collided with the balloonist’s canopy and killed the pilot. The National Traffic Safety Board subsequently ruled there was inadequate crew/group coordination at the show.

Lane says his aviation background has helped in such cases. “I was local counsel for an out-of-state manufacturer for a plane that crashed, and the family died,” he says. “Because I’m a pilot, I could say ‘what’s going on here, what’s going through the pilot’s head, what had air traffic controllers said?’ Having aviation knowledge really makes a difference.”

He adds that aviation litigation can present added challenges. "With an airplane crash, the plane is often destroyed, and the passengers and pilots are dead,” he explains. “Maybe nobody witnessed the accident. But there are various sorts of clues.”

Lane has been a claims analyst at RiverStone Resources in Manchester for more than five years, dealing exclusively with environmental claims.

“I was ready for a change from law practice, but I wanted something where I could use my legal and litigation background,” he says, “and I was tired of always being in a fight. If you’re going to litigate, your relationship with the other counsel is a fight and I was kind of tired of the fighting.”

Fellow RiverStone claims analyst, Michael Clarizio, says, “[Lane] is one of those individuals for whom superlatives are meant. He is brilliant, extremely conscientious, unswervingly ethical, and an exemplary lawyer. He is a joy to work with and one of the most kind and generous people I know.”

A Dover resident, Lane has volunteered with the New Hampshire Bar to assist victims of domestic violence, has authored a book called The Brutus Conspiracy, which draws on his aviation and legal background, and provides financial support to a family in Rwanda through Mission Life, a Manchester child sponsorship organization.

Prior to the pandemic, he enjoyed chartering boats and sailing with friends—a pastime to which he hopes to return.

One of his sailing buddies, Eric Young, who has known Lane since high school, calls him “one of the smartest people I know,” as well as “a kind and caring friend.”

“Garry is an accomplished sailor and loves the outdoors,” Young adds. “I so look forward to any time I get to spend with him and his wife, Marcia. I feel my life is richer having Garry as a friend.”

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Dave currently serves as Firm President and previously served as President of the NH Bar Association. He is one of a small group of New Hampshire mediators recognized as “First Tier” by Chambers USA.

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Beyond Traditional Dispute Resolution – Another Resource Your Clients Should Consider

By the PRISM Team (Lauren Adams, Greg Eaton, Melinda Gehris)

As lawyers, many of us are familiar with the traditional dispute resolution offerings of mediation and arbitration. Some of us have even been exposed to workplace conflict management consulting. Perhaps a lesser-known option outside of academia, and one which we anticipate will grow in the legal and business sectors over the next several years, is that of an external organizational ombuds.

A skilled Ombudsman wears many hats including mediator, conflict coach, and facilitator, to name a few. An effective Ombuds is a first stop for resolving conflict and getting support before workplace situations escalate or take an unfortunate, yet often avoidable, turn toward litigation.

“At a time of dynamic change, organizational ombuds help manage risk and assist people at all levels of an organization with navigating complex relationships, policies, and work environments – while working to promote civility, fairness, and justice for the communities they serve.” - The International Ombudsman Association

What is an Organizational Ombuds?

An Organizational Ombuds – whether internal or external – is a resource to help an organization and the individuals within it address and manage conflict, navigate complicated interpersonal dynamics, explore problem-solving options, and better understand policies and procedures that are critical to organizational success.

Why is an Ombuds an important resource for an organization?

Conflict is inevitable. It occurs all around us, whether at home, in our community, or at work. Organizational Ombuds are specially trained conflict resolution professionals who are focused on helping organizations manage conflict effectively and efficiently to maintain a constructive culture and strong workforce engagement. Organizational Ombuds help an organization identify conflict and negative culture trends early so they do not fester and grow, avoid risk to the organization’s reputation and brand, build organizational culture, and train, educate, and coach leaders to manage conflict effectively and efficiently.

Why is an Organizational Ombuds an important resource for the individual contributors and leaders in an organization?

When leaders and contributors are enmeshed in conflict, productivity, engagement, and morale all suffer. Ombuds can help individuals and leaders get information and guidance, take ownership for their own contributions to the situation, explore options for resolving inter-personal challenges without triggering formal processes, better understand policies and procedures, and reframe issues and broaden perspectives.

How do Organizational Ombuds provide these services?

Confidentially. Ombuds protect the identity of all those who visit their office (visitors) and do not keep notes related to visits. Absent imminent threat of serious harm, the Ombuds will not provide identifying information about visitors and the issues without the permission of the visitor. Informally, Ombuds are not authorized to receive notice on behalf of an organization. Information shared with an ombuds does not trigger formal processes, as may be the case when sharing information with other offices within the organization. As a result, visitors can explore options and possible actions steps that may or may not ever include a formal process. The visitor stays in the driver’s seat and retains the choice of whether to take further action.

Impartially: The Ombuds is for fair process and does not take sides or advocate for any person, any position, or the organization.

Independently: Ombuds are not part of any formal channels or departments, do not participate in strategy discussions, and do not set the goals of the organization. Rather, ombuds are a stand-alone resource designed to promote fair process and serve as an early warning system for damaging organizational trends.

How do Organizational Ombuds differ from traditional human resource partners?

While Ombuds and HR Professionals complement one another within an organization, their roles are distinct and separate. Some of the distinctions include:

Ombuds are not authorized to accept notice on behalf of the organization they serve. Ombuds do not initiate or conduct investigations.

Ombuds do not have authority to make decisions about, or take action to enforce, policies and procedures.

Ombuds do not participate in performance evaluations or other assessments of the individuals who visit their office.

Ombuds are not part of the management structure of the organization.

So, if they cannot do any of the functions above, how does an Organizational Ombuds help?

One of the most critical and impactful roles of the Ombuds is to listen generously to those who visit their office, to listen without judgment, without agenda, and without even the hint of a possibility that the information being disclosed will go any further without the visitor’s permission. How does this help? It allows someone with a concern to go to a confidential resource who knows the organization, its policies, and its practices, and explore possible ways to resolve the concern short of a formal process. Being able to speak with an Organizational Ombuds keeps the visitor in the driver’s seat with respect to their issue(s), and allows the visitor to decide what steps, if any, they will take next. It allows visitors to explore options without fear of retaliation or adverse impact on their chances for growth within the organization. And it provides an early warning system for the organization as the Ombuds shares trends and possibilities for improvements that will enhance the culture and employee experience.

Bottom line: The return on investment speaks for itself. According to the International Association of Ombudsman, $1 invested returns $22 in savings/cost avoidance (ombudsassociation.org/assets/Ombuds_Tool_kit/IOA_2020_The_Modern_Ombuds_Double_Sided_Brochure.pdf). If one of your clients is experiencing conflict despite trying mediation or arbitration, consider whether the time is right to hire an external organizational ombuds to support the organization in reaching its full potential and taking its culture to the next level. For more information about external organizational ombuds services, please email Lauren Adams at lauren@prismconflict-solutions.com, visit us at prismconflictsolutions.com, or visit the IOA website at ombudsassociation.org.

Lauren Adams, Greg Eaton and Melinda Gehris mediate for Hess Gehris Solutions. They also offer conflict coaching, conflict training for teams, and ombuds services for businesses through PRISM Conflict Solutions.
By Dennis Ducharme

Neutral Evaluation was available under Superior Court Rule 170 from the inception of New Hampshire’s Alternative Dispute Resolution (ADR) program in the early 1990s and continues to be under our revised Superior Court Rule 30(b). The original Rule 170 outlined the process in some depth. While referenced in passing in the rule, and on the Superior Court’s approved CSO form, neither Rule 30 nor Rule 32 explain how Neutral Evaluation works in any depth. Perhaps because our rules have offered little insight into its workings, the process has been mostly ignored, other than during a brief period in the early days of Rule 170, when some judges were inclined to sanction those taking a no-offer position in mediation. It became a no-risk, lowest-common-denominator choice that met the ADR requirement but led to few settlements.

In some jurisdictions, Early Neutral Evaluation (ENE) has been a frequently used and successful ADR option. The key components of ENE are the submission of case summaries by the opposing parties, presentation of claims and defenses in a joint session, questions from the neutral to the parties and counsel about their positions, and the issuance of an evaluative statement of the strengths and weaknesses of the parties’ relative positions, as well as the potential outcomes at trial.

The United States District Court for The Northern District of California has maintained an active ENE program since the early 1980s. Its local ENE rule contains significant detail as to how the process works. Its key procedural components include:

- Mandatory attendance by decision makers, including insurance representatives.
- The parties’ presentation of their positions; first in written submissions and then in a joint session.
- Discussion of areas of agreement and disagreement, as well as relative strengths and weaknesses of liability positions taken.
- Discussion of possible ranges of damages that could be awarded.
- Verbal evaluation and discussion in the group setting.

• Issuance of a written evaluation.
• Follow up sessions when appropriate and agreed to by the parties.

See, Local Rule 5, United States District Court for The Northern District of California.

ADR professionals in New Hampshire struggle to mediate resolutions in cases involving hotly contested legal issues and/or diachronically opposite views of the facts. Far too often, such cases develop into standoffs in which neither side will budge. A mediator who learns towards a purely facilitative approach and avoids evaluative tools will likely get nowhere quickly. Such sessions allow the parties to “check the box” and satisfy their Rule 32 requirement but do little to maximize settlement prospects. While the rule of thumb in the 1990s—when scores of volunteer mediators worked under Rule 170—was “facilitate, don’t evaluate,” those days are gone for most full- or near-full-time paid mediators.

Some degree of evaluation has become a much more common part of the process. In the right case, and with the right neutral, it makes sense to buy into an overtly evaluative approach up front. If all counsel involved recognize that a traditional mediation may not be a worthwhile use of time and money, they should consider Neutral Evaluation as an option.

Superior Court Chief Justice Tina Nadeau believes that Neutral Evaluation is a process that can provide a “reality check” to lawyers and parties, including insurance representatives. She analogizes it to Felony Settlement Conferences and Criminal Mediations, which became valuable tools during the pandemic and when the Court was at risk of developing huge backlogs. She finds that those sessions, conducted by retired or sitting, but not presiding, judges, can give both sides neutral feedback leading to earlier and more efficient plea agreements.

Justice Nadeau states that the current Superior Court judges are amenable to parties using Neutral Evaluation.

“Input from an experienced evaluator can get the parties thinking and change the landscape from their entrenched positions,” Nadeau says.

She states that both she and many of the judges she spoke to about this article are surprised how infrequently it is selected as an ADR option. A successful Neutral Evaluation requires more than a number assigned by the evaluator or a one-word thumbs up or down on a liability issue. It requires fleshing out the possible outcomes, the likelihood of those outcomes occurring, the ranges of possible verdicts depending on legal and evidentiary rulings affecting both liability and damages, and the thinking behind those evaluative comments. If a case has multiple liability and damages issues which create risk depending on their outcomes, an evaluation saying, “the case is worth $60,000,” does nothing to promote informed risk assessment and decision making by the parties. Too often in the days when Neutral Evaluation was used as a mediation “opt out” under Rule 170 that was the extent of “evaluation” provided.

On the other hand, a well-thought evaluation might say: “If the contested evidence on future medicals is admitted by the court the case would be worth near $100,000 but if it does not, the case is worth closer to $40,000. Based on the uncontroverted evidence and the likelihood of the future treatment evidence being admitted being about 50-50, the parties should consider settling in the range of $70,000 to $75,000.” Reasonable minds might consider settlement in that range if they took such comments seriously. The more variables in play affecting outcomes, the more the evaluator needs to assess and explain the array of outcomes in play. That fresh look from a neutral party with the experience to give meaningful insights can be valuable for both sides.

Much in the way that a mediation session can close the gap in the parties’ positions and lead to a settlement following not long after, Neutral Evaluation can be a springboard to continued settlement discussions, with or without the involvement of the neutral. It can provide one or both parties with the food for thought they may have needed but not received before conducting the session and receiving the evaluation.

Carefully choosing the right Neutral Evaluator may be even more important than selecting a mediator. Commitment to the Neutral Evaluation process requires a high degree of confidence in the experience of the neutral. Unlike mediation, where process skills alone are often enough to get the job done, subject matter expertise and expertise is crucial to the process.

Engaging in Neutral Evaluation in New Hampshire would clearly be a departure from the norm. It would require a willingness to try a “new” method of ADR and some trial and error would be involved. Counsel considering Neutral Evaluation need to keep in mind that it is not mutually exclusive with mediation or other settlement methods. While it may not be appropriate for all cases, it can be a useful way to assess many cases and should not be dismissed out of hand.

Dennis Ducharme is the principal of Ducharme Resolutions, PLLC. He has been trying cases in New Hampshire since 1985 and working as a neutral since the inception of The Superior Court ADR program in 1992. Learn more or reach him at dennis@duchameresolutions.com or www.duchameresolutions.com.

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John is a member of the National Academy of Distinguished Neutrals – the only peer reviewed panel of mediators and arbitrators approved by both the American Association for Justice and the DRI.

Use his online calendar to view availability and request a date: JohnGarveyADR.com or call 603-496-5571. Scheduling on Zoom until further notice.

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Problem-Solving vs. Advocacy Approaches in Mediation

By Connie Rakowsky

Step into the role of a mediation neutral and you will notice that the lawyers appearing before you exhibit a wide variety of styles and temperaments. From the neutral’s perspective, the zealous advocate does not advance the client’s interests as effectively as the problem-solving advocate. I can’t comment about the best skills to use in front of Judge A or B, but I can share what works in a mediation conference room or Zoom room.

It will be no surprise that a lawyer’s problem-solving frame is more likely to satisfy the client’s interests and thus to obtain a “fair” result in the client’s eyes. Such interests may include getting back to work, pursuing promotion or increased compensation, representing clients seeking to better prepare lawyers for the future, or representing clients seeking to better prepare lawyers for their resignation. The potential litigation outcome is but one factor in the client’s calculus for settlement. Other important factors include the time, expense, and emotional cost to achieve a litigated outcome. In mediation, the continual hammering on legal positioning often can hamper rather than help the resolution of the matter. The more you assert, the less your audience listens and the more likely they are to stick to their own views. Think about untying a knot – the more you pull, the tighter it gets. Brain science studies have found that people actually do not hear your arguments, the louder and more emphatic they are asserted. Ironically, listening to your opponent begets your opponent listening to you.

Ligation activity today consists primarily of emails, letters, disclosures in discovery, pleadings with opposing counsel, and live discussions with one’s own client. Civil trials are rare and long-awaited, hearings are often shortened, and many are virtual or telephonic. Most lawyers have not had any meaningful settlement conversations with opposing counsel by the time they come to mediation. In this venue, the advocate qua advocate frame is less effective than the problem-solving frame. This approach is being adopted by legal educators seeking to better prepare lawyers for real-world lawyering. See, Lande, Problem Resolution Lawyering Across the 21st Century Law Curriculum, http://indisputably.org/2022/08/problem-resolution-lawyering-across-the-21st-century-law-curriculum/

To help solve your client’s problems, you need to learn what your client’s interests in the dispute, not just the relevant legal issues. Long ago, the Program on Negotiation taught that the most powerful interests are basic human needs. Often, if you can take care of these interests, you can reach an agreement. Those needs include security, economic well-being, a sense of belonging, recognition, and control over one’s life. A dispute among neighbors may impact personal security and recognition or respect for one’s space, a business client with an easement dispute may be primarily interested in making the business accessible to retail customers, and an estate dispute may touch on the parties’ sense of family belonging, especially for a sibling subject to an in terrorem clause or a sibling given unequal treatment.

Note that the needs at issue are those perceived by the client or parties to be important. It may be that on some objective basis, the client’s security is not at risk, or that the compensation dispute between employer and employee has an insubstantial impact on the economic well-being of either party. Your client’s perception of the potential harm to their interest is often more important than the actual or objective potential.

Insight into your client’s interests may also help you discern the interests of the other parties. Your client is a possible source of this information. Often, there will be common ground to be found among the purported opposing interests being pursued. For example, all parties may claim to want to have the deceased parent’s wishes fulfilled, though they may promote differing paths to fulfill those wishes. The common ground of the parents’ wishes may well lead to better intentions. For example, would the parent want the siblings to be fighting and using the assets for litigation expenses? If the siblings can’t agree on all the distributions, should the gap be contributed to the parent’s favorite charity or research for a cure for the disease that caused the death? All kinds of options become available once you understand the parties’ interests.

Similarly, the common ground of maintaining positive public reputations for two businesses disputing a warranty or contract matter may help lead to resolution. Neither party wants the dispute aired in litigation, which leads them to seek resolution of their dispute in a mediation conference room focused on solutions rather than who will win in court. One or both parties may be looking to move into different sales territories/lines and positive introductions may help launch that move. Knowing the parties’ interests allows the parties to barter intangibles and tangibles which can sometimes bear the fruit of conflict resolution. With common ground established, the disputing parties can pursue the common enterprise of finding solutions to their mutual agreement.

Connie L. Rakowsky, Esquire is an experienced mediator conducting mediations throughout northern New England who also has 26 years of experience as an advocate representing clients in legal matters involving commercial, bankruptcy, debt, real property, contracts, trusts and estates, employment, and business law. She may be contacted at Connie.Rakowsky@gmail.com or at https://www.nadn.org/connie-rakowsky.
Online Dispute Resolution: Here to Stay

By John Burwell Garvey

On March 19, 2020, our law school faculty was told that we would teach online for the rest of the semester. Among other Webinar Scholar courses, I taught Negotiations/ADR using simulations. My next class simulation was the following morning, and I needed to do it on Zoom.

My first question was, “What is Zoom?” But in less than 24 hours, I was running three simultaneous mediation simulations. It worked! By the end of that month, I was mediating “real” cases on Zoom and have done so exclusively since. I’ve also arbitrated online. The pandemic created necessity. With no notice, we were forced to find alternative ways to get things done. Schools started teaching online. Courts began holding hearings online. Deposition “road trips” were replaced with online depositions and Zoom mediations and arbitrations became the norm.

Necessity also created opportunity. In the absence of the pandemic, we were many years away from seriously considering large-scale online opportunities. Most courts required in-person hearings, regardless of travel distance and hearing length. Most trial lawyers pre-Covid would say you can’t depose (control) a witness without being in the same room and you can’t properly evaluate a witness without physical presence. There were some online mediation and arbitration platforms before Covid, but they were mostly for small claims and were generally considered novel. Most lawyers pre-Covid thought online mediation would be ineffective because mediators couldn’t develop the rapport necessary to build party trust. Arbitrators couldn’t detect deception or control the proceedings. But necessity required us to try it. And to our great surprise, a lot of what we thought required physical presence did not. In fact, there are online advantages, including:

Increased accessibility of critical players. Parties can participate from around the globe. I’ve had cases involving numerous time zones, where the ultimate decision-makers were present throughout the mediation. One case included three corporate executives “present” from another country, who negotiated in ways that would not have been possible if they sent a representative to be physically present.

Insurance companies are more engaged. Attendance by the responsible claims representative has become routine. They “attend” from all over the country. It results in more settlements at the mediation and improves follow-up on cases that require further negotiation.

The mediator has more control. I can choose where to place people using breakout rooms and move them to different locations during the mediation, if desirable.

The mediator can observe people more closely during Zoom sessions. Everyone is on not-so-candid-camera. This is helpful when looking for micro-expressions, reactions to what others are saying, etc. This is more difficult in person.

The process is usually more efficient (and less expensive) than in person. No travel time (unless the parties travel to their lawyer’s office). The mediator can instantly move from one room to another. This all saves time and money.

Settlement rates are consistently high. It is impossible to know for certain, but I don’t think I’ve had a case fail to settle that would have settled in person. But some cases settled that would have been less likely to settle in person.

Weather is not a factor. I did an online mediation on a day when it snowed 36 inches in my location.

Despite the many advantages to online dispute resolution, some people will still sometimes choose in-person for various reasons. As a people profession, we enjoy personal interaction. There may be client-control issues that the lawyer thinks will be better handled in person, or they want the mediator or arbitrator to see the witnesses in person. In-person will still exist, but online dispute resolution is here to stay. And like with any technology, you have an ethi
cal obligation to stay current. So, what do you do as a practitioner to excel in this no-longer-new environment?

Invest in proper equipment. Many people understandably first saw online dispute resolution as an emergency and didn’t invest in good equipment. Also, supply was initially limited. But good equipment has become essential to optimal performance. An entire setup is usually less expensive than a good office chair. Here are some basics:

High speed internet. Get the fastest you can obtain in your area. It makes a big difference.

Good monitor. Depending upon how many people are using it, get one where everyone can see at the same time. It can be mounted in a conference room or be portable. There are many choices, but clarity is important.

Good microphone(s). Get something that will be clear. If multiple parties will be speaking, get a system with multiple nice pods or something that will allow multiple microphones.

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NEW HAMPSHIRE BAR NEWS
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Circuit Court Pilot Program to Provide Lower-Cost Legal Services in Family, Landlord/Tenant, and Domestic Violence Cases

For many New Hampshire residents, access to legal representation when facing eviction, divorce, or domestic violence is financially out of reach. A new program and a proposed Supreme Court Rule could begin to change that. Beginning on January 1, 2023, a pilot program will be implemented in circuit courts in Berlin, Franklin, and Manchester based on a new law passed in the 2022 legislative session. This program will allow certain paraprofessionals to provide limited legal services in the family and district divisions of the three courts for those who meet the law’s income guidelines. For the two-year period covered by the law, qualified paraprofessionals, working under the supervision of a lawyer certified by the New Hampshire Supreme Court, will be allowed to represent clients in three types of cases: family matters, landlord-tenant disputes, and domestic violence.

As the proponents of the legislation observed, financial concerns often deter litigants from obtaining the legal representation they need when facing a life-altering event, such as domestic violence, eviction, or a child custody dispute. The use of paraprofessional services, however, could substantially reduce the cost of such representation. The Supreme Court has developed a rule that is designed to ensure that when paraprofessionals assist clients in this program supervised attorneys will continue to oversee the legal representation. Under proposed Supreme Court Rule 35, efficacy data will be collected during the pilot program that may provide some insight as to whether the program should be continued, expanded, or discontinued in the future. On September 30, the court issued an order inviting public comment. Comments may be submitted to rulescomment@courts.state.nh.us. The comment period will close on November 1.

New Hampshire Supreme Court Amends Rules and Increases Counsel Rates for Indigent Criminal Defense and Other Cases

Court-appointed attorneys could see first hourly rate increase in decades

The New Hampshire Supreme Court has taken a major step to combat the ongoing crisis in legal representation for indigent litigants within the state. The Court has adopted amended rules that create increased hourly counsel rates for attorneys assigned to indigent defense, parenting, guardianship, and certain other cases. Some of these hourly rate increases will be for the first time in 30 years. The increases in rates are intended to ease the ongoing indigent criminal defense crisis by encouraging additional private New Hampshire attorneys to accept more of these cases.

The counsel rate changes are the result of a proposal made by the New Hampshire Judicial Council to the Supreme Court Advisory Committee on Rules. The proposal parallels recommendations made by the Supreme Court’s Criminal Defense Task Force, which issued a report last year calling for several changes to the criminal justice system, including amending the hourly rates for attorneys representing indigent defendants.

“One of the most significant barriers to attorneys accepting assigned cases on behalf of indigent clients has been the $60 hourly rates, which have existed for decades, paid to attorneys performing this important public service,” notes Associate Justice Patrick E. Donovan, chair of the Criminal Defense Task Force. “While office overhead and employee costs tripled, these rates remained stagnant, which made it nearly impossible for attorneys managing active practices to afford accepting court-appointed cases on a contract or assigned-counsel basis.

“These new rates have long been needed, and with their implementation, we hope the Judicial Council will be in a better position to recruit more contract and assigned counsel to ease the current indigent defense crisis, while also addressing the shortage of attorneys willing to accept parenting, guardianship and family-related cases on behalf of lower income families in New Hampshire.”

The new rates for the different case types are defined on the Judicial Branch website in Supreme Court Order #2022-002 Amended Rules 47, 48, and 48-A. Among these, the hourly rate for major crimes and Supreme Court appeals would be raised from $100 to $125 per hour and the rate for all other criminal defense and certain civil cases would rise from $60 to $90 per hour. In addition, the caps placed on the maximum fees available for these case types will be raised.

“Every year, private attorneys accept thousands of court-appointed cases,” said Sarah Blodgett, Executive Director of the New Hampshire Judicial Council. “The representation they provide is crucial to the administration of justice in New Hampshire. The Judicial Branch’s timely increase will significantly advance our ability to retain and recruit private attorneys for this important work.”

Supreme Court At-a-Glance

September 2022

Criminal Law

Petition of Devin Miles, No. 2020-0569

Sept. 2, 2022

Affirmed.

• The Court reviewed whether the denial of a motion to quash an indictment and renewed motion to quash was contrary to RSA 169-B:4, VII, Super Ct. Crim. R. 20(a)(4), and double jeopardy protections under the State and Federal Constitutions.

When the petitioner was 17 years old, law enforcement received a report he had repeatedly sexually assaulted a minor. The State charged him with juvenile delinquency, conditions against the petitioner in the family division of the circuit court, including a charge of a pattern of aggravated felonious sexual assault (AFSA) based on four dates the sexual assaults were alleged to have occurred in Rockingham County. The State moved to certify the petitioner as an adult and to transfer the matter to the Rockingham County Superior Court. Shortly thereafter the petitioner turned 18. Before the motion to transfer the superior court was ruled on, the petitioner was indicted in Merrimack County Superior Court on one count of AFSA based on an alleged assault involving the same victim occurring in Merrimack County. The petitioner moved to quash and/or stay the litigation of the indictment in Merrimack County Superior Court until the juvenile petition had been adjudicated and/or transferred. The court denied the motion.

The petitioner filed a renewed motion to quash asserting that it was improper to prosecute him for a pattern offense as a juvenile and a single offense as an adult in different courts, with different fact finders, when the alleged conduct involved the same victim in the same period of time. When this motion was denied, the petitioner filed a request for interlocutory appeal and a motion for findings of fact and reasoning of law. When these motions were denied, the petitioner filed a writ of certiorari.

It was undisputed that the statute of limitations had not tolled. The Court found that at a minimum, the preclusion of proceeding under RSA 169-B:4, IV only applied if the family division still had juvenile jurisdiction over the individual in some action. Since at the time the opinion was issued the petitioner had been adjudicated and/or transferred to be tried as an adult, there was no ongoing juvenile proceeding. Thus, the family division did not have jurisdiction and RSA 169-B:4, VII did not apply. When it would have applied at the time the petition originally was indicted was moot.

The Court also determined that Supreme Court Rule 20, R.(a)(4) is inapplicable to the facts of this case even though the charges in Rockingham County and Merrimack County occurred in the same time period. Because the offense charged in Merrimack County was not one of the dates forming the basis of the pattern alleged in Rockingham County, it was not the same offense although it involved the same victim in the same time period. The Court also found that the petitioner’s double jeopardy argument was premature, and it declined to address it. The remaining arguments were not developed, so the court did not rule on them.

At-a-Glance Contributor

Katherine E. Hedges

An attorney with Rath, Young & Pignatelli, P.C.
The Court considered whether the Double Jeopardy and Due Process Clauses of the State and Federal Constitutions prohibited the State from proceedings in light of the State’s discovery violations after his unopposed motion for a mistrial had been granted.

A grand jury indicted the defendant on murder and falsifying evidence charges. In the middle of the State’s case-in-chief, defense counsel informed the court that the State had not disclosed two emails sent to the New Hampshire State Police Major Crimes Unit (MCU) by a friend of a witness. The prosecutors said that they had no prior knowledge of the emails.

When the prosecution asked the State trooper who was sent the emails to download all information he had about the case, additional materials were discovered. The following day, the defendant moved to dismiss the indictment with prejudice based on the State’s failure to disclose the evidence. The trial court found that the State’s discovery violations were the result of slippiness rather than malice, ill will, or bad faith. Instead of granting the motion to dismiss with prejudice, the trial court enjoined the defendant from moving for a mistrial.

The Court left for the trial court to determine in the first instance whether other sanctions for the discovery violations were the result of sloppy practices. The Court found that the trial court’s ruling was proper. The Court ruled that the State’s discovery violations did not violate the double jeopardy protections afforded by the Double Jeopardy Clause. The Court decided to adopt a “conscientious disregard” standard under the State Constitution.

The trial court found that the State did not intend to goad the defense into requesting a mistrial, and that there was no evidence of an intention to withhold evidence. The Court’s review of the record found that these findings were supported by the record, so the denial of the motion to dismiss with prejudice was proper.

The Court considered that the Under the Due Process Clause, the New Hampshire Constitution afforded greater protection than the Federal Constitution. Under the State Constitution, defendants have a right to all favorable evidence, not only material evidence. Prosecutors have to disclose all exculpatory evidence and evidence that may be used to impeach any of the State’s witnesses. The Court found that the trial court’s ruling that the defendant was not entitled to a dismissal with prejudice under the State Constitution was supported by the record and the facts of this case.

The Court found that the appropriate level of mens rea for both charges was criminal negligence. The record supported the trial court’s conclusion that the defendant failed to become aware of a substantial and unjustifiable risk that the dog would overhear in the car, which was a gross deviation from reasonable care. The Court found the defendant’s actions went beyond “mere inattention.” Because the Court could not conclude that no rational trier of fact would come to the same conclusion, it affirmed the conviction.

John M. Formella, attorney general, and Anthony J. Galdieri, solicitor general, for the State. Jareed Bedrick, Champions Law, Portsmouth, for the defendant.

Employment Law

The plaintiff was hired for a fixed term of employment by the Dover Business and Industry Development Authority (DBIDA). As a condition of his employment, the plaintiff was required to waive participation in the New Hampshire Retirement System (NHRS). After the initial term of employment expired, the plaintiff was reappointed for one-year extensions until 2017. In 2017, the City created a new position and appointed the plaintiff for a new fixed term of employment. When the plaintiff inquired if he could now particip ate in NHRS, the city manager told him he could not because he had a fixed term employment contract. In 2020, the plaintiff contacted NHRS to inquire about eligibility for the program. NHRS then contacted the City and stated that it was obligated to enroll the plaintiff. The City enrolled the plaintiff prospectively.

The plaintiff then requested a cost calculation to purchase service credit because of “employee enrollment oversight” from NHRS. NHRS determined pursuant to RSA 100-A:3, V(D)(1), that the plaintiff was partially at fault for not being enrolled in NHRS when he was appointed in 2017 and was not eligible to purchase service credit. It also found that the position with DBIDA was not eligible for the NHRS program.

NHRS notified the plaintiff of its determination and informed him that he had 45 days to request a hearing before the agency if he wanted to appeal. Rather than requesting a hearing, the plaintiff filed a complaint for declaratory judgment in the superior court. The superior court granted the City’s motion to dismiss, finding that the plaintiff failed to exhaust administrative remedies and that declaratory judgment was not an available theory for recovery.
The Court determined that because RSA 100-A does not provide for judicial review, a writ of certiorari was the only remedy available to a party aggrieved by a NHRS decision. A petition for certiorari does not permit a de novo declaration of rights, so the plaintiff could not state a claim for a declaratory judgment. Further, if the complaint was construed as a request for writ of certiorari, the request was untimely because in order to be considered filed within a reasonable period of time it should have been filed within 30 days of the NHRS decision.

Because the Court found that the complaint was properly dismissed as untimely and because declaratory judgment was not an available form of relief, the Court did not address whether the plaintiff was required to exhaust administrative remedies.

Benjamin T., King, Douglas, Leonard & Garvey, Concord, for the plaintiff. Joshua M. Woott, city attorney (on the brief and orally) and Jennifer Perez, deputy city attorney, (on the brief), Dover, for the defendant.

Municipal Law

Appeal of Chichester Commons, LLC (New Hampshire Housing Appeals Board), No. 2021-0476

Sept. 2, 2022

Affirmed.

- The Court reviewed a decision of the Housing Appeals Board affirming the Town of Chichester Planning Board’s denial of a request for a waiver of the density requirement set forth in the town’s zoning ordinance.

The petitioner owns a 5.5-acre parcel of property in the town’s Commercial Village (CV) District, which consists of two parcels that were merged. In 2015, before the lots were merged, the petitioner proposed to build an elderly housing facility on the 2.369-acre lot and a retail building on the other lot. In 2015, the zoning ordinances for the CV District had acreage minimums based on the number of family dwelling units to be built. The petitioner applied for a density waiver because other- wise the project would require him to have twenty-two acres. The waiver was granted, but the petitioner did not file a formal site plan and did not move forward with the project at that time.

In 2018, the petitioner changed the design to propose building 14-units of affordable housing rather than elderly housing. The petitioner requested another density waiver from the board and submitted a final site plan for the board’s consideration. The waiver was granted, and the site plan was approved. The board also granted a request to reduce the number of units to thirteen. But the petitioner did not move forward with this design either.

In the petition, the petitioner proposed a third design for use of the property, which was a proposal to build 24-units of elderly housing. This proposal differed from the 2015 proposal because it relocated the placement of the building, required fewer square feet, and did not include the retail facility. The lots had also been merged. The petitioner applied for a new density waiver, and since the facility was now on a 5.5-acre lot rather than a 2.369-acre lot, the plan resulted in lower density.

Originally, the petitioner filed the third plan as an amendment to the 2018 plan. The board denied the request without prejudice to filing a new application because it found this was not an amendment to the approved 2018 site plan. The petitioner then filed it as a new site plan, along with a density waiver request. By this time, the zoning ordinance had been amended to change the acreage requirements, and it now also required conditional use permits for multi-family housing.

The board denied the request for the density waiver, finding that the waiver did not satisfy one of the five waiver requirements, that granting the waiver “[h]e reason- able and appropriate due to the scale and size of the proposed project.”

The petitioner appealed to the HAB, arguing that the 2015 waiver never expired and continued to apply to this housing facility or that stare decisis compelled the board to grant the request for a new density waiver. The HAB found the petitioner had filed three different projects, so stare decisis did not apply. It also found that the petitioner failed to appeal the decision that this was a new application, and also ruled that waivers can expire because municipal planning is based upon conditions at the time an actual plan is filed with the planning board.

The Court found that even if the 2015 waiver did not expire, it did not apply to the current version of the petitioner’s proposed project. By its terms, the zoning ordinance only applied to the proposed project being considered at the time, and the 2020 version of the project was not the same proposed project considered in 2015. Similarly, the Court found stare decisis did not apply because they were different projects. Finally, the Court also found that the subsequent-application doctrine did not apply to the facts and circumstances of this case.

John L. Arnold, Orr & Reno, Concord, for the petitioner: Nathan C. Midofo, Upton & Hatfield, Concord, for the respondent.

Workers’ Compensation Law

Appeal of Caitlyn Wittmayer (New Hampshire Compensation Appeals Board), No. 2021-0369

Sept. 7, 2022

Affirmed.

- The Court considered an appeal from the New Hampshire Compensation Appeals Board (CAB) denying a request for workers’ compensation benefits.

The claimant injured her left shoulder while lifting boxes at her job with Nike. She was diagnosed with a dislocated shoulder. She received corrective surgery, followed by months of physical therapy treatments. Her doctor then approved her to return to work full-time.

A few months after returning to work, the claimant reported that her shoulder was feeling stiff and that she was having pain with doing anything overhead. Her doctors limited her to working five hours a day. Then, she complained of left neck pain, and her doctor took her off work. The physician found that her shoulder was “significantly better since surgery” and that there was “no real eviden- ce of any gross instability.” The doctor found CAB’s currently most of the pain was in her neck.

Nike, Inc.’s insurer denied the claimant’s request for workers’ compensation benefits. The claimant then petitioned the board to grant the request for a new density waiver, finding that the waiver did not meet her burden of proving that her symptoms were more probable than not related to the initial work injury. A de novo hearing was held before the CAB, and the claimant was the only witness. The treating physician provided a written narrative that stated the work-related injury to her shoulder also caused an injury to her cervical spine and neck. The narrative said that the current symptoms and treatment was causally related to the workplace in- jury.

The CAB denied the claimants appeal, finding that the physician did not provide a medical explanation for the mention of a neck injury and cervical injury when neither were part of her medical record prior to the narrative presented at the hearing.

Medical causation requires expert testi- mony, and the CAB is required to base its findings upon the medical evidence rather than lay opinion. The CAB is not, however, required to accept uncontradicted evidence, unless the unequivocal nature and absence of an articulated reason to doubt it compels acceptance. The Court found that the record supported the CAB’s stated reason to not accept the medical testimony, specifically that the medical records never mentioned the symptoms in question being related to the workplace injury until the narrative was prepared for the hearing. It was not unreasonable for the CAB to determine that because there was no medical explanation for the mentioned injuries not being addressed previously, the causation element was not met by a preponderance of the evidence.

James F. LaFrance, Normandin, Cheney & O’Neil, Laconia, for the claimant. Matthew J. Solomon (on the brief and orally) and Craig A. Russo (on the brief), Mullen & McGourty, Salem, for Nike, Inc.

Appeal of Javier Vasquez (New Hampshire Compensation Appeals Board), No. 2021-0071

Appeal of Matosantos International Corporation (New Hampshire Compensation Appeals Board), No. 2021-0072

Sept. 30, 2022

Vacated and remanded.

The Court considered an appeal from a determination of the New Hampshire Compensation Appeals Board (CAB) that held that the employee was not a dependent. The Hartford Insurance Company, to pay workers’ compensation benefits.

The employee was working as a traveling auditor, and he was required to visit retail stores throughout the United States in that capacity. Only a couple of days after he arrived in New Hampshire for the first time, the employee was hit head-on by a drunk driver. He suffered severe injuries and was hospitalized in intensive care for three weeks. He had been totally disabled from work as a result of those injuries.

The employee’s workers’ compensa- tion claim was denied by The Hartford Insurance Company, which offered to settle on the grounds that the policy purchased by the employer did not provide coverage for employees working in New Hampshire. The employer requested a hearing before the Department of Labor (DOL) to determine if he was entitled to benefits and, if so, whether the workers’ compensation policy from The Hartford would cover his injuries.

The employer did not appear at the hearing and was defaulted. The Hartford argued it did not provide coverage for the employee due to the nature of his employment. The DOL determined that the employee’s injuries arose out of and were sustained in the course of employment and that finding, under the temporal disability benefits, it determined it could not resolve the coverage questions presented by The Hartford. The employer moved to strike and the DOL vacated the CAB’s decision and remanded to the DOL to reconsider the issue of whether The Hartford policy covered the employee’s injuries. The DOL still declined to re- solve the coverage dispute.

On appeal, the CAB determined that the DOL, including the CAB, lacked juris- diction under the Workers’ Compensation Law, RSA 281-A, to interpret a workers’ compensation insurance policy. On appeal from the CAB’s ruling, the Court found that RSA 281-A:43 provides the DOL jurisdiction to resolve disputes over the interpretation of workers’ compensa- tion insurance policies, including disputes between employers and their in- surers related to coverage, and therefore, it vacated the CAB’s decision and remanded the case for further consideration and inter- pretation whether the insurance policy provided coverage in New Hampshire at the time the employee was injured.

The Supreme Court of New Hampshire hereby reappoints the following members of the Board of Bar Examiners to serve three-year terms commencing November 1, 2022, and expiring November 1, 2025:

Mary E. Tenn
Bruce W. Felmy
Edmon J. Ford
Geoffrey M. Gallagher
Melinda S. Gehris
Michael T. McCormack
Aru R. Mullikin
David M. Rothstein

The Supreme Court designates Mary Tenn to continue to serve as chair and Bruce Felmy to continue to serve as vice-chair.

Issued: September 20, 2022
ATTTEST: Timothy A. Gudas, Clerk of Court
Supreme Court of New Hampshire

Pursuant to RSA 490-C:2, (a), the Chief Justice of the New Hampshire Supreme Court reappoints Circuit Court Judge Henrietta W. Luneau to the Guardian ad Litem Board as the representative of the New Hampshire Supreme Court. Judge Luneau’s term shall run for five years from July 1, 2022, and until a successor is appointed.

Issued: September 23, 2022
ATTTEST: Timothy A. Gudas, Clerk of Court
Supreme Court of New Hampshire

R-2022-0005
In re Suggested Amendment to Supreme Court Rule 35

The legislature enacted Chapter 194, Laws 2022, “An Act allowing limited legal services to be provided by certain paraprofessionals.” The act provides that the supreme court “may promulgate such rules as may be necessary to regulate the conduct of paraprofessionals.”

The Advisory Committee on Rules Chair, Justice Patrick E. Donovan, has referred a proposal for a rule directly to the supreme court pursuant to Supreme Court Rule 51(f) (Special Cases). The proposal would strike in its entirety Supreme Court Rule 35 and replace it with the text set forth in Appendix A.

On or before November 1, 2022, members of the bench, bar, legislature, executive branch or public may file with the clerk of the supreme court comments addressing the proposal for Supreme Court Rule 35.

In accordance with Rules 3 and 4 of the Supplemental Rules of the Supreme Court of New Hampshire for Electronic Filing, comments should be submitted through the supreme court’s electronic filing (e-filing) system in case no. R-2022-0005, using “Rules Docket Entries” as the Filing Type and “Comment on Rule” as the Filing Sub-type. The address of the e-filing system is: https://etfille.nhecourt.us/login.


The language of the proposal for Supreme Court Rule 35 is set forth in Appendix A.

Date: September 30, 2022
ATTTEST: Timothy A. Gudas, Clerk
Supreme Court of New Hampshire

Pursuant to Supreme Court Rule 38-A, the Supreme Court reappoints Superior Court Judge Elizabeth M. Leonard and Superior Court Judge Amy Messer to the Advisory Committee on Judicial Ethics, to serve additional three-year terms expiring August 31, 2025.

Issued: October 3, 2022
ATTTEST: Timothy A. Gudas, Clerk
Supreme Court of New Hampshire

RSA 21-M:11-a: (Youth Development Center Claims Administration and Settlement Fund) sets forth a claims process, establishes a settlement fund, and provides for an “administrator,” who shall be an independent, neutral attorney admitted to the practice of law in New Hampshire, chosen in the manner set forth in paragraph III to administer youth development center claims pursuant to RSA 21-M:11-a. Paragraph III of RSA 21-M:11-a states: “The supreme court shall appoint an administrator agreed to by the attorney general and counsel for the claimants.”

In accordance with the agreement by the Attorney General and counsel for the claimants, the Supreme Court appoints John T. Broderick, Jr., as the full-time administrator.

Issued: October 6, 2022
ATTTEST: Timothy A. Gudas, Clerk
Supreme Court of New Hampshire

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Supreme Court Orders
Criminal Law and Procedure: Equal Protection

8/29/22: USA v. Juan Israel Vera
Case No. 22-cv-63-01L, Opinion No. 2022 DNH 102

Defendant moved to dismiss the indictment, arguing that the statute under which he was charged – 8 U.S.C. § 1326, criminalizing reentry into the U.S. after deportation – violated the equal protection guarantee of the Due Process Clause of the Fifth Amendment. After an evidentiary hearing, where the court heard testimony from two historians, the court denied the motion. Under even a heightened standard, the court found that the discriminatory purpose was not a motivating factor in Congress’ decision to enact the statute. 4 pages. Judge Joseph N. Laplante.

Breach of Contract / Legal Malpractice

Case No. 22-cv-125-L, No written opinion, order from bench.

The pro se plaintiff asserted a breach of contract / legal malpractice claim against his attorney in a state court case, arguing that the attorney failed to state his claims and that he failed to bring his case to trial. The court therefore could not find that the plaintiff failed to exhaust his remedies. Judge Joseph N. Laplante.

PLEADING REQUIREMENTS: EXHAUSTION OF ADMINISTRATIVE REMEDIES

8/17/22: Phillip Knowles v. Postmaster General
Case No. 22-cv-47-LJ, No written opinion – order from bench.

The plaintiff filed a lawsuit against the U.S. Postal Service, alleging claims for hostile work environment based on race and retaliation. The defendant moved to dismiss, arguing that the plaintiff pled insufficient facts to state his claims and that he failed to exhaust his administrative remedies for his retaliation claim. After a hearing, the court denied the motion in an oral ruling. According to the facts alleged in the plaintiff’s complaint as true, and construing them in his favor, the court could reasonably infer that the plaintiff’s superior created a hostile work environment for the plaintiff on an account of his race, and that the defendant retaliated against him for complaining about the alleged hostile environment. Moreover, while the plaintiff’s administrative claim did not use the word “recalcitrance” or check the applicable boxes for a recalcitrance claim, the factual allegations he made during the administrative process should have alerted the agency to the recalcitrance claim and encompassed acts of discrimination that an agency investigation could reasonably be expected to take. Under even a heightened standard, the court found that the plaintiff failed to exhaust his remedies. Judge Joseph N. Laplante.
Litigation Associate

Patch & FitzGerald is seeking a full-time attorney to work with our growing personal injury and worker compensation practice. The successful candidate will have at least two years of personal injury experience and be a member in good standing of the NH Bar. Experience in workers’ compensation law is helpful but not required. We are looking for a results-oriented self-starter to work independently and collaboratively with our team. This position offers growth opportunities for the right candidate.

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Litigation Attorney

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Litigation/Construction Attorney

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• Construction litigation and/or experience in Massachusetts is desirable, but not required;
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Preti Flaherty offers a competitive salary, incentive bonuses, a generous benefits package, and a collegial working environment. Please email cover letter and resume to Mary Johnston, Recruitment Coordinator at mjohston@preti.com.

Litigation Referral Service – MODEST MEANS PROGRAM

The NBHA Law Referral Service Modest Means Program needs more attorneys. This vital reduced-fee program provides access to justice for people who are too “rich” for pro bono programs but can’t afford standard attorney fees. It is free to sign up, and there is no obligation to accept any referral. To learn more or sign up visit https://www.nhbar.org/join-lawyer-referral-service/ or contact NBHA at (603) 715-5235 or email retnreferral@nhbar.org.

Lawyer Referral Service – FULL FEE PROGRAM

Even when your practice is humming, you need a steady stream of leads to keep it that way. Join NBHA Lawyer Referral Service to receive pre-screened referrals for the types of cases you select. In 2021 LRS referred more than 6500 cases to our panel of attorneys. Set the type and quantity of cases you want to receive with no obligation to accept any referral. Pay LRS only 10% of collected fees earned on referrals. To learn more or sign up visit https://www.nhbar.org/join-lawyer-referral-service/ or contact LRS at (603) 715-5235 or email retnreferral@nhbar.org.

Rath Young and Pignatelli, P.C.

Corporate Transactional Attorney

Rath, Young and Pignatelli, P.C. seeks an attorney with 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 Susan O’Donnell, Director of Operations, at sjodonnell@rathlaw.com. The firm will not accept the submission of candidate resumes from search firms without a signed fee agreement.

Alfano Law Office, PLLC

Seeking Lawyers and Paralegals Willing to Work Remotely

Alfano Law provides a variety of legal services to business and individual clients. Its major practice areas include roads and easements, commercial real estate, real estate litigation, tax law, estate planning, and probate. The firm’s physical offices are located in Concord and Keene, NH. We are currently looking to hire full/part-time for the following positions:

• Litigation Associate – Litigator with 5+ years trial experience. Experience with real estate law is a plus. Must be admitted to the New Hampshire Bar.

• Commercial Real Estate Associate – Commercial real estate associate with 5+ years of experience. Ideally candidates would have experience with purchase and sales, leasing, zoning, titles, closings, and LLC’s. Must be admitted to practice in New Hampshire.

• Real Estate Paralegal – Real estate paralegal with 3+ years of experience with closings, financing, leasing, title and survey reviews, and zoning. Special projects and additional duties as assigned.

Benefits include: • Health Insurance (Full-Time) • 401K (Full-Time)

Inquiries, please reach out to Deb Alfano at dalfano@alfanolawoffice.com or phone 603.333.2210
NEW HAMPSHIRE BAR NEWS

Career Opportunity

ASSOCIATE ATTORNEY with 0-3 years experience needed for 8 lawyer Portsmouth firm handling diverse cases with emphasis on litigation.

Excellent research, writing and communication skills required. Send resume, writing sample and references to: Deb Garland, Firm Administrator, 82 Court Street, Portsmouth, NH 03801
dgarland@nhlawfirm.com

New Hampshire Banking Department

ATTORNEY – Upton & Hatfield seeks an attorney with 5+ years’ experience for its Concord location to concentrate in the areas of estate planning, probate, trust, business, and real estate law. The right candidate would have an excellent work ethic, strong communication and interpersonal skills, and a willingness to learn. Community involvement is important. Competitive benefit and compensation package. Please submit resume with writing sample to Lauren Simon Irwin, Esquire, Upton & Hatfield, LLP, PO Box 1090, Concord, NH 03302-1090, or via email to hr@uptonhatfield.com. All inquiries will be held in strict confidence.

BUSINESS ATTORNEY – Upton & Hatfield, LLP seeks a business and real estate associate for our Concord office. Candidates should have a strong academic background, be self-motivated with strong verbal and writing skills, and be interested in participating in the Concord business community. Competitive benefit and compensation package. Please forward resume with writing samples to Lauren Simon Irwin, Esquire, Upton & Hatfield, LLP, PO Box 1090, Concord, NH 03302-1090, or via email to hr@uptonhatfield.com. All inquiries will be held in strict confidence.

MUNICIPAL ATTORNEY - Upton & Hatfield, LLP seeks an attorney to work in the municipal group. Candidates should have a strong academic background, be self-motivated with strong verbal and writing skills, and be interested in participating in the Concord business community. Competitive benefit and compensation package. Please forward resume with writing samples to Lauren Simon Irwin, Esquire, Upton & Hatfield, LLP, PO Box 1090, Concord, NH 03302-1090, or via email to hr@uptonhatfield.com. All inquiries will be held in strict confidence.

PROBATE PARALEGAL – Upton & Hatfield, LLP seeks a full-time paralegal to assist with trust/probate administration. Applicant should have a proven work history including experience with probate, account administration, estates, trusts, including statement reconciliations, financial reporting, preparation of tax information for outside tax preparer. Excellent organizational, time management, communication, and writing skills are essential. The successful candidate will be professional, accountable, and able to prioritize work and deadlines. Bookkeeping experience a plus. A minimum of 5 – 7 years of experience is preferred. This is a full-time position. Competitive benefit and compensation package. Please forward resume to Pamela Woodworth, Administrator, Upton & Hatfield, PO Box 1090, Concord, NH 03302-1090 or via email to hr@uptonhatfield.com.

LITIGATION PARALEGAL – Upton & Hatfield, LLP seeks a full-time paralegal for our Concord office. Applicant should have a general background with a proven work history to include experience with personal injury, employment, workers compensation and other general litigation as well as experience in drafting documents, summarizing transcripts, interviewing witnesses, and assisting attorneys with trial preparation and research. We are looking for an individual with an attention to detail who can work both independently and cooperatively with attorneys and staff in a general practice firm. Experience with Lexis or other ESI management software is plus. This is a full-time position. Competitive benefit and compensation package. Please forward resume to Pamela Woodworth, Administrator, Upton & Hatfield, PO Box 1090, Concord, NH 03302-1090 or via email to hr@uptonhatfield.com.
Experience Trust and Estate Attorney

Orr & Reno PA is seeking an experienced (6-9 years) Trust and Estate attorney. The right candidate will be experienced in estate planning, and estate and trust administration, including federal gift, estate, GST, and fiduciary income taxes. Business succession planning is a plus. The candidate would join our expanded Trusts and Estates practice area, strengthened by the addition by merger of Flood, Schehan & Tobin, PLLC, a well-established estate law firm. Orr & Reno prides itself on its market-competitive compensation and comprehensive benefits, its team-based approach to practice, excellent employee and attorney retention, and demonstrated commitment to fostering a fun, friendly, and positive work culture.

Please submit a cover letter and resume to:
Orr & Reno P.A.
Attention: HR Coordinator
PO Box 3550, Concord, NH 03302-3550
Fax: 603 223-9060
Email: resumes@orr-reno.com

Estate and Trust Administration Paralegal

McDonald & Kanyuk, PLLC, a boutique estate planning firm with offices in Concord, New Hampshire and Wellesley, Massachusetts, has an excellent opportunity for a full time estate and trust administration paralegal.

Ideal candidate must have a broad base of estate and trust administration experience, be able to work with multiple attorneys, and have experience working directly with clients. The position requires an understanding of estate and trust concepts, and experience administering estates and trusts. Knowledge of drafting estate planning documents and tax preparation experience would be a plus. Must be well-versed in Microsoft Office, particularly Word, Excel and Outlook. This is full time, in-office position for our Concord, New Hampshire office, and we would consider flexible working arrangements for the right candidate.

Please submit resume, cover letter and salary requirements to Lisa Roy, Office Manager at lroy@mckan.com.

DCFYF – Attorney II

Concord, Rochester & Nashua

The N.H. Department of Health and Human Services, under the supervision of the N.H. Department of Justice, currently has three full time attorney positions available representing the Division for Children, Youth and Families. The positions available are:

#40089 – Full time in the Rochester District Office
#44560 – Full time in the Concord District Office
#40088 – Full time in the Concord District Office
#40092 – Full time in the Nashua District Office

Starting Salary Range: $59,319.00 to $84,844.50

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 a 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. 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.

TAX ATTORNEY

(BURLINGTON, VT)

Downs Rachlin Martin PLLC – one of Northern New England’s largest law firms – is seeking an attorney with at least three years of experience to join its tax practice at its Burlington, Vermont office.

Qualified candidates should have substantial experience addressing complex commercial transactions, with a strong background in partnership and corporate tax matters. Experience should include structuring mergers and acquisitions, business formations, debt and equity financings, workouts, private equity and venture capital transactions. Experience with executive compensation, New Markets and other tax credit issues would be valuable in this position. Our practice includes controversy representation across a wide range of state and local tax matters necessitating excellent research, writing and verbal skills. There is an opportunity to succeed to an established tax practice.

LITIGATION ASSOCIATE

(BURLINGTON, VT)

Downs Rachlin Martin PLLC – one of Northern New England’s largest law firms – has a great opportunity for a litigation associate in its Burlington office.

The ideal candidate will have one to three years of relevant experience, excellent academic credentials and strong research and writing skills. DRM’s litigation group is engaged in white collar defense and criminal and civil government enforcement matters, internal investigations, complex litigation including antitrust, securities and class actions, health care fraud, medical malpractice defense and professional licensing and in a wide variety of sophisticated commercial litigation. We are looking for a candidate that wants to be part of a team of attorneys committed to delivering top-quality service to individuals, institutions and growing and successful businesses.

CORPORATE/COMMERCIAL ATTORNEY

(BURLINGTON, VT)

Downs Rachlin Martin PLLC – one of Northern New England’s largest law firms – has an opportunity for a corporate/commercial attorney to practice within its dynamic business law group in Burlington, Vermont.

The ideal candidate will have over six years of relevant experience working with colleagues and clients on matters involving venture capital transactions (entity formation, seed financings, capitalization tables, portfolio management), mergers and acquisitions (asset and stock purchases, mergers, due diligence) and debt and equity financings (mortgages, Uniform Commercial Code, promissory notes and loan agreements). The firm’s business law group is engaged in wide a variety of transactions locally, nationally and internationally. A partial book of business is preferred. This is an opportunity to become part of a team of attorneys committed to delivering top-quality service to growing and successful businesses.
ASSISTANT CITY PROSECUTOR
CITY OF LACONIA, NH

The City of Laconia is seeking a highly skilled attorney with 3+ years’ experience to fill the position of Assistant City Prosecutor to manage criminal cases in the City Prosecutor’s Office.

Salary Range: $80,359.60 - $93,100.80, plus a competitive benefits package

Submit cover letter and resume to:
Laconia Police Department
Attn: Executive Assistant Lori Marsh
126 New Salem St.
Laconia, NH 03246

The position will remain open until filled.

EOE

DEPARTMENT OF REVENUE ADMINISTRATION
ASSISTANT REVENUE COUNSEL

$65,000.00 to $81,978.00

The New Hampshire Department of Revenue, 109 Pleasant St., Concord NH, seeks a New Hampshire-licensed attorney to serve in the role of assistant general counsel. The successful candidate will work as a team with the Revenue Counsel to manage the Department’s legal needs and carry out the duties and responsibilities as outlined below. Preference will be given to candidates with experience representing clients in a courtroom and before administrative boards, in addition to the ability to negotiate with taxpayers and representatives to bring contested cases to resolution in a fair and reasonable manner. The successful candidate will possess the ability to productively advise the Commissioner’s Office and all Department Divisions on a range of tax matters, personnel issues and contract management. A positive attitude and the drive to tackle projects efficiently, effectively and in a timely manner is required.

Salary commensurate with experience. New Hampshire driver’s license is required.

Duties and Responsibilities:

• Advise the Commissioner’s Office and the Division Directors on all matters arising from the statutory authority of the Department, personnel issues and contract management.

• Assist Revenue Counsel in managing all Department litigation.

• Review contested cases, formulate legal analysis, recommend course of action and represent the appropriate Division in the administrative hearing process and before the Board of Tax and Land Appeals.

• Negotiate with taxpayers and their representatives to bring contested cases to resolution.

• Draft administrative rules, as appropriate, and administer the rulemaking process for the Department.

• Develop and implement Department training programs, as necessary.

• Prepare and file proof of claims in bankruptcy court, manage bankruptcy process, and advise the Department on all bankruptcy issues.

MINIMUM QUALIFICATIONS:

EDUCATION: Juris doctor degree from an accredited law school.

EXPERIENCE: A minimum of two to four years practicing law relevant to the position is preferred.

Interested candidates can submit letter of interest and resume to NH DRA, Attn: Executive Assistant Lori Marsh
109 Pleasant Street, PO Box 457, Concord, NH 03302

Mandatory post offer physical, drug and alcohol testing for candidates who have a Southern New Hampshire University affiliation.

EOE

ASSISTANT COUNTY ATTORNEY
(COUNTY ATTORNEY’S OFFICE)

The Office of the Grafton County Attorney currently has a full-time position available for a highly motivated attorney. The Assistant County Attorney is primarily responsible for the prosecution of cases in the Superior Court with a focus on early case resolutions and alternative sentencing options. Other responsibilities include discussing legal aspects of criminal cases with police, community relations and program development. Applicant must have Juris Doctor Degree and be a member in good standing of the NH Bar. Flexibility with some telework options may be considered.

COME JOIN OUR TEAM!
Salary range $68,993-$96,574
Grafton County offers an exceptional benefit package including NH Retirement System, Low Deductible Health Insurance plans, 12 Paid Holidays, Generous Earned Time Package and much more!

Please send resume and cover letter to:
Grafton County Human Resources
3855 Dartmouth College Hwy., Box 3 North Haverhill, NH 03774
(Apply online, visit: www.co.grafton.nh.us/employment-opportunities)
E-mail: hr@graftoncountynh.gov
E.O.E.

SCOPE OF POSITION:

Maintains a high degree of professionalism, excellence and pride, consistent with the New Hampshire Rules of Professional Conduct, American Bar Association and National District Attorney’s Association guidelines, as a criminal prosecutor with a concentration in Superior Court.

ESSENTIAL JOB FUNCTIONS:

• Acts as counsel for the State of New Hampshire in criminal matters.

• Works closely with Victim/Witness Coordinators to ensure that all witnesses/victims are properly informed, prepared and supported throughout the prosecution process.

• Presents investigations and cases to the Grand Jury.

REQUIRED EDUCATION AND EXPERIENCE:

• Juris Doctor from accredited law school.

• At least four years’ experience in the active practice of law. An equivalent combination of education and experience may be accepted.

• Requires graduation from an ABA approved school.

Salary Range:
$60,827.20 - $94,366.40, dependent on experience

Essential post offer physical, drug and alcohol testing.

EOE

ATTORNEY (Recent Graduates Encouraged to Apply)

The State of New Hampshire Office of Professional Licensure and Certification (OPLC), Division of Administration seeks a full-time Attorney to provide legal support to OPLC and assigned Boards, Councils and Commissions by conducting legal research, drafting proposed legislation, overseeing rulemaking activities and analyzing and interpreting relevant statutes and regulations. The Attorney, among other things, renders official opinions on state statutes and administrative rules and regulations and advises how to conform activities to the law. Monitors agency-requested legislation, monitors proposed legislation and recommends appropriate course of legal action, evaluates administrative rules, regulations and procedures. Fields inquires and general questions from legislators, staff and the public to provide guidance and directions on OPLC activities; assists in responding to Right-to-Know requests. The ideal candidate will have a Juris Doctorate degree from a recognized college or university and at least four years’ experience in the active practice of law. An exception may be requested for the years of experience. Candidate must be an active member of the New Hampshire Bar Association and in Good Standing.

Please send cover letter and resume to:
OPLC, Attn: Judy Shevlin, 109 Pleasant St., Concord, NH 03302.
E-mail: juditha.shevlin@oplc.nh.gov. For a full job description, please visit the State of NH’s job postings and search for Job ID # 26501, http://das.nh.gov/jobssearch/Employment.aspx

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EOE

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Please send resume and cover letter to:
Grafton County Human Resources
3855 Dartmouth College Hwy., Box 3 North Haverhill, NH 03774
(Apply online, visit: www.co.grafton.nh.us/employment-opportunities)
E-mail: hr@graftoncountynh.gov
E.O.E.

SCOPE OF POSITION:

Maintains a high degree of professionalism, excellence and pride, consistent with the New Hampshire Rules of Professional Conduct, American Bar Association and National District Attorney’s Association guidelines, as a criminal prosecutor with a concentration in Superior Court.

ESSENTIAL JOB FUNCTIONS:

• Acts as counsel for the State of New Hampshire in criminal matters.

• Works closely with Victim/Witness Coordinators to ensure that all witnesses/victims are properly informed, prepared and supported throughout the prosecution process.

• Presents investigations and cases to the Grand Jury.

REQUIRED EDUCATION AND EXPERIENCE:

• Juris Doctor from accredited law school.

• At least four years’ experience in the active practice of law. An equivalent combination of education and experience may be accepted.

• Requires graduation from an ABA approved school.

Salary Range:
$60,827.20 - $94,366.40, dependent on experience

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EOE

ASSISTANT COUNTY ATTORNEY
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Grafton County offers an exceptional benefit package including NH Retirement System, Low Deductible Health Insurance plans, 12 Paid Holidays, Generous Earned Time Package and much more!

Please send resume and cover letter to:
Grafton County Human Resources
3855 Dartmouth College Hwy., Box 3 North Haverhill, NH 03774
(Apply online, visit: www.co.grafton.nh.us/employment-opportunities)
E-mail: hr@graftoncountynh.gov
E.O.E.

SCOPE OF POSITION:

Maintains a high degree of professionalism, excellence and pride, consistent with the New Hampshire Rules of Professional Conduct, American Bar Association and National District Attorney’s Association guidelines, as a criminal prosecutor with a concentration in Superior Court.

ESSENTIAL JOB FUNCTIONS:

• Acts as counsel for the State of New Hampshire in criminal matters.

• Works closely with Victim/Witness Coordinators to ensure that all witnesses/victims are properly informed, prepared and supported throughout the prosecution process.

• Presents investigations and cases to the Grand Jury.

REQUIRED EDUCATION AND EXPERIENCE:

• Juris Doctor from accredited law school.

• At least four years’ experience in the active practice of law. An equivalent combination of education and experience may be accepted.

• Requires graduation from an ABA approved school.

Salary Range:
$60,827.20 - $94,366.40, dependent on experience

Essential post offer physical, drug and alcohol testing.

EOE

ASSISTANT COUNTY ATTORNEY
(COUNTY ATTORNEY’S OFFICE)

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Grafton County Human Resources
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(Apply online, visit: www.co.grafton.nh.us/employment-opportunities)
E-mail: hr@graftoncountynh.gov
E.O.E.

SCOPE OF POSITION:

Maintains a high degree of professionalism, excellence and pride, consistent with the New Hampshire Rules of Professional Conduct, American Bar Association and National District Attorney’s Association guidelines, as a criminal prosecutor with a concentration in Superior Court.

ESSENTIAL JOB FUNCTIONS:

• Acts as counsel for the State of New Hampshire in criminal matters.

• Works closely with Victim/Witness Coordinators to ensure that all witnesses/victims are properly informed, prepared and supported throughout the prosecution process.

• Presents investigations and cases to the Grand Jury.

REQUIRED EDUCATION AND EXPERIENCE:

• Juris Doctor from accredited law school.

• At least four years’ experience in the active practice of law. An equivalent combination of education and experience may be accepted.

• Requires graduation from an ABA approved school.

Salary Range:
$60,827.20 - $94,366.40, dependent on experience

Essential post offer physical, drug and alcohol testing.

EOE
Assistant County Attorney
Sullivan County

The Sullivan County Attorney’s Office is currently seeking an innovative and creative attorney with an interest in public service and a desire to serve their community.

Essential Job Responsibilities include:
- Working with law enforcement to support the investigation of criminal cases and prosecuting criminal cases in both the 5th Circuit-District Divisions and Sullivan Superior Court.
- Works closely with the Office of Victim Witness Coordinator to ensure that all victims/witnesses are properly informed, prepared for hearings, and supported throughout the pendency of the criminal process.
- Provides advice and guidance to local law enforcement during non-office hours.
- Acts as counsel for the State at trials and addresses post-trial/conviction motions.
- Prepare and present investigations and cases to the Grand Jury.
- Communicates with news media when appropriate.

Starting Salary: $83,000

Status: Full time/Exempt, Benefits

Submission Requirements: Employment application, resume and writing sample required.

Email Applications: shersom@sullivancountynh.gov
Mail Applications: 14 Main St, Newport, NH 03773

Equal employment opportunity.

Prosecutor

The Town of Derry is seeking a part-time Prosecutor for 25 hours per week to represent the Derry Police Department in all prosecutorial matters.

Reporting to the Prosecutor Supervisor, the Prosecutor represents the Derry Police Department in Circuit Court, conducts arraignments, prepares and tries misdemeanor, violation and juvenile cases, represents the State at ALS hearings, prepares felony cases for transmittal to the Rockingham County Attorney’s Office, and performs related work.

Membership in good standing in the NH Bar Association and excellent organizational and communication skills are essential. Three years of prosecutorial experience is preferred.

Hourly range is $36.74 – $47.67. Interested candidates should submit a cover letter and résumé to:

Derry Police Department
P.O. Box 254
Derry, NH 03038

For questions about the position, please contact Deputy Chief George Feele at (603) 845-2713.

The Town of Derry is an Equal Opportunity Employer.

CLAIMS ANALYST, APO

• Do you want to work in a fun, collaborative environment with a multidisciplinary and diverse team striving to achieve a common goal?
• Are you comfortable negotiating directly with attorneys, policyholders, and co-carrier representatives?
• Do you like to study, analyze and use data to drive better results?

If so, join a growing and dynamic team that’s changing the future of national mass tort and pollution litigation.

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Backus, Meyer & Branch, LLP

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I honor referral fees

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The member rate is $50 plus $1.20 per word. The nonmember rate is $60 plus $1.50 per word. Classified advertising will only be accepted on a prepaid basis. The publisher reserves the right to accept or reject all advertising copy at its discretion.

If you would like to place an ad in the classified section, please contact our Advertising and Sponsorship Sales Coordinator at (603) 715-3263. You may e-mail your ad to: advertise@nhbar.org.

If you have missed the deadline for the current issue, your ad will appear on our website, www.nhbar.org. Before the next issue date once the $25 website fee is prepaid.

CLAIMS ANALYST, APO

• Do you want to work in a fun, collaborative environment with a multidisciplinary and diverse team striving to achieve a common goal?
• Are you comfortable negotiating directly with attorneys, policyholders, and co-carrier representatives?
• Do you like to study, analyze and use data to drive better results?

If so, join a growing and dynamic team that’s changing the future of national mass tort and pollution litigation.

View a full description and apply today

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Data based on an average of firm accounts receivables increases using online billing solutions.
2022 Economics of Law Practice Survey
Key Takeaways

Access the entire survey online at nhbar.org/econlaw-survey-results/
2022 Economics of Law Practice Survey Provides Detailed Insight about Practice in New Hampshire

By George Moore
Executive Director, NHBA

I commend to you the 2022 Economics of Law Practice Survey. The survey was last conducted in 2015. This year’s survey was substantially updated and expanded to include the effect of the COVID-19 pandemic on the practice of law. The survey was emailed to all active NHBA members, as well as those who were active but changed to inactive status after Jan. 1, 2020. The survey was sent to 5,751 members with 1,405 respondents completing the survey for a response rate of 24%. This is a strong response and a large enough sample size to be representative.

The response rate is comparable to that of the 2015 Economics of Law Practice Survey, which was sent to 2,817 members, with 715 respondents completing the survey for a response rate of 25%. Moreover, the survey demographics closely correlate to the overall NHBA demographics in the member database. The size of the firm, office location, age, and gender of individual respondents largely resemble the overall active NHBA membership, allowing inference from survey results to the total population of NHBA attorneys. It is reasonable to believe the findings are representative.

The data compiled in this survey is obtained from our NHBA colleagues and provides a comprehensive picture of the current state of the legal profession in New Hampshire.

The data compiled in this survey is obtained from our NHBA colleagues and provides a comprehensive picture of the current state of the legal profession in New Hampshire. The survey results provide state-specific information about topics such as salaries, hourly rates, billable hours, technology use, marketing practices, student loan debt, and much more. The information has been organized so that attorneys can compare themselves and their firms against metrics gleaned by aggregating the survey data. Charts organize the metrics to compare variables including age, years of practice, firm size, geographic location, and gender. The granular detail provided by the survey creates an impressive tool which members can utilize to better inform law firm management decisions.

This supplement highlights some of the key takeaways and provides a very condensed version of the survey results. The complete results are available at nhbar.org/econlaw-survey-results.

A special acknowledgement goes out to NHBA Member Services Coordinator, Misty Griffith, who worked tirelessly with our team at UNH. Misty is solely responsible for the final organization and coherence of the analysis contained in the survey. We all owe her a debt of gratitude.

Thank you to everyone who participated in the survey. Your responses provided valuable insight into the legal profession in our great state and made these results possible.

Complete survey results, as well as results of prior Economics of Law Practice surveys, are available online at nhbar.org/econlaw-survey-results.
Interpreting the Survey Findings

There has been a dramatic increase in the percentage of women in the practice, especially among younger attorneys.

For respondents under the age of 30, 61% are women, and approximately half of respondents ages 30-49 are women. Nearly 45% of respondents between the ages of 50-59 are women. However, only one-quarter of respondents between 60-69 years of age are women, and a mere one in 10 respondents over the age of 70 are women. Overall, 40% of NHBA members are women which marks an increase from the 2015 survey when 33% of NHBA members were women. (See Economics of Law Practice Survey Results on page 5.)

The majority of firms in New Hampshire are small or solo practices.

Consistent with where we were in 2015, more than half of the firms in NH have 1-4 attorneys while fewer than 30% of firms have more than 10 attorneys. Three in 10 attorneys in NH are solo practitioners, which is a decrease from 2015 when 35% were solo practitioners. (See Economics of Law Practice Survey Results on page 10.)

More than half (55%) of private practices have fewer than 5 attorneys; 15% have 5-9 attorneys; less than one-third have 10 or more attorneys.
One in four attorneys in practice for less than 10 years changed jobs in 2021.

Attorneys in larger firms were more likely than other respondents to have changed jobs with one in five respondents in firms of 30 or more attorneys changing jobs in 2021. Overall, one in seven attorneys (14%) changed jobs in 2021. (See Economics of Law Practice Survey Results on page 15.)

Figure 17b: Changed jobs in 2021 - by Demographics

<table>
<thead>
<tr>
<th>Practice size</th>
<th>N</th>
<th>Yes, by choice</th>
<th>Yes, not by choice</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall</td>
<td>1365</td>
<td>12%</td>
<td>86%</td>
<td></td>
</tr>
<tr>
<td>1 attorney</td>
<td>249</td>
<td>1%</td>
<td>95%</td>
<td></td>
</tr>
<tr>
<td>2-4 attorneys</td>
<td>219</td>
<td>6%</td>
<td>92%</td>
<td></td>
</tr>
<tr>
<td>5-9 attorneys</td>
<td>130</td>
<td>8%</td>
<td>90%</td>
<td></td>
</tr>
<tr>
<td>10-29 attorneys</td>
<td>99</td>
<td>8%</td>
<td>89%</td>
<td></td>
</tr>
<tr>
<td>30-59 attorneys</td>
<td>70</td>
<td>23%</td>
<td>74%</td>
<td></td>
</tr>
<tr>
<td>60 attorneys or more</td>
<td>81</td>
<td>16%</td>
<td>83%</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Years practicing</th>
<th>N</th>
<th>Yes, by choice</th>
<th>Yes, not by choice</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 years or less practicing</td>
<td>104</td>
<td>24%</td>
<td>6%</td>
<td>70%</td>
</tr>
<tr>
<td>3-9 years practicing</td>
<td>228</td>
<td>24%</td>
<td>4%</td>
<td>72%</td>
</tr>
<tr>
<td>10-19 years practicing</td>
<td>306</td>
<td>12%</td>
<td>4%</td>
<td>86%</td>
</tr>
<tr>
<td>20-29 years practicing</td>
<td>290</td>
<td>9%</td>
<td>90%</td>
<td></td>
</tr>
<tr>
<td>30-39 years practicing</td>
<td>268</td>
<td>5%</td>
<td>94%</td>
<td></td>
</tr>
<tr>
<td>40 years or more</td>
<td>169</td>
<td>1%</td>
<td>95%</td>
<td></td>
</tr>
</tbody>
</table>

Median Attorney Income Over Time

The growth rate of attorney income has fluctuated over time. However, when adjusted using the Bureau of Labor Statistics consumer price index inflation calculator, at the time of each NHBA Economics of Law Practice Survey, there has been a gradual growth in attorney income over time, which outpaces the inflation rate for each survey year, with the exception of 1999, in which inflation-adjusted income was more than 10 percent less than the previous survey taken in 1989. The income year is always the year prior to the survey year in order to have an accurate annual income figure including salary and bonuses.

<table>
<thead>
<tr>
<th>Income year</th>
<th>Median attorney income</th>
<th>Inflation adjusted for 2021</th>
<th>Inflation adjusted for 2022</th>
</tr>
</thead>
<tbody>
<tr>
<td>1984</td>
<td>$37,200</td>
<td>$96,495</td>
<td>$106,440</td>
</tr>
<tr>
<td>1989</td>
<td>$51,000</td>
<td>$111,447</td>
<td>$121,812</td>
</tr>
<tr>
<td>1995</td>
<td>$55,000</td>
<td>$97,791</td>
<td>$106,885</td>
</tr>
<tr>
<td>1999</td>
<td>$62,400</td>
<td>$101,491</td>
<td>$110,930</td>
</tr>
<tr>
<td>2005</td>
<td>$75,000</td>
<td>$104,059</td>
<td>$113,736</td>
</tr>
<tr>
<td>2013</td>
<td>$100,000</td>
<td>$116,317</td>
<td>$127,135</td>
</tr>
<tr>
<td>2021</td>
<td>$117,000</td>
<td>$117,000</td>
<td>$128,974</td>
</tr>
</tbody>
</table>
Overall mean income is $172,861 but the median income is significantly lower at $117,000.

The mean skews higher due to a few attorneys reporting very large salaries of up to $4 million. Attorneys in firms of 10-29 attorneys report the significantly highest mean income of $283,542. Attorneys working for the government or at NGO/nonprofit organizations have a median income that is about half that of attorneys in private practice. Attorneys who are corporate/in-house counsel report earning 20% more than those in private practice. (See Economics of Law Practice Survey Results on pages 23-24.)

---

### Figure 28b: Mean approximate 2021 law-related employment individual gross income/profit, including bonuses - (0s excluded) - By Demographics

<table>
<thead>
<tr>
<th>Overall</th>
<th>N=1032</th>
<th>$172,861</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 attorney</td>
<td>N=190</td>
<td>$145,937</td>
</tr>
<tr>
<td>2-4 attorneys</td>
<td>N=174</td>
<td>$188,472</td>
</tr>
<tr>
<td>5-9 attorneys</td>
<td>N=116</td>
<td>$186,834</td>
</tr>
<tr>
<td>10-29 attorneys</td>
<td>N=78</td>
<td>$284,542</td>
</tr>
<tr>
<td>30-59 attorneys</td>
<td>N=56</td>
<td>$170,298</td>
</tr>
<tr>
<td>60 attorneys or more</td>
<td>N=70</td>
<td>$235,165</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Region</th>
<th>N=1032</th>
<th>$172,861</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central/Northern NH</td>
<td>N=52</td>
<td>$135,461</td>
</tr>
<tr>
<td>Hillsborough County</td>
<td>N=227</td>
<td>$178,533</td>
</tr>
<tr>
<td>Merrimack County</td>
<td>N=218</td>
<td>$137,781</td>
</tr>
<tr>
<td>Seacoast NH</td>
<td>N=151</td>
<td>$158,810</td>
</tr>
<tr>
<td>Western NH</td>
<td>N=79</td>
<td>$145,808</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>N=172</td>
<td>$209,263</td>
</tr>
<tr>
<td>Another state</td>
<td>N=123</td>
<td>$226,818</td>
</tr>
</tbody>
</table>

---

### Figure 28c: Mean approximate 2021 law-related employment individual gross income/profit, including bonuses - (0s excluded) - By Demographics

<table>
<thead>
<tr>
<th>Age</th>
<th>N=1032</th>
<th>$172,861</th>
</tr>
</thead>
<tbody>
<tr>
<td>24-30 years old</td>
<td>N=76</td>
<td>$71,575</td>
</tr>
<tr>
<td>31-40 years old</td>
<td>N=214</td>
<td>$114,272</td>
</tr>
<tr>
<td>41-50 years old</td>
<td>N=212</td>
<td>$158,051</td>
</tr>
<tr>
<td>51-60 years old</td>
<td>N=235</td>
<td>$227,629</td>
</tr>
<tr>
<td>61-70 years old</td>
<td>N=213</td>
<td>$212,477</td>
</tr>
<tr>
<td>71 years old and older</td>
<td>N=68</td>
<td>$202,121</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Years practicing</th>
<th>N=1032</th>
<th>$172,861</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 years or less</td>
<td>N=77</td>
<td>$62,396</td>
</tr>
<tr>
<td>3-9 years</td>
<td>N=191</td>
<td>$113,483</td>
</tr>
<tr>
<td>10-19 years</td>
<td>N=232</td>
<td>$159,162</td>
</tr>
<tr>
<td>20-29 years</td>
<td>N=213</td>
<td>$189,974</td>
</tr>
<tr>
<td>30-39 years</td>
<td>N=200</td>
<td>$254,070</td>
</tr>
<tr>
<td>40 years or more</td>
<td>N=119</td>
<td>$199,230</td>
</tr>
<tr>
<td>Law full-time</td>
<td>N=903</td>
<td>$183,184</td>
</tr>
<tr>
<td>Law part-time</td>
<td>N=99</td>
<td>$95,322</td>
</tr>
<tr>
<td>Not working/Retired</td>
<td>N=18</td>
<td>$124,777</td>
</tr>
<tr>
<td>Other field full- or part-time</td>
<td>N=6</td>
<td>$57,817</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Employment status</th>
<th>N=1032</th>
<th>$172,861</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corporate or in-house counsel</td>
<td>N=114</td>
<td>$228,824</td>
</tr>
<tr>
<td>Government</td>
<td>N=136</td>
<td>$96,106</td>
</tr>
<tr>
<td>NGO or nonprofit</td>
<td>N=66</td>
<td>$81,869</td>
</tr>
<tr>
<td>Private practice</td>
<td>N=723</td>
<td>$187,699</td>
</tr>
<tr>
<td>Associate</td>
<td>N=176</td>
<td>$94,734</td>
</tr>
<tr>
<td>Solo practitioner</td>
<td>N=201</td>
<td>$152,030</td>
</tr>
<tr>
<td>Partner</td>
<td>N=167</td>
<td>$287,508</td>
</tr>
<tr>
<td>Managing partner</td>
<td>N=73</td>
<td>$336,646</td>
</tr>
</tbody>
</table>
There is a significant gender gap in gross income, with men overall earning 44% more than women. The gap persists across ages and years of practice. The gap is most pronounced among those 51-60 years of age. Men in this age group earn approximately 60% more than women. Even among attorneys in practice for less than three years, men earn 10% more. This may be influenced by societal factors rather than management bias. However, women in government and non-profit jobs earn slightly more than men in the same sector. (See Economics of Law Practice Survey Results on pages 26-27.)
Sixty percent of respondents report working fewer than 1,600 billable hours per year. Only 16% of respondents (N=229) say their firm has a billable hour requirement, but among those firms which have such a requirement, two-thirds require more than 1,600 billable hours. Only one-third of firms with a billable hour requirement count pro bono hours towards that requirement. (See Economics of Law Practice Survey Results on pages 31 & 46.)

**Figure 30a: How many billable hours did you work in 2021? (N=654)**

- Fewer than 1,400 hours: 38%
- 1,400-1,599 hours: 20%
- 1,600-1,799 hours: 13%
- 1,800-1,999 hours: 13%
- 2,000-2,199 hours: 7%
- 2,200 hours or more: 9%

**Figure 45: What is your firm or employer’s annual standard or requirement for billable hours? (N=229)**

- Fewer than 1,400 hours: 9%
- 1,400-1,599 hours: 21%
- 1,600-1,799 hours: 37%
- 1,800-1,999 hours: 26%
- 2,000-2,199 hours: 4%
- 2,200 hours or more: 1%
- Don’t know/Not sure: 3%

**Most Firms in New Hampshire Do Not Have a Billable Hour Requirement**

Among those who worked billable hours in 2021 and recall about how many they worked, a plurality say they billed fewer than 1,400 hours. The majority (58%) had fewer than 1,600 billable hours. Respondents aged 31-40, managing partners, and those who have been practicing for 3-9 years are slightly more likely than others to report working 1,800 billable hours or more in 2021. Those over the age of 60, solo practitioners, those with one attorney at their practice, and those who have practiced for three years or less or for 40 years or more are least likely to have worked 1,800 or more billable hours. Only 16% of respondents (N=229) say their firm has a billable hour requirement, but among those who do two-thirds require more than 1,600 billable hours. Only one-third of firms with a billable hour requirement count pro bono hours towards that requirement.
Most solo practitioners do not offer any benefits paid by their firm. Fewer than one in five solo practitioners have any benefits other than paid membership dues and CLEs.

Most (more than 80% of) firms with five or more attorneys offer a variety of benefits to attorneys including paid membership dues, paid vacations, paid sick leave, medical insurance, and paid CLEs. More than half of firms with 2-4 attorneys offer these same benefits. (See Economics of Law Practice Survey Results on page 34.)

Figure 32b: Which of the following fringe benefits does your firm or employer offer to attorneys? (Please select all that apply) - by practice size

<table>
<thead>
<tr>
<th>Benefit</th>
<th>1 attorney</th>
<th>2-4 attorneys</th>
<th>5-9 attorneys</th>
<th>10-29 attorneys</th>
<th>30-59 attorneys</th>
<th>60 attorneys or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional membership dues</td>
<td>42%</td>
<td>78%</td>
<td>89%</td>
<td>89%</td>
<td>89%</td>
<td>82%</td>
</tr>
<tr>
<td>Paid vacations</td>
<td>19%</td>
<td>70%</td>
<td>87%</td>
<td>84%</td>
<td>82%</td>
<td>79%</td>
</tr>
<tr>
<td>Medical insurance for employee</td>
<td>17%</td>
<td>56%</td>
<td>82%</td>
<td>90%</td>
<td>89%</td>
<td>83%</td>
</tr>
<tr>
<td>Expenses for educational courses and programs</td>
<td>38%</td>
<td>70%</td>
<td>80%</td>
<td>84%</td>
<td>85%</td>
<td>72%</td>
</tr>
<tr>
<td>Paid sick leave</td>
<td>16%</td>
<td>61%</td>
<td>79%</td>
<td>84%</td>
<td>82%</td>
<td>74%</td>
</tr>
<tr>
<td>Retirement or pension plan</td>
<td>13%</td>
<td>53%</td>
<td>72%</td>
<td>83%</td>
<td>74%</td>
<td>80%</td>
</tr>
<tr>
<td>Medical insurance for employee’s family</td>
<td>10%</td>
<td>36%</td>
<td>56%</td>
<td>80%</td>
<td>82%</td>
<td>78%</td>
</tr>
<tr>
<td>Remote work</td>
<td>17%</td>
<td>46%</td>
<td>77%</td>
<td>79%</td>
<td>82%</td>
<td>80%</td>
</tr>
<tr>
<td>Dental insurance for employee</td>
<td>7%</td>
<td>24%</td>
<td>43%</td>
<td>65%</td>
<td>70%</td>
<td>79%</td>
</tr>
<tr>
<td>Life insurance</td>
<td>8%</td>
<td>16%</td>
<td>48%</td>
<td>69%</td>
<td>79%</td>
<td>76%</td>
</tr>
<tr>
<td>Disability insurance</td>
<td>7%</td>
<td>21%</td>
<td>45%</td>
<td>68%</td>
<td>74%</td>
<td>79%</td>
</tr>
<tr>
<td>Dental insurance for employee’s family</td>
<td>6%</td>
<td>17%</td>
<td>31%</td>
<td>61%</td>
<td>68%</td>
<td>75%</td>
</tr>
<tr>
<td>Paid maternity leave</td>
<td>2%</td>
<td>26%</td>
<td>44%</td>
<td>65%</td>
<td>70%</td>
<td>76%</td>
</tr>
<tr>
<td>Vision plan</td>
<td>6%</td>
<td>11%</td>
<td>25%</td>
<td>40%</td>
<td>48%</td>
<td>57%</td>
</tr>
<tr>
<td>Paid paternity leave</td>
<td>2%</td>
<td>14%</td>
<td>25%</td>
<td>45%</td>
<td>56%</td>
<td>70%</td>
</tr>
<tr>
<td>Flex time</td>
<td>14%</td>
<td>30%</td>
<td>30%</td>
<td>35%</td>
<td>32%</td>
<td>49%</td>
</tr>
<tr>
<td>Employee assistance plan</td>
<td>0%</td>
<td>0%</td>
<td>7%</td>
<td>21%</td>
<td>47%</td>
<td>54%</td>
</tr>
<tr>
<td>Cafeteria benefit</td>
<td>0%</td>
<td>5%</td>
<td>10%</td>
<td>20%</td>
<td>21%</td>
<td>28%</td>
</tr>
<tr>
<td>Job sharing</td>
<td>0%</td>
<td>0%</td>
<td>2%</td>
<td>1%</td>
<td>3%</td>
<td>4%</td>
</tr>
<tr>
<td>Provide no benefits</td>
<td>23%</td>
<td>3%</td>
<td>2%</td>
<td>2%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Mid-size and large firms pay similar salaries for legal secretaries, but very large firms pay significantly higher salaries to legal assistants/paralegals. The mean salary of a legal secretary ranges from about $42,000 for solo practitioners to about $58,000 for firms with 10 or more attorneys. The mean salary for a legal assistant/paralegal is about $50,000 at firms with 1-4 attorneys, about $60,000 at firms with 5-59 attorneys, and jumps to $90,000 at firms with more than 60 attorneys. (See Economics of Law Practice Survey Results on pages 40 & 42.)

**Figure 38b: Mean annual salary paid to legal secretary respondent works with most frequently - (0s excluded) - By Demographics**

<table>
<thead>
<tr>
<th>Region</th>
<th>N</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central/Northern NH</td>
<td>13</td>
<td>$43,923</td>
</tr>
<tr>
<td>Hillsborough County</td>
<td>54</td>
<td>$53,870</td>
</tr>
<tr>
<td>Merrimack County</td>
<td>48</td>
<td>$51,038</td>
</tr>
<tr>
<td>Seacoast NH</td>
<td>34</td>
<td>$49,901</td>
</tr>
<tr>
<td>Western NH</td>
<td>13</td>
<td>$53,231</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>22</td>
<td>$54,273</td>
</tr>
<tr>
<td>Other States</td>
<td>25</td>
<td>$60,018</td>
</tr>
</tbody>
</table>

**Figure 40b: Mean annual salary paid to legal assistant or paralegal respondent works with most frequently - (0s excluded) - By Demographics**

<table>
<thead>
<tr>
<th>Region</th>
<th>N</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central/Northern NH</td>
<td>18</td>
<td>$49,944</td>
</tr>
<tr>
<td>Hillsborough County</td>
<td>83</td>
<td>$59,458</td>
</tr>
<tr>
<td>Merrimack County</td>
<td>64</td>
<td>$55,951</td>
</tr>
<tr>
<td>Seacoast NH</td>
<td>53</td>
<td>$56,962</td>
</tr>
<tr>
<td>Western NH</td>
<td>27</td>
<td>$53,536</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>52</td>
<td>$76,335</td>
</tr>
<tr>
<td>Other States</td>
<td>37</td>
<td>$60,243</td>
</tr>
</tbody>
</table>
Respondents at large firms are much more likely to say their firm encourages *pro bono* work.

Almost 90% of respondents in firms with 60 or more attorneys say that *pro bono* work is encouraged by their firm. Overall, about half of respondents say their employer encourages *pro bono* work, but about 60% of those in private practice say that *pro bono* work is encouraged. Only 25% of those working as in-house counsel and 10% of those in government jobs say *pro bono* work is encouraged. (See Economics of Law Practice Survey Results on page 47.)

### Figure 47b: Firm or employer encourages participation in *pro bono* work, Free Legal answers, or Lawline - Don’t know/Not sure excluded - by Demographics

<table>
<thead>
<tr>
<th>Practice size</th>
<th>Overall</th>
<th>N=1123</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 attorney</td>
<td>OVERALL</td>
<td>50%</td>
</tr>
<tr>
<td>2-4 attorneys</td>
<td>53%</td>
<td></td>
</tr>
<tr>
<td>5-9 attorneys</td>
<td>58%</td>
<td></td>
</tr>
<tr>
<td>10-29 attorneys</td>
<td>66%</td>
<td></td>
</tr>
<tr>
<td>30-59 attorneys</td>
<td>74%</td>
<td></td>
</tr>
<tr>
<td>60 attorneys or more</td>
<td>89%</td>
<td></td>
</tr>
<tr>
<td>Central/Northern NH</td>
<td>62%</td>
<td></td>
</tr>
<tr>
<td>Hillsborough County</td>
<td>53%</td>
<td></td>
</tr>
<tr>
<td>Merrimack County</td>
<td>40%</td>
<td></td>
</tr>
<tr>
<td>Seacoast NH</td>
<td>49%</td>
<td></td>
</tr>
<tr>
<td>Western NH</td>
<td>62%</td>
<td></td>
</tr>
<tr>
<td>Massachusetts</td>
<td>48%</td>
<td></td>
</tr>
<tr>
<td>Another state</td>
<td>54%</td>
<td></td>
</tr>
</tbody>
</table>

### Figure 48a: What is your standard hourly rate? (N=1,106)

- Less than $100: 2%
- $100-$149: 1%
- $150-$199: 5%
- $200-$249: 10%
- $250-$299: 19%
- $300-$349: 17%
- $350-$399: 10%
- $400-$499: 5%
- $450-$499: 2%
- $500 or more: 5%
- Don’t charge on an hourly basis: 25%

### Median Hourly Rate for New Hampshire Attorneys Over Time

The median hourly rate charged by attorneys in New Hampshire has been steadily climbing since the first NHBA economics of law practice survey in 1985. Except for the 2000 and 2006 time period, the inflation adjusted hourly rate also shows an increase. Inflation adjustments made using the Bureau of Labor Statistics consumer price index inflation calculator.

<table>
<thead>
<tr>
<th>Year</th>
<th>Median Hourly Rate</th>
<th>Inflation Adjusted for 2022</th>
</tr>
</thead>
<tbody>
<tr>
<td>1985</td>
<td>$75</td>
<td>$206</td>
</tr>
<tr>
<td>1990</td>
<td>$100</td>
<td>$226</td>
</tr>
<tr>
<td>1996</td>
<td>$125</td>
<td>$235</td>
</tr>
<tr>
<td>2000</td>
<td>$150</td>
<td>$237</td>
</tr>
<tr>
<td>2006</td>
<td>$175</td>
<td>$237</td>
</tr>
<tr>
<td>2014</td>
<td>$225</td>
<td>$281</td>
</tr>
<tr>
<td>2022</td>
<td>$300</td>
<td>$300</td>
</tr>
</tbody>
</table>
Respondents in smaller firms are more likely to take cases on a contingency fee basis.

Forty percent of attorneys in firms with one to four attorneys take contingency fee cases. The percentage declines among larger firms, and among the largest firms (those with 60+ attorneys) only 10% take contingency fee cases. Overall, 27% of attorneys take contingency fee cases. (See Economics of Law Practice Survey Results on page 52.)

Figure 52a: Do you personally take any cases on a contingency fee basis? (N=1,090)

<table>
<thead>
<tr>
<th>Overall</th>
<th>N=1090</th>
<th>27%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current position</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Associate</td>
<td>N=201</td>
<td>30%</td>
</tr>
<tr>
<td>Managing partner</td>
<td>N=87</td>
<td>43%</td>
</tr>
<tr>
<td>Partner</td>
<td>N=218</td>
<td>29%</td>
</tr>
<tr>
<td>Solo practitioner</td>
<td>N=253</td>
<td>40%</td>
</tr>
<tr>
<td>Practice size</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 attorney</td>
<td>N=241</td>
<td>40%</td>
</tr>
<tr>
<td>2-4 attorneys</td>
<td>N=214</td>
<td>38%</td>
</tr>
<tr>
<td>5-9 attorneys</td>
<td>N=129</td>
<td>36%</td>
</tr>
<tr>
<td>10-29 attorneys</td>
<td>N=98</td>
<td>30%</td>
</tr>
<tr>
<td>30-59 attorneys</td>
<td>N=69</td>
<td>26%</td>
</tr>
<tr>
<td>60 attorneys or more</td>
<td>N=80</td>
<td>9%</td>
</tr>
</tbody>
</table>

Figure 52b: Do you personally take any cases on a contingency basis? - by Demographics - Don’t know/Not sure excluded

<table>
<thead>
<tr>
<th>Gender &amp; Age</th>
<th>N</th>
<th>16%</th>
<th>22%</th>
<th>26%</th>
<th>18%</th>
<th>29%</th>
<th>18%</th>
<th>22%</th>
<th>33%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Men, 24-30</td>
<td>N=27</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Women, 24-30</td>
<td>N=44</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Men, 31-40</td>
<td>N=105</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Women, 31-40</td>
<td>N=99</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Men, 41-50</td>
<td>N=111</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Women, 41-50</td>
<td>N=98</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Men, 51-60</td>
<td>N=143</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Women, 51-60</td>
<td>N=109</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Men, 61-70</td>
<td>N=172</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Women, 61-70</td>
<td>N=59</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Men, 71+</td>
<td>N=72</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Women, 71+</td>
<td>N=9</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Most firms expect to stay the same size or grow.

Overall, one quarter of respondents expect their firm size to increase and more than 60% expect their firm to remain the same size. Only 3% expect their firm to decrease in size, with the remainder of respondents indicating they do not know. However, more than half of respondents whose firm or employer has more than 10 attorneys, expect the numbers of attorneys at their firm to increase, one-third of respondents in firms with 5-9 attorneys say the same. The vast majority working in firms with less than five attorneys expect the number of attorneys to stay about the same. (See Economics of Law Practice Survey Results on page 60.)

Figure 61a: Do you expect the number of attorneys at your firm or employer to increase or decrease by the end of 2022? (N=1,201)

<table>
<thead>
<tr>
<th></th>
<th>Increase somewhat</th>
<th>Increase substantially</th>
<th>Stay about the same</th>
<th>Decrease somewhat</th>
<th>Decrease substantially</th>
<th>Don’t know/Not sure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall</td>
<td>29%</td>
<td>32%</td>
<td>61%</td>
<td>92%</td>
<td>47%</td>
<td>63%</td>
</tr>
<tr>
<td>Associate</td>
<td>5%</td>
<td>47%</td>
<td>92%</td>
<td>51%</td>
<td>35%</td>
<td>63%</td>
</tr>
<tr>
<td>Solo practitioner</td>
<td>5%</td>
<td>47%</td>
<td>92%</td>
<td>51%</td>
<td>35%</td>
<td>63%</td>
</tr>
<tr>
<td>Partner</td>
<td>5%</td>
<td>47%</td>
<td>92%</td>
<td>51%</td>
<td>35%</td>
<td>63%</td>
</tr>
<tr>
<td>Managing partner</td>
<td>5%</td>
<td>47%</td>
<td>92%</td>
<td>51%</td>
<td>35%</td>
<td>63%</td>
</tr>
</tbody>
</table>

Figure 61b: Do you expect the number of attorneys at your firm or employer to increase or decrease by the end of 2022? - Don’t know/Not sure excluded - by Demographics

<table>
<thead>
<tr>
<th>Practice size</th>
<th>N</th>
<th>Increase</th>
<th>Stay about the same</th>
<th>Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 attorney</td>
<td>229</td>
<td>4%</td>
<td>93%</td>
<td>93%</td>
</tr>
<tr>
<td>2-4 attorneys</td>
<td>210</td>
<td>16%</td>
<td>79%</td>
<td>93%</td>
</tr>
<tr>
<td>5-9 attorneys</td>
<td>126</td>
<td>33%</td>
<td>64%</td>
<td>93%</td>
</tr>
<tr>
<td>10-29 attorneys</td>
<td>89</td>
<td>63%</td>
<td>36%</td>
<td>93%</td>
</tr>
<tr>
<td>30-59 attorneys</td>
<td>63</td>
<td>63%</td>
<td>30%</td>
<td>93%</td>
</tr>
<tr>
<td>60 attorneys or more</td>
<td>75</td>
<td>68%</td>
<td>29%</td>
<td>93%</td>
</tr>
</tbody>
</table>
Solo practitioners do substantially less advertising and promotion of any kind.

Fewer than half of solo practitioners have a website, but more than 70% of firms with two or more attorneys have one. Nearly 40% of solos do no advertising or promotion, while 85% of firms with 2-4 attorneys use some form of advertising, and 95% of firms with 5 or more attorneys do so. Larger firms tend to have utilized more of these types of advertising and promotion in 2021, with particularly large gaps between small and large firms in the percentage who utilized speaking engagements, sponsorships, and newsletters or e-newsletters. (See Economics of Law Practice Survey Results on page 66.)

Smaller firms, especially solo practitioners, were much more likely to have experienced a decrease in income due to the COVID-19 impact.

Nearly four in 10 solo practitioners experienced a decrease in income while only about five percent of attorneys at firms with 30 or more attorneys had a decrease. Moreover, three-quarters of attorneys at firms with more than 60 attorneys experienced an increase in income while about one quarter of solo practitioners saw an increase. (See Economics of Law Practice Survey Results on page 72.)

Figure 67b: Advertising and promotion used by firm or employed in 2021 - By practice size

Figure 73b: How has your firm or employer’s revenue been impacted by the COVID-19 pandemic? - Don’t know/Not sure excluded - by Demographics
More than 60% of attorneys under the age of 40 owe $100,000 or more in student loans.

Forty-five percent of attorneys have paid off their student loans, and 17% never had any student loans. Almost one-third of those who still owe money on their loans owe more than $150,000, and one in five still owe more than $200,000. Among those who still owe money on their student loans, most aged 40 and under owe more than $100,000, but only about a quarter of those aged 41 and older owe this much. A majority of associates and four in 10 solo practitioners and managing partners who owe money on student loans owe more than $100,000, but relatively few partners owe this much. Men and women who owe money on their student loans are about equally likely to owe more than $100,000. (See Economics of Law Practice Survey Results on page 77.)

Figure 77a: About how much do you still owe on those student loans? (N=505)

Figure 77b: Owe $100,000 or more in student loans - Don’t know/Not sure excluded - by Demographics
More than half of solo practitioners do not have a designated successor attorney.

Among solo practitioners, seven in 10 under the age of 40 have a designated successor attorney in case of their disability or death. However, fewer than half of solo practitioners over the age of 40 have such a plan. (See Economics of Law Practice Survey Results on page 81.)

Figure 83b: Do you have a designated successor attorney in case of your disability or death? - Don’t know/Not applicable excluded - by Demographics

<table>
<thead>
<tr>
<th>Age</th>
<th>Yes (%)</th>
<th>No (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>31-40 years old</td>
<td>71%</td>
<td>29%</td>
</tr>
<tr>
<td>41-50 years old</td>
<td>47%</td>
<td>53%</td>
</tr>
<tr>
<td>51-60 years old</td>
<td>47%</td>
<td>53%</td>
</tr>
<tr>
<td>61-70 years old</td>
<td>47%</td>
<td>53%</td>
</tr>
<tr>
<td>71 years old and older</td>
<td>39%</td>
<td>61%</td>
</tr>
</tbody>
</table>

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The ABA and NHBA has partnered to offer NH Free Legal Answers, a virtual legal advice clinic. Volunteer attorneys provide brief information and basic legal advice on a pro bono basis to qualified users without any expectation of long-term client obligations. It’s easy to fit into even the most demanding schedule and you can provide answers 24/7/365 from ANY location with an internet connection.

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