Short-Term Rentals: A Long-Term Legal Debate

By Tom Jarvis
NHBA Staff

Short-term rentals, aka vacation rentals, have been around in New Hampshire for decades, particularly in our Lakes Region. In the days of yore, before the internet, renters relied upon word of mouth. In 1995, when the web became a household commodity, a company called Vacation Rentals by Owner (VRBO) launched an online listing platform to make things easier. However, it wasn’t until the advent of newer listing platforms with mobile apps like Airbnb, HomeAway, and FlipKey in the 2010s, that short-term rentals exploded in popularity. And with that explosion, came the legal debates.

While there is currently no controlling definition of a short-term rental (STR), it is generally agreed they are temporary lodgings for less than 30 days, in a building that is otherwise used as a residence. Some of them are owner-occupied for parts of the year and some are not.

The largest issues surrounding STRs lie with the non-owner-occupied rentals, particularly with out-of-state investors buying homes and turning them into income properties.

Attorney Cordell Johnston, formerly of the NH Municipal Association (NHMA), refers to these as “Holiday Inns without the signs.”

“If the owner lives there, they have a much stronger interest in keeping problems to a minimum; they don’t want to cause trouble in the neighborhood,” Johnston says. “Whereas, if it’s non-owner-occupied, it’s just an investment; it’s just about making money. I think because of Airbnb and similar platforms, people realized there is money to be made.”

Some concerns raised with these types of STRs are increased crime, trespassing, violations of noise and parking ordinances, and declining maintenance of properties. Most of these arguments boil down to restrictive zoning and how STRs should be classified. Property owners who rent to vacationers argue that STRs are residential, whereas some municipalities and STR opponents see them as commercial.

“The minute you take money for a room, you are a business,” President of the NH Bed and Breakfast Association Heidi Milbrandt says. “Airbnb is a scam. They are hurting and undercutting legitimate businesses that have been around for years. A couple years ago, King Sumunu was touting that short-term rentals are great, but of course he would say that – his family owns Waterville Valley. They want the money.”

Margaret Byrnes, Executive Director of the NHMA, says there has been a steady flow of legislation relative to STR over the last few years, but there have not actually been any changes to what municipalities can do. She notes that based on data from the Office of Planning and Development, only about 30 out of the 234 municipalities in NH have local regulations for STRs.

“In a lot of ways, it reminds me of Uber,” Byrnes says. “When they started...
I Am Thankful to Be a New Hampshire Lawyer

By Jonathan Eck

As I reflect during this season of gratitude, there are so many reasons why I am thankful to be a New Hampshire lawyer and member of the New Hampshire Bar Association.

Close to the top of the list is the civility that most of the members of our Bar practice with on a daily basis. New Hampshire lawyers tend to strongly advocate for their clients while simultaneously maintaining decency and perspective in their approach. Reasonable requests for extensions are granted when there would otherwise be no prejudice to the client, and most practitioners show great courtesy and cooperation in scheduling. New Hampshire lawyers typically strive to avoid sharp practices (see the Litigation Guidelines and the Professionalism Creed).

And while not all discovery disputes wind up being resolved by agreement, many are—with fairness and better judgment often prevailing in the end. I feel fortunate to be a part of a Bar where so many of its members demonstrate and promote professionalism, practice with the highest ethical standards, and maintain collegiality.

I am also extremely thankful for the Association itself. As members, we are fortunate to have such a helpful, skillful, and committed staff. Association staff members understand what lawyers need to serve their clients, and they work to find ways to help meet those needs. Part of what allows the Association to serve its members so effectively is the deep pride that staff members take in providing excellent service to clients, and they work to find ways to help improve the Association and to help improve our Bar because of the direct impact it has on our bench-bar conferences, and the close working relationships between practitioners and judges and judicial branch leadership throughout all Association programs. Many of our members might be surprised to know that one of the justices of the New Hampshire Supreme Court, who attends as a liaison, meaningfully participates in every Board of Governors meeting. The high engagement between the bench and bar in New Hampshire helps the judges hear practitioners’ perspectives and suggestions. It also allows the opportunity for judges to understand the pressures and challenges that lawyers face.

In my experience, the New Hampshire Judicial Branch also provides a very useful and efficient Court Information Center, and a functional Odyssey online electronic case access platform. These court resources and tools, when used correctly, allow for efficient access to information and materials. Thankfully, long gone are the days of rummaging through your car for coins, requesting the file at the counter in the clerk’s office, and struggling to keep the file in one piece while using the photocopy machine. As technological advances continue, I am excited to become more adept with CaseLines. Having completed the two training sessions, I am confident that with practice, my newly acquired skills will not merely be a requirement for practicing in our state courts, but far beyond that, will help me more effectively and capably represent my clients in court through this systemwide resource that comes at no direct cost to me.

New Hampshire lawyers are also fortunate to avoid sharp practices (see the Litigation Guidelines and the Professionalism Creed). And while not all discovery disputes wind up being resolved by agreement, many are—with fairness and better judgment often prevailing in the end. I feel fortunate to be a part of a Bar where so many of its members demonstrate and promote professionalism, practice with the highest ethical standards, and maintain collegiality.

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I also do not take for granted our knowledgeable and hard-working courts. In New Hampshire, we are fortunate to have strong bench-bar relations. This is apparent through the extensive involvement our judges have with the Bar and their frequent interactions with our members. Our judges here do not merely know a broad range of practitioners, which by itself is a unique and special characteristic, but they are also active in our law-related committees, participates in our events, and broadly contribute in many different ways to advancing the administration of justice in our state and maximizing the functionality of our state and federal courts.

The commitment that our judges bring to our profession and the members of this Association is evidenced on a daily basis, as reflected through the Committee on Cooperation with the Courts, the commitment I am also thankful for. As I write this, the Bar is nothing new for Mahan as she’s been an active and contributing member for years. She is excited to be a New Hampshire lawyer and member of the New Hampshire Bar Association.

Kate Mahan Elected New NHBA Vice President

The special election for the Vice President of the Board of Governors concluded on October 25, 2022. Attorney Kathleen Mahan was elected to the position.

Mahan is a litigation partner at Hinckley Allen, where she practices in several intellectual property matters, including trade secrets, trademarks, and copyrights. She also handles business disputes in relation to corporate governance, non-compete conflicts, contract actions, and other professional disagreements. Prior to working at Hinckley Allen, Kate worked at a boutique business law firm for over 12 years and clerked for the New Hampshire Supreme Court, as well as the New Hampshire Superior Court.

Being active in the Bar is nothing new for Mahan as she’s been an active and contributing member for years. She is excited to be involved and to help improve our Bar because of the direct impact it has on the legal profession.

“My involvement with the Bar stems back a number of years and I see the Bar Association as really playing a critical role in our profession, especially as a mandatory bar,” Mahan says. “I really just wanted to be involved with that and understand its inner workings and have a voice about how it operates.”

Her hope for her time on the Board of Governors is that she helps foster a sense of community, not just with attorney’s but for the state as a whole.
Undergraduate Students Find a Passion for the Law in Their Studies

By Molly Andrews

Looking back, can you remember why you chose to fulfill a career in the legal field? What inspired you to go to law school?

These are the questions that students are asking themselves early on in their undergraduate careers as they begin to navigate what classes they are passionate about. After speaking with two students at the University of New Hampshire, it became clear that no path to law school is the same. However, the interest in the field and the passion to succeed is what drives students to choose the pre-law track.

Gabriella Chianese and Emily Dennison are co-presidents of the UNH Pre-Law Society at the Durham campus. They both found interest in the law differently but are passionate about what the Society has to offer students.

Chianese, from Long Island, New York, is set to graduate in the spring of 2024. She is majoring in biomedical sciences with a concentration in medical microbiology, as well as political science. UNH stuck out to her as an option because of the biomedical sciences major. Here, she was able to take classes that aren't of her major like that at UNH. “I've been practicing in Durham for many years, so I feel like I'm part of the UNH community,” Stella says.

In addition to sharing her own experiences, Stella was sure to answer the many questions students had that pertained to all things law. She says she finds value in talking with students and answering their questions to help solidify their choice in attending law school.

“Not everybody gets the opportunity to ask an actual lawyer very specific questions that they might have about their career choice or how to get into law school or what law school they should go to,” Stella says.

The five UNH students that make up the Executive Board of the UNH Pre-Law Society.

“Even though I am not necessarily in pre-law-designated classes, I feel like I’ve been rounding out my portfolio a little bit by trying to take the writing intensive courses that are necessary for being in the law profession,” Chianese says.

Chianese and Dennison feel strongly about the law and have fostered their interest and passion into the Pre-Law Society. The Society is run by five executive officers who are all women. Their goal is to create a community of students who can bond through their interest in the law.

“We are just building a community of people that want to go to law school or are interested in the law because we don't really have a major like that at UNH,” says Dennison.

In addition to weekly LSAT preparation, networking, and how to brand yourself, to name a few. Besides focusing on professionalism and the law, they also like to have fun and lighten the mood with an occasional movie night.

“We're a student org. We are professional, but we try to have some fun with things too, and build community,” Chianese says. "I would argue that it's just as important as the professional development aspects of it."

Chianese and Dennison stress how important it is to make connections, not just with their peers but with attorneys, as well. They welcome lawyers to come to their meetings and give tips on studying and practicing the law.

Attorney Joanne Stella from Durham Criminal Law attended a Pre-Law Society meeting where she spoke with students about her experiences with law school and how she got to where she is today.

“Attorney Joanne Stella from Durham Criminal Law attended a Pre-Law Society meeting where she spoke with students about her experiences with law school and how she got to where she is today. “I’ve been practicing in Durham for many years, so I feel like I’m part of the UNH community,” Stella says.

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NOVEMBER 16, 2022

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Opinion In Response to “The Urgency of the Climate Crisis”

An article from the September 2022 Issue of the Bar News.

INTRODUCTION
Climate alarmism is in vogue, and has proved lucrative. Unfortunately, the staggering revenue incident to it – grants, research funding, compliance – has tainted much so-called climate science. Alarmists brand any questioners as “deniers” – akin to clueless bumpkins.

Attorneys Smith and Fish (Attorneys) assert that CO₂ causes global warming, and mankind contributes most of the CO₂. They conclude that (1) such warming will prove disastrous; and (2) massive and expensive measures must be taken to fight it – NOW.

However, science gives little support to their conclusion. My aim is to highlight some failings of their assertion, to outline the science involved, and to offer resources by which citizens can inform themselves on the science rather than falling victim to the shrill cries of “crisis.”

I. CO₂: THE INNOCENT VILLAIN
CO₂ is cast as the villain in the current global warming drama. The theory is simple: the more CO₂, pumped into the atmosphere, the higher the temperature. On this theory hang all the dire predictions of climate disaster.

However, the theory founders on certain facts: From 1940 to 1975, and again from 1998 to 2014, despite massive doses of CO₂, being pumped into the atmosphere, there was no warming. Why? Climate alarmists have no explanation.

In fact, CO₂ is a hero of sorts. The veritable New Hampshire forests (and all plants) will thrive on CO₂, as we do on oxygen. Yet more,

II. CRYING WOLF
Climate “crises” are nothing new. For example, in 1975 the prestigious National Academy of Sciences (NAS) claimed a crisis which “presents humankind with the most important social, political, and adaptive challenges we have had to deal with for 110,000 years. Your stake in the decisions we make concerning it are [sic] of ultimate importance: the survival of ourselves, our children, our species.” Sound familiar? The only problem with this doomsday prediction was that it warned of an impending ICE AGE!

The Attorneys’ language is similarly riddled with terrifying words: crisis; threat; dire predictions; devastating changes; catastrophic conditions; perils. Why? The more panic induced in the populace, the more likely they will support the massive taxes and regulations involved. And all this money will go somewhere, like to research institutions and – ahem – law firms that specialize in environmental law. This idea was nicely summed up in another context – war – by Marine General Smedley D. Butler: “Well, it’s a racket right. A few profit, and the many pay.”

III. SILENCING OPPONENTS TO THE GREENHOUSE GAS THEORY
An article of faith in the climate crisis crowd is sea level rise. The Attorneys paint a terrifying picture: a “rise in sea level that will inundate coastal zones, and the submerging of major cities.” We have yet to see such catastrophes, though the alarmists assure us (as did the 1975 NAS prediction of a new ice age) it is right around the corner. But evidence for such inundation is scanty. Perhaps the most humorous refutation is this: Barack Obama recently bought a lavish $12 million estate on Martha’s Vineyard at sea level! Would such a brilliant man do so if he believed rising seas would engulf his dream home?

Next, the Attorneys pose a short anecdote as if it proved anything. Supposédly, New Hampshire recently experienced seven consecutive days over 100 degrees. So? Science does not run on anecdotes any more than consensus. This anecdote may impress the naïve; until we see that a similar run of five days over 100 degrees occurred in 1911! And the hottest day in New Hampshire occurred in 1911! Finally, the hottest year in New Hampshire was 1912! So much for anecdotal evidence – especially when it is pumped up by further anecdotes.

CONCLUSION
I myself am not a scientist. But I can read the writings of prominent scientists who have no axe to grind. Two books useful in verifying and explaining the points I have made are: Unstoppable Global Warming (2007) and Hot Talk, Cold Science (1997), both by S. Fred Singer. He received his Ph. D. in physics from Princeton; and his doctoral committee included J. Robert Oppenheimer (think Manhattan Project) and Niels Bohr (think Nobel Prize in physics for 1922). Among many endorsements is that of Richard S. Lindzen: “The highly sensible and well-accepted scientific views in Hot Talk, Cold Science deserve the widest possible exposure.”

My point in writing this was not to denigrate the Attorneys. But I have become very concerned that my children will be saddled with the horrendous debt incurred by climate boondoggles, and even more with the vastly decreased standard of living they will be heir to.

William G. Gillespie
Yarmouth Port, Massachusetts
How the Radonda Vaught Conviction Shows the Troubles in Healthcare

COVID-19 (SARS-CoV-2) exacerbated the shortage of patient care nurses. The criminal conviction of former nurse, Radonda Vaught, could also push more nurses to leave their practice and fewer people choosing nursing as a career. Black’s Law Dictionary defines mistake as, “a (17c) 1. An error, misconception, or misunderstanding; an erroneous belief.” Vaught’s conduct was held to be more than a mere mistake.

On December 26, 2017, Vaught, a nurse at Vanderbilt University Medical Center (VMC), intravenously administered Vecuronium (a paralytic), instead of Versed (a sedative), to Murphey, resulting in Murphey’s death. Principles of safe medication administration are termed “Rights.” The Children’s Hospital of Philadelphia lists six Rights of Medication Administration:

- Right Patient
- Right Medication
- Right Indication
- Right Dose
- Right Time
- Right Route

VMC fired Vaught on January 3, 2018, seven days after Murphey’s death. Early in 2018, VMC settled the civil suit filed by Murphey’s family as part of the settlement. On September 27, 2019 (after Vaught was indicted for reckless homicide), the Tennessee Department of Health reversed its prior decision, and initiated proceedings against Vaught.

On March 25, 2022, Vaught’s conduct was convicted of criminally negligent homicide. The Tennessee Statute defines criminal negligence as failure to recognize a “substantial and unjustifiable risk …” Vaught was convicted for reckless homicide, but subsequently convicted of criminally negligent homicide. The Tennessee Department of Health reversed its prior decision, and initiated proceedings against Vaught.

As a physician and a patient, this case is profoundly disturbing. I am grateful for the physicians and nurses who cared for me when I had spinal fusion surgery last year. I received Rocuronium (a paralytic like Vecuronium) as part of general anesthesia, and Valium (a benzodiazepine like Versed) post-operatively. It is terrifying to think of a nurse giving me Rocuronium and then walking away, leaving me to die. Businesses like Amazon are financially driven in the healthcare industry (or to borrow from President Eisenhower, the Healthcare-Government Industrial Complex), so are hospitals. Patients are clients—consumers of goods and services. Physicians and nurses are providers, delivering healthcare industry goods and services (but not in blue cargo vans). VMC fired Vaught seven days after Murphey’s death but did not report this Unusual Event / Sentinel Event to the County Coroner/ Medical Examiner, the State of Tennessee, or the Centers for Medicare and Medicaid Services (CMS). A whistle blower subsequently filed an anonymous complaint to CMS. CMS investigated and:

1. Murphey’s cause of death was changed from natural to accidental,
2. The Tennessee Board of Nursing revoked Vaught’s license on July 23, 2001,
3. Vaught was convicted of negligent homicide March 25, 2022.

During the COVID-19 lockdown, hospital revenue decreased dramatically. Hospitals in NH have gone bankrupt. Despite the nursing shortage, hospitals need to treat more patients to recover lost revenue. Vaught’s conduct is indefensible. But consider the hospital workplace environment and the pressure to generate more revenue. The individuals who generate revenue are the ones with the medication, or syringe, or scalpel in their hands.

The New Hampshire Statute is well known. Hospitals are largely private businesses that want to keep patients safe. Although administrative bureaucracies do not keep patients safe. The National Practitioner Data Bank. Sheets of paper with check boxes do not keep patients safe. AcuDose-Rx machines do not keep patients safe. People keep patients safe. Although safely caring for patients may generate less revenue, the Duty of Care is to the patient, not profit. The Standard of Care is about quality, not quantity.

Richard Steele
Steele Consulting PLLC
Concord

This article along with the references will be posted on Richard Steele’s LinkedIn which can be found at linkedin.com/in/richard-steele-md-esq-26a09a24.
Domestic Violence: Let’s Have a Conversation

By Jill O’Neill

Content warning: content and themes may be distressing to some.

Expanding the Definition

Domestic violence, spousal abuse, battering, or intimate partner violence is the victimization of an individual with whom the abuser has an intimate or romantic relationship. The Centers for Disease Control and Prevention (CDC) defines domestic violence as “physical violence, sexual violence, psychological aggression (including coercive acts) by a current or former intimate partner.” Domestic violence is a pattern of abusive behavior that one partner uses to gain or maintain power and control over another intimate partner.

Historically, domestic violence has been conceptualized to be a problem of male perpetrators and female victims. The more recent term “intimate partner violence” is used to differentiate violence between two people involved in a romantic relationship from other types of domestic violence, such as child abuse and elder abuse. Intimate partners are people who are currently or were previously involved in a romantic relationship, regardless of whether or not they live in the same household. Bidirectional violence is where one partner may be the primary aggressor while the other is using the violence in self-defense, resistance, or retaliation. It’s important to recognize and have an honest discussion about what these relationships look like so that people can receive the proper help and recovery resources.

How Big Is the Problem?

Intimate partner violence (IPV) is common. It affects millions of people in the United States each year. Data from the CDC’s National Intimate Partner and Sexual Violence Survey (NISVS) indicates:

- About 41 percent of women and 26 percent of men experienced contact sexual violence, physical violence, and stalking by an intimate partner and reported an IPV-related impact during their lifetime. Injury, posttraumatic stress disorder (PTSD) symptoms, concern for safety, fear, needing help from law enforcement, and missing at least one day of work are common impacts reported.

- Over 61 million women and 53 million men have experienced psychological aggression by an intimate partner in their lifetime.

This violence occurs regardless of age, economic status, sexual orientation, gender, race, religion, or nationality. The CDC states, “Some individuals and communities experience inequities in risk for violence due to the social and structural conditions in which they live, work, and play. Youth from groups that have been marginalized, such as sexual and gender minority youth, are at greater risk of experiencing sexual and physical dating violence.”

IPV is a significant public health issue with many individual and societal costs. About 75 percent of female IPV survivors and 48 percent of male IPV survivors experience some form of injury related to IPV. IPV can also result in death. Between 2018 and 2019, 67 percent of the domestic violence homicide victims in New Hampshire were killed by an intimate partner, 28 percent were killed by a family member, and five percent were domestic violence-related.

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Survivors can experience mental health problems such as depression and PTSD symptoms. They are at higher risk for engaging in behaviors such as smoking, binge drinking, and sexual risk activity. IPV is not simply an “at home” problem. The economic costs associated with IPV include medical bills, court costs, lost productivity from work, or the permanent loss of earnings – as well as career setbacks.

If you are experiencing intimate partner violence or are a survivor seeking support, the New Hampshire Lawyers Assistance Program is here to offer confidential assistance. We are here to support legal employers, HR Directors, and supervisors by offering free workplace consultations to help share resources for reintegrating survivors of domestic violence into the workplace.

For more information, or to contact the New Hampshire Lawyers Assistance Program confidentially, call (603) 491-0282 or visit www.lapnh.org.
Member Services Resources to Help Your Small or Solo Practice Thrive

By Misty Griffith
NHBA Staff

More than half of the law firms in New Hampshire have four or fewer attorneys, and 70 percent have fewer than 10 attorneys. Small and solo practitioners in New Hampshire are in good company. No matter the size of your firm, there are resources that every firm needs to succeed. NHBA provides a wide array of member services to help meet some of those needs.

**NHBA TechConnect**

It is important to select the right technology to meet the needs of your practice. However, it is sometimes difficult to know which technology to choose. The NHBA TechConnect benefit offers free 30-minute consultations with an expert consultant from Affinity Consulting Group who specializes in legal technology and law practice management solutions for law firms of all sizes. The free 30-minute consultations extend to any member of an attorney’s staff, and follow-up consultations are also free.

Many NHBA members have already benefitted from free consultations for advice on selecting new or upgrading existing technology, as well as more general law practice management advice. It is easy to schedule a consultation. Just go to nhbar.org/resources/member-services-benefits and click on TechConnect then click on “Schedule a Consultation.”

**Clio and MyCase**

Firms of all sizes are using law practice management (LPM) software for increased efficiency. Using good LPM software helps organize client information, documents, and case files, streamlines calendaring and time tracking, and provides for more efficient billing. Cloud-based LPM software makes it easy to access, update, manage, and maintain your firm information securely from any location. The NHBA offers members a discount on the two practice management software providers that are most highly rated by Capterra – Clio and MyCase. Both providers offer a 10 percent discount to NHBA members who sign up through our website. Many firms around the state, including small and solo practices, are using Clio or MyCase, and we have had positive feedback about both.

**LawPay**

Taking credit card payments securely makes it easier to collect payments from clients. LawPay provides attorneys with a simple, secure way to accept online credit card and check payments from clients. Designed specifically for the legal industry, LawPay guarantees your firm accepts payments in compliance with ABA and IOLTA guidelines. NHBA members receive a free 3-month trial on LawPay. LawPay integrates with both Clio and MyCase for added efficiency.

**Smith.ai**

Smith.ai offers a practical solution to provide phone coverage so that you do not miss important calls. Smith.ai receptionists are available 24 hours a day to answer calls, screen leads, and schedule appointments. The round the clock availability of their receptionists is a cost-effective way to capture leads on potential new clients no matter when they call since you only pay for calls received. Smith.ai charges per call with no charge for spam, telemarketers, or wrong numbers. This eliminates money wasted paying for a dedicated receptionist during quiet times when there are few calls. Smith.ai integrates with many software applications including other member benefit discount providers Clio, MyCase, and LawPay. NHBA members receive $100 off their first month of calls and chats with code NHBAR100.

**RPost**

For a high-quality, affordable cybersecurity option, consider RPost. RPost is a well-established global leader in providing secure electronic communications and is a benefit provider for numerous bar associations. RPost offers two convenient cybersecurity products, RMail and RSgn, providing simple-to-use compliant email encryption, legal electronic signatures, and secure large file transfers. RMail provides convenient email encryption at the click of a button and requires no special software for recipients. RSgn is a web-based process that provides a quick and intuitive way to prepare and send documents for electronic signature. NHBA members receive a 20 percent discount on RMail and RSign software services when signing up via our website.

**ESQ Sites**

According to the results of our 2022 Economics of Law Practice Survey, fewer than half of solo practitioners in NH have a website. Member benefit provider ESQ Sites specializes in web design for small and solo practitioners. ESQ Sites provides domain registration, web design, and hosting services for legal professionals. Members use coupon code NHBA to receive a 25 percent discount on the one-time setup fee.

**Fastcase**

To help with your legal research needs, your NHBA membership includes free access to Fastcase online legal research library. Fastcase provides comprehensive access to case law, statutes, regulations, court rules, constitutions, and law review articles. Free access to Fastcase is a valuable member benefit which would cost $995 per year if purchased individually, and other online research platforms are even more expensive.

**ABA Books for Bars**

If you want build content in your own library, take advantage of the ABA Books for Bars member benefit to receive a discount on ABA publications. NHBA members save RESOURCES continued on page 9

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**Attorney Sandra Kenney**

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

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Women in the Judiciary Are Crucial to Our Legal System

By Hon. Gary E. Hicks and Lyndsay N. Robinson

Women and people of color are underrepresented as judges in New Hampshire state courts. That much is obvious. The solution, however, is a bit elusive. In June 2022, the New Hampshire Women’s Bar Association (NHWBA), the New Hampshire Women’s Foundation (NHWF), and the Warren Rudman Center of the University of New Hampshire Franklin Pierce School of Law hosted a discussion on this issue.

The event addressed the data collected from the NHWF and included a panel discussion. Linda Johnson of McLane Middleton, currently Board Chair of the New Hampshire Women’s Foundation, moderated. The featured panelists, the Hon. Anna Barbara Hantz Marconi, Associate Justice – NH Supreme Court; Hon. Tina Nadeau, Chief Justice – NH Superior Court; Hon. Jacalyn Colburn – NH Superior Court; Hon. Sawako Gardner – NH Circuit Court; and Hon. Susan Carbon – NH Circuit Court, had some solid suggestions.

As a country, we are a representative democracy. To fully achieve representative democracy, by definition, there should be equitable gender and racial representation. All states and branches of government struggle with this fundamental premise. In New Hampshire, only 38 percent of all State Court judges are women, with the smallest ratios of women on the Superior Court and Supreme Court. As of this writing, New Hampshire has 22 women serving on the Circuit Court (43 percent), seven women serving on the Superior Court (32 percent), and one woman serving on the Supreme Court (20 percent). There is currently only one person of color serving as a judge at any level of the New Hampshire state judicial system. That person is also the only woman of color.

Compared to the surrounding New England states, the New Hampshire Supreme Court is tied with Rhode Island for the lowest percentage of women justices. The New England states are ranked as follows: Maine and Massachusetts at 43 percent, Vermont at 40 percent, Connecticut at 29 percent, and New Hampshire and Rhode Island at 20 percent.

Although New Hampshire has “come a long way” since Marilla M. Ricker passed the bar exam and won her case against the state to allow women in New Hampshire the right to practice law, there remains a long way to go.

Women’s representation in the judiciary is imperative to ensuring that courts represent their citizens, especially those appearing before them as lawyers, litigants, jurors, court security, clerks, and staff. By their mere presence, women judges promote the legitimacy of the courts. Women judges bring different perspectives and experiences to the bench and enhance both perception and reality. In return, their representation on the bench promotes trust in the judiciary as capable of upholding the rule of law and dignifying human rights while reflecting the society it represents.

As a result of their research, the New Hampshire Women’s Foundation made the following policy recommendations:

1. Governors should nominate more women and people of color at a rate that would achieve equity in all levels of the New Hampshire State Judicial Branch, at least comparable with New Hampshire’s population.
2. Governors should appoint members with gender and racial diversity to the Judicial Selection Commission.
3. With safeguards to protect the anonymity of the application process, the Judicial Selection Commission should publish the number or percent of women and people of color who have applied for judgeships and the number or percent they recommend to the Governor for each vacancy.
4. The New Hampshire Bar Association should collect and publish the gender and racial diversity of its membership on a regular basis. This data would be the basis to understanding trends in the pipeline to the bench.
5. Women attorneys could benefit from a mentorship program that supports career trajectory and opportunities including judgeship.

When other members of the judiciary were asked about their thoughts on how we can do better, Hon. Susan B. Carbon shared, “There is no question that we have made progress, but the real question is whether we are committed to creating a bench that is reflective of the population. We have a long way to go before women are equally represented — and by this, I mean at least half the bench. No one flinches when we say men comprise 70 percent of our judgeships. No one should flinch if women comprised 70 percent. Ideally, we’d be closer to a 50/50 split, but the point is, it will be a great day when we no longer have to count numbers; women will be present throughout.”

Hon. Susan B. Carbon believes the entire system could benefit from transparency. She believes it is worth exploring the proportion of men to women who: 1) apply for judgeships; 2) are selected to be interviewed; 3) are recommended to the Governor; 4) are interviewed by the Executive Council; and 5) are confirmed and sworn in.

Hon. Barbara Hantz Marconi of the New Hampshire Supreme Court adds, “Mentorship is a critical support to those contemplating a judicial application. From confirmation of suitable qualifications, to navigating the application process, it is most energizing and supportive to have, in effect, a cheering section at a time when a person can feel most exposed.”

Hon. Susan B. Carbon is a strong proponent of mentorship, as well.

She adds, “I think we should take every opportunity to mentor young women, to support them as they grow in the profession, and celebrate their successes. We can no longer say there is not a pool from which qualified candidates could be selected. We just need to open our eyes.”

This is a good start, but we can do more. Members of the New Hampshire Bar have a long, storied history of problem solving. The remarkably effective Women’s Bar Association was born to problem solve and has never faltered in that effort. Lawyers for Justice (the criminal attorneys), practice groups, list servs, and issues of Court are all vital resources. Hardly the least element in this quest is our law school, lead by its extraordinary Dean, Megan Carpenter.

What these groups can achieve and are achieving is culture change. All can and do instill the very notions of societal fairness, notions that must entwine in the fabric of our daily discourse. Then, and only then, is the goal achieved. At that point, equity and diversity become normative, and we are all in a better place.

There are certainly more resources that we haven’t gotten to, but that should be another “good start.” If we, as lawyers, judges, and citizens, simply focus, culture change is at hand. Diversity on the bench is inevitable. We have forgotten, but that should be another “good start.” If we, as lawyers, judges, and citizens, simply focus, culture change is at hand. Diversity on the bench is inevitable. We have forgotten, but that should be another “good start.”

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All of this is a good start. Progress, by some...

Honorable Gary E. Hicks is the Senior Associate Justice of the New Hampshire Supreme Court and Lyndsay N. Robinson is counsel at Shaheen & Gordon, PA. For more information on the research findings by the New Hampshire Women’s Foundation please visit, nhwomensfoundation.org/research-item/mgm2023-1-women-in-the-new-hampshire-judiciary.
New Lawyers Committee Happenings

By Laurie Young and Stephanie Tymula

The New Lawyers Committee (NLC) supports the newest members of our bar through programming, resources, and networking. All members who were sworn in within the last five years are included in the NLC’s target audience and receive invitations to NLC events. Even attorneys who may have practiced for years in other jurisdictions, but are new to New Hampshire, are invited to attend events and to get to know the New Hampshire Bar. These events have taken on particular importance with the lack of in-person networking during COVID-19. The NLC welcomes help set the tone for our reputation as a collegial bar. Here are a few highlights of our ongoing programs the NLC has going on:

Dinners with a Judge: The NLC hosts dinners with state and federal judges for new lawyers to attend. These dinners are purposefully kept as a small group to allow a more casual conversation flow. This gives new attorneys an opportunity to meet a Judge off the bench, gain practice tips, and learn more about the judiciary in New Hampshire. We host several of these throughout the year with a variety of judges. Most recently, we hosted dinners with Judge Samantha Elliott and Judge William Delker. Plans are in the works for future dinners.

Bench and Bar Meet and Greet: All new lawyers are required to attend the Practice Skills Course within two years of swearing in. The “Bench and Bar Meet and Greet” is an evening networking event after a day of sessions at Practical Skills for new lawyers to meet members of the judiciary. This year, it will be on December 13, at 5:00 pm at the Grappone Center in Concord.

Educational Programs: The NLC put together a CLE in September titled Ethics of Vending. The NLC is also responsible for the publication of Traps for The Unwary, which is series of articles providing the basics of differing practice areas. The NLC will be revising and updating it this year to reflect changes and updates in the law. The prior version can be found at: nhbar.org/traps-for-the-unwary.

The NLC does many more events throughout the year and has regular outreach to new attorneys. We just had a successful Oktoberfest event with NHAB and NHTLA. The committee is planning future events in differing regions throughout the year. All attorneys who were sworn in within the last five years receive regular newsletters outlining events and opportunities. The NLC committee is comprised of volunteer new attorneys and volunteer experienced attorneys who are appointed by the President of the New Hampshire Bar Association in the summer.

Laurie Young is Co-Chair of the New Lawyers’ Committee. Laurie practices probate law in Dover, NH at Wiskiel, Bosc, Tillinghast & Bolduc.

Stephanie Tymula is the other Co-Chair of the New Lawyers’ Committee. Stephanie is admitted in NH, MA, VT, CT, and NC and runs a general practice, 1 Client Matters, LLC, based out of Manchester, NH.

Resources

15 percent off the general public price on all books and electronic publications available in the American Bar Association web store when using the special discount code: PA-BRENHB at checkout.

NHBA Lawyer Referral Service

Even thriving practices need a steady stream of new clients to stay in that way. NHBA Lawyer Referral Service can help you generate more clients by providing you with a steady source of referrals. In 2021, LRS had a record-breaking number of referrals with more than 6,800 referrals generating over $2.3 million dollars in total income, and the number of referrals made by LRS continues to increase. For an annual fee of only $100 and the agreement to remit 10 percent of collected fees to LRS, you will receive pre-screened referrals in practice areas which you select. The LRS application is available online at nhbar.org/join-lawyer-referral-service/

Bar Center

When you need a place to meet with clients or other attorneys, the Bar Center has conference rooms and small meeting rooms which are available to members at no charge on a space-available basis. Our convenient location at 2 Pillsbury St., Suite 300 in Concord offers plenty of free parking. Contact the front desk at (603) 224-6942 to inquire about availability.

To take advantage of any of these member services visit nhbar.org/resources/member-services-benefits. If you have any questions about how we can help your firm, contact Member Services Coordinator Misty Griffith at nhbar@nhbar.org or call (603) 715-3227.

THE PERENNIAL POWERHOUSE

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LUBIN & MEYER consistently obtains more multi-million dollar results in the areas of medical malpractice and personal injury law than any other firm in the region. Despite the pandemic, Lubin & Meyer continues to deliver results, securing over 150 settlements totaling over $200,000,000.00 for its clients in New Hampshire, Massachusetts and Rhode Island.

“Other law firm is better positioned and prepared to litigate complex and high-stakes medical malpractice and personal injury cases. The talent, expertise and integrity of the Lubin & Meyer team—combined with a record of results—places this firm alone at the top.”

- Referring attorney

Call for a free case evaluation or second opinion. Lubin & Meyer works on a referral fee basis.
End-Of-Year Giving

The end of the year always brings a sense of generosity. With the holidays approaching and the weather getting cooler, it is always a good time to reflect on how you can give back to your community. There are multiple ways to support the New Hampshire Bar Foundation this season and to help us continue to support the mission of meaningful access to justice. This year, the NHBF is participating in the end-of-year giving, as well as Giving Tuesday.

In 2022 the Bar Foundation:

- Awarded four organizations $775,000 in IOLTA grants to provide civil legal aid. These organizations include 603 Legal Aid, New Hampshire Legal Assistance, NHBA Lawyer Referral Service-Modest Means, and Disability Rights Center-NH;
- Distributed $102,250 in Justice Grants to 14 programs to fund civics education and other justice initiatives. The recipients included the NH Historical Society, YWCA, New Hampshire Public Radio, NH Brazilian Council, Guardian Support Services of NH, Manchester NAACP, NH Legal Assistance, UNH Law – Warren B Radman Center, NH Bar Association, NH Civics, Bridges: Domestic & Sexual Violence Support Services, and 603 Legal Aid;
- Established the Marilyn Billings McNamara Fund; and
- Established the Vincent A. Wenners Jr. Fund to support access to justice and education for workers.
- Published the results of its Diversity and Inclusion Survey, which compiled responses from almost 2,000 New Hampshire Bar Association members. The survey identified opportunities to better recruit, retain, and support a more diverse workforce.

In 2023 the New Hampshire Bar Foundation is committed to supporting more access to justice initiatives in the Granite State. Our members’ generosity is what keeps our mission moving forward and we hope that with the season of giving approaching, the Bar Foundation will be in the forefront of your mind.

Giving Tuesday

The Bar Foundation will be participating in Giving Tuesday, taking place on Tuesday, November 29. The purpose of Giving Tuesday is to inspire generosity and humanity around the world with the larger goal to make this part of everyday life. Giving Tuesday was established 10 years ago and had inspired millions of people to do good.

The Foundation will be doing social media posts throughout the day to highlight our grantees’ work. Donations to the Bar Foundation can be made through the NHBF website at nhbar.org/nh-bar-foundation.

“Giving Tuesday was founded as a way to give back following a Thanksgiving holiday filled with family, food, and shopping. The New Hampshire Bar Foundation is grateful to donors who support access to justice during this holiday season and all year long.”
Pastori | Keans is thrilled to announce that Business NH Magazine has once again recognized the firm as one of New Hampshire’s Top Women-Led Businesses. This is the fourth consecutive year the firm has made the coveted list, rising several spots to the 61st spot for 2022. With a 21.3 percent three-year average growth rate, the firm is also listed as one of New Hampshire’s “20 Fastest Growing Women-Led Businesses.”

In Memoriam

Mary Louise Dufault

On October 16, 2022, Mary Louise Dufault, an attorney and longtime resident of New London, New Hampshire, peacefully passed away with her family at her side. She was 85. Mary Lou, as she was known, was born on Mother’s Day, May 9, 1937, in Clarion, Pennsylvania, to Mary Elizabeth Meisinger and Ambrose John Selker. The eldest of her two siblings, Ambrose Paul Selker and Thomas Michael Selker, Mary Lou helped her mother, a bank secretary, raise her family after her father’s untimely passing in July of 1947.

In 1955, Mary Lou graduated from the Immaculate Conception School in Clarion before attending Indiana State Teachers College, where she earned a Bachelor of Science in Home Economics in 1959. While teaching Home Economics in Carlisle, PA, she met her eventual husband, Larry Bernard Dufault, who was serving nearby at the US Army War College. Hungry for more education and learning opportunities, Mary Lou attended Pennsylvania State University where she earned a Master of Science in Clothing and Textiles in 1962.

Mary Lou and Larry were happily joined in marriage on June 22, 1963, in Clarion. After getting married, Mary Lou became a professor at Juniata College in Huntingdon, PA, where she taught classes in clothing and costume design for eight years. Mary Lou later earned a second master’s degree, in Medieval Literature, at the University of Connecticut in 1973.

In August of 1973, Mary Lou and her husband moved to New London, where they both taught at Colby-Sawyer College. In 1980, she earned her juris doctor from Franklin Pierce School of Law. Mary Lou enjoyed law school so much, she convinced her husband to attend. Upon graduating from Franklin Pierce, she established the Law Office of Mary Lou Dufault, and then upon her husband’s graduation, they both formed the Dufault & Dufault Law Offices.

Mary Lou was an active member of the New London community, serving for three years on the New London Budget Committee. She was a member of the League of Women Voters, the Aubson Sargent Land Preservation Trust, the Garden Club, the Lake Sunapee Yacht Club. Mary Lou was an avid fan of music, especially jazz, and played piano daily. She had a passion for travel, starting with a trip to Cairo, Egypt with her husband in 1965 and continuing with extensive travels to Asia, the Middle East, and Europe. Mary Lou also loved sailing, tennis, gardening, baking, attending theater, and skiing.

Mary Lou is survived by her husband, Larry, her son, Michael Sean Dufault, her wife Tantra Oo and daughters Ina and Bianna, who reside in Basel, Switzerland, and her daughter, Jaqueline Mara Dufault, her husband Alain Charest and daughters Alysia and Ophelia who live in Lexington, Massachusetts.

Mary Lou was laid to rest in Clarion, PA, alongside her mother and father. For those who would like to leave a message or share memories of Mary Lou, an online guest book has been set up for the family at www.chadwickfuneralservice.com. Any donations in memoriam may be made, at Mary Lou’s request, to the Aubson Sargent Land Preservation Trust at www.ausbonsarg.org/donate.

Franklin Jones

Franklin C. Jones, of Rochester, NH passed away on October 8, 2022, at age 74. He was born July 2, 1948, in Lebanon, New Hampshire, to Lawrence and Dorothy Jones. At Lebanon High School, he first met Jan, the love of his life and wife for over 59 years. He was a graduate of the University of New Hampshire and the Boston University School of Law.

While he practiced law in the greater Rochester area for over 49 years, the majority of his time was spent as the managing partner at Wensley & Jones or as a judge presiding over the Rochester District Court of New Hampshire, his favorite moments were spent either with his family or enjoying nature.

Frank’s love of the outdoors extended to both land and sea. He was an avid skier, heading down the East Coast’s steepest mountains well into his 70s. He also loved to hike the Presidential Mountains, with a trip to Cairo, Egypt with his wife in 1965 and continuing with extensive travels to Asia, the Middle East, and Europe. Mary Lou also loved sailing, tennis, gardening, baking, attending theater, and skiing.

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McDowell & Morrissette

is pleased to welcome
our new associate,

Brian J. Stankiewicz

Getman, Schulthess, Steere & Poulin, P.A., founded in 1997 by Attorneys Larry Getman, Steve Schulthess and Doug Steere, is pleased to share that the founding partners have retired from the firm and announce that Elizabeth Hurley, Clara Lyons, and Debbie Lorusso Makris have joined Chris Poulin as shareholders of the firm.

Larry, Doug and Steve started this firm 25 years ago as a small insurance defense firm, which has since then flourished into a multifaceted litigation law firm serving clients in New Hampshire, Maine, Vermont, and Massachusetts.

We wish the founding partners well. We are excited to embark on our own new endeavor as we continue to grow our firm.

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Welcome

Sheehan Phinney welcomes Cassandra O. Rodgers to the firm.

Cassandra Rodgers
Associate
603.627.8380
crodgers@sheehan.com
Business Litigation

Before joining the firm, Cassie served as a judicial intern for the Honorable Anna Barbara Hantz Marconi of the New Hampshire Supreme Court. She also worked as a legal extern for Dana-Farber Cancer Institute’s Office of Grants & Contracts and was a legal extern for the City of Portsmouth’s Prosecutor Office.

Sheehan Phinney

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Upton & Hatfield, LLP

Madeline K. Osbon

JOIN S UPTON & HATFIELD, LLP

Upton & Hatfield, LLP is pleased to announce that Madeline K. Osbon joined the firm as an Associate Attorney.

Please join us in welcoming Maddie Osbon to the firm! She is an associate in the labor and employment, human resource management, municipal, school, and business practice groups.

Welcome, Maddie! We’re happy to have you on our team.

Maddie graduated from the University of New Hampshire Franklin Pierce School of Law, where she was the Chief Notes Editor of the UNH Law Review. She received a B.A. in Communication and a Master’s in Business Administration from the University of New Hampshire.

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Devine Millimet is pleased to welcome William Callif to the firm as a Corporate Associate in our Manchester office. Will is a 2022 graduate of Suffolk University School of Law with a Business Law and Financial Services Concentration.

As a member of the Devine corporate team, he will work on a variety of matters, including mergers and acquisitions, real estate transactions, and general business representation.

Jonathan A. Lax
Shareholder, Director
lax@gcglaw.com
603-545-3607

GCG is pleased to welcome Jonathan as a shareholder, director of the firm.

Jonathan’s peers have continually selected Jonathan for inclusion in SuperLawyers® as a top medical malpractice defense attorney. In 2023, The Best Lawyers in America® named Jonathan as a Best Lawyer in health care law and litigation.

An evolution in legal excellence.

As your business evolves, you need a law firm that shares your vision for the future. That’s us, Sheehan Phinney. Cook Little has now joined the legal team, Sheehan Phinney, one of New England’s top firms for 75 years, to offer you an expanded powerhouse of legal talent in key areas of growth:

> Corporate Law  > Technology
> Transactional  > Start-Up
> Employment  > Automotive
> Data Privacy  > Manufacturing

Sheehan Phinney is proud to welcome the Cook Little team to our roster of exceptional talent.
Who is Your Favorite Fictional Lawyer?

By Tom Jarvis

The feedback on the first article in this new monthly column was overwhelmingly plentiful and positive. Thank you very much for your ongoing participation. A bit of levity can sometimes go a long way. As Denny Crane from the show Boston Legal once said, “no matter how hard your day, no matter how tough your choices, how complex your ethical decisions, you always get to choose what you have for lunch.”

A lot of bar members have expressed that legal dramas are cringeworthy due to the inaccuracies. Some even say that’s the reason why they watch them. With so many characters in countless books, television shows, and movies in the legal genre, it is definitely interesting – and fun – to see who the favorites of NH Lawyers are.

Gar Chiang, Chiang Law Firm

“My favorite was Perry Mason, played by Raymond Burr, whom I met at a Performance Arts conference in New York City. I never forgot [how the show] showcased a pro bono lawyer offering free consultations aside a food truck. He stood with a yellow pad and offered free legal advice two days a week. I thought about doing the same by having a table at a dim sum restaurant one afternoon a week. If I can figure out how to limit people to sit for no more than 10 minutes, I may implement the idea. NH lawyers love to use the word “collegial,” therefore, it is less dramatic. But we can always have a bit more fun in our legal work while taking our work seriously.”

Peter Hutchins, Law Offices of Peter Hutchins, PLLC

“My favorite in a long list of fictional lawyers is Alan Shore of Boston Legal. I admired his passion and dedication to helping his clients. I also admired his intense loyalty and relentless fighting to reach the right and just result, highlighted by the final episode when he argued to the US Supreme Court to allow his friend and mentor, Denny Crane, to have an experimental unapproved Alzheimer’s treatment to save his life. Alan argued “the law cannot possibly say that you can look a dying man in the eye and tell him he cannot save himself, and if it does, that law needs to be changed right now, today.” Alan Shore summed up best why I hope we all went to law school in the first place – to help people and achieve justice for them. And that although many may occasionally lose those sentiments somewhere along the way, we should always strive, case by case, to keep them in mind and live by them – sometimes regardless of the personal cost. Would Alan do well in a NH courthouse today? I sincerely hope so.”

Ed Philpot

Edward D. Philpot, Jr., PLLC

“Vincent Gambini, aka Jerry Gallo, aka Jerry Calvo from My Cousin Vinny. He was a great example of effective cross examination and trial strategy. He would do pretty good in NH!”

Israel Piedra

Welts, White & Fontaine, PC

“Josh Lyman. I have to shoehorn my favorite TV show of all time. He’s not an actively practicing lawyer, but he is a Yale Law School graduate and definitely uses his legal skills to navigate the political and legislative challenges in the show. Josh would definitely make some embarrassing gaffe if he had to appear in a NH court, and never hear the end of it from Toby.”

Lyndsay Robinson

Shaheen & Gordon, PA

“This is a tough call! I love Atticus Finch [from To Kill a Mockingbird], any prosecutor from Law & Order SVU, and Erin Reagan from Blue Bloods. They carried themselves with such professionalism. They seemed to always follow the law and fiercely advocate for their clients/side. My guiltiest pleasure is watching TV and movies that have a legal component. Although often not an accurate depiction of the practice of law, I love comparing what would and would not happen in real life. I would like to think we [in NH] would embrace all of these lawyers. I think some lawyers from New York City may struggle in NH. I find NH to be a very collegial bar in comparisons to other states.”

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.

Conflict costs everyone. Call one of our trusted and resourceful neutrals.

As practicing attorneys and mediators, Drummond Woodsum’s team offers unparalleled insight into complex legal issues. It isn’t just a higher level of support that comes with this expertise, we use an inclusive approach that uses empathy and effective communication strategies to bring parties together to achieve creative resolutions.
2023 NHBA Midyear Meeting

Evolving Issues

IN THE LEGAL LANDSCAPE

Join us for useful CLEs, engaging speakers, inspiring awards, and lots of networking opportunities.

Keynote by Dana Remus, former Chief White House Counsel to the Biden Administration.

CLE TOPICS INCLUDE:

- Ethical Obligations When Speaking to the Press
  Explores ethical constraints and pitfalls when engaging with the media. Learn best practices and appropriate communication strategies for successful exchanges.

- The Ongoing Applicability
  of the Rule of Law
  The Rule of Law continues to play a crucial role in our democracy. How can historical practices be meaningfully applied today and beyond? Attendees will be inspired to deepen their commitment to equal justice under law.

REGISTRATION OPENS SOON!

Watch Bar News, e-Bulletin, nhbar.org, and our social media feeds for details.

Promote your firm or organization to our members. For sponsorship details, contact dparker@nhbar.org.

Our Biggest Live Event of the Year!
Cybersecurity for Employee Benefit Plans

By Cameron G. Shilling

The United States is experiencing waves of new cybersecurity regulations. Because cybercrime consistently grows in sophistication, cybersecurity must become a significant concern for all businesses and individuals. Employee benefit plans are no exception.

Employee benefit plans are high value targets. Plans hold liquid assets and possess troves of personal and financial information about participants, sponsors, and the plans themselves. According to Department of Labor (DOL) estimates, about 106 million individuals contribute to over 34 million different private pension plans, which hold over $9.3 trillion of assets. These plans include multiple interconnected entities – such as plan sponsors, various fiduciaries, and record keepers – that regularly and necessarily exchange personal and financial information about participants and the plans, presenting prime opportunities for hackers. In light of the amount of assets and information held by these entities, even a single limited attack can be devastating.

The Department of Labor has responded by implementing guidelines for this industry. The guidelines have three components: (1) cybersecurity best practices for plans; (2) safeguards for hiring service providers; and (3) online protections for participants.

Cybersecurity Best Practices

DOL regulations list 12 cybersecurity best practices. They include implementing a formal, robust, and well-documented cybersecurity program with clear written policies; conducting annual risk assessments to identify threats, including hiring an independent third-party to assess the plan’s cybersecurity controls; regular cybersecurity awareness training, testing, and retraining when appropriate; encryption of sensitive information both in motion and at rest; and implementing the panoply of currently available technological safeguards needed to protect against sophisticated cyberattacks.

Hiring Service Providers

Since assets and information are only as secure as the weakest link in the chain, the DOL regulations outline the steps for plans to vet service providers. These steps include scrutinizing the provider’s cybersecurity standards, practices, policies, and audit results; inspecting the provider’s history, including any past incidents and breaches; reviewing the provider’s cybersecurity insurance policies and ensuring that those policies cover the plan in the event of breach; ensuring that contracts with providers ensure that plan assets and information are appropriately protected, and that liability is appropriately allocated between the parties.

Online Protections

Individuals are often unable to, or just do not, properly protect their online activities. As a result, the DOL guidelines list a series of safeguards for plans to implement to protect their participants against online threats, including requiring truly unique and strong passwords; mandating the use of multi-factor authentication to access the participant’s plan information and assets; and internal controls for any changes made to a participant’s profile or account information, and for initiating and authorizing certain financial transactions. In addition, the DOL guidelines identify safeguards for individuals to implement to protect themselves, such as hardening home Wi-Fi networks through the use of residential firewalls and virtual private network applications and using advanced threat detection on personal computers.

Cybercriminals are constantly looking for new and valuable targets. The wealth of information and liquid assets held by employee benefits plans presents such an opportunity. As a result, the businesses involved with these plans – including sponsors, fiduciaries, and record keepers – as well as individual participants all need to act promptly to comply with the DOL regulations and protect themselves from becoming a victim of a devastating cyberattack.

I want to recognize and thank Mu-

hamed Usman for his participation in this article. Usman is the newest member of our Cybersecurity and Privacy Practice Group, and we are all very happy to have him as our colleague.

Cam Shilling founded and chairs McLane Middleton’s Cybersecurity and Privacy Practice Group. The group of five attorneys and one technology paralegal assist businesses and private clients to improve their information privacy and security protections and address any security incidents or breaches that may occur.

Book Review

Claremont Boy: My New Hampshire Roots and the Gift of Memory

By Joseph D. Steinfield

Bauhan Publishing, LLC (2014), Softcover, 230 pages

Reviewed by Angelika Wilkerson, 603 Legal Aid Staff

My nephew, an old soul with an appreciation for collecting, began his hobby as a little boy. Whether walking in the park, hiking in the woods, or wandering around the neighborhood, he always returned home with a pocket full of tiny items he collected along the way: rocks, bottle caps, leaves, etc. One by one he would pull the objects out and place them on the table, describing what was neat about them. Without the explanation, one might look at the items on the table and see a pile of random “stuff.” However, knowing the story behind each piece and the lens through which they were chosen makes it impossible to see anything other than a treasure more valuable than gold.

Claremont Boy evokes a similar feeling to the one I imagine my nephew experiences when going on his treasure hunts. Each essay is a new opportunity for the reader to discover what about it resonates with them and how that essay fits in to the bigger collection. The two-part titles of the essays, such as “My Birthmate and the Phenomenon of Email” and “My Cousin’s Bar Mitzvah and Dominic DiMaggio” imply this purpose. While reading this book, I found myself collecting factoids (Did you know the fuzzy stuff on greeting cards is called flock?), advice (Don’t ask someone to be your valentine on Facebook), and laughs.

I’m not sure on which shelf in the library you would find this book, because my attempts to put a label on it were futile. What is on the surface one man’s memoir, is actually an intricately layered chronicle of state, national, and world history. What is portrayed as a set of reflections is actually a charming collection of grandfatherly advice. The result is a beautifully crafted book with themes of the American Dream and the Jewish experience woven throughout.

Of course, the obligatory smattering of “you can’t make this [lawyer stuff] up” stories appear throughout the book – I won’t spoil what led to Attorney Steinfield being backstage at an Ozzy Osbourne concert in a suit and tie. It seems no book by a lawyer is complete without such stories to remind you that this profession, wrought with conflict and responsibility, also comes with its fair share of comedic relief, and this book is no exception.

Whether you are a history buff, an arts enthusiast, or simply a lawyer who appreciates hearing the experiences of those who paved the way, there is something in this book for you. I encourage you to read Claremont Boy. Who knows what kind of little treasures you’ll collect along the way.

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NEW HAMPSHIRE BAR NEWS
16 NOVEMBER 16, 2022
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Do you have a co-worker or peer deserving of recognition for their outstanding achievement and service to the legal profession? We encourage you to nominate them for one or more of 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**
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- have taken initiatives in matters of gender equality and been a role model in this area

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out, they said, “no, we are just some people driving other people around in our vehicles and getting some money for it. We are not taxis; we should not be regulated.”

Byrnes also indicates that STRs can be rented through the hotel chain, Marriott, on their website. A quick search on Homes & Villas by Marriott International does yield listings of vacation rentals in NH. The page boasts, “New homes added every week. Private homes with the assurances of Marriott.”


NH Senate Bill 249 is the latest in a line of legislative attempts to address the issues around STRs. In short, the bill was designed to prohibit municipalities from adopting ordinances that ban residential single- and two-family buildings from being used as STRs, while enabling them to enact ordinances in multifamily and non-residential structures. As this article was being written, the House voted to interim study the bill.

Bob Quinn, CEO of the NH Association of Realtors, was one of the architects behind the bill. He says SB 249 aimed to find a balance between the protection of private property rights with the need of municipalities to ensure the safety and quality of life for their residents and visitors.

“There was a misnomer that was attached to the bill that it eliminated all ability for towns to regulate, but that’s not the bill said,” Quinn says. “We even had in there that nothing in this paragraph shall limit a municipality’s existing authority to generally regulate parking, noise, safety, health, sanitation, or other related municipal ordinances. All we were saying is that under RSA 674, you can’t ban them [STRs].”

Quinn continues, “we also added new authority so a municipality could require a property owner to register with the town and that if someone — whether the owner or a guest at the house — violated an ordinance two or more times, the town could pull the registration from that property. So, we were looking for a real balance.”

As far as complaints of STRs creating more noise, trash, trespassing, and parking violations, Quinn says, “they [municipalities] already have the ability to go after them [STRs] for those things under RSA 31 and other statutes. Plus, there is no evidence to suggest that short-term rentals are more of a disturbance to the community than long-term rentals. They just say that in fact, the reality is that most of those houses are kept up better than others in the neighborhood because they want people to rent them and recommend it to someone else.”

Margaret Byrnes says that the NHMA was opposed to SB 249.

Bob Quinn says that municipalities want to regulate short-term rentals, they should take steps to clearly do so under their local regulations,” Byrnes says. “What’s not appropriate is a statewide, one-size-fits-all kind of hammer approach to force deregulation or removal of local authority, simply because one industry is looking to not be subject to local ordinances and local process.”

Another concern that has been raised in connection with the explosion of STRs is an adverse effect on affordable housing.

“We at NHMA have always seen that to be a logical connection,” Byrnes says. “If investors can buy up single-family homes and use them as profit-generating businesses, that takes those homes off the market used as residences. The average person can’t compete with an investor.”

According to a recent article in the Harvard Law and Policy Review called How Airbnb Short-Term Rentals Exacerbate Los Angeles’ Affordable Housing Crisis, the theory in the city is to reduce the affordable housing supply by conversion. It describes a housing unit that was previously occupied by a city resident, but is now listed on Airbnb year-round, is a unit that has been removed from the rental market and has essentially been added to the supply of hotel rooms,” the article states.

“It’s a bit of a smokescreen,” says Bob Quinn. “That Harvard study was done in Los Angeles where there is a large number of apartments and a large number of short-term rentals. That’s not the situation in New Hampshire. And the study even said that at the end of the day, short-term rentals have a nominal impact.”

Quinn continues, “Where you often hear the greatest municipal concern raised about affordable housing from local officials are from communities that do not approve new housing. If some of these communities wanted and were sincere about making housing more affordable, then they would approve projects for multifamily housing.”

There have been a few recent lawsuits between non-owner-occupied STR operators and towns where the language of zoning ordinance came in to play.

In 2019, the New Hampshire Supreme Court upheld the Superior Court’s decision in Working Stiff Partners, LLC v. City of Portsmouth that “the plaintiff’s use of its property for short-term rental via websites such as Airbnb was not permitted as a principal use in the zoning district in which the property was located, and that the definition of [dwelling unit] contained in Portsmouth’s zoning ordinance was not unconstitutionally vague as applied to the plaintiff.”

In January 2022, the Carroll County Superior Court ruled in favor of the defendant in Town of Conway v. Scott Kudrick, wherein Conway sought an order declaring that Conway zoning ordinance does not permit STRs in residential districts that are not owned by the town.

In her opinion, Judge Amy Ignatius said, “the court must apply the terms of the Ordinance as written...and not rely on unambiguous words. The Town as to what new uses should be prohibited. As outlined above, short-term rentals fit within the Conway Ordinance’s definition of residential/dwelling unit and, thus, need not be owner-occupied in residential districts.”

Conway has appealed this decision to the NHSC, and oral arguments begin on November 15, 2022. Bob Quinn, who filed an amicus brief in the case, says “the Conway ordinance is written in a manner that prohibits short-term rentals in buildings or structures without owner-occupied residential use, which was in our amicus brief.”

“I'm honestly a little surprised that at the end of the day, the state supreme courts and almost all of them have ruled them...the Conway Ordinance’s definition of residential/dwelling unit has a role to play,” Bob Quinn says. “It's the same model we want the State of New Hampshire. So, the State getting involved. It has only been in the last few years, with the advent of technology, that we have decided they are a bad thing.” — Nathan Fennessy
By Kaitlin Rocca

Our society thrives when citizens are committed to being of service to their community.

This service may come in many forms, but one of the purest is passing on the skills of how to be a civic-minded citizen to the younger generations. They are the future, and civics is vital for our communities and our state to properly function. We can find unity and understanding of one another with civics, which are the exact lessons we need to be teaching our future leaders.

NH Civics is an institute that works diligently to provide all New Hampshire students access to high-quality civics education. Their tireless efforts have reached students all over New Hampshire. One of NH Civics’ programs, Civics 603!, engages students from grades five through 12. In the dynamic program, students in grades five through eight work on mock trials with top dynamic program, students in grades five through 12. In the

Students in grades seven to 12 per

After a week of preparation, stu

The program prides itself on raising issues that can be fairly debated by both sides.

Civics 603! provides in-school preparation by sending a lawyer to the school, who spends an hour with the students teaching them how to argue and engage in a civic act when doing so. Associate Justice Patrick E. Donovan expressed the joy all the Justices of the Court find when meeting and talking to students who are a part of the program.

Associate Justice Anna Barbra Hantz Marconi furthered these sentiments, calling Civics 603! “a highlight of [her] tenure here on the Supreme Court.”

The Court has not only generously opened its doors for Civics 603!, but has been involved with an intentionality that regards civics with the respect it deserves. In truth, this is not a new phenomenon. Judicial involvement in civics outreach has been persistent for many years. One of the biggest supporters of Civics 603! is Robert J. Lynn, who is currently serving in the New Hampshire House of Representatives, representing Rockingham 7, and who is a former Chief Justice of the New Hampshire Supreme Court. He attended the celebration and his enthusiasm for the work was readily apparent, and fairly so.

The students involved in this program have learned valuable lessons that will carry with them their entire lives. One sixth grader from Maple Street School passionately told me how she will remember this experience into her 90s.

The program introduces students to advanced topics. They can learn about our judicial branch as they explore what happens in the Supreme Court and how the trials work. Talking to the students, it seemed as though their eyes had been opened to a new and exciting world. I was impressed as one student, Will, passionately spoke about how a jury needs to find someone guilty beyond a reasonable doubt in criminal trials.

Trough the work of Civics 603!, they are learning about topics typically not even touched upon until high school. Furthermore, they were able to practice important skills like speaking in front of crowds, clearly articulating themselves, and being able to actually listen to somebody with respect. How essential for a country to be able to operate effectively! Civics 603! cultivates an environment where New Hampshire youth can learn about the value of civic duty and how to implement the skills they acquired into their daily lives.

Civics 603! has positively touched the lives of many students. Gianna, a Civics 603! participant, found meeting with the lawyers and other volunteers very helpful, saying how, “It was really inspirational to meet people who have chosen this path.” I implore you to reach out and find ways you can become involved. In the words of Senior Associate Justice Gary E. Hicks, “We cannot be lazy about [civics]; it is the future of everything.”

Revised Edition Now Available on the Member Portal!

The New Hampshire Bar Association Guide to
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This Guide is intended to provide general guidance to attorneys as to steps to take to protect your clients’ interest, as well as preserve the assets of your practice. While situations will be different, the concept of having a plan in place that everyone knows about and agrees with is vital. We’ve also included several customizable forms to facilitate the process.

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For information, contact Sarah Palermo: spalermo@nhla.org
Welcome New Admittees

We extend a warm welcome to the 50 new attorneys who were admitted on October 24. Two joint admission ceremonies were held at the NH Supreme Court with Chief Justice Gordon J. MacDonald presiding and Judge Samantha D. Elliott representing the U.S. District Court.

Congratulations to: Sarah H. Acree, representing the U.S. District Court.

We extend a warm welcome to the new admittees.

We extend a warm welcome to the new admittees.

Active to INACTIVE:
- Church, Susan, Cambridge, MA (Sept. 12)
- Roberts, Emily, Chattanooga, TN (Aug. 5)
- Hebek, Shaw, Bedford, NH (Sept. 1)
- Mackinnon, Amanda, Winchester, MA (Sept. 9)
- Celli, Melissa, Roslindale, MA (Sept. 7)
- Tingle, Brae, Westford, MA (Sept. 12)
- Bluni, Scott, Marblehead, MA (Sept. 19)
- Ringel, Maurice, Needham, MA (Sept. 19)
- Carr, Brian, Norton, MA (Sept. 20)
- Lieberman, David, Grantham, NH (Oct. 5)
- Sheldon, Gary, Durham, CT (Oct. 5)
- Lein, Marlene, Hooksett, NH (Sept. 2)
- Wells, Timothy, Westminster, VT (Sept. 1)
- Rodgers, Ronald, Durham, NH (Sept. 30)
- Harkinson, Daniel, Brewster, MA (Oct. 4)
- Topel, Avery, Scarborough, ME (Sept. 20)

Active to DECEASED:
- Daly, Adam, Portsmouth, NH (Sept. 5)
- Jones, Franklin, Rochester, NH (Oct. 8)

Active to FULL-TIME JUDICIAL:
- Gartrell, Ryan, Contoocook, NH (Oct. 11)

Active to RESIGNED:
- Marshall, Keri, Kittery Point, ME (Mar. 21)
- Whitenett, Renee, Rutland, MA (Sept. 1)

I UNH from page 3

Stella says.

If there is one piece of advice Stella has for students thinking about law school, it is to take time off between college and law school because of the commitment.

“Denison has worked hard to get to where she is and to be a good leader. Besides being a co-president of the Pre-Law Society, she is also Student Body President. “My experience at UNH has completely changed the person I am. I have become more confident,” Denison says. “The environment and the major itself has made me more confident in my knowledge of the legal field and understanding of what’s going on. I am very prepared for what’s ahead of me and going to law school with the justice studies major that I’m in.”

Seeing as her graduation date is approaching next semester, she is beginning to think about her law school applications. She feels good about the position she is in approaching next semester, she is beginning to think about her law school applications. She feels good about the position she is in and is excited for the future. She is currently interning at the Rochester City Attorney’s office and hopes to go into the public sector.

“I have a lot more to learn, but I feel more confident going into law school,” Denison says.

Being a Massachusetts native, she is hoping to return home for law school but doesn’t rule out the idea of practicing in New Hampshire in the future.

Chianese has a year before she graduates in the spring 2024. Before going to law school, she intends to get her master’s degree in molecular and cellular biotechnology. This puts her on the trajectory to attending law school or practicing in New Hampshire in the future.

Stella says.

Chianese and Dennison had different paths to becoming attorneys.

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By 603 Legal Aid Staff

603 Legal Aid had a tremendously successful October. Not only was it Domestic Violence Awareness Month (DVAM), but we also participated in Celebrate Pro Bono Week. The Domestic Violence Emergency (DOVE) Project and the Pro Bono Department were hard at work all month to bring attention to these two big events.

DOVE is a collaboration between 603 Legal Aid and the domestic violence crisis centers around the state. It provides low-income individuals who are victims of domestic violence with attorneys, at no cost, for their final protective order hearings. The DOVE Project was able to place 31 clients with private attorneys in September and October, with an additional 11 clients receiving representation from New Hampshire Legal Assistance.

We are incredibly grateful to all our volunteers, and the attorneys at NHLA who prioritize assisting these clients at their final hearing; however, we are far from being able to assist every person who needs it. In September 2022 alone, 294 domestic violence petitions were filed in the district court throughout New Hampshire. Data suggests that when victims of intimate partner violence are represented at final protective order hearings, they are far more likely to obtain the final order of protection than if they went to the hearing unrepresented. If you are interested in becoming a DOVE volunteer attorney, please email dove@603legalaid.org for more information.

In kicking off DVAM, both Elyse McKay, DOVE Project Assistant Coordinator, and Ella McElwaine, our 2L intern from the UNH Franklin Pierce School of Law, were both profiled in interviews posted to the New Hampshire Justice for All social media sites. In these interviews Ella and Elyse, they talked about why and how they got involved in advocacy for individuals who are victims of domestic violence. You can see these videos by following @NHJusticeForAll on Facebook or @nh_justice_for_all on Instagram.

The week of October 24 marked Celebrate Pro Bono Week, which is a national celebration of pro bono, sponsored by the American Bar Association. The theme of this year’s celebration was “Law in Everyday Life.” The Pro Bono Department at 603 Legal Aid was very busy getting the word out about pro bono and engaging a wide range of people in our legal community. Emma Sisti, Manager of the Pro Bono Department, kicked off the week with an opportunity to welcome newly admitted lawyers at their swearing in ceremony on October 24. With the incredible support of the Court, and Judge Samantha Elliott of the New Hampshire Federal District Court, Emma talked about the importance of pro bono and encouraged the new admittees to improve the life of just one person by donating five to ten hours of their time a year.

On Tuesday, October 25, the UNH Franklin Pierce School of Law and 603 Legal Aid collaborated on a Pro Bono Referral Marathon, where students, faculty, and even two deans volunteered their time to make calls to members of the Bar to try and place cases on a pro bono basis. This collaboration led to 15 cases being placed in one day. We still have a great need for attorneys willing to accept cases, with our greatest need being in the areas of bankruptcy and general family law.

On October 26, the law school graciously hosted a celebration of the late Bruce Friedman, a pioneering professor at the law school who promoted the ideas of access to justice long before the phrase was part of the lexicon. 603 Legal Aid and the law school presented Donna J. Brown (class of ’86) with the Bruce Friedman Award to honor her career-spanning service to low-income individuals.

603 Legal Aid is so grateful to the hundreds of volunteer attorneys and non-legal professionals who allow us to make our mission of connecting low-income people with high quality legal services a reality. Without their dedication, we would not be able to serve the many hundreds of fellow Granite Staters who are trying to escape violent relationships or find themselves faced with evictions, IRS tax controversies, bankruptcies, divorces, the need for end-of-life planning, or any number of other civil legal service needs. In 2022 thus far, 162 different members of the Bar have taken 255 cases and have donated over 4,500 hours of their time.

Thank you to everyone who has donated their time, energy, and resources to the bring our state closer to closing the Access to Justice gap that looms large. If you want to become a pro bono attorney, please email Emma at esisti@603legalaid.org.

Celebrate Pro Bono and Domestic Violence Awareness Month:

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- NHBA Committees
- Member ID Card
- Networking Opportunities
- Online Member and Vendor Directories
- Sections & Online Forums
- SOLACE
- NH Lawyers Assistance Program (established by the NH Supreme Court, independent of the NHBA)

For more information about these and other NHBA member services, visit nhbar.org/resources or contact Misty Griffith, Member Services Coordinator at memberservices@nhbar.org or 603-715-3279.

How We Support Each Other in Times of Need

Through the SOLACE program, NHBA members can help others in the NH legal community (including employees and families) who have suffered a significant loss, illness or injury and who need immediate assistance.

Details and submission form at nhbar.org/solace/
commercial and civil disputes,’ a problem that was rampant in Afghanistan where the Afghan claimants were pure extortionists,” Scott says. “We parked our practice for a month to get them out.”

Born in Manhattan, Scott was raised primarily in West Los Angeles, close to the University of California, Los Angeles (UCLA) campus. There, he developed an early affection for baseball, serving as a bat boy for the UCLA baseball team when the legendary Chris Chambliss was a college player.

He also developed an early love for the law. “I’d always thought of becoming a lawyer,” he says. “The history of the common law and English common law, and how it’s developed to current times has always fascinated me…I’m mission oriented. I want to go after a cause that’s right and good.”

A scholarship to Phillips Exeter Academy landed him in New Hampshire, his adopted state, and after graduation he went on to become a cum laude graduate of the Wharton School of Finance and Commerce of the University of Pennsylvania, where he studied economics with a concentration in international development and trade. From there, it was straight to Villanova University, where he earned his juris doctor.

He also developed an early love for a college player.

“Scott went back into the Marines full-time in 1997, and fought in Afghanistan, where he commanded 300 combat advisors in an 11-province area extending from Kabul to the border with Pakistan and served as an advisor to the 201st Corps Commander of the Afghan National Army. He also earned a Master of Arts degree in Strategic Studies from the United States Naval War College in 2003. “I do have a habit of jumping on grenades,” says Scott, who lost to fellow Republican Charles Bass.

“I have no regrets,” he says of the race. “It brought me back to the Marines, my true great passion.”

Scott returned to Afghanistan in 2010, when he retired as a colonel and became a NATO senior advisor for parliamentary affairs to the Afghan Minister of the Interior, helping him set up a legislative departamentof.

While there, I realized there was an unmet need for commercial and corporate lawyers from the West who could assist the US and US-friendly countries in places like Afghanistan,” he says. “We offered ourselves up to clients with an on-the-ground presence in Kabul to begin with and our practice grew.”

Scott says. When the medical examiner ruled Gallagher died of natural causes, his friend, Robert Kilmartin, a fellow retired Marine colonel who met Scott when both were at Villanova Law School, says Scott “is not only one of the finest Marine officers that I ever met or served with, but he is also a brilliant lawyer, and the father of seven highly accomplished and wonderful children. He is a dear friend and has always been an inspiration personally and professionally.”

“Four of his seven children are in the service, two in the Marines and two in the Navy,” Scott says. “My firm needed counsel in Afghanistan when it was stuck in a minefield of Afghan government agencies, but his ethical compass is nailed on my moral compass, de rigueur, don’t stand on the sidelines. Why should somebody else go in my stead?”

“The pullout of US forces from Afghanistan has affected business, Scott says, first bringing it to a near-screching stop, then leaving the firm to deal with such questions as how American firms can get money to staff remaining in Afghanistan without running afoul of sanctions.”

“It did not eliminate the work, but shifted it,” he says.

Scott chairs the Overseas Security Advisory Council of the American Embassy in Kabul, which provides advice and information to ensure the security of the larger American community in Afghanistan.

“Firm has devoted great time and financial resources to get our team and others out of Afghanistan,” he adds. “That continues as a heavy moral burden which permeates everything and is our sacred duty.”

Scott has also tendered his services in New Hampshire, often on a pro bono basis.

One recent case involved the 2016 death of a 31-year-old man, Keaton Gallagher of Ashland, who had multiple medical issues including cystic fibrosis. Gallagher was struck in the head with a beer bottle by a man named Thomas Corliss and died four months later after “never regaining his base state of health,” Scott says. When the medical examiner ruled Gallagher died of natural causes, his family turned to Scott, a longtime friend, for help. He reached out to police and the county attorney’s office and the result was a conviction for aggravated assault for the assailant.

Gallagher’s parents, Nancy and Brian Scothorne, say they were impressed with Scott’s patience, persistence, and ability to listen.

“The Gallagher and Scothorne family will be forever grateful to Mr. Ward Scott and Scott Advocates in the hard work given in finding justice for our son,” the couple said in a joint email. “Not only finding justice for us, but at the same time keeping our community safe.”

When not working, Scott likes to read, cook, and follow his beloved New York Yankees. He also participates in Durand-Haley Rangers Post 66 American Legion Baseball, which he cofounded in 2006.

He lives in Plymouth with his lawyer wife, Patricia. “Throughout my time overseas, often in rather dark places, it has always been a matter of great pride and renewal to be able to say, ‘my name’s Scott and I am an American lawyer from New Hampshire,’” he says. ■
a successful navigation of the Knife’s Edge at Katahdin. Frank was an avid kayaker and canoer. On weekends in the summers, he could be found exploring the Casco Bay on his trustyhostname trailer, Lucky Dog, named in honor of the many dogs he and Jan shared over the years.

The outdoors was second only in Frank’s life to the love he had over his large and always expanding family. Sons Gregory (Anne), Matthew (Kimberly), and Benjamin (Tracy), along with daughter Kathryn (Andrew), kept Frank busy over the years, helping to lay new flooring or hang shingles in Martha’s Vineyard or Alton Bay, watching M-Series Racing at Lime Rock, or discovering new restaurants in Philadelphia and Manhattan (and avoiding shellfish, which he was allergic to, in Mt. Desert Island). But his true joys were his 11 grandchildren (with ages ranging from nine to 32 years) and new great-grandchildren. Just like with his own children, Frank loved teaching his grandchildren how to live life to the fullest, and perhaps more importantly, how to lick a large ice cream cone from Lagos without letting it drip on the ground. Most of the time, however – Grampy – as he was known – spent his days laughing alongside his grandkids as they regaled him with stories. Many times he bumped his head on a low beam in the house or fell asleep, mouth ajar.

In addition to his work and family, Frank was active in the community. He was currently a board member of Frisbie Memorial Hospital, and former member of the Rochester School Board and Rotary. He truly demonstrated his love for the entire Rochester community through countless hours of volunteerism and unwavering dedication.

Frank is survived by his brother, Albert Jones and he was predeceased by his sister, Kate Meehan. In addition to his four children and their spouses, 11 grandchildren (Victoria, Samuel (Liana), Mark, Tuckerman, Quinn, Maxwell, Zak, Tommy, Margaret, Beatrice, and Teddy), and one great-granddaughter (Eleanor), Frank is also survived by several in-laws, Joe Meyers, Sonya Shufelt, and Donna Trumper, nieces and nephews, and dozens of cousins and friends.

Gerald Prunier

Attorney Gerald Prunier, 81, a longtime resident of Hollis and Nashua, New Hampshire, died peacefully on October 18, 2022, with his family by his side. He passed after suffering from a catastrophic stroke experienced while playing golf at Overlook Country Club, where he owned the first tee every Saturday morning for over 30 years.

Gerry was born on October 20, 1940, in Worcester, Massachusetts, the son of the late George and Theresa Prunier. He is survived by Estelle (Dumaine) Prunier, of Nashua, with whom he lived since 1963 after her cousin, Philip Caron arranged a blind date for them. Their love story began then and lasted for 59 years of marriage. Throughout his young life, he worked hard for his uncle’s messy company and helped raise his six brothers and sisters: Denise LeBlanc, George Prunier, Arnette Lejour, Bernie Caron, Jeannine Vovers, and Robert Prunier. Gerry was the eldest, and he loved them deeply.

After graduating from Assumption Prep School in 1959, Gerry attended the College of the Holy Cross in Worcester, MA, graduating in 1963. After one year of business school at Columbia University Graduate School of Business, he moved on to Boston College Law School earning his juris doctorate in 1967. Gerry began his law career when he was hired by Thomas Leonardi in the same year. Many respected attorneys influenced him over his 55-year career, too many to name, but each is remembered in his family’s hearts. He eventually opened his own law practice in Nashua offering expertise in land use and real estate development.

Gerry remained loyal to his community until the end. He was elected to the Nashua Board of Education in 1967 and Chairman of the Board in 1971. He was the past President of the Nashua YMCA and past President of the Nashua Chamber of Commerce. Additionally, Gerry served as the Director of the Nashua Children’s Home, was a former Trustee of Nashua Memorial Hospital (Southern NH Regional Medical Center), former Director of the Nashua Trust Company, a member of the Bishop Guertin School Board and past President of the Nashua Bar Association. He remained a faithful member of the Rotary Club of Nashua and Nashua Business & Industrial Development Authority (BIDDA). He worked his magic in countless deals, throughout numerous courtrooms, and danced his way through myriad Planning and Zoning Board meetings throughout New Hampshire. Gerry was also a longtime member of the Nashua Country Club, where he loved to play golf and dine with Estelle.

Gerry and Estelle raised a family of three children: Rob, Sarah, and Amy. His children grew up watching their parent’s love affair continuously grow and strengthen through good and tough times. Gerry gave much of himself to his community, but he always put his children first. He showed up to everything: games, art shows, births, Sunday morning coffee – everything. He taught his children what a kind and loving man is, how to look for one, and how to be one. His grandchildren were often reminded that he was the exemplar and that “we all need to be more Pepen.”

Bethany (Rob’s wife), Sean (Sarah’s husband), and Kelsey (Amy’s husband) are the extra children Gerry and Estelle always wanted. He treated them like a daughter and sons, and they consider Gerry their second dad. Gerry had nine grandchildren: Caleb, Nick, Sam, and Tess (Rob and Bethany), Maisy (Sarah and Sean); Emerson, Jeremy, Jackson, and Tatum (Amy and Kelsey). They were the light of his life; they gave him so much joy and he made sure that each of them knew how special they were to him.

Lincoln Soldati

Lincoln Soldati, former Strafford County Attorney, Mayor of Somersworth, New Hampshire, and US Congressional candidate died Sunday November 6, 2022, at age 73.

Lincoln was born on April 17, 1949, and is the son of Lincoln A. Soldati and Virginia Thomas. A New Hampshire native and veteran, he graduated from Saint Thomas Aquinas High School, the University of Notre Dame, and earned his law degree from Franklin Pierce School of Law.

As one of the state’s finest trial lawyers, he spent 40 years as a statewide leader fighting for victim’s rights, and as an advocate for criminal justice reform. Prosecutor, defense attorney, teacher, criminal justice advocate, public speaker, outspoken activist, lifelong feminist and elected public official – Lincoln did it all.

Serving nine successive terms as Strafford County Attorney, he built a stellar reputation by managing a staff of 20 while carrying his own full case load, establishing Strafford County’s first Victim Assistance Program, and providing training on criminal justice for judges, attorneys, police, medical personnel, and rape crisis counselors, and educating college and high school students. He authored several sections of NH statutes related to sexual assault, child abuse and neglect, and domestic violence. A man of political courage, he was the only prosecutor to testify for the repeal of New Hampshire’s death penalty.

Beyond his work, he was known to family and friends as a Renaissance Man - skilled in various trades including woodworking which he put to good use helping build his son Emmett’s two Teatrattalla Cakes, building his daughter Gemma’s large puppets for her show, and other various projects. He played the drums in two bands with his childhood best friend, Bob Feliows. With his sister Jennifer and often his son, Michael, he climbed most of the 4,000 footers in New Hampshire.

The family is so grateful to the extraordinary teams at Mass General and at Hyder Family Hospice. In memory of our colleagues, the NHBA Board of Governors has made a contribution to the NH Bar Foundation.

To submit an obituary for publication, email news@nhbar.org. Obituaries may be edited for length and clarity.
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High Quality, Cost-Effective CLE for the New Hampshire Legal Community

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

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<tr>
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<td>Navigating the Healthcare World</td>
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<td>• 365 NHMCLE min.</td>
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<td>MON, NOV 21 – 8:00 a.m. – 4:15 p.m.</td>
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<td>40th Annual Tax Forum</td>
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<td>TUE, NOV 22 – 12:00 p.m. – 1:00 p.m.</td>
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<td>Breaking Out of the Form:</td>
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<td>Smart Direction for Better Drafting</td>
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<td>• Webcast; 60 NHMCLE min.</td>
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<tr>
<td>At the Intersection of Law &amp; Technology</td>
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<td>w/ James Casey</td>
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<td>FRI, FEB 17 – 9:00 a.m. – 4:30 p.m.</td>
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<td>WED, DEC 7 – 12:00 p.m. – 1:00 p.m.</td>
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<tr>
<td>For What It’s Worth-The Decedent’s Estate &amp; the Appraisal Process</td>
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<td>TUE, DEC 13 – 8:30 a.m. – 4:45 p.m.</td>
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<td>Practical Skills for New Admittees-Day 1</td>
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<td>• 360 NHMCLE min., incl. 120 ethics/prof.</td>
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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-Acknowledgment-Liability-Release.pdf)

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Live Webcasts

Breaking Out of the Form: Smart Direction for Better Drafting
Tuesday, November 22, 2022
12:00 – 1:00 p.m. – 60 NHMCLE min.
Faculty
Stuart Teicher, The CLE Performer

For What It’s Worth-The Decedent’s Estate & the Appraisal Process
Wednesday, December 7, 2022
12:00 – 1:00 p.m. – 90 NHMCLE min.
Faculty
Amanda L. Nelson, Artium Amore, PLLC, Dover, NH
Darlene Bialowski, Darlene Bialowski Art Services, LLC, Spofford

At the Intersection of Law & Technology
Wednesday, February 1, 2023
12:00 – 1:30 p.m. – 90 NHMCLE min.
Faculty
James Casey

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Navigating the Healthcare World: Understanding the New Laws & Complex Healthcare System

Wednesday 9:00 a.m. - 4:30 p.m.
Nov. 16

NHBA Seminar Room, Concord

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
Mary Goreham, US Dept. of Labor, Boston, MA
Lucy C. Hodder, UNH Franklin Pierce School of Law, Concord
Maria M. Proulx, Anthem Blue Cross & Blue Shield, Manchester
Christine Tang-Chin, US Dept. of Labor, Boston, MA
Lawrence W. Vernaglia, Foley & Lardner, LLP, Boston, MA
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40th Annual Tax Forum

Monday
Nov. 21

NHSCPAPAC

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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

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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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Supervised Visitation Centers: A Crumbling Infrastructure

By Jessica Morrissey-Jeffery

Over 40 times a month, the Merrimack County Visitation Center provided children an opportunity to visit with their non-residential parent free of violence, harassment, control, or coercion. This center is now the seventh visitation center to close its doors since these centers were first opened 20 years ago. The only remaining center of its kind is the Strafford County Supervised Visitation Center.

This exposes families and children impacted by domestic violence with few options for safe, structured, professional, and affordable supervised visitation. Parents are forced to seek significantly riskier parenting visits or suspend parenting time entirely. Both options are directly contrary to New Hampshire’s Parental Rights and Responsibilities law. A supervised visitation center utilizing state guidance is the only way to mitigate the risk of violence, coercion, and control, while safely fostering the parent-child relationship.

Purpose of Supervised Visitation Center

The purpose of visitation centers like Merrimack County is to provide safe visitation and exchanges for children in domestic violence cases. These centers seek to reduce risks to children and domestic abuse victims and mitigate the effects of such violence on all family members. In 2019, New Hampshire courts saw approximately 4,000 divorces where domestic violence was involved. An estimated 1,200 of these cases involved a child, and at least a thousand dollars were awarded in child custody disputes related to domestic violence. Parents are safe from domestic abuse and its consequences.

The History in New Hampshire

Between 2002 and 2003, a newly created federal grant funded eight supervised visitation centers serving New Hampshire: YWCA in Manchester, Greater Nashua Supervised Visitation Center, Emerge Family Advocates in White River Junction, Merrimack County Visitation Center, Strafford County Visitation Center, Brian’s House in Plymouth, Salem Visitation Center, and All R Kids Supervised Visitation Center in Keene (later Jaffrey). In 2015, Waypoint absorbed the need in the White River Junction area, and opened a center in Lebanon.

All grant-funded centers were required to meet certain guiding principles to operate. The six principles included safety, multiculturality and diversity, understanding domestic violence, respect and fairness, collaboration, and advocacy. These centers offered sliding-scale fees or free services depending on their grants.

In 2011, the former New Hampshire Governor’s Commission on Domestic and Sexual Violence issued a report on supervised visitation in New Hampshire and adopted the national guiding principles. This guided delegation of the safety features required in each center, including separate entrances, separate waiting rooms and parking lots, self-locking doors, security devices, staggered departures and arrivals, trained staff, collaboration with law enforcement agencies, local domestic violence programs, and community social service agencies.

The History of Supervised Visitation Centers

Over the years, the centers struggled to stay afloat. By 2017, six centers closed when federal funds did not come through. Strafford County Supervised Visitation Center is now the only center operating by state guidance. Hundreds of families each year utilize these services across the state. These visitation centers also served to connect both parents with supports, including counseling, financial support, and other resources.

Today, most courts and parents are left with few options such as layperson supervisors, privately hired centers or supervisors, public exchanges, or no supervision at all. Courts are hesitant to bar visits altogether.

Scott Hampton said he often sees court orders requiring exchanges at fast food restaurants or police stations.

“Now the 17-year-old working the register may be a bystander, or worse a victim, in an abusive altercation,” says Keith Kuening, Advocacy Attorney at Waypoint.

Privately paid centers, supervisors, and layperson volunteers are likely not following state guidance and carry obvious risks. As we witnessed earlier this year in Sacramento, California, choosing a neutral third party does not subdue the risk either, where a father entered a visit supervised by a religious community leader and murdered the supervisor, the children, and himself.

As a state, we’re learning how to provide these programs, but we have not managed to successfully sustain them. Both Hampton and Kuening agree that we cannot wait for another tragedy.

Centers continued on page 36
In re N.T., decided by the New Hampshire Supreme Court on July 20, 2022, addresses the issue of balancing child and parent liberty interests in the context of extending the district court’s 60-day deadline to render findings in abuse and neglect proceedings. In this case, the New Hampshire Division for Children, Youth, and Families (DCYF) filed three petitions alleging abuse and neglect against the mother of a 13-year-old child. Under the New Hampshire Child Protection Act (CPA), the district court must hold an adjudicatory hearing and issue its findings on all DCYF abuse and neglect petitions within 60 days from the date that the petition was filed with the court. However, due to multiple delays and the length of the proceedings, the district court presiding over the matter did not complete the adjudicatory hearing or issue its findings until after the 60-day limit had passed. The mother filed a motion to dismiss the DCYF petitions with prejudice because the 60-day window had closed. The Court denied the mother’s motion and shortly thereafter issued findings that the mother had abused and neglected her child.

On appeal to the Supreme Court, the mother argued that the Court lacked jurisdiction because it missed the 60-day deadline to issue its findings. On the contrary, the Supreme Court determined that the legislature “did not intend that the [district] court be divested of jurisdiction as a consequence of its non-compliance with the deadline.” Specifically, the Court looked to what it identified as the legislature’s primary goal of the CPA: “to protect the life, health, and welfare of endangered children.” The Court found that construing the 60-day limit as jurisdictional would “frustrate not only the statute’s primary purpose of providing protection to children whose life, health, or welfare is endangered” but also the interests of all parties involved, including the child, the parents, and the State.

In its analysis, the Court distinguished the time limits for juvenile delinquency and Children in Need of Services (CHINS) proceedings from DCYF proceedings. The Court reasoned that the statutory due process requirements for an alleged child perpetrator must be strictly adhered to by the courts; whereas, for an alleged child victim, the welfare and safety interests of the child may trump the statutory deadline.

The Court also addressed the CPA’s further purpose to “establish a judicial framework to protect the rights of all parties involved,” which includes parents’ fundamental liberty interest to raise and care for their children. Likewise, the State has an interest in “maintaining the parent-child relationship.” The Court recognized that “although these interests may, at times, be in tension, they are all advanced by the swift resolution of adjudicatory proceedings.” Here, the parties’ interests were in tension, with the mother arguing that she was prejudiced by the district court’s delay because she was prohibited from seeing or speaking with her child. The Court,

Findings continued on page 36

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The Impact of Payment Services on Lawyer and Client Obligations in Divorce Under Family Division Rule 1.25-A - Mandatory Disclosure

By Nicole A. Forbes

For divorce lawyers, Rule 1.25-A is as familiar as our way home from work. If you can’t recite the entire Rule 1.25-A document list on demand, you likely can quickly outline the key points for each line item. Familiarity, however, can breed complacency. Just like you may drive the familiar route from work to home and not recall the drive once you get to your driveway, autopiloting the Rule 1.25-A Mandatory Disclosure is easy to do. But just because the mandatory disclosure checklist is the same for every case does not mean the productions will always be manageable on cruise control.

For example, parties often overlook payment services in these productions. Venmo and PayPal are common examples. Payment services are essentially online wallets that can be used by individuals and business owners to send, receive, and hold money. Certain services require the user to accept the money transfer that, until acceptance, is held in a third-party account. So, a user can be owed significant amounts of money but decide to delay acceptance to control when the funds hit the user’s account. Although users can link bank and credit card accounts, Venmo, for example, does issue QR codes, debit cards, and credit cards that allow users to use the funds directly from Venmo to outside vendors without transferring them to a traditional bank account. Small business owners also use these types of accounts as an affordable means to manage their books. They can track and annotate payments by customers, expenses paid, and then pay themselves as appropriate.

These accounts are highly relevant, procedurally and substantively, to a divorce. Substantively, these accounts hold a plethora of information—including spending activity, income, business profits and expenses, current interests, and current asset values—while also serving as a simple vehicle to hold significant cash funds in the user’s account or in a third-party account. They are arguably the tech version of “cash in the mattress” or the “suitcase buried in the backyard” that some divorce clients lose sleep over. Fortunately, they are much easier to identify, track, and monitor.

Procedurally, although the term “payment services account” is not expressly found in Rule 1.25-A, these accounts are responsive to the rule in five ways. First, the account balances and any funds held in a third-party account for the party’s benefit must be disclosed on that party’s financial affidavit. Second, although not a traditional business accounting system, activity statements for these accounts are clearly business financial statements when used by the business owner as a profit and loss, balance sheet, and/or income statement and thus responsive to Rule 1.25-A, B.1(d). Third, although not traditional bank accounts, these accounts are clearly financial assets and responsive to Rule 1.25-A, B.1(i). Fourth, at least some payment services allow users to establish a credit card account, which is expressly noted in Rule 1.25-A, B.1(k) and, fifth, applications related to same in Rule 1.25-A, B.1(f).

Nonetheless, when parties produce their mandatory disclosure documentation, account activity and statements for these accounts are often missing with no mention of them on financial affidavits. A divorce lawyer may not know the accounts even exist, whether they are owned by the client or the other side, until the lawyer reviews traditional bank account statements that show debits and credits through these services, inquires as to the business owner’s management of the business’s revenue and expenses, or, starting this year, reviews tax returns and 1099s.

This failure to disclose payment services accounts is concerning for the parties and lawyers. The parties themselves have discovery obligations, violations of which can affadaw. Second, although not a traditional business accounting system, activity statements for these accounts are clearly business financial statements when used by the business owner as a profit and loss, balance sheet, and/or income statement and thus responsive to Rule 1.25-A, B.1(d). Third, although not traditional bank accounts, these accounts are clearly financial assets and responsive to Rule 1.25-A, B.1(i). Fourth, at least some payment services allow users to establish a credit card account, which is expressly noted in Rule 1.25-A, B.1(k) and, fifth, applications related to same in Rule 1.25-A, B.1(f).

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This failure to disclose payment services accounts is concerning for the parties and lawyers. The parties themselves have discovery obligations, violations of which can

The Impact of Payment Services on Lawyer and Client Obligations in Divorce Under Family Division Rule 1.25-A - Mandatory Disclosure

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13 Things You Need to Know About the Bureau of Child Support Services

By Susan Brisson

1. An Application for Services is necessary. It is not enough for the court and/or parties to check off the “payable through BCSS” box in paragraph five of the Uniform Support Order (USO). One of the parties must apply for BCSS services. See Standing Order 5B. The BCSS application can be downloaded from the BCSS website. dhhs.nh.gov/programs/services/childcare-parenting-childbirth/child-support-services/apply-child-support.

2. Child Support Payors can apply for child support services. BCSS does not just offer services to Child Support Obligees/Payees. Putative fathers can apply for services to bring a case to establish paternity and then establish a child and medical support order. Child Support Obligees can apply for services to have their child support payments collected and disbursed by BCSS. BCSS would then be responsible for keeping the records of accruals and payments.

3. BCSS attorneys represent only the State of New Hampshire, Bureau of Child Support. They do not represent either party or the children in the case. They are an integral part of the BCSS mission to establish paternity, establish child and medical support orders, enforce child support orders, and locate parents.

4. BCSS can collect alimony and alimony arrears as long as child support payments (either ongoing or arrears) are still being collected. Once the child support debt is paid in full, any remaining alimony award would need to be payable between the parties.

5. Medical Support: NH RSA 461-A:14 IV requires that each child support order include the court’s determination and findings relative to healthcare coverage. Paragraphs 10 through 15 are necessary to determine if one or both of the parties will be required to provide private health care for the children. If the State is providing Medicaid to the minor children, the obligee’s right to receive medical support is assigned to the State pursuant to statute. If the USO does not have paragraphs 10 through 15 addressed, BCSS is required to bring the matter forward to address these paragraphs.

6. BCSS cannot enforce uninsured medical expenses unless the amount has been reduced to a sum certain and a periodic payment amount is set by the Court. If there is not a sum certain, BCSS will advise the parties to return to Court to adjudicate the uninsured medical expenses. Once done, BCSS will enforce in the same manner as the child support or medical support obligation.

7. In cases with more than one child, emancipation of the oldest child does not reduce the amount of child support unless the order is specifically a per child order (unless the court has used the provisions of NH RSA 461-A:14 IV-a to calculate the child support obligation that will be due when the next child emancipates). One of the parties needs to take the case back to court to recalculate child support based upon the substantial change in circumstances, i.e., the emancipation of a child.

8. A child support order can be reviewed by the court for modification if either party asserts that there has been a substantial change in circumstances. Every three years, BCSS provides notice to the parties of child support orders payable through BCSS that they have a right to request a review and, possible adjustment, of the child support order. If one of the parties requests a review, BCSS will facilitate bringing the matter in front of the court but will not represent either party at the hearing. The parties, of course, have the ability to bring forward their case at any time.

9. In cases payable through BCSS, once ongoing child support terminates, if there are child support arrears remaining, the periodic payment toward that arrears will remain at the previous ongoing amount. See Standing Order SO-4D.

10. The age of emancipation in New Hampshire is 18 or graduates of high school (or marries or joins the armed services or is otherwise lawfully emancipated), whichever is later. If the original support order was issued in another state (or country), emancipation will be governed by the law of that state (or country) and cannot be modified in NH.

SERVICES continued on page 36
Child Support in Equal-Time Parenting Schedules II

By Honey Hastings

What is the appropriate child support in cases where the parents have equal or approximately equal parenting schedules? Under current law, the answer to this question is not known. Last November, I wrote hopefully about three bills being drafted for the 2022 Session of the General Court to answer this question. These bills were introduced, the relevant committees of both houses heard hours of testimony from parents and advocates, committee members were lobbied, amendments drafted and some passed, but the House and Senate could not agree on the answer to the question.

Amid the search for consensus, the promise of yet another federally mandated report on the Support Guidelines by the end of 2022 encouraged delaying a decision until the 2023 session. More information may be helpful, but the key policy questions remain: “Should a child have a similar lifestyle in each parent’s home, regardless of the schedule?” and “Should an answer to the question.

2023 Legislation

I expect that there will be at least two bills on support in equal time parenting cases introduced in January 2023. While publicly released drafting requests from representatives do not mention the topic, there will be more requests to come from newly elected members and from senators. (There are public drafting requests from newly elected members and from senators. However, as the appropriate support is not predictable, there is more litigation than on other issues.

Current Statute

The current NH statutes do not explicitly tie child support to the parenting schedule. The Guidelines and USO refer to “obligor” and “obligee,” defined simply as the person paying or receiving support. The Guidelines child support is presumed to be the correct amount. There is no specific formula for child support when each of the parents have the child or children approximately half of the time.

RSA 458-C:5 states that there MAy be an adjustment to the Guidelines support due to an equal time schedule. It says nothing about how much the adjusted support should be. Instead, RSA 458-C:5 specifies that an equal or approximately equal schedule “shall not be itself constitute ground for an adjustment” in the Guidelines. It then gives a three-part test to consider when deciding if the equal time schedule justifies any deviation from the Guidelines:

A. Have the parents allocated variable expenses?
B. Does the parenting schedule reduce the obligee’s fixed costs of child-rearing?
C. Can the lower income parent meet the costs of child-rearing in a similar style to the other parent?

2022 legislation

One bill had a presumption that “net the difference” produces the correct support in every equal or approximately equal schedule case (HB228). Another revised

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To learn more, please call us or visit our website at www.harveymahoney.com.
New Hampshire’s Adaptation to the Evolution of the Family Unit

By Patience E. Carlier

As the definition of family continues to evolve to include same sex couples, cohabitating parents, arranged co-parenting outside a romantic relationship, and more than two parents, the legal rights in many states have not been as quick to adapt. While non-traditional family structures are becoming increasingly common, the rights of children in those families are still tied to laws put in place decades ago. Although those children grow up with a sense of who their parent(s) is/are, it is the law, and not those familial bonds, which determines who has the rights and responsibilities of the “parent” and what rights the child has, from visitation to inheritance. Recently, the New Hampshire legislature amended certain statutes, including RSA 168-B, and expanded the definition of the parent-child relationship and the rights of parents and children. However, individuals in non-traditional structures should consider additional protections to further protect their rights and those of their children.

Presumption of Parentage

In New Hampshire, a parent may be one who “receives the child into the person’s home and openly holds out the child as that person’s child.” RSA 168-B:2. This is known as the “holding out” presumption. For modern families, where only one adult is biologically related to the child, the “holding out” presumption is often the basis establishing parentage for the non-biological parent. This presumption is rebuttable if the biological parent provides clear and convincing evidence, other than “evidence that the child was conceived by means of assisted reproduction.” RSA 168-B:2. The parent-child relationship, and the rights of the child and the non-biological parent, is at risk if the other parent succeeds in rebutting the presumption. As our definition of family continues to evolve, we will likely see more cases involving this rebuttable presumption when relationships end (particularly for co-habitating individuals), thereby shifting our interpretation of the law regarding parentage and how we advise our clients.

Visitation Rights

The New Hampshire Constitution protects a parent’s visitation rights as “natural, essential, and inherent rights.” NH Const. pt. 1, art.2. However, the definition of a “parent” under New Hampshire law creates a scenario where a non-biological parentage presumption is subject to a rebuttable presumption and therefore to losing those constitutionally protected rights. If an individual’s parentage was rebutted and that person did not adopt the child, they may be able to petition for visitation under RSA 461-A:6 as a stepparent. However, there is no guarantee the stepparent visitation rights will be granted, and the child’s ability and access to continuing that parent-child relationship is uncertain. Despite this, and perhaps to address this situation, the legislature took steps to protect the parent-child relational rights by amending its statutes, including updates to RSA 168-B, as referenced, effective January 1, 2023.

Inheritance Rights of Children

Under RSA 168-B:14, a child can only be the child of their legal parents for the purposes of intestate and testate succession (unless the will or trust provides otherwise). This means that in situations where the parentage presumption is rebutted, that child loses its inheritance rights unless the parent in question amends their will or trust to specifically name that child as an heir or beneficiary. However, recent surveys show that 64 to 78 percent of individuals between the ages of 18 and 52 do not have an estate plan in place; thereby leaving the distribution of their estate to the state’s intestacy laws. In New Hampshire, those individuals run the risk of inadvertently disinheriting those they consider their children if the children are not biologically theirs.

Confirming Parentage Through Adoption

New Hampshire recognizes the parentage rights of adults who are members of modern families via adoption. Those individuals’ parentage rights are then no longer in question. The legislature took steps to protect the parent-child relational rights by amending its statutes, including updates to RSA 168-B, as referenced, effective January 1, 2023.

UNIT continued on page 36
Prior Restraint: Restrictions on Free Speech

Generally, government-ordered restraints on free speech (prior restraint) are subject to a rigorous and demanding standard of review. In Nebraska Press Association v. Stuart (1976), the US Supreme Court described the test a restriction must pass so as not to violate the First Amendment.

First, one must look at “the nature and extent of the speech in question.” Second, is “whether other measures would be likely to mitigate the effects of unrestrained speech,” and third, “how effectively a restraining order would operate to prevent the threatened danger.”

Thus, prior restraints require “a usually heavy justification under the First Amendment.” New York Times Co. v. United States (1971).

In the case of IN re NB and In Re JB (2016), the NH Supreme Court pointed out that any prior restraint on expression which “restricts speech rather than merely punishing it after the fact come with a heavy presumption against its constitutional validity.” In Mortgage Specialists v. Implode-Explode Heavy Indus. (2010), the Court further noted “prior restraints are inherently suspect because they threaten rights of free speech.”

Content-Based Restrictions on Free Speech

In Clyde Reed, et.al v. Town of Gilbert (2015) The US Supreme Court noted that content-based regulations are subject to strict scrutiny analysis. Therefore, the burden would be on the government to show that “the proposed regulation is narrowly tailored to serve a compelling government interest.”

Free Speech Issues in the Family Law Context

In relevant part, RSA 458:16 allows courts to issue restraining orders in divorce cases to prevent harassment, interference with liberty, abuse, or enjoining a party from contacting a party at the other parties’ place of school or employment.

Some family division courts have attempted to resolve disputes between parties with children by issuing orders within the context of a civil restraining orders both in and outside of marriage by stating, “All communications between the parents shall be limited to parenting issues.”

With no civil restraining order, and absent an agreement or waiver, one family division court amended a parenting plan which, in relevant part, stated: “Each and every communication between the parties shall be, uniformly, and without exception, polite, courteous, non-critical, forward-looking, non-sarcastic, and child-focused.”

By applying First Amendment Constitutional standards, these orders appear to be unconstitutional as both involve prior restraint, content-based restrictions. All examples are overbroad because they ban speech which is otherwise protected under the First Amendment. In the second case, the order is also vague as one could only guess as to the meanings.

They not only restrict speech based on content, but may also allow free speech to be punished, which is otherwise harmless as an AMENDMENT.
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It’s different here
My Spouse Lied . . . I Have the Recording to Prove It

By Jacqueline Leary

We live in a world that is captivated by technology. It is common for people to video tape accidents as well as normal daily activities. It is not surprising that it exhibits at a final divorce hearing include Instagram, Facebook, and other social media messages between the parties, their children, and other individuals.

Unfortunately, the expansion of modern technology has made it easier for anyone to intercept telephonic or electronic communications of the other party. There is no “one-party” consent exception in New Hampshire. What do you do when your client informs you that they would like to record the telephone conversation between the other party and the minor child? How do we prevent this from occurring? How do you respond if it already happened?

First, if your client is telling you that they would like to record the other party, it is likely that they do not understand their actions could be unlawful. It is important to remind your client that it is against the law to record a telephonic conversation or disclose its contents without the consent of all parties. It is also unlawful to record in-person conversations of individuals who have a reasonable expectation that their communications are not being recorded, without first obtaining their consent. Intentional violations could result in a class B felony or misdemeanor charge, as well as monetary damages. You should also explain that the recorded conversations most likely will be excluded from evidence at the divorce trial.

New Hampshire’s Wiretapping and Eavesdropping statute, RSA 570-A, protects the individual’s right to privacy to a greater degree than many other states and the federal law because unless all parties consent to the interception (said differently, all parties are aware that their conversation is being recorded), the person who records the conversation is committing a crime.

Second, the above conversation can be prevented if you have a proactive conversation with your client during the initial consultation or shortly thereafter. While you are explaining the wiretapping statute, you should also discuss “hidden cameras.” Pursuant to New Hampshire’s violation of privacy statute, RSA 644:9, it is a misdemeanor to install or use any device to photograph or record images or sounds in a place where there is a reasonable expectation of privacy. In addition to potential criminal charges, the person installing the hidden cameras could be sued civilly by their spouse. The spouse may also sue for the common law tort of invasion of privacy.

Third, if the recording already happened, one should determine if a violation of the law occurred. Was the recording intentional? Was there an expectation to privacy? Did the recording come from the family camera installed by the other party? You should advise your client of the law, instruct your client not to record any future conversations, explain the potential criminal consequences, discuss the effect their actions had on the case, and alert your client of their right to protect oneself from self-incrimination.

The knowledge of the illegal recording by the party being recorded may be brought up in written discovery questions or at trial. When responding to such questions, it is important to remember that the trier of fact may draw an adverse inference in a civil action against a party who invokes the Fifth Amendment Privilege. There are lawful ways to obtain information regarding your spouse’s behavior that may lead to a fault ground through the discovery process. Before you hit the “record” button, you should contact an attorney.

Jacqueline is Vice Chair of McLane Middleton’s Family Law Practice Group and a member of the firm’s Criminal Law Practice Group. Jacqueline’s family law practice is focused on complex divorce and parenting issues for clients with substantial assets and complex cases.
**Family and Children’s Law**

<table>
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<th>Divorce from page 28</th>
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<td>trigger sanctions; nondisclosure may lead to a future modification action; and, most severely, the failure to disclose these assets and any associated income on a financial affidavit constitutes perjury and may result in a civil action against the client by the other party with the possibility of treble damages and fee shifting under RSA 458:15-b. For lawyers, we have a duty of competence, including knowledge of our field of practice, proper preparation, attention to detail, fact gathering, and keeping abreast of changes not only in the law but in our relevant area of practice. Competence, at a minimum, requires lawyers to be aware of payment services accounts to ensure, as best we can, that the financial affidavits and discovery in the case are complete. Diverse practitioners can easily address this asset type and mitigate the associated legal and ethical pitfalls noted above by simply being mindful of these accounts’ existence and incorporating identification mechanisms in their current discovery protocols. Parties are unlikely to recognize these accounts for what they are—assets and/or makeshift business accounting systems—so a diverse practitioner may wish to update current protocols to ensure these accounts do not go undisclosed. This may mean adding specific requests for information and documentation in client questionnaires and formal discovery forms to opposing parties; listing them as specific examples in annotated mandatory disclosure checklists, annotated financial affidavit forms, or other forms used to gather information from clients; and adding these specific accounts to any document review checklists for productions received from the opposing party to prompt a request to the other side for this information, if needed. These and other appropriate protocols will decrease the harms of autopiloting Rule 1.25-A's mandatory discovery disclosure without intent and thus determining faulty accounts to any document review checklists, annotated financial affidavit forms, or other forms used to gather asset, business, and income information from clients; and adding these specific accounts to any document review checklists for productions received from the opposing party to prompt a request to the other side for this information, if needed. These and other appropriate protocols will decrease the harms of autopiloting Rule 1.25-A’s mandatory discovery disclosure without intention and thus eliminating RSA 458:15-b issues and ensuring compliance with ethical and discovery obligations.</td>
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**Nuts & Bolts of Family Law**

11/5/2021 – 360 NHMCLE min. incl 60 ethics
Topics include: starting a divorce case/procedures; discovery techniques; parenting rights/GALs; financial affidavits; child support/alimony; property division; tips from a circuit court judge; and domestic violence.

**Achieving Better Outcomes in Dependency Cases**

11/1/2021 – 70 NHMCLE min.
This training reviews the requirements of attorney-client communication from both an ethical and zealous advocacy frame, and consider how the use of court-appointed family engagement specialists can assist attorneys in providing client-centered and trauma-informed communication while maintaining appropriate boundaries.

**Taking Evidence Abroad for Use in Family Law Cases**

Obtaining evidence abroad for use in US family law cases is a challenge that may be necessary when assets or witnesses are located outside the US. This program discusses the opportunities and limitations on obtaining discovery.

**Petitions to Partition: Real Estate Separation in the Age of Cohabitation**

5/20/2021 – 60 NHMCLE min.
This program provides an overview of the petition to partition process in New Hampshire, including the drafting, filing, litigation, and resolution of such complaints.

**Traps for the Unwary: An Introduction to the Divorce Process in NH**

4/14/2021 – 60 NHMCLE min.
This session is intended for new practitioners in Family Law who are looking for a general overview on the divorce process and specific points of information that are useful at each step.

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**Support from page 30**

the test for adjustment, focusing on the child’s interest in a similar lifestyle in both homes, and using “net the difference” only where the parental incomes are similar (SB431). A third would have reduced support for any fraction of time with the paying parent, even one night a month (HB1647).

**“Net the Difference”**

In the 1990s, some lawyers and marital tax preparers started using a formula called “net the difference.” To “net the difference,” calculate the Guidelines support that parent A would owe parent B and vice versa, then subtract the smaller amount from the larger. The higher-income parent pays the resulting difference to the other parent. After applying the “net the difference” method to families with various incomes, I concluded that when incomes are substantially different, using it is unfair to children. Specifically, when one parent earns 60 percent or more of the parents’ combined gross income, lifestyles in the two homes would be dissimilar and thus not in the child’s best interest.

For example, if one parent earns $7,083 monthly ($85,000 a year) and the other earns $3,333 ($40,000 a year), the higher-income parent earns 68 percent of the combined, total monthly gross income. For one child, the “net the difference” support amount would be $582. If this method is used in this example, after support is paid and received, the higher-income parent would have $6,501 in gross monthly income (62.4 percent of their combined total). The lower-income parent would have $3,915 (37.6 percent of the combined total).

Note that an after-tax analysis would be helpful, but requires filing status, exemption allocation, and other details.

If Guidelines support was agreed or ordered in this scenario, the higher-income parent would still have $1,550 more in monthly gross income, but the ratio of the parents’ income would be 57.4 to 42.6 percent. This is a more equitable difference between parents supporting a child in two separate households.

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**Case Law**

In the 2019 case, IMO Silva & Silva, the Supreme Court analyzed RSA 458-C:5 and concluded that the trial court made insufficient findings to justify a Guidelines deviation. Since Silva, some parties in contested cases have found deviations harder to come by. Agreements appear to be subject to an easier test, but in contested cases, the shadow of Silva has made downward adjustments harder to get.

**Practice Tips**

- Review Silva and share with your client
- Compare expenses to income
- Get an agreement
- If litigating, draft findings & rulings precisely

Honey Hastings retired after practicing family law for 34 years. She continues to advocate for legislation and to present workshops through Amoskeag Continuing Education.


**Findings** from page 27

however, found no prejudice as the mother was criminally charged, and, pursuant to her bail orders, could not contact her child until September 2021, more than a month after the district court rendered its findings.

Furthermore, the relief that the mother sought would have gone against the CPA’s primary purpose. The mother moved for dismissal of the case with prejudice, which would run the risk of returning a child to a situation that endangers his or her life, health, or welfare. Alternatively, if the case were dismissed without prejudice, then the proceedings would be even further delayed. In its conclusion, the Court explicitly maintained the position that “if an appellant can show prejudice caused by the trial court’s delay… [it] will not hesitate to employ an appropriate enforcement mechanism, which may include exercise of [its] supervisory power under RSA 490:4 (2010).”

In re N.T. is a prime illustration of substance over form. This case demonstrates a circumstance when strictly adhering to a statutory deadline goes against the parties’ interests and the underlying purposes of the law itself. To properly balance child, parent, and State interests, and to execute the CPA’s purpose, the Court found that a non-prejudicial delay in the Court’s scheduling was necessary to properly resolve the parties’ dispute.

Hanna May and Cory D.N. Greenleaf are Litigation Associates at Devine, Millimet & Branch, PA in Manchester, New Hampshire.

**Services** from page 29

See NH RSA 546-B:49, III. 11. The jurisdictional requirements of the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) (NH RSA 458-A) and the Uniform Interstate Family Support Act (UIFSA) (NH RSA 546-B) are different. As a result, it is possible for circumstances of child custody and child support to be decided by different states.

12. As required by NH RSA 458-C:6, BCSS is required to review its Child Support Guidelines every four years to determine if the NH Child Support Guidelines result in appropriate child support amounts. This Review is currently underway by a vendor contracted by BCSS. Its findings and recommendations are expected to be released by December 31, 2022.

13. BCSS has 10 attorneys that cover all 32 family division courts in NH. If you have a question about a specific BCSS case, your client will need to submit a release of information form for a representative of BCSS to speak with them. If you have questions about NH child support laws, UIFSA or BCSS, please call the Child Support Legal main number (603) 271- 4429 and ask to speak with an attorney. [its]

Susan Brisson is a graduate of Saint Anselm College and Franklin Pierce Law Center. After several years in private practice, she joined the Bureau of Child Support Services, Legal Office in 1999 and was promoted to Chief Staff Attorney in 2021. In her spare time, she makes mixed media art. She lives in Manchester with her husband and many cats.

**Centers** from page 26

“While centers may be costly,” Hamp ton explains. “We need to weigh the cost of another tragedy such as Sacramento or Manchester.”

Kuening added that domestic violence remains pervasive, so we must keep working to lay the groundwork for these services.

**Practical Tips**

In the short run, and as practitioners, we are likely to rely on third-party supervisors, hired or volunteer. Thus, courts ought to refer parties and practitioners to read and implement the State of New Hampshire Guidelines for Supervised Visitation: A Lay Person’s Guide to Providing Safe Visitation between Children and Parents in Domestic Violence Cases. It outlines five basic ideas when contemplating a supervisor, safety, time, space, support, and feelings, and provides practical guidance of various considerations for supervisors. [https://nhbmsu.com/jujt/5jg/basic]

We must draft safe parenting plans, specific as to exchange locations, times, use of third-party exchanges and communica tion and which are readable and unambiguous.

Domestic violence remains a persistent problem in our communities. Supervised visitation centers that operate with existing state guidance are worth revitalizing and supporting with public dollars. While the long-term goal is achieving ac cepth of two-parent families, we need to mitigate the risks in the interim. [its]

Jessica Morrissey-Jeffery is a staff attorney at New Hampshire Legal Assistance, graduated from the University of Maine School of Law in 2019. Her academic and professional background focuses on advocacy for low-income populations.

**Amendment** from page 32

disobedience. In the case of a child communication limitation, mere mention of another event, other than a parenting issue, could subject a party to court sanctions.

Limitations on Free Speech: Parental Disparagement

In family law cases involving minor children, RSA 461-A (aka the Parenting Rights and Responsibilities Act) applies, and the parties are asked to develop parenting plans. Absent party agreement, the act allows courts to develop parenting plans. There is language in parenting plans prohibiting parents from “demeaning or speaking out negatively in any manner that would damage the relationship between either parent and the child and to order each parent to promote a healthy, beneficial relationship between the other parent and the child.”

This language may be unconstitutional if applied to a parent who demeans or speaks negatively of a parent outside of a child’s presence.

In Shak v Shak (2020), the Massachu setts Supreme Judicial Court held that First Amendment rights of free speech applied to non-disparagement orders which were meant to protect the psychological wellbe ing of a child; but negative and disparaging comments made on social media, and not in the presence of the child, were not subject to the First Amendment protections. In Shak v Shak, the courts found the First Amendment did not apply.

**Unit** from page 31

Not All Restraints on Speech Violate Free Speech Rights

Free Speech and the rights under the First Amendment are not absolute. Orders of Protection from Domestic Violence often contain provisions prohibiting a defendant from contacting or communicating with the plaintiff in any manner. Orders of Protection can prohibit all communication, as there is a compelling government objective in protecting victims of abuse and can be necessary to protect the victim. The restraint can be narrowly tailored to protect them and there may be no less restrictive way of protecting them under the circumstances.

**Conclusion**

Violations of court orders may subject a party to contempt findings, awards of attorney fees, and possible imprisonment. As a family law practitioners and courts can work together and should be aware of their rights under the law so that individual rights are protected, and the ends of justice are served.
The New Hampshire Supreme Court Advisory Committee on Rules will hold a Public Hearing at 12:30 pm on Friday, December 9, 2022, at the Supreme Court Building on Charles Doe Drive in Concord, to receive the views of any member of the public, the bench, or the bar as the Committee considers whether to recommend that the Supreme Court adopt proposed amendments to several court rules.

Comments on any of the proposed amendments which the Committee is considering for possible recommendation to the Supreme Court may be submitted in writing to the secretary of the Committee at any time on or before December 1, 2022, or may be submitted at the hearing on December 9, 2022. Comments may be emailed to the Committee on or before December 1, 2022, at rulecomment@courts.state.nh.us.

Comments may also be mailed or delivered to the Committee at the following address: NH Supreme Court, Advisory Committee on Rules, 1 Charles Doe Drive, Concord, NH 03301.

Any suggestions for rule amendments other than those set forth below may be submitted in writing to the secretary of the Committee for consideration by the Committee in the future. Amendments being considered concern the following rules:

I. 2022-006 New Hampshire Rule of Professional Conduct 3.8

(Proposed this proposed amendment, submitted by the NHBA Ethics Committee, would “proactively provide guidance to prosecutors regarding their obligations” upon the discovery of “new, credible and material evidence creating a reasonable probability that a convicted defendant did not commit an offense of which the defendant was convicted.”)

Proposed Action: Amend NH Rule of Professional Conduct 3.8 as set forth in Appendix A.

II. 2022-008 New Hampshire Rule of Criminal Procedure 19

(Proposed this proposed amendment makes clear that, unless otherwise allowed by statute or rule, cases and/or proceedings shall not be transferred between the Circuit Court and the Superior Court.)

Proposed Action: Amend New Hampshire Rule of Criminal Procedure 19 as set forth in Appendix B.

III. 2022-011 Supreme Court Rules 53.1, 53.2, 53.3

(These proposed amendments revise CLE requirements for certain members of the bar.)

Proposed Action: Amend Supreme Court Rule 53.4 as set forth in Appendix D.

October 2022

Civil Law

Loretta’s Gascarr v. Andrew J. Hall & a.
No. 2021-0151
October 20, 2022
Affirmed

• Whether the trial court erred in dismissing the plaintiff’s complaint which alleged a defamatory statement attributed to the defendant and published by the defendant newspaper?

The plaintiff and her son sold twenty-four paintings to the defendant Hall from their art collection. A question of forgery was raised when the paintings were later inspected. The defendant Hall filed a complaint in the United States District Court alleging the plaintiff sold him forged art. Following a five-day jury trial, the defendant Hall received an award of $865,000 in his case against the plaintiff in the United States District Court. Thereafter, the defendant Concord Monitor published an article online and in print that was titled “Art of deception: poem.” The article alleged that the plaintiff “sold him forged art.” The plaintiff filed a complaint alleging defamation in this case based on the defendant’s statement to the defendant Concord Monitor’s columnist that “he believed Loretta, an artist herself, had painted the forgeries.” The plaintiff alleged that because the article didn’t disclose the full factual basis underlying defendant Hall’s belief that Loretta painted the paintings, that the article conveyed defamatory content.

After a hearing, the trial court granted the defendants’ motions to dismiss the complaint. The plaintiff appealed the trial court’s decision to the superior court. Thereafter, the State moved to dismiss for lack of personal jurisdiction. The superior court agreed with the trial court and dismissed the case based on its conclusion that the State did not have in-person jurisdiction over the defendant. The Superior Court found that the plaintiff’s complaint alleged that Hall made the following defamatory statement: “he believed Loretta, an artist herself, had painted the forgeries.” The Court agreed with the trial court that the statement was not a defamatory opinion. The Court also noted that the statement was not a defamatory opinion because it did not mention any facts that were inconsistent with the truth.

The New Hampshire Supreme Court Advisory Committee on Rules

New Hampshire Civil Law

The State of New Hampshire v. Nyok Deng Laowa
No. 2022-0140
October 20, 2022
Reversed

• Whether the trial court erred in ruling that the superior court lacked jurisdiction to review a circuit court order revoking bail?

The defendant was arrested on three counts of domestic violence simple assault and one count of criminal threatening. The defendant was convicted in the superior court and was released subject to a no-contact order which prohibited contact with the victim. The defendant was later arrested for violating the no-contact order and thereafter the State filed a motion to revoke the defendant’s bail in the circuit court. The circuit court granted the motion, revoked the defendant’s bail and ordered the defendant to be detained. The defendant appealed the circuit court decision to the superior court and the State moved to dismiss for lack of jurisdiction. The superior court agreed with the State that RSA 597:6-d does not grant the superior court jurisdiction over an appeal from a circuit court’s order revoking bail and the superior court granted the motion to dismiss. The defendant appealed the superior court order. Thereafter, the State filed a motion in the circuit court case and therefore, the defendant was no longer incarcerated. The parties agreed that the defendant’s appeal was not moot because of the pressing public issue presented by his case and because the legal issue was capable of repetition yet evading review. The Court found that RSA 597 does confer jurisdiction to the superior court to review a circuit court order revoking bail and reversed the decision of the trial court.

Criminal Law

John M. Formella, Attorney General, and Anthony J. Galdieri, Solicitor General (Anthony J. Galdieri on the memorandum of law), for the State. Christopher M. Johnson, Chief Appellate Defender, on the brief, for the defendant.

Real Estate Law

Appeal of Eleonora Porobic, No. 2021-0289
October 18, 2022
Affirmed

• Whether the New Hampshire Board of Tax and Land Appeals erred in granting the petitioner only a partial abatement of taxes?

The petitioner, Eleonora Porobic, appealed a decision of the New Hampshire Board of Tax and Land Appeals (BTLA) granting her only a partial abatement of taxes assessed by the respondent, the Town of Bartlett (Town). The petitioner challenged the Town’s 2018 tax assessment of her single-family home located on .88 acres. In 2017, the property was assessed at $206,000. After adding an addition to the house, clearing trees to expand a mountain view and following a full update of property values in the Town, the property was assessed at $408,400 in 2018. The Town denied the petitioner’s request for an abatement, and she appealed to the BTLA. At the appeal hearing, the petitioner objected only to the assessment of the land and not the assessment of the building and improvements thereon. The petitioner’s objection was to the land value allegedly increasing by $153,000 due to the expanded mountain view. The BTLA found neither party’s valuation to be persuasive. The BTLA found that the petitioner met her burden to show that the property was assessed a higher percentage of fair market value than the general Town assessment level and that she was therefore paying more than her proportional share of taxes. The BTLA granted petitioner’s request for an abatement and reduced the 2018 assessed value to $345,400. The petitioner appealed arguing that the BTLA erred in considering the Town’s assessment and comparable sales analysis prepared by Avitar and in considering the Town’s expert’s testimony. The Court noted that determining fair market value is an issue of fact. The Court also noted that the BTLA, as the trier of fact, was not bound by the technical rules of evidence, was free to consider the Town’s assessment and other valuation evidence in determining the property’s fair market value, and was free to accept or reject such portions of the evidence as it found proper including expert witness testimony. The Court noted that the petitioner failed to show that the BTLA’s decision was unsupported by the evidence or the result of legal error.

Cooper Cargill Chant, of North Conway (Randall F. Cooper on the brief) for the petitioner: Donahue, Tucker and Ciandelia, of Exeter (Brendan A. O’Donnell and Christopher T. Hilson on the brief) for the respondent, Town of Bartlett.

AT-A-GLANCE continued on page 38

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R-2022-0004, In re Suggested Amendments to Supreme Court Rule 50-A

Justice Patrick E. Donovan, Chair of the Advisory Committee on Rules, received a proposal from the New Hampshire Bar Association to amend Supreme Court Rule 50-A to exempt from the trust accounting certification requirement members of the bar who hold military active membership status or those members who hold limited active membership status and meet the criteria set forth in the supreme court's August 10, 2022, order. Given the technical nature of the proposed amendment, Justice Donovan submitted this item directly to the court for its consideration pursuant to Supreme Court Rule 51(c)(3).

On or before November 16, 2022, members of the bench, bar, legislature, executive branch or public may file with the clerk of the supreme court comments on the suggested rule amendment.

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 into existing case no. R-2022-0004, using “Rules Docket Entries” as the Filing Type and “Comment on Rule” as the Filing Subtype. The address of the supreme court’s e-filing system is: etcfille.nhecourt.us/login. The e-filing system is also accessible through the Electronic Services page of the New Hampshire Judicial Branch website: https://www.courts.nh.gov/resources/electronic-services/supreme-court/attorneys-self-represented-parties-and-other-non. Prior to registering with the e-filing system, attorneys should review the Quick Guide – Registering as a Nonlawyer E-Filer. The Quick Guides are available on the Electronic Services page.

The court is requesting comment on the suggested rule amendment.

Date: October 17, 2022
ATT: Timothy A. Gudas, Clerk Supreme Court of New Hampshire

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CIVIL RIGHTS


Plaintiff, on behalf of its ward, brought claims against Elliot Hospital, a doctor working at Elliot Hospital, and Hillsborough County. With respect to the County, plaintiff alleged that County employees participated in violation of the Consumer Protection Act by failing to provide proper medical care while he was in pretrial confinement. The County moved for judgment on the pleadings, arguing that plaintiff failed to sufficiently plead that the County maintained policies or customs that resulted in its employees’ alleged failure to provide care, as required to establish municipal liability under 42 U.S.C. § 1983. The court disagreed, finding that plaintiff’s allegations that the County’s employees consistently failed to provide medical care over the course of several weeks supported a reasonable inference that they were acting pursuant to the County’s unofficial policies or customs. 43 pages. Chief Judge Landya McCafferty.

COMMERCIAL, DAMAGES

9/27/22 Planet Fitness Int’l Franchise v. JEG-United LLC Case no. 20-cv-603-LM (D.N.H.), Opinion No. 2022 DNH 117P

The court granted in part and denied in part Planet Fitness’s motion for summary judgment. Planet Fitness argued that damages would be speculative as to JEG-United’s breach of contract and breach of implied covenant counterclaims and that evidence was insufficient to support counterclaims for tortious interference with prospective contractual relations. The court found that, considering a concession by JEG-United, it was unnecessary to decide whether reliance damages were permissible; that Planet Fitness failed to show damages for lost profits would be speculative as a matter of law; and that insufficient evidence supported claims for tortious interference with prospective contractual relations. 43 pages. Chief Judge Landya McCafferty.

CONSUMER PROTECTION ACT; PRODUCTS LIABILITY


After his holstered Sig Sauer P320 pistol discharged into his leg, plaintiff, alleged, among other claims, that Sig Sauer violated the New Hampshire Consumer Protection Act, RSA 358-A; V and VII, because Sig Sauer falsely represented that the P320 would not fire unless the user pulled the trigger. The trial court agreed with plaintiff that Sig Sauer’s representation was false because the pistol fired without a trigger pull. The court nonetheless ruled in favor of Sig Sauer because plaintiff did not show Sig Sauer knew or should have known its representation was false at the time plaintiff purchased the pistol and relied on the representation. 5 pages. Chief Judge Landya McCafferty.

FIFTH AMENDMENT

8/30/22 USA v. Michael J. Wagner Case no. 20-cv-105-1-PB, Opinion No. 22 DNH 106

Michael Wagner, a former Captain with the Salem Police Department (SPD), has been indicted for making a false statement in his 2013 income tax return. The government alleges that Wagner inflated his work-related tax deductions and underreported more than $30,000 he earned by reselling firearms he purchased from Sig Sauer (a firearms manufacturer) using a law enforcement discount. Before a jury trial, in a criminal investigation, Wagner was interviewed as part of an internal affairs investigation of the SPD initiated by the Town of Salem. In a recorded interview, Wagner made some limited statements concerning his firearm purchases. The court previously determined that those statements were made under the threat of losing employment and were thus immunized under Garrity v. New Jersey, 385 U.S. 493 (1967), which held that Fifth Amendment protections apply to public employees who, under the threat of job loss, are required to make incriminating statements. Wagner’s Garrity immunity precludes the government from using his statements or any evidence derived from them when charging him with a crime. The government did not use Wagner’s statements in securing a superseding indictment and will not use them at trial. Having heard the immunity question, the court had to decide whether the government has met its “heavy burden” of proof under Kastigar v. United States, 406 U.S. 441 (1972), to show that the evidence it proposes to use is derived from a legitimate source entirely independent of Wagner’s compelled statements. The court found that the government has satisfied this burden. In sum, the government has proved that, as part of its ongoing criminal investigation into Wagner, the NHAG’s office would have obtained the Sig Sauer records based on a prior source of the information that Wagner was buying guns from Sig Sauer with a police discount and reselling them, with revenue from the sale of firearm parts as a source entirely independent of what Wagner later said during the Kroll interview. The remaining evidence against Wagner followed from the Sig Sauer records as a matter of course.

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SECTION 1983


Pro se plaintiff Dale E. Holloway, Jr. is currently serving a state sentence at the New Hampshire State Prison for assaulting a defense attorney who was representing him in a state prosecution for attempted murder. He filed this lawsuit against twenty-seven individuals whose alleged actions or inactions resulted in his assault conviction and his pending attempted murder charges. The court dismissed the case on preliminary review. Holloway’s claims for injunctive relief had to be dismissed based on the Younger abstention doctrine, the doctrine announced in Heek v. Humphrey, 512 U.S. 477 (1994), or the exclusivity of the traditional remedy of habeas corpus. Holloway’s allegations in support of his claims for damages did not state a viable claim against any defendant. 16 pages. Judge Paul Barbadoro.

EIGHTH AMENDMENT; PRISONER CIVIL RIGHTS


Plaintiff asserted violations of his Eighth Amendment right to receive adequate medical care during his incarceration under 42 U.S.C. § 1983. Defendants moved to dismiss two claims as untimely, and a third claim for failing to state facts upon which relief could be granted. While the Court agreed that two of the claims were filed after the applicable three-year statute of limitations expired, it found Plaintiff was entitled to equitable tolling, such that the claims would be deemed timely filed. In a § 1983 action, the court applies the state law limitations period for personal injury actions as well as the state law concerning tolling of that limitations period. In New Hampshire, the three-year limitations period applicable to § 1983 suits is tolled during an administrative proceeding, if such proceeding is a prerequisite to the civil action. Because Plaintiff was required to completely exhaust the administrative grievance procedures available to him at the New Hampshire Department of Corrections before bringing suit, the Court concluded that Plaintiff was entitled to tolling of the limitations period for the period of time Plaintiff was exhausting those remedies. Accordingly, the Court held the claims were timely filed, and denied Defendants’ motions to dismiss to the extent they were based on the untimeliness of the action. The Court denied a third claim, finding that Plaintiff alleged facts sufficient for the Court to reasonably infer that Defendant was aware of Plaintiff’s serious medical need and, acting with deliberate indifference to that need, failed to provide adequate care thereafter. The Court further found that the pro se incarcerated plaintiff’s description of a defendant’s actions as “negligent," liberally construed, did not preclude an Eighth Amendment claim based on Plaintiff’s failure to properly label the claim. 17 pages. Judge Samantha Elliott.

PRISONER CIVIL RIGHTS


In this § 1983 case, Plaintiff asserted violations of his rights under the U.S. Constitution and the Americans with Disabilities Act (ADA) alleged to have occurred during his pretrial confinement at the Grafton County Department of Corrections (GCDC). Defendants, the GCDC, the Grafton County Commissioners, and certain GCDC employees, moved for summary judgment on all of Plaintiff’s claims on the grounds that the action was untimely as it was filed after the applicable three-year statute of limitations expired. Plaintiff conceded that his complaint was filed more than three years after the events underlying the suit, but asserted that he was entitled to tolling of the accrual of the limitations period under the discovery rule, and tolling of that period under the doctrines of fraudulent concealment and equitable tolling, to the date Plaintiff was first given access to the law library at the New Hampshire State Prison after he was sentenced and transferred to that facility, as the GCDC law library had been insufficient to allow him to discover whether the defendants’ alleged conduct underlying his claims were legally actionable, and that the complaint was thus timely filed. The Court disagreed, reasoning that the statute of limitations accrues from the date an injury occurs when the injury is not “inherently unknowable,” and that the discovery rule did not apply to toll the accrual date, and fraudulent concealment did not apply to toll the limitations period, as Plaintiff failed to demonstrate a genuine issue of material fact as to whether he was aware of the alleged incidents underlying the claims in this case, and that the GCDC defendants’ conduct caused the injuries claimed, at the time the injuries occurred, and that the late discovery of legal theories of suit did not entitle him to such tolling. The Court held that Plaintiff failed to demonstrate the existence of a genuine issue of material fact as to whether the GCDC’s alleged legal research resources, his mental health, and/or his learning disabilities constituted “extraordinary circumstances” impairing his ability to timely file his complaint such that equitable tolling of the limitations period was warranted, and therefore failed to show that there was a triable issue of fact as to whether he possessed the information, legal materials, and mental capacity necessary to provide a “short and plain” statement of claims, in compliance with Fed. R. Civ. P. 8(a), prior to the expiration of the statute of limitations. The Court thus found that the defendants were entitled to summary judgment in their favor on the issue of timeliness and entered judgment in the defendants’ favor. 21 pages. Chief Judge Landya McCaffery.

CIVIL RIGHTS, § 1983

10/19/22 Martel v. Hillsborough County, et al. Case No. 21-cv-880-JL, Opinion No. 2022 DNH 130

In a wrongful death suit by the Estate of a former inmate at the Valley Street Jail, the defendants moved to dismiss the plaintiff’s amended complaint, arguing that the allegations in the complaint were insufficient to state claims under § 1983 for deliberately indifferent medical care, Monell liability, and medical negligence under state law. The court granted the motion and dismissed the federal claims, finding that the allegations against the individual defendants showed a disagreement as to the inmate’s course of treatment, as opposed to purposeful denial of care, delayed care, lack of care intended to punish, or care so inadequate that it amounted to a refusal of care. Aside from unsupported legal conclusions or speculation, the plaintiff also failed to plead sufficient facts to sustain a deliberate indifference claim against the jail’s outside medical provider under theories of supervisory liability or willful blindness. Moreover, absent a finding of constitutional tort or violation by any of the County’s employers, the court granted the plaintiff’s municipal liability claim against the County. Given the early procedural posture of the case, the court declined to exercise supplemental jurisdiction over the state law negligence claim and dismissed that claim without prejudice to it being re-filed in state court. 35 pages. Judge Joseph N. Laplatte.

CONDITIONAL CERTIFICATION OF FLSA ACTION

10/18/22 Barber v. Bauer Hockey, LLC. Case No. 21-cv-742-SE, Opinion No. 2022 DNH 129

Plaintiff Brooks Barber brought a putative class action on behalf of himself and similarly situated employees against Bauer Hockey, LLC, alleging violation of the Fair Labor Standards Act, 29 U.S.C. § 201, et seq., and New Hampshire state law. Specifically, the plaintiff alleged that the defendant failed to exercise control over the collective of a collective action pursuant to 29 U.S.C. § 216(b) of the FLSA. Because the plaintiff met his light burden to show that the proposed members of the collective were similarly situated enough to receive notice of the action, the court granted the motion. 17 pages. Judge Samantha Elliott.

CONTRACTS


Commercial tenant sued former landlord after being evicted for violating lease provision requiring compliance with local ordinances. Plaintiff claimed that landlord breached lease

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by failing to assist tenant in getting required local permits and later refused to allow tenant to retrieve her possessions following the eviction. Landlord courted claims for unpaid rent accruing during eviction proceedings. After bench trial, court ruled in landlord’s favor on tenant’s claims and on counterclaim. 12 pages. Judge Joseph N. Laplante.

PERSONAL JURISDICTION
10/18/22 Reliant Life Sciences, LLC v. AGC Biologics, Inc. et al.
Case No. 22-cv-137-SE, Opinion No. 2022 DNH 136
Plaintiff Reliant Life Sciences LLC brought suit in New Hampshire Superior Court against defendants AGC Biologics, Inc. and Diageo Computer Systems, Inc. the plaintiff alleged that it had arranged a consulting relationship between the two defendants but that both defendants had breached their respective contracts leading to a breach of contract and formed their own working relationship without the plaintiff’s involvement. AGC removed the case to federal court and moved to dismiss the claims against it for lack of personal jurisdiction. The plaintiff, in turn, moved to remand the case back to superior court because Diageo had not consented to removal. The court denied the motion to remand, finding that under 28 U.S.C. § 1446(c) because it removed without holding a conference, but the lack of consents the case did not satisfy the subject matter jurisdiction requirement. 3 pages. Judge Joseph N. Laplante.

EIGHTEENTH AMENDMENT: PRISONER CIVIL RIGHTS, HABEAS CORPUS
09/15/2022 Robertson v. FCI Berlin
Case No. 22-cv-27-LM, Opinion No. 2022 DNH 114
In this petition for a writ of habeas corpus under 28 U.S.C. § 2241, challenging the restrictive conditions of confinement resulting from the implementation of the Federal Bureau of Prisons’ (BOP) COVID-19 pandemic protocols in FCI Berlin, the respondent Warden moved for summary judgment. Construing the petition as asserting Eighth Amendment claims, the Court focused on the defendant’s arguments that no new claims were raised, and that any plausible claim that had been raised was not simply a reassertion of claims already raised. The Court granted the motion to dismiss the petition. 8 pages. Judge Landya McCaffery.

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- J.D. from an accredited 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. Recent graduates are encouraged to apply – an exception may be requested for years of experience.

**How to APPLY:** Please go to the following website to submit your application electronically through NH First: Candidate Space (nh.gov). Enter Attorney in the Job Title field and apply to the location of your choice. Positions will remain open until filled.

For questions about this position, please contact Attorney Deanna Baker, Legal Director at (603) 271-1220, deanna.baker@dhhs.nh.gov.

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**Preti Flaherty:** 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: mjohnston@preti.com.

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**Litigation Associate**

Patch & FitzGerald is seeking a full-time attorney to work with our growing personal injury and workers’ 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.

We offer a competitive benefits package including a base salary and bonus schedule, health insurance, flexible spending account, generous paid time off, and 401(k) with employer match. For confidential consideration, please direct your resume to CRoveto@patchfitz.com.

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**Probate & Trust Paralegal**

Laboe & Tasker, PLLC of Concord has an opening for an experienced probate and trust paralegal. The ideal candidate will have an understanding of fundamental probate and trust concepts, experience administering estates, and be proficient in preparing fiduciary inventories, accountings, court pleadings, and correspondence. Any candidate having some proficiency with accounting practices in any field will be given close consideration. The position involves the management of deadlines and significant direct communication with clients and other parties. Strong organizational skills, people skills, and competency with Microsoft 365 Outlook, Word, and Excel required. Proficiency with QuickBooks is desirable but not required.

Please send cover letter and resume to Attorney Kerri S. Tasker at ktasker@laboe.com.
ASSISTANT COÖS COUNTY ATTORNEY

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

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

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

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

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Police Prosecuting Attorney

Applications are being accepted for the position of Police Prosecuting Attorney. Join a progressive law enforcement agency that embraces the philosophy of community policing. We currently employ 51 full-time police officers. Benefits include Medical Insurance, Dental Insurance and earned time. In addition, we offer 11 paid holidays, training, educational benefits, a state pension, and other benefits. Hours are Monday through Friday 0800-1600. Employment application can be found at: https://www.hudsonnh.gov/police/page/police-department-forms.

2022 Salary Range Starting at $84,458.00 to $102,771.00 Depends on experience.

**Salary includes 11 paid holidays**

Candidate Qualifications
1. Must possess a Law School Degree.
2. Must be a licensed Attorney in good standing with the New Hampshire BAR association.
3. Criminal trial experience preferred but not necessary.

Qualified parties should submit a cover letter, application, and resume to Captain Mike Davis at 1 Constitution Dr. Hudson NH, 03051 603-816-2250.

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 Irwin, Upton & Hatfield, LLP, PO. Box 1090, Concord, NH 03302-1090 or lirwin@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 lirwin@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, LLP, PO Box 1090, Concord, NH 03302-1090 or via email to hr@uptonhatfield.com.

Civil Litigation Attorney

Shaheen & Gordon, P.A. is seeking a full-time civil litigation attorney for its office in Concord, NH. The candidate must be licensed to practice in NH and have 4 to 6 years of experience in Federal and State court proceedings. The ideal candidate will have experience with complex litigation, strong analytical, writing, and communication skills and be able to practice independently. We look forward to welcoming an attorney who is hardworking, committed to excellence and dedicated to client service. This is an outstanding opportunity for an experienced lawyer to grow their career and practice in a collaborative, supportive, fast-paced environment.

Shaheen & Gordon is an Equal Opportunity employer and does not discriminate on the basis of race, color, religion, sex (including pregnancy), gender identity or expression, national origin, citizenship, veteran status, age, physical or mental disability, genetic information, marital status, sexual orientation, or any other consideration made unlawful by applicable federal, state or local laws in all aspects of employment, including but not limited to recruitment, hiring, training, evaluation, transfer, promotion, discipline, compensation, termination, and layoff. Shaheen & Gordon is also a non-smoking workplace. We offer a competitive salary and a generous benefits package including health insurance, flexible spending account, health reimbursement, long term disability, life insurance and 401(k) with employer match.

If you want to contribute to a premier and growing law firm, then we want to hear from you. Successful employees at Shaheen & Gordon are confident, respectful, and team-oriented with a high degree of integrity.

Please submit your cover letter and resume to: careers@shaheengordon.com

 Shaheen & Gordon P.A.
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

ASSISTANT COUNTY ATTORNEY

SCOPE OF POSITION:
Seeks a justice with 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.
- Must be admitted into the New Hampshire Bar Association.

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NEW HAMPSHIRE BAR NEWS
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.

Doreen Connor
dconnor@primmer.com

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2022 Classified Rates

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 Sales and Technical Editor at (603) 715-3263. You may e-mail your ad to: advertise@nhbar.org and mail with a check for prepayment to: NH Bar News Classifieds, 2 Pillsbury Street, Suite 300, Concord, NH 03301. 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.

The member rate is $50 plus $1.20 per word. The nonmember rate is $60 plus $1.50 per word.

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