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Bar Association by the Numbers: Jan 2022 to Dec 2022

8,650 Total Members
5,732 Active Members
19 Practice Area Sections
Over $1.9 million earned by Bar members from LRS referrals
5,224 CLE Registrations
6,249 CLEtoGo Audio, OnDemand, DVDs & e-publications

New Hampshire Bar Foundation

The New Hampshire Bar Foundation began 2022 by awarding $102,250 in Justice Grants to 14 non-profit organizations, supporting civics education, and other justice initiatives. In April, NHBF held its Annual Dinner at the Manchester Country Club. Awards were handed out to Steven Scudder (Kenison Award), Rod Dyer (Nixon-Zachos Award), and Megan Carrier and Henry Klementowicz (Kirby Award). In attendance were approximately 120 lawyers, judges, law students, and family members. In 2022, the NHFB also awarded $775,000 in IOLTA grants awards to four organizations for the 2022-2023 grant year. All the accomplishments of the New Hampshire Bar Foundation in 2022 were only possible through the generous support of donors and banking institutions. If you have any questions or concerns about your IOLTA account or would like to donate to the Bar Foundation, please contact Mystyina Shappy at 603-715-3210 or mshappy@nhbar.org.

Business Operations

The Business Operations (BOPs) department continues its support of members, the judicial system, and NH Bar Center programs through the implementation and use of current technologies, accounting best practices, policies, and processes. The Annual Attorney License Renewal season that began at the Bar Center last June, ended with the final hearing at the NH Supreme Court on November 29. The License Renewal Team assisted over 1,000 members with completing their license requirements, updating their membership status, updating contact information, and navigating the license renewal process. The BOPs Department includes Member Records, Finance/Accounting, Technology, Facilities, Front Desk/Reception, and administrative support for the NH Bar Foundation, NH Minimum Continuing Legal Education (NHMCLE), and Public Protection Fund. To reach the BOPs Department with questions or for assistance, please email billing@nhbar.org or call the member line at 603-715-3279 (EASY).

Continuing Legal Education

Members were excited to return to in-person programs in May 2022. In-person attendance was low at the start but is beginning to increase. The 2022 Midyear Meeting was held virtually again this year, with nationally recognized speakers and an audience of 600. The Annual Ethics CLE had a total of 375 attendees in-house and online. The popular Development in the Law, held in person this year, was well attended with approximately 200 lawyers. The 2022 Midyear Meeting was held virtually again this year, with nationally recognized speakers and an audience of 600. The Annual Ethics CLE had a total of 375 attendees in-house and online. The popular Development in the Law, held in person this year, was well attended with approximately 200 lawyers.

NHBA Sends Long-Term NH Practitioner Jack Middleton Back to Law School for a Day

By Tom Jarvis

NHBA Staff

When prominent New Hampshire lawyer, Jack Middleton, celebrated his 93rd birthday in January of this year, he had no idea he would be going back to law school in November.

Aiming to uncover the differences in modern-day law school and see how they have changed the face of lawyering, the New Hampshire Bar Association decided to send a long-time practicing lawyer back to law school for a day. Having more than 61 years of experience as a trial lawyer and 24 years of service as a NH District Court judge, Middleton was at the top of the list of potential candidates.

A partner at McLane Middleton, the state’s largest law firm, Middleton is a former NHBA president, one of the founders of the New Hampshire Bar Foundation, a partner at McLane Middleton, and a partner in the law firm of Middleton. He is the recipient of the New Hampshire Bar Association’s Lifetime Achievement Award and has been named a Fellow of the American Bar Foundation. He is also a member of the American Law Institute and serves on the Board of Directors of the New Hampshire Bar Foundation.

Middleton after his class on torts. From left to right: Kate Miller, Lyla Boyajian, Rugen Taylor, Mason Kays, Dean Megan Carpenter, Jack Middleton, Professor Sophie Sparrow, Patricia Shea, Taylor Vitti, Frankie Williams, Pranesh Vittal, and Cecilia Gibbons. Photo by Tom Jarvis

Business Law and Business Litigation

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December 21, 2022

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

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Year in Review: Your Bar Association Serves Members, the Courts and the Community

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New Year’s Resolutions

By Jonathan M. Eck

Some people have an annual tradition of setting New Year’s resolutions. While it is not my practice to sit down and make a list of resolutions, per se, at the end of each year, as a general matter, I embrace goal-setting and short and long-range planning, regarding all aspects of my life. I have found great benefit from conducting frequent check-ins with myself, throughout the year, and especially at the end of the year. As the fictional larger-than-life movie character Ferris Bueller famously cautioned, “Life moves pretty fast. If you don’t stop and look around once in a while, you could miss it.” In my mind, there is even more truth in that statement in today’s world than there was back in 1986. And while that warning could be used in New Hampshire as justification for a Friday on the ski slopes or a summer weekday afternoon spent relaxing on the Seacoast, it also serves as a reminder to be deliberate in how each of us approaches our craft.

As 2022 comes to a close, I find myself taking the opportunity to recognize some of my recent procedural and systems successes, while also contemplating other areas of my life and law practice management that are ripe for improvement in the coming months, and over the course of the next year. One of my main aims for 2023 is to make sure that I always allow time for exercise, regarding all aspects of my life. I aim to be more judicious with how I spend my work and personal time in 2023, and realistic with my scheduling and planning.

Related to engaging in regular self-reflection, I will also more consistently assess upcoming case deadlines, and my overall approach to each of my cases and projects in progress. It is important for us to look up from our work at various times to assess the overall landscape of each individual case or matter, taking into account the broader direction of the litigation/project and planning to confirm that the general approach to the client matter is proceeding on an appropriate track, both from a temporal standpoint and also strategically, as the needs and long-term strategy for the matter develop over time.

Another area where I will work to improve is planning for the unexpected in my workday. It feels to me as though on a nearly daily basis, my workday starts and, before I know it, it is time to shut it down for the day. While we obviously cannot anticipate and prepare for every surprise or contingency that will either arise or not materialize and require attention, I know that I can do a better job to leave adequate time in my daily schedule for the unavoidable issues or matters that inevitably crop up, on practically a daily basis, and that must be dealt with.

Along with setting some goals for myself for 2023, I will also set some Bar Association-related goals. Among those, please know that your Bar Association and Board of Governors will continue to regularly assess what is working for our Association and what could be improved for our members. We will continue to emphasize member services as the core of what the Association owes to its members. While we take great pride in the value and breadth of services we offer to our members, there is always room for improvement. If you can think of ways that the Bar could more effectively serve its members, please do not hesitate to reach out with those ideas.

As you close out 2022 and prepare to welcome a new year, I encourage you to reflect on your own practices and systems. Please also take time to consider how you might maximize your engagement with our Bar, and how you can contribute to enhancing the delivery of legal services in New Hampshire. Before we all know it, we will be thinking about 2024. Let’s not miss all that can be accomplished in 2023.

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By Kathie Ragsdale

Thomas Hanna’s love of the land permeates his law practice, spurs his conservation advocacy, and inspires his trekking adventures in places ranging from the White Mountains to the Grand Canyon. “I’ve always had an interest in the outdoors and land, and that gradually became an interest in agriculture and conservation,” he says.

His love of baseball and writing are close seconds, as Hanna was leadoff hitter for the Dartmouth baseball team, which made it to the 1970 College World Series. He hopes to one day complete writing a history of local baseball teams that played during the iconic 1920s, ’30s, and ’40s.

At BCM Environmental Land and Law, based in Concord and Keene, Hanna has developed a reputation as a go-to land use lawyer and has appeared before numerous planning and zoning boards, with a client list that includes municipalities, landowners, developers, non-profits, and others.

The Keene native is also an avid conservationist, having served for 10 years as a trustee of the New Hampshire chapter of The Nature Conservancy, whose board he chaired from 2016 to 2018, and as a trustee of the Monadnock Conservancy for 15 years, two of them as president of the board.

For four years, he also served on the planning board in Westminster, where he and his wife, Elke, raised their three sons.

His draw to the law is familial. Hanna’s father was an attorney for 50-plus years with the Keene firm of Faulkner, Plaut, Hanna & Zimmerman, and his sister, Katherine Hanna, is a partner at Hanian, Boimey, Bass & Green. One of his sons, Benjamin, is an environmental energy lawyer for WilmerHale in Boston.

But lawyering wasn’t his first job after graduating from Dartmouth.

“I started my work life as a newspaper reporter, then went to a lower calling,” Hanna jokes.

He worked at The Keene Sentinel for three years during some of journalism’s glory days, overlapping with such renowned figures as Ernest Hebert, Dayton Duncan, and Tom Ferriter.

Two years reporting at the Virginian-Pilot followed.

But the call of law proved irresistible, and Hanna went on to attend Boston College Law School, where he was a member of the Environmental Law Journal.

After graduation, he worked at his father’s law firm, becoming a partner, but decided a general law practice wasn’t for him and started his own firm, focusing on land use. About four years ago, he joined BCM, a boutique firm that does environmental and land use law.

“It very much paralleled my own practice, so it was a good fit and is a good fit,” Hanna says.

He sees no contradiction between his lifetime conservation advocacy and his representation of clients that include developers. There are certain developments Hanna finds repugnant, so he makes his selection of clients on a case-by-case basis.

“What I like to bring to my developer clients is an ethic that is good for them, the state and the municipality,” Hanna says. “The better job they do in terms of good planning, good aesthetics and landscaping, which might be more expensive than what they’re used to, usually results in less opposition and is ultimately less expensive than a protracted permitting process and is also good for business.”

He has represented shopping center developers whose anchor stores have included Kmart, Hannaford, and Kohl’s, as well as a pumpkin farmer in the small New Hampshire town of Walpole.

In the latter case, the farmer was seeking to bring more traffic to his business and sought to add a “storybook village” of tiny houses with storybook characters to the premises. A neighbor objected, claiming the proposal was a violation of the zoning ordinance, and the matter ended up in Superior Court.

“We were able to demonstrate it was an accessory use to the farming endeavor and we were successful,” Hanna says. “Since then, I’ve done a number of agricultural cases that are similar.”

Hanna also recently obtained permitting for the first LGBTQ group home in New Hampshire, Unity House in Keene, for youth 14 to 18 who may have been less than welcome in their homes or schools and would benefit from a residential caring and affirming atmosphere. The small group home, serving up to eight, was proposed by the nonprofit Home for Little Wanderers and faces some additional steps before opening.

Hanna has had his own experience with marginalized populations. While still at Dartmouth, he tutored Native Americans in a program called ABC (A Better Chance) and taught English at the high school the students attended in nearby Hartford, Vermont. He says he now has mixed feelings about the program because some of the students never went back to their tribes or their people.

“I think the idea would have been to have these kids get a wonderful experience and take that experience back for the benefit of their own people,” Hanna explains.

While a junior at Dartmouth, he was center fielder and leadoff hitter for the college’s baseball team, which made it to the college world series in Omaha, Nebraska – a first for Dartmouth. The team came in fifth in the country.

Fellow Dartmouth grad, Concord attorney and longtime friend Michael Gfroerer notes that Hanna also spent a summer playing in the renowned Cape Cod Baseball League and covered game six of the 1975 World Series while working for the Keene Sentinel. That was the game where Red Sox catcher Carlton Fisk homered in the 12th inning to send his team on to game seven.

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The Future of the LSAT Is No Longer Certain:
New ABA Council Vote Puts the LSAT in Jeopardy

By Molly Andrews
NHBA Staff

When thinking about starting a career in the legal profession, one of the first steps is attending law school. To do so, one must complete the daunting Law School Admissions Test (LSAT). Potential candidates spend months studying the exam in hopes of scoring high so they can be admitted to the school of their choosing.

The LSAT is known to be daunting, but is it this way for a reason? Should it really be one of the deciding factors for law school admissions?

According to the Council of the American Bar Association’s Section of Legal Education and Admissions to the Bar, the answer is no. On November 18, the council voted to revise the requirement for a “valid and reliable” test upon admission.

With the LSAT being such a comprehensive test, its main mission is to predict a law student’s first year grades, which in turn will help predict the success of a first-year student. However, in recent years, the LSAT has been on the forefront of debate. Rather than being seen as a successful tool for gauging the future success of a student’s legal career, it has received the reputation of being the gatekeeper for law school admissions.

The ABA Council hopes this revision will bring in a more diverse student body. The council recognizes that for some students, tests don’t accurately portray their skills and potential, which is why this revision would lead to more exploration of the limitations of testing. Bill Adams, Managing Director of the ABA Accreditation and Legal Education, spoke to the idea of the revision and what it means for law school admissions.

“It [the revision] will give schools the opportunity to identify applicants for whom standardized tests don’t accurately assess their skills and predict success in law school and on bar exams,” Adams says. “The testing organizations do not assert that the tests are perfect predictors for everyone, and some schools have programs which they assert do accurately predict success. It is worth exploring the extent to which the tests might fail to accurately predict who can succeed and whether that disproportionately excludes persons from underrepresented groups.”

Adams, along with the Council, is aware that there are limitations that come with the predictability of success, especially in terms of the LSAT. He even mentioned with the evolution of the bar exam, such as the one being developed by the National Conference of Bar Examiners (NCBE), those exams are assessing additional skills that are not being measured by the LSAT or GRE, which limits the predictive value of the tests.

“It is important to note that this revision not trying to get law schools to stop using standardized tests as part of the admissions process.”

“The revised standard will further the Council’s goal to focus more on successful outcomes without being overly prescriptive about how schools achieve those outcomes,” Adams states. “It is not trying to get schools to stop using standardized tests as part of the admissions process. It will permit schools who can successfully identify students who can succeed by using policies that don’t require test scores to use those policies. It may be that schools admit a small percentage of their class with these alternatives.”

When looking at the future of law school admissions, it would allow schools to have the option to identify potential candidates whose test scores might not accurately predict their future success. However, many law schools are still uncertain how they might react with this revision.

In Kaplan’s 2022 law school admissions officers survey, there was a question about what law schools will do in response. Looking at the 82 ABA-approved law schools that were surveyed, 37 schools are unsure of what they are going to do, while 30 said they would be very likely to continue requiring an entry exam. Only two schools are unlikely to continue requiring an exam for their applicants.

It becomes clear with these results that only a few schools will drop the testing requirement altogether.

UNH Franklin Pierce School of Law Dean Megan Carpenter, feels that the revision would be a misstep.

“I think it is a huge mistake if the ABA House of Delegates votes in favor of this change – and if the Council endorses it. It is an amendment that is well-intentioned but poorly constructed,” Carpenter says. “It will make admissions processes more susceptible to implicit bias, and tax the resources of admissions departments across legal education.”

Carpenter believes that the LSAT is the single most reliable predictor of success in law school and that it is a useful tool for admission. With UNH using the LSAT for admissions, it helps the school feel confident with their choices in students and helps ensure student success. She voices that it is a professional obligation to admit students who are going to be successful and removing the standardized testing requirement will make this difficult.

“For both applicants and the legal profession as a whole, I hope that schools will continue to use the LSAT as one tool in a holistic admissions toolkit. It’s facility as an indicator of success in law school is unparalleled,” says Carpenter.

UNH has no plans to remove the requirement to take a standardized test for admission.

This revision is now being moved to the ABA’s House of Delegates, who will vote in February to decide the fate of standardized testing requirements. If the revision is approved, it will not take affect until 2025, giving law schools time to decide how they will go forward with their admissions process.
Manchester NAACP President and Advisory Board Member James T. McKim Jr. sharing the goals of the new court initiative. Courtesy photo.

By Molly Andrews
NHBA Staff

The New Hampshire Judicial Branch launched a Diversity and Inclusion initiative in the Granite State. At the launch, held on December 8, at the Manchester Community Center, many people including judges, attorneys, community leaders, as well as the public, gathered to be part of the initial conversations and to hear the new ongoing mission of the courts.

The event started with a warm welcome and introduction to the initiative, which was led by New Hampshire Circuit Court Judge and Steering Committee Co-Chair Susan B. Carbon. Next came the goals of the initiative which were addressed by Chief Justice of the New Hampshire Supreme Court Gordon J. MacDonald, New Hampshire Superior Court Judge and Steering Committee Co-Chair David W. Ruoff, Executive Director of the National Alliance on Mental Illness NH and Advisory Board Member Susan L. Stearns, and President of Manchester NAACP and Advisory Board Member James T. McKim Jr. The night was then ended by small group discussions at every table in an effort to better learn about each other and what issues this initiative can help relieve in our communities.

Each speaker brought a unique perspective on how this initiative will impact the Granite State as a whole. Justice MacDonald and Judge Ruoff talked about how the judicial system is going to evolve to better serve everyone. They brought up the issues of diversity and inclusion in the legal system and realize that access to justice in New Hampshire is a problem, and that there are gaps that need to be filled.

“This isn’t about me or any individual. It’s about us,” Chief Justice MacDonald states. His message, along with the others, stressed how this initiative is about a greater mission to create an equal justice system that is fair to all. It can be a challenge to take a step back and realize that there are biases that happen in the justice system. Judge David Ruoff talks about his judgeship of seven years and his presence in the legal community for 20 years. He thought, like many others, that biases, such as cultural, racial, or demographic didn’t happen here in the Granite State. He was under the assumption that there wasn’t a problem. However, over the past year and a half, he has realized with a lot of self-reflection that these biases are present in our state and need to be addressed.

As Judge Carbon stated, “This is the very beginning of a very long process.”

Both Stearns and McKim, who serve on the Advisory Board for this initiative and are active community leaders, bring in a different perspective. Stearns reflected on how many advocates are unwilling to talk and interact with the court because of past issues that have deeply affected them and the way they see the judicial system. She touched upon how we, as people, come to the courts when we are the most vulnerable and this should be seen by the judicial system. Both Stearns and McKim stress that the community should engage with these efforts and have their voices and concerns heard.

The most impactful part of the event was the small group discussions that took place at each table that included an assigned judge. My table included Judge Ruoff, who genuinely asked each of us why we attended the event and what diversity issues we think are present in our community. It was easy to say that I attended for work purposes, but I think as a Granite Stater who has never been in a court room, it was eye opening to see how genuine our judges are, and how they are looking to us, community members, for advice on how to better the system.

Judge Ruoff explained at the table how there are limits as to what judges can do in terms of interacting and getting involved in the community because of the rules of ethics. These rules make it difficult for them to get out into the community and talk to people about their thoughts and opinions. With community judging no longer being a thing, Ruoff describes his position as “isolating.” However, events and conversations like the one held here, help the judges gain the insight they need to carry out their strategic plan to make the courts more diverse and inclusive.

This initiative comes with an extensive strategic plan that took over 12 months to complete and as Judge Carbon states, “This plan has the potential to change everything we do and how we do it.” Covered in the vision of this plan is ensuring that the New Hampshire Judicial Branch embodies the ideals of a free democracy where all people have equal and unrestricted access to the justice system.

The launch of this initiative was the first of many conversations for the New Hampshire Judicial Branch as they plan to go around the state and have many more productive conversations with different communities. At the moment, the main goal is to listen and figure out where the biggest issues lie and how the justice system can change to better suit all the people of the state. There is going to be a long road ahead, but with time the New Hampshire justice system will change for the better.
LRE Committee Working to Rebuild "A Lawyer and Judge in Every School"

By William Aaron Agnew

The New Hampshire Bar Association’s Law Related Education (LRE) Committee is seeking to rebuild the popular statewide program, "A Lawyer and Judge in Every School." The goal of the program is to connect attorneys and judges with a school in their region to discuss general legal concepts, including individual rights, duties of citizens, and other topics of interest for students in New Hampshire schools.

Historically, the program has been a means for attorneys and judges from all areas of legal practice in NH to give back to their local communities by sharing their knowledge and expertise with growing and interested young minds. The program is open to students of all ages and the LRE Committee looks to expand the program into every school in the state, while enlisting a majority of the Bar membership in participation.

Participating attorneys or judges may choose a preferred age range of students they wish to interact with. Participating members will also discuss an area of law they have experience with through their legal practice or can choose other topics of interest. Often, students will raise questions that are outside the scope of the topic chosen for the day. This open-ended aspect of the program allows for a broad discussion and learning experience for all involved, and it provides the inspiration for a student to consider a career path in a legal-related area.

The LRE Committee provides access to tools on the LRE Webpages: nhbar.org/civics-education/law-day where participants will find resources for crafting their discussion topics prior to visiting a school. These tools and resources include lesson plans ranging from topics such as bullying in schools, structure of the US government, trial procedure, and much more. Lesson plans are organized based on age and grade level, with plans specifically designed for elementary school students, middle school, and high school levels.

According to several studies, civics education has been on the decline in the United States for years. One study states that only 26 percent of Americans polled could name the three branches of the federal government, and nearly one-third could not name any of the branches. Without a fundamental understanding of how our government works, the citizen cannot effectively make decisions and meaningfully participate in the political process.

To learn more about the "A Lawyer and Judge in Every School" program contact Law Related Education Coordinator, Robin E. Knippers at reknippers@nhbar.org or 603-715-3259.

William Aaron Agnew is a prosecutor with the Littleton Police Department.

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We The People District Hearings Held Dec. 2

Milford High School received awards of excellence in Units 1-4 at the We The People: The Citizen and the Constitution District Hearings on December 2, 2022 at the Concord City Wide Community Center.

Hollis-Brookline High School received an award of excellence in Unit 6. The three schools will take part in the We The People: The Citizen and the Constitution state finals on January 6, 2023.

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New Member Benefit, eNotaryLog, Offers Discount for Remote Online Notarization

By Misty Griffith
NHBA Staff

Our newest member benefit, eNotaryLog, provides nationwide remote online notarization (RON) and electronic signature solutions through its cloud-based digital services platform. RON uses audio-video technology to secure and review documents and electronically verify a person’s identity to complete a legally binding notarial act online. The eNotaryLog platform simplifies the digital signing process while maintaining an exceptional level of security around the transaction allowing attorneys to meet clients online and execute documents with ease using RON technology.

Using eNotaryLog’s RON-certified in-house notaries, firms can conveniently notarize documents anytime and anywhere for time-saving convenience. The company’s notaries are available from 8:00 am to midnight. Firms also have the option to use their own notaries and the eNotaryLog platform.

RON technology is relatively new. The pandemic highlighted the need for remote online notarization, which was initially allowed under an Emergency Order. The efficiency and convenience have popularized RON laws. Information like SSN and any other information collected from the signer for verification is purged within 24 hours.

Among the providers authorized by the NH Secretary of State, eNotaryLog stands out due to its inclusion in Investopedia’s list of top five RON providers. Investopedia named eNotaryLog as “Best for Customer Service” and additionally praised the company’s commitment to protecting sensitive documents. Additionally, the company is listed in the National Notary Association’s 2022 “Guide to remote notarization providers for notaries.”

Importantly, for real estate attorneys, several title companies and underwriters including First American Title Company, Fidelity, and CATIC, all of which have a large NH presence, include eNotaryLog on their list of approved RON vendors. Additionally, eNotaryLog is affiliated with American Land Title Association (ALTA), Mortgage Bankers Association (MBA), and Property Records Industry Association (PRIA).

Their RON platform is Mortgage Industry Standards Maintenance Organization (MESISMO)-certified and SOC 2 compliant. SOC 2 is an auditing procedure developed by the American Institute of CPAs (AICPA) that ensures service providers securely manage data to protect the interests of an organization and the privacy of its clients. Client information such as signer name, address, and names of witnesses is stored in the electronic notary journal to be compliant with RON laws. Information like SSN and any other information collected from the signer for verification is purged within 24 hours.

The founder of the company is an attorney, and the focus of their business is on the legal, real estate, and financial industries. eNotaryLog is a US Company with all staff located in the US, and it is known for its customer service. The company provides a positive onboarding experience and offers product training and helpdesk support. For those new to RON, there are free webinars on their website to learn how the process works.

NHBA members will receive a discount on all their plans, as well as, on one-off uses. This means that firms of all sizes would be able to take advantage of this discount according to their needs. The company’s price structure is similar to that of their competitors, and with the NHBA discount, it is an excellent value, especially for firms with high volume notarization needs.

For firms with the occasional need for a remote notary, eNotaryLog will provide access through the NHBA website for all members and their clients to have a document notarized. These one-off sessions are available seven days a week, from 8:00 am to midnight. A licensed and bonded eNotaryLog notary will connect with the signer in an online notary room and notarize documents that have been uploaded through the website. A 10 percent discount will be applied to the total price of the session by using the discount code: NHBA. Access to the notarized documents is made immediately following the session payment process.

For firms that complete several notarizations each month, eNotaryLog will provide access via an “organization” account. Access via the organization account provides firms the option to notarize documents using their own notaries or eNotaryLog notaries. Platform adoption includes a dedicated Client Success Manager, all training, onboarding, and ongoing customer and technical support. eNotaryLog also provides storage of your notarized documents, audio/video recording, and eJournal for up to 10 years. A 50 percent discount will be applied to the initial setup fee for NHBA members.

For additional information on the available options, please contact eNotaryLog Account Executive, Dianna Jansen, at diana.jansen@enotarylog.com or (720) 868-5830.

NHBA members may use the discount code NHBA to receive the exclusive member discount. Take advantage of this member benefit by visiting nhbar.org/resources/member-services-benefits. To learn more about eNotaryLog or other great member benefits, visit nhbar.org or contact NHBA Member Services Coordinator Misty Griffith at mgriffith@nhbar.org or (603) 715-3227.
More Attorneys Tell Us About Their Favorite Fictional Lawyer

By Tom Jarvis
NHBA Staff

How a fictional lawyer stands out is usually associated with how they practice law. While their grandiose courtroom antics and rule-bending can sometimes skew the general public’s idea of the legal profession – depositions, hearings, and trials are much more mundane in real life – it’s entertainment at its finest. Some of them are flamboyant like Vinny Gambini from My Cousin Vinny, some are stoic like Perry Mason, and some are quirky like Ally McBeal. Others are cool as a cucumber like Harvey Specter from Suits or have questionable ethics like Saul Goodman from Better Call Saul/Breaking Bad. One even has wings: Harvey Birdman, Attorney at Law.

Fictional lawyers have even spilled over into the world of video games. Phoenix Wright, from the video game series, Ace Attorney, is one of the most popular. There is even a game where you manage a law firm – complete with hiring lawyers and upgrading offices – called Law Empire Tycoon. While none of this month’s picks are from video games, they all have a pattern of being inspirational types that New Hampshire lawyers feel would generally handle themselves well in our legal community.

George “Skip” Campbell, Attorney at Law
“Jude Briganzi from A Time to Kill, because of his passion, commitment, and his sense of right from wrong. I think he would do pretty well [in a NH court], with a little technical coaching.”

Katie Mosher, Sullivan & Hollis, PLLC
“Atticus Finch [from To Kill a Mockingbird]! In law school, I had a picture of Gregory Peck as Atticus taped to my locker with the caption, ‘[Real courage is] when you know you’re licked before you begin, but you begin anyway and see it through no matter what.’ Looking up at Atticus was a comfort to me then, and after finishing up my first year of practice, I still find his words comforting and inspiring. Atticus reminded me of the good and potential of the justice system, even when it does not always function as it should. Admittedly, I have not been in court much, but I think Atticus would still fare well [in NH], despite having to overcome learning lots of new modern rules, like the Rules of Evidence, but his quick thinking and compassion would still shine through!”

Rory Parnell, Parnell, Michels & McKay, PLLC
“Jack McCoy from Law & Order. He reminded me of my dad. Same bushy eyebrows and he would furrow his brow like my dad. I also loved the way he approached trial. I think he would do great [in a NH court]!”

Justin St. James, Attorney at Law
“Fletcher Reede from Law, Lie, Lie. There’s truth in comedy. He has a character arc from acting as a self-centered, obnoxious attorney and absentee father to someone who appreciates the importance of being respectful to others and living an honest life. Thus, he becomes a good man at the end of the story. It would be great if some of the attorneys and judges one occasionally crosses across could develop the same self-realization that Mr. Reede does – but that’s why it’s a fictional story.”

John Ward, Ward Law Group, PLLC
“Rudy Baylor from Rainmaker. I also go with the underdog. Rudy was inexperienced and overmatched going against the big corporate law firm lawyer. Nevertheless, he found a way to beat them and help his client. I think he would have done well in NH. We have a great bar and a lot of mentors that help younger lawyers.”

What is the true meaning of Christmas? It’s the central theme of most holiday movies, even since the 1965 “Peanuts” TV special surprised viewers by including genuine religion in the mix – usually not the formula for selling Ovaltine.

In Donnelly v. Lynch (1st Cir 1982), a 1st Amendment challenge to a creche in Pawtucket, the court suggested not one but three answers to this question. The majority held that the nativity scene “is a direct representation of the full Biblical account of the birth of Christ,” so its installation on city property constituted “government entry into the religious dimension.” (Could this be the origination story for the Establishment Clause Multiverse?)

To the dissent, while Christmas “originated as… a religious holiday,” there was no establishment, because the creche “was but part of a larger display… which included a talking wishing well, a Santa’s house inhabited by a live Santa who distributed candy,… and 21 cutout figures including a clown, dancing elephant, robot and teddy bear.” In other words, the creche, like the clown, merely serves the secular purpose of attracting downtown shoppers. (Fortunately, the Supreme Court declined to embrace this rationale – otherwise, every downtown creche in America today would have a clown, robot and bear.)

The concurring justices wrote separately, merely to quarrel with the dissent’s view that Christmas originated as a religious holiday. Nope, said the dissent – a century before Christ was born, Romans were celebrating a Christmas-like holiday, complete with “festasting, visiting, drinking, gift exchanging,” and even “school vacations.”Whatever you celebrate, and however you celebrate… ENJOY THE HOLIDAYS!

Membership Status Changes
Presented to the Board of Governors November 17, 2022

Active to INACTIVE:
Davis, Christopher, Fort Collins, CO (Oct. 24)
Keller, Duran, Lafayette, IN (Oct. 19)
Scudder, Steven, Concord, NH (Nov. 1)
Kline, Robert, Falmouth, ME (Nov. 1)

Active to INACTIVE RETIRED:
Eddy, Chelsea, Concord, NH (Oct. 24)
DaCruz, Jeremy, Somerville, MA (Oct. 24)
Babin, Roger, Plymouth, NH (Nov. 1)

Active to SUSPENDED:
Siegal, Byron, Quincy, MA (Oct. 26)

Inactive to ACTIVE:
Tabachnik, Tatyana, Franklin, MA (Oct. 28)

Inactive to RESIGNED:
Sykes, Kathleen, Yarmouth, ME (Oct. 25)

Inactive Retired to ACTIVE:
Anderson, Kenneth, Gilford, NH (Oct. 25)
Mitigating Liability from a Cyber Breach

By Cameron G. Shilling

All businesses—in all industries and of all sizes—are now targets for cyber criminals. Therefore, implementing reasonable measures to reduce the risk of cyber breaches is the best technique to avoid a breach. However, since highly sophisticated cyberattacks are unavoidable, cybersecurity safeguards are equally critical to limit the scope of a successful breach, if (or more likely) when one occurs.

While some businesses are mature with respect to cybersecurity safeguards or have already experienced a breach, others lack such a foundation. In either event, after a breach has occurred, the following technical safeguards can be readily implemented:

1. Act Immediately. Hours matter. After a breach occurs, it is imperative to determine, as rapidly as possible, how the breach has occurred, the following technical safeguards can be readily implemented:

   - As a rule of thumb, businesses that experience a breach should notify affected individuals (either informally or formally) within three to six weeks after learning of the breach. While such a deadline may not be required by state or federal law, prompt notification significantly reduces liability based on the belief or allegation that the business failed to notify promptly.

2. Be Sympathetic. Individuals affected by a breach are scared and angry, looking for information and affirmation. All of us have had to deal with customer “service” representatives that deliver “diservice” and non-information. Don’t fall into that trap.

3. Offer Protective Services. The best—indeed, the very best—strategy to reduce or eliminate liability after a breach is to offer all affected individuals’ credit and identity monitoring and restoration services. When individuals enroll, such services monitor their credit accounts as well as the internet and the dark web to determine whether their credit or identity is being misused. Equally important, if that occurs, such providers have representatives available to address those issues and restore the individual’s credit or identity.

Some insurance carriers only provide credit or identity monitoring without providing any restoration services, or they only offer such services if the breach involved limited categories of personally identifiable information. Individuals affected by breach neither understand nor place much value on such technicality.

Businesses that experience breach should consider offering full credit and identity monitoring and restoration to all individuals if any sensitive information was compromised. Doing so is the best method to mitigate costs incurred by those individuals, and the best defense if the individuals fail to enroll in such services and later seek to recover costs associated with a cyber incident. Moreover, even if an insurer refuses to provide those services for some or all individuals, the costs to the business of doing so are marginal compared to the costs of resolving a lawsuit arising out of a breach in which those services were not offered.

Consider Ransom. Many businesses eschew ransom demands because they are able to restore their systems without paying ransom. Thus, sophisticated hackers now abound with information they are demanding a company’s system, in order to demand ransom in return for a promise not to sell such information on the dark web. Worse yet, if the business does not pay the ransom, some hackers notify the affected individuals about the breach, and demand that the individuals pay ransom to avoid disclosure of their information.

As a result, businesses victimized by ransomware now should consider whether to pay ransom to protect information from disclosure. When doing so, they must involve appropriate law enforcement, in order to determine whether the hackers can be relied-on to comply with their promise not to disclose the information if ransom is paid, and to ensure that any ransom payment complies with federal regulations concerning prohibited financial transactions.

5. Fix Problems. A breach of any significance is likely to attract scrutiny from regulators, particularly if it involves sensitive information (e.g., health or financial information) or information about a sensitive class of individuals (e.g., minors or elderly). While businesses affected by breach cannot alter their pre-incident level of compliance, they can implement appropriate steps to comply with applicable law thereafter. When doing so, businesses should ensure that such endeavors are protected by attorney-client privilege, to ensure that any disclosure of such subsequent remedial measures are eschewed.

BREACH continued on page 12

THE PERENNIAL POWERHOUSE

LUBIN & MEYER-consistently obtains 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.

“No 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 its 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.

MILLION+ SETTLEMENTS IN 2021

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*As published in New Hampshire Lawyers Weekly for years 2008-2021, as submitted by UI for years 2022, 2023.
Service Credit Union Supports New Hampshire Communities Through IOLTA

By Russ Hilliard

Service Credit Union (Service CU) is proud to be a longtime New Hampshire Bar Foundation Leadership Institution, offering a competitive 1.98 percent APY rate on IOLTA accounts.

The interest earned from the IOLTA program funds critical services in New Hampshire communities, including low-cost or free civil legal services for vulnerable citizens, and educational programs that teach our youth and the public about laws and the justice system.

Service Credit Union is dedicated to giving back to the communities it serves. They are a proud supporter of organizations such as the New Hampshire Food Bank, the Boys and Girls Clubs, Make a Wish and Veterans Count, among many others. The Credit Union recently concluded its “Stay Warm NH” effort, in which it donates 5,000 bags filled with cold-weather essentials to local nonprofits to distribute to those in need, and is gearing up for a multitude of holiday giving efforts, including securing troops overseas have the resources they need to enjoy a holiday dinner away from home.

In 2020, to further widen their giving footprint, Service CU launched the Service CU Impact Foundation, which promotes community development by funding initiatives that support education, human services, and emergency care for veterans.

“As a not for profit organization committed to serving our members and communities where they need extra support, it is important to us to be able to provide financial support for the great work that the IOLTA program supports. The mission of the IOLTA program aligns very well with our own, which is to do right by our members by improving financial well-being, supporting the communities we serve and creating valued and enduring relationships,” says Service CU President CEO David Araujo.

In addition to its ongoing charitable efforts, in the past year, Service CU introduced several lending products to better meet specific and timely needs of its membership.

In fall 2022, Service CU launched a Utility Loan to help anyone struggling with the increasing cost of heating and energy bills. Earlier in the year, they partnered with Mobius Mobility to launch a low-rate loan to help disabled members fund the purchase of an iBOT Personal Mobility Device, which is typically not covered by insurance. The Service CU Impact Foundation has also donated free iBOT PMDs to disabled veterans, recently surprising Vietnam War veteran Eugene Chylinski with an iBOT at the Foundation’s annual Golf Charity Classic, which has cumulatively raised more than a million dollars for veteran causes since its inception in 2020.

“Service and community are at the core of all we do,” added Araujo. “We look forward to continuing our relationship with the New Hampshire Bar to be there for all New Hampshire citizens.”

You have a choice where you open an IOLTA account.

Leadership Banks pay interest rates of 65% of the Federal Funds Target Rate.

The money earned from the IOLTA program helps tens of thousands of our most vulnerable NH citizens receive free or low cost civil legal services.
**NEW HAMPSHIRE BAR NEWS**

**In Memoriam**

**George A. Giovanis**

George A. Giovanis, 64, of Portsmouth, New Hampshire, passed away suddenly on July 25, 2022, at Maine Medical Center in Portland, Maine.

Born in Portsmouth in 1958, George was the only child of Arthur and Eva (Brickates) Giovanis. He spent his childhood in both Portsmouth and his mother’s hometown of Saco, Maine, eventually graduating from Thornton Academy in 1976.

After Thornton, George went on to earn a bachelor’s degree in business and economics from the University of Southern Maine in 1981 and a Juris Doctor degree from New England School of Law in 1985. He was licensed to practice in Maine, New Hampshire, and Florida, specializing in real estate and commercial law.

George spent his early years as a lawyer working with his uncles George and Robert Brickates at their firm in Biddeford, Maine. He went on to become the bank attorney for Pepperell Bank & Trust in Biddeford, later rising to the position of Chairman and Chief Executive Officer.

At Pepperell, George guided the bank through a major expansion, culminating with its acquisition by Bangor Savings Bank in 2007. After the merger, George retired from banking and focused on real estate investing through his company Mani Capital Ventures, splitting his time between his childhood home in Portsmouth and beach house in Old Orchard Beach.

George was extremely social, loving nothing better than to meet up with friends or family for dinner and lively conversations. For all the things George valued and considered precious, there was nothing he cherished more than being with family and friends and will be dearly missed by them. George is predeceased by his parents, Arthur and Eva Giovanis. He is survived by Lewis Brickates and his family, Agapy (Brickates) Lane and her family, Valerie (Brickates) Kennedy and her family, Elene Birch, and many cousins.

**Robert Brian Welts**

Robert Brian Welts, 89, died Monday, November 28, 2022, at the Courville Nursing Home in Nashua, New Hampshire. He was born on June 11, 1933, in Milton, Massachusetts, to parents Harry and Josephine Welts. He was the husband of Rose (Catalano) Welts. They enjoyed over 47 years of marriage before her passing in 2007.

Bob graduated from Milton High School in 1950. He went on to graduate from the University of Massachusetts Amherst. There, he met and married Rose. They had two children, Brian Welts and his wife, Susan, and Debra Welts and her husband, Bobman. The couple lived in Bridgewater, Massachusetts, where they raised their family.

Bob was known for his love of nature and the outdoors. He enjoyed hiking, fishing, and gardening. He was also an avid reader, particularly of mysteries and thrillers.

Survivors include his wife Rose, his children, Brian and Debra, and four grandchildren. He was predeceased by his parents, Harry and Josephine Welts.

**LawLine Thanks Volunteer Attorneys**

The NH Bar Association would like to give well-deserved thank you to Cooper Cargill Chant, answering LawLine calls.

**Welcome New Admittees**

We extend a warm welcome to the 47 new attorneys who were admitted on Nov. 14. Two admission ceremonies were held at the NH Supreme Court with Justice Gary E. Hicks presiding.


We also extend a warm welcome to R. Christopher Knowles who was admitted on December 7.

**Making Seasons Bright**

Through the support of our Committee, panelists, volunteers, and the New Hampshire Bar Foundation, the NHBA Lawyer Referral Service was able to help ensure equal access to justice for more than 6,500 people in 2022.

To learn more about our Full Fee, Modest Means, Lawline, and NH Free Legal Answers programs, visit nhbar.org/lawyer-referral-service.

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From Darkness to Light: Resources Available for the Troubled Attorney

It is hard to say just when and how I got to the point where I lost control over my drinking. I drank in high school, but no more than any of my friends. I drank in college because it was fun, at least that is what the beer commercials told me, and it made me feel funny and accepted. I drank in law school because it helped with the pressure of the volume of work and the anxiety over exams. The cycle of monk-like dedication to study reaching a crescendo at the exam, followed by a raging bender was established there. A version of that cycle became entrenched for the next 10 years with trials replacing exams and the benders now centered around weekends and holidays.

The intensity of my drinking grew worse with time. I did not know that this always happens. I told myself I was not hurting my work or relationships but, deep down I knew that was not true. I was whistling in the dark. I put together a couple of white-knuckle periods on the water wagon, but I picked up again and it was worse than before. I could not stop but knew I could not keep drinking either. There was no solution or so I thought at the time.

A life can change utterly in two ticks of a clock. It changed for me on a warm June night in the late 1990s, when I decided to go to a Alcoholics Anonymous (AA) meeting. I have not had a drink since then – one precious day at a time. AA changed everything and gave me a new way of living life on life’s terms instead of just on mine. I no longer needed the bottle as a crutch. I found the best meetings were those where I could relate to those who share about issues I can relate to. Lawyers experience unique stresses and pressures that non-lawyers do not always understand. The big civil case that has sat in the file cabinet for too long or the case that has gone unreturned, the pile of messages from the difficult divorce client that has gone unreturned, and the order from the Court that will infuriate the divorce client who gave up. The temptation to avoid dealing with these issues is strong. Multiply that temptation by a factor of 100 for a lawyer who is already a problem drinker.

Lawyers Concerned for Lawyers (LCL) is an organization that was founded many years ago by a small group of seacoast lawyers who wanted to share their common experiences and address any security incidents or breach of information privacy and security compliance. All stages of sobriety are welcome and the organization grew. LCL is now back to being live, as well as by Zoom, and is open to those of the NH Bar who think they might need it.

“There is only misery and darkness to lose,” an anonymous NH LCL member wrote.

The New Hampshire Lawyers Assistance Program (NHLAP) hosts the monthly Lawyers Concerned for Lawyers Peer Recovery Meetings. The LCL Peer Recovery Meeting is exclusively for law students, lawyers, and judges in, or seeking recovery from, substance use or abuse, and is always confidential. All stages of sobriety are welcome to connect with peers and gain support. They meet on the fourth Wednesday of the month at the NHLAP office and offer a remote participation option via Zoom for those who cannot attend the meeting in person. There is no participation requirement. The fellowship and support that is shared amongst participants is incredibly valuable.

For more information or to receive a meeting invitation, contact Jill O’Neill, Executive Director at NHLAP, by calling (603) 491-0282, or by emailing jill@nhbar.org. Any contact with the NHLAP is guaranteed to be confidential.

Breach from page 9

Businesses that have experienced breach know how critical it is to implement reasonable measures beforehand to avoid or minimize the scope and impact of such incidents. However, for businesses that have not done so, there are techniques that can reduce or eliminate liability. While no business wants to experience breach, no breach should be a company-ending event, as long as the appropriate techniques are implemented to protect the company.

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

Wellness Corner

McDowell & Morrissette is pleased to welcome our new associate,
Brian J. Stankiewicz

Brian joins the firm after graduating from the University of New Hampshire Franklin Pierce School of Law. During his first summer as a law student, Brian gained valuable experience interning with the Saint Anselm College Athletic Department Compliance office. After that, he joined McDowell & Morrissette as a law clerk, working on a wide range of matters, from medical malpractice to workers compensation claims and personal injury claims. While at UNH, he worked with the Criminal Practice Clinic, representing indigent defendants.

Brian received his Juris Doctor with a Sports Law certificate from University of New Hampshire Franklin Pierce School of Law and a B.A., cum laude, in Accounting from St. Anselm College.

McDowell & Morrissette

282 River Road, Manchester, NH 03104
Phone: 603-623-9300 Fax: 603-623-5390
www.McDowell-Morrissette.com
Alexander G. Henlin elected to the firm’s Executive Committee
Mr. Henlin is a member of the firm and former co-chair of the Insurance & Reinsurance group. He counsels and represents insurers and reinsurers in arbitrations, litigation, and alternative dispute resolution proceedings throughout New England. Mr. Henlin joined the firm in 2017 and works in our Boston, MA and Concord, NH offices.

Iryna N. Dore has been elected as Associate Member
Ms. Dore’s practice focuses on insurance coverage litigation, bad faith litigation, insurance defense and civil litigation. Her meticulous attention to detail and deep knowledge of the law make her an indispensable ally to clients. Iryna is based in our Concord, NH, office and works with clients in New Hampshire and Massachusetts.
My Swearing-In and a Hero of Our State

By Joseph D. Steinfield

When I was admitted to the New Hampshire Bar, John T. Broderick, Jr. was Chief Justice of the state’s Supreme Court. I lived in Boston at the time but satisfied the requirements to “waive in.” One July day, our group, mostly out-of-staters like myself, entered the courtroom. As the clerk prepared to administer the oath, Chief Justice Broderick spoke up and said, “I will swear in Mr. Steinfield personally.”

In the early 1970s, John Broderick was a young lawyer at a Manchester law firm. Norman Stahl, then a senior partner in the firm and later a federal judge, invited me to pay a visit and he introduced me to John, whom I remember as a tall, handsome, and serious young man. He went on to become head of the firm’s litigation department and president of the New Hampshire Bar Association.

In 1995, trial lawyer Broderick became Justice Broderick of the New Hampshire Supreme Court. In 2004, he became Chief Justice and served in that position until 2010. He then became Dean of the University of New Hampshire Franklin Pierce School of Law.

You would think that was enough for one lifetime: leader of the NH Bar, distinguished jurist, and head of the state’s only law school. As it turned out, all of this was prelude. John Broderick had yet to take on what he calls “the most important work I had ever done.” Those words appear in his recently published book, Backroads and Highways: My Journey to Discovery on Mental Health.

Having “grown up in a different era with a strongly rooted culture of silence around mental illness,” John Broderick explains his “mission of change,” which is to talk to young people about that forbidden subject. He does so candidly, and the students listen. No one has ever spoken to them the way he does. And after he speaks, he stays behind for a while so that students who want to talk with him privately can do so one-on-one. He listens, he understands, and encourages them to get help. He also gives them a hug.

The story of how he became a mental health missionary begins with unrecognized mental illness in his own family. Twenty years ago, he nearly died at his son’s hands. The Broderick family went through “agonizing years of despair, self-blame, and embarrassment,” but they survived as a family and reemerged whole.

Looking back, John says, “I was ignorant then. I’m not ignorant now. I was apparently tolerant of intolerance then. Not anymore.” His book is about more than the tens of thousands of miles driven and the hundreds of speeches given over the last six years. It is a plea to all of us to recognize that growing up in today’s world creates stress and anxiety, even more so now than in earlier times. As he knows first-hand, we ignore the subject of mental illness at our peril.

John Broderick is now Senior Director of External Health at Dartmouth Health. He no longer practices law or wears a judicial robe. Instead, he travels “backroads and highways” in his jeep and speaks and listens to young people. He is an agent for change. His family’s experiences opened his eyes, and the result is an eye-opening book.

I greatly appreciated Chief Justice Broderick’s kind gesture when he swore me in. I have admired this lawyer, judge, and educator for many years, but never more so than I do now.

The holiday season seems like the perfect time to pay tribute to the Honorable John T. Broderick, Jr.
By Elyse McKay

On November 14, attorneys and advocates throughout the state joined 603 Legal Aid’s DOVE Project for a training seminar at the New Hampshire Bar Association CLE Center to prepare attorneys to accept emergency protective order referrals.

Consider this fact pattern: From the outside, Amy and Jake seemed like a happy couple. He worked in sales and spent his free time at the climbing gym or the shooting range. She was a part-time stay-at-home mom and part-time plant nursery employee who loved trying local breweries with her friends. Until Jake was served with the protective order alleging assault, criminal threatening, interference with freedom, and animal cruelty, he had no idea Amy had been creating an escape plan with her confidential crisis center advocate. He told his friends and his attorney, that the only physical contact he could think with his girlfriend had been to keep her from falling drunkenly down the stairs with their child.

While this was the fact pattern used for the mock hearing conducted as part of the training, the “he said, she said” tale is one as old as time. Domestic violence occurs primarily in the privacy of the home and often contains elements of financial and familial dependency. Perception of disclosures can be clouded by common victim responses like memory lapses, anger, anxiety, or even laughter; fear of or inability to call the police or disclosing to medical professionals; coping mechanisms such as violent resistance or placatory gestures to keep the peace; and co-occurring substance use and mental health concerns.

Around 90 percent of domestic violence victims and survivors in New Hampshire navigate to the court in their protective hearings in crisis, through barriers upon barrier, without an attorney, and in 30 minutes or less. The DOVE Project partners with crisis center advocates and legal partners to connect survivors with representation at their final protective order hearings. A protective order can help a survivor by providing stabilizing relief far beyond no contact.

The DOVE CLE included panelists representing crisis centers, the legal community, and the judiciary to cover a wide range of topics and focused on a multidisciplinary response. Tina Schumacher of Voices Against Violence covered the dynamics of domestic violence, trauma-informed response, and the role of the advocate. 603 Legal Aid staff attorney Angelika Wilkerson provided an overview of relevant statutes and caselaw. Dedicated DOVE volunteer Lyndsay Robinson of Shaheen & Gordon covered practical skills for preparing/presenting a case. Former DOVE volunteer attorney and Circuit Court Judge David Burns shared his unique perspective on making a case to the court and presided over the mock hearing litigated by Attorneys Robinson and Wilkerson.

With just eight to 10 hours of your time per case, attorneys can make a difference for clients living in fear for their safety and sometimes their lives. The DOVE Project is here to support you while you support survivors. Along with continuing legal education, we provide technical assistance, connections to experienced mentors, litigation expense reimbursement, interpretation expense coverage, and primary malpractice insurance for cases accepted through 603 Legal Aid’s Pro Bono Program.

As the holiday season approaches, please consider giving the gift of your time and expertise. To learn more or volunteer, please reach out to dove@603legalaid.org.

Judge David Burns of the NH Circuit Court presents on Making Your Case to the Court.
Understanding the Toxicity of High Conflict and Moving Toward Good Conflict

High Conflict: Why We Get Trapped and How We Get Out
By Amanda Ripley
Simon & Schuster (2021), Hardcover, 368 pages
Reviewed by Erin McCoy Alarcon, Erin Alarcon Mediation

High Conflict. What is it exactly? How do we end up in it? How can we escape it? Journalist, author, and trained mediator, Amanda Ripley, with three years of research, investigation, and conversations as support, provides a compelling exploration of these questions and a practical guide for moving from high conflict to good conflict at home, work, and in the world.

Not all conflict is bad. In fact, good conflict can lead to opportunity, growth, and success. But high conflict is toxic. Television shows and movies can make this kind of entrenched, recurring conflict seem entertaining. Soap operas are an example of the romanticization of high conflict. Recently, I walked into the shared kitchen in my office building to find the TV tuned to a long-running soap opera. I watched off and on during my teen years. Not surprisingly, I discovered that the same characters are still fighting after several decades since I last watched the show.

Ripley defines high conflict as “a conflict that becomes self-perpetuating and all consuming, in which almost everyone ends up worse off. Typically, an us-versus-them.” We see this type of conflict every day, at work, in the community, in the news, and in our personal lives. One in four people experience work conflict, and about 20 percent of marriages involve recurring high conflict. Describing high conflict and its impact on us, Ripley tells a powerful story about the La Brea Tar Pits in Los Angeles, where scientists have found millions of bones of predators. Scientists hypothesize that these bones came to be there because when one animal ventured into the tar pits and got stuck, its cries for help attracted other larger predators, who then ventured into the tar pits and got stuck themselves. This happened again and again, until millions of animals had eventually, over time, gotten stuck and died in the tar pits. According to Ripley, high conflict in human relationships is a lot like those animals in the tar pits. We witness others in conflict, involve ourselves – often with good intentions – and then get sucked into the endless cycle ourselves. Once we are in, it is extremely difficult to extract ourselves without training, self-awareness, and outside help.

Following five true stories of conflicts, Ripley illustrates the anatomy of high conflict, the players, their struggles and ultimately how they each found their way out of high conflict. For example, Ripley follows Gary Friedman, a familiar name in the conflict resolution world, as he entered local politics with good intentions; fell into the trap of shaming, categorizing, and viewing the world in binary black and white; and eventually found his way back out of high conflict to a healthier and more productive form of good conflict.

High Conflict is a practical book. Beyond the illuminating and engaging illustrations and narrative, Ripley also included three extremely helpful appendices: (1) How to Recognize High Conflict in the World; (2) How to Recognize High Conflict in Yourself; and (3) How to Prevent High Conflict. These are how-to manuals to glance back at when you need a refresher. They include bullet point reminders of language and actions to look for that indicate a fall into high conflict, characteristics to be mindful of in oneself to avoid falling into one’s own tar pit, and target strategies for extracting oneself from high conflict. From the introduction through the final appendix, Ripley has written a well-researched, compelling, pragmatic, and helpful book that is highly relevant for all people. I will certainly refer back to High Conflict in my own life and as I work with clients during family, employment, and community mediations to stay out of the tar pits and find workable and sustainable solutions to their disputes.

Erin McCoy Alarcon, Esq. is a NH certified family mediator and GAL. The owner of Erin Alarcon Mediation, she mediates family, employment, landlord-tenant, and other civil matters in New Hampshire and Massachusetts. Ms. Alarcon also volunteers on her town’s Special Education Parent Advisory Council and Disability Commission.
In Memoriam from page 11

from Boston College with a Bachelor’s in Business and Accounting in 1954, and a ju-
ris doctorate from Boston College in 1957. He also earned an LLM (Master of Laws)
from Boston University. Bob started prac-
ticing law in Nashua in 1957, and by 1978,
he’d started his own firm which later be-
came Welts, White, and Fontaine. He served
Nashua for over 63 years until his retirement
in early 2021.

Bob enjoyed being involved in the
community. He joined the Knights of Co-
lumbus and Junior Chamber of Commerce
when he first moved to Nashua. He was a
past president of the Nashua Bar Associa-
tion and was awarded its highest honor, The
Lifetime Achievement Award. He was a for-
mer chairman of the Nashua Zoning Board,
as well as a member of the Nashua Board of
Alderman.

Along with skiing and tennis, Bob
loved to run. He was a member of the Gate-
City Striders and competed in the last four
National Senior Games in both the Road
Racing and Track and Field Divisions. He
completed many 5k and 10k races in his life,
averaging about 20 per year. He was also
a big Boston College Football fan and had
season tickets for more than 40 years.

Bob is predeceased by his wife, Rose
Welts.

He is survived by his son, Ryan Welts,
and his grandchildren, Zoe and Hannah
Welts. He was the brother to the late Rich-
ard A. Welts of Florida, and was a brother-
in-law to the late Anthony A. Catalano, Sr.,
and his wife the late Elaine Catalano, and a
brother-in-law to Lee Maciel of Stoneham,
MA. He is survived by his devoted partner
of 11 years, Patricia Legere of Bellingham,
MA. He is the uncle of Peter W. Catalano
and his wife Terri of Mashpee, MA, An-
thony A. Catalano, Jr., of Mashpee, MA,
Denise M.BINARI and her husband Steven
of Hampton, NH, Suzanne Maciel Thomas
and her husband Steven of Danville, NH,
and Carol Taranto of Belleville, Michigan.
He also leaves many loving nieces and
great nephews.

Eric A. Taussig

On November 28, 2022, Eric Tauss-
ig, of Moultenbor-
ough, New Hamp-
shire, peacefully
passed away at home
with his family at
his side from Acute
Myeloid Leukemia.
He was 78. Eric was
born on May 13,
1944, in London,
England, to Gerda and Walter Taussig. As
toddler, his family immigrated to New
York.

Eric graduated from Scarsdale High
School in 1962 and entered Adelphi Uni-
versity, graduating in 1966. He then taught
high school history and English and earned
a master’s degree in International Relations
from New York University (NYU). In 1969,
Eric enrolled in law school at NYU. After
law school, he initially served as an As-
stant Corporation Counsel for the City of
New York under J. Lee Rankin, and subse-
quently as a Senior Attorney for CBS, Inc.

One rainy evening in October of 1975
while Eric was browsing art at the Whitney
Museum he met Marlene, the love of his
life. In April 1976 they wed, and their mar-
iage endured for more than 46 years.

From 1977 to 2002, Eric worked in the
Legal Department at Philip Morris becom-
ing head attorney of the Human Resources
Department.

In 2002, Eric relocated to New Hamp-
shire, opening his own law practice. He
practiced law with his son, Richard. Many
respected attorneys influenced him over his
50-year career, too many to name, but each
is remembered in his family’s hearts.

He was a member of the Bar in New
Hampshire, New York, the District of Co-
lumbia and was admitted to practice before
various federal courts, including the United
States Supreme Court.

Eric was loyal and generous to his
friends, family and serving his community.
He served as a board member of the NYU
School of Law’s Center for Labor and many
not-for-profits in New Hampshire. Eric also
served terms as a member of the Town of
Moultonborough’s Conservation Commis-
sion and Planning Board.

Eric was an avid skier, hiker, and trav-
eler with a passion for playing classical pia-
n. He is survived by his wife, Marlene, his
daughter, Melanie, and his son, Richard.

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

To submit an obituary for publication, email
news@nhbar.org. Obituaries may be edited
for length and clarity.
Leak of SCOTUS’ Draft Opinion

The results from this survey help point to new opportunities to better engage members, support women lawyers and lawyers from underrepresented demographics, and recruit and retain a more diverse workforce.

JUNE 2022

Paraprofessional Pilot Program Signed into Law

On June 17, Governor Chris Sununu signed the Paraprofessional Pilot Program into law. This program, effective January 2023, is designed to expand the resources available to those needing legal help. It allows paralegals to assist qualifying clients in family and landlord/tenant matters with attorney-level responsibilities such as taking depositions.

NHBA Leadership Academy Class of 2022 Graduates at Annual Meeting

At the Bar’s Annual Meeting on June 18, the nine members of the NHBA Leadership Academy Class of 2022 graduated from the rigorous nine-month training program. Application forms for the Class of 2024 will be made available in early 2023.

NHBA Annual Meeting Held at Mountain View Grand Resort and Spa

The NHBA held the first in-person Annual Meeting since 2019. Recognized at this event were newly appointed and retiring judges, as well as the Justice William Grimes Award for Judicial Professionalism recipient, Hon. M. Kristin Spalth; the Distinguished Service to the Legal Profession Award recipient, Mitchell M. Simon; and the E. Donald Duffe rone Award for Outstanding Professionalism recipient, Pamela E. Phelan.

Sandra L. Cabrera Becomes Bar President During Gavel Pass at Annual Meeting

On June 18, Bar leadership passed from Richard Guerriero to Sandra Cabrera. Guerriero became immediate past president, where he remained available to assist Cabrera during her transition. On July 13, Cabrera resigned to become a Circuit Court Judge.

Bench-Bar Invite-Only Conference

On June 10, 125 people, including judges and attorneys, gathered to discuss issues facing the courts and how they impact the practice of law in New Hampshire.

JULY 2022

Jonathan M. Eck Becomes NHBA Bar President; Paul Chant Becomes President-Elect

On July 13, Jonathan Eck became Bar President, following Sandra Cabrera’s resignation. Vice-President Paul W. Chant became President-Elect, prompting a special election for the Vice President’s seat.
NHBA Wins Two Awards of Excellence from CLEA Trade Association
The NHBA wins Awards of Excellence from the Association for Continuing Legal Education (ACLEA). One award was for the newly updated NHBA Succession Planning Guide and the other was for the Law Related Education infomercial about the We the People: The Citizen and the Constitution civics education program.

AUGUST 2022

Supreme Court Order Addresses Defense Attorney Shortage
On August 10, the NHSC issued an order to help alleviate the backlog of indigent criminal defense cases. It allows Inactive Status attorneys to elect Limited Active Status to help with these cases, but they must take on at least three cases per year.

First NH-Hosted We the People Profession Development for Teachers a Success
On August 8, the Bar opened their doors for a special three-day training for civics and social studies teachers on the We the People: The Citizen and the Constitution curriculum.

SEPTEMBER 2022

Governor Sununu Signs Emergency Energy Assistance Program to Help Lower-Income Citizens
On September 15, Governor Chris Sununu signs Emergency Energy Relief Legislation into law. Households with incomes between 60 and 75 percent of the state’s median income were eligible to receive assistance toward their electric bills.

Board of Governors Orientation to the Bar
On September 30, new members were welcomed.

OCTOBER 2022

Economics of Law Surveys Results Released
The results from this survey provided a comprehensive picture of the current state of the legal profession in New Hampshire. It provided state-specific information about salaries, hourly rates, billable hours, technology use, and more.

Kathleen Mahan Elected NHBA Vice President
The special election for the Vice President of the Board of Governors ended on October 26, with Kate Mahan, elected to the position.

DECEMBER 2022

NH Senators Push Back on Presidential Proposal Concerning First Presidential Primary
After President Biden proposed to put South Carolina ahead of New Hampshire on the party’s presidential primary calendar, the Granite State senators issued statements vowing that New Hampshire would host its primary first.

President Joe Biden Signs Bill Protecting Marriages
On December 13, President Biden signed the Respect for Marriage Act into law. While not guaranteeing the right to marry, the Act specifies that states must recognize and protect same-sex and interracial marriages.

NHBA Hosts Practical Skills Training for New NH Attorneys
The training took place on December 13 at the Grappone Center in Concord. Attorneys that are new to practicing in New Hampshire were encouraged to go to get familiar with the Bench and Bar.
Lawyer Referral Service

Lawyer Referral Service (LRS) had a solid year in 2022. Everyday LRS received a steady number of callers and directed them to service that best suits their needs. LRS made over 6,500 referrals, with our panelists having earned 1.9 million dollars, resulting in nearly $200 thousand in collected fees. In addition, several LawLine events assisted more than 300 people during the monthly hotline. Our Free Legal Answers volunteers were able to assist more than 500 people by answering their legal questions anonymously and for free.

Member Services

The NHBA worked with the University of New Hampshire Survey Center to conduct a comprehensive Economics of Law Practice Survey. The survey was sent to all active status members this spring, and 1,405 members completed the survey for a response rate of 24 percent. The survey results provide an impressive tool which members may utilize to better inform law practice management decisions. The 2022 Economics of Law Practice Survey results are available to members on our website.

The Mentor Advice Program (MAP) continues to flourish. More than 120 attorneys have participated in MAP this year. Participants have found the experience to be fun and enriching. New attorneys have shared that they find it invaluable to have a mentor outside of their own firm who is open to frank discussion.

NHBA added two new member benefit discount providers this year. Wdrak offers professional editing software. Developed by an attorney, Wordrake helps professionals write clearly and concisely. Our newest member benefit eNotaryLog provides remote online notarization (RON) services. Firms have the option to use their own notaries and the eNotaryLog platform or eNotaryLog’s in-house notaries.

Law Related Education

Milford High School participated remotely in the National Finals after being named NH State Champs at the We the People (WTP) State Finals. Representing New Hampshire as national judges were long time WTP judges, Randy Gordon and Keri A. Welch.

A first ever for NH, three-day WTP Professional Development workshop was held at the Bar Center. Nine teachers from around the state participated. The first day saw NHBA Bar President Jonathan M. Eck addressing the class of teachers and encouraging them in civics and other LRE-related programming. Popular national scholars, Susan M. Leeson, PhD, JD and David L. Hudson Jr., JD led constitutional discussions based on WTP curriculum units over two days. The training culminated with the teachers taking part in ‘mock’ Congressional Hearings, much like their students will in the classroom.

Beyond High School saw more lawyers and judges in classrooms and auditoriums this year, expounding on the contents of the Beyond High School: A Guide to Your Rights and Responsibilities books.

The Law Related Education Committee is currently busy creating new lesson plans and working toward a more user-friendly LRE Website.
Middleton from page 1

Foundation, and he helped form the IOLTA program in 1982.

In 1999, after having quadruple bypass surgery, he returned to work after just one month – so he knew going back to law school would be a cakewalk.

“I think it will be fun,” Middleton agreed. He originally received his JD from Boston University Law, but UNH Franklin Pierce School of Law (UNH Law) was more than happy to take him on as a student for the day.

“Throughout my career, it has been really important to me to make sure that we are training lawyers to not just think like lawyers – which is incredibly crucial – but also to teach students to hit the ground running in the field of practice,” UNH Law Dean Megan Carpenter says.

“When we were approached about having a lawyer in the community go back to school, I wondered what the educational experience would be like for someone to sit in our classes and more or less reflect on the experience of law practice, or whether it would be reflective of the experience they had in law school.”

Franklin Pierce legal community and has been such an important part of the development of legal services across the state for so long. It’s a true honor to welcome him to the school.”

As Middleton strides through the doorway of UNH Law and into the lobby, he comments on how bright and cheerful the school looks.

“When I went to law school, it was an old building that was dark and dreary,” Middleton says. “They’ve done a really good job with their school – it would be a nice place to go.

Sitting in the lobby, he ruminates what the day has in store.

“I haven’t been in a class for many years,” Middleton ponders. “I suspect every student has their little computer that they carry around with them, hanging out their notes. It’s a little different than scribbling notes with a pen.”

Sarah Deitloff, a 3L student at UNH Law, greets Middleton in the lobby and proceeds to give him a tour of the campus.

“I was on the Board here for eight years until the merger [Franklin Pierce Law Center and UNH in 2010] occurred,” Middleton tells Deitloff as they walk through the halls. “So, I’m fairly familiar with this school. I’ve spent a lot of time here.”

Passing by the campus courtroom, Middleton pauses. Modeled after the NH Supreme Court, the room was built in 2009 as a resource for students to practice oral argument skills and trial advocacy.

“They didn’t have one of these available when I was in law school,” he says. “It’s very well done. It’s better than a lot of the state courtrooms.”

Middleton decides to have a little fun as Deitloff shows him the admissions office. He pokes his head in and tells the admissions assistant, “I’ve been a little slow getting to law school. Maybe I’ll learn something, though.”

Following the tour, Middleton has lunch with Dean Carpenter and two assistant deans, before heading to class.

“I graduated law school in 1956 – a little while ago,” Middleton says to Dean Carpenter at lunch. “I’m going to a class on torts. That will be interesting; it’s a subject that I may know a little about.”

Before class begins, Professor Sophie Sparrow asks him if he would like to participate in the class or to be called on. He tells her no and that he does not want to sit up front. Instead, he sits into the seats. Middleton sits between a pair of Claire, Claire Bueche and Claire Markey, 3L students assigned to acclimate him.

“I didn’t know what to expect,” Markley says. She is currently deciding between national security and health law. “I was a little intimidated at first, but once I got to know him, he was a super nice guy. As I explained about internet pages like Moodle and Canvas, where we have our syllabus and assignments, he was very intrigued that we had everything pretty much at our fingertips.”

As Sparrow lectures on sovereign immunity, the Federal Tort Claims Act, the discretionary function exception, and compensatory damages, Middleton follows along with Markley on her laptop.

“It was really funny because he would lean over and say, ‘that’s a really thin case,’ or ‘the attorney who takes that on has a lot of work ahead of them,’” Markley says. “It was interesting to hear his point of view on the case. It is an experience, whereas I’m reading them and thinking it’s just a case that I’m learning from. Totally different perspective.”

After the class, Professor Sparrow, who was voted 2018 Teacher of the Year, talks about the experience.

“I have been in New Hampshire for 37 years, and I knew of Jack as this incredibly knowledgeable, competent, well-respected attorney, and honestly, I was terrified,” Sparrow confesses. “I was completely intimidated. This man has 61 years of practice – and practices in the area that I’m teaching – what if I got something wrong?”

Sparrow need not worry, though. Middleton complimented her teaching style and said he thoroughly enjoyed himself.

“The professor was very well organized and very animated,” Middleton says. “The discussion, I would say, was very lively. She called on the students and they participated – I thought it was an excellent class.”

Middleton continues, “The students were also very helpful. They each have a computer and they can follow the thread of the lecture. The professor was talking about particular matters that came out of cases and the students had the cases on their computers. I saw some textbooks, but they seemed to have everything they needed on their computers. A little different, to say the least.”

Sixty-six years after obtaining his JD, Middleton’s return to law school left him in high spirits. When asked of the fundamental differences between law school then versus now, he said modern law students come away much better prepared.

“When I went to law school, it was purely coursework. The approach today is much more clinical. All we learned was theory,” Middleton says. “They [UNH Law] have a summer program, in addition to the clinical programs, which we didn’t have. I didn’t know what a sheriff was or how to get a hold of them when I first started. [Students] get a lot better prepared for real-life situations than we did. It’s a good opportunity for young people to learn something about how the system really works.”

Middleton also remarked how different the classrooms were set up and how class is conducted.

“We didn’t have classrooms like the one I was in today,” Middleton says. “This one has steps, so the farther back you go, you can still see the professor. And she utilizes a large screen and a computer. We took notes with a pen while the professors were lecturing, and they had a blackboard.”

Professor Sparrow, who graduated law school in 1986, echoes Middleton’s sentiments regarding the differences in modern-day law school.

“Our accreditors, the American Bar Association, now require experiential learning,” Sparrow says. “So, everyone has to have six credits of either simulations, like a trial practice class or negotiations, or they have to do a clinic or an internship.”

On UNH Law’s website, Sparrow’s biography indicates that she teaches students ages five to 60; however, after Jack Middleton’s law school adventure, they should change it to say she teaches students ages five to 93.

When asked if he would ever do this again, a huge grin spreads across Middleton’s face and his eyes light up, suggesting for a fleeting moment the precocious young law student he was in the mid-1950s.

“Sure,” he chuckles. “It was an enjoyable time.”
Have an idea for a CLE? Reach out to the Professional Development team or a member of the CLE Committee.

**FEBRUARY 2023**

**WED, FEB 1 – 12:00 p.m. – 1:30 p.m.**
At the Intersection of Law & Technology w/James Casey
- Webcast; 90 NHMCLE min.

**FRI, FEB 17 – 9:00 a.m. – 4:45 p.m.**
Midyear Meeting 2023
- Manchester • DoubleTree by Hilton

**MAY 2023**

**THU, MAY 4 – 12:00 p.m. – 1:00 p.m.**
The Sneaky Dozen: 12 Subtle Grammar & Writing Errors w/Lenne Espenched
- Webcast; 60 NHMCLE min.

**THU, MAY 11 – Time TBD**
Medical Malpractice
- Credits TBD
- Concord • NHBA Seminar Room/webcast

**THU, MAY 18 – 12:00 p.m. – 1:00 p.m.**
Illogic & Ethics w/Lenne Espenched
- Webcast; 60 NHMCLE ethics min.

**THU, MAY 25 – 8:30 a.m. – 10:30 a.m.**
17th Annual Ethics CLE
- 120 NHMCLE ethics min.
- Concord • NHBA Seminar Room/webcast

**JUNE 2023**

**THU, JUN 8 – 12:00 p.m. – 2:00 p.m.**
Survey Says: The Top 5 Drafting Errors in Ambiguous Contract Cases w/Lenne Espenched
- Webcast; 120 NHMCLE min.

**JUNE 2023**

**WED, JUN 14 – 8:30 a.m. – 4:45 p.m.**
Practical Skills for New Admittees-Day 1
- 360 NHMCLE min., incl. 120 ethics/prof.
- Concord - Grappone Conf. Center

**THU, JUN 15 – 8:30 a.m. – 12:00 p.m.**
Practical Skills for New Admittees-Day 2
- 180 NHMCLE min.
- Concord - Grappone Conf. Center

**THU, JUN 22 – 12:00 p.m. – 1:00 p.m.**
Quick Start Guide: 10 Drafting Dos & Don’ts Every Lawyer Should Know about Drafting Contracts w/Lenne Espenched
- Webcast; 60 NHMCLE min.

**THU, JUN 29 – 12:00 p.m. – 1:00 p.m.**
Fast Track Memo Writing for New Deal Lawyers w/Lenne Espenched
- Webcast; 60 NHMCLE min.

**FRI-SAT, JUN 23-24**
Annual Meeting 2023
- Portsmouth • AC Marriott

**THU, JUN 29 – 12:00 p.m. – 1:00 p.m.**
Drafting for New Deal Lawyers w/Lenne Espenched
- Webcast; 60 NHMCLE min.

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

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Contract Drafting with Lenne Espenchied – Webcast only

The Sneaky Dozen: 12 Subtle Grammar and Writing Errors
May 4, 2023 – 12:00 - 1:00 p.m.
60 NHMCLE min.

7 Questionable Associations that Cause Contract Litigation, and How to Avoid Them
Date TBD – 12:00 - 1:00 p.m.
60 NHMCLE min.

Illogic and Ethics
May 18, 2023 – 12:00 - 1:00 p.m.
60 NHMCLE ethics min.

Survey Says: The Top 5 Drafting Errors in Ambiguous Contract Cases
June 8, 2023 – 12:00 - 2:00 p.m.
120 NHMCLE min.

Quick Start Guide: 10 Drafting Dos and Don'ts Every Lawyer Should Know about Drafting Contracts
June 22, 2023 – 12:00 - 1:00 p.m.
60 NHMCLE min.

Fast Track Memo Writing for New Deal Lawyers
June 29, 2023 – 12:00 - 1:00 p.m.
60 NHMCLE min.

On Demand Programs from our Partners in the Shared in Catalog

68th Annual Institute 2022: The SEC’s Anticipated Climate-Related Disclosure Proposal & Its Implications for the Energy & Natural Resources Industry
From the Rocky Mountain Mineral Law Foundation
Original Program Date: July 21, 2022
60 NHMCLE min.

Can You Trust that the Electoral College Will Confirm America’s Vote in November – The Historic Roots & Modern Implications of The Electoral Count Act of 1887
From the ABA’s Federal Bar Section
Original Program Date: September 15, 2022
60 NHMCLE min.

7 Deadly Sins of Professional Advisors: Are They Trying to Drive Me Nuts?
From the Wyoming State Bar
Original Program Date: September 15, 2022
120 NHMCLE min.

Attacking a Laboratory’s Gas Chromatography (GC) Measurements in a DUI Case
From the Wyoming State Bar
Original Program Date: September 15, 2022
60 NHMCLE min.

2022 Annual Technology Symposium
From The Florida Bar
Original Program Date: June 22, 2022
390 NHMCLE min.

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**See Special Supplement to the January 2023 Bar News for Program Details and a Full List of Award Recipients**

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**Registration Opens Soon at NHBAR.ORG**

Watch for more information about registration for the Gender Equality Breakfast in an upcoming issue of e-Bulletin.

Watch Bar News, e-Bulletin, our web site, and our social media feeds for details.
NEW HAMPSHIRE BAR NEWS  www.nhbar.org  DECEMBER 21, 2022  25

MEET OUR SPEAKERS & CLE PRESENTERS

NHBA Pres. Jonathan Eck, Esq. Orr and Reno
Akhil Reed Amar, Esq. Yale Law School
Dana Remus, Esq. Covington and Burling
John Greabe, Esq. Warren B. Rudman Center for Justice, Leadership & Public Service
Hon. Gordon MacDonald New Hampshire Supreme Court
David Hudson, Esq. Belmont University College of Law

Earn valuable CLE credits* from our distinguished guest faculty as they discuss relevant & timely legal topics. (We even do the CLE attendance reporting for our NHBA members!)

*exact number of NHMCLE minutes TBD

Register early and get a free copy of The Words That Made Us: America’s Constitutional Conversation, 1760-1840 by Akhil Reed Amar of Yale University, one of our Midyear Meeting presenters. Must pick up book on site during the event. Visit the Exhibitor Area during lunch, meet the author and have the book signed (Quantities limited.)

**SCHEDULE-AT-A-GLANCE**
(subject to change; we invite you to visit our exhibitors during lunch and designated breaks throughout the day)

Gender Equality Breakfast
Tanna Clews: CEO & President
New Hampshire Women’s Foundation

Registration and Check-In / Continental Breakfast / Exhibitor Showcase
President’s Welcome / In Memoriam
Jonathan Eck, Esq.; Orr and Reno

CLE: The Importance of the Rule of Law and Present-Day Challenges
Akhil Reed Amar, Esq.; Sterling Professor of Law at Yale Law School

CLE: The Executive Branch Involvement with the Rule of Law
Dana Remus, Esq., Former Chief White House Counsel for the Biden Administration, Of Counsel, Covington and Burling

CLE: Rule of Law Panel Discussion
Moderated by John Greabe, Esq.; Director, Warren B. Rudman Center for Justice, Leadership & Public Service

Attorney Wellness and Mental Health
NHSC Chief Justice Gordon MacDonald

Business Meeting/Honors and Awards Luncheon/Book Signing

CLE: CaseLines Presentation
CLE: The Most Recent Term of SCOTUS
David Hudson, Esq.; Professor at Belmont University College of Law

CLE: First Amendment Principles and Attorneys Speaking to the Press
David Hudson, Esq.; Professor at Belmont University College of Law

CLE: Attorneys and the Press – Limits on Speech and Ethical Concerns
NH Attorney Panel Discussion

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NEW HAMPSHIRE BAR ASSOCIATION
Equal Justice Under Law
I. Code of Professional Responsibility

In 1970, the New Hampshire Real Estate Commission asked the New Hampshire Committee on Professional Conduct (NHEC) to issue an opinion as to whether or not a New Hampshire lawyer may also be a licensed real estate broker in New Hampshire. "Advisory Opinion No. 8, Attorney Practicing as a Real Estate Broker (NHEC 1970)." This advisory opinion cites a 1932 opinion of the ABA, which stated that it would be "improper for an attorney to engage in a business . . . (1) when the business is one that will readily lend itself as a means for procuring professional employment for him, (2) is such that it can be used as a cloak for indirect solicitation on his behalf, (3) or is of a nature that if handled by a lawyer, would be regarded as the practice of law." Opinion 57 (ABA 1932) (lawyer operating an insurance adjuster's bureau). With relative- ly little analysis, the Committee concluded that conducting a real estate brokerage business would violate all three concerns, and concluded that "there is a basic inconsistency between a lawyer practicing law and also working at the same time as a real estate agent or broker." Advisory Opinion 8, supra.

In 1975, the Ethics Committee revisited the issue. After first concluding that holding a brokerage license and a law license concurrently was illegal, and concluded "that there is a basic in- consistency between a lawyer practicing law and also working at the same time as a real estate agent or broker." Advisory Opinion 8, supra.

In 1982, the Ethics Committee was asked to reconsider its 1970 and 1975 opinions. Id. at 243 (emphasis added). The Court concluded that the real estate broker as stakeholder because of the lawyer's actions, and that her cost to hire another at- torney to represent her should be paid by the plaintiff's commission. The case raises several interesting is- sues. First, there was no nor se prohibition, at least in 1958, of a lawyer acting simul- taneously as a broker or as a client's advocate. The pro- nounced instead related to "the circumstances which arose." Second, the Court seemed to have no problem that the lawyer had not occupied an entirely separate business transaction with him as broker.

New Hampshire Bar Association Ethics Committee Opinion #2022-23/01
Ancillary Businesses Under Rule 5.7

A lawyer operating a brokerage business will violate Rule 7.3 which controls certain types of solicitation. Id. at 244 (emphasis added). For example, a lawyer may not "aid and abet" anyone in violation of Rule 7.3. A lawyer operating a brokerage business may be considered to be authorized to violate Rule 7.3, and may also be a "nonlawyer." The New Hampshire Ethics Committee is considering an advisory opinion regarding solicitation on behalf of a nonlawyer. It is not clear whether a New Hampshire lawyer may also be a licensed real estate broker in New Hampshire. "Advisory Opinion No. 8, Attorney Practicing as a Real Estate Broker (NHEC 1970)." This advisory opinion cites a 1932 opinion of the ABA, which stated that it would be "improper for an attorney to engage in a business . . . (1) when the business is one that will readily lend itself as a means for procuring professional employment for him, (2) is such that it can be used as a cloak for indirect solicitation on his behalf, (3) or is of a nature that if handled by a lawyer, would be regarded as the practice of law." Opinion 57 (ABA 1932) (lawyer operating an insurance adjuster's bureau). With relatively little analysis, the Committee concluded that conducting a real estate brokerage business would violate all three concerns, and concluded that "there is a basic inconsist- ency between a lawyer practicing law and also working at the same time as a real estate agent or broker." Advisory Opinion 8, supra.

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I. Pre-Code Case (1958)

Many of the early opinions cite Hines v. Donovan, 101 N.H. 239 (1958). Hines involved a New Hampshire lawyer (Hines) who represented a widow (Donovan) in a real estate transaction. The widow agreed to sell her real estate in a restaurant, which needed to be sold. The lawyer, "who also deals in real estate, asked Mrs. Donovan . . . if he might list the property." Id. at 240. The lawyer, through one of his employees, contacted the operator of a local restaurant, who said he might be interested, "but if he did any- thing he would have to act through the de- fendant Bean Real Estate Agency." Id. at 241.

An attorney employed by defendant Bean prepared a draft purchase and sale agreement and concluded "that defendant Bean had brought about the sale, and would be paid a commission by Donovan. The Court found that defendant Bean connived with the buyers "for the ex- press purpose of depriving the plaintiff of the commission to which he was entitled." Id. at 243.

Prior to the closing, the plaintiff did not notify the buyers or defendant Bean that he thought he was entitled to the com- mission, as he did not want to jeopardize the sale. "To his credit," the plaintiff advi- sed Donovan to sign, as the sale was in her best interest, indicating that he would bring a bill in equity after the closing to vindicate his right to the commission. Id.

While ruling in large part in the plain- tiff's favor, the Court was troubled with the lawyer's behavior. The Court recognized which arose be- cause of competition between Hines and the commission may be thought to have confronted Hines with a conflict of interest, problem of whether he could properly continue to represent his client with respect to the negotia- tions for the sale, and at the same time

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Likewise, the lawyer may not re...


In 1989, the Ethics Committee was examining the practice of law while conducting his dual practice. This required the Ethics Committee to revise its analysis, but not its conclusions. In 1987, the Committee considered an inquiring attorney who held active status in the New Hampshire Bar Association, but who was “enrolled in active status under the New Hampshire Bar Association...” Formal Opinion #1987-88/2, Dual Practice: Attorney as a Realtor (NHEC 1987).

The Committee also observed that “real estate brokerage involves many tasks, such as the proper drafting and execution of contracts, that lawyers are usually called on to perform.” Id. The Committee concluded that “the lawyer engaged in the dual practice of law and real estate brokerage is considered to be engaged in the practice of law while conducting his or her real estate brokerage business.” Id. See In the Matter of Unnamed Attorney and Unnamed Title Company; 138 N.H. 729 (1991); 140 N.H. 729 (1992) (both New Hampshire Appeals Court decisions). (Lawyers selling insurance to their clients can expect that the Rules of Professional Conduct and the Supreme Court Rules will be applied to her insurance business).

By concluding that the lawyer is acting as a lawyer when acting as a broker, the Committee found several problems. These included Rule 5.4(a) (sharing of legal fees), Rule 7.3 (solicitation), Rule 1.5 (legal fees), Rule 7.2 (advertising), Rule 1.6 (confidentiality), Rule 4.2 (dealings with represented parties), Rule 4.3 (dealing with unrepresented individuals), Rule 1.8 (certain conflicts of interest), and Rule 2.1 (independent judgment). Id. The opinion observed that Hines v. Donovan, supra, “provided an example of a lawyer who faced the problem of continuing to represent a client while maintaining his own conflicting interest as a broker.” Formal Opinion #1987-88/2, supra.

In 1989, the Ethics Committee was revisited the problem, this time under the provisions of the prior New Hampshire decisions.  Thus, if a lawyer does NOT do x, y, z, THEN all the Rules apply. For the lawyer considering operating an ancillary business, however, the question becomes IF I DO x, y, z, THEN what happens? In logical terms, the lawyer wants to look at the “inverse” of the original rule — IF I DO x, y, z, THEN NOT all the Rules apply. Unfortunately, the inverse does not always follow logically from the original conditional statement.

Rule 5.7 would be pointless, however, unless the lawyer who compiled was relieved of at least some of the Rules that would apply to a lawyer-client relationship.

The comments are somewhat coy about declaring what happens if a lawyer does comply with Rules 5.7(a)(1) and 5.7(a)(2). The Rule identifies the circumstances in which all of the Rules of Professional Conduct apply to the provision of law-related services.

When the full protections of all of the Rules of Professional Conduct do not apply to the provision of law-related services, principles of law external to the Rules, for example, the law of principal and agent, govern the legal duties owed to those receiving the services. Those other legal principles may establish a different degree of protection for the recipient with respect to confidentiality of information, conflicts of interest and permissible business relationships with clients. See also Rule 8.4 (Misconduct).

Likewise, the lawyer may not offer brokerage services under circumstances that are distinct from her provision of legal services, in a manner sufficient to assure that the person understands the nature of the distinct relationship. The communication should be in writing. 2004 ABA Model Rule 5.7 Comment 11 (emphasis added).

In 2007, New Hampshire adopted NHRPC Rule 5.7. The rule applies to the provision of law-related services, which “denotes services that might reasonably be performed in conjunction with and in substance related to the provision of legal services, and that are not prohibited as unauthorized practice of law when provided by a nonlawyer.” NHRPC Rule 5.7(b). The lawyer purpose is providing “law-related counseling.” 2004 ABA Model Rule 5.7 Comment 9.

Rule 5.7(a) provides as follows. A lawyer shall be subject to the Rules of Professional Conduct with respect to the provision of law-related services if the lawyer does not take reasonable measures under the circumstances to communicate the desired understanding. Id. at comment 7.

B. Parsing Rule 5.7

The wording of Rule 5.7 creates some logical challenges to the construction of a standard IF-THEN statement. If a lawyer does NOT do x, y, z, THEN all the Rules apply. For the lawyer considering operating an ancillary business, however, the question becomes IF I DO x, y, z, THEN what happens? In logical terms, the lawyer wants to look at the “inverse” of the original rule — IF I DO x, y, z, THEN NOT all the Rules apply. Unfortunately, the inverse does not always follow logically from the original conditional statement.

Rule 5.7 would be pointless, however, unless the lawyer who compiled was relieved of at least some of the Rules that would apply to a lawyer-client relationship.

In large part, this rule falls in line with the prior New Hampshire decisions. Thus, if the lawyer is handling the brokerage business out of her law office, in circumstances that are not distinct from her law practice, then Rule 5.7(a)(1) makes the lawyer subject to the Rules of Professional Conduct. As the earlier decisions indicated, it would be virtually impossible to conduct real estate brokerage business in the way it is usually performed, consistent with the Rules of Professional Conduct. At the other end, if a lawyer is not actively practicing law, she easily escapes both parts of Rule 5.7(a).

It gets murky, however, where the lawyer is actively engaged in the practice of law, but offers law-related services distinct from the legal services, “for example through separate entities or different support staff within the law firm.” 2004 ABA Model Rule 5.7 Comment 3. Such a circumstance was explicitly not addressed in our earlier opinions. “Neither our 1987 opinion nor the instant one address the situation of a practicing attorney running a real estate business in a separate setting from his or her law office.” Formal Opinion #1989-90/12, supra.

A. Taking Reasonable Measures

Even if the lawyer can offer brokerage services under circumstances that are distinct from her provision of legal services, the lawyer should communicate to the person receiving the law-related services, in a manner sufficient to assure that the person understands the nature of the distinct relationship. Rule 5.7(a)(2).

In doing so, ...
C. Conflict of Interest – Current Cli-ent (Rule 1.7)

Suppose a New Hampshire attorney who holds a real estate broker’s license (the broker) represents a seller of real estate and her law partner represents the buyer. We will assume in this and future hypotheticals that the broker has taken reasonable measures to assure that a person obtaining the law-related services knows that the services are not legal services and that the protections of the client-lawyer relationship do not exist. See NHRPC Rule 5.7(a)(2).

If the broker were acting as an attorney for the seller in the transaction, the partner could not simultaneously represent the buyer. This would constitute a concurrent conflict of interest. A broker may be able to seek a waiver under Rule 1.7(b). Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

1. The lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
2. The representation is not prohibited by law;
3. The representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and
4. Each affected client gives informed consent, confirmed in writing.

D. Conflict of Interest – Former Client (Rule 1.9)

Suppose the broker represents the seller and the buyer is a former client of the broker-lawyer. Suppose that during the earlier representation, the broker-lawyer learned from the former client that the property had extra value to that former client. Perhaps the land has oil and gas reserves, or mineral deposits, or sand and gravel, or old-growth timber. Perhaps the land has sentimental value to the former client, who is now a potential buyer. We will assume that the information is not generally known.

If the broker were providing legal services to the seller instead of brokerage services, this would require an interesting analysis under Rule 1.9. A lawyer who has formerly represented a client [the buyer in this case] in a matter shall not thereafter represent another person [the seller in this case] in the same or a substantially related matter in which that person’s interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.

NHRPC Rule 1.9(a). This in turn requires a determination of whether the sale was a “substantially related matter” to the earlier representation. Matters are “substantially related” for purposes of this Rule if they involve the same transaction or legal dispute or if they are otherwise a substantial risk that confidential factual information as would normally have been obtained in the prior representation would materially advance the client’s position in the subsequent matter.


Suppose a divorce client needs to sell off real estate as part of a settlement. Can the lawyer representing the client suggest using the law-related brokerage business to accomplish the sale? The lawyer may be hard pressed to persuade a disciplinary body, or a court, that such information was not used.

E. “Feeding” – Law Firm to Law-Related Business

Suppose a law firm refers a law client to her real estate brokerage business. Can the lawyer representing the law client suggest using the law-related brokerage business to accomplish the sale? The lawyer may be hard pressed to persuade a disciplinary body, or a court, that such information was not used.
This is the prototypical feeding situation feared by earlier opinions. One can imagine it arising with almost any law-related issue involving financial, accounting, trust services, real estate counseling, legislative lobbying, economic analysis, social work, psychological counseling, tax preparation, and patient, medical or environmental consultation. 2004 ABA Model Rule 5.7 Comment 9. The law-related client gets law-related services, but the lawyer recognizes that the brokerage client also needs legal services.

Before discussing the need for legal services in connection with brokerage issues, the broker-lawyer should ascertain whether the brokerage client is represented by another attorney in other matters. The broker-lawyer may not technically be "representing a client" within the meaning of Rule 1.9 and Comment 4 because the broker-lawyer believes that the Rule does not preclude communication with a represented person who is seeking advice from a lawyer who is not otherwise representing a client in the matter. Comment 9, however, makes it clear that if Rule 4.2 does not apply, Rule 4.3 might.

When providing brokerage services to the brokerage client, the lawyer is not "dealing on behalf of [another] client" so Rule 4.3 may not technically apply. It would nevertheless be prudent to refrain from giving legal advice to the brokerage client, other than the advice to secure legal counsel. See Rule 4.3.

The broker-lawyer, however, should refrain (even in silence) from suggesting that the brokerage client engage the lawyer’s firm to handle the legal work. The current (as of this writing) version of Rule 7.3(a) prohibits giving legal advice to the brokerage client, other than the advice to secure legal counsel. See Rule 4.3.

Rule 7.3 uses the word "professional" initially to describe "professional employment," referring to the establishment of an attorney-client relationship. Accordingly, the Committee interprets the second use of the word "professional" in the phrase "prior professional relationship" to refer to a prior attorney-client relationship. See Wise. Inf. Ethics Op. IE-16-01 (the term "professional relationship" does not include the relationships from the lawyer's nonlaw business). Accordingly, the Committee concludes that a referral to the law firm would violate Rule 7.3. See Informal Opinion 18-03 (Conn. 2018) (due to the risk of abuse, harassment, and overreach). The issue becomes a bit more complicated as we look at possible ways the conversation could play out. Suppose, for example, when the broker-lawyer points out that the situation requires a lawyer, the client simply asks if the broker’s law firm handles that sort of issue. If the law firm does handle those matters, the Committee believes that the broker can truthfully respond in the affirmative, without violating Rule 7.3(a). In that case, the broker-lawyer has not initiated contact with a prospective legal client; it is the client initiating the contact.

On the other hand, suppose the broker-lawyer simply asks if the broker-lawyer knows anybody who does the type of legal work required. May the broker-lawyer provide, for example, a list of four or five law firms that do that type of work, and include the broker-lawyer’s firm on that list? A plurality of the Committee concluded that such a list would be a truthful response to a legitimate question, and that the broker-lawyer was not initiating contact in violation of Rule 7.3(a).

Most on the Committee felt that the length of the list might bear on the issue. For example, if the list only included the broker-lawyer’s firm, that could be problematic. The Committee also notes that the current version of NHRPC Rule 7.3 differs from the current version of the ABA Model Rule. The current Model Rule allows a lawyer to have contact with a "person who has a prior business or professional relationship with the lawyer or the law firm." ABA Model Rule 7.3(b)(2) (emphasis added). Accordingly, under the newer version, the whole solicitation problem would go away. The careful attorney should always check the current version of the New Hampshire Rules to verify that the rules have not changed since the writing of any of our opinions.

CONCLUSION: The ABA proposed the current version of Model Rule 5.7 – the version adopted by the New Hampshire Ethics Committee in February 1994 and amended it in 2002. Ironically, the first version of Model Rule 5.7, adopted in 1991, prohibited ancillary businesses. Law firms (and lawyers generally) could offer law-related services only to their legal clients, and then only by the law firms themselves under the Rules. Law firms were prohibited from owning or operating a separate entity that offered law-related services. Lawyers seeking to establish law-related businesses in accordance with Rule 5.7 should exercise great caution. Such businesses have historically been viewed with hostility. Even after the adoption of Rule 5.7, in the lawyer's mind, many presumptions remain against the lawyer.

NH RULES OF PROFESSIONAL CONDUCT:

- Rule 1.0
- Rule 1.5
- Rule 1.6(a)
- Rule 1.7
- Rule 1.7(a)
- Rule 1.7(b)
- Rule 1.8
- Rule 1.8(a)
- Rule 1.9
- Rule 1.9(a)
- Rule 1.9(b)
- Rule 1.9(c)
- Rule 1.10
- Rule 1.10(a)
- Rule 1.11
- Rule 1.11(c)
- Rule 1.14(b)
- Rule 2.1
- Rule 4.2
- Rule 4.3
- Rule 5.4(a)
- Rule 5.7
- Rule 5.7(a)
- Rule 5.7(b)
- Rule 7.2
- Rule 7.3
- Rule 7.3(a)
- Rule 7.3(b)
- Rule 8.3
- Rule 8.4(c)
- Rule 8.4(g)

ENDNOTES:
1. The inverse of a conditional cannot be inferred from the conditional itself. Consider a teacher explaining a harsh reality to a marginal student: "If you do not take the final exam, then you will fail the course." But that does not necessarily mean that the inverse is true: "If you do fail the final exam, then you will not take the course." Why? The student might fail the exam. The converse, however, is always true: "If you did not fail the course, then you did take the final exam."
2. Some parts of Rule 8.4 may not arise when the lawyer is not providing legal services. As an example, Rule 8.4(g) applies only "while acting as a lawyer in any context." This opinion does not address the question of whether the provision of law-related services falls under the protection of Rule 8.4(g).
3. This limitation on the entrepreneurial activities in the prior version of Model Rule 5.7 may have been felt necessary to forestall regulation by governmental and prevent ethical and professional harm to clients. See Block, Model Rule of Professional Conduct 5.7: Its Origin and Interpretation, 5 Geo. J. Legal Ethics 739 (1992). The ABA, however, rescinded the earlier version of Model Rule 5.7 a year after its proposal before any state had adopted it. ■

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Focus on Business Law and Business Litigation

An Introduction to the Corporate Transparency Act

By Tony Delyani

For many years, Congress and law enforcement officials have recognized that organized crime, terrorists, and various other bad actors have utilized legally created entities to engage in and finance illegal activities, and to launder revenues from those activities. After numerous false starts, Congress passed the Corporate Transparency Act (CTA), on January 1, 2021, to be administered by the Treasury Department’s Financial Crimes Enforcement Network (FinCEN). Final rules providing more background and operational details, which become effective on January 1, 2024, were passed on September 30, 2022. The CTA will apply to entities currently in existence and to those created after the rules become effective, requiring non-exempt “reporting companies” to provide the personal information of specified individuals to FinCEN. The nature of the entities to which the CTA will apply leads us to conclude that a substantial percentage of New Hampshire businesses will be required to file with FinCEN.

Reporting Companies

The CTA defines a “reporting company” as a corporation, limited liability company, or other similar entity created by the filing of a document with a secretary of state or similar office or created in a foreign country and registered to do business in the United States. To date, the rules provide little guidance as to which types of entities fall within the definition of “other similar entity.” It appears clear that sole proprietorships will fall outside, of “other similar entity.” It appears clear that sole proprietorships will fall outside, of “other similar entity.” It appears clear that sole proprietorships will fall outside the definition of “reporting company” and thus from its filing requirements. These consist primarily of tax-exempt entities and entities engaged in regulated businesses, such as insurance companies, banks, credit unions, and securities brokers, dealers, and investment advisors. In addition, and possibly of greater importance to New Hampshire practitioners, entities with more than 20 full-time employees, more than $5,000,000 of annual gross receipts, and a physical office in the United States will be exempt.

Deadlines For Initial Filings And Information To Be Submitted

Reporting companies in existence as of the CTA’s January 1, 2024 effective date will be required to file an initial report with FinCEN or on before January 1, 2025, while reporting companies created on or after the effective date will be required to file an initial report within 30 days after creation. The initial report must provide information about the company itself and also personal information about its “beneficial owners.” Entities created after the effective date will be required to submit, in addition to company and beneficial owner information, personal information of the “applicant” who formed the entity.

Who Is A Beneficial Owner?

When dealing with CTA filings, practitioners should remain mindful that the focus of the CTA is to identify ownership by humans, not by entities, of interests in reporting companies. The CTA defines a beneficial owner as any individual who, directly or indirectly, either exercises substantial control over the reporting company or owns or controls at least 25 percent of the ownership interests of the reporting company. The final rule promulgated under the CTA states that an individual exercises substantial control over a reporting company if: he or she serves as a senior officer of the reporting company; has authority over the appointment or removal of any senior officer or a majority of the board of directors; or directs, determines, or has substantial influence over important decisions made by the reporting company, including those described in a list set forth in the rule.

Who Is An Applicant?

An applicant is any individual who files the documents required to form a reporting company or who files an application of a reporting company formed in a foreign country to do business in the US.

Reporting Company, Beneficial Owner, And Applicant Information

A reporting company’s initial report must be submitted on a form to be prescribed by FinCEN, and must provide the following company information: full legal name and any trade name or “doing business as” name; street address of principal place of business or, for non-US entities, the primary location in the US where it conducts business; its jurisdiction of formation or, for non-US entities, the US jurisdiction where it first registers to do business; and its IRS taxpayer identification number or, for non-US entities, a tax identification number issued by a foreign jurisdiction.

In addition, a reporting company’s initial report must include the following information concerning all of its beneficial owners (and, if formed after January 1, 2024, the company applicant): full legal name; date of birth; a residential street address or, in the case of an applicant who registers the entity in the course of his or her business, the street address of the business; and the unique identifying number and jurisdiction of issuance of a non-expired US passport, non-expired driver’s license, or non-expired foreign passport, in each case accompanied by an image of the document showing the unique identifying number.

The CTA provides reporting companies, beneficial owners, and applicants with an opportunity to be issued a “FinCEN identifier” by providing all of the information otherwise required to be submitted by FinCEN. Thereafter, the identifier can be used in lieu of submitting each piece of information that would otherwise be required.

Updating Of Information

If reporting company or beneficial owner information contained in a reporting company’s filing changes, the reporting company will be required to submit an updated report within thirty days of the change. Updating is not required when an applicant’s information changes.

Limited Availability Of Submitted Information

A concern that practitioners and members of the public alike might share is whether beneficial ownership information will be publicly available. It will not. Rather, it will be available only to law enforcement agencies, certain regulators, and, in some narrow circumstances, financial in-

ACT continued on page 34
An Overview of Equity Incentives for LLCs

By Andrew Grosvenor

Limited Liability Companies (LLCs) dominate the landscape of small businesses and startups, and many LLCs naturally grow in complexity without ever converting to corporations. Many founders want to motivate and reward their employees by offering stock options or similar ownership opportunities, but because LLCs are taxed as partnerships, companies need to be careful in how they go about putting equity incentive programs in place. LLCs are highly flexible, and as a result there are many ways to achieve founders’ goals, including direct equity grants, profits interests, phantom equity, and option grants.

Equity Grants. Granting direct ownership interests to employees is probably the most straightforward way to offer equity incentives, but these grants may carry unintended consequences. First, many LLCs express ownership as percentages rather than issuing “units” (roughly equivalent to shares of stock in a corporation). Granting equity without first amending the company’s operating agreement to provide for units can become cumbersome and confusing for LLC members to track how much of the company they own at any given time, especially if the interest granted is intended to vest over time.

Once an employee is granted an ownership interest in an LLC, they become a partner for tax purposes and will need to receive a K-1 from the company instead of being treated as a W-2 employee. The employee will also become subject to self-employment taxes and will need to make estimated tax payments. The grant of equity will likely qualify as a taxable event and incur liability to the employee for the difference between the fair market value of the interest granted and the amount paid for the interest (if any). For these reasons, direct grants of company equity are generally not desirable for an LLC.

Profits Interests. Unlike equity grants, profits interests have no value at the time of grant, and therefore the grant of a profits interest is generally not considered to be a taxable event. A profits interest will entitle the holder to a share of the future earnings of the company. The grant of a profits interest will usually avoid incurring immediate tax liability, but it does not solve the issue of making the recipient into a partner for tax purposes. Holders of vested profits interests will be taxed as partners of the LLC and will be ineligible for tax treatment as employees.

Phantom Equity. Phantom Equity grants are not actually true equity grants, but rather give the recipient the contractual right to a cash payment in the future, perhaps in connection with achievement of certain milestones, or remaining employed by the company for a certain length of time. The amount of the payment will be derived from the increase in the value of the company, and thus phantom equity achieves many of the same goals of a true equity grant.

Recipients of phantom equity maintain W-2 employee status and will not incur tax liability upon grant. However, since amounts received under phantom equity grants are not true equity, the increase in value will be taxed as ordinary income rather than as capital gains. It is also highly advisable that companies granting profits interests or phantom equity hire an appraiser to conduct a 409A valuation in order to establish a baseline for appreciation in value.

Options to Purchase Equity. LLCs may also grant options to purchase company equity in the future. Options allow for vesting schedules, but unlike the other grants discussed, options require that the recipient exercise the option by purchasing the underlying equity at a predetermined purchase price (referred to as the “exercise price”). Since the option has no value when it’s granted, it generally will not incur tax liability upon grant, and prior to exercise, recipients will remain eligible to be taxed as W-2 employees of the company. Unlike grants from corporations, LLC option grants to employees are not eligible for tax-advantaged treatment as incentive stock options and should instead be treated...

OVERVIEW continued on page 34
Truncated Trials: Direct Testimony Through Affidavits

By Michael J. Lambert

Imagine preparing a case for trial, but instead of preparing your witnesses for direct examination for your case-in-chief, you instead prepare and submit affidavits with their testimony. Your witnesses must still be in the courtroom for cross-examination and re-direct, but the direct testimony is by affidavit only.

Trial courts in New York have been doing this in commercial cases since 2016, pursuant to rules adopted by the NY Supreme Court. According to those rules, a court may require direct testimony by affidavit when (1) there is a non-jury trial or hearing, and (2) the witness is under the examining party’s control. NY Commercial Division Rule 32a. The rule specifically states that submission of direct testimony in affidavit form does not affect any right to conduct cross-examination or re-direct examination of the witness.

Some federal courts have adopted a similar approach. The US District Courts in New York and Massachusetts have been doing it for years. Interestingly, there is no direct authority allowing a court to impose direct testimony by affidavit. In fact, pursuant to Federal Rule of Civil Procedure 43(a), witnesses’ testimony must be taken in open court. Despite this requirement, some judges of the US District Court for the District of Massachusetts (as well as Massachusetts Superior Court judges) leave it up to the parties to stipulate whether the direct testimony of some or all witnesses will be taken in narrative or affidavit form (with rights of cross-examination reserved). Other courts have issued pre-trial orders requiring this procedure, justifying their imposition of this procedure by referring to Fed. R. Evid. 611(a), which permits the court to control the mode and manner by which parties present evidence at trial. Courts have also looked to Fed. R. Civ. P. 16 and 83 to justify requiring the parties to present direct testimony by written submissions. Fed. R. Civ. P. 16(c)(2) states that the “court may consider and take appropriate action . . . adopting special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems . . . [and] facilitating in other ways the just, speedy, and inexpensive disposition of the action.”

According to Fed. R. Civ. P. 83, a “judge may regulate practice in any manner consistent with federal law, rules adopted under 28 U.S.C. §§2072 and 2075, and the district’s local rules.” Clearly, neither of these rules address Fed. R. Civ. P. 43(a), and therefore counsel objecting to a pre-trial order by a court requiring direct testimony by affidavit has a legitimate argument that the court is overstepping its authority.

During the pandemic, this practice became ubiquitous in commercial cases in federal courts, as judges sought to expedite the often cumbersome and time-consuming remote bench trials. The return of lawyers and litigants to the courtroom does not appear to have changed courts’ use of this trial procedure. Given the ever-congested dockets and strains on judicial resources, any means of expediting time-consuming trials, including requiring direct testimony by affidavit, is unlikely to change.

Whether done by stipulation or imposed by the Court, presenting direct testimony by affidavit certainly changes pretrial strategy, witness preparation, and ultimately the conduct of trial. Judges with crowded dockets see this procedure as a necessary time-saving technique that shortens lengthy bench trials and prevents last-minute evidentiary disputes while still affording parties the opportunity for a full and fair trial. Many trial lawyers, however, have criticized this process as gutting the traditional presentation of testimony and affording parties the opportunity for a full and fair trial. The return of law firms and litigants to the courtroom does not appear to have changed courts’ use of this trial procedure.

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Malpractice Risks in Forming New Hampshire Multi-Member LLCs

By John Cunningham

To sue a lawyer for breaching her duty of care in forming a New Hampshire multi-member LLC, a plaintiff must prove, on the basis of expert testimony:

- That an attorney-client relationship existed between the plaintiff and the lawyer at the relevant time;
- That the lawyer breached her duty of care to the plaintiff; and
- That the breach harmed the plaintiff.

As readers will know, at least since 1997, LLCs have been the entities of choice for conducting New Hampshire businesses. There are presently more than 88,000 New Hampshire LLCs, and every year, New Hampshire businesses form roughly 12,000 more new LLCs under the Revised New Hampshire Limited Liability Company Act (New Hampshire LLC Act). IRS filing statistics suggest that at least 20 percent of these LLCs are multi-member LLCs. And while there are no relevant statistics:

- It is likely that in forming many of these New Hampshire multi-member LLCs, LLC founders use the assistance of New Hampshire lawyers;
- The main service provided by these lawyers to these LLC founders consists not in drafting and filing certificates of formation for these LLCs, which is likely to involve little or no malpractice risk, rather, it consists in drafting and operating agreements. As discussed below, this drafting may involve substantial risks.

As readers will know, LLC operating agreements are the agreements among the members of an LLC about the legal and tax structure of the LLC and about the rights and duties of the members. In my 25 years as a New Hampshire LLC lawyer, I’ve drafted hundreds of multi-member LLC operating agreements, and I’ve written extensively about the legal and tax issues that lawyers must address in this drafting. Multi-member LLC operating agreements are unavoidably complex; in my view, a good operating agreement must address at least 28 major types of legal and tax issues, and to address these issues competently, lawyers must address at least 200 subsidiary issues. Thus, significant malpractice risks are inherent for lawyers in drafting any multi-member LLC operating agreements, especially if, as is often the case, the formation or conduct of the relevant LLC involves significant financial stakes.

At this writing, there are no reported cases under the laws of New Hampshire or other states that address plaintiffs’ claims that in drafting multi-member LLC operating agreements for their LLCs, their lawyers have committed malpractice. I suspect this is so because most such claims result in settlements. However, on the basis of the above experience, I believe that there are three main types of malpractice that New Hampshire lawyers may commit in drafting these agreements.

1. Failure to meet New Hampshire professional ethics rules governing conflicts of interest. By definition, the drafting of multi-member LLC operating agreements will simultaneously affect two or more LLC members, and the lawyers drafting them may represent (i) only one of these persons; or (ii) two or more of them jointly.

Thus, whenever clients retain lawyers to draft these agreements, the first task of these lawyers must be (i) to determine which of these persons are their clients and which are not; (ii) to make their determinations clear to all of these persons; and (iii) to draft comprehensive joint representation agreements for their joint clients, to explain these agreements to them in detail, and to obtain their signature on them. See generally, Rule 1.7, New Hampshire Rules of Professional Conduct (Conflicts of Interest); Rule 1.7, American Bar Association Rules of Professional Conduct (comments on joint representations). Their failure to perform these tasks may result in malpractice claims against them by persons who are their lawyers not expressly but by implication.

2. Failure to advise multi-member LLC clients concerning operating agreement tax issues. In order to draft an operating agreement, a lawyer must consider numerous important federal and New Hampshire state tax issues. These include, for example, issues:

a) Whether the LLCs in question should be taxable under Internal Revenue Code Subchapters C, K or S;

b) How to structure LLC allocations to maximize the IRC section 199A deductions available to the members;

c) How the members can simultaneously maximize their section 199A deductions and the federal tax benefits available to them by making contributions to federally tax-favored retirement plans such as SEP-IRAs;

d) How to minimize the members’ Self-Employment Tax liabilities (e.g., by the use of Prop. Reg. § 1.1402(a)-2); and

e) How to protect LLCs from the New Hampshire Interest and Dividends Tax.

A failure to address any of these issues in a multi-member LLC operating agreement may trigger major federal or New Hampshire tax liabilities for affected LLC members.

Thus, if lawyers forming New Hampshire LLCs have the necessary tax competence, they must address these issues for their clients in operating agreements they draft for them; or, alternatively, if they lack this competence, they must so advise their clients and must advise them to retain lawyers or accountants who possess it.

3. Failure to take account of relevant provisions of the New Hampshire LLC Act. The New Hampshire Act contains roughly 300 separate provisions relevant to the drafting of multi-member LLC operating agreements, including definitional, mandatory, default, and permissive provisions. In drafting these agreements, lawyers must take into account each of these provisions.

For example, there are roughly 100 default provisions in the New Hampshire LLC Act—i.e., provisions that will govern an LLC unless the operating agreement provides otherwise. If a lawyer drafts an operating agreement that fails to expressly override a New Hampshire LLC Act default provision contrary to her clients’ interests and if this failure harms her clients, this may result in a serious malpractice claim against the lawyer.

Endnotes

1. As its title implies, the focus of this article is on malpractice risks for New Hampshire lawyers in assisting their clients in forming New Hampshire multi-member LLCs. More particularly, it focuses on planning and drafting operating agreements for these clients. It is true, of course, that many New Hampshire lawyers also assist their clients from time to time in forming single-member LLCs, and operating agreements can be useful (and often indispensable) not only to multi-member LLCs but also to LLCs with only one member. However, the malpractice risks in assisting clients in forming single-member LLCs are very low. Thus, in this article I will not discuss these risks.

2. In my view, the challenging task for NH lawyers with regard to multi-member LLC operating agreements is not their drafting, but rather, their planning. However, for brevity, the text of this article will refer only to the drafting of these agreements.

3. See, e.g., Drafting Limited Liability Company Operating Agreements, Chapter 4 (“General Drafting Guidelines”); Chapter 8 (“Multi-Member LLCs”); Chapter 38 (“Tax Tasks in LLC Formations”).

4. Section 199A provides annual 20 percent LLCs continued on page 34

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stitions upon request to FinCEN.
The CTA will undoubtedly present some practical and logistical challenges for practitioners. With sufficient notice to and education of clients, and by compiling reporting company, beneficial owner, and applicant well before the effective date, practitioners should be able to begin filing in 2024 with a minimum of difficulty and disruption for their practices.

**LLCs**

federal income tax deductions to individuals on their pass-through business income.

5. I am indebted to Evan Anderson, a student and a member of the law review of the University of New Hampshire Franklin Pierce School of Law for his assistance in the drafting of this article.

John Cunningham is of counsel to McLane Middleton, P.A. His practice is exclusively devoted to LLC law and tax. He chaired the committee that drafted the Revised New Hampshire Limited Liability Company Act.

He is the principal author of Drafting Limited Liability Company Operating Agreements, the leading U.S. LLC formbook and practice manual, published by Wolters Kluwer.

His telephone number is (603) 856-7172. His e-mail is lawjm@comcast.net. The link to his website is www.llc199a.com.

**Overview**

as non-qualified stock options. Provided that the exercise price is equal to the fair market value of the equity at the time of the grant, the grant will be tax free to the recipient. Upon exercise, the recipient will be taxed on the difference between the fair market value of the equity at the time of exercise and the exercise price - and the LLC would be entitled to a corresponding tax deduction.

Companies offering any of these incentives should put an “equity incentive plan” in place setting out the types of grants that may be made and ensuring compliance with applicable tax laws.

Andrew Grasroven is an attorney with Merritt & Merritt, Lawyers for Growth Companies, and one of NH & VT’s only B-Corp certified law firms.

**Affidavits**

tried a week-long bench trial in the Southern District of New York in a multi-mil-

lion-dollar business dispute. While the Judge was in the courtroom, the lawyers and the witnesses were remote on a secure Zoom platform. After seeking counsel’s input on the issue, the Judge ordered that the direct testimony be presented by affidavit, with a few notable exceptions. The first obvious exception was that the witness had to be under the parties’ control. The second exception was that the defendants were permitted to present the direct testimony of its witnesses as live testimony. The defendants argued, and the court agreed, that it would be unfair to give the plaintiffs a preview of the defendants’ direct testimony via affidavit in advance of the plaintiff’s case.

The Judge in our case used a few additional guardrails to ensure the full and fair presentation of witness testimony. The pretrial order gave the parties the opportunity to object in advance to the admissibility of statements contained in any direct testimony affidavit. Additionally, the party offering the direct testimony through affidavit had to make that witness available for cross examination. Finally, the proving party had an opportunity to re-direct its witness.

One of the greatest criticisms of the requirement that direct testimony be present by affidavits is that the court loses the ability to evaluate the witness’ credibility, particularly when the first time the court actually hears and sees the witness is on cross-examination. This was not an issue in the case I tried, largely for two reasons. First, for the most part, the cross and re-direct examination gave the lawyers and the Court ample “face-time” with the witnesses to make these critical determinations. Second, the most crucial witnesses, and the ones for whom a credibility determination was essential, were the defendants, who testified live. The credibility of these particular witnesses was central to the Court’s findings and rulings in our case, and the Judge had no issues evaluating these factors.

Ultimately, courts sitting as fact finders are uniquely positioned to navigate the evidentiary and persuasive burdens of the parties at trial. The use of affidavits for direct testimony is not a “one size fits all” option.

Like many things in our profession, there are nuances to each case and whether to use this time-savings procedure is not bimodal. Some use of affidavits, while also permitting direct witness testimony, may be advisable in certain circumstances. Direct testimony through affidavits can be used in a manner that maximizes judicial resources and protects the litigants’ rights to present their evidence in a full and fair way. This will require courts to be flexible and trial lawyers to keep their egos in check.

Michael J. Lambert is a Shareholder and Litigation Department Chair at Sheehan, Phinney, Bass & Green.

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**Attorney John M. Cunningham**

John forms LLCs, converts corporations to LLCs and represents clients in LLC disputes. He chaired the committee that drafted the NH LLC Act, and he is the author of the leading U.S. LLC legal and tax practice manual.

Visit www.llc199a.com to learn more about John’s practice.

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Companies offering any of these incentives should put an “equity incentive plan” in place setting out the types of grants that may be made and ensuring compliance with applicable tax laws.

Andrew Grasroven is an attorney with Merritt & Merritt, Lawyers for Growth Companies, and one of NH & VT’s only B-Corp certified law firms.

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The author would like to acknowledge the assistance of Patrick C. Closson, Esq., Chair of McLane Middleton’s Corporate Department, in the writing and editing of this article.

Tony Delavani is a Director in the Corporate Department of McLane Middleton. His practice focuses on all aspects of business law, including mergers and acquisitions, entity selection and formation, liquidations, financing, taxation, intellectual property, transition planning, and equity-based compensation planning.

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- May: Labor & Employment Law
- June: Municipal & Government Law & Intellectual Property Law

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About Contributing

to the sections.
Fiske v. NH State Prison Warden
An appeal from Hillsborough-South No. 2016-0006
Nov. 2, 2022
Affirmed.

• Whether the trial court erred in denying the defendant's pretrial motion to sever the possession of cocaine charge from the other charges at the beginning of the trial. The trial court denied the defendant's motion, finding that all of the offenses arose out of a single criminal episode [within the meaning of Super. Ct. R. 97-A] in effect when the cocaine was found in the inventory search that resulted in connection with the arrest on the other charges. Following a jury trial, the defendant was convicted on multiple counts.

N. H. R. Crim P. 20(a)(1)-(2) replaced Super. Ct. R. 97-Abut the pertinent language of both is identical so the Court on appeal analyzed the defendant's appeal on his application for a two-step analysis, the Court examined, de novo, whether the defendant's offenses were related and whether the joinder was not in the best interests of justice. The Court did not have reach the issue as whether appellate review should be limited to what was in front of the motion judge because the trial evidence was the same.

The Court interpreted the plain meaning of R. 20 to define a single criminal episode...to mean an uninterrupted criminal occurrence or series of occurrences that are connected in some other way...The defendant was sentenced after the effective date of the statute, the statute only provides for earned time credit if the prisoner is "granted this option by the presiding justice at the time of sentencing." The Court interpreted this language as providing the sentencing justice with discretion to grant or deny earned time credit requests.

Reviewing the arguments, de novo, the Court found that RSA 651-A:22-1 creates two groups, one group incarcerated prior to effective date of the statute (September 9, 2001) and one incarcerated after the statute went into effect. Whereas here the defendant was sentenced after the effective date, the statute only provides for earned time credit if the prisoner is "granted this option by the presiding justice at the time of sentencing." The Court rejected the defendant's request for appellate review into whether he could later petition for earned time credit not ripe for review because the defendant had not completed any programs under the statute nor had he received a recommendation from the commissioner. The Court accordingly affirmed.

On appeal, the plaintiff argued that the Superior Court erred in its review under RSA 677:15 of the Town of Amherst's planning board's decisions. Review of the planning board's decisions by the Superior and Supreme Courts is limited and reversal is permitted only upon findings of error of law or determinations that the factual findings are not supported by a reasonable basis.

The Supreme Court concluded that under the "subsequent application doctrine, a planning board cannot review an application submitted following rejection of an earlier one unless the "material change of circumstances affecting the merits of the application" exists. It was the plaintiff's burden, as applicant, to demonstrate that the original application was "materially different in nature and degree" from the first.

A planning board can implicitly or expressly invite further information to address its concerns. When provided an additional application, such responsive additional information evidences that the revised application is materially different. Here, where all disapproving board members referenced traffic concerns and noted that the plaintiff could reapply with additional information in their denial, the Court agreed that reapplication with additional traffic information was expressly invited. Thus, when the plaintiff supplied a traffic study, among other things, with its revised application, the Board and Superior Court erred in finding that the subsequent application was not materially different. The Court rejected the defendant's argument that it would not have accepted the application even with the completed traffic study because the board had stated in the earlier application on a finding that the traffic burden was too great. Instead, it cited traffic burden as an concern, indicating reapplication could be made if additional information was provided, and denied on the grounds that the plaintiff did not meet its burden of proof in demonstrating that there would be no significant adverse impact as defined in Section 3.18 C.1.c of the Town's zoning ordinances. The defendant had not made a final determination about the traffic impact in its higher decision and had not undertaken "full consideration" of the merits of the applications.

First noting that the determination into whether there was a material change was a threshold question, the Court found that "identified deficiency" in the original denial was lack of information. Revised application for an identical project submitted with supportive information addressing the identified informational deficiency is materially different.

Holding that the trial court and planning board had misapplied the case law, thus rendering their decisions legally erroneous, the Court reversed and remanded.

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Holding that the trial court and planning board had misapplied the case law, thus rendering their decisions legally erroneous, the Court reversed and remanded.
the NHRS had fiduciary duties to avoid overpayment whether by fraud or mistake. Looking next to the parties’ divorce decree and reviewing de novo, the Court agreed with the respondent that the reservation of respective rights in the decree did not create rights not available under RSA 100-A:13, II(a)(1).

The Supreme Court affirmed.

Louis L. Lafasciano, self-represented (on the brief), petitioner.

Foley Law Office, of Concord (Peter T. Foley on the brief), for the respondent.

Margaret Emily Murray, self-represented (on the brief), intervenor.

Employment Law

Donovan v. SNHU
An appeal from Hillsborough-North No. 2022-0154
Nov. 2, 2022
Affirmed.

• Whether the Superior Court erred in finding no public policy considerations to support plaintiff’s wrongful termination action when she alleged constructive discharge from SNHU, a private university, for failure to alter select students’ grades.

Plaintiff was hired by SNHU in 2011 and, in 2016, was an Associate Dean of Faculty in the math department. In September 2018, certain grading schemes were intended to be phased out. Several months later, in July 2018, it was identified that, unbeknownst to the students, certain math instructors were still utilizing the older grading scheme while other the new, and the application of grading schemes was inconsistent across different sections of the same course. After review, a colleague in the math department identified a couple of unidentified errors that had should have been passed but for the inconsistency in the grading schemes. The plaintiff felt that changing grades was unethical and violated grading practices at the university. Following urging her objections to changing the identified grades, SNHU put the plaintiff on “a performance improvement plan.” The plaintiff alleged that SNHU created a hostile work environment which resulted in her constructive termination when she resigned. SNHU then formally discharged the plaintiff on the basis of refusing to change the grades in question.

Construing all evidence and reasonable inferences in the light most favorable to the plaintiff, on appeal the Court found that the plaintiff failed to establish a claim upon which the court could grant relief. To prove wrongful termination, the plaintiff was required to show that the defendant had acted with bad faith, malice, or mistake and that the defendant “terminated the employment because the employee performed acts that public policy would encourage or because she refused to perform acts that public policy would condemn.”

The Court rejected plaintiff’s arguments and found that public policy cannot protect noncompliance with SNHU’s “decision to allegedly depart from its own internal grading policy” or internal rules and management decisions. Compliance with her employer’s whistle blower policy did not create a public policy against plaintiff’s claims. The Court was further unwilling to substitute a jury’s decision for that of an educational institution on the matter of academics and grading.

Accordingly, the Court affirmed the grant of summary judgment in favor of SNHU.

Lehmann Major List, PLLC, of Concord (Sean R. List on the brief and orally), for the plaintiff

Sheehan Phinney Bass & Green, P.A., of Portsmouth (Christopher Cole and Meghan Carrier on the brief, and Ms. Cole orally), for the defendant.

Keene Auto Body, Inc. v. State Farm
An appeal from 8th Cir. Court-Keene Dist. Div. No. 2021-0156
Nov. 15, 2022
Reversed and remanded.

• Whether the trial court erred in granting a motion to dismiss the plaintiff auto-body shop’s breach of contract on an insurance policy assigned to it post-loss for repairs it did on the vehicle compliant with its own higher estimate.

The plaintiff, an auto-body shop, brought suit for breach of contract after the defendant did not fully cover the costs of its repair of an insured motor vehicle. The plaintiff and defendant had not reached an agreement as to the repair and estimates. The plaintiff’s estimate was higher than the defendant’s own estimate of damage and included additional repair items. The vehicle owner instructed the plaintiff to proceed with the repairs it quoted and, without notifying or consulting defendant, assigned to the plaintiff rights under the policy that insured the vehicle.

On appeal, the Court first interpreted the anti-assignment provision of the insurance policy. Finding both parties’ interpretations to be reasonable, the Court construed it against the defendant. The Court also noted that the purpose of the clause was to “protect the insurer from increased liability.” Therefore, because, prior to a loss, the identity of the insured affects the risk to the insurer, a reasonable insured would understand why a pre-loss assignment without consent would be precluded by the policy terms. But post-loss, the identity of who exercised rights under the policy no longer affects the risk. The Court agreed with the majority of jurisdictions who have held that post-loss assignments are not subject to the anti-assignment restrictions in insurance policies. Confirming that the pleading requirements in a small claim complaint are minimal and also that a court ruling on a motion to dismiss in a small claims action is not limited to the four corners of the complaint, the Court held that the plaintiff sufficiently pled a breach of contract cause of action in the trial court. Therefore, the granting of the motion to dismiss was in error.

Accordingly, the Court reversed and remanded.

In a dissenting opinion, Justices MacDonald and Marconi found the anti-assignment clause to plainly and unambiguously preclude assignment without consent of both pre- and post-loss claims. Further, the dissenting opinion found that the insured risk is altered by the majority opinion because it allows the shop to write the estimate and enforce it without regard to the limitations in RSA 417:4, XX (c) and NH Insurance Department Rule 102.17.

Steve Pittpanen, court approved non-lawyer representative (on the brief and orally), for the plaintiff.

Primmer Piper Eggleton & Craemer PC, of Manchester (Brendan D. O’Brien on the brief and orally), for the defendant.


In the Matter of Franklin C. Jones, Esquire
ADM-2022-0006

By Order of the New Hampshire Supreme Court dated November 16, 2022 in Case No. ADM-2022-0006, In the Matter of Franklin C. Jones, Esquire, the New Hampshire Supreme Court Attorney Discipline Office (the ADO) and Attorney William H. Shaheen, Esquire, were ordered to publish a notice to the former clients of deceased attorney, Franklin C. Jones, Esquire, of the Firm should contact

Further notice is given that, Attorney Shaheen has taken possession of the client files of Attorney Jones as per the Court’s Order of October 19, 2022 in the within matter. The files are currently being stored at the former office of the Firm located at 40 Wakefield Street, Rochester, NH 03867. Former clients of Attorney Jones or the Firm should contact Attorney Shaheen at (603)749-5000 or the Firm at (603)224-5828 to request the return of your file, your file will be destroyed without additional notice to you within 30 days of this published notice.

In the Matter of Franklin C. Jones, Esquire
ADM-2022-0006
By Order of the New Hampshire Supreme Court dated November 16, 2022 in Case No. ADM-2022-0006, In the Matter of Franklin C. Jones, Esquire, the New Hampshire Supreme Court Attorney Discipline Office (the ADO) and Attorney William H. Shaheen, Esquire, were ordered to publish a notice to the former clients of deceased attorney, Franklin C. Jones, formerly of Rochester, New Hampshire as follows:

Notice is hereby given to the former clients of Attorney Franklin C. Jones, and Wensley & Jones, PLLC (the Firm), that Attorney Franklin C. Jones passed away on October 8, 2022 and that the Firm is closed. Further notice is given, that Attorney Shaheen has taken possession of the client files of Attorney Jones as per the Court’s Order of October 19, 2022 in the within matter. The files are currently being stored at the former office of the Firm located at 40 Wakefield Street, Rochester, NH 03867. Former clients of Attorney Jones or the Firm should contact Attorney Shaheen at (603)749-5000 or the ADO at (603)224-5828 to request the return of their file(s). Please note that if you do not contact Mr. Shaheen or the ADO for the return of your file, your file will be destroyed without additional notice to you within 30 days of this published notice.

US Bankruptcy Court Opinion Summary

Pape v. U.S. Bank, Nat’l Ass’n, as Legal Title Trustee for Truman 2012 SC2 Title Trust, et al. (In re Pape), 2022 BNH 604, issued August 15, 2022 (Cary, J.) (published) (determining that a mortgagee and its mortgage loan servicer (the “defendants”), were liable to the plaintiff-debtor on her claims of breach of contract, violation of the automatic stay under 11 U.S.C. § 362(k)(1) and contempt of the court’s order confirming the plaintiff-debtor’s chapter 13 plan where the defendants failed to treat the plaintiff-debtor’s mortgage loan as current and misapplied post-petition escrow payments).

Note: The full text of the opinion below will be available on the Bankruptcy Court’s website at www.nhbcourts.gov.
In accordance with Supreme Court Rule 37(9)-A, the Attorney Discipline Office (ADO) filed a petition pursuant to Supreme Court Rule 37(9)-A, for Attorney Kathleen M. Mahan, the Vic President of the New Hampshire Bar Assoc., to serve as the Board of Governors’ representative on the Professional Conduct Committee, for a term commencing immediately and expiring July 31, 2023.

Issued: November 10, 2022
ATTEST: Timothy A. Gudas, Clerk of Court
Supreme Court of New Hampshire

On July 15, 2022, the Attorney Discipline Office (ADO) filed a petition pursuant to Supreme Court Rule 37(9)-A, for Attorney William C. Sheridan’s interim suspension from the practice of law. On August 4, 2022, Attorney Sheridan filed a timely response to the petition. Accordingly, on August 18, 2022, the court appointed retired Superior Court Justice Larry M. Smukler to serve as referee in the matter, to hold a hearing on the issues presented in the ADO’s petition and in Attorney Sheridan’s response, and to submit a report to the court with his recommendations. See Rule 37(9)-A(c)-(e).

The referee held the hearing on October 5, 2022, and submitted his report and recommendations to the court on October 13, 2022. The referee determined that “[t]he documentary evidence supports the ADO’s petition and demonstrates, by clear and convincing evidence, that Sheridan’s conduct violated Supreme Court Rule 50 as well as Professional Conduct Rules 1.5 (fees), 1.15 (safekeeping client property), 3.3 (candor to the tribunal), 8.1 (misconduct by a partner or associate of an ADO) and 8.4(c) (dishonesty), and 8.4(a) (general rule).” The referee further stated: “Because the ADO has sustained its burden of demonstrating that an interim suspension is necessary to protect the public from a substantial threat of harm, I recommend that its petition for interim suspension be granted. See Sup. Ct. R. 37(9)-A(d), (e).”

On October 24, 2022, Attorney Sheridan filed a motion, with supporting affidavit, for reconsideration of the referee’s recommendations, to which the ADO objected on November 2, 2022. Because Rule 37(9)-A does not provide for a post-report motion to reconsider a referee’s recommendations, the court construed the motion as a request for the court to reject the referee’s recommendations. Having reviewed and considered the written arguments of the parties, the referee’s report and recommendations, and the record in this case, the court adopts the referee’s report and recommendations. Accordingly, the court finds that Attorney Sheridan’s interim suspension from the practice of law is necessary to protect the public from a substantial threat of serious harm and to preserve the integrity of the legal profession. Accordingly, it is hereby ordered:

1. In accordance with Supreme Court Rule 37(5)(a), the Supreme Court reappoints Attorney Julian Jefferson and Attorney Joshua Gordon to the Complaint Screening Committee, to serve three-year terms commencing January 1, 2023, and expiring December 31, 2025.

2. The Supreme Court designates Attorney Jefferson to continue to serve as chair.

Issued: November 30, 2022
ATTEST: Timothy A. Gudas, Clerk of Court
Supreme Court of New Hampshire

AMD-2022-0012, In the Matter of Casey L. Miller, Esquire
Attorney Casey L. Miller was ordered to appear at the New Hampshire Supreme Court on November 1, 2022, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why he should not be suspended for the following:

1. Bar Dues and Court Fees – Attorney Miller has not paid his 2022/2023 bar dues and court fees, and the $100 in delinquency fees assessed for late payment. See Supreme Court Rule 42A.

Attorney Miller did not respond to the order or appear for the November 1, 2022 hearing. Justice Hantz Marconi recommenced the court to suspend Attorney Miller be suspended from the practice of law in New Hampshire.

Attorney Casey L. Miller is hereby suspended from the practice of law in New Hampshire for failure to complete the requirements listed above, and for his failure to appear for the November 1, 2022 hearing. Attorney Miller is ordered to notify his clients in writing that he has been suspended from the practice of law in New Hampshire and to notify the Attorney Discipline Office by January 6, 2023 that he has completed this task. On or before January 23, 2023, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to make an inventory of Attorney Miller’s files and to take action to protect the interests of his clients.

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

ISSUED: December 7, 2022
ATTEST: Timothy A. Gudas, Clerk

AME-2022-0015, In the Matter of Gregory M. Cantwell, Esquire
Attorney Gregory M. Cantwell was ordered to appear at the New Hampshire Supreme Court on November 1, 2022, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why he should not be suspended for the following:

1. Bar Dues and Court Fees – Attorney Cantwell has not paid his 2022/2023 bar dues and court fees, and the $100 in delinquency fees assessed for late payment. See Supreme Court Rule 42A.

Attorney Cantwell did not respond to the order or appear for the November 1, 2022 hearing. Justice Hantz Marconi recommended to the court that Attorney Cantwell be suspended from the practice of law in New Hampshire.

Attorney Gregory M. Cantwell is hereby suspended from the practice of law in New Hampshire for failure to complete the requirements listed above, and for his failure to appear for the November 1, 2022 hearing. Attorney Cantwell is ordered to notify his clients in writing that he has been suspended from the practice of law in New Hampshire and to notify the Attorney Discipline Office by January 6, 2023 that he has completed this task. On or before January 23, 2023, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to make an inventory of Attorney Cantwell’s files and to take action to protect the interests of his clients.

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

ISSUED: December 7, 2022
ATTEST: Timothy A. Gudas, Clerk

AMD-2022-0016, In the Matter of Catherine M. Costanzo, Esquire
Attorney Catherine M. Costanzo was ordered to appear at the New Hampshire Supreme Court on November 1, 2022, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why she should not be suspended for the following:

1. Bar Dues and Court Fees – Attorney Costanzo has not paid his 2022/2023 bar dues and court fees, and the $100 in delinquency fees assessed for late payment. See Supreme Court Rule 42A.

Attorney Costanzo did not respond to the order or appear for the November 1, 2022 hearing. Justice Hantz Marconi, and Donovan, J.J., concurred.

ISSUED: December 7, 2022
ATTEST: Timothy A. Gudas, Clerk

ORDERS continued on page 38

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NEW HAMPSHIRE BAR NEWS www.nhbar.org DECEMBER 21, 2022 37
Attorney Catherine M. Costanzo was ordered to appear at the New Hampshire Supreme Court on November 1, 2022, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why she should not be suspended for the following:

1. Bar Dues and Court Fees – Attorney Costanzo has not paid her 2022/2023 bar dues and court fees, and the $100 in delinquency fees assessed for late payment. See Supreme Court Rule 42A.

2. NHMCLE Certification – Attorney Costanzo has not fulfilled NHMCLE requirements of Supreme Court Rule 53 for the reporting year ending May 31, 2022, and has not paid the $300 in assessed delinquency fees. See Supreme Court Rule 42A.

Attorney Costanzo did not respond to the order or appear for the November 1, 2022 hearing. Justice Hantz Marconi recommended to the court that Attorney Costanzo be suspended from the practice of law in New Hampshire.

By January 6, 2023, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to make an inventory of Attorney Daniele’s files and to take action to protect the interests of her clients.

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

ISSUED: December 7, 2022
ATTEST: Timothy A. Gudas, Clerk

ADM-2022-0019, In the Matter of Heather L. Galluzzo, Esquire

Heather L. Galluzzo was ordered to appear at the New Hampshire Supreme Court on November 1, 2022, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why she should not be suspended for the following:

1. Bar Dues and Court Fees – Attorney Galluzzo has not paid her 2022/2023 bar dues and court fees, and the $100 in delinquency fees assessed for late payment. See Supreme Court Rule 42A.

Attorney Galluzzo did not respond to the order or appear for the November 1, 2022 hearing. Justice Hantz Marconi recommended to the court that Attorney Galluzzo be suspended from the practice of law in New Hampshire.

By January 24, 2023, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to make an inventory of Attorney Galluzzo’s files and to take action to protect the interests of her clients.

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

ISSUED: December 8, 2022
ATTEST: Timothy A. Gudas, Clerk

ADM-2022-0020, In the Matter of Ronald G. George, Esquire

Ronald G. George was ordered to appear at the New Hampshire Supreme Court on November 1, 2022, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why he should not be suspended for the following:

1. Bar Dues and Court Fees – Attorney George has not paid his 2022/2023 bar dues and court fees, and the $100 in delinquency fees assessed for late payment. See Supreme Court Rule 42A.

Attorney George did not respond to the order or appear for the November 1, 2022 hearing. Justice Hantz Marconi recommended to the court that Attorney Daniele be suspended from the practice of law in New Hampshire.

By January 9, 2023, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to make an inventory of Attorney George’s files and to take action to protect the interests of his clients.

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

ISSUED: January 9, 2023
ATTEST: Timothy A. Gudas, Clerk

ADM-2022-0021, In the Matter of Diane R. Hayes, Esquire

Diane R. Hayes was ordered to appear at the New Hampshire Supreme Court on November 29, 2022, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why she should not be suspended for the following:

1. Bar Dues and Court Fees – Attorney Hayes has not paid the $100 in delinquency fees assessed for late payment of her 2022/2023 bar dues. See Supreme Court Rule 42A.

Attorney Hayes did not respond to the order or appear for the November 29, 2022 hearing. Justice Hantz Marconi recommended to the court that Attorney Hayes be suspended from the practice of law in New Hampshire.

By January 9, 2023, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to make an inventory of Attorney Hayes’s files and to take action to protect the interests of her clients.

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

ISSUED: January 9, 2023
ATTEST: Timothy A. Gudas, Clerk

ADM-2022-0023, In the Matter of Matthew J. Martin, Esquire

Matthew J. Martin was ordered to appear at the New Hampshire Supreme Court on November 1, 2022, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why he should not be suspended for the following:

1. Bar Dues and Court Fees – Attorney Martin has not paid his 2022/2023 bar dues and court fees, and the $100 in assessed delinquency fees. See Supreme Court Rule 42A.

2. Trust Accounting Certification – Attorney Martin has not filed his annual trust accounting certification, which paid the $300 in assessed delinquency fees, as required by Supreme Court Rule 50-A.

Attorney Martin did not respond to the order or appear for the November 1, 2022 hearing. Justice Hantz Marconi recommended to the court that Attorney Martin be suspended from the practice of law in New Hampshire.

By January 9, 2023, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to make an inventory of Attorney Martin’s files and to take action to protect the interests of his clients.

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

ISSUED: December 8, 2022
ATTEST: Timothy A. Gudas, Clerk

ADM-2022-0025, In the Matter of Michelle A. McHale, Esquire

Michelle A. McHale was ordered to appear at the New Hampshire Supreme Court on November 1, 2022, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why she should not be suspended for the following:

1. Bar Dues and Court Fees – Attorney McHale has not paid her 2022/2023 bar dues and court fees, and the $100 in assessed delinquency fees. See Supreme Court Rule 42A.

2. Trust Accounting Certification – Attorney McHale has not filed her annual trust certificate and has not paid the $300 in assessed delinquency fees, as required by
At

appointed to make an inventory of Attorney and to notify the Attorney Discipline Office requirements listed above, and for her failure Attorney McHale did not respond to the order or appear for the November 1, 2022 hearing. Justice Hantz Marconi recommended to the court that Attorney McHale be suspended from the practice of law in New Hampshire.

Attorney Michelle A. McHale is hereby suspended from the practice of law in New Hampshire for failure to complete the requirements listed above, and for her failure to appear for the November 1, 2022 hearing. Attorney McHale is ordered to notify her clients in writing that she has been suspended from the practice of law in New Hampshire and to notify the Attorney Discipline Office by the Supreme Court on November 1, 2022, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why she should not be suspended for the following:

1. Bar Dues and Court Fees – Attorney McKenny has not paid his 2022/2023 bar dues and court fees, and the $100 in delinquency fees assessed for late payment. See Supreme Court Rule 42A.

2. Trust Accounting Certification – Attorney Norris has not filed his annual trust certificate and has not paid the $300 in assessed delinquency fees. See Supreme Court Rule 50-A.

3. NHMCLE Certification – Attorney Norris has not fulfilled NHMCLE requirements of Supreme Court Rule 53 for the reporting year ending May 31, 2022, and has not paid the $300 in assessed delinquency fees. See Supreme Court Rule 42A.

Attorney McHale did not respond to the order or appear for the November 1, 2022 hearing. Justice Hantz Marconi recommended to the court that Attorney McHale be suspended from the practice of law in New Hampshire.

Attorney Robert V. McKenney is hereby suspended from the practice of law in New Hampshire for failure to complete the requirements listed above, and for his failure to appear for the November 1, 2022 hearing. Attorney McKenney is ordered to notify his clients in writing that he has been suspended from the practice of law in New Hampshire and to notify the Attorney Discipline Office by January 11, 2023, that he has completed this task. On or before January 26, 2023, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to make an inventory of Attorney McKenney’s files and to take action to protect the interests of his clients.

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

ISSUED: December 12, 2022
ATTEST: Timothy A. Gudas, Clerk

ADMIN-2022-0026, In the Matter of
Robert V. McKenney, Esquire

Attorney Robert V. McKenney was ordered to appear at the New Hampshire Supreme Court on November 1, 2022, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why he should not be suspended for the following:

1. Bar Dues and Court Fees – Attorney McKenny has not paid his 2022/2023 bar dues and court fees, and the $100 in delinquency fees assessed for late payment. See Supreme Court Rule 42A.

2. Attorney Miller did not respond to the order or appear for the November 1, 2022 hearing. Justice Hantz Marconi recommended to the court that Attorney Miller be suspended from the practice of law in New Hampshire.

3. Attorney George W. Miller is hereby suspended from the practice of law in New Hampshire for failure to complete the requirements listed above, and for his failure to appear for the November 1, 2022 hearing. Attorney Miller is ordered to notify his clients in writing that he has been suspended from the practice of law in New Hampshire and to notify the Attorney Discipline Office by January 11, 2023, that he has completed this task. On or before January 26, 2023, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to make an inventory of Attorney Miller’s files and to take action to protect the interests of his clients.

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

ISSUED: December 12, 2022
ATTEST: Timothy A. Gudas, Clerk

ADMIN-2022-0027, In the Matter of
George W. Miller, Esquire

Attorney George W. Miller was ordered to appear at the New Hampshire Supreme Court on November 1, 2022, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why he should not be suspended for the following:

1. Bar Dues and Court Fees – Attorney Miller has not paid his 2022/2023 bar dues and court fees, and the $100 in delinquency fees assessed for late payment. See Supreme Court Rule 42A.

2. Attorney Miller did not respond to the order or appear for the November 1, 2022 hearing. Justice Hantz Marconi recommended to the court that Attorney Miller be suspended from the practice of law in New Hampshire.

3. Attorney George W. Miller is hereby suspended from the practice of law in New Hampshire for failure to complete the requirements listed above, and for his failure to appear for the November 1, 2022 hearing. Attorney Miller is ordered to notify his clients in writing that he has been suspended from the practice of law in New Hampshire and to notify the Attorney Discipline Office by January 11, 2023, that he has completed this task. On or before January 26, 2023, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to make an inventory of Attorney Miller’s files and to take action to protect the interests of his clients.

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

ISSUED: December 12, 2022
ATTEST: Timothy A. Gudas, Clerk

ADMIN-2022-0028, In the Matter of
Anthony M. Norris, Esquire

Attorney Anthony M. Norris was ordered to appear at the New Hampshire Supreme Court on November 1, 2022, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why he should not be suspended for the following:

1. Bar Dues and Court Fees – Attorney Norris has not paid his 2022/2023 bar dues and court fees, and the $100 in assessed delinquency fees. See Supreme Court Rule 42A.

2. Trust Accounting Certification – Attorney Norris has not filed his annual trust certificate and has not paid the $300 in assessed delinquency fees. See Supreme Court Rule 50-A.

3. NHMCLE Certification – Attorney Norris has not fulfilled NHMCLE requirements of Supreme Court Rule 53 for the reporting year ending May 31, 2022, and has not paid the $300 in assessed delinquency fees. See Supreme Court Rule 42A.

Attorney Norris did not respond to the order or appear for the November 1, 2022 hearing. Justice Hantz Marconi recommended to the court that Attorney Norris be suspended from the practice of law in New Hampshire.

Attorney Anthony M. Norris is hereby suspended from the practice of law in New Hampshire for failure to complete the requirements listed above, and for his failure to appear for the November 1, 2022 hearing. Attorney Norris is ordered to notify his clients in writing that he has been suspended from the practice of law in New Hampshire and to notify the Attorney Discipline Office by January 11, 2023, that he has completed this task. On or before January 26, 2023, the Attorney Discipline Office shall advise the court if it believes that an attorney should be appointed to make an inventory of Attorney Norris’s files and to take action to protect the interests of his clients.

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

Issued: December 12, 2022
Attest: Timothy A. Gudas, Clerk

Orders continued on page 40

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Norris’s files and to take action to protect the interests of his clients.

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

ISSUED: December 12, 2022
ATTEST: Timothy A. Gudas, Clerk


Attorney Robert E. Ricles was ordered to appear at the New Hampshire Supreme Court on November 1, 2022, for a hearing before Justice Anna Barbara Hantz Marconi, to show cause why he should not be suspended for the following:

1. Bar Dues and Court Fees – Attorney Ricles has not paid his 2022/2023 bar dues and court fees, and the $100 in delinquency fees assessed for late payment. See Supreme Court Rule 42A.

Attorney Ricles did not respond to the order or appear for the November 1, 2022 hearing. Justice Hantz Marconi recommended to the court that Attorney Ricles be suspended from the practice of law in New Hampshire.

Supreme Court Rule 42A.

In accordance with Rule 2(d)(ii), the Supreme Court appoints Attorney Galen E. Sullivan and Attorney Brendan D. O’Brien, and reappoints Attorney Doreen F. Connor nunc pro tunc, to the Board of Bar Examiners. Attorney Sullivan shall serve a three-year term, commencing immediately and expiring November 1, 2025. Attorney O’Brien shall serve the remainder of Attorney Sullivan’s three-year term commencing November 1, 2025, and expiring November 1, 2028.

Pursuant to Supreme Court Rule 51(d)(1), the court reappoints the following persons to the Advisory Committee on Rules, to serve three-year terms commencing January 1, 2023, and expiration December 31, 2025: Superior Court Judge N. William Delker; Attorney Charles Keefe; and Terri Peterson, Circuit Court clerk.

Pursuant to Rule 51(d)(1), the court appoints Mark A. Brave, a non-attorney and the current sheriff of Strafford County, to the Advisory Committee on Rules, to serve a three-year term commencing January 1, 2023, and expiring December 31, 2025. Sheriff Brave is appointed to replace Ahi Richter, whose term expires December 31, 2022.

ISSUED: December 13, 2022
ATTEST: Timothy A. Gudas, Clerk

ISSUED: December 12, 2022
ATTEST: Timothy A. Gudas, Clerk

ISSUED: December 12, 2022
ATTEST: Timothy A. Gudas, Clerk

ISSUED: December 12, 2022
ATTEST: Timothy A. Gudas, Clerk

ISSUED: December 12, 2022
ATTEST: Timothy A. Gudas, Clerk
November 2022

* Published

FLSA and New Hampshire Wage Laws

11/22 Wallen v TendoNova, Corp.
Case No. 20-vc-790-SE, Opinion No. 2022 DNH 145

Plaintiff Roy Wallen was terminated as CEO of TendoNova Corp., a start-up medical device company. He alleged several claims arising out of his termination, including violations of the Fair Labor Standards Act and New Hampshire wage laws. The defendant moved for summary judgment on the wage law claims, arguing that the plaintiff was an independent contractor, not an employee, and thus not protected under wage laws. The defendant also sought a ruling that the plaintiff’s damages for his wage law claims were barred by the statute of limitations for any time for which he worked. The court granted the motion in part and denied it in part, holding that genuine disputes of material fact prevented the court from concluding that the plaintiff was an independent contractor, rather than the defendant’s employee. The court further held that the plaintiff’s damages were not barred by the statute of limitations for any time for which he worked. The court also held that the plaintiff’s vaccination and receipt of effective therapeutic treatment should be protected under COVID-19. 2 pages. Judge Paul Barbado.

11/4/22 United States v. Morales-Hoyos
Case No. 19-cv-135-1PB; Opinion No. 2022 DNH 139

Defendant Morales-Hoyos filed a motion for compassionate release pursuant to 18 U.S.C. § 3583(c)(1)(A), claiming that his preexisting medical condition presented a risk of serious illness he should be granted parole pursuant to the CARES Act’s safe harbor provisions. The court held that the medical condition did not qualify as an extraordinary and compelling reason for compassionate release. The court also held that the defendant was vaccinated and could receive effective treatment should he contract COVID-19. 2 pages. Judge Paul Barbado.

11/22 Wallen v TendoNova, Corp.
Case No. 20-vc-790-SE, Opinion No. 2022 DNH 145

The court granted the motion in part and denied it in part, holding that genuine disputes of material fact prevented the court from concluding that the plaintiff was an independent contractor, rather than the defendant’s employee. The court further held that the plaintiff’s damages were not barred by the statute of limitations for any time for which he worked. The court also held that the plaintiff’s vaccination and receipt of effective therapeutic treatment should be protected under COVID-19. 2 pages. Judge Paul Barbado.

Case No. 22-vc-157-PB; Opinion No. 2022 DNH 140

The plaintiffs filed suit seeking to enjoin the transfer of title of their residence following a foreclosure sale because they did not receive advance notice of the foreclosure sale. The defendant moved to dismiss. The court held that the state foreclosure statute, N.H. Rev. Stat. Ann. § 479:25, II, does not require a mortgagee to receive actual notice of the sale as long as the mortgagee follows that statute’s notice requirements. Because the defendant did not allege that the plaintiff did not follow with the statutory notice requirements, the court dismissed the complaint. The court also held that the plaintiff’s petition may be barred by N.H. Rev. Stat. Ann. § 479:25, II(c) because it was filed after the foreclosure sale. 3 pages. Judge Paul Barbado.

Social Security; Disability

11/29/22 Provenec v. U.S. Social Security Administration
Case No. 22-cv-148-JL, Opinion No. 2022 DNH 147

The claimant appealed the Acting Commissioner’s decision, denying him disability benefits. Social Security’s 2017 “fast track” regulations permit the court to consider whether the claimant was an independent contractor, rather than the claimant’s employee. The court held that the claimant’s work history did not support obtaining disability benefits. The court further held that the claimant’s mental impairments were disabling.

11/7/22 SEC v. LBRY, Inc.
Case No. 21-cv-260-PB; Opinion No. 2022 DNH 138

The SEC brought a civil enforcement action against LBRY, Inc., for selling unregistered securities in violation of 15 U.S.C. § 77(a), (c). The enforcement action was based on LBRY’s sale of a blockchain security, LBC. A blockchain security was defined as a security based on a digital token with no intrinsic value. The SEC alleged that the plaintiff did not receive LBC as a security and (2) that the defendant did not receive notice that its offerings were unregistered securities. The SEC’s definition of security made LBC an unregistered security. The defendant moved for summary judgment. The court concluded that issues of material fact prevented the court from determining whether the defendant was an independent contractor, rather than the defendant’s employee. The defendant’s motion was denied. The defendant’s motion to dismiss was granted in part and denied in part, holding that the defendant was not an independent contractor, but rather an employee. The defendant’s motion for a Writ of Mandamus to compel the agency to issue a Final Warning Notice was denied.

Classifieds

ASSOCIATE ATTORNEY – Cullen Colini Morgan PLLC, seeks an associate in any area of practice in the greater Manchester area; seeking an attorney with 3-5 years of experience to join our civil trial practice. Civil litigation experience, strong writing skills, and good oral advocacy skills a plus. Current comprehensive benefits package offered. Send resume, cover letter, and a writing sample to Lynn Hughes, Cullen Colini Morgan PLLC, 37 Technologi- 

LEGAL ASSISTANT – Full or Part Time sought for well known Personal Injury attorney in Manchester office. Duties will include document drafting and litigation skills. Position requires file coordination, scheduling, retrieval of medical records, regular contact with clients and opposing counsel. Must be a motivated candidate with 1-2 years’ experience. Send resume, cover letter and references to nhbar.org/lawyer-referral-service or to Karen Lindbom at 603-726-4980.

ESTATE & TRUST ADMINISTRATION PARALEGAL – Robinson, Boesch, Sennott & Daly, PA is a small firm of 6 attorneys and 7 team members located at the Pease Tradeport in Portsmouth, New Hampshire. We are excited to announce this newly created position and look forward to adding a new member to our existing team. Our ideal can- didate is an experienced Probate and Trust Administration Paralegal who is able to successfully work independently and has a strong commitment to providing excellent client service. This is a full time position. If this sounds like the opportunity for you, please visit our website at: www.robinsonboesch.com. 3 pages. Judge Samantha Elliott.

FORECLOSURE

Case No. 22-vc-157-PB; Opinion No. 2022 DNH 140

The plaintiffs filed suit seeking to enjoin the transfer of title of their residence following a foreclosure sale because they did not receive advance notice of the foreclosure sale. The defendant moved to dismiss. The court held that the state foreclosure statute, N.H. Rev. Stat. Ann. § 479:25, II, does not require a mortgagee to receive actual notice of the sale as long as the mortgagee follows that statute’s notice requirements. Because the defendant did not allege that the plaintiff did not follow with the statutory notice requirements, the court dismissed the complaint. The court also held that the plaintiff’s petition may be barred by N.H. Rev. Stat. Ann. § 479:25, II(c) because it was filed after the foreclosure sale. 3 pages. Judge Paul Barbado.

PERSONAL JURISDICTION; Federal Food, Drug, and Cosmetic Act

11/29/22 Novartis v. Lanzendorf
Case No. 22-cv-157-PB; Opinion No. 2022 DNH 146

The plaintiff sued the defendant under state tort law based on a sale of cosmetics that occurred in Arizona. The court held that the plaintiff’s motion to amend her complaint to add a federal law claim was untimely, plaintiff had not demonstrated that her claims were related to the defendant’s activities in New Hampshire or that the defendant purposefully availed himself of the privilege of conducting activity in New Hampshire. 3 pages. Judge Paul Barbado.

Requests for Proposals

The New Hampshire Department of Education, through the Governor’s Office, is soliciting competitive sealed proposals from qualified vendors to serve as hearing officers. Appointing a fair and impartial person to hear these cases is vital to protecting the rights of people with disabilities. Attorneys with more than 2 years’ experience and some portables. If interested, please send your resume, cover letter to: OfficeManager2226@unh.edu. Please write “Hearing Officer Position” in the subject line. 3 pages. Judge Samantha Elliott.

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Litigation Paralegal
www.nicholson-lawfirm.com

At Nicholson Law Firm headquarters located at 58 North State Street, Concord, NH

We are looking for a team member who is pleasant, loyal, self-initiates, would like to contribute to the success of the law firm through excellent client service, and enjoys working in a team environment. Experience in civil litigation preferred, but not required.


Required familiarity with Microsoft Suite (Word, Excel, Outlook), Adobe, and required ability to learn and integrate timekeeping software applications and new technologies.

Send resume or cv with cover letter to jennifer@nicholson-lawfirm.com

Paralegal/Legal Assistant

Paralegal/Legal Assistant needed for busy law firm. Our offices are in Concord, Manchester, and Exeter. This position requires reporting to the office 5 days a week. The successful candidate will have input in selecting their chosen work location at one of our offices. The firm’s focus is litigation including criminal defense, family law, estate planning and personal injury.

This position will involve both paralegal work and administrative support. We are seeking a self-motivated, organized energetic, dynamic individual for this full-time position. Successful candidate must possess strong organizational skills, telephone, writing and computer skills and be proficient in Microsoft Office. You must be a team oriented "people person" comfortable interacting with a wide variety of clients and situations.

Prior law office experience is strongly preferred. $20-$25 per hour depending on experience plus a benefits package (health, dental, life and disability insurance, retirement plan and paid time off).

Send replies to jobs@cohenwinters.com. No phone calls, please.

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Qualified candidates should send a cover letter, resume, transcript, writing sample and references to:
Jessica Boisvert
Attorney Hiring Coordinator
jessica.boisvert@mclane.com

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Healthcare Litigation Attorney

Associate position for the healthcare litigation defense group at mid-sized law firm. Opportunities in Hampton, NH and Woburn, Boston, and Hingham, MA. Opportunity to work on a team of highly experienced attorneys serving some of the most prestigious healthcare institutions and providers in New England. Competitive salary, excellent benefits, and reasonable billing requirement. Excellent verbal communication and writing skills required. Ability to work collaboratively with team members and candidates with, or willing and able to get, admission to MA bar will be considered, prior medical malpractice experience a plus.

Send resume and cover letter, in confidence, to hr@devinemillimet.com.

Criminal Defense/DWI & Litigation Paralegal
Russman Law Offices in Exeter

Applicant must have a minimum of three (3) years’ experience working in the area of criminal defense and DWI law, and possess pre-litigation and litigation skills.

Responsibilities to include: Requesting discovery, administrative hearings and general case preparation; complex legal research and writing; all aspects of litigation including trial preparation; familiarity with the NH Courts e-filing system as well as PACER; regular written and verbal communications with clients, insurance adjusters, courts and opposing counsel.

Salary commensurate with experience, a generous paid holiday and time off policy, scheduling flexibility, annual bonuses and an employee matched Simple IRA. Please forward your resume and cover letter to mlambert@russmanlaw.com.

Personal Injury & Litigation Paralegal
Russman Law Offices in Exeter

Applicant must have a minimum of three (3) years’ experience working in the area of personal injury law (car accidents and premises liability) and possess pre-litigation and litigation skills.

Responsibilities to include: Screening potential clients, case investigation; gathering/analyzing evidence; demand preparation; discovery preparation, execution and exchange; complex legal research and writing; all aspects of litigation including trial preparation; familiarity with the NH Courts e-filing system as well as PACER; regular written and verbal communications with clients, insurance adjusters, courts and opposing counsel.

Salary commensurate with experience, a generous paid holiday and time off policy, scheduling flexibility, annual bonuses and an employee matched Simple IRA. Please forward your resume and cover letter to mlambert@russmanlaw.com.

Drummond Woodsum’s Manchester, NH office is seeking an attorney to join our labor and employment law practice group. We are a tight-knit team that provides counsel to public and private sector employers, as well as tribal nations. Our team provides labor and employment counseling on all aspects of the employer/employee relationship, including collective bargaining, grievance administration, workplace discrimination, ADA compliance, state and federal wage and hour laws, and workplace misconduct. We also represent clients in state and federal courts, before federal and state agencies, and in labor arbitration. Our team is frequently called upon to provide clients with workplace training.

This position is open to qualified applicants who have excellent academic credentials, research, writing, and analytical skills, and who are highly motivated to learn. We are seeking a candidate who has strong interpersonal skills, and who is able to balance client advocacy with compassion and understanding. Applicants with 1-3 years of prior litigation or employment/labor law experience are preferred, but applicants without prior experience are encouraged to apply, including recent law school graduates. We are invested in the success of all our associates and will provide training, mentoring, and resources to support your development as a labor and employment practitioner. New Hampshire bar admission is not required, but strongly preferred.

At Drummond Woodsum, we have created a firm culture that emphasizes devotion to serving our clients, collaboration and collegiality, and a respect for work-life balance. In addition to the firm being a great place to work, we are also fortunate to be based in northern New England, one of the most beautiful areas of the country.

Drummond Woodsum offers a competitive compensation and benefits package, including competitive medical and dental insurance, a generous profit-sharing retirement contribution, paid parental leave, contributions to your HSA, STD/LTD, and professional development. We are committed to diversity and inclusion in our hiring practice and encourage qualified candidates of all backgrounds to apply for the position. To apply, please send your cover letter and resume to br@dwmlaw.com. All inquiries are held in the strictest confidence. No phone calls, please.
ASSOCIATE COUNSEL
STATE EMPLOYEES’ ASSOCIATION OF NH, INC.

Looking for an ambitious Associate to handle union related issues. Duties and responsibilities include: Serves as legal counsel in union grievances, labor arbitrations, and proceedings before administrative agencies and courts. Conducts research, provides legal advice to senior management/Board of Directors, works with political staff to draft laws/rules, assists with organizing campaigns as needed. May act as General Counsel in his/her absence. Works and coordinates with outside counsel as needed/directed.

Minimum Qualifications:
Juris Doctorate from an American Bar Association recognized law school. Active license as a member of the NH Bar. Speaks and writes effectively. Minimum of 1+ years of relevant experience. Knowledge of labor arbitrations and matters before the PELRB and/or NLRB preferred. Valid driver’s license. Three letters of recommendation.

Salary: $57,000.00 - $71,000.00 per year. Excellent benefits.
Will consider part time candidates as well.
Forward resume to: jobs@sei1984.org

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Estate and Trust Administration Paralegal

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

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

Please submit resume, cover letter and salary requirements to Lisa Roy, Office Manager at lroy@mkcan.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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Litigation/Construction Attorney

Preti Flaherty is a full-service law firm with more than 100 attorneys and offices in ME, NH, MA and D.C. We are seeking a mid-level or senior associate to work in our Construction and Litigation Practice Groups in either of the firm’s Boston, MA or Concord, NH offices.

The ideal candidate will have:
• Practical experience in construction and/or engineering is also desirable, but not required.
• Construction litigation and/or experience in Massachusetts is desirable, but not required; experience in a sophisticated litigation practice; an excellent academic record and exceptional written and oral communication skills; construction litigation and/or experience in Massachusetts is desirable, but not required; practical experience in construction and/or engineering is also desirable, but not required.

The position offers an excellent opportunity to assume significant responsibility and hands-on experience in a collaborative, sophisticated and team-oriented work environment. We are looking for someone who is highly motivated and has the ability to work both independently and as part of a larger team.

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 mjohnson@preti.com.
ASSISTANT COUNTY ATTORNEY

LOCATION: Strafford County Attorney’s Office

QUALIFICATIONS: Juris Doctor from an accredited law school. Must be a member in good standing of the New Hampshire Bar Association.

JOB DESCRIPTION:
• Under the general direction of the County Attorney, the Assistant County Attorney will draft complaints and pleadings.
• Researching pertinent case law, decisions, and legislations.
• Conduct Bench trials and all required hearings related to the assigned caseload in the Circuit Courts.
• Responsible for prosecution of misdemeanor domestic violence and juvenile crimes in the Circuit and Family Court.
• Participate in Police Department trainings to keep police officers current on domestic violence case law and protocol.

• Must be able to handle multiple tasks, meet deadlines, be organized, have communication skills, and able to negotiate. Must be an effective team member.
• Have a working knowledge of principles and rules of criminal law and the New Hampshire criminal justice system.
• Mandatory criminal record check is required for all new employees.
• Salary will commensurate with litigation experience

BENEFITS:
Medical, Dental, Life Insurance, Holiday & Sick time, Longevity Pay, Short Term Disability, NH Retirement System

Please send cover letter and resume to Attorney Kerri S. Tasker at ktasker@co.strafford.nh.us.

Assistant City Prosecutor
City of Concord, NH

The City of Concord is seeking a highly skilled attorney with 3-5 years’ experience to fill an Assistant City Prosecutor position to manage criminal cases in the City Prosecutor’s Office. Salary Range: $74,526.40 - $107,910.40, plus a competitive benefits package. Submit cover letter and resume to the Human Resources Department via the Application: at https://www.governmentjobs.com/careers/concordnh. The position will remain open until filled. For more information visit www.concordnh.gov or call (603) 225-8535, or TTY at 1-800-735-2964 or 7-1-1. “An Equal Opportunity Employer M/F/DP/V and LGBTQ”

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@laboelaw.com.

Litigation Attorney

DOUGLAS, LEONARD & GARVEY, P.C.

Douglas, Leonard & Garvey, P.C. seeks an attorney with 3 - 5 years experience in litigation. Ideal candidate will have experience with any combination of employment litigation, personal injury, civil rights and criminal law.

Please send your resume to mail@nhlawoffice.com. All inquiries held in strict confidence.
Special Victims’ Unit Lead

**The Hillsborough County Attorney’s Office seeks Special Victims’ Unit (SVU) Leader**

The SVU Lead manages 6 attorneys and oversees the Victim Witness Advocate’s Office and associated staff. The successful candidate will also provide advice and counsel to the County Attorney regarding office policies, administrative issues, and issues arising within the unit. The SVU Lead has overall responsibility for assigning cases within the unit to match up skill and ability to caseload. The SVU Lead assigns Child Advocacy Center interviews and reviews such cases for appropriate follow-up. Training is critical to the success of the office. The successful candidate will identify outside training for the SVU members and develop in house training for attorneys with 0 - 5 years of experience in Sexual Assault and Domestic Violence prosecution and engage in their own professional development in both management and litigation.

The current SVU Lead has a reduced caseload to afford time for management and mentoring but is routinely first chair on the most complex and novel sexual assault and domestic violence cases.

The Hillsborough County Attorney’s Office is the largest prosecution unit in the State. Our Leads are expected to build relationships with all law enforcement agencies, the courts, and other partner agencies. Grant writing experience is a plus as we are routinely trying to expand the capabilities of our SVU to combat sexual assault and domestic violence.

To apply, send your resume’ and cover letter to: Hillsborough County Human Resources Department at pamela.cummings@hcnh.gov. Hillsborough County is an equal opportunity employer and does not discriminate on the basis of political affiliation, race, creed, religion, national origin, age, sex, sexual orientation, or disability.

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**ASSISTANT COÖS COUNTY ATTORNEY**

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

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

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

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

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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 Jurisdictive sentencing options. Other responsibilities include discussing legal aspects of criminal prosecution of cases in the Superior Court with a focus on early case resolutions and alternative options. Other responsibilities include discussing legal aspects of criminal cases with police, community relations and program development. Applicant must have Juris J.D. from an accredited law school, N.H. Bar 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@graftoncounty nh.gov E.O.E. The nonmember rate is $65 plus $1.60 per word. Doreen Connor dconnor@primmer.com Member of American Academy of Appellate lawyers 603.626.5304 The DCYF Legal Team is a dynamic group of experienced child protection attorneys and their legal assistants, stationed around the state, who seek judicial protection for children subjected to abuse or neglect. The focus of our work is on the immediate protection of the child and strengthening, whenever possible, families to eliminate abuse and neglect in the home. The DCYF Legal Team works in partnership with the New Hampshire Attorney General’s office. We offer paid training, competitive salaries up to $84,844.50, and a comprehensive benefits package. Benefits Summary (nh.gov) DCYF Attorney Duties include: • Litigating multiple cases on behalf of DCYF to protect abused and neglected children and ensure children are provided safe, permanent homes. • Conducting discovery, legal research and writing, preparing witnesses for trial, negotiating settlements, and presenting evidence and oral argument at court hearings and trials. • Advising DCYF on its duties and responsibilities. Requirements: 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. Classified advertising will only be accepted on a prepay 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. 2023 BAR NEWS AD DEADLINES

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