



## In This Issue



A Bar Like No Other. PAGE 2

Attorney Christopher Seufert Shares  
His Insights into His Appearance Before  
SCOTUS Nearly 30 Years Ago. PAGE 3Lunchtime LPM Learning  
Opportunities for Small and  
Solo Firm Attorneys. PAGE 5Flying Solo - Words of Wisdom from  
Solo Practitioners. PAGE 8

## Where Are They Now: Catching Up with Past NH Bar Presidents

By Tom Jarvis  
NHBA Staff

In July of this year, the New Hampshire Bar Association turns 150. In observance of our sesquicentennial celebration, and with respect to our rich history as an association, we thought it would be fun to catch up with some past bar presidents to see what they have been doing since they were in office and to ask them how much the bar has changed in that time. However, as bar presidencies last only a year, there are a lot of past bar presidents, and featuring them all would cause this article to take up all 40 pages of the issue. To narrow it down, I decided to talk with the four oldest living past presidents and the first female president.

## Patti Blanchette

In 1992, Patti Blanchette became the first female bar president in New Hampshire. She was also the first Franklin Pierce Law Center graduate to become bar president, and at the time, one of only eight women bar presidents in the country.

After graduating from college in 1974, Blanchette was elected to the legislature to represent her hometown of Newmarket and continued doing so for 14 years. In 1980, she received her law degree from Franklin Pierce Law Center and began working part-time for Boynton, Waldron, Doleac, Woodman, and Scott so she could continue serving in the legislature.

"At that time, it was fashionable to have A woman lawyer. Not two, not five – just one," Blanchette says. "It was hard because you'd apply for a place, and they would be like, 'well, we already have our woman lawyer.'"

However, once she became bar president, that dynamic began



Patti Blanchette, the first female NH bar president (1992-1993), sitting in her home office with her faithful paralegal, Hershey.

to shift.

"There was no overt discrimination or anti-female sentiment," Blanchette says. "It was just who was in the room. Somebody opened the door for me and let me in the room, and I wanted to keep that door open."

PRESIDENTS continued on page 24

## National Judicial Outreach Week: Building Trust in Our Courts

By Laura Kiernan  
NH Judicial Branch

Last spring, Chief Justice Gordon MacDonald and Justice Anna Barbara Hantz Marconi met with leaders of the NH Bar Foundation and the NH Bar Association to discuss their concern about public misconceptions of the role of an independent judiciary. Across the country, criticism of judges was rising in intensity, and respect for the rule of law was declining. What could be done to build public trust in our courts and in our system of justice?

The meeting participants concluded that confidence increases when judges step out of the courthouse and into their communities to talk about their work and discuss the history and importance of our system of laws.

"There is no substitute for reaching out to people directly, explaining what we do and the vital importance of the rule of law, as well as listening to their concerns," Chief Justice MacDonald said recently about the need for public engagement.

With that goal in mind, New Hampshire judges and lawyers will participate in National Judicial Outreach Week (NJOW) from

March 1 to March 10, a project initiated by the American Bar Association (ABA) in 2017 to enhance public understanding of the rule of law and a judge's obligation to be fair and impartial without concern for public opinion or partisan politics. There are no better spokespeople for the judiciary than the judges themselves, the ABA said.

"I think it is important for the public to see that judges are doing a job that is incredibly difficult and essential," said UNH Franklin Pierce Law School professor emeritus John Garvey, a Bar Foundation board member and co-chair of the Judicial Outreach Week Steering Committee for New Hampshire. "I don't think people always realize that judges are human and have a tremendous responsibility to equally and fairly apply the rules that we have agreed to as a society."

According to the ABA, reaching out—especially to students and young people—"is the surest way for the public to see the dedication and integrity of American judges." Judges, active and retired, are encouraged to be involved "in discussions about liberty, the rule of law, and the preservation of fair and impartial courts."

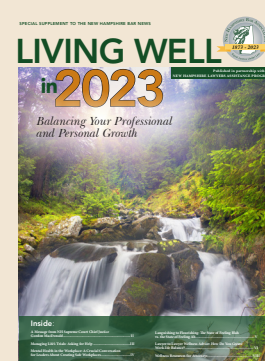
During NJOW, teams of judges and lawyers are scheduled

NJOW continued on page 32

## IN EVERY ISSUE

President's Perspective. PAGE 2  
Opinion. PAGE 4150 Minutes of Giving. PAGE 6  
Section Connection. PAGE 7Jill O'Neill Profile. PAGE 9  
Information Technology. PAGE 14  
Modest Means Honor Roll 2022. PAGE 16  
Free Legal Answers - NH Honor Roll. PAGE 17  
From the Law School. PAGE 18  
NHBA•CLE. PAGES 19, 22-23  
MYM - February 17, 2023. PAGES 20-21  
Tax Law Section. PAGES 26-29  
Insurance Law Section. PAGES 30-31  
NHSC At-A-Glance. PAGE 32-35  
Classifieds. PAGES 35-39

Look for the "Living Well in 2023" supplement in the center of this issue focusing on lawyer well-being. The supplement includes a message from NH Supreme Court Chief Justice Gordon MacDonald, articles relating to wellness, and a list of helpful resources.





# Prioritizing Attorney Wellness

By Jonathan Eck

Attorney wellness and work-life balance have thankfully become matters of great attention and emphasis. Professional stresses and burnout are common in many industries, and a demanding profession like the law can present these challenges more than many other vocations. Fortunately, a lot has been written on this topic, and members of this Bar have a valuable resource available to them through the New Hampshire Lawyers Assistance Program (NHLAP).

For those who do not already know, NHLAP provides confidential assistance to lawyers, judges, law students, and their families in coping with alcoholism and other addictions, depression, and myriad other personal or professional crises. If you or someone you know is struggling and would benefit from support, please do not wait. NHLAP can provide support and access to numerous resources and tools that can help New Hampshire lawyers overcome challenges and stresses in their professional and personal lives. For more immediate help, one can place a phone call or text 988 to reach the national Suicide & Crisis Lifeline (formerly known as the National Suicide Prevention Lifeline).

Earlier this month, on February 1, judges and staff throughout the New Hampshire state court system participated in a remote professional development session on men-

## President's Perspective



By Jonathan M. Eck

Orr & Reno  
Concord, NH

tal health and wellness. The session featured information about resources that are available to judges and staff for working with individuals experiencing mental illness who come to the courts. According to a recent press release, the New Hampshire Judicial Branch is undertaking an initiative aimed at improving court and community response to mental illness. The Judicial Branch is aware of and attentive to these issues and is taking action to respond to them.

The law can be an extremely rewarding profession. However, there is no denying that it is also a demanding one. In order to best take care of our clients and their needs, we must first take care of ourselves. That means tending to all the basic necessities to healthy living, such as eating a balanced diet, getting regular exercise, ensuring adequate rest, and the like. In our profession, the stakes can be high, the flow of deadlines

is constant, and pressure can mount. To be at peak performance for our clients and their matters, we need to bring the best version of ourselves to our work, every day.

Taking care of oneself takes time, which is a precious commodity for all of us. To take adequate care of ourselves requires that each of us prioritizes our own well-being. In order to have sufficient time for that, we need to plan, schedule, prioritize, set boundaries, and be realistic with our expectations for ourselves and those who we work with. During those times when you or someone close to you needs help, please seek it. A career in the law is demanding, stressful, and at times all-consuming. Each of us needs to take a long view and remember that we cannot sprint through our careers but rather must have more of a marathon approach. Just like going full speed for the first mile of a marathon is ill-advised and not likely to result in a successful race, the same can be said for an unsustainable approach to the practice of law. Work on your own, with the support of another appropriate person, or with your colleagues and mentors to design an approach to your practice and lifestyle that will allow you long-term success, fulfillment, and satisfaction.

This issue of the *Bar News* includes a wellness supplement. Please carefully review it for a broad range of valuable information. ■

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EDITOR  
news@nhbar.org

SALES AND TECHNICAL EDITOR  
Donna J. Parker  
(603) 715-3263  
dparker@nhbar.org

EDITORIAL AND MARKETING  
COORDINATOR  
Tom Jarvis  
(603) 715-3212  
tjarvis@nhbar.org

BAR PRESIDENT  
Jonathan M. Eck, Esq.  
jeck@orr-reno.com

EXECUTIVE DIRECTOR  
George R. Moore, Esq.  
gmoore@nhbar.org





DIRECTOR OF MARKETING,  
COMMUNICATIONS & MEMBER OUTREACH  
Lynne G. Sabeau, Esq.  
(603) 715-3250  
lsabeau@nhbar.org

MEMBER SERVICES COORDINATOR  
Misty Griffith, Esq.  
(603) 715-3227  
mgriffith@nhbar.org

COMMUNICATIONS COORDINATOR  
Vera Vaitones  
(603) 715-3219  
vvaitones@nhbar.org

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CONTACT US:  
news@nhbar.org  
2 Pillsbury Street, Suite 300  
Concord, New Hampshire 03301  
(603) 224-6942 • Fax (603) 224-2910  
www.nhbar.org

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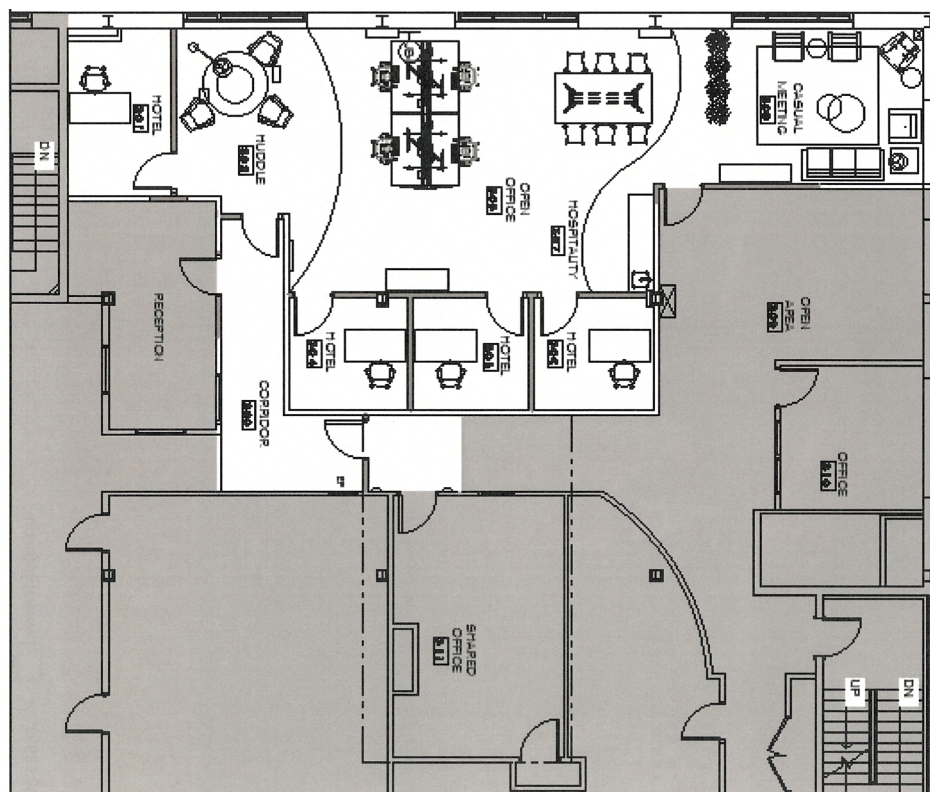
## A Bar Like No Other



By George Moore  
NHBA Executive Director

One of the side effects of the Pro Bono and LARC merger was that Pro Bono vacated their space within the Bar Center and moved to new quarters on North State Street here in Concord as 603 Legal Aid. As part of the NHBA condo, the Bar owns this vacant space and continues to maintain it.

This development has led to a wonderful opportunity. With the support of the Board of Governors, the Bar is redeveloping the space into a "Members Only Area," which will be totally transformed into a bright, attractive space and is the brainchild of NHBA Deputy Executive Director Paula Lewis. The rehabilitated space will feature



## FLOOR PLAN

a number of different areas for members to work, relax, and communicate when coming through Concord. Access will be controlled through a fob system located at the reception desk of the Bar Center.

The existing conference rooms and meeting rooms will remain available for client meetings, conferences, trainings, arbitrations, and mediations. The principal difference is that the new area is accessible only by lawyers.

The area will feature all new furniture

and audio-visual wiring. There will be an eight-person lounge area, similar to a living room, where members can relax, read a newspaper, or network with other members. Adjacent to the lounge area will be a hospitality station with coffee, tea, soft drinks, and snacks.

For catching up on e-mails or other electronic work, there will be a worktable, and if more privacy is desired, a six-station work area with privacy buffers. Finally, there will be four private sound-proofed rooms if

members want to discuss legally sensitive matters with clients or others by phone.

The space will have an abundance of natural light as there is a wall of windows along the exterior wall. The flooring will be a compilation of carpeting and wood-like LVT. The design intent has been to create an attractive, soothing environment that lawyers can use between depositions or hearings, or when work must be done at a time of day when the attorney is not near their office. A couple of design graphics accompany this article, as well as a floor plan.

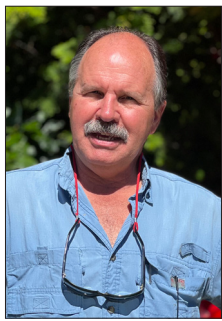
A contractor has been selected and construction should be starting very soon, barring supply chain delays. We hope to have the space completed and open for members in the late spring/early summer. And finally, the best news is that it is all free, as an additional NHBA member service! ■



# 150-Year Retrospective: Attorney Christopher Seufert Shares His Insights into His Appearance Before SCOTUS Nearly 30 Years Ago

By Tom Jarvis  
NHBA Staff

As part of our 150<sup>th</sup> anniversary year commemoration, the NHBA has been combing through old issues of *Bar News* – and its predecessor publication *Bar Weekly* – to find important landmarks in our history. In our search, we found a small article about attorney Christopher Seufert and his appearance before the Supreme Court of the United States (SCOTUS) in 1995. We decided to delve deeper with him for a retrospective look into that memorable experience from nearly 30 years ago.



Attorney Christopher Seufert, a small-firm practitioner from Franklin, NH, is currently working on his 39<sup>th</sup> year of practicing law. Back in 1987, he took on a case as a favor to his friend from the Knights of Columbus. Little did he know, it would prove to be an arduous adventure lasting several years, that would eventually bring him to the highest court in the land.

"If you were to ask me to take that case now," Seufert ruminates. "I would slam the door in your face and say no way. I put thousands of hours into that, with all the Federal Court appeals, the US Supreme Court, back to Merrimack County Superior Court – oh my God, I lost my shirt on that."

His clients, William and Norinne Field, had sold a hotel, Mascoma Lake Lodge, to an investor, Philip Mans, who gave them some cash and seller-financed the rest.

"In the financing documents, it said that Mr. Mans shall convey no equitable or legal portion of this hotel to anybody unless he paid our people off," Seufert says. "After some time, Mans filed bankruptcy, and in the bankruptcy court proceedings, it turns out he had added a partner, DeFelice and Sons, and conveyed an interest in the hotel. When the Fields had previously asked Mans who DeFelice was, he told them it was just someone who worked for him."

Seufert argued that Mr. Mans had committed fraud against the Fields, and as a result, the debt should be non-dischargeable. The court disagreed, stating that while it was fraudulent, the plaintiff could have caught it by performing a title search.

"This began a long torturous journey up through the federal court system," Seufert recalls. "We appealed and lost, so then we asked the US Supreme Court to weigh in on a petition of certiorari. They agreed to accept the case because there was a split in the US between the circuits as to whether the standard is reasonable objective prudent person or justifiable reliance under all the circumstances. We were arguing justifiable reliance under the circumstances because we had no reason to believe there was fraud."

As very few cases get accepted on certiorari, Seufert was surprised that the SCOTUS agreed to hear the case.

"I dropped my jaw when I got notice that they accepted our case," Seufert says. "It's like winning the Megabucks. Now we are in it for real."

Seufert recalls going down to Washington, DC early to visit family in the area and to prepare himself.

"I spent the whole day walking the [National] Mall, wondering what they were going to ask me. I don't know how many times I

went from one end to the other," Seufert says. "I came up with a half a dozen questions and wrote them on index cards. On the other side, I wrote what my answers would be. And sure enough, every question I thought of, they asked me."

He remembers that he was nervous the whole day until the green light signifying it was time for his oral argument went on in the courtroom. At that point, he cleared his mind and thought of it as "go time."

"One question I remember was Ruth Bader Ginsburg asking the difference between overt fraud and subversive fraud," Seufert recalls. "I had written that as a possible question on one of my index cards, and on the back, I had written the words SHELL GAME."

The words evoked a time when young Seufert was on military leave and lost \$10 to a man playing a shell game in Boston Commons.

"I told the story to Ruth Bader Ginsburg," Seufert says. "The guy has three cups, and he's got a shell that he's palming. He pretends to put the shell under the cup, but it's in his palm. He moves the cups around, and you try to keep track, but there's no way you can win because there is no shell. That's overt fraud. And that's the difference between overt and subversive fraud – the game you can't win and the game you might be able to win. When I finished the story, she kind of nodded."

The Court agreed it was justifiable reliance and remanded the case back to the bankruptcy court.

"I only had 20 minutes because the US Solicitor General had said they wanted some time to argue on the plaintiff's side, so I yielded 10 minutes to them. They went in a totally different direction, but my 20 minutes was enough. Although, it felt like an eternity up there."

After SCOTUS remanded the case, it went on for another few years. The bankruptcy court ruled in favor of the defendant once again, so Seufert appealed to the Federal District Court.

"And then we lost again and had to go to the First Circuit again. It was the fifth trial on the case," Seufert says. "Finally, the First Circuit had enough of me and said, 'yeah Chris, you win, just get out of our courtroom.' They remanded it with a finding in our favor and the bankruptcy judge had to just sign it."

Seufert then filed an action against Mans in Merrimack County Superior Court.

"The judge finally gave us a verdict for the balance plus interest and costs," Seufert says. "And then we had a couple payment hearings where he kept lying about his assets. Finally, someone called me up and told me that Mans was hiding an expensive sports car in his garage, so I went back with an ex parte and told the judge about the asset."

With the help of the Sheriff's office, a tow truck, and a crowbar, they were able to seize the sports car and subsequently auction it off.

"We got paid, but it took us 10 years," Seufert says. "They were salt-of-the-earth people and Mans just took advantage of them. He was found 'dishonest' by the Federal Court."

After appearing before SCOTUS, Seufert was given a quill feather as a keepsake. He currently has it framed in his reception room with the order on the petition for certiorari.

"They gave my then partner, Attorney [William] Shultz, one of the quill feathers, too," Seufert says. "He sat at counsel table wiping my brow while I was sweating

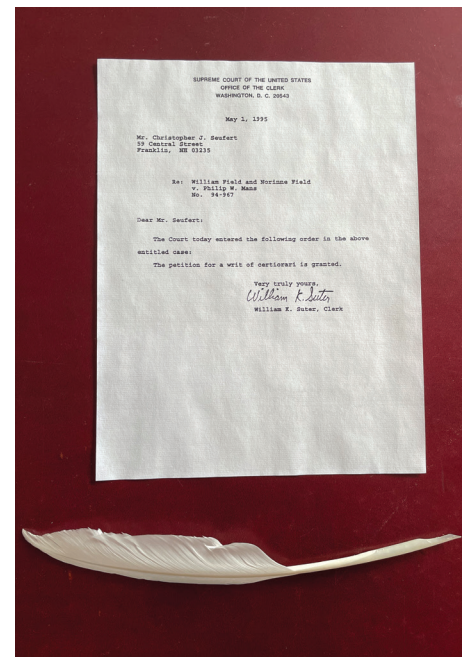


Attorney Christopher Seufert standing with his mother outside SCOTUS just after oral arguments in October 1995. Courtesy Photo

Twinkies."

When asked how he would advise someone appearing before SCOTUS today, Seufert jokes around, saying, "avoid it. You're never going to get paid for the time you put in."

Seufert says he does recall giving some advice to insurance defense attorney Kate Strickland when a plaintiff's appeal against her defendant was accepted by SCOTUS 10 years ago.



In the reception room of his office, Attorney Seufert keeps the quill feather he received from SCOTUS with the order on the petition for certiorari in a frame. Photo by Tom Jarvis

"She asked how I got into the US Supreme Court," Seufert says. "I told her oh, it's just down I95 South."

After a round of laughter, I asked Seufert what would happen today if one of his client's wanted to appeal to SCOTUS.

"I would do it again in a heartbeat," Seufert says. "At a certain point in your career, you only have so many marbles left in the vase to use, and I would use a marble to do that in a heartbeat." ■

## The only thing not changing with business immigration? Who you want to handle it.

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## The Case of the Toxic Text: A Powerful Reminder That Misogyny, Toxicity, and Ignorance Are Alive and Well in the Legal Profession

By Charla Bizios Stevens

Every so often, a story strikes the right (or wrong) nerve or captures the mood of a certain segment of the population and then takes on a life of its own. Such is the story of the text message sent by Jon Dileo, now former Senior Attorney of the Cleveland law firm, Zashin & Rich. The message, reprinted in its entirety here, is such a shockingly stark example of ignorance and entitlement that people cannot stop talking and writing about it. The message itself has been shared thousands of times on social media in the past few weeks.



Zashin & Rich is an Ohio-based firm of at least 30 lawyers who concentrate

their practices in labor and employment and family law. The firm's website touts the recognition of numerous firm members as "Best Lawyers" and "Super Lawyers" and the firm itself by Chambers and Partners and *US News and World Report*, no fly-by-night operation. Dileo himself represented the City of Cleveland in labor matters. The irony is that he spends his professional time advising employers.

For those who have not seen the post and the ensuing blowback, the premise is simple. A female associate was on a paid parental leave when she received an offer of employment from another law firm. She returned to work at the conclusion of her leave and gave her notice after accepting the new job. What followed was the text message from Dileo, referring to her parental leave as time spent "sitting on her a\$\$." He accused her of being morally bankrupt and threatened to derail her career if contacted for a reference. Dileo also admits that he suggested to a senior partner that the associate be fired while on leave if it were confirmed that she indeed had been interviewing for a new job. Luckily, clearer heads prevailed, and the Senior Partner declined.

Although the text is egregious, what happened next demonstrates how ill-prepared the law firm (like many law firms) was to deal with the aftermath. When the text came to light on social media, the firm's managing partner quickly issued the following statement:

*Recently, I became aware of an inappropriate and unprofessional text*

*that was sent by an employee at our firm to a former employee.*

*That single text was sent in the heat of the moment by an employee upset by the belief that the former colleague while on paid leave sought employment with another law firm. Within days of her return to work, she took that new job. That's not an excuse for the offending text, which should not have been sent. That single text has prompted some to question our commitment to fair treatment, diversity, and other values that our firm holds dear and believes in fervently.*

And then...

*I stand on our firm's record of how we treat our employees. Zashin & Rich prides ourselves on focusing on supporting working parents with modified schedules and other accommodations...*

He finally went on to state that the firm had "taken action" and was committed to turning this negative into a positive.

Not surprisingly, the firm was criticized for a response described as tepid, self-serving, and in many respects disingenuous, especially given the fact that the text was anything but an isolated "in the heat of the moment" communication. The text was unquestionably unsolicited and initiated by Dileo. It directly referred to his attempt to have the associate terminated because she was interviewing for another job while on leave. It was sent by an employment attorney who should have known that the associate was entitled to her

leave of absence, a benefit she earned. He should also have known that there was no prohibition, legal or moral, against her entertaining offers of employment while still employed by Zashin & Rich.

In less than a day, the firm pivoted. It announced Dileo's departure while issuing, for the first time, a lukewarm apology to the former associate.

Although the text is a horrific example of toxic workplace behavior, it is important to focus on the countless number of articles and posts which have ensued, not only in social media, but in the traditional press and elsewhere. Most women and many men commenting confirm that the sentiments in the text are not all that unusual. Many have experienced or witnessed this behavior in their legal careers: resentment of women (or men) taking protected leave, bullying by more senior lawyers and clients, harassment, and discrimination.

We still have work to do to ensure a safe and equitable work environment for all, notwithstanding the words on our websites and our carefully crafted policies. The outcry from the legal community shows us that all law firms, even those who are among the most prestigious when it comes to representing and training employers on workplace culture and behavior, need to engage in independent and sustained review of their own workplaces and the behaviors of their members. The true shame of the toxic text is not that it was sent, but that it conveyed what the sender and probably others were thinking. ■

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### Listen and Learn About Vaccine Injury Law



A new episode of The Bar Discourse is now available to stream on Soundcloud at [soundcloud.com/the-bar-discourse](https://soundcloud.com/the-bar-discourse). Join host Tom Jarvis as he talks with attorney Heather Menezes about vaccine injury law and the Vaccine Injury Compensation Program.

For more information or to inquire about being a guest, contact NHBA Editorial & Marketing Coordinator, Tom Jarvis at [tjarvis@nhbar.org](mailto:tjarvis@nhbar.org).

### LawLine Thank You

The NH Bar Association would like to give a huge shout out to the wonderful volunteers at McLane Middleton and Bernstein Shur, as well as Attorney Sam Donlon for co-hosting our Lawline event on January 11, 2023. Over 55 calls were taken on a variety of issues including family law, landlord/tenant issues, probate questions, and civil matters. Thank you again to all our volunteers for participating in this valuable service!

LawLine is a public hotline, hosted by volunteer attorneys, on the second Wednesday of each month from 6:00 pm to 8:00 pm. For more information or to volunteer to host a Lawline event for 2023, please contact Anna Winiarz at [awiniarz@nhbar.org](mailto:awiniarz@nhbar.org).

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## Lunchtime Law Practice Management Learning Opportunities for Small and Solo Firm Attorneys

By Misty Griffith  
NHBA Staff

Join us on Friday, March 24, 2023, at noon for "Lunchtime LPM: Technology Tips and Tools for Today's Firms," the first webinar in our Lunchtime LPM series. This series of virtual interactive webinars is geared to the needs of the many small firm and solo practitioners among our members. The convenient virtual format will eliminate the burden of travel time, saving valuable billable time, and making it easier to take advantage of this opportunity.



Law practice management (LPM) is not a skill that is typically taught in law school. However, to succeed a firm must also be a successful business. No matter the size of your firm, someone is responsible for running the business aspects of the practice. Most New Hampshire firms have four or fewer attorneys, and 70 percent have fewer than ten attorneys, which means that managing the firm business usually falls upon one of the partners; this is especially true for solo practitioners.

The 2022 Economics of Law Practice Survey results highlighted a large technology use gap between small and solo firms and firms with five or more attorneys.



Moreover, smaller firms are unlikely to have a tech person on staff. The NHBA wants to help small and solo firm practitioners bridge that gap by offering educational webinars on related topics. Our first LPM webinar will be in March with more planned for the coming months.

Staying current on LPM software trends and developments can be overwhelming. However, embracing technology can make your practice more efficient. Your NHBA membership provides a wide array of free services and valuable member benefit discounts to help meet some of those needs. On March 24, NHBA Member Services Coordinator Misty Griffith

will share an overview of NHBA resources available.

Topics covered will include:

- What is TechConnect, and how can this free member benefit help your firm?
- What is law practice management (LPM) software, does it actually help small firms, and how do you choose from the many options available?
- What benefits does the NHBA offer?

Discover the many free resources your TechConnect benefit has to offer. Learn more about law practice management

software providers Smokeball, Clio, and MyCase. Hear more about new legal technology to enhance your practice: LawPay for secure credit card payments, eNotary-Log for remote online notarization, RPost for email and signature cybersecurity, and Smith.ai for remote receptionists. Find out about resources to help with legal research and writing including: Fastcase free legal research, Tracers investigative research database, and WordRake editing software. In addition to a roundup of NHBA member services and benefits, attendees will also have the opportunity to ask questions as part of this interactive webinar.

We hope you will join us on March 24 at noon. You may also register staff members for this free program. Sign up on our website today. To learn more or take advantage of any of these member services visit [nhbar.org](http://nhbar.org). If you have any questions, contact NHBA Member Services Coordinator Misty Griffith [mgriffith@nhbar.org](mailto:mgriffith@nhbar.org) or call (603) 715-3227. ■

### Lunchtime LPM: Technology Tips and Tools for Today's Firms

Friday, March 24, 2023  
12:00 pm

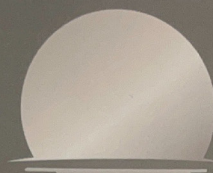
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## NHBA Board of Governors 2023 Elections – Open Positions

Active, qualified members may submit a petition for one of the following positions for which nominations are open.

Positions with an asterisk (\*) indicate an incumbent governor who is eligible to seek another term.

- Vice President (1-year term, and a 4-year commitment to board leadership track – President-Elect, President and Immediate Past President in subsequent years)
- Governor at Large (two vacancies, 3-year term) \*
- Governor at Large (nomination by petition for the remaining 2 years of a 3-year term)\*
- County Governors (2-year term) representing:
  - Cheshire\*
  - Coos
  - Merrimack\*
  - Rockingham\*
- County Governors (2-year term) representing: (each of these vacancies is for the remaining year of a 2-year term)
  - Grafton \*
  - Hillsborough South\*
  - Strafford \*
- ABA Association Young Lawyer Delegate NH (This is a 2- year term. The ABA specifies the qualifications

that “such delegate was admitted to his or her first bar within the past five years or is less than 36 years old at the beginning of his or her term.”)

### Submitting a Nomination Petition

No fewer than 10 active member signatures are required for a nomination petition for a governor representing a county; no fewer than 25 active member signatures are required for vice president, governor at large, and Association ABA Delegate. Bar members may sign only one petition for a county position on the Board representing the county where the signer’s principal office is located. Blank petitions can be obtained by contacting NHBA Executive Department Assistant Cindy Roberts at [croberts@nhbar.org](mailto:croberts@nhbar.org) or 603-715-3267.

### Petition Deadline

Petitions for nominations to the NHBA Board of Governors will be accepted no later than **March 1, 2023**.

### Election Information

Online ballots will be accepted from April 1 to until April 15, 2023. Those eligible to vote are active-status members (dues fully paid).

## Create Meaningful Change via the “150 Minutes of Giving” Service Project

By Lynne Sabeau  
NHBA Staff

In last month’s issue of New Hampshire Bar News, NHBA announced its 150th Anniversary Year, as well as how it planned to commemorate this landmark occasion. One of the projects we touched upon was the “150 Minutes of Giving Back” Service Project. This month, we will be providing additional details on how the service project works and how attorneys can submit their time.

NHBA members are known not only for their collegiality, but also for how generously they give of their time and money. The honor rolls in this issue (see page 16) are just the tip of the iceberg. Odds are that you or someone you know serves on one or more committees/task forces, participates as a Lawyer Referral Service panelist or Mentor Advice Program mentor, is a member of the NHBA Board of Governors, and so on. (And that’s only the NHBA activities, not volunteer work performed at other civil legal aid organizations or in the community at large.) This month, we will be honoring some of these generous individuals at Midyear Meeting, but there are hundreds of other unsung heroes.

Through the “150 Minutes of Giving Back” service project, we encourage our members to give an additional 150 minutes of service at any time in the 2023 calendar year. While pro bono legal service is strongly encouraged, any community service counts. Looking for ideas? We started a list at [nhba.s3.amazonaws.com/wp-content/uploads/2023/01/04095829/2023-01-04-150th-Anniversary-Volunteer-Ideas.pdf](https://nhba.s3.amazonaws.com/wp-content/uploads/2023/01/04095829/2023-01-04-150th-Anniversary-Volunteer-Ideas.pdf) and welcome any additional ideas you might have.

We’ve made it easy for you to report your “150 Minutes of Giving Back” service project hours. Please note that this reporting is very different than the proposed “voluntary reporting of pro bono hours” project discussed by

*GIVING continued on page 16*

## NHBA Board Election – Ensure You Receive Your Ballot

Electronic voting for NHBA Board Election will take place starting at midnight, EST, on April 1, 2023. All Active members are eligible to vote. To ensure you receive your ballot information electronically, please be sure the email address we have on file for you is accurate. If you need to update your email; please log onto the Member Portal, and use the update MyProfile link that is found on the Profile page. Please do this no later

than March 15, 2023. If you need assistance updating your email address, please contact [MemberRecords@nhbar.org](mailto:MemberRecords@nhbar.org).

Members eligible to vote in the Board election, without an email address on file with the Association, will receive a letter containing instructions on how to vote electronically or, if preferred, how to receive a paper ballot.



## THE BEST LAWYERS – YEAR AFTER YEAR

### MARK A. ABRAMSON

Medical Malpractice Law - Plaintiffs – Personal Injury litigation – Plaintiffs

### NICK ABRAMSON

Medical Malpractice Law - Plaintiffs – Personal Injury litigation – Plaintiffs

### EVA H. BLEICH

Medical Malpractice Law - Plaintiffs

### KEVIN F. DUGAN

Medical Malpractice Law - Plaintiffs – Personal Injury litigation – Plaintiffs

### JARED R. GREEN

Personal Injury Litigation – Plaintiffs and Product Liability Litigation – Plaintiffs

### HOLLY B. HAINES

Medical Malpractice Law – Plaintiffs and Personal Injury Litigation – Plaintiffs  
“2023 Lawyer of the Year – Personal Injury– Plaintiffs – Manchester, NH”

### ELIE MAALOUF

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## Real Property Section and Corporation, Banking, and Business Law Section

By Michelle Radie-Coffin and Stephanie Lee

On January 12, 2023, members of the Real Property Section and the Corporation, Banking, and Business Law Section of the New Hampshire Bar Association met with members of the New Hampshire Society of Certified Public Accountants for a business networking event at the Manchester Historic Association's Millyard Museum in Manchester. The event was planned as a collaboration with the New Hampshire Society of Certified Public Accountants to bring our members together and foster business and social connections.

Attendees enjoyed a catered reception and a guided tour of the galleries by Millyard Museum Executive Director, Jeffrey Barraclough, who walked the group through 11,000 years of area history beginning with the Paleo-Indian communities who lived and fished around Amoskeag Falls, the arrival of the European settlers, and the founding of Manchester as a planned city by the Amoskeag Manufacturing Company. Barraclough pointed out museum artifacts along the way such as an 1802 lottery ticket used to fund the canal, an original loom machine, photographs of notable New Hampshire Generals, and the Ashland Number One horse-drawn steam fire engine built by the Amoskeag Manufacturing Company. He described the growth of the Amoskeag Manufacturing Company which once had 17,000 employees at its peak, but went bankrupt in

1935, forcing the city to re-invent itself by selling mill buildings to other industries—a tradition which continued into the 1990s and present day with the refurbishment of the mill buildings and arrival of technology companies. Museum Archivist Daniel Peters remained at the reception to answer questions.

The Real Property Section of the NHBA is made up of over 300 members and provides a variety of opportunities for members to improve their professional knowledge and skills in relation to this area of the law. The section's objectives include providing a forum for questions relative to title-related matters, as well as idea exchanges among members on emerging real property law issues. The section also updates the Title Examination Standards which were first adopted in 1954. Section Officers for the June 1, 2022 – May 31, 2023 member year are Michelle Radie-Coffin, Chair; Laura B. Dodge, Vice Chair; and Elaina L. Hoepfner, Clerk. The Section is planning its next meeting for mid-March.

The Corporation, Banking, and Business Law Section of the New Hampshire Bar Association is an active and growing network of business law professionals interested in meeting others in the community, expanding their knowledge in these practice areas, monitoring pending legislation in the areas of business and banking law, and facilitating relationships within the business bar. The Section Officers for the June 1, 2022 – May 31, 2023 member



From left to right: Michelle Radie-Coffin, Stephanie J. Lee, Daniel Peters, Laura B. Dodge, Elaina L. Hoepfner, John R. DeWispelaere, Jeffrey R. Barraclough, Ramey D. Sylvester, Kerry Lekas, Megg Acquilano, and Lazaro Laserna.

year are Ramey Sylvester, Chair; Amelia Elacqua, Vice-Chair; and John DeWispelaere and Stephanie Lee, Co-Clerks. The Section is planning an ice cream social and CLE event with the Trust and Estate Law Section for the Spring and welcomes ideas and suggestions for future events.

On behalf of the Real Property Section and the Corporation, Banking, and Business Law Section of the NHBA, we would like to thank the new NHBA Sections

Coordinator Lazaro Laserna for all of his work and support in planning and carrying out this event, and NHBA Director of Professional Development Megg Acquilano for her help in hosting the event.

Section events and meetings including CLE's are for section members only.

To join a section, visit our website or contact NHBA Sections Coordinator Lazaro Laserna at [llaserna@nhbar.org](mailto:llaserna@nhbar.org). ■

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## Flying Solo – Words of Wisdom from Solo Practitioners

By Misty Griffith  
NHBA Staff

Granite Staters take pride in their independence. This is true for New Hampshire attorneys as well; one-third of NH lawyers are solo practitioners. Solo practice brings a unique set of challenges, but also its own special rewards. No one can speak better to this experience than solos themselves.

For our many solo practitioners, as well as those who may be considering flying solo, we are offering a series of articles dedicated to sharing advice from solos for solos. Thank you to this month's featured attorneys for taking the time to share your words of wisdom. We look forward to sharing sage advice from others in the coming months.

### Edward D. Philpot, Jr., PLLC

*Laconia, NH*

*35 years in practice, 19 as a solo*

#### What inspired you to become a solo?

More flexibility in the type of work I could do and in the economics of my practice. When I was at a firm, I spent a lot of time managing the business and my practice. That was terrific experience, but I felt that I was working in areas that I was no longer enthusiastic about because of commitments to the business model. Now I get to manage all aspects of the practice, and the business based on my own interests.



**Best thing about solo practice:** Flexibility and the abil-



ity to connect more closely with my community and my clients. I am task oriented, so I can focus on work while I am at work, and I'm getting better at taking time for myself when I need it. The practice of law and the business of law are often at odds. Dealing with that balance is both difficult and rewarding when you get it right. It is extremely stressful and difficult when it gets out of whack.

**Hardest thing about solo practice:** The pressure to manage caseloads, meet deadlines, and pay the bills don't go away when you go out on your own. In some respects, they increase. There is no one to pick up the slack or cover hearings, meet pleading deadlines, etc. It makes for long days sometimes. Avoiding the "echo chamber" is also critical, so you must have people you can talk to, run ideas by, or get a reality check. I am blessed to be doing this in New Hampshire, where friends and colleagues will always take my calls or answer an e-mail when I'm stuck or just need a sanity check (the phone is always better by the way). Likewise, I welcome calls from others in the same vein.

**Memorable solo experience:** Every day is a new challenge and a new adventure!

**Advice for new a solo:** Do not hesitate and call another lawyer if you get in a situation that is unfamiliar or if you get stuck on something. Don't let it linger, be proactive. No matter how big the problem looks, chances are somebody out there has had the same issue and will have helpful advice.

**Would you advise anyone else to go it alone?** It depends. It is not for everyone. The experience that comes from working with others in a firm is invaluable, and if you start out as a solo, you miss a lot. In law school, they teach you a little about the law, but they don't teach you about the business of the practice of law. There are some hard lessons to be learned if you don't have a business background. The good news is that there are a lot of resources available these days, and I can't stress enough how willing New Hampshire lawyers are to help—particularly other solo and small firm practitioners. Of course, the Practical Skills Solo and Small Firm Practitioners presentation by Ed Philpot and Rick Sager is a prime source that keeps on giving!

### Kim Peaslee, KPIP Law PLLC

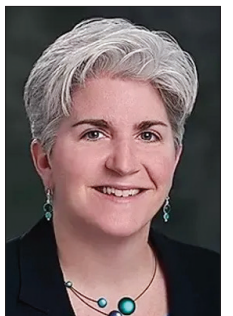
*Concord, NH,*

*13 years in practice,*

*two years as a solo*

#### What inspired you to become a solo?

A desire to run a collaborative firm and to provide the best service to my clients.



FLYING SOLO continued on page 25

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## Introducing the 150<sup>th</sup> Anniversary Year Fund

As part of NHBA's 150th Anniversary Year commemoration, we're asking our members to perform 150 minutes of volunteer services. While that's just 2.5 hours of engagement, we fully understand that not everyone's schedule allows them to do so.

The newly-created 150th Anniversary Year Fund, overseen by the New Hampshire Bar Foundation, provides an option for those who believe in giving back, but prefer to do so financially. Proceeds from this fund will be used to support programs and organizations that are dedicated to improving access to justice at both the attorney and court levels, as well as law-related education projects.

**Learn more and donate today**  
**at [nhbar.org/150th-anniversary-year/](http://nhbar.org/150th-anniversary-year/)**





# Jill O'Neill: NHLAP's Executive Director Finds Joy in Helping People

By Tom Jarvis  
NHBA Staff

New Hampshire Lawyers Assistance Program (NHLAP) Executive Director Jill O'Neill has devoted her entire adult life to helping people. In her current role at NHLAP, she provides assistance to NH lawyers, judges, and law students who experience substance use disorder, depression, or other issues that affect well-being and impair their ability to function and practice law. She also aids in the curtailment of malpractice claims and disciplinary complaints.

O'Neill's interests in mental health can be traced all the way back to her traumatic childhood. Growing up in Stoneham, MA, she was parentified – where a child takes on the role of parent – at a young age, causing her to assume an enormous amount of responsibility. This resulted in some rebellion throughout high school, but a compassionate guidance counselor helped her back on track and assisted her with applying to Salem State University.

However, during her first semester of college, her family's house burned down, and they lost everything. Her parents then separated, and she moved into the projects with her father.

"I think that was my first true life lesson," O'Neill says. "You can have everything, and it can be gone in a second. But I grew from that and other unfortunate series of events in my life."

Having to attend school part-time due to needing to work a full-time job to help support the family caused her to graduate later, but she eventually finished in 2002, obtaining a bachelor's degree in science, majoring in criminal justice and minoring in sociology.

After graduation, she began working at the Greater Nashua Mental Health Center (GNMH), where she stayed for 19 years, eventually becoming Associate Director of Adult Services. During her time at GNMH, she reestablished the mental health court in her role as the Mental Health Court Liaison and Program Manager. As a result



of these efforts, she was awarded the New Hampshire National Alliance on Mental Illness (NAMI-NH) Annual Award for making a substantial difference in the criminal justice system to better support individuals experiencing mental health conditions. She was also recognized for her expertise and appointed by the NH Community Behavioral Health Association to serve on the NH Legislative Commission to create a system of mental health courts across the state.

One of her biggest mentors early in career was Dr. Hisham Hafez, a psychiatrist and the former CEO and Chief Medical Officer of GNMH.

"Dr. Hafez was the youngest to ever do a residency at Yale," O'Neill says. "He expected a high caliber of his team and wanted Yale-level from us. He used to tell me that I'm so smart, and I need to go back to school to pursue formal education. When I told him I'm not in a financial position to do so, he said then you read, and you educate yourself and make sure you keep up because that's what I'm expecting. He made us read articles and present on them and would sit in and do evaluations. He was all about quality patient care. And that expectation stuck with me and has become a discipline. So, do I have a formalized education? No. Can I keep up and have an intellectual clinical conversation with my peers? 100 per-

cent."

As formal education was not a path that was available to her, O'Neill decided to blaze her own trail.

"My path is uncharted," O'Neill says. "I took volunteer opportunities and invested myself in my work, and really tried to learn and figure things out from my environment and continue to excel. I've learned so much in the journeys I've been through and what I've experienced than any book can show me. But for all the hardships I've had in my life – and I've had many – I still look at the blessings that I've had."

O'Neill continues: "In our current environment, we are heavily emphasized on credentialism. It definitely has its place, but I've carried this burden of always feeling 'less than' and always having to prove myself. One of my pivotal points in my whole career is when I started to realize I actually do have value."

That realization came further to fruition when she was invited to testify on Capitol Hill about how NH is supporting justice-involved veterans. As co-chair of the NH Justice-Involved Veteran's Task Force, which aims to address veteran needs and building programming for justice-involved veterans from first point of police contact all the way through to community reintegration after incarceration, she was part of piloting the first Veteran's Behavioral Health Track in the Nashua Circuit Court, a program designed to divert justice-involved veterans experiencing service-related injuries into treatment as an alternative to traditional sentencing.

"One day, I received an invitation from Senator Jeanne Shaheen's office to testify in Washington about what New Hampshire is doing to support justice-involved veterans," O'Neill says. "My first instinct was to call someone who is more qualified. I talked to a lot of people who were excited about it but couldn't make it happen. So, I said I just can't let the veterans in New Hampshire down and not go. I tried to talk myself out of it – that harsh inner critic was saying 'you're not capable,

O'NEILL continued on page 14

## #1 in Verdicts and Settlements



Boston magazine's "Top Lawyers" (l to r): Kryisia J. Syska, Adam R. Satin, Robert M. Higgins, Nicholas D. Cappiello, Andrew C. Meyer Jr., William J. Thompson and Julie A. Davis (inset).



LUBIN & MEYER again dominates Boston magazine's "Top Lawyers" list as the firm with the most attorneys recognized in areas of personal injury and plaintiffs medical malpractice law.

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Product liability settlement	\$8,900,000.00
Birth injury settlement	\$7,500,000.00
Construction accident settlement	\$7,000,000.00
Surgical error settlement	\$5,100,000.00
Prostate cancer settlement	\$4,500,000.00

\* Verdict settled on appeal







NEW HAMPSHIRE

# BAR FOUNDATION NEWS

## NHBF Awards Grant to 603 Legal Aid for Multicultural Outreach

By Mystyna Shappy  
NHBF Staff

The New Hampshire Bar Foundation (NHBF) is pleased to announce that it has awarded a two-year grant of \$25,000 to 603 Legal Aid to provide additional support for their new Multicultural Outreach Project. The bulk of the funding for this project comes from a New Hampshire Charitable Foundation grant of \$140,000 that the organization received earlier this year.

The grant funding will be used primarily to hire an outreach coordinator to collaborate with communities and faith-based organizations to provide clear and accurate messaging and educational materials in languages most spoken in those communities, with a goal of closing the access to justice gap among marginalized populations. In addition to these outreach efforts, the project will collaborate with community partners to host legal clinics in several areas of law, which could include family law, criminal record annulment, and federal tax law. Presentations will aim to teach attendees how to handle their cases pro se and will conclude with one-on-one consultations. The consultations may lead to a referral to a private pro bono attorney.

"Equal access to justice demands that the NH civil legal aid network reduce barriers for those most in need of legal assistance to secure, preserve or reinstate those things that provide the basic necessities of life such as housing, income preservation and public benefits, to name a few," says 603 Legal Aid Executive Director Sonya Bellafant. "To accomplish this task, 603 Legal Aid is committed to increasing the work we do with clients in the com-

munities that they live in. Expanding outreach to focus on multicultural communities is imperative to facilitate this objective."

The proof of need for this project comes from a comparison of client demographics with those of low-income New Hampshire residents, generally. As stated in the January 2021 report from the New Hampshire Access to Justice Commission, "New Hampshire's legal aid programs must continue to emphasize anti-racism, cultural competence, language access, and other strategies that promote equity and inclusivity in civil legal work," and in the executive summary that programs "should increase and better coordinate outreach to potential clients, with an emphasis on reaching people in their own communities."

The structure for the outreach project will be largely based on the guidance of the Tax Policy Center's report on expanded Child Tax Credit outreach to marginalized populations in the Boston area.

603 Legal Aid undertook a pilot version of this project starting in 2021, which was jointly funded by the New Hampshire Charitable Foundation and the New Hampshire Housing Finance Authority. While much was accomplished during the pilot, Bellafant shared that the experience "has shown us that a deeper level of commitment to community outreach is necessary to produce lasting results."

603 Legal Aid has already shown this commitment in their hiring practices, with three staff members who are bilingual or multilingual, use of interpretation and translation services, and providing website availability in eight languages, besides English.

The New Hampshire Bar Foundation grant is being



Local neighborhood children sporting 603 Legal Aid masks at a multicultural outreach event in 2022. Courtesy photo

made as part of its commitment to improving equal access to justice. The support of the 603 Legal Aid Multicultural Outreach Project is consistent with two of the pillars of the Powering Justice Propelling Change fundraising campaign that was launched in 2021, which prioritizes supporting civil legal services, civics education, and furthering diversity and inclusion work within the New Hampshire legal community.

"The multicultural outreach program is an important next step in furtherance of the NHBF's statewide diversity and inclusion survey," NHBF Board Member Mary Tenn says. "It is gratifying to see the funds raised by the Bar Foundation from New Hampshire lawyers and law firms enabling key partnerships like this one with 603 Legal Aid dedicated to improving access to our courts for those most in need."

Donations to support the New Hampshire Bar Foundation can be made at [nhbarfoundation.org](https://nhbarfoundation.org) or by calling Mysty Shappy at 603-715-3210. ■

Thursday  
May 11, 2023

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## Coming and Going

Pierce Atwood is pleased to announce that Trusts & Estates attorneys **Marla Matthews** and **Jan Myskowski**, along with staff member Sarah Caldwell-Washburn from Myskowski & Matthews, PLLC, have joined the firm.

**Marla Matthews** has extensive experience in trusts and estates planning, which includes general wealth transfer, gift and estate tax planning, and business succession planning. Marla works closely with individuals and families to help find practical, understandable, and efficient solutions to complex and emotionally charged issues related to transfer of wealth and legacy planning. Marla also has a busy guardianship practice, frequently representing clients who are petitioning for guardianship over an incapacitated person in the probate court and advising clients on their fiduciary duties once they are appointed as guardian.

**Jan Myskowski** focuses his practice on estate planning, estate and trust administration, non-judicial trust reformations and modifications, matters before the probate court including guardianships, reformations, and contested will and trust disputes, and matters before the US Tax Court. His areas of emphasis include federal and state estate tax mitigation, trust situs considerations such as the mitigation of state-level income taxation of trusts, asset conservation, business succession planning, charitable planning, and special needs trust planning and administration.

The law firm of McLane Middleton is pleased to announce that **Jennifer**

**L. Parent** has been named to the firm's Management Committee – the executive committee of the board of directors overseeing strategy and business operations.

Jennifer is a director in the firm's Litigation Department and chairs its Business Litigation Practice Group. She has over 27 years of experience litigating and resolving disputes for companies and business owners in a wide range of complex commercial cases and employment matters. She has litigated in state and federal courts in New Hampshire and Massachusetts. Jennifer has represented companies in business litigation involving contracts, tortious interference, unfair competition, shareholder, real estate, tax abatement, eminent domain, leases, misrepresentation, and other business disputes.

## Community Notes

**Debra Weiss Ford** of national employment law firm Jackson Lewis PC has been elected to Granite State Children's Alliance's (GSCA) Board of Directors, a non-profit organization that provides justice, healing, equity, and prevention to all survivors of child abuse in New Hampshire.



## In Memoriam

### Gerald J. Carney

On Saturday January 21, 2023, the Honorable Gerald J. Carney, loving husband, father, grandfather, and uncle passed away peacefully at the age of 82. Gerald was born on January 6, 1941, in Rockville Centre, New York, to Georgianna (Guth) Carney and Thomas Carney. He bravely enlisted in the US Navy, was accepted into the submarine service, and served with distinction on the USS Chopper. This period of his life had a profound impact on him. After being honorably discharged in 1964, he began his law education at St. John's University School of Law in Brooklyn, NY. Gerald graduated in 1969, passed the New York State Bar, and was hired by Mendes and Mount, a maritime law firm on Wall Street. After passing the New Hampshire Bar in 1973, he practiced law with the late Harry Spanos of Newport, NH. In 1981, Gerald was appointed as a Special Justice to the New London District Court. Subsequently, he was appointed by the New Hampshire Supreme Court to serve as the Justice of The Newport District Court in June of 1989. Gerald was the City Attorney of Keene, NH, where he served for 17 years until his retirement in 2007. In addition, Gerald was



Adjunct Faculty at Colby-Sawyer College and New Hampshire College from 1977 to 1983.

After marrying Leslie (Voigt) Carney on April 5, 1964, they settled in Baldwin, NY. Five years later Gerald, Leslie, and their two daughters moved to Hanover, NH, where Gerald had built their lakefront home. Gerald was a man of varied interests and accomplishments. A particular love was of the outdoors and fishing. He was an avid angler in both fresh and salt waters. In addition to fishing and boating, Gerald was a skilled woodworker. One of his proudest accomplishments was building the family's home in New London NH, where they lived for 42 years. Other interests of Gerald's were reading, specifically US history and anything Navy-related. Gerald and Leslie loved their time spent traveling together. A few of their most memorable trips were to Boca Grande, FL, European River Tours, and Higgins Beach in Maine.

Gerald is survived by his loving wife of 58 years, Leslie; his daughter, Alison Carney Senior, her husband Neil Senior, and their daughter Isabelle (Izzy) Carney Senior; his daughter Megan Carney Gust, her husband Stephen Gust and their children Caroline Grace Gust and Andrew Carney Gust. He took immense pride in his three grandchildren, and they filled him with constant, loving joy.

Donations in Gerald's memory can

IN MEMORIAM continued on page 18

## Professional Announcements



**McDowell & Morrisette**  
*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 & Morrisette 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.

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### Katie A. Mosher

Associate

[mosher@gcglaw.com](mailto:mosher@gcglaw.com)

603-545-3668



### GCG is pleased to welcome Katie Mosher

Katie's practice focuses on state and federal litigation, with a focus on civil litigation defense.

Katie graduated cum laude from the University of New Hampshire School of Law, and earned her Bachelor of Arts, magna cum laude from Wheaton College.



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## Welcome, Deb Bess Urbaitis!

G&O Law is pleased to welcome Deb Bess Urbaitis to the team. With over 20 years of experience, Deb assists clients in the areas of estate planning, trust, probate, business, and family law. She will be practicing primarily out of our Henniker location.

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## PLEASE JOIN US IN WELCOMING

### Jeffrey D. Odland

Jeffrey joined WSP in January 2023. He specializes in state and federal criminal defense as well as civil litigation. Since 2008, Jeff has represented thousands of NH residents during their most difficult and trying times. A skilled trial lawyer, Jeff has brought serious cases to verdict in the New Hampshire Superior Courts resulting in favorable verdicts for his clients.

Jeff currently serves as the President of the New Hampshire Association of Criminal Defense Lawyers as well as a member of the Federal Court Advisory Committee.

For Jeffrey's full bio visit [wadleighlaw.com](http://wadleighlaw.com).



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Welcomes  
**Matthew P. Zahn**  
to the firm!



Matt joins the Litigation team as an Of Counsel Attorney. Matt is a *cum laude* graduate of The University of Miami School of Law. Bringing experience as a defense attorney, felony prosecutor and civil litigator, Matt will provide representation in the courtroom and at the negotiating table in a variety of matters including crisis management, family law, criminal defense, insurance defense, and probate & wealth transfer litigation.

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Hoefle, Phoenix, Gormley & Roberts, PLLC is pleased to announce that it has named a new partner as of January 1, 2023.



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**BRIANA L. MATUSZKO**  
HAS BECOME AN ASSOCIATE WITH THE FIRM

DTC is proud to announce Briana L. Matuszko became an Associate with the Firm in October 2022. Briana worked for nearly three years as a Judicial Law Clerk at the New Hampshire Superior Court in Strafford, Carroll and Cheshire Counties, and remotely from overseas. Her practice areas include civil litigation, municipal and land use law, and employment law.  
Please join us in welcoming Briana!



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DONAHUE, TUCKER & CIANDELLA, PLLC  
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**CHRISTOPHER D. HAWKINS**  
HAS BECOME A MEMBER OF THE FIRM

DTC is proud to announce Christopher Hawkins as the firm's newest member. Chris has been with DTC since 2021, bringing with him over 20 years of experience. Since joining DTC, Chris continued his focus on representing clients on issues of malpractice and professional liability, professional discipline and licensing, construction, municipal law, environmental concerns and other issues. Chris is involved in the firm's technology committee, and is excited about helping to drive the firm forward and be a part of its continued success. Please join us in congratulating Chris on this achievement!



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### Dan Schwarz Joins Hess Gehris Solutions

Daniel Schwarz is pleased to announce that he has joined the alternative dispute resolution team at Hess Gehris Solutions as a mediator, arbitrator, and conflict resolution consultant. After 35 years as a trial lawyer in Maine and New Hampshire, Dan is now committed to using his skills as a mediator to help people resolve employment disputes. Since 2012, Dan has been recognized by Best Lawyers of America in Management side Employment and was twice named its Lawyer of the year for the Manchester region. Dan lives with his wife Lisa in Portsmouth.

Dan is available to mediate and arbitrate employment related disputes throughout Maine and New Hampshire and is trained in online mediations using the Zoom platform. For more information, or to schedule a mediation please contact Dan at [dschwarz@hessgehris.com](mailto:dschwarz@hessgehris.com).

Hess Gehris Solutions is thrilled to welcome Dan to our team. In addition to employment mediation, Hess Gehris provides experienced civil, family and probate mediation to clients in New Hampshire, Vermont, Maine and throughout New England.



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# Thoughts on Cybersecurity for Business Leaders

By Ryan Barton

It's 9:45 am on Thursday. While you're looking for an important email, you notice messages in your Sent Items you don't remember sending.

"It won't happen to us."

Too often, no one thinks seriously about security until it's too late. Even small and medium-sized businesses hold sensitive information that is valuable to hackers (and we don't mean Zero Cool and Acid Burn). Today's hackers live all around the world, are often professionally organized, use automated tools to hack cheaply at scale, and are motivated solely by money. Those who don't proactively plan for security risk are their favorite target.

The sheer number of ways they can attack an organization can seem overwhelming, but knowing which ones are most frequently assailing your organization is a helpful first step.

## Let's Get Specific

Two of the most common attack types are phishing and ransomware. These incident types have the potential to severely impact any leader's ability to meet organizational goals. While you may have seen scare



headlines of "60 percent of hacked businesses go under," thankfully that isn't true. However, the impact of a successful hack is always painful.

## Where to Start

The time to address security posture is now. First, identify the gap between today's best practices, and your own organization's security standards. How? It is wise to partner with a mature and innovative information security team like the one we have at Mainstay. We assess, we guide, and

then we carry the weight of the responsibility *with* you. We do this for hundreds of northern New England organizations and are fortunate to experience firsthand the positive impact business leaders experience, after having the right security posture (with a shrewd budget).

## Microsoft Defender for Endpoint is One Example

Recently, one of our client's employees downloaded what he believed was a legitimate video player application. When the

application was opened, it deployed malicious code that attempted to extract his email folders and cached passwords. The code was sophisticated and bypassed normal antivirus scans. Without robust protections, this would have resulted in significant confidential data falling into the hands of a greedy criminal. However, we had deployed a tool called Microsoft Defender for Endpoint which uses advanced AI to detect and block threats in real-time, all at low cost. The user's machine was separated from the network, all malicious connections were severed, and a trained security professional was investigating within minutes. This turned the potential of a brutal breach into simply a minor inconvenience.

Partnering with Mainstay will give you the confidence and tools to lead your organization's security strategy. We have brought clarity and confidence to hundreds of business leaders, whether through a risk assessment, ongoing information security services, being the IT department, or through a simple meeting. If it makes sense to evaluate or increase your organization's security posture, please contact us today, for a conversation with an experienced leader at Mainstay. ■

*Ryan Barton is the founder and CEO of Mainstay Technologies, an IT and Information Security services firm based in New Hampshire. You can learn more about the company at [www.mstech.com](http://www.mstech.com) or reach Ryan on LinkedIn.*



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## O'Neill from page 9

you didn't serve in the military' – but I just couldn't look the task force and the veterans in the face and say I didn't show up when I had the opportunity to promote this. So, I went."

Once she got to Washington, DC, she began to feel more intimidated.

"I looked to my left and there was a Korean war general and then to my right I saw the woman president of the post-9/11 Afghan War Organization," O'Neill recalls. "I was like I am not worthy. I was so intimidated, but I told myself I have a job to do. Like Bill Belichick said: 'Do your job.' So, I spoke to what I know. I didn't pretend to be someone else. Later, in the elevator back, one of the senator's aides tapped me on the shoulder and told me, 'You nailed it.'"

O'Neill recently started as an incorporating board member of Veteran's Legal Justice; the newly reformed program that used to be called Boots on the Ground which aims to address gaps in access to justice for veterans and their families.

In addition to helping lawyers and judges in her role at NHLAP, she is very involved with UNH Franklin Pierce School of Law. She helps to counsel students and assists with their orientation.

"Jill truly wants to help and set our students up for success to make sure they are positioned to be the best attorney they can be," UNH Law Assistant Dean for Students Berger says. "She has done a great job as an advocate for students to make sure their well-being is at the center."

Attorney Chris Hawkins of Donahue,

Tucker, and Ciandella says a fair part of his business is representing lawyers in the attorney discipline process, as well as the character and fitness process for attorney applicants, which brings him into contact with O'Neill regularly.

"Jill is a consummate professional," Hawkins says. "She provides an invaluable service to the bar and to bar applicants. I would recommend without hesitation that any attorney or bar applicant who is experiencing any issues with substance abuse or mental health issues should contact Jill as quickly as you can."

Being in the field for more than 20 years, O'Neill has seen and helped many individuals and has confronted and come to understand a lot of different barriers to accessing health. She also tries to constantly keep up to date with new innovative treatments. She is very passionate about the work she does for NHLAP and feels that a lot of progress has been made in the past year.

"I'm so glad people are starting to call and be self-referred," O'Neill says. "The word is getting out that we are not only here to address individuals engaged with the discipline system or individuals struggling with addiction issues. We are here very broadly. There is no wrong-door approach to calling. The important thing is to reach out and call. Don't suffer in silence."

When asked what she is most proud of in her career, O'Neill says, "I'm most proud of the lives that I have been able to impact positively. In big and small ways, each person has touched my life. It's a great honor and privilege to walk alongside a person in their journey." ■





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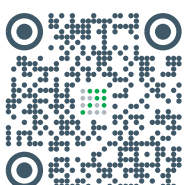


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## Modest Means Honor Roll 2022

This list represents attorneys who have taken cases for 2022. The list is based on reporting as of 12/31/22.

Joseph Annutto	Law Office of Joseph Annutto
Cindy Beaulac	Elliot, Jasper, Shklar, Ranson & Beaulac
Jared Bedrick	Champions Law
Sandra Bloomenthal	Bloomenthal Law Office
Robert Bloomenthal	Bloomenthal Law Office
Randi Bouchard	Brown & Bouchard
Cassandra Brown	Brown & Bouchard
Joseph Caulfield	Caulfield Law & Mediation Office
Lisa Cirulli	Cirulli Law Office
Ryan Correia	Morneau Law Offices
Amy Driscoll	Driscoll Law Office
Mercy Frank	Law Office of Frank, Kealy & Walker
Samuel Harkinson	Seven Rivers Law Office
Michael Heiner	Law Office of Stark & Heiner
Juli Hincks	McGrath Law Firm
Daniel Krislov	Small & Lee
Carol Kunz	Backus, Meyer & Branch
Michael Lee	Small & Lee
Kalie Lydon	Law Offices of Lydon & Richards
Joseph MacAllister	Gawryl & MacAllister
Vincent Marconi	Attorney-At-Law
Katherine Morneau	Morneau Law Offices
Thomas Neal	Attorney-At-Law
Gregory Palkon	Palkon Law Office
Jenny Proulx	Proulx Law Offices
Alice Ranson	Elliot, Jasper, Shklar, Ranson & Beaulac
Howard Roever	Law Office of Howard A. Roever
Kimberly Shaughnessy	Shaughnessy Raiche
James Shephard	Law Offices of James A. Shephard
Ellen Shimer-McGuire	Shimer & Dauksewicz
Justin St. James	Attorney-At-Law
Michael St. Louis	Law Office of Michael St. Louis
Mark Sullivan	Sullivan Law Office
John Wolkowski	Backus, Meyer & Branch
Peter Wright	Attorney-At-Law
Robert Young	The Young Law Firm
Sheila Zakre	Zakre Law Office

## Free Legal Answers - NH Honor Roll 2022

This list represents attorneys who have answered questions on Free Legal Answers for 2022.

Paul J. Alfano	Alfano Law Office PLLC
Allison M. Ambrose	Wescott Law, PA
Stephanie K. Annunziata	Shaheen & Gordon PA
Cassandra A. Brown	Brown & Bouchard PLLC
Michael R. Chamberlain	Michael Chamberlain Attorney at Law
Martha L. Davidson	Braucher & Associates PLLC
Michael J. DiRusso	Liberty Mutual Insurance
Craig S. Donais	Wadleigh, Starr & Peters PLLC
Dennis J. Haley	McLane Middleton PA
Debra M. DuPont	Primmer Piper Eggleston & Cramer PC
Julia A. Eastman	
Christina A. Ferrari	Bernstein, Shur, Sawyers & Nelson, PA
Michael B. Fisher	Fisher Law Offices PLLC
Randy S. Gordon	The Law Offices of Randy S. Gordon
James W. Hawthorne	Parnell Michels & McKay PLLC
Barbara G. Heggie	
Courtney H.G. Herz	Sheehan Phinney Bass & Green PA
Casey A. Hewitt	Hewitt Law PLLC
Robert R. Howard	Robert Howard Law Office
Marta A. Hurgin	603 Legal Aid
Andrea Q. Labonte	NH Supreme Court Attorney Discipline Office
Kathrine V. Lacey	Wescott Law PA
Sarah G. Landres	Primmer Piper Eggleston & Cramer PC
Kyle M. Lyman	Resolute Management Inc.
Jeffery P. Mannarini	Forman Law Group PA
Karyl R. Martin	University System of NH
David W. McGrath	Sheehan Phinney
Catherine P. McKay	Parnell Michels & McKay PLLC
Katherine J. Morneau	Morneau Law
Rory J. Parnell	Parnell Michels & McKay PLLC
Israel F. Piedra	Welts, White & Fontaine PC
Pamela A. Peterson	Devine, Millimet & Branch PA
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Catherine E. Shanelaris	Shanelaris & Schirch PLLC
Brian C. Shaughnessy	Shaughnessy Raiche PLLC
James A. Shepard	Law Offices of James A. Shepard
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David M. Stamatis	Parnell Michels & McKay PLLC
Jonathan S. Teller-Elsberg	NH Legal Assistance
Jennifer E. Warburton	Shanelaris & Schirch PLLC

## Giving from page 6

Justice Bassett in last month's Bar News. The hours you report to us in conjunction with the 150th Anniversary Year commemoration will be used solely for determining the overall level of participation, a rough estimate of the numbers of hours donated, and identifying those members who have given most generously. To re-

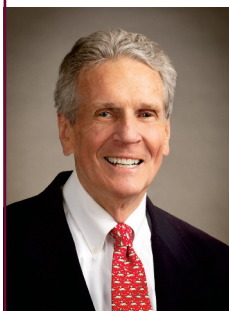
port your volunteer hours, simply use the convenient form at [nhbtech.wufoo.com/forms/q3ll0ai0w2d42f](https://nhbtech.wufoo.com/forms/q3ll0ai0w2d42f).

While 150 minutes is just 2.5 hours of additional engagement, we fully understand that not everyone's schedule and outside obligations allow them to do so. The newly created 150th Anniversary Year Fund, overseen by the New Hampshire Bar Foundation, provides an option for those who believe in giving back, but

prefer to do so financially. Proceeds from this fund will be used to support programs and organizations that are dedicated to improving access to justice at both the attorney and court levels. This fund also accepts stand-alone donations from the legal and business communities. To learn more about the 150th Anniversary Fund or donate, please visit [nhbar.org/150th-anniversary-year](https://nhbar.org/150th-anniversary-year).

As part of its annual appeal drive, the

Bar Foundation feels strongly that this "big" anniversary presents a point in time where members can reflect on how much lawyers have done and how much is left to do to truly provide access to justice for all NH citizens. Challenge your friends, your firms, and yourself to be part of the solution. Thank you in advance for your participation. ■



## 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](http://www.llc199a.com) to learn more about John's practice.

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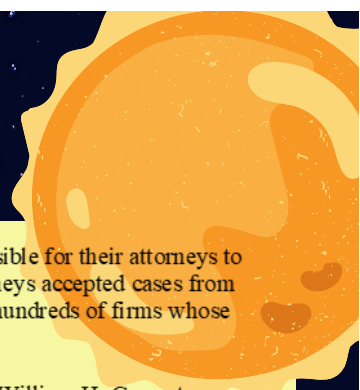
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These **INDIVIDUAL VOLUNTEERS** represent attorneys who took at least one case in 2022. ★ indicates an attorney took between 2 and 5 cases; ★★ indicated an attorney took between 6 and 10 cases, and ★★★ indicates an attorney took more than 10 cases. This list does not include the many cases, and the many attorneys, who took cases which began in 2021 and carried over into 2022. ★

Leif Becker ★★★	Judith Roman	Susanne Chisholm
Roderick MacLeish ★★★	Kenneth Walton	William Gillen
Joanne Stella ★★	David Frydman	Richard C. Guerriero Jr.
Dennis Thivierge ★★	William M. Driscoll	Theodore M. Lothstein
Patrick Hayes ★★	David Azarian	Anna Zimmerman
Anthony Naro ★★	Sean List	Juli D. Hincks
James Shepard ★★	John Wolkowski	Kolbie Deamon
Allen Lucas ★★	Vera Buck	Derek J. Kaufman
Rory Parnell ★★	Edward Sackman	Amanda E. Quinlan
Caitlin Poole ★	Quentin Blaine	Laura Raymond
Jorel Booker ★	Michael Darling	Mark Rouvalis
Jon A. Rochlis ★	John Loftus III	Brandon M. Vallie
Sandra F. Bloomenthal ★	Taylor Moulton	Robert Wells
Jon Strasburger ★	Randi Bouchard	Teresa Mahoney Mullen
Katherine Stearns ★	Sarah Lavoie	Steven Minutelli
Jonathan Cohen ★	Charles Russell	Ryan Joseph Correia
Robert Hunt ★	James L. Thaxton	Penina McMahon
Pamela Peterson ★	Lisa Bellanti	Richard L. O'Meara
Michael Fisher ★	Jared J. Bedrick	John P. Newman
Philip Kalil ★	Stephen Cherry	Mark Tyler Knights
Tony Sculimbene ★	Callan Sullivan	Allison Regan
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Rebecca McBeath ★	Dennis Morgan	Elizabeth A. Lahey
Julie K. Connolly ★	Kenneth Murphy	Judith Fairclough
James Laffan ★	David Osterman	Justin Pare
Alvin Nix Jr. ★	Devin K. Bolger	Roger Phillips
Bryan Clickner ★	Suzanne Brunelle	Michele Kenney
Scott Harris ★	Solal Wanstok	John Sullivan
Robert M. Moore ★	Dawn DiManna	Joseph J. Prieto
Kayla Jade Turner ★	Elaina Hoepfner	Sarah G. Landres
John M. Gasaway Jr. ★	Dennis Ducharme	L. Jonathan Ross
Elizabeth Velez ★	Cindy L. Beaulac	Ray Raimo
James Hawthorne ★	Alice Ranson	Kirk Simoneau
David M. Stamatis ★	Ryan M. Borden	Andrea Sennott
Michael Racine ★	Richard McPartlin	Jerome R. Blanchard
Nelson Raust ★	Robert Dietel	Richard Samdperil
Kathleen McKenzie ★	Anne E. Jenness	Christopher Snook
Michael Robert Croteau ★	J. Kristen Gardiner	Brittani Schanstone
Catherine L. Baumann ★	Elizabeth Garon	Benjamin Siracusa
Lyndsay N. Robinson ★	Morgan Hollis	Hillman
Justin Shepherd ★	Carl Hanson	Tracey Cote
Robert Shepard ★	Leonard Harden	Heather V. Menezes
Eric Sommers ★	Simon Levenson	Gary Apfel
Shane Archambault ★	John Laboe	Aaron Simpson
Mark Sullivan ★	Breckie Hayes-Snow	Amy Ashworth
Nicholas Brodich ★	David Groff	Ashley K. Sheehan
Patricia LaFrance ★	Ernest Jette	Jack Crisp Jr.
Peter Tamposi ★	Gregory Martin	Samantha Mills
Robert Young ★	Suzanne Decker	Daniel Duckett
John Garvey ★	Sofia Cunha-	Christine Hanisco
Donna Brown ★	Vasconcelos	Joseph Tropiano
Craig Donais ★	Theodore Parent	Jeffrey Crocker
Gretchen Wade ★	Thomas McCue	Christine Gordon
Emily Peterson ★	Amber Kovach Talbot	James Cowles
Jessica Ecker ★	William H. Grumet	Lisa Wellman-Ally
Allison Ambrose ★	Kalie Lydon	David Tencza
Colin Jean	William Gillen	Shawna P. Bentley
Mona Movafaghi		

These individuals represent **NON-ATTORNEY VOLUNTEERS** with our Low-Income Tax Program (LITP) who provide essential services to low-income individuals in need of assistance with IRS controversies and tax preparation services. The LITP relies on these volunteers' generous support of pro bono in order to assist individuals resolve their IRS controversies. Each of these volunteers took at least one case in 2022. ★ indicates a volunteer who took between 2 and 5 cases; ★★ indicates a volunteer took between 6 and 10 cases, and ★★★ indicates a volunteer took more than 10 cases. This list does not include the many cases, and the many volunteers, who took LITP cases which began in 2021 and carried over into 2022.

Richard J. Spead, Ph.D	Nisa Simila
Dat La	Larry Schwartz
Mark Anderson	Scott Rosenthal
John Warren	Vicki Laforet
Mary Thron	Donna Davidson Howard

Our thanks to the following **LAW FIRMS** who made it possible for their attorneys to participate in Pro Bono. This list includes firms whose attorneys accepted cases from July through December 2021. This list does not include the hundreds of firms whose attorneys have ongoing cases.

Azarian Law Office	Law Office of William H. Grumet
Backus Meyer Branch LLP	Law Offices of Lydon & Richards
Baker & Hayes	Law Offices of William M. Gillen
Becker Legal PLLC	Lawson Persson & Chisholm PC
Bernazzani Law	Lothstein Guerriero PLLC
Bernstein Shur Sawyer & Nelson PA	Lucas Law PLLC
Blaine Law Office	Manning & Zimmerman PLLC
Bloomenthal Law Office	McGrath Law Firm
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Boynton, Waldron, Doleac, Woodman & Scott	Minutelli Law Office
Brannen & Loftus PLC	Moore Ames Law PLLC
Brown & Bouchard PLLC	Morneau Law
Bucklin Law Office	Morrison Mahoney LLP
Burns, Bryant, Cox, Rockefeller & Durkin PA	Murray Plumb & Murray
C A Russell Law Office	Newman Law Office PLLC
Caldwell Law	NH Department of Safety
Casassa Law Office	Nixon Peabody LLP
Champions Law PLLC	Normandin Cheney & O'Neil PLLC
Cherry Law Office PLLC	Orr & Reno PA
Cleveland Waters and Bass PA	Pare Law PLLC
Cohen & Winters	Parnell Michels & McKay PLLC
Conklin & Reynolds	Phillips Law Office
Cooper Cargill Chant PA	Pierce Atwood LLP
Coughlin Rainboth Murphy & Lown PA	Preti Flaherty Beliveau & Pachios LLP
David S. Osterman, P.C.	Prieto Law
Davis/Hunt Law PLLC	Primmer Piper Eggleston & Cramer PC
Devine Millimet & Branch PA	Racine Law Office PLLC
DiManna Law Office LLC	Raimo & Gallagher PC
Dinsmore & Shohl LLP	Ransmeier & Spellman PC
Donahue Tucker & Ciandella PLLC	Red Sneaker Law PLLC
Ducharme Resolutions	Robinson, Boesch & Sennott PA
Durham Criminal Law	Russman Law Offices
Elliott Jasper Auten & Shklar LLP	Sakellarios & Associates
Fisher Law Offices PLLC	Samdperil & Welsh PLLC
Ford, McDonald, McPartlin & Borden, P.A.	Seufert Law Offices PA
Gallagher Callahan & Gartrell PC	Shaheen & Gordon PA
Gardiner Law PLLC	Shepherd & Hayes, PLLC
Garon Law	Simpson & Mulligan
Germaine & Blaszk	Sisti Law Offices
Gill & Sculimbene	Smith-Weiss Shepard Kanakis & Spony, PC
Gottesman & Hollis PA	Sommers Law PLLC
Gregg Hunt Ahern & Embry	Soule, Leslie, Kidder, Sayward & Loughman PLLC
Hanson Law Offices	Sullivan Law Office
Harden Law Offices	Tarbell & Brodich PA
Harvey, Mahoney & Bakis, PLLC	The Black Law Group LLC
Holland & Knight	The Crisp Law Firm
Howard & McBeath	The Stein Law Firm
Julie Connolly Law PLLC	The Tamposi Law Group
Laboe & Tasker PLLC	The Young Law Firm
Laffan Law Office	Tropiano Law Office
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Law Office of Suzanne D. Decker	Welts White & Fontaine PC
Law Office of Theodore Parent	Wescott Law PA
Law Office of Thomas F. McCue	
Law Office of Todd D. Beauregard PC	

These individuals represent **ATTORNEY & NON-ATTORNEY VOLUNTEERS** who joined the 603 Legal Aid Pro Bono Panel in 2022. We are so excited to have them in our ranks.

Kate Lipman	William Grumet	Timothy Harrington
John Mirabello	Amy Cann	Brittani Schanstone
Brian Stone	Derek Kaufman	Stephanie Annunziata
Vanessa Baron	Amanda Quinlan	Olivia Bensinger
Caitlin Poole	Laura Raymond	Joseph Cherniske
Matt Miller	Brandon Vallie	Suzanne Spencer
Jon Strasburger	Richard O'Meara	Amy Ashworth
Taylor Moulton	Allison Regan	Towanda Smith
Callan Sullivan	Elizabeth Lahey	Shane Archambault
John Crabbs	Thomas Pappas	Ashley Sheehan
Elaina Hoepfner	Griffin Kmon	Christine Hanisco
Dat La	Christopher Snook	Kaitlin Murphy
Simon Levenson	Madeline Blackburn	Mark Waldner





## Developing Professional Identity by Being Authentic

By Anna L. Elbroch

With contributions from Maggie O'Grady and Melissa Christensen, Legal Writing Professors at UNH Franklin Pierce School of Law

We all have different memories of our 1L year. Mine was jarring. Everything was new. I had to relearn how to think, write, and communicate. To add to my discomfort, I, like all 1Ls, didn't pick my classes 1L year. Instead, I was thrown into classes with seemingly no relation to what I wanted to do after law school. I didn't understand then that reading contract and property cases provided foundational skills to analyzing the law as a future public defender.

Like all law schools, UNH Franklin Pierce has a mostly prescribed curriculum for its 1L students, involving the same core courses I took in law school over twenty years ago. Now, however, the ABA has added the requirement that law schools provide "substantial opportunities" for students to develop their "professional identity."<sup>1</sup>

Many 1Ls are navigating their first big shift towards independence with a new apartment in a new location. They are figuring out how to balance increasing responsibilities with new academic concepts. Others may be changing direction mid-career. What does it mean to forge a "professional identity" as a



lawyer, when so much is in flux and uncertain?

Every discipline defines professional identity in a different way. For example, psychology4u.net defines a psychologist's professional identity as "an image people use to describe themselves as professionals." The blog goes on to state that the image "includes many different psychological aspects that affect professional activity: motives, values, beliefs, and personal experience."<sup>2</sup> According to the BMC Medical Education journal, a doctor's professional identity is defined as "the attitudes, values, knowledge, beliefs and skills shared with others within a professional group."<sup>3</sup> In the legal context, the ABA's guidance for Rule 303(b) in legal education provides:

Professional identity focuses on what it means to be a lawyer and the special obligations lawyers have to their clients and society. The development of a professional identity should involve an intentional ex-

ploration of the values, guiding principles, and well-being practices considered foundational to successful legal practice.<sup>4</sup>

Fortunately, our colleagues in the New Hampshire bar helped students think through these concepts and make decisions in their future career. Kat Hedges from Rath, Young, & Pignatelli Enrique Mesa, from Mesa Law, and Talesha Saint-Marc from Bernstein Shur, provided instrumental guidance to 1Ls about this very topic during a panel last semester held on National Day on Writing©. They spoke with students about associating themselves both personally and professionally with organizations that align with their values. They also discussed how their professional identity can be forged and/or challenged depending on which clients they represent.

Their overarching theme was that a solid, satisfying professional identity will grow from being "authentic." Authenticity guides lawyers in all sorts of ways – some seemingly small

and some much more consequential. Don't quote movie lines or crack jokes if that is not who you are. Don't claim expertise in an area you can't. Always make arguments within the bounds of ethics and the law, but when you feel passionately about something, let it show. Treat everyone with respect, which includes being honest about who you are. Even when working with opposing counsel with whom you vehemently disagree, be authentic.

The good news is that all of us with our varied experiences, personalities, passions, and values, can help students develop their own professional identities by modeling that kind of authenticity. ■

### Endnotes

1. Standards and Rules of Procedure for Approval of Law Schools r. 303(b) (Am. Bar Ass'n 2022).
2. Psychology4U, What is a professional identity (January 26, 2023), <https://psychology4u.net/psychology/professional-identity/>.
3. Jordan Matthews et al., Professional identity measures for student health professionals – a systematic review of psychometric properties, 19 BMC Education 308 (2019), <https://doi.org/10.1186/s12909-019-1660-5> (internal citations omitted).
4. Standards and Rules of Procedure for Approval of Law Schools Interpretation 303-5 (Am. Bar Ass'n 2022).

*Anna Elbroch is the Director of Legal Writing at UNH Franklin Pierce School of Law. Before joining the law school, she was a criminal defense attorney, specializing in juvenile defense, including being a public defender.*

## In Memoriam from page 11

be made to the New London Hospital and EMS who provided him with care and compassion. Donations can be made online at [newlondonhospital.org/support](http://newlondonhospital.org/support) or mailed to 273 County Road, New London, NH 03257.

### Honey C. Hastings

Honey C. Hastings, 79, of Temple, NH, passed away unexpectedly on Saturday December 10, 2022, at the Catholic Medical Center, Manchester, NH. She was born on March 15, 1943, in San Diego, CA. She was the daughter of the late Sheila Putnam Sproul and Aaron Hiller Hastings. Honey was a resident of Temple for 22 years, where she was involved in many town organizations and committees. She was the current president of the Temple Historical Society where she spearheaded fundraising efforts to build a home for historic documents, art, and artifacts.

After graduating from Boston University Law School with a JD, Honey moved to New Hampshire and established her own practice as a "plain language" lawyer focusing on family law issues. She served as a family mediator for divorce and parental rights cases, and she provided continuing education for attorneys, mediators, and others in-



involved in family law issues. Honey was involved with legal and mediation organizations on a state and national level. She drafted legislation to update NH RSA's dealing with divorce, alimony, parental rights, and mediation. She was the author of the NH Divorce Handbook, which she updated in 2007. Already retired from her law practice, she planned to retire from mediation cases at the end of 2022.

She is survived by her longtime life partner, Charles Eggert, Jr., of Temple; a sister, Jan McLaughlin, of Londonderry, NH; her brother, James Sproul, IV, and his wife Marilyn, of Arlington, TX; and a cousin, Marjorie Putnam, of TX. As a justice of the peace, she married her nephew, DJ McLaughlin, and his wife, Krista Wepsic, in 2014. She recently returned from the wedding of her niece, Katie McLaughlin, to her husband, Amos Eshel, in Seattle, WA. Other nephews and nieces include James Sproul V and Marjorie Sproul. She was a great-aunt to Malcolm and Willa Faith McLaughlin. Honey was predeceased by her mother, Sheila, in 2019 and her brother-in-law, John McLaughlin, in 2021.

There are no calling hours. A memorial service will be announced at a later date. Memorial contributions may be made to the Temple Historical Society, PO Box 114, Temple, NH 03084. To donate online, visit [templehistorical.org](http://templehistorical.org).

### W. Jean Laflamme

Attorney W. Jean Laflamme, 90, of Manchester, NH, died January 23, 2023, at the Arbors Memory Care Facility in Bedford after a courageous battle with Alzheimer's.

Born in 1932 in Manchester, NH, he was the son of attorney Wilfred A. and Lillian Prince Laflamme. Jean is survived by his wife Lucille Demers Laflamme and by his three children: Lise and her husband A.J. LaSalle, David Laflamme and his wife Kelly (Burke) Laflamme, Nicole and her spouse Kerry Laflamme. He also leaves behind his beloved four grandchildren, Luke and Molly Laflamme, Ella and Ben Laflamme. Jean was a devoted family man who always had time and great love for his family.



Jean also leaves behind a sister, Suzanne Piotrowicz and her husband Terrence. He is also survived by his sisters-in-law, Elaine and her husband William Lefebvre, Suzanne Solloway, Cecile Demers, Mary Laflamme and her husband Thomas Fleming. He was also predeceased by his brother, Robert Laflamme, and brothers-in-law, Edmond Demers, Louis Demers, R. Bruce Solloway, and sister-in-law, Doris Kelly, and brother-in-law, Thomas Kelly, III.

Jean received his early education in the Catholic schools of Manchester. He went on to graduate from Holy Cross Jesuit College and earned a degree in accounting with honors. Subsequently he continued his education at Boston University School of Law where he was named to the prestigious Law Review.

Upon graduation with a law degree, he joined his father in his law firm. Later, after the passing of his father, he eventually joined with partners Attorneys Bois, Champagne, Moquin, and later Davis.

Jean was a practicing Roman Catholic. He was active in the churches he attended, first St. Jean de Baptiste and for the last 30 years served in his church of Ste. Marie. He led the Renew Program at St. Jean de Baptiste, was active in the Bible Study ministry at Ste. Marie, and found peace by spending time in the Adoration Chapel at Ste. Marie.

In his community of Manchester, he served as president of the Jaycees, served on the board of directors at Easter Seals, and served on the board of the Institute of Arts and Science.

Jean's favorite pastimes were gardening, reading, and spending time with his family.

If you wish to remember Jean, in lieu of flowers consider donating to a charity of your choice or to the Alzheimer's Association of NH, 166 S. River Road, Bedford, NH 03110. To leave a message of condolence, please go to [lambertfuneralhome.com](http://lambertfuneralhome.com).

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

*To submit an obituary for publication, email [news@nhbar.org](mailto:news@nhbar.org). Obituaries may be edited for length and clarity.*





# CONTINUING LEGAL EDUCATION GUIDE

## High Quality, Cost-Effective CLE for the New Hampshire Legal Community

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

### MARCH 2023

**WED, MARCH 29 – 9:00 a.m. – 3:30 p.m.**  
Domestic Violence  
• 300 NHCLE min., incl. 60 ethics/prof.  
• Concord • NHBA Seminar Room/Webcast

### APRIL 2023

**MON, APR 3 – 12:00 p.m. – 1:00 p.m.**  
Modification of Parenting Plans  
• Webcast; 60 NHCLE min.

**TUE, APR 4 – 12:00 p.m. – 1:30 p.m.**  
Employee Misclassification: Independent Contractor  
vs. Employee; Exempt vs. Non-Exempt Status  
• Webcast; 90 NHCLE min.

**WED, APR 5 – 9:00 a.m. – 12:15 p.m.**  
Better Legal Writing  
• 180 NHCLE min.  
• Concord • NHBA Seminar Room/Webcast

**THU, APR 6 – 12:00 p.m. – 1:30 p.m.**  
Intellectual Property Case Law Update  
• Webcast; 90 NHCLE min.

**THU, APR 6 – 2:00 p.m. – 3:30 p.m.**  
Article 12  
• Webcast; 90 NHCLE min.

### MAY 2023

**WED, MAY 3 – 8:30 a.m. – 1:00 p.m.**  
Estate Planning 101  
• Credits TBD  
• Concord • NHBA Seminar Room/Webcast

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

**THU, MAY 11 – 9:00 a.m. – 4:30 p.m.**  
Medical Malpractice Cases in New Hampshire  
• 360 NHCLE min., incl. 30 ethics/prof.  
• Concord • NHBA Seminar Room/Webcast

**MON, MAY 15 – Time TBD**  
Real Estate 101  
• Credits TBD  
• Concord • NHBA Seminar Room/Webcast

**WED, MAY 17 – 9:00 a.m. – 4:30 p.m.**  
Statutory Interpretation  
• 360 NHCLE min.  
• Concord • NHBA Seminar Room/Webcast

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

**MON, MAY 22 – 9:00 a.m. – 4:30 p.m.**  
Bankruptcy Litigation  
• Credits TBD  
• Location TBD

**WED, MAY 24 – 9:00 a.m. – 4:30 p.m.**  
Navigating the Healthcare World  
• 365 NHCLE min.  
• Concord • NHBA Seminar Room/Webcast

**THU, MAY 25 – 8:30 a.m. – 10:30 a.m.**  
17th Annual Ethics CLE  
• 120 NHCLE 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 Espenchied  
• Webcast; 120 NHCLE min.

**WED, JUN 14 – 8:30 a.m. – 4:45 p.m.**  
Practical Skills for New Admittees-Day 1  
• 360 NHCLE 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 NHCLE min.  
• Concord - Grappone Conf. Center

**WED, JUN 21 – Time TBD**  
Liability for Directors & Owners  
• Credits TBD  
• Concord • NHBA Seminar Room/Webcast

**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 Espenchied  
• Webcast; 60 NHCLE min.

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

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

## Breakfast Forum

### 17th Annual Ethics CLE

Thursday, May 25, 2023  
8:30 a.m. – 10:30 a.m.  
120 NHCLE ethics/prof. min

This seminar is an annual update and review of  
developing issues for all attorneys in practice.

#### Faculty

**Richard Guerriero**, Program Chair, Lothstein &  
Guerriero, Keene

More details and faculty to come.

**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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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

Attend all day and earn 285 NHCLE minutes from our distinguished guest faculty as they discuss relevant & timely legal topics. (We even do the CLE attendance reporting for our NHBA members!)

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State of NH Judicial Branch  
- CaseLines

Strategic Caring Solutions

Tab3 Software

Veteran Legal Justice

## 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 Video

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: Rule of Law Panel Discussion

Moderated by John Greabe, Esq.; Director, Warren B. Rudman Center for Justice, Leadership & Public Service. Panelists include Dana Remus, Esq., Former White House Counsel to President Biden and Partner, Covington & Burling

### Video: Weighted Caseload Study - The Evidence to Support Funding for Additional Judges and Staff

NHSC Chief Justice Gordon MacDonald

### Business Meeting / Honors and Awards Luncheon / Book Signing

### 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.

### CLE: CaseLines Presentation

### CLE: Attorneys and the Press – Limits on Speech and Ethical Concerns

NH Attorney Panel Discussion  
Seth Aframe (moderator), with Jane Young, Richard Guerriero, and Gregory Sullivan

### NHBA New Lawyers Committee Social





# Domestic Violence

Wednesday  
**Mar. 29** 9:00 a.m. - 3:30 p.m.  
300 NHCLE min.  
incl. 60 ethics/prof. min.



NHBA Seminar Room/Live Webcast

This day-long program, a collaboration between the bench and the bar, will include presenters from the judicial branch, the public and private bars, the DOVE program, and victim advocacy organizations. The program will cover everything you need to know about handling both sides of a domestic violence case, including the law, appeals, managing family law cases when domestic violence is involved, the intersection between criminal and civil restraining order cases, and the ethical issues that can arise in domestic violence cases.

## Faculty

**Jack P. Crisp, Jr.**, CLE Committee Chair/Program Moderator, Crisp Law Firm, Concord  
**Gary N. Apfel**, Simpson & Mulligan, PLLC, Lebanon  
**Kristen Barnett**, NH Coalition Against Domestic & Sexual Violence, Concord  
**Doreen F. Connor**, Primmer, Piper, Eggleston & Cramer, PC, Manchester  
**Tracey G. Cote**, Shaheen & Gordon, Concord  
**Alan J. Cronheim**, Sisti Law Office, Portsmouth  
**John Garvey**, John Burwell Garvey Mediator, New London  
**Joshua L. Gordon**, Law Offices of Joshua L. Gordon, Concord  
**Hon. Charles L. Greenhalgh**, NH 1st Circuit Court-Berlin/3rd Circuit Court-Conway

**Richard Guerriero**, Lothstein Guerriero, PLLC, Keene  
**Hon. Anna Barbara Hantz Marconi**, NH Supreme Court, Concord  
**Margaret Huang**, NH Judicial Branch, Concord  
**Robert D. Hunt**, Davis/Hunt Law, PLLC, Franklin  
**Hon. James H. Leary**, 9th Circuit Court/District Division, Nashua  
**Mary Krueger**, NH Legal Assistance, Concord  
**Hon. Erin B. McIntyre**, 6th NH Circuit Court, Hillsborough  
**Elyse McKay**, 603 Legal Aid, Concord  
**Brian R. Moushegian**, NH Attorney Discipline Office, Concord  
**Mariana C. Pastore**, Upper Valley Prosecutorial Association, Hanover  
**Lynda W. Ruel**, Attorney General's Office, Concord  
**Tina Schumacher**, Voices Against Violence, Plymouth  
**Kirk C. Simoneau**, Red Sneaker Law, PLLC, Manchester  
**Joi Smith**, NH Coalition Against Domestic & Sexual Violence, Concord  
**Kristen I. Vartanian**, Rockingham County Attorney's Office, Kingston  
**Angelika R. Wilkerson-Martin**, 603 Legal Aid, Concord

## Learn@ Lunch Webcasts

**Modification of Parenting Plans**  
April 3, 2023 – 12:00 – 1:00 p.m.  
60 NHCLE min.



### Employee Misclassification: Independent Contractor vs. Employee; Exempt vs. Non-Exempt Status

April 4, 2023 – 12:00 – 1:30 p.m.  
90 NHCLE min.

### Intellectual Property Case Law Update

April 6, 2023 – 12:00 – 1:30 p.m.  
90 NHCLE min.

### Article 12

April 6, 2023 – 2:00 p.m. – 3:30 p.m.  
90 NHCLE min.

## Better Legal Writing

Wednesday  
**Apr. 5** 9:00 a.m. - 12:15 p.m.  
180 NHCLE min.



NHBA Seminar Room/Live Webcast

A well-written legal document can distinguish an outstanding attorney from an average one. Judges base their decisions on many factors; how well you've thought out and presented your argument on paper is just one of them. Learn techniques that can help give you the edge when it matters most. This CLE is appropriate for any attorney, in any jurisdiction, at any stage of their legal career.

## Faculty

**Justin S. St. James**, CLE Committee Member/Program Chair, Attorney at Law, Andover, MA  
**M. Holly Vietzke**, One Law, LLC, Newton, MA

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



## Medical Malpractice Cases in New Hampshire

Thursday  
**May 11** 9:00 a.m. - 4:30 p.m.  
360 NHCLE min.  
incl. 30 ethics/prof. min.



NHBA Seminar Room/Live Webcast

This program features some of the most experienced NH practitioners in the area of medical injury and malpractice cases. The full day program will cover the handling of medical malpractice cases from start to finish, including presentations on selecting and commencing a claim, insurance policies and coverage, retaining and examining expert witnesses, the standard of care, special challenges in mediation, physician licensing and the Board of Medicine, pros and cons of screening panels, and proving causation and damages in medical injury cases. The program will also touch on ethical issues confronting counsel handling these cases.

### Faculty

**Peter E. Hutchins**, Program Chair/CLE Committee Member, Law Offices of Peter E. Hutchins, Manchester

**Heather M. Burns**, Upton & Hatfield, LLP, Concord

**Nicholas D. Cappiello**, Lubin & Meyer, PC, Boston, MA

**Lindsey B. Courtney**, NH Office of Professional Licensure & Certification, Concord

**Todd J. Hathaway**, Wadleigh, Starr & Peters, PLLC, Manchester

**Bradley D. Holt**, Sulloway & Hollis, PLLC, Concord

**Kimberly Kirkland**, Reis & Kirkland, PLLC, Manchester

**Jonathan A. Lax**, Gallagher, Callahan & Gartrell, PC, Concord

**Michael S. McGrath**, Upton & Hatfield, LLP, Concord

**Randy J. Reis**, Reis & Kirkland, PLLC, Manchester

**R. Peter Taylor**, Hoefle, Phoenix, Gormley & Roberts, PLLC, Portsmouth

## 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 NHCLE min.

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

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

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

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



## Navigating the Health Care World

Wednesday  
**May 24** 9:00 a.m. - 3:30 p.m.  
365 NHCLE min.



NHBA Seminar Room/Live Webcast

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

### Faculty

**Debra Dyleski-Najjar**, CLE Committee Member/Program Chair, Najjar Employment Law Group, PC, Andover, MA

**Judith F. Albright**, Rath, Young & Pignatelli, PC, Concord

**Kenneth C. Bartholomew**, Rath, Young & Pignatelli, PC, Concord

**David R. Craig**, David R. Craig & Associates, New Boston

**Andrew B. Eills**, Sheehan Phinney Bass & Green, PA, Manchester

**Mary Goreham**, US Department of Labor, Boston, MA

**Lucy C. Hodder**, UNH Franklin Pierce School of Law, Concord

**Maria M. Proulx**, Anthem Blue Cross & Blue Shield of NH, Manchester

**Christine Tang-Chin**, US Department of Labor, Boston, MA

**Lawrence W. Vernaglia**, Foley & Lardner, LLP, Boston, MA

**Thomas Wright**, Turning 65 Workshop, Portland, ME

## Upcoming CLE Programs

*Further Details Coming Soon!*

**May 3**  
Estate Planning 101

**May 15**  
Real Estate 101

**May 17**  
Statutory Interpretation

**May 22**  
Bankruptcy Litigation

**June 21**  
Liability for Directors & Owners

**September 21**  
22nd Annual Labor & Employment Law Update

**October 27**  
Developments in the Law

Watch *Bar News* or our website as more details are forthcoming.  
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After her term was over, she continued working at Boynton Waldron until 2000, when she became a solo practitioner. She moved her practice to her home right before the pandemic and now operates out of her house with her faithful paralegal, Hershey the dog.

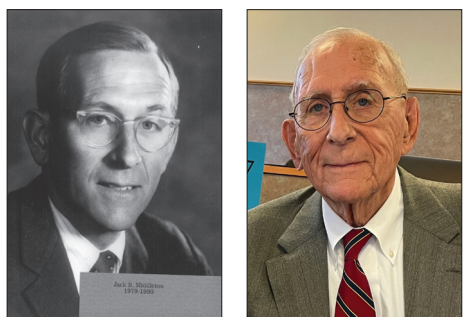
Blanchette says the bar has become more diverse since her presidency, not only in terms of ethnicity but in terms of the law schools that people went to.

“And you look around the room now and see many more women. A lot more women have become president and have been appointed to the bench,” Blanchette says. “When I started out, I can remember going to the courthouse and people saying, ‘are you waiting for your lawyer?’ That doesn’t happen anymore to my knowledge. The committees are also broader. Paul McEachern was the first bar president that wanted to broaden the leadership of the bar.”

When asked if she has any advice for lawyers considering a term in bar governance, Blanchette says to get involved and look for an entryway.

“Let someone know you’re interested in a committee,” Blanchette says. “Go to the annual meeting, too. You’ll get CLE credits, and you’ll meet other attorneys that could provide an entry for you. You can make a difference on the board of governors. You can speak up, and people will listen, and decisions get made.”

#### Jack Middleton



At 93 years old, Jack Middleton is the oldest living past president. After graduating from Boston University School of Law in 1956, he started at McLane, Graf, and Raulerson, which would eventually become McLane Middleton. While working at McLane, he was appointed as a part-time municipal judge in 1962 and then became Special Justice of Merrimack District Court in 1971. In 1979, he became bar president.

“It got me more interested in bar activities,” Middleton says of his presidency. “And as a result, I went on to be active for a number of years in the ABA and the Na-

tional Conference of Bar Presidents.”

Since his term as bar president, Middleton helped form the IOLTA program in 1982 and continued as a part-time judge until 1986. From 1999 to 2002, he served as the Secretary of the American Bar Association. He was also a two-time chair of the New Hampshire Bar Foundation.

Throughout his entire career, even as a part-time judge, he stayed with McLane, where he remains to this day. He often jokes with people that he has one of the shortest biographies ever.

He also graciously participated in the NHBA sending a lawyer back to law school for a day this past year (see the article in the December 2022 issue).

“The bar has grown enormously since I was bar president,” Middleton says. “When they opened the floodgates to admission on motion, we got a lot more members. One of the results of that is a first-class CLE program that we didn’t have when I was president. We also have publications like the *Bar News*, that are much better today than they were.”

Middleton strongly encourages other lawyers to get involved in bar governance if they can.

“It’s a lot easier to accomplish things – whether it be trials, contracts, or whatever – if you know the lawyer on the other side,” Middleton says. “I also encourage people to get out there and get involved in the other bar activities when possible and get to know the other people practicing law in the state.”

#### L. Jonathan Ross



Jonathan Ross graduated from Georgetown University Law School in 1967 and then spent a year getting his LLM at Harvard Law School. He then moved to NH in 1968 and joined the firm of Wiggin and Nourie. In 1985, he began his term as bar president.

As president, he – along with then-Massachusetts bar president Michael Greco and then-Texas bar president Bill Whitehurst – developed Bar Leaders for the Preservation of Legal Services for the Poor, a commitment of bar leaders across the country to preserve the Legal Services Corporation (LSC) and save federal funding for indigent legal services.

“We set out on a mission to get every state bar and every large metropolitan bar to join us in pushing Congress to adequately fund the LSC,” Ross says. “Ultimately, we got all the states and metropolitan bars to join us and funding for legal services has been the number one legislative priority for the ABA for years now. Whitehurst, Greco, and I appeared in Congress and testified, and we would go to LSC board meetings to testify and challenge some of the things they were doing. We were reasonably successful, but the fight continues, and it’s not a race for the short-winded.”

After his term as bar president, Ross continued working at Wiggin and Nourie until they closed in 2012. He then joined Primmer, Piper, Eggleston, and Cramer, where he still practices. He has also continued to be active in governance and committees, including 20 years representing NH at the New England Bar Association and eight years (three of which he was chair) on the ABA’s Standing Committee on Legal Aid and Indigent Defendants.

When asked what changes he has seen in the NH Bar since his presidency, Ross says it has grown quite a bit.

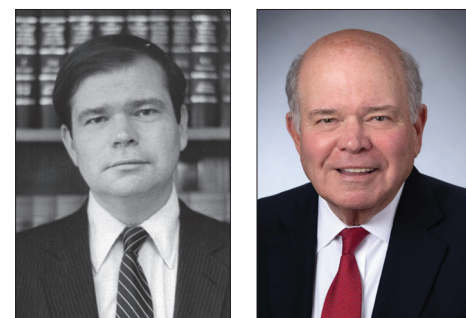
“Part of the fallout of that is that there are fewer lawyers who know each other, which tends to diminish the civility and co-operativeness that was part of this bar association when I joined,” Ross says. “That’s not to say it’s gone, it’s just harder. And, as a consequence of the growth, there are a lot more lawyers who have practiced on their own without mentoring and without the kind of examples that I grew up with as a lawyer in this bar.”

Ross believes that getting involved in bar governance is rewarding and part of a lawyer’s professional obligation.

“[Lawyers] should get involved because

it’s their profession,” Ross says. “What we do and how we appear to the public and how we give back to the community that gives us a lot of power and the opportunity to make a reasonable living is part of our professional obligation.”

#### Hon. Richard Galway



In 1970, when he graduated from Boston University Law School, Richard Galway joined the firm of Devine Millimet. He became bar president in 1982 and remembers having to travel from bar association to bar association to make sure attorneys paid a \$25 assessment fee to the New Hampshire Supreme Court.

“There was a case that was a real estate scam issue and for some reason or another it ended up at the New Hampshire Supreme Court,” Galway says. “Chief Justice John King ordered an additional assessment of \$25 per lawyer. It was my job to go to each bar association to inform them of the reason for the assessment and make sure they paid it.”

Galway says one of the biggest changes in the NH Bar since he was president is the number of NHBA staff.

“When I was president, we had only a staff of two at the NHBA, an executive director and a part-time staff assistant,”

## Membership Status Changes

*Presented to the Board of Governors January 19, 2023*

#### Active to INACTIVE:

Gillis, Sydney, Manchester, NH (Dec. 1)  
Klark, Scott, W. Danville, VT (Nov. 21)  
Weikers, Ronald, Hilton Head Island, SC (Dec. 2)  
Desmet, Julianne, Merrimack, NH (Dec. 14)

#### Active to INACTIVE RETIRED:

Roundy, Vicki, Barrington, NH (Nov. 30)  
Indorf, Ronald, Somersworth, NH (Dec. 1)  
Wason, Jeffrey, Manchester, NH (Dec. 13)

#### Active to FULL-TIME JUDICIAL:

Cabrera, Sandra, Lancaster, NH (Dec. 30)

#### Active to MILITARY ACTIVE:

Younes, Sarah, Chesapeake, VA (Dec. 6)

#### Active to SUSPENDED:

Miller, Casey, Warner, NH (Dec. 7)  
Costanzo, Catherine, Boston, MA (Dec. 7)  
DiCola, Michael, Litchfield, NH (Dec. 8)  
Lakin, Scott, Burlington, MA (Dec. 8)  
Martin, Matthew, Danvers, MA (Dec. 8)  
Whitney, Mark, Marblehead, MA (Dec. 12)  
Shute, Christa, Hinesburg, VT (Dec. 12)  
Norris, Anthony, Manchester, NH (Dec. 12)  
McHale, Michelle, Lynnfield, MA (Dec. 12)  
McCarthy, Brendan, Scituate, MA (Dec. 14)  
Davis, Anthony, Boston, MA (Dec. 14)

#### Inactive to INACTIVE RETIRED:

Doyle, William, Joplin, MO (Dec. 7)  
Sullivan, Edward, Londonderry, NH (Jan. 1, 2023)

#### Inactive to ACTIVE:

Hoover, Deborah, Hudson, OH (Dec. 13)

Casale, II, Donald, Wakefield, MA (Dec. 12)  
Fulton, Adele, Norwich, VT (Dec. 15)  
Samuel, Alex, Derry, NH (Jan. 4, 2023)

#### Inactive to RESIGNED:

Kahl, Laura, Bedford, MA (Dec. 1)

#### Inactive to SUSPENDED:

Daniele, Julie, Marshfield, MA (Dec. 7)  
Cantwell, Gregory, West Hartford, CT (Dec. 7)  
Bigness, Andrew, Schenectady, NY (Dec. 7)  
Galluzzo, Heather, Scottsdale, AZ (Dec. 8)  
Hayes, Diane, Glenwood Springs, CO (Dec. 8)  
Saul, Biana, Lawrence, MA (Dec. 12)

#### Inactive Retired to DECEASED:

Hastings, Honey, Temple, NH (Dec. 10)  
Ricles, Robert, Delray Beach, FL (Dec. 12)

#### Inactive Retired to RESIGNED:

Murphy, Jill, Newburyport, MA (Nov. 30)

#### Inactive Retired to SUSPENDED:

George, Ronald, Mount Gilead, NC (Dec. 8)  
Miller, George, Dennis, MA (Dec. 12)  
McKenney, Robert, Hudson, NH (Dec. 12)

#### Honorary Active to DECEASED:

Taussig, Eric, Moultonboro, NH (Nov. 28)

#### Honorary Inactive to DECEASED:

Vacco, Richard, China Village, ME (Aug. 16, 2021)  
Taft, Hon. Robert, Peterborough, NH (Dec. 26)

#### Military Active to ACTIVE:

Lavallee, Jon-Daniel, Concord, NH (Dec. 19)

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Galway says. “The lawyers did a lot of the administrative stuff, and there wasn’t much CLE – it wasn’t like what we have now – it was mostly privatized. Most of the services the NHBA offers now weren’t available, either. It was a very small operation, and the president’s office did most of it. We didn’t have a *Bar News* or anything. Occasionally, there would be a newsletter that would come out from the executive director.”

He also notes that there was a very big social component to the Bar around the time he was president and that the various bar associations would “take over the hotels in the North Country.” Part of the social scene included a group called the Lawyers’ Wives Club, which he changed to the Lawyers’ Spouses Club to be more inclusive when he was bar president.

After his presidential term, he continued working at Devine Millimet until he became a Superior Court judge in 1995. In 2004, he was nominated to the New Hampshire Supreme Court and was a justice for seven years. He later started his own mediation business, Galway Mediation, and worked there until he retired in 2020.

“The appointment to the New Hampshire Supreme Court was a great honor for me,” Galway says. “The Superior Court was an honor also. It truly was a wonderful experience being a judge in New Hampshire.”

When asked why attorneys should get involved in bar governance, Galway says it’s a process of giving back and a process of looking forward.

“Participation in the Bar Association is very helpful to your career as a lawyer,” Galway says. “You become more familiar with the judges you are appearing in front of. And it emphasizes the fact that you’re in a profession. And that profession needs the watering of the education, camaraderie, and advice that you can receive from fellow lawyers.”

## Walter Mitchell



After graduating from Yale University and Boston University School of Law in 1970, Walter Mitchell began working for the Nighswander Firm, which eventually became Nighswander, Martin, and Mitchell after he became partner. In 1984, he became president of the bar.

When asked what his most memorable experiences or achievements were as bar president, he says that “weathering the storms” of meetings with then Governor John Sununu was an achievement in and of itself.

“During my year as president, our current governor’s dad [John Sununu] was governor, and he did not seem to like lawyers,” Mitchell says with a laugh. “In the different meetings I had with him, he would express that dislike of lawyers throughout the whole meeting. I can remember sitting in the room with a lawyer named Steve Merrill – who was Attorney General and later became governor himself – and I kept looking at him like, ‘what’s going on here?’”

Mitchell says that since he was bar president, the obvious change in the NH Bar would be its size.

“There were 700 lawyers when I passed the bar and now there are over 7,000,”

## Past President Fun Facts

**Related**

In three instances, past bar presidents have been family: Robert Upton (1939-1940) and his two sons, Richard Upton, Jr. (1964-1965) and Frederic Upton (1970-1971); George Moore (1999-2000) and his wife, Ellen L. Arnold (2008-2009); and James Tenn, Jr. (2009-2010) and his sister Mary Tenn (2015-2016).

**Judicial Appointments**

In February 2016, President Elect David Ruoff resigned to accept an appointment as a Superior Court judge, leaving a vacancy for the 2016-2017 year. The Board of Governors decided to split the president’s duties between Immediate Past President Mary Tenn and President Elect Scott Harris. This also prompted the Board of Governors to update its succession policy. This change came in handy in 2022, when President Sandra Cabrera resigned to become a Circuit Court judge. Under the new succession policy, President Elect Jonathan Eck became President, Vice President Paul Chant became President Elect, and Kathleen Mahan was later elected as Vice President.

Mitchell says. “And that has affected relationships. Even though New Hampshire is much more civil than many other bigger states, there certainly has been a dramatic change in the interaction of lawyers, to my observation.”

Another change, Mitchell notes, is that cases don’t go to court as much as they used to.

“I don’t understand how the system can develop good trial attorneys today like it did decades ago,” Mitchell says. “When I was coming up – and I don’t hold myself out as the world’s best trial lawyer, but I’ve been in court an awful lot – the opportunity was there to be in court. Sometimes it was insurance defense work, sometimes it was collections. And it got me interacting with the judges on the bench and the other trial lawyers. Now it is much more infrequent to get into court and actually try cases. The courts

load is so heavy that there is understandable pressure to solve cases before they go to trial. I’m glad I had the opportunity to get involved when I did. I’ve also been frustrated a lot recently with the electronic filing and digital court system, and yet what hasn’t changed – my impression has always been – is that we have a high-quality bench.”

After his presidential term, Mitchell continued at the firm of Nighswander, Martin, and Mitchell until 1995, when he formed Mitchell and Bates with attorney Timothy Bates. When Bates retired, the firm became Mitchell Municipal Group, where he still works today.

“In general, I always thought of it as giving back to the profession,” Mitchell says of lawyers contemplating bar governance. “And I admired a number of the people who came before me.” ■

## Flying Solo from page 8

**Best thing about solo practice:** Flexibility in the work I do.

**Hardest thing about solo practice:** Year-end crunch time—true for any small business owner.

**Memorable solo experience:** Working on a dispute between a client and a very large corporation via their external counsel – being underestimated by said external counsel, and by using my skills and integrity, I was able to get my client a positive resolution.

**Advice for a new solo:** Establish yourself in your practice area community as someone with skills, integrity, and a collaborative nature. Trust yourself and do not be afraid to reach out to others.

**Would you advise anyone else to go it alone?** I do think it is important to have a strong foundation in your practice prior to deciding to work as a solo. In my mind, that is about five-plus years of working in the field. At that point, you will better understand the practice of law, what you want from it, and what you have to offer.

**Kirk Simoneau, Red Sneaker Law, PLLC**

*Amherst, NH, 14 years in practice, two years as a solo*

**What inspired you to become a solo?** Long ago, my grandfather explained to me that a person with a job needs only one person, his boss, to not like him

and he’s “out of the money.” If, he said, you run your own business, everybody has to hate you for you to lose. If you’ve got 25 clients and 24 fire you, you’ve still got one, and you’ve still got a chance. Even as a partner—with partners I can honestly say I love—there is a limitation, usually by committee, on what can be done, and your success still hinges on the mutual success of your partners. One person’s great year can be balanced, negatively, against another person’s horrible year. If everyone has a great year, as was often the case, can any one of the partners know their success was their own? I wanted to see what I could accomplish on my own and whether I’d end up “out of the money.”

**Best thing about solo practice:** The best thing about solo practice is the ability to practice law as I see fit, unencumbered by how my decisions might affect my partners and how their decisions might affect me. I’m a disabled lawyer who represents a lot of disabled people. The cases don’t often have anything to do the disability, but using an ASL interpreter, for example, during client meetings takes extra time. I’m also a former client myself. I watched a drunk driver kill my pedestrian father, which is why I became a lawyer – to help people who had been harmed like my family was harmed, but better. Sharing that real empathy with clients also takes



extra time. I have the freedom to treat my clients the way I wish my family and I had been treated when my dad was killed. Most practices in the plaintiff’s arena are either high volume practices or they focus on a few high value cases. I also have the freedom to turn down cases more readily because I’m not concerned about how that potential revenue will affect the partners. Put more simply, at the end of the day, I’m responsible only for myself. If I succeed, I succeed and know that it’s me. If I fail, that’s me too. I like the test; I like the challenge of determining whether I’m good enough on my own. Oh, and not having to share the money ain’t bad either.

**Hardest thing about solo practice:** It’s the flip side of the coin; the loneliness. I came from a practice where I had very experienced partners, and we were all close. That meant we’d share even the smallest victories and failures, support one another, and good advice was plentiful. While I still have that, it isn’t as immediate. I can’t just pop into someone’s office and tell them about some pain in the bottom adjuster, a great new case, ask a question, or talk through an issue.

**Memorable solo experience:** Normally, I’d share some funny story, but, truthfully, the most memorable experience so far is a simple note from a client. Hopefully, we all get these from time to time; a thank you note from a happy client. I’ve gotten them before. Heck, I’ve even got some artwork clients have created for me, but this note, though, specifically thanked me for taking so much extra time and for “being a human.” I don’t know how the

client knew I took “extra” time, and my kids would tell you I’m only occasionally human, but that note aligning with my mission meant a lot. Would it be funnier if I mentioned the case had to do with a faulty rubber chicken?

**Advice for a new solo:** It’s a business. Even if you are a great lawyer, you can’t succeed as a solo if you don’t understand you are running a business which means you need to know how to run a business. Most lawyers haven’t a clue about running an actual business, so educate yourself about business, marketing, accounting, health insurance, solo 401K’s, phone systems, and about everything else that goes into a business. Maybe even hire a business coach. Whatever you do, don’t think that because you are a good lawyer, you’ll be a successful solo. You need to be a good businessperson to succeed as a solo. Being a good lawyer helps, but it isn’t the key factor.

**Would you advise anyone else to go it alone?** At the end of the day, you need to know yourself. Not everyone is an entrepreneur, just as not everyone can fit in at a firm. Early in my career, I was interviewing at the “big” firms and a hiring manager was describing their firm’s process of tearing down new associates to then build them up in the “right” mold. He told me he wasn’t sure I would let them tear me down or build me up. He wondered whether I could fit the mold and said I was a “wild horse and wild horses are hard to ride.” I didn’t get that job. You have to ask yourself, are you a wild horse? ■





## Focus on Tax Law

# The Purple Book: The National Taxpayer Advocate's Yearly Legislative Recommendations

By Barbara Heggie

It is the rare tax practitioner who can't rattle off a long list of problems with the administration of our tax system. Few, however, have a list as comprehensive and data driven as the one found in the National Taxpayer Advocate (NTA)'s Annual Report to Congress. This report, required by law, includes what the NTA views as the "Most Serious Problems" (MSPs) currently encountered by taxpayers.



A quick read through the headings will strike a chord in most practitioners. MSP number one, for example, is "Paper Backlogs Caused Refund Delays for Millions of Taxpayers" – not a shocker. The NTA details this issue and its causes, offers several specific recommendations to the IRS, and then sums up as follows: "the IRS must leave the era of the Flintstones and advance to the era of the Jetsons and beyond." The remaining MSPs offer similarly blunt advice and meticulous analysis.

According to the NTA, it's not just the IRS that needs to clean house and fix the roof, though. It's Congress, too, and for many years, the NTA has sent them numerous, specific legislative recommendations. Since 2017, those recommendations have been compiled into the annual "Purple Book," spelling out how, in the NTA's eyes, our tax system can be improved by legislative action.

Some of the recommendations have appeared in the Purple Book for several years now. These include:

- Treat Electronically Submitted Tax Payments and Documents as Timely If Submitted Before the Applicable Deadline
- Require Written Managerial Approval Before Assessing the Accuracy Related



### Penalty for 'Negligence'

- Adjust Individual Estimated Tax Payment Deadlines to Occur Quarterly

Others no longer appear in the compilation because they've been enacted into law. The Taxpayer First Act of 2019 contains several of these, including:

- Provide Victims with Notice of Suspected Identity Theft
- Give All Taxpayers the Option to Receive and Use an Identity Protection Personal Identification Number
- Provide Identity Theft Victims with a Single Point of Contact at the IRS

As for the current list of recommendations, here's a small sampling, with a summary quote from the Purple Book's for each:

- Authorize the IRS to Establish Minimum Competency Standards for Federal Tax Return Preparers

*Problem:* The majority of paid tax re-

turn preparers are non-credentialed, and some have no training or experience. Taxpayers are harmed when incompetent tax return preparers make errors that cause them to pay too much tax, deprive them of receiving certain tax benefits, or subject them to IRS tax adjustments and penalties for understating their tax.

*Solution:* Require paid non-credentialed tax return preparers to pass a basic competency test, meet specified standards of conduct, and take annual continuing education courses about federal tax laws and procedures impacting federal tax return preparation.

- Restructure the Earned Income Tax Credit (EITC) to Make It Simpler for Taxpayers and Reduce Improper Payments

*Problem:* The Earned Income Tax Credit (EITC) is one of the federal government's largest anti-poverty programs, but its eligibility requirements are complex. As a result, millions of eligible taxpayers fail to claim the EITC, while

other taxpayers claim amounts for which they are not eligible, leading to a high "improper payments" rate.

*Solution:* Simplify the EITC by breaking it out into a "worker credit" and a "child credit," revising the definition of a "qualifying child," and making certain other structural changes.

- Make Standard Mileage Rates Consistent

*Problem:* The IRC authorizes taxpayers to deduct the costs of operating an automobile for several purposes. In combination with administrative guidance, however, it authorizes different standard mileage rates for each purpose. This is illogical and confusing to taxpayers, tax professionals, and IRS employees alike.

*Solution:* Provide a single mileage deduction rate for all purposes.

- Promote Consistency with the Supreme Court's Boechler Decision by Making the Time Limits for Bringing All Tax Litigation Subject to Equitable Judicial Doctrines

*Problem:* The US Supreme Court has held that the US Tax Court may waive the 30-day deadline for filing a petition in a collection due process (CDP) case when it is equitable to do so (e.g., if a taxpayer misses a filing deadline because he has had a heart attack and is temporarily incapacitated). Other provisions of the IRC also contain filing deadlines, but it is not clear whether courts have the authority to waive those deadlines on equitable grounds.

*Solution:* Clarify that federal courts may waive filing deadlines when it is equitable to do so.

- Expand the Tax Court's Jurisdiction to Hear Refund Cases

*Problem:* For most taxpayers, the US Tax Court is the optimal court in which to challenge an adverse IRS decision, as payment is not a requirement for juris-

PURPLE BOOK continued on page 29

William Howell MBA, ASA, CPA/ABV/CFF 603.232.7791

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# What Non-Tax Lawyers Should Know About LLC Tax

By John M. Cunningham

It is critical that individuals who are forming New Hampshire LLCs, whether these are single-member or multi-member LLCs, be aware of the federal and New Hampshire tax issues relevant to their LLCs, and that they ensure that these issues are correctly addressed in their certificates of formation and operating agreements.

Thus, if you are a New Hampshire lawyer who helps clients form LLCs, but you lack tax expertise, you have a stringent ethical duty to advise your clients of this lack and to you help them find LLC tax experts who can assist them.

However, even if you lack tax expertise and you so advise your LLC formation clients, you can provide a major service to these clients if you advise them about what you understand to be the main tax issues likely to be important to them. The five main LLC tax issues that, in my view, are likely to be relevant to founders of New Hampshire LLCs are outlined below in this article. You may want to give your New Hampshire LLC formation clients a copy of the article.



### Tax choice of entity—single-member LLCs

Most single-member LLCs should be subject to federal taxation as tax sole proprietorships. However, a small number of them should instead be taxable as S corporations or even as C corporations. The often-complex task of choosing among these three federal tax regimens for a single-member LLC in formation is called “tax choice of entity.” No LLC founders should form single-member LLCs without first having a tax expert provide them with a tax choice of entity.

### Tax choice of entity—multi-member LLCs

On tax choice of entity grounds, most multi-member LLCs should be taxable as partnerships under IRC Subchapter K, but a few should, instead, be taxable as C or S corporations. Founders of these multi-member

LLCs must also retain tax experts to provide them with a tax choice of entity.

### Social Security Tax liabilities

As partners of a tax partnership, many members of multi-member LLCs may be subject to major federal tax liabilities on their shares of LLC income under the federal Social Security tax known as the Self-Employment Tax (SET). For 2023, the rate of the SET to which these individuals may be subject on the first \$160,200 of this income will be 12.4 percent, and the rate of the Medicare Tax they will owe on it will be 2.9 percent, for an aggregate tax rate of 15.3 percent and an aggregate 2023 SET and Medicare Tax liability of \$24,511.38.

However, a little-known but powerful proposed IRS proposed regulation designated Prop. Reg. § 1.1402(a)-2 (Prop. Reg.) can enable individuals who are members of

multi-member LLCs taxable as partnerships to greatly reduce their SET liability on their LLC income. These individuals should consult with a tax professional with Prop. Reg. expertise expert on how to structure their operating agreements to take full advantage of this regulation.

### Internal Revenue Code Section 199A

In 2017, then President Trump signed into law a major federal tax bill entitled the Tax Cuts and Jobs Act of 2017 (TCJA). The TCJA was designed mainly to benefit large state-law business corporations taxable as C corporations. However, TCJA Section 199A also provides a remarkable 20 percent annual federal income tax deduction to individuals who earn income from “pass-through businesses”—i.e., state-law sole proprietorships, LLCs and other businesses taxable as S corporations, and LLCs and other businesses taxable as partnerships.

Section 199A is arguably the most complex provision in the TCJA, and, for many LLCs, maximizing the Section 199A deduction may require substantial tax expertise.

For example, to achieve this maximization, individuals who are members of multi-member LLCs taxable as partnerships should not pay themselves for their services to their LLCs in the form of “guaranteed payments” (the partnership tax term for partnerships). Rather, counterintuitively, they

*LLCs continued on page 29*

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## Life Insurance as a Funding Mechanism for Deferred Compensation Plans: Tax Traps for the Unwary

By Catherine H. Hines and  
John E. Rich, Jr.



Hines



Rich

Business owners frequently use non-qualified deferred compensation (NQDC) plans to attract, retain, and incentivize key employees. An NQDC plan, unlike a 401(k) plan or other qualified plan, cannot be funded by dedicated accounts owned by plan participants, so NQDC plan sponsors must find other ways to pay the promised benefits. In some cases, life insurance may be used. This article will describe some (but not all) of the federal income tax considerations of which attorneys should be aware when setting up an NQDC plan that uses life insurance as a funding method.

An NQDC plan is a plan under which an employee or other service provider has a legally binding right in one year to compensation that is, or may be payable, in a later taxable year, and which is not described by



any of the qualified plan rules that allow for special tax treatment (e.g., Code Section 401(k) or 403(b)). There are different types of arrangements, but common to all is that the employee is paid a future amount taxable as ordinary income based on a formula or criteria set forth in a written plan.

### Life Insurance for Informal Funding of Deferred Compensation Plans

Life insurance with an investment component (or cash value) can be a good fit

for funding NQDC plan benefits due where benefit is payable (i) at the participant's retirement from the employer's service after a certain age; (ii) during the participant's disability prior to retirement; and (iii) to survivors upon the participant's death before retirement. These are plans where typically the ultimate benefit is based on a formula either as a set amount payable at a specific date in the future or as an amount determined by a formula (e.g., a percentage of compensation multiplied by the years of service at the payment date). When the benefit becomes payable, the policy cash value can be accessed by the employer to make the payments. Life insurance can also be used in an account balance type plan where the ultimate benefit is based on the value of the life insurance investment account at the payment date.

NQDC plans must be "unfunded" to prevent immediate taxation and application of most ERISA reporting and disclosure requirements. Thus, one drawback of any NQDC plan is that the employee participants are unsecured creditors of the employer, subject not only to its solvency and credit risks, but also to the employer's willingness to fulfill its obligations. One way to assure plan participants that there is funding behind the promised benefit is for the employer to purchase and pay premiums for a life insurance policy on the life of the participant. The life insurance policy typically used is a permanent life insurance

policy owned by the employer who is also the beneficiary. The employee has no rights in the policy.

### Tax Considerations

Although an employer's premium payments are not tax deductible, as long as certain conditions are met, life insurance has several federal income tax advantages (i) deferral of income taxation of deposits into policies and earnings thereon; (ii) a tax-free policy death benefit (assuming no transfer "for value" issue or state law insurable interest problem); (iii) deductible plan benefit payments; and (iv) tax-free withdrawal of policy value (as a return of basis or loans) to pay the benefit. Depending on the design of the NQDC plan and the performance of the investment portion of the policy, the employer may be able to recover the costs of the plan upon payment of the policy death benefit.

A life insurance policy funding an NQDC plan will typically be an "employer-owned life insurance contract" (EOLI) as defined in Code Section 101(j). For an employer to receive the life insurance death benefit proceeds free of federal income tax, the notice and consent requirements of Section 101(j)(4) must be met. The requirements of Code Section 101(j)(4) are that the insured (i) was an employee any time within 12 months of death, or, at the time the policy was issued, was a director, "highly compensated employee," or "highly compensated individual;" (ii) receives notice of the contract before it is issued and of the maximum face amount for which the employee could be insured; (iii) provides written consent to being insured and that the coverage may continue after the insured terminates employment; and (iv) provides written consent to the employer being designated as the beneficiary of policy death proceeds. Annual reporting of EOLI policies to the IRS is also required.

The death benefit is not tax-free to the employer if the policy in question is transferred "for value" as provided in Code Section 101(a)(2). In such case, a portion of the death benefit will be included in the employer's taxable income. Treasury Regulation § 1.101-1(c) should be consulted in connection with the purchase of an employer with an EOLI and upon any sale or other transfer of a policy.

The advantageous tax treatment of policy withdrawals is lost if the EOLI is treated as a modified endowment contract (MEC) under Code Section 7702A. A policy will be treated as a MEC if premiums paid during the first seven contract years exceed certain standards. In addition, an additional 10% income tax is imposed on certain distributions from a MEC to the extent that the amounts received are includible in gross income.

If the employee has any ownership rights in the insurance policy (e.g., a right under the policy itself to designate a beneficiary), Treasury Regulations § 1.61-22(j) must be consulted to determine whether the arrangement is a split dollar arrangement. If so, the taxation of the employer and employee are determined under these regulations rather than under the rules described above. The definition of a split dollar arrangement is surprisingly broad and includes many premium sharing or lending arrangements.

INSURANCE continued on page 29



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## Purple Book from page 26

diction and the judges possess specialized tax expertise. Under current law, however, taxpayers generally may litigate in Tax Court only if the IRS determines they owe more tax, and it issues a notice of deficiency. When taxpayers are solely seeking a refund because they believe they overpaid their tax, they are barred from the Tax Court and must litigate in other, less user-friendly, and more costly federal courts.

**Solution:** Expand the Tax Court's jurisdiction to determine tax liabilities and refunds in refund cases.

In all, the 2023 Purple Book contains 65 legislative recommendations, and you can read them all at: [taxpayeradvocate.irs.gov/reports/2022-annual-report-to-congress/national-taxpayer-advocate-2023-purple-book/#ReadPurpleBook](https://www.irs.gov/reports/2022-annual-report-to-congress/national-taxpayer-advocate-2023-purple-book/#ReadPurpleBook).

You may support many of them enthusiastically; others may provoke the opposite reaction. Either way, contact your Congressional delegation to make your views known. And if you have any other ideas for improving the Tax Code, let them know that, too. The IRS has a lot of fixing up to do, but it can't fix everything. ■

*Barbara Heggie is a staff attorney at Greater Boston Legal Services. Formerly, she was a supervising attorney at 603 Legal Aid, directing its Low-Income Taxpayer Project.*

## LLCs from page 27

should do so through income distributions; their operating agreements should so provide; and they should take advantage of the extremely flexibility of IRS Section 761(c) to make annual retroactive adjustments of these distributions. No one should form a multi-member LLC taxable as a partnership without first making sure that the governing operating agreement maximizes his or her Section 199A deductions. Maximizing the Section 199A deduction on real estate rental income can be particularly challenging.

### New Hampshire taxes; the I&D Tax and the Real Estate Transfer Tax

The main New Hampshire taxes to which members of single-member and multi-member LLCs are likely to be subject are the Business Profits Tax, the Business Enterprise Tax, the Interest and Dividends Tax (I&D Tax), and the Real Estate Transfer Tax (RETT). Every New Hampshire LLC should be structured to minimize all four of these taxes. For example, individuals who reside in New Hampshire and who are LLC members can avoid the I&D Tax on LLC distributions to them by including in their operating agreements a consent or dissolution provision that meets the requirements of the relevant New Hampshire Department of Revenue Administration I&D Tax regulations.

However, the New Hampshire tax posing the greatest risk for many New Hampshire LLC members is the RETT. The pur-

pose of many New Hampshire LLCs is to acquire and maintain New Hampshire real estate and to rent this real estate to tenants. The RETT applies to transfers of New Hampshire real estate at a harsh aggregate rate of 1.5 percent of the current fair market value of the transferred property.

Many New Hampshire real estate owners already own their real estate before they form LLCs to hold it. If they don't follow proper procedures in contributing this real estate to their LLCs after their formation, they may face a brutal RETT liability. However, the RETT statute contains numerous exemptions, of which those most likely to be available to most New Hampshire LLC members are likely to be the RETT exemptions called the "testamentary transfer" exemption and the "same owners after as before" exemption. Your LLC clients should never transfer real estate into LLCs without first consulting with an RETT expert and taking full advantage of applicable RETT exemptions.

A final note: Even if you do not form LLCs for your clients but do occasionally assist them in handling post-formation issues, you should advise them about the above tax issues and, unless they have already done so, you should advise them to consult with tax professionals to ensure that they are addressing these issues correctly. ■

*John Cunningham is the principal of the Law Offices of John M. Cunningham, PLLC, and he is of counsel to McLane Middleton, PA. His practice is focused on LLC formations and other matters involving LLC law and tax.*

## Insurance from page 28

### Other Considerations

State "insurable interest" laws should always be carefully considered prior to the use of life insurance. Generally, such laws require that the party purchasing a life insurance policy have an economic interest in the life of the insured. Many states have enacted legislation or have a body of case law specifying the circumstances and conditions under which an insurable interest will and will not be deemed to exist.

In summary, life insurance can be a valuable funding mechanism for a nonqualified deferred compensation plan but there are important federal income tax requirements that must be met in order to ensure that the taxation of the policy is consistent with the employer's expectations. ■

### Endnote

1. All references to the Code herein are to the Internal Revenue Code of 1986, as amended, and regulations thereunder.

*Catherine Hines is an attorney in the Tax Department at McLane Middleton, Professional Association. She can be reached at [catherine.hines@mclane.com](mailto:catherine.hines@mclane.com) or (781) 904-2686.*

*John E. Rich, Jr. chairs the Tax Department at McLane Middleton, Professional Association. He specializes in employee benefits, pension, ERISA, and tax-related matters. He can be reached at [john.rich@mclane.com](mailto:john.rich@mclane.com) or (603) 628-1438.*

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Peter D. Anderson<sup>^</sup>



Steven M. Burke<sup>^</sup>



John D. Colucci<sup>\*\*</sup>



Kolbie R. Deamon<sup>\*</sup>



Amy E. Drake<sup>\*</sup>



Beth L. Fowler<sup>^</sup>



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## Focus on Insurance Law

# Some Things Are Not What They Seem: Title Insurance vs. Attorney Opinion Letters

By Leigh S. Willey

Government Sponsored Entities (GSEs), such as Freddie Mac and Fannie Mae, have recently notified lenders that, in certain cases, they will accept an Attorney Opinion Letter (Opinion Letters) rather than a lender's title insurance policy, even though doing so potentially exposes the GSEs, the lenders, and ultimately the property owners to additional risk.



Opinion Letters, or certificates of title, are nothing new. Before the introduction of title insurance, an attorney, at the lender's request, issued a certificate or opinion of title, explaining that, based on the information collected and reviewed during the title examination, the property was owned by a particular person, subject only to those interests or encumbrances specifically identified in the opinion of title. Lenders relied on such opinions or certificates of title to make mortgage loans on the property.

This system had its weaknesses, however. For example, even the most skilled title examiner could review and abstract only what was, in fact, properly indexed in the public records. An examiner, moreover, generally could not uncover evidence of forgery, errors in tax records, inaccurately recorded documents or the existence of parties claiming title from other sources. In recognition of this, an attorney often qualified his or her title opinion by stating that the examination was limited to the abstract and did not encompass or reflect information or matters not available by searching the land records, including, when applicable, records from the Superior and Probate Courts.

Title insurance was born out of the practical need for a more complete means of title assurance, one that covers risks beyond those matters set forth in the normal title abstract and title opinion. A lender's title insurance policy protects the lender's security interest in a property by ensuring that its mortgage has priority over others and is enforceable. Unlike an opinion-based product, title insurance goes beyond a public records search to provide much more comprehensive coverage.

Opinion Letters are now being promoted as a less expensive alternative to title insurance in an effort to reduce costs and make loan transactions more affordable for the consumer. This is an admirable goal, especially as fluctuating interest rates, inflation, and layoffs continue to dominate the national news cycle. Opinion-based products are a problematic solution, however, because they do not provide the same protections as title insurance and leave lenders and borrowers at risk of going uninsured against common title defects.

From a strictly dollars and cents per-



spective, depending on the nature of the transaction, title insurance policy premiums may be less expensive than opinion-based products. Premium rates are set by title insurance companies with oversight by the New Hampshire Insurance Department. Most companies use a "rate per thousand" formula to calculate one-time insurance premiums, which are generally based on the loan amount for lender's policies and the purchase price for owner's policies.

Title insurance premiums are not affected by the results of the title examination. For example, if a search reveals undischarged mortgages or defective assignments in the chain, the title insurance premiums remain the same, even though additional work by the attorney or settlement agent is required to close the transaction. To compete with this established rate structure, attorneys may have to forego their hourly rates and charge a flat fee to issue an Opinion Letter. If the title is straightforward, there likely will be no issue. But if the title is unusually complicated or incomplete, the attorney may have to spend several additional hours addressing each issue to the lender's and underwriter's satisfaction. This is time for which he or she may not be compensated. Further, under certain circumstances, title insurance companies are authorized to discount premiums or negotiate rates, resulting in additional savings.

The value of title insurance may be even more pronounced when a lender's policy is issued simultaneously with an owner's policy. The benefit to a property owner of having coverage far outweighs whatever cost savings may be offered by the Opinion Letter, which, in this case, gives protection to the lender only.

In addition to potential cost savings,

title insurance provides substantially more coverage to the insured than an Opinion Letter. Here are several examples. Title insurance covers losses resulting from title defects caused by interests that could not have been discovered despite a thorough public records search, such as unrecorded municipal liens, mechanics' liens, and homeowner association liens, as well as mis-indexed items. Opinion-based products do not. Title insurance covers losses resulting from title defects caused by fraud, forgery, duress, or impersonation, improperly executed documents, or defective judicial proceedings. Opinion-based products do not. Title insurance insures against loss resulting from the invalidity or

unenforceability of the insured mortgage. Opinion-based products do not. Additionally, title insurance companies usually will pay attorneys' fees, costs, and expenses incurred in defense of any matter or risk insured against under the policy. Opinion-based products do not include this coverage.

Title insurance policies also provide more reliable protection than Opinion Letters. Should a defect eventually be discovered, under an Opinion Letter, an attorney is liable to the lender only for any negligence in the examination and review of the title. If the loss was not caused by or was unrelated to the attorney's or the title examiner's negligence, the lender most likely would not be entitled to reimbursement from the attorney or the title examiner.

Even if the loss is attributable to an attorney's or a title examiner's negligence, to be reimbursed, a lender must first foreclose upon and sell the subject property and exhaust all efforts to collect the mortgage balance due; and, if that fails, a

lender must follow a convoluted and time-consuming claims process. This process is initiated by the lender notifying the attorney who issued the Opinion Letter of the defect and any losses incurred. The attorney must then provide written notice of the potential claim to his or her liability insurance carrier within a set timeframe. The lender cannot control whether the attorney complies. If the attorney fails to give timely notice of the potential claim, the insurer could, and usually will, deny coverage. What is more, if the lender suffers a loss that is not covered by the Opinion Letter, the lender may look to the property owner for reimbursement, negating any cost-savings the lender may have realized by relying on an opinion-based product, and potentially exposing the lender's customer to attorneys' fees and costs or worse, forcing the owner into foreclosure.

Additionally, an attorney's liability is limited to the viability and terms of his or her underlying insurance policy and the Opinion Letter. If the attorney allowed his or her policy to lapse or cancelled the policy, or if liability under the terms of the Opinion Letter expired by operation of state law, the lender's claim would not be covered, leaving the lender without recourse for the attorney's or title examiner's mistake.

By stark contrast, claims made under title insurance policies are made directly to the title insurance company. If the loss is caused by a matter covered under the policy while the policy is in effect, the insured lender is entitled to indemnification. Furthermore, a lender's title insurance policy remains in effect for so long as the insured mortgage exists, or so long as the insured retains an interest. After payment of a one-time premium and issuance of the title policy, there are no required renewals, and the title insurance company cannot cancel the policy.

Against this backdrop, the American Land Title Association, the national trade association for the abstract and title insurance industry, has urged lenders to approach using Opinion Letters in place of title insurance with caution, noting there are additional risks to lenders and consumers associated with opinion-based products. The controversy surrounding Opinion Letters has also caught Congress's attention. In late 2022, bipartisan members of the US House of Representatives voiced their concerns about opinion-based products to the Federal Housing Finance Agency (FHFA), noting that "[Opinion Letters] appear to risk exposing . . . consumers to harm by not providing the same consumer protections as title insurance. . . ." The legislators advised FHFA to address these concerns before expanding the use of Opinion Letters and to give Congress an opportunity to weigh in on what they consider to be a very important matter of consumer protection. ■

*Leigh S. Willey, Esquire is New Hampshire Underwriting Counsel at CATIC. She can be reached at 855-642-2842 or [lwilley@catc.com](mailto:lwilley@catc.com).*



# Introduction to New Hampshire's Paid Family and Medical Leave Program

By Roni Karnis

New Hampshire workers now have access to a new, unique employment benefit known as Paid Family and Medical Leave (PFML) insurance. PFML insurance provides wage replacement benefits for family and medical leave. The Granite State Paid Family Leave Plan was enacted by HB2 in June 2021. It is codified in RSA 21-I:99, et seq., RSA 282-B and RSA 77-E:3-e and supplemented by administrative rules, Ins 8000 (adopted on Nov. 20, 2022). The law required the program to be operational by January 1, 2023. The Departments of Administrative Services and Employment Security oversee the program, while the Insurance Department approves the insurance forms and rates.

The program helps address two employment issues that have been persistent in the labor market for some time. For employers, the issue is attracting and retaining workers while maintaining workplace stability and productivity. For employees, there has been a growing concern nationally to be able to take care of their families when serious health problems arise and to bond with children after childbirth or adoption. No doubt, the pandemic escalated both concerns.

The federal Family and Medical Leave Act of 1993 (FMLA/Act) guarantees certain employees who work for large employers up to 12 weeks leave of absence for qualifying events. The Act, however, does not apply to all employment situations, particularly in New Hampshire where many employers are not subject to FMLA. The Act also does not mandate payment of wages while on leave and many families cannot afford to take leave without pay.

To address the challenges unaddressed by federal law, some states, including MA and CT, have enacted statutes requiring employers to participate in a state regulated PFML program, which is typically funded through employment taxes. Vermont announced a program resembling NH's last December.

Unlike other states, the Granite State



Plan is a voluntary program and does not involve an increase in employment tax revenue. Instead, the program creates a viable market with an advantageously priced PFML insurance product for all New Hampshire employers and workers to access if they choose. New Hampshire accomplished this by 1) combining the contract for PFML insurance for state employees with a contract to make the same coverage available statewide, 2) acting as a premium aggregator for small employers and an individual risk pool, and 3) offering a Business Enterprise Tax (BET) credit for employers that elect to sponsor and pay all or part of the premium for employees. In July 2022, the State contracted with Metropolitan Life Insurance Company (MetLife), a carrier with extensive PFML experience, to provide the insurance and plan administration.

Every New Hampshire employer, regardless of size, now has the option to include PFML coverage in its benefits package, much like health, disability, accident, and cancer-only coverage offerings. Having this unique coverage in their benefit profile can help New Hampshire employers stay competitive in the labor market. As an incentive to participate and decrease the cost, RSA 77-E:3-e extends a BET credit to a sponsoring employer "in an amount equal to 50 percent of the premium paid." The tax credit applies not to the total premium cost, but rather to that portion of the PFML premium paid by the employer.

If an employer chooses not to spon-

sor the benefit, an employee can purchase PFML coverage through the State individual risk pool, which MetLife administers on behalf of the Department of Employment Security. Only individuals whose employer does not offer PFML insurance, or an equivalent benefit, may purchase coverage through the State. Individuals are responsible for paying the premium, which is capped at \$5 per week. MetLife collects premium directly from individuals unless the person works for an employer with 50 or more employees. In that case, the employer is required to deduct the premium from the worker's paycheck with remittance to MetLife.

PFML insurance provides wage replacement benefits in the event of an absence from work due to a qualifying event during a 12-month benefit period. RSA 21-I:102, III and Ins 8001.03 set minimum benefits at six weeks leave with payment of 60 percent of the employee's average weekly wage (up to the Social Security wage cap). Leave may be continuous or on an intermittent basis. While MetLife also offers employer groups a policy providing 12 weeks of benefits, individual coverage is limited to six weeks. For employer groups, a waiting period of up to seven months, during which there is payment of premium but no benefits yet available, is permitted. An employer may also elect to have an elimination period of up to one week. Employers may use these plan ele-

ments to customize their benefit structure. Individuals purchasing insurance through the State are subject to both a seven-month waiting period and one week elimination period.

There are differences between the Granite State Plan and FMLA. One such difference is the definition of family member. For example, state law includes grandparents, whereas FMLA does not. Additionally, because this is a voluntary program intended to create a viable insurance market, the insurance regulations permit flexibility in policy design to meet consumer demand and foster competition. Pursuant to Ins 8001.02(n), an insurer may include other relatives, such as a sibling or cousin, within the definition, so long as this is reflected in the policy language.

As with other regulated insurance, there are exclusions. (See Ins 8001.05) PFML insurance is prohibited from providing benefits for the employee's own medical leave that arises from a work-related illness or injury or their own disability for which they receive disability income benefits.

Also noteworthy, an employer's decision to grant leave from work does not guarantee benefits under a policy. Nor does the granting of benefits necessarily guarantee any right to continued employment or job protection. The fact that an insured may be terminated for taking an otherwise qualifying leave of absence is not grounds for denying benefits under the policy. Labor and employment practitioners should be aware, however, of the new state family and medical leave job protections afforded employees that work for large employers (50 or more employees) that sponsor PFML insurance and how it compares to FMLA. (See RSA 275:37-d)

Businesses began enrolling in December and may enroll at any time throughout the year. The individual pool enrollment began January 1, 2023. More information about the program is available at [paidfamilymedicalleave.nh.gov](https://paidfamilymedicalleave.nh.gov). ■

*Roni Karnis is an attorney at the Insurance Department, working in the areas of life, annuity, and ancillary health, and presides over administrative hearings when appointed. She also serves as Secretary on the Family and Medical Leave Insurance Advisory Board.*

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# Avoiding Traps for the Unwary: New Notice Requirements for Rule 404(b) Evidence



Delker



Garner

By Hon. N. William Delker  
and Hon. Michael Garner

One of the fundamental principles of a criminal trial is that a defendant be adjudicated on the strength of the specific allegations against him or her and not based on the person's character. Nearly 30 years ago, in *State v. McGlew*, 139 N.H. 505 (1995), the New Hampshire Supreme Court exercised its supervisory authority to guide trial courts in applying this precept in the context of New Hampshire Rule of Evidence 404(b). That rule is designed to ensure that a person is not judged on his or her propensity to act in a certain way, but that evidence of other crimes or bad acts may be admitted when it has a bearing on the merits of the case. To ensure these goals are met, the NH Supreme Court requires trial courts make specific findings of fact and rulings of law to support the admissibility of the other bad act evidence.

In the intervening decades, litigants and trial courts have continued to struggle with the application of Rule 404(b). To facilitate the resolution of the complex calculus of whether to admit Rule 404(b) evidence, the rules of criminal procedure established deadlines for the prosecution to provide notice of its intent to rely on other bad act evidence. Under existing rules of criminal procedure, Rule 12 sets

the deadline 14 days before trial in Circuit Court and 45 days after arraignment in Superior Court. These notice requirements, however, are often illusory because they impose no specific content for the notice nor obligation to litigate the issue before trial. Under current practice, some prosecutors send a letter simply notifying defense counsel that the State intends to rely on Rule 404(b) evidence contained in discovery. That notice does not identify the particular evidence or explain its admissible purpose. Given these shortcomings, trial courts are often faced with making complex evidentiary rulings relating to Rule 404(b) evidence late in the trial process.

On December 22, 2022, the NH Supreme Court adopted substantial revisions to the notice obligations. Those changes go into effect on March 1, 2023. We write today to highlight the important new procedures imposed by these rule amendments.

Rule 404(b) is not limited to prior bad act evidence offered against a defendant. In other words, when a defendant intends to rely on Rule 404(b) evidence against a prosecution witness, the trial court must still make necessary rulings on the admissibility of the other act evidence. The notice requirement imposed by the amendments to Rule 12 of the Rules of Criminal Procedure now apply to both the prosecution and defense.

In Circuit Court, a litigant must provide the opposing party written notice of the intent to rely on Rule 404(b) evidence at least 14 days before trial. That notice "must articulate the permitted purpose for which the proponent intends to offer the evidence and the reasoning that supports the purpose." In Superior Court, the same written notice is required 60 days before jury selection. In both Circuit and Superior Court, the written notice must be ac-

companied by "[a]ll statements, reports or other materials that the proponent of Rule 404(b) evidence will rely on to prove the commission of such other crimes, wrongs, or acts." Given the more specific notice requirements in the amended rule, the practice of generically referencing any and all bad act evidence contained in discovery will no longer suffice.

The procedure for litigating Rule 404(b) issues has been even more substantially altered for Superior Court practice. Written notice 60 days before jury selection allows the parties to meet and confer on the admissibility of evidence as required by Rule of Criminal Procedure 35(i)(1) before formal motion practice. In the event the parties cannot reach agreement, Rule 12(b)(4)(A)(ii) requires the proponent to file a formal motion, which articulates the legal basis for the introduction of Rule 404(b) evidence. This motion must be filed 45 days before jury selection. This deadline enables the Superior Court to address the issue in a timely manner before trial.

Amended Rule 12(b)(4)(A)(iii) provides: "Not less than 30 days prior to jury selection, a party shall file a motion to exclude evidence it believes constitutes Rule 404(b) evidence if no motion to admit the evidence has been filed by the opposing party." This provision is intended to address the situation where a party believes that certain evidence should be excluded under Rule 404(b), but no notice or motion has been filed by the other side under subparagraphs (i) or (ii).

It is not uncommon for a proponent of evidence to conclude that the evidence is not evidence of other bad actions, but rather intrinsic to the charged crime. In this situation, the proponent reasonably could take the position that notice and a motion are not required under subparagraphs (i) or (ii) because the challenged evidence is

admissible under a theory other than Rule 404(b). If the opposing party disagrees and believes that challenged evidence falls under Rule 404(b), the party seeking to exclude the evidence must file a motion 30 days before jury selection to resolve the issue. The motion to exclude cannot generically seek to exclude "all Rule 404(b) evidence." Rather, the motion must specifically identify the evidence the party believes should be excluded as Rule 404(b) evidence.

The trial court can then determine if the challenged evidence is, in fact, intrinsic to the charges. If the trial court concludes that the disputed facts actually fall under Rule 404(b), the court may exclude the evidence on the ground that the proponent did not comply with the notice and motion requirements of (i) and (ii).

The less complex amendment to the existing rule for Circuit Court allows the opponent time to challenge the notice, but also reflects that Circuit Court practice often leaves resolution of the issues to the day of trial.

The notice requirements imposed by the amendments to Rule 12 may be waived in both Circuit and Superior Court for "good cause shown." In deciding whether to exclude Rule 404(b) evidence based on the proponent's failure to comply with the notice and motion requirements, the court may consider the strength of the argument that the evidence is intrinsic, whether the proponent of the evidence sought to shift the burden of filing a motion to exclude evidence to the opponent, and any other relevant factor.

New Hampshire is not alone in its struggle with establishing a meaningful procedural framework for litigating Rule 404(b) issues. Federal courts have

RULES continued on page 33

## NJOW from page 1

to hold outreach sessions at five locations, including Concord and Nashua. Sessions are also scheduled with the University of New Hampshire in Durham, with senior leadership from Catholic Medical Center in Manchester, and there will be a public event at Saint Anselm College in Manchester on March 9.

Presentations will be tailored to each audience from the structure of the court system to a discussion of the meaning of the rule of law. Materials prepared for the local presentations begin with a fundamental question, "Why do we care about the law?" and then review court history, the role of the three branches of government, the sources of our laws, and the principle that laws must be applied fairly and impartially and not be influenced by "popular, partisan, and special interests."

Phrases heard so often in the media and public discourse, but often misunderstood or not understood at all, are addressed including "due process" and the bedrock principle of democracy that no one is above the law.

Chief Justice MacDonald and Attorney Garvey are scheduled to meet with 200 junior and senior high school students at Conant High School.

"Anything that helps with outreach so that everyday citizens can better un-

derstand the importance of our judiciary and build respect for the difficulty of the job and the importance of doing it well... to me that's worth the time," Garvey said.

Garvey and retired Superior Court Judge Richard McNamara are co-chairing the Outreach Week Committee. Members include Justice Hantz Marconi, Superior Court Judges Jacalyn Colburn and John Kissinger, Circuit Court Judge Ellen Christo, NHBA and Bar Foundation Executive Director George Moore, Attorneys Caroline Leonard and Josh Wyatt, and Judicial Branch General Counsel Mary Ann Dempsey. The project is a partnership between the Judicial Branch and the NH Bar Foundation, with staff support from the NHBA.

Public trust in all governmental institutions—including the courts—continues to slide, according to *State of the State Courts*, an annual survey of 1,000 registered voters, conducted in October 2022 for the National Center for State Courts (NCSC). Moreover, the results showed that Americans are "losing faith in the courts ability to deliver equal justice for all."

Programs such as NJOW, along with civic education and diversity and inclusion projects that promote interaction with the judiciary are geared towards strengthening public trust and confidence in the courts.

"Events in the broader political environment and key Supreme Court decisions have combined to dramatically impact the

way many Americans view the judicial system at all levels," The NCSC said. "Every year, this survey serves as a reminder that most Americans are not focused on the court system in their daily lives and have only the most rudimentary understanding of how these systems work."

With confidence in courts and other public institutions in decline, Chief Justice MacDonald, who served on the NCSC survey advisory committee, said it is particularly important for judges and lawyers to meet the people we serve where they live, work, and study.

"I thank the committee members for their efforts, and I hope this will be just the beginning of our judicial outreach effort," the Chief Justice MacDonald said.

New Hampshire's participation in NJOW is expected to be an annual event. Information on NJOW events for 2023 can be found at [nhbarfoundation.org/njow](http://nhbarfoundation.org/njow). ■

*Laura Kiernan is the Interim Communications Manager for the New Hampshire Judicial Branch. She previously served as the Director of Communications and established the court's public information office. She worked for many years in print and broadcast media, including The Boston Globe and The Washington Post. She can be reached at (603) 271-2646 or at [lkiernan@courts.state.nh.us](mailto:lkiernan@courts.state.nh.us).*

## National Judicial Outreach Week

As part of National Judicial Outreach Week, New Hampshire will celebrate the contribution of women judges internationally, as well as those here in the Granite State. An event, to be held at the LaBelle Winery in Derry on March 10, will focus on raising support and funds for emergency evacuation and resettlement of Afghan women judges and their families who became targets for assassination and terrorism following the return of Afghanistan to Taliban rule.

Several women judges and their families are being resettled in Northern New England after the abrupt halt to efforts by the International Association of Women Judges' (IAWJ) to promote judicial independence and the rule of law in Afghanistan with support and training for women judges there. Representatives of the IAWJ and their Afghan colleagues are expected to attend the event which is co-sponsored by the NH Bar Foundation and the NH Women's Bar Association.



January 2023

## Constitutional

**Marc Mallard v. Warden, New Hampshire State Prison, No. 2021-0357**  
January 4, 2023  
**Reversed and Remanded**

- Whether the Superior Court erred in dismissing petition for habeas corpus on procedural default ground or for failure to demonstrate actual prejudice as a result of ineffective assistance of counsel.

The Defendant was charged with committing acts of domestic violence in 2012 against his romantic partner. The trial court described the Defendant as “a large African, American man” and the victim as “a much smaller white woman.” During cross examination, defense counsel asked the victim regarding the Defendant: “And so this big guy, this big, menacing black guy hit you with his fists and that’s what shows in this picture, correct?”

The Defendant was convicted at trial, which was upheld on appeal. In 2015, the Defendant moved for a new trial based on ineffective assistance of counsel, arguing that (1) defense counsel agreed to a curative instruction that there was no evidence that the victim was motivated by jealousy, and (2) defense counsel failed to cross examine the victim about friendly text messages sent after the assault. The trial court denied the motion for new trial.

In 2020, the Defendant petitioned the trial court for a writ of habeas corpus, primarily arguing that by describing him as a big, menacing black guy on cross exam, his defense counsel deprived him of effective assistance of counsel. The trial court dismissed the petition, stating that the claim had already been fully litigated in the motion for a new trial and was barred by the passage of time – 9 years from conviction. Reaching the merits, the trial court found that while defense counsel’s statement rendered assistance of counsel ineffective, the Defendant failed to provide prejudice. The Defendant challenged both rulings on appeal.

The Supreme Court stated the general rule that a petition for habeas corpus is not a substitute for direct appeal, and if based upon a claim that could have been brought on direct appeal, may be barred. Turning to the rule’s exception, the Supreme Court stated that an allegation of ineffective assistance of counsel need not be raised on direct appeal and may be raised collaterally in a writ of habeas corpus after the time for a direct appeal has expired if a defendant can establish “harmful constitutional error.”

Turning to the case at hand, the Supreme Court held that even though both the motion for new trial and the writ of habeas corpus contained claims of ineffective assistance of counsel, they were based on separate issues or instances of ineffective assistance. The Supreme Court did not agree that the habeas petition was barred by laches, because even assuming the doctrine applies, the Warden had not met his burden of proof because he did not demonstrate any specific threat of prejudice occasioned by the nine-year delay. The Supreme Court reversed dismissal of the habeas petition on procedural grounds and addressed the merits.

It was undisputed on appeal that Defendant established his counsel was constitutionally defective at trial, and the Supreme Court needed only to determine whether that prejudiced the Defendant. Citing prior decisions, the Supreme Court held that inserting racial considerations into a case can taint the proceedings and deprive a defendant of a fair trial, thereby requiring a new trial. In the instant case, the single reference was enough to taint the proceeding, as “such an improper reference to race has no place in a courtroom” and “effectively invited the jury to make a decision based on a characterization the defendant and not on the evidence of his guilt or innocence.” The Supreme Court could not determine the extent of the effect on the jury and held that the Defendant was entitled to relief for his counsel ineffective assistance and remanded to the trial court for further proceedings.

*Wadleigh, Starr & Peters, Manchester (Donna J. Brown and Michael G. Eaton on the brief, Michael G. Eaton, orally), for the petitioner. John M. Formella, attorney general, and Anthony J. Galdieri, solicitor general (Zachary L. Higham, assistant attorney general, on the brief and orally), for the respondent.*

## Family

**In re G.F., No. 2022-0228**  
January 20, 2023  
**Reversed**

- Whether the Circuit Court erred in terminating father’s parental rights on the grounds that he failed to timely correct

perior Court. Nonetheless, the committee believed that establishing a clear timetable for resolution of Rule 404(b) issues was important. The legal analysis for Rule 404(b) evidence is often complicated, the issue may require an evidentiary “clear proof” pretrial hearing, and, under existing practice, late or ambiguous disclosures often result in continuances or other trial disruptions. The amendments to Rule 12 of the New Hampshire Rules of Criminal Procedure are designed to avoid these pitfalls. ■

*Judge Delker and Judge Garner are members of the NH Supreme Court Advisory Committee on Rules. Judge Delker sits on the Superior Court in Hillsborough County Superior Court—Northern District, and Judge Garner sits on the 4<sup>th</sup> Circuit Court in Laconia.*

## At-a-Glance Contributor



**Ryan M. Borden**  
Practicing at Ford, McDonald & Borden, P.A. in Portsmouth, NH for eight years, with a focus on representing trustees, creditors and debtors, and corporate law, landlord/tenant law, collections and commercial litigation.

conditions that lead to finding of neglect of minor child by minor child’s mother.

DCYF initiated two neglect petitions against G.F.’s mother in 2019. Father was a non-accused parent, and no petitions were filed against him. DCYF did not serve the mother’s neglect petitions on Father, but it did inform him of the proceedings via telephone. Father did not appear at the adjudicatory or dispositional hearings in January 2020 and was not served with the case plan or dispositional order. The trial court held a three-month review in April 2020, which Father did not attend. The trial court ordered DCYF to serve Father with all relevant discovery, a copy of the case plan, and the dispositional order. Father appeared at the six-month review hearing and was arrested two days later on felony charges of second-degree assault and domestic violence against his then-girlfriend and her child. Father plead guilty to at least two of the charges.

In January 2021, the trial court held the first permanency hearing, which father missed due to his incarceration. After the hearing, and approximately nine months after Father received adequate notice of the case plan, the trial court found Father was not in compliance with the dispositional orders, changed the permanency plan from reunification to adoption, and stated DCYF no longer had any obligation to provide reasonable efforts to facilitate reunification. Mother’s parental rights were terminated in August 2021. DCYF petitioned to terminate Father’s parental rights in October 2021. Father was released from jail in December 2021. At the trial in January 2022, the trial court found that Father had failed to correct the conditions of neglect within 12 months, and terminated his parental rights, specifically finding that while Father did not receive constitutionally sufficient notice until May 4, 2020, he was provided adequate opportunity to correct the conditions of neglect. Father moved for reconsideration, arguing that DCYF did not “make reasonable

efforts for twelve months after constitutionally sufficient notice of dispositional case plan goals.” The trial court denied Father’s motion, and Father appealed, arguing that there was insufficient evidence that DCYF assisted Father in correcting the conditions of neglect.

The Supreme Court held that even assuming DCYF’s reunification efforts during the nine-month period were sufficient, they were inadequate because the trial court did not order DCYF to provide reunification services for the remaining three months of the twelve-month statutory period. The Supreme Court held that the plain language of the statute is clear and requires the trial court to analyze whether DCYF has made reasonable efforts to finalize the permanency plan “in effect.” Here, where the permanency plan in effect only nine months after Father received adequate notice was one of adoption, DCYF could not demonstrate beyond a reasonable doubt that father failed to correct the conditions of neglect within twelve months, and the Supreme Court reversed the trial court’s order terminating father’s parental rights.

*John A.M. Hinsman III, Dover (on the brief and orally), for the father. John M. Formella, attorney general, and Anthony J. Galdieri, solicitor general (Audriana Mekula-Hanson, attorney, on the brief and orally), for New Hampshire Division for Children, Youth and Families.*

## Land Use

**Appeal of the Town of Amherst, No. 2021-0570**  
January 18, 2023  
**Affirmed**

- Whether the Housing Appeals Board erred in vacating a denial of a subdivision and site plan approval by the town’s planning board.

In November 2020, applicant filed a subdivision and site plan approval application with the town’s planning board for 54 age-restricted and unrestricted housing units. The board had previously granted a conditional use permit for “an increased project density” of up to 54 units under the town’s subsequently repealed Integrated Innovative Housing Ordinance. The project’s density was reduced to 49 units during the review process, and the composition of age-restricted versus unrestricted units was

AT-A-GLANCE continued on page 34

## Rules from page 32

attempted to tackle the issue by creating notice requirements in the context of Rule 404(b) itself. That rule, however, requires only that the prosecution “provide reasonable notice of any such evidence that the prosecutor intends to offer at trial, so that the defendant has a fair opportunity to meet it.” The federal rule does not define what constitutes “reasonable notice.” Nor does the federal procedure apply to Rule 404(b) evidence offered by the defendant. The New Hampshire Advisory Committee on Rules felt that the federal approach was unsatisfactory as a result.

The Advisory Committee was mindful that Rule 12(b)(4)(A) sets out a fairly complicated procedural framework for resolution of Rule 404(b) evidence in Su-

## Notice of Judicial Vacancies to be Filled

Upcoming Superior Court and Circuit Court vacancies will soon be considered by the Judicial Selection Commission.

- An Application may be downloaded from the websites of the Governor or the NH Bar Association. Applications may also be requested by calling (603) 224-1988. Please be sure to use the 2017 version of the Application.
- Each new candidate must submit a paper application and all accompanying documents, including writing samples, via standard mail to Attorney Charles Douglas, 14 South Street, Suite 5, Concord, NH 03301 as well as an email copy to [chuck@nhlawoffice.com](mailto:chuck@nhlawoffice.com).
- Completed applications must be received no later than 5:00 p.m. on Friday,

March 10, 2023.

- Candidates who previously submitted an Application to this Commission and wish to reapply now, may do so by email to the Judicial Selection Commission Chair at [chuck@nhlawoffice.com](mailto:chuck@nhlawoffice.com) to confirm your intent to be considered, but to rely on your prior Application. A re-applicant must also submit an updated affirmation regarding professional conduct and an updated consent and release, which are Exhibits A, B and C to the 2017 Application. Please print Exhibits A, B and C and complete and scan in as a PDF document and attach the updated Exhibits A, B and C to an email. All updates are due by the Application deadline of 5:00 p.m. on Friday, March 10, 2023.



The Supreme Court reappoints Attorney Connie L. Rakowsky and Attorney Steven B. Scudder to the Access to Justice Commission (Commission), which was established by Supreme Court order dated January 12, 2007. Attorney Rakowsky is reappointed to serve a three-year term beginning January 31, 2023, and expiring on January 30, 2026. Attorney Scudder is reappointed to serve a three-year term beginning March 31, 2023, and expiring on March 30, 2026.

The Supreme Court appoints the Honorable Elizabeth M. Leonard and Attorney Richard E. Samdperil to the Commission. Judge Leonard and Attorney Samdperil are appointed to serve three-year terms beginning January 31, 2023, and expiring on January 30, 2026.

The Supreme Court has received notification that the following Commission members have resigned: Honorable David W. Ruoff; Attorney Pamela Phelan; At-

torney Gina Belmont; and Attorney Sarah Blodgett.

Issued: January 27, 2023  
ATTEST: Timothy A. Gudas, Clerk of Court  
Supreme Court of New Hampshire



In accordance with Rule 42(II)(a), the Supreme Court appoints Attorney Eric R. Wilson to serve as the Professional Conduct Committee member of the Committee on Character and Fitness. Attorney Wilson's term as a member of the Committee on Character and Fitness shall commence on February 1, 2023, and shall expire on December 31, 2024.

Issued: January 30, 2023  
ATTEST: Timothy A. Gudas, Clerk  
Supreme Court of New Hampshire

## ADM-2022-0032, *In the Matter of Mark M. Whitney, Esquire*

On December 12, 2022, Attorney Mark M. Whitney was suspended from the practice of law in New Hampshire for failing to comply with the following New Hampshire bar licensure renewal obligations and for failing to appear for a November 1, 2022 show-cause hearing:

1. Bar Dues and Court Fees - Attorney Whitney had 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 Whitney had not filed his annual trust accounting certificate and had not paid the \$300 in assessed delinquency fees, as required by Supreme Court Rule 50-A.

3. NHMCLE Certification - Attorney Whitney had not fulfilled NHMCLE

requirements of Supreme Court Rule 53 for the reporting year ending May 31, 2022, and had not paid the \$300 in assessed delinquency fees.

Attorney Whitney filed a petition for reinstatement on January 23, 2023. The New Hampshire Bar Association has confirmed that Attorney Whitney's bar licensure renewal obligations are now satisfied.

Upon review of the petition for reinstatement, the court orders that Attorney Mark M. Whitney be reinstated to the practice of law in New Hampshire, effective immediately.

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

ISSUED: February 3, 2023  
ATTEST: Timothy A. Gudas, Clerk

## At-A-Glance from page 33

changed to 14 age-restricted units and 35 unrestricted units. In April 2021, the board denied the application for reasons the court lumped into two general categories: First, (a) only one member of the age-restricted unit needed to meet the age requirement, (b) there was a single association for both age-restricted and unrestricted units, and (c) the association documents allowed amendments by owners with 67% of the vote; Second, the proposed design did not protect the town's rural aesthetic as required by the zoning ordinance.

The applicant appealed to the Housing Appeal Board, which vacated the board's decision and remanded. The town moved for reconsideration, which the HAB denied. The town appealed, first arguing that the HAB erred in vacating and remanding because the board's denial, in part, was "reasonable in light of the Applicant's continued and uncontroverted failure to comply with the elderly housing law," including allowing individuals under the age of 65 to reside in the age-restricted units in violation of federal and state law. The HAB had found that the issue existed but ordered the board and applicant to engage in collaborative discussions regarding the age-restricted units and ordered applicant to provide completed association documents addressing the board's mixed-age concerns. The Supreme Court found the HAB's ruling was not unjust or unreasonable, that the mixed-age issue

could be addressed by finalized association documents, and that the board had never reviewed final association documents "which ordinarily is a condition of approval."

The town argued that town counsel had reviewed the association documents, but the HAB found the evidence showed otherwise, contravening ordinary practice. The Supreme Court held that the HAB's decision overturning denial of the application because the board failed to follow custom and practice was not unreasonable. The town also argued that the board was required to issue an order within 65 days of the application, and the applicant used up that time by misapplying the law on age-restricted units. Again, the HAB had found that both sides failed to collaborate in overturning the board's decision, and the Supreme Court did not find that ruling unreasonable. The town raised several other errors made by the HAB, but the Supreme Court found that none of them affected the reasonableness of the HAB's decision.

The town next challenged HAB's finding that the rural aesthetic basis for the board's denial was unreasonable. The HAB had found that the denial was unreasonable where the rural aesthetic factors had already been considered in granting the conditional use permit density modifications. The HAB also found the town had failed to actually rely on rural aesthetic factors in denying the application, but rather focus on density, which could no longer be factor after the conditional use permit had been granted. The Supreme Court again found the HAB's

ruling reasonable.

The town's last argument was that the HAB substituted its judgment for the board's, but made vague assertions to support the claim, and the Supreme Court held the town failed to demonstrate any error. The Supreme Court affirmed.

*Cronin, Bisson & Zalinsky, Manchester (Christopher B. Drescher, on the brief and orally), for the petition. Prunier & Prolman, Nashua (Gerald R. Prunier, on the brief and orally), for the respondents.*

## Public Safety and Welfare

### *Petition of the State of New Hampshire, No. 2021-0462*

January 31, 2023  
*Reversed and remanded*

- Whether the superior court erred in conducting an appellate review of the circuit's court's competency hearing in a juvenile delinquency matter.

In 2019, the State filed a delinquency petition charging Juvenile with attempted second-degree murder. At arraignment, the State moved to certify Juvenile as an adult and transfer the case to the superior court. The circuit court conducted a competency hearing and found Juvenile competent despite uncontroverted expert testimony that Juvenile was not competent. Juvenile filed a habeas petition in superior court challenging the competency finding. Juvenile had failed to file an interlocutory appeal of the competency finding, so the superior court denied the petition. The circuit court granted the transfer to superior court after considering the factors set forth in RSA 169-B:24, I(a)-(h).

The superior court subsequently declined to accept the transfer, finding that the circuit court's competency ruling was erroneous, as it had not sufficiently detailed the facts supporting competency. The superior court remanded to allow the circuit court to set forth in more detail the supporting facts, and if there were none, to enter a finding of incompetency. The state appealed the superior court's order, arguing that competency is not a transfer factor the superior court may consider under RSA 169-B:24, but is a separate and distinct issue addressed in RSA 169-B:20.

The Supreme Court agreed with the state, finding that the superior court errone-

ously considered competency in evaluating the transfer. Turning to the statute, the Supreme Court held that RSA 169-B:24 grants discretion to the circuit court in matters of transfer to the superior court for adult prosecution. The statute provides eight factors to guide the decision. The Supreme Court held that due to the discretionary nature of the transfer decision, the superior court's review is limited to whether the circuit court fairly considered the eight factors. Straying outside of the eight factors of RSA 169-B:24 was error.

The Supreme Court rejected Juvenile's argument that an incompetent person may not be subjected to a transfer hearing, holding that the legislature dealt with the competency issue by requiring a competency hearing to occur prior any delinquency proceeding, including transfer hearings. If any juvenile disputes the circuit court's competency ruling, they may seek immediately review in the Supreme Court by interlocutory appeal or, if such appeal is denied, by writ of certiorari. The Supreme Court held that because competency is protected by a separate statutory scheme with its own appeal process, the transfer analysis under RSA 169-B:24 does not include competency as a factor.

Juvenile made two other arguments. First, that the language of the statute stating that all original circuit court papers shall be transferred to the superior court up transfer supported the superior court's inclusion of competency in the transfer analysis. The Supreme Court declined to adopt such a ruling, stating that statutory provisions are not to be read in isolation, but rather in context of the statute as a whole. Second, Juvenile argued that RSA 169-B should be liberally construed for purposes of encouraging development of minors by providing care and treatment and doing so would bring the competency review within the purview of the superior court. The Supreme Court declined to do so, saying such decisions are better handled by the legislature. The Supreme Court vacated the superior court's order and remanded.

*John M. Formella, attorney general, and Anthony Galdieri, solicitor general (Elizabeth C. Woodcock, senior assistant attorney general, on the brief and orally), for the State. Christopher M. Johnson, chief appellate defender (on the brief and orally), for the juvenile. ■*

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## US District Court Decision Listing

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### NOVEMBER 2022

#### EVIDENCE; MOTION IN LIMINE

11/30/2022 *United States v. Ian Freeman*  
Case No. 21-cr-41-JL, 2022 DNH 148

In advance of Ian Freeman's jury trial on several counts, including operating an unlicensed money transmitting business, money laundering, and tax evasion, the court issued oral and written orders resolving the parties' motions in limine seeking to exclude certain evidence from trial. The court granted the prosecution's motion seeking to preclude evidence or argument encouraging jury nullification, but allowed (subject to limiting instructions) the defendant to present evidence of his alleged knowledge and compliance with state money transmitting business laws, including an opinion letter from his attorney. The court also denied the defendant's motion to exclude evidence of bank and wire fraud because that evidence was intrinsic to the remaining crimes charged, relevant to the conspiracy charges, and admissible to prove intent, plan, preparation, knowledge, absence of mistake, or lack of accident. Any risk of unfair prejudice from the evidence did not substantially outweigh its probative value. 3 pages. Judge Joseph N. Laplante.

### DECEMBER 2022

#### PATENT LAW; AMENDING INVALIDITY CONTENTIONS

*Ocado Innovation Ltd., et al. v. AutoStore AS, et al.*  
Civil No. 21-cv-41-JL, Written order – no opinion number

The court denied the plaintiffs' motion to strike four allegedly untimely prior art references from the defendants' preliminary invalidity contentions. While the local patent rules do not reference amended invalidity contentions or provide deadlines to serve such documents, the court borrowed from Rule 16 of the Federal Rules of Civil Procedure and applied a "good cause" standard to consider the untimely disclosure. It found that the new prior art – while available to the defendants earlier in the case – did not become relevant to the defendants' invalidity arguments until later. Defendants therefore acted diligently in disclosing the new art. Moreover, because of the procedural posture of the case (particularly the fact that the court had not yet issued its claim construction order), the plaintiffs would not be prejudiced by the belated disclosure of new prior art. 6 pages. Judge Joseph N. Laplante.

#### TRUSTS

1/4/2023 *Gray v. Gray*  
Case No. 18-cv-522, Opinion No. 2023 DNH 001

After a bench trial the court found the defendant trustee liable for a \$170 personal legal expense improperly paid from trust property. The court otherwise found that the plaintiff, a trust beneficiary and co-trustee of a related trust, had failed to prove his claims by a preponderance of the evidence,

including claims that defendant breached fiduciary duties by imprudently failing to invest trust property and by failing to timely provide an accurate trust account. The court also found that plaintiff failed to show that removal of defendant as co-trustee of a related trust was warranted. 43 pages. Judge Joseph N. Laplante.

#### TRUTH IN LENDING; NEGLIGENCE

1/26/23 *Wood v. U.S. Bank Home Mortgage*  
Case No. 22-cv-235-JL, Opinion No. 2023 DNH 008

In this suit brought by a pro se borrower against her mortgagee, the court granted the defendant's motion to dismiss in part and denied it in part. After liberally construing the complaint, the court dismissed the plaintiff's negligence claims because her relationship with the mortgagee was governed by contract and she failed to allege that the defendant undertook duties beyond those of a normal lender or loan servicer. The court also dismissed the plaintiff's claim under federal truth in lending regulations because the defendant's conduct, as alleged, did not violate the applicable regulation. As for the plaintiff's RESPA claim, however, the court denied the defendant's motion without prejudice and gave the plaintiff the opportunity to amend that claim to add factual support and allegations of damages suffered as a result of the alleged violation. 13 pages. Judge Joseph N. Laplante.

#### FIRST AMENDMENT; DUE PROCESS

1/12/23 *Local 8027 AFT-NH v. Edelblut*  
Case No. 21-cv-1077-PB, Opinion No. 2023 NH 005

The plaintiffs in this action are public school teachers, administrators, and teachers' associations who challenge the constitutionality of several recent amendments to New Hampshire's education and antidiscrimination laws that restrict what public school teachers can say to their students about how to understand, prevent, and redress discrimination in our society. Several of the plaintiffs contend that the new amendments violate their First Amendment right to free speech. They all argue that the amendments are unconstitutionally vague. The defendants moved to dismiss for failure to state a claim. The court denied their motion in part and granted it in part. The court agreed with the defendants that the First Amendment does not protect the curricular speech of primary and secondary school teachers, because they speak for the government rather than as private citizens. The plaintiffs' ancillary claim that the amendments unlawfully restrict teachers' extracurricular speech stated a plausible claim for relief because this type of speech is not government speech. The court also concluded that the plaintiffs have pleaded a plausible claim that the amendments are unconstitutionally vague in violation of the Fourteenth Amendment's Due Process Clause, because the amendments' vague terminology, their lack of a scienter requirement, and the possibility that teachers could be found liable for teaching a banned concept by implication, leave both teachers and enforcers to guess at what speech the amendments prohibit. 43 pages. Judge Paul Barbadoro.

## Classifieds

### POSITIONS AVAILABLE

**LITIGATION ASSOCIATE** – Laboe & Tasker, PLLC, a small boutique elder law, estate planning, and business planning firm with a state-wide practice located in Concord, NH, seeks an ambitious, extroverted litigator, willing to expand his/her skills into new practice areas. The firm litigates matters directly related to our transactional expertise. The ideal candidate will have 2-6 years of experience in any area of civil litigation, and strong research, writing and communication skills. Excellent interpersonal skills required. Prior involvement with probate and trust law is desirable but not required. Contested probate matters will be the primary focus of this position but will not be the exclusive scope of litigation matters undertaken. Our firm environment is collaborative, collegial, and supportive. Competitive compensation and benefits offered. Please send cover letter and resume to Attorney Kerri S. Tasker at [ktasker@laboelaw.com](mailto:ktasker@laboelaw.com).

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

**BUSINESS DEVELOPER/MARKETER** – Frasca Title, LLC, a full-service title company, seeks a business developer/marketer for its growing business. We are looking for the right person to join our team and promote Frasca in the New Hampshire real estate market. Core responsibilities include: Establishing and developing relationships with prospective customers (Realtors, brokers, lenders); Creating marketing and sales materials to attract new business opportunities; Providing exceptional customer service; Being highly visible in the market by attending real estate industry functions and participating in community and real estate events. Real Estate experience is preferred but not required. If this is you, we would like to meet you. We offer a very competitive compensation package including health insurance and 401(k) with employer match. For confidential consideration, please send your resume and cover letter to [sshaplyko@frascalaw.com](mailto:sshaplyko@frascalaw.com).

**LOOKING FOR AN ATTORNEY TO BUY PRACTICE:** Well-established Law Firm located in downtown Concord is seeking a highly motivated attorney. Owner would like to develop a relationship with an attorney who would assume the practice upon his retirement. Potential candidates should have 5-10 years' experience and some portables. If interested, please send your resume, cover letter to: [Officemanager2223@gmail.com](mailto:Officemanager2223@gmail.com). Replies held in strict confidence.

### REFERRALS

**LAWYER REFERRAL SERVICE – MODEST MEANS PROGRAM** – Narrow the justice gap and still earn fees. The NHBA Lawyer Referral Service Modest Means Program needs more attorneys. This vital reduced-fee program provides access to justice for people who are too "rich" for pro bono programs but can't afford standard attorney fees. It is free to sign up, and there is no obligation to accept any referral. To learn more or sign up visit <https://www.nhbar.org/join-lawyer-referral-service/> or contact LRS at (603) 715-3235 or email [lrsreferral@nhbar.org](mailto:lrsreferral@nhbar.org).

**LAWYER REFERRAL SERVICE – FULL FEE PROGRAM** – Even when your practice is thriving, you need a steady stream of leads to keep it that way. Join NHBA Lawyer Referral Service to receive prescreened referrals for the types of cases you select. In 2021 LRS referred more than 6000 cases to our panelist attorneys. Set the type and quantity of cases you want to receive with no obligation to accept any referral. Pay LRS only 10% of collected fees earned on referrals. To learn more or sign up visit <https://www.nhbar.org/join-lawyer-referral-service/> or contact LRS at (603) 715-3235 or email [lrsreferral@nhbar.org](mailto:lrsreferral@nhbar.org).

### OFFICE SPACE

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## Orr&Reno

### Family Law Paralegal

Orr & Reno is looking for an experienced and self-motivated paralegal to join our growing family law group. A bachelor's degree, paralegal certification, or equivalent is required. The successful candidate will possess strong professional judgment, organization, and excellent written and verbal communications. The ability to be proactive, multi-task, and prioritize are essential. The paralegal responsibilities will include working closely with family law attorneys on complex, high net worth domestic relations matters from inception to finish; managing Rule 1.25-A mandatory disclosures; drafting and answering discovery; managing document productions; attending mediations and hearings with family law attorneys; and working directly with clients throughout their cases. Our practice group functions as a supportive team and the paralegal will have access to a legal assistant.

A minimum of 3–5 years of family law paralegal experience is preferred, but the firm is willing to train and invest in a less experienced but otherwise highly qualified and motivated candidate. This is a full-time position. Orr & Reno prides itself on its market-competitive compensation and comprehensive benefits, its team-based approach to practice, excellent employee and attorney retention, and demonstrated commitment to fostering a fun, friendly, and positive work culture.

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

To apply for this position, please send a cover letter and resume to:

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Concord, NH 03302-3550  
Fax: (603) 223-9060  
Via email (please send in Word format only)  
[resumes@orr-reno.com](mailto:resumes@orr-reno.com)

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No phone calls or agencies, please.





### **TAX ATTORNEY (BURLINGTON, VT)**

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

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

### **CORPORATE/COMMERCIAL ATTORNEY (BURLINGTON, VT)**

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

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

### **COMMERCIAL AND BUSINESS LAW ATTORNEY (BURLINGTON, VT)**

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

The ideal candidate will have over two years of relevant experience involving corporate and entity formation, mergers and acquisitions (asset and stock purchases, mergers, due diligence) and debt and equity financings (mortgages, Uniform Commercial Code, promissory notes and loan agreements). Experience with captive insurance matters a plus, but not required. The firm’s business law group is engaged in wide a variety of transactions locally, nationally, and internationally. This is an opportunity to become part of a team of attorneys committed to delivering top-quality service to growing and successful businesses.

DRM is committed to investing in our attorneys’ professional growth and development. We offer excellent mentorship, and training, as well as leading technology, competitive salary, and a comprehensive benefits package, including industry-leading paid parental leave and two generous retirement plans.

Please submit a cover letter and transcript along with resume for consideration. APPLY HERE: [https://www.appone.com/MainInfoReq.asp?R\\_ID=4440732&B\\_ID=83&fid=1&Adid=0&ssbcolor=17143A&SearchScreenID=2521&CountryID=3&LanguageID=2](https://www.appone.com/MainInfoReq.asp?R_ID=4440732&B_ID=83&fid=1&Adid=0&ssbcolor=17143A&SearchScreenID=2521&CountryID=3&LanguageID=2)

## **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](mailto:mail@nhlawoffice.com). All inquiries held in strict confidence.

### **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:

- 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.

**PretiFlaherty**

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: [mjohnston@preti.com](mailto:mjohnston@preti.com).

**DrummondWoodsum**

ATTORNEYS AT LAW

### **Labor and Employment Attorney**

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 [hr@dwmlaw.com](mailto:hr@dwmlaw.com). All inquiries are held in the strictest confidence. No phone calls, please.





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Contact Ora at [oralaw@gmail.com](mailto:oralaw@gmail.com).

## Cullen Collimore Shirley COUNSELORS AT LAW

### Litigation Attorney

Based in Nashua's historic Millyard district, Cullen Collimore Shirley PLLC is seeking an attorney with 3 to 5 years of experience to join their civil trial practice as an associate. Civil litigation experience, strong writing skills, and NH bar admission required. Competitive salary and comprehensive benefits package offered. Send resume, cover letter, salary/other requirements and references to: Lynn Hughes, Cullen Collimore Shirley PLLC, 37 Technology Way, Suite 3W2, Nashua, NH 03060. Replies held in strictest confidence.



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

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

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



### Probate/Family Law Legal Assistant

The Concord, NH office of Shaheen & Gordon, P.A., is looking for a skilled Legal Assistant to support the dual practice of Family and Probate litigation. You will be joining a team of staff and attorneys dedicated to providing high-quality legal representation to family law and probate clients. You will provide administrative assistance to our attorneys which will include frequent client communication and collaboration with other staff members. You will also serve an important role in the litigation process and take responsibility for the finalization of pleadings, preparation of exhibits, and scheduling of trial preparation meetings. This position is best suited for someone who thrives on structure, enjoys interacting with people, and prides themselves on attention to detail.

#### Responsibilities

- Open client files (perform conflict checks, prepare engagement letters, etc.)
- Perform administrative duties (scheduling appointments, calendaring hearings and deadlines, organizing files, finalizing general correspondence and legal documents, etc.)
- Organize discovery materials and prepare exhibit notebooks
- Have experience in complex cases, including trial preparation
- Daily communications with clients, opposing counsel, and the court via phone and email

#### Requirements

- 2-5 years' experience as a legal assistant in a law firm environment
- Applicable knowledge of motions, discovery, scheduling, deadlines, court rules and procedures for the New Hampshire Circuit Courts, ideally in the Probate and Family divisions
- Highly organized with the ability to manage multiple deadlines and client needs
- Excellent communication and interpersonal skills
- Team-oriented attitude with a passion for the production of high-quality legal work for clients
- Proficiency in standard computer software, including Microsoft Word, Outlook, and Excel. Experience with NetDocuments and Centerbase is preferable but not required

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

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

No phone calls or agencies please.  
EOE



### Legal Assistant – Personal Injury/ Workers' Compensation

Shaheen & Gordon, P.A., Attorneys at Law, is in search of an energetic and detail oriented Legal Assistant to join our group of professionals who will be responsible for supporting trial attorneys with workers compensation and personal injury cases in State and Federal Courts in their Nashua, NH office. The ideal candidates will have at least 3-5 years' experience. To be successful in this role candidates must demonstrate the ability to work as a member of a team, in addition to working independently.

#### Responsibilities to include, but are not limited to:

- Experience with contacting claims adjusters
- Experience with requesting, reviewing and organization of medical records
- Preparing medical evidence for trial
- Scheduling Permanent Impairment Evaluations
- Management of Personal Injury Files
- Preparation of general correspondence, motions and objections
- Have solid knowledge of Court Rules and all discovery deadlines
- Assist with discovery and document management
- Serve and file legal papers in the correct court and familiarity with electronic filing systems in both State and Federal Court
- Strong computer skills, Microsoft Office, Outlook, Excel, Adobe, Centerbase, NetDocuments, scanning and maintaining electronic files
- Must have excellent communication skills via email, phone, and with clients, court staff and opposing counsel
- Must be highly organized with an ability to prepare case files for attorneys to use at court hearings
- Must have excellent secretarial skills, the ability to multi-task and under pressure, and able to prioritize is required. Attention to detail and proofreading skills are a must have

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

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

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### **TRUSTS & ESTATES ATTORNEY**

Admission to the NH Bar and 2+ years experience required

### **CORPORATE ATTORNEY**

Admission to the NH Bar and 2+ years experience required  
Experience in transactional and M&A work preferred but not required

### **LITIGATION ASSOCIATE**

Admission to the NH Bar and 4+ years relevant experience

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## Career Opportunity

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

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



**Boynton Waldron**  
Doleac Woodman & Scott, P.A.

## Estate and Trust Administration Paralegal

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

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

Please submit resume, cover letter and salary requirements to Lisa Roy, Office Manager at [lroy@mckan.com](mailto:lroy@mckan.com).



### **ASSISTANT COUNTY ATTORNEY**

#### **SCOPE OF POSITION:**

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

#### **ESSENTIAL JOB FUNCTIONS:**

- Acts as counsel for the State of New Hampshire in criminal matters.
- Works closely with Victim/Witness Coordinators to ensure that all witnesses/victims are properly informed, prepared and supported throughout the prosecution process.
- Presents investigations and cases to the Grand Jury.

#### **REQUIRED EDUCATION AND EXPERIENCE**

- Juris Doctor from accredited law school.
- Must be admitted into the New Hampshire Bar Association.

**Salary Range:** \$68,827.20 - \$96,366.40, dependent on experience.

**Status:** Full Time/Exempt

#### **Submission Requirements:**

Employment application and resume required.

#### **Apply Online:**

<https://www.governmentjobs.com/careers/rockinghamnh>

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## ASSISTANT COUNTY ATTORNEY

**TITLE:** ASSISTANT COUNTY ATTORNEY

**LOCATION:** Strafford County Attorney's Office at the Justice & Administration Building, 259 County Farm Road, Dover, NH 03820

**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 indictments, complaints, and pleadings.
- Researching pertinent case law, decisions, and legislations.
- Present investigations and cases to the Grand Jury; conduct Bench trials, Jury trials and all required hearings related to the assigned caseload in the Superior and/or District Courts.

- 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 over cover letter, resume, and references to County Attorney Tom Velardi at [tvelardi@co.strafford.nh.us](mailto:tvelardi@co.strafford.nh.us)

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ATTORNEYS AT LAW

## Healthcare Litigation Attorney

Associate position for the healthcare litigation defense group at mid-sized law firm. Offices 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 on cases.

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 [tbright@hmdrslaw.com](mailto:tbright@hmdrslaw.com).

## ASSISTANT COÖS COUNTY ATTORNEY

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

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

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

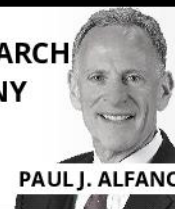
John G. McCormick, Coös County Attorney  
55 School Street, Suite 141  
Lancaster, NH 03584  
603-788-5560 (fax)  
[sue.corrow@cooscountynh.us](mailto:sue.corrow@cooscountynh.us)

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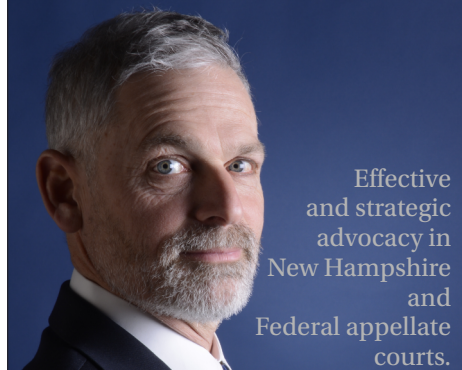
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## The Division for Children, Youth and Families is seeking Child Protection Attorneys Statewide

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](mailto:deanna.baker@dhhs.nh.gov).

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