Looking Back, Looking Ahead: The New Hampshire Bar Association Turns 150 This Month

By Tom Jarvis

On July 2, 1873, New Hampshire became the first state to establish a “modern state bar association” with incorporation – by a special act of the New Hampshire legislature – as the Bar Association of the State of New Hampshire (BASNH), making it the oldest statewide bar association in the United States.

The purposes for the association were copied almost word for word from those of the New York City Municipal Bar Association. There was considerable selectivity in who was asked to join, inviting just 218 of a possible 320 attorneys and judges in the state. 40 elected to join during its first year.

That same year, Ulysses S. Grant was sworn in as US President for a second term; Congress enacted the Comstock Law, making it illegal to send any obscene, lewd, or lascivious items through the mail; and the New York stock market crashed.

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Ride for Resilience: The 100-Mile Bike Ride for New Hampshire Children’s Trust

By Grace Yurish

In October, riders will pedal their way 100 miles across the Granite State to benefit the New Hampshire Children’s Trust (NHCT) and various family resource centers, while raising awareness about the support available to prevent child abuse and neglect.

The NHCT is the governor’s designated statewide community-based child abuse prevention agency and is the state’s chapter of Prevent Child Abuse America. Founded in 1986 as a quasi-governmental organization, the NHCT became a non-profit corporation in 2011. The Children’s Trust works hand in hand with family resource centers to help families endure challenging times. Located across the state, family resource centers provide a variety of programs, classes, and resources to help educate and strengthen families.

NHCT Director of Advancement

Annual Meeting 2023: A Sesquicentennial Celebration Venerating Diversity

By Tom Jarvis

The New Hampshire Bar Association’s Annual Meeting, held on June 23-24, took place at a new venue this year: the AC Hotel by Marriott in Portsmouth. The event, entitled “Changemakers: 150 Years of Navigating Uncharted Waters,” consisted of a two-and-a-half-hour CLE program, activities celebrating history and diversity, a reception on the rooftop overlooking the city, and a spirited banquet with the bestowment of the annual President’s Awards and the passing of the gavel to new NHBA president Paul Chant.

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Paul Chant: The NHBA’s 124th President

By Jill O’Neill

New Hampshire legal professionals refer to the New Hampshire Lawyers Assistance Program (NHLAP) for confidential support related to stress and burnout, addiction issues, mental health challenges, life and career transitions, cognitive decline and aging, or when facing discipline. When comparing the national lawyer well-being statistics on the prevalence of mental health and substance use disorders, two to three thousand New Hampshire legal professionals meet the criteria for a clinical disorder requiring intervention and treatment. Although we have seen NHLAP referrals more than double this year, there are misconceptions about whom exactly NHLAP serves, what services NHLAP offers, and unaddressed concerns about confidentiality resulting in an underutilization of NHLAP services. This article will answer these questions, address concerns, share important information, and explain how NHLAP can offer meaningful support.

Getting help when you need it is crucial in building your resilience. At any given time over our lifespan, we will encounter difficult life experiences. How well we endure hardship is determined by our resilience. Resilient people tap into their strengths and support systems to overcome challenges and work through problems. When faced with personal or professional difficulties negatively impacting your well-being, ask for help. Not because you are weak. But because you are strong. NHLAP services are available to members of the New Hampshire legal profession, without limitation, including lawyers and judges, regardless of their status, and law students. Our services are available to you throughout your legal career into retirement. NHLAP services are free of charge as funded by the LAP Assessment Fee, included in the annual Bar membership dues. NHLAP offers a “no wrong door” approach. Whether you are calling for yourself, as a concerned colleague (anonymity preserved), or as a family member – we are here to help.

Don’t believe everything you think. Many times, the root cause of our own suffering is our own thinking. Numerous legal professionals suffer in silence due to negative beliefs about seeking help—shame, stigma, fears of reputational harm, and
Practitioner Profile

By Kathie Ragsdale

By day, Brian McEvoy prosecutes child abuse and neglect cases, witnessing what he calls “the entirety of humanity in terms of the wonderful things it’s capable of and the worst things it’s capable of.”

By night, he creates paintings – most of them portraits that capture the pain, resilience, and uncertainty of what it means to be human.

He sees the two as related.

“I regard practicing law as an art form,” says McEvoy, a Bar member for more than 30 years and a prosecutor for the state Division for Children, Youth and Families (DCYF). “I regard art as a discipline, and they’re symbiotic.”

“I’m not really satisfied with producing artwork that isn’t of the highest quality,” he adds. “If it’s not my best effort, I feel it’s not worth producing. The same is true of going to court. If I’m going to court, I’m going to court fully loaded and I would prefer people know I go to court in that regard. I don’t fool around.”

A native of Newmarket, New Hampshire, McEvoy attended the former Marlboro College in Vermont, majoring in philosophy and economics, before a four-year stint in the Navy, where he navigated a submarine.

Enrollment at what is now the University of New Hampshire School of Law followed.

“I was just pretty good at debating things, and it seemed like a reasonable direction to go in for a philosophy major,” he says of his career choice.

After graduation, he spent a half-dozen years working for the law office of David Bownes, focusing primarily on criminal defense, before going off on his own, partnering first with Judith Homan, then going solo. Criminal defense and immigration law again accounted for much of his practice.

McEvoy says he is particularly proud of a case where he won a not guilty verdict for a man accused in a non-fatal shooting.

Any shooting from a defense point of view is extremely difficult because, human behavior being what it is, we want to jump to those types of conclusions,” he says. “It was very satisfying.”

In 2007, McEvoy moved to DCYF, where he has remained, except for a four-year period when he worked for Child Support Enforcement.

He calls the work “very intense.”

“The wonderful parts are, for example, a parent or parents who are able to get over their drug problem and get their kids back,” he says. “People don’t realize how difficult that is. The worst you see is homicide.”

“Doodle art” began years ago as a reaction to the intensity of the courtroom.

“To relieve stress in court, I would draw cartoons, try to draw emotions. The judges just thought I was taking notes.”

— Brian McEvoy

“People don’t realize how difficult that is. The worst you see is homicide.”

McEvoy says he is also gladdened by seeing “kids who, notwithstanding the trauma they’ve been subject to, have been resilient and maintain a positive outlook on life and do well.”

There’s a lot of those, more than one would think.”

His officemate at DCYF, Lori Chandler, has known McEvoy for a decade and a half, since she was an assistant county attorney in Belknap County, and calls him “a very honest man whose ethical fiber is practically unmatched.”

“He is up front and honest,” Chandler says. “He does what he says he is going to do, and he does it with his unique style of poise and humor. I am in awe of his legal skills and hope that some of those skills rub off on me.”

A similar view is offered by Deanna M. Baker, legal director for New Hampshire DCYF, who calls McEvoy “a diligent and skilled trial attorney” who is “professional and respected by colleagues, clients, parent attorneys, CASA/GALs, and courts.”

Baker adds that McEvoy is “known among his colleagues for the doodle art he creates and many of us take great joy in exploring his legal files and seeing his ‘real’ artwork.”

That “doodle art” began years ago as a reaction to the intensity of the courtroom.

“To relieve stress in court, I would draw cartoons, try to draw emotions. The judges just thought I was taking notes.”

Five or six years ago, his wife, Melissa, gave him a drafting table for his birthday, and a painter was born. McEvoy took a few art classes and started painting, primarily portraits, “because I’m interested in people’s souls and bringing them to life,”

MCEVOY continued on page 14

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MCEVOY continued on page 14
Did the Supreme Court Just Reject Affirmative Action or Approve It?

Introduction
The recent 6-3 Supreme Court of the United States (SCOTUS) ruling that race-conscious admissions programs at Harvard and the University of North Carolina are unlawful will undoubtedly shape the future of affirmative action policies and have significant implications for society as a whole.

The ruling has been met with mixed reactions. Some people outside the Court believe that this is a step forward for the country while others believe that it is a step backward taking special exception to the exemption for military academies as being “insulting” and that this decision is “a slap in the face.” Does it call for equal treatment? Equitable treatment? Justice for some? Justice for all?

In a democracy, representation is an essential principle. If Harvard, Yale, and Princeton are curtaining our elite, then it makes perfect sense — for reasons of policy stability and fairness — to make sure that African Americans and Hispanics are well represented in those classes.

As with most Supreme Court decisions, this decision hinges on the specifics of the cases themselves. Illustrative of the case specifics, Esther G. Lander, Aileen M. McGrath, and Amanda S. McGinn argue in an article published in Akin that, “The Court noted that Harvard and UNC did not seek to justify their affirmative action programs based on evidence of their own past discrimination and rejected the notion that affirmative action could be justified to remedy the effects of societal discrimination at large, which would impose disadvantages on individuals who bear no responsibility for the harm purportedly suffered by the beneficiaries of affirmative action…The Court also found that Harvard’s and UNC’s use of race as a plus factor in college admissions is not ‘narrowly tailored’ to achieve their articulated interests.”

The wording of the ruling leaves room for interpretation. Who is to say what constitutes “narrowly tailored”? And how are we to resolve the conflict where the decision recognizes that institutions prepare people to live in society, which is admittedly discriminatory, yet rejects the notion that affirmative action could be justified to remedy the effects of societal discrimination at large?

Looking Ahead: The Future of Affirmative Action
Nine states (including New Hampshire) have banned the use of race in admissions policies at public colleges and universities. The rate of people of color at institutions of higher learning in those states has remained largely the same. This seems to detract from the arguments of those who criticize the decision and minimize the concerns about the ruling’s impact. But organizations such as the NAACP are ramping up campaigns to convince the public of the grave nature of the decision.

While the ruling was focused on academic institutions, legal scholars believe there will be ramifications for businesses looking to become more diverse as the same argument used in this case could be used in a case involving Title VII which focuses on employer

Conclusion
The SCOTUS decision on affirmative action puts renewed emphasis on the Constitution and is likely to disrupt diversity efforts. Was this ruling inevitable? When should affirmative action stop? Who gets to say when it should stop? How should it stop? To answer these questions, we need a national discussion of reparations. Only then will we come to a common understanding of how to navigate the path toward greater equality and inclusivity, finding the delicate balance between diversity and equal opportunity.

James T. McKim
President, Manchester NAACP & Managing Partner, Organizational Ignition

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Nominations Sought for NHBA Paralegal Professionalism Award: Nominate by July 28

Do you know a paralegal that goes above and beyond? Nominate them for the Paralegal Professionalism Award!

This annual award is presented to the nominee who best exhibits a high degree of professionalism, possesses an outstanding level of knowledge about their job, has motivation that exceeds expectations, is considered a role model for other paralegals, and promotes paralegal work as a profession. The Paralegal Professionalism Award will be presented during the Paralegal Association of New Hampshire’s Annual Meeting on September 15, 2023.

To submit a nomination, please go to https://www.nhbar.org/about-the-bar/bar-awards where you will also find a list of past recipients.

If you should have any questions, please reach out to Cindy Roberts at ciroberts@nhbar.org or at (603) 715-3267.

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150-Year Retrospective: The 1991 Pamela Smart Trial
The First-Ever Televised Trial in US History

By Tom Jarvis

Looking back through the history of the New Hampshire Bar Association in celebration of its 150th year inevitably brings to mind the most publicized trial in Granite State history: the Pamela Smart trial. Spanning 14 days, it was the first trial in the nation to be broadcast live on television from start to finish, gavel to gavel.

In March 1991, 22-year-old Pamela Smart was found guilty of conspiracy to commit murder, accomplice to first-degree murder, and witness tampering in connection with the death of her husband, Gregory Smart, who was found shot to death in their home in Derry on May 1, 1990.

She was the media coordinator at Winnacunnet High School in Hampton and began having an affair with a 16-year-old student, William Flynn. Smart was accused of convincing Flynn and three of his friends to kill her husband. Flynn and the others pleaded guilty in a cooperation agreement in exchange for lesser charges, while Smart was sentenced to life in prison.

By 2015, Flynn and his friends had all been released from prison. Smart has requested commutation three times – the most recent in 2022 – and each petition has been unanimously denied by the Executive Council.

What made this trial so infamous was the media frenzy that ensued. Its popularity even inspired the creation of two films. One was a made-for-TV movie called Murder in New Hampshire: The Pamela Smart Story, which starred Helen Hunt and Chad Allen. The other, only loosely based on the Smart story and with changed names and details, was called To Die For, and starred Nicole Kidman and Joaquin Phoenix. There were several books and two documentaries made about the Smart story.

“It was a case of first impression with regard to media exposure,” Smart’s long-time attorney Mark Sisti says. “I guess anytime there is a first, it’s going to attract attention for a long period of time. And it was not only national coverage. There were news tracks from Japan, Germany, and Australia. The thing got completely out of control. I don’t think there was a trial since then in this state that allowed for such a bizarre media circus.”

Pamela Smart during the trial in 1991. Photo by Geoff Forester/Concord Monitor

Pamela Smart in 2021, 30 years into serving a life sentence. Courtesy Photo

Paul Twomey, Sisti’s former law partner and former co-counsel for Smart, believes the trial was the impetus to Court TV. “It was oppressive. I don’t think I’ve ever seen anything like it since,” Twomey says. “The media was everywhere. They would follow us to court – we’d be like 40 miles away from the court and people would be following us. I think it was profoundly disturbing, the atmosphere in that courtroom – the way it just got completely out of control. I liked Judge [Douglas] Gray a lot, he was always one of my favorite judges, but I think the thing got away from him.”

Twomey continues: “I just can’t even tell you how strange it was to have judges and politicians come in and be seated in special spectator seats for VIPs, watching the trial of a human being. A real person died – they have a family. It wasn’t entertainment; it shouldn’t have been entertainment. It was something that shouldn’t have happened. She’s a real human being, and she’s on trial for her life. These kids all had families. All of them shouldn’t have been shown. I feel bad for the kids, too. I feel bad for Billy Flynn and his mother and the rest of the kids. The whole thing was awful.”

According to Twomey, it wasn’t long after the Pamela Smart trial that the courts began implementing rules to control the media coverage in court.

“The OJ Simpson thing was somewhat similar a year or two later, but even then, there were more rules in place,” he says.

Paul Maggiotto, who was the assistant attorney general and lead counsel for the State at the time of the trial, says he wasn’t worried about the press.

“It was clearly unprecedented, the amount of press coverage,” Maggiotto says. “I think what people believed is that there is a great interest in watching a trial live. I remember kids in high school later coming up to me and telling me they watched it in school as a lesson in civics. So, it had a real educational benefit by being broadcast live. At the time of the trial, I was new to the office. I had been a district attorney in Brooklyn and had tried about nine homicide trials before I even got to New Hampshire, and because of that experience, I had a lot of com-

SMART TRIAL continued on page 6
Pamela Smart trial. Courtesy Photo

Maggiotto began working as a defense attorney two years after the trial and now operates a solo practice in Concord. When asked how the Smart trial affected his career going forward, he says it gave him some name recognition at times.

“When I put my name on the door and stopped working for other people, it certainly wouldn’t have had,” he says. “But as a defense lawyer, you’re only as good as your latest victory, so to speak. Clients want you to win, they want you to do well for them, so they don’t really care about what you might have done in the past.”

Maggiotto says he is proud of his work on the Smart trial, but he’s prouder of the appellate work in the case because that was more out of his comfort zone.

“There are other cases that have given me a lot of satisfaction and pride,” he says. “Smart was one of them, but it’s not like leaps and bounds above the others.”

Sisti says he is also proud of the work he did for Smart and the work that he continues to do for her.

“We are going to latch on, we’re going to hold, and we are going to succeed in the end. I am confident of that,” Sisti says. “I take pride in the craft that I am engaged in. There are a lot of lawyers out there doing the same stuff I’m doing that are not getting this attention, and they’re in the trenches every day. We should be proud of what they’re doing. As assigned counsel in criminal cases, as public defenders – they don’t get any kind of glory, they don’t get any kind of attention, but they are battling every day. My hat goes off to them. They’re in there, they’re fighting, and they’re doing the right thing.”

In February 2023, Sisti appeared before the New Hampshire Supreme Court, asking them to compel the Executive Council to reconsider a full hearing on Smart’s commutation petition. Sisti argued that Governor Sununu and the Executive Council did not fairly consider her request, having only reviewed it for under three minutes before rejecting it. The Court denied Smart’s petition.

“She’s more than happy to sit down in front of any or all of the executive counselors and the governor and look them straight in the eye and answer any questions they would want to offer to her,” Sisti says. “She’s not afraid of them. It seems as though they are afraid of her. I think one of the fears that they may have is that they’re actually witnessing somebody that has been a rehabilitation success, and now they don’t know what to do with her.”

Sisti says they are preparing for the next commutation request.

“We are not stopping,” he says. “I’m assembling support for her now. We’re hoping we can get a hearing – a fair hearing. We hope that the Executive Council and the governor would be gracious enough to extend that time to us – more than two minutes and 34 seconds – and sit down and have an honest, true, and full hearing so that the public understands what’s going on, so that the electorate that put them in office understand what their true position is. Then, we can all sit back, and we can judge Pam Smart after we all examine her achievements and can ask piercing questions with regard to her rehabilitation and remorse, instead of conjecture. We have to take this thing out of the politics, and we have to start to judge her as a human being – just like our constitution in the state would direct us to do.”

Mark Sisti and Paul Maggiotto both appear in the brand new episode of the Bar Discourse (the NHBA’s podcast), wherein they have a more in-depth and candid conversation about the Pamela Smart trial, the media frenzy surrounding it, how it affected their careers, the movies and books made about the trial, and more. You can listen to the episode now at soundcloud.com/thebar-discourse.

Mark Sisti standing outside the New Hampshire Supreme Court after Smart’s petition to compel a hearing for commutation in 2023. Photo by Paula Tracy/InDepthNH.org

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
Medical Malpractice Law – Plaintiffs and Personal Injury Litigation – Plaintiffs

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Who is Your Favorite Fictional Lawyer?

By Tom Jarvis

Most of the fictional lawyers that appear in this column are from very well-known movies and TV shows, but there are some here and there that are more obscure. And then there are some fictional attorneys that would likely never appear on a list of favorites (or worsts), for one reason or another, but should fall into a category of honorable mentions.

One that comes to mind is Bob Loblaw from the show Arrested Development, with his Bob Loblaw Law Blog and his ability to lob law bombs. Another would be Unfrozen Caveman Lawyer from Saturday Night Live in the 1990s, who used his perceived naiveté as a trial strategy. One of my favorite honorable mentions would have to be Jackie Chiles from Seinfeld, a parody of Johnnie Cochran whose cases would often be derailed by his own client, Cosmo Kramer.

Anyway, as Attorney Rudy Baylor (from John Grisham’s The Rainmaker) said, “There are few things in life worse than a long-winded lawyer.” I assume the day Night Live in the 1990s, who used his perceived naiveté as a trial strategy. One of my favorite honorable mentions would have to be Jackie Chiles from Seinfeld, a parody of Johnnie Cochran whose cases would often be derailed by his own client, Cosmo Kramer.

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Words of Wisdom from Solo Practitioners

By Misty Griffith

More than one-third of New Hampshire attorneys are solo practitioners. This series profiles New Hampshire lawyers who have embraced the challenge of solo practice. It is our hope that their experiences may inspire other attorneys who are considering flying solo. Thank you to this month’s featured practitioners for taking the time to share your words of wisdom. Solo practitioners who are willing to share your advice and experience, please contact Member Services Supervisor Misty Griffith at mgriffith@nhbar.org. We would love to include you in a future article.

Joseph Garrison, Garrison Law
15 years in practice, seven years as a solo

What inspired you to become a solo?
I was in a transitional period, moving from a law firm after being with the New Hampshire Public Defender for several years, and made the decision with my wife that it was the right time to open my own practice.

Best thing about solo practice:
Having a solo practice provides me with flexibility to choose my clients and work in a way that suits my life and meets my family’s needs.

Hardest thing about solo practice:
There’s a lot going on at all times. In addition to legal work, there are also all the other aspects that come with running a business. It’s a daily challenge but it’s extremely rewarding.

Memorable solo experience:
As a solo, I’m in control of choosing my cases. Several years ago, I was approached by an acquaintance who needed help with a private adoption. Although I was interested in criminal law, and I was lucky enough to work with the New Hampshire Public Defender Program for a number of years, so now a majority of my practice focuses on all types of criminal defense work. Running a business is extremely demanding, and anyone considering going solo should make sure they’re well-versed in their area of law first.

Would you advise anyone else to go it alone?
It’s worked out well for me, but any one considering a solo practice should be realistic about their ability to both run a business and practice law.

Advice for new solo:
Get as much experience in the area of law you’re interested in first. I was interested in criminal law, and I was lucky enough to work with the New Hampshire Public Defender Program for a number of years, so now a majority of my practice focuses on all types of criminal defense work. Running a business is extremely demanding, and anyone considering going solo should make sure they’re well-versed in their area of law first.

Memorable solo experience:
As a solo practitioner, there tend to be memorable experiences on a monthly basis but arguing a case before the New Hampshire Supreme Court stands out as the most memorable.

Advice for new solo:
Have enough experience in the public sector or with a larger firm to feel comfortable with a few different areas of law before starting your own practice. Also, continue to pursue knowledge and experience in all areas of law that you have an interest in.

Would you advise anyone else to go it alone?
Yes, definitely. If you’re a good lawyer and not afraid to take the risks associated with solo practice, the rewards are worth it.

Judith N. Reardon, Law Office of Judith N. Reardon
Almost 42 years in practice (admitted Oct. 1981), 39 years as a solo

What inspired you to become a solo?
I’ve always wanted to help people who can’t afford normal legal fees. That’s not an economic model that appeals to employers, so I decided to go solo. I think I also liked the adventure of figuring out my own legal strategy from research and observations rather than being supervised. And my beloved was willing to create my computer system, phone system, and billing system, in return for my being his lawyer, Human Resources Department, and business advisor. What an irresistible deal!

Best things about solo practice:
Choosing your cases and setting your own schedule (as other solos have written, that allows for a really interesting personal life).

Hardest things about solo practice:
Setting billing rates and comparing my earnings to the Bar’s annual salary survey. (Doing what you love to help people does have a financial cost!) Staffing also depends on a lot of luck when you only have one or two employees, and I was very fortunate.

Memorable solo experience:
Sticking with some clients who had multi-year probate battles with family members to eventually achieve a positive result in each of those cases. Memorable personally: having my two Siberian Huskies in my office every day and being able to go cross-country skiing on Wednesdays.

Advice for new solos:
Show each client that you care about what’s important to them and can come up with a customized solution to their problems. But always be realistic with them – don’t let them assume that what they seek will be easy to get because they are “right.” Do thorough research and explain your Plan A and Plan B (and Plan C, etc.). And always be respectful, and if possible friendly, with opposing counsel, experts, witnesses, court staff, and everyone you deal with. You will learn a lot, and will avoid making mistakes, and will receive a lot more cooperation and respect. (The lawyers from large firms might even refrain from burying you in paper, though I wouldn’t count on that!)

Would you advise anyone else to go it alone?
Yes! But only if you enjoy figuring everything out for yourself, and don’t mind the likelihood of low earnings. And only if you can find at least two good staff people or colleagues who will buffer you in times of emergencies.
Network Early, Network Often: The Importance of Building Relationships in Law School

By Alex Attili

Networking can be a great way for professionals to make connections and build relationships. It is especially important that young professionals start building these relationships as early in their career as possible so that they have time to develop.

“The number one reason to start networking early is to give your network time to grow,” Neil Sirota, assistant dean of career services at the University of New Hampshire Franklin Pierce School of Law, says “I always encourage people to think of their network like a seed. It won’t grow overnight and it isn’t transactional. You want to build genuine relationships. It’s going to take some time, but that’s a good thing. It’s never too early to start networking. If any high-school students read this article...start networking!”

At the law school, Sirota teaches a class entitled The Legal Profession, where students are introduced to different aspects of the legal profession through a variety of panels and assignments. One of these assignments requires students to begin networking with legal professionals.

Rising 2L Shray Tapiawala, currently interning at Rath, Young, and Pignatelli in their renewable energy department, said he thought the networking assignment was “phenomenal.”

“I am a very introverted person, but I understand that these types of connections aren’t coming to you on a golden platter,” Tapiawala says. “You need to work for it. You need to put in the effort of reaching out to people and talking to them. If you don’t do that, you can’t grow those connections. I know many people complained about [the assignment] because they felt uncomfortable reaching out, but it was like getting a hand from the legal community that said, ‘here’s how you do this.’

Sirota emphasized that “people are all the same. They want to be helpful.” He specifically wants students who are new to networking to know that they do not have any less of a right to talk to someone just because they are students.

“Sure, there are always going to be jerks out there, but most of the time, you’re never going to have someone say, ‘I hate you just because you think it looks good on paper. Do what you think is fun and networking will happen organically. The best networking stories are typically about meeting people at these obscure places or events like a frisbee golf tournament or a grocery store. Just find people doing things that you think are fun and do that. Find the legal professionals doing the things you want to do and talk to them.”

Tapiawala similarly stated that when having conversations with legal professionals, he always notes the “vibe” he gets from the conversation.

“Sometimes, you just don’t vibe with a person,” Tapiawala says. “But if I really vibe with someone, I’ll add them on my LinkedIn and put a note in my calendar to reach back out so we can keep talking. One time, I met with an attorney and the whole time we were nerding out over energy systems. I love renewable energy. That was how I got an interview with that firm.”

Most of Tapiawala’s networking takes place either virtually or outside of New Hampshire.

“New Hampshire doesn’t really cater to someone like me who is South Asian,” he says. “So, I joined the South Asian Bar Association of Boston, as well as the Boston Intellectual Property Law Association to get some new perspectives. They host a lot of events and I can even participate in a mentorship program. I’ve had a lot of great networking experiences with these organizations.”

Tapiawala hopes to pursue a career in renewable energy law working on project finance and project development. He says that as a student, it is important to find what he calls “sponsors” early on in a networking journey.

“There’s a difference between a mentor and a sponsor,” he says. “Anyone can be a mentor and give you advice, but a sponsor will stand up for you. They’re the person who recommends you for a job when an opening comes up. They’ll fight for you.”

Lastly, Sirota wants to clear up the misconception that networking involves cocktail parties or golf outings.

“I hate cocktail parties,” Sirota admits. “No one wants to be there, and everyone is uncomfortable. Just expand your definition of networking. Most people can tell if you’re being inauthentic or asking for something. So, don’t be so Machiavellian about the process. Find people you genuinely want to talk to and do things you genuinely want to do. Enjoy yourself!”

IN THE FIRST FIVE MONTHS OF 2023, Lubin & Meyer obtained five consecutive multimillion dollar verdicts totaling more than $75M. At the same time the firm secured more medical malpractice and personal injury settlements of $15M each or above than any other firm in the region. Among these results is a record-setting $15M settlement against Boston Children’s Hospital that has garnered nationwide attention.

“Year after year, we remain the go-to law firm for medical malpractice and personal injury cases due to our continued success securing record-setting results that compensate victims, protect the public and inspire change.” — Andrew C. Meyer, Jr., Firm Founder, and recently named one of the “Most Influential Bostonians” by Boston magazine 2023

$28.8M Verdict
Brown vs. Browell, M.D., et al
Failure to diagnose aortic aneurysm and dissection

$28.8M Verdict
Luppold vs. Flores, N.P., et al
Failure to test for cancer

$15M Settlement
Kekula vs. Boston Children’s Hosp.
Death of infant undergoing sleep study

$10M Verdict
Lucifora vs. Kroll, M.D., et al
Lung cancer diagnosis delay

$4.65M Verdict
Bunker vs. Dhillon, M.D., et al
Leg amputation due to blood clot misdiagnosed as sciatica

$4.95M Verdict
Gadde vs. Gordon, M.D., et al
Failure to diagnose stroke

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New England’s top injury law firm representing New Hampshire plaintiffs and their families for over 40 years.

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LRAP Is an Important Recruiting Tool for NH Legal Nonprofits

By Mysty Yackel Shappy

Last month, the Bar Foundation announced the 2024 IOLTA grant awards, which exceeded $1 million for the first time in over a decade. While the primary purpose of these awards is to directly provide much-needed operational funding to nonprofit organizations providing civil legal aid in New Hampshire, a small portion is reserved to fund the New Hampshire Bar Foundation’s Law School Loan Assistance Program (LRAP).

This program provides financial assistance to qualified staff attorneys who are employed at New Hampshire Legal Aid (NHLA), 603 Legal Aid (603LA), and the Disability Rights Center – NH (DRC-NH).

LRAP has been in existence since 2000, and the stated mission of the program is to “provide law school loan assistance, in the form of forgivable loans, to ensure the ability of NHLA, 603LA, and DRC-NH to recruit and maintain a diverse body of highly qualified staff attorneys.”

Attorney Kayla Turner was first introduced to civil legal aid in New Hampshire when she interned at DRC-NH in 2016. Upon receipt of her JD from the University of New Hampshire School of Law, where she was a Daniel Webster Scholar, she worked as an assistant county attorney in Strafford County, and then transitioned to a private firm. In February 2023, she returned to DRC-NH as a staff attorney.

When asked about the financial impact of that decision, Turner said, “Pivoting from private practice to a non-profit was financially daunting, but LRAP helped ease that burden.”

The 2020 Law School Student Loan Debt Survey Report, released by the American Bar Association (ABA), paints a grim picture of the impact of law school debt on recent graduates. With 95 percent of new lawyers graduating with at least some debt and an average student loan balance of over $160,000, new graduates are having to make some tough decisions about where to live, when to get married or have children, and where they choose to work.

Over one-third of respondents stated that they “chose a job that pays more money instead of a job I really wanted.” Furthermore, individuals of color have a much higher average loan balance than their white peers, which may otherwise be unaffordable for them with their lower salaries.

The LRAP program allows these attorneys to pursue a career in public interest law, which may otherwise be unaffordable for them with their lower salaries. We always share LRAP program information as part of our recruiting package, and I know it makes a difference.”

In a joint request to the IOLTA Grants Committee, NHLA, 603LA, and DRC-NH stated, “The program is also an essential tool in our efforts to build staff diversity.”

“The LRAP program offered by the NHBF to assist with my student loan payments has been a critical component of my ability to remain working for Legal Aid for the last nine years,” NHLA-Manchester Managing Attorney Stephen Tower says. “The burden of those loan payments would have prevented me from finding a place I could afford to rent in New Hampshire without a slew of roommates, and I don’t think I could manage the starving college student lifestyle again in my mid-thirties. I almost certainly would have left the field long ago without the LRAP program.”

While supporting a career path of service, LRAP also allows its recipients to see a future where student loans are no longer impacting their lives.

Attorney Tower stated, “I have one more year until I reach the ten-year mark of eligibility for the federal Public Service Loan Forgiveness Program, and I would never have been able to stay in public interest long enough to qualify for that program without New Hampshire’s LRAP program.”

In her final thoughts, Attorney Turner shared, “LRAP has also helped get me closer to my financial goals. It will accelerate my plan to pay off my law school debt and I will pay far less interest overall and I now hope to be debt free within five years. I am so grateful for this program!”

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In Memoriam

Stanley Mark Hawthorne

Stanley Mark Hawthorne, 73, of Windham, Maine, passed away on June 11, 2023, after a long and hard-fought battle with diabetes, heart failure, and kidney failure.

He is survived by his loving wife and sweetheart of 50 years, Corinne “Renee” Hawthorne, his daughter Michelle Hayhurst and husband Roger Hayhurst and grandsons Maxwell, Jack, Oliver, and Samuel, his son Christopher Hawthorne and wife Natasha Hawthorne, granddaughter Victoria, and daughter Kristin Conroy “little pumpkin” and husband Nicholas Conroy, and granddaughter Kali and grandson Owen, and brother John “Jack” Hawthorne and wife Dareth, as well as many nieces and nephews.

He is predeceased by his parents, John “Jack” Hawthorne and wife Dareth Hawthorne, sister-in-law Kathleen Hawthorne, and sister Judith “Judi” Hanks, as well as many relatives and friends.

Stan was born to missionary parents on June 4, 1950, in Cochabamba, Bolivia. His mother traveled three days on mule back to give birth to him in a hospital. He lived in the Andes Mountains amongst the natives until the age of eight. When his first daughter, Michelle, was born in Illinois, then traveled all over the United States camping and visiting nearly every national park over a seven-week period. When they settled in Arizona, they had their son Christopher, and then returned to the east coast to Connecticut where Stan attended UCONN and later had his youngest daughter, Kristin.

In 1984, he moved the family to New Hampshire where he attended Franklin Pierce Law School. For the next 30 years, he practiced family and criminal law in the Tri-City and Lakes Region area. He loved to argue and prove his point; the only thing he might have loved more was driving. He took several breaks from practicing law to pursue his other passion as an interstate truck driver.

His hobbies varied greatly, from hiking the White Mountains and Grand Canyon with his son Chris and friends, to snowmobiling to Canada with his wife, fishing and canoeing many streams and lakes across the USA and camping with his wife and children telling ghost stories around the campfire.

When Stan retired in 2018, he and his wife moved to Windham, Maine, to live closer to his youngest daughter Kristin and grandkids. Throughout his years on earth, he shined his light on many people and was quick to help anyone in need. He was a devoted and loving husband, father, granddad, brother, uncle, friend, and patriot and will be greatly missed.

A graveside service will be held at Southern Maine Veterans Memorial Cemetery on Thursday, August 10, 2023, at 12:00 pm.

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

To submit an obituary for publication, email news@nhbar.org. Obituaries may be edited for length and clarity.

Community Notes

LawLine

The NHBA would like to thank Donnaue, Tucker & Ciandella, as well as Attorney Paul Maggiotto, for a hugely successful LawLine event held on June 14, 2023. More than 60 calls were handled from counties all over New Hampshire on a variety of legal topics including probate matters, landlord/tenant disputes, rights regarding consumer law, and family law. Thank you again to all our volunteers for participating in this valuable public service. It is because of your ongoing support and determination to help the residents of New Hampshire that we are continually able to offer this resource each month.

LawLine is a free public hotline, hosted by volunteer attorneys, on the second Wednesday of each month from 6:00 pm to 9:00 pm. Attorneys are available to answer questions about the law and the law’s impact across the state. The website includes easy-to-use tools that aim to increase the prominence of the information about applying for legal services through NHLA’s partner organization, 603 Legal Aid, and to simplify navigation pertaining to specific areas of law. Other additions to the website include an interactive timeline of NHLA’s history and impact across the state.

NHLA Launches New Website to Help Community Members Access Resources

New Hampshire Legal Assistance (NHLA) has launched their new website at nhla.org with the goal of making access to legal resources as user-friendly as possible for the community.

Over the past 52 years, NHLA attorneys and paralegal advocates have worked in all of New Hampshire’s courts, including the New Hampshire Supreme Court and the federal district court for New Hampshire, to protect the legal rights of people with low income in civil cases related to their basic human needs. NHLA says that its refreshed website includes improvements related to accessibility for people with disabilities and access for people who speak languages other than English.

NHLA’s updated website also features an improved website design that features an updated color scheme and a number of accessibility updates, including an improved website navigation system.

The website includes a number of resources for people who need help with legal issues, including information about legal aid clinics, pro bono legal services, and resources for people who need help with civil legal issues.

In Memoriam

R. James Steiner Earns National Award

R. James Steiner of Concord recently received one of Scouting’s highest honors, the Silver Antelope Award, during the BSA’s National Annual Meeting held in Atlanta, Georgia. The Silver Antelope Award, created in 1942, is the regional-level distinguished award of the Boy Scouts of America. Recipients of this award are registered Scouters of exceptional character in their region. The award recognizes their distinguished service to youth.

Jim has served as the immediate Past President of Scouting for New Hampshire, a Board Member, the New England Area Vice President for Membership, as well as on a national committee advising the national scout leadership. He also served as the Subcamp Administrative Officer at one of five basecamps at the 2013 National Jamboree.

The Silver Antelope Award recognizes outstanding personal and professional contributions to Scouting in the area of community service and youth development. It is awarded to individuals who have made significant contributions to the advancement of Scouting through their leadership, service, and dedication to the organization. Recipients are selected by a national committee of Scouting leaders and are announced at the National Annual Meeting.

NHLA’s updated website includes a number of improvements related to access for people with disabilities and access for people who speak languages other than English. The website features an updated color scheme, improved navigation, and improved accessibility features.

The website includes a number of resources for people who need help with legal issues, including information about legal aid clinics, pro bono legal services, and resources for people who need help with civil legal issues.

Now Streaming on the Bar Discourse:

A Conversation About the 1991 Pamela Smart Trial

In honor of July being the NHBA’s 150th anniversary, the new episode of the Bar Discourse is a conversation with Mark Sisti and Paul Maggiotto about the first-ever trial that was televised from start to finish in the nation – and the impetus for Court TV – the 1991 Pamela Smart trial.

Sisti is Smart’s long-time defense attorney and Maggiotto was the assistant attorney general and lead counsel for the State at the time of the trial. The pair talk with host Tom Jarvis about their experience with the dramatic trial, how it affected them, and even their thoughts about the movie, Murder in New Hampshire: The Pamela Smart Story.

Listen now at soundcloud.com/thebardiscourse.

Jest Is For All

by Arnie Glick

“What makes this extra relaxing is knowing that I’m an invitee and not a trespasser.”
Membership Status Changes

Presented to the Board of Governors June 23, 2023

Active to INACTIVE:
Reyns, Paul, West Lebanon, NH (April 28)
Prince, Robert, Dracut, MA (March 27)
Rudolph, James, Concord, NH (May 19)
Metell, Amanda, Concord, NH (May 19)
Cooper, Monica, Milford, NH (May 25)
Bloomfield, Roger, Wilder, VT (May 25)
Tennyson, Jr., Chester, Hull, MA (May 30)
Sieck, Casey, Boston, MA (May 26)
Rothfelder, Martin, Westfield, NJ (June 1)
Chabot, Daniel, Haverhill, MA (May 31)
Livi, Matthew, Kings Point, NY (May 24)
Mariolis, Constantine, Bolton, MA (April 19)
Monica, Linda, Marco Island, FL (June 1)
Boyce, Shannon, Southbridge, MA (May 31)
McGoohey, Elisabeth, Hooksett, NH (May 31)
Borovick, Gerald, Sudbury, MA (May 31)
Waller, Zachary, Manchester, UK (May 31)
Campbell, Jeffrey, Nashua, NH (May 31)
Torrey, Daniel, North Andover, MA (May 19)
Henry, Christopher, Cranston, RI (May 31)
Johnson, Steven, Augusta, ME (June 1)
Boyle, Christopher, Lincoln, VT (May 31)
Rommel, Chelsie, Lyndon, WA (May 29)
Hyde, Maria, St. Louis, MO (May 31)
Worthen, Cynthia, Marblehead, MA (May 31)
Bortz, Nicholas, Wakefield, MA (June 2)
Fiest, James, Manchester, NH (May 31)
Fernandez, Patricia, Galveston, TX (May 31)

Active to INACTIVE RETIRED:
Mail, Katherine, Portsmouth, NH (May 25)

Active to MILITARY ACTIVE:
Fadley, Andrew, Adams, NY (May 10)
Taylor, Duncan, North Haverhill, NH (June 9)

Active to RESIGNED:
Gosselin, John, Belmont, MA (May 31)
Loureira, Thomas, Portland, ME (June 1)
Philpot, Jeffrey, Meredith, NH (May 31)
Hanson, Carl, New London, NH (May 31)
Csartari, Thomas, Hanover, NH (May 16)

Inactive to INACTIVE RETIRED:
Jobe, Denise, Deering, NH (May 3)
Sheffer, Mary, Bow, NH (May 19)
Baer, Lisa, Norwich, VT (May 31)
Eyman, Thomas, West Burke, VT (May 16)

Active to MILITARY INACTIVE:
Fraga, Michael, Senoia, GA (May 4)

Inactive to ACTIVE:
Yoder, Colleen, Lodi, CA (June 1)

Inactive to RESIGNED:
Allen, Richard, Canton, MA (June 1)

Full-time Judicial to PART-TIME JUDICIAL:
Lyons, William, Manchester, NH (May 12)
Yazinski, John, Naples, FL (May 25)

Honorary Active to HONORARY INACTIVE:
Struckhoff, III, Eugene, Lebanon, NH (May 31)

Suspended to DISBARRED:
Wellman-Ally, Lisa, Claremont, NH (May 31)

Professional Announcements

We are very pleased to announce that Attorney Elroy Sequeira has become a Partner in the firm.

Practice areas include: Criminal Defense and Family Law

102 Bay Street, Suite 2, Manchester, NH 03104
Ph: (603) 224-6999  Fax: (603) 782-4399
elroy.sequeira@cohenwinters.com • www.cohenwinters.com
Devine Millimet is pleased to welcome Peter Leberman to the firm. Located in our Downtown Manchester office, Peter is a graduate of Washington and Lee University School of Law, and has nearly 40 years of experience.

As an Of Counsel Member of the Devine Corporate team, he will work on a variety of matters within the Business, Mergers & Acquisitions, and Real Estate practice areas.

Welcome!

PETER W. LEBERMAN
Of Counsel
603.695.8738
pleberman@DevineMillimet.com
www.DevineMillimet.com

Jeffrey Weinstein to the firm. Located in our Downtown Manchester office, Jeff is a graduate of Villanova University Law School, and has decades of experience in corporate law, litigation strategies, and healthcare.

As an Of Counsel Attorney on the Devine Corporate team, he will focus on corporate, healthcare, nonprofit and strategic legal matters.

Welcome!

JEFFREY A. WEINSTEIN, ESQ.
Of Counsel
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jweinstein@DevineMillimet.com
www.DevineMillimet.com

Devine Millimet is pleased to welcome Alex Manocchi, Associate, to the firm. Located in our Downtown Manchester office, Alex is a graduate of Albany Law School, and has been in practice for 7 years.

As a member of the Devine Corporate team, he will work on a variety of matters with a focus in the Mergers and Acquisition practice area.

Welcome!

ALEX J. MANOCCHI
Associate
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Devine Millimet is pleased to welcome Stephen Zaharias to the firm. Located in our Downtown Manchester office, Steve graduated from the University of New Hampshire School of Law in 2014, and has been in practice for several years.

As an Of Counsel Member of the Devine Litigation team, he will work on a variety of matters within the Corporate Law, Business, Commercial & Financial Litigation, and Dispute Resolution practice areas.

Welcome!

STEPHEN N. ZAHARIAS
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Information Technology

Not Just a Requirement: From Tech Competence to Tech Enthusiasm

By Jeffrey Schoenberger

We’ve all heard the horror stories. In 2017, Outlook’s inline autocomplete feature bested a WilmerHale employee, who inadvertently sent privileged documents regarding a PepsiCo whistleblower scandal to a Wall Street Journal reporter.1 A Florida law firm automatically deleted all emails caught in their spam filter and paid the price when they failed to file an appeal to an order because the notification email was classified as spam.2 Jared Kushner’s personal attorney fell prey to an impostor using the email address kushner.jared@gmail.com, when a simple check would have shown that this was not Kushner’s secure, private email address.3 Former Trump political operative Paul Manafort’s attorneys filed a motion containing sensitive material that was improperly redacted, revealing sensitive information to the public.4

In 2012, the American Bar Association amended Rule 1.1, Comment 8 of the Model Rules of Professional Conduct to require lawyers to “keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology,” prompting 39 states, including New Hampshire, to adopt the requirement as part of their rules of professional conduct.5 But is satisfying this bare minimum obligation enough to avoid the above-mentioned misfortunes?

Instead of focusing on dodging the worst-case scenario, we should try to achieve the best-case scenario. Keeping abreast of changes sounds like we’re barely staying afloat, bailing out buckets of water from a sinking dinghy, instead of charting our own course and expertly navigating our way across the sea.

Let’s embrace tech competence. We use technology every day. How can we apply solid technology to streamline our processes, boost our efficiency, and benefit our clients and ourselves? I suggest three guiding themes.

Culture

“Culture is not an initiative, culture is the enabler of all initiatives.” – Larry Senn

People must want to use the technology or at least be willing to give it a fair shake. How do you get folks in the office to buy in and give new tech a chance? First, make trying new things rewarding. Create incentives for skill building; small rewards and acknowledgments for doing something “the new way.” Second, give your employees a voice in the process. For example, if you want to implement a new method for electronic document storage, but you, as an attorney or firm administrator, haven’t filed or retrieved documents yourself in years, the staff probably has better ideas on what parts of the system are currently broken. Third, provide patient, ongoing support. Like any new skill, it takes a while to do it smoothly and automatically. You can mandate all the training you want on the Windows 10 home screen, but the only way your firm won’t reap any of the benefits without the right mindset.

Training – the “I Needs”

With tons of exciting products to choose from, and new options being introduced every year, it’s tempting to try every novel piece of new tech. Slow down! First, seek training on what you already own. These are the “I Needs” and they are your competency basics. If you’ve never received training on a product from a qualified expert, then you are under-utilizing that product. The competency basics could be as simple as keyboard shortcuts for Word (https://support.microsoft.com/en-us/windows/keyboard-shortcuts-in-windows-dcc61a57-8f00-effe-9776-c87b0ec755e6) or macOS (https://support.apple.com/en-us/HT201236), or learning how your word processor truly works so you stop fighting it when formatting documents.

It is necessary for both tech competence and facilitating your firm’s overall growth and success. Fulfill your CLE requirements with technology-oriented seminars and bring your knowledge back to the firm.

Remember, you don’t need to be an expert, but you do need to know how to protect client information, while working efficiently and accurately. Ask yourself how much time you’re wasting, and potentially overbilling for, when you’re constantly renumbering, reformatting, and rebuilding documents. Can everyone in your office properly encrypt an email, redact, and lock a PDF, or erase metadata in a Word document? Training your “I Needs” is a small investment with a big impact.

Fill the Gaps – the “I Wants”

Once you’ve created a culture of tech competence and everyone is up to snuff on utilizing the current products, then you can enthusiastically explore your “I Wants.” Have you always wanted to automate routine documents or maximize Word’s built-in document assembly features? Believe it or not, you can do far more than just a mail merge, and in doing so cut your drafting time in half while increasing accuracy. Does scheduling client meetings take an inordinate amount of time? Invest in Microsoft 365 training and learn how to streamline the process. Maybe you want a way to automate information collection from clients, instead of spending hours on an initial consultation. Maybe you’re simply looking for a better way to internally organize and share cases. Once you know exactly what you’re already working with, you can ably identify the gaps and make smarter technology investments.

Endnotes

3. https://www.newsweek.com/jared-kushner-private-email-account-was-not-disclosed-senate-674248
5. https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/mrpc1-1-comment-8.pdf

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Mcevoy from page 3

he says.

For a portrait of the late jazz saxophonist John Coltrane, one of McEvoy’s favorites, he used charcoal and white chalk on inked watercolor paper.

“I think the pain he went through in his life comes out in that piece,” he says.

Another, of abolitionist Harriet Tubman, shows a strong-faced woman with a determined expression but also a certain weariness.

“I thought her emotional essence came out in that drawing,” says McEvoy, who used sanguine, charcoal, and white chalk for the project.

In his portrait of Dwight D. Eisenhower, made from a photograph, “the General has a very concerned look on his face and the reason I did it that way was, I was thinking, ‘what was he feeling the morning of D-Day?’ I think I was successful in capturing that.”

McEvoy also uses graphite, oil, and watercolor, and works early in the morning before work, as well as after dinner, usually a minimum of an hour a day. The former bedroom of one of his two grown children acts as his art studio. He has sold a few portraits of family members and pets, as well as some landscapes, but has never exhibited – one of his goals for this year.

A former Belknap County Attorney of the Year for his pro bono work, McEvoy says the DCFY staff is “just amazing with very dedicated people who work, and it’s fun to work in that type of environment.”

An ardent traveler, McEvoy is also fluent in German, as his brother Stephen is married to an Austrian and lives in Vienna.

“I’m very grateful to have been a lawyer and to have added artwork on to that occupation,” he says.

Judge James Carroll, who met McEvoy more than two decades ago when he coached his son in baseball, says he is grateful to McEvoy for his service in the Navy submarine and his present military service. He calls McEvoy “a zealous advocate, well-prepared and respectful to all involved.”

Chandler adds a further description – “the truly incredible Brian, the ‘arty’ lawyer who certainly does not suffer fools lightly.”

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prioritizing work over self-care. For many, it is not easy to be vulnerable or trusting of others. Confidentiality is our hallmark – any contact with NHLAP is guaranteed confidential. NHLAP was established by New Hampshire Supreme Court Rule 58 as an independent non-profit organization, separate from the Court or the Bar. Further protections, pursuant to Rule 8.3, provide NHLAP relief from having to report attorney misconduct. There is no risk to your law license by reaching out.

Mental health is brain health. While often spoken about separately, mental health is a central part of brain health – they are not separate or distinct. Maintaining a healthy brain during one’s life is the uppermost goal in pursuing health and longevity. The Cleveland Clinic on Brain Health says, “Lifestyle has a profound impact on your brain health. What you eat and drink, how much exercise, how well you sleep, the way you socialize, and how you manage stress are all critically important to your brain health.”

NHLAP adopts a holistic approach focusing on addressing the presenting issue(s), optimizing brain health, and building lawyer resiliency.

“The best way out is always through” - Robert Frost. Often, when individuals reach out to NHLAP, they have reached their limits yet remain apprehensive about whether they are ready to receive assistance. At NHLAP, we meet individuals where they are without adding pressure to take specific actions. Most NHLAP clients wish they hadn’t waited so long before contacting NHLAP for assistance.

**Brief description of NHLAP services:**

When you contact NHLAP for your own personal or professional needs or to share concerns with another, you will receive education about the issues being presented, develop goals for addressing the issues, learn about the resources that can assist, and determine appropriate strategies moving forward. Here at NHLAP, we understand the legal culture, the nuances of legal stress, and the personality characteristics, making up the typical “lawyer profile” to leverage strengths and challenge sophisticated defensive mechanisms. We are equipped to assist you in designing a personalized plan of support. The NHLAP staff have a background in delivering mental health and recovery services.

**Case management services.** NHLAP will assist legal professionals in navigating and connecting to vetted specialists for assessment, psychotherapy, inpatient or outpatient treatment, career counseling, executive coaching/mentorship, and other personal or professional needs. A common request is for assistance finding a therapist. NHLAP is connected to a network of outside treatment providers with experience in treating lawyers. Staff at NHLAP can help you, your family member, or your colleague connect to services easily. During the consultation with NHLAP staff, we will obtain pertinent information to match providers, coordinate the first visit, and provide follow-along support to ensure you are satisfied with the care.

**Individual peer support.** NHLAP volunteers are members of the legal community who provide confidential peer support to legal professionals who contact NHLAP for assistance. Peer volunteers support our legal community by sharing their lived experiences recovering from and/or adapting to challenging situations involving mental health, substance use, addiction concerns, or other issues such as transitioning into law practice or retirement. Connecting to another who has overcome a similar challenge has a tremendous therapeutic benefit. Quite commonly, legal professionals who utilize NHLAP services become NHLAP peer volunteers. Here at NHLAP, we focus on building community.

**Lawyers Concerned for Lawyers Recovery meeting.** This monthly meeting is exclusively for lawyers, judges, and law students in or seeking recovery from unhealthy substances and coping behaviors – and is always confidential. All stages of sobriety and behavior abstinence are welcome to connect with peers and gain support. You may join in observing; active participation in the group is not required.

**Process peer support group.** This weekly meeting is exclusively for public defenders intended to hold a safe space to shed the accumulating daily stress and develop healthier practices. We discuss, process, and brainstorm ideas and strategies to address personal and professional challenges in a confidential setting. The group is co-facilitated by a peer (public defender) and NHLAP Director. If you feel like the stress of the job is heavily weighing on you and you struggle to find support from others who understand your stress, this group is for you! To register for NHLAP’s peer support groups please visit the events page on our website at www.lapnh.org.

**Wellness programming.** NHLAP offers personalized information and resources to merge healthier living with well-being in law. NHLAP can support leadership and management in addressing systemic issues to improve wellness, staff engagement, and job satisfaction by connecting with field experts, employer well-being toolkits, policy templates, and other resources. Please visit our social media pages for wellness tips or to learn more about NHLAP’s upcoming educational programs and events.

**Professional monitoring services.** The NHLAP’s Health and Recovery Monitoring Program is a voluntary program for legal professionals adversely impacted by a mental health condition, substance use disorder, or co-occurring disorders. The goal is to restore competency and fitness to practice through participation in a formal evaluation and recommended treatment coordinated and monitored by NHLAP. If you face discipline, please proactively contact NHLAP for help developing a support plan.

“The more time you spend contemplating what you should have done…you lose valuable time planning what you can and will do,” says American rapper, Lil Wayne.

The NHLAP is a safe place. We offer an inclusive, recovery-friendly environment. “No wrong door” recognizes that each person is unique and has unique needs, requiring a personalized support plan. NHLAP is your one-stop access point. There is no wrong reason for contacting NHLAP.

To learn more, please visit our website at www.lapnh.org. To contact NHLAP, call the helpline at 1-877-224-6060 or the main number at (603) 491-6282. You may send a secure message through our website. To request NHLAP outreach for a colleague you are concerned about, please contact NHLAP Executive Director Jill O’Neill. Jill O’Neill is the executive director of New Hampshire Lawyers Assistance Program and can be reached at Jill@lapnh.org.
A Call to Action
Editor’s Note: In her closing remarks during the CLE at the 2023 Annual Meeting, Lyndsay Robinson recommended the following for building a bar that is diverse, equitable, and inclusive.

1. Create and implement a plan to assess DEI efforts over time. I cannot emphasize how important it is to collect data, but it is equally important to analyze and evaluate the data. Collecting data can help track progress and constantly reevaluate policies. The New Hampshire Bar Foundation did a diversity survey in 2022, which contained several important recommendations, including requiring DEI CLE participation and having a section on the NHBA website as it relates to diversity.

2. Employers should create ways to obtain consistent and ongoing feedback from employees through use of surveys, focus groups, and other tools to provide more equitable and inclusive work environments.

3. Ensure that there are ways for employees to file/address concerns without fear of being terminated.

4. Create “culture change” by removing barriers to hiring, retaining, and promoting attorneys.

5. Implement training on diversity, equity, and inclusion. Include specific focus on anti-racism, bias, and trauma-informed lawyering.

6. Create transparent and equal recruitment, promotion and retention policies and connect attorneys to professional development opportunities.

7. Implement policies and resources to address the “flexibility stigma” that often relates to motherhood, reproductive health care, and other gender-related planning and decision-making – this includes menopause. Establishing work-life balance has been an issue throughout all the reports. Women bear this burden far more than men.

8. Provide mentorship, allyship, and sponsor-ship programs and practices to increase women’s advancement opportunities.

9. Offer counseling, therapy, and other support to attorneys who experience trauma and secondary trauma.

10. Provide private spaces and time for lactation, rest, and wellness.

11. Recognize many women balance caretaking responsibilities with legal careers, and improve access to high-quality, affordable care for children and other dependents. This was a huge issue as far back as the first study in 1988. It was one of the 12 major recommendations that came out of that study, and it is still a huge problem today.

12. Implement continual, data-driven evaluations and incorporate feedback from employees to ensure that all places of employment are inclusive.

13. Require all members of the Bar to complete a certain number of minutes of CLE every year focused on DEI training.

14. Be aware of unconscious bias. Train on this. (And if you see overt bias, address it. Failure to do so is complicity.)

15. Promote pay equity on all levels.

16. Acknowledge holidays of all cultures.

17. Periodically assess company policies.

18. Build a culture of diversity and inclusion internally.

President Paul Chant.

“Building a culture of diversity and inclusion is critical to the success of the NHBA. As president, I am committed to creating a culture that is diverse, equitable, and inclusive. I encourage all members of the Bar to join me in this effort. Together, we can create a more inclusive and equitable legal profession for all.”

The annual meeting was held at the Penhallow Banquet in Manchester, New Hampshire. The NHBA Executive Director George Moore welcomed everyone to the annual meeting. He expressed his gratitude for all the hard work that has been done in the past year to improve diversity, equity, and inclusion within the NHBA.

After the welcoming remarks, there was a panel discussion on diversity, equity, and inclusion. The panelists included representatives from various organizations, including the New Hampshire Bar Association, the New Hampshire Legal Aid Society, and the New Hampshire Human Rights Commission.

The panelists discussed the challenges and opportunities of creating a diverse and inclusive workplace. They highlighted the importance of diversity, equity, and inclusion in the legal profession and how it can improve the quality of legal services.

The panelists also discussed the importance of training and education in promoting diversity, equity, and inclusion. They emphasized the need for ongoing training and education to help attorneys recognize and address unconscious bias.

The panelists also discussed the importance of creating a culture of diversity and inclusion. They highlighted the need for leadership at all levels to create a culture that embraces diversity, equity, and inclusion.

The annual meeting concluded with a closing remarks by the outgoing president, Paul Chant. He expressed his gratitude for the support and encouragement he received during his tenure as president.

The incoming president, Laura Saunders, was introduced and took her oath of office. She expressed her excitement for the upcoming year and the challenges and opportunities that lie ahead.

The NHBA annual meeting was a successful event that brought together members of the Bar to discuss and address the challenges and opportunities of diversity, equity, and inclusion in the legal profession. The panelists and speakers emphasized the importance of creating a diverse and inclusive culture that embraces diversity, equity, and inclusion.

The NHBA continues to work towards creating a more diverse and inclusive legal profession, and the annual meeting was a step in the right direction.
150 Years from page 1

triggers the Panic of 1873, which was the start of what was known as the Long Depression.

Interestingly, it was also the year that Levi Strauss and Company received their patent to use copper rivets to strengthen the pockets of denim work pants, which allowed them to start manufacturing their first line of blue jeans using fabric from the Amskeag Manufacturing Company in Manchester, New Hampshire.

The world was a different place back then. A century and a half later, the Bar is much larger – with 8,678 members – and goes by a different name.

Looking Back

The Association’s first president was Ira Perley, who had served as Chief Justice of the New Hampshire Supreme Court (NHSC) – then called the Superior Court of Judicature – from 1855 to 1859 and again from 1864 to 1869. He died in 1874, less than one year into his Bar presidency.

In 1967, the BASNH successfully petitioned the state legislature to amend the acts of incorporation to change the organization’s name to the New Hampshire Bar Association. A year later, a majority of members voted in favor of unification, and filed a petition of unification with the NHSC. On December 31, 1968, the Court ruled that it had jurisdiction to decide on the NHBA’s request and ordered unification for a three-year trial period.

In 1972 – the same year the New Hampshire Public Defender was established – the NHSC ordered that Bar unification be “continued without limitations.”

“Over the years, the Bar has seen many changes, particularly in size, gender, and becoming mandatory for members,” NHBA President Paul Chant says. “50 years ago, only two women were admitted to the New Hampshire Bar. We now have 3,432. This is perhaps the biggest change over my 37 years as a lawyer.

Most of the increase in the number of women in the Bar has occurred within the past 30 to 40 years. Before that, the growth was logarithmic.

For example, even though Agnes Winsor McLaughlin was the first woman admitted to the New Hampshire Bar in 1917, it wasn’t until 1977 (a full 60 years later), that the 100th woman lawyer, Nancy O. Dodge, was admitted.

In 1988, the New Hampshire Bar Journal published the first gender survey of the NHBA’s membership and planted the seeds for what would become the NHBA Gender Equality Committee in 1994.

In 1998, the New Hampshire Women’s Bar Association (NHWBA) was formed by Maureen Raiche Manning, Jennifer Parent, Joy Riddell, Julie Introciasco, and Claudia Daron.

Jennie Parent was asked about the differences in the Bar today as opposed to when she was admitted, Raiche Manning, the first president of the NHWBA, says it is larger and more diverse.

“I feel lucky that I was in the Bar at the time that I started because it was smaller and you knew more people,” Raiche Manning says. “I served on the Bar Association Board of Governors early in my career and got to know people statewide. When it was smaller, it was easier to get to know people, and getting to know people meant you could build a network of mentors and resources. As we get bigger – which is just the natural order of things – it’s harder to get to know people.”

Jennifer Parent, who was the second president of the NHWBA, also served as the seventh woman president of the NHBA.

“I am honored to be the only person who has served as president of both the NHBA (2011-2012) and the NHWBA (2000-2002),” Parent says. “At the time, New Hampshire was well ahead of other states in having a number of women who had served as a bar leader for a state bar association. Following my tenure as president, New Hampshire has consistently voted in women lawyers to lead our bar association.”

There are many other important milestones in the history of the NHBA, including the first African American judge (Ivo Cobb in 1964), the first female New Hampshire Superior Court Judge (Linda Dalianis in 1990), and the first NHSC Justice (Linda Dalianis in 2000), as well as the establishment of many wonderful and groundbreaking programs and committees, but there are too many to list in just one article. After all, it is 150 years of history.

Looking Ahead

“The Bar Association has never been stronger,” NHBA Executive Director George Moore says. “It hosts dozens of member services, innovative CLEs, and soon a members-only area dedicated to working, relaxing, and catching up in a warm, friendly environment. We are dedicated to following closely our members’ needs and adjusting our benefits and programs to be responsive to the ever-changing environment of practicing law.”

Jennifer Parent says as a Uniform Bar Examination state, and given the global world we live in today, she expects that membership will increase in the next five to ten years.

“Along with this, and given the DEI initiatives and efforts by the Bench and Bar to date, I also expect an increase in the diversity within our state’s legal profession overall,” she says. “I anticipate that the Bar will continue its commitment to provide steadfast and strong service to the public, the members, and the justice system as we move into the next decade.”

One major consideration when looking ahead at the practice of law is the introduction of artificial intelligence over the last few years.

L. Jonathan Ross, who codrafted the national Bar Leaders for Preservation of Legal Services to the Poor in 1985, says the future of the Bar will depend in large measure on leadership.

“If we will depend on who has the time, energy, and foresight to think about what’s coming down,” Ross says. “We depend on the continued involvement of good lawyers in this process. Artificial intelligence is a new thing, but it’s no different than computer research in terms of how you manage that. And I expect the Bar will deal with that as it has already begun to do in recent Bar News articles.”

Paul Chant, who just became the NHBA’s 124th president at the 2023 Annual Meeting, says he sees new challenges for Bar members in the future.

“Far in the past were the days where communications were done in writing and took days or longer to occur between counsel,” Chant says. “Now, we are expected to immediately respond to client and opposition counsel requests. In the recent past, lawyers had access to information and case law better than members of the public. Now, chatbots and artificial intelligence programs claim they can provide instant, accurate information to lawyers and to the public. We are also post-COVID, which brought with it so many changes. So, where are we going? No one really knows.”

Chant continues: “Lawyers who are good listeners and good problem solvers will always have a place. It won’t be just book knowledge and internet help, it will be their knowledge, their experience, their understanding of dynamics and leverage, and their ability to communicate that will keep the profession of law in good stead.”

William Chapman, who filed Petition of Chapman in 1986, wherein the NHSC laid out a set of guidelines for permissible NHSC legislative activity, says he is reluctant to make predictions about the future of the Bar.

“I guess the only thing I could safely say is that I believe the Bar is going to continue,” he says. “If for no other reason than like all other professions, there needs to be a regular body of lawyers that conduct themselves in accordance with the rules of professional conduct and other civic norms that shape the way we interact with one another, represent our clients, and appear in court.”

Raiche Manning says she hopes that more people become involved as time goes on.

“It’s that involvement that made my ability to practice law and represent my clients better,” she says. “It just seems like people have become less and less involved. And we know that from the numbers. Fewer people are doing things, attending events, and participating in discussions. I think we are not well served by that. This is a way to reach people to convince them that their involvement will help them, their clients, their business, and the community at large.”

Much of the NHBA’s early history can be found in a 1973 article by Richard F. Upton called “Centennial History of the New Hampshire Bar Association,” which appeared in volume 15:35 of the New Hampshire Bar Journal.

An illustrated 150-year timeline of the New Hampshire Bar Association can be found on the following two pages (20-21) of this issue. Some NHBA milestones were omitted for space.

Endnotes


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A 150-Year History of the New Hampshire Bar Association

1873 - 2023

1873
On July 2, the Bar Association of the State of New Hampshire (BASNH) is established. New Hampshire becomes the first state to establish a “modern state bar association” with incorporation, by a special act of the state legislature, making it the oldest statewide bar organization in the United States. Ira Perley is the first Bar president.

1968
In April, a majority of members vote in favor of unification. In October, the NHBA files a Petition of Unification with the NHSC. On December 31, the Court rules that it has jurisdiction to decide on the NHBA’s request and orders unification for a three-year trial period.

1969
The NHBA hires Joseph S. Hayden as its first full-time Executive Director.

1972
The NHSC orders that Bar unification be “continued without limitations.” NH Public Defender is formed.

1973
The NHBA commemorates its 100-year anniversary. Bar membership grows to 920 members. Franklin Pierce Law Center establishes. Jean K. Burling becomes NH’s first female district court judge.

1974
New Hampshire Law Weekly debuts as an official publication of the NHBA.

1976
The NHBA begins its involvement in judicial selection via an agreement with Governor Meldrim Thomson. The NHBA launches its Continuing Legal Education (CLE) Program and becomes the first less than 2,000-member association to hire a full-time CLE Director.

1979
Positions of state Bar association leaders are made full-time. The NHSC rules that counsel be provided at public expense for indigent defendants. New Hampshire’s residency requirement for practicing attorneys becomes the first female NHBA president.

1980
Nancy O. Dodge is elected the first female NHBA president. The NHBA Gender Equality Committee is established as the charitable arm of the NHBA.

1982
NH becomes the second state in the nation to establish an operational Interest on Lawyers Trust Accounts (IOLTA) Program. William L. Chapman is the first recipient of a President’s Award at Midyear Meeting (for outstanding service to the NHBA).

1985
The US Supreme Court affirms that NH’s residency requirement for admission to the Bar violates the privileges and immunities clause of the US Constitution. The NHBA conducts and publishes the results of its first Economic Survey. The Reduced-Fee Referral Program is established (later becomes the Modest Means Program).

1986
The NHSC adopts new Rules of Professional Conduct. In Petition of Chapman, the NHSC lays out a set of guidelines for permissible NHBA legislative activity. The We the People: The Citizen and the Constitution educational program is established.

1988

1990
By a 3-1 majority, Bar members vote in favor of the continuation of the unified Bar. The NHSC rules that RSA 311:7g requiring a vote on unification every five years is unconstitutional, reaffirming that the NHSC has the authority to supervise the practice of law in the state.

1992
Then-NHBA president L. Chapman cofounds the national “Bar Leaders for the Preservation of Legal Services to the Poor.”

1994
The NHBA’s Pro Bono Program Merit for Single Project wins the ABA’s Merit for Single Project Award of Excellence. The Law Related Education (LRE) program is established.

1996
Bono Program, and Elderly Legal Services Department.

2000
Linda A. Dalianis becomes the first female NHSC president; later becomes the first female Chief Justice in 2010.

2001
The HBF awards a record $1.3 million in IOLTA grants. The NHBA e-mails its first E-Bulletin to members.

2002
The NHSC approves Admission on Motion, to take effect on March 1, 2003.

2004
Kelly Ayotte becomes the first female Attorney General of NH.

2005
The Daniel Scholar Honor Program is established at Franklin Pierce Law Center (now Franklin Pierce University). Marc Fitzpatrick becomes the first African American to be appointed as a judge by any imprisonment.

2006
The NHBA releases the results of its first Diversity and Inclusion survey. The NHBA establishes a Diversity, Equity, and Inclusion Standing Committee.

2008
The NHBF launches the results of its first S судебной помощи. CLE begins to offer substantially more robust online CLE programming.

2010
The NHBA, NHBF, and NHWBA hold a Centennial Celebration Gala to honor 100 years of women lawyers in NH.

2011
The NHBA and NHBF move the Bar Center to its new, larger facility at 112 Pleasant Street in Concord. The NHBA launches its Continuing Legal Education (CLE) Program and becomes its 100-year anniversary. Bar membership grows to 920 members. Franklin Pierce Law Center establishes. Jean K. Burling becomes NH’s first female district court judge.

2012
The NHSC rules that counsel be provided at public expense for indigent defendants. New Hampshire’s residency requirement for practicing attorneys becomes the first female NHBA president.

2013
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2015
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2019
The NHSC rules that counsel be provided at public expense for indigent defendants. New Hampshire’s residency requirement for practicing attorneys becomes the first female NHBA president.

2020
The Annual Meeting is canceled due to the COVID-19 pandemic. The Bar Center closes, and staff works remotely from March until June, when hybrid work begins.

2021
The Midyear and Annual Meetings are held online due to the ongoing pandemic. CLE begins to offer substantially more robust online CLE programming.

2022
The NHBF releases the results of its first Diversity and Inclusion survey. The NHBA establishes a Diversity, Equity, and Inclusion Standing Committee.

2023
The NHBA, NHBF, and NHWBA hold a Centennial Celebration Gala to honor 100 years of women lawyers in NH. The NHSC rules that counsel be provided at public expense for indigent defendants. New Hampshire’s residency requirement for practicing attorneys becomes the first female NHBA president.

2024
The NHSC rules that counsel be provided at public expense for indigent defendants. New Hampshire’s residency requirement for practicing attorneys becomes the first female NHBA president.
1946 The Law Related Education (LRE) program is established to educate youth on the legal system. A Junior Bar Program is inaugurated for younger lawyers.

1958 The first issue of the New Hampshire Bar Journal is published.

1960 The Client Indemnity Fund establishes to help ensure client security. An attorney income survey is conducted: Average salary was $12,261, with a high of $41,166 and a low of $800.

1964 The New Hampshire State Constitution is amended to require that counsel be provided at public expense for indigent persons accused of a crime punishable by any imprisonment. Joirey Cobb becomes the first African American to be appointed as a judge in NH.

1966 The BASNH establishes a policy waiving dues for newly admitted attorneys for their first year and exempting active-duty armed forces personnel from dues payment while in the service.

1967 The BASNH successfully petitions the NH legislature to amend the acts of incorporation to change the organization’s name to New Hampshire Bar Association.

1973 The NHSC orders that Bar membership be “continued until unification for a three-year period.”

1977 The New Hampshire Bar Foundation (NHBF) is established as the charitable arm of the NHBA. Nancy O. Dodge becomes the first female lawyer admitted to the NH Bar.

1979 The NHBF launches a fund drive to provide money for the purchase of a Bar Center. NHBA establishes its Lawyer Referral Service (LRS).

1979 The NHBA becomes the first state bar association of its size to win the ABA Award of Merit for Overall Excellence. It also wins the ABA’s Award of Merit for Single Project Excellence for its Pro Bono Referral System (Pro Bono Program).

1980 Linda S. Daftarian is nominated by Governor Hugh Gallen to become NH’s first female Superior Court judge.

1985 Jonathan Ross co-founds the Franklin Pierce School of Law in Dartmouth College, later the Franklin Pierce Law Center.

1988 The Law Related Education (LRE) program is inaugurated to educate younger lawyers.

1989 The New Hampshire Bar Foundation (NHBF) creates its domestic violence outreach program (DOVE) Project to assist victims of domestic violence with protective orders.

1991 The first Midwinter Meeting is held.

1992 The NHBA’s Pro Bono Program establishes its domestic violence emergency (DOVE) Project to assist victims of domestic violence with protective orders. Patti Blanchette becomes the first female NHBA president.

1994 The NHBA Gender Equality Committee is created.

1996 The NHSC adopts Rule 55, establishing statewide bar organization in the state legislature, making it the oldest “modern state bar association” with a history of continuous operation.

1997 The NHSC adopts Rule 55, establishing statewide bar organization in the state legislature, making it the oldest “modern state bar association” with a history of continuous operation.

1998 The NHBA begins participation in and offering support with the nationwide SOLACE (Support of Lawyers/ Legal Personnel – All Concern Encouraged) Program to assist lawyers and legal staff in situations of grief.

2001 The NHBA begins CLE programming.

2002 By a 3-1 majority, Bar members vote in favor of the continuation of the unified leadership of the NH Bar.

2003 The Annual Meeting is canceled due to the COVID-19 pandemic. The Bar Center closes, and Referral Center to become 603 Legal Aid, a standalone non-profit organization, and moves to a separate location.

2004 The Client Indemnity Program is established.

2010 The NHBA launches the Leadership Academy to develop younger lawyers as future leaders of the NH Bar.

2012 The NHBA begins participation in and offering support with the nationwide SOLACE (Support of Lawyers/ Legal Personnel – All Concern Encouraged) Program to assist lawyers and legal staff in situations of grief.

2013 Landry B. McCaffery becomes the first female US District Court for the District of NH.

2017 The NHBA, NHBF, and NHWBA hold a Centennial Celebration Gala to honor 100 years of women lawyers in NH.

2018 The New Hampshire Bar News moves to a monthly publication schedule.

2021 The law celebrates its 100th anniversary. NHWBA celebrates its 25th anniversary. Talesha Sainte-Baptiste becomes the first black woman to serve as a federal magistrate judge in NH.

2023 The NHBA celebrates its 150th anniversary. Bar membership hits 8,678 members.
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GUIDE

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**JULY 2023**

THU, JUL 20 – 8:00 a.m. – 5:15 p.m.
CLE by the Sea: NE Solo & Small Firm Conference
  • Up to 360 NHMCLE min.
  • Newburyport, MA – Blue Ocean Event Ctr.

**SEPTEMBER 2023**

THU, SEP 14 – Time TBD
Where Business & Your Practice Collide
  • 180 NHMCLE min.
  • Concord – UNH Franklin Pierce School of Law

THU, SEP 21 – 9:00 a.m. – 4:30 p.m.
22nd Annual Labor & Employment Law Update
  • 365 NHMCLE min. incl. 60 ethics/prof.
  • Concord – NHBA Seminar Room/Webcast

FRI, SEP 22 – 12:00 p.m. – 1:00 p.m.
Federal Research Grants & Agreements
  • Webcast; 60 NHMCLE min.

**OCTOBER 2023**

MON, OCT 16 – 12:00 p.m. – 1:00 p.m.
8 Reasons Movie Lawyers Would be Disciplined
  • Webcast; 60 NHMCLE min.

WED, OCT 18 – 12:00 p.m. – 1:00 p.m.
  • Webcast; 60 NHMCLE min.

THU, OCT 19 – Time TBD
Administrative Law
  • Credits TBD
  • Concord – NHBA Seminar Room/Webcast

**NOVEMBER 2023**

MON, OCT 23 – 12:00 p.m. – 1:00 p.m.
Tik Tok, Twitter, Tech, and Ethics
  • Webcast; 60 NHMCLE min.

FRI, OCT 27 – 9:00 a.m. – 4:30 p.m.
Developments in the Law 2023
  • 360 NHMCLE min., incl. 60 ethics/prof.
  • Manchester – DoubleTree by Hilton Downtown

MON, OCT 30 – 12:00 p.m. – 1:00 p.m.
From Bonnie and Clyde, to Bernie Madoff – What the Biggest Thieves in History Teach About Attorney Ethics
  • Webcast; 60 NHMCLE min.

**DECEMBER 2023**

TUE, DEC 5 – 8:30 a.m. – 4:45 p.m.
Practical Skills for New Admittees-Day 1
  • Concord - Grappone Conference Center

WED, DEC 6 – 8:30 a.m. – 12:00 p.m.
Practical Skills for New Admittees-Day 2
  • Concord - Grappone Conference Center

**FEBRUARY 2024**

FRI, FEB 9 – Time TBD
Midyear Meeting 2024
  • Manchester – DoubleTree by Hilton

Federal Research Grants & Agreements

Friday, September 22, 2023
12:00 - 1:00 p.m.
60 NHMCLE min.

This CLE will cover the basics of federal grants and agreements as they exist in the research space. Topics will include – what grants and other agreements are, what terms to look out for and know about when counseling a client whether to seek federal funding for research, and topics that are specifically applicable in the realm of research.

Who Should Attend this Program?
Lawyers who represent tech companies, start-ups, and those generally interested in the topic.

Faculty
Aaron Farides-Mitchell, Toohey Law Group, LLC, Manchester

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Monday “Fun-days” with Stuart Teicher

Don’t miss Monday “Fun-days” with Stuart Teicher – the “CLE Performer” – and have a laugh at lunch!

8 Reasons Movie Lawyers Would be Disciplined
October 16, 2023 – 12:00 – 1:00 p.m.
60 NHMCLE ethics min.

Tik Tok, Twitter, Tech, and Ethics
October 23, 2023 – 12:00 – 1:00 p.m.
60 NHMCLE ethics min.

From Bonnie and Clyde to Bernie Madoff – What the Biggest Thieves in History Teach About Attorney Ethics
October 30, 2023 – 12:00 – 1:00 p.m.
60 NHMCLE ethics min.

What my Facebook Posts Teach about Lawyer Mental Health
November 6, 2023 – 12:00 – 1:00 p.m.
60 NHMCLE min.

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

22nd Annual Labor & Employment Law Update

Thursday 9:00 a.m. – 4:30 p.m.
365 NHMCLE min.
60 ethics/prof.

NHBA Seminar Room, Concord/Webcast

This full day seminar will address cutting edge developments in employment law over the past year focusing on recent agency and court decisions, new laws, Long COVID’s impact on the workplace, ethical considerations around ChatGPT and more.

Faculty
Debra Dyleski-Najjar, Program Chair/CLE Committee Member, Najjar Employment Law Group, PC, N. Andover, MA
Heather M. Burns, Upton & Hatfield, Concord
Lauren Simon Irwin, Upton & Hatfield, Concord
Jennifer Shea Moeckel, Sheehan Phinney Bass & Green, Manchester
Julie A. Moore, CLE Committee Member, Employment Practices Group, Wellesley, MA
Jennifer L. Parent, McLane Middleton Professional Association, Manchester
Jeffrey Parsonnet, MD, Dartmouth Hitchcock Medical Center, Lebanon
James P. Reidy, Sheehan Phinney Bass & Green, Manchester
Nancy Richards-Stower, Merrimack
Cynthia Sharp, The Sharper Lawyer, Philadelphia, PA
Kevin W. Stuart, Bernard & Merrill, Manchester


Wednesday 12:00 p.m. – 1:00 p.m.
60 NHMCLE min.

Oct. 18

The presentation will cover recent developments in patent law including the latest trends in patent litigation, new USPTO filing procedures, and important patent cases pending with the U.S. Supreme Court as well as Federal Circuit Court decisions. This presentation will also share insight on:
• Best practices for patent litigation, including venue changes
• Practical prosecution advice
• Recent trends and developments in Patent Trial and Appeals Board proceedings

Faculty
Lisa N. Thompson, CLE Committee Member, Sanborn Head Associates, Inc., Concord
Peter A. Nieves, Dunbarton
Kimberly A. Peaslee, KPIP, PLLC, Concord

Developments in the Law 2023

Friday 9:00 a.m. – 4:30 p.m.
360 NHMCLE min.
60 ethics/prof. min.

Oct. 27

Manchester – DoubleTree by Hilton Downtown

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

Faculty
Corey M. Belobrow, Friedman & Feeney, PLLC (of counsel), Concord
Simon R. Brown, Preti Flaherty Beliveau & Pachios PLLP, Concord
Thomas M. Closson, Jackson Lewis, PC, Portsmouth
Tracey G. Cote, Shaheen & Gordon, PA, Concord
Jennifer L. Parent, McLane Middleton Professional Association, Manchester
Jeffrey Parsonnet, MD, Dartmouth Hitchcock Medical Center, Lebanon
James P. Reidy, Sheehan Phinney Bass & Green, Manchester
Nancy Richards-Stower, Merrimack
Cynthia Sharp, The Sharper Lawyer, Philadelphia, PA
Kevin W. Stuart, Bernard & Merrill, Manchester

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Now Available On-Demand

Bankruptcy Litigation
Original Program Date: May 22, 2023 – 360 NHMCLE min., incl. 60 ethics/prof.

17th Annual Ethics CLE
Original Program Date: May 25, 2023 – 120 NHMCLE ethics/prof. min.
Nathan Fink says, “The way that we get to lessening child abuse and neglect is to make sure that every family has what they need to be strong and resilient.”

NHCT recognizes five protective factors, which are characteristics of individuals, families, and communities that act to reduce the risk of child abuse and neglect. These factors include parental resilience, social connections, knowledge of parenting and child development, concrete support in times of need, and children’s social and emotional development.

“When you engage with a family positively in a strength-based way to make sure that the five protective factors are in that unit, incidences of child abuse and neglect plummet,” Fink says.

In 2021, Mark Knights, a partner at Nixon Peabody and vice chair of the NHCT Board, founded the Ride for Resilience, a 100-mile bike ride that physically connects family resource centers across the state and shines a light on the various ways New Hampshire’s support systems help build individual, family, and community resiliency.

“Resilience is the ability to, when faced with challenges, prevail in the face of those challenges – to pick yourself up, dust yourself off, and keep going,” Knights says.

Through his volunteer work with Court Appointed Special Advocates (CASA) legal proceedings, Knights was inspired to get involved with the NHCT after witnessing the severe damage that abuse and neglect have on children in the Granite State.

“CASA comes into the process after child abuse or neglect has already happened, so getting involved in the Children’s Trust was a way to try and fight that problem before it ever arises,” he states.

When the Ride for Resilience was first created in 2021, Knights was the sole participant. Due to the COVID-19 pandemic, the NHCT had limited fundraising opportunities.

Knights, who picked up cycling during the lockdown, thought to himself, “This is a way to combine two things that I love; The Children’s Trust and my passion for cycling.”

Thus, the Ride for Resilience was created.

This year, they are expecting ten to 15 riders who will help increase awareness about the great work being done to put an end to child abuse and neglect. At each stop, the riders will tour the family resource centers, talk to the staff, and learn about the incredible work they do.

Fink, who will be riding along with them this year, says his favorite part of the event is watching resilience in action.

“Riding 100 miles is a physical demonstration of what resilience looks like,” he says.

Knights says his favorite part of the ride is feeling like a part of a larger community and seeing the public get energized by the event.

Beginning at Whole Family Village Resource Center in Plymouth, the ride will start at 7:00 am on Friday, October 13. From there, bikers will journey to Lakes Region Community Services in Laconia and the Archways (formerly known as Greater Tilton Area Family Resource Center) locations in Tilton and Franklin. The group will then bike back to Plymouth, where there will be a celebration of their achievements at The Last Chair Brewery.

In the future, Knights and the team at the NHCT hope to expand the ride so that hundreds of people can bike along with them. They would also like to see individual communities host their own Rides for Resilience, which would allow for a larger number of family resource centers to be recognized and celebrated for their efforts.

“I can’t give the Children’s Trust enough credit for being great partners in the Ride for Resilience – Nathan in particular, who has been with me from the start,” Knights says. “We picked it up and ran with it, and I love where we’ve come with this.”

To get involved in this event, you can donate to the NHCT, the various family resource centers, or to individual riders. You can also volunteer to help with the event or even sign up to ride.

To learn more about the Ride for Resilience, visit nhchildrenstrust.org/2023-ride-for-resilience.
International Law

The Foreign Sovereign Immunities Act in the Criminal Context

By Naomi Kalies McNeill

Economic sanctions have long been a mechanism to rein in disfavored policies. Iran’s theocratic regime and endeavors to become a nuclear power have subjected it to some form of economic sanctions since 1979. Violations of these sanctions are subject to criminal liability under numerous federal statutes. What happens, however, when the alleged violator is the instrumentality of a foreign sovereign? This is the issue recently addressed by the United States Supreme Court in *Turkiye Halk Bankasi A.S. v. United States*, 143 S. Ct. 940 (2023).

In 2019, the US indicted *Turkiye Halk Bankasi* (Halkbank), a bank owned by the Republic of Turkey, for conspiring to evade US economic sanctions against Iran. The US alleged that Halkbank engaged in a conspiracy to evade sanctions by laundering billions of dollars of Iranian oil and gas proceeds through the global financial system, including within the US. The indictment further claimed that Halkbank made false statements to the Treasury Department in an effort to hide the scheme.

Halkbank moved to dismiss the charges arguing that federal courts did not have jurisdiction and that it was immune from prosecution as a sovereign entity. Halkbank relied primarily on the Foreign Sovereign Immunities Act (FSIA), codified at 28 U.S.C. §§ 1330, 1602 et seq. Both the Southern District of New York and the Second Circuit applied the FSIA and found it did not grant immunity to Halkbank. The US Supreme Court, in a 7-2 decision authored by Justice Kavanaugh, held that the FSIA did not extend sovereign immunity to foreign states or their instrumentalities in criminal cases. *Turkiye Halk Bankasi*, 143 S. Ct. at 947. The Court remanded to the Second Circuit to consider whether the common law confers immunity to foreign sovereigns and their instrumentalities for criminal cases. *Id.* at 951.

The Court began with Halkbank’s challenge to US courts’ subject matter jurisdiction. Applying 18 U.S.C. § 3231, the Court held that the statute’s grant of jurisdiction was “sweeping.” *Id.* at 944. The Court concluded that § 3231 “plainly encompassed” Halkbank’s alleged criminal offenses since they were “against the laws of the United States.” *Id.* at 944-45.

The Court refused to require Congress to “clearly indicate[e] its intent” to include foreign states and their instrumentalities within § 3231’s jurisdictional grant. *Id.* at 945.

Having rejected Halkbank’s textual argument, the Court moved onto its historical argument. Halkbank claimed that laws drafted by the First Congress were proof that Congress did not intend for federal courts to have jurisdiction over foreign sovereign entities because none did so expressly. Halkbank argued that Congress would have expressly referenced foreign states and their instrumentalities if Congress had intended to reach those entities in the Judiciary Act of 1789, a predecessor to § 3231. *Id.* Since Congress did not, the same was true for § 3231 today. *Id.* Once again, the Court refused to read the absence of textual references to foreign sovereign entities as an implied exception to the grant of jurisdiction based upon sovereign immunity. *Id.*

Finally, the Court rejected the Bank’s reliance on in *Schooner Exchange v. McFadden*, 7 Cranch 116, 3 L.Ed. 287 (1812). *Id.* The Bank had argued that a provision of the 1789 Judiciary Act granting district court’s jurisdiction over “all civil causes of admiralty and maritime jurisdiction,” was held not to confer jurisdiction over foreign state entities in *Schooner Exchange*, and therefore, the Court should not find jurisdiction in this case. *Id.* Justice Kavanaugh gave that argument short shrift since the Court in *Schooner Exchange* was not considering statutory subject matter jurisdiction, but jurisdictional principles developed in the common law. *Id.* at 945-46.

Finding subject matter jurisdiction under § 3231, the Court then addressed Halkbank’s contention that the FSIA conferred immunity to Halkbank as a foreign sovereign entity. The Court analyzed the text of the FSIA and concluded that the Act set forth a “carefully calibrated scheme” that relates only to civil cases and does not apply to criminal cases. *Id.* at 947. The Court pointed to the Act’s repeated use of the phrase “civil action,” detailed rules for service of process, filing an answer, and default judgment, the exclusion of liability for punitive damages, and the fact that the FSIA was codified in Title 28 (which mostly concerns civil procedure). *Id.* at 947-48. The Court also noted that the FSIA was silent on the subject of criminal prosecution. *Id.*

Halkbank tried to rely on a single sentence in the FSIA, § 1604: “Subject to existing international agreements,” a “foreign state shall be immune from the jurisdiction of the courts of the United States and of the States except as provided in sections 1605 to 1607 of this chapter.” *Id.* at 948. The Court refused to accept that “Congress enacted a statute focused entirely on civil actions and then in one provision that [did] not mention criminal proceedings somehow stripping the Executive Branch of all power to bring domestic criminal prosecutions against instrumentalities of foreign states.” *Id.* at 949.

Justice Gorsuch’s partial concurrence and dissent (joined by Justice Alito) criticized the majority for going too far in declaring all criminal cases as outside the FSIA when such a holding was unnecessary to resolve the case. Justice Gorsuch argued that the Court should have applied the FSIA, as the Second Circuit did, and found that the FSIA did not confer immunity under the plain language of the statute. *Id.* at 952-53. Justice Gorsuch also faulted the majority for remanding to the Second Circuit to determine if Halkbank was entitled to common law immunity instead of conducting that analysis itself. *Id.* at 954.

Now Available on the Member Portal!
The New Hampshire Bar Association Guide to SUCCESION PLANNING

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

By Naomi Kalies McNeill is a law clerk for the Otagamie County Circuit Court in Appleton, Wisconsin. She holds a JD from the University of New Hampshire Franklin Pierce School of Law and an LLM in International Law with International Relations from the University of Kent’s Bruxels School of International Studies.
May I See Your Badge(s)? The Bankruptcy Trustee’s Power to Avoid Fraudulent Transfers Made with Actual Intent

By Joseph A. Foster and Sabrina C. Beavens

Federal Practice and Bankruptcy

Fraudulent transfer law has its roots in the Statute of Elizabeth, enacted in 1571, which voided any transfer made with the “intent to delay, hinder, or defraud creditors.” The statute served as the model for the Uniform Fraudulent Transfer Act (UFTA), which was adopted in New Hampshire in 1988. Actions to avoid fraudulent transfers involve relatively simple matters—the transfer of a home from husband to wife; and some of the most complex litigation bankruptcy courts adjudicate—the unwinding of a leveraged buy-out. They involve individuals with small amounts of debt and business entities with extremely complex credit facilities. Under the Bankruptcy Code, a trustee or debtor in possession has two statutory grounds to avoid a “fraudulent transfer”—Section 548 of the Bankruptcy Code and the UFTA using the powers granted under Section 544(b)(1), which permit the plaintiff to utilize state law to avoid certain transfers and obligations.

The Code and the UFTA provide two primary causes of action for a trustee to avoid transfers or obligations. The trustee must either prove that the debtor:

1. Transferred property or incurred an obligation with the intent to hinder, delay or defraud its creditors; or
2. Made a transfer or incurred an obligation for less than reasonably equivalent value and at the time such transfer was made, or obligation incurred: (i) was insolvent; (ii) had unreasonably small capital; or (iii) intended to incur debts beyond its ability to repay them.

The first cause of action is often referred to as “actual fraud” and the second as “constructive fraud.” This article focuses on actual fraud.

To establish an “actual fraud” claim, the trustee must prove the debtor incurred the obligation or made the challenged transfer with the actual intent to hinder, delay, or defraud its creditors. There is a heightened pleading standard for actual fraud claims. The trustee must state with particularity the circumstances constituting the alleged fraudulent transfer.

The burden of proof to establish actual intent to defraud is also high. Unlike most civil actions, which only require proof by a preponderance of the evidence, the plaintiff must prove its actual fraud claim by clear and convincing evidence. In re Jackson, 318 B.R. 5 (Bankr. D. N.H. 2004).

While on occasion a debtor or his transferee will admit an intent to defraud, In re Taylor, 642 B.R. 912 (Bankr. W.D. Ark. 2022) – estranged ex-wife admits husband insolvent for 15 years and transferred property to her to keep it away from his creditors – courts recognize that a debtor will rarely admit that the transfer was made with the intent to defraud. Therefore, they evaluate the transferee’s intent based on “the circumstances surrounding the transfer, taking particular note of certain recognized indicia or badges of fraud.” In re Blais, 2021 WL 4483099 (Bankr. D. N. H. 2021) (quoting Max Sugarman Funeral Home, Inc. v. A.D.B. Investors, 926 F.2d 1248, 1254 [1st 1991]).

In cases where there is no direct testimony to support a finding of actual fraud, the courts look to the UFTA which includes a non-exhaustive list of so-called “badges of fraud” which includes:

a. The transfer or obligation was to an insider;
b. The debtor retained possession or control of the property transferred after the transfer;
c. The transfer or obligation was disclosed or concealed;
d. Before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;
e. The transfer was of substantially all the debtor’s assets;
f. The debtor absconded;
g. The debtor removed or concealed assets;
h. The value of the consideration received by the debtor was reasonably equivalent to the value of the assets transferred or the amount of the obligation incurred;
i. The debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;
j. The transfer occurred shortly before or after a substantial debt was incurred;

Finally, it is important to remember that the actual fraud may be established if there is proof that the debtor made the transfer with the intent to: hinder, delay, or defraud. The statute is written in the disjunctive and proof of only one of the three is required. Hinder a creditor or delay its recovery alone can be sufficient.

Joe Foster is a director and chair of McLane Middleton’s Bankruptcy Practice Group. He represents creditors ranging from small private lenders to nationally recognized banks and finance companies in out-of-court restructurings and chapter 11 reorganizations. He can be reached at Joe.Foster@mclane.com.

Sabrina Beavens is a member of the Corporate Department and Real Estate Practice Group at McLane Middleton. She is well versed in a wide range of practice areas, including corporate and business law; commercial and residential real estate; banking and commercial transactions; bankruptcy; estate planning, probate, and trust administration. She can be reached at sabrina.beavens@mclane.com.
By James S. LaMontagne

**Introduction**

Discovery may be conducted by interested parties within the context of an adversary proceeding or a contested matter commenced within a bankruptcy case. This discovery, whether conducted within an adversary proceeding or a contested matter, is governed by Federal Bankruptcy Rules 7026 through and including 7037 and Local Bankruptcy Rule 7026-1. The Federal Bankruptcy Rules and the Local Bankruptcy Rule incorporate by reference, for the most part, the Federal Rules of Civil Procedure governing discovery. In this way, discovery practice within the bankruptcy court does not differ greatly than that in other federal courts. However, unlike other federal courts, the bankruptcy court affords interested parties the unique opportunity to conduct discovery prior to the commencement of litigation via the debtor’s creditors’ meeting and/or a bankruptcy rule 2004 exam. Both the creditors’ meeting and the bankruptcy rule 2004 exam provide interested parties with effective pre-litigation discovery tools to better assess their claims and assist in determining whether to initiate litigation, such as a dischargeability action, against the debtor.

**The 341 Meeting as a Discovery Tool**

Every person, whether an individual or business, that files bankruptcy (the Debtor) must attend a creditors’ meeting pursuant to section 341 of the Bankruptcy Code (the 341 Meeting) and testify, under oath, about their financial affairs, assets, and liabilities, among other things. See 11 U.S.C. §341. The 341 Meeting typically takes place within 30 to 45 days after the Debtor’s bankruptcy petition date and is conducted primarily by a case trustee for those cases filed under chapter 7 or 13, or, for a case filed under chapter 11, by a trial attorney from the United States Trustee’s Office (collectively, the Trustee). The scope of the examination at the 341 Meeting is quite broad. Customarily, the Trustee will examine the Debtor on the Debtor’s financial affairs, assets, and liabilities as well as its business operations, and other related topics. The purposes of the 341 Meeting, are, among others, to make determinations on whether the Debtor has concealed assets or improperly disposed of assets, if the Debtor has real prospects of reorganization, if there are grounds to object to the Debtor’s exemptions or the Debtor’s discharge or whether there are facts warranting a dismissal of the bankruptcy case. The Trustee’s examination of the Debtor may lead to information that cannot be gleaned from simply reviewing the Debtor’s statement of financial affairs and bankruptcy schedules, but which could prove useful to an interested party who may be pursuing a claim or contemplating litigation against the Debtor.

Once the Trustee has completed their examination of the Debtor, interested parties are then given an opportunity to examine the Debtor at the 341 Meeting. The scope of an interested party’s examination of the Debtor may be as broad as discussed above or as narrow as the specific facts relating to the interested party’s particular claim. Regardless, the 341 Meeting can be used as a simple and less expensive discovery tool for those parties pursuing claims against the Debtor or contemplating litigation against the Debtor.

Practice Pointer: The Trustee often has multiple 341 Meetings scheduled for the same time on a particular day as well as other 341 Meetings scheduled at sequential times during the same day, so...

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**DISCOVERY continued on page 30**

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**Lothstein Guerriero, PLLC**

Ted Lothstein
Kaylee Doty
Richard Guerriero

We don’t handle bankruptcies.

But “second chances in life” are what we are all about.

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1 (Sometimes it’s a third chance, etc., but who’s counting....)
The Rights of the Non-Owning Spouse: Is There a $240,000 Homestead for Married Single Owner Debtors?

By Edmond Ford

The New Hampshire Supreme Court heard oral arguments on June 6, 2023, in Brady v. Samski, 2023-023, which addressed whether a married debtor who is the sole owner of a home and their non-owner (non-debtor) spouse each may claim $120,000 of homestead exemption or, instead, may only the “owner” claim the exemption. The Bankruptcy Court said no — only the owner can claim a $120,000 exemption. In re Brady, 2022 BNH 003. The District Court certified the question to the New Hampshire Supreme Court. Brady v. Samski, 2023 DNH 004.

We all think we know what a homestead is. “Homestead” means home place, or place of the home… “A homestead” is familiar with the homestead exemption of N.H. Rev. Stat. Ann. § 480:1: “Every person is entitled to a homestead in manufactured housing.”

But do we know anything from the statute? The statute says (paraphrased) “every person is entitled to…his or her homestead … as a homestead.” It is a tautology. The statute explains that “The homestead right is exempt from attachment during its continuance from levy or sale on execution…” N.H. Rev. Stat. Ann. § 480:4.

As for “its continuance” the statute describes its “duration” with this language that not only describes duration, but also seemingly grants rights to the non-owner spouse:

The owner and the husband or wife of the owner are entitled to occupy the homestead right during the owner’s lifetime. After the decease of the owner, the surviving wife or husband of the owner is entitled to the homestead right during the lifetime of such survivor.

N.H. Rev. Stat. Ann. § 480:3-a (LexisNexis) (Section 3-a)

The statute seems to say that the owner’s spouse a life estate exempt from creditors in property for which that spouse has never received a deed.

Because the statute grants the non-owner spouse an apparent life estate, is that life estate an “interest” in the homestead real estate such that the non-owner spouse may assert a separate homestead right under RSA 480:1? The non-owner spouse would read the statutory elements thus: The non-owner spouse is a person. The non-owner spouse has an “interest” in the property by virtue of section 3-a. The non-owner spouse therefore claims $120,000 of his or her interest as homestead.

The bankruptcy trustee argues that the statute requires one to be an “owner” — that the “interest” referenced in RSA 480:1 means a traditional ownership interest such as the equity of redemption, or under a bond for deed, or a life estate. The trustee argues that the New Hampshire Supreme Court cases have adopted the understanding that only “owners” who are also occupier can claim a homestead.

The trustee responds that is a notice, not a grant of an exemption and as a notice, it is rationally calculated to cause debtors to investigate their rights because most married couples own their home jointly.

The debtor points to the statute on sheriff’s sale, RSA 529:20-a which requires that before a sheriff may sell, a notice must be given:

You and/or your spouse may be entitled to a homestead exemption pursuant to RSA 480:1. This exemption is $120,000 for a single person and $240,000 for a married couple.


The debtor says that the legislature has expressed its view that a married couple gets a $240,000 exemption, without out reference to ownership. The trustee responds that is a notice, not a grant of an exemption and as a notice, it is rationally calculated to cause debtors to investigate their rights because most married couples own their home jointly.

The practice in New Hampshire assumes that where two spouses jointly own the homestead (and therefore each qualifies as an owner), the two spouses together may claim homestead rights in the amount of $240,000. Sav Bank v. French, 105 N.H. 407, 200 A.2d 858 (1964). Whether that same $240,000 may be claimed when only one of them holds title is now before the Supreme Court and we may expect an answer in the coming months.

Endnotes


Edmond Ford is a partner at Ford, McDonald & Borden in Portsmouth. He can be reached at ford@fordlaw.com.
A Seismic Change in Discharging Federal Student Loans in Bankruptcy

By Richard Gaudreau

The United States Department of Education’s (DOE) promise of a kinder and gentler response to complaints to discharge federal student loans in bankruptcy has been long awaited and may have arrived. On November 17, 2022, DOE announced a radical departure in how it will analyze these types of cases. The new procedure can result in DOE agreeing to a stipulation to discharge of all or part of a debtor’s federal student loan after consideration of an attestation form. Although an Adversary Proceeding still needs to be filed, the process – when it is successful – will avoid the time and expense of a trial. It’s expected to open this process up to a whole new group of debtors who in the past believed they could not afford an undue hardship complaint.

No longer will the DOE tell its lawyers to oppose undue hardship complaints just because a debtor has the ability to fund an income-driven repayment plan (IDRP) on the theory that it could not possibly be an undue hardship if a reduced payment plan was possible. DOE’s attempt to substitute one for the other has enmeshed plan were possible. DOE’s attempt to oppose undue hardship complaints has historically led to protracted litigation. This made the process so expensive that only the most desperate or highly motivated debtors had the temerity to take the plunge.

As of January 2023, there were 43.5 million student loan borrowers owing $1.63 trillion in federal student loans, second only to mortgages as the largest consumer debt in America. Many economists believe the amount of student loan debt in this country has created a serious drag on the economy, preventing many borrowers from purchasing a home or starting a business. One study found fewer than one percent of debtors eligible to file an undue hardship complaint actually did so. There is a perception that the debtors most likely to succeed are the ones least likely to be able to afford the process.

The early returns in New Hampshire are promising. In one 2022 case pending in New Hampshire Bankruptcy Court as of November 17, 2022, the DOE agreed that the debtor had met all the criteria required by the Attestation Form. The Attestation Form is basically a 15-page affidavit similar to an expanded tax return that also includes the disclosure of expenses and other facts such as age, disability, and unemployment history. These can create certain presumptions that will preclude a debtor from having to prove that present financial circumstances will persist into the future, so as to avoid the sort of crystal ball gazing that makes a trial on an undue hardship complaint a daunting task. In this case DOE stipulated to a complete discharge of all federal student loan debt. Thompson v. US DOE, AP No. 22-01009, (NH Bk. Ct., final judgment entered 2/9/23). In another adversary proceeding, again filed prior to November 17, 2022, the DOE agreed to a partial discharge of federal student loan debt, based on the Attestation Form procedure. Thompson v. US DOE, AP No.

BANKRUPTCY continued on page 30
Bankruptcy from page 29

20-01016 (N.H. Bk. Ct., agreement filed 3/16/23). These types of summary disposi-
tions are encouraging that this process is working.

Adversary proceedings are still re-
quired for the DOE to consider an atesta-
tion request. Debtors with closed cases will
not be able to re-open them in order to file
adversary proceedings as these cases are
not eligible. The cases need to be filed or
pending as of November 17, 2022. As of
the writing of this article, this procedure
only applied to Direct federal student loans,
did not apply to FFEL loans. The inap-
plicability of this procedure to FFEL loans
was exactly what led to the poor outcome
in the Carney case. The debtor’s payment
under a standard repayment plan in Car-
ney would have been $1,500 per month, an
amount the court acknowledged the debtor
could not afford. It is very likely the debtor
in this case would have qualified for the
new the attenuation procedure if it had ap-
piled to FFEL loans. Although Judge Panosi
left open the possibility of revisiting his
decision, consolidating a FFEL loan into a
Direct loan would not make this debtor eli-
gible for the attenuation procedure because
the new loan would become a post-petition
debt and not part of a debtor’s bankruptcy.

The Attestation form tracks the Brun-
ner test, first adopted by the Second Cir-
cuit, even though this test is not accepted in
any circuit. Presumably, the DOE wanted
to see if a debtor has made no payments,
Beyond the good faith payment question,
both tests focus on whether a debtor can
show an inability to maintain a minimal
standard of living if forced to repay the
loan and that this problem is likely to per-
sist over the life of the loan. Assets may
be considered by the DOE and the exemp-
tion of those assets in a bankruptcy does
not necessarily preclude them from being
considered as part of the DOE’s decision to
offer a stipulated judgment.

Richard Gaudreau is an attorney in Sa-
lem, New Hampshire, practicing in student
loans and bankruptcy. He can be reached
at richard@attorneygaudreau.com.

Discovery from page 27

a party’s examination of the Debtor may
be limited in time. Accordingly, be pre-
pared and organized and get to your point
and significant questions quickly.

Bankruptcy Rule
2004 Examination

A Bankruptcy Rule 2004 Examination
(2004 Exam) is another pre-litiga-
tion discovery tool unique to bankrupt-
cy cases and through which an interested
party can obtain valu-
able information about the
Debtor. Bankruptcy Rule
2004 (Rule 2004) pro-
vides that upon mo-
tion of any party-in-
interest, the court may
order the examination
of any entity. Rule
2004 further provides that the examination
may relate to the acts, conduct, or property
or to the liabilities and financial condition of the
Debtor, or to any matter which may
affect the administration of the Debor’s
estate, or to the Debtor’s right to a dis-
charge. This scope of examination is ex-

dated even further in an individual’s,
chapter 13 case and in a reorganization

case under chapter 11 where the scope of
a 2004 Exam also includes the operations
of any business and the desirability of its
continuance, the source of any money or
property acquired or to be acquired by
the Debtor for purposes of consummating
a reorganization plan and any other

James LaMontagne is Sheehan Phinney’s
practice group leader of the Bankrupt-
cy, Restructuring and Creditor’ s Rights
Group. His diverse practice includes
the representation of clients involved in
financially distressed situations, insol-
ency, and commercial disputes.

AVAILABLE On-Demand in the NHBA•CLE Catalog:

Federal Research Grants & Agreements
9/22/2023 – 60 NHMCLE min.
This CLE will cover the basics of federal grants and agreements as they exist in the
research space. Topics will include - what grants and other agreements are, what

tems to look out for and know about when counseling a client whether to see federal fund-

ing for research, and topics that are specifically applicable in the realm of research.

Bankruptcy Litigation
5/22/2023 – 360 NHMCLE min., incl. 60 ethics min.
Today’s commercial transactions face their most grueling tests in the crucible of
the bankruptcy court. This seminar explores the most common bankruptcy tests of com-

mercial transactions: motions for relief, avoidance powers, fraudulent conveyances
and claims to discharge. The faculty also discusses the substantive procedural, ethi-
cal, and constitutional aspects of the most common and feared bankruptcy litigation.

2022 UCC Amendments: New Article 12 &
Related Amendments
4/6/2023 – 90 NHMCLE min.
New Hampshire is one of only a few states that have adopted a draft of Article 12 and
we are in the process of adopting amendments to conform our version to the
final Uniform version. Article 12 was adopted in New Hampshire effective 1/1/2023.
This presentation is a must-see event for any lawyer involved in banking, finance, or
commercial debtor/creditor work.

Bankruptcy & Municipalities in NH
The program covers the treatment of tax claims due to municipalities (including
the transfer tax) and their liens and enforcement of those liens. The program also
dresses the exclusion from the automatic stay of the police powers of municipalities.

Chapter 11 Bankruptcy Practice in NH
9/21/2022 – 370 NHMCLE min., incl. 60 ethics min.
Chapter 11 bankruptcy practice in New Hampshire from beginning to end, including
the business problem, counseling the client, the new Sub-V cases, use of the 11 to
sell a business, ethical issues, first day orders, plan confirmation, traps for the unwary
and a discussion with Bankruptcy Judge Bruce A. Harwood and retired Bankruptcy
Judge J. Michael Deasy.

American Discovery for Foreign Disputes
8/4/2022 – 60 NHMCLE min.
Learn how 28 U.S.C. Section 1782 could play into your next cross-border dispute,

and the implications of the Supreme Court’s recent decision.

Consumer Bankruptcy: A New Hampshire Overview
3/17/2022 – 370 NHMCLE min., incl. 60 ethics min.
Trustees, practitioners and the US Trustee’s office discuss and explore the ins

and outs of consumer bankruptcy in New Hampshire. The program includes an informal
discussion with Chief Bankruptcy Hon. Bruce Harwood.

Register online at https://nhbar.inreachce.com
Free Two-Day Training Offered by the NH Court Improvement Project for Attorneys Representing Parents in RSA 169-C Child Protection Cases

By Hon. Susan Ashley

The New Hampshire Court Improvement Project (CIP) is partnering with the National Association of Counsel for Children (NACC) to offer a free two-day webinar series specifically designed for New Hampshire attorneys representing parents in RSA 169-C child protection cases. The live series will address the nuts and bolts of handling abuse and neglect cases, fundamental skills, and best practices that constitute high-quality legal representation of parents. The webinars will cover the practical application of the provisions of RSA 169-C and New Hampshire case law, as well as the Circuit Court’s Protocols Relative to Abuse and Neglect Cases and Permanency Planning. The protocols can be accessed on the Judicial Branch’s website. This series was developed based on feedback the NACC received from focus groups with local parent attorneys and Circuit Court judges. Additionally, two New Hampshire attorneys, Cassandra Brown and Sarah Christie, are serving as consultants with NACC to ensure the training meets the interests identified by New Hampshire practitioners, including preparing for adjudication, concrete trial skills, and effective advocacy. Other training topics will include building the attorney-client relationship and engaging clients impacted by trauma, substance misuse, and mental health.

Kristen Pisan-Iacques, training director for the NACC shares, “Investing in attorney training and education is a key contributor to high-quality legal representation, and NACC is excited to partner with the New Hampshire Court Improvement Project to make this training accessible to all attorneys representing parents in New Hampshire dependency cases.” The CIP is funded by the US Department of Health and Human Services and overseen by the New Hampshire Circuit Court. The purpose of the project is to improve child welfare outcomes for children, youth, and families involved in child protection cases.

The two-part series will be offered on Friday, October 6, and Friday, December 1, from 10:00 am to 3:00 pm. To avoid scheduling conflicts, this training has been coordinated with judicial administrative days. The CIP is offering this training at no cost to registrants and believes the course, and its written materials, meet the requirements of New Hampshire Supreme Court Rule 53 and may qualify for up to eight hours of CLE credit. Current parent attorneys, including those relatively new to this work and those with experience, are invited to register for both days of this training. The deadline to register is Friday, September 1.

Attorneys who are not already taking these cases but interested in representing parents in RSA 169-C cases are encouraged to register for this training. Additionally, they should contact their local court clerks about being appointed in these cases. For the first time in more than 30 years, the hourly rate for court-appointed representation in RSA 169-C matters increased from $60 to $90 per hour. Cassandra Brown, an experienced parent attorney, encourages others to register for this training and, if not already doing so, to accept these court appointed cases. “Parent and family defense is an important practice area. Parents faced with state action to remove or possibly lose their rights to their children are vulnerable. Many of our clients have lived experience in the foster care system or have significant trauma in their lives, and they need the help of skilled practitioners to navigate the system with them and ensure their rights are preserved,” she shares.

Anyone interested in registering for this training or learning more about the agenda, please contact Lyndsay Robinson at lrobinson1889@gmail.com.

NH Supreme Court At-a-Glance

JUNE 2023

CIVIL LAW


No. 2021-0551

June 1, 2023

Affirmed in part, reversed in part, vacated in part and remanded, with a dissenting opinion from Justice Hicks.

• Whether the trial court erred in granting a motion to dismiss and a motion for summary judgment of claims for defamation per se, defamation per quod, libel, invasion of privacy-false light, and violation of NH RSA 651:5 (2016).

This matter concerns election material that was mailed to registered voters for the New Hampshire District 9 State Senate seat. The Defendant mailed an advertisement attacking the Plaintiff for a prior conviction, which was later annulled, and alleging that he had been disbarred. The Plaintiff sued, alleging multiple claims relating to and involving defamation and libel.

In concluding that the trial court erred in granting the Defendants’ motion to dismiss the defamation claims as it relates to the statement that the Plaintiff had been convicted, the Court engaged in a lengthy discussion and review of the State of New Hampshire annulment statute. Ultimately, the Court, in the majority, determined that the trial court had erred in determining that the Defendant had the available defense of truth as it related to the statements concerning the Plaintiff’s prior conviction, since the Plaintiff successfully had the conviction annulled, and since the Defendants had not brought that fact to light in the publication.

In concluding that the trial court erred in granting the Defendants’ motion for summary judgment, the Court found that issue of whether the word “disbarred” was substantially true is a question of fact that should be left up to a jury. The Court also agreed with the Plaintiff that there remained a dispute of material fact as to whether the Defendants had acted with actual malice.

Dan Hynes on the brief for himself. William E. Christie on the brief from Shaheen & Gordon for the Defendants.

S.D. v. N.H.

No. 2022-0114

June 29, 2023

Affirmed.

• Whether the freedom of speech concerns place a limit on the scope of a protective order restricting a defendant’s online activity.

This appeal followed a final order being issued against the Defendant in a stalking petition matter in District Court. The facts of the case involved the Defendant developing a fixation on the Plaintiff, and posting numerous comments online, including impersonating the Plaintiff. In his appeal, the Defendant claimed two issues, (1) sufficiency of the evidence, and (2) even assuming the evidence was sufficient to issue a final order, that the final order violated his freedom of speech by limiting what he can say and post online.

The Court addressed the first claim as to sufficiency by concluding that there was an assumption that the evidence was sufficient based on the failure of the Defendant to provide a copy of the trial transcript with his appeal.

The Court began its initial discussion of the freedom of speech issues by reciting broadly how First Amendment restrictions are generally treated, whether the restriction is content-based or content-neutral. The Court noted that the Defendant was being restricted from commenting online about the Plaintiff, including even writing her name on an online forum.

The Court, in the first instance, concluded that many of the Defendant’s “postings ‘communicate a serious expression of an intent to commit an act of unlawful violence’ toward the plaintiff and that a restriction on these points would serve to protect the Plaintiff from the threat and possibility that the threatened violence would occur.” Citing and quoting: Virginia v. Black, 538 U.S. 343, 359 (2003).

Moving to consider the additional restrictions that were placed on the Defendant from even mentioning the Plaintiff’s name, the Court looked to how other jurisdictions had addressed this issue. The Court noted that different jurisdictions had concluded differently on whether such restrictions were content-neutral or content-based, affecting the level of scrutiny that was required to be applied by a reviewing court. However, the Court ultimately concluded that it, “need not decide today what level of scrutiny applies to orders prohibiting a defendant who has been found to have stalked or abused someone from posting that person’s name or image anywhere on the internet because, given

NH Circuit Court Judicial Evaluation Notice

In accordance with Supreme Court Rule 56 and RSA 490:32, the New Hampshire Judicial Branch Court Administrative Judge routinely conducts judicial evaluations and invites you to participate in this process. The following judges are presently being evaluated:

Judge Henrietta Luneau – Sixth Circuit Courts
Judge Michael Mace – Sixth Circuit Courts
Judge Erin McIntyre – Sixth and Ninth Circuit Courts
Judge Janet Subers – First Circuit Courts

An evaluation may be completed online at courts.nh.gov/resources/committees/judicial-performance-evaluation-advisory-committee/current-circuit-court. While responses will be shared with the judges being evaluated, they are treated as confidential, and the identity of the respondent will remain anonymous. If you would prefer that a hard copy of the evaluation be mailed to you, please e-mail the Circuit Court Administrative Office at lcammett@courts.state.nh.us or call (603) 271-6418. Please include the name of the judge you would like to evaluate as well as your name and address. As stated above, while responses will be shared with the judges being evaluated, they are treated as confidential, and the identity of the respondent will remain anonymous. In fact, if you request a hard copy of the evaluation form, we ask that you do not sign the completed evaluation. The evaluations must be completed online or be returned no later than August 21, 2023.

All evaluations must be completed online or be returned no later than August 21, 2023. A copy of the evaluation form, we ask that you do not sign the completed evaluation.

ATT-A-GLANCE continued on page 32
Criminal Law

The State of New Hampshire v. Michael Jordan
No. 2021-0605
June 29, 2023
Affirmed.

• Whether the trial court improperly reserved a question from the jury during deliberations, and whether evidence of a defendant’s prior-arrest, invocation of the right to remain silent was improperly introduced during the prosecution’s case-in-chief.

The Defendant was convicted of fourteen counts of aggravated felonious sexual assault. The Defendant’s appeal raised two issues for the Court to consider. First, whether the trial court improperly responded to a question from the jury during its deliberations, and second, whether the trial court improperly admitted evidence in the State’s case-in-chief of the Defendant’s invocation of his right to remain silent.

In rejecting the Defendant’s argument, the jury sent the trial court two questions, both dealing with the burden of proof. The first question asked for further information on what “beyond a reasonable doubt” means. The trial court responded with the same definition that was included with the jury instructions in the first instance. The jury then asked a second question, asking, “[(i)f] you believe it’s more likely then [sic] not that the Defendant [sic] committed [sic] accused crimes, Is that worth of a Guilty verdict?” The Defendant requested a direct answer to the second question, however the trial court opted to respond that, “[t]he burden of proof in this case is proof beyond a reasonable doubt. I have provided you with that definition. You must apply that standard in reaching your verdict on each charge.”

On appeal, the Defendant argued that the trial court failed to answer the question. In rejecting the Defendant’s argument that the trial court failed to answer the question, the Court found that, “we conclude that a reasonable juror would have understood that reiterating the applicable standard, which did not include the term ‘more likely than not,’ meant that the ‘more likely than not’ standard was not to be considered in reaching a verdict.” The Court therefore concluded that the trial court sufficiently exercised its discretion in responding to the jury’s question concerning the State’s burden of proof.

In considering the admission of the Defendant’s pre-arrest statements, the Court concluded that the Defendant had invoked his right to remain silent, and that it was a violation of his Fifth Amendment rights to have the evidence of his invocation of the right to remain silent introduced in the State’s case-in-chief. However, the Court, after engaging in a totality of the circumstances analysis, determined that any error of the trial court in admitting this evidence was harmless error.


The State of New Hampshire v. Michael Jordan
No. 2021-0605
June 29, 2023
Affirmed.

• Whether the trial court erred in its application of NH RSA 651-A:22-a, in determining whether the Defendant was entitled to earned time credits.

The Defendant is currently serving a sentence following a guilty plea to eight counts of aggravated felonious sexual assault in April of 2014. Pursuant to the plea agreement, the Defendant was sentenced to a total of twenty to sixty years, with the further stipulation that the Defendant would not be eligible for “work programs or supervision outside prison grounds until such time as he is deemed eligible for parole.”

In September of 2014, NH RSA 651-A:22-a, the earned time credits statute, became effective, which afforded prisoners the opportunity to receive reductions in their maximum and minimum sentences upon completion of certain approved programs. The Defendant successfully completed several of the prescribed programs, and in 2021 obtained the commissioner’s recommendation for application of the earned time credit statute.

The Defendant filed a motion to have the earned time credit statute applied to his case. The State filed an objection, citing the seriousness of the Defendant’s crimes, their lasting impact on the victims, and the victims’ opposition to approval. The trial court initially granted the Defendant’s motion, following its decision in a separate case, where it determined that, “…RSA 651-A:22-a prescribed no guidance regarding the court’s approval of earned time credits, thereby affording the court broad discretion, the statute demonstrated the legislature’s intent to ‘incentivize prisoners to utilize their incarcerated time productively, as part of the rehabilitative goal of sentencing.’”

The State moved for reconsideration, arguing that the court had overlooked the victims’ right to appear and be heard at the earned time credits hearing. The Court granted the State’s motion and held a hearing, at which time the State argued that “[t]here should not be any further reductions of things that didn’t exist at the time, or reductions that the family never could have been considered about.” Additionally, victims were afforded the right to speak.

In reviewing and rejecting the Defendant’s arguments on appeal, the Court was unpersuaded by the Defendant’s three arguments that the trial court had erred in (1) interpreting the statute in a manner contrary to its statutory scheme; (2) speculating that the sentencing judge would not have made the defendant eligible for earned time credits, contrary to the plain language of the statute; and (3) denying the Defendant his constitutional right to equal protection.

The Office of Attorney General John M. Formella, and the Office of Solicitor General Anthony Galdieri, Elizabeth C. Woodcock, senior assistant attorney general, on the brief and orally for the State. Ricard E. SamPERIL, from Samperil & Weish, PLLC, on the brief and orally for the Defendant.

Family Law

IN RE: E.R.; IN RE H.R.
No. 2022-0543; 2022-0546
June 29, 2023
Affirmed.

• Whether the trial court failed to apply the proper legal standard in determining the best interest of the children in the context of a petition brought by the Division for Children, Youth, and Families to terminate parenting rights of a parent.

This appeal followed the trial court’s denial of the Division for Children, Youth and Families (the Division) Petition to Terminate the parental rights of the mother of E.R. and H.R. Pursuant to the Division’s petition, the mother had been adjudicated to have neglected both E.R. and H.R. The trial court held multiple review hearings regarding the mother’s continued supervised care of her children. In October of 2021 a permanency hearing was held, at which point the Division and a GAL both were recommending that the children be formally adopted. The trial court then instructed the Division to file a petition to terminate the mother’s parental rights for the children. At the hearing on the merits for the
Division’s petition to terminate the mother’s parental rights, the trial court found beyond a reasonable doubt that it was not in the best interest of the children to terminate the mother’s parental rights, and thus awarded the guardianship to the Department of Health and Human Services, and ordered that the mother pay for temporary child support. The Division appealed the order.

On appeal, the Division argued that the trial court failed to apply the proper legal standard, which should have required the trial court to consider which of the possible alternative dispositions is the most desirable for the children. The Court, in rejecting the Division’s argument, found that the remedy crafted by the trial court was supported by the statutory structure of NH RSA 170-C. The Court also reviewed the trial court’s rationale in making its determination, and found that it was supported the conclusion that the trial court reached.


EMPLOYMENT LAW
City of Portsmouth, New Hampshire Police Commission/Police Department v. Portsmouth Ranking Officers Association, NEPBA, Local 220 No. 2021-0511
June 7, 2023
Reversed in part, vacated, and remanded.

- Whether an arbitrator committed plain mistake in misapplying the after-acquired-evidence doctrine, as it relates to the determination of the Circuit Court, should have been applied to the remedy phase of the arbitration.
- Whether a Department of Health and Human Services Administrative Appeals Unit (AAU) decision on finding the petitioner ineligible to receive developmental disability services pursuant to NH RSA 171-A was supported by the evidence presented.

Following the termination of Aaron Goodwin from the City of Portsmouth as a police officer, his union filed a grievance, which triggered a requirement for the parties to arbitrate the matter of Goodwin’s termination. Goodwin was terminated by the City of Portsmouth following the results of a task force that was created to investigate Goodwin’s possible ethical violations relating to a relationship he had established with Geraldine Webber. The results of the task force led to his termination from the City of Portsmouth.

The City of Portsmouth sought to introduce the decision from the Circuit Court in the arbitration relating to Goodwin’s termination. Ultimately, the arbitrator determined that it would be admissible only in the remedy phase of arbitration. Following that determination, the arbitrator ultimately determined that the City of Portsmouth did not have just cause to terminate Goodwin, but, in applying the after-acquired-evidence doctrine, that given the determination of the Circuit Court, that he could not be rehired. The arbitrator therefore awarded Goodwin his back pay for a full two years.

The Court ultimately agreed with the City of Portsmouth and found that the arbitrator had committed plain error in misconstruing how the after-acquired-evidence doctrine, as it relates to the determination of the Circuit Court, should have been applied to the remedy phase of the arbitration.

Thomas M. Closson of Jackson and Lewis, PC on the brief and orally for the plaintiff; Peter J. Perroni of Nolan Perroni, PC on the brief and orally for the defendant.

ADMINISTRATIVE LAW
Petition of M.P. (New Hampshire Department of Health and Human Services) No. 2022-0181
June 7, 2023
Affirmed.

- Whether an arbitrator committed plain mistake in misapplying the after-acquired-evidence doctrine, as it relates to the determination of the Circuit Court, should have been applied to the remedy phase of the arbitration.

The Petitioner petitioned, by way of writ of certiorari, appealed the determination of the AAU that he was not entitled to developmental disability services pursuant to NH RSA 171-A. The Petitioner was adjudicated to be not guilty by reason of insanity, and was committed to the secure psychiatric unit, where he resided until he was stepped down to the New Hampshire Hospital.

Once relocated to the New Hampshire Hospital, the Petitioner petitioned for developmental disability services in 2020. In his application he listed that he was diagnosed as both schizophrenic, as well as having an autism spectrum disorder (ASD). The local area agency that provides developmental disability services denied his application, reasoning that the Petitioner did not qualify for services pursuant to NH RSA 171-A, V. The Petitioner then appealed this decision to the AAU.

After delays, due to the COVID-19 Pandemic, the hearing on the merits was scheduled for June 2021. The focus of the hearing dealt primarily with whether the Petitioner actually had ASD, or whether his symptoms were representative of someone with only schizophrenia. Following the hearing, the AAU found that the evidence presented did not establish the Petitioner had ASD.

In affirming the decision of the AAU, the Court reviewed the different statutory sections that provide for developmental disability services, and concluded that the AAU had correctly determined that the Petitioner did not otherwise qualify for services. The Court also reviewed the evidence that had been submitted at the final hearing, and concluded that the AAU had not impermissibly credited certain testimony without cause.


How We Support Each Other in Times of Need

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

Details and submission form at nhbar.org/solace/
LD-2023-0008, In the Matter of William C. Sheridan, Esquire

On May 12, 2023, the Professional Conduct Committee (PCC) submitted a request from Attorney William C. Sheridan to resign from the bar in accordance with Rule 37(11), along with the PCC’s recommendation that the resignation be accepted. The PCC’s recommendation was accompanied by an affidavit of Attorney Sheridan, which satisfies the requirements of Rule 37(11). The PCC also recommended that Attorney Sheridan, in accordance with his signed agreement, be assessed the costs incurred in the investigation and prosecution of this matter (Sheridan, William C. advs. Attorney Discipline Office – #21-017).

The court has reviewed the affidavit of Attorney Sheridan and the recommendations of the PCC. In accordance with Rule 37(11), Attorney Sheridan’s resignation from the bar is accepted. Attorney Sheridan shall reimburse the Attorney Discipline Office for the costs incurred by the attorney discipline system in the investigation and prosecution of this matter.

Carol L. Kunz, Esquire

DATE: June 20, 2023
ATTTEST: Timothy A. Gudas, Clerk

LD-2023-0007, In the Matter of Carol L. Kunz, Esquire

On April 27, 2023, the Professional Conduct Committee (PCC) filed a recommendation that Attorney Carol L. Kunz be suspended from the practice of law for a period of one year, with the suspension stayed for one year on the condition that Attorney Kunz comply with certain requirements. The PCC also recommended that Attorney Kunz be ordered to pay the costs associated with the investigation and enforcement of the disciplinary matter.

The PCC’s recommendation approved a stipulation signed by Attorney Kunz, her counsel, and the Attorney Discipline Office’s assistant disciplinary counsel, in which Attorney Kunz agreed that she had violated several Rules of Professional Conduct and further agreed that the appropriate sanction for these violations was a one-year suspension, with the suspension conditioned on the following stipulation: Attorney Kunz expressly waived her right to a hearing before the court. In accordance with Rule 37(16), because this matter was resolved by a dispositive stipulation, the court may consider this matter without further notice and hearing.

Based on the parties’ stipulation, the PCC found that Attorney Kunz violated the following Rules of Professional Conduct as a result of her failure to file a required answer in a superior court case and her failure to keep her client reasonably informed as to the status of the case, including the status of the required answer:

1. Rule 1.1, which requires a lawyer to provide competent representation to a client;
2. Rule 1.3, which requires a lawyer to act with reasonable diligence and promptness in representing a client;
3. Rule 1.4, which requires a lawyer to keep a client reasonably informed about the status of the client’s matter; and
4. Rule 8.6, which requires a lawyer not to permit it to be known that it is professional misconduct for a lawyer to violate the Rules of Professional Conduct.

The court has reviewed the PCC’s findings and rulings and concludes that they are supported by the record. The court accepts the PCC’s recommendation for the appropriate sanction for this misconduct, and concludes that a one-year suspension from the practice of law, with the suspension conditioned stay for one year, is warranted. The court approves the conditions of the stay, which are set forth in the stipulation and in a separate agreement to mandatory conditions and procedure for alleged violation of conditions (agreement to mandatory conditions). The stipulation and the agreement to mandatory conditions also set forth a procedure to be followed if it is alleged that Attorney Kunz has not complied with a condition or conditions.

Accordingly, having approved the PCC’s findings, rulings and recommended sanction, the court orders as follows:

(1) Attorney Carol L. Kunz is suspended from the practice of law in New Hampshire for a period of one year, with the suspension stayed for one year on the condition that Attorney Kunz comply with the requirements set forth in the stipulation and the agreement to mandatory conditions.

(2) Attorney Kunz is ordered to reimburse the Attorney Discipline Office for all costs and expenses incurred by the attorney discipline system in the investigation and prosecution of this matter.

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

DATE: June 21, 2023
ATTTEST: Timothy A. Gudas, Clerk

LD-2023-0001, In the Matter of Danilo J. Gomez, Esquire

On January 12, 2023, the Attorney Discipline Office (ADO) filed a certified copy of the September 1, 2022 order of the Commonwealth of Massachusetts Supreme Judicial Court for Suffolk County (Supreme Judicial Court), which suspended the respondent, Attorney Danilo J. Gomez, from the practice of law in Massachusetts for a period of 90 days. The Supreme Judicial Court upheld findings that Attorney Gomez had offered an unlawful inducement to a witness in a Massachusetts criminal proceeding and had thereby exposed his client to adverse cross-examination and additional criminal liability. The Supreme Judicial Court ruled that Attorney Gomez had violated the following Massachusetts Rules of Professional Conduct, among others:

1. Rule 1.1 (requiring lawyer to provide competent representation); Rule 1.2(a) (prohibiting lawyer from representing a client if the representation involves a concurrent conflict of interest); and Rule 3.4(b) (prohibiting lawyer from, among other things, offering an inducement to a witness that is prohibited by law).

As to the appropriate sanction, the Supreme Judicial Court disagreed with the recommendation by the Massachusetts Board of Bar Overseers (BBO) that Attorney Gomez be suspended from the practice of law in New Hampshire for two periods, one of five months and one day. The BBO’s recommendation followed a hearing committee’s recommendation that Attorney Gomez be suspended for a period of four to six months.

Accordingly, the court concluded that Attorney Gomez’s misconduct would warrant substantially more discipline in New Hampshire. Accordingly, the matter was referred to the Professional Conduct Committee (PCC) for its recommendation regarding the discipline to be imposed. See Rule 37(12)(e).

On May 18, 2023, the PCC filed its recommendation that this court impose a 90-day suspension from the practice of law in New Hampshire, with Attorney Gomez receiving credit for 30 of the 90 days based upon his reciprocal self-suspension in New Hampshire.

After reviewing the PCC’s recommendation and record, the court accepts the PCC’s recommendation and orders that Attorney Danilo J. Gomez is suspended from the practice of law in New Hampshire for a period of 90 days, with Attorney Gomez receiving credit for 30 of the 90 days based upon his reciprocal self-suspension in New Hampshire from October 1, 2022, to October 30, 2022.

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

DATE: June 21, 2023
ATTTEST: Timothy A. Gudas, Clerk

US District Court Decision Listing

May 2023

* Published

Competency & Speedy Trial Act
5/1/23 United States v. Berard
Case No. 22-cr-88-LM (D.N.H.), 23 NH 050P

David Berard faces a single count of making a false statement in connection with the attempted acquisition of a firearm in violation of 18 U.S.C. § 922(a). In November 2022, the court found him not competent to stand trial. In March 2023, Berard moved to dismiss the pending indictment, arguing that the government’s delay in transporting him to a hospital for further evaluation following the court’s November competency findings violated his rights under 18 U.S.C. § 3161(c)(1) (the Speedy Trial Act) and 18 U.S.C. § 4241 (the competency statute). The court denied Berard’s motion, holding that (1) the delay in transportation did not violate the Speedy Trial Act because § 3161(h)(4) stops the Act’s clock after a finding of mental incompetence, and (2) even if the government violated the Speedy Trial Act, § 4241 dismissal of the indictment is not the appropriate remedy. 19 pages. Chief Judge Landya McCaffery

Insurance

The plaintiffs in this insurance dispute obtained a default judgment in state court against a restaurant in Manchester, New Hampshire, after one of the plaintiffs fell on the restaurant’s premises. The restaurant did not notify its insurance carrier, the defendant, of the incident or the litigation. The defendant first received notice of these issues from plaintiffs’ counsel roughly four months after the default judgment was entered. The defendant moved to set aside the judgment and to dismiss the complaint in this court to collect the judgment from the defendant under the insurance policy that the restaurant held at the time of the plaintiff’s fall. On cross-motions for summary judgment, the defendant contended that the restaurant’s failure to notify it of the plaintiff’s fall and the related liability constituted a material breach of the insurance contract and relieved the defendant of any duty to pay. The plaintiffs, in turn, asserted that the compulsory insurance doctrine applied to nullify the notice defense. Where applicable, this doctrine compels an insurer to pay a judgment creditor notwithstanding any contract defenses it can assert against the insured party. The court granted the defendant’s summary judgment motion, upon finding that the restaurant was delayed in notifying its insurance carrier of the plaintiff’s fall, the record indicated no justification for this delay, and the delay resulted in prejudice to the defendant. The court concluded that the compulsory insurance doctrine only applied in narrow circumstances, which were not present in this case. 23 pages. Judge John P. LaPlante

Fourth Amendment
5/12/23 Doe v. Commissioner, N.H. Dept. of Health and Human Services
Case No. 21-cv-1039-LM (D.N.H.), 23 NH 058P

The plaintiffs class seeks prospective injunctive relief to require the Commis-
A journalist published a series of statements alleging that an organization and two of its members were right-wing extremists involved in the January 6 insurrection. The organization and its members sued for defamation, false light invasion of privacy, and conspiracy, challenging 41 different statements. The court dismissed the defamation and false light claims as they pertained to many of the challenged statements. The court further dismissed the defamation and false light claims as they pertained to seven of the challenged statements. The court protected the claims to proceed they were based on those statements. 51 pages. Judge Paul J. Barbadoro.

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 and 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 $39,328.95 (effective July 14, 2023), and a comprehensive benefits package.

Benefits Summary (nh.gov)

DCYF Attorney Duties include:

- Litigating 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: JD from an accredited law school, NH 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.

ATTORNEY – You are a motivated, creative, and experienced attorney looking to take on a challenge with colleagues who will help you grow your career, all in a great place to work. You have the ability to articulate yourself in challenging situations, and you are the same with your writing. You are a Vermont-licensed attorney looking to provide advice and counsel on municipal, employment, business, environmental issues and able to litigate disputes in courts across the State of Vermont. This is an opportunity to join Monaghan Saller PLLC as an associate in our Burlington, VT office. The firm offers a competitive salary, 401(k) with employer match, health, dental, and vision insurances, paid leave, and the opportunity for a flexible working arrangement, all in a modern working environment. Interested candidates should send a cover letter, resume, and two writing samples to meagan@mvlaw.com.

ASSOCIATE ATTORNEY – The Crisp Law Firm, PLLC located in Concord is looking for an associate attorney to be two to five years of experience. Our firm’s practice concentrates in the areas of family law, estate planning and probate, business representation, and professional licensing and certification. We offer a collegial atmosphere, benefits, and competitive salary. If you are interested in learning more about this opportunity email Attorney Sara Crisp at sara.crisp@crislaw.com.

TRIAL ATTORNEY – The Department of Justice, U.S. Trustee Program is soliciting interested applicants to fill the positions of Trial Attorney in our Region 1 Boston, MA and Worcester, MA field offices. For additional information, qualification requirements, and application procedure go to https://justice.gov/usdoj/employment-opportunities/index.html/ and/or https://www.justice.gov/ilo/legal-careers/job/trial-attorney-668 and interested applicants may apply on-line at https://www.usdoj.gov Friday, July 22, 2023, to the following email address ustj.employment@usdoj.gov, with the subject line Trial Attorney-Region-1-Boston-07-2023 and/or Trial Attorney-Worcester-07-2023.

ASSOCIATE ATTORNEY WANTED – Prefer admission to MA, NH & ME and prior courtroom experience as prosecutor or public defender; will consider recent graduates; fast paced trial practice concentrating on DUI Defense/Criminal Defense and Plaintiff’s Personal Injury. 40-50 jury bench trials each year in these areas. Excellent research/writing skills; salary commensurate with experience; Email resume to moira@bowenslaw.com.

ASSOCIATE – Brennan, Lenehan, Iacoppono & Hickey seeks a full-time associate with 2-5 years of experience and a NH license to join in dynamic law practice, including criminal defense, family law, estate planning, personal injury and general litigation. Strong writing skills, interpersonal skills and an ability to work in a fast-paced environment are required. Must be comfortable working in a team setting and providing pre-trial and second chair trial support to start. Competitive wages, health insurance, 401(k), paid vacation and personal days, and CLE credits. Please email resume to wquen@brennanlnehan.com.

EXPERIENCED STAFF ATTORNEY. The Disability Rights Center – New Hampshire (DRC-NH) seeks an experienced attorney, full time or part time, to join DRC-NH in protecting and promoting the civil rights of people with disabilities. Attorneys with more than three years of civil and/or criminal litigation experience are encouraged to apply. For a complete job description, visit https://drcnh.org/get-involved. Please send cover letter, resume; and a writing sample/brief (not to exceed 30 pages) to hr@drcnh.org.

TRIAL ATTORNEY – The Department of Justice, U.S. Trustee Program is soliciting interested applicants to fill the positions of Trial Attorney in our Region 1 Boston, MA and Worcester, MA field offices. For additional information, qualification requirements, and application procedure go to https://justice.gov/usdoj/employment-opportunities/index.html/ and/or https://www.justice.gov/ilo/legal-careers/job/trial-attorney-668 and interested applicants may apply on-line at https://www.usdoj.gov Friday, July 22, 2023, to the following email address ustj.employment@usdoj.gov, with the subject line Trial Attorney-Region-1-Boston-07-2023 and/or Trial Attorney-Worcester-07-2023.

ASSOCIATE ATTORNEY WANTED – Prefer admission to MA, NH & ME and prior courtroom experience as prosecutor or public defender; will consider recent graduates; fast paced trial practice concentrating on DUI Defense/Criminal Defense and Plaintiff’s Personal Injury. 40-50 jury bench trials each year in these areas. Excellent research/writing skills; salary commensurate with experience; Email resume to moira@bowenslaw.com.

ASSOCIATE – Brennan, Lenehan, Iacoppono & Hickey seeks a full-time associate with 2-5 years of experience and a NH license to join in dynamic law practice, including criminal defense, family law, estate planning, personal injury and general litigation. Strong writing skills, interpersonal skills and an ability to work in a fast-paced environment are required. Must be comfortable working in a team setting and providing pre-trial and second chair trial support to start. Competitive wages, health insurance, 401(k), paid vacation and personal days, and CLE credits. Please email resume to wquen@brennanlnehan.com.

EXPERIENCED STAFF ATTORNEY. The Disability Rights Center – New Hampshire (DRC-NH) seeks an experienced attorney, full time or part time, to join DRC-NH in protecting and promoting the civil rights of people with disabilities. Attorneys with more than three years of civil and/or criminal litigation experience are encouraged to apply. For a complete job description, visit https://drcnh.org/get-involved. Please send cover letter, resume; and a writing sample/brief (not to exceed 30 pages) to hr@drcnh.org.
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 attorney looking to handle litigation matters. The firm litigates matters directly related to its areas of transactional practice.

The ideal candidate will have at least 2-5 years of experience in any area of civil litigation, and strong research, writing, and communication skills. Recent law school graduates with some prior law office experience will also be considered. Excellent interpersonal and time management skills 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 excellent benefits offered.

Please submit cover letter and resume to Attorney Kerri S. Tasker at ktasker@laboelaw.com.

SEEKING NEW HAMPSHIRE COMMERCIAL ATTORNEY WILLING TO WORK A HYBRID POSITION

Alfano Law provides a variety of legal services to business and individual clients. Its major practice areas include roads and easements, commercial real estate, real estate litigation, tax law, estate planning, and probate. The firm has locations in Concord, Bedford, Keene, and Portsmouth, NH. We are currently looking to hire full-time for the following position:

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

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

Interested candidates may submit cover letter and resume to: Deb Alfano at dalfano@alfanolaw.com

Probate & Trust Associate

Laboe & Tasker, PLLC, a small boutique elder law, estate planning, probate and trust administration firm with a state-wide practice located in Concord, NH, seeks an attorney to handle probate, trust, and guardianship administration.

The ideal candidate will have at least 2-5 years of experience in handling probate and trust matters, including appearances before the probate court, preparation of fiduciary accountings, and related tax matters. Recent law school graduates with some prior experience with accountings or administering estates will also be considered.

Our firm environment is collaborative, collegial, and supportive. Competitive compensation and excellent benefits offered.

Please submit cover letter and resume to Attorney Kerri S. Tasker at ktasker@laboelaw.com.

IT’S TRUE WHAT THEY SAY:
EXPERIENCE IS THE BEST TEACHER

“It’s been invaluable to learn from the experienced attorneys at Primmer. By sharing their wisdom and mentorship with me, I know they care about my development.”

Olivia G. Wheat
Associate Attorney
Manchester, NH

The Office of Public Guardian (OPG) invites interested candidates to apply for the opportunity to lead this highly regarded organization as its next Executive Director. The Executive Director will join a team of experienced and dedicated professionals to advance OPG’s mission to protect the legal rights and civil liberties of all individuals it serves by exercising the highest ethical standards in advocacy and decision-making.

OPG has 45 years of experience providing guardianship and trustee services to legally incapacitated adults throughout the state. The Executive Director serves as the Chief Executive Officer and is responsible for the overall management of the organization, serving under the general oversight of its board of directors and collaborating closely with department directors to assure that its 1200 clients, 50+ employees and key stakeholders are well served and supported. Candidates should have a Juris Doctor or Master’s Degree in a related field, 10+ years of leadership/organizational management experience and a working knowledge of guardianship practice in NH.

The Board of Directors is prepared to offer a competitive salary and benefits package to the highly qualified candidate. Please see full posting on the OPG website at https://www.opgnh.org/about-us/executive-director-position/. Applicants should send a detailed letter of interest along with resume by 8/1/23 to info@opgnh.org. All applications will remain confidential.
The General Court’s Office of Legislative Services (OLS) is seeking a full-time attorney in its Legal and Drafting Division at the State House in Concord. Responsibilities include: drafting legislation and amendments for members of the House of Representatives and the Senate; ensuring that all legislative documents meet the technical and editorial standards of OLS; advising members of the legislature in resolving practical, technical, and legal issues in their drafting requests; compilation and review of statutory changes enacted in each legislative session for publication in the New Hampshire Revised statutes annotated (RSA); and assisting the OLS Administrative Rules Division in reviewing and presenting agency rules to the Joint Legislative Committee on Administrative Rules.

Candidates for the position must be a graduate of an accredited law school and admitted to the NH Bar Association or will pursue admission. This is not a remote-work position. More information may be found at www.gencourt.state.nh.us. The application deadline is July 31, 2023. To apply, please submit a resume and cover letter to: David J. Alukonis, Director Office of Legislative Services David.alukonis@leg.state.nh.us

Admission to the NH Bar and 4-10 years experience required

The General Court’s Office of Legislative Services (OLS) is seeking a full-time attorney in its Legal and Drafting Division at the State House in Concord. Responsibilities include: drafting legislation and amendments for members of the House of Representatives and the Senate; ensuring that all legislative documents meet the technical and editorial standards of OLS; advising members of the legislature in resolving practical, technical, and legal issues in their drafting requests; compilation and review of statutory changes enacted in each legislative session for publication in the New Hampshire Revised statutes annotated (RSA); and assisting the OLS Administrative Rules Division in reviewing and presenting agency rules to the Joint Legislative Committee on Administrative Rules.

Candidates for the position must be a graduate of an accredited law school and admitted to the NH Bar Association or will pursue admission. This is not a remote-work position. More information may be found at www.gencourt.state.nh.us. The application deadline is July 31, 2023. To apply, please submit a resume and cover letter to: David J. Alukonis, Director Office of Legislative Services David.alukonis@leg.state.nh.us

Applications will be reviewed when received. The last date for submission is July 31, 2023.

We are hiring

LITIGATION ATTORNEY

Admission to the NH Bar and 4-10 years experience required

Devine Millimet offers competitive salaries, a formal bonus program for associates, attractive growth opportunities, a comprehensive benefits package, and flexibility for a hybrid work schedule.

We are an equal opportunity employer.

If you are as passionate about service as we are, visit devinemillimet.com/careers/current-openings or scan the QR code to get started!

JOIN OUR TEAM. MAKE AN IMPACT.

MANCHESTER | CONCORD | PORTSMOUTH

Trust and Estates Laterals

Hamblett & Kerrigan, P.A. seeks a partner-level lateral attorney to join its busy trust and estates department at its Nashua office. We are interested in an attorney who has the skill and experience to immediately handle complex estate matters and values being part of a collegial, tight-knit team. The professionals at Hamblett & Kerrigan enjoy a healthy work-life balance, work collaboratively on case and management tasks, and are committed to a long-term presence in the Greater Nashua and southern New Hampshire region. Hamblett & Kerrigan provides its attorneys with excellent 401(k), health and dental benefits, as well as flexibility regarding remote and onsite hours. Interested candidates should contact Kim Childs at kchilds@hamker.com

Laters and Experienced Solos

Are you an experienced attorney who is unhappy with your current work environment? Are you an experienced solo practitioner in Greater Nashua who is tired of handling all administrative tasks associated with your practice? Hamblett & Kerrigan, P.A. in Nashua seeks talented lateral and partner-level attorneys who value a healthy work-life balance, have capacity to take on additional work, and are committed to a long-term, professional presence in the Greater Nashua and southern New Hampshire region. The professionals at Hamblett & Kerrigan enjoy a collegial and informal workplace and work collaboratively on case and management tasks. Hamblett & Kerrigan provides its attorneys with excellent 401(k), health and dental benefits, as well as flexibility regarding remote and onsite hours. Interested candidates should contact Kim Childs at kchilds@hamker.com

nashualaw.com

NEW HAMPSHIRE JUDICIAL COUNCIL
EXECUTIVE DIRECTOR

The NEW HAMPSHIRE JUDICIAL COUNCIL seeks applications from persons interested in receiving an appointment to serve as its executive director. Since 1946, the Judicial Council has served as an institutional forum for the on-going and disinterested consideration of issues affecting the administration of justice (RSA 494:3). The executive director oversees an executive-branch agency responsible for managing the delivery of indigent defense services in criminal cases, guardian ad litem services in child protection cases, and carrying out other statutory duties. The executive director also represents the agency before the legislature and executive branch on funding matters and other matters relating to the administration of justice, and serves on designated boards.

The complete position description can be found on the homepage of the Judicial Council’s website, www.judicialcouncil.nh.gov, or by contacting the Council directly. For information regarding salary and benefits, please contact the Council’s Acting Executive Director. A cover letter and resume should be delivered via email to the attention of: Richard E. Samperili, Acting Executive Director, New Hampshire Judicial Council, Richard.E.Samperili@jc.nh.gov, 603-271-3592.

Applications will be reviewed when received. The last date for submission is July 31, 2023.

Notice of Request for Proposals - Trial Skills Training

The State of New Hampshire, through the Judicial Council, is soliciting bids for an intensive trial skills training program. The Request for Proposals seeks bidders interested in, and capable of, providing quality criminal-defense training and mentoring to lawyers with less than 3 years of defense experience and to lawyers new to New Hampshire practice, who agree to accept indigent defense contracts or assigned counsel cases. The RFP document may be obtained at www.nh.gov/judicialcouncil, on the Department of Administrative Services procurement website, or by contacting Richard E. Samperili, Acting Executive Director, New Hampshire Judicial Council, State House Annex - Room 120, 25 Capitol Street, Concord, NH 03301; Richard.E.Samperili@jc.nh.gov.

The deadline for receipt of proposals is August 1, 2023, at 4:00 p.m.

GoffWilson

Immigration Attorney

Looking for a change from the “firm” environment or tired of a long commute? GoffWilson is a regional and national immigration practice with a global presence and a substantial client base. We are seeking an Immigration Attorney with at least 5 years of immigration experience in a broad range of business immigration including: H, L, E, P O Visas and PERM. We offer an outstanding opportunity for a seasoned immigration practitioner wanting a quality work/life balance and long term security. Candidates should have a track record of exceptional client service. Compensation is based on experience and portfolio.

Paralegal

Immediate opening for an experienced paralegal. Role includes assisting clients with completion of applications for the immigration process. Our clients include employers and/or individuals seeking visas or permanent resident status. The candidate is responsible to maintain assigned cases by gathering information from clients, preparing petitions and managing immigration files. This position requires regular contact with clients and appropriate government agencies.

As a Paralegal, you must have an interest in immigration and stay current on immigration issues. A Bachelor’s Degree in Paralegal studies is preferred or 3 years prior experience working as a paralegal. Some knowledge of immigration process is helpful but not required. No JDs, LLBs, JML, or current/ matriculating law students please. This is a full time in office position. Ability to speak a second language is helpful. If you want to practice immigration law with people passionate about what they do, please send resume and letter of interest in confidence to: hiring@goffwilson.com

Competitive salary and generous benefits package is available.

GoffWilson

Our focus is immigration law 800.717.8472  goffwilson.com

Join our professional team!

We are an equal opportunity employer.

Legislative and Bill Drafting Attorney
Office of Legislative Services

The General Court’s Office of Legislative Services (OLS) is seeking a full-time attorney in its Legal and Drafting Division at the State House in Concord. Responsibilities include: drafting legislation and amendments for members of the House of Representatives and the Senate; ensuring that all legislative documents meet the technical and editorial standards of OLS; advising members of the legislature in resolving practical, technical, and legal issues in their drafting requests; compilation and review of statutory changes enacted in each legislative session for publication in the New Hampshire Revised statutes annotated (RSA); and assisting the OLS Administrative Rules Division in reviewing and presenting agency rules to the Joint Legislative Committee on Administrative Rules.

Candidates for the position must be a graduate of an accredited law school and admitted to the NH Bar Association or will pursue admission. This is not a remote-work position. More information may be found at www.gencourt.state.nh.us. The application deadline is July 31, 2023. To apply, please submit a resume and cover letter to: David J. Alukonis, Director Office of Legislative Services David.alukonis@leg.state.nh.us

Applications will be reviewed when received. The last date for submission is July 31, 2023.
ENERGY, ENVIRONMENTAL, AND TELECOMMUNICATIONS ATTORNEY

Downs Rachlin Martin PLLC (DRM) – one of Northern New England’s largest law firms - is seeking an energy law / public utility attorney with at least two years’ experience to join the firm’s Energy, Environment, and Telecommunications Industry Group in its Burlington, Vermont office. The ideal candidate will have experience in permitting and regulatory compliance, commercial energy transactions, and public utility regulation, including practice before or in connection with the public utility commissions of Vermont and New Hampshire, the New Hampshire Site Evaluation Committee, and/or municipal planning and zoning entities in either state. Work will include siting support for renewable energy and storage facilities, involvement with major regulatory proceedings, and transactional work on behalf of project sponsors, investors, and lenders.

This is a unique opportunity to join our team of industry-leading energy law and public utility professionals based in our Burlington and Lebanon, New Hampshire offices. Consistently ranked among the best places to live in the U.S. by numerous publications, Burlington provides a vibrant cultural environment, a thriving downtown, and a welcoming community, with easy access to mountains and lakes.

DRM offers excellent mentorship and training, as well as leading technology, competitive salary, and a comprehensive benefits package, including paid parental leave and two generous retirement plans.

If these qualifications and skills match yours, we would like to hear from you.

Requirements
Research, analyze and understand specific areas of law. Excellent writing and verbal communication skills. Assist group attorneys in regulatory and siting permitting.

Minimum Qualifications
J.D. from an accredited law school.

Desired Qualifications
Experience or advanced degrees in environmental, energy or telecommunication.

Apply Here: https://www.appone.com/MainInfoReq.asp?R_ID=5589574

LABOR & EMPLOYMENT ASSOCIATE ATTORNEY

Downs Rachlin Martin PLLC (DRM) - one of New England’s largest law firms – has a great opportunity for an associate attorney to join its Labor & Employment Group in its Burlington, Vermont office.

Experience in representing clients before administrative agencies in employment-related claims, litigating on behalf of management, counseling on employment matters and representing management in traditional labor is preferred. The ideal candidate has relevant experience, including a clerkship, exceptional written and communication skills, and wants to be a part of a team of attorneys committed to delivering top-quality legal services to growing and successful businesses. This is a unique opportunity to work with and learn from a team of industry-leading labor & employment professionals in Burlington, a location which is consistently ranked among the best places to live in the U.S. by numerous publications. Burlington provides a vibrant cultural environment, a thriving downtown, a welcoming community, easy access to mountains and lakes, and short commutes.

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

Apply here: https://www.appone.com/MainInfoReq.asp?R_ID=5508060

Staff Attorney
City of Portsmouth

Overview: The Staff Attorney supports the Legal Department’s mission to provide quality, efficient, cost-effective legal services to the municipality. The City Legal Adviser advises and represents all the disparate elements of the City government, including the General Government, the School Department, the Police Department, the Fire Department and all the various boards, commissions, and committees. Incumbent will, among other duties, review and prepare contracts, easements and respond to public records requests. Work will be completed both independently and collaboratively. May be required to work outside of normal working hours and/or weekends.

Qualifications: A candidate for this position must have a Juris Doctor Degree, two (2) to four (4) years of legal experience preferred; or any combination of education, training, and experience with the knowledge, skills and abilities required for the job. Admitted to the New Hampshire Bar or be eligible for immediate admissions by waiver. A valid driver’s license is required.

Salary range: $75,629.86 - $91,928.57

Please see full posting here: https://www.cityofportsmouth.com/hr/work

ASSISTANT COUNTY ATTORNEY

rockinghamcountynewhampshire.gov

ROCKINGHAM COUNTY

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.

Orr & Reno, PA seeks a mid-level (3-5 years) litigation attorney to join our firm and work on a wide variety of disputes in state and federal courts, administrative tribunals, and private mediated and arbitrations.

Candidates should have a strong academic background, be admitted to the New Hampshire Bar with a minimum of three years’ prior experience in a firm, have a sound understanding of litigation fundamentals, and a demonstrated desire to live, work, and participate in the greater New Hampshire community. This position offers an excellent opportunity for mentoring and practice development for younger attorneys with a desire to continue to learn as a relied upon and contributing member of a close-knit team.

Since 1946, Orr & Reno, PA has distinguished itself by providing clients with high-quality legal services, while offering market-competitive compensation and comprehensive benefits, a collegial and team-based approach to practice, excellent employee and attorney retention, and placing unique emphasis on fostering a fun, friendly, and positive work culture. Orr & Reno, PA is an equal opportunity employer. Remote, hybrid, and flexible working arrangements may be considered.

Please submit a cover letter, resume, transcript and writing sample to:

Orr & Reno, PA
Attention: HR Coordinator
PO Box 3550, Concord, NH 03302-3550
Fax: (603) 223-9060
Email: resumes@orr-reno.com (Word format)
No phone calls or agencies
EOE
City Prosecutor
City of Concord, NH

A Unique Opportunity: The City of Concord is recruiting a City Prosecutor to supervise and lead the City Prosecutor’s Office, consisting of 4 Assistant City Prosecutors and support staff. Candidates should be highly motivated & experienced in the prosecution of criminal complaints, have office management experience, and the ability to render advice on criminal law to the police department.

Minimum Qualifications: Juris doctorate, and, 5 years of experience as an attorney. Must be a member of the New Hampshire Bar Association.

Starting Salary Range: $94,432.00-$133,390.40, DOQ, with a competitive flexible benefits package.

Instructions for Applying: Submit cover letter and resume to the Human Resources Department via https://www.governmentjobs.com/careers/concordnh. The position will remain open until filled. For more information visit www.concordnh.gov or call (603) 225-8535, or TTY at 1-800-735-2964 or 7-1-1. “An Equal Opportunity Employer M/F/D/V and LGBTQ”

Part-Time-Assistant City Prosecutor
City of Concord, NH

The City of Concord is seeking an attorney with 3-5 years’ experience to serve as a part-time Assistant City Prosecutor (up to 29 hours per week) to manage criminal cases in the City Prosecutor’s Office.

Hourly wage range: $37.26-$53.96.

Submit cover letter and resume to the Human Resources Department via the Application: at https://www.governmentjobs.com/careers/concordnh. The position will remain open until filled. For more information visit www.concordnh.gov or call (603) 225-8535, or TTY at 1-800-735-2964 or 7-1-1. “An Equal Opportunity Employer M/F/D/V and LGBTQ”

Assistant/Associate Professor
Environmental Advocacy Clinic (EAC)
Vermont Law and Graduate School

Salary Description: $85,000-$100,000
Job Type: Contract

Position Summary:

The Environmental Advocacy Clinic at Vermont Law and Graduate School (VLGS) is hiring an Assistant/Associate Professor of Law to supervise and teach clinic students working on litigation and advocacy matters addressing important environmental and natural resources issues. An applicant should have an enthusiasm for working with law students who are eager to learn and practice skills.

For more information and to apply directly, please visit https://www.vermontlaw.edu/community/about-vs/employment-opportunities.

Assistant Corporation Counsel
City of Nashua

DEPARTMENT: Legal
HOURS WORKED: Monday - Friday (8:00am to 5:00pm)
AFFILIATION: Unaffiliated
SALARY & GRADE: Grade 18, Salary not to exceed $110,000

PRIMARY DUTIES
This position will assist the Corporation Counsel in fulfillment of duties as the chief legal officer of the city. The position acts in place of Corporation Counsel when advising city officials or representing the city to outside persons and organizations. Responsible for the satisfactory performance of all the legal work of the city and must keep current with respect to all laws and regulations affecting the city; requires admission to the bar and to practice in all New Hampshire state and federal courts.

QUALIFICATIONS
Minimum of three(3) years relevant work experience; must be proficient with computers and all software necessary to do this job; Juris Doctorate; combination of experience and education will be considered.

APPLICATION PROCEDURE
Submit cover letter, application, and resume, three professional/academic references and a writing sample at: http://applitrack.com/nashua/onlineapp/

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A 150-Year History of the New Hampshire Bar Association

1873
On July 2, the Bar Association of the State of New Hampshire (NHBA) is established by an act of the state legislature, making it the oldest "modern state bar association" with incorporation by a special act of the state legislature, creating the first state bar association in the United States. Isaac Penley is the first president.

1890
Women's Bar Association is formed.

1900
The first Annual Meeting is held.

1969
In April, a majority of members vote in favor of the New Hampshire State Bar (NHSC) joining the American Bar Association (ABA) to assist victims of domestic violence.

1973
The NHBA appeals the Supreme Court to overturn an act of the legislature, making it the first state bar association to successfully overturn the state legislature. The NHBA wins the case.

1979
The NHBA becomes the second state in the nation to adopt a mandatory CLE requirement. The NHBA moves to 112 Pleasant Street in Concord.

1998
The NHBA publishes its first CLE programming.

2000
The BASNH establishes a Diversity, Equity, and Inclusion Committee.

2006
The NHBA establishes the Domestic Violence Program to assist domestic violence victims.

2010
The NHBA launches Family Violence Awareness Month (FVAM), an awareness campaign that raises awareness of family violence.

2017
The NHBA celebrates its 150th anniversary.

2020
The NHBA celebrates its 150th anniversary and the NH Bar serves over 8,870 members.

2023
The NHBA releases the results of its first CLE programming, "Making a Difference in the Community," a non-profit organization, and moves to a separate location.

2026
The NHBA moves to its current home, 2 Pillsbury Place, at the Heart of the Concord Business District.