Pioneer Superior Court Chief Justice Tina Nadeau To Retire on September 29

By Tom Jarvis

New Hampshire Superior Court Chief Justice Tina Nadeau, a pioneer on the bench for nearly 30 years and a champion for the drug court system in the state, has announced she will retire on September 29, 2023.

Daughter of former New Hampshire Supreme Court Justice Joseph Nadeau, she received a bachelor’s degree, with a major in Spanish, from the University of New Hampshire in 1985. She then spent a year running a guest house in Puerto Rico to strengthen her use of Spanish before attending the Franklin Pierce Law Center (now UNH Franklin Pierce School of Law).

“My dad always encouraged me to consider the law because he found so much purpose in what he did as a lawyer,” Justice Nadeau says. “He was a true inspiration. I loved listening to the stories he told my sister and me about cases, clients, and challenges throughout our childhood years. Through his example, I appreciated that the practice of law is more about understanding the human condition and using the skills we develop as lawyers to help people in need, than it is about books and court filings. He gave me the space to believe I could accomplish anything and was there to support me throughout my career, as was my stepmother. She attended every opening statement and closing argument I gave as a young lawyer. Seeing her face in the audience calmed my nerves.”

After obtaining her law degree in 1989, Justice Nadeau began working as an assistant attorney general, prosecuting homicide cases and arguing Supreme Court appeals for the State. Interestingly, she was able to make use of her Spanish skills right away, as her very first homicide case involved a Mexican victim and defendant.

A few years later, she became legal NADEAU continued on page 24

Benjamin King: The Playbook of a Fighter for Workers’ Rights

By Kathie Ragsdale

No one can say Benjamin T. King can’t get no satisfaction. The longtime employment law practitioner has seen the Rolling Stones a good half-dozen times, has attended 39 Dave Matthews Band concerts, and recounts with obvious joy his stage-side awe watching an Eddie Van Halen guitar solo.

“In addition to triggering memories, music certainly supports my legal work.”

Now a partner at Douglas, Leonard & Garvey, he was introduced to employment law soon after law school, while he was an associate at the Boynton, Waldron, Doleac law firm in Portsmouth and one of the partners chose him to help KING continued on page 18
The Importance of Collegiality in the New Hampshire Bar

How do we achieve collegiality with a Bar Association encompassing almost 8,500 lawyers? I hope that my nearly 38 years of practice has given me some insight that might help Bar members attain collegiality with each other while practicing law.

I have been fortunate in my career to work in the personal injury and insurance law sectors. Rarely in that practice do things get personal. Both sides advocate vigorously for their client but ultimately, I, as a personal injury/workers’ compensation/medical malpractice lawyer am doing my best to build my client’s case for as good a recovery as possible, while ensuring counsel are working to save their companies money. Both sides want resolution while seeking these goals. To a substantial degree, both sides are professional risk managers for their respective clients. This can be very different from other types of litigation such as family and criminal law, where emotions often run high.

However, discovery disputes arise, things are not going to be done in time to abide by court-structuring orders, and occasionally deadlines pass without notice. At each of those junctures, you want a strong and amicable relationship with opposing counsel. Rarely do courts want to adjudge discovery disputes that are resolvable between counsel – they want counsel to act as adults.

The first step when interrogatories are overdue is not to file a Motion to Compel – unless time is of an absolute necessity. You are likely wasting your time and your client’s money doing so. Rather, discuss with opposing counsel when you need answers, and agree on a date to get them. No harm, no foul, and no bad blood. The work you put in to developing a good rapport with opposing counsel can help immensely when it comes time to address difficult issues in a case.

I have been in the business of law practicing long enough to have screwed some things up and to have missed some deadlines. Odds are, over your career you will do as well. When that happens, that amicable relationship you have cultivated with counsel can go a long way to resolve the problem. If you have an antagonistic or unhealthy relationship with opposing counsel, overcoming the error may be much harder.

That does not mean that you are not a zealous advocate for your client. Rest assured, there are lawyers in the state who think I go after witnesses aggressively and argue law vociferously. However, those same lawyers know that I always ask how they are doing, and smile and shake their hands when the case has been submitted.

Being a good colleague can involve recognizing when opposing counsel is experiencing life difficulties. Perhaps they are suffering from depression, are overwhelmed, have substance misuse issues, or are having difficult family issues. Several times, I have been concerned about opposing counsel. I have directly asked those with whom I am familiar if everything is all right with them, and how can I help in the context of the litigation.

Our Bar is small enough that you will encounter opposing counsel repeatedly throughout your career. You will recognize how they work. For example, I was a party in an insurance arbitration and had worked with opposing counsel on other matters and knew him to be quite capable. Leading up to and at the arbitration, his performance was significantly below his usual work. Following the arbitration, I reached out to the arbitrator who had been chosen by opposing counsel, expressing my concern. He then reached out directly to the opposing lawyer asking about his health, if things were okay, and if he could help.

Finally, I was advised early in my career to treat others as your mother would. I have been in the business of lawyer for 35 years of practice has given me some insight that might help Bar members attain collegiality with each other while practicing law.

From the Editor

Share Your Experiences in the Upcoming Bar News DEI Supplement

The New Hampshire Bar News team, in collaboration with the New Hampshire Supreme Court’s Steering Committee on Diversity and Inclusion (D & I Committee), is putting together a special diversity, equity, and inclusion (DEI) supplement to be included in the October issue of the Bar News.

The supplement will feature content and articles from members of the D & I Committee and Advisory Group. Judges Susan Carbon, NAACP Manchester President and Managing Partner of Organizational Diversity and Inclusion (D & I Committee), is putting together a special diversity, equity, and inclusion (DEI) supplement to be included in the October issue of the Bar News.

The timing of this supplement is particularly fortuitous with October being LGBTQ+ History Month. First celebrated in October 1994, and founded by Missouri high school teacher Rodney Wilson, it was originally called Lesbian and Gay History Month.

As part of the supplement, we aim to include experiences that our members have had with racial, gender, sexual orientation, or other discrimination or prejudice in the workplace.

If you would like to include your story, please submit a short description (a paragraph or two) about your experience by August 28 to tjarvis@nhbar.org. The blurbs will be compiled into one full article. If you wish to remain anonymous, please indicate that in your email.
By Tom Jarvis

In 2018, the United States had the highest incarceration rate in the world. According to the Prison Policy Initiative, a non-profit organization for the mitigation of mass incarceration, “New Hampshire has an incarceration rate of 328 per 100,000 people (including prisons, jails, immigration detention, and juvenile justice facilities), meaning that it locks up a higher percentage of its people than almost any democracy on earth.”

Over the next several months, the Bar News will feature a series of articles about the prison system and inmates in the Granite State. The New Hampshire Bar Association (NHBA) Prison Series is made possible by the Charles W. Dean Trust Fund, a justice grant awarded through the New Hampshire Bar Foundation.

The series aims to educate members about the New Hampshire prison system and provide insights from the people who live – or have lived – within it. The articles will relay stories of current and former New Hampshire inmates, as well as lawyers in the criminal field, and will form an arc starting from when a person is first charged with a crime, moving through life in prison, and then ending with re-entry into society.

Currently, the United States has 19 million people behind bars and an estimated 3.7 million adults under community supervision. Additionally, the World Prison Brief, an online database by the Institute for Crime & Justice Policy Research at the University of London, states that as of 2023, the US has the sixth highest incarceration rate in the world, at 531 people per 100,000.

The numbers are exponentially higher when factoring in probation, parole, and transitional housing. According to the Bureau of Justice Statistics report, “Correctional Populations in the United States, 2021,” an estimated 5.5 million people were under the supervision of adult correction systems in the country, whether incarcerated or under community supervision. This means that one in 48 adult residents in the United States were under some form of correctional supervision at the end of 2021.

In New Hampshire, there are currently more than 4,400 people that are behind bars, with approximately 2,100 in the three state prisons, 1,600 in the ten county jails, 705 in the federal prison, and 20 in the youth facility.

The NHSPM is the oldest prison in the state. It was originally built in 1812 and was occupied by a single inmate at the time. In 1878, a new facility was constructed, and throughout the years various renovations were performed. The most recent – and most extensive – renovations took place in the 1980s. It was around this time, in 1983, that the NHDOC was created by statute to consolidate the previously independent probation department, parole department, and the state prison. There are several sections of the prison, including reception and diagnostic sections (where an inmate is processed upon entry), the secure housing unit (solitary confinement), the secure psychiatric unit, the residential treatment unit, and general population.

The Lakes Region Facility

With the ever-increasing number of inmates in the state, a second facility became necessary. In 1991, the Lakes Region Facility (LRF) opened on the grounds of the former New Hampshire State School for the Developmentally Disabled in Laconia, and housed minimum- to medium-security prisoners. In 2004, the NHDOC converted the building into a transitional facility for minimum security inmates who would soon be released. However, four years later, the facility closed. According to the NHDOC, as they were preparing the operating budget for the 2010-2011 biennium, it was determined that to meet the parameters set forth by then-Governor John Lynch, a prison facility would have to close. The LRF was identified as the least efficiently operating facility and was shut down in 2009.

The NHCFW is the newest addition to the New Hampshire prison system. Female inmates were originally housed in the south wing of the NHSPM from 1880 until 1941, when legislation was passed to transfer women offenders to other states or to county jails. In 1989, the

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The Northern New Hampshire Correctional Facility

Once the state’s inmate population surpassed 2,000 in the mid-1990s, the NHDOC determined that, in addition to the NHSPM and the LRF, a third facility was needed. In 2000, the NNHCF opened in Berlin. It was originally proposed to open in Franklin, but a local referendum turned it down. When the LRF closed in 2009, one of the two gymnasiats at the NNHCF was converted into a 112-bed minimum-security unit to accommodate the transfer of the LRF inmates.

The New Hampshire Correctional Facility for Women

The NNHCFW is the newest addition to the New Hampshire prison system. Female inmates were originally housed in the south wing of the NHSPM from 1880 until 1941, when legislation was passed to transfer women offenders to other states or to county jails. In 1989, the

PRISON SERIES continued on page 25
‘The Court Saved My Life’ – A Story of Cycle-Breaking and a Lifelong Dream

Editor’s Note: The name Karen Page is a pseudonym used to protect the identities of those involved, at the request of the subject of the article.

By Alex Attili

It might have taken a few years to get there, but Karen Page knew she wanted to be an attorney since she was only 14 years old. "I was in history class in high school," she says. "It was the first time I really learned about the civil rights movement, and I was astounded by the role of attorneys and the Supreme Court. I just fell in love and knew that was what I wanted to do."

Page went home that day and immediately told her mother, who first laughed at her but then helped her begin looking at colleges. However, she had to put her plans on hold because of her pregnancy, so she withdrew from school. "I couldn't do it," she says. "I was 14 years old."

"I had twins," she says. "I was a sophomore in high school when I had them. I tried going back to school but I couldn't do it."

She felt isolated by many of her teachers because of her pregnancy, so she withdrew and enrolled in a GED program instead. "I was in a bad situation at the time," she says. "I ended up living with the father of my children. He was extremely abusive. I had no family to help me, so I completely survived off him. I wasn't allowed to leave the house, wear makeup, or talk to men. I felt like I was in prison."

Page says the abuse was both physical and psychological, but she was able to leave when she was pregnant with her fourth child. "My three boys and my pregnant self were homeless," she recalls. "The father of my children took off and I went to my mother for any help I could get so that I could go to school."

Eventually, she began working full-time and by the time she finished her degree, about five years later, she asked a few of the judges to write her recommendation letters so she could finally go to law school. She decided to put law school on the "back-burner" so she could focus on her kids, though.

"The truth is, when you're a victim of domestic violence, your whole life is a lie," she says. "I can't believe you can't leave the house, why you have bruises, why you can't spend money. This is why it takes domestic violence victims so long to leave; you've been told no one will believe you because you've been lying to everyone for so long that you've been conditioned to continue a fake truth."

During this period of her life, the father of her children drifted in and out of their lives. "He'd be gone for long periods of time but came back claiming to have gotten sober or to have gotten counseling," she says. "I was just so desperate to have some help with the kids that I gave him another chance."

"He was working for the court forced her to see the truth, which helped her leave the father of her kids a final time and work through the struggles of healing, even after finally getting out and moving on with other relationships."

"Everyone has their own personal issues," she says. "As a kid, people [in my life] just drank to deal with it. But I witnessed so many judges and attorneys juggling their own personal lives while still being phenomenal in their careers. I wanted to be just like them."

She says that working with the courts not only showed her healthy coping mechanisms but demonstrated how cycles of abuse run their course in the criminal justice system.

"The court saved my life," she says. "I was in the abuse cycle. Working for the court forced me to see what was really happening."

She mentioned that witnessing families in a similar situation to her own gave her the clarity she needed to acknowledge and process her own trauma. "Making a difference in the criminal justice system means so many judges and attorneys judged cases to know that they are setting an example for others. Specifically, the way they see and treat people. She noted that many of the attorneys, judges, and court staff that inspired her and gave her the tools to break the cycle of domestic violence in her life were not even close colleagues."

When first approached about sharing her story, Page said she wanted those in the legal field to know that they are setting an example for others. Specifically, the way they see and treat people. She noted that many of the attorneys, judges, and court staff that inspired her and gave her the tools to break the cycle of domestic violence in her life were not even close colleagues.

"One of my fears was that people would think that because of my history, I couldn't fairly represent a defendant who abused someone, but I absolutely can," she says. "I know that an abuser themselves has their own issues—mental health or substance abuse issues that sometimes stems from their own abuse. The whole point is telling their story, explaining what got them here, and finding what will help so that this doesn't keep happening."

"I don't think they would have thought I could be here today," she says. "But, because of the people I have worked with, I saw there were other ways to rewrite my story."

The GLAD LRS program is not affiliated with the NHBA.

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**NHBA Modest Means Program Helps to Bridge the Justice Gap**

By Misty Griffith

The New Hampshire Bar Association Lawyer Referral Service’s Modest Means Program (LRS-MM) helps bridge the legal services gap by connecting individuals of low to modest means with attorneys who agree to consider their case at a greatly reduced rate aligning with LRS-MM’s sliding fee schedule. Modest Means provides access to justice for people whose household income is between 125 percent to 325 percent of the Federal Poverty guidelines; those who do not qualify for pro bono assistance, but who cannot afford an attorney’s full fees.

The Modest Means Program is a godsend for people whose inability to afford an attorney might otherwise force them to represent themselves. A program participant from northern New Hampshire expressed their gratitude.

“I want to thank you for your courtesy and quick response to my request for a referral,” the client said. “Your advance notice to that law firm made my first call to them very easy! Other requests that I made for information or guidance … fell on deaf ears and my requests were ignored. Your response and requests were answered quickly, in all instances. Your assistance has been greatly appreciated. I have met some of the most thankful clients in taking Modest Means cases. Recently, I was able to assist a single mother in obtaining a restraining order and parenting order to protect her children from an abusive father. She made sure she thanked my entire team for our assistance, and we could all see the relief she felt from having this protection. This is especially important work where one parent can afford an attorney and the other cannot.”

Alice Ranson of Elliott, Jasper, Shklar, Ranson & Beau-lac in Newport says, “I have met some great clients through the Modest Means Program allows us to give back to our community and have an impact on the growing access to justice problem.” Kate Morena of Morena Law says, “There is a significant amount of people who fall into the gap between earning too much to qualify for pro bono and not earning enough to afford a full fee attorney. I appreciate that these cases are vetted through LRS and come to us organized with relevant information right from the start. We have had some of the most thankful clients in taking Modest Means cases. Recently, I was able to assist a single mother in obtaining a restraining order and protecting her children from an abusive father. She made sure she thanked my entire team for our assistance, and we could all see the relief she felt from having this protection. This is especially important work where one parent can afford an attorney and the other cannot.”

Attorneys who participate in the Modest Means Program find the work extremely gratifying. “Helping clients through the Modest Means Program is work where one parent can afford an attorney and the other cannot.”

**New Admittees July 18, 2023**

The NHBA welcomes the following new attorneys: Kathryn Elizabeth Carlson, Erin Martha Ceeegan, Mary Alissa Triick, Bryan Richard Whitney.
Beyond High School Plans To Go Digital

By Grace Yurish

Beyond High School: A Guide to Your Rights and Responsibilities, a book written by Attorney Jennifer A. Eber in collaboration with the New Hampshire Bar Association’s (NHBA) Law Related Education (LRE) program, is set to transition to a digital platform to better engage with high school students. The book, which offers crucial information to high school students about their legal rights and responsibilities as they become adults – such as dealing with law enforcement or understanding the draft process – aims to provide young adults with knowledge about their civic duties and rights.

Aaron Blais, a teacher at Exeter High School, is working with the NHBA to facilitate the transition to a digital platform. Blais passionately teaches a popular elective law class where students gain insights into civil and criminal law. He believes that students should be required to take a class in law, so they are knowledgeable about their civic duties.

“The key that a lot of students need is a basic understanding of what their rights and responsibilities are,” says Blais. “It’s tough to be a good citizen when you don’t even understand what is required of a citizen. I think it’s a very important class. We think we know the basics, but oftentimes, a situation arises, and you may not know what the solution is.”

Originally published as a booklet in 1996, Beyond High School was distributed to graduating high school students throughout the state, preparing them for the responsibilities of adulthood. In 2001, its content was made available on NHBA’s website under the LRE section until 2017. In 2018, the information was re-published as a comprehensive book with input from various attorneys and teachers who helped review and edit the content. Further updates were made in 2019, including additional sections contributed by Jennifer Eber. The book’s illustrations were thoughtfully crafted by New Hampshire students.

“Beyond High School, to me, is an opportunity to have the basic rights and responsibilities of many things students of New Hampshire may come up against in the future, laid out in front of them,” says Blais.

Initially introduced to the book by Eber, Blais distributed copies to his students, recognizing its value. However, he observed that students preferred seeking information online instead of carrying a physical book. Recently, Blais was approached by Judge Landya McCaffer-ty with the idea to make Beyond High School more accessible and better fit the needs of the students. “I have the perfect opportunity here,” Blais says. “I have 100 students coming in next year who are going to be leaving high school soon. This is an opportunity for them to be the resource we need to figure out what students that age want to look at, read, or watch. Instead of brainstorming what kids want, let’s just ask them.”

The law class students will actively participate in the project progresses, other law teachers and their classes from around the state will contribute to breaking the content into more manageable pieces that better resonate with high schoolers. They will also play a pivotal role in determining the most effective means of distributing the information. Blais hopes that as the project progresses, other law teachers and their classes from around the state will contribute to the idea to make Beyond High School more accessible and better fit the needs of the students.

While the book was initially made available on NHBA’s website, Blais anticipates that the new digital platform will be substantially completed by the end of the upcoming school year. Those interested in contributing to the project or visiting his class can contact him at ablais@sau16.org.

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We honor referral fees. Let’s work together for your clients’ Personal Injury and Medical Malpractice claims.
By Misty Griffith

No one understands the unique challenges faced by attorneys better than another practicing attorney. If you are struggling with professional stress or seeking to achieve the elusive work-life balance, it is important to realize that you are not alone. Insight from peers can provide useful strategies for coping with the demands of the legal profession. Our lawyer-to-lawyer wellness series shares advice from attorneys, for attorneys.

Judith N. Reardon,
Reardon Law Office, Chocorua

“Since I am a solo practitioner, and nearing retirement, I’ve had the fortunate opportunity to try out the following ideas:

1. Have a companion (adult, child, or animal) who insists on having some fun and sulks persuasively if you don’t join in. (Companion must also be understanding when it’s important worktime, or when some time spent quietly working or clearing your desk will really help your mind frame.)

2. Be clear to clients about when you can do things and stick to that promise. Most of them are human enough to not demand that everything be done “as immediately as possible,” especially if you have already handled their emergency promptly. But they do need to know when you will do it, so they can plan. If you are working on emergencies constantly, or if your client isn’t that reasonable, you should seek different cases, or break down the case into manageable pieces with such deadlines. Once you have given yourself the reasonable deadline, you can have your “mandatory fun time” (item 1 above) with a clear conscience and still professionally satisfy yourself and your client.

3. Let your staff protect you. Give your employees enough information so they can do some things for you, such as paralegal work, talking with clients, organizing something for you, collecting information, or doing your scheduling, per item 2.

4. Don’t create minefields for yourself! If there’s a deadline, meet it. If there’s a bill to pay, pay it. If there’s bad news to give someone, figure out how best to present it with constructive options and do that as soon as possible.

5. At night, after work, do at least one thing that makes you happy and one thing that gives you peace of mind. Mine are watching something fun on TV, reading an interesting news article, and cleaning up the kitchen. These are just as important as doing more client work because it keeps you balanced.

6. Life balance can be some simple things that make you happy every day: a brief walk, healthy snacks to eat at your desk, a quick chat (or text) with someone who makes you laugh, a fan at your desk to keep you cool enough, or a bit of time to solve a personal problem that’s worrying you (a dental appointment or a family member you need to contact).

7. Studies have shown that “effective people” have a morning routine before they leap into the day. It can be some exercising, or drinking coffee while watching the birds, or helping your children get off to school. (Hopefully the clear deadlines and helpful staff will protect you from finding that something bad happened while you were doing your morning routine!)

In short, having lots of time to go on vacation or go to a spa isn’t necessary if you have things every day that make you feel happy and in control. You deserve that feeling!”

Do you have tips or strategies that you have found helpful to maintain work-life balance or reduce stress in your practice? Members are invited to share their words of advice. Please email NHBA Member Services Supervisor Misty Griffith at mgiffith@nhbar.org.
In 1977, when we reached 100 women lawyers, I don’t even think any-one knew that at the time. It wasn’t un-til we did a project to identify all women who had been sworn into the Bar, looking at every single court record,” says Raiche Manning.

A celebration of New Hampshire’s first 100 women lawyers was subsequently held in May 2002, marking a significant milestone for women in the profession. The NHWBA also held a Centennial Celebration Gala in 2017 to honor 100 years of women lawyers in the state.

In April 2003, the Work Stress Relief Clinic – now known as the Annual Retreat – was held for the first time. This event brings NHWBA members together for an overnight gathering at a different location each year. The retreat includes multiple programs, CLE sessions, dinner, and an overnight stay. The goal of this gathering is to provide educational programming to promote a better work-life balance and allow members to network with one another in a relaxed setting.

In addition to the Fall Reception and the Annual Retreat, the NHWBA holds many events throughout the year. These include numerous CLEs, networking events, community service initiatives, leadership events, and leisure activities such as yoga sessions or visits to local wineries. Their most notable project is the Women to Women Project, which has earned an award from the National Conference of Women’s Bar Associations. Working together with the New Hampshire Department of Corrections, the NHWBA connects inmates of the New Hampshire State Prison for Women with attorneys, allowing the female inmates to receive legal advice, and in formation on various issues to assist in their transition out of prison.

In 2018, when they celebrated their 20th anniversary, the NHWBA launched a SHERO Campaign to honor the women heroes of their members and friends. The full list can be found on their website at nhwba.org/honor-your-shero.

The dedication and hard work of the members continues to drive the achievement of the organization’s mission.

“When you have people who stand behind your mission, it develops this cul-ture,” says NHWBA Immediate Past Presi-dent Caroline Leonard. “We are all here for the same purpose. We’re taking those forward steps to move the needle and make things a little bit better for the next gen-eration. Even if it wasn’t like that for us, we want to make things better for the next group. I think that the Women’s Bar has that attitude, and its members share that at-titude.”

Over the last 25 years, the number of women lawyers practicing in the Granite State has continued to grow. According to a study conducted by the NHBA Gender Equity Committee, women made up 29 percent of the Bar when the NHWBA was incorporated, today they make up 40 percent. Despite these improvements, there is still room for increased equity in the legal profession. Current NHWBA President Lindsey Courtney shared the organiza-tion’s goals for the coming years.

“First, is educating people about the barriers to achieving gender equity in the legal profession,” she says. “Second, we would like to increase transparency in ju-dicial selection. I think women often are not necessarily going to put themselves out there to seek judicial appointments. We have done events about what that looks like if you want to apply, but there are still some questions about the process. Third, we’d like to highlight the profes-sional accomplishments of our members. Again, I think women are sometimes hesi-tant to put themselves out there and we’d like to be that platform for them. We’d also like to promote leadership opportu-nities. There are so many, and leadership has value everywhere. Lastly, we want to ensure that our organization is sus-tainable, stable, and that we’re forward-thinking and engaged with our members to continue to grow and capture what our membership is looking for.”

As Raiche Manning and Parent look back on the past 25 years, they feel proud to have been part of creating the organization and seeing how far it has come. They also envision what it will be in the future.

“I hope that we continue to thrive with a healthy membership and that new lawyers get involved – that we continue to have programming on work-life bal ance and helping women become judges,” Raiche Manning says. “I hope that we con-tinue to have a strong and involved Board of Governors and that those women go on to run for political office, they run for posi-tions within the New Hampshire Bar, and they become judges. The Women’s Bar is a place where women grow and develop, and I hope that continues and advances to even more places.”

“I think we’ve made strides, but we still have a lot to do,” Parent says. “I envi-sion that men and women will make those strides to get us there and open the door for opportunity – not just open the door, take the hinges off, and get rid of the door. I would hope that as we look toward the future, the Women’s Bar continues to be there for its members and that it grows with the profession. I expect good things for the Women’s Bar.”

In celebrating its 25th anniversary, the NHWBA stands as a testament to the perseverance and dedication of countless women lawyers who have paved the way for gender equity in the legal profession. Looking ahead, the NHWBA remains committed to its mission of promoting opportunity and equity for women lawyers who continue to grow and develop.
In September, Dean Megan Carpenter, along with the faculty and staff of UNH Franklin Pierce School of Law, will welcome graduates to Concord for a 50th anniversary celebration of the law school. Classes graduating in “3” and “8” will also be celebrating their reunions.

The weekend of September 29 through October 1 includes two evening galas, tours of the law school, a golf tournament at Concord Country Club, and other Opportunities to connect and reconnect with members of the UNH Franklin Pierce community. The opening gala on September 29 will feature a film history of the school, while the October 1 gala will feature remarks by New Hampshire Supreme Court Chief Justice Gordon J. MacDonald and Judge Raymond Chen of the US Court of Appeals for the Federal Circuit.

What was then known as Franklin Pierce community. The opening gala on September 29 will feature a film history of the school, while the October 1 gala will feature remarks by New Hampshire Supreme Court Chief Justice Gordon J. MacDonald and Judge Raymond Chen of the US Court of Appeals for the Federal Circuit.

The brainchild of founder Robert H. Rines (dean and professor of law), the new school focused on teaching students to practice law, a novel concept in legal education at the time, and training intellectual property lawyers. The law center that exists today has not strayed far from its roots.

To help him make his vision a reality, Rines recruited Robert M. Viles (associate dean and professor of law), a man committed to providing a practical legal education and someone who also valued public service. With leadership from Rines and Viles, as well as many others, the first class of lawyers graduated in 1976. After purchasing the United Life and Accident Insurance Company building at 2 White Street in Concord, the law school found a new home in 1977. It continues to operate at that location today.

With the 50th anniversary celebration scheduled for the fall, UNH Franklin Pierce Law will honor its history and those who have made possible the institution that exists today. Visit law.unh.edu/people/alumni for a complete list of events and to register. Please contact Professor Emerita and Alumni Liaison Ellen Mussinsky at ellen.mussinsky@law.unh.edu with questions or interest in sponsorships.

In September, Dean Megan Carpenter, along with the faculty and staff of UNH Franklin Pierce School of Law, will welcome graduates to Concord for a 50th anniversary celebration of the law school.

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#1 in Verdicts and Settlements

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 at or above $1M 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

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

$4.95M Verdict
Gadde vs. Gordon, M.D., et al Failure to test for cancer

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

$28.8M Verdict
Luppolo vs. Flores, N.P., et al Leg amputation due to blood clot misdiagnosed as sciatica

$6.65M Verdict
Bunker vs. Dhillon, M.D., et al Failure to diagnose stroke

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

All verdicts include interest.
IOLTA Grant Awards up 68 Percent From Previous Year

By Mysty Shappy

In June, the New Hampshire Bar Foundation (NHBF) announced grant awards of $1.3 million to four non-profit legal aid programs through its annual Interest on Lawyers’ Trust Account (IOLTA) program. This funding is up 68 percent from the previous year’s awards and is a vital source of unrestricted funding for the nonprofit organizations who receive grants. Increased grants will provide funding for legal assistance for low-income clients across the state, including assistance for survivors of domestic violence, advocacy for individuals with disabilities, and homelessness prevention.

The IOLTA program was founded in New Hampshire in 1982 through New Hampshire Supreme Court Rule 50, and the rule was updated to make the program mandatory for all pooled client trust accounts in 2011. This year’s funding is the first seven-figure award in 15 years. In 2009, the Bar Foundation awarded $1.6 million in grants, which dropped by almost half in 2010. The amount of revenue available for grant awards primarily depends on the interest rates paid by financial institutions that hold these accounts, which have been historically low since the financial crisis of 2008. Rising interest rates, while generally not favorable to consumers, have had a positive effect on IOLTA revenue. Monthly revenue has been up almost 300 percent this year over the same time in 2022.

Organizations receiving grant funding this year are New Hampshire Legal Assistance, 603 Legal Aid, Disability Rights Center – NH (DRC-NH), and the New Hampshire Bar Association’s Lawyer Referral Service – Modest Means program. Some of the funding was also allocated to support the NHBF’s Law School Loan Repayment Assistance Program, which is an important tool for these organizations when recruiting and retaining staff attorneys.

“Thank you to the attorneys, banks, and the Bar Foundation,” DRC-NH Executive Director Stephanie Patrick says. “Funding through the IOLTA program helps us to fight discrimination and work toward an inclusive, accessible, and just society.”

The NHBF manages the program and works tirelessly to maximize the financial resources it can disburse to the charities. In addition, five members of the New Hampshire Bar volunteer their time to help review applications and ensure the thoughtful and equitable distribution of New Hampshire IOLTA funds. Practicing attorneys can support the program by choosing to have their IOLTA at a Leadership Institution. Over half of the revenue from the IOLTA program is received from this short list of banks. These institutions are highlighted in the ad below, and an updated list can be found on the Bar Foundation’s website, nhbar.org/nh-bar-foundation/

The money earned from the IOLTA program helps tens of thousands of our most vulnerable NH citizens receive free or low cost civil legal services.
The New Hampshire Bar Association would like to thank Sullivan & Hollis, Pastori Krans, and Attorney Kayla Turner, for a very successful LawLine event held on July 12, 2023.

A record 72 calls were taken from counties all over the state on a variety of legal topics including consumer matters, landlord/tenant law, real estate law, and family disputes. The NHBA is immensely grateful to all our volunteers for their continued support and participation in this valuable public service each month.

LawLine is a free public hotline, hosted by volunteer attorneys, on the second Wednesday of each month from 6:00 pm to 8:00 pm. The Bar staff forwards the phone calls from the public, so you remain anonymous.

We are currently seeking volunteers for the upcoming 2024 LawLine events.

**Brian Quirk Named a Fellow of the Litigation Counsel of America**

Attorney Brian Quirk, a partner at Shaheen & Gordon, has been named a Fellow of the Litigation Counsel of America (LCA). He is one of only 12 attorneys in New Hampshire to achieve this recognition. He joins Attorney Michael Noonan, Managing Partner at Shaheen & Gordon, who is a Senior Fellow of the LCA and has been a member of the society for more than seven years.

**McLane Middleton Welcomes Attorneys Sean Leonard, Madeline Lewis, and Susan Cannon**

The law firm of McLane Middleton is pleased to announce the hiring of attorneys Sean M. Leonard, Madeline S. Lewis, and Susan E. Cannon.

Sean is an associate in the firm’s Family Law Practice Group. Before joining McLane Middleton, Sean was a partner in a Maine law firm. He focuses his practice on various family issues including parental rights and responsibilities, divorce, termination of parental rights, and adoption.

Admitted to practice in New Hampshire, Massachusetts, and Maine, Sean can be reached in the firm’s Manchester office at (603) 628-1370 or sean.leonard@mclane.com.

Madeline is an associate in the firm’s Corporate and Tax Department. She has extensive experience advising businesses and individuals on compensatory, employment-related matters, in corporate transactions, and in day-to-day business management. Prior to joining McLane Middleton, she was an attorney at international law firms in New York and Massachusetts. Admitted to practice in New Hampshire, Massachusetts, New York, and New Jersey, Madeline can be reached in the firm’s Manchester office at (603) 628-1330 or madeline.lewis@mclane.com.

Susan is a trust officer in the firm’s Trust Services Department. She will work with grantors and beneficiaries, their fiduciaries, and financial advisors to coordinate and facilitate asset transfers, distributions, review tax documents, prepare reporting and other trust related services.

Susan began her career in 1995 as an internal auditor and compliance officer with Bank of America and then Citizens Bank. Prior to joining McLane Middleton, she was a relationship manager and vice president with Cambridge Trust in their Wealth Management group for 10 years. Susan can be reached in the firm’s Manchester office at (603) 628-1164 or susan.cannon@mclane.com.

**Coming and Going**

Attorney Quirk has decades of experience, including numerous high-profile trials and investigations. His practice is focused on white-collar defense, government investigations, and civil litigation. He has been consistently recognized as one of the leading defense attorneys in New Hampshire by peers and clients.

The LCA is an honorary society for trial attorneys with membership limited to 3,500 Fellows or less than half a percent of American lawyers. According to the LCA, “Fellows are selected and invited into Fellowship after being evaluated for effectiveness and accomplishment in litigation and trial work, along with ethical reputation.” The society focuses on diversity and inclusion and creates a community for professional development and advocacy in the law.

**Jest Is For All**

“Wonderful news -- the negligence case against you got thrown out. The plaintiff’s lawyer couldn’t establish what the standard of care is of a reasonably prudent chicken.”
Laura M. Dudziak joins Upton & Hatfield, LLP

Upton & Hatfield, LLP is pleased to announce that Laura M. Dudziak has joined the firm.

Laura brings 20 years of experience representing clients in a variety of cases including divorce, parenting, child support, domestic violence, estate planning, and civil litigation.

Welcome Laura—we are pleased to have you on our team!

GCG is pleased to welcome Emily Goering

Emily’s practice is centered on property and real estate development, with a focus in the areas of eminent domain, construction disputes, public infrastructure, and complex real estate conveyancing.

Before joining GCG, Emily was an Assistant Attorney General at the Office of the New Hampshire Attorney General.

Welcoming Two New Attorneys

It’s people at the heart of our firm

Attorney Amanda Steenhuis
Attorney Steenhuis’ practice focuses on estate planning, guardianships, and probate and trust administration. She strives to help individuals and families create comprehensive estate plans tailored to their goals. Prior to entering private practice, Amanda spent more than a decade at the New Hampshire Public Defender, where she helped vulnerable people navigate the legal system.

AMANDA STEENHUIS
asteenhuis@shaheengordon.com
(603) 546-0004
191 Main Street, Nashua, NH

Attorney Julianne Plourde
Attorney Plourde is a recent graduate of the UNH Franklin Pierce School of Law’s prestigious Daniel Webster Scholar Honors Program. Through her practical experience, Julianne developed a passion for supporting families through times of conflict and helping victims of domestic violence. She has completed Domestic Violence Emergency (DOVE) training, as well as Collaborative Divorce training.

JULIANNE PLOURDE
jplourde@shaheengordon.com
(603) 325-7262
107 Storrs Street, Concord, NH
Morneau Law is excited to welcome Attorney Stacy Wardle and Attorney Elise St. Lawrence to our growing law firm. Their expertise will support our clients requiring family law and estate planning services.

(603) 943-5647 • INFO@MORNEAULAW.COM
FAMILY LAW • ESTATE PLANNING • PROBATE
WE OFFER ZOOM VIDEO CALLS

ATTORNEY STACY WARDLE

Stacy Wardle recently relocated to New Hampshire from New York where she practiced all aspects of family law for many years. At Morneau Law, she will continue to focus her practice on family law.

“These difficult times call for great sensitivity and compassion. My clients can count on me to be by their side throughout the entire process.”

ATTORNEY ELISE ST. LAWRENCE

Elise St. Lawrence is focusing her practice on family law and estate planning and will represent clients living in New Hampshire and Massachusetts.

“With determination and dedication, I will do everything that I can to advocate for my clients’ best interests.”

Devine Millimet is pleased to welcome the managing team of Greenblott & O’Rourke to their firm. Bringing a combined 54 years of experience and being a staple in the Concord and central New Hampshire area, attorneys Greenblott, O’Rourke, and Roedel are an exciting and mutually beneficial addition to the Devine Millimet team of professionals.

Seth Greenblott

Seth is a graduate of Seton Hall University School of Law, with over 10 years’ experience.

As a member of the Devine Corporate Team, he will work on a variety of matters across sectors including banking, manufacturing, business, and real estate.

603.669.1000
MANCHESTER | CONCORD | PORTSMOUTH
DEVINEMILLIMET.COM

Mary Lynn Roedel

Mary Lynn is a graduate of Seton Hall University School of Law, with over 20 years’ experience.

As a member of the Devine Corporate Team, she will work on a variety of matters within the Family Law and Probate & Trust Administration practice areas.

603.695.8750
jadams@DevineMillimet.com
www.DevineMillimet.com

Jim O’Rourke

Jim is a graduate of The George Washington University Law School, with 20 years’ experience.

As a member of the Devine Litigation Team, he will work on a variety of matters within the Criminal Law practice area along with some Family Law work.

Welcome!
By Ryan Barton

I first experienced AI hype in 1995. I was a lonely, home-schooled 11-year-old, and spent my free time learning everything possible about computers. USA Today had featured a full double-page ad with nothing but a mystical “Start” button in the middle. The countdown for Windows 95 was on. The more I learned, the more excited I became. I was about to be part of the most important technological advancement of our time—Windows 95 was going to change everything.

We have all experienced plenty of technology hype in the decades since. But I don’t think anything has quite matched the frenzy around Artificial Intelligence (AI).

It is hard to know how to respond to it. The story of AI promises disruption at such existential levels it is difficult to grasp: Are we headed for work-free, technology hype in the decades since. But I don’t think anything has quite matched the frenzy around Artificial Intelligence (AI).

It is hard to know how to respond to it. The story of AI promises disruption at such existential levels it is difficult to grasp: Are we headed for work-free, equality-for-all utopia? Or for a post-apocalyptic world serving digital overlords? Or something like this one, with another new tool and another overturned launch in our memory.

1. AI is more than technology. It is intelligence, grown on technology. Intel-
At its 46th annual dinner and awards banquet on June 7, the New Hampshire Association for Justice (NHAJ) continued its tradition of recognizing members of the legal profession for various contributions to the civil justice system. NHAJ is a statewide professional association of trial attorneys working to protect individual rights and ensure equal access to justice. The NHAJ Board of Governors dedicated the following awards:

**Thomas R. Watson Board of Governors Award to Kristin Ross**

Given to a NHAJ Board member for their exemplary support of the Association through the volunteering of one’s time, expertise, and financial support.

**Lifetime Achievement Award to Maureen Raiche Manning**

This award goes to a NHAJ member “who has made a positive impact on the lives of other attorneys, on the laws in the State of New Hampshire, for their body of work, and for their leadership.”

**Granite State Advocate Award to Jared Green, Mary Tenn, Scott Harris, and Benjamin King**

Periodically given to attorneys who, while representing their clients, pursue and help achieve substantive changes in the laws of the state which improve the civil justice system, enhance the rights of citizens’ access to the courts, preserve the right of trial by jury or enhance the right of everyone to attain full, fair, and timely remedies for civil wrongs.

**Civil Justice Award to Hon. Landya McCormett**

This award recognizes outstanding commitment to the improvement and preservation of the American civil justice system. The award is not limited to members of the NHAJ or even to attorneys.

**President’s Award to Christopher Seufert**

Given annually to the individual who, in the opinion of the president, has been of outstanding service to the Association and of particular help to the president. The award is not limited to members of the Association but may be presented to anyone who assists the Association in achieving its objectives for that year.

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**Book Review**

*Abiding Conviction: Book Three of the Dutch Francis Series*  
By Stephen M. Murphy  
Oceanview Publishing (2022), Trade Paperback, 289 pages  
Reviewed by Lynnette V. Macomber

What if the show *The Lincoln Lawyer* took place in New Hampshire? That is the question answered by author Stephen Murphy’s Dutch Francis series, with its latest installment, *Abiding Conviction*. I recently read *Abiding Conviction*, which is equal parts “whodunit” mystery and legal thriller. I found it to be a quick and absorbing read.

Murphy’s Dutch Francis series is comprised of three standalone novels that track the trials (literally) and tribulations of Dutch Francis, a fictional, Manchester, New Hampshire-based attorney. I have only read *Abiding Conviction*, the third and most recent novel in the series, but now look forward to reading its predecessors, *Alibi* and *About Power*. According to author Stephen Murphy’s website, a fourth novel in the series is also underway.

*Abiding Conviction* is any indication, Murphy’s Dutch Francis novels could easily each comprise a season of the recent Netflix show *The Lincoln Lawyer*, or a jam-packed episode of *Law & Order*. Murphy’s character, Dutch Francis, is a likeable, oftentimes relatable lawyer who somehow manages to balance a criminal murder trial – in which he is defending a judge accused of murdering his wife – with the search for his own wife, who suddenly goes missing.

So begins *Abiding Conviction’s* gripping story arch, which alternates back and forth between the search for Dutch Francis’s missing wife (a WMR Newscaresster) and the criminal murder trial that goes forward at the insistence of Francis’s client.

Murphy’s writing strikes a nice balance that is probably harder than it looks: not sinking too far into a vortex of legal jargon, while making some elements of legal strategy an interesting part of the plot. His seemingly simplistic writing style can be surprising with its effortless depth at times.

I know what you are thinking: I practice law every day – do I really want to read fiction novels about it? In this case, yes – because Murphy doesn’t make it feel like “work.” It will likely be obvious to seasoned criminal defense attorneys that some of what occurs “wouldn’t really happen in real life.” Yet – every time I thought that, Murphy surprised me with a one- or two-sentence plausible explanation. He takes complicated legal concepts and explains them in layman’s terms – without giving into the temptation to over-explain, as many real-life attorneys would.

Although the author practiced law for 34 years according to his website, Murphy doesn’t try to prove how much he knows or let that get in the way of good storytelling. The focus is always on advancing the plot, which kept me turning the pages (short, succinct chapters really helped with this). The legal aspect of the story was equal parts intriguing and digestible – with enough there for any lawyer or nonlawyer to enjoy.

It is also rare to be able to read a story that is set in New Hampshire. I couldn’t help but be charmed by references to places I’ve lived, seen, or worked, told through the first-person viewpoint of the main character. That allowed for a level of immersion I would not have expected. I was able to visualize the places Dutch Francis goes in the book – mostly in Manchester, but other places in New Hampshire and Massachusetts, as well.

The name *Abiding Conviction* comes from a California criminal jury instruction, presented at the beginning of the book: “[p]roof beyond a reasonable doubt is proof that leaves you with an abiding conviction that the charge is true. The evidence need not eliminate all possible doubt since everything in life is open to some possible or imaginary doubt.”

I think this answers the “so what?” question of the book. Sometimes, a mystery novel is just a mystery novel. But we as humans tend to look for deeper meaning – and I would be remiss not to follow my English professor’s advice from long ago and identify the “so what?” that should be answered by any piece of writing. In this case, I think Murphy’s novel looks at assumptions versus abiding convictions. We should always examine what we think we know, and the basis for it. What abiding convictions do we hold, and are we willing to be open-minded when confronted with new evidence?

My other takeaway from *Abiding Conviction* was an appreciation for my own law practice. Lawyers will recognize the intensity of the situation that Francis is in – preparing for a criminal murder trial, which most of us would put our lives on hold to prepare for, while dealing with his wife’s kidnapping, which most of us cannot imagine. Despite these incredible stressors, Francis perseveres, because that is what lawyers do. Reading this was a reminder to appreciate everyday practice, when work and life fire alarms are not always going off simultaneously. Francis’s determination was a reminder – whatever the situation, we can do this.

If you love mystery novels, I would add *Abiding Conviction* to your list for an absorbing but effortless read. The main character is an interesting narrator to follow around New Hampshire as he meets with clients, appears in recognizable court houses, and investigates legal mysteries. Like any good book (or Netflix series), my first foray into Murphy’s Dutch Francis novels left me wanting more. The only exception to this rule was Murphy’s development of female characters, which I was ultimately disappointed by – those with similar viewpoints to mine will likely understand what I mean. However, I will be interested to see whether *Alibi* and *About Power* provide some redemption in this respect.

I look forward to reading *Alibi* and *About Power* to learn more about Dutch Francis as a character, and to be absorbed into another of Murphy’s legal thriller page-turners – with a familiar New Hampshire backdrop.

Lynnette V. Macomber is an attorney at Orr & Reno who practices in civil litigation, representing individuals, businesses, non-profits, and public entities in a range of matters. She sits on both the NHBA’s Ethics and Legislation Committees and is a member of the New Hampshire Women’s Bar Association and the Charles C. Doe Inn of Court.
The 2023-2024 fiscal year budget for the New Hampshire Bar Association was presented to and approved by the NHBA Board of Governors in May. The NHBA budget is balanced, reporting an expected six percent increase in revenue and expenses over the prior year’s budget.

A conservative and creative approach, along with a dedicated and motivated staff have enabled the budget to retain the capacity for member and public service – in particular, through continued support of the New Hampshire Bar Foundation, the NHBA’s Law Related Education program, and the NHBA’s Lawyer Referral Service – without increasing membership dues. In addition, the NHBA supports the state’s Pro Bono Program administered through 603 Legal Aid, the Public Protection Fund, New Hampshire Minimum Continuing Legal Education, and the New Hampshire Lawyers Assistance Program.

### Budget Highlights

The NHBA budget totals $3.844 million.

#### Revenue Breakdown

- Fifty-five percent – Membership dues and fees ($2,078,939), which is recorded as actual membership dues collected in fiscal year 2023. Membership continues to increase by about 100 members or less and has done so over the past seven years.
- Thirty-three percent - Registration and fees, of which the majority is Continuing Legal Education revenue ($1,274,017).
- Seven percent – Publications and merchandise sales, which includes *New Hampshire Bar News* advertising and subscriptions ($282,121).
- Three percent – Substantive Law Section membership revenue ($121,250).
- One percent – Other, which includes investment income, and other miscellaneous revenue ($43,755).
- One percent – Grant and other funding for NHBA programs ($43,500).

#### Expense Breakdown

- Program Expenses are 27 percent of the total expenditure budget and relate to member and public programming and services ($1,018,593).
- Overhead costs are 12 percent of the total expenditure budget, the largest expense being occupancy costs for the owned office condominium at 2 Pillsbury Street ($482,169).

### New Hampshire Bar Association Budget for Fiscal Year 2024

**Dues Level Maintained for June 1, 2023 to May 31, 2024**

The New Hampshire Bar Association (NHBA) has kept its membership dues level constant for the fiscal year ending May 31, 2024. The budget highlights include:

- **Revenue Breakdown**
  - Membership Dues & Fees: $2,078,939 (55%)
  - Registrations & Fees: $1,274,017 (33%)
  - Publications & Merchandise Sales: $282,121 (7%)
  - Grant & Funding Revenue: $43,500 (1%)
  - Other Revenue: $165,005 (4%)

- **Expense Breakdown**
  - Personnel Expenses: $2,342,821 (60.95%)
  - Program Expenses: $1,018,593 (27%)
  - Overhead Expenses: $482,169 (12%)

### New Hampshire Bar Association

**Explanation of Largest Expenditures - Personnel Costs**

<table>
<thead>
<tr>
<th>Department</th>
<th>Full Time Staff Equivalent (FTE)</th>
<th>Positions All or Partially Funded</th>
<th>% Expense of Total Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive</td>
<td>483.717</td>
<td>12.59%</td>
<td></td>
</tr>
<tr>
<td>Business Operations</td>
<td>689.760</td>
<td>17.95%</td>
<td></td>
</tr>
<tr>
<td>Program Development &amp; Member Services</td>
<td>445.563</td>
<td>11.59%</td>
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</tr>
<tr>
<td>Marketing &amp; Strategic Communications</td>
<td>487.162</td>
<td>12.67%</td>
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<tr>
<td>Lawyer Referral Service - Full Fee</td>
<td>89.853</td>
<td>2.34%</td>
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<tr>
<td>Modest Means Referral Service</td>
<td>89.853</td>
<td>2.34%</td>
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<tr>
<td>Law Related Education</td>
<td>56.913</td>
<td>1.48%</td>
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<tr>
<td><strong>Total Personnel Costs</strong></td>
<td>2,342,821</td>
<td>60.95%</td>
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</tr>
</tbody>
</table>

**New Hampshire Bar Association**

**APPROVED BUDGET**

**May 31, 2024**

<table>
<thead>
<tr>
<th>Revenue</th>
<th>May 31, 2023</th>
<th>Change</th>
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<tr>
<td>Membership Dues &amp; Fees</td>
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<tr>
<td>Registrations &amp; Fees</td>
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<tr>
<td>Publications &amp; Merchandise Sales</td>
<td>$282,121</td>
<td>$4,002</td>
</tr>
<tr>
<td>Grant &amp; Funding Revenue</td>
<td>$43,500</td>
<td>$15,000</td>
</tr>
<tr>
<td>Other Revenue</td>
<td>$165,005</td>
<td>$33,917</td>
</tr>
<tr>
<td><strong>TOTAL REVENUE</strong></td>
<td>$3,843,582</td>
<td>$229,313</td>
</tr>
</tbody>
</table>

**Expenses**

| Personnel Expenses               | $2,342,821   | $214,321 |
| Overhead Expenses                | $482,169     | $30,789  |
| **TOTAL EXPENDITURES**           | $3,843,582   | $229,313 |

**EXCESS OF REVENUE OVER EXPENSES**

- **May 31, 2024**

**New Hampshire Bar Association**

**Explanation of Largest Expenditure - Personnel Costs**

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<tr>
<th>Department</th>
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<tr>
<td>Program Development &amp; Member Services</td>
<td>445.563</td>
<td>11.59%</td>
<td></td>
</tr>
<tr>
<td>Marketing &amp; Strategic Communications</td>
<td>487.162</td>
<td>12.67%</td>
<td></td>
</tr>
<tr>
<td>Lawyer Referral Service - Full Fee</td>
<td>89.853</td>
<td>2.34%</td>
<td></td>
</tr>
<tr>
<td>Modest Means Referral Service</td>
<td>89.853</td>
<td>2.34%</td>
<td></td>
</tr>
<tr>
<td>Law Related Education</td>
<td>56.913</td>
<td>1.48%</td>
<td></td>
</tr>
<tr>
<td><strong>Total Personnel Costs</strong></td>
<td>2,342,821</td>
<td>60.95%</td>
<td></td>
</tr>
</tbody>
</table>
• The largest expense for most service-intensive organizations, are personnel costs (salary, wages, and benefits). Virtually all activities at the Bar Center are service-related; hence the single-largest expense in the budget is staffing to provide programs and services at 61 percent of the total expenditure budget ($2,342,821).

As noted above, the NHBA supports affiliates that share the Bar Center offices to include, the New Hampshire Bar Foundation – the charitable arm of the NH Bar Association – and New Hampshire Minimum Continuing Legal Education (NHSMCLE). In addition, NHBA staff also support the Public Protection Fund Committee by administering New Hampshire Supreme Court Rule 55, support New Hampshire Supreme Court Rule 50-A by administering the annual Trust Account Compliance Form filing, and assist 603 Legal Aid and New Hampshire Lawyer Assistance Program with marketing and other support.

Notice of Budget Information Session – All Members Welcome

Please attend the Budget Information Session on Thursday, September 14, 2023, at 3:00 pm for questions and discussion regarding this fiscal year’s budget. Please respond to info@nhbar.org of your intent to attend. Any questions or comments in advance of the meeting may be emailed to NHBA’s Deputy Executive Director, Paula D. Lewis, at plewis@nhbar.org.

New Hampshire Bar Association

Largest Expenditures, Excluding Personnel Costs

<table>
<thead>
<tr>
<th>Overhead Expenses</th>
<th>Budgeted Cost</th>
<th>Expense Funded by Grant or Award</th>
<th>% Expense of Budget</th>
<th>Budgeted Cost</th>
<th>Expense Funded by Grant or Award</th>
<th>% Expense of Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Occupancy (mortgage interest, CAM, maintenance)</td>
<td>242,392</td>
<td>6.31%</td>
<td></td>
<td>233,413</td>
<td>4.66%</td>
<td></td>
</tr>
<tr>
<td>Miscellaneous (includes credit card processing fees)</td>
<td>159,947</td>
<td>1.66%</td>
<td></td>
<td>162,571</td>
<td>2.50%</td>
<td></td>
</tr>
<tr>
<td>Information Services/Data Processing</td>
<td>98,244</td>
<td>2.56%</td>
<td></td>
<td>90,247</td>
<td>1.96%</td>
<td></td>
</tr>
<tr>
<td>Professional Fees (includes annual financial audit)</td>
<td>59,840</td>
<td>1.56%</td>
<td></td>
<td>65,345</td>
<td>1.16%</td>
<td></td>
</tr>
</tbody>
</table>

Program Expenses

| Printing & Materials (includes CLE materials for members) | 71,460        | 1.86%                           |                    | 70,825        | 1.96%                            |                    |
| Facilities & Meals                                      | 65,231        | 1.70%                           |                    | 30,080        | 0.83%                            |                    |
| Law Related Education Programs                          | 63,334        | 1.65%                           |                    | 60,834        | 1.68%                            |                    |
| Member Services Affinity Partners                       | 62,892        | 1.64%                           |                    | 62,892        | 1.74%                            |                    |
| Midyear Meeting Expenses                                | 62,620        | 1.63%                           |                    | 93,720        | 2.59%                            |                    |
| Practical Skills Member Workshops                       | 53,785        | 1.40%                           |                    | 43,785        | 1.21%                            |                    |
| Program Development & Training                          | 53,585        | 1.39%                           |                    | 48,405        | 1.34%                            |                    |
| Postage                                                | 48,620        | 1.26%                           |                    | 54,148        | 1.50%                            |                    |
| Annual Meeting                                          | 39,800        | 1.04%                           |                    | 57,652        | 1.60%                            |                    |
| Officer & ABA Delegate Allowance                         | 38,210        | 0.99%                           |                    | 34,755        | 0.96%                            |                    |

Total Percentage of Budget: 29%
with a case involving a sexual assault. The victim had previously been assaulted in college, and the workplace assault triggered PTSD that affected her career.

“That was my employment law training,” says King, who had taken no employment discrimination classes while in law school. “The outcome we obtained helped the woman rebuild her life. I was challenged by the substantive law, and I also felt deeply rewarded by the work that we accomplished. I continue to feel rewarded by the work I accomplish for people subject to discrimination in the workplace.”

King grew up in Chelmsford, Massachusetts, the child of a music-minded father who had once played tenor sax in a Navy band, and a mother who was also a music aficionado with a large collection of Frank Sinatra records.

He remembers being four years old and wanting nothing more than a KC and the Sunshine Band album. “I was fascinated with the record album and the fact that there was music revealed when the needle hit the record,” he says. “Music has been a source of inspiration and comfort throughout my life.”

King attended Dartmouth College with a double major in government and English, and had aspirations of a career in pulmonary medicine, inspired by the doctors who had helped him with his asthma earlier in life. But a course in organic chemistry convinced him that “my talents tended more toward the written word and persuasive argument.”

A summer internship in the City of Portsmouth legal department clinics his career plans. The city negotiator enlisted King’s help in preparing a Supreme Court brief, which in 1992 still meant traveling to the Franklin Pierce Law Library to do research.

“I honestly found it thrilling,” King says. “My mind said, this is like a treasure hunt.”

He went on to the University of Virginia School of Law because of that experience “and the sense that this career would provide an intellectual challenge, a suspicion that has proven true,” he says.

Upon graduation, King worked at Boynton Waldron, Doleac for four years, stayed at another firm for less than a year, then joined Douglas, Leonard & Garvey, where he has been for 21 years. His focus areas include plaintiffs’ employment law, personal injury, and workers’ compensation cases, as well as those involving property rights disputes.

In one of his most memorable cases, just as the pandemic was starting, he represented an African American woman with a record of success as a sales professional who felt she was subject to adverse treatment under a new supervisor because of her race. King flew to Los Angeles to depose the human resources director, who insisted his client had never complained of race discrimination, then flew to South Carolina to depose the alleged harasser, who had left the company.

During the deposition, the accused harasser told King, “I knew your client complained of race discrimination because after your client went to HR, HR went to me and said I’d been accused of racism,” King recalls.

His client had accompanied him to the depositions “and it was very validating for her,” he adds. “What we showed was not only did the employer not take any remedial action but tried to cover it up.”

King’s work has won the admiration of his longtime paralegal, Susan Mello, who calls him “an excellent employment, discrimination and workers’ compensation attorney who goes the extra mile for his clients,” as well as colleagues like Nancy Richards-Stower.

“Over 20 years ago, Ben joined our employee rights group, the New Hampshire chapter of the National Employment Lawyers Association,” she says. “I was blown away by his brilliant writing: pure poetry. Ben’s stories of sharing music with his late parents are epic; his own courage in the face of challenges, inspirational; and I dare you to ask him which Dave Matthews Band album is the best, or which DMB live concert was his favorite.”

“He has the risk-taking spirit to help take on contingent cases knowing he will only be paid if he prevails,” law partner Charles G. Douglas, III, says. He has known King for more than 20 years. “Due to his mastery of the law and facts in dispute, he almost always prevails and has a happy client.”

He adds that King “gives tirelessly to the National Employment Lawyers Association and is always willing to write a brief for the New Hampshire Association of Justice.”

King is the current president of NELA and is treasurer of the Disability Rights Center-NH, where he has been on the board since 2020. He has also authored the Superior Court digest for the New Hampshire Association of Justice Trial Lawyers Quarterly for 20 years. He is a past president of the New Hampshire Association for Justice and continues to serve on the board of governors and was on the Rye zoning board for 13 years.

King says he is indebted to his parents for his professional success. When his mother died in 2022, he founded the Joyce D. King Memorial Scholarship in the Town of Chelmsford Public Schools, where she worked and where he attended school. It awards $2,500 annually to Chelmsford High School graduates pursuing careers in education.

King has also written fondly of his father, Thomas J. King, in poignant and often funny columns in the Concord Monitor, including one about his father taking him to his first rock concert in the midst of a raging blizzard. A theater buff, King has a collection of playbills, and enjoys travel, often designing a vacation around a concert, as when he ventured to northern England after a Rolling Stones concert in Liverpool.

He attends eight to ten concerts a year and counts as his favorite the time he watched Van Halen in 1986, standing next to the stage as the famed guitarist did a soundcheck.

“I’m sure my mouth was agape,” King says. “I met his eyes at the end of the solo and he winked at me.”

“Music of all the art forms is the art form that most powerfully triggers memories,” he adds. “I can hear a song and I can remember when I first heard it or when it was part of the soundtrack of my life.”

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SEPTEMBER 2023

THU, SEP 14 – 10:30 a.m. – 2:30 p.m.
What Lawyers Need to Know About Business
• 150 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

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

WED, OCT 25 – 9:00 a.m. – 12:30 p.m.
Representing Start-Up Charities: A Pro Bono Alternative for the Transactional Attorney
• 195 NHMCLE min.
  • Concord – NHBA Seminar Room

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

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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.

What Lawyers Need to Know About Business
(Facilitated by Hon. John Lynch)

Thursday 10:30 a.m. – 2:30 p.m.
Sept 14

UNH Franklin Pierce School of Law, Concord

Many attorneys represent businesses, or business people, as clients. It is useful to understand how business people view their challenges, opportunities, and problems. The goal of the day is to give attorneys a better appreciation of what their business clients care about and are trying to accomplish.

Program instruction will be entirely case method. Given this, participants should be well-prepared in advance and have read thoroughly and analyzed the cases provided prior to the program. Participants may be randomly called upon to offer their perspective. The cases discussed are taken from the capstone course, “The CEO Experience” recently offered at the Tuck Business School, and currently being taught at the Harvard Business School.

Topics will include an examination of the customer, defining quality, developing financial strategies, managing change, including technological innovation, mergers and acquisitions and leading turnarounds. The principles are the same for small businesses, start-ups, or larger companies.

You will not want to miss the opportunity to attend this in-person only event!

22nd Annual Labor & Employment Law Update

Thursday 9:00 a.m. – 4:30 p.m.
Sept 21

UNH Franklin Pierce School of Law, Concord

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
Becky Howlett, The Legal Burnout Solution, Philadelphia, PA
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 Legal Burnout Solution, Philadelphia, PA
Kevin W. Stuart, Bernard & Merrill, Manchester

2023 Patent Law Update:
Key Developments in Patent Litigation and Patent Prosecution

Wednesday 12:00 p.m. – 1:00 p.m.
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, Nieves IP Law Group, LLC, Manchester
Kimberly A. Peaslee, Concord

For more information or to register, visit https://nhbar.inreachce.com
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Over 175 individual members of our Bar and over 40 non-NHBA members volunteered (some multiple times) during the 2022-2023 CLE year as faculty panelists, program chairs and moderators in more than 40 high quality, live and remote NHBA•CLE seminars. Together, faculty donated thousands of hours of time to share their knowledge and expertise with colleagues statewide and beyond. Without the professional commitment of these volunteers, the New Hampshire Bar’s CLE programs would not have been available to the many individual Bar members who attended. NHBA•CLE programs consistently receive very positive participant evaluations. Please – when you see these individuals let them know you appreciate their important contributions to the competency and professionalism of the New Hampshire Bar Association. On behalf of the entire CLE Committee and staff, we wish to thank all members for their continued support of NHBA•CLE efforts.

*Please let us know if we have left you off our list in error. We apologize for any oversights.

Michael G. Rupley
McLane Middleton Professional Association

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Rath, Young & Pignatelli, PC

Christine S. Anderson
Ansell & Anderson, PA

Gary N. Apfel
Simpson & Mulligan, PLLC

Kenneth C. Bartholomew
Rath, Young & Pignatelli, PA

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Ford, McDonal & Borden, PA

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NH Attorney General’s Office-DOJ

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Sullivan & Hiltos, PLLC

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William S. Gannon, PLLC

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NH Superior Court

Hon. Bruce A. Leary
NH 9th Circuit Court - District Division (ret.)

Jonathan A. Las
Gallaher, Callahan & Gartnet, PC

Hon. James H. Leary
NH 9th Circuit Court - Family Division

Kristin A. Lindsey
Nedelman Stanzel & Lindsey, PLLC

Laura B. Lombardi
NH Attorney General’s Office-DOJ
Throughout her career, Justice Nadeau has received multiple awards. In 2013, she received the Caroline Gross Fellowship Award to attend the John F. Kennedy School of Government program on Executive Leadership; the Eric Busswell Achievement Award, recognizing commitment to addressing the over incarceration of offenders with mental illness; and the Marilla M. Ricker Achievement Award, presented by the New Hampshire Women’s Bar Association to women in leadership positions. In 2015, she received the Advocacy Award from New Futures and the Wheelock-Nardi Advocacy Award from the Mental Health Center of Greater Manchester for her work advocating for those with mental health and substance use disorder. In 2016, she was awarded the Kathleen Taylor Legislator Award from the New Hampshire Alcohol and Drug Abuse Counseling Association. In 2017, she received the LePage Award from the New England Association of Drug Court Professionals, and then she received the Perkins Bass Fellowship from the Nelson A. Rockefeller Center, Dartmouth College in 2021.

Just recently, at the 2023 Annual Meeting, she received the NHBA’s Justice William A. Grimes Award for Judicial Professionalism.

Justice Nadeau says she feels lucky for where her career has taken her and that it has been satisfying every step of the way, but that it is time to retire.

“It feels like it’s time for someone else to come take a fresh look at things,” Judge King says. “I also feel excited about the opportunity to contribute in a different way by getting more involved in the boards I’m already on, hopefully a couple boards here and there, and getting more involved in my local community.

She says she plans to do some traveling, to take the time to become fluent in Spanish once more, and to take up the clarinet again.

Among the many mentors she has had throughout her career, Justice Nadeau counts retired New Hampshire Supreme Court Chief Justice Linda Dalianis as one of the biggest.

“She blazed the way for women,” Justice Nadeau says. “I will never forget when I was first nominated, I was required to go to the Judicial College for two weeks in Reno, but my twins were only nine months old. The attorney general put me in touch with [Dalianis] and asked her if I should request an exception. She said, ‘Absolutely not. You need to go. I was a mom, and I did it. You will be a good mom and a good judge.’ That was the best advice I had from her.”

Justice Nadeau says that Superior Court Administrator Karen Gorham has also been a mentor.

“Technically, she works for me, but she is a mentor, equally,” Justice Nadeau says. “She’s a problem solver. She knows how to bridge gaps between sides that aren’t necessarily agreeing on things. She is as much of a mentor to me as my dad and Linda Dalianis were.”

Justice Nadeau says she has been a phenome

nal leader who leads by example.

“I’ve been an attorney since 1990,” Gorham says. “I had so many different bosses and supervisors, and until allowing Justice Nadeau to be my mentor, I didn’t understand how a great supervisor can change your work environment. I have loved my job ever since – and it’s because of her.”

Gorham continues: “She will be sorely missed in retirement, but is leaving the Superior Court with a wonderful legacy of collaboration and innovation. Her leadership has taught us all how to meet the needs of the court and its litigants while being thoughtful and compassionate in the process. She’s been a phenomenal leader in the judicial branch, a wonderful colleague to her peers, and a wonderful manager to her Superior Court team. I think I can speak for everyone’s heart when I say how much loyalty she has cultivated among all of us. She hasn’t asked for it, but she gets it because of her actions and the way she responds to people.”

Justice Nadeau plans to continue public service as a Senior Active Judge sitting one or two days a week, doing mediations, and covering for drug court judges, as needed.

“It’s really been a privilege to bear witness to the human condition and to use my position in a way that recognizes the work they are doing things against the law,” Justice Nadeau says of her career. “People are struggling with mental health and substance issues, and to be able to come up with ways for them to get their lives back on track has been really meaningful to me.”

Governor Chris Sununu has nominated Superior Court Judge Mark E. Howard to be the next Superior Court Chief Justice. If confirmed, he will succeed Justice Nadeau.
Prison Series from page 3

NHDOC leased the former Hillsborough County House of Corrections in Goffstown and moved the female prisoners there. However, the cramped and antiquated facility was never intended for long-term use as a prison and did not include any of the same programs and services available to the male inmates in the NHSPM. After decades of legal battles stemming from a class-action lawsuit on behalf of women state prisoners by Elliott Berry and Alan Linder (both formerly of New Hampshire Legal Assistance), the new facility in Concord was built in 2018.

The Transitional Housing Units and the Transitional Work Center

Shea Farm House was the first housing unit to open off the grounds of the state prison. It now houses female inmates preparing for their return to society. Photo by Tom Jarvis

The NHDOC operates three transitional housing units (THU) and one transitional work center. Formerly known as halfway houses, THU are minimum-security facilities that hold inmates nearing their parole dates as they seek work and prepare for their return to society. The Shea Farm THU in Concord, established in 1973, became the first housing unit to open off the grounds of the state prison and now houses exclusively female inmates. In 1979, Calumet THU in Manchester opened and houses male inmates. The newest, which opened in 1996 and houses male inmates, is North End THU in Concord. The Concord Transitional Work Center, constructed in 1988, is for male inmates with six months or less remaining in their sentence. It is the final stage of an inmate’s confinement before they are released back into the community.

According to the NHDOC, the average annual cost to keep someone in prison is $54,386 and the average cost for supervising someone on probation/parole is $603 per year.

In an effort to reduce the rate of incarceration in the Granite State, the New Hampshire Judicial Branch has implemented prison diversion initiatives such as the drug and mental health courts, that combine community-based treatment programs with strict court supervision and progress incentives and sanctions.

According to the National Institute on Drug Abuse, 85 percent of the US prison population has an active substance use disorder or were incarcerated for a crime involving drugs or drug use. Superior Court Chief Justice Tina Nadeau worked with stakeholders to bring the drug court program statewide, so there is now a drug court for each county.

The next article in the NHBA Prison Series, running in the September issue of Bar News, will explore what happens when a person is charged and subsequently convicted of a crime. This will include sentencing and the first days of quarantine in prison, called Reception and Diagnostics.

The statistics in this article were compiled using data from the Prison Policy Initiative, the World Prison Brief of the Institute for Crime & Justice Policy Research at the University of London, the Bureau of Justice Statistics, the National Institute on Drug Abuse, and the New Hampshire Department of Corrections. Additional information on the state prison system was provided by Attorney Robin Melone.

Endnotes
2. Mass incarceration is a term coined by David Garland, Arthur T. Vanderbilt professor of law and professor of sociology at New York University, as a shorthand to characterize the fact that the US incarcerates more people than any other nation in the world.

The Lakes Region Facility in Laconia was closed on June 30, 2009. Photo by Annmarie Timmins/New Hampshire Bulletin

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Workers’ Compensation and Personal Injury

Seven Tips for Young Personal Injury Lawyers

By James Hawthorne

Managing your caseload: Don’t bite off more than you can chew!

Young associates have all been here. In the drive to build your client base and add to your file list, there is a temptation that exists to take on as many files as you can. While this makes sense for building a young career, it is important to remember to have realistic expectations about the volume of cases young attorneys can reasonably manage. Personal injury cases are similar to gardening. They require consistent work and maintenance to yield the greatest rewards. Be willing to refer cases within your firm, or outside, if you feel you are at max capacity. As new lawyers, we are still learning to be efficient and effective at the practice of law, and some files are simply too large or too complex. That is okay! More will come with time.

Client intake and retention: Show some personality.

The practice of law is an inherently client-oriented role. Clients come into our practices at some of the most difficult times in their lives. Make their experience as stress-free as possible. To keep the clients who come in the door, clients often need to see that we are not just lawyers, but that we are human beings, as well. Ask about your client’s lives, how they are doing, and connect with your clients if you can. This connection is valuable both in keeping clients happy, and in making them feel heard. More immediately, this also helps to build your reputation among your fellow attorneys.

Client contact: Manage your client, and their expectations.

Client communication is the most critical development skill for new attorneys. I have found that many personal injury clients look forward to hearing updates from their attorneys. As such, it behooves you to stay on top of your client’s course of treatment by communicating with them on a regular basis. That way, when the adjuster calls for an update, you can quickly re-cite the facts of your case, and can quickly re-cite the facts of your case, and can quickly recall information, opposing counsel and their adjusters should notice and respect this. Knowledge and understanding will lead to higher offers. It also helps to build your reputation among your fellow attorneys.

Communication: Every conversation is a negotiation.

This is most important when communicating with insurance companies and opposing counsel. That said, communicating with your clients is just as important. As an attorney, your words in conversations, knowledge about your case, and strength of your convictions all send subtle messages to the other side. While these subtle negotiations may not have the direct confrontation of a mediation, your case will be evaluated based on these small matters. If you sound like an expert in the law, know the facts of your case, and can quickly re-call information, opposing counsel and their adjusters should notice and respect this. Knowledge and understanding will lead to higher offers. It also helps to build your reputation among your fellow attorneys.

File review: Be your case’s best expert.

There should be no one who knows your files the way you do. You spend more time with your client, spend more time analyzing medical records, and understand nuanced legal advantages or disadvantages better than anyone else. As discussed earlier, this foundational knowledge leads to more respect with opposing counsel, higher offers from adjusters, and happier clients. Also, if the partner ever asks about a file, being able to speak with knowledge and expertise about your file list helps both your clients and bosses have confidence in your work.

Professionally: Don’t be afraid to ask for help.

The New Hampshire Bar Association and various other programs afford young attorneys greater access to mentorship than any other state. Through the many means of reaching out to senior attorneys, there is always someone who experienced your situation (or something very similar to it) and will be willing to give advice. From the NHBA Mentor Advice Program to the various listservs like the New Hampshire Association for Justice (NHAJ), it is important to take advantage of the many resources afforded to you. In my experience, I have never been turned away when I reached out for advice, and I have found more experienced attorneys are excited to share their wisdom with younger attorneys.

Continuing education: Train yourself to navigate insurance to maximize recovery.

Issues with insurance are one of the most common reasons personal injury attorneys are hired. Learning how to navigate the world of insurance is one of the greatest assets you can bring to your clients, and the source of most of your common questions. From learning about liens, subrogation, or PIP laws in Massachusetts, learning the nuances of the insurance system will maximize your client’s recovery and set their minds at ease. Discussions of these topics can be found on the NHAJ website and the many CLEs and Webinars available through the NHBA website.

Thankfully, New Hampshire is a wonderful state to practice law. The best advice I can give as a young attorney is that if you need help, ask for it. There is always someone in New Hampshire willing to help.

James W. Hawthorne joined Parnell, Mchels & McKay in 2021 after he earned his JD from the University of New Hampshire Franklin Pierce School of Law and graduated Cum Laude as part of the esteemed Daniel Webster Scholar’s Program. James is admitted to the United States District Court for the District of New Hampshire and works primarily in the areas of personal injury, workers’ compensation, and employment discrimination.
Workers’ Compensation and Personal Injury

An Update on the Law of Civil Sexual Abuse Cases in New Hampshire

By Peter Hutchins

While the perpetrator of a sexual assault is liable for damages suffered by the victim for assault and battery – since individual perpetrators are either uninsured or any applicable insurance is excluded as an intentional and/or criminal act – practitioners should seek to determine liability on the part of institutional defendants with insurance (e.g., employers, schools, landowners, churches, the State, etc.). This article discusses the law to be applied in such cases.

I. Statute of Limitations

Initially, it must be determined whether the applicable statute of limitations has expired. At the very least, a minor victim has until his or her 30th birthday to file suit. RSA 508:4-g. For an adult, the limitation period has been three years. RSA 508:4, I. Both statutes contained a discovery rule. In 2020, however, the New Hampshire legislature amended RSA 508:4-g and eliminated the statute of limitations for civil claims arising from sexual assault as defined in RSA 632-A or 639:2. An important legal question which has yet to be addressed by our Supreme Court, is whether this amendment applies only to claims in which the prior statutory limitation period has not yet expired, or whether the statute can be applied retroactively to cases where the prior applicable statutes of limitations have passed.

In cases against the State of New Hampshire (e.g., YDC, DCYF, etc.), the State has consistently taken the position that the strict three-year statute of limitations contained in the sovereign immunity statute (RSA 541-B:14, IV) applies regardless of the age of the victim or the ability of the victim to discover the harm and relationship to a state agency. The State’s position admittedly results in the absurd result that a three-year-old child in State custody must file suit by the time they are six years old – even if they remain in State custody.

In Petition of NH Div. for Children, Youth and Families, 173 NH 613 (2020), the Supreme Court held that the discovery rule did apply to sexual abuse claims against the State. The issue of whether the minority/disability tolling provision of RSA 504:8 also applies to the State is currently on appeal to the New Hampshire Supreme Court in C.M. v. NJ.HY. DHHS, et al, Merrimack County Superior Court 217-2019-CV-677 (Order of August 27, 2021). The issues of the retroactive application of the amended RSA 508:4-g eliminating the statute of limitations, as well as the prior version of that statute extending the age 30 limitation period are currently pending in the Merrimack County Superior Court, David Meehan v. State of NH – Department of Health and Human Services, et al, and all consolidated YDC and YDSU Cases, 217-2020-CV-00026.

II. Duty and Negligence

A claim against an institution or legal entity or person other than the perpetrator essentially alleges that said defendant was negligent in failing to protect the victim from foreseeable harm (i.e., the sexual assault). Before such a negligence claim can be asserted, however, it must be shown that the defendant owed the plaintiff a duty at law. Whether such a duty exists is a question of law. Dupont v. Aavid Thermal Technologies, 147 NH 706, 709 (2002) (plaintiff decedent shot and killed by co-worker on employer’s premises).

Since sexual assault is a criminal act, the duty would be one to protect the victim from harm caused by the criminal conduct of another. Generally, in New Hampshire “a private citizen has no general duty to protect others from the criminal attacks of third parties.” Id.

However, the New Hampshire Supreme Court has recognized three exceptions to this general rule where a tort duty to exercise reasonable care would arise: (1) a special relationship exists; (2) special circumstances exist; or (3) the duty has been voluntarily assumed.” Remsburg v. Docusearch, Inc., 149 NH 148, 154 (2002).

The “special relationship” exception

UPDATE continued on page 32
Handling a Massachusetts Car Crash? You Better Know PIP

By Shawn J. Tennis

What is PIP?

Personal Injury Protection, also known as PIP, is a no-fault insurance coverage included in every Massachusetts automobile insurance policy. PIP was established by Massachusetts General Laws Chapter 90, Section 34M. PIP will provide an injured party with either $2,000 or $8,000 in coverage for either medical expenses, lost wages, and/or replacement services. It is important to note that a claim for PIP benefits must be made within two years of the date of the incident.

PIP and the Massachusetts Tort Threshold

In Massachusetts, in order to bring a personal injury claim that is based on a motor vehicle collision, the medical expenses must exceed $2,000. There are five notable exceptions when the tort threshold will not apply: (1) the incident results in death; (2) the incident consists of the loss of a body member; (3) the incident involves permanent and serious disfigurement; (4) the incident results in certain types of loss of sight or loss of hearing; or (5) the injuries consist of a fracture.

If none of those exceptions apply, and the medical bills are less than $2,000, then in Massachusetts, you cannot move forward with a personal injury claim. The reason for this threshold is PIP. Every motor vehicle crash in Massachusetts should have some sort of PIP coverage available. Thus, since PIP will typically pay at least the first $2,000 regardless of fault, your medical bills must be higher than that to have a personal injury claim.

Determining the Amount of PIP Coverage

Depending on the circumstances and applicable insurance coverages, PIP benefits available to the plaintiff will be either $2,000 or $8,000. If there is private health insurance (such as Blue Cross Blue Shield, United Healthcare, Aetna, etc.), then PIP will only provide $2,000 in benefits. The one exception to this is if the private health insurance is an ERISA plan. If it is an ERISA Plan, then there will be $8,000 in PIP benefits available.

If the client has Medicare, Medicaid, or does not have health insurance then the full $8,000 in PIP benefits are available to the client.

Offset

You should determine early on the amount of PIP coverage that your client has available. This will affect the amount of money available to the client and the amount that will need to be subrogated at the time of settlement. Generally, insurance carriers will assume your client has full $8,000 coverage because they are a Medicare beneficiary, and they opt for a $2,000 PIP deductible. For instance, if your client has $8,000 in PIP coverage but because they have a Medicare beneficiary, and they opt for a $2,000 PIP deductible, then they will only have PIP coverage of $6,000 starting after the initial $2,000 in medical bills. Your client (or possibly their health insurance) will be responsible for the first $2,000 in medical bills before PIP will start paying for anything.

PIP deductibles can range all the way up to $8,000. When there is a PIP deductible in play, that means PIP will not provide benefits until beyond the deductible, if anything. For instance, if your client has $8,000 in PIP coverage because they are a Medicare beneficiary, and they opt for a $2,000 PIP deductible. They will then only have PIP coverage of $6,000 starting after the initial $2,000 in medical bills. Your client (or possibly their health insurance) will be responsible for the first $2,000 in medical bills before PIP will start paying for anything.

The most important piece for a practitioner to understand about PIP deductibles is that the insurance carrier can still take the offset of whatever PIP coverage would have been available notwithstanding the deductible. In the example above of a $10,000 settlement, that offer would remain the same.

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Referral Fees Honored
The Basics Still Matter

By David Gottesman

After 50 years of practice, has nothing changed? Well, some things have changed, but not the basics. We have allowed ourselves to become automated with phone systems, computer systems, iPhones, iPads, and Apple watches that let us answer our calls like Dick Tracy did in the comic strips of old. Yes, younger lawyers, Dick Tracy was a real comic strip, and he had a watch into which he could speak.

The one thing that was drilled into me as a result of an early case success was that all phone calls should be returned quickly. A friend called me to say that his acquaintance, a janitor, was trying to reach a well-known attorney, and that attorney was either just too busy or not interested in returning his call. He asked if I would return the call and I said, “of course, I would!”

I really did not have that much to do at the time and was looking for any sort of case involving personal injury. I was passionate about personal injury and products liability cases because of having Professor Tom Lambert drill into me as a law student that, “you must pay for what you break.” As it turned out, this janitor had a son who was involved in a multi-car crash that left him a paraplegic, with little ability to walk. All the parties were insured with the minimum amount of coverage available at the time, $25,000.00 per driver, totaling $75,000.00. I was able to settle these cases quickly. Certainly, this was not enough to compensate this young man.

This leads me to the second thing that I learned was necessary to be an effective lawyer and advocate. “Get out of your chair,” I was told by some of my older and more experienced colleagues. In these circumstances, what did that mean? It meant thinking about what your client is facing and thinking about what else you can do for him. For me, a fairly novice lawyer and products liability fledgling, it meant trying to find another way to compensate my client.

I started to think about the car and whether it was defective. The car that my client was in was an American Motors Javelin. It had two bucket seats and a lot of space between them. The crash occurred because an elderly driver came out of an old bridge onto the main road without warning, causing a crash that sent my client – who was the passenger – headfirst into the ceiling abutment for the back left door. As I learned, bodies travel in the direction of the impact, and my client was thrown from the passenger seat through the opening between the seats backwards to the steel abutment. To figure this out, I went to a real expert products liability lawyer in Boston who gave me some advice. He told me to hire an expert to look at the car, which was at the owner’s house in a suburb of Nashua. I had never hired an expert before.

This brings me to the third thing that I learned about these cases; if it is over your head, get help.

So, I hired an expert. I don’t remember how I found him, but I do remember the examination of the vehicle that he conducted. I remember because he had me lay in all different poses in the car to show how easy it was for a body to fly from the front seat to the back upon a rear impact. He took tons of pictures. He felt that there was just too much room between the seats and that was a bad thing. I then took the pictures back to the lawyers in Boston, and to my surprise, I was told that this could very well be a case. I was thrilled. They told me to go buy the car. What? Really? They actually wanted me to buy the car.

Back out of my chair, I went to the owner’s house where the car had been stored just a week or so before – but it was not there. I knocked on the door and the mother of the driver said a junk dealer gave them $50 and hauled it away the day before.

Now what? I went to the phone book’s yellow pages (remember those?) back at the office and looked up every junkyard in the southern New Hampshire area where it might have been towed and drove around.

**BASICS continued on page 32**
SB 71: Expanding Firefighters’ Cancer Presumption Under RSA 281-A:17,II

By Jared O’Connor

In June of this year, the legislature sent to Governor Sununu for signature Senate Bill 71, an important update to the presumption that exists in New Hampshire Workers’ Compensation law that cancer disease in firefighters – whether regular, call, volunteer, or retired – is occupationally-related. Initiated by prime sponsor Senator Sharon Carson, and passed unanimously through both the House and Senate, SB 71 is a model of bipartisan cooperation and reflects committee findings that cancer occurs at much higher rates in firefighters than in most other professions due not only to their hazardous work environment, but in a cruel ironic twist, to chemical off-gassing from the very PPE required to survive that environment.

As of August 1, the bill has not yet been signed, but will take effect immediately upon passage.

This cancer presumption has formally existed in some form since 1989, though its practical effect has been stymied for decades and has only recently seen real-world application. As originally drafted and enacted in 1989, RSA 281-A:17,II limited the application of the presumption to types of cancer known by the International Agency for Research on Cancer (IARC) to be caused by heat, radiation, or a known carcinogen. For years, this would have included cancers resulting from soot or asbestos exposure, such as lung, thyroid, and colon cancer.

The benefit of this early presumption was also contingent on the firefighter having been in service for ten years, and that the employer voluntarily had in place a policy that follows the fire standards and training commission curriculum requirement for best practices for use and cleaning of equipment. (This latter is paradoxical, in that an employer’s failure to follow such best practices would presumably leave the worker at greater risk of exposure to carcinogens. The thinking may have been that in such instances, causation is easier to prove, and no presumption is necessary; or perhaps it was meant to encourage employers to adopt such practices for the health of their workers).

The law was immediately challenged on constitutional grounds, and in N.H. Municipal Trust v. Flynn, 133 N.H. 17 (1990), the New Hampshire Supreme Court (NHSC) ruled it an unfunded mandate on municipalities. The law was immediately challenged on constitutional grounds, and in N.H. Municipal Trust v. Flynn, 133 N.H. 17 (1990), the New Hampshire Supreme Court (NHSC) ruled it an unfunded mandate on local governments in violation of Article 28-a of the New Hampshire Constitution.

The law then remained in limbo until July 2018, when the legislature finally provided the funding necessary to remove the constitutional taint.

But in the intervening decades, occupational epidemiological studies have increasingly demonstrated that cancers of all kinds are more prevalent in firefighters than was known in the 1980’s. Worldwide longitudinal studies have coalesced around recognition that firefighters are exposed to class 1 and 2A carcinogens the entire time they are on duty, resulting in oxidative stress and inflammation at a cellular level.

Exposures include not only the polycyclic aromatic hydrocarbons and volatile organic compounds that are the byproducts of combustion, but also chemicals with which firefighters’ PPE is treated.

As a result, the IARC (the cancer agency of the World Health Organization, the findings of which RSA 281-A:17,II explicitly incorporates) has released Monograph 132 to update its conclusions for 2023. For the first time, the IARC has classified the occupation of firefighting wholesale as Group 1: “carcinogenic to humans.” This is the highest hazard category in the IARC Monograph classification system.

Therefore, even in the absence of SB 71, the already-existing RSA 281-A:17,II would incorporate this higher classification into the law by reference to the IARC. But by de-linking the presumption from the evolving findings of the IARC, SB 71 eliminates the need to litigate precisely which cancers may meet that standard. Instead, SB 71 simply provides that “cancer disease in a firefighter … is occupationally caused,” full stop.

The function of a legal presumption in workers’ compensation was well-articulated by the NHSC in Cunningham v. City of Manchester Fire Department, 129 N.H. 232 (1987) when discussing the substantively identical presumption of heart disease in firefighters, “The apparent purpose … is to implement a social policy of providing compensation to firefighters where … the medical evidence fails to establish the etiology of the plaintiff’s [cancer] disease. The defendant bears the burden of persuasion and can rebut the presumption only by producing evidence that one or more non-occupationally related factors were probably more the cause of the plaintiff’s [cancer] than his [firefighting] occupation.” (Emphasis added).

The passage of SB 71 does not mean that every cancer-related workers’ compensation claim will be approved. It simply means that in those cases where the evidence does not clearly indicate whether the cancer was occupationally caused, the benefit of the doubt works in the favor of the firefighter. If a firefighter’s cancer is medically determined to be not work-related, the presumption fails. But SB 71 is a critical legislative directive that if the employer fails to meet its burden to prove a probable non-occupational cause, the firefighter will have a compensable claim.

Jared O’Connor is a partner at Shaheen & Gordon, PA and has been litigating workers’ compensation cases on behalf of injured workers since 2003. He sits on the NH Compensation Appeals Advisory Board and is the NHAJ attorney member of the Governor’s Commission to Study PTSD in First Responders.
Juries Are the Backbone of Civil Litigation: Should Courts Protect the Anonymity of Jurors?

By Scott Harris

In August of last year, a New Hampshire jury acquitted Volodymyr Zhukovskyy, then 26, of seven negligent homicide charges, seven manslaughter charges, and a single reckless conduct charge. A week earlier, the trial judge had dismissed eight additional charges related to driving under the influence of drugs, due to the prosecution’s failure to produce sufficient evidence to support those charges.

The Zhukovskyy case, involving as it did the unspeakable tragedy of seven lost lives, generated significant national interest. The jury’s verdict after approximately three hours of deliberation was condemned by a number of individuals as erroneous. While the trial itself was undoubtedly interesting and well tried, this article considers the Boston Globe’s post-trial petition to have the court disclose the names and addresses of the jurors who sat in judgment of Mr. Zhukovskyy.

Trial by jury has a history that stretches back to the signing of the Magna Carta over 800 years ago. It has persisted over eight centuries because it is the best system we have to discern liability and damages in civil cases, and guilt and innocence in criminal matters. As noted by the trial judge in Zhukovskyy, “[t]he obligation of jury service is one of the most important that our government imposes on its citizens. It is, therefore, important to ensure that the fulfillment of this obligation is not made so burdensome that it becomes more than a citizen should have to bear.” State of New Hampshire v. Zhukovskyy, Coos County Superior Court, No. 214-2019-CR-00078, Order dated April 4, 2023 at 9, citing United States v. Chin, 913 F.3d 251, 261 (1st Cir. 2019).

In order to decide whether to divulge to the Boston Globe the names and addresses of the jurors, the trial judge appointed amicus counsel to interview the jurors to discern their views on disclosing their names to the Globe reporter. Amicus counsel reported that the jurors were uniformly opposed to the court’s disclosure of their names and addresses and thereafter subject to requests by the Globe. One juror stated that he had begun to carry a gun for protection against those who had spoken harshly about the verdict and the jurors who delivered it. After the verdict, the jury was condemned by members of the general public and public officials alike. Although those commenting harshly on the verdict had not sat in the courtroom and listened to the evidence for 12 days, they were obviously disappointed and angered by what they perceived as an unrequited tragedy.

With the input of amicus counsel, the trial court undertook to balance the jurors’ and media’s competing interests in disclosure. When considering jurors’ privacy interests, the trial court pointed out that today, with the advent and prevalence of social media, the risk of potential harm to the jurors whose identity is widely shared can be significant. Take, for instance, a local restauranteur who served on a jury that delivered an unpopular verdict. There is virtually nothing that would keep those dissatisfied with that juror’s service from negatively rating their restaurant in response to that disaffection. Likewise, jurors who are also parents would naturally be concerned that their children could be marked for negative comments or worse. The risk of community censure is amplified multifold by social media in a way that was not the case even 15 years ago. Another important factor favoring keeping the jurors’ identities in confidence is the potential harm to the jurors whose identity becomes public.

Another important factor favoring keeping the jurors’ identities in confidence is the fact that the jury’s verdict was not unanimous. Of the six jurors interviewed by amicus counsel, one was of the opinion that the accused was guilty because he was drunk behind the wheel; a second juror commented on the stress and tension created by the trial; another had found the trial to be too lengthy, stating that he did not have time to interview continuning on page 32

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It’s different here

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Juries from page 31

dence is the impact disclosing that in
formation to the news media could have
on the ability to attract future jurors and
sure their impartiality. Knowing that
one’s decision may be dissected publicly
and subject the individual to the public’s
anger, might cause individuals to attempt
to avoid jury service and to make their
decisions based on what the juror thinks
will be the more popular decision (and
how the verdict will be covered in the press,
notwithstanding what an unvar-
ished view of the evidence would dic-
tate as a result.)

The trial court balanced the jurors
expressed aversion to having their names
and contact information disclosed to the
Boston Globe with the newspaper’s
interest in examining every aspect of a
case that had garnered national attention.

As argued by the Globe, disclosure of
the jurors’ names and address informa-
than “it gives the perception of
ight about the trial, the judicial system,
and post-trial comments about the jury’s
verdict from those jurors who are willing
to speak with its reporter.”

Reporting on the trial process in Zhus-
kovskyy case is the sort of activity that is
at the core of First Amendment values in
that it offers a public exploration of one
of our most important rights—the right
to be judged by one’s peers. See Opinion
at 12, quoting Nebraska Press Ass’n v.
Stuart, 427 U.S. 539, 587 (1976) (Bren-
nan, J., concurring).

The trial court’s decision not to or-
der disclosure of jurors’ names and con-
tact information was fortified in part, by
the fact that the trial had been live
streamed allowing the press, even those
who chose not to travel to Lancaster, to
observe the proceeding and form their
own opinions as to Zhuskovskyy’s guilt or
innocence. Moreover, the State and Zhus-
kovskyy’s lawyers had the juror identity
information available to them at the time
the case was empaneled, relegating the
 jurors’ individual identities to the status of
trial artifact.

He was lucky, however, while there are oc-
casions when it would be in the public’s
interest to allow follow-up inquiries about
duty deliberations (such as when counsel
calls the jurors after 30 days have passed
since the verdict), the Zhuskovskyy fact pat-
tern was not one of them.

Scott Harris is a director in McLane
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FIP from page 28

even if your client had a PIP deductible of
$2,000 and had to pay for the initial medical
expenses out of pocket.

There are situations where, because
of the PIP deductible, the final offer may not
even fully compensate for all the medical
bills. Unfortunately, the case laws support
the application of the PIP offset even where
there is a deductible. If you are in this situa-
tion, you need to try and reduce all the bills
as much as possible. If that is not enough,
then litigation may be necessary.

Conclusion

Personal Injury Protection coverage is
an important aspect of motor vehicle
claims in Massachusetts. If you do not under-
stand how PIP works, then you are doing your cli-
et a significant disservice. You need to un-
derstand the amount of the PIP benefits
that your client is entitled to receive, how much
was in fact paid out by PIP, and whether
there is a deductible in play. If you do not
have a handle on this, you need to contact
your lawyer and demand to meet with them
in order to understand your Massachusetts
motor vehicle case.

Shawn J. Tennis is an associate attorney
at Ward Law Group, PLLC. His areas of
concentration include personal injury, work-
ers’ compensation, and civil litigation. He
is also a member of the Massachusetts Bar
and the New Hampshire Association for
Justice.

Endnotes
1. M.G.L. Ch. 90, Section 34M.
2. Id.
3. See Insurance Company Insurance v. Sear-
5. Id.
6. Id.
7. Id.
9. Peter E. Hutchins is a solo practitioner in
Manchester and past president of the
NHBA who has personally handled sev-
eral hundred civil and personal injury cases
on behalf of victim plaintiffs, including
claims against the Diocese of Manches-
ter, Archdiocese of Boston, public and
private schools, daycares, DCYF, foster
care providers, medical providers and
the Boys Scouts and other youth
organizations, and numerous other insti-
tutional defendants.

Basics from page 29

looking for the car. As I pulled into the third
junkyard, I saw “our” car dangling from the
jaws of a crane about to drop it into a
crusher. I jumped out of my car, screaming
to the help of the Boston lawyers, this case
would have been sunk. It was my first expo-
rence, and the path that I have been on since to make
my mark. It was my first expo-
024 to 2008. He is also a past president of
the New Hampshire State Bar and a past
president of the New Hampshire
Association for Justice.

David Gottesman has been practicing law
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and currently focuses on personal injury,
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2004 to 2008. He is also a past president
of the New Hampshire Association for Justice.

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Young Adult Court: A New Pilot Program for At-Risk Youth

The Hillsborough County Superior Court, Northern District, is launching a pilot project that will create an alternative sentencing track for individuals between the ages of 18 and 25 who have been charged with a crime and present a high risk of recidivism for a new offense without close supervision.

The pilot, referred to as Young Adult Court, was developed in collaboration with the Departments of Corrections and Health and Human Services, as well as the Hillsborough County Attorney’s Office and the New Hampshire Public Defend-er. It will provide services, including job training, education assistance or support, mental health treatment, and case management intended to enable participants to develop the skills necessary to lead a productive life and avoid further involve-ment with the criminal justice system. The initial pilot will involve five individuals. Its effectiveness will be evaluated after 18 months.

“Hillsborough County Young Adult Court fits in well with effort by the New Hampshire criminal justice system to de-velop programs such as Drug Court and mental health courts that are designed to reduce recidivism through alternatives to incarceration,” Superior Court Chief Jus-tice Tina Nadeau says. To be eligible for participation, an ap-plicant must agree to be sentenced to par-ticipate in the program for 12 months and follow the rules of the program. An ap-plicant’s pending charges cannot involve certain serious violent crimes, including homicides, sexual assaults, or shootings in which another person was injured.

Defendants will be held accountable through frequent, random drug testing, re-creational meetings with a probation officer, regular status hearings in front of a judge, and a team that includes the prosecutor, defense lawyer, probation officer, and a case manager.

The Young Adult Court judge will use incentives to promote positive behavioral change and sanctions to discourage nega-tive behavior. As participants meet certain benchmarks, they are granted more privi-leges, such as fewer court appearances and reduced curfew hours. Benchmarks include successfully passing a high school equivalency test, getting a job, demon-strating responsible decision-making, and complying with program rules.

If a participant does not meet the program’s expectations, the Court will impose consequences. If a participant is ultimately unsuccessful and is terminated from the program they may be sentenced to incarceration.

“The most rewarding cases I have presided over involve defendants who are headed down a bad path but who take ad-vantage of an opportunity to make positive change in their lives,” says Superior Court Judge N. William Delker, who will be pres-id-ing over Young Adult Court cases. “It often takes a lot of hard work by the defen-dant and the criminal justice system, but the end result is worth it.”

The pilot is modeled on similar youth-ful offender treatment courts around the country. MY TURN, Inc., a regional non-profit with an office in Manchester, will be providing case management services for Young Adult Court.

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**NH Supreme Court At-a-Glance**

**July 2023**

**Charitable Trusts**

**In Re Robert T. Keeler Maintenance Fund for the Hanover Country Club at Dartmouth College, No. 2022-0145**

**Affirmed**

- Whether the trial court erred in finding that the putative intervenors did not have standing to intervene in a proceeding brought under the Uniform Prudent Management of Institutions Fund Act.
- Whether putative intervenors have a vested interest in funds if the application of the cy pres doctrine is not an available remedy due to a lack of general charitable intent.

Dartmouth applied to the Circuit Court under the Uniform Prudent Management of Institutions Funds Act (UPMIFA) to modify restrictions on the permissible use of the Robert T. Keeler Maintenance Fund for the Hanover Country Club at Dartmouth College. After Dartmouth decided to permanently close the Hanover Country Club golf course.

The putative intervenors, the Rob-ert T. Keeler Foundation and Peter P. Mithoefer, the fiduciary for the Estate of Robert T. Keeler, alleged orders of the trial court that: (1) denied their motion to intervene in proceedings; and (2) granted Dartmouth’s assented-to application to modify the restrictions governing an institu-tional fund created by a charitable gift pursuant to the last will and testament of Robert T. Keeler. The putative intervenors argued that the trial court erred in deny-ing their request to intervene because they had “special interest” standing pursuant to In re Trust of Eddy (2019) under the Blasko five-factor test, therefore granting the assented-to application was in error.

The Court found that the putative intervenors did not have standing to intervene under the UPMIFA. The Court summar-ized that In re Trust of Eddy the Blasko five-factor test applies to ongoing charita-ble gift trusts. The Court declined to extend the Blasko five-factor test to a completed charitable gift that was subject to a peti-tion brought under the UPMIFA. The Court noted that the putative intervenors cited no case in which any court has ap-plied the Blasko five-factor test to deter-mine whether a deceased donor’s estate and a former contingent beneficiary had special interest standing to intervene in a proceeding brought under the UPMIFA.

The putative intervenors also argued that denying their motion to intervene vio-lated the State and Federal Constitutions because it deprived them of a “vested in-terest” in the funds if the application of the cy pres doctrine is not an available remedy due to a lack of general charitable intent. The putative intervenors cited to a 1953 Opinion of the Justices in which the Court discussed the common law cy pres doctrine to permit departure from the literal terms of a charitable trust. The Court found that, similar to the Uniform Trust Code’s modification of the cy pres doctrine, the provision of the UPMIFA at issue does not condition the grant of an application to modify the restrictions on a charitable gift upon proof that the donor had a general charitable intent, but rather that the donor had such an in-ntent.

McLane Middleton, Manchester (Ralph F. Holmes on the brief and orally) for the petitioner. John M. Formella, attorney general, and Anthony J. Galdieri, solicitor general (Diame M. Quinlan, director of charitable trusts, and Michael R. Halsey, assistant director of charitable trusts, on the memorandum of law, and Michael R. Halsey orally, for the respondent. Labowe & Tasker, Concord (Danielle C. Gaudreau and John E. Labowe on the brief, and John E. Labowe orally, for the putative interve-nors.

**Criminal Law**

**In Re D.J., No. 2021-0560**

**July 13, 2023**

**Affirmed**

- Whether the evidence was sufficient for the trial court to find that a juvenile made “repeated communications” un-der RSA 644:4, I(b), in an adjudication alleging the offense of harassment.
- Whether RSA 644:4, I(b) is substantial-ly overbroad or overbread as applied.

In a delinquency petition based on the offense of harassment pursuant to RSA 644:4, I(b), the juvenile challenged the sufficiency of the evidence supporting the “repeated communications” criterion, and that the statute is overbread on its face and as applied.

The Court affirmed the trial court’s finding that over an eight-minute en-counter the juvenile imparted a series of messages, both verbal and non-verbal. The Court found that when an individual makes a verbal remark, rejects an opportu-nity to stop communicating with the recipient, and imparts another message, a break has occurred sufficient to make the communications repeated.

Addressing the first constitutional argument, the Court found that RSA 644:4, I(b) is not substantially overbread under State v. Gubitosti (2008) (finding RSA 644:4, I(b) is not unconstitutionally overbroad in the context of private phone calls). The court disagreed that Gubitosti did not consider its application in the context of public speech and declined to con-sider overruling Gubitosti in the absence of any argument for such relief.

Addressing the as applied argument, the Court found that RSA 644:4, I(b) is not unconstitutional as applied because it is content neutral, narrowly serves a govern-ment interest, and allows other opportuni-ties for expression.

Christopher M. Johnson, chief appellate attorney, Concord, on the brief and orally, for the respondent. The Court found that RSA 644:4, I(b) is not substantially overbread under State v. Gubitosti (2008) (finding RSA 644:4, I(b) is not unconstitutionally overbroad in the context of private phone calls). The court disagreed that Gubitosti did not consider its application in the context of public speech and declined to con-sider overruling Gubitosti in the absence of any argument for such relief.

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un sustainably exercised its discretion because the trial court set forth alternative grounds for its decision and the appealing party challenged only one of the grounds on appeal.

Self-represented petitioner Welts, White & Fontaine, Nashua (Michael J. Fontaine and Israel F. Piedra on the brief), for the respondent.

Insurance
CC 145 Main, LLC v. Union Mutual Fire Insurance Company, No. 2021-0376
July 20, 2023
Affirmed

• Whether the trial court erred in finding an exclusion provision to be ambiguous.

CC 145 Main’s (Appellee) insured property sustained damage when a tenant poured cat litter down a toilet clogging an interior pipe and causing water to overflow from a shower and toilet, requiring significant cleaning and repair. Appellee filed an insurance claim with Union Mutual (Appellant) for water damage, which Union Mutual denied pursuant to a provision in the insurance policy excluding coverage for damage caused by “[w]ater that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump or related equipment.” Addressing cross-motions for summary judgment, the trial court found the water exclusion provision to be ambiguous and construed it in favor of the Appellee. The trial court reasoned that it was unclear whether the word “drain” in the water exclusion applies to shower and toilet drains because such drains are set apart from sewers and sump pumps, which are typically external features.

Appellant argued that the trial court erred in finding the water exclusion ambiguous because the only reasonable interpretation of the exclusion is that it applies to water that overflows from drains, including toilet and shower drains. The Appellee argued that the context of the provision limits its applicability to water damage precipitated by off-premises circumstances or events. Interpreting the contract language in context and with reference to dictionary definitions and similar interpretations from other jurisdictions, the Court found that both parties presented reasonable interpretations, resulting in the provision being ambiguous and construed against the insurer.

Stehbins, Lazar & Vanderbeeken, Manchester (Henry B. Stehbins on the brief and orally), for the plaintiff. Primmer Piper Eggleston & Cramer, Manchester (Gary M. Burt and Bailey M. Robbins on the brief, and Gary M. Burt orally), for the defendant.

Public Health
In Re G.W., No. 2021-0525
July 13, 2023
Affirmed

• Whether the trial court properly ordered involuntary admission after overruling a psychiatrist’s medical opinion on mental illness.

• Whether trial court properly considered past acts in determining dangerousness.

• Whether trial court erred in ordering appellant remain in jail until a bed became available in the mental health system.

Trial court ordered that the Appellant be admitted to the mental health system involuntarily. Appellant claimed that the trial court erred in ordering involuntary admission based on insufficient evidence that she met either of the admission standards of a mental condition resulting from mental illness or dangerousness. Appellant also claimed that the trial court erred by ordering her to remain in jail pending availability of a bed in the mental health services system.

With respect to the sufficiency of the evidence to find a mental condition resulting from mental illness, appellant claimed that the court made an error of law overruling the examining psychiatrist’s medical opinion on the existence or absence of a mental illness pursuant to RSA 135-C:34. The Court found that trial court did not err when it made the requisite additional finding under RSA 135-C:45, I, and overruled the expert’s opinion the appellant did not have a mental illness because, although the expert’s opinion is important, it is not dispositive under RSA 135-C:45, I. The Court further found that sufficient evidence existed in the record to support the trial court’s finding, by clear and convincing evidence, that appellant had a mental illness as defined in RSA 135-C:2, X.

With respect to dangerousness, Appellant argued that the Court should impose the 40-day limitation in determining whether past acts are sufficiently recent to support a finding of present dangerousness. Appellant argues that the proposed use of the warehouse was consistent with the plain language of the zoning ordinance, was not supported by the record, and was influenced by improper considerations.

The Court applied a plain reading of the ordinance and found that the proposed use of the property falls within the definition of a Trade Business opposed to a Contractor’s Storage Yard. The Court considered the ordinance’s use of the word contractor and considered the examples of contractors listed in the ordinance’s definition of Trade Business, finding the proposed use consistent with those examples.

The Court also considered the definition of a Contractor’s Storage Yard, and the listed examples of the types of contractor activities and equipment stored at such a site, finding that the record did not support that the proposed use of the warehouse was consistent with such activities or equipment. As such, the Court determined that the proposed use was more consistent with a permissible Trade Business. The Court also found that the Board impermissibly considered evidence of past zoning violations at other properties within and without Plaistow.

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**Civil Rights**


Plaintiff Robert Arias alleged that several Drug Enforcement Administration agents violated his rights under the Fourth Amendment by using excessive force on him during a September 2016 arrest. Arias claimed damages from the agents under Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971). Defendants moved for summary judgment, arguing that the DEA’s alternative remedial scheme promulgated under the Inspector General Act precluded a Bivens action considering Egbert v. Bouie, 142 S. Ct. 1793 (2022). The court granted defendants’ motion, holding that the DEA’s alternative remedial scheme was a special factor that the Supreme Court did not consider in Bivens, thus precluding Bivens’s application. 12 pages. Chief Judge Landya McCaffery.

Evidence; Opinion Testimony

7/14/23 ZBW Properties v. Mammoth Tech, Inc. Case No. 21-cv-1070-JL, Opinion No. 2023 DNH 086*

In advance of a jury trial in a commercial landlord-tenant dispute, the court issued rulings on the parties’ motions in limine. The plaintiff-landlord moved to exclude any undisclosed expert opinion evidence from representatives of heating, ventilation and air conditioning companies that performed maintenance work at the leased property. The defendants-tenant responded that the expert disclosure rules did not apply to documentary evidence in the form of business records that may incidentally include expert opinions, specifically, the portions of the technicians’ invoices explaining recommended repairs or part replacements for the system. The court rejected the tenant’s unsupported position and found that because it had failed to disclose any expert witnesses, the tenant “may not introduce through the technician’s narrative portions of the invoices containing recommended repairs, upgrades, or part replacements. The tenant moved in limine to exclude (1) evidence of other unrelated civil lawsuits that had been filed against it; and (2) evidence that its employees were dissatisfied with the way in which it closed its business operations. The court granted the first motion as to the three identified other lawsuits and took the second motion under advisement pending receipt of the specific information regarding the potential dissatisfied employee statements and subject to the evidence presented at trial and counsel’s trial strategies and tactics. 11 pages. Judge Joseph N. Laplante.

**Assistant Corporation Counsel**

City of Nashua

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**Attorney Position at Small Law Firm**

Are you a talented and ambitious attorney seeking a rewarding opportunity? We are a well-established small law firm dedicated to providing exceptional legal services to our clients, and we are currently seeking a skilled attorney to join our dynamic team.

Our firm focuses on estate planning and elder law and we pride ourselves on delivering personalized and high-quality legal services. We strive to foster a collaborative and supportive environment, where every team member's contribution is valued and recognized. We’re looking for an ambitious team player with a strong work ethic who will proactively focus on practice growth and high-quality work. The ideal candidate will have a license to practice in NH and/or MA, a minimum of 5 years of experience working in a law firm and/or 2-5 years of experience in relevant practice areas and have a demonstrated attention to detail and ability to manage multiple cases. Salary and benefits commensurate with experience.

Please submit your resume, a cover letter outlining your relevant experience and practice areas of interest, and any additional supporting documents to ktasker@curtinlawoffice.com. All applications will be treated with the utmost confidentiality.

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**PROBATE, TRUSTS AND ESTATE PLANNING ATTORNEY**

Morneau Law, a steadily growing Nashua firm, is seeking a probate, trusts, and estate planning attorney with 3-7 years’ experience to join our team. Someone who is dedicated to giving back to the community and a self-motivated team player would thrive in our position.

We are a community-focused and team-based firm with an emphasis on the work/life balance that includes the opportunity for a flexible schedule and working remotely. We provide a collegial and upbeat work environment with many perks to be appreciated by a new member to our team. Salary is commensurate with experience and qualifications.

Please send your cover letter, resume and salary requirements to: Employment@Morneaulaw.com

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**Trials Skills Training & Indigent Defense Certification**

The State of New Hampshire, through the Judicial Council, is seeking applications from lawyers interested in trial skills training to handle indigent criminal cases in state courts. This is an intensive training and mentoring program designed for lawyers with less than 5 years of legal experience and other attorneys lacking criminal defense experience. The program is limited to 10 participants. In exchange for training, participants will be asked to provide indigent defense representation through the judicial council’s contract attorney or assigned counsel programs.

The application and additional information may be obtained at www.nh.gov/judicialcouncil or by contacting Richard Samdperil, Acting Executive Director, Judicial Council, 25 Capitol Street, Room 120, Concord, NH 03301; or by email at richard.e.samdperil@jc.nh.gov.

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**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.
**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 telecommunications.

**Apply Here:** [https://www.appone.com/MainInfoReq.asp?R_ID=5589574](https://www.appone.com/MainInfoReq.asp?R_ID=5589574)

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**ASSOCIATE ATTORNEY**

**Labor & Employment**

Downs Rachlin Martin PLLC (DRM) - one of Northern 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 leadership 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](https://www.appone.com/MainInfoReq.asp?R_ID=5508060)
Hearings and Rules Administrator – Position #16738

The N.H. Department of Labor, Hearings Bureau seeks a full time Hearings Examiner. This position administers agency objectives through planning of organizational goals and developing program policies and procedures, and to administer the objective of the bureau of hearings by interpreting rules, policy, process and other information for the Bureau of Hearings for the Department of Labor.

Requirements:
Education: Juris Doctorate from recognized law school.
Experience: Five years’ experience as an attorney, two years of which must have been as an attorney involved with administrative law or concerned with regulatory authorities.
License/Certification: Valid driver’s license and/or access to transportation for statewide travel.
Special Qualifications: Must be an active member of the New Hampshire Bar Association and in Good Standing.

How to apply: Please go to the following website to submit your application electronically through NH First: http://das.nh.gov/jobsearch/employment.aspx. Please reference the job ID number that you are applying for: #26550 Hearings Examiner. In order to receive credit for postsecondary education, a copy of official transcripts with a seal and/or signature MUST be included with the application. You must have transcripts forwarded to the Human Resources Office with the recruiting agency. Position will remain open until a qualified candidate is found.

For questions about these positions please contact Commissioner Kenneth Merrifield at Kenneth.merrifield@dol.nh.gov or 603-271-3699.

Hearings Officer – Position #18086

The N.H. Department of Labor, Hearings Bureau seeks a full time Hearings Officer. This position conducts adjudicatory hearings and renders decisions in accordance with state laws and regulations.

Requirements:
Education: Bachelor’s degree from a recognized college or university with a major in pre-law, economics, industrial relations, business administration or public administration. Each additional year of approved formal education may be substituted for one year of required work experience.
Experience: Five years’ experience in conducting hearings or administering laws related labor insurance or business practices, with demonstrated progression of increasing responsibility either in a public or private agency or in private industry.

How to apply: Please go to the following website to submit your application electronically through NH First: http://das.nh.gov/jobsearch/employment.aspx. Please reference the job ID number that you are applying for: #32819 Hearings Officer. In order to receive credit for postsecondary education, a copy of official transcripts with a seal and/or signature MUST be included with the application. You must have transcripts forwarded to the Human Resources Office with the recruiting agency. Position will remain open until a qualified candidate is found.

For questions about these positions please contact Commissioner Kenneth Merrifield at Kenneth.merrifield@dol.nh.gov or 603-271-3699.

The Division for Children, Youth and Families is seeking Child Protection Attorneys Statewide (Keene, Nashua, Portsmouth, Rochester, Concord, and Laconia (PT))

The DCYF Legal Team is a dynamic group of experienced child protection attorneys and their legal assistants, stationed around the state, who seek judicial protection for children subjected to abuse or neglect. The focus of our work is on the immediate protection of the child and strengthening, whenever possible, families to eliminate abuse and neglect in the home. The DCYF Legal Team works in partnership with the New Hampshire Attorney General’s office. We offer paid training, competitive salaries up to $93,328.95, 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: J.D. from an accredited law school, N.H. Bar membership, a driver’s license and/or access to transportation for statewide travel, and four years’ experience in the practice of law. Recent graduates are encouraged to apply – an exception may be requested for years of experience.

How to APPLY: Please go directly to the following link to submit your application electronically through NH First: https://lmkp.nhfirst.nh.gov/lawtaprd/xmlhttp/shorturl.do?key=8AT or visit Candidate Space (nh.gov) and enter Attorney in the Job Title field.

For questions about this position, please contact Attorney Deanna Baker, Legal Director at (603) 271-1220, deanna.baker@dhrs.nh.gov.
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– Law Firm in Ohio

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