An Official Publication of the New Hampshire Bar Association

NEW HAMPSHIRE BAR NEWS

New Hampshire Bar Association 1873 - 2023 Equal Justice Under Law

Celebrating 150 Years

September 20, 2023 *Supporting members of the legal profession and their service to the public and the justice system.* Vol. 34 No. 4

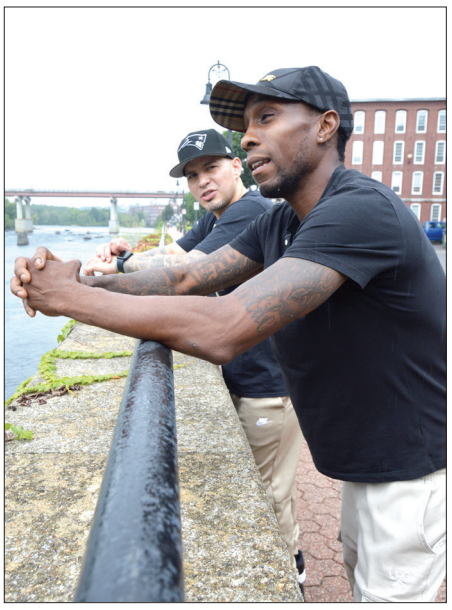
The NHBA Prison Series: The Initial Days of Serving Time

By Tom Jarvis and Scott Merrill

A crime that only takes a few seconds or minutes – a murder committed in the heat of the moment, an armed robbery – can lead to years in the New Hampshire criminal justice system. And for those facing potentially long prison sentences, the first months of incarceration can be some of the cruelest, especially for those unfamiliar with the system.

The initial shock of being in jail after an arrest, staying there while awaiting a sentence hearing, and then entering the prison system and going through Reception and Diagnostics (R&D) presents a gauntlet of psychological and social challenges. Separated from family while awaiting hearings and sentencing, learning to perfect one's "chow-hall face," and accepting – or not – a loss of autonomy, the newly incarcerated must come to terms with their circumstances and the consequences of their crimes.

Joseph Lascaze was first introduced to the criminal justice system after an arrest for armed robbery in 2005 at the age of 17 and served time in various New Hampshire prisons for more than 13 years. He says the initial days and months at the county jail were one blunt reminder after another that his life was never going to be the same. He recalls his time at the Hillsborough County House of Corrections (locally known as the Valley Street Jail) in Manchester – where he awaited sentencing for 13 months before entering the state prison following a plea deal – as the worst experience of his life.



Former New Hampshire State Prison inmates, Tony Hebert and Evenor Pineda (left) and Joseph Lascaze with Pineda (right), near Arms Park in Manchester. Photos by Scott Merrill

"I'd rather do five years in prison than a year at Valley Street," Lascaze says. "It was absolutely terrible."

Awaiting Sentencing

Defendants awaiting sentencing after being found guilty of felonies, or those awaiting plea hearings – like Lascaze – are remanded by a judge to one of the county jails. Any days the defendant serves in the county facility count toward the prison sentence, with some exceptions.

One of those exceptions is when a defendant is arrested on two charges at the same time and is held in jail pending trial or plea on both. In this case, a judge may decide to only award what is usually called "pre-trial credit" toward one of the charges.

"The law is that a defendant may not 'double dip,' which refers to a defendant getting his time awaiting a disposition to more than one charge," says Donna

PRISON SERIES *continued on page 24*

Recent SCOTUS Decision Leaves New Lawyers and Law Students Disappointed

By Grace Yurish

Following the recent United States Supreme Court (SCOTUS) rejection of President Joe Biden's plan to cancel some or all federal student loan debt, many young lawyers and law students are left worried about the financial burden that law school has put on them.

"It's depressing and disheartening to say the least," says Alex Attilli, a second-year law student at the University of New Hampshire's Franklin Pierce School of Law. "Getting rid of ten grand, or for some people twenty grand, would have been monumental. That would have canceled some people's debt, and it would have substantially reduced my own."

In a 6-3 ruling, the highest court struck down Biden's initiative aimed at providing relief to as many as 43 million federal student loan borrowers. The plan intended to eliminate up to $20,000 of debt for those who had received Pell Grants for college attendance and up to $10,000 for most other borrowers. However, SCOTUS concluded that the Biden Administration lacked the authority to forgive these debts, causing apprehension among many loan borrowers regarding their financial futures.

In 2021, the American Bar Association's Young Lawyers Division conducted a student loan survey[1] to show the debt burden among young lawyers, and the effect on their lives and well-being. Ninety percent of survey respondents borrowed student loans to pay for their legal or other education. On average, borrowers owe $108,000 in law school loans and $130,000 in all loans combined at graduation.

SCOTUS *continued on page 25*

Practitioner Profile

A Bar Members' Bar Member Keeps Paying It Forward

By Kathie Ragsdale

When Catherine Shanelaris was seven years old, she informed her parents that she wanted to grow up to be a lawyer.

"I don't know why," she says. "I never lost sight of that proclamation. It's what I always wanted to do."

That never-wavering aspiration took her to where she is today, a partner/owner in her own Nashua family law firm and a Bar members' Bar member who has served on a succession of committees dedicated to advancing the profession she loves.

Fellow lawyers have returned the favor, honoring her with numerous accolades, including the Marilla M. Ricker Achievement Award and the Bruce Friedman Award.

She says she believes in "paying it forward."

A New Hampshirite to the core, Shanelaris grew up in Franklin, attended the

University of New Hampshire, and received her juris doctor from Franklin Pierce Law Center.

Law school found her working at the New Hampshire Department of Public Safety, drafting administrative rules, followed by a position at the then-firm of Merrill & Broderick, which had just taken on several asbestos property defense cases.

"I cannot tell you how much I learned from them on how to be an attorney," she says of the Manchester firm's two founders. "John Broderick was an amazing litigator. Watching John at trial, he was just

SHANELARIS *continued on page 16*

IN EVERY ISSUE

NHBA News 2-25
Bar Foundation 10
NHBA•CLE 19-21
Practice Area Section 26-31
NH Court News 32-34
Classifieds 35-39

Periodical Postage paid at Concord, NH 03301

INSIDE

President's Perspective. Wellness, AI, Rule of Law, and Facts vs. Opinion. **PAGE 2**

Welcome New Bar Staff. Jennifer McManus. **PAGE 2**

Remembering Ivorey Cobb. NH's First Black Jurist. **PAGE 3**

Paralegal Professionalism Award. Jessica Gendron. **PAGE 4**

Young Adult Court. A Transformative Approach to Rehabilitation. **PAGE 5**

Third Annual Women Judges Dinner. PAGE 6

NHBA Welcomes Leadership Academy Class of 2024. PAGE 7

Wellness Corner. The Dangers of Perfectionism. **PAGE 8**

Flying Solo. PAGE 15

603 Legal Aid. Celebrate Pro Bono Month. **PAGE 17**

Ethics Corner. Paying with Crypto Currency. **PAGE 22**

Environmental, Telecommunications, Energy & Utilities Law
Articles with important information and updates regarding each area of law**. PAGES 26-31**

NH Supreme Court At-A-Glance. PAGES 32-34

US District Court Listing. PAGES 32,34

Attorney Wellness, Artificial Intelligence, the Rule of Law, and Facts vs. Opinion

By Paul Chant

I recently attended the National Council of Bar Presidents meeting in Denver. I am happy to report that the priorities that I indicated I strongly wanted the Bar to address this year − attorney wellness and the effect of Artificial Intelligence on the practice of law − were both issues at the forefront of the meeting. Our NHBA Midyear Meeting will focus on these two topics, as well. NHBA Executive Director George Moore and I have identified excellent, national-quality speakers in these areas, and we are excited to bring them to you.

A presentation titled *We Are Here: Our Profession* noted the following: "Thirty percent of lawyers are experiencing mild depression and 20 percent are experiencing severe depression." Add 30 and 20 and you quickly realize half of the lawyers in this country are experiencing depression. These results came from a study done by the American Bar Association (ABA). Further, greater than 50 percent of lawyers were noted to engage in risky drinking, and another 30 percent to engage in high risk/hazardous drinking. I have fallen into both categories at times. Another statistic that may well be related to stress and/or depression is that 25 percent of associates are changing jobs every year.

This year, the Bar will be looking at creative ideas to potentially enhance services to better assist with attorney health in substance misuse, work stress, financial stress, and other areas. A new NHBA Committee on Attorney Wellness will be focused on how to best help lawyers with these difficulties, both with preventive measures and assistive programs.

President's Perspective

By Paul W. Chant

Cooper Cargill Chant
North Conway, NH

The third issue that generated much discussion at the meeting was the erosion of democracy and the Rule of Law. As many of you know, government institutions – specifically our courts – have been under constant attack for years. Public confidence in the judiciary and in the United States Supreme Court is at the lowest in decades. Less than 50 percent of the people in this country have respect for the US Supreme Court. The Trump indictments, whether you believe them legitimate or not, have further eroded confidence in the judiciary and the Justice Department.

At the Denver meeting, retired US Judge Michael Luttig gave an informative speech on the Rule of Law.

"Today, three years shy of the 250th anniversary of our nation's birth, the institutions of our democracy, law, and law enforcement are under vicious, unsustainable, and unendurable attack," he remarked. "American democracy and the Rule of Law are in peril."

I urge you to read Judge Luttig's remarks from the meeting online.

In a seminar titled *A Rule of Law Crisis at Home*, William Hubbard of the World Justice Project noted that their Rule of Law Index measures Rule of Law in 140 countries and jurisdictions. Their work draws on surveys of 154,000 households and over 3,600 experts. In their most recent 2021-2022 study, they found that the Rule of Law declined in 61 percent of countries in 2021 and 2022. This follows a near decade-long trend that shows that the Rule of Law declined in 64 percent of countries during the 2015 to 2022 period.

Interestingly, and importantly for working to preserve the Rule of Law, the same study found that in countries where the Rule of Law is stronger, there is greater GDP per capita, as well as more peace, better health, and better level of education. I am very hopeful that as we move toward an election next year, the Bar will do all it can to preserve the Rule of Law and an independent judiciary.

Several years ago, I read a very interesting article called *Distinguishing Between Factual and Opinion Statements in the News.* The article noted that "in today's fast-paced and complex information environment, news consumers must make rapid-fire judgements about how to internalize news-related statements – statements that often come in snippets and through pathways that provide little context."

The Pew study focused on whether the American public can discern between opinion and fact. The study asked five factual statements and five opinion statements, all to adults. In each set of answers studied, the findings showed that most of the respondents correctly identified three out of five statements in each set. Roughly a quarter of respondents got most or all wrong.

An even more concerning recent study has shown that only 13.5 percent of American 15-year-olds can reliably distinguish fact from fiction in reading tasks. (2018 Programme for International Student Assessment.)

I had the opportunity to raise this issue with Judge Luttig following his speech. I asked him how a democratic electorate can properly discern who to vote for if they lack the ability to discern fact from opinion. Judge Luttig agreed that this is a significant problem for democracy.

So, what does the Rule of Law have to do with the Bar? Well, first, we are of-

PERSPECTIVE *continued on page 22*

NHBA Welcomes New Controller

The New Hampshire Bar Association is pleased to announce that Jennifer McManus has joined the staff as the new Controller in the Operations Department. As Controller, she is responsible for the oversight of annual license renewal, member records, and financial reporting. McManus obtained her bachelor's degree in accounting from Hesser College and brings with her over 15 years of accounting experience. Her most recent experience was with FIRST, a non-profit located in Manchester that facilitates STEM programs for more than 20,000 teams.

"I am ecstatic about my new role at the New Hampshire Bar Association," McManus says. "I look forward to working with the staff and members of the Association."

NEW HAMPSHIRE BAR NEWS

(ISSN 1051-4023)
An official monthly publication of the New Hampshire Bar Association.

EDITOR
Tom Jarvis
(603) 715-3212
tjarvis@nhbar.org

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

EDITORIAL AND MARKETING COORDINATOR
Grace Yurish
(603) 715-3214
gyurish@nhbar.org

BAR PRESIDENT
Paul W. Chant, Esq.
pchant@coopercargillchant.com

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

DIRECTOR OF MARKETING, COMMUNICATIONS & MEMBER OUTREACH
Caitlin Dow
(603) 715-3250
cdow@nhbar.org

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

Subscription price: $160/year to non-members; members, included in annual dues; $80/year to students. Advertising rates on request. Periodical postage paid at Concord, New Hampshire 03301. Postmaster: send address changes to New Hampshire Bar News, 2 Pillsbury Street, Suite 300, Concord, NH 03301.

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

NHBAR
@NHBAR
new-hampshire-bar-association
new_hampshire_bar_association

Remembering Judge Ivorey Cobb: The Granite State's First Black Jurist

By Tom Jarvis

On August 11, 2023, more than 50 people, including judges, lawyers, media representatives, and three generations of family members from across the country attended the portrait unveiling ceremony of Judge Ivorey Cobb, the Granite State's first African American jurist, at the New Hampshire Supreme Court (NHSC). His portrait is now on permanent display at the highest court in the state, just outside the law library.

The idea to honor Judge Cobb stemmed from a conversation between NHSC Senior Associate Justice Gary Hicks – whose family was friends with the Cobb family in Colebrook – and NHSC Chief Justice Gordon MacDonald.

"Judge Cobb was a trailblazer among New Hampshire jurists," Justice Hicks, who served as the master of ceremonies, said at the event. "As the first African American jurist in New Hampshire, Judge Cobb was committed to equal justice under the law. This was not just a professional standard for Judge Cobb; instead, it was the calling of his lifetime. He was a true believer in the ideals of America and was determined to make his community and his country a more perfect union."

After some brief remarks from NHSC Society President Doreen Connor, Chief Justice MacDonald then took the podium.

"On the walls of this room and throughout this building, we acknowledge and honor those who have served our state in the advancement of justice. We are surrounded by the images of some true giants of the law – innovators, pioneers, and pathbreakers. They remind us of the rich heritage we share, and they inspire us to be worthy of it. Judge Ivorey Cobb is exactly such an innovator, pioneer, and pathbreaker. He served the United States, the State of New Hampshire, and his community with great distinction. We honor this man and his career today by adding his image to our walls."

Seventeen family members from all over the country posing with Judge Ivorey Cobb's portrait at the highest court in the Granite State. Sitting from left to right: Gretel Denise Webster Jones, Marilyn McDonald Hendricks, Louise Cobb Phillips, Gretel Cobb Webster, Dennis O. Webster. Standing from left to right: Rudolph Jones holding Rudolph "Rudi" Jones, III, Donna Dinkins Hoggard, Jay Hoggard, Carissa L. Phillips, Robert E. Suggs, Amanda Crommett, Patrick Webster, Ava Webster, Nikhil Webster, Devna Webster, and Kristin Cobb Webster. Photo by Rob Zielinski

Ivorey Cobb was born in Alabama on September 28, 1911. After attending Duquesne University in Pennsylvania, Cobb began a career in journalism at the *Pittsburgh Crusader*. In 1937, he founded and began publishing the *Pittsburgh Examiner*. After marrying his wife, Elsie (Stanton) Cobb in 1938, she worked there with him to distribute the weekly editions. He later worked with the *Chicago Defender* to create the National Negro Publishing Association, now called the National Newspapers Publishing Association.

In 1942, he joined the US Army, where he served as a logistics officer during World War II and the Korean War. Throughout his military career, he received numerous commendations, citations, and medals for meritorious service and eventually earned the rank of Major. He also continued to pursue further undergraduate and graduate studies at Rutgers University, Northeastern University, and the University of Maryland Overseas Division in Austria and Italy.

In the late 1950s, while stationed at Fort Devens in Massachusetts – and working as the editor of both the *Fort Devens Dispatch* and the *Camp Drum Sentinel* – he began attending the Suffolk University School of Law. In 1960, he earned what was then known as a Bachelor of Law degree, or LLB. (In the mid-to-late 1960s, the American Bar Association encouraged law schools to upgrade the name to juris doctor to reflect the postgraduate status of the degree.)

"When he was attending classes in law school, while finishing up in the military, he would drive almost an hour home to Harvard [Massachusetts] from Fort Devens in his little Volkswagen Karmann Ghia, grab a sandwich, and then drive an hour to Boston to attend classes. It was a grind," Louise Cobb Phillips says. She is the youngest of Cobb's three daughters. "There were times when we all would go to the law library in Boston. My sisters and my mother would all be grabbing books and whatever was needed to help him research cases. It was a big family affair."

Cobb retired from the military in 1962 and opened a law practice in his hometown of Colebrook, New Hampshire. Two years later, he was nominated by then-Governor John W. King to become a Special Justice of the Colebrook Municipal Court. His appointment made national news the next day, including coverage in the *New York Times*.

"It was really huge," Phillips says. "Especially because he was a Black attorney and judge in a community where we were the only family of color. That's why it made national news."

In 1965, Judge Cobb received an honorary JD from Suffolk University School of Law, and in 1968, he was confirmed as a judge of the Colebrook District Court, where he served until his retirement in 1981. He also served on the New Hampshire Commission on Civil Rights.

Judge Cobb passed away in December 1992. Less than a year later, in August 1993, his wife Elsie died.

In the mid-1970s, Judge Cobb's eldest daughter, Marilyn Cobb McDonald, began attending North Carolina Central University School of Law. While she was away, her daughter Marilyn would stay with the Cobbs in Colebrook.

"I was the first grandchild, so I had him basically monopolized until my cousin Edmond was born," Judge Cobb's granddaughter Marilyn McDonald Hendricks says. "Granddaddy was a lot of fun. He would skip down the street with me, singing 'Skip to My Lou,' and he would race me across the yard. Sometimes he'd let me win and sometimes he didn't. He also built me a launching pad on a huge

COBB *continued on page 23*

Judge Ivorey Cobb receiving his honorary JD at the 1965 Suffolk University Law School commencement. Photo by Duette Photographers, courtesy of the Moakley Archive & Institute **moakleyarchive.omeka.net/items/show/5199**.

Jessica Gendron To Receive Paralegal Professionalism Award

By Tom Jarvis

Shaheen & Gordon paralegal Jessica Gendron will be presented with the 2023 Paralegal Professionalism Award on Friday, September 15, at the Paralegal Association of New Hampshire's Annual Meeting at the Manchester Country Club.

This annual award is presented to the nominee who best exhibits a high degree of professionalism, possesses an outstanding level of knowledge about their job, is motivated beyond expectations, is considered a role model for other paralegals, and promotes paralegal work as a profession.

"I am very happy and appreciative to be receiving this award; it's very exciting," Gendron says. "I enjoy the work I do. It is also nice to know the attorneys I support appreciate me enough to nominate me for this award and had such wonderful and kind things to say about me."

Gendron has been a paralegal for 25 years, with a focus on civil litigation, primarily in family law. She graduated from Notre Dame College in 1998 with a bachelor's degree in paralegal studies and began her career as a paralegal for attorney Ronald Caron at Brennan, Lenehan, Iacopino & Hickey.

"Jessica is marvelous," Caron says. "She is extremely intelligent, she goes above and beyond, her analytical skills are terrific, her assimilation of discovery is extremely good, her organization is beyond what one would expect, and her personality is just disarming. She is quite deserving of this award. I'm proud of her, and I can't imagine somebody more qualified than she is for this award."

In 2014, Gendron followed Caron when he joined Devine Millimet. There, she assisted him and attorney Crystal Maldonado.

"She is so well-deserving of this award," Maldonado says. "She's just so smart. Her attention to detail is amazing, her attention to financials is unparalleled, and she takes amazing care of my clients. I even get compliments from other attorneys about how good my paralegal is – and that's saying something."

Maldonado continues: "She also goes above and beyond to help other paralegals when they need it or if they are feeling overwhelmed. She's always the first one to say, 'hey, I can help?' She's been going out of her way to help the paralegals here learn better ways of doing things and to make their jobs easier and to make things better for our clients."

In January 2023, Maldonado was offered a position at Shaheen & Gordon. Since Caron announced that he would soon retire, Gendron decided to follow Maldonado.

"I can't do my job without her," Maldonado says. "She makes me a better lawyer. When Shaheen & Gordon approached me about a job with them, I said I'd be happy to join you, but only if my paralegal can come with me. She's a package deal because she really is just such a huge and integral part of my practice. We always joke that if either of us wins the lottery, we're going to have to support one another because I'm not doing this without her." ■

Shaheen & Gordon paralegal Jessica Gendron will receive the 2023 Paralegal Professionalism Award on September 15. Photo by Tom Jarvis

Past Paralegal Professionalism Award Recipients

2023	Jessica Gendron; Shaheen & Gordon
2022	Laura Maynard; Office of the New Hampshire Attorney General
2021	Diane Aikens; Office of Public Guardian
2020	Monica Marcotte; Cleveland, Waters, and Bass
2019	Tricia G. Bell; Atkins Callahan
2018	Margaret O. Conway; Orr & Reno
2017	Nancy Dorr; McLane Middleton
2016	Priscilla Sleeper; Sheehan, Phinney, Bass & Green
2015	Christine Foley; Donahue, Tucker & Ciandella
2014	Kari Fridley; Niederman, Stanzel & Lindsey
2013	Anna McLaughlin; Boutin & Altieri
2012	Stacey Peters; Preti Flaherty
2011	Suzanne Blake; City of Concord Solicitor's Office
2010	Melissa McNally; Bourque & Associates
2009	Linda Hammond Lewis; Wiggin & Nourie
2008	Candace C. Gebhart; New Hampshire Legal Assistance
2007	Anikó Bouley; Goff Wilson Professional Association
2006	Renee C. Wormell; Citizens Bank New Hampshire
2005	Deborah Snow; Anthem Blue Cross/Blue Shield
2004	Sue Gendron; Hebert & Uchida
2003	Michele Berardo; Orr & Reno
2002	No recipient this year
2001	Thomas Van Beaver; Merrimack County Attorney's Office
2000	Heather Molkentine; Hamblett & Kerrigan
1999	Lorinda Gaillard Monroe; Ransmeier & Spellman
1998	Rebecca L. Myers; Boynton, Waldron, Doleac, Woodman & Scott
1997	Cheryl Meachen; McLane, Graf, Raulerson & Middleton
1996	Merry Sweeney; Garner & Minkow
1995	Kathleen Williams-Fortin; McLane, Graf, Raulerson & Middleton
1994	Charles A. Barkie; McLane, Graf, Raulerson & Middleton
1993	Felicia Bessey; Feeney, Adams & Bennett
1992	Pauline Leman; Wiggin & Nourie
1991	Betty Jean Bailey; Sheehan, Phinney, Bass & Green

Young Adult Court: A Transformative Approach to Rehabilitation

By Grace Yurish

The Hillsborough County Superior Court North has introduced an innovative pilot program known as the Young Adult Court. This program provides an alternative sentencing approach for individuals aged 18 to 25 who have been charged with a crime and are at risk of re-offending without proper support and supervision.

The inception of the program was prompted by a suggestion from the New Hampshire Public Defender to Superior Court Judge N. William Delker, who now oversees the program. The Young Adult Court operates as a collaborative effort involving the Department of Corrections, the Department of Health and Human Services, the Hillsborough County Attorney's Office, and the New Hampshire Public Defender. Drawing inspiration from similar initiatives across the country, this pilot program seeks to address the unique needs of young adults within the justice system.

Individuals aged 18 to 25 often fall into the category of transition-age youths (TAY). While these individuals attain legal adulthood at 18, research indicates that their brains continue to develop until their mid-twenties, specifically the prefrontal cortex responsible for impulse control and abstract reasoning.[1] Treating TAYs as fully mature adults within the criminal justice system presents challenges, as their decision-making processes might be influenced by impulse rather than careful consideration of consequences.

Judge N. William Delker oversees the Young Adult Court program. Photo by Grace Yurish

"There's a lot of science behind the fact that the brain doesn't fully mature until you reach age 25," Judge Delker says. "Often, individuals in that younger age set make decisions based on impulse and lack of experience. They're not thinking about the long-term consequences of actions because of the undeveloped parts of the brain that make us think about what is good for us in the long term. Some of it is common sense, but there is a lot of science to back it up. We've all been young, and we understand that we don't make the same decisions when we're 18 or 20 that we do when we're 35 or 50."

My Turn Executive Director Allison Joseph standing with participants of the Young Adult Program. Left to right: Miguel Gensee, Abow Kulumba, Allison Joseph, Yohanni Nzomararaumwe. Photo by Grace Yurish

Engagement with the justice system during youth can lead to enduring stigmatization, reduced educational and employment prospects, and heightened chances of re-offending. The Young Adult Court aims to redirect TAYs towards positive trajectories through comprehensive services including job training, education support, mental health treatment, and case management.

Overseeing the case management aspect is My Turn, Inc., a regional nonprofit that specializes in fostering skills through alternative education, career exploration, and employment training. The program participants will be based at the Manchester location of My Turn.

"My Turn provides a whole host of different programs," says My Turn Executive Director Allison Joseph. "We do a lot of academic and employment training for people with all different potential barriers to success. Court-involved youth and young adults have always been one of our target populations, but we also serve young families, people with disabilities, and people from low-income households – anybody that might need additional help to achieve their academic and employment goals."

The pilot will host approximately five participants. To be eligible, an applicant must agree to be sentenced to participate for 12 months and to abide by the rules of the program. An applicant's pending charges cannot involve certain serious violent crimes, including homicide, sexual assault, or shooting that caused injury to another person. The program is designed for individuals at a high to medium risk of re-offending, who need a support system to guide them down the right path. Participants will be observed through frequent random drug testing, recurring meetings with a probation officer, and regular status hearings in front of a judge and other professionals including the prosecutor, defense lawyer, probation officer, and case manager.

"The program is heavily focused on rehabilitation and deterrence," says Judge Delker. "Part of that is being engaged with probation and being held accountable by the court. That's hopefully going to deter bad decision making, but also give the participants the skills to be able to be productive once they're out of the criminal justice system."

Program progress will be monitored through established benchmarks. These benchmarks include successful completion of a high school equivalency test, securing employment, demonstrating responsible decision making, and adherence to program rules. Meeting these benchmarks earns participants additional privileges, such as reduced court appearances and curfew hours. Failure to meet expectations will incur consequences determined by the court. Moreover, program termination might result in incarceration as a last-resort sanction.

Both Delker and Joseph stress the importance of participant motivation and dedication in achieving goals and eventually graduating from the program. Early signs of success have emerged in the pilot phase, with participants displaying commendable progress toward their weekly and bi-weekly goals. The professionals involved in New Hampshire's Young Adult Court program look forward to witnessing positive transformations in the lives of young adults within the state's criminal justice system. The hope is that this initiative will benefit not only the participants but also the broader community. ■

Endnote

1. nimh.nih.gov/health/publications/the-teen-brain-7-things-to-know

Members of the Bench Gather for the Third 'Annual' Women Judges Dinner

By Tom Jarvis

Seated (L-R): Hon. Talesha Saint-Marc, Hon. Anna Barbara Hantz Marconi, Hon. Susan Carbon, Hon. Tina Nadeau, Hon. Carol Ann Conboy (ret.), Hon. Andrea Johnstone, Hon. Landya McCafferty. Standing in second row (L-R): Hon. Sandra Cabrera, Hon. Kimberly Chabot, Hon. Barbara Maloney, Hon. Amy Messer, Hon. Sawako Gardner, Hon. Margaret-Ann Moran, Marital Master Nancy Geiger (ret.), Hon. Suzanne Gorman, Hon. M. Kristin Spath, Hon. Anne Edwards, Hon. Amy Ignatius, Hon. Jacki Smith. Standing in back rows (L-R): Hon. Elizabeth Leonard, Hon. Polly Hall, Hon. John Pendleton, Hon. Jacalyn Colburn, Hon. Susan Ashley, Hon. Christine Casa, Hon. Melissa Countway, Hon. Amy Manchester, Hon. Erin McIntyre, Hon. Ellen Christo, Hon. Patricia Quigley, Marital Master Harriet Fishman (ret.), Hon. David Ruoff, Referee Dianne Ricardo, Hon. Todd Prevett, Hon. Lisa English, Hon. Joseph Laplante, Hon. Ellen Joseph, Hon. Henrietta Luneau. Photo by Tom Jarvis

Thirty-eight judges got together for an informal dinner at the Red Blazer in Concord on September 6, to celebrate the growing number of women in the judiciary. All but three active sitting women judges from all the state and federal courts were in attendance (the three that couldn't make it were on vacation). Some retired women judges, marital masters, and a few male judges were also in attendance. The dinner was organized by Circuit Court Judge Susan Carbon and Superior Court Chief Justice Tina Nadeau.

"We both really appreciate the camaraderie of the women who were there," Judge Carbon says. "It's an unstated realization, if you will, that all of us had to work really hard to overcome some obstacles to get to where we are. Nobody talks about that; it's just sort of understood. So, to see this room full of women at every level of court, state and federal, was just a sheer joy."

Although this is the third dinner of its kind, it is only the second to occur annually. The first took place in 2019, with approximately 45 attendees. Judge Carbon and Justice Nadeau had intended to do it again the following year, but the COVID-19 pandemic overturned those plans. It wasn't until September 2022 that the second dinner – which consisted of 30 judges – finally took place.

"The purpose of the judges' dinner is for colleagues (men and women) to get together outside of the courtroom and spend time catching up on each others' lives," Justice Nadeau says. "I particularly enjoy getting together with judges on other courts, since we don't see each other through our daily work. Getting together socially is important. Judges spend long hours on the bench, sometimes fairly isolated from other colleagues, so spending some relaxing time together helps us stay focused and invigorated in the courtroom."

Although there was no formal program for the festivities, the guests participated in some light judicial trivia. One of the questions invited everyone to estimate the number of combined years of service (rounding up to one year for brand-new judges) there was in the room. Circuit Court Judge Elizabeth Leonard guessed the closest to the answer, which was 305 years. Another question was who attended law school the farthest geographical distance from New Hampshire, which turned out to be Circuit Court Judge Polly Hall, who went to the University of Denver's Sturm College of Law.

"There's never an agenda to these meetings other than seeing how we are growing as a group and celebrating that, and just having fun with each other," Judge Carbon says. "It's nice for the judges to see each other. We have very few opportunities for Circuit, Superior, and Supreme Court judges to get together and even fewer opportunities for state and federal. So, it may be safe to say that this is the one time in a year that all the women from all the courts have an opportunity to get together."

Although Justice Nadeau will retire at the end of the month, she will sit under senior active status like Judge Carbon, and the two plan to continue organizing these events.

"Spending time with dear colleagues is always a joy," Justice Nadeau says. "I will miss everyone after I retire but will always be engaged in this meaningful event." ■

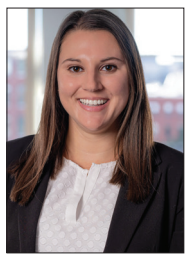
The NHBA Welcomes the Leadership Academy Class of 2024


Allen


Armillay


Ayer


Danai


Dupuis


Hedges


Macomber


Morrissey


O'Neill


Pomeroy

By Grace Yurish

This month, the New Hampshire Bar Association welcomes ten attorneys to the Leadership Academy class of 2024. Designed as a comprehensive nine-month program, the Leadership Academy aims to cultivate leadership skills and foster the professional growth of attorneys who have practiced for three to ten years. Lawyers from around the state were carefully selected to be part of this year's class of future Bar leaders. They are as follows:

Kirsten J. Allen, Shaheen & Gordon

James J. Armillay, Shaheen & Gordon

Devon L. Ayer, New Hampshire Public Defender

Afra M. Danai, Bernstein, Shur, Sawyer & Nelson

Amanda S. Dupuis, Bernstein, Shur, Sawyer & Nelson

Katherine E. Hedges, Rath, Young & Pignatelli

Lynnette V. Macomber, Orr & Reno

Jessica F. Morrissey, New Hampshire Legal Assistance

Jesse J. O'Neill, McLane Middleton

Danielle L. Pomeroy, Shaheen & Gordon

Beginning in 2010, the program's inception was inspired from the ideas of past Bar presidents Richard Uchida and Jennifer Parent. The program seeks to identify future Bar leaders, provide a program where participants can learn and strengthen their leadership abilities, offer benefits that help grow their career, and encourage participation and service in the NHBA after their graduation.

This year's participants will begin their curriculum next month with a two-day retreat at the Wolfeboro Inn on beautiful Lake Winnipesaukee. From October to June, participants will attend monthly modules addressing various topics such as business, media relations and public speaking, the New Hampshire Judicial Branch, public interest and nonprofits, and the legislative and executive branches. Through their learning, the new class will gain exposure to leaders in the legal, business, and government communities. They are also expected to complete a project to demonstrate the skills gained through their time in the Leadership Academy.

Participants will also attend the NHBA's Midyear Meeting in February and then the NHBA's Annual Meeting in June, where they will graduate from the program.

Following their graduation, Academy members will commit to two additional years of service to the Bar. This allows them to exercise their newly acquired skills and continue to grow within the profession. Previous alumni have gone on to become leaders of their firm, elected officials, and judges.

Israel Piedra, a partner at Welts, White & Fontaine, graduated from the Leadership Academy in 2022. He has previously served two terms in the New Hampshire House of Representatives and has been selected to the Super Lawyers Rising Stars list seven years in a row. He is also a member of the NHBA's New Lawyers Committee.

"The NHBA's Leadership Academy was an enriching experience that exposed me to a diverse range of industries and viewpoints," says Piedra. "Connecting with fellow new lawyers not only expanded my network but also broadened my perspective. The insights and friendships gained undoubtedly strengthened my confidence as a lawyer, manager, and member of the legal community."

Another alum of the Academy is Lyndsay Robinson of Shaheen & Gordon. Robinson is an active member of the NHBA, serving on the Board of Governors, the Board of Directors of the New Hampshire Bar Foundation, and the NHBA's Gender Equality Committee. She also is on the board of the New Hampshire Women's Bar Association. Robinson has received many accolades throughout her career including the Pro Bono Rising Star award.

"One of the best decisions I have ever made was to apply for the Leadership Academy," Robinson says. "The Leadership Academy provided me with endless opportunities and allowed me to meet members of the Bar and the legal community throughout the state that I would not have been exposed to in my day-to-day practice. I learned so much through this program and really felt like I grew as a leader. I am grateful for the opportunity to learn from others, especially to observe other leadership styles."

A reception for the new class will be held at the Bar Center in Concord on September 28. The Leadership Academy Steering Committee, NHBA staff, and Leadership Academy alumni will be in attendance to welcome the class of 2024. Congratulations to this year's Leadership Academy participants! ■

The Dangers of Perfectionism

By Molly Ranns
Director, State Bar of Michigan Lawyers and Judges Assistance Program

Editor's Note: This article originally appeared in the January 2022 issue of the Michigan Bar Journal *and is reprinted with permission.*

perfectionism /*noun*/ A disposition to regard anything short of perfection as unacceptable.[1]

Perfectionism has been identified by psychologists as a personality style characterized by an individual's concern with striving for flawlessness.[2] It is also a term routinely heard coming from the mouths of lawyers. Many of you reading this article and, in full disclosure, the one writing it are self-identified perfectionists and have been labeled so by ourselves or our colleagues, family members, and friends. In fact, some of us may even have an investment in the identity of being a perfectionist and its traits that may be considered virtuous — impeccably high standards, extreme attention to detail, and a steadfast commitment to excellence.[3]

In a society that seems to applaud constant proclamations of being busy and dismisses the notion that, at times, rest can be productive, it's not surprising that a recent study shows a 33 percent increase in socially prescribed perfectionism in the last 30 years.[4] Despite this strong need for increasingly unrealistic expectations related to education and professional accomplishments, perfectionism is not analogous to success, and research shows that the quest for it may do more harm than good.[5]

While perfectionists have been shown to have higher levels of motivation and conscientiousness than non-perfectionists, they have also been known to be overly self-critical and embrace all-or-nothing thinking — believing their performance is either perfect or a complete failure.[6] Perfectionists have been found to have higher levels of stress, burnout, and anxiety compared to their non-perfectionistic counterparts.[7] Interestingly, these same traits are found at statistically and significantly higher levels among lawyers than in the general population.[8]

Research shows that perfectionists struggle with procrastination.[9] The fear of failure can lead to an inability to complete a task or even begin it. Many refer to this as decision paralysis[10] — taking no action at all for fear that the approach isn't the absolute best. Miniscule tasks that should take no time at all are pushed lower and lower on the to-do list. Some may mistake this for difficulties with attention and concentration, or even laziness. Many perfectionists may have problems with their relationships.[11] The difficulties making and acknowledging mistakes and vulnerabilities coupled with high expectations placed on their partners can make coexisting with a perfectionist a challenge.

In addition to increased anxiety and depression and other mental and emotional struggles, perfectionists can develop more physical health issues than non-perfectionists.[12] They have been shown to experience increased headaches, fatigue, and insomnia, and chronic stress has been linked to heart disease and even a shortened life span.[13]

Those willing to turn a blind eye to emotional and physical health concerns — believing they can manage mental health issues or care for their physical well-being down the road — and confident that their perfectionistic tendencies will lead them to professional success will be surprised to hear that that belief is unfounded.[14] Research suggests that performance and perfectionism are not related.[15] In other words, perfectionists' performances are no better or no worse than that of non-perfectionists.[16]

As difficult as it is to believe, perfectionism is likely not constructive in the workplace,[17] and may actually prevent lawyers from achieving their full potential and meeting their goals. An optimal approach where one puts forth the maximum effort and accepts it as the best that he or she can do inevitably yields to increased success.[18] To those of us always searching for the perfect way to approach each and every situation — as if perfection exists — this research should actually come as a relief.

With an unyielding quest for exactness and precision in our lives, how does one take this information and manage perfectionistic tendencies before they get the best of us?

1. Remove all-or-nothing thinking. This type of thinking is unrealistic and problematic.[19] It splits one's views into extremes or dichotomies, leaving little to no gray area in between. It can lead to an inability to see alternatives and result in negative thinking patterns. Remove unconditional words like "never," "nothing," or "always" from your vocabulary and remind yourself that things are not always absolute.

2. Embrace self-compassion and learn to respect yourself. Perfectionism has been defined in this article as being overly self-critical, and the opposite of that is self-love. Self-compassion has been linked to greater life satisfaction, improved coping skills, and a decrease in anxiety.[20] Not surprisingly, it is also inversely related to perfectionism.[21] Replace your negative self-talk with positive self-talk and hold yourself in higher regard. Forgive your failures, stop the constant self-blame, and prioritize your mental health.

3. Learn from your successes. Instead of focusing on failures, look at what's gone well. Because nothing in life happens flawlessly, chances are your greatest achievements included some bumps along the way. Focusing on successes allows us to see that it is possible to achieve goals and be fruitful in our endeavors without every little thing going exactly to plan. What may seem like a catastrophe at the time could end up being the best-case scenario for the future.

As always, if perfectionism is harder to rein in than one might think, contact the New Hampshire Lawyers Assistance Program to find out about the many resources available to you. ■

Endnotes

1. *Perfectionism*, Merriam-Webster https://www.merriam-webster.com/dictionary perfectionism. All websites cited in this article were accessed December 8, 2021.
2. *Perfectionism (psychology),* Wikipedia (October 27, 2021) https://perma.cc/C8F6-H4JF.
3. Confino, *Reigning in Perfectionism,* Law Practice Today (January 14, 2019) https://perma.cc/476J-D529.
4. Lee, *The Dangers of Perfectionism,* Psychology Today (July 9, 2018) https://perma.cc/46HD-XTR4.
5. *Reigning in Perfectionism.*
6. Swider et al., *The Pros and Cons of Perfectionism, According to Research,* Harvard Business Review (December 27, 2018) https://perma.cc/M3MJ-VUCM.
7. *Id.*
8. Krill et al., *The Prevalence of Substance Abuse and Other Mental Health Concerns Among American Attorneys,* 10 J Addict Med 46 (2016), p 52 https://perma.cc/HV3F-VJED.
9. Fink, *7 Dangers of Perfectionism,* healthgrades (October 2, 2020) https://perma.cc/X79P-38SA.
10. Boyes, *How Perfectionists Can Get Out of Their Own Way,* Harvard Business Review (April 2, 2018) https://perma.cc/29LD-WCRR.
11. *7 Dangers of Perfectionism.*
12. *Id.*
13. *Id.*
14. *The Pros and Cons of Perfectionism*
15. *Id.*
16. *Id.*
17. *Id.*
18. *Reigning in Perfectionism.*
19. Chua, *How to Overcome Perfectionism: Your Complete Guide,* Personal Excellence https://perma.cc/JJ5K-N5WQ.
20. *Reigning In Perfectionism.*
21. *Id.*

Free LPM Webinar: Mastering Online Lead Generation

By Misty Griffith

On Tuesday, October 24, from noon to 1:00 pm, a free, interactive webinar, *Mastering Online Lead Generation: Strategies for Attorneys*, designed to help you take your law firm's online presence to new heights, will be presented. This is the latest offering in the NHBA's Lunchtime LPM series. The convenient virtual format will eliminate the burden of travel time, saving valuable billable time and making it easier to take advantage of this opportunity.

Law practice management (LPM) is not a skill that is typically taught in law school. However, to succeed a firm must also be a successful business. No matter the size of your firm, someone is responsible for running the business aspects of the practice. Lunchtime LPM webinars offer a chance to learn and ask questions from professionals with experience in their field. Although open to all members, this series of virtual interactive webinars is especially useful for small firms and solo practitioners.

The October 24 webinar delves into the crucial aspects of local SEO listing management and the significance of online reviews and reputation management for attorneys. Discover how local SEO can significantly enhance your law firm's online visibility and attract potential clients in your target area. Find out how local SEO helps clients find your firm and increases your chance to convert leads.

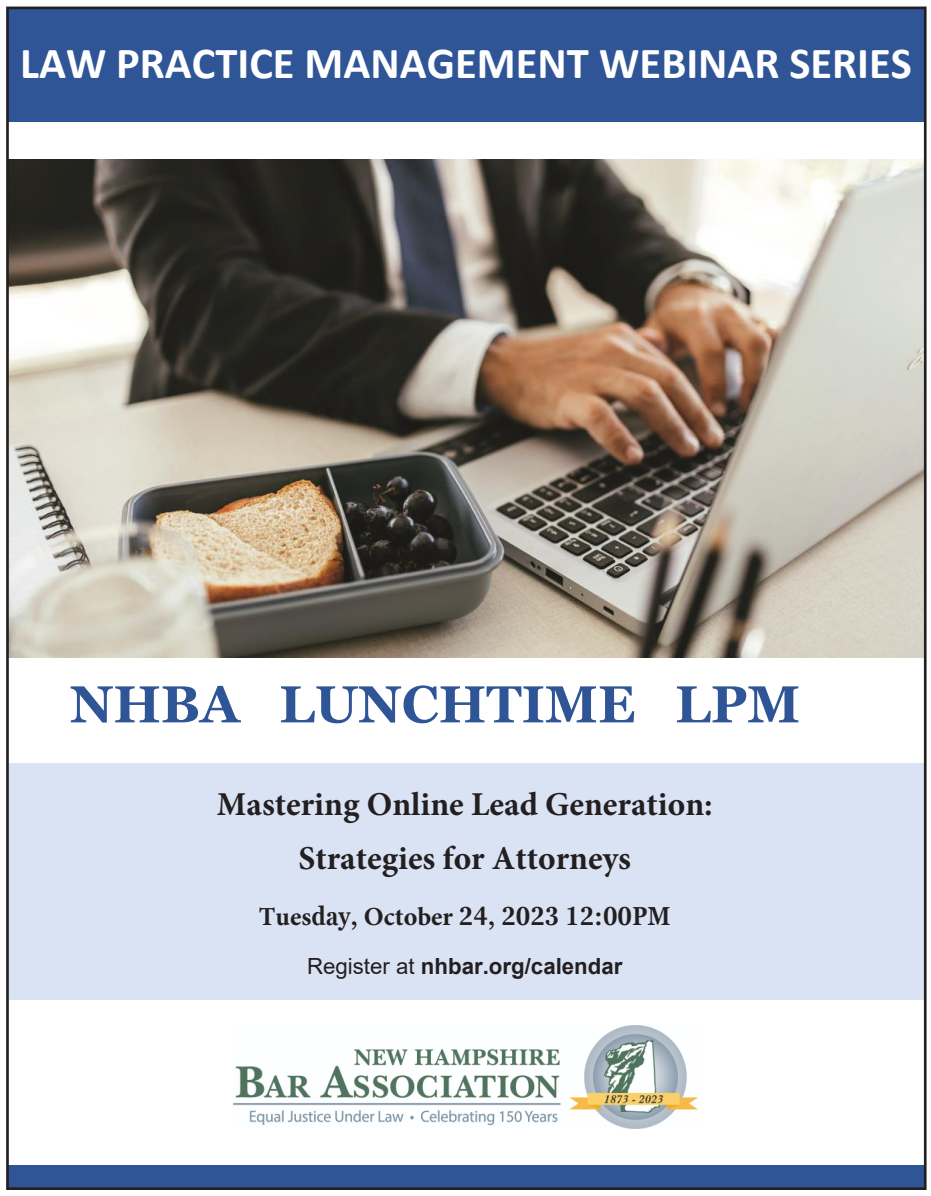
Gain valuable insights into the power of online reviews and reputation management. Learn effective strategies to manage your online reputation, engage with your customers, and maintain transparency to build trust and credibility. Understand how positive reviews can boost your revenue and attract more clients.

The webinar will be led by Link Moser, a seasoned entrepreneur and the proud owner of Windhill Design, LLC, who has a passion for helping small business owners thrive in the digital landscape. Moser specializes in generating high-quality leads through effective digital marketing strategies. With a keen eye for detail and a thorough understanding of the ever-evolving digital marketing landscape, he remains at the forefront of industry trends and best practices. By staying ahead of the curve, he offers cutting-edge strategies that deliver exceptional results.

Moser has a wealth of experience in copywriting, content writing, and all forms of digital marketing. Having built a solid reputation as a highly skilled professional in the field, he creates compelling websites that are not only search engine optimized, but also conversation optimized. He provides tailored digital marketing solutions ensuring that each client receives a personalized strategy designed to maximize their online presence and drive tangible results.

Master the art of online lead generation. Sign up on our website today. You may also register staff members for this free program. We hope you will join us on Octobert 24 at noon.

To learn more or take advantage of any of these member services, visit **nhbar.org**. If you have any questions, contact NHBA Member Services Supervisor Misty Griffith at **mgriffith@nhbar.org** or (603) 715-3227. ■



NEW HAMPSHIRE
BAR FOUNDATION NEWS

The Bigger Picture: If Not Us, Then Who?

By George R. Moore

A considerable amount of ink has been spilled in describing the success of the IOLTA program and its recent enhancement to provide over $1.5 million of funding for legal services. This has a meaningful impact on legal access to justice for all our citizens.

However, the New Hampshire Bar Foundation has a bigger mission in maintaining our fundamental constitutional values, and that is through promoting civics literacy. The independence of our courts and the checks and balances in our Constitution need to be taught, not just to children in school, but to adults in public settings. The Bar Foundation does this, both on its own and in cooperation with the court system. This past spring, the Foundation joined with the judicial branch in promoting and organizing a Judicial Outreach Week. With this initiative, judges and lawyers went to public venues such as schools, hospitals, and civic organizations to actively discuss the importance of the rule of law and our constitutional values.

The Bar Foundation actively promotes its own programs, such as the recent statewide diversity and inclusion survey. This again leads to a close cooperation with the courts, as we recently helped organize and co-sponsored the ceremony at the New Hampshire Supreme Court honoring Judge Ivorey Cobb, New Hampshire's first Black jurist.

Only through education will the public understand the values in our constitution that are built in to give faith in the fairness of our system and the dangers of unfettered power that our founders labored against.

Now in its 46th year, the New Hampshire Bar Foundation remains the only New Hampshire foundation dedicated to improving legal services and legal-related education. As an organization made up of lawyers, it is uniquely situated with a competency to improve public knowledge of how our laws and government work.

In reaching these goals, the Foundation often partners through grants and operating programs with other stakeholders. For example, the Foundation in recent years has funded programs on NHPR concerning the criminal justice system and the New Hampshire Judicial Council on educating lawmakers on the constitutional right to counsel. Other initiatives have included upgrades to 603 Legal Aid's statewide call center and outreach to non-English speaking communities. The Foundation also partnered with Catholic Charities on a program for immigrants about their legal rights. There are dozens of other examples of funding and partnering in ventures to improve the justice system and the public's awareness of how it works for them.

The Bar Foundation has a distinguished record over nearly a half century of projects to better the legal environment. There are many worthy places to direct your charitable dollars, but we are all lawyers, and our focus and competency should be in improving the ease and transparency of the system where we all work. If not us, then who?

So, if you consider donating to the New Hampshire Bar Foundation, do so knowing that it is involved in way more than legal services to the poor. It is a contribution to maintaining the rule of law, to educating a public needing to understand our government, and to make us all a more amalgamated citizenry. Values, particularly when embedded in our Constitution, are truly a "big picture," and every lawyer in New Hampshire can participate in this effort by donating, volunteering, and giving back to the system that we have all pledged to support. ■

Coming and Going

McLane Middleton Welcomes Attorneys Katherine Fiallo and Jack Hepburn

The law firm of McLane Middleton is pleased to announce the hiring of attorneys Katherine B. Fiallo and Jack D. Hepburn.

Katherine is a member of the Cybersecurity and Privacy practice group. She assists businesses of all types and sizes in creating privacy policies and other documents in compliance with state, federal, and international privacy laws. She supports businesses in navigating data breaches and their regulatory reporting obligations. In addition, Katherine also works with the Litigation Department on e-Discovery, particularly document review and production. Admitted to practice in Massachusetts and the Federal District Court of Massachusetts, Katherine can be reached in the firm's Manchester or Woburn offices at (603) 628-1444 or **katherine.fiallo@mclane.com**.

Jack is an associate in the firm's Corporate Department, where he advises businesses on transactional matters related to entity formation, mergers and acquisitions, commercial contract review and drafting, and corporate governance. Prior to joining McLane Middleton, Jack worked as an associate at a Concord firm, where he focused on corporate and real estate matters. Admitted to practice in New Hampshire and the United States District Court for the District of New Hampshire, Jack can be reached in the firm's Manchester office at (603) 628-1168 or **jack.hepburn@mclane.com**.

LawLine

Wescott LawLine volunteers (L to R): Kathrine Lacey, Connor O'Neill, Mark Waldner, Kyle Amell, and Shawna Bentley. Courtesy Photo

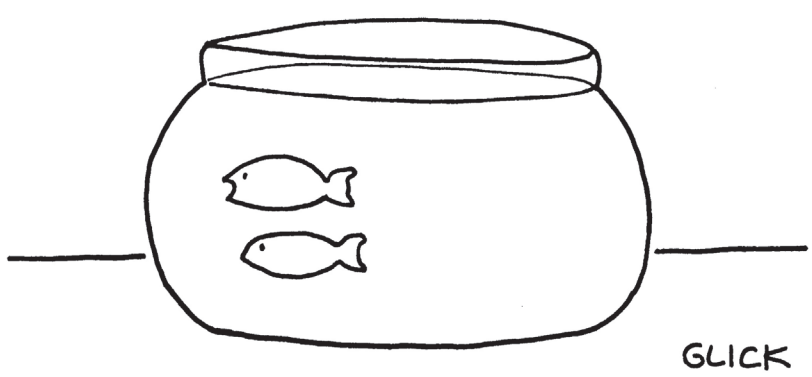
The New Hampshire Bar Association would like to thank Wescott Law for a successful LawLine event held on August 9, 2023.

Wescott took 40 calls from counties all over the state on a variety of legal topics including consumer law, landlord/tenant disputes, real estate law, and family matters. 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 upcoming 2024 LawLine events. For more information, or to volunteer, please contact NHBA LawLine Coordinator Anna Winiarz at **awiniarz@nhbar.org**. You can still volunteer and make a difference this year! ■

Jest Is For All — by Arnie Glick



"I suppose that making a change of domicile is pretty much out of the question."

In Memoriam

Joseph M. Dubiansky

Joseph M. Dubiansky, 76, of Deerfield, passed away at Epsom Healthcare Center on Saturday, August 12, 2023. Born in Yonkers, New York, on April 18, 1947, Joseph was the son of the late John and Mary (Yackanin) Dubiansky.

Joseph was an active member of the Deerfield Community Church, where he served in many roles utilizing his talents. He was also a fixture in Deerfield, where he was elected or appointed to many town boards and committees. He was also very active in the Boy Scouts while both his sons were in the program, serving on the troop committee and chaperoning many trips.

Joseph was a respected attorney in southern New Hampshire for nearly 50 years. During which, he logged hundreds of pro bono hours helping those in need with their legal issues, especially children.

Besides his parents, Joseph was predeceased by his wife Noreen (Keane) Dubiansky and infant daughter, Mary Kathryn. Members of his family include his two sons, John P. Dubiansky of Deerfield and Michael R. Dubiansky of Deerfield; sister, Joanne Naef; and brothers, John, Vincent, and Stephen Dubiansky.

In lieu of flowers, Joseph requested donations be made in his memory to the Deerfield Community Church or the Live and Let Live Farm, 20 Paradise Lane, Chichester, NH 03258.

Correction to *Bar News* Vol. 34, No. 1

In the print edition of the June 2023 issue of the *Bar News*, a freelance writer for the article called *The Children's Law Center is Dedicated to Young People at Risk* misstated the origin of the nonprofit and its mission. The correct statement is:

Formed in July 2022, the Children's Law Center of New Hampshire was conceived of, created, and founded by its executive director, Lisa Wolford. In addition to advocating for systemic reform, the Center protects the legal rights of children by providing integrated legal representation and social services advocacy to kids growing up in poverty who are at the center of Children in Need of Services (CHINS), delinquency, and abuse and neglect matters; who have special education needs; or who are otherwise at risk.

Shanelaris & Schirch, PLLC is now
Shanelaris Schirch & Warburton, PLLC

as we welcome **Jennifer E. Warburton** as a partner.

Jennifer will continue to concentrate her practice in the areas of domestic violence, stalking and appeals.

SHANELARIS SCHIRCH & WARBURTON

35 E. Pearl Street, Nashua, NH 03060
Phone: (603) 594-8300 • Fax: (603) 594-3786
sandslawfirm.com

Welcome

Sheehan Phinney welcomes Nicole W. Austin to the firm.

Nicole Waldow Austin
603.627.8328
naustin@sheehan.com

Business Litigation

Nicole rejoins the firm after a federal clerkship with the Honorable Samantha D. Elliott at the U.S. District Court for the District of NH. She previously served as a law clerk to the Honorable Anna Barbara Hantz Marconi of the NH Supreme Court after graduating from UNH School of Law as a Daniel Webster Scholar. Nicole is admitted in NH, MA, and before the U.S. District Court for the District of NH.

SHEEHAN PHINNEY

Boston • Concord • Manchester • Portsmouth • Upper Valley

sheehan.com

PROFESSIONAL ANNOUNCEMENTS

	Size Ad	Price	Width	Height
#1	1/8 page horizontal	$290	4.92”	3.25”
#2	1/4 page vertical	$470	4.92”	6.75”
#3	1/2 page horizontal	$675	10”	6.75”
#4	Full page	$1275	10”	13.63”

Rates & Sizes
JANUARY - DECEMBER 2023

New Hampshire Bar Association
1873 - 2023
Equal Justice Under Law

If you would like to place an announcement, email **advertise@nhbar.org**

Congratulations! to Walter L. Mitchell

After more than 50 years of practicing law, Walter will be retiring effective October 1, 2023. Of course, we will miss his legal wisdom, business acumen, and love of trial work. But more than that, we will miss him - his laughter, his friendship, and his calming, gentle presence in the office. We wish him a long and happy retirement filled with family, travel and well deserved relaxation. We will honor his distinguished career by continuing to offer practical advice to our municipal clients, as he has done every day.

M·M·G
MITCHELL
Municipal Group, P.A.

Laura A. Spector-Morgan ★ Joseph H. Driscoll IV ★ Naomi N. Butterfield (Of Counsel)
Candace A. Davis (Paralegal) ★ Marissa A. Morrissette (Administrative Assistant)

603.524.3885 · 25 Beacon Street East· Laconia, NH 03246
www.mitchellmunicipalgroup.com

WADLEIGH STARR&PETERS PLLC

is pleased to announce that

Joshua S. DeYoung
and
Joseph J. Dumais

have joined the firm as associates.

Joshua is a 2023 graduate of Boston College Law School. Prior to joining Wadleigh, Joshua interned at the Office of the New Hampshire Attorney General in the Criminal Justice Bureau and remotely conducted legal research and writing for a law firm in New York, New York throughout law school.

Joseph is a 2023 summa cum laude graduate from the University of NH Franklin Pierce School of Law. Prior to joining the firm, Joe was a legal resident with Justice Anna Barbara Hantz Marconi at the New Hampshire Supreme Court as well as a legal resident with Judge David D. King in the Trust Docket of the New Hampshire Circuit Court. In addition, Joe interned at a law firm in Nashua, New Hampshire before joining the firm and was a summer associate at Wadleigh.

95 Market Street Manchester, NH 03101
603.669.4140 www.wadleighlaw.com

Welcoming Samantha Heuring

To Our Personal Injury & YDC Victim Compensation Groups

Attorney Samantha J. Heuring is a passionate advocate for all types of injury victims. Prior to joining Shaheen & Gordon, Samantha's work was crucial in attaining the first maximum settlement of $1.5 million through the YDC Settlement Fund. She also obtained a $1.48 million settlement and a second $1.5 million settlement through the fund. In addition to general personal injury, Samantha focuses her practice on employment law and civil rights matters.

SAMANTHA J. HEURING
sheuring@shaheengordon.com
(603) 749-5000
353 Central Avenue, Dover, NH

It's different here
shaheengordon.com

Shaheen & Gordon
ATTORNEYS AT LAW

Concord • Dover • Manchester • Nashua • Peterborough • Portland

Florida Probate: Nothing to Fear

By Norman Silber

Although there are various strategies to "avoid" probate anywhere, there are two general situations in which New Hampshire lawyers may be called on to help their clients with probate matters in Florida. Those situations are (a) a New Hampshire resident dies owning Florida real estate, typically a vacation residence; and (b) a New Hampshire resident has a relative who dies as a Florida resident. In either case, what to do?

In the first case, it is assumed that initial probate proceedings will be initiated in New Hampshire, making any Florida proceeding "ancillary" probate. In the other case, the probate proceeding in Florida is "plenary."

All probate matters in Florida are handled through the state's e-filing system. The Florida Bar has developed an extensive set of forms designed to cover almost every conceivable probate matter, the latest set of which number 201 different forms. Those forms are not available online but rather are only available for purchase from one of several authorized vendors and are typically updated each year. Since the forms have their form numbers and revision dates (typically annual revisions of some but not all forms) on their footers, it is believed that most judges prefer to see the standardized forms utilized, and some judges are known to have bounced submissions using forms that have not been updated by the latest revision.

The balance of this article will assume that whatever the probate matter might be, there are no conflicting claims as to a will's validity or to any petitions for administration. Thus, the proceedings to be handled on an *ex parte* basis and no in-person hearings will be required.

Probate administration in Florida is governed by Chapter 733 of the Florida Statutes, and a variety of probate rules.

The Florida nomenclature for what is called an executor or executrix in other states is a Personal Representative, commonly referred to as the PR. Most papers filed in the Florida proceeding are not required to be notarized, although they may expressly state that they are executed under penalties of perjury.

A probate proceeding in Florida is initiated with the filing of a Petition for Administration, typically by the PR named in the will, but if not available for any reason or if there is no will, a PR chosen by a majority in interest of the beneficiaries of the estate. It is usual and customary for all beneficiaries to execute a joinder in the Petition, including a waiver of formal notice of the proceedings.

In an ancillary administration, exemplified copies of the New Hampshire probate proceedings must be filed electronically as well as in hard copy with the Court. In any probate proceeding, a scanned copy of the death certificate must be e-filed, and the original filed with the court. And in any probate proceeding in Florida, a copy of the paid funeral bill and a Department of Revenue form attesting to the absence of any liability for estate taxes (if any is not due) must be e-filed.

If the decedent owned Florida real estate, a certified copy of the death certificate and the Department of Revenue form regarding estate taxes should also be recorded in the land records.

If any of the decedent's Florida real estate is to be sold before the estate administration is closed, there is a procedure for obtaining court authorization for such a sale, as well as applicable forms.

Florida law requires that the PR either be a Florida resident or, if not a Florida resident, within certain degrees of relationship with the decedent. This restriction has been tested for constitutionality over the years and it remains good law.

The PR must designate a Florida resident as its agent for service of process, and if not a resident of the county in which the action is pending, the agent must be a member of the Florida Bar.

In a testate estate, even if the will waives the requirement of a bond for the PR, it is strictly up to the court whether to waive the bond or not. In estates in which there are no liquid assets, it would be customary to file a petition to waive bond, joined in by the beneficiaries, whether there is a will or not and irrespective of what the will might say. If there are liquid assets, it is likely that the court will require the posting of a bond. Some probate judges will allow the use of a restricted bank depository in lieu of a bond, if requested.

In an intestate estate, an Affidavit of Heirship will typically be required, setting out a detailed family tree of the decedent. Each judge seems to have their own preferred form of such affidavits, although they may accept other versions.

Many of the probate judges require the completion and filing by counsel of an initial checklist (in their preferred form) at the inception of the estate administration, as well as a different checklist (also in their preferred form) with the Petition for Discharge.

Proposed orders are drafted by counsel and submitted to the court either using the e-file system, or, in some counties, using a different specialized electronic system for use by the judges specifically for orders. After the requirements have been met, the court will typically issue an order appointing the PR, and, if applicable, admitting the will to probate, as well as issuance of Letters of Administration. If a bond is required, the order will state the amount of the bond needed.

Promptly after issuance of letters, the PR must publish a Notice to Creditors in a newspaper in the relevant county, the first (of two) publication of which starts the running of a three-month period in which creditors must file claims or be barred. Naturally, there is a procedure for disputing and resolving any claims that might be filed.

Unless expressly waived, the PR must also serve a copy of a Notice of Administration on a variety of persons who may have an interest in the estate; and the PR must also serve a copy of the Notice of Administration on the Florida Agency for Health Care Administration in Tallahassee unless the decedent was under age 55 at death.

The PR is required to file an inventory within 60 days after issuance of letters.

After expiration of the creditors' period and assuming either no claims were filed or any filed claims have been disposed of, and assuming a nontaxable estate, a Petition for Discharge can be filed, usually with broad consents and waivers from all estate beneficiaries. It should be noted that if the decedent owned Florida real estate, it would be appropriate for the PR to execute and record in the land records a release deed (documentary excise tax, essentially the Florida deed transfer tax, of $0.70, plus recording costs, must be paid, irrespective of value of the property) indicating that the property was not required to be sold to cover administrative expenses and vesting title in the specific beneficiary(ies), before filing the Petition for Discharge.

If the estate was taxable, an IRS Estate Tax Closing Letter and proof of payment of the tax specified in the closing letter must be filed with the court prior to filing the Petition for Discharge. There is no Florida estate or inheritance tax.

Then, assuming no unresolved disputes, the court would enter an Order of Discharge of the PR and releasing any bond that might have been posted.

If things proceed in the regular order and without complications, and if the estate is not taxable, the Florida proceedings can usually be completed in much less than a year.

Finally, there is an a much-abbreviated procedure available for estates in which the value of the estate, less the value of property exempt from creditor claims, does not exceed $75,000, or that the decedent has been dead for more than two years. ■

Norman J. Silber was admitted to the Florida Bar in 1970 and the New Hampshire Bar in 2008. He practiced in Miami for approximately 40 years before moving permanently to Gilford, New Hampshire in 2012. He served two terms as a New Hampshire State Representative from Belknap County. Silber can be contacted at ***njs@silbersnh.com****.*

Words of Wisdom from Solo Practitioners

By Misty Griffith

This series profiles New Hampshire lawyers who have discovered the rewards of solo practice and successfully navigated the unique challenges that arise from being your own boss. It is our hope that their experiences may inspire other attorneys who are considering flying solo. Thank you to this month's featured practitioners for taking the time to share their words of wisdom.

Solo practitioners who are willing to share your advice and experience, please contact NHBA Member Services Supervisor Misty Griffith at **mgriffith@nhbar.org.** We would love to include you in a future article.

Vincent J. Marconi
Attorney at Law, PLLC

17 years in practice, 15 years as a solo (or 85 in dog years)

What inspired you to become a solo? The freedom and flexibility to choose the types of cases and areas of the law that interested me. Also, the flexibility it eventually allows for one to invest in their personal and family life and to explore one's hobbies and passions (make sure to have enough time to enjoy this world).

Best thing about being solo: Ties are optional!

Hardest thing about being solo: The buck stops with you. There is no one you can blame for poor lawyering or a sloppy office. Clients are relying on you, and you alone, to assist them with what is usually the most difficult time in their life. That kind of relationship brings a lot of responsibility; however, when you do your homework and deliver a great resolution for a fair price that intrinsic reward is well worth it and what we all went to law school for.

Memorable solo experience: Winning that first jury trial against a large and sophisticated New Hampshire firm.

Advice for new solo: If you decided to go it alone, make sure you have a great support network of colleagues and mentors – the New Hampshire Bar has a wonderful mentor program.

Would you advise anyone else to go it alone? Absolutely. I think working on your own is a rewarding experience and if you do it right can lead to a great professional career and happy life.

Jenny Proulx, Proulx Law Offices

23 years in practice, 11 years as a solo

What inspired you to become a solo? Demands of and dissatisfaction with law firms.

Best thing about being solo: Independence, the ability to make my own decisions about who I take as clients, and enjoyment of my own professional achievements.

Hardest thing about solo practice: Remaining confident in your abilities when confronted by an unreasonable opposing counsel or an unreasonable client.

Memorable solo experience: Becoming fully aware that a *pro hac vice* case involved a three-plus-hour road trip which made me appreciate the beauty of the Canadian borders of New Hampshire, as well as Vermont. Now, when such events happen, my husband and I make the best of the situation and enjoy the scenery and local restaurants.

Advice for new solo: Do not allow yourself to be intimidated by a judge, opposing counsel, your client, or your circumstances.

- A judge may aggressively challenge you, so you articulate the grounds to rule in your favor.
- Opposing counsel may posture when he or she has a bad case or when he or she underestimates you.
- Clients may be tamed with a calm discussion or a short diversion such as talk about sports or similar pastimes.
- Always keep up appearances because modest circumstances are easily dealt with in our modern era with technology, co-op workspaces, and space at local bar associations.

Make connections.

- Reach out to former law school classmates or co-workers and reconnect over dinner.
- Always attend Bar events and seminars, introduce yourself, and listen and talk.
- Find attorneys who you can exchange information with, consult with, and refer people to.
- Find relevant good professionals such as investigators, realtors, accountants, and title examiners to name a few.

Would you advise anyone else to go it alone? YES! ■

Shanelaris from page 1

effortless."

While at the firm, she took on her first family law case, which also happened to be her first pro bono case. She represented a woman on welfare, with children, seeking a divorce.

"She was a person who really just wanted to do better on her own and be a role model for her children," Shanelaris recalls.

After the divorce was granted, "that client said to me, 'the next time you talk to me I'm going to have made my life better,'" she adds. Years later, the client called to say she had gone back to school and the divorce had made all the difference in her life.

"That case and that firm launched my career," Shanelaris says.

She went on to work at the Wolfeboro firm of Walker & Varney for two years before being recruited by the New Hampshire Division of Child Support Services, where she started as a staff attorney and eventually became chief staff attorney.

"I loved that job," she says. "That job always felt like we were the people with the white hats on, helping people get child support."

While working for Child Support Services, her supervisor, Jane M. Schirch, proposed starting their own family law firm together.

"I thought it would be a great fit," Schirch says. "We both had the same work ethic and had the same desire to help people through these difficult circumstances."

"Cathy is a very hard-working lawyer and is always kind and generous with her time and got along well with everyone that she worked with – whether that was court officers, child support employees, other attorneys, and support staff in the legal office, but especially the child support obligors we worked with every day at court," she adds.

The firm was founded in 2000 and recently added Jennifer E. Warburton as a partner.

"In general, the way I do my job as an attorney is, I'm the co-pilot for people," Shanelaris says of her work. "I have the map and the vehicle to get them where they want to go, but they're the pilots."

"Some of my most memorable cases have been parents where they have done what the court ordered and were able to be reunited with their kids," she adds.

But it's more than clients who benefit from her work.

Shanelaris has served on the New Hampshire Bar Association's Gender Equality Committee, and is or has been a member of the New Hampshire Supreme Court Commission on the Status of the Profession, a commissioner on the Access to Justice Commission, a member of the New Hampshire Women's Bar Association Board of Trustees, a Governor at Large on the New Hampshire Bar Association's Board of Governors, a commissioner on the Commission on the New Hampshire Bar in the Twenty-First Century, and a member of the 603 Legal Aid Board of Directors, among many other Bar-related affiliations. She is also a New Hampshire Bar Foundation Fellow.

In 2008, she served on the New Hampshire Women's Bar Association Board of Directors with Kristin Mendoza, who was so inspired by Shanelaris's dedication to the profession and to other women lawyers that she joined in nominating her for the 2018 Marilla M. Ricker Achievement Award, given to a woman lawyer who has helped pave the way for other women in the field.

"The number of calls, coffees, meals, and informational interviews that Cathy has taken over the years to guide and support other women is too numerous to count," Mendoza says. "Whether it is guidance on technical aspects of family law, landing a job as a new attorney, difficulties with a supervising attorney, or going into practice on your own, her advice is always thoughtfully given. She is the living embodiment of the ripple effect; small actions of kindness and generosity in sharing her time with others having a large, positive impact on the profession."

That admiration is shared by another colleague, Katherine J. Morneau, who says Shanelaris is "the perfect example of what an attorney should aspire to be – someone who gives of her time to those in need by doing pro bono work, someone who gives of her time to new lawyers, and to those who may need some guidance. She serves our Bar by actively participating in many committees, teaching at CLEs, and always supporting other lawyers by nominating them to be recognized for awards or accolades."

Catherine E. Shanelaris, far right, with Katherine J. Morneau, left, and Kristin A. Mendoza at a ceremony when Mendoza was receiving a business award. Courtesy Photo

"We are a better Bar because Cathy is part of our legal community," Morneau adds.

Shanelaris says she "absolutely loves" being on the Bar's Board of Governors.

"I've never been on a board where people show up all the time, for every meeting, making sure the Bar is the best it can be for its members," she adds.

She makes it a point to have at least one pro bono case active at any given time.

"If people want to succeed, they need the help of other people," she explains of her pro bono involvement. "It's just ingrained in me to do that."

That commitment won her the 2016 Bruce Friedman Pro Bono Award, named after the founder of the law school's civil practice clinic and his commitment to the indigent. She also received the 2002 Hillsborough County South Pro Bono Attorney of the Year award, the 2008 Distinguished Small Law Firm Pro Bono Award, and the 2010 New Hampshire Bar Association L. Jonathan Ross Distinguished Pro Bono Service Award.

Shanelaris says she has seen changes in family law in her 29 years of practicing it, in some cases making it more difficult for practitioners. An example is the elimination of the Guardian Ad Litem Fund, under which the court could appoint someone to represent the interests of children in contested cases, requiring people to now pay for them privately.

"It falls upon the lawyers and the court to deal with it in court instead of having someone talk to the kids," she explains.

But she still holds dear the profession she has pursued since childhood.

"We are in our twenty-third year," she says of her firm, "and we are grateful Jennifer is coming on. We're working on a new website and a new logo and looking forward to the future." ■

Celebrate Pro Bono Month with 603 Legal Aid

By Emma Sisti and Taylor Flagg


Sisti


Flagg

Every October since 2009, legal organizations across America participate in the National Celebration of Pro Bono to draw attention to the need for pro bono participation, and to thank those who give their time year-round. This celebration is coordinated nationally by the ABA Center for Pro Bono. As New Hampshire's leader in connecting low-income individuals with pro bono services, 603 Legal Aid (603LA) plans to spend the entire month of October promoting, celebrating, and facilitating pro bono.

Our full slate of events includes a criminal record annulment clinic in Lebanon in collaboration with LISTEN Community Service on October 4, two free CLEs to promote pro bono service, a referral marathon, and the annual ceremony awarding the Bruce Friedman Award in collaboration with the University of New Hampshire Franklin Pierce School of Law (UNH Law).

October is also Domestic Violence Awareness Month, and the need for pro bono volunteers to join the DOVE Project persists. Each year, thousands of New Hampshire victims and survivors of domestic violence and stalking seek a protective order, but nearly 90 percent of these victims are unrepresented by legal counsel (New Hampshire Judicial Branch data). This is in part due to the many barriers survivors face in accessing affordable legal services.

To build an even more robust panel of attorneys willing to assist these survivors with high-quality legal representation at these hearings, the DOVE Project will be hosting a 330-minute live CLE on October 11. The CLE, *The DOVE Project: Closing the Gap for Survivors,* will focus on the barriers survivors face in accessing legal services, and the strategic ways attorneys can help survivors overcome them. Whether you are a current, new, or prospective DOVE attorney, please join us for this invaluable opportunity and register on the NHBA website at **member.nhbar.org/calendar/register/MjUyOQ==**.

The other CLE that will be offered in October is in collaboration with the New Hampshire Department of Justice Charitable Trusts Unit. This 195-minute CLE, *Representing Start-Up Charities: An Opportunity for Pro Bono Service,* will be held on October 25 and is intended to support practitioners looking for a rewarding and impactful pro bono opportunity that does not involve litigation. There are few moments as consequential to the success of a new charity than the thoughtful drafting of its formation and governance documents. Presenters will provide attorneys with sample documents, as well as information about various legal forms a charity can take, alternatives to forming a separate charity, charities regulation by the state and federal government, and frequent pitfalls faced by new charities.

Both CLEs are free of charge to attorneys. In exchange, 603LA will be asking all attendees to agree to register to become a pro bono volunteer and to take at least one pro bono case in the next year. If you want to register to become a pro bono volunteer, email Emma Sisti at **esisti@603legalaid.org**.

603LA and UNH Law have a long history of partnering to promote pro bono. On October 18, we will be collaborating on a Pro Bono Referral Marathon during the day and will be presenting the Bruce Friedman Award in the evening.

At the referral marathon, 603LA and current law school students place Pro Bono cases with UNH Law alums. Last year, we placed over 20 cases at the marathon. This event is a great way to engage New Hampshire's upcoming attorneys and connect clients in need to an attorney at no cost. If you are a UNH Law alum, we ask that you answer your phones on October 18, and consider taking a pro bono case to help your neighbors in need.

In the evening, we hope you will join us at 5:30 pm at UNH Law to celebrate the 2023 recipient of the Bruce Friedman Award. This award is given in memory of Bruce Friedman, the late founder of the civil practice clinic at the law school and a legend in the world of civil legal services in the state. For over a decade, 603LA and the law school have paid tribute to Friedman's legacy by honoring the accomplishments of a UNH Law graduate and New Hampshire Bar member who exemplifies the commitment to public service of Bruce Friedman. Friedman was vocal and active in developing a culture in New Hampshire where lawyers utilized the privileges of being a lawyer to serve those who needed it most.

Be sure to check out our social media (@NHJustice4All on Facebook, @NH_Justice_For_All on Instagram, and @603LegalAid on LinkedIn) for volunteer spotlights, client success stories, and more information on how you can celebrate Pro Bono in October. ■

Emma Sisti is the 603 Legal Aid Deputy Director and Taylor Flagg is the 603 Legal Aid DOVE Project Coordinator.

We've Discovered Who is Listening to (Reading) Big Brother's Emails

By Zafar Khan

As I'm sure you're aware, the world is currently replete with conspiracy theories—probably more so than at any other time in history. Thus, it may actually be more instructive to isolate statements that are *not* obvious conspiracy theories. So, let's have a little fun. I'll ask you to identify the one *true* statement of the three below:

1. 5G technology spreads the coronavirus through newly built cell towers.
2. The contrails that large passenger airlines leave behind are laced with chemicals intended by the government to control the weather.
3. Digital voice assistants (e.g., Amazon Alexa or Google Home) are microphones that pipe our conversations into monitoring stations used to spy on our behaviors.

It's important to note that, depending on the surveys used, around 30 percent of the United States population believes that any one of these above theories is fact. We know that all people can't be wrong all the time, so with this in mind, I submit to you that statement number three (the one about Alexa) is the true one.

Don't believe me? No less of an authority than *TIME* magazine ran a story a few years ago exposing eavesdropping by digital voice assistants, yet the idea seems so far out there that many people still believe this is a conspiracy theory!

The fact is that these digital voice assistants still need some human help to understand what you are singing in the shower, to keep track of your favorite songs. They also need to know what you are discussing in your living room to "learn" how to understand your local accent and slang.

Yes, there are real humans (versus AI bots) in real office buildings spread around the world in cities like Boston, but also in countries like Costa Rica, India, and Romania, who are parsing your commands and regular conversations brought in through the microphones on these voice assistants. Sure, there are opportunities to opt out and obtain greater privacy, but most people just stick with the default settings.

We'll call this "voice eavesdropping," and we'll also assume that this voice eavesdropping is closely managed by Big Tech who would *never* use this information against any individual. Wink.

But what about Email Eavesdropping™ activities? As we've mentioned in our previous articles in this series, RPost has launched RMail Pre-Crime services with Email Eavesdropping™ alerts, which is a service that can identify when your email is being eavesdropped on—presumably by cybercriminals working on a lure often cleverly designed to trick you.

However, what we did not expect is to have the Email Eavesdropping detection service used for is to see *where in the world* one's email is being routed, presumably analyzed by "cloud" security systems. Much like how voice assistant data is being analyzed all over the world, so potentially is your email data.

Would it be a big concern, for example, if you are a government organization, and it turns out your email is (legitimately, based on your service providers) being routed to be analyzed by security systems in, say Russia, Poland, or Singapore? Maybe not. But if you're legally bound to have email remain in the US (or at least not analyzed in a country with a business embargo), or if you are legally bound by your clients not to have email route to certain foreign countries, Email Eavesdropping detection service will be an eye opener.

What if you would have known when your clients are being drawn into the above scheme before you were cut out of the loop? Put another way: if an email someone sends is being eavesdropped on due to an unknown security issue with the recipient's email account, would you like to be alerted? Would you like to get alerts after they click send, before the message is sent, that you are about to correspond with a cybercriminal unknowingly, preventing the cybercrime while raising e-security awareness at the user level? Providing this level of advanced threat hunting is the best way to confront the type of trickery cybercriminals are using to cause human error resulting in mis-payments. ■

Zafar Khan is the CEO of RPost, a global leader in cybersecurity. Prior, Khan worked with Deloitte Consulting, Goldman Sachs, and US manufacturers to transfer DOE National Lab weapons technology to industry. For more information, visit ***rpost.com****.*

CONTINUING LEGAL EDUCATION GUIDE

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

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

SEPTEMBER 2023

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.

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.
Tech Tock, Tech Tock, the Countdown to your Ethical Demise!
- 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.

NOVEMBER 2023

MON, NOV 6 – 12:00 p.m. – 1:00 p.m.
What my Facebook Posts Teach about Lawyer Mental Health
- Webcast; 60 NHMCLE min.

MON, NOV 16 – Time TBD
Identifying & Addressing Severe Parent/Child Contact Problems in Parenting & Divorce Cases
- Format TBD

DATE TBD – 12:00 p.m. – 1:00 p.m.
2023 Patent Law Update: Key Developments in Patent Litigation and Patent Prosecution
- 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

MON, DEC 11 – 12:00 p.m. – 1:00 p.m.
Confidential Mediation Statement
- Webcast; 60 NHMCLE min.

Federal Research Grants & Agreements

LEARN @ LUNCH

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

WE DO THE REPORTING FOR YOU!

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)

Join the NHBA CLE Club and Save!

Sign up now!

For more information and terms & conditions, go to

https://www.nhbar.org/nhbacle/nhbacle-club

Live Programs • Timely Topics • Great Faculty • Online CLE • CLEtoGo!™ • DVDs • Webcasts • and More!

22nd Annual Labor & Employment Law Update

Thursday
Sept 21

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

NHBA Seminar Room, Concord/Webcast

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

Faculty

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

Heather M. Burns, Upton & Hatfield, Concord

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, Yarmouth, ME

Cynthia Sharp, The Legal Burnout Solution, Philadelphia, PA

Kevin W. Stuart, Bernard & Merrill, Manchester

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.

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

Postponed
Date TBD

12:00 p.m. – 1:00 p.m.
60 NHMCLE min.

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

Representing Start-Up Charities A Pro Bono Alternative for the Transactional Attorney

Wednesday
Oct. 25

9:00 a.m. – 12:30 p.m.
195 NHMCLE min.

In the lifespan of a charity, few moments are as consequential as the start-up phase. Thoughtfully incorporating documents, sound bylaws, and thorough policies set the organization up for success. If you are an attorney who wants a rewarding and impactful pro bono opportunity that does not involve litigation, helping charities think through these crucial first steps is an excellent option. In this program, you will hear from the New Hampshire Charitable Trusts Unit and a private practitioner with extensive experience navigating the complex issues that charities face. Topics include: choosing the legal form of the charity, alternatives to separate incorporation, charities regulation by the state and federal government, and frequent pitfalls faced by new charities.

Faculty

Meaghan A. Jepsen, CLE Committee Member, Ransmeier & Spellman, PC, Concord

Diane Murphy Quinlan, NH Department of Justice, Concord

Michael R. Haley, NH Department of Justice, Concord

Katherine B. Miller, Donahue, Tucker, & Ciandella, PLLC, Exeter

Emma M. Sisti, 603 Legal Aid, Concord

In lieu of a registration fee, participants are encouraged to register for our pro bono panel and take one pro bono case in the following year.

Funding for this program is provided by the NH Bar Foundation's IOLTA Program.

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

Developments in the Law 2023

Friday
Oct. 27

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

Manchester – DoubleTree by Hilton Downtown

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

Topics to be Discussed:

- Ethics/Professional Discipline
- Supreme Court Update
- Civil Practice Update
- Trust & Estate Law Update
- Family Law Update
- Employment & Labor Law Update
- Bankruptcy Law Update
- Real Estate Law Update
- Municipal Law Update
- Criminal Practice Update

Faculty

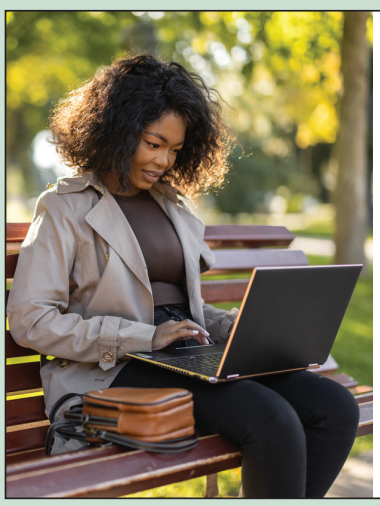
Corey M. Belobrow, Friedman & Feeney, PLLC (of counsel), Concord
Simon R. Brown, Preti Flaherty Beliveau & Pachios PLLP, Concord
Thomas M. Closson, Jackson Lewis, PC, Portsmouth
Tracey G. Cote, Shaheen & Gordon, PA, Concord
Edmond J. Ford, CLE Committee Member, Ford, McDonald & Borden, PA, Portsmouth
Alyssa Graham Garrigan, Ansell & Anderson, PA, Bedford
Timothy A. Gudas, NH Supreme Court, Concord
Christopher M. Johnson, NH Public Defender, Concord
Thomas J. Pappas, Primmer Piper Eggleston & Cramer, PC, Manchester
Laura Spector-Morgan, Mitchell Municipal Group, PA, Laconia
Roy W. Tilsley, Jr., Bernstein Shur Sawyer & Nelson, PA, Manchester

On-Demand Programs from our Partners in the Shared-In Catalog

Blood & Chemical Testing: What You Need to Know & Why You Need to Know It
From the Indiana CLE Forum
Original Program Date: August 24, 2023 – 360 NHMCLE min.

A Litigator's Guide to Financial Data
From the San Francisco Bar
Original Program Date: December 6, 2022 – 60 NHMCLE min.

Chapter 13 Trustee: How to Stave off a Chapter 13 Trustee's Objections to Your Client's Chapter 13 Plans
From the Louisiana State Bar Association
Original Date: April 21, 2023 – 60 NHMCLE min.



CLE delivered to you in a format of your choice!

NHBA•CLE online 24/7

On-demand video
CLEtoGo!™
(downloadable audo programs)
Live webcast
Self-study DVDs

www.nhbar.org/nhbacle

Upcoming CLE Programs

More Information Coming Soon!!

Administrative Law
Thursday, October 19, 2023

Identifying and Addressing Severe Parent/Child Contact Problems in Parenting and Divorce Cases
Thursday, November 16, 2023

Confidential Mediation Statement
Monday, December 11, 2023

Tax Abatements & Exemptions
Wednesday, March 27, 2024

Insurance Law
Thursday, May 9, 2024

Business Litigation
Tuesday, May 14, 2024

Watch *Bar News* or our website as more details are forthcoming.
www.nhbar.org/nhbacle

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

Paying with Crypto Currency

Dear Ethics Committee:

I recently completed some work for a client and sent my client my final invoice. The client wants to pay that invoice using cryptocurrency. Is that permissible?

Answer

Yes, but accepting payment from the client in the form of cryptocurrencies is not the same as being paid in "real" currencies. As a result, the transaction is likely subject to N.H. R. Prof. Conduct 1.8(a) and you should ensure that: (1) the transaction and terms are fully disclosed and transmitted in writing in a manner that can be reasonably understood by the client; (2) the client is advised in writing of the desirability of seeking and is given an opportunity to seek the advice of independent legal counsel about the transaction; and (3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.

Discussion

Cryptocurrencies are not like traditional currencies and an attorney should not treat them as if they are. The IRS treats "virtual currency," i.e., cryptocurrencies, as property. IRS Notice 2014-21. As a result, even though people may treat cryptocurrencies as if they were a real currency, an attorney may not. This complicates accepting cryptocurrencies in exchange for completed legal services.

Normally, an "ordinary fee arrangement," where the client pays the attorney in traditional currency, is governed by N.H. R. Prof. Conduct 1.5. *See* 2004 ABA Model Rule cmt. 1to N.H. R. Prof. Conduct 1.8. But "when the lawyer accepts… nonmonetary property as payment of all or part of a fee" N.H. R. Prof. Conduct 1.8 applies. *Id.*

N.H. R. Prof. Conduct 1.8 "does not apply to standard commercial transactions between the lawyer and the client for products or services that the client generally markets to others, for example, banking or brokerage services…" *Id.* A "standard commercial transaction" is a transaction "regularly entered into between the client and the general public, typically in which the terms and conditions are the same for all customers." Restat 3d of the Law Governing Lawyers, §126, cmt. C. But, when the transaction involves the rendering of legal services, it does not qualify as a "standard commercial transaction." Restat 3d of the Law Governing Lawyers, §126; *Providing Legal Services in Exchange for a Client's Goods and Services*, New Hampshire Bar Association, Ethics Committee Advisory Opinion #2017-18/01.

Here, as the transaction seeks to have the client pay for completed legal services with cryptocurrency, it does not qualify as a "standard commercial transaction.[1]" This means that you cannot accept the cryptocurrency as payment for your completed legal services unless:

(1) the transaction and terms are fair and reasonable to the client, are fully disclosed, and transmitted in writing in a manner that can be reasonably understood by the client;
(2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel on the transaction; and
(3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and your role in the transaction, including whether you are representing the client in the transaction.

See N.H. R. Prof. Conduct 1.8(a).

Due to cryptocurrency's volatility, you should include a number of terms when drafting the writing required by N.H. R. Prof. Conduct 1.8(a). Among other things, the writing should identify the specific cryptocurrency that is being exchanged, how the cryptocurrency will be valued, the exchange(s) being used, the date and time of the valuation, how the cryptocurrency will be exchanged, and which party is responsible for any fees related to the transaction.

So, while you can accept payment for completed legal services in the form of cryptocurrency, you should document and discuss the transaction with the client consistent with the requirements of N.H. R. Prof. Conduct 1.8(a). One way to avoid these additional requirements is to have the client convert the cryptocurrency to traditional currency and simply accept the traditional currency as payment. But it may be that the client wishes to avoid converting cryptocurrency into traditional currency for any number of a variety of reasons. In such a circumstance, a prudent lawyer should ensure compliance with the requirements of N.H. R. Prof. Conduct 1.8(a) when entering into such a transaction with a client. ■

This Ethics Corner Article was submitted for publication review to the NHBA Board of Governors at its June 22, 2023 Meeting. The Ethics Committee provides general guidance on the New Hampshire Rules of Professional Conduct and publishes brief commentaries in the Bar News and other NHBA media outlets. New Hampshire lawyers may contact the Committee for confidential and informal guidance on their own prospective conduct or to suggest topics for Ethics Corner commentaries by emailing Robin E. Knippers at ***reknippers@nhbar.org***.

Endnote

1. At least one jurisdiction has found that such a transaction is "an ordinary one where the lawyer is simply agreeing as a convenience to accept a different method of payment, but the client is not limited to paying in cryptocurrency if it is not beneficial to do so." NYCBA, Comm'n on Prof'l Ethics, Formal Op. 2019-5.

Perspective from page 2

ficers of the court, sworn to uphold the Rule of Law. Second, we as lawyers do a tremendous amount of outreach in our communities, both to our adult peers, as well as to our families and many students. The Bar Association does much work in mock trial programs and in Law Related Education. We need to educate the current and next generation to be able to discern between facts and opinion.

CNN reports are different than MSNBC's, which are also different from Fox and NewsMax. We all get lots of information from many sources every day. Our understanding of what we believe facts to be and what opinions we hold are shaped by these experiences. Of concern to me is that conclusions of what constitutes fact and what constitutes opinion are often decided by our population through information gathered on social media platforms. Please, whenever possible, do your part to educate others about the difference between facts and opinions, particularly as they relate to the judiciary and the Rule of Law. Alternative facts are not real facts.

Finally, given the formation of special committees this year to focus on artificial intelligence and attorney wellness, I personally do not think the Bar has sufficient human resources to form a special committee on the Rule of Law and democracy this year. However, it will be an area of focus for discussion for the Board of Governors, and I invite your thoughts on how to address these issues to best do our part to preserve the Rule of Law. ■

COBB from page 3

snowbank for my red flying saucer and would sometimes actually get in the saucer with me."

Hendricks remembers how Judge Cobb often taught her critical thinking by having her solve riddles and how he taught her lessons in fairness with the use of snacks.

Judge Ivorey Cobb working in his office while his granddaughter, Marilyn "Mimi" McDonald Hendricks pretends to be his legal assistant. Photo courtesy of the Cobb family.

"For example, Granddad liked pomegranates and his rule was that whoever cut it, the other person got to choose which half they would get," she says. "So, if you tried to cut it unevenly, thinking you were going to get a bigger piece, that's not going to happen because the other person gets to decide which one they want."

Hendricks says Judge Cobb was a brilliant intellectual with a great sense of humor and that he was "unapologetically proud to be part of the African American community."

"His philosophy of going where the opportunity is has led our family to so many different places and taught us that you can be a great representative of your community no matter where you go," she says.

Hendricks' mother earned her JD in 1977 and clerked for Judge Cobb for a while before moving back to Pennsylvania with her daughter. There, she practiced housing law for a few years before moving to Illinois and then later to Washington, DC, where she worked for then-US Congressman Louis Stokes on the House Committee on Appropriations. In December 2015, Marilyn Cobb McDonald passed away from pancreatic cancer.

Hendricks says that because her mother was a lawyer, she felt she was also representing her when she spoke at Judge Cobb's portrait unveiling ceremony.

Other speakers at the event included New Hampshire Bar Foundation Chair Scott Harris, NAACP Manchester President James McKim, Congresswoman Annie Kuster, representatives from the offices of Senator Jeanne Shaheen and Congressman Chris Pappas, and Circuit Court Administrative Judge David King.

Judge King, who went to elementary school with Hendricks, said Judge Cobb had a reputation as a law-and-order judge who could be tough on sentencing criminal defendants.

"Judge Cobb's secretary and his clerk of court was Joan Shatney," Judge King said. "After Judge Cobb retired, she came to work for Phil [Waystack] and me [at Waystack & King] as my first legal assistant. I would hear pretty much every day from her, 'this is how Mr. Cobb would do it.' So, through Joan Shatney, I learned the Judge Cobb way."

Just prior to the portrait unveiling, as Hendricks spoke of her grandfather's philosophies and achievements, she described how his empathy toward juveniles resulted in a creative diversion tactic for them.

"He strongly believed that just like reporters, lawyers must also possess a strong respect for words, and that advocacy must rest upon a strong factual foundation," Hendricks said at the event. "He always insisted that we get all the facts from multiple sources to support educated decision making. He believed that words mattered so much that he included writing assignments in his innovative and potentially controversial today – as well as then – method of sentencing for juveniles. They had the chance of either going to jail, doing community service, or attending a church of their choosing. The church option required weekly 100-word essays signed by the minister. Many of the juveniles attended Sunday school classes, which were taught by Janice Hicks, Justice Hicks' mother."

Hendricks continued: "Judge Cobb believed that these sentences were opportunities to divert some juvenile defendants from becoming hardened criminals. Many years later, on Main Street, a Colebrook prior offender shared with [my aunt] Louise that Judge Cobb had saved his life by sending him to church."

> "His philosophy of going where the opportunity is has led our family to so many different places and taught us that you can be a great representative of your community no matter where you go." – Marilyn McDonald Hendricks

Near the end of the ceremony, Judge Cobb's daughters, Louise Cobb Phillips and Gretel Cobb Webster, pulled a black canvas off the portrait to reveal it. Neither daughter spoke to the audience at the event, knowing fully well that they would not make it through without breaking down in tears. However, once the portrait was unveiled, Webster softly said, "that's daddy," and the two of them wept.

"I was very touched by all the wonderful things that everyone had to say about my father," Phillips says. "All our lives growing up in that household, we knew that he was exceptional and that's just the way it was. This was the acknowledgement of his exceptionalism and just what it took from his humble beginnings in Alabama to becoming a district court judge in New Hampshire. My father would be very proud. It's overwhelming. A good overwhelming. Just thinking about it brings tears to my eyes again."

Justice Gary Hicks looks on as Gretel Cobb Webster (left) and Louise Cobb Phillips (right) react to their father's image after unveiling his portrait at the New Hampshire Supreme Court. Photo by Rob Zielinski

Attorney Phil Waystack, who briefly worked at Judge Cobb's law office, describes Cobb as a very dignified and charming man who laughed a lot and always wore a suit.

"Ivorey Cobb was the reason I came to New Hampshire – and 49 years later, I'm still here. He gave me the opportunity to move to this state and develop a practice," Waystack says. "It's kind of a sobering thought that in 60 years, he's been the only Black judge in the state. But that simply underscores what a pathfinder he truly was. In a way it's sad that it took so long until another person of color got on the bench, too. She's a magistrate judge [US Magistrate Judge Talesha Saint-Marc], but she's still in a judicial position," he says. "It would be nice if we could have more diversity on the bench."

Waystack says he thinks it's terrific that Judge Cobb's portrait is now a permanent fixture at the New Hampshire Supreme Court.

"I greatly appreciate the fact that Justice Hicks led the effort to do this, that the Supreme Court felt it was important enough to have a reception, and that the Bar Foundation supported the effort," he says. "I encourage it and I hope it portends the beginning of a more diverse bench for the State of New Hampshire." ■

Brown, an attorney who worked for New Hampshire Public Defender for 25 years before going into private practice. "A judge has the discretion to award the pre-credit on multiple charges, [but] the defendant is not entitled to 'double dip.'"

In some cases, if the defendant was already out on bail during the trial, the judge may allow them to remain out pending sentencing. But this wasn't an option for Lascaze, who was unable to post the $100,000 bail the State had set. This was common for most people at the county jail, he says.

Lascaze describes his initial experience at Valley Street as disorienting.

"It's like looking at a dance floor with the light from above changing all the time," he says, describing the psychological weight of learning to fit into a new and sometimes harsh environment.

He was placed in a housing unit, or "pod," at Valley Street, where correctional officers have direct, face-to-face interactions with multiple prisoners.

"If you had violent charges or more serious offenses, they put you in a specific pod, nicknamed 'Gladiator School,'" he says. Because Lascaze had Class A felonies for robberies and gun charges, he was required to enter a pod with others convicted of first-degree murder and armed robbery. "I went there, and it was all about natural order and survival of the fittest. That's all it was."

At Valley Street Jail, Lascaze recalls correctional officers arbitrarily calling room searches during phone hours that would result in lost time speaking with friends and family on expensive phone

The exterior of the Reception & Diagnostic (R&D) Unit at the State Prison. Photo by Tom Jarvis

lines (three dollars for ten minutes at that time), and he believes this type of treatment was intentional. When speaking with family from jail in those early days, he says, "You might be having a disagreement or an emotional conversation with loved ones and then you have to hang up and you leave behind your support system and head back to survival mode."

Brown, who represented Lascaze after he was transferred to the state prison system, says she has had clients at Valley Street who asked for a deal to go to the state prison because of their perception of the county jail.

"I've had multiple cases where people have refused county jail time there so they can be sent to the state prison," Brown says.

Lascaze made a plea arrangement while at Valley Street because he was told by his public defender at the time that if he did not take a deal, he would be "doing more time than I'd been alive at that time."

Following a plea arrangement, Lascaze was transferred to the New Hampshire State Prison for Men (NHSP) in Concord where he went through the intake process at R&D and learned to adapt to a new environment again.

"Just when you're adapting to all of that trauma – that type of jungle or life-style – you're getting put into another one as a young adult," he says, adding that at that time there were no alternative solutions. "Now there are diversion programs, but [at that time] there was no in-depth analysis, no one asking, 'what is causing Joseph to behave this way?' It was born out of a tough-on-crime mentality."

The R&D Process and Housing at the State Prisons

In the R&D unit of the NHSP – and on a smaller scale at the women's prison – staff perform an intake and a security assessment to determine what medical or other services prisoners need and what programs they will be eligible for.

The intake process involves a thorough body search for contraband, as well as photographs and fingerprints. All property and money on the person at time of arrival is placed in storage for safekeeping and a property receipt is issued to the inmate. The inmate also receives a copy of the correctional handbook, bedding and toiletries, an identification card, and state-issued prison clothing.

Upon completion of the intake process, the inmate is isolated from the other prisoners in a quarantine status for 30 days, with some exceptions. During those first 30 days of incarceration, the prisoner is interviewed and tested by a multidisciplinary team of prison staff and receives classification for their custody level based on the intersection of public risk and institutional risk.

"I've known people who have gotten stuck in R&D longer than 30 days, which is particularly unfortunate because it is clearly not designed to hold people long-term," says Meredith Lugo, a lawyer at New Hampshire Public Defender for more than 20 years. "People want to get out of there as quickly as possible because they are quarantined and not allowed visitors. It's certainly the worst place to have a client – they are not allowed in the visiting room and not subject to the regular visiting schedule – so, we are sort of at the mercy of calling and hopefully getting permission to visit them in the R&D building."

The custody levels for inmates range from C1 to C5, with C5 being the highest level of security. C3 is the general population of the prison, and where new inmates are generally housed.

"Some individuals are never going to be able to go below C3 just because of the seriousness of the crime they were convicted of – no matter how good their behavior," Lugo says.

C5 is reserved for dangerous or problem inmates. The C5 inmates spend all but one hour per day in the Secure Housing Unit (SHU), which is colloquially known as Solitary Confinement. C4 inmates were previously C5 but are working their way back to C3. C2 inmates are housed in a minimum-security facility just outside the prison. C1 classification is for inmates on work release and who are allowed to live in transitional housing units as they prepare for re-entry into the community.

If it is determined that an inmate has a documented history of assaulting staff or other inmates in the county jails, has previously escaped from a secure facility, is sentenced to life without parole, or has documented protective custody issues, they will be assigned to the SHU, where they are separated from the general inmate population. Inmates requiring constant medical or psychiatric care are assigned to either the health services center or the Secure Psychiatric Unit (SPU), respectively.

"SPU is complicated because it's not just inmates who are housed there," Lugo says. "SPU also has persons found not guilty by reason of insanity – if they are found to be sufficiently dangerous – and some individuals who are not involved in the criminal justice system at all."

The latter group – those who have never been charged with a crime – are committed through a probate court but deemed too dangerous by the New Hampshire Hospital, Lugo says. She explains these cases would be a whole other series because they are a subject of litigation.

"[These cases involve] the State housing some people behind the walls of a prison that have never even been charged with anything," she says.

Prisoners Display a Range of Emotions

Brown says many of her clients over the years, who may have had episodic bad behavior, have never been in the criminal justice system before.

"I've represented thousands, probably tens of thousands of people," Brown says, explaining that as a public defender her case load would sometimes include 80 or 90 people at a time. "It's rewarding to sometimes keep people out of the grasp of the government when I can."

But when that doesn't happen, and her clients are sentenced to prison time or are already serving in the county jails, Brown says she has seen a range of emotions come out.

"I've seen everything. I've had clients who are just emotional wrecks, crying, frightened, not sleeping because they're afraid to sleep," she says. "Sadly, it depends on how much experience the person has with the criminal justice system."

Brown explains that for some peo-

ple, the terror of prison is compounded by mental illness or withdrawal from drugs.

"I will say the jails have gotten better," she says. "They've finally realized that when someone is withdrawing from serious drugs, they have to have a protocol for how they handle medications and how the person is treated."

Two Crimes, Years in Prison

Evenor Pineda, 41, and Tony Hebert, 39, were relatively young when they entered New Hampshire's correctional system. Their initial experiences, while sharing similarities, are also different.

Pineda, a first-generation American from Nashua, was 23 when he was arrested in 2005 for manslaughter. At the time, he had two young children and says he was at a fork in the road in his life. Pineda was no stranger to the streets or the correctional system, having spent a lot of time as a teenager with a local gang, as well as a short stint in the early 2000s at Valley Street Jail when minors were considered adults.

"As my kids began getting older, I started tapering off from that life – but I still had those connections on the streets," Pineda says. He recalls the day a fistfight over drugs with someone he considered a friend led to a fatal stabbing and 15 years of prison time. "I stabbed him, and he passed away. It was one o'clock on Sunday. By seven that night, I was arrested. I was arraigned in the morning and sent to Valley Street, where I stayed for one year and 10 days before going to Concord."

Pineda says his experience with the system prior to entering the NHSP, which included 22-hour lockdowns with two hours for "rec time," initially led him to embrace the gang affiliations he had adopted earlier in life.

"In the prison system, the gang is very present, and I gravitated back to what I was most familiar with," he says, explaining the relief and comfort he felt going to prison after getting out of Valley Street. "All the rumors of excessive force by COs used at Valley Street were true. I remember waking up in the middle of the night to a grown man screaming because he was getting beat up by an officer – or more likely, officers."

Pineda met Hebert at the NHSP in 2014. Hebert was convicted of manslaughter a year prior, following an altercation in July 2011 that led to the shooting death of a young man in Manchester. Hebert had served two and a half years at Valley Street before receiving a sentence of 14 to 30 years at the NHSP.

Pineda, who had experience with the system, says he put his head down and prepared for a new identity without his children or his friends when he entered the prison. Hebert, meanwhile, had no such experience, making the transition much more difficult.

"I was shocked, and it was an out-of-body experience," Hebert says, explaining that his initial experience of prison came with a lot of guilt – over the price both the victim's family and his own paid for his crime – which still weighs on him. "But those first few minutes, I was in complete disbelief."

In his two and a half years at Valley Street, Hebert had seven public defenders before he struck a deal.

"My lawyer told me: 'You're a young black man in the state of New Hampshire, and you're accused of a violent crime with a firearm. You should take the deal,'" he says. "After being at Valley Street for that long, I didn't care. 'Just get me out of here,' I thought."

After leaving Valley Street, Hebert was sent to a Closed Custody Unit (CCU) at the NHSP following his initial time in R&D.

"I was nervous because it was a long time and I have a wife and three kids," he says. "I was also thinking, 'this is what I've been dealt, and I need to do my time and try to get past this the best I can.'"

Hebert eventually made it to C3, or "general population," where most inmates are housed at the NHSP.

"In CCU, they watch you for observation for a few months," he says. "So, I thought, 'Let's try to make the best of this.'"

For the next 12 years, moving between various units until his release in June 2023, that's what Hebert did.

Moving Forward in Prison

Lascaze, Hebert, and Pineda all concur that the initial days and months in jail and prison involved a lot of compartmentalization.

"Compartmentalizing is a survival technique people use to differentiate the inside and the outside," Pineda says. "Everyone wears masks on the outside, but on the inside, you wear a thicker mask to protect yourself. Everyone has their chow-hall face."

All three men agree that letting one's guard down happens over time, but it's difficult.

"For me, the motivation was that my wife was visiting with my kid saying, 'Daddy, Daddy, Daddy,'" Hebert says. "There's a big difference between trying to balance family life and navigate the prison system, but that meant more to me than any of the nonsense that came with the prison system."

The next few articles in the NHBA Prison Series will focus on life in prison, following Joseph Lascaze, Evenor Pineda, Tony Hebert, and others through their experiences with the New Hampshire State Prison system. ■

SCOTUS from page 1

The report found that 90 percent of borrowers felt their debt hindered their progress toward major life milestones like buying a house, getting married, or having children. Additionally, more than half of the respondents reported that they worry about being able to pay for monthly living expenses.

"At the end of the day, student loans impact what jobs we take, whether to stay in our job, or leave for another one," says attorney Samantha Puckett of Barnes and Thornburg in Boston and member of the NHBA's New Lawyers Committee. "It also impacts things like buying a home, starting a family, or how many kids you have. All those kinds of things are really impacted by student loans."

The survey also concluded that nearly a third of new lawyers have moved away from public service work and more than half have prioritized their salary due to student loan debt. This shift has ramifications for marginalized communities' access to justice. Attilli, who is passionate about public service work, acknowledges the challenges posed by loan debt.

"It's frustrating for people like me who want to go out and do this important work to help people, but who like they're limited financially," Attilli says. "I think because of the decision, a lot of people who wanted to go into public interest may end up going into private practice for monetary reasons. Their loan payments are just too high."

The Court's decision held that the Biden Administration did not have authority under a 2003 federal law to forgive $430 billion in student debt. The law, called the Higher Education Relief Opportunities for Students Act (HEROES Act), was enacted following the tragedies of September 11, 2001. The original act gave the Secretary of Education the authority to "waive or modify any statutory or regulatory provision" to protect borrowers who were affected by acts of terrorism. In 2003, the act was expanded to include borrowers affected by wars, military operations, and national emergencies. When the COVID-19 pandemic hit the country and then-President Donald Trump declared it a national emergency, the HEROES Act was invoked to pause student loan repayment requirements and halt the accumulation of interest. As of September 1, interest has resumed with payments due starting in October.

"As young lawyers, and young people with loans, we understand that we borrowed this money, and we are obligated to pay back what we borrowed," Puckett says. "We're just looking for something reasonable to help us pay off this debt because even on federal loans the interest rate is eight percent, which is outrageous."

It appears interest rates are one of the biggest issues surrounding student loans. Many feel that it is impossible to pay back what they borrowed when the amount becomes insurmountable, and that getting interest rates under control would be a reasonable and helpful way to provide some relief.

"I think a lot of these issues could be solved with lower interest rates alone," says Attilli. "People can pay on time every month, they could even make double payments, and their balance will just go up and up because of how high interest rates are. Back when my parents were in school, interest rates weren't eight percent. That's what they are this year."

The Biden Administration is continuing to pursue other avenues to provide relief to millions of citizens struggling to get their debt under control. In July, a mere two weeks after the SCOTUS ruling, Biden announced the cancellation of the remaining balances of over 800,000 borrowers, amounting to $39 billion. This forgiveness targets borrowers affected by previous payment-counting errors. Eligibility for this cancellation requires the accumulation of the equivalent of 20 to 25 years' worth of qualifying months, largely benefiting older borrowers. Thus, the younger generation continues to advocate for debt assistance.

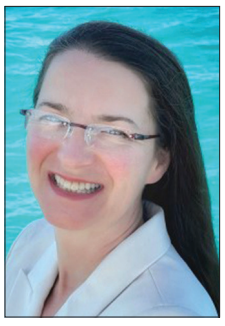
"I hope that we can come up with something reasonable that makes it more realistic for us to pay off what we've borrowed," Puckett says. "Whether that's a reduction of the interest rate or a defined amount of money. I hope that's something we can find bipartisan support for. It's such a high priority for Millennials and Gen Z, so I'm sure it will be a focal point in the next election." ■

Endnote

1. americanbar.org/content/dam/aba/administrative/young_lawyers/2021-student-loan-survey.pdf

The Meandering Federal Definition of Navigable Waters

By Marcia Brown



Watching the definition of Navigable Waters has become a bit like watching a tennis match with the ball bouncing between courts. For background, the Clean Water Act (CWA) was enacted back in 1972. It gives federal jurisdiction to "navigable waters," which in turn, has been defined as "the waters of the United States, including the territorial seas." 33 U.S.C. 1362(7). Court cases since have shaped this definition, including *United States v. Riverside Bayview Homes*, 474 U.S. 121 (1985); *Solid Waste Agency of Northern Cook County v. US Army Corps of Engineers*, 531 U.S. 159 (2001); and *Rapanos v. United States*, 547 U.S. 715 (2006).

In 2015, in response to these cases and extensive public comment, the US Environmental Protection Agency (USEPA) and US Army Corps of Engineers (USACOE) redefined "waters of the United States." It was short-lived. The agencies repealed the definition in 2019. In 2020, the agencies issued another definition that essentially reduced the reach of the CWA.

Then, in January 2023, the agencies offered a new definition that "waters of the United States" included: (1) traditional navigable waters, the territorial seas, and interstate waters; (2) impoundments of qualifying waters; (3) tributaries to qualifying waters; (4) wetlands adjacent to qualifying waters; and (5) certain intrastate lakes and ponds, streams, and wetlands. This January 2023 rule has been criticized as expanding the reach of the CWA.

Meanwhile, enter *Sackett v. EPA.* 143 S. Ct. 1322 (2023). On May 25, 2023, the US Supreme Court issued a decision narrowing the definition and rejecting the *Rapanos* "significant nexus" test. The Court ruled that the Sacketts' wetland near a ditch that fed into a creek that fed into Priest Lake in Idaho was not jurisdictional under the CWA. While this description by the Court makes the wetland seem remote, the Sackett's property was located on the opposite side of the street from the shorefront properties and was part of a large fen wetland complex about a football field's length away from Priest Lake.

Thus now, for projects that require federal permits under the CWA, the jurisdictional reach will be to "those relatively permanent, standing or continuously flowing bodies of water forming geographic features that are described in ordinary parlance as streams, oceans, rivers, and lakes." *Sackett* at 1337. Since *Sackett*, on August 29, 2023, the federal agencies issued revisions to its January 2023 rule. They removed the "significant nexus" standard from analyses of "Tributaries," "Adjacent Wetlands," and "Additional Waters." They also removed "Interstate Wetlands" from the text of the interstate waters provision. A fact sheet on the changes is on the USEPA website.

So where does this leave us in New Hampshire? New Hampshire enjoys the status of having strong wetland protection laws. Further, New Hampshire's laws have also been fairly stable in existence and as administered by the Department of Environmental Services. That stability helps New Hampshire not be caught in a lurch by *Sackett*. A good list of these protective statutes and rules can be found in Appendix B to the USACOE's General Permit for New Hampshire: **nae.usace.army.mil/Missions/Regulatory/State-General-Permits/New-Hampshire-General-Permit**. Because of these state laws, New Hampshire should see less of an impact from *Sackett* as compared to other states in the middle of the country who rely more on federal law for wetlands regulation. ■

Marcia Brown is a solo practitioner at NH Brown Law, an environmental, energy, and utility law firm. She has more than 30 years of regulatory experience, and is a member of several sections and committees, including the NHBA Environmental & Natural Resources Section, the ABA Environment, Energy, and Resources Section, the New Hampshire Water Works Association, and New England Women in Energy and Environment.

Rate Case Naming Convention

By Marcia Brown

Thank you to the Bar Association for running section articles. It gives us practicing in one area the ability to pass along advice. To that end, I want to pass along advice that the late Dom D'Ambruoso gave to me. Dom had been Executive Director of the Public Utilities Commission (PUC) and in that role, he managed the process of dockets before the PUC.

The PUC regulates the rates monopoly utilities charge customers. At the core of that function is the Rate Case, a typically year-long review of the utility's books and records. But the legislature did not set up Rate Cases to automatically involve a year-long review. Under RSA 378:3, all a utility has to do to change its general rates is file tariff rate schedules 30 days in advance of the effective date. There are other requirements that require the filing of a Notice of Intent (Puc 1604.05) and the filing of Full Rate Case Schedules (Puc 1604.01), but the point is, the utility doesn't have to ask for, or petition for, general rate increases. The utility just sets them via the tariff rate sheets it files. It is the PUC who must then act to suspend the taking effect of those rates if the PUC wishes to invoke the year-long review. Also, if the suspension of the rates will harm the utility, the PUC itself can set temporary rates (RSA 378:27) while the investigation is underway.

The point of raising this is to distinguish Rate Cases from other dockets where a utility must first seek permission. It is to also not lose the legislature's intent of RSA 378:3 among the habit we've grown accustomed to. The habit now is to name a proceeding "Petition for…". It is instinctive. But there is no "Petition for…" in a pure, general Rate Case. No such pleading need be filed. Although the legislature is regulating these monopolies, it didn't take away every business discretion, or in the case of Rate Cases, self-help in setting rates. I urge that the naming convention correctly reflect the filing and who is taking the action. ■

Utility Easements and Claims

By Leigh S. Willey

When it comes to real estate transactions, the seemingly straightforward process of transferring property ownership can quickly become entangled in a complex web of competing legal rights and interests. Utility easements are one aspect that presents challenges that buyers, sellers, and even lenders must navigate with care.

A utility easement is a legal right that allows utility companies to access and use a designated portion of someone else's property for the purpose of installing, maintaining, and operating utility lines and equipment. Utility easements are designed to ensure the smooth deployment of essential public services, such as electricity, water, sewer, gas, and telecommunications, and are an important part of community development. Utility easements are created by deed, by agreements between the property owner and the utility company, or in recorded plans, indicating the exact location and dimensions of the easement area.

Despite their public benefit, utility easements can restrict certain uses of the underlying property and impact the property's value and development potential. Like most other types of easements, utility easements strike a delicate balance between the rights of the utility companies and the rights of the property owner. On the one hand, utility companies have the right to access and maintain their infrastructure within the easement area. On the other hand, property owners can still use the easement area provided that such use does not interfere with the utility company's access or hinder its operations. It is therefore critical that property owners and utility companies know the location and scope of intended use of the easement area to avoid interfering with the other's property rights, which could lead to legal disputes.

Litigation is expensive, time consuming, and inherently unpredictable. Litigation of disputes involving easements is uniquely challenging. Such litigation involves applying complex, and often archaic, legal theories to historical property documents to ascertain the intent of the parties to the original easement grant and to establish patterns of usage of the disputed easement area. In addition, easement litigation usually requires expert witnesses, such as surveyors, appraisers, or land use/real property specialists, whose fees for consultation, preparation, and testimony are significant, making an already costly undertaking even more expensive.

Title insurance plays a crucial role in mitigating risks associated with potential legal claims involving utility easements. It may provide coverage to owners and lenders for financial loss caused by utility easements, such as disputes about or unexpected limitations on the use of the easement area. During the title search process, public records, including deeds, agreements, and plans, are examined to identify existing utility easements on the property. If a utility easement is not properly disclosed during the sale of a property and later comes to light, the buyer might face unexpected restrictions on the use of his/her land, and in more serious cases, be forced to make costly modifications to the property to accommodate the easement and the utility company's use of the easement area.

For example, in a residential transaction, a new homeowner discovers that a utility company has an easement across the property to install and maintain power lines. The property owner was unaware of the easement when he purchased the property and had installed a swimming pool in the easement area. The easement significantly limited the owner's use of the affected portion of the property. Assuming coverage is available, the owner can file a title insurance claim to address the issue and potentially seek compensation for the undisclosed easement's effect on the property's value, including the forced removal of the swimming pool.

Sometimes, utility companies abandon their easement rights. If a utility company no longer needs the easement because of technological advances or because of changes in its infrastructure, it may choose to stop using an easement. Utility companies also abandon easements because property development makes it more practical to relocate the easement or because financial, legal, or regulatory changes render the easement invalid or unnecessary. Regardless of the reason, if not properly documented, abandoned easements can still cloud the property's title and have unintended consequences on the owner's ability to sell or refinance the property. Depending on the circumstances, title insurance may be available to assist the property owner in addressing such situations.

Lenders are particularly concerned about the presence of utility easements on property because they affect the property's value and marketability, which in turn affects the lender's collateral for the loan. Similarly, if an owner's ability to use or develop the property to its fullest potential is restricted by a utility easement, the owner's financial ability to repay the loan may be compromised, posing a higher risk for the lender. Properties encumbered by several utility easements may be less appealing to prospective buyers, making foreclosure proceedings more challenging to the lender in the event the owner defaults on their loan obligations.

Given these potential risks, lenders want to ensure that utility easements are properly disclosed, documented, and evaluated during the underwriting process. Many lenders will request that an ALTA 17.2-06 Utility Access Endorsement be issued with the final loan policy. Generally, this endorsement is used when the insured prop-

UTILITY *continued on page 31*

Head Winds and Tail Winds in Offshore Development

By Rebecca Walkley

Following President Biden's ambitious goal to deploy 30 gigawatts (GW) of offshore wind by 2030, several New England states have taken steps to promote the development of offshore wind. Massachusetts, Rhode Island, and Connecticut passed legislation requiring electric utilities to issue Requests for Proposals (RFPs) to procure the output of wind projects being developed in relatively shallow waters off Martha's Vineyard and south to Long Island. The first major project, the 800-megawatt (MW) Vineyard Wind project, is currently under construction and due to begin generating power by the end of this year. Maine and New Hampshire have focused on the longer-term goal of developing floating wind turbine projects in the deep water off the Gulf of Maine. In 2021, Maine submitted a lease application to the Bureau of Ocean Energy Management (BOEM) for the installation of the nation's first floating offshore wind research site in federal waters.

The Federal Inflation Reduction Act of 2022 (IRA) includes a number of provisions to promote offshore wind development. Among other provisions, $100 million has been earmarked for regional transmission planning and $760 million has been set aside for grants to speed up local siting processes. In addition, the IRA extends and increases investment and production tax credits through 2024 for wind energy projects that begin construction prior to January 1, 2025. In 2025, the tax credits for wind will be replaced with technology-neutral credits for low-carbon electricity generation, which will phase out in 2032, or when US power sector greenhouse gas emissions decline to 25 percent of 2022 levels, whichever is later.

Recent decisions on major offshore wind projects both in New England and along the East Coast, however, suggest the current economic and market conditions could scale back previous expectations for the rapid deployment of offshore wind. At the same time, grass roots activism and the resulting political considerations are generating opposition to offshore wind – a trend consistent with most large infrastructure projects.

In July of this year, state officials in Rhode Island decided not to move forward with a large-scale offshore wind project in Rhode Island. The proposed project involved a joint venture between Eversource and Ørsted to create 600 to 1,000 MW of offshore wind generation. The joint venture project was the only project bid in response to an RFP issued by the state of Rhode Island back in October 2022.

Rhode Island's decision not to proceed with the project was made following a four-month evaluation process, which was completed in consultation with the Rhode Island Office of Energy Resources and the Division of Public Utilities and Carriers. This review is mandated under applicable federal regulations. The Energy Policy Act of 2005 requires that BOEM coordinate with relevant federal agencies and affected state and local governments to obtain fair return for leases and grants issued, and to ensure that renewable energy development takes place in a safe and environmentally responsible manner.

> Offshore projects can require a decade to progress from planning stages to generating power.

The state determined that rising costs made the project too expensive for ratepayers and concluded the project was inconsistent with state law, specifically, the state's Affordable Clean Energy Securities Act and its requirement to "reduce energy costs."

The decision in Rhode Island is a glimpse of what is happening in terms of offshore wind development all along the east coast of the United States and globally. Several developers in the country have sought to renegotiate power supply contracts in response to rapidly increasing costs, due partly to supply chain issues and rising demand. For example, BP and Equinor recently announced they would be renegotiating their power purchase agreements with respect to their development of the Empire and Beacon offshore wind projects, which have a total capacity of 3,300 MW. Rising interest rates also means that financing the billions of dollars in investment that go into these installations has also become far more expensive.

In part, the challenges surrounding financing for offshore projects is amplified by the nature of such offshore development and the applicable regulatory approval process. Offshore projects can require a decade to progress from planning stages to generating power. The result of this lengthy development timeline is that necessary contracts that set the price of power, among other crucial factors, may be out of date before turbines are in place and generating electricity. This sequence including the delayed return on investment worked when inflation was insignificant and demand for turbines and other equipment was relatively low. As a growing number of developers look to secure project components, however, the rising demand for wind turbines, the services of specialized construction ships, and bank financing, results in much higher prices of construction compared to prices available until very recently.

Consequently, developers are terminating projects, even in the face of hefty penalties, because it is more economical than moving forward with project construction. Avangrid agreed to pay $48 million to terminate a power purchase agreement signed with the Commonwealth of Massachusetts just last year. Avangrid, and others, cited the war in Ukraine, rising interest rates, and supply chain disruption as the cause for their inability to procure financing. These same projects will likely be rebid in future state procurements, but at a higher price point.

These changing market conditions are unlikely to stop offshore development across the board. In fact, the Department of the Interior just announced in July 2023 that it will hold the first offshore wind energy lease sale in the Gulf of Mexico. The department also announced in August its approval of the Revolution Wind project located approximately 15 nautical miles from Rhode Island with an estimated capacity of 704 MW. BOEM is also forecasting that it will review at least 16 Construction and Operations Plans of commercial, offshore wind energy facilities by 2025, which would represent more than 27 GW of clean energy for the nation. Nevertheless, it is likely we will see negotiated power purchase agreements and other related, essential contracts affected by these significant changes in the market. ■

Rebecca Walkley is a member of McLane Middleton's Administrative Law Department where she advises clients in state, federal, and municipal, environmental, and energy regulatory and litigation cases. She can be reached at ***rebecca.walkley@mclane.com****.*

Held v. Montana: Montana Judge Charts a Path Forward for Climate Change Litigation

By Nicole W. Austin

On August 14, 2023, a Montana state court judge issued a landmark ruling in climate change litigation, driven by the plaintiffs' fundamental "right to a clean and healthful environment" under the Montana Constitution "for present and future generations." Mont. Const., art. II, § 3; art. IX § 1. The Montana Supreme Court had previously held this right to be a fundamental one, but the *Held* case was the first time the right was evaluated in the context of climate change. The resulting order is a remarkable step forward for environmental protection advocates.

The plaintiffs in this class action suit were a group of 16 young Montanans, between the ages of two and 18, when the case began in 2020. They sued the State of Montana, the governor, and four state agencies for violations of the above constitutional rights stemming from the practice of permitting energy projects like coal and natural gas. The plaintiffs challenged a provision of the Montana Environmental Policy Act (MEPA), known as the MEPA Limitation, forbidding state agencies from considering the impacts, in-state and/or out-of-state, of greenhouse gas (GHG) emissions or climate change in their environmental reviews. SB 557, signed into law only earlier this year, curtailed challenges brought against agencies' adherence to the MEPA Limitation. Among other things, SB 577 limited who could bring a challenge, required challengers to pay a fee, and prescribed that even a successful challenge could not vacate, void, or delay a lease, permit, license, or other entitlement/authority issued under the MEPA Limitation. These laws could not withstand strict scrutiny review and are facially unconstitutional under Montana's State Constitution.

Judge Kathy Seeley of the Montana First Judicial District Court of Lewis and Clark County declared as such in a 103-page order and after a monumental trial. The court heard testimony from 27 witnesses, all but three of whom were called by the plaintiffs, and admitted 172 exhibits, all but four of which were offered by the plaintiffs.

A significant portion of the order is devoted to robust findings of fact about the science of climate change. Judge Seeley's comprehensive and accessibly written order is in a class of its own and will provide attorneys and other judges with ample reference material in cases to come. The order also makes groundbreaking findings of fact about the concrete impact that climate change has on individuals, particularly children. The court concluded that "climate change is already harming plaintiffs" and that "because of their unique vulnerabilities, their stages of development as youth, and their average longevity on the planet in the future, Plaintiffs face lifelong hardships resulting from climate change." The court's findings were critical in establishing the plaintiffs' standing to sue, a common issue in environmental protection litigation, though potentially less so in the future with citations to Judge Seeley's order.

The connection between climate change and the defendants' actions (or inactions in even considering climate implications in their permitting processes) was the focus of the parties' dispute. These issues of traceability, causation, and redressability are other common sticking points for similar classes of plaintiffs, but not here. The court strongly and clearly disagreed with the defendants' position that the plaintiffs could not demonstrate how the defendants' actions in Montana, pursuant to the MEPA Limitation, quantifiably contributed to climate change and the plaintiffs' harm. It found that "Montana's GHG emissions are not *de minimis* but are nationally and globally significant," explaining that, in 2019, Montana was responsible for 166 million tons of carbon dioxide emissions, exceeding that of many large countries. The court found that the relationship between permitted activities and resulting environmental harms is reasonably close and found that the State's practice of authorizing fossil fuel activities without analyzing GHGs or climate impacts results in GHG emissions in Montana and elsewhere, which in turn exacerbates climate change in "an already destabilized climate system."

Further, the court found that the defendants "can alleviate the harmful environmental effects of Montana's fossil fuel activities through the lawful exercise of their authority if they are allowed to consider GHG emissions and climate change" during the permitting process, which in light of the fact that Montana's land "contains a significant quantity of fossil fuels yet to be extracted," would provide partial redress to the plaintiffs' injuries by being able to "reject projects that would lead to unreasonable degradation of Montana's environment." While this reasoning is of course specific to Montana, it provides a compelling framework for future cases to establish the required, and previously often abstract, link between a specific defendant's actions and the global phenomenon of climate change.

The holding is narrow, but it is one that is nonetheless making headlines as ushering in a shift into a new era of climate change litigation. The language of the Montana Constitution that was critical to this plaintiffs' win is currently uncommon but may not be for very long, particularly if momentum builds as is expected after Judge Seeley's order. At least 15 other states are witnessing campaigns for so-called "green amendments," and there are already several state constitutions, such as those in Massachusetts, Hawaii, Illinois, Rhode Island, and Alaska that contain environmental pro-

LITIGATION *continued on page 31*

Rematriation and Using Land Trusts to Dovetail Indigenous and Modern Land Ownership Systems

By Amy Manzelli and Julia Nosel


Manzelli


Nosel

New England's rich and beautiful landscape has been and continues to be home to many generations of people, and with that comes the responsibility to conserve it for future generations. The indigenous people of this area, primarily the Wabanaki, Abenaki, and Pennacook peoples, take this responsibility very seriously. Knowledge passed down through generations about how to live with and within the land, plants, and animals, makes the indigenous people of this area some of the best suited to conserve the natural environment. Since this land was colonized, these peoples have had to fight to preserve their culture, history, languages, and way of life.

The rematriation movement has been a holistic initiative to literally give land back to these groups but also to return all things that depend on their connection to the land – sustainable food sources, housing, education, language, culture, etc. While there are many nuances around the motivations and goals of the rematriation movement, this article specifically focuses on the formation of land trusts by indigenous communities to then serve as a vehicle through which to return land and other land-related rights to those indigenous communities.

Conservation

The symbiotic relationship between indigenous peoples and the land on which they live is globally recognized as beneficial to the conservation of species as well as reducing the negative impact of human activity upon the environment at large. While many efforts to conserve the natural environment here in New Hampshire comes from essentially sheltering certain areas of land from human interaction, indigenous peoples have ways to sustainably live within the environments they protect through knowledge systems built over generations. Across the country, indigenous groups have worked to restore and reintroduce plant and animal species to their historic environments while still using the resources they need that the land provides.

In contribution to an article by *Grist*, Marcus Briggs-Cloud of the Maskoke people in Alabama describes one way they respectfully and purposefully use resources without damaging the environment in their community at Ekvn-Yefolecv.

"We have a ceremony with every single tree before we fell it. Then we skid, debark, and mill the timber onsite to avoid fossil fuel consumption and carbon emissions that would have been required to import timber." He also goes on to describe their efforts to conserve the biodiversity of the area: "We are reintroducing buffalo and lake sturgeon. This fish is sacred to our people, but they were extirpated from our traditional Maskoke homelands because of the hydroelectric dams that were erected on the Coosa River. It was about 70 years ago that the last lake sturgeon was seen as naturally occurring in the Coosa watershed. [On Earth Day in 2020], we put the first group of sturgeon back into the river." Read the full article at **grist.org/fix/justice/indigenous-landback-movement-can-it-help-climate**.

Rematriation

Returning land to indigenous peoples is a concept covered by various terms: landback, rematriation, decolonization, and more. However, the process of returning the land has come with its challenges. Indigenous peoples generally do not see themselves as "owners" of land, but rather as caretakers and stewards. However, the modern legal system of land ownership that has developed since colonization means indigenous caretakers and stewards need some form of legal protection to ensure their use of the land is secure and defensible if challenged. Therefore, returning land to various indigenous groups across the country has required novel conversations between parties about needs and innovative thinking on how to best meet those needs within the current context of the legal system of land ownership.

One common solution has been for an indigenous community to organize a land trust to hold (own) rights. From there, exact strategies differ according to individual communities' wants and means. In Oakland, California, the Sogorea Te' Land Trust holds a cultural easement over land owned in title by the city but with nearly full access given to the Trust in perpetuity and with no option to revoke. With this protection, Sogorea Te' can use the land for educational, cultural, and environmental purposes with full confidence it will never be at risk.

> Like any other land trust, these trusts may also acquire full title ownership of land through donation or purchase.

Like any other land trust, these trusts may also acquire full title ownership of land through donation or purchase. Last year, the Native Land Conservancy in Massachusetts received thirty-two acres of donated land which they are restoring to its pre-colonized condition. According to a WBUR article, the former summer camp had all buildings, pavement, and other hard surfaces removed as well as any non-native vegetation, while native species that are significant to the Wampanoag culture were planted in their stead. Read more about this project at **wbur.org/news/2022/08/24/native-land-restoration-massachusetts**.

It is important to have discussions on the use of the land before deed transfer to assure the indigenous communities have all the rights requisite to accomplish their goals. On the other side of home, efforts are underway north of Portland, Maine to return land back to the Abenaki/Wabanaki community through an indigenous formed and led land trust collaborating with another land trust.

Conclusion

The process of righting wrongs of the past is not easy or simple. When it comes to harms to the indigenous peoples in this country, the landback movement is just one step toward reparations. Using land trusts to return stewardship and caretaking of lands to the people who safeguarded it for centuries benefits everyone, and we can learn many things from their knowledge systems of how to coexist peacefully with the environment and conserve it for future generations. With the effects of climate change being felt more every year, these practices are more important to preserve than ever before. ■

*Amy Manzelli, attorney, and Julia Nosel, paralegal, both of BCM Environmental & Land Law, PLLC, are based in the Concord office, where they serve clients in environmental, conservation, and land law. Amy is a member and former co-chair of the NHBA's Environmental and Natural Resources Law Section and a member of the Real Property and Municipal & Governmental Law Sections. Julia will be a first-time attendee at the Land Trust Alliance Rally, the National Land Conservation Conference, in Portland, Oregon, when this article goes to print. Contact either one at (603) 225-2585 or **bcmenvirolaw.com/contact**.*

The UNH Environmental Law Society Continues to Grow

By Brandon Latham

This summer, the United States Supreme Court significantly changed how the Clean Water Act can be interpreted and applied. Last year, it issued a landmark administrative-law decision in a case about the EPA's scope. Just last month, a federal judge issued a groundbreaking ruling that young people have a constitutional right to a heathy environment. Environmental law is changing fast, but these changes will not only be felt by environmental lawyers. New attorneys entering all practice areas will benefit from getting a strong foundation in environmental law. At the University of New Hampshire Franklin Pierce School of Law (UNH Law), the state's only law school, the Environmental Law Society (ELS) takes on this responsibility.

It is hard to believe my classmates and I have entered our third and final year of law school, my second as president of the ELS. When I arrived, ELS was a small but energetic club that gave me a place to get involved and explore the important work many of us hope to turn into careers. By the end of last year, we had transformed it into one of the most active organizations at the university, launched environmental justice and campus sustainability committees, and volunteered through multiple community service projects. This year, we are hoping to continue growing the society and give the New Hampshire legal community the center for environmental law it deserves.

I wrote last year about how the need for environmentally educated attorneys is growing largely because of climate change, which has attacked New England with prolonged drought, shorter tourism windows, and increased demand for northern real estate. This summer has shown that we can count wildfire smoke pollution and heat-related 911 calls among New Hampshire's growing list of concerns. Traditional environmental litigation continues in our state, too, with landfill siting, drinking-water safety, and flood response consistently in the headlines. New Hampshire agencies, firms, corporations, and public-interest organizations of all sorts need attorneys familiar with these areas of the law to best achieve their goals and serve their clients. The ELS's mission continues to make sure UNH Law is producing such attorneys.

We do this through events, trainings, and other programming with the help of attorneys like you. In the 2021-22 academic year, we had more events than ever before. Then, in 2022-23, we had more events in April alone than recorded in any previous school year. We want to keep growing so we can better pursue our mission. Practicing attorneys – as well as state and local officials, non-profit leaders, and policymakers – make great mentors for our members, speakers for our events, and partners on any projects. And do not hesitate to put us to work, too. Our members have tracked legislation, presented at public functions, and otherwise applied our legal training for the community. I cannot wait to see what more we can do this year, and I hope you will be a part of it. ■

*Brandon Latham is a third-year law student at UNH Franklin Pierce School of Law and a master's candidate at Vermont Law School. He can be reached at **Brandon.Latham@law.unh.edu**.*

Community Power Is Transforming the Energy Landscape in New Hampshire

By Katherine Hedges and Lauren Kilmister


Hedges


Kilmister

How electricity is supplied to New Hampshire customers is currently undergoing a significant transformation through the adoption of community power programs, also known as municipal aggregation. This movement was triggered by a key change in state law (amending RSA 53-E), and is motivated by communities' desire to respond to high retail electricity prices and an appetite to take significant climate action.

Traditionally, most New Hampshire customers have received their electricity supply from their electric utility, with some customers electing to receive power from a competitive electricity supplier. Under community power, a municipality or county chooses the source of electricity supply for customers within its borders. The electric utility still provides transmission and distribution services, and customers receive one bill from the utility that reflects both the electricity supply chosen by the municipality and the services provided by the utility.

Since 2021, a significant and increasing number of New Hampshire municipalities have been preparing to move to community power. Many municipalities have community power programs under development, the first programs launched in the spring of 2023. And as of this writing, 16 municipalities have begun to supply community power to their residents.[1]

Why are municipalities choosing community power? There appear to be two main drivers: high energy prices and a desire for greater integration of renewable energy.

First, community power enables municipalities to obtain potentially lower electricity rates for their constituents. Utilities are required by state law to buy electricity supply in six-month increments, which entails using wholesale electricity markets where the clearing price is set by suppliers. Natural gas prices have been volatile in recent years, particularly during winter months, and are subject to international market forces (such as the Russia-Ukraine conflict). Under community power programs, municipalities are not similarly restricted. They can access medium or long-term supply arrangements as they deem advantageous. This enables municipalities to lock in lower prices and minimize exposure to fossil fuel price fluctuations.

Second, community power enables municipalities to include a greater number of renewables in their electricity supply mix than what the utility would supply. This consideration is taking on greater importance given the urgent need to address climate change and dissatisfaction by some with the state's climate response. Some New Hampshire cities and towns have adopted 100 percent renewable energy or net zero carbon emission goals and wish to take action to achieve those goals. New Hampshire's renewable portfolio standard law (RSA 362-F) requires utilities to obtain 23.4 percent of their electricity from renewable sources or to purchase renewable energy certificates to meet the metric. This figure rises to 25.2 percent in 2025 but does not increase thereafter. Community power enables municipalities to go beyond these limited state renewable energy targets.

Another key factor driving the adoption of community power is that RSA 53-E now allows municipalities to set up community power on an "opt-out" basis. Prior to a statutory amendment enacted in 2019, community power was only allowed on an opt-in basis. Under "opt-in," a customer is not in the community power program unless they affirmatively choose to be. Under "opt-out," a customer is deemed to be in the community power program unless they affirmatively chose not to be, except that customers of competitive electricity suppliers will be included in the community power program only if they opt in. Because most customers will not make an election under either approach, a municipality is better able to serve more customers and achieve its policy goals (e.g., cost savings and/or more renewable energy) with an opt-out program rather than an opt-in program.

In order to establish a community power program, a municipality must adopt an electric aggregation plan that includes statutorily required information regarding operation and funding, rate setting and costs, and participants' rights and responsibilities.

The plan is drafted by a community power committee that will seek public input at public hearings, and then the plan is submitted to the city/town legislative body to be approved by majority vote. The municipality must submit the plan to the Public Utilities Commission (PUC) for review, which is limited to ensuring the plan for "conforms to the requirements of [RSA 53-E] and applicable rules."[2] The municipality must also submit the plan to the Office of the Consumer Advocate and any electric utility providing service in the municipality. Once plans are approved, municipalities are required to mail notice of the commencement of an opt-out program to each retail electric customer in the community, allowing the customer at least 30 days to make an election to opt out.

Municipalities can develop community power plans either on their own or in collaboration with other communities. So far, most are doing so either as members of the Community Power Coalition of New Hampshire (the Coalition) or by working with an energy services broker. Formed in 2021, the Coalition had 35 municipal members and one county member (Cheshire County) as of June 30, 2023,[3] and continues to grow. The Coalition currently has 12 operating community power programs representing about 75,000 customers, making it a larger electricity supplier than Liberty/Granite State Electric or Unitil.[4] At least 15 other communities have or will launch their programs while working directly with a broker such as Good Energy/Standard Power, and Colonial Power.

Many municipalities are structuring their community power programs to provide a default offering along with the option to choose another offering with a different amount of renewable energy included. Coalition members offer "Granite Basic" as their default service (with five to ten percent more renewable energy than the utilities), while allowing customers three other options – no increase in renewable energy, 50 percent renewable energy and 100 percent renewable energy. Keene, working with Good Energy and Standard Power, offers Keene Local Green (five to ten percent more renewable energy with an emphasis on local sources) as its default service, with the same other options as the Coalition.

The municipalities that have launched their programs are offering cost savings to their customers, at least at the outset. The Coalition's "Granite Basic" rate is currently 10.9 cents/kWh[5] and the Keene Local Green rate is 11.47 cents/kWh,[6] both of which are lower than the default energy service rates currently charged to residential customers by Eversource (12.582 cents/kWh), Unitil (13.257 cents/kWh) and Granite State Electric (12.612 cents/kWh).[7]

There is no guarantee that community power supply rates will be lower than utility default energy service rates at all times, but community power appears to offer the opportunity to reduce and stabilize electric supply rates for residents in most cases. Importantly, each municipality has the flexibility to offer the options it believes will best serve its residents, whether to realize lower prices, more renewable energy, more local energy, or another objective.

There are some practical issues with implementing a community power program that are not yet fully resolved. For example, net metering consumers with onsite generation will not receive a monetary credit for any energy they export to the grid while participating in community power programs, largely due to barriers in data exchange with utilities. Supporters of community power are working with the PUC to address this issue, as RSA 53-E contemplates integrating net metering consumers into community power.

Community power is here to stay. The 16 municipalities that have launched programs so far represent about 16 percent of New Hampshire's population. With many more communities expected to launch programs later this year or in the first half of 2024, it is possible that up to half of the state's population may be served by community power by the middle of 2024. ■

Katherine Hedges and Lauren Kilmister are members of the Energy and Utilities Practice Group at Rath, Young & Pignatelli, PC, where they work with developers, owners, operators, investors, and lenders involved in the production of power and fuels from biomass, hydropower, wind, solar, cogeneration, landfill and bio-gas, and alternative fuel feedstocks on a wide-range of legal issues.

Endnotes

1 The 16 municipalities are the Cities of Keene, Lebanon, Nashua, and Portsmouth, and the Towns of Canterbury, Enfield, Exeter, Hanover, Harrisville, Marlborough, Peterborough, Plainfield, Rye, Swanzey, Walpole, and Wilton.

2 RSA 53-E7, II.

3 *About Us*, Community Power Coalition of New Hampshire, cpcnh.org/about (last visited Aug. 30, 2023).

4 2023 Quarter 2 Coalition Launch Addendum, Community Power Coalition of New Hampshire, *available at* cpcnh.org/_files/ugd/202f2e_ca0ad97e3dac4f57b-7db3008344e6954.pdf.

5 Community power group sets energy prices for customers in 12 NH municipalities, New Hampshire Public Radio, *available at* nhpr.org/nh-news/2023-07-29/community-power-group-sets-energy-prices-for-customers-in-14-n-h-municipalities (July 2, 2023).

6 Products & Pricing, Keene Community Power, *available at* keenecommunitypower.com/electricity-choices/ (last visited August 28, 2023).

7 Shop for Electric Rates, New Hampshire Department of Energy, *available at* energy.nh.gov/engyapps/ceps/shop.aspx (last visited August 28, 2023)(detailing rates effective August 1, 2023-January 31, 2024).

Litigation from page 29

tections outside of their respective bills of rights.

Pennsylvania and, fairly recently, New York have enshrined environmental protections in the Bill of Rights of their state constitutions similar to those in Montana. Pa. Const. art. 1, § 27 ("The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic, and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the commonwealth shall conserve and maintain them for the benefit of all the people."); N.Y. Const. art. 1, § 19 ("Each person shall have a right to clean air and water, and a healthful environment."). Florida, Hawaii, Utah, and Virginia are all states to watch as Our Children's Trust, the not-for-profit law firm that represented the *Held* class of plaintiffs, has cases pending in each on behalf of classes of young plaintiffs. For now, at least, we haven't seen similar headlines in the Granite State. ■

Nicole W. Austin is a litigation associate at Sheehan Phinney Bass & Green.

Utility from page 27

erty has access to the utilities identified in the endorsement (e.g., water, electrical, natural gas, sanitary sewer, telephone, etc.). It provides lender assurances that the premises have a right of access to utility services over, under, or upon an easement without gaps or gores. It also insures against loss if there is a lack of a right of access to the specified utilities or services because the grantor or its successor terminated the easement.

Navigating the complexities of utility easements is an integral part of any real estate transaction. Buyers, sellers, and lenders must be diligent during the title examination and closing preparation process to ensure that all parties are fully informed about existing utility easements and any potential risks they pose. By understanding the types of utility easements, the role of title insurance, and common title insurance claim scenarios, stakeholders can better protect themselves against unforeseen legal battles and financial losses. ■

Leigh S. Willey, Esq. is New Hampshire Title Counsel at CATIC. She can be reached at 866-595-5559 or ***lwilley@catic.com****.*

NH Supreme Court at a Glance

August 2023

Administrative Law

***Appeal of Fran Rancourt (New Hampshire Compensation Appeals Board)*, No. 2021-0153**
August 16, 2023
Affirmed.

- Whether the CAB committed an error of law, or the CAB decision was unjust or unreasonable by a clear preponderance of the evidence.

The claimant appealed a decision of the Compensation Appeals Board (CAB), granting the request of the carrier to reduce the claimant's Temporary Total Disability (TTD) rate to the Diminished Earning Capacity (DEC) rate, because there was a change in the claimant's condition unrelated to the work injury.

The Court detailed the factual record including that after working at the Community College System of New Hampshire for ten years, the claimant slipped and fell on ice and sustained a concussion. The claimant initially missed ten days of work and then three months later proceeded with partial duty because of the concussion. The claimant continued to treat regarding this concussion and was to be evaluated two years post-injury. Just shy of two years, the claimant fell while in Maine and sustained a severe hamstring injury which resulted in surgery. During the CAB hearing, the claimant alleged that the fall was caused by her ongoing concussion symptoms, however, this was disputed by an excerpt from the medical record which indicated that the fall was from stepping onto a boat when the boat moved away from the dock. Approximately three years after the injury, the carrier requested a hearing to reduce or terminate the TTD indemnity benefits. This request for hearing was granted, and the benefits were reduced because of the claimant's changed condition. The claimant appealed the decision to CAB, which held a *de novo* hearing. The CAB upheld its decision and concluded that the carrier met their burden of proof that there was a change in the claimant's condition that warranted the reduction of the indemnity benefits to the DEC rate. The CAB noted that it found an independent medical examination report "persuasive." The report noted that claimant's physical limitations and disability from the workforce were unrelated to the concussion. The claimant moved for reconsideration, which the CAB denied. The claimant then appealed.

The Court concluded that based on the evidence, the CAB did not commit an error of law, and the CAB decision was not unjust or unreasonable by a clear preponderance of the evidence. Thus, the Court affirmed the CAB decision.

Leslie Johnson, Law Office of Leslie Johnson, Center Sandwich, for the claimant. Kevin Stuart, Joseph Becher (on the brief), for the carrier.

At a Glance Contributor

Laura D. Devine
Shareholder
Boyle Shaughnessy Law
Manchester, NH

Property Law

***AZNH Revocable Trust & a v. Spinnaker Cove Yacht Club Association*, No. 2021-0385**
August 3, 2023
Affirmed.

- Whether the condominium act and/or the condominium documents prevent a condominium board from purchasing additional common area property and paying for it with special assessments.

The Trustees of the AZNH Revocable Trust, as owner of a condominium unit at the defendant Spinnaker Cove Yacht Club Association, requested preliminary injunctive relief, and a declaration, to enjoin the Board of Directors from purchasing land outside of the condominium association to add ten guest parking spaces to the association. The trial court denied the request for a preliminary injunction and granted the condominium association's motion to dismiss.

On Appeal, the Supreme Court conducted a *de novo* review and analyzed both the applicable condominium statutes as well as the condominium documents.

The Spinnaker Cove Yacht Club Association consists of 91 units of parking spaces and the remaining unit is a commercial warehouse owned by a business in boat sales, service, and storage. Each unit has the exclusive right to use a boat slip corresponding to that unit.

The basis of the complaint was to seek relief because the condominium board undertook steps to purchase land outside the condominium to add ten guest parking spaces, which were to become

AT A GLANCE *continued on page 33*

US District Court Decision Listing

August 2023

* Published

Breach of Contract

8/15/23 *Collision Comm. v. Nokia Solutions & Networks OY*
Case No. 20-cv-949-LM (D.N.H.), Opinion No. 2023 DNH 100P

Plaintiff Collision Communications alleged that defendant Nokia Solutions & Networks breached an oral contract to license certain cellular telecommunications technology. Collision also brought claims for breach of the implied covenant of good faith and fair dealing, promissory estoppel, negligent and intentional misrepresentation, quantum meruit, and violation of the New Hampshire Consumer Protection Act, RSA 358-A. Nokia moved for summary judgment, arguing that no contract had been formed and that mere breach of contract, in any event, does not suffice for a Consumer Protection Act claim. The court found that genuine disputes of material fact existed to whether a contract had been formed, but that there was insufficient evidence to elevate Collision's commercial contract claims into misconduct that violated the Consumer Protection Act. 37 pages. Chief Judge Landya McCafferty.

Contracts; fraud

8/15/23 **PC Connection v. IBM**
Case No. 22-cv-397-JL, Opinion No. 2023 DNH 103*

In this action, the plaintiff asserted contract, negligence, fraud, and New Hampshire Consumer Protection Act claims all stemming from the defendant's allegedly poor performance under a contract governing a software implementation project. The plaintiff contended, among other things, that the defendant misrepresented and/or omitted material facts going to its ability to perform under the contract, the nature and scope of the project, and issues that arose during its performance. The plaintiff asserted eight claims: breach of contract, contractual indemnification, breach of the duty of good faith and fair dealing, negligence or professional negligence, fraudulent inducement, fraudulent misrepresentation, negligent misrepresentation, and breach of the New Hampshire Consumer Protection Act. The defendant moved to dismiss each of these claims. The court denied the motion as to the breach of contract claim upon finding that the claim was not barred under applicable New York law or the statute of limitations. The court dismissed the contractual indemnification claim, given that the subject contract's indemnification provision applied to third-party claims, and not claims between the contracting parties. Next, the court denied the motion as to the breach of the duty of good faith claim, after concluding that it was not duplicative of the breach of contract claim. On the other hand, the court dismissed the negligence claim because the plaintiff failed to allege facts supporting an independent tort duty that could give rise to a claim for negligent performance of a contract. Further, the fraud-based claims—for fraudulent inducement, fraudulent misrepresentation, and negligent misrepresentation (which sounds in fraud)—survived dismissal in part, to the extent that the plaintiff plead facts supporting each claim with the requisite particularity, they were based on actionable statements, and they were not duplicative of the breach of contract claim. Finally, the court denied the motion to dismiss the New Hampshire Consumer Protection Act claim, concluding that the plaintiff also sufficiently plead facts supporting that claim. 79 pages. Judge Joseph N. Laplante.

Declaratory Judgment; Statute of Limitations

8/18/23 *Liberty Mutual Fire Ins. Co., et al v. SoClean, Inc*
Case No. 22-cv-79-JL, Opinion No. 2023 DNH 105

In an insurer's declaratory judgment action to determine insurance coverage, the defendant-insured moved to dismiss, arguing that the insurer's complaint was barred by the six-month statute of limitations in N.H. RSA 491:22. The court granted the motion in part and denied it in part. While the insurer's declaratory judgment claim as to certain underlying suits against the insured was timely, because the insurer waited more than six months from the filing of ten other underlying suits to file its declaratory judgment claim, the court dismissed the declaratory judgment claim relating to those suits as untimely. The subsequent filing of a consolidated complaint that included those ten suits did not create a new trigger for the statute of limitations. The court also denied the insurer's request to amend its complaint to add a claim under the Federal Declaratory Judgment Act, as the six-month limitations period in RSA 491:22 would still apply to that claim and bar the declaratory relief as to the ten underlying suits. 16 pages. Judge Joseph N. Laplante.

Defamation

8/9/23 *de Laire v. Voris, et al.*
Case No. 21-cv-131-JL, Opinion No. 2023 DNH 095

Very Reverend Georges F. de Laire, J.C.L. v. Gary Michael Voris, et al.,
No. 21-cv-131-JL, 2023 DNH 095, Aug. 9, 2023

Father de Laire, a parish priest and vicar in the Diocese of Manchester, sued a media group, St. Michael's Media, d/b/a Church Militant, its publisher, Michael Voris, and a reporter, Anita Carey, for defamation following publication by Church Militant of articles that included derogatory statements about Father de Laire. The defendants moved for summary judgment on the grounds that Father de Laire is a limited-purpose public figure and cannot prove actual malice as required for a limited-purpose public figure. The court granted the defendants' motion to the extent that Father de Laire is a limited-purpose public figure with respect to some of the derogatory statements (but not all) and denied the motion as to proof of actual malice due to material factual disputes. 32 pages. Judge Joseph N. Laplante.

Employment

8/31/23 *Lieber v. Marquis Management, et al.*
Case No. 21-cv-968-JL, Opinion No. 2023 DNH 112*

The plaintiff in this employment case alleged that he was retaliated against and wrongfully terminated from his position at the defendant company because he reported concerns about safety issues and compliance with COVID-19 protocol, and because he requested accommodations for a disabled employee that he hired. He brought retaliation claims under the Americans with Disabilities Act and state law, associational discrimination claims under the ADA and

LISTING *continued on page 34*

part of the condominium common area.

The Court observed that a condominium association's legal documents are a contract that governs the legal rights between the Association and property owners. Further, the Court observed that the condominium act, RSA chapter 356-B (2022), governs condominiums in the State. The Court concluded that the trial court was correct when it concluded that the Association has the authority to purchase land. This conclusion was based on both the condominium act and the condominium documents permitting the acquisition of common area property. The Court rejected the plaintiff's argument that such a purchase does not mutually benefit each condominium owner. Last, the Court upheld that the condominium association is permitted to use assessment monies to acquire common area property.

John Sullivan, Chandler, Arizona, for plaintiff. Demetrio Aspiras, Manchester, Drummond Woodsum, for the defendant.

***Katherine R. Brady v. Lawrence P. Sumski, Chapter 13, Trustee*, No. 2023-0023**
August 17, 2023
Remanded.

- Whether the non-owning spouse who occupies as a homestead a manufactured housing unit with an owning spouse has a homestead right with respect to that home.

The US District Court for the District of New Hampshire certified two questions of law under Supreme Court Rule 34. The Supreme Court concluded that RSA 480:1 (Supp. 2022) includes an ownership requirement that applies to all real property occupied as a homestead and a non-owning occupying spouse does not hold his own homestead right.

Here, the debtor/plaintiff filed a Chapter 7 bankruptcy petition and later converted it to a Chapter 13 petition. In the bankruptcy schedules, for both bankruptcy matters, the debtor/plaintiff sought a homestead exemption under RSA 480:1 in the amount of $120,000, and also sought one for her non-debtor, non-owner spouse in the amount of $120,000. Both the Chapter 7 Trustee and later the Chapter 13 Trustee objected to the homestead exemption of the spouse. Ultimately, the bankruptcy court permitted her homestead exemption, but denied that of her spouse. The debtor appealed this to the US District Court for the District of New Hampshire, and the question was certified for the Supreme Court.

The Bankruptcy Court concluded that to maintain a homestead right pursuant to RSA 480:1, a person must demonstrate both occupancy and ownership interests in the homestead property. Both the plaintiff and the state (as intervenor) argued that under this statute a person has a homestead right in the homestead property owned by the person's spouse, even if they are not on the title, so long as they occupy the property. This was rejected by the Supreme Court. The Court concluded that the phrase "interest therein" is possessory and requires an ownership interest in the homestead property.

The Court noted that both ownership and occupancy is required for the homestead right. The Court reasoned, in part, that the homestead right is not an "interest" but a "personal privilege."

A second question was also certified, but the Court declined to answer it because the property at issue was not a manufactured home. The second question was whether the ownership requirement described in the second sentence or RSA 480:1, applies to all real property occupied as a homestead, including manufactured homes.

Leonard Deming, II, Deming Law Office, Nashua, for plaintiff. Lawrence Sumski, Chapter 13 Bankruptcy Trustee, self-represented party. Mary Stewart, Zachary Towle (on the brief), John Formella, attorney general, and Anthony Galdieri, solicitor general for the State of New Hampshire, intervenor. Ryan Borden and Edmond Ford, Ford, McDonald & Borden, Portsmouth, for Michael Askenaizer, Trustee for the Bankruptcy Estates of William Linane and Debra Linane, as amicus curiae.

***Todd H. Maddock & a. v. Michael J. Higgins*, No. 2022-0234**
August 23, 2023
Affirmed in part; reversed in part; and remanded.

- In considering land surveying, whether field monuments control over bearings or distances in a deed or plan.

This matter concerns a dispute regarding a property line boundary between neighbors. Parts of the plaintiffs' driveway, parking area, and shed are within the disputed area. Further, the defendant cut down several trees within the disputed area. The plaintiff's filed a petition to quiet title of the disputed area, and then later requested Declaratory Judgment, Equitable Relief, and Temporary Injunction. The plaintiff's asserted causes of action for adverse possession, boundary by acquiescence, and timber trespass. The trial court conducted a seven-day bench trial and then ruled in favor of the defendant, finding that there was no adverse possession or boundary by acquiescence and thus no timber trespass. The court granted the plaintiffs a prescriptive easement covering the driveway and parking area.

On appeal, the Supreme Court noted that the trial court's factual findings and rulings will be upheld unless they lack evidentiary support or are legally erroneous. First, the plaintiffs argued that monuments on the ground control the boundary between two properties as a matter of law, regardless of what may be written in a deed. This argument was rejected by the Court and thus it concluded that the trial court did not err in determining that monuments do not in and of themselves establish boundary lines as a matter of law.

Second, the Court analyzed the trial court evidence for the adverse possession claim and determined that the evidence supports the trial court's determination that the site plan evidence was unreliable and therefore did not prove the color of title claim for an adverse possession claim.

Next, the Court analyzed the evidence for the character and history of the use and occupancy of the disputed area and found that it was not sufficiently notorious to provide notice to title holders to support an adverse possession claim. Specifically, the Court noted that the shared use of the driveway was by agreement. However, the Court found that the plaintiffs adversely possessed portions of the driveway and parking area that extended into the defendant's property. Thus, the Court remanded this portion of its ruling to the trial court.

Last, the Court affirmed the trial court that the plaintiffs failed to establish boundary by acquiescence because they failed to establish the required elements of this claim, specifically, that they failed to occupy the respective lots up to a certain boundary.

James Steiner, Steiner Law Offices, Concord, and Stephan Nix, Law Offices of Stephan Nix, Gilford, for plaintiff. William Woodbury, Normandin, Cheney & O'Neil, Laconia, for defendant.

***Bradley Weiss & a. v. Town of Sunapee*, No. 2022-0309**
August 23, 2023
Reversed and remanded.

- Whether a second rehearing request must be made from the Town's Zoning Board of Adjustment for a superior court appeal when new issues were raised by the board in the second denial.

This matter concerns a request for a variance for a setback for a residence. The Town's Zoning Board of Adjustment (ZBA) held a hearing on the application and voted 3-2 to deny the application. The plaintiffs requested a rehearing. A rehearing was held and the ZBA upheld its decision. Next, the plaintiffs appealed to the Superior Court. The Town moved to dismiss because "new issues were raised by the board in its second denial" and that a second motion for rehearing is a jurisdictional pre-requisite.

On Appeal, the Supreme Court noted that the jurisdiction pre-requisites are controlled by statute, RSA 677:3. The Court held that pursuant to RSA 677:3, the plaintiffs perfected their appeal to the superior court from the ZBA's denial by timely moving for rehearing. The Court noted that this is the requirement that vests subject matter jurisdiction with the superior court. The Court noted that the appeal is limited to the grounds set forth in the motion for the rehearing, unless good cause is shown. Notably, during the appeal, the plaintiffs argued that there is good cause to permit them to be heard on all issues, including that there was no written decision from the ZBA's first meeting available to them, and that they were relying on their notes and recollections from that meeting. Further, they allege that the written decision from the second hearing was never provide to the plaintiffs until they received the certified record. The Court remanded this matter to the trial court to determine whether good cause is shown that the plaintiffs should be allowed to specify additional grounds.

Barry Schuster, Schuster, Buttrey & Wing, PA, Lebanon, for plaintiff. Laura Spector-Morgan, Mitchell Municipal Group, Laconia, for defendant.

Right-to-Know

***Laurie Ortolano v. City of Nashua*, No. 2022-0237**
August 18, 2023
Affirmed and remanded.

- Whether a public entity must conduct a search of its back-up drives to meet its obligations in conducting a reasonable search pursuant to RSA 91-A.

The petitioner requested e-mail records of certain city employees pursuant to RSA 91-A. In response, the City conducted a search of the specific employees' Outlook drives and their personal u-drives but did not conduct a search of the City back-up drives. The City argued

AT A GLANCE *continued on page 34*

US Bankruptcy Court Opinion Summary

Judge Harwood issued the following opinion:

Berkley Insurance Company v. Keevers, et al. (In re Keevers), 2023 BNH 003, issued August 1, 2023 (Harwood, C.J.) (denying joint debtors a chapter 7 discharge pursuant to 11 U.S.C. § 727(a)(3) and (a)(4)(A) (Counts I and II) based on their concealment of documents and financial information from which their financial condition could be ascertained without reasonable justification and reckless disregard of their disclosure obligations when they made material false oaths on their monthly operating reports and during the § 341 Meeting of Creditors, and entering judgment in the debtors' favor as to Count III (11 U.S.C. § 727(a)(6)), finding that their failure to comply with the Court's orders was not "willful" or intentional).

The full text of the opinion will be available on the Bankruptcy Court's website at **www.nhb.us.courts.gov**.

At a Glance from page 33

that these back-up drives were not "readily accessible" under RSA 91-A, in-part because IT assistance was required to conduct the search. In response, the trial court ordered the City to conduct a reasonable search of its back-up drives for responsive records and to participate in remedial training for RSA 91-A compliance. The City filed a motion for reconsideration which was denied and then appealed to the Supreme Court.

On Appeal, the Supreme Court analyzed RSA 91-A, including the exemption regarding deleted electronic records to determine whether the e-mails in question could be considered deleted electronic records and therefore exempt from RSA 91-A. The Court focused its analysis on the requirement that to qualify for this exemption, the deleted records must no longer be "readily accessible." The Court determined that the records at issue were "readily accessible" because of the detailed trial court testimony of the City's Deputy Director of Information Technology. Specifically, the IT director testified about the e-mail retention policy in place, and systems in place to permanently store employee documents. Further, he testified regarding the City's back-up tapes (or back-up drives) and the time and procedure that would have to be undertaken to conduct this search. Both the trial court and the Supreme Court found the IT director's testimony compelling and found that the data on the back-up drives is thus readily accessible.

Further, the Court held that it was not an error to order remedial training and contemporaneously request that supplemental memoranda be filed by the parties before an order addressing specific details of the training order issued.

Celia Leonard, Steven Bolton & Nicole Clay (on the brief), Office of Corporation Counsel, Nashua, for the City. Jonathan Cowal, New Hampshire Municipal Association of Concord, amicus curiae. Matthew Broadhead, Samuel Burgess (on the brief), John Formella, attorney general, and Anthony Galdieri, solicitor general for the State of New Hampshire, amicus curiae. Gary Braun, self-represented, amicus curiae. Sana Albrecht, self-represented, amicus curiae.

Torts

***Andrew Szewczyk & a. v. Continental Paving, Inc.*, No. 2022-0101**
August 16, 2023
Affirmed in part; reversed in part; and remanded.

- Whether the DOT is immune from liability under RSA 230:78-80.
- Whether the trial court erroneously struck the plaintiff's causation expert reports.
- Whether there was sufficient non-speculative evidence for a reasonable jury to find a cause of flooding attributable to each defendant.

The plaintiffs were involved in a motor vehicle accident which was caused by a catch-basin overflowing during a DOT paving project on Route 3. The plaintiffs filed suit against the DOT and its contractors, including the company hired to undertake the paving project and the company hired to clean the catch basin.

The DOT filed a motion to dismiss under RSA 230:78-80, which limits the liability of the DOT pertaining to public highways under specific circumstances. The trial court granted the DOT's motion to dismiss, and the Supreme Court affirmed this ruling.

Both contractor defendants filed motions for summary judgment and argued that there was insufficient evidence for a reasonable jury to find a cause of flooding attributable to each defendant. Additionally, the defendants filed a motion to strike the plaintiff's causation expert's report and argued that it was too speculative.

On appeal, the plaintiffs argued that the trial court erred when it concluded that no genuine issues of material fact exist that would support the plaintiff's actions for negligence against the contractor defendants.

In the summary judgment record, the plaintiffs had identified two experts to support causation. The trial court struck the plaintiffs' experts and granted summary judgment for the defense. The trial court determined that the expert reports were unreliable because, (1) the expert opinion was based on speculation without any factual support; and (2) neither testing nor scientific methodology was employed.

The Supreme Court concluded that the trial court erroneously struck the expert reports. In reaching its decision, the Court noted that Rule of Evidence 702 governs the admissibility of expert testimony, and the trial court is merely the gatekeeper. The Court noted that the alleged deficiencies which supported striking the reports instead should go to the weight of the expert evidence, not its admissibility. The Court ruled that the appropriate method for testing the basis of the opinion is cross examination.

Last, the plaintiffs argued that the trial court erred when it entered summary judgment in favor of the defense. The Supreme Court agreed and concluded that the trial court erred when it concluded that there was insufficient evidence for a reasonable jury to find a cause of flooding attributable to each defendant that is not based on speculation. The court detailed evidence within the summary judgment record, including the previously stricken expert reports. The Court concluded after considering the affidavits and other evidence, and all inferences properly drawn from them in the light most favorable to the nonmoving party, that there were genuine issues of material fact that precluded the granting of summary judgment. The Court stated that summary judgment is most effective use is in breach of written contract or debt cases, and less effective in tort cases.

Mark Morrissette, Joseph McDowell, III, (on the brief), McDowell & Morrissette, Manchester, for the plaintiffs. Debra Mayotte, Desmarias Law Group, Manchester, for the defendant Continental Paving, Inc. Gary Burt, Brendan O'Brien (on the brief), Primmer Piper Eggleston & Cramer, Manchester, for the defendant Bellemore Property Services, LLC.

***Larissa Troy v. Bishop Guertin High School & a*, No. 2022-0259**
August 10, 2023
Reversed and remanded.

- Whether the summary judgment record contained a genuine factual dispute regarding when the plaintiff knew or should have known that her injury was proximately caused by the defendants' conduct.

The trial court entered summary judgment in favor of the defendants based on the finding that the claims are barred by the statute of limitations under RSA 508:4-g, because she did not bring the action within 12 years of her eighteenth birthday, and three years after the plaintiff knew or should have known that her injury was caused by the defendants' conduct, i.e. the discovery rule.

On Appeal, the Court held that there was a genuine factual dispute as to when the plaintiff obtained personal knowledge of the causal connection between her alleged injury and the defendants' hiring practices, which pursuant to the discovery rule set forth in former RSA 508:4-g, II (2010) (amended 2020), tolled the statute of limitations to permit her 2018 lawsuit.

The Court conducted a detailed factual description of the summary judgment record, including that in 1988, the defendants, who operated a private Catholic boys' school in New Hampshire, hired a teacher who they knew had been convicted of sexual assault in Maine. Two years after he was hired in New Hampshire, the defendants started admitting female students. At that time, the defendants did not consult with psychological or mental health professionals as to whether he would pose a risk to female students. The female plaintiff attended the New Hampshire school and was sexually assaulted by the teacher on two occasions on campus. One year after the plaintiff graduated, the teacher was charged in New Hampshire with "teaching as a convicted sex offender and failing to register as a sex offender." The defendant then made public disclosures. The summary judgment record suggested that the plaintiff's sister was in school at the time of these disclosures, and her mother was on the mailing list, and should have received two letters.

It was undisputed that the plaintiff failed to file this action before her thirtieth birthday. Thus, the Court's analysis focused upon application of the discovery rule, or "three years of the time the plaintiff discovers, or in the exercise of reasonable diligence should have discovered, the injury and its causal relationship to the act or omission complained of." The Court noted that the parties agreed that the plaintiff knew or should have known that she suffered an injury from the assaults prior to May 2015. However, the question was whether the plaintiff knew or should have known of the causal connection between her injuries and the defendants' conduct immediately following the alleged assaults. Here, the Court found that the trial court erred when it found that at the time of the abuse, the plaintiff knew that the teacher was employed by the defendants. The Court held that the knowledge differed from the plaintiff's knowledge regarding the defendants' alleged acts or omissions in hiring, supervising, and retaining the teacher. The Court rejected that an employment relationship between the abuser and the defendants was insufficient to put the plaintiff on notice.

Joshua Gordon, Law Office of Joshua Gordon, Concord for plaintiff. Michael Airdo and Brian Hingston (on the brief), Airdo Werwas, Chicago, Illinois, and John Edwards and David Pinsonneault (on the brief), Winer and Bennett, Nashua, for the defendants.

Listing from page 32

state law, and additional state law claims for wrongful termination, violation of the New Hampshire Whistleblower Protection Act, and unpaid wages. The defendants moved for summary judgment on each of the plaintiff's claims, and the plaintiff also moved for summary judgment on his unpaid wage claim. The court concluded that the plaintiff's claims survived summary judgment—except for his associational discrimination claims, which fell outside of the framework of the ADA's association provision—because several material disputes of fact remained as to each of them. These disputes concerned, for example, the reasoning, timing, and source of the defendants' decision to terminate the plaintiff. 42 pages. Judge Joseph N. Laplante.

Personal Jurisdiction

8/8/23 *RelAxe FLSE LLC v. JBL Village Shoppes LLC*
Case No. 22-cv-327-LM (D.N.H.), Opinion No. 2023 DNH 094P

The plaintiff, a commercial tenant of property located in Florida, brought suit against its Florida-based landlord seeking a declaratory judgment that its lease was null and void due to landlord's breach. The landlord moved to dismiss the suit for lack of personal jurisdiction. The court agreed, finding that the plaintiff failed to show the landlord purposefully availed itself of the privilege of conducting activities in New Hampshire. The court granted the landlord's motion and transferred the suit to the Southern District of Florida. 10 pages. Chief Judge Landya McCafferty 32 pages. Judge Joseph N. Laplante.

Rule 29; Criminal Law

8/22/23 *USA v. Ian Freeman*
Case No. 21-cr-41-01-JL, Opinion No. 2023 DNH 106*

The defendant in this case was tried and convicted after a jury trial on charges of operating an unlicensed money transmitting business, conspiracy to operate an unlicensed money transmitting business, money laundering, conspiracy to commit money laundering, and four counts of attempt to evade or defeat taxes for each year from 2016 to 2019. The defendant moved under Federal Rule of Criminal Procedure 29 for judgment of acquittal as to each count. The court granted the motion with respect to the money laundering count, upon finding that the evidence adduced at trial was insufficient to prove that the defendant knew that the prohibited transaction alleged in the indictment occurred. The court denied the motion as the remaining counts. In denying the motion with respect to the unlicensed money transmitting counts, the court considered and rejected the defendant's argument that these counts relied upon regulations and/or agency interpretive guidance that were invalid under the major questions doctrine. Upon review, the court found that neither the indictment nor jury instructions relied on the regulations and interpretive guidance that the defendant challenged; the regulations and interpretive guidance regardless did not implicate the major questions doctrine; and, even if they did, they did not run afoul of the doctrine. 35 pages. Judge Joseph N. Laplante.

Classifieds

POSITIONS AVAILABLE

ATTORNEY – Davis Steadman Percy & Sluka, LLC seeks an attorney to join our well-established firm located in the Upper Valley of Vermont and NH on an equity basis. Minimum of 5 years experience required. Preferred practice areas: family and civil law/litigation, estate planning/probate and mediation. Confidentiality guaranteed. Reply: **Info@WhiteRiverLawyers.com.**

WANT TO BE THE BEST LAWYER IN TOWN? Retiring solo lawyer in Wilton is looking to rent a furnished law office and sell practice. The office has been used by lawyers for over 50 years so there is a certain amount of established foot traffic. The practice has been about 60% estate planning with a mix of other business and civil matters. (603) 654-6101.

REAL ESTATE ATTORNEY – Alfano Law Office, PLLC seeks lawyer with 5+ years' experience handling closings, purchase and sale agreements, leases, financings, and title matters. Flexible arrangement available (of-counsel, associate, remote work). Health insurance, dental insurance and 401(k) available for full-time employees. Please contact Deb Alfano at **dalfano@alfanolaw.com or** phone 603.715.2543 4 Park Street, Concord, NH 03301.

CIVIL LITIGATOR ATTORNEY – Alfano Law, PLLC seeks a full-time civil litigator with 5+ years' trial experience. Familiarity with real estate a plus. Flexible arrangements (remote vs. in-office). Health insurance, dental and 401(k) available. Please contact Deb Alfano at **dalfano@alfanolaw.com**, 4 Park Street, Concord, NH 03301 or 603.715.2543.

FAMILY LAW ASSOCIATE ATTORNEY – Cohen & Winters is a growing law firm servicing central and southern New Hampshire, and the seacoast. We currently have offices in Concord, Manchester and Exter. We are seeking an experienced family law attorney. The ideal candidate will have 2+ years of experience. We offer a competitive salary package and benefits that include health insurance, disability, life insurance and retirement account match. We offer a very congenial work environment with lots of great colleagues and support. All inquiries will be confidential. Salary commensurate with experience. Please send replies to: **dorothy.darby@cohenwinters.com**.

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

ATTORNEY – Monaghan Safar PLLC has an immediate opening for a motivated, hard-working and creative attorney interested in a great place to work. Monaghan Safar is in search of an associate attorney with a strong research, writing and analytical background. As an associate, you will be asked to draft complex motions and legal memoranda. You will be exposed to depositions, motion hearings, and alternative dispute resolution. Monaghan Safar is seeking someone who is either licensed in the State of Vermont or eligible to obtain licensure. The firm offers a competitive salary, 401(k) with employer match, health, dental, and vision insurances, paid leave, and a modern working environment. Interested candidates should send a cover letter, resume, and two writing samples to Margie Cain at **mcain@msvtlaw.com**.

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

CONTRACTED ATTORNEY – Rockingham County, NH, is inviting attorneys lawfully engaged in the practice of law in NH to submit proposals for providing legal counsel and services for civil matters. Interested attorneys should please review the complete rfp at **rockinghamcountynh.org/rfpbidding.**

PARALEGAL/LEGAL ASSISTANT – Small Rochester firm seeking paralegal/legal assistant with minimum 2 years' experience in criminal and/or personal injury work. Familiarity with Clio, Excel, and Outlook a plus. All replies held in confidence. Reply to **tmckenna@brownlawnh.com**.

LEGAL ASSISTANT/PARALEGAL – Immediate position available for organized legal assistant or paralegal to support family law and estates work in a fast-paced general civil practice. Legal experience preferred, but willing to train the right candidate. Must have strong work ethic, dedication to clients, willingness to collaborate, and ability to juggle a variety of tasks. We offer a supportive, professional, and casual environment in downtown Concord. Email cover letter and resume to **info@mcgrathlawfirm.com** to apply.

PART-TIME PROBATE ADMINISTRATION PARALEGAL – Small seacoast firm seeking a probate admin paralegal with 5+ years' experience to handle probate administration, including preparing accountings and some client contact. Friendly, low-key work environment. Work from home, approximately 5 hours per week. Salary commensurate with experience. Please submit resume to Attorney Michael Ortlieb at **michael@clearvictory.org.**

LEGAL SECRETARY OR PARALEGAL – Lothstein Guerriero, PLLC is growing! We are a small firm that focuses on criminal defense and appellate litigation. We are looking to hire a person for the Concord office with at least three years of experience working as a legal secretary or paralegal. This experience must be supporting lawyers who are litigators (as opposed to transactional work). Our cases and the people we work with can be intense, and the work requires the utmost discretion, diligence, and strong people skills. Our workplace environment, however, is informal and relaxed. We do not need another full-time person and would prefer a person who would want to work 24-30 hours a week. We offer very competitive pay and vacation/leave policies, commensurate with experience and skill level. Please send replies to: **lgconcord@nhdefender.com**.

LEGAL SECRETARY. LOOKING FOR EXTRA HOURS? Seeking skilled legal secretary to assist with record retrieval, file coordination and general typing for Manchester Injury Trial Attorney with special projects. Flexible hours to accommodate candidate even sat and sun for limited hours. 6-20 hours/wk. available. Compensation based on experience. LIMITED TRAINING AVAILABLE. Normand/Higham Law. Respond to **info@NHattorney.com**.

FOR SALE

23 FACTORY STREET, NASHUA – Unique opportunity for some Attorneys to purchase a building with seven office condominium units with a total of 6500+/- square feet. Use one or two units for your law office and rent out the others for income. Located in downtown Nashua at 23 Factory Street within walking distance to Hillsborough County Registry of Deeds and Hillsborough County Courthouse. Furniture is negotiable. Sale price $950,000.00. Call Attorney Gregory R. Boghigian, Broker/Owner/Attorney at 508-556-1277.

OFFICE SPACE

MANCHESTER: Desk space, solo or satellite professional space, furnishings, parking, utilities. **rjj911@myfairpoint.net**.

REFERRALS

LAWYER REFERRAL SERVICE – MODEST MEANS PROGRAM – Narrow the justice gap and still earn fees. The NHBA Lawyer Referral Service Modest Means Program needs more attorneys. It is free to sign up, and there is no obligation to accept any referral. To learn more or sign up visit **nhbar.org/join-lawyer-referral-service** or contact LRS at (603) 715-3235 or email **lrsreferral@nhbar.org**.

CONTRACT PROSECUTOR

The Franklin Police Department seeks a contract prosecutor starting December 26th, 2023 or January 2nd, 2024. The contract lasts 10-13 weeks, until March 26th, 2024 the latest. Prosecutor duties include prosecuting adult and juvenile cases in the Franklin District Court, handling Administrative License Suspension hearings, and representing the state at probable cause hearings. Must have a Juris Doctorate from an accredited law school and be a member of the New Hampshire Bar in good standing. $45 per hour for 24 to 40 hours per week. Please contact Lieutenant Ralph Hale at **rhale@franklinnh.org**.

LAW FIRM OFFICE MANAGER

Ten attorney, Salem, NH law firm with a staff of six non-attorneys seeks an experienced Office Manager to manage the overall financial & administrative operations of the firm, including client billings, cash receipts, accounts payable, payroll & related reporting, cash flow analysis, bank reconciliations, trust accounting, financial & tax reporting and 401(k) administration. The Office Manager is also responsible for the overall management of the firm's physical facilities.

Please send cover letter, resume' & salary requirements to Soule, Leslie, Kidder, Sayward & Loughman, PLLC, 220 Main Street, Salem, NH 03079 or to **lperry@soulefirm.com**.

PRACTICE FOR SALE

Profitable Seacoast NH Law Practice started in a prime location in quickly developing Rochester with over 100 Google reviews for sale or acquisition via gradual transition to a qualified and experienced attorney.

Are you an ambitious and talented attorney seeking to expand your legal footprint?

Look no further as we are a seasoned and dedicated team of an experienced attorney, paralegal, and support staff. Leverage our expertise, strategic partnerships, and knowledge to seamlessly transition to your new role and continue delivering exceptional legal services. The firm has a proven track record with a 29-year history of successful case resolutions as a respected law firm within the legal community.

Stay at the forefront of legal practice with the firm's state of the art technology through a seamless transition into a turnkey operation. Fantastic SBA funding available.

Our law practice offers a solid foundation upon which you can build your own thriving practice in any one of many legal areas.

To express your interest or obtain further details about this opportunity, please contact us today at **bobiski@metrocast.net**. All inquiries held in strictest confidence.

ALFANO LAW, PLLC

"Seasoned" Litigator

Alfano Law seeks an experienced New Hampshire litigator to mentor and manage the firm's growing real estate litigation caseload. The role includes identifying causes of action, creating strategy, editing, making sure things get done, and mentorship.

If you are looking to transition away from handling cases personally while sharing the strategic knowledge you have acquired, this position may interest you.

The position is new, so full or part-time roles are possible.

You may work remotely, following a brief acclimation period in our Concord, NH office.

Full benefits (health, dental, 401(k)) for full time candidates.

Inquiries, please reach out to Paul Alfano at **palfano@alfanolaw.com**

Associate General Counsel

The Associate General Counsel – Litigation will serve as a key member of the Company's Legal Department and will primarily assist with managing the Company's active litigation and regulatory matters. Additional responsibilities will include assisting with general contract drafting, review, negotiation and management; providing legal advice on an as needed basis to business units within the Company; and assisting with management of the Company's regulatory compliance.

The ideal candidate will be comfortable interacting with senior management, handling complex commercial litigation matters and working closely across the Company's departments to minimize risk while achieving strategic initiatives. A commitment to excellence, attention to detail and enthusiasm for taking on new challenges are critical to success in the role.

Education, Experience, and Required Skills:

- J.D. degree from ABA-accredited law school
- Admission to, and good standing in, any state bar or the District of Columbia bar
- 10+ years of experience in litigation practice at a law firm and/or in-house environment, with experience in product liability claims preferred.

Interested candidates should reach out to Christian Dionne at **christian.dionne@sigsauer.com** and apply at **www.sigsauer.com/career**

MORNEAU LAW

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

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 **jholmes@curtinlawoffice.com**. All applications will be treated with the utmost confidentiality.

PASTORI | KRANS
ATTORNEYS AT LAW

Litigation Attorney

Pastori | Krans, PLLC, a law firm in Concord, NH, is seeking a litigation attorney. The ideal candidate will have excellent oral and written communication skills, a strong work ethic, and enjoy working with a dynamic team in a fast-paced environment. The position requires NH bar admission and at least 2 years of experience.

Pastori | Krans is committed to investing in our team's professional growth and development, and provides excellent mentorship, training, and opportunities to work on sophisticated and challenging legal matters. We offer competitive compensation, a comprehensive health benefits package, a generous 401(k) match, cutting-edge technology, and a collegial work environment.

Submit cover letter and resume to blandry@pastorikrans.com. All inquiries are held in strict confidence.

VERMONT
DEPARTMENT OF TAXES

Director of Compliance

There has never been a better time to bring your values and talents to the collaborative team at the Vermont Department of Taxes. The rewarding work we do supports this brave little state and helps shape its future. We work with proven, dynamic technologies to fund initiatives that preserve the environment, build vibrant communities, strengthen families, and so much more. Discover new opportunities, learn new skills, and solve problems with our dedicated and supportive team.

We are seeking a Director of Tax Compliance to manage, develop, and support a team of 50+ staff members. This position reports to the Department's Chief Operating Officer and works closely with members of the Department's leadership team, including the Commissioner, Deputy Commissioner, and other division leaders. The position oversees the Department's Compliance Division, which consists of audit, collections, data analysis, and support sections. This team employs a service-oriented approach to discovery, audit, and collection of delinquent taxes and promotes voluntary compliance. The salary range for this position is between $81,000 - $128,000.

To learn more visit tax.vermont.gov/careers

"I WORK WITH SOME OF THE BEST LAWYERS IN THE STATE, WHO ALSO ARE SOME OF THE NICEST PEOPLE YOU'LL EVER MEET."

Associate Attorney
Commercial Litigation
Manchester, NH

Associate Attorney
Coverage Litigation
Manchester, NH

Associate Attorney
Real Estate
Trust & Estates
Manchester, NH

Paralegal (PT)
Insurance Defense
Manchester, NH

ATTORNEYS AT LAW
PRIMMER PIPER EGGLESTON & CRAMER PC
Manchester | Portsmouth | Littleton
Vermont | Washington DC

Primmer is an award-winning law firm with offices in NH, VT and DC. Regularly recognized as a Best Place to Work, and a Top Law Firm, Primmer is a great place to build your career. Come join us.

APPLY AT PRIMMER.COM/CAREERS

PROSECUTOR: Attorney I, City of Manchester

Full-Time, 40 Hours Per Week, Intermittent Remote Work as Duties Permit

Rate of Pay: Annual Salary Range $72,143-$102,858 plus competitive benefits package

The Prosecutor primarily prosecutes misdemeanor cases in the 9th Circuit Court in Manchester investigated and charged by the Manchester Police Department {MPD), handling cases from arraignment through final disposition.

Responsibilities include:
Working under the guidance of the Supervisory Prosecutor with a team comprised of a total of seven prosecutors, two of whom are full-time domestic violence prosecutors, and another of whom handles juvenile matters exclusively. The City uses a modern, digital case management system, working in conjunction with the MPD record management and body-worn camera technologies to meet the highest standards of excellence.

Required Special Qualifications
- Graduation from an accredited college or university with a Juris Doctorate degree;
- Some experience in municipal law operations, including some prosecutorial experience.
- Admission to the New Hampshire Bar; and
- New Hampshire driver's license or access to transportation.

Essential Physical Abilities
- Sufficient clarity of speech and hearing or other communication capabilities, with or without reasonable accommodation, which permits the employee to communicate effectively;
- Sufficient vision or other powers of observation, with or without reasonable accommodation, which permits the employee to observe a wide variety of written material in both electronic and hardcopy form;
- Sufficient manual dexterity with or without reasonable accommodation, which permits the employee to operate a personal computer and related equipment;
- Sufficient personal mobility and physical reflexes, with or without reasonable accommodation, which permits the employee to have access within both the general office environment and to all applicable areas of the court system.

To Apply Please Visit:
https://www.manchester..n.!l,gov/Departments/HumanResources/Employment

The City of Manchester is an Equal Opportunity Employer

Legislative and Bill Drafting Attorney
Office of Legislative Services

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

Candidates for the position must be a graduate of an accredited law school and admitted to the NH Bar Association or will pursue admission. This is not a remote-work position. More information may be found at **www.gencourt.state.nh.us**. To apply, please submit a resume and cover letter to:

David J. Alukonis, Director Office of Legislative Services **David.alukonis@leg.state.nh.us**

DEVINE MILLIMET
ATTORNEYS AT LAW

WE ARE HIRING

FAMILY LAW ATTORNEY

Admission to the NH Bar and 5+ years experience required

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

We are an equal opportunity employer.

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

JOIN OUR TEAM. MAKE AN IMPACT.

MANCHESTER | CONCORD | PORTSMOUTH

ALFANO
LAW, PLLC

Alfano Law, PLLC is a boutique property rights firm focusing on roads, easements, commercial real estate, litigation, real estate tax abatement, estate planning and probate. The firm has offices in Concord, Bedford, Keene and Portsmouth. Successful candidates may work remotely or in one of our offices. We are looking to hire for the following positions:

- **"Seasoned" Litigator** - Experienced litigator to mentor and manage the firm's growing real estate litigation caseload. The role includes identifying causes of action, creating strategy, editing, making sure things get done, and mentorship. If you are looking to transition away from handling cases personally while sharing the strategic knowledge you have acquired, this position may interest you. The position is new, so full or part-time roles are possible.

  Inquiries, please reach out to Paul Alfano at **palfano@alfanolaw.com**

- **Civil Litigation Attorney** – Litigator with 5+ years' experience handling trials, motions and discovery. Familiarity with real estate a plus.

  Inquiries, please reach out to Deb Alfano at **dalfano@alfanolaw.com** or phone 603.715.2543

- **Real Estate Attorney** – Commercial real estate attorney with 5+ years' experience handling purchase and sales, leases, financings, zoning, titles, closings, and LLCs.

  Inquiries, please reach out to Deb Alfano at **dalfano@alfanolaw.com** or phone 603.715.2543

Candidates must have practiced primarily in New Hampshire.

Benefits include:
- Health Insurance (full-time)
- Dental (full-time
- 401K (full-time)

MCLANE
MIDDLETON

Trusts & Estates Attorney

McLane Middleton, Professional Association, is seeking a Trusts and Estates Attorney to join our active and expanding Private Client practice. This is a unique opportunity to work alongside some of New England's most highly skilled Trusts and Estates attorneys.

Ideal candidates should possess a strong academic record and excellent written and oral communication skills, with 7 - 10 years of experience in estate planning, tax planning, and trust and estate administration. Experience in asset protection planning and charitable giving is a plus. Ideally, the candidate would have prior experience working directly with high net-worth individuals and families and their advisors on tax-efficient wealth transfer strategies, including transfer of closely-held business interests. Equally important is the ability to manage a preexisting volume practice while working alongside a team of skilled professionals. This position could be based out of any of our five offices with meaningful flexibility for remote work.

McLane Middleton has a strong tradition over its 100 year history of deep involvement in the communities where its colleagues work and live, and supports numerous charitable and professional associations. The firm helps create a long-term career path to assist professionals in their pursuit of personal and professional achievement. We offer a collegial team environment, professional development and personal satisfaction in a fast-paced and motivating work environment. Competitive compensation and benefits package offered.

Qualified candidates should send cover letter and resume to:

Jessica Boisvert
Manager of Professional Recruiting and Retention
jessica.boisvert@mclane.com

Join our professional team!

Immigration Attorney

Looking for a change from the "firm" environment or tired of a long commute? GoffWilson is a regional and national immigration practice with a global presence and a substantial client base. We are seeking an Immigration Attorney with at least 5 years of immigration experience in a broad range of business immigration including; H, L, E, P, O Visas and PERM.

We offer an outstanding opportunity for a seasoned immigration practitioner wanting a quality work/life balance and long term security. Candidates should have a track record of exceptional client service. Compensation is based on experience and portfolio.

Paralegal

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

As a Paralegal, you must have an interest in immigration and stay current on immigration issues. A Bachelor's Degree in Paralegal studies is preferred or 3 years prior experience working as a paralegal. Some knowledge of immigration process is helpful but not required. No JDs, LLBs, LLMs, or current/matriculating law students please. This is a full time in office position. Ability to speak a second language is helpful.

If you want to practice immigration law with people passionate about what they do, please send resume and letter of interest in confidence to:
hiring@goffwilson.com
Competitive salary and generous benefits package is available.

GOFFWILSON
Immigration Law

Manchester, NH Boston, MA Naples, FL Paris, France

Our focus is immigration law 800.717.8472 goffwilson.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

LABOR & EMPLOYMENT ASSOCIATE ATTORNEY

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 leading technology, competitive salary, and a comprehensive benefits package, including paid parental leave and two generous retirement plans.

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

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 1st: **http://das.nh.gov/jobsearch/employment.aspx**. Please reference the job ID number that you are applying for: #32650 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. Please have transcripts forwarded to the Human Resources Office with the recruiting agency. Position will remain open until a qualified candidate is found. EOE.

For questions about these positions please contact Commissioner Kenneth Merrifield at **Kenneth.d.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 1st: **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. Please have transcripts forwarded to the Human Resources Office with the recruiting agency. Position will remain open until a qualified candidate is found. EOE.

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

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

(Keene, Nashua, Rochester, Concord, Manchester 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@dhhs.nh.gov**.

A CALL TO PUBLIC SERVICE

Most attorneys are drawn to the law by a sense of idealism, a desire to serve, and a commitment to justice. But not every position in the profession offers equal opportunity to fulfill those aspirations. If you find your work circumstances falling short of your professional ideals, consider the rewards you could realize by putting your time and talents to work on behalf of the public interest.

If you aspire to be an accomplished litigator, what better opportunity to hone those skills and amass a wealth of actual courtroom experience than a tour of duty in a County Attorney or Public Defender's office? If you are called to vindicate the legal rights of marginalized adults and children, legal services nonprofits like New Hampshire Legal Assistance and the Children's Law Center of New Hampshire will afford those opportunities. Pained by the plight of abused and neglected children? The Division of Children and Youth Services welcomes you to join their ranks protecting some of our most vulnerable residents. These few examples only begin to scratch the surface of the meaningful public service and nonprofit sector opportunities that await those willing to serve.

Public service can be hard work, but the immeasurable benefits earned yield dividends for a lifetime. Luminaries of the bench and Bar reflecting on their distinguished professional lives often cite time spent in public service as the most rewarding chapters of storied careers.

Some devote an entire career to public service. Would you consider dedicating even four years -- at the cornerstone or capstone -- of yours? Whether you bring the idealism and energy of an attorney at the inception of his career or the sage counsel and mentor ship of one contemplating a gratifying close to hers, you would be well-served to explore the many options allowing you to pair your ideals and aspirations with the public service and nonprofit sector needs waiting to be met.

If, upon reflection, you feel called to serve and find that your passion lies in protecting consumers, combating elder abuse and exploitation, preserving New Hampshire's environment, defending civil rights, prosecuting the most serious and violent crimes, holding government officers and officials accountable, appearing in court on behalf of the people of your state, or working alongside like-minded public servants, we hope you will take a moment to consider the rewarding opportunities currently available at the New Hampshire Attorney General's Office: https://www.doj.nh.gov/careers/index.htm.

The Office of the Attorney General is an Equal Employment Opportunity employer and does not discriminate on the basis of race, color, national origin, gender, age, sexual orientation, handicapping condition, and/or disability.

For more information about the New Hampshire Department of Justice, please visit our website: www.doj.nh.gov.

ASSISTANT COUNTY ATTORNEY

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

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

JOB DESCRIPTION:

- Under the general direction of the County Attorney, the Assistant County Attorney will draft complaints and pleadings.
- Researching pertinent case law, decisions, and legislations.
- Present investigations and cases to the Grand Jury; conduct Bench trials, Jury trials and all required hearings related to the assigned caseload in the Superior and/or District Courts.
- Must be able to handle multiple tasks, meet deadlines, be organized, have communication skills, and able to negotiate. Must be an effective team member.
- Have a working knowledge of principles and rules of criminal law and the New Hampshire criminal justice system.
- Mandatory criminal record check is required for all new employees.
- Salary will commensurate with litigation experience

Benefits:
Medical, Dental, Life Insurance, Holiday & Sick time, Longevity Pay, Short Term Disability, NH Retirement System, Mileage Reimbursement, County issued cellphone

Please send cover letter, resume, and references to County Attorney **Tom Velardi at tvelardi@co.strafford.nh.us**

Assistant Corporation Counsel
City of Nashua

DEPARTMENT: Legal

HOURS WORKED: Monday - Friday (8:00am to 5:00pm)

AFFILIATION: Unaffiliated

SALARY & GRADE: Grade 18, Salary not to exceed $110,000

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

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

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

EQUAL OPPORTUNITY EMPLOYER
Recruiting practices shall be consistent with State and Federal Law (2/14/2023)

ASSISTANT COUNTY ATTORNEY

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

ESSENTIAL JOB FUNCTIONS:

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

REQUIRED EDUCATION AND EXPERIENCE

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

Salary Range: $73,486.40 - $102,876.80, dependent on experience.
Status: Full Time/Exempt
Submission Requirements:
Employment application and resume required.
Apply Online:
https://www.governmentjobs.com/careers/rockinghamnh
Equal Employment Opportunity
Mandatory post offer physical and drug testing for new hire. Criminal records check required.

LawPay®

AN AFFINIPAY SOLUTION

+

New Hampshire Bar Association — NHBA — Equal Justice Under Law

Member Benefit Provider

"**I love LawPay!** I'm not sure why I waited so long to get it set up."

– Law Firm in Ohio

Trusted by 50,000 law firms, LawPay is a simple, secure solution that allows you to easily accept credit and eCheck payments online, in person, or through your favorite practice management tools.

22% increase in cash flow with online payments

Vetted and approved by all 50 state bars, 70+ local and specialty bars, the ABA, and the ALA

62% of bills sent online are paid in 24 hours

YOUR FIRM LOGO HERE

Trust Payment
IOLTA Deposit

New Case Reference

**** **** **** 9995 ***

TOTAL: $1,500.00

VISA MasterCard AMEX eCheck DISCOVER

POWERED BY LawPay

PAY ATTORNEY

Get started at
lawpay.com/nhba
866-730-4140

Data based on an average of firm accounts receivables increases using online billing solutions.

LawPay is a registered agent of Synovus Bank, Columbus, GA., and Fifth Third Bank, N.A., Cincinnati, OH.