By Tom Jarvis

Hundreds of alumni, students, and current and former faculty and staff of the University of New Hampshire Franklin Pierce School of Law (UNH Law) gathered throughout the weekend of September 29 through October 1 to celebrate the school’s 50th anniversary. The weekend was filled with joyful mixers and memories, distinguished speakers, and even a golf tournament.

“The law school was founded on a vision,” Dean Megan Carpenter says. “The 50th anniversary weekend was a tribute to this vision, and to the students, staff, and faculty through the years who built the school from a small unaccredited dream in a bull barn to a national and international powerhouse. It was a joy to celebrate the school and, especially, to celebrate the people who have been instrumental in its development.”

Professor Emerita and Alumni Liaison Ellen Musinsky, one of the primary planners for the celebration, says they decided against a traditional convocation. “We wanted the graduates to come back and really be able to experience the feelings they had when they were in school and recall why they love the institution,” she says. “But we also wanted some level of seriousness, as well, with a vision,” she continued. “Our law school was founded with two principles in mind,” Dean Carpenter said in the film. “To be the best intellectual property-focused law school in the country, and to train students to practice law — to be lawyers, not just to think like lawyers.”

The law school, originally called Franklin Pierce Law Center (FPLC), was founded in 1973 by renowned lawyer, inventor, musician, composer, and Loch Ness Monster hunter Robert H. Rines. A whole book could be written about Rines, but some highlights, in addition to founding the law school, are that he also founded the Academy of Applied Intellectual Property (IP) Program, the first-in-the-nation Daniel Webster Scholars Program, and the Hybrid Juris Doctor Program (the first of its kind approved by the American Bar Association). It is also the first school in the country to offer a graduate degree in IP designed for people not holding a law degree.

“The name of the school was Hicks Hardware. So, I had an ‘in’ there,” Justice Hicks says in jest. “But working there was one of the best educations I ever had. Looking back on it, helping people who would come into the store with problems was a precursor to what I do now.”

In 1970, as a student of Colebrook Academy, he attended the Advanced Studies Program at St. Paul’s School in Concord, where he met his wife of 48 years, Patricia Garrett.

After high school — with strong encouragement from his mother, who later became a deputy clerk of court — he attended Bucknell University and graduated with a degree in math in 1975.

“Patty then strongly suggested that I go to Boston University School of Law,” Justice Hicks recalls. “She found something about my talents and personality that she thought would work in the law. So, I went there.”

The two married on Thanksgiving break during his first year of law school, and during his final year, he clerked for NHSC Chief Justice Frank Rowe Kenison.

Upon graduating with his JD in 1978, he began working for the law firm of Wiggin and Nourie, where he practiced for 23 years as a commercial litigator for insurance, title, bank, and asbestos litigation.

Justice Hicks in his chambers in September 2023. Photo by Tom Jarvis

By Tom Jarvis

New Hampshire Supreme Court (NHSC) Senior Associate Justice Gary E. Hicks, a revered leader in the judiciary for more than 20 years, will retire on November 30. This is pursuant to the State Constitution, which requires justices to hang up their robes at the age of 70.

Justice Hicks was born in West Stewartstown and grew up in Colebrook, working at his father’s hardware store from the age of 12.

“Hick’s emphasis on academic, vocational, and other self-improvement programs.”

On the front page, prisoners are reminded that a $7.00 fee will be charged for losing or failing to return the manual upon release or transfer to another institution.

The American Civil Liberties Union PRISON SERIES continued on page 24
Civility, Wellness, and Attorney License Renewals

By Paul Chant

In the last couple of Bar News issues, I have written about both civility and attorney wellness. Unfortunately, both issues have recently come to my attention in the context of attorney license renewals. This year, over 1,500 lawyers failed to properly complete one or all of the annual renewal obligations of paying New Hampshire Supreme Court fees and NHBA dues, filing the New Hampshire Minimum Continuing Legal Education (NHMCLE) Affidavit, and/or filing the Trust Account Compliance Form. That represents 17 percent of the 8,629 members of the Bar. The fines levied by the Bar Association (on behalf of and by order of the Supreme Court) totaled $336,000, of which $231,000 is forwarded to the Attorney Discipline Office and NHMCLE.

The process required to comply is well laid out by the Association on both the Bar website and in the Bar News. I admit it takes a little work to get it done correctly (for me, it’s usually the NHMCLE certification). However, all of us in the Bar have graduated from both college and law school, and virtually all of us have passed a state Bar examination – we have the ability to do this and to do it correctly. Doing so requires some time and careful attention. However, once you are beyond the deadline, mandatory fees are assessed.

The NHMCLE fund had over $350,000 in assets at one time last year. A substantial line, mandatory fees are assessed. However, once you are beyond the deadline, mandatory fees are assessed.

I want to encourage everyone to start the attorney renewal process as early as you can. Waiting until the last minute to pull materials together can be a problem. I would also like to encourage all to treat getting it done correctly as you would filing or responding to a pleading. Get it right the first time! If you have questions, pick up the phone and call the member line or email billing@nhbar.org. As with the courts and their clerks, the Bar folks would rather help in advance than try to undo a problem later.

That brings me to the second point, which is collegiality and wellness. Frankly, the response of some Bar members to Bar staff, when informed who they are not in compliance, has been completely unprofessional. The messages left in both voice mail and email at times are abusive to Bar staff. I understand frustration. I do not understand outrage. In fact, one staff member (not this year) received a voice mail including a threat. In my office, I have immediately fired clients who spoke or wrote in such a manner with our staff. No matter your outrage, act as a professional, in a professional manner. Please know that the Bar staff wants to help you, in any way they can, within the confines of the rules. They do not want you to be fined. These are good people, doing their jobs. Please, don’t take your bad day out on them.

Speaking of good people doing their jobs, I want to give a huge shout out to all of you that have signed up to be on committees and to chair committees this year. I trust that your Bar involvement will add to your life and sense of purpose. It was my great pleasure to see so many attorneys from new to experienced sign up to help. Thank you. I am still working on the roster of the DEI Committee. Sadly, this committee did not engender the same excitement for folks to sign up for as some others. If you are interested, contact me at (603) 356-5439 or pclchant@coopercargillchant.com.

Finally, I want to also give a big shout out and thank you to Bob Lucic, who has taken on not only the role of chair of the new Artificial Intelligence Committee, but also the Committee on Cooperation with the Courts. The AI Committee made an excellent presentation on the work they have already done at the Board of Governors orientation. I also want to publicly thank Sarah Blodgett for agreeing to chair the new Special Committee on Attorney Wellness. The roster for that committee is terrific. I look forward to seeing how their talents can assist New Hampshire lawyers and judges.

Finally, please listen to the Bar Discourse podcasts. The most recent one features Bob Lucic and John Weaver speaking on AI. The episodes are easy to access at soundcloud.com/thebardiscourse and will soon be added to the Bar website. Check them out!
Michael Shklar: A Civil War Enthusiast Fighting for Clients’ Rights on the Legal Battlefield

By Kathie Ragsdale

Other Bar members might not recognize the guy in the starchly blue Civil War uniform who appears at encampments and fairs throughout the region, but he’s the same one they might find fighting for clients’ rights on the legal battlefield of the court system.

Michael C. Shklar, of the Newport firm of Elliott, Jasper, Shklar, Ranson & Beaulac, has been practicing law for some 38 years, often representing juveniles or those with mental illnesses. He is also a self-described “Civil War nut” who is a deputy vice commander in the Sons of Union Veterans of the Civil War, a national organization with more than 200 community-based camps.

He is not a Civil War reenactor. “Running around a field full-speed, wearing wool in 90-degree weather and carrying an enormous amount of weight is not in my arsenal,” he says with trademark humor. Rather, he participates in parades, living history events, and fairs like the recent Tunbridge World’s Fair in Vermont.

He sees the avocation as a diversion from the demands of the profession to which he has been devoted for nearly four decades.

A native of the Boston area, Shklar graduated from Carleton College in Minnesota, which he has been devoted for nearly four years.

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Grow Your Practice with the Lucrative NHBA Lawyer Referral Service

By Grace Yurish

Joining the New Hampshire Bar Association’s Lawyer Referral Service (LRS) saves you money on advertising, generates prospective clients in your chosen practice areas, and increases your firm’s revenue stream.

Every day, LRS receives dozens of calls and online inquiries from individuals seeking assistance with their legal matters. The LRS team efficiently matches these clients with panelists who have enrolled in this lucrative service. Attorneys who become LRS panelists enjoy the flexibility to set their own fees and control the types of cases they receive. Panelists can tailor their preferences regarding practice areas and counties of practice, accommodating both broad and specific criteria. As a result, panelists receive pre-screened prospective clients who align with their practice. Attorneys have no obligation to accept any referral and may decline those that may not be the right fit.

Even when your practice is thriving, you need a steady stream of new client leads. The LRS Intake and Referral Specialists streamline the process to ensure simplicity for all parties involved. Upon receiving a call, the LRS staff ask pertinent questions to ensure that prospective clients align with each attorney’s practice. During the intake process, the staff verifies that clients can afford your services and that the case is relevant to your practice and location. Referrals are made for each client’s unique circumstances, following a fair and impartial rotation system that benefits all panelists.

“LRS provides a steady source of new business for our firm,” Attorney Paul Alfano of Alfano Law says. “The people at the Bar are wonderful to work with and the process they have developed is easy and seamless.”

In 2022, LRS successfully referred 8,240 cases to panelists, and this year’s numbers are on track to surpass that figure, with over 6,500 referrals already made as of the end of September. LRS panelists express high satisfaction with the quality of cases they receive through this service.

“I have been a member of the NHBA full-fee LRS for a number of years,” Attorney Barbra Black of Black, LaFrance & Bolinger says. “I have received many quality referrals, particularly over the past year. The cost of membership is modest and well worth the investment.”

Attorney Chris Seufert of Seufert Law has used a variety of referral services over his many years of practice and believes the LRS program to be the most cost-effective way to generate new business for his practice.

“Seufert Law has participated in the NHBA LRS for as long as we can remember,” he says. “We are just finishing up with a six-figure personal injury referral but have also received many good referrals over the years in personal injury, as well as the other practice areas we work in. Having used many types of referral services over the years, the 10 percent referral fee has proven to be the most cost-effective. No referral fee is due unless the case generates a fee, unlike most other ‘pay to play’ services where what you pay can sometimes have no correlation to the fees that the firm actually generates, if ever, from a referral.”

Seufert continues: “Where it seems increasingly difficult for potential clients to find the right attorney for their case, I think that the NHBA LRS is doing a great job for New Hampshire citizens to find the right lawyer for their case.”

LRS is an invaluable resource for our members. For more information on LRS, contact NHBA Member Services Supervisor Misty Griffith at (603) 224-6942 or mgriffith@nhbar.org.

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Letter to the Editor

Because I have been a continuing donor (a modest amount) to the Campaign for Legal Services, I recently received a 32-page annual report relating to the activities of the Bar to donate to the Campaign for Legal Services so that these everyday heroes of our legal system are supported as they continually strive to secure access to justice for everyone in our state. I will donate to the Campaign again soon, if ever, from a referral.

From my years working at the New Hampshire Bar Association, I recognized the many unsung legal champions at work in our state. I urge every member of the Bar to donate to the Campaign for Legal Services so that these everyday heroes of our legal system are supported as they continually strive to secure access to justice for everyone in our state.

Dan Wise
Retired NHBA Communications Director

Legal services also depend on the hard-working staffs of legal services agencies, including 603 Legal Aid and New Hampshire Legal Assistance. Every day, these folks strive to optimize scarce resources to help desperate clients overcome or navigate the maze of the legal system. Sometimes all they can do is provide a caring ear. It can be frustrating work with rosy outcomes few and far between. The staffers on the “honor rolls” but the dedicated efforts of non-lawyer staff I knew such as Janice Rabchenok, and the recently retired Pam Dodge and Carolann Wooding, are essential to the cause.

I will donate to the Campaign again soon, next year I can read more stories and be reminded of the many unsung legal champions at work in our state. I urge every member of the Bar to donate to the Campaign for Legal Services so that these everyday heroes of our legal system are supported as they continually strive to secure access to justice for everyone in our state.
The Circle Program Celebrates 30 Years of Mentorship for Young Girls

By Grace Yurish

Since 1993, the Circle Program has been providing young girls in the Granite State with an empowering, transformative, and enriching experience. Nestled on the shores of Spectacle Pond in Groton, the program welcomes girls from socially and financially disadvantaged families, offering them a residential summer camp experience and year-round mentorship. With multiple members of the New Hampshire Bar on its board, the Circle Program is proudly celebrating its 30th anniversary this year.

United States Magistrate Judge Tadesha Saint-Marc has served as Circle’s president since 2022. Prior to her judicial career, Judge Saint-Marc spent 12 years in employment law at Bernstein Shur. There, she was introduced to the program through the spouse of a client, who reached out to her for pro bono employment work with Circle. Having been to camp in her youth and having participated in the Big Sister Little Sister mentor program, accepting the role of Circle president was an easy choice.

“The vision is to help aid in creating self-reliant young women who are confidently engaged in their community and living to their full potential,” says Judge Saint-Marc. “The way that we see ourselves doing that is through that mentorship, having participants develop personal accountability, giving them support by providing them with a safe and caring environment, communicating integrity, and making sure we show them how to be self-accepting and accepting of those in the community, as well.”

Circle was founded by the trustees and director of Camp Onaway, an all-girls camp on Newfound Lake. They aimed to target disadvantaged New Hampshire girls but recognized that a camp experience alone wouldn’t create significant change. Drawing inspiration from the Mayhew Program for boys, they combined a residential summer camp with year-round mentoring. Since then, Circle’s mission has been to empower, transform, and enrich girls’ lives through community, connection, camp, and mentorship.

“A lot of the time underserved and underprivileged kids don’t have the opportunity to go to camp,” says Attorney Ryan McFarland, a member of Circle’s board of directors and chair of the Governance Committee. “This provides these girls that opportunity to spend some time in a beautiful area, to make new friends, to go in the water, go hiking, and provides them with the life skills they need to move forward.”

Open to girls aged nine to 18, this program is entirely free for all participants. The hope is that once someone becomes a Circle girl, they continue through until they graduate from high school and hopefully become a counselor or mentor to provide support to others like them.

“We want young girls to come to summer camp and keep coming back, keeping that core group that they started Circle with all the way through,” Circle Program Executive Director Beth Dever says. “We see their story and the script of their life change the more times they come and stay with us every summer and stay with their mentor year in and year out.”

During their camp stay, the girls engage in typical summer activities such as swimming, nature exploration, and art. They also delve into STEM (science, technology, engineering, and math) activities and take field trips to places like UpReach, a therapeutic equestrian center, and local beaches.

The 15- to 18-year-old group now has the opportunity to shape their summer experience with Circle’s Teen Adventure Program. During the past school year, these teenagers, with guidance from the Circle staff, planned a trip to Lake George. They organized accommodations and activities, including a high ropes course, a river float, hiking, and even cooked for themselves.

In the off-season, the girls of Circle stay connected with their mentors and fellow participants through monthly events. Circle hosts one or two events each month, mentors are responsible for coming up with at least one activity to do with their mentees. Maintaining this relationship throughout the year is a vital part of Circle’s mission.

Attorney Mark Seymour serves as secretary on the board of directors and is a member of the Governance Committee. He was a part of the Big Brother program growing up and emphasizes the importance of having a mentor.

“It’s important for any young person to have a mentor in their life, particularly if they come from backgrounds where they might not have that otherwise,” says Seymour. “At the least, it gives them another perspective on things. Growing up is hard for anyone; I think it just helps to have an adult in your corner who you can get advice from, you can rely on to be there for you, and also just to have fun with. They do a lot of things together that are fun, both for the mentors and the girls.”

Judge Saint-Marc, Seymour, McFarland, and Dever express the importance of having a mentor.

“We’re really pushing the choice, voice, and value mantra,” Dever explains. “We want all our participants to feel like they have a choice in what they’re doing, who they’re with, and how they’re moving through the program. We also want them to have a voice so that they can come back and give us feedback with things that might not be working. We really want them to understand that we’re listening, understanding, and changing with the culture, so that gives their voice value.”

To commemorate the 30th anniversary, a celebration was held on August 25 at the Mojuluki Country Club in Franklin. The evening included a cocktail reception, dinner, a silent auction, and live music. Additionally, three mentor and mentee pairs from past and present shared their experience with the program.

Those at Circle are looking forward to many more years of creating positive change for young girls in the state.

Judge Saint-Marc offers this advice for them: “Have confidence in yourself and live life without fear of limitations. When you have a little bit of confidence and faith in yourself, you really would be surprised at the things that you can do. I feel like my life and my career are examples of that.”

If you would like to become a board member, mentor, volunteer, or donate to support the program, please visit circleprogram.org.
New Member Benefit, Windhill Design, Creates Affordable Custom Websites

By Misty Griffith

A properly maintained and designed website can help your firm grow and convert site visitors into viable client leads. However, our 2022 Economics of Law Practice Survey reports that fewer than 50 percent of solo practitioners have a website. Lack of a website is a significant disadvantage compared to the more than 90 percent of firms with two or more attorneys which have a website. Our LRS intake and referral specialists have shared that often callers are reticent to accept referrals to attorneys they cannot vet on a website.

Moreover, many clients find their attorney via an online search. A 2020 ABA marketing survey found that websites generated 36 percent of clients for solo practitioners and 39 percent of clients for firms with two to nine attorneys.

Recognizing the need for website design services, especially among solo practitioners, the NHBA has partnered with Windhill Design, LLC to offer a new member benefit. A locally owned small business based in Loudon, New Hampshire, Windhill Design provides affordable custom websites and tailored digital marketing solutions, ensuring that each client receives a personalized strategy designed to maximize their online presence and drive tangible results.

This unique benefit offers NHBA members discounted pricing on custom website design, maintenance, and hosting with the added value of working with a New Hampshire business that knows and understands the local market.

Link Moser, the owner of Windhill Design, LLC, has a passion for helping small business owners thrive in the digital landscape. Moser has a wealth of experience in copywriting, content writing, and all forms of digital marketing. His team creates compelling websites that are not only search engine optimized, but also conversation-optimized. For more than 15 years, Windhill Design has been at the forefront of WordPress website design in New Hampshire.

Moser specializes in generating high-quality leads through effective digital marketing strategies. With the digital marketing landscape constantly evolving, it is beneficial to work with a professional like Moser who remains at the forefront of industry trends and best practices.

Join us for a free, interactive webinar on Tuesday, October 24, from noon to 1:00 pm, when Moser will present Mastering Online Lead Generation: Strategies for Attorneys. Designed to help you take your law firm’s online presence to new heights, this is the latest offering in the NHBA’s Lunchtime Law Practice Management (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.

The webinar will delve into the crucial aspects of local SEO listing management and the significance of online reviews and reputation management for attorneys. You will discover how local SEO can significantly enhance your law firm’s online visibility and attract potential clients in your target area.

You will also gain valuable insights into the power of online reviews and reputation management and learn effective strategies to manage your online reputation, engage with your customers, and maintain transparency to build trust and credibility. Lastly, you can understand how positive reviews can boost your revenue and attract more clients.

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 firm and sole practitioners.

Master the art of online lead generation. Sign up on our website today. You may also register staff members for this free program.

To learn more about the new Windhill Design member benefit or take advantage of any NHBA member services visit nhbar.org. If you have questions, contact NHBA Member Services Supervisor Misty Griffith mgriffith@nhbar.org or (603) 715-3227.

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The NHBA’s Goal of Improved Attorney Wellness is Bolstered by New Committee

By Tom Jarvis

The New Hampshire Bar Association has established a new Special Committee on Attorney Wellness to identify initiatives and make recommendations to improve the working lives of lawyers and judges, to destigmatize mental health, and to shift the legal culture toward healthier practices.

As enhanced wellness is one of NHBA President Paul Chant’s goals for the year, he worked with NHBA President-elect Kathleen Mahan, NHBA Executive Director George Moore, New Hampshire Judicial Branch Mental Health and Wellness Coordinator Anne Zinkin, New Hampshire Lawyers Assistance Program Executive Director Jill O’Neill, and NHBA Member Services Supervisor Misty Griffith to select a diverse group of lawyers and judges for the new committee.

“We have pulled together a group of committed, caring people who believe strongly in the importance of wellness for a multitude of reasons,” Chant says. “They all recognize that wellness is an issue that needs to be elevated. I can’t overstate how important it is for lawyers to be able to manage their lives outside of the practice of law for their own health. For us to do our jobs correctly, we need to be in good mental health.”

The committee includes lawyers of all ages and experience levels from almost every county, who practice within both the public sector and private firms of various sizes, as well as some active and retired judges.

“The make-up of the committee is intended to reflect that this isn’t a unique problem for private sector versus public sector, or within a particular practice area,” Mahan says. “It’s within large firms as well as small firms. It’s within the judiciary, within the administrative agencies – it’s everybody and it’s everywhere.”

Griffith, who is the NHBA’s staff liaison to the committee, says the committee – which is chaired by Circuit Court Administrator Sarah Blodgett – will focus on several different areas of well-being.

“One of the things that we felt was important is that attorney wellness is not just limited to people who are having a mental health crisis or people having issues with substance misuse of some sort,” she says. “It’s a much more holistic thing. It could even be attorneys who are having problems with aging or planning for succession – or really anyone struggling to find work-life balance. We want it to be right. We’re not doing it to just check a box.”

Lawyers and judges are typically very driven people who work long hours, juggle heavy caseloads and deadlines, and put a lot of pressure on themselves – which can all lead to burnout and other mental health issues.

“We are in a high-stress profession, regardless of where you practice or how you practice,” Mahan says. “You need to take care of yourself, as well as your clients. We are in a position of trust and our clients rely on us. If you can’t fulfill that, somebody needs to recognize that and take the steps to really take care of it. I think we tend to be perfectionists and to not necessarily ask for help. We need to shift away from that and say, ‘what do I need to do to take care of myself so I’m in the best position possible – to be the best representative possible – for my clients?’”

Zinkin agrees, saying that people drawn to become attorneys are typically type A personalities that don’t always focus on taking care of themselves.

“There was an ABA study on how stressed we all are,” Zinkin says. “There is a high rate of suicide and substance misuse in attorneys. I think that’s all related to our not taking the time that we need to take care of ourselves. When you’re a professional, you are so focused on doing what you need to do for your client that you may lose sight of what you need to do for yourself. It’s the same concept as putting your own oxygen mask on first before helping other people. It’s almost like the profession is premised on this impossible ideal of perfectionism, which is that we are perfect human beings who never make mistakes and have unlimited energy and time and no human needs – basically robots.”

One of the goals of the committee is to bring awareness to existing programs and to battle the stigma of seeking them out.

“A significant part of the attorney wellness issue is attorneys and judges understanding that they may have a problem and that there are resources out there that can help them,” Chant says. “As lawyers, we take on other people’s problems who are involved in highly stressful situations, often on a daily basis, and carry those stresses regularly throughout our lives.”

O’Neill, a mental health professional for more than 20 years – who has focused on helping lawyers and judges for more than two years as the executive director of New Hampshire Lawyers Assistance Program – is very pleased with the creation of the committee.

“This really solidifies the partnership between the Lawyers Assistance Program and the Bar to support lawyer well-being,” she says. “I had been talking about the need for a statewide well-being committee to put attention on healthier overall practices. Now, we can put some real energy and resources toward this. Collectively, we are going to be able to maximize what we couldn’t do individually by coming together in this committee.”

The committee’s first meeting is scheduled for October 18.
By Alex Attilli

Going to law school can be one of the most – if not the most – stressful times in an attorney’s life. Not only are you learning to think in a completely different way, but the workload alone is barely manageable.

For many parents in law school, this can pose an even greater challenge as they attempt to find some sort of balance between professional and personal life.

Youjin Jeong, a Korean international 2L and mother of two, expresses that she always wanted to go to law school, but “couldn’t afford the time to think about it” until the COVID-19 pandemic.

“I got married early and started having children early,” says Jeong. “But when COVID happened, our family had a quiet period… I thought about what I wanted to do… and I thought I would regret [not going to law school]. That was my motivation to study for the LSAT.”

That was my motivation to study for the LSAT.” That was my motivation to study for the LSAT.” That was my motivation to study for the LSAT.” That was my motivation to study for the LSAT.”

Father to three, 2L Steve Ruisi stated that law school was a lifelong dream of his even after working in insurance for 22 years. “I found myself as a non-attorney negotiating contracts with other non-attorneys – I just always enjoyed the attorney thought process,” Ruisi states. “What I love about insurance, which transfers to law, is that it’s trust-based. Your clients, competitors, partners, etc. need to trust you. I love that.”

Ruisi stated that although this was a lifelong dream of his, “life took over.” Between struggling with health complications and growing his family, law school was put on the back burner until recently.

Jeong, Olson, and Ruisi all express immense gratitude for their families’ support in this process. “My kids and my wife are so hugely supportive to say the least,” Ruisi says.

Olson says that one of the reasons she’s able to be in law school is thanks to her husband’s flexible work-from-home schedule. Jeong says that she feels lucky for her kids’ support in her decision to move her family to the United States during this time. “I want to compliment my children,” she says. “They enjoy school. They make their own sandwiches and do homework too, which is very helpful.”

All three parents agree that one of the biggest struggles they face that their peers without children do not is the time commitment. “The barriers are a physical thing,” Jeong says. “I have one class that finishes at 2:30, but then I need to pick [my kids] up and be back in time for class at 3:30. They wait for me in the library until my class is over and then I can drive them to their sports activities.”

As a 1L, Olson says that it feels like “all [she] does now is homework,” as she’s adjusting to the new workload. “My oldest was telling me about how much homework he had, I said, ‘me too,’” Olson recalls. “He said, ‘No way, I have more, I have to read for like 20 minutes!’ I wish [mine was only 20 minutes].”

Ruisi also adds that he struggles with feeling isolated from his peers because they’re in different phases of life. “I live in two worlds,” he says. “[Law school] is my world during the day, but at night I’m a father. My peers change from one to the other. I can vent to home about work, but with those things that happen in your personal life that you need to vent about in the office sometimes – it’s hard to find someone who can relate.”

Both Jeong and Olson mention how grateful they are to have a community to rely on. For Jeong, it’s the moms and coaches within her kids’ school district. She loves helping and celebrating her peers. “I get really happy with my classmates’ accomplishments,” she says. “That’s what I would want for my own kids, so that’s what I want for them.”

For Olson, it’s the law school community. She says that while everyone may be there for different reasons, they share a common experience. “It’s this idea of catching someone who happens to be struggling and vice versa,” she says. “Your parents would want someone to do that for you.”

When asked how to balance professional and personal life, Jeong says with a chuckle that there is no balance. “[My kids] are really in their formative age, so I try my best to be with them whenever they need me,” she says. “That’s my priority. I can’t put a more sensible answer than no balance though.”

Ruisi says finding a balance is a “hell on earth,” and that he misses the flexibility from his previous job. “I was established, so I could just move around conflicts [relating to my kids],” he says. “But I can’t just tell Professor Budd I’m not going to class today. The hell is the emotional part for me not being able to do that. And it’s physically taxing on my wife because she has to do it.”

Olson says that as she’s adapting to being back in school, she’s still “figuring out a good balance” and adding that her kids are so understanding. Although being a parent may come with plenty of struggles, Olson says that it helps her not to internalize her performance in school and to keep it separate from the rest of her life.

“Professor Christensen wrote all over my [first writing assignment] and my daughter just thought ‘that’s so pretty,’” she says, noting that her kids don’t care about how she does in school. To them, she’s just “Mom.”

Ruisi adds that being a parent gives him a “heightened” sense of organization, as well as a better understanding of his schoolwork. “My kids are very supportive,” he says. “They’re very curious and genuinely want to know what I’m learning. And in order to explain contracts to a 12-year-old, you have to understand what you’re talking about.”

Jeong states that being a mom makes her feel more accepting of people. “[My children] are such different individuals,” she says. “It’s so natural that they are so different. So, I feel more open to other personalities and opinions. When I see someone, I see that person is where they are thanks to someone’s care and love. They are here because of mom’s care, dad’s care – someone’s care.”

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Students by Day, Superheroes by Night – Navigating Law School as a Parent
NextGen Bar Exam Builds on Strengths of Current Attorney Assessments

By Timothy Davis

The NextGen Bar Exam, which is slated to launch in July 2026, will marry the doctrinal rigor of the current exam with substantive testing of lawyering skills.

Law students are officially back on campus, and this year’s entering 1L class will be among the first to have the opportunity to take the NextGen Bar Exam. Attorneys and members of the judiciary who anticipate working with these new graduates may wonder what impact the change will have. They can rest assured that this new exam will be as rigorous as the current exam in assessing doctrine: it will continue to test essential black-letter law, as well as fundamental tenets of professional responsibility in applied contexts.

Additionally, the NextGen exam will test an expanded range of foundational lawyering skills, making it a powerful tool to assist state supreme courts in determining who is competent to practice in today’s legal profession.

The consensus of practicing attorneys, members of the judiciary, and bar examiners is that candidates should possess both foundational lawyering skills and foundational legal knowledge to be considered minimally competent to begin practice. Law schools are already preparing their students to be practice-ready from the start with programs like law clinics and field placements. Through enhanced skills testing, the NextGen Bar Exam will recognize the work being done by law schools to prepare graduates to competently represent their clients.

The addition of more robust skills testing to the NextGen exam does not, however, mean that the new exam has stopped testing the important legal knowledge that every new lawyer should have, as is evident in the sample questions and content scope outlines for the new exam that were released recently by the National Conference of Bar Examiners. Rather, it reflects agreement across the profession that knowledge and skills are essentially interconnected in the work that new attorneys must be prepared to perform.

The NextGen exam will include some question types that will already be familiar, building on the strengths of the current exam:

• Longer writing tasks modeled on the current Multistate Performance Test (MPT), in which examinees are asked to draft legal documents such as memoranda in response to a set of provided materials. Longer tasks are a powerful tool for testing skills that cannot easily be assessed using short questions alone. These tasks will make up approximately one-quarter of the new exam and will continue to feature assignments that lend themselves to IRAC-style written analysis.

• Multiple-choice questions, including:
  • A new type of question designed to assess examinees’ application of legal skills to doctrine, recognizing that competence in skills such as issue-spotting is crucial in its own right; and
  • Multistate Bar Examination (MBE)-type questions that require examinees to apply fundamental legal principles and legal reasoning to analyze given fact patterns.

• Multiple-choice questions provide a time-tested method of efficiently gathering a large amount of evidence about examinee competence. Multiple-choice questions, including those contained within integrated question sets (described below), will comprise approximately half of the new exam.

Additionally, the exam will include a new type of question that will test both legal doctrine and skills in a format consistent with the types of cases examinees will likely see within the first three years of their practice. The types of questions, two (multiple-choice questions and integrated question sets) will integrate knowledge of black-letter law with skills testing to provide a complete picture of readiness to practice. The performance tasks, like the current MPT, will focus on skills testing within a “closed universe” in which legal source materials are provided.

Of the three types of questions, two (multiple-choice questions and integrated question sets) will integrate knowledge of black-letter law with skills testing to provide a complete picture of readiness to practice. The performance tasks, like the current MPT, will focus on skills testing within a “closed universe” in which legal source materials are provided.

The NextGen exam will have the reliability and stability that NCBE’s jurisdiction have the reliability and stability that NCBE’s jurisdiction has already received valuable feedback on the published content scope outlines and sample questions; more opportunities for conversation about the new exam will be available as additional sample questions and other exam details are released in the months ahead. Additionally, extensive pretesting and statistical analysis of all NextGen exam questions prior to the 2026 launch will ensure that the exam does what it is designed to do: help jurisdiction supreme courts determine which examinees possess the knowledge and skills to begin legal practice.

Professor Timothy Davis (Bess and Walter Williams Professor of Law) teaches contracts, sale of goods, sports law, and NCAA rules compliance and enforcement at Wake Forest University School of Law. Davis is one of the country’s best-known sports law scholars.

IN THE FIRST FIVE MONTHS OF 2023, Lubin & Meyer obtained five consecutive multimillion dollar verdicts totaling more than $75M. At the same time the firm secured more medical malpractice and personal injury settlements or at or above $1M than any other firm in the region. Among these results is a record-setting $15M settlement against Boston Children’s Hospital that has garnered nationwide attention.

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

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

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

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

$4.65M Verdict
Bunker vs. Dhillon, M.D., et al Failure to diagnose stroke

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

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The money earned from the IOLTA program helps tens of thousands of New Hampshire’s most vulnerable citizens receive free or low-cost civil legal services.
Sherry Young to Receive BIA’s Lifetime Achievement Award

Attorney Sherilyn Burnett “Sherry” Young, co-founder, shareholder, and past president of Rath, Young, and Pignatelli, will receive the Business and Industry Association’s Lifetime Achievement Award at their annual dinner and awards ceremony on October 25, 2023, at the DoubleTree by Hilton in Manchester.

LawLine

The New Hampshire Bar Association would like to thank Orr & Reno and Family Legal for a very successful LawLine event held on September 13, 2023.

Fifty calls were taken from counties all over the state on a variety of legal topics including probate law, consumer matters, landlord/tenant disputes, small claims matters, and family law. 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 2024 LawLine events. For more information, or to volunteer, please contact NHBA LawLine Coordinator Anna Winiarz at awiniarz@nhbar.org.

Jest Is For All

by Arnie Glick

“It’s tired of chasing you up the tree – maybe we should consider alternative dispute resolution.”

Book Review

The Common Flaw: Needless Complexity in the Courts and 50 Ways to Reduce It
By Thomas G. Moukawsher
Brandeis University Press (2023)
Hardcover, 240 pages
Reviewed by Faith Delaney

The author, a Superior Court judge, provides compelling arguments that courts should simplify lawsuits to create a more humane and accessible legal system. How many times have those of us who practice in the courts told our clients that the cost of litigation, with endless procedural motions, protracted discovery, and judges allowing continuances to clear the docket just to push the case down the road, will be expensive and encourage them to settle or not bring a case due to the cost, complexity, and delays? We still have faith in our judicial system, and Judge Moukawsher provides some great recommendations that should be reviewed by both litigators and our court systems.

Judge Moukawsher provides 50 options to reduce the needless complexity of the courts. Many of his options could be readily adopted by our courts no matter whether it is probate court, superior court, or federal court. His first recommendation is that initial complaints in the court start with a third grader explanation, when it could be placed in a one or two sentence summary at the head of the complaint. He also recommends that judges use agency remand sparingly, and requiring the judge to order discovery when a case begins, not allowing the attorneys to drag out needless discovery to wear out the opposing party. With the COVID-19 pandemic requiring virtual hearings, he recommends that they be the norm and not the exception, arguing that judges can look lawyers and litigants in the face and electronic exhibits are easier to maneuver.

Judge Moukawsher provides solutions to the needless formalism of the legal system. We all have seen the courts we practice in already use some of his recommendations. I highly encourage anyone who works or practices in the courts read this book and come away with new ideas to share with the Bar.

Faith E. Delaney opened her estate planning and elder law practice in 2004, after having worked in other estate planning firms. She is licensed in Massachusetts and New Hampshire and has been practicing law since 1994.

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CALL FOR NHBA AWARDS NOMINATIONS

Each year, at its Midyear Meetings, the New Hampshire Bar Association presents awards to recognize outstanding achievement and service among Granite State attorneys. We encourage you to nominate your peers for the following awards. Details and full requirements for each award, as well as a list of past recipients, can be found at nhbar.org/about-the-bar/bar-awards.

VICKIE M. BUNNELL AWARD FOR COMMUNITY SERVICE

Instituted in 1998 to honor the memory of Vickie M. Bunnell “A Country Lawyer” and to applaud the community spirit that is a hallmark of our profession this award is presented to an attorney from a small firm (four or fewer attorneys) who has exhibited dedication and devotion to community by giving of their time and talents, legal or otherwise.

DISTINGUISHED SERVICE TO THE PUBLIC AWARD

This award is presented to the nominee who best exhibits service to the public on behalf of the administration of justice.

OUTSTANDING SERVICE IN PUBLIC SECTOR / PUBLIC INTEREST LAW AWARD

This award is presented to a member of the New Hampshire Bar, or an organization employing eligible members, who, at the time of the nomination, have at least five years of service, up to and including the time of the nomination, in government service, military service, law enforcement, public interest law services (including prosecution, public defense, legal advocacy in low-income communities, or for individuals with disabilities at a nonprofit organization), or at an organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

PHILIP S. HOLLMAN AWARD FOR GENDER EQUALITY

The NHBA Gender Equality Committee seeks nominations for the Philip S. Hollman Equality Award, which honors Judge Hollman’s efforts as a stalwart advocate for gender equality in the legal system. Award recipients are people who:

- Exhibit dedication to promoting respect and fair treatment toward all members of the judicial system
- Seek to promote gender equality through leadership and educating others
- Person has taken initiatives in matters of gender equality and been a role model in this area

The Hollman Award nominee may be a Bar member, an employee of a law firm or a New Hampshire court, or an employee of a state department or agency which is part of the legal system. Please include a brief description of the nominee’s qualifications for the award.

Please submit nominations on or before NOVEMBER 21, 2023, at nhbar.org/about-the-bar/bar-awards. If you should have any questions about submitting a nomination, please contact Cindy Roberts at croberts@nhbar.org.

MARK YOUR CALENDARS!

Awards to be presented at NHBA’s Midyear Member Meeting on February 9, 2024.

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Oliver Bloom has joined Lothstein Guerriero. For the past two summers, while in law school, Oliver worked with our firm as an intern. His efforts have been invaluable and he has directly participated in our litigation, including a jury trial, a federal sentencing hearing, and countless motion hearings. Oliver is a graduate of Princeton University, King’s College London, and the University of Michigan Law School. Oliver recently passed the New Hampshire Bar Examination and will be sworn in on November 2. Oliver, a Cheshire County native, is excited to join our Keene Office. Oliver’s practice will be exclusively criminal defense.

Sheehan Phinney welcomes Autumn D. Klick to the firm.

Autumn joins the firm after serving as a judicial resident for Magistrate Judge Andrea Johnstone of the United States District Court for the District of New Hampshire. She also worked as a legal intern for Judges David Burns, Susan Carbon, and Erin McIntyre of the New Hampshire 9th Circuit Court, Family Division. Autumn is admitted in New Hampshire and the United States District Court for the District of New Hampshire.

If you would like to place an announcement, email advertise@nhbar.org
Understanding AI and ChatGPT — and Using It in Practice

By Ian Reardon

For decades, people have been discussing Artificial Intelligence, often referred to as “AI.” The core concept is that when computers gain the capacity to learn independently, they can potentially surpass human intelligence through continuous self-improvement. The world became abuzz with the release of ChatGPT in November 2022 due to its perceived human-like intelligence. It has been lauded as a technology that could replace numerous jobs, including those of attorneys.

While it’s unnecessary to grasp the intricate details of how ChatGPT works, having a basic understanding is important for risk assessment. A lawyer must distinguish situations where it may pose risks to such things as confidential client information.

How Does ChatGPT Work?

ChatGPT is a “chatbot” which means that you communicate back and forth with it in plain text. You send it a message, similar to a text message, and it responds with an answer that appears to be written by a human.

Query: What do you do in one sentence?

Response: I provide information, answer questions, and assist with various tasks through natural language conversation.

ChatGPT’s functionality relies on “training,” which involves processing billions of pages of text, primarily sourced from the internet. This massive dataset encompasses webpages, books, articles, and social media, as well as case law, statutes, and treaties. During this training, ChatGPT attempts to identify repeated patterns in the words of these texts, this is essentially how it “learns.”

For example, ChatGPT has analyzed countless letters and emails, identifying a pattern where many letters begin with the salutation “Dear.” The frequency of this pattern throughout the training data reinforces ChatGPT’s understanding that letters typically start with “Dear.” Additionally, it may recognize that some letters begin with “Hello.” Continuously exposed to more patterns, ChatGPT refines its knowledge, noting that formal letters prefer “Dear,” while less formal ones tend to use “Hello.”

It’s important to understand that ChatGPT does not retain data like Google or a database. The depth of ChatGPT’s understanding of a particular subject depends on the volume of training data available for that subject.

For instance, there is a vast amount of information available about the US Constitution, while there is much less data about New Hampshire laws. As a result, ChatGPT will provide more accurate and detailed answers regarding the US Constitution compared to New Hampshire law.

Drafting Documents & Templates

Now that we know how ChatGPT works, let’s try some legal tasks. We’ll request the creation of a template “Letter of Representation” for a personal injury case. Given the abundance of such letters available online, it’s evident that ChatGPT has processed numerous examples during its training and should be capable of generating a well-structured template.

Query: Can you write a template letter to an insurance company informing them that I represent an injured party in an automobile accident that occurred on January 1, 2023?

While I don’t have enough space to provide a copy of the letter, the response was very well written, only needing minor edits. You can also refine the results with the following query: “Please add that the injured party broke his arm,” and the letter will be rewritten to include this information.

Drafting more specific documents can yield various results. The rarity of a document type directly affects the quality of the output, as ChatGPT’s knowledge is largely reliant on the examples it has encountered during training.

Summarizing Documents, Cases, and Statutes

ChatGPT excels at generating summaries, a task that occurs millions of times throughout its training data. Texts such as Wikipedia articles, research papers, and webpage features frequently summarize longer works. ChatGPT has undergone extensive training in the process of extracting the most relevant information from documents.

As said above, ChatGPT is not a database. It does not retain copies of any text. You can’t say “Write a summary of NH RSA 458-C,” because ChatGPT only knows about the patterns it has found in documents related to the statute. Therefore, to generate a summary of a document, you must copy and paste it directly into ChatGPT. Your query would look like this:

Query: Can you please provide me with a summary of the following document? [Paste content of document.]

In my experience, the generated summaries are remarkably comprehensive, and don’t omit important details. After receiving the results, you can proceed to ask questions about the document. For instance, “Please summarize only the facts,” or “What were the issues in this case?”

Prooofreading

Proofreading is one of the areas where I find ChatGPT to be the most helpful. Again, this makes sense if we think about how ChatGPT learns. Nearly every document in its training data involves processing written language, and therefore the ability to write is one of ChatGPT’s greatest strengths.

Let’s assume I’m drafting an email about late discovery. I’ll purposefully provide something quite awful just to demonstrate ChatGPT’s ability to proofread and rewrite text that still maintains the spirit of the original.

Query: I’m an attorney writing to opposing counsel. Please review the text I’m about to paste, for grammar, clarity, readability, and conciseness.

Response: Your text is very well written, only needing minor edits. While I don’t have enough space to provide a copy of the letter, the response was very well written, only needing minor edits. You can also refine the results with the following query: “Please add that the injured party broke his arm,” and the letter will be rewritten to include this information.

ChatGPT’s results. If ChatGPT was trained on actual cases or statutes; it only retains patterns it has identified when processing legal documents. For example, when asked about New Hampshire child support, ChatGPT produces responses containing phrases like “best interest of the child” and “substantial change in circumstances.” While these terms may initially appear accurate, a closer examination reveals that the answers came from child support statutes across the entire country. This highlights how the lack of training data significantly reduces the quality of ChatGPT’s results. If ChatGPT was trained on larger amounts of New Hampshire child support content, it would likely yield considerably more accurate responses.

Conclusion

While much more could be said about ChatGPT and similar AI, the best way to understand its capabilities is to try it out. Visit chat.openai.com and create an account. Start a conversation and ask it to perform various tasks. The key to getting valuable responses from ChatGPT is learning how to ask the right questions. The more information and instructions you provide, the better the results will be. While this article has not addressed the ethical considerations of using such a tool, I encourage you to read ChatGPT’s privacy policy and refrain from entering any data that might conflict with the Rules of Professional Conduct.

Ian Reardon is a member of Schofield & Reardon, PLLC, in Portsmouth. He has a degree in computer science and a background in software engineering.
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In 2021, as New Hampshire business lawyers will know, Congress enacted a new statute called the Corporate Transparency Act (CTA) that, beginning on January 1, 2024, will require almost all privately held United States business entities and certain foreign entities to make disclosures to the Financial Crimes Enforcement Network (FinCen), the US Department of Treasury agency responsible for CTA matters about these entities themselves, their owners and managers, and certain other persons. A business entity’s failure to meet CTA reporting requirements may make it and its personnel liable for serious civil and criminal penalties, including major fines up to $10,000 and imprisonment up to two years.


Technically, the Guide does not have the legal force of a statute or of regulations published in the Federal Register. However, if a business entity complies with the Guide, it can be confident that FinCen will treat it as complying with the CTA itself, and if it doesn’t comply with the Guide, the company may face serious CTA problems.

Fortunately, the Guide is written in plain English and in a style that even William Strunk and E.B. White—the authors of The Elements of Style, regarded by many writers as the bible of English style—would commend. The Guide should be read carefully by New Hampshire small business owners and their managers and but above all, by their lawyers and accountants.

Obviously, a short article like this one can’t pretend to provide a comprehensive overview of the Guide. However, the following are 12 comments about key contents of the Guide. These comments will provide readers with a useful basic understanding of the Guide.

1. Number of Affected Companies. The US Congress has estimated that every year, at least two million business entities are formed. It is unreasonable to guess that at least 150 million US and foreign businesses will be subject to CTA reporting requirements.

2. The Comprehensiveness of the Guide. The Guide contains six chapters. Taken together, these six chapters address virtually everything that small business owners need to know about how to comply with the CTA. Obviously, however, lawyers with CTA expertise who provide clients with CTA advice and who draft CTA provisions for operating agreements and shareholder agreements will need to know a lot more.

3. FinCen Disclosure Form and Portal. On and after January 1, 2024, small business entities must use a FinCen form to file CTA disclosures, and they must file this form electronically in the FinCen online CTA portal. However, FinCen has not yet finished constructing this portal, publishing this form, or disclosing the digital address to which to send completed CTA reports, and the Guide is silent about these key matters. I suspect that FinCen will finish its CTA portal or publish its CTA disclosure form or the address to which to send CTA disclosures to the portal until some time in November or even December. When it does, I will draft a follow-up article for the Bar News summarizing these new FinCen developments.

4. The 23 Exceptions Available to CTA Reporting Companies. Chapter one of the Guide lists the 23 types of reporting companies exempt from filing CTA reports. As the Guide explains, most of these exemptions is likely to apply to any New Hampshire small business entity—namely, the “large operating company” exemption that I discussed in my previous Concord Monitor column about the CTA. Most of the rest of the reporting company exemptions are for companies already subject to similar state or federal regulations and thus unlikely to be owned or managed by the “malign actors” the CTA is designed to identify and prosecute.

5. What Is a Small Business Entity? Although the Guide does not define the term “small business entity,” the Guide very probably intends the term to refer to small business entities that do not have at least 20 full-time employees and that have not reported at least $5 million in net US-source income in their most recent federal tax return.

6. Key CTA Concepts. Two critically important concepts in the CTA and in the Guide are “business entity owner” and “business entity controller.” The Guide explains these terms in substantial detail and with numerous hypothetical examples. Small business entity owners and managers and their lawyers must thoroughly understand these concepts and examples.

7. CTA Company Applicants. In their CTA reports, reporting companies must disclose information about their “company applicants”—i.e., (a) the individuals who file the state or tribal documents that will create these companies; and (b) arguably, those who control them. Under New Hampshire law, the main such documents are certificates of formation (for LLCs) and articles of incorporation (for business corporations). The first is a FinCen CTA “Guidance,” numbered FIN-2018 and dated April 3, 2018, addressing frequently asked questions regarding customer due diligence by financial institutions. The second is the text of the CTA itself, which is set forth in 20 single-spaced pages. Regrettably, the CTA contains several key ambiguities. However, many of these ambiguities are resolved in the additional CTA-related documents identified below. The third is the 90 pages of CTA regulations (23 CFR 598 through 598e) of the Federal Register for September 30, 2022. These pages include extensive regulations (i) about the reasons for the enactment of CTA, which may be critical in interpreting CTA provisions; and (ii) about the requirements imposed by the CTA on the US Department of the Treasury to ensure the confidentiality of the information that the CTA requires reporting companies to disclose to FinCen. But they also include an extensive discussion of the CTA duties of reporting companies. The fourth is a FinCen publication entitled Beneficial Ownership Information Reporting Rule Factsheet, dated September 29, 2022. The fifth is a letter, dated April 3, 2023, from the US House Committee on Financial Services and on Small Business and the US Senate Committees on the Budget and on Banking, House, and Urban Affairs. You should be able to obtain a copy of this letter through Google, but if this doesn’t work for you, I can provide you with a copy. The sixth is the above new FinCen e-book.

8. Filing Companies. According to a rule set forth in the Guide, filing companies may not be company applicants. However, there are probably workarounds to this rule, and, to avoid filing errors, many business owners, notwithstanding the rule, should hire filing companies to file their CTA reports. I will be happy to refer readers to these publication entitled Beneficial Ownership Information Reporting Rule Factsheet.

9. CTA Provisions in LLC Operat- ing Agreement and Shareholder Agree- ments. The Guide describes in detail the several provisions in which these entities must update or correct their original CTA reports within 30 days. The operating agreements and shareholder agreements of New Hampshire business owners should make these CTA situations crystal clear to LLC and corporate owners and managers. And in my view, New Hampshire lawyers should revise existing operating agreements and shareholder agreements of their clients to include CTA provisions and should include these provisions in new operating agreements and shareholder agreements of their clients.

10. Updated CTA Reports. In my view, the above operating agreement and shareholder agreement provisions should do the following: (a) They should provide company managers (who will normally be the members of multi-member LLCs, the managers of manager-managed LLCs and the boards of directors of corporations) with a clear basic explanation of the contents and purpose of the CTA reporting requirements; (b) they should require the relevant managers to make timely filings of initial and updated CTA reports with FinCen; and (c) they should specify the various situations in which small business entities must file updated CTA filings.

11. The Purposes of the CTA: Confidentiality of Small Business Entity Information Disclosed to FinCen. The CTA contains extensive provisions setting for its purposes and of the actions, further discussed below, that FinCen must take to ensure the confidentiality of small business entity CTA disclosures to FinCen. See, for example, CTA section 5336(b)(4) entitled Regulations); and section 5336(c) entitled Retention and Disclosure of Beneficial Ownership Information. However, the purpose of the Guide is to advise small business entities about their CTA disclosures, not at address FinCen obligations. The CTA contains extensive provisions setting for its purposes and actions only briefly. However, in October, I will publish an article in the Practical Lawyer, an American Law Institute e-publication, that will discuss the above FinCen confidentially obligations.

12. CTA Legal Competence. To provide competent advice to their small business entity clients about CTA filing requirements, New Hampshire lawyers should have a thorough familiarity with the following six publications. The first is a FinCen CTA “Guidance,” numbered FIN-2018 and dated April 3, 2018, addressing frequently asked questions regarding customer due diligence by financial institutions. The second is the text of the CTA itself, which is set forth in 20 single-spaced pages. Regrettably, the CTA contains several key ambiguities. However, many of these ambiguities are resolved in the additional CTA-related documents identified below. The third is the 90 pages of CTA regulations (23 CFR 598 through 598e) of the Federal Register for September 30, 2022. These pages include extensive regulations (i) about the reasons for the enactment of CTA, which may be critical in interpreting CTA provisions; and (ii) about the requirements imposed by the CTA on the US Department of the Treasury to ensure the confidentiality of the information that the CTA requires reporting companies to disclose to FinCen. But they also include an extensive discussion of the CTA duties of reporting companies. The fourth is a FinCen publication entitled Beneficial Ownership Information Reporting Rule Factsheet, dated September 29, 2022. The fifth is a letter, dated April 3, 2023, from the US House Committee on Financial Services and on Small Business and the US Senate Committees on the Budget and on Banking, House, and Urban Affairs. You should be able to obtain a copy of this letter through Google, but if this doesn’t work for you, I can provide you with a copy. The sixth is the above new FinCen e-book.
In today’s fast-paced legal landscape, law firms are under immense pressure to deliver high-quality legal services efficiently and effectively. Managing multiple cases, clients, deadlines, and documents can be overwhelming and time-consuming, leading to burnout, errors, and missed opportunities. This is where legal practice management software comes in.

By automating and centralizing many of the administrative tasks involved in legal practice, law practice management software can help law firms of all sizes streamline their workflows, reduce costs, and improve client satisfaction.

In this guide, we share Smokeball’s expertise with you as an award-winning legal practice management software provider. We’ll explore how to choose the right legal software for your firm. Whether you’re a solo practitioner or part of a large law firm, this guide will help you take your legal practice to the next level.

Legal practice management software is a type of software designed specifically for law firms and legal professionals to manage their day-to-day tasks and operations. It offers a range of tools and features to automate many of the administrative tasks involved in legal practice, including time tracking and billing, document management, lead management/intake, calendaring, and more.

With the help of this technology, legal professionals can spend more time focusing on the legal work that matters while leaving administrative tasks to the software.

Law firms that do not use practice management software face several challenges that can impact their efficiency, productivity, and overall success. Here are some of the main challenges:

1. **Time-consuming administrative tasks**: Without practice management software, law firms must manually manage their cases, clients, schedules, and documents, which can be incredibly time-consuming and lead to errors.
2. **Lack of organization**: Manual document management can also result in a lack of organization, which can make it difficult to find important documents, track deadlines, and stay on top of client communication.
3. **Inefficient workflows**: Without the ability to automate and streamline workflows, law firms may have inefficient processes that are prone to bottlenecks, delays, leading to missed deadlines and dissatisfied clients.
4. **Limited collaboration**: When team members are not able to access the same information and tools in real-time, collaboration and communication may suffer, leading to confusion and errors.
5. **Inconsistent billing**: Without a centralized billing system, law firms may struggle to accurately bill clients for their time and expenses, leading to financial losses and client dissatisfaction.

Overall, legal practice management software offers numerous benefits to law firms of all sizes. By streamlining workflows and automating processes, law firms can become more profitable and gain a competitive edge in the legal marketplace.

Legal practice management software streamlines administrative tasks, allowing legal professionals to focus more on legal work. With automated workflows and centralized client information, law firms can increase their efficiency and productivity, enabling them to handle more cases and clients in less time.

With practice management software, law firms can organize all their cases, clients, and documents in a centralized location. Plus, document automation tools allow law firms to enter client details once and automatically apply them to every form and document they need. This reduces the risk of misplacing or incorrectly copy-pasting important information and ensures that team members can easily find what they need when needed.

Legal practice management software often features a client portal, which allows lawyers and clients to collaborate on cases and communicate more efficiently. It can also facilitate real-time updates and notifications to keep everyone on the same page.

By using legal practice management software, law firms can provide better service to their clients. This improvement includes faster response times, improved communication, reduced human error, and the ability to share documents and information securely.

Legal practice management software can help law firms increase their profitability by reducing labor costs and maximizing billable hours. Plus, legal reporting insights can help firm leaders make important decisions about which areas of the business cost the most money and where improvements can be made.

With practice management software, law firms can easily track their time and expenses and generate accurate invoices for clients. This can help prevent billing errors and disputes and ensure that the firm is paid promptly and fairly.

When choosing legal practice management software, it’s important to consider factors such as core functional requirements, cloud-based vs. standalone software, ease of usability, cost implications, and integration with other tools. If you want to run a more efficient and profitable firm, then utilizing legal technology is critical to your success.

Smokeball is the industry’s leading cloud-based legal practice management software. Members of the New Hampshire Bar Association are eligible for a 10 percent discount on new Smokeball subscriptions.

New Hampshire Bar Association members are eligible for a 10% discount on Smokeball subscriptions.

Scan the QR code below to redeem your 10% discount.

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**A Guide to Legal Practice Management Software**

**NEW HAMPSHIRE BAR ASSOCIATION**

**Equal Justice Under Law**

**OCTOBER 18, 2023**

www.nhbar.org

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Into the world of Smokeball is a type of software designed specifically for law firms. It offers a range of tools and features to automate many of the administrative tasks involved in legal practice, including time tracking and billing, document management, lead management/intake, calendaring, and more.

With the help of this technology, legal professionals can spend more time focusing on the legal work that matters while leaving administrative tasks to the software. Law firms that do not use practice management software face several challenges that can impact their efficiency, productivity, and overall success. Here are some of the main challenges:

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Scan the QR code below to redeem your 10% discount.

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**NEW HAMPSHIRE BAR NEWS**

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**OCTOBER 18, 2023**

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*Smokeball is the industry’s leading cloud-based legal practice management software. Members of the New Hampshire Bar Association are eligible for a 10 percent discount on new Smokeball subscriptions.*
Law School from page 1

Science, held hundreds of US patents for his inventions (including high-resolution radar and sonar), designed early warning systems for the US Army while he was a Signal Corps officer, wrote music for Broadway shows, influenced the Congressional rewriting of patent laws in 2000, and played a violin duet with Albert Einstein at the age of 11.

One of the more eccentric tidbits about Rines was his nearly 40-year pursuit of Scotland’s cryptozoological Loch Ness Monster, nicknamed “Nessie” by many. In 1972, while visiting Loch Ness, Rines reported seeing “a large, darkish hump, covered with mottled skin, like the back of an elephant.” He subsequently embarked on numerous expeditions to find scientific evidence but was ultimately unsuccessful.

Rines partnered with Attorney and Professor Robert Viles to purchase FPLC’s first location on Mountain Road in Concord — a former bull-breeding farm. The school’s early faculty and staff consisted of less than a dozen people.

In 1976, FPLC moved to its current location at 2 White Street in Concord. That same year produced the first graduating class. Among those 86 graduates — known as the 1976 Trailblazers — were Adjunct Professor Douglas Wood and Attorney James Conway.

“The first class was basically a bunch of misfits,” Wood said in the film. “We came to an empty building, so we had no cafeteria, we had no books — we had nothing. But we were all characters.”

Conway noted in the film there were no upperclassmen, so they didn’t know what to expect.

“We didn’t know what [law school] was supposed to be like,” he said. “There was nobody to tell us what the rules were. So, we kind of made a lot of them up ourselves.”

In 2010, FPLC merged with the University of New Hampshire to become UNH School of Law and then changed its name again in 2019 to include Franklin Pierce.

The second day of the 50th anniversary celebration kicked off in the morning with a mixer and an international reception. This took place at the school, where alumni could rekindle old memories in a tour of the campus and the newly remodeled law library while mingling with the next generation of graduates.

“I walked into the law school and saw the portrait of Bob Rines and I started to cry,” says Nancy Richards-Stower, a 1976 Trailblazer. “He changed the lives of so many people and the law in this state.”

In the afternoon, the commemoration gave way to a golf tournament at Concord Country Club, hosted by Ellen Musinsky and Judge Charles Temple. The Daniel Webster Scholars also held their annual gathering at the same location.

“It was a great opportunity for the graduates to get together and play golf and have fun,” Musinsky says.

On Saturday night, nearly 300 people attended the school’s 50th Anniversary Gala at the Grappone Conference Center in Concord. The featured speakers at this penultimate occasion were New Hampshire Supreme Court Chief Justice Gordon MacDonald, Federal Circuit Court of Appeals Judge Raymond Chen, former dean and retired Chief Justice John Brook- erick, and retired Federal Circuit Court of Appeals Judge Arthur Gajarsa (who was the school’s first distinguished jurist in residence).

During the dinner that followed, each table included a complementary bottle of a custom-blend cabernet sauvignon, affectionately named “Nessie,” which was made exclusively for the law school’s 50th anniversary by Broken Rock Vineyard in Napa Valley.

Once dessert was finished, Musinsky and Dean Carpenter introduced a video depicting a montage of vintage performances from the law school’s now-defunct talent shows, called Jives.

“The Jives were started in the 70s,” Musinsky recalls. “Professor Hugh Gibbons basically organized them. They were big parties where students and faculty all came together and pretended to be talented — though there were actually some talented people — and let their hair down. It was great for the community, and it gave us all a sense that we were in it together. It also allowed the students to see the faculty as human beings. It was a lot of fun.”

After the Jive montage, gala attendees were treated to a brand-new Jive, Law School of Dreams: Since We Built It, They Will Come, a lighthearted and comical play starring current and former faculty members acting either as themselves or faculty members and staff who have passed away.

The new Jive, featuring Douglas Wood as the Loch Ness Monster, yielded much laughter from the audience. After the amusing performance, the night was capped off with a DJ and dancing.

The final event of the celebration, a remembrance gathering, took place at the school on Sunday morning. Former Dean John Hutson led the attendees through a tribute to those who have passed away, which included a heartfelt video.

“It was really moving,” Musinsky says. “I was surprised. I’m not a highly emotional person, but I’ve been at this school forever, and it brought back so many feelings for me about colleagues and graduates who were good friends of mine who are no longer with us. And we had a harpist. It was pretty nice.”

Dean Carpenter says that if she had to summarize the weekend in one word, it would be “joyous.”

“In the last six years,” she says. “We have welcomed the largest class in the history of the law school, we have increased the diversity of our student body more than five-fold, created the first-in-the-nation specialized law degree for working professionals, increased our outreach in India, China, Taiwan, and across Latin America, and we have made the law school financially sustainable — more than tripping our revenue. There is a lot to celebrate.”

Carpenter continues: “Whatever the future holds, we will hold tight to the spirit with which we were created — we will be pioneering, principled, and we will chart the path as a national leader in practice-ready legal education.”
Class of ’76 alum Janet Vail (left), and Class of ’78 alum Attorney Terrie Harman, on opening night. Photo by Tom Jarvis

Professor Emerita Ellen Musinsky catching the photographer at the gala. Photo by Tom Jarvis

Justice Gary Hicks and Dean Carpenter posing for a picture on opening night. Photo by Tom Jarvis

Professor and Rudman Center Director John Greabe (center), with 2L Dalton Ford (left), and Attorney Bradford Cook at the gala. Photo by Tom Jarvis

Class of ’78 alumni at the gala. Left to right: Judge Kenneth Brown, retired Justice Carol Ann Conboy, Attorney Terrie Harman, and Attorney Larry Plitch. Photo by Tom Jarvis

Chief Justice Gordon MacDonald speaking to nearly 300 attendees of the 50th Anniversary Gala on Saturday. Photo by Tom Jarvis

Class of ’76 alum Janet Vail (left), and Class of ’78 alum Attorney Terrie Harman, on opening right. Photo by Tom Jarvis

Class of ’86 attorneys Maureen Raiche Manning and Joanne Craighead at the gala. Photo by Tom Jarvis

Alumni and faculty performing in the brand-new Jive, Law School of Dreams. Left to right: Professor Emerita Susan Richey as Jan Newman, Attorney Jim Bindseil as Bob Viles, Adjunct Professor Doug Wood as Nessie, Director John Greabe as Bruce Friedman, Dean Megan Carpenter as herself, Attorney Justice Rines as Bob Rines, and Attorney Vera Buck as Dane Buck. Photo by Tom Jarvis

The gala program and the playbill for the Jive. Photo by Tom Jarvis
He also represented then-Governor Mel- drim Thomson.

“I worked with Attorney [T. William] Bigelow on some of Mel Thomson’s crazy cases,” Justice Hicks says. “It was a lot of fun. He was a very interesting, odd guy, but a very nice, charming guy, too. But I always felt I was doing something useful for somebody [when I was a lawyer]. I en-
joyed it. It took me around the country.”

Judge Ellen Joseph, who worked with Justice Hicks at Wiggin and Nourie when she graduated law school in 1992, says he was a highly respected litigator and a plea-
ture to work with as a new lawyer.

“He was very gracious and kind,” Judge Joseph says. “Being a new lawyer, you can be challenging and scary – particularly in a large firm with established lawyers – but he was very welcoming to me. He was very giving of his time. In hisjudgment and experience and really helped me un-
derstand the legal issues. He was very devoted to training new lawyers.

In 2001, then-Governor Jeanne Sha-
heen nominated Justice Hicks as a Supe-
rior Court judge, where he rode the circuit until being primarily assigned to Hills-
borough County Superior Court South in Nashua.

“It was so wonderful,” Justice Hicks says of becoming a judge. “There was some trepidation at first because it’s a daunting task. I knew I would be doing things different from wrongfully cutting down trees to product liability and scientific evidence but I didn’t know anything about crimi-
inal law. But at the end of the day, it was very rewarding. It was fascinating to learn.

And I had a lot of good mentors.”

Justice Hicks continues: “Back then, you had to file digital information. So, the files would be two feet high. You and the clerk would haul them into court and just go to work. It was a great training ground – great experience. We had some very big cases there. One of them was unfortunately a very prominent murder case that was televised and made into a book.

The case, State v. Sullivan, involved the murder of Jeanne Dominico in Nashua. Dominico was killed by her daughter, Nico-

cle Kasinskas, and her boyfriend, Billy Sullivan, because she refused to let her daughter move in with her boyfrined.

The case was written about in a book called Be-
cause You Loved Me by M. William Phelps, and later adapted into a television episode called “Live Free or Die” on the true crime show Wicked Attraction.

Judge Jackie Smith, who was Justice Hicks’ law clerk on Hillsborough County Superior Court in 2001, says he was “a

pleasure to work for as a human being and a joy to be around.”

“He is very smart, funny, and gra-
cious,” she says. “He’s a judge you can’t help but admire. He always wants to get things right. As his clerk, I was impressed with his compassion for human beings on both sides of the courtroom in the criminal process and with the dignity with which he
treated everyone.”

Retired judge Jean Burling, who sat on the Superior Court with Justice Hicks, describes him as a brilliant and charming person.

“He is a remarkable jurist,” Judge Burling says. “When he was permanently assigned to Nashua, I missed the colle-
gial relationship we had. He’s just an eminently sensitive and caring man, and just an inventive, energetic, and dedicated jur-
ist.”

In 2006, then-Governor John Lynch noma-

dinated Hicks to become a justice of the highest court in the state.

“When he [Lynch] called me on Mon-
day morning and said I’d been selected, I could barely talk because by that time it was my life’s ambition,” Justice Hicks says.

“By whatever fate of fortune, it hap-

pened. The interview process was nerve wracking. I think most judges would say the same thing. If you think you’re entitled to one of these positions, you shouldn’t be in one.”

Justice Hicks says that the justices draw the cases randomly and he remem-
bers about three months into his tenure pulling a school funding case, which is still the last standing case on school funding in the state.

“Right out of the gate, you get a sense of gravity of what you’re doing,” he says.

“But you get up for these cases. Sometimes they are impossible to decide but you must decide. And so, you work with your clerks and your colleagues to come up with the best answer you can give. That’s the rubric: You do whatever you have to do to get it right.”

During the COVID-19 pandemic, the NHSC only had four justices due to Chief Justice Robert Lynn’s mandatory retirement at 70 in 2019. Until Chief Jus-
tice Gordon MacDonald was appointed in March 2021, Justice Hicks served as the interim chief justice – which he says was “the honor of a lifetime.”

Justice Hicks is the president of the Daniel Webster Batchelder Inns of Court. He is also a current member of the Advi-
sory Board of the Advanced Studies Pro-
gram at St. Paul’s School and co-teaches a class in professionalism at several law

schools.

He is also a past member of the board of trustees of the American Inns of Court from 2006 to 2012 and was the former chair of their leadership council, as well as a past chair of both the New Hampshire Judicial Council and the New Hampshire Infinity Foundation.

He has received several awards and honors throughout his career, including the 2021 Civil Justice Award from the New Hampshire Bar Association, the 2012 Philip S. Hollman Gender Equality Award from the NHBA Gender Equality Committee, and the 1998 Distinguished Service to the President’s Award from the NHBA.

He was also named life fellow of the American Bar Foundation in 2015 and was bestowed with an honorary Bachelor of Fine Arts degree in 2000 from the New Hampshire Institute of Art.

However, one of Justice Hicks’ proudest achievements was receiving the Frank Rowe Kenison Award from the New Hampshire Bar Foundation in 2023. He says Chief Justice Kenison was one of his first mentors and that throughout his career he has been mindful of the example he set by the eminent jurist.

Attorney Mary Beth Kula, who has been Justice Hicks’ law clerk for the en-
tirety of his tenure at the Supreme Court and previously worked with him as an as-
soiate at Wiggin and Nourie, says he is a
genuine person who is very receptive to his law clerks’ views.

“He has this ability to just cut through the noise and say, ‘This is the legal issue right here,’” Kula says. “And people often say their door is always open, but it really is true with him. He has served as a men-
tor to countless law clerks who have come through here – not just his own. He was the go-to for the term clerks. There are a lot of

lawyers out there who owe a lot to him.”

“Each year, Justice Hicks and his wife host law clerk reunions at their house, which average about 80 people — the 17th of which took place this summer. The positive impact he has had on law clerks around the state is evident in the things they have to say about him.”

“He is very thoughtful, engaged, and encouraging,” says Attorney Ramey Syl-

vester, who externed with Justice Hicks during law school. “He just has an amaz-
ing grasp of the universe of the law – it was very impressive to me. His retire-
ment is well-deserved. He has had a huge impact on New Hampshire’s jurispru-
dence and the community. He has cast a

long, positive shadow. He is truly a giant in our state and, quite frankly, the United States.”

In 2010, he officiated the wedding of one of his former law clerks, Dover City Attorney Josh Wyatt.

“He and Patty even helped us write our vows,” Wyatt says. “I consider him one of my closest friends — certainly a life-

long mentor. He’s basically like a father to me. He’s very personable and approach-
able and has such a good sense of humor. He’s always trying to make everybody’s day better. His retirement is a loss but he’s going to find a way to apply his intellect, good will, and good judgment somewhere else.”

Attorney Cooley Arroyo, who ex-

ternalized with Justice Hicks as a 3L in 2014, says working with him was an absolute pleasure.

“He was a really dynamic mentor and a wonderful person to learn from,” she says. “He’s one of those people that pull you along with them – and not just lawyers. He has an appetite for the human experience, and it makes him such a fun person to be around. I thank him for his service to the state and the work he has done to cultivate our Bar and its membership. It’s an extraordinary contribution that will always be remembered.”

Once he is retired, Justice Hicks says he plans to increase his activity with St. Paul’s Advanced Studies Program and to continue with the American Inns of Court in some fashion. He would also like to spend more time with his grandkids.

“At the end of the day, I put my all into preserving and improving the com-
mon law and the jurisprudence that af-

fects every citizen of New Hampshire and people around the country,” Justice Hicks says. “I had the privilege of working with people who supported and helped me and helped the judicial branch to their absolute limit. It is very gratifying to have worked in that environment. I’ve been very fortu-

nate to have been able to do this job.”

There is currently a proposed consti-
tutional amendment on the state ballot in November 2024 to raise the mandatory retirement age to 75, brought by former Chief Justice Lynn, who is now serving in the House of Representatives.
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.

OCTOBER 2023

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 – 9:00 a.m. – 4:30 p.m.
Identifying & Addressing Severe Parent/Child Contact Problems in Parenting & Divorce Cases
• 360 NHMCLE min.
• Concord – NHBA Seminar Room/Webcast

DECEMBER 2023

FRI, DEC 1 – 12:00 p.m. – 1:00 p.m.
Corporate Transparency Act Update
• Webcast; 60 NHMCLE min.

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

THU, DEC 7 – 12:00 p.m. – 1:00 p.m.
Administrative Law: The Ins & Outs of the NH Administrative Procedures Act
• Webcast; 60 NHMCLE min.

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

FEBRUARY 2024

TUE, FEB 6 – 12:00 p.m. – 1:00 p.m.
Conservation Easements
• Webcast; 60 NHMCLE min.

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

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(if you missed any of the previously held programs, they are now available ON-DEMAND)

Monday “Fun-days” with Stuart Teicher

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

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

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CLE CLUB

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

Thursday, November 30
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; and 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

Administrative Law: The Ins & Outs of the 
NH Administrative Procedures Act

Thursday, December 7
12:00 p.m. – 1:00 p.m.
60 NHMCLE min.

APA, JLCAR, oh my! Need a primer or a refresher on the alphabet soup of administrative law? Join experienced practitioner Amy Manzelli for a tour of New Hampshire’s Administrative Procedures Act and get insider tips about how various agencies do and do not use it.

Faculty
Amy Manzelli, CLE Committee Member, BCM Environmental & Land Law, PLLC, Concord

The Confidential Mediation Statement: 
An Overlooked Tool for More Productive & Successful Family Law Mediations

Monday, December 11
12:00 p.m. – 1:00 p.m.
60 NHMCLE min.

This program will discuss the benefits of confidential mediation statements and provide tips on how to prepare them. This program will be beneficial for anyone who practices family law as an attorney and/or mediator.

Faculty
Sara B. Crisp, CLE Committee Member, The Crisp Law Firm, PLLC, Concord
James V. Ferro, Jr., Ferro Law & Mediation Group, PLLC, Manchester
Heather E. Krans, Pastori Krans, PLLC, Concord
Ashley D. Taylor, Pastori Krans, PLLC, Concord

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

Wednesday, October 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.

Identifying & Addressing Severe 
Parent/Child Contact Problems 
in Parenting & Divorce Cases

Thursday, November 16
9:00 a.m. – 4:30 p.m.
360 NHMCLE min.

This program will focus on the challenges that occur when a child resists or refuses contact with a parent in parenting and divorce cases. The often used but sometimes misunderstood phrase “parental alienation” will be explored, as well as many associated family systems dynamics to include estrangement and enmeshment. Perspectives from the field of psychology, from the bench, and from the family law practitioner will be offered, and there will be discussion about how to identify severe parent-child contact problems and how to address them in the context of parenting and divorce litigation.

Faculty
Jack P. Crisp, Jr., Program Chair/CLE Committee Chair, The Crisp Law Firm, PLLC, Concord
Hon. Robert J. Foley, NH 7th Circuit Court/Rochester Family Division, Dover
Benjamin Garber, PhD, Family Law Consulting, PLLC, Nashua
Hon. Jennifer A. Lemire, NH 10th Circuit Court/Brentwood Family Division, Kingston

For more information or to register, visit https://nhbar.inreachce.com
Developments in the Law 2023

Friday, October 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, Program Chair, 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, CLE Committee Member, Mitchell Municipal Group, PA, Laconia
Roy W. Tilsley, Jr., Bernstein Shur Sawyer & Nelson, PA, Manchester

Upcoming CLE Programs

**By NH Lawyers, For NH Lawyers**

**Corporate Transparency Act Update**
December 1, 2023

**Conservation Easements**
February 6, 2024

Midyear Meeting 2024
February 9, 2024

**ADR**
February 14, 2024

**Collections**
February 15, 2024

**Employment Law 101**
March 6, 2024

**Lobbying**
March 12, 2024

**Trial Practice Series-Procedure**
March 15, 2024

**Tax Abatements & Exemptions**
March 27, 2024

**Evidence**
April 12, 2024

**UCC**
April 2024 TBD

**Insurance Law 101**
May 9, 2024

**Business Litigation**
May 14, 2024

18th Annual Ethics CLE
May 30, 2024

**Annual Meeting 2024**
June 7-9, 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
Prison Series from page 1

(ACLU) Smart Justice Campaign Manager Joseph Lascaze served on the education committee, as well as the Resident Communication Committee (RCC) while incarcerated. He says the RCC had suggested the creation of a resource guide that would supplement the guidance manual and provide a more positive set of possibilities for prisoners.

"Instead of just getting the Big Blue Bible, we wanted people to receive a few positive resources framed in a rehabilitative way," he says.

A Different Set of Rules

For Evenor Pineda, who entered the NHSP for manslaughter in 2006, the rules in the Big Blue Bible and the "rules of engagement" on the inside were starkly different.

"We had our own rules," says Pineda. He adds that forming relationships and coming to terms with his new world led him to gravitate toward gang affiliations he'd formed before prison.

There's a different set of values inside prison, he says. "I was number one," Pineda says. He was released from the NHSP in 2021 and today serves as intervention program coordinator for the Manchester Police Athletic League.

He recalls times when it was in his best interest to not see something that could potentially lead to his being questioned by corrections officers. For instance, he says, if someone was getting beat up, rather than go toward the fight, he would often walk in the other direction. He could turn on social media when the violence was occurring, "but that was limited to what you could see, not what you could hear," he says, adding that he kept to himself when first sent to prison.

"The majority of guys I associated with were people I shared a gang affiliation with," he says. "So that was the basis of a lot of my relationships at first. People look for others to kind of co-sign or vouch for them. For them to say, 'he's a solid guy,' for others to kind of co-sign or vouch for them. The State Constitution, he says, means prisoners can't have sex during visitation, saying that he began to open up and become more vocal.

"Other guys just never had an opportunity to see me express myself and articulate myself," he says, adding the median age of those incarcerated in the NHSP in Concord after being convicted of aggravated felony sexual assault in 2006 was 52 years old. A管理制度规定了一项规定，即在接受规定时间管制期间记录时间的时差时，必须有健康的身体。
Litigation and Mediation: Friends Not Foes

By David McGrath

I recently found a very old VHS recording of some of my (cringeworthy) Trial Advocacy witness work in law school. For some reason evident to me 30 years ago, but certainly not now, the tape seemed important enough to save. For many of us planning to litigate cases, a course like Trial Advocacy—taught to us to discover and use key documents; prepare and impeach witnesses; and think on our feet—was exciting and always oversubscribed. Everything about it was worth remembering.

In contrast, when I attended law school, Alternative Dispute Resolution (ADR) was a new course offering; few students took the class or talked much about it. It probably competed with Maritime Law for fewest registered students each semester.

Eventually, ADR gained in popularity and became a recommended law school offering, if not a core one. Notwithstanding, there remains an uneasy tension between ADR and litigation, in academia and in law offices. In the former, ADR professors are rarely the trial advocacy professors; and in the latter, those who mediate are not usually the lawyers others think of to do battle. And those who battle are not typically thought of to mediate disputes. It is not surprising, therefore, to see many mediators disassociate from active litigation practices.

Further, some litigators are threatened by ADR (mediation more specifically), worrying that their brand of dispute resolution is at risk. With electronic discovery costs raising the stakes considerably for parties and applying pressure to settle cases, parties are increasingly eschewing prolonged litigation fights. This is particularly true in certain civil disputes where costs and fees can easily eclipse the amount in controversy. And, bigger matters with more money at issue almost always involve enormous amounts of potentially relevant electronic evidence; in paper terms, enough to fill Gillette Stadium many times over. This is daunting for counsel and their clients.

It is no wonder, then, that alternative forms of dispute resolution, like mediation, are so often used to end these litigation costs and disruptions. Yet, a well-litigated case and mediation should be viewed as complementary, not competing, dispute resolution vehicles.

A well-litigated case and mediation should be viewed as complementary, not competing, dispute resolution vehicles.

For a properly litigated case, the parties and their counsel have to know who is in the case, how they are related, what the relevant legal issues are and how they pertain to the dispute, what the legal deficiencies are, what the key documents are, who the relevant witnesses are and their potential points of testimony, what the key witness testimony may be, what the key documents may suggest, what the key witness's potential testimony may mean, and how each party is going to use the information.

In contrast to this, a mediation effort needs to include relevant electronic evidence and the enormous amounts of potentially relevant electronic evidence. This is an enormous amount of information that can be critical to the party’s case and the mediator needs to understand and consider all the parties’ points of view.

Mediation is properly viewed as an essential and valuable part of the litigation process; not something that threatens or exists independent of it.

David McGrath serves as president and managing director of the firm. He is a certified mediator, who serves in that role often for private parties and the New Hampshire Commission for Human Rights. He also maintains an active practice and routinely handles trade secret, non-competition, predatory hiring, discrimination, retaliation and whistleblower wrongful termination, and healthcare related matters.

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AI: A Tool to Augment Online Dispute Resolution?

By Jennifer L. Parent

Back in 2020, I wrote a New Hampshire Bar News article about courts implementing online dispute resolution (ODR) programs. ODR is when parties use technology to resolve disputes without a trial. With the advancements of artificial intelligence (AI) in various facets of our lives and our profession, could AI revolutionize how litigants resolve disputes?

My earlier article arose from a panel I had moderated for the American Bar Association in Vancouver, Canada, about Court-Annexed Online Dispute Resolution for British Columbia’s Civil Resolution Tribunal (CRT). As that nation’s first online court tribunal, the CRT applies technology-based negotiation and mediation to small claims matters up to $5,000 and condominium disputes. The program also offers to parties the use of a CRT case manager who can help with resolution if the parties are unsuccessful negotiating virtually with each other.

The voluntary judicial program soon gained momentum as parties found they could work to resolve their disputes using their personal electronic devices 24/7 from any location. The early promising results led the province to consider expanding the CRT’s jurisdiction to include certain motor vehicle disputes up to $50,000.

The British Columbia system also offers a pre-claim option to the public. Referred to as The Solution Explorer, the program uses what it calls “a basic form of artificial intelligence” to help people better understand their claims and offers avenues on resolving their disputes before a claim is filed. The program is accessible to everyone and can be accessed from personal electronic devices at any time. Through AI, it provides customized legal information based on the answers to questions posed about the potential claim.

Courts in the United States have increasingly considered online programs, particularly since the start of the pandemic. The goal is to provide litigants in various case types with a low-cost and efficient means of reaching a resolution. These ODR programs are often used by parties outside of normal courthouse hours and may include gathering information about the claims and exploring various options for reaching settlement. The National Center for State Courts (NCSC) provides information and resources to state courts considering such programs (ncsc.org/odr).

The New Hampshire Judicial Branch has also reviewed the potential for an ODR service. According to Senior Circuit Court Administrator Heather Scheiwe Kulp, “At this time, the court’s in-person and synchronous remote ADR options promote more legally compliant and durable outcomes than available ODR solutions.” She further explains that the “court is currently engaged in many technology projects, including developing tools that could be used in an ODR platform. One such tool is a payment calculator, which will assist litigants in determining a viable payment plan for civil debts.”

Could the expansion of AI impact how disputes get resolved through these technology-based resolution programs? While AI is exciting, it will likely be used more as a tool to augment dispute resolution rather than a complete replacement of the human touch.

Mediators assist parties in reaching a resolution without the need for a trial. In this process, parties present facts and legal arguments, and identify key evidence gained through discovery that supports their respective positions. With the ability to process large amounts of data quickly and ascertain patterns from the case law, AI may be used to identify potential solutions. But AI has its limitations. For example, the output is only as good as the data collected, the technology algorithm used, and the accuracy of the results. AI also lacks the emotional intelligence and human element mediators bring to the process. Even British Columbia offers a human CRT as the last step at attempted resolution before the parties present their case for final resolution. Mediators can assess body language, provide the empathy and understanding that many people participating in the judicial system seek, and discern key needs and wants of the parties. Mediators can also adapt and consider outside-the-box solutions beyond the usual monetary terms of a settlement.

Certainly, any consideration of AI in ODR programs should include a careful review and understanding of the limitations and risks of this technology. Because AI builds on and learns from the data it uses, there may also be privacy and confidentiality concerns that arise from the disclosure of data by parties.

Online tools and AI techniques in the right type of cases may provide parties facing legal disputes with another way to reach resolution that is less costly and more convenient and efficient. But the human element may need to be a part of any ODR program given the limitations of AI. It will be interesting to see how this technology may work as a tool to augment how disputes are resolved. However AI is used, we can expect that over the coming years AI will open up new possibilities in this area of alternative dispute resolution.

Jennifer Parent is the director of McLane Middleton’s Litigation Department and chairs its Business Litigation Practice Group. She has over 27 years of experience litigating and resolving disputes for companies and business owners in a wide range of complex commercial cases and employment matters. She can be reached at jennifer.parent@mclane.com.

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Studies have shown that when the body perceives a threat, such as a bear charging at us in a forest, it sounds the alarm. A cascade of signals, it sounds the alarm. A cascade of signals, including the hormone release triggered by the stress response, the brain communicates through neural firing. In the process of amygdala hijacking, the normal neural firing is disrupted. The hormone release triggered by the brain’s response to perceived danger clogs up neural pathways and ultimately disrupts the communication between the neurons of the prefrontal cortex. Without communication between the neurons, the prefrontal cortex’s ability to control emotions and impulses is reduced. The end result? An individual may temporarily lose their capacity to think clearly and make rational decisions.5

What Can We Do?
We deal with conflicts on a daily basis. Clients naturally feel stressed when navigating the legal system. Helping our clients understand what happens in the brain and body during conflict can normalize their experience and help them move through it more efficiently and constructively. The next time a client starts to heat up and seems like they are having trouble making decisions, try to remember that it could be their body firing up its primal stress-response system.

The good news—we can all practice strategies to put the brakes on this reaction and access our prefrontal cortex during conflict. The more controlled an individual’s stress response, the more effectively they can navigate a stressful situation. Here are some tips to get you started:

• Take a moment. Sometimes, we need to step away from the conflict. How quickly we calm down when the stimulus is removed varies from person to person. As Jill Tanz describes, certain hormones released in a stress response can linger for over two hours. To expedite the flushing of stress hormones from your system, take a walk, get some water, do something that you enjoy, or do nothing at all.

TIPS continued on page 33

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Neuroscience and Conflict: Tips for Moving from Fight/Flight/Freeze to Constructive Problem Solving

By Caroline Adams and Anita Drake

Think about the last time you faced a conflict—your own, or that of a client. Simply recalling these moments can trigger the physical manifestations of stress: sweaty palms, increased heart rate, flushed face, heightened breathing, and the list goes on.

Humans have developed these responses as a self-protective mechanism, allowing for quick, instinctive decision making in the face of a threat, such as a bear charging at us in a forest. [Chicago mediator] Jill Tanz describes how, whether we want it to or not, the same response system that prompts us into flight, flight, or freeze mode when faced with a physical threat can also activate when we face a perceived threat, such as a difficult conversation.1 Studies have shown that when the body’s stress response activates, it impacts our executive functioning, including our ability to process information and make decisions.2

As lawyers and conflict resolution professionals, two key steps you can take to help your clients navigate and move through conflict include: 1) understanding what is happening in the brain and body during difficult conversations and interactions, and 2) modeling and sharing strategies that mitigate and reduce these responses.

What is Happening?
Understanding what is happening gives us context for choosing how to respond when we are helping our clients move through a fight, flight, or freeze reaction to stressful situations.

Let’s start with what is happening in the brain during difficult situations. Paul MacLean developed the triune brain hypothesis (described in his book The Triune Brain in Evolution) explaining that the brain has three evolutionary layers—the reptilian brain, the mammalian brain, and the neocortex. The reptilian brain evolved first and is responsible for instinct and impulses. Next, the mammalian brain developed, and drives our emotions, thoughts, memory, and social connection. The neocortex, including the cerebral cortex and prefrontal cortex, developed last and is the control center for thoughts, behaviors, higher level problem-solving, and cognition.

Ideally during conflict, the prefrontal cortex would run the show and keep everyone reasonable and calm. Not so fast. As it turns out, the lizard and mammalian parts of our brain can fire up and keep the prefrontal cortex from performing optimally. And for some, when the lizard and mammalian brains get fired up, the prefrontal cortex seemingly goes offline completely—a phenomenon Daniel Goleman, in Emotional Intelligence, described as amygdala hijacking.3

What is Amygdala Hijacking?
A key player in the stress response is the amygdala. The amygdala is a part of the mammalian brain, and is responsible for processing emotions, including fear. When our senses perceive a danger, the amygdala receives and interprets those signals, it sounds the alarm. A cascade of reactions then occur that take the body from the initial stimuli to the physical effects of sweaty palms and elevated heart rate. This is called amygdala hijacking.4 Research has shown that in a normal state, the brain communicates through neural firing. In the process of amygdala hijacking, the normal neural firing is disrupted. The hormone release triggered by the brain’s response to perceived danger clogs up neural pathways and ultimately disconnects the communication between the neurons of the prefrontal cortex. Without communication between the neurons, the prefrontal cortex’s ability to control emotions and impulses is reduced. The end result? An individual may temporarily lose their capacity to think clearly and make rational decisions.5
Ethical Requirements of Attorneys at Mediation – A Refresher

By Beth Deragon

As a litigator, my clients often question the value of attempting mediation based on a concern that the other party will not participate in the mediation in good faith. While there is no ethical requirement per se that attorneys must participate in good faith, attorneys must comply with ethical rules at mediations.

In 18 years of practice, I have never heard a mediator remind the attorneys participating in the mediation of their ethical obligations – either in the mediation agreement, during the mediator’s introductory remarks, regarding mediation statements, or during negotiations. Ethical violations do occur at mediations and, perhaps because the matter is likely resolved and all involved want to put the matter to rest, the misconduct goes unaddressed. Since that dynamic is unlikely to change, it is time to revisit the ethical rules related to mediations and associated strategies that they can use to effectuate more advantageous settlement outcomes.


As Comment [1] of the ABA Model Rules notes, while “[a] lawyer is required to be truthful when dealing with others on a client’s behalf” and to not make false statements or misrepresentations, there is “generally [] no affirmative duty to inform an opposing party of relevant facts.” Comment [1] continues that a misrepresentation can occur if:

... the lawyer incorporates or affirms a statement of another person that the lawyer knows is false. Misrepresentations can also occur by partially true but misleading statements or omissions that are the equivalent of affirmative false statements. For dishonest conduct that does not amount to a false statement or for misrepresentations by a lawyer other than in the course of representing a client, see Rule 8.4.

This article aims to address a lawyer’s ethical obligation of truthfulness when representing a client in a caucused mediation before someone other than a judge. In a caucused mediation, the mediator meets privately with each party, outside the ear-shot of the other party. Typically, the information learned by the mediator during the party caucus is considered confidential, unless the party disclosing the information permits the mediator to convey the information to the opposing party. Effectively, the mediator controls the flow of information.

As Comment [2] of the ABA Model Rules explains:

This Rule refers to statements of fact. Whether a particular statement should be regarded as one of fact can depend on the circumstances. Under generally accepted conventions in negotiation, certain types of statements ordinarily are not taken as statements of material fact. Estimates of price or value placed on the subject of a transaction and a party’s intentions as to an acceptable settlement of a claim are ordinarily in this category, and so is the existence of an undisclosed principal except where nondisclosure of the principal would constitute fraud. Lawyers should be mindful of their obligations under applicable law to avoid criminal and tortuous misrepresentation.

Requirements continued on page 34
Alternative Dispute Resolution in Special Education

By Luke A. Webster

Engrained in the Individuals with Disabilities Education Act (IDEA), the US Congress adopted and continues to support requirements for shared decision making that are unique to special education. Despite the opportunities for shared decision-making, or perhaps because of that shared responsibility, parents and school professionals can disagree about educational placements, programming, and methodology. For that reason, federal and state legislators have long sought to establish policies that encourage parents and school districts to solve problems and disagreements by using alternatives to administrative due process hearings, the primary administrative process for addressing special education disputes.

For example, after parents file a due process complaint, and before a due process hearing can be held, the IDEA requires school districts to convene a meeting called a Resolution Session with parents and relevant members of the student’s Individualized Education Program (IEP) team. The purpose of the Resolution Session is to provide another opportunity for parents and school staff and administrators to resolve their disputes without going to a hearing. This session must be conducted within 15 days of the request for a hearing and the complaint must be resolved within 30 days of the request or a due process hearing may go forward. Often, effectively resolving disputes using the IEP team process saves time, resources, and those relationships that can last well beyond the disagreement at hand.

However, Alternative Dispute Resolution (ADR) offers another opportunity to resolve disputes collaboratively and avoid time-consuming and costly litigation. With this objective in mind, the New Hampshire State Department of Education (DOE) and the New Hampshire State Board of Education offer a variety of ADR options to assist parties in resolving disagreements prior to participation in more adversarial administrative due process hearings. The options for resolving special education matters include mediation and third-party discussions led by a moderator provided by the DOE. When neutral ADR does not result in an agreement or if parties cannot agree to enter alternative dispute resolution, the Department and State Board offer several pathways: due process hearings; vocational rehabilitation fair hearings; and, state board of education hearings.

In 2023, New Hampshire law makers implemented a change to the timelines associated with the ADR process. Senate Bill 135 codified what parties who are trying to resolve educational disputes were informally practicing.1 The law amends NH RSA 186-C:23 and :24 to explicitly allow for extensions of the ADR period by mutual agreement. This law is effective August 6, 2023.

As described, the NH DOE’s special education ADR processes involve an impartial third party assigned to assist parents and school districts to mediate special education issues. ADR is conducted through mediation related to a due process hearing, stand-alone mediation, a neutral conference, or a third-party discussion led by a moderator. SB 135 amends RSA 186-C:23 and :24 to allow the parties engaged in the ADR process to mutually agree to continue conferring after the 30-day period currently provided by the ADR statute, allowing cases to be sufficiently mediated as opposed to being hurriedly settled or withdrawn.

During the Senate Committee Hearing, the sponsor of the bill, Senator Ruth Ward, explained that “trained ADR officers...”
Want to Become a Mediator in New Hampshire? Great, We Need You Now!

By Charles P. Bauer

In New Hampshire, we need the next generation of individuals committed to providing excellent mediation skills to civil dispute matters. According to the latest statistics for the Granite State, there are less than 100 individuals listed as civil mediators. Of those, probably less than 20 percent are called on regularly to provide civil dispute resolution in the form of mediations. Of those approximately 20 individuals, most are very experienced, and many are former trial lawyers, former judges, or otherwise well-known in the New Hampshire Bar and Bench.

As a large percentage of those experienced mediators age and ready themselves for retirement, the state of New Hampshire – the public, the court system, judges, lawyers, and clients – needs the next and new generation of mediators to come forward and continue the good and valuable work of civil dispute resolution.

So, if you want to become a mediator, great – we need you now. How to start? In my opinion, there are several core steps to become an excellent mediator in New Hampshire, including: (1) recognizing your personality and interests; (2) gaining experience; (3) becoming knowledgeable on various subject matters; (4) attending trainings and educational opportunities; and (5) commitment to business development.

Assess Your Personality and Interests

Get to know your real personality. Are you compassionate, a good listener, firm, and helpful? Are you someone who needs control and thinks people should do as you say? Are you noncommittal, passive, or resigned? A good mediator needs to be aware of their personality in order to provide the balanced approach that leads to dispute resolution. That is to say, a successful civil mediator is focused on helping without telling; guiding without instructing; and providing compassion while remaining firm.

As such, a mediator does not need to have a specific personality – rather, they need to create a perfect blend of their personality and skills. It is also important to assess what type of specific disputes interest you and do not interest you. There are hundreds of types of civil disputes ranging from small claims to superior court cases and even Supreme Court matters. If you are not interested in torts, business, employment, or civil rights disputes, then perhaps intellectual property, construction, real estate, probate, or environmental disputes are appealing to you. Get to know your personality and what type of disputes are attractive to you, so once you are ready to start mediating you are setting yourself up for success.

Experience

While it is beneficial to have trial experience before a judge and jury as a lawyer, courtroom experience is hard to come by in this day and age. Only about three percent of all civil disputes filed in New Hampshire and across the country go to a jury trial. The vast majority of civil disputes are settled out of court, through direct negotiations or scheduled mediations.

But don’t worry, if you are a practicing lawyer, you already have gained valuable experience in becoming a mediator. If you have represented parties – especially if you have represented both plaintiffs and defendants – in civil disputes, negotiated with opposing counsel and parties, and settled cases with and without mediations, you have gained practical experience to become a mediator. This hands-on experience is critical to your success as a civil mediator in New Hampshire. Even when you may face a challenging case, you also have access to your peers and more experienced lawyers and mediators to guide you, if you just ask.

Knowledge of Subject Matter

While you do not have to be an expert in the subject matter to be mediated, it is oftentimes beneficial to have some working knowledge of the law in the field. You can gain that working knowledge of the law through careful review of the mediation statements provided to you by the parties and counsel and following up with research on specific statutes and cases. In addition to having some knowledge of the specific subject matter to be mediated, it may be helpful to know, or have familiarity with, the lawyers and judges involved in the particular civil dispute. Again, this knowledge is not just acquired through your own experience, but through networking and connecting with others in the Bar.

Training and Education

While there are numerous public and private courses and seminars on mediation techniques and skills, research those courses and seminars and be selective in the training you pursue. Keep in mind there is formal and informal training and education in mediation, as in life. You would be surprised by how much you can learn from almost every social encounter. These experiences give you the ability to problem solve and balance perspectives. Don’t leave your personality and your social skills at the mediation doorstep. Be yourself – listen, comprehend, identify what is important and what is not, and be interested in helping people resolve their disputes.

Business Development

Be prepared to go slow and steady. Name recognition, word-of-mouth, referrals, repeat business, and personal recommendations are keys to a successful mediation practice in New Hampshire. But all of that takes time. Expect several years of good, hard work to lead your
Using Mediators’ Techniques to Manage Day-to-Day Conflict

By Erin McCoy Alarcon

Conflict is a natural part of everyday life. Having healthy and productive strategies for addressing daily conflicts, regardless of size or intensity, can help reduce stress, boost well-being and productivity, increase self-awareness, nurture and repair trust, and strengthen the future relationship.

Mediators employ many skills and techniques that individuals may also successfully implement in their day-to-day lives:

Active Listening
As lawyers, we are trained to listen for gaps or inconsistencies in others’ arguments. As mediators and skilled conflict managers, however, we need to do the opposite. That is, we need to listen to understand what the other person is truly trying to tell us. We can accomplish this through active listening.

• Be attentive by being both physically and mentally present.
• Use open body language, such as sitting squarely in an open stance, facing the person, and maintaining eye contact to the extent one is comfortably able.
• Summarize and paraphrase to assure the speaker that you are hearing and understanding their words.
• Request clarifications to minimize the risk of misunderstandings.
• Ask open-ended and genuinely curious questions to really get at the heart of the matter.
• Be empathetic by trying to put yourself in the other person’s shoes.

Reframing
Reframing is another mediator technique that helps adjust the mindset and diffuse tension and emotions. It involves helping someone look at something in a different, more neutral light, to engender healthy conversation. Reframing requires questioning assumptions, removing extreme language, inviting someone to look at something from a different perspective, and looking at a complaint in terms of unmet needs.

For example, imagine a situation in which a parent has asked their children to fold the laundry by the time the parent gets home from work. When the parent arrives home, the laundry is folded but one teenager is yelling at the other, “I’m so sick of how lazy you are. I end up doing all the chores!” The parent might reframe this as, “It sounds like you would like the chores to be divided up in a fairer way.”

Or imagine an instance in which a manager has implemented a new expense reimbursement protocol, and a co-worker whose primary job function is to process reimbursement requests complains, “No one cares what I think about it.” A reframe might be, “Respect and input is important to you when it comes to changes that impact how you do your job.”

By reframing the original statements, the listener is acknowledging that they have heard and understand the speaker’s unmet need and invite a dialogue about how those needs might be met.

“Yes, and…”
We often get ourselves so stuck in a zero-sum mindset that we fail to see that there might be more than one workable solution. Using the phrase “yes, and…” acknowledges that two or more truths can exist at one time and affirms the potential viability of one proposed solution while inviting others.

For example, an employee stating that the employer needs to hire more people because there is too much work for the existing staff. This

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As approved by local members of the national plaintiff (AAJ) and defense (DRI) bar associations*

* The National Academy of Distinguished Neutrals (www.NADN.org) is an invitation-only professional association of over 1000 litigator-rated mediators & arbitrators throughout the US and a proud partner of the AAJ and DRI. For more info, please visit www.NADN.org/about
By Connie Rakowsky

Consider the stark differences between the processes of litigating and mediating if your goal is to reach an agreement at mediation. Below are some tips from the mediator side of the table.

**Not Only an Adversary**
Opposing counsel is not only your adversary in court, but your co-worker in finding a mutually agreeable resolution for both of your clients in mediation. Agree to reasonable procedural requests. Consider how you would react if you were on the receiving end of your advocacy.

**Prepare the Client**
Educate the client about the nature of mediation and guide expectations to promote success in reaching an agreement. In mediation, whatever personal issues brought the parties to mediation will play out more explicitly than in court. Fisher, Roger, and Shapiro advise, the impasses that brought you to mediation may include the five core concerns that matter to all of us: appreciation, autonomy, affiliation, status, and role. Your client may have insights into how these concepts may be driving the dispute.

As we know, the tables are turned in mediation, and the client may decide to settle even if they are more likely to succeed in court. Advise the client of your case’s strengths and weaknesses as well as the time and costs of going to trial. In confidential caucus, the mediator will be asking you about your weaknesses and risks and you don’t want your client to hear this for the first time in caucus. As the mediator will tell you and your client, there is no such thing as a “forsures-ki” win in court. Explain good faith and the “sticking points” preventing settlement. Describe the strongest and weakest factual and legal points in your case, the history of settlement negotiations, including the last settlement proposal made by you and to you, any settlement proposals that you would be willing to make to conclude the matter, and an estimate of legal fees to date and through trial, if the case is not settled. Tell the mediator if your client wants a support person to attend the mediation which is allowable with the consent of the other participants. If you or your client have time limits on the day of the mediation, tell the mediator in advance.

**Volunteer to Draft the Settlement Agreement**
Volunteering to draft the settlement agreement form pre-mediation will help the client get comfortable with the mediator and the process, and educate the mediator.

**Pre-session Calls**
Most mediators arrange pre-session calls with counsel and client. If the mediator doesn’t arrange a call, you can do so. Such conversations save time at mediation, help the client get comfortable with the mediator and the process, and educate the mediator.

**Client conduct**
Ask if your client is willing to make conciliatory remarks during the joint session. Caution them against making “get even” remarks and personal attacks. Ask the mediator’s advice on offers and counteroffers. Not only is your mediator an experienced negotiator but the mediator also knows what the opponent might be willing to accept. Consider making offers in the alternative.

**Volunteer to Draft the Settlement Agreement**
Volunteering to draft the settlement agreement form pre-mediation will help you and the client focus on your goals at mediation. A draft will save time at the session when an agreement is reached. If there is enough time, share your draft with opposing counsel.

**Openings**
Consider whether an opening statement would be helpful to make. Explain to your client the difference between being their advocate for a resolution in mediation versus a win in court. Be conciliatory in whatever you say (i.e., “we are here to try to resolve the case in a mutually agreeable way.”) Just state the facts as you know them, as backed by the evidence. Personal attacks against other participants or counsel are counterproductive to being an advocate for your client’s resolution.

**Notings to the Mediator**
Brief the mediator well about the case by sharing the main facts and rulings and the “sticking points” preventing agreement. Describe the strongest and weakest factual and legal points in your case, the history of settlement negotiations, including the last settlement proposal made by you and to you, any settlement proposals that you would be willing to make to conclude the matter, and an estimate of legal fees to date and through trial, if the case is not settled. Tell the mediator if your client wants a support person to attend the mediation which is allowable with the consent of the other participants. If you or your client have time limits on the day of the mediation, tell the mediator in advance.

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**Reactions**
Keep your reactions to proposals from the other side to yourself until you see the client/decider’s reaction to the proposal. I’ve had many cases in which the client nods affirmatively, and the lawyer negatively, to proposals at the same moment. Maintain some objectivity.

**Endnote**
Alternative Dispute Resolution

Mediator from page 30

business development in mediation. Be proactive, join organizations such as the New Hampshire Bar Association’s Dispute Resolution Committee, and offer to conduct pro bono mediations to lawyers and the court system. Consider social media and other forms of advertising, especially as you are just getting started. Volunteer to write articles and lead CLEs to demonstrate your knowledge, experience, and expertise.

In summary, in New Hampshire mediations involving civil disputes, most counsel and parties want more from a mediator than just “carrying the water” (i.e., offers and demands) back and forth. They want guidance and assistance in getting to a firm resolution that the parties and counsel can “live with” to move forward. There’s a whole lot more to becoming a mediator than just “carrying the water” (i.e., offers and demands) back and forth. They want guidance and assistance in getting to a firm resolution that the parties and counsel can “live with” to move forward.

Techniques from page 31

may be a factually true statement and a viable solution, and there also may be myriad other reasons for the issue or ways to solve the problem. If the employer responds, “Yes, but that’s not in the budget” or “Yes, but we will never fill the role in time,” the employer has shut down further conversation and brainstorming.

If, however, the employer says “Yes, and automating some of our functions will free up some of our current people’s time until we can hire someone,” the employer has affirmed the employee’s concern, added a new option to consider, and opened things up for more discussion. The more ideas to explore and evaluate, the higher the likelihood of finding a workable solution.

Active listening, reframing, and “Yes, and...” are skills mediators implement every day during conversations with their clients, and their use is not limited to mediation sessions. With practice, these are helpful tools for everyone whenever conflict arises, whether it be at work, in public, or at home.

Erin McCoy Alarcon, owner of Erin Alarcon Mediation, is a mediator, collaborative attorney, and guardian ad litem. She particularly enjoys working with families with children with special needs. She also teaches Mediation Theory and Practice at Boston University School of Law.

Tips from page 27

crossword puzzle.

• Ask curious questions to diffuse defensiveness. As observed by Sharon Strand Ellison, asking a truly curious question – in the way that a four-year-old might ask a question – can diminish defensiveness in both the speaker and listener.

• Focus on Your Zone of Control. Move the focus from the threat, or perceived threat, to what you and your client can control, what you can do, what you can change. This will engage your prefrontal cortex in problem-solving and away from its fight/flight/freeze center.

• Engage Your Growth Mindset. Look for what pieces of your conflict can help you grow and be more effective, either in the moment or in the future. Remember – mistakes can enhance learning!

• Find a Tool That Works for You. Pictures, graphics, and other visual tools can provide easy-to-recall frameworks that help individuals process information and make better decisions, even when our stress response is activated. To learn more about these tools, please check us out at prismicconflictsolutions.com.

Caroline Adams is a sophomore at Middlebury College. She is majoring in neuroscience and interested in how conflict impacts our neurobiology. Caroline interned with PRISM/Hess Gehriss Solutions this past summer, providing invaluable research and writing support to the team.

Anita Drake began her career as a corporate transactional attorney, representing public and private companies in a variety of industries, including life sciences and financial services. In that role, Anita negotiated agreements on behalf of her clients and advised them as they navigated challenging situations. Anita transitioned to focusing on workplace conflict resolution in 2023, joining the PRISM/Hess Gehriss Solutions team and supporting clients through training and facilitation.

Endnotes


2. Amy Arinstein, Carolyn M. Maze, Rajita Sinha, Everyday Stress Can Shut Down the Brain’s Chief Command Center; Scientific American, April, 1, 2012, scientificamerican.com/article/this-is-your-brain-in-meltdown.


4. Id.

5. Arinstein et al., Everyday Stress Can Shut Down the Brain’s Chief Command Center.


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NEW HAMPSHIRE BAR NEWS www.nhbar.org OCTOBER 18, 2023 33
were meant to explore the issues brought forward between parents and the school district impartially, to ideally resolve conflict through mediation and this bill is intended to further open communication and reduce conflict between the parties involved."

According to New Hampshire DOE representative Stephen Berwick, who testified before the Senate Education Committee on February 21, 2023, “the conference extension would prove beneficial because sometimes one day of mediation does not always afford resolution, and further, the extension would accommodate for scheduling issues between parties.” Mr. Berwick noted that in more complex cases, “follow-up sessions were necessary for particularly difficult cases which involved educational placements and compensatory services.” These types of complex matters are often ones that are resolved using the ADR process.

Notably, by the time a case reaches the DOE, the importance of the outcome is significantly heightened. In such cases, parties often rely on expert reports or evaluations that can take longer than the prescribed 30 days allowed, if such reports were not previously completed. As a result, and especially in those more complex cases, ADR is a challenging but critical procedure to navigate, and time limitations on the process can negatively impact the ability of the parties to reach a satisfactory outcome for students.

The primary focus of this recent change in the law was to strengthen the ADR process by promoting further communication and reducing conflict amongst parents and school districts. Ultimately, this objective, guided by the IDEA’s overall policy focus, is furthered by this simple yet meaningful adjustment to the ADR process for special education cases in New Hampshire.

Lake A. Webster is an attorney in the School Law Group at Drummond Woodsum’s Manchester office. In his practice, he provides thoughtful legal advice to public schools on a wide range of complex legal issues with an emphasis on special education law.

Endnotes
2. See Senate Hearing Report, p. 2 (Feb. 3, 2023)
3. Id.

Requirements from page 28

By the time a case reaches the DOE, the importance of the outcome is significantly heightened.

Attorneys can take steps prior to a mediation to ensure that they are informed of the material facts of their case and are prepared to represent them if the issues arise. Prior to a mediation, attorneys should investigate the facts of their case and be able to substantiate their assertions of the material facts.

Lake A. Webster is an attorney in the School Law Group at Drummond Woodsum’s Manchester office. In his practice, he provides thoughtful legal advice to public schools on a wide range of complex legal issues with an emphasis on special education law.

Endnotes
2. See Senate Hearing Report, p. 2 (Feb. 3, 2023)
3. Id.
NEW HAMPSHIRE BAR NEWS

At a Glance Contributor

Stacie Ayn Murphy Corcoran

2011 graduate of Suffolk University Law School, practicing in Mass. and NH

Family Law

In the Matter of Brianna Kauble and William Kauble

September 19, 2023

Reversed

• Whether the Court erred in awarding the grandfather visitation under RSA 461-A:13.
• Whether the grandfather had standing to be awarded grandparent visitation.

The grandfather helped the daughter, the children’s mother, to relocate from Arizona to New Hampshire. She and the children lived with the grandfather for six months before the mother moved out and then filed for divorce from the children’s father. Subsequently, the grandfather’s relationship became strained with the mother and the mother cut off contact between the grandfather and grandchildren. The grandfather petitioned the court and was awarded visitation under RSA 461-A:13. The mother appealed arguing that the trial court erred because the grandfather lacked standing under the statute.

Standing “presents a question of subject matter jurisdiction.” In re Guardianship of Williams, 159 N.H. 318, 323 (2019) and turns on the interpretation of the relevant statute which is a question of law for the Court to decide. The Court construes the statute to authorize grandparents to petition when one of the enumerated conditions happens and if access was not restricted previously or contemporaneously with the condition. The parties disagree on which conditions apply and whether access was restricted previously or contemporaneously with the condition. The Court agrees with the mother that based on the facts presented, the enumerated condition was the parent’s divorce.

Next, the Court evaluated whether the grandfather’s access to the grandchildren was “restricted for any reason prior to contemporaneously with the divorce.” RSA 461-A:13, I. The Court evaluated when the mother filed for and was granted the divorce in comparison with the date she cut off contact with the grandfather. Here, the cut-off date was prior to the finalization of the divorce. Therefore, the grandfather lacked standing to seek visitation, depriving the circuit court of subject matter jurisdiction.

Champions Law, of Portsmouth (Jared Bedrick on the brief), for the petitioner; Cordell and Cordell, PC of Bedford (M. Chantal Crawley on the brief), for the respondent. Herbert Novell, self-represented party on the brief as intervenor.

An evaluation may be completed online at courts.nh.gov. On the website, look to the right side of the page under “NHJL Quick Links” and click on “Judicial Performance Evaluations,” then click on “Current Circuit Court Evaluations” and choose the judge(s) you would like to evaluate. While responses will be shared with the judges being evaluated, they are treated as confidential, and the identity of the respondent will remain anonymous. If you do not have access to the internet or would prefer a hard copy of the evaluation mailed to you, please e-mail the Circuit Court Administrative Office at leametti@courts.state.nh.us or call (603) 271-6418. Please include the name of the judge(s) you would like to evaluate, as well as your name and address. If you request a hard copy of the evaluation form, we ask that you do not sign the completed evaluation.

All evaluations must be completed online or be returned no later than November 18, 2023.
In accordance with Supreme Court Rule 37(3)(d), the Supreme Court appoints Attorney Derek D. Lick, the Vice President of the New Hampshire Bar Association, to serve as the Board of Governors’ representative on the Professional Conduct Committee, for a term commencing immediately and expiring July 31, 2024.

Issued: September 19, 2023
ATTES: Timothy A. Gudas, Clerk
Supreme Court of New Hampshire

In accordance with Supreme Court Rule 37(4)(a), the Supreme Court appoints Emily R. Hayes to serve a three-year term as a non-attorney member of the Hearings Committee. Her term shall commence immediately and expire on September 18, 2026.

Issued: September 19, 2023
ATTES: Timothy A. Gudas, Clerk
Supreme Court of New Hampshire

Pursuant to Part II, Article 73-a of the New Hampshire Constitution and Supreme Court Rule 51, the Supreme Court of New Hampshire adopts the following technical amendments to court rules.

I. Supreme Court Rule 42(V)(b) (This amendment, which stems from new standards enacted by the American Bar Association (ABA) with respect to distance education, eliminates the final sentence of Rule 42(V)(b) and thereby clarifies that a degree from an ABA-approved law school satisfies the law school education requirements for admission to the New Hampshire Bar.)

   1. Amend Supreme Court Rule 42(V)(b) as set forth in Appendix A.

II. Supreme Court Rule 42(XIII)(a) (This amendment exempts an attorney who is on inactive status from the requirement to complete the Practical Skills Course within two years of admission, but requires such an attorney to complete the Practical Skills Course within one year of the attorney’s return to active status.)

   1. Amend Supreme Court Rule 42(XIII)(a) as set forth in Appendix B.

III. Supreme Court Rule 48-(A)(2)(a) (This amendment provides that a guardian ad litem’s travel time to and from court hearings and to or from meetings with a juvenile or an incapacitated person shall not count toward the maximum fees set forth in Rule 48-A. The amendment thereby makes Rule 48-A consistent with Rule 47 and Rule 48.)

   1. Amend Supreme Court Rule 48-(A)(2)(a) as set forth in Appendix C.

IV. Supreme Court Rule 51 (This amendment deletes the entire text of the current version of Rule 51 and replaces it with new text that makes the rule-making process more efficient while maintaining public access and involvement.)

   1. Amend Supreme Court Rule 51 as set forth in Appendix D.

V. Superior Court Rule 37

   A. Amendment provides that state court records that are (1) self-authenticating pursuant to Rule 902 of the New Hampshire Rules of Evidence and (2) otherwise admissible and competent may be introduced as evidence without calling the clerk to testify as a keeper of the records. The amendment allows a party to object, on a timely basis and for good cause, to the introduction of records without a witness.)

   1. Amend Rule 37 of the Rules of the Superior Court as set forth in Appendix E.

VI. Circuit Court – District Division Rule 3.37

   (This amendment provides that state court records that are (1) self-authenticating pursuant to Rule 902 of the New Hampshire Rules of Evidence and (2) otherwise admissible and competent may be introduced as evidence without calling the clerk to testify as a keeper of the records. The amendment allows a party to object, on a timely basis and for good cause, to the introduction of records without a witness.)

   1. Amend Rule 37 of the Rules of the Superior Court as set forth in Appendix F.

VII. New Hampshire Rule of Evidence 504

   (This amendment replaces references to “husband and wife” in Rule 504 with references to “spousal” or “spouse.”)

   1. Amend Rule 504 of the New Hampshire Rules of Evidence as set forth in Appendix G.

Effective Dates

The amendment to Supreme Court Rule 504-(A)(2)(a) shall take effect on September 22, 2023, and shall apply to pending and future guardian ad litem bills. The remaining amendments shall take effect on November 1, 2023.

ATTES: Timothy A. Gudas, Clerk
Supreme Court of New Hampshire

R-2023-0004 In re August 1, 2023 Report of the Advisory Committee on Rules

The New Hampshire Supreme Court Advisory Committee on Rules (committee) has reported proposed rule amendments to the New Hampshire Supreme Court with a recommendation that they be adopted. On or before October 23, 2023, members of the Bench, Bar, legislature, executive branch, or public may file with the clerk of the Supreme Court comments on any of the proposed rule amendments listed on page 3 of this order.

In accordance with Rules 3 and 4 of the Supplemental Rules of the Supreme Court of New Hampshire for Electronic Filing, comments should be submitted through the Supreme Court’s electronic filing (e-filing) system in case no. R-2023-0004, using “Rules Docket Entries” as the Filing Type and “Comment on Rule” as the Filing Subtype. The address of the Supreme Court’s e-filing system is: etfile.nhecourts.us. The e-filing system is also accessible through the Electronic Services page of the New Hampshire Judicial Branch website: courts.nh.gov/resources/electronic-services/supreme-court/attorneys-self-represented-parties-and-other-non. Prior to registering with the e-filing system, attorneys should review the Quick Guide – Registering as an Attorney E-Filer; nonlawyers should review the Quick Guide – Registering as a Nonlawyer E-Filer. The Quick Guides are available on the Electronic Services page.

Persons who electronically submit a comment into case no. R-2023-0004 will be able to view all other comments through the “Case Search” functionality of the e-filing system. Registered e-filers who wish to use the e-filing system to view the previously submitted comments of others before submitting a comment of their own should first check the clerk of the supreme court’s (603-271-2646) and ask to be added to the case’s “E-File User Access” list, which will then provide them with viewing access through the “Case Search” functionality.

Persons who are unable to submit their comments electronically may mail or deliver them to the clerk of the supreme court at the New Hampshire Supreme Court Building, 1 Charles Doe Drive, Concord, New Hampshire 03301. All comments, whether submitted electronically or in paper, will be available for public viewing at the Supreme Court’s gallery and through the application, which is available at: court.e.nh.gov/committees/advisory-committee-rules/supreme-court-requests-public-comment.

The language of the proposed rules changes and background regarding the proposals may be found in the August 1, 2023 Advisory Committee on Rules Report, which is available at: courts.nh.gov/resources/committees/advisory-committee-rules/reports-court.

Copies of the August 1, 2023 Advisory Committee on Rules Report are also available upon request submitted to the clerk of the Supreme Court. The current rules of the New Hampshire state courts are available at: courts.nh.gov/resources/court-rules.

The Supreme Court is requesting comments on recommendations to amend the following rules:

I. Supreme Court Rule 37(20)

This proposed amendment, the language of which is set forth in Appendix A, would define the “public file” of the Attorney Discipline Office (ADO) and provide access to it, but also identify material that is not part of the “public file.”

II. Rule 3.8 of the New Hampshire Rules of Professional Conduct

This proposed amendment, the language of which is set forth in Appendix B, would amend Rule 3.8 to clarify the special responsibilities of a prosecutor when the prosecutor knows of clear and convincing evidence establishing that a defendant was convicted of an offense that the defendant did not commit.

III. Rule 804(b) of the New Hampshire Rules of Evidence

This proposed amendment, the language of which is set forth in Appendix C, would restore an exception to the rule against hearsay statements made by deceased persons in actions by or against representatives of deceased persons.

ORDERS continued on page 37

NEW HAMPSHIRE BAR NEWS

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Topics

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New Hampshire Association of Criminal Defense Lawyers
Based on the information submitted or disbarment.”

which by itself could result in a suspension of client or third party property or funds or (2) any other misconduct defined by Rule 37(9-B)(b) as “any misappropriation of client or third party property or funds or (2) any other misconduct that:

(1) Attorney McDaniel has yet to respond, the court finds that Attorney McDaniel “has engaged in serious misconduct which poses an immediate and substantial threat of serious harm to the public or the integrity of the legal profession.” His summary suspension from the practice of law in New Hampshire pending further order of this court.

(2) A copy of the petition for summary suspension and of this order shall be served on Attorney McDaniel by certified mail and kept to fail to keep the escrowed funds separate and safeguarded when the opposing party in the divorce matter claimed an interest in such funds.

(3) Attorney McDaniel failed to maintain any of the minimum financial records for client and third-party funds, as required by Supreme Court Rules 50 and 50-A, and knowingly failed trust accounting certifications.

(4) Attorney McDaniel conducted violations of New Hampshire law in his client matters, that he held as an attorney in a divorce matter, including unauthorized disbursements to himself, failed to promptly render a full accounting of the escrowed funds when requested by opposing counsel, and failed to keep the escrowed funds separate and safeguarded when the opposing party in the divorce matter claimed an interest in such funds.

(5) Attorney McDaniel made unauthorized disbursements from funds held as an attorney in a divorce matter, including unauthorized disbursements to himself, failed to promptly render a full accounting of the escrowed funds when requested by opposing counsel, and failed to keep the escrowed funds separate and safeguarded when the opposing party in the divorce matter claimed an interest in such funds.

(2) Attorney McDaniel failed to maintain any of the minimum financial records for client and third-party funds, as required by Supreme Court Rules 50 and 50-A, and knowingly failed trust accounting certifications.

(3) Attorney McDaniel commingled his escrowed client funds by depositing his funds into an IOLTA account and impropriated client funds by disbursing or depositing them into his operating account before the funds had been earned by him.

(4) Attorney McDaniel knowingly made false statements of fact to the trial court and opposing counsel in the divorce matter concerning the status of the escrowed funds.

(5) Attorney McDaniel failed to conduct violations of New Hampshire law in his client matters, that he held as an attorney in a divorce matter, including unauthorized disbursements to himself, failed to promptly render a full accounting of the escrowed funds when requested by opposing counsel, and failed to keep the escrowed funds separate and safeguarded when the opposing party in the divorce matter claimed an interest in such funds.

(2) Attorney McDaniel failed to maintain any of the minimum financial records for client and third-party funds, as required by Supreme Court Rules 50 and 50-A, and knowingly failed trust accounting certifications.

(3) Attorney McDaniel commingled his escrowed client funds by depositing his funds into an IOLTA account and impropriated client funds by disbursing or depositing them into his operating account before the funds had been earned by him.

(4) Attorney McDaniel knowingly made false statements of fact to the trial court and opposing counsel in the divorce matter concerning the status of the escrowed funds.

(5) Attorney McDaniel failed to conduct violations of New Hampshire law in his client matters, that he held as an attorney in a divorce matter, including unauthorized disbursements to himself, failed to promptly render a full accounting of the escrowed funds when requested by opposing counsel, and failed to keep the escrowed funds separate and safeguarded when the opposing party in the divorce matter claimed an interest in such funds.

Based on the information submitted by the ADO in its petition, to which Attorney McDaniel has yet to respond, the court finds that Attorney McDaniel “has engaged in serious misconduct which poses an immediate and substantial threat of serious harm to the public or the integrity of the legal profession.” His summary suspension from the practice of law in New Hampshire pending further order of this court.

(2) A copy of the petition for summary suspension and of this order shall be served on Attorney McDaniel by certified mail and kept to fail to keep the escrowed funds separate and safeguarded when the opposing party in the divorce matter claimed an interest in such funds.

(5) Attorney McDaniel was in possession of any client funds or property, Attorney Labonte may file an appropriate motion for immediate suspension of Attorney McDaniel. Rule 37(9-B)(a)(1) authorizes summary suspension of Attorney McDaniel summarily. Rule 37(9-B)(a)(1) as grounds for suspending an attorney “has engaged in serious misconduct which poses an immediate and substantial threat of serious harm to the public or the integrity of the legal profession.”

The ADO cites Supreme Court Rule 51, Rule 37 of the Rules of the Superior Court – District Division Rules. Accordingly, it is hereby ordered:

(1) In accordance with Rule 37(9-B), Attorney Robert E. McDaniel is immediately and substantially suspended from the practice of law in New Hampshire pending further order of this court.

(2) A copy of the petition for summary suspension and of this order shall be served on Attorney McDaniel by certified mail and first-class mail at the latest address that Attorney McDaniel provided to the New Hampshire Bar Association.

(3) On or before September 26, 2023, Attorney McDaniel may request a hearing on the issue of whether the summary suspension should be lifted. If a request is made, the hearing will be scheduled for October 2, 2023, or sooner. See Rule 37(9-B)(B).

(4) Attorney McDaniel is enjoined from further use of his IOLTA and operating accounts, including Bank of New Hampshire accounts ending in XXXX5186 and XXXX7934, and any accounts from transferring, assigning, hypothecating, or in any manner disposing of or conveying any assets of clients, whether real, personal, beneficial or mixed.

(5) On or before October 10, 2023, Attorney McDaniel shall inform his clients in writing of his suspension from the practice of law and of this office’s suspension of his law practice. Attorney McDaniel shall file an affidavit on or before October 11, 2023, stating that he has complied with this requirement. See Rule 37(13)(d). A copy of the affidavit shall be sent to the ADO.

Pursuant to Rule 37(17), the court appoints Attorney Andrea Q. Labonte, ADO Assistant General Counsel, to take immediate possession of the client files and trust and other fiduciary accounts of Attorney McDaniel, and to take the following actions:

(1) Attorney Labonte shall notify all banks and other entities where Attorney McDaniel has trust or fiduciary accounts and operating accounts of Attorney McDaniel’s suspension from the practice of law and of Attorney McDaniel’s appointment by the court.

(2) Attorney Labonte shall, to the extent that she deems necessary, notify Attorney McDaniel’s clients of his suspension, inform them of any scheduled hearings, advise them to obtain the services of other lawyers of their choice, and advise them how they or their new attorneys may obtain their files. Attorney Labonte shall not, however, undertake the representation of any of Attorney McDaniel’s clients.

(3) Attorney Labonte shall, to the extent that she deems necessary, notify the courts in which any hearings are scheduled in the near future of Attorney McDaniel’s suspension.

(4) Attorney Labonte shall prepare an inventory of Attorney McDaniel’s client files and shall file a copy of the inventory with this court on or before November 6, 2023, together with a report of her actions taken under this order and recommendations as to what further actions should be taken.

(5) If Attorney McDaniel is in possession of any client funds or property, Attorney Labonte may file an appropriate motion requesting authority to distribute them.
Pursuant to Rule 37(17), the court appoints Attorney Andrea Q. Labonte, ADO Assistant General Counsel, to take immediate possession of the client files and trust and other fiduciary accounts of Attorney Fuller, and to take the following actions:

(1) Attorney Labonte shall notify all banks and other entities where Attorney Fuller has trust or fiduciary accounts and operating accounts of Attorney Fuller’s suspension from the practice of law and of Attorney Labonte’s appointment by the court.

(2) Attorney Labonte shall, to the extent that she deems necessary, notify Attorney Fuller’s clients of his suspension, inform them of any scheduled hearings, advise them to obtain the services of other lawyers of their choice, and advise them how they or their new attorneys may obtain their files.

Attorney Labonte shall not, however, undertake the representation of any of Attorney Fuller’s clients.

(3) Attorney Labonte shall, to the extent that she deems necessary, notify the courts in which any hearings are scheduled in the near future of Attorney Fuller’s suspension.

(4) Attorney Labonte shall prepare an inventory of Attorney Fuller’s client files and shall file a copy of the inventory with this court on or before November 14, 2023, together with a report of her actions taken under this order and recommendations as to what further actions should be taken.

(5) If Attorney Fuller was in possession of any client funds or property, Attorney Labonte may file an appropriate motion requesting authority to distribute them.

Attorney Fuller is ordered to cooperate with Attorney Labonte in performing the tasks as directed by the court. Pending further order of this court, Attorney Fuller is assessed for all expenses that may be incurred by the ADO in the investigation and prosecution of this matter and in the performance of the tasks undertaken by Attorney Labonte.

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

**Assistant City Prosecutor**

**City of Concord, NH**

The City of Concord is seeking a highly skilled attorney with 3-5 years’ experience to fill an Assistant City Prosecutor position to manage criminal cases in the City Prosecutor’s Office.

**Salary Range:** $77,500.80 - $112,236.80, plus a competitive benefits package.

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

**For questions about this position, please contact Marie Noonan, DCYF Chief of Operations at (603) 271-4455, marie.noonan@dhs.nh.gov.**

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**The Division for Children, Youth and Families is seeking a General Counsel/Legislative Liaison (Concord, NH)**

A career with DCYF offers a unique and exciting opportunity to positively impact children, youth and families. DCYF is the state agency overseeing child protection and juvenile justice services in NH and it is comprised of professional staff committed to the safety and well-being of children, youth, families, and communities. The DCYF Chief of Legal, Regulatory & Legislative Affairs serves as general counsel and administers and coordinates legal, legislative, and policy activities for DCYF. We offer paid training, a competitive salary ($80,938.00 - $112,770.00) and a comprehensive benefits package.

**DCYF Chief of Legal, Regulatory & Legislative Affairs duties include:**
- Coordinates legal activities and provides legal guidance and direction to DCYF and acts as general counsel to the Director of DCYF.
- Performs legislative functions on behalf of the department including drafting legislation and representing the department at legislative hearings and at legislative committee and commission meetings.
- Provides legal assistance with the development and execution of the procurement processes including requests for proposals and contracts.
- Provides direct oversight of the DCYF Policy Unit, the DCYF Central Registry, and the attorney supervisor representing Juvenile Justice Services for DCYF.

**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.

**How to APPLY:** Please go to the following website to submit your application electronically through NH First: [https://das.nh.gov/jobssearch](https://das.nh.gov/jobssearch). Enter General Counsel in the Job Title field and apply.

For questions about this position, please contact Marie Noonan, DCYF Chief of Operations at (603) 271-4455, marie.noonan@dhs.nh.gov.
ATTORNEY – LaPorte Law Group, PLLC is a small litigation and transactional law firm based in Portsmouth, NH. Our growing law firm is looking for an attorney with two to three years’ experience. A Massachusetts license is preferred, however, our firm is open to Massachusetts attorneys willing to wean into New Hampshire. This position offers a mixture of office-based and remote work. Compensation is negotiable. If you believe that you possess these qualifications, please contact Attorney Thomas LaPorte via phone at 603-303-9620 or via email at Lporterlawgroup@gmail.com.

CONTRACTED ATTORNEY – McKenna Law PLLC: Seeking a precise, business-savvy, and quick-thinking contracts associate with excellent drafting skills to join a rapidly growing on-site Bedford-based business transactional law firm. Interested candidates should submit a resume and cover letter to apply@mckenna.law.

REAL ESTATE ATTORNEY – Attono Law Office, PLLC, seeks a lawyer with 5+ years’ experience handling closings, purchases and sales, 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 Altano at deb@altanoallfawn.com or phone 603.715.2543 4 Park Street, Concord, NH 03301.

LITIGATION ATTORNEY – Attono Law PLLC seeks a full-time civil litigator with 6+ 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 Altano at deb@altanoallfawn.com, 4 Park Street, Concord, NH 03301 or 603.715.2543.

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 the names and contact information of three references to the Recruiting Coordinator through the Employment section on our website, nhpublicdefender.org. We are committed to hiring a diverse workforce.

EXPERIENCE 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 rights of people with disabilities. Attorneys with more than three years of civil or criminal legal experience are encouraged to apply. For a complete position description, please visit https://drcn.org/gg-involved. Please send cover letter, resume, and a writing sample (not to exceed 30 pages) to hr@drcnh.org.

LEGAL ADMINISTRATIVE ASSOCIATE: Immediate position available for organized legal administrative assistant to support complex business law work in a fast-paced general litigation 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 Manchester. Email cover letter and resume to davis@blackleylaw.com to apply.

LEGAL ASSISTANT: Experienced staff attorney to act as in-house counsel for CASA of NH staff and volunteers. The CASA Staff Attorney will represent CASA GAL’s in court and will provide initial and ongoing training of many great staff and volunteers in all CASA offices on Abuse/Neglect and Termination of Parental Rights proceedings. Cover letter, resume and salary requirements should be sent via e-mail to Executive Assistant Melissa Desrosiers MDesrosiers@casan.org. The full job description and qualification requirements should be found at www.casan.org/jobs or contact LRS at (603) 715-3235 or email lrsreferral@nhbar.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/lpbdpering.

PARALEGAL/LEGAL ASSISTANT – Busy Manchester law firm seeks an experienced full-time Legal Secretary/Assistant for litigation attorneys. Knowledge of Personal Injury, Workman’s Compensation, Social Security Disability and Family Law is also a plus. Qualified applicants should have experience with Word. Applicants must also be detailed and can work independently and as a team player. We offer a competitive benefits package and salary commensurate with experience and skill level. Please send email cover letter and resume to candv@blackleylaw.com.

FULL-TIME PARALEGAL – YOC Claims Administration seeks a full-time paralegal. Qualified applicants should be detail-oriented and be able to work independently and as a team-player. Salary range: $30,156-60,736 with state benefits package. Paralegal job description; qualifications and application can be found at www.courts.nh.gov/careers/ job-postings, look for job #397-109. Applications accepted until position filled.

LEGAL ASSISTANT FOR TRANSACTIONAL LAW FIRM, McKenna Law, PLLC seeks an experienced paralegal with 3+ years of executive assistant or legal assistant experience to join a rapidly growing on-site Bedford-based business transactional law firm. Experience in a mid-sized New Hampshire law firm in the areas of estate planning or real estate conveyancing preferred. High level of drafting and word processing and formatting skills required. Job will require a diverse set of job law firm administrative responsibilities and the ability to prioritize efforts with excellent judgment. Interested candidates should submit a resume and cover letter to apply@mckenna.law.

LEGAL ADMINISTRATOR – Immediate position available for organized legal administrative assistant to support complex business law work in a fast-paced general litigation 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 Manchester. Please send letter of interest and resume to dorothy.darby@cohenwinters.com.

LEGAL ASSISTANT – A growing law firm serving central and southern New Hampshire, and the seacoast. We currently have offices in Concord, Manchester, and Exeter. The firm has a long history of experienced family law team. 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 resume to: dorothy.darby@cohenwinters.com.

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/lpbdpering.

PARALEGAL/LEGAL ASSISTANT – Busy Manchester law firm seeks an experienced full-time Legal Secretary/Assistant for litigation attorneys. Knowledge of Personal Injury, Workman’s Compensation, Social Security Disability and Family Law is also a plus. Qualified applicants should have experience with Word. Applicants must also be detailed and can work independently and as a team player. We offer a competitive benefits package and salary commensurate with experience and skill level. Please send email cover letter and resume to candv@blackleylaw.com.

LEGAL ASSISTANT FOR TRANSACTIONAL LAW FIRM, McKenna Law, PLLC seeks an experienced paralegal with 3+ years of executive assistant or legal assistant experience to join a rapidly growing on-site Bedford-based business transactional law firm. Experience in a mid-sized New Hampshire law firm in the areas of estate planning or real estate conveyancing preferred. High level of drafting and word processing and formatting skills required. Job will require a diverse set of job law firm administrative responsibilities and the ability to prioritize efforts with excellent judgment. Interested candidates should submit a resume and cover letter to apply@mckenna.law.

LEGAL ADMINISTRATOR – Immediate position available for organized legal administrative assistant to support complex business law work in a fast-paced general litigation 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 Manchester. Please send letter of interest and resume to dorothy.darby@cohenwinters.com.

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/lpbdpering.

PARALEGAL/LEGAL ASSISTANT – Busy Manchester law firm seeks an experienced full-time Legal Secretary/Assistant for litigation attorneys. Knowledge of Personal Injury, Workman’s Compensation, Social Security Disability and Family Law is also a plus. Qualified applicants should have experience with Word. Applicants must also be detailed and can work independently and as a team player. We offer a competitive benefits package and salary commensurate with experience and skill level. Please send email cover letter and resume to candv@blackleylaw.com.
LITIGATION ATTORNEY

Welts, White & Fontaine, PC is seeking an attorney with 0-4 years of experience to join our busy team as a litigation associate. Founded in 1978, Welts, White & Fontaine, PC, is the largest Nashua-based law firm and represents individuals and businesses in a wide range of practice areas.

This position offers the chance for interesting and rewarding work and an opportunity for growth. Our litigation practice includes commercial and business disputes, personal injury law, appeals, family law, and real estate litigation. Associates are given significant autonomy when ready — to manage their own caseload, acquire courtroom experience, and shape their practice.

Ideal candidates should be admitted to practice in New Hampshire and possess strong research and writing skills. We offer a competitive salary and benefits package. The firm has no billable hour requirements for associates and has flexibility for some remote work.

Please e-mail resume and salary requirements to Veronica Hamilton at vhamilton@lawyersnh.com.

PROFITS 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 strict confidence.

Victim Assistance Coordinator-Domestic Violence Unit City of Manchester

Full-Time, 40 Hours Per Week
Rate of Pay: Grade 15, Salary Range: $41,988-$59,864

The Victim Assistance Coordinator (VAC) provides help to victims of domestic violence involved in cases prosecuted by the City of Manchester Solicitor’s Office in the District Division of the State of New Hampshire 9th Circuit Court in Manchester.

Responsibilities include:
- The VAC acts as a liaison between the victim, prosecuting attorneys and law enforcement, assisting the victim in navigating the criminal justice system. In doing so, the VAC establishes and maintains effective working relationships with other City employees, victims of domestic violence, attorneys and the public.
- The VAC performs all duties in a highly-professional, victim-centered, trauma-informed manner and in full compliance with the State of New Hampshire victim’s Bill of Rights and all relevant portions of the New Hampshire Attorney General’s Model Protocol for Enforcement Response to Domestic Cases.
- Required special qualifications:
  - Thorough knowledge of current principles and practices associated with victim-centered, trauma-informed practice and victim advocacy programs;
  - Graduation from an accredited college or university with a Bachelor’s Degree in Social Work, Criminal Justice, Human Services, Psychology, or a closely related field; and
  - Three years’ experience in social service delivery or victim services; or any equivalent combination of experience and training which provides the knowledge, skills and abilities necessary to perform the work.

To Apply Please Visit: https://www.manchester.hal.gov/Department of Human Resources/Employment

The City of Manchester is an Equal Opportunity Employer

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.

To Apply Please Visit: https://www.manchester.hal.gov/Departments/HumanResources/Employment

The City of Manchester is an Equal Opportunity Employer
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)

Connolly Law is Hiring for our Bedford, NH Office

**Family Law Associate Attorney and Paralegal Needed**

Associate Attorney and Paralegal positions available in a progressive female-led firm that promotes wellness and balance. The majority of law firms have an infrastructure created before women were permitted to practice law. Although the demographic of attorneys has changed; this century-old business model remains (with a few minor adjustments). Firms’ “work-life” balance policies often equate to allowing parents to both “parent” and “work” in equal parts of their day. The result? Exhausted, burnt-out parents/attorneys who feel as though they are unsuccessful at home and work because they cannot give their full efforts to either. We hate that model, so we changed it.

Seeking an Associate Attorney and Paralegal with 2-7 years’ experience in Family Law, experience in Estate Planning and Criminal Law is a plus. Competitive pay commensurate with experience. Connolly Law is an established law firm with offices in Exeter and Bedford, New Hampshire. Qualified applicants should direct resume and cover letter in strict confidence to Amy Connolly, Esq. at Amy@familynhlaw.com. Equal opportunity employer.

**Ransmeier & Spellman P.C.**

**Attorney**

Ransmeier & Spellman P.C. is seeking an attorney with 2-5 years of experience. Ideal candidates should have experience in transactional work, particularly real estate, land conservation, and business formation; a strong academic record; and exceptional practice management, interpersonal, and written and oral communication skills. Experience writing title insurance is a plus. This position presents a unique opportunity to work with some of the foremost land conservation attorneys in New Hampshire and many of the leading conservation groups and land trusts in New Hampshire and regionally. This position will be based out of our Concord office with the option for some remote work.

Ransmeier & Spellman is committed to delivering high-quality legal services while maintaining a collaborative and collegial work environment. Our firm offers a competitive compensation and benefits package commensurate with qualifications and experience, as well as work-life balance.

Qualified and interested candidates should submit a cover letter and resume to Biron L. Bedard, Esq. at bbedard@ranspell.com.

**“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

**Real Estate**

Trust & Estates

Manchester, NH

**Associate Attorney**

Brendan D. O’Brien

Attorney

Manchester, NH

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.
Assistant Corporation Counsel
City of Nashua

DEPARTMENT: Legal
HOURS WORKED: Monday - Friday (8:00am to 5:00pm)
AFFILIATION: Unaffiliated

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://apptrack.com/nashua/onlineapp/

EQUAL OPPORTUNITY EMPLOYER
Recruiting practices shall be consistent with State and Federal Law (214/2023)

Assistant County Attorney
Sullivan County

The Sullivan County Attorney’s Office is currently seeking an innovative and creative attorney with an interest in public service and a desire to serve their community.

Essential Job Responsibilities include:
- Working with law enforcement to support the investigation of criminal cases and prosecuting criminal cases in both the 5th Circuit-District Divisions and Sullivan Superior Court.
- Works closely with the Office of Victim Witness Coordinator to ensure that all victims/witnesses are properly informed, prepared for hearings, and supported throughout the entirety of the criminal process.
- Provides advice and guidance to local law enforcement during non-office hours.
- Acts as counsel for the State at hearings and addresses post-trial conviction motions
- Prepare and present investigations and cases to the Grand Jury
- Communicates with media when appropriate

Staring Salary: $85,000

Status: Full time/Exempt

Benefits

Salary Range: $78,041-$115,155 commensurate with experience along with a competitive benefits program.

Minimum Qualifications:
Bachelor’s Degree and Juris Doctor of Law, membership in the New Hampshire Bar Association. Some prior litigation experience preferred, and a strong preference for prior criminal prosecution experience.

Application: Send resume and cover letter to Jamie Ellsworth, Human Resources Coordinator, 34 County Dr., Laconia, NH, 03246. Phone: 279-1245; email jellsworth@sullivancountynh.gov or visit our website at http://www.sullivancounty.gov for additional information or a complete Job Description. A criminal history & background check will be required of any applicant prior to being offered a position.

Equal Opportunity Employer

NEW HAMPSHIRE BAR NEWS

EXPERT REVIEWER

The State of New Hampshire (State) seeks applicants for the position of Expert Reviewer for the State’s Community Mental Health Agreement (CMHA) due to the retirement of the current Expert Reviewer. The CMHA involves community-based services, programs, and activities offered to individuals with serious mental illness in the State’s mental health system who are institutionalized or at serious risk of institutionalization. Substantive provisions include developing a Crisis Service System, expansion of Assertive Community Treatment (ACT), increasing Supported Housing, delivery of Supported Employment, provision of Family and Peer Supports, improvement of the Transition Process for individuals in facilities, and implementation of a Quality Assurance and Performance Improvement system.

Pursuant to Section VIII of the CMHA, the Expert Reviewer independently observes, assesses, reviews, and reports on the State’s implementation of the CMHA in order to provide the parties with guidance on the State’s efforts to implement the terms of the CMHA, ways to improve implementation, and other suggestions to enhance the State’s mental health system. Twice per year, the Expert Reviewer is required to submit a public report to the CMHA parties.

When the CMHA was approved in 2014, the Parties anticipated that the State would have complied with the terms within six years. Compliance has taken longer than expected; however, in early 2023, the Parties reached an agreement as to part of the CMHA that resulted in the filing of a joint motion to modify provisions of the CMHA relating to Supported Housing and the Transition Process. Following that agreement, the Parties supported the hiring by the Expert Reviewer of a consultant to make recommendations on Assertive Community Treatment. That process is ongoing.

To fulfill these duties, the Expert Reviewer is allocated a maximum budget of $175,000 per year, which may be used to retain the assistance of consultants.

For more information, or to express an interest in the position, contact Christopher Bond at Christopher.G.Bond@doj.nh.gov at the NH Department of Justice.

NEW HAMPSHIRE BAR NEWS

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.
- Serves as an expert witness.
- Must be admitted to the New Hampshire Bar Association.

Salary Range: $73,486.40 - $102,878.60, dependent on experience.
Status: Full Time/Exempt

Submission Requirements:
Employment application and resume required.

Apply Online:
https://www.governmentjobs.com/careers/rockingham

Local Employment Information:
Mandatory post-offer physical and drug testing for new hire
Criminal records check required.

Assistant Corporation Counsel
City of Nashua

DEPARTMENT: Legal
HOURS WORKED: Monday - Friday (8:00am to 5:00pm)
AFFILIATION: Unaffiliated

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://apptrack.com/nashua/onlineapp/

EQUAL OPPORTUNITY EMPLOYER
Recruiting practices shall be consistent with State and Federal Law (214/2023)

Assistant County Attorney
Sullivan County

The Sullivan County Attorney’s Office is currently seeking an innovative and creative attorney with an interest in public service and a desire to serve their community.

Essential Job Responsibilities include:
- Working with law enforcement to support the investigation of criminal cases and prosecuting criminal cases in both the 5th Circuit-District Divisions and Sullivan Superior Court.
- Works closely with the Office of Victim Witness Coordinator to ensure that all victims/witnesses are properly informed, prepared for hearings, and supported throughout the entirety of the criminal process.
- Provides advice and guidance to local law enforcement during non-office hours.
- Acts as counsel for the State at hearings and addresses post-trial conviction motions
- Prepare and present investigations and cases to the Grand Jury
- Communicates with media when appropriate

Staring Salary: $85,000

Status: Full time/Exempt

Benefits

Salary Range: $78,041-$115,155 commensurate with experience along with a competitive benefits program.

Minimum Qualifications:
Bachelor’s Degree and Juris Doctor of Law, membership in the New Hampshire Bar Association. Some prior litigation experience preferred, and a strong preference for prior criminal prosecution experience.

Application: Send resume and cover letter to Jamie Ellsworth, Human Resources Coordinator, 34 County Dr., Laconia, NH, 03246. Phone: 279-1245; email jellsworth@sullivancountynh.gov or visit our website at http://www.sullivancounty.gov for additional information or a complete Job Description. A criminal history & background check will be required of any applicant prior to being offered a position.

Equal Opportunity Employer
**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 objectives 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/jobs/search/employment.aspx](http://das.nh.gov/jobs/search/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.merrifield@dol.nh.gov or 603-271-3869.

**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.
- Recommending pertinent case law, decisions, and legislations.
- Present investigations and cases to the Grand Jury; conduct Bench trials, Jury trials and legislations.
- Attorneys and their legal assistants, stationed around the state, who seek the immediate protection of the child and strengthen, families to eliminate abuse and neglect in the home.
- 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/lawtpdr/xmlhttp/shorturl.do?key=8AT](https://lmkp.nhfirst.nh.gov/lawtpdr/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](mailto:deanna.baker@dhhs.nh.gov).
“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.

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- 62% of bills sent online are paid in 24 hours

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An Introduction to the NHSC Steering Committee on Diversity and Inclusion

By Judge Susan B. Carbon, Co-chair
With contributions from the subcommittees

Recognizing the fundamental importance – indeed, mandate under the Constitution – of equality under the law, the New Hampshire Supreme Court (NHSC) determined in December 2021 that New Hampshire needed to ensure that anyone seeking access to justice is treated fairly, equally, and with respect. Two trial court judges were appointed to lead a Steering Committee on Diversity and Inclusion in the New Hampshire Judicial Branch (NHJB).

Over the last several months, a multi-part strategic plan was developed and approved by the Supreme Court in July 2022. The strategic plan calls for the Court to examine current practices and procedures and then take meaningful steps to ensure that the NHJB is welcoming, reflective of, and responsive to the public.

Its overarching goals are to: (1) Identify areas where systemic racism exists in our courts and develop a plan to address them; (2) Identify and present training opportunities for judicial officers and staff in areas such as implicit bias; (3) Develop and implement recruitment and retention strategies that help to diversify the judicial branch workforce; (4) Join with community partners to improve services and outcomes for underserved, vulnerable, or marginalized people; and (5) Continue to simplify and streamline court processes and forms, helping to make barriers such as those experienced by people of color, those who identify as LGBTQIA+, those who are physically or mentally-disabled, or those who live in rural areas, less likely to be encountered.

Imporantly, when looking at diversity, this initiative goes beyond racial, ethnic, and gender disparities to include barriers such as those experienced by persons with disabilities and persons of varying economic means. Poverty can prevent meaningful access to justice no matter where in the state one lives. Likewise, persons with physical or mental disabilities experience barriers often hidden in plain sight.

To undertake these sweeping goals, the Diversity and Inclusion Steering Committee was created, drawing upon representatives from the trial courts and the Administrative Office of the Courts (AOC). Members of the committee include Circuit Court judges Susan Carbon (co-chair), Melissa Countway, Sawako Gardner, and Michael Mace; Superior Court judges David Rauff (co-chair), William Delker, and Charles Temple; Circuit Court Administrator Sarah Freeman; AOC HR Manager Victoria Prestejohn; Superior Court Clerk Jenn Hagar; NHSC Clerk Tim Gudas; AOC Director Dianne Martin; NHJB Deputy Director of Access and Community Engagement Jackie Watkins; NHJB ADR Coordinator Margaret Huang; and NHJB Communications Manager Avery Harris.

To help guide the committee in these efforts, an advisory board comprised of attorneys and other community leaders was established to actively participate in providing candid feedback. Already, their contributions have proved invaluable. We remain humbled by the axiom, “You don’t know what you don’t know.” The members, who represent a broad spectrum of constituencies critical to the committee’s work, include PFLAG board member Erica Allen, Waypoint President Bora Ahmadi, Toledo, Manchester Police Lieutenant Matthew Barter, Disability Rights Center Communications Director Deodonne Bhattarai, ACLU Attorney Melissa Countway, New Hampshire Brazilian Council Attorney Bruno D’Britto, Overcomers Refugee Services Executive Director Clement Kigugu, Grafton County Attorney Martha Ann Hornick, Department of Justice Attorney Sean Locke, NAACP President James T. McKim, Jr., Attorney Peter Nieves; Delta Dental CEO Kyle Robidas, Public Defender Attorney Kyle Robidas, Attorney Lyndsay Robinson; and NAMI-NH Executive Director Susan Stearns.

New Hampshire now joins with state courts nationwide that have recognized that identifying cultural biases and making changes in the workplace are essential to building trust and confidence in the justice system. The effort has been supported by the National Center for State Courts (NCSC) in Williamsburg, Virginia, the nation’s leading resource for state court policy, planning, and innovation.

The initiative was unveiled last December at the Manchester Community Resource Center, a non-profit organization, which for two decades has provided needed services to low and moderate income residents. The site was selected as a prime opportunity to reach out to the public.

In announcing this, NHSC Chief Justice Gordon MacDonald noted, “We are going into the community to begin a conversation, to listen and to learn. We take this step with humility because we know we have a lot to learn.”

Indeed, community engagement and transparency are crucial to the success of this initiative if we are to realize true reform and lasting change.

The steering committee has a variety of subcommittees to undertake examination and implementation of these goals. Each subcommittee draws upon additional representatives of the NHJB to assist with this work. As you will see, we will be reaching out to the public and members of the Bar to elicit your input. We hope you will share your time and perspectives to help us make necessary improvements to the judicial branch. This is an historic opportunity to make significant, lasting change in the court system. Please join us in this endeavor.

Demographics and Workplace Policies

The Demographics and Workplace Policies Subcommittee is tasked with analyzing existing data sources to understand current NHJB demographics, identifying workplace policies and procedures related to recruitment and retention of personnel, and updating these policies and procedures with evidence-based practices.

In 2022, based upon feedback from staff and judges, members of the subcommittee recommended bi-monthly delayed openings to allow for consistent professional development. In August, during one of these branch-wide professional development mornings, staff and judges received training in the updated Anti-Discrimination and Harassment policy. The NCSC is assisting in the analysis of internal applicant and workplace data to help determine what is currently available beyond the data accessible in the NCSC’s Demographic Report, located on the NHJB website.

On June 30, 2023, the Collective Bargaining Agreement between the NHJB and the New Hampshire Bar Association formally renamed several staff positions to remove “assistant” from the title, partly in recognition of the gender stereotypes
The Legal Focus on Diversity Inside and Outside of Your Organization

By James McKim

As fall begins, diversity efforts seem to be stalling. Laws have passed in 14 states that appear to ban discussions about the protected classes. A Forbes magazine article highlights a LinkedIn poll of over 500 responses wherein 40 percent of respondents felt that the future of DEI is less investment and funding. And the recent Supreme Court of the United States (SCOTUS) decision on Affirmative Action seems to have made many question whether the topic of diversity should be left to die quietly. But is that wise? Or is it even true?

In an era marked by deep divisions and heightened awareness of social justice issues, the legal profession in New Hampshire finds itself at a crucial juncture. Lawyers play a pivotal role in shaping society. As such, it is imperative that they prioritize diversity both within their organizations and in their broader client and community engagements. This article explores the importance of diversity and inclusion within the legal profession in New Hampshire and offers insights on how lawyers can contribute to a more inclusive and equitable society.

The Legal Imperative of Diversity

Diversity is not merely a buzzword. It is a cornerstone of a just and equitable legal system. In New Hampshire, as elsewhere, the legal profession should reflect the rich tapestry of our communities. Diversity encompasses not only racial and ethnic differences but also factors such as gender, sexual orientation, socioeconomic background, and disability status.

Embracing diversity within the legal profession is not just a matter of ethics – it’s a legal imperative. The American Bar Association’s Model Rule 8.4(g) underscores the significance of diversity and inclusion in the legal realm. This rule prohibits lawyers from engaging in conduct that discriminates based on various factors, including race, sex, religion, national origin, and more. This legal mandate underscores the importance of fostering a diverse and inclusive environment within the legal community.

The Organizational Performance Imperative of Diversity

Research done by major consulting firms such as McKenzie, PWC, and Deloitte has shown that diversity – really, diversity, equity, and inclusion (DEI) – is just as important from an organizational performance perspective. And while DEI initiatives may seem to be “on the outs” with organizations, thought leaders such as Adrielle Parker point out that historically DEI initiatives have always been first on the chopping block when resources get tight for organizations. The challenge is learning into DEI in a way that does not at worst run afoul of the law or at least create pushback or condemnation and, in fact, help the organization achieve its goals and objectives.

DEI Within Law Firms

My work with law firms shows that DEI work inside a firm must begin with the goal to create not just a diverse staff, but an inclusive culture. Where lawyers and, just as importantly, staff of all personality dimensions can not only survive but thrive. What might that look like?

- Establishing a dedicated diversity and inclusion committee to develop policies, track diversity metrics, and ensure that recruitment and retention practices that can prioritize diversity and foster an inclusive atmosphere.
- Organizing diversity and inclusion training that not only raises awareness but also provides concrete strategies for addressing and fostering inclusivity for all members of the firm.
- Encouraging senior lawyers to mentor and sponsor junior lawyers from under-representation.
- Ensuring that recruitment practices are inclusive. Consider using diverse hiring panels, implementing blind resume reviews, and exploring outreach to law schools with diverse student populations.
- Establishing affinity groups with colleagues who share similar backgrounds or experiences.
- Regularly reviewing and sharing of DEI work.

By Kirk Simoneau

When I first started writing about working with clients with disabilities, I often spoke about the Golden Rule. You know, treat others as you’d like to be treated. Over time, I realized that rule simply doesn’t work in this context and, let’s be honest, in this age. Whether you believe it first appeared around 2,000 BCE in an Egyptian fable, was created by Confucius in 500 BCE, was Christ’s in the first century, or the bright idea of 17th Century British Anglicans, the Golden Rule is premised on the idea that people are all fundamentally the same. And that’s the problem when it comes to disabilities.

For example, when the Golden Rule was first articulated, there were only three television networks. So, you could safely assume everybody liked M.A.S.H. Today, just 30 years after the passage of the Americans with Disabilities Act in 1993, there are some 200-plus streaming services with enough content for each of us to like something different. Certainly, too much for us to assume everyone likes One Piece.

Coq au Vin For Everyone

I know you think I’m being silly and unlawfuly, but television is actually a great illustration of how little people without out disabilities really know about how people with disabilities want to be treated, and therefore, shouldn’t make assumptions.

The first regularly closed-captioned television show was Julia Child’s The French Chef in 1972. You needed to have a closed caption decoder that cost about, in today’s dollar’s, $1,600. I know my father, a deaf parking lot attendant, would have preferred, if he had the $1,600, to watch the number one show of 1972, All in the Family, instead of learning how to make a Coq au Vin. No one bothered to ask him, a regular Joe with a disability, what he wanted. So, maybe we should retire the Golden Rule. How can any of us know how any person wants to be treated, let alone a person with a disability?

A New Rule

In other words, ditch the Golden Rule for a new rule, let’s call it the Sneaker Rule; “treat others as they’d like to be treated.” My rule leaves out the assumption that you know what a disabled client wants or needs, or more precisely, it stops you from assuming how you’d want to be treated if you had the foggiest idea of what having a particular disability was like.

Some people call that kind of assumptive thinking ableism. I don’t like such terms, but the truth is, you don’t know enough about any person with a disability just from the label of “disabled” – even a specifically named disability; anxiety disorder, blind, and more – to make assumptions. Not all Deaf people are Deaf; some are deaf, and the fact that you probably don’t understand that reference proves the point. A label tells you little. Assumptions tell you less. Questions – and lawyers are supposed to be good at asking questions – provide answers. Answers provide information about a specific person’s specific needs. So, ask how that person would like to be treated. And, yes, the key word is person.

Lawyer’s Rules

My rule also helps satisfy a whole slew of the Rules of Professional Conduct; Rule 1.0 of informed consent, Rule 1.1 of competence, Rule 1.2 allocating authority, Rule 1.4 about client communication, and Rule 1.14 dealing with clients with diminished capacity, to name a few. Imagine you assume your new deaf client uses ASL, so you, thoughtfully, arrange for an American Sign Language interpreter for your intake only to discover that client is latin deaf and prefers CART (real-time typed) interpreting. Or what if your practice is to have client meetings in the afternoon when your new client’s medications’ side effects are most potent? Good luck getting that fee agreement signed or explaining the Rule Against Perpetuities. My rule is also nice and respectful. And we lawyers could use a little nice and respectful added to our public image.

Oh, and if you think this won’t affect
By Peter Nieves

Six years ago, I was approached by a Hispanic woman I previously met at a Latinos on the Move event in New Hampshire. She expressed a desire to obtain legal representation from a Hispanic family law attorney due to a strong belief that a Hispanic attorney would better understand her ethnic and cultural background, as well as the influence it has on decisions regarding her family. When we spoke, she said to me, “I need someone like me.” Her words were filled with emotion and concern. At the time, I did not know a Hispanic family law attorney in New Hampshire. Therefore, I introduced her to an outstanding, non-Hispanic law attorney in New Hampshire. Therefore, I introduced her to an outstanding, non-Hispanic family law attorney; however, she was very uncomfortable with the situation and requested that I sit in on the meeting.

Ethnic and cultural background can have an impact on understanding a client. Attorneys desire to best represent their clients, which not only includes an understanding of the law and its application, but also an understanding of what a client desires and experiences, and then working within the law to obtain a favorable outcome. As an example, sending a grandmother to a retirement home is uncommon in a Hispanic family. She expressed that a Hispanic attorney would better understand her ethnic and cultural background, as well as the influence it has on decisions regarding her family. When we spoke, she said to me, “I need someone like me.” Her words were filled with emotion and concern. At the time, I did not know a Hispanic family law attorney in New Hampshire. Therefore, I introduced her to an outstanding, non-Hispanic law attorney in New Hampshire. Therefore, I introduced her to an outstanding, non-Hispanic family law attorney; however, she was very uncomfortable with the situation and requested that I sit in on the meeting.

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A Path to Progress: The 1L Diversity Internship Program

By Grace Yurish

Now in its third year, the New Hampshire 1L Diversity Internship Program is a collaborative effort between five prominent law firms in the state, all dedicated to advancing diversity, equity, and inclusion (DEI) within the New Hampshire legal community. These firms, Sulloway & Hollis, Sheehan Plaisted, McLane Middleton, Nixon Peabody, and O’Reilly Renno have united their efforts to provide first-year law students who are committed to DEI with enriching programming and internship experiences.

Created in 2021, the internship program is a ten-week paid summer opportunity for first-year law students who will contribute to the DEI efforts of the firms and the New Hampshire legal community. For the last two years, the five firms have each welcomed a student to learn more about practicing law in the Granite State. To oversee this initiative, two committees have been established: the Executive Committee and the Administrative Committee, with at least one representative from every participating firm. Attorney Allyson Moore of Sulloway & Hollis serves as one of the three members on the Executive Committee.

“The goal of the program is to assist with developing an early access to law firm experience for individuals with a commitment to DEI,” Moore says. “Hopefully [it leads] to an increased focus on those issues, not just in law firms in the state of New Hampshire, but the New Hampshire Bar as a whole.”

The summer internship provides students with experience in private practice, professional development opportunities, networking events, resume and cover letter workshops, and mock interview training. One of the most popular events of the summer is a New Hampshire legal panel, with representatives from various areas of legal practice. Jointly hosted with the NHBA, students are exposed to an array of legal career opportunities within the state.

Additionally, members of the judiciary welcomed the participants to meet with them, tour the Supreme Court, and observe proceedings in the Circuit and Superior Courts. During their summer, students also learn about life in New Hampshire, attend community events and local activities, and meet practitioners throughout the state.

Elijah Santos, an internship participant from Roger Williams School of Law, says, “The 1L Diversity Internship allows students to connect with skilled attorneys, handle challenging cases, and explore many practice groups. In short, the program is an unparalleled experience, especially for someone entering law school as a first-generation student.”

Recognizing that New Hampshire is not inherently diverse, the program has actively reached out to more diverse communities to attract applicants and has been successful in this effort. The program has partnered with the University of New Hampshire Franklin Pierce School of Law (UNH Law), which has also made a significant commitment to DEI. But the program has also expanded its reach to students at law schools where New Hampshire employers may not be regularly considered.

“When the program first started, most of our applicants came from UNH Law because we’re right here,” Moore says. “It makes sense for them to want to learn more about the New Hampshire legal community, but now we’ve seen in our second year that we were able to attract a majority of students from outside of the state to come for this internship program. That was exciting for us to see that we’re getting a good, wide base. We have people applying from California to Florida.”

This past summer, four of five participants were from out of state.

“I believe this program is instrumental in the advancement of DEI in the state,” says Andy Almonte, a participant from the University of Maine School of Law. “It provides diverse and underrepresented law students the opportunity to connect and learn from talented and influential practicing attorneys in the state. Intentionally recruiting diverse 1Ls thus builds and benefits the entire legal community. Moreover, by providing these opportunities, you open a pathway to create relationships with diverse communities, which can inspire the next generation of diverse attorneys.”

This opportunity is unique from others, as most students are unable to get paid positions in their first year. Moore explains 1Ls often face a choice between earning money and gaining experience in legal practice, but this internship bridges that gap, allowing students to do both.

INTERNSHIP continued on page X

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It’s different here
Women in the Bar: A Very Brief History

By Judge Susan Carbon

Since 1987, the New Hampshire Bar Association has made tremendous strides toward advancing the progression of women in the profession. While we still have a long way to go before achieving full equity, it is helpful to reflect upon this history to appreciate the present and to chart the future. What follows is a very brief history of women in the legal profession, with apologies to the many whose names will out of necessity be omitted and the milestones achieved that have helped women be where they are today.

Women at common law were property of their husbands and fathers. For example, in 1824, the Mississippi Supreme Court allowed husbands the right to “exercise moderate chastisement” against their wives. In 1871, Alabama was the first state supreme court to repudiate such control when writing: “The wife is not to be considered as the husband’s slave. And the privilege, ancient though it be, to beat her with a stick, to pull her hair, choke her, spit in her face, or kick her about the floor, or to inflict upon her like indignities, is not now acknowledged by our law.” Twelve years later, Maryland became the first state to legislatively ban wife-beating.

With this backdrop, the passage of the 19th Amendment granting women the right to vote changed the landscape. For decades, women had endured beatings, incarceration, force-feedings and the like to secure this fundamental right. Yet it was still decades before Native American and African American women were guaranteed this right. Still, having rights and exercising them are not one and the same, and one cannot overlook the struggles that have continued.

Most are familiar with the United States Supreme Court’s 1873 opinion in Illinois v. Bradwell denying Myra Bradwell admission to the Bar of Illinois holding: “The paramount destiny and mission of woman is to tend the home; to rear children; to cultivate, without exertion of mind, the powers of moral and religious feeling.” Six years later, however, through an act of Congress [the Lockwood Bill], Belva Lockwood became the first woman admitted to the United States Supreme Court. One of her arguments was that she was by then widowed and her children grown. Nonetheless, this marked an early milestone.

Three years later in 1882, our own Marilla Marks Ricker became the first woman admitted to the DC Bar. It was not until 1890, however, that she secured for women eligibility for admission into the New Hampshire Bar. New Hampshire was, by that time, the 23rd state to admit women. Ms. Ricker never practiced in New Hampshire, returning to DC to eventually practice with Attorney Lockwood. It was Agnes Winifred McLaughlin who in 1917 became the first woman admitted to the New Hampshire Bar. This milestone occurred 44 years after the Bar was established in 1873.

By the centennial anniversary of the Bar in 1973, 56 years after Ms. McLaughlin was admitted, only 17 women were members of the Bar, representing a paltry one percent. But, 44 years later, on the 100th anniversary of women in the Bar, women comprised 34.5 percent.

As women have increased in numbers in the Bar, so too have they expanded their representation on the bench. Although the first female judge was appointed in 1935 (Idella Jenness, to the Pittsfield Municipal Court), it was not until 1979 that a female law-trained judge was appointed (Jean Burling, to the Claremont District Court). A year later, Linda Daluis was the first woman to be appointed to the Superior Court. In 2000, she became the first female justice (and later, first female Chief Justice) of the New Hampshire Supreme Court. A decade later, the state celebrated its first female jurist on the federal court when Landya McCafferty was appointed US Magistrate Judge. Today, four of the five federal jurists are women.

The number of women judges in New Hampshire continues to increase. As of October 2023, our federal court is most impressive with women comprising 80 percent of the entire bench. The number of women in state court is a little more nuanced. When looking at active full-time judges, 40 percent of the state bench is comprised of women (19 of 42 in the Circuit Court, seven of 21 in Superior Court, and one of five in the Supreme Court).

The expansion of women in the Circuit Court is illustrative. When considering all Circuit Court judges (which includes those in senior status and part-time judges), 36 percent are women. However, 45 percent of active full-time Circuit Court judges are women, with one more appointment pending.

Progress for sure, but it is important to note that numbers on the Supreme Court are markedly low. Presently, at 20 percent, we are tied for 45th place (with Indiana); only four states have a lower percentage. Add to that, 17 percent of states have 50 percent or more. There is work to be done before we achieve equity on the bench.

The Bar Association undertook its first significant foray into examining gender bias when in 1987, it established the Task Force on Women in the Bar. In its groundbreaking report issued a year later, discrimination in many forms was identified: economics, attitudes, treatment in and out of court, opportunities, and advancement. The Bar has continued to survey its members to track progress in the 35 years since. Some of the findings revealed in the most recent [2017] survey are troubling. Frequently or occasionally outside of court:

- Fifty-seven percent of women have observed or experienced condescending treatment;
- Fifty-four percent have experienced sexist jokes; and
- Fifty-two percent have experienced inappropriate comments on their appearance/apparel.

Perhaps most disconcerting is that 25 percent of women – a full one-quarter – have observed or experienced condescending treatment of female attorneys by judges in court or chambers occasionally or frequently; and 17 percent (nearly one-fifth) of the entire Bar reports this. Mind-numbing.

With the expansion of women on the bench, these statistics may fade into history. Still, the Bar Foundation’s 2022 survey on Diversity and Inclusion found that 78 percent of men, but only 59 percent of women, are satisfied with diversity in the workplace. One response was particularly poignant. “Female lawyers still face sexual harassment regularly, judges still treat us differently, male members exclude us or are openly rude, and our pay rates are lower than males in the exact same position.” This needs to change.

What can be done to promote gender equality within the Bar? What can any individual attorney or judge do to support diversity? These are important questions which beg much deeper analysis. This special supplement in the Bar News is intended to promote thought and discussion, but a few suggestions are offered here:

- When you see or hear sexist or condescending treatment, call it out. Failure to act is nothing short of complicity. (Of course, when and how is also important.)
- Support/mentor women in their careers. As attorneys, ensure they have equal opportunities with men.
- Support work/life balance. Support healthy relationships and mental health. Women ought not have to choose between progression in the profession and family.
- Make sure that all women are included – not just heterosexual white women. We can’t ignore compounded barriers.
- Support women seeking appointments to the bench.
- Speak out about the importance and benefit of having a diverse Bench and Bar.

This is not a zero-sum undertaking. We all are better when we best reflect those we serve.
New Hampshire DEI Milestones Timeline

1849-1865
William Henry Johnson becomes the first African-American to practice law in NH. He was also the first African-American lawyer in the US.*

1890
Marilla M. Ricker (first woman to vote in NH) files Petition of Ricker, wherein the NHSC holds that women may be attorneys. Despite her success, Ricker never becomes a member of the NH Bar.

1917
Agnes Winifred McLaughlin becomes the first woman admitted to the NH Bar.

1920
Jennie Blanche Newhall, the second woman admitted to the NH Bar, becomes the first female law clerk (NH Attorney General’s office). She was also the first woman to be appointed Justice of the Peace in the state.

1935
Idella B. Jenness becomes the first female municipal court judge.

1964
Ivorey Cobb becomes the first African-American jurist.

1977
Nancy O. Dodge becomes the 100th female lawyer admitted to the NH Bar.

1979
Jean K. Burling becomes the first female district court judge.

1980
Linda S. Daianis is nominated by Governor Hugh Gallien to become the first female Superior Court Judge.

1988
The NH Bar Journal publishes the Report of the NHBA Task Force on Women in the Bar as the first gender survey of NHBA’s membership.

1992
Patti Blanchette becomes the first female NHBA president.

1994
The NHBA Gender Equality Committee is created.

1998
The NHBA Women’s Bar Association is formed.

2000
Linda S. Daianis becomes the first female NHSC justice; later becomes the first female Chief Justice in 2010.

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

2005
Richard Uchida becomes the first Asian-American president of the NHBA.

2013
Landya B. McCafferty becomes the first female judge of the US District Court for the District of NH.

2015
Emily Gray Rice becomes the first female US Attorney for the District of NH.

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

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

2023
Talesha Saint-Marc becomes the first African-American female to serve as a federal magistrate judge in NH.

*Little is known about William Henry Johnson. According to BlackPast.org, a website dedicated to providing comprehensive and accurate information relating to the history of African Americans in the United States, Johnson had begun to practice law as early as 1842, but for reasons unknown, he was not sworn in until 1865. He signed the lawyer’s register in 1842 as Wm. Henry Johnson but there is no record of him practicing law until 1859, six years before being sworn in. There is no explanation for the discrepancy. He was first sworn into the Massachusetts Bar but also practiced in New Hampshire.
By Jacqueline Waters

New Hampshire is growing more culturally diverse. Data shows that the foreign-born population in New Hampshire has increased by more than 50 percent from 2000 to 2021, compared to about a 10 percent rise in the US-born population. Approximately 26 percent of foreign-born people in New Hampshire report they speak English less than “very well,”—an increase of 40 percent in the same period.

New Hampshire is gradually reflecting demographics like the rest of the United States, a diverse nation with a rich history of immigration, whose strength has often been attributed to its ability to embrace and integrate people from different backgrounds and cultures.

Integrating cultural diversity into the justice ecosystem enriches the entire community. It improves public trust and confidence that all people, regardless of race, ethnicity, gender orientation, physical ability, or socio-economic factors, will receive due process and equal protection under the law. Diversity broadens perspectives and ideas, resulting in improved problem-solving and better decision-making. Diverse communities strive to understand each other and, by doing so, create a better environment where all may thrive.

Fostering diversity can create linguistic challenges that must be addressed through robust language access programs. Such programs are not only a legal requirement but also a fundamental aspect of avoiding misunderstandings, misinterpretations, and errors in legal proceedings that may result in wrongful convictions or other profound consequences. Providing the means for Limited English Proficiency (LEP) litigants to tell their stories in court is their first language prevents injustices, promotes trust in the legal system, and upholds the principles of equality and due process for all. In other words, language access is fundamental to access to justice for all.

The New Hampshire Judicial Branch Office of Access & Community Engagement (OACE) provides language access services to all who have business before the court. The program offers interpreter services— including American Sign Language—for court proceedings or when LEP litigants request information from clerks’ offices and the Information Center. Staff and judges are trained in the importance of providing language services whenever needed and in the processes, procedures, and policies that provide the framework for language access. Other help provided by the court includes listening devices, Communication Access Real-time Translation (CART) services, “I speak” language cards, Language Line (24/7 phone assistance), and Spanish and Portuguese interpreters in Manchester and Nashua. The NHJBS also employs multilingual staff and provides other resources on the judicial branch website.

Recently, the judicial branch has received requests for Japanese and Burmese interpreters—two languages uncommon to New Hampshire; therefore, few local resources could respond. The search extended to metropolitan areas outside New England, and fortunately, the Judicial Branch met the need. However, the experience revealed the necessity to expand interpreter capabilities to include Video Remote Interpret (VRI). Widely adopted throughout the United States, OACE is pursuing VRI and other language access program improvements. The Office recognizes the increasing needs in the number of requests and unique languages requiring interpreters. Other language access improvement initiatives include expanding the number of translated self-help materials, court signage, improved training, and technology solutions for real-time translation at the clerk’s window. Look for these changes in the near future.

Bar Members Share Their Experiences with Discrimination

Editor’s Note: Members of the New Hampshire Bar were asked to share personal stories in which they experienced or observed discrimination or inequality, with the option to remain anonymous.

Anonymous A

“When I was a young associate, a senior male partner at the large and well-known New Hampshire-based law firm I worked at consistently approached me with inappropriate commentary. Once, he literally cornered me with his arm at the Friday social and told me how he visited his son’s high school and saw all the ‘young ladies’ there wearing thong underwear and couldn’t understand how his son or any of the other boys could concentrate. He then started to interrogate me about my underwear choices and whether I also wore thong underwear.

Another time, he told me about how he was thinking about me in the middle of the night when he couldn’t sleep, and he almost called me because he was hungry, and he felt like having some yogurt (he knew I made my own yogurt). He described how he was standing in his kitchen with only his boxer shorts on. I could go on and on. I made sure to stay clear of him as much as possible.”

Anonymous B

“I was retained in a military law case. Upon learning that I had been retained, the two male JAG attorneys—not New Hampshire attorneys—who were detailed (asigned) counsel on the case went behind my back to my client and told them they were concerned that I was not experienced enough to handle the case. Effectively, they tried to convince my client to stick with their prior plan and terminate my representation. These attorneys never asked me about my experience. They did not ask anyone who knows me about my experience. They made a snap judgment about me and felt it proper to convey it to my client. The reality is, I have significantly more experience than either of the male JAG attorneys in the areas of both litigation and military law. I served in the US Army for eight years, four of them as an active-duty human resources officer. I am very familiar with military regulations, and I also did residency this past spring with a military law attorney whom I worked with on military law cases for almost ten years.

The two detailed counsel male attorneys had been military law for what I estimate to be a total of between six to eight months each. Regardless, the threshold qualifications to serve as a military law attorney are relatively low, maintaining a law license is not even required. It’s administrativelaw is much more than fully qualified. Having spoken to other male attorneys in the field, none of them have ever experienced something like this in their careers, not even in the very beginning. I did not expect to be treated so terribly by counsel who was on the same team as me, and I cannot help but believe the snap judgment about my experience was only due to my gender.

Thankfully, my client opted to keep me on board and terminated the detailed counsel. That’s just the tip of the iceberg. The amount of “mansplaining” that happens with every male officer I speak to in the military is a little infuriating. I did not expect this within the legal community at all.

In another instance, a large and very respected military law firm (not in New Hampshire) recently made me an of-counsel offer. At the time, I was aware their firm was all male. I knew my gender would be a big selling point for them, because there are not a lot of female attorneys in this niche area of law. At some point, however, it became painfully obvious to me that the firm had not even read my bio before making me an offer. They had no clue what experience I had or did not have. I explored the suspicion further in contract negotiations, which verified my concerns.

The firm was interested in obtaining my name, image, and likeness above all. My experience did not matter to them. This is an interesting situation where the outcome would have been favorable due to gender, but the respect was nonexistent. I declined their offer. I do not ever want to be hired for my face or my gender. I want to be offered jobs because I am a great attorney.”
A Reminder of the Diversity Survey Recommendations

By Lyndsay N. Robinson

In June 2021, the New Hampshire Bar Foundation brought together a number of stakeholders to design our state’s first ever, data-driven diversity survey. In February 2022, the results were published.

With the results, Parker Analytics made several recommendations. Specifically, after reviewing the survey results, the recommendations included:

Member Education (CLE) and Outreach

This was anticipated to include marketing and member outreach. It was recommended that the New Hampshire Bar Association (NHBA) website include a diversity and inclusion (D&I) tab to add links to NHBA diversity commitment and statement of goals, separate tab for CLE, curated D&I news feed, D&I-related CLE and bias interruption programs, host events/bar meetings on D&I, and D&I resources and recruitment.

Recruitment

The recommendations focused on educating employers regarding the Mansfield Rule and other industry D&I initiatives; provide recruiting best practices guidelines; and publish an annual NHBA minority recruiting calendar. The results further recommended taking pipeline initiatives to include launching mentoring programs with New Hampshire high schools and HBCU (Historically Black Colleges & Universities) institutions. Additionally, the recommendations included responsibility to educate corporations regarding ABA Resolution 113 and offer an annual NHBA diversity scorecard to corporate clients to benchmark and advance diversity on outside legal systems.

Court System

Another area for opportunity is within our judicial system. The survey recommended expanding opportunities for the judiciary to interact with Bar members, including diverse members at Bar Association events; implement Supreme Court mentoring partnerships for existing and newly admitted diverse lawyers; collaborate with the University of New Hampshire Franklin Pierce School of Law to engage their increasing enrollment of diverse students; training for all court personnel with respect to implicit bias and multiculturalism; and establishing formal reporting and recourse processes for those who witness or experience disparate treatment.

I share this with you all as a reminder. Our state Bar engaged in a survey and provided thoughtful and important feedback. Based on all our collective input, the survey results yielded several recommendations on how we can better meet the needs of all present and future members of our Bar. While we have taken several steps to work on these recommendations, we still have a long way to go.

It is incumbent upon all of us – individual attorneys, law firms, the Board of Governors of the Bar Association, and the Bar Foundation – to actively undertake implementation of these recommendations. Some of these are relatively “easy” to accomplish. Others will require more significant effort and coordination with collateral D&I initiatives across the state.

We cannot afford to let these important recommendations languish on a shelf.

Lyndsay Robinson is an attorney with Shaheen & Gordon, P.A. She is the former chair of the New Hampshire Bar Association’s Gender Equality Committee and the current ABA Young Lawyers Delegate.

Learn more at McLane.com/Mansfield

A central part of McLane Middleton’s statement of core values is our commitment to diversity, equity & inclusion. It’s what we believe in.

As part of that commitment, we are proud to announce we have achieved certification under the Mansfield Rule; a national initiative aimed at closing the diversity gap in the legal profession.

Learn more at McLane.com/Mansfield
By Margaret Huang

This year, I was on the phone with a gentleman who called the courts to ask for pre-filing mediation through our Eviction Diversion program. He spoke fluent English but was giving minimal responses to the standard legal questions I was asking him. In the middle of my list of questions, he interrupted me and asked me if I spoke Mandarin. I cautiously responded that I did, but qualified that my Mandarin was much worse than his English. Despite this caution, as soon as he heard that I spoke Mandarin, he lowered his guard and eagerly shared his story with me. This is a story about inclusion.

To achieve equal justice under the law, we must be aware of how important it is for people with the intellectual and physical disabilities to be included in our court systems and lives who are reflected in the people who are a part of the system. When the gentleman I spoke to learned that I was Chinese, he stopped speaking to a system and started speaking to a person. I was certainly better able to assist, but I was also able to give him a greater sense of being heard – a greater sense that the court system cares about him as an individual, not just as a metric or a case number.

Alternative Dispute Resolution (ADR) refers to a variety of processes (such as mediation and arbitration) that help people settle legal conflicts, often in a manner more collaborative and less costly than litigation. The New Hampshire Judicial Branch offers litigants access to ADR services in many case types in our court system.

Defining “diversity” itself is a challenge; “diversity” is a broad term that encompasses the struggles of many different marginalized communities, all of whom face different challenges, have different needs, and may have different goals. Thus, to be effective in creating more diverse, inclusive, and equitable ADR programs, we have to make a concerted effort to design initiatives that address the needs of each community, as well as examine all aspects of ADR administration. Knowing what others are doing and what projects are successful can improve ADR and legal professionals’ work toward greater inclusivity.

On May 19, 2023, Cardozo Law Mediation Clinic Director Robyn Weinstein and I presented our findings on DEI initiatives in ADR from across the country at the American Bar Association’s Dispute Resolution Conference. Knowledge of DEI initiatives in ADR are scattered and not easily accessible. Thus, our mission in surveying the country’s DEI initiatives in ADR was to find, compile, sort, and present the initiatives we found in hopes of inspiring others to start their own DEI ADR initiative. We divided our findings into three categories: one, initiatives to increase the diversity of mediator rosters, which included scholarships, mentorships, and fellowship programs, and recruiting diverse neutrals; two, initiatives that increased community engagement; and three, initiatives that promoted inclusive and diverse policies and practices.

Through our research, we found that a significant number of ADR organizations offered scholarships for people to attend mediation training. We found that the most successful organizations recruited diverse neutrals through direct, repeated personal connections with local communities and individuals who identified as diverse. We found that most state and local organizations had offered or required some form of DEI training to mediators in recent years. Topics ranged from implicit bias to mental illness in dispute resolution.

At the start of the project, I was paralyzed by the immensity of the work that is improving DEI in ADR. Though cataloging current projects is only the beginning, the work of my colleagues across the country inspired me to take the next step.

The Office of Mediation and Arbitration in the judicial branch is launching the bilingual/multilingual certified family mediator scholarship. The scholarship will provide bilingual/multilingual candidates who are interested in becoming certified family mediators funding to achieve their goals. The monetary investment to becoming a certified family mediator can be a barrier to some. (2) Recruiting people to the field (3) considering how neutrals are selected for a case (4) training neutrals and continuing to ensure quality. Program administration refers to the rules, practices, and policies of each program, such as how the program is accessed, what data is collected, the cost of the service, the forum in which the service takes place, and who the decision maker is. And workplace policies include the ability to administer the program, the culture of how neutrals and staff interact, and internal policies that affect the administration of the program.

This program shows that firms are taking diversity seriously,” says participant Soultana Tufts from the University of Maine School of Law. “Participating in the Diversity Program demonstrates firms are actively pursuing diverse candidates for internships and possible job offers. The program isn’t just a statement on a firm’s website saying, ‘we support a diverse legal community.’ It is putting actions to those words, and we all know actions speak louder than words.”

Tufts continues: “In a predominantly white state like New Hampshire, it is imperative to foster a legal community that values diversity and is committed to bringing in a diverse class of future legal professionals. Drawing diverse talent to New Hampshire and hopefully giving them a good experience to keep them here is a step in the right direction.”

Endnotes

1. New Hampshire Judicial Branch, Media

2. Marvin E. Johnson and Maria Volpe, Roots of Diversity in the Alternative Dispute Resolution Field: Some Preliminary Observations, ACR Resolution

3. Race, ethnicity, gender identity, age, dis

4. Kirk Simoneau is a lawyer with a disabilit

5. “This program shows that firms are taking diversity seriously.” – Soultana Tufts

DEI in Alternative Dispute Resolution

Disabilities from page II

your practice, you’re wrong. According to the University of New Hampshire’s Institute on Disability, 12.6 percent of New Hampshire’s population identify as having a disability. At some point, you are bound to have a client with a disability. And there are opportunities galore if you want to gain more courtroom experience. I learned yesterday that some 3,910 cases related to mental health disabilities and incapacity go through our courts annually and you can get involved in the Circuit Court, and paid to work on those cases. And, yes, the key word is paid. Reach out to Kate Geraci at kgeraci@courts.state.nh.us, if you want to learn more about that.

Food (But Not Coq au Vin)

For Thought

So, what do you do if you have a client with a disability? The process is simple: 1. Ask, don’t assume, if they need an accommodation; and 2. Ask what accommodation they’d prefer and try your best to provide it.

If you have to pay for an accommodation, you cannot pass that cost to the client. Sections 44 and 190 of the Tax Code allow for tax credits of up to $10,250 for small businesses and a $15,000 deduction for all businesses to assist ADA compliance. Use those tax breaks because if you bill your client for the ramp, the interpreter, or any accommodation, they call me, and I sue you. You’d be surprised how often I must remind my friends in the Bar that they can’t bill disabled clients for accommodations.

If you expected a list of accommodations or helpful tips based on different types of disabilities, then you’ve missed my point. What I want you to do if you have a client with a disability is to maintain some fluidity and flexibility in your thinking. I want you to be nice. I want you not to make assumptions or use stereotypes. I want you to talk to and treat others as they’d like to be treated, not as you want to be treated. ■

Kirk Simoneau is a lawyer with a disability, the red sneakerers, and prematurely disabled parents. He is also vice chair of the Board of the Disability Rights Center -NH, a “Best Lawyer” for civil rights, and a “Super Lawyer” for personal injury, who has created a successful niche practice focusing on clients with disabilities. Emails of praise can be sent to kirk@redsneakerlaw.com. Less polite emails can be sent to Congress.

Internship from page V

While the program has not yet had the chance to assess its long-term impact, as all past participants are still in law school, it anticipates gaining a better understanding of the results once these students graduate. However, the program has already determined that there has been a significant increase in students’ consideration of practicing in the state because of their internship experiences.

“I was able to see the true collegiality and benefits that come from practicing in New Hampshire, and it made me excited to do so upon graduation,” says Julia Burke, a participant from UNH Law.

In the coming years, the program aims to establish an alumni network where all participants can continue to expand their professional connections as they enter the legal community, while also offering additional mentoring opportunities. The program also hopes to attract more firms to participate, thereby providing an even greater number of future lawyers with the opportunity to gain valuable experience in the Granite State. “This program shows that firms are taking diversity seriously,” says participant Soultana Tufts from the University of Maine School of Law. “Participating in the Diversity Program demonstrates firms are actively pursuing diverse candidates for internships and possible job offers. The program isn’t just a statement on a firm’s website saying, ‘we support a diverse legal community.’ It is putting actions to those words, and we all know actions speak louder than words.”

Tufts continues: “In a predominantly white state like New Hampshire, it is imperative to foster a legal community that values diversity and is committed to bringing in a diverse class of future legal professionals. Drawing diverse talent to New Hampshire and hopefully giving them a good experience to keep them here is a step in the right direction.”

Margaret Huang is the Alternative Dispute Resolution Coordinator for the New Hampshire Judicial Branch.
DEI: A Journey Without a Finish Line

By Tom Raffio

I am proud to share the gains that Northeast Delta Dental has made toward Diversity, Equity, and Inclusion (DEI), and the most important advice I can share about DEI is that it is a race without a finish line. It is a continuous work in progress, spread across many company initiatives and departments.

As a nonprofit company dedicated to improving the health, wellness, and quality of life across communities in Maine, New Hampshire, and Vermont, we realized we had to gain a better understanding of racially oriented inequity in oral health within ourselves and our business. This requires developing partnerships with community stakeholders in the BIPOC (Black, Indigenous, People of Color) community and creating sustainable initiatives that address, in some part, the drivers behind racially oriented oral health inequity.

To carry out these initiatives, we established the Social Justice Committee. Additionally, realizing the importance of these endeavors, we founded a Tri-State Board DEI Committee so that our board could help support and facilitate the work of the Social Justice Committee. Both committees monitor opportunities to support communities through the Northeast Delta Dental Foundation and corporate giving programs.

As a result, we have launched programs like the Justice and Equity Dental Initiative (JEDI) Age One Dental Visit. JEDI addresses the great disparities and lack of equity experienced in culturally diverse communities in access to oral health care and helps break down these barriers by providing early childhood preventive care.

We also support established programs such as Building Community in New Hampshire, created to help reduce childhood obesity among Congolese families by improving diet and physical activities, and the Vermont Health Equity Initiative, a program that addresses dental health disparities in the BIPOC communities in Vermont.

I truly believe that DEI is one of those initiatives that is a journey without a finish line. Whether it’s aiding the uninsured with our grants that give them access to oral health care. Whether it’s aiding the uninsured with our grants that give them access to oral health care.

As a nonprofit company dedicated to improving the health, wellness, and quality of life for our customers and the general public is an ideal platform for DEI. It encompasses our commitment to serve underrepresented populations. This year:

- On April 1, after working with other advocates from across New Hampshire for the last 25 years urging our government to adopt the legislation, New Hampshire passed a law extending dental benefits to Medicaid recipients.
- In 2022 Northeast Delta Dental provided over $200,000 in dental treatments to 92 New Hampshire veterans who can’t access care through Veterans Affairs.
- Our Foundation and corporate giving programs assisted many populations facing economic hardship, including the Families of New Hampshire Drug Courts. A grant we awarded provides free dental care for program participants.
- We help address the shortage of dentists in northern New England areas and those serving the Medicaid population by providing scholarships and loan repayment programs to encourage dental students to practice in rural and underserved areas.
- We are recognized for leading efforts to advocate for high-quality, accessible mental health care.

- We partner with many organizations every year that support and celebrate BIPOC and LGBTQ communities.

Looking inward, we continue to provide training on a variety of topics that address DEI directly and indirectly, including:

- New Hampshire Businesses for Social Responsibility DEI Workplace Innovation Challenge
- Civility Workshop
- Generational Diversity
- Bystander Workshop
- The Psychological Impact of Racial Trauma and how it Manifests at Work

Although we are proud of our low turnover rate, averaging close to 12 years, this incredible wealth of experience, combined with the demographics of the New Hampshire area, presents challenges for recruiting diverse candidates.

Currently, our employee demographic is composed of 68 percent female, 32 percent male and eight percent BIPOC. Although this composition exceeds the state demographics, it still needs work and we are actively recruiting through organizations and events that serve the BIPOC population, including NAACP, Diversity Connect, Employee Diversity, Diversity Workforce Coalition, and the Diversity Hiring Coalition.

Our efforts in board recruiting have been more successful. Currently 17 percent of our New Hampshire board members are from the BIPOC population. However, we continue to strive for an even more diverse board. In addition, we have strong gender equity with 55 percent of our board members being female.

Our DEI efforts are part of a never-ending journey to provide equal access to health and wellness for all. I am inspired and encouraged by the extraordinary commitment of my colleagues and fellow community partners to practice inclusivity and cultivate a more empathetic workplace and society.

Tom Raffio is the president and CEO of Northeast Delta Dental and sits on the Advisory Board to the New Hampshire Supreme Court’s Steering Committee on Diversity and Inclusion.
associated with the word.

Training and Pipeline Diversity

This subcommittee has completed three training sessions with the Mars Hill Group and reached most of the members of the judicial branch with an introduction to language and ideas relating to diversity and inclusion and cultural competency. Survey results from these trainings are consistently positive, and we estimate that 630 people participated in these trainings (70 in-person clerks/administrators; 60 in-person judicial officers; and about 500 NHJBP employees in a remote session).

We participated in several events for the New Hampshire 1L Diversity Internship Program including the Meet the Judiciary event on July 18, 2023, at the New Hampshire Supreme Court. Students in this program also visited Hillsborough County Superior Court and the Circuit Court in Laconia to observe Judge Dilk’s and Judge Countway’s dockets. Judges also spent an evening on a boat cruise onboard the Thomas Leighton with this group of students.

We launched a standardized application for law student interns and are one of the first states to participate in a nation-wide initiative to reduce barriers for law students and broaden the pool of applicants to work in the New Hampshire court system. We have had a record number of applicants to this year’s program, which is in line with of government for summer internships and externships during the school year. We have also provided an above-average number of internships and externship opportunities in the NHJBP.

The Superior Court Law Clerk Committee has solicited applications from a broad range of law schools along the East Coast to the mid-Atlantic states. The committee has also engaged in in-person outreach to area law schools, including an event co-sponsored by the Diversity Coalition and Career Services Office at UNH Franklin Pierce School of Law to generate interest from a diverse applicant pool for clerkships.

Data Collection

The Data Collection Subcommittee is charged with executing the strategic plan’s objective to identify any disparities and disproportionalities within the court system by using empirical data to uncover potential systemic racism, disparate impact, unfair and exclusionary practices, and other barriers to equal and fair justice for all. The subcommittee is partnering with data experts from the NCSC pursuant to a grant from the State Justice Institute. The NCSC and the subcommittee have established three principal stages for this work.

In the first stage of the committee is analyzing existing court data in selected case types, including domestic violence, civil stalking, abuse/neglect, and juvenile delinquency, and supplementing it with census data to identify any disparities or disproportionalities in case processes or case outcomes based on race, ethnicity, gender/sex, age, or socioeconomic status.

In the second stage, the subcommittee will extend that work to criminal cases.

The third stage, which will run concurrently with the first two, focuses on developing additional, more reliable, and more expansive data-collection capabilities across a full range of case types (such as small claims, landlord-tenant, guardianship, and parental matters) and across a broader set of demographic criteria (such as national origin, sexual orientation, English language proficiency, and self-represented status). An upcoming NCSC-developed survey of our external stakeholders will provide additional data to assess perceptions of fairness and inclusivity.

Qualitative Analysis

This subcommittee partnered with the NCSC to survey the NHJB as a whole regarding the subject matters identified in our strategic plan. With thanks to the NCSC, we are working through the survey results of 585 individual respondents representing the majority of our branch’s workforce ranging from entry-level staff members to senior judges. We are working presently to understand the data we collected and to make recommendations to the Steering Committee regarding areas where our data inform our objectives as outlined in the strategic plan. The large data set we now have is both statistical and anecdotal in form and will require a significant amount of additional work to fully internalize and understand for further action. Those efforts are underway and will be ongoing for some time.

In addition, we are working to design our external survey for the members of the public we serve. The NCSC is also assisting us with designing the external survey and we have sample templates used by other jurisdictions engaged in similar work to guide us. We plan to contact stakeholders in the near term to discuss best practices to maximize participation in the external survey and to encourage the same. Finally, members of our subcommittee are traveling to more remote locations in New Hampshire as part of our ongoing public outreach in an effort to better understand the data and to make recommendations guided by it. The internal and external surveys are the twin pillars of our subcommittee’s work, and we look forward to the ability to view these issues both internally and externally with the excellent data the NCSC helps us to collect and internalize for further action.

Conclusion

In this time of division and social change, the legal profession in New Hampshire has a unique and critical role to play in promoting diversity and inclusion. Lawyers have a moral and legal obligation to create diverse and inclusive environments within their organizations and to work toward a more equitable society outside of them.

Embracing diversity is not just a matter of ticking boxes or complying with regulations. It is about recognizing the inherent value of different perspectives and experiences, and how these differences enrich the legal profession and society as a whole. By actively fostering diversity and inclusion, lawyers can contribute to a fairer and more just New Hampshire.

Lawyers’ actions have a ripple effect. By championing diversity and inclusion, the legal profession can not only uphold the principles of justice but also inspire positive change in our communities. In doing so, it can help bridge the divisions that persist in our society and work toward a brighter, more inclusive future for all.

James McKim is the Founder/Managing Partner at Organizational Ignition and President of the Manchester NAACP.

Diversity from page III

compensation structures ensure they are fair and free from disparities that may hinder attrition or the firm’s ability to hire talent.

• Offering pro bono legal services to individuals and organizations that are dedicated to promoting diversity and inclusion. For example, help the NAACP address discrimination reports that do not rise to the level of requiring legal counsel.

• Acting as mentors to aspiring lawyers from underrepresented backgrounds. Advocating for policies and legislation that promote diversity and inclusion. For example, speak up against municipal rules or state legislation that limits the rights of the protected classes. Support the work of the New Hampshire Justice Bureau’s Diversity & Inclusion Committee.

• Engaging in educational outreach programs or offer workshops, seminars, or presentations at schools, colleges, and community centers to raise awareness about diversity, equity, and inclusion. For example, join and actively participate in diversity and inclusion committees within the New Hampshire Bar Association.

• Assisting with a plan to generate a positive DEI return on investment.

Communications

Earlier this year, the D&I Subcommittee organized and hosted community engagement sessions with PFLAG and NAMI-NH. PFLAG is an organization that provides support, education, and advocacy for LGBTQ+ people (see pflag.org/about-us). NAMI-NH is an organization that provides support, education, and advocacy for people affected by mental illness and suicide (see naminh.org/about).

Participants at these sessions provided examples of positive and negative court experiences, as well as thoughtful recommendations on how court experiences could be improved. Because we want to respect the heartfelt and vulnerable stories that people shared with us at these sessions, we will be anonymizing and aggregating the information collected throughout our community engagement sessions into a report before distribution. Thank you to those who participated.

We are planning for the third community engagement session to be held in Berlin. Starting in 2024, we plan to host community engagement sessions in other towns across the state. We encourage you all to attend these sessions and share your court experiences and recommendations with us. Through your voices, we will be able to build a court system that embodies “equal justice under law.”

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(603) 540-2988