



## New Hampshire's Only Law School Celebrates 50 Years

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 50<sup>th</sup> 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 50<sup>th</sup> 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 the judges speaking at the gala. I think we struck a great balance."

More than 200 people attended opening night on Friday at the Capitol Center for the Arts' Bank of New Hampshire Stage in Concord. The sold-out event began with a cocktail party, followed by speakers Musinsky, Dean Car-

penter, and UNH President James Dean, and concluded with a screening of a celebratory film chronicling the history of the law school.

The 22-minute film opened with a shot of the Loch Ness monster – more on that later – then delved into the formation of the school and moved through its rich 50-year history, ending with a segment on its goals for the future.

The film also highlighted the school's many accomplishments and accolades, including the establishment of its acclaimed programs like the world-renowned 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.

"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

LAW SCHOOL continued on page 18

## Revered Supreme Court Justice Gary Hicks to Retire on November 30

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.

"The name of the store 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 Garrell.

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.



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

"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.

HICKS continued on page 20

## NHBA Prison Series: The Rules of Engagement and Attraction

By Scott Merrill

Upon entering the New Hampshire State Prison (NHSP) system, inmates are provided a copy of the *Manual for The Guidance of Inmates* – a 74-page document resembling a company handbook that outlines the rules for living in and moving through the spaces of the state's prisons.

The book is known by prisoners as the "Big Blue Bible."

The document outlines the intake process and includes a rules section on sexual assault, solicitation, and coercion, forbidding all sexual contact with other inmates, Department of Corrections (DOC) staff, or volunteers. There is also a long list of other offenses – including the acceptance of anything of value from anyone without

permission from the warden – that can lead to a variety of disciplinary options by the State.

The 2011 manual begins with an introductory statement from the DOC commissioner reminding prisoners to maintain a "positive attitude" and "conduct themselves appropriately" while in custody and that "appropriate recognition and rewards will come to those who become involved in 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

### IN EVERY ISSUE

NHBA News .....	2-24	Practice Area Section .....	25-34
Bar Foundation .....	10	NH Court News .....	35-38
NHBA•CLE .....	21-23	Classifieds .....	38-43

Periodical Postage paid at Concord, NH 03301

### INSIDE

<b>Practitioner Profile.</b> Michael Shklar. <b>PAGE 3</b>	<b>DEI Supplement Inside</b>
<b>Circle Program.</b> Celebrating 30 years. <b>PAGE 5</b>	
<b>Windhill Design.</b> New Member Benefit. <b>PAGE 6</b>	
<b>New NHBA Committee on Wellness.</b> <b>PAGE 7</b>	
<b>From the Law School.</b> Navigating law school as a parent. <b>PAGE 8</b>	

<b>NextGen Bar Exam.</b> Building on Strengths. <b>PAGE 9</b>
<b>Information Technology.</b> AI and ChatGPT. <b>PAGE 14</b>
<b>Corporate Transparency Act.</b> New E-book. <b>PAGE 16</b>
<b>Alternative Dispute Resolution</b>
Articles with important information and updates regarding each area of law. <b>PAGES 25-34</b>

# 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 (NMCLE) 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 NMCLE.

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 NMCLE 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 NMCLE fund had over \$350,000 in assets at one time last year. A substantial part of that balance was utilized to support the needs of the New Hampshire Lawyer's Assistance Program and the NHBA's Professionalism Day. Those assets resulted from fines because lawyers weren't doing their jobs with the renewal effectively.

## President's Perspective



**By Paul W. Chant**  
Cooper Cargill Chant  
North Conway, NH

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](mailto: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 that 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 [pchant@coopercargillchant.com](mailto:pchant@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](https://soundcloud.com/thebardiscourse) and will soon be added to the Bar website. Check them out! ■

## NHBA Welcomes New Member Records Coordinator

The New Hampshire Bar Association is excited to welcome Brian Chicoine as the new Member Records Coordinator. In his new role, he will be responsible for maintaining up-to-date and accurate member records, handling member inquiries regarding status changes, dues waivers, letters of good standing, and more.

Chicoine holds a bachelor's degree in labor studies from Rhode Island College, as well as a master's degree in public administration from Grand Can-



yon University.

Prior to joining the NHBA, he spent the last two years working as a maintenance coordinator for a local property management company. Before that, he worked for organizations such as Catholic Medical

Center, Boston Children's Hospital, Health

Dialog, and EmCare. At these organizations, he was responsible for clinical unit logistics, office and health campaign management, and administrative operations.

"After serving in the healthcare sector for most of my career, I am very excited to be once again serving in the legal sector," Chicoine says. "I will be utilizing skills learned throughout my career to serve the attorneys of our great state through the NHBA." ■

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

EDITOR  
Tom Jarvis  
(603) 715-3212  
[tjarvis@nhbar.org](mailto:tjarvis@nhbar.org)

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

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

BAR PRESIDENT  
Paul W. Chant, Esq.  
[pchant@coopercargillchant.com](mailto:pchant@coopercargillchant.com)

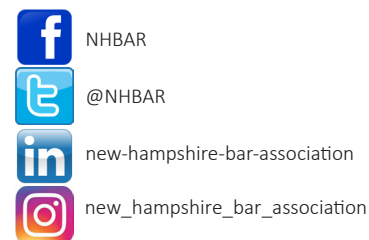
EXECUTIVE DIRECTOR  
George R. Moore, Esq.  
[gmoore@nhbar.org](mailto:gmoore@nhbar.org)

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

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

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

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



Content in the *New Hampshire Bar News*, including articles, opinions expressed in letters or commentaries, as well as advertisements, do not necessarily reflect the policies or viewpoints of the New Hampshire Bar Association, the Board of Governors, the NHBA Editorial Advisory Board, or the NHBA Staff.



Local Expertise, National Reputation...

**Shannon Bader, Ph.D., ABPP**

[drbader@slforensic.com](mailto:drbader@slforensic.com) [www.slforensic.com](http://www.slforensic.com)

-Former Chief, NH Office of the Forensic Examiner

-President, American Academy of Forensic Psychology

**Expert Psychological Evaluations for Criminal and Civil Cases**

**NANCY M. CAVALIERI**  
CFE CERTIFIED FRAUD EXAMINER

- Fraud Detection
- Fraud Prevention
- Fraud Investigation
- Litigation Support
- Evidence Driven

ADDITIONAL SERVICES  
*Elder and Probate Accounting*

(603) 986-3836 [nancymcavalieri.cfe@gmail.com](mailto:nancymcavalieri.cfe@gmail.com)

## 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 starchy 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 Minne-



Michael Shklar in Civil War regalia. Courtesy Photo

sota with a degree in history before earning his juris doctor at Case Western Reserve University School of Law in Ohio. He met his wife, attorney Carol Stamatakis, while in law school and upon graduation the two found jobs in western New Hampshire.

Shklar worked for one Newport firm before teaming up with Elliott and Jasper, went solo for 11 years, then rejoined his former colleagues at Elliott, Jasper, Shklar, Ranson & Beaulac.

Recognized as a child welfare law specialist by the New Hampshire Supreme Court, he works in juvenile law, state and federal criminal defense, and general civil practice, frequently representing people who have been involuntarily committed to the state mental health hospital.

"Mentally ill people are the ultimate outcasts of our society," Shklar says. "Continuing to serve those being admitted to the New Hampshire Hospital in person during the height of the epidemic is something I am really proud of. While I joke a bit that it meant that I was either brave, committed, stupid, or all of the above, in my heart I know it was about commitment to those in great need, which really is what I've done and cared about in various ways for the last 38 years."

Keene attorney Jonathan R. Evans has known Shklar for decades and also handles court-appointed cases relating to

child welfare.

"[Shklar] introduced me to the work that I do at the New Hampshire Hospital representing mentally ill folks who are being involuntarily admitted to that facility," Evans says. "Michael is smart, well-spoken, witty, and a pleasure to be around."

That opinion is shared by attorney Lisa J. Bellanti of the Casassa Law Office in Hampton, who represents some of the mental health agencies for the state of New Hampshire and is consequently on the opposite side of cases from Shklar.

"Michael is a consummate professional and formidable opponent who treats his client with respect," she says. "He is a Civil War historian and is always good for a great history fact or just a fun story."

One of Shklar's memorable cases is 2012's *In re C.M.*, where he co-counseled with Elliott Berry of New Hampshire Legal Assistance, arguing that indigent parents accused of abuse or neglect have a right to counsel. Though the ruling was mixed, it was seen by most as a victory for his side.

But he is also proud of less high-profile cases, especially involving sentencing advocacy.

"They're all the small cases, the little wins," he explains. "Whether it's a mental health case where someone is released from the hospital because they shouldn't have been there, or parents who were ac-

cused, it's those little victories that you remember."

His interest in the Civil War dates back to when he was in the fifth or sixth grade and his parents bought a set of coffee-table-type books from the American Heritage Book Publishing Company, including one on the Civil War, complete with colored pictures and many maps. When the young Shklar expressed interest, other books followed. Soon, he was hooked on history.

The interest was limited primarily to books until about 10 years ago, after his two children had grown and moved out of the house, and he decided to do "something for me." He joined the Sons of Union Veterans of the Civil War, despite having had no relatives who fought in that conflict, and now joins them in about 10 appearances a year.

Abraham Lincoln remains a hero to him.

"Lincoln was born into a level of poverty that we would think of today as Third World," Shklar says. "His father was a nasty drunk. Obviously very bright, he tried his hand at a few things and decides the law is his answer, reads the law, and becomes a small-time lawyer and a minor-league politician."

But that politician delivered "two of the greatest speeches in American political history," Shklar adds. "He mystified his own contemporaries."

Longtime friend Gary A. Ward met Shklar through the Freemasons, to which both belong, and shares his interest in the Civil War. The two often travel, dine, and attend living history events together, and Ward admires his friend for his professional commitment.

"I think Michael would have been a success with whatever occupation he chose to enter but chose to enter the legal profession so he could help people and make a difference," Ward says.

Shklar is also a proud cook, who claims to have made dinner for his wife almost every night for 38 years, as well as a book collector and cat lover.

He has served as a Governor of the New Hampshire Bar Association and has received several awards for *pro bono* service. He serves as counsel for the town of Lempster, where he lives, and has been elected as town moderator for many years. He also does work for Turning Points Network, an anti-domestic violence advocacy group in Sullivan County.

"The Civil War is my eccentricity," he says. ■



Michael Shklar in his office. Courtesy Photo

### THE STANHOPE GROUP, LLC Appraisers & Consultants



For over 40 years, New England lawyers have chosen the Stanhope Group, led by Peter Stanhope, for its reputation, results and expertise. The firm's staff has the experience to assist in the court room, in mediation or in developing rebuttal testimony in litigation, taxation, and zoning matters.

- Single & multifamily residences
- Commercial or industrial buildings
- Single lots and large land parcels

Fee and time frame inquiries welcomed.

500 Market St. Unit 1C, Portsmouth, NH 03801  
11 N Mast Street, Goffstown, NH 03045  
(603) 431-4141 or (800) 255-1452

Email: [administration@stanhopegroup.com](mailto:administration@stanhopegroup.com) Web: [Stanhopegroup.com](http://Stanhopegroup.com)

Donald H. Sienkiewicz, Esq.  
CERTIFIED FINANCIAL PLANNER™  
Independent Trustee  
Investment Management

[www.AdvocatesFinancial.com](http://www.AdvocatesFinancial.com) ▲ (603) 554-8464

# 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



Alfano

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 & Bollinger says. "I have received many quality referrals, particularly over the past year. The cost of membership is modest and well worth the investment."



Black

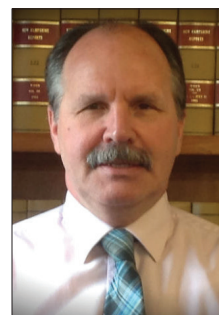
Attorney Chris Seufert of Seufert Law has used a variety of referral services over his many years of practice and believes the LRS program to be the most cost-effective way to generate new business for his practice.

"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, we 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](mailto:mgriffith@nhbar.org). ■



Seufert

## 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 accomplishments of the groups it funds – New Hampshire Legal Assistance and 603

Legal Aid. Being retired, I actually had the time to read it.

The annual report provides statistics on the number of people helped and the yawning gap between the need for legal services and the resources to meet that

need. The report spotlights several stories of everyday New Hampshire residents ensnared in the civil legal system – disabled people denied Medicaid benefits, a divorced woman saddled with a daunting income tax debt due to the machinations of her ex-husband, and a disabled veteran facing foreclosure on his home after an economic reversal. Each of the stories had a successful outcome. (If only all the cases ended that way.)

From my years working at the New Hampshire Bar Association, I recognized some familiar faces and names. People like Roger Phillips, past NHBA President Pat Hayes, Rory Parnell, Quentin Blaine, Allison Ambrose, and James Shepard, to name a few, are everyday heroes of the New Hampshire Bar. They are among hundreds of New Hampshire attorneys who every year, take challenging *pro bono* cases where the outcomes – not high in dollars – are crucial to the clients.

Also featured was retired Judge Ned Gordon, who returned to the legislature and helped shepherd legislation to enable paraprofessionals to assist clients in court for critical legal matters.

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 mazes 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 aren't on the "honor rolls" but the dedicated efforts of non-lawyer staff I knew such as Janice Rabchenuk, and the recently retired Pam Dodge and Carolann Wooding, are essential to the cause.

I will donate to the Campaign again so 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.

Dan Wise  
Retired NHBA Communications Director

**MCC IP**  
MAINE CERNOTA & CURRAN

*Your clients' ideas are their future. Are they doing enough to protect it?*

*If not, we can help!*

*With 30 years experience, we offer you large firm expertise with a small firm touch.*

547 Amherst Street, 3<sup>rd</sup> flr • Nashua, NH 03063-4000  
Office: 603.886.6100 • [www.mcc-ip.com](http://www.mcc-ip.com) • [info@mcc-ip.com](mailto:info@mcc-ip.com)

**Maine Case?**

Refer your clients with confidence to Maine's most respected plaintiffs' law firm. Your client's success is our shared goal.

**WE MAKE THE DIFFERENCE**

Together, let's win.

800.244.3576  
[bermansimmons.com](http://bermansimmons.com)

**BERMAN & SIMMONS**  
TRIAL ATTORNEYS

# 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 30<sup>th</sup> anniversary this year.

United States Magistrate Judge Talesha 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."



Second-year Circle mentor Eliza Williams-Boswell (right) with her mentee. Courtesy Photo

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, and 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 all express that mental health is a significant concern among young girls today.

"A lot of young people are dealing with really serious mental health challenges," says Judge Saint-Marc. "Schools are struggling with how to address those chal-



Circle girls in the Teen Adventure Program getting ready for a fun day on the river. Courtesy Photo

lenges, I think parents are struggling with how to address those challenges, and society is struggling with how to address those challenges. I don't know that there's necessarily an answer on how to solve those issues, but I think programs like Circle, the Mayhew Program, the Boys and Girls Club, and Big Sister Little Sister can span the gap and support these kids in a way that really helps."

To address mental health challenges, Dever and the Circle staff provide girls with resources during camp. Telehealth therapy is available for those who need it, and a social worker is present on the property daily. The program is also looking to have a psychologist on-site in the future. All mentors and summer staff receive training in anxiety, trauma-informed mental health, and LGBTQ Safe Zone training. Participants are encouraged to share their feelings and take time for themselves when needed.

"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 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 30<sup>th</sup> anniversary, a celebration was held on August 25 at the Mojalaki 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](http://circleprogram.org). ■

**Upton  
& Hatfield** LLP  
ATTORNEYS AT LAW

SERVING NEW HAMPSHIRE SINCE 1908

## Medical Malpractice Group

[law@uptonhatfield.com](mailto:law@uptonhatfield.com)  
[uptonhatfield.com](http://uptonhatfield.com)



HEATHER BURNS



MIKE MCGRATH

Medical malpractice is a unique practice area, and our firm has the resources and expertise to handle this type of complex, expensive litigation.

We employ attorneys who concentrate on malpractice litigation. We also have the negotiating experience and judgment to obtain the best possible results for our client.

CONCORD  
603-224-7791

PETERBOROUGH  
603-924-3864

PORTSMOUTH  
603-436-7046

### 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 Hamp-



shire 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 solo 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](http://nhbar.org). If you have questions, contact NHBA Member Services Supervisor Misty Griffith [mgriffith@nhbar.org](mailto:mgriffith@nhbar.org) or (603) 715-3227. ■

### FREE LAW PRACTICE MANAGEMENT WEBINAR



### NHBA LUNCHTIME LPM

### Mastering Online Lead Generation: Strategies for Attorneys

Tuesday, October 24, 2023  
12:00 PM – 1:00 PM

Register at [nhbar.org/calendar](http://nhbar.org/calendar)

NEW HAMPSHIRE  
BAR ASSOCIATION  
Equal Justice Under Law • Celebrating 150 Years



## THE BEST LAWYERS – YEAR AFTER YEAR

### MARK A. ABRAMSON

Medical Malpractice Law - Plaintiffs – Personal Injury litigation – Plaintiffs

### NICK ABRAMSON

Medical Malpractice Law - Plaintiffs – Personal Injury litigation – Plaintiffs

### EVA H. BLEICH

Medical Malpractice Law - Plaintiffs

### KEVIN F. DUGAN

Medical Malpractice Law - Plaintiffs – Personal Injury litigation – Plaintiffs

### JARED R. GREEN

Personal Injury Litigation – Plaintiffs and Product Liability Litigation – Plaintiffs

### HOLLY B. HAINES

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

### ELIE MAALOUF

Medical Malpractice Law — Plaintiffs and Personal Injury Litigation – Plaintiffs  
“The Ones to Watch”

*We honor referral fees. Let's work together for your clients' Personal Injury and Medical Malpractice claims.*

## THE PRACTICE FOR MALPRACTICE. Abramson, Brown & Dugan

1819 Elm Street, Manchester, NH (603) 627-1819 Fax: (603) 666-4227 [www.arbd.com](http://www.arbd.com)

# 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 your-

self. 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. ■

REIS & KIRKLAND  
PLLC

Medical  
Malpractice



Kimberly Kirkland



Randy Reis



Kara Skogsholm



Putting your clients first

Providing skilled representation to victims of medical malpractice and other negligence

Contact us:

🌐 [www.reiskirkland.com](http://www.reiskirkland.com)

📞 (603) 792 - 0800

📍 250 Commercial Street  
Suite 4002A  
Manchester, NH 03101

DL&G

DOUGLAS, LEONARD & GARVEY, P.C.

📞 603-288-1403



Charles G. Douglas



C. Kevin Leonard



Benjamin T. King

New Hampshire Trial Lawyers

Employment Lawyers  
for Employees

[nhlawoffice.com](http://nhlawoffice.com)

Portsmouth Office - 36 Maplewood Avenue Portsmouth, NH 03801  
Concord Office - 14 South Street Concord, NH 03301

# Students by Day, Superheroes by Night – Navigating Law School as a Parent

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.



Attilli

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.”

Jeong noted that because of where her family was living at the time, taking the LSAT may not have been a possibility were it not for the newly adapted online version that was released during the pandemic.

Heather Olson, 1L and mom of three, states that she was driven to go to law school

because of the struggles she faced with her local school system.

She expresses frustration over one of her children not receiving accommodations for which he was qualified. She met with the school district numerous times and exchanged countless emails over the course of a year, but ultimately felt “challenged” to file a due process complaint to remedy the issue.

“There were just so many things I needed an attorney for – or wanted an attorney for – but it just wasn’t accessible to me,” Olson says. “But I’m not giving [that school] credit [for me going to law school]. It was just the straw that broke the camel’s back.”

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 hus-



Steve Ruisi, a 2L at UNH Franklin Pierce School of Law, and his family. Courtesy Photo

band’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 their 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 “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 she feels lucky 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.” ■

**Writers**  
on a new  
england  
stage.



nhpr  
The Music Hall

## The Podcast

Half lecture, half intimate conversation, *Writers on a New England Stage* brings world-class authors to New Hampshire to read from their latest works and talk about themselves, their creative process, and their stories.

Now available wherever you get your podcasts!

[nhpr.org/wnes](http://nhpr.org/wnes)

# 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 fundamental 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. Multi-

ple-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:

- Integrated question sets, which require examinees to respond to a series of questions testing both knowledge and skills in response to a provided client scenario. Integrated question sets are expected to take up just under one-third of the total exam time and will also include questions that require examinees to apply IRAC-style legal reasoning.

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.

One thing that won't change with the advent of the new exam is the score portability offered by the current Uniform Bar Exam, or UBE. Candidates who take the NextGen exam will be able to transfer their qualifying scores to any other jurisdiction that uses the exam, eliminating the need to retake the Bar Exam in additional jurisdictions. Since 2011, when the UBE debuted, over 50,000 examinees have transferred their scores to other

UBE jurisdictions. Last year alone, over 5,600 UBE scores were transferred. As with the current UBE, jurisdictions that adopt the NextGen exam will have the option to include a jurisdiction-specific law component in their exams, requiring examinees to also demonstrate knowledge of local law.

NextGen exam scores will continue to have the reliability and stability that NCBE's exam materials have always been known for. A new score scale will be developed to account for the addition of new types of questions and other changes to the exam, and each jurisdiction will determine the appropriate NextGen passing score for its own examinees, reflecting the standards in both knowledge and skill that it deems appropriate to new members of its bar.

NCBE 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 the country's best-known sports law scholars.*

## #1 in Verdicts and Settlements



**LUBIN & MEYER PC**  
100 City Hall Plaza, Boston (617) 720-4447  
Attorneys licensed in MA, NH and RI [lubinandmeyer.com](http://lubinandmeyer.com)  
Call for a free case review or second opinion

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

**"Year after year, we remain the go-to law firm for medical malpractice and personal injury cases due to our continued success securing record-setting results that compensate victims, protect the public and inspire change."**

— Andrew C. Meyer, Jr., Firm Founder, and recently named one of the "Most Influential Bostonians" by *Boston* magazine 2023

### \$28.8M Verdict

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

### \$28.8M Verdict

*Luppold vs. Flores, N.P., et al*  
Leg amputation due to blood clot misdiagnosed as sciatica

### \$15M Settlement

*Kekula vs. Boston Children's Hosp.*  
Death of infant undergoing sleep study

### \$10M Verdict

*Lucifora vs. Kroll, M.D., et al*  
Lung cancer diagnosis delay

### \$4.95M Verdict

*Gadde vs. Gordon, M.D., et al*  
Failure to test for cancer

### \$4.65M Verdict

*Bunker vs. Dhillon, M.D., et al*  
Failure to diagnose stroke

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

*All verdicts include interest.*





NEW HAMPSHIRE

# BAR FOUNDATION NEWS

## Bank on Equal Justice

By George R. Moore  
NHBF Executive Director

Believe it or not, you or your firm's selection of a bank to maintain your IOLTA trust accounts could have a meaningful impact on access to justice for all citizens of New Hampshire. The Bar Foundation has developed a partnership with financial institutions that agree to pay a premium yield on IOLTA accounts. Under its Leadership Financial Institution program, if a bank or credit union agrees to create special rates for IOLTA accounts that yield the higher of 65 percent of the Federal Funds Target Rate, or one percent and waive routine service charges, they are included in this program. At the present time, 65 percent of the target rate equates to between 3.41 and 3.57 percent.

The institutions will gain leadership status and the Foundation will publicize their efforts and the value it brings to the public in funding legal services for the disadvantaged.

Supreme Court Rule 50 requires financial institutions to pay rates on IOLTA accounts "comparable" to similar non-IOLTA accounts. Over the past year, the Foundation, through its IOLTA enhance-



ment program, has brought many banks and credit unions into compliance with the rule. The Leadership Program goes a step further and guarantees a favorable rate for the public goal of providing equal justice in our legal system.

Over the past year, this initiative has really taken off with the involvement of large banks like Bank of America and

Merrimack Savings Bank. Leadership banks get positive publicity and stature associated with their commitment to the public good. Adding to the benefit, participating banks can receive credit on their federal Community Reinvestment Act review, as well, given the important role of civil legal aid in assisting those living in poverty.

Along the same lines, lawyers and law firms that utilize Leadership banks get publicity and the knowledge that they are helping solve the legal access problem at no harm to their business or profitability. The difference between the money raised by IOLTA Leadership accounts and other banks that continue to use very substandard rates is huge. The Foundation continues to negotiate with these entities, and many are receptive, increasing their interest commitments particularly in the present rate environment.

Some of the current Leadership institutions paying these higher rates include Bank of America, Franklin Savings Bank, Institution for Savings, M&T Bank, Salem Co-operative Bank, Service Credit Union, Sugar River Bank, and Washington Savings Bank.

Lawyers and law firms should take a minute and find out what their financial institution is paying on their IOLTA accounts. They should make the modest commitment to speak to their bank's leadership and urge them to pay competitive rates, or better yet join the Leadership program. Trust me – they want your business and will compete to keep it! ■

# IOLTA

**Dollars Make a Difference**

INTEREST ON LAWYERS' TRUST ACCOUNTS

**Join a Leadership Bank Today**

**BANK OF AMERICA**

**BAR HARBOR**  
BANK & TRUST

**FSB**  
Franklin Savings Bank  
Smarter Banking. Easier Living.

**INSTITUTION FOR SAVINGS**  
BUILDING STRONGER COMMUNITIES TOGETHER SINCE 1820.

**JEANNE D'ARC**  
CREDIT UNION  
we share a common thread

**M&T Bank**

**MERRIMACK**  
COUNTY SAVINGS BANK

**SALEM**  
CO-OPERATIVE BANK

**SERVICE**  
CREDIT UNION  
★★★★★

**Sugar River Bank**  
Est. 1895

**Washington**  
SAVINGS BANK  
We give you more

**You have a choice of where you open an IOLTA account.**

**Leadership Banks pay interest rates of 65% of the Federal Funds Target Rate.**

**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.**

**NEW HAMPSHIRE**  
**BAR FOUNDATION**  
Strengthening Justice for All



## Community Notes

### 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.



She has previously received the 2001 Greater Concord Chamber of Commerce Athena Award, the 2007 Marilla M. Ricker Achievement Award, and the *NH Business Review's* 2019 Outstanding Women in Business Award.

She was named one of the Granite State's 200 Most Influential Leaders by *NH Business Review* in 2020 and she is also annually featured among "The Best Lawyers in America" and Thomas Reuters' Super Lawyers. She was also the first woman elected to chair the State Capital Group, an international association of independent law firms around the globe.

To purchase tickets for BIA's Annual Dinner, visit [bit.ly/BIAAnnualDinner2023](https://bit.ly/BIAAnnualDinner2023).

## LawLine



Orr & Reno LawLine volunteers from left to right: George Roussos, Lindsay Nadeau, Jeremy Eggleton, Steve Winer, and Peter Burger. Courtesy Photo

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.

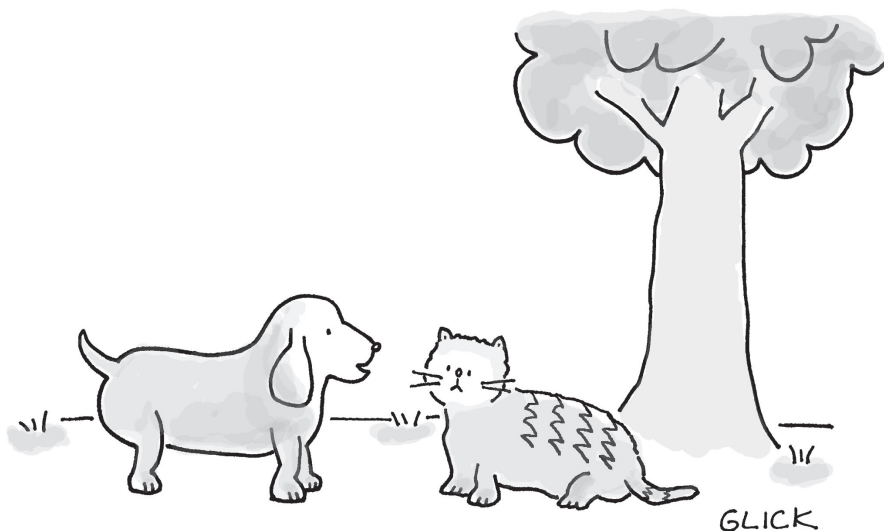
vice each month.

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 Winarz at [awiniarz@nhbar.org](mailto:awiniarz@nhbar.org).

### Jest Is For All

by Arnie Glick



"I'm 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

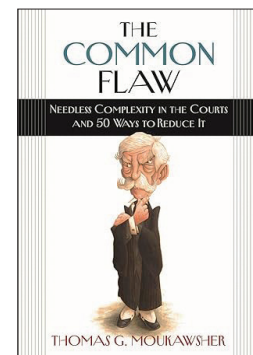
Brandeis University Press (2023)  
Hardcover, 240 pages

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 discusses addressing basic pleadings and proof of deficiencies with a single motion.

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 any person 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.



## NHBA Lawyer Referral Service



### Join Today to Build Your Client Base

- ◆ Receive referrals in your practice areas.
- ◆ Choose which cases to accept.
- ◆ Set your own fees.

8,000+ Referrals Made Annually



Learn more at [nhbar.org/join-lawyer-referral-service](https://nhbar.org/join-lawyer-referral-service)

PLEASE RESPOND BY TUESDAY, NOVEMBER 21, 2023

# 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](http://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](http://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](mailto:croberts@nhbar.org).

## MARK YOUR CALENDARS!

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



Stephanie K. Annunziata

Tracey Goyette Cote

Steven M. Gordon

Francis G. Murphy

Jared P. O'Connor

Randall E. Smith  
*Lawyer of the Year*

Alexander E. Spadinger

Cathy J. Green

Brian M. Quirk  
*Lawyer of the Year*

James D. Rosenberg  
*Lawyer of the Year*

Benjamin Siracusa Hillman

Christine M. Craig

D. Michael Noonan

Sean T. O'Connell

William H. Shaheen

Lawrence A. Vogelmann

Ronald L. Abramson

Crystal M. Maldonado

Heather V. Menezes

Colleen D. O'Connell

Laura T. Tetraault

James Armillay  
*Ones to Watch*

Leah Cole Durst  
*Ones to Watch*

# ATTORNEYS WITH HEART

## Attorneys for you.

Congratulations to our attorneys recognized by *Best Lawyers*® this year!

The best attorney for you is the one who puts their heart into your case.

*It's different here*

### Shaheen & Gordon

ATTORNEYS AT LAW

[shaheengordon.com](http://shaheengordon.com)

Concord  
Dover  
Manchester  
Nashua  
Peterborough  
Portland

# Lothstein Guerriero, PLLC

## Congratulations, Oliver Bloom!



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.

Chamberlain Block Building  
39 Central Square, Suite 202  
Keene, NH 03431  
603-352-5000

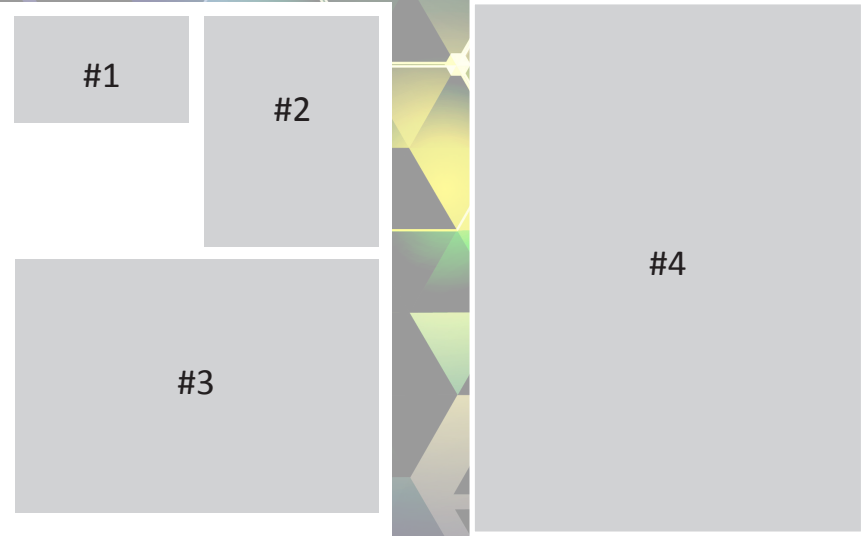
5 Green Street  
Concord, NH 03301  
603-513-1919

[nhdefender.com](http://nhdefender.com)

### PROFESSIONAL ANNOUNCEMENTS

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

**Rates & Sizes**  
JANUARY - DECEMBER  
2023



If you would like to place an announcement,  
email [advertise@nhbar.org](mailto:advertise@nhbar.org)

## Welcome

Sheehan Phinney welcomes  
Autumn D. Klick to the firm.



**Autumn D. Klick**

603.627.8177  
[aklick@sheehan.com](mailto:aklick@sheehan.com)

Business Litigation

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.

**SHEEHAN PHINNEY**

Boston • Concord • Manchester • Portsmouth • Upper Valley

[sheehan.com](http://sheehan.com)

# 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 AI can be helpful from those 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 treatises. 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 varied 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 web pages frequently feature summaries of 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?”

## Proofreading

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.*

On January 1, 2023 I sent interrogatories you’re client, John Doe. Rule 1.25 say’s interrogatories have to be answered in 30 days. Right now it has been 35 days. If I don’t get answers in five days, I’ll filed a motion for Conditional Default. I’ll asking for costs and my fees.

**Response:** *Here’s a revised version of your paragraph with grammar, clarity, readability, and conciseness improvements:*

*“On January 1, 2023, I sent interrogatories to your client, John Doe. According to Rule 1.25, interrogatories must be answered within 30 days. As of today, 35 days have passed without receiving any responses. If I do not receive the answers within the next five days, I will proceed to file a motion for Conditional Default, seeking both costs and attorney fees.”*

The reason that I lead off my query with “I’m an attorney” is because ChatGPT knows from its training the difference between legal language and less formal language. Telling it that I am an attorney sets the context.

Utilizing ChatGPT for proofreading has improved my writing process. Typically, it does not alter a writing when it determines that it already meets the criteria for “grammar, clarity, readability, and conciseness.” This confirmation not only enhances my proofreading but also boosts my confidence that I’m conveying my intended message.

## Legal Research

ChatGPT should not be used for legal research and could pose risks if relied upon by those who don’t understand this limitation. This stems from ChatGPT’s inability to store 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 responses 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](https://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 Schoff & Reardon, PLLC, in Portsmouth. He has a degree in computer science and a background in software engineering.*

## NHBA MENTOR ADVICE PROGRAM



## PARTICIPANTS LOVE MAP

“My mentor was very accessible and helpful.”

“A great experience!”

“I think (MAP) is much needed. All new attorneys could benefit from it.”

“I left with both a mentor AND a friend!”



**Sign up at [nhbar.org/mentor-advice-program](https://nhbar.org/mentor-advice-program)**

**For more information contact Member Services Supervisor Misty Griffith at [mgriffith@nhbar.org](mailto:mgriffith@nhbar.org) or (603) 715-3227**



Built by **LAWYERS**,  
Powered by **PROS**®

# Strength & Guidance



## Helping all legal professionals plan for their financial future.

The **ABA Retirement Funds Program** has the strength and experience to provide uniquely designed retirement plans to the legal community. We can help you:



**Maximize**  
the value of  
your plan



**Improve**  
employee retirement  
outcomes



**Manage**  
plan expenses

**\$6.4B** in retirement  
plan assets

**3.9K** law firms and legal  
organizations

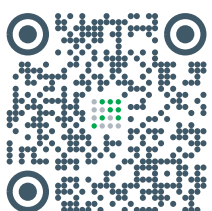
**37K** lawyers and legal  
professionals

As of 12/31/2022

A member benefit of the:



**Contact us today!** [abaretirement.com](https://abaretirement.com) • 800.826.8901 • [joinus@abaretirement.com](mailto:joinus@abaretirement.com)



The ABA Retirement Funds Program is available through the New Hampshire Bar Association as a member benefit. Please read the Program Annual Disclosure Document (April 2023) carefully before investing. This Disclosure Document contains important information about the Program and investment options. For email inquiries, contact us at: [joinus@abaretirement.com](mailto:joinus@abaretirement.com). Registered representative of Voya Financial Partners, LLC (member SIPC). Voya Financial Partners is a member of the Voya family of companies ("Voya"). Voya, the ABA Retirement Funds, and the New Hampshire Bar Association are separate, unaffiliated entities, and not responsible for one another's products and services. CN3115318\_0925



# New FinCen CTA E-book for Small Businesses

By John Cunningham

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.

On September 18, 2023, FinCen published an important new 47-page e-book entitled *Small Entity Compliance Guide: Beneficial Ownership Information Reporting Requirements* (the Guide). The Guide can be found at [fincen.gov/boi/small-business-resources](https://fincen.gov/boi/small-business-resources).

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 in 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 not 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 on-

line 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 won't 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. However, only one 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 substantial federal or state regulation 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 any 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 returns.

**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).

**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 companies.

**9. CTA Provisions in LLC Operating Agreement and Shareholder Agreements.** The Guide describes in detail the several situations in which small business 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 directors or officers 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 by FinCen). However, the purpose of the Guide is to advise small business entities about their CTA disclosures, not to address FinCen obligations. Thus, the Guide discusses the above purposes and actions only briefly. However, in October, I will publish an article in the *Practical Lawyer*, an American Law Institute journal, that will comprehensively discuss the above FinCen confidentiality 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 set forth in pages 9,498 through 9,596 of the Federal Registry 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 Committees 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. ■

*John Cunningham is the principal of the Law Offices of John M. Cunningham, PLLC, and he is of counsel to McLane Middleton, PA. His practice is exclusively devoted to LLC law and tax. He can be contacted at (603) 856-7172 or [lawjmc@comcast.net](mailto:lawjmc@comcast.net).*

## LOOKING FOR GUIDANCE?



Bookmark & visit the ethics webpage at [nhbar.org/ethics-opinions2](https://nhbar.org/ethics-opinions2)

NEW HAMPSHIRE  
BAR ASSOCIATION  
**ETHICS COMMITTEE**  
Equal Justice Under Law



## A Guide to Legal Practice Management Software

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 and 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

NH Bar Members receive a 10% lifetime discount on Smokeball products!

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  
Equal Justice Under Law



# Run Your Best Firm.

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

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



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 upper classmen, 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 50<sup>th</sup> 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 50<sup>th</sup> 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 Broderick, 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 50<sup>th</sup> 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 tripling 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." ■



The original location of the law school was a former bull-breeding farm on Mountain Road in Concord. Courtesy Photo



Chief Justice Gordon MacDonald speaking at the gala. Photo by AJ Kierstead



Judge Raymond Chen speaking to attendees at the gala. Photo by AJ Kierstead



Former dean and retired Chief Justice John Broderick introducing Chief Justice MacDonald. Photo by AJ Kierstead



Retired Judge Arthur Gajarsa introducing Judge Chen. Photo by AJ Kierstead



Dean Megan Carpenter speaking before the film on opening night. Photo by AJ Kierstead



Former Dean John Hutson and his wife Paula at the gala. 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



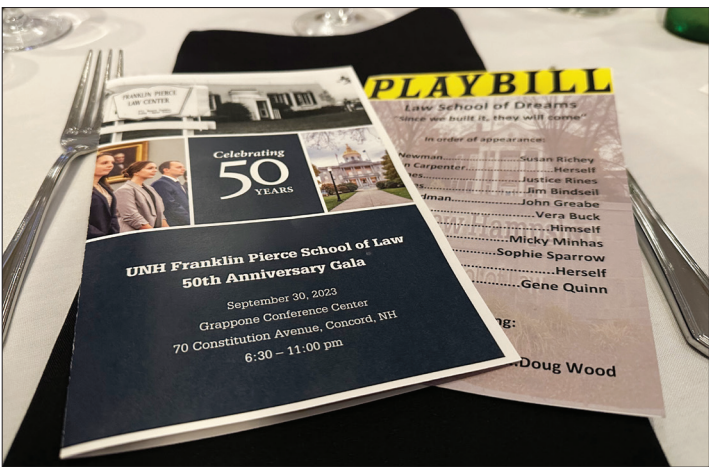
Class of '76 alum Janet Vail (left), and Class of '78 alum Attorney Terrie Harman, on opening night. Photo by Tom Jarvis



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 enjoyed 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 pleasure to work with as a new lawyer.

“He was very gracious and kind,” Judge Joseph says. “Being a new lawyer 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, knowledge, and experience and really helped me understand the legal issues. He was very devoted to training new lawyers.”

In 2001, then-Governor Jeanne Shaheen nominated Justice Hicks as a Superior Court judge, where he rode the circuit until being primarily assigned to Hillsborough 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 a lot about civil law – everything from wrongfully cutting down trees to product liability and scientific evidence – but I didn’t know anything about criminal 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, there was no 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, Nicole Kasinskas, and her boyfriend, Billy Sullivan, because she refused to let her daughter move in with her boyfriend. The case was written about in a book called *Because 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 Jacki Smith, who was Justice Hicks’ first law clerk when he joined the Superior Court in 2001, says he was “a



Justice Hicks speaking at the 50-Year Member Luncheon in June 2023. Photo by Rob Zielinski

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

“He is very smart, funny, and gracious,” 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 collegial relationship we had. He’s just an eminently sensitive and caring man, and just an inventive, energetic, and dedicated jurist.”

In 2006, then-Governor John Lynch nominated Hicks to become a justice of the highest court in the state.

“When he [Lynch] called me on Monday 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 or fortuity, it happened. 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 remembers 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 Justice 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 Advisory Board of the Advanced Studies Program 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 2008 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 Institute of Art.

He has received several awards and honors throughout his career, including the 2021 Civil Justice Award from the New Hampshire Association for Justice, the 2012 Philip S. Hollman Gender Equality Award from the NHBA Gender Equality Committee, and the 1998 Distinguished Service 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 entirety of his tenure at the Supreme Court and previously worked with him as an associate 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 mentor 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 17<sup>th</sup> 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 Sylvester, who externed with Justice Hicks during law school. “He just has an amazing grasp of the universe of the law – it was very impressive to me. His retirement is well-deserved. He has had a huge impact on New Hampshire’s jurisprudence 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 approachable 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 externed 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 is one of the brightest personalities I’ve met in New Hampshire since I’ve lived here. I’ve never met another person who is so excited to talk to other people and learn about 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 common law and the jurisprudence that affects 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 fortunate to have been able to do this job.”

There is currently a proposed constitutional 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. ■



## THE BAR DISCOURSE

An NHBA Podcast

The Bar Discourse focuses on  
the legal community and the  
practice of law in the  
Granite State.

Streaming now at [nhbar.org](https://nhbar.org) or  
[soundcloud.com/thebardiscourse](https://soundcloud.com/thebardiscourse)



# 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 NHCLE 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 NHCLE min.  
• Concord – NHBA Seminar Room

**FRI, OCT 27 – 9:00 a.m. – 4:30 p.m.**  
Developments in the Law 2023  
• 360 NHCLE 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 NHCLE 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 NHCLE min.

**MON, NOV 16 – 9:00 a.m. – 4:30 p.m.**  
Identifying & Addressing Severe Parent/Child Contact Problems in Parenting & Divorce Cases  
• 360 NHCLE min.  
• Concord – NHBA Seminar Room/Webcast

**NOV 30 – 12:00 p.m. – 1:00 p.m.**  
2023 Patent Law Update: Key Developments in Patent Litigation and Patent Prosecution  
• Webcast; 60 NHCLE min.

### DECEMBER 2023

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

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

### FEBRUARY 2024

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

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

## 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 NHCLE 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 NHCLE ethics min.

### What my Facebook Posts Teach about Lawyer Mental Health

November 6, 2023 – 12:00 – 1:00 p.m.  
60 NHCLE min.

## WE DO THE REPORTING FOR YOU!

### How to Register

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



## Join the NHBA CLE Club and Save!

### Sign up now!

For more information and terms &  
conditions, go to

[https://www.nhbar.org/nhbacle/  
nhbacle-club](https://www.nhbar.org/nhbacle/nhbacle-club)

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

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

**Thursday, November 30**  
12:00 p.m. – 1:00 p.m.  
60 NHCLE 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 NHCLE 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 NHCLE 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 NHCLE min.

NHBA Seminar Room, Concord

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 NHCLE min.

NHBA Seminar Room/Live Webcast

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 will 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 NHCLE 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](http://www.nhbar.org/nhbacle)

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

(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 and you often have to look out for 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 socially when he needed to, but says he mostly 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,' and not a sex offender or a rat."

Protecting his reputation at all costs was a long-time reality for Pineda, but his attitude ultimately changed. Eventually, he befriended Oliver Hooper, a 52-year-old inmate currently serving time at the NHSP in Concord after being convicted of aggravated felonious sexual assault in 2006.

Hooper, who was sentenced to 50 to 100 years, describes his initial time behind bars as an adjustment period where time slowed down.

"It's such a sedentary lifestyle," he says. "You really have to keep your mind straight by trying to find things to do."

On the outside, Hooper was a salesman. When he committed his crime, his wife was seven months pregnant. Six weeks after he was incarcerated, his son was born.

"My son just recently turned 18," he says. "So, there was a lot mentally to deal with and that's what gets a lot of the guys in here. Being down for 19 years now, my mindset has changed. I'm actually accepting prison – the environment that I'm in right now."

Hooper says he dealt with the stigma of his crime when he first came to prison.

"It was hard. I was on the news, and it was a well-published case," he says, adding that never having been incarcerated, he had what prisoners call PMS, or Prison Movie Syndrome, and that everyone was out to get him. "Obviously it was nerve wracking coming to prison, especially for that length of time. But I found out quickly it wasn't always like that."

He says his former wife sends updates and pictures of his children, but maintain-

ing relationships has been difficult. However, he has been involved with the Family Connection Center (FCC) for over 15 years. The program is designed for incarcerated fathers who want to build and maintain a relationship with their children while they are incarcerated.

Hooper has also played a leading role in the RCC for 10 years, which is currently working with the administration on documenting programs and education prisoners receive.

"The DOC is very good at documenting disciplinary history, but they need improvement on the rehabilitation side to show what guys are actually doing in here to better themselves and not just disciplinary tickets," he says.

### An Expanding Circle of Friends

Pineda befriended Hooper as he was drifting away from his gang affiliations and learning to overcome stereotypes.

"There were definitely times where I became friends with somebody and then came to find out they had a history, whether as a sex offender or maybe they had told on somebody or something else that was unattractive," he says. "In which case, I was like, 'alright, well, I'm friends with you but I still have to maintain a healthy distance.' But with time – as well as education and personal growth – these relationships became less of a thing for me."

Lascaze, who served 13 years in the NHSP for armed robbery, says inmates incarcerated for a substantial amount of time evolve their awareness and understanding of others' situations. Inside prison, he explains, people encounter several different personalities and conversations on a consistent and continual basis.

"You learn about human nature in prison," he says.

Like Pineda, Lascaze recalls how he initially gravitated toward people with charges and lifestyles like his, but that he eventually became less abrasive and isolated.

"I had no direction at first and there was a lack of services for young offenders," he says. "I spent a lot of time, about five years of my first eight years, between disciplinary units."

### Personal Growth and the Rules of Attraction

Pineda says any miscommunication in prison can be interpreted as a sign of disrespect, which can escalate into something very ugly.

"Guys try to project a sense of 'don't [mess] with me,'" he says. "A lot of guys walk around with the 'mean mug,' the 'ice grill,' the 'chow-hall-face,' whatever you want to call it – it's their mask."

He recalls an instance with a close friend that expresses the heightened vigilance he experienced in prison.

"We were cellmates, and we were joking around, acting like little kids – making little kid voices," he says. "It was very comical, and we were laughing. But then we stopped and said, 'I wonder what everybody's thinking about us right now who can hear us.'"

In prison, there are unspoken boundaries between groups of people and individuals that made Pineda feel a sense of safety for a while.

"If someone had wandered into our circle or wondered why we were laughing



Evenor Pineda (left) and Joseph Lascaze at the Manchester Police Athletic League Ball in 2022. Courtesy Photo

and weren't in our circle, everybody would just look at them and without even having to say anything, they would know to get the [hell] out of there. Inside, you can't let anybody perceive you being weak or tarnish your name," he says.

Pineda's personal awareness and growth didn't happen overnight. He credits much of it to various programs and the education he received that allowed him to build

a sense of confidence.

One of those programs was the Alternatives to Violence Project (AVP).

"That program allowed me to kind of show who I was to other people because it was a group setting," he says, adding 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. History was my thing and in one of my courses the teacher and I would have really good conversations in front of the class and guys were blown away."

### Relationships in Prison

Zebadiah Kellogg-Roe, a current inmate of the NHSP in Berlin, says that even though the Big Blue Bible strictly forbids sexual contact in the prison, it still happens. Kellogg-Roe was convicted of four counts of aggravated felonious sexual assault in 2008 and sentenced to 20 to 40 years. He has spent most of his time in C-3 (general population), except for a period during COVID-19 quarantine.

"The overwhelming message I got from the system was that I'm a bad person and I could be made an example of," he says. "My sense, when I came to prison, was that of being thrown away. And, of course, being shamed."

Despite prison rules, he says, relationships do take place in prison.

"There's a separateness that happens when you're incarcerated or institutionalized," he says, adding the median age of the New Hampshire population is one of the oldest in the nation. "But an incredible amount of sexual frustration exists here. There's a lot of locker room talk – a lot of homophobia that's expressed as innuendo."

Kellogg-Roe says it's unfortunate the DOC has organized the social interactions in prison to preclude more intimate relationships. The State Constitution, he says, mentions the true design of incarceration being to reform, not exterminate, and he finds this comical when compared to the lack of physical tenderness prisoners experience.

### Corrections Officers

Relationships with corrections officers (COs) are complicated and can depend on a person's experiences with the justice system. Pineda recalls a workout partner who was the third generation in his family to experience institutionalization in prison.

"One of his slogans was 'they are not your friends,'" Pineda says. "It makes sense because he was beaten on more than one occasion."

However, Pineda says that despite the Big Blue Book's rules about staff and inmates being proper and formal, there was friendliness.

"Over time, the officers get to see who's who and there's obviously some that are more open minded than others and they let their guard down a little bit and friendships do develop in there," he says. "One officer saw my kids grow up over the years. Before I left, they were teenagers. So, he saw them grow up and that kind of strengthened that bond with them."

Kellogg-Roe's experience of genuine friendliness with COs is that it's taboo.

"Basically, you're not supposed to know them, and they're not supposed to know you, and therefore you don't really learn anything from them," he says. "I mean, they may teach you various things as teachers, but I'm not going to let anybody correct me."

Pineda's experience with the RCC allowed him to work with the administration as a prisoner and helped him to be objective.

"I can't come at the commission talking about how these COs are scumbags and that it's unfair how they're treating us," he says. "I had to understand the macro perspective."

Sometimes, the rules could be used to make life easier.

The Big Blue Bible says inmates are not required to shave, but for those who don't, "facial hair length of no more than one quarter inch" is allowed. However, sculpting a beard is prohibited and may result in disciplinary action.

Pineda says one of the ways COs sometimes checked beard length was by running a credit card over a prisoner's face. If the card caught on the person's facial hair, he was sent to shave. He says these "beard checks" might happen before a person was scheduled to go to the visiting room, which would mean less time with friends or family. To get around this, he and several inmates applied to become Muslims, which allowed them to have longer beards.

"This bought us a few extra days and prevented some of that lost time in the visiting room," Pineda says, explaining that the Big Blue Bible allows prisoners "the right to practice [their] faith in a way that is consistent with [their] denomination as long as it doesn't interfere with or compromise security."

### One Day at a Time

Pineda says one of the greatest observations he made in prison is that focusing on the negative makes people age differently, saying "there are guys that look 60 or 70 years old but they're only 40 or 50."

Lascaze says that although his prison journey was long, he "got to a point in time where things just clicked."

"For me, there was a fundamental understanding that I had gotten myself into this and I could get myself out, and it didn't matter when I was released," he says. "I adopted a mentality like someone digging trenches in World War One – they didn't know when they would reach the end. It was the same thing for me – perseverance – digging one day at a time." ■

# Alternative Dispute Resolution

## 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 – that taught 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

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

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.

As a litigator and mediator, I am often asked about mediating a case near its inception, before significant costs have been incurred. I have found that in most instances, despite a shared desire to eliminate legal costs, these early efforts are not nearly as effective as they are later in the case, after parties and counsel know more about the strengths and weaknesses of their

own and their adversaries' cases. Key documents are discovered; witness testimony helps and hurts in unexpected ways; and over time lawyers emphasize aspects of a case they initially undervalued, and they jettison or de-emphasize parts of a case they initially overvalued. Lawyers aren't alone in this. Adjusters need time to properly assess and value a case. Parties need time to appreciate how events, communications, and stories might be perceived or

misperceived.

All of this is to remind us that mediation at its best depends on a well-litigated case, one in which the important information has been discovered and assessed; key witness testimony evaluated; and legal theories tested. Remember also that not every case is suitable for resolution though mediation; some cases need to be tried because the best possible mediated settlement is too imperfect or requires too much compromise. Even in those situations, though, the mediation effort is not wasted. It provides counsel and parties more clarity about their interests and adherence to a path that will take them through the expense and risk of trial. Mediation is properly viewed as an essential and valuable part of the litigation process; not something that threatens or exists independent of it. ■

*Dave 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.*

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

#### Alternative Dispute Resolution

**Consultation - Evaluation  
Mediation - Arbitration**

354 South Main Street - Suite 1 - Laconia, NH 03246

P (603) 528-0207 F (603) 528-1117

[www.edphilpotlaw.com](http://www.edphilpotlaw.com)

### ARNIE ROSENBLATT

#### Experienced Mediator & Arbitrator

Litigating and resolving business and intellectual property disputes since 1981.

Fellow of American College of Trial Lawyers

[arosenblatt@hinckleyallen.com](mailto:arosenblatt@hinckleyallen.com)

603-545-6122

[hinckleyallen.com](http://hinckleyallen.com)



**HINCKLEY  
ALLEN**

**Providing Value.  
Delivering Results.**

© 2022 Hinckley, Allen & Snyder LLP All rights reserved. Attorney Advertising.

## 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. ([civilresolutionbc.ca](http://civilresolutionbc.ca))

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](http://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 resolu-

tion 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](mailto:jennifer.parent@mclane.com).*

### John M. Lewis Mediation and Arbitration Services

Experienced Problem-Solver,  
Simple to Complex Cases

9 Gerrish Drive, Durham, NH  
[jmlcsl@comcast.net](mailto:jmlcsl@comcast.net)  
[www.johnlewisadr.com](http://www.johnlewisadr.com)  
603-828-8744



**VROUNTAS  
AYER &  
CHANDLER, P.C.**  
COUNSELORS AT LAW

**Christopher T. Vrontas,**  
Experienced Mediator

### PRACTICAL MEDIATION

Over 30 years of employment law, business litigation, and mediation experience:

- Federal and State courts
- EEOC and State human rights commissions
- MA, NH, NC, and FL

*Looking beyond legal positions  
to reach workable solutions.*

603.935.9789  
[www.vaclegal.com](http://www.vaclegal.com)



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

By Caroline Adams and Anita Drake



Adams



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 fight, flight, or freeze mode when faced with a physical threat can also activate when we face a perceived threat, such as a difficult conversation.<sup>1</sup> 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.<sup>2</sup>

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 hy-



pothesis (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.<sup>3</sup>

## 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, and 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 ef-

fects of sweaty palms and elevated heart rate. This is called amygdala hijacking.<sup>4</sup>

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.<sup>5</sup>

## 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 it 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

TIPS continued on page 33



**FERRO LAW**  
& MEDIATION GROUP, PLLC

**Experienced • Efficient • Effective**



Jim Ferro

**Mediation of family law, probate, real estate, personal injury, small business and commercial disputes.**

**Representation of family law clients seeking resolution through negotiation and settlement.**

**Certified Marital Mediator**

99 Middle Street, Manchester NH 03101 • Ph: (603) 836-5400  
Fax: (603) 836-5806 • [FerroLawGroup.com](http://FerroLawGroup.com) • [jim@ferrolawgroup.com](mailto:jim@ferrolawgroup.com)

2023 **Best Lawyers** Recognition for Mediation and Family Law

## Rousseau Law & Mediation

*"The Outcome of Your Case Matters to Us"*

Offering affordable legal representation including divorce, legal separation, custody, parenting rights, child support, alimony and mediation services

**Marianne L. Rousseau, ESQ**  
**Debbie Martin Demers, ESQ**  
**(603) 715-2824**

[mrousseau@rousseau-lawnh.com](mailto:mrousseau@rousseau-lawnh.com)  
[www.rousseau-lawnh.com](http://www.rousseau-lawnh.com)  
559 Pembroke Street, Pembroke, NH 03275

# 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 for mediators and attorneys to revisit the ethical rules related to mediations and associated strategies that they can use to effectuate more advantageous settlement outcomes.

While attorneys are familiar with their ethical obligation to be truthful to a tribunal, they should also be mindful of their ethical obligations in the context of



a mediation: not to make a false statement of material fact to the mediator. Lawyers who represent clients at mediations are governed by the New Hampshire Rules of Professional Conduct and the ABA Model Rules of Professional Conduct (ABA Model Rules). Specifically, Rule 4.1(a) of the ABA Model Rules prohibits a lawyer, “in the course of representing a client” from “knowingly” making “... a false statement of material fact or law to a third person.” 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 tortious misrepresentation.

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 earshot 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 informa-

REQUIREMENTS *continued on page 34*



WEIBRECHT & ECKER, PLLC  
ATTORNEYS AT LAW  
FAMILY LAW • MEDIATION

At Weibrecht & Ecker, we believe the dispute resolution process should fit the dispute. With forty years of combined experience, we have the training and knowledge to advise and represent clients in the full range of options—from litigation to negotiation to mediation to Collaborative Divorce—in both New Hampshire and Maine.



KIMBERLY A. WEIBRECHT, ESQ.  
COLLABORATIVE DIVORCE  
CERTIFIED FAMILY MEDIATOR



JESSICA L. ECKER, ESQ.  
COLLABORATIVE DIVORCE  
CERTIFIED FAMILY MEDIATOR

**Weibrecht & Ecker, PLLC**  
Family Law, Mediation, and Collaborative Law  
*In-Person and Remote Sessions Available.*  
Dover, NH & Portsmouth, NH

(603) 842-5525

Welcome@WeibrechtLaw.com

WeibrechtEcker.com

*Serving New Hampshire and Maine Clients*

#DIVORCEWITHDIGNITYNH

## “Lets get it resolved!”



**Charlie Bauer**  
bauer@gcglaw.com  
603-545-3651

Fellow, American College of  
Trial Lawyers

Fellow, American College of  
Civil Trial Mediators

Member, National Academy of  
Distinguished Neutrals

### Mediation and Arbitration for Results

To schedule, please contact Laurie Sanborn at 603-545-3602  
or sanborn@gcglaw.com



GALLAGHER  
CALLAHAN  
& GARTRELL

GALLAGHER, CALLAHAN & GARTRELL, 2023  
PC  
**Best Lawyers**  
RECOGNIZED BY

603-228-1181

www.gcglaw.com

## 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 students 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 parties 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 come to an agreement to enter alter-

native 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.<sup>1</sup> 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

*SPECIAL ED continued on page 34*

## Trusted and Effective Mediator



**David McGrath**

Shareholder

603.627.8255

dmcgrath@sheehan.com

Dave currently serves as Firm President and previously served as President of the NH Bar Association. He is one of a small group of New Hampshire mediators recognized as "First Tier" by Chambers USA.

Dave **mediates** all types of disputes.

**SHEEHAN PHINNEY**

Boston • Concord • Manchester • Portsmouth • Upper Valley

Contact us today  [Sheehan.com](https://www.sheehan.com)

# 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

MEDIATOR continued on page 33

## Attorney **Beth A. Deragon** MEDIATOR

In-Person | Virtual | Hybrid

### ALL AREAS OF LEGAL DISPUTES

- Landlord/Tenant
- Personal Injury
- Insurance
- Healthcare
- Contract
- Business/Commercial
- Employment
- Real Estate
- Probate

**Contact Beth to  
set up your next  
mediation.**

bderagon@pastorikrans.com



**PASTORI KRANS**  
ATTORNEYS AT LAW

VISIT [pastorikrans.com](http://pastorikrans.com)  
82 North Main Street, Suite B  
Concord, NH 03301  
CALL 603.369.4769

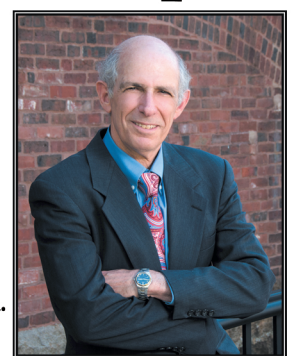
## David S. Osman, Esq.

- MEDIATION
- ARBITRATION
- NEUTRAL EVALUATION



MARTIN, LORD & OSMAN, P.A.  
Alternative Dispute Resolution

[www.mlolaw.com](http://www.mlolaw.com) Phone: 603.524.4121 Email: [lawyers@mlolaw.com](mailto:lawyers@mlolaw.com)



## 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.

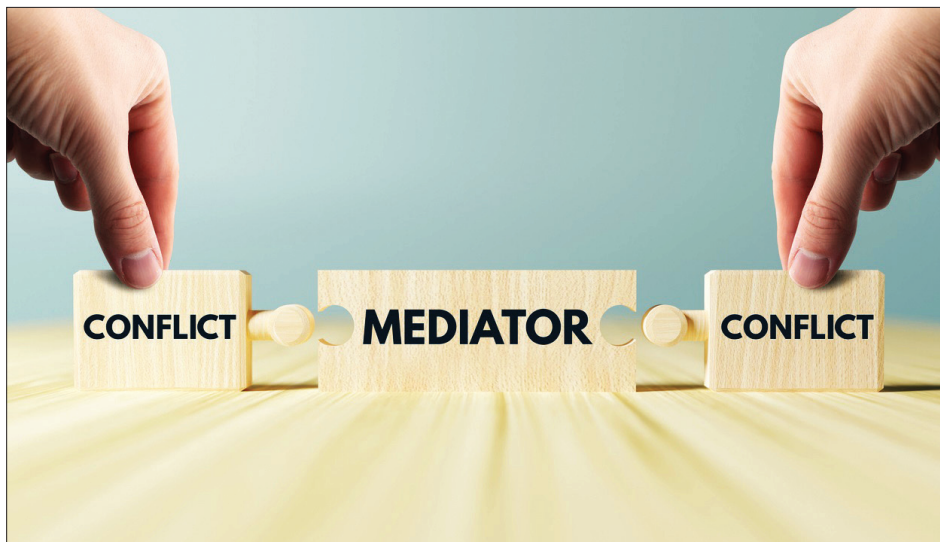


Mediators employ many skills and techniques that individuals may also successfully implement in their day-to-day lives:

### 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, fac-



ing 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 tech-

nique 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 to be done for the existing staff. This

TECHNIQUES continued on page 33



## THE NATIONAL ACADEMY OF DISTINGUISHED NEUTRALS New Hampshire Chapter

New Hampshire's Most Trusted Mediators & Arbitrators Online At  
**[www.NHMediators.org](http://www.NHMediators.org)**



Charles Bauer  
(603) 545-3651



Gregory Clayton  
(207) 706-4977



Dennis Ducharme  
(603) 935-7292



Greg Eaton  
(603) 225-0477



Melinda Gehris  
(603) 225-0477



John Kenison  
(603) 471-3550



Robert Morrill  
(603) 828-8564



Connie Rakowsky  
(603) 568-7138



Peter Taylor  
(603) 436-0666

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

**Fast Track Appointment Scheduling - visit our free Available Date Calendars**

\* The National Academy of Distinguished Neutrals ([www.NADN.org](http://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](http://www.NADN.org/about)

## How to Reach Agreement in Mediation

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. As Fisher, Roger, and Shapiro<sup>1</sup> 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 "forsureski" win in court. Explain good faith and active listening to the client.

### Brief the Mediator

Brief the mediator well about the case by sharing the main facts and rulings 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.

### 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.

### 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.

### Client conduct

Ask if your client is willing to make conciliatory remarks during the joint session. Caution them against making "getting even" remarks and personal attacks. Ask the client to rehearse the statements with you pre-session. If the client is reluctant to speak, you or the mediator can make those remarks on your client's behalf. Encourage the client to open up with the mediator in separate confidential caucus. If the mediator knows what you want, they can help you get there. 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.

### 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.

### No Drama

Don't act insulted or be overly emotional in your reaction to proposals. Avoid the faux drama of pretending to pack your bags to leave early if you don't receive the offer you want. Your mediator and opposing counsel will not be impressed. When you end up staying, your client will be confused about your intentions to stay or go.

### Problem-solve Solutions

Brainstorm options with your client and the mediator. When you reach a verbal agreement, work around potential obstacles by problem-solving the resolution your client wants. Don't over-lawyer the language. Plain language in agreements improves the likelihood that the clients will understand and abide by the terms. Do not bring up new issues during the drafting stage which you should think in the pre-session and negotiation stages.

### Dispute Resolution

Agree to dispute resolution terms in the settlement agreement which requires the parties to follow stages: the principals talk first to one another, then return to mediation, and then litigate, if a dispute arises. Avoid costly litigation as the only enforcement mechanism. Agree that the losing party in enforcement actions pays the winning party's attorney's fees which acts as a disincentive to frivolous litigation.

I wish you much success in your next mediation. ■

*Connie Rakowsky brings her problem-solving skills to mediation, which she learned as a business and insolvency partner at Orr & Reno, and as the executive director of the predecessor to 603 Legal Aid. She is a mediator with the New Hampshire Chapter of the National Academy of Distinguished Neutrals and can be reached at [connie.rakowsky@gmail.com](mailto:connie.rakowsky@gmail.com).*

### Endnote

1. Fisher, Roger, and Daniel Shapiro. *Beyond Reason: Using Emotions as You Negotiate*. New York, NY: Viking Penguin, 2005.

## MINKOW & MAHONEY MULLEN, P.A.

TERESA MAHONEY MULLEN, ESQ., CFM



- **MEDIATION – Private and Court Appointed**
- **FAMILY LAW**
- **GUARDIAN AD LITEM SERVICES**

Email: [tmmullen@minkowlaw.com](mailto:tmmullen@minkowlaw.com)

[www.minkowlaw.com](http://www.minkowlaw.com)

67 Water Street, Suite 107, Laconia, NH 03246

Phone: (603) 527-8226

## GASPAR MEDIATION AND LAW OFFICE

Helping couples in New Hampshire and Massachusetts reach reasonable and realistic resolutions in family law cases.



phone: 508-423-6341

[www.gasparmediation.com](http://www.gasparmediation.com) • email: [gasparmediation@gmail.com](mailto:gasparmediation@gmail.com)

Offices located in Windham NH and Pepperell MA

## 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 good mediator, but this is a start. As you embark on this path, remember to reach out to experienced mediators for tips and guidance in the practice of mediation. Good luck – and be determined to join the ranks of excellent civil mediators in New Hampshire. We need you and we are ready to welcome you! ■

*Charles P. Bauer is a shareholder of Gallagher, Callahan & Gartrell. He has worked more than 40 years in the areas of civil rights litigation, private mediation and arbitration, employment litigation, and other complex civil litigation in federal and state courts and administrative agencies.*

## 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

a 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.<sup>6</sup>
- *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 [prismconflictsolutions.com](http://prismconflictsolutions.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 Gehris 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 Gehris Solutions team and supporting clients through training and facilitation.*

## Endnotes

1. Jill Tanz, *Using Neuroscience to Understand Stress and Improve Mediation*, [Mediate.com](http://mediate.com), Feb. 22, 2019, [mediate.com/using-neuroscience-to-understand-stress-and-improve-mediation](http://mediate.com/using-neuroscience-to-understand-stress-and-improve-mediation).
2. Amy Arnsten, Carolyn M. Mazure, 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](http://scientificamerican.com/article/this-is-your-brain-in-meltdown).
3. Diane Musho Hamilton, *Calming Your Brain During Conflict*, *Harvard Business Review*, Dec. 22, 2015, [hbr.org/2015/12/calming-your-brain-during-conflict](http://hbr.org/2015/12/calming-your-brain-during-conflict).
4. *Id.*
5. Arnstein et al., *Everyday Stress Can Shut Down the Brain's Chief Command Center*.
6. Sharon Strand Ellison, *Taking the War Out of Our Words*, Wyatt-McKenzie Publishing, Inc. 1998. For more details about the neuroscience of the stress-response, please visit: Amy Arnsten, Carolyn M. Mazure, Rajita Sinha, *Everyday Stress Can Shut Down the Brain's Chief Command Center*, *Scientific American*, Apr. 1, 2012, [scientificamerican.com/article/this-is-your-brain-in-meltdown](http://scientificamerican.com/article/this-is-your-brain-in-meltdown).

# Conflict costs everyone. Call one of our trusted and resourceful neutrals.

As practicing attorneys and mediators, Drummond Woodsum's team offers unparalleled insight into complex legal issues. It isn't just a higher level of support that comes with this expertise, we use an inclusive approach that uses empathy and effective communication strategies to bring parties together to achieve creative resolutions.

## DrummondWoodsum

[dwmlaw.com](http://dwmlaw.com) | 800.727.1941 | Manchester & Lebanon, NH



Jerrol A. Crouter



Mark V. Franco



Elizabeth A. Germani



Daniel J. Rose

## Special Ed from page 29

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.”<sup>2</sup>

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.”<sup>3</sup>

These types of complex matters are often the subject of cases 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 pre-

viously 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. ■

*Luke 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

1. N.H. Laws of 2023, Chapter 72 (amending RSA 186-C:23, II and RSA 186-C:24).
2. See Senate Hearing Report, p. 2 (Feb. 3, 2023)
3. *Id.*

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

## Requirements from page 28

tion received from the parties’ legal counsel which the parties rely upon in their assessment of the merits and value of the case.

The ABA Model Rules do not require that the attorney disclose their client’s “bottom line” monetary position. They permit the attorney to downplay their client’s willingness to resolve the matter and other typical “puffing” statements. While the ABA Model Rules provide an attorney at a mediation leeway to characterize the strengths and weaknesses of their case and of its factual or legal position, they do not permit the attorney to misrepresent material facts related to the matter to the mediator, even indirectly.

For example, in an employment-related dispute, an attorney cannot represent to the mediator that documentation of the employee’s alleged ongoing performance issues that lead to termination will be submitted at trial when the lawyer knows there is no such evidence or knows that the evidence will be inadmissible. In matters where insurance policy limits are material, the attorney with that information must be truthful regarding the policy limits when asked. Attorneys can refuse to answer questions posed by the opposing party or the mediator, but they cannot mislead the mediator into reaching a factual conclusion.

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.

If the mediation takes place prior to the completion of discovery, attorneys who represent the party with the bulk of the

documentary evidence must be mindful of the ABA Model Rules and ethical obligations discussed above and ensure that they do not make a factual representation that contradicts the documentary and other evidence in their possession.

In addition to advocating for their client, parties to the mediation should challenge the basis of the material facts to the claims that the opposing party articulates. If a party cannot substantiate a material fact, then the value of their claim or defense should be reduced appropriately.

Likewise, a good mediator will challenge all parties’ factual assertions during the caucus sessions to ensure that the parties negotiate with full knowledge of the substantiated material facts, can assess the risk accordingly, and work toward resolution.

While ethical violations that occur at mediations often go unaddressed, the ABA Model Rules provide mediators and attorneys the tools to reduce such conduct and, as a last resort, to end the mediation if a party is non-compliant with the ABA Model Rules.

Furthermore, in addition to disciplinary action, attorneys could be held liable civilly for such misrepresentations and the settlement agreement could be rendered unenforceable. Mediations should be less about posturing and more

about quality advocacy. When mediators and parties participate meaningfully and ethically, mediations become investments in resolution. ■

*Beth A. Deragon is of counsel at the law firm of Pastori | Krans, PLLC. For over 18 years, she has been practicing in employment law, civil litigation, and representation of professionals before licensing boards. Her mediation practice covers all areas of disputes, including personal injury, commercial, and real estate.*

**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.**



## Register Today for NHAJ’s Annual PI Fall Forum Friday, November 3, 2023

### Program Below

#### "Statute of Limitations Discovery Rule Litigation, after Troy v. Bishop Guertin"

Joshua Gordon, Law Office of Joshua L. Gordon

#### "Focus Groups"

Anna Goulet Zimmerman and Michaila Oliveira, Manning Zimmerman & Oliveira

#### "Tips for effective voir dire"

Cristina Rousseau and Kristin Ross, Rousseau & Ross

#### "Leveraging a Forensic Psychologist to Improve Case Outcomes"

Dr. Shannon Bader, Silverlake Psychological Associates and Anthony Sculimbrenne, Gill & Sculimbrenne

### Listserv Live!

### Register at nhaj.org

Don't Forget to Save the Date!  
Family Law Forum - Friday, February 2, 2024  
Here Come the Judges - Friday, May 17, 2024

## Contribute to Bar News

### PRACTICE AREA SECTIONS

**NH Bar News features a special content section each month dedicated to specific areas of the law, and welcomes member and non-member article submissions.**

January	Criminal Law & Health Law
February	Tax Law & Insurance Law
March	Trust & Estate Law
April	Labor & Employment Law
May	Real Property Law
June	Municipal & Government Law & Intellectual Property Law
July	Federal Practice & Bankruptcy & International Law
August	Worker's Compensation & Personal Injury Law



September	Environmental & Telecommunications, Utilities and Energy Law
October	Alternative Dispute Resolution
November	Family Law & Children's Law
December	Business Law & Business Litigation

Please contact [news@nhbar.org](mailto:news@nhbar.org) or 603-715-3234 about contributing to the sections.

## NH Supreme Court At a Glance

### Family Law

*In the Matter of Brianna Kauble and William Kauble*  
September 19, 2023  
*Reversed*

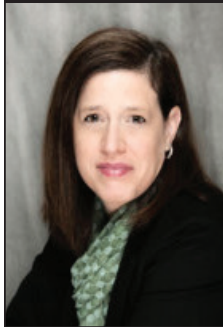
- Whether the Court erred in awarding the grandfather visitation under RSA 461-A:13.
- Whether the grandfather had standing to be awarded grandparent visitation.

The grandfather helped the daughter, the grandchildren'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 "prior to 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 the condition was her divorce from the children's father, relying on the interpretation of "other causes of the absence of a nuclear family" RSA 461-A:13, I, to resolve the party's dispute on which condition applies. The Court applies the principle as "applying only to persons or things of the same

### At a Glance Contributor



Stacie Ayn  
Murphy Corcoran

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

kind or class as those specifically mentioned "State v. Proctor, 171 N.H. 800, 806 (2019). Here, the relocation and temporary separation as well as the cohabitation, were transitory so they weren't similar enough to be considered "other cause[s] of the absence of a nuclear family." Because parents have a fundamental right to raise and care for their children, the Court has held that RSA 461-A:13, I must be narrowly construed to avoid interference with this fundamental right when married parents live apart. 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.*

## NH Circuit Court Judicial Evaluation Notice

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

Judge Christine Casa – 7th Circuit Courts

Judge Ellen Christo – 10th Circuit Courts

Judge Christopher Keating – 4th and 6th Circuit Courts

Judge Bradley Lown – 7th, 9th, and 10th Circuit Courts

Judge Kevin Rauseo – 9th Circuit Courts

An evaluation may be completed online at [courts.nh.gov](https://courts.nh.gov). On the website, look to the right side of the page under "NHJB 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 [lcammatt@courts.state.nh.us](mailto:lcammatt@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**.

## US Bankruptcy Court Opinion Summaries

Judge Harwood issued the following opinions:

*Ford, McDonald, McPartlin & Borden, P.A. v. Hooksett Landing, LLC (In re NH Highway Hotel Grp.)*, 2023 BNH 005, issued September 20, 2023 (Harwood, C.J.) (awarding damages on default judgment for breach of purchase and sale agreement that contemplated the assignment of debtor's right to purchase land and certain access rights; finding that, under New Hampshire law, economic loss doctrine barred claim for damages for negligent misrepresentation claim; and finding that liquidated damages clause in purchase and sale agreement was not enforceable).

*Dahar v. Foistner (In re Foistner)*, 2023 BNH 004, issued September 15, 2023 (Harwood, C.J.) (denying defendants' motion to dismiss complaint based on insufficient service and process without prejudice subject to plaintiff perfecting service on certain individuals, corporations, trusts and trust beneficiaries; dismissing plaintiff's claim that defendant-corporations' assets were property of the debtor's bankruptcy estate; denying defendants' motion to dismiss the plaintiff's claim that defendant-corporations, trustees and beneficiaries of the defendant-trusts were alter egos of the debtor, and that their veils should be pierced on claim of alter ego liability; denying motion to dismiss claim for successor liability against one of the corporate defendants; dismissing some of the plaintiff's claims to avoid preferential, fraudulent or post-petition transfer claims under Bankruptcy Code §§ 544, 547, 548 and 549; denying dismissal of aiding and abetting claim; and granting the plaintiff leave to perfect service pursuant to Bankruptcy Rule 7004(m) for cause, and to amend the complaint pursuant to Rule 15(a)(2) and Bankruptcy Rule 7015).

The full text of the opinions will be available on the Bankruptcy Court's website at [nhb.us.courts.gov](https://nhb.us.courts.gov).

## Superior Court Clerk and Clerk's Office Evaluation Notice

The Chief Justice of the Superior Court is in the process of conducting clerk and clerk's office evaluations and invites you to participate in this process. The following clerks and offices are currently being evaluated:

Kimberly T. Myers, Clerk	Strafford County Superior Court
Catherine Ruffle, Clerk	Merrimack County Superior Court
Jennifer M. Haggart, Clerk	Rockingham County Superior Court
Abigail Albee, Clerk	Belknap and Carroll County Superior Courts
Amy M. Feliciano, Clerk	Hillsborough County Superior Court-South
W. Michael Scanlon, Clerk	Hillsborough County Superior Court-North

To complete a questionnaire go to [courts.nh.gov/resources/committees/judicial-performance-evaluation-advisory-committee/current-superior-court-clerk](https://courts.nh.gov/resources/committees/judicial-performance-evaluation-advisory-committee/current-superior-court-clerk) until **October 23, 2023**. From there you can choose the clerk that you would like to evaluate, and it will bring you directly to that clerk's survey. While responses will be shared with the clerks being evaluated, the identity of the respondent will remain anonymous and will otherwise be treated as confidential.

If you do not have access to the internet or would prefer to have a hard copy of the evaluation mailed to you, please call Nicole LeSage at (603) 271-2030. As stated above, while responses will be shared with the clerks being evaluated, they are treated as confidential, and the identity of the person completing the evaluation will remain anonymous. In fact, if you request a hard copy of the evaluation form, we ask that you do not sign the completed evaluation.

Your help with this evaluation process is invaluable and we greatly appreciate your taking the time to help us with this endeavor.

## Need to schedule a Mediation?

FEBRUARY 2024

Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21		23
24	25	26	27	28		

Fast-track scheduling at [www.NHMediators.org](https://www.NHMediators.org)

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  
ATTEST: 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  
ATTEST: 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**  
(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 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 3.37 of the Circuit Court – District Division Rules 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 48-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.  
ATTEST: 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 into 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: [ctefile.nhecourt.us](https://ctefile.nhecourt.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](https://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 call the clerk of the supreme court (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 computer kiosks located in the lobby outside the clerk's office of the Supreme Court Building. They will also be posted for public viewing on the following webpage: [courts.nh.gov/resources/committees/advisory-committee-rules/supreme-court-requests-public-comment](https://courts.nh.gov/resources/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](https://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](https://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 add a provision concerning 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 Association of Criminal Defense Lawyers

### 2023 DUI CLE and Trial Skills Training

#### Topics

**Thursday afternoon November 16** – Small group, interactive trial skills training with top national instructors and local experts. DUI subject focus but fantastic feedback for any litigator.  
**Friday November 17** – Stay Current! Topics include 2023 FST manual changes, cross exam on FSTs, ALS intricacies, demos and analogies, breath testing, NH law update

#### Speakers

Joe Bernard (MA), Mark Thiessen (TX), John Webb (ME), Eric Wilson, Christopher Johnson and Kaylee Doty

**NHMCLE Credit Hours anticipated (Th 4 – F 6)**

At The Derryfield, Manchester, NH

**Details and registration at**  
[www.NHACDL.org](http://www.NHACDL.org)

**IV. Rule 1101(d) of the New Hampshire Rules of Evidence**

This proposed amendment, the language of which is set forth in Appendix D, would exempt probable cause hearings in involuntary emergency admission (IEA) cases from the New Hampshire Rules of Evidence.

On September 20, 2023, the Supreme Court adopted certain other recommendations set forth in the August 1, 2023 Advisory Committee on Rules

Report as technical amendments to court rules, including amendments to Supreme Court Rule 42(XIII)(a), Supreme Court Rule 51, Rule 37 of the Rules of the Superior Court, and Rule 3.37 of the Circuit Court – District Division Rules. Accordingly, the Supreme Court is not requesting comments on those recommendations.

Date: September 21, 2023  
ATTEST: Timothy A. Gudas, Clerk  
Supreme Court of New Hampshire



**LD-2023-0012, In the Matter of Robert E. McDaniel, Esquire**

On September 19, 2023, the Attorney Discipline Office (ADO) filed a petition for the summary suspension of Attorney Robert E. McDaniel from the practice of law in New Hampshire. The ADO has alleged, among other claims of professional misconduct, that:

(1) Attorney McDaniel made unauthorized disbursements of escrowed funds 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 to do so 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 filed false trust accounting certifications.

(3) Attorney McDaniel commingled his own funds with client funds by depositing his funds into an IOLTA account and misappropriated client funds by disbursing them 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’s conduct violates Supreme Court Rules 50 and 50-A and Rules of Professional Conduct 1.15, 3.3, 3.4(c), Rule 4.1(a), and 8.4(c).

The ADO cites Supreme Court Rule 37(9-B)(a)(1) as grounds for suspending Attorney McDaniel summarily. Rule 37(9-B)(a)(1) authorizes summary suspension when 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 term “serious misconduct” is defined by Rule 37(9-B)(b) as “any misconduct involving (1) mishandling or misappropriation of client or third party property or funds or (2) any other misconduct which by itself could result in a suspension or disbarment.”

Based on the information submitted by the ADO in its petition, to which Attor-

ney 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 is therefore necessary to protect the public and to preserve the integrity of the legal profession. Accordingly, it is hereby ordered:

(1) In accordance with Rule 37(9-B), Attorney Robert E. McDaniel is immediately 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 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)(f).

(4) Attorney McDaniel is enjoined from further use of his IOLTA and operating accounts, including Bank of New Hampshire accounts ending in XXXX5186 and XXXX5160. He is further enjoined 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 his inability to act as an attorney, and shall advise them to seek other counsel. See Rule 37(13)(b). 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 Labonte’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 was in possession of any client funds or property, Attorney Labonte may file an appropriate motion requesting authority to distribute them.

Attorney McDaniel is ordered to cooperate with Attorney Labonte in performing the tasks as directed by the court. Pending further order of this court, Attorney McDaniel 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 Hicks, Bassett, Hantz Marconi, and Donovan, JJ., concurred.

DATE: September 21, 2023  
ATTEST: Timothy A. Gudas, Clerk



**LD-2023-0013, In the Matter of Steven N. Fuller, Esquire**

On September 22, 2023, the Attorney Discipline Office (ADO) filed a petition for the summary suspension of Attorney Steven N. Fuller from the practice of law in New Hampshire. The ADO has alleged, among other claims of professional misconduct, that:

(1) Attorney Fuller misappropriated \$20,000.00 in settlement funds owed to a client.

(2) Attorney Fuller misrepresented to the client and to co-counsel the status of Attorney Fuller’s remittance of those funds to the client.

(3) Attorney Fuller commingled the client’s funds with his own funds by depositing the settlement funds into a bank account that he used primarily for personal purposes.

(4) Attorney Fuller failed to respond to the ADO’s requests for information in the course of its investigation.

(5) Attorney Fuller’s conduct vio-

lates Supreme Court Rule 50 and Rules of Professional Conduct 1.3, 1.4, 1.15, 8.1(b), 8.4(b), and 8.4(c).

The ADO cites Supreme Court Rule 37(9-B)(a)(1) as grounds for suspending Attorney Fuller summarily. Rule 37(9-B)(a)(1) authorizes summary suspension when 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 term “serious misconduct” is defined by Rule 37(9-B)(b) as “any misconduct involving (1) mishandling or misappropriation of client or third party property or funds or (2) any other misconduct which by itself could result in a suspension or disbarment.”

Based on the information submitted by the ADO in its petition, to which Attorney Fuller has yet to respond, the court finds that Attorney Fuller “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 is therefore necessary to protect the public and to preserve the integrity of the legal profession. Accordingly, it is hereby ordered:

(1) In accordance with Rule 37(9-B), Attorney Steven N. Fuller is immediately suspended from the practice of law in New Hampshire pending further order of this court. This suspension is in addition to, and independent of, the administrative suspension imposed on Attorney Fuller by this court’s order dated February 10, 2023, in case no. ADM-2023-0003.

(2) A copy of the petition for summary suspension and of this order shall be

ORDERS continued on page 38

**Statement of Ownership, Management and Circulation**

1. Publication Title: <i>New Hampshire Bar News</i>		
2. Publication Number: 952-840		
3. Filing Date: 9-26-2023		
4. Issue Frequency: Monthly		
5. Number of Issues Printed Annually: 12		
6. Annual Subscription Price: \$160.00		
7. Complete Mailing Address: 2 Pillsbury Street, Suite 300, Concord, NH 03301		
<b>Contact Person:</b> Donna Parker- 603-224-6942		
8. Complete Mailing Address of General Business Office: 2 Pillsbury Street, Suite 300, Concord, NH 03301		
9. Full Names and Complete Mailing Address of:		
<b>Publisher:</b> New Hampshire Bar Association, 2 Pillsbury Street, Suite 300, Concord, NH 03301		
<b>Editor:</b> Tom Jarvis, NH Bar Association, 2 Pillsbury Street, Suite 300, Concord, NH 03301		
10. Owner: New Hampshire Bar Association, 2 Pillsbury Street, Suite 300, Concord, NH 03301		
11. Known Bondholders, Mortgagees, and other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages or Other Securities: None		
12. Tax Status: Has not changed during preceding 12 months.		
13. Publication Title: <i>New Hampshire Bar News</i>		
14. Issue Date for Circulation Data Below: September 20, 2023		
15. Extent and Nature of Circulation		
	Avg No. Copies Each Issue During Preceding 12 Months	No. Copies of Single Issue Published nearest to filing date
a. Total Number of Copies (net press run)	8577	8577
b. Paid Circulation		
b1. Mailed Outside - County Paid Subscriptions stated on PS Form 3541	7331	7331
b2. Mailed In-County Subscriptions	1208	1208
b3. Paid Distribution Outside the Mails	-0-	-0-
b4. Paid Distribution by Other Classes of Mail	-0-	-0-
c. Total Paid Subscriptions	8539	8539
d. Free or Nominal Rate Distribution		
d1. Free or Nominal Rate Outside County	-0-	-0-
d2. Free or Nominal Rate In-County	-0-	-0-
d3. Free or Nominal Rate Mailed at Other Classes	-0-	-0-
d4. Free or Nominal Rate Outside the Mails	-0-	-0-
e. Total Free or Nominal Rate Distribution		
f. Total Distribution	8539	8539
g. Copies not Distributed	38	38
h. Total	8577	8577
i. Percent Paid	100%	100%
16. Electronic Copy Circulation		
a. Paid Electronic Copies	-0-	-0-
b. Total Paid Print Copies + Paid Electronic Copies	8539	8539
c. Total Print Distribution + Paid Electronic Copies	8577	8577
d. Percent Paid (Both Print & Electronic Copies)	100%	100%
17. Publication of Statement of Ownership: If the publication is a general publication, publication of this statement is required. Will be printed in the October 18, 2023 issue of this publication.		
18. Signature and Title of Editor, Publisher, Business Manager or Owner. Donna Parker, Sales and Technical Editor, 9-26-2023		

served on Attorney Fuller by certified and first-class mail at the latest address that Attorney Fuller provided to the New Hampshire Bar Association.

(3) On or before October 2, 2023, Attorney Fuller 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 6, 2023, or sooner. See Rule 37(9-B)(f). In any event, the administrative suspension imposed in case no. ADM-2023-0003 will not be lifted unless and until Attorney Fuller successfully petitions for reinstatement in accordance with Rules 42A, 50-A, and 53.4.

(4) Attorney Fuller is enjoined from further use of any IOLTA and operating accounts. He is further enjoined 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 13, 2023, Attorney Fuller shall inform his clients in writing of his suspension from the practice of law and of his inability to act as an attorney, and shall advise them to seek other counsel. See Rule 37(13)(b). Attorney Fuller shall file an affidavit on or before October 16, 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 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, JJ., concurred.

DATE: September 26, 2023  
ATTEST: Timothy A. Gudas, Clerk



Pursuant to Supreme Court Rule 38-A, the Supreme Court reappoints Attorney Timothy E. Bush to serve an additional three-year term on the Advisory Committee on Judicial Ethics. The term shall commence immediately and expire on September 1, 2026.

Issued: October 5, 2023  
ATTEST: Timothy A. Gudas, Clerk of Court  
Supreme Court of New Hampshire

## Classifieds

### 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>. 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/DP/V and LGBTQ"

### 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. DYCF is the state agency overseeing child protection and juvenile justice services in NH and it is comprised of professionals 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/jobsearch>. 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@dhhs.nh.gov](mailto:marie.noonan@dhhs.nh.gov).

## US District Court Decision Listing

September 2023

\* Published

### EVIDENCE

*Picard v. Ciulla*  
Case No. 20-cv-559-LM, 2023 NH 115P

In this civil rights lawsuit, the defendant, a Nashua police officer, moved in limine to exclude from evidence medical bills that were forgiven by the treating medical provider. Defendant argued that such bills reflected arbitrary charges untethered from the reasonable value of the medical services that were provided and were therefore irrelevant and unduly prejudicial. The court denied the motion to exclude, finding that the probative value of authentic medical bills as to the reasonable value of medical services is self-apparent, given that defendant offered no evidence to support his argument that the billed amounts were arbitrarily determined. Further, the court noted that New Hampshire's collateral-source rule dictates that the windfall received from a forgiven medical bill should fall to the plaintiff rather than the defendant tortfeasor. 10 pages. Chief Judge Landya McCafferty.

### JUSTIFICATION DEFENSE TO FELON-IN-POSSESSION CHARGE

*United States v. Garrito Fort*  
No. 22-cr-90-SE, 2023 DNH 119

The government moved to preclude the defendant from introducing evidence or argument in support of a justification defense to his felon-in-possession charge. After an evidentiary hearing, the court granted the

motion. The court held that even with the minimal evidentiary burden that a defendant must carry to be entitled to preset an affirmative defense at trial, the defendant fell short. Specifically, the defendant presented evidence that he voluntarily left his house to confront someone who had damaged his car the night before and did so knowing that he possessed a gun. The defendant adduced no evidence that (1) he was under an unlawful and imminent threat of death or serious bodily injury when he first possessed the gun; (2) he did not recklessly place himself in that situation; (3) he had no reasonable legal alternative but to possess the gun; or (4) there was a direct causal relationship between his possession of the gun and the need to avoid the threatened harm. 18 pages. Judge Samantha D. Elliott.

### FEDERAL RULES OF CIVIL PROCEDURE

*O'Neil v. Somatics, LLC*  
No. 20-cv-175-PB, 2023 DNH 117

The defendant filed a motion under Rule 35 of the Federal Rules of Civil Procedure to compel a mental examination of the plaintiff. The plaintiff argued that the motion should be denied because it was submitted more than a year after the defendant was required to disclose its expert witnesses pursuant to Rule 26 of the Federal Rules of Civil Procedure. The court concluded that the timing rule for expert disclosures established by Rule 26(a)(2)(D) applied to Rule 35 motions, and that therefore the motion was untimely. The court denied the defendant's request, finding that the plaintiff would be prejudiced by the late exam and that the defendant did not provide good cause for its delay. 6 pages. Judge Paul J. Barbadoro.

## POSITIONS AVAILABLE

**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 waive 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 603-303-9520 or via email at [Laportelawgroup@gmail.com](mailto:Laportelawgroup@gmail.com).

**CONTRACTS ASSOCIATE** - McKenna.Law, PLLC - Seeking a precise, business-savvy, and quick-thinking contracts associate with excellent draftsmanship 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](mailto:apply@mckenna.law).

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

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

**ASSOCIATE** – Concord, NH area, small general practice law firm seeking energetic enterprising associate who can handle a busy case load, in a client oriented firm focusing on personal injury, family law, estate planning and business law. Excellent interpersonal, writing and oral-argument skills required. Admission to the NH and MA Bars and 5+ years of relevant experience a plus. Salary commensurate with experience, benefits available, performance-based bonuses, paid memberships and CLEs. We encourage professional development as well as pursuit of a balanced work-life schedule. Great opportunity for future growth. EOE. Send resume, writing sample and references to [dreid@mcgrathlawfirm.com](mailto:dreid@mcgrathlawfirm.com).

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

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

**CIVIL LITIGATOR ATTORNEY** – Alfano Law, PLLC seeks a full-time civil litigator with 5+ years' trial experience. Familiarity with real estate a plus. Flexible arrangements (remote vs. in-office). Health insurance, dental and 401(k) available. Please contact Deb Alfano at [dalfano@alfanolaw.com](mailto:dalfano@alfanolaw.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 a law school transcript (unofficial acceptable) to our Recruiting Coordinator through the Employment section on our website, [www.nhpd.org](http://www.nhpd.org).

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

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

**PARALEGAL/LEGAL ASSISTANT** – Busy Manchester law firm seeks an experienced full-time Legal Secretary/Assistant for litigation Attorneys. Knowledge of Personal Injury, Worker'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 email cover letter and resume to [candy@backusmeyer.com](mailto:candy@backusmeyer.com).

**FULL-TIME PARALEGAL.** YDC 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: \$39,136-\$57,369 with state benefits package. Paralegal job description, qualifications and application can be found at [www.courts.nh.gov/careers/job-postings](http://www.courts.nh.gov/careers/job-postings), look for job #23-105. Applications accepted until position filled.

**LEGAL ASSISTANT FOR TRANSACTIONAL LAW FIRM.** McKenna.Law, PLLC is seeking an organized candidate 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 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](mailto:apply@mckenna.law).

**LEGAL ADMINISTRATIVE ASSISTANT** – 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 [bdavis@hinckleyallen.com](mailto:bdavis@hinckleyallen.com) to apply.

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

## OFFICE SPACE

**MANCHESTER:** Desk space, solo or satellite professional space, furnishings, parking, utilities. [rj911@myfairpoint.net](mailto:rj911@myfairpoint.net).

## REFERRALS

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

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

## FOR SALE



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

LAW FIRM  
OFFICE MANAGER

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

Please send cover letter, resume' & salary requirements to Soule, Leslie, Kidder, Sayward & Loughman, PLLC, 220 Main Street, Salem, NH 03079 or to [lperry@soulefir.com](mailto:lperry@soulefir.com).

CASA of New Hampshire  
Staff Attorney

CASA seeks a 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 on-going training for 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@casanh.org](mailto:MDesrosiers@casanh.org)

The full job description and qualification requirements can be found at [www.casanh.org/jobs](http://www.casanh.org/jobs)

For additional information about CASA of New Hampshire please see [www.casanh.org](http://www.casanh.org)

North Conway  
NEW HAMPSHIRE

Cooper Cargill Chant, northern NH's largest law firm, serving clients in New Hampshire and Maine, is looking for two attorneys to join our vibrant firm. Our firm distinguishes itself by providing sophisticated counsel to a growing local, regional, and national client base, while balancing lifestyle opportunities afforded by our North Conway location. We offer competitive compensation and a strong benefits package.

## COMMERCIAL ATTORNEY:

Cooper Cargill Chant seeks an associate attorney with 1-6 years of corporate and transactional experience to provide counsel to closely held businesses, lenders, and the resort community. The ideal candidate will have strong credentials and an ability to work effectively with clients, colleagues, and the community.

PROBATE AND TRUST  
ADMINISTRATION ATTORNEY:

Cooper Cargill Chant seeks an associate attorney with 0-6 years to provide counsel for Probate and Trust Administration matters. The ideal candidate will have strong interpersonal and managerial skills.

Please send letter of interest and resume to Hiring Partner Leslie Leonard at [lleonard@coopercargillchant.com](mailto:lleonard@coopercargillchant.com). For further information, visit [www.coopercargillchant.com](http://www.coopercargillchant.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](mailto:vhamilton@lawyersnh.com).



WELTS, WHITE & FONTAINE, P.C.  
ATTORNEYS AT LAW

## PRACTICE FOR SALE

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

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

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

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

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

To express your interest or obtain further details about this opportunity, please contact us today at [bbolski@metrocast.net](mailto:bbolski@metrocast.net). All inquiries held in strictest confidence.



Androscoggin Valley Hospital  
North Country Home Health & Hospice Agency  
Upper Connecticut Valley Hospital  
Weeks Medical Center

### In-House Counsel

North Country Healthcare (NCH) seeks a highly motivated and experienced attorney to start our internal legal team. The position will play a critical role in providing legal counsel and guidance on various matters related to the healthcare system's business operations, corporate requirements, regulatory compliance, and risk management. The successful candidate will collaborate with various internal stakeholders and external partners to ensure NCH conducts its business in accordance with applicable state and federal laws and regulations.

### We offer:

*Generous Compensation | A Full Benefits Package  
Earned Time | Short & Long-Term Disability | Retirement  
And Much More!*

### We'd love to hear from you!

Apply online at:

[careers.northcountryhealth.org](https://careers.northcountryhealth.org)

*EOE - Including disability/veterans*



PASTORI | KRANS  
ATTORNEYS AT LAW

## Litigation Attorney

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

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

Submit cover letter and resume to [blandry@pastorikrans.com](mailto:blandry@pastorikrans.com). All inquiries are 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, witnesses to such crimes, court officials, law enforcement representatives, 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 prosecution 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.bnl.gov/Department of Human Resources/Employment](https://www.manchester.bnl.gov/Department%20of%20Human%20Resources/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.

### Essential Physical Abilities

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

### To Apply Please Visit:

<https://www.manchester.nh.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](mailto: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](mailto: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](mailto: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**

**Want to Love your Firm? Join us!**

## 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](mailto: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](mailto: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

**Associate Attorney**  
Real Estate  
Trust & Estates  
Manchester, NH

**Brendan D. O’Brien**  
Attorney  
Manchester, NH



Manchester | Portsmouth | Littleton  
Vermont | Washington DC

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

**APPLY AT [PRIMMER.COM/CAREERS](http://PRIMMER.COM/CAREERS)**



## LABOR & EMPLOYMENT ASSOCIATE ATTORNEY

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

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

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

Apply here: [https://www.appone.com/MainInfoReq.asp?R\\_ID=5508060](https://www.appone.com/MainInfoReq.asp?R_ID=5508060)

## 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](mailto:Christopher.G.Bond@doj.nh.gov) at the NH Department of Justice.

## Assistant Corporation Counsel City of Nashua

**DEPARTMENT:** Legal

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

**AFFILIATION:** Unaffiliated

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

### PRIMARY DUTIES

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

### QUALIFICATIONS

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

### APPLICATION PROCEDURE

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

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

## Assistant County Attorney 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 pendency 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 news media when appropriate

**Starting Salary:** \$85,000

**Status:** Full time/Exempt, Benefits

**Submission Requirements:** Employment application, resume and writing sample required.

**Email Applications:** [shersom@sullivancountynh.gov](mailto:shersom@sullivancountynh.gov)

**Mail Applications:** 14 Main St, Newport, NH 03773

Equal employment opportunity.

## Assistant County Attorney Belknap County



The Belknap County Attorney's Office is seeking a prosecutor to work in a team environment as a full time Assistant County Attorney. Under the general supervision of the Belknap County Attorney, the Assistant County Attorneys enforce the laws of the State of New Hampshire by preparing charges for the Grand Jury, meeting and interviewing witnesses and victims, seeking indictment and prosecuting felony crimes and misdemeanor appeals in the Superior Court. Other responsibilities may include "on-call" duties and providing advice and guidance to local law enforcement. For further information visit our website listed below.

**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 to letter to Jamie Ellsworth, Human Resources Coordinator, 34 County Dr., Laconia, NH, 03246. Phone: 729-1245; email [jellsworth@belknapcounty.gov](mailto:jellsworth@belknapcounty.gov) or visit our website at <http://www.belknapcounty.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



## ASSISTANT COUNTY ATTORNEY

### SCOPE OF POSITION:

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

### ESSENTIAL JOB FUNCTIONS:

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

### REQUIRED EDUCATION AND EXPERIENCE

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

**Salary Range:** \$73,486.40 - \$102,876.80, dependent on experience.

**Status:** Full Time/Exempt

### Submission Requirements:

Employment application and resume required.

### Apply Online:

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

### Equal Employment Opportunity

Mandatory post offer physical and drug testing for new hire. Criminal records check required.



## “Seasoned” Litigator

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

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

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

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

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

Inquiries, please reach out to Paul Alfano at [palfano@alfanolaw.com](mailto:palfano@alfanolaw.com)

## Hearings and Rules Administrator – Position #16738

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

### Requirements:

**Education:** Juris Doctorate from recognized law school.

**Experience:** Five years’ experience as an attorney, two years of which must have been as an attorney involved with administrative law or concerned with regulatory authorities.

**License/Certification:** Valid driver’s license and/or access to transportation for statewide travel.

**Special Qualifications:** Must be an active member of the New Hampshire Bar Association and in Good Standing.

**How to apply:** Please go to the following website to submit your application electronically through NH 1st: <http://das.nh.gov/jobsearch/employment.aspx>. Please reference the job ID number that you are applying for: #32650 Hearings Examiner. In order to receive credit for postsecondary education, a copy of official transcripts with a seal and/or signature MUST be included with the application. Please have transcripts forwarded to the Human Resources Office with the recruiting agency. Position will remain open until a qualified candidate is found. EOE.

For questions about these positions please contact Commissioner Kenneth Merrifield at [Kenneth.d.merrifield@dol.nh.gov](mailto:Kenneth.d.merrifield@dol.nh.gov) or 603-271-3699.

## ASSISTANT COUNTY ATTORNEY

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

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

### JOB DESCRIPTION:

- Under the general direction of the County Attorney, the Assistant County Attorney will draft complaints and pleadings.
- Researching pertinent case law, decisions, and legislations.
- Present investigations and cases to the Grand Jury; conduct Bench trials, Jury trials and all required hearings related to the assigned caseload in the Superior and/or District Courts.
- Must be able to handle multiple tasks, meet deadlines, be organized, have communication

skills, and able to negotiate. Must be an effective team member.

- Have a working knowledge of principles and rules of criminal law and the New Hampshire criminal justice system.
- Mandatory criminal record check is required for all new employees.
- Salary will commensurate with litigation experience

### Benefits:

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

Please send cover letter, resume, and references to Deputy County Attorney **Emily Garod** at [egarod@co.strafford.nh.us](mailto:egarod@co.strafford.nh.us).



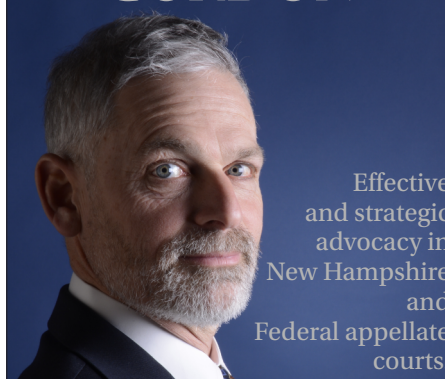
## DISCONTINUED ROAD? CLASS VI HIGHWAY? PAPER STREET?

- HISTORICAL RESEARCH
- EXPERT TESTIMONY
- BRIEF WRITING
- TRIALS



[PAUL@ALFANOLAWOFFICE.COM](mailto:PAUL@ALFANOLAWOFFICE.COM)  
(603) 226 -1188

## JOSHUA GORDON Appeals Lawyer



Effective and strategic advocacy in New Hampshire and Federal appellate courts.

603.226.4225  
[jlgordon@appealslawyer.net](mailto:jlgordon@appealslawyer.net)  
**AppealsLawyer.net**

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

(Nashua, Rochester, Concord, Manchester and Laconia (PT))

The DCYF Legal Team is a dynamic group of experienced child protection attorneys and their legal assistants, stationed around the state, who seek judicial protection for children subjected to abuse or neglect. The focus of our work is on the immediate protection of the child and strengthening, whenever possible, families to eliminate abuse and neglect in the home. The DCYF Legal Team works in partnership with the New Hampshire Attorney General’s office. We offer paid training, competitive salaries up to \$93,328.95), and a comprehensive benefits package. Benefits Summary ([nh.gov](http://nh.gov))

### DCYF Attorney Duties include:

- Litigating cases on behalf of DCYF to protect abused and neglected children and ensure children are provided safe, permanent homes.
- Conducting discovery, legal research and writing, preparing witnesses for trial, negotiating settlements, and presenting evidence and oral argument at court hearings and trials.
- Advising DCYF on its duties and responsibilities.

**Requirements:** J.D. from an accredited law school, N.H. Bar membership, a driver’s license and/or access to transportation for statewide travel, and four years’ experience in the practice of law. **Recent graduates are encouraged to apply – an exception may be requested for years of experience.**

**How to APPLY:** Please go directly to the following link to submit your application electronically through NH First: <https://lmkp.nhfirst.nh.gov/lawtaprd/xmlhttpshorturl.do?key=8AT> or visit Candidate Space ([nh.gov](http://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).

### FREE CONSULTATIONS!



## MAVERICK INVESTIGATIVE SERVICES LLC.

### WE'RE ON THE CASE.

SURVEILLANCE  
ELECTRONIC FORENSICS  
CRIMINAL INVESTIGATIONS  
POLYGRAPH EXAMINATIONS  
COURT-READY DOCUMENTS  
DOMESTIC AFFAIRS  
PROCESS SERVING  
MORE!

© (603)-458-8166

[WWW.MAVERICKINVESTIGATIONS.NET](http://WWW.MAVERICKINVESTIGATIONS.NET)

## Doreen Connor

[dconnor@primmer.com](mailto:dconnor@primmer.com)

Member of  
American  
Academy of  
Appellate lawyers

603.626.3304



PRIMMER PIPER  
EGGLESTON &  
CRAMER PC

## A.A.DORITY

## SURETY BONDS

Serving New England’s Lawyers Since 1899

- Probate Bonds
- Appeal Bonds
- T.R.O. Bonds
- Dissolve Lien Bonds
- Bid, Performance & Payment Bonds
- Fidelity Bonds

**PHONE: 617-523-2935**

**FAX: 617-523-1707**

[www.aadorty.com](http://www.aadorty.com)

A.A. DORITY COMPANY, INC.

226 Lowell St., Suite B-4, Wilmington, MA 01887

## 2023 CLASSIFIED RATES

Classified advertising will only be accepted on a prepaid basis. The publisher reserves the right to accept or reject all advertising copy at its discretion.

If you would like to place an ad in the classified section, please contact our Sales and Technical Editor at (603) 715-3263. You may e-mail your ad to: [advertise@nhbar.org](mailto:advertise@nhbar.org) and mail with a check for prepayment to: NH Bar News Classifieds, 2 Pillsbury Street, Suite 300, Concord, NH 03301.

If you have missed the deadline for the current issue, your ad will appear on our website, [www.nhbar.org](http://www.nhbar.org), before the next issue date.



Celebrating 150 Years

# LAWPAY<sup>®</sup>

AN AFFINIPAY SOLUTION



Member  
Benefit  
Provider

“I love LawPay! I’m not sure why I waited so long to get it set up.

– Law Firm in Ohio

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



22% increase in cash flow with online payments



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



62% of bills sent online are paid in 24 hours

YOUR FIRM  
LOGO HERE

Trust Payment  
IOLTA Deposit

New Case Reference

\*\*\*\* \* 9995

\*\*\*

TOTAL: \$1,500.00

VISA



POWERED BY  
LAWPAY

eCheck

DISCOVER

PAY ATTORNEY

PAYMENT  
RECEIVED



Get started at  
[lawpay.com/nhba](https://lawpay.com/nhba)  
866-730-4140

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

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

# DIVERSITY, EQUITY, and INCLUSION

*In the New Hampshire Legal Community*

Published in partnership with the  
NEW HAMPSHIRE SUPREME COURT STEERING  
COMMITTEE ON DIVERSTY & INCLUSION



INSIDE

NHBA Diversity Statement. PAGE II

An Introduction to the NHSC Steering Committee on Diversity and Inclusion. PAGE II

The Legal Focus on Diversity Inside and Outside of Your Organization. PAGE III

The Golden Rule Is a Disability (When Representing Clients with Disabilities). PAGE III

Someone 'Like Me'. PAGE IV

Recognizing and Supporting the Mental Health Needs of Diverse Community Members. PAGE IV

A Path to Progress: The 1L Diversity Internship Program. PAGE V

Women in the Bar: A Very Brief History. PAGE VI

New Hampshire DEI Milestones Timeline. PAGE VII

Legal Rights and Language Barriers: Ensuring Justice for LEP Litigants. PAGE VIII

Bar Members Share Their Experiences with Discrimination. PAGE VIII

A Reminder of the Diversity Survey Recommendations. PAGE IX

DEI in Alternative Dispute Resolution. PAGE X

DEI: A Journey Without a Finish Line. PAGE XI

## NHBA Diversity Statement

The New Hampshire Bar Association's motto proudly proclaims, "Equal Justice Under Law." This phrase serves as a guiding principle and fundamental tenet of our organization's commitment to law, equality, and justice. In furtherance of this principle, the NHBA is committed to promoting and fostering a diverse and inclusive bar association. Diversity is an inclusive concept

that encompasses race, ethnicity, national origin, religion, gender, gender identity, age, sexual orientation, and disability.

The NHBA recognizes that achieving diversity in the legal profession requires the Association's continued effort and commitment, and the NHBA is committed to diversity in its membership, board of governors, staff, committees, and all leadership positions.

The NHBA is a richer and more effective Association because of diversity, as it increases our perspectives, collective experiences, strengths, capabilities, and adaptability. In addition, a diverse group of talented legal professionals is important to the success of law firms, law departments, public service organizations, and the clients we serve.

Through increased diversity, the NHBA and its members can bring

more varied perspectives, experiences, backgrounds, talents, and interests to the practice of law and the administration of justice. Through this Diversity Statement, the NHBA reaffirms its commitment to keeping the issues of inequality and injustice in our collective consciousness and to take steps toward creating a more equitable and inclusive bar association for all our members. ■

## 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 develop effective, supportive, and creative solutions to respond to their legal needs; (5) Improve access to justice by eliminating barriers, continuing to simplify and streamline court processes and forms, leveraging technology, improving interpreter services, and advocating for necessary resources to keep courts safe, open, and secure; (6) Engage the public in forums outside of court to better understand their personal experiences with the courts and reaffirm our commitment to "equal justice under law;" and (7) Enhance the public's trust and confidence by listening and responding to the needs of those we serve, holding ourselves to high standards, and communicating the role of our courts in providing justice for all.



Importantly, 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 Ruoff (co-chair), William Delker, and Charles Temple; Circuit Court Administrator Sarah Freeman; AOC HR Manager Victoria Prestejohn; Superior Court Clerk Jenn Haggan; NHSC Clerk Tim Gudas; AOC Director Dianne Martin; NHJB Deputy Director of Access and Community Engagement Jackie Waters; NHJB ADR Coordinator Margaret Huang; and NHJB Communications Manager Av 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 Borja Alvarez de Toledo, Manchester Police Lieutenant Matthew Barter; Disability Rights Center Communications Director Deodonne Bhattarai, ACLU Attorney Gilles Bissonnette, 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 Thomas Raffio, 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 planning, policy, 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

incomes 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 workforce data to help determine what is currently available beyond the data accessible in the EEO Utilization Report, located on the NHJB website.

On June 30, 2023, the Collective Bargaining Agreement between the NHJB and the State Employees' Association formally renamed several staff positions to remove "assistant" from the title, partly in recognition of the gender stereotypes

COMMITTEE continued on page XII

# 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 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 leaning into DEI in a way that does not at worst

run afoul of the law or at the least create pushback or condemnation and, in fact, help the organization achieve its goals and objectives.

## DEI Within Law Firms

My work with law practices 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 bias and fostering inclusivity for all members of the firm.
- Encouraging senior lawyers to mentor and sponsor junior lawyers from underrepresentation.
- 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

*DIVERSITY continued on page XII*

# The Golden Rule Is a Disability (When Representing Clients with Disabilities)

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 17<sup>th</sup> Century British Anglicans, the Golden Rule is premised on the idea that people are all fundamentally the same; that they like the same things you like. It's a very assumptive rule, and assumptions and stereotypes are at the very heart of disability discrimination.

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



unlawyerly, but television is actually a great illustration of how little people without 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 dollars, \$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 per-

son with a disability? A disability we, ourselves, haven't experienced? So, without the Golden Rule, how do you know how a client with a disability wants to be treated? You ask.

## A New Rule

In other words, ditch the Golden Rule for a new rule, let's call it the Red 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 laten 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

*DISABILITIES continued on page X*

# Someone ‘Like Me’

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 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, while it is more readily acceptable by others.

While diversity in New Hampshire’s



general population has grown, diversity within the legal community historically has not. However, a number of joint efforts have been made recently to increase diversity within New Hampshire’s legal community. Three years ago, the University of New Hampshire Franklin Pierce School of Law (UNH Law) created the Dean’s Task Force on Racial Justice, Diversity, and Inclusion. The result was the creation of a 25-page recommendation memorandum, portions of which have been implemented.

Two years ago, local law firms in New Hampshire came together to create a 1L DEI Summer Internship Program. Law firms that typically were in competition united with a common desire to increase diversity in New

Hampshire’s legal community and built a summer internship program for first-year law students.

A little over a year ago, the Advisory Board to the New Hampshire Supreme Court’s Steering Committee on Diversity and Inclusion was formed and great efforts are being made within the judicial branch to increase diversity, accessibility, and more.

Two years ago, UNH Law also created the DEI Scholarship Fund to increase diversity within the law school and, to date, multiple law students have received scholarships aimed at increasing diversity in the student population. Local corporations also have implemented internal plans and policies to further DEI efforts, and other groups have worked together to increase diversity within the legal community. These are wonderful steps in creating a more diverse legal community and there is much more to be done. The hope is that these efforts continue even with less of a media focus on DEI issues.

It is noted that increasing diversity within the legal community will take time. The previously mentioned efforts focus on those newly entering the legal field, as well as the judicial branch levels. Efforts are also being made to bring skilled attorneys in from other states where a more diverse legal community already exists. Addressing DEI issues within the legal community at the student,

attorney, and judicial branch at the same time, provides a better chance of long-term change.

Equally important is the need to increase awareness of these efforts within the community. Like the young lady from the prior example, for years, the minority community has desired legal representation from people “like them.” Informing the minority community of the scholarship fund, law school changes, law firms building the 1L program, judicial branch changes, and efforts to bring in attorneys from neighboring states, works toward building a confidence and trust in the legal community that is needed.

Meeting with community leaders to report on recent DEI efforts is helpful as is requesting their feedback. Attending community events, going to community centers, providing information sessions within the community on different legal principles like currently provided conferences for clients, and other efforts, build a level of comfort within the community. Group efforts work best and with law schools, law firms, the judicial branch, and the community working together and sharing information focused on DEI efforts within the legal community, transformation happens with greater ease.

The alternative is that we can build a more diverse legal community over an elongated period of time, but not build community confidence. Making the community aware of changes and getting them involved as transformation takes place, illustrates a united front to address a common goal. Communication within the community also increases chances of laterals from neighboring states so involving members of this more diverse community provides many benefits.

In summary, we are taking great steps toward addressing DEI issues within our legal community and there is more to be done. Keeping the most diverse communities aware of these efforts and seeking their feedback and involvement will provide better acceptance of efforts and may accelerate transformation. ■

*Peter A. Nieves is a founding member of Nieves IP Law Group, LLC. He is also a member of the Diversity and Inclusion Steering Committee’s advisory board.*

Meeting with community leaders to report on recent DEI efforts is helpful as is requesting their feedback.

## The Business Law Firm

### For Businesses of All Sizes:

Affordable Housing • Energy  
Start Ups • Healthcare  
Employment • Business  
Real Estate • Non-Profit  
Litigation • Data Privacy  
Intellectual Property • Tech

And More!

Let us help you.

**SHEEHAN PHINNEY**

Boston • Concord • Manchester • Portsmouth • Upper Valley

sheehan.com

## Recognizing and Supporting the Mental Health Needs of Diverse Community Members

By Susan Stearns  
Executive Director, NAMI-NH

The National Alliance on Mental Illness New Hampshire’s (NAMI-NH) mission is to improve the lives of Granite Staters affected by mental illness and suicide – work that’s done by providing support, education, and advocacy. It is critically important to understand the unique experiences, needs, and challenges of the individuals and commu-

nities we serve. As such, DEI was incorporated as a pillar of NAMI-NH’s strategic plan in 2021. In early 2022, the NAMI-NH DEI Committee, which includes a diverse mix of volunteers, board members and staff, began meeting monthly. The group developed a charter and working ethos, crafted principles, updated values language, and established a wide array of short- and long-term goals. ■

# 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 Phinney, McLane Middleton, Nixon Peabody, and Orr & Reno 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 partici-

pant 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



**Shaheen  
& Gordon**  
ATTORNEYS AT LAW

## PEOPLE ARE AT THE HEART OF OUR WORK

At Shaheen & Gordon, we recognize that diversity, equity and inclusivity are essential as we seek to:

- Enrich the lives of all our employees.
- Serve our clients in the best possible manner.
- Make change in the broader communities in which we work and live.

Our firm's Diversity, Equity, and Inclusion Committee is dedicated to educating ourselves and others, to diversifying our work force, and to volunteering and reaching out to diverse communities to listen to and meet their needs through leadership, mentoring, and service.

We are proud to support diversity in New Hampshire and beyond.

(800) 451-1002 • [shaheengordon.com](http://shaheengordon.com)

Our first-of-its-kind DEI Summer Intern Program is entering its fourth year. We're proud to offer this opportunity to first- and second-year law students from all backgrounds.  
**Now welcoming applications for 2024!**

Concord • Dover • Manchester • Nashua • Peterborough • Portland

*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 19<sup>th</sup> 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 women are to fulfill the noble and benign offices of wife and mother.” 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 23<sup>rd</sup> 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 100<sup>th</sup> 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 Dalianis 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 im-

pressive with women comprising 80 percent (four of five) of the full-time 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 45<sup>th</sup> 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/appeal.

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. ■



Conflict Resolution and Ombuds Services  
for Your Workplace



**PRISM**  
Conflict Solutions

**NEW ENGLAND’S TRUSTED WORKPLACE  
MEDIATION AND CONFLICT RESOLUTION FIRM**

95 N. State Street, Concord, NH 03301

603.225.0477

PRISMConflictSolutions.com

# 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.



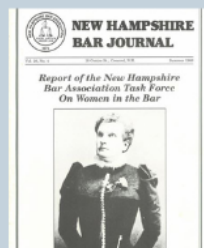
**1980**

Linda S. Dalianis is nominated by Governor Hugh Gallen 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 NH Women's Bar Association is formed.



**2000**

Linda S. Dalianis 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.

**NEW HAMPSHIRE  
BAR ASSOCIATION**  
Equal Justice Under Law • Celebrating 150 Years



# Legal Rights and Language Barriers: Ensuring Justice for LEP Litigants

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.<sup>1</sup>

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 linguis-

tic challenges that must be addressed through robust language access programs. Such programs are not only a legal requirement<sup>2</sup> 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 in 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 NHJB also employs multilin-

## Language by the Numbers Top Ten Interpreted Languages

Spanish	71%
Portuguese	8%
Arabic	4%
Swahili, American Sign Language, Kinyarwanda, and Nepali	3% each
Chinese (Mandarin) and French	2% each
Vietnamese	1%

gual staff and provides other resources on the judicial branch website.<sup>3</sup>

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 Interpreting (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 re-

al-time translation at the clerk’s window. Look for these changes in language access services beginning in early 2024.

New Hampshire and the entire United States are growing in diversity. The strength of our democracy is often attributed to our ability to embrace and integrate people from many backgrounds and cultures. By fully supporting robust language access services, the court system and the broader justice community build upon that strength by ensuring equal access under the law for everyone, regardless of their language needs.

For more information on the judicial branch’s language access program, email [la@courts.state.nh.us](mailto:la@courts.state.nh.us). ■

*Jacqueline Waters is the Deputy Director of Access and Community Engagement at the New Hampshire Judicial Branch and sits on the Diversity and Inclusion Steering Committee.*

## Endnotes

1. Migration Policy Institute; [migrationpolicy.org/data/state-profiles/state/language/NH](https://migrationpolicy.org/data/state-profiles/state/language/NH)
  2. See Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. § 2000d, and the Omnibus Crime
  3. Control and Safe Streets Act of 1968, as amended (Safe Streets Act), 42 U.S.C. § 3789d(c)(1).
3. Language Access/Interpreter Services; [courts.nh.gov/your-visit/interpreter-services](https://courts.nh.gov/your-visit/interpreter-services)

## 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

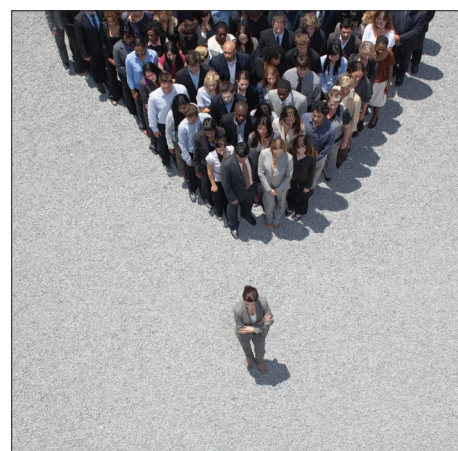
“When I was a young associate, a senior male partner at the large and well-known New Hampshire-based law firm I worked at consistently approached me with inappropriate commentary. Once, he literally cornered me with his arm at the Friday social and told me how he visited his son’s high school and saw 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 (assigned) 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 have been doing 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 administrative law.

I am 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 exclusively 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 my 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.” ■

## CLIENTS. COLLEAGUES. COMMUNITY.

For more than 75 years, Orr & Reno has strived to provide our clients with high-quality, ethical, and valued legal services; foster a collegial work environment; support professional and personal balance; and invest in our community.

SUSTAINED EXCELLENCE SINCE 1946

Orr&Reno

603.224.2381 | [orr-reno.com](http://orr-reno.com) | Concord, NH

# 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 D&I, 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 minori-



ty 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.**

We cannot afford to let these important recommendations languish on a shelf. Please take every opportunity in our efforts to continue to improve the Bar to keep these recommendations at the forefront. ■

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

# MCLANE MIDDLETON

## COMMITTED TO DIVERSITY, EQUITY & INCLUSION

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](https://McLane.com/Mansfield)

# DEI in Alternative Dispute Resolution

By Margaret Huang

Earlier 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 me minimal responses to the standard intake 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.



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 who would otherwise seek this professional training. The scholarship is designed to help remove those barriers so more New Hampshire residents, like the litigant above, can see themselves in the ADR professionals who serve them. Improving DEI in ADR is a complicated and difficult task, but necessary for equal justice under law. ■

*Margaret Huang is the Alternative Dispute Resolution Coordinator for the New Hampshire Judicial Branch.*

came before us.

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.<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup> 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 diver-

sity 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 cataloguing 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

## Endnotes

1. *New Hampshire Judicial Branch, Mediation*. Available at [courts.nh.gov/resources/mediation](https://courts.nh.gov/resources/mediation).
2. Marvin E. Johnson and Maria Volpe, *Roots of Diversity in the Dispute Resolution Field: Some Preliminary Observations*, ACR Resolution, (Winter 2013).
3. Race, ethnicity, gender identity, age, disability, national origin, sexual preference, socioeconomic status, and others.
4. ADR Administration consists of neutral management, program administration, and workplace policies. Neutral management includes (1) determining the qualifications of who can become a neutral, (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 personnel who administer the program, the culture of how neutrals and staff interact, and internal policies that affect the administration of the program.
5. See Marvin E. Johnson and Maria Volpe, p. 16, *supra* note 1.

## Disabilities from page III

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 assigned, by 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](mailto: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 with 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 ask 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, thus the red sneakers, and prenatally 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@redsnakerlaw.com](mailto:kirk@redsnakerlaw.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 Sultana 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 Hamp-

shire, 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.” ■

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

# 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.



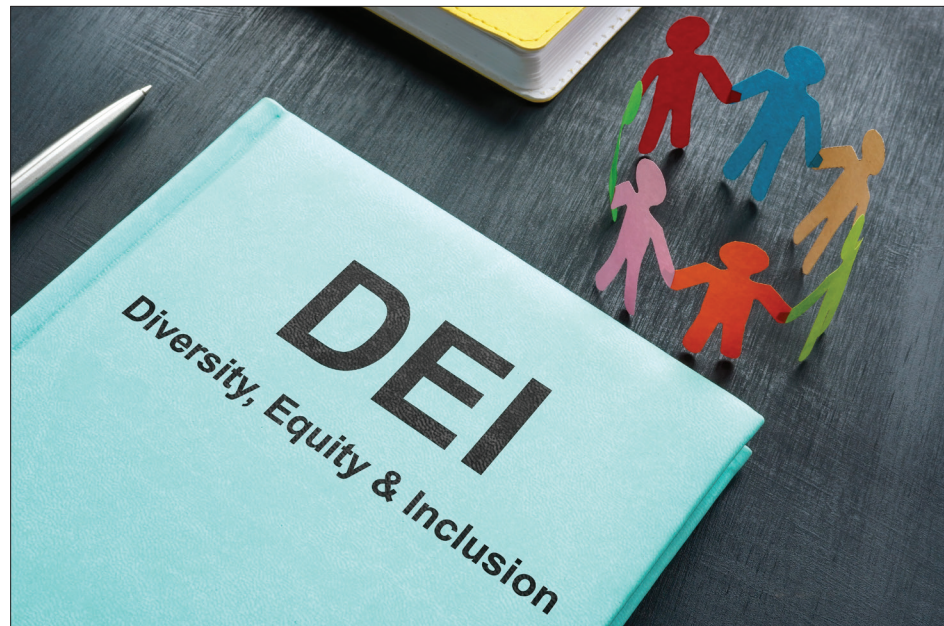
As a nonprofit company dedicated to improving the health, wellness, and quality of life across communities in Maine, New Hampshire, and Vermont, we realized we had to gain a better understanding of racially oriented inequity in oral health within ourselves and our business. This requires developing partnerships 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, focusing on training our em-



ployees on topics such as generational differences, supporting community events, or recruiting diverse candidates, it is and will always be an ongoing, multi-disciplinary endeavor.

At its very core, our company mission of advancing the oral health and wellness of 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 adult Medicaid recipients, never before eligible for oral healthcare.
- 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 Friends 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.*

## NHBA Lawyer Referral Service



### Join Today to Build Your Client Base

- ◆ Receive referrals in your practice areas.
- ◆ Choose which cases to accept.
- ◆ Set your own fees.

**8,000+ Referrals Made Annually**



Learn more at [nhbar.org/join-lawyer-referral-service](https://nhbar.org/join-lawyer-referral-service)

**JacksonLewis**

**We get work.®**

Focused on labor and employment law since 1958, our 950+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business.

**Debra Weiss Ford | Office Managing Principal**

100 International Drive, Suite 363, Portsmouth, NH 03801  
603-559-2727 | [Debra.Ford@jacksonlewis.com](mailto:Debra.Ford@jacksonlewis.com)

©2023 Jackson Lewis P.C. • Attorney Advertising • [jacksonlewis.com](https://jacksonlewis.com)

## Committee from page II

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 NHJB 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 Delker'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 nationwide internship portal 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 applications in all branches of government for summer internships and externships during the school year. We have also provided an above-average number of internship and externship opportunities in the NHJB.

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, the subcommittee 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 parenting 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.

### Communications

Earlier this year, the D&I Communications 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](http://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](http://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." ■

## 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.

- Engaging with diverse communities outside of the firm to improve understanding of how the world works and how people live.

### Outside the Firm

What is your competitive advantage? Are you providing the most value you can to your clients? Beyond the confines of the firm, lawyers have a unique opportunity to not only help with compliance but also to go above and beyond that base expectation and become a true partner helping them improve efficiency, effectiveness, and relevance through DEI. What might that look like?

- 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.

### 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.*

### Want to go beyond compliance?

We ignite  
superior  
performance  
through diversity,  
equity, &  
inclusion.



[www.organizationalignition.com](http://www.organizationalignition.com)  
[James.McKim@organizationalignition.com](mailto:James.McKim@organizationalignition.com)  
(603) 540-2988