



US Magistrate Judge Talesha L. Saint-Marc takes the podium at her historic investiture ceremony. Photo by Stephen Bradley

## Breaking Barriers: Judge Talesha Saint-Marc's Historic Investiture Ceremony

By Grace Yurish

New Hampshire history was made when Talesha L. Saint-Marc became the first Black person in New Hampshire to serve on the federal bench as a United States magistrate judge. On October 12, her consequential investiture ceremony was held at the Warren B. Rudman Court-house in Concord.

The event was filled with Judge Saint-Marc's lifelong friends, family, fellow judges, and Bar members who came to witness her ceremonial swearing-in. The afternoon began with remarks from US District Court for the District of New Hampshire Chief Judge Landya B. McCafferty, where she introduced honorable guests and dignitaries who joined her on the bench during the event. Following introductions, Saint-Marc's oldest children, Jeremiah and Chloe, led the court in reciting the Pledge of Allegiance. The opening was concluded with the reading of a congratulatory letter from Senator Maggie Hassan.

One of the selected speakers, Superior Court Senior Justice Gillian Abramson, was a mentor to Judge Saint-Marc and describes her as her "rock" during a very difficult trial in her career.

"She is always sunny-side up, she is calm, and she is reflective," Judge Abramson said in her remarks. "Above

all, she will listen. All lawyers and litigants really want in the end is to be heard and to be seen. Those appearing before Judge Saint-Marc will have a hearing, but they will also have a conversation. She is no pushover; there is a steel hand beneath that velvet glove. It is a dream come true for Talesha, for me, but also for you, Judge McCafferty, because she will become a dream come true for your court."

A New Hampshire native, Saint-Marc received her undergraduate degree in political science from Franklin Pierce University in 2006 and her juris doctor from Northeastern University School of Law in 2009. Upon graduation, she clerked at the Superior Court, as well as the New Hampshire Supreme Court under retired Justice Carol Ann Conboy. In 2012, she began practicing labor and employment law at Bernstein Shur, where she worked until her judicial appointment.

Attorney Hilary Holmes Rheaume of Bernstein Shur also spoke at the ceremony. She and Judge Saint-Marc became best friends through their work together at the firm. Rheaume spoke with great pride about her friend's accomplishment.

"You earned this moment," she said. "But I don't think anyone in this room is surprised that you are making history. And I would challenge the idea that your

SAINT-MARC *continued on page 22*

## NHBA Prison Series: Maintaining Order and Dispensing Punishment

By Tom Jarvis and Scott Merrill

Maintaining order in the New Hampshire State Prison (NHSP) system is never a completely precise affair despite the many rules and regulations that exist to keep people safe. As New Hampshire's prison population grows, so does the need for disciplinary actions and protective remedies to keep inmates, corrections officers, and others visiting the state's prisons safe.

In 2023, there were 2,100 people being held in the three New Hampshire state prisons, which is three times what it was in 1978. Preserving safety inside these prisons requires a high level of control over the physical space and the bodies of all of those inside.

For inmates, this means dress codes, occasional strip searches, and formalized routines and restrictions throughout the day. For the occasional female attorney visiting her clients, it has even meant no dresses above the knee. For corrections officers (COs), it means treating inmates with respect by maintaining boundaries while also understanding the culture on the inside. Prison society, after all – much



Green is the new black: While inmates in most states, TV shows, and movies don orange, NH inmates wear green.

like that on the outside – has its own class system and rules. Navigating all these rules for prisoners, COs, and visitors is an ongoing process.

### Disciplinary Action and the SHU

When an inmate violates the rules of the prison or commits a crime while incarcerated, they are given a disciplinary report, or D-report, and must submit to a disciplinary hearing (commonly referred to as a D-board hearing) in front of the disciplinary board.

PRISON SERIES *continued on page 20*

## A Call to Action: Advocate for Vulnerable Individuals at IEA Hearings

By Grace Yurish

New Hampshire attorneys can make a profound impact by representing individuals undergoing Involuntary Emergency Admissions (IEA) to mental health facilities. These cases involve individuals deemed a danger to themselves or others, warranting immediate mental health treatment.

In New Hampshire, where approximately 2,200 of these cases arise each year, attorneys are desperately needed to step forward and ensure that the rights and well-being of these vulnerable individuals are protected.

IEA cases are designed to address the urgent needs of individuals due to mental health issues and offer

a short-term solution to emergency situations. These cases move quickly, beginning when a patient is admitted to the hospital's emergency department for a crisis. The hospital staff then conducts an evaluation to determine if the individual suffers from mental illness and poses a danger to themselves or others. In IEA cases, the patients can be admitted to a mental health treatment facility, also known as a designated receiving facility (DRF), for up to 14 days. When hospital staff signs an IEA certificate, the Circuit Court must conduct a hearing within three business days (excluding Sundays and holidays).

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## Midyear Meeting and Service to Others

Happy November, fellow attorneys. Firstly, I want to personally thank Supreme Court Justice Gary Hicks for his many years of service to the public and to members of the Bar. Justice Hicks has worked as the Court's representative to the NHBA Board of Governors for the last five years, faithfully attending meetings and offering meaningful input. He has always done so with a smile, sincerity, and just plain goodness that I will long remember. Thank you, Justice Hicks.

As I write this column on October 29, this week's top news stories are the conflict in Israel and the mass shooting in Maine. When I asked Justice Hicks how he was, he said "okay, just okay." I delved into it a little bit and learned that these events are weighing heavily upon him. I told him I felt the same way. I expect that the events of the world and nation are weighing heavily on most of us. Conflict and sadness seem to exist everywhere. As lawyers, and especially as litigators, we live in our own world of conflict. Many of us also have a different type of conflict at times with our spouses, children, and co-workers.

It is in the context of all the above that I invite you all to attend the Midyear Meeting on February 9, 2024. As we all deal with wellness issues in our practices and in our lives, I am thrilled that the meeting will feature Dr. Larry Richard of LawyerBrain.com. Dr. Richard is a national authority on who we are as lawyers, where we come from, what drives us, and the personal and psychological traits we

### President's Perspective



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

share – good and bad. He knows who lawyers are in a way that we individually do not.

Dr. Richard was a commercial litigator for 10 years. Since then, he has studied, with individual data on each, more than 25,000 lawyers. Dr. Richard consults with top law firms regularly to help their lawyers identify their own traits, strengths, and weaknesses. He will also speak on the traits and characteristics we as lawyers often share that cause us to have issues with wellness, from substance misuse, to depression, to simply being over-stressed. Please block out February 9 on your calendar and come join us.

I am also a big believer that lawyer service outside of direct client relationships can be of great value to attorney wellness. I have been on countless boards and served as a volunteer for many organizations. Doing that work has brought me great personal fulfillment. I generally look forward in my life but must acknowl-

edge that almost of all my legal career is now behind me. (I have been at this profession for 37 years.) Many of my cases have resulted in a feeling of accomplishment, for the change brought to individuals and organizations. However, as I look back at my greatest accomplishments, the ones that have lasted have been doing service for others.

I look back 30 years ago to my service on the Nashua Youth Council, helping a young, fledgling organization in the difficult transition from the retirement of its founding executive director, keeping the organization alive. Now, the Youth Council still thrives, serving the needs of troubled Nashua youth.

Also in Nashua, I had the pleasure of chairing the Chamber of Commerce Education Committee. This was during a time where there were plans to spend about \$100 million to rehab Nashua High School. The plan would have created the second largest high school in New England in number of students. A group of us brought together educational leaders in civic forums, which included exploring the creation of a second high school, what became Nashua North. I think that was a huge, positive move for Nashua, and I am proud to have been a part of it.

Here in the Mount Washington Valley, I have helped as a board member or chair of The Ham Arena (our local ice rink where my daughters skated), the Barnstormers Theatre, the Book Love Foundation, and the New Hampshire Charitable Foundation. Over the last two years, I have had the great pleasure of serving on the CASA-NH board of directors. I have found that my work at my job is largely just work – even a grind. Work for non-profits, by and large, is pleasurable.

My advice: Pick organizations whose mission you truly believe in and give it your all. Your sense of personal accomplishment will be great; I can almost promise you that your overall well-being will be improved.

I also want to strongly encourage service to our profession. Consider serving on an NHBA committee, or as a member of the board of governors. Serve as a member of the 603 Legal Aid pro bono panel. Take the DOVE training and become a DOVE volunteer. I finally did that at age 62 last year and I highly recommend it. Consider also serving as a CASA advocate. CASA work can literally change the life of the child you advocate for. The fulfillment in doing so can be huge. ♦

### NHBA Adds Third LRS Intake Staff

To support growing demand and the number of prospective clients calling into the Lawyer Referral Service Full-fee and Modest Means programs, the New Hampshire Bar Association



is pleased to announce the addition of Amanda Adams. As the LRS Intake and Referral Assistant, Adams will assist the other intake staff with phone and online

referrals, as well as administrative tasks.

Adams is currently finishing her bachelor's degree in humanities, with a specialization in English literature and a minor in human resources management at the University of New Hampshire. Prior to joining the NHBA, she worked at Highland Mountain Bike Park as a guest services representative.

"I'm excited to start at the New Hampshire Bar Association and to utilize my knowledge to help the public through the Lawyer Referral Service," Adams says. "I'm looking forward to assisting the community and helping people in their pursuit of justice." ♦

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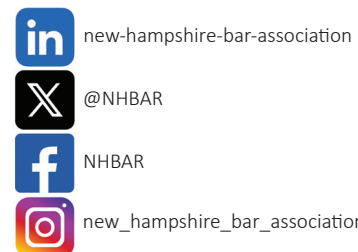
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## Margo Cooper: A Nashua Attorney Who Goes *Deep Inside the Blues*

By Kathie Ragsdale

Margo Cooper has two careers with one thing in common. She represents people – in court as an attorney, and on the page with her words and photographs.

The Nashua solo practitioner and former public defender now handles mostly court-appointed work, including guardian ad litem and juvenile cases. She also photographs and records the oral histories of legendary blues artists and is a contributing writer and photographer for the Mississippi-based *Living Blues* magazine.

Her book, *Deep Inside the Blues*, is being published this month by University Press of Mississippi and includes more than 160 black-and-white photographs and 34 interviews with iconic artists ranging from Bo Diddley to B.B. King. She says she wanted to record and share their stories – including tales of sharecropping, hardship, and segregation – while they are still alive.

Cooper says her interest in people is what unites her two vocations.



Author photo of Margo Cooper. © Lisa Abitbol, All Rights Reserved

“Both things are important,” she says. A native of Troy, New York, Cooper can remember as a child combing through the scrapbooks and photo albums kept by her grandmothers and asking about the stories behind the images. That curiosity about people, she says, “explains how I ended up as a public defender.”

She also recalls the time in high school when she heard the Buddy Guy and Junior Wells song, *Messin’ with the Kid*, and felt an instant connection.

“I fell in love with the song, the music,” she says.

It would take roughly a decade before she pursued that interest more seriously.

After graduating from Colgate University in New York, Cooper went on to the Suffolk University School of Law and spent six years as a New Hampshire Public Defender in the Manchester office.

“They are an amazing group of criminal defense lawyers,” she says. “They were and are some of the best in the state.”

Attorney Mark Sisti was on the committee that hired her for the job.

“She clearly exhibited dedication to the folks we were going to be representing and she did,” he says. “She was absolutely dedicated to indigent individuals who were looked upon as being disenfranchised.”

After that job, Cooper took a year off, participated in a three-month intensive at The Maine Photography Workshops, traveled, and established her Nashua law office.

More photography courses followed, and she started going to blues clubs in the Boston-Cambridge-Somerville area, hearing musicians from Mississippi and Arkansas. Listening to them, she began to wonder about the stories behind their music.

“With not a lot of thought behind it, I just went to Mississippi,” she says. “People were warm, people were inviting, the music was extraordinary.”

She has gone back three or four times a year for some 26 years.

Cooper befriended many of the musicians there, including Luther “Guitar Jr.” Johnson, who remained a friend until his death and who introduced her to Willie “Big Eyes” Smith and Calvin “Fuzz” Jones, both of whom had played with the legendary Muddy Waters.

She then began photographing the artists and writing their oral histories for *Living Blues* magazine.

Among them was Toni Lynn Washington, a Boston-area blues singer who will be 87 in December and still performs.

“We became friends immediately,” says Washington, whose profile appeared in a 2016 issue. “She put things in there I had forgotten about. She did her research. She’s a really thorough person who goes beyond the call of duty. She calls me frequently to see how I’m doing. Margo is a wonderful person and she’s that way with everyone she touches.”

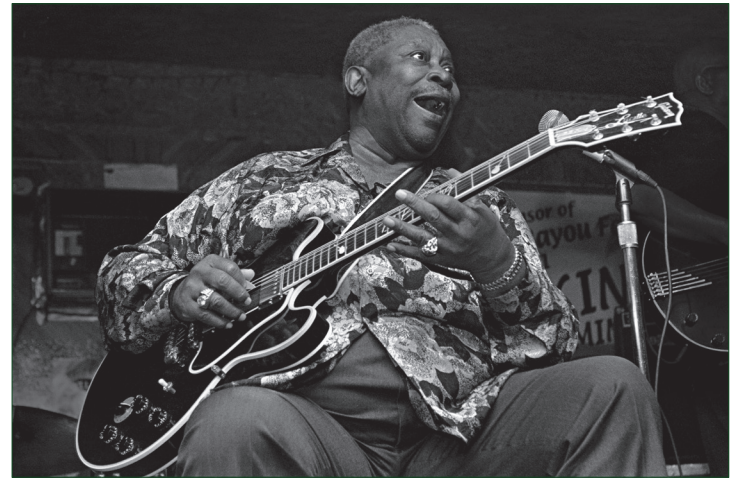
Cooper says she feels a certain urgency about her work recording history, as so many fabled blues artists are aging.

Another artist she profiled, “Cadillac” John Noden, is 96.

“The music he knows goes so far back,” she says. “Some of these individuals were born in the ‘20s and ‘30s. What was it like to be a Black child in Mississippi when you had to go out to the rear and getting the book the White kids weren’t using anymore? What was it like when there was segregation? There were people who had stories about Emmett Till or had stories about how they were affected by Emmett Till.”

(Emmett Till was the 14-year-old Black teen who was tortured and killed by White men in Mississippi in 1955 after being accused of whistling at a White woman.)

The musicians she has profiled, and the ones in her new book, come primarily from the delta and hill country of Mississippi. The accompanying photographs are evocative, capturing not only the artists at work but their families and the communities from which they come. Handwritten signs announce upcoming shows at a backcountry lounge with washboard



B.B. King at Club Ebony in Indianola, Mississippi, in 2001. © Margo Cooper, All Rights Reserved

siding and crooked doors. Musician Otha Turner stands in the steam of multiple vats cooking goat meat for his annual barbecue. An abandoned juke joint leans to one side, covered with vines.

“It’s a duty, a sacred duty,” Cooper says of her work. “How lucky, how fortunate I am [to be] spending time with people who are sharing their lives with me. We are collaborating to write a history that people need to know about.”

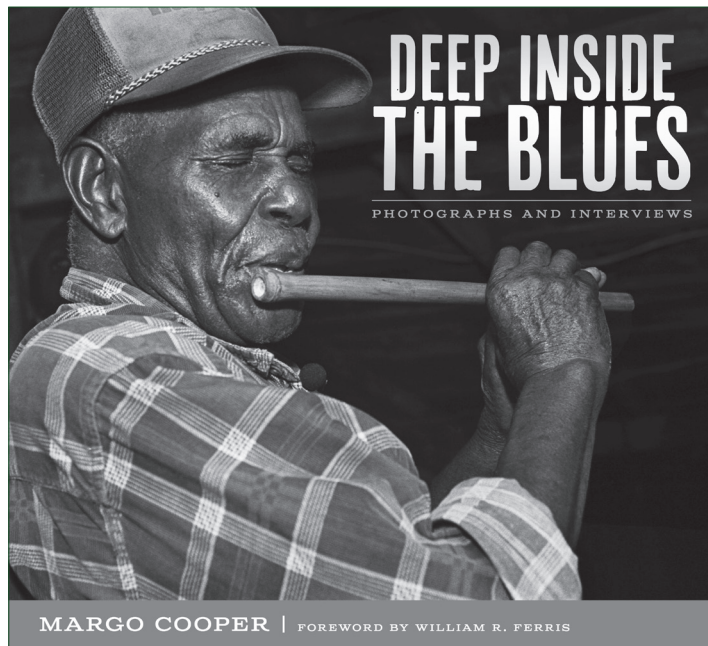
Her works have won multiple awards and have been selected for several juried shows. She has had solo exhibits in Connecticut and Massachusetts and has been part of group exhibitions at the Griffin Museum of Photography in Winchester, the Arlington Center for the Arts, and the Cambridge Art Association, among others.

Cooper has also been following the lives of two families in Maine whom she met in 1993, after she saw three baby strollers outside a building, looked up, saw a woman in the window and invited herself in. She has been photographing that woman’s family and another’s ever since and expects to produce another book about the experience.

“When you just open yourself up to another person, you listen and you just take joy in whatever the moment offers,” she says.

Cooper brings a similar ethic to her legal work.

“Each time I meet a new client, I want to do the best job that I can for each individual, to make sure they understand the law and the case,” she says, “and that people, to the extent possible, feel they’re with somebody who tried to make things better, who cared about them.” ♦



The cover photo of *Deep Inside the Blues* depicts Otha Turner in Gravel Springs, Mississippi, in 2001. © Margo Cooper, All Rights Reserved

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Medical Malpractice

# Navigating the Challenges and Opportunities of Social Media in the Practice of Law

By Grace Yurish

The digital age has brought profound changes in communication and business practices, with social media leading this transformation. Platforms like Facebook, Twitter (now known as X), TikTok, and Instagram have become an integral part of our lives, with over 91 percent of the US population actively using social media.<sup>1</sup> The emergence of social media in the 1990s has fundamentally changed the way we interact, gather information, and conduct our lives. Its impact on the practice of law is undeniable, with both challenges and opportunities to consider.

## Social Media in Discovery

Social media has expanded the pool of evidence for legal issues, providing attorneys with a wealth of information to leverage but also adding additional hours to their jobs. New media has introduced a world of online interactions, conversations, and activities, all of which can be used as evidence in the courtroom.

A key challenge in using social media as evidence is authenticity. Lawyers must ensure that the content is genuine and hasn't been tampered with. Many individuals claim that their accounts were hacked when negative online activity is presented in the courtroom. However, the "I got hacked" defense has become harder to believe, as it is widely viewed as a convenient excuse.

Like any evidence, relevance is another crucial factor in determining the admissibility of social media content in court. While individuals' profiles are full of potentially damaging material, they must be directly related to the case at hand to be considered.

## Context Matters

When using social media in the courtroom, context is key. Lawyers must be diligent in assessing the context of a statement or post to understand its true meaning or intention.

"All the rules of evidence are designed to make sure that a trial is a search for meaning, and not just a game of 'gotcha,'" criminal defense attorney Ted Lothstein says. "If someone can pull something that's out of context, then I think most judges would let the other side bring out the rest of the story."

Given its predominantly text-based format, social media carries the risk of miscommunication, as the absence of tone, body language, and facial expressions



makes it challenging to discern intent. These uncertainties can create difficulties in legal proceedings, potentially resulting in unintended consequences.

## To Delete or Not to Delete

Legal professionals are often tasked with guiding their clients on social media use during a case. Advising clients to maintain private accounts, post sparingly, and review and remove posts that cast them in a negative light is a common practice.

"People are their worst selves on social media," Lothstein says. "So, it's a gold mine of dirt to dig up that you can use against the person who posted to social media."

Lothstein continues: "There are ethical constraints. If they happen to have evidence in their social media, we want to help them not make their case worse, but we can't tell people to destroy evidence. If they made a statement that's relevant to a case, then we have to be cautious because it's a felony to falsify evidence and that includes deleting things on the internet that are evidence or could be evidence."

While lawyers aim to protect their clients' interests, they must also operate within ethical and legal boundaries. Deleting evidence constitutes a serious ethical violation, but removing posts unrelated to the case is permissible.

## The Impact on Juries

Before the internet, potential jurors had limited exposure to information, primarily through print and television media. Today, with most of the population actively engaging with social media, and 30 percent relying on it as their primary news source,<sup>2</sup> finding impartial jury members has become increasingly challenging.

During the jury selection process, challenges arise due to the rapid dissemination of information about crimes on social platforms. This results in the formation of public opinions and the potential spread of misinformation.

"One thing that social media does that traditional media did not, is that it provides a much wider scope of opinions," attorney John Weaver says. "There are no limits to what's on the internet, so if you're inclined to start searching

for particular court cases, it can be really easy to find opinions on Twitter and Facebook that may or may not represent well-rounded or well-researched opinions. That can influence opinions in a way that television didn't 30 years ago."

Social media can also be used to research jurors, gaining insights into their beliefs and activities to identify any biases that may hinder a fair trial. This process requires significant time, resources, and effort, which not all parties may have at their disposal. However, when suspicions arise

regarding specific jurors, their profiles may serve to confirm or dismiss those concerns.

## Ethical Considerations and Attorney Responsibilities

The legal profession has been affected by social media not only in its role in legal cases but also in marketing and self-promotion. Lawyers must tread carefully when using social media to showcase their successes or share information about their cases. Unauthorized disclosure of client information or making false claims can lead to disciplinary action and damage a lawyer's professional reputation.

Furthermore, members of the legal community must prioritize competence with new platforms and technologies to effectively fulfill their roles.

"Rule 1.1 in the Rules of Professional Conduct addresses lawyers' competence," Weaver says. "Lawyers have a responsibility to be familiar with the technology that they're using. If lawyers are using social media either as exhibits at trial, in their marketing, or in their practice of law, they do have an ethical obligation to stay up to date on the technology, on the changes with it, and the benefits and risks associated with that."

## A Blessing and a Curse

The impact of social media on the practice of law is undeniable and this article certainly does not touch on all facets of it. Social media has become a vital source of evidence, a platform for communication, and a potential minefield of ethical and legal challenges. While it has brought complexity and added work for lawyers, it has also made them more equipped to handle cases in the digital age. The influence of social media on the legal profession is both a blessing and a curse, shaping the way cases are built, clients are advised, and justice is pursued.

"We've never lived in an era before where people are constantly posting where they are, who they're with, what they're doing, and what they're thinking about," Lothstein says. "People are constantly posting every moment. We have a responsibility to track that down. Whether it's positive or negative, I'm not going to make a conclusion, but it's an enormous impact." ♦

## Endnotes

1. [statista.com/topics/3196/social-media-us-age-in-the-united-states/#topicOverview](https://statista.com/topics/3196/social-media-us-age-in-the-united-states/#topicOverview)
2. [reutersinstitute.politics.ox.ac.uk/digital-news-report/2023/dnr-executive-summary](https://reutersinstitute.politics.ox.ac.uk/digital-news-report/2023/dnr-executive-summary)

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# 603 Legal Aid Appoints Ariel Rothstein Clemmer as New Executive Director

By Tom Jarvis

On November 20, Ariel Rothstein Clemmer will begin her role as the new executive director of 603 Legal Aid.

"I am thrilled to join the exceptional team at 603 Legal Aid," Clemmer says. "What attracted me most is the organization's unwavering dedication to making access to justice a reality for – and with – Granite Staters in need. I am also incredibly excited to be returning home to New Hampshire and to be able to raise my family in the region where I grew up."

Clemmer comes to 603 Legal Aid from the Western New England University School of Law in Massachusetts, where she serves as the director of the Center for Social Justice and teaches as an adjunct professor.

Raised in New Hampshire's Upper Valley, Clemmer graduated with a dual major in leadership studies and American studies from the University of Richmond. After graduation, she taught kindergarten and first grade as a Teach for America Corps member in a Spanish Harlem public school, while also earning a master's degree in early childhood education at Pace University in New York.

She then pursued her juris doctor, graduating from Harvard Law School with honors in 2010.

While attending law school, Clemmer interned for Judge Michael Sheldon at the Connecticut Superior Court and worked as a summer associate for Weil, Gotshal, and Manges. After graduating, she served as a criminal public defense attorney at the Bronx Defenders.

"In those days, it was still close enough to the financial recession that law firms were deferring associates and offering incentives to do other things, so I took advantage of that and was fortunate to go to the Bronx Defenders," Clemmer says. "I loved it so much and was able to extend my time there to two years. After that, I returned to Weil, Gotshal, and Manges, where I was a 'secret pro bono associate' because I did something like 900 hours of pro bono during my first year."

In 2015, she left the firm to join a boutique matrimonial and family law firm called Donohoe Talbert as an associate. In 2018, she moved to Springfield, Massachusetts, to become the pro bono director for the Hampden County Bar Association (HCBA), where she managed the Hampden County Legal Clinic.

"When I came on board at the Hampden County Bar, they had a long-standing lawyer-for-the-day project where people would come into the office and meet one-on-one with attorneys and get some brief legal advice," Clemmer says. "I was tasked with taking that existing infrastructure and building it up into a leading pro bono pro-

gram in the country."

In 2019, while tirelessly working on marketing, fundraising, and increasing volunteer participation, Clemmer began teaching as an adjunct professor at the Western New England University School of Law.

"Because of my experience [at the HCBA] developing an inaugural strategic plan and coming up with a vision for how the organization was going to grow, I was asked to advise the former dean of Western New England School of Law on starting their new Center for Social Justice," Clemmer says. "I told them that they needed a full-time director to run it and then applied for the job once it became available, which is how I ended up at Western New England."

Just as her director position commenced in March 2020, so too did the COVID-19 pandemic.

"The week I started, everyone was told to work from home," Clemmer says. "So, for my first year, I met most of my colleagues online. It was pretty challenging because I was again tasked with taking a nascent idea and creating a leading pro bono center with new clients and constituents, but we had to do it all from behind a screen. Yet, that also fostered a lot of innovation and strategic planning around how to bridge technology with access to justice, which informed much of the work that I've done here at the Center for Social Justice."

She says the Center for Social Justice was second in the country to create free Legal Kiosks, which are computer stations designed to give people both the technology, broadband access, and the navigation assistance they need to access the legal system in a hybrid or remote environment.

The 603 Legal Aid executive director position has been open since Clemmer's predecessor, Sonya Bellafant, resigned in March, with Steven Scudder acting as interim executive director.

"603 Legal Aid is headed for a bright and impactful future building on its impressive track record of tirelessly advocating for those who face civil legal challenges that threaten their basic human needs," Clemmer says. "I see immense potential in the organization's ability to continue to make a meaningful difference in the lives of those it serves across the state, many of whom have faced pervasive, unjust discrimination and systemic barriers to success, simply as a result of being poor."

Clemmer continues: "My passion lies in empowering others and consistently pushing for social change. Civil legal aid is about more than advice or representation; this work often requires a holistic understanding of the entirety of factors that led the person to be in-



Clemmer joining the team.

"Ariel is an experienced innovator in the pro bono world and has demonstrated a strong commitment to access to justice for people who would otherwise not be able to afford legal counsel or representation," Gehris says. "She brings with her a legacy of successful fundraising, cooperation with corporate and institutional funders, and managing programs through growth and transformation. The board is eager to support Ariel and the staff as they leverage technology, innovation, and momentum to expand access to justice in New Hampshire."

New Hampshire Legal Assistance Executive Director Sarah Mattson Dustin agrees with the sentiment.

"603 Legal Aid is our closest partner in providing civil legal aid in New Hampshire, and I am eager to work with Ariel and the 603 Legal Aid team to strengthen and expand the services our organizations provide together," Mattson Dustin says. "I am thrilled that 603 Legal Aid has recruited a dynamic lawyer like Ariel, with a demonstrated track record of success, to lead 603 Legal Aid's next chapter."

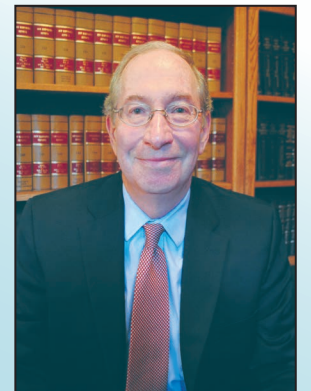
When she starts on November 20, Clemmer hopes to hit the ground running.

"Initially, I plan to do a stakeholder listening tour and an assessment of how things are operating on the ground," she says. "I try to lead through a framework of servant leadership, which at its core, is about empowering people to empower other people. My strategy will be to get to know the outstanding staff, the court system, the Bar, and other key stakeholders across the state, then see where I might be able to bring some impact and to suggest a way forward." ♦

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## The Problem with Perfection

By Laurel Boivin

“Don’t let perfection get in the way of progress.”

Oh, the number of times I’ve said that – to myself, to my children, and to my clients. Easier said than done! As someone who has personal experience with perfectionism, I’ll be the first to admit that choosing progress over perfection is not easy. I have been slowed down, tripped up, and even stopped dead in my tracks by perfectionism.



Many years ago, I took a knitting class – something to do in my (pre-children, pre-internet) spare time. My first project, a sweater, was ambitious. I chose a beginner pattern and beautiful yarn. I began spending my evenings fully engaged in what was intended to be a creative and enjoyable hobby. It was enjoyable until my perfectionism got in the way.

When the sweater was nearly finished, I noticed that the arm I knit first was not as *perfect* as the second one. So, rather than accept the imperfection, I ripped out the less-than-perfect arm and began knitting it again. Somehow each arm was more perfect than the last, leaving me no choice but to rip out the less-than-perfect arm and knit it again. And again. And again.

Although I never finished that one-arm, less-than-perfect sweater, I learned a lot about myself in the process!

Perfectionism is defined as a need to be perfect or a belief that it's possible to achieve flawlessness. Typically seen as a positive trait rather than a flaw, perfectionism can be a fast track to unhappiness.

Perfectionism can be a problem in our personal and professional lives, at home and in the workplace, in families and communities. It can be internally focused, creat-

ing our own desire to be perfect. It can be others-focused, an expectation that we place on others to be perfect. It can also be socially focused, a desire to live up to the expectations other people place on us. Most often, perfectionism involves unrealistic or unattainable expectations, which we don’t recognize as unattainable when we’re striving to meet them.

Stemming from a need to be accepted, admired, and rewarded, perfectionism is rooted in fear and insecurity. It can interfere with our enjoyment of our experiences. It can diminish our sense of accomplishment. It often leaves us dissatisfied and even doubtful of our abilities and success. It allows no room for trial and error and robs us of an opportunity to learn from our mistakes.

Perfectionism is very common among lawyers and others in the legal profession. It’s one of the personality traits of a great lawyer, along with being risk-averse, analytical, skeptical, and self-critical. These personality traits, combined with the high pressure, long hours, competition and comparison, intolerance of errors, unreasonable expectations, and focus on outcomes puts lawyers at risk of unhealthy perfectionism.

Signs of unhealthy perfectionism include high levels of self-criticism, an inability to receive feedback or criticism, a perception of underachievement, fear of making mistakes, and shame and guilt associated with being less than perfect.

Individuals who strive to be flawless and are gifted at hiding their stress and fear are even more at risk. Lawyers often must hide their stress and fear when working in an adversarial environment where opposing counsel’s job is to expose and exploit any weakness or mistakes.

Whether perfectionism simply slows you down or completely stops you on your path, choosing progress over perfection is possible.

It starts with awareness. Notice your expectations of yourself and others. Consider others’ expectations of you.



Are they realistic? Achievable? Human?

It requires open and honest communication. Talk about your expectations and others’ expectations of you. Solicit input from others. How are your expectations of yourself and others perceived? Provide input to those individuals who have expectations of you, expectations that you strive to live up to.

It takes practice. Decide when perfection is necessary and when it is not. Give yourself permission to do less or enough but no more. Consider the return on your investment or the reward for your time and effort. Create a time and place, as a personal testing ground, to do or be less than perfect.

If you want to increase your enjoyment, improve your self-confidence, or find a greater sense of accomplishment, focus on excellence, not perfection. Stretch yourself. Seek opportunities to grow and learn. Ask for and find objective feedback. Practice self-compassion. And, most importantly, trust yourself. ♦

*Laurel Boivin, a former paralegal, is a leadership coach, a speaker, a podcaster, and founder of Flux+Flow Professional Coaching.*



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## UNH Law Celebrates RBG's Jurisprudential Legacy at Recent Symposium

By Alex Attilli

On September 22, the University of New Hampshire Franklin Pierce School of Law hosted a day-long symposium celebrating the publication of *The Jurisprudential Legacy of Ruth Bader Ginsburg* by Professor Ryan Vacca and Ann Bartow, available for purchase since May of this year.

The book analyzes Justice Ginsburg's legacy on the US Supreme Court and how she influenced various legal subject areas. It features chapters from numerous leading scholars in American law, analyzing her voting patterns in areas like gender equality, voting rights, the death penalty, bankruptcy, immigration, and many more.

Vacca, whose research primarily focuses on intellectual property and judicial administration and reform, says that this more than 300-page volume started out as what he thought would be a 15- to 20-page essay.

"After Justice Ginsburg died in September 2020, I saw how upset a lot of people were all over the country," Vacca says. "It got me thinking about her copyright opinions because she had written several of them. I thought, 'wouldn't it be a nice tribute?' So, I asked Professor Bartow, [whose areas of expertise include intellectual property, women's rights, and privacy], if she would be interested in coauthoring."

As a result, that 15- to 20-page essay turned into a 75-page article and then a 21-chapter book.

Vacca stated that this was the first edited volume he's worked on as an editor and that it was a "fun but challenging" experience.

Vacca and Bartow initially compiled a list of topics where Justice Ginsburg had written a substantial num-



ber of opinions and began reaching out to scholars who specialized in those areas. Some were people they knew, some were recommendations, and others were authors who reached out to them after seeing a posting online about the potential book.

The two then put a proposal together and after several months of planning, signed a contract with a publisher by fall 2021. The process of then writing, editing, and revising the chapters took roughly a year before they sent a final draft to their publisher. Vacca says the process from beginning to end took roughly two years.

"It's a different process doing an edited book," he says. "For most projects I've worked on, it's just me. I work with the editors of law reviews and other publications, but it's just me writing. Here, I'm working with 20 authors [who have] other obligations, different deadlines, [and] different writing styles. Trying not to make it a collection of essays and instead a coherent book is difficult."

As difficult as the process was, Vacca says that "everything worked really smoothly."

"[Bartow and I] met with some friends who had done edited volumes before, and they said it could be like herding cats," he says. "People may drop out, not comply, be delayed – but we didn't have any of that. Everyone was responsive and accepting of edits. Everything went as scheduled."

Vacca mentioned that the choice of date for the symposium was intentional, as not only was it the best day for the conference, but it was close to the anniversary of Justice Ginsburg's death on September 18, 2020.

"It actually worked out really well because we could only highlight so many authors," he says. "We couldn't do all of them, but we covered a little over half of the chapters in the book."

He describes the presentations as fantastic, as many of the authors were tasked with condensing a nuanced, 5,000-word chapter into a 15-minute presentation.



Speakers at the symposium from left to right: Maria O'Brien (front), Ryan Vacca, Melissa Breger, Mary Jo Wiggins, Deborah Brake, Jill Gross, Heather Elliott, Isabel Medina, JoAnne Sweeney, Kirin Goff, and Jeff Hoagland. Keith Robinson joined via Zoom. Courtesy Photo

"They did a great job not only hitting the highlights and explaining her drivers as well as the impact of her opinions on these areas of law, but responding to questions about things they didn't cover in their chapter that she might have ruled on," he says.

If you were unable to attend the symposium in September, Vacca ensures that each of the lectures were recorded.

If you're interested in viewing these videos, they are available publicly through the University of New Hampshire Media Library, or through the following link: [media.unh.edu/playlist/dedicated/1\\_cr8mso24/1\\_yed2s6mb](https://media.unh.edu/playlist/dedicated/1_cr8mso24/1_yed2s6mb). If you are interested in purchasing a copy of the book, you can order it online through the New York University Press at [nyupress.org/9781479817856/the-jurisprudential-legacy-of-justice-ruth-bader-ginsburg](https://nyupress.org/9781479817856/the-jurisprudential-legacy-of-justice-ruth-bader-ginsburg). ♦



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## Words of Wisdom from Solo Practitioners

By Misty Griffith

This month's flying solo practitioner, Attorney Robert R. Howard, III, continues to enjoy a distinguished practice which has spanned more than five decades. Howard graduated from Harvard University in 1966 and received his JD from Boston University in 1969. He was admitted to the New Hampshire Bar that same year.



He has been actively involved in the NHBA over the years, participating in practice area sections, creating the family law section with Honey Hastings, sharing his knowledge as a CLE panelist, and formerly serving on the Board of Governors. He is a past recipient of the NHBA Award for Outstanding Professionalism and the award for Dedicated Pro Bono Service.

Additionally, in 1985, Howard was the first recipient of the Merrimack County Bar Association's Lawyer of the Year award. For eight years, he was a part-time New Hampshire District Court judge in Henniker and Hillsborough.

Howard has been practicing for 54 years in real estate, estate planning and administration, and business, and has worked solo for approximately 15 years, off and



on. We appreciate the candid advice and words of wisdom from a seasoned practitioner.

**What inspired you to become a solo?** I enjoy working in a small-firm setting with the right lawyer/partner, but when not finding a good match, it's better alone anyway, since I have connections with a lot of other lawyers.

**Best thing about solo practice:** After so many years, I have a huge number of closed files and mostly happy clients. Many are recycled, like selling a house I helped them buy or opening an estate where I wrote the will. A lot of friendly connections that I enjoy working with. Easier to take only what you want to do.

**Hardest thing about solo practice:** Turning people away when I have a conflict of interest or when I really can't do what they need. Also, finding time for vacation.

**Memorable solo experience:** Three winning arguments at the New Hampshire Supreme Court, having known the justices well before they were appointed. Since we respected each other, I really enjoyed the trials with confidence that I would get a fair treatment.

**Advice for a new solo:** Make connections! In the practice, take advantage of attending CLEs in person and meeting lawyers working in the same area in which you are interested. Volunteer for *pro bono* stuff. Visit other lawyers in your

field, or even just in the same community, for face to face. Build a list of lawyers to whom you can refer people or ask for help if you need it. I try to befriend lawyers with big firms that can handle a file that is beyond my comfort zone. If you took a case that is going sour, withdraw. Also, be active in non-lawyer groups – sing, travel, church, boy scouts, town boards, and so forth. Finally, get good practice management software, build subfiles with organized templates, don't open files with the client's name, but with a number, and close the file with a new number. Get a good secretary/paralegal and teach them how to do the recurring chores. Get good dictation software.

**Would you advise anyone else to go it alone?** Sure, as long as when you start your spouse has a good job. It's not for everybody, but I love it.

This series profiles New Hampshire lawyers who have discovered the rewards of solo practice and successfully navigated the unique challenges that arise from being your own boss. It is our hope that their experiences may inspire other attorneys who are considering flying solo. Solo practitioners who are willing to share your advice and experience, please contact NHBA Member Services Supervisor Misty Griffith at [mgriffith@nhbar.org](mailto:mgriffith@nhbar.org). We would love to include you in a future article. ♦

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Almost all movies are filmed out of chronological sequence for logistical reasons: When is a particular actor available, when will a city allow the film crew to take over a city street?

But Spielberg filmed "E.T." in mostly chronological order so that the child actors would be seen developing an organic and authentic relationship with the mechanical puppet over time. It doesn't matter that we all know the puppet is fake if the relationships and emotions are unmistakably real.

Trial lawyers understand this. Yes, the 'special effects' are critical – visual presentations, demonstrative exhibits that deliver a clear message, powerful arguments. But we must take a deep dive into the relationships and emotions that roil beneath the surface of the story to try to find the true motivations of witnesses, the true purpose behind official actions, the key to persuading someone who seems to be fixed in their views.

Amor Towles put it best and drives us to dig deeper as we do our work: "By their very nature, human beings are so capricious, so complex, so delightfully contradictory, that they deserve not only our consideration, but our reconsideration—and our unwavering determination to withhold our opinion until we have engaged with them in every possible setting at every possible hour."

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## Who is Your Favorite Fictional Lawyer? The Leadership Academy Class of 2024 Edition

By Tom Jarvis

Your favorite column that explores who your peers' favorite fictional lawyers are is back for a special Leadership Academy edition! The 2023-2024 NHBA Leadership Academy is currently underway, having had their kickoff retreat in October and their first module earlier this month. Their second module is scheduled for December 7 at the Bar Center.

While the release of new courtroom movies has slowed in recent years, legal dramas on television and streaming networks like Netflix and Hulu are plentiful. One of the most popular now is Netflix's *The Lincoln Lawyer* – a show about a lawyer who operates out of the back seat of his Lincoln Town Car – which debuted this summer and is based on the books of Michael Connelly.

Other legal dramas that debuted this year include Fox's *Accused*, wherein each episode depicts a story about a defendant accused of a crime and the events that led them to the courtroom as told from their point of view; Hulu's *Reasonable Doubt*, which centers around Jacquelin "Jax" Stewart, a corporate defense lawyer who previously worked as a public defender; and *The Law According to Lidia Poët*, a brand-new series based on the first woman attorney in Italy.

Wouldn't it be great to see a series based on New Hampshire's first female lawyer Agnes Winifred McLaughlin?

All that aside, let's get back on track. The following members of the 2024 Leadership Academy class were able to share who their favorite fictional lawyers are and why. Here is what they had to say:

### Kirsten Allen, Shaheen & Gordon

"My favorite fictional lawyer is Jackie Chiles from *Seinfeld*. Despite the wacky circumstances of his cases and slightly unreliable clients, he always brought a convincing case. He was also an eloquent, articulate, persuasive, outstanding speaker. Despite his good work on their behalf, his clients (Kramer, mostly) always derailed his cases at the end (i.e., demanding the defendant try on a bra in court to prove her guilt, ultimately losing the case because it didn't fit over her clothes).

The biggest example of this is in the finale episode, where Jackie defended Jerry, Elaine, George, and Kramer (The New York Four), who were charged in Massachusetts for violating its Good Samaritan law, which (in the show) required bystanders to assist anyone in danger if it's reasonable to do so. Instead of assisting a victim of a carjacking, the New York Four videotaped and mocked the victim. Jackie mounted a solid legal defense, but the New York Four's own callousness – filming and



mocking the victim during the assault – was enough to ensure they were convicted. It didn't help that almost every character they had harmed during the series came out to testify against the character of the New York Four.

I hope that, rid of Kramer and the New York Four, Jackie went on to have a very successful career – he will need to do better at assessing the merits of new cases, though!

Jackie, like most TV attorneys, relies somewhat on tricks and surprises. In a modern-day New Hampshire court, Jackie would have to 'show his hand' before he got to court, which would take some of the wind out of his sails. However, his impressive argument and examination skills still work well in a modern-day court."

### James Armillay, Jr., Shaheen & Gordon

"My favorite fictional lawyer is absolutely Vincent 'Vinny' Gambini from the 1992 classic film *My Cousin Vinny*. Vinny is no ethical role model, to be sure. His whole appearance in Alabama is based on materially false statements to the court about his qualifications and identity (never a good idea), and his first few forays into court show a



remarkable lack of preparation. However, Vinny redeems himself by demonstrating a tenacity, passion, and skillset that shows that even the greenest lawyers can still go toe-to-toe with their more experienced colleagues if they put in the work.

While I doubt very much that any judge in New Hampshire would tolerate some of Vinny's shenanigans for too long, no one can fault his cross-examination skills or the way he connects with jurors and witnesses."

### Devon Ayer, New Hampshire Public Defender

"My favorite fictional lawyer is Vinny from [the film] *My Cousin Vinny*. Despite never having tried a criminal case, he really stepped up when his family needed him – for a murder trial! Putting aside that questionable ethical issue, Vinny gained confidence in the courtroom as the case went on. He became so many things: innovative, charming, persuasive, and charismatic. Even though Vinny was underestimated, and at times informal, his practicality and grit really won the day. He got the case dismissed against the two 'yutes!' There were



FICTIONAL continued on page 27

## #1 in Verdicts and Settlements

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### \$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

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## Community Notes

Pierce Atwood attorney Ryan F. Kelley has received the American Bankruptcy Institute's (ABI) "40 Under 40" Award, which identifies 40 top insolvency industry professionals under the age of 40 and recognizes them for their professional accomplishments and service.



Ryan also serves on Pierce Atwood's Pro Bono team, where he conceived of and leads an Eviction Defense Team that supports the Pine Tree Legal Assistance Eviction Defense Project in meeting the increased demand for legal services in this area, a critical need stemming from the COVID-19 pandemic. Ryan's own *pro bono* efforts include representing tenants facing eviction, Chapter 7 debtors, and guardians ad litem in child protection matters.

Office of Public Guardian General Counsel Tracy Culberson has been appointed to serve on the Board of Trustees for the Center for Guardianship Certification (CGC). The CGC is a national organization whose mission is to develop and provide comprehensive certification programs for guardians and other fiduciaries and to encourage, support, and foster best practices in the provision of quality guardianship services.



As general counsel to the Office of Public Guardian, this appointment places him in a unique position to improve the lives of adults under guardianship in New Hampshire and the professional guardians who serve them.

## LawLine



Ward Law attorneys Katherine Schea and Shawn Tennis providing brief legal advice for LawLine on October 11. Other volunteers included attorney Dana Smith and staff members Jennifer Barata, Stacey Raven, and Kayla Malaquias. Courtesy Photos



The New Hampshire Bar Association would like to thank Ward Law for a successful LawLine event held on October 11, 2023.

Over 30 calls were taken from counties all over the state on a variety of legal topics including probate and elder law, real estate disputes, landlord/tenant matters, family law, and employment issues. The NHBA is immensely grateful to all our volunteers for their continued support and participation in this valuable public service each month.

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

We are currently seeking volunteers for the upcoming 2024 LawLine events. For more information, or to volunteer, please contact NHBA LawLine Coordinator, Anna Winiarz, at [awiniarz@nhbar.org](mailto:awiniarz@nhbar.org). You can still volunteer and make a difference this year! ♦

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## Welcome New Admittees

We extend a warm welcome to the attorneys who were recently admitted to the New Hampshire Bar. Congratulations! We wish you the best with your practice and look forward to meeting you at future NHBA events.

### July 18, 2023

Kathryn Elizabeth Carlson, Erin Martha Creegan, Mary Alissa Trick, and Bryan Richard Whitney

### August 28, 2023

Michael P. DeGrandis

### September 13, 2023

John MacAulay Allen, David Bondanza, Carl George Bulgini, Barbara J. Collins-Rigorde Eva, Afra Mehr Danai, Fred Naif David, Gina Marie Desrochers, Michaela Beth Dunn, Peggy Susan Ferraro, Mi-

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### October 10, 2023

Alyssa Caroline Scott

## In Memoriam

### Lawrence (Larry) Mark Edelman

Lawrence (Larry) Mark Edelman departed from this world on August 3, 2023, following a brief illness.

Larry was born on November 28, 1956, in Brooklyn, New York, to Irma and Joseph Edelman. He and his sister, Maura, grew up in a home full of culture, beauty, and intellectual exploration. In his childhood, Larry's family traveled extensively, exposing him to different cultures, languages, and ways of life. He would later share this global perspective with his daughters Olivia and Gilda, and with his wife, Heidi Bement.

Larry's interest in other cultures led him to pursue a BA in Russian Literature from Washington University in St. Louis. He earned a JD from Boston University School of Law, his inspiration for becoming a lawyer coming from watching the film *To Kill a Mockingbird* as a child. He



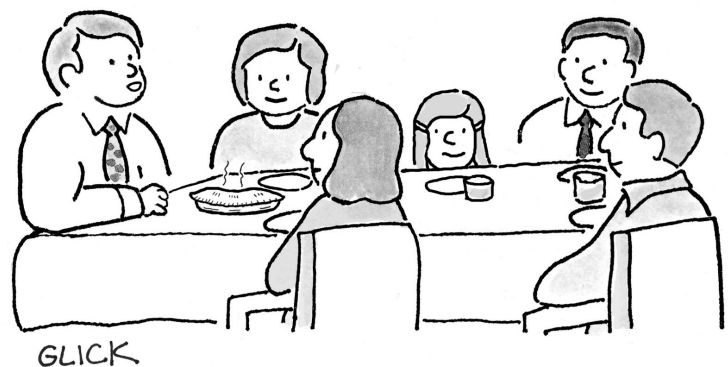
began his 40-year legal career as a law clerk for a firm in Newburyport, Massachusetts before joining the New Hampshire firm Sanders & McDermott, which later merged with Pierce Atwood, LLP, where he became a partner. While his primary focus was business litigation, he was also recognized as an authority in bankruptcy law. He retired once, only to return to his profession briefly in the New Hampshire Attorney General's office until Heidi felt ready to retire.

Larry promoted social justice through his pro bono work and service on the board of the Campaign for Legal Services and Legal Aid. He took pride in using his legal skills to help those in need.

Larry's story and life will live on through his wife, children, grandchildren Feya and Noah, stepsons Logan and Jack Bement, and countless friends. He is predeceased by his sister, Maura Lobatto, his parents, and his late wife, Barbara Edelman. His gentle spirit and kind soul touched and inspired those who knew him. In lieu of flowers, the family kindly requests donations be made in Larry's memory to Campaign for Legal Services, 117 North State Street, Concord, NH 03301.

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Cities and Municipalities as Cyber Targets: A Different Look at Risk

By Ande Smith

This column often discusses the risks that most commonly come to mind for your firm and your clients. There are regulations that span the financial industries (many under different federal and state local regulators), health care, and many others. Lawyers take reasonable care in protecting their systems. All spur us to consider controls and precautions to prevent attacks where we can and mitigate them where we fail.

For all organizations, the typical risk calculus principally revolves around impacts to reputation (will my customers leave), cost (lost sales, legal and professional fees, litigation, ransoms, increase in insurance, and equipment replacement), and regulatory interventions (fines and mandated programs). For most, this helps inform the question of what the appropriate level of precaution is.

Cities and municipalities are also targets, but recent high-profile cases highlight important considerations for these organizations. Because government is often unique in the services they deliver to their communities, how pressure can be applied to pay a ransom or otherwise monetize a



criminal’s activities is interestingly different. Cities and municipalities face significant challenges, because they often must employ a myriad of special purposes applications, which are frequently very niche and sometimes lacking in secure architecture and deployment models. Because citizens and businesses rely heavily on them, it makes these organizations particularly attractive targets.

The City of Dallas, Texas continues to recover and remediate from a cyberattack in April 2023, and manifested its effects in May. Dallas, like many large cities, provides a range of services to its citizens. By its own accounting, Dallas is comprised of over 40 departments and myriad other supported units, and it operates over 860 applications.

Like many others in late 2022 and early 2023, Dallas found itself targeted by the Royal Hacker Group, which is generally believed to be a criminal organization operated by non-state actors. They are somewhat unique in that they are understood to be a “private” group that does not use shared ransomware and are comprised of alums from other groups. They generally target larger organizations and utilize the now familiar double extortion model where ransoms are demanded to decrypt affected systems and for the promise of not releasing exfiltrated data.

After its forensic reviews, Dallas concluded that Royal gained entry to their systems in early April 2023 and conducted

preparations for the attack until they acted in early May. Dallas quickly found that many systems were impacted. The targeted systems also share many similarities to the strategy in the 2018 attack by another group against Atlanta and shed light on how pressure is applied for quick payment. Law enforcement and the courts were prime targets. Law enforcement file shares, evidence management, camera recording systems, court warrant issuance and tracking systems were impacted. Similarly, systems supporting rescue and emergency response were encrypted, including mobile computer systems and fire station alerting systems. Revenue collection is also a target.

In Dallas, remote water metering systems for billing and payment tracking, as well as payment card processing systems, were also attacked. The system for managing building permits and inspections was attacked, which creates significant cost impacts to the community and results in exceptional pressure on a city. The animal management was also taken down.

Unlike Atlanta, which was effectively hobbled for many months, Dallas had apparently invested over the preceding years in a variety of recovery technologies and processes, including its backup and recovery services. By its accounting, many systems were recovered in a matter of weeks – some within days – effectively mitigating the impacts to its community. Within a month, most of its impacted services had

been recovered, though manual entry of paper records during the outage would take significant time to reenter.

But Dallas did have 1.2 terabytes of information stolen, and forensics seem to indicate that over 30,000 people had personal information disclosed. While it remains unclear if any ransom was paid, Dallas spent more than \$8.5 million responding.

As Dallas and Atlanta before it demonstrates, the nature of their services in the public eye place unique pressure on them to prepare and react following a cyberattack. Dallas holds special prominence in that its recovery was relatively rapid. Even though recovery is always expensive, Dallas highlights the importance of the oft-overlooked disciplines of incident response planning and effective disaster and recovery technologies. Without careful management and follow up, these backups often fail. It is unfortunately common to make this discovery after a ransomware attack occurs. Fortunately for Dallas, its preparation appears to have paid off. ♦

*A member of the New Hampshire and Maine bars, Ande Smith is president and founder of Deer Brook, an IT and cybersecurity consultancy. Deer Brook provides cybersecurity, privacy, and IT advisory services to a range of private and government organizations, including the higher education community. He can be reached at [asmith@deer-brook.com](mailto:asmith@deer-brook.com).*

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MORGAN HUGHES

Morgan Hughes, a recent graduate of University of New Hampshire, Franklin Pierce School of Law, has joined Orr & Reno's highly regarded Corporate Group, with a focus on mergers and acquisitions, commercial real estate transactions, and land use. Hughes has been admitted to the bar in New Hampshire and Massachusetts.

Prior to attending law school, Hughes completed her Masters Degree in Real Estate Analysis and Development (2020) and

her BS in Finance (2019) at Pennsylvania State University, Smeal College of Business.

"We're thrilled to have Morgan join the Corporate Group, and deeply appreciate her ability to jump right in to one of Orr & Reno's busiest practice groups," said Peter Burger, President. "Morgan brings to the firm exactly the kind of intellectual curiosity, enthusiasm, and highly promising legal talent that makes the firm successful."

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Devine Millimet is pleased to welcome Joseph Dolciotto to the firm. Located in our downtown Manchester office, Joe is a recent graduate of UNH Franklin Pierce School of Law, and is excited to begin his legal career here at Devine.

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Devine Millimet is pleased to welcome Eli Wendell to the firm. Located in our downtown Manchester office, Eli is a recent graduate of Boston College Law School and is excited to begin his legal career here at Devine.

As a member of Devine's Corporate team, he will work on a variety of matters including Business Succession and Mergers & Acquisitions.

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# The Ethics of Using Outside Vendors and Contractors

Dear Ethics Committee:

*I utilize accountants and IT providers in my firm. Accountants help manage firm finances and ensure IOLTA compliance, and IT providers help maintain our computer and communication systems. To perform their work, these consultants have access to confidential and privileged client information. Are any ethics rules implicated by my use of such consultants and are there things I should do to protect client information?*

Law firms and lawyers often depend upon outside computer and electronic communication systems to perform their daily functions. These systems may require the services of outside professionals, such as vendors and contractors, to ensure they maintain client files, communicate effectively with clients, staff, courts, and other attorneys, and perform numerous other important tasks. Similarly, lawyers may utilize the services of accountants to help manage the law firm's finances and help the lawyer comply with IOLTA accounting requirements. The use of outside vendor/contractors implicates Rules 1.6 and 5.3 of the New Hampshire Rules of Professional Conduct which will be discussed below.

The Committee published an opinion in 2013 on *The Use of Cloud Computing in the Practice of Law*, 2012-13/04. The reader may find it helpful to review that opinion in conjunction with this article because it addresses analogous issues of the attorney's responsibility to exercise due diligence with respect to the confidentiality of client information.

## Analysis of the Relevant Rules

### New Hampshire Rules of Professional Conduct 1.6: Duty of Confidentiality

Generally, "a lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by paragraph (b) [of this Rule]." Rule 1.6(a). The New Hampshire Rules of Professional Conduct define the term "Informed consent" as "the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material

risks of and reasonably available alternatives to the proposed course of conduct." N.H. R. Prof. Conduct 1.0(e).

Rule 1.6(c) requires that lawyers make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of the client.

Pursuant to Comment 18 to Rule 1.6, a lawyer must "act competently to safeguard information relating to the representation of a client against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. [Referencing Rules 1.1, 5.1 and 5.3.]" See Comment 18 to N.H. R. Prof. Conduct 1.6.

The Comments to the Rule clarify when a lawyer has done enough to protect electronic data. Lawyers do not need to take special security measures to protect electronic data communications if the method of communication "affords a reasonable expectation of privacy." See Comment 19 to N.H. R. Prof. Conduct 1.6.

"Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement. A client may require the lawyer to implement special security measures not required by this rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this rule." *Id.*

### New Hampshire Rules of Professional Conduct 5.3: Responsibilities Regarding Nonlawyer Assistance

Service providers who provide accounting services, data security software, technical support, and, in some cases, off-site data management services, are generally non-lawyers who are being given access to confidential client information outside the lawyer's direct control and supervision. Lawyers must take "reasonable precautions" to ensure that non-lawyer providers have taken reasonable measures to safeguard the confidentiality of client information, and that non-lawyers are adequately apprised of the lawyer's confidentiality obligations. See N.H. R. Prof. Conduct 5.3.

Partners, attorneys with comparable

managerial authority within the law firm, and any attorneys directly overseeing the non-lawyer employees or contractors are charged with making "reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the non-lawyer's conduct is compatible with the professional obligations of the lawyer." See N.H. R. Prof. Conduct 5.3(a) and (b).

These supervisor or managerial lawyers are responsible for the conduct of the non-lawyer outside professional if: "(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or (2) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action." N.H. R. Prof. Conduct 5.3(c).

Comment 3 to Rule 5.3 provides that a lawyer may use nonlawyer consultants outside the firm to assist the lawyer in rendering legal services to the client. This may include investigative or paraprofessional services, hiring a document management company, and sending documents to a third party for copying or scanning. The lawyer must take reasonable steps to ensure that the services are provided in a manner consistent with the lawyer's obligations to the client. The extent of those steps depends upon the nature of the services provided and the terms of any arrangements between the attorney and the outside provider, among other factors. The lawyer must also provide directions appropriate under the circumstances to give reasonable assurance the outside provider's services are compatible with the lawyer's obligations.

## Practice Tips and Suggestions

### Ensure that the outside vendors/contractors understand your duty of confidentiality.

Under Rule 5.3(b) a lawyer's ethical obligation requires that the lawyer adequately explain their professional duty of confidentiality and ensure that the contractor or IT employee understands the attorney's obligation. Although not required, most ethics authorities recommend some type of written acknowledgement that the contractor understands the confidential nature of the materials and agrees to protect the information from disclosure. (See, e.g. ABA Formal Ethics Opinion 08-451 (2008) and Michigan Informal Ethics Opinion RI-328 (2002)). In some jurisdictions, the written acknowledgement must constitute an enforceable agreement. See New Jersey Ethics Opinion 701 (2006). This acknowledgement should be included in the contract between the law firm and the vendor/contractor or in a separate written acknowledgment that is executed contemporaneously with that contract. If not made contemporaneously, this contract should be made at least before any confidential information is provided to the employee or contractor.

### Understand the law firm's rights and the provider's obligation under the vendor service agreement.

In the event a law firm hires a contractor to manage or have access to por-

tions of its electronic data, the responsible attorney must read and understand the agreement governing the vendor/contractor's services. Particularly, focusing on how the service provider will use and protect the data prior to giving the service provider access to confidential client information.

### The agreement should appropriately address the following issues:

- The vendor/contractor should have a confidentiality agreement that binds the professional and any other employees or agents of the professional who will have access to client information. The duty of confidentiality should mirror the attorney's duty.
- The agreement should make clear that in the event that the relationship between the law firm and the vendor/contractor terminates for any reason, or the vendor/contractor goes out of business, then the data that it has maintained will be returned to the law firm and when receipt of this information is confirmed, the outside vendor/contractor will destroy its copy.
- Related, the agreement should require that the vendor notify the law firm as soon as possible in the event of a subpoena so that the law firm can take all appropriate measures to protect this information.

## Conclusion

Generally, the consensus seems to be that using outside professional services is permissible, however lawyers should proceed with caution because they have an ethical duty to protect sensitive client data. In order to meet the minimum ethical requirements attorneys must: (1) include terms in any agreement with the vendor/contractor that require the vendor/contractor to preserve the confidentiality and security of the data, and (2) be knowledgeable about how vendor/contractors will handle the data entrusted to them. An attorney cannot blindly trust an outside vendor/contractor with client information and must exercise some control and require that the outside vendor/contractor observe certain precautions and put in place security safeguards. The client should be notified generally about the use of such services, and steps taken by the attorney/firm to protect confidentiality of client data. This information should be included in the client retainer agreement. The attorney/law firm should also be careful to scrutinize and demand necessary amendments to vendor/contractor agreements where needed to protect client data.

*This Ethics Corner article was submitted for publication review to the NHBA Board of Governors at its October 19, 2023 meeting. The Ethics Committee provides general guidance on the New Hampshire Rules of Professional Conduct and publishes brief commentaries in the Bar News and other NHBA media outlets. New Hampshire lawyers may contact the committee for confidential and informal guidance on their own prospective conduct or to suggest topics for Ethics Corner commentaries by emailing: Robin E. Knippers at [reknippers@nhbar.org](mailto:reknippers@nhbar.org). ♦*

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### MARK YOUR CALENDARS!

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



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2023 Rudman Summer Fellows on the front lawn of the UNH Franklin Pierce School of Law.

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- Professor Danette Wineberg

## A New Era of Civics Education

By Kaitlin Rocca

On August 4, 2023, Governor Chris Sununu signed SB 216 into law, changing the civic requirements in the state's K-12 schools.

Imagine not being able to recite the Pledge of Allegiance by heart, or not knowing who Thomas Jefferson was. While these possibilities may seem incredibly far-fetched, they were very real in 8<sup>th</sup> grade social studies teacher Haley Goodwin's classes.

Goodwin shared her astonishment regarding her students' lack of civic knowledge with the New Hampshire Senate Education Committee at the hearing for Senate Bill 216, the "More Time on Civics" bill, on February 14. She and many others concerned with the lack of strong civics education in the K-12 schooling system joined her in speaking in favor of the bill.

The policy distinguished different requirements for elementary, middle, and high schools. In each elementary grade, there will be "dedicated class time for civics [...], which can be integrated with other subjects." Both middle and high school will require a half-year course, with high schoolers also needing to complete one year-long class in history, government, and constitutions of the United States and New Hampshire. While these requirements for high school were already in place, SB 216 added that high schoolers need to achieve a passing grade on a locally developed competency assessment, and at least a 70 percent on the 2020 US citizenship exam.

The formulation of SB 216 started in June 2021 with the creation of the New Hampshire Civic Learning Coalition, a nonpartisan group comprised of educators, parents, students, and other non-profit leaders in the Granite State. Meetings were led by the facilitator, Lorraine Tacconi-Moore and the previous executive director of New Hampshire Civics, Martha Madsen. On the Coalition's website, their mission statement is "to increase and improve civics education for New Hampshire's K-12 students, in order to develop, nurture, and maintain an informed, engaged, and civil New Hampshire citizenry, participating with good faith in the democratic process."

I was fortunate enough to serve as a student representative for the coalition and was humbled by so many people work-



ing effortlessly toward this goal. To make the bill as nonpartisan as possible, many perspectives and voices were included in the discussion. For example, I was only a junior in high school when the coalition first started, but each time I spoke or gave my input in a meeting, I was met with others genuinely interested and open to what I brought to the discussion. Guests from both sides of the political aisle were invited to speak at meetings so that the coalition could try and include the main issues they wanted addressed in a bill.

Over time, the coalition pinpointed four main target areas: equity, educator professional development and media literacy, time requirements for civics, and youth voice. SB 216 addressed most of these issues. As previously mentioned, students will have more class time dedicated to civics and learning about our founding documents. Youth voice and equity, in many ways, go together. SB 216 requires courses to include instruction about opportunities for civic involvement and the skills it takes to effectively participate in civic affairs. We want all students to learn they have a voice and help them learn how to play a constructive part in their community, regardless of the student's race, gender, cultural and linguistic background, or socioeconomic status. The goal is to empower students and have them develop a deeper understanding of our government and their role in it.

Outside of SB 216, New Hampshire Civics also has free civics class materials and programs for teachers about incorporating civics into the classroom to support them in the transition period.

Schools will be expected to incorporate the new curriculum requirements by the start of the next school year in 2024.

With any change, some growing pains are expected, but creating civic-minded citizens is so vital for our communities and country to be able to function that it is worth it. Civics helps us find unity and understanding of one another, something we desperately need. While it may not fix everything, the passage of this bill is a great start in creating an informed and involved citizenry. The New Hampshire Civics Coalition will continue to meet and work on helping our schools come into this new era of civics education. ♦

*Kaitlin Rocca is a dual major in political science and justice studies at the University of New Hampshire in Durham and previously interned at the Administrative Office of the Courts in Concord. She plans to attend law school after she graduates and to eventually become a constitutional lawyer.*



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## Clio for Personal Injury: Streamlining Success in Personal Injury Law

Personal injury lawyers often struggle with the challenge of adapting generic case management tools to suit their specialized requirements. To alleviate this frustration, Clio, a leading practice management software in the legal industry, has introduced a customized solution tailored exclusively for personal injury practices. In this article, we will delve into how Clio can empower personal injury lawyers with its suite of new personal injury features, including medical record management, settlement calculations, and built-in HIPAA compliance.

### A Suite of Specialized Tools Within Clio

The conventional one-size-fits-all approach seldom suffices for personal injury lawyers. Recognizing this, Clio has developed a unique set of features designed specifically for personal injury firms. These features encompass HIPAA-compliant medical record management and automated settlement calculations, allowing personal injury law firms to operate seamlessly within the world's leading legal practice management solution. With Clio's Personal Injury Add-On, the days of relying on makeshift integrations and workarounds are over.

### Streamlining Medical Record Management

Efficiently managing medical records is a cornerstone of successful personal injury cases. Clio's medical

record management feature equips you to maintain an organized caseload and quickly identify any missing information. You can add medical service providers, track client treatment dates, catalog corresponding medical records and bills, and set medical record request dates with associated follow-up reminders. Additionally, Clio's settlement calculator automatically itemizes medical liens under the "medical liens and outstanding balances" category, deducting them from the overall recovery amount.

### Automated Calculation of Damages

Introducing a dedicated medical damages tab, Clio enables users to add various damage types to a case, such as lost wages, general damages, or punitive damages. Clio's software will then automatically calculate the total damages and provide the flexibility to sort them by damage type. The software succinctly summarizes medical liens as special damages in the damages summary section. To enhance your paperwork workflow, you can export the damages summary as a CSV file, ready for attachment to your demand letter.

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Negotiating recovery amounts can be a time-consuming process, involving the meticulous scrutiny of medical liens and fees. Clio streamlines this task with its settlements tab, a central location for consolidating vital data from the medical records and damages tabs. This simplifies the decision-making process during recovery negotia-

tions by providing a clear overview of the case's financial elements. The settlements tab also keeps track of:

- Recovery amounts from multiple sources
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- Non-medical liens
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- Reductions

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# House Panel Narrowly Votes to Support Change in Child Custody Language

By Paula Tracy  
InDepthNH.org

By a narrow margin, the House Children and Family Law Committee approved an amended bill Tuesday that would require judges in child custody cases to give “approximately equal parenting time” to both parties.

This changes sections of RSA 461-A:2 where the words “frequent and continued contact” now exist, said Representative Lorie Ball, R-Salem.

There are exceptions in cases where abuse and/or neglect is alleged. The language is being interpreted differently by about three judges in courts and is considered vague, said some, while others said the move is not necessary and will only further confuse a volatile situation.

House Bill 185 was sponsored by state Representative Lisa Post, R-Lyndeborough, retained and now amended on a 9-7 vote Tuesday.

A public hearing was held on the non-germane amendment Tuesday and several parents said they believe that while the change was small, it would be considered a positive improvement in current law.

This included Dana Albrecht, a father of four who said, “I wish I could see them,” but in the seven years since his proceedings began, he said he has only seen his children for a total of 30 to 40 days.

“I would be happy to see it,” Albrecht said, but he added that some people, particularly those of financial means, might oppose it.

Heather Desmond also spoke in support of the amendment and handed written



Father Dana Albrecht is pictured Tuesday testifying before the House Children and Family Law Committee. Photo Courtesy of InDepthNH.org.

testimony to the committee.

A special committee studying judicial actions in custody cases was convened this year. Gayle Drobat of Amherst wrote to InDepthNH.org noting concerns parents have testified about in the Children and Family Law Committee and the Special Committee Investigating the Circuit Court – Family Division.

“Numerous parents have testified... that passing a presumption of Shared Parenting would be a step in the right direction to better protect New Hampshire children and families; it will lessen the adversarial nature the family court creates by pitting parents against each other and a winner-takes-all, creating unequal orders harming New Hampshire children,” Drobat wrote.

She said the New Hampshire Supreme Court has recognized, “As to the private interest of the parents, we have consistently recognized that the right to raise and care for one’s children is a fundamental liberty interest protected by the state Constitution.”

“Parental rights are natural, essential, and inherent rights within the meaning of the state Constitution,” and “the loss of one’s children can be viewed as a sanction more severe than imprisonment.”

In family court proceedings, Drobat said, it is not uncommon for one parent to be relegated to an every-other-weekend visitor in the lives of their children.

There are equal protections in the constitutions, but there is not equality in parental rights and responsibilities laws, she said.

The House of Representatives will be asked to vote on the amended HB 185 when they return in the new year. The committee also voted on a number of other bills Tuesday with the majority recommended to be killed.

Ball, a member of the committee, told Chairman Mark Pearson, R-Hampstead, “What we have found in our investigation through the special committee investigating family courts is that we have a very small number of judges who are not interpreting ‘frequent and continued contact’ as equal to 50/50 as possible, therefore, parents and families going into different courthouses are not being treated equally because the law is being read differently.

“So, we would like to formalize and make sure that all judges are on equal footing and all families get fair and equitable considerations in the courthouses,” Ball explained.

Representative Candace Moulton, D-Manchester, said she had been back and forth about this bill all week, and “it is not a decision to be taken lightly.” That said, the current language is very vague and could be defined as phone calls instead of face-to-face interaction.

“We do have parties out there that will weaponize this against the other person who will interpret it according to how it is written but then how they are taking those words to mean. And because the language doesn’t have anything further to direct how the judges are supposed to order it, then that is where we run into a lot of problems,” Moulton said.

“That includes my own. But I am not here to talk about my own situation, I am also hearing about all the other stories we’ve heard,” Moulton said. The purpose of the change is to “put boundaries up” for both parties.

But state Representative Patrick Long,

D-Manchester, the vice chair, said changing the language possibly complicates it more, and said approximately equal parenting time has nothing to do with phone calls in his mind.

“I would see judges being more perplexed on ‘approximately’ than the ‘frequent and continuing contact,’” adding, “I think they are going to have their own opinions on what ‘approximate’ is. So, if we are looking to narrow the differences that they are thinking, I don’t believe this really does it,” Long said.

Ball responded “approximately” is in there because there are possibly times when it is not exactly equal – like a school release day gives one parent a few more hours – but the attempt is to take that “weaponization of the language out.”

State Representative Heather Raymond, D-Nashua, said distance of locations of each parent can impact judges’ decisions. Ball said it gives the judges the opportunity to support a mutual agreement between parents.

Representative Maria Perez, I-Milford, said she felt uncomfortable with the amendment because Representative Moulton alluded to her personal situation related to custody.

“We (are) here to work for the community not for our personal agenda,” Perez said.

Moulton reiterated she was not supporting the matter or advancing it for personal reasons.

Representative Alicia Gregg, D-Nashua, said this has been something that has been gone over a lot during the special committee’s consideration over the past few months and there are just three judges that have not used this presumption.

“Divorce is never easy,” Gregg said. “When we put something like this in law... I believe it is going to create many more issues than the couple that it would solve,” Gregg said.

She said she feared that people would stay in the house with abusers.

Ball said she has not seen any data to support that situation and said there are some who feared they would get less than 50 percent of the time and have stayed.

“I believe that if parents were told going into their divorce case that ‘don’t bother trying to get full custody in a situation where there is no abuse. Don’t bother asking for that, because the judge is going to support 50/50’, it’s going to alleviate a lot of tension, a lot of anxiety, a lot of fights and it allows the family to move on.” ♦

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## ■ PRISON SERIES *from page 1*

“A lot of times D-reports were also used as bargaining chips to get information from inmates, basically turning them into confidential informants,” says a former NHSP Corrections Officer who wishes to remain anonymous (hereinafter referred to as the CO). “A D-report can affect an inmate’s pay, their parole, and their ability to get canteen.”

An inmate’s canteen is the items they purchase from the prison commissary, such as food, fans, and radios. There are even bigger items like televisions and tablets, which are used to make video calls and message loved ones through the messaging system, and to download movies, games, books, and prison programming. The items are typically purchased using money they’ve earned while working in the prison, or that was deposited into their account by a family member. The items they are allowed to purchase are based on their classification (C1 to C5).

“Canteen can be used as currency,” attorney and former deputy director of the New Hampshire Public Defender Tracy Scavarelli says. “There is also a lot of gambling that occurs inside where they trade canteen items. I actually have a client who runs one of their poker tournaments on a frequent basis. His explanation is that it gives folks something to do. It keeps people quiet on the pod. He’s an older gentleman, so he likes to run it to keep his pod orderly and quiet. You would think the administration would do something like that, but it’s left to the inmates.”

Anthony Naro, a criminal defense attorney who worked for the New Hampshire Public Defender for 12 years, says

lawyers are not allowed to speak for their clients at the D-boards. He says that the two most common reasons for a hearing are drug possession and fights.

“D-boards are akin to a disciplinary hearing at a college or university, where you can have counsel sit next to you and advise you, but your attorney can’t participate in the proceedings,” he says. “It’s quite unfair in my opinion, but those are their rules. The way I look at discipline at the prison is the same way I look at the motor vehicle code. It is impossible to drive anywhere and not violate the motor vehicle code, much like it’s impossible to live at the prison and not violate any of their administrative rules. I had a client – good guy – who had some Ibuprofen someone who left the prison gave to him. When it was discovered, he received a D-report for it. I’m like, ‘come on guys.’”

Depending on an inmate’s classification, D-reports can be faced with an upgrade as punishment. For example, if an inmate who is a C3 attacks someone, they will be upgraded to C4 and will immediately go to the Secure Housing Unit (SHU), which is solitary confinement.

“There are three main reasons why an inmate would go to the SHU,” says the CO, who worked in the SHU for three years. “One is coming to the prison with a high-profile crime like a murder. They stay in SHU for the first three to five years of their sentence. The second reason is if they are being punished for assaulting another inmate or an officer or if they break one of the more serious rules. If you attack someone, you immediately go to the SHU, and if I broke up a fight, both guys would go to SHU for the night. The third reason to go into SHU would be PC.”



Attorney Anthony Naro maintains a second number exclusively for inmates so they can reach him anytime, as it's hard to schedule phone time if all the phones are occupied by other inmates.

### Protective Custody

PC, or protective custody, is a ward in the SHU reserved for inmates who have been threatened and fear for their safety in General Population. The CO says when an inmate first arrives at the prison, the corrections officers secretly classify them as either predator or prey and that it’s the prey who typically end up in PC.

“A lot of times, it’s the sex offenders who end up in PC because they are pushed off the tier,” the CO says, explaining that this means the sex offender is made to feel unsafe so they will want to leave General Population. “The inmates will ask for their papers and if they don’t or can’t produce them, they will assume they are a sex offender and will make their lives a living hell to get them off the tier. Some examples include threatening them, taking turns yelling and screaming at night to deprive them of sleep for days, and plugging up their toilets and flushing them a bunch of times to flood their cell.”

The CO continues: “Another particularly heinous thing they sometimes do is fill a milk carton with the nastiest stuff you can possibly imagine – feces, urine, semen – and then stomp on it when the sex offender walks by, so it splatters out from the gap at the bottom of the door where they receive their food trays. It covers the inmate with it – kind of like when you stomp on a ketchup packet as a kid. It sprays everywhere.”

Zebadiah Kellogg-Roe, a current inmate of the NHSP in Berlin, is well acquainted with these threats and with PC. Kellogg-Roe was convicted in 2008 of four counts of aggravated felonious sexual assault and sentenced to an aggregate term of 20 to 40 years. He says the lower classes in prison are referred to as the “skinners” (an inmate term for sex offender), the rats (people who turn State’s evidence, align with police, or turn in other prisoners for violations), and people in PC.

“Those are basically the three groups in the lower-class structure of prison,” Kellogg-Roe says. “When you say the magic words, ‘I am in fear for my life,’ COs immediately have to react and do their job.”

Following an inmate’s report to a CO that he is in fear for his life, Kellogg-Roe says COs follow a protocol.

“They say, ‘turn around,’ and they put

handcuffs on you and march you out of the situation,” Kellogg-Roe says. “In that way, you do achieve getting moved out of the space.” He adds that sometimes COs will ask the inmate what’s going on and whether they, “can’t just deal with the situation.” If they can’t, an inmate is strip-searched and checked for contraband and then placed in a holding cell called a dry cell – a form of solitary confinement with the lights constantly on and no flushing toilet or running water – where they wait for a living reassignment.

“Conceivably, if you cried wolf over and over again, they may not believe you and could say you need to go back,” Kellogg-Roe says, recalling a mentally ill young man in R&D in that situation. “He was curled up in a ball on the floor in his cell. There are times when you can get in a dark place with the officers where they don’t help you.”

Kellogg-Roe says he has repeatedly sought out PC, adding that the harassment he has experienced in prison has allowed him to be reassigned several times. He has cycled from the state prison in Concord to the state prison in Berlin, and at times to various sections within each of those prisons. He says that for some prisoners, PC can provide a sense of control despite the negative connotations.

“In here there’s a lot of, ‘I ran up a gambling debt and owe people canteen and drug money and I have to go to PC to get away from that,’” he says. “I know I can’t beat people up, and I know I just don’t have the authority to make certain changes, so I defer to their authority, which means I go to them when I have an issue. Other inmates don’t acknowledge the COs’ authority and will handle things themselves. And that’s what’s expected of the criminal or the inmate class. And hence the PC prisoner often gets a bad rap.”

### Violence in Prison

Despite some occasional incidents, the CO says life in prison is quite mundane compared to what is shown in popular prison movies. While fights do occur and harassment does sometimes happen, the inmates generally adhere to the majority of rules, he says.

“There were a few scary times, where

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“When you say the magic words, ‘I am in fear for my life,’ COs immediately have to react and do their job.”  
– Zebadiah Kellogg-Roe

during the heat of the moment I wasn't afraid but there was a lot of fear after," he says, recalling one instance where he was involved in an altercation he believes had the potential to turn violent. "One time, I was running an overtime shift and was the only officer watching over 100-plus inmates on the basketball court."

The CO, stationed near the gymnasium's only bathroom, was counting the people going in.

"I'd count the people because it's the perfect time for inmates to pass stuff to each other," he says. "And I happened to notice more than four guys going to the bathroom that has only four stalls."

While some COs are referred to by other COs as "high speed," the CO describes himself as a relaxed officer who never bothered inmates about minor infractions such as wearing their pants too low. Nonetheless, he says he needed to do his job and find out what was happening in the bathroom.

"I went in there and saw more than two feet under the door of the stall," he says. "I opened the door, and this guy had a huge bag of drugs, doing a drug deal. One of the guys pushed back past me and I grabbed his shoulder. The other guy tried flushing the drugs and I scooped them out and fought with both guys in the bathroom, trying to gain control of them by myself. Then, the scuffle ended up spilling out into the gym after that."

The CO says he was able to call for first responders while holding the two inmates down in the gym, and when he looked up, he saw that all 100-plus inmates had circled around him.

"They could have started kicking me and no one would have gotten to me in time. I could have died," he says. "But none of them did anything. I'm really blessed that nothing awful happened."

Attorney Scavarelli says in her more than 20 years as a lawyer, she has only had one serious confrontation with a client in prison.

"When I was a new attorney, one of my first times at the prison was visiting a client in SHU," Scavarelli says. "You're alone in the room with your client who is uncuffed and there is a two-way mirror. When I was finished meeting with my client, I was having a difficult time alerting the CO that our visit was over. I was knocking on the window as instructed and no one came."

She says she continued to knock about five times and that clearly no one was aware of her presence.

"My client actually threatened physical and sexual harm against me once he realized no one was coming," Scavarelli

says. "Being from Jersey, I faked it till I made it. I made sure he kept his distance, and it was a stare off. It was very nerve wracking to be in that situation where a client is threatening harm against you and clearly there was no one aware of my presence and the lack of security. Over time, you just learn to deal with it and have good relationships with your client so as not to be put in those situations."

## PREA

The Prison Rape Elimination Act (PREA) was passed unanimously by Congress in 2003 to protect inmates from sexual assault with a zero-tolerance approach to both inmate-on-inmate and staff-on-inmate misconduct. With PREA, the National Prison Rape Elimination Commission was established and, in collaboration with the Department of Justice, finalized the PREA standards in the Federal Register in 2012.

"The prison system takes PREA very seriously," the CO says. "Even when it's consensual sex, we have to report it as rape. I have walked in on inmates who were having sex and I had to do a PREA case. According to the rules, there is no consensual sex in prison."

While PREA is well-intentioned, some organizations and individuals feel the standards are inadequate. According to the University of Minnesota's Gender Policy Report, "it falls short of what is needed to protect all prisoners, especially women, people of color, transgender individuals, and disabled people."

"In my view, it's not really dealt with," Naro says. "I bring it up in sentencing hearings when appropriate, especially if the State wants to send a young and vulnerable person to the prison. When I was a public defender, we got a tour of the prison and the CO who was giving us the tour made a comment that really shook me. He said, 'everybody's paying rent to somebody,' and it's a fact."

One of the major issues with the fight against rape in prison is a lack of reporting.

"Unfortunately, I've had many clients over the years not report things that have happened to them at the prison out of fear and shame," Scavarelli says. "Often times, there is a fear of retribution and further abuse if they do report it."

## Visitation, Monitoring, and Dress Code

The first line of the New Hampshire Department of Corrections' visitor dress code reads: "All visitors MUST wear undergarments." The dress code then outlines

several clothing prohibitions, including overalls, scrubs, scarves, and zippered shirts, to name a few. This strict dress code is doubly enforced with women – including attorneys – at the men's prisons.

"There was one particular corrections officer who would strictly apply the clothing requirements [with attorneys] that apply to general visitors," Scavarelli says. "If a woman was wearing a blouse without sleeves, but had her suit coat over it, he would sometimes not allow you to go in. He would accuse attorneys of potentially removing their jacket during the visitation. Attorneys are not there to show off a shoulder. We are there to do whatever work we have to do and then leave, the same as a male counterpart."

Scavarelli says a woman's dress needed to fall below the knee while sitting and that the corrections officer would frequently have female attorneys demonstrate for him by sitting and showing where the hemline fell.

"I would typically wear turtlenecks and pants so he wouldn't harass me, but one time I had an emergency situation where I needed to get something signed by my client and had a dress on," she says, adding that the corrections officer made her go through the process. "I purposely pulled it over my knee as I sat down. He said, 'oh, how crafty of you.' It was obviously a harassment technique versus anything to do with security. There was, in my opinion, sexual harassment and arbitrariness in terms of implementing the dress

code at the prison."

Oliver Hooper, serving a 50- to 100-year sentence at the NHSP in Concord after being convicted of aggravated felonious sexual assault in 2006, says visitations – and even phone calls – can be reminders of the lack of control people sometimes feel on the inside.

"You know, when we have visitors visit, they have to fill out forms, they have to be vetted to come visit us," Hooper says. "And even this phone call we're on now, you know, is being recorded. They can listen to it any time and the mailings coming in or going out can be read at any time, as well." ♦

*The New Hampshire Department of Corrections Public Information Office has not responded to the Bar News for comment in this series at the time of this article.*



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## Administrative Remedies

Administrative Remedies, or prison grievances, allow an inmate to seek formal review of an issue relating to their confinement, such as unfair treatment or poor conditions.

Attorneys say filing grievances can be an onerous process for inmates, though.

"It's a very secretive and administratively heavy process," attorney and former deputy director of the New Hampshire Public Defender Tracy Scavarelli says. "So, it's very difficult for clients to maneuver and frankly get the remedies that they are entitled to."

Grievances do not include complaints relating to parole decisions.

If an inmate has a grievance, they are required to fill out a "Request Slip" or a "Grievance Form" which is collected by a corrections officer and delivered to the administration. Inmates are not allowed to submit a grievance on behalf of another inmate except under certain circumstances and with approval by the director, warden, or other designee.

Some of those circumstances include, but are not limited to, a resident who has a medical or mental health condition, disability, or language barrier that would inhibit the ability to submit the request independently. ♦



Judge Saint-Marc with her husband and grandfather as Judge McCafferty administers the Oath of Office. Photo by Stephen Bradley



Judge Saint-Marc shares a hug with Judge McCafferty at the ceremony. Photo by Stephen Bradley

## ■ SAINT-MARC *from page 1*

impact on the world is defined by this moment. You have already positively impacted so many people's lives inside and outside of this room and you will continue to do so for years to come."

Rheaume continued: "Talesha, you help people rise. And when you enter the courtroom and hear the marshal say the words 'all rise,' remember this moment and the lives you've already touched. You are in this moment, and you deserve it."

Judge Saint-Marc is an active participant in her community. A graduate of the NHBA's Leadership Academy, she is the current chair of the NHBA's Diversity,

Equity, and Inclusion Committee and has served on several other committees. She was highly involved at her former firm, known by her colleagues as "the labor and employment attorney" at the Manchester office.

She has also been involved in many organizations over the years, including the New Hampshire Women's Bar Association, New Hampshire Legal Assistance, Rivier University's Board of Trustees, Big Brothers Big Sisters of Greater Nashua, the Bishop Estee and Ida Newman Scholarship Fund, the American Heart Association, and the Circle Program.

Following the moving speeches, Judge Saint-Marc was sworn in by Judge McCafferty as her husband, Ricardo Saint-Marc,

and her grandfather, Bishop Stanley Chocate, held the Bible. The crowd erupted in a booming applause for the historical moment.

"I was honored to be the person to give her that oath," Judge McCafferty says. "It's one of the real honors of a judge's career to be able to administer the Oath of Office to another judge. The historical nature of Judge Saint-Marc's elevation to the bench made it all the more special and exciting."

Judge Saint-Marc was then robed by her husband and took the podium to give her remarks. She began by thanking the people who have supported her throughout her journey, including her fellow judges, mentors, colleagues, friends, and family.

"As a kid, I imagined being a lawyer, but I didn't see many lawyers that looked like me," she shared in her remarks. "Once I got into law school and I became a lawyer, I imagined being a judge, but I didn't see very many judges who looked like me. Sometimes it can be really difficult to think big if you do not see people who reflect your life experiences. That is why I am beyond humbled and honored to serve as the first Black judge for the District of New Hampshire."

She closed the ceremony with these final thoughts: "I am hopeful that through my service when younger generations see me, they are reminded that they too can fulfill their dream of becoming a lawyer, and even a judge. So, today culminates a fulfillment of a dream for me, and I don't take the responsibilities of my position lightly. I vow to listen, to be fair, to be compassionate, and to afford all litigants equal justice under the law."

Judge Saint-Marc says she debated if this step was coming at the right time for her family and career. She lives by the mantra, "What's the worst thing that happens if you try?" and that encouraged her to go for her dream.

"It leaves me speechless," she says of her achievement. "It also leaves me feeling very proud. Not only for myself and my family but for all of those who paved the way before me and for those who are go-

ing to come after me. I never thought that I would be a trailblazer and even when I applied for this position, I never thought about the fact that I would be making history. That all came after, when everyone else started telling me, 'Wait a minute, aren't you the first?' It hit me then."

Judge Saint-Marc shares that many people, including herself, got emotional during the ceremony. She laughed as she noted that her three-year-old daughter slept through the entire event.

"The vibe of the room was so representative of Talesha," says Rheaume, adding that typically events like these can be stiff, as they are held at a courthouse, but this event had a different atmosphere. "You could feel the audience

members understanding who she is as a person, how profound and historic this moment is, and maintaining the ceremonial atmosphere but also allowing everybody in that room to feel whatever emotions they needed to."

Judge McCafferty agrees with the sentiment.

"Everybody was so moved," she says. "I had a bird's-eye view of the entire courtroom. The whole place was teary-eyed and joyous at her elevation to the bench. It was a wonderful day."

After the court was adjourned, the attendees were invited to a reception on the front lawn of the courthouse. As the

afternoon ended, the guests mingled, and Judge Saint-Marc welcomed their congratulations and well wishes for her new position.

Her historic appointment leaves an indelible mark on the legal community. Her commitment to fairness and justice serves as an enduring inspiration, lighting the way for those who will follow her path in pursuit of their own dreams.

"Don't be limited by your fears or your doubts," Judge Saint-Marc says. "Think big. Think, 'If my wildest dreams come true, what would that be?' and then push toward that and realize those could come true. Don't live in the limits of 'it will never happen or it's unrealistic.' I think that's something that's helped me in my career." ♦

"As a kid, I imagined being a lawyer, but I didn't see many lawyers that looked like me. Once I got into law school and I became a lawyer, I imagined being a judge, but I didn't see very many judges who looked like me." – Judge Talesha Saint-Marc

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• 360 NHMCLE min.  
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**WED, NOV 29 – 12:00 p.m. – 1:00 p.m.**  
Fastcase: A Comprehensive Guide  
• Webcast; 60 NHMCLE min.

**THU, NOV 30 – 12:00 p.m. – 1:00 p.m.**  
2023 Patent Law Update: Key Developments in Patent Litigation and Patent Prosecution  
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### DECEMBER 2023

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

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

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

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

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

**TUE, DEC 12 – 12:00 p.m. – 1:00 p.m.**  
The Resilient Lawyer: Resetting Your GPS Toward Healing & Feeling Better  
• Webcast; 60 NHMCLE min.

### FEBRUARY 2024

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

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

### MARCH 2024

**WED, MAR 6 – 9:00 a.m. – 4:30 p.m.**  
Employment Law 101  
• 360 NHMCLE min.  
• Concord – NHBA Seminar Room/Webcast

**FRI, MAR 8 – Time TBD**  
Estate Administration 101  
• Credits TBD  
• Concord – NHBA Seminar Room/Webcast

### APRIL 2024

**TUE, APR 9 – 9:00 a.m. – 4:30 p.m.**  
Family Law 101  
• 360 NHMCLE min., incl. 60 ethics min.  
• Concord – NHBA Seminar Room/Webcast

## The Resilient Lawyer: Resetting Your GPS Toward Healing & Feeling Better



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

Being a lawyer doesn't mean you're doomed to live with high stress. You can't avoid it entirely, but you can choose a thoughtful approach to stress and taking care of yourself. This hour-long workshop is for the benefit of lawyers and judges geared toward managing legal stressors, overwhelm, and anxiety. Join us on December 12th at noon, for a stress reduction workshop. Attendees will expand their understanding of challenges to attorney well-being and learn established stress management techniques to support rest and renewal.

#### Faculty

**Jill O'Neill**, Executive Director, NH Lawyers Assistance Program, Concord

**Penelope Perri**, MSW, CEAP, Penelope Perri Coaching, Concord

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

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

## 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

**Jude T. Currier**, ParentCoach Counseling, LLC, Amherst

**Hon. Robert J. Foley**, NH 7th Circuit Court/Rochester Family Division, Dover

**Benjamin Garber**, PhD, Family Law Consulting, PLLC, Nashua

**Kimberley J. Joyce**, Law Office of Kimberley J. Joyce, Wellesley, MA

**Hon. Jennifer A. Lemire**, NH 10th Circuit Court/Brentwood Family Division, Kingston

## 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

## Corporate Transparency Act Update

Friday, December 1  
12:00 p.m. – 1:00 p.m.  
60 NHCLE min.



Starting January 1, 2024, corporations and limited liability companies with fewer than 20 full-time employees in the United States, less than \$5 million in U.S.-sourced gross receipts or sales, and a physical operating presence in the United States will be required to register their entity and its beneficial owner(s) with the Financial Crimes Enforcement Network (FinCen), a bureau of the United States Department of the Treasury. This program will provide an overview of the CTA and an update from a previous program held in April of 2023.

### Faculty

**John M. Cunningham**, Law Offices of John M. Cunningham, 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

## Fastcase: A Comprehensive Guide

Wednesday, November 29  
12:00 p.m. – 1:00 p.m.  
60 NHCLE min.



This presentation will show you around Fastcase and provide instruction for using the system. Learn search functions, navigating the information available to you, and what tools and features can help in your research. This presentation is great for all Fastcase users, new and experienced.

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

## New Hampshire Insurance Law 101

**Thursday, May 9**

9:00 a.m. – 4:30 p.m.

360 NHCLE min., incl. 30 ethics/prof.  
NHBA Seminar Room/Live Webcast

NH Insurance Law 101 is intended for practitioners of all ages and experience levels who encounter insurance questions and coverage issues in their daily civil practices. The content of the presentations will focus primarily on tort / personal injury litigation and the critical issues of insurance coverage that commonly arise.

### Faculty

**Peter E. Hutchins**, Program Chair/CLE Committee Member

**Matthew V. Burrows**, Gallagher, Callahan & Gartrell, Concord

**Doreen F. Connor**, Primmer, Piper, Eggleston & Cramer, PC, Manchester

**Iryna N. Dore**, Sulloway & Hollis, Concord

**Christine Friedman**, Friedman Feeney, PLLC, Concord

**Todd J. Hathaway**, Wadleigh, Starr & Peters, PLLC, Manchester

**Russell F. Hilliard**, Upton & Hatfield, LLP, Portsmouth

**Adam R. Mordecai**, Morrison Mahoney, LLP, Manchester

**Ashley D. Taylor**, Pastori Krans, PLLC, Concord

**Roger D. Turgeon**, of counsel, Shaheen & Gordon, Dover

## On-Demand Programs from our Partners in the Sharing Network

### It Won't Happen Here, Until it Does: Workplace Violence & its Legal Impact on Employers & Employees

*from the Louisiana State Bar Association*

(Original Program Date: August 11, 2023) - 50 NHCLE min.

### Environmental Justice & its Implications for the Energy Industries

*from the Rocky Mountain Mineral Law Foundation*

(Original Program Date: July 20, 2023) - 56 NHCLE min.

### Small Modular Reactors-Reimagining the Future of Nuclear Energy

*from the Rocky Mountain Mineral Law Foundation*

(Original Program Date: July 20, 2023) - 59 NHCLE min.

## DID YOU MISS IT?

### Coming Soon OnDemand

#### Developments in the Law 2023

Original Program Date: October 27, 2023

360 NHCLE min. incl. 60 ethics min.

## Upcoming CLE Programs By NH Lawyers, For NH Lawyers

### 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

### Estate Administration 101

March 8, 2024

### Trial Practice Series-Procedure

March 15, 2024

### Tax Abatements & Exemptions

March 27, 2024

### NH Constitution Law

April 3, 2024

### Family Law 101

April 9, 2024

### Evidence

April 12, 2024

### UCC

May 2, 2024

### Insurance Law 101

May 9, 2024

### Business Litigation

May 14, 2024

### 18th Annual Ethics CLE

May 30, 2024

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# Indigent Defense Is Recovering from Crisis but Still ‘Under a Lot of Stress’

By Annmarie Timmins  
New Hampshire Bulletin

The state’s safety net for criminal defendants who can’t afford an attorney is no longer in crisis. Pay increases have slowed attorney resignations. Fewer people are waiting for a lawyer, and the wait is shorter. The Public Defender Program has stopped limiting new intakes and has even expanded some services.

However, indigent defense programs continue to face challenges. Even as the state has increased its investments, funding for low-income defendants is falling short of need, according to people overseeing indigent defense. Under the US Constitution, the State must provide attorneys to criminal defendants who cannot afford one.

Sarah Rothman, executive director of the Public Defender Program, said she needs 12 additional attorneys to reach her goal of 145, not a small number given that she’s lost about 20 each of the last two fiscal years.

Richard Samdperil, who until recently oversaw the New Hampshire Judicial Council, which finds lawyers for clients Rothman’s team can’t represent, said the council needs more attorneys, too. In the past five years, the number of lawyers or firms willing to sign indigent defense contracts has dropped by 45 percent, he said, and those who take contracts are agreeing to take fewer cases.

“As a system, it’s under a lot of stress,” Samdperil said. “The Public Defender [Program] has done a remarkable job of recovering from where it was 18 months ago, but the continued stress on the indigent de-

fense system is of great concern.”

Eighteen months ago, the Public Defender Program was trying to rebound from a mass exodus, where nearly 50 attorneys resigned within two years. For the first time in its 25-year history, it had restricted intakes, cutting its cases from nearly 28,000 in 2019 to about 14,800 in 2022. Almost 180 criminal defendants were facing incarceration with no one to represent them in 2022.

The Judicial Council provides funding for the indigent defense programs in the state, including the Public Defender Program; New Hampshire Legal Assistance; CASA of New Hampshire, which trains and supervises volunteers to serve as advocates for abused and neglected children; and the attorneys who take cases the Public Defender Program can’t because of conflicts of interest.

Samdperil said the council didn’t have enough attorneys to absorb hundreds of new unrepresented clients after the Public Defender Program restricted intakes. The situation was so dire that the state Supreme Court appointed a Criminal Defense Task Force to explore solutions. The task force began recruiting experienced private attorneys to take on indigent clients at about \$60 an hour, a fraction of the \$350 to \$450 hourly rate their firms typically charge.

“Right now we are just treading water,” New Hampshire Supreme Court Jus-

tice Patrick Donovan, who headed up the court’s Criminal Defense Task Force, told the Bulletin in July 2022.

The situation began looking a bit less dire this year.

Judicial justice advocates succeeded in persuading the state to invest more in indigent defense. Public defenders got pay raises and permission to join the state’s health insurance, which Rothman said is cheaper and more comprehensive than their prior plan. The office has added staff to help clients find court-ordered treatment and assistance with insurance and housing, taking that task off attorneys and expanding it.

That’s helped considerably with recruitment, Rothman said, but high case-loads and the potential to earn more elsewhere still makes positions hard to fill.

The state increased the hourly rate for private attorneys, too, from \$60 to \$90 an hour for most cases and \$125 for homicides and serious felonies. (That is still lower than the \$158 an hour the federal government pays lawyers to take on federal indigent cases.)

But the Judicial Council saw its \$5 million budget request for assigned counsel, who also represent indigent criminal defendants and parents in abuse and neglect cases, cut to \$3 million.

By the end of the first quarter of the 2024 fiscal year, the council had already

spent \$1 million. Samdperil said he expects the council will ask the Joint Legislative Fiscal Committee for more money in January or soon after.

The Judicial Council was also denied its request for an alternative public defender program that Samdperil believes presents the best chance of shoring up indigent defense in New Hampshire. The council must hire private attorneys for the approximately 15 percent of indigent cases the Public Defender Program can’t take because of conflicts of interest. Creating what would be essentially a backup public defender program with staff attorneys would replace the current unpredictable process of hiring private attorneys via limited contracts or for individual cases, as their schedules allowed.

It’s become harder to recruit private attorneys, Samdperil said. In the last five years, the number of contracted attorneys has gone from 34 to 19, largely because of the pay and workload, he said.

A case that may have taken a few days to prepare a few years ago can now take much longer because of an increase in digital evidence to review, such as social media and video surveillance. The more time attorneys spend on contract cases, the less time they have for clients who are paying their firms’ standard rates.

The rate increase “hasn’t resulted in this massive expression of interest,” Samdperil said. ♦

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## ■ IEA from page 1

Attorneys are appointed to represent the individual undergoing admission during the court process. Hearings typically last about 20 minutes, during which the patient, petitioner, and their attorneys present their cases, with the judge ultimately deciding whether the patient poses a risk to themselves or others and should be sent to a DRF for treatment. Lawyers play a vital role in these cases, advocating for their clients and ensuring that their rights are protected.

“We’re talking about taking away someone’s liberty,” says New Hampshire Circuit Court Chief Administrative Judge David King. “Even though it’s a relatively short time in a mental health setting, it’s still taking away someone’s right to be free. It is absolutely critical [that they have representation]. This is a time when people are at their most vulnerable state, as they’re suffering a mental health crisis. So, having a lawyer is hugely important in these cases in making sure that they aren’t going to be involuntarily detained without a fair hearing and having their rights protected.”

The number of IEA cases is on the rise. With currently only four attorneys



King



handling them, the Committee on Cooperation with the Courts is encouraging others to assist. Attorney Earl Carrel has been doing IEA work since 1988 and believes this is a great opportunity, especially for new lawyers.

“I think it is a tremendous training opportunity for new attorneys for a couple of reasons,” Carrel says. “One, you get a lot of one-on-one face time with judges, which I think is important. Secondly, you’re dealing with clients where sometimes you never really know



Carrel

what they’re going to say, so it gives you a lot of experience in having to think on your feet quickly.”

Judge King agrees, saying it’s an excellent chance for newer attorneys to gain courtroom experience, prepare direct testimony, call witnesses, and make legal arguments.

The Circuit Court will provide training for any lawyer who has an interest. They also earn \$100 per case. Representing these clients involves reviewing the petition, interviewing the client (either in person or on the phone), and then participating in the hearing. Lawyers can appear at the hearings telephonically, by going to the client to participate with them, or by going to the courthouse in Concord.

“It’s pretty gratifying to feel like you’re helping these vulnerable people protect their legal rights in a time when they can’t do things for themselves,” Judge King says. “Certainly, the patients

The Circuit Court will provide training for any lawyer who has an interest.

appreciate the fact that they have a lawyer, and the court appreciates that lawyers are willing to take these cases because they are so important. Fourteen days is a big chunk out of someone’s life when you’re taking away their liberty.”

Carrel says he finds representing these individuals very rewarding, knowing that he positively impacts the clients he sees.

Although they are a small percentage of the judicial branch’s caseload, Judge King emphasizes that these are among the most important cases that they handle and that it is crucial the patients have competent counsel to represent them. New Hampshire attorneys have an opportunity to make a significant impact and play a vital role in safeguarding the rights of those facing involuntary emergency admissions. Your involvement can make a world of difference for someone in a crisis. ♦

If you would like to help with this work, please reach out to Circuit Court Administrator Kate Geraci at [kgeraci@courts.state.nh.us](mailto:kgeraci@courts.state.nh.us).

## ■ FICTIONAL from page 9

several memorable moments from this trial including Vinny’s cross examinations (or lack thereof), objections, and last-minute expert witness.

I’m not so sure how well Vinny would hold up in a New Hampshire courtroom, but I would certainly welcome his humor and creativity!”

### Rebecca Bunyard, NHBA Leadership Academy Liaison

“My favorite would be Ally McBeal from the show bearing the same name – or really anyone from her firm. I loved how the characters could go from dramatic to all-out quirky and fun. There were so many fun story lines: the dancing baby, the Barry White Dance, Ally waking up to Al Green singing to her in her bedroom, etc. And when she had to really come through in court, she gave it her all.

I think if Ally were here in New Hampshire, she would fare wonderfully – she would bring her liveliness to the courtroom.”

### Lynnette Macomber, Orr & Reno

“My favorite fictional lawyer is Alicia Florrick from [the TV show] *The Good Wife*. I loved her character arc throughout the show because she starts off somewhat uncertain of her legal sea legs after years away from practicing law. She quickly regains her confi-



dence, however, and begins kicking you-know-what and taking names.

Watching the show during law school, I was continually impressed with her fierceness (in a good way) and her resilience. Her journey is not easy, and she is faced with many moral dilemmas and legal challenges as she re-establishes herself as a lawyer in Chicago.

I’m not sure that some of the tactics she comes up with by necessity in *The Good Wife* would be needed in a New Hampshire courtroom, but I think she would succeed here either way, given everything she overcomes in the show.”

### Jessica Morrissey-Jeffery, New Hampshire Legal Assistance

“As a nod to the approaching holiday season, my favorite fictional lawyer for the moment would be Fred Gailey from the 1947 version of *Miracle on 34th Street*. This feel-good film exhibits a hint of litigation thrill as Attorney Gailey successfully defends his client, Kris Kringle, against an attempted institutionalization.

While his copious number of exhibits (that were not provided to opposing counsel before the trial) does make one question his ethical obligations around discovery – the court was ultimately persuaded and dismissed the case. Attorney Gailey successfully established that his client was indeed the one and only Santa Claus and Mr. Claus was free to resume his seasonal work, much to others’ enjoyment.

Attorney Gailey’s clever interpretation of the supremacy clause and federal government practices would make him a successful practitioner in a New Hampshire courtroom today.” ♦



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# Family Law

## Visitation and Parental Rights for Stepparents and Grandparents

By Andrew J. Piela and  
Lyndsay N. Robinson



Piela



Robinson

The role of stepparents and grandparents in family law cases has expanded in the last several decades. This can be seen in the codification of grandparent and stepparent visitation rights in RSA 461-A. The New Hampshire Supreme Court, however, has struggled with balancing the rights of stepparents and grandparents against the constitutional rights granted to a child's biological or adoptive parents.

Grandparents have the right to petition for visitation with a grandchild, as set forth in RSA 461-A:6, V and, in greater detail, in RSA 461-A:13. The petition must be filed in the court that has jurisdiction over the divorce or separation proceeding. In the case where one of the parents has died, the action must be brought in the court that has jurisdiction to hear divorce cases in the town where the child resides.

There is no parallel common-law right allowing a grandparent to seek visitation rights, as this statute is considered to be the entire extent of a trial court's ability to order such visits. See *Petition of Wilke*, 169 N.H. 802, 804 (2017). Similarly, the RSA 461-A:13 only applies to the maternal or paternal grandparents, see *Petition of Lundquist*, 168 N.H. 629, 632 (2016) (wife's parents had standing to seek grandparent visitation rights when the wife's husband died), as great grandparents or other family relations cannot use the statute to secure visitation rights, see *Wilke*, 169 N.H. at 807-8. Lastly, subject matter jurisdiction for grandparent visitation requests lies exclusively with the Family Division, even if another court had a role in terminating the nuclear family. See *In*



re: *Athena D.*, 162 N.H. 232, 234-6 (2011).

A critical element that must be met is whether the grandparent's visitation rights had been "restricted for any reason prior to or contemporaneous with the divorce, death, relinquishment or termination of parental rights, or other cause of the absence of a nuclear family."

In the recent case of *In re: Kauble* --- N.H. --- (September 19, 2023), the grandfather attempted to intervene in the divorce proceeding to secure grandparent visitation rights. *Id.* at ---. However, the mother terminated contact between the children and the grandfather while the divorce was pending. *Id.* at ---. The Supreme Court held that because the mother restricted the grandfather's access to the children prior to the completion of the divorce, he lacked standing to seek visitation rights. *Id.* at ---.

*Kauble* leaves undetermined a number of questions, such as (a) what language or conduct is necessary to show a "restriction" of access; or (b) once access is restricted, will it forever bar a grandparent from seeking visitation rights or can the passage of time or the restoration of contact undo the effect of a prior restriction?

Lastly, in *Kauble*, the father took no position on the request for grandparent visits. --- N.H. at ---. A question remains as to whether one parent can "override" the wishes of the other parent and continue to allow grandparent contact.

*Kauble's* holding that suggests even a

transitory restriction of visitation rights can be fatal can be contrasted with *In re: P.B.*, 167 N.H. 627 (2015). In *P.B.*, the grandparents had contact with the grandchild after the biological parents died. 167 N.H. at 628. The child was then adopted by other family members who halted the grandparent visits. *Id.* The Supreme Court held that the grandparents' rights to petition for visitation became, in essence, fixed when the child's nuclear family vanished, and the ability to see the child had not been restricted prior to that event. *Id.* at 630. The subsequent restoration of the nuclear family did not divest the grandparents of their right to seek visitation with the grandchild. *Id.*

Most importantly, the Family Division must determine that the visit would serve the child's best interest, and whether the contact with the grandparent would interfere with the parent-child relationship or authority, along with all the other factors in RSA 461-A:13, II. *In re: Rupa*, 161 N.H. 311, 318 (2010).

In bringing an action for grandparent visits, strict compliance with the statutory requirements is a necessity. The filing party should clearly allege how they are related to the minor child, how the child's nuclear family has been lost, and, most importantly, that there has been no prior restriction on the grandparent's contact with the child. Ideally, the grandparents should also attempt to gain the support (or if not support, at least non-opposition) of the biological or adoptive par-

ents prior to the filing of the petition as *Rupa* and *P.B.* both show that a parent's objection to the grandparents' visits is weighed very heavily. The petitioner must be prepared to address every factor in RSA 461-A:13, II in both the petition and, more important, at trial, as the Family Division is required to review all factors in this section before making any determination.

Lastly, counsel for the grandparents should advise that, even if their petition is granted, their rights are extraordinarily fragile. RSA 461-A:13, V states that their rights can be modified or terminated by a simple change of circumstances. Subsection V does not state that the Family Division must also make a separate finding that termination or modification of grandparent visitation rights must also be in the child's best interest. As such – and given the Supreme Court's heightened concern for the rights of the child's biological or adoptive parents – a simple withdrawal of consent by one or both of the child's parents may be enough to support a termination or diminution of previously granted grandparent visitation rights.

The second sentence of RSA 461-A:6, V, gives stepparents and grandparents the right to petition for a grant of parental rights and responsibilities, over and above visitation rights.

This willingness to consider an award of parental rights to a stepparent or grandparent was severely curtailed in *In re: R.A.*, 153 N.H. 82 (2005). *R.A.* involved a child's grandmother who sought to intervene in a custody dispute between the child's mother and father, asking for primary "physical custody" and joint "legal custody" with the parents. *Id.* at 87. The trial court rejected the grandmother's claim on the ground that, even if former RSA 458:17, VI were construed to permit an award of custody to a grandparent where a natural, fit parent also seeks custody, the statute so construed would be unconstitutional under *Troxel v. Granville*, 530 U.S. 57 (2000). *Id.*

The grandmother appealed, arguing that the statute could be constitutionally applied to grant her custody petition because she had a significant "parent-child" relationship with the child. The result was a case that had

RIGHTS *continued on page 38*

## Collaborative Divorce New Hampshire Launches Pro Bono Program

By Ann Conway and  
Catherine McKay

As many are aware, collaborative divorce is an alternative dispute resolution process to assist divorcing families and those with parenting cases to resolve the issues outside of the court system. The process provides a collaboratively trained attorney for each party, along with a collaboratively trained mental health professional who serves as a coach/facilitator and a collaboratively trained financial profes-

sional. Through a series of team meetings involving all or some of the professionals, all issues are discussed, and agreements are reached. With the benefit of the collaborative team, the parties are provided the legal, emotional, and financial support and guidance needed to help them reach durable agreements, meeting their respective goals and interests.

The professional members of Collaborative Divorce New Hampshire (CDNH) have always been concerned as many couples are unable to afford the cost of the collaborative process. As 603 Legal Aid

can only provide a *pro bono* attorney for one of the parties in a divorce/parenting case, there have been no viable options in New Hampshire for low-income parties to receive the benefits of the collaborative process.

To meet this need, CDNH is planning to launch a Pro Bono Collaborative Program shortly. This program is designed for collaborative divorce and parenting cases only and is not competing with 603 Legal Aid. Couples who meet the financial qualifications and a preliminary screening by a CDNH administrator may utilize this pro-

cess for a \$50 administrative fee.

Interested parties may access information on the CDNH Pro Bono Collaborative Program on our website: [collaborativedivorcenh.com](http://collaborativedivorcenh.com). ♦

*Ann Conway, MSW, is a licensed independent clinical social worker in Nashua, who has worked in the field for over 45 years and works as a coach/facilitator for CDNH. Catherine McKay is a board member of CDNH and a partner at Parnell, Michels & McKay, PLLC.*

# The Crisis of Childhood Poverty, Trauma, and the Child Welfare System: Challenging the Status Quo

By Lisa Wolford

In 2021, more than 23,000 children in New Hampshire lived in poverty. Of that number, more than half – 14,000 children – were living in extreme poverty. For a family of four, extreme poverty means living on less than \$14,000 a year – less than \$38 a day.



Growing up in poverty puts children at a high risk of experiencing emotional, behavioral, social, and health challenges. Poverty is also highly associated with increases in child maltreatment rates and entanglement in delinquency, CHINS, and abuse and neglect proceedings. Research has found that extreme poverty tends to be a chronic condition that persists generation after generation. So does childhood trauma.

Poor kids who are abused or neglected face bad outcomes in both childhood and adulthood. The 1998 Kaiser-Permanente ACEs study, a seminal study of ten adverse childhood experiences (ACEs), found a dose response between ACEs scores and poor life outcomes. One of the most robust investigations of the relationship between childhood abuse, neglect, and household dysfunction and later-life health and well-being, the ACEs study determined that adults with four or more ACEs showed a 12-times-higher prevalence of health risks



such as alcoholism, drug use, depression, and suicide attempts. Other research has demonstrated that people with four or more ACEs were over 32 times more likely to have been diagnosed with learning and behavioral problems. They are twice as likely to be obese and are at increased risk for chronic health conditions like coronary heart disease and stroke. With six or more ACEs, a child faces the prospect of premature death; life expectancy is 20 years shorter than for someone with no ACEs.

The impact of significant adversity on brain development, which tends to explain the learning and behavioral data just described, is disquieting. ACEs and other traumatic events in childhood over-activate the

stress response system, leaving the child's brain hyper-alert to threat even when threat isn't there. That constant vigilance against danger over stimulates the brain's fear-response system, bypassing the prefrontal cortex and resulting in poorly developed executive functioning skills, which include the ability to reason, plan, and exercise considered judgment and decision-making. The deficits in these skills manifest in emotional and behavioral dysregulation: chronic anxiety, sleeplessness, meltdowns, swearing, threatening, and fighting.

Not surprisingly, children with trauma-induced executive functioning challenges are disproportionately subject to restraint, seclusion, suspension at school, arrest, and

other court involvement through delinquency and CHINS proceedings.

Despite all that is known about the impact of childhood adversity and trauma on the developing brain, our child welfare system centers accountability for emotional and behavioral dysregulation squarely on the backs of children. Once in court for status offenses in CHINS cases, minor delinquencies in delinquency cases, or as victims of abuse and neglect in child protection cases, the message to children with dysregulated stress response is that if they can't behave, they'll be displaced to group homes; once there, they're told they'll stay until they behave.

Children impacted by ACEs – and their still-developing brains – are resilient, and there are school- and community-based supports that both mitigate the adverse impact of childhood trauma and strengthen executive functioning skills. But New Hampshire does not fund sufficient community-based services for these kids and their families, with some families reporting waits of six to 12 months for access to basic mental health treatment for children at the state's community mental health centers. Nor does New Hampshire recruit or retain sufficient licensed foster homes to care for kids in state custody.

Last year, New Hampshire had 257 fewer licensed homes than in 2019, accounting for less than half the number of foster homes in Vermont, a state with less than half our population.

CRISIS *continued on page 40*

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## Collaborative Law Trends and Benefits



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**By Katherine Morneau, Penina McMahon, and Ryan Correia**

In 2023, the International Academy of Collaborative Professionals was nominated for a Nobel Peace Prize for its efforts to transform the way families resolve conflict. The collaborative law process is a unique out-of-court practice that encourages a team approach to reach agreements and support the parties, using financial and mental health professionals.

In 2010, the Uniform Collaborative Law Act was promulgated by the Uniform Law Commission, and in 2021, the New Hampshire legislature passed the New Hampshire Collaborative Law Act (see RSA 490-J). With these tools, practitioners can offer an alternative method of resolving disputes, one which focuses on problem solving with respect, privacy, and significantly more control over the process.

One of the main attributes of the collaborative law process is that the lawyers are

prohibited from going to court should the process not be successful. This keeps the individuals focused and engaged and removes the threat of using the judicial system if the other does not agree. Collaborative lawyers are motivated to become

more effective problem solvers. If the process should fail, the collaborative attorneys would have to refer their clients to other lawyers to move forward with litigation.

While we initially think of collaborative law as a process for divorce, we have seen its benefits in many other types of cases. RSA 490-J defines a collaborative matter as the following, non-exhaustive list: divorce, annulment, legal separation, and property distribution; parental rights and responsibilities; grandparent rights; alimony, maintenance, and child support; parentage; premarital and post-marital agreements; and modifications of any orders related to those matters.

In some parts of the world, collaborative law has been used in probate matters, business disputes, and anywhere that two parties may need to work together in the future. Some of the trends we have been seeing in the past few years is this expansion into unique settings such as the following:

### Postnuptial Agreements

Collaborative law is a good fit for every case as it helps facilitate communication in even the most difficult of situations. For instance, collaborative law might be a good fit for a case where there was infidelity, but the parties are working toward reconciliation and are considering drafting a postnuptial agreement. Typically, correspondence would be limited to communication with the client and the spouse's attorney. In this scenario, the parties are relying on the attorneys to support them and to foster communication.

Were the parties to engage in the collaborative law process, in addition to the benefit of attorneys who agree to work toward shared interests, a mental health professional would be involved to assist with communication and support. Additionally, a neutral financial advisor could run projections to help the parties visualize the agreements they are reaching. Ultimately, the team approach provides the parties with a more holistic experience in which they are supported and leaves them feeling as though they have worked together.

### Family Businesses

Another example of a case that may be a good fit for the collaborative law process is where there is a family business. Dividing a family business in a divorce is no easy task. Having the support of a financial neutral to review business records, assist with determining a valuation for the business, and explore different options is important

to maintain trust between the parties. Often, keeping business records and financials private is an important aspect of these cases. The collaborative law process is completely confidential and allows the parties to avoid a very public hearing detailing these sensitive matters.

Additionally, if the parties are going to remain connected through the business moving forward, fostering good communication from the start of the collaborative law process is key. Having the assistance of the neutral mental health coach will allow the parties to reframe their relationship into being good business partners.

### Special Needs and Disabilities

One of the most complicated areas of divorce can be where the family has a spouse who is receiving Social Security Disability Insurance benefits along with other government aid. In a litigated case, the court cannot dedicate the resources and time to determine the impact that the division of assets may have on governmental benefits. The collaborative law process allows the couple to bring in additional experts to give advice on how to best structure the division of assets.

The collaborative law process is also a great option when there are children with special needs. On February 28, 2023, *Psychology Today* reported that the "rate of divorce in families with a child with disabilities may be as high as 87 percent. The

TRENDS *continued on page 40*

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## A Review of the 2023 Legislative Session from the OCA

By Lissa Mascio

The Office of Child Advocate (OCA) is an independent state agency mandated to provide oversight of all child-serving executive branch agencies, including the Department of Health and Human Services' (DHHS) Division of Children Youth & Families (DCYF), which includes child protection and juvenile justice, and the Bureau of Children's Behavioral Health (BCBH); the Department of Education (DOE); and any state-certified or state-contracted child-serving providers, including residential placement providers.



The OCA's mission is to ensure the best interests of children are protected in the state of New Hampshire, particularly those who are involved with child-serving state agencies. In the wake of tragedy in 2017, the New Hampshire legislature enacted RSA 170-G:18, which established the OCA to oversee child welfare, child protection, and juvenile justice agency, and to assure that the best interests of children are protected.

In 2018, Senate Bill 479 was passed to amend RSA 170-G:18, expanding accessibility of the office, ensuring confidentiality of people who contact the OCA,



and allowing the OCA to be more effective in its mandate.

On September 18, 2020, RSA 21-V went into effect, repealing RSA 170-G:18 and codifying the OCA in its own statute. The DHHS, through their own Ombudsman Office, is still required to handle case-specific complaints for DHHS agencies.

The OCA fields inquiries from anyone who has specific or general concerns about New Hampshire's child-serving systems on a confidential basis. OCA Ombudsmen, called Assistant Child Advocates, often meet directly with children in residential care, and at community events. The OCA

also has contact with and from any number of attorneys and judges in the state, who call with specific issues or concerns, or with larger, systemic concerns; and, to provide information and trainings. The OCA's mission includes participation on any number of state and community commissions, study committees, and other oversight bodies, as well as work with the legislature and other state and community leaders and advocacy groups, to address systemic issues and impact change.

During the 2023 legislative session, the OCA followed 32 House bills and 17 Senate bills, providing written and/or oral testi-

mony on 16 bills in eight House and Senate committees, along with testimony before the Oversight Commission on Children's Services and the Special Committee on the Family Division of the Circuit Court. Of note, the OCA addressed the following issues:

Much progress was made in the 2023 session on the closure of Sununu Youth Services Center and the creation of a home-like, trauma-focused, youth treatment center, with SB 1 and HB 49 both passing into law. The OCA is part of the Youth Development Center Community Impact Study Commission, the subcommittee on safety, and the steering committee working toward a vision of the new facility that meets the therapeutic needs and provides trauma-informed care to the children placed there. Prone restraints on minors in schools and residential placements was formally prohibited in New Hampshire by HB 491, further clarifying RSA 126-U, and reinforcing the inherent danger in use of such restraints. SB 179 took steps to further prohibit the use of seclusion in schools and residential placements as a form of discipline or punishment; and required that DHHS and DOE, in consultation with the OCA, develop a new restraint and seclusion notification form.

The OCA hopes that this is the next step in reducing and ultimately eliminating the harmful use of restraints and seclusions for all New Hampshire children in schools and

*OCA continued on page 38*

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## How the Uniform Interstate Family Support Act Works

By Susan Brisson

The Uniform Interstate Family Support Act (the UIFSA), is located at NH RSA 546-B. (All 50 states have been required to pass the UIFSA verbatim.) The purpose of the UIFSA is to allow for efficient child support case processing across state lines. Unlike its predecessor, the URESA, the UIFSA specifically contemplates that only one order shall be controlling at any time. The first order in a case is the controlling order of that case. It is enforceable in any state where the obligor is located or where their assets or income can be located.

The UIFSA has specific rules that govern where and how a controlling order can be enforced and modified. Following are eight scenarios that illustrate how the UIFSA works. In all scenarios, mom and dad are not married, they have two kids who were born in New Hampshire, and they all lived together in New Hampshire.

In the first scenario, the parties have no child support order yet. Dad moves to California to live his best life. Mom and kids stay in New Hampshire. Mom wants a child support order. Can the child support case be brought in New Hampshire?



Yes, NH RSA 546-B:3 lists the bases for jurisdiction over a non-resident. Under section (c) since dad resided with the children in New Hampshire, New Hampshire has personal jurisdiction over him for child support purposes.

In scenario two, Mom gets a New Hampshire child support order after the parties separate. Mom and kids move to Florida. Dad stays in New Hampshire. Mom wants to modify the child support order. Can she do it in Florida?

No, New Hampshire retains continuing exclusive jurisdiction (CEJ) over the cases as long as one of the parties or one

of the children still resides in New Hampshire. See NH 546-B:7. Mom would need to file a petition for modification in New Hampshire. Please note that NH 546-B:27 I states that the physical presence of the petitioner is not required and 546-B:27 VI allows for testimony to be taken via telephone.

In scenario three, Mom gets New Hampshire child support after the parties separate. Mom and kids move to Florida. Dad moves to California. Mom wants to modify the New Hampshire child support order. Can she file it in Florida?

No, pursuant to NH RSA 546-B:49

I (a) (2), the party requesting the modification cannot be a resident of the state in which the petition is being filed. She would need to file in the jurisdiction that has personal jurisdiction over Dad. This is called the Play-Away Rule.

There is one exception to this rule; the parties can agree to allow Florida to assume CEJ. They would need to file this agreement in writing to New Hampshire as the issuing tribunal. See NH RSA 546-B:49, I (b).

In scenario four, Mom gets New Hampshire child support after the parties separate. Mom and kids move to Florida. Dad moves to California for a few years but then relocates to Florida. If either Mom or Dad wants a modification, where do they file it?

The Play-Away Rule does not apply as both parties reside in the same jurisdiction. NH RSA 546-B: 51 allows for the jurisdiction where both parties live to assume CEJ when one of the parties requests a modification and both are living in the same state.

In scenario five, there is a New Hampshire child support order. Mom and kids move to Florida. Dad moves to California. After living in Florida for over a year, Mom files for parenting and child support orders in Florida. Can Florida issue both parenting and child support orders in this case?

The jurisdiction over parenting orders

ACT continued on page 39



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## Protecting Your Client's Business Through a Divorce

By David Tencza

A small business may be a person's largest asset included in their marital estate at the time of a divorce. This business may also be the family's primary source of income and necessary to continue after the divorce so that the family can continue to enjoy the quality of life that they did during the marriage. The value of the business and the income that it generates for a family will have significant impact on the issues of a final property settlement, child support, and alimony. Both parties in a divorce proceeding should want to ensure the business can continue to operate and be profitable once the divorce is finalized.



either or both parties." If your client owns a business before getting married, this does not exclude the business from being included in the marital estate. See, *In re Sarvela*, 154 N.H. 426 (2006).

A prenuptial agreement, however, can set out the parties' future rights and responsibilities to the business in the event of the breakdown of the marriage. It may also establish the value of the business at the time of the marriage and set the terms of a property settlement or support payments if the marriage is ended. This may protect the value of the business and should bring some certainty to the divorce process.

If no prenuptial agreement is in place at the time if the marriage, New Hampshire

also recognizes postnuptial agreements as enforceable. A postnuptial agreement will allow the parties to negotiate a fair resolution to the distribution of marital assets should the marriage ultimately end.

The corporate documents should also be considered in apportioning the interests and operating procedures of the business. Typically, the court will not want both parties still involved in the business after a divorce, absent extenuating circumstances. If the business is held jointly by the parties, the corporate documents should also spell out how ownership of the business should be transferred in the event one owner or shareholder is unwilling or unable to continue their involvement with the venture. If

this is not clear and there is no agreement between the parties on how the business should continue to be run, your client runs the risk of the business being awarded to their spouse.

Second, your client must understand the value of their business. The court will look at the fair market value of the business to establish each parties' interest in this asset at the time of the Final Decree. "Fair Market Value" has been defined as, "the price at which the property would change hands between a willing buyer and a willing seller when the former is not under any compulsion to buy and the latter is not under any compulsion to sell, both parties having reasonable knowledge of relevant facts." *In the Matter of Watterworth and Watterworth*, 149 N.H. 442, 447 (2003).

The New Hampshire Supreme Court has also found that, "the valuation of a business is a question of fact to be determined by the trial court based upon the facts and circumstances particular to the business." *In the Matter of Cottrell & El-Sherif*, 163 N.H. 747, 749 (2012).

Once the Fair Market Value is established by the court after months of litigation and a battle of the experts or agreed upon through a joint valuation, the challenge becomes how the non-owning party will be compensated for their interest. This could be through an offset of other marital assets owned by the parties or regular pay-

BUSINESS continued on page 39



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## Settlement Counsel in Family Law Cases

By Kimberly A. Weibrecht

Family lawyers in New Hampshire are well versed in the benefits of settlement. Our Circuit Court rules mandate mediation in divorce cases involving children, and we have a skilled pool of family mediators from which to draw, a vibrant community of family lawyers trained in collaborative divorce, and a growing culture among family lawyers that settlement is best for most families.

Consistent with the national average, 90 percent of New Hampshire family disputes resolve in settlement. But this doesn't tell the whole story because there are still barriers to settlement, and many cases that do settle still settle too close to trial. For the practitioner who is looking for another way to improve their or their firm's settlement practice, settlement counsel provides some interesting possibilities.

Settlement counsel is a concept whose origins can be found in the English legal system. In England, attorneys are either barristers or solicitors. Both are considered pillars of the legal system but with very different roles and skill sets.

Historically, solicitors initiated and managed the relationship with the client



and engaged in fact development, research, negotiation, and problem solving to achieve the client's desired outcome. If litigation became necessary, a solicitor would reach out to a barrister, who had expertise in trial practice and who, donning the iconic wig and gown, would champion the case at trial.

Barristers were seen less as problem solvers and more as "legal warriors" and were distinctive for their trial skills. The development of these separate roles acknowledges that different skills are often needed by "problem solver" and "legal warrior" in the settlement or litigation of a legal dispute.

While this may seem foreign to our American legal system, we can see echoes

of a similar underlying structure in the use of settlement counsel. Many law firms around the country assign settlement and litigation duties to different attorneys, sometimes within the same firm, sometimes not. A myriad of small and large firms hold themselves out as either serving in the role of settlement counsel to supplement the efforts of a litigation attorney in another firm or offering the services of settlement counsel in-house. The reasons for this distinction mimic the reasons in the English system and are summed up well by William Coyne in his journal article *The Case for Settlement Counsel*:

"A trial lawyer's mental preparation

at the outset of a case involves not only developing the story but shaping her own attitude about the case. She is girding for battle, getting ready to fight for the acceptance of her story and the rejection of the opponent's story...These steps are good and necessary if the trial lawyer is going to be an effective advocate. However, in most cases, they are precisely contrary to the steps which must be taken in a problem-solving approach to negotiation. To polarize is to eliminate empathy. Problem-solving generally requires the conflict to be depolarized and that recognition be given to the opponent's view of the dispute. Adopting a problem-solving approach to negotiation will likely interfere with the process that a lawyer is going through, and *should* be going through, to prepare for litigation."<sup>1</sup>

While the use of settlement counsel has evolved in pockets of the US system it is uniquely well-suited to family law because there is no forum more compelling for settlement than a legal dispute involving two people who will raise children together. Additionally, sometimes the intensity of family law litigation can make good-faith settlement impossible. It can be difficult for a zealous advocate who has engaged in an exhaustive discovery process or a

COUNSEL continued on page 40



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## Special Education Services for Ages 18 to 22

By Holly Vietzke

Navigating special education in public schools is challenging enough for the K-12 grades, but what if your student needs support after that? The district's obligation to educate does not always end after the student's senior year. Many students are not ready to graduate, either academically or functionally.



Last year, New Hampshire extended the right for eligible students to receive services to age 22 (federal law requires it only until age 21). This was a much-needed provision for those students who struggle to live independently, obtain employment, or who need help with daily functions such as hygiene and safety. And if the student has not yet graduated, districts may provide those services until the student's 22<sup>nd</sup> birthday.

Under the federal Individuals with Disabilities Education Act (IDEA) and state law, when a student turns 16, districts must begin "transition planning." Districts must ask what the student's post-secondary goals and visions are and assess what supports are needed to "facilitate the child's movement from school to post school activities."<sup>1</sup>



These activities can include college, vocational education, integrated or supported employment, continuing education, adult services, independent living, or participation in the community. Districts are required to deliver services that are based on the student's individual needs, considering their strengths, preferences, and interests. These services can occur in the school (some public schools have programs specifically for ages 18 to 22), a private school, or in the community.

Once a student turns 16, the Individualized Educational Plan (IEP) must include appropriate postsecondary goals related to training, education, employment, and if necessary, independent living skills. The

IEP should contain services that will help the student reach those goals. To ascertain what goals are appropriate, the student will undergo a transition assessment. Assessments performed by districts will likely be limited in scope and detail. I typically recommend that clients seek an outside private assessment or ask the district to contract with an outside provider.

A thorough, comprehensive transition assessment will consider such factors as the student's strengths, career interests and aptitudes, self-care and hygienic abilities or challenges, ability to self-advocate (which is crucial if the student would like to attend college), communication, domestic skills, transferable work skills, safety aware-

ness, ability to navigate the community, and many more. Each assessment is highly individualized and takes into account the student's entire profile and postsecondary needs. It is extremely student-centered, and a good assessment will provide numerous recommendations for education, living, participation in community, safety needs, career possibilities based on interest and ability, and programmatic requirements.

Transition services can take many different forms. Some students will require an additional four years of a substantially separate classroom, learning both life skills and academics. Some require a post-graduate year to address executive functioning and college-readiness deficits. Others may need vocational training.

I had one client who received individual coaching in the community, learning such skills as taking public transportation, applying for jobs, shopping for groceries, and communicating with strangers. Another client required residential placement at a school as he grew physically and became dangerous with his family.

I also had a high-school client who had significant depression and school refusal for her junior and senior years, and was placed in a therapeutic residential school so that she could obtain enough credits to eventually graduate and attend college.

Because the IEP requires the transition planning at age 16, parents should start the

SERVICES *continued on page 39*



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## Contempt Issues in the Family Law Context

By Jay Markell

Those who violate court orders or disrupt the legislative process can be found to be in contempt, and the consequences of such conduct can be severe for contemnors.



The concept of contempt, i.e., disobedience to court orders, disrespect to a legislative body, or interference with the orderly process of the legislature is an Anglo-American development. As Nathan M. Cohen pointed out in *The Contempt Power – The Lifeblood of the Judiciary*, which appeared in the 1971 *Loyola University Chicago Law Journal*, the earliest reference to contempt appears in Shakespeare's *Henry IV* (1597). In England, even strangers to court actions and not present in court could be held in contempt. *R. v. Almon*, (1765).

In Ronald Goldfarb's *The History of the Contempt Power*, which appeared in the January 1961 *Washington University Law Quarterly*, English kings found it necessary to have the governmental powers exercised through representatives, i.e., the courts, and contempt powers were derived from "the kings' authority."

In *United States v. Barnett* (1964), the



United States Supreme Court provided a detailed history of the power of the judiciary to punish contemptuous conduct.

Early American jurisprudence shows the contempt of court power was in the Judiciary Act of 1789, at § 17, 1 Stat. 83, which gave courts the discretionary ability to punish by fine or imprisonment "all contempts of authority in any case or hearing before same...."

During the colonial era, New Hampshire distinguished itself in its constitution. The New Hampshire Constitution, at Part II, Article 22, gives the House of Representatives the authority to, among other things, "punish by imprisonment every

person who shall be guilty of disrespect to the house in its presence by any disorderly or contemptuous behavior... or by threatening or ill-treating any of its members...." This also extends to assaults on witnesses who were ordered to attend hearings. There is no similar provision for New Hampshire courts; however, Part II Article 73-a gives the Supreme Court rule-making authority which has force of law but cannot create statute.

### Different Types of Contempt

Direct contempt occurs in the presence of a court, and indirect contempt takes place outside the court's presence.

Generally, civil contempt is a refusal to obey a court order, and is therefore incomplete. A party can purge themselves of civil contempt by bringing themselves into compliance. Sanctions can vary from admonitions, attorney fee awards, fines, and incarceration. If incarceration results, it is usually for an indefinite period and the contemnor "holds the key to his jail cell." The contemnor regains freedom by purging contempt. Civil contempt actions address the rights of an aggrieved party and is coercive to bring a party into compliance.

Criminal contempt actions involve a completed act with punishment imposed to vindicate the authority of the court. As criminal actions, contempt cannot be purged. There are due process differences, and the distinctions at times can be hard to draw.

In the case of *International Union, Mineworkers v. America, et al* (1994), the United States Supreme Court provided a detailed analysis of contempt and distinguished the two types of actions. Criminal contempt actions often involve out-of-court conduct, such as repeated violations of injunctions, with notice as to potential sanctions for violating court orders. They can be contrasted with contemptuous acts occurring in the presence of the court, bearing on a court's need to maintain decorum and good order. As it is with other criminal acts, due process protections depend on the

CONTEMPT continued on page 39



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# Child Attachment and Parenting Plans: Deciding What's Best for the Child

By Lucinda Gregorio

In deciding parental rights, responsibilities, and the development of a parenting plan, the courts are asked to consider 461-A:6 I (a), which asks courts and the parties to examine the relation of each parent with the child, including the ability of the parent to provide nurture, love, affection, and guidance, as well as the capacity of each parent to provide for the developmental needs of the child both in the present and in the future.



## Child Attachment Is an Important Consideration

Child attachment defines the bond between a child and its caregiver, or parent. It is a critical developmental stage for a child; it determines a child's sense of well-being and trust and sets the foundations for learning and the capacity to delay gratification.

Relational or psychological difficulties may not be apparent in early development. Key factors involve how a child deals with stress, frustration, or loss. Donald Winnicott, a pioneer in the research and understanding of early development, believed each developmental need should be responded to in a "good enough way."

A child's needs must be responded to consistently, i.e., within the child's window of tolerance, so that a child has healthy development.

If the attachment stage is sufficient, a child will learn to transition from states of calm to distress, and back to calm, because the caregiver understands the way distress has been communicated and responds to it before it could no longer be tolerated.

A young child needs to develop a sense of trust in the caregiving process and can see it has efficacy. If attachment needs are met with inconsistency, leave a child to wait beyond their tolerance for discomfort, or there has been a disruption, tasks will not be fully mastered, influencing social and emotional development. The continuation of this task may need to pause, as more primitive mechanisms come into play to get through distressing moments.

Very young children have few defenses and can become more aroused, quiet,



withdrawn, or exhibit body stiffness. These mechanisms arise from necessity and have a window of tolerance. If responses are delayed too often, very young children may shut down. Once responses to a young child are again present, the child might regain his or her equilibrium, but there still may be gaps in the mastery process. The attachment style may become agitated, disorganized, or inconsistent.

## Child Attachment Issues

Childhood attachment issues can have far-reaching consequences. The way children manage tasks is important in their growth and development. Subsequent tasks are built upon the ways in which first tasks are negotiated. For very young children,

learning to delay gratification is a crucial steppingstone. Infants need to believe their needs will be gratified in time. If an infant can trust this will happen, a child can move to transitional objects.

As Winnicott explained, transitional objects may be blankets, stuffed animals, or the thumb. Children project onto them qualities of a caregiver who has soothed them in the past. This requires an ability to imagine, using the object. This author has worked with children who did not effectively negotiate this stage and could not create any form of imaginary play, which became difficult for them.

One must consider the stressors a child is experiencing and see how a child has dealt with past frustration, loss, and/or dis-

appointment. It may be helpful to have an attachment and/or developmental history assessment done. How children deal with stressors, frustrations, and losses, and the defenses, or coping mechanisms they use affect how they behave and react to parents and the world around them.

## Assessments Are Important

Assessments can help create effective, well-focused parenting plans. Generally, children do not want to disappoint, and want to be seen and appreciated for their attempts to adapt. Early disruptions in children's lives can have far-reaching consequences.

Consider the case of a boy who was adopted at four and a half months old. With very low birth weight, he had stopped crying and his body was stiff. As an infant, he was unable to tolerate the formula given to him in his foster home, vomited after each meal, and had chronic diarrhea and diaper rashes. Although he did cry early on and did move in a typical infant manner, he stopped, and was likely very weak.

The adoptive parents corrected the formula so he could eat, and his diarrhea cleared up. They responded consistently, but he developed a very anxious and agitated attachment because of the early disruption he had experienced.

At an age when children begin to engage in imaginary play, he could not to do so. He could not be alone or delay gratifi-

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## RIGHTS from page 28

three separate opinions on whether an award of parental rights to a third party would pass constitutional muster. Chief Justice Broderick wrote one of the two opinions upholding the statute, provided that a stringent four-part test (hereinafter, Broderick test) could be satisfied in the case.

It is important to note that the Supreme Court has yet to formally adopt the Broderick test. See e.g. *In re: DeSantis*, 2022 WL 16961292 at \*2 (N.H.) (unreported decision); *In re: Morris*, 174 N.H. 562, 567-68 (2021).

In *Morris*, the father appealed an award of parental rights to his child's stepmother. 174 N.H. at 563. Following a final hearing, the Family Division found it would not be in the child's best interest to reside primarily with the father due to his work schedule. *Id.* at 564. The Supreme Court reversed, finding that the language in RSA 461-A:6, V, which premised an award of parental rights to a stepparent or grandparent based solely upon a best interest test, could not be constitutionally applied in cases where there was an otherwise fit biological or adoptive parent. *Id.* at 565-6. However, the Supreme Court declined to clarify *R.A.* to state that the Broderick test would be afforded precedential weight. *Id.* at 567-8.

It is also important to note that the Supreme Court has not expanded the rights in RSA 461-A:6, V beyond stepparents and grandparents. In the case of *In re: Jeffrey G.*, 153 N.H. 200 (2006), the Supreme Court overturned the granting of parental rights to an aunt, holding that RSA 461-A:6, V's pre-

decessor statute, RSA 458:17, VI was limited to grandparents and stepparents. *Id.* at 204, 206. Similarly, in *In re: Huff*, 158 N.H. 414 (2009) a Family Division order which granted visitation rights to a third-party relative of an incarcerated father was reversed. *Id.* at 418-420.

Any attempt to obtain an award of parental rights to a grandparent or stepparent will prove extremely difficult if only to determine which test in *R.A.* controls. What is certain, however, under *Morris*, is that the best interest test, standing alone, will not be enough. Instead, the focus of the case will turn on the child's relationship with the petitioning grandparent/stepparent and the relative fitness of the biological parents. Arguments that the child's life will be superior in quality to the life offered by the parents will be equally unavailing, as courts have stated that an imperfect parent should not have their rights taken merely because they cannot offer their child a superior lifestyle. This will undoubtedly push the case into a personal attack on the biological or adoptive parents, as their shortcomings must be sufficiently severe for the court to act. ♦

*Andrew J. Piela and Lyndsay N. Robinson are counsel at Shaheen & Gordon. Piela has been practicing law in New Hampshire for nearly 30 years with a focus on family law, probate litigation, civil litigation, and appellate work. Robinson focuses on family law and estate planning. She serves on the board of the New Hampshire Women's Bar Association and is the ABA Young Lawyers Delegate for the New Hampshire Bar Association.*

## OCA from page 31

residential placement settings. And finally, the use of corporal punishment in day care settings was prohibited in SB 206.

Two parental rights bills were introduced in the 2023 session, SB 272 and HB 10. Both were largely an amalgamation of parental access rights already in place in various statutes. New sections of concern centered around teachers "outing" vulnerable LGBTQ+ students, particularly transgendered students, to their parents in various contexts.

SB 272 was indefinitely postponed in the House, and HB 10 was tabled. Another issue with these bills, along with retained bills SB 253 and HB 406 granting parents increased access to a child's medical records (including mental health records), is that they created a very high standard of "clear and convincing" evidence for a professional to withhold said information from a parent, sometimes with a private right of action against the professional. That standard is higher than the "preponderance of the evidence" standard used by DCYF to remove children from their parents, and well outside the realm of knowledge of medical or education professionals.

Further work continues on HB 535, requiring attorneys for children in family

court cases, which the OCA supports in the abuse and neglect arena, especially with regards to children who are placed in residential settings or are at imminent risk of such placements.

The OCA has also put forth a number of legislative proposals for the 2024 legislative session, working closely with community advocacy groups, state agencies, and other stakeholders, including legislation resulting from the Issue Briefing, *Concerns for Out-of-State Residential Facility: Bledsoe Youth Academy*, regarding two New Hampshire youth who were placed in a juvenile detention center in Tennessee.

For more information, or to report a concern you have with a child or family in the child welfare system, or problems with the system itself, please contact the OCA at (603) 271-7773 or via email at [childadvocate@nh.gov](mailto:childadvocate@nh.gov). For more information or to review reports published by the OCA, please visit [childadvocate.nh.gov](http://childadvocate.nh.gov). ♦

*Lissa Mascio joined the Office of Child Advocate in March 2023 as the Associate Child Advocate (deputy/counsel). Since becoming an attorney, Lissa has spent time practicing in both Arizona and New Hampshire, working in private family law and civil litigation practices, and in public child welfare and child protection services, representing both the State and parents.*

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## ■ ACT from page 32

and child support orders do not necessarily align. If the jurisdiction for parenting is the home state of the children for the last six months (see UCCJEA) but that state has no personal jurisdiction over the non-filing parent, child support cannot be determined by that state. The child support case will need to be brought in California, where Dad resides, because it has personal jurisdiction over him.

In scenario six, there is a New Hampshire child support order. Mom and kids move to Florida. Dad moves to California but also has a home in Montana. Mom wants to enforce the New Hampshire child support order. How does this order get enforced?

Mom could apply for services from the Florida Child Support agency. If Dad has a job, which allows for a wage assignment, they can issue a wage assignment to the employer across state lines (see NH RSA 546-B:32 and 33). Additionally, the child support order can be registered in other states for enforcement purposes only. This can be done in states where the obligor has assets to allow for the filing of liens against the obligor's physical assets. An order can be registered in multiple jurisdictions for enforcement purposes. Those jurisdictions do not have the ability to modify the controlling child support order unless the provisions of NH RSA 546-B:49, I are also met.

In scenario seven, there is a New Hampshire child support order. Mom is in Florida with the kids. Dad is in New York. The oldest child is approaching the age of 18 and Mom wants child support to extend past the age of 18, so she requests a modi-

fication of the support order in New York (playing away) because New York's age of emancipation is 21. Will this work?

No. Under the UIFSA, the law of the issuing state governs the nature, extent, amount, and duration of current payments and the computation and payment of arrearages and accrual of interest on the arrearages. See NH RSA 546-B:42. New Hampshire is the issuing state, thus its law regarding emancipation applies to this case.

In scenario eight, there is a New Hampshire child support order. Mom is in Florida with the kids. Dad is in New York. Mom has requested a modification of child support. Her order is registered for modification in New York (playing away). The hearings officer in New York demands that Mom appears at the hearing scheduled in New York or risks her petition for modification being dismissed. Can the Court do this?

No, the UIFSA has special rules of evidence that apply to interstate cases (NH RSA 546-B:7). The physical presence of the nonresident party who is an individual is not required for the establishment, enforcement, or modification of a support order. Mom, as the non-resident party, cannot be required to physically appear at the hearing on her petition.

For questions regarding the UIFSA or other child support-related matters, contact the Bureau of Child Support Services, Legal Office at (603) 271-4429. ♦

*Susan Brisson is a graduate of Saint Anselm College and Franklin Pierce Law Center. After several years in private practice, she joined the Bureau of Child Support Services, Legal Office in 1999 and was promoted to chief staff attorney in 2021.*

## ■ PLANS from page 37

cation. It is unlikely he mastered the first attachment task of trust and became preoccupied with survival. He remained on high alert; attachments were difficult and coupled with anxiety.

Secure attachment plays a vital role a child's development. Early intervention may be needed to assure a child's healthy growth and development, and parenting plans should reflect the ability of a parent best suited to meet those needs. Significant problems may develop in later life, such as aggression, psychopathology, and delinquency. Bowlby, (1982).

### Conclusion

Child attachment in early development should be considered by all parties, counsel,

and courts if children show maladaptive behaviors. How each developmental step occurs depends on how a previous stage was negotiated and what mastery was achieved. These aspects of development are important considerations, as are what caregivers understand, have empathy for, and respond to struggles the child has, even if maladaptive. With this understanding, a parenting plan can be created that best meets the needs of a child. ♦

*Lucinda Gregorio is a licensed independent clinical social worker. She has master's degrees from the University of San Francisco and Smith College, and has extensive experience with child abuse and dysfunctional families. She can be reached at Cinart16@aol.com.*

## ■ BUSINESS from page 33

ments through the business to the other spouse. In a worst-case scenario, the court could order that the business be sold and that the proceeds be divided between the parties.

The key to dividing the value of a business is to be creative but also to protect each party's interests into the future. Periodic payments through the profits of the business for a period of time may be agreeable to one spouse rather than pay-

ment in a lump sum. In other cases, it may be more important for your client to obtain their money right away if there is concern about the business's future profitability. Ultimately this becomes an analysis specific to the circumstances of the parties and the business. ♦

*David Tencza is a member of McLane Middleton's Litigation Department and primarily works with clients on family law and criminal related matters. He can be reached at david.tencza@mcclane.com.*

## ■ CONTEMPT from page 36

nature of the sanction and of the conduct in question. Civil contempt actions can be handled within ordinary due process standards.

### Statutory Standards in Family Division Cases

There is a lack of clearly defined statutory standards in Family Division cases. Currently, both the divorce statute, at RSA 458:51, and the Parenting Rights and Responsibilities Act at RSA 461-A:15, state that attorney fees and reasonable costs shall be awarded to a party when a court finds that the other party failed to obey a prior order of decree without "just cause."

While remedies are provided, neither one defines what the elements of a contempt are. Common problems are likely to be in parenting, divorce, support actions, and all other issues over which the Family Division has jurisdiction under RSA 490-D:3.

Presently, there is no unified family law statute clearly defining the elements of contempt. New Hampshire Supreme Court case law identifies elements of contempt. In *State v. Nott* (2003), the Court stated the existence of valid court order, a defendant's knowledge of the order, and the intentional failure to comply with the court's order is part of contempt. In *Stone v Stone* (1971), which involved a domestic relations issue,

the Court indicated willful disobedience to an existing court order as the basis for contempt, citing Am. Jur.2d. Divorce and Separation, § 754 (1966). The definitions are problematic; in *Nott*, the issue was a criminal contempt (violating a no-contact criminal-bail order), and in *Stone*, the issue was failure to pay support.

Much in the law has changed, particularly in domestic relations matters. Valid court orders may be subject to more than one interpretation, especially in cases where parenting or support is an issue. Thus, an order should be both valid and unequivocal.

At present, attorneys and self-represented parties may have to guess at what the elements of contempt might be, and how the standards should be applied to a case. Courts may need guidance to assure that justice is even handed, predictable, and fairly administered.

### Conclusion

The New Hampshire Family Division needs a statutory solution that provides notice of what the law of contempt is, as well as clear and measurable standards by which parties can effectively plead cases and allows courts to administer the law fairly and effectively. ♦

*Jay Markell is a senior attorney at Family Legal Services in Concord, New Hampshire, and has drafted a proposed bill for a statutory definition of contempt.*

## ■ SERVICES from page 35

process before that, by asking the school to conduct a transition assessment. At that point, the school may require that its own staff perform the assessment, and parents do not have a right to force otherwise. But after they receive and review the assessment in a team meeting, parents can question the scope and extent of it (just as they can with other school evaluations).

If parents feel that the evaluation is not comprehensive enough or missed key areas of concern, they can ask for an Independent Education Evaluation (IEE), to be funded by the district. Once the parents ask for an IEE, the district must "without unnecessary delay" either agree to fund it or file a due process hearing request to show that its evaluation was appropriate.<sup>2</sup> In most cases, it is less expensive to fund an IEE than it is to initiate a due process complaint.

In sum, students on an IEP have rights that extend past their anticipated graduation date, so long as they have not made effective progress in some goal areas. If your child has no transition goals in the IEP, they likely will not receive postsecondary transition services. Therefore, it is important to start addressing transition needs and services by age 16 so that those goal areas can be added to the IEP. Students' needs do not just go away when they turn 18. Planning for them is critical, and a good transition assessment is the best place to start. ♦

### Endnotes

1. IDEA, 34 CFR § 300.43; PART Ed 119.01
2. IDEA 34 CFR §300.502, PART Ed 1107.03

*Holly Vietzke is the owner of Holly Lynch Law, LLC, specializing in education law and estate planning. You can contact her directly at holly@hollylynchlaw.com.*

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## ■ COUNSEL *from page 34*

contentious temporary hearing to step out of the litigation zone and extend the olive branch of settlement. Even if the attorney has no qualms about the dual roles, opposing counsel or the other party may remain suspicious to a degree that it inhibits negotiations. Settlement counsel can overcome these challenges for the right case.

Obviously, enlisting settlement counsel outside of a firm brings with it the loss of revenue for the settlement efforts that might otherwise be generated by the firm. For this reason, and to maximize firm efficiency, developing the role of settlement counsel within your firm may be a better fit.

At our firm, we have experimented with a settlement counsel model with success. As we discuss the services of the firm at the initial client meeting, we introduce clients to the option that they may have two attorneys working with them and taking the lead at different times in their case – one to exhaust settlement, and in the event settlement is not achievable, the other to litigate the case. We frame this as an added benefit to the client at no additional cost to them. We are clear in our fee agreement when a client has opted into this approach.

One benefit of developing settlement counsel within a firm is flexibility. With the flexibility to allocate duties of settlement and litigation to two different people, one family law colleague can assist the other by exhausting settlement during the other's busy litigation period, thus increasing the efficiency of the firm.

The use of settlement counsel within a firm also allows attorneys to play to their strengths and may provide viable opportunities for certain attorneys (for example, *of counsel*) to remain involved in litigation without the commitment of a full litigation caseload.

Clients also see the involvement of an additional attorney in their case as a major benefit. The colleague stepping in for vacation coverage or emergencies is well received because the client has a history with both attorneys.

Finally, the use of settlement counsel reinforces to clients that the firm is committed to exploring all available settlement options when settlement is the client's goal. Given the stakes of litigation on children and the emotional intensity unique to family law cases, it is incumbent upon the experienced family lawyer to avail themselves of all possible paths to the client's best outcome. Settlement counsel may be the right fit for your next challenging family law case. ♦

*Kimberly A. Weibrecht has 25 years of experience and focuses her practice on family law, including collaborative divorce and mediation at Weibrecht & Ecker, PLLC, in the seacoast.*

### Endnote

1. William F. Coyne, Jr., *The Case for Settlement Counsel*, Ohio St. J. on Disp. Res., Vol. 14:2, 385 (1999).

## ■ CRISIS *from page 29*

As a result, according to at least one report, our state places 27 percent of its foster children in institutions in New Hampshire and as far away Mississippi and Arkansas, the highest rate of congregate care placement in the country. We don't know whether programming for kids in these facilities is worthwhile or effective – to the best of our knowledge, they don't publish results data – but we do know that institutional placement generally produces poorer outcomes for children than family-based settings, in no small part because institutions often fail to offer consistent caring relationships and frequently are experienced as punitive, prison-like, and traumatic.

We also know that the treatment of children in at least one facility in Tennessee was so punitive and atrocious that the New Hampshire Child Advocate in August 2023 demanded the immediate return of the New Hampshire children placed there.

We also know that at the high end, these institutions cost more than \$700 per day, or more than \$250,000 per year, per child. In 2021, New Hampshire entered contracts with at least 14 state and regional institutions totaling more than \$220 million over the course of three years, a staggering amount of money even assuming the possibility of a federal funding offset of 49 percent.

New Hampshire's reliance on court and institutionalization to make traumatized children behave only harms them more. Already stigmatized and demoralized by poverty, household dysfunction, separation from general education classrooms, and referrals to law enforcement, these kids are further traumatized when they are not only subjected to court proceedings, but separated by institutional placement from their families, schools, and communities.

A solution to the intersecting problems of poverty, childhood trauma, and the institutionalization of children is a child welfare system which is not merely "trauma-informed" – a sobriquet that just about anyone can claim these days – but which sources and implements trauma-specific interventions, including solutions as simple as identifying a single trusted adult, unaffiliated with court proceedings, to provide mentorship for a child. This means building and supporting a system of care premised on community-based supports and services and ending the system's default reliance on child institutionalization. It also means shrinking the child legal system; far too many children and families are unnecessarily entangled in our child welfare courts, with little demonstrable benefit either to them or society.

Finally, for children who are court-involved, it means assuring them the legal rights to which they are entitled, including due process of law in every child welfare matter, not the least of which are child protection proceedings. ♦

*Lisa Wolford is the founder and executive director of the Children's Law Center of New Hampshire, a legal services nonprofit dedicated to improving outcomes for at-risk kids through direct representation and advocacy for systemic reform. She is a former trial and appellate litigator at the New Hampshire Public Defender and the New Hampshire Attorney General's Office and practiced special education law at the Disability Rights Center of New Hampshire.*

## ■ TRENDS *from page 30*

divorce rate in families with a child with autism is about 80 percent."

How a family handles financial matters along with the emotional needs of their children with special needs during a divorce is important for the future success of the children.

### Next Steps and Benefits

The benefits of the collaborative law process are seen in all aspects of family law:

- For the public: It is an option to minimize conflict and help the parties work together, even if they have not been successful at that in the past. This sets the family up for success and good co-parenting communication moving forward.
- For family law litigation attorneys: Referring cases that may be a good fit for the collaborative law process to trained attorneys will create a mutually beneficial referral source as collaborative attorneys usually wish to do less litigation and can refer cases that are more aligned with your business model.
- For the courts: Courts should discuss the collaborative law process at the first appearance, as many people have never heard of this option as an alternative. Even though it may not be for everyone, moving some cases toward the collaborative law process frees up time on the court's docket for more pressing matters that cannot be resolved amicably.
- For the Bar: Applying the collaborative principles of privacy, communication, and client-focused resolution to other legal disputes could lead to less litigation and better results for all clients.
- For children of divorce: One of the goals of the collaborative law process in divorce is that it will lead to less arguing and less weaponizing of the children as the parents focus on working cooperatively to ensure that their children's needs are at the forefront of every decision they make.

Practicing collaborative law is a rewarding way to help families through the divorce or separation process. We encourage you to check out the Collaborative Divorce New Hampshire website to learn more about the process and to see if becoming certified is right for your practice. There will be a training to become certified next spring. More information can be found at [collaborativedivorcenh.com](https://collaborativedivorcenh.com). ♦

*Katherine Morneau is the founding attorney of Morneau Law, a Nashua-based law firm focusing on family law, collaborative law, mediation, estate planning, and probate matters. She will also be accepting family law mediations starting in January 2024. She can be reached at [katherine@morenawlaw.com](mailto:katherine@morenawlaw.com).*

*Penina McMahon is a member of Morneau Law's family law group as well as the estate planning group. She handles all matters in family court, as well as collaborative matters. She can be reached at [penina@morenawlaw.com](mailto:penina@morenawlaw.com).*

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#### Modification of Parenting Plans

4/3/2023 – 60 NHMCLE min.

This program provides an overview and review of case law and statutory requirements necessary for modification of parenting plans.

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October 2023

## Criminal Law

*State of New Hampshire v. Keith Chandler*, Nos. 2019-0314, 2021-0314  
October 25, 2023

**Affirmed in part and remanded for trial court review of confidential records.**

- Whether the trial court erred in denying the defendant's motion in limine to preclude the admission of a printed image of electronically stored information, in denying his motion for a new trial based on ineffective assistance of counsel, and in failing to disclose records following in camera review.

The defendant was convicted on five counts of aggravated felonious sexual assault, two counts of attempted aggravated felonious sexual assault and two counts of felonious sexual assault. The defendant appealed his convictions, arguing that the trial court erred in denying his motion in limine to preclude the admission of a printed image of electronically stored information, in denying his motion for a new trial based upon ineffective assistance of counsel, and in failing to disclose records following an in camera review.

Before trial, the defendant argued in his motion in limine that a photograph of a screenshot that the victim took of a Facebook messenger exchange between herself and the defendant should not be admitted into evidence at trial. The defendant argued that the trial court erred in admitting the photograph of the screenshot because it was not properly authenticated as required by New Hampshire Rule of Evidence 901(a) and because it violated the best evidence standard under New Hampshire Rules of Evidence 1002 and 1003. That is, the defendant argued that the State could not prove that the defendant sent the message.

Additionally, the defendant argued that nothing in the message content suggested that he had written it and that the screenshot should have been excluded because the screenshot was part of a larger exchange which could have possibly been exculpatory in nature.

The Court affirmed the trial court's decision to admit the evidence because of the State's proffer that the victim would testify that she received the message, that she communicated via Facebook with the defendant frequently, that the defendant had sent her messages similar to the one in the screenshot, that she sent the screenshot to her boyfriend and that the avatar with the message in the screenshot was the same photograph that the defendant used for his Facebook account around the same time.

The State also proffered that the victim's boyfriend would testify that he received the screenshot from the victim. The Court disagreed that the Rules of Evidence required the state to introduce the entire conversation and not just the screenshot. The defendant also argued on appeal that his motion for a new trial should have been granted because his trial counsel provided ineffective assistance of counsel by not calling the victim's mother as a witness. The Court affirmed the trial court's decision that trial counsel's decision not to call the mother to testify as witness was not unreasonable given the possible disadvantages of having her testify.

Finally, the Court remanded the case for the purpose of having the trial court re-

## At a Glance Contributor



**Sarah E. Lavoie**

Partner at  
Burns, Bryant, Cox,  
Rockefeller & Durkin  
Dover, NH

view any undisclosed records again in accordance with the standard set forth in the case of *State v. Girard* because the Court could not tell from the trial court's orders if there were records that were reviewed but not disclosed.

*John Formella, Attorney General and Anthony Galdieri, Solicitor General (Sam Gonyea, on the brief and Audriana Mekula, orally), for the State. Thomas Barnard, Senior Assistant Appellate Defender, Concord, on the brief and orally for the defendant.*

## Zoning

*Appeal of James A. Beal & a.*, No. 2022-0182

October 12, 2023

**Affirmed.**

- Whether the Housing Appeals Board erred in reversing a decision of the Portsmouth Zoning Board of Adjustment which reversed certain approvals granted by the Portsmouth Planning Board.

The property owner, Iron Horse, owned real property in Portsmouth for which it requested Planning Board approval for its proposed redevelopment of the property. Iron Horse sought a site review permit, a lot line revision permit, a conditional use permit (CUP) for shared parking, and a wetland CUP, all of which were granted by the Planning Board. The petitioners, a self-described group of abutters and other concerned citizens, appealed to the Zoning Board of Adjustment (ZBA). The ZBA granted the appeal and reversed the Planning Board's various approvals. Thereafter, Iron Horse appealed the ZBA's decision to the Housing Appeals Board (HAB) which reversed the ZBA's findings on six of the petitioners' claims and dismissed the other three.

On appeal, the petitioners argued that Iron Horse's proposed project did not meet the six criteria for a wetland CUP under the applicable zoning ordinance and that Iron Horse's permit requests were barred under the doctrine set forth in *Fisher v. City of Dover*. The Court concluded that the Planning Board had adequate evidence on which to determine that the challenged criteria were satisfied and that the Planning Board's conclusion that the criteria were satisfied was not unlawful or unreasonable. The Court also disagreed with the petitioners' argument that *Fisher v. City of Dover* prevented Iron Horse from having their variance application reviewed when an earlier variance application had been denied.

*Duncan MacCallum, Portsmouth, on the brief and orally for the petitioners. Sheehan, Phinney, Bass & Green, Manchester (Brian Bouchard on the brief and orally and Michael Ramsdell on the brief). Trevor McCourt for the City of Portsmouth filed no brief.*

The Supreme Court of New Hampshire hereby reappoints the following attorneys to the Board of Bar Examiners:

Megan C. Carrier  
Doreen F. Connor  
Frederick J. Coolbroth  
Jennifer S. Moeckel  
Terri L. Pastori

These members are reappointed to serve three-year terms commencing November 1, 2023, and expiring October 31, 2026.

Issued: October 31, 2023  
ATTEST: Timothy A. Gudas, Clerk  
Supreme Court of New Hampshire

## US District Court Decision Listing

October 2023

\* Published

BANKRUPTCY APPEAL; SECURITY INTERESTS

10/16/23 *UMB Bank, N.A. v. The MacMillin Co., LLC, et al.*  
Case No. 22-cv-036-LM, Opinion No. 2023 DNH 130 P

The appellant challenged an order of the bankruptcy court finding that the appellees' mechanics' liens had priority over appellant's construction mortgage. On appeal, the district court rejected appellant's contention that RSA 447:12-a provides automatic priority for construction mortgages over mechanics' liens whenever one of the statute's exceptions applies, finding that the plain language of RSA 447:12-a shows otherwise, and that First Circuit precedent did not compel a contrary conclusion. The court also rejected appellant's alternative argument that its mortgage had priority pursuant to New Hampshire's race-notice rules, finding that the bankruptcy court did not clearly err in determining that a reasonable inquiry on appellant's part would have revealed that appellees' work on the property had already begun at the time appellant recorded its interest. Finally, the district court vacated the bankruptcy court's order in a limited respect, insofar as the bankruptcy court found that certain appellees were entitled to priority under RSA 447:8 by virtue of RSA 447:5 alone, but those same appellees seemed to agree on appeal that they did not satisfy the notice requirements of RSA 447:5. The court remanded to the bankruptcy court to determine whether RSA 447:8 still applied on the present record pursuant to RSA 447:6. 20 pages. Chief Judge Landya McCafferty.

EIGHTH AMENDMENT; MEDICAL NEGLIGENCE

10/24/23 *Wilson v. NH Department of Corrections, et al.*

Case No. 19-cv-786-JL, Opinion No. 2023 DNH 134 P

This case concerns the medical treatment received by a plaintiff while incarcerated at New Hampshire State Prison. The plaintiff suffered fractures to his jaw after a physical altercation that took place at the prison on April 4, 2019. He underwent oral surgery to treat the fractures more than a month later, on May 13. The plaintiff claims that the defendants, healthcare providers working for the New Hampshire Department of Corrections and an off-site oral surgeon, did not respond to his injuries in a proper, prompt manner. The plaintiff asserts 42 U.S.C. § 1983 claims, alleging that the defendants acted with deliberate indifference to his serious medical needs, in violation of the Eighth Amendment of the US Constitution. He also raises medical negligence claims. The defendants moved for summary judgment on each of the claims. The court denied summary judgment with respect to the Eighth Amendment claims, given that multiple, material disputes of fact remain as to each of them. The court granted summary judgment as to the medical negligence claims, however, finding that the plaintiff could not sustain

LISTING *continued on page 42*

## Correction to Bar News Vol. 34, No. 5

On page 38 of the October issue of the *Bar News*, under the US District Court Listing, the case cite for *Picard v. Ciulla* was incorrect. The correction cite is 20-cv-583-LM.

## 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	22	23
24	25	26	27	28		

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

## ■ LISTING *from page 41*

his burden to demonstrate, with expert testimony, that the defendants' alleged actions proximately caused his injuries. 15 pages. Judge Joseph N. Laplante.

### EARLY ENTRY OF JUDGMENT, RULE 54(b)

10/11/2023 *Doe v. Commissioner*  
Case No. 18-cv-1039-LM, Opinion No. 2023 DNH 127 P

After the court entered summary judgment in favor of the intervenor-plaintiff Hospitals, the Hospitals sought entry of final judgment in their favor, although the remainder of the case (including the class plaintiffs' claims and the Commissioner's compliance with the injunction issued after summary judgment) remained pending. The court found that the Hospitals failed to present any pressing need for the early entry of judgment on their claim and that compliance with the terms of the injunction was not yet due or certain. For those reasons, the court concluded that entry of final judgment would be premature. Five pages. Chief Judge Landya McCafferty.

### EVIDENCE

10/25/23 *United States of America v. Aceituno*  
Case No. 20-cr-81-01-LM, Opinion No. 2023 DNH 136 P

In this criminal case, the defendant, charged with one count of conspiracy to commit bank fraud and two counts of aggravated identity theft, moved in limine to exclude from evidence the government's expert testimony on fingerprint identification. Defendant argued that the method of fingerprint analysis the expert used, the "ACE-V method," was too subjective to produce reliable results. Defendant also argued that the expert provided insufficient documentation to conclude that the expert reliably applied the ACE-V method. The court denied the motion to exclude, finding, after an evidentiary hearing, that the expert's version of the ACE-V method was sufficiently reliable. Further, the court found that the expert reliably applied the method and that the expert's notations sufficiently documented the analysis. The court noted that any other issues raised with respect to the application of the ACE-V method went to the weight and credibility of the expert's testimony, which were appropriate issues for the jury to hear. 22 pages. Chief Judge Landya McCafferty.

### JURISDICTION; STANDING AND NONJUSTICIABLE POLITICAL QUESTION

10/27/23 *Castro v. N.H. Secretary of State, et al.*  
Case No. 23-cv-416-JL, Opinion No. 2023 DNH 137

The plaintiff challenged former President Donald J. Trump's eligibility to serve as president, under Section 3 of the Fourteenth Amendment, and sought an injunction to bar the Secretary of State from placing Trump's name on the New Hampshire Republican Primary ballot. After the defendants raised jurisdictional challenges to the claim, the court held an evidentiary

hearing and oral argument on the jurisdictional issues of standing and nonjusticiable political question. Based on the parties' filings and the evidence and argument presented at the hearing, the court concluded that the plaintiff did not establish that he would suffer a political competitive injury if Trump participated in the primary, and, for that reason, the plaintiff had not carried his burden to show that he had standing to bring the claim in this case. In addition, the court concluded that even if the plaintiff were able to establish standing, the court would be inclined to find, consistent with the weight of authority, that the plaintiff's claim raised a nonjusticiable political question. The court denied the plaintiff's motion for a preliminary injunction and dismissed the case. 20 pages. Judge Joseph N. Laplante.

### MEDICAID ACT; ADA; REHABILITATION ACT; SECTION 1983

10/16/23 *Taranov v. Area Agency of Greater Nashua*  
Case No. 21-cv-995-PB, Opinion No. 2023 DNH 129

The plaintiff, a disabled woman enrolled in New Hampshire's Acquired Brain Disorders Waiver program, sued several DHHS officials as well as the area agency charged with coordinating her waiver services for terminating a subset of her waiver services in violation of her constitutional and statutory rights. The defendants filed motions to dismiss, which the court granted. The court dismissed the plaintiffs' Section 1983 claims against the area agency because the complaint did not plausibly allege that the area agency was a state actor. The court also dismissed the plaintiffs' Section 1983 claims against the DHHS officials, finding that the complaint did not allege any state policy or practice that caused her harm. The court further dismissed the plaintiff's ADA and Rehabilitation Act claims against the DHHS officials, finding that the statutes did not allow for vicarious liability based on the acts of contractors and that the complaint did not otherwise allege a viable theory of liability. Finally, the court dismissed the plaintiff's breach of contract claims against all the defendants because the plaintiff was not a third party beneficiary to any of the claimed contracts. 40 pages. Judge Paul J. Barbadoro.

### VACATUR; FRCP 60

10/26/23 *Heredia v. Roscoe*  
Case No. 21-cv-198-PB, Opinion No. 2023 DNH 135

A jury found the defendant, a Manchester police officer, liable for using excessive force against the plaintiff but awarded only nominal and punitive damages. The parties reached a post-judgment settlement agreement that was contingent on obtaining vacatur and moved to vacate the judgment pursuant to Federal Rule of Civil Procedure 60(b)(6). The parties argued that there were exceptional circumstances because (1) the plaintiff would recover more than the jury awarded and (2) the defendant would avoid potentially devastating consequences to his career. The court found that the parties did not demonstrate exceptional circumstances and, further, that the public interest weighed against granting vacatur. Accordingly, the court denied the parties' motion. 13 pages. Judge Paul J. Barbadoro.

## Classifieds

### POSITIONS AVAILABLE

**ASSOCIATE ATTORNEY** – Busy Manchester law firm seeking Associate Attorney with opportunity for growth and training within practice areas of insurance defense, civil litigation, landlord & tenant, and other select practice areas. Admission to the New Hampshire Bar required, and three years of experience a plus. Compensation commensurate with experience. Please submit resume, cover letter and writing sample to [nwright@bkwlawyers.com](mailto:nwright@bkwlawyers.com).

**ASSOCIATE ATTORNEY** – We are looking for a motivated Associate Attorney with strong work ethic willing to learn and master new areas of law. This position offers the chance for interesting and rewarding work and an opportunity for growth as an expert in a discrete practice area. Associates are given mentored guidance through all tasks and then, significant independence to manage their practice, when ready. This is a wonderful opportunity for a new lawyer to acquire counseling experience, presentation skills and shape their practice. Ideal candidates should be admitted to practice in New Hampshire and possess strong people skills, research and writing skills. We offer a competitive salary and benefits package. Please email resume and cover letter to [careersatcbz@gmail.com](mailto:careersatcbz@gmail.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).

**ASSISTANT COUNTY ATTORNEY** – The Cheshire County Attorney's Office has an opening for a full-time Assistant County Attorney in the Circuit Court Regional Prosecution Program. Experience preferred. NH Bar membership required. Please submit a cover letter and resume to Kim May, Human Resources Director, Cheshire County, 12 Court Street, Keene, NH 03431.

**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.

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**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).

**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.

## FOR SALE



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**PARALEGAL** – Getman, Schulthess, Steere & Poulin, P.A. a Manchester, NH law firm seeks a full time Paralegal with litigation experience. Must be detail-oriented and have the ability to work independently. We offer a competitive salary and benefits which include medical, dental, disability and life insurance, 401 (k), paid vacation, sick leave, and holidays. Potential for remote work options. Send resume via email to [law@gssp-lawyers.com](mailto:law@gssp-lawyers.com).

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**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).

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**OFFICE FURNITURE:** Retiring NH attorney has available beautiful, high quality, walnut office suite, in very good condition: Double pedestal desk: 36x70x29; Credenza: 20x62x29; Three leather side chairs and matching desk chair. Also available: Herman Miller Aeron chair. Call for pictures and pricing – 603-455-8239.

## LAW FIRM ACCOUNTING/ OFFICE MANAGER

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

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

## STAFF ATTORNEY DOMESTIC VIOLENCE ADVOCACY PROJECT

New Hampshire Legal Assistance (NHLA) seeks a Staff Attorney to work on our Domestic Violence Advocacy Project (DVAP). The Staff Attorney's work will involve representation of victims and survivors of domestic violence, stalking, sexual assault, and human trafficking in protective order and family law cases, as well as through NHLA's Domestic Violence Clinic programs in Manchester and Nashua. The Staff Attorney will also be responsible for occasional community engagement and education work. The Staff Attorney will work out of NHLA's Portsmouth office, and will be responsible for handling work throughout New Hampshire, including the Seacoast, Manchester, and Nashua.

Full position description and application:  
<https://www.nhla.org/support/jobs>

## 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)



## Full-time Attorney

The landscape of the practice of law in New Hampshire has changed in recent years and caused many attorneys to reevaluate their career path. Attorneys seeking greater fulfillment in their professional lives have found themselves in a system that often measures their worth by billable hours instead of how many people they help or lives they change. If that resonates, please read on. There is no other job in the legal profession quite like that of an OPG attorney.

The Office of Public Guardian (OPG) is a private, non-profit corporation dedicated to providing guardianship and advocacy services to legally incapacitated adults, including those challenged by developmental disabilities, mental illness, dementia or traumatic brain injury. The organization is unique and the work both challenging and personally and professionally rewarding. Every day, OPG's dedicated staff makes a difference in the lives of some of the state's most vulnerable citizens.

OPG's legal services department is tasked with supporting OPG's mission by representing the organization and its clients throughout the state. Working alongside guardians, client resource specialists, and estate and trust managers in a collegial environment, OPG attorneys protect the human and legal rights and civil liberties of each individual we serve.

The work is never routine but is consistently challenging and rewarding. The ideal candidate is experienced in the areas of guardianships, trusts and estates, state and federal benefits, and landlord/tenant law.

Benefits include a competitive salary, 12 paid holidays, hybrid work opportunities, company paid life insurance, health and dental insurance, short term and long term disability, paid time-off, 403(b) retirement plan with employer contributions, travel reimbursement and use of an on-site fitness center.

To view the full job description, visit our website at [www.opgnh.org](http://www.opgnh.org) and click on the "Careers" link. If interested, please send a cover letter and resume to [info@opgnh.org](mailto:info@opgnh.org) by December 4th.



## LITIGATION PARALEGAL

Upton & Hatfield, LLP seeks a full-time paralegal for our Concord office. Applicant should have a general background with a proven work history to include experience with personal injury, employment, workers compensation and/or other general litigation as well as experience in drafting discovery documents, summarizing transcripts, interviewing witnesses and/or potential clients, and assisting attorneys with trial preparation and research. Proficient proofreading, redlining, and editing of documents. Must ensure accuracy, comprehension, and overall grammar and punctuation. We are looking for an individual with an attention to detail who can work both independently and cooperatively with attorneys and staff in a general practice firm. Experience with Lexbe or other ESI management software a plus. We offer a competitive salary and excellent benefits. Please send cover letter, resume, and salary expectations to Pam Woodworth via email to [hr@uptonhatfield.com](mailto:hr@uptonhatfield.com).

## NURSE PARALEGAL

Upton & Hatfield, LLP seeks a full-time nurse paralegal for our Concord office. The individual in this role primarily supports attorneys with a medical malpractice litigation practice with an emphasis on medical negligence and attorneys who handle personal injury cases. This is a hands-on position that involves working collaboratively with clients and employees of the firm.

### Responsibilities:

- Support legal team by requesting, analyzing, and summarizing medical records for attorneys and experts.
- Conduct medical journal research via Internet or through local libraries.
- Abstract medical records, organize and prepare both outline and narrative summaries of the records for internal use and for presentation to the client.
- Analyze medical records and billings to evaluate the strengths and weaknesses of the medical evidence including pre-existing or co-existing medical conditions. Prepare case analysis. Identify issues, omissions, and discrepancies.
- Identify and provide information regarding medical experts and physicians; coordinate medical expert deposition preparation.
- Assist attorneys with medical evidence preparation and organization for hearing or trial.
- Compose and type document production including case analysis memoranda for attorneys, outline and narrative summaries, and chronologies of medical records, correspondence, and reports.
- Compile data for exhibits.
- Conduct preliminary legal research as necessary.
- Draft Interrogatories and Requests for Production of Documents and responses to them.
- Other job-related duties as assigned.

### Qualifications:

- Bachelor's Degree in Nursing required. Paralegal Certification preferred.
- 6+ years as a registered nurse. 2+ years of law firm consultant/paralegal experience preferred.
- Proficient understanding and utilization of medical terminology, anatomical drawings, laboratory tests, and medications. Possess thorough understanding of medical condition to explain or illustrate a diagnosis.
- Experience in drafting documents, summarizing transcripts and interviewing potential clients.
- Proficient proofreading, redlining, and editing of documents. Must ensure accuracy, comprehension, and overall grammar and punctuation.
- Has full understanding of HIPAA compliance. Understands and complies with all other related regulatory mandates.
- Research, analytical, organizational, and critical thinking skills required.
- Proficiency in MS Word, Excel, Power Point and Outlook and knowledge and application of legal research tools (Lexis).
- Superior written and oral communication skills; excellent interpersonal skills to communicate with court personnel, attorneys and their staff, clients, witnesses, and outside vendors.

We offer a competitive salary and excellent benefits. Please send cover letter, resume, and salary expectations to Pam Woodworth via email to [hr@uptonhatfield.com](mailto:hr@uptonhatfield.com).

## Labor and Employment Attorney Manchester, New Hampshire

Drummond Woodsum's Manchester, NH office is seeking an attorney to join our labor and employment law practice group. We are a tight-knit team that provides counsel to public and private sector employers, as well as tribal nations. Our team provides labor and employment counseling on all aspects of the employer/employee relationship, including collective bargaining, grievance administration, workplace discrimination, ADA compliance, state and federal wage and hour laws, and workplace misconduct. We also represent clients in state and federal courts, before federal and state agencies, and in labor arbitration. Our team is frequently called upon to provide clients with workplace training.

This position is open to qualified applicants who have excellent academic credentials, research, writing, and analytical skills, and who are highly motivated to learn. We are seeking a candidate who has strong interpersonal skills, and who is able to balance client advocacy with compassion and understanding. Applicants with 1-3 years of prior litigation or employment/labor law experience are preferred, but applicants without prior experience are encouraged to apply, including recent law school graduates. We are invested in the success of all our associates and will provide training, mentoring, and resources to support your development as a labor and employment practitioner. New Hampshire bar admission is not required, but strongly preferred.

At Drummond Woodsum, we have created a firm culture that emphasizes devotion to serving our clients, collaboration and collegiality, and a respect for work-life balance. In addition to the firm being a great place to work, we are also fortunate to be based in northern New England, one of the most beautiful areas of the country.

Drummond Woodsum offers a competitive compensation and benefits package, including competitive medical and dental insurance, a generous profit-sharing retirement contribution, paid parental leave, contributions to your HSA, STD/LTD, and professional development. We are committed to diversity and inclusion in our hiring practice and encourage qualified candidates of all backgrounds to apply for the position. To apply, please send your cover letter and resume to [hr@dwmlaw.com](mailto:hr@dwmlaw.com). All inquiries are held in the strictest confidence. No phone calls, please.

## 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).



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

### In-House Counsel

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

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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)

## CIVIL LITIGATION ATTORNEY



Morrison Mahoney LLP seeks a civil litigation attorney for its Manchester, New Hampshire office in the following practice areas:

- Professional Liability
- Tort and Liability Defense
- Workers' Compensation

### Qualifications:

- Admission to the New Hampshire State Bar, or sufficient UBE score to be admitted to the jurisdictions.
- 1 to 4 years of experience.
- Excellent research and writing skills.
- Strong academic record.

Our partners are seasoned trial attorneys who are excited to share their litigation knowledge and train newer associates. This role is an excellent opportunity for an associate looking for courtroom and deposition experience.

**Salary:** \$75K - \$110K

**To Apply:** Please submit your resume, writing sample and salary requirements to Lauren Steffen, Recruiting Coordinator at: [careers@morrisonmahoney.com](mailto:careers@morrisonmahoney.com).

Morrison Mahoney's New Hampshire office is conveniently located in Downtown Manchester, with views of the Merrimack River. Our office offers flexible work arrangements, and we are excited about our continued growth. We look forward to partnering with you on your own journey.

### About Us:

Morrison Mahoney LLP is an AV-rated law firm with 10 offices in the northeast and is expanding its offices. Members of our team enjoy opportunity for advancement, excellent benefits, competitive salary, and a collegial and collaborative work environment. We offer a comprehensive benefits package for our full-time employees.

Working at Morrison Mahoney LLP Provides:

- Comprehensive Benefits Package, including Health, Dental, Medical and Vision.
- Professional development and a multi-faceted mentoring program.
- Opportunity for growth and advancement.
- Corporate discounts.
- FSA and HSA Plan option(s) to help offset taxes for employees and dependents.
- 401K Plan/Employer match.
- Group Life and Long-term Disability Insurance.
- Self-insured Short-term Disability benefits.
- Employee Assistance Program.
- Wireless phone/services stipend.

Morrison Mahoney's policy is to ensure an equal employment opportunity, without discrimination or harassment on the basis of age, citizenship, color, disability, gender, marital status, national origin, race, religion, sex, sexual orientation, veteran status, or any other classification, as protected by federal, state, or local law. Equal employment opportunity extends to all personnel practices.

## 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

## 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)

# Orr&Reno

## Trust & Estates Attorney

Orr & Reno, P.A. is seeking an experienced Trusts and Estates attorney, with the ability to assume a leadership role in our Trust and Estate Department. Candidates should have significant experience in estate planning, gift, estate, and generation-skipping transfer tax planning and return preparation, trust and estate administration, and possess a strong academic record and excellent written and oral communication skills. Ideal candidates will have experience working directly with high net-worth individuals and families and their advisors on tax-efficient wealth transfer strategies. Experience in business succession planning is a plus.

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

Please submit a cover letter and resume to:

Orr & Reno P.A.  
Attention: HR Director  
PO Box 3550  
Concord, NH 03302-3550  
Fax: 603 223-9060

Email: [resumes@orr-reno.com](mailto:resumes@orr-reno.com)



## Litigation Associate Attorney

Shaheen & Gordon, P.A., Attorneys at Law, is seeking a full-time litigation associate attorney. The candidate must be licensed to practice law in NH and have four (4) or more years of experience in the practice of civil litigation with Federal and State court experience. The ideal candidate will have experience with complex litigation cases and strong analytical, writing and communication skills. We look forward to welcoming an attorney who is hardworking, committed to excellence and dedicated to client service. This is an outstanding opportunity for an experienced lawyer to grow their career and practice in a collaborative, supportive and fast-paced environment.

Shaheen & Gordon is an Equal Opportunity Employer and does not discriminate on the basis of race, color, religion, sex (including pregnancy), gender identity or expression, national origin, citizenship, veteran status, age, physical or mental disability, genetic information, marital status, sexual orientation or any other consideration made unlawful by applicable federal, state or local laws in all aspects of employment, including but not limited to recruitment, hiring, training, evaluation, transfer, promotion, discipline, compensation, termination and layoff. Shaheen & Gordon is also a non-smoking workplace. We offer a competitive salary and a generous benefits package including health insurance, flexible spending account, long term disability, life insurance and 401(k) with employer match.

If you want to contribute to a premier and growing law firm, then we want to hear from you. Successful employees at Shaheen & Gordon are confident, respectful and team-oriented with a high degree of integrity.

Interested applicants please forward your resume and a cover letter to [careers@shaheengordon.com](mailto:careers@shaheengordon.com).

No phone calls or agencies please. EOE

## SEEKING DYNAMIC LITIGATION ASSOCIATE



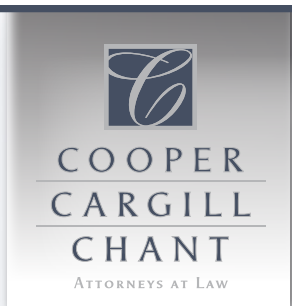
Pastori | Krans, a growing litigation firm located in a beautifully restored historic Downtown Concord, NH building, walking distance to the N.H. State House, restaurants, and shops, is seeking to add a litigation associate to its dynamic and award-winning team.

Voted one of the "Best Companies to Work for" by Business NH Magazine for the last two years and a "Top Women-Led Business" for the last five years, Pastori | Krans is committed to investing in its team's professional growth and development, and provides excellent mentorship, training, and opportunities to work on sophisticated and challenging legal matters. This position requires NH bar admission.



Send resume to:  
[blandry@pastorikrans.com](mailto:blandry@pastorikrans.com)

All inquiries are  
held in strict confidence.



# 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 1-3 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. Temporary relocation housing at Cooper Cargill Chant expense will be provided if necessary.

## 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. Temporary relocation housing at Cooper Cargill Chant expense will be provided if necessary.

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)



**RANSMEIER & SPELLMAN P.C.** is seeking to fill the following positions in its Concord office, which offer an excellent opportunity to join a firm committed to delivering high-quality legal services while maintaining a collaborative and collegial work environment. The firm offers a competitive compensation and benefits package commensurate with qualifications and experience, work-life balance, and the option for some remote work. To apply for either of the below positions, **please submit a cover letter and resume to Jeffrey Rabinowitz, Esq. at [gblodgett@ranspell.com](mailto:gblodgett@ranspell.com)**

### 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.

### PARALEGAL

Ransmeier & Spellman P.C. is seeking to fill one or more paralegal positions. The ideal candidate(s) will possess a certificate from a qualified program, Associate's degree or higher in legal/paralegal studies, or an equivalent combination of experience and training that provides the required knowledge, skills, and abilities to work in the practice areas of: probate and trust administration; real estate, especially title work; and/or civil, probate, and family law litigation. The successful candidate(s) must possess the ability to work independently and have good communication and writing skills. Excellent understanding of electronic filing processes in all courts and/or registries of deeds required, as is a working knowledge and competency of computer skills, including Office 365 (including Word and Excel), and a willingness to learn other specific document management software programs. Full-time and part-time positions are available.

## 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://lmpk.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).

## NH Judicial Branch – Youth Development Center (YDC) Claims Administration Administrative Assistant II – Position #23-222

The New Hampshire Judicial Branch is accepting applications for a full-time Youth Development Center (YDC) Claims Administration Administrative Assistant II at the Administrative Office of the Courts in Concord, NH

**Job Description:** This position is a full-time support position in the Administrative Office of the Courts, subject to the sufficient and continued funding by the Legislature, performing complex and varied administrative duties. This position requires the ability to act independently with good judgment. Employees in this position are required to travel during the regular course of business and are subject to transfer or reassignment at the discretion of the Director of the Administrative Office of the Courts.

This position reports to the YDC Claims Administrator for YDC Claims Administration responsibilities.

**This position is subject to continued available funding in the Youth Development Center Settlement Fund ("Fund") and shall terminate upon elimination of the YDC Claims Administrator position or exhaustion or termination of the Fund.**

Visit for a complete job description **Job Postings | New Hampshire Judicial Branch ([nh.gov](http://nh.gov))**

**Salary Range:** \$41,048-\$60,158



**Desirable Education and Experience:** Graduation from high school or G.E.D. equivalent. Five (5) years of related work experience or any equivalent combination of training, education, and experience.

Show position number on application and cover letter. Applications are required.

**Application:** E-mail application to [applications@courts.state.nh.us](mailto:applications@courts.state.nh.us), fax application to (603) 513-5454 or mail the application to Administrative Office of the Courts, One Granite Place, Suite N400 Concord, NH 03301. Application Deadline: Open until filled. The Application is located at <https://www.courts.nh.gov/sites/g/files/ehbemt471/files/documents/2021-04/nhjb-2099-dfps.pdf>

Applicant must successfully pass a criminal record check.

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)

## Bankruptcy Judge Position for the United States Court of Appeals for the First Circuit

The United States Court of Appeals for the First Circuit is seeking applicants for a bankruptcy judge position in the United States Bankruptcy Court for the District of New Hampshire in Concord. The jurisdiction of a bankruptcy judge is specified in Title 28, United States Code, §§ 151-158, and explained in Title 11, United States Code, § 101, et seq. Attorneys are encouraged to apply, even if their experience is not specifically in bankruptcy law.

Any applicant must comply with the financial disclosure requirements pursuant to the Ethics in Government Act of 1978, Title 5, United States Code Appendix, §§ 101-111, as implemented by the Judicial Conference of the United States and will be required to satisfy FBI and IRS background investigations prior to appointment. The term of office is 14 years, and the current salary is \$213,992.

Completed applications must be received no later than **Monday, November 27, 2023**. Persons will be considered without regard to race, color, age (over 40), gender, religion, national origin, disability, or sexual orientation.

The application can be obtained at [ca1.uscourts.gov/employment](https://ca1.uscourts.gov/employment). Please submit completed applications to Circuit Executive Susan Goldberg or [ca01\\_chjobs@ca1.uscourts.gov](mailto:ca01_chjobs@ca1.uscourts.gov).



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[AppealsLawyer.net](https://AppealsLawyer.net)

## Federal Public Defender for the Districts of Massachusetts, New Hampshire, and Rhode Island

The United States Court of Appeals for the First Circuit is accepting applications for the position of Federal Public Defender for the Districts of Massachusetts, New Hampshire, and Rhode Island. The term of appointment is four years. The current annual salary is \$183,500.

The Federal Public Defender provides federal criminal defense to individuals unable to afford counsel. The defender supervises a staff of more than 50 people, including trial lawyers, an appellate unit, investigators, and support personnel. The defender is also responsible for providing training to the panel of lawyers who take indigent federal appointments. The office is headquartered in Boston, Massachusetts, with branch offices in Concord, New Hampshire; Providence, Rhode Island; and Easthampton, Massachusetts.

Completed applications must be received no later than **Monday, November 27, 2023**. Employment is contingent upon a successful FBI background check. Persons will be considered without regard to race, color, age (over 40), gender, religion, national origin, disability, or sexual orientation. More information about the FPDO for the Districts of Massachusetts, New Hampshire, and Rhode Island can be found at [bostondefender.org](https://bostondefender.org).

The application can be obtained at [ca1.uscourts.gov/employment](https://ca1.uscourts.gov/employment). Please submit completed applications to Circuit Executive Susan Goldberg or [ca01\\_chjobs@ca1.uscourts.gov](mailto:ca01_chjobs@ca1.uscourts.gov).

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## Federal Public Defender for the District of Maine

The United States Court of Appeals for the First Circuit is accepting applications for the position of Federal Public Defender for the District of Maine. The term of appointment is four years. The current annual salary is \$183,500.

The Federal Public Defender provides federal criminal defense to individuals unable to afford counsel. The defender supervises a staff of approximately eight people, including assistant federal public defenders, an investigator, and support personnel. The defender is also responsible for providing training to the panel of lawyers who take indigent federal appointments. The office is headquartered in Portland, Maine, with a branch office in Bangor, Maine.

Completed applications must be received no later than **Monday, November 27, 2023**. Employment is contingent upon a successful FBI background check. Persons will be considered without regard to race, color, age (over 40), gender, religion, national origin, disability, or sexual orientation. More information about the District of Maine FPDO can be found at [me.fdo.org](https://me.fdo.org).

The application can be obtained at [ca1.uscourts.gov/employment](https://ca1.uscourts.gov/employment). Please submit completed applications to Circuit Executive Susan Goldberg or [ca01\\_chjobs@ca1.uscourts.gov](mailto:ca01_chjobs@ca1.uscourts.gov).

## 2023 CLASSIFIED RATES



If you would like to place an ad in the classified section, please contact our Advertising and Sponsorship Sales Coordinator 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.



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# Living Well

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our social media for details.

## CLE TOPICS INCLUDE:

Attorney Wellness Initiatives  
for Bar Associations  
with Chris Newbold, COO of ALPS and  
Co-chair of the ABA Task Force on Wellness

Lawyer Brain and Wellness  
with Dr. Larry Richard of [LawyerBrain.com](http://LawyerBrain.com)

Practical Implications of AI  
in the Practice of Law  
with Joshua Weaver, Director of the  
Texas Opportunity and Justice Incubator

AI Panel Discussion  
with Bob Lucic, Chair of the Special Committee  
on AI and Joshua Weaver

Wellness and Managing  
Stress and Anxiety  
with Chris Newbold, Jill O'Neill,  
and Sarah Blodgett

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