

Midyear Meeting 2024 Promotes Wellness in the Age of Artificial Intelligence

By Tom Jarvis

Nearly 450 members attended the New Hampshire Bar Association’s Midyear Meeting on Friday, February 9, at the DoubleTree Hilton hotel in Manchester to partake in an enormous event chock-full of continuing legal educational sessions, award presentations, and networking.

The meeting was entitled “Living Well in the Age of Artificial Intelligence,” and focused on two seemingly unrelated topics: attorney wellness and artificial intelligence. However, it became clear by the end of the day that in this rapidly changing landscape of automation, deepfakes, and machines acting like people, the need for a balanced well-being – and staying connected to humanity – seems more important than ever.

“This year’s Midyear Meeting was an unqualified success,” NHBA Executive Director George Moore says. “The dual subjects of wellness and the influence of AI on the practice of law were both topical and relevant to everyone, regardless of the field of law in which they are engaged. As always, good topics and excellent speakers are a recipe for success.”

The day began bright and early with the annual Gender Equality Breakfast, hosted by the NHBA Gender Equality Commit-



NHSC Chief Justice Gordon MacDonald speaking to nearly 450 Midyear Meeting attendees on Friday, February 9. Photo by Rob Zielinski

tee (GEC). After welcoming more than 80 breakfast attendees, GEC Chair Meredith Lasna spoke about the committee’s mission, introduced each of its members, and gave a special acknowledgement to their most recent addition, retired New Hampshire Supreme Court (NHSC) Justice Gary Hicks.

Lasna then announced attorney Kathleen Peahl as the recipient of the 2024 Philip S. Hollman Award. Before presenting the award, she invited attorney Dean Eggert to comment on the reasons for Peahl’s nomi-

nation. Eggert referred to Peahl as a quiet hero, mentioning that she has been instrumental on a national level regarding gender equality with her service on the board of directors of ALFA International and as the chair of their Women’s Initiative Practice Group.

In her acceptance speech, Peahl shared a story about starting at her firm, Wadleigh, Starr & Peters, 34 years ago while pregnant with her first son. In a time before the gender equality movement (and working from

home) began, her partners allowed her to take a 12-week maternity leave and then return to work on an altered schedule where she worked from home one day a week.

“To the extent that I have set any sort of example at all for the women who have followed me, I owe it to those partners who took a chance on a young lawyer who had – at the time what seemed like – a crazy idea that she could have a family *and* build a suc-

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NHBA Prison Series: Reentry and Life After Prison

By Tom Jarvis and Scott Merrill

People reentering the community after leaving the New Hampshire state prison system face overlapping challenges that many on the outside might fail to notice. These challenges range from basic needs – obtaining housing, employment, transportation, and identification – to coping with institutionalization and finding adequate care for behavioral and substance misuse disorders.

ACLU New Hampshire Smart Justice Campaign Manager Joseph Lascaze served more than 13 years in the New Hampshire State Prison (NHSP) for armed robbery and was released on parole in 2019. He compares a formerly incarcerated person’s struggles to Maslow’s hierarchy of needs. Those needs include physiological necessities, safety, love and belonging, esteem, and self-actualization.

“When a person goes through the reentry processes, we’re asking them to

become a productive member of society, to fulfill a level of self-actualization, and to contribute to the community,” Lascaze says. “And before any of those things can happen, which is the desire of rehabilitated people, the basic needs, things like employment and housing, have to be met.”

According to the US Department of Health and Human Services, more than 600,000 people reenter communities from state and federal prisons each year. Aside from an extremely rare governor’s pardon, there are only two ways to officially leave prison: parole and maxing out. Parole is conditional early release based on good behavior and is supervised by a Probation and Parole Officer (PPO). Maxing out is unsupervised release after fulfilling the imposed sentence.

Generally, most inmates are granted parole. Those that max out either have a robust disciplinary record inside the prison

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Manchester Police Athletic League Intervention Program Coordinator Evenor Pineda (left) and ACLU New Hampshire Smart Justice Campaign Manager Joseph Lascaze – both former NHSP inmates – at the Officer Michael Briggs Community Center. Photo by Scott Merrill

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NHBA Welcomes Vince O'Brien as Director of Professional Development

By Grace Yurish

The New Hampshire Bar Association is excited to introduce Vince O'Brien as the new director of professional development. In this role, O'Brien will be responsible for management of the professional development department staff, and activities related to the delivery of NHBA CLE programs including coordination and support for the CLE Committee, CLE program development, and the NHBA's Sections.

"I'm really looking forward to serving our members and the people of New Hampshire," O'Brien says. "We need to be listening to members across New Hampshire to figure out what they want, what they need, and how they can best serve their clients. Then you can help both attorneys and their clients. It's a win-win."

Bringing a wealth of diverse experiences, O'Brien holds a bachelor's degree in philosophy and political science from the University of Minnesota-Duluth and a JD from William Mitchell College of Law.

A father of five, O'Brien grew up in Little Falls, Minnesota. Before law school, he worked in the Forest Service and as a counselor and unit leader for Camp Courage, a program for people with disabilities, which he describes as his favorite job.

Following law school, O'Brien began as a part-time public defender, trying more cases than anyone else in the district. During this time, he was also working in private practice across various areas including estate planning, probate, family law, criminal defense, and business planning. He eventually stopped working in private practice and began another part-time role at Minnesota Continuing Legal Education working as a messenger. In addition to his time spent on two jobs and five children, he was a dedicated volunteer firefighter and EMT.



NHBA Professional Development Director Vince O'Brien in his office at the Bar Center. Photo by Tom Jarvis

"It became too much," O'Brien says. "I went to the public defender and my boss at the Bar and said, 'I've got to stop doing everything.' I'll keep doing the firefighting and EMT work, and I'll keep being a good dad, but I'm only going to do one job. The Bar then hired me to be a program attorney."

His dedication and expertise led him to ultimately become the assistant director of Minnesota CLE, where he worked for 20 years. There, he was responsible for the development and presentation of 33 original CLE seminars each year, including the design of educational objectives, faculty recruitment, marketing, and seminar management. In recognition of his outstanding contributions, he was inducted into the Elder Law Section Hall of Fame by the Minnesota State Bar Association.

O'Brien was also the president of the Association of Continuing Legal Education (ACLEA) from 2010 to 2011.

"I learned a lot about how to work with people, how to collaborate, I learned about marketing, and I learned group decision making processes," he says. "I think the way you get to know anything is by diving in, making mistakes, and trying to do it. I would get into these engaged discussions with other leaders of CLE from around the world, and we would come away from it having better ideas, thoughts, and strategies."

Currently, O'Brien serves as the administrator of ACLEA's mentoring program. He has earned multiple ACLEA awards throughout his career for his exceptional programs, lectures, and papers.

After almost 20 years in Minnesota, he assumed the position of executive CLE director of the Colorado Bar Association in 2017. In this role, he managed an organization similar in size to the NHBA, spearheading the planning and management of programs, publications, and overall depart-

mental operations. During his time in the Centennial State, O'Brien says he increased the organization's financial growth, designed a new office space, implemented a new system of CLE streaming, and developed a strong leadership team.

He subsequently continued his career in Arkansas, serving as the education director for the Arkansas Administrative Office of the Courts. In this role, he oversaw the development, management, delivery, and evaluation of judicial and public education programs for the state's courts.

O'Brien assisted in starting the *Lady Justice* podcast featuring Justice Rhonda Wood of Arkansas, Former Chief Justice Bridget McCormack of Michigan, and Chief Justice Beth Walker of West Virginia (who was a keynote speaker at the 2024 NHBA Midyear Meeting).

Beyond his professional accomplishments, O'Brien dedicated a decade to service on the Hastings District School Board in Minnesota, where he served as both a member and chair. Additionally, he contributed 20 years of volunteer service as a firefighter and EMT and offered his legal expertise voluntarily to organizations such as the Minnesota AIDS Project and with veterans' disability work.

Through all his experiences, O'Brien says there is one that makes him feel the proudest. In the 80s, while he was working at Camp Courage, he met a man named Orville who had a stroke and was unable to communicate. In the weeks they worked together, the two created a close bond.

"There were these old song books in the cabin from the 30s or 40s and we would sing them," he says. "And I could see on Orville's face that he was having a reaction to them. So, I started talking to him and watching him have reactions to things."

Orville soon began to communicate with O'Brien, telling him about his life – how he played baseball and that his wife's name was Edna.

"I thought that the paperwork was all wrong," he says. "Orville could talk. I was with him for two weeks, and at the end of those two weeks, when Edna came and picked him up, I had him say 'I love you, Edna.' As odd as it is, despite everything else, that's the one thing I'm the most proud of."

Now residing in Sutton with his wife Amy and their two youngest children, O'Brien is excited for his new position at the NHBA and is eager to serve its members.

"My goal is to mindfully work at implementing the mission of the Bar," he says. "That's what has to drive us." ♦



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

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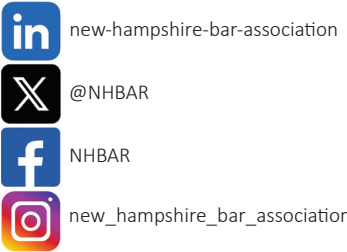
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Subscription price: \$160/year to non-members; members, included in annual dues; \$80/year to students. Advertising rates on request. Periodical postage paid at Concord, New Hampshire 03301. Postmaster: send address changes to *New Hampshire Bar News*,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

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Letter to the Editor

Dear Editor,

I commend Paul Chant for his President's Perspective in [the December 2023 issue of the] *Bar News*. His candor in addressing issues of alcohol and depression was courageous. Too many lawyers crash and burn because they don't address the problems of stress in our profession. I hope the Attorney Wellness Committee can help the many in need.

Sincerely,
Chuck Douglas

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Justin Hayes: An Athlete Lawyer Dedicated to Helping the Underdog

By Kathie Ragsdale

Justin Hayes believes in going the distance, whether it's for a client or to a finish line.

The former public defender has a respected criminal defense practice in Nashua, but is also a world-class athlete, placing 35th for his age group in last year's World Triathlon in Pontevedra, Spain. He plans to compete again this year in the swim-bike-run endurance contest.

A lifelong surfer, Hayes also holds patents for a shark repellent patch that can be attached to surfboards and has trademarked a "Play All Day" slogan for shirts, hats, sweatshirts, and other clothing items.

A native of North Andover, Massachusetts, he attended high school at Brooks School and later coached the Brooks girls' hockey team during law school. For 12 years, he has also helped run a mock trial program at Brooks.

After obtaining a bachelor's degree in history at Connecticut College, Hayes worked as a law clerk at a Boston firm. Realizing he wanted to be a lawyer, he started at Suffolk University Law School two years later, working at the Rhode Island public defender's office while in school. After graduating cum laude, he joined the public defender's office in Nashua, where he stayed for almost a decade.

"I just like to help people, the underdog," he explains. "That's been my whole career except for two years – basically indigent defense or criminal defense."

Those two years were spent working with his lawyer father as a partner at two Boston law firms devoted to intellectual property litigation.

"I had just come from 10 years as a public defender, and to go into civil litigation was quite a change," Hayes recalls. "It was national-based stuff."

The work took him to federal courts around the country in cases that revolved around patents, the technology underlying smart phones, and speech recognition tools like Siri.

Among their many successes was a case defending Vlingo, a small startup in the voice recognition field, against a patent infringement suit brought by Nuance



Communications, Inc., as well as a patent infringement suit against Microsoft Corporation.

But Hayes soon returned to his first love, criminal defense, and opened his Nashua firm in 2013, handling everything from disorderly conduct and juvenile criminal mischief cases to first degree murder trials.

He points to no particular cases as his most memorable, noting "it's more the general feeling of always trying to help everybody." As for whether that means small cases, he says, "I don't think there is such a thing."

Longtime colleague Don Topham, who first met Hayes when he joined the public defender's office in 2003, says opposing counsel sometimes underestimate Hayes because of his quiet, calm demeanor.

"They don't realize their error until the jury comes back and they've lost," Topham adds. "The guy radiates integrity and juries and judges pick up on that, and that's one of the qualities that makes him such a formidable litigator."

Another lawyer friend, Stephen Rossetti, Jr., who met Hayes during their first year of law school together, agrees.

"His attention to detail, command of the rules of evidence, and commitment to achieving the best results for his clients is what makes him a tremendous lawyer," Rossetti says. "He always keeps his client's interests front of mind, and his dogged determination and sincere effort is inspiring."

Rossetti says he often turns to Hayes for advice on life's challenges.

"He is my oldest son's godfather and is a tremendous role model," he adds.

Hayes and his wife Jody are themselves the parents of two boys, Andrew, 18, and Daniel, 13, and it was an offhand remark by Andrew that led to Hayes applying for a trademark. Sitting at the breakfast table, Hayes asked his oldest boy what he wanted to do, and he responded, "play all day."

Hayes trademarked the phrase, which was applied to a variety of clothing items purchased online and resold with the logo.

He also has two patents for shark repellent patches which are applied to surfboards. The patches have a tab which can be pulled if a surfer spots a shark, releasing the repellent and sparing the surfer. Hayes acknowledges marketing efforts for the product have not gone well, and he is unsure about additional marketing attempts.

That does not stop him from surfing regularly, one of the many sports he has undertaken in his life. While in college, he took up rock climbing and was so successful he won several endorsements for his skill.

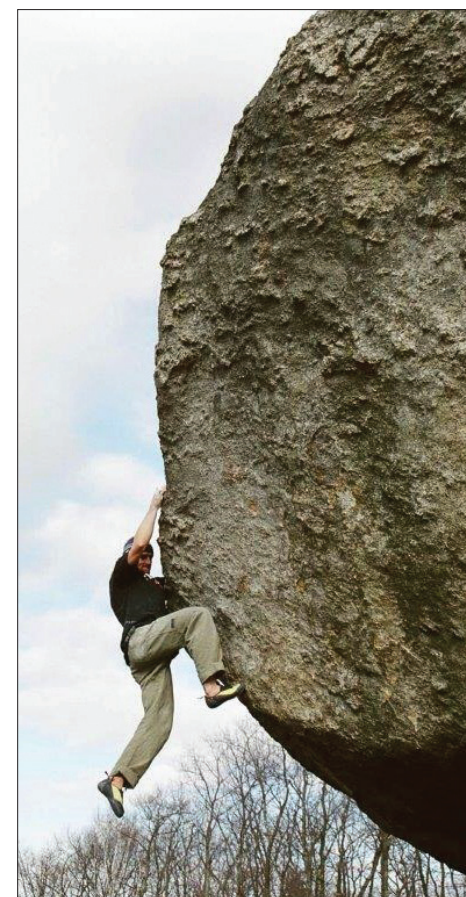
He stopped rock climbing when his second child was born and started doing triathlons, training at his usual 5 am wake-up time before needing to be in court at 8 am.

Competing as part of Team USA in last year's World Triathlon was "an amazing life experience," Hayes says. "To go to a world championship and compete against the top people in your age group from around the planet is pretty intense. You're in your country's uniform and the city, Pontevedra, near Portugal, is beautiful. You race through the old part of the city and thousands upon thousands of people were out, cheering you on. It was quite the spectacle, I have to say."

Hayes has also coached youth hockey for 17 seasons and continues to volunteer at Brooks School three hours a day during the winter term helping to lead mock trials. This term's event is a murder trial, with half of the students representing the prosecution and the other half, the defense. They ultimately appear before a "jury" composed of faculty members and students.

Though he lives in North Andover, Hayes's practice is entirely in New Hampshire.

"The New Hampshire Bar is tiny and there's a lot of benefits to that," he says.



"You're constantly in front of the same judges, the same prosecutors, the same police departments, the same opposing counsel. It makes it a wonderful place to practice." ♦

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The NHBA's 2024 Leadership Academy Hits the Halfway Mark

By Grace Yurish

January 4 marked the halfway point of modules for the NHBA 2023-2024 Leadership Academy program. Designed as a nine-month curriculum, the Leadership Academy aims to cultivate leadership skills and foster the professional growth of attorneys with three to ten years of practice. Lawyers from across the Granite State were carefully selected to be part of the class, and they have successfully completed three of the six educational modules thus far.

Former Leadership Academy participant attorney Nicole Forbes, who graduated from the program in 2019, is now co-chair of the Leadership Academy Steering Committee. On the steering committee, she brings her experience as a participant to help craft the Academy for others. Reflecting on the program, she emphasizes the networking possibilities it provides.

"There are networking opportunities with your classmates, with members of the Bar, with the business community, with political aspects of New Hampshire, and the judiciary," she shares. "Each module, we get a robust set of panels with some really great speakers for people to network with and learn from."

In October, the program commenced with a two-day retreat at the Wolfeboro Inn, offering participants not only an introduction to the program but also valuable insights into the NHBA and the opportunities it presents. The retreat included sessions led by legal professionals and leadership experts, covering topics such as personality and learning styles, along with team-building activities and a trolley tour of the



Leadership Academy Class of 2024 at the retreat at the Wolfeboro Inn (L to R): Kirsten Allen, Jim Armillay, Devon Ayer, Katherine Hedges, Amanda Dupuis, Afra Danai, Jesse O'Neill, Jessica Morrissey, Danielle Pomeroy, and Lynnette Macomber. Photo by Rob Zielinski

lakeside town. The weekend on Lake Winnepesaukee gave the class the opportunity to get to know one another and prepare for the program ahead.

The first module, titled *Business, Law Firm, and Community Leadership in New Hampshire*, took place in a community meeting space at the new Grappone Mazda Dealership in November. Participants delved into the state's business and legal industries, engaging in panel discussions with leaders in business, law, and the community.

Attorney Katherine Hedges, a current Leadership Academy participant, highlights the significance of learning from

various perspectives.

"We've gotten to hear from a lot of different people about what they find are important skills as a leader," she says. "We got to hear how business leaders have found attorneys to be most effective, how they've interacted with attorneys, their impressions of attorneys, and what makes an attorney approachable and useful as somebody they want to hire."

December's module was held at the Bar Center and focused on media relations, shedding light on the relationship between the media and legal professions. The panel discussions gave participants the

opportunity to hear from the media and the attorneys who work with them. The discussions addressed using media for practice marketing, advancing legal developments, spreading public awareness, and how to stay consistent with ethical obligations while speaking with the media. Academy members also heard from a public speaking expert and practiced their skills with their peers.

The most recent module in January, *May it Please the Court: Practice & Professionalism in New Hampshire Courts*, took participants to the federal courthouse, where they learned more about the judicial process through panels of clerks and judges, including New Hampshire Supreme Court Chief Justice Gordon MacDonald. Before the judicial module, each participant completed an assignment shadowing a judge for a day. Judge William Delker organized the assignment and connected the participants with judges that aligned with their interests. Attorney Jim Armillay, who spent the day with Judge Beth Kissinger, describes the assignment as "one of the best experiences that I've had in New Hampshire."

This month, attendance at the 2024 Midyear Meeting supplemented a traditional module. The class mingled with fellow members of the Bar while learning about attorney wellness and artificial intelligence in the law.

In March, the group will hear from leaders in the public interest and non-profit sectors including staff attorneys and individuals from the state's civil legal aid organizations. For the final module in April, which is focused on the legislative and executive branches of government, participants will attend a committee meeting or hearing to enhance their learning.

When the class graduates from the program, they will be recognized at the 2024 NHBA Annual Meeting in June. Following their graduation, Academy members will commit to two additional years of service to the Bar. This allows them to exercise their newly acquired skills and continue to grow within the profession. Previous alumni have gone on to become leaders in their Bar and firm, elected officials, and judges.

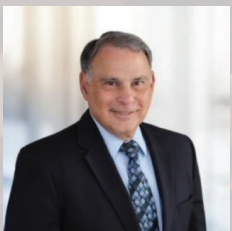
"I absolutely recommend the Leadership Academy," Armillay says. "There's a time commitment to it, but it's definitely worth it – especially for somebody who is maybe a newer lawyer who wants to get better engaged with the Bar Association and make these connections with colleagues. It's an experience I can't recommend highly enough. I'm glad that the Bar Association does this." ♦



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Jack Middleton Celebrates His 95th Birthday

By Tom Jarvis

On January 11, nearly 200 lawyers, staff, and alumni of McLane Middleton – as well as others in the legal community – gathered to celebrate Jack Middleton's 95th birthday at the DoubleTree Hilton in Manchester.

The event included an open bar, heavy hors d'oeuvres, and six speakers: McLane Middleton CEO Steven Camerino; firm directors Bruce Felmly, Bob Wells, Bill Glahn, and Jennifer Parent; and retired New Hampshire Supreme Court Justice Carol Ann Conboy – an alumna of the firm.

Middleton, the oldest practicing lawyer in the state, has been practicing law for 68 years, 24 of which he spent serving as a part-time New Hampshire District Court judge. In 1982, he brought the IOLTA Program to the Granite State – making New Hampshire the second state in the nation to adopt the extraordinary program.

He is also one of the founders of the New Hampshire Bar Foundation, a former president of the New Hampshire Bar Association, and the second Granite Stater to ever serve as an officer of the American Bar Association.

Barry Needleman, McLane Middleton's managing director, emceed the event and introduced the first of the speakers, Bruce Felmly.

"Most of us are familiar with Jack as a mentor, a teacher, and an example of what lawyers should be," said Felmly, a former NHBA president. "Jack provided a masterclass in lawyering."

After outlining the many things he learned from Middleton, Felmly regaled everyone with humorous stories about the guest of honor's various trips around the globe.

"This is a man that is engaged with life and has been for 95 years," he said. "If there's a place on this planet that he has not been to as an adventurer and a traveler, I don't know about it."

Bob Wells then thanked Middleton for his leadership and for giving back, sharing his family, and being a mentor – not just to attorneys but to staff, as well.

"Thank you for being the person that you are – the person who really establishes a model for all of us to follow," he said. "It's not an easy one but it's one that you have demonstrated and one that we should emulate. So, Jack, thank you for being you."

Bill Glahn took the podium next, delivering a heartfelt speech.

"One of the proudest things that I've been able to say in my life is that I'm Jack Middleton's partner," he said. "Even if I had two days rather than two minutes [to speak], I still couldn't possibly describe all that Jack has taught me. David Souter once described Jack as New Hampshire's representative to everything. Jack is admired by everyone, he's respected by everyone, and he has been a role model and a mentor to everyone."

Wells continued: "When I saw Jack yesterday, he told me to keep this short. I told him, 'I don't really need two minutes; I can do this in three words.' To which, Jack replied, 'yeah, you'll say *he's really old*.' But those aren't my three words. My three words are: *I owe you*. And I think, if I could speak for others in the room, we owe you."

Before commencing her speech, retired New Hampshire Supreme Court Justice Carol Ann Conboy called out and thanked another McLane director in the audience, Andrew Hamilton, for helping her change her tire an hour before the event. This amusing nugget shook the

audience with mirth.

"In my 13 years at the firm, first as an associate, later as a partner, I had the enviable opportunity to work closely with Jack on innumerable cases – large and small, momentous and mundane," she said in her address. "As Jack's bag carrier, second chair, and junior partner, I came to know what excellence looks like on the ground. And only after I left the firm to go on the bench did I come to truly appreciate Jack's far-reaching influence both inside and outside the legal community."

Justice Conboy ended her oration by citing an Iroquois proverb about considering the impact of our decisions on the next seven generations (approximately 140 years) and saying she believes Middleton's lifetime of work will be felt well beyond the next 140 years.

She then gave way to Steven Camerino, who read two of five proclamations written for the occasion by Governor Chris Sununu, US Senator Jeanne Shaheen, US Senator Maggie Hassan, US Representative Chris Pappas, and US Representative Ann Kuster.

An alumna of the firm and granddaughter of its founder John McLane, Kuster wrote in her proclamation that she counts herself "among the many lucky individuals who have grown and learned with [Middleton's] wise counsel and guidance."

Jennifer Parent, a former NHBA president and a founding member of the New Hampshire Women's Bar Association, closed out the panel by leading the attendees in a toast to Middleton.

"Having you in my life has been a privilege," she said to Middleton before they clinked glasses – his filled with his favorite drink, Dewar's scotch. "You have changed



Jack Middleton and his life partner, Sharon Gerard, at his 95th birthday celebration on January 11. Photo by Tom Jarvis

who I am personally, professionally, and who I am as a human being. And I thank you."

Following the toast, the man of the hour addressed the room.

"People have had the temerity to ask, 'when are you going to retire?'" Middleton said. "I usually have a wisecrack answer like 'when I learn how' or 'when Bob Wells does,' but the reason I haven't retired is because I like the people at McLane. My partners, paralegals, staff – everyone. It's a great place to spend your time, so why would I want to go any other place?"

Middleton thanked everyone in attendance, including his kids Susan, Peter, Jack, and three of his grandchildren, before concluding with a humorous declaration that drew hearty laughter and standing applause from the celebrators:

"I would also like to say that I really hope you're all planning to come back for my 100th birthday celebration," he said. ♦



Jennifer Parent pinning a boutonniere on Jack Middleton's lapel at the start of the evening. Photo by Tom Jarvis



Jack Middleton addressing a roomful of more than 200 celebrators for his 95th birthday. Photo by Tom Jarvis

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Firm Administrators: Follow the ‘Due Process’ of IT, Security, and AI Integration

By Ryan Robinson

“Due process” is an old legal standard, but it’s in the 2024 presidential election headlines and is as relevant as ever.

In December, the Colorado Supreme Court disqualified former President Donald Trump from their state ballot, citing that he was ineligible under the US Constitution’s insurrection clause. Trump’s lawyers claimed, however, that the court was wrong in their decision because they had not followed the proper due process of law.

Regardless of who was correct in this instance, we can recognize that built into the concept of “due process” is an understanding that, for justice to be served, legal actions must be taken in the proper order.

For instance, in a criminal case, the accused must be given proper legal notice, an opportunity for a hearing, the selection of an impartial judge, a fair trial, and proper sentencing based on the specifics of the case. Each step is dependent on the one before it, and if any step gets out of order, the chances of a miscarriage of justice increase.

Wise firm administrators take the same focus on proper ordering when it comes to technology planning. Getting the order right and having the proper foundations in place before implementing emerging technologies



makes all the difference.

However, amidst the hype and pressure for law firms to implement AI solutions and other emerging technologies, many firm administrators are in danger of focusing all their technology planning attention on AI and, as a result, getting their IT due process way out of order.

Step One

Build your IT foundation first, with solid infrastructure and great support. AI and other emerging technologies are incredibly powerful, but ask yourself:

- **Uptime:** What good is building efficiency tools that will save you minutes of time when your IT infrastructure is putting you at risk for hours of downtime?
- **Kind, helpful, personalized, and consistent user support:** What good is supplying your team with advanced tools to improve their experience when they’re constantly frustrated by slow, impersonal, and inconsistent IT support?
- **Proactive, sophisticated IT strategic planning:** What good is working with your IT provider on plans for AI integration when you’re not even sure they’re proactively leading you to technology and security sophistication that’s been accessible for years?

Action plan: If you’re not 100 percent confident that you have a rock-solid infrastructure, a clear, forward-thinking IT strategic plan, and tech support that your team

enjoys, start here.

Step Two

Ensure your firm has a comprehensive Information Security Program. Sometimes terms become used so much that they turn into white noise you can’t even hear. The terms “cybersecurity” and “Information Security” have been used so often in recent years that we are in serious danger of thinking of them as being concerns of the past. However, with the rise of AI, security is now more important than ever.

- **Phishing emails:** You thought these were effective before? They will now be able to almost perfectly mimic the voice and tone of your co-workers, bankers, clients, and vendors because of AI’s natural language capabilities.
- **Financial loss:** You thought fraud and theft was bad before? AI-generated deep-fakes and voice cloning will more easily trick your finance team and others into thinking that they are communicating with and following the directions of trusted contacts.

Action plan: Firm administrators must be more diligent than ever to work with Information Security specialists (a different skillset than traditional IT) to build a comprehensive Information Security Program, which includes customized security policies, user training, technical controls, physical security, and compliance governance.

Step Three

Leverage the AI you already are paying for (but may not be using). AI started getting major buzz in 2023 following the release of ChatGPT-3, but many AI tools have already been integrated with the applications law firms have been using for years. AI tools already exist within widely used practice management software, including Clio, Smokeball, and others. AI tools embedded in these applications include:

- **E-Discovery:** AI can significantly speed up this process by scanning documents to find non-privileged information relevant to a case.
- **Legal Research:** AI can quickly scan and search large databases of regulations, statutes, case laws, and more, making the research process faster and more comprehensive.
- **Document Management and Automation:** AI-driven document automation tools can create documents using intelligent templates, as well as utilizing language from your firm’s existing contracts and case files, saving time and effort in producing legal documents.

Action plan: Work with your practice management software vendor (or third-party consultant) to discover what AI tools are already available and ask for whatever training is already provided in your support costs.

Step Four

Now you’re ready to explore new AI-



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enabled workflows and tools. Once steps one through three are taken, then you can start diving into the deep end of the AI pool, reviewing options, such as:

- **Marketing:** ChatGPT is a powerful tool that can be used as a thinking partner when writing digital marketing content, and AI image tools, such as Midjourney and DALL-E can be used for creating beautiful, custom images for social media posts and ads.
- **Chatbots and Virtual Assistants:** AI-driven chatbots can provide first-level support to clients, answer basic queries, schedule appointments, and even guide them through initial legal processes. This can improve client response times and save time for your administrators and attorneys.
- **Workflow Automation:** AI can streamline various administrative tasks such as time tracking, billing, and case management, freeing up time for lawyers to focus on more complex, higher billable legal work.
- **Predictive Analytics:** AI can analyze past legal outcomes and trends to predict future outcomes of cases. This can aid in legal strategy, helping lawyers make informed decisions about whether to settle or proceed to trial.
- **Contract Analysis:** AI can review and analyze contracts, identifying potential risks, inconsistencies, and non-compliance with legal standards. This automation can significantly speed up the due diligence process in mergers, acquisitions, and other transactions.

Action Plan: Work with a technology services consultant with deep knowledge of AI to ensure that you know what your key AI integration options are and ensure that your marketing team is proficient in AI writing and image tools, many of which are free or low cost.

In conclusion, the power of AI cannot be overstated, but due process and following the steps in the right order matters, not just in the court. It doesn't make any more sense to implement AI tools on weak, insecure IT than it does to build a multimillion-dollar mansion on a crumbling foundation. ♦

Ryan Robinson is a senior director at Mainstay Technologies, the largest independently owned IT and information security services firm in New Hampshire.

Bar Governance

NHBA Board of Governors – 2024 Elections – Open Positions

Active, qualified members may submit a petition for one of the following positions for which nominations are open. Positions with an asterisk (*) indicate an incumbent governor who is eligible to seek another term.

- Vice President (one-year term with a four-year commitment to board leadership track: President-Elect, President, and Immediate Past President in subsequent years)
- Secretary (three-year term)
- Treasurer (three-year term)
- Governor at Large (three-year term)*
- Governor at Large (three-year term)
- Public Sector Governor (three-year term)*
- Out of State Governor (three-year term)
- County Governors (two-year term) representing:
 - Belknap
 - Carroll
 - Hillsborough North*
 - Hillsborough South*
 - Strafford*
- ABA Association Delegate (two-year term)*

Submitting a Nomination Petition

No fewer than 10 active member signatures or 20 percent of the active membership of the county, whichever is less, having their principal offices in the county or division concerned. No fewer than 25 active member signatures are required for Vice President, Governor at Large, and ABA Association Delegate. Bar members may sign only one petition for a county position on the Board representing the county where the signer's principal office is located. Blank petitions can be obtained by contacting NHBA Executive Department Assistant Cindy Roberts at croberts@nhbar.org or (603) 715-3267.

Petition Deadline

Petitions for nominations to the NHBA Board of Governors will be accepted no later than **March 1, 2024**.

Election Information

Online ballots will be accepted from April 1 to April 15, 2024. Those eligible to vote are active-status members (dues fully paid). ♦

NHBA Board Elections – Ensure You Receive Your Ballot

Electronic voting for the NHBA Board of Governors elections will take place starting at 9 am on April 1, 2024. All active members are eligible to vote. To ensure you receive your ballot information electronically, please be sure the email address we have on file for you is accurate. If you need to update your email, please log onto the Member Portal, and use the "update MyProfile"

link that is found on the Profile page. **Please do this no later than March 8.** If you need assistance updating your email address, please contact **Member-Records@nhbar.org**.

Members eligible to vote in the Board election, without an email address on file with the Association, will receive a letter containing instructions on how to vote electronically. ♦

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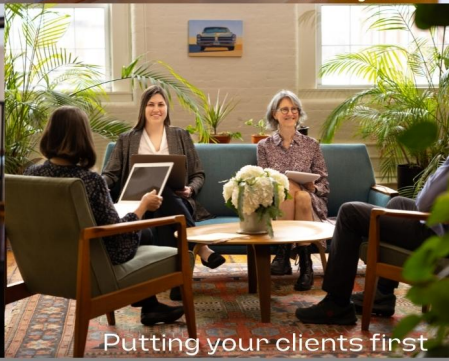
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Free Mental Health First Aid Training for NHBA Members

By Anne Zinkin

The New Hampshire Bar Association is making Mental Health First Aid training available to attorneys. On Friday, March 22, New Hampshire Judicial Branch Mental Health and Wellness Coordinator Anne Zinkin will teach a free, all-day Mental Health First Aid class to 10 to 12 participants. This groundbreaking skills-based course gives people the tools to identify, understand, and respond to someone who might be struggling with a mental health or substance use challenges – and connect them with appropriate support and resources when necessary.

One in five Americans has a mental illness, and the pandemic has dramatically increased depression and anxiety, but many are reluctant to seek help or don't know where to turn for care. Unlike physical conditions, symptoms of mental health and substance use problems can be difficult to detect. Friends and family members may find it hard to know when and how to step in. As a result, those in need of mental health services often do not receive care until it is too late.

Just as CPR helps even those without clinical training assist an individual having a heart attack, Mental Health First Aid prepares participants to interact with a person experiencing a mental health crisis. Mental Health First Aiders learn a five-step action plan that guides

them through the process of reaching out and offering appropriate support.

In just 12 years, Mental Health First Aid has become a full-blown movement in the United States – more than three million people are certified Mental Health First Aiders, and that number is growing every day. The skills learned in Mental Health First Aid training help participants be the difference to family, friends, co-workers, and peers.

Mental Health First Aid training will be held at the Bar Center in Concord on Friday, March 22, from 9 am to 4:30 pm. There is no charge for this training and access to online manuals is included. Lunch will also be provided.

To register for the all-day training on Friday, March 22, visit the NHBA calendar at nhbar.org or the event page at: member.nhbar.org/calendar/register/MjY5Mw==.

If you have questions, please contact NHBA Member Services Supervisor Misty Griffith at mgriffith@nhbar.org for additional information. ♦

Anne F. Zinkin, JD, is the mental health and wellness coordinator for the New Hampshire Judicial Branch. In addition to being a certified instructor in mental health first aid, Anne is a member of the NHBA Special Committee on Attorney Wellness and has been a judge for the We the People competition for more than a decade.



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Mental Health & Wellness Coordinator for the NH Judicial Branch

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Exploring Innovations in Legal Education

What You Missed at the UNH Law Review’s Symposium on Risk Taking and Reform in Legal Education

By Alex Attilli

On Friday, January 26, the University of New Hampshire (UNH) Law Review hosted its annual symposium to preview what’s to come in its latest issue. To celebrate the school’s 50th anniversary, the Law Review is putting out a special double issue, which will focus on risk taking in legal education – something with which the UNH Franklin Pierce School of Law (UNH Law) is very familiar.

Both UNH Law Dean Megan Carpenter and Associate Dean for Academic Affairs Rebecca Purdom mentioned how the law school has a long history of non-traditional legal education. After all, the school *did* begin by hosting classes in a barn.

The two remarked that not only is the school home to the one-of-a-kind bar exam alternative, the Daniel Webster Scholars (DWS) program, but several clinics where students can gain hands-on legal experience, such as the criminal practice clinic, international technology transfer institute, and the intellectual property and transaction clinic.

Further, the school was a leader in implementing its innovative hybrid education program, where students from all over the



The symposium panel on Risk Taking in Legal Education (L to R: USC Gould School of Law Director of Academic Success Program and Professor of Lawyering Skills Sara Berman, Monterey College of Law COO and CFO Greg Brandes, UNH Law Professor Stan Kowalski, UNH Law Dean Megan Carpenter, UNH Law Professor Albert “Buzz” Scherr).

country can get their legal education part-time.

Symposium Editor and Hybrid JD Candidate for the class of 2024 Mariah Thurston mentioned that the vision for the latest issue and symposium stemmed from celebrating the 50th anniversary of the law school.

“Our law school has been a thought-leader and risk-taker when it comes to reform in legal education, with a focus on increased accessibility and inclusion,” she says. “The hybrid JD program is the first ABA-accredited program of its kind and has made it possible for students, like me, to access legal education with minimal disruption to our current career paths. Likewise, the DWS program is the first of its kind to allow students to bypass the New Hampshire Bar [exam] and begin practicing soon after graduation. And the clinics play an es-

sential role in residential, hybrid, and DWS student success for professional readiness upon graduation.”

As symposium editor, Thurston had to balance organizing the symposium on top of her full-time job, coursework, and planning a wedding. Despite the workload, she was especially excited as a hybrid student to be organizing a symposium focused on innovations in the legal profession.

“With [the law school] celebrating our 50th anniversary and myself being part of one of its innovations, dedicating this [issue] felt like a natural fit,” she remarks.

The symposium covered several topics, from UNH Law Professor Sophie Sparrow’s presentation on updating legal education to thoughtful panels covering how reform in legal education – such as changing (or even abolishing) the Bar exam – can affect the

legal profession.

Thurston mentioned her favorite part of the day was the panel entitled “How Reform in Legal Education is Impacting the Legal Career Now and in the Near Future.” Specifically, she liked how the panel touched briefly on how to reform the classroom in ways to support students’ mental health.

“Mental health is a critical topic in the legal profession and the foundation for it needs to be set in the classroom,” she states.

Panelists provided a variety of suggestions as to how professors can better support their students’ mental health, including the creation of clubs dedicated to mental health or providing counseling resources for their students.

The panel also mentioned how professors can better utilize technology in the classroom, such as commercial study websites like Quimbee and even artificial intelligence. While some panelists believed AI could be useful for making lawyers more efficient at writing routine briefs, others cautioned how this technology can adversely affect lawyers with large caseloads.

Ultimately, Thurston’s vision for the event echoed the law school’s tradition of breaking tradition. Rather than a full-day lecture-style event, Thurston took a risk and instead organized an engaging half-day mix of both panels and presentations that generated substantial audience participation.

After all, taking risks is what UNH Franklin Pierce School of Law does best. ♦

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Left to right: Krysia J. Syska, Adam R. Satin, Robert M. Higgins, Nicholas D. Cappiello, Andrew C. Meyer, Jr. and William J. Thompson.

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* As published in Massachusetts Lawyers Weekly for years 2008-2019; as submitted to Massachusetts Lawyers Weekly for years 2020-2023.

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Community Notes

Campaign for Legal Services

The 2023 Campaign for Legal Services raised a record-setting total of \$564,602 in philanthropic support for civil legal aid. The Campaign is a joint annual fundraising effort to support New Hampshire Legal Assistance and 603 Legal Aid, implemented by the Campaign Leadership Council. Megan E. Hilson, in-house counsel of Brady Sullivan Properties, served as chair of the 2023 Campaign, and remains for 2024.

The following New Hampshire Bar members have joined the Council: Robert J. Dietel of Gallagher, Callahan & Gartrell; David W. McGrath of Sheehan, Phinney, Bass & Green; Courtney Tanner of Dartmouth Health; and retired New Hampshire Supreme Court Justice Gary E. Hicks.

They join returning Council members Mark Beaudoin of Nixon Peabody; William Chapman of Orr & Reno; Catherine Flinchbaugh of the New Hampshire Public Defender; Rachel Goldwasser of Key Capture Energy; Charlene Lovett of Claremont; Jim Merrill of Bernstein Shur; Pamela Peterson of Devine Millimet; Mary Rauh of New Castle; Manchester City Solicitor Emily Rice; Ned Sackman of Bernstein Shur; David Tencza of McLane Middleton; and Danette Wineberg of UNH Law.

Sackman is again chairing the Campaign Kickoff Breakfast, scheduled for Friday, May 3 at the Grappone Conference Center in Concord. The Campaign will present the John E. Tobin, Jr. Justice Award to retired Judge Ned Gordon. ♦

Coming and Going

McLane Middleton Names Shiva Karimi to Management Committee and Elects Laura Dodge and Brian Garrett as Directors

Shiva Karimi has been named to the firm's Management Committee – the executive committee of the board of directors, overseeing strategy and business operations. She is the managing director of the Boston office. She counsels businesses on acquiring and retaining talent and key employees from outside the United States.

She also advises employers in immigration compliance matters and assists employers in responding to audits and investigations. She has represented clients across a range of industries including high technology, manufacturing, government,

independent schools, non-profits, service businesses, and families.

Laura Dodge and Brian Garrett have been elected as directors of the firm. Dodge is the vice chair of McLane's Real Estate Practice Group. Her practice involves representing businesses and individuals in various commercial and residential real estate transactions.

Brian Garrett is the chair of the Education Law Practice Group. He focuses his practice on understanding and serving the needs of independent day and boarding schools, colleges and universities, and early childcare programs. ♦

LawLine

The New Hampshire Bar Association would like to thank McLane Middleton for a very successful LawLine event held on January 10, 2024 – our first event of the year!

Thirty calls were taken from counties all over the state on a variety of legal topics including landlord/tenant rights, family law, consumer disputes, civil appeals, and small claims disputes. The NHBA is immensely grateful to all our volunteers for their continued support and participation in this valuable public service each month.

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

We are currently seeking volunteers for the July, November, and December 2024 LawLine events. For more information, or to volunteer, please contact NHBA LawLine Coordinator Anna Winiarz at awiniarz@nhbar.org. Volunteer and make a difference this year! ♦

Jest Is For All

by Arnie Glick

If Lawyers Made Valentine's Day Candy Hearts



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It's people at the heart of our firm.

Attorney Sarah Landres

Attorney Landres joins Shaheen & Gordon's Criminal Defense group. She has over fifteen years of experience, including twelve years as a staff attorney with the New Hampshire Public Defender. Sarah defends people of all ages who have been accused of misdemeanor, felony, and driving offenses, including physical and sexual assaults, DUI/DWI, theft, drug offenses, and homicide. She represents clients in court and administrative hearings.

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Ansell & Anderson, P.A. is pleased to announce that Shannon Nicholson has joined the firm as an associate.



Shannon joined Ansell & Anderson, P.A. as an associate in 2023 after graduating from the University of New Hampshire School of Law. Shannon also has a Bachelor's Degree from the University of Maine where she graduated *summa cum laude* in 2017. She will be assisting clients with estate planning and probate and trust administration. Prior to making a career shift and attending law school, Shannon was a social worker for nearly four years in Portland, Maine. She now resides in Manchester with her partner.



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Devine Millimet is pleased to welcome Stasie Levin to the firm. Located in our downtown Manchester office, Stasie is a graduate of Boston University School of Law, and is excited to continue her legal career here at Devine. Prior to joining Devine, Stasie was a litigation associate at a large Boston firm.

As part of Devine's Litigation team, she will work on a variety of matters including Commercial, Business, & Financial Litigation, Appeals, and Dispute Resolution.

Welcome!

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Leadership

Sheehan Phinney congratulates newly elected **President & Managing Director, Michael Lambert**, and members of the Firm's Management Committee.



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Congratulations!

Christopher Swiniarski Elected Shareholder

Chris joined Devine Millimet's Real Estate practice group in 2021 with over a decade of experience in NH and MA, and many years as a real estate paralegal before that. Having worked in the Boston market and another large NH firm, his real estate and land use practice covers all aspects of real estate transactions, financing, development, permitting, regulatory matters, and real estate disputes. He regularly appears before numerous municipal zoning and planning boards and represents clients in Superior Court and before the Housing Appeals Board when necessary.

Firm President Anu Mullikin said, "Chris joined us a couple of years ago and hit the ground running. He has become a valued member of the real estate department and the firm as a whole and we are proud to have him as a Shareholder."

As the newest Shareholder at Devine Millimet, Chris noted, "The nature of my practice has led me to meet numerous lawyers in New England. Many are great lawyers and great people, but some fall short of either or both marks. Without exception, the attorneys at Devine are both great lawyers and great people."

Please join us in congratulating Attorney Swiniarski on this exemplary career milestone.

CHRISTOPHER SWINIARSKI Shareholder

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Congratulations

Sheehan Phinney congratulates our five attorneys recently elected as Firm Shareholders.



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Gottesman & Hollis, P.A.

is pleased to announce Elizabeth Hartigan
as a shareholder of the firm.



Elizabeth joined the firm in 2016 and her practice primarily focuses on commercial real estate matters, business transactions and land use, planning and zoning.



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ORR & RENO

elects new shareholder and director

NICOLE A. FORBES

Orr & Reno has elected attorney Nicole Forbes as a shareholder and director of the firm.

Forbes, who joined Orr & Reno in 2022, has become the firm's 29th director. She is a highly valued member of the Family Law Group and excels in assisting clients in resolving issues through negotiation, mediation, and other dispute resolution strategies — as well as representing clients in court. Forbes received her J.D. magna cum laude from Suffolk University Law School and her B.A. summa cum laude from Southern New Hampshire University.

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Stephanie J. Thomson

Stephanie focuses her practice on estate planning, probate, and trust administration, as well as business representation, and residential and commercial real estate transactions. Prior to joining Upton & Hatfield, Stephanie was the managing attorney for a real estate firm in southern New Hampshire and practiced law in Vermont for several years working on estate planning, family law, landlord/tenant, and real estate matters. Stephanie is admitted to practice law in New Hampshire and Vermont. Stephanie currently serves as Board Member and Board Secretary for The River Center in Peterborough, New Hampshire, and as Board Member for the Jaffrey Chamber of Commerce.



Todd C. Fahey

Todd is a business and real estate lawyer specializing in nonprofit organizations. He also represents clients in litigated charitable trust matters and complex construction disputes. Todd has executive experience running two of New Hampshire's most impactful nonprofit organizations and has served in leadership roles for organizations with statewide reach. Todd draws from this experience to provide practical and strategic legal counsel. He leads the firm's business and nonprofit practice groups.

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Modest Means Program Increases Access to Justice

By Misty Griffith

The New Hampshire Bar Association Lawyer Referral Service's Modest Means Program (Modest Means) is committed to bridging the justice gap.

"Helping clients through the Modest Means Program allows us to give back to our community and have an impact on the growing access to justice problem," explains Lawyer Referral Service (LRS) Committee Chair Katherine Morneau. "There is a significant amount of people who fall into the gap between earning too much to qualify for pro bono and not earning enough to afford a full-fee attorney."

Attorneys who participate in Modest

Means make a significant difference in the lives of the clients they assist. A grateful Modest Means client shared, "(my attorney) was so kind and informative. I was unsure of the process, and he made it much easier than I could have ever thought. He is my hero! I think I was a little bit of a challenge, but he always answered my questions. Thank you for the referral."

Modest Means connects people earning 125 to 325 percent of the Federal Poverty Level (FPL) with qualified New Hampshire attorneys who agree to consider their case at a greatly reduced rate aligning with the Modest Means sliding fee schedule. The \$80 to \$125 per hour sliding fee scale is based on household size and income mea-

sured against the FPL. This fee range is far below the average fees charged by most attorneys in the state.

The LRS Committee strives to align Modest Means eligibility minimum with the 603 Legal Aid maximum so that needy individuals do not fall between the cracks. The number of low-income clients served by the program has grown from 519 in 2022 to 818 in 2023, and the demand continues to grow. Accordingly, the program is always seeking additional attorneys.

If you are looking to give back while earning a small fee, consider joining the Modest Means Program. It is free to join, and you do not have to be a member of the LRS Full Fee Program. Modest Means pan-

elists provide much-needed legal assistance to moderate- to lower-income individuals while still earning a reduced fee. Participants choose the type of cases they are willing to consider and the county or counties where they practice.

Modest Means panelists may also limit the number of cases they are willing to accept. Taking even one or two cases per year can make a big difference to individuals who would otherwise need to represent themselves.

Modest Means is funded in part by a generous grant from the New Hampshire Bar Foundation's IOLTA grant program. To join, or for additional information, visit nhbar.org/join-lawyer-referral-service. ♦

LRS Modest Means Program Honor Roll

Thank you to the following attorneys who assisted one or more Modest Means clients in 2023. By providing your time and legal talent at a greatly reduced rate, more than 800 low-income individuals were provided with access to justice.

Erin M. Alarcon
William O. Amann
Allison M. Ambrose
Kyle W. T. Amell
Joseph M. Annutto
Shane M. Archambault
Jared J. Bedrick
Shawna P. Bentley
Robert T. Bloomenthal
Sandra F. Bloomenthal

Randi L. Bouchard
Cassandra A. Brown
Justin Caramagno
Sarah D. Christie
Lisa M. Cirulli
Ryan J. Correia
Shawn R. Crapo
Amy L. Driscoll
William M. Driscoll
Dennis T. Ducharme
Mercy K. Frank
Joseph D. Garrison
William Howard Grumet
Kristen Guilmette
Samuel C. Harkinson
James W. Hawthorne
Patrick T. Hayes
Juli D. Hincks

Dennis C. Hogan
Daniel R. Krislov
Kalie L. Lydon
Kyle M. Lyman
Vincent J. Marconi, Jr.
Peter J. Mathieu
Natalia C. Matias
Kimberly J.H. Memmesheimer
Joseph T. Moen
Robert R. Moore
Katherine J. Morneau
Thomas C. Neal
Connor J. O'Neill
Gregory D. Palkon
Leland M. Pavol
Michael G. Perez
Joseph J. Prieto
Jenny L. Proulx

Michael T. Racine
Jennifer A. Rackley
Alice C. Ranson
Lynne A. Rocheleau
Howard A. Roever
Sarah N. Rudbury
Michael R. St. Louis
Mark F. Sullivan
Mark E. Waldner, Jr.
V. Richards Ward, Jr.
Stacy A. Wardle
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cessful law practice,” she said.

She closed her speech by saying, “I just want to say two things for the young women in this audience. First, continue to fight and look for ways to improve diversity in your law firms and workplaces. The focus today is on gender, but diversity is much broader than just gender, and there is still so much work to be done. Number two, seek out and embrace opportunities for leadership. Becoming a leader is what gets you a seat at the table. It’s what gives you a voice, and having a voice is what allows you the opportunity to really influence change.”

The breakfast concluded with guest speaker Dr. Colene Arnold, a gynecologist committed to women’s health and well-being. She spoke candidly to the breakfast goers about gender-specific health concerns for some women – such as painful menstruation, infertility, miscarriages, difficult pregnancies, postpartum depression, breastfeeding, perimenopause, and menopause – and how those concerns can affect their ability to be their authentic selves in the workplace.

“As a gynecologist, I even take it for granted that there is an entire four-year residency devoted to the care and keeping of women and all the concerns that come up throughout their lives that don’t exist for men,” she said.

After breakfast concluded, NHBA President Paul Chant called the Midyear Meeting to order in the main room. He provided an overview of the day’s events and shared his thoughts on the importance of attorney wellness, as well as his recent experiences with using AI programs.

NHSC Chief Justice Gordon MacDonald then took to the stage to commend Chant and the rest of the Bar leadership on the topic of attorney wellness for the meeting and to acknowledge Judge Geeti Roen, who was in attendance. Judge Roen recently resettled in New Hampshire with her family after escaping the clutches of the Taliban in war-torn Kabul, Afghanistan. When she stood to be recognized, the audience gave her a standing ovation.

The first CLE session of the day, *Enhancing the Culture of the Legal Profession by Embracing Well-Being and Civility*, began with West Virginia Supreme Court of Appeals Chief Justice Beth Walker, who is the chair of the West Virginia Task Force on Lawyer Well-Being.

She spoke to the attendees about how New Hampshire lawyers can incorporate wellness and civility into their own practice, recounting her ascension to her current role during

a time of great turmoil in her state’s highest court and the stress she subsequently endured to restore public confidence. She had not been taking care of herself throughout the ordeal and eventually sought help. She then began to transform her health by making small changes.

“Chief Justice Walker’s amazing, informative, and enlightening anecdotal description and analysis of stress and wellness was very engaging,” says NHBA Director of Professional Development Vince O’Brien. “Her lasting admonition to be a lighthouse was well-received.”

After her allocution, Chief Justice Walker was joined by President Chant, ALPS Malpractice Insurance COO and Vice President Chris Newbold, New Hampshire Lawyers Assistance Program (NHLAP) Executive Director Jill O’Neill, and NHLAP Commission Director Dr. Molly Rossignol for a lively and thought-provoking panel discussion on wellness in the legal community.

As lunch was being served, President Chant invited Chief Justice MacDonald back to the podium for an impromptu acknowledgement of George Moore, who will soon step down as the NHBA’s executive director.

“I think it’s fair to say, the Court [previously] had concerns about the leadership of the Bar Association – but look how far we have come. That is in large part due to the leadership of George Moore,” MacDonald said. “George, I don’t know this for a fact, but I do think you weren’t necessarily looking for a job and you certainly didn’t need to take this job, but we are so absolutely grateful that you did. You brought to the role of executive director the same qualities that made you one of the most esteemed practitioners in the state... I want to thank you for all you’ve done for our bar, for the Association, for our Court, and for the profession.”

President Chant echoed the sentiments in further remarks about Moore, saying that he and the Board of Governors have the “highest and utmost respect” for Moore and his work.

After lunch and the award presentations (see facing page for recipients), the afternoon segued into another CLE, *Practicing Law at the Speed of Light: Evidence-Based Tips for Building Resilience and Well-Being*, which began with a “fireside chat” between NHBA CLE Committee Chair Jack Crisp and Dr. Larry Richard, the founder and CEO of LawyerBrain, LLC.

Throughout the course of the conversation, lawyer psychologist Dr. Richard delved into the science behind attorney behavior, including studies that show how lawyers are traditionally high in skepticism and low in resilience, which can

lead to a negative mindset and a greater pre-disposition to loneliness and depression.

He also mentioned some staggering statistics such as the Caliper Profile, which shows that seven of the 21 standard personality traits measured for lawyers are atypical; a 2019 *Harvard Business Review* study that revealed lawyering is one of the loneliest occupations (of the 160 that were studied); and a 2012 Center for Disease Control finding that there is 3.6 times more depression among lawyers than in the public.

“The conversation with Jack and Dr. Richard should be mandatory listening for all lawyers, both new and experienced,” Vince O’Brien says. “It’s essential for us to function with health and effectiveness in both our personal and professional lives, that we are mindful of these traits and tendencies as much as possible.”

The meeting then switched focus to artificial intelligence with the CLE, *From Algorithms to Applications: Generative AI in Legal Practice*, led by attorney and technologist Joshua Weaver. His keynote addressed the confluence of law and technology. He demonstrated the power (and danger) of generative AI with an eye-opening video depicting a deepfake of himself, demystified some of the technology and terms behind the AI movement, and provided a peek under the hood of how popular platforms like ChatGPT work.

Weaver was subsequently joined by NHBA Special Committee on Artificial Intelligence Chair Bob Lucic, McLane Middleton AI Practice Group Chair John Weaver, and Foley Hoag Privacy and Data Security Practice Group Co-Chair Colin Zick for an intellectually stimulating panel discussion on the future of AI in the profession.

Following the meeting, nearly 30 lawyers, judges, speakers, and NHBA staff gathered in the DoubleTree’s new Penstock Room for the After-Hours Networking Social.

“It was a very good day,” says President Chant. “The speakers on both attorney wellness and AI were informative, insightful, and most importantly, not boring! It was nice to see how many of the Bar members stayed to the end to hear about AI. I want to publicly thank all the Bar staff who put so much effort into the day’s success. I also want to thank Bob Lucic for pulling together the AI materials. [The 2024 Midyear Meeting] was a great example of what the Bar can offer members, and a sign of just how good our CLE offerings are.”

The CLE sessions from the 2024 Midyear Meeting will be available online in the CLE catalog later this spring. ♦



GEC Committee Chair Meredith Lasna (left) presented the Philip S. Hollman Award for Gender Equality to attorney Kathleen Peahl at the Gender Equality Breakfast. Photo by Rob Zielinski



Dr. Colene Arnold speaking to more than 80 attendees of the Gender Equality Breakfast. Photo by Rob Zielinski



NHBA President Paul Chant, the master of ceremonies at Midyear Meeting 2024, encouraged members to volunteer for 603 Legal Aid and to get involved in the community. Photo by Rob Zielinski



Afghan Judge Geeti Roen (center), seen here with her interpreter and NHSC Justice Anna Barbara Hantz Marconi (right), was acknowledged at the start of the meeting by NHSC Chief Justice Gordon MacDonald. Photo by Rob Zielinski



The first panel of the day explored the wellness landscape within the legal community. From left to right: ALPS Malpractice Insurance COO and Vice President Chris Newbold, WV Supreme Court of Appeals Chief Justice Beth Walker, NHBA President Paul Chant, NH Lawyers Assistance Program Commission Director Dr. Molly Rossignol, and NH Lawyers Assistance Program Executive Director Jill O’Neill. Photo by Rob Zielinski



NHBA CLE Committee Chair Jack Crisp (left) interviewed Dr. Larry Richard, founder and CEO of LawyerBrain, LLC, for a “fireside chat” about the mindset and personality traits of lawyers. Photo by Rob Zielinski



The second panel of the day focused on the future of artificial intelligence for lawyers. From left to right: NHBA Special Committee on AI Chair Bob Lucic, McLane Middleton AI Practice Group Chair John Weaver, Foley Hoag Privacy and Data Security Practice Group Chair Colin Zick, and technologist Joshua Weaver. Photo by Rob Zielinski



The recipients of the 2024 NHBA Awards. From left to right: Helen and Bill Honorow, Distinguished Service to the Public Award; Cristina Rousseau, Vickie M. Bunnell Award for Community Service; and Anna Krasinski and K. Allen Brooks, Award for Outstanding Service in Public Sector/ Public Interest Law. Photo by Rob Zielinski



The recipients of the 2024 603 Legal Aid Pro Bono Awards. From left to right: Nick Brodich, Joseph Prieto, and Mark Anderson, Distinguished Pro Bono Service Award; Kolbie Deamon, Pro Bono Rising Star Award; and Rory Parnell, L. Jonathan Ross Award for Outstanding Legal Services. Photo by Rob Zielinski



Chief Justice Gordon MacDonald speaking to participants of the 2024 Midyear Meeting. Photo by Rob Zielinski



NHBA President-Elect Kathleen Mahan will become the next NHBA president at the Annual Meeting on June 7-9. Photo by Rob Zielinski



NHBA Executive Director George Moore gave an impromptu speech after being recognized for his service to the Bar. Photo by Rob Zielinski



NHBA Vice President Derek Lick at the Gender Equality Breakfast. Photo by Rob Zielinski



The After-Hours Networking Social took place this year at the DoubleTree Hilton's new Penstock Room. In the foreground, Wade Harwood (left) and Samsom Keferi (right) talk to Mark and Emma Sisti. Photo by Tom Jarvis



At the After-Hours Networking Social. From left to right: Superior Court Judge Dan Will, 603 Legal Aid Deputy Director Emma Sisti, Mark Sisti, and Wade Harwood at the Midyear Meeting Social. Photo by Tom Jarvis

Default Judgments Against Municipalities

By Christopher D. Hawkins and William K. Warren



Hawkins



Warren

In most civil cases, a defendant's failure to file an answer or other responsive pleading within 30 days after service results in a default. See Superior Court Civil Rules 9(a) and 42(a); Circuit Court – District Division Civil Rule 3.42(a). If a default has been issued, the defendant must convince the court to strike the default if they intend to defend the claim. See, e.g., *American Exp. Nat'l Bank v. Petralia*, 2021-0468 (N.H. Sup. Ct. 2022) (vacating trial court order denying motion to strike default for failure to timely file an answer); *State v. Consolidated Recycling, Inc.*, 144 N.H. 467, 469 (1999) (affirming trial court's order denying defendant's motion to strike default for failure to timely file an answer).

A state statute carves out an exception to the general rules when defaults for failure to timely file an answer or other responsive pleadings are entered against municipalities. RSA 514:1-a provides that if a lawsuit is served on a municipality, a default shall not be recorded

and a judgment shall not be rendered against the municipality, unless the clerk of court has given written notice to the municipality of the impending default at least 10 days before the default judgment is rendered. This statute provides municipalities an extra opportunity to respond to the judgment before default is recorded and judgment is entered. On its face, this statute appears intended to ensure taxpayers are not unduly penalized for potential administrative errors of municipality officials.

The New Hampshire Supreme Court addressed this statute in *Hanover Inv. Corp. v. Town of Hanover*, 142 N.H. 812 (1998). The plaintiff in that case appealed a decision of the Town's Zoning Board of Adjustment (ZBA) to the Superior Court. The court issued an order of notice requiring the Town to file an appearance, answer, and the certified record by a specified date. The Town failed to file an appearance, an answer, or the certified record. The plaintiff filed a motion for default judgment, to which the Town did not respond. The Superior Court granted the motion and reversed the ZBA's decision.

The Town appealed on the basis that the Superior Court failed to comply with RSA 514:1-a. In the Supreme Court, the plaintiff argued that RSA 514:1-a applied to the Town's failure to file an appearance but did not excuse its failure to file an answer or other responsive pleading. The Supreme Court disagreed. The Court held that the default judgment entered by the trial court was based in whole or in part on the failure to file an answer. The Court noted that RSA 514:1-a is intended to pro-

vide municipalities with notice of impending defaults. The Supreme Court reversed the default judgment and remanded the matter for further proceedings.

RSA 514:1-a does not, however, protect municipalities sued in federal court. In *Cutting v. Town of Allenstown*, 936 F.2d 18 (1st Cir. 1991), the plaintiffs sued the Town in the Federal District Court for alleged civil rights violations. The Town was served with the plaintiffs' lawsuit. There was evidence that the Town attempted to contact its insurance carrier, but no appearance or answer was filed by anyone within the time limit specified in the Federal Rules of Civil Procedure. Default judgment was entered against the Town, but no copy of the judgment was sent to it.

The magistrate judge held a hearing on damages although no notice of the hearing was provided to the Town. The court entered final judgment against the Town. Thirteen months later, the plaintiffs obtained a writ of execution. Within a month thereafter, the Town filed an appearance and a motion for relief from the judgment. The District Court denied the motion. The Town then appealed to the First Circuit Court of Appeals.

On appeal, the Town argued that RSA 514:1-a applied and that, because the clerk of the District Court failed to provide the required notice, the default must

be stricken. The First Circuit rejected that argument. The Court held that the Federal Court may "borrow" state law in civil rights lawsuits where federal law does not address the material issue, but that Federal procedural rules clearly applied in the case and forestalled any need to reference RSA 514:1-a.

The Court of Appeals expressed some sympathy for the Town's arguments, particularly with respect to the lack of notice of the damages hearing but found that the plaintiffs would be unfairly prejudiced if the default was stricken because the primary plaintiff had died in the meantime. Based upon *Cutting*, municipalities should be aware that RSA 514:1-a will likely not apply to default judgment against them in Federal court.

Attorneys who represent municipalities prefer to be notified the day service of a complaint is made so that we can take timely action, prepare the answer or dispositive motion, and obtain the certified record. RSA 514:1-a provides municipalities a measure of protection in State court actions when that notice "slips through the cracks." ♦

Christopher Hawkins and William Warren are members of the Municipal Practice Group at Donahue, Tucker & Ciandella, PLLC.

RSA 514:1-a does not protect municipalities sued in federal court.



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CONTINUING LEGAL EDUCATION GUIDE

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

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

MARCH 2024

WED, MAR 6 – 9:00 a.m. – 4:30 p.m.
Employment Law 101

- 360 NHMCLE min., incl. 60 ethics min.
- Concord – NHBA Seminar Room/Webcast

FRI, MAR 15 – 1:30 p.m. – 4:30 p.m.
Taming the Paper Tiger - The Essentials of Motion Practice

- 165 NHMCLE min., incl. 30 ethics min.
- Concord – NHBA Seminar Room/Webcast

WED, MAR 27 – 9:00 a.m. – 3:00 p.m.
Tax Abatements & Exemptions

- 270 NHMCLE min.
- Concord – NHBA Seminar Room/Webcast

APRIL 2024

WED, APR 3 – Time TBD
NH Constitution Law

- Credits TBD
- Concord – NHBA Seminar Room/Webcast

TUE, APR 9 – 9:00 a.m. – 4:30 p.m.
Family Law Basics

- 360 NHMCLE min., incl. 60 ethics min.
- Concord – NHBA Seminar Room/Webcast

FRI, APR 12 – 9:00 a.m. – 4:30 p.m.
Evidence

- 360 NHMCLE min., incl. ethics 60 min.
- Concord – NHBA Seminar Room/Webcast

MAY 2024

THU, MAY 2 – 9:00 a.m. – 4:30 p.m.
The Uniform Commercial Code in NH in the Digital Age

- 375 NHMCLE min., incl. 30 ethics min.
- Concord – NHBA Seminar Room/Webcast

THU, MAY 9 – 9:00 a.m. – 4:30 p.m.
New Hampshire Insurance Law 101

- 360 NHMCLE min., incl. incl. 30 ethics min.
- Concord – NHBA Seminar Room/Webcast

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How to Register

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TUE, MAY 14 – 9:00 a.m. – 3:15 p.m.
Business Litigation

- 310 NHMCLE min., incl. 45 ethics min.
- Concord – NHBA Seminar Room/Webcast

WED, MAY 22 – 9:00 a.m. – 4:30 p.m.
Navigating the Health Care World Update

- 385 NHMCLE min., incl. 60 ethics min.
- Concord – NHBA Seminar Room/Webcast

THU, MAY 30 – 8:30 a.m. – 10:30 a.m.
18th Annual Ethics CLE

- 120 ethics min.
- Concord – NHBA Seminar Room/Webcast

JUNE 2024

FRI-SAT, JUN 7-9
Annual Meeting

- Bartlett - Attitash Grand Summit Hotel

TUE, JUN 11 – Time TBD
Business Transactions: Buying & Selling a Small Business

- Credit TBD
- Concord – NHBA Seminar Room/Webcast

FRI, JUN 14 – Time TBD
US Supreme Court Update

- Credit TBD
- Concord – NHBA Seminar Room/Webcast

FRI, JUN 18 – 8:30 a.m. – 4:45 p.m.
Practical Skills for New Admittees – Day 1

- Concord – Grappone Conference Center

FRI, JUN 19 – 8:30 a.m. – 12:00 p.m.
Practical Skills for New Admittees – Day 2

- Concord – Grappone Conference Center

Did You Miss These NHBA CLE Programs? Now Available On-Demand

Developments in the Law 2023
Original Program Date: October 27, 2023

**Identifying & Addressing Severe Parent/Child
Contact Problems in Parenting & Divorce Cases**
Original Program Date: November 16, 2023

Fastcase: A Comprehensive Guide
Original Program Date: November 29, 2023

**2023 Patent Law Update: Key Developments
in Patent Litigation & Patent Prosecution**
Original Program Date: November 30, 2023

Corporate Transparency Act Update
Original Program Date: December 1, 2023

**Administrative Law: The Ins & Outs of the
NH Administrative Procedure Act**
Original Program Date: December 7, 2023

Confidential Mediation Statement
Original Program Date: December 11, 2023

**The Resilient Lawyer: Resetting Your GPS
Toward Healing & Feeling Better**
Original Program Date: December 12, 2023



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Employment Law 101

Wednesday, March 6

9:00 a.m. – 4:30 p.m.

360 NHCLE min., incl. 60 ethics min.

NHBA Seminar Room/Live Webcast

This program will cover a wide range of topics that span the life-cycle of an employee, from issues that arise with interviewing and hiring to termination and unemployment concerns. Our experienced faculty of private sector and government attorneys will also cover many subjects that come up in between, such as enforcement of the National Labor Relations Act, claims of employment discrimination before the NH Commission for Human Rights, risk management in the workplace, state and federal leave laws, plaintiff-specific issues, and ethical dilemmas that arise, among other matters.

Who Should Attend This Program?

Less experienced employment law practitioners will benefit from the broad overview provided. General practitioners, corporate attorneys, in-house counsel, experienced employment law practitioners, and employers will benefit from current updates, the opportunity to pick up new practice tips, and from learning about topics that they have not focused on previously.

Faculty

Katherine E. Hedges, Program Co-Chair/CLE Committee Member, Rath, Young & Pignatelli, PC, Concord

Julie A. Moore, Program Co-Chair/CLE Committee Member, Employment Practices Group, Wellesley, MA

Andrea G. Chatfield, Sheehan, Phinney, Bass & Green, PA, Manchester

JoAnne Howlett, National Labor Relations Board, Hartford, CT

Lauren S. Irwin, Upton & Hatfield, LLP, Concord

Brooke Lovett Shilo, Upton & Hatfield, LLP, Concord

Ahni Malachi, NH Commission for Human Rights, Concord

Terri L. Pastori, Pastori Krans, PLLC, Concord

Michael J. Rossi, Conn Kavanaugh, Boston, MA

Lon E. Siel, NH Dept. of Employment Security, Concord

Taming the Paper Tiger – The Essentials of Motion Practice

Friday, March 15

1:30 p.m. – 4:30 p.m.

165 NHCLE min., incl. 30 ethics min.

NHBA Seminar Room/Live Webcast

Motions are the lifeblood of nearly every lawsuit. Whether to file a particular motion calls for a combination of legal strategy, judgment, and drafting skill. The same is true of Objections to Motions. A diverse panel will discuss the fundamentals of motion practice, including motions to dismiss, to compel discovery, for sanctions, and for summary judgment. A reception will follow the seminar.

This seminar will be useful to any practitioner whose practice involves handling lawsuits, whether regularly or only occasionally. It will be beneficial both to lawyers in their early years of practice and to those with many years of experience.

Faculty

Joseph D. Steinfeld, Program Chair/CLE Committee Member, Law Office of Joseph D. Steinfeld, Keene

Scott H. Harris, McLane Middleton Professional Association, Manchester

Lauren S. Irwin, Upton & Hatfield, Concord

Viktoriya A. Kovalenko, Grafton County Superior Court, North Haverhill

Hon. Elizabeth M. Leonard, Belknap County Superior Court, Laconia

Tax Abatements & Exemptions

Wednesday, March 27

9:00 a.m. – 3:00 p.m.

270 NHCLE min.

NHBA Seminar Room/Live Webcast

Presenters, all experienced land use and real estate attorneys in the State of New Hampshire, will discuss the statutes and case law surrounding New Hampshire's tax abatement process and its tax exemption system, including local applications, appeals of denials, and the litigation of such cases.

Who Should Attend?

Any attorney who advises clients with regard to real estate holdings may find some value in attending this program.

Faculty

Laura Spector-Morgan, Program Chair/CLE Committee Member, Mitchell Municipal Group, PA, Laconia

Derek D. Lick, Orr & Reno, PA, Concord

Eric A. Maher, Donahue, Tucker & Ciandella, PLLC, Exeter, NH

Leigh Willey, CATIC, Concord

Family Law Basics

Tuesday, April 9

9:00 a.m. – 4:30 p.m.

360 NHCLE min., incl. 60 ethics min.

NHBA Seminar Room/Live Webcast

This full-day program will consist of presentations on the major topics of a typical family law case. Topics to be discussed include: Starting a Divorce Case/Procedure; Discovery Techniques; Parenting Rights/GALs; Financial Affidavits; Child Support/Alimony; Property Division; Domestic Violence; and Tips from a Family Court Judge.

Faculty

Sara B. Crisp, Program Chair/CLE Committee Member, The Crisp Law Firm, PLLC, Concord

Tracey G. Cote, Shaheen & Gordon, Concord

James V. Ferro, Jr., Ferro Law & Mediation Group, PLLC, Manchester

Nicole A. Forbes, Orr & Reno, PA, Concord

Heather E. Krans, Pastori Krans, PLLC, Concord

Crystal M. Maldonado, Shaheen & Gordon, PA, Manchester

Katherine J. Morneau, Morneau Law, Nashua

James A. Rabinowitz, Ransmeier & Spellman, PC, Concord

Catherine E. Shanelaris, Shanelaris & Schirch, PLLC, Nashua

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

The Uniform Commercial Code in NH in the Digital Age

Thursday, May 2

9:00 a.m. – 4:30 p.m.

375 NHCLE min., incl. 30 ethics min.

NHBA Seminar Room/Live Webcast

This seminar will combine an overview of the Uniform Commercial Code as actually used in New Hampshire, including trial work, with an expert review of the role of digital technology, controllable records, and the possible roles of crypto currency and NFT's in commerce. Particular attention will be paid to new Article 12, and the use of NFT's and controllable records in secured transactions and bills of lading and the like.

Faculty

Edmond J. Ford, Program Chair/CLE Committee Member, Ford, McDonald & Borden, PA, Portsmouth

Joseph Bator, Regional VP, TD Bank, Manchester

Christopher M. Candon, Sheehan, Phinney, Bass & Green, Manchester

Carolyn K. Cole, Cole Associates Civil Law, PLLC, Hanover

Professor Charles W. Mooney, University of PA Carey Law School (ret.)

Professor William Murphy, UNH Franklin Pierce School of Law, Concord

Andrew J. Newcombe, Sheehan, Phinney, Bass & Green, Manchester

Professor Seth Oranburg, UNH Franklin Pierce School of Law, Concord

Nathan P. Warecki, Nixon Peabody, LLP, Manchester

Business Litigation

Tuesday, May 14

9:00 a.m. – 3:15 p.m.

310 NHCLE min., incl. 45 ethics min.

NHBA Seminar Room/Live Webcast

This CLE will cover a variety of topics pertaining to business litigation including non-competition and non-solicitation agreements; trade secrets; computer forensic issues; electronic evidence issues; ethical issues in business litigation; related criminal and government investigation issues; and a business court update.

Faculty

Arnold Rosenblatt, Program Chair/CLE Committee Member, Hinckley, Allen & Snyder, LLP, Manchester

Hon. David A. Anderson, NH Superior Court

Anna B. Cole, Drummond Woodsum, Manchester

Michael J. Connolly, Hinckley, Allen & Snyder, LLP, Manchester

Joseph Morelli, Director of Forensics, Cimplifi, Philadelphia, PA

Jennifer L. Parent, McLane Middleton Professional Association, Manchester

Edward J. Sackman, CLE Committee Member, Bernstein, Shur, Sawyer & Nelson, PA, Manchester

New Hampshire Insurance Law 101

Thursday, May 9

9:00 a.m. – 4:30 p.m.

360 NHCLE min., incl. 30 ethics min.

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, Law Offices of Peter E. Hutchins, Manchester

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

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

Navigating the Healthcare World Update:

Understanding the New Laws & Complex Healthcare System

Wednesday, May 22

9:00 a.m. – 4:30 p.m.

385 NHCLE min., incl. 60 ethics min.

NHBA Seminar Room/Live Webcast

This full day seminar will address cutting edge developments in the health system focusing on recent changes that impact access to and delivery of care for both insured and uninsured patients. The program is geared for the non-healthcare lawyer who needs to understand and navigate the health care system to advocate for themselves, their families, and their clients. This program will address the latest changes in the laws impacting health care delivery. The program also will address trends, legislation, regulations and policy issues on the horizon.

Faculty

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

Nicholas E. Abramson, Abramson, Brown & Dugan, PA, Manchester

Kenneth C. Bartholomew, Rath, Young & Pignatelli, PC, Concord

Tyler Brannen, BerryDunn, Manchester, NH

Andrew B. Eills, Sheehan, Phinney, Bass & Green, PA, Manchester

Mary Goreham, US Department of Labor, Boston, MA

Scott A. Moore, Moore EMS Consulting, LLC, Middleton, MA

Melissa E. Najjar, Sirtex Medical Inc., Woburn, MA

Jeffrey Parsonnet, MD, Dartmouth Hitchcock Medical Ctr, Lebanon

Maria M. Proulx, Anthem Blue Cross Blue Shield of NH, Manchester

Dino Samartzis, MD, Rush University, Chicago, IL

Lawrence W. Vernaglia, Foley & Lardner, LLC, Boston, MA

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resulting in denial of parole or they choose not to seek parole. This can happen when inmates don't feel they have the resources to succeed in the community, says attorney Anthony Naro, who has represented numerous incarcerated individuals.

"I think some people go into their parole board hearing with the intent that they're going to max out because they have nothing on the outside," he says. "It's tough if you don't have resources and/or family. If you've been in prison for a couple of years, you've just lost two years of work, two years of building relationships with people, and two years of getting yourself established. In this world, it's hard enough to do that without a felony record."

Pre-Parole Plans and Working with a PPO

In December 2023, there were 1,657 people on parole in New Hampshire.

When coming up for parole, inmates work with their correctional case manager – assigned to them upon admission to prison – to create a pre-parole plan for the parole board to review. The plan details the inmate's intentions upon release, such as where they propose to live, where they will try to find work, and whether they will obtain counseling or drug treatment. They are then assigned a PPO within the county they intend to live.

"A lot of what we do is in conjunction with treatment providers for substance use disorders, sex offenders, domestic violence cases, batterers, things like that," says Chief PPO Kelly Olsen. "We do assessments, how they go through treatment and what their underlying issues or concerns are and what triggers them. That will come out in the pre-parole plan, and we review it for what is needed to be enforced based upon what we've been told by the parole board or the court. When they come out into the community, their treatment's already set up. And then we just connect with the treatment provider."

Naro believes that parolees should also be assigned a social worker to address the specific needs inmates face.

"I've seen PPOs at trainings, and I appreciate that they are educating their staff about evidence-based sentencing, substance abuse disorders, and mental health

disorders so they know what they are dealing with, but at the end of the day, they are not social workers. They are officers" he says. "It's not fair, in my view, to put that load on their shoulders. If you're on probation or parole, you should have a social worker. I think that PPOs are asked to do more than they should have to do in terms of social services."

For Evenor Pineda, who was released on parole from the NHSP in 2020 after serving 15 years of an 18-year sentence for manslaughter, the countdown toward his parole date was filled with anxiety.

"I had no idea what I was going to do when I got out and as I got closer, I was grasping at straws," he says. "I had wrapped up my high school diploma in 2011 and as time progressed, I was able to get into one of the very few positions that allowed me to work with technology – but I had zero idea where I was going."

Today, Pineda works for the Manchester Police Athletic League as a program coordinator for at-risk young people.

While in prison, Pineda says he was able to take advantage of a CDL preparation course and eventually was moved to a minimum-security unit that allowed him to work on a road crew as part of a Department of Transportation program.

"It was a great experience," he says, adding that he was initially hesitant about it. "I asked myself, 'is this worth my time? Is this something I want to do?' I signed up but the problem was that the program was new and there wasn't a clear-cut path to an actual hired position."

Work Pipelines

Lascaze says simply getting hired, let alone finding a meaningful career path and a living wage, can be difficult. Shortly after his release, he was hired by Amazon, but the company rescinded its offer after running a background check.

"A criminal background becomes a stigma or a stain that a lot of companies don't want to get past," Lascaze says. "Unfortunately, this is the case for many people coming back to the community."

Lascaze says he is committed to finding workforce pipelines from the NHSP and has been in conversation with the Manchester Chamber of Commerce.

"We need to increase the workforce in New Hampshire, and we also need to make sure that we are providing formerly



Calumet House in Manchester is the second largest of the DOC's transitional housing units/work centers, accommodating up to 68 residents. Photo by Tom Jarvis

incarcerated people with jobs that are going to provide for their cost of living and not just to put them in jobs where they live paycheck to paycheck and under stress," he says, adding that many formerly incarcerated people have skills and experiences that are valuable.

Some New Hampshire organizations, like the non-profit Community Action Partnership of Strafford County (CAP), provide reentry services through community-based programs including employment, transitional housing, substance abuse treatment, counseling, education, and mental health services. CAP accomplishes this using practical interactions including individual and group settings.

Pineda distinguishes between menial work and meaningful work.

"People don't need some menial job where guys might turn to crime again," he says. "When they even start entertaining those habits that they had before, it's almost addictive. And then they just return. That's part of the reason why the recidivism rate is so high."

Approved Residences and Transitional Housing Units

Once a parolee chooses where they intend to live, their PPO must approve the residence. If known felons reside there or the dwelling is otherwise unsafe or unsuitable, the PPO may reject it.

"I know of instances where someone can't even live with or have contact with their spouse because they are also felons," says attorney Tracy Scavarelli. "Or if they are in recovery and their spouse is still struggling with substances, they don't want to allow that association to go forward. Often, PPOs will try to make exceptions for those situations, though."

Parolees must also consent to searches of their residence by a PPO, including their bedroom and all other common areas.

If a parolee cannot find suitable housing, they can apply to live at a transitional housing unit/work center (THU), formerly known as halfway houses.

The New Hampshire Department of Corrections (DOC) operates three THUs in Concord – Shea Farm THU for women, North End THU for men, and the Concord Transitional Work Center – and one in Manchester, the Calumet House. These houses are primarily used for C1 and C2 inmates nearing the end of their minimum sentence. The C2 inmates have different house jobs while living there, while C1s and parolees can work in the community.

"We are here to help transition residents from incarceration behind the walls of the prison back into the community,"

Shea Farm Program Coordinator Chelsey Jones says. "By doing that, we offer them the ability to obtain employment, get insurance, and connect to their reentry supports while they are still incarcerated."

While residing in transitional housing, a parolee (or C1 inmate) works with a case manager who assists them in their reentry.

"We primarily rely on community providers for any resident programming needs," Calumet House Case Manager David Burris says. "We do have mental health specialists, a licensed alcohol and drug counselor, a psychiatrist, and a nurse practitioner that come down on occasion and meet with them, though. But mostly we rely on medical and behavioral health community access."

Burris continues: "We do have a lack of programming when it comes to substance abuse, though. We don't have access to the kind of programming that we should. I don't think 30 days in a residential treatment program is good enough for a lot of these guys. I've actually encouraged people to find treatment outside of New Hampshire because there are better options out there."

Other transitional housing for parolees includes county facilities and privately-owned operations such as Dismas Home, which serves justice-involved women who have been diagnosed with substance use disorder and co-occurring mental illness.

Inmates who are released after having maxed out their sentence receive no support when they leave.

According to a 2016 Council of State Governments report, more than 10 percent of those coming in and out of prisons and jails are homeless in the months preceding and following their incarceration. Additionally, a report by the Prison Policy Initiative states that, "formerly incarcerated people are almost 10 times more likely to be homeless than the general public."

Scavarelli says inmates who have maxed out are given the clothing they came in with and are released onto the street whether they have a ride or not.

"I've gone to the prison for visits and have seen a person just walking away and I knew that's what's happening," she says. "At that moment, they don't have a ride; they are just walking down the street aimlessly, sometimes not knowing where they're going and not having anything on hand. They may not have earned or had the ability to earn any money while in the prison. So, they're literally just walking the streets without a plan. It's disheartening."

Legislation Addressing Mental Health and Substance Misuse

Pineda says many people inside prison

Transportation, Identification, and Technology

Finding transportation can be a major barrier to success for inmates reentering the community.

"Inherently in the state of New Hampshire, because of the nature of the way the state is set up, there are few sections that have public transportation," Chief PPO Kelly Olsen says. "That in and of itself is a huge issue [for parolees]. They have a program through Medicaid where they can get rides, but those rides don't come to the parole office, only to treatment or behavioral-based things."

Even if a person can secure their own vehicle, changes in technology can also present problems for people incarcerated for long periods.

"Technology has rapidly increased over the last 15 to 20 years, so it's amazing to see what changes they come out to and how they're not equipped to deal with it," attorney Tracy Scavarelli says. "Even the changing of automobiles. One of my clients who loved cars

told me he would look out the window often at the prison and try to identify the different changes in the cars driving by. He was just amazed by the changes that have been coming out. And when he first got out, he had to learn how to drive again. It's an entirely different type of vehicle than he was used to. Now it's a computer on wheels. It's those little things that folks don't think about when people are first getting out – how the world has changed while their world has stayed stagnant."

Recidivism Strategist Mike Curry explains that another barrier people face during reintegration is obtaining identification and other official documents.

"When I first came home from prison, [the Registry of Motor Vehicles] asked me for a proof of address, and I didn't have a proof of address," he says. "How can I have a proof of address if I don't have bills or an address to send a bill to? So, it took me a little longer to get a government ID." ♦

suffer from behavioral and substance misuse disorders that they take with them when they leave.

“A lot of guys are on medication and that presents another challenge for them when they get out,” he says, explaining the need for insurance to pay for medication.

Several bills are being introduced in 2024 that address behavioral health and substance use challenges prisoners face.

New Hampshire State Senator Rebecca Whitley, chair of the Senate Judiciary Committee and a member of a committee that studied the state’s parole and probation system, is introducing more than ten bills that address prisoner needs both upon reentry and before.

Senate Bill 508 would require the superintendent of the county department of corrections to oblige contracted behavioral health treatment providers to use validated screening tools for mental health and substance use disorders. It would also permit licensed community-based treatment providers, where they are available, to have contact with people in custody for the purpose of coordinating services upon reentry into the community.

“This will allow our community mental health centers who meet various security criteria to access people while they are still in custody,” Whitley says. “That is a way to get them connected with services before they leave our jails and to start coordinating those services. This is easier than getting connected to services after they leave.”

She says some of the state’s jails, which are run by individual counties, are doing this well, while others are not.

“This is just a way to standardize it across the state,” she says.

Another bill in the works is Senate Bill 410, which would establish a mental health community and transitional housing fund. The bill addresses both certified community residences and supported housing, provided by Community Behavioral Health Centers throughout the state.

Whitley says the Parole Committee finds that a lot of recidivism comes down to inadequate community-based services.

“People leaving jails and prisons need to have the broad array of services available to keep them from committing other crimes,” she says.

Senate Bill 410 is also important in terms of addressing the boarding crisis around psychiatric hospitalization, Whitley says.

“A lot of this is a back door problem because we don’t have adequate places to discharge people,” she says. “[This bill] is peripherally related but it’s a very important piece of the puzzle.”

Institutionalization and Post Incarceration Syndrome

Institutionalization is a phenomenon based in post-traumatic stress that sometimes occurs when inmates serving long sentences become so conditioned to the structure and regimen of prison life that they have trouble coping with their newfound freedom upon release.

Post Incarceration Syndrome, or Post-Traumatic Prison Disorder, is described by addiction specialist Terence Gorski as a combination of post-traumatic stress disorder, institutionalization, antisocial personality traits, social-sensory deprivation syndrome, and substance use disorder.

These conditions can further complicate a person’s success on the outside.

“A lot of people can’t adhere to normal life and the things they were once familiar with when they come home from a long stint in prison,” says Recidivism Strategist Mike Curry. A former Massachusetts prison inmate, Curry is the executive director of



The Life After Prison Executive Director Mike Curry spent a combined 21 years in state and federal prisons. He used his time behind bars to educate himself and now assists formerly incarcerated people with reentry. Courtesy Photo

The Life After Prison, Inc., and the program coordinator for the Bridge Project, both of which are Massachusetts organizations that provide support to returning citizens. “Most people don’t know they are institutionalized until they come home. I spent over 21 years total in my lifetime in prison, and when I came home, I was institutionalized without even knowing it.”

Scavarelli says some of her formerly incarcerated clients tend to sit in corners, refusing to have their back to an open room, so they can see any potential risks. Others, she says, have difficulty making autonomous decisions.

Based on what he has observed in clients, Naro believes institutionalization stems from the trauma of being incarcerated, which includes the removal of basic freedoms. This can lead to various forms of antisocial behavior, he explains.

“Prison is not a rehabilitative environment,” he says. “It’s a violent and dangerous place. It is a place where people become depressed and suffer trauma that they carry with them far beyond their sentence. When some people come out of prison and they’re free, they don’t know how to be free.”

Naro recalls a client who had been in and out of prison in what he calls “doing life on the installment plan.” Naro was representing him in a trial and asked one of the deputies if he could bring his client lunch so he wouldn’t have to eat the food they serve there. He dropped off a pulled pork sandwich from his favorite restaurant and when he came back later asked how it was. The client said he threw it out and ate the bologna sandwich the deputies served him.

“I was angry with him,” Naro says. “I asked him what the problem was, and he said, ‘Tony, what do you want from me? I’m institutionalized. I eat the bologna sandwich.’ This guy was starving, and he had this beautiful pulled pork sandwich, but he ate the institutional food because that’s just who he had become.”

Pineda says the degree of institutionalization a person experiences can depend on factors such as the amount of time an inmate serves, as well as how early in their lives a person enters the criminal justice system.

“I always had my eye on the streets, and I had a light at the end of that tunnel, and I kept my eye on that. Plus, I went in older; I was 23 years old,” he says, comparing his experience to a friend who has spent 29 years in prison. “Some of these guys have been locked up since they were 11 or 12 years old. My friend has been locked up since he was 14. He has had the benefit of a friend group that helps with necessities you

need at the halfway house. But not everybody has that friend group or that family support.”

Pineda says that for some, the thought of being on the outside can be terrifying, explaining that some of the people he met inside would find it very difficult to function without the structure provided by the prison system.

“It’s all they know,” he says. “And they have basically embraced that.”

Dealing With Change and Reoffending

In some cases, overcoming the challenges of reentry, reconnecting with family, and juggling a new life and job can prove to be too much. Without consistent support systems, access to resources, and positive intervention, a newly released offender is at risk of returning to a life of crime and creating more victims of crime in local communities.

“If you went to prison in the late 80s or early 90s, a lot has changed in technology, social media, and the scope of how the world works,” Olsen says. “So, now you’re not just asking somebody to reintegrate into the community, you’re also asking them to basically learn a whole new way of life. You might have some people that think it’s too much for them and want to go back. So, they might purposely sabotage themselves or do something that puts them in a place where you might be forced to bring them back.”

Scavarelli says she has seen some clients purposely reoffend.

“They commit smaller crimes and go to the jail, say for the winter,” she says. “I’ve definitely had a few clients that have told

me that and asked me not to request bail, so they had a safe, warm place to live during the winter months. It breaks your heart when you know that’s what they’re doing.”

Sometimes parolees are sent back to prison for violating parole but PPOs, Olsen says, generally work with them to prevent that.

“I’ve been a PPO for over 22 years. We don’t arrest somebody because they crack open a beer can. That’s not the nature of what we do,” Olsen says. “They are worked with, connected to alternative programming, connected to assisted therapies like MAT [medication-assisted treatment], given verbal warnings, given written warnings. There is also alternative sanctioning like seven-day beds at the halfway house – where they stay at the halfway house for seven days instead of going back to prison. It cleans the slate of that violation.”

Olsen says PPOs care deeply about the people they work with.

“We want this person to be successful,” she says. “It doesn’t help me for them not to be successful. It doesn’t help the community at large if they are still committing crimes and hurting others or themselves.”

Burris agrees, saying that, “In the end, there are some bad people that we have [in the THU], there’s no doubt. Despite our best efforts, some of them may never be good people. On the other hand, there are people who come into prison as bad people, and they leave as decent people. Sometimes they still struggle, and they may reoffend because they’re struggling on the outside and just do better in a controlled atmosphere. But there are guys who take the programming seriously and really get a lot out of it. It’s never hopeless.” ♦

NHBA Prison Series Acknowledgments

The *New Hampshire Bar News* team would like to thank the New Hampshire Bar Foundation for their gracious justice grant – the Charles W. Dean Trust Fund – which made this series possible, as well as the following individuals who were either featured in the series or provided background information:

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Donna Brown – Wadleigh, Starr & Peters
Meredith Lugo – New Hampshire Public Defender
Robin Melone – Pastori Krans
Anthony Naro – Bernazzani Law Firm
Andrew Offit – Offit Law Firm
Roger Phillips – Phillips Law Office and NH Adult Parole Board Chair
Tracy Scavarelli – Granite State Law

Current Inmates:

Oliver Hooper – New Hampshire State Prison
Zebadiah Kellogg-Roe – New Hampshire State Prison
Christopher Slayback – New Hampshire State Prison

Former Inmates:

Mike Curry – The Life After Prison Executive Director
Tony Hebert – Prime Source Foods Driver
Joseph Lascaze – ACLU Smart Justice Campaign Manager
Evenor Pineda – Manchester Police Athletic League Program Coordinator

New Hampshire Department of Corrections:

Heather Bragdon – Strafford County THU Program Director
David Burris – Calumet House Corrections Case Manager
Jane Graham – DOC Public Information Officer
Chelsey Jones – Shea Farm Program Coordinator
Joshua Leonard – Calumet House Program Coordinator
Kelly Olsen – Chief Probation/Parole Officer
Seifu Ragassa – Chief Probation/Parole Officer

Other:

Cheryll Andrews – Dismas Home Executive Director
Shannon Desilets – Choose Love Program Founder
Kevin Dugan – The Council of State Governments
Jay Mackey – Director of Operations, NH Adult Parole Board
Mike Wessler – The Prison Policy Initiative
Rebecca Whitley – New Hampshire State Senator



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Insurance Law

A New Landscape for Pet Insurance

By Roni Karnis

New Hampshire's first pet insurance law, RSA 402-P, went into effect January 1, 2024. The statute is modeled after the National Association of Insurance Commissioners (NAIC) model law number 633, which was adopted in August 2022. The new law establishes regulatory standards and consumer protection, notably in the areas of disclosures, definitions, and pet wellness programs. With more than five million insured pets in North America in 2022, the regulation brings much needed clarity and consistency to the market.

It is important to understand the position of animals within an insurance context. While many cherish their pets as members of the household, animals are treated as property when it comes to insurance. Thus, coverage pertaining to animals is categorized as property and casualty insurance. There are different types of coverage available to insure animals, from indemnity for loss of horse or livestock value to health insurance. NH RSA 402-P addresses the latter.

Pet health insurance normally covers household dogs, cats, birds, rabbits, and exotic pets, and is typically indemnity-based coverage. Similar to indemnity-based health insurance for humans, the consumer first receives and pays the veterinarian for services and then submits a claim to the insurance company for reim-



bursement pursuant to the terms of coverage. Insurance companies generally design benefit options to be accident-only or accident and illness.

Disclosures

Pet health insurance policies, again like medical coverage for humans, contain exclusions and limitations, deductibles and co-pays, and benefit limits. RSA 402-P helps address consumer protection in these areas by requiring certain disclosures. Insurers must disclose if the policy excludes coverage due to a preexisting condition, hereditary disorder, congenital anomaly or disorder, or chronic disorder. Insurers must also disclose if a policy limits coverage by way of a waiting period, deductible, coinsurance, an annual or lifetime policy limit, or based on the insured's claim history. (See RSA 402-P:3 for a full list of specific exclusions and disclosure requirements.)

Consumers should review the exclusions and limitations (and other provisions) carefully upon receipt of the policy. The new law provides consumers with a 30-day "free look" period within which to cancel the policy for a full refund of the premium, provided no claim has been filed.

Regulatory Standards

Prior to RSA 402-P, there were no regulatory standards for pet insurance to which all companies had to adhere. The lack of uniformity in the marketplace caused much confusion for consumers. Noteworthy among those inconsistencies was the lack of uniform definitions in the insurance industry. The new law now requires all insurance companies to use the same definitions for important terms, such as 'preexisting condition,' 'hereditary disorder,' 'chronic condition,' and 'wellness program.' (See RSA 402-P:1 for a com-

plete list of definitions.)

Another notable issue was the inconsistent and misleading application of wellness benefits under a policy and a 'wellness program.' A wellness program is not, by definition or design, insurance that provides coverage for treatment in the event of an unforeseen accident or illness. Rather, a wellness program is designed to reimburse a consumer for specific, known services that promote the well-being of the pet.

Under the new landscape for pet insurance, no insurer or producer may market such a program as insurance, nor may they require the consumer purchase a wellness program as a condition to obtaining insurance. Wellness program benefits and costs must be sold separately and may not duplicate any of the benefits available under the pet insurance policy. (See 402-P:5 for specific sales practices of wellness programs.)

RSA 402-P introduces a regulatory framework to ensure a fair marketplace, as well as transparency and protection for consumers. Consumers should still do their due diligence in researching the various nuances of pet insurance and whether it is a good product for their circumstances.

Additional information about this evolving market and the need for regulation may be found at the NAIC website at naic.soutrnglobal.net/Portal/Public/en-GB/DownloadImageFile.ashx?objectId=6587&ownerType=0&ownerId=23427. ♦

Roni Karnis is general counsel at the New Hampshire Insurance Department. Prior to that appointment, she served as a staff attorney working in life and ancillary health insurance, annuities, and continuing care retirement communities.

A Primer on New Hampshire Title Insurance Law

By Leigh S. Willey

In a state known for its picturesque landscapes and quaint charm, navigating the intricacies of real estate conveyancing in New Hampshire is an adventure of its own. Virtually every property title has a story and safeguarding that tale is paramount. Enter title insurance, a trusted ally in protecting against potential pitfalls that can, and often do, arise in real property transactions. This article serves as a basic introduction to New Hampshire law on title insurance, shedding light on its significance and key components.

Title insurance is a type of indemnity insurance that protects property owners and lenders from financial loss caused by defects in or claims against a property's title. It ensures that the property has a clear and marketable title by covering issues such as outstanding liens or errors in the public records. In New Hampshire, the business of title insurance is regulated by the Insurance Department and the Title In-



surance Code, RSA 416-A.

Title to real estate refers to the legal ownership and associated property rights. A clear title is essential for transferring ownership and obtaining financing. New Hampshire law requires that a title search be performed, and a determination of insurability be made before a title insurance policy is issued. The purpose of a title search is to thoroughly investigate the history of a property's title and to identify potential issues or defects such as liens, encumbrances, or disputes that may affect ownership. Title searches aid in mitigating

risks and allow the parties to the transaction to address concerns affecting title prior to the closing. The searches are performed by licensed attorneys or non-attorney abstractors. Records relating to title searches performed for title insurance purposes must be retained for at least 20 years.

There are two types of title insurance policies. A lender policy, sometimes referred to as a loan or mortgagee policy, protects the lender only against certain defects, such as the invalidity or unenforceability of the insured mortgage and the priority of the insured mortgage. Most lenders

in New Hampshire require a borrower to purchase a lender policy as part of the loan closing costs, even though the policy affords no protection to the borrower. Coverage under a lender policy is limited to the amount of the recorded mortgage.

An owner policy protects the owner against losses caused by covered defects, such as title to the insured property belonging to someone other than the owner and unmarketability of the title. Coverage under an owner policy is generally limited to the purchase price of the property or its appraised value. If a claim is filed, both types of policies provide that the title insurer will pay the costs, attorneys' fees, and expenses incurred in defending the title in accordance with the terms of the policy.

Title insurance policies are generally comprised of three parts: the jacket, the schedules, and, if applicable, endorsements. The policy jacket outlines the coverage provided, subject to standard exclusions and conditions. The schedules include information about the policyholder and the insured property such as the effective date of the policy, coverage amount, type of interest insured, and the legal description of the insured property. The schedules also list exceptions from coverage. Standard

PRIMER *continued on page 27*

Cyber Liability: An Overview of Corporate/Law Firm Exposure, Preparedness, and Cyber Insurance

By Tamara Smith Holtslag, Jessica Eldridge, and Scarlett Rajbanshi



Holtslag



Eldridge



Rajbanshi

What Types of Cyber Threats Are Out There?

Cyber threats come in many forms, and this list is by no means exhaustive. According to *Forbes*, common threats for large and even small businesses in 2024 include ransomware (preventing users from accessing their own

systems without payment of a “ransom”), misconfigurations and unpatched systems, credential stuffing (“attacker uses stolen credentials from one organization to access user accounts at another organization”), and social engineering (email phishing, whaling, and spoofing, such as when someone is tricked into clicking on something believed to be legitimate but the result is the individual downloads malware). See *Most Common Cyber Security Threats In 2024* by Jack Koziol, Rob Watts, and Cassie Bottorff, forbes.com/advisor/business/common-cyber-security-threats (last accessed January 29, 2024).

The threats are certainly real for all businesses, including law firms. In 2023, large law firms such as Proskauer Rose, Kirkland & Ellis, and K&L Gates experienced breaches.

Lawyers, Law Firms, and Cyber Risk

Lawyers and law firms handle and store sensitive and confidential information that make them particular targets for hackers and cyber criminals. Following the COVID-19 pandemic, many law



firms still allow their lawyers and staff to engage in remote work, which can mean less stringent controls over the behavior of employees and more vulnerable operating systems, which can increase risk. A data breach or other cyber incident can obviously have far-reaching implications for lawyers and their clients and can result in lawsuits, state or federal investigation, and fines. Such an incident can also impact client relationships, client trust in the lawyers involved in such a breach, and a loss of public confidence in the firm.

Law firms must adopt and maintain fulsome cybersecurity practices, internal training, and up-to-date operational systems. Internal training and best practices are key to hopefully identifying a threat before one’s system is compromised or infiltrated.

Forensics shows that to meet the growing challenge, there are some foundational concepts that are critical to success.

- Culture is important. Cybersecurity is a team effort that requires everyone in a firm to participate for the most effective results to be realized. If an appropriate culture of security is not achieved, attempting to create a good cyber culture can be challenging.
- Planning and preparation in advance of an incident are critical components of an effective cybersecurity program. Each organization should maintain an incident response plan. Given the growing business interruptions and breach-related losses, a strategy is needed to reduce risk of significant exposure. This concept becomes increasingly important in the effort to obtain cyber insurance that effectively covers the identified risk with appropriate limits. Mitigating the potential financial impact of a breach includes understanding of financial impacts of a breach and its insurance coverage.
- It is important for an organization to identify and backup/protect critical data such as personnel data, payroll, and financial records.
- Protecting and defending the network includes elements such as awareness and training for employees. Good cyber hygiene means utilizing software that scans for computer viruses and malware, installing network firewalls, changing passwords regularly, and updating apps and operating systems on all devices on a regular basis, just to name a few.

Response to incidents requires a coordinated, well-planned, trained, and practiced effort. Advanced planning and proper internal controls are critical to help prevent an incident but also respond to an incident. Practicing the plans in place at all levels solidifies the organization’s ability to effectively respond with a proactive strategic focus. Internal controls and incident response plans often include measures to contain, investigate, and eradicate threats, as well as identifying and eliminating root cause vulnerabilities while documenting evidence for various purposes.

Cyber Liability Coverage as a Business Option

Standalone cyber insurance policies are still a relatively new product compared to the longevity of other insurance offerings. Cyber coverage got off the ground with a limp in the late 1990s – when the internet was still young – by Steven Haase, who was working at an insurance agency in Atlanta, Georgia. American International Group (AIG) started writing the first of these cyber policies, with Mr. Haase’s involvement, around 1997.

Early cyber products were offered as part of an insured company’s commercial business package or part of its traditional insurance coverage. The cyber policies were geared more toward protecting the insured company from third-party losses, such as when a customer or client was harmed or suffered loss due to a cyber incident. As the products developed and more insurers entered the market with their offerings, they and their brokers began offering coverage for first-party losses to the insured itself.

Soon thereafter, commercial crime policies started to be paired or sold with cyber policies as a complement to try to avoid “gaps” in coverage between the two types of coverage. Where the cyber liability policy is designed to cover for losses caused by data breaches, it does not typically cover a company when an employee (on the inside) or a hacker (on the outside) engage in fraud or steal funds or information via a company’s computers; the latter is usually the subject of commercial crime policies.

Now, more than 25 years later, with all the threats out there, the demand for cyber coverage is rising with many companies (and law firms) seeking to add it to their existing coverages or to purchase

CYBER *continued on page 27*

NHBA•CLE

Upcoming & On-Demand Programs in the NHBA•CLE Catalog:

Tax Abatements & Exemptions 3/27/2024 – 270 NHMCLE min.

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New Hampshire Insurance Law 101

5/9/2024 – 360 NHMCLE min., incl. 30 ethics min.

After attending this CLE, you will be completely up to date on both black letter NH insurance law and the most recent developments in insurance coverage and litigation – focusing on issues that civil practitioners will most often confront in their practices.

Medical Malpractice Cases in NH

5/11/2023 – 360 NHMCLE min., incl. 30 ethics min.

This program features some of the most experienced NH practitioners in the area of medical injury and malpractice cases. The full day seminar covers handling medical malpractice cases from start to finish, including presentations on selecting and commencing a claim, insurance policies and coverage, retaining and examining expert witnesses, the standard of care, special challenges in mediation, physician licensing and the Board of Medicine, pros and cons of screening panels, and proving causation and damages in medical injury cases. The program also touches on ethical issues confronting counsel handling these cases.

Register online at <https://nhbar.inreachce.com>

■ **CYBER** *from page 26*

it as a standalone product. And of course, with so much exposure globally for cyber incidents and breaches, the premiums are soaring, too.

According to Global Customer Engineering Director Andrew Magnusson, “Cyber insurance is one of the fastest growing lines of business in the insurance industry, and the market is expected to reach \$29.2 billion by 2027.” See *Cyber Insurance Explained: Cost, Benefits, Coverage & More*, strongdm.com/blog/cyber-insurance (last accessed January 28, 2024).

Bear in mind that cyber policies can provide coverage for both first- and third-party losses. Available insurance includes: data breach/incident response; damage to data and applications if a computer system is infiltrated, corrupted, or damaged; cyber fraud and extortion, including ransomware; system or business interruption caused by a cyber event; network security and privacy; media liability; errors and omissions coverage, which covers financial damage to clients or customers if the insured suffers a system failure; coverage for regulatory investigations; crisis management (a form of reputation insurance in the event of a breach); and business interruption and data restoration.

Also, as noted previously, commer-

cial crime coverage should be considered as a complement to any cyber insurance policy as well as directors and officers, if appropriate, for the business and its liability exposure.

While certainly not a replacement for a well-crafted cybersecurity plan and offensive strategy at any company, cyber policies can provide additional protection. If a business faces a significant data breach or cyberattack, depending on its resources, financial wherewithal, and the breadth of the compromise, it may struggle to recover without additional support or the backing of insurance.

Any company considering purchasing a cyber policy should endeavor to have it tailored to their specific business needs and risk factors, as such policies can be “manuscripted” or written specific to a company’s particular coverage needs and risk assessment. Standalone coverage is usually far more comprehensive than an “add-on” to your existing policy.

Key to any law firm or company’s purchase of such coverage is, of course, understanding the coverages and offerings, as well as the limitations on the coverage, which can be exceedingly complex. Cyber coverage and the risks and threats they cover are evolving daily. No insurers offer the same exact coverage and each of them use their own policy forms, so the coverage offered by one insurer may vary greatly from that

offered by another carrier.

An experienced commercial broker or agent should be able to guide a purchaser of cyber insurance through the process and achieve the desired coverage; but no one can predict with certainty the cyber risks of tomorrow and the harm surely to result.

Buttressing the uncertainties of this still-evolving cyber landscape, there is sparse jurisprudence on the topic. Case law interpreting cyber policies is still in its infancy. Indeed, there are no reported cases in New Hampshire or in neighboring Massachusetts concerning cyber coverage.

Nationwide, most of the significant court decisions concern fraud cases where the insured is fraudulently induced to transfer funds to a third party. These types of coverage disputes, however, generally arise under more familiar policies such as crime policies. With very little case law to guide the interpretation of these policies, businesses considering cyber coverage should read the policy forms carefully with their broker or agent to ensure that the plain language of the policies provide the coverage that they seek.

Summary

Cyber risk is everywhere, regardless of the company or law firm size. Lawyers and law firms are increasingly the targets of hackers and cyber criminals, given the

sensitive, confidential, and financial information they maintain for themselves and their clients. As an augment to any business’ strong cyber policies, practices, and structures, there are several cyber insurance products available in the market that can be manuscripted or tailored to one’s particular business and offer additional protection against such cyber threats and the far-reaching damage they cause. ♦

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Scarlett Rajbanshi is a partner and insurance coverage and general liability litigator at Peabody & Arnold, LLP, who represents insurers and businesses in the state and federal courts of Massachusetts, New Hampshire, New York, and Rhode Island.

■ **PRIMER** *from page 25*

exceptions pertain to all properties and include rights of persons in possession of the property other than the insured and survey matters. Special exceptions are specific to the insured property and may include beach rights, restrictive covenants, easements, and plan notes.

Endorsements are used mostly with lender policies and modify the terms of a title insurance policy. There are two types. General endorsements are standardized and modify the insurance contract the same way each time they are used. Special endorsements address specific issues in the title being insured, correct errors in the policy, or document changes in coverage. For example, a mortgage modification endorsement is used to increase the amount of coverage in a lender’s policy. There are separate fees for endorsements depending

on the type of endorsement being issued.

Title insurance differs from other types of insurance in two important ways. First, most insurances operate prospectively. They assume the risk of future events and cover damages incurred *after* the effective date of the policy. Title insurance, on the other hand, operates retrospectively. Title insurers rely on title examinations and underwriting to eliminate or mitigate risks. They indemnify policyholders for losses caused by covered defects that existed *prior to* the effective date of the policy but are discovered later. This means that if a client is sued by her neighbor six months after the closing and the Superior Court grants an attachment against her property, coverage under her title insurance policy would not be available because the claim against the property arose after the policy was issued.

Second, casualty and liability insurance require the insured to make periodic premium payments, typically annually or

every six months, to maintain coverage. Conversely, title insurance premiums are paid only once, usually at the time of closing, and coverage lasts for so long as the insured has an interest in the property.

Premium rates vary by title insurer and are based on the amount of coverage and the type of policy being issued. The premium rates for an owner policy tend to be higher than the rates for a lender policy because coverage under an owner policy is more comprehensive. Discounted premiums may be available if an owner policy and a lender policy are simultaneously purchased for the same property from the same title insurer. In addition, for qualifying properties, expanded or enhanced coverage may be available for an additional premium. Further, several title insurers offer discounted rates for qualified refinance transactions and may negotiate rates if coverage exceeds a certain amount.

Title insurance premium rates are

closely regulated by the Insurance Department. Every title insurer doing business in New Hampshire must file with the Department a schedule of premium rates and fees, as well as any related rules and regulations. Any changes or updates must also be submitted to the Department for approval.

In conclusion, this article just scratches the surface of New Hampshire’s title insurance laws. Title insurance, like real estate law in general, undergoes continuous changes. New legislation, advancements in technology, and market fluctuations contribute to its evolution. To make matters worse, property scams and wire fraud have become commonplace, posing a persistent risk to real estate transactions. Recognizing the pivotal role title insurance plays in this dynamic is essential. ♦

Leigh Willey is New Hampshire title counsel at CATIC. She can be reached at (866) 595-5559 or lwilley@catinc.com.

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Tax Law

Employee Retention Tax Credit Claims Highlight Importance of Compliance with Tax Filing Standards

By Kolbie Deamon, Beth Fowler, and John E. Rich, Jr.



Deamon



Fowler



Rich

be aware that frivolous claims to the credit can carry significant consequences to unsuspecting employers and there are options for employers to repay funds and avoid penalties.

What is the Employee Retention Credit?

The ERC is a refundable credit available to certain employers. The dollar amount of the ERC a qualifying employer can claim is based on the qualified wages it paid to its employees between March 13, 2020, and December 31, 2021. In order to be eligible to claim the ERC, an employer must have either sustained a full or partial suspension of operations due to an order from a controlling governmental authority limiting commerce, travel, or group meetings because of the COVID-19 pandemic, experienced a decline in gross receipts meeting the statutory thresholds during the relevant period, or qualified as a recovery start up business during the third or fourth quarters of 2021. Claims for the ERC are

In tax circles, considerable attention has been focused on employers' claims for entitlement to the Employee Retention Credit (ERC), sometimes called the Employee Retention Tax Credit (ERTC), a tax credit created by Congress that provides an economic subsidy to eligible businesses and tax-exempt organizations adversely affected by the COVID-19 pandemic. The Internal Revenue Service (IRS) has issued multiple notices questioning the widespread claims to the credit by employers often filed with the assistance of third-party promoters who are aggressively marketing in this area. As discussed in this article, those who advise employers should



made on the employer's employment tax returns, including amended returns, covering the relevant periods. It is important for employers to understand that their receipt of an ERC payment following a claim for the credit does not mean that the IRS has approved or even conducted a review of the claim. Rather, the IRS can later disallow the claim and require repayment along with interest and penalties.

Internal Revenue Service Guidance and Concerns

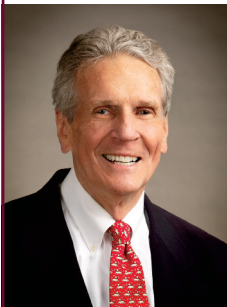
Earlier this year, the IRS issued a warning to employers to remain vigilant

for misleading claims made by third party ERC promoters about the availability of the ERC. The IRS and our office have observed various ERC promoters engaging in aggressive broadcast advertising, direct mail solicitations, and online promotions involving the ERC. While the credit is real, some ERC promoters are wildly misrepresenting and exaggerating who can qualify for the credits and the extent of the credit available to employers.

Our experience has been that ERC promoters are preparing claims for the ERC often with creative interpretations of, or even deliberate disregard for, the requirements to qualify. Many promoters are offering their services in exchange for a percentage, in some cases in excess of 20 percent, of the ERC claimed on behalf of an employer and pursuant to service contracts that require the promoter to receive their fee as soon as the ERC is paid and with no obligation on the part of the promoter to repay the fee should the claim later be disallowed. We have also observed employers claiming the ERC without consulting their regular CPA or tax return preparer at the assurance of the promoter that there is no need to obtain a second opinion.

Due to proliferation of fraudulent claims for the credit, the IRS has increased audit and criminal investigation work involving ERC claims. Businesses, tax-exempt organizations, and others considering applying for this credit need to carefully review IRS guidance on the requirements

STANDARDS *continued on page 32*



Attorney John M. Cunningham

John forms LLCs, converts corporations to LLCs and represents clients in LLC disputes. He chaired the committee that drafted the NH LLC Act, and he is the author of the leading U.S. LLC legal and tax practice manual. He also assists clients under the Corporate Transparency Act.

Visit www.llc199a.com to learn more about John's practice.

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Updates About the IRS

By Dawn Whiting

The IRS has been fairly quiet with notices to taxpayers regarding unpaid taxes and unfiled returns. However, starting in January, the IRS is ramping up its enforcement efforts. They will be issuing a reminder letter, LT38 Reminder Notice Resumption, which will be a “gentle” reminder to the taxpayer that they have a balance due. These notices will be specifically for the tax years 2020 and 2021. In conjunction with these steps, the IRS will be waiving or refunding the failure-to-pay penalty to taxpayers for the 2020 and 2021 tax years, based on eligibility. Eligibility requirements include those whose assessed tax liability was less than \$100,000 before December 7, 2023, were issued a balance due notice on or before December 13, 2023, and were liable for the failure-to-pay penalty.

On another front, the IRS had planned to be able to scan millions of paper tax returns filed before the end of 2023. That did not happen. They tested out software in 2023 that did not meet the volume of returns they expected. In 2024, they will be testing another program. So, the IRS is still behind on the massive paper filings that



have and continue to be sent to them. Because the scanners in the processing centers are so old, the images created are not compliant to the current technology available, which means the paper copies of returns must still be retained.

Where is the money coming from to fund the technology updates? It is coming from the money appropriated through the Inflation Reduction Act. Even though the amount of funds were cut this year, it does not impact current goals to modernize the data capture on tax returns through electronic means by investing in more high-volume modern scanners to create a digital scan in a readable format. These will be

used in the processing centers as paper filings come through the IRS mail rooms.


Also, the IRS has been updating their services to the taxpayer calling into a center. They are using chatbots when taxpayers call. These currently are being used to answer basic questions, including questions about balance due notices. Questions answered with chatbots include what to do if they receive a notice or need more time to respond. The IRS is working on chatbots to assist with more complex issues, as well. Their goal is to be able to respond more quickly and efficiently to resolve taxpayer issues. The IRS has reopened many service centers for walk-in service, as well and has

simplified access for taxpayers to review their accounts online and interact through secured messaging in some divisions. Currently, it can take several months to a year or more to resolve taxpayer issues.

Regarding the taxpayer's online account, the taxpayer can not only see their payment history and taxes owed, but they now can also see copies of some of the IRS notices that the IRS had sent to them, review the data that was included on their most recent tax return to compare with what they had submitted, and save bank accounts for making payments online.

On a final note, through the Corporate Securities Act, virtually all small businesses (sole proprietor, LLCs, S Corps) will be required to file a Business Ownership Information form through FinCen (Financial Crimes Enforcement Network). For those businesses in existence prior to January 1, 2024, the deadline to file is January 1, 2025. For those businesses started after January 1, 2024, the deadline is 90 days after it has opened for business or registered. ♦

Dawn Whiting is a solo practitioner and has been working in the area of tax and tax resolution for almost 40 years. She assists clients to resolve both state and federal tax issues. Dawn is admitted to practice before the US Tax Court. She is a member of NATP (National Association of Tax Professionals), ASTPS (American Society of Tax Problem Solvers), and is a certified tax representation consultant by TRN (Tax Rep Network).




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Tax Choice of Entity

By John M. Cunningham

If a client asks you to form a new LLC and if you have the necessary federal tax expertise, you should perform for your client a critically important business start-up federal tax procedure called “tax choice of entity.” If you lack this expertise, you should advise your client to retain a tax professional to perform this procedure who has this expertise.

A brief overview of the tax choice of entity procedure follows:

Individuals Forming Single-Member LLCs

The members of all single-member LLCs whose members will be individuals will be taxable on their income and loss from their LLC as shareholders of C corporations under Internal Revenue Code Subchapter C; as shareholders of S corporations under Subchapter S; or as sole proprietors. There are situations in which Subchapter C will be the best choice for these individuals, but these situations are very rare. Subchapter S may be the best for them, but generally only if they have or will soon have multiple full-time employees. By far the best federal tax regimen for



them will be sole proprietor taxation, usually (but not always) computed based on Schedule C to their Forms 1040. This tax regimen will usually be best for them not only for general purposes but also because it is likely to maximize the annual 20 percent Section 199A federal tax deduction.

Entities Forming Single-Member LLCs

The members of single-member LLCs whose members will be entities (e.g., LLCs) may be taxable under either Subchapter C or Subchapter S. For most of these entities, Subchapter S will be best for tax choice of entity purposes if they and their shareholders can meet Subchapter S qualifications. Otherwise, their only option will be Subchapter C.

Individuals and Entities Forming Multi-Member LLCs

For individuals and entities who are

forming multi-member LLCs, the potentially available federal tax regimens will be Subchapter C, Subchapter K (partnership taxation under the 700's of the IRC) or Subchapter S (if they meet Subchapter S requirements). Subchapter K will also be available to other types of multi-member entities that qualify for partnership taxation under the US Treasury Department regulations called the “Entity Classification Regulations,” including many state-law limited and general partnerships and Delaware statutory trusts. However, under the Entity Classification Regulations, Subchapter K will not be available to entities formed as state-law business corporations.

In general, partnership taxation will be the best federal tax regimen for most entities that can qualify for that taxation. However, for a few of these entities – namely, those who have or will have multiple employees – Subchapter S may be best. Subchapter C will be best for only a very few of them.

As even the above brief discussion will make clear, even highly qualified tax professionals should not make tax choices of entity unless they have a thorough knowledge of the Entity Classification Regulations and of sole proprietor taxation and taxation under Subchapters C, K, and S; and substantial experience in making these choices.

Three final notes follow:

The tax provisions in the operating agreements of single-member LLCs whose members are individuals taxable as sole proprietors should be radically different than if these individuals are taxable under Subchapter S.

The tax provisions in the operating agreements of multi-member entities taxable as partnerships should be radically different than those of multi-member entities taxable as S corporations.

The tax provisions in the operating agreements of multi-member entities taxable as C corporations should be radically different than those of multi-member entities taxable as partnerships or S corporations. ♦

John Cunningham is the principal of the Law Offices of John M. Cunningham, PLLC. His practice is focused on LLC formations and other LLC matters and on advising and assisting clients on Corporate Transparency Act (CTA) matters. He is the author of the leading US LLC formbook and practice manual, and he is currently drafting a book about the CTA.

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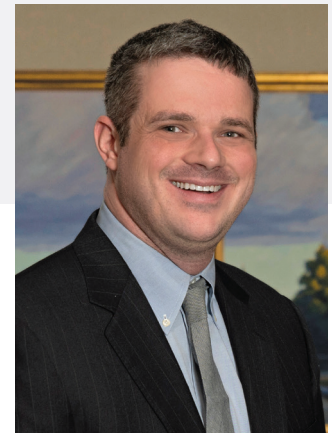
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for this limited program before applying. Those who improperly claim the credit, both taxpayers and their advisors, face follow-up action from the IRS.

Intersection of ERC Filings with Tax Code Filing Standards

The Tax Code contains strict rules and standards in connection with filing tax returns. The IRS imposes penalties on practitioners who prepare or sign a tax return that contains a position or advises a taxpayer to take a position on a return, that lacks a reasonable basis, is an unreasonable position, or reflects an understatement of tax or a disregard for the rules and regulations. In addition, a preparer could be held liable for advising a client to take a position in any other document submitted to the IRS that is frivolous, intended to delay or impede tax administration, or that intentionally disregards a rule or regulation (and where the position is not a good-faith challenge to the rule or regulation). Other requirements associated with the filing of ERC claims are found in IRS Circular 230 and the Treasury Regulations and include the exercise of due diligence in filing of tax documents.

Aware that some employers who filed potentially abusive ERC claims did so at the behest of aggressive promoters who ignored Circular 230 and other filing requirements, the IRS has created options for employers to self-correct with minimal repercussions. An employer who has not received a credit in response to an application, or who has received a credit via check and has not yet cashed or deposited the check, can withdraw the claim by following the procedure specified by the IRS. Note, however, that withdrawal will not protect an employer who submitted a fraudulent claim from potential criminal prosecution.

The IRS has also established a Voluntary Disclosure Program for employers who have received a refund because of a claim for the ERC in an amount that exceeds the amount to which they are eligible. The Voluntary Disclosure Program allows an employer to self-correct with minimal penalties. Under the Voluntary Disclosure Program, an employer repays 80 percent of the credit previously received, retaining 20 percent. The IRS will not charge interest or impose penalties on the claimed credit if the employer repays the 80 percent by the time it returns a signed closing agreement to the IRS. Given the Tax Code requirements, and potential civil and criminal penalties associated with filing a fraudulent ERC claim, those who counsel employers should be aware of heightened IRS scrutiny on ERC claims and the Voluntary Disclosure Program.

In summary, given the IRS' focus on ERC claims, employers who file or have filed ERC claims should carefully consider whether their claims meet the applicable Tax Code filing standards. Should there be any doubt as to eligibility, employers are advised to have their claims reviewed by experienced tax professionals. ♦

John E. Rich, Jr. chairs the Tax Department at McLane Middleton. He specializes in employee benefits, pension, ERISA, and tax-related matters. He can be reached at john.rich@mclane.com. Kolbie Deamon and Beth Fowler are attorneys in McLane Middleton's Tax Department. Kolbie can be reached at kolbie.deamon@mclane.com and Beth can be reached at beth.fowler@mclane.com.

By Av Harris

National Judicial Outreach Week (NJOW) during the first week of March is an annual initiative of the American Bar Association designed to engage the public about the judiciary and features dozens of events planned across the country.

In New Hampshire, the Bar Foundation and the Women's Bar Association are co-sponsoring a truly special event in Portsmouth on Thursday, March 7, from 5:30 to 7:30 pm, marking the second annual International Day of Women Judges.

This event will feature an address by Judge Geeti Roen, originally from Afghanistan, who recently resettled to New Hampshire with her family. They were forced to flee Afghanistan facing death threats once the Taliban seized back control of the country in 2021. This promises to be an inspiring and enlightening evening as attendees will hear from someone who has shown extraordinary courage supporting women's rights and upholding the rule of law. [Register now on nhbar.org.]

NJOW also provides a good opportunity to focus on the efforts the Judicial Branch is making to expand access to justice. This is a concept rooted in the New Hampshire State Constitution, Part 1, Article 14, that states: "Every subject of this state is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character; to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws."

In 2008, the New Hampshire Supreme Court (NHSC) created the New Hampshire Access to Justice Commission (the Commission) with the goal of expanding access to and enhancing the quality of justice in civil legal matters in the state. Last year, the NHSC established the Office of Access and Community Engagement (OACE) within the Administrative Office of the Courts to engage stakeholders and community members in expanding access to justice in legal matters in New Hampshire, and to assist the Commission in carrying out those duties.

With the support of Governor Chris Sununu, the Judicial Branch secured more than \$1.2 million in funds from the federal American Rescue Plan Act to address access to justice needs in New Hampshire. Now, the Commission and the OACE are implementing six projects designed to reduce barriers to justice and improve access to the justice system:

Form Simplification. The vast majority of cases in the New Hampshire Judicial Branch are filed in the circuit courts, and an overwhelming majority of litigants in those cases are self-represented. The goal of this project is to make court forms easier to read and complete. This project is designed to ensure that court forms are written in plain language and are readable for all litigants, including those with differing abilities. While the first part of this



project will focus on simplifying existing forms, the Judicial Branch will also enhance training of court personnel to ensure greater simplicity and readability in future forms.

Community Navigation. Many of the people we serve do not know they have a legal issue, and once in the court system, they may not be aware of their rights, options, or resources available to them. Appearing in court can be challenging for anyone, but particularly for those lacking training and experience with the judicial system. The Community Legal Navigator program will train community volunteers to support litigants with accessing court forms and information. Legal navigation aims to identify and assist those in need.

The OACE has already started to partner with stakeholders to recruit a corps of volunteers who could serve as navigators. This project aims to leverage volunteers and community resources to provide services. Potential navigators may include students, retirees, and others who will be trained in navigation and referral.

Legal Navigator Nexus. This is a significant technology upgrade designed to provide as many legal resources as possible into an online interface accessible to non-attorneys. The goal is to create an online portal that provides intuitive, well-designed, and compelling legal information to thousands of self-represented litigants in New Hampshire.

Ultimately, this will be designed to give the user a similar experience to standard search engines that require the searcher to know keywords and basic concepts before entering criteria that return useful findings. Other states have taken this step with very promising results that help many not only navigate through their own legal cases, but also familiarize ordinary citizens with court processes if they ever face future legal matters.

Virtual Service Center. Related to community and legal navigation, the Judicial Branch will also be launching a virtual service center where individuals who have questions on court processes, forms, and other matters related to accessing justice in the courts can get answers.

This project is similarly designed to work with a corps of trained volunteers who can provide information through functions such as live online chat or text via computer or mobile phone, or through live

video chat either first come first serve or by appointment as is done in other states. These volunteers will be knowledgeable about court processes and forms and will be able to field many of the questions currently fielded by the Judicial Branch Information Center.

Language Access Program Improvements. According to the latest US Census figures, New Hampshire currently has a higher level of language diversity than at any point in history. Some of the state's busiest courts are housed in areas with high concentrations of individuals with limited English proficiency. This language access project will identify ways to improve access to justice for litigants who are hearing impaired or for whom English is a second language and to provide interpretation and translation services in an efficient and cost-effective manner. The subprojects include improved training, technology for real-time translation at the clerk's counter, video remote interpreting, court signage, and translated court information.

Data Collection. The Data Collection project will support the other projects by developing metrics to measure each initiative's outcomes and leveraging work completed by related projects such as data collected by the Judicial Branch diversity and inclusion initiative. To increase the Judicial Branch's ability to collect and analyze data and provide reports and information to the public, the Judicial Branch also created a dedicated position, the Justice Data and Statistics Manager, to evaluate the data collection landscape, develop metrics and reports, and conduct analysis.

These six projects represent just the beginning of a collaborative effort to reduce barriers to justice in New Hampshire. The projects were developed, in large part, due to the efforts of Administrative Office of the Courts Deputy Director Jackie Waters, who also served as the first Manager of the OACE and is now embarking on her retirement. Jackie's commitment to reducing barriers to justice and tireless efforts will have a long-standing impact. We recognize the impact her efforts have already made and commit to continuing her work to expand access to justice going forward. ♦

Av Harris is the communications manager/public information officer for the New Hampshire Judicial Branch.

Civil Law; Constitutional Law

Ryan Hardy & a. v. Chester Arms, LLC & a.; Matthew O'Connor v. Chester Arms, LLC & a., No. 2022-0348
January 30, 2024
Affirmed

- Whether the trial court erred in granting summary judgment for Chester Arms, a Federal Firearms Licensee, on the basis that it was entitled to immunity under RSA 508:21 in defense of a claim of negligent entrustment?
- Whether the trial court erred granting summary judgment for the Department of Safety in defense of claims of negligent entrustment and negligence per se?

The plaintiffs Ryan Hardy and Matthew O'Connor are Manchester police officers who were unlawfully shot and injured by Ian MacPherson, who has a documented criminal history and mental health issues. On March 19, 2016, MacPherson sought to purchase a firearm and ammunition from Chester Arms, a Federal Firearms Licensee (FFL). A Chester Arms employee contacted the Department of Safety (DOS) Permits and Licensing Unit, known as the "Gun Line," to complete the required background check. The Gun Line initiated a search to determine whether MacPherson was disqualified from the receipt of firearms. The Gun Line may approve, deny, or delay a firearm purchase based on the search results in the National Instant Criminal Background Check System (NICS). The Gun Line informed the Chester Arms employee that the sale to MacPherson was given a "delay" status, meaning the FFL must wait three business days before proceeding with the sale, so long as the transaction is not denied by the Gun Line during that time. The employee told MacPherson that the transaction was delayed and took his contact information, at which point MacPherson left the store.

The Gun Line delayed the transaction because the NICS database indicated that MacPherson has a record of charges for misdemeanor domestic violence, and the Gun Line needed to conduct further research into his criminal history. Over the subsequent days, the Gun Line collected information relating to MacPherson's record from the Merrimack Police Department (MPD) and the circuit court. The MPD reports showed that, under federal law, MacPherson's criminal history did not disqualify him from taking possession of the firearm, but the MPD had had "many dealings" with MacPherson, his family members had told the MPD that MacPherson had been diagnosed with schizophrenia, and that "MacPherson has displayed on many occasions delusional behavior which should serve as a significant concern should he obtain a firearm." However, the Gun Line was unable to obtain supporting documentation of MacPherson's mental health diagnosis. The circuit court also sent the Gun Line case summaries showing that MacPherson had been found, or pled, guilty of the crimes relevant to the NICS background check, and that MacPherson had once been evaluated for competence to stand trial but was allowed to enter a plea after that evaluation.

On April 1 – while MacPherson's firearm transaction remained in "delay"

At a Glance Contributor



Christopher Walsh
 is an associate in the Litigation Department of McLane Middleton, Manchester, NH

status, but after three business days had passed – MacPherson returned to Chester Arms and completed his purchase. The next month, on May 13, MacPherson used the firearm to shoot the plaintiffs. The plaintiffs thereafter brought suit against Chester Arms for negligent entrustment, and against the DOS for negligent entrustment and negligence per se. The trial court (Ruoff, J.) granted summary judgment for Chester Arms based on immunity under RSA 508:21, and granted summary judgment for DOS based on immunity under RSA 541-B:19, I(b). The plaintiffs appealed to the Supreme Court.

With respect to the plaintiffs' claims against Chester Arms, the Supreme Court first held that RSA 508:21 is not an affirmative defense but rather divests the court of subject matter jurisdiction, and thus Chester Arms could make this argument despite having failed to assert it in its answer or statement of defenses. As to the proper reading of RSA 508:21, this required the Supreme Court to interpret whether the plaintiffs' suit sought "damages resulting from the criminal or unlawful use of a qualified product by the person or a third party." RSA 508:21, I(d) (emphasis added). While the plaintiffs argued that this language provides immunity only when the harm suffered was "solely" caused by the wrongful or criminal use of a firearm by a third party, the Supreme Court rejected that interpretation because the ordinary meaning of the phrase "resulting from" is not so limited. According to the Supreme Court, this plain language unambiguously refers to damages caused at least in part by such use, and thus RSA 508:21 provides complete immunity from qualified civil liability actions regardless of whether a third party is partly or solely responsible for a plaintiff's harm.

The Supreme Court then turned to the plaintiffs' argument that RSA 508:21 is preempted by federal law, again ruling against the plaintiffs. Most notably, the Supreme Court examined the federal Protection of Lawful Commerce in Arms Act (PLCAA), 15 U.S.C. §§ 7901-7903, which, like RSA 508:21, shields firearms manufacturers and sellers from "qualified civil liability action[s]," but which contains an exception for negligent entrustment suits against sellers. The Supreme Court held that the PLCAA's exception for such suits does not preempt a state's ability to provide greater protection for firearms sellers. Moreover, the PLCAA expressly provides that it is not intended to be a comprehensive regulatory scheme, and it specifically acknowledges the possibility that states will pass their own firearms sales regulations, just as 18 U.S.C. chapter 44 (which contains the Brady Act), also does. Hence, RSA 508:21 is not preempted by federal law.

Lastly with respect to RSA 508:21,

the plaintiffs argued the statute violates their right to a remedy under Part I, Article 14 and their right to equal protection under Part I, Article 2 of the State Constitution. The Supreme Court rejected those arguments, holding that the distinction between individuals who are victims of gun violence from individuals who are injured by other means is substantially related to an important governmental objective – i.e., safeguarding citizens' fundamental right to bear arms. As the Supreme Court explained, "[t]he classification created by RSA 508:21 is substantially related to that purpose: it limits suits against the firearms industry thereby protecting its solvency and ensuring law-abiding citizens have access to the firearms necessary for exercising their fundamental right to bear arms." Accordingly, the Supreme Court held RSA 508:21 is constitutional.

As to the plaintiffs' claims against the DOS, rather than examining the scope of immunity under RSA 541-B:19, I(b), the Supreme Court held that if there were any error in the trial court's immunity analysis, that error was harmless because the record lacked evidence demonstrating that MacPherson was disqualified from purchasing a firearm at the relevant time. MacPherson's history of mental health issues included having his competency evaluated during a 2012 criminal proceeding and two separate hospital admissions. But none of those circumstances met the applicable federal definitions of a commitment to a mental institution or an adjudication as a mental defective, 18 U.S.C. § 922(g)(4), such that he was disqualified from being able to purchase a firearm. As such, the Supreme Court affirmed the trial court's grant of summary judgment for the DOS, as well.

McDowell & Morrissette, PA, of Manchester (Mark D. Morrissette on the brief and orally), for the plaintiffs. Lehmann Major List, PLLC, of Concord (Sean R. List on the brief and orally), Renzulli Law Firm, LLP, of White Plains, New York (Jeffrey M. Malsch on the brief), and Sulloway & Hollis, PLLC, of Concord (Kevin M. O'Shea on the brief), for defendant Chester Arms, LLC. John M. Formella, attorney general, and Anthony J. Galdieri, solicitor general (Jessica A. King, assistant attorney general, on the brief and orally), for defendant Commissioner, New Hampshire Department of Safety. John M. Formella, attorney general, and Anthony J. Galdieri, solicitor general (Jessica A. King, assistant attorney general, on the memorandum of law), for the State of New Hampshire, as amicus curiae.

Contract Law; Probate Law

Gail C. Tremblay v. Allan Bald & a., No. 2023-0022

January 30, 2024

Reversed and remanded

- Did the trial court err in ruling that the signed, written, and notarized agreements between the plaintiff and decedent were not enforceable for lack of adequate consideration, where the alleged consideration was the plaintiff and decedent agreeing to continue living together as engaged but unmarried partners?

The plaintiff and decedent were in a romantic relationship and lived together

for more than ten years beginning in November 2009, becoming engaged in December 2009 but never marrying. During the time they were engaged, the plaintiff and decedent executed three written, notarized agreements whereby the decedent left certain real and other property to the plaintiff, provided that they were still living together in the same household at the time of decedent's death. The two remained engaged and continued to live with each other until the decedent died intestate in July 2020.

About six months after the decedent's death, the plaintiff filed suit to enforce her agreements with decedent, and asserting claims against the administrator of decedent's estate for certain rents and profits received from the property at issue. The defendants counterclaimed, seeking unpaid rent from the plaintiff. The trial court (Bornstein, J.) denied plaintiff's motion for summary judgment, finding her agreements with the decedent lacked adequate consideration, and granted summary judgment for the defendants. The plaintiff appealed to the Supreme Court.

The Supreme Court reversed and remanded, holding that the three notarized agreements between the plaintiff and decedent were enforceable. A valid, enforceable contract requires offer, acceptance, consideration, and a meeting of the minds. The only element at issue was whether the agreements were supported by consideration. The plaintiff argued that her continued cohabitation with the decedent was the consideration. The defendants countered that the agreements lacked consideration because: (1) the plaintiff and decedent were already living together at the time the agreements were executed; (2) either party could have ended the relationship at any time; and (3) the agreements fail to recite any consideration.

The Supreme Court agreed with the plaintiff, explaining that the parties had clearly recited the exchange: certain property would transfer provided the plaintiff and decedent were still living together at the time of the decedent's death. As the Supreme Court noted, consideration is present if there is either a benefit to the promisor or a detriment to the promisee, and "[t]he law does not undertake to measure the adequacy of the consideration for a contract or agreement. The slightest benefit conferred upon the one party, or the slightest loss or inconvenience sustained by the other, is sufficient" for purposes of consideration. Here, the plaintiff's continued cohabitation amounted to a benefit to the decedent, as promisor. Thus, the agreements reflected a bargained-for exchange: that the decedent would leave certain property to the plaintiff if she continued to live with him until his death. Even though the agreements did not expressly label that as consideration, New Hampshire law does not require consideration to be recited for it to exist. In this instance, the consideration supporting the agreements, although not specifically labeled, was nonetheless readily apparent from the text of the agreements.

Even though the Supreme Court reaffirmed that a contract can be enforceable even where it does not expressly label the consideration, practitioners should avoid that risk and expressly state

AT A GLANCE *continued on page 34*

the consideration supporting a contract, in order to avoid any doubt about its validity.

The Crisp Law Firm, PLLC, of Concord (Jack P. Crisp, Jr., on the brief and orally), for the plaintiff. Devine, Millimet & Branch, Professional Association, of Manchester (William F. Gramer on the brief and orally), for the defendants.

Criminal Law

The State of New Hampshire v. Joshua D. Shea, No. 2022-0432
January 19, 2024
Reversed and remanded

- Whether the trial court erred in instructing the jury that RSA 631:4, IV – which provides a defense to a charge of criminal threatening in connection with the display of a firearm – imposes a duty to retreat.

On May 30, 2021, the defendant was driving on Route 28 in Epsom. He pulled in front of the complainant, who was driving a truck, causing the complainant to slam on his brakes and hit his horn. The two men “exchanged middle fingers” and pulled into a nearby gas station. According to the defendant, the complainant walked towards him aggressively swearing, saying that he was going to rip him out of his car, and threatening that he would “beat [the defendant’s] ass.” The defendant testified that he was “in fear” of a confrontation and “warned” the complainant that he had a firearm by unclipping the holster containing the firearm from his belt and rolling it up to his chest while informing the complainant that he had it. The complainant testified that the defendant pointed the gun at him; the defendant denied doing so.

The defendant was indicted for criminal threatening for placing or attempting to place the complainant in fear of imminent bodily injury by pointing a firearm at him. RSA 631:4, IV provides the following defense to a charge of criminal threatening:

A person who responds to a threat which would be considered by a reasonable person as likely to cause serious bodily injury or death to the person or to another by displaying a firearm or other means of self-defense with the intent to warn away the person making the threat shall not have committed a criminal act under this section.

Regarding this defense, the trial court (Schulman, J.) instructed that the jury must consider all the circumstances known to the defendant, including “One factor that you may consider in determining whether the threat existed is whether the defendant could have completely and safely left the area without any risk to himself or others.” The jury convicted the defendant of criminal threatening with a deadly weapon, and the defendant appealed to the Supreme Court.

The Supreme Court reversed and remanded, holding that the trial court’s jury instruction erroneously imposed upon the defendant a duty to retreat not required by the statute. As the Supreme Court explained, RSA 631:4, IV addresses an action that a person may take in response to a threat that a reasonable person would consider as likely to cause serious bodily injury or death – i.e., what is essentially a threat of deadly force. The statute recognizes that the threat-

ened person may respond by displaying a firearm to warn away the person making the threat – i.e., it describes the use of a type of non-deadly force as a response. Looking to the history of the provision, the legislature specifically amended the statute in 2011 with respect to circumstances requiring a duty to retreat before using deadly force, but the legislature did not require a duty to retreat before the defensive use of non-deadly force. Given that the general common law rule does not require a duty to retreat before the defensive use of non-deadly force, the Supreme Court stated that displacing the common law rule would require express statutory language, which the legislature presumably could have done as part of the 2011 amendment, but chose not to do. In sum, the Supreme Court concluded that when determining whether a threat would be “considered by a reasonable person as likely to cause serious bodily injury or death,” RSA 631:4, IV, the threatened person’s ability to respond by retreating in lieu of displaying a firearm is not a relevant factor.

The Supreme Court’s analysis is notable in two respects. First, the Supreme Court continues to examine not only what the legislature included when amending particular statutory language, but also what the legislature could have included but did not. Second, the Supreme Court generally will not displace ordinary common law principles unless the legislature has spoken clearly on the issue.

John M. Formella, attorney general, and Anthony J. Galdieri, solicitor general (Audriana Mekula, assistant attorney general, on the brief and orally), for the State. Christopher M. Johnson, chief appellate defender, of Concord, on the brief and orally, for the defendant.

Criminal Law

The State of New Hampshire v. Timothy J. Rouleau, No. 2021-0310
January 19, 2024
Affirmed

- In a case charging the defendant with numerous instances of sexual assault of a minor victim, whether the trial court committed prejudicial error by admitting evidence regarding an Amazon “wish list” containing sexually oriented items.

The defendant was in a relationship with the victim’s mother, and in 2016 the defendant began sexually assaulting the then-ten-year-old victim. When no one else was present in the room, he would have the victim cuddle with him on the living room couch, touch her breasts, and digitally penetrate her vagina. These types of assaults occurred almost every day for an extended period, with the victim estimating “a few hundred” assaults. After more than a year of this happening, the victim began isolating herself from the defendant by staying in her room, staying after school for activities, and spending time with friends outside the apartment. The victim’s mother noticed that the victim became more withdrawn and spent more time in her bedroom. When the victim’s mother was out of the house, the victim would reject the defendant’s offers that she join him on the couch.

The assaults stopped in November 2017 after the victim’s family and the defendant moved into a three-bedroom apartment together, until an incident on April 3, 2019. At around 2 am on that

date, the victim arrived home with her mother from a school trip. The defendant was sleeping on the couch in the living room. Because the victim was exhausted and her bed had folded laundry on it, the victim’s mother told the victim to come sleep in the mother’s room with her. The victim fell asleep in her clothes with her mother in her mother’s bed. The victim later awoke to the defendant in the bed and holding her from behind. The defendant touched her breasts, digitally penetrated her vagina, and subsequently put his penis between her legs. After initially failing to get her mother’s attention, the victim estimated that the assault went on for 20 or 30 minutes until she began crying and her mother awoke. The victim’s mother brought the victim downstairs, and the victim told her what had happened. The defendant was charged with two counts of pattern of aggravated felonious sexual assault (AFSA), one count of AFSA, one count of attempted AFSA, two counts of felonious sexual assault, and two counts of sexual assault. After a two-day trial, the jury returned guilty verdicts on all counts.

The defendant appealed to the Supreme Court, arguing that the trial court (Howard, J.) erred in admitting evidence about an Amazon “wish list” containing sexually oriented items. Specifically, during the victim’s direct examination on the first day of trial, after she had testified about the abuse that transpired beginning in the spring of 2016, the State asked whether there were “other times during this timeframe when [the defendant] would make any kind of sexual reference to you?” After overruling the defendant’s objection under Rule 404(b), the court allowed the victim to testify that when she and her siblings made their Christmas lists, she would have to use an Amazon wish list rather than write out what she wanted like the other children. For her list, the defendant added items for her to rank by preference, many of them being sexually oriented, such as sex toys, lingerie, a chocolate lollipop in the shape of a penis, and others.

The Supreme Court agreed that the trial court erred in admitting this evidence because it was not intrinsic to the charged crimes. Under Rule 404(b), the proper test to apply in deciding the admissibility of “similar acts” or “other acts” evidence depends upon whether the evidence in question is “extrinsic” or “intrinsic” evidence. Rule 404(b) excludes extrinsic evidence, whose probative value exclusively depends upon a forbidden inference of criminal propensity. On the other hand, “other act” evidence is “intrinsic,” and therefore not subject to Rule 404(b), when the evidence of the other act and the evidence of the crime charged are “inextricably intertwined,” both acts are part of a “single criminal episode,” or the other acts were “necessary preliminaries” to the crime charged. In this case, the Supreme Court held that any connection between the Amazon “wish list” evidence and the charged offenses was too attenuated to render the evidence intrinsic – the victim did not mention the wish list evidence when she testified about the assaults, and such evidence was not necessary to complete the story of the defendant’s assaults. The purpose of Rule 404(b) is to ensure that the defendant is tried on the merits of the crime as charged and to prevent a conviction based upon evidence of other crimes or wrongs, and “the intrinsic evidence exception cannot serve as a backdoor to circumvent this purpose.”

Despite concluding that the trial

court erred in admitting this evidence, the Supreme Court held that error was harmless beyond a reasonable doubt because the other evidence of the defendant’s guilt was overwhelming. This included the victim’s detailed direct testimony, the fact that the wish list evidence comprised a small portion of her testimony, the victim’s mother’s corroboration of certain aspects of the victim’s testimony, the defense’s failure to impeach the victim’s credibility with any prior inconsistent statements related to the charges, and the State’s impeachment of the defendant on multiple occasions during the defendant’s cross-examination.

By holding that the “wish list” evidence was not “inextricably intertwined” with evidence of the charged crimes, the Supreme Court’s decision provides new insight into how the Supreme Court will evaluate whether similar acts or other acts are intrinsic evidence or extrinsic evidence under a Rule 404(b) analysis.

John M. Formella, attorney general, and Anthony J. Galdieri, solicitor general (Elizabeth C. Woodcock, senior assistant attorney general, on the brief and orally), for the State. Christopher M. Johnson, chief appellate defender, of Concord, on the brief and orally, for the defendant.

Family Law

In re Guardianship of J.H., No. 2022-0664
January 24, 2024
Reversed in part and remanded

- Whether the catchall provision in RSA 463:12, IV allows a circuit court to restrict a minor’s guardian from testifying against the minor’s father at his parole hearing.

J.H. is a six-year-old child. His father has a history of criminal charges involving domestic violence and drug possession, and he has been incarcerated since December 2017. J.H.’s mother died in 2019 when J.H. was less than three years old. His maternal grandmother was appointed J.H.’s guardian shortly thereafter, and J.H. has remained in her care since.

J.H.’s guardian and his father have been at odds for years. When the guardianship petition was filed, the father was subject to a no-contact order barring communications with J.H. Subsequently, the father sought contact and visitation with him. Over the guardian’s objections, the court ordered that the father could communicate with J.H. by mail and eventually progress to video visits. The guardian later petitioned to terminate the father’s parental rights. The circuit court (Derby, J.) has expressed frustrations with both the guardian and father at various points, and has placed restrictions on both parties. On one side, the court has limited the content of the father’s communications with J.H. On the other, in October 2022, the court ordered that the guardian and her husband were “enjoined from testifying against father’s release at any parole or similar hearing without first seeking leave of this court.” The guardian appealed that order to the Supreme Court.

The Supreme Court’s analysis centered on the proper interpretation of RSA chapter 463, which confers exclusive jurisdiction over the guardianship of minors to the circuit court. In particular, RSA 463:12 outlines the guardian-minor relationship and the functions of

the guardian. Subsection I conveys the “powers and responsibilities of a parent regarding the minor’s support, care, and education.” RSA 463:12, I. Subsections II and III articulate specific powers and responsibilities related to the minor’s overall wellbeing, encompassing the minor’s health, property, and legal and financial affairs. RSA 463:12, II-III. The statute empowers and obliges the guardian to exercise control over many aspects of the minor’s life to ensure the minor’s general wellbeing. Subsection IV then contains a catchall provision, which states, in part: “The court may limit or restrict the powers of the guardian or impose additional duties if it deems them desirable in the best interests of the minor.” RSA 463:12, IV. The father argued that catchall provision of Subsection IV allowed the circuit court to restrict the guardian and the guardian’s spouse from speaking at the father’s parole hearing, so long as the court found that such a restriction was in the best interests of the minor.

The Supreme Court disagreed. As the Supreme Court explained, read in the context of the statute as a whole, the “powers” and “duties” contemplated under the catchall Subsection IV relate to the guardian’s role as custodian of the minor’s affairs and welfare. Restrictions on the guardian’s and her spouse’s participation in a parole hearing are unrelated to the guardian-minor relationship, and have no connection to the guardian’s management of the minor’s affairs. Reading the statute as broadly as the father suggested would allow the court to impose restrictions extending far beyond the guardianship and into the personal life of the guardian. Accordingly, the Supreme Court concluded that RSA 463:12 does not authorize the circuit court to restrict the guardian or her spouse from speaking at the father’s parole hearing.

The Supreme Court’s statutory construction in this case is illustrative of the interpretative canon that specific provisions, including catchall provisions, should be read in light of the statute as a whole to further its overall purpose. When faced with facially-broad or ambiguous provisions in a statute, practitioners should be mindful to frame their arguments such that their reading fits within the statutory scheme as a whole.

Bernazzani Law, PLLC, of Nashua (Anthony J. Naro on the brief and orally), for the appellant. Smith-Weiss Shepard Kanakis & Spony, PC, of Nashua (Brittney M. White on the brief and orally), for the appellee.

Family Law

In the Matter of Alden Satas and Courtney Crabtree-Satas, No. 2021-0419

January 24, 2024

Vacated and remanded

- Did the trial court err when it found that the petitioner “is” the stepparent of the child, under RSA 461-A:6, V, where the petitioner and respondent had been divorced for years beforehand?

The petitioner and respondent married in May 2012, when the respondent’s biological child was approximately two and a half years old. The parties later separated in April 2016, and the petitioner filed for divorce in August 2016. A final divorce decree issued in February 2017, along with a parenting plan that referenced only a different child

born to the parties during their marriage, and contained no provision regarding the respondent’s child at issue in this case. While petitioner and respondent were married, the petitioner never adopted the child, nor was he ever granted guardianship. No court orders regarding the petitioner’s alleged parenting rights with respect to the child were issued during the parties’ marriage or divorce. Nonetheless, the child continued to reside with the petitioner for some time after the divorce until discord between the parties resulted in the child going to live with the respondent.

In December 2020, the petitioner filed a parenting petition seeking, as the child’s stepfather, a parenting plan concerning the child. The respondent moved to dismiss, arguing that the petitioner did not have standing to file a parenting petition because his status as the child’s stepparent ended when the parties divorced over three years earlier. The circuit court (Boyle, J.) ordered that the petitioner had standing to request parenting rights and responsibilities, and it ordered parenting time with both parties on a temporary basis. The respondent requested an interlocutory transfer to the Supreme Court, which the trial court approved.

The Supreme Court concluded that the trial court erred in finding the petitioner had standing to request parenting rights and responsibilities. Under RSA 461-A:6, V, “If the court determines it is in the best interest of the children, it shall in its decree grant reasonable visitation privileges to a party who is a stepparent of the children or to the grandparents of the children pursuant to RSA 461-A:13” (emphasis added). Given that the statute uses the present tense, referring to a party who “is” a stepparent, the Supreme Court agreed with the respondent that the petitioner is not a stepparent for purposes of the statute because the statutory references to the rights of non-parents refer to individuals who have a current stepparent relationship.

The petitioner argued that this reading would lead to an absurd result – specifically, arguing that if “stepparent status is terminated upon divorce, then all awards made by the Court granting parenting rights and responsibilities to stepparents . . . [would terminate] by the same stroke of the judicial officer’s pen” that grants the divorce, and such stepparents “must be immediately divested of all such rights and responsibilities the moment they become, ‘former stepparents.’” As the Supreme Court explained, however, a party seeking stepparent visitation as part of a divorce would still be married to the other party during the proceedings, and, thus, “is a stepparent” for purposes of RSA 461-A:6, V. Nothing in RSA 461-A:6, V provides for the revocation of visitation privileges otherwise authorized by that section upon issuance of the divorce, and the Supreme Court declined to add language that the legislature did not see fit to include. In short, the Supreme Court’s reading merely follows the express language of the statute, and as a result precludes a former stepparent from petitioning for visitation privileges after a divorce decree becomes final.

Schwartzberg Law, of Plymouth (John T. Katsirebas, Jr. on the brief and orally), for the petitioner. Normandin, Cheney & O’Neil, PLLC, of Laconia (William D. Woodbury on the brief and orally), for the respondent.

NH Supreme Court Orders

In accordance with Supreme Court Rule 37(4)(a), the Supreme Court reappoints the following members to the Hearings Committee of the Attorney Discipline System:

Attorney Andrea Amodeo-Vickery
Attorney Andrew F. Cotrupi
Attorney Michael J. Iacopino
Attorney Jason R.L. Major
Attorney Anthony John Naro
Attorney John P. Newman
Susan R. Chollet, non-attorney member.

These members are reappointed to serve three-year terms commencing as of January 1, 2024, and expiring December 31, 2026.

Issued: January 11, 2024

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



In accordance with Supreme Court Rule 37(3)(a), the Supreme Court reappoints the following members to the Professional Conduct Committee of the Attorney Discipline System:

Kathleen Ames, non-attorney member
Ronald K. Ace, non-attorney member.

These members are reappointed to serve three-year terms commencing as of January 1, 2024, and expiring December 31, 2026. The Supreme Court designates Kathleen Ames to continue as a vice chair.

Issued: January 11, 2024

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



In accordance with Rule 42(II)(a), the Supreme Court appoints James McKim, a non-attorney, to the Committee on Character and Fitness, effective immediately. James McKim replaces Dr. Susan Fischer Davis, who has resigned from the Committee. He is appointed to serve the remainder of her three-year term, which expires May 31, 2026.

Issued: January 11, 2024

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



The Supreme Court makes the following appointments to the Access to Justice Commission, which was established by Supreme Court order dated January 12, 2007.

The following persons are reappointed to serve three-year terms beginning as of January 1, 2024, and expiring December 31, 2026:

Attorney Robert Dietel
Caitlin Dow
Attorney Nathan Fennessy
Attorney Margaret Huang
Attorney Peter A. Nieves
Attorney Kaitlin O’Neil
Attorney Israel F. Piedra
Attorney L. Jonathan Ross
Mary Searles
Attorney Brian Shaughnessy
Marcia Sink
Susan Zago

The following persons are appointed to serve three-year terms beginning as of January 1, 2024, and expiring December 31, 2026:

Rachael Azotea
Attorney Jay Buckley
Irena Goddard.

In the time since the Supreme Court’s last order dated January 27, 2023, that appointed members to the Commission, the Supreme Court has received notification that the following Commission members have resigned or chosen not to seek reappointment: Marcia Allison; Attorney Nick Abramson; Attorney Sonya Bellafant; Attorney Paul Chant; Attorney Christina Ferrari; Attorney Rose Marie Joly; Attorney Emily Gray Rice; Attorney Lynne Sabean; Attorney Catherine Shanellaris; and Attorney Ramey Sylvester. The Supreme Court has also received notification that Jackie Waters resigns as a Commission member effective January 26, 2024.

Issued: January 25, 2024

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



The Attorney Discipline Office’s General Counsel has requested that the Supreme Court appoint temporary members of the Complaint Screening Committee due to the recusal of all of the current members of the Complaint Screening Committee from considering and acting on a request for reconsideration filed by a grievant of a decision not to docket a particular matter involving a then-current and now-former member of the Complaint Screening Committee.

In accordance with this request, the Supreme Court appoints Attorney Stephanie K. Annunziata, Attorney Mark T. Knights, Attorney George H. Thompson, Jr., Attorney James A. Shephard, Elaine Holden (non-attorney), and Susan Chollett (non-attorney) to serve as temporary members of the Complaint Screening Committee for the purpose of considering and acting on the grievant’s request for reconsideration. The Supreme Court designates Attorney Stephanie K. Annunziata to serve as chair of the temporary committee.

Issued: January 30, 2024

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

REVIEWS WANTED



What law-related
✓books ✓movies ✓apps
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have you tried lately?

Send a brief review to *Bar News* to share with your colleagues. Contact news@nhbar.org for more information.

Business Opportunity Invited

Well Established attorney with prime office location in Rochester, N.H. retiring and seeking a merger or acquisition by a larger firm or solo attorney. Take over the practice, or also purchase or lease the building in this high visibility, quickly developing area. With over 40 years of established success, a wealth of expertise, strategic partnerships, and deep community knowledge, this is a fantastic opportunity to launch or expand your practice.

CONTACT

Attorney Jerome H. Grossman at jeromegrossmanlaw@gmail.com

FULL-TIME PARALEGAL

YDC Claims Administration seeks a fulltime paralegal. Qualified applicants should be detail-oriented and be able to work independently and as a team player.

Salary range: \$43,056-\$63,122 with state benefits package.

Paralegal job description, qualifications and application can be found at: www.courts.nh.gov/careers/job-postings, look for job #23-105. Applications accepted until position filled

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

YDC Claims Administration seeks a full-time Administrative Assistant II.

Job Description: Qualifications and applications can be found at <https://www.courts.nh.gov/careers/job-postings>. This position is a full-time support position in the YDC Claims Administration, and requires the ability to act independently with good judgment. 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.

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, fax application to (603) 513-5454 or mail the application to Administrative Office of the Courts, One Granite Place, Suite N400 Concord, NH 03301. 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

Classifieds

POSITIONS AVAILABLE

603 LEGAL AID IN CONCORD, NH IS SEEKING A STAFF ATTORNEY – DOMESTIC VIOLENCE SPECIALIST – The Staff Attorney works collaboratively with the Domestic Violence Advocacy Project (DVAP) at New Hampshire Legal Assistance (NHLA) and 603 Legal Aid's Domestic Violence Emergency project (DOVE) to facilitate the full utilization of statewide resources and best meet prospective client needs. The Staff Attorney also works to collect and manage data for statewide planning and project evaluation purposes. The Staff Attorney works closely with and reports to the Legal Director. Learn more at: <https://www.603legalaids.org/staff-attorney-dv-specialist>.

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

ASSOCIATE ATTORNEYS - Medical Malpractice or General Liability Defense – Associate positions for the medical malpractice litigation defense and general liability litigation defense groups at mid-sized law firm. Offices in Hampton, NH, Woburn, Boston, and Hingham, MA. Open positions in the Hampton and Woburn offices. Opportunity to work with highly experienced attorneys on either the healthcare team serving prestigious healthcare institutions and providers on medical malpractice and employment-related litigation matters, or on the general liability team handling a high volume of cases involving real estate, construction and general liability litigation. Competitive salary, great benefits, and reasonable billing requirement. Excellent verbal communication and writing skills required. Ability to work collaboratively with team members on cases. Candidates with, or willing and able to get, admission to MA bar will be considered. Candidates for the medical malpractice position with 2-4 years' experience and prior medical malpractice and/or employment law experience will get priority in hiring decision. Send resume and cover letter, in confidence, to tbright@hmdrslaw.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.

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

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.

REFERRALS

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



EXPERIENCED COMMERCIAL REAL ESTATE ATTORNEY LOOKING FOR A FLEXIBILITY GLIDEPATH

Are you thinking of winding down but cannot figure out how to do it?
Alfano Law is looking for a seasoned commercial real estate attorney with experience in purchase and sales, leasing, zoning, titles, closings, and LLCs.

Candidates must have spent most of their time practicing in New Hampshire.
The position can be hybrid or fully remote.
The firm provides real estate-based legal services to businesses and individuals.
Our specific areas include roads and easements, commercial real estate, real estate litigation, tax law, estate planning, and probate.

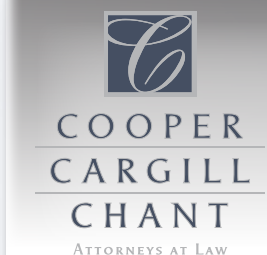
The firm's main office is in Concord, NH with other locations in Portsmouth, Keene and Bedford. If you are interested, please contact Paul Alfano at palfano@alfanolaw.com.

CASA of New Hampshire Staff Attorney

CASA seeks a dynamic, high-energy Staff Attorney to act as in-house counsel for CASA of NH staff and volunteers. CASA is a mission-based organization that is oriented toward diversity, equity, and inclusion. CASA of NH provides volunteer advocacy for children in New Hampshire who experienced abuse or neglect. Make a meaningful difference in the lives of those children providing legal advice and representation to CASA Program Staff and volunteer advocates in a supportive, diverse, talented, and friendly work environment. Be your best and work with the best at CASA of NH.

Cover letter, resume and salary requirements should be sent via e-mail to Executive Assistant Melissa Desrosiers MDesrosiers@casanh.org.

The full job description and qualification requirements can be found at <https://casanh.org/2023/09/staff-attorney>.



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.
For further information, visit www.coopercargillchant.com



Associate Attorney

Would you like to work for a small, reputable Law Firm with an accomplished, yet collegial team of co-workers?

Our firm has been operating in the Seacoast for fifteen years and our lawyers have 40 years of experience representing clients in New Hampshire and Maine. We take pride in the excellent service we provide to clients who are going through some of life's hardest transitions and are currently looking for an Associate Attorney to join our team.

The ideal candidate will have a minimum of 3-5 years of experience in family law or a complementary line of practice, with a desire to transition to primarily a family law practice. Must be currently licensed in New Hampshire, with the ideal candidate also licensed in Maine. If you are eager to grow within a small-medium size firm, we will be invested in your future and open to this position leading to partnership for the right individual. We support a culture of work/life balance and we can offer a flexible compensation depending on your life stage needs. All inquiries held confidential.

Submit resume and letter of interest to: admin@weibrechtlaw.com

CITY SOLICITOR

City of Concord, NH

A Unique Opportunity: The City of Concord is recruiting a City Solicitor to lead and supervise the City's Legal Department which is comprised of a civil and criminal division. The City Solicitor represents the City in all legal matters, providing legal counsel to the City Manager, all City Departments, the City Council and all City Boards, Commissions and Committees. The City Solicitor supervises the Deputy City Solicitor, a paralegal, as well as a City Prosecutor, who manages the City Prosecutor's Office, consisting of 4 Assistant City Prosecutors and support staff. Candidates for the City Solicitor position should be highly motivated and have a minimum of 10 years experience in municipal, civil or corporate law. Candidates should also have experience with office management, and knowledge relative to creating budgets. Experience in the New Hampshire Superior Court, the New Hampshire Supreme Court and the United States District Court is preferred.

Minimum Qualifications: Juris doctorate, and 10 years of experience as an attorney.

Must be a member of the New Hampshire Bar Association.

Starting Salary Range: \$119,662.40-\$160,867.20, DOQ, with a competitive flexible benefits package.

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

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The ideal candidate will have the immediate opportunity to earn a competitive salary while gaining firsthand experience and mentorship in a collegial and supportive environment.

We are looking for a candidate with strong academic credentials, and excellent analytical, legal research, writing and communication skills. Experience drafting pleadings, motions and discovery is a plus.

Candidates should embrace the opportunity to learn and grow with experienced civil litigation and family law practitioners. A passion for the practice of law and an entrepreneurial spirit are required.

Only candidates already admitted to the New Hampshire Bar will be considered.

Please send resumes to Managing Partner, Attorney Peter J. Kajko at pkajko@massfirm.com.

DARTMOUTH COLLEGE ASSISTANT GENERAL COUNSEL

Dartmouth College seeks a skilled, collegial, and collaborative attorney experienced in New Hampshire real estate matters to join the Office of the General Counsel as Assistant General Counsel. This role will provide broad-based real estate law counseling advice regarding all aspects of Dartmouth's real estate and construction portfolio and will assist with managing real estate related administrative proceedings and litigation.

The full job description, qualification requirements, and application submittal information may be found at:

<https://searchjobs.dartmouth.edu/postings/72155>

Sheehey FURLONG & BEHM P.C.

ATTORNEYS

Sheehey Furlong and Behm P.C. (Sheehey), a full-service Vermont law firm of 20+ lawyers with locations in Burlington and Norwich, is seeking to fill three positions:

1. A **corporate/commercial associate attorney** with 3-5 years of experience in transactional and corporate law,
2. An experienced **trust and estates attorney** with at least 5 years of experience; and
3. A **litigation associate attorney** with 2-4 years of experience.

Qualified candidates should have exceptional attention to detail, strong writing and legal research skills with a demonstrated ability to produce high quality legal work. Sheehey looks for lawyers with an enthusiastic approach, a strong work ethic and the ability to be a true team player. The candidate must be admitted to practice in Vermont or be eligible for admission.

Sheehey offers its attorneys a flexible work environment, mentorship and professional development opportunities. All positions offer a competitive salary and comprehensive benefits, including health insurance, generous paid parental leave, a retirement plan with firm matching, and profit sharing.

Please submit a cover letter, résumé, and **brief** writing sample to: Justin Brown, Hiring Attorney, Sheehey Furlong & Behm P.C., PO Box 66, Burlington, Vermont 05402; or by email with position title in the subject line to hiring@sheeheyvt.com.

SEEKING DYNAMIC LITIGATION ASSOCIATE

PASTORI | KRANS
ATTORNEYS AT LAW

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

All inquiries are
held in strict confidence.

Municipal Attorney Manchester, New Hampshire

Drummond Woodsum seeks an attorney with 0 to 2 years' experience to join its expanding municipal practice at its Manchester, New Hampshire office. Our municipal practice group uses a team-based approach to advise town, city, county and other local governing bodies on land use, zoning, environmental, subdivision and land use permitting matters, as well as matters involving New Hampshire's right-to-know law, elections, real estate, property taxation, municipal finance, labor and employment, and litigation. Our attorneys frequently interact with and appear before public officials, both elected and appointed, as well as public boards and councils.

Candidates must have outstanding academic credentials, excellent research and writing skills, a strong work ethic, and the ability to work well on a team. Prior experience in municipal, land use, and/or real estate law is a plus, but not required. To apply, please submit a letter of interest and a resume to hr@dwmlaw.com. No phone calls, please. All inquiries are held in the strictest of confidence.

Drummond Woodsum is a full-service law firm with more than 100 attorneys and consultants providing a wide range of services for our clients, which range from some of the nation's largest corporations to small start-up companies, financial institutions, Tribal Nations and Tribal enterprises, municipalities, school districts, and individuals. We recognize that our greatest asset is our people, so we have intentionally created an environment where personal and professional growth are encouraged and fostered through mentorship and a respect for work-life balance. Drummond Woodsum offers a generous benefits package including a choice of medical plans with wellness reimbursements, life insurance, short and long-term disability insurance, 401(k)/Profit Sharing plan, and more. We look forward to hearing from you.

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. All inquiries are held in the strictest confidence. No phone calls, please.

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

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

DCYF Attorney Duties include:

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

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

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

For questions about this position, please contact Attorney Deanna Baker, Legal Director at (603) 271-1220, deanna.baker@dhhs.nh.gov.

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CLAIMS ANALYST, APO

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CHIEF ADMINISTRATIVE PROSECUTOR

The State of New Hampshire Office of Professional Licensure and Certification (OPLC), Division of Enforcement seeks a full-time Chief Administrative Prosecutor.

The Chief Administrative Prosecutor, among other things, supervises and coordinates all administrative prosecutions, negotiates and oversees the negotiation of potential settlements to resolve pending disciplinary matters prior to and in lieu of hearing.

The ideal candidate will have a Juris Doctorate degree from a recognized college or university and at least five years' experience in the active practice of law.

Candidate must be an active member of the New Hampshire Bar Association and in Good Standing.

Please send cover letter and resume to Office of Professional Licensure and Certification, 7 Eagle Square, Concord NH 03301, Attn: Judy Shevlin, Human Resources or via email at judith.a.shevlin@oplcnh.gov.

For a full job description, please visit the State of NH's job postings and search for Job ID # 37797, <http://das.nh.gov/jobsearch/Employment.aspx>

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.

Assistant County Attorney Sullivan County

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

Essential Job Responsibilities include:

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

Starting Salary: \$85,000

Status: Full time/Exempt, Benefits

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

Email Applications: shersom@sullivancountynh.gov

Mail Applications: 14 Main St, Newport, NH 03773

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Please submit a cover letter and resume to:

Orr & Reno, P.A.

Attn: HR Director

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Fax: (603) 223-9060

Via email (please send in Word format only)

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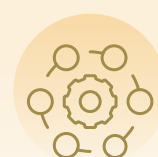
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