



Justice Hantz Marconi (left), Judge Roen (center), and Dean Carpenter at the International Day of Women Judges event on March 7, 2024. Photo by Julie Smiley

## Afghan Judge Embodies Spirit of International Day of Women Judges

By Julie Smiley

The New Hampshire Women's Bar Association (NHWBA), with support from the New Hampshire Bar Foundation (NHBF), recognized the International Day of Women Judges at a reception at the One Hundred Club in Portsmouth on March 7. A resolution to establish the International Day of Women Judges was ratified by the United Nation's General

Assembly on April 28, 2021,<sup>1</sup> with redress of gender inequalities in the judiciary at its core. There could not have been a more befitting tribute than a focus on Afghanistan Judge Geeti Roen's resilience and perseverance in the face of adversity.

Speakers at the event included Judge Roen, Circuit Court Judge Ellen Christo, New Hampshire Supreme Court Justice

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## The Unrepresented Party: Examining the New Hampshire Pro Se Gap

By Grace Yurish

In the New Hampshire justice system, a significant challenge looms as a majority of litigants must navigate the legal process on their own. Nearly 85 percent of cases in the circuit courts feature at least one unrepresented party,<sup>1</sup> forcing the people of New Hampshire to enter a complex process while already under immense stress.

Most pro se litigants are faced with economic hardships, limiting their access to legal representation. New Hampshire Legal Assistance (NHLA) Executive Director Sarah Mattson Dustin articulates the challenges faced by these individuals.

"It's people who are struggling to meet their basic needs," she says. "They're struggling to pay for housing, to afford food, prescription medication, gas. Those are the folks for whom it's really going to be impossible to pay for legal services because they're struggling just to meet the needs of their day-to-day existence."

The 2021 civil needs assessment conducted by the New Hampshire Judicial



Branch's Access to Justice Commission<sup>2</sup> shed light on the origins of many common civil cases – poverty, housing, family, domestic violence, and debt collection are recurring legal challenges often confronted by low-income litigants. Organizations like 603 Legal Aid (603LA), NHLA, and the Disability Rights Center (DRC) work hand in hand to provide support to thousands of people seeking guidance in these situations. Despite commendable collaborative efforts from these organizations, many individuals still find it challenging to secure legal representation at low or no cost.

"Civil legal aid in general is understaffed," says 603LA Deputy Director Emma Sisti. "Because we're understaffed and under-resourced, there are chunks of

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## Celebrating Five Years of Free Legal Answers in New Hampshire

By Tom Jarvis

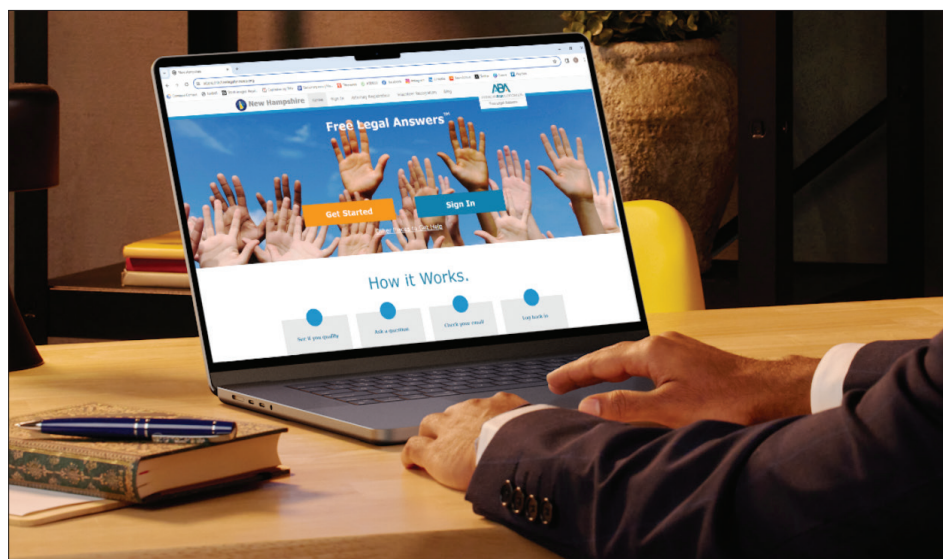
This month marks the five-year anniversary of the Free Legal Answers (FLA) program launching in the Granite State. There are currently more than 100 attorneys in eight counties across the state who volunteer for the program. Since launching in New Hampshire in March 2019, participants have answered 2,258 of 3,255 questions asked, which translates to a 69 percent answer rate.

FLA is a virtual legal advice clinic, administered by the American Bar Association (ABA), in which eligible users post non-criminal legal questions to be answered by volunteer attorneys at no cost. To qualify, an asker must fill out a financial application to show their income is zero to

250 percent of the national poverty level. They also need to provide their name and, if applicable, the opposing party's name, for a conflict check. Once their question is posted, a volunteer attorney will provide anonymous advice via the online portal. If their question remains unanswered for more than 35 days, it is withdrawn, and they receive an email with additional resources such as LawLine.

"It's a quick, easy way to help somebody who needs help and doesn't know where to go to get it," says attorney Martha Davidson, who was named a Pro Bono Leader by the ABA Standing Committee on Pro Bono and Public Service (the Committee) for answering more than 50 ques-

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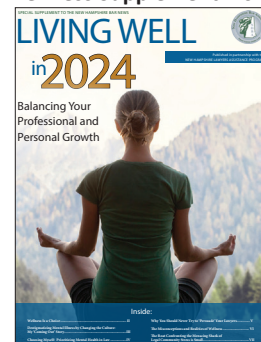
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# Annual Meeting 2024: There Really Is No Good Reason Not to Come

By Paul Chant

Did you see the price for rooms for the Annual Meeting? I did, and I couldn't believe it: Rooms starting at \$149! The Annual Meeting will be held at the Grand Summit Hotel at Attitash in Bartlett, here in the spectacular Mount Washington Valley, from Friday, June 7 to Sunday, June 9.

Parents of young children, have you taken your kids to Story Land yet? Might as well do it on Annual meeting weekend. I swear to you, for kids under seven or eight years old, it is a better experience (way less overwhelming and many thousands of dollars less) than Disney. Oh, and there is an aquarium right next door!

Are your kids bigger? How about a trek up one of the Valley's mountains? Washington, of course, is the biggest, but there are many others. The walk to Diana's Baths [waterfalls] is rather short, or you could go up to the top of Cathedral Ledge.

More of a car rider than a hiker? Drive up to the Glen House in Pinkham Notch and sit on their deck for a drink in the afternoon sun. You could also drive up Mount Washington or take the Cog Railway.

As for planned activities for the Annual Meeting, we are working on a brewery bus tour – yes, people come to the Valley for beer. We are thinking Ledge Brewing, then

## President's Perspective



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

Saco River, and ending the afternoon outside in the sun, listening to good music at Tuckerman Brewing. If you want to just do a single brewery with good lunch food, visit Moat Mountain Brewing Company.

Are distilleries more your game? Travel down to my hometown of Tamworth. If your kids are little, you can't miss Remick Country Doctor Museum and Farm, and you can visit the Tamworth Distillery right across the street. Get a drink and go down by the river: Priceless!

If you want to stay in the North Conway area, go to Mae Kelly's Cottage for lunch. Sit on their back deck overlooking the Saco River and the Moat Mountain range. See if you can leave that spot! I have had the pleasure of doing this many summer Fridays.

You must do it while you are here.

We are also working to add a guided hike, but the details are not firm yet.

Do you bike or mountain bike? We have a wonderful new "recreation path," that can start or end at the base of Cranmore Mountain. There are kids' activities galore at Cranmore – a mountain coaster, a giant swing, a soaring zip line, summer tubing, climbing walls, a bungee trampoline, and a scenic chairlift ride. If you are lucky, the Schneider Hut on top will be open for a most scenic lunch.

Oh, I heard there is also some serious shopping to be done in the Valley.

The Annual Meeting is a great opportunity to spend time with and celebrate fellow lawyers and judges or meet new colleagues.

There is also a heated outdoor pool at the Grand Summit.

There really is no good reason not to come up. Kids of all ages – yes, that includes you – can have a blast! Make it happen.

I do not want to end this column without thanking all those who made the Mid-year Meeting such a success. Folks, until you work with them, you don't know just how special the Bar staff really is. These people are talented, diligent, and just plain nice. I'd also like to give a special shoutout to Bob Lucic for putting on a wonderful AI program. ♦

## From the Editor

## Happy Anniversary to Me

This month marks my official one-year anniversary as editor of the *Bar News*. I use the word "official" because I had been informally doing most of the job since mid-2022 when our previous editor Scott Merrill left. But in March 2023, it became formally official. Or officially formal – whichever you prefer.



It has been a great year for our publication. Our team was solidified (and perfected, in my opinion) with the addition of Director of Marketing, Communications, and Member Outreach – say that three times fast – Caitlin Dow in April, and Editorial and Marketing Coordinator Grace Yurish in June. Those two, along with the indomitable

Donna Parker, our advertising and sponsorship salesperson who just celebrated her 41-year anniversary at the Bar this past November, have been invaluable to me and to the success of this publication.

I am also grateful to Misty Griffith, the member services supervisor here at the Bar, for her many valuable suggestions and her willingness to let me bounce ideas off her from time to time. Any time I have plopped down in the guest chair of her office, armed with my pen and notepad, and bearing a bewildered expression, she has never once rolled her eyes. Winning!

In related news, Misty has graciously agreed to be my cohost for some upcoming episodes of the NHBA's podcast, the *Bar Discourse*. Stay tuned for more information on that front soon.

Another note in the realm of Bar staff who help with the *Bar News*: NHBA CLE Program Registrar Cheryl Moore, who is

celebrating her 36-year Bar anniversary this month, has been helping with additional proofreading behind the scenes for many years. Since her time and contributions are so helpful, I added her name to the masthead so she can finally get the recognition she deserves.

We've made some modifications to the *Bar News* this past year, as well. One of the more obvious ones was giving the nameplate a fancy makeover. We went from green letters on a white background to white letters on a green background...wow. Okay, so not a huge deal but you probably know that change must be introduced very slowly and incrementally in this state!

We've also added some things to bring levity to the *Bar News*. These include legal cartoons and crossword puzzles (starting in June, crosswords will be in every issue in-

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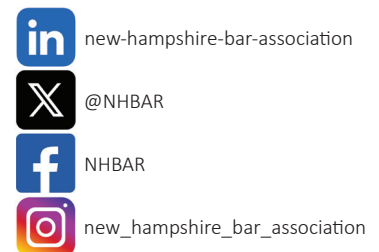
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## Carolyn Cole: Jill of All Trades, Born to Be a Lawyer

By Kathie Ragsdale

Carolyn K. Cole's resumé looks like it should belong to several people.

She's a former Peace Corps volunteer who served as a midwife in the Central African Republic, holder of a master's degree from Oxford University in Elizabethan and Jacobean English, author of a book, runner and one-time Ironman competitor, instrument-rated pilot, cellist in an orchestra, and – oh yes – managing partner of her Lebanon-based law firm.

She is also a bona fide New Hampshire whose love of the state has remained constant through her travels.

"Like so many kids from New Hampshire and Vermont, you spend 18 years crawling your way out of the state and the next 18 years crawling your way back in," she says. "My crawl went literally all over the world."

Born in New London, Cole spent much of her childhood in Wolfeboro before attending Middlebury College, where she majored in literary studies. A lifelong fascination with Africa led her to apply to the Peace Corps, and right after graduation, she was sent to work as a midwife in Batangafo, a town in the Central African Republic that had mud huts, no running water, and no electricity.

"I would be in the middle of the continent with a motorcycle, and it sounded so dreamy and excellent until I discovered I'm a horrible midwife," she says with a laugh. "Every time I saw a birth, I threw up. The first one, I passed out cold."

Still, she worked hard trying to introduce science to the village women who had grown up in a culture that relied on superstition and spirit guides to govern behavior and who had no idea what a germ was. Her two-year Peace Corps commitment was cut short by her own illness when she developed bilharzia, a snail-born parasitic disease, and had to be medevacked out of the country.

She was treated at the Hospital for Tropical Diseases in London.

"The cure was worse than the disease," she says. "I remember lying on all fours, rocking myself with nausea, wishing I would just die."

But the African experience proved formative. Cole says she discovered that people who appear to be very different from you "are very much like you," as well as the importance of being completely self-reliant.

She captured those memories in a book, *The Mango Rains*, which garnered some interest by Simon & Schuster, but was never published. The title refers to the rains that would come after a long dry period in Africa but which would quickly stop without offering relief.

"It's a complete teaser for the redemption you hope the world's going to offer," Cole says of the mango rains. "Somehow, I saw that as a symbol for the Peace Corps. We go in there with a great deal of promise to relieve some of the suffering with knowledge or a well or a pharmacy, a teacher or a road or a bridge, only to discover that maybe we're not the promise we hoped to be."

Cole spent a year regrouping, then went to Oxford for two years to get her master's in Elizabethan and Jacobean English.

She returned home in 1991 to find the country in the midst of a recession, got a job selling voter data to political candidates and lobbyists, and moved to Washington, DC, where she would pass the Supreme



Carolyn Cole after a segTEL trial with her father, Peter Cole, and her daughter, Leah, who helped as her paralegal. At the time of the photo, Leah was 16 but she is now a lawyer at Shaheen & Gordon. Courtesy Photo

Court building on her daily runs. She started dreaming about becoming a Supreme Court justice one day.

"It just called me," she says.

So did family history. Cole's father, Peter Cole, whom she calls "my hero" and "the most brilliant man I've ever known," was a prep school teacher who became a lawyer in his middle-age and won numerous awards for his pro bono work.

Cole and her then-fiancé moved to New York and she enrolled at the Benjamin N. Cardozo School of Law and "loved every minute of it," she says. Upon graduation, she worked in New York City for several years, focusing on civil and human rights violations, until the pull of the Granite State lured her back in 1999.

She practiced general civil litigation, then served as in-house general counsel for a large telecommunications company for several years before forming Cole Associates Civil Law in 2013.

"My real favorite thing is the big, juicy, complicated federal court stuff, commercial disputes mostly," she says.

In one case, she won a \$4 million verdict for a dry cleaner in Grafton County who had been put out of business because of breach of contract by a natural gas supplier. The supplier had promised to convert her client to a compressed natural gas system but kept them on the more costly natural gas.

In another precedent-setting case, Cole represented a fraternity that had received a zoning violation, successfully arguing that the zoning board didn't have subject matter jurisdiction in the case.

"Carolyn is an inventive attorney and is always looking for creative ways to advocate for her clients," says Howard Myers, who has known Cole for almost 25 years, first as an associate in his office, then as a friend, and now as a partner. "She is a tenacious but very professional litigator. I am glad she is on my side."

That view is shared by client Jeremy Katz, who has worked with Cole in varying capacities for more than 18 years and hired her to be general counsel of one of his ventures, segTEL Inc., a regulated telecommunications provider. Since the sale of the company in the mid-2010s, she has continued to represent other ventures and organizations in which he is involved.

"Carolyn's litigation skills are on par with the top boutique litigation firms that I have worked with in major metropolitan areas across the country," Katz says. "She brings top-tier quality to a very small

corner of northern New England. She has distinguished herself with her willingness to acquire deep domain expertise through substantial research, and to challenge long held (but often incorrect) conventional wisdom."

Her clients, he adds, "are in exceptionally good hands with her."

Cole's tenacity extends to non-legal matters. She was a longtime Ironman athlete, quitting only when a knee replacement forced her to, and is an instrument-rated pilot, though she hasn't flown in a few years. These days her extracurricular ener-



Carolyn Cole on her bike at Ironman Lake Placid. Courtesy Photo

gies are channeled into playing the cello for the Upper Valley Symphony Orchestra and spending time with her husband of 22 years, Gar Hier. The couple has four grown children between them.

Cole says her years of studying literature still inform her work.

"I'm a writer's writer," she says. "When I write my motions, inevitably Shakespeare will work his way in."

But her first love remains the law.

"I think I was born to be a lawyer," Cole says. "I can tell you I wasn't born to be a midwife." ♦

### The only thing not changing with business immigration? Who you want to handle it.

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# Vigilance: An IOLTA Cyberthreat Cautionary Tale

By Rory Parnell, Cathy McKay,  
and David Stamatis



Parnell



McKay



Stamatis

The IOLTA account is the most important financial account law firms have. The specific and needed regulations of the IOLTA account are all for one important point: it is not the law firm's money! As a result, we take our responsibilities at Parnell, Michels & McKay very seriously. All law firms have a duty to safeguard those funds. Our firm monitors the IOLTA account by having various systems in place that can reduce or eliminate human or technological error.

However, a simple example of this system involves our billing office, and specifically our bookkeepers and office manager. Our office manager checks our accounts balances and transaction log each morning to ensure there is no nefarious activity. If there are any questionable transactions, she brings it up with our bookkeeping staff and the partners at our firm. This routine review helps identify potential issues before they become serious problems.

It was this routine that caught two fraudulent charges of \$0.02 and \$0.03 respectively

in our trust account. These unlawful transactions were done by a cybercriminal. We were able to identify that the funds were also returned to the account. By returning the funds to the account, the would-be thief knew that the bank would not immediately alert us that the balance changed, or the transaction occurred. The goal of this micro-transaction was to check to see if the thief had the right account and routing number to transfer money out of the account.

This particular incursion occurred from PayPal "pinging" our bank account with the small money transfers. Normally, this is a perfectly legitimate transaction. Venmo, PayPal, and other e-commerce platforms use microtransactions to confirm that the account belongs to the person trying to set up a transfer. However, in this instance, the hackers would have presumably tried to transfer a significant portion of client funds out of the account. Terrifying!

Of course, our firm wanted to know how this was possible. Our bank informed us that someone had gotten our account number (likely from a discarded check or a client's bank statement/hacked account). In this scheme, cybercriminals utilize multiple bank accounts. Once these "pinging" charges are submitted, the criminal would likely try to guess the amounts submitted until they correctly, but fraudulently, verified the account.

If locked out, would-be hackers will

try multiple other accounts to try to transfer the money. If verification is achieved, they will try to verify a transfer as much money as they can in routine sums. Thankfully, our system caught this because of our routine check-ins.

As many of us know in the digital era, these types of incursions are becoming more common. Accordingly, we wanted to share what happened so others are aware of the various ways hackers try to get access to our accounts.

More to the point, we discovered this intrusion five days before our bank did, and well before we received any written statement from the bank. Again, on its face, a microtransaction to verify an account is legitimate. Five days after the transaction, and our actions, we got a frantic call from the bank's fraud department. We kindly informed them we were already on top of it and had addressed it. If we did not have this system in place, we would not have been alerted to this for up to five days or more (depending on your bank). Again, terrifying!

We share this story so others can do what

is necessary to protect their funds and clients' funds in an IOLTA account. Once this happens, it is best to first identify all outstanding checks on the account and leave enough money in the old account (plus enough for fees and other ancillary charges) to cover those potential amounts to avoid being "out of trust." All other funds get transferred into a new account. This prevents any additional incursions from having any effect.

While we were able to avoid losing any funds, it is important that we all remain vigilant against these hackers as more sophisticated technology develops. Hopefully this can be a lesson for others on how to use preventative measures to prevent more serious disasters. ♦

*Rory Parnell is a partner at Parnell, Michels & McKay, PLLC (PMM), and practices in personal injury and workers' compensation law. Cathy McKay is the managing partner at PMM and practices in family and collaborative law. David Stamatis is a new partner at PMM and practices in family and appellate law.*

## EDITOR from page 2

stead of semiannually), as well as occasional lighthearted columns like Fictional Lawyers.

Further, we added some new special supplements such as the robust diversity, equity, and inclusion supplement, an upcoming member services supplement, and an upcoming pro bono supplement.

We also started and finished the acclaimed NHBA Prison Series this past year. Thanks to a grant from the New Hampshire Bar Foundation, we were able to publish seven informative articles written by myself and Scott Merrill (freelance) about the Granite State's prison system, its inmates and workers, and the lawyers who work with them. These pieces presented in an arc, beginning with being charged with a crime and ending with reentering society after prison. The final article of the series was published in last month's issue.

As I write this column, we are currently putting together a booklet containing all the articles from the series that will be available for download and in print.

One of the things I am most proud of, though, is the praise that we have received for the *Bar News* this past year. I've heard from Bar members and staff alike that this publication is better than it has been in a long time and that each issue is full of great content. In other words, all killer no filler. (I've

always wanted a context in which to use that phrase. One more thing checked off the bucket list!)

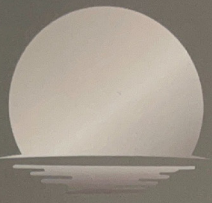
At the Midyear Meeting last month, I had a member come up to me and say that for the first time since he started getting the *Bar News* years ago, he looks forward to its release each month and reads it from cover to cover. Similarly, a Bar staff member told Donna and me last week that in her 17 years at the Bar, this is the best the publication has ever been.

I don't say all this to toot my own horn or the horns of my team members. Aw, who am I kidding? I am totally tooting our horns!

In all seriousness, hearing those things fuels me to do even better and to do even more to make this publication the best that it can possibly be. I look forward to another year (and many more, for sure, *señor*) of bringing you content that you enjoy and/or keeps you informed.

As always, if you have any suggestions for improvement, article ideas to pitch, opinions to write, books to review, events for us to cover, people for us to profile, or anything else, please don't hesitate to tell me at [tjarvis@nhbar.org](mailto:tjarvis@nhbar.org) or (603) 715-3212.

Last but certainly not least, if you would like to write a letter to the editor, I am happy to publish it. I am doubly happy to publish it if it includes praise. There is still room on my mom's refrigerator for more printouts about her baby boy! ♦



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# Secure Act 2.0 Looks to Broaden Retirement Plan Coverage and Help Those Managing Student Debt

By Al Gilbert

The Secure Act 2.0, which stands for “Setting Every Community Up for Retirement Enhancement” Act, was signed into law last year by President Joe Biden. It builds upon the original Secure Act passed in December of 2019, and represents the most impactful retirement plan legislation since the Pension Protection Act (PPA), of 2006. Secure Act 2.0 includes many provisions that will change the retirement plan landscape and how Americans save for retirement.

The legislation seeks to address the fact that many Americans reach retirement age with little or no retirement savings because they either don’t have access to a retirement plan, or they simply don’t choose to participate. According to the Bureau of Labor Statistics, only 73 percent of workers have access to a payroll deducted retirement savings plan, and only 56 percent of workers participate in an employer sponsored retirement plan.

Secure Act 2.0 looks to increase participation by expanding coverage to American workers as well as increasing participation in those plans. It will require automatic enrollment and automatic annual saving increases for eligible workers in newly sponsored plans



beginning in 2025. It also expands coverage to part-time workers who had been excluded from plans in the past, recognizing that many workers have multiple part-time jobs that may not have met plan eligibility requirements in the past.

### Student Debt and Retirement Benefits

One key provision was to assist workers who cannot save for retirement due to their overwhelming student debt burden. The student debt provision allows employers to recognize student loan payments as elective deferrals for the purpose of providing company matching contributions. This could be a valuable benefit for employers to espouse in the recruiting process.

The provision applies to 401(k) plans, simple IRA plans, and 403(b) plans. It is an optional provision that became effective in 2024, so it is up to the employer if it is to be offered. Check with your plan provider to see if they can support this provision on their platform. It may take some time for this and other Secure Act 2.0 provisions to become available since it requires recordkeepers to update their programming to accommodate.

Secure Act 2.0 includes other provisions that can help those managing student debt as well as those with other financial hardships. Many Americans are living paycheck to paycheck and find it difficult to save for routine emergency expenses. The law provides for:

- **Emergency Savings Accounts:** Allows after tax Roth contributions to be made

up to a maximum \$2,500 limit that can be withdrawn at any time without tax or penalty. These savings must be invested in an interest-bearing principal preservation account like a money market or stable value fund. This is an optional provision starting in 2024.

- **Emergency Withdrawals:** Allows an emergency withdrawal up to \$1,000 which is limited to one withdrawal per year. It also has a repayment provision which allows for the repayment of the withdrawal within a three-year period. This is a required provision beginning in 2024.

Other key provisions under the Secure Act 2.0 impacting retirement savings include:

- **Expanding Automatic Enrollment:** Beginning in January 2025, all newly established 401(k) and 403(b) plans will be required to automatically enroll all eligible employees at a minimum of three percent and not more than 10 percent. The year following the auto-enrollment, there is a requirement to increase employee deferrals by one percent per year until a minimum of 10 percent is reached but not more than 15 percent. Participants can opt out of the automatic enrollment and make changes at any time. Existing plans are exempt from this requirement.
- **529 College Savings Plan Roll-overs:** Beginning in 2024, beneficiaries of 529 accounts can convert up to

\$35,000 into Roth IRA accounts. This allows more flexibility for those saving for college in that excess funds not utilized for higher learning can be repurposed for retirement.

- **Required Minimum Distributions:** The age in which RMDs are required to be taken from retirement accounts was increased from age 72 (raised from 70.5 in the initial Secure Act) to age 73 effective in 2023. In 2033, the RMD age will be raised to 75.
- **Employer Contributions May Be Roth:** Effective in 2023, employers have the option of permitting employees to elect all or some of their employer contributions to be Roth contributions. This is another provision that may take some time to be offered by retirement plan recordkeeping platforms.
- **Catch-Up Contribution Roth Restriction:** Catch-up contributions must be made on a Roth basis for employees with compensation over \$145,000 indexed for inflation. Initially this was to go into effect in 2024, but it was extended to begin in January 2026. ♦

*Al Gilbert is a partner at Financial Strategies Retirement Partners and has more than 30 years of experience in working with retirement plans and wealth management clients. He holds the Accredited Investment Fiduciary® designation and the Certified 401(k) Professional (C(k)P™) designation. He also holds the FINRA Series 7, 26, 63, and 65 securities registrations.*

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## NHBA Board of Governors Election Starts April 1

The NHBA Board of Governors online balloting begins April 1 and concludes April 15. You should receive an email containing your personalized ballot link from our election vendor, Intelliscan, on April 1. Members who have not voted by April 7 will receive an email reminder.

Because the ballot is sent as a bulk email message from Intelliscan, it may end up in your email application's spam filter. To ensure that you receive your ballot, please add **NHBA@intelliscaninc.net** to your "safe senders" list. Large firms should have their IT department safelist the election vendor to ensure ballots will be received.

If you do not receive a ballot or need assistance, please contact **Andrew Arbitell** with Intelliscan at **aarbitell@intelliscaninc.com** or (610) 935-6172.

### NHBA 2024 Board Candidates

#### Officers

**Derek D. Lick**  
*President-Elect*

*Nomination by Board of Governors*

I humbly ask for your vote for president-elect of the Bar Association, as I remain committed to serving you and the profession by supporting this critical organization.

This past year, I have been honored to serve as vice president of the Bar, and I've greatly enjoyed getting to talk with many of you about the state of our profession and how the Bar can better help all of us. I would

like to continue those discussions and work toward addressing your concerns.

For example, I've heard about the difficulty in recruiting new attorneys and other professional staff to our state to help us support our clients' needs.

I've heard about the necessity of supporting the courts to secure sufficient resources to ensure speedy access to justice. I've also heard about fostering fellowship and civility among Bar members in the age of remote work and Webex court proceedings. These issues deserve our attention.

For more than a decade, I have volunteered for the Bar Association's Committee on Cooperation with the Courts, which is charged with fostering communication and cooperation between the Bench and the Bar. In that role, I have witnessed first-hand the pressing issues facing both those of us who advocate for our clients before the courts and those in the Judicial Branch who must ultimately make the tough decisions in litigated matters. Additionally, I serve on the New Hampshire Supreme Court's Advisory Committee on Rules, having first been appointed by the Bar and then by the New Hampshire Supreme Court. There, I have attempted to provide helpful input on rules that govern our practice, including expanding IOLTA account access to innovative "sweep" accounts that allow attorneys and their firms to lever-



age additional federal deposit insurance.

I am a director and shareholder of Orr & Reno, PA, in Concord, where I practice in litigation, focusing of late mostly on land use and planning, construction and real estate disputes, and commercial litigation. Outside of work, I serve as the moderator for the Town of Sutton and for the Kearsarge Regional School District in the Lake Sunapee/Kearsarge area of the state. I also serve as chair of the Sutton Zoning Board, as a member of the board of trustees of my local bank, Sugar River Bank, and as a member of the board of the Concord-Lake Sunapee Rail Trail and Plan NH. Previously, I served on the board of the League of New Hampshire Craftsmen and on the Kearsarge Area Council on Aging, the non-profit organization that operates a senior center serving nine towns in the Mount Kearsarge area.

I reside in Sutton with my wife, Debbie, and my daughter, Sophie, with my three older children attending or having just graduated college.

**Robert R. Lucic**  
*Vice President*

*Nomination by Petition for One-Year Term*

Bob currently serves as an at-large member of the New Hampshire Bar Association Board of Governors and is co-chair of the Committee on Cooperation with the Courts and chair of the Special Committee on Artificial Intelligence. He is also active in the Massachusetts Federal Bar Association. He has over 35 years of extensive com-

plex commercial litigation experience throughout the United States including administrative agency proceedings, arbitrations, jury trials, and appellate practice involving both multi-national corporations and small businesses. He serves a wide range of manufacturing clients, including robotics, aerospace, defense, and high-tech companies, as well as national, state, and municipal governments.

Bob regularly counsels clients on intellectual property and antitrust compliance issues. His practice focus includes patent and trade secret litigation, environmental litigation, stockholder and partnership disputes, and investor disputes. He also provides strategic counseling to industrial clients and small businesses.

Bob joined Sheehan Phinney in 1991 after practicing at White & Case in New York City. He graduated from Dartmouth College and received his JD from the University of Chicago Law School. He also speaks German and French. He served for six years as the chair of Sheehan Phinney's Litigation Department. He also served as president of the Board of the Squam Lakes Association.

Bob is Sheehan Phinney's liaison with Lex Mundi, the world's leading association of independent law firms. He served as regional vice chair for North America of the Litigation, Arbitration, and Dispute Resolu-



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tion Practice Group and was worldwide chair for the Environmental Practice Group.

As a member of the Board of Governors, I am constantly impressed by the dedication and hard work of the Bar leadership, the governors, and the staff of the New Hampshire Bar Association. We have a real gift to be able to practice our profession in what is still the most collegial Bar in the United States. But it is a gift that requires ongoing care and tending. I hope that I can bring the experience of my 35 years as a lawyer and member of the New Hampshire community to the Bar leadership. I will do my best to keep New Hampshire the best place in the world to practice law.

### Catherine E. Shanelaris

Secretary

*Nomination by Petition for Three-Year Term*

Cathy is a founding member and partner with Shanelaris, Schirch & Warburton, PLLC, in Nashua. She received her BA in political science from the University of New Hampshire at Durham and her JD from the Franklin Pierce Law Center in 1992. She is a member of the New Hampshire Bar Association, Nashua Bar Association, and Women's Bar Association.



Cathy was formerly the chief staff attorney for the New Hampshire Division of Child Support Services. She practices law in the domestic relations area including divorce, child support, parenting, and guardianship matters. She is also a trained marital mediator and a member of the New Hampshire Bar Association's Family Law Section.

Cathy is the former Hillsborough County-South representative for the New Hampshire Women's Bar Association. She was appointed by the New Hampshire Supreme Court to the Access to Justice Commission and the New Hampshire Supreme Court Commission on the New Hampshire Bar in the Twenty-First Century. She is a current governor at large on the New Hampshire Bar Association Board of Governors.

She was appointed by the Governor to the New Hampshire Board of Psychologists as its public board member. She is a New Hampshire Bar Foundation Fellow.

Cathy is also a frequent lecturer on family law topics at continuing legal education programs and the author of several legal articles relating to family law issues.

I have been a governor at large for the last term on the New Hampshire Bar Association Board of Governors. It has been an amazing experience to be involved at the governance level of the Bar Association. I am interested in continuing to represent the interests and needs of the members of our Bar Association as Secretary. I take very seriously my obligations as a board member to make decisions in the best interests of the membership.

I would be grateful and honored to continue my work as a governor in the secretary position to bring the needs and concerns of the members to the Board and to serve in an executive position on the Board. As one of its very important tasks, the Board of Governors sets the strategic direction of the Association. I am dedicated to working collaboratively with the other board members and Bar leadership to ensure that our Bar Association understands the challenges, needs, and opportunities for our members as we move forward, especially in light of the challenges we face in practicing law in the twenty-first century.

### Geoffrey M. Gallagher

Treasurer

*Nomination by Petition for Three-Year Term*

I ask for your consideration and vote for Treasurer as I am committed to bettering our profession and serving its members and the public.

To tell you a little about myself, I graduated from Boston College in 2003 and received a degree in social psychology. In 2006, I received a Master of Arts in Social Psychology, with a concentration in affective neuroscience, from Boston College. I graduated from UNH Franklin Pierce School of Law in 2013. I live in Concord with my beautiful wife, Anna Gallagher.

While in graduate school, I managed a bowling alley in Davis Square in Somerville, Massachusetts. After graduate school, I managed group homes for dual-diagnosed individuals. As a lawyer, I have practiced in both the public sector, as a prosecutor, and the private sector, as an associate for Gardner, Fulton & Waugh, PLLC, and Sulloway & Hollis, PLLC.

I am currently privileged to work for the City of Concord. Throughout my career, I have handled a variety of cases in the Superior Court, the Circuit Court, and the New Hampshire Federal District Court.

I am dedicated to public service and hard work. To that end, I have served as a member of the New Hampshire Bar Association's Ethics Committee since 2013 and am the current vice-chair. I also serve as a bar examiner for the New Hampshire Board of Bar Examiners. Additionally, I previously served as the Sullivan County Bar governor.

Throughout my career, I have seen the challenges that New Hampshire lawyers face in serving their clients. If elected Treasurer, I will work to help the New Hampshire Bar Association deliver on its promise to improve the administration of justice and maintain the high standards of practice in our state. Thank you for your consideration.



### Governors at Large

#### Christine M. Hanisco

Governor at Large

*Nomination by Petition for Three-Year Term*

I am running for a second term as governor at large to continue to provide a voice for small-firm and solo attorneys on the Board and would appreciate your vote.

Altogether, I have served five years on the Board and have found it to be a rewarding experience. I believe I have contributed in a positive way by asking tough questions, serving on subcommittees, and prioritizing my attendance at meetings. My years as a public servant, combined with my experience in a small firm, and now as a solo, allow me to have a keen understanding of the needs of a majority of our members.

I have been an attorney since 2000 (New York Law School) and returned to New Hampshire in 2002 after initially clerking and practicing in Massachusetts. I started my career in public service (Disability Rights Center and New Hampshire Public Defender), and in 2015, joined a small law firm in Concord. In February of this year, I opened my own law firm, Life Stages Law,



where I continue to focus my practice on third party family building through adoption and assisted reproductive technology (ART), as well as estate planning for young families.

Since 2018, I have worked with several groups, including GLBTQ Legal Advocates and Defenders and Resolve New England to draft and advocate for several pieces of legislation to provide equal access to our courts relative to parentage and fertility insurance coverage.

I am an active member of the New Hampshire Women's Bar Association, the NHBA's Family Law Section, the ABA's Assisted Reproductive Technology Committee, and the Society for Ethics in Egg Donation and Surrogacy, as well as the chair of its Grievance Committee. I am also serving my final term as vice president of Resolve New England's Board of Directors, which is a regional nonprofit that provides advocacy, support, and education to those with infertility.

#### Steven J. Dutton

Governor at Large

*Nomination by Petition for Three-Year Term*

Steven J. Dutton is a director in the litigation department at McLane Middleton, Professional Association in Manchester. He focuses his trial practice on commercial matters, including contract claims, corporate governance and shareholder disputes, tax matters, and real estate issues.

Steve is a member of the New Hampshire Bar Association's Federal Practice, Business Litigation and Appellate Law sections. He is also a member of the Executive Committee for the Manchester Bar Association and served as its president from 2018 to 2019. He is a member of the 2019 class of the Leadership New Hampshire program and a member of the Union Leader's 2015 Class of 40 Under Forty.

Steve is a native of Londonderry, and a graduate of Londonderry High School. He resides in Goffstown, where, among other community service, he serves as a member of the Granite YMCA's Board of Directors, is chair of the Advisory Board for the Granite YMCA of Goffstown, and was previously chair of the Goffstown School Board. He was admitted to the New Hampshire Bar in 2005, received his law degree from Brooklyn Law School, and is a graduate of Bates College.

I am running for election to the New Hampshire Bar Association governor at large role because I am committed to making



the Bar Association a productive organization for all attorneys so that we can meet the challenges facing the legal profession now and in the future. As a member of the Board for the past eighteen years, I have had the opportunity to observe first-hand the value of a strong, collegial, and unified Bar Association. I would like to continue to maintain and improve member support from the Bar Association. I welcome the opportunity to serve my colleagues and contribute to the important work of the NHBA.

#### Nikolas K. Frye

Public Sector Governor

*Nomination by Petition for Three-Year Term*

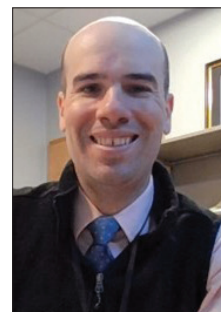
Nikolas K. Frye was born and raised in New Hampshire and completed his Bachelor of Arts degree at the University of Michigan in 2006, Master of Arts in History at the University of Georgia in 2009, and his JD at New England Law Boston in 2012. He has held an active New Hampshire Bar license and inactive Massachusetts Bar license since the fall of 2012.

After law school, Nikolas worked part-time at Plymouth Law Center and as a municipal prosecutor in Plymouth from 2012 to 2013. Next, he worked in general practice in the North Country and the Plymouth area at Samaha, Russell, Hodgdon, PA, from summer 2013 until February 2019. He became a full-time associate at Samaha, Russell, Hodgdon in January 2014.

Following his time in private practice, Nikolas worked as an attorney for the New Hampshire Department of Health and Human Services' Division of Children, Youth, and Families from February 2019 until October 2021. Since October 2021, Nikolas has served as a hearings examiner for the New Hampshire Office of Professional Licensure and Certification where he presides in disciplinary and application proceedings for approximately 57 state licensing boards.

Outside of his profession, Nikolas is lucky to have a wonderful family consisting of his wife Michelle (an attorney with the New Hampshire Insurance Department) and two small sons. Before leaving the Plymouth area, Nikolas served on the Campton Elementary School Board from April 2019 to April 2021 and the Village Pond Condominium Association Board from 2016 to 2020. He is a member of the Concord Rotary and is

BOG continued on page 8



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an avid hiker who has completed all the New Hampshire 4,000 footers (though his current hiking endeavors are limited in scope and elevation gain by his ability to carry his toddler on his back as needed).

Nikolas views being elected to serve as the public sector governor as an opportunity to give back to the profession and public. He intends to advocate for positions that will improve the legal system and access to justice for the public, the Bar for its members, and the public sector for those attorneys in public service.

### Gar Y. Chiang

*Out-of-State Governor*

*Nomination by Petition for Three-Year Term*

I have been a member of the New Hampshire Bar Association since 2017 and I am a practicing attorney in Massachusetts and New Hampshire. I have attended all the Mid-year Meetings and most of the Annual Meetings because I enjoy meeting the people, attending instructive programs, and receiving inspiring presentations.



In 2022, I was part of the NHBA's Leadership Academy, which provided me exposure and interaction with other New Hampshire lawyers, judges, court staff, legislative representatives, media professionals, and the diligent staff of our Association. All of that led to my interest to be a can-

didate for the out-of-state governor of the Board of Governors. I would like to take a more active role in the Bar Association and use what I have learned in my journey to becoming a legal professional.

At the age of 15, I emigrated with my family to the United States. After graduating from English High School and the University of Massachusetts in Boston, I went on to attend Columbia University in New York, in order to pursue a career in arts and entertainment, and received my Master of Fine Arts degree. Upon graduation, I worked in management at several high-profile arts and entertainment organizations, including Carnegie Hall, Lincoln Center for the Performing Arts, Channel Seven of Australia, and later as the chief executive officer of Hong Kong Stadium, the venue that hosted the Rugby World Cup Sevens. After a couple of decades working in different cities, states, and countries, I decided to come back to the country that gave me my education and opportunities. I moved to Boston to be closer to my family, and live in the beautiful New England area where the four seasons blossom.

I am living in New England by choice. It has been 12 years of working full time as an attorney in Massachusetts and six in New Hampshire. As a sole proprietor in general practice, I get to listen to many interesting stories from people from all walks of life. Most importantly, I can use my experience of living and working in different parts of America and Asia to help my clients.

As a member of the Board of Governors, I hope to bring my diverse background, experience, and interests to the meetings and contribute to our organization in its continuous great work. I look forward to receiving your support of my candidacy.

### County Governors

#### William D. Woodbury

*Belknap County Governor*

*Nomination by Petition for Two-Year Term*

I grew up in Dover and, except for my time at Syracuse University College of Law, I have lived in New Hampshire all my life. I feel very fortunate to have found Normandin, Cheney & O'Neil, PLLC, in Laconia upon graduating law school and I have practiced in our litigation division ever since. As the Belknap County Governor, I will bring a sound knowledge and understanding of the issues faced by attorneys practicing in the region.



As a general practice litigator, I have had the great pleasure of working with many New Hampshire attorneys on a wide variety of issues, ranging from family law and domestic violence cases to construction and land use litigation. I believe I have built a reputation as a lawyer who seeks to diligently represent clients while working collaboratively and productively with opposing counsel.

Having served on the Board of Governors for the New Hampshire Association for Justice since 2006, and as its Legislative Committee chair since 2011, I will bring many years of experience working with the New Hampshire legal community and state legislature to protect access to justice. I am proud to be a New Hampshire attorney and would be proud to serve as the Belknap County Governor for the New Hampshire Bar Association Board of Governors. I thank you for considering my petition.

William is a co-managing member of Normandin, Cheney & O'Neil, PLLC. He earned a BS in Microbiology from the University of New Hampshire in 1995, and his JD from Syracuse University College of Law in 2003. He was admitted to the New Hampshire Bar in 2004. William is a member of the Belknap County Bar Association and is governor at large, past president, and Legislative Committee chair for the New Hampshire Association for Justice.

#### John M. (Jake) Crabbs

*Carroll County Governor*

*Nomination by Petition for Two-Year Term*

One summer day in my youth, my parents – both lawyers – dragged my sisters and me to a picnic hosted by their county bar association. The only thing that I really remember was that a popular attorney (who later became an unpopular judge) performed a magic routine for the children. It is my earliest memory of sleight of hand, but the picnic left an impression for another reason. Even at that age, I understood that the work of lawyers was adversarial. Still, the members of the Bar could come together and genuinely enjoy each other's company. That realization stuck with me.



Many years later – after I'd played some tournament croquet, circumnavigated the globe, and taught English in the Far East – I moved to Chicago to attend law school. My plan was to get my degree and get out. But after I graduated, I secured a series of

judicial clerkships with trial and appellate judges, as well as an adjunct professorship at my alma mater. My wife (from Bartlett) patiently stayed in the big city with me, all the while extolling the virtues of Northern New Hampshire. Eventually, she prevailed, and we left the City of Broad Shoulders for the Mount Washington Valley. As ever, my wife was right.

In the years since I moved to Carroll County and joined Cooper Cargill Chant, I have been blessed with the opportunity to give back to the community in several ways. I have taken on several pro bono and court-appointed matters. I also serve as school board moderator for my town and as a member of my local library's board of directors. I look forward to serving the attorneys practicing in Carroll County by doing my part to help the NHBA achieve its mission to improve the administration of justice, to safeguard the professional interests of its members, and to encourage cordial relations among members of the Bar. I thank you for your vote.

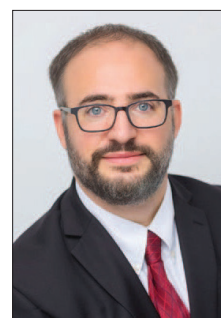
Jake is an associate at Cooper Cargill Chant, PA. He earned his JD, summa cum laude, from the John Marshall Law School (now UIC Law School) in 2016. He was admitted to the Illinois Bar in 2016 and the New Hampshire Bar in 2022. He is a member of the NHBA's New Lawyers Committee, a member of the Pope Memorial Library Board of Directors, and the school board moderator for the Town of Eaton.

#### Anthony Naro

*Hillsborough South Governor*

*Nomination by Petition for Two-Year Term*

Tony Naro is a criminal defense and domestic relations attorney in private practice at Bernazani Law, PLLC in Nashua. Prior to entering private practice, he was a public defender for over a decade, working as a trial attorney in Rockingham County, Hillsborough County, and as an assistant appellate defender in Concord. He handles misdemeanors and felonies, including assaults, sex crimes, drug cases, and DUI offenses. He has argued cases before the New Hampshire Supreme Court, tried dozens of cases before juries across the state, and appears in all ten New Hampshire counties.



Tony's domestic relations practice includes divorce, parenting, child support, restraining order, and guardianship matters in the Family Division. He is also proud of a strong pro bono practice and regularly volunteers for the DOVE Project and 603 Legal Aid. Tony also volunteers his time on the boards of directors for the New Hampshire Association of Criminal Defense Attorneys and the Friends of New Hampshire Drug Courts and is a member of the Hearings Committee for New Hampshire's attorney discipline system.

Tony earned his BA from the University of Massachusetts in political science and Africana studies. He earned his law degree from Suffolk University Law School in 2008, where he graduated with high honors.

#### Kyle D. Robidas

*Hillsborough North Governor*

*Nomination by Petition for Two-Year Term*

Kyle Robidas is the Director of Professional Development at the New Hampshire Public Defender. He works out of the Manchester office, where he started as a staff attorney in 2013.

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Kyle's commitment to public service and volunteer work started first in his hometown of Colebrook and grew during his time at Norwich University. His passion for trial work began at the University of New Hampshire Franklin Pierce School of Law, where he discovered indigent defense as the perfect combination of public service and zealous advocacy, a great fit for his personality.

Not long after he started as a public defender, Kyle became a member of local treatment courts in Hillsborough County and is currently an active member of the Manchester Veterans' Court program. In his current role, he continues to enjoy client-centered work, while having the opportunity to interact with attorneys from all over the state. He also volunteers his time as a member of the Advisory Board to the New Hampshire Supreme Court Steering Committee for Diversity and Inclusion and is a member of the NHBA Committee on Attorney Wellness and the New Hampshire Attorney Discipline Hearings Committee.

I am seeking re-election for a second term to represent the Hillsborough County Northern District on the NHBA Board of Governors. It has been an incredible experience to better understand and contribute to our legal community. I feel privileged to work on issues important to attorneys in New Hampshire, and I am seeking an opportunity to continue this work. I appreciate your consideration and would be honored to have your support.



**Joshua M. Wyatt**  
*Strafford County Governor*  
*Nomination by Petition for Two-Year Term*

Josh Wyatt currently serves as the city attorney for the City of Dover, where he has worked since 2019. Prior to working for the City, he was a shareholder in the litigation department for the law firm of Devine, Millimet, & Branch, where he worked for ten years. Prior to working at Devine, he served as a New Hampshire Supreme Court law clerk for the Honorable Justice Gary E. Hicks.

Josh is a graduate of the Franklin Pierce Law Center and the University of North Carolina at Chapel Hill. In law school, he was a member of the first graduating class of the Daniel Webster Scholar Honors Program, as well as an intern with the Merrimack County Superior Court. Josh currently lives in Portsmouth with his wife Erin and two daughters.

Josh is asking for your vote for the Strafford County Governor. He is the current Strafford County governor and has filled that role since December 2022, having been appointed to fill the remainder of the term for a vacancy that was created.

**Vanessa M. Wilson**  
*Sullivan County Governor*  
*Nomination by Petition for Two-Year Term*

Vanessa M. Wilson was born in New



Haven, Connecticut, and raised in a town not too far from there, namely, Guilford. She graduated high school there and obtained a BS from the University of Connecticut and a JD from New England School of Law in 1983. She became a member of the New Hampshire Bar shortly thereafter.

Vanessa was in private practice in Sullivan County for 28 years, and then worked for the Cheshire County Attorney's Office for three and a half years. She currently works as a staff attorney for DCYF in the Claremont office.

She has served on many Bar committees in the past and was on the Board of Governors from 1988 to 1990. Having finally gotten the last of three children off to college, she wanted to become involved again.

**Michael J. Iacopino**  
*ABA Association Delegate*  
*Nomination by Petition for Two-Year Term*

I ask for your vote to continue to serve as the ABA Association delegate for the New Hampshire Bar Association.

My family came to New Hampshire in 1976. After graduating from the University of New Hampshire and Suffolk Law School, I joined the New Hampshire Bar in 1984. I began my practice at the New Hampshire Public Defender Program. For the past 37 years, I have practiced at



a single law firm in Manchester – Brennan Lenehan.

It has been my privilege over the years to serve our Bar in several positions. In addition to my term of service as ABA Association delegate, I am the chair of the NHBA's Legislation Committee and have served on the Committee on Cooperation with the Courts. Locally, I am a past president and board member of the New Hampshire Association of Criminal Defense Lawyers, and I have served the Federal Criminal Defense Bar as a Criminal Justice Act panel representative and on the CJA Selection Committee.

I have leadership experience in serving national bar associations. I was a member of the Board of Directors of the National Association of Criminal Defense Lawyers (NACDL) for six years and continue to chair two policy committees for NACDL. I also serve on the NACDL Amicus Committee.

These experiences make a strong foundation to serve our Bar as the Association delegate to the ABA. My door is always open, and my phone line is always available to other lawyers. If re-elected I will endeavor to assure that the common-sense voice of the New Hampshire Bar Association is persuasively presented in the ABA House of Delegates. ♦



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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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| 2022                                   | 34                  | 5                          |
| 2021                                   | 27                  | 4                          |
| 2020                                   | 28                  | 8                          |
| 2019                                   | 46                  | 5                          |
| 2018                                   | 33                  | 8                          |
| 2017                                   | 38                  | 5                          |
| 2016                                   | 38                  | 8                          |
| 2015                                   | 50                  | 12                         |
| 2014                                   | 31                  | 6                          |
| 2013                                   | 29                  | 3                          |
| 2012                                   | 26                  | 6                          |
| 2011                                   | 36                  | 5                          |
| 2010                                   | 21                  | 5                          |
| 2009                                   | 22                  | 9                          |
| 2008                                   | 25                  | 8                          |

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





■ IDWJ *from page 1*

Anna Barbara Hantz Marconi, University of New Hampshire Franklin Pierce School of Law Dean Megan Carpenter, and NHW-BA Vice President Katherine Hedges.

“International Day of Women Judges is a day to show our appreciation for women who fearlessly uphold the rule of law and access to justice, and who forge the path toward greater equality,” said Judge Christo at the start of the evening.

The principles mentioned by Judge Christo are perfectly personified by Judge Roen, who attended with her husband, Dr. Zia Roen. The couple and their three young children found safe haven in the Granite State after fleeing the Taliban’s occupation of Afghanistan. The family’s resettlement was initiated by the International Association of Women Judges, with support from the New Hampshire Coalition for Resettlement of Afghan Women Judges (the Coalition).

Judge Roen was born in Kapisa, Afghanistan. In 1996, while she was in the third grade, the Taliban’s occupation forced her education underground. She began listening to BBC News programming including a daily report of maternal and infant mortality rates, which, due to a lack of women’s healthcare, were inordinately high. Her fierce resolve to better the lives of mothers and children was born.

Following Afghanistan’s liberation from the Taliban by US and British forces in 2001, her aspirations were fulfilled by the successful pursuit of a legal career culminating in a judgeship. Despite Afghanistan’s liberation, her judicial career involved a constant battle against extreme misogyny, including threats of violence and even death. Yet, Judge Roen persisted.

After the Taliban regained control following the withdrawal of allied forces in August 2021, she was forced to embark on a journey that she “wishes no other human endures” – a harrowing two-and-a-half-year battle for her family’s lives involving months in hiding and dire conditions in refugee camps. With assistance from the International Association of Women Judges

(IAWJ), the family was finally granted asylum in Manchester in November 2023.

Despite all Judge Roen and her family have endured, she remains committed to helping women and children in the US and Afghanistan. She has become a leader among a community of 120 Afghan families in Manchester, securing much-needed English classes (knowing that fluency in English is crucial to these families moving forward with fulfilling lives in the United States).

“There is no justice anywhere until there’s justice everywhere,” Dean Carpenter reminded the attendees. She also announced that Judge Roen has accepted a position as an adjunct professor at the law school.

At the end of the evening, Hedges outlined the importance of recognizing the International Day of Women Judges.

“The reception to honor the International Day of Women Judges provided an opportunity to recognize how increasing the number of women in the judiciary supports equal access to justice all over the world, while at the same time allowing us to reflect on the work that remains to be done to achieve the goal of equity,” she said.

Justice Hantz Marconi, who has been instrumental in organizing support for the Roen family, observed, “The work of a small team of the IAWJ to get these women judges out of Afghanistan is inspiring, the response of the New Hampshire legal and volunteer community to the arrival of Judge Roen and her family has been impressive, and the determination and perseverance of Judge Roen and her commitment to the rule of law is humbling and gives great hope for the future.”

The Coalition continues to solicit support for the resettlement of Afghan women judges, including Judge Roen and her family. Contributions can be made at [nh-bar.org/new-hampshire-bar-foundation/support-resettlement-of-afghan-judges-in-nh](https://nh-bar.org/new-hampshire-bar-foundation/support-resettlement-of-afghan-judges-in-nh). ♦

## Endnote

1. n2110634.pdf (un.org)

## The Bar Foundation Welcomes Kelli Olson and James Scully to Board of Directors

Olson is the vice president corporate cash management officer for the Bank of New Hampshire and has over 35 years in the financial services industry. She has a wealth



of knowledge in customer service, employee engagement, and management. Her experience with financial institutions will be invaluable in ensuring that the New Hampshire Bar Foundation can maximize remittance on IOLTA accounts. The New Hampshire Bar Foundation is confident that her input will help advance its mission to improve civic education and increase equal access to justice in the state.



Scully is currently serving as corporate counsel to Key Auto Group based out of Portsmouth. He is a 2010 graduate of the United States Naval Academy and a 2017 graduate

of Boston College Law School. After law school, he began as an associate at Proskauer Rose in its corporate department. During his time at Proskauer, he was sent on secondment to Bain Capital Credit where he worked on various corporate matters. After leaving Proskauer, he practiced in Hampton for Morris Law Office prior to most recently serving as Legal Counsel to Governor Sununu. ♦



Circuit Court Judge Ellen Christo (right) introducing Judge Geeti Roen at the International Day of Women Judges Reception on March 7, 2024. Photo by Julie Smiley



Dean Megan Carpenter (left) and Judge Geeti Roen (center) with her interpreter at the March 7 International Day of Women Judges Reception. Photo by Julie Smiley



Nearly 60 people attended the International Day of Women Judges Reception event at the One Hundred Club in Portsmouth on March 7. Photo by Julie Smiley



## Welcome New Admittees

We extend a warm welcome to the attorneys who were admitted to the New Hampshire Bar on March 7, 2024. Congratulations! We wish you the best with your practice.

Liana Louise Arvay, Ryan Frankie Bender, Sandra Grady Costa Bensson, Stephanie A. Bruno, Benjamin James Canellys, Chaz G. Chandler, Jeffrey Scott Childers, Sarah Thiemann Connolly, Ian Michael Connors, Roslyn Crews, John J. Cronan, Julia Brigid Dahlkemper, Tamarlyn DaPonte, Hannah Lynn Devoe, Andrew Glenn Devore, Christine E. Dieter, Marc Dombrowski, Leah Sands Duffield,

Analisa N. Eckel, Jonathan Reed Fallon, Bryan William Fenn, Garrett Andrew Dallas Gee, Lee Jason Goldberg, Riley Lynn Grinkis Tully, Jeffrey Gordon Harris, Jessica Amber Hartman, Thane Joyal, Slavko D. Katusa, Andrian Jihyeon Lee, Matthew Xavier Leets, Sarah Ann Lanese, Ronald Wayne Lanton, III, Daniel F. Lula, Michael McCarthy, Aly MacKenzie McKnight, Samuel Amin Miano, Ellen Madrisa Martijntje Miller, Charles William Mooney, Jr., Talia Moorey, Evelyn Venables Moreno, Andrea Brooke O'Brien, Geoffrey B. Polk, Jennifer Letitia Smith, Vineesha Shantel Sow, and Samantha Lara Weeks. ♦

## Community Notes

### Emma Sisti Becomes Fellow of American College of Trial Lawyers

603 Legal Aid Deputy Director Emma Sisti has become a fellow of the American College of Trial Lawyers. The induction ceremony took place recently before an audience of approximately 625 during the Spring Meeting of the College in Phoenix, Arizona.

Founded in 1950, the College is composed of the best of the trial bar from the United States, Canada, and Puerto Rico. Fellowship in the College is extended by invitation only and only after careful investigation, to those experienced trial lawyers of diverse backgrounds, who have mastered the art of advocacy and whose professional careers have been marked by the highest standards of ethical conduct, professionalism, civility, and collegiality. Lawyers must have a minimum of 15 years trial experience before they can be considered for fellowship. There are currently 29 other fellows from New Hampshire. ♦



## LawLine

The New Hampshire Bar Association would like to thank Gallagher, Callahan & Gartrell, PC for a very successful LawLine event held on February 14, 2024.

Twenty-nine calls were taken from various counties all over the state on a variety of legal topics including landlord/tenant disputes, criminal matters, family law, consumer matters, and probate law. Our callers are appreciative of the legal advice they receive and 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 pm to 8 pm. The Bar staff forwards the phone calls to your office from the public, so you remain anonymous.

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

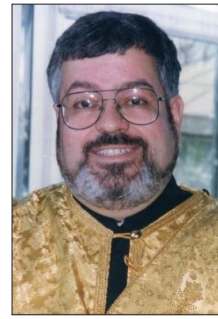


Gallagher, Callahan & Gartrell LawLine volunteers from left to right: Emily Goering, Dodd Griffith, and Katie Mosher. Courtesy Photo

## In Memoriam

### Peter Papps

Peter Elias Papps of Concord passed away on January 24, following a lengthy period of illness.



Born on Christmas Eve of 1954, Peter was the son of Jean and Ourania "Nina" (Mourginis) Papps. His childhood in New York City was centered around his tight-knit Greek family, and with parents that fed his passion for learning. He attended Kew Forest School, followed by earning an undergraduate degree from Columbia University, then to Case Western Law School where he graduated with his juris doctorate in 1979. He also studied at George Washington School of Law and earned a degree there. He was a member of both the New York and New Hampshire Bar Associations.

Peter began his career as a criminal prosecutor in Queens, New York, where he eventually worked in the homicide division. In 1985, he accepted a job at the US Attorney's Office for the District of

New Hampshire in Concord. This began his 25-year career with the USDOJ, where he worked as a first assistant US attorney and was later appointed US attorney for the District of New Hampshire three times. He retired in 2010.

Peter found the Greek Orthodox ministry early in life, serving roles in his home parish of Saint Demetrios Greek Orthodox Church in Jamaica. When attending law school in Columbus, he was tonsured a reader. He was later elevated to subdeacon and was ordained to the diaconate in 1994. He was ordained to the priesthood in 1999 and served as the priest of Taxiarchai Greek Orthodox Church in Laconia, New Hampshire for seven years. He was a voracious reader, and his love of languages, travel, and curiosity throughout the years led him to serve liturgies in churches across the globe, most notably in Russia, Moldova, and Greece.

He is survived by his wife, Kelly (Teller) Papps, and children, Samuel and Nina Papps, and Peter Ryan Sheedy; granddaughter, Tabitha Sheedy; sister, Marina Papps; and several cousins.

Donations in Peter's memory may be made to the St. Methodios Faith and Heritage Center, 329 Camp Merrimac Road, Contoocook, New Hampshire, 03229. ♦

### Jest Is For All

by Arnie Glick



*"I always forget - when we switch to Daylight Savings Time, do we gain a billable hour or do we lose one?"*

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## New Long-Term Care Resources for Members



The NHBA has added new member benefits to help with your long-term care needs. ACSIA Partners, a leading national distributor of long-term care solutions, offers NHBA members and their families a long-term care insurance marketplace to protect against the consequences an extended care need can cause.

The expert consultants at ACSIA Partners can help you navigate the sometimes-bewildering array of long-term care solutions available. ACSIA Partners offers:

- Multiple products for one-stop shopping.
- An exclusive discount for members and families with Mutual of Omaha.
- Tax-qualified policies where premiums can be tax deductible to certain individuals and corporations.
- National Partnership qualifying policies offering dollar-for-dollar asset protection.

When you meet with an ACSIA Partners consultant to design a plan that fits your need and budget, you will be working with a subject matter expert. ACSIA experts will educate you on the issues surrounding long-term care and present the options available to protect you and your family from the physical, financial, and emotional consequences an extended care need can cause.

To learn more, visit [nhbar.org](http://nhbar.org) or contact ACSIA Partners at (877)799-2144. ♦



NHBA members also benefit from no-cost access to YourCare360, an online portal which connects you with leading vendors in the caregiving space – from licensed caregivers to home safety evaluators, experts in downsizing and moving to assistance with end-of-life planning.

YourCare360 is a free resource for our members and their loved ones that can assist you if you are dealing with an extended care need in your family. The online portal offers a wealth of information for current and future caregivers who are trying to balance their professional, personal, and caregiving responsibilities.

YourCare360 is designed to mitigate some of these challenges by providing easy, online access to guidance, tools, and solutions to the issues that confront family caregivers. The array of resources includes:

- Health assessments which help establish baselines and track progression and recovery.
- Directories of assisted living facilities and home care providers.
- Educational tools such as cost of care calculators, fact sheets, and conversation guides.
- In-home loneliness solutions; relocation services; and end-of-life assistance.

This free portal is available to you, your family, and your employees. To learn more visit [nhba.yourcare360.com](http://nhba.yourcare360.com).

To learn more about any of your other NHBA member benefits visit [nhbar.org/resources/member-services-benefits](http://nhbar.org/resources/member-services-benefits). ♦

## Accepting criminal and civil appeals, including post-conviction litigation, in State and Federal Court



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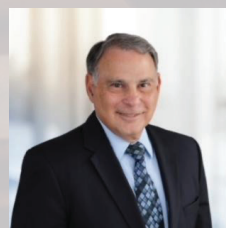


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## Award Nominations Sought For 2024 Annual Meeting

Deadline for Nominations – April 5, 2024



The NHBA Annual Meeting provides an opportunity to recognize the outstanding accomplishments of members of the legal community and their contributions to the justice system. Your inspiration for making the nomination is of great value to the Bar president during the selection process. Please be sure to include background about the nominee, as well as the reasons you feel they are deserving of the award.

To submit the nomination, please go to [nhbar.org/about-the-bar/bar-awards](https://nhbar.org/about-the-bar/bar-awards), where you will also find a list of past recipients. Nominations are sought for the following awards:

### Justice William A. Grimes Award for Judicial Professionalism

To honor the memory of Justice William A. Grimes, this award is presented to a judge who best reflects the highest standards of integrity, legal knowledge and ability, judicial temperament, diligence, and compassion.

### Distinguished Service to the Legal Profession Award

This award is presented to the nominee who best exhibits service to the legal profession.

### E. Donald Dufresne Award for Outstanding Professionalism

To honor the memory of E. Donald Dufresne, this award is presented to an attorney that best fits the following ideals: "A professional lawyer is an expert in law pursuing a learned art in service to clients and in the spirit of public service and engaging in these pursuits as part of a common calling to promote justice and public good."

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Devine Millimet is pleased to welcome Deirdre M. Salsich to the firm. Located in our Downtown Manchester office, Attorney Salsich is a graduate of St. John's University School of Law and has been practicing law for over 10 years.

As an Of Counsel member of the Devine Corporate team, she will utilize her extensive experience to support businesses, non-profits, healthcare, and educational institutions on a variety of matters including compliance, labor & employment advice and counsel, and employment litigation.

*Welcome!*

**DEIRDRE M. SALSICH**

Of Counsel

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# Florida Bar Provides Guidance on Lawyers' Use of Generative AI

**By Jack Hepburn**

Since its launch on November 30, 2022, OpenAI's ChatGPT has brought generative artificial intelligence (AI) into the mainstream. Unlike traditional computer software, which operates within the confines of specific rules and instructions written by programmers, generative AI utilizes machine learning models to analyze data, adapt, and generate novel content. Businesses have swiftly embraced generative AI, hoping to leverage this nascent technology to increase efficiency. However, the use of generative AI by attorneys raises important ethical questions.

There remains a dearth of guidance on lawyers' ethical use of generative AI. A recent ethics opinion from the Florida Bar, though, may serve as a harbinger for how state bar associations will apply ethical rules to this new technology.

In January, the Florida Bar's Board Review Committee on Professional Ethics issued an opinion centered on Florida lawyers' use of generative AI (Florida Bar Ethics Op. 24-1 [Jan. 19, 2024]). As the opinion states, generative AI can "dramatically improve the efficiency of a lawyer's practice" by assisting with a host of tasks,



including legal research, analyzing data, and document drafting. Fla. Bar Eth. Op. 24-1, at 2.

Well-publicized instances of attorneys filing ChatGPT-authored documents containing inaccuracies and non-existent citations highlight the need for ethical guardrails. Although *Mata v. Avianca, Inc.*, in which the United States District Court for the Southern District of New York sanctioned an attorney in June 2023 for relying on ChatGPT to generate legal research, received much attention, it has not prevented other lawyers from inappropriately relying on generative AI.

In February 2024, for example, a Massachusetts judge sanctioned an attorney for filing memoranda of law that cited fictitious cases after relying on generative AI. The Florida Bar's recent opinion follows a similar action taken by the California Bar to address such behavior. In November 2023, the California Bar issued "Practical Guidance for the Use of Generative Artificial Intelligence in the Practice of Law." As many as six other states are currently reviewing the ethical implications of AI use in the practice of law.

## The Florida Bar Opinion

The Florida Bar opinion raises several ethical considerations regarding attorneys' use of generative AI. While the opinion is specific to the Rules Regulating the Florida Bar, every US jurisdiction has adopted rules of professional conduct based upon the American Bar Association Model Rules

of Professional Conduct. New Hampshire's Rules of Professional Conduct closely mirror those of Florida.

**Confidentiality and Data Protection.** Florida Rule 4-1.6 (like New Hampshire Rule 1.6) provides that attorneys may not disclose any “information relating to the representation of a client,” unless the disclosure is impliedly authorized or the client consents to disclosure. Lawyers employing generative AI must continue to safeguard the confidentiality of client information. This involves understanding the AI program’s policies on data retention, sharing, and self-learning. If a lawyer intends to share confidential client information with an AI program, this creates a risk that such information can be retained by the program and disclosed to third parties. The opinion states, “it is recommended that a lawyer obtain the affected client’s informed consent prior to utilizing a third-party generative AI program if the utilization would involve the disclosure of any confidential information.” *Id.*

**Oversight of Generative AI Content.** Florida Rules 4-5.1 and 4-5.3 (like New Hampshire Rules 5.1 and 5.3) require lawyers to supervise lawyers and other staff whom they manage to ensure compliance with the ethical rules. The opinion states, “[J]ust as a lawyer must make reasonable efforts to ensure that a law firm has policies to reasonably assure that the conduct of a nonlawyer assistant is compatible with the lawyer’s own professional obligations, a lawyer must do the same for generative AI.” *Id.* at 4.

Generative AI can and does produce inaccurate content (a phenomenon referred to as “hallucinating”). Lawyers, therefore, must ensure that they review AI-generated work product in the same way they review the work product of nonlawyer assistants, verifying accuracy and sufficiency. As the opinion states, “The failure to do so can lead to violations of the lawyer’s duties of competence, avoidance of frivolous claims and contentions, candor to the tribunal, and truthfulness to others.” *Id.*

**Billing Practices.** Florida Rule 4-1.5 (like New Hampshire Rule 1.5) prohibits attorneys from charging unreasonable or

clearly excessive fees. Generative AI's efficiency should not lead to improper billing practices. Lawyers should transparently communicate fees to clients and avoid double-billing. The opinion states, "Though generative AI programs may make a lawyer's work more efficient, this increase in efficiency must not result in falsely inflated claims of time." *Id.* at 6. The traditional hourly billing system may cause misalignment of lawyer and client incentives. While AI can reduce the hours needed to accomplish a given task, this can decrease the amount of billable work for the lawyer. The opinion states, "lawyers may want to consider adopting contingent fee arrangements or flat billing rates for specific services so that the benefits of increased efficiency accrue to the lawyer and client alike." *Id.*

**Advertising and Client Interaction.** Florida Rule 4-7.13 (like New Hampshire Rule 7.1) prohibits lawyers from making false or misleading statements about the lawyer's services. Law firms are increasingly using AI chatbots on their websites to communicate with potential clients. Lawyers must ensure that any information provided is accurate. Furthermore, the opinion provides that potential clients must be made aware that they are communicating with AI and recommends that lawyers "consider including screening questions that limit the chatbot's communications if a person is already represented by another lawyer." *Id.* at 7.

Finally, the opinion warns lawyers of the risk of the unintentional creation of an attorney-client relationship resulting from potential client communications with AI chatbots.

Lawyers may leverage generative AI in their practice, but compliance with ethical obligations remains necessary. As generative AI continues to evolve, lawyers must stay informed, adapt, and ensure their practices comply with the ethical standards of their state bar association. ♦

*Jack Hepburn is a member of McLane Middleton's Corporate Department. He can be reached at [jack.hepburn@mclane.com](mailto:jack.hepburn@mclane.com).*

There remains a dearth of guidance on lawyers' ethical use of generative AI.



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# Missent: Navigating the Quicksand of Data Leaks and Compliance

By Zafar Khan

In the digital realm, where a single misplaced click can dispatch sensitive information into the abyss of the internet, the concept of “mis-sent” has evolved into significant cybersecurity concern, particularly for legal professionals and their clientele.



At one recent Florida Bar CLE technology webinar, we asked how many lawyers had missent a sensitive document to the wrong party by email. In the poll, 75 percent of respondents had indicated that they “knew of someone” who had sent a sensitive document to the wrong person.

When we asked the same question among financial services professionals, two thirds said they had made that mistake. The fact remains that some forms of imperfection are not worth having any nostalgia over and can cost careers and untold sums of money.

Remember, there are 1.5 billion active Gmail accounts, so even a seemingly innocuous mistyped Gmail address is likely to land in some real person’s inbox.

Many a lawyer have been fooled by the misdirected comfort of the Microsoft’s email “recall” function; while those in the know, understand this offers little solace. In

short, the Microsoft “recall” feature recalls nothing – it is widely regarded as ineffective in truly mitigating the damage since (unless used within a company all on the same mail server) it does nothing other than send a follow-on email notifying the recipient that the sender would like to have the email recalled. This generally makes the unintended recipient more alert and curious, and often causes more inspection of the misdirected data.

These issues not only compromise sensitive data but also pose the challenging question: Was the missent email a reportable breach?

## A Digital Faux Pas with Real Consequences

The crux of the matter lies in human error – sending an email to the wrong recipient. A seemingly small mistake can lead to substantial repercussions, including the exposure of sensitive information. The moment of realization often comes too late, after the send button has been hastily clicked. The aftermath? A potential data breach notification to your clients; a situation no one wants to find themselves in, compounded by the embarrassment and the risk of sensitive information falling into the wrong hands.

The ideal solution would allow senders to kill a missent file even after sending and delivery, and additionally, see if the unintended recipient accessed the missent email, providing a semblance of control over the situation. Finally, if the misdirected file was not seen, wouldn’t it be great if one could

record evidence that the unintended leak did not constitute a reportable breach as the file was remotely killed before it was viewed by an unintended human? Of course, it would!

What is happening today? In small law firms, most try to pretend it didn’t happen. In larger firms with large IT groups, according to some law firm CIOs that we have discussed this with, the IT staff research and try to contact the “wrong” recipient and ask nicely to see if the “wrong” recipient would delete the email and then send a note to the IT staff saying, “Hey, I deleted the unintended email and did not look at it.” This is generally then considered a non-reportable breach.

However, it is hardly a foolproof plan or optimal record of a leak being a non-breach.

## To Send a PDF or an RPD?

A simple solution to this problem is, instead of sending sensitive information in attached PDF file format, send in an RPD file format (RPD stands for Rights Protected Document) in RPost tools. For the intended viewer, their viewing experience is the same as viewing a PDF in any browser PDF viewer. For the sender, however, they remain in control of the file even after delivery. They have remote-control-esque power over the file to see interactivity with it and to kill it after the send, or weeks later after delivery, if desired.

A remote-control-killed file is like burning all the meaty content out of the inside; it just leaves the file carcass, unusable.

Imagine a world where every outbound email, especially those laden with attachments containing sensitive content (think PDFs with litigation strategies, closing documents with wire transfer details, or client invoices with details on matter information, etc.), is safeguarded automatically.

The RDocs service makes that world possible and works with one’s existing email service and email flows.

These tools offer the ability to track whether emails and shared documents have been accessed and by whom, providing peace of mind and a tangible layer of security. This technology is not just about damage control; it’s a proactive measure to ensure that even if human error occurs, the sender retains a degree of oversight and control over the situation.

Moreover, the sending organization can revoke access to a sensitive document *even after it has been delivered*, either automatically or manually, and obtain auditable evidence that, despite the document’s leakage, access was terminated before the unintended recipient could view it.

While the digital age brings unparalleled convenience and speed to our communications, it also introduces vulnerabilities that can have serious legal and reputational consequences. In the realm of cybersecurity, it’s better to be proactive than reactive. ♦

*Zafar Khan is the CEO of RPost, which has offered cybersecurity, compliance, and digital transaction management software services for more than a decade the world over.*

# HOW MUCH DOES LEGAL MALPRACTICE INSURANCE COST?

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# A View from the Other Side of the Fence: The Relationship Between Financial Advisors and Attorneys

By David E. Haughton

Likely more than a decade ago at this point, I had to stand before a judge and request that a young couple be evicted from their home.

I had laid out the missed payment history to the court with the nervous couple standing at a table next to me. The judge acknowledged there was cause for eviction, but looked at me to ask if I was sure there wasn't a different arrangement we could reach to get them caught up. I looked to my client, and they nodded in the negative. The theoretical gavel went down, and the couple was ordered expelled from their residence.

As I was driving away after accomplishing my directive, I pulled up to a red light and looked over to see the couple in the vehicle next to me, despondent, sad, and defeated.

There are aspects of advocacy that attorneys need to engage in that are both reasonable and necessary for the practice of law. Their work is sometimes emotionally difficult and should be applauded.

However, it was at that moment that I decided this would not be a part of my career. I didn't want my face to represent a core memory related to the lowest point of a person's life. It was at that moment I decided I wanted to exclusively help people



achieve peace of mind.

I find "watershed" moments that lead a person to their passion to always be the most interesting parts of a career. When I was a freshly minted attorney standing on the New Hampshire Supreme Court steps, I didn't fully know what I wanted to do with my legal career. Luckily, shortly thereafter, I found my path.

My career fully transitioned to helping clients achieve peace of mind by formulating estate plans where their hard-earned wealth could be protected and pass according to their wishes. Subsequently, I found a position with a federally registered investment advisor providing financial planning consultative support to financial advisors.

## The Attorney/Financial Advisor Relationship

Though the relationship between attorneys and financial advisors can sometimes be strained, by working from "both sides of the fence," I have learned that estate planning attorneys and advisors' intentions are

aligned – we want to help clients secure their financial future. Both parties working together toward the goal is all the better for the client and I have gained a unique perspective on how each party can help each other.

## An Opportunity for a More Holistic Approach to Planning

When engaging in the estate planning process, attorneys are typically focused on a finite group of priorities – probate avoidance, estate tax minimization, creditor/divorce protection for beneficiaries, etc. However, there are whole other worlds for a client's overall picture that are rarely considered: when to elect social security, whether to do a Roth conversion, planning for RMDs, which 529 plan to use and why, equity compensation issues, etc. There is a lot out there to consider, and, even if it wouldn't have impacted most of my work directly, a more general knowledge base would have enabled a more holistic approach for the client and more rewarding interactions with other professionals.

## Knowing the Client More Intimately

In the same vein, advisors' interactions with clients are more frequent and routine. Even from a regulatory perspective, advisors are typically required to meet with clients on an annual basis, at minimum. Therefore, a more comprehensive and personal relationship is more likely to develop where the advisor can become intimately familiar with a client and their family. This could include understanding their level of sophistication, family dynamics, and behavioral tendencies. Conversely, the attorney is typically engaged for a more targeted task and may not fully realize certain essential aspects of the client's personal situation that may sway their recommendations.

For example, let's say a high-net-worth business owner engaged an attorney to

complete their estate plan. Due to the size and complexity of the client's estate, the attorney recommends a sophisticated estate tax planning strategy involving multiple entities, discounted gifting, and irrevocable trusts. This type of planning requires careful administration, so that the IRS will not contest the validity of the strategy after implementation.

However, what the attorney may not know is that, while the client may be interested in the positive results of the strategy, they lack the requisite follow-through to make the plan work. This is where an advisor's personal knowledge of the client's tendencies could benefit the attorney by providing key feedback to sway how sophisticated the planning should be.

## Realizing the Value of the Craft

This is not to say I have not seen areas where financial advisors could better utilize their relationships with attorneys. Advisors may tend to try to save the client money by not affirmatively suggesting they engage an attorney. Having an attorney prepare your estate plan is like asking someone to pack your parachute – you will have no idea if it works until it is too late. This is a stark difference from doing your own taxes rather than hiring a CPA. In the case of preparing your own taxes – you may get audited, owe some extra money, and need to file some extra forms.

There are usually few remedies to fix a flawed estate plan when the grantor is unable to sign documents due to death or incapacity. So obviously, clients need to be very careful about what attorney they work with, because assessing competency can be difficult when you are not an expert yourself. If a client creates their estate plan themselves, the client could have a less than optimal estate plan.

When I was practicing, the level of collaboration that would exist between my office and the advisor's office in ensuring the estate plan was properly prepared and funded was all over the map. What has become abundantly clear is that by working together and utilizing each other's particular skills and perspectives, attorneys and financial advisors may find that not only is the client left in a better position, but their business referral opportunities will also flourish. ♦

*David Haughton, JD, is team lead in advanced planning at Commonwealth Financial Network, member FINRA/SIPC. He practiced law in Massachusetts and New Hampshire for eight years before joining Commonwealth.*

# By Degrees<sup>o</sup>

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## Mental Health for Law Students

By Alex Attilli

“You should enroll in therapy,” was probably the best advice I got before coming to law school.

I had received my acceptance letter to UNH Franklin Pierce School of Law (UNH Law) – it was my top choice of school, and I was so excited that I called one of my best friends who, at the time, was already a 1L at Columbia Law School.

“I don’t mean you have to do counseling once a week, but you should really enroll in *something*,” she said. “Once a month or even just a check-in each semester is fine; you will *really* need it in law school.”

At the time, I did not take her seriously, but after being in law school for just over three semesters (even though it feels like three years), I know it was the best advice I could have received as an incoming student.

For many people, law school is one of the hardest – if not *the* hardest – experiences in their life. According to a recent survey by *Bloomberg Law*, over 75 percent of respondents reported increased anxiety because of law school and 50 percent reported experiencing depression. Most reported their mental health worsened in some capacity, either slightly or significantly, since starting law school. *Id.*

Despite an abundance of resources at UNH Law, it can still be difficult for students to take care of themselves. Not always because they lack access, but many complain they lack *time*.

Given the demands of certain classes or programs, most students I spoke to said they routinely work on school anywhere between 50 to 60 hours per week – excluding any jobs or other activities they may be enrolled in.

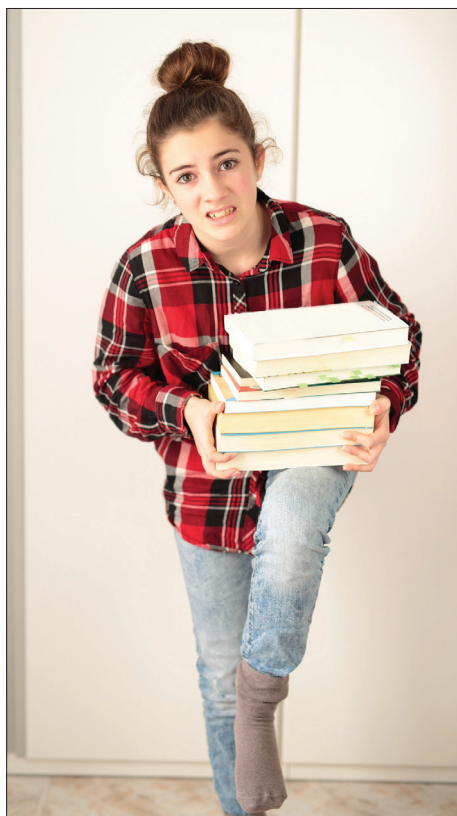
One of the major issues students mentioned was that there is no such thing as a “day off” in law school. Daniel Webster Scholar and 2L Sam Palastra mentioned that she likes to take Fridays or Saturdays to herself but wouldn’t call it a “full day off.”

“I feel too anxious thinking about all the things that I have to do,” she says. “Even if I take one of those days off, I’ll still probably do at *least* three hours of work that day.”

This feeling, at times, can be exacerbated by the rise of Zoom usage since the pandemic. Although the law school has been adamant that students stay home if they are sick, many students feel increased pressure to attend class on Zoom rather than taking care of themselves.

Additionally, Zoom has likely killed the traditional “snow day.” While for some students, Zoom alleviates the anxiety they feel about missing class or attending make-up classes, others find the lack of breaks in the schedule to be harmful to their mental health.

However, UNH Law offers resources that many law schools do not, such as drop-in mental health counseling, partnered with Riverbend Community Mental Health. Each week, a licensed therapist visits campus and offers their services to



all students who may need it.

This type of resource is especially important for students who may not otherwise be able to afford counseling services, whether it is because their insurance will not cover it or because they lack the funds for a copay. While this service may be underutilized by students, the mere fact that it is available speaks volumes regarding the school’s commitment to mental health.

The school also offers a deal with the Concord YMCA so that students can enjoy the full benefits of the YMCA for a discounted rate.

Further, the Mental Health Alliance at the school offers many fun activities for students to do. In the past, these events have included yoga, painting, time with a therapy dog, and much more.

The club also played a major role in petitioning for the removal of questions about mental health history, diagnosis, or treatments from their character and fitness questionnaire because those kinds of questions could dissuade future lawyers from getting the counseling they need.

Palastra mentioned that while the school generally does a great job addressing mental health, she wishes that professors and advisors would undergo a little more training.

“I think you can’t group *all* professors together...I think a lot of [them] are really informed on mental health... some recognize we need time outside of class [to take care of ourselves] but some just think their class is our only priority,” she says, adding that she wishes the school would encourage advisors to reach out to their students more or require mandatory check-ins. “Someone should have an eye on everyone...we all have advisors, but I’ve never even met with mine. Utilize them!”

In general, the skills that students learn to cope with stress in law school are what they will take with them in practice. This is why the school’s commitment in allowing students to explore these resources, through counseling, campus activities, exercise, and more, is so important. ♦

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# Member Status Changes

**Active to MILITARY ACTIVE**

Scott, Alyssa (Dec. 8, 2023)

**Active to DECEASED**

Himelfarb, David (July 1, 2023)

Talcott, Alex (Aug. 26, 2023)

Vanderzanden, Edwinna (Dec. 5, 2023)

**Active to FULL-TIME JUDICIAL**

Spony, Tanya (Oct. 19, 2023)

Walch, Dorothy (Oct. 19, 2023)

**Active to HONORARY ACTIVE**

Aivalikles, William (Jan. 1, 2024)

Anderson, R. Carl (Jan. 1, 2024)

Bennett, Jr. Charles (Jan. 1, 2024)

Bragdon, Stephen (Jan. 1, 2024)

Caulfield, Joseph (Jan. 1, 2024)

Costello, Thomas (Jan. 1, 2024)

Croft, Arnold (Jan. 1, 2024)

Curtin, Philip (Jan. 1, 2024)

Gannon, William (Jan. 1, 2024)

Gordon, Steven (Jan. 1, 2024)

Gould, David (Jan. 1, 2024)

Kalil Jr., Earl (Jan. 1, 2024)

Kalman, Sumner (Jan. 1, 2024)

Leslie, J. David (Jan. 1, 2024)

Lukey, Joan (Jan. 1, 2024)

McAuliffe, Steven (Jan. 1, 2024)

McLaughlin, Philip (Jan. 1, 2024)

Murphy, William (Jan. 1, 2024)

Robbins, Gregory (Jan. 1, 2024)

Roussos, George (Jan. 1, 2024)

Ryan, John (Jan. 1, 2024)

Stevens, Thomas (Jan. 1, 2024)

Tobin, Jr., John (Jan. 1, 2024)

Vogelman, Lawrence (Jan. 1, 2024)

Waystack, Jr., Philip (Jan. 1, 2024)

**Active to INACTIVE RETIRED**

Catsos, Paul (Jan. 1, 2024)

Deleault, Robert (Nov. 30, 2023)

Loo, Eugene (Dec. 31, 2023)

Lyman, Daniel (Nov. 30, 2023)

Manahan, Matthew (Nov. 30, 2023)

Michels, Nancy (Nov. 30, 2023)

Morris, James (Nov. 30, 2023)

Smith, Daniel (Nov. 30, 2023)

Routhier, Donald (Nov. 15, 2023)

**Active to INACTIVE**

Appellof, Sara (Nov. 12, 2023)

Aronson, Doria (Nov. 20, 2023)

Butterworth, Kenneth (Nov. 30, 2023)

Casciola, Clelia (Nov. 28, 2023)

Dingley, James (Nov. 10, 2023)

Donovan, Michael (Nov. 30, 2023)

Edwards, William (Oct. 11, 2023)

Fallica, Valerie (Aug. 21, 2023)

Hawes, Sarah (Oct. 15, 2023)

Head, Richard (Nov. 27, 2023)

Heiner, Michael (Dec. 4, 2023)

Hirsch, Jared (Sept. 13, 2023)

Karouni, Kara (Oct. 19, 2023)

Keleher, Daniel (Nov. 6, 2023)

Lockwood, Mark (Nov. 15, 2023)

Mitchell, Daniel (May 31, 2023)

Murphy, Michael (Oc. 31, 2023)

Poole, Andrea (Dec. 30, 2023)

Richard, James (Nov. 9, 2023)

Semales, Katelyn (Nov. 15, 2023)

Sheehan, Douglas (Aug. 8, 2023)

Snow, Valerie (Aug. 16, 2023)

Strasburg, Sari (Nov. 1, 2023)

Waugh, Andrew (Aug. 7, 2023)

Werner, Mandi (Nov. 28, 2023)

**Active to RESIGNED**

Gienapp, Laurie (Nov. 15, 2023)

Ishimoto, Gary (Sept. 11, 2023)

Maio, Timothy (Oct. 1, 2023)

**Active to SUSPENDED**

Aquilla, Thomas (Jan. 10, 2024)

Balicky, Eric (Jan. 10, 2024)

Carpenter, Megan (Jan. 10, 2024)

Cohen, Bret (Jan. 11, 2024)

D’Avolio, Anna (Jan. 11, 2024)

DeHart, Barbara (Jan. 11, 2024)

DeLuca, Anthony (Jan. 11, 2024)

Fischer, Andrew (Jan. 11, 2024)

Frim, Patricia (Jan. 11, 2024)

Hamlen, Devens (Jan. 11, 2024)

Howard, Alexandra (Jan. 11, 2024)

Kenyon, Brian (Dec. 6, 2023)

Koury, Donald (Jan. 11, 2024)

Majka, Joseph (Jan. 12, 2024)

Mason, Nicholas (Jan. 12, 2024)

McNulty, Thomas (Jan. 12, 2024)

Sage, Jennifer (Jan. 12, 2024)

Smith, Scott (Jan. 12, 2024)

Sulaiman, Nour (Jan. 12, 2024)

Sullivan, Robert (Jan. 12, 2024)

Taylor, Scott (Jan. 12, 2024)

Ventura, John (Jan. 12, 2024)

Warmington, Cinde (Jan. 12, 2024)

Waters Jr., Robert (Dec. 7, 2023)

Yeaton, Jared (Jan. 12, 2024)

**Honorary Active to DECEASED**

Jasper, Bruce (Dec. 21, 2023)

**Honorary Active to HONORARY INACTIVE**

Currier, Philip (Dec. 31, 2023)

**Honorary Inactive to DECEASED**

Alexander, Arnold (Sept. 19, 2023)

Beckett, William (Aug. 27, 2022)

Dalton Jr., Charles (Jan. 18, 2022)

D’Amours, Richard (Aug. 4, 2019)

Mullaney, Stanley (Sept. 18, 2023)

Sawyer, Leonard (Jan. 12, 2021)

**Honorary Inactive to SUSPENDED**

Kershaw, Jr, Newton (Jan. 11, 2024)

**Inactive Retired to ACTIVE**

Hall, Ruth (Dec. 20, 2023)

**Inactive Retired to DECEASED**

Edelman, Lawrence (Aug. 3, 2023)

**Inactive Retired to HONORARY INACTIVE**

Ayers, Philip (Jan. 1, 2024)

Baker, Alan (Jan. 1, 2024)

Bennett, Peter (Jan. 1, 2024)

Bowers, Jr. Robert (Jan. 1, 2024)

Bradley III, Charles (Jan. 1, 2024)

Breed, Alexandra (Jan. 1, 2024)

Byk Jr, Joseph (Jan. 1, 2024)

Cassidy, James (Jan. 1, 2024)

Cereola, Ronald (Jan. 1, 2024)

Cleveland, Alan (Jan. 1, 2024)

Cline, David (Jan. 1, 2024)

Dalianis, Linda (Jan. 1, 2024)

Damon, Claudia (Jan. 1, 2024)

Damon, Edward (Jan. 1, 2024)

DeHart, James (Jan. 1, 2024)

Dunworth, James (Jan. 1, 2024)

Farrer, Linda (Jan. 1, 2024)

Gfroerer, Michael (Jan. 1, 2024)

Gould C. Joseph (Jan. 1, 2024)

Groetzinger Jr., Jon (Jan. 1, 2024)

Halvorsen, John (Jan. 1, 2024)

Hermann Jr., Robert (Jan. 1, 2024)

Keenan, Jr., Peter (Jan. 1, 2024)

Kershaw, Newton (Jan. 1, 2024)

Kinder, E. Tupper (Jan. 1, 2024)

Kitchen, John (Jan. 1, 2024)

Lawson Jr., Edward (Jan. 1, 2024)

Lightfoot, Jr., John (Jan. 1, 2024)

McCarthy, Michael (Jan. 1, 2024)

McKean III, Edgar (Jan. 1, 2024)

McMahon, Martin (Jan. 1, 2024)

Morris, James (Jan. 1, 2024)

Presnell, Stephen (Jan. 1, 2024)

R Wells Chandler (Jan. 1, 2024)

Safford, John (Jan. 1, 2024)

Sullivan Leahy, Linda (Jan. 1, 2024)

Taylor, Raymond (Jan. 1, 2024)

Tober, Stephen (Jan. 1, 2024)

Upshall Jr., Frederick (Jan. 1, 2024)

Watson, Douglas (Jan. 1, 2024)

Wilder, Joyce (Jan. 1, 2024)

Wood, Patrick (Jan. 1, 2024)

**Inactive Retired to RESIGNED**

Behrens, Kerry (Aug. 31, 2023)

Carlisle, Rose-Marie (Oct. 1, 2023)

Cristando, Sofia (July 31, 2023)

Keeler, Dennis (Oct. 31, 2023)

Park, David (Sept. 6, 2023)

Deans, Dorcas (Aug. 26, 2023)

Shamash, Albert (Oct. 20, 2023)

Tarberry, Alexander (Sept. 1, 2023)

**Inactive Retired to SUSPENDED**

Boc, William (Jan. 10, 2024)

DeCoste, Matthew (Jan. 11, 2024)

Denley, William (Jan. 11, 2024)

Feins, Debra (Jan. 11, 2024)

Guiraudet, Susan (Jan. 11, 2024)

Huppe, Barbara (Jan. 11, 2024)

Huppuch, Thomas (Jan. 11, 2024)

Lindsey, Warren (Jan. 11, 2024)

McDonough, Francis (Jan. 12, 2024)

McGinley, Karen (Jan. 12, 2024)

Nute, Stephanie (Jan. 12, 2024)

Papps, Peter (Jan. 12, 2024)

Pentz, John (Jan. 12, 2024)

Quijano, Therese (Jan. 12, 2024)

Ripp, William (Jan. 12, 2024)

Schneider, Miriam (Jan. 12, 2024)

**Inactive to ACTIVE**

Andrus, Mark (Oct. 27, 2023)

Beaudet, Jennifer (Dec. 1, 2023)

Borgstrom, Karen (Jan. 1, 2024)

Epler, Gary (Oct. 27, 2023)

Jones, Jennifer (Jan. 17, 2024)

McCann, Ellen (Sept. 27, 2023)

Redden, Donald (Dec. 5, 2023)

**Inactive to HONORARY INACTIVE**

Brennan, William (Jan. 1, 2024)

Cohen, Mark (Jan. 1, 2024)

Coughlin, Sharon (Jan. 1, 2024)

Downs III, Joseph (Jan. 1, 2024)

Farmer, Duncan (Jan. 1, 2024)

Graham, Peter (Jan. 1, 2024)

Lindauer, Kenneth (Jan. 1, 2024)

Mangones, Philip (Jan. 1, 2024)

May, John (Jan. 1, 2024)

Morrill, Robert (Jan. 1, 2024)

Speidel, Russell (Jan. 1, 2024)

Thornhill, Danny (Jan. 1, 2024)

**Inactive to INACTIVE RETIRED**

Cooley, Anne (Oct. 25, 2023)

Meyers, Carla (Aug. 15, 2023)

Michaud, Richard (Sept. 15, 2023)

Stebbins, John (Oct. 24, 2023)

Worthen, Cynthia (Nov. 13, 2023)

**Inactive to RESIGNED**

Carr, Brian (Nov. 22, 2023)

Foster-Desroche, Leah (Jan. 1, 2024)

Galloway, Douglas (Nov. 10, 2023)

Greenhalgh, Jaclyn (Aug. 24, 2023)

Keaveney, Kathleen (Oct. 31, 2023)

McKnight, Andrea (Aug. 21, 2023)

Rosenbloom, Sara (Dec. 1, 2023)

Spinale, Joseph (Nov. 29, 2023)

Tingle, Brent (Aug. 28, 2023)

Wagers, Margaret (Nov. 14, 2023)

Wessler, John (Oct. 22, 2023)

**Inactive to SUSPENDED**

Bellino, Sarah (Jan. 10, 2024)

Bradley, Brian (Jan. 10, 2024)

Breen, Michael (Jan. 10, 2024)

Burnett Gibson, Christie (Jan. 10, 2024)

Chadwick, Tiffany (Jan. 10, 2024)

Chamberlin, Alice (Jan. 10, 2024)

Clark Jr, Charles (Jan. 10, 2024)

Clark, Jacob (Jan. 10, 2024)

Csiszer, Nicole (Jan. 11, 2024)

Domey, Adrienne (Jan. 11, 2024)

Evans, Brendan (Jan. 11, 2024)

Faltin, Gregory (Jan. 11, 2024)

Graybeal, Lee Anne (Jan. 11, 2024)

Hanson, Jennifer (Jan. 11, 2024)

Harding, Paul (Jan. 11, 2024)

Hendricks, David (Jan. 11, 2024)

Hohmeister, Ian (Jan. 11, 2024)

Howard, Gregory (Jan. 11, 2024)

Hunt, Christopher A.D.(Jan. 11, 2024)

Kohler, Elizabeth (Jan. 11, 2024)

Lakin, Kenneth (Jan. 11, 2024)

Lane, Brook (Jan. 11, 2024)

Lezcano, Ericka (Jan. 11, 2024)

McDonough, Katherine (Jan. 12, 2024)

Rosenberg, Nathan (Jan. 12, 2024)

Rosenman, Carrie (Jan. 12, 2024)

Salon, Neil (Jan. 12, 2024)

Sargent, James (Jan. 12, 2024)

Shapiro, Ruth (Jan. 12, 2024)

Stopak, Kimberly (Jan. 12, 2





# 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 27 – 9:00 a.m. – 3:00 p.m.**  
**Tax Abatements & Exemptions**  
• 270 NHCLE min.  
• Concord – NHBA Seminar Room/Webcast

### APRIL 2024

**WED, APR 3 – 9:00 a.m. – 4:30 p.m.**  
**NH Constitutional Law**  
• 360 NHCLE min.  
• Concord – NHBA Seminar Room/Webcast

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

**FRI, APR 12 – 9:00 a.m. – 12:30 p.m.**  
**Evidence: Hitting all the Right Notes to Win Your Case**  
• 195 NHCLE 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 NHCLE 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 NHCLE min., incl. 30 ethics min.  
• Concord – NHBA Seminar Room/Webcast

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

## 18th Annual Ethics CLE

**Thursday, May 30**  
**8:30 a.m. – 10:30 a.m.**  
**120 NHCLE ethics min.**  
**NHBA Seminar Room/Live Webcast**

This CLE is an annual update and review of developing issues for all attorneys in practice.

Topics will include:

- Ethics and Artificial Intelligence
- Ethics and Witness Preparation
- Review of the Attorney Discipline Process
- Recent Issues Before the Attorney Discipline Office
- And more

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**Stephanie K. Burnham**, Burnham Legal, PLLC, Manchester

**Christopher D. Hawkins**, Donahue, Tucker & Ciandella, PLLC, Exeter

**Andrea Q. Labonte**, NH Supreme Court Attorney Discipline Office, Concord

**Brian R. Moushegian**, NH Supreme Court Attorney Discipline Office, Concord

**Richard Guerriero**, Program Chair, Lothstein Guerriero, PLLC, Keene

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

**Developments in the Law 2023**  
Original Program Date: October 27, 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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#### How to Register

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

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## 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

**Jeffrey A. Rabinowitz**, Ransmeier & Spellman, PC, Concord

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

## NH Constitutional Law

**Wednesday, April 3**

9:00 a.m. – 4:30 p.m.

360 NHCLE min.

NHBA Seminar Room/Live Webcast

This program is intended to provide NH attorneys with a greater understanding of our state constitution and the potential opportunities it represents for our clients.

### Faculty

**Jack P. Crisp, Jr.**, Program Chair/CLE Committee Chair, The Crisp Law Firm, PLLC, Concord

**Hon. N. William Delker**, NH Superior Court

**Hon. Anne M. Edwards**, NH Superior Court

**Lawrence Friedman**, Professor, New England Law/Boston

**Hon. Gary E. Hicks**, NH Supreme Court (ret.)

**Henry R. Klementowicz**, American Civil Liberties Union of NH, Concord

**Pamela E. Phelan**, NH Public Defender, Concord

## Evidence: Hitting all the Right Notes to Win Your Case

**Friday, April 12**

9:00 p.m. – 12:30 p.m.

195 NHCLE min.

NHBA Seminar Room/Live Webcast

Like a concert pianist who knows what every key is for, a litigator must be equally knowledgeable of the role his or her exhibits, documents, and witnesses will play. For the practitioner in the New Hampshire State Courts and in the Federal Court, this seminar will give all you legal maestros a sound knowledge to successfully prove your case. It's not enough to have the truth on your side (though it helps). You have to learn how to gather the right information and present it in a way that brings beautiful music to the ears of a jury or judge.

### Faculty

**Justin S. St. James**, Program Chair/CLE Committee, Attorney at Law, Andover, MA

**Karinne E. Brobst**, Milford Police Department, Milford

**James P. Harris**, Sheehan, Phinney, Bass & Green, PA, Manchester

**Hon. Joseph N. Laplante**, Chief Judge, US District Court-NH, Concord

**Jeffrey D. Odland**, Wadleigh, Starr & Peters, PLLC, Manchester

**Richard E. Samdperil**, Samdperil & Welsh, PLLC, Exeter

**Anthony F. Sculimbrene**, CLE Committee Member, Gill & Sculimbrene, 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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# A Guide to New Hampshire’s New Data Privacy Rights

By Ethan DeWitt  
New Hampshire Bulletin

New Hampshire residents will soon have broader controls over how their data is used by businesses in the state, after Governor Chris Sununu signed a sweeping bill into law last week.

Senate Bill 255, which takes effect in January 2025, allows New Hampshire customers to take action to prevent their data from being stored by companies and businesses and gives them tools to remove or amend that data.

“This law provides transparency about what information is collected, why, and confidence that in the age of AI, steps are taken to protect that data,” Sununu said in a statement after signing it.

But how does the law work in practice? Here’s a guide.

### What Rights Does the Law Give Consumers?

For those businesses affected by the law, consumers will have new rights over their data.

They will have the right to learn whether a business is storing any of their data, and a right to request access to it. They also have a right to obtain a copy of that data in a portable format, correct any inaccuracies in that data, and to delete the data from company records.

New Hampshire residents will also be able to opt out of any further data collection, as well as the sale of their data and the use of it for targeted advertising and “profiling in furtherance of solely automated decisions.”



Businesses are required to provide customers a free copy of their information at least once every 12 months.

To take action to amend or delete their data, a consumer can designate another person or authorized agent to do so. They can also use a website, browser setting, or any other method through their computer. As long as the business can verify the identity of the consumer, they must comply with the request.

### What Does the Law Require of Businesses?

Under the law, businesses that are affected must respond to a request by a consumer – or their designated agent – within 45 days of the requests but can extend that deadline by another 45 days if “reasonably necessary.”

Businesses can also decline to take action; if they do so, they must provide jus-

tification, and consumers may appeal. The companies are required to develop an internal appeal process that consumers can use; the business must tell the consumer within 60 days of filing the appeal whether that appeal is successful.

Businesses are required to provide customers a free copy of their information at least once every 12 months. They may charge for any copies after that a reasonable fee to cover administrative expenses. And companies must create an “effective mechanism” for a consumer to opt out of data collection.

Even without direct consumer involvement, businesses have a range of new responsibilities under the law.

They must limit all data collection to what is “adequate, relevant, and reasonably necessary” to the purpose of processing the data in the first place and must inform the customer of that purpose before obtaining the data.

They must not obtain data for any reason that is not necessary to that purpose, unless they receive consent to do that. And they must get consent to collect any “sensitive data” about a customer, a category that includes anything about the customer’s race or ethnicity, religious beliefs, mental or physical health, sex life, sexual orientation, citizenship status, physical geolocation data, and genetic and biometric data.

The businesses are required to implement security practices to protect the confidentiality of the data provided.

35,000 unique customers, it is subject to the law.

That threshold is lower for businesses that sell personal data. Businesses with data for at least 10,000 unique customers but that get more than 25 percent of their revenues from selling data are also subject to the law.

The law includes exemptions for non-profit organizations, government agencies, organizations that are covered by Health Insurance Portability and Accountability Act (HIPAA), and financial institutions that are already covered by the Gramm-Leach-Bliley Act.

### How Will the New Rights Be Enforced?

The law gives the New Hampshire Attorney General’s Office the power to bring legal action against any companies that it determines is violating the statute.

In the first year of the law – January 1, 2025 to December 31, 2025 – the Department of Justice will be required to give notice of a possible violation to any company and try to find a “cure” before taking the matter to court, according to the new law. The company must have at least 60 days to carry out that cure. That requirement will expire after the first year and will instead be an option for the department to take.

As it determines whether to provide an opportunity for the company to cure, the department can consider the number of violations, the complexity of the data collection, whether the violations were a result of human or technical error, the safety of the public, and the likelihood of injury to the public.

But if the company fails to cure the situation, the attorney general can bring legal action against them for unfair competition or deceptive acts or practices under the state’s existing statutes, the law states.

Whether those legal recourses will be necessary remains to be seen. But some lawmakers argue the time for empowering consumers is now.

“With the explosion of AI on our doorstep, it’s important, now more than ever, that we afford these protections,” said Senator Donna Soucy, a Manchester Democrat and the Senate minority leader, during a vote on the Senate floor in January. ♦

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| ♦ eNotaryLog                | ♦ TechConnect/        |
| ♦ ESQ Sites                 | ♦ Affinity Consulting |
| ♦ Fastcase                  | ♦ Tracers             |
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cases that we are just not able to provide direct representation for.”

One in five New Hampshire residents qualify for free legal aid based on their income.<sup>2</sup> However, many can’t get that help. Sisti shares that in 2023, 684 cases were rejected due to a lack of resources. The Justice Index by the National Center for Access to Justice further underscores the gravity of the situation, revealing that New Hampshire has less than one legal aid attorney for every 10,000 people living in poverty.<sup>3</sup>

“There are just far too few staff to meet the enormous demands for the work that we do,” Mattson Dustin says. “It is also true that there are some people who don’t know that free and low-cost legal services exist and don’t reach out for help.”

One major initiative put in place to increase options for representation is HB 1343, also known as the Paraprofessional Pilot Program. The pilot, which took effect on January 1, 2023, allows paralegals to represent qualifying litigants in court with attorney supervision. Currently, the program is permitted to operate in three locations: Manchester, Berlin, and Franklin, in the district and family divisions. The pilot is limited by case type and most frequently covers landlord/tenant, domestic violence, stalking cases, and family law proceedings.

When the pilot first started, there were only four states in the country that had done something like this. Now, 16 states have implemented or are considering similar programs. So far in New Hampshire, 11 cases have been handled by paraprofessionals in the courtroom. This program has given more litigants the chance to receive counsel in some capacity, so they are not completely alone through the process.

“It’s really been a transformative initiative that uses a responsible ethical model of attorney supervision to expand access to services by paraprofessionals,” Mattson Dustin says. “We are thrilled about it and have actively participated and anticipate growing our participation over the next several years that the pilot is extended.”

Even when litigants are unable to receive representation, there are resources and support available to help unrepresented parties feel confident in the courtroom. The New Hampshire Bar Association (NHBA) has resources for those who need low-cost legal assistance. The NHBA Lawyer Referral Service Modest Means program (Modest Means) allows low-income litigants to be represented by panelist attorneys at a reduced rate. Additionally, New Hampshire Free Legal Answers and LawLine both provide avenues for the public to seek free advice from anonymous attorneys. These additional resources are a great way for lawyers to provide guidance and support to unrepresented parties in the state.

“These organizations are giving a voice and power to individuals to feel confident that they are in charge, and that they have control over the outcome because you’re giving them the tools that they need to be successful,” Sisti says.

But without direct representation, pro se litigants face a considerable barrier as they battle their legal issues. One of the challenges is that they are held to the same standard as attorneys. Attorneys have years of education and training for their work, and the average person may have trouble understanding what they need for their case. Despite this, they must follow the same rules and protocols, and are treated the same as legal professionals. This cre-

ates an intimidating experience, especially for those with no prior exposure to the justice system.

“When we talk about access to justice, it’s so important to have that piece where we’re providing advice for things like, ‘where do you go in the courtroom? How do you address the judge? Do you stand?’” Sisti says. “All of those things are aspects of a case that an attorney knows inherently. A pro se litigant does not, and yet they’re required to follow the same set of rules and they’re held to the same standard.”

Mattson Dustin concurs, stating, “Our legal system historically was built by lawyers for lawyers and so you have procedural complexity, which is to say that people don’t necessarily know what forms to fill out or what deadlines they must meet. You also have substantive complexity, so people may not understand what their rights are or may think they have certain rights when they actually don’t.”

Other barriers, including legal language complexity and unfamiliarity with individual rights and court processes pose challenges, particularly for individuals with limited English proficiency, poor reading skills, or disabilities. Despite available resources, individuals may not be aware of their existence or how to access them.

“It’s really important for people to feel like they are being treated by the legal system in a way that is not going to judge them because they are not a lawyer,” Sisti says. “The legal system should be there to serve individuals and it shouldn’t matter if you’re represented or not.”

To address these barriers, the New Hampshire Judicial Branch secured nearly \$1.2 million in funds from the American Rescue Plan Act. The New Hampshire Supreme Court’s Access to Justice Commission and the Office of Access and Community Engagement (OACE) are using these funds to implement various initiatives to improve access to justice for the people of the Granite State.

OACE Manager Irena Goddard will be managing the implementation of the different projects.

One of the first projects to be rolled out is form simplification. The goal is to simplify several sets of forms, so they are written in plain language and comply with federal readability guidelines established by the Americans with Disabilities Act (ADA). The project will also include training and resources on best practices and techniques to enable the Judicial Branch to produce ADA-compliant/plain language forms going forward.

“Right now, there’s a form for everything,” says Goddard. “We want to make the forms much easier to complete using natural language and not legal speak. If they are completed correctly, then they are accepted. If they are not completed correctly, then the process takes much longer. That’s project number one.”

To improve language access for non-English speakers, the language access project will tackle expanding translated online resources, making them readily available in various languages.

A community navigator program is also being implemented to assist individuals with that first step into the legal system. Many people don’t know when they have a legal issue. In this program, knowledgeable community volunteers will help in de-

termining whether a legal issue is present and then guiding them to the next steps.

“We have engaged with Legal Link, and they are providing consultancy services for this,” Goddard says. “This is something that has been rolled out in other states and has worked reasonably well, so we’re doing something that has been successful in other parts of the country.”

To assist individuals in the court process, a virtual service center will be established. This program, also through the support of volunteers, will meet court-involved people where they are and provide legal information support services. Through this program, litigants will be able to receive more in-depth assistance with paperwork, court processes, and what they can expect in their cases.

A legal navigator nexus will significantly improve the technology currently hosting legal resources, making it easier for non-attorneys to access information pertaining to their legal needs. This nexus will create a user-friendly experience, allowing them to search key words to generate specific results, filtering out unrelated information.

To determine the applicability, effectiveness, and sustainability of the initiatives, data collection and reporting will be employed. This will help to identify what is working, and to establish what improvements can be made. The goal of all these initiatives is to give pro se litigants the tools they need to feel comfortable representing themselves.

“We’re not alone in this,” Goddard

says. “There are other states who are going through similar things and we’re learning from each other because we want to provide the best service that we can, as efficiently as we can.”

Goddard continues: “For attorneys, this is their full-time job. For people who are self-represented, they may have a full-time job and it’s not this. We need to make sure that the information is available to them in different formats, in an easily digestible manner, so they can do the ‘catch up.’”

As knowledgeable legal practitioners, there are many ways to assist narrowing the justice gap. Both Sisti and Mattson Dustin urge attorneys to sign up to receive pro bono cases through 603LA. Through them, lawyers can provide representation for litigants dealing with immensely stressful legal issues.

Monetary donations to legal aid organizations are also extremely helpful in allowing them to expand their resources for the unrepresented litigants in New Hampshire.

Other ways to give back include signing up as a panelist through the Modest Means program, volunteering for LawLine, and responding to questions through Free Legal Answers. These opportunities can make a profound change and increase access to justice for the people who need it the most. ♦

#### Endnotes

1. [courts.nh.gov/sites/g/files/ehbemt471/files/inline-documents/sonh/nh-atj-commission-2022-annual-report\\_final.pdf](https://courts.nh.gov/sites/g/files/ehbemt471/files/inline-documents/sonh/nh-atj-commission-2022-annual-report_final.pdf)
2. [courts.nh.gov/sites/g/files/ehbemt471/files/documents/2021-07/nhaj-needs-assessmt-jan25-interactive.pdf](https://courts.nh.gov/sites/g/files/ehbemt471/files/documents/2021-07/nhaj-needs-assessmt-jan25-interactive.pdf)
3. [ncaj.org/state-rankings/justice-index/attorney-access](https://ncaj.org/state-rankings/justice-index/attorney-access)



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tions in 2023. “It’s sort of a jumping off point where you’re usually telling people the next step to take like, ‘This is who you need to contact. This is the next thing you need to do.’ Sometimes my job is to tell them they don’t have a case. But the best part about it is that you can legitimately help somebody and it’s very quick and very easy.”

Two other New Hampshire attorneys, Tony Soltani and L. Phillips Runyon, received the same honor for answering more than 50 questions in 2023.

“I wasn’t going for an award but it’s something that is so easy and convenient to do that I’m not sure why everyone doesn’t do it,” says Runyon, a solo attorney who served as an 8<sup>th</sup> Circuit Court judge for 27 years. “It’s easy in that you pick subjects that you know something about. Often, just a few sentences are all it really takes to give somebody some help in the right direction. If you can’t answer the question specifically, you can usually tell them where to go to get it – or give them some input that gets them on the right track. I answer a question or two nearly every day and it never takes more than 10 or 15 minutes at most to answer one of these things. And I don’t have to leave the office. It’s very convenient. It takes nothing away from your day’s normal work and yet you can make a huge difference to the people that you’re responding to. So, it’s a win-win.”

Soltani says that helping people on FLA is very convenient and rewarding.

“You can do it at anytime, anywhere, even if you’re waiting for your case to be called in court or you have some downtime at the office during the day,” Soltani says. “All of us have downtime and this gives

us several opportunities to answer questions. It’s very rewarding knowing you have helped someone, your knowledge has been put to work in a very convenient and automated way, and there is no commitment to continue to represent the client. If you have only spots of time and you want to do some good and give back to your community, this is the best mechanism.”

Launched in 2016 by the ABA, FLA was modeled after a Tennessee website called Online TN Justice (created in 2011 as a web-based pro bono clinic for low-income Tennesseans), which was the brainchild of Tennessee Access to Justice Chair George “Buck” Lewis, a shareholder of the national law firm, Baker Donelson. In partnership with the ABA, the site’s code was rewritten in 2016 to become a national site and the IT department of Baker Donelson continues to help maintain the site to this day.

According to the ABA’s *January 2024 Free Legal Answers Program Report*, FLA is now available in 43 states and territories, and since its launch eight years ago, 13,550 volunteer attorneys have registered and 336,464 questions have been responded to in those locations.

Bringing FLA to New Hampshire in 2019 was a bit of a challenge at first due to an existing ethical rule regarding limited-scope representation being only a one-time meeting. As questions sometimes require follow-up in the FLA portal, this posed a problem.

“Our Rule 6.5 regarding one-time transfers really kind of limited what we would be able to do,” says attorney Rory Parnell, who was on the New Hampshire Pro Bono Referral Program Board of Directors at the time. “The original rule made it difficult if someone asked a follow-up question whether a lawyer can answer that. There was a



push on our end to modify Rule 6.5 because it involves one-time consultations. The Supreme Court, through a very thorough process both with the NHBA Pro Bono Referral Program and the New Hampshire Ethics Committee, allowed the modification of the rule to allow follow-up to one-time consultations. They really worked hard to make sure that the rule was written in a way that both protected lawyers and allowed people to volunteer.”

After the 603 Legal Aid merger in 2021, the NHBA Lawyer Referral Service (LRS) took over the administration of the FLA program for New Hampshire. LRS Committee Chair Kate Morneau says there were very few concerns about FLA when she first began using it.

“The fact that the American Bar Association backed it – it wasn’t like some rogue program; it had been vetted by a national organization – and the fact that so many other states were participating in it, left very few concerns on my part,” she says. “Everything is very anonymous, and once you get in there it’s actually really enjoyable and fun. There are a lot of very generic and easy-to-answer questions like, ‘My ex is late on child support, what do I do?’ You send them some resources, send them to the court’s website, or point them in the direction to file a petition. It’s just about as easy as it gets. Our intern could answer a lot of these questions. It’s that basic.”

Parnell says his office sets aside time every Friday to answer questions on the FLA portal.

“We have a Free Legal Answer Friday where in the morning before we get started, we try to answer one or two or three questions – provided our schedules allow it,” he says, adding that it’s also a great way for new lawyers to help low-income Granite Staters. “One of the things that I think

it does for young attorneys is it gives them an opportunity to get involved and not have the same time commitment that it would be with a full representation pro bono commitment. A lot of young associates have minimum hours they must bill, and they have restrictions on what cases they can and can’t take. So, if they spend 30 hours on a few pro bono cases that may impact them in a negative way.”

As an associate at her firm, Davidson agrees.

“I became an attorney because I wanted to help people, but I have to make a living, too,” she says. “And I must justify my existence at my firm. I need to be doing billable time. I’ve always been an associate at a firm and as such, my hands are a little tied as to what I’m allowed to do free for people. So, Free Legal Answers is a great opportunity for me to do something to help people for free without getting overly involved in a case, which I think is great on both ends for the potential clients and the attorneys.”

The ABA also provides malpractice insurance for volunteer attorneys who answer questions through the FLA portal.

The top three categories of questions are family law at 39 percent, housing and property owned at 31 percent, and debts and purchases at nine percent. There are also several other categories, including employment and unemployment, wills and inheritance, taxes and IRS, personal injury, special education, and more.

In 2023, New Hampshire volunteers answered 520 out of 855 questions, which is an answer rate of 61 percent. To help bring that percentage higher by providing quick, easy, and anonymous advice to low-income Granite Staters at your convenience and from any location, become a volunteer today by visiting [nh.freelegalanswers.org](https://nh.freelegalanswers.org). ♦

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# Trust & Estate Law

## Contest Avoidance: A Probate Litigator's Tips for Estate Planners

By Alexandra Cote

You are on the witness stand in the Probate Court in a will or trust contest, your right hand raised as you get sworn in, ready to testify about a will or trust you prepared decades ago. Your paralegals or administrative support team, who attested to your client's signature, have little-to-no memory or, worse, have long retired or moved away. This leaves you as the sole witness who can speak to the client's affect, knowledge of their wealth and relatives, and intent to carry out the document's dispositional scheme. Are you up for the challenge?



The drafting attorney is almost always the most critical witness in will or trust contests. The risk that you might someday have to take the stand to defend a will or trust you drafted is increasing. People live longer, get divorced more, and have more wealth. Based upon my experience in these cases, I offer the following tips to help you avoid joining me in court or, if a challenge is unavoidable, at least make it a bit less nerve-racking:

*You will likely see it coming.* Will and trust contests are predictable. Experienced estate planners know that probate litigation is often driven by family pathology, and that there can be rivalries or resentments between a client's subsequent spouse and children, or among the children. The more dysfunctional the family, the more unequal the treatment, and the more wealth at stake, the more you should manage the estate planning carefully to avoid a potential future contest.

*Be on the lookout for someone taking advantage.* Meet with the client without other family members present. This is basic, good practice, but is not always followed. Where an elderly client is highly dependent on a child, such as for food, shelter, transportation, or assistance in making appointments, you should insulate your communications with the client from this dependent relationship by meet-



ing alone with the client. I also recommend sending any mail to the client marked "Personal and Confidential."

*Assess for capacity by asking open-ended questions.* It is likely that, by the time you first meet with the client, you will already have substantial information about their finances, family, and affairs. Nevertheless, to help assess capacity, you should ask them open-ended questions and evaluate their responses. For example, you could ask: "What are the names and ages of your children?" "What do you have for wealth?" "What do you want your will to say?" "Why do you want your will to say this?" If it ever comes time to defend your plan, you will be thankful to have evidence of your client's ability to articulate coherent responses.

*Assess for capacity again on the day the plan is signed, perhaps on video.* Will and trust execution is not the same as a real estate closing. For individuals with dementia, capacity can fluctuate. The fact that the client did well in the estate planning conference is no guarantee that they will have testamentary capacity when they sign.

When you meet, ask them to remind you what the estate plan provides and why they chose this scheme – don't give in to the temptation to prompt or cue. You should again use open-ended questions to verify that they know and understand who their relatives are, the roles they play in their life, and the nature and extent of their wealth. A video interview of the cli-

ent discussing these issues can be compelling evidence – favorable or unfavorable, depending on how the interview goes.

*Don't discount a "letter of reasons."* Where your client is treating their children unequally, a letter in their own writing (whether addressed to you, a disinherited child, or "To Whom It May Concern") explaining their reasons underlying the unequal distribution scheme is good to have in your file. The unequal treatment of heirs carries an increased risk of challenge, and such a letter might help prevent its success, or even its occurrence in the first instance.

If the client coherently and articulately expresses their reasons in writing, the plan will have significant protection from challenge. On the other hand, if the letter is incoherent or inarticulate, it may help invalidate your plan.

*Your notes and memos are my favorite evidence.* If you are anything like me, you are not able to perfectly recall every client interaction throughout your career. When it comes time to take the stand years later, you may have little present memory of your interactions with the client. Your file will not only help refresh your recollection but will also be important evidence in its own right as contemporaneous documentation of your client's capacity and independence. Take the time to document your interactions with your client carefully and thoroughly.

*Not all dementias are equal.* Some dementias are static, while others are

progressive. Often, especially where Alzheimer's-type dementia is involved, the question is when, not whether the client became incompetent. Your estate plan could be viewed in the context of an unrelenting mental deterioration spanning many years. It can be difficult to place the execution of your plan on that continuum.

*Consider a medical consult.* A physician's report supporting capacity can be important evidence in defense of the plan. Where a challenge is based on grounds of incapacity, counsel will procure the medical records and seek to engage medical experts. A contemporaneous exam generally carries more weight than a retrospective assessment. If a consult is desired, the choice will usually be between a forensic psychiatrist, who likely has no prior history with client but is a skilled expert and witness, or the primary care physician, who knows the client well but may not be conversant with capacity standards or a good witness.

Ultimately, some of these tips are good practice and should be followed generally, while others (e.g., video recording and medical evaluations) should be employed only when it makes sense from a cost/benefit perspective – one of the "costs" being the risk that unfavorable evidence will result. ♦

*Alexandra Cote is a director in McLane Middleton's Litigation Department and serves as chair of the Probate Litigation Group. She can be reached at [alexandra.cote@mclane.com](mailto:alexandra.cote@mclane.com).*

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## Leslie Leonard



## For What It's Worth: The Decedent's Estate and the Appraisal Process

By Amanda Nelson and  
Darlene Bialowski



Nelson



Bialowski



Beyond the typical considerations of real estate, jewelry, investments, and vehicles, most attorneys do not discuss the bigger picture with their clients. Asking if there are items such as wine, spirits, antiques, art, dolls, or milk bottles, for example, might lead to further exploration when engaging in estate planning. Collections are frequently overlooked in the planning process or are treated as being of lesser value than the more obvious assets such as a house or investment accounts. This can be a dangerous assumption, potentially landing your client in hot water with the IRS, breaking state and federal laws regarding the disposal of controlled materials, and resulting in your violation of several ethical rules, such as Rule 1.1 (Competence) and Rule 2.1 (Advisor). The scenarios above can be mitigated by hiring a qualified and credentialed appraiser. But at what point should you rec-

ommend to your client that the estate hire an appraiser?

The IRS has several departments which are responsible for assisting in the review of federal income, gift, and estate tax cases and the claimed fair market values for real, personal, and business property. After a tax return, which includes an appraisal report, is selected for audit, personal property items valued at or above \$50,000 are referred to the Art Appraisal Services (AAS) for review in accordance with the Internal Revenue Code. AAS has the discretion to recommend items with individual values generally at or above \$150,000 be reviewed by the Commissioner's Art Advisory Panel. This panel includes up to 25 renowned art experts who serve without compensation. The panel reviews the relevant documentation and photographs that have been provided by the anonymous taxpayer and the research done by the AAS appraisers and makes recommendations on the acceptability of the fair

market values. The AAS makes the final value determinations. If the claimed values in the taxpayer's appraisal are deemed not credible and unacceptable, the burden falls upon the taxpayer to prove otherwise.

Your client doesn't have to be wealthy to have items in their estate with controlled materials. Such items include ivory, bird feathers, certain shells, and other materials. Many of the federal statutes regarding controlled materials originate from international treaties. These items may have restrictions on how they are disposed of and violating them can result in fines, and in some cases, jail.

An attorney has several areas of ethical rules that require the consideration of a professional appraiser. Compliance with Rule 1.1 requires an estate attorney to look beyond the obvious assets: the house, bank accounts, insurance policies, etc. "Legal competence requires at a minimum...identification of areas beyond the lawyer's com-

petence and bringing those areas to the client's attention."

Additionally, Rule 2.1 states: "In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social, and political factors that may be relevant to the client's situation." ABA Comment [4] further elaborates that: "Matters that go beyond strictly legal questions may also be in the domain of another profession.... Where consultation with a professional in another field is itself something a competent lawyer would recommend, the lawyer should make such a recommendation."

If the conversation with your client reveals that there is additional property to consider, the next step is to consult with a qualified and credentialed personal property appraiser. But what is a personal property appraiser and why choose a qualified and credentialed professional?

A personal property appraiser makes value determinations of personal possessions. The individual should be a member in good standing of one of the three professional appraiser organizations, have credentials achieved through testing and continuing education, meet the organization's standards, abide by its ethics, and be compliant with the Uniform Standards of Professional Appraisal Practice (USPAP). The membership directories of all three organizations include

**PROCESS** *continued on page 30*

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## A Brief Overview of the Advantages and Challenges of Supported Decision Making in New Hampshire

By Judith Bomster and Alisha Cahall



Bomster



Cahall



### Advantages

1. Preserves Autonomy: SDM allows individuals with disabilities the freedom to make their own decisions regarding health, finances, and education by allowing them to actively participate and engage in making choices with the assistance of personally selected supporters who could include family members or close friends.

2. Provides a Comprehensive Approach: The individual with disabilities is considered the “principal” under an SDM arrangement, and a supporting party is considered the “supporter.” The collaborative approach between the principal and supporter ensures that the principal remains in control at all times. The SDM agreement is the foundation for identifying specific decisions with which a principal may need assistance and the supporters who will help.

A sample SDM agreement can be found in RSA 464-D:16. An SMD agree-

ment may be signed by anyone over the age of 18, including seniors who may start to need help with decision making but wish to retain their life-long autonomy. The SDM agreement ensures an individual with disabilities carefully defines the scope of authority granted to their supporter.

For instance, an 18-year-old diagnosed with autism may be challenged with reading and understanding financial forms to open a bank account. A supporter may be asked to be an intermediary with the bank, and to assist the principal with making an informed decision by explaining and discussing financial information with the principal.

While performing these duties, the supporter must consider the principal’s values, beliefs, wishes, cultural norms, and traditions, which leads to a more informed and personalized course of action for the individual. This ensures the process remains transparent and the supporter re-

spects the rights of the principal.

3. Protects the Individual through Procedural Safeguards: The SDM agreement must be in writing and the supporter has no more authority than the agreement expressly grants to them. The SDM agreement cannot grant the supporter the ability to make independent decisions for the principal as would be the case for a court-appointed guardian or an agent under a POA that has been activated.

However, execution of an SDM agreement does not preclude the principal from acting independently of the supporter or revoking the SDM agreement at any time. The key distinguishing feature of the SDM agreement is that the principal retains full capacity to make their own decision with the defined assistance, when needed.

4. Takes the Burden off the Court System: If a principal has capacity to sign POAs as well as an SDM agreement, there should be no need for court involvement and no appointment and transfer of decision-making authority to a guardian. SDM agreements can be completely private arrangements that take place between the principal and their supporter.

However, an individual over whom a court has appointed a guardian may seek to reduce the scope of the guardianship if certain decision making effectively could be accomplished through an SDM agree-

OVERVIEW *continued on page 30*

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# Are Irrevocable Trusts Always Irrevocable?

Nonjudicial Settlement Agreements Under the Uniform Trust Code

By Nelson A. Raust and  
Griffin M. Kmon



Raust



Kmon



As the name suggests, irrevocable trusts are irrevocable – meaning the grantor or settlor of the trust cannot amend or revoke the trust agreement and have the assets returned to the him or her. However, provisions of the New Hampshire Uniform Trust Code codified in RSA 564-B:1-111 allow a trust to be amended through an instrument called a nonjudicial settlement agreement. These instruments are a powerful tool in any attorney’s toolbox and allow the interested parties of a trust to enter into an agreement to modify the terms of an otherwise unmodifiable trust.

To effectuate a nonjudicial settlement agreement, all interested parties to the trust must be a party to the agreement. In-

terested parties required to enter into the agreement are the individuals that would have to consent to a court approved settlement. In most scenarios, the interested parties include the Trustee and all current and future beneficiaries of the Trust. In the case of trusts with charitable beneficiaries, either vested or as remainder beneficiaries, the Director of Charitable Trusts must also be a party to the agreement.

Further, minors can be a party to the agreement, provided however, the appropriate representative meets the requirements of 564-B:3-303 when representing and binding the minor to the agreement. This representative can be a parent as long as there is no conflict of interest between

the parent and the minor child.

Nonjudicial settlement agreements allow for the ability to modify an irrevocable trust with respect to a broad range of matters. RSA 564-B:1-111(d) outlines a nonexclusive list of matters that can be resolved by a nonjudicial settlement agreement. These matters include:

- The interpretation or construction of the terms of the trust;
- The approval of a trustee’s report or accounting;
- Direction to a trustee to refrain from performing a particular act or the grant to a trustee of any necessary or desirable power;

- The resignation or appointment of a trustee and the determination of a trustee’s compensation;
- Transfer of a trust’s principal place of administration;
- Liability of a trustee for an action relating to the trust; and
- The termination or modification of a trust.

As you can see, nonjudicial settlement agreements are a useful tool and allow interested parties to an irrevocable trust to make changes relating to trust administration, such as naming successor trustees, waiving requirements under the terms of the trust, authorizing additional distributions of trust income or principal, or otherwise modifying the trust to address changes in circumstances not previously contemplated by the settlor.

However, nonjudicial settlement agreements are not just for administrative issues; these agreements can also be used to resolve disputes between trustees and trust beneficiaries or authorize settlements agreements with third parties. This allows trustees and the beneficiaries to resolve disputes without the need for expensive and protracted litigation, protecting more of the trust’s assets for the intended beneficiaries.

TRUSTS *continued on page 32*

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# A Period of Anxiety Looms for Estate Planning Attorneys and Their Clients

By Jan Myskowski

Estate planning attorneys and their clients are heading for a period of anxiety not seen since 2012. In 2012, the federal estate tax exemption was poised to drop from \$5.12 million to \$1 million, and a crush of planning designed to capture the exemption before it disappeared ensued.

The federal estate tax was very briefly repealed in 2010, and immediately reinstated by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (the 2010 Act). The 2010 Act substantially raised the federal estate exemption to a then historic high of \$5.12 million and set the top marginal federal estate tax rate to a then historic low of 35 percent.

To mitigate its fiscal impact, Congress embedded a sunset provision in the 2010 Act. Without congressional action prior to December 31, 2012, the provisions of the 2010 Act would expire, the federal estate tax exemption would revert to \$1 million, and the top marginal federal estate tax rate would revert to 55 percent.

Chaos ensued as wealthy clients attempted to deploy last-minute planning strategies designed to capture the transient



estate tax exemption. Congress delayed action, and planning reached a fever pitch late into 2012. Finally, on January 1, 2013, Congress enacted The American Taxpayer Relief Act of 2012, making the \$5 million exemption permanent and capping the top marginal federal estate tax rate at 40 percent.

Clients who had hastily deployed invasive, expensive, and usually irrevocable planning transactions were suddenly very disillusioned and looking for escape hatches. In the ensuing years, much effort was devoted to the unwinding or mitigation of the planning techniques deployed in that chaotic second half of 2012.

Fast forward to the present, we find ourselves staring down the barrel of an

even larger gun. In 2017, Congress lit the fuse on another bomb with the enactment of the 2017 Tax Cuts and Jobs Act (the 2017 Act). Effective January 1, 2018, the 2017 Act increased the federal estate tax exemption to \$11.6 million, indexed for inflation. With indexing for inflation, that federal exemption stands at \$13.61 million for deaths occurring in 2024.

As with the 2010 Act, Congress embedded the 2017 Act with a sunset provision. Without congressional action prior to December 31, 2025, the provisions of the 2017 Act will expire. The exemption in effect for 2025 (which will be something greater than \$13.61 million after another year of indexing) will drop all the way to the \$5 million figure set by the 2010 Act.

Although that \$5 million figure would be indexed for inflation retroactively since the enactment of the 2010 Act, the drop would still be dramatic.<sup>1</sup>

We are poised for a situation even more chaotic than the latter half of 2012. Congress did not address the 2010 Act's sunset until the very last day of the 2010 Act's life. In fact, the 2017 Act was signed into law retroactively by a couple of days. Given the current political environment, it's difficult to imagine Congress acting sooner this time around. It is much easier to imagine Congress failing to act at all this time. The prospect of a major drop in the federal estate tax exemption is very real.

Fortunately, we have experienced this type of chaos and its aftermath once, and we can make some observations that may lessen the pain of this next cycle.

First and foremost, start sensitizing clients now. If the cycle plays out as it did in 2012, not all clients will be able to deploy planning that they might otherwise be willing to deploy. Trust and estate practices are already under enormous pressure.

A generational transfer of wealth is underway as baby boomers retire and die. Retirement among estate planning attorneys is causing a critical shortage of practitioners with the skill needed to plan complex estates. Labor shortages caused by the pandemic leave practices without sufficient administrative support. Presently, most experienced estate planning attorneys

ANXIETY continued on page 32

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## ■ PROCESS *from page 26*

valuable information, such as geographic locations, specialties, and USPAP credentials.

A qualified and credentialed personal property appraiser is also unbiased, has no stake in the property, and should complete the assignment with a report that has value conclusions based on fact, research, and thorough methodology. These conclusions do not rely on “family lore.”

When you have the name of a potential appraiser, you and your client should have a conversation with the appraiser and determine if the situation warrants bringing someone in. Not all estates will require the assistance of such an appraiser. This consideration during the planning stages will help develop a plan to mitigate complications upon the client’s death. The client must make the final determination of who to hire, as a client’s comfort level with the appraiser is fundamental when dealing with personal property.

The appraisal assignment is a process culminating in an appraisal report which is a legal and binding document prepared under guidelines of USPAP and includes various elements set forth by the appraiser’s professional member organization. It should include: the scope of work, appraiser’s credentials, fully described inventory with images, comparables drawn from recent sales in the most appropriate marketplace, value conclusions based on those sales and supported by an understanding and discussion of the market, provenance, assumptions and limitations, glossary, bibliography, and

identification of experts or others who assisted in the assignment. It is not what an auctioneer or a non-credentialed “appraiser” refers to as an “appraisal.” Auctioneers are not unbiased parties; most make a determination based on their sales experience, not necessarily based on the appropriate marketplace. Dealers are not unbiased parties either, particularly when they might have a financial stake in reselling a certain item. The IRS is strict about who should complete reports for estates. Noncash charitable contributions and insurance companies are following suit.

Therefore, it is critical for both the attorney and the client to understand the importance and benefit of working with a qualified and credentialed appraiser. Understanding your client’s legal responsibilities and your ethical obligations with respect to when and how to use an appraiser could help protect the estate from future ramifications. ♦

*Amanda Nelson founded Artium Amore, PLLC, a law firm dedicated to the needs of artists, in 2014. She teaches nonprofit management at Northern Essex Community College and regularly presents to artists and the cultural heritage community. You can visit her website at [artiumamore.com](http://artiumamore.com).*

*Darlene Bialowski, principal of Darlene Bialowski Art Services, LLC, has worked in the cultural heritage preservation field for more than 25 years in various professional positions. She is also a non-practicing certificated paralegal and an accredited member of the Appraisers Association of America.*

## ■ OVERVIEW *from page 27*

ment, thus returning some autonomy to the individual.

5. Promotes Acceptance and Inclusivity: In an era promoting more diversity, equity and inclusion, the SDM model not only encourages and helps to foster a culture of respect, acceptance, and understanding of individuals with atypical needs, but also is designed to dispel historical stigmas that important members of our society are incapable of independence.

### Potential Challenges

1. New Legal Model: Unlike the well-established laws regarding guardianship, RSA 464-A, financial powers of attorney, RSA 564-E, and health care powers of attorney, RSA 137-J, the SDM model has only been statutorily recognized in New Hampshire since 2022. While the disability rights community has made strides in promoting SDM, challenges persist in its widespread implementation.

Despite efforts to raise awareness, there continues to be gaps in education and training for individuals, families, professionals, and institutions. Attorneys will play an important role by helping clients navigate the specific terms of an SDM agreement and bridge these gaps by providing a deeper understanding of the principles and practices associated with SDM and those whom this law is intended to serve.

2. Potential for Conflict: Due to the collaborative nature of the SDM process, it has the potential to introduce conflict

among the principal, the supporter, and other persons who may disagree with a principal’s ultimate decision. A key to ensuring an SDM agreement works is heavily dependent on the quality, reliability, and trustworthiness of the supporter. The delicate balance of managing diverse perspectives, while ensuring that the principal’s voice remains central, may prove challenging depending on the circumstances.

Likewise, any unequal power dynamics between a principal and supporter also could jeopardize the benefits of the SDM agreement. In addition, attorneys should remain cognizant of who their client is and their ethical obligations under the rules of professional conduct when drafting an SDM agreement, providing post signing advice or assisting in resolving any disputes, as families may want the attorney to represent both the principal and the supporter in the process.

As SDM evolves in New Hampshire, so do the opportunities and potential challenges that accompany this new planning tool. Although this is just the beginning of the SDM rollout, the hope is that it continues to advance and develop as a progressive alternative to guardianship and a means of meeting the diverse needs of individuals with disabilities. Attorneys can play an integral role in education and implementation by engaging with the community and speaking to the benefits of SDM. ♦

*Judith Bomster and Alisha Cahall are attorneys in Sheehan Phinney’s Estate Planning Group.*

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Top Row: Madeline Hutchings, Alisha Cahall, Renee Lubinski, Maria Whittier, Ann Butenhof, & Shawna Letteney. Bottom Row: Judith Bomster, Brad Cook, & Denise Aiken

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■ TRUSTS *from page 28*

Importantly, because nonjudicial settlement agreements are not required to be submitted to the probate court for approval, resolving disputes between trust beneficiaries and fiduciaries through a nonjudicial settlement agreement offers a quicker and more private way to address disputes or other administrative issues. In the case of family or business trusts, nonjudicial settlement agreements can be a way to keep disputes out of our public court system and allow the parties to resolve their issues internally.

While nonjudicial settlement agreements are an extremely useful tool, these agreements do not come without drawbacks. One of the most important risks practitioners need to be aware of is the potential for unintended tax consequences. Authorization of additional distributions or other transfers of trust assets can create additional taxes and penalties for the trust or its beneficiaries, requiring comprehensive counseling and review of the changes made by a nonjudicial settlement agreement. Another downside to nonjudicial settlement agreements is that they are non-binding on non-parties. Thus, a dispute that was resolved between the parties by a nonjudicial settlement agreement can still find its way to court.

Importantly, nonjudicial settlement agreements are only valid to the extent that they do not violate a material purpose of the trust, meaning such an agreement could still be overturned by a court. However, if there are concerns about the pos-

sibility of the agreement being overturned by a court, RSA 564-B:1-111(e) allows any interested person to request that the probate court approve the agreement for compliance with the requirements of New Hampshire's Uniform Trust Code.

Despite the potential drawbacks, nonjudicial settlement agreements have proven to be a useful tool to solve problems related to the administration of an irrevocable trust in a quick, private, and flexible manner. With careful attention and proper counseling, nonjudicial settlement agreements allow interested parties to a trust to overcome bad drafting, address new or unforeseen issues with the trust or its beneficiaries, and resolve disputes and most other issues affecting the administration of irrevocable trusts—making them an affordable and quick option to effectuate the resolution of many issues that might otherwise require court action.

With this in mind, the next time you have an irrevocable trust with unclear terms or unnecessary administrative requirements, or if a dispute arises between the beneficiaries of a trust, a nonjudicial settlement agreement might be the perfect tool to resolve these issues without the time and expense of involving the probate court. ♦

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■ ANXIETY *from page 29*

are scheduling initial meetings with new clients many months out if they are taking new clients at all.

Many financial professionals working with high-net-worth clients report being unable to find referral outlets for estate planning services for their clients. A client who begins thinking of this issue in mid-2025 faces dim prospects of being able to deploy planning before the sunset occurs.

Choose planning techniques very conservatively. By and large, planning designed to capture the value of the federal estate tax exemption before it disappears involves the irrevocable transfer of ownership of assets. The options available range from simply outright gifts at the simple end of the spectrum to highly complex structures designed to leverage valuation discounts and/or esoteric retained rights of enjoyment.

When deployed under duress, even planning techniques that are relatively modest in their complexity can be overwhelming for clients. Many (if not most) clients who hastily deployed planning in the latter part of 2012 found themselves very regretful. They were left with plans they did not need and did not understand. Focusing on the simplest approaches possible will help clients to understand that the question before them is whether to give away an asset that they will not be able to get back if sunset does not occur.

In selecting assets for potential gifting, focus on assets that may be slated for

gifting down the road regardless of the legislative environment. For example, lake-front vacation properties that have been in the family for generations. These tend to be good candidates because they are highly prone to appreciation and because there are good planning techniques available that can remove the value from the donor's taxable estate while ensuring shared family usage over future generations. These types of arrangements are often deployed later in life anyways, and accelerating their deployment a bit may be less invasive (less prone to regret).

Keep a close eye on planning techniques that are sensitive to interest rates. Vehicles that divide property into present and future interests vary widely on whether they are more or less advantageous under any given interest rate environment. This sunset cycle is unique in that we will experience it during an unusually volatile interest rate environment.

Simply stated: Start now, keep it simple, and hold on tight. ♦

*Jan Myskowski is a partner at Pierce Atwood, LLP. He focuses his practice on estate planning, estate and trust administration, non-judicial trust reformations and modifications, matters before the probate court including guardianships, reformations, and contested will and trust disputes, and matters before the US Tax Court.*

## Endnote

1. The top marginal federal estate tax rate would be static since the 2010 Act and the 2017 Act both set the top marginal federal estate tax rate at 40 percent.

## NH Supreme Court At a Glance

February 2024

## Conflict of Interest and Insufficient Evidence

*The State of New Hampshire v. Gregory M. Collins, No. 2022-0306*  
February 2, 2024  
*Affirmed*

- Whether the trial court erred by: (1) denying defendant's motion to recuse the Strafford County Attorney's Office (SCAO); and (2) denying defendant's motions to dismiss the charge based upon insufficient evidence.

Gregory Collins was charged with dispensing a controlled substance resulting in death after supplying fentanyl to the decedent. Although the chief medical examiner for the State of New Hampshire did not perform an autopsy, she determined that the decedent died from acute fentanyl intoxication.

At the first arraignment, the parties conferred about a potential conflict of interest involving the SCAOs' legal assistant and the defendant. Although not having been in a relationship since 2003, the two shared a child. The legal assistant obtained a favorable ex parte order modifying her parental rights with respect to their child after the defendant's indictment became public. The SCAO assured the defense that it took measures to "wall[] off" the legal assistant from the case. The defendant's first trial resulted in a mistrial due to a deadlocked jury. In June 2019, the defendant filed a motion to dismiss the charge for prosecutorial misconduct or, in the alternative, to recuse the SCAO from prosecuting claiming a direct conflict of interest

or appearance thereof. The trial court denied the motion.

The second trial commenced in October 2021, where the defendant moved to dismiss the indictment arguing there was insufficient evidence to prove he supplied the lethal dose of fentanyl that killed the decedent. The trial court denied the motion and the jury convicted the defendant.

On appeal, the defendant argued the trial court erred in denying his motion to recuse the SCAO based on the appearance of a conflict of interest. Applying an unsustainable exercise of discretion standard, the Court concluded the trial court sustainably exercised its discretion because any conflict between the defendant and the legal assistant was not imputed onto the entire SCAO. Further, the SCAO took measures, which included essentially walling off the legal assistant from the case, that were sufficient to avoid a conflict. The Court further reasoned that because the legal assistant obtained an ex parte order regarding her parental rights only after the defendant's indictment became public, there was no appearance of a conflict. Finally, the legal assistant never testified at either of the defendant's trials and the jury therefore never heard testimony that could have created the appearance of impropriety.

The defendant next argued there was insufficient evidence to prove the decedent died from acute fentanyl toxicity or that the defendant supplied the lethal dose of fentanyl. The Court affirmed the trial court's decision because the defendant failed to meet his burden that the evidence was insufficient, based on the direct and circumstantial evidence presented at trial. Specifically, the defendant conceded he supplied fentanyl to the decedent, who in turn ingested it. Further, although no autopsy was performed, the medi-

## At a Glance Contributor



**Jonathan P. Killeen**

Shareholder at  
Boyle | Shaughnessy Law PC in  
Manchester, NH

cal examiner testified she was "at least 94.5 percent confident" the decedent died from a fentanyl overdose and the evidence showed the decedent had a history of drug use, no major medical problems, and his body was discovered in the presence of drugs and drug paraphernalia. As to whether the defendant provided the lethal dose to the decedent, the Court reasoned the defendant failed to meet his burden where there was, at best, only speculative evidence to suggest the decedent solicited the purchase of more fentanyl from another source after obtaining it from the defendant.

*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; Rothstein Law, LLC, of Exeter (David M. Rothstein on the brief and orally), for the defendant.*

*The State of New Hampshire v. Jean M. Maxi, Jr., No. 2022-0613*  
February 13, 2024  
*Affirmed*

- Whether the trial court violated the New Hampshire Constitution's double jeopardy provision.

In 2019, 34-year-old Jean Maxi created an online dating profile using the MeetMe application under a pseudonym. In early 2020, Maxi began communicating with a profile named "Kristen," a fictitious profile created by Detective Sprinkle of the Merrimack Police Department. Despite "Kristen" telling Maxi she was 13 years old, Maxi continued to communicate with "Kristen" and the conversations turned sexual in nature. The conversations led to Maxi and "Kristen" arranging to meet, where law enforcement arrested Maxi, who at that time had items suggesting his intent to commit sexual assault on "Kristen." The defendant was indicted on one count of "certain uses of computer services prohibited" and one count of attempted felonious sexual assault (FSA). At trial, Maxi was found guilty on both counts and was sentenced accordingly.

Maxi appealed, arguing that the charge of prohibited use of computer services was a lesser offense than his attempted FSA charge and the two charges consisted of the same offenses for purposes of double jeopardy. He also argued that he was denied effective assistance of counsel due to his trial counsel's failure to provide all necessary documents for an effective appeal and his appellate defender's failure to assert a double jeopardy violation under the United States Constitution in his appeal.

On appeal, the parties agreed Maxi's double jeopardy argument under the New Hampshire Constitution was a so-called "double description" challenge, meaning whether two statutes describe two separate offenses or are merely different descrip-



tions of the same offense. The Court applied the “same evidence” test, which reviews and compares the statutory elements of the charged offense in light of the actual allegations in the indictments, to conclude there was no double jeopardy violation because the two charges required different evidence. Specifically, Maxi’s arrangement to meet a minor and traveling to the meeting location were essential to prove the attempted FSA charge, whereas evidence of the use of an internet application to solicit a minor to meet in order to engage in sexual penetration were essential to prove the certain uses of computer services prohibited charge. The Court noted that “it does not matter how overlapping, reciprocal, or similar the evidence used to sustain the indictments was if a difference in evidence is actually required to prove the crime charged.” Accordingly, the evidentiary overlap to prove both charges, such as online conversations, did not implicate double jeopardy.

Lastly, Maxi’s arguments about ineffective assistance of counsel were insufficiently developed for review and the Court dismissed the claims without prejudice. Maxi further failed to elaborate what transcripts his trial counsel failed to provide for appellate review.

*John M. Formella, attorney general, and Anthony J. Galdieri, solicitor general (Samuel M. Gonyea, assistant attorney general, on the brief, and Anthony Galdieri orally), for the State; Carl Swenson, assistant appellate defender, of Concord, on the brief and orally, for the defendant.*

**In the Matter of Alexandra Rourke and Sean Rourke, No. 2022-0304**  
**February 15, 2024**  
**Affirmed**

- Whether the trial court erred in modifying a parenting plan pursuant to RSA 461-A:11, I(g), and whether the modification violated Mother’s due process rights.

Alexandra Gamble (Mother) was divorced from Seane Rourke (Father). On September 13, 2019, the court approved a final parenting plan with an addendum stating the parties intended to exercise a flexible parenting time schedule for their three children, where Mother lives in New Hampshire’s Seacoast and Father lives primarily in Costa Rica. In April 2021, Father filed a petition to modify the parenting plan because he decided not to reside in Costa Rica, and instead decided to reside in Rye, New Hampshire, close to Mother’s Kittery, Maine residence. Father argued that because plans for his residency changed, it was within the children’s best interests to modify the parenting time. At a hearing on the petition, Mother argued that because the original plan was premised on Father living in both Costa Rica and the New Hampshire Seacoast region, there was no substantial change in circumstances when Father chose to live primarily in New Hampshire.

On May 3, 2022, the court issued an order ruling that Father met his burden to modify the parenting plan. The court rejected both parties’ proposed modifications to the plan and instead issued its own parenting

plan, providing the children would be with Father on Mondays and Tuesdays, Mother on Wednesdays and Thursdays, and either parent on alternating weekends. Mother filed a motion to reconsider that was largely denied by the court. Mother appealed, arguing Father failed to meet his burden to modify the plan, the trial court violated her due process rights when it modified the parenting plan under certain statutory provisions without providing her notice or an opportunity to contest the modification on those grounds, and when the trial court made additional changes to the parenting plan that were not in Father’s petition for modification.

On appeal, the Court affirmed and reasoned the trial court sustainably exercised its discretion to modify the parenting plan pursuant to RSA 461-A:11, I(g) because there was a sufficient objective basis for doing so. Specifically, the statute permits a court to modify a permanent order concerning parental rights if it finds one of various specified predicate circumstances. One such circumstance is whether a parent’s allocation of parenting time was based in part on the travel time between he parents’ residences at the time of the order and the parents are now living either closer to or further from each other such that the existing order is not in the child’s best interest. The Court reasoned that the original parenting plan was premised on the Father living primarily in Costa Rica, not on the Seacoast of New Hampshire close to Mother’s residence.

Regarding Mother’s procedural due process arguments, the Court reasoned that the trial court did not base its modification of the parenting plan on RSA 461-A:11, I(b) and I(h). While these sections of the statute were referenced in the trial court’s order, the trial court found that Father met his burden to modify the parenting plan under RSA 461-A:11, I(g).

Lastly, the Court reasoned the trial court did not violate Mother’s due process rights when it made changes to the parenting plan for which Father did not ask. Specifically, pursuant to RSA 461-A:11, I, the trial court had authority to modify a permanent order concerning parental rights based on a finding of at least one specified predicate circumstance. Upon such a finding, the statute did not limit the provisions of the permanent order that the trial court could modify. Therefore, Mother had adequate notice that the trial court could modify the permanent order beyond the modifications that Father sought.

*Primmer Piper Eggleston & Cramer PC, of Manchester (Doreen F. Connor on the brief and orally), for the petitioner; Shaheen & Gordon, PA, of Nashua (Andrew J. Piela on the brief and orally), for the respondent.*

### Subdivision Approval Appeal

**Candice K. Harvey v. Town of Barrington, No. 2021-0601**  
**February 27, 2024**  
**Reversed and remanded**

- Whether a reasonable person could have reached the same decision as the trial court to uphold the Board’s conditional approval of a subdivision based on the

evidence presented.

In 2006, the Town of Barrington Planning Board (Board) approved a subdivision plan (the 2006 plan) for a lot in Barrington owned by David and Glenda Henderson. The subdivision created lot 1-0 (the front lot), acquired by the plaintiff, and lot 1-1 (the back lot), retained by the Hendersons. Before the Board approved the 2006 plan, the Barrington Zoning Board of Adjustment (ZBA) granted a special exception allowing access to the back lot via an access and utility easement across the front lot, on which the back lot relied in order to avoid wetlands. The plaintiff’s deed to the front lot stated that it is “[s]ubject to a forty foot (40’) wide access and utility easement to benefit Lot 1-1 as shown on the” 2006 plan. Note 12 to the 2006 plan stated, “The 40’ Wide Access & Utility Easement across Lot 1-0 to benefit Lot 1-1 is to be used for a single lot and one buildable location on Lot 1-1 only.”

In 2021, the ZBA approved a variance that allowed the Henderson’s back lot to be used for two additional lots. Following ZBA approval, the intervenor, Garvey & Company, Ltd., on behalf of the Hendersons, applied to the Board for approval to subdivide the back lot into two residential lots. The proposed access to the two lots was via the access easement over the front lot. The plaintiff protested that the easement would be used for accessing two lots instead of one. The Board conditionally approved the intervenor’s application. The plaintiff appealed to the superior court requesting a reversal of the Board’s approval of the subdivision. The trial court affirmed the Board’s decision. The plaintiff subsequently appealed.

On appeal, the Supreme Court concluded that the trial court erred by upholding the Board’s decision because the access easement provided access to only one lot. Specifically, the Court explained that the recorded deed from the Hendersons to the plaintiff expressly retained “a forty foot (40’) wide access and utility easement to benefit Lot 1-1 as shown on the [2006 plan],” and that through this reference, the 2006 plan became part of the recorded deed. The Court stated that the 2006 plan and the recorded deed, together, created the easement, which once created neither the Board or the ZBA could change. Therefore, it was legal error for the trial court to conclude the 2006 plan no longer restricted the use of the access easement to one lot. Given the limitation on the access easement, the Court reasoned the Board’s conditional approval of the subdivision contradicted RSA 674:41, which required the lot to have access to a street, because there was no access for two lots over the easement. The Court stated that the Board was precluded from approving the new plan absent legal access to the back lot consistent with RSA 674:41. The Court reversed the decision of the trial court and remanded with instructions to vacate the Board’s approval of the subdivision application.

*Casassa Law Office, of Hampton (Daniel R. Hartley on the brief and orally), for the plaintiff; Mitchell Municipal Group, PA, of Laconia (Laura Spector-Morgan), for the defendant, filed no brief; Wyskiel, Boc, Tillinghast & Bolduc, PA, of Dover (Christopher A. Wyskiel and Laurie S. Young on the brief), for the intervenor.*

## NH Supreme Court Orders

The Supreme Court of New Hampshire hereby appoints Attorney Jessica F. Kallipolites to the Board of Bar Examiners for a term commencing immediately and expiring October 31, 2026.

Issued: March 4, 2024

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

### LD-2024-0003, In the Matter of David C. Newton, Esquire

On January 31, 2024, the Attorney Discipline Office (ADO) filed a certified copy of the November 17, 2023 order of term suspension issued against the respondent, David C. Newton, by the Massachusetts Supreme Judicial Court for Suffolk County (Massachusetts SJC). The order suspended Attorney Newton from the practice of law in Massachusetts for a period of two years as a result of his misappropriation of funds from his law firm and his misrepresentations to Massachusetts bar counsel during the disciplinary investigation.

The ADO contends that Attorney Newton’s “misconduct does not warrant the imposition of identical discipline in New Hampshire.” Rather, the ADO contends that Attorney Newton “should be disbarred in New Hampshire.” On February 21, 2024, this court ordered Attorney Newton to respond on or before March 22, 2024, by informing the court in writing of his position as to whether the court should impose discipline identical or substantially similar to that imposed by the Massachusetts SJC and setting forth the reasons supporting his position, with reference to the three grounds listed in Supreme Court Rule 37(12)(d).

Given the nature of Attorney Newton’s misconduct and the discipline imposed in Massachusetts, the court concludes that a temporary order of suspension is warranted pending the imposition of final discipline. See Rule 37(12)(b) (“Upon receipt of a certified copy of an order demonstrating that an attorney admitted to practice in this State

has been disciplined in another jurisdiction, the court may enter a temporary order imposing the identical or substantially similar discipline or, in its discretion, suspending the attorney pending the imposition of final discipline.”). Accordingly, the court now orders as follows:

(1) In accordance with Rule 37(12)(b), Attorney David C. Newton is immediately suspended from the practice of law in New Hampshire on a temporary basis pending further order of this court.

(2) A copy of this order shall be served on Attorney Newton by first-class mail and certified mail, return receipt requested. A copy of this order shall also be sent to the ADO electronically.

(3) Attorney Newton is enjoined from transferring, assigning, hypothecating, or in any manner disposing of or conveying any assets of clients, whether real, personal, beneficial or mixed.

(4) On or before March 20, 2024, Attorney Newton shall inform his clients in writing of his suspension from the practice of law and of his inability to act as an attorney, and shall advise them to seek other counsel. See Rule 37(13)(b). Attorney Newton shall file an affidavit on or before April 4, 2024, stating that he has complied with this requirement. See Rule 37(13)(d). A copy of the affidavit shall be sent to the ADO.

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

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

(2) Attorney Labonte shall, to the extent that she deems necessary, notify Attor-

**ORDERS** *continued on page 34*

## US Bankruptcy Court Opinion Summary

Chief Judge Bruce A. Harwood has issued the following opinion:

Note: The full text of the opinion below will be available on the Bankruptcy Court’s website at [www.nhb.uscourts.gov](http://www.nhb.uscourts.gov).

*Askenaizer v. Pierce (In re St. Laurent)*, 2024 BNH 001, issued February 26, 2024 (Harwood, C.J.) (unpublished) (prepetition divorce decree entitled Chapter 7 Trustee to turnover of \$35,150.80 from debtor’s ex-spouse, and precluded ex-spouse under res judicata principles from asserting set offs against the Trustee that she was not awarded in the divorce proceeding, and to which the Trustee did not otherwise assent).



## ■ ORDERS from page 33

ney Newton's clients of his suspension, inform them of any scheduled hearings, advise them to obtain the services of other lawyers of their choice, and advise them how they or their new attorneys may obtain their files. Attorney Labonte shall not, however, undertake the representation of any of Attorney Newton's clients.

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

(4) Attorney Labonte shall prepare an inventory of Attorney Newton's client files and shall file a copy of the inventory with this court on or before April 19, 2024, together with a report of her actions taken under this order and recommendations as to what further actions should be taken.

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

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

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

DATE: March 5, 2024

ATTEST: Timothy A. Gudas, Clerk



**LD-2023-0005, In the Matter of  
Thomas T. Aquilla, Esquire**

On March 28, 2023, the Attorney Discipline Office (ADO) filed a certified copy of the January 27, 2023 decision of a hearing officer for the United States Patent and Trademark Office (USPTO), which suspended the respondent, Attorney Thomas T. Aquilla, from the practice of law before the USPTO for a period of two years, with reinstatement conditioned on restitution to the affected client in the amount of \$8,840.00 and with two years of probation upon reinstatement.

The USPTO found and ruled as follows. Attorney Aquilla represented a client that held three U.S. patents and one Canadian patent. Patent law requires the holder to pay periodic maintenance fees to the USPTO to keep the patents in effect. (Canadian law imposes a similar obligation.) In 2015, Attorney Aquilla sent invoices to the client for those maintenance fees. The client sent him the money, but he did not remit payment to the USPTO or to the Canadian patent office. Instead, Attorney Aquilla deposited the payments into his operating account. The patents therefore expired. When the client asked Attorney Aquilla for a status update in 2017, he did not inform the client that the patents had expired based on his non-payment of the maintenance fees; nor did he tell the client that he had deposited the payments in his operating account. Rather, he told the client that he would look into the matter, and then he ceased further communications with the client.

The USPTO determined that Attorney Aquilla had violated numerous rules of professional conduct, including those governing client communications (37 C.F.R. §11.104(a)), diligence (37 C.F.R. §11.103) and safekeeping of client property (37 C.F.R. §11.115(a), (c), (d)). The USPTO further concluded that Attorney Aquilla acted intention-

ally, caused actual harm to the client, acted with a dishonest and selfish motive by keeping the client's money, and was "indifferent" to making restitution because he failed to pay the client back.

Supreme Court Rule 37(12)(d) authorizes this court to impose final discipline identical or substantially similar to the discipline imposed by another jurisdiction unless the court finds, among other possible grounds, that the "misconduct established warrants substantially different discipline in this State." With its filing of the USPTO's decision, the ADO requested that this court impose the identical discipline in New Hampshire. On April 14, 2023, this court issued an order in accordance with Rule 37(12)(d) providing Attorney Aquilla an opportunity to advise the court of his position as to whether the court should impose discipline identical or substantially similar to that imposed by the USPTO. Attorney Aquilla did not respond to that order.

Having reviewed the record of the USPTO discipline, including the aggravating and mitigating factors identified in that decision, this court concluded that Attorney Aquilla's misconduct warranted substantially more serious discipline in New Hampshire. Accordingly, on June 20, 2023, the court referred the matter to the Professional Conduct Committee (PCC) for its recommendation regarding the discipline to be imposed. See Rule 37(12)(e).

On November 21, 2023, the PCC filed an order recommending that Attorney Aquilla be disbarred. In its order, the PCC noted that the ADO had proposed disbarment as the sanction and that Attorney Aquilla had failed to address the issue of sanction. According to the PCC, Attorney Aquilla's "failure to address the disciplinary issue in New Hampshire is an additional violation of the Rules of

Professional Conduct."

Upon receiving the PCC's recommendation, this court ordered Attorney Aquilla to identify any legal or factual issues relating to the PCC's recommendation that he wished the court to review. Attorney Aquilla did not respond.

The court has reviewed the record and the PCC's recommendation that Attorney Aquilla be disbarred. After considering the nature, seriousness, and extent of Attorney Aquilla's misconduct, the court concludes that disbarment is the appropriate sanction in this case.

THEREFORE, the court orders that Thomas T. Aquilla be disbarred from the practice of law in New Hampshire. He is hereby assessed all expenses incurred by the attorney discipline system in this matter.

DATE: March 6, 2024

ATTEST: Timothy A. Gudas, Clerk



In accordance with RSA 679:2, the Supreme Court appoints Attorney David J. Rogers as a member of the Housing Appeals Board to fill the position that became vacant upon Elizabeth R. Fischer's resignation from the Housing Appeals Board on December 31, 2023. Attorney Rogers shall serve the unexpired portion of Elizabeth R. Fischer's five-year term, beginning upon Attorney Rogers's commissioning by the Governor and expiring June 30, 2028.

The Supreme Court designates Attorney Rogers to serve as chair of the Housing Appeals Board for the duration of his term.

Issued: March 5, 2024

ATTEST: Timothy A. Gudas, Clerk

Supreme Court of New Hampshire

## US District Court Decision Listing

### January 2024

\* Published

#### STANDING; ELECTIONS

1/9/2024 *Testerman et al. v. NH Secretary of State, et al.*

Civil No. 23-cv-499-JL, No opinion no.

Three Republican voters sued the New Hampshire Secretary of State and the head of New Hampshire Republican State Committee, alleging that the time during which presidential primary voters were allowed to change party affiliations was unlawfully extended. They sought to have any changes reversed prior to the January presidential primary or, in the alternative, to have the primary rescheduled. After conducting an evidentiary hearing, the court granted the defendants' motions to dismiss, finding that the plaintiffs lacked standing to sue, as they failed to establish that the defendants' actions caused them to suffer an actual or imminent concrete and particularized injury that is not conjectural or hypothetical. The generalized interest in requiring state officials to comply with plaintiffs' interpretation of state law is insufficient to satisfy the constitutional requisite of standing. 12 pages. Judge Joseph N. Laplante.

#### STANDING; ARTICLE III

1/19/2024 *Castro v. NH Secretary of State et al.*

No. 23-cv-531-SE, 2024 DNH 002

The plaintiff challenged defendant Donald J. Trump's inclusion on the New Hampshire Republican Presidential primary ballot by defendant New Hampshire Secretary of State. Plaintiff alleged that defendant Trump is ineligible to hold the Office of President of the United States under Section 3 of the Fourteenth Amendment and sought an injunction to prevent the Secretary of State from counting votes for defendant Trump. The court, exercising its independent obligation to assure itself of its jurisdiction under Article III, held an evidentiary hearing to assess plaintiff's standing to sue. Plaintiff argued that the evidence showed that he was a legitimate

candidate in the New Hampshire Republican Presidential primary, which afforded him standing to sue under the political competitor doctrine. Defendant Trump argued that the evidence demonstrated that plaintiff was not in direct competition with him in the New Hampshire Republican primary. Defendant Secretary of State argued that plaintiff's injury could not be redressed by his requested relief. The court found that plaintiff lacked standing to sue because he had not proven injury-in-fact or redressability. It did so based on the First Circuit's analysis of the political competitor doctrine in its order affirming this court's earlier dismissal of plaintiff's nearly identical prior lawsuit. 17 pages. Judge Samantha D. Elliott.

#### DEFAULT JUDGMENT; NH CONSUMER PROTECTION ACT

1/24/2024 *Reliant Life Sciences, LLC v. AGC Biologics, Inc. et al.*

No. 22-cv-137-SE, 2024 DNH 005

Plaintiff filed a renewed motion for default judgment seeking actual damages under the New Hampshire Consumer Protection Act (CPA) after the Court ruled that contractual liquidated damages are not actual damages under the CPA and therefore cannot be trebled upon a finding of willful violation of the statute. The court held a hearing to receive evidence of plaintiff's actual damages, which plaintiff argued were its lost profits. Lost profits must be proven with reasonable certainty under New Hampshire law. After the hearing, the court found that plaintiff's evidence of its lost profits was speculative and did not meet the reasonable certainty standard. Plaintiff was awarded contractual liquidated damages and trebled statutory liquidated damages based on the Report and Recommendation of Magistrate Judge Andrea K. Johnstone. 9 pages. Judge Samantha D. Elliott.

#### HABEAS CORPUS

1/29/2024 *G.P. v. Merrick B. Garland, US Attorney General, et al.*

No. 1:23-cv-322-PB, 2024 DNH 001

A noncitizen filed a petition for a writ of habeas

corpus seeking his immediate release from immigration detention while he litigates a claim that the Convention Against Torture (CAT) bars his removal to his home country. On cross-motions for summary judgment, the petitioner argued that he is entitled to immediate release because there is no significant likelihood of removal in the reasonably foreseeable future, and thus his continued detention contravenes the Supreme Court's decision in *Zadvydas v. Davis*, 533 U.S. 678 (2001). The court denied the plaintiff's motion and granted the government's cross-motion on the grounds that he does not face the prospect of infinite detention, and thus *Zadvydas* is inapplicable. 14 pages. Judge Paul J. Barbadoro.

#### STAY PENDING INTERLOCUTORY APPEAL; CLASS CERTIFICATION

1/22/2024 *Fitzmorris v. Weaver*

No. 21-cv-25-PB, 2024 DNH 003

The defendants in this class action sought interlocutory appeal of an order certifying a class of certain participants in New Hampshire's Choices for Independence Waiver program. The defendants then moved to stay proceedings during the pendency of their appeal. The court denied their motion, concluding that (1) the defendants had not shown a strong likelihood that the First Circuit would grant their petition for interlocutory review, (2) defendants' showing that they would incur significant litigation expenses did not establish irreparable harm, and (3) the public interest and risk of harm to other interested parties favored prompt resolution of the claims. 10 pages. Judge Paul J. Barbadoro.

### February 2024

\* Published

#### FEDERAL TORT CLAIMS ACT; SUBJECT MATTER JURISDICTION

2/2/2024 *Dumais v. United States*

No. 22-cv-112-PB, 2024 DNH 007

The plaintiffs, a former state firefighter and his wife, brought suit against the United States pursu-

ant to the Federal Tort Claims Act (FTCA) seeking damages arising out of injuries that the firefighter suffered while working at the Pease Air National Guard Base. The government moved to dismiss under Rule 12(b)(1) for lack of jurisdiction, arguing that the United States was immune from suit because it was the firefighter's borrowing employer under New Hampshire's workers' compensation law. The court applied the multi-factor test established in *LaVallie v. Simplex*, 135 N.H. 692 (1992) and ultimately found that the United States was the firefighter's borrowing employer. As such, the United States would be shielded from liability under the state workers' compensation law if it were a private person. Therefore, the FTCA's waiver of immunity did not attach, and the court lacked jurisdiction over the plaintiffs' claims. 27 pages. Judge Paul J. Barbadoro.

#### INSURANCE DECLARATORY JUDGMENT; CHOICE OF LAW

2/2/2024 *Rodriguez Morel v. Travelers Casualty and Surety Company of America*

No. 22-cv-200-PB, 2024 DNH 006

The plaintiff sued her former employer for discrimination and ultimately obtained a default judgment. She filed suit under N.H. RSA 491:22 against Travelers, her employer's insurer, seeking a declaratory judgment that an insurance policy issued by Travelers to the employer obligated Travelers to pay the default judgment. Travelers moved to dismiss, arguing that the plaintiff lacked standing and that her claims were untimely. The court first concluded that, because the insurance policy at issue was a multiple risk policy, it was to be interpreted according to the law of New Hampshire, where the relevant risk was located. The court then rejected the argument that the plaintiff lacked standing to bring suit under RSA 491:22. The court concluded that, as a judgment creditor, the plaintiff was a third-party beneficiary to the insurance contract and had standing to pursue a declaratory judgment action. Finally, the court declined to dismiss the complaint as untimely, noting that the allegations did not foreclose the possibility that an exception to the six-month statute of limitations could apply. 18 pages. Judge Paul J. Barbadoro.





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### 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](mailto:admin@weibrechtlaw.com)

## ASSISTANT COUNTY ATTORNEY

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

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

#### JOB DESCRIPTION:

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

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

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

#### Benefits:

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

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

## Classifieds

### POSITIONS AVAILABLE

**REAL ESTATE ATTORNEY** for Title Company (minimum 5-7 yrs experience). Residential & Commercial. Title Insurance policy and endorsement experience required. Salary commensurate with experience. Ownership and/or profit sharing possibilities. All inquiries held in strict confidence. [titleattorneyposition@yahoo.com](mailto:titleattorneyposition@yahoo.com).

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

**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](mailto:tbright@hmdrslaw.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](mailto: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](http://www.nhpd.org).

**EXPERT WITNESS/CONSULTING PRACTICE** seeks attorney to assist, as needed with drafting expert witness reports in accordance with Rule 26 of the Federal Rules of Civil Procedure. Occasional need to conduct research and organize documents received in discovery. Proficiency with "word", grammar/vocabulary/footnoting required. Although not required, familiarity with FINRA and SEC Rules governing conduct of Financial Advisors is preferred. Contact: Alan Besnoff, [Abesnoff@AJBExpertWitness.com](mailto:Abesnoff@AJBExpertWitness.com), 603-734-4481.

### WILL SEARCH

**ANYONE WITH KNOWLEDGE OF WILL** for James Lee Kornel of the Raymond area, please contact Law Offices of R. John Roy @ 603-669-3363 or [rjrlawnh@gmail.com](mailto:rjrlawnh@gmail.com).

### 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](mailto:lrsreferral@nhbar.org).

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

## 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](http://www.courts.nh.gov/careers/job-postings), look for job #23-105. Applications accepted until position filled

## 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](mailto:jeromegrossmanlaw@gmail.com)

## 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.

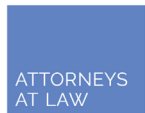
Show position number on application and cover letter. Applications are required.

**Application:** E-mail application to [applications@courts.state.nh.us](mailto:applications@courts.state.nh.us), fax application to (603) 513-5454 or mail the application to Administrative Office of the Courts, One Granite Place, Suite N400 Concord, NH 03301. 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





PRIMMER PIPER  
EGGLESTON &  
CRAMER PC

## Floating Legal Assistant, Manchester Office

PRIMMER PIPER EGGLESTON & CRAMER PC, a full service law firm with offices in Vermont, New Hampshire, and Washington, D.C., has an immediate opening for an experienced legal assistant in our Manchester, NH office. This assistant will support multiple attorneys as assigned and on a floating coverage basis. In addition to strong technical and document production skills, essential requirements are the ability to prioritize, multitask, adapt to different work styles and apply independent judgment as needed. This position requires at least two years' experience in a law office setting and proficiency with MS Office products. The ideal candidate will also have well-developed interpersonal skills and litigation experience.

### Benefit Summary:

- 401K savings plan and company match
- Medical Insurance
- Basic Life Insurance
- Critical Illness Insurance
- Dental Insurance
- Vision Insurance
- Pet Insurance
- Pre-tax flexible spending accounts: medical and dependent care
- Paid maternity and paternity leave
- Long & Short-Term Disability
- Accident Insurance
- Paid Vacation
- 11 Paid Holidays
- Paid Parking

We offer a competitive salary and comprehensive benefits. Qualified candidates may submit letter of interest and resume by email to: [careers@primmer.com](mailto:careers@primmer.com).



PRIMMER PIPER  
EGGLESTON &  
CRAMER PC

## Legal Assistant, Manchester Office

Primmer Piper Eggleston & Cramer PC, a full-service law firm with offices in Vermont, New Hampshire, and Washington, DC, has an immediate opening for an experienced legal assistant in our Manchester, NH office. This assistant will support an attorney in a busy litigation practice in Vermont and New Hampshire. We are interested in highly motivated, tech savvy candidates with excellent document production, organizational, and multi-tasking skills. Duties will include, but are not limited to, the following:

- Manage the schedule of a busy litigation attorney
- File pleadings and discovery in state and federal court electronic filing systems
- Create and proofread correspondence and legal forms and pleadings
- Create and maintain physical files
- File documents in electronic filing systems
- Print and organize PDFs
- Separate large PDFs electronically into component pieces
- Chronologically sort large batches of printed medical records
- Create and maintain discovery and pleadings notebooks

The ideal candidate will have an excellent command of the English language, strong attention to detail, proficiency with Microsoft Office and Adobe or Kofax, and be comfortable with learning new things. Prior office experience required; law office experience a plus. This position requires the ability to lift up to 35 pounds.

### Benefit Summary:

- 401K savings plan and company match
- Medical Insurance
- Basic Life Insurance
- Critical Illness Insurance
- Dental Insurance
- Vision Insurance
- Pet Insurance
- Pre-tax flexible spending accounts: medical and dependent care
- Paid maternity and paternity leave
- Long & Short-Term Disability
- Accident Insurance
- Paid Vacation
- 11 Paid Holidays

We offer a competitive salary and comprehensive benefits. We have been awarded Best Places to Work in Vermont for the last three consecutive years.

Job Type: Full-time

Pay: \$22.00 - \$30.00 per hour

Schedule:

- 8 hour shift
- Monday to Friday

Work Location: Hybrid-In Person/Remote



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](mailto:hiring@sheeheyvt.com).



### Staff Attorney

603 Legal Aid has an opening for a staff attorney with two to five years of experience who will advocate to ensure that low-income and underserved residents in our community are provided excellent free legal advice and representation. Successful candidates will use their skills to identify and find solutions for clients who present with a variety of legal issues, including but not limited to, family law, domestic violence, housing, and consumer debt. [603legalaid.org/staff-attorney](https://603legalaid.org/staff-attorney)

### Paralegal

603 Legal Aid has an opening for a paralegal who is committed to providing high quality legal advice and brief services to clients eligible for our services. This position will be working with people who are facing legal challenges arising from family law issues (including victims of domestic violence, sexual assault and stalking) and/or people who are in need of assistance with housing issues, primarily eviction situations, and lockouts. The paralegal will also assist with case management and collect and manage data for grant reporting and statewide planning and project evaluation purposes. [603legalaid.org/paralegal](https://603legalaid.org/paralegal)

### Office Administrator

603 Legal Aid is seeking a skilled and detail-oriented office administrator/manager to join our team. This position is responsible for working with and supporting the executive and management team and staff in the overall effective implementation of our work. This position plays a crucial role in supporting the daily operations of our legal aid organization, ensuring efficient administrative processes and contributing to the overall success of our mission. [603legalaid.org/office-admin-manager](https://603legalaid.org/office-admin-manager)

To apply, send a cover letter and resume to [careers@603legalaid.org](mailto:careers@603legalaid.org). All applications received by **Monday, March 11, 2024**, will be considered. We expect to conduct interviews shortly after this date. If reasonable accommodation in the application process is required, please notify us.





## TAX ATTORNEY (BURLINGTON, VT)

Downs Rachlin Martin PLLC – one of Northern New England's largest law firms – is seeking an attorney with at least 3 years of experience to join its tax practice at its Burlington, Vermont office.

Qualified candidates should have substantial experience addressing complex commercial transactions, with a strong background in partnership and corporate tax matters. Experience should include structuring mergers and acquisitions, business formations, debt and equity financings, workouts, private equity and venture capital transactions. Experience with executive compensation, New Markets and other tax credit issues would be valuable in this position. Our practice includes controversy representation across a wide range of state and local tax matters necessitating excellent research, writing and verbal skills. There is an opportunity to succeed to an established tax practice.

DRM is committed to client service and providing resources for professional growth and development. We offer excellent mentorship and training, as well as leading technology, competitive salary, and a comprehensive benefits package, including industry-leading paid parental leave and two exceptional retirement plans. Apply Here: [https://www.appone.com/MainInfoReq.asp?RID=4440732&B\\_ID=83&fid=1&Adid=0&ssbgcolor=17143A&SearchScreenID=2521&CountryID=3&LanguageID=2](https://www.appone.com/MainInfoReq.asp?RID=4440732&B_ID=83&fid=1&Adid=0&ssbgcolor=17143A&SearchScreenID=2521&CountryID=3&LanguageID=2)

## CIVIL LITIGATION ATTORNEY [HYBRID]

650 Elm Street, Suite 201, Manchester, NH 03101



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

- Professional Liability
- Tort and Liability Defense

### Qualifications:

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

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

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

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

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

### About Us:

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

Working at Morrison Mahoney LLP Provides:

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

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

# Orr&Reno

## Civil Litigation Attorney

Orr & Reno, P.A. seeks a mid-level civil litigation attorney with strong advocacy and writing skills to join our firm. Our attorneys appear in a variety of complex matters in state and federal courts, administrative proceedings, arbitrations, and mediations.

Candidates should have a minimum of three years' prior litigation experience and have a sound understanding of litigation fundamentals, including client and witness interviews, motion practice, promulgating and answering discovery, conducting and defending depositions, and trial preparation and practice. A demonstrated desire to live, work, and participate in the greater New Hampshire community is a must. This position offers an excellent opportunity for newer attorneys to learn from our esteemed litigators and to serve as a relied upon and contributing member of a close-knit team.

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

Please submit a cover letter, resume and writing sample to:

Orr & Reno, P.A.  
Attention: HR Director  
PO Box 3550  
Concord, NH 03302-3550  
Fax: 603 223-9060  
Email: [resumes@orr-reno.com](mailto:resumes@orr-reno.com)  
No phone calls or agencies please

# C|W|B

CLEVELAND, WATERS AND BASS  
ATTORNEYS AT LAW

## CLEVELAND, WATERS AND BASS, P.A., A MID-SIZED LAW FIRM BASED IN CONCORD, NH, IS SEEKING ATTORNEYS FOR THE FOLLOWING POSITIONS:

- **Partner-level Litigation Attorney with experience in personal injury, labor, employment, workers' compensation, criminal defense and family law preferred.** Our ideal candidate will have 10+ years experience. A portable book of business is a requirement.
- **Mid-level Associate Attorney with experience in personal injury, labor, employment, workers' compensation, criminal defense and family law preferred.** Our ideal candidate will have 5-6 years experience. A portable book of business is not a requirement.
- **Junior Associate Attorney with a general litigation background.** Our ideal candidate will have 2-4 years of experience in state and federal courts.

Qualified candidates should have excellent credentials, strong communication and analytical skills, and demonstrated ability to produce high quality legal work. CWB looks for lawyers with a commitment to client service, a strong work ethic, and an enthusiastic attitude. New Hampshire bar admission is required.

Cleveland, Waters and Bass provides a professional, collaborative, collegial and family-friendly work environment, competitive compensation and benefits (including group health insurance, paid parental leave and a 401k retirement and profit-sharing plan), and the opportunity for rewarding work and personal growth.

Please forward information regarding experience and interest in strict confidence to Philip Hastings, President at [hastingsp@cwbp.com](mailto:hastingsp@cwbp.com).

603.224.7761 | [www.cwbp.com](http://www.cwbp.com)

Two Capital Plaza, 5th Floor, Concord, NH 03301  
Offices in New London and Dover, NH



## 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](mailto: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](mailto:hr@dwmlaw.com). All inquiries are held in the strictest confidence. No phone calls, please.

## Associate Legal Advisor

Department of Homeland Security  
U.S. Immigration and  
Customs Enforcement (ICE)

**Closing Date:** April 15, 2024

**Pay Scale & Grade:** Excepted Service, GS-12 – GS-15. Per the General Schedule locality pay table, annual salary between \$88,562 and \$190,293, depending on experience and qualifications. This position has promotion potential to the GS-15 level. When promotion potential is shown, the agency is not making a commitment and is not obligated to provide future promotions to you if you are selected. Future promotions will depend on administrative approval and your ability to perform duties at a higher level. Further, promotion from the GS-14 level to the GS-15 level is subject to the Office of the Principal Legal Advisor's (OPLA's) internal guidance.



**Job Type:** Excepted Service, permanent appointment, full time, non-supervisory.

**Location:** Williston, VT. Relocation expenses not reimbursed, but local-telework eligible per agency policy. You may occasionally be expected to travel for this position.

**Responsibilities:** Provide legal advice on commercial litigation, administrative law, and environmental law issues. This includes assisting the Department of Justice in immigration bond and environmental litigation, representing ICE in hearings before administrative law judges in overpayment cases, and providing advice on federal debt collection activities and Office of Personnel Management regulations on federal employee compensation.

**Conditions of Employment:** Must be a U.S. citizen, pass a background investigation and drug screen test, if male born after 12/31/59, certify Selective Service registration, and serve two-year trial period. Must also be an active member in the bar of the highest court of a state, U.S. commonwealth, U.S. territory, or the District of Columbia, and a graduate of an ABA accredited law school.

Current OPLA attorneys must have completed two years of service with OPLA by the announcement closing date to be considered for this position. This is a non-bargaining position.

If interested, please send a cover letter, resume, law school transcript if practicing fewer than five years, evidence of good standing with your bar dated within six months of your application, writing sample, and if you are/were a federal employee, a copy of your most recent SF-50 to Jody M. Prescott, Deputy, Commercial & Administrative Law Division, at either [jody.m.prescott@ice.dhs.gov](mailto:jody.m.prescott@ice.dhs.gov) or via Priority USPS Mail to 166 Sycamore Street, Williston, VT, 05495. Contact Mr. Prescott at his email address with any questions.

## SENIOR ADVISOR

The NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION has a full-time opening for a SENIOR ADVISOR (ATTORNEY).



Join a dynamic and collaborative team serving New Hampshire to ensure that the state's regulated public utilities provide safe, reliable, and adequate service at just and reasonable rates.

- Applicants must be an attorney and a member of the New Hampshire Bar.
- Four years of utility industry or relevant legal experience desired.
- Strong writing, analytical, and problem-solving skills are required. The applicant must be a good team player and able to work independently.

Benefits include but are not limited to paid state holidays, comprehensive Insurance (family plan), retirement plan, deferred compensation plan, paid time off, flexible working hours (hybrid), NH state education and training programs, employee assistance program, work-life-balance, and opportunities for expanded job responsibilities.

Interested persons should apply online at: <https://job-sp.nhfirst.nh.gov/lawtaprd/CandidateSelfService/lm?dataarea=lawtaprd&frommenu=true&context.dataarea=lawtaprd&context.session.key.JobBoard=EXTERNAL&context.session.key.HROrganization=10&JobPost=2&JobReq=38529>

For full position summary view NH Job Opportunities Candidate Space (JOB ID: 38529). Members of the New Hampshire Bar apply today; this posting will close on 04/10/2024.





## University of New Hampshire

### Attorney Instructor/Coach, Child Welfare Education Partnership

**Long Classification Title: Project Director I**

**Campus Location: Concord**

**Department: UNH CPS Educational Training & Partnership**

**Summary:** This position is a full-time faculty/staff position for the Child Welfare Education Partnership at the UNH College of Professional Studies. This program integrates the study of strategic thinking, family structure, DCYF Practice Model, social work, juvenile justice, family dynamics, and organizational culture into a unique and focused educational experience designed to help to prepare, guide, and advance a rewarding career suited to legal professional.

**Salary Information:** Salary is complemented by a comprehensive benefits package which includes medical, dental, retirement, tuition, and paid time off.

Acceptable minimum level of education: Bachelor's

Acceptable minimum years of experience: 3 years

Additional Preferred Qualifications: Juris Doctor (JD)

Posting Number : PS4358FY24

**Quick link for Posting:** <https://jobs.usnh.edu/postings/59083>

UNH College of Professional Studies is a college of the University of New Hampshire, the state's flagship public research institution, which offers undergraduate and graduate programs of distinction in the heart of New Hampshire's largest city. For more information about UNH College of Professional Studies, visit <https://cps.unh.edu/>.

## Prosecutor – Bedford Police Department

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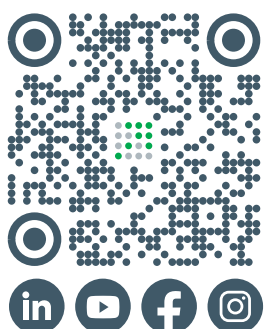


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# Wellness Is a Choice



By Paul Chant

“And the seasons, they go round and round.” – Joni Mitchell

Yes, indeed they do. The Ides of March are upon us. On the Bar calendar, I am entering the final quarter of my term as president.

I am also entering what I hope will be my final years of practicing law.

I married my wonderful wife, Anne, at the age of 25 and became a lawyer at age 26. I had my first child, Sarah, at 29, and my second child, Emily, at 31. I also made partner at my first firm, Hamblett & Kerrigan, at about the same time.

My son, Thomas, came along six years after Emily, and I experienced some form of a mid-life crisis and moved my family from Nashua to the North Country. At the time, I was very involved in the Bar as a member of the Board of Governors and joined and eventually became a partner of Cooper, Deans, and Cargill.

I attended many kids’ activities, softball games, piano recitals, basketball games, skating shows, and band (marching and jazz) shows. I skied, kayaked, and camped throughout New England. I watched the kids grow up and I loved it immensely.

All three kids have gone through college – two through graduate school. I am a proud parent of a teacher, a nurse, and a data science guy (don’t ask me what he does). Emily got married, Anne retired, and we have two grandchildren, Max and Gus. It’s a new life phase and Anne and I love it.

Where is this going, you may ask. Well, I will tell you. It all passed in a flash. Some days, I still feel like a fresh associate in my first year. I love that there is something new in the law on so many days, a new way to approach a problem, and now the joy of training an associate to hopefully take my place.

“Regrets, I have a few, but then again too few to mention.” – Frank Sinatra

I will mention mine because I don’t want you to have the same ones. First, I did not take good enough care of my body. I am a type 2 diabetic, my blood pressure is merely fine with medication, I have sleep apnea (likely due to my weight and the size of my neck), and I have some issues with mental health. (Thanks, Trazodone, for helping my overactive lawyer mind shut down at night.)

However, one thing I do *not* regret is jumping into community service throughout

the years. Some of my greatest career achievements have nothing to do with the daily practice of law.

Community involvement has enriched me, made me friends, and brought me great joy. This includes my early extensive involvement in mock trial work in Nashua (where one of the teachers I worked with won ABA Law Related Education Teacher of the Year), the work on the Nashua Youth Council, being on our local ice arena board, chairing a theater board, being on the Mount Washington Valley Economic Council, and being on the boards of CASA, the New Hampshire Association for Justice, the Bar Foundation, and the Bar Association.

I want to relish the days ahead. Like Jack Middleton did, I want to ski with my grandchildren into my 70s and, body able, my 80s. I want to travel the world, something we have done little of so far. I want to pursue more education, formal and informal. Will I write the definitive treatise of how Interstate 89 changed Vermont? We’ll see.

My brother Tim, a lifelong personal trainer and physical education and wellness teacher, offers this bit of advice: “During your first 30 years of life, absent tragedy, your body will be good to you. For the second 30 years of life, you should be well if you take decent care of your body. Your last 30 or more are about how you live your first 60.”

I fear that my life choices may have well-shortened that final third. Please don’t let that happen to you.

“Will you still need me? Will you still feed me?” – The Beatles

At 64, with a wife who just got her Medicare card, I ask that you take some time to evaluate your life, your physical and mental health, your daily routine, your goals, and your ambitions – both professional and personal.

Life is to be cherished. I have recently lost a college roommate and have two great friends with significant cognitive issues, one from a brain bleed and the other from early-onset dementia. These events make one introspective.

Full tomorrows are not promised, folks. Go get life. Seize the day. Carpe diem. Embrace life. Embrace your family. Spend time with friends. Develop and maintain lifelong friendships. And, throughout, take care and be well.

“I wish you all the best.” – John Prine 🌻







# Destigmatizing Mental Illness by Changing the Culture: My 'Coming Out' Story

By Anne Zinkin

Generally speaking, our profession is deeply unwell. You've probably read the same statistics I have. According to an *ABA Journal* article by Amanda Robert, "Mental Health Initiatives Aren't Curbing Lawyer Stress and Anxiety, New Study Shows," more than a third of us experienced depression, and more than two-thirds of us experienced anxiety in 2023. ([abajournal.com/news/article/mental-health-initiatives-arent-curbing-lawyer-stress-and-anxiety-new-study-shows](https://abajournal.com/news/article/mental-health-initiatives-arent-curbing-lawyer-stress-and-anxiety-new-study-shows).)

Additionally, the number of lawyers who had a mental health challenge other than depression or anxiety more than doubled, up to about 31 percent in 2023 from nearly 15 percent in 2022. *Id.*

An MDPI healthcare article by Patrick Krill, et al., "Stressed, Lonely, and Overcommitted: Predictors of Lawyer Suicide Risk," posits one explanation for our lack of mental health lies with our professional culture, which discourages us from seeking help for mental health problems. ([mdpi.com/2227-9032/11/4/536](https://mdpi.com/2227-9032/11/4/536).)

Many of us are reluctant to disclose or seek help for a mental health challenge for fear of it negatively impacting our careers. *Id.* We may not fear being fired, but maybe we fear being overlooked for important cases or promotions or being sidelined and viewed as incompetent or "weak." In our profession, it seems that having a mental illness means admitting to being vulnerable, and vulnerability is anathema in a profession that prides itself on mental fortitude.

We can change that culture by destigmatizing mental health problems. *Id.* In truth, every one of us has a level of mental health, which, like our physical health, fluctuates over time. Having a mental illness is like having any other kind of chronic condition. It is no more a sign of "weakness" than having multiple sclerosis or diabetes.

One way to destigmatize mental health problems is to "come out" as a person living with mental illness. This is my "coming out" story. I have been an attorney since 1988; I have lived with depression and anxiety since childhood.

I was exposed to scary things as a child, including violence and substance misuse, and my home was anything but a soft place to land. I also come from a family of folks with depression. My mother had treatment-resistant depression for most, if not all, of my life. Both her parents were diagnosed with depression; her father attempted suicide in the 1950s.

At some point, the fear that was a normal and healthy response to scary things morphed into something else. Beginning in elementary school, I began feeling low-level fear daily, occasionally punctuated by disassociation and brief, all-out panic attacks. Depression came a little later. The first time I remember feeling so sad that I could barely move

was the summer after eighth grade.

Like many of you, I somehow excelled academically, graduating high school, college, and law school with honors and awards. In college, like many of my peers, I self-medicated with copious amounts of alcohol. In law school, I substituted busyness for alcohol. At the time, I found the busyness exhilarating. If nothing else, it distracted me from feeling afraid, sad, and lonely.

Self-medicating with busyness set me up for success at the large, private law firms in San Francisco, at which I worked until I began working for the New Hampshire Judicial Branch in 2000. That's when I was prescribed psychotropic medication for the first time. Since then, I have continued with therapy and medication. I have also learned that, when my symptoms are active, I feel better when I let my loved ones and close friends know and allow them to help me.

This support has meant that I no longer feel afraid every single day. Now, fear overwhelms me only when something in my present has triggered a memory from my past. It also has meant that when depression occasionally hits, which it has a few times in the last 23 years, my lows are not so low that I cease being able to function.

Although I am mostly mentally well, I rarely publicly acknowledge that I live with mental illness. I, like so many others, have feared that doing so would upend my professional life. Indeed, even while writing this article, it's been difficult to use the phrase "mental illness" to describe my symptoms.

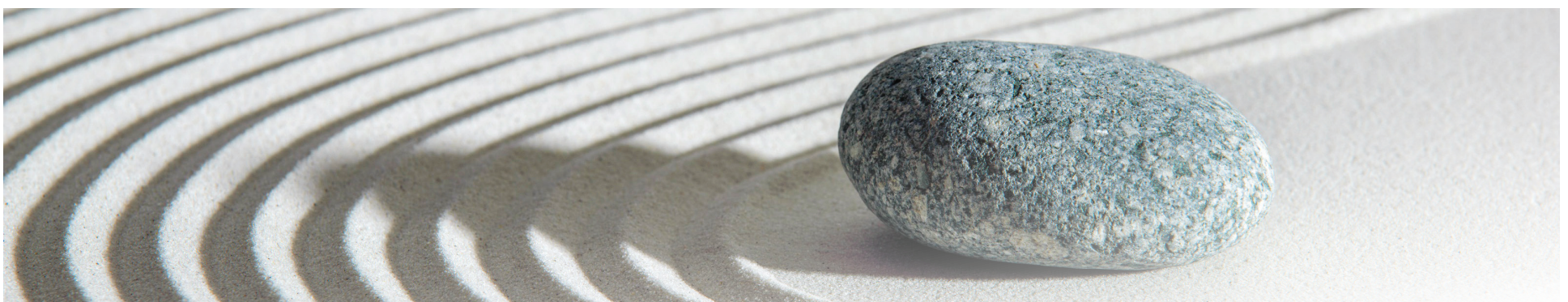
Acknowledging that I experience "symptoms of depression and anxiety" somehow feels "safer." Yet, when I am experiencing depression and anxiety, my thinking *is* distorted, and I am truly mentally unwell. My symptoms are indeed symptoms of an illness, which is mostly in remission because of interventions like therapy and medication.

I hope that others in the profession who, like me, live with mental illness, will share their stories. We need to normalize having open discussions about mental illness and mental wellness. We need to acknowledge it and seek help when we are struggling. If you are struggling, you do not have to do so alone. 🌱

Help is available from these and other resources:

New Hampshire Lawyers' Assistance Program, (603) 491-0282  
New Hampshire Rapid Response, (833) 710-6477  
988 Suicide and Crisis Lifeline, 9-8-8

*Anne Zinkin is the mental health and wellness coordinator for the New Hampshire Judicial Branch. She is a member of the NHBA's Special Committee on Attorney Wellness.*







# Choosing Myself: Prioritizing Mental Health in Law

By Coda Campbell

I graduated from law school on May 20, 2023. Less than one week later, I formed Campbell Law, PLLC, and began my journey as a solo practitioner. The two most determinative factors in my decision to go solo were my family and my mental health. This is my story, but it is important to remember every attorney has a story, and we all have limits.

Law is a second career for me. I joined the US Army at the age of 18. As an officer, I was trained extensively in leadership and mentorship. I ultimately served my country for eight years, enduring one deployment to Afghanistan. I left the military shortly after the birth of my first child. Like many veterans, I struggled to find meaningful employment after I left the military. The military gave me so much life experience, but the experience took parts of me I will never get back.

I spent my first post-military year being grossly overworked, underpaid, and undervalued in a hospitality leadership role. There was a complete lack of leadership and mentorship above me. I eventually reached my breaking point and quit. I was then unemployed for nine months, despite my best efforts to find another job. This was my career rock bottom. I refused to ever be treated that way again and I was done climbing totem poles.

Luck struck and I eventually started working as a legal assistant at a mid-sized law firm. I absolutely flourished at that law firm and my next career move was an easy decision.

When I applied to law school, I had no clue where I would be three years later. However, the adversity I experienced in the military had planted a seed that would eventually grow. No matter where I landed, I needed to be helping service members and veterans. I wanted to practice military law. Most people have goals for their career; mine were more like standards.

I wanted to earn a degree that would allow me to change lives while being compensated fairly for my skills, and I wanted to find a job that would respect the boundaries I have set for my own mental health and for my family. I did not go to law school to have a worse quality of life than I did before I obtained a law degree.

During law school, I reached out to peers who had recently graduated. I asked them how they were enjoying their firms and the practice of law.

Overwhelmingly, most of the attorneys I spoke with were unhappy. There was a consistent message that I heard about senior attorneys not mentoring new attorneys or giving feedback. This was causing a lot of discontent, and I noticed that a lot of attorneys switch jobs within the first 18 months of practice. I didn't want that to happen to me.

I wanted to go to a firm where I was going to be valued, mentored, and have balance

in my life. If I was not going to receive mentorship from a firm, what did they really have to offer me? Nobody around here practices military law. That's what I wanted to do, and it seemed like a terrible business decision to grow my practice within a firm that could not or would not mentor me.

I was a Daniel Webster Scholar Honors (DWS) Program graduate. I took my education very seriously while in law school. Although I had not seriously considered going solo until the very end of my 3L year, I treated every class as though I would use it on my first day of practice. Because of that, and because of the classes mandated by the New Hampshire Supreme Court for DWS students, I received an education that truly did prepare me for the practice of law.

I also had some amazing opportunities to work with two nonprofit firms, one private firm, and one solo practitioner during law school. Each of those experiences taught me something I am using in practice today.

I am practicing law my way and my mental health is great. I was able to take on six DOVE cases in my first six months of practice. I secured protective orders for all six of my clients. I signed up to serve as appointed counsel for indigent criminal cases. I have handled dozens of cases to date. I filed a discretionary appeal to the New Hampshire Supreme Court on one of my criminal cases. I have also worked on a handful of military cases. None of this would have been possible without the extensive network of mentors I have established throughout the state and abroad.

Of course, this is not the right path for everyone. No amount of education can replace the value of life experience. My prior experience in a law firm, managing the bank accounts, etc., gave me a unique insight into what it's like to run a law firm, and what legal assistants/paralegals do.

The law of diminishing returns reminds us of the importance of boundaries. I hope my message inspires some of the readers to go out and make changes to how they practice law or manage their firms. I also hope this message inspires more attorneys to take time to be a mentor.

Our generations have set clear expectations regarding our mental health, and we as a profession need to be ready and willing to adapt. If you don't feel like your mental health or boundaries are being respected, I hope you find yourself a new boss. And maybe that boss will be you.

The NHBA has an official Mentor Advice Program. To learn more, visit [nhbar.org/mentor-advice-program](https://nhbar.org/mentor-advice-program). ☺

*Coda Campbell is a solo practitioner at Campbell Law, PLLC. While her military practice is global, her criminal defense practice is local to New Hampshire. Coda also serves on the ambassador subcommittee of the NHBA Special Committee on Attorney Wellness.*





# Why You Should Never Try to ‘Persuade’ Your Lawyers



By Dr. Larry Richard

Law firm leaders are constantly trying to get their lawyers to do stuff: Turn in your timesheets. Mentor younger lawyers. Show up at partners meetings. Come back to the office.

Or they’re busy trying to get lawyers to *not* do stuff: Stop hoarding work. Don’t use social media to discuss sensitive matters. Don’t micromanage associates.

Yet many leaders are frustrated at how hard it is to actually get lawyers to comply. We all know how hard it is to “herd cats.” Why is it so hard? Because many lawyer-leaders rely on three ineffective strategies by default:

1. Persuasion
2. Incentivizing
3. Coercion

Why are these strategies ineffective with lawyers? Because they activate unique personality traits that make lawyers resist rather than comply.

## Persuasion Triggers Pushback

First, and most common, is an effort at persuasion. When you try to persuade a lawyer to change behavior it immediately triggers our law school training to think like an advocate. Lawyers have an innate radar that instantly detects when someone is trying to persuade them. (Our high Skepticism leads us to question any advice, and our high Abstract Reasoning makes us prone to arguing.)

While the leader may be hoping for a response such as “That’s a really helpful suggestion – I’ll give it a try,” what they typically get instead is something like “Well here’s why you’re wrong.” Anytime you try to persuade me, I will instantly push back and argue my own point of view. Moreover, after such a persuasion attempt, I will end up even more committed to my position! So, the leader has actually worsened the situation.

## Persuasion Triggers Defensiveness

As if the advocacy mindset isn’t enough to be dispositive, there’s a second reason that persuasion efforts backfire when used on lawyers. My research over the past 30 years has shown that lawyers consistently score low on a personality trait called “resilience.” My data show that *90 percent of lawyers score in the bottom half of the resilience scale*. That means you can almost always assume that the individual you’re trying to persuade is low in resilience.

Here’s the problem: When you ask a low-resilience person to change their behavior, even if it’s aimed at helping them improve, what they hear is “You’re deficient.” For example, if I say to someone, “Here’s a suggestion that will improve your legal writing . . .”, they hear “You’re deficient as a writer.” This immediately triggers the defensive, wounded, low-resilience reaction, and the individual will then resist accepting your suggestion. For either of these reasons, attempts to persuade rarely succeed with lawyers.

## Incentivizing is Problematic

The second strategy that most leaders employ is “incentivizing.” Leaders often ask me, “How can I incentivize my lawyers?” If you’re using the verb “incentivize,” you’re already on the wrong track. Incentivizing presupposes that some sort of incentive is the way to change behavior, and the only question is which particular incentive should I use? But this is misguided.

The problem here is that incentives (and let’s include threats as well) fall into the “carrots or sticks” approach, which scientific research has shown is quite problematic. Both carrots and sticks are forms of “extrinsic” motivators, that is, they are experienced

by people as “pressure” from outside themselves.

People in general don’t like to be pressured, but lawyers, who score much higher on the need for autonomy, are even more sensitive to being pressured. Even something as anodyne as a promised bonus can create great ambivalence. On the one hand, I may appreciate the money; but on the other, I may resent the increased pressure to perform. This can affect performance in undesirable ways.

## Coercion Produces Even More Pressure

The third failed strategy is coercion. This is less commonly used by leaders, but every now and then I hear from a leader who learned the hard way how badly this strategy can backfire with lawyers. Any leader who has mandated “turn in your timesheets or else . . .” has learned the lesson that coercion either doesn’t work, or it works but brings with it some very unpleasant side effects. High autonomy rears its head again.

## What Does Work?

So, what does work? The best way to change the behavior of lawyers is by using principles of “social influence.” Over the past 30 years, social psychologists have identified dozens of ways that humans can be influenced without arousing a defensive reaction. (The typical defensive reaction is simply called “reactance” by psychologists.)<sup>1</sup> Here are just a few examples of evidence-based principles of influence:

**Role-Modeling:** When leaders “walk their talk,” i.e., when they behave in ways that are consistent with how they’re asking others to behave, those others will be more inclined to mimic their leaders’ behaviors. The converse is also true – if I ask you to turn in your time sheets, but I don’t turn in my own, my negative role-modeling will speak louder than whatever words I say.

**Social Proof:** It’s natural for humans to unconsciously look to the behavior of their peers to see how to behave, especially in situations that contain some ambiguity. By letting your lawyers know how “most other lawyers” are actually behaving, it increases the likelihood that the stragglers will begin to adopt those same behaviors.

**Choice:** People in general don’t like their freedom to choose being taken away, and lawyers, with their higher needs for autonomy, especially don’t like it. For example, if I say to you “I need you to attend the partners’ meeting,” I’m likely to get pushback. But one interesting study<sup>2</sup> showed that just by adding the phrase “but you’re free to choose” at the end of a request, it can nearly double compliance! (It is believed that this works by reminding the person you’re trying to influence that they retain the ultimate choice.)

These are examples of principles of influence that can be used effectively without triggering reactance. For more information about the social psychology of influence, and how to harness these principles to herd your cats, please feel free to reach out to us at [lawyerbrain.com/our-services/influencing-lawyers](http://lawyerbrain.com/our-services/influencing-lawyers). ☎

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## Endnotes

1. Psycnet.apa.org/record/1967-08061-000
2. Christopher J. Carpenter (2013) A Meta-Analysis of the Effectiveness of the “But You Are Free” Compliance-Gaining Technique, *Communication Studies*, 64:1, 6-17, DOI: 10.1080/10510974.2012.727941 This journal article reports on a meta-analysis of 42 different studies, all of which used some variation of the “but you’re free to choose” technique.



# The Misconceptions and Realities of Wellness



By Grace Yurish

Wellness, often depicted through images of green juices and intricate yoga poses, has gained widespread attention in recent years. However, true wellness goes beyond these stereotypical representations. It involves a holistic approach to health and happiness, encompassing physical, emotional, mental, and social well-being. These aspects are interconnected and require varying levels of attention at different times. Society plays a significant role in shaping our understanding of wellness, often presenting idealized and unattainable standards. By redefining wellness and integrating manageable practices into our lives, we can cultivate a genuine sense of well-being.

Society's portrayal of wellness often implies that to be well, every aspect of life must be flawless. This includes waking up early, exercising, eating healthy, completing work tasks, spending time with friends and family, and pursuing hobbies. While this message is positive, it is often unrealistic for individuals to consistently maintain all these activities. This portrayal creates unrealistic expectations and can lead to feelings of inadequacy when people cannot meet these standards.

"When we hyper-focus on what wellness looks like, we inadvertently bring on more shame to individuals who are doing their best and don't have all those areas covered but they're moving the needle," says New Hampshire Lawyers Assistance Program Executive Director Jill O'Neill. "Then they don't give themselves credit. They don't recognize what they're doing because all these other individuals are touting the way wellness should look."

While promoting a particular image, the wellness industry has become a significant commercial enterprise, valued at \$65.14 billion in 2023.<sup>1</sup> Attorney Chris Hawkins, a member of the NHBA's Special Committee on Attorney Wellness (Wellness Committee), highlights the issue of commercialization in the wellness industry.

"I think that there are a lot of people out there selling all kinds of supplements and things like that," Hawkins says. "You're being marketed to and sold this thing. If you take this pill or drink this powder, then everything's going to be okay. There's no program you can buy or pill you can take to accomplish wellness."

True well-being is not something that can be achieved overnight; it is a continuous journey that requires ongoing attention. For some, this idea can be overwhelming. It is essential to understand that you do not need to change all your habits simultaneously. In fact, you shouldn't. Small, gradual changes over time have a more significant impact than trying to do too much at once.

"It's important to look at the small things that give us joy and the next step, rather than the big picture," O'Neill says. "Then you just lose momentum, self-sabotage, and beat yourself up because you can't do it all. Instead, focus on building blocks. Reasonable steps in your daily life to just switch things up, pay more attention, and contribute to activities that promote well-being holistically."

These small steps don't have to be your typical yoga or meditation. They can be anything that brings you joy or contributes to your health. Wellness looks different for everyone, as we all have different priorities and interests.

"Wellness is a balance," says attorney Kathleen Davidson, a member of the Wellness Committee. "You are still going to have stressful days. Wellness isn't having a stress-free life but being able to recognize when you're having those days and doing things to make up for it. True wellness is different for different people."

Lawyers often have Type A personalities, meaning they are competitive and have

high expectations for themselves. This can create challenges when trying to incorporate wellness practices into their lives. O'Neill notes that this competitive nature often makes lawyers competitive with themselves, setting extremely high goals and feeling like they're failing at wellness if they're not achieving them.

Davidson agrees, stating, "People may feel a pressure to be 'good' at wellness. If you're Type A and you want to be the best at everything, then you think that you should also be the best at keeping yourself well. You're worried about, 'am I medicating correctly?' Or 'if I'm struggling, is it because I'm not doing the things I'm told to do to take care of myself?' And then you feel like you're failing at wellness, which is not what wellness should be."

On your wellness journey, it's important to recognize that life is imperfect and to be kind to yourself. We face challenges that can affect our mental, emotional, and physical health. This doesn't mean we're not committed to our well-being.

"Self-compassion is important," O'Neill says. "We are imperfect human beings; we make mistakes and have setbacks. It's about that flexibility to have the resilience to bounce back from that. I think toxic positivity is about grandiose thinking that if you are affected then somehow you are not a strong person and you are weak. That is far from the truth. I think the expectation that we're going to be unaffected is a part of that toxic culture. At any point, we all could have something serious in our lives that could upend us."

Reflecting on our struggles, as well as our achievements, is a crucial part of finding genuine wellness. It's easy to get caught up in the chaos of daily life, always focused on the next thing. Taking time to unplug from that chaos and allowing yourself to think can be extremely beneficial for your well-being.

"It's easy to fill your days with all kinds of activity and stimulation," Hawkins says. "I think what gets lost in the shuffle is just some time to sit quietly and reflect. It's a critical step. Unhealthy habits can sneak up on you while you think you have everything under control. As lawyers, we think it's our job to have everything under control. But we are not immune."

Remember to give yourself grace through your wellness journey and celebrate your small victories. Reflecting on what you're doing well and how that has impacted you allows you to realize the progress you have made.

"Pat yourself on the back when you change or fix something," Davidson says. "Maybe you go a month without checking social media when you first wake up. Recognize those small wins and remember that wellness is not all or nothing."

Wellness is an ongoing process that requires balance and self-compassion. It's important to recognize that everyone's journey is unique, and there is no one-size-fits-all approach. By focusing on small, manageable steps and embracing our imperfections, we can cultivate a genuine sense of well-being.

"You don't have to have a certain look or have all elements of well-being covered," O'Neill says. "It's about giving attention to areas of your life that support your well-being, and not neglecting certain areas. For most attorneys and judges, they're struggling with busy schedules and aspects of the practice of law that can be a challenge in finding time for your own life and important relationships. But are you giving them attention? Are you making steps to try to improve? I think that's the bigger message." ☺

## Endnote

1. <https://finance.yahoo.com/news/global-corporate-wellness-industry-report-154100277.html>





# The Boat Confronting the Menacing Shark of Legal Community Stress is Small

By Dan Wise

Recently, a group of lawyers, judges, and mental health professionals examined the well-being challenges faced by today's New Hampshire legal community and the resources available to address them. Their conclusion could be summed up in the memorable line from the original 1975 blockbuster movie *Jaws* when the main character, Chief Brody, gets a close look at the huge, fierce white shark terrorizing the resort community: "You're gonna need a bigger boat."

That fierce shark is the stress stalking the legal profession.

Lawyers, judges, and law students know they are in a high-stress field. It has elevated rates of substance misuse, depression, anxiety, and thoughts of suicide compared to the general population. And the pressure has turned up. A recent survey of lawyers in neighboring Massachusetts revealed that 77 percent felt burned out from work, and nearly half indicated they considered leaving their employer or the profession in the past three years. The pandemic and its aftermath have piled on; more isolation or distraction for work-at-home attorneys, staffing shortages leading to towering workloads, and heightened stress and acrimony in society and in courts.

Meanwhile, the boat confronting that menacing shark of legal community stress is pretty small.

The New Hampshire Lawyers Assistance Program (NHLAP) had been a one-person operation since its creation by a New Hampshire Supreme Court order in 2007. Jill O'Neill, its executive director since 2021, had embarked on an outreach program to raise awareness of NHLAP so that more lawyers, judges, and law students would realize that the organization's services are protected by a confidentiality rule and are tailored to help with a wide range of mental health and wellness issues.

As she was arranging speaking dates before legal audiences around the state, O'Neill was also coordinating services for Bar members who were in distress or crisis. The more outreach she did, the more the calls and demand for NHLAP services increased. It was unsustainable: the shark was looming larger and larger, and a bigger boat was surely needed.

To figure out what was required, the NHLAP Commission embarked on a planning process that wrapped up last year with an ambitious new vision and a call for more resources. Two major themes emerged. First, the NHLAP needed to grow. The legal community will benefit from more training on stress, well-being, resiliency, and law practice management; more mentoring, networking, and other support group opportunities; and the NHLAP needed to hire additional clinical expertise to help Bar members address mental and emotional health concerns, substance use disorders, and other well-being issues.

"The executive director is the only liaison between lawyers seeking help and [mental health] treatment providers," notes Superior Court Judge William Delker, a NHLAP commission member. "It's hard to manage the liaison role, to be there when referrals need to be made, and also do the work on the initiatives in the strategic plan."

Second, the legal community needed to develop and implement a major effort to eliminate the stigma of seeking help.

The NHLAP presented its findings to the New Hampshire Supreme Court and the Bar Association, securing their support for several key changes:

- A \$10 increase in the NHLAP assessment to provide additional professional services to address helpline calls, conduct interventions and referrals, monitor participation by legal professionals referred by disciplinary processes, facilitate peer support through groups, conduct training for NHLAP volunteer mentors, and deliver educational outreach on wellness topics.
- A one-time infusion of \$200,000 from the NHMCLE fees and penalties fund to fund short-term staffing to support the implementation of the initiatives identified in the strategic plan; provide support to a state-wide task force that brings together the Judicial Branch, the NHLAP, and the NHBA efforts to advance wellness initiatives throughout the profession; and research potential funding and grants for ongoing or future programs.

"The Court has been incredibly supportive," says retired District Court Judge James Leary, chair of the NHLAP Commission. "They really understand the stress people are working under."

Developing greater acceptance for people seeking help is at the heart of the anti-stigma campaign. Tackling the reluctance of people in the legal profession to admit they might be struggling with behavioral health or emotional issues – or even physical ailments – is crucial.

"We need to address the stigma of mental illness so that lawyers do not hesitate to ask for help because they are afraid of being perceived as weak," says Judge Delker.

The task is also complicated by the fact that the NHLAP is not well-known among the Bar, and those who do know about it see it as an organization to help lawyers with alcohol or drug problems.

"Before I was appointed, I had no idea what the NHLAP did," admits Judge Leary. "A lot of people I was speaking with had no idea what it does. As I began talking to people about it, we thought about how we can expand our reach, and make some long-range plans."

The planning process involved meetings with stakeholder groups, including the courts, the largest legal employers such as private firms, the public defender offices and prosecutors, solo practitioners, and the UNH Franklin Pierce School of Law.

Lisa Deane, a Bar member and consultant who has worked in legal education and for both the New Hampshire and Arizona bar associations, helped run the strategic planning process, which included several focus groups. Each stakeholder group shared the specifics about the biggest drivers of stress, their barriers to accessing help, and ways to bring meaningful support.

"We came out of this process with the goal to build a community of legal entities to address these issues," Deane says. "The focus groups showed there is enormous support to creating joint efforts and to address funding."

Greater involvement by the Bar Association in promoting wellness issues is another outcome. Its new Special Committee on Attorney Wellness is organizing several CLE programs to address stress and mental wellness as they come up in various practice settings.

"The Bar has preached work-life balance for a while, but we haven't looked at the entirety of well-being for the profession," says NHBA President Paul Chant, who has made mental wellness a priority for his term. "We have to keep talking about how important it is to be well to practice law well."

Charla Stevens, an employment lawyer from Manchester who has worked independently and in a large New Hampshire law firm, is on the NHLAP Commission and serves on the NHBA's Special Committee on Attorney Wellness and a wellness committee for the ABA's Litigation Section. She emphasizes that striving for wellness and reducing the mental health stigma means encouraging legal professionals to slow down sometimes and proactively reduce the pressure before it becomes a problem affecting their performance.

She says it is also important for leaders in the profession to talk about their own struggles with high levels of stress and share how they may try to maintain balance in their own lives.

"New Hampshire *isn't* special," Stevens adds. "One of our biggest problems is that there can be a perception that this isn't us – it's a problem in other places. We like to say that in New Hampshire, we have a different, better quality of life. But regardless of where you are, it is hard work to be a lawyer."

O'Neill says that the NHLAP is executing this strategic plan in part through strengthening partnerships – with the judicial branch, the Bar Association, and other entities in the legal profession in the state. She also hopes the added resources will enable the NHLAP to meet a broader mission.

She envisions a "no wrong door" approach that is open to helping members with whatever is troubling them, whether these aspects involve physical, mental, emotional, and even financial health elements.

Find out more about the NHLAP at [lapnh.org](http://lapnh.org) or call the NHLAP helpline at (877) 224-6060 or (603) 491-0282 for confidential assistance. ☎



# Wellness Resources for Attorneys



## Websites

New Hampshire Lawyers Assistance Program  
[lapnh.org](http://lapnh.org)

Lawyers Depression Project  
[lawyersdepressionproject.org](http://lawyersdepressionproject.org)

American Bar Association Well-Being in the Legal Profession  
[americanbar.org/groups/lawyer\\_assistance/well-being-in-the-legal-profession/](http://americanbar.org/groups/lawyer_assistance/well-being-in-the-legal-profession/)

Institute for Well-Being in Law  
[lawyerwellbeing.net](http://lawyerwellbeing.net)

National Alliance for Mental Illness (NAMI) New Hampshire  
[naminh.org](http://naminh.org)

The Happy Lawyer Project  
[thehappylawyerproject.com](http://thehappylawyerproject.com)



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**Monday – Stay Strong**

**Tuesday – Align**

**Wednesday – Engage and Grow**

**Thursday – Connect**

**Friday – Feel Well**

The NHBA Special Committee on Attorney Wellness is planning a variety of events to raise awareness about mental health and support well-being in the profession. Details will be announced in the April *Bar News*.

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