

Sarah Blodgett Named New NHBA Executive Director

By Tom Jarvis

Bringing a wealth of experience from the executive and judicial branches, Sarah Blodgett is poised to embark on a new chapter as the incoming executive director of the New Hampshire Bar Association. With a distinguished career spanning pivotal roles at the New Hampshire Judicial Branch, the New Hampshire Judicial Council, and the Attorney General's Office, Blodgett's appointment signals a strategic move by the NHBA Board of Governors. As she prepares to take the helm, anticipation brews within the NHBA for the fresh perspectives she is set to bring to the organization.

"I am thrilled to be joining the Bar Association," Blodgett says. "George [Moore] has done an incredible job and it's an opportunity for me to work with a team that's a mix of experienced and knowledgeable staff and talented and committed newcomers. I'm excited to jump in and get started."

Blodgett steps into her new role in early May, following George Moore's nearly six-year tenure in the position.



Sarah Blodgett – starting as the new NHBA executive director in early May – sitting in the new NHBA Member Center, which is now fully furnished and open to all members. Photo by Tom Jarvis

Moore's decision to step down heralds the end of an era, characterized by his dedicated leadership, but he will continue to play a role during the transition period, providing his guidance and support to Blodgett as she assumes her new

responsibilities.

"I am delighted that Sarah has been chosen to lead the NHBA into the future," says Moore. "I have known and worked with Sarah on the Judicial Council and as a director of the Bar Foundation, and

I am very confident she has the skills to manage our organization to be ever more relevant and helpful to our members."

Blodgett graduated from Suffolk Law School in 2005 and began her career at the New Hampshire Public Defender. In 2008, she became an assistant attorney general, prosecuting for the licensing boards and later in Medicaid fraud. She subsequently served as the executive director for the Board of Medicine. After the Board unified, she took over as director for all the healthcare boards.

In 2016, Governor Maggie Hassan appointed Blodgett as the interim executive director of the Office of Professional Licensure when the position became vacant. Later that year, she was selected as the executive director of the New Hampshire Judicial Council.

"The biggest challenge I faced at the Judicial Council was the indigent defense crisis," Blodgett says. "The pandemic created an unprecedented indigent defense crisis. Both the Public Defender and contract attorney programs experi-

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603 Legal Aid and UNH Law Join Forces to Assist Inmates in IRS Cases

By Grace Yurish

Navigating issues with the IRS can be a frustrating and complicated process for anyone, but for those with a low income, finding a resolution can be even more challenging. Fortunately, organizations like 603 Legal Aid (603LA) and the University of New Hampshire Franklin Pierce School of Law (UNH Law) have joined forces to assist these individuals while providing valuable hands-on learning experiences to law students.

Barbara Heggie, supervising attorney at 603LA's Low-Income Taxpayer Project (LITP), has merged her dedication to public service with her passion for teaching by spearheading a tax practicum course at the law school. Launched last fall, the Federal Low-Income Taxpayer Practicum is a rigorous, three-credit course that integrates classroom instruction with clinical components. Under the guidance of the LITP, the practicum covers fundamental administrative fed-

eral tax practice and teaches students to represent clients before the IRS in basic cases involving various issues such as return preparation, audits, collections, and appeals.

In an experiential component, students are assigned cases primarily involving incarcerated people seeking help with missing stimulus payments. There are five students in the course, each handling three cases.

"It's a good learning experience because the law is fairly straightforward," Heggie says. "It's the procedure that is for the students to learn. That's why I really like teaching this course using these cases. The students can focus on learning to deal with the IRS – learning how to contact them in the right way, fill out the forms, and figure out how to solve the client's problem – all while communicating properly with the client and manag-

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Practitioner Profile

Chuck Douglas: A Legal Luminary with Superstar Connections

By Kathie Ragsdale

Attorney Charles G. "Chuck" Douglas, III, has distinguished himself before and behind the bench and beyond, having served on the state Superior Court, state Supreme Court, and in the United States Congress.

"He's left a great mark on the New Hampshire legal landscape," says New Hampshire Supreme Court Chief Justice Gordon J. MacDonald, a friend since the 1980s. "It's really an extraordinary legacy."

But Douglas also has a lighthearted side and has been seen performing karaoke in places ranging from Concord to southwest Florida – though his vocals have yet to attract as wide an audience as those of his first cousin once removed, a certain Taylor Swift.

"I'm very supportive and proud of



what she's done but my musical choices are still country," says Douglas, first cousin to Swift's father, Scott. Douglas remembers visiting the pop star and her family in their Tennessee home when she was just an adolescent and attending some of her early concerts before she moved from country to pop.

A native of Pennsylvania, Douglas attended Wesleyan University before graduating from the University of New Hampshire with a bachelor's degree in

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Opinion on the Role of Lawyers in Democracy

Dear Fellow Bar Members:

I have stayed quiet – perhaps too quiet – with all of you throughout this year on the issue of the importance of lawyers maintaining democracy in this country. I find the current assault on democracy and on our court system by one of the presidential candidates deeply troubling. I find current polling in the United States on autocratic government versus democratic government highly concerning.

I also find the inability of Congress to govern highly troubling. I abhor the fact that a small minority of one party has so drastically affected our foreign policy (e.g. not funding Ukraine).

I find most politics now nauseating. I stopped watching the TV news stations like Fox and MSNBC long ago. Two parties shouting on opposite sides of an issue does nothing for me. I have largely limited my news to the *New York Times*, *NPR*, and local news sources.

And, even in New Hampshire, I fear really small minorities are deciding policy issues for the rest of us on transgender issues, the role and autonomy of individual educators, and even what our kids read. The pendulum politically seems to have moved very far in this state. I hope the voters here see a path to more common sense in the months ahead.

But, back to the role of lawyers in democracy. I encourage all of you to read the remarks given by retired Federal Court Judge Michael Luttig. He has become a bit of a lightning rod, but I find his thoughts on the role of lawyers in protecting democracy right on point. For a full transcript of his remarks to national bar leaders last

President's Perspective



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

August, Google “Judge Luttig, remarks to ABA, August 2023.”

“Today, three years shy of the 250th anniversary of our nation’s birth, the institutions of our democracy, law, and law enforcement are under vicious, unsustainable, and unendurable attack. American democracy and the Rule of Law are in peril,” Judge Luttig said in his opening remarks.

Luttig cites an opinion poll from Quinnipiac during the fall of 2022 that showed, “Even America’s two political parties – the political guardians of our democracy – believe that ‘the nation’s democracy is in danger of collapse.’”

Later in his remarks, Luttig noted: “The relentless assaults on our democracy and the Rule of Law that we have witnessed and experienced over the past years – of which January 6 is the most heinous example – are leveled for the purpose of and with the objective of drawing into question the very legitimacy of the institutions of our democracy and law. And, make no mistake, these assaults and attacks have accomplished their assailants’ objectives.

The pillars of our democracy and the Rule of Law are faltering from these attacks as we speak today.”

I agree with Judge Luttig on his comments that “We lawyers are not only uniquely qualified and positioned to come to the defense of these foundational pillars of our country; we are uniquely qualified, responsible, and obligated to support and defend these pillars of our nation.”

Luttig challenges the Bar further: “To begin the task of redefining who we Americans are and what we want America to be, we need to begin talking with each other again as allies and friends, not as mortal enemies, which our politicians have made us out to be.”

The role of lawyers in forming and maintaining democracy in this country has roots. Thirty-five of the 55 delegates to the Constitutional Convention in 1787 were lawyers or had legal training. Of the committee of five tasked with writing the Declaration of Independence, four were lawyers.

Further, as Luttig notes, we as lawyers took an oath to support and defend the Constitution against all enemies not just foreign but domestic – now, perhaps, especially domestic.

Luttig calls on all of us to be active, passionate advocates for the Rule of Law and the fundamental principles of democracy. I hope each of you can find a way to do that this most important electoral year. I know you all may not agree with some of this column, and that is fine. I hope you will agree that democracy has proven to work very well in this country for over 250 years and is the preferred choice going forward. ♦



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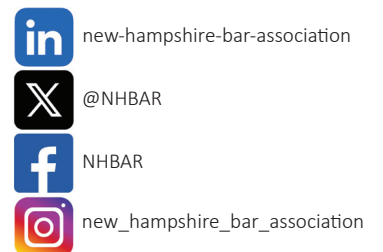
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Jay Buckey Selected as Executive Director of the New Hampshire Judicial Council

By Grace Yurish

In October 2023, attorney Jay Buckey was appointed as the new executive director of the New Hampshire Judicial Council (NHJC). Buckey technically succeeds Sarah Blodgett but NHJC Vice Chair Richard Samdperil was serving as interim executive director when Blodgett left to join the New Hampshire Judicial Branch as the circuit court administrator in 2022.

Established in 1946, the NHJC began as a forum where suggestions and improvements could be made on issues affecting the administration of justice. While this remains integral to its mission, the Council has evolved with the creation of the Public Defender's Office. Today, the NHJC plays a crucial role in the state's legal system, overseeing and allocating funding to legal service organizations such as the New Hampshire Public Defender (NHPD), CASA of New Hampshire, and New Hampshire Legal Assistance.

The NHJC also pays assigned and contract counsel that take cases when the NHPD cannot, as well as attorneys in certain civil matters. These matters include those appointed to represent wards in guardianship cases and appointed guardians ad litem in abuse and neglect and termination of parental rights cases.

The Council currently consists of 23 members from all three branches of government (usually 24). Normally, there are 11 members appointed by statute, five members appointed by the New Hampshire Supreme Court, and eight appointed by the Governor and the Council. Additionally, the NHJC is supported by three staff members: an administrative assistant, an accounting technician, and the executive director.

"The executive director position has a lot of various responsibilities," says NHJC Vice Chair Richard Samdperil. "It has the role of not only overseeing lawyers who work through the Judicial Council to provide legal services, but also acts as the head of the agency. Dealing with things like preparing a budget for the agency to administer, and testifying in front of the legislature on various bills that may affect the delivery of legal services and the payment of those services."

Samdperil continues: "It's a small agency, so the director serves both as the head of the agency in terms of implementing policy, but also in terms of the day-to-day financial operations."

Before Buckey began his role as executive director, he spent over 11 years at the NHPD, serving as both a staff and managing attorney. Buckey shares that his time



New Hampshire Judicial Council Executive Director Jay Buckey standing by the pond outside the Judicial Council's new location on Granite Place in Concord. This same building houses the Judicial Branch Administrative Offices and the Office of the Attorney General. Photo by Grace Yurish

at the Public Defender has helped him in his new role, giving him insight into daily operations.

"It's been helpful knowing what the reality is of practice, and trying to make changes that will improve the experience for litigants, attorneys, and judges," Buckey says. "The experience of being a manager in a smaller office is helpful as well because we have a small staff here."

Buckey also taught criminal law as an adjunct professor at Vermont Law School, where he received his JD in 2011. He believes that his teaching experience will aid in educating others about the Judicial Council's work and the New Hampshire justice system.

"For most people, unless you have a case with the courts – which ideally you don't – you don't have a lot of knowledge about how the justice system actually works on a day-to-day basis," Buckey says. "It's fun trying to bridge that gap and make people aware of how the system works, how it can be improved, and why it matters."

Following his tenure at the NHPD, Buckey transitioned to private practice at Shaheen & Gordon in their civil litigation group before joining the NHJC last fall.

Buckey's diverse experiences made him stand out as a candidate during the hiring process for the executive director position.

"His background in indigent defense was a really significant factor in his hiring," Samdperil says. "In addition to that, the respect and the belief from those he worked with in the past about how professional he was. He was a very intelligent and forward-looking applicant who had a

background in indigent defense, and those were very important factors to us."

Some of the current work of Buckey and the Council includes establishing standards for attorneys who represent children in civil and delinquency cases and improving processes including streamlining payments to attorneys and vendors through the courts to enhance efficiency.

"The best part of the job is that it involves working with all three branches, which is great," Buckey says. "The most important part is really just the chance to do what the mission of the NHJC is, which is to improve the administration of justice in New Hampshire. That can involve a lot of different things – whether that be something like billing or proposing a change to a

rule or a statute. That's what makes the job interesting and unique."

Buckey has several goals as executive director, with a primary focus on ensuring competent counsel in all qualifying indigent defense cases and increasing incentives for attorneys to undertake such cases.


"One thing that we've done recently is made the determination that the Judicial Council can provide certification for public student loan forgiveness purposes," Buckey says. "That's been really exciting and I'm hoping that will encourage more folks to consider taking cases."

Another goal, Buckey says, is reducing the amount of administrative work for attorneys taking indigent defense cases. By doing so, they hope to make these cases more appealing for small providers.

"It doesn't sound like the most exciting thing, but it is very important," he says. "People who take these cases, they're busy. We want their focus to be on providing services and not on lots of unnecessary paperwork. We want the process to be simple, intuitive, and effective."

The main challenge the Judicial Council faces is the volume of cases. As years have passed, the requests and costs of services have significantly increased, while staffing has generally stayed the same. Samdperil says he is optimistic about Buckey in this role, and that he's the right person to handle those challenges.

"I'm really enjoying it. It's great that we've been able to continue the mission of the Council, and to have that group come together and make positive and concrete recommendations. That's been really gratifying," Buckey says. ♦




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Romantic Relationships with Clients: An Ethical No-No?

By Haden P. Gerrish

We've all done it. Okay, maybe not all, but many of us have contemplated the idea of dating a client. And some of us have gone well beyond contemplation.



This article will explore the ethical rules regarding romantic relationships with clients. Let's consider a few scenarios: (1) you find a client attractive and invite them out to lunch to discuss the case and share personal information; (2) a client who seems interested in you romantically invites you to attend a social occasion at their home or other private setting; and (3) you and your client agree that you are both attracted to one another and commence a consensual sexual relationship. Do any of these examples pose an ethical dilemma under the New Hampshire Rules of Professional Conduct?

Answers: (1) no problem; (2) probably fine; and (3) a no-no!

Where do you draw the line? What happens when the heart overrides common sense, allowing an attorney to lapse into an ethical conundrum?

The starting point is Rule 1.8(j) of the New Hampshire Rules of Professional Conduct. It provides:

(j) A lawyer shall not have sexual relations with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced.

Comment 17 to the ABA Model Rules elaborates on the underpinnings of Rule 1.8(j), as follows:

[17] The relationship between lawyer and client is a fiduciary one in which the lawyer occupies the highest position of trust and confidence. The relationship is almost always unequal; thus, a sexual relationship between lawyer and client can involve unfair exploitation of the lawyer's fiduciary role, in violation of the lawyer's basic ethical obligation not to use the trust of the client to the client's disadvantage. In addition, such a relationship presents a significant danger that, because of the lawyer's emotional involvement, the lawyer will be unable to represent the client without impairment of the exercise of independent professional judgment. Moreover, a blurred line between the professional and personal relationships may make it difficult to predict

to what extent client confidences will be protected by the attorney-client evidentiary privilege, since client confidences are protected by privilege only when they are imparted in the context of the client-lawyer relationship. Because of the significant danger of harm to client interests and because the client's own emotional involvement renders it unlikely that the client could give adequate informed consent, this Rule prohibits the lawyer from having sexual relations with a client regardless of whether the relationship is consensual and regardless of the absence of prejudice to the client.

Rules are rules, of course, yet from a practical standpoint we are talking about "heat-of-the-moment" decisions. Are you supposed to scroll mentally through the Rules of Professional Conduct when presented with an unexpected romantic situation? Maybe not, yet forewarned is forearmed, and every attorney should commit to memory the handy reference guide at the end of this article.

In other words, attorney-client sex is problematic at best. For purposes of analysis, let's divide the ethical (and romantic) landscape in three: before, during, and after the professional lawyer-client relationship.

Before

Let's jump back to Rule 1.80, which affords an exception for pre-existing sexual relationships. You will recall that a "lawyer shall not have sexual relations with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced." (Emphasis added). That's a big "unless."

Comment 18 to the ABA Model Rules expands on this exception:

[18] Sexual relationships that predate the client-lawyer relationship are not prohibited. Issues relating to the exploitation of the fiduciary relationship and client dependency are diminished when the sexual relationship existed prior to the commencement of the client-lawyer relationship. However, before proceeding with the representation in these circumstances, the lawyer should consider whether the lawyer's ability to represent the client will be materially limited by the relationship. See Rule 1.7(a)(2).

In other words, continuing a pre-existing sexual relationship between attorney and client is permissible, thank goodness. Otherwise, I envision an awkward conversation along these lines: "Uh, sorry, not tonight; I meant to explain that, because I'm helping with your legal problem, we must practice

abstinence until the matter is resolved!"

The general rule is subject to Rule 1.7(a)(2), which provides:

(a) Except as provided in paragraphs (b) and (c), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

...

(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

Presumably, a monogamous romantic relationship that predates the lawyer-client relationship poses no concurrent conflict of interest with a "third person," but it is good to check. A related issue for purposes of concurrent conflicts of interest is whether there is a significant risk that a lawyer's responsibilities may be materially limited by virtue of a "personal interest of the lawyer." Rule 1.7(a)(2).

Query: Do sexual relations cloud an attorney's independent professional judgment? That is a matter for debate, beyond the scope of this article.

The bottom line is: "Sexual relationships that predate the client-lawyer relationship are not prohibited." Comment 18 to the ABA Model Rules.

During

Fooling around with a client during the lawyer-client relationship gets to the heart of the matter (pun intended).

Rule 1.8(j) is explicit: Thou shalt not have sexual relations with a client. (Paraphrase added). Comment 17 to the ABA Model Rules puts it bluntly:

...this Rule prohibits the lawyer from having sexual relations with a client regardless of whether the relationship is consensual and regardless of the absence of prejudice to the client.

There it is. Having sexual relations with a client is taboo, verboten. As attorneys, we can parse the meaning of "sexual relations." The Rules provide no guidance on this term. Should we ask former President Clinton?

At this juncture, it may be instructive to review Justice Potter Stewart's comment on pornography, as set forth in his concurrence in *Jacobellis v. Ohio*. 378 U.S. 184, 197 (1964). Wrestling with the definition of hardcore pornography, he famously wrote, "I know it when I see it." The same could be said of sexual relations.

On some level, we all know when an attorney is crossing the line when it comes

to sexual relations with a client. Winking, pinching, and sexual innuendos may be inappropriate, as well as politically incorrect, but are not unethical. On the other hand, getting into the deep end with a client is ethical quicksand, as Lady Gaga put it in her song "Shallow" from the movie *A Star Is Born*.

In short, don't do it.¹

After

Once the closing is over or the divorce is final, does that provide the green light for romantic relationships? The answer, I suggest, depends on whether the person you find attractive is still your client. If so, refer back to Section B.

Essentially, it boils down to a question of fact as to who your client is, which is an inquiry best avoided. Every criminal attorney knows that if you handle one crime for a client, you will be the first call when they inevitably get caught again. Every estate planning attorney knows that if you do a will for someone, they will likely return for an update after death, divorce, or other change in circumstances.

This is not to say that, for some legal transactions, when you close the file the attorney-client relationship is over, but socializing with a former client is an ethical minefield best traversed with caution.

Herewith, as promised, is your compass:

New Hampshire Guide to Romantic Relationships with Clients

1. For pre-existing sexual relations, carry on as before when your partner becomes a client absent any concurrent conflict of interest.

2. For sexual relations during the attorney-client relationship, don't even think about it.

3. For sexual relations after the attorney-client relationship ends, proceed with caution after first assuring yourself that the person is no longer your client.

The author expresses his appreciation to Robin E. Knippers and the NHBA Ethics Committee for their assistance with this article. ♦

Endnote

1. See generally, Reissued Public Censure, Magiotto, Paul A. advs. Kevin Joseph Mc Caffrey# 09-039, NH Supreme Court Professional Conduct Committee (Sept. 21, 2010); *Ross v. Home Ins. Co.*, 146 N.H. 468 (2001); *Otis' Case*, 135 N.H. 612 (1992); *Drucker's Case*, 133 N.H. 326 (1990); *Bourdon's Case*, 132 N.H. 365 (1989).

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OPG Executive Director Linda Mallon Retires After 40 Years of Service

By Tom Jarvis

On Thursday, March 14, more than 100 people gathered at the Barn at Bull Meadow in Concord to honor Linda Mallon, the esteemed former executive director of the Office of the Public Guardian (OPG). After four decades of steadfast dedication and service, Mallon announced her retirement in February, marking the conclusion of an era defined by her profound commitment to advocacy and guardianship.

Throughout her career, Mallon has been an unwavering advocate for the rights and welfare of those unable to protect themselves, leaving an indelible imprint on the landscape of public service. Under her guidance, the OPG has blossomed into a bastion of support and protection for vulnerable individuals, a testament to Mallon's visionary leadership and tireless advocacy.

"There's no doubt the retirement celebration will stand out as one of the most memorable events of my life," Mallon reflects. "I was in the company of so many people who are special to me and on the receiving end of their expressions of appreciation for my service. I'm grateful beyond words and honestly a little overwhelmed."

Following cocktails and hors d'oeuvres at the reception, dinner was served while several of Mallon's colleagues lauded her myriad achievements over her 40 years of service. Scott Spradling, principal of Spradling Group and former political director for WMUR-TV, served as the master of ceremonies, introducing each speaker, including OPG Board Chair Roger Jobin, OPG Guardian Supervisor Todd Strugnell, Kimi Nichols Center CEO Joe Freeman, and Circuit Court Administrative Judge David King.

"Some lawyers go to law school because they want to go work in a big firm and make lots of money," Judge King says. "For someone to get out of law school and devote an entire 40-year career to a nonprofit serving people who need help and can't take care of themselves is remarkable to me. Linda has dedicated her entire career to public service and providing protection and advocacy for literally thousands of people who can't advocate for themselves. She is a force of nature in the guardianship field. She is well recognized, not only in New Hampshire, but around the country for her knowledge and expertise in guardianship matters. New Hampshire is a small state, but we have a few people who stand out on the national level and



OPG Executive Director Lisabritt Solsky Stevens (left) and former OPG Executive Director Linda Mallon at her retirement reception at the Barn at Bull Meadow in Concord on March 14. Photo by Tom Jarvis

Linda Mallon is certainly one of those in the guardianship arena."

Mallon took the podium after the speakers concluded, expressing gratitude to them and several others with whom she had worked throughout her tenure.

"I couldn't be happier to be sharing this celebration of my retirement and the 45th anniversary of the OPG with such a special group of family, friends, and colleagues," Mallon declared at the reception. "Forty years ago, I was a 28-year-old law school graduate seeking a career blending law and public service. My dream job was to advocate for vulnerable people and support them in seeing their own dreams realized. I saw an ad in the

Concord Monitor describing the public guardian position and it seemed too good to be true. Well, four decades later, apparently it *was* that good. And it has been the privilege of a lifetime."

In 1977, Mallon graduated from Trinity College in Connecticut. After graduating, she deliberated on two separate paths.

"I had considered becoming a social worker, but the more I thought about it, the more I realized that a law degree would be more likely to give me the necessary knowledge and power to do what I wanted to do," she says.

While attending Franklin Pierce Law Center, Mallon clerked for New Hampshire Legal Assistance under Dick Cohen

and John MacIntosh, who led the Institutional Law Project during the Laconia State School lawsuit and the deinstitutionalization movement in the state. The suit, resulting in the closure of the Laconia State School (also known as the New Hampshire School for the Feeble-Minded), marked a significant milestone in the state's history representing a momentous step toward promoting the rights and dignity of individuals with developmental disabilities and their integration into society.

"To have been a witness to the magnificent efforts of Dick and John and others, and to see firsthand some of these people walking out the door into community residences in their communities of origin, reclaiming their lives in some cases, and having a chance to live their best lives – it really was a profound experience for me," Mallon says.

The growing awareness of the substandard conditions at Laconia State School and the evolution of community-based service delivery systems for those with developmental disabilities and mental illness led to the establishment of OPG in 1979 as a statewide organization providing guardianship services to individuals who didn't have family or friends available to serve in that capacity.

Mallon received her JD in 1982 and then worked for New England Nonprofit Housing Development Corporation for two years before joining the OPG in 1984.

"I started at OPG as a public guardian, which was great to get that foundation," Mallon recalls.

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From Lab to Law: Advanced Degrees in the Legal Profession

By Alex Attilli

For many lawyers, law school is the only advanced education they seek in their lifetime. When you think about it, this makes sense given the time commitment and financial restraints for post-baccalaureate education. It can also be difficult to take three years off from work to attend law school, let alone taking more time to pursue a PhD or master's degree.



Tressler attended West Virginia University for Biology before attending Texas A&M University for his PhD in Animal Biology. His dissertation focused on the role of dopamine in vocalization using bats.

Tressler then worked in research for several years in Oregon, where he studied neuromuscular patterns in cephalopods. Eventually, however, the project ran out of funding causing him to change career paths since he didn't have the means to move across the country again.

"One of my best friends was a patent attorney, and for years she had been saying I'd be a really good patent agent," Tressler says. "After spending too much time not using my science background at all and being frustrated for not thinking like a scientist anymore, I studied for the patent bar, passed it, and searched for patent agent jobs."

Tressler explains that he "absolutely adored" his experience as a patent agent.

"The way [patent agents and lawyers] think is the way scientists think... it's very much like being in a lab," he says. "It lets

my analytical mind and my creative mind mix in a way a lot of people don't realize."

After moving to Massachusetts and working as a patent agent for a few years, Tressler knew he needed to go to law school.

"I think my boss started asking when I would go to law school within a handful of months of me starting – I was basically doing half of the work [of an attorney], I just needed the degree to do the other half," he says. "It got frustrating not being able to do more; I had to pass off contracts to other people in the firm and I couldn't do certain parts of patent law because I'm not an attorney. I thought I might as well just [go to law school]."

Although he originally planned to go part time so he could work, Tressler decided to attend UNH Law residentially at the advice of his boss, who stated he would "get more out of the experience" if he attended full time.

Even if Tressler has not met anyone else in the residential program with a PhD, he has stated that he can still relate to his peers.

"A lot more [of my peers] than I have expected have done something else between graduating undergrad and going to law school," he says. "That underlying experience of having spent time outside of undergrad doing *something* creates a lot of similarities."

Further, Tressler states that generally he finds it easier to find jobs with his PhD.

"I have an advanced degree that says I'm just good at learning new things – that's what a JD is too," says Tressler. "When I was looking for first summer jobs, having the PhD was a nice talking point but it wasn't an overwhelming advantage in most situations. It doesn't do much for smaller law firms not doing technical stuff, but in the patent world, it's a near guarantee for job offers and interviews."

While having an advanced degree may help Tressler in some respects, he feels as if it can hinder him from different practice areas.

"[Most places] want to hire me for patent prosecution; not litigation, not trademark," he says. "There just isn't as much 'clout' for a litigator having a PhD. It can make it weirdly harder for me to get into new practice areas."

Tressler mentioned that if he had to do anything differently, he would have become a patent agent much sooner.

"I might have even skipped my post-doc and gone straight into law school – that's how much I like this whole thing," he says. "That's how much I love this field." ♦



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Who Is Your Favorite Fictional Lawyer? The Law School Edition

By Tom Jarvis

When you think about it, if a person doesn't know a lawyer or has never had a reason to hire one or go to court, a TV or movie lawyer is the only exposure they have to the legal community. In the black-and-white days of Perry Mason and Atticus Finch, that wasn't so bad. But over the years, Hollywood lawyers have often been depicted as sleazy and unethical like Saul Goodman from *Better Call Saul* or smarmy and egotistical like Harvey Specter from *Suits*, who could be heard saying things like, "I'm not about caring, I'm about winning," and "Sorry, I can't hear you over the sound of how awesome I am."

Some of them are even outrageous, cavalier, and apathetic like Denny Crane from *Boston Legal*. This is evident in some of his famous quotes, such as, "First rule of thumb in practicing law: always, always promise the client millions and millions of dollars. It's good business," and "Alan, come on, we hate all our clients. It's good to hate them, it allows us to overcharge and still sleep at night."

It's usually hilarious – these are some of my favorite characters and I'm all about humor – but in my seven years working at the Bar Association, I've never met a lawyer who would even come close to saying something like that. It just goes to show you how unreal Hollywood can be. One could argue that's why we like it. It's an escape from reality. And I'm sure that on some rough days, some real-life lawyers would love to let off steam without consequence like Denny Crane.

There are still some fictional lawyers out there that are depicted as noble and caring, though. One of my favorites, Matt Murdock, the legally blind crime-fighting attorney from Marvel's *Daredevil*, once said, "These questions of good and evil have no place in a court of law. Only the facts matter."

I suppose the best place a person can learn how a lawyer should truly act is in law school. That's why I checked in with students and professors at the University of New Hampshire Franklin Pierce School of Law (UNH Law) to see who their favorites are. So, without further ado, read on.

Alex Attili
UNH Law Student, 2L

"My favorite fictional lawyer is probably Jennifer Walters from Marvel's *She-Hulk: Attorney at Law*. Although I'm more of a DC Comics fan, Jennifer Walters is my favorite fictional lawyer because she's a badass in and out of the courtroom. Having to control her anger even when she is constantly being undermined and underestimated by many of the men in her life is really emblematic of what many women attorneys struggle with in the workplace today.

"[As for how she would do in a New Hampshire courtroom,] New Hampshire is a pretty small bar, so I think word



would get out pretty fast that there's a massive green attorney out there!"

Melissa Davis
UNH Law Criminal Practice Clinic Director

"Every student who has taken my evidence course knows the answer to this question. It's everyone's favorite, Vinny Gambino from *My Cousin Vinny*.

"Vinny is not a great lawyer until the end of the movie when the State starts to submit its evidence at trial. His opening statement was stricken from the record. It's his cross examinations that make him great (the direct was all Mona Lisa Vito). Vinny won that case because of his willingness to work hard, learn from others, commit himself to the craft of litigation, and never give up. A true inspiration.

"I'm not sure a New Hampshire judge would have let Vinny get as far as he did before finding out that he wasn't a licensed attorney, but there's a reason it's the best trial movie ever made. Those trial skills would win every single time."

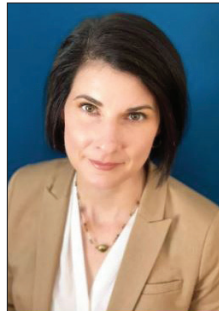
Anna Elbroch
UNH Law Legal Writing Department Director

"Reggie Love from *The Client*. She is human, meaning she is flawed. She uses her experiences to be a staunch advocate for children, earning her client's trust, and standing up to seemingly more powerful prosecutors.

"Reggie would do well in a New Hampshire courtroom. She is a strong, principled advocate for children (after you remove the Grisham adventures and antics)."

John Greabe
UNH Law Warren B. Rudman Center for Justice, Leadership, and Public Service Director

"Barry Zuckerkorn, attorney for the Bluth family in *Arrested Development*, because he's hilarious. He is the personification of all my lawyering anxiety dreams."



Emalee Peterson
UNH Law Student, 2L

"Elle Woods from *Legally Blonde*. I like that Elle embraces her femininity while also being such a powerful and smart attorney! I think she would find a

way to fit in to the New Hampshire Bar even if she's from California. She went to Harvard; she'd gain people's respect. She's also adaptable."



shire law. She was a diligent, successful defense attorney. However, she would have been disbarred as the show progressed and likely served some jail time."

Sophie Sparrow
UNH Law Professor

"Elle Woods from *Legally Blonde*. Even though her law school classmates look down on her and assume anyone blonde, pretty, and fashion-forward is a complete idiot, she proves them wrong at their own game. I love how she is silly and funny and uses her smarts to help others, all the while showing the limits of her classmates' self-importance.

"Fashion-forward Elle and her little dog would be a bit much for many New Hampshire attorneys, but as in the movie, my guess is that Elle would be underestimated and end up being an amazing advocate for her clients."

To share your favorite fictional lawyer, contact NHBA Publications Editor Tom Jarvis at tjarvis@nhbar.org. Please include your favorite fictional lawyer, why they are your favorite, and your opinion on how they would fare in a present-day New Hampshire courtroom. ♦



Danielle Rocheleau
UNH Law Student, 2L

"Annalise Keating from *How to Get Away with Murder*. Annalise Keating was a perfect character. It was fantastic to see a successful woman portrayed on television who used her role to empower a younger generation.

"While she was portrayed as a powerful woman lawyer, the show did have many unrealistic aspects that would never happen in life. The show did let me down, though, when it had built her up as such a powerful defense attorney only to show her many ethical violations to cover up crimes –but it was still a great show!

"The first few seasons of Annalise Keating would have dominated New Hamp-



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Well-Being Week in Law Promotes a Healthy Practice

By Misty Griffith

This year, the NHBA will join dozens of bar associations and other legal organizations to celebrate Well-Being Week in Law on May 6 through 10. Occurring during Mental Health Awareness Month, Well-Being Week in Law occurs annually the first full week of May. The NHBA's Special Committee on Attorney Wellness is sponsoring several activities throughout the week to align with the daily themes.

Well-Being Week in Law was designed by the Institute for Well-Being in Law (IWIL), a non-profit organization formed in 2020 that evolved from the American Bar Association's National Task Force on Lawyer Well-Being. The organization's mission states, "The Institute for Well-Being in Law is dedicated to the betterment of the legal profession by focusing on a holistic approach to well-being. Through advocacy, research, education, technical and resource support, and stakeholders' partnerships, we are driven to lead a culture shift in law to establish health and well-being as core centerpieces of professional success."

One way in which the IWIL is raising awareness about the importance of attorney well being and encouraging related activities is by promoting Well-Being Week in Law.

Why participate? Too many in the legal profession struggle with mental health and alcohol use disorders. Many others still, while not dealing with a diagnosable illness, are not fully well. The aim of Well-Being



Week in Law is to raise awareness about mental health and encourage action and innovation across the profession to improve well-being year round. The daily themes and planned activities are:

Monday: Stay Strong Physical Well-Being

Break up your workday with some physical activity. Whether you prefer an invigorating run, a relaxing walk, a challenging spin class, or cleansing yoga, the choice is up to you. Additionally, to give back to the community and help others stay strong, members are encouraged to donate blood. To locate a blood drive near you, visit redcross.org/local/me-nh-vt.html.

Tuesday: Align Spiritual Well-Being

Listen to the latest *Bar Discourse* podcast (to be released late April) with co-hosts Tom Jarvis and Misty Griffith and special

guest Jill O'Neill, executive director of the New Hampshire Lawyers Assistance Program (NHLAP).

O'Neill and NHLAP have helped hundreds of lawyers address and overcome challenges to engaging successfully in their professional and personal lives by providing free confidential and compassionate help. The *Bar Discourse*, a podcast produced by the NHBA that focuses on the legal community and the practice of law in the Granite State, is available on SoundCloud at soundcloud.com/thebardiscourse.

Wednesday: Engage and Grow Intellectual Well-Being

Enhance your knowledge with a Learn@Lunch CLE, "Lawyering and Finding Emotional Health," presented by Jill O'Neill and Lisa Houle, LCMHC, MLADC. This important wellness CLE program will address aspects of the profession and legal workplace that may predispose practitio-

ners to mental health and substance misuse problems, and behaviors that make lawyers susceptible to mental health conditions and addiction issues. Presenters will discuss how to find emotional healing and understanding the therapeutic process.

Thursday: Connect Social Well-Being

Enjoy connecting with colleagues at a networking reception at the new NHBA Member Center at the Bar Center in Concord from 5 to 6:30 pm. Have fun socializing at this free event. Healthy appetizers and mocktails will be provided.

Friday: Feel Well Emotional Well-Being

Take a break, relax, and meditate. Meditation can be a powerful tool to manage stress, sleep better, and improve emotional wellness. From 3 to 3:30 pm, try guided meditation led by Samara Anderson, a self-styled "Vermont Yogwer: Half Yoga Teacher and Half Lawyer" and founder of The Happy Humans Projects. Sign up for this free event on the NHBA website to receive the link. This is a wonderful way to mentally relax as you transition to the weekend.

The NHBA Special Committee on Attorney Wellness hopes that you will participate in as many of these events as possible and continue beyond this week to incorporate healthy practices into your professional and personal life. ♦

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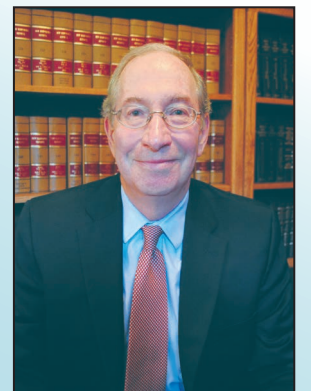
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Get to Know NHBA Lawyer Referral Service and Grow Your Practice

By Misty Griffith

For attorneys seeking to expand their client base, the NHBA Lawyer Referral Service (LRS) can help.

LRS business is booming. In 2023, LRS made more than 8,400 referrals to attorneys who participate in the service, and referral numbers continue to grow. To keep up with the increased call volume, LRS added an additional intake and referral specialist, which led to a record 1,002 referrals in January 2024, smashing the previous record of 863 referrals in a single month.

There are more than enough referrals to go around. Every day, LRS turns away prospective clients because there are no attorneys who fit their needs. Joining LRS will generate leads for paying clients to help you grow your practice. Even a thriving practice needs a steady stream of leads to continue prospering.

When attorneys join LRS, they select the types of cases they are willing to consider and the counties in which they practice. Attorney panelists may select all the practice areas in which they would like to receive referrals from a list of more than 100 types of cases, ranging from adoption to wrongful termination. Attorneys set their own rates and are under no obligation to accept any referral.

If you are looking to give back while earning a small fee, consider joining the LRS Modest Means Program. Modest Means panelists provide much-needed



legal assistance to moderate- to lower-income individuals while still earning a reduced fee. Participants choose the type of cases they are willing to consider and the county or counties where they practice. Modest Means panelists may also limit the number of cases they are willing to accept.

Taking even one or two cases per year can make a big difference to individuals who would otherwise have to represent themselves. A recent Modest Means client shared, “I was in a really difficult situation, and the Modest Means program was a complete lifesaver at a time when I could barely afford legal expenses. Thank you so much for having this program available.”

The LRS Modest Means Program connects people earning 125 to 325 percent of the Federal Poverty Level (FPL)

with qualified New Hampshire attorneys who agree to consider their case at a greatly reduced rate aligning with the Modest Means sliding fee schedule. The \$80 to \$125 per hour sliding-fee scale is based on household size and income measured against the FPL. This fee range is far below the average fees charged by most attorneys in the state.

Sign up today to take advantage of this great opportunity and feel good knowing that you will be helping to bridge the justice gap. It is free to join the Modest Means panel, and you do not have to be a member of the LRS Full Fee program.

As an added incentive, Modest Means panelists may attend the upcoming CLE, “The Ethical Pitfalls of Fee Agreements,” free of charge and receive 90 NHMCLE ethics minutes. This free program, sponsored by the NHBA Committee on Law-

yer Referral Services, will be presented live in the NHBA Seminar Room in Concord on Thursday, May 23 at 3 pm. It will provide an in-depth review of best practices in fee agreements for all areas of law including, but not limited to, flat fees, hourly fees, and contingency fees. Bring your fee agreements along so you can see how you can improve on what you are using. Participants will leave with examples of ethical fee agreement provisions and best practices. The CLE presenters are Gary Apfel of Simpson & Mulligan, Mark Cornell of the New Hampshire Attorney Discipline Office, and Katherine Morneau of Morneau Law.

To show our appreciation for LRS panelists, Modest Means panelists may attend at no cost, and Full-Fee panelists may attend at a reduced rate of \$40 (the rate for non-panelists is \$75).

All attendees of the CLE are also invited to a reception in the new NHBA Member Center immediately following the CLE. Enjoy light refreshments, beer, and wine while networking with other attorneys and checking out the new Member Center. This is a great opportunity to learn more about the LRS Full-Fee and Modest Means programs while enjoying good food and good company.

The Modest Means Program is funded in part by a generous grant from the New Hampshire Bar Foundation’s IOLTA grant program. To join either program, visit nhbar.org/join-lawyer-referral-service or email LRSreferral@nhbar.org. ♦

New England’s Perennial Powerhouse



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

For the 16th consecutive year, Lubin & Meyer has again outperformed all other law firms in the region by obtaining 6 multimillion-dollar verdicts and 48 settlements of \$1,000,000.00 or more in New Hampshire, Massachusetts and Rhode Island.

Co-founder Andrew C. Meyer, Jr. says, “Year after year, we remain the go-to law firm for medical malpractice and personal injury cases due to our success securing record-setting results that compensate victims, protect the public, and inspire change.

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2023	48	5
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.



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Announcing the 2024 Justice Grant Awards

By Julie Smiley

The New Hampshire Bar Foundation's Board of Directors has approved \$89,246 in Justice Grants. Funded by generous contributions, endowments, and legacy gifts, Justice Grants support the rule of law, access to justice, and civic education projects across the state. The various Justice Funds, valued at \$1.5 million, are managed by the New Hampshire Charitable Foundation. Grants are awarded every two years. Twelve applications were received with a total of \$133,208 in funding requested. A committee of four board and Justice Society members made recommendations for awards, as follows, based on program merits, sustainability, and funds available.

New Hampshire Historical Society

The Democracy Project: \$10,000

The Democracy Project's "Moose on the Loose" K-6 curriculum addresses the precipitous decline in the knowledge of history, civics, and social studies among the population at large and school age children. The Foundation's Justice Grant Award in the amount of \$10,000 will underwrite the program's expansion to middle schools.

"The Foundation recognizes the critical importance of improving the teaching of history and civics in our schools," says New Hampshire Historical Society President William Dunlap. "The Bar Foundation was an early funder of the Historical Society's initiative to develop a new curriculum for the state, 'Moose on the Loose,' now being provided free of charge to schools throughout New Hampshire. The Historical Society is grateful for the Bar Foundation's further support to expand 'Moose on the Loose' to the middle schools."

New Hampshire Public Radio

Civics 101: \$10,000

The Justice Grant supports the need for civics education through the *Civics 101* podcast. Knowing where we fit into the governing structure, our rights and responsibilities, and how to enact change all start with a well-informed citizenry. With an average of 336,793 downloads monthly, *Civics 101* helps bridge that information gap.

603 Legal Aid

Frontline Justice Advocacy Initiative: \$7,971

To assist with implementing a successful nationwide program in New Hampshire that trains and empowers advocates working with vulnerable populations to partner with legal aid to provide legal advocacy under appropriate training and supervision.

Bridges

Court Advocacy Program: \$4,500

The Court Advocacy Program supports clients through provision of court advocates trained to assist survivors of domestic violence to navigate the court system in protecting themselves and their children. Many of Bridge's clients are low income and have limited experience with the legal system.



Children's Law Center of New Hampshire

Know Your Rights Brochure: \$4,450

Children's Law Center Executive Director Lisa Wolford describes the value of the Justice Grant in supporting publication of a *Know Your Rights in Foster Care* brochure.

"Children in foster care have been removed from their families and, in many cases, from everything else they know and love—their pets, friends, teachers, and communities," she says. "They are often anxious, angry, and bereft. We're grateful to have received a Bar Foundation Justice Grant to create a guide that will provide kids in foster care easily understandable answers to many of the questions we hear our clients ask: How can I tell the judge what I want? Where will I go to school? Can my brothers and sisters visit me? What if someone hurts me? Can I wear my own clothes? When can I go home?"

Guardian Support Services of New Hampshire

Guardian Training Program: \$5,000

Guardian Support Services serves approximately 5,900 active family guardians and about 1,000 new guardians appointed annually. The Justice Grant will facilitate the development of a program to provide resources and training for family guardians including a support guide, consultation services, and educational videos.

New Hampshire Bar Association

We the People: \$9,025

The grant helps support NHBA's *We the People: The Citizen and the Constitution* Program.

"I cannot begin to express enough thanks for the reach the Justice Grant provided to the program," says NHBA Law Related Education Coordinator Robin E. Knippers. "We were able to invite New Hampshire teachers to take part in a high-quality professional development program. By providing these opportunities, we were able to enrich their lives with constitutional and civic knowledge they could not receive elsewhere. They in turn enrich the lives of their students at all grade levels with this valuable information."

New Hampshire Legal Assistance

Housing Project and Internship: \$15,000 and \$6,200

Justice Grants were awarded for two NHLA projects: supporting eviction defense clinics at court and a summer internship program. In response to the awards, NHLA Executive Director Sarah Mattson Dustin thanked the Foundation.

"The Justice Grant program is an essential funding source for civil legal services in New Hampshire," she says. "Justice Grants have funded projects that meet a unique need, such as the hosting of a multidisciplinary conference to address the growing problem of elder financial exploitation or the preparation of public awareness materials about property tax relief."

Mattson Dustin continues: "Justice Grants have also helped build a more effective and responsive civil legal services system statewide. For example, through the underwriting of the Access to Justice Commission's most recent civil legal needs assessment. With a quick and straightforward application process, the Justice Grant program is an efficient way to provide targeted financial support when and where it's needed most."

Warren B. Rudman Center for Justice, Leadership, and Public Service

Summer Fellows Internships: \$9,600

Grant funds will provide a summer stipend to two students over the next two years to support work at non-profits and government agencies providing legal services to underserved populations. By tackling growing caseloads, summer fellows help reduce the stress on legal services providers and overcrowded courts. The program also instills in students the acute need for attorneys to perform pro bono work as a professional obligation.

Veterans Legal Justice

\$5,000

The Foundation is proud to support New Hampshire's sole legal service uniquely dedicated to providing pro bono legal representation to veterans regardless of income. Grant funds will be used to hire

staff dedicated to facilitating client intake, outreach, and training for volunteers, and to expand the network of pro bono lawyers.

New Hampshire Judicial Branch

Sequential Intercept Model Mapping Workshops: \$2,500

Funds will support the court in exploring opportunities to divert individuals experiencing substance misuse disorder and/or mental health issues from the criminal justice system by mapping out opportunities for intervention and diversion to treatment. ♦

Justice Grant Funding

Justice Grants are made possible through the following donor-supported funds:

Judge Richard F. Cooper Fund

Charles W. Dean Trust Fund

Advancement of Justice Fund

Richard P. Dunfey Memorial Fund

Vickie Bunnell Memorial Fund

J. Albert and Mildred E. Lynch Fund

William F. Batchelder Fund

Voluntary Prevention Fund

William A. Baker Fund

Stanley M. and Thalia M. Brown Fund

A.J. McDonough Family Fund

Advancement of Justice Restricted Fund

Arthur and Esther Nighswander Justice Fund

McLane Justice Fund

Frederic P. Upton Justice Fund

Community Notes

Jeff Spill Honored with National Award

The North American Securities Administrators Association (NASAA) recognized New Hampshire Bureau of Securities Regulation Deputy Director Jeff Spill with its 2024 Enforcement Section Award for his distinguished service to NASAA and the state. Spill works under the leadership of New Hampshire Secretary of State David M. Scanlan. The award was presented to Spill in Minneapolis, MN, at NASAA's annual Enforcement Training.

Spill, who has been with the New Hampshire Bureau of Securities for 24 years, was specifically recognized for his substantial contributions as co-chair of the NASAA Enforcement Section Training Project Group and member of the Enforcement Deposition and Litigation Skills Training and Enforcement Zones Project Groups. ♦



Pro Bono Hockey Game Raises \$6,000 for Legal Aid



Team Liberty (white) emerged victorious with a 7-4 win over Team Justice in the 2024 Hockey Game to support 603 Legal Aid and NHLA through the NH Campaign for Legal Services on March 9 at St. Anselm College. Organized by 603 Legal Aid Board Vice Chair Rory Parnell, the event raised nearly \$6,000 for legal aid. Courtesy Photo

LawLine

The New Hampshire Bar Association would like to thank Alfano Law, Parnell, Michels & McKay, and Leadership Academy members Jessica Morrissey and Devon Ayer for a very successful LawLine event held on March 13, 2024.

Fifty-six calls were taken from various counties all over the state on a variety of legal topics including landlord/tenant disputes, family matters, civil litigation, consumer law, 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 participa-

tion in this valuable public service each month.

LawLine is a free public hotline, hosted by volunteer attorneys, on the second Wednesday of each month from 6 to 8 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, November, and December 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. ♦

Benjamin Siracusa Hillman Elected Fellow of the ACTEC

Benjamin Siracusa Hillman, a partner at Shaheen & Gordon, PA, has been named a Fellow of the American College of Trust and Estate Counsel (ACTEC), an organization of trust and estate lawyers who



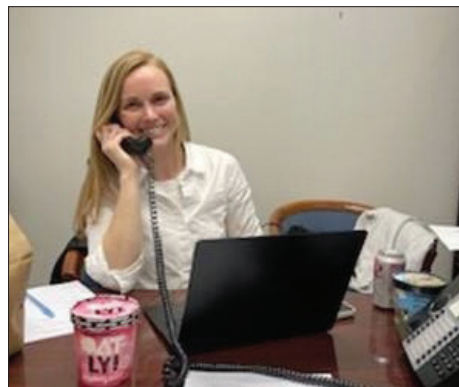
have been elected by their peers in recognition of having made outstanding contributions to the practice of trust and estate law.

Fellows are elected twice per year. In this round of elections, there were 24 new fellows elected nationwide and Siracusa Hillman is one of only two newly elected Fellows in New England.

Siracusa Hillman is a former New Hampshire Chapter president of the National Academy of Elder Law Attorneys and currently serves as a board member of the American Civil Liberties Union of New Hampshire. ♦



Parnell, Michels & McKay volunteer attorneys Rory Parnell, David Stamatis, and James Hawthorne. Courtesy Photo



Leadership Academy members Devon Ayer (pictured) and Jessica Morrissey also volunteered for LawLine. Courtesy Photo

Professional Announcement

Ransmeier & Spellman P.C.

Attorneys at Law

We are excited to announce that *Lisetta J. Silvestri* has joined the firm as an associate attorney!



Lisetta joins Ransmeier & Spellman after managing her own land conservation consulting business where she worked with landowners and environmental organizations on a wide variety of matters, including land conservation and easement acquisition, contract review, and other non-profit matters.

At Ransmeier & Spellman, Lisetta will continue her work in land conservation, working with land trusts and landowners on land protection projects and conservation transactions, while also working on other real estate matters. Lisetta will be working out of our Concord, NH office.

Concord | Rochester | Andover, MA

Jest Is For All

by Arnie Glick



"I want to leave all of my estate to my sister, but if she is not living then in trust for her eggs."

■ MALLON *from page 5*

A few years later, Michael Casasanto, founding executive director of the OPG and one of the first two original public guardians in the state, appointed Mallon as his deputy director. After Casasanto's retirement in 1999, Mallon assumed the role of executive director.

Throughout her 25 years in that position, she maintained a small caseload "to keep in touch with the real world."

The OPG has experienced significant growth since its inception, largely attributable to Mallon's vigorous efforts.

"We started with two and a half staff members serving just three individuals in 1979 and have grown to 53 serving nearly 1,200 in 2024," she says. "We also transitioned from a state agency to a non-profit contracting with the state to serve a wide array of individuals, along with our private work."

In addition to her efforts with the OPG, Mallon served on the boards of the Disability Rights Center of New Hampshire and the National Guardianship Association.

She was also appointed by Governor John Lynch to serve on the New Hampshire Incapacitated Adult Fatality Review Committee, established in January 2008 to study the incidence and causes of deaths among incapacitated adults and recommend enhancements to policies, practices, and services.

Mallon is succeeded by new OPG Executive Director Lisabritt Solsky Stevens, who brings a wealth of relevant experience to the position.

Solsky Stevens previously worked as the chief government relations and

compliance officer at Easter Seals, the vice president of strategy and corporate development at Granite State Independent Living, the executive director of Well Sense Health Plan, the senior operations administrator for the State of New Hampshire, general counsel for the New Hampshire Department of Health and Human Services (DHHS), and as a staff attorney at Merrimack Valley Legal Services.

"I am delighted that Lisabritt is the new executive director," Mallon says. "[During the interview process], she was checking all the boxes in terms of what I was looking for – which was not me. I wasn't looking for somebody who had what I had brought to the table. It's time for OPG to be led by someone who has a similar but different skill set. She is going to really help OPG grow and evolve into the organization of the future. She has a diverse background and variety of experience, all of which is relevant to the work of OPG. She also has the heart, the skill set, and the commitment to social justice and public service that I was looking for. So, I'm confident that she is the right leader for OPG."

Solsky Stevens remarks that she and Linda embarked on similar paths in their formative years.

"Linda and I are a lot alike in that it was a coin flip about whether we were going to get an MSW or a law degree," Solsky Stevens says. "We both opted for the law degree but always leaned hard into public interest-minded, mission-driven law. Linda really was a real trailblazer in New Hampshire. She really helped to reveal a very different path for people who want to use that degree, that knowledge for the greater good. Her 40



Circuit Court Administrative Judge David King speaking about Linda Mallon at her retirement reception on March 14. Photo by Lauren Gilman

to do some awareness raising. A lot of people don't know what OPG is or what we do. And there is also some skepticism around guardianship services. The Free Britney movement did us no favors. There have been a couple negative adaptations on Netflix about very unprofessional guardians that take advantage of their wards and that could not be farther from the truth here. We are absolutely in the dignity business."

When questioned about her retirement plans, Mallon suggests that she may reassess her situation after dedicating time to herself.

"I will take some time to just decompress," Mallon says. "I feel like I need to take time to recalibrate my nervous system. I'm going to miss my work and will come back to some version of it, but I'm going to take this year to be a grandma, a daughter, and a mom. And to do the things that I keep saying I'm going to do once I retire."

Mallon continues: "At some point, I will seek more. I now have an emeritus status with the Center for Guardianship Certification. It's quite likely I'll get involved on a volunteer basis with that organization, as well as with the National Guardianship Association. I will need purpose and opportunities to contribute. I don't have a grand plan, though. I think part of that is that I know I need a break and part of it is the circumstances of my life with my first grandchild."

As Mallon embarks on the next phase of her life, her legacy of compassion, integrity, and unwavering dedication will undoubtedly endure within the OPG and beyond, inspiring all who have had the privilege of witnessing her remarkable contributions. ♦

years of service created this opportunity for me, and I thank her for trusting me with all this."

When asked about her objectives as the new executive director, Solsky Stevens underscores the significant unmet needs within the community and expresses her intention to collaborate with stakeholders, including the courts, DHHS, and others to develop strategies for the OPG to address these gaps.

"I also want to be more strategic and forward-thinking," she says. "We have some antiquated processes and systems, so I really want to modernize a lot of our internal operations that can help us work smarter, not harder. I also want

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Ethical Principles in Witness Preparation

Dear Ethics Committee:

I am a new lawyer preparing my client to testify. This is my first experience preparing a witness to testify under oath. What general ethical principles do I need to keep in mind as I do so?

This is the first in a series of articles on topics related to an attorney's obligations with respect to witness testimony. This first article will address the basic ethical framework of witness preparation. The second article will review the attorney's ethical obligations when their client or witness offers false evidence. The third article will address the attorney's ethical obligation when a client misbehaves during trial or deposition testimony.

Witness preparation begins when a lawyer first communicates with the client and continues through all work performed on the client's behalf. It is helpful from the outset of the representation to explain to the client the attorney's role, the applicable law and procedural rules, and the client's overall objectives. The client's testimony is of course important to the overall course of the representation. This means that witness preparation is vital. Each attorney utilizes their own means and methods to prepare a witness to testify depending upon the demands of the case, the client's capacity, the relevant documents, and numerous other factors. The purpose of this article is to define the limits of ethically permissible witness preparation without impeding the attorney's range of discretion. This article will describe general best practices the Committee believes to be useful across a broad range of cases – again without intending to impede each attorney's range of discretion, judgement, and experience.

This article briefly describes the applicable rules. Rule 1.1 requires attorneys to provide competent representation, including proper preparation and attention to detail. Rule 1.2(d) provides that an attorney may not advise a client to engage in criminal or fraudulent conduct, or help the attorney engage in such conduct. Rule 3.3 provides that an attorney may not knowingly offer evidence the attorney knows to be false and must take remedial measures if the attorney knows the client or a witness has done so. Comment 13 to Rule 3.3 provides that the time limit on the lawyer's obligation to rectify false statements persists until a final judgment in the proceeding has been affirmed on appeal or the time for appellate review has passed. Rule 3.4 provides that an attorney shall not obstruct another party's access to evidence. Rule 4.4(a) provides that in representing a client, an attorney shall not take any action if the lawyer knows or it is obvious that its primary purpose is to embarrass, delay or burden a third person. Rule 8.4 prohibits violations or attempted violations of the Rules of Professional Conduct, criminal acts that reflect adversely on an attorney's honesty, trustworthiness or fitness in other respects, and conduct involving dishonesty, fraud, deceit, or misrepresentation.

Ethical Conduct in Witness Preparation

On August 5, 2023, the American Bar Association issued Formal Opinion 508 – The Ethics of Witness Preparation in which it listed numerous examples of permitted (if not required) witness preparation activities. Each example is followed by the Rule or Rules the Committee believes to be especially implicated. An attorney not following one or more

of the below examples does not necessarily reflect or imply unethical conduct:

- Reminding the witness their testimony will be given under oath. Rule 1.1 (attorney must provide competent representation with skill, proper preparation, and attention to details necessary to avoid harm).
- Emphasizing the importance of telling the truth. Rule 3.3.
- Explaining that a truthful answer of, "I don't recall" is acceptable. Rule 3.3.
- Explaining the testimonial process as well as case strategy and procedures. Rule 1.1; 1.2.
- Suggesting appropriate attire, demeanor, and decorum. Rule 1.1
- Providing context for the witness's testimony. Rule 1.1; 3.3.
- Asking the witness questions about their probable testimony and recollection. Rule 1.1.
- Identifying and discussing other testimony or evidence that has been or may be presented and exploring the witness's version of events in light of that information. Rule 1.1; 3.3.
- Reviewing documents or physical evidence with the witness, including, if necessary, refreshing the witness's testimony. Rule 1.1; 3.3.
- Identifying lines of testimony and expected cross-examination. Rule 1.1; 1.2; 3.3.
- Suggesting words, phrases, or concepts to help the witness answer questions clearly. Rule 1.1; 1.2; 3.3.
- Telling the witness to wait until a question is complete before responding. Rule 1.1; 1.2.
- Telling the witness not to guess or speculate. Rule 1.1; 1.2; 3.3.
- Advising the client to answer the question that is asked without volunteering information. Rule 1.1; 1.2; 3.3.
- Testing the witness's recollection of events.
- Refreshing the witness's recollection.
- Discussing with the witness potential areas of cross examination.
- Testing the witness's demeanor in response to cross examination.

See *Restatement (Third) of the Law Governing Lawyers*, § 116, cmt. b (2000). A more comprehensive list of acceptable witness preparation appears in Richard C. Wydick, *The Ethics of Witness Coaching*, 17 *Cardozo L. Rev.* 1, 17-18 (Sept. 1995)

Unethical Conduct in Witness Preparation

The ABA outlined examples of unethical witness preparation as well, including:

- Counseling a witness to give false testimony. Rules 1.2(d); 3.3; 8.4; see RSA 629:2, I (criminal solicitation); 629:3, I (conspiracy).
- Helping a witness give false testimony. *Id.*
- Advising a client to disobey a court order. Rules 1.2(d); 3.3; 8.4.
- Offering an unlawful inducement to a witness. Rules 1.2(d); 3.3; 8.4; see RSA 641:5, I (Witness tampering).
- Advising a witness to evade a subpoena to appear at a proceeding or to not attend any proceeding to which they have been summoned. See RSA 641:5.

The ABA suggested that instigating a client to lie may include advising a witness to "downplay" certain facts, *In Re Meltzer*, 21 N.Y.S. 3d 63 (2015), encouraging a client to misrepresent the location of a slip-and-fall accident to have a viable claim, *In Re Rios*, 965 N.Y.S.2d 418 (2013), and programming a witness's testimony, *In Re Brooke P. Halsey, Jr.*, Case No. 02-O-10195-PEM (State Bar of California Hearing Dep't August 1, 2006). In *In Re Ver Dught*, 825 S.W.2d 847 (Mo. 1992), the Missouri Supreme Court held that an attorney violated Rules 3.3(a)(4) and 8.4(c) for advising his client in a social security proceeding not to mention during her testimony that she had remarried. In *Committee on Prof'l Ethics & Cond. of the Iowa State Bar Ass'n v. Crary*, 245 N.W.2d 298 (Iowa 1976), the Iowa Supreme Court revoked the license of an attorney who knowingly permitted his client to offer extensive false testimony in a deposition.

In *State v. McCormick*, 259 S.E.2d 880 (N.C. 1979), the North Carolina Supreme Court held that "[i]t is not improper for an attorney to prepare his witness for trial, to explain the applicable law in any given situation and to go over before trial the attorney's questions and the witness' answers so that the witness will be ready for his appearance in court, will be more at ease because he knows what to expect, and will give his testimony in the most effective manner that he can. Such preparation is the mark of a good trial lawyer." *State v. Earp*, 571 A.2d 1227, 1234-35 (Md. 1990), the Maryland Supreme Court held that "[a] prudent attorney

will, whenever possible, meet with the witnesses he or she intends to call. [The witness preparation session] involves matters ranging from recommended attire to a review of the facts known by the witness."

Similarly, at a hearing in *United States v. Brindley*, 14-CR-0468 (N.D. Ill. 2015) (August 31, 2015), the District Court held that a lawyer's use of a question-and-answer script to prepare witness testimony was not prohibited coaching absent evidence that the lawyer told the client to lie or knew that the client's testimony was false. The Court noted there was no bright line between rigorous preparation and improper coaching.

Even so, it is essential that an attorney obtains facts from their client or another witness without influencing the answers or encouraging inaccurate answers. While preparing a client or witness to testify is necessary, attorneys must be cautious in how that preparation is done and must comply with the applicable ethical rules outlined above. ♦

This Ethics Corner article was submitted for publication review to the NHBA Board of Governors at its March 21, 2024 meeting. The Ethics Committee provides general guidance on the New Hampshire Rules of Professional Conduct and publishes brief commentaries in the Bar News and other NHBA media outlets. Lawyers may contact the Committee for confidential and informal guidance on their own prospective conduct or to suggest topics for Ethics Corner commentaries by emailing the Ethics Committee staff liaison at: ethics@nhbar.org.

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Navigating Google’s Search Evolution for Client Acquisition

By Ian Reardon

After completing my first year of college, I was fortunate to find a job in the emerging field of search engine optimization (SEO), and I’ve been optimizing websites for Google Search for over 25 years. The term SEO essentially involves optimizing a website to achieve the highest possible ranking in Google’s search results. The higher a website ranks, the more visitors it will receive. Google has consistently evolved and updated its algorithm, which determines how a website ranks.



Understanding how Google’s search engine works for client’s seeking legal help will help you make better marketing decisions on your own or with the help of a consultant.

Google’s Search Evolution: From Organic Rankings to Paid Ads

For over 20 years, and continuing today, Google has remained the dominant and primary search engine, commanding approximately 95 percent of the US search engine market. In its early days, Google earned revenue by featuring paid advertisements at the top of its search results. These initial ads resembled the regular search re-

sults but were labeled as “sponsored.”

Further down the page, beyond the sponsored results, you encounter the first “organic” search results. An organic result is a search result where the website owner did not pay Google to improve or boost its ranking within the search results. Google’s “algorithm” determines where these organic results are displayed, or ranked, based on the relevance of each webpage to the user’s query. Having high rankings in organic results is crucial because it means that more visitors will be directed to a website.

For a long time, Google’s only advertisements were these two to three sponsored results at the top of the page. This meant that the first organic results were prominently displayed just underneath. Users did not have to scroll down and had no trouble finding these listings. This was a great time for SEO because if you were able to get a website placed within the top five, it would receive a tremendous number of clicks, or what is called traffic.

Google’s Algorithm: A Moving Target

As time passed, Google accelerated its release of updates and changes to its search algorithm. Updates that used to occur just a few times a year now happen almost daily, with larger wholesale updates taking place about eight to 12 times a year. Google perpetually aims to enhance the quality of its search results, but equally important is its goal of preventing individuals from exploiting or “gaming” the algorithm.

The longer Google maintains a specific ranking algorithm, the more opportunities people have to study and learn strategies to achieve better results. By frequently altering their algorithm, Google creates a moving target, making it increasingly challenging to pinpoint the precise factors that influence their rankings. You may have observed this fluctuation on your own website as it moves up and down in the rankings with the release of different updates. Today it is more difficult than ever to manipulate the ranking of organic search results.

Google’s Shifting Landscape: Impact on Search Results and User Behavior

While Google retains its position as the dominant search engine, its share of the overall digital marketing space is diminishing. Legacy social media platforms like Facebook and X (formerly known as Twitter) are capturing users, while newer platforms such as TikTok continue to emerge. This decline in market share and heightened competition has had a direct impact on Google’s search results. Organic, unpaid results are being relegated and pushed further down the page to make room for an increasing number of paid results.

Today, if a user searches for “Manchester Attorney,” the first thing they encounter is a recent addition known as “Google Screened” attorneys. This feature highlights a few different attorneys and provides the option to call them from a computer or phone. This advertisement covers nearly three-quarters of the initial search results page. To put that into perspective, a “page” is considered everything that you can see without having to scroll down. Scrolling down to the point where only new information is displayed would be considered the second page. The number of pages will vary on a phone compared to a computer because of the difference in screen sizes.

After encountering the Google Screened attorneys, users come across a feature called “Businesses,” which displays three to four attorneys on a map. The first listing next to the map is often a paid advertisement. This map utilizes the searcher’s geographical location to present attorneys situated nearby. The ad occupies another three-quarters of a page. With the Google Screened attorneys and the subsequent “Businesses” feature, users find themselves having scrolled down one and a half pages on a computer and

several more on a phone.

At this point, users may encounter the first few organic results. However, another new feature often appears, known as “People Also Ask,” which includes a list of several common questions that individuals searching for a “Manchester Attorney” might also ask. This feature occupies another half of a page.

At this point, users typically encounter the next four to five organic results. After navigating through the various features and listings, users have now scrolled down about three to four pages. The further down the page users must scroll, the less likely they are to click a result. For instance, while the first result is clicked on 40 percent of the time, the ninth result only receives a click about 1.5 percent of the time. It’s evident that the combination of shrinking market share and the necessity to generate more revenue has relegated organic, non-paid search results to a much lower position. This often leaves many websites in an arrangement where they must pay Google if they want to be seen.

Google’s Changes: What Does This Mean for You?

Don’t give up on Google, but understand that obtaining organic, unpaid visitors from their search results is becoming increasingly difficult. This might require diversifying into social media or other areas. Consider exploring traditional marketing avenues like newspapers or periodicals. The cost of traditional marketing has dropped substantially in this digital age. It might be worth taking another look.

Maintaining a professional web presence remains crucial even if you’re not acquiring many new clients from Google. Users often search for a specific firm after receiving a personal referral. Clients will familiarize themselves with your firm, review your credentials and experience, and may perceive your website as a reflection of your practice.

Remember that at one point, Google Search was considered the only reasonable place to invest marketing dollars. However, various social media platforms can be an excellent fit for specific practice areas. As things evolve, new opportunities will continue to emerge. ♦

Ian Reardon is a member of Schoff & Reardon, PLLC, in Portsmouth. He has a degree in computer science and a background in software engineering.

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Fake News in Court: Attorney Sanctioned for Citing Fictitious Case Law Generated by AI

By Michael Delaney and Katherine Fiallo



Delaney



Fiallo

What’s in your pleading? Do you know if your colleagues are using artificial intelligence (AI)?

In *Smith v. Farwell*, the trial judge had a problem. When reviewing the plaintiff’s opposition to a motion to dismiss, the judge could not locate the cases cited by plaintiff’s counsel addressing the elements of a wrongful death action. The judge scheduled a hearing looking for an explanation, but the plaintiff’s counsel had none to give. So, the judge sent him off to figure it out. Plaintiff’s counsel then penned a letter to the court acknowledging that his opposition “inadvertently” included citations to multiple cases that “do not exist in reality.” *Smith v. Farwell*, No. 2282CV01197 (Norfolk, SS. Mass. Superior Court February 12, 2024) at 5.

Not surprisingly, the judge convened another hearing. It turned out that three opposition pleadings that had been filed by the plaintiff included fictitious case cites to federal and state case law. *Id.* at 6. Plaintiff’s counsel explained that one associate attorney in his office, as well as two recent law school graduates who had not yet passed the bar, relied on an unidentified AI system “to locat[e] relevant legal authorities to support our argument[s].” *Id.*

Even for the real cases cited, the judge could not determine if other mistakes, including typographical errors and inaccurate quotations that do not stand for the propositions stated, were caused by AI or human error. Either way, the judge found that those mistakes weakened the plaintiff’s legal arguments and undermined counsel’s credibility. *Id.* At 6, fn. 10.

At the sanctions hearing, the plaintiff’s counsel acknowledged that he was unaware of AI systems, and he did not know that AI systems can generate false or misleading information. But he did ac-

knowledge signing the pleading, which he reviewed only for “style, grammar, and flow, but not for accuracy of the case citations.” *Id.* at 6.

The court emphasized the seriousness of submitting incorrect and false statements to the court, and imposed a fine as a sanction. While the court acknowledged plaintiff’s counsel’s lack of familiarity with AI systems as a reason for constraining the imposed sanction, more widespread adoption of AI across the legal profession may reduce the tenability of that defense in other cases.

The court cautioned the Bar about the serious ethical risks posed by the use of AI, and it found that each practitioner has an ethical duty “to know whether AI technology is being used in the preparation of court papers that they plan to file in their cases, and if it is, to ensure that appropriate steps are being taken to verify the truthfulness and accuracy of any AI-generated content before papers are submitted.” *Id.* at 15.

While AI technology is new, our professional conduct obligations are not. Attorneys are required to show candor to the tribunal and to provide adequate supervision to their subordinates, including junior attorneys, law students, and support and administrative staff. N.H. R. Prof. Conduct 3.3; N.H. R. Prof. Conduct 5.1, 5.2, 5.3.

One of the key points in *Farwell* is that the oppositions in question were drafted by “two recent law school graduates who had not yet passed the bar and one associate attorney.” *Farwell*, at 6. Plaintiff’s counsel had not reviewed the oppositions for the accuracy of the case citations, and in fact, did not know that the associate had utilized an AI system and could not identify *which* system had been used. While plaintiff’s counsel said he trusted the associate’s work product, he did not supervise either the associate or the law school graduates.

The fact that AI can generate false information, including inaccurate case summaries and nonexistent cases, is well-publicized. These erroneous outputs are called “hallucinations,” or – as coined by Kate Crawford, a professor at the University of Southern California at Annenberg and senior principal researcher at Microsoft Research – “hallucinations.” Pranshu Verma and Will Oremus, *ChatGPT invented a sexual harassment scandal and named a real law prof as*

the accused (April 5, 2023), [washingtonpost.com/technology/2023/04/05/chatgpt-lies/](https://www.washingtonpost.com/technology/2023/04/05/chatgpt-lies/).

Hallucinations can have profound consequences beyond the mere dissemination of false information. As ChatGPT and other generative AI technologies draw on existing information, outputs may reflect real people or business names but fake cases and scenarios. The court in *Farwell* highlighted this issue by pointing to two different instances where individuals were falsely accused of misconduct by AI.

In June 2023, an individual falsely accused of embezzlement in an erroneous case summary generated by ChatGPT sued OpenAI, the creator of ChatGPT, for libel. Mack DeGuerin, *OpenAI Sued for Libel After ChatGPT Accuses Man of Embezzlement* (June 7, 2023), [gizmodo.com/chatgpt-openai-libel-suit-hallucinate-mark-walters-ai-1850512647](https://www.gizmodo.com/chatgpt-openai-libel-suit-hallucinate-mark-walters-ai-1850512647). Attorneys and their clients may open themselves up to legal repercussions beyond court sanctions.

Generative AI undoubtedly has a lot of value to offer, both within the legal profession and outside of it, but only if it is used responsibly. One key issue is that there are few consistent norms about whether to cite information generated from AI chatbots, and if so, how to do it. The Bluebook has not yet issued guidance on how to cite outputs from generative AI sources, and many law schools, law reviews, and journals are left to develop

their own approaches and norms.

As technological developments progress at a rate that often surpasses the legal profession’s capacity to generate and disseminate guidance, attorneys should take care to familiarize themselves with new advances and weigh their use of new technologies against standing ethical and professional responsibility norms. States are slowly catching up to the AI boom though. The state bar associations in Florida and California have already disseminated working opinions on the use of AI, and other states like New York have created task forces to assess the role of AI in the legal profession. While the guidance develops, legal practitioners should remember that the first word in AI is artificial. ♦

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■ **BLODGETT** *from page 1*

enced significant turnover. So, we were very quickly unable to meet the need for court-appointed counsel in indigent defense cases. I worked closely with Justice Donovan and the task force at the Supreme Court to come up with strategies for addressing that backlog. We increased reimbursement rates for the attorneys taking the cases, and I recruited attorneys from out of state.”

Blodgett was also able to get authority to reimburse for travel time as the biggest challenge was getting attorneys to the more rural court locations. In addition, she worked with the Public Defender to put together training programs for attorneys who were new to court-appointed cases.

“Sarah creatively, intelligently, and with purpose – both within the constituencies and with the legislature – worked to get more money for the indigent defense council program, which was under considerable stress during that time,” says NHBA President Paul Chant. “And she worked to increase the reimbursement rates for private lawyers that did that work. The money that was generated was seen as a helper to allow the Public Defender to be able to hire additional folks to meet the burdens that were going on at that time. It was a real home run for the judicial system.”

Blodgett serves on the New Hampshire Bar Foundation Board of Directors and is a Bar Foundation Fellow. She has also taught legal writing at the University of New Hampshire Franklin Pierce School of Law.

“That was really enjoyable and I’m happy to report that I tried to do some

recruiting for the court-appointed case work while I was there,” she says. “So, hopefully some recent law school grads will be willing to take those cases on.”

In 2022, she joined the New Hampshire Judicial Branch as a circuit court administrator supervising circuit court clerks around the state. She has also been working closely with the Concord Probate Court and the Electronic Estates Filing Center on a lean project to streamline processes – a feat that she says has been “challenging and rewarding.”

“Sarah was doing a fabulous job assisting Judge David King in the operation of the circuit court and has done a terrific job overseeing the new wellness committee that we initiated this year,” says Chant, who appointed Blodgett as the chair of the NHBA’s new Special Committee on Attorney Wellness in 2024. “I think she understands implicitly that coming in to succeed George Moore is an unenviable task. In the first instance, her goals will be to make sure that she develops strong relationships with the staff at the Bar Association, as well as strong relationships with the court system. I have every confidence that she will be more than able at both those tasks.”

After Moore announced his intention to step down in early-to-mid 2024, Chant convened a search committee tasked with identifying his successor. The committee, chaired by Immediate

Past President Jonathan Eck, assessed potential candidates and presented their recommendations to the NHBA Board of Governors for the ultimate selection.

“Sarah has deep knowledge and experience with the courts, particularly within our state courts,” Eck says. “She also has substantial and varied experience as a practitioner, having held several significant and important positions over the course of her career. Consequently, she has great knowledge and insight about the profession and the needs of our members and the entire judicial system. She also has strong relationships with many of the Bar’s key stakeholders.”

Eck continues: “Sarah is a thoughtful, calm, and experienced leader. She

“While he will be profoundly missed, I am excited to have someone with Sarah’s wealth of knowledge and experience as his successor.”

Vincent O’Brien, the new NHBA Director of Professional Development, echoes the sentiment.

“I am excited for Sarah to lead our team,” he says. “She is committed to looking toward the best future and building consensus. It’s a great fit for our short- and long-term future.”

Blodgett explains that one motivating factor behind her application for the position was her realization of the substantial opportunity to equip attorneys with the essential tools they need in their daily practice.

“When I was at the Judicial Council, I had the chance to sit on the Committee for Cooperation with the Courts for several years – that is also when I joined the Bar Foundation – and those experiences with the Bar were fantastic,” she says. “The people that I worked with were amazing. It’s very clear that we are at an incredibly challenging time in the legal profession for many reasons. Attorneys are struggling, whether it’s personal issues, work-life balance, or the uncertainty of AI. We also have attorneys living and work-

ing in a part of the state with significant attorney shortages. There are unique stressors facing attorneys in these areas. I see this job as an opportunity to advocate and support our attorneys during a time of significant change. We need to be creative and nimble in our approach to addressing all these issues.”

When prompted about her goals as executive director, Blodgett emphasizes her intention to start by identifying specific areas where Bar members require support.

“I would like to focus on understanding what newer members of the Bar need and want from their Bar Association while figuring out what is still meaningful to our more experienced members, and what makes sense to scale back on or perhaps stop doing so we can focus on other areas,” she says. “I’d like to talk with solo and small-firm attorneys to find out how we can best support them. One of the benefits of our profession is that it’s not just a 9 to 5 job. We have a commitment to something greater than an individual case or client. I want to help connect New Hampshire attorneys to that sense of a bigger purpose.” ♦

“Sarah is a thoughtful, calm, and experienced leader. She has the right temperament and expertise for this position. She will build on George’s good work, and she will guide the Bar as it undertakes future initiatives. She is well positioned and well suited to be an exceptional leader for the Bar Association.”
– Jonathan Eck

has the right temperament and expertise for this position. She will build on George’s good work, and she will guide the Bar as it undertakes future initiatives. She is well positioned and well suited to be an exceptional leader for the Bar Association.”

At the 2023 Midyear Meeting, Blodgett received the Distinguished Service to the Public Award, remarking it was an honor to be recognized for her efforts to secure counsel for indigent defendants.

“Sarah has a great reputation in the state, and she has proven herself in many facets in a leadership role,” says NHBA Deputy Executive Director Paula Lewis. “I’m looking forward to her bringing that experience to the Bar Association, and I’m looking forward to working closely with her in my capacity as the deputy executive director.”

NHBA Director of Marketing, Communications, and Member Outreach Caitlin Dow says she eagerly anticipates having Blodgett at the helm.

“I have been fortunate to benefit from George’s steady leadership since joining the Bar Association,” she says.



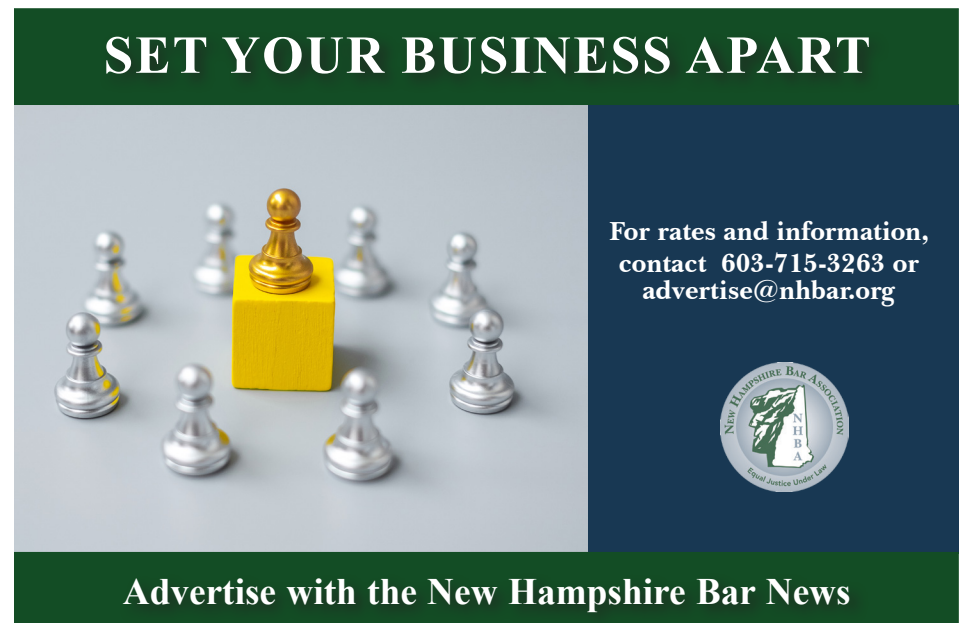
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■ DOUGLAS from page 1

government. He went straight to Boston University School of Law, where he graduated with honors, then spent two years with the Manchester-based McLane Middleton law firm, focusing on litigation.

Douglas then formed a partnership with the late Harold Perkins before becoming legal and legislative counsel to former Governor Meldrim Thomson, Jr., the controversial three-term Republican known for his conservatism.

“He was not always the easiest person, but we clicked,” Douglas says, recalling how he would seek to dissuade Thomson from things like allowing an aide to research the tax records of political opponents. “I would often have to tell him, ‘You can’t do that.’”

Douglas then served as an associate justice on the New Hampshire Superior Court for two years, before being appointed to the New Hampshire Supreme Court – at the age of 35 – where he served for eight years before going back into private practice.

MacDonald says Douglas’s opinions on the Supreme Court “are marked by their clarity and crispness and ease of access for the reader.”

One Supreme Court case of which Douglas is especially proud is *State v. Ball*, “Making it clear that cases can be decided under the state constitution as well as the federal,” Douglas explains.

MacDonald agrees that, through that decision, “New Hampshire took its place in the forefront of states in recognizing that our state constitution is a separate and very important protector and guarantor of our liberties.”

A term as Republican representative to the 101st Congress followed Douglas’s Supreme Court tenure, after he was elected in the state’s Second District in 1988. Serving on the House Judiciary Committee, he was a strong supporter of the balanced budget constitutional amendment and takes particular gratification in his role forcing a vote on the amendment



Chuck Douglas shows off his karaoke skills. Courtesy Photo

despite the opposition of the committee chair and many other Democrats.

“That was quite an accomplishment,” he says.

Defeated in his bid for another term in 1991, he started his own practice, which evolved into his current firm, Douglas, Leonard & Garvey.

Among memorable cases he has tried is *Tracy Schneider v. Plymouth State College*, which went to the Supreme Court and established that colleges have a fi-



Chuck Douglas enjoys time at the Cracker Day Rodeo in the Lee County Posse Arena in Florida. Courtesy Photo

duciary duty to students to protect them from sexual assault by staff members.

“We won not only money for her but also the principle of law,” Douglas says.

In another case, he served as local counsel in a class action suit against Dartmouth College over professors sexually assaulting graduate students. It was resolved for \$14 million and was “the first Title IX class action suit that a federal court had certified,” he says.

He was legal counsel to the New Hampshire House of Representatives from 2014 to 2017 and more recently served as legal counsel to the Nikki Haley for President campaign in the state.

Douglas says he was proud to be asked by Governor Chris Sununu to chair his Judicial Selection Commission eight years ago. The nine-member group reviews the applications of those who wish to become judges, performs background checks, interviews the candidates, and makes recommendations to the governor.

“I think we’ve done an admirable job of trying to get folks who will commit to neutrality and the long hours it takes to be a judge,” Douglas says.

Douglas is also executive director of the state’s Judicial Retirement Plan, which handles paperwork and procedures for judges’ retirements.

He was a founding member of the Supreme Court Society and served on a commission established last year to reissue textbooks about civics and the state constitution, educating readers about their rights and responsibilities.

He received a Lifetime Achievement Award from the New Hampshire Association for Justice in 2014 and a Distinguished Service to the Profession Award from the New Hampshire Bar Association in 2017.

In addition, Douglas has written the *New Hampshire Evidence Manual*, used widely the state’s courts, a two-volume series on New Hampshire family law, and the book, *Philadelphia’s King of Little Italy: C.C.A. Baldi and His Brothers*, about his great grandfather in Pennsylvania.

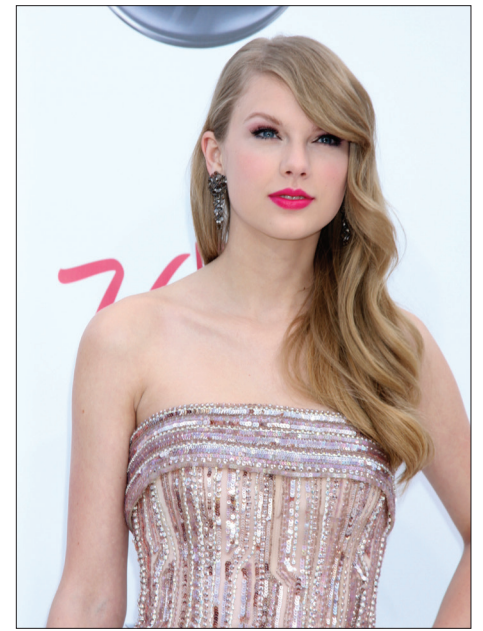
“It’s a rags-to-riches story,” Douglas says of the book. “He came over from Italy at 14 in 1876 with 40 cents in his pocket. He figured out free enterprise, started selling lemons off a pushcart, and eventually had a grocery store, a funeral home, a coal yard, and a bank, and published the daily Italian newspaper in Philadelphia. He later served on the Philadelphia School Board, the Board of Undertakers, and was a force in Pennsyl-

vania for many years.”

Douglas’s love of the written word extends to journalism, as he and his wife, Debra, are publishers of the *Bow Times*, with a circulation of about 5,000.

Douglas’s myriad interests and talents have won the admiration of friends like Steven Gordon, co-founder and partner of Shaheen & Gordon, who met Douglas nearly 50 years ago when Douglas was arguing a case in federal court and Gordon was a law clerk.

“I love Chuck,” Gordon says. “He is a true conservative and gave vitality to our state constitution. He is brave, fearless, charming, funny, and provocative. He also let me do my laundry at his



Chuck Douglas is first cousin to Taylor Swift’s father, a connection that would draw the envy of most Swifties. Photo from Vecteezy

house many years ago.”

Douglas is also proud of his military service, having spent 23 years in the New Hampshire Army National Guard, retiring as a colonel.

He is a frequent visitor to an American Legion Hall in southwest Florida, where he has a second home, and often participates in the Legion’s karaoke nights, singing his favorite country songs. He is partial to George Jones, Johnny Cash, and the late Toby Keith.

One of his favorite Keith songs to cover is “I Love This Bar,” though whether Douglas’s rendition refers to a particular tavern or the New Hampshire Bar remains unclear. ♦

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■ **IRS CASES** *from page 1*

ing the case in our case management system so that we can keep track of all the cases and make sure that no client is left behind.”

Having a representative in these cases is incredibly important, as issues involving missing stimulus payments can drag on for years due to a variety of reasons.

“It’s really disheartening when you realize how long people have to wait,” Heggie says.

Kate Miller, a 2L student in the course and an intern at the LITP says, “Barb is an incredible instructor, and she really has a wonderful approach to engaging with students and meeting us where we are. She genuinely loves what she does and that really shows through how she interacts with students, how she explains things, and the approach she has to working with her clients. It’s a great class. I look forward to it every time.”

Despite predominantly communicating with clients via mail, students have had the opportunity to meet them in prisons across the state. Trips to facilities like the Northern New Hampshire Correctional Facility in Berlin and the New Hampshire State Prison for Men in Concord not only facilitate client interaction but also provide students with firsthand insights into their clients’ circumstances.

“I think the main thing that we learn from working with our clients is that these people are just human beings,” Miller says. “It’s easy to think about taxes as just a numbers game. But everyone we work with is a sympathetic person with a complex life and complex opinions about complex topics. It’s been



Barbara Heggie (center) with two of her students, Katie Kimmath (left) and Kate Miller (right), visiting clients at the Northern New Hampshire Correctional Facility in Berlin. Courtesy Photo

really wonderful getting to know them individually while working with them.”

Beyond client representation, students engage in effective education and outreach initiatives, particularly for English as a Second Language (ESL) classes through organizations like the International Institute of New England.

“ESL tax education is a requirement of all Low-Income Taxpayer Clinics across the country,” Heggie says. “The idea is to make sure that everyone in

this country knows their basic rights and responsibilities under the US tax laws. This is something I’ve always enjoyed doing. I just love teaching anyway, and I love teaching a room full of people who are mostly refugees who are new to this country and seeing that they really want to learn. They want to know what they should do and they’re eager to make sure they do it right.”

During this segment of the course, students received firsthand experience

in teaching ESL classes, simplifying tax concepts for better comprehension.

“It taught me a lot,” Miller says. “We had to phrase our explanations and answers in the most clear and basic terms, which helped me understand a lot about our tax system. So, it was a win-win.”

Heggie says she is proud of her students, emphasizing the difficulties of taking on clients while in the middle of a semester of law school. Heggie has been involved in public interest work for most of her career, volunteering for a legal aid organization right out of law school and joining the LITP when it was a part of the NHBA’s Pro Bono Referral Program before the 603LA merger.

She had various roles in between and spent some time with her family but shares, “All along, I wanted to stay in public interest work because that’s what makes me feel good.”

Her dedication to helping others through her work has inspired her students, like Miller, to do the same.

“From working with Barb and from this course, I’ve cemented my love of pro bono legal work and my passion for using the law to help people as much as possible,” Miller says. “That was something that I was hoping I would have the opportunity to do when I came to law school. I didn’t know exactly what form it would take, or what practice area it would be in, but I feel like I’ve ended up somewhere stellar. I think this has definitely shown me the right path and I’m grateful for that.”

This collaborative effort between 603 LA and UNH Law not only empowers low-income individuals but also nurtures the next generation of advocates dedicated to serving their communities. ♦

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CONTINUING LEGAL EDUCATION GUIDE

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

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

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

WED, MAY 8 – 12:00 p.m. – 1:00 p.m.
Lawyering & Finding Emotional Health
• 60 NHCLE min.
• Live 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

FRI, MAY 10 – 12:00 p.m. – 2:00 p.m.
ChatGPT (and the Rest of AI) is Out to Get You!
w/Stuart Teicher
• 120 NHCLE ethics min.
• Live 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 15 – 9:00 a.m. – 4:15 p.m.
Basic Probate Administration
• 375 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.
• Concord – NHBA Seminar Room/Webcast

THU, MAY 23 – 3:00 p.m. – 4:30 p.m.
The Ethical Pitfalls of Fee Agreements
• 90 NHCLE 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

WED, JUN 5 – Time TBD
ADR/Mediation
• Credits TBD
• Concord – NHBA Seminar Room/Webcast

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

JULY 2024

THU, JUL 18 – 9:00 a.m. – 5:10 p.m.
6th Annual CLE by the Sea NE
Strategic Solutions for Solos & Small Law Firms
• Up to 375 NHCLE min.
• Salisbury Beach, MA - Blue Ocean Event Center

SEPTEMBER 2024

WED, SEP 18
Municipal Law 101
• Concord – NHBA Seminar Room/Webcast

OCTOBER 2024

WED, OCT 2
Solo & Small Firm Practice
• Concord – NHBA Seminar Room/Webcast

THU, OCT 17 – 9:00 a.m. – 4:30 p.m.
23rd Annual Labor & Employment Law Update
• 360 NHCLE min., incl. 60 ethics min.
• Concord – NHBA Seminar Room/Webcast

FRI, OCT 25 – 9:00 a.m. – 4:30 p.m.
23rd Annual Labor & Employment Law Update
• 360 NHCLE min., incl. 60 ethics min.
• Manchester – DoubleTree by Hilton

NOVEMBER 2024

FRI, NOV 8 – Time TBD
School Law
• Credits TBD
• Concord – NHBA Seminar Room/Webcast

DECEMBER 2024

WED, DEC 11 – 8:30 a.m. – 4:45 p.m.
Practical Skills for New Admittees – Day 1
• Concord – Grappone Conference Center

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

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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)

Lawyering & Finding Emotional Health

Wednesday, May 8
12:00 p.m. – 1:00 p.m.
60 NHCLE min.
Live Webcast

Join Jill O'Neill, Executive Director at the New Hampshire Lawyers Assistance Program, and Lisa Houle, LCMHC, MLADC, for this important wellness CLE program which will address aspects of the profession and legal workplace that may predispose practitioners to mental health and

substance misuse problems; discuss behaviors that make lawyers susceptible to mental health conditions and addiction issues, how to find emotional healing, and understanding the therapeutic process.

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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

Professor Stephen L. Sepinuck, Vanderbilt Law School, Nashville, TN

ChatGPT (and the the Rest of AI) is Out to Get You! w/Stuart Teicher

Friday, May 10

12:00 p.m. – 2:00 p.m.

120 NHCLE ethics min.
Live Webcast



AI is coming for lawyers, and Chat GPT is leading the way. Alexa isn't too far behind... and so are deep fakes. Join the "CLE Performer." Stuart Teicher, Esq., as he explores the never-ending problems with the hottest technologies out there.

Faculty

Stuart I. Teicher, The CLE Performer

Stuart I. Teicher, of Teicher Professional Growth, LLC in East Brunswick, NJ, is a professional legal educator who focuses on ethics law. A practicing attorney for 20 years, Stuart's career is now dedicated to helping fellow attorneys survive the practice of law and thrive in the profession. Mr. Teicher teaches seminars, provides in-house training to law firms and gives keynote speeches at conventions and association meetings. He also provides consultation and representation in attorney disciplinary matters.

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

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

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

Basic Probate Administration

Wednesday, May 15

9:00 a.m. – 4:30 p.m.

375 NHCLE min., incl. 45 ethics min.

NHBA Seminar Room/Live Webcast

Topics covered in this seminar will include: Initial Filing in Probate Court and Estate Timeline; The Law on Intestate Succession; Probate Property vs. Non-Probate Assets: Inventory and Appraisals; Tax Reporting and Post-Mortem Tax Matters; Ethics in the Probate Practice Area; Final Accounting and Closing of the Estate; Probate Disputes and Litigation; and more.

Faculty

Michael D. Hatem, Program Chair/CLE Committee Member, Forman Law Group, PA, Londonderry

Sarah S. Ambrogi, Devine, Millimet & Branch, PA, Manchester

Benjamin T. Siracusa Hillman, Shaheen & Gordon, PA, Concord

Rebecca E. Lamarre, Devine, Millimet & Branch, PA, Manchester

The Ethical Pitfalls of Fee Agreements

Thursday, May 23

3:00 p.m. – 4:30 p.m.

90 NHCLE ethics min.

NHBA Seminar Room/Live Webcast

This ethics CLE, sponsored by the LRS Committee, will provide an in-depth review of best practices in fee agreements for all areas of law including but not limited to flat fees, hourly fees, contingency fees. Bring your fee agreements along so you can see how you can improve on what you are using. Participants will leave with examples of ethical fee agreement provisions and best practices.

Join us afterward for a networking reception in the NHBA's new Member Center.

Faculty

Gary N. Apfel, Simpson & Mulligan, PLLC, Lebanon

Mark P. Cornell, NH Supreme Court Attorney Discipline Office, Concord

Katherine J. Morneau, Morneau Law, Nashua

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.

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

Elizabeth L. Diamond, US Department of Labor, Boston, MA

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

Matthew Saradjian, US Department of Labor, Boston, MA

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

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

Faculty

Hon. Mark E. Howard, Chief Justice, NH Superior Court

Stephanie K. Burnham, Ethics Committee Chair, Burnham Legal, PLLC, Manchester

Christopher D. Hawkins, Ethics Committee, 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

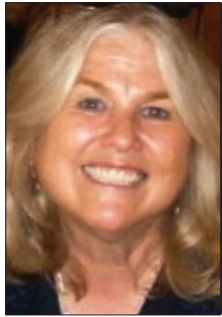
Richard Guerriero, Program Chair, Lothstein Guerriero, PLLC, Keene

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

Labor & Employment Law

What Happens When the NHCHR Fails to Meet Its Statute's 24-Month Case Processing Time?

By Nancy Richards-Stower and Debra Weiss Ford



Richards-Stower



Ford

This is the 23rd (!) *Bar News* “debate” over the last 18 years between employment lawyers Nancy Richards-Stower (employee advocate) and Debra Weiss Ford (employer advocate). Here, they discuss a case awaiting a certiorari decision by the New Hampshire Supreme Court, the Petition of Annalee Dolls, LLC (New Hampshire Commission for Human Rights) No. 2023-0319.

Nancy: Deb, do you remember the Johnny Carson character, Carnac the Magnificent, the great seer, soothsayer, and sage?



Deb: For the youngsters (which is everyone but us), Johnny Carson was a legendary comedian, and host of *The Tonight Show* before Jay Leno, Conan O’Brien, and Jimmy Fallon. And, for oldsters (like us), after Jack Paar. So, Nance, what about Carnac?

Nancy: Carnac foretold the future, and now we are asked to. We were supposed to write about what the Supreme Court did with Annalee Dolls’ petition

for certiorari arising from litigation at the New Hampshire Commission for Human Rights. Our print deadline is here but the cert decision isn’t. Even if certiorari is granted, a decision on the merits is many months away.

Deb: Annalee Dolls, LLC, asks the New Hampshire Supreme Court to exercise its discretion and grant certiorari to hear its appeal from a Human Rights Commission order denying Annalee’s Motion to Close a discrimination/retaliation case brought against it by employee Jackie Verrill. Annalee filed this Motion to Close only after the Commission issued a probable cause (PC) determination in favor of the employee. The issue: the PC was issued more than two years after the case was filed, despite RSA 354-A:21, IV:

In administering this section, the commission shall be exempt from the provisions of RSA 541-A:29, II, *but shall close each case or commence adjudicative proceedings on such case under RSA 354-A:21 within 24 months after the filing date of the complaint.* (Emphasis added)

Annalee argues that the 24 months is a jurisdictional issue (which gets messy, because the PC covered different filing dates arising from amendments).

Nancy: My first reaction: Some nerve! Annalee Dolls sat on its “24-month jurisdictional shut down argument” for two years! The case was filed in 2019. The motion could have been filed in 2021 but Annalee waited for the PC determination before griping about jurisdiction in March 2023. Thoughts of waiver dance around questions of laches and all things equitable. Regarding precedent, other agencies’ missed-closure deadline cases turned on whether an agency’s statute specified consequences for missing a time limit, and/or whether anyone was prejudiced by the delay.

Deb: I don’t think it is an untimely argument. There was no requirement to file it in 2021. And, just prior to its petition for certiorari, Annalee filed motions for reconsideration and rehearing at the Human Rights Commission (both now stayed) and appealed the PC ruling

to Belknap Superior court (now stayed). Annalee argues that its post-PC administrative, superior court, and supreme court filings all were required because the appellate routes are unclear, and it needed to protect its position.

Nancy: Hm. I listened to the Supreme Court oral arguments. That a jury trial option exists for complainants who remove the case from the Commission to court within three years of the discriminatory act was repeatedly referenced by a justice at oral argument. This an apparent “yang” to the “yin” of the obvious injustice the court would create by slamming a case closed during its investigation, immediately upon the clock striking 24 months.

Yet another “yang” was the court’s assumption in the form of questions (oddly, without any pushback by any of the counsel) that a case closure on state claims, coming even after the three-year statute of limitations had passed for the employee to exercise her jury trial option, didn’t totally shaft the victims of discrimination, because “they would still have their federal claims.” That is not true for most of New Hampshire’s small business employees. Why? State law kicks in at six employees, but federal law requires at least 15 (for Title VII and the ADA), and for ADEA cases, 20. So, “that dog don’t hunt.”

News Flash: Federal court is no option for a pro se complainant, nor for a represented plaintiff without an attorney willing to risk \$150,000 plus in attorney fees, along with thousands of dollars of ESI consultant costs. Court dockets are public and live forever on the internet. Plaintiffs who litigate brand themselves forever to future employers.

Real Life-Check: The only folks shafted by a 24-month jurisdictional case closure ruling are employees seeking their statutory rights to cost-free, confidential investigations by the Commission, which investigations expose discriminatory practices, protect current employees from retaliation, and simultaneously guide employers to confront – and change – discriminatory practices. Also, the Commission’s very successful free mediation program resolves disputes.

Deb: I of course don’t agree with that but, I do agree that both employees and employers suffer when Commission investigations languish. Prompt, thorough investigations would benefit everyone. It becomes a formidable issue when investigations are delayed. Employee witnesses may move on to other employment and memories may become hazy.

Nancy: I hope the Supreme Court denies certiorari to let the Superior Court get first crack at gathering the record and tweaking the scholarship. But whatever court hears the 24-month closure issue, it should be guided and inspired by the Commission’s construction clause:

The provisions of this chapter shall

DEBATE *continued on page 29*

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Wearing ‘Black Lives Matter’ Symbol on Company Uniform May be Protected Speech in the Workplace

By Margaret O’Brien

On February 21, 2024, the National Labor Relations Board (NLRB) ruled in *Home Depot USA, Inc. v. Morales*, that Home Depot violated the National Labor Relations Act (NLRA) when it required an employee to remove a plainly visible Black Lives Matter (BLM) symbol from the orange apron the employee wore in the workplace when greeting customers. In issuing its decision, the NLRB noted that the action of the employee, in handwriting BLM on the company’s apron, was a “logical outgrowth or continuation of prior or ongoing protected activity” occurring in the workplace under the NLRA. The protections of the NLRA apply to both union and non-union workplaces, even though many employers incorrectly assume that the NLRA is solely a union-workplace law.



discriminatory conduct in the workplace. The co-worker was reprimanded but not terminated. Thereafter, the employees observed that various Black History Month displays in the workplace were being repeatedly vandalized. Mr. Morales requested a storewide discussion on racism, and as a result, Mr. Morales was invited to a meeting with management.

During this meeting, a manager noted that Mr. Morales had written the initials “BLM” on the store’s apron. The store management directed Mr. Morales to remove the insignia, but Mr. Morales refused noting that the display was in

support of employees of color, given the ongoing occurrences of racial discrimination in the store.

The store would not yield on its position, noting its dress code policy that prohibits “displaying [on an apron] causes or political messages unrelated to workplace matters.” The store instructed Mr. Morales not to return to the retail floor until the BLM symbol had been removed from the apron. Mr. Morales refused to follow management’s directive and resigned from employment.

Thereafter, Mr. Morales filed a complaint with the NLRB claiming that the

company had unlawfully interfered with Mr. Morales’ right under Section 7 of the NLRA to engage in “protected concerted activity” in the workplace.

Protected Concerted Activity and the NLRB’s Finding

Section 7 of the NLRA protects employees’ right to engage in concerted (or group) activities for the purpose of “mutual aid or protection” in the workplace. For employee activity to be protected under this Section, there must be present (1) conduct by individual employees seeking to initiate or prepare other employees for group action, or alternatively, conduct by a single employee bringing “truly group complaints” to the attention of management; and (2) the employee(s) must be seeking to improve the terms and conditions of employment or “otherwise improving their lot as employees.”

The NLRB has previously held that, in general, to be concerted, activity must be engaged in “with or on the authority of other employees, and not solely by and on behalf of the employee himself.”

In this case, the NLRB found that Mr. Morales’ refusal to remove the BLM symbol was “protected concerted activity” under the NLRA because the display of the symbol related to prior employee protests of racial discrimination occurring within

SYMBOL *continued on page 30*

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Severance Agreements One Year After *McLaren*

By Beth Deragon and Kathleen Davidson



Deragon



Davidson



Most employment attorneys are aware of the National Labor Relations Board (NLRB) *McLaren Macomb* decision from last year which reaffirmed the precedent that employers may not offer employees severance agreements that require employees to broadly waive their rights under the NLRA. *McLaren Macomb*, 372 NLRB No. 58, (February 21, 2023). The decision left many questions and gray areas.

In response, on March 22, 2023, the NLRB's general counsel issued a memorandum entitled, "Guidance in Response to Inquiries about the McLaren Macomb Decision" (the NLRB Memorandum). While this memo certainly provided more guidance than the decision, it still left a lot of unanswered questions regarding what exactly is and is not allowed. For more information on the de-

cision and memorandum, see attorney Alexander E. Najjar's article in the April 19, 2023 issue of the *New Hampshire Bar News*.

We all waited in anticipation to see what the various members of the employment bar would do in response. Here is what we have seen:

- Many proposed severance agreements now contain disclaimers that nothing therein is intended to limit the employee's Section 7 Rights under the NLRA. From the employer side, that's an attempt to get the broadest confidentiality and anti-disparagement clauses possible, while still attempting to follow the law. From the em-

ployee side, however, most employees will have absolutely no idea what this means. Even if the employer adds language such as "concerted activity" that is still not "plain English." Since the NLRB recommended that employers go back and notify former employees that prior confidentiality and non-disparagement agreements were no longer enforceable, it is unlikely that the NLRB would consider such a disclaimer sufficient. However, this seems to be the most common edit.

- Other employers have edited their anti-disparagement clauses to match the standard for defamation. While this is likely sufficient to meet the NLRB's

goal, should the paragraph now be titled anti-defamation instead of anti-disparagement? We have not yet seen an employer rename that paragraph. Anti-defamation, however, does not protect an employer from an employee bad mouthing them to customers and causing a loss of business. Would complaining about employment practices to customers instead of coworkers count as concerted activity here? Yet another gray area.

- On the confidentiality section, some employers have edited their agreements to say that the employee is just expected to keep the *amount* of their severance confidential. Such a confidentiality provision appears to be in line with the NLRB's memorandum. As a general practice tip, unrelated to the NLRB, employers may consider adding mortgage brokers into the list of excepted professionals. With today's high interest rates, many employees will be refinancing mortgages in the future and may have to source income over the last two to five years.
- Some employers have made no changes at all to their severances agreements and are refusing to make any even when employees push back. Those employers claim that the NLRB has "no teeth" and they are not at risk

AGREEMENTS *continued on page 29*

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Clarifying the Undue Hardship Standard in Response to Requests for Reasonable Accommodation

By Karen A. Whitley

A post-pandemic tug of war is playing out between employers calling workers back to the office and employees who want to work from home. Among other reasons, employers focus on the importance of in-person collaboration, mentoring, and performance monitoring. On the other hand, employees who worked successfully from home during the pandemic may want to continue, particularly if remote work would be a reasonable accommodation of a disability under the Americans with Disabilities Act (ADA) or a religious need under Title VII of the Civil Rights Act.



the employer automatically have to grant telework as a reasonable accommodation to every employee with a disability who requests to continue this arrangement as an ADA/Rehabilitation Act accommodation?

[A.] No.... The fact that an employer temporarily excused performance of one or more essential functions when it closed the workplace and enabled employees to telework for the purpose of protecting their safety from COVID-19, or otherwise chose to permit telework, does not mean that the employer permanently changed a job's essential functions, that telework is always a feasible accommodation, or

that it does not pose an undue hardship. These are fact-specific determinations. The employer has no obligation under the ADA to refrain from restoring all of an employee's essential duties at such time as it chooses to restore the prior work arrangement, and then evaluating any requests for continued or new accommodations under the usual ADA rules.... (Emphasis added).

As a result, if an employee asks for an accommodation after the pandemic, the employer need not automatically agree. Instead, the employer should follow the usual interactive process, evaluating whether in-person work is an essential job function,

and whether the accommodation is reasonable. Even so, the employer can object if the employee's requested accommodation would be an undue hardship. One wrinkle is that courts have interpreted "undue hardship" differently under the ADA and Title VII.

In the past, an employer could prove that it would be an undue hardship to grant a religious accommodation under Title VII merely by showing that the employer was being asked to "bear more than a de minimis cost." But under the ADA, showing that a disability accommodation would be an undue hardship requires proof of a "significant difficulty or expense." This could encompass meaningful financial costs, as well as changes that "are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operation of the business."

On June 29, 2023, the US Supreme Court clarified the employer's burden of proof in response to a religious accommodation request. In *Groff v. DeJoy*, a postal worker refused to work on Sundays for religious reasons. 600 U.S. 447 (2023). During busy seasons, his co-workers and supervisors would make his deliveries. After being disciplined, the employee resigned and sued under Title VII. The US Postal Service argued that the employee's absence on Sundays was an undue hardship, and the lower court agreed that the Post Office met the "low standard" because the employee's

STANDARD *continued on page 30*

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Participation of Personal Counsel in Internal Investigations: Practical and Ethical Considerations

By Julie A. Moore and Michael J. Rossi



Moore



Rossi



Consider this: CEO Monica Jonesy is accused of sexual harassment and retaliation. She's scared. She's mad. She believes the charges are false and leveled in bad faith. She believes the complaining party is just disgruntled because he was passed over for a promotion and is going on the offensive for job security. Does the company need to investigate the matter? The answer is an unequivocal yes.

The matter is elevated to the Board, and the chair of the Board contacts the company's regular outside employment counsel. He advises that he cannot conduct the investigation because he will be acting as an advocate and representing the company in navigating this process and in litigation if that happens down the road. He advises instead that the company retain a third-party attorney investigator to conduct the investigation.

The independent investigator com-

mences the investigation. After interviewing the complaining party, the investigator contacts the CEO to set up an interview. The investigator then receives an email from an attorney representing the CEO asking (or demanding) to attend the interview. How should the investigator respond?

This scenario arises frequently in internal investigations. Oftentimes, the company's employment counsel (or in-house counsel) will take the position that the CEO's personal attorney should not attend the interview, as the investigation is an internal matter, and the company does not allow outside attorneys to participate in the process. The company's counsel

may also emphasize that the investigator is engaging in a factfinding process, not acting as an advocate, and thus that an internal investigation is different in nature than litigation.

However, there are a number of practical and ethical reasons why the investigator might push back and support the CEO's request to allow her attorney to attend the interview.

Investigations can be intimidating. The responding party's livelihood and reputation often are at stake. From the investigator's standpoint, it is important to ensure that interviewees are as comfortable as possible and have a full and fair opportunity to respond to questions and

evidence presented. Having an attorney present to offer support to the responding party can help to achieve that goal.

At times, an attorney representing a respondent can be obstreperous or controlling, which makes it harder for the investigator to do his or her job. For that reason, ground rules should be established at the outset. An interview is not a deposition, and there are no "objections" for the record. The attorney should not interfere with the interview process in any way. The attorney can observe and take notes but should not be a mouthpiece for the respondent. Breaks should be permitted to allow the attorney and respondent to confer as needed.

Drawing on the example above, allowing the CEO's attorney to attend the interview might actually be beneficial to the company and to the investigative process. The attorney may be able to prompt the CEO to clarify or expand on something that she said. The attorney can help to ensure that the CEO is prepared so she can thoroughly respond to each claim and can help with gathering text messages, emails, documents, and other evidence in the CEO's defense.

There are ethical issues to consider as well. Rule 4.2 of the New Hampshire Rules of Professional Conduct provides that "[i]n representing a client, a lawyer shall not communicate about the subject of the representation with a person

COUNSEL *continued on page 30*

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Inference Drawing and Summary Judgment in Employment Cases

By Jon Meyer

In the world of employment law, there is nothing more time consuming, and arguably more time wasting (except for ESI), than summary judgment litigation which has become an almost routine predicate to trial or settlement in even the most fact intensive of cases. These proceedings challenge trial courts to navigate through thickets of factual allegations without invading the province of the jury as the ultimate finder of fact. Beyond of the issue of what facts, if any, are in dispute, is the much-contested issue of inference, and how much or how little can be inferred from the facts asserted.

The leading case on inference in the employment context is *Reeves v. Sanderson Plumbing Products, Inc.*, 509 US 133 (2000), in which the Supreme Court reversed the appeals court grant of judgment as a matter of law to the employer defendant. In this age discrimination case, the plaintiff was fired for failure to keep accurate attendance records of the employees under his supervision. He contested the alleged inaccuracies or at least his responsibility for them. Following a jury verdict for the employee, the Fifth



Circuit held that although he had presented enough evidence to raise a fact issue as to whether the employer's rationale was pretextual, he had not shown enough evidence of actual discrimination to support the jury's verdict in his favor.

In reversing, the Court agreed that disproving the employer's rationale does not necessarily establish discrimination, but in a circumstantial case, "it is permissible for the trier of fact to infer the ultimate fact of discrimination from the falsity of the employer's explanation." *Id.* p. 147 (emphasis in the original). It noted that in "appropriate circumstances, the trier of fact can reasonably infer from the

falsity of the explanation that the employee is dissembling to cover up a discriminatory purpose." *Id.* And "once the employer's justification has been eliminated, discrimination may well be the most likely alternative explanation especially since the employer is in the best position to put forth the actual reasons for its decision." *Id.*

Reeves involved the *McDonnell Douglas Corp. v. Green*, 411 U.S. 792(1973), burden shifting procedure in which the employer has the burden to produce a non-discriminatory rationale for its adverse action. *Reeves* does not apply to those Title VII cases where the employee

argues mixed motive – that even if the defendant acted according to its asserted motive, that illegal discrimination was still a motivating factor, 42 U.S.C 2000E-5(g)(2)(B) – because disproving pretext is not an element of the plaintiff's case. *Bart v. Golub Corp.*, 2024 WL 1281069 (2d. Cir. 2/26/2024).

In determining whether disproving the employer rationale is sufficient to defeat summary judgment, the Court identified as pertinent factors the strength of the employee's prima facie case (to generally include how well the employee was performing in his or her position), the amount of proof the plaintiff has of the falsity of the employer's rationale, and the strength of other evidence supporting the employee's case. *Reeves* at pp. 148-9. In *Reeves*, the plaintiff had a wealth of other evidence including being told by his supervisor that he was "so old that he must have come over on the Mayflower." *Id.* p. 151. Thus, the Court upheld the jury verdict in *Reeves*' favor.

The question of inference arises, both regarding what individual facts can be inferred, and how much evidence in total is required in a circumstantial case to infer the presence of discrimination and defeat summary judgment. Although it is settled law that all reasonable inferences should be drawn in favor of the non-moving party, the dividing line between reasonable and unreasonable inferences is opaque.

INFERENCE *continued on page 32*

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Immigration and Employment for the Non-Immigration Lawyer

By Ron Abramson and Tayla George



Abramson



George



It is easy to think of “immigration” as an eternally unresolved issue that yields lots of yelling on cable news programs. Or as a political football which gets extra attention during presidential and congressional campaigns. Or maybe as an inter-cine border struggle which often appeals to the lowest common denominator.

As attorneys, though, it is important – often critically so – to identify whether and how a client’s or other party’s immigration status may impact the course of representation. Far from being substantively authoritative, this article seeks to touch on some of the ways immigration issues may affect employment matters.

Fundamentals of Immigration Law

At its core, United States immigration law applies to any individual who is

not a US citizen and who either is present in the US or wishes to come to the US, whether temporarily or permanently. Precisely defined, the term “immigrant” refers to Lawful Permanent Residents – i.e., green card holders – who may live and work in the US indefinitely (subject to certain conditions). All other non-citizens who come to the US legally are considered “nonimmigrants,” meaning that their stay is temporary.

Types of Non-Citizen Workers

While recent changes in the labor market have impacted every state, New Hampshire is seeing one of the most severe shortages, with only 28 available workers for every 100 open jobs. Busi-

nesses – large and small alike – are struggling not only to retain workers but also to draw in workers from other states. An often-overlooked solution to many businesses’ needs is non-citizen workers.

Non-Citizens with Work Authorization:

Even though a non-citizen may not be in the US on an employment-related visa, many are still eligible to work either incident to their immigration status – such as Lawful Permanent Residents and asylees – or because the government has issued them an Employment Authorization Document (EAD). In comparison, many people with pending immigration applications must obtain an EAD before being permitted to work.

Employment-Related Visas: Some businesses require additional staffing during certain times of the year. Temporary work visas may be an effective way to meet such a seasonal or “peak-load” need. These temporary employment visas are beneficial to many employers who need more support during specific periods, such as agricultural businesses during peak harvesting seasons, amusement parks/camps in the summer, and ski resorts in the winter.

Other businesses may require permanent year-round personnel, but for myriad possible reasons have been unable to find a qualified US worker. Many of these jobs require people with a highly specialized field of knowledge and a bachelor’s degree or higher (among other requirements) in fields such as engineering, information technology, teaching, etc. Pursuing a nonimmigrant worker visa such as an H-1B may be a viable option for such businesses. These nonimmigrants are authorized to remain in the US for a specified period – three years for H-1Bs while employed by a specific company.

Immigration in Employment Law

Workers’ Compensation: Among the first questions a lawyer should ask a prospective client is their place of birth. If the answer is anything other than within the US or one of its territories, then the immediate follow-up question must be,

IMMIGRATION *continued on page 32*



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■ DEBATE *from page 22*

be construed liberally for the accomplishment of the purposes thereof. (Emphasis added)

Deb: The purposes, found in RSA 354-A: 1 are for the Commission “to eliminate and prevent discrimination,” because it is “a matter of state concern” because:

“Discrimination not only threatens the rights and proper privileges of its inhabitants but menaces the institutions and foundation of a free democratic state and threatens the peace, order, health, safety and general welfare of the state and its inhabitants.” (Emphasis added)

The certiorari petition exposes the battle of the “shall” clauses: “*Shall close within 24 months after filing date*” versus the more inspirational “*shall be interpreted liberally for the accomplishment of its purposes.*” We shall see.

(To be continued.) ♦

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■ AGREEMENTS *from page 24*

of being fined. We do not recommend the approach of ignoring the NLRB because if a judge ends up in a position to reform a severance agreement, he or she is not likely to look fondly on an employer who willfully violated the law.

- Most employers have also been broadly ascribing “supervisor” status to employees to exempt them (in most circumstances) from the National Labor Relations Act (NLRA). Whether an employee actually is a supervisor or not extends beyond just their title so employee-side attorneys should gather more information to see if there is room for pushback.
- On the employee side, the argument is that the intent of the NLRB was clear. Employees should be able to complain about their former employers. Likewise, the NLRB memo watered down the decision some by allowing the amount of severance to remain confidential. Employees argue that if they are allowed to compare wages, they should be allowed to compare severances to know that they are receiving a fair amount.

When educating clients on settlements and severance agreements, it is also wise to make sure that their handbooks and general work rules do not unreasonably restrict concerted activity.

Most employers know that they can not overtly restrict such behavior, but employers do not always recognize when a rule, such as limiting what employees can say about the business on social media, can inadvertently violate the NLRA.

Shortly after the *McLaren Macomb* decision, on August 2, 2023, the NLRB adopted a new legal standard for evaluating employer work rules. Stericycle, Inc., 372 NLRB No. 113 (August 2, 2023). The new standard is an effort to weigh the competing interests of the employer in promulgating work rules that advance legitimate and substantial business interest but that does not chill employees from exercising their rights under the Act.

Under the new legal standard, NLRB’s general counsel must prove that a challenged workplace rule has a “reasonable tendency” to chill employees from exercising their rights under the Act.

“The Board will interpret the rule from the perspective of an employee who is subject to the rule and economically dependent on the employer, and who also contemplates engaging in protected concerted activity.” *Id.*

If the general counsel carries her burden, then the work rule is presumptively unlawful, but the employer then has the opportunity to rebut the presumption by proving that the work rule advances a legitimate and substantial business interest, and that the employer is unable to advance that interest with a more narrowly tailored rule. *Id.* “If the employer provides its defense, then the work rule will be found lawful to maintain.” *Id.*

While this new legal standard appears to effectuate a more balanced approach, employers who promulgate work policies that are narrowly tailored to its legitimate and substantial business interest are more likely to have a greater chance of prevailing.

While it is a year after *McLaren Macomb*, we are still left with many of the same questions we had when the decision and memo first came out. If you are still wondering what you and your clients are and are not allowed to do under the NLRA, you are in good company.

For more information on best practices, we recommend the New Hampshire Bar Association’s “Employment Law 101” CLE from March 6, 2024, specifically attorney Jo Anne Howlett’s presentation entitled “NLRA and NLRB Overview” and attorneys Katherine E. Hedges and Julie A. Moore’s presentation entitled “Settlement and Severance Agreements.” ♦

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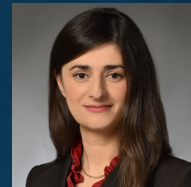
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■ SYMBOL *from page 23*

the store where Mr. Morales worked. Therefore, the display of the BLM symbol was a “logical outgrowth” of prior concerted activity by employees.

In addition, the NLRB found that the store had applied its “neutral” dress code policy in a way that interfered with Mr. Morales’ Section 7 rights by requiring Mr. Morales to remove the symbol. The NLRB rejected Home Depot’s argument that it simply sought to enforce its policy of displaying “controversial” messages by employees, out of concern that customers might take offense and potentially believe the statements were a corporate endorsement of the message.

In ruling against Home Depot’s po-

sition, the NLRB noted that the retailer had allowed employees to display similar examples of political speech on their aprons (e.g., LGBTQ Pride symbols) and that prior NLRB rulings rejected the right of employers to interfere with employee’s protected rights due to customer concerns.

As a result of its findings, the NLRB ordered Home Depot to, among other things, stop its unfair labor practices, offer Mr. Morales full reinstatement, and pay Mr. Morales for lost back wages.

Context Matters

This *Home Depot* decision does not mean that employees can wear political speech in a private workplace without any limits. Rather, the NLRB’s ruling

was expressly grounded in the specific finding that Morales’ speech was a “logical outgrowth” of prior protests occurring in the store regarding racial workplace discrimination. Absent this backdrop, Morales’ conduct may not have been protected under the NLRA. Therefore, Home Depot would have been within its rights to enforce its dress code.

During these next few months of intense political activity and debate, employers should carefully consider the potential application of the NLRA to any situation involving discipline for speech-related activity. Employers remain free to prohibit offensive or obscene communications in the workplace, and as noted by the NLRB in a footnote in the *Home Depot* decision, communications involv-

ing “product disparagement or profane messages critical of the employer.”

However, restrictions on political speech should be carefully considered in light of the facts at hand and an employer’s particular circumstances and business reasons for needing to restrict the speech. ♦

Margaret “Peg” O’Brien is a director and chair of McLane Middleton’s Employment Law Practice Group. She assists employers with legal compliance and risk management in all phases of the employment relationship, as well as defense of employers in matters pending before government agencies and courts. She can be reached at margaret.obrien@mclane.com.

■ STANDARD *from page 25*

refusal to work “imposed on his coworkers, disrupted the workplace and workflow, and diminished employee morale.”

The Supreme Court revisited the standard and held that a religious accommodation can pose an undue hardship “when [the] burden is substantial in the overall context of an employer’s business.” That analysis must consider “all relevant factors in the case at hand, including the particular accommodations at issue, and their practical impact in light of the nature, size, and operating cost of [an] employer.”

It is not enough to show that the accommodation imposes “more than a de minimis cost” or “very small or trifling” inconvenience, like temporary or administrative costs or voluntary or occasional

shift swapping. Imposing on co-workers would not be an undue hardship unless it also impacted the conduct of the company’s business. Although the Court declined to say that the undue hardship standard under Title VII should now be interpreted according to prior precedent under the ADA, the “undue hardship” standards appear to be more aligned.

Although there do not appear to be any published decisions in New Hampshire applying the new *DeJoy* standard, other courts in the First Circuit have confirmed that a religious accommodation’s “substantial” burden can include more than just financial costs. In *Isaac v. Executive Office of Health and Human Servs. et al.*, an unvaccinated employee’s presence at meetings would have been an undue hardship due to the risk to health and safety of people

who were vulnerable to COVID-19. And in *Adams v. Mass General Brigham Inc.*, the court said that proof of undue hardship can include direct economic costs, indirect costs related to health and safety, the impact on the ability of other employees to do their job, and damage to a hospital’s public image.

During the pandemic, requests for medical and religious reasonable accommodations increased. Some employers’ knee-jerk reaction was to say no, citing inconvenience, inefficiency, or unexpected costs. The *DeJoy* case and others are reminders that employers should carefully analyze each request, evaluate the actual impact on business operations, and, if appropriate, gather objective facts to prove that the effect would be “substantial.”

In addition to financial costs, employ-

ers can focus on non-economic damages, disruptions to business operations, and other specified risks to show that an undue hardship exists. Employers and employees should realize, though, that even if an undue hardship exists under the heightened standard, that is not the end of the back-and-forth; both must work to find an alternative that would reduce the employer’s burden to an acceptable level. ♦

Karen Whitley serves on Sheehan Phinney’s Management Committee as the ‘at-large’ member in Boston. She is also a member of the firm’s Labor & Employment and Litigation Practice Groups. Karen focuses her practice on management-side employment litigation and counseling, including discrimination, wage and hour, and restrictive covenant proceedings.

■ COUNSEL *from page 26*

the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.” In the context of an internal investigation, this rule generally requires a lawyer to refrain from interviewing a corporate employee who has retained his or her own counsel without first obtaining counsel’s consent.

Rule 4.2 does not provide an employee with a *right* to counsel in an internal investigation or in any other context, but it does govern how an attorney must interact with a person who is represented.

A company’s perceived right to require one of its employees to cooperate in an investigation does not alter the attorney-investigator’s ethical obligations.

Attorneys retained to conduct a workplace investigation must also be mindful that, though they may see themselves as “independent” because of their role as a neutral factfinder, the company nonetheless is their client for the purposes of the investigation. See N.H. Rule Prof. Conduct 1.13(a) (“[a] lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents”).

To maintain compliance with this rule during an investigation, an investigator

should make clear to an interviewee that he or she is retained by and has an attorney-client relationship with the company, and not the interviewee, whenever the company’s interests are adverse, or could be adverse, to the interviewee.

Comment 10 to the rule adds that, under these same circumstances, the lawyer should advise that such person may wish to obtain independent representation. Such a situation may arise, for example, where an investigator is interviewing an employee who alleges that the company was aware of the alleged misconduct but failed to do anything about it.

Attorneys are urged to be mindful that refusing to allow an employee’s at-

torney to participate in an investigatory interview could have unwanted practical and ethical consequences for both the company and the investigator. ♦

Julie A. Moore is the president and founder of Employment Practices Group in Wellesley, Massachusetts. She specializes in conducting workplace investigations.

Michael J. Rossi is a partner at Conn, Kavanaugh, Rosenthal, Peisch & Ford in Boston, Massachusetts. He defends attorneys and other professionals in malpractice cases and advises lawyers and law firms on ethics issues.

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■ INFERENCE *from page 27*

Black's Law Dictionary defines “inference” as “a process of reasoning by which a factor or proposition sought to be established is deduced as a logical consequence from other facts....” But in employment cases, inferences are less matters of logic than of making causal connections between conduct or statements and a state of mind. Assessing the strength of that connection almost inevitably involves an element of subjectivity.

On a motion for summary judgment, drawing inference is a one-way process in favor of the nonmoving party. The Court in *Reeves* declared that “the court must draw all reasonable inferences in favor of the nonmoving party, *Id.* p. 50 and it may not make credibility determinations or weigh the evidence.” *Id.* p. 150.

In *Kaytor v. Electric Boat Corp.*, 609 F. 3d 537, 545 (2d Cir. 2010), the court held that the principle of drawing all reasonable inferences in favor of the nonmoving party applied “even though contrary inferences might reasonably be drawn.” As the Court stated in *Reeves*, the trial court “must disregard all evidence favorable to the moving party that the jury is not required to believe.” *Reeves* at p. 151. Thus, testimony by the moving party must be evaluated for the existence of credibility concerns. If there is evidence from which a jury could infer that the affiant was not giving accurate or truthful testimony, a court cannot rely upon that testimony to grant summary judgment.

How these principles are applied

in the context of drawing, or not drawing, inferences is illustrated in two recent summary judgment decisions, one from the First Circuit and one from the Second. The First Circuit case, *Boykin v. Genzyme Therapeutic Products, LP* 93 F.4th 56(2024), is a claim of race discrimination brought by an African American manufacturing supervisor who resigned after he received a low performance evaluation requiring him to be placed on an improvement plan and rendering him ineligible for a salary increase and bonus. The plaintiff’s case was based on three principal claims:

1. His indirect manager lowered the evaluation rating that had been recommended by his direct manager;
2. That indirect manager had made a comment when the plaintiff was mopping up ice melt that “we finally have a job he can handle;” and
3. That when his direct manager informed the plaintiff of his low rating, he told him that the indirect manager believed that he was “making too much money.”

The plaintiff argued that since his indirect manager had no knowledge of his job performance, the only reason he would have lowered his evaluation was based on race discrimination as illustrated by the two comments. The First Circuit responded that this “argument might be a possibility, but it is not backed by the ‘definite, competent evidence,’ that we regularly require in order to stave off the swing of the summary judgment ax.”

In specific reference to the com-

ment about “making too much money,” which the plaintiff argued meant that he was making too much money for a Black manager, the court noted another possible meaning that his indirect supervisor believed that the plaintiff’s job performance did not justify his salary regardless of race. Regarding the comment about mopping up ice melt, it quoted its dictum (detested by employee advocates) that “isolated ambiguous remarks are insufficient, by themselves, to prove discriminatory intent.” *Paul v. Murphy*, 948 F 3rd, 42, 54 (1st Cir. 2020). Thus, instead of drawing inferences in the plaintiff’s favor, the court ruled that the conduct and comments were not sufficient to support a verdict and affirmed the trial court grand summary judgment.

The plaintiff employee fared better in the recent Second Circuit opinion, *Misty Blanchette Porter v. Dartmouth Hitchcock Medical Center*, 92 F. 4th 129 (2024), which extended an even 100 pages. This case involved a physician at DHMC who was allegedly laid off because of the closing of her department. She claimed that she was actually terminated because she had a disability which required her to take extended leave, and because she complained about the incompetence of two other physicians in her department.

On the issue of disability discrimination, the plaintiff relied upon testimony that the decision maker said at a staff meeting that the plaintiff was being terminated because she was “on disability.” When asked by another administrator why she had not been retained, he responded by email that she was only working 20 percent of the time. The trial court performed mental gymnastics to avoid what had every hallmark of being direct evidence of disability discrimination. It suggested, among other explanations, that the very incriminating nature of these comments suggested that they were based on a misunderstanding or did not mean what they appeared to say. In short, it engaged in drawing inferences favoring the moving party, the opposite of the approach required by *Reeves*.

The appeals court reversed. It stated

that even “if there is evidence in the record that could make ‘other possible interpretations,’ more than mere speculation, the choice among them will be the responsibility of the jury, not the court.” *Op.* at p. 55. The fact that the trial court may believe that testimony presented by the non-moving party is too favorable to be believed (or self-serving) is not ground for disregarding it. The only evidence to be disregarded is “all evidence favorable to the moving party that the jury is not required to believe.” (emphasis added) (citation omitted). *Op.* p. 45.

The trial court also granted summary judgment on the plaintiff’s whistleblower claim on the ground that the decision maker was not aware of her complaints. The appeals court ruled that the trial court had erred in relying upon the affidavit of the decision maker regarding his alleged lack of knowledge. It noted contradictory evidence submitted by the plaintiff and ruled that an assessment of the witness’s credibility was for the jury to determine.

The contrast in outcome between the two cases is indicative that employees with direct evidence, even if subject to contrary inference, typically fare better than employees relying upon circumstantial evidence and inference, particularly when it cannot be demonstrated that the inferences cross the line between possibility and probability. But it is the rare employer which makes an open acknowledgment of discrimination.

As the court stated in *Porter*, “there will seldom be ‘eyewitness’ testimony to the employer’s mental processes... but statements or actions by decision-makers...that may be viewed as directly reflecting the alleged discriminatory attitude constitute the proverbial smoking gun.” *Op.* pp. 49-50 (emphasis in the original). Thus, inference drawing will continue, more often than not, to be critical for the employee to escape the “axe” of summary judgment. ♦

Jon Meyer is a partner of Backus, Meyer & Branch, LLP. He practices in employment, education, civil rights, and personal injury law.



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 “Summary Judgment in Federal Court”.

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■ IMMIGRATION *from page 28*

“What is your current immigration status?” If the answer is anything other than “US citizen,” then the lawyer should “bookmark” the issue to determine whether and how the client’s immigration status may impact their case.

With nonimmigrants and immigrants making up a significant portion of the population and workforce, it is unsurprising that these parties may get injured on the job. While an injured party’s immigration status may be relevant to how a workers’ compensation case proceeds, it is not an automatic barrier to relief. In New Hampshire, undocumented workers are permitted to receive most types of workers’ compensation.

In 2002, the United States Supreme Court held – in a five-to-four opinion, with Justice David Souter among the dissenters – that undocumented workers who faced otherwise impermissible retaliatory termination for having taken part in union-related activities were not entitled to back pay if those employees were not legally authorized to work in

the first place.

By contrast, in 2005, the New Hampshire Supreme Court held that an undocumented worker may recover lost earnings under a tort action if the employer “knew or should have known” of the employee’s status and imposed a constructive knowledge standard to deter contractors from being able to insulate themselves from liability by claiming ignorance of the workers’ status.

Conclusion/Takeaway

Employment attorneys need not become immigration experts, but to serve their clients comprehensively, it is important to be able to identify immigration issues during the course of representation and to refer those issues to someone who focuses on this hyper-technical ever-changing area of law. ♦

Tayla George and Ron Abramson are part of Shaheen & Gordon’s Immigration Practice Group, where they handle business/employment, family, individual, institutional, and humanitarian immigration cases.

NH Supreme Court Advisory Committee on Rules

INVITATION FOR PUBLIC COMMENT (AMENDED 3/19/24)

The New Hampshire Supreme Court Advisory Committee on Rules (Committee) is considering proposals to amend the following rules: (1) Supreme Court Rule 37(5)(a), *see* Appendix A; (2) Supreme Court Rule 37(20)(l), *see* Appendix B; (3) Supreme Court Rule 50(1)(A), *see* Appendix C; (4) Supreme Court Rule 53.1(B)(2), *see* Appendix D; (5) Supreme Court Rule 54(4), *see* Appendix E; and (6) Supreme Court Rule 55(4), *see* Appendix F.

Additional information concerning the proposals may be found on the Committee's webpage, which is available at: courts.nh.gov/resources/committees/advisory-committee-rules/committee-materials-docket-number. The Committee docket numbers associated with the proposed amendments are as follows:

- # 2023-016, Supreme Court Rule 37(5)(a);
- # 2023-018, Supreme Court Rule 37(20)(l);
- # 2023-017, Supreme Court Rule 50(1)(A);
- # 2023-015, Supreme Court Rule 53.1(B)(2);
- # 2024-001, Supreme Court Rule 54(4); and
- # 2024-002, Supreme Court Rule 55(4).

PUBLIC HEARING NOTICE

The New Hampshire Supreme Court Advisory Committee on Rules will hold a PUBLIC HEARING at 12:30 p.m. on Friday, June 14, 2024, at the Supreme Court Building on Charles Doe Drive in Concord, to receive the views of any member of the public, the bench, or the bar as the Committee considers whether to recommend that the Supreme Court adopt proposed amendments to several court rules.

Written comments on any of the proposed amendments must be submitted to the Secretary of the Committee on or before May 20, 2024.

Comments may be emailed to the Committee at: rulescomment@courts.state.nh.us. Comments may also be mailed or delivered to the Committee for receipt on or before May 20, 2024, at the following address:

NH Supreme Court
Advisory Committee on Rules
1 Charles Doe Drive
Concord, NH 03301

Time-limited oral comments may also be provided on any of the proposals at the public hearing on June 14, 2024.

ANY PERSON WHO WISHES TO ATTEND THE JUNE 14, 2024 PUBLIC HEARING REMOTELY SHOULD NOTIFY THE CLERK OF COURT AS FAR IN ADVANCE AS POSSIBLE SO THAT THE REQUIRED EQUIPMENT CAN BE AVAILABLE.

Any suggestions for rule amendments other than those set forth below may be submitted in writing to the Secretary of the Committee for consideration by the Committee in the future.

The amendments being considered by the Committee concern the following rules:

Comments on the proposals that the Committee is considering for possible recommendation to the Supreme Court may be submitted in writing to the secretary of the Committee by email, regular mail, or hand delivery, for receipt on or before May 20, 2024.

The email address is rulescomment@courts.state.nh.us. The mailing and physical address for comments submitted to the Committee is:

N.H. Supreme Court
Advisory Committee on Rules
1 Charles Doe Drive
Concord, NH 03301

Any suggestions for rules changes other than those set forth in this invitation for public comment may be submitted in writing to the secretary of the Committee for consideration by the Committee in the future.

New Hampshire Supreme Court
Advisory Committee on Rules
By Hon. Patrick E. Donovan, Chairperson
and Timothy A. Gudas, Secretary

March 18, 2024



New Hampshire Circuit Courts Launch E-Filing for Non-Emergency Involuntary Admission Cases

Circuit Courts in New Hampshire have launched e-filing for Involuntary (Non-Emergency) Admission - RSA 135-C cases (IN cases). A 135-C petition for Involuntary Admission (Non-Emergency) is filed in the Probate Division of Circuit Court when a person has been examined by a medical professional and found to be of such mental condition, as a result of mental illness, as to create a potentially serious likelihood of danger to themselves or others.

The petition includes a recommendation that the person (identified as the respondent in the case) be admitted on an involuntary basis to a designated receiving facility for psychiatric treatment. This admission can last for up to five years. A renewal petition may also be filed if there is a need for treatment beyond the initial five years. More resources about Involuntary Admission are available online at courts.nh.gov/our-courts/circuit-court/probate-division/involuntary-admission.

The advancement of e-filing for 135-C cases was made possible with federal funds from the American Rescue Plan Act to improve mental health-related court processes in New Hampshire. It presents an opportunity for those seeking assistance for patients to access an easy-to-use, remote method of filing a case. The e-filing process includes simplified forms, email notification, receipt of electronically filed

case documents from the court and other participants in the case, and additional resource links for those who need more information about these types of cases and the court process. In addition to these improvements, hearings and processing for each IN case are now centralized in Concord, with a dedicated case manager.

"These are some of the most difficult situations we see," says Circuit Court Administrative Judge David King. "Persons who are most vulnerable in our communities will benefit from greater access to justice through 24/7 filing capabilities, without having to wait for a courthouse to open in order to file critical paperwork."

The e-filing system will also streamline billing, receipt, review of medical reports, and other critical steps of the process.

To design the new system, the New Hampshire Judicial Branch engaged providers, attorneys, and those with lived experience. A cross-disciplinary team of court staff, judges, project managers, and technology professionals focused on simplifying the process and translating it to the e-filing platform. The Judicial Branch welcomes feedback as it continues to improve its technology to increase access to justice for all New Hampshire residents.

To learn more about e-filing in New Hampshire courts, visit courts.nh.gov/resources/electronic-services. ♦

I. 2023-018 Supreme Court Rule 37(20)(l)

(This proposed amendment addresses the duty of participants in attorney discipline system proceedings to maintain confidentiality.)

Proposed Action: Amend Supreme Court Rule 37(20)(l) as set forth in Appendix A.

II. 2024-002 Supreme Court Rule 55(4)


(This proposed amendment increases from \$250,000 to \$500,000 the maximum amount of aggregate reimbursement from the Public Protection Fund with respect to payable claims against any one attorney.)

Proposed Action: Amend Supreme Court Rule 55(4) as set forth in Appendix B.

New Hampshire Supreme Court
Advisory Committee on Rules
By Hon. Patrick E. Donovan, Chairperson
and Timothy A. Gudas, Secretary
March 19, 2024

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March 2024

Civil

Jonathan Stone v. City of Claremont
No. 2023-0083
March 20, 2024
Affirmed, with a concurrence by Justice Hantz Marconi

- Whether records relating to a police officer can be disclosed pursuant to NH RSA 91-A (the Right-to-Know Law) when the officer and City entered into a prior agreement that provided those records were confidential and would be purged from the personnel file.

The plaintiff is a former police officer with Claremont Police Department (CPD) and a public official. In 2007, he entered into a stipulated award (Award) with the City of Claremont. The Award provided that the parties agreed to keep the existence, terms, and substance of the Award confidential except to the extent required by law. It also provided that the City shall purge the plaintiff's personnel file of all reference to a suspension, notice of termination, and the events leading up to them. In June 2020, a journalist sought disclosure of the records under the Right-to-Know Law (RSA ch. 91-A). The intervenors sent a separate Right-to-Know request to the CPD.

The trial court denied plaintiff's motion for an injunction, finding that the confidentiality provision and the purging pro-

vision of the Award were unenforceable because they were contrary to the public policy underlying the Right-to-Know Law. It also found that the records were not exempt from disclosure under RSA 91-A:5, IV because the public's interest in disclosure outweighed plaintiff's privacy interest.

On appeal, plaintiff argued that the confidentiality and purging provisions prohibited the disclosure of any records that the Award covered. He contended that he believed the records could only be in his personnel file and he should have been informed if the City was going to move the records to another file. Intervenors argued that the provision provides only that the records would be purged from the personnel file, not from all other locations. Intervenors also argued that the confidentiality provision does not apply when required by law, and that includes the Right-to-Know Law.

The Court agreed and held that disclosure did not violate the confidentiality provision, and that the City did not violate the Award when it purged the records from the personnel file but did not destroy them.

Therefore, the Court affirmed the trial court's order that the records be disclosed, subject to certain redactions. The Court concluded that the plaintiff did not raise or otherwise waived the question of whether the records were exempt from disclosure under RSA 91-A:5, IV.

The concurrence expressed concern about the effects of the Court overruling prior Right-to-Know cases. Specifically,

At a Glance Contributor



Natalie Laflamme
 Laflamme Law
 Concord, NH

that the developing caselaw may discourage the use of confidential settlements. The concurrence further expressed doubt that this developing law should apply to agreements reached decades earlier under prior interpretations of the governing law.

Decato Law Office (Peter R. Decato on the brief and orally), for the plaintiff. Drummond Woodsum MacMahon (Shawn M. Tanguay on the memorandum of law), for the defendant. American Civil Liberties Union of New Hampshire (Gilles R. Bissonnette and Henry R. Klementowicz, on the brief, Gilles R. Bissonnette orally) and Malloy & Sullivan, Lawyers Professional Corporation (Gregory V. Sullivan, on the brief) for the intervenors.

Criminal

The State of New Hampshire v. Kierran Pierce
No. 2022-0728
March 26, 2024
Reversed and remanded

- Whether the trial court erred when it denied defendant's motions: 1) for a mistrial; 2) to dismiss the attempted aggravated felonious sexual assault charge; and 3) for a view.

Following a jury trial, defendant was convicted of aggravated felonious sexual assault and attempted aggravated feloni-

ous sexual assault. Prior to trial, the court granted a motion to sever four counts of the sexual assault charges that involved the complainant's sibling. During trial, an investigator testified about a note that said, "the children had been touched inappropriately." Defendant objected and later moved for a mistrial based on the reference to "children, plural." The trial court denied the motion. The court also denied defendant's motion to dismiss the charges.

On appeal, the Court held that the statement "the children had been touched inappropriately" was highly prejudicial and that the trial court erred by not granting the motion for a mistrial because the statement alerted the jury that defendant was accused of the same conduct against a second victim.

The Court affirmed the trial court's denial of the motion to dismiss the attempted aggravated felonious sexual assault charge because the defendant did not show that the evidence was insufficient to prove guilt. Specifically, the defendant put forth conclusions consistent with innocence that were possible, but not reasonable based on the evidence. That was not enough to meet the defendant's burden.

The Court held that even if the trial court's denial of defendant's motion for a view was in error, it was harmless. The Court noted, however, that the record did not provide information about the current state of the trailer where the assaults occurred or whether the current owners were willing to make the trailer available for a view. It suggested that those facts should be developed if the issue arises on remand.

John M. Formella, attorney general, and Anthony J. Galdieri, solicitor general (Audriana Mekula, assistant attorney general, on the brief and orally), for the State. Sisti Law Offices (Wade Harwood on the brief, and Mark L. Sisti orally), for the defendant.

New Hampshire Association of Criminal Defense Lawyers

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NH Supreme Court Orders

Pursuant to Supreme Court Rule 37(4), the Supreme Court appoints Attorney Barry C. Schuster to the Hearings Committee of the Attorney Discipline System for a three-year term commencing immediately and expiring on March 13, 2027.

Issued: March 14, 2024
 ATTEST: Timothy A. Gudas,
 Clerk of Court
 Supreme Court of New Hampshire



In accordance with Rule 58.2(A) and (C), the Supreme Court appoints Circuit Court Judge Kimberly Chabot as a member of the Lawyers Assistance Program (LAP) Commission, replacing retired Circuit Court Judge James H. Leary. Judge Chabot's term begins immediately and expires on March 1, 2027.

In accordance with Rule 58.2(A) and (C), the Supreme Court reappoints the following members to the LAP Commission:
 Attorney Charla Bizios Stevens;
 Attorney Christopher T. Regan;

Superior Court Judge N. William Delker; and Molly Rossignol, DO

The terms of Attorney Stevens, Attorney Regan, Judge Delker, and Dr. Rossignol shall begin as of March 2, 2024, and expire on March 1, 2027.

Attorney Regan is appointed chair of the LAP Commission.

Issued: March 14, 2024
 ATTEST: Timothy A. Gudas,
 Clerk of Court
 Supreme Court of New Hampshire



Pursuant to Supreme Court Rule 51(3)(f), the Supreme Court appoints Sherri L. Miscio to serve as the Secretary to the Advisory Committee on Rules. Sherri L. Miscio is appointed to replace Timothy A. Gudas as Secretary.

Issued: March 20, 2024
 ATTEST: Timothy A. Gudas,
 Clerk of Court
 Supreme Court of New Hampshire

March 2024

* Published

ABSTENTION

3/25/24 *Doe v. Weaver, et al.*
Civil No. 18-cv-1039-LM, Opinion No 2024 DNH 024 P

The plaintiffs in this class action suit brought a single claim alleging that the State's procedures for holding probable cause hearings for IEA-certified patients violated class members' procedural due process rights under the Fourteenth Amendment. The defendants moved to dismiss on Younger abstention grounds. The court found that it was required to abstain under Younger because, among other things, the plaintiffs sought injunctive relief that would dictate the conduct of ongoing state judicial proceedings, and nothing prevented class members from raising their due process argument within probable cause hearings themselves. 19 pages. Chief Judge Landya B. McCafferty.

CONTRACTS CLAUSE; TAKINGS; CONSTITUTIONAL LAW

3/25/24 *Socia Holdings v. Gray, et al.*
Civil No. 22-cv-266-LM-AKJ, Opinion No. 2024 DNH 021 P

In this District of Rhode Island case, the plaintiff challenged the defendants' enforcement of a Rhode Island law requiring the owners of dams with certain storage capacities to apply for a permit to operate their dam in a manner that would be inconsistent with the dam's "historic use." Among other things, the plaintiff alleged that enforcement of the law impaired its rights under a "franchise" contract with the State of Rhode Island in violation of the Contracts Clause, and that the law's enforcement constituted a taking. Defendants moved to dismiss for failure to state a claim upon which relief could be granted, and the court granted defendants' motion.

The court found that the plaintiff did not plausibly allege it had a "franchise" contract with the State of Rhode Island, but even if it had plausibly alleged such a contract, the plaintiff failed to plausibly allege that the law was unreasonable or unnecessary to fulfill an important public purpose. With respect to the plaintiff's takings claim,

the court found that the plaintiff failed to plausibly allege either a physical or regulatory taking. The court also dismissed the plaintiff's due process and equal protection claims for failure to state a claim upon which relief could be granted, and declined to exercise supplemental jurisdiction over the plaintiff's remaining Rhode Island state law claims. 45 pages. Chief Judge Landya B. McCafferty.

INSURANCE; DECLARATORY JUDGMENT

3/6/24 *Liberty Mutual Fire Insurance Company, et al. v. SoClean*
Civ. Case No. 22-cv-79-JL, No opinion number

This declaratory judgment action concerns whether an insurance policy providing coverage for "damages because of 'bodily injury' or 'property damage'" requires coverage for damages for only economic loss. SoClean, Inc. is the defendant in a putative class action where the plaintiffs allege breach of express warranty, breach of implied warranty of merchantability, fraudulent misrepresentation, fraud by omission, negligent misrepresentation, violations of various consumer protection statutes, unjust enrichment, and the Magnuson-Moss Warranty Act. They base their claims on SoClean's allegedly fraudulent manufacture and marketing for cleaning devices for continuous positive airway pressure (CPAP) machines.

SoClean's insurer, Liberty Mutual, sought a declaratory judgment that it need not defend or indemnify SoClean in the putative class action. Liberty Mutual moved for summary judgment. Liberty Mutual's policy provides coverage for "damages because of 'bodily injury' or 'property damage.'" Although the class action complaint includes some information about alleged injuries that SoClean users suffered, the class action plaintiffs sought damages based on the price of the CPAP cleaning machines they purchased, under the theory that they suffered damages at the point of sale, as well as various statutory and punitive damages.

The court found that, because the underlying complaint in the putative class action alleged only economic damages, rather than any damages based on the class action plaintiffs' injuries, Liberty Mutual had no duty to defend SoClean. 20 pages. Judge Joseph N. Laplante.

POSITIONS AVAILABLE

LITIGATION ATTORNEY: Seeking a full-time attorney for our busy Concord-based practice to handle all aspects of insurance defense cases in New Hampshire state and federal courts. We seek a candidate with 2+ years of litigation experience. Excellent and unique opportunity for client development and career growth. Experienced litigation attorneys also welcome to apply. Remote work access available for the right candidate. We offer competitive compensation and benefits. Please submit your resume to NGetman@friedmanfeeney.com. All inquiries will be kept confidential.

STAFF ATTORNEY – Domestic Violence Advocacy Project – New Hampshire Legal Assistance (NHLA) seeks a Staff Attorney to work on our Domestic Violence Advocacy Project (DVAP). The Staff Attorney's work will involve representation of victims and survivors of domestic violence, stalking, sexual assault, and human trafficking in protective order and family law cases, as well as through NHLA's Domestic Violence Clinic programs in Manchester and Nashua. The Staff Attorney will also be responsible for occasional community engagement and education work. The Staff Attorney will work out of NHLA's Manchester office, and will be responsible for handling work throughout New Hampshire, most often in the following regions: Seacoast, Manchester, and Nashua. NHLA has a remote work policy and will consider a hybrid of remote and on-site work for this position. Full position details and How To Apply: <https://www.nhla.org/support/jobs>

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 four years of civil and/or criminal litigation experience are preferred. For a complete job description, visit drcnh.org/careers. Please send cover letter, resume and a writing sample/brief (not to exceed 30 pages) to hr@drcnh.org.

STAFF ATTORNEY – New Hampshire Legal Assistance (NHLA) seeks a Staff Attorney to work on our Immigrant Justice Project (IJP). The IJP Staff Attorney will focus on representing noncitizen survivors of crime, providing full and limited representation before EOIR and/or USCIS in a variety of humanitarian-based matters such as asylum, U/T visa, VAWA, and SIJ cases. Office space for the IJP Staff Attorney is available in NHLA's Concord or Claremont offices. For this position, we are open to the possibility of primarily remote work for an experienced immigration attorney. Full details and How to Apply: <https://www.nhla.org/support/jobs>

HEARINGS EXAMINER – PROSECUTOR – The Department of Safety, Commissioner's Office, is seeking a full-time impaired driving prosecutor to serve as Hearings Examiner/DWI Prosecutor, located in Concord. This is a grant funded position subject to renewal. The successful candidate will prosecute misdemeanor impaired driving cases in circuit courts statewide to include reviewing arrest reports, attending pretrial conferences, motions hearings, and trials, and handling all aspects of the criminal prosecution of assigned cases. Minimum qualifications: Member of the NH bar or ability to obtain a NH license; 0 to 5 years' experience with a concentration in criminal or administrative law preferred. Posting closes 4/30/24. The pay range for this position is \$36.49 - \$50.07 per hour. Go to <http://das.nh.gov/jobsearch/employment.aspx> Job ID#39450 to submit an application.

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

LEGAL ASSISTANT – Litigation defense firm seeking a Legal Assistant for its Hampton, NH office. The position will support 3-4 attorneys and includes a significant amount of paper handling, scheduling, organization, proofreading and writing. Need to have a strong work ethic and willingness to pitch in on anything. Great benefits, including excellent healthcare plan, 401K eligibility, summer hours and no overtime required. All serious candidates will be considered. Experience a plus, but not required; we are willing to train the right candidate. Salary range commensurate with experience. Please submit, in confidence, your resume and cover letter to tbright@hmdrslaw.com.

FULL-TIME LEGAL ASSISTANT – Getman, Schulthess, Steere & Poulin, P.A. a Manchester, NH law firm seeks a full time legal assistant with 3-5 years' litigation experience. Must be detail-oriented, have experience with transcription and have the ability to work independently. We offer a competitive salary and benefits which include medical, dental, disability and life insurance, 401 (K), paid vacation, sick leave, and holidays. Potential for remote work options. Send resume via email to law@gssp-lawyers.com.

LEGAL ASSISTANT/SECRETARY – Established law office in Laconia seeks an individual who is organized and able to work on schedule. The individual will provide general varied support for litigation department with 2 attorneys. Primary job duties will include the following: filing, typing, open/organize new files, maintain calendar, scan and sort litigation mail, telephone support. Computer skills required. Required Computer Program Knowledge: Outlook (mail, tasks, calendar), Word, Excel. Must also be able and willing to learn other computer programs used in the office. Please email your resume to William Philpot, Jr. at wp@hpplaw.com.

WILL SEARCH

ANYONE WITH KNOWLEDGE OF a will for James Lee Kornel of the Raymond area, please contact Law Offices of R. John Roy @ 603-669-3363 or rjlawnh@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.

2024 CLASSIFIED RATES



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

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

If you have missed the deadline for the current issue, your ad will appear on our website, www.nhbar.org, before the next issue date.

The member rate is \$55 plus \$1.25 per word.
The nonmember rate is \$70 plus \$1.65 per word.



EXPERIENCED COMMERCIAL REAL ESTATE ATTORNEY LOOKING FOR A FLEXIBILITY GLIDEPATH

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

Candidates must have spent most of their time practicing in New Hampshire. The position can be hybrid or fully remote.

The firm provides real estate-based legal services to businesses and individuals. Our specific areas include roads and easements, commercial real estate, real estate litigation, tax law, estate planning, and probate.

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

BUSINESS ATTORNEY

Seeking experienced Business Attorney to join thriving Corporate and Commercial practice with a mid-sized, 100-year-old firm located in the heart of the Lakes Region in New Hampshire. Ideal candidate will have a minimum of 3-5 years experience and an interest in building a long-term career in the Lakes Region. Commercial and/or residential Real Estate experience a plus.

Candidate must be extremely organized, able to work independently and have strong written and oral communication skills. We look forward to welcoming an attorney who is committed to excellence in his or her practice and dedicated to client service. This is an outstanding opportunity for an experienced lawyer to grow his or her career and practice in a friendly, supportive environment with experienced attorneys and an established client base.

Please forward resume and letter of interest to:

Normandin, Cheney & O'Neil, PLLC
213 Union Ave.
Laconia, NH 03246

Or email to Atty. Kaitlin O'Neil at koneil@nco-law.com



NEW HAMPSHIRE
**Women's Bar
Association**

The New Hampshire Women's Bar Association (NHWBA) is a non-profit organization that is committed to achieving gender equity in the legal profession. The NHWBA strives to promote the advancement and interests of women through leadership, professional development, and education. The NHWBA seeks a part-time Executive Director to assist the organization in fulfilling this mission.

The Executive Director is responsible for oversight, management, and execution of operations, programs, and services of the NHWBA. For a complete job description, please visit www.nhwba.org/Job-Opportunities.

Compensation: \$35-\$50 per hour, commensurate with experience and qualifications. 10-20 hours per week. This is generally a remote position, with expected in-person attendance at monthly board meetings and events.

How to Apply: Interested applicants may apply via email by submitting a resume and letter of interest to Lindsey B. Courtney, President, NHWBA, at info@nhwba.org.

SEEKING EXPERIENCED LEGAL ASSISTANT

Pastori | Krans, a litigation firm located in Downtown Concord, NH is seeking an experienced legal assistant for its dynamic, award-winning team.

The successful legal assistant candidate will possess a professional demeanor, exceptional communication and organizational skills, and have the ability to multi-task and prioritize while working in a fast-paced environment. Strong computer skills with nibbleness in MS Word, Outlook, Excel, and Adobe are a must. Pastori | Krans provides workplace perks including 401k, paid-time-off, health insurance, LTD/STD & Life Insurance, flexible summer schedule with early Fridays, fully stocked kitchen, team-building activities (inside & outside the office), and a great work/life balance.

Send resume to: blandry@pastorikrans.com



General Attorney

U.S. Immigration and Customs Enforcement

U.S. Immigration and Customs Enforcement, Office of the Principal Legal Advisor seeks to hire qualified attorneys for the position of General Attorney for a new office in Chelmsford, Massachusetts, scheduled to open in late 2024.

A detailed description of the position and its duties can be found at: <https://www.usajobs.gov/job/771207600>

Interested applicants are encouraged to submit a cover letter and résumé by email to OPLABostonAttorneyApplications@ice.dhs.gov.



Business Law and Real Estate Attorney

Shaheen & Gordon, P.A. has an immediate opening for an associate attorney with 4-6 years of experience in the Business Practice Group. We are looking for a person with experience, motivation, sense of humor and a willingness to take on a leadership role. As a firm, we place a high value on teamwork, collaboration, intellectual openness and the robust exchange of views.

We seek an energetic person with broad experience and a cooperative spirit. Ideal candidates will have experience in transactional law, including general corporate representation, mergers and acquisitions, real estate, commercial lending, and municipal representation. Our goal is to find someone who is willing to support our varied business client needs while building a practice in the areas that excite them.

Shaheen & Gordon is committed to creating a diverse environment and is proud to be an equal opportunity employer. We do not discriminate on the basis of race, color, religion, sex (including pregnancy), gender identity or expression, national origin, citizenship, veteran status, age, physical or mental disability, genetic information, marital status, sexual orientation, or any other consideration made unlawful by applicable federal, state or local laws in any aspect of employment, including but not limited to recruitment, hiring, training, evaluation, transfer, promotion, discipline, compensation, termination, and layoff. Shaheen & Gordon is also a non-smoking workplace.

We offer a competitive salary and a generous benefits package including health insurance, flexible spending account, long term disability, paid time off, paid parental leave, life insurance and 401(k) with employer match. Although we value the opportunities for collaboration and learning that come with in-person contact, we are open to discussing flexible work arrangements.

Interested applicants please forward your resume, a cover letter, and a writing sample to careers@shaheengordon.com.

EOC



Litigation Associate Attorney

Shaheen & Gordon, P.A., Attorneys at Law, is seeking a full-time litigation associate attorney. The candidate must be licensed to practice law in NH and have 5 – 10 years of experience in the practice of civil litigation with Federal and State court experience. The ideal candidate will have experience with complex litigation cases and strong analytical, writing, and communication skills. We look forward to welcoming an attorney who is hardworking, committed to excellence and dedicated to client service. This is an outstanding opportunity for an experienced lawyer to grow their career and practice in a collaborative, supportive, fast-paced environment.

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

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

Interested applicants please forward your resume and a cover letter to careers@shaheengordon.com.

No phone calls or agencies please. EOE

Business Opportunity Invited

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

CONTACT

Attorney Jerome H. Grossman at jeromegrossmanlaw@gmail.com

FULL-TIME PARALEGAL

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

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

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



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. We are currently looking for a lateral Attorney to join our team.

The ideal candidate will have a minimum of 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 flexible compensation depending on your life stage needs. All inquiries held confidential.

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

PARALEGAL/LEGAL ASSISTANT

Well established law firm in Nashua NH has an immediate opening for an experienced Paralegal / Legal Assistant to work with our Family Law team.

This position requires a thorough knowledge of the Family Law area. The ideal candidate will be highly organized, detail oriented, and demonstrate strong project management skills, including case-specific deadline tracking. Responsibilities include: prepare child support and alimony guideline worksheets as well as proposed Uniform Child Support and Alimony Orders; prepare initial drafts of pleadings; obtain and review of financial disclosures and other discovery from clients and opposing parties; prepare financial affidavits and asset and debt spreadsheets; draft follow-up letters and pleadings to obtain missing disclosures or discovery from clients and opposing counsel; and assist in preparation for trial including organization of exhibits.

We offer competitive wages and benefits. Please e-mail your resume to Attn: Veronica Hamilton at vhamilton@lawyersnh.com.



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

Shaheen & Gordon ATTORNEYS AT LAW

Personal Injury, Workers' Compensation, and Social Security Disability Attorney

Shaheen & Gordon, P.A., Attorneys at Law, with offices in Dover, Concord, Manchester, Nashua and Peterborough, NH, as well as Portland, ME is seeking an energetic and self-motivated attorney representing Plaintiffs and Claimants in our busy and growing Personal Injury, Workers' Compensation, and Social Security Disability practice areas. The candidate must be licensed to practice law in New Hampshire with 0-3 years' experience. This role offers the candidate the opportunity to work collaboratively with experienced practitioners and directly with clients of his or her own. As a firm, we place a high value on teamwork, intellectual openness, and the robust exchange of views.

Shaheen & Gordon is committed to creating a diverse environment and is proud to be an equal opportunity employer. We do not discriminate on the basis of race, color, religion, sex (including pregnancy), gender identity or expression, national origin, citizenship, veteran status, age, physical or mental disability, genetic information, marital status, sexual orientation, or any other consideration made unlawful by applicable federal, state or local laws in any aspect of employment, including but not limited to recruitment, hiring, training, evaluation, transfer, promotion, discipline, compensation, termination, and layoff. Shaheen & Gordon is also a non-smoking workplace.

We offer a competitive salary and a generous benefits package including health insurance, flexible spending account, long term disability, paid time off, paid parental leave, life insurance and 401(k) with employer match. Although we value the opportunities for collaboration and learning that come with in-person contact, we are open to discussing flexible work arrangements.

Interested applicants please forward your resume, a cover letter, and a writing sample to careers@shaheengordon.com.

EOC

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:

- **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.

603.224.7761 | www.cwbp.com

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

MCLANE MIDDLETON

Trusts & Estates Attorney

McLane Middleton, Professional Association, is seeking a Trusts and Estates Attorney to join our growing trusts and estates practice. Are you looking to take the next step in your professional career? This position will afford you the opportunity to take on new responsibilities, work with and learn from some of the region's leading trusts and estates lawyers, work directly with clients, and be provided with the resources to develop your professional skills.

The ideal candidates should possess a strong academic record and excellent written and oral communication skills, with 3-5 years of experience in estate planning, tax planning, and trust and estate administration, including estate planning for individuals and family-owned businesses. This position will be based out of our Manchester, New Hampshire office, with flexibility for remote work. The candidate would have a strong work ethic and the ability to interact with all levels of the organization as requested.

McLane Middleton helps create a long-term career path to assist professionals in their pursuit of personal and professional achievement. We offer a collegial team environment, professional development, and personal satisfaction in a fast-paced and motivating work environment. Competitive compensation and benefits package offered.

All submissions confidential.

Qualified candidates should send a cover letter, resume, and transcript to:

Jessica Boisvert
Manager of Professional Recruiting and Retention
jessica.boisvert@mclane.com

DEPUTY CITY SOLICITOR

City of Concord, NH

The City of Concord is seeking an attorney who is highly motivated and detail oriented and can work both independently and in a team environment to provide high quality and responsive legal services for the City. In coordination with the City Solicitor, the Deputy will provide legal representation on a wide range of municipal law issues, including: handling litigation and providing counsel to City departments and officials on legal matters including labor and employment law, land use law, real estate transactions, public record requests, property taxation, and regulatory and licensing matters; reviewing and preparing contracts, ordinances, policies, deeds, easements and other municipal related documents; and representing the City in labor contract negotiations.

Minimum Qualifications: Juris Doctorate; and four years legal experience; or any combination of education, training and experience which provides the knowledge, skills and abilities required for the job.

Licenses and Certifications: Member of the New Hampshire Bar Association, First Circuit Court of Appeals Bar (desirable), Federal District Court Bar (desirable).

Starting Salary Range: \$116,730 - \$149,406 DOQ with a very competitive flexible benefits package.

Application: Instructions for Applying: Submit cover letter and resume to the Human Resources Department via <https://www.governmentjobs.com/careers/concordnh>. The position will remain open until April 26, 2024. For more information visit www.concordnh.gov or call (603) 225-8535, or TTY at 1-800-735-2964 or 7-1-1. "An Equal Opportunity Employer M/F/DP/V and LGBTQ"

CHIEF ADMINISTRATIVE PROSECUTOR

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

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

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

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

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

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

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.

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..

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

(Nashua, Concord, and Laconia (PT))

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

DCYF Attorney Duties include:

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

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

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

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

Policy Coordinator - Healthy Aging

New Futures, New Hampshire's leading health policy and advocacy organization, is seeking an innovative and detail-oriented Policy Coordinator to support and lead its healthy aging policy work.

New Futures is a nonpartisan, nonprofit organization that works to solve problems through policy change. The Policy Coordinator for Healthy Aging will work with New Futures' policy team, as well as Communications and Community Engagement staff, to execute a comprehensive legislative and advocacy strategy in support of its healthy aging policy efforts.

This is a full-time, salaried exempt position based in Concord, NH.

For all information related to this position, including how to apply, please visit <https://new-futures.org/careers>

Policy Coordinator - Early Care and Education

New Futures, New Hampshire's leading health policy and advocacy organization, is seeking an innovative and detail-oriented Policy Coordinator to support and lead its early care and education policy work.

New Futures is a nonpartisan, nonprofit organization that works to solve problems through policy change. The Policy Coordinator for Early Care and Education will work with New Futures' policy team, as well as Communications and Community Engagement staff, to execute a comprehensive legislative and advocacy strategy in support of its early care and education policy efforts.

This is a full-time, salaried exempt position based in Concord, NH.

For all information related to this position, including how to apply, please visit <https://new-futures.org/careers>

ALFANO
LAW, PLLC


**PRIVATE ROAD?
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