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Supporting members of the legal profession and their service to the public and the justice system.

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Judge N. William Delker (center) stands with UNH Law 2L Bryan Rome (left) and Rudman Center Executive Director Anna Brown at UNH Law. Photo by Tom Jarvis

Reconstructing the History of the New Hampshire Constitution

By Scott Merrill

If the New Hampshire Constitution of 1784 is defined by anything as much as longevity, it is restraint – particularly around taxation and the concentration of power. Across nearly 250 years, repeated debates and constitutional conventions have left behind a fragmented historical record. Today, that record is being carefully reconstructed by an unlikely research team.

With support from the Warren B. Rudman Center for Justice, Leadership & Public Service (Rudman Center) at the University of New Hampshire Franklin Pierce School of Law (UNH Law), Bryan Rome, a second-year law student, and New Hampshire Superior Court Judge William Delker are assembling historical documents and newspaper accounts to trace the Constitution's evolution and give judges and attorneys clearer historical context when interpreting its provisions.

"The current US Supreme Court is shifting a lot of decisions to state courts," says Rudman Center Executive Director Anna Brown. "It follows that attorneys and courts in New Hampshire will more frequently consider arguments based on the New Hampshire Constitution. Providing the legal community with a detailed historical record of the legal arguments surrounding our state Constitution will enable stronger, more informed cases."

Addressing Age-Old Questions

While New Hampshire ceded the title of oldest living constitution to Massachusetts, Rome takes that in stride.

"Unfortunately, Massachusetts has us beat," he says, noting that New Hampshire has compensated through frequent reconsideration of its founding document. "Since independence, New Hampshire has convened 17 constitutional conventions, with the most recent one held in 1984."

One of the most consistent themes in those debates is resistance to taxation.

"New Hampshire has never been a big fan of taxation," Rome says. From the beginning, concerns about taxes and government power were embedded directly in constitutional language.

That skepticism persists. Rome points to Part II, Article 83 of the 1877 Constitution, which states: "No money raised by taxation shall ever be granted or applied to the use of the schools or institutions of any religious sect or denomination."

As Rome notes, "You can kind of see the issue of religious schools and funding schools as something that just comes up again and again throughout history."

That same impulse is paired with a fierce commitment to representation.

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Judge Daniel Will Confirmed as Justice of the New Hampshire Supreme Court

By Tom Jarvis

New Hampshire Superior Court Judge Daniel Will was confirmed in a 4-1 vote by the Executive Council on February 11 to serve on the New Hampshire Supreme Court, filling the seat vacated by Justice Anna Barbara Hantz Marconi, who reached the mandatory retirement age of 70 in February.

When announcing the nomination, Ayotte cited Judge Will's background in both public service and the judiciary.

"Judge Will has served our state honorably as New Hampshire's first Solicitor General and now on our Superior Court," she said in a statement. "He has the qualifications, integrity, and commitment to public service Granite Staters expect in a Supreme Court Justice, and I am confident he will uphold the rule of law and our Constitution."

Judge Will was appointed to the Superior Court in 2021 by former Governor Chris Sununu and has since presided over trial court matters across the state. Prior to joining the bench, he served as New Hampshire's first solicitor general

within the Department of Justice, leading the state's appellate advocacy and

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Justice Anna Barbara Hantz Marconi Retires from the New Hampshire Supreme Court

By Tom Jarvis

New Hampshire Supreme Court (NHSC) Justice Anna Barbara "Bobbie" Hantz Marconi retired from the bench on February 11, the day before her 70th birthday, in accordance with the state's mandatory retirement age for judges. She has served on the Court since 2017.

"It was an honor and a privilege to have that responsibility," Justice Hantz Marconi says. "To be able to deliver some guidance along the way was very rewarding. It's a serious responsibility and I appreciated having that faith in me for as long as it was."

NHSC Chief Justice Gordon MacDonald highlights her administrative leadership and long-term impact on court operations and public access.



MARCONI *continued on page 25*

Protecting Judicial Independence and the Rule of Law

In recent years, judges across the United States have faced a marked increase in threats, harassment, and intimidation arising from their performance of core judicial duties. This trend has not spared state courts and trial judges, whose rulings – often routine applications of settled law – have increasingly become targets of public hostility. For members of the New Hampshire legal community, this moment demands renewed attention to the importance of judicial independence and the profession's responsibility to defend it.

Nationally, judges have reported a surge in death threats, doxing, harassment campaigns, and “swatting” incidents following unpopular or high-profile decisions. These acts are not expressions of lawful disagreement. They are efforts to coerce judges through fear. When judges receive hundreds of threatening communications referencing their families or home addresses, the message is unmistakable: decide differently or face personal consequences. Such conduct strikes at the heart of the judicial function and threatens the ability of courts to administer justice impartially.

The consequences of this environment are real and lasting. Judges across jurisdictions have spoken candidly about the emotional toll of persistent threats and the security concerns that now accompany even routine judicial service. The 2020 killing of the son of a federal judge, targeted because of his mother's judicial role, remains a stark reminder

President's Perspective



By Derek D. Lick

Orr & Reno,
Concord, NH

that rhetoric and intimidation can escalate into violence. These developments should alarm every attorney who relies on a functioning, independent court system to represent clients and vindicate rights.

Judicial independence is not an abstract constitutional concept; it is the practical foundation of the rule of law. Judges must be able to decide cases based on the law and the facts without fear of retaliation, whether political, professional, or personal. This principle protects litigants, ensures equal treatment under the law, and preserves public confidence in judicial outcomes – particularly when those outcomes are unpopular.

New Hampshire's constitutional structure and legal traditions reflect a deep commitment to this principle. The judiciary is a co-equal branch of government, entrusted with interpreting statutes, enforcing constitutional limits, and resolving disputes fairly and impartially.

The New Hampshire Code of Judicial Conduct explicitly recognizes that an independent and impartial judiciary is indispensable to maintaining the rule of law and public trust in the courts. Judges are ethically bound to decide cases without regard to public pressure, political consequences, or personal safety concerns.

Where judicial independence is undermined, the consequences ripple outward. If judges are perceived as vulnerable to intimidation, litigants may doubt the fairness of proceedings. Attorneys may find their advocacy compromised by a system distorted by fear rather than law. Ultimately, public confidence in the courts – essential to voluntary compliance with legal decisions – erodes.

Attorneys occupy a critical position in safeguarding judicial independence. As officers of the court, New Hampshire lawyers have professional and ethical obligations that extend beyond individual client representation. The Rules of Professional Conduct emphasize respect for tribunals and the integrity of the adjudicative process. Zealous advocacy does not permit attacks on the legitimacy, mo-

PERSPECTIVE *continued on page 8*

NHBA Welcomes Aliyah Parchment as NHCMLC Coordinator

The New Hampshire Bar Association is pleased to welcome Aliyah Parchment as its new NHCMLC Coordinator.

Parchment holds a bachelor's degree in psychology from Plymouth State University. She most recently served as a human resources representative in the corporate office of Easterseals New Hampshire, where she supported the human resources department by managing new-hire records, assisting with compliance efforts, and responding to inquiries from employees, applicants, and the public.

“I am very excited to work here and



foster a professional life in the legal industry,” Parchment says. “I look forward to growing with the NHBA and gaining new skills with it while also sharing the skills I've gained over the years to help the Bar further its goals. It is among the highest honors to be a part of this organization.” ♦

NHBA BOARD ELECTION – ENSURE YOU RECEIVE YOUR BALLOT

Electronic voting for the NHBA's Board of Governors election will take place starting at 9 am on April 1. All Active members are eligible to vote. To ensure you receive your ballot information electronically, please be sure the email address we have on file for you is accurate. If you need to update your email, please log in to the Member Portal, and use the Update MyProfile link that is found on the Profile page. Please do this no later than March 6. If you need assistance updating your email address, please contact memberrecords@nhbar.org.

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

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Judges and Practitioners Collaborate on Updated Criminal Jury Instructions

By Tom Jarvis

For the first time in more than four decades, New Hampshire's model criminal jury instructions are undergoing a comprehensive overhaul. Last formally adopted in 1985 – and following an unfinished draft effort in 2010 – the instructions are now being revised by a subcommittee co-chaired by New Hampshire Superior Court Chief Justice Mark Howard and Assistant Attorney General Melissa Fales under the Committee on Cooperation with the Courts.

Fales, who spent 10 years as a county prosecutor before joining the Attorney General's Office, said the need for updated instructions has been apparent for years.

"The jury instructions are so important because they serve as a uniform set of rules for the jury to abide by," she says. "If you didn't have the same rules for all juries, it would really be impossible for the justice system to work the same way for every defendant."

From a practitioner's perspective, Fales says, model instructions are a critical reference point when drafting charges and preparing for trial, particularly given that New Hampshire's criminal statutes do not always spell out elements such as *mens rea*.

"A lot of the code doesn't have the *mens rea* right in the language," she says. "You have to read the annotations and figure out what the Supreme Court has said is the appropriate *mens rea*. Having model jury instructions to go back to is very helpful."

Judge Howard emphasizes that uniformity across courtrooms is central to the project.

"Uniformity breeds fairness," he says. "Every practitioner and every defendant can expect that their jury is going to be told the same thing. As long as everybody in the courtroom has the same expectation about what the jury is going to be told – the standards they apply, the definitions they apply – that ultimately results in a fairer process."

Learning from Past Efforts

Earlier attempts to revise the instructions resulted in a substantial body of draft material that was never formally adopted. Judge Howard says the lessons of those experiences helped shape how the current project was launched. He credits Fales with initiating the work and bringing it before the Committee on Cooperation with the Courts.

"I give all the credit to Melissa for this happening," he says.

The subcommittee has drawn from



multiple sources, including the 1985 instructions, the 2010 drafts, and instructions that judges and practitioners have developed and used in court over the years, Judge Howard says.

One key difference this time is the committee's structure and timeline. The subcommittee began meeting in January 2025 and set an ambitious two-year goal for completing the work.

"We put ourselves on a fairly aggressive short timeline of two years," Judge Howard says.

The committee was intentionally structured to keep the work moving forward, Fales says, with strong judicial involvement helping prevent the process from stalling as it did in 2010.

"Our goal is to get a draft done and then get the final product done," she says. "We didn't want to lose momentum. Judges and practitioners have really rolled up their sleeves – drafting instructions, going back to the statute books and case law, and combing through everything to update it."

Broad Representation, Balanced Perspectives

The subcommittee consists of 15 members and includes judges, prosecutors, defense attorneys from both the public and private bar, and judicial law clerks. Members were divided into smaller working groups focused on specific categories of instructions, including homicide, sexual assault, drug offenses, domestic violence, preliminary instructions, and definitions.

Defense attorney David Rothstein, who also served on the 2010 committee, says the balanced makeup of the current subcommittee has made a meaningful difference.

"It's a very balanced committee where everyone's perspective was heard and appreciated," Rothstein says. "There were definitely situations where people raised issues or disagreed about what a

particular instruction should be, and we worked them out."

Rothstein says practitioners have long struggled with having two imperfect reference points – the 1985 instructions and the 2010 drafts – neither of which fully met the need for a definitive, authoritative set.

"It's kind of like *Goldilocks and the Three Bears*," he says. "Neither of them are just right. This committee is trying to take what exists and come up with a more definitive set of jury instructions that's been vetted by judges, defense attorneys, and prosecutors."

What's Changing

At a high level, the revised instructions are expected to expand coverage, update statutory references, and reflect developments in case law. The subcommittee has also focused on modernizing language while maintaining legal precision.

"We chose up front to take a more plain-language approach, without sacri-

ficing precision in the law," Judge Howard says. "And we also tried to move toward more neutral language. The prior iterations of the instructions tended to be very much in the masculine, so we've tried to change that and make it a more neutral presentation."

Another major change will be how the instructions are accessed. Fales says that rather than a single, lengthy PDF, the committee envisions an online, hyper-linked format that allows judges and practitioners to navigate directly to specific instructions and assemble customized packets for individual cases.

Judge Howard notes that the instructions are intended to serve as a starting point, not as Supreme Court-approved "pattern" instructions.

"These are model instructions," he says. "There is a difference between a model instruction and a pattern instruction. A pattern is one that the Supreme Court has blessed. These will essentially be a starting point. Ninety-five percent of any given instructions are not controversial, but there's still room for debate over what the law is or how it ought to apply to a given case. So, the caution to the Bar is that these are model instructions, but that doesn't mean there is no issue about the law. Practitioners can still raise issues about whether these instructions are an accurate statement or should be applied in a given case."

Where the Project Stands

According to Fales, the subcommittee has completed its first round of sub-

JURY *continued on page 25*

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Richard Guerriero: A Career Defined by Justice and Compassion

By Kathie Ragsdale

Richard Guerriero's children grew up knowing their father would always spend Christmas Eve morning in jail – visiting clients.

"People who are incarcerated are often abandoned, even by their own families," explains the former public defender and renowned criminal defense attorney. "I always had a rule to visit promptly and frequently."

A past president of the New Hampshire Bar Association, he has represented both high-profile defendants and those who never make headlines, argued before the US Supreme Court, and has a reputation as a go-to attorney for colleagues seeking advice.

"Many of the people I practice with follow the mantra, 'when in doubt, call Richard,'" says Melissa Davis, clinical associate professor and director of the Criminal Practice Clinic at the University of New Hampshire Franklin Pierce School of Law.

A native of Louisiana, Guerriero became interested early on in social justice, the courts, and government.

"I was in sixth grade reading *US News & World Report* and *Time* magazine instead of comic books," he says.

While still in high school, he worked for then-Congressman Jerry Huckabee in Washington, DC, and got to hear the late US Supreme Court Justice Thurgood Marshall speak.

He graduated *magna cum laude* from Louisiana State University, completing his undergraduate studies in three years while working during summers and sometimes during the school year on natural gas drilling rigs.



He went on to the Louisiana State University Paul M. Hebert Law Center, participating in four jury trials, including a murder trial, while still in school. Upon graduation, he clerked for Judge James Dennis, who – along with Thurgood Marshall – were "two of my big inspirations as far as being a lawyer," he says.

Guerriero then went into private practice in Louisiana, often accepting court-appointed cases, including some capital ones.

A lifelong opponent of the death penalty, he worked with other defense counsel on the case of convicted murderer Jimmy Glass and was at Angola State Prison standing outside the building that housed the execution chamber when Glass was electrocuted to death.

"Famously, Justices Marshall and William Brennan dissented from the opinion affirming Glass's sentence and wrote about the horrors of the electric chair," he says.



Richard Guerriero and his wife Anne enjoying a beverage at a brewery in Littleton. Courtesy Photo

In other Louisiana death penalty cases, Guerriero took over as lead counsel after a death sentence was affirmed for Tracy Lee, and on rehearing before the Louisiana Supreme Court was able to get the sentence vacated. In the case of Allen Robertson, his questioning of prospective jurors and his work on an appeal led to the reversal of the death sentence.

Guerriero met his wife, Anne, while she was working in Baton Rouge for Teach for America, and when she expressed a desire to move back to her native New England, he started a job hunt. He ended up being interviewed for work as a New Hampshire public defender at the Gas Lighter Restaurant in Concord, with hockey on the overhead television

and Bud Lights on the table, he recalls.

He was with the New Hampshire Public Defender office for 20 years, serving as the office litigation director, coordinating support for more than 100 public defenders and 50 criminal contract attorneys, from 2000 to 2012.

He worked with other public defenders on the case of Gordon Perry, who was charged with capital murder. After several successful motions, Guerriero and the other public defenders were able to settle the case with the prosecution dropping the death penalty demand. He also worked on the Michael Addison case, which involved four separate jury trials in

GUERRIERO *continued on page 22*

The Value of a Second Opinion

Cancer case turned away by New Hampshire firm, resolved by Lubin & Meyer for a record 7-figure settlement



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

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\$7,000,000	Injury sustained during childbirth
\$4,800,000	Failure to diagnose infection results in brain damage
\$3,000,000	Failure to perform c-section results in newborn's brain damage
\$2,000,000	Failure to timely diagnose heart attack results in death
\$2,000,000	Birth injury resulting in severe and permanent neurological damage
\$2,000,000	Failure to diagnose and treat bowel blockage results in death
\$1,900,000	Failure to accurately interpret MRI results in brain bleed and death
\$1,500,000	Colon puncture during liver biopsy results in death
\$1,000,000	Improperly performed gallbladder surgery leads to post-op infection and reconstructive surgery



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Amanda Kniveton: Protecting Children in the North Country

By Tom Jarvis

In the North Country, child protection work often unfolds under tight timelines, across long distances, and in small communities where professional responsibilities and personal connections can overlap. For Amanda Kniveton, those realities shape a practice centered on responsiveness, collaboration, and an understanding of the human dimensions behind each case.

Kniveton is based in Littleton, where she represents the New Hampshire Department of Health and Human Services' Division for Children, Youth, and Families (DCYF) in abuse, neglect, termination of parental rights, and guardianship matters.

She grew up primarily in Michigan and attended Johnson & Wales University, where she initially enrolled in the culinary program before realizing that life as a chef was not the right fit.

"After working in some restaurants, I quickly decided that the physical labor of working as a chef was not for me," she says.

She ultimately earned an undergraduate degree in international business in 2008. As graduation approached, Kniveton began interviewing for positions in banking but found herself drawn in a different direction.

"I just felt compelled and intrigued to pursue a legal degree," she says. "I took small steps toward it – I applied to law school not knowing if I would really follow through – and then I visited some schools.

It was something that felt right, so I kept moving one step at a time."

Kniveton attended New England Law | Boston part-time, working at a law firm to help pay for tuition, and graduated in 2012. She went on to clerk in the Suffolk and Cambridge Probate and Family Courts before relocating to New Hampshire. After volunteering in family court, she joined Samaha Russell Hodgdon in Littleton, where she handled a wide range of matters.

Before joining DCYF, Kniveton also represented parents in abuse, neglect, and termination of parental rights cases through court appointments. When the DCYF attorney position in Littleton became available, she applied and began her current role in December 2016.

Although she did not initially envision herself as a litigator, Kniveton says child protection work has proven to be a good fit.

"When I was in law school, I didn't think I had the confidence to be a trial attorney, and I thought I'd prefer something more transactional," she says. "But it turns out I actually do like being in the courtroom."

She notes that abuse and neglect proceedings differ in important ways from

other adversarial contexts.

"The goal is to determine whether a child has been abused or neglected – not to find a criminal act against a parent," Kniveton says. "After that determination is made, my client works with families to try to remedy the problems that led to the finding. In that way, it feels more collaborative than criminal prosecution."

That collaboration takes place within strict statutory timelines. Once a petition is filed, the court must issue findings within 30 days, or 60 days if a child is not in the home.

"It's a very fast-paced environment," Kniveton says. "There's an understanding between DCYF and opposing counsel that we do our best to provide discovery timely, but there are a lot of constraints because of the statutory timelines."

Kniveton's skills have won her the respect of defense attorneys and colleagues alike.

Defense attorney Jorel Booker says abuse and neglect practice under RSA 169-C is a specialized area handled by a relatively small segment of the Bar, and he lauds Kniveton for her work.

"Amanda is a practical and accomplished litigator who meets the needs of children whose parents are accused of failing them," he says. "She does this with the staggering caseload that DCYF counsel carry and the very short timelines allowed under the statute. I do not know how she keeps all those plates in the air, but it is a pleasure to work with her."



Amanda Kniveton on a recent trip to Iceland.
Courtesy Photo

New Hampshire Department of Safety Chief Hearings Examiner Nikolas Frye, who worked with Kniveton in both private practice and at DCYF, says she "knows child protection law and the cultural fabric of the North Country like the back of her hand."

KNIVETON *continued on page 22*

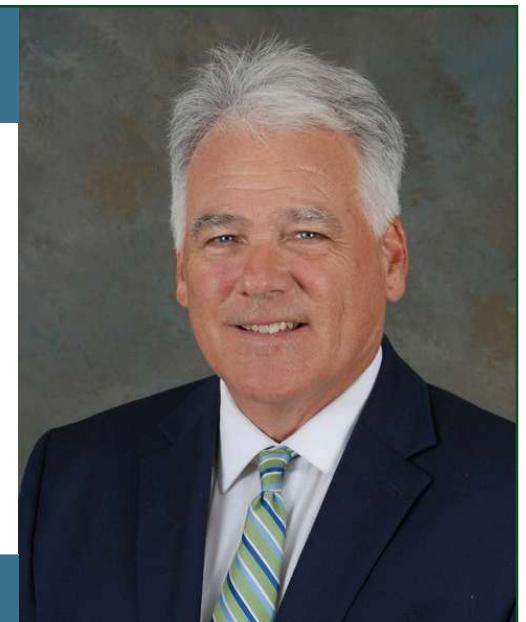


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Committee on Cooperation with the Courts Sets 2026 Initiatives

By Megan Koerber

The New Hampshire Bar Association's Committee on Cooperation with the Courts (CWC) has a clear set of priorities for 2026.

To pinpoint the areas where change would have the greatest impact, the committee polled its members. Their responses highlighted two primary opportunities for improvement.

"We have judges from all levels," says CWC Chair Robert Carey, an attorney at Orr & Reno. "We also have clerks and lawyers from all over the field – family law practitioners, criminal defense attorneys, the public defender's office, big firms, medium firms, solo practitioners. It's a pretty good cross-section of people that gives us good input."

One of the committee's initiatives this year focuses on the public's experience with the court system – specifically jury service.

"The public interacts more with the court system as jurors than they do as parties," Carey says. "Every month, courts across the state bring in a lot of people. Not everyone gets picked, but a lot of people get called."

Because of that, the committee sees jury service as a critical opportunity to strengthen public trust.

"We want to make sure it's a positive experience," Carey says. "Having a positive experience – whether you get picked or not – is good for the public's confidence in the court system and the jury system. It's good for civic engagement."

A subcommittee co-chaired by Judge Mark Howard and Assistant Attorney



General Melissa Fales will examine two phases of jury service – the experience of those who report but are not selected, and the experience of those who serve through deliberations. One aspect of this initiative is revising the model jury instructions, which have not been updated since 1985. [Editor's Note: See article on revised jury instructions on page 3.]

"We'll probably develop questionnaires and find ways to get good feedback from people who've been through the process," Carey says, adding that most jurors leave with a positive impression. "Overwhelmingly, people who serve on juries love the experience. They come away with respect for the court system, respect for the lawyers, and a sense of camaraderie with eleven strangers they didn't know a week ago."

The CWC is also contributing to a working group assisting the Superior

Court in evaluating the lawyers' courtroom experience, specifically with presentation technology, such as the Case-Lines system.

"It's a software program where you load your exhibits and the idea is a paperless trial," Carey explains.

The Superior Court already has a volunteer group of attorneys studying the system, and they will provide feedback about the technology.

Another area generating excitement for the CWC is the return of the Bench and Bar Conference.

"We have a plan for 2027," Carey says. "That subcommittee, led by Jennifer Parent, is a larger one – everybody was enthusiastic to be on it."

The last Bench and Bar Conference was held in 2022, and Carey says members are eager to bring it back.

"Key themes from the 2022 Con-

ference included remote or web-based hearing access post-COVID-19," says McLane Middleton attorney Jennifer Parent. "As we review the last five years and look ahead, we may expand upon these or add new topics for discussion. For example, some consideration could be given to the use of technology in the courtroom and AI."

The subcommittee is in the very early planning stages, but Parent highlights their focus on formats that foster genuine engagement. The goal is to build a conference structure that actively connects participants across roles and practice areas.

"Effective in the past is a program featuring a mix of plenary sessions on broad topics and focused breakout groups," Parent says. "This mix encourages discussion and idea sharing among members of the judicial system and both public and private practitioners."

Carey says it's beneficial for promoting collegiality in the Bar.

"It's a great opportunity for judges and lawyers to meet outside the courtroom," he says.

The committee meets roughly every six weeks, with its last meeting of the year scheduled in June.

"There's good energy," Carey says. "People are engaged, and we've had very good meetings so far. All lawyers and all citizens need everybody to have faith in the court system and the rule of law. That's fundamental to what we do."

Carey hopes the committee's work this year will strengthen both the profession and the public's confidence in the courts. ♦



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Pathological Clauses in Arbitration

By Stephen D. Mau

This is the third in a series on international aspects of alternative dispute resolution, particularly international commercial arbitration.



Arbitration has existed since Mesopotamian, ancient Greek, and Roman times. In order to have an arbitration, there must be an arbitration agreement between the parties. To be enforceable internationally, the agreement must be in writing.¹

Yet, contract negotiators, possibly unfamiliar with arbitration, have made agreements the terms of which are nonsensical or unenforceable, which undermines the very purpose of arbitration: fast, efficient, cost-effective, and final resolution of a dispute. Such agreements are known as pathological clauses,² sometimes referred to as “midnight clauses” because they are often drafted at the end of protracted contract negotiations under deadline pressure.

Even today, numerous publications, YouTube videos, and cases, domestically and internationally, have addressed issues raised by defective arbitration clauses. Pathological clauses fail to satisfactorily address four points:

- Impose mandatory consequences for the parties, i.e., dispute resolution by arbitration.
- Grant the arbitral tribunal the authority to resolve all related disputes.
- Exclude court intervention until the award-enforcement stage of the arbitral process.
- Allow efficient and speedy rendering of an award.

Any defect may allow a recalcitrant respondent to challenge the arbitration agreement in court, potentially invalidating the clause.

While reviewing pathological clauses, it is helpful to use an international arbitration center’s model clause as a guide. From the Singapore International Arbitration Centre:

Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity, or termination, shall

be referred to and finally resolved by arbitration administered by the Singapore International Arbitration Centre (SIAC) in accordance with the Arbitration Rules of the Singapore International Arbitration Centre (SIAC Rules) for the time being in force, which rules are deemed to be incorporated by reference in this clause.

The seat [the legal place] of the arbitration shall be [city, country].

The Tribunal shall consist of [one or three] arbitrator(s).

The language of the arbitration shall be [specify language, e.g., English].

This contract is governed by the laws of [specify the State, e.g., Switzerland].

Note the mandatory language requiring the parties to arbitrate. There is the certainty which is lacking in language such as “the disputants may arbitrate” or worse, “the parties may arbitrate in XX or litigate in YY.” Use of the permissive “may” permits one party the opportunity to challenge the clause as not mandating arbitration. Likewise, use of the disjunctive “or” affords, in theory, the option on the part of a recalcitrant or intransigent party to select the alternative not chosen by the opposing party, thereby creating a stalemate which might require court intervention that would result in delay and increased costs.

This model clause covers another point frequently at issue in poorly drafted ADR clauses: the scope of disputes subject to arbitration. Such clauses are typically drafted broadly to encompass related claims, such as torts or subcontracts. Hence, model clauses often use broad phrases similar to “claim[s] arising out of, or in relation to, this contract.”

In other instances, the parties referred to non-existent arbitration institutions, e.g., the Arbitration Centre of Hong Kong, of which there are several. Thus, issues arise over where the arbitration is to be seated and where the hearings will be conducted. Such references might be attributable to the contract negotiator’s unfamiliarity with arbitration, translation issues over the arbitral institution’s name, or the pressures of an imminent deadline to conclude the contract (again, the midnight clause). Such oversights might require undesired but necessary court intervention to ascertain the parties’ intention to arbitrate and before which arbitral institution the proceedings would occur.

The model clauses address other common impediments or contentious points which delay the arbitral process: the arbitral rules to be applied to the arbitration; the number of arbitrators; the seat of the arbitration (*lex arbitri* – the law governing the arbitration), and the language to be used. Parties may also consider specifying the law of the contract (*lex causae* – the substantive law regulating the contract and/or other merits of the dispute).³

The language of the model clauses is well settled and understood nearly universally. Chances of a dispute arising from the use of arbitral institutions’ model clauses should be rare. Creative modification of the language or the points addressed by model clauses may generate issues. In one court case, the parties’ dispute resolution clause referred to one international arbitration center as the administering authority but using the rules of another institution.

For example, parties may designate the Hong Kong International Arbitration Centre as administrator while applying the rules of the German Arbitration Institute to hearings held in Lagos. This would be akin to affording jurisdiction to a Bordeaux provincial court to hear a dispute while applying the procedural rules of the Rockingham County Superior Court and the hearings themselves to be conducted in Florida.

In summation, pathological clauses create threshold issues which prevent or delay the initiation of the arbitral process, adding time and expense (and possibly increased animosity between the disputants) to the dispute resolution process. Use of an arbitral institution’s template or model clause should remove any reason for a disputant to delay or wage a battle of attrition in relation to the content or wording of the arbitration clause. ♦

Endnotes

1. Article II of the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (done New York, 10 June 1958); Art. 7(2) of the United Nations Commission on International Trade Law Model Law on International Commercial Arbitration (1985, as amended in 2006).

2. Frédéric Eisemann, “La clause d’arbitrage pathologique” in Commercial Arbitration: Essays in Memoriam Eugenio Minoli 129–61 (1974).

3. See, e.g., Laws Applicable to an International Arbitration, <https://acerislaw.com/laws-applicable-to-an-international-arbitration> (last visited December 2, 2025), stating: Such laws include the law governing the arbitration ..., the law applicable to the merits of the dispute ..., the law applicable to the arbitration agreement ..., the law governing the parties’ capacity to arbitrate ... and the law(s) of the place(s) of the enforcement of an arbitral award In international arbitration, it is possible for each of these laws to be that of a different State.

Stephen D. Mau currently serves as an administrative law judge. He is a Fellow of the Chartered Institute of Arbitrators, accredited by the Hong Kong Mediation Accreditation Association Limited as a facilitative mediator and accredited by the Royal Institution of Chartered Surveyors as an evaluative mediator.

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Governor Ayotte and her Judicial Selection Committee

I write about the history of our state's selection process for judges which, in 2002, as a result of an executive order by Governor Jeanne Shaheen, included a bipartisan selection commission. To my memory, that commission and most of its successors included seven to 11 members who were civic leaders, elected office-holders, business representatives, and civil and criminal lawyers, sometimes even public defenders and prosecutors. Importantly, Democrats and Republicans were members.

The commission reviewed applications completed by individuals seeking judgeships and made a recommendation to the governor, who could accept or reject it. If rejected, another nominee was selected by the commission.

Involving a diverse and bipartisan group in selecting judges fosters public trust and confidence that the nominee is competent, impartial, fair-minded, and not a political partisan. These are important characteristics for a judge to possess, especially now when there is diminished confidence in the judiciary.

For example, a December 2024 Gallup poll found public confidence dropped from 59 percent to a record low of 35 percent between 2020 and 2024. Similarly, a Pew Research study conducted this past August found a 48 percent public favorability rating for the judiciary, which was a 22-point decline from a 70 percent favorability rating in 2024.

Concerns about the impartiality of recently appointed Supreme Court Justice Bryan Gould, who had no prior judicial experience, but had served as legal counsel to Governor Kelly Ayotte's gubernatorial campaign and represented the Republican Party in numerous election law cases, were raised at his Executive Council hearing.

Representative Dylan Germana commented that the public perception was that this was an "insider" nomination. David Trumble, a grassroots activist, said the Court needs to be perceived as "fair and impartial." He added that "if a person spends much of his life representing a political party ... that would be part of the public perception."

Currently, all five of the sitting Supreme Court justices are Republicans.

Although Governor Ayotte also implemented a selection committee by executive order this spring, it was neither as robust nor as diverse as previous commissions. Of the six members she picked – all were Republicans and five were lawyers – one was Gould. There were many governors who preceded Governor Ayotte who recognized the importance of a balanced Supreme Court – with Republican and Democrat judges.

Although it was not enshrined in a statute or regulation, there was a well-known "understanding" between Republican and Democratic leaders that neither party would have more than a 3-2 advan-

tage in political affiliation among the sitting Supreme Court justices.

In 1995, Republican Governor Steve Merrill nominated John Broderick, a Democratic activist and well-known trial lawyer, to the Supreme Court. A few years later, another Republican, Governor Craig Benson, nominated him to be the chief justice.

In 2002, Democrat Governor John Lynch nominated James Bassett, who had unsuccessfully run as a Republican for a Congressional seat, to the highest court. This current imbalance is even more striking when compared to our state's registered voters, whose largest percentage is independents (39.7 percent), followed by Republicans (32 percent), and Democrats (28.3 percent).

I share the same confidence concerns as the polls show. In the past, our state, through robust commissions, "understandings," and appointments across party lines, had the political will and foresight to alleviate worries about judicial impartiality.

If you have similar concerns, contact the governor and urge her to follow these historic precedents when the next Supreme Court vacancy arises in 2026. ♦

Pete Mosseau is a Concord resident and a former member of the New Hampshire Attorney General's Office from 1978 to 1985.

tives, or personal safety of judges. To the contrary, lawyers have a responsibility to model principled disagreement through lawful advocacy, appeals, and legislative reform.

When judges are publicly attacked or threatened for doing their jobs, silence from the Bar carries its own risks. Attorneys are uniquely positioned to explain the judicial role, correct misinformation, and defend the independence of the courts in both professional and public forums.

Standing up for judicial independence is not partisan, nor does it require agreement with particular rulings; it reflects a commitment to the legal system that makes advocacy possible in the first place.

For New Hampshire's legal community, respect for judges means more than civility. It means affirming that disputes are resolved through established legal processes, not intimidation. It means recognizing that judges, though human and fallible, are tasked with enforcing the law as they understand it – not as a matter of popularity or political alignment.

Protecting judges from threats and reaffirming judicial independence are essential to preserving the rule of law in New Hampshire. Courts cannot function if judges fear personal retaliation for lawful decisions. Attorneys, as stewards of the justice system, have a special obligation to defend this principle. The strength of New Hampshire's judiciary – and the integrity of its legal profession – depend on it. ♦

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Recent AI Developments – Courtesy Resources for NHBA Members

In case you missed them, here are several recent articles and publicly available resources shared as a courtesy for members regarding artificial intelligence (AI) topics related to the law and ethical practice. These are third-party resources and do not represent official publications or positions of the NHBA, the Ethics Committee, or the Special Committee on Artificial Intelligence.

This is not an exhaustive list. The resources below are intended to assist members in remaining informed about emerging issues involving technology and legal practice, consistent with the professional responsibility to “keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology,” such as AI. See New Hampshire Rules of Professional Conduct, ABA Comment to the Model Rules at cmt. 8.

1. On March 14, 2025, the *Journal of Empirical Legal Studies*, a peer-edited and peer-reviewed academic journal that is a collaboration between Wiley-Blackwell and Cornell Law School, published an article entitled “Hallucination-Free? Assessing the Reliability of Leading AI Legal Research Tools.” The article discusses how legal research providers, including LexisNexis and Thomson Reuters, have begun to use “retrieval-augmented generation” (RAG) methods to try to eliminate or avoid hallucinations in legal citations, with limited success. The article is available to download at dho.stanford.edu/wp-content/uploads/Legal_RAG_Hallucinations.pdf.
2. Damien Charlotin, a Senior Research Fellow at the *École des hautes études commerciales de Paris* (also known as HEC Paris), a business school in France, has created a database to track legal decisions that deal with cases where generative AI produced hallucinated content. For example, it includes cases where fabricated caselaw citations lead to sanctions or monetary penalties. Notably, Charlotin’s database does not track the wider “universe of all fake citations or use of AI in court filings.” The database can be found at damiencharlotin.com/hallucinations.
3. On October 8, 2025, the *Concord Monitor* published an article that discusses a July 15, 2025 order from the New Hampshire Superior Court regarding hallucinated case law citations in briefs,

and the more general impact generative AI has on the law. The article includes quotes from AI Committee Chair Bob Lucic. It can be found at concordmonitor.com/2025/10/08/ai-lawsuit-errors-nh-windham-case.

4. If you are looking for more articles and information to stay aware of how AI is impacting the legal community, *Above the Law*, a news website about law, law schools, and the legal profession that is owned and published by Breaking Media, has its own “AI Legal Beat.” You can find more information on their website, abovethelaw.com, by clicking “AI.” Here are just a few of their recent pieces:
 - Law Students Are Forming AI Student Groups Nationwide – abovethelaw.com/2025/10/law-students-are-forming-ai-student-groups-nationwide
 - Biglaw Firm ‘Profoundly Embarrassed’ After Submitting Court Filing Riddled with AI Hallucinations – abovethelaw.com/2025/10/biglaw-firm-profoundly-embarrassed-after-submitting-court-filing-riddled-with-ai-hallucinations
 - Law School Runs Mock Trial Before Jury of AI Chatbots As Dystopian Nightmare Accelerates – abovethelaw.com/2025/10/law-school-runs-mock-trial-before-jury-of-ai-chatbots-as-dystopian-nightmare-accelerates

If you are aware of additional publicly available resources related to AI and the practice of law, please contact NHBA Ethics Committee Liaison Martha Madsen at mmadsen@nhbar.org. ♦

The information included in this publication is for informational purposes only and is not to be construed as legal advice. Any views or opinions expressed in this publication do not necessarily reflect the views or opinions of the New Hampshire Bar Association or its members, nor do any views or opinions reflect the views and opinions of the Ethics Committee or its members, or the Special Committee on Artificial Intelligence or its members.

QDRO Questions?

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A Call to Serve Those Who Served

By Larry Vogelman

A veteran is someone who, at one point in their life, wrote a blank check made payable to the United States of America for an amount up to and including their life.



After 52 years of practicing law, I have retired. I am now putting all my time and energy into Veterans Legal Justice. We provide pro bono and reduced-fee legal assistance to veterans, service members, and their families. We do this through a panel of New Hampshire lawyers who accept referrals. To that end, we need help.

Unfortunately, despite the New Hampshire Supreme Court’s rule encouraging lawyers to do pro bono work, only a tiny percentage of the state’s thousands of lawyers do so.

When I was Bar president, I believed that veterans needed our help with legal assistance and that we, as attorneys, had the knowledge and ability to do so. Indeed, we had an obligation to do so. This belief is deeply rooted in two experiences. As a criminal defense and civil rights lawyer, I have seen the need for legal help for those who serve.

I have also seen that need close to home. My now-deceased father was a war hero. After landing on the beach of Normandy, he fought in the Battle of the Bulge. Before his wounds resulted in

his return home, he had received, among other recognitions, three Bronze Stars and two Purple Hearts. After being shot in the knee by a German sniper, the ambulance he was in ran over a mine. I vividly remember my dad’s back with myriad scars from shrapnel.

He also had less visible scars. When I was around eight years old, he and I were on a trolley in Brooklyn when a truck back-fired and caused him to hide under one of the trolley’s seats. That was 1957, more than 10 years after the war ended. Unfortunately, many of our New Hampshire brothers and sisters carry such scars, both visible and invisible. And all New Hampshire lawyers have the opportunity, if not the duty, to help.

Veterans Legal Justice receives more than one request every day for help. Those requests range from family court issues, DUIs, consumer issues, landlord/tenant issues, and wills. Once our volunteer intake specialists speak to the veteran, it becomes my job to find a volunteer lawyer for them. Most of our cases are pro bono. If the veteran can pay, the volunteer lawyer and veteran can agree on a reduced fee. A small percentage of our cases are also fee-generating, like some personal injury cases.

There are other resources in New Hampshire for people seeking pro bono counsel. We work with both 603 Legal Aid and New Hampshire Legal Assistance, referring applicable cases to each other. Unfortunately, due to income requirements and grant eligibility, many veterans cannot be helped by those organizations.

SERVE *continued on page 25*

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NEW HAMPSHIRE BAR FOUNDATION NEWS

Justice Grants at Work

By Cindy Roberts

Every two years, the New Hampshire Bar Foundation (Foundation) awards Justice Grants to nonprofit organizations throughout the state. These awards fund efforts that encourage innovation in the administration of justice, provide community education about the law, and improve access to justice.

The Foundation awarded \$89,247 to support 11 nonprofit organizations during the last grant cycle. Here is a sampling of the important work Justice Grants have helped support.

Veterans Legal Justice \$5,000 Grant

The grant awarded to Veterans Legal Justice (VLJ) was used to hire a part-time intake coordinator. The goal of the project was to reduce the backlog of pending service requests, increase the number of veterans being matched with legal services, and boost volunteer participation and capabilities. From June 2024 through December 2024, VLJ completed 107 intakes, matched 24 individuals with legal services, and provided additional non-legal assistance for two people. In 2025, more than 379 veterans reached out for assistance.

Bridges \$4,500 Grant

Bridges: Domestic & Sexual Violence received a grant to support its Court Advocacy Program to provide comprehensive support to survivors of domestic and sexual violence before, during, and after their court hearings.

Between June 2024 and July 2025, advocates accompanied 130 individuals to hearings in southern New Hampshire Circuit Courts. This crucial support minimizes client confusion and anxiety, leading to more positive outcomes for survivors and increased efficiency within the court system.

The Rudman Center \$9,600 Grant

The Warren B. Rudman Center for Justice, Leadership, and Public Service at the University of New Hampshire Franklin Pierce School of Law (Rudman Center) received a Justice Grant for its Summer Fellows Program. Rudman Fellowships support first- and second-year law students working for government agencies and nonprofits that perform public interest legal work. These fellowships pay up to \$4,800 for 10 weeks of full-time work. This program helps to fill legal service gaps while providing students the training and financial support to pursue careers in the public interest.

Over the past two summers, the Rudman Fellowships provided 137 summer stipends for students working at 78 different nonprofits and government agencies. The Rudman Center has noticed that the expansion of their program has corresponded with a rise in the percentage of graduates entering government and public service jobs. The Rudman Center's Justice Grant funded two summer fellows to pursue these critical internships.

NHBA Civics and Law Outreach \$9,026 Grant

The New Hampshire Bar Associa-

tion's Civics and Law Outreach program received a grant for the *We the People: The Citizen and the Constitution* (WTP) program. WTP provides students with a dynamic and rigorous learning experience that fosters lasting civic engagement and prepares students to be active participants in their community, state, and nation.

Each year, approximately 50 high school students and 30 volunteer attorneys and judges participate in mock congressional hearing events that serve as a final authentic assessment for all students. The winning high school team participates in the national competition held in Washington, DC.

Historical Society \$10,000 Grant

The New Hampshire Historical Society (Historical Society) was awarded a grant to support its Democracy Project: Renewing History and Civics in New Hampshire Schools. These funds were used to expand the civics curriculum in "Moose on the Loose: Social Studies for Granite State Kids." This work included adding materials for seventh and eighth graders and providing training for teachers.

With this funding, the Historical Society created 20 additional lesson plans and offered civics-specific teacher workshops. The Moose on the Loose materials are available free of charge at moose.nhhistory.org. The reach of Moose on the Loose continues to expand, with close to 150 schools using it in the past year and close to 35,000 unique visitors to the website.

NHLA Manchester Eviction Clinic \$15,000 Grant

The New Hampshire Legal Assistance (NHLA) grant helped support its weekly Eviction Clinic program at the Manchester Circuit Court. Through these clinics, NHLA staff provide eviction defense services to vulnerable New Hampshire residents facing the threat of eviction. The Justice Grant funding supported the Manchester clinic from January 2025 through September 2025, covering a total of 120 hours of NHLA advocate time during these months.

During this period, NHLA provided services ranging from advice to representation to 101 tenant households in Manchester. Through the clinic, NHLA staff prevented eviction judgments for 66 households, which included 97 adults and 57 children. Of those tenants who avoided an eviction judgment, 35 cases included a settlement agreement where the tenant agreed to move out of the apartment after a period of time. These agreements allowed tenants to keep an eviction judgment off their record – critical to their future search for alternative housing – and preserved 16 housing subsidies.

NHLA Internship \$6,200 Grant

An additional grant was awarded to NHLA to support the work of three law

students during their summer internships. These internships connect law students to the field of civil legal services and aid in the development of public interest lawyers.

During the internships, law students supported courthouse-based clinic programs for victims of domestic violence and tenants facing eviction; engaged in investigation and fact-gathering; drafted several motions, demand letters, and a complaint; completed research projects; helped prepare clients for hearings; and assisted in the complex discovery process of class action litigation.

The internship program also works to encourage the pursuit of careers in public interest law.

The Judicial Branch \$2,500 Grant

A Justice Grant was awarded to the New Hampshire Judicial Branch for a Sequential Intercept Mapping (SIM) project. The Branch facilitated two-day SIM mapping workshops in all New Hampshire counties. The culmination of the mapping process was the creation of a local strategic plan for diverting individuals with mental health and/or substance use disorders from the criminal justice system based on the gaps, resources, and priorities identified by community stakeholders.

From April 2023 to November 2025, Judicial Branch staff conducted 11 county-level SIM workshops, and a Statewide SIM mapping workshop. The statewide SIM aimed to build on county-level findings by identifying areas requiring state-level responses and creating priority action plans to maximize impact. The SIM mapping provided a clear pathway for systemic improvements in New Hampshire's behavioral health and criminal justice interface at both the county and statewide level. The full report can be accessed on the Judicial Branch website at courts.nh.gov/mental-health-initiatives-and-team.

New Hampshire Public Radio \$10,000 Grant

New Hampshire Public Radio (NHPR) received a Justice Grant to support its Civics 101 programming. Civics 101 explores the institutions of government and the rule of law through weekly podcasts, five-minute segments, lesson plans, educational tools, in-person events, and social media content.

NHPR produced 50 episodes in FY2024, covering a broad range of topics, many directly related to events in the news. In the last year, they increased the number of full-length episodes of Civics 101 that aired. In 2024, more than 3,733 students visited the Civics 101 website.

The Foundation relies on the generosity of our donors to sustain the Justice Grants program. To donate to a specific grant or to another Foundation initiative, please visit nhbar.org/nh-bar-foundation/grant-programs/justice-grants or call (603) 715-3210. ♦

DO YOU WORK WITH AN IOLTA LEADERSHIP BANK?



NHBA Announces CLE Scholarships

By Sarah Blodgett

The New Hampshire Bar Association's Special Committee on Public Sector and Public Interest Attorneys (Public Sector Committee) began meeting in September 2025, and one of its first actions was to seek feedback directly from these attorneys regarding some of the challenges facing them.



The committee, chaired by Jane Young, drafted a survey focused on Continuing Legal Education (CLE), and many respondents pointed to cost as a significant impediment to taking NHBA CLEs. Most state agencies and other public sector employers do not cover the cost of CLEs or annual bar dues.

After reviewing these responses, the Public Sector Committee recommended that the Board of Governors consider offer-

ing CLE scholarships. The Board approved the recommendation and adopted a policy detailing the process.

I'm thrilled to announce that scholarship opportunities are now available for all attorneys – not just public sector and public interest – who meet certain requirements.

- Scholarships are available to attorneys with financial need whose employers do not pay for or reimburse CLE costs.
- The names of scholarship applicants will be confidential and viewed only by staff involved in the application process.
- Applications for in-person and live webcast CLEs will need to be submitted at least two weeks (10 business days) before the program date to allow sufficient time to process the application.
- Scholarships will not be available for certain CLE programs, including, but not limited to, Practical Skills.
- Applicants will need to explain the relevance of the requested CLE to their practice.
- Once an attorney has completed the

required 720 minutes of CLE credit, they will be ineligible for additional scholarships during that reporting period.

While requests for full cost waivers will be considered for in-person CLEs, we cannot offer complete waivers for webinars or on-demand programs. The NHBA uses a third-party vendor to host these programs and pays a fee for each attendee.

Scholarship applications are now

available on our website at nhbar.org/nhbacle.

The Public Sector Committee is also working to develop specific CLE programs geared toward public sector and public interest attorneys. If you have ideas for courses or are interested in serving as a faculty member, please email me at sblodgett@nhbar.org. ♦

Sarah Blodgett is the executive director of the New Hampshire Bar Association.

LawLine

The New Hampshire Bar Association thanks Kalil & LaCount for the very successful LawLine event held on January 14. Thanks to its efforts, 38 calls from residents across the state were answered on a wide range of topics, including collections, malpractice, small claims, and mental health law.

Our callers consistently express deep appreciation for the legal advice they receive, and the NHBA is immensely grateful for the continued support and participation of our volunteer attorneys each month.

LawLine is a free public hotline, staffed by volunteer attorneys, and offered on the second Wednesday of each month from 6 to 8 pm. Calls are forwarded through NHBA staff to maintain firm anonymity.

We are currently seeking volunteers for future LawLine events. If you're ready to make a difference this year, we would

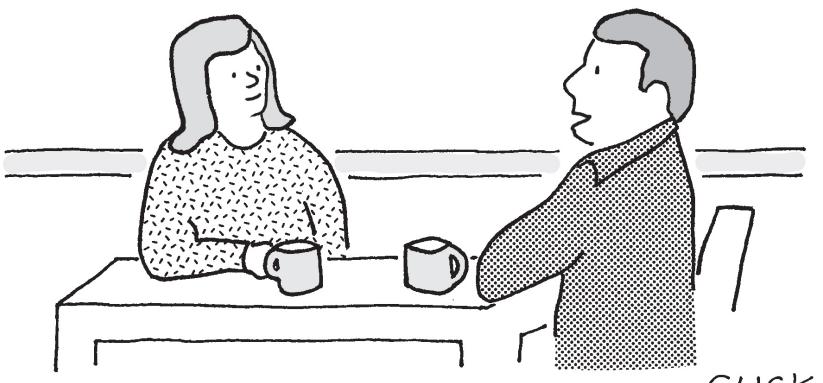
love to have you join us! To learn more or to volunteer, please contact NHBA LawLine Coordinator Amanda Adams at aadams@nhbar.org. ♦



January LawLine volunteers from Kalil & LaCount, from left: Richard Rousseau, Riley Max, and Michelle LaCount. Courtesy Photo

Jest Is For All

by Arnie Glick



"I really like you, Jennifer, so if you are not yet sure if you want to be my Valentine, I am willing to give you the right of first refusal."

2026 NHBA Board of Governors Elections: Open Positions

The NHBA is seeking nominations for positions on its Board of Governors for the membership year starting in June 2026.

To view a list of the open positions or to download a petition, please visit nhbar.org/nhba-bog-2026-elections-open-positions.

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

- Vice President (one-year term, and a four-year commitment to board leadership track – President-Elect, President, and Immediate Past President in subsequent years)
- Two Governors at Large (three-year term)
- County Governors (two-year term) representing:
 - Belknap*
 - Carroll*
 - Hillsborough County North
 - Hillsborough County South*
 - Strafford*
 - Sullivan*
- ABA Association Delegate (two-

year term)*

Submitting a Nomination Petition

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

Petition Deadline

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

Election Information

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

The Bar News Crossword by James P. Mulhern

Here are the answers to the *Bar News* Crossword from the January 2026 issue (Vol. 36, No. 8), along with a new puzzle. Did you fully solve the January crossword? Tell us how you did or give feedback at news@nhbar.org.

1	R	U	M	B	A
6	O	V	A	L	S
7	A	U	J	U	S
8	C	L	O	N	E
9	H	A	R	T	S

ACROSS

1. Felt hat named after a Moroccan city
4. Monetary sanction
5. Fruit-flavored soda brand
6. Bark (at)
7. "The ____ Duckling"

	1	2	3
4			
5			
6			
7			

DOWN

1. End-of-term test
2. Sweepstakes submission
3. Fiery passion
4. Vampire's tooth
5. The Seminoles of the NCAA



Andrew D. Grosvenor

JOINS UPTON & HATFIELD, LLP

Upton & Hatfield, LLP is pleased to announce that Andrew D. Grosvenor joined the firm as an Associate Attorney.

Andrew D. Grosvenor is a member of Upton & Hatfield's business and real estate practice groups. He has experience in drafting

contracts, corporate governance, securities, and mergers and acquisitions. He received a B.S. in Environmental Science from Trinity College, a Masters in Environmental Law & Policy and his J.D. from Vermont Law School. Andrew is licensed in NH and VT.



Welcome Andrew! We're happy to have you on our team.

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Rath, Young and Pignatelli is pleased to announce our new shareholder



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Grayson is a member of the Renewable/Alternative Energy and Utility Practice Group and Business and Finance Practice Group. His primary focus is on the firm's Renewable Energy practice, which includes solar, battery energy storage systems, wind, and landfill natural gas projects. He represents lenders, investors, developers, and sponsors in performing due

diligence and structuring, negotiating, and closing transactions involving the construction, acquisition, sale, and financing of renewable energy projects throughout the country. In addition to his Renewable Energy practice, he regularly advises non-energy clients in a wide range of business and corporate matters. Grayson earned his Juris Doctorate from the University of South Carolina.

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Bringing Street Law to Life in the Classroom

By Megan Koerber

For nearly two decades, social studies teacher Curtis Roddy has included Street Law curriculum in his lesson plans, transforming what many consider to be abstract legal concepts into real-world learning.

From his classroom at Epping Middle High School (EMHS), Roddy continues to incorporate the program in many ways – with hands-on lessons, expert partnerships, and field trips that help students understand the legal system and their place within it.

Roddy's approach begins with foundational, but engaging lessons.

"I have utilized a wide variety of lesson plans within the Street Law program," Roddy says, "especially those that help introduce students to the law and criminal law in particular. The case of the shipwrecked sailors is always an excellent case to walk students through. It's a fantastic way to expose students who have never taken a class like this to be introduced to this curriculum."

According to Roddy, role-plays and case studies are two of the most popular ways to engage students in classroom discussions, and field trips are rare opportunities for students to see real-world legal proceedings. On December 9, Roddy's criminology and Street Law students visited the Rockingham County courthouse – a trip made possible through his ongoing collaboration with



Curtis Roddy in front of his criminology class at Epping Middle High School. Photo by Megan Koerber

Rockingham County Assistant Attorney Taylor Beucler.

Beucler first became involved with Street Law after learning about the program through the New Hampshire Bar Association.

"I enjoy working with kids and I wanted to become more involved," Beucler says. "The process was easy."

Her partnership with EMHS quickly became a cornerstone of Roddy's classes. Because of this partnership, during

the courthouse visit, students weren't just observing proceedings from a distance – they had Beucler beside them to help interpret what they were seeing.

"[Beucler] was able to provide insight, context, and clarity to the proceedings that my students and I were able to watch," Roddy says. "She has been a warm and welcoming addition to my students at EMHS as an invaluable resource."

Beucler says the experience was equally meaningful for her. Students watched defendants being sentenced and asked thoughtful questions about fairness, sentencing decisions, and how the justice system functions.

"It was good to see them formulating opinions and ideas of what is 'fair' under the law," she reflects. She also emphasized the importance of helping students understand the realities of the legal system – including the backlog of cases, the impact of COVID-19 on trial schedules, and the differences between real courtrooms and what they see on television.

In addition to the courthouse, Beucler helped organize a tour of the Rockingham County House of Corrections. Students met the facility's K9 companion, learned about inmate services, and saw firsthand what daily life looks like inside the jail.

"Many of them were shocked to

learn how the inmates reside and what their day-to-day looks like," Beucler says. "It was certainly interesting to see which children were asking questions and what their focal points were."

Her contributions inside the classroom have also been impactful. Beucler developed a presentation on technology and its role in modern prosecution – a topic that immediately captured students' attention. Using real examples, she showed how digital evidence can both protect young people and expose them to risks.

"My primary goal was to make them stop and think before they engage in online activity in an age where they are surrounded by it," she says. She wanted students to understand both how law enforcement can help if they are targeted by online predators and how their digital footprint can follow them, even without their consent.

Roddy has seen a clear shift in how students talk about civic issues and legal concepts after engaging with all aspects of the Street Law program. The courthouse visit, in particular, helped students connect abstract rights to real-world situations.

"Students comment on how they feel they better understand some of their most basic rights as Americans," Roddy says, noting that the Rockingham County judges' explanations made those rights feel concrete and meaningful. "Through Street Law, students are learning what is applicable, relevant, and current that impacts their lives today, tomorrow, and in the immediate future."

Looking ahead, Roddy is excited to welcome criminal defense attorney Catie Flinchbaugh into his Street Law class in 2026. Her involvement will allow students to compare perspectives across the justice system.

"Students have been able to see the lens of the state, law enforcement, and prosecution, and now seeing the lens through a criminal defense attorney is a new understanding for my students that I'm excited to see," he says.

Roddy sees his Street Law and Criminology classes as uniquely positioned to complement the school's required civics curriculum. Because the courses are flexible and responsive to student interests, he believes they will continue to shape informed, engaged citizens for years to come. ♦

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Milford High School Wins We the People State Championship

By Megan Koerber

Milford High School's We the People team won the state championship on January 9 at the New Hampshire Institute of Politics, earning the right to represent New Hampshire at the national finals in Washington, DC, this April.

The competition, which challenges students to demonstrate a deep understanding of constitutional principles through simulated congressional hearings, draws teams from across the state.

In recognition of their victory, the team was invited to the opening of the New Hampshire Senate on January 29, where members received a proclamation honoring their state championship. Students also toured the State House and met Governor Kelly Ayotte, Senate President Sharon Carson, and Representative Peter Petrino.

The We the People curriculum at Milford High School emphasizes preparation, collaboration, and sustained engagement throughout the year. The program's instructional framework was originally developed by the Center for Civics Education and continues to shape how students prepare for competition.

"Our students make the difference," says teacher Thomas Lundstedt. "Each year, students fully buy into the program, commit themselves to the process, and take ownership of their learning. Over the course of the semester, we intentionally create experiences that shift the class from being just another academic course into a cohesive team."

Milford junior Marek Luba says that shared time and daily collaboration helped build that cohesion.

"As a team, everyone gets along and is able to work well with each other," he says. "Having class together every day helped us to form bonds and friendships with each other. This connection is what allows the team to be strong."

Outside of regular class time, each of the six units met for a minimum of one hour per week, with additional sessions during school breaks.

Milford senior Precious Simpson says preparation often involved responding to questions without notes and adapting to new material.

"Practice mainly involved learning the content while our teacher and other community members asked us questions related to our unit," she says. "We had

to communicate with each other to come up with the best possible answer, usually without notes. During some meetings, we took notes on new court cases, current events, or anything else that helped deepen our understanding."

Lundstedt says students are particularly drawn to constitutional issues that connect directly to their lives, including Supreme Court cases and the Bill of Rights.

"Our society has a long tradition of protecting individual rights, and court cases present real-world problems that often lack easy solutions," he says. "Many of these issues, such as First Amendment rights in schools, are especially relatable to students."

For Luba, learning about the judicial branch stood out.

"Learning about the Supreme Court and their role in the government was very intriguing," he says. "Their different powers and responsibilities when dealing with cases are very important and I enjoyed learning about their role."

For Simpson, the program reinforced the importance of constitutional protections.

"I found it really important to see that everyone has rights, especially in situations where they have to go through a trial or appear before a jury."

Both students say the experience helped build confidence, particularly in public speaking.

"I used to be very afraid to speak in front of people, especially when I wasn't confident in the material or didn't know the audience," Simpson says. "This experience helped me work better under pressure."

Lundstedt says witnessing that growth is one of the most rewarding aspects of the program.

"Each year presents several meaningful moments," he says. "But the most significant is witnessing the growth students demonstrate from the first day of class through the state competition. Their increased confidence, depth of understanding, and ability to articulate complex constitutional ideas stand out."

The We the People National Finals will take place this coming April in Washington, DC. For more information on civics education in New Hampshire and how to get involved, visit nhbar.org/civics-education or contact NHBA Civics and Law Outreach Coordinator Martha Madsen at mmadsen@nhbar.org. ♦



We the People state champions from Milford High School stand with Governor Kelly Ayotte (center) after receiving the Senate proclamation. Courtesy Photo

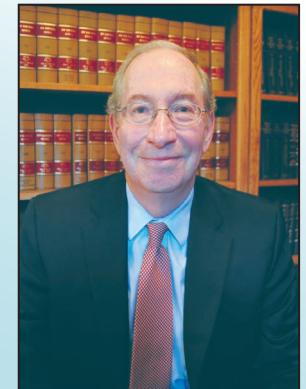


We the People state champions from Milford High School on the New Hampshire Senate floor with Senate President Sharon Carson (left) and State Senator Tim McGough (right). Photo by Megan Koerber

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Law Day School Visits: An Invitation to Judges and Lawyers

By Hon. Landya McCafferty

Law Day is set aside each year in May for judges and lawyers to visit schools. As a member of the NHBA's Civics and Law Outreach Committee, I am writing to encourage judges and lawyers to visit a school on any day during the year, whenever you are able. I make this promise: if you do one visit, you will want to do more. Here is some basic information to help you get started.

If you do not know a teacher to help you get into a classroom, contact NHBA Civics and Law Outreach Coordinator Martha Madsen at mmadsen@nhbar.org and she will help pair you with a school.

The NHBA offers a one-stop resource for you at nhbar.org/civics-education/law-day. You can explore that website and locate a set of materials that will work for you as either an attorney or a judge. The federal judiciary also has materials for these lesson plans prepared by Rebecca Fanning, the National Outreach Manager for the federal judiciary. These are designed to be quick and easy. Ms.



Fanning has given me permission to make these available to our Bar, which you can access at uscourts.gov/about-federal-courts/educational-resources. While the exercises are drafted for judges, they are adaptable and can be used by lawyers as well.

Whatever you decide to use, I recommend you get the students engaged and debating with each other. So long as you have a fact-based scenario prepared ahead of time that presents some legal issue that students can debate, you can divide the class up into different sides of the debate and begin asking them questions. Pick a lesson from the materials and then make it your own; tweak it to be an exercise you

are comfortable with. The students never cease to amaze me. I am a better judge for making these school visits a regular part of my job.

First, use scenarios based on real cases (e.g., *Tinker v. Des Moines*). Stay away from hypothetical scenarios that involve hot-button issues or, for judges, any dispute that may come before you. Second, every question is a teachable moment – even those that make you feel awkward.

If the students ask me about a particular case before me, I teach them about judicial ethics and why it is so important for judges not to discuss their cases (e.g., the appearance of impartiality). If they ask a political question, I explain the

same. For attorneys, you can discuss the importance of confidentiality.

If you visit a school on your own or through a contact Martha has provided, please let her know as the NHBA is keeping track of the number of lawyers participating and school visits. Please send a quick email to Martha indicating the school/teacher and date of your visit.

If you have questions or want to brainstorm your lesson plan, feel free to contact me directly at the court at (603) 225-1493. ♦

The Honorable Landya McCafferty is a judge of the US District Court for the District of New Hampshire.

Wellness Corner

Excellence Without Exhaustion

By Kara Simard



Work that is meaningful, purposeful, and aligns with your personal values is more likely to bring long-term satisfaction in legal practice. But what happens when prioritizing a core value contributes to a decline in your well-being?

Lawyers are often high achievers, with perfectionist tendencies, who value hard work and excellence. The stakes are high in legal practice, and precision and attention to detail are fundamental to our work as lawyers. Thus, we place a high value on producing excellent work for our clients and providing exceptional representation. It makes us feel good, and we may thrive from feeling competent and achieving excellence.

But sometimes we sacrifice our own physical health, emotional health, or relationships to produce excellence. Maybe we are putting in late nights at the office or giving up our weekends to achieve favorable results for our clients. Maybe the early morning workout is the first thing we cut after staying up late finishing an important client matter. Maybe we consistently reschedule our dentist or doctor appointments because we have important work to do and really need that hour to get it done. Maybe we find ourselves canceling plans with friends, not showing up for that event we said we would be at, or reviewing documents

while eating dinner with our family. Maybe our loved ones notice they keep having to repeat themselves because our heads are at work rather than listening to what they are saying.

I speak from experience with each of these examples.

It is not a bad thing to work hard for our clients to ensure they have the best representation we can provide. But it is a bad thing to let our health and relationships suffer. The situation is often compounded when we have high workloads and tight deadlines. So how do we do the fulfilling work that we care about at a level that meets our standards, while also maintaining our health and well-being? I don't know the answer, but I do have some suggestions.

First, it is imperative to be aware of perfectionist thoughts and tendencies and counteract them with a more forgiving mindset. Shift your thinking from perfection to accepting work that is the best you can do under the circumstances, given the time constraints and the facts. Perfectionism and excellence are not the same. Rather than setting unrealistic or impossible standards, set more manageable expectations and goals. When goals are reasonable and attainable, stress is reduced and confidence increases. Think through what you can actually accomplish in a day or a week and refrain from creating an unattainable to-do list (something I'm still working on).

In addition to setting more realistic expectations, differentiate between tasks that require meticulous attention and tasks that can be "good enough" because perfection is not necessary. Prioritizing what you work on and when you work

on it is another way to maintain control over your time. If you plan for those important tasks and schedule time to work on them within your regular work hours, you can minimize the amount of time you spend on lower priority tasks that often eat up the workday. Then, set limits on how much time you are willing and able to devote to mundane or lower priority tasks so that you can enhance your efficiency throughout the day.

Plan out your days in advance so you don't waste time trying to decide what to work on or end up spending your day on other people's priorities. Without advance planning, it is common to choose easy or quick tasks over hard or more time-consuming tasks. But the harder and more time-consuming tasks are usually the ones that cause more stress and keep us working late if we don't prioritize them.

If you spend a good portion of your day on the work that matters the most, it may be easier to head home at a reasonable hour. If you start the important work later in the day when you feel like you finally have a chance to sit down and focus, late nights or canceled plans may be more likely. The same is true for the big projects you keep putting off because you don't have enough time to make meaningful progress on them.

Procrastinating can transform an interesting legal question or fulfilling project into a rushed and stressful task. Schedule time to work on those projects, even if you need to complete them over several days. And if you are someone who likes to edit and review your written work multiple times before you consider it done, start the work early so you can

refine it in a more manageable way.

Along with prioritizing your time and tasks, it is a good idea to set and stick to boundaries as best you can regarding work hours, client availability, and protecting your personal needs. If exercise helps you manage stress, schedule it and protect that time. If you need to work a longer day causing you to sacrifice something else that is important to you, get back to your other priorities as quickly as you can before you make it a habit.

Accept that you won't be home for dinner or won't make it to the gym that day, but you'll be back to your normal routine tomorrow. Neglecting yourself often ends up costing more in the long run, so caring for your health and relationships with the level of attention you give your clients is warranted.

What makes us excellent attorneys might also be what destroys our well-being, so we need to be cautious about how we are spending our time and notice when we start sacrificing other things that are important to us. We don't need to lower our standards or achieve less, but we should make sure our behaviors are consistent with all our values and not just one. ♦

Kara Simard is an assistant clinical professor and the director of Legal Residencies at the University of New Hampshire Franklin Pierce School of Law. Prior to that, she represented indigent criminal defendants at the New Hampshire Public Defender. She is serving her first term on the NHBA Special Committee on Attorney Wellness. She can be reached at kara.simard@law.unh.edu or (603) 513-5195.

From Roombas to Regulators: Privacy Consequences in the Wake of iRobot's Bankruptcy

By Katarina Overberg

In mid-December 2025, iRobot announced it was filing a prepackaged Chapter 11 petition in the US Bankruptcy Court for the District of Delaware. Under its restructuring support agreement, Shenzhen Picea Robotics, a Chinese manufacturer of Roomba hardware and creditor, will acquire 100 percent of iRobot's equity. The pre-packaged plan is anticipated to conclude in February 2026. The sale raises complex legal questions at the intersection of bankruptcy practice, data privacy, national security review, and cross-border data transfer governance.

This transaction follows earlier failed acquisition efforts, most notably Amazon's attempt to purchase iRobot for approximately \$1.7 billion, which collapsed in early 2024 after US and EU regulatory scrutiny.

A once-celebrated feature – room mapping – is now the source of concern as iRobot attempts another sale. Modern Roomba devices use cameras, light detection and ranging (LiDAR), and other sensors to build digital maps of users' homes as part of navigation and smart-home services. These mapping datasets can include highly detailed spatial information, usage patterns, and environmental images.

Prior privacy disclosures by iRobot indicated that data would not be shared with third parties unless the consumer explicitly opted in, and that smart-home mapping data could be used to support integrations with compatible products. Fast forward to the present day, iRobot and entities involved in the sale have made public representations about the privacy and security of user data – particularly assurances that mapping data will remain protected, encrypted, and geographically localized within US servers, aiming to reassure users about geographic data sovereignty. While consumers may be skeptical whether iRobot will follow through with such promises, and whether Shenzhen Picea Robotics will honor them, the Federal Trade Commission (FTC) has indicated it will hold such companies accountable.

Earlier in 2025, FTC Chairman An-



drew N. Ferguson issued a formal letter to the US Trustee in the 23andMe bankruptcy proceeding, raising privacy concerns about the potential sale or transfer of millions of Americans' genetic and personal information. Chairman Ferguson emphasized that the FTC has a strong interest in ensuring that companies uphold the privacy representations they made to consumers and that any *purchaser* be bound by existing privacy policies and applicable law.

While the letter did not initiate a formal enforcement action, it serves as a bellwether of FTC scrutiny: the agency has signaled that discontinuities between public privacy promises and post-transaction practices could give rise to enforcement under the unfair or deceptive practices prongs of Section 5 of the FTC Act. In the 23andMe context, this included concern that purchasers of the data would continue to apply the same safeguards and privacy protections referenced in the original privacy notice.

A distinctive feature of the iRobot case is the involvement of national security review. Lawmakers have urged the US Treasury to subject the bankruptcy plan and subsequent acquisition to review by the Committee on Foreign Investment in the United States (CFIUS) given potential risks associated with foreign access to detailed home-mapping technologies. CFIUS authority extends beyond classic defense and infrastructure assets to technologies that could have national security implications, especially if those technologies collect or enable access to highly sensitive personal or geospatial data at scale. iRobot's sale illustrates that even a bankruptcy sale does not immunize a transaction from national security scrutiny when data is considered a strategic asset.

While iRobot likely has significant work ahead as it attempts to finalize the sale to Shenzhen Picea Robotics, there are many lessons to be learned.

Similarly situated companies should:

- Be mindful that public statements about data privacy may be treated as warranties or representations subject to enforcement and, thus, should calibrate any public disclosures (including bankruptcy court filings and press releases) to avoid inadvertently creating regulatory obligations.
- Consider whether existing consents remain valid under applicable privacy laws (e.g., state privacy statutes that require opt-in for sensitive data pro-

cessing) if data practices are modified as part of an acquisition, in order to mitigate regulatory risk and preserve consumer trust.

- Consider whether any changes associated with a shift in corporate ownership are consistent with data subjects' expectations, contractual privacy notices, and applicable statutes during the negotiation of a sale with another entity.

Additionally, a shift in corporate ownership to a foreign-linked buyer triggers additional regulatory considerations such as:

- Whether consumer data will remain under US jurisdiction and be subject to equivalent safeguards.
- Whether wholly new processing, cross-border transfer, or subsequent data sharing will occur.
- Whether bankruptcy sales involving foreign-linked buyers may trigger voluntary or mandatory CFIUS filings, even absent typical acquisition thresholds.
- Whether mitigation measures (e.g., data localization, firewalls) will need to be negotiated to secure regulatory comfort.

Companies would further be well advised to take proactive steps before being on the doorstep of a merger, sale, or bankruptcy proceeding, especially where

consumer data constitutes a core asset. Bankruptcy is not a regulatory off-ramp. Ownership shifts involving the transfer of consumer data and sensitive technology can trigger scrutiny.

Effective data governance should be treated as an enterprise risk function, not a transaction-specific exercise. Practitioners should advise clients to inventory and classify data assets, map data flows, and identify which datasets are subject to heightened legal protections or consent requirements. Privacy notices, internal policies, and public statements should be drafted with potential future sales or acquisitions in mind, clearly articulating how data may be used or transferred in the event of a corporate transaction.

Companies should also ensure that technical and contractual controls – such as access restrictions, data localization commitments, and successor-in-interest clauses – are in place to operationalize any representations. Regular audits and cross-functional coordination between legal, compliance, IT, and communications teams can further ensure that privacy commitments are consistently implemented and defensible if scrutinized by regulators or courts. ♦

Katarina Overberg is a member of McLane Middleton's Corporate Department and focuses her practice on cybersecurity and data privacy matters and intellectual property. She can be reached at katarina.overberg@mclane.com.

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Law Students Welcome a Familiar Face as Interim Dean

By Bethany Hartt

Spring semester began Monday, January 12, with a new interim dean at the helm of the University of New Hampshire Franklin Pierce School of Law (UNH Law). Colleagues from the New Hampshire legal community and UNH Law weighed in on Courtney Brooks' appointment in the January issue of the *Bar News*. The students now wish to add their commentary.

We are thrilled.

As we waited with bated breath to see who might replace Dean Megan Carpenter, Provost Riley's email announcement elicited a collective exhale. Times of transition are eased by doses of familiarity and routine. Professor Courtney Brooks is that steady presence on campus.

Her reputation for consistency among students was not earned by hiding behind a computer screen or a closed door. While it is highly likely Dean Brooks actually sits down and works in her office, she is almost always seen on



her feet and in common spaces.

One need look no further than @unh_law on Instagram to corroborate Brooks' whereabouts over the last few weeks. As soon as the semester started, Brooks was connecting students with employers at the public interest job fair, welcoming New Hampshire Attorney General John Formella to campus, and teaching the Daniel Webster Scholar (DWS) courses on her schedule. Despite ever-increasing demands on her time and energy, Brooks never appears beleaguered by the future attorneys in her sphere of influence.

It is abundantly clear that Brooks genuinely enjoys being with students. Not memorialized on the Instagram grid are the instances of individualized care and attention – where Brooks also seems to thrive.

She relishes connecting students to attorneys who become cherished mentors. She works hard to cultivate and maintain relationships with members of the Bar. She makes it a habit to write emails of encouragement and congratulations to alumni.

Last Wednesday morning, Brooks carted a trolley of snacks through the cafeteria, doling out Cheez-Its (and other top-of-the-line snacks) with a smile.

"Professor Brooks is an exceptional



UNH Law Interim Dean Courtney Brooks carting a trolley of snacks through the cafeteria, doling out snacks with a smile. Photo by UNH Law Assistant Dean for Students Lauren Berger

choice for the role of interim dean," says UNH Law 2L and DWS student Morgan Henderson. "Her supervision of the Daniel Webster Scholar program has been in-

strumental in shaping practice-ready advocates ready to hit the ground running in the legal profession."

It is safe to say that morale trends positive at UNH Law, but Brooks – and her successor – also must navigate inevitable challenges.

Last June, the New Hampshire State Legislature cut \$35 million from the University System of New Hampshire, a decision that will inevitably impact UNH Law. Many students express that the foundations of the legal profession appear shaky.

The rule of law and *stare decisis* are mere platitudes to some. Unauthorized use of artificial intelligence in the law school context is eroding trust and competency.

On a lighter note, there is always a generalized gripe about parking (or lack thereof). These challenges are not entirely new, and steady leadership will always be a robust solution.

UNH Law officials have yet to announce details about the process for a permanent dean search, but in the meantime, we are in good hands. ♦

Bethany Hartt is a 2L and Daniel Webster Scholar at the UNH Franklin Pierce School of Law. After law school, she plans to practice in New Hampshire.

■ HISTORY *from page 1*

"Hate taxation, love representation," Rome jokes.

The dynamic helps explain the nation's largest state legislature and repeated resistance to efforts to reduce it. Combined with its 24-member Senate, the New Hampshire General Court totals 424 legislators, making it one of the largest legislative bodies in the English-speaking world.

Judge Delker also points to two relatively recent constitutional amendments. One established a "Right of Privacy," while another granted taxpayer standing to sue state or local governments over unlawful spending.

"It allowed taxpayers in certain situations to challenge government decisions, spending decisions," Judge Delker says. "And that was a response to a state Supreme Court case that said taxpayers didn't have a right to bring those kinds of lawsuits. And so, the voters responded."

Separation of Powers

If taxation has been a recurring concern, the judiciary has been an even more volatile one. Judge Delker describes early court history as "a political football," particularly in the decades after independence, when separation of powers was poorly defined.

That fluidity is embodied by Meshech Weare, New Hampshire's first governor, who simultaneously served as legislative leader, chief executive, and chief justice – roles that would now be constitutionally incompatible.

Weare was also among the judges in the 1772 Pine Tree Riot trial, arising from resistance to British enforcement of laws reserving large white pines for Roy-

al Navy masts. Though the defendants were convicted of assaulting a sheriff, the modest penalties were widely interpreted as tacit approval of resistance.

After independence, legislative dominance over the courts persisted. Lawmakers could remove judges not only by impeachment but by issuing a bill of address – effectively abolishing courts and reconstituting them with political allies.

"What they would do," Delker says, "is issue a bill of address against all the judges, eliminate the court, create a new one, and then appoint their political supporters."

The tactic was used repeatedly, especially during the Jacksonian era, undermining judicial stability. Rome notes that at times the chaos was extreme, with judges refusing to recognize legislative authority and rival courts operating simultaneously.

"A lot of the basic rules and procedures we take for granted today just didn't exist," Rome says.

A turning point came in 1818 with *Merrill v. Sherburne*, when the New Hampshire Supreme Court rejected the legislature's practice of granting retrials. The court ruled that adjudication was an exclusively judicial function.

"That was a real line-in-the-sand moment," says Judge Delker. "The separation of powers existed before that, but it wasn't nearly as well-defined."

Still, true judicial independence came slowly. Courts could be abolished outright until a 1966 amendment permanently established the Supreme Court as an independent constitutional body.

Origins and Purpose of the Project

For Judge Delker, the project began

as a practical response to gaps he encountered on the bench. New Hampshire courts traditionally interpret state constitutional claims first, but when novel issues arise, historical guidance is often difficult to access.

"At the federal level, you have the Federalist Papers, Madison's journals, all kinds of resources," he says. "At the state level, we don't have anything comparable that's easily accessible."

Those sources exist, but they are scattered across archives. Rome reached out to Judge Delker after independently noticing the same problem while attempting to assemble a pocket version of the Constitution, which has since been created by the Secretary of State's office.

"I figured I could just try to put together a version and maybe print it out," Rome says.

While working through the text, Rome noticed entire provisions labeled simply as "repealed."

"If you know what words were taken out," Rome says, "it can tell you a lot about what the people were trying to reject."

"Bryan reached out to me because he knew I taught state constitutional law," Judge Delker says. "He had this idea about the pocket constitution, and I said, yes, and let's take it to the next level."

Rome's work now includes voter guides, pamphlets, and newspaper debates.

"This is so you don't have to read years of different newspapers to understand what people were getting at," he says.

One example involves a constitutional amendment affecting civil jury trials. Though presented as preserving the

right, it raised the monetary threshold to access it. The Supreme Court later struck it down as misleading.

"That's why voter guides are so important," Rome says. "They show not just what passed, but how it was framed."

Brown says findings like that underscore the project's public value.

"I feel like [Rome's] work with Judge Delker is protecting our history," she says. "And to be clear, the New Hampshire Constitution has a very distinct history from the US Constitution. This is a document – and a history – worth cherishing."

Looking Ahead

The work is slow and largely unfunded, supported mainly by the Rudman Center and in-kind assistance from the Supreme Court Law Library. The team hopes to partner with Oxford University's Quill Project and eventually secure grants to digitize fragile materials.

For Rome, the project affirms the Constitution's populist roots.

"Most amendments aren't about special interests," he says. "They're about real people trying to protect their ability to live their lives."

Judge Delker sees reassurance in the record. Deep divisions have surfaced before, yet the system endured. As major anniversaries approach, the project aims to ensure those debates are no longer lost to time. ♦

Editor's Note: At the upcoming Midyear Meeting on February 20, Judge Delker will be presenting a CLE, "The Important Work of Building and Structuring the New Hampshire Constitution" and will take part in a CLE panel discussion, "Why History Matters to the 21st Century Lawyer."



CONTINUING LEGAL EDUCATION GUIDE

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FEBRUARY 2026

FRI, FEB 20 – 8:45 a.m. – 4:45 p.m.

Midyear Meeting 2026

- 300 NHCLE min., incl. 90 ethics min.
- Manchester – DoubleTree by Hilton

MARCH 2026

THU, MAR 5 – 9:00 a.m. – 4:30 p.m.

Advanced Criminal Law in New Hampshire

- 375 NHCLE min., incl. 60 ethics min.
- Concord – NHBA Seminar Room/Webcast

WED, MAR 18 – 9:00 a.m. – 12:30 p.m.

Best Practices for Civil Discovery in New Hampshire

- 195 NHCLE min., incl. 60 ethics min.
- Concord – NHBA Seminar Room/Webcast

WED, MAR 25 – 9:00 a.m. – 4:30 p.m.

New Hampshire Nonprofit Law 2026

- 370 NHCLE min., incl. 60 ethics min.
- Concord – NHBA Seminar Room/Webcast

APRIL 2026

THU, APR 9 – 9:00 a.m. – 4:30 p.m.

New Hampshire Advanced Insurance Law

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

FRI, APR 10 – 9:00 a.m. – 4:00 p.m.

Adoption Law

- 335 NHCLE min.
- Concord – NHBA Seminar Room/Webcast

THU, APR 16 – 9:00 a.m. – 4:15 p.m.

Trusts & Estates 2.0

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

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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)

FRI, APR 17 – 9:00 a.m. – 4:30 p.m.

Circuit Court Practice: Jurisdiction, Ethics & Guidance

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

WED, APR 22 – 9:00 a.m. – 4:30 p.m.

Statutory Interpretation

- 360 NHCLE min.
- Concord – NHBA Seminar Room/Webcast

WED, APR 29 – 9:00 a.m. – 1:20 p.m.

Navigating Sexual Harassment Law: Key Updates & Compliance Tips

- 240 NHCLE min.
- Concord – NHBA Seminar Room/Webcast

MAY 2026

FRI, MAY 8 – 9:00 a.m. – 12:45 p.m.

Federal Practice in New Hampshire

- 215 NHCLE min.
- Concord – NHBA Seminar Room/Webcast

TUE, MAY 12 – Time TBD

Advocacy Before NH Agencies & Licensing Boards

- Credits TBD
- Concord – NHBA Seminar Room/Webcast

WED, MAY 13 – 9:00 a.m. – 4:30 p.m.

Hot Topics in New Hampshire Bankruptcy Practice

- 375 NHCLE min., incl. 45 ethics min.
- Live Webcast

FRI, MAY 15 – Time TBD

Mechanics Liens

- Credits TBD
- Concord – NHBA Seminar Room/Webcast

WED, MAY 27 – Time TBD

Landlord Tenant Law

- Credits TBD
- Concord – NHBA Seminar Room/Webcast

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THU, MAY 28 – 8:30 a.m. – 10:30 a.m.

20th Annual Ethics CLE

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

JUNE 2026

FRI-SUN, JUN 12-14

Annual Meeting 2026

- Whitefield – Mountain View Grand

TUE, JUN 16 – 8:30 a.m. – 4:45 p.m.

Practical Skills for New Admittees – Day 1

- Concord – Grappone Conference Center

WED, JUN 17 – 8:30 a.m. – 12:00 p.m.

Practical Skills for New Admittees – Day 2

- Concord – Grappone Conference Center

Statutory Interpretation

Wednesday, April 22, 2026

9:00 a.m. - 4:30 p.m.

360 NHCLE min.

NHBA Seminar Room/Webcast

Statutory interpretation lies at the heart of effective advocacy and sound judicial decision-making. This in-depth program brings New Hampshire attorneys directly inside the interpretive process used by our courts, from foundational theories and core canons of construction to the nuanced and often decisive role of legislative history. The seminar offers a rare opportunity to learn how judges analyze statutes in real time—what arguments resonate, what pitfalls to avoid, and how recent New Hampshire Supreme Court decisions are shaping the interpretive landscape.

Faculty

Jack P. Crisp, Jr., Program Chair, The Crisp Law Firm, PLLC, Concord

Hon. N. William Delker, NH Superior Court

Hon. Joseph N. Laplante, US District Court for the District of NH

The opinions expressed by the speakers and panelists are their own and do not necessarily reflect the views of the New Hampshire Bar Association.

The New Hampshire Bar Association does not endorse or assume responsibility for any statements made during this program.

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Advanced Criminal Law in New Hampshire

Co-sponsored with the NHBA's Criminal Justice Section

Thursday, March 5, 2026

9:00 a.m. - 4:30 p.m.
375 NHMCLE min., incl. 60 ethics min.
NHBA Seminar Room/Webcast

Criminal practice is evolving rapidly as technology, digital evidence, and artificial intelligence reshape investigations, discovery, and courtroom advocacy. This advanced CLE equips New Hampshire criminal practitioners with practical tools and strategic insight for managing digital evidence, leveraging emerging technologies ethically, and navigating modern constitutional challenges. Through expert-led sessions, attendees will gain immediately usable guidance for strengthening their cases from intake through sentencing.

Faculty

Hon. Christopher M. Keating, Program Co-chair/CLE Committee Member, State Court Administrator, Concord
Anthony Naro, Program Co-chair/CLE Committee Member, Naro Law, PLLC, Nashua
Emily E. Peterson, Program Co-chair/CLE Committee Member, Samdperil & Welsh, PLLC, Exeter
Patricia G. Conway, Rockingham County Attorney's Office, Brentwood
Corey Davis, Cyfortec, LLC, Manchester, CT
Catherine J. Flinchbaugh, Esq.
Brian N. Greklek-McKeon, NH Attorney General's Office, Concord
Georgiana L. MacDonald, NAXO Labs, New York, NY
Robin D. Melone, Pastori | Krans, PLLC, Concord
Jeffrey D. Odland, Wadleigh, Starr & Peters, PLLC, Manchester
Anthony F. Sculimbrene, Gill & Sculimbrene, PLLC, Nashua
Quinten Steenhuis, Suffolk University Law School, Boston, MA
Christopher Zalegowski, NH Public Defender, Concord

New Hampshire Nonprofit Law 2026

Wednesday, March 25, 2026

9:00 a.m. – 4:30 p.m.
370 NHMCLE min., incl. 60 ethics min.
NHBA Seminar Room/Webcast

Nonprofit organizations play an increasingly vital role in New Hampshire's civic, social, and economic landscape—and the legal environment surrounding them continues to evolve rapidly. This full-day program provides New Hampshire attorneys with a comprehensive, practical overview of nonprofit law in 2026, from formation and compliance to governance, ethics, employment, political activity, and dissolution. Drawing on insights from experienced practitioners and regulators, including the New Hampshire Charitable Trust Unit, the program equips attorneys with the tools they need to advise nonprofits proactively, manage risk, and navigate heightened scrutiny in a changing regulatory and political climate.

Faculty

Margaret A. O'Brien, Program Co-Chair/CLE Committee Member, McLane Middleton Professional Association, Manchester
Thomas J. Donovan, Program Co-Chair, Donovan PLLC, Manchester
Jared W. Davis, NH Attorney General's Charitable Trusts Unit, Concord
Michael A. Delaney, McLane Middleton Professional Association, Manchester
Mary Ann Dempsey, NH Attorney General's Charitable Trusts Unit, Concord
Brooke L. Lovett Shilo, Upton & Hatfield, LLP, Concord
Mark S. McCue, Hinckley Allen Snyder, LLP, Manchester
Kathleen Reardon, NH Center for Nonprofits, Concord

Best Practices for Civil Discovery in New Hampshire

Wednesday, March 18, 2026

9:00 a.m. - 12:30 p.m.
195 NHMCLE min., incl. 60 ethics min.
NHBA Seminar Room/Webcast

Best Practices for Civil Discovery in New Hampshire is a practical, half-day program designed to help litigators navigate the evolving challenges of civil discovery in New Hampshire courts. Chaired by Ned Sackman of Bernstein Shur, this program brings together experienced practitioners and Superior Court Judge Dan Will for an integrated, bench-and-bar perspective on proportionality, ESI, and discovery dispute resolution. Faculty will explore how courts apply Superior Court Rule 21 and Federal Rule 26, common discovery flashpoints, and best practices for effective motion practice and attorney cooperation. The program also includes an ethics-focused deep dive into privilege, protective orders, document preservation, and recent developments in New Hampshire law, including the common interest doctrine after *Atlantic Anesthesia*. Throughout the day, Judge Will will offer candid judicial insights and participate in a concluding Q&A, making this program an essential update for attorneys engaged in civil litigation practice in New Hampshire.

Faculty

Edward J. Sackman, Program Chair/CLE Committee Member, Bernstein Shur, PA, Manchester
Olivia F. Bensinger, Shaheen & Gordon, PA, Concord
Jonathan M. Eck, Orr & Reno, PA, Concord
Kathleen M. Mahan, Hinckley, Allen & Snyder, LLP, Manchester
Hon. Daniel E. Will, NH Superior Court

New Hampshire Advanced Insurance Law

Co-sponsored with the NHBA's Insurance Law Section

Thursday, April 9, 2026

9:00 a.m. - 4:30 p.m.
360 NHMCLE min., incl. 30 ethics min.
NHBA Seminar Room/Webcast

Join leading New Hampshire practitioners and judges for a comprehensive, practice-focused exploration of today's most significant and challenging issues in Insurance law. Peter Hutchins' New Hampshire Advanced Insurance Law brings together top counsel and members of the Superior Court to walk you through cutting-edge developments in automobile coverage, homeowners and umbrella policies, municipal and governmental liability, professional liability, commercial coverage, bad faith, and litigating coverage disputes. Whether you represent insurers, policyholders, municipalities, or businesses, this program delivers the insights, updates, and practical tools you need to navigate complex coverage questions with confidence and skill.

Faculty

Peter E. Hutchins, Program Chair/CLE Committee Member, Law Offices of Peter E. Hutchins, Manchester
Matthew V. Burrows, Gallagher, Callahan & Gartrell, PC, Concord
Doreen F. Connor, Primmer, Piper, Eggleston & Cramer, PC, Manchester
Hon. John A. Curran, NH Circuit Court
Nicholas J. Deleault, Primmer, Piper, Eggleston & Cramer, PC, Manchester
Elizabeth E. Ewing, Wadleigh, Starr & Peters, PLLC, Manchester
Todd J. Hathaway, Wadleigh, Starr & Peters, PLLC, Manchester
Adam R. Mordecai, Morrison Mahoney, LLP, Manchester

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

Adoption Law

Co-sponsored with the NHBA's Family Law Section

Friday, April 10, 2026

9:00 a.m. - 4:00 p.m.

335 NHMCLE min.

NHBA Seminar Room/Webcast

This program will give participants an understanding of the complexities of adoption law and equip attorneys with the knowledge and resources needed to guide clients through each stage of the adoption process. Participants will gain an understanding of the legal, ethical and procedural issues involved in private, agency, interstate, and relative adoption. Topics include: understanding the different types of adoption; analyzing the roles of different parties; ethical considerations and avoiding conflicts of interest; ensuring compliance with applicable federal laws.

Faculty

Christine M. Hanisco, Program Co-Chair, Life Stages Law, PLLC, Concord

Lisa Ura Bollinger, Program Co-Chair/CLE Committee, Black, LaFrance & Bollinger, LLC, Nashua

Lisa M. Bianco, Bianco Professional Association, Concord

Caitlyn Bickford, NH DHHS-DCYF, Concord

Randi L. Bouchard, NH DHHS-DCYF, Concord

Kristine Pries, Adoptive Families for Children, Concord

Kimberly A. Shaughnessy, Shaughnessy Allard, Attorneys at Law, Bedford

Karen M. Shea, Manchester

Trusts & Estates 2.0

Co-sponsored with the NHBA's Trusts & Estates Section

Thursday, April 16, 2026

9:00 a.m. - 4:15 p.m.

360 NHMCLE min., incl. 60 ethics min.

NHBA Seminar Room/Webcast

This advanced program brings together experienced New Hampshire trusts and estates practitioners to examine cutting-edge planning techniques, recent statutory and tax developments, and the increasingly complex ethical issues facing estate planners today. Designed for attorneys who regularly advise individuals and families, the program moves beyond foundational concepts to explore sophisticated trust structures, post-mortem planning, administration and litigation challenges, and planning for blended families, disabilities, and charitable giving. Faculty will analyze the impact of recent federal tax law changes, and offer practical guidance on identifying the client, protecting beneficiaries, and avoiding common malpractice pitfalls.

Faculty

Michael D. Hatem, Program Chair/CLE Committee Member, Cleveland, Waters & Bass, PA, Concord

Alyssa Graham Garrigan, Ansell & Anderson, PA, Bedford

Kaitlin M. O'Neil, Normandin, Cheney & O'Neil, PLLC, Laconia

Nelson A. Raust, Bernstein Shur, Manchester

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

Michael L. Wood, Cleveland, Waters & Bass, PA, Concord

Circuit Court Practice: Jurisdiction, Ethics & Guidance

Friday, April 17, 2026

9:00 a.m. – 4:30 p.m.

360 NHMCLE min., incl. 60 ethics min.

NHBA Seminar Room/Webcast

This seminar offers New Hampshire attorneys a rare, comprehensive opportunity to hear directly from Circuit Court judges and court leadership about what truly matters in day-to-day practice. Designed to strengthen courtroom effectiveness, this program moves beyond theory to focus on judicial expectations, evidentiary essentials, time management, professionalism, and persuasive advocacy across the Family, District, and Probate Divisions. Through candid discussion, practical examples, and an open judicial forum, participants will gain clarity on how cases are evaluated, how court resources can be used effectively, and how attorneys can better serve clients while supporting the efficient administration of justice. Whether you are building your practice or refining it, this program delivers practical insight you can use immediately in the Circuit Court.

Faculty

Rebeka M. Fortress, Program Co-chair/CLE Committee Member, NH Circuit Court Administrative Office, Concord

Hon. Charles L. Greenhalgh, Program Co-chair, 10th Circuit Family Division, Brentwood

Hon. Ellen V. Christo, Chief Judge, NH Circuit Court

Hon. Xiorlivette C. Bernazzani, NH Circuit Court

Hon. David J. Burns, 9th Circuit Family Division, Manchester

Hon. Sarah D. Christie, NH Circuit Court

Hon. James D. Gleason, NH Circuit Court (ret.)

Hon. Ryan C. Guptill, 6th Circuit District Division, Concord

Hon. Beth K. Kissinger, 9th Circuit Court, Nashua

Elaine J. Lowe, Clerk of Court, 3rd Circuit Court, Ossipee

Hon. Jason R.L. Major, NH Circuit Court

Hon. Dorothy E. Walch, NH Circuit Court

Hot Topics in New Hampshire Bankruptcy Practice

Co-sponsored with the NHBA's Federal Practice and Corporation, Banking & Business Law Sections

Wednesday, May 13, 2026

9:00 a.m. - 4:30 p.m.

375 NHMCLE min., incl. 45 ethics min.

Live Webcast

This program is a full-day program for New Hampshire bankruptcy practitioners, offering timely updates and practical guidance on key developments in consumer and business practice. Experienced judges and practitioners will examine recent local rule changes, homestead exemption issues, and current challenges in Chapters 11 and 13. The program also addresses the intersection of bankruptcy and family law, along with ethics issues specific to bankruptcy practice.

Faculty

Edmund J. Ford, Program Chair/CLE Committee Member, Ford, McDonald & Borden, PA, Manchester

Hon. Kimberly A. Bacher, US Bankruptcy Court, Concord

Malcolm P. Blackwood, Blackwood Law, PLLC, Manchester

Ryan M. Borden, Ford, McDonald & Borden, PA, Manchester

Eleanor Wm. Dahar, Dahar Law Firm, Manchester

Michael B. Fisher, Fisher Law Offices, PLLC, Hanover

William M. Gillen, Law Offices of William M. Gillen, Manchester

Sandra A. Kuhn, Family Legal Services, PC, Concord

James S. LaMontagne, Sheehan, Phinney, Bass & Green, PA, Portsmouth

Kathleen E. McKenzie, Raymond J. DiLucci, PA, Concord

Gregory A. Moffett, Preti, Flaherty, Beliveau & Pachios, LLP, Concord

Steven M. Notinger, Ford, McDonald & Borden, PA, Manchester

Kristie Trimarco, US Bankruptcy Court, Concord

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David Pinsonneault

David K. Pinsonneault, 74, of Amherst, passed away peacefully on December 11, surrounded by his loving family, after a prolonged illness. He is survived by his wife of 50 years, Barbara (Brown); his three sons Robert, Gregory, and Mark; his grandchildren Autumn, Emily, Alana, and Alexander; his brother Randall Pinsonneault; and his stepmother Mary (Emberley) Pinsonneault.



Dave was born on May 10, 1951, in Manchester, to Robert R. and Georgette (Montplaisir) Pinsonneault. He is an alumnus of Saint Anselm College (1973) and Franklin Pierce Law Center (1977). His studies in politics at Saint Anselm and

then law brought him around the state and the world, giving him experience and perspective that he would employ both in his career as a lawyer (his lifelong dream) and as an adored father and grandfather.

Dave ran a successful and respected law practice as a partner with Winer and Bennett for over 40 years. Practicing law was his passion, which he continued until just recently when his health would no longer allow him to serve his clients the way he always had – with expert diligence and uncommon compassion. Dave was active in the Nashua community as a member of the Rotary Club and the Nashua Bar Association, but most significantly as trustee and board secretary for the Nashua Public Library from 1997 until his passing.

No accounting of Dave's life is complete without mentioning Newfound Lake. It was here that Dave was brought as a kid in the summers to play by and in its clear waters. It was here that he proposed to the love of his life, Barbara, on a becalmed sailboat in its middle. It was here that he would first

professional development, he's always available to talk it out."

Davis has known Guerriero for more than 20 years, since he convinced her that working for the New Hampshire Public Defender Program was worth a move from California. He started as her new lawyer training director and has remained a mentor.

"Richard cares deeply about his clients, the protection of the rights of all people charged with a crime, and the craft of litigation," she says. "In addition to being one of the very best lawyers in New Hampshire, he is also incredibly generous with his colleagues and the New Hampshire legal community."

Jennifer Parent, director and chair of business litigation at McLane Middleton, served with Guerriero on the NHBA's Board of Governors during his presidency and later under his leadership as state chair of the American College of Trial Lawyers.

"I saw a leader who does the hard work and models civility and professionalism at every turn," she says. "Richard exemplifies the best of our profession – unwavering integrity, genuine compassion, and a deep commitment to giving back."

Guerriero has been "giving back" to the legal community in a number of ways. Besides his service as Bar president and on the Board of Governors, he served for years on the NHBA's Ethics and Continuing Legal Education committees and has chaired the NHBA Annual Ethics CLE for 12 years.

In 2007, he was inducted as a Fellow of the American College of Trial Lawyers, and in 2024 received the NHBA's annual Award for Distinguished Service to the Legal Profession. He has also been honored with the New Hampshire Bar Foundation's Frank Rowe Kenison Award and has been recognized as a Champion of Justice by the New Hampshire and Louisiana Associations of Criminal Defense Lawyers.

When not working, he likes to run in the woods with his two dogs, and "I'm not opposed to having a beer occasionally," he says.

He is particularly proud of his two daughters, one of whom is about to graduate from law school in Philadelphia and become a public defender, and the other a teacher, like her mother.

"People see me as a lawyer but the most important part of my life is my children," he says. ♦

teach his own kids and then grandkids how to canoe, kayak, and drive the boat. The lake was Dave's respite as much as it was his satellite office.

When he was not on the porch banging out briefs or calling clients for that one critical bit of insight, he was headed down to his boat, oftentimes with a whole crew of family and friends, but also sometimes with his book of the moment. Mostly, he loved to just drive out into the middle of the lake, cut the engine, and float and read and observe until it was time to swim.

Dave will always be remembered for his honesty, compassion, and humor. We'll always imagine hearing him say, "What's a Dave to do?" one more time. We couldn't have asked for a better son, brother, father, grandfather, and uncle, and will miss him every single day.

Robin Dionne

Heaven welcomed another angel on Friday, September 19. Our sister Robin Dionne joined our parents in Heaven after a courageous battle with cancer.

She was predeceased by her father Henry Ernest Dionne; mother Lillian Mae (Hewitt) Dionne; and stepfather, Alfred E. McCarthy. She is survived by her siblings, Robert Dionne, Debra Dionne (Gary Pinard), Kevin McCarthy (Wendy), and Thomas McCarthy. She was a cherished

aunt to her nephews, Cameron McCarthy and Robert Dionne Jr. (Marie), and a loving great-aunt to Ean, Colin, and Mason Dionne.

As with most things in her life, Robin did it her way, surrounded by her loved ones. Those of you who knew her were truly blessed because you couldn't ask for a more caring, compassionate, and supportive person in your life. If you knew her and needed her, she was always there for you.

She wore many hats in her lifetime: daughter, sister, aunt, wife, sister-in-law, friend, student, teacher, lawyer, financial advisor, and dozens more.

If she was in your corner, you could depend on receiving 100 percent of her, because it's just the way she was. She had the heart and compassion to fill our universe.

There's a big hole in our lives from her passing, but we know with Robin, death won't get the final word or keep her from watching over us.

In keeping with doing things her way, she has specified that she did not want the sadness of a wake and funeral, but would rather have a celebration of life filled with music, and of course dancing, because Robin wouldn't have it any other way.

In lieu of flowers, the family kindly asks that donations be made in her memory to the American Cancer Society, Planned Parenthood, or Centurion Ministries, causes that reflect her values and commitment to helping others. ♦

■ GUERRIERO *from page 4*

Manchester. Guerriero declined to discuss that case further, noting challenges to Addison's sentence are still pending.

In 2013, Guerriero joined fellow former public defender Ted Lothstein to form the Lothstein Guerriero firm in Concord.

Although he has won his fair share of cases, Guerriero says focusing on wins and losses is not the right way to look at the work of public defenders and criminal defense attorneys.

"Our constitutional duty is to see that our client is treated fairly and respected as a human being," he says. "Sometimes that means fighting for a win at a jury trial. Much more often it means trying to get a fair outcome in terms of the charge of conviction and the sentence. The most important cases for us to fight are the worst, most difficult cases. Those are the cases where the rule of law is most likely to break down."

Guerriero continues: "We put too many people in prison for too long in this country. We saddle too many people with the burden of being convicted felons. So many of the people in the criminal justice system have done something wrong, mostly because they are struggling with their personal limitations and background. To be sure, there are dangerous people who should be behind bars, but mostly what I see in my practice is people who need help. We are doing some of that, but we need to do a lot more."

Guerriero says his most memorable cases "are the ones where I helped someone recover, despite their criminal conduct, and get out of the system." He notes that two former clients who faced serious drug charges are now substance abuse counselors, and another who got out of prison after committing a serious crime while struggling with mental health and family issues now lives in Guerriero's community and has a good job.

Guerriero's skills have won him the admiration of prosecutors and fellow defense attorneys alike.

"I've been working with Richard as opposing counsel since I started prosecuting fresh out of law school," says Sullivan County Attorney Christine Hilliard. "His outstanding advocacy is matched by his kindness and professionalism. Whether it's related to a case, legal curiosities, or

■ KNIVETON *from page 5*

"Amanda is kind, caring, practical, organized, and prepared," he says. "She uses those strengths to help others and effectively represent the Division. She is extremely approachable and knows how to meet people where they are, treating everyone with respect and dignity regardless of circumstances. What she brings to the role is a unique blend of strong litigation skills, legal acumen, common sense, and personality. Knowing the law is important, but knowing the setting in which you are practicing is equally important – especially in the North Country. Amanda knows both."

Practicing in the North Country presents additional challenges, Kniveton says, including long travel times between courthouses and weather conditions that can complicate already full schedules. At the same time, working in a smaller, rural community brings a heightened sense of connection.

"It's a very small community, and many of the families we work with are connected to each other," she says. "Because I live in this community and my kids go to school here too, I feel even more connected. Sometimes you see children in public places who are connected to the work you do, and I feel even more responsible for their well-being because I'm part of this community as well."

One of the most challenging aspects of the job, Kniveton says, is the inability to control the volume of cases.

"You can't say, 'I'm not taking cases right now,' because that's not how you respond to a child who's at imminent risk of harm," she says. "The challenge is prioritizing what is most important. It can be difficult not being able to do everything on your to-do list by the end of the day."

What sustains her, she says, are the moments when families make progress and

the support of colleagues who understand the demands of the work.

"Hearing about the successes that families have is one of the best parts of the job," Kniveton says. "Seeing parents obtain sobriety or find ways to treat their mental health so they can parent their children – and seeing that children are safer – that's the best part."

She also credits her coworkers with helping her navigate the emotional weight of the role.

"I work with a really wonderful team of people," she says. "Being open about struggles like emotional exhaustion with my coworkers and having people to talk to about how challenging the work can be has been really important."

Outside of work, Kniveton balances her legal career with family life. She is the mother of three children and serves as a Girl Scout troop leader, a role she describes as a source of joy. Last summer, she chaperoned a trip to Iceland with older scouts preparing for college.

"They were really curious and ambitious," she says. "It was great to spend time with them."

In her limited free time, Kniveton enjoys reading and hiking, when the weather allows. She also takes the opportunity to encourage others to consider ways they can support children involved in the foster care system.

"I don't think the public is aware of how great the need is for safe places for children to go," she says. "Even doing respite care to help foster children is something really worth doing."

For Kniveton, the work's challenges and rewards are inseparable.

"I'm very fortunate to have a position that allows me to play a role on a larger team whose purpose is to protect children and keep families together," she says. "There are moments that are devastating and others that are extremely hopeful – and it's work worth doing." ♦



PRO BONO HONOR ROLL 2025

These individual volunteers represent attorneys who took at least one case in 2025. This list does not include the many cases, and many attorneys, who took cases that began in 2024 and carried into 2025.

Jorel Booker	Peter Doyle	Robert Hunt *	John McKenna	Caroline Palucha *	Emma Sisti
Megan Brackney	Jessica Ecker *	Colin Jean	Robin Melone	Theodore Parent *	Eric Sommers
Nicholas Brodich	Christina Ferrari	Sandra Kenney	Heather Menezes	Rory Parnell ***	David Stamatis
Michael Brown *	Lee Foden	Paul Kleinman	RJ Meurin	Paul Phillips	Katherine Stearns *
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Mark Anderson, Scott Rosenthal, Stephen Jordan, and James Valz

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Michael Brown, Cameron Cantelmo, Randall Clark, James Harris, Nicholas Harris, Autumn Klick, Griffin Kmon, Katie Mosher, Stephanie Nham, Caroline Palucha, and Rory Parnell

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coordinating constitutional litigation.

"I am honored to be nominated to sit on our state's highest court, and I thank Governor Ayotte for the opportunity to continue serving New Hampshire," Judge Will said in a press release at the time of his nomination. "Granite Staters expect fair, impartial decisions from their Supreme Court. If confirmed, I will strive each day to meet that expectation, uphold the rule of law, and help resolve disputes fairly and expeditiously."

From Private Practice to Public Service

Judge Will earned his undergraduate degree from the University of Pennsylvania and his law degree from Boston College Law School, graduating *summa cum laude* in 1995. He served as editor-in-chief of the *Boston College Law Review* and is a member of the Order of the Coif.

After graduation, he clerked for Judge Morton Brody of the US District Court for the District of Maine and later for Judge Norman Stahl of the US Court of Appeals for the First Circuit.

He then spent two decades in private practice at Devine Millimet in Manchester, where he handled business and commercial litigation, including business disputes, intellectual property matters, and constitutional claims. He joined the firm in 1997 and became a shareholder in 2003, later serving on its board of directors.

Former NHBA Executive Director George Moore, who worked closely with Judge Will during that period, says he first met him when Will was still in law school.

"From the outset, he presented as a serious young lawyer," Moore says. "Not only did his resume show that he was at the top of his class, but he was editor-in-chief of his law review."

Moore says that background signaled more than academic achievement.

"From experience, I knew this meant not only that he was smart, but that he was very organized and hard-working," he says.

Despite having an offer from a large Boston firm where he had clerked during law school, Judge Will chose to return to New Hampshire.

"I never thought it was the draw of my firm," Moore says. "It was his maturity to know, as a New Hampshire native, that his growth as a lawyer and his enjoyment of life were much more attuned to

Loudon, New Hampshire, than to downtown Boston."

Solicitor General and Bar Leadership

In 2018, Sununu appointed Judge Will as solicitor general, a position created by legislation to consolidate and strengthen the state's appellate advocacy and to develop training programs for prosecutors statewide. In that role, Judge Will coordinated appeals before the state and federal appellate courts and worked on constitutional and government litigation.

Moore says Judge Will brought clarity and pragmatism to complex legal issues.

"He has always shown acutely clear legal thinking with a bent toward practical solutions," Moore says. "In a word, not doctrinaire, but intellectually honest and flexible."

While serving as solicitor general, Judge Will also remained active in Bar leadership. He was elected NHBA president in 2020, becoming the organization's first president from the public sector.

That term coincided with the onset of the COVID-19 pandemic, as courts, state government, and the legal profession rapidly shifted to remote operations.

"Dan's management and prioritization of challenges to state government and the Bar Association during that period was extraordinary," says Moore, who was NHBA's executive director at the time.

Judicial Service

Judge Will's judicial temperament and approach have drawn praise from colleagues on the bench.

"I know I speak for the entire Superior Court in congratulating Judge Will on his confirmation to our Supreme Court," says Superior Court Chief Justice Mark Howard. "I had the unique privilege of presiding in Strafford Superior Court with Judge Will for the first couple of years of his judicial career. He possesses an exceptional intellectual capacity for the law; an unimpeachable ethical and moral character; an innate sense of fairness; and a humility that serves him well as a judge."

Judge Howard says Judge Will's experience on the trial court will be an asset on the state's highest court.

"He will bring his insights as a trial judge to the Supreme Court," he says. "I look forward to becoming a student of his New Hampshire jurisprudence."

Moore says Judge Will approaches



Judge Daniel Will (center) with New Hampshire Supreme Court Chief Justice Gordon MacDonald (left) and then-Governor Chris Sununu in 2018, when Will was appointed solicitor general. Courtesy photo.



Judge Daniel Will on the bench at the Strafford County Superior Court in September 2021. Photo by Scott Merrill

judicial decision-making with independence and restraint.

"Dan has always approached legal issues with a clean slate and will let the record and arguments speak for themselves," he says. "He will decide issues on their merits and not be swayed by outside influences such as politics and social media."

Judge Will has also served on numerous court- and Bar-related committees, including the New Hampshire Supreme Court Attorney Discipline Hearings Panel, the Judicial Performance Evaluation Advisory Committee, and the NHBA's

Committee on Cooperation with the Courts. He previously served on the New Hampshire Judicial Council and on the boards of several civic and educational organizations.

Looking ahead, Moore says Judge Will is motivated by service rather than status.

"He is more interested in seeing that the justice system gets it right than in achieving celebrity or economic largesse," he says. "New Hampshire is lucky to have such a public servant, and the Governor and Executive Council have made a wise decision." ♦

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■ MARCONI *from page 1*

“Justice Hantz Marconi brought energy and enthusiasm to all aspects of her role, including her administrative responsibilities,” he says. “For example, as the liaison justice to the law library, she led the way on important projects such as ensuring that our historic materials are properly preserved as well as in making law-related resources available to public libraries around the state, thus helping to bridge the access-to-justice gap. These and other efforts will have a lasting impact, and we are all grateful for her hard work and dedication.”

Before the Bench

Justice Hantz Marconi was born in York, Pennsylvania, and grew up in a family with deep Pennsylvania Dutch roots. After graduating from high school in 1973, her family relocated to New Hampshire, where she enrolled at the University of New Hampshire. She graduated in 1977 with a joint concentration in political science and environmental science.

Following college, she spent several years working on political campaigns before deciding it was not her long-term path.

“I enjoyed the work and helping the candidates, but after a period of time, I realized that was not my calling,” she says.

She then worked for a construction company, handling permitting, land use issues, and project financing. That work reinforced her interest in environmental and land use law and ultimately led her to law school.

In 1989, Justice Hantz Marconi enrolled at Chicago-Kent College of Law, drawn by its environmental law curriculum and legal writing program. After graduating in 1992, she completed a clerkship with the Maine Supreme Judicial Court under Justice Caroline Glassman and Justice Robert Clifford.

Private Practice and Path to the Court

After her clerkship, Justice Hantz Marconi entered private practice, developing a litigation-focused career that spanned business, land use, family law, and appellate matters. She practiced at Sheehan, Phinney, Bass & Green and later at Gottesman & Hollis, where she handled a wide range of complex civil matters.

In 2010, she returned to Sheehan Phinney as a shareholder.

“She was a treasured colleague, a smart and creative attorney, and a great mentor to younger lawyers, especially women lawyers,” says Bradford Cook, a shareholder at Sheehan Phinney. “She was compassionate with clients and generous with her time to charitable causes. I believe she brought these same qualities to the Court.”

During her years in private practice, Justice Hantz Marconi also served for six years on Governor John Lynch’s Judicial Selection Commission, reviewing judicial applications and evaluating candidates’ experience and public service. She says the work gave her a different perspective on judicial service.

“It made me think about the broader impact that judicial decisions have on people,” she says. “Assessing those applications and seeing all the good community service that lawyers were doing struck me as something I might want to do.”

When a vacancy opened on the NHSC in 2017, Justice Hantz Marconi decided the timing was right to seek appointment. She was nominated by Governor Chris



Justice Anna Barbara Hantz Marconi (center) with New Hampshire Supreme Court staff in 2018, from left: Angela Potier (intern), Rachel Shute (law clerk), Meredith Dedopoulos (law clerk), and Ilana Abramson (law clerk). Courtesy Photo

Sununu and confirmed by the Executive Council, joining the Court on August 8 of that year.

On the Bench

Justice Hantz Marconi emphasizes careful statutory interpretation on the Court and the importance of providing clarity and guidance to the public.

“It doesn’t matter what I think personally about the merits – that’s not a judge’s job,” she says of judicial decision-making. “The legislature passes laws. We interpret and we uphold unless the constitution prohibits it; we don’t make policy.”

She says that same philosophy also informs how judges approach the real-world consequences of their decisions.

“Staying grounded is important, because knowing that we are just human beings doing the best job we can to deliver certainty matters,” she says. “It’s not just the case we have to decide. People are waiting for a decision in order to get on with their lives. But the decision also has a broader impact on other people trying to conform their lives to the law.”

She says her philosophy was always to avoid “jumping to the superficial,” instead working through the issues carefully “to provide clarity at the end.”

Justice Melissa Countway points to that approach in describing Justice Hantz Marconi’s work on individual cases.

“While working on cases, she always gave them her full attention and never left any stone unturned,” she says.

NHSC Justice Patrick Donovan points to her leadership during challenging periods for the Judicial Branch.

“Bobbie was a close friend, a trusted colleague and a thoughtful jurist,” he says. “Her composure and steady leadership helped the Judicial Branch navigate through the COVID-19 pandemic.”

During her tenure, Justice Hantz Marconi was placed on administrative leave while a criminal case related to a conversation with then-Governor Chris Sununu was pending. The matter was resolved in October 2025, when she entered a no-contest plea to a class B misdemeanor charge of criminal solicitation, resulting in a fine. The NHSC rescinded the administrative-leave orders on October 7, 2025, and a specially convened Supreme Court panel lifted her interim suspension and reinstated her to the practice of law on October 9, 2025.

Public Service

Justice Hantz Marconi has been deeply involved in public service throughout

her career. She led a task force on domestic violence that produced recommendations to improve court processes, served for 15 years on the board of the Nashua Children’s Home, and engaged in a range of volunteer and civic service roles with organizations including the Domestic Violence Emergency Program, the New Hampshire Board of Bar Examiners, the New Hampshire Women’s Bar Association, the Manchester Community Music School, and the Josiah Bartlett Center.

She also played a key role in efforts to assist Afghan women judges who were forced to flee their country following the collapse of the Afghan government. After learning of the situation through a national judicial program, she helped organize a New Hampshire-based coalition to support the resettlement of Afghan Judge

■ JURY *from page 3*

stantive drafting. A smaller review group is now working through formatting, grammar, and consistency issues, while flagging substantive questions for consideration by the full committee.

“We’re pretty much done with the first round,” she says. “Now we’re working on parallel tracks – reviewing, editing, and then bringing issues back to the full group for substantive edits.”

Judge Howard says that if the committee can complete the work within the next year, it will have met its ambitious goal.

“If it’s a year from now, that would be yeoman’s work,” he says.

■ SERVE *from page 9*

Alex Pretti, an ICU nurse at the Minneapolis VA hospital, captured the sentiment perfectly while standing at the bedside of a dying veteran during his final hours, saying, “Today we remember that freedom is not free. We have to work at it, nurture it, protect it, and even sacrifice for it. May we not forget and always remember and give thanks for their dedication and selfless service to our nation in the cause of our freedom. In this solemn hour, we give them our honor and our gratitude.”

If you’re willing to volunteer, email

Geeti Roeen and her family.

“It is satisfying that we’ve been able to provide support for this family who so overwhelmingly deserves it,” she says. “To assist this family who are so optimistic and determined to restart their lives and contribute to their communities again is humbling and rewarding.”

Leaving a Legacy

NHSC Justice Bryan Gould says Justice Hantz Marconi leaves a lasting mark on the Court.

“While I was acquainted with Justice Hantz Marconi before joining the court, I’ve rapidly come to appreciate just how thorough and thoughtful she has been as a judge,” he says. “She leaves the court with a legacy of which she should be proud.”

Cook also offers a final reflection on her legacy.

“Her legacy is that good people make good lawyers,” he says. “Bobbie Hantz is a good, honest, and honorable person.”

Reflections on Retirement

Justice Hantz Marconi says she plans to remain involved in the Afghan judges resettlement effort.

“The coalition is definitely something I will not give up until this family is solidly established,” she says. “The Roeens will always have a place in my heart.”

Beyond that work, she says she plans to take time to consider her next steps and enjoy time with her husband, while not ruling out a return to private practice or other pursuits.

Asked what she hopes others will remember about her service, Justice Hantz Marconi points to her approach to the work itself.

“I’d like people to remember my openness, my willingness to work hard, and my commitment to finding the right answer,” she says. ♦

Once finalized, the instructions are expected to be housed on the NHBA’s website, with possible links from the Judicial Branch’s website as well. The committee has also discussed making the instructions available in a Word format to allow for easier case-specific customization.

Fales says the committee is also considering whether a broader Bar review period would be useful once the draft instructions are complete, though no decision has been made.

For now, both co-chairs say the focus remains on finishing the work.

“I just hope they’re helpful,” Fales says. “If they save practitioners and judges time, and create more fairness and uniformity across the system, then we’ve accomplished what we set out to do.” ♦

me at vogelmanlarry@yahoo.com and let me know what areas of the law you can assist with and which parts of the state you can cover. ♦

Larry Vogelman is a past NHBA president who spent more than 50 years as a trial lawyer, trying hundreds of cases and handling appeals in state and federal courts across the country. During his NHBA presidency, he focused on providing legal assistance to veterans and launched the Veterans Legal Project, Boots on the Ground, which later became Veterans Legal Justice.

Roth Catch-Up Contributions Under SECURE 2.0

By Dodd Griffith

The SECURE 2.0 Act of 2022 is a major federal law designed to encourage increased retirement savings in plans like 401(k) plans. One provision provides increased catch-up contributions for employees aged 60 to 63. The other provision requires highly paid employees to make catch-up contributions as Roth (after-tax) contributions instead of traditional (pre-tax) contributions.

Catch-up contributions are additional contributions that employees who are aged 50 or older may make to 401(k) plans or similar retirement plans sponsored by their employer (\$8,000 for 2026). The SECURE 2.0 Act increased the catch-up contribution limit for employees aged 60 to 63, starting in 2025 (\$11,250 for 2026).

The SECURE 2.0 Act requires highly paid employees (employees with FICA wages exceeding \$150,000) who make catch-up contributions to make those contributions as Roth contributions, rather than traditional contributions.

Employers who sponsor retirement plans like 401(k) plans had a number of practical questions about how they would be required to implement these provisions. On September 15, 2025, the Internal Revenue Service issued final regulations providing much-needed guidance.

Unfortunately, the preamble to the final regulations states that "the Treasury Department and the IRS expect that a plan's terms will be made clear as to whether or not a reference to the catch-up contribution limit under section 414(v) in the plan document includes the optional higher limit for participants attaining age 60, 61, 62, or 63." See 90 Fed. Reg. 44527 (Sept. 16, 2025) at 44532. The preamble then notes the plan amendment deadline applicable for re-



quired SECURE Act 2.0 amendments under Notice 2024-02. *Id.*

Consequently, a plan amendment that specifically permits the increased catch-up limit is required. Pursuant to Q & A J-1 of Notice 2024-02, the deadline for most plans to adopt an amendment adopting the optional, higher, catch-up limit is December 31, 2026. However, alternate deadlines apply for governmental, nonprofit, and union-sponsored plans.

The SECURE Act 2.0 now prevents eligible employees with FICA wages for the prior year that exceed a designated limit from making catch-up contributions as traditional contributions but instead requires catch-up contributions to be made as Roth contributions. This requirement applies to employee contributions made on or after January 1, 2026. The FICA wage limit is adjusted annually, and IRS Notice 2025-67 sets the Roth catch-up wage threshold for 2025 at \$150,000.

These requirements raise several implementation questions for employers, including wage determinations, contribution elections, plan design limitations, and correction methods.

The final regulations answer these questions. Employers must use the employee's FICA wages for the prior calendar year, as reported in Box 3 of Form

W-2, for purposes of determining which employees are required to make catch-up contributions as Roth contributions. See 90 Fed. Reg. 44527 (Sept. 16, 2025) at 44535.

The final regulations permit employers to treat catch-up contributions made by employees subject to the mandatory Roth contribution requirement as if the employee had elected for any catch-up contributions to be treated as Roth. Thus, the employer is permitted to automatically convert pre-tax contributions that become catch-up contributions to Roth elections. See 90 Fed. Reg. 44527 (Sept. 16, 2025) at 44536.

However, the employer's use of a deemed Roth election is subject to the requirement that the employer give the employee the "effective opportunity" to make a new election that is different from the deemed election. *Id.*

To date, the IRS has declined to give any specific guidance on what constitutes an effective opportunity and has stated only that the requirement will be judged on all of the facts and circumstances. However, employers who use the deemed Roth election option will want to provide employees with as much up-front notice of the right to make a new election as is reasonably possible under the circumstances.

Ideally, this would be done in the employer's summary plan description or an annual notice to participants provided prior to the beginning of the plan year. If such regular, up-front notice is not reasonably possible under the facts and circumstances, the notification could also be made as a disclosure on the employee's deferral election form or, if need be, at the time the participant's deferrals exceed the applicable limit.

If an employer's plan does not permit employees to make Roth contributions, then employees who are subject to the mandatory Roth catch-up contribution must not be permitted to make catch-up contributions. The final regulations also make clear that employers are not required to have a plan that permits Roth contributions, and that such plans may still permit employees not subject to the Roth catch-up requirement to make catch-up contributions. See 90 Fed. Reg. 44527 (Sept. 16, 2025) at 44536-44537.

The final regulations provide two new methods for correcting circumstances when employee deferrals are contributed to the plan as traditional contributions but were required to be made as Roth catch-up contributions. See 90 Fed. Reg. 44527 (Sept. 16, 2025) at 44540. First, if the employer discovers the problem before the employee's Form W-2 is issued, the plan may convert the pre-tax amount and applicable earnings to Roth, in essence, by moving the contribution into the Roth account in the plan, and reporting the excess amount, not including earnings, as a Roth contribution on the Form W-2.

Alternately, the plan may move the excess amount, and earnings, to the Roth account and report the excess earnings as taxable income on Form 1099-R in the year of the rollover. The preamble to the final regulations notes that a plan may use this correction method even if it does not otherwise allow in-plan Roth rollovers; and provides that doing so will not expand the in-plan Roth rollover availability to other plan participants.

As one might expect, the final regulations are lengthy and complex. This article is intended only as a brief summary of some provisions that may be helpful to employers. It does not address all alternative deadlines applicable to governmental, nonprofit, or union-sponsored plans.

Consequently, please treat this article as a starting point for developing a road-map for implementing the Roth catch-up requirements. The next step will be to review the particulars of the employer's actual plan, consult with the employer's third-party administrator, and explore the detailed requirements applicable to the employer's specific plan based on the plan terms and applicable facts and circumstances. ♦

Dodd Griffith is a shareholder and director at Gallagher, Callahan & Gartrell, PC. His practice focuses on the representation of businesses and business owners in a range of tax and transactional matters, including tax planning for business transactions, executive compensation, deferred compensation for executives, employee benefits, tax-exempt lending, and tax credit transactions.

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2026 Changes to Workplace Benefits: What Employers Need to Know

By John Rich, Jr.

The landscape of employer-provided fringe benefits continues to evolve rapidly as federal legislation, regulatory guidance, and workplace trends influence both compliance obligations and opportunities for improving total compensation strategies. The One Big Beautiful Bill Act (OBBA), enacted on July 4, 2025, makes significant changes to fringe and other workplace benefits that employers may offer employees.

This article highlights several of the significant changes that are effective in 2026, and considerations associated with these programs.

Student Loan Repayment Benefits

As employers grapple with workforce recruitment and retention challenges, educational assistance has become a differentiator. The OBBBA makes permanent tax-free student loan repayment assistance as a Tax Code Section 127 qualified educational assistance program. Employers can offer up to \$5,250 per year (indexed for inflation) in student loan repayment benefits to employees as a tax-free benefit. Employer payments can be made to employees or to student loan servicers.



To qualify for tax-free treatment, an employer must establish a formal, separate written plan document that outlines the benefits, eligibility, and compliance with the Section 127 rules. The plan cannot offer employees a choice between educational assistance and other forms of taxable compensation, such as cash or additional paid time off. Employers should be aware that there are non-discrimination rules that prohibit discrimination in favor of highly compensated employees and preferential treatment to officers or shareholders.

Health FSAs and Dependent Care Benefits

Health flexible spending arrangements (FSAs) remain a key tax-advantaged ben-

fit that helps employees pay for medical expenses not covered by insurance. For plan years beginning in 2026, a Section 125 cafeteria plan may allow an employee to request a salary reduction contribution for a health FSA in an amount up to \$3,400, an adjustment that reflects the cost-of-living increase.

The OBBBA permanently raised the annual income exclusion for dependent care assistance programs, which includes employee pre-tax contributions to dependent care flexible spending accounts and employer-subsidized childcare expenses, such as onsite day care centers. The exclusion amount increases from \$5,000 to \$7,500 for 2026. Eligible uses of dependent care flexible spending account funds

are daycare and preschool for children under 13, before- and after-school programs, summer day camps (but not overnight camps), babysitting during work hours, and adult daycare for elderly dependents.

Employers should be aware that Tax Code Section 129 includes nondiscrimination requirements. This means an employer cannot exclude dependent care assistance from a highly compensated employee's wages unless the program's benefits are structured so they do not favor highly compensated employees. To qualify for tax-free treatment, the program must also meet the specific requirements outlined in Section 129(d) of the Internal Revenue Code.

First Dollar Telehealth Coverage

During the COVID-19 pandemic, the federal CARES Act temporarily let high-deductible health plans (HDHPs) cover telehealth visits without requiring employees to meet their deductible first. That rule was supposed to end in 2025. But under the OBBBA, this rule is now permanently brought back for plan years starting after December 31, 2024. This means HDHPs are allowed – but not required – to cover telehealth services before the normal deductible is met.

Employers who began charging HDHP participants fair market value for telehealth services can either continue that practice or may reimburse participants for the fair market value of telehealth services charged since January 1, 2025. Plan sponsors who decided not to charge for tele-

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health may rely on the retroactive effect of the OBBBA, and do not need to act.

Moving Expense Reimbursements

With good reason, employers are sometimes confused about the tax treatment of payments relating to relocation and moving expenses. From 2018 to 2025, prior favorable tax treatment was suspended in 2017 tax legislation. The OBBBA made permanent the moving expense deduction limitation under Tax Code Section 217 and employer-paid moving expense exclusion under Section 132(g) except for two categories of employees.

Effective for tax years beginning in 2026, employers must be aware that tax-free treatment is now restricted solely to reimbursements provided to active-duty members of the US Armed Forces relocating under military orders and to employees or appointees of the US Intelligence Community who are required to

relocate due to an official reassignment.

All other employer-funded relocation benefits will constitute taxable wages. Employers offering relocation assistance should review their policies and payroll practices to ensure proper tax withholding and reporting and should clearly communicate the tax consequences of such benefits to affected employees.

AI Literacy and Development Programs

One of the most forward-looking changes introduced in the IRS's annual fringe benefit guidance in Publication 15-B is the explicit inclusion of AI literacy and AI development programs as potentially excludable fringe benefits. This reflects a broader governmental push to expand workforce readiness in emerging technologies as noted in Executive Order 14179, "Removing Barriers to American Leadership in Artificial Intelligence" (January 2025), and the subsequently published *Winning the Race: America's*

AI Action Plan (July 2025).

The publication notes that employer-provided AI literacy and skill development programs may be tax-free as working condition fringe benefits if they maintain or improve an employee's job skills at their current job. If AI training does not meet the "working condition" rule under Tax Code Section 132 (e.g., it prepares an employee for a new role), it may still qualify under Section 127. This allows employers to provide up to \$5,250 per year, per employee, in tax-free educational assistance.

Trump Accounts

The OBBBA creates new tax-favored accounts for eligible children born after December 31, 2024, called Trump Accounts. These accounts have a \$5,000 per year (indexed) contribution limit and distributions from the account are generally prohibited until the child turns 18. Employers can make up to \$2,500 in nontaxable contributions per employee. These

tax-free contributions require a written plan and must satisfy nondiscrimination, eligibility, and notification rules, similar to those for dependent care assistance programs. Contributions must be made to specialized, state-sponsored or financial institution-managed accounts for children, similar to IRAs.

In summary, these 2026 fringe benefit reforms introduce both expanded opportunities and heightened compliance obligations for employers. Careful review of plan documents, payroll procedures, and communication practices will be essential to maintaining tax-favored treatment. By preparing now, employers can mitigate risk and continue offering competitive, compliant benefit programs. ♦

John E. Rich, Jr. chairs the Tax Department at McLane Middleton, Professional Association. He specializes in employee benefits, pension, ERISA, and tax-related matters. He can be reached at john.rich@mclane.com or (603) 628-1438.

Insurance Law

Cover Your Assets: Title Insurance and the Trust/LLC Trap

By Leigh Willey



When an estate planning attorney meets with clients for the first time, clients are typically asked to bring more to the meeting than just a list of who gets what, how much, and of course, who is destined to leave the reading of the will with nothing except a burning desire to tell their side of the story at the next family gathering, assuming they are even invited.

They should come prepared with a completed estate planning questionnaire, as well as copies of any prior estate planning documents, detailed lists of family members, summaries of assets and their values, and outstanding debts. The first few meetings often involve reviewing older wills or trusts, examining property deeds, and working through important "who" decisions, such as who will serve as executor, trustee, or agent under powers of attorney or care for any minor children.

These conversations often lead to clients transferring their home – or other property – into a revocable trust to avoid the costs, delays, and paperwork associated with probate. But even though this transfer is a routine step in funding a trust, it comes with a significant and often overlooked risk: it may unintentionally terminate the client's owner's title insurance policy.

This coverage gap can create real problems if a title issue pops up later, especially because most homeowners do not realize the policy was affected until it is too late. Understanding how title insurance coverage continues, or fails to continue,



after a transfer is essential for any property owner looking to protect their investment during estate planning.

Title insurance is a contract of indemnity designed to protect against defects, claims, or other issues affecting title that existed prior to the effective policy date. The premium is paid once at closing, and coverage lasts for as long as the Insured, as that term is defined in the policy, has an interest in the property. Coverage may end if the Insured transfers the property into a new ownership structure, even though the policy itself remains active, a difference that can lead to confusion during the estate planning process.

Over the years, the American Land Title Association (ALTA) has updated its policy forms to keep up with changes in estate planning and how people hold title to their property. Older policies – particularly those issued before 1998 – defined the "Insured" narrowly, typically as the individual(s) named in Schedule A and anyone who acquired title "by operation of law," such as heirs and devisees. Because a transfer to a trust is considered a voluntary act, not a transfer "by operation of law," coverage generally did not continue under

these older policy forms. The 1998 and 2006 policies included trustees and successor trustees within the Insured definition.

More recently, the ALTA released its 2021 updated policy forms to better reflect estate planning practices and legal developments. The new forms clarify continuation of coverage by expanding the definition of an "Insured" to include specific successors in title, such as trustees and beneficiaries of estate planning trusts created by the named Insured. This ensures that coverage remains intact when title is transferred to a trust for estate planning purposes.

LLCs have become more common in estate planning, especially for clients managing rental or investment properties, sharing ownership, or seeking added liability protection. Even with today's flexible title insurance policies, transfers to LLCs present unique challenges that differ from transfers to trusts. Owners sometimes assume that, within the realm of estate planning, an LLC functions like a trust.

However, an LLC is a separate legal entity from its members. Even when the property owner holds all membership interests, a transfer to an LLC is usually treated by title insurance policies as a con-

veyance to another party, rather than just a change in how the original owner holds title. Unless the policy specifically recognizes the LLC as an Insured, coverage may inadvertently end as of the transfer date.

Before transferring property into a trust or an LLC, the first step is to determine whether the client has a current owner's title insurance policy. Careful attention should be paid to the date of the policy and how the policy defines "Insured" and the continuation of coverage. These sections usually appear under Conditions in the policy jacket and may refer to estate planning entities.

If the coverage does not automatically continue under the existing policy, one of the simplest and most effective strategies is to endorse the policy to name the trust or LLC as the Insured. If an endorsement is not available for some reason, the client may need to purchase a new policy. In either scenario, title to the property must be updated, and the endorsement or policy must address any new matters affecting title since the original policy date.

Ultimately, taking a moment to confirm that title insurance coverage will remain in place after transferring property to a trust or LLC is a simple but critical step in the estate planning process. A focused review of the owner's policy will reveal whether coverage continues automatically or whether the transfer triggers the need for a specific endorsement or even a new policy. Regardless of the outcome, verifying that coverage continues before the transfer occurs can prevent gaps that are far more difficult, and sometimes impossible, to correct once the property has already changed hands. ♦

Leigh S. Willey is a vice president and managing counsel at CATIC New Hampshire. She can be reached at (866) 595-5559 or lwilley@atic.com.

Waivers of Subrogation: Who Should Want Them, When, and Why

By Kenneth Rubinstein

Waivers of subrogation are among the most common and least examined provisions in construction contracts. They are often accepted as harmless boilerplate, yet they can quickly shift risk in ways the parties neither intend nor appreciate. From a risk-management standpoint, waivers of subrogation deserve far more attention than they typically receive. This article examines who actually benefits from waivers of subrogation, when they make sense, and when they quietly undermine the risk allocation the parties thought they had negotiated.

Subrogation allows an insurer, after paying a loss, to step into the insured's shoes and pursue recovery from a responsible third party. A waiver of subrogation eliminates that right. If the waiver applies, the insurer pays the loss and absorbs it, regardless of fault. In construction contracts, waivers most commonly apply to property insurance, particularly builder's risk. The familiar American Institute of Architects waiver of subrogation for damage to the work reflects an agreement to rely on first-party insurance rather than fault-based recovery during construction.

The primary justification for waivers of subrogation is efficiency. Construction



losses often involve multiple parties and disputed causation. Without a waiver, insurers can drive litigation long after the project participants expected the matter to be resolved, which defeats the purpose of insurance from most contractors' perspectives. By channeling certain losses to insurance regardless of fault, waivers reduce litigation, limit finger-pointing, and preserve project relationships. This rationale is strongest when the insurance was clearly intended to cover the loss and the premiums reflect that expectation.

Owners are often the principal beneficiaries of waivers tied to property insurance. They typically control the insurance program, select the coverage, and price the premiums into the project budget. A waiver ensures that a covered property loss does

not reappear as a subrogation claim against the owner or its project team.

General contractors also benefit in many situations, particularly where the waiver is mutual and limited to insured property losses during construction. In that setting, the waiver reinforces the expectation that builder's risk insurance, not litigation, is the primary mechanism for addressing damage to the work.

Subcontractors benefit as well, but only when the waiver is carefully limited. A narrow waiver tied to builder's risk or other identified property insurance can protect subcontractors from insurer-driven claims for losses that were always intended to be insured. Problems arise when waivers are drafted broadly or apply asymmetrically, shifting risk without corresponding insurance protection.

Waivers of subrogation are most effective when they are limited to losses clearly intended to be covered by a specific policy, apply only to the proceeds of that insurance, and align with the contract's overall risk allocation.

Builder's risk insurance during construction is the clearest example. Allowing subrogation claims after payment defeats the purpose of that coverage and reintroduces fault-based disputes the insurance was meant to avoid.

Waivers become problematic when they are drafted broadly or applied without regard to the insurance program they are supposed to support. Language waiving subrogation for losses "to the extent covered by insurance" is a common example. While it appears sensible on its face, that phrasing can extend far beyond property insurance for the work.

In some cases, it may waive subrogation rights under liability policies, effectively insulating a negligent party from responsibility for third-party bodily injury or property damage claims. In others, it may bar recovery for losses subject to deductibles, self-insured retentions, or partial coverage. From a risk-management standpoint, these outcomes are rarely intended and rarely priced into the deal.

Subcontractors often accept waivers without appreciating how they interact with indemnity and insurance provisions. A waiver that extends post-completion or beyond property insurance can leave a subcontractor exposed to uninsured indemnity obligations while simultaneously preventing its insurer from pursuing recovery against more responsible parties. Careful attention should be paid to whether the waiver is limited to specific policies, specific categories of loss, and defined time periods.

As with insurance requirements generally, waivers of subrogation should be coordinated with indemnity provisions. A waiver that eliminates subrogation rights while indemnity obligations remain broad creates an imbalance that favors one party and exposes another to uninsured risk.

This issue is particularly acute in jurisdictions with anti-indemnity statutes, where indemnity obligations are limited by law. In that context, a broad waiver of subrogation can function as an end run around statutory limits, with insurers bearing losses they did not agree to insure.

The most defensible approach limits waivers to losses covered by identified property insurance and expressly preserves subrogation rights for liability claims. That structure captures the efficiency benefits of waivers without distorting the contract's overall risk allocation.

Waivers of subrogation are neither inherently beneficial nor inherently dangerous. They are tools. Used thoughtfully, they reduce friction and promote predictability. Used carelessly, they shift risk in ways that are neither priced nor understood.

Lawyers advising construction clients should focus less on whether a waiver appears in the contract and more on whether it serves a clear purpose within the project's overall risk framework. ♦

Ken Rubinstein is the chair of the Construction Law Practice at Preti Flaherty, working from the firm's Concord and Boston offices.

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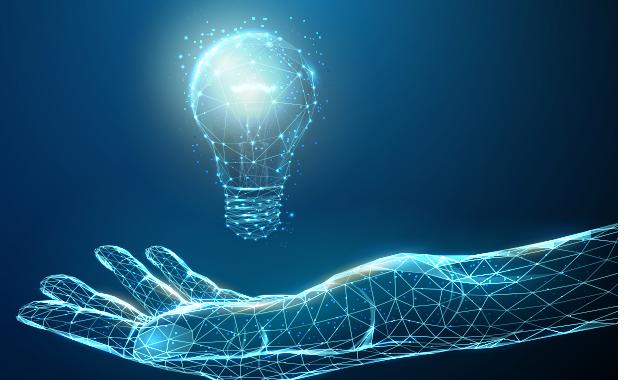
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January 2026

Civil Law

Constance Martell & a. v. Gold Bess Shooting Club, LLC & a., No. 2024-0636

January 23, 2026

Affirmed

- Whether RSA 159 B:1 and RSA 159 B:2 immunized an outdoor shooting range from civil noise-related claims when the town had not enacted a noise ordinance at the time the range began operations, but the range was allegedly in violation of state wetlands and alteration of terrain statutes at the time.

In 2020, Gold Bess Shooting Club, LLC constructed and opened an outdoor shooting range on land leased from Caulder Construction, LLC in Woodstock, New Hampshire. Shortly before the range opened to the public in October 2020, the Department of Environmental Services (DES) notified the defendants that someone had filed a complaint alleging that the defendants' improvements to the property violated the state terrain alteration statute. DES later confirmed violations of the state wetlands or terrain alteration statutes, and directed the defendants to obtain after the fact permits. In November 2020, 23 neighboring landowners sued, alleging environmental and safety nuisance claims. After Woodstock enacted a noise ordinance in April 2021, the plaintiffs amended their complaint to add noise-related nuisance claims. Subsequently, the defendants asserted immunity under RSA 159 B:1 and RSA 159 B:2, which protect shooting ranges from noise-based civil liability if they comply with any noise ordinance in effect when the range was established, constructed, or began operations. The trial court granted summary judgment to the defendants on the noise-related claims, and the plaintiffs appealed.

The Supreme Court first addressed whether RSA 159 B:1 and RSA 159 B:2 require a shooting range to have been lawfully established, lawfully constructed, or lawfully operating – beyond compliance with noise ordinances – to qualify for immunity. The plaintiffs argued that alleged violations of state wetlands and terrain alteration statutes rendered the range unlawful and therefore ineligible for immunity. The Court rejected this argument, emphasizing that the plain text of RSA 159 B:1 and RSA 159 B:2 requires compliance only with applicable noise ordinances, not with all other state or local laws. Because the statutes are unambiguous, the Court declined to read additional requirements into them. The Court also explained that its earlier 2007 decision in *Residents Defending Their Homes v. Lone Pine Hunter's Club* – which interpreted RSA 159 B:4 to protect only ranges in lawful operation – did not control here, because RSA 159 B:4 is a vested rights provision, whereas RSA 159 B:1 and RSA 159 B:2 are immunity provisions with different purposes and structures.

The Court explained why the plaintiffs' reliance on *Residents Defending Their Homes* and related cases was misplaced. Those cases involved RSA 159 B:4, which prevents newly enacted laws from restricting shooting activities at ranges already "in operation." Because vested rights doctrine requires a use to be lawful before rights can vest, the Court had interpreted "in operation" in RSA 159 B:4 to mean "lawfully in operation." But RSA 159 B:1 and RSA 159 B:2 do not vest rights or legalize unlawful uses;

they merely bar noise-related claims when a range complies with any noise ordinance in effect at the relevant time. Thus, unlike RSA 159 B:4, these provisions do not risk shielding an already illegal use. The Court therefore refused to insert a requirement of "lawful" establishment, construction, or operation into the plain text of RSA 159 B:1 and RSA 159 B:2.

Finally, the Court considered whether the range was "established," "constructed," or had "begun operations" before Woodstock enacted its noise ordinance. The plaintiffs argued that Gold Bess's registration as an LLC did not "establish" the range. The Court found it unnecessary to resolve that question because the undisputed facts showed that the range "began operations" when it opened to the public in October 2020 – months before the April 2021 noise ordinance. Applying the ordinary meanings of "begin" and "operation," the Court held that the range became functional and operational when it opened for public use. Because no noise ordinance existed at that time, RSA 159 B:1 and RSA 159 B:2 immunized the defendants from all noise related nuisance claims. The Court therefore affirmed the trial court's grant of summary judgment in favor of defendants on plaintiffs' noise-related claims.

Cooper Cargill Chant, P.A., of North Conway (Christopher T. Meier and John M. Crabbs on the brief, and Christopher T. Meier orally), for the plaintiffs. Law Offices of Martha A. Dean, LLC, of Avon, Connecticut (Martha A. Dean and Nathaniel S. Schindler on the joint brief, and Martha A. Dean orally), and Bernstein Shur, P.A., of Manchester (Edward J. Sackman on the joint brief), for defendant Gold Bess Shooting Club, LLC. Strang, Scott & Giroux, LLP, of Concord (Corey N. Giroux on the joint brief), for defendant Caulder Construction, LLC.

Criminal Law

The State of New Hampshire v. Gabriel Price, No. 2024-0321

January 30, 2026

Reversed and remanded

- Whether there was sufficient evidence to sustain the defendant's reckless conduct conviction.
- Whether the trial court's jury instruction on self-defense was proper.
- Whether the trial court's failure to give a specific unanimity jury instruction on the defendant's simple assault charge constituted reversible error.

The case arose from a roadside altercation on February 8, 2022, after Gabriel Price and another driver collided while merging lanes. Price pulled over, approached the victim's vehicle, and smashed the driver's window with a baton before repeatedly striking, beating, and kicking the victim. Several motorists witnessed the assault and called 911. Price left the scene but soon called 911 himself. When police located and arrested Price, he informed a trooper that his ten-year-old child and a firearm were inside his vehicle. The State charged Price with multiple offenses, including reckless conduct, second-degree assault, two simple assaults, and criminal mischief. A jury convicted Price on these charges, and he appealed three of his convictions: (1) reckless conduct for placing his child in danger of serious bodily injury by leaving him unsupervised in a car containing an unsecured, loaded firearm when the defendant left the vehicle to confront the victim after the accident; (2) second-degree

At a Glance Contributor



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assault for recklessly causing injury to the victim by striking him with a deadly weapon (a baton); and (3) simple assault for unprivileged physical contact by kicking the victim.

The Court first addressed the reckless conduct conviction. To sustain such a conviction, the State had to prove that Price was aware of a substantial and unjustifiable risk of serious bodily injury to his child and consciously disregarded that risk in a manner constituting a gross deviation from the conduct of a law-abiding person. The evidence showed that the firearm was holstered in the front seat, facing away from the child, and that no round was chambered; an additional action was required to make the gun capable of firing. The child remained in the vehicle for roughly ten minutes. Viewing the evidence in the light most favorable to the State, the Court concluded that no rational juror could find beyond a reasonable doubt that Price was aware of a substantial risk of serious injury or that his conduct grossly deviated from lawful behavior. Because the evidence was legally insufficient, the Court reversed

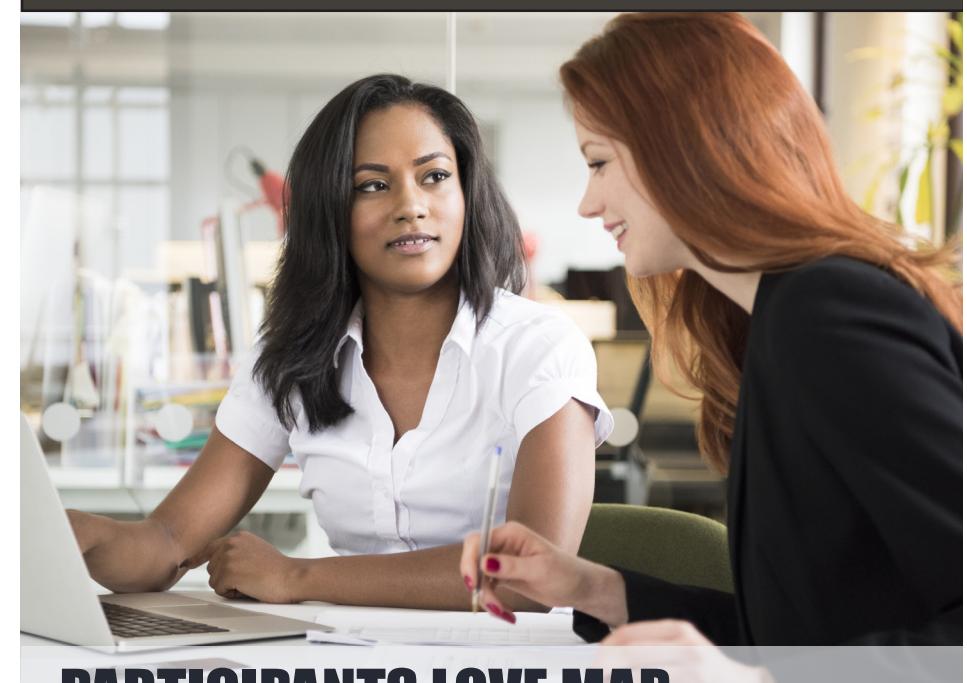
Price's reckless conduct conviction.

The Court next examined the trial court's jury instruction on self-defense, which Price argued improperly directed the jury to treat his use of the baton as deadly force as a matter of law. The instruction defined deadly force correctly at first, but then added that purposely striking someone with a baton capable of causing serious bodily injury "constitutes deadly force." This language effectively resolved the mens rea element of deadly force against the defendant, removing from the jury the question of whether Price intended or knew his conduct created a substantial risk of causing serious bodily injury. The Court held that this was an erroneous and prejudicial instruction. It rejected the State's argument that Price invited the error, noting that the trial court conditioned removal of the incorrect language on also removing correct language to which Price was entitled. Because the instruction constituted an unsustainable exercise of discretion, the Court reversed and remanded Price's second-degree assault conviction.

Finally, the Court considered whether the trial court erred in refusing to give a specific unanimity jury instruction on the simple assault charge based on kicking. The evidence at trial described numerous kicks to different parts of the victim's body, any one of which could independently satisfy the element of unprivileged physical contact. Under New Hampshire law, when multiple distinct acts could each constitute the charged offense, the jury must unanimously agree on which act forms the basis of guilt. Because the jury was not instructed that it

AT A GLANCE *continued on page 32*

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■ AT A GLANCE *from page 31*

had to agree on a particular kick, the conviction could rest on a non-unanimous theory. The Court held that this omission was error, and thus reversed and remanded Price's simple assault conviction as well.

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

Personal Injury Law

Christine Rivas v. Nadia Ciecko, No. 2024-0429

January 27, 2026

Affirmed in Part; Reversed in Part; and Remanded

- Whether the trial court's evidentiary rulings and jury instructions required a new trial on liability and damages in a personal injury suit.

This case stems from a July 2, 2020 automobile accident in Kensington, New Hampshire, involving plaintiff Christine Rivas and defendant Nadia Ciecko. Rivas sustained injuries in the collision, which was captured on the defendant's dashboard camera. More than a year later, Rivas attended a family gathering, consumed several alcoholic drinks, and fell down a set of exterior stairs, fracturing her leg. She sued Ciecko for negligence, alleging that the car accident caused a traumatic brain injury that left her with migraines, sleep disruption, vestibular dysfunction, and episodes of syncope, one of which she claimed caused her fall at the family gathering. At trial, both sides presented expert testimony on the nature of Rivas' injuries and the role of alcohol in the fall. The jury found the defendant at fault for the car accident and awarded damages to Rivas, but concluded that the accident-related injuries were not a substantial contributing factor to Rivas' later fall. After the trial court denied her motion to set aside the verdict, Rivas appealed.

The Court first addressed whether the trial court erred in admitting the testimony of toxicologist Dr. Michael Whitekus as an expert witness for the defense. Rivas argued that her blood alcohol concentration (BAC) at the time of her fall was irrelevant, and that Dr. Whitekus was unqualified to opine on whether alcohol contributed to her fall. The Court rejected these arguments. Because Rivas sought to hold the defendant liable not only for the car accident injuries but also for

the injuries from her later fall, Rivas bore the burden of proving that the defendant's negligence was a substantial factor in causing the fall. The defendant was therefore entitled to present evidence of an alternative cause, including intoxication. The Court held that BAC evidence was relevant both to causation and to comparative fault. It further concluded that the trial court acted within its discretion in finding Dr. Whitekus's methodology reliable under Rule 702 and RSA 516:29-a. His calculation of BAC, reliance on accepted metabolic rates, and testimony about alcohol's effects on judgment and motor function were consistent with established scientific principles. The Court also upheld the trial court's decision to allow Dr. Whitekus to testify that alcohol was "a cause" of the fall, noting that this opinion did not rely upon correlation to "establish causation."

The Court next examined the trial court's decision to limit the plaintiff's cross-examination of the defendant's expert Dr. Michael Alexander, a neurologist. Dr. Alexander testified that Rivas had not suffered a brain injury and implied that her treating physician saw no connection between the accident and her migraines. Rivas sought to question him about his deposition testimony acknowledging that the accident related whiplash worsened her migraines. The trial court barred this line of questioning, reasoning that it was beyond the scope of direct examination and invoking the "law of the case" in connection with a prior evidentiary ruling. The Supreme Court held that this was error. Rule 611(b) permits broad cross-examination on any relevant matter unless the interests of justice require limitation, and the trial court's reliance on its earlier ruling limiting cross-examination of a different witness was misplaced. The Court found the restriction particularly prejudicial because Dr. Alexander's testimony created a misleading impression that no medical professional believed the accident worsened the migraines, when in fact he had acknowledged this in his deposition.

Finally, the Court considered whether the trial court erred in declining to give a curative instruction after defense counsel repeatedly referenced missing witnesses during closing argument. Although New Hampshire recognizes a limited missing witness inference, the Court emphasized that counsel must notify the court and opposing party in advance before making such an argument so that the trial judge can assess its propriety. Defense counsel provided no such notice, depriving the plaintiff of the opportunity to explain the absence of witnesses and depriving the trial court of the ability to evaluate the argument's fairness. The Court held that the trial court's refusal to give a curative instruction was clearly unreasonable and prejudicial, particularly because the plaintiff's credibility was central to her case and defense counsel explicitly tied the missing witnesses to credibility.

Accordingly, the Court affirmed the admission of Dr. Whitekus's expert testimony, but reversed the trial court's rulings (i) limiting the plaintiff's cross examination of Dr. Alexander and (ii) declining to strike or give a curative instruction regarding defense counsel's reference in her closing argument to several witnesses or possible witnesses who might have testified but did not. The Court thus remanded for a retrial on damages from the automobile accident and on both liability and damages for Rivas' subsequent fall.

Boynton, Waldron, Doleac, Woodman & Scott, P.A., of Portsmouth (Michael H. Darling on the brief and orally), for the plaintiff. Friedman Feeney Getman PLLC, of Concord (David Betancourt on the brief and orally), for the defendant.

NH Supreme Court Orders

ADM-2025-0044, *In the Matter of Camden Deane Hillas, Esquire*

On November 24, 2025, Attorney Camden Deane Hillas was suspended from the practice of law in New Hampshire for failure to timely pay 2025/2026 bar dues and court fees. On December 23, 2025, Attorney Hillas filed a petition for reinstatement after administrative suspension. On the same date, the New Hampshire Bar Association notified the court that Attorney Hillas is in compliance with the requirements for reinstatement.

The petition is granted. Attorney Camden Deane Hillas is reinstated to the practice of law in New Hampshire, effective immediately.

MacDonald, C.J., and Donovan, Countway, and Gould, JJ., concurred.

DATE: January 12, 2026

ATTEST: Timothy A. Gudas, Clerk

LD-2025-0003, *In the Matter of Steven D. DiLibero, Esquire*

On April 4, 2025, the Attorney Discipline Office (ADO) filed a certified copy of the order of term suspension issued by the Massachusetts Supreme Judicial Court for Suffolk County (Supreme Judicial Court), which suspended the respondent, Attorney Steven D. DiLibero, from the practice of law in Massachusetts for a period of one year, with six months and one day of the suspension to be served and the balance stayed for one year on specified conditions. With that filing, the ADO set forth its position that Attorney DiLibero's "misconduct does not warrant the imposition of identical discipline in New Hampshire" and that Attorney DiLibero "should either be suspended from the practice of law for three years or disbarred in New Hampshire."

The Supreme Judicial Court issued the suspension based on the factual findings and recommendation of the Massachusetts Board of Bar Overseers (BBO). The BBO found that Attorney DiLibero gave incorrect legal advice to a client regarding the immigration-related consequences of accepting a six-month continuance without a finding (CWO) in a criminal case. Following that advice, the client, a permanent US resident who hoped to become a citizen, admitted to sufficient facts as to one count of possession of heroin with intent to distribute. Contrary to Attorney DiLibero's advice, the CWO rendered the client immediately deportable, subject to mandatory detention, permanently inadmissible to the United States, and ineligible for citizenship. The client later learned from an immigration attorney that the advice given by Attorney DiLibero was incorrect; when the client shared that information with Attorney DiLibero, he insisted (incorrectly) that the CWO would not count as a conviction under federal law.

The client then retained successor counsel to obtain relief from the CWO. Attorney DiLibero failed to respond promptly to successor counsel's requests for a copy of the client's file and for other information, and when he did provide an incomplete response approximately five months after the initial request, Attorney DiLibero falsely denied ever advising the client that the CWO would carry no adverse immigration consequences.

The BBO determined that Attorney DiLibero violated the following Massachusetts Rules of Professional Conduct:

1.1 (competence); 1.2(a) (must seek lawful objectives of client); 1.3 (diligence); 1.4(b) (communication with client); 1.15A(b) (client files must be made available to former client); 1.16(d) (must protect client's interests upon terminating representation); 8.4(c) (dishonesty); and 8.4(d) (conduct prejudicial to the administration of justice). Except for Massachusetts Rule 8.4(d), each of those provisions has a substantively analogous rule or judicial decision in New Hampshire.

The Supreme Judicial Court "conclude[d] that the [BBO's] findings of fact are supported, and that they establish the charged misconduct" of Attorney DiLibero, which the court summarized as follows: "As charged and proven, he not only acted without diligence and neglected his client, but also lied to and otherwise failed to cooperate with successor counsel." The Supreme Judicial Court also agreed with the BBO that "there were no applicable factors in mitigation, but several factors in aggravation: [Attorney DiLibero's] experience as an attorney; his lack of remorse, and lack of understanding as to his ethical responsibilities; [the client's] vulnerability, as an immigrant facing deportation; and the risk of harm caused by the . . . incorrect immigration advice and follow-up conversations." Weighing the "totality" of the misconduct and the aggravating factors in light of previous Massachusetts disciplinary decisions, the Supreme Judicial Court determined that the appropriate sanction was a one-year suspension, with six months and one day of the suspension to be served and the balance stayed for one year on specified conditions.

New Hampshire Supreme Court Rule 37(12)(d) authorizes this court to impose final discipline identical or substantially similar to the discipline imposed by another jurisdiction unless the respondent attorney or the ADO demonstrates, or the court finds that it clearly appears upon the face of the record from which the discipline is predicated, that: (1) the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or (2) the imposition of the same or substantially similar discipline by the court would result in grave injustice; or (3) the misconduct established warrants substantially different discipline in New Hampshire.

On April 17, 2025, this court issued an order in accordance with Rule 37(12)(d) providing Attorney DiLibero an opportunity to advise the court of his position as to whether the court should impose discipline identical or substantially similar to that imposed in Massachusetts by the Supreme Judicial Court. Attorney DiLibero filed a timely response, arguing that none of the three factors set forth in Rule 37(12)(d) is present here and that identical or substantially similar discipline should be imposed in New Hampshire.

After reviewing the record of the Massachusetts discipline, the ADO's filing, and Attorney DiLibero's response, we agreed with the parties that the Massachusetts procedure was not so lacking in notice or opportunity to be heard as to constitute a deprivation of due process and that the imposition of the same or substantially similar discipline by this court would not result in grave injustice. We therefore focused on the third factor set forth in Rule 37(12)(d) and disagreed with Attorney DiLibero on this point. In light of the number of rules violations, including the lie to the client's successor counsel, we concluded



that Attorney DiLibero's misconduct would warrant substantially more serious discipline in New Hampshire than a one-year suspension, with six months and one day of the suspension to be served and the balance stayed for one year on specified conditions. Accordingly, on June 20, 2025, we referred the matter to the Professional Conduct Committee (PCC) for its recommendation regarding the discipline to be imposed. *See Rule 37(12)(e).*

On September 8, 2025, the PCC filed its recommendation for a suspension of two years and six months, with the suspension running retroactively to April 4, 2025, and with six months of the suspension stayed for one year. The PCC's recommendation weighed the aggravating factors against one mitigating factor (the absence of a disciplinary history) and considered that Attorney DiLibero "committed multiple rule violations over a span of months." The PCC reasoned: "Every lawyer makes mistakes. But the ethical obligation when confronted with one's mistakes is not to double-down on the incorrect legal advice, and then stonewall and lie to successor counsel who is making good faith efforts to avoid the catastrophic result of the mistake."

After receiving the PCC's recommendation, we issued an order requesting the parties to identify any legal or factual issues relating to the PCC's recommendation that they wished the court to review. *See Rule 37(16)(c).* Attorney DiLibero filed a timely response, raising the following issues: (1) the PCC relied on one aggravating factor that Massachusetts had not identified as an additional rule violation; (2) as a matter of both interstate comity and deference to the Massachusetts tribunal, New Hampshire should not impose substantially greater discipline; and (3) the New Hampshire decision on which the PCC relied for its recommended discipline, *see Bosse's Case*, 155 N.H. 128 (2007), is not "most on-point." We disagree with Attorney DiLibero that these issues undermine the PCC's recommendation.

In attorney discipline matters, we retain ultimate authority to determine the proper sanction. *See Bosse's Case*, 155 N.H. at 130-31. Although we judge each attorney discipline case upon its own facts and circumstances, we have consistently stated that "no single transgression reflects more negatively on the legal profession than a lie." *Id.* at 131, 132 (quotation and brackets omitted); *see also Mesmer's Case*, 173 N.H. 96, 109 (2020). Here, we conclude that the PCC's recommended discipline is appropriate and consistent with our previous cases in which attorneys with no prior disciplinary history have been suspended for misconduct involving dishonesty. *See Bosse's Case*, 155 N.H. at 135 (two-year suspension); *see also Mesmer's Case*, 173 N.H. at 114-15 (collecting cases involving suspensions between one and three years).

Accordingly, after reviewing the PCC's recommendation and record, the court accepts the PCC's recommendation and orders that Attorney Steven D. DiLibero is suspended from the practice of law in New Hampshire for a period of two years and six months, with the suspension running retroactively to April 4, 2025, and with six months of the suspension stayed for one year on the conditions set forth in the Massachusetts Supreme Judicial Court's order of term suspension.

MacDonald, C.J., and Donovan, Countway, and Gould, JJ., concurred.

DATE: January 14, 2026

ATTEST: Timothy A. Gudas, Clerk

◆ LD-2026-0001, *In the Matter of Stephen P. Girdwood, Esquire*

On January 15, 2026, the Attorney Discipline Office (ADO) filed an assented-to petition for the immediate interim suspension of the respondent, Stephen P. Girdwood, from the practice of law. The petition relies on Supreme Court 37(16)(f) and Rule 37(9-B)(a)(1) as authority for the immediate suspension of Attorney Girdwood.

Rule 37(16)(f) authorizes this court to suspend an attorney when it deems a suspension necessary for the protection of the public and the preservation of the integrity of the legal profession. When the court makes such a finding, the court may issue a temporary order of suspension, with or without a hearing. See Rule 37(16)(d). Rule 37(9-B)(a)(1) authorizes the court to suspend an attorney summarily when the ADO alleges that the attorney has "engaged in serious misconduct which poses an immediate and substantial threat of serious harm to the public or the integrity of the legal profession." "Serious misconduct" is any misconduct "involving (1) mishandling or misappropriation of client or third party property or funds or (2) any other misconduct which by itself could result in a suspension or disbarment." Rule 37(9-B)(b). An attorney who is suspended summarily without a hearing is entitled, upon request, to a prompt post-suspension hearing. See *Reiner's Case*, 152 N.H. 163 (2005); Rule 37(9-B)(f).

The ADO's assented-to petition alleges that Attorney Girdwood violated Rule 1.15 of the New Hampshire Rules of Professional Conduct and Supreme Court Rule 50 by mishandling, commingling, and misappropriating funds that he was holding in escrow; violated Rule 4.1 of the Rules of Professional Conduct by knowingly failing to disclose to opposing counsel and her client his treatment of the escrowed funds; violated Rule 8.4(b) of the Rules of Professional Conduct by committing a criminal act under RSA 637:3 (theft by unauthorized taking or transfer) and/or RSA 637:10 (theft by misapplication of property); violated Rule 8.4(c) of the Rules of Professional Conduct by falsely stating to opposing counsel that he had mailed a check for her client's portion of the escrowed funds, when he had, in fact, misappropriated those funds; and violated Rule 8.4(a) of the Rules of Professional Conduct by engaging in those actions. The ADO's petition alleges that Attorney Girdwood misappropriated at least \$292,507.06 of escrowed funds.

Having reviewed the allegations in the ADO's assented-to petition, the court finds that Attorney Girdwood's immediate suspension from the practice of law is necessary to protect the public and to preserve the integrity of the legal profession, see Rule 37(16)(d) and (f), and is warranted for his alleged commission of "serious misconduct," see Rule 37(9-B)(a)(1). Accordingly, it is hereby ordered:

(1) In accordance with Rule 37(16)(d) and (f) and Rule 37(9-B)(a)(1), Attorney Stephen P. Girdwood is immediately suspended from the practice of law in New Hampshire pending further order of this court.

(2) A copy of the ADO's petition and this order shall be served on Attorney Girdwood by first-class and certified mail at the latest address that Attorney Girdwood provided to the New Hampshire Bar Association.

(3) Attorney Girdwood is enjoined from further use of his IOLTA account. He is further enjoined from transferring, as-

signing, hypothecating, or in any manner disposing of or conveying any assets of clients, whether real, personal, beneficial or mixed.

(4) On or before January 22, 2026, Attorney Girdwood may request a hearing on the issue of whether the interim suspension should be lifted. The hearing will be promptly scheduled.

(5) On or before January 22, 2026, Attorney Girdwood shall inform his clients in writing of his suspension from the practice of law and of his inability to act as an attorney, and shall advise them to seek other counsel. See Rule 37(13). Attorney Girdwood shall file an affidavit on or before February 17, 2026, stating that he has complied with this requirement. A copy of the affidavit shall be sent to the ADO.

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

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

(2) Attorney Labonte shall, to the extent that she deems necessary, notify Attorney Girdwood's clients of his suspension, inform them of any scheduled hearings, advise them to obtain the services of other lawyers of their choice, and advise them how they or their new attorneys may obtain their files. Attorney Labonte shall not, however, undertake the representation of any of Attorney Girdwood's clients.

(3) Attorney Labonte shall, to the ex-

tent that she deems necessary, notify the courts in which any hearings are scheduled in the near future of Attorney Girdwood's suspension.

(4) Attorney Labonte shall prepare an inventory of Attorney Girdwood's client files and shall file a copy of the inventory with this court on or before March 2, 2026, together with a report of her actions taken under this order and recommendations as to what further actions should be taken.

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

Attorney Girdwood is ordered to cooperate with Attorney Labonte in performing the tasks as directed by the court. The expenses of Attorney Labonte shall be paid in the first instance from the funds of the attorney discipline system, which may seek reimbursement from Attorney Girdwood.

The clerk is directed to send a copy of the ADO's petition and this order to Vermont's Professional Responsibility Program.

MacDonald, C.J., and Donovan and Gould, JJ., concurred.

DATE: January 16, 2026

ATTEST: Timothy A. Gudas, Clerk

◆ LD-2026-0003, *In the Matter of Kurt S. Olson, Esquire*

On January 27, 2026, the Attorney Discipline Office (ADO) filed a petition for the summary interim suspension of the

ORDERS *continued on page 34*

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■ ORDERS *from page 33*

respondent, Kurt S. Olson, from the practice of law. The petition relies on Supreme Court Rule 37(9-B)(a)(1) as authority for the summary suspension.

Rule 37(9-B)(a)(1) authorizes the court to suspend an attorney summarily when the ADO alleges that the attorney has “engaged in serious misconduct which poses an immediate and substantial threat of serious harm to the public or the integrity of the legal profession.” “Serious misconduct” is any misconduct “involving (1) mishandling or misappropriation of client or third party property or funds or (2) any other misconduct which by itself could result in a suspension or disbarment.” Rule 37(9-B)(b). An attorney who is suspended summarily without a hearing is entitled, upon request, to a prompt post-suspension hearing. See Rule 37(9-B)(f).

The petition alleges that Attorney Olson “has admitted to accepting flat fees [from a former client] in amounts of \$25,000 and \$70,000 and depositing both payments directly into his operating account prior to earning those fees,” and using those funds for personal expenses or personal business.

The petition asserts that Attorney Olson, who continues to practice law at a firm in New Hampshire, stated to the ADO that “his practice is operated primarily using flat-fee agreements, which he routinely deposits into his operating account.” According to the petition, Attorney Olson “has admitted to the ADO that he does not keep accounting records, does not perform monthly reconciliations, and has filed false trust accounting certificates” under Supreme Court Rules 50 and 50-A.

The petition alleges that Attorney Olson has violated the following Rules of Professional Conduct, among others: Rule 1.5, which prohibits a lawyer from charging or collecting an unreasonable fee; Rule 1.15(a), which requires a lawyer to hold clients’ property separate from the lawyer’s own property, in accordance with Supreme Court Rule 50, and 1.15(c), which provides that a lawyer “shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred”; and Rule 3.3, which requires candor to the tribunal, including when filing trust accounting certificates under Supreme Court Rule 50-A.

Based on the ADO’s allegations and the documents attached to the petition, the court determines that Attorney Olson has engaged in “serious misconduct” by mishandling or misappropriating client funds and by engaging in other misconduct which by itself could result in a suspension or disbarment.

The court further determines that the alleged “serious misconduct” poses an immediate and substantial threat of serious harm to the public or the integrity of the legal profession because, without a suspension, Attorney Olson would continue to practice law. Accordingly, it is hereby ordered:

(1) In accordance with Rule 37(9-B), Attorney Kurt S. Olson is summarily suspended from the practice of law in New Hampshire on an interim basis pending further order of this court.

(2) A copy of the ADO’s petition and this order shall be served on Attorney Olson by first-class and certified mail at the latest address that Attorney Olson provided to the New Hampshire Bar Association.

(3) Attorney Olson is enjoined from

further use of his IOLTA and operating accounts. He is further enjoined from transferring, assigning, hypothecating, or in any manner disposing of or conveying any assets of clients, whether real, personal, beneficial or mixed.

(4) On or before February 3, 2026, Attorney Olson may request a hearing on the issue of whether the summary suspension should be lifted. See Rule 37(9-B)(f). The hearing will be promptly scheduled.

(5) On or before February 6, 2026, Attorney Olson shall inform his clients in writing of his suspension from the practice of law and of his inability to act as an attorney, and shall advise them to seek other counsel. See Rule 37(13). Attorney Olson shall file an affidavit on or before February 27, 2026, stating that he has complied with this requirement. A copy of the affidavit shall be sent to the ADO.

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

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

(2) Attorney Labonte shall, to the extent that she deems necessary, notify Attorney Olson’s clients of his suspension, inform them of any scheduled hearings, advise them to obtain the services of other lawyers of their choice, and advise them how they or their new attorneys may obtain their files. Attorney Labonte shall not, however, undertake the representation of any of Attorney Olson’s clients.

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

(4) Attorney Labonte shall prepare an inventory of Attorney Olson’s client files and shall file a copy of the inventory with this court on or before March 16, 2026, together with a report of her actions taken under this order and recommendations as to what further actions should be taken.

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

Attorney Olson is ordered to cooperate with Attorney Labonte in performing the tasks as directed by the court. The expenses of Attorney Labonte shall be paid in the first instance from the funds of the attorney discipline system, which may seek reimbursement from Attorney Olson.

MacDonald, C.J., and Donovan, Countway, and Gould, JJ., concurred.

DATE: January 29, 2026
ATTEST: Timothy A. Gudas, Clerk



In accordance with Supreme Court Rule 58.2(A) and (B), the Supreme Court appoints Attorney Nicole Fontaine Doolley to the New Hampshire Lawyers Assistance Program (LAP) Commission, to serve a three-year term commencing March 1, 2026, and expiring February 28, 2029.

DATE: February 4, 2026
ATTEST: Timothy A. Gudas, Clerk

US District Court Decision Listing

December 2025

* Published

SOCIAL SECURITY

Sabella v. Bisignano, 25-cv-52-PB-AJ, 2025 DNH 146, December 18, 2025

Petitioner challenged the denial of his application for Social Security benefits pursuant to 42 U.S.C. 405(g), primarily arguing that the Administrative Law Judge (ALJ) improperly discounted evidence of his asserted mental impairments, resulting in erroneous findings at steps two, three, and four of the sequential analysis under 20 C.F.R. § 404.1520. After considering all the medical evidence in the record, the Court found that the ALJ reasonably discounted certain inconsistent evidence and that substantial evidence supported the ALJ’s findings related to Petitioner’s mental impairments. The ALJ’s decision was affirmed. 31 pages. Judge Paul J. Barbadoro.

SUPPRESSION

United States v. Khamvongsa, 25-cr-45-SE-AJ-1, 2025 DNH 137, December 5, 2025

After a traffic stop, police officers arrested the defendant pursuant to an administrative ICE warrant for the defendant’s removal from the country. During their inventory search of the defendant’s vehicle, officers located a firearm and the government charged the defendant, who had a felony conviction as a habitual offender, with one count of being a felon in possession of a firearm. The defendant moved to suppress the evidence recovered from his vehicle, arguing that the officers did not have a lawful basis to detain or arrest him and so the evidence obtained as a result of the inventory search must be suppressed as fruit of the poisonous tree. After an evidentiary hearing, the court granted the motion. The court held that because the officer’s police department had not executed an agreement with the Attorney General under section 287(g) of the Immigration and Nationality Act and were not directed by federal officials to detain the defendant, the officers violated the defendant’s constitutional rights when they arrested him based solely on the administrative warrant for his removal. 18 pages. Judge Samantha D. Elliott.

January 2026

* Published

MOTION TO COMPEL

1/15/26 *New Hampshire Youth Movement et al. v. David Scanlan et al.* Case No. 24-cv-291-SE, Opinion No. 2026 DNH 006

Several organizations and individuals brought suit against the New Hampshire Secretary of State and the New Hampshire Attorney General seeking a declaratory judgment that the provisions of 2024 New Hampshire House Bill 1569 violate the

United States Constitution. The plaintiffs moved to compel the production of documents related to New Hampshire House Bill 464, which amended or modified certain of House Bill 1569’s provisions. The defendants withheld documents on relevancy grounds, as well as based on the deliberative process and/or attorney-client privileges. After conducting an in camera review, the court largely granted the plaintiffs’ motions, holding that documents relating to House Bill 464 were relevant to the litigation and that the defendants’ assertion of the deliberative process privilege was almost entirely without support. The court further held that many of the documents withheld under the attorney-client privilege were not protected from disclosure, either because the defendants waived the privilege or the documents were not created for the purpose of obtaining legal advice. But the court denied the motion in part, holding that the defendants properly asserted the attorney-client privilege over a handful of emails and other documents. 16 pages. Judge Samantha Elliott.

RSA § 281 A:8

Bennett, et al. v. Patriot Carriers, LLC, et al., 25-cv-260-PB-AJ, 2026 DNH 007, January 21, 2026

Plaintiffs Michael and Karyn Bennett brought negligence and loss of consortium claims against Defendants Patriot Carriers, LLC, Outdoor Living Supply, LLC, and Outdoor Living Supply Holdings, LLC. In motions to dismiss, the defendants asserted that the plaintiffs’ claims are barred by New Hampshire Revised Statutes Annotated (RSA) § 281 A:8 because Michael was injured in the scope of his employment by the defendants and received workers’ compensation benefits for his injuries. Concluding that the defendants failed to meet the high burden of proof required to obtain dismissal based on RSA § 281 A:8, the Court denied their motions as premature. 2 pages. Judge Paul J. Barbadoro.

PROBATE EXCEPTION

Gazelle v. Gazelle, et al., 25-cv-23-PB-AJ, 2026 DNH 008, January 21, 2026

Plaintiff Scott Gazelle sued his mother and sister, Donna and Wendy Gazelle, in their capacities as trustees of a trust created by Harry Gazelle, their late husband and father. The plaintiff asserted various claims related to the defendants’ administration of the trust. The defendants moved to dismiss for lack of subject matter jurisdiction, contending that the case is subject to the “probate exception” to diversity jurisdiction. The Court demurred, concluding that the plaintiff’s allegations exclusively concern trust property and thus do not implicate the Supreme Court’s three narrowly drawn applications of the exception, as the case would not affect (1) the probate or annulment of Harry’s will; (2) the administration of Harry’s estate; or (3) any property in the control of a state probate court. The Court further declined the defendants’ request to expand the exception to cover inter vivos trusts. The motion was denied. 4

LISTING *continued on page 35*

■ LISTING from page 34

pages. Judge Paul J. Barbadoro.

28 U.S.C. § 2255

Yarteh v. United States, 25-cv-500-PB-TSM, 2026 DNH 010, January 26, 2026

In a motion filed under 28 U.S.C. § 2255, Petitioner Solomon Alfred Yarteh challenged the Court's restitution award for his bank fraud convictions as well as those convictions' treatment as aggravated felonies for purposes of immigration removal. The Court dismissed these arguments because neither is cognizable in section 2255 proceedings. The petitioner also raised a challenge to the Court's use of intended loss in calculating his guideline sentencing range, which the Court dismissed as legally unfounded. The motion was denied. 2 pages. Judge Paul J. Barbadoro.

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Questions Deadline: 2/20/2026
Submission Deadline: 2/27/2026

**Corporate Counsel
Organization: MaineHealth Corporate
Location: Portland, ME
Schedule: Full Time**

Shape the Future of Healthcare. Grow Your Legal Career with Purpose.

• Meaningful work that supports the health and well-being of Maine communities.

Be Part of Something Bigger.

Join MaineHealth in shaping a healthier future for our communities. Apply Today! Corporate Counsel in Portland, ME, United States

About MaineHealth:

MaineHealth is a not-for-profit integrated health system whose vision is, "Working together so our communities are the healthiest in America." MaineHealth consists of nine local health systems, a comprehensive behavioral health care network, diagnostic services, home health agencies, and 1,700 employed clinicians working together through the MaineHealth Medical Group. With approximately 22,000 care team members, MaineHealth provides preventive care, diagnosis, and treatment to 1.1 million residents in Maine and New Hampshire. Learn more about our system at mainehealth.org.

At MaineHealth, we offer benefits that support an individual's needs for today and flexibility to plan for tomorrow. Our packages include health and dental insurances, paid parental leave, retirement program, generous paid time off, and much more! Our comprehensive array of benefits are competitive, affordable, and include choices that meet specific, but ever-changing, needs.

With a career at any of the MaineHealth locations, you'll be working with health care professionals that truly value the people around them – both within the walls of the organization and the neighborhoods that surround it. We are deeply invested in the well-being of our communities and care for team members. We believe in fostering a work environment of strong commitment, compassionate caring, and continuous improvement. Join us, and your abilities will be challenged and enhanced as you take your career to a new level.

MaineHealth values diversity and is an Equal Opportunity/Affirmative Action employer. Federal and state laws prohibit discrimination in employment because of race, color, national origin, religion, age, sex, sexual orientation, disability, or veteran status.

Required Minimum Knowledge, Skills, and Abilities (KSAs)

1. Education: Graduate from an accredited law school required.
2. License/Certifications: Licensed to practice law in the State of Maine required. Admission to Maine State Bar required.
3. Experience: Five years of experience representing healthcare clients and demonstrating knowledge of health law, commercial contracting, patient privacy laws and other legal topics associated with the representation of health care providers required.

Why MaineHealth?

- Competitive compensation, comprehensive benefits, including medical, dental, vision, and retirement plans.
- Generous paid time off and wellness resources.
- Opportunities for professional development and career advancement.
- A chance to live and work in Maine—where work life balance and quality of life truly matter



ALFANO
LAW, PLLC

Civil Litigator

Alfano Law, PLLC seeks a civil litigator with a minimum of 5 years of trial experience in New Hampshire. Familiarity with real estate a plus. Our practice areas include roads and easements, boundary disputes, real estate transactions, zoning and planning, property tax, estate planning, and probate.

Our main office is in Concord with additional locations in Bedford, Keene, and Portsmouth.

We are a hybrid office; you may work from home or in an office.

We offer full benefits (health, dental, 401K) for full time candidates.

Please contact Anne-Marie Guertin at amguertin@alfanolaw.com or 603.333.2210.



ALFANO
LAW, PLLC

Mid-Career Civil Litigator – No Business Development Required

Alfano Law, PLLC is seeking a mid-career civil litigator admitted in New Hampshire who wants to focus on practicing law—not chasing business. This role is ideal for lawyers who thrive in litigation and want to maximize their income without the pressure of business development.

What We Offer

- **Top-of-market compensation**, structured to give you control over your earnings
- **No business development expectations**, just excellent legal work
- A collaborative, professional environment focused on results and client service

focus on real estate and property law:

- Roads and easements
- Zoning and planning
- Boundary disputes
- Property tax appeals
- Real estate transactions
- Estate planning and probate

Main Office located in Concord, NH with satellite offices in Bedford, Keene, and Portsmouth.

Flexible employment that combines in-office and remote work, allowing you to choose where and how you work for better productivity and work-life balance.

Full benefits for full-time candidates.

Interested candidates may contact Anne-Marie Guertin at amguertin@alfanolaw.com.

ASSISTANT COUNTY ATTORNEY

The Cheshire County Attorney's Office has openings for two full-time Assistant County Attorney's:

Circuit Court Prosecutor – this position is stationed at the Cheshire County Attorney's Office, and involved prosecuting criminal cases for 14 participating towns and the Cheshire County Sheriff's Office in the 8th Circuit Court – Keene District Division.

Circuit Court Prosecutor – this position is stationed at the Keene Police Department and involves prosecuting criminal cases for Keene Police Department in the 8th Circuit Court – Keene District Division.

Felony Prosecutor – this position involves prosecuting felony criminal cases in the Cheshire County Superior Court

Cheshire County offers a comprehensive benefits package with paid travel, CLE trainings, Court Fees and Bar Dues in addition to paid leave, medical and dental insurance options, NH Retirement, 11 paid holidays per year. Experience preferred and salary is commensurate with experience, starting at \$81,161. NH Bar membership is required.

Please submit cover letter and resume to Chris McLaughlin, Cheshire County Attorney. Attention Kim May, Human Resources Director, 12 Court Street, Keene, NH 03431 or via email at kmay@co.cheshire.nh.us

DrummondWoodsum

ATTORNEYS AT LAW

Business/Corporate Attorney

Portland, Maine

Drummond Woodsum seeks an attorney to join its business services practice at its Portland, Maine office. This position will involve a broad range of work, including mergers and acquisitions, debt and equity financings, securities laws matters, and other commercial transactions. The ideal candidate will be responsible for providing expert legal advice on corporate and commercial matters, including corporate governance and contract issues, as well as drafting, reviewing, and negotiating a variety of contracts and agreements.

Candidates must have outstanding academic credentials, excellent research and writing skills, a strong work ethic, and the ability to manage and work well on a team. A minimum of 5 years of prior experience is required. To apply, please submit a letter of interest and a resume to hr@dwmlaw.com. No phone calls, please. All inquiries are held in the strictest of confidence.

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

Drummond Woodsum is an equal opportunity employer that does not discriminate on the basis of race, religion, color, national origin, sex, veteran's status, age, disability, sexual orientation, gender identity, genetic information, creed, citizenship status, marital status, or any other characteristic protected by federal, state or local laws. Our Firm's policy applies to all terms and conditions of employment. To achieve our goal of equal opportunity, Drummond Woodsum makes good faith efforts to recruit, hire and advance in employment qualified minorities, females, disabled individuals and covered veterans. EOE M/F/V/D

Staff Attorney – Senior Level

New Hampshire Legal Assistance (NHLA) seeks an attorney with significant litigation experience to join our nonprofit law firm as a Staff Attorney.



The Staff Attorney will play a leadership role in developing and executing complex federal and state impact litigation, including class actions and appeals. In addition to supervising and participating in impact work, Staff Attorney may also handle individual cases. At least 10 years of prior litigation, or substantial institutional reform/civil rights litigation experience strongly preferred.

Full position details and how to apply: <https://www.nhla.org/support/jobs>

Associate Legal Advisor

Department of Homeland Security
U.S. Immigration and
Customs Enforcement (ICE)
Williston, Vermont
Two Vacancies



Closing Date: February 20, 2026

A student loan repayment incentive may be available, in which case a service agreement will be required.

Location: Williston, VT. Relocation expenses not reimbursed. Occasional work travel expected.

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

Pay Scale & Grade: Excepted Service, GS-11–GS-15. Per the General Schedule locality pay table, annual salary between \$76,203 and \$196,258, depending on experience and qualifications. This position has promotion potential to the GS-15 level. When promotion potential is shown, the agency is not making a commitment and is not obligated to provide future promotions to you if you are selected. Future promotions will depend on administrative approval and your ability to perform duties at a higher level. Further, promotion from the GS-14 level to the GS-15 level is subject to the Office of the Principal Legal Advisor's (OPLA's) internal guidance.

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

Responsibilities: Provide legal advice on commercial litigation, administrative law, and environmental law issues. This includes assisting the Department of Justice in immigration bond and environmental litigation, representing ICE in hearings before administrative law judges in overpayment cases, real estate leasing, government vehicle usage and affirmative claims for vehicle damage, and providing advice on federal debt collection activities and Office of Personnel Management regulations on federal employee compensation.

Conditions of Employment: Must be a U.S. citizen, pass a background investigation and drug screen test, if male born after 12/31/59, certify Selective Service registration, must be a graduate of an accredited law school with a Juris Doctor (J.D.) or LL.M degree, must be an active member in good standing of the bar of a U.S. state, territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, and you may be required to serve a two-year trial period. If hired, you may be required to complete a Confidential Financial Disclosure Report (OGE Form 450) within 30 days of appointment. Qualification requirements must be met by the closing date of this announcement and will be subject to verification.

If interested, please provide a cover letter, resume, and a current copy of your bar card. If you are/were a federal employee, please send a copy of your most recent promotion or within-grade increase Notification of Personnel Action (Standard Form 50). You might also be asked to submit a writing sample.

Please send your application to the Commercial & Administrative Law Division, to either correspondence.RRU@ice.dhs.gov or P.O. Box 5000, Williston, VT, 05495. Contact this email address with any questions.

MCLANE MIDDLETON

LITIGATION ATTORNEY

McLane Middleton, Professional Association is seeking a talented and driven Litigation Associate to join our team. We are a leading trial practice group in New England, handling a broad range of business and complex litigation.

The ideal candidate should possess 2 to 4 years of general litigation experience. The successful candidate will be adept at collaborating with partners and clients to develop litigation strategies including conducting discovery, document review, witness preparations, and drafting motions, etc.

Self-starters looking for career advancement and business development opportunities are encouraged to apply. The qualified candidate will have prior private firm experience or will be transitioning from a government position to private practice.

Options for a hybrid work schedule combining in-office and remote work are available. The candidate must possess excellent academic credentials from an accredited law school with strong analytical abilities, excellent client service, as well as strong communication and writing skills.

We offer a collegial team environment, professional development and personal satisfaction in a fast-paced work environment. Qualified candidates must be admitted to the New Hampshire or Massachusetts Bar, or have the ability to waive in. Other bar memberships are a plus. Competitive compensation and benefits package offered.

Built on over 106 years of experience, McLane Middleton helps create a long-term career path to assist professionals in their pursuit of personal and professional achievement. We encourage you to consider joining our team!

Qualified candidates should send a cover letter, resume and law school transcript to: Jessica Boisvert, Manager of Professional Recruiting and Retention, Email: jessica.boisvert@mclane.com

MCLANE MIDDLETON

CORPORATE LAW ATTORNEY

McLane Middleton, Professional Association a leading New England-based law firm, is seeking a Corporate Law Attorney to join our growing corporate practice. This position will afford you the opportunity to take on new responsibilities, work with and learn from some of the region's leading corporate lawyers, work directly with clients, and be provided with the resources to develop your professional skills.

The ideal candidate should possess 5+ years of general corporate experience and a strong interest in corporate law. The candidate will be adept at collaborating with partners and clients in representing and advising closely held businesses, including entity formation and structuring, corporate governance, contract drafting and negotiating, mergers, acquisitions and other strategic transactions.

Individuals looking for career advancement and business development opportunities are encouraged to apply. The qualified candidate will have prior private firm experience and will demonstrate the ability to manage billable hour requirements and maintain accurate timekeeping records.

Options for a hybrid work schedule combining in-office and remote work are available. The candidate must possess excellent academic credentials from an accredited law school with strong analytical abilities, excellent client service, as well as strong communication and writing skills.

We offer a collegial team environment, professional development and personal satisfaction in a fast-paced work environment. Qualified candidates must be admitted to the New Hampshire or Massachusetts Bar, or have the ability to waive in. Other bar memberships are a plus. Competitive compensation and benefits package offered.

Built on over 106 years of experience, McLane Middleton helps create a long-term career path to assist professionals in their pursuit of personal and professional achievement.

McLane Middleton's Corporate Department brings over ten decades of corporate law experience. We represent clients across a broad spectrum of size, complexity, and industry, with their most important corporate law issues, including business formation, corporate governance, complex agreements, capital raising, securities offerings, executive compensation, mergers, acquisitions, and other strategic transactions. Our experience, combined with our industry knowledge, positions us to identify innovative solutions to complex issues.

Qualified candidates should send a cover letter, resume and transcript to: Jessica Boisvert, Manager of Professional Recruiting and Retention, Email: jessica.boisvert@mclane.com

MCLANE MIDDLETON

TRUSTS & ESTATES ATTORNEY

McLane Middleton, Professional Association, is seeking a Trusts and Estates Attorney to join our active and expanding Trusts and Estates Department. McLane Middleton has one of the largest Trusts and Estates departments in New England. This is a unique opportunity to work alongside some of New England's most highly-skilled Trusts and Estates attorneys.

The ideal candidate should possess a strong academic record and excellent written and oral communication skills, with 7+ years of experience in estate planning, tax planning, and trust and estate administration. Experience in New Hampshire trust law and asset protection planning is a plus. Ideally, the candidate would have prior experience working directly with high net-worth individuals and families and their advisors on designing and implementing personalized estate plans, and tax-efficient and estate and wealth transfer strategies, including transfer of closely-held business interests to irrevocable trusts. Equally important is the ability to manage a preexisting volume practice while working alongside a team of skilled professionals.

McLane Middleton has a strong tradition over its 106-year history of deep involvement by its employees in the communities where they work and live. The firm itself is an active participant in the community as well, supporting numerous charitable, business and professional associations. The firm 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.

Qualified candidates should send cover letter and resume to: Jessica Boisvert, Manager of Professional Recruiting and Retention, jessica.boisvert@mclane.com.

MCLANE MIDDLETON

TRUSTS & ESTATES PARALEGAL

McLane Middleton, a leading New England-based law firm, has a unique opportunity for a Trusts and Estates Paralegal in our Manchester, New Hampshire office.

We are seeking an experienced, detail-oriented, thorough, and organized Trusts and Estates Paralegal to join our team. This individual will have a broad base of experience including probate and trust administration, working knowledge of the Probate Court rules and procedures and probate accountings, Federal estate tax returns, and familiarity with trust accounting computer programs.

The ideal candidate will be a self-starter, able to work independently and have previous paralegal experience in the administration of trusts and estates, including the preparation of Massachusetts and U.S. Estate Tax Returns (Form 706). Responsibilities include all facets of trust and probate administration, drafting correspondence and legal documents, asset spreadsheets and probate pleadings, reviewing bank statements, and organizing and maintaining client files. In addition, the candidate must be capable of offering the highest level of service to our clientele. Professionalism and teamwork are important, so the best candidate works well with attorneys, co-workers, and our clients.

Skills, Education, and Experience:

- Minimum of 3 years of solid Trusts and Estates paralegal experience.
- Associate degree with paralegal studies emphasis. Bachelor's degree from ABA approved paralegal program preferred.
- Certification from NALA or NFPA is a plus.
- Attention to detail, dependable, organized.
- Excellent computer skills including MS Office, iManage, and Adobe Acrobat
- Excellent problem solving and analytical skills
- Excellent proofreading skills and clear and concise communication skills.

Direct resume with cover letter to: Jessica Boisvert, Manager of Professional Recruiting and Retention, Email: jessica.boisvert@mclane.com

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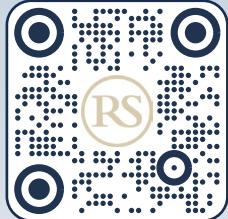
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The Division for Children, Youth and Families is seeking Child Protection Attorneys Positions available in Berlin, Conway, Laconia, and Manchester

The DCYF Legal Team is a dynamic group of experienced child protection attorneys and their legal assistants, stationed around the state, who work in partnership with the New Hampshire Attorney General's Office to 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.

We offer paid training, competitive salaries, and a comprehensive benefits package.

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 contact Attorney Deanna Baker, Legal Director to discuss if an exception may be requested for years of experience.

How to APPLY: Please submit your letter of interest, resume and application by visiting: www.nh.gov/Careers (tab on upper right), Finding a Job - NH State Government Job Opportunities, Search for Job Opportunities and enter "DCYF Staff Attorney" in the Job Title field.

For questions about this position, please contact Attorney Deanna Baker, Legal Director at (603) 419-0491, deanna.baker@dhhs.nh.gov.



LEGAL ASSISTANT/PARALEGAL

Lewis Builders Development, Inc. is seeking a full-time legal assistant/paralegal to assist Legal Counsel in a wide-ranging role with paralegal and administrative responsibilities, including real estate, corporate and regulatory matters. Ideal candidate must be efficient, organized, work independently and possess attention to details.

3-5 years relevant experience

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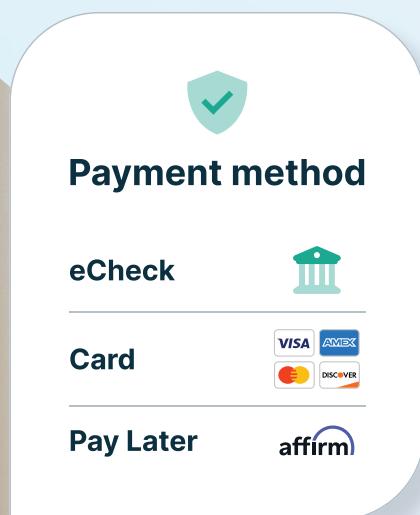
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