

New Legal Needs Study Finds Wide Gaps in Access to Civil Justice

By Tom Jarvis

The 2025 New Hampshire Legal Needs Study, released in April 2026, provides a detailed picture of where civil legal needs arise in New Hampshire, where services are available, and where gaps remain.

The report found that demand for civil legal aid far exceeds available capacity, with more than 33,000

requests for help made to the state's three primary civil legal services organizations between 2022 and 2024. Thousands of people could not be served because of limited staffing, program constraints, and intake barriers. Housing and family law matters accounted for much of the demand, while domestic violence matters, though fewer in number, remained among the most urgent.

The report also found that transportation barriers, limited internet access, disability, age, and geography can all affect whether residents are able to get legal help or meaningfully take part in court proceedings.

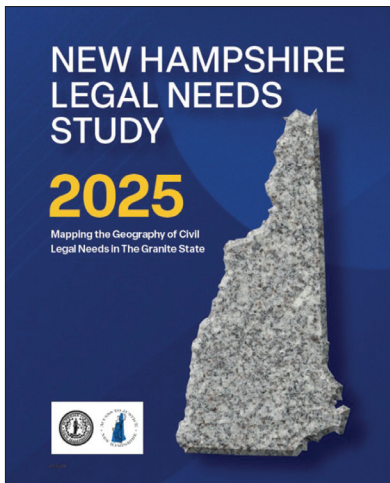
"Publication of the Legal Needs Study marks a turning point for how we understand access to justice in New Hampshire," says New Hampshire Supreme Court Justice Melissa Countway, co-chair of the Access to Justice Commission. "The findings challenge us to think differently about how we measure access to justice and ensure that all Granite Staters, regardless of where they live or their unique circumstances, have a meaningful opportunity to be heard in court."

The report was authored by Katherine Alteneider of Access to Justice Innovation and Suzanne Wade of More Than Maps. It was funded by the New Hampshire Judicial Branch and the New Hampshire Bar Foundation. 603 Legal Aid (603LA) served as the project lead, with significant data and collaboration provided by the New Hampshire Bar Association, Disability Rights Center-NH (DRC), and New Hampshire Legal Assistance (NHLA).

The study also drew input from 128 non-legal service providers, libraries, and community partners.

Using a geospatial approach, the report combines public demographic and infrastructure data, civil legal aid service data, court filing data, private Bar data, and community partner input to map where legal needs arise and

STUDY *continued on page 26*



Thirty-one of the 68 current NHBA members recognized for 50 years in practice attended the annual luncheon on April 13 at the Bedford Village Inn. Photo by Tom Jarvis

NHBA Honors 50-Year Practitioners at Annual Luncheon

By Tom Jarvis

Sixty attorneys, judges, and family members gathered at the Bedford Village Inn on April 13 for the New Hampshire Bar Association's annual Celebration of 50 Years in Practice luncheon. This year, the NHBA recognized 68 members of the Bar who have reached a half-century in the legal profession, including 31 who attended the luncheon.

The occasion provided an opportunity to honor attorneys whose careers have spanned decades of change in the law, the courts, legal education, technology, and the profession itself.

"Celebrating 50 years in practice is about much more than a milestone – it's about recognizing a lifetime of dedication to the profession and to the people it serves," NHBA Executive Director Sarah Blodgett says. "These attorneys have helped shape the culture, values, and collegiality of the New Hampshire Bar, and it's an honor to bring everyone together to recognize

their impact."

During the event, Blodgett also acknowledged the honorees' longtime commitment to clients, the legal system, and the integrity of the profession, noting that their leadership has helped guide firms, influence courts, strengthen institutions, and set standards for future generations of attorneys.

NHBA President Derek Lick addressed the honorees, recognizing the depth of knowledge and experience represented in the room. As part of his remarks, Lick invited the 50-year practitioners in attendance to share one or two pieces of advice they would offer to new members of the Bar being sworn in this year.

The exercise gave the program a forward-looking element, connecting the experience of attorneys who began practicing in 1976 with those of attorneys just entering the profession. It also reflected one of the recurring themes of the event: that the value of 50 years in

LUNCHEON *continued on page 29*

Drug Court Participants Less Likely to Reoffend, Study Finds

By Tom Jarvis

A recent study of New Hampshire's drug treatment courts found that participants were significantly less likely to be convicted of new crimes than those who were referred but did not enroll.

The study, *Measuring the Impact of NH Drug Treatment Court Programs: An Evaluation of Recidivism*, was conducted by JSI Research & Training Institute, Inc., in partnership with the New Hampshire Judicial Branch (NHJB) Drug Treatment Court Program. It examined program involvement between 2018 and 2023 and found that 82 percent of individuals enrolled in a drug treatment court did not have a subsequent conviction during or after their participation.

"The results are truly gratifying and inspiring, and

prove the efficacy of the invaluable work being done in our drug courts," New Hampshire Superior Court Chief Justice Mark Howard says. "The study is a testament to the hard work being done every day by participants who want to heal and lead a better life, and by the drug court professionals who dedicate their lives in service to others. The program could not succeed without the commitment from so many stakeholders in the system."

The findings come as New Hampshire's drug treatment courts approach another milestone: the programs reached their 1,000th graduate during a Manchester drug treatment court graduation on May 12.

According to the report, enrolled participants were "nearly three times less likely" to be convicted of a new

DRUG COURT *continued on page 22*

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Advice from the Most Experienced Bar Members

One of my duties as Bar president is to recognize and congratulate some of our most esteemed members – those who have reached 50 years of practice. This year, the Bar had more than 60 members reach that milestone.

At the annual luncheon last month commemorating their dedication to the practice of law, the 50-year members were asked to share words of wisdom with those joining the New Hampshire Bar and following in their footsteps. Their advice was insightful and inspiring, and I wanted to share it as an opportunity to reflect on your own legal careers.

Here, in no particular order, are the thoughts these experienced Bar members shared with the rest of us:

- Always keep your word to everyone. You will want people to say about you, “his/her word is his/her bond.”
- Sign up to get and read all the Supreme Court cases to keep up with the law. Education never stops.
- Return all phone calls and emails from clients and attorneys within 24 hours.
- Your word is your bond.
- Network with your colleagues.
- Stay humble!
- Don't forget that you have a sacred trust with your clients.
- Don't take yourself too seriously.
- Don't be afraid to ask questions.
- Be confident in what you know.

President's Perspective



By Derek D. Lick

Orr & Reno,
Concord, NH

- Always be civil to your clients, opposing parties, and their counsel.
- Live in the present or you'll miss it.
- If you plan on being a courtroom lawyer, know the rules of civil procedure inside and out. They are the most important tools in your toolbox.
- Remember, there are more important things than your job – especially your family.
- Err on the side of what is ethical and avoid the gray areas.
- Treat your clients as friends who need your help.
- You don't know everything. Never be afraid to ask for help.
- Don't work late. Have some work-life balance.
- Get good instruction in the business side of running a law firm and attracting clients.
- Be civil to everyone.
- If you use AI, check everything.
- Honoring your written promise is important; honoring your verbal promise

is perhaps more important.

- Your degree is a key to many opportunities. Don't be afraid to try a variety of careers. Those experiences will enrich your life.
- Reputation is key – as is a healthy balance of work and home life.
- From the perspective of a judge: always be prepared – for your client, for the judge, and for your own reputation.
- Find a mentor and follow their advice. In the Navy, I always sought advice from my chief. The same applies to the law – you can't do it as well alone.
- If you have to choose between money and doing work that makes you happy and fulfilled, choose the work.
- Be polite to your fellow attorneys because you never know when one of them may walk into the courtroom wearing a black robe.
- Work hard. Think hard. Be open-minded. Be fair. Be curious. Be ethical.
- Quoting Spike Lee: “Do the right thing.”
- Quoting Mark Twain: “Do right. You will gratify most and astonish the rest.”
- Wag more, bark less!

It is sage advice worth remembering, and I thank our 50-year members for taking the time to share their perspective. It is also a welcome reminder for us all to take stock and stay grounded as we try to keep up with the day-to-day rigors and demands of our own legal careers. ♦

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NHBA Welcomes Gavin Geick as Front Desk Coordinator

The New Hampshire Bar Association is pleased to welcome Gavin Geick as its new front desk coordinator.

Geick holds a bachelor's degree in fashion merchandising and management from Southern New Hampshire University. He most recently worked at Whole Foods Market, where he spent two years in the grocery and bakery de-



partments.

Before joining the Bar, Geick lived in Japan for two years, teaching English to junior high school students.

“I am grateful for the opportunity to be joining the NHBA team,” Geick says. “I look forward to collaborating and learning from everyone here.” ♦

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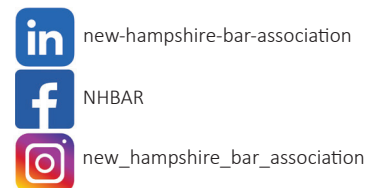
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Bar Foundation Honors High School Civics Essay Winners

By Megan Koerber

The New Hampshire Bar Foundation held a ceremony on April 4 at Merrimack County Superior Court to recognize the winners of its second annual high school civics essay competition.

This year's prompt asked students to consider how the freedoms and rights identified in the Declaration of Independence and the US Constitution should shape the regulation of artificial intelligence tools such as ChatGPT, including whether AI companies should be legally required to pay authors whose work they use. The contest drew 49 entries.

The Foundation launched the contest in 2024 to encourage high school students to engage with constitutional issues, civic responsibility, and contemporary legal questions.

Heather Burns, chair of the Foundation's Educating the Public Committee, opened the ceremony by discussing the Foundation's dual mission of supporting civil legal aid for disadvantaged Granite Staters and promoting civic education. She also recognized the role that families and teachers play in fostering student achievement and civic understanding. Burns then introduced New Hampshire Supreme Court Chief Justice Gordon MacDonald.

Chief Justice MacDonald began by thanking members of the judiciary who attended the ceremony and recognizing the Foundation's work in organizing the annual contest. He noted that the Foundation's focus on civic education is especially important at a time when public confidence in democratic institutions, including the judiciary, is declining.

"At any time, but especially at this time," Chief Justice MacDonald said, "it is hard to conceive of a more important priority than engaging the public, and especially our youth, on civics, on our institutions, on the judiciary, and on the rule of law."

He also described the judiciary's student outreach efforts, including fourth-grade visits to the New Hampshire Supreme Court, mock trial competitions, oral arguments held before high school audiences, and visits by students whose teachers bring them to court to observe proceedings and speak with the justices.

"When we have these kinds of interactions with young people, a few things happen," he said. "We are invariably impressed by their level of knowledge, their engagement, their understanding of our institutions, and their respect for the rule of law."

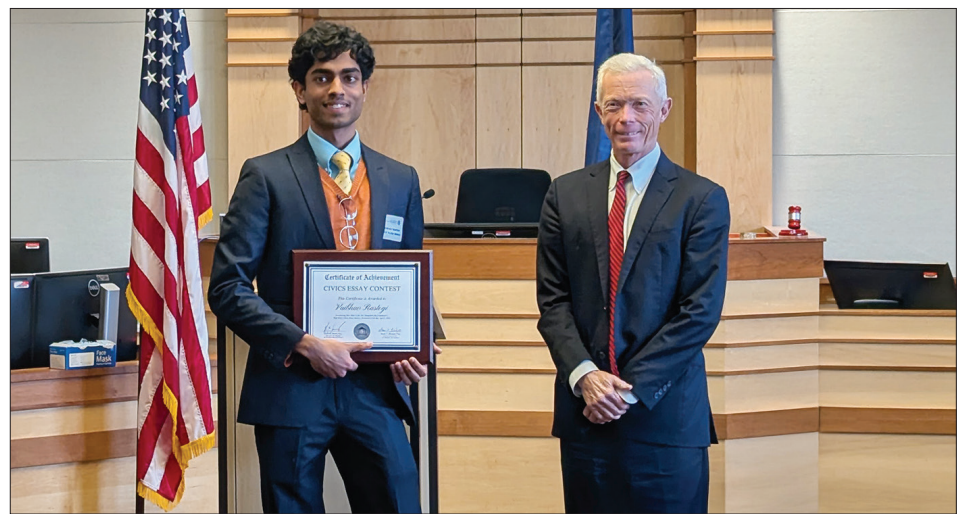
Chief Justice MacDonald then presented the awards. First place went to Vaibhav Rastogi, a senior at Virtual Learning Academy Charter School and Bishop Brady High School, who received a \$5,000 award. Leah McFarland, a senior at Newfound Regional High School, received second place, and Lauren Damota, a junior at Londonderry High School, received third place. McFarland and Damota each received \$2,500 awards.

Rastogi told the *Union Leader* he is considering a pre-law track in college and spent about three days researching court cases to reference in his essay. Damota told the *Union Leader* that the hardest part was determining how the prompt connected to civics and which cases reflected what AI companies can and cannot do.

The winning essays are available to read at nhbar.org/civics-essay-contest. ♦



New Hampshire Supreme Court and Superior Court Judges with essay contest winners. From left, Hon. Mark Howard, Hon. Melissa Countway, first-place winner Vaibhav Rastogi, second-place winner Leah McFarland, third-place winner Lauren Damota, Hon. Gordon MacDonald, and Hon. Daniel St. Hilaire. Photo by Megan Koerber



First-place winner Vaibhav Rastogi (left) with Chief Justice Gordon MacDonald. Photo by Megan Koerber

NOTICE TO MEMBERS Bar Center Front Door Access

Beginning May 6, the front door of the New Hampshire Bar Center will remain locked during business hours. Members and visitors will be able to use the video intercom system at the entrance to contact staff and be buzzed in.

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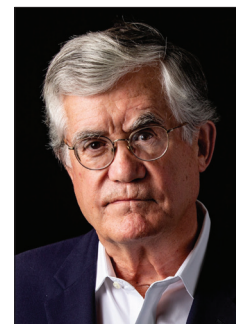
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Paul Chant: A Career Rooted in Service and Wellness

By Kathie Ragsdale

A political scandal in the 1970s sparked Paul Chant's determination to become an attorney.

He was "an impressionable 14-year-old" who was mesmerized by the Watergate hearings during the Nixon administration, and watching the drama unfold on TV left him thinking that "lawyers were heroes," Chant remembers.

His grandfather had been an attorney, prosecutor, and deputy attorney general in New York State, and the young Chant resolved to join the profession. Since then, he has represented seriously injured individuals and workers' compensation claimants for more than 35 years.

A partner at Cooper Cargill Chant and a past president of the New Hampshire Bar Association, Chant was born in New York's Hudson Valley and raised in the Mad River Valley. He went on to the University of Vermont, where he majored in political science.

He took a year off before starting at the Boston University School of Law.

"Coming out of college, I had four goals," he says. "I knew I wanted to go to law school, save some money, get in really good shape, and do something productive for others during that year."

That "something productive" meant working for what was then called the Eckerd Foundation, where he taught emotionally disturbed youth a variety of skills in a wilderness environment.

After his first year of law school, he

worked for then-US Senator Patrick Leahy, who chaired the Senate Judiciary Committee. Upon graduation, Chant was faced with the choice of going to Washington, DC, or staying in New England, which he and his wife agreed might be a better place to start a family. He chose the latter.

Chant signed on with the Nashua firm of Hamblett & Kerrigan, where he says "some extraordinary lawyers" mentored him on both sides of personal injury law.

He was there for 13 years before Randall Cooper invited him to join his North Conway firm in September 1999.

Over the years, Chant's work has included a range of personal injury and workers' compensation matters, resulting in significant settlements for clients. Those include \$300,000 for a woman who broke her wrist in a fall, \$98,000 for a rotator cuff injury stemming from an auto accident, \$100,000 for a client whose knee was fractured when a car he was working on fell on him, and \$175,000 for a woman who suffered a herniated disc in a car accident.

"I enjoy practicing law when I can make a difference in the life of a client or a client's family," he says. But it's not always the biggest cases that he finds most memorable.

He cites the case of a career bar-



Chant

tender who slipped, fell, and fractured her ankle outside a pizza parlor. Her case was settled "for a nice amount," Chant says.

"I got this wonderful card from her saying, 'You have no idea how much it meant to our family to move to a better neighborhood, have our own house, and have our kids go to better schools,'" he says. "It felt good."

His own life experiences inform his practice, Chant says.

One of his younger brothers, whom Chant describes as "a stellar human being and a person of importance in his community," died in a kayaking accident a couple of years ago.

"Those things cause you to examine where you are in life and where you want to go," he says.

While serving as NHBA president, Chant initiated the NHBA's Special Committee on Attorney Wellness. He has also written several columns on wellness for the *Bar News*, tackling subjects like his own weight loss journey, depression, and alcohol consumption.

Being involved in Bar leadership makes one aware of the number of people who have wellness or substance abuse is-



Paul Chant and his wife, Anne, enjoying a visit to a New Zealand winery. Courtesy photo

ues "that they are slow to recognize and slow to address," Chant says. "This is a hard profession. Clients come to us in difficult situations, sometimes the worst of their lives, so you take that on. It's a noble

CHANT *continued on page 28*

The Value of a Second Opinion

Cancer case turned away by another 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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\$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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Robert Lamberti Brings Commitment to Public Service to Banking Department Role

By Scott Merrill

In an era when the choice to pursue a legal career is often measured by the ability to pay back student loan debt and, later, billable hours, Robert Lamberti has taken a different path. It's one defined by public service, institutional knowledge, and a commitment to helping New Hampshire residents navigate complex financial situations.

As deputy general counsel at the New Hampshire Banking Department, Lamberti works at the intersection of regulation, consumer protection, and evolving financial technologies. It is not glamorous work, he says, but it is consequential.

For Lamberti, that has always been the point.

"I think there's sometimes a sense that people forget about the public service side of the Bar," he says. "But that's always been a driving theme for me."

That commitment is evident to colleagues, including New Hampshire Banking Department General Counsel Seth Zoracki, who leads the department's legal division.

"Bob is reliable, thoughtful, personable, friendly, kind, and a pleasure to work with," Zoracki says. "He's a strong legal thinker and a wonderful colleague."

That sentiment is shared by Linda Capuchino, administrative law judge for the New Hampshire Department of Safety, who met Lamberti when he interviewed with the Office of Public Licensure and Certification.

"He was very well prepared during his interview and was offered the job almost immediately," Capuchino says. "Bob single-handedly did the rules and legislative work for all of those boards. He did a phenomenal job."

Zoracki, who joined the department in March 2022, says Lamberti's experience across state government is a major asset, particularly given the breadth of the Banking Department's legal responsibilities – from enforcement actions to advising on legislation and regulatory policy.

As deputy general counsel, Lamberti also serves as the department's consumer complaints administrator, overseeing cases that often involve residents facing financial hardship.

"It's not uncommon that the individuals who contact us are experiencing financial hardship," Zoracki says. "Bob always exhibits conscientiousness, fairness, compassion, and adherence to the rule of law."

He adds that Lamberti's approach reflects a deeper motivation.

"Bob has always had a desire to help people in need and to solve problems when he can," Zoracki says, noting that those instincts are central to the department's consumer protection mission.



Lamberti



Robert Lamberti (left) with his father in the locker room at a Boston College hockey game. Courtesy photo

Finding His Path in the Law

Lamberti, 38, was born in Concord and raised in Hampton near the beach. After attending Boston College, where he studied English and philosophy, he returned to New Hampshire for the University of New Hampshire Franklin Pierce School of Law, intentionally keeping his options open when it came to choosing a practice area.

"I didn't want to pigeonhole myself," he says. "I made a concerted effort to try a lot of different things."

Throughout law school, he worked with the courts, the New Hampshire Department of Justice, and private firms before identifying a clear direction.

"The overall theme was that I knew I wanted to serve or help the people of New

Hampshire in some way after graduating," he says.

That inclination was shaped in part by personal experience years earlier. Lamberti recalls being exposed to a legal matter involving someone close to him and his family. It was an experience that offered his first real glimpse into the profession and its potential impact. He is also the first lawyer in his family, making the decision to pursue law both a professional and a personal leap.

After graduating in 2013, he joined the New Hampshire Human Rights Commission, handling civil rights matters including employment discrimination.

"That role fit with that idea of living a

LAMBERTI *continued on page 28*

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Veteran Judge's Book Offers Practical Guide to Life on the Bench

By Tom Jarvis

A new book by Judge Christopher Santoro aims to fill what he sees as a long-standing gap in judicial training – not in the law itself, but in the day-to-day realities of judging.

The Bench Book: The Essential Guide for Judges, released in January, draws on Judge Santoro's decades of experience across multiple judicial systems to provide practical guidance on decision-making, courtroom management, ethics, and the human dimensions of judicial work.

"The overarching goal of this book is to be a mentor in print," Judge Santoro says. "You can't always have someone you can walk down the hall and talk to, especially if you're a judge in a one-judge court. This is something you can go to, find a chapter or subsection that talks about the issue you're dealing with, and get ideas that help you reflect or think about whether there's a better way to do something."

He says the book grew out of nearly two decades of involvement in judicial education, both as a participant and as an instructor.

"I've had four appointments in four different judicial systems, so I've been deeply involved in judicial training for the better part of 20 years," he says. "One of the things that struck me as missing was a comprehensive guide that did not go into the weeds, but that gave judges a frame of reference to figure out what they need to know that they may not know."

Judge Santoro says he saw a gap in the resources available to judges beyond the usual areas covered in training.

"Most of the judicial training focuses either on the subject area that the judge will



be presiding over or the mechanics of running the courtroom," he says. "But I never really found reference material that I thought comprehensively covered everything that judges need to know."

This includes what Judge Santoro describes as the "human side" of judging – an area he believes is critical but sometimes overlooked.

"Everyone who appears before you has different life experiences and expectations, and different experiences with the judicial system," he says. "For some, that one appearance before you may be life-altering. For me, the human side of judging is first and foremost doing the best you can to recognize where the people before you are coming from, and then trying to meet them there as best you can while still performing your judicial duties."

Judge Santoro also emphasizes that judicial education is not one-size-fits-all, noting that new judges often arrive on the bench with widely different professional backgrounds.

"The training judges receive is often standardized ... without necessarily tailoring it to where you come from," he says. "If you don't know that you need something, you're not going to go look for it."

One of the challenges Judge Santoro identifies early in the book is the transition from advocate to judge.

"You are not trying the case," he says. "You can't be trying to come up with bet-

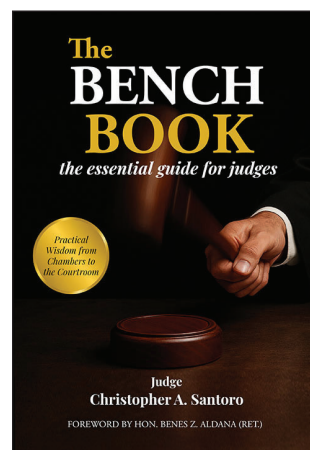
ter arguments or thinking, 'I would have done it this way.' You can't judge the advocates on their advocacy skill, but on what it is they're arguing. If you put yourself back into the litigator's shoes while you're sitting on the bench, that's a recipe for disaster."

Judge Santoro's perspective is shaped by a career that spans law enforcement, prosecution, military service, and multiple judicial roles.

A longtime member of the New Hampshire Bar, he began his career as a police officer in Wolfeboro, where he also prosecuted cases in the district court. He later attended Boston University School of Law and went on to serve in the US Air Force for nearly 30 years, including as a military trial judge and appellate judge, retiring as a colonel.

On the civilian side, Judge Santoro served as a federal prosecutor with the US Department of Justice and held leadership roles within the Department of Homeland Security, including the Transportation Security Administration and Immigration and Customs Enforcement. He later served as acting Chief US Immigration Judge, overseeing more than 500 judges nationwide, and as a senior judicial leader with the Board of Veterans' Appeals. He retired from public service in 2025.

Following his retirement, Judge Santoro founded Keystone Judicial Academy, an organization focused on advancing judicial education and leadership.



"What I'm looking to do is fill in the gaps in traditional judicial training," he says. "I don't compete with what a state or agency might give judges; I supplement it."

The academy offers training programs, educational resources, and mentoring services, including mock interviews and resume review, for judges and attorneys interested in joining the bench.

In the foreword to *The Bench Book*, retired National Judicial College President and CEO Benes Z. Aldana writes that it "anticipates the questions judges are often reluctant to ask aloud – about identity, judgment, leadership, ethics, isolation, fallibility, and resilience – and answers them with clarity, candor, and respect for the office."

Throughout both the book and his broader work, Santoro returns to a central theme: the importance of continued growth.

"Continuous learning is critical and can come from many sources," he says. "No one is ever going to know everything in the law immediately. What matters is getting to the point where you're confident you can handle whatever happens, even if that means taking a recess. Every day something surprises me, because no two cases are ever the same. You need to look at not only the facts of what is brought before you, but also the people. If you stop doing that as a judge, then you've missed the mark."

The Bench Book is available on Amazon and at thebenchbook.com. ♦



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NHBA License Renewal is Quickly Approaching

By Jennifer McManus

Beginning June 1, the My NHBAR Member Portal will be open for Annual License Renewal. The portal can be found on the New Hampshire Bar Association's website at nhbar.org. The personalized webpage enables attorneys to access forms and monitor their compliance.

Deadline

The deadline for all licensure obligations is July 1. The following delinquency fees for any unmet license renewal obligations will be assessed after midnight on August 1:

- Nonpayment of Bar dues and New Hampshire Supreme Court fees: \$100
- Failure to file the Trust Account Compliance Form: \$300
- Failure to file the NHMCLE Affidavit: \$300

A reminder email with links to the Member Portal will go out on Monday, June 1, from billing@nhbar.org.

Please designate billing@nhbar.org as a safe sender to ensure that important updates regarding Annual License Renewal are received in your designated email for communications with the NHBA.

The three items that need to be completed to ensure compliance are:

1. Payment of New Hampshire Supreme Court Fees and Bar Dues: The June 1 email from billing@nhbar.org will contain a link to an online invoice with payment functionality. We've made

it easy to pay New Hampshire Supreme Court fees, Bar dues, and NHBA Sections online with a credit card. Please be aware that a two percent credit card processing fee will be assessed. To avoid this fee (between \$0.50 and \$13.30 depending on your status) payment may be made by check. Checks should be made payable to New Hampshire Bar Association, and mailed to Accounts Receivable, NHBA, 2 Pillsbury Street, Suite 300, Concord, NH 03301-3502. Payments received via US Mail will be considered on time if postmarked on or before July 1. If payment is received after August 1, the applicable delinquency fee will be assessed.

2. Trust Account Compliance Requirements: Most active-status Bar members must e-file a Trust Account Compliance (TAC) form, even if they are not actively practicing or holding trust accounts. The online form asks eligibility questions and requires members to fill in the necessary answers for their membership status. Make sure to have all required IOLTA bank account information available before starting the online TAC form. The online filing system does not save information if a member stops or exits before completing the form. Law firms may submit a single TAC form for all lawyers at the firm by adding each attorney to the form.

3. NHMCLE Requirement: The Attorney Reporting Tool (ART), found in the Member Portal or at nhmcle.org, enables Bar members to track their legal education minutes. Minutes from NHBA CLE programs are automatically loaded



ATTORNEY LICENSE RENEWAL

in ART by the NHBA Registrar; non-NHBA CLE program minutes must be entered by the attorney attending the class. All NHBA CLE course minutes for the reporting year beginning June 1, 2025, and ending May 31, 2026, must be entered by June 29 to ensure they are loaded into ART to file the Affidavit of Compliance by July 1. Don't forget to log in and file your affidavit if your minutes are already entered!

Remember to Update Your Information

The NHBA encourages all members to confirm their contact information in the Member Directory or on the My NHBAR Member Portal profile page. Please pay particular attention to email addresses on file as renewal notices are delivered to the primary email in the NHBA database.

We encourage all members to review and update this information prior to June 1 to ensure members receive every message concerning license renewal in a timely manner.

If you have questions regarding updating your contact information, please email memberrecords@nhbar.org or call (603) 715-3208.

Help Is Always Available

For questions about Bar dues and Supreme Court fees, renewal forms, or NHMCLE reporting, the NHBA renewal team is here to help. Many answers can be found on the Bar's website at nhbar.org/resources/stay-in-compliance. Members may also contact the NHBA Member Hotline at (603) 715-3279 or email the appropriate address below:

- billing@nhbar.org for billing questions
- trustaccountcompliance@nhbar.org for TAC questions
- nhmcle@nhbar.org for NHMCLE inquiries

If you have general questions, email memberrecords@nhbar.org or call the Member Hotline at (603) 715-3279. ♦



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NHBA 2026 Annual Meeting Awards

Justice William A. Grimes Award for Judicial Professionalism Hon. N. William Delker

Judge N. William Delker has served on the New Hampshire Superior Court since 2011 and is supervisory judge of Hillsborough Superior Court–North. Before joining the bench, he was a senior assistant attorney general and prosecutor who handled major homicide cases and founded the New Hampshire Cold Case Unit. He also serves on several judicial and legal committees and teaches at UNH Franklin Pierce School of Law.



Distinguished Service to the Legal Profession John M. Greabe

Professor John Greabe directs the Warren B. Rudman Center for Justice, Leadership & Public Service and teaches at UNH Franklin Pierce School of Law. His scholarship focuses on constitutional law, federal courts, and civil rights litigation, and he writes the monthly Constitutional Connections column for the *Concord Monitor*. Before joining UNH Law, he taught at Vermont Law School, maintained an appellate practice, and clerked for federal judges.



E. Donald Dufresne Award for Outstanding Professionalism Lauren S. Irwin

Lauren Irwin is an attorney at Upton & Hatfield, where she represents plaintiffs and defendants in employment disputes and civil litigation. She is also an experienced mediator, arbitrator, and investigator. A Fellow of the College of Labor and Employment Lawyers, she is a past president of the NHBA's Gender Equality Committee and a frequent speaker and author on employment law issues.



NEW HAMPSHIRE BAR ASSOCIATION 2026 Annual Business Meeting

Mountain View Grand Resort and Spa
Whitefield, NH
Friday, June 12, 2026 at 1:00 pm

AGENDA

President Derek D. Lick presiding

1. Call to Order
2. Secretary's Report – Draft minutes of the 2026 Midyear Membership Business Meeting for approval
3. Old Business
4. New Business
5. Adjournment

NEW HAMPSHIRE BAR ASSOCIATION 2026 Midyear Business Meeting

Friday, February 20, 2026, 12:30 am
DoubleTree by Hilton Downtown Manchester, NH
President Derek D. Lick presiding

DRAFT MINUTES

1. Call to Order: President Lick called the meeting to order at 12:35 pm.
2. Approval of the minutes of the Annual Business Meeting – Saturday, June 7, 2025

ACTION

On Motion to approve the minutes. Passed.

3. Old Business: None
4. New Business: None
5. Adjournment

The meeting adjourned at 12:38 pm.

Lothstein Guerriero, PLLC



Ted Lothstein



Kaylee Doty



Richard Guerriero



Oliver Bloom

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NEW HAMPSHIRE LAWYERS ASSISTANCE PROGRAM



SAVE THE DATE

NH Gives 2026

SUPPORT NHLAP AND WELLNESS
PROGRAMMING FOR NEW HAMPSHIRE'S
LEGAL COMMUNITY

June 9 at 5:00 p.m. – June 10 at 5:00 p.m.

NH Gives is a 24-hour online fundraiser supporting nonprofits across the state.

Our goal is to raise \$5,000 to continue and expand wellness programming for New Hampshire's legal community.

If you've ever worked in or around the legal field, you know how demanding it can be. NHLAP exists to make sure people have somewhere to turn when things get heavy.

This year, NHLAP has helped legal professionals facing workplace issues, mental health management, character and fitness concerns, stress and burnout, and substance use / addiction. If our program has helped you, someone you work with, or someone you care about, we'd really appreciate your support during NH Gives. And if you're new to NHLAP, this is a good time to get to know what we do.

THIS YEAR THROUGH NHLAP

195 MEMBERS OF THE LEGAL COMMUNITY ASSISTED

This year, NHLAP provided **50 therapist referrals** and connected **23 people to peer support groups**. It also helped **8 people move to a higher level of care** when needed.



We'll be sharing more as the date gets closer. For now, just **save the date** - we'd be glad to have you take part in whatever way feels right.

New LawLine Format Aims to Increase Access to Justice

By Misty Griffith

Starting in June, the New Hampshire Bar Association's LawLine program will shift from a live call-in hotline to a call-out legal advice model. The new format is designed to make volunteering easier for attorneys and better serve members of the public by connecting them with lawyers who have experience in the practice areas where they need brief guidance.

LawLine is a monthly legal advice hotline in which anonymous volunteer attorneys field calls from the public. While LawLine serves many individuals, dozens of calls remain unanswered each month due to the limitations of the current program.

In the past, some attorneys have expressed reluctance to volunteer for LawLine due to concerns about potential conflicts of interest. In addition, many were hesitant to give advice on legal matters outside of their areas of practice. The new LawLine format will remove these roadblocks and encourage more attorneys to volunteer.

"I'm excited about the opportunity to better serve our LawLine callers by pairing them with an attorney who is knowledgeable about their case type for some brief guidance," says Amanda Adams, the LawLine coordinator and an intake and referral specialist for the NHBA's Lawyer Referral Service. "LawLine is a great resource for those who are struggling to make ends meet or are seeking confirmation that their case would be feasible to pursue before taking the next step. Improving this valuable public service is a major step toward bridging the justice gap in New Hampshire."

The new LawLine format also means



Catherine McKay speaking to a LawLine caller in March 2026. Courtesy photo

that solo practitioners and public sector attorneys will be able to volunteer more easily. While firms are always welcome and encouraged to volunteer, LawLine will no longer have the constraints of forwarding only to a few landlines. Volunteer attorneys may now make outgoing calls from their own cell phones wherever they choose.

The NHBA will continue to coordinate LawLine on the second Wednesday of each month, but rather than answering calls as they come in, volunteer attorneys will receive, in advance, a list of no more than 10 individuals to call during the 6 to 8 pm LawLine time frame.

Volunteers should spend no more than 10 minutes per call. Individuals with more complex legal questions may be referred to other resources. To maintain anonymity, volunteer attorneys should dial *67 followed by the phone number to block caller ID. Alternatively, they may go into their phone settings and turn off caller ID during

the LawLine session.

Individuals who would like to receive a call from a LawLine attorney will be asked to fill out a short online application in advance. The application will allow staff to collect basic information, including the names of the parties involved and a very brief description of their legal issue. This will allow volunteer attorneys to run conflict checks prior to LawLine and notify NHBA staff of individuals who need to be assigned to a different attorney.

Bar staff will also use the case description to assign calls to an attorney with experience in the relevant practice area, helping ensure that LawLine participants receive guidance specific to their case type.

Another advantage of the advance ap-

plication process is that staff will be able to identify questions appropriate for brief legal guidance and prioritize individuals who can most benefit from LawLine volunteers. Moreover, having contact information will allow staff to email individuals a list of other legal resources available so that they are well-informed about their options.

NHBA staff believe the new LawLine format will increase access to justice in the Granite State.

If you have questions about the new LawLine format or would like to volunteer, please contact Amanda Adams at aadams@nhbar.org or NHBA Member Services Manager Misty Griffith at mgriffith@nhbar.org or (603) 715-3227. ♦

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CELEBRATING 120 YEARS



Bar Foundation Announces 2026–2027 Justice Grant Awards

By Cindy Roberts

The New Hampshire Bar Foundation (Foundation) is pleased to announce that its board of directors has approved \$113,361 in Justice Grants for the 2026–2027 grant cycle. The grants are funded by individual contributions, endowments, and legacy gifts, using both restricted and unrestricted funds.

The grant program supports efforts to envision new ways to create equal justice for all; develop innovations in the delivery of legal services, court operations, legal education, and other justice-related areas; address legal needs or projects that may go against public or political sentiment; bring together diverse resources and people to solve justice-related problems; and build public confidence in the justice system.

603 Legal Aid – \$10,000

Funding will support the planning and launch of a prevention-oriented Community Justice Worker model for New Hampshire, which trains non-lawyer volunteers embedded in community organizations to identify and respond to legal issues early under attorney supervision.

Bridges – \$4,555

Funds will sustain Bridges' Court Advocacy Program, which is designed to sup-

port survivors of domestic violence as they navigate the legal system. This includes assistance with protective order filings and legal aid applications, as well as courtroom accompaniment.

Disability Rights Center-NH – \$20,000

Funding will support the creation of an online education toolkit explaining the legal rights of students with disabilities. These resources will empower parents and students to advocate for their legal rights in school systems. This will provide crucial support to more than 32,000 students with disabilities in New Hampshire schools.

Friends of NH Drug Court – \$6,591

Funds will support an Incentive Grants program providing critical resources for the evidence-based incentives and sanctions system that is a hallmark of treatment court programs. *[Editor's note: See related article on page one about a recent study of New Hampshire drug treatment courts.]*

New Hampshire Bar Association Civics and Law Outreach – \$10,000

Funding will support the second and third years of the Street Law Lawyer-Teach-

er Partnership program. This initiative pairs attorneys and teachers for a year-long commitment in classrooms around the state. Over the course of the academic year, attorneys will participate in two classroom visits and one field experience and provide periodic responses to questions on New Hampshire legal topics.

New Hampshire Historical Society – \$11,022

Funding will support expansion of the Democracy Project to develop high school-level content in response to new state requirements. This new content will focus on the unique history and government of New Hampshire.

New Hampshire Judicial Branch – \$6,591

Funds will support an incentive program for participants in mental health courts. These incentives and sanctions programs have been shown to reinforce engagement in recovery.

New Hampshire Legal Assistance (NHCLA) – \$10,000

Funding will support NHCLA's 2027 strategic planning process to strengthen its capacity to provide civil legal services and expand access to justice.

New Hampshire Public Radio's Civics 101 – \$15,000

Funding will support production of the Civics 101 podcast and audience engagement during the grant period.

Rudman Center Summer Fellows Internships – \$9,600

Funds will support two summer fellowships through the Warren B. Rudman Center for Justice, Leadership & Public Service at the UNH Franklin Pierce School of Law, placing students with nonprofits and government agencies to help close justice gaps.

Veterans Legal Justice – \$10,000

Funding will help reduce the backlog of veterans awaiting attorney matches and shorten the time from intake to referral. Funds will also support retaining a pro bono manager and recruiting pro bono attorneys.

Want to support programs like these? A gift to the Foundation helps strengthen access to justice, support civic education, and fund innovative programs that serve communities across the state. Donations of any size help make this work possible. To contribute, visit nhbar.org/nh-bar-foundation. For more information, contact Foundation Coordinator Cindy Roberts at croberts@nhbar.org. ♦

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Call for IOLTA Committee Nominations



The New Hampshire Bar Foundation seeks nominations for individuals interested in serving on its IOLTA Grants Committee. One five-year term is open on the committee.

Nominees must be licensed New Hampshire attorneys actively participating in the IOLTA program either on their own or through their firm. Attorneys are permitted to nominate themselves.



Interested candidates should complete a nomination form and return it by June 1.

Two New Hampshire Teams Compete at WTP Nationals in DC



The Milford High School team in front of the Lincoln Memorial in Washington, DC. Courtesy photo

By Megan Koerber

The We the People (WTP) National Finals took place April 17–19, with hundreds of students from across the country traveling to Washington, DC, to participate in the simulated congressional hearings. This year, two teams from New Hampshire competed instead of the usual one. In January, Milford High School won the State Finals and the chance to represent the Granite State. Because space remained after each State Finals winner was confirmed, Hollis-Brookline was selected as a wild card team.

Foothill High School from California took the top spot, while Trumbull High School from Connecticut placed eighth overall, making it the only New England team to finish in the top 10.

Milford High School had competed

at nationals only once before, in 2023. In preparing for the competition, Milford teacher Thomas Lundstedt and his team had one major scheduling hurdle to overcome.

“Our class ended in January, so all competition preparation had to take place outside regular school hours,” Lundstedt says.

The cost to attend nationals presented another challenge, so the team started fundraising even before winning the State Finals.

“We did a significant amount of fundraising [for the trip],” says Lundstedt. “The students began working toward this goal at the start of the school year. Our ability to attend the competition was made possible largely through the gener-

WTP continued on page 28

NLC Hosts Dinner with Judge Elizabeth Leonard

The NHBA’s New Lawyers Committee hosted a Dinner with a Dignitary event featuring Superior Court Judge Elizabeth Leonard on March 18 at The Barley House Restaurant & Tavern in Concord.

These dinners offer lawyers who

have been in practice in New Hampshire for fewer than five years an opportunity to enjoy dinner and casual conversation with a judge or other dignitary. There is no cost to register, but each person pays for their own meal. ♦



Attendees of the Dinner with a Dignitary event, at left, from front to back, are Kate Dumais, Carla McAlary, Hon. Elizabeth Leonard, and Christopher Morris. At right, from front to back, are Marguerite Mistrocola, Sydney Reyes, Samuel Greenberg, and Emily Peterson. Courtesy photo

LawLine



LawLine volunteers, from left: Kate Morneau, Maggie Florino, Emily Hayes, Sarah Paris Tourville, Mercy Frank, Jack McKenna, and Alisha Cahall. Not pictured: Penina McMahan. Courtesy photo

The New Hampshire Bar Association thanks Morneau Law and attorney Justin Braga for the successful LawLine event held on April 8. Thanks to their efforts, 56 calls from residents across the state were answered on a wide range of topics, including educational matters, landlord-tenant disputes, traffic citations, and restraining orders.

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 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. ♦

Jest Is For All

by Arnie Glick



GLICK

“Until my leg injury fully heals, my doctor’s orders are for me to walk over other people’s property as a short-cut. I guess he gave me an easement by prescription.”

The Bar News Crossword by James P. Mulhern

Here are the answers to the *Bar News* Crossword from the April 2026 issue (Vol. 36, No. 11), along with a new puzzle. Did you fully solve the April crossword? Tell us how you did or give feedback at news@nhbar.org.

	1	2	3
	Z	Z	Z
4	B	O	Z
5	H	O	T
6	I	D	I
7	P	E	P

ACROSS

- Cinco de ____
- Confine
- Peaks
- Moby-Dick, e.g.
- Swiss chocolatier

	1	2	3	4
5				
6				
7				
8				

DOWN

- Japanese rice cake
- Shredder on guitar, slangily
- Give way at an intersection
- When symptoms first appear
- Sob

Spring in New Hampshire, Gut Health, and the Stress Response

By Elyssa Willadsen

The low-hanging morning fog, the smell of cow manure in the air – spring is here. My first Eastern newt sighting while walking my dog in the woods reminds me that another winter has passed. This time of year also brings the promise of fresh produce from local growers.

Personally, I experience immense joy from simply holding a freshly plucked strawberry or a giant heirloom tomato. I feel a sense of gratitude that I can so easily have these experiences at local farmers' markets, in the garden, or sometimes even in the wild. While appreciating and anticipating these experiences, I grew curious about the science behind the effect of fresh foods on the brain and mental wellness.

Nutritional psychiatry studies the links between how you feel, how you behave, what you eat, and what's going on in the gut. In a 2022 *Harvard Health Publishing* article titled "Nutritional psychiatry: Your brain on food," Dr. Eva Selhub describes how our brains and bodies need "premium fuel" to perform correctly. Free radicals, produced as a byproduct of our bodies processing oxy-



gen, can cause oxidative stress and damage our brain cells. Foods rich in vitamins, minerals, and antioxidants protect the cells in our bodies and brains from oxidative stress.

"Diets high in refined sugars, for example, are harmful to the brain. In addition to worsening your body's regulation of insulin, they also promote inflammation and oxidative stress," Selhub writes. "Multiple studies have found a correlation between a diet high in refined sugars and impaired brain function – and even a worsening of symptoms of mood disorders, such as depression."

She goes on to explain the connection between the brain and the bacteria within our guts.

"Serotonin is a neurotransmitter that helps regulate sleep and appetite, mediate moods, and inhibit pain," she writes. "Since about 95 percent of your serotonin is produced in your gastrointestinal tract, and your gastrointestinal tract is lined with a hundred million nerve cells, or neurons, it makes sense that the inner workings of your digestive system don't just help you digest food but also guide your emotions."

The "good bacteria" living in your gut microbiome strengthen your intestinal lining, barricade "bad bacteria" and toxins, and reduce inflammation. These bacteria improve absorption of vital minerals, nutrients, and antioxidants that protect our cells from the free radicals floating around our bodies and brains.

A healthy diet supports good gut bacteria. In turn, the bacteria create a healthy, vibrant microbiome that aids in the production of serotonin, supports the functions of the neurons in our guts, and "activates" the neural pathways between our guts and brains.

"Studies have compared 'traditional' diets, like the Mediterranean diet and the traditional Japanese diet, to a typical 'Western' diet and have shown that the risk of depression is 25 percent to 35 percent lower in those who eat a traditional diet," Selhub writes.

Scientists attribute this difference to food. Traditional diets rely on unprocessed or whole grains, fruits, vegetables, fish, other seafood, and only minimal amounts of lean meat and dairy. Western diets typically depend on processed and refined foods with added sugars. Many traditional diets include fermented whole foods, which are natural probiotics and support healthy gut function.

While healthy eating alone isn't a magic solution to reduce stress or improve mental well-being, the burgeoning field of nutritional psychiatry has found links between the food we regularly consume and our emotional health. A balanced diet is one of many tools to build mental and physical resilience. As legal professionals, we are no strangers to stress and may, at times, even experience chronic stress.

According to Mayo Clinic's 2023 article, "Chronic stress puts your health at risk,"

when the body's stress response remains activated long term, exposure to surges in cortisol can increase the risk of health problems like anxiety, depression, digestive issues, sleep problems, and pain.

Since serotonin aids in regulating things like sleep, appetite, and mood, a diet that promotes healthy serotonin production and neuron function may be a helpful tool in building physical and mental resilience to stress.

While stress is unavoidable in the legal profession and beyond, we have the power to prepare ourselves for the psychological and physical effects stress creates. Here in the Granite State, many of us are fortunate to have easy access to local food producers. Spring grants us the chance to see where our local food is grown. Summer lets us reap the benefits. Visiting farmers' markets or a local farm may give you the opportunity to connect with your community or get your hands dirty by harvesting your own produce. Mental health benefits are bountiful in the world of fresh, local foods – can you dig it?

For readers interested in learning more, the Netflix documentary *Hack Your Health: The Secrets of Your Gut* explores the connection between the brain and gut through interviews, animation, and case studies. ♦

Elyssa Willadsen is a staff attorney at New Hampshire Legal Assistance, where she works on the Domestic Violence Advocacy Project and the Justice in Aging Project.

Professional Announcements

Bernard & Merrill, PLLC

Attorneys at Law

Bernard & Merrill, PLLC Announces New Associates

Bernard & Merrill, PLLC is pleased to announce the recent additions of Attorneys Samantha G. Surowiec and John B. Schulte.



Attorney Surowiec joined the firm in August 2025 and focuses on defense of workers' compensation matters. While in law school she served as a Judicial Intern to the Hon. Catherine K. Byrne (Somerville District Court) and held internships with a New Hampshire insurance defense firm and the City of Boston Law Department's Workers' Compensation Division. Ms. Surowiec graduated magna cum laude from Assumption University (History) and cum laude from New England Law | Boston (2025). She is admitted to practice in NH.

Attorney Schulte joined the firm in March 2026, focusing his practice on workers' compensation defense and personal injury matters. He earned a Bachelor of Science in Industrial Engineering from the University of Massachusetts Amherst and received his Juris Doctor from Suffolk University Law School in 1991. Following law school, he served as a law clerk to the New Hampshire Supreme Court. In 1992, he began his career with Liberty Mutual as a litigation attorney, later advancing to manage the company's litigation offices in New Hampshire and Maine from 1997 through 2026. Attorney Schulte is admitted to practice in NH, MA, and ME.



We are delighted to welcome Attorneys Surowiec and Schulte to Bernard & Merrill, PLLC.

Shaheen & Gordon

ATTORNEYS AT LAW

Welcoming Attorney Bryan Townsend, II!



Prior to joining Shaheen & Gordon, Bryan served as the lead prosecutor of the Elder Abuse and Financial Exploitation Unit at the New Hampshire Department of Justice. In that role, he investigated and prosecuted cases involving elder abuse, neglect, and financial

exploitation, frequently working on matters involving fiduciary misconduct that paralleled probate and guardianship proceedings.

As an attorney in Shaheen & Gordon's Trusts, Estates, & Guardianships group, Bryan will leverage his knowledge and trial experience in complex probate litigation, while also advising clients in estate planning and trust and estate administration.

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Stephen Coppolo

Poulin Hurley Makris & Lyons P.A. is thrilled to announce that Attorney Stephen Coppolo has been elected shareholder.

Attorney Coppolo has been with the firm since 2020. He is a dedicated advocate representing clients across a wide variety of practice areas, including insurance defense, employment law, personal injury, construction law, and business and commercial disputes.

Attorney Coppolo is licensed to practice in the state and federal courts of New Hampshire, Massachusetts, and Maine, and the U.S. Court of Appeals for the First Circuit. Attorney Coppolo can be reached at: scoppolo@phml.law



Geoffrey Gallagher

Poulin Hurley Makris & Lyons P.A. is pleased to announce that Attorney Geoffrey Gallagher has been named a partner.

With over fifty trials to his name, Attorney Gallagher is known for his passionate courtroom advocacy and commitment to achieving the best outcomes for his clients. Attorney Gallagher's practice areas include insurance defense, professional liability, personal injury, and criminal law.

Attorney Gallagher is licensed to practice in the state and federal courts of New Hampshire, Massachusetts, and Vermont. Attorney Gallagher can be contacted at: ggallagher@phml.law



Christopher X. Morris

Christopher Morris has joined **Poulin Hurley Makris & Lyons P.A.** as an associate attorney.

Attorney Morris is a 2023 graduate of the Roger Williams University School of Law. Before joining the firm, Attorney Morris was a law clerk for the New Hampshire Superior Court, where he helped research and draft judicial opinions for over 250 criminal and civil cases. Attorney Morris is licensed in the state and federal courts of New Hampshire. He can be reached at: cmorris@phml.law

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Spencer E. Beck

Spencer Beck has joined **Poulin Hurley Makris & Lyons P.A.** as an associate attorney.

Attorney Beck is a 2025 graduate of the University of Illinois College of Law. Prior to graduating law school, Attorney Beck spent two summers working as a law clerk at Poulin Hurley Makris & Lyons P.A., gaining extensive experience in numerous practice areas. Attorney Beck is licensed in the state and federal courts of New Hampshire. He can be reached at: sbeck@phml.law

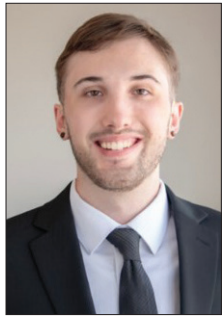
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First Responder Benefits in the Workers' Compensation System

By Gordon Unzen

New Hampshire workers injured in the course and scope of their employment are entitled to benefits through the workers' compensation system. A special category of workers – first responders – may receive additional benefits. This article discusses the unique workers' compensation benefits afforded to first responders, including firefighters, police officers, and emergency medical personnel. Advocates must know these key legal differences to effectively represent injured first responders.



Background

A workers' compensation claim entitles the claimant to access four broad categories of benefits: (1) payment of medical bills; (2) wage benefits; (3) permanent impairment benefits for certain injuries; and (4) vocational rehabilitation. RSA 281-A:23, 28, 29, 32. There are also accompanying rights such as the right to demand reinstatement to one's prior employment position if terminated during the claim. RSA 281-A:25-a.

Most New Hampshire employees are entitled to the same access to workers' compensation benefits. However, first responders are entitled to additional benefits. "First responder," or more formally, the emergency response/public safety

worker, includes firefighters (regular or volunteer), certified law enforcement officers, certified county corrections officers, emergency dispatchers, rescue or ambulance workers, emergency medical personnel, first responder service personnel, and volunteer personnel. RSA 281-A:2(V-c).

This article highlights the additional benefits afforded to first responders, which include presumptions for certain conditions, health insurance protections, wage benefit calculations, critical injury benefits, death benefits, and New Hampshire Retirement System (NHRS) violent accidental death benefits.

Presumption of Occupational Relatedness

In workers' compensation cases, the burden of proof ordinarily lies on the claimant to prove that their injury or disease arose out of and in the course of their employment. RSA 281-A:2(XI). In other words, claimants must show that the injury or disease occurred during the temporal and spatial bounds of their employment and was caused by a risk created by their employment. However, RSA 281-A provides two burden-shifting provisions.

The first is for first responders alleging acute stress disorder and post-traumatic stress disorder related to their occupations. RSA 281-A:17-c. For most claimants, an injury from stress without physical manifestation of symptoms is not compensable. However, for first responders, the definition of injuries specifically includes acute stress disorder and post-traumatic stress disorder. RSA

281-A:2(XI). Additionally, first responders with these impairments receive a *prima facie* presumption of occupational relatedness for the injury. RSA 281-A:17-c(I).

A smaller category of first responders including call, volunteer, or retired members of a fire department also receives a *prima facie* presumption that heart, lung, or cancer diseases are occupationally related. RSA 281-A:17. Call and volunteer firefighters must still provide evidence that the heart or lung disease was not present at the beginning of their employment. Firefighters serving more than 10 years must also show that their cancer disease was not present at the beginning of employment and they generally lived a tobacco-free lifestyle.

Health Insurance Protections

The medical bill workers' compensation benefit requires the carrier to pay for treatment and medical expenses that are medically necessary, reasonable, and causally related to employment. RSA 281-A:23(I). Because an employer may terminate employment during a claim, claimants can lose access to their employment-based health insurance. This leaves a gap for coverage of non-work-injury-related treatment. To help rectify this issue, RSA 281-A:17-f affords additional health insurance protections for first responders requesting benefits for which a first responder *prima facie* presumption applies. When a first responder requests a hearing to contest a denial of a benefit subject to a presumption, the employer must continue providing health insurance

benefits at a single employee premium for up to 18 months until the Department of Labor commissioner makes a final determination regarding the denial. RSA 281-A:17-f. Access to this benefit remains open to the employee from the start date of employment until 20 years following the effective date of separation.

Wage Benefit Calculations

The workers' compensation system provides wage benefits for time out of work, typically calculated using the most beneficial average weekly wage from gross earnings between 26 and 52 weeks before the date of injury. RSA 281-A:15(I). However, this method of calculation is unhelpful for many first responders who do not take an income for their services. For call firefighters, special police officers, voluntary or auxiliary members of a fire or police department, or ambulance or rescue service, whether paid or unpaid, the average weekly wage benefit is calculated by deeming them to have an average weekly wage at 100 percent of the state's average weekly wage. RSA 281-A:15(II)(a).

First Responders' Critical Injury Benefit

When a claimant reaches maximum medical improvement (the relative stability of symptoms and treatment), they are entitled to payment of a permanent impairment award (PIA) representing compensation for permanent bodily loss. RSA 281-A:32(I), (XI). Only certain types of

BENEFITS *continued on page 29*



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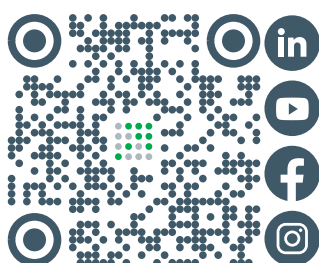


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Lake People Problems – Littoral Rights in New Hampshire Part 1 – Littoral Owner v. The Public

By Christopher X. Morris

Editor's Note: This article is the first in a two-part series, with the second part appearing in the upcoming June issue.

A drive through New Hampshire reveals majestic bodies of water. There are rumbling streams, roaring rivers, isolated ponds, and massive lakes. Throughout the year, the flat surface of the water ripples as a couple of old friends wade out to fish, a large family piles onto a pontoon boat to drop anchor and grill, or an adventurous teen discovers what top speed on a jet ski feels like. New Hampshire's natural bodies of water are a community space and guaranteed to be "held in trust by the state for public use." RSA 271:20, I.

The beauty of this setup is that "no corporation or individual shall have . . . rights or privileges not common to all citizens of this state," *id.*, and between the citizens themselves, "[o]ne of the public may share in the exercise and enjoyment of the public rights, but not in any advantage over others." *Hoban v. Bucklin*, 88 N.H. 73, 87 (1936). But there exists in New Hampshire a privileged class of



people that "have rights which are more extensive than those of the public generally." *State v. George C. Stafford & Sons*, 99 N.H. 92, 97 (1954). These privileged few are lakefront property owners – those who own the shore and thus are considered to have certain littoral rights over public water.

"Littoral rights are incidental property rights associated with ownership of lakeshore property." *Donaghey v. Corteau*, 119 N.H. 320, 323 (1979). Littoral rights include, but are not limited to, "the right to erect boat houses and to wharf out into the water." *Sundell v. Town of New London*, 119 N.H. 839, 844 (1979). But not everything is pontoon boats and summer fun for littoral owners. Some of them have Lake People Problems.

Lake People Problems manifest in a couple of different ways. At times, littoral rights seem to ebb and flow with the waters themselves. This two-part editorial may serve as a rudder for those wading through littoral rights cases. The two major battles in the littoral rights area are Littoral Owner v. The Public and the very dramatic Littoral Owner v. Littoral Owner. This part dives into the battle between the Littoral Owner and the Public – a battle in which the odds are stacked in the public's favor.

Littoral Owner v. The Public

The foundation of any littoral analysis is the principle that water is public.

No one citizen can own the water. There are only those portions of water to which a property owner's special privileges apply. For this reason, littoral "rights" may be a misnomer. As recent case law shows, littoral rights can be substantially modified by the legislature when exercising its regulatory authority over the use of public water.

One of the biggest changes has been the way in which a littoral domain is defined. In 1979, the New Hampshire Supreme Court "adopt[ed] a rule of reasonable use as a guidepost in adjudging the permissible exercise of a shorefront owner's littoral rights." *Heston v. Ousler*, 119 N.H. 58, 62 (1979). Consequently, a littoral domain, and the use of accompanying littoral rights, could not be "ascertained by a simple extension of their upland boundary lines." *Id.*

In practice, this meant that equitable considerations informed a court's decision on how to enforce littoral rights. These considerations are claim-dependent to a certain extent. For example, if a plaintiff pursues a nuisance claim to enjoin a neighbor from boating through their littoral domain, a court will probably consider the normal uses of lakefront property in contrast to the effects of those uses on the plaintiff. A trespass claim, by contrast, requires the court to focus on finding the line that encloses a property owner's littoral domain.

The rule of reasonableness was unchanged up until last year. Recently, the Supreme Court has taken the position that the rule of reasonableness must give way to recent legislation. In *Sklader v. Callahan*, No. 2024-0031 (N.H. Jun. 13, 2025) (nonprecedential), the Supreme Court enforced a docking statute, RSA 482-A:3, XIII(b), to prevent a plaintiff from docking on their own boathouse. RSA 482-A:3, XIII(b) reads in relevant part:

Boat docking facilities may be perpendicular or parallel to the shoreline or extend at some other angle into a water body . . . However, any boat secured to such a dock shall not extend beyond the extension of the abutter's property line.

The effect of RSA 482-A:3, XIII(b) was that a littoral domain could in fact be ascertained by extending upland bound-

ary lines. The Supreme Court further held that a retrospective application of RSA 482-A:3, XIII(b) was constitutional. The court reasoned that reliance on the rule of reasonableness was "merely a desire for the continuance of the rule that existed prior to the enactment of RSA 482-A:3, XIII(b)," rather than a vested right. *Sklader*, No. 2024-0031, slip op. at 2.

While the *Sklader* opinion is non-precedential and thus subject to change, it signals the court's fundamental reliance on the fact that "the rights of littoral owners on public waters . . . are burdened with a servitude in favor of the State which comes into operation when the State properly exercises its power to control, regulate, and utilize such waters." *Sibson v. State*, 110 N.H. 8, 10 (1969). Therefore, in the battle between littoral owners and the public, the public wins.

A littoral owner may think, "if they're going to extend my upland boundary line anyway, why don't I just extend the land itself?!" But this isn't going to work. One of the fundamental littoral rights cases, *State v. George C. Stafford & Sons*, already addressed this issue. The court held that a littoral owner cannot "acquire fee simple title to additional dry land by filling up the bed of the great pond below the natural high-water mark." The Supreme Court reasoned that (1) the lake is public water; (2) allowing this conduct "would place a premium on trespasses against the public right"; and (3) allowing this conduct would "encourage one littoral owner to develop his shore frontage at the expense of others." *Id.* at 98–99.

The author submits that an anchor to all littoral rights issues is that all water is public water, and it should be treated that way when a littoral owner seeks to enforce those rights against the public.

In the next part of this littoral exposé, Littoral Owner goes head-to-head with Littoral Owner. The means by which a littoral owner can enforce their littoral rights against their neighbors are not as clear-cut as a simple trespass. ♦

Christopher Morris is an associate at Poulin Hurley Makris & Lyons, PA, where he handles a variety of civil litigation matters. Prior to that, he spent two years as a law clerk to Belknap County Superior Court.

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New Hampshire and Maine's Piscataqua River Boundary Dispute

By J.E. Fender

In response to Ian Huyett's article in the *New Hampshire Bar News*, "Resurfaced Historical Maps Illuminate Portsmouth Harbor Boundary Dispute," no dispute would have arisen had Maine not enacted a state income tax in 1969. Maine's tax scheme assessed the tax liability of Maine non-residents filing federal tax returns jointly with their spouses. If the spouse of a Maine non-resident earned income from a non-Maine source, the couple's combined earnings were taxed by Maine.

In the 18th century, New Hampshire disputed with Massachusetts its northern boundary with Maine, then governed as part of Massachusetts. Unable to reach agreement, in 1731 the provinces referred their dispute to King George II, who in 1740 signed a decree setting the boundary in the Piscataqua River Estuary, stating: "That the Dividing Line shall pass up thro the Mouth of Piscataqua Harbour and up the Middle of the River...and that the Dividing Line shall part the Isles of Shoals and run thro the Middle of the Harbour between the Islands to the Sea on the South-erly side..."

In 1976, New Hampshire sued Maine to locate the lateral marine boundary separating the states between the mouth of Portsmouth Harbor and the entrance to Gosport Harbor in the Isles of Shoals. The controversy arose out of a dispute over lobster fishing from the mouth of the Piscataqua Estuary to the Isles of Shoals. Maine required a license, available only to Maine

residents, for lobster harvesting in Maine waters, and also imposed stricter size requirements. The states agreed to a settlement proposed by a special master locating the already-existing boundary established by King George's decree of 1740 (emphasis added). The special master's proposal was adopted by the United States Supreme Court (426 U.S. 363 (1976)).

In March 2000, Governor Jeanne Shaheen, acknowledging that her constituents employed at the Portsmouth Naval Shipyard had legitimate grievances involving unfair taxation, authorized New Hampshire's attorney general to sue Maine pursuant to Article III, Section 2 of the United States Constitution empowering the Supreme Court to hear "Controversies between two or more States," asserting that New Hampshire owned the entirety of Portsmouth Harbor encompassing all of the Piscataqua River Estuary, including the island on which the Portsmouth Naval Shipyard was located.

As legal counsel for the shipyard, I immediately crafted a statement for the shipyard's Public Affairs Office to issue affirming the Department of the Navy's and the Portsmouth Naval Shipyard's neutrality. "The Department of the Navy and the Portsmouth Naval Shipyard are aware that a controversy exists between the States of New Hampshire and Maine over their mutual boundary in the Piscataqua River Estuary. However, until such time as the States mutually agree over their boundary, or a court of competent jurisdiction rules on the issue, the Department of the Navy

and the Portsmouth Naval Shipyard must adhere to the historical view that the Portsmouth Naval Shipyard is located within the boundary of the State of Maine."

In May 2001, Justice Ruth Bader Ginsburg delivered the Court's 8-0 decision (Justice David Souter, a former New Hampshire attorney general, recused himself) holding that "judicial estoppel barred New Hampshire from asserting that the Piscataqua River boundary runs along the Maine shore." In the earlier 426 U.S. 363 decision, the states had "expressly agreed ... that the decree of 1740 fixed the boundary in the Piscataqua Harbor area," therefore, "where a party assumes a certain position in a legal proceeding, and succeeds in maintaining that position, he may not thereafter, simply because his interests have changed, assume a contrary position, especially if it be to the prejudice of the party who had acquiesced in the position formerly taken by him."

Controversy continues over the impact of Maine's income tax scheme on New Hampshire residents employed at the Portsmouth Naval Shipyard. Members of the New Hampshire General Court have proposed that Congress "find that the Piscataqua River and Portsmouth Harbor lie within the State of New Hampshire." I cannot surmise how efforts to bring the Piscataqua River and Portsmouth Harbor under New Hampshire control may play out. I only suggest that since the 2001 Supreme Court dismissal of New Hampshire's claims was based on procedural grounds, the Court may look with disfavor upon

future arguments featuring "resurfaced historical maps" as a basis for renewed litigation concerning the boundary between New Hampshire and Maine in the Piscataqua River Estuary. ♦

J.E. Fender was admitted to the New Hampshire Bar in 1982. From December 1985 to January 2016, he served as legal counsel for the Portsmouth Naval Shipyard, retiring in 2016 after a 50-year career in the Department of Defense. He is the author of The Frost Saga, thus far five novels exploring the American Revolutionary Era from the nautical perspective of a privateer captain hailing from Portsmouth.


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Understanding the Model Law and New York Convention

By Stephen D. Mau

This is the fourth article in a series concerning international commercial arbitration.

In 1985, the United Nations Commission on International Trade Law (UNCITRAL) issued its Model Law on International Commercial Arbitration. Commonly known as the UNCITRAL Model Law (Model Law), it was updated in 2006. As its name implies, this Model Law is intended to serve as a model or template for nation states to use in creating their own laws on international commercial arbitration. The purpose of the Model Law is to promote consistency among national arbitration laws. Currently, 93 of 127 jurisdictions (nation states or subdivisions of a nation state) have adopted legislation based on or influenced by the Model Law.¹

As noted on its website, “The Model Law is designed to assist States in reforming and modernizing the laws on arbitral procedure so as to take into account the particular features and needs of international commercial arbitration. It covers all the stages of the arbitral process from the arbitration agreement, the composition and jurisdiction of the arbitral tribunal and the extent of court intervention through to the recognition and enforcement of the arbitral award. It reflects worldwide consensus on key aspects of international arbitration practice having been accepted by States of all regions and different



legal or economic systems of the world.”

Certain provisions of the Model Law are mandatory; the parties cannot derogate or deviate from these provisions. Other provisions of the Model Law are default provisions in the event the parties have not made or specified other arrangements, e.g., the number of arbitrators. Parties are permitted to derogate or deviate from these default provisions.

Examples of mandatory provisions include Article 8, referral to arbitration; Article 9, interim measures; Articles 17 H through 17 J, enforcement of interim measures; Article 18, equal treatment of parties and due process; Article 34, setting aside an arbitral award; Article 35, recognition and enforcement of arbitral awards; and Article 36, grounds for refusing recognition or enforcement.

Examples of default provisions the parties may alter by agreement include Article 10, number of arbitrators, with a default of three; Article 11, selection of arbitrators, with the default procedure differing depending on the number of arbitrators; Article 20, place or seat of arbitration, with the default being that the arbitrators determine the seat; Article 21, commencement of arbitration proceedings; and Article 22, language, with the default being that the arbitrators determine the language.

The Model Law is intended to align with the 1958 New York Convention such that certain provisions in the two documents are nearly identical, e.g., the requisites of an enforceable award or requesting a court to set aside an award. These texts are intended to work in harmony in order to eliminate disparities between national and international laws which may cause further disputes.

While the Model Law provides a template for national arbitration laws, the New

York Convention governs the recognition and enforcement of foreign arbitral awards.

The Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done in New York in 1958 (New York Convention), is an international treaty. Nation states that have signed this treaty are referenced by various names, such as contracting states, member states, state parties, signatory states or signatories. The New York Convention is one of the key agreements in the field of international arbitration with more than 172 countries or jurisdictions having signed this treaty. The purpose of the New York Convention is to regulate the recognition and enforcement of foreign arbitral awards and the referral of disputes by courts to arbitration.

Recognition refers to a court treating an arbitral award as valid and binding. It typically arises when the winning party asks a court to confirm that an award issued in a prior arbitration has legal effect. The comparable Model Law provision is Article 35, “Recognition and enforcement.”²

Enforcement refers to the judicial execution of the directions or orders contained in the award. After recognizing the legal force of an award, a court may use legal sanctions, where appropriate, to enforce the provisions of the award.³

Awards made in a New York Convention member state are recognized and enforced by the courts of other member states. Because this treaty refers to foreign awards, even a domestic award may be enforced when such enforcement is sought in another signatory state. For example, both Hong Kong and Germany are member states. An arbitration seated in Hong Kong, even between two Hong Kong entities, can be enforced in Germany. As the award is not made in Germany, the member state where the award is sought to be enforced, the Hong Kong award is considered to be a foreign award.

The only grounds on which a party may seek to invalidate or resist enforcement of an arbitral award are provided in the treaty. Those grounds are listed in Article V of the New York Convention. The Model Law contains a comparable provision in Article 36, “Grounds for refusing recognition or enforcement.”

The grounds include lack of capacity by one party to enter into the arbitration agreement; invalidity of the arbitration agreement; lack of proper notice of the appointment of the tribunal or of the arbitration proceedings, such that a party was unable to present its case; an award that exceeds the tribunal’s jurisdiction by purporting to determine matters outside the submission to arbitration; improper constitution of the arbitral tribunal; an award that has not yet become binding upon the parties; subject matter that is not capable

of settlement by arbitration under the law of the state where enforcement of the award is sought⁴; and an award that contravenes the public policy of the state where enforcement is sought.

Public policy is an inherently vague concept referring to the fundamental legal and socio-economic principles of a nation state. Conduct violating one nation’s public policy may not violate another’s. For example, in *Hardy Exploration & Production (India) v. Government of India, Ministry of Petroleum & Natural Gas*, United States District Court for the District of Columbia, Civil Action No. 16-140 (RC), decided June 7, 2018, the Court held that enforcement of an arbitral award providing for specific performance against a foreign government would contravene American public policy. The Court also found that the post-award interest provision violated public policy because it was coercive. Another example could involve an award imposing punitive damages that are unavailable in another jurisdiction and therefore contrary to that jurisdiction’s public policy.

Should a party be successful in challenging the enforcement of an arbitral award on one of these grounds, the court may nonetheless decide to enforce the award. Article V(1) of the New York Convention is phrased permissively, using the word *may* rather than *must* or *shall*: “recognition and enforcement of the award *may* be refused” (emphasis added).

In summation, practitioners involved in international disputes should understand the Model Law’s role as a template for national arbitration law and the New York Convention’s role in the enforcement of foreign arbitral awards. ♦

Endnotes

1. See, uncitral.un.org/en/texts/arbitration/model-law/commercial_arbitration/status (last visited March 17, 2026). The United States has not adopted the Model Law; although the following subdivisions have done so: California, Connecticut, Florida, Georgia, Illinois, Louisiana, Oregon, Puerto Rico, and Texas.
2. Redfern and Hunter on International Arbitration (Nigel Blackaby et al, eds, 6th ed 2015), para. 11.20.
3. *Id.*, at para. 11.22.
4. Examples include disputes regarding the validity of patents and trademarks; tax disputes between citizens and government; changes to personal status, such as divorce and adoption; and criminal matters.

Stephen D. Mau is a retired state administrative law judge, a Fellow of the Chartered Institute of Arbitrators, an accredited evaluative mediator by the Royal Institution of Chartered Surveyors (London), and an accredited facilitative mediator by the Hong Kong Mediation Accreditation Association.

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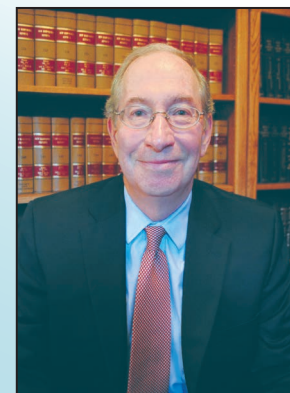
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Rescheduled NLC Social Held with Leadership Academy Reception

By Megan Koerber and Tom Jarvis

After a winter storm forced the New Hampshire Bar Association to end its Midyear Meeting early in February, the NHBA New Lawyers Committee's (NLC) annual After-Hours Networking Social was postponed and later rescheduled for May 7 at the DoubleTree by Hilton Downtown Manchester.

The event, which traditionally follows the NHBA Midyear Meeting, is hosted each year by the NLC but is open to all Bar members. The social is intended to give attorneys an opportunity to connect with colleagues, judges, Bar leaders, and members of the broader legal community in an informal setting.

When the NHBA began looking for a new date for the postponed social, the Bar decided to combine it with the NHBA Leadership Academy's (LA) annual Reflection Reception. The reception marks the end of the LA modules and gives participants an opportunity to reflect on their year, discuss their experiences, and connect with alumni and Bar leaders before graduation.

Nearly 30 people attended the May 7 gathering, including members of the LA Class of 2026, LA alumni, NLC members, and representatives of the NHBA Board of Governors and the New Hampshire Bar Foundation Board of Directors. Members of the judiciary in attendance included Justice Daniel Will, Judge Joseph Laplante, Judge Kimberly Bacher, Judge David Ruoff, and Judge Daniel St. Hilaire.

The LA Class of 2026 will graduate during the NHBA's Annual Meeting, which will be held June 12-14. ♦



Some event attendees. Back row from left, Stephani Roundy Knights, Morgan Hughes, Hon. Daniel St. Hilaire, Hon. Daniel Will, Hon. Kimberly Bacher, Shaylen Roberts, Justin Braga, Nicole Forbes, Ariana McQuarrie, Stephanie Tymula, Kathrine Hedges, Katheryn Dumais, and Hon. Joseph Laplante. Front row, from left, Sarah Blodgett, Stephen Ruisi, Cassandra Moran, Carla McAlary, Madeline Matulis, Mark Waldner, Leif Becker, and Anna Hagg. Photo by Rebecca Bunyard



Members of the Leadership Academy Class of 2026 from left: Ariana McQuarrie, Madeline Matulis, Cassandra Moran, Mark Waldner, Leif Becker, Justin Braga, Julia Hawthorne, and Katheryn Dumais. Not pictured are Christopher Morrow, Katelyn Brown, Nicole Bluefort, and Rebecca Dowd. Photo by Megan Koerber

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Public Service Community Impact

The Warren B. Rudman Center for Justice, Leadership & Public Service at the UNH Franklin Pierce School of Law is proud of its public service community impact in 2025:

A total of 69 students worked at 44 government agencies and nonprofits that perform public interest legal work, from the NH Public Defender to the United States Court of Appeals for the First Circuit. Altogether the Rudman Summer Fellows worked more than 22,500 hours, amounting to more than \$1 million worth of legal services.

Thank You

We are grateful to our host employers and to all our generous donors and sponsors for supporting the Rudman Summer Fellows Program in 2025. We give special thanks to the following donors, who each gave enough to support a full summer fellowship.

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- Margaret I. Rudman
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Information Technology

Practical Cybersecurity for Small Firms

By Ian Reardon

What does it mean for a small firm to take reasonable efforts to protect client information under Rule 1.6(c)? This rule applies whether a lawyer practices alone, in a small firm, or in a larger organization. How each firm meets that duty is a different matter. A large firm can hire a consultant, write a formal policy, and assign someone to run the program. A solo or small firm cannot – and does not need to. The reasonable efforts standard is contextual. It asks what a lawyer in similar circumstances would do. Some of the best protections cost little and do not require expensive outside consultants.



Five practical protections

1. *Turn on multi-factor authentication everywhere.* Multi-factor authentication, or MFA, requires two steps of verification before someone can log in to an account. Usually, this is a text message, validation email, or authenticator app code. Without MFA, anyone who steals or buys the password can access the account directly.

Email is the most important place to start. An unauthorized user with access to firm email can click “I forgot my password” on other services the firm uses and gain access that way.

2. *Use a firm-wide password manager.* Firms and their staff have dozens of accounts: email, banking, billing, practice management, research, and more. A strong password is long, unique, and hard to guess. Using a different strong password for every account is recommended, but it is not realistic to remember them all. Most people will either reuse passwords or write them down.

When large data breaches occur, attackers often obtain a list of users’ email addresses and passwords. These lists can end up on underground markets and public databases. Because many people reuse passwords, attackers often test credentials stolen from one website on other accounts, including email, banking, and cloud services. A reused password from a personal website can become a key to firm email.

A password manager solves this problem. It stores passwords in an encrypted database and generates strong passwords that no person would pick or remember. When the user logs in, the password manager fills in the credentials automatically. It also will not autofill credentials on a fake login page, which can be a helpful defense against phishing.

3. *Create simple habits for suspicious emails.* The main risk with a suspicious email is often not a virus. It is that the email may give someone access. The email may ask someone in the firm to click a link, enter a password, approve a login, or reply with information.

If someone enters firm email credentials into a fake login page, those credentials go to the attacker, not the real service. The attacker may then use them to access the firm’s email account. Once inside, the attacker can read messages, search emails, or send emails that appear to come from the firm.

The solution is to create a few simple habits. Do not log in through links in unexpected emails. Go directly to the website

instead. Do not provide passwords, verification codes, document access, or sensitive information without confirming the request another way. If the email feels urgent, unusual, or slightly off, slow down before acting.

4. *Encrypt devices and keep firm work out of personal spaces.* A lost laptop or phone should be an inconvenience, not a client-confidentiality event. That is why device encryption matters. Full-disk encryption makes the information on a laptop much harder to access if the device is lost or stolen. Current versions of Windows and macOS often include this protection, but every firm should verify that it is turned on. Phones and tablets should also require a passcode, fingerprint, or face unlock.

A device may contain downloaded attachments, emails, and saved passwords. If it opens automatically, or if the hard drive can be accessed without a password, anyone who finds the device may have access to the firm’s information.

The same issue comes up when firm work drifts onto a personal or family computer. A lawyer may save one document to the desktop, log into firm email, or download a client attachment while working at night. That computer may also be used by children or guests, or for gaming software and personal accounts. The lawyer has now moved client information onto a computer the firm does not control.

5. *Write a one-page incident response plan.* Even with strong protection, things can still go wrong. A laptop gets lost. An employee clicks a phishing link. A vendor the firm relies on suffers a breach. The worst time to figure out what to do is after discovering the problem.

A one-page plan answers a few basic questions in advance. Who in the firm oversees the response? Who provides technical help, whether that is an internal IT person, an outside vendor, or a trusted contact? What are the firm’s notification obligations, and which clients may need to be told? The plan does not need to anticipate every scenario; it just needs to ensure no one starts from zero.

The plan should also flag RSA 359-C:20. If a breach involves personal information, the firm may need to evaluate whether notice is required to affected individuals, a regulator, or the Attorney General’s Office. Those obligations are easier to meet when someone has already read the statute.

What reasonable looks like

Most small firms are not careless. They are busy. Cybersecurity can feel like one more administrative burden, especially when the available guidance seems to be written for firms with IT departments and large budgets.

But reasonable efforts do not require perfection. They require a few deliberate choices that someone in the firm writes down, checks, and revisits. Turn on MFA. Use a password manager. Slow down before acting on unusual email requests. Keep client information on protected devices and firm-controlled accounts. Know in advance who to call when something goes wrong.

Small firms do not need to build a cybersecurity department. They do need to make a few practical choices, check that those choices are working, and treat client information with the same care online that they would anywhere else. ♦

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

In Memoriam

Omer C. Ahern, Jr.

Omer Charles Ahern Jr., 71, passed away on March 24. He was born in Plymouth on December 30, 1954, the son of Omer Charles Ahern Sr. and Rosa C. (Cannistraro) Ahern.



He attended Old St. Mary's in Claremont until it closed after his junior year of high school. He graduated from Stevens High School in 1972 and was awarded the St. Joseph's Student Athlete Award his senior year. He loved soccer and later coached youth soccer as his four children came through the program, winning a championship with his daughter Laura's team.

Omer graduated from Saint Anselm College with a BA in history and earned his JD from Gonzaga University School of Law in Spokane, Washington. He passed the bar in October 1979 and opened his own law office.

Omer was a mentor, colleague, friend, loving father, devout Catholic, proud patriot, public servant, and lover of freedom and liberty. He served as president of the Charlestown Rotary Club during the 1990s, later joining the Belmont Rotary Club, and was named a Paul Harris Fellow.

He served New Hampshire as a state representative, Sullivan County com-

missioner, Charlestown town moderator, Plymouth Zoning Board member, Wentworth Select Board member, Wentworth Planning Board member, and Grafton County commissioner. He also belonged to several nonprofit organizations over the past 45 years and was a youth soccer and basketball coach and certified referee. His campaign slogan was "Hit a Homer with Omer."

Omer was a founding 603 Alliance board member and one of the original eight who stood at the first Plymouth Flag Wave with his extended family of Plymouth Patriots. His unapologetic love for America and booming renditions of "God Bless America" will always be remembered. Though a lawyer by trade, he often said he was "nothing but a simple tree farmer."

He was predeceased by his parents.

Omer is survived by his wife, Susan Ahern of Concord; sons Christopher Ahern of Epsom and Patrick Ahern and wife Cate of Canterbury; daughters Sarah Ahern and husband Michael Shaw of Concord and Laura Ahern and partner Jason Harris of Auckland, New Zealand; nine grandchildren; brothers Stephen Ahern and wife Abbie of Starksboro, Vermont, and Michael Ahern and partner Tracey Robbins of Plymouth; sisters Kathy Drexel and husband Peter, Karen Marie Arel and husband Gerald, Karlene Lawrence and husband Edward, and Kristine Kidder and partner Arnold Howard; and many nieces and nephews.

Donations may be made to 603Alliance.org, 238 Lower Oxbow Road, New Hampton, NH 03256.

Paul T. Fitzgerald

Paul Thomas Fitzgerald, 75, passed away peacefully on Thursday, February 5.



Born in Springfield, Massachusetts, on April 27, 1950, and raised in Laconia from age two, Paul grew up among the lakes and hills that shaped his sense of place and purpose. He attended St. John's School, now Holy Trinity School, and Laconia High School before continuing to St. Michael's College and becoming part of the inaugural graduating class of the Franklin Pierce Law Center.

After passing the New Hampshire bar, Paul returned to the community that had formed him, opening a law practice in Laconia with a classmate. He spent nearly 50 years serving the people of the Lakes Region and his hometown. He took pride in modeling his practice after William Keller and Harold Wescott, prominent attorneys and superior court judges from Laconia in the 1950s and 1960s who were close friends of his parents and well known to Paul.

Paul served two terms as mayor of Laconia and later as chair of the Laconia Police Commission. He also served as secretary and president of the Board of Trustees of the Mount Washington Observatory. He was to receive the Observatory's Founders' Award the day after

his passing, an honor that will now be bestowed posthumously.

Paul's stories of Mount Washington were legendary, from snowcats climbing through storms to the camaraderie inside the Observatory walls while the world outside roared. His other great love was the open road. Paul's Harley was a companion on countless rides with his wife, Cheryl, through the Lakes Region and beyond. During his time as mayor, he helped guide the transformation of Laconia's Motorcycle Weekend into the full-fledged week that now draws riders from across the country.

Paul was predeceased by his parents, Betsye A. and Edward J. Fitzgerald Jr. He leaves behind his wife of 40 years, Cheryl Ann Fitzgerald; sons Travis Nichols of Austin, Texas, and Shawn Nichols of Gilford; their spouses and children; brothers Edward Fitzgerald III of Fort Myers, Florida, and Michael Fitzgerald of Concord, and their families; as well as grandchildren, nieces, and nephews.

Those who knew Paul will remember his humor, the twinkle in his eye before a joke, the practical pranks that became part of local lore, and the way he could turn an ordinary moment into something worth retelling.

In lieu of flowers, donations may be made in Paul's memory to the Mount Washington Observatory, PO Box 2310, North Conway, NH 03860.

The family extends deep gratitude to the staff of Golden View Health Care Center for their compassionate care dur-

IN MEMORIAM *continued on page 28*

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■ DRUG COURT *from page 1*

crime within one year of program completion than those who were referred but did not enroll – 2.5 percent compared with 6.1 percent. At the three-year mark, they remained “nearly two times less likely” to recidivate – 4.9 percent compared with 8.4 percent.

The study defined recidivism as a subsequent conviction, rather than a new arrest or return to incarceration.

NHJB Statewide Treatment Court Coordinator Alex Casale says that distinction was important because arrests do not always result in convictions.

“If somebody gets arrested for a new crime, but then those charges are dropped because it wasn’t them or they were false claims, yes, that person had interaction with the criminal justice system, but it wasn’t any fault of their own,” Casale says. “They didn’t actually do anything wrong.”

He says gathering conviction-based data required pulling from multiple sources, including records from drug treatment courts, jails, prisons, and prosecutors’ offices.

“These specialized programs and treatment courts work for the population that they’re designed for,” he says. “They’re not a fit for everybody. You have to have a well-defined target population, but they do work. Not everybody who comes in is going to be a success, but more people will be a success than not.”

Drug treatment courts are designed for high-risk, high-need individuals whose criminal justice involvement is closely tied to substance use disorders. Unlike the traditional criminal process, the model combines treatment, judicial monitoring, probation supervision, case management, drug

testing, and community-based support.

“Doing the program is not easy, and in a lot of cases people will say it’s easier to do jail than it is to do the program,” Casale says.

NHJB Statewide Drug Treatment Court Coordinator Christopher Gowell says the program is intensive by design.

“The overall mission of drug treatment court is to reduce recidivism, target the high-risk, high-need population, and save taxpayers’ money by keeping people in the community and out of jails,” Gowell says.

He says the study gives the courts data to support what treatment court professionals have seen in practice.

“It’s easy for me, who could be viewed as biased because I work in these programs, to say the drug courts work, but when you have an actual study that shows these things are working, it backs you up,” he says.

Gowell says defense attorneys and prosecutors both play important roles in the success of drug treatment courts. Prosecutors can serve as gatekeepers for referrals and represent community safety interests on the team, while defense counsel must navigate a role that differs from traditional advocacy.

While the report’s overall findings were positive, it also identifies areas for further study and improvement. It found that Black or African American individuals and people age 46 or older were enrolled at lower rates after referral, while Hispanic or Latino participants completed the program at a lower rate than non-Hispanic participants. The report recommends improving statewide data collection and examining ways to address enrollment and completion disparities.

Casale says the study can help of-

ficials examine whether certain populations are underserved.

“If there’s a reason that they can’t be in the program, then what’s the reason?” he says. “But if the reason is something that we can fix, then let’s fix that.”

Tony Naro, president of Friends of New Hampshire Drug Courts (FNHDC), says the study reinforces the value of treatment-based alternatives for people whose criminal behavior is tied to substance use disorders.

“You can’t just incarcerate your way out of this problem,” Naro says. “The study confirms what everyone already knew: Drug courts save lives, reduce crime, and save taxpayer dollars.”

FNHDC provides financial support to help participants overcome barriers that may interfere with recovery, including transportation, housing, dental care, and other basic needs. Naro says those supports can help them remain engaged in treatment.

“It’s about saying to them, ‘The community has your back. The community wants you to succeed,’” Naro says.

For Randall Francis, a 2024 drug treatment court graduate and FNHDC board member, the program offered something previous treatment attempts had not: time, accountability, and sustained support.

“Prior to drug treatment court, I’d been to rehab probably seven or eight times,” he says. “Those programs weren’t long enough. I was never able to get more



than 30 days, so it never stuck with me.”

Francis spent 18 months in drug treatment court and will reach four years of sobriety on July 22. He says the structure of the program helped him the most.

“For the first six months, I was doing it to stay out of prison,” he says. “But then I had a cosmic shift. My brain had healed enough that I just started to live again and wanted to be a positive presence in life. I realized I wasn’t too far gone.”

To him, the finding reflects more than individual participants avoiding new convictions.

“Society will dwell on the 18 percent that recidivated,” he says. “But that 82 percent is out there changing the lives of many more people than just those who went through drug court. I think that number says something, but the number of lives changed by this program is astronomical.”

The value of the program, he says, is direct.

“Drug court saved my life,” he says. “I did the work, but it gave me the platform to be able to save my own life.”

The full report is available at courts.nh.gov/media/data-reports under the “Reports” section at the bottom of the page. ♦

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MAY 2026

THU, MAY 28 – 8:30 a.m. – 10:30 a.m.
20th Annual Ethics CLE
• 120 NHMCLE ethics min.
• Concord – NHBA Seminar Room/Webcast

JUNE 2026

TUE, JUN 9 – 12:00 p.m. – 1:00 p.m.
Estate Tax Portability: What You Need to Know
• 60 NHMCLE min.
• Live Webcast

THU, JUN 11 – 12:00 p.m. – 2:00 p.m.
Cybersecurity Update for New Hampshire Attorneys
• 120 NHMCLE min., incl. 30 ethics
• Live Webcast

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

FRI, JUN 18 – 9:00 a.m. – 4:30 p.m.
Navigating Complexity in NH Real Estate Law
• 375 NHMCLE min., incl. 60 ethics min.
• Concord-NHBA Seminar Room/Webcast

SEPTEMBER 2026

THU, SEP 17 – Time TBD
New Hampshire Evidence at Trial
• Credits TBD
• Concord-NHBA Seminar Room/Webcast

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(if you missed any of the previously held programs,
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WED, SEP 23 – Time TBD
Municipal Law, Land Use & Practice in New Hampshire
• Credits TBD
• Concord-NHBA Seminar Room/Webcast

THU, SEP 24 – Time TBD
The 2026 Employment Law 360° Forum
• Credits TBD
• Concord-NHBA Seminar Room/Webcast

OCTOBER 2026

WED, OCT 7 – Time TBD
Solo & Small Firm Conference 2026
• Credits TBD
• Concord-NHBA Seminar Room/Webcast

FRI, OCT 30 – 9:00 a.m. – 4:30 p.m.
Developments in the Law 2026
• 360 NHMCLE min., incl. 60 ethics min.
• Manchester – DoubleTree by Hilton

NOVEMBER 2026

FRI, NOV 6 – Time TBD
School Law 2026
• Credits TBD
• Concord-NHBA Seminar Room/Webcast

DECEMBER 2026

WED, DEC 9 – 8:30 a.m. – 4:45 p.m.
Practical Skills for New Admittees – Day 1
• Concord – Grappone Conference Center

WED, DEC 10 – 8:30 a.m. – 12:00 p.m.
Practical Skills for New Admittees – Day 2
• Concord – Grappone Conference Center

FEBRUARY 2027

FRI, FEB 19
Midyear Meeting 2027
• Manchester – DoubleTree by Hilton

Cybersecurity Update for NH Attorneys

Thursday, June 11, 2026

12:00 p.m. – 2:00 p.m.
120 NHMCLE min. incl. 30 ethics min.
Live Webcast

Cyber threats targeting law firms are no longer hypothetical—they are constant, evolving, and increasingly sophisticated. From ransomware attacks and business email compromise schemes to social engineering, deepfakes, and AI-driven fraud, attorneys today operate in an environment where client confidentiality and firm operations are continuously at risk. This timely program provides New Hampshire practitioners with a practical, real-world update on the current threat landscape and, more importantly, how to respond when—not if—an incident occurs.

Designed for practitioners across firm sizes, this program blends legal obligations with practical strategies—equipping attorneys to recognize threats, respond decisively, and protect both their clients and their practice in an era of accelerating cyber risk.

Faculty

B. Stephanie Siegmann, Hinckley Allen, Boston, MA

Heidi Wachs, Kroll, Washington, DC

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20th Annual Ethics CLE

Thursday, May 28, 2026

8:30 a.m. – 10:30 a.m.

120 NHCLE ethics hours

NHBA Seminar Room/Webcast

The 20th Annual Ethics CLE returns with a timely and practical examination of the professional responsibilities that shape everyday legal practice in New Hampshire. This engaging, discussion-driven program brings together members of the NH Bar Ethics Committee and the Attorney Discipline Office to explore both foundational rules and emerging ethical challenges. Through focused presentations and robust panel interaction, attendees will gain insight into recent ethics opinions, common pitfalls encountered by newer attorneys, and evolving expectations in areas such as negotiation, communications, and dealings with self-represented parties. The program offers a valuable perspective on how ethical issues are evaluated in practice. Designed to encourage questions and candid dialogue, this seminar emphasizes real-world application and practical guidance that attorneys can use immediately. Whether you are looking to refresh your understanding or sharpen your judgment in complex situations, this program delivers essential insights grounded in New Hampshire practice.

Faculty

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

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

Geoffrey M. Gallagher, Poulin, Hurley, Makris & Lyons, PA, Manchester

John W. Garrigan, NH Department of Labor, Concord

Michael G. Eaton, Wadleigh, Starr & Peters, PLLC, Manchester

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

Estate Tax Portability: What You Need to Know

Tuesday, June 9, 2026

12:00 p.m. – 1:00 p.m.

60 NHCLE min.

Live Webcast

In this one-hour webcast we will discuss what estate planners need to know about estate tax portability, including how it works and planning opportunities that exist.

Faculty

Rober A. Wells, McLane Middleton Professional Association, Manchester

Jennifer R. Rivett, Devine, Millimet & Branch, PA, Manchester

Navigating Complexity in New Hampshire Real Estate Law

Thursday, June 18, 2026

9:00 a.m. – 4:30 p.m.

375 NHCLE min., incl. 60 ethics min.

NHBA Seminar Room/Webcast

New Hampshire real estate practice is increasingly shaped by layered regulation, environmental exposure, development pressures, financial distress, litigation risk, and emerging technologies. Navigating Complexity in New Hampshire Real Estate Law brings together seasoned practitioners to provide advanced, practice-focused guidance on the issues that matter most to today's real estate attorneys. From resolving title defects and managing environmental liability to securing land use approvals, protecting creditor and landlord rights in bankruptcy, litigating boundary and partition disputes, and responsibly integrating artificial intelligence into modern workflows, this comprehensive program delivers strategic insight and actionable tools. Designed for practitioners who already know the fundamentals and want a deeper, practical perspective, participants will leave better equipped to manage risk, protect clients, and confidently handle sophisticated real estate matters across New Hampshire.

Faculty

Sabrina C. Beavens, Program Chair, McLane Middleton Professional Association, Manchester

Alexandra S. Careno, McLane Middleton Professional Association, Manchester

Adam M. Dumville, McLane Middleton Professional Association, Concord

Eric T. Kilchenstein, Sheehan Phinney Bass & Green, PA, Portsmouth

Caroline H. Palucha, McLane Middleton Professional Association, Manchester

William P. Reddington, Wadleigh, Starr & Peters, PLLC, Manchester

John F. Weaver, McLane Middleton Professional Association, Manchester

9th Annual CLE by the Sea

NE Conference for Solos & Small Law Firms

Thursday, July 16, 2026

8:30 a.m. – 5:30 p.m.

Up to 390 NHCLE min., incl. 120 ethics min. possible
Blue Ocean Event Center, Salisbury Beach, MA

Topics include:

- The Modern Law Firm in 2026: Mobile Practice, AI, Tools, & Cybersecurity
- Deciphering Tax Returns in Divorce Cases
- The Entrepreneurial Lawyer, Building a Law Firm that Lasts
- Coparenting: Beyond the Orders: Transforming High-Conflict into Healthy Lasting Outcomes for Families
- Top Ten Employment Law Mistakes Small Businesses Make
- The Price is Right: Cheap & Effective Tools for Solo Lawyers
- A Local Permitting Attorney's Responsibilities in Order to be Successful with the Local Permitting Authorities
- Domestic Violence & Technology: Become Aware of Misuse
- Ethics Risk Management for Lawyers: Claims, Complaints, & Multi-jurisdictional Traps
- Setting the Stage & Performing Successful Negotiations
- How to Use Forensics in Your Cases
- Spinning the Mediator
- Avoiding Claims of Harassment & Discrimination in Your Law Practice
- Challenging Valuation in Marital Dissolution Matters
- Today in Immigration Law: the Good, the Bad, & the Ugly

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

SAVE THE DATE

New Hampshire Evidence at Trial: A Practical Guide to Objections, Admissibility, and Preserving the Record September 17, 2026

The new **New Hampshire Rules of Evidence Summary Guide** is poised to become an indispensable courtroom companion for New Hampshire practitioners—bringing together the rules, objections, and real-world applications that define effective trial advocacy. Designed for clarity and speed, the Guide distills complex evidentiary principles into practical, usable insights, from foundational admissibility standards to the precise language of objections and preservation techniques. Building directly on this resource, the September 17 program, **New Hampshire Evidence at Trial: A Practical Guide to Objections, Admissibility, and Preserving the Record**, translates the Guide into live, courtroom-ready skills. Through focused, fast-moving sessions and judicial insight, attendees will sharpen their ability to think on their feet, make clean records, and navigate evidentiary issues with confidence in real time.

Municipal Law, Land Use & Practice in New Hampshire September 23, 2026

Municipal Law and Practice in New Hampshire, on September 23rd, offers a comprehensive, practice-driven examination of the issues shaping land use and local governance across the state, bringing together perspectives from both the municipal and developer sides of the bar. This full-day program explores the lifecycle of land-use decision-making—from drafting and adopting zoning ordinances to navigating variances, special exceptions, and planning board approvals—while also addressing emerging challenges, such as workforce housing and recent legal developments. With a balanced faculty of experienced municipal counsel and leading development practitioners, the program delivers practical guidance on procedure, strategy, and advocacy before local boards, along with critical insights on conflicts of interest and ethical considerations that arise in this uniquely local and highly impactful area of practice.

2026 Employment Law 360° Forum September 24, 2026

Mark your calendars for the **2026 Employment Law 360° Forum—Developments and Strategy from Every Side of the Bar**, on September 24th, chaired by Beth Deragon, which brings together a balanced faculty to examine the most important developments shaping employment law practice today. Designed for New Hampshire practitioners representing employers, employees, and institutions alike, this program offers a comprehensive, real-world look at evolving legal standards, emerging risks, and strategic decision-making across core practice areas. Through focused analysis and practical insight, attendees will gain a clearer understanding of how current trends are playing out on all sides of the bar—and how to respond effectively in their own practice.

Solo & Small Firm Conference 2026 October 7, 2026

Join us on October 7 for the New Hampshire Bar Association's Solo & Small Firm Conference—an engaging, practice-focused program designed specifically for attorneys navigating the unique demands of smaller practice environments. Featuring nationally recognized legal technology and practice management thought leader Danielle M. Hall, this program will explore how to strategically align people, processes, and technology to build a more efficient, ethical, and sustainable practice. From foundational strategies for operational success to forward-looking discussions on the future of solo and small firm practice in New Hampshire, attendees will gain practical insights they can implement immediately. Danielle Hall's sessions will anchor the day, connecting law practice management, well-being, leadership, and technology in a way that reflects the realities—and opportunities—of modern legal practice.

More details to come.

Now Available OnDemand

NH Advanced Insurance Law April 9, 2026

360 NHCLE min., incl. 30 ethics min.

This program 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 seminar delivers the insights, updates, and practical tools you need to navigate complex coverage questions with confidence and skill.

Adoption Law April 10, 2026

335 NHCLE min.

This program gives participants an understanding of the complexities of adoption law and equips attorneys with the knowledge and resources needed to guide clients through each stage of the adoption process. Participants gain an understanding of the legal, ethical and procedural issues involved in private, agency, interstate, and relative adoption.

Trusts & Estates 2.0 April 16, 2026

360 NHCLE min., incl. 60 ethics min.

This advanced, practice-focused 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 and practical issues facing estate planners today.

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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.

Statutory Interpretation April 22, 2026

326 NHCLE min.

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STUDY *from page 1*

where barriers to help are most acute.

“The Legal Needs Study makes clear that access to justice is not an abstract concept – it is shaped by where people live and the unique barriers they face,” says New Hampshire Supreme Court Chief Justice Gordon MacDonald. “By bringing together data from across our civil justice system, we now have a clearer understanding of where needs are greatest and how we can respond more effectively.”

603LA Executive Director Ariel Clemmer says the study provides data to support what legal aid providers have seen firsthand.

“The findings line up almost exactly with what we see at 603 Legal Aid, especially given our role as the state’s central-

ized intake hub for civil legal aid,” she says. “With this study, we have the data to back up what we have been experiencing on the front line for years. The volume of need, high-priority case types, and overwhelming number of people who can’t get help are now well-documented.”

Clemmer says the study shows how many eligible people are still being turned away.

“The most urgent finding is the gap between demand and capacity,” she says. “More than 60 percent of the 33,000 requests for help during this period were unable to be served. Many of those people qualified for legal aid but were turned away due to a lack of staffing and resources.”

The study identifies significant transportation and digital access barriers across New Hampshire, including more than 25,000 households without access to a ve-

hicle and nearly 32,000 households without internet access. The report found that only about half of the state’s court locations can be reached by public transportation, with barriers most pronounced in the northern and western parts of the state.

Sarah Mattson Dustin, executive director of NHLA and vice president of the NHBA, says the study confirms both the scale of need and the importance of flexible service delivery.

“The study confirms what our staff see every day,” she says. “There is enormous need for civil legal aid, and the problems people face are often complicated by factors such as lack of access to transportation or inadequate digital connectivity.”

She adds that the findings also reinforce the need for flexible, tailored approaches.

“We can’t deliver one-size-fits-all services,” Mattson Dustin says. “One important theme in the study is that different regions have different advantages and disadvantages – ‘all justice is local’ – and, of course, every person is an individual with a unique mix of needs. We have to meet people where they are, and structure our work so that it is accessible to everyone.”

For DRC, the report highlights the extent to which disability intersects with poverty, geography, and access to court services. The study found that 178,623 people with disabilities live in New Hampshire – roughly one in eight residents – with disability rates especially high in parts of the North Country and other rural areas.

DRC Executive Director Stephanie Patrick says one recommendation that stands out is the expansion of remote court appearances.

“Many people with disabilities face transportation challenges and other barriers to getting to the courtroom,” she says. “Offering people the opportunity to participate

remotely, if that’s what they choose and if the courts in New Hampshire are willing to consider it, is especially important for people with disabilities who may not be able to drive or otherwise get to the courthouse.”

The study also introduces a new measure called the Civil Legal Aid Coverage Coefficient, or CLACC, which compares civil legal aid involvement with court filing volumes. It found that legal aid reaches roughly 20 to 30 percent of eviction cases but only about one to three percent of consumer debt cases, with more limited and uneven reach in other areas. Court data cited in the report show nearly 40,000 small claims debt cases during the study period, followed by a 44 percent increase in the first quarter of 2025. Nearly half of those cases ended in default judgments.

Mattson Dustin says that measure was one of the study’s most notable features.

“The CLACC is a novel and interesting measure,” she says. “I had a general sense that civil legal aid has more of a presence overall in eviction work, but that trend is quite a bit starker than I realized.”

The report concludes with recommendations that include increased staffing for legal aid organizations, expanded non-lawyer and community-based assistance, greater use of remote and hybrid services, improved intake systems, digital support for users, and more limited-scope and Lawyer for a Day opportunities.

“Free legal help is essential infrastructure for strong communities,” says New Hampshire Access to Justice Commission Co-Chair Mark Rouvalis. “This report gives us the data we need to align resources with real-world need and make smart, strategic investments.”

The full study can be accessed through NHLA’s press release at nhla.org/blog/nh-legal-needs-study. ♦

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Questions? Visit MyNHBar Portal at nhbar.org or email billing@nhbar.org

■ WTP from page 11

osity of the Milford community and the New Hampshire Bar Foundation. We are extremely grateful for their support and for the opportunity to participate.”

Hollis-Brookline teacher Trevor Duval has taken teams to the WTP National Finals in both 2024 and 2025. In terms of preparation, having been to nationals multiple times before was a benefit.

“Each year for the past two years, students from prior years have come back to help,” says Duval, “and it just makes each year’s team that much stronger. Additionally, each student taking part in multiple units helped a lot. If they were a little nervous for the first hearing, by their third or fourth unit they were warmed up and the conversations just flowed.”

Both teams also took advantage of being in Washington, DC, by visiting historic sites tied to the WTP curriculum and the country’s founding principles. Milford students especially enjoyed the

Thomas Jefferson Memorial, the National Archives, and the National Museum of African American History and Culture.

Hollis-Brookline students visited the National Archives, the Library of Congress, the Holocaust Museum, the National Museum of American History, and several memorials, including the Lincoln, Vietnam Veterans, Korean War Veterans, and Iwo Jima memorials. They also toured the US Capitol through Representative Chris Pappas’ office.

Duval says students had different favorites for different reasons, from the documents housed at the National Archives to the old Supreme Court chamber where *Marbury v. Madison* was decided and the steps of the Lincoln Memorial where Dr. Martin Luther King, Jr. delivered his “I Have a Dream” speech.

For both Milford and Hollis-Brookline, the trip offered more than a national competition. It gave students hands-on exposure to the institutions, documents, and history at the center of the WTP program’s goal of advancing civic education in schools. ♦

■ IN MEMORIAM from page 21

ing Paul’s final months, and to the doctors, nurses, and aides who supported him throughout a difficult year. They offer special thanks to Debra Cheney, whose dedication helped guide Paul’s care and comfort. For more information and to view an online memorial, visit wilkinsonbeane.com.

Hon. Timothy J. McKenna

Timothy James McKenna, 79, of Haverhill, New Hampshire, died peacefully at home on February 5, surrounded by his family, after a long and difficult battle with cancer.

Born in Middleborough, Massachusetts, on July 15, 1946, to Arthur and Emily (Maleski) McKenna, Tim was the oldest of four children. He attended Catholic schools and earned his undergraduate degree from the University of Massachusetts Amherst before receiving his JD from Suffolk University Law School in 1972.

While living in Boston, he met and fell in love with Phyllis (Pridmore). They



married in July 1972 and soon moved to Woodsville, where Tim began his career as an attorney. Together, they built a life rooted in shared traditions and simple pleasures, including antique auctions, gardening with their daughters, the Christmas Revels, and the Big Apple Circus. Tim also loved cooking big meals for the family and baking; he and the girls took many baking classes together.

Tim served his community for 34 years as a judge and was widely respected for his fairness, integrity, and compassion. He was deeply committed to justice and valued the relationships he built with colleagues across the courts.

An outdoorsman at heart, Tim enjoyed rowing, fly fishing, and duck hunting, especially the quiet early mornings spent with friends. He loved all dogs, always keeping a stash of treats on hand.

Tim was predeceased by his parents and his sisters, Kathleen McKenna and Janet McGarry. He is survived by his wife, Phyllis McKenna; his daughters, Meghan McKenna and Laura McKenna; Laura’s husband, Daniel Worthing; and his sister, Rosemary McKenna.

Donations in Tim’s memory may be made to the Hatchland Farm Milk Drive, which provides milk vouchers to local food banks. Donations may be made by phone at 603-787-6077, in person, or by mail to Hatchland Farm c/o The Milk Drive, Robin Page, 401 Clough Road, North Haverhill, NH 03774. ♦

■ CHANT from page 4

profession, but we’re also Type A people.”

He encourages lawyers to find work environments where they like and care about the people around them.

“When you get up in the morning, where you’re working and with whom is a serious factor in mental wellness,” he says.

Past NHBA president Kathleen Mahan, a partner at Hinckley Allen, served as Chant’s vice president during his term as NHBA president and calls him “a wonderful lawyer and an even better person.”

“His genuine passion for lawyer well-being shines through not only in his work with the Bar ... but in his everyday actions,” she says. “Paul’s first question – always – is ‘how are you?’ And he genuinely means it.”

In addition to his Bar presidency, Chant has served in several community leadership roles, including president of the Mount Washington Valley Economic Council, board member of the Book Love Foundation and The Tamworth Foundation, member of the Governor’s Task Force on Workers’ Compensation Medical Costs and the SAU9 Superintendent Search Committee, and board chair of The Barnstormers Theatre.

He is also co-chair of the CASA of New Hampshire Board of Directors.

Marcia Sink, CEO and president of CASA of New Hampshire, met Chant several years ago when he was on the Access to Justice Committee and considers him “one of the most valuable additions to the CASA organization these past few years.”

“His commitment to New Hampshire, to the legal community, and to children and families – especially those in the North

Country – is extraordinary,” she says.

Sink says Chant’s care for others is evident not only in his legal career but also in his personal life.

“He is truly an amazing leader, a fun and thoughtful person, and a devoted husband, father, and granddad,” she says. “Paul is someone who has his priorities in order and lives his life accordingly.”

Chant’s commitment has earned him numerous honors inside and outside the legal community.

He was named Personal Injury Lawyer of the Year for the Concord/North Region by *Best Lawyers* for 2026, was chosen as the Mount Washington Valley Economic Council Board Member of the Year, and has received the New Hampshire Bar Association President’s Award and the New Hampshire Association for Justice President’s Award.

He is a former chair of the New Hampshire Bar Foundation and the New Hampshire Association for Justice.

Chant says some of his greatest accomplishments have come outside legal work, including chairing the Nashua Youth Council and the Nashua Chamber of Commerce Education Committee, and helping pave the way for construction of a new high school in the city.

Service is important, he says, “because it enriches the people you work with and it enriches you. So much of board work is getting good people together to do good things.”

When not working or volunteering, Chant likes to ski, kayak, watch college basketball, spend time with his “three phenomenal children,” and sit with his wife, Anne, enjoying sunsets and stillness.

“I’m just a lucky guy who had a lot of things go right along the way,” he says. ♦

■ LAMBERTI from page 5

life, at least partially, in service to others,” he says.

Capuchino also recalls Lamberti’s steady approach in stressful situations.

“That guy was the coolest cucumber. You’d never see him sweat,” she says. “Many of those board members thought they were untouchable, and a lot of them had big personalities. But Bob would carefully explain the issues, and he always did his homework. Whenever there were tough discussions, I’d bring him in.”

Inside the Banking Department

Lamberti joined the Banking Department in late 2021 and was promoted to his current role in 2022. The agency regulates banks, credit unions, trust companies, and a wide range of consumer credit industries, from auto loans to money transmitters.

“We license them, and we have an exam staff that reviews them for safety and soundness and compliance,” Lamberti says. “When there are issues, the legal staff will take enforcement action as necessary.”

The work ranges from advising on regulatory compliance to handling consumer complaints, including foreclosure-related inquiries.

“If you’re lucky, you’ve never seen a foreclosure notice,” he says. “But our phone number is on that notice, and we get those calls.”

His docket varies widely.

“It really runs the gamut,” he says. “There are some matters where we’re working one-on-one with consumers ... and others where we’re dealing with some of the most sophisticated law firms in the country.”

“That variability ... makes for an interesting job,” he adds.

A Changing Legal Landscape

Lamberti notes that banking law is evolving rapidly, particularly with financial technology and cryptocurrency. Some crypto platforms may fall under the department’s jurisdiction, bringing new consumer protection challenges.

“We have to stay on top of it,” he says. “That’s part of what makes the job challenging and rewarding.”

Still, the core mission remains steady. “We enforce the statutes that are on the books,” he says.

Based in Portsmouth, Lamberti spends his free time running, often with a local group; participating in races from 5Ks to marathons around the country; and hiking New Hampshire’s many trails with his three-year-old golden retriever. He also spends time with family along the Seacoast and in Portland, Maine.

After more than a decade in public service, Lamberti remains focused less on a specific destination than on purpose.

“Wherever I wind up ... if I can continue to be challenged intellectually and keep that public service aspect of my career in place, then I’ll be lucky,” he says.

For now, Lamberti says he’s comfortable in his role. Zoracki says he is grateful Lamberti is not making any plans to move on.

“Bob brings a depth of experience in New Hampshire state government to the job, having spent his entire legal career serving the citizens of our state,” Zoracki says. “[He] is an expert in the workings of both the executive and legislative branches of our state government, [and] I rely upon his expertise.” ♦

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NHBA President Derek Lick addresses attendees of the Celebration of 50 Years in Practice luncheon. Photo by Tom Jarvis



Hon. Daniel Will (right) presents a commemorative plaque to Fred Coolbroth, Sr. Photo by Tom Jarvis



Hon. Melissa Countway presents a commemorative plaque to Russell Hilliard. Photo by Tom Jarvis

■ LUNCHEON *from page 1*

practice is measured not only in longevity, but in what is passed along to others.

“This year’s group of 50-year Bar members includes some of the most respected and revered practitioners in the state, and they are a true inspiration,” Lick says. “It was wonderful to hear their advice about how to have a successful legal career, with the benefit of hindsight sharply focused by their years of experience. Their mentoring continues.”

All five members of the New Hampshire Supreme Court – Chief Justice Gordon MacDonald and Justices Daniel Will, Melissa Countway, Patrick Donovan, and Bryan Gould – attended the luncheon.

“This has quickly become an important and meaningful event for members of the Court,” says Chief Justice MacDonald. “It is a privilege to be in the presence of so many accomplished professionals, to have them share their memories and perspectives, and to join with them in celebrating such a remarkable milestone.”

After lunch, Justices Melissa Countway and Daniel Will presented commemorative plaques to each of the 50-

year practitioners individually.

For Fred Coolbroth Sr., the luncheon brought him back to the people and institutions that shaped the beginning of his legal career.

Coolbroth, who has served on the New Hampshire Board of Bar Examiners since 1987 and participated in the adoption of the Uniform Bar Exam and the development of the University of New Hampshire Franklin Pierce School of Law’s Daniel Webster Scholar Honors Program, says the event had personal meaning.

“It was wonderful to reconnect with colleagues who were around at the outset of this 50-year adventure, including a law school classmate and a high school classmate,” he says.

The sense of connection among those gathered also stood out.

“New Hampshire truly is a special place to practice law, and the collegiality that characterizes the New Hampshire Bar could be felt throughout the event,” Coolbroth says.

Russell Hilliard, a former NHBA president and New Hampshire Bar Foundation chair, says the luncheon placed the passage of time and the arc of a legal career in perspective.

“My overwhelming thought was

gratitude that I was there and still enjoying life and practice,” he says. “It placed in perspective that all of us were fortunate to have experienced a half century of changes and challenges, and were together to celebrate and reminisce.”

The gathering also highlighted the different paths attorneys followed after starting from a common point.

“There were about 30 of us there, and I was struck by our different paths since studying together for the bar examination,” Hilliard says. “I had professional contact over the years with only a handful of them, yet we had arrived together at this spot.”

As in past years, the event also served as a reminder of the changes the honorees have witnessed since entering

practice. Over five decades, the profession has moved from typewriters and paper files to computers, electronic filing, virtual hearings, and artificial intelligence. Law firms, courts, and legal organizations have changed in size, structure, and technology, while the New Hampshire Bar has continued to evolve.

For those in attendance, the luncheon offered a chance to reflect on the relationships, experiences, and professional values that have connected them across five decades.

A special commemorative booklet recognizing all 68 members celebrating 50 years in practice was distributed to luncheon attendees. The booklet can be viewed at nhbar.org/50-year-member-booklet. ♦

■ BENEFITS *from page 14*

injuries qualify for a PIA. For example, if an injured worker has their spleen removed, there would ordinarily be no PIA under RSA 281-A:32.

The critical injury benefit under RSA 281-A:32-a, however, provides additional categories of injuries for which compensation can be awarded to Group II retirement system members. Group II members are a narrower category of first responders limited to permanent police officers and firefighters. RSA 100-A:1(X)(b).

Additional compensation is afforded for permanent loss or impairment affecting the heart, lungs, brain, other internal organs, and loss of speech, touch, taste, or smell. RSA 281-A:32-a(I). The critical injury benefit is not reduced by payment already received for the PIA.

Additional Benefits

As a final matter, it is important to know the benefits outside of workers’ compensation law that may be available to first responders due to a workplace

injury. RSA 21-I:29-a (Michael’s Law) provides an additional death benefit for police officers, firefighters, emergency medical technicians, rescue squad members, and public works employees who are killed in the line of duty. NHRS Group II members also have access to retirement benefits through violent accidental disability retirement. RSA 100-A:6(II)(e) (1). Be aware that there are strict timing requirements for workers’ compensation claimants applying for disability retirement. Ret 305.03(h), (j).

In Closing

This article provides an overview of the unique benefits afforded to first responders following a workplace injury. Knowledge of these systems and rules will ensure that advocates can better help our injured first responders receive the benefits they deserve. ♦

Gordon Unzen is an associate attorney with Shaheen & Gordon, PA. His practice focuses on disability and employment law, with a particular emphasis on workers’ compensation and Social Security disability claims.



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Real Property Law

Not Your Typical Real Estate Deal: What Counsel Must Know About LIHTC Transactions

By Chloe Golden

New Hampshire is experiencing unprecedented demand for affordable housing. For attorneys advising developers that hope to enter this market, the learning curve is steep. Affordable housing development is not simply conventional real estate practice with a social mission layered on top; it is a distinct, heavily regulated field that sits at the intersection of tax law, federal program compliance, and partnership structuring.



Most projects are financed through a layered capital stack anchored by Low-Income Housing Tax Credits (LIHTC), which attract an equity investor whose contribution funds a large share of development costs. Additional state and federal subsidies, developer loans, and deferred fees fill the remaining gaps, and each funding source brings its own compliance obligations. Errors can trigger the disallowance or recapture of tax credits worth millions, or jeopardize other funding. The key to avoiding these pitfalls is assembling an experienced team early: LIHTC attor-



neys, tax advisors, financial consultants, and compliance specialists alongside local real estate counsel.

Pitfall 1: Misunderstanding the Two Credit Types

The LIHTC program has two types of credits and confusing them leads to early missteps. The nine percent credit is competitively allocated and highly valuable but difficult to obtain. The four percent credit is not competitively allocated and available to any project financed with tax-exempt bonds but covers far less of the project's costs, requiring significantly more supplemental funding. Each type carries different dead-

lines, compliance tests, and deal structures. Counsel must know which credit is in play from the outset to advise clients about specialized "cliff-test" rules – all-or-nothing compliance requirements where missing a deadline means total, irreversible loss of credits.

Pitfall 2: Missing "Cliff Test" Deadlines

Each LIHTC transaction faces several cliff tests. The financial exposure is enormous: a developer who fails a cliff test may have to repay the equity investor's entire capital contribution. Counsel needs to understand which tests apply and when, and be prepared to advise developers about how these tests relate to tax credit guaranties. Will the project spend 10 percent of its reasonably expected basis within the required period after credit allocation? Is there a placed-in-service deadline that threatens all the credits? Does the four percent project have a plan to finance 25 percent of the project's aggregate basis with tax-exempt bonds? Is the minimum set-aside (the minimum proportion of units dedicated to specific income levels) consistent across all the documentation?

Pitfall 3: Structuring the Deal Without LIHTC Awareness

Structural decisions made at the start of a project can have long-term consequences, and several common moves in conventional real estate can create serious problems in the LIHTC context. Federal environmental review rules limit op-

tions and timing for securing site control. That means a traditional purchase and sale agreement may be out of the question. Care must be taken to ensure developer flexibility to walk away from the deal. Does the developer plan to rehab an existing building? Special consideration must be given to how long that structure has been in service. Unique structuring considerations are also necessary if the project will be built in phases, include commercial space, or take advantage of both four percent and nine percent credits to protect tax credit basis.

These issues often require specialized real estate structures that may mean returning to the planning board for additional local approvals. Similarly, practitioners should pay early attention to amortizing debt terms, where, unlike traditional real estate, cross-collateralized loans and recourse rights are the exception not the rule, and accepting such terms can threaten tax credits and investor participation.

Pitfall 4: Treating the Investor Partnership Like a Conventional Joint Venture

The partnership agreement between the developer and the tax credit investor governs a relationship lasting 15 to 30 years. It is not a typical joint venture. Key negotiation areas include the cash flow waterfall, deferred developer fee treatment, tax credit guaranties, rights of first refusal, and purchase options – all of which involve specialized LIHTC conventions with no direct parallel in standard real estate partnerships.

Pitfall 5: Overlooking Cross-Cutting Federal Requirements

Federal subsidies trigger compliance obligations that have no analog in conventional development, and missing them can disqualify a project from funding that it needs to break ground. In some cases, statutory compliance is so specialized that additional consultants may be needed to navigate the rules of just one of these laws. Relevant requirements include National Environmental Policy Act environmental review, Fair Housing and accessibility requirements, Davis-Bacon prevailing wage

LIHTC *continued on page 35*

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Old Regulations, New Market: Short-Term Rentals Test New Hampshire Laws

By Christopher Ratté

I have clients who own a summer home in Moultonborough, which they rent out as a short-term rental. Recently they were informed that the Town of Moultonborough would begin treating all short-term rentals as bed and breakfasts under the town's zoning ordinance, as that is the closest use set forth in the ordinance. A bed and breakfast is allowed in a residential zone only by special exception granted by the Zoning Board of Adjustment and requires a commercial site plan review approved by the Planning Board. Naturally, my clients were not keen to do either of those things.



As clients continue to purchase properties to use as short-term rentals before they determine if such a use is allowed, it would be a good time to update where New Hampshire law is on this issue.

In *Working Stiff Partners, LLC v. City of Portsmouth*,¹ the New Hampshire Supreme Court upheld the trial court's ruling that the short-term rental was not a permitted use in the general residential zone. The Court focused on the definition of dwelling unit, which expressly prohibited such "transient occupancies" as hotels, motels, and boarding houses. The Court found that short-term rentals, which could be as short as one day, were transient occupancies akin to a hotel, motel, or boarding house, and, therefore, were not per-

mitted in the general residential zone.

In contrast, in *Town of Conway v. Kendrick*,² the Court upheld a trial court ruling which allowed non-owner-occupied properties to be used as short-term rentals in a residential zone. In that case, the Conway Zoning Ordinance definition of residential/dwelling unit did not include any prohibition for transient occupancies. The definition of residential/dwelling unit stated, "independent living facilities for one or more persons living as a household, including provisions for living, sleeping, eating, cooking and sanitation." The term "living as a household" was not defined in the ordinance. The Court concluded that "living as a household" referred to a group of individuals who live together un-

der the same roof regardless of duration. The Court declined to contemplate any policy considerations regarding the effect of short-term rentals on the community and limited its review to interpretation of the ordinance language.

Later that same year, in *Andrews v. Kearsarge Lighting Precinct*,³ the Court affirmed, in part, the enforcement of a so-called Guest Provision requiring short-term rental properties to be owner-occupied. The Kearsarge Lighting Precinct (KLP) is a village precinct within Conway and Bartlett. The KLP zoning ordinance includes the following restriction (Guest Provision): "All residential properties that offer sleeping accommodations to transient or permanent guests shall be owner occupied and operated."

The Court rejected multiple constitutional and equitable defenses, including procedural due process, substantive due process, equal protection, takings, estoppel, and waiver. The case was remanded on the sole issue of whether the property owners had standing to bring an *ultra vires* claim. On remand in 2025, the Carroll County Superior Court ruled in favor of KLP.

Most recently, in *Appeal of Hoekstra*,⁴ the Court reversed and remanded a decision by the Housing Appeals Board that the rental of a travel trailer on the owner's property for short-term occupancy was not permitted under the Sunapee

RENTALS *continued on page 35*



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Two Federal Courts, One Rule in Limbo: Navigating the FinCEN Residential Real Estate Reporting Rule on Appeal

By Sabrina C. Beavens

Many lawyers in New Hampshire may sense a nagging echo with the rollout of FinCEN's new Residential Real Estate Reporting Rule (the Rule). Just as they were beginning to regain their footing after the whirlwind changes tied to the Corporate



Transparency Act – changes that required constant shifts advising clients – another federal reporting requirement went into effect on March 1 and is again accompanied by significant uncertainty.

Within weeks of the Rule's release, two federal district courts reached opposite conclusions on its validity. The Middle District of Florida upheld the Rule in *Fidelity National Financial, Inc. v. Bessent*, while the Eastern District of Texas vacated it in *Flowers Title Companies, LLC v. Bessent*. Both decisions are now on appeal. As a result, closing attorneys and transactional counsel across the country – including here in New Hampshire – find themselves advising clients while the governing framework remains unsettled.

What the Rule Requires

The Rule imposes a federal reporting



obligation on certain residential real estate transfers that do not involve institutional financing. FinCEN's stated goal is to close perceived gaps in anti-money laundering enforcement, particularly in all-cash transactions involving entities or trusts.

In general, the Rule applies to non-financed transfers of one- to four-family residential property and transfers to an entity or trust, including LLCs, corporations, and many common estate planning structures.

A "reporting person" must be identified through a cascading hierarchy that may include settlement or closing agents, title companies or underwriters, and attorneys involved in closing, document preparation, or fund disbursement. The reporting

person must collect and submit detailed information about the transferee entity or trust, its beneficial owners, and individuals participating in the transaction.

Some transactions are excluded, such as transfers upon death or those incidental to a divorce. Certain trust-related transactions are also exempt.

For New Hampshire practitioners, particularly closing attorneys, the Rule adds additional reporting requirements and potential liability for failure to comply. Entity-based purchases of residential property – often used for privacy, investment, or liability protection – are common in the state's real estate market. The Rule adds an unwelcome spotlight on the ultimate beneficial owners in those transactions.

Competing Views of FinCEN's Authority

The two district court decisions reflect sharply contrasting views of FinCEN's authority under the Bank Secrecy Act (BSA). In *Fidelity National Financial*, the Florida court adopted a broad view of the BSA, treating it as a comprehensive anti-money laundering framework that authorizes FinCEN to impose categorical reporting requirements.

The Court reasoned that the statute permits reporting for entire classes of potentially suspicious transactions, not just individualized determinations, and emphasized that several provisions – § 5318(g)(1), § 5318(g)(5), and § 5318(a)(2) – operate together as sources of authority. It also rejected the argument that FinCEN's past reliance on geographically limited targeting orders limited its ability to issue nationwide rules.

The Court's analysis effectively accepts that Congress authorized FinCEN to identify classes of transactions as inherently presenting heightened money laundering risk, even where many individual transactions within that class may be entirely legitimate.

By contrast, the Texas court in *Flowers Title* analyzed the ordinary meaning of "suspicious" and concluded that the term imposes a meaningful limit on FinCEN's authority. The Court rejected the no-

RULE *continued on page 36*



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Commercial Zoning Reform in New Hampshire: Opportunity and Friction

By John Galle

New Hampshire has taken a decisive step to override local zoning control in an effort to expand its housing supply. Effective July 1, House Bill 631 will take effect, establishing RSA 674:77-78 to allow multi-family residential development in commercially zoned districts as a matter of right across the state.



Under the new law, municipalities must permit residential uses in commercially zoned districts, provided only that adequate infrastructure such as roads, water, and sewer systems are available. In situations where buildings are converted to multi-family or mixed-use through adaptive reuse, the statute further requires municipalities to grant exemptions from local setback, height, and frontage requirements, provided that the building's existing floor area, height, and setbacks are not increased.

It should be noted that House Bill 631 will not prohibit municipalities from restricting development in industrial or manufacturing zones that may be inherently incompatible with residential use due to their air, noise, odor, or transportation impacts.

Housing in New Hampshire has become increasingly expensive in recent years, as rising home prices and rents, combined with limited supply, have made



it harder for many individuals and families to find suitable options. Homebuyers in New Hampshire face a difficult combination of record-high home prices, elevated mortgage rates, and above-average property taxes, requiring a household to earn roughly \$158,000 annually to avoid being cost-burdened, according to the New Hampshire Fiscal Policy Institute. Yet, only about 27.49 percent of households meet that threshold, according to US Census Bureau data published in 2024.

New Hampshire's rental housing market also remains tight and increasingly expensive, driven in large part by a persistent shortage of available units. According to New Hampshire Housing, median rent prices for a two-bedroom apartment reached about \$1,833 in 2024, up roughly 58 percent

from 2015, while current estimates place average monthly rents well over \$2,000.

The latest data from the Federal Reserve Bank of St. Louis indicates that as of 2025, the rental vacancy rate remains at roughly 3.9 percent, still well below the five percent rate generally considered balanced by the New Hampshire Housing Finance Authority. With limited supply pushing rental prices upward, nearly half of renters in the state are now considered cost-burdened, underscoring the strain on households and the broader imbalance between housing supply and demand.

House Bill 631 provides new opportunities for renters and developers alike by opening commercially zoned districts to residential development. For developers and landlords, the law provides an al-

ternative pathway to generate revenue by converting or redeveloping underutilized commercial space. The statute will likely increase the value of certain commercial properties, particularly those suitable for conversion or mixed-use redevelopment, by allowing them to support residential income streams and expanding the pool of potential buyers.

Many properties in commercial zones include units that are poorly suited for retail or office use because they lack visibility, adequate layout, or proximity to high-traffic areas. However, these same units may be well-suited for residential occupancy. By allowing these spaces to be used for housing, the statute unlocks previously constrained inventory to ease the pressure on the rental market and creates a more flexible framework to incentivize developers to undertake these projects.

This flexibility has been limited under existing law, where municipalities retain broad control over land use through local zoning ordinances. In most cases, converting commercial property to residential use requires a variance, which is granted only if an applicant meets the strict criteria set forth in RSA 674:33, I(b). These standards are difficult to satisfy and are often compounded by concerns regarding traffic, parking, density, and neighborhood character.

Even when relief is sought, zoning board decisions receive substantial deference on appeal and will be upheld unless unlawful or unreasonable, whether

REFORM *continued on page 37*

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Considerations in Structuring an Appeal to the Land Use Review Docket

By Emily Goering and Benjamin French



Goering



French



In January 2024, the New Hampshire Land Use Review Docket officially opened its doors to hear land use appeals in an efficient and expeditious manner. The specialized docket is the result of collaboration between the state Legislature and the judicial branch to address a shortage in available housing units in the Granite State.

The Land Use Review Docket was established to quickly resolve appeals arising out of the local land permitting process to ensure that projects were not caught in years of litigation. Indeed, RSA 491:7-b requires a structuring conference within 30 days of a party filing a notice of appeal, a hearing on the merits within 60 days of receiving the certified record, and a decision within 60 days of the hearing. There is also a strong emphasis on frequent and virtual status conferences to move the process along quickly.

Since its inception two years ago, the Land Use Review Docket has become a

staple of the land use process. Our firm has appeared before this court representing applicants who are aggrieved by a local decision denying their application; applicants who have received a favorable decision and are defending against aggrieved abutters; and municipalities that are subject to additional claims arising out of the local land use process. Through these experiences, it has become clear that careful strategic consideration should be given to how a case is structured before filing into the Land Use Review Docket.

In a typical case, an aggrieved party brings an appeal to the Land Use Review Docket challenging a local land use board's final decision. These cases often arise from an applicant who is aggrieved by a board's

denial of their application, or an abutter aggrieved by the approval of an application. These cases present a narrow appellate question – whether the local board erred in reaching its final decision – with a finite evidentiary record from the board's proceedings. These types of cases are limited in scope, allowing them to fit neatly within the expedited timelines and appellate review standards provided by the Land Use Review Docket. The expedited timeline and narrow review provide quick finality to local land use decisions, efficiently resolving whether a land use project can move forward.

However, not every dispute arising out of the local land use process presents such streamlined appellate issues. There is a more atypical class of cases appearing on the Land

Use Review Docket, in which an appeal from a local land use board's decision is coupled with other claims – constitutional violations based on the local process, monetary damages arising from delays, or bad-faith claims against individual board members, to name a few. The local permitting process can often be slow and frustrating, which can leave applicants wondering if they have been targeted, or if there is greater recourse against a municipality. When an aggrieved party decides to bring a traditional appeal to the Land Use Review Docket, accompanied by additional claims, it presents unique procedural wrinkles that often have significant impacts on the trajectory of the case.

One of the first procedural considerations is the overall timeline of the case. Traditional appeals from the final decision of a local land use board enjoy an expedited process, which ensures a relatively short period of time to obtain certainty about whether a project can move forward. Additional claims brought alongside the statutory appeal are not afforded the same expedited timeline. Anecdotally, we have seen the Land Use Review Docket bifurcate the appellate issues from the remaining claims. In that circumstance, the appeal of the local decision is resolved early on, but the remaining claims linger on a traditional litigation timeline. Based on the nature of the additional claims, this can tack on months, if not years, to a case.

Other procedural considerations arise when federal claims are raised in the superior

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■ LIHTC *from page 30*

rules, Uniform Relocation Act tenant protections, and Buy America product sourcing preferences.

For developer counsel, there are many traps waiting. Some of these rules require compliance early in the deal – well before the developer has a committed capital stack and knows exactly which requirements are triggered. Similarly, different funding sources trigger different requirements at different thresholds. Attorneys must understand which rules are triggered by their clients’ projects, when compliance is triggered, and which buckets of funding may be implicated by noncompliance.

Build the Right Team

This summary only scratches the surface. Complexity multiplies further when developers pair four percent and nine percent credits, form multi-party joint ventures, acquire occupied properties with existing regulatory obligations, or combine LIHTC with state, historic, or New Markets Tax Credits.

The demand for affordable housing in New Hampshire is real, and talented practitioners of all backgrounds are needed. The key is to assemble the right team of tax, legal, and compliance professionals for your client early to set them up for success. ♦

Chloe Golden is a shareholder at Sheehan Phinney, where her legal practice focuses on commercial real estate and affordable housing.

■ RENTALS *from page 31*

zoning ordinance. The ordinance included the following language: “Travel trailers ... are permitted subject to the following restrictions: ... A travel trailer may be used for temporary sleeping quarters for not more than 90 days per 12-month period....”

The Court declined to read into this language any prohibition on renting a travel trailer to the general public on a daily basis. Instead, the Court held that it was a permitted use subject only to the restrictions which were stated in the ordinance. The Court again declined to contemplate any policy considerations regarding the effect of short-term rentals on the community.

The key takeaway here is to read the language of the ordinance very closely. Every town is different, and there is no general consensus regarding the use of short-term rentals.

In addition to zoning regulations, owners must be aware of state laws governing short-term rentals. All operators of short-term rentals are required to obtain a meals and rooms license from the New Hampshire Department of Revenue. RSA 78-A:3 defines a short-term rental as “the rental of one or more rooms in a residential unit for occupancy for tourist or transient use for less than 185 consecutive days.”

RSA 78-A:4-a requires all operators of short-term rentals to display their meals and rooms license number on all advertisements by print, display, publica-

tion, distribution, or online listing, which would include Airbnb and VRBO. When checking a handful of Portsmouth listings online for this article, none had meals and rooms license numbers listed.

Interestingly, RSA 48-A:1, which governs housing standards, defines short-term rentals as “less than 30 consecutive days.” Again, there is no consistent treatment of short-term rentals even within state statutes.

Lastly, owners should be aware of any relevant condominium association, homeowners’ association, or covenant documents which may also affect their ability to use their property as a short-term rental. Many associations are chang-

ing their operating documents to regulate, or even prohibit, short-term rentals. ♦

Endnotes

1. *Working Stiff Partners, LLC v. City of Portsmouth*, 172 N.H. 611 (2019)
2. *Town of Conway v. Kudrick*, 175 N.H. 714 (2023)
3. *Andrews v. Kearsarge Lighting Precinct*, 2023 WL 5624723 (2023)
4. *Appeal of Hoekstra*, 2024 N.H. 23 (2024)

Christopher Ratté is a partner at Shaheen & Gordon, PA, with more than 25 years of experience in a cross-disciplinary practice focused on business, real estate, and estate planning.

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■ RULE *from page 32*

tion that all-cash entity purchases can be deemed suspicious as a category. It further distinguished between procedural and substantive authority, holding that § 5318(a) (2) authorizes only compliance systems – not new reporting mandates – and viewed Congress’s use of geographically limited targeting orders as evidence that nationwide categorical reporting was not intended without clearer statutory direction.

Viewed together, the decisions highlight a fundamental split. One court focused on the purpose of the law and the flexibility it affords regulators, while the

other insisted on a narrower interpretation of the statutory text and required clearer congressional authorization for the blanket application of the Rule to non-financed transactions.

Practical Guidance for Practitioners

During this period of uncertainty, it is best to be prepared and flexible. The first step is to identify potentially covered transactions as early as possible – particularly non-financed purchases by entities or trusts. Even though the Texas court vacated the Rule, attorneys should proceed as though it may ultimately be reinstated, recognizing that compliance obligations could attach quickly and could apply to

transactions closing during the pendency of the appeals, depending on how the Rule is ultimately enforced.

A conservative and practical strategy is to collect beneficial ownership and transaction information at or before closing and retain it in the file, even if no report is submitted immediately. In practice, this “collect now, decide later” approach minimizes disruption if reporting obligations are later enforced. It also avoids the far more difficult task of gathering information from parties after closing, particularly given the Rule’s relatively short filing deadlines and associated penalties for noncompliance.

Attorneys should consider addressing FinCEN-related responsibilities directly

in transaction documents by including cooperation and compliance provisions in the purchase and sale agreement, allocating compliance costs, and clarifying post-closing obligations should reporting become necessary. They should also consider whether their engagement letters appropriately define the scope of representation, particularly where counsel is not acting as the closing or settlement agent.

At the client counseling stage, attorneys should prepare buyers – especially those using LLCs or trusts – for the possibility of federal reporting requirements and the need to provide beneficial ownership information. For many buyers seeking privacy, this is a frustrating rule, and attorneys may be challenged by buyers who refuse to provide the required information.

Conclusion

The conflicting decisions in *Fidelity National Financial* and *Flowers Title* highlight a judicial divide over agency authority – one that will ultimately be resolved on appeal. For now, the prudent approach is neither to disregard the Rule nor to assume its permanence, but rather to prepare for either outcome. ♦

Sabrina Beavens is a director and chair of McLane Middleton’s Real Estate Practice Group. She is experienced in a wide range of practice areas, including corporate and business law, commercial and residential real estate, banking and commercial transactions, bankruptcy, estate planning, probate, and trust administration. She can be reached at sabrina.beavens@mclane.com or (603) 628-1281.



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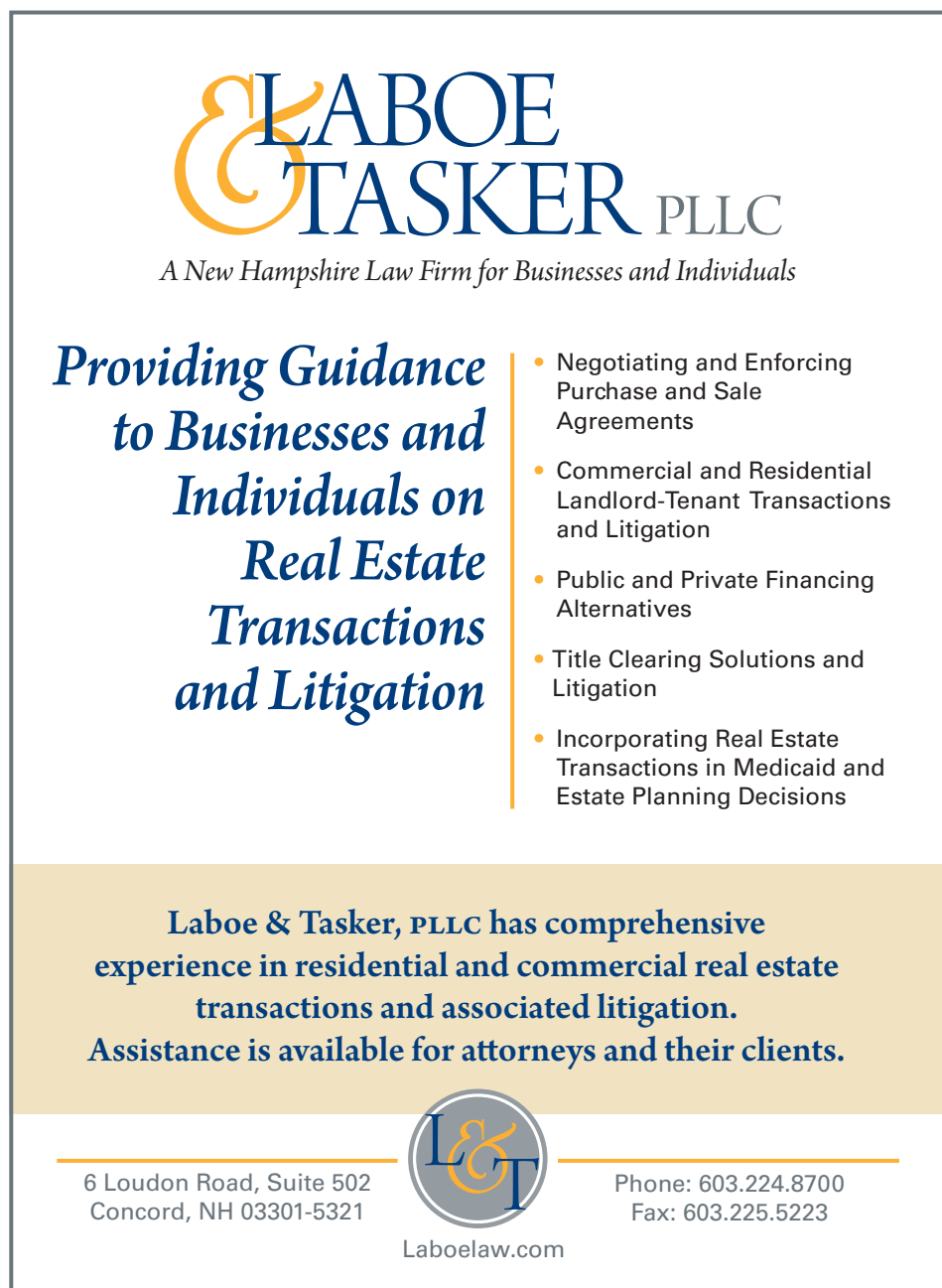
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■ REFORM *from page 33*

reviewed by the New Hampshire Housing Appeals Board or the superior courts. House Bill 631 largely removes this barrier by allowing such developments as a matter of right, eliminating the need for a variance in qualifying cases.

The law may not operate as intended in every circumstance. Although it permits “multi-family” residential development, that term is still defined by existing zoning frameworks, which may limit qualifying projects and exclude smaller or unconventional conversions.

For example, a property owner seeking to repurpose unused space into housing for two families may find that the local ordinance defines multi-family as three or more units, in which case the statute would not apply. As a result, the law may not always align with its practical application at the local level and may tend to favor larger, purpose-built apartment developments over incremental reuse of smaller commercial spaces.

In addition, relevant projects must still demonstrate adequate supporting infrastructure, such as roads, water, and sewer systems, in order to be approved. Municipalities may still block residential developments if the commercially zoned areas also allow industrial or manufacturing uses because such uses may be deemed incompatible with residential use.

Further, many municipalities impose workforce housing requirements that mandate that a portion of units be set aside pursuant to RSA 674:58-61. In practice,

workforce housing requirements introduce additional administrative burdens and compliance costs that may discourage some developers.

This state-level action represents a departure from the traditional framework of local control by overriding municipal zoning authority to establish a right to residential development in certain commercial areas, reflecting the broader economic pressures shaping New Hampshire’s housing market. In doing so, the Legislature has effectively limited the discretion towns have historically exercised through zoning ordinances.

This shift is significant as municipalities have long relied on zoning as their primary tool to preserve neighborhood character, manage growth, and maintain the aesthetic and historical identity of their communities. Consistent with the principle of subsidiarity, land use decisions have traditionally been made at the most immediate, local level, where officials are best positioned to respond to the specific needs and conditions of their communities.

House Bill 631 alters that balance by prioritizing housing production over local control, creating an inherent tension between statewide housing objectives and municipal autonomy. ♦

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■ DOCKET *from page 34*

court’s Land Use Review Docket and may be eligible for removal to the district court. This introduces not only a separate timeline for the additional claims, but the potential for claims to be resolved in a different forum.

Another procedural consideration is the scope of discovery and overall litigation costs to the client. In a traditional appeal, there is a finite certified record, creating a predictable volume of material to assess without the need for additional discovery. Additional claims often create a need for discovery beyond the certified record. For example, a claim of bad faith against individual members will likely require discovery of the members’ activities and communications outside of the public hearing. As another example, a claim of an equal protection violation would require discovery regarding the treatment of other projects that received more favorable outcomes.

There are also logistical and strategic considerations that should be weighed before bringing additional claims with a land use appeal. Land use appeals are typically handled by municipal counsel. But the additional claims often trigger coverage through insurance or pooled risk management programs, which appoint separate defense counsel. Claims against individual board members may result in private counsel, or yet another attorney appointed through insurance and risk pools to navigate conflicts. As the number of claims increases, so do the number of parties and attorneys. This often introduces competing interests which can slow down the process and delay relief.

Appeals from local land use decisions often arise midway through a project. This means that an applicant is often appealing the decision of one land use board, while still pursuing approvals from other local boards or officers. A traditional appeal of a land use decision is an inherent and expected part of the process. However, claims against individual board members or allegations of constitutional violations are less typical, and very often heighten tensions between an applicant and municipality. A prudent practitioner would be wise to assess the relationship with a municipality as a project moves forward before raising additional claims against specific individuals.

Every land use application and every client has different objectives, which means there is no universal approach to bringing a traditional land use appeal or an expanded set of claims. When bringing an appeal to the Land Use Review Docket, it is important for attorneys to consider the competing factors of overall timeline, cost to the clients based on the scope of claims, and the relationship between the applicant and the municipality. ♦

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Criminal Law

State v. Stewart
No. 2023-0664
April 7, 2026
Affirmed

- Whether the trial court established a sufficient objective basis to find that the State demonstrated an “essential need” to pierce the therapist-patient privilege.

The defendant appealed his conviction following a jury trial on a count of criminal threatening. At the time of the incident, the defendant was a resident at a community health center, where he received support from a team including a nurse, case manager, therapist, career counselor, and social worker. The career counselor had helped the defendant enroll in classes at UNH Manchester, which at some point after enrollment dismissed him from all his classes. Distraught, the defendant met with his social worker and sent numerous texts to the career counselor stating he wished to continue attending classes that evening. Both caretakers implored him not to go to the campus or classes.

The defendant “said something to the effect of, ‘[W]hat is it going to take me doing a mass shooting for me to get what I want?’” The career counselor told the defendant she must report the comment; the defendant responded that it was a figure of speech and continued to insist he would attend classes. The career counselor shared the comments with the treatment team, who followed the center’s policies and reported the comments to the Laconia police. The police then communicated the comments to UNH

Manchester Security, resulting in added security measures being taken that evening.

A grand jury indicted the defendant on one count of criminal threatening, based on the allegation that he threatened a mass shooting at UNH Manchester, acting in reckless disregard of causing evacuation, serious public inconvenience, fear, or terror. At trial, the parties agreed the defendant’s statements were privileged, as they were made in the course of treatment, but the court ruled the State could pierce the therapist-patient privilege because the State had established the “essential need” for the communications. The defendant appealed the decision because almost all of the evidence was based on privileged communication with healthcare providers.

In affirming the trial court’s decision, the Court conducted a detailed analysis probing the public need for the investigation of a threat of large-scale violence versus the patient-therapist privilege. Of note, Justice Gould, with whom Justice MacDonald joined, concurred specially, noting that neither the defendant nor the State asked the Court to explore its previous decisions on which the present decision is based. The concurrence states, “Today’s decision extends the already-lengthy line of cases using this extra-statutory exception to deprive patients of the protection the legislature gave them[,]” and concludes that in the right case, it could be appropriate for the Court to revisit this doctrine.

John M. Formella, attorney general, and Anthony J. Galdieri, solicitor general (Sam M. Gonyea, assistant attorney general, on the brief and orally), for the State. Carl Swenson, assistant appellate

At a Glance Contributor



Rebecca Dowd
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defender, of Concord, on the brief and orally, for the defendant.

State v. Rosen
No. 2024-0509
April 9, 2026
Reversed and Remanded

- Whether the trial court erred in allowing the State to introduce the defendant’s voting history under Rule 404(b) and in excluding evidence of a third-party perpetrator.

The defendant appeals his conviction following a jury trial for voting in both New Hampshire and Massachusetts in the November 8, 2016, election. The defendant’s double voting registration was identified through an interstate program that compares states’ voter databases to identify duplicates or irregularities. The defendant owned property in both states and admitted to being registered to vote in each, as well as voting in each state; however, he denied voting in both states during the same election. During the investigation, a third party – a long-time acquaintance – admitted to voting in the defendant’s name in Massachusetts during prior elections and in 2016.

Rule 404(b)’s intent is to ensure that an accused is tried on the merits of the crime and to prevent conviction based on propensity and character inferences drawn from other crimes and wrongs. Prior to the jury trial, the trial court ruled that historical evidence of the defendant’s voter registration was admissible, over the defendant’s objection that it served no benefit except to show a propensity to commit the crime charged under a Rule 404(b) analysis. The trial court also precluded evidence of a third-party perpetrator, citing it as inadmissible propensity evidence under Rule 404(b), and noted that the defendant failed to comply with the notice provisions of the Rules of Criminal Procedure. Based on that exclusion, the court also denied a Richards hearing to address the third party’s potential testimony. The defendant appealed the court’s Rule 404(b) rulings.

The Court reversed and remanded the conviction, finding the trial court erred in admitting the defendant’s voting history because it created unfair prejudice which substantially outweighed the probative value of the evidence, given that the voting history was minimally incremental to other available evidence. The Court also found that the trial court erred in excluding evidence of the third party because it failed to distinguish between evidence that the third party voted in the defendant’s name in the 2016 election and evidence of the third party voting in previous elections. The Court articulated that the 2016 evidence is not propensity evidence of past crimes; thus, it is not inadmissible. Additionally, because the

third party’s testimony regarding 2016 voting is not inadmissible, the court’s decision to decline a Richards hearing based on the exclusion of that testimony can no longer stand. It must be addressed on remand if the third party invokes his Fifth Amendment rights.

John M. Formella, attorney general, and Anthony J. Galdieri, solicitor general (Sam M. Gonyea, assistant attorney general, on the brief and orally), for the State. Hinckley, Allen & Snyder LLP, of Manchester and Boston, Massachusetts (Michael J. Connolly and Cassandra T. Desjourdy on the brief, and Michael J. Connolly orally), for the defendant.

State v. Freese
No. 2025-0028
April 24, 2026
Reversed and Remanded

- Whether the trial court erred by reinstating the indictments after they were dismissed by operation of law pursuant to RSA 135:17-a, IV, based on new information calling into question whether the defendant was actually incompetent to stand trial when that new information came to light during the dangerousness evaluation conducted pursuant to RSA 135:17-a, V, and RSA 135-C:34.

The defendant was charged with several crimes based on a 2020 incident. Under RSA 135:17-a, if a court finds that a defendant is mentally unfit to stand trial, it must follow a specific process for evaluation, treatment, reevaluation within 12 months, and potentially involuntary civil commitment. During this statutorily mandated process, and following the reevaluation, the court dismissed the criminal charges against the defendant without prejudice when he was found still not competent to stand trial. It also ordered the defendant held for 90 days to pursue civil commitment. As part of the commitment process, the trial court granted the State’s petition for further evaluation of the defendant. The evaluator concluded the defendant was not mentally ill and not dangerous, giving rise to a substantial question as to whether he was ever incompetent to stand trial. The trial court reconsidered its previous decision which found the defendant not competent and vacated its dismissal of the original indictments. The trial court granted the defendant’s motion for interlocutory appeal to determine if the court had the authority to reinstate the indictments after dismissal.

The Court found, based on its statutory interpretation, that “Neither the trial court’s statutory nor inherent authority extends to reinstating the dismissed criminal indictments at any time after they have been dismissed under RSA 135:17-a, IV.” The case was reversed and remanded.

John M. Formella, attorney general, and Anthony J. Galdieri, solicitor general (Sam M. Gonyea, assistant attorney general, on the brief and orally), for the State. Stephanie Hausman, chief appellate defender, of Concord, on the brief and orally, for the defendant.

Family Law

In the Matter of Whitehead & White-

Superior Court Judicial Evaluation Notice

The chief justice of the Superior Court is currently in the process of conducting judicial evaluations in accordance with Supreme Court Rule 56 and RSA 490:32, and invites you to participate in this process. The following justices are presently being evaluated:

- Hon. David A. Anderson, Hillsborough County–Northern District Superior Court
- Hon. Mark D. Attorri, Carroll County Superior Court; Belknap County Superior Court
- Hon. N. William Delker, Hillsborough County–Northern District Superior Court
- Hon. Martin P. Honigberg, Merrimack County Superior Court; Sullivan County Superior Court
- Hon. James W. Kennedy, Sullivan County Superior Court
- Hon. Michael A. Klass, Hillsborough County–Northern District Superior Court
- Hon. Lawrence A. MacLeod, Grafton County Superior Court; Coos County Superior Court
- Hon. Jacki A. Smith, Hillsborough County–Southern District Superior Court; Cheshire County Superior Court
- Hon. Daniel I. St. Hilaire, Merrimack County Superior Court; Rockingham County Superior Court

To complete a questionnaire, go to courts.nh.gov/resources/committees/judicial-performance-evaluation-advisory-committee/current-superior-court until June 1, 2026. From there, you can choose the justice that you would like to evaluate and it will bring you directly to that justice’s survey. While responses will be shared with the justice being evaluated, the identity of the respondent will remain anonymous, and will otherwise be treated as confidential.

If you do not have access to the internet or would prefer to have a hard copy of the evaluation mailed to you, please call (603) 271-2030 and request that one be mailed. As stated above, while responses will be shared with the justices being evaluated, they are treated as confidential, and the identity of the respondent will remain anonymous. In fact, if you request a hard copy of the evaluation form, we ask that you do not sign the completed evaluation.

Your help with this evaluation process is invaluable and we greatly appreciate you taking the time to help us with this endeavor. ♦

- Whether the law of Ontario, Canada, or the law of New Hampshire determines the divisibility of certain annuities in a New Hampshire divorce proceeding, and whether that choice of law affects the determination of alimony.

The husband suffered a spinal injury in a car accident in Ontario, Canada, in 1999, which left him a quadriplegic. After settling two lawsuits, he received monthly annuity payments from a Canadian insurer for each of the two settlements. The first lawsuit was settled in 2003, before he married his wife in 2004. The second lawsuit was settled in 2010.

The couple moved to New Hampshire in 2014. In 2021, the wife initiated divorce proceedings. Among other things, the wife requested an equitable division of each annuity. The husband sought to prevent the division of the annuities or, in the alternative, requested alimony to offset the division of those funds.

On appeal, the husband's theory was that Ontario law should govern the annuity disbursements, as it prescribes the division of personal injury settlement funds—such as an annuity—at the time of divorce. However, the Court affirmed the trial court's application of New Hampshire law to determine if the annuities were divisible. The first annuity vested prior to the marriage and was, therefore, retained by the husband in full. The second annuity, however, was established after the marriage but before the divorce and was thus subject to division.

The husband also argued that the trial court erroneously denied him alimony, which he sought conditionally in the event an annuity was found divisible. He argued the trial court failed to consider the reduction in his monthly income resulting from the division of the annuity. The Court held that the trial court unsustainably exercised its discretion when assessing the husband's need for alimony; consequently, it vacated that portion of the order and remanded the case. The Court also found that, on remand, the trial court should consider the husband's health complications, expenses, and ability to earn an income.

Atwood & Cherny, PC, of Newton, Massachusetts (Mary Beth Sweeney on the brief and orally), for the petitioner. Sheehan & Gordon, PA, of Nashua (Andrew J. Piela on the brief and orally), for the respondent.

In the Matter of Stansfield & Patti,

No. 2024-0715

April 23, 2026

Reversed and Remanded

- Whether RSA 546-B:31 divests the circuit court of the subject matter jurisdiction conferred by RSA 490-D:2 when a person seeks support from a resident of another state, even if the trial court possesses personal jurisdiction over both parties.

The mother and father, unmarried parents of two children, separated in January 2023. After the separation, the father stopped depositing money for support into the couple's joint account and

moved to Florida. The mother, a resident of New Hampshire, filed a parenting petition seeking final orders, including a requirement for the father to pay child support. The trial court issued a final parenting plan but declined to issue a child support order. It found that although it had personal jurisdiction over both the mother and father, it lacked subject matter jurisdiction under RSA 546-B:31, a provision of the Uniform Interstate Family Support Act (UIFSA), even though jurisdiction is conferred under RSA 490-D:2. The mother appealed.

The Court detailed its statutory interpretation and, based on the facts and circumstances, found the trial court's interpretation and application of RSA 546-B:31 too narrow in the context of the entire statute. When the statute was analyzed more broadly in the context of the nine articles of UIFSA, the Court concluded the trial court has subject matter jurisdiction; thus, it reversed and remanded the trial court's ruling.

Shanelaris Schirch & Warburton PLLC, of Nashua (Jennifer E. Warburton on the brief), for the petitioner. Todd Patti did not appear. John M. Formella, attorney general, and Anthony J. Galdieri, solicitor general (Mary A. Triick, senior assistant attorney general, on the brief), for the New Hampshire Department of Health and Human Services, Bureau of Child Support Services, as amicus curiae.

Health and Human Services Law

Petition of Metro Treatment of N.H.

No. 2025-0028

April 29, 2026

Affirmed and Remanded

- Whether the Administrative Appeals Unit (AAU) of the New Hampshire Department of Health and Human Services (DHHS) has jurisdiction over a payment dispute in which a Medicaid Managed Care Organization seeks to recoup alleged overpayments of Medicaid funds from a healthcare provider.

The petitioner is a healthcare provider, and the respondent is a Medicaid Managed Care Organization engaged in a payment dispute governed by an ancillary services agreement. The petitioner operates DHHS-licensed outpatient opioid treatment clinics where some of the respondent's Medicaid-eligible patients are enrolled. The respondent is responsible for providing and arranging healthcare services for its members and makes payments to the petitioner for covered services provided to those members.

Following an audit of patient records, the respondent informed the petitioner of an alleged overpayment it intended to recoup. After initial efforts to resolve the issue in accordance with their contractual agreement, the respondent informed the petitioner of its right to dispute the overpayment determination through a State Fair Hearing per RSA 126-A:5, VIII.

The petitioner filed an appeal with the Administrative Appeals Unit (AAU) but maintained that the AAU lacked jurisdiction over payment disputes between Medicaid Managed Care Organizations and providers. The AAU issued a decision stating it had jurisdiction under RSA 126-A:5 to hear appeals arising from a determination that Medicaid payments were inappropriately made and should be

recouped. It then denied the petitioner's motion to reconsider the respondent's claims. The petitioner then petitioned for and was granted a writ of certiorari, during which time the AAU stayed its proceedings.

The Court found, based on statutory interpretation, that DHHS correctly determined it had jurisdiction over appeals filed by providers who are licensed or certified by the department. Thus, the Court affirmed the AAU's decision and remanded the case to the AAU for further proceedings. The Court noted it was not asked to, and therefore did not, determine if the AAU's jurisdiction is exclusive.

Sheehan Phinney Bass & Green, PA, of Manchester (John-Mark Turner and Cassandra O. Rodgers on the brief, and Cassandra O. Rodgers orally), for the petitioner. Wadleigh, Starr & Peters, PLLC, of Manchester (Michael J. Tierney and Elizabeth E. Ewing on the brief, and Michael J. Tierney orally), for the respondent. John M. Formella, attorney general, and Anthony J. Galdieri, solicitor general (Mary A. Triick, senior assistant attorney general, on the memorandum of law and orally), for the State.

Insurance Law

In the Matter of Liquidation of Home Ins. Co.

No. 2025-0178

April 24, 2026

Affirmed

- Whether the Insurers Rehabilitation and Liquidation Act (Act), RSA 402-C, supports calculating appellant's contribution rights using the nominal amount of an insolvent insurer's settlement or its actual distributions to the insured.

The appellant, Century Indemnity Company (CIC), and the Home Insurance Company (Home) both issued policies to the insured to cover the same risks. CIC also reinsures Home and is thus liable to indemnify Home's liabilities to policyholders in certain circumstances. The insured filed insurance claims against both companies.

In 2003, Home became insolvent and entered liquidation procedures pursuant to the Act. In 2023, the New Hampshire Insurance Commissioner (Liquidator, the appellee), settled Home's liability with the insured to collect from Home's estate, though said funds were inadequate to pay the full settlement amount.

CIC asserted a claim against Home

for the shortfall between the settlement and the actual payment, arguing the Insured would seek indemnity from CIC as a co-insurer. In addition to CIC's share of the co-insured risk, CIC was seeking to offset a contribution claim against its reinsurance obligation to Home. The Liquidator disallowed CIC's contribution claim. The parties asked the referee to determine whether "the allowed settlement amount or the amount paid in distributions should be considered in determining the extent of any right of CIC to contribution from Home."

The referee determined that "(1) under the Act, for the purpose of CIC's right to contribution, Home had paid its 'fair share' by settling with the insured; and (2) therefore, CIC could not assert contribution rights against Home deriving from the shortfall between the full settlement figure and Home's actual distributions to the insured." CIC moved to remit the referee's order, and the Superior Court declined. CIC then appealed to the Court.

CIC's theory was that the contribution claim against Home should be calculated based on Home's actual distributions to the Insured, rather than the nominal settlement figure. The Court affirmed the referee's ruling after detailing its statutory interpretation, finding that the Act provides a complete scheme that governs the resolution of claims against a liquidating insurer, including, as in the present case, a co-insurer's common law claims for contribution. Thus, "the Act abrogates any inconsistent common law rules pertaining to a co-insurer's continuation claim asserted against a liquidating insurer," and "the amount of Home's settlement, not the Liquidator's actual distribution to the insured, determines the extent of CIC's contribution rights."

Morrison & Foerster LLP, of New York, New York (Joseph R. Palmore, James A. Newton, and Alexandra M. Avvocato on the brief, and Joseph R. Palmore orally), and Orr & Reno, PA, of Concord (Lisa Snow Wade on the brief), for the appellant. John M. Formella, attorney general (Christopher G. Bond, associate attorney general, on the brief), and Davis, Malm & D'Agostine, PC, of Boston, Massachusetts (J. David Leslie and Eric A. Smith on the brief, and Eric A. Smith orally), for the appellee.

Real Estate Law

J&C Properties v. Rayster Realty, 2026

AT A GLANCE *continued on page 40*

Need to schedule a Mediation?

FEBRUARY 2026

Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28		

Fast-track scheduling at www.NHMediators.org

N.H. 12
No. 2024-0560
April 2, 2026
Affirmed

- Whether the trial court could have properly concluded the seller's conduct under the circumstances justified an inference that it waived its contractual right to declare the buyer in default, despite the lack of any express waiver.

The buyer and seller entered into a purchase and sale agreement for an apartment building in 2021 with an agreed purchase price and a November 30, 2021 closing deadline. The agreement included a contingency requiring the buyer to provide either a written financing commitment or a notice of inability to secure financing to the seller by November 26, 2021. If the buyer missed this deadline, the seller had the option to declare the buyer in default or, alternatively, treat the financing contingency as waived.

Over the following weeks, financing was approved contingent on an appraisal. The buyer and seller communicated verbally, and the buyer sent two proposed addendums to extend the deadline, which the seller did not sign. The buyer did not provide a written financing commitment or communicate an inability to secure financing by November 26. Consequently, the buyer sued for specific performance of the agreement, while the seller counterclaimed and moved for partial summary judgment, asserting a breach of contract and the right to terminate the P&S.

The trial court denied the seller's motion for summary judgment, and a jury ultimately returned a verdict in favor of the buyer. The trial court awarded specific performance of the P&S and ordered a closing within 30 days.

On appeal, the seller argued that the trial court incorrectly denied the motion for summary judgment by concluding there was a material factual dispute. The seller also contended that the court erred by admitting oral communications at trial in the absence of a written modification, citing the statute of frauds, and erred by granting specific performance rather than monetary damages.

The Court affirmed the trial court's denial of partial summary judgment, citing a factual dispute regarding whether the seller deemed the buyer in breach or had waived the financing contingency based on the seller's conduct. The Court also found that the trial court did not err in admitting the parties' oral communications; although the statute of frauds applied, the communications fell under the part performance doctrine exception. Finally, the Court held that the trial court properly awarded specific performance to the buyer following the breach of a land sale contract.

Joshua L. Gordon, of Concord, on the brief and orally, for the plaintiff. Cleveland, Waters and Bass, PA, of Concord (Jeffrey C. Christensen on the brief and orally), for the defendant.

Right-to-Know Law

Town of Hanover v. Valley News
No. 2024-0648
April 15, 2026
Reversed and Remanded

- Whether the trial court erred in failing to award the defendant reasonable attorney fees and costs under RSA Chapter 91-A.

RSA 91-A:8 (New Hampshire's Right-to-Know Law) states that reasonable attorney fees and costs incurred under this chapter shall be awarded if a lawsuit is required to obtain information and the public body or agency knew or should have known it was in violation of the Right-to-Know Law. The defendant, Valley News, appealed the denial of attorney fees and costs against the plaintiff, Town of Hanover/Hanover Police Department.

In 2023, the defendant filed a Right-to-Know request pursuant to RSA Chapter 91-A with the plaintiff to obtain records regarding the arrest of two Dartmouth students.

The plaintiff stated that it could not release the records, even with the students' attorney's assent, due to an active criminal prosecution. The defendant persisted, and the plaintiff filed an action for declaratory judgment. The defendant counterclaimed, requesting that redacted records be released.

After the court ordered the records released, the defendant requested, and was awarded, costs and attorney's fees. The plaintiff moved for reconsideration.

The trial court denied the motion to reconsider releasing the records but granted the motion regarding attorney's fees and costs.

In its reconsideration, the court noted, among other things, that the Right-to-Know Law in New Hampshire is a complex and unsettled area, and its previous ruling – that the plaintiff should have known it was violating the Right-to-Know Law – was erroneous.

The trial court reversed its prior award of attorney's fees and costs to the defendant, and neither party initially appealed.

A few months later, the defendant sought to reopen the case to award attorney's fees and costs, arguing, based on the content of the released records, that the plaintiff knew or should have known it was violating the Right-to-Know Law. The trial court was unmoved, and an appeal to the Supreme Court followed.

The defendant argued that the plaintiff at a minimum could have released publicly available information contained in reports and governmental records, and that a blanket denial to release all records knowingly violated the Right-to-Know Law.

The defendant further argued it could not raise that point until it had access to the information provided per the trial court's order to release the records.

The plaintiff argued the defendant's request was untimely but failed to cite a filing deadline which the defendant missed.

The plaintiff also argued the defendant did not initiate the lawsuit; rather, the plaintiff filed the declaratory judgment and made good-faith efforts to comply with unsettled areas of law.

The Court was unpersuaded by the plaintiff's arguments and reversed and remanded the ruling for the trial court to award legal costs and fees.

Gallagher, Callahan & Gartrell, PC, of Concord (Matthew V. Burrows on the brief and orally), for the plaintiff. Orr & Reno, PA, of Concord (William L. Chapman on the brief and orally), for the defendant.

NH Supreme Court Orders

In accordance with Supreme Court Rule 37(5)(a), the Supreme Court reappoints Mr. James L. Snyder as a non-attorney member of the Complaint Screening Committee, to serve an additional three-year term commencing March 1, 2026, and expiring February 28, 2029.

Issued: April 2, 2026
 ATTEST: Timothy A. Gudas, Clerk of Court
 Supreme Court of New Hampshire

Pursuant to RSA 505:1, the Supreme Court appoints Mary Beth Hardiman to serve as the acting Reporter of Decisions, effective immediately, and then to serve as the Reporter of Decisions, effective May 1, 2026.

Issued: April 6, 2026
 ATTEST: Timothy A. Gudas, Clerk of Court
 Supreme Court of New Hampshire

Pursuant to Part II, Article 73-a of the New Hampshire Constitution and Supreme Court Rule 51, the Supreme Court of New Hampshire adopts the following amendments to court rules.

I. Circuit Court – Family Division Rule 2.3(G)

(This amendment corrects a typographical error in Rule 2.3(G).)

1. Amend Circuit Court – Family Division Rule 2.3(G) as set forth in Appendix A.

II. Supreme Court Rule 42

(These amendments serve to update the language of Rule 42 to include references to the NextGen Uniform Bar Examination (NextGen UBE), in accordance with the Supreme Court's July 2025 announcement concerning implementation of the NextGen UBE as the New Hampshire bar examination as of July 2028 and the portability of NextGen UBE scores.)

1. Amend Supreme Court Rule 42 as

set forth in Appendix B.
Effective Date

The amendments shall take effect on April 20, 2026.

Issued: April 16, 2026
 ATTEST: Timothy A. Gudas, Clerk of Court
 Supreme Court of New Hampshire

The Supreme Court, having received a recommendation from the Board of Bar Examiners (BBE) pursuant to Supreme Court Rule 42, I(b)(4), approves the BBE's recommendation to establish 620 as the minimum score that will be considered passing on the NextGen Uniform Bar Examination (NextGen UBE) prepared by the National Conference of Bar Examiners. The minimum passing score on the legacy Uniform Bar Examination (Legacy UBE) prepared by the National Conference of Bar Examiners remains 270, as previously established by the BBE with the Supreme Court's approval.

Issued: April 27, 2026
 ATTEST: Timothy A. Gudas, Clerk of Court
 Supreme Court of New Hampshire

In accordance with Supreme Court Rule 53.5, the Supreme Court appoints Attorney Kathleen M. Mahan to the Minimum Continuing Legal Education Board (MCLE Board). Attorney Mahan, who succeeds Attorney Corey M. Belobrow on the MCLE Board as of May 1, 2026, shall serve the unexpired portion of Attorney Belobrow's three-year term. Accordingly, her term shall commence May 1, 2026, and expire February 14, 2028.

The Supreme Court designates Attorney Mahan to serve as chair of the MCLE Board upon the commencement of her term.

Issued: April 28, 2026
 ATTEST: Timothy A. Gudas, Clerk of Court
 Supreme Court of New Hampshire

ADMINISTRATIVE ORDER 2026-02
HOLIDAY SCHEDULE FOR CALENDAR YEAR 2027

Pursuant to its rule making authority and RSA 490:4, the Supreme Court promulgates the following holidays during calendar year 2027:

1. New Year's Day	Friday	January 1, 2027
2. Martin Luther King, Jr. Civil Rights Day	Monday	January 18, 2027
3. Washington's Birthday	Monday	February 15, 2027
4. Memorial Day	Monday	May 31, 2027
5. Juneteenth	Friday	June 18, 2027
6. Independence Day	Monday	July 5, 2027
7. Labor Day	Monday	September 6, 2027
8. Columbus Day	Monday	October 11, 2027
9. Veterans Day	Thursday	November 11, 2027
10. Thanksgiving Day	Thursday	November 25, 2027
11. Day after Thanksgiving	Friday	November 26, 2027
12. Christmas Day	Friday	December 24, 2027

Courts shall be open for the purpose of conducting arraignments, pursuant to RSA 594:20-a, and for the purpose of conducting Gerstein hearings, pursuant to District Court Administrative Order 91-01, on Friday, November 26, 2027.

Date: May 7, 2026
 ATTEST: Timothy A. Gudas, Clerk of Court
 Supreme Court of New Hampshire

March 2026

* Published

BREACH OF CONTRACT

Foy, et al. v. US Bank, et al., 24-cv-295-PB-TSM, 2026 DNH 018, March 4, 2026

Plaintiffs Arthur Foy and Larissa Blitz reside in a home they lost to foreclosure. They sued U.S. Bank in its capacity as trustee for the trust that owns that property. In their complaint, plaintiffs allege U.S. Bank breached an agreement to allow the plaintiffs to repurchase the property. They additionally sought an injunction barring U.S. Bank from selling the property until the Court resolved the breach of contract claim. U.S. Bank responded with a motion for summary judgment arguing that plaintiffs cannot prove their breach of contract claim. The Court granted U.S. Bank's motion, finding that no genuine dispute as to any material fact existed regarding the plaintiffs' breach of contract claim. Moreover, the Court granted U.S. Bank's motion for summary judgment as to plaintiffs' requested injunctive relief. 11 pages. Judge Paul J. Barbadoro.

8 U.S.C. § 1252(a)(5)

Ortega-Varela v. Brackett, 25-cv-483-PB-TSM, 2026 DNH 020, March 9, 2026

Habeas corpus petitioner Cristofer A. Ortega-Varela sought a temporary restraining order enjoining his imminent removal from the United States. The petitioner argued that his removal would foreclose his opportunity, promised by federal regulation, to apply for adjustment of status as a Special Immigrant-Juvenile. The Court held that 8 U.S.C. § 1252(a)(5) stripped it of jurisdiction because the petitioner's challenge would require the Court to review the merits of his underlying removal order. The petitioner remained free to raise his claims in the U.S. Court of Appeals for the Third Circuit, where federal statute channels his challenges. Motion denied. 7 pages. Judge Paul J. Barbadoro.

BREACH OF CONTRACT

Mount Prospect Academy, Inc. et al v. Philadelphia Indemnity Insurance Company, 25-cv-56-LM-AJ, 2026 DNH 021P, March 11, 2026

Two companies operating long-term residential care facilities for children sued their insurer after the insurer largely denied coverage to the facilities in over 100 suits brought by former residents alleging they were abused while in the facilities' custody. Specifically, the insurer claimed that the facilities were only entitled to coverage under a single coverage part's \$1 million wasting limit, which the facilities claimed was being quickly depleted by defense costs. The insurer moved to dismiss under Rule 12(b)(6). The court denied the insurer's motion, finding that New Hampshire recognizes a claim for bad-faith breach of an insurance contract, insofar as it recognizes a claim for breach of the implied covenant of good faith contained in every insurance contract. The court also concluded that the facilities' breach of con-

tract claim was adequately pled and was not clearly time barred. Finally, the court found that the insurer failed to demonstrate that its coverage position was correct as to each and every lawsuit brought against the facilities, and on that basis declined to dismiss the facilities' claim for a declaratory judgment. 14 pages. Judge Landya B. McCafferty.

HABEAS CORPUS, 28 U.S.C. § 2254

David Shaw v. Northern New Hampshire Correctional Facility, Warden, Civil No. 22-cv-164-SE-AJ, Op. No. 2026 DNH 022, March 16, 2026.

Self-represented petitioner David Shaw sought habeas corpus relief on the grounds that his convictions for sexual assault were the result of violations of his Fifth, Sixth, and Fourteenth Amendment rights. The court granted the warden's motion for summary judgment, because the petition was untimely and Shaw provided no new evidence to support a claim of a miscarriage of justice, because Shaw had not exhausted state remedies and procedurally defaulted his claims, and because his claims would not succeed on the merits. 12 pages.

FAIR LABOR STANDARDS ACT

USDOL v. FNN Co. Inc., 26-cv-199-PB-AJ, 2026 DNH 024, March 23, 2026

United States Secretary of Labor Lori Chavez-DeRemer sought a temporary restraining order (TRO) enjoining FNN Company, Inc. and its owner from retaliating against employees who assert their rights under the Fair Labor Standards Act, 29 U.S.C. § 201, et seq. Specifically, the Secretary sought a TRO that would restrain FNN from continuing to violate Section 15(a)(3) of the FLSA, 29 U.S.C. § 215(a)(3), and allow the Secretary to notify FNN's employees of their rights under the FLSA. The Court concluded that, on the present record, it could not determine whether the alleged act of FNN's owner constituted an actionable threat to take "adverse action" under Section 15(a)(3) of the FLSA. As such, the Court found that the Secretary was unlikely, on the present record, to succeed on the merits of her Section 15(a)(3) retaliation claim. The Court denied the motion for a temporary restraining order without prejudice to the Secretary's right to seek preliminary relief on a more fully developed record. 8 pages. Judge Paul J. Barbadoro.

MILITARY DISCHARGE REVIEW

Machado v. Driscoll, 25-cv-42-PB-TSM, 2026 DNH 029, March 26, 2026

Plaintiff Jeffrey Machado sued the Secretary of the Army in his official capacity to contest the Army Discharge Review Board's (ADRB) refusal to upgrade his discharge characterization. On cross-motions for summary judgment, the plaintiff asserted that the ADRB's decision overlooked his argument asserting his discharge's non-compliance with 10 U.S.C. § 1177; failed to apply liberal consideration to his evidence that post-traumatic stress disorder (PTSD) and traumatic brain injury (TBI) affected the circumstances of his discharge; neglected to consider evidence of his post-service

rehabilitation; and violated his procedural due process rights. After narrowing its review to the ADRB's final of three written decisions, the Court carefully reviewed the ADRB's reasoning. The Court found the ADRB's decision devoid of mention of the plaintiff's section 1177 argument and his medical evidence supporting his PTSD and TBI diagnoses, warranting remand. As for his post-service evidence, the Court determined that while sufficiently addressed by the ADRB under First Circuit precedent, the evidence's consideration in conjunction with the ADRB's flawed medical analysis necessitated remand. The Court dismissed the plaintiff's due process theory based on his implicit acknowledgment that he received notice of and ample opportunity to participate in the ADRB's proceedings. Plaintiff's cross-motion granted; defendant's cross-motion denied. 36 pages. Judge Paul J. Barbadoro.

FTCA

Nixon v. United States, 24-cv-213-PB-TSM, 2026 DNH 031, March 31, 2026

Plaintiff Celena Nixon sued the United States under the Federal Tort Claims Act (FTCA) based on injuries she sustained falling down a fire pole at Pease Air National Guard Base's fire station. Asserting negligence and premises liability theories, the plaintiff generally alleged that the fire department negligently failed to secure the pole and negligently failed to warn visitors of the hazards it posed. In its motion for summary judgment on most of the plaintiff's claims, the government invoked the FTCA's discretionary-function and misrepresentation exceptions. As to the discretionary-function exception, the Court found that the pole's safety attributes at issue did not contravene any applicable mandatory duties and were susceptible to competing policy interests of safety and response speed, precluding the Court's jurisdiction over the plaintiff's related claims. As to the misrepresentation exception, the Court determined that the plaintiff's failure-to-warn claims were squarely foreclosed by First Circuit precedent because the department's noncommunication amounted to a causative link in the plaintiff's theories of liability. Motion granted in part. 22 pages. Judge Paul J. Barbadoro.

RESPA

Janine Fraser v. Select Portfolio Services

Inc., 23-cv-446-LM, 2026 DNH 023P, March 16, 2026

Plaintiff, a homeowner, sued her mortgage loan servicer alleging that it violated various provisions of the Real Estate Settlement Procedures Act (RESPA) by failing to respond to her requests for information regarding her mortgage. In denying the servicer's motion for summary judgment, the court found that the plaintiff had statutory standing to invoke RESPA's protections even though she did not sign the promissory note, that the record evidence was sufficient for a reasonable jury to conclude that the servicer failed to comply with RESPA's requirements to respond to the plaintiff's requests for information, and that the plaintiff's damages were causally connected to the servicer's violations. Finally, the court found that the plaintiff could not seek injunctive relief under the statute. 31 pages. Judge Landya B. McCafferty.

April 2026

* Published

28 U.S.C. § 2241

Ata v. Strafford County Department of Corrections, Superintendent, 26-cv-6-PB-TSM, 2026 DNH 036, April 3, 2026

Alien detainee Alain Ata petitioned for a writ of habeas corpus, seeking release from federal custody. The petitioner argued that he was entitled to release because the government's notice of its reasons for revoking his bond was late and insufficient, violating 8 C.F.R. § 241.13(i)(3), and because his removal was unlikely in the foreseeable future, triggering release under *Zadvydas v. Davis*, 533 U.S. 678 (2001). The Court found that the government's notice adequately apprised the petitioner of the basis for revocation and, while agreeing that the government's notice was eight days late, concluded that any remedy for that delay would be futile given the extant support for revocation. The Court further found the government's evidence of imminent plans to remove the petitioner the following week persuasive, precluding his *Zadvydas* claim. Petition denied. 15 pages. Judge Paul J. Barbadoro.

LISTING continued on page 42



28 U.S.C. § 2241

Beneche v. FCI Berlin, Warden, 26-cv-203-LM-TSM, 2026 DNH 038 P, 4/16/2026

Beneche, a noncitizen in withholding-only removal proceedings, petitioned for a writ of habeas corpus on the basis that his civil immigration detention of over thirteen months without a bond hearing violated his Fifth Amendment rights to due process. Applying the four-factor test articulated in *Fils-Aime v. FCI Berlin, Warden*, 808 F. Supp. 3d 218, 224 (D.N.H. 2025), the court concluded that Beneche's detention had become unreasonably prolonged and granted his request for a bond hearing before an immigration judge. 14 pages. Judge Landya McCafferty.

28 U.S.C. § 2241

De Leon v. Luna, 25-cv-424-PB-TSM, 2026 DNH 041, April 17, 2026

Alien detainee Bersain Francisco Perez De Leon petitioned for a writ of habeas corpus, seeking either his release or an administrative review of his custody under 8 C.F.R. § 241.4. In support of release, the petitioner invoked *Zadvydas v. Davis*, 533 U.S. 678 (2001), asserting that his removal was unforeseeable while his withholding-only proceedings unfolded. In support of a custody review, he pointed to § 241.4(k)(3)'s requirement that detentions following final orders of removal be reviewed after 180 days. First Circuit precedent declining to extend *Zadvydas* to aliens in withholding-only proceedings foreclosed petitioner's claim for release. The Court agreed with the petitioner, however, that the government could not treat the First Circuit's stay on his removal pending those proceedings as "good cause" to suspend § 241.4(k)(3)'s review requirement and ordered the government to perform an administrative custody review under that provision. Petition granted in part. 16 pages. Judge Paul J. Barbadoro.

28 U.S.C. § 2241

Rosales-Navares v. FCI Berlin, Warden, 26-cv-232-PB-AJ, 2026 DNH 046, April 27, 2026

Alien detainee Luis Fernando Rosales-Navares petitioned for a writ of habeas corpus, seeking immediate release under *Zadvydas v. Davis*, 533 U.S. 678 (2001), or a bond hearing based on the prolonged length of his detention. Based on First Circuit precedent foreclosing *Zadvydas* relief to aliens in withholding-only proceedings, the Court held that the petitioner was not entitled to immediate release. Adopting and applying the four-factor test set forth in *Fils-Aime v. FCI Berlin, Warden*, 808 F. Supp. 3d 218 (D.N.H. 2025), however, the Court concluded that the petitioner's detention had grown unreasonably prolonged and thus held that he was constitutionally entitled to a bond hearing. Petition granted in part. 17 pages. Judge Paul J. Barbadoro.

NH Motor Vehicle Registration

Gordon-Darby Holdings, Inc. v. NH Department of Safety, Commissioner et al., 25-cv-508-LM-AJ, 2026 DNH 047 P, April 29, 2026.

After the court issued a preliminary injunction requiring the Commissioners of the Departments of Safety and Environmental Services to take all steps necessary to continue and resume the state's motor vehicle inspections program as contained in its State Implementation Plan, plaintiff moved for an order directing the Commissioners to show cause why they should not be held in contempt for failing to reinstate the inspections program. The court denied plaintiff's motion. Although the Commissioners' efforts have not yet resulted in resumption of the inspections program, the court found that they have made diligent, reasonable efforts to reinstate the program by (1) seeking the Executive Council's approval to extend the termination date of the program vendor's contract, (2) issuing a request for proposals seeking bids for new program vendors, and (3) pursuing re-adoption of administrative rules underlying the program. The court found that the Commissioners' efforts constituted substantial compliance with the injunction and therefore declined to direct them to show cause why they should not be held in contempt. 10 pages. Judge Landya McCafferty.

28 U.S.C. § 2241

Lopez Flores v. Brackett, 26-cv-94-PB-TSM, 2026 DNH 049, April 30, 2026

Habeas petitioner Dakaret Lopez Flores moved to enforce the Court's prior order affording him a bond hearing, contending that his hearing did not comply with applicable constitutional standards recognized in *Hernandez-Lara v. Lyons*, 10 F.4th 19 (1st Cir. 2021). The Court first rejected the government's jurisdictional objections, holding that the petitioner's arguments raised constitutional challenges beyond the scope of the jurisdiction-stripping provision at 8 U.S.C. § 1226(e) and that the petitioner's liberty interest merited waiver of common-law administrative exhaustion. On the merits, however, the Court also rejected the petitioner's claim that the government's evidence of his dangerousness was insufficient as a matter of law to warrant his detention. Motion denied. 12 pages. Judge Paul J. Barbadoro.

ADA

Fitzmorris v. NHDHHS, 21-cv-25-PB, 2026 DNH 039, April 17, 2026

The plaintiffs in this class action are disabled individuals who are enrolled in New Hampshire's Choices for Independence (CFI) Waiver program. In this action, the plaintiffs sued the New Hampshire Department of Health and Human Services

(DHHS), alleging that DHHS's deficient administration of the CFI Waiver program has placed them at "serious risk of unjustified institutionalization" in violation of both Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. On cross-motions for summary judgment, the Court determined that material factual disputes remain for trial and denied both motions for summary judgment. In so holding, the Court determined that the plaintiffs have standing, could base their claims on their contention that DHHS placed them at serious risk of institutionalization, and raised a triable issue as to whether they can prove class-wide risk of institutionalization. Second, the Court determined that the plaintiffs raised triable issues as to whether DHHS caused plaintiffs to experience service gaps and whether those services place individuals at risk of institutionalization. Finally, the Court determined that the plaintiffs did not establish the facial reasonableness of their proposed modifications to the CFI Waiver program, and DHHS also failed to show that the plaintiffs' proposals are unreasonable or would fundamentally alter the CFI Waiver program. Cross-motions denied. 53 pages. Judge Paul J. Barbadoro.

42 U.S.C. § 1983 / QUALIFIED IMMUNITY

Porter et al. v. Scurry et al., Case no. 20-cv-1210-JL, 2026 DNH 043, April 21, 2026

Former pretrial detainees brought § 1983 claims against Hillsborough County Department of Corrections officials alleging deliberate indifference to COVID-19 risks at the Valley Street Jail. The defendants moved for reconsideration of the court's prior order denying qualified immunity to the jail's superintendent and head nurse during the relevant time period. The court granted the motion in part, reasoning that its prior analysis as to the superintendent failed to account for the facility's stated security-based rationale for restricting inmate masking. Because the undisputed record showed the policy reflected a deliberative professional judgment rather than a conscious disregard of known risks, the court concluded that no reasonable jury could find deliberate indifference, and summary judgment was granted in his favor. The court reaffirmed its prior ruling as to the facility's head nurse, concluding that genuine disputes of material fact remain as to whether she failed to ensure testing of symptomatic inmates despite knowledge of COVID-19's transmissibility and the availability of testing. 8 pages. Judge Joseph N. Laplante.

Federal Arbitration Act

James R. Rosencrantz & Sons, Inc., v. John Deere Co., 25-CV-34-JL, 2026 DNH 040, April 17, 2026

The plaintiff in this lawsuit seeks confirmation of an arbitral award under 9 U.S.C. § 9, where the arbitral panel awarded attorneys' fees to the plaintiff as the prevailing party under N.H. Rev. Stat. Ann. § 357-C:12(X). The defendant objects to the fee award. The court did not immediately confirm the fee portion of the award but instead remanded the matter to the arbitration panel for clarification, finding that although the panel clearly determined that the plaintiff was entitled to seek fees and that such an award was appropriate, the language of the award was ambiguous as to whether the court was required to grant fees or had discretion to do so; because courts must not interpret or supplement ambiguous arbitration awards, clarification from the arbitrators was necessary before enforcement. 9 pages. Judge Joseph N. Laplante.

28 U.S.C. § 2241

Mike Makuraza v. David Wesling, et al., 26-CV-122-JL-AJ, 2026 NHD 042, April 20, 2026

The habeas petitioner, Mike Makuraza, challenged the constitutional adequacy of his immigration custody redetermination (bond) hearing. He sought immediate release from immigration detention on the grounds that an Immigration Judge (IJ) violated his due process rights by improperly finding him a danger to the community without sufficient evidence and without applying the burden of proof recognized in *Hernandez-Lara v. Lyons*, 10 F.4th 19 (1st Cir. 2021). The government opposed the petition on the merits and argued both that the court lacked jurisdiction to evaluate an IJ's discretionary findings, and that the petitioner should be required to exhaust his administrative remedies before bringing suit in federal court. The court found that it had jurisdiction to review the constitutional claim and that exhaustion of administrative remedies was not required, but denied the petition, concluding that the bond hearing comported with due process because the IJ applied the required clear-and-convincing evidence standard and that the petitioner's recent criminal conduct was sufficient to support a finding of dangerousness. 6 pages. Judge Joseph N. Laplante.

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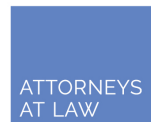
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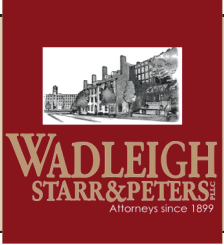
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This is a unique opportunity to join some of New England's most highly-skilled Trusts and Estates attorneys. The ideal candidate should possess a strong academic record and excellent written and oral communication skills, with 7+ years of experience 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.

For more than 107 years, McLane Middleton has supported the long-term growth of its professionals, helping them build rewarding and successful careers. We welcome dedicated self-starters who are eager to advance their careers and pursue business development opportunities.

A hybrid work schedule combining in-office and remote work is available. Qualified candidates will have strong academic credentials from an accredited law school, excellent analytical abilities, and outstanding communication and writing skills, along with a commitment to exceptional client service.

We offer a collegial team culture, robust professional development, and meaningful opportunities for personal and professional growth in a dynamic environment. Candidates must be admitted to the New Hampshire and Massachusetts Bar or have the ability to waive in. Additional bar memberships are a plus. We provide a competitive compensation and benefits package. 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, at jessica.boisvert@mclane.com

Legal Assistant Manchester, New Hampshire

Drummond Woodsum is seeking a full-time legal assistant to join our Manchester office. This role will provide support across multiple practice areas, including Municipal Law, School Law, Labor & Employment Law, and Trial Services. This position entails carrying out administrative services, providing support to legal professionals by preparing various documents including correspondence, legal forms, and other types of documents, and support to enhance attorney/timekeeper effectiveness.

Responsibilities will include:

- Complete administrative duties, such as making copies, answering and directing phone calls, and greeting clients in a professional and courteous manner
- Prepare documents and forms by completing initial drafts, processing edits and red-lining in Word, and conversions and manipulations in PDF
- Handle incoming and outgoing mail
- Communicate with clients
- Keep files and corresponding deadlines organized and identified
- Provide exceptional service to all clients
- Additional duties as assigned

Qualifications:

- Be accurate, detail-oriented, and have strong attention to detail
- Take initiative and be proactive; anticipate needs; reach out to become more involved
- Strong writing and verbal communication skills; excellent spelling, punctuation, and grammar skills
- System proficiency: general knowledge and experience with common software applications, such as Microsoft Office Suite and PDF processing; strong Excel and MS Word skills in particular
- Motivated to learn and provide work of the highest quality
- Prior legal experience preferred

For consideration, please submit your resume and cover letter by email to hr@dwmlaw.com. We look forward to hearing from you.

Labor and Employment Attorney Manchester, New Hampshire

Drummond Woodsum's Manchester, NH office is seeking an attorney to join our labor and employment law practice group. We are a collaborative, tight-knit team that works closely with employers, particularly in the New Hampshire public sector (e.g., school districts, town, cities, and counties) and Tribal Nation clients, to provide thoughtful, practical guidance on workplace issues before they become disputes.

A central focus of this role is client counseling and proactive risk assessment. Our attorneys advise organizational leaders, HR professionals, and public officials to help them navigate complex employment issues, identify potential legal risks, and implement sound policies and practices. We provide advice on all aspects of the employer/employee relationship, including collective bargaining, grievance administration, workplace discrimination, disability accommodation compliance, wage and hour laws, and workplace misconduct. Our team is also frequently called upon to provide training on labor and employment law topics to supervisors and employees. While much of our work involves preventative counseling and strategic guidance, our team also represents clients in state and federal courts, before federal and state agencies, and in labor arbitration.

We are seeking qualified applicants who are interested in developing a practice centered on client counseling, particularly within the New Hampshire public sector. The ideal candidate will have excellent academic credentials; research, writing, interpersonal, and analytical skills; and have an interest in labor and employment law. Applicants with 0-5 years of related experience are encouraged to apply. We are invested in the success of all our associates and will provide training, mentoring, and resources to support your development as a labor and employment practitioner. New Hampshire bar admission is strongly preferred and the ability to obtain NH bar admission is required. As a close-knit, collaborative team, this role is primarily in-person, with occasional flexibility for remote work.

Drummond Woodsum offers a competitive compensation and benefits package. We are committed to diversity and inclusion in our hiring practice and encourage qualified candidates of all backgrounds to apply. Please send your cover letter and resume to hr@dwmlaw.com. All inquiries are held in the strictest confidence. No phone calls, please.

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.



NH LIQUOR COMMISSION - ATTORNEY IV

Position # 44223 – Concord Office

Salary Range: \$72,579 - \$99,586.50

See *total compensation information at the bottom of announcement.

The New Hampshire Liquor Commission currently has an attorney position available to supervise, integrate, coordinate, and evaluate all legal and legislative objectives and actions for the NH Liquor Commission.

The Duties include:

- Reviews documents, contracts, and relevant issues on behalf of the Commission and its three divisions and provides legal advice regarding them.
- Conducts and provides legal research on various Commission Administrative Rules, Regulations, Issues, Policies, and State & Federal Laws.
- Assists with agency legislative issues, formulates strategy, and represents agency as required.
- Serves as an advisor to the NHLC senior management team by effectively communicating legal advice. Assists with legal hearings and prepares legal hearings Orders and Decisions.
- Represents Commission and manages lawsuits and legal proceedings, including criminal matters and appeals.
- Oversees compliance issues, interfacing with relevant State and Federal Agencies.
- Conducts legal programs and initiatives to ensure efficiency and consistency in application of Commission objectives and recommends corrective action.
- Works with the NH Department of Justice on legal matters as needed.
- Represents Commission at state and out of state conferences and seminars and prepares and presents legal training and presentations as required.
- Supervises personnel, including disciplining employees, solving personnel problems, developing work methods and writing evaluations.
- Recognizes that everyone we come into contact with is a customer and treats all with courtesy, respect and the utmost professionalism.

Requirements: J.D. from an American Bar Association recognized law school, active member of the New Hampshire Bar Association and in Good Standing, six years' experience in the active practice of law, and a valid driver's license and/or access to transportation for statewide travel.

The Attorney IV is a confidential position.

*TOTAL COMPENSATION INFORMATION

The State of NH total compensation package features an outstanding set of employee benefits, including:

- HMO or POS Medical and Prescription Drug Benefits:
See this link for details on State-paid health benefits: <https://das.nh.gov/hr/benefits.html>
- Value of State's share of Employee's Retirement: 12.15% of pay

Other Benefits:

- Dental Plan at minimal cost for employees and their families (\$500-\$1800 value)
- Flexible Spending healthcare and childcare reimbursement accounts
- State defined benefit retirement plan and Deferred Compensation 457(b) plan
- Paid holidays and generous leave plan
- \$50,000 state-paid life insurance plus additional low cost group life insurance
- Incentive-based Wellness Program (ability to earn up to \$500)

Total Compensation Statement Worksheet:

https://das.nh.gov/documents/hr/JobSearch/FINAL_TOTAL_COMP_STATEMENT_ISSUE.xlsx

Want the specifics? Explore the Benefits of State Employment on our website:

<https://das.nh.gov/hr/documents/BenefitBrochure.pdf>

<https://das.nh.gov/hr/index.aspx>

HOW TO APPLY: Please go to the following website to submit your application electronically through NH First: <http://das.nh.gov/jobsearch/employment.aspx>. A paper application may be sent to: New Hampshire Liquor Commission, 50 Storrs St., Concord, NH 03301, Attention: Karen Garneau. A paper application may be emailed to HR@LIQUOR.NH.GOV EOE

Exciting Opportunity: Join Sabbeth Law!

Hiring Experienced Personal Injury Attorney

Are you an attorney passionate about **making an impact** while growing **personally and professionally**? Sabbeth Law, a growth-oriented personal injury firm serving Vermont and New Hampshire, is looking for a **dedicated, innovative attorney** to join our dynamic team.

We are interviewing candidates with **relevant legal experience** who demonstrate the drive, a growth mindset, and capability to excel in this role.

Why Sabbeth Law?

- 🎯 **A Culture of Growth** – Personal and professional development is at the core of what we do.
- 💡 **Innovative Practices** – We embrace cutting-edge technology, work systems, and invest heavily in training with the best lawyers nationwide.
- 🤝 **Collaborative Environment** – We believe in the power of teamwork and positive challenges.
- ⚖️ **Commitment to Justice** – We deliver above-average outcomes by uncovering the true value of every case.

Who We're Looking For

- ✓ **Experience** in personal injury or a similar practice area.
- ✓ A **growth mindset** and eagerness to learn.
- ✓ Adaptability and openness to **innovative technologies**.
- ✓ A **team player** who thrives in dynamic environments.
- ✓ **Detail-oriented** and organized.

Ready to Make a Difference?

Join a firm where **your contributions matter**, and your **growth is prioritized** alongside the success of our clients, and **where you are not alone but part of a team**.

✉️ Submit your resume, cover letter, and accomplishments to mjs@sabbethlaw.com and crystal@sabbethlaw.com.

🔗 Let's explore how your talents can help us deliver **justice with excellence and innovation**.



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The Division for Children, Youth and Families is seeking Child Protection Attorneys Positions available in Berlin, Conway, and Laconia

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.

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