Maine State Bar Association

MAINE BAR JOURNAL

Volume 38 | Number 2 | 2023





Daniel G. Kagan, Esq.
Craig A. Bramley, Esq.
Jodi L. Nofsinger, Esq.
Michael T. Bigos, Esq.
Susan A. Faunce, Esq.
James E. O'Connell, Esq.
Alicia F. Curtis, Esq.
Miriam A. Johnson, Esq.
Timothy M. Kenlan, Esq.
Travis M. Brennan, Esq.
Elizabeth A. Kayatta, Esq.
Christopher C. Boots, Esq.
Joseph G.E. Gousse, Esq.
Sarah K. Hall, Esq.
Charles P. Hehmeyer, Esq.
Abaigeal M. Ridge, Esq.

We help right the wrong.

When someone is seriously injured by an unreasonably dangerous product, the manufacturer must be held accountable. Berman & Simmons has the experience and unique resources necessary to help make this happen.

Our results speak for themselves. We have recovered over **$1.35 *Billion*** for our injured clients. *No other law firm in Maine comes even close*—because no other firm can match our depth of talent, expertise, or financial strength.

Refer your clients with confidence. **Together we'll win.**

BERMAN & SIMMONS
TRIAL ATTORNEYS

PORTLAND LEWISTON BANGOR

800.244.3576
bermansimmons.com

Maine State Bar
ASSOCIATION
Chartered in 1891

Volume 38 | Number 2 | 2023

MAINE BAR JOURNAL

COMMENTARY

President's Page | Stacy O. Stitham 58
From the Executive Director | Angela P. Armstrong 60

FEATURES

Getting Serious About Legal Burnout | Rebecca Howlett and Cynthia Sharp 62
Optimize Your Optimism | Amy Wood 71
How to Secure Your Smartphone | Mark Bassingthwaighte 68

DEPARTMENTS

BEYOND THE LAW | Daniel J. Murphy 75
ATTORNEY WELLNESS | Kristin Murray-James 82
ACCESS TO JUSTICE | Michelle Draeger and Linsey MacDougall, and Angela Doyle 84
JEST IS FOR ALL | Arnie Glick 93
RES IPSA LOQUITUR | Nancy A. Wanderer 88
ETHICS IN PRACTICE | Paul McDonald 94
Calendar 100
Advertiser's Index 100
Classified Advertising 100

DISCLAIMER: Views and opinions expressed in articles are the authors' own.
CITATION NOTE: According to Uniform Maine Citations (2010 ed.), [a]rticles in the Maine Bar Journal should be cited as follows: Paul McDonald & Daniel J. Murphy, Recovery of Lost Profits Damages: All is not Lost, 24 Me. Bar J. 152 (2009)."
ON THE COVER: iStock

124 STATE STREET, AUGUSTA ME 04330
VOLUME 38 | NUMBER 2 | 2023
FOR ADVERTISING, SUBSCRIPTION, OR SUBMISSION INFORMATION,
CALL 207.622.7523
1.800.475.7523
FAX: 207.623.0083

EDITOR
Kathryn A. Holub | kholub@mainebar.org

DESIGN
Anneli Skaar | anneliskaar@gmail.com

ADVERTISING COORDINATOR
Rachel V. MacArthur | rmacarthur@mainebar.org

EDITORIAL ADVISORY COMMITTEE
Daniel Murphy (Chair)
Meegan Burbank, Matthew Caton, Jonathan Dunitz, Miriam Johnson, Jonathan Mermin

MSBA BOARD OF GOVERNORS
Stacy O. Stitham (President)
Frank H. Bishop Jr. (Immediate Past President)
Jonathan M. Dunitz (President Elect)
Susan A. Faunce (Vice President)
Cheryl J. Cufliffe (Treasurer)
Jason D. Anton (Public Service Sector)
Meegan J. Burbank (District 4)
Teresa M. Cloutier (District 6)
Jill S. Cramer (District 1)
Asha A. Echeverria (BIPOC Lawyers Section)
Frederick B. Finberg (District 3)
Haley B. Hall (District 8)
Christopher Harmon (District 3)
Elizabeth T. Johnston (New Lawyers Section)
Jennifer F. Kreckel (District 2)
Michael S. Malloy (District 5)
Bry J. Martin (District 7)
Zachary F. McNally (District 10)
Stacey D. Neumann (Women's Law Section)
Rachel D. Okun (District 3)
Neil J. Prendergast (District 11)
Rebecca G. Talbert (In-House Counsel)
Ezra A.R. Willey (District 9)

STAFF DIRECTORS
Executive: Angela P. Armstrong
Deputy Executive: Heather L.S. Seavey
CLE: Linda M. Morin-Pasco
LRS: Rachel MacArthur
Communications: Kathryn A. Holub

Maine Bar Journal (ISSN 0885-9973) is published four times yearly by the Maine State Bar Association, 124 State Street, Augusta ME 04330. Subscription price is $18 per year to MSBA members as part of MSBA dues, $60 per year to nonmembers. Send checks and/or subscription address changes to: Subscriptions, MSBA, 124 State Street, Augusta ME 04330. *Maine Bar Journal* is indexed by both the Index to Legal Periodicals and the Current Law Index/ Legal Resources Index-Selected. Maine Bar Journal articles are also available to MSBA members at www.mainebar.org and to subscribers of the Casemaker and Westlaw online legal research services. Views and opinions expressed in articles are the authors' own. Authors are solely responsible for the accuracy of all citations and quotations. No portion of the *Maine Bar Journal* may be reproduced without the express written consent of the editor. Postmaster: send Form 3579 for address corrections. Periodicals postage paid at Augusta ME 04330. All rights reserved. Copyright © 2022 Maine State Bar Association
www.mainebar.org



Stacy O. Stitham is partner with Brann & Isaacson in Lewiston where she practices commercial litigation, intellectual property, and privacy law. She may be reached at sstitham@brannlaw.com.

Spring Reflections and a Look Ahead

Greetings! It is difficult to believe that it is spring already, but as I write this, the days are lengthening, the trees are budding, folks are shedding their winter colds for spring allergies…and the MSBA's Communications Director is politely asking just where the next quarterly installment of my President's Page is.

So as the weather warms and we reflect upon the last few months, I'd like to take this opportunity to brief you on what the MSBA has been up to this winter. At the State House, the MSBA has submitted testimony in support of various measures designed to expand access to justice in Maine, particularly in our hard-pressed rural counties, and to ease the crisis in finding sufficient practitioners able and willing to take on indigent legal services. We submitted three separate letters (as well as testified twice in person) urging the Legislature to allocate additional funding to the Maine Commission on Indigent Legal Services. We were extremely pleased when the Legislature passed the supplemental budget and authorized the Commission to implement an urgently-needed increase in attorney compensation for this critical work to $150 an hour. We have similarly urged the Legislature to raise guardian *ad litem* rates to a comparable level and offered testimony in support of civil legal services funding. Additionally, we have supported the concept behind LD 1462, which would establish a program to provide no-interest loans and a tax exemption to encourage Maine law students to provide indigent legal services after graduation — although we believe further work may be needed to refine the specific incentives identified, and have offered to be a part of further conversations on these incentives should the bill proceed.

Because access to justice requires a fully-functioning judiciary, in addition to testifying in support of approximately a dozen judicial nominations and re-nominations in 2023, we have written and testified in support of increased funding for the Judicial Branch and supported a removal of the residency requirement for District Court appointments. While ultimately the dictates of necessity may lead a district court judge to settle in the area of their appointment — it is highly unlikely, for example, that a judge sitting in Fort Kent will be commuting from outside of Aroostook County — a residency requirement for applicants has the effect of artificially narrowing the pool of candidates, particularly in our most rural counties. And while we have supported increasing the number of trial judges, we have opposed LD 1192, which sought to add judges to our trial bench only at the expense of removing them from our Law Court. At the other end of the spectrum, we have respectfully opposed a bill that would have required seven justices to hear each civil or criminal matter that reaches the Law Court, with the clerk randomly assigning active retired justices in the event of one or more recusals or absences. Such a bill would, in our view, impinge upon the prerogative of the Judicial Branch to oversee and govern its operations.

Outside of our busy legislative agenda, we have partnered with the judiciary, Maine Law, the Maine Board of Bar Overseers, and other organizations around the state to launch the Rural Access to Justice Task Force, which is designed to bring together several stakeholders to explore creative solutions to address the declining number of attorneys serving our rural counties. The MSBA's representative to the Task Force will be Zachary McNally, representative from Hancock and Washington



Counties, who has ably led our own rural access *ad hoc* committee for a number of years. Zach hales from Sherman, Maine, and so is intimately familiar with the important issues at hand.

Last but certainly not least, I hope to see as many of you as possible in Bar Harbor for the annual Summer Bar Conference. While the conference formally kicks off on Monday, June 26 at the Harborside Hotel, Spa & Marina (continuing through Wednesday, June 28), the MSBA has negotiated a special rate with the Harborside for those wishing to arrive a day early, on Sunday. The MSBA's Wellness Committee is working on an exciting menu of optional activities for members on Sunday and Monday morning, allowing us to take full advantage of the wonderful natural resource that is Acadia in the summertime. There will also be networking options for dinner on Sunday night. But even if you'd rather not join a group activity or meal, I would still urge you to use the conference as an excuse to come out a day early, and maximize your time in Vacationland. Tourists prize their time on Mount Desert Island in the summer; we are fortunate enough to live here already. I'll be packing my hiking boots and poles alongside my suit, and look forward to connecting with my colleagues over excellent content, excellent food, and let us hope — excellent weather.





ANGELA P. ARMSTRONG is the Maine State Bar Association's executive director. She can be reached at aarmstrong@mainebar.org.

What Is Wellness?

The definition of wellness, according to Merriam-Webster, is "the quality or state of being in good health especially as an actively sought goal." When I hear the term "in good health," I initially think of physical health…but we know when we hear "wellness," it means so much more than physical well-being. So, I began reviewing Merriam-Webster's synonyms for wellness: wholeness, strength, fitness, vigor, hygiene, welfare, soundness, balance, mindfulness, vitality, and toughness…among others. These words help round out the term wellness, by alluding to mental, financial, spiritual, social, and emotional well-being.

As we all know, the legal community has recognized firsthand how important overall wellness is to being a good and happy attorney. There are so many resources out there to help you identify wellness issues and concerns, as well as provide recommendations and activities to improve your wellness. I'd like to introduce you to a few of the resources available to you through the MSBA that can help you on your road to wellness.

Dr. Amy Wood, Psy.D., is a Maine-based psychologist who helps attorneys be happier and more productive through coaching, training, and consulting. In conducting her research, Dr. Wood discovered that lawyers face remarkable challenges related to stress, unhappiness, and burnout, so she developed a system, *Lawyer Like an Athlete*, designed to target the stressors attorneys face every day. Dr. Wood frequently offers ethics CLE programs through the MSBA and is scheduled to conduct a session in September focused on her *Lawyer Like an Athlete* system. Be sure to register so she can help you clarify what is vital for you to be more productive, effective, and happier, and to turn those clarifications into an actionable plan. As an added bonus, you can earn CLE credit for this program! According to Maine Bar Rule 5(c)(2), which references the Professionalism and Ethics education requirement, qualifying topics include substance abuse and mental health issues as well as attorney wellness. Dr. Wood also contributes quarterly wellness-related articles for the *Maine Bar Journal*—be sure to check out this edition's article on page 71.

The American Bar Association (ABA) website provides an abundance of information specific to attorney wellness. The ABA established an Attorney Well-Being Committee to "help attorneys accomplish professional development and growth while also achieving fulfillment in their personal lives." (americanbar.org) The Committee provides resources and develops education programs to assist attorneys in areas of "career satisfaction, work/life balance, mental/chemical health and addiction issues, physical well-being, and many other quality of life issues." (americanbar.org) I suggest you read the article, The Intersection of Wellness and Leadership, from the November/December 2021 edition of *The Leadership Issue*. Although a little over a year old, the article still provides timely advice and tips that focus on well-being from the perspective of your organization, the individuals within your organization, and the importance of your own self-care. And don't forget to download the Well-Being Toolkit for Lawyers and Legal Employers. It is a living document that offers tools and practical guidance to help you be at your best as you carry out your critical duties as an attorney.

The Institute for Well-Being in Law (IWIL) is another terrific wellness resource that is specific to the legal profession. The Institute, evolved from the National Task Force on Lawyer Well-Being and formed as a 501(c)(3) organization, "is dedicated to the betterment of the legal profession by focusing on a holistic approach to well-being." (lawyerwellbeing.net) IWIL advances policy at the state, national and world-wide levels, provides innovative programming, pioneers research, and keeps well-being in the spotlight of the legal community. Its main goal is "to transform the legal profession's approach to well-

being." (lawyerwellbeing.net) One of the primary means that IWIL employs to get out its message is by holding its annual Well-Being Week in Law (WWIL). Typically held to align with Mental Health Awareness Month in May, which also happens to coincide with Law Day on May 1, WWIL is held the first week of May. For the last couple of years, the MSBA has joined IWIL and pushed information about WWIL out to our members—to provide you wellness-related activity ideas, downloadable worksheets and tips, and daily gratitude challenges. Although 2023 Well-Being Week in Law will be over by the time you read this article, you can still visit the website and download the abundant resources available. Well-being isn't confined to just one week a year, so make use of those ideas for you and your legal staff today!

It is likely that most of us can agree on the general definition of wellness and the many activities we can or should do to improve it, but I suspect everyone's definition of wellness is different when thinking of their own wellness. We all need to do the things that make us feel whole, fit, vital, and balanced…and what works for me, may very well not work for you. But also consider taking some advice from the wellness experts and try a few of their suggested activities to improve your wellness, or work on a specific area of wellness that you've been ignoring lately—you might be surprised at the results.

And, as always, please contact me by phone at (207) 622-7523 or by email (aarmstrong@mainebar.org) with any ideas, questions, or concerns about the Maine State Bar Association. Thank you!







Veteran attorney CYNTHIA SHARP works with motivated lawyers seeking to generate additional revenue for their law firms. She practiced law from 1982 to 2009, when she became sober from alcohol, and then embarked on a professional speaking and writing career. Ever since, she has served solo and small firm attorneys throughout North America. In 2020, she co-founded legalburnout.com to help advocates effectively manage stress, cultivate healthy work environments, and prevent burnout. Cynthia is a graduate of Georgetown University Law Center (J.D.) and New York University School of Law (LL.M.). She can be reached at cindy@thesharperlawyer.com.



REBECCA HOWLETT is an attorney, legal educator, and certified contemplative practices teacher committed to promoting well-being in the legal field and beyond. Becky's attorney-wellness advocacy began after struggling with depression, anxiety, and burnout as a law student and practicing attorney. In the spring of 2020, she co-founded legalburnout.com with Cynthia Sharp. Becky is a 2014 graduate of the University of Kansas School of Law. She also holds a Tribal Lawyers Certificate. Becky can be reached at becky@legalburnout.com.

Getting Serious About Legal Burnout

In writing this article, our objective is to open the conversation about and address solutions for occupational burnout and other mental health concerns faced by our colleagues in the legal profession.

Over the years, each of us struggled with burnout, depression, anxiety, and substance abuse. Fortunately, we learned effective coping skills and now lead productive and stable lives full of happiness and joy. By sharing our personal stories, as well as the tools that helped us move into "the recovery zone," we hope to help others with respect to wellness related struggles.

Below, we will share information on what burnout is, how to recognize it in yourself or others, and what you can do to manage and prevent it.

Becky's Story

I was a 26-year-old, newly minted attorney chasing her dreams in Washington, D.C. To the outside observer, I had it all—head-hunted into a morally uplifting Big Law job in my chosen practice area of federal Indian law; a view of the Washington Monument from my top-floor office; *and* I had a paltry 1600 billable hours requirement. I had arrived.

Fast forward two years into my "dream job." Every time I hear the email alert ping on my phone my stomach painfully contorts. I come home each day and explode in anger when asked about my workday. Formerly bubbly, active and social, I only have energy to zone out and watch TV until it's time to pass out and repeat. Just repeat, no rinse—there was not a lot of personal hygiene during this period.

Ultimately, my Big Law career in D.C. came to an untimely and unceremonious end. The unresolved burnout, depression, and anxiety had finally coalesced to derail years of academic achievement, training, and investment in my legal career. It was the first time in my life where I felt like I had failed to achieve what I set out to do.

I entered solo practice, moving to Northern Arizona where I was able to focus on healing in mind, body, and spirit—prioritizing physical activity, work-life balance, reconnecting with nature, and rest. This is also when I found mindfulness and meditation, practices that have truly transformed my life. This experience also inspired me to become a certified meditation instructor in order to help others cope with stress, burnout, and mental health concerns.

It took prolonged and dedicated effort, but I was finally able to accept and understand that I wasn't deficient, I wasn't a failure as an attorney or a person. I was a victim of burnout, an experience so common amongst attorneys that it has seemingly become part of our professional culture.

We issue a personal challenge to our readers to consciously examine our work environments and the culture we have created in the legal field, and ask ourselves—is this how we want it to be? Because ultimately, the choice is ours.



How to Identify Burnout

If Becky's story resonates, perhaps you are curious to learn what burnout is exactly. In May 2019, the World Health Organization (WHO) listed burnout in the International Classification of Diseases and recognized it as an "occupational phenomenon." Long before the WHO's recognition of occupational burnout, the Maslach Burnout Inventory had been used (and is still a respected assessment) to measure various aspects of burnout.

According to the Mayo Clinic, some signs of job burnout include becoming highly cynical or critical, difficulty focusing and staying motivated, and feeling disillusioned or dissatisfied at your job. Burnout can also manifest in physical symptoms, including exhaustion, insomnia or difficulty sleeping, stomach and bowel problems, changes in appetite, and frequent headaches. Given the connection between burnout and high stress, those suffering from burnout are also at a higher risk of developing other stress-related medical conditions, including heart disease, obesity, substance use disorders, and liver disease.

Lawyers Susceptible to Burnout and Other Mental Health Concerns

We are absolutely thrilled that the mental health of lawyers has finally captured the spotlight. For too long, the insidious effects of stress and burnout have been all but ignored. In fact, it has traditionally been a badge of honor in our profession to work arduous hours and become a billing machine.

A 2016 study on lawyer impairment conducted by the ABA Commission on Lawyer Assistance Programs in collaboration with the Hazelden Betty Ford Foundation revealed the extent to which attorneys are disproportionately impacted by mental health concerns and substance abuse. The research showed that approximately 28 percent, 19 percent, and 23 percent of practicing lawyers are struggling with some level of depression, anxiety, and stress, respectively.

The study further demonstrated that between 21 percent and 36 percent of attorneys qualify as problem drinkers. Although attorneys are 3 to 5 times more likely to develop an alcohol use disorder than the general population, *93 percent did not receive any help or services for AODA*. It would be naïve to think that this crisis has not worsened during the heightened stress of the COVID-19 pandemic.

These statistics should come as no surprise in light of the unreasonable demands and pressures placed on members of our profession. Slaves to technology, many lawyers live in a world in which they are expected to be constantly available and responsive. Work product must be perfect and delivered quickly. Work-life balance is a myth for many because of the long hours that must be put in just to keep up.

Furthermore, many attorneys are under severe financial stress, often saddled with back-breaking student loans. Finally, an often-overlooked phenomenon is that since clients often retain attorneys during times of extreme stress, legal practitioners may suffer from secondary trauma. All of this is in addition to the typical stresses faced by everyone in daily life.

Managing Legal Burnout

If only we could offer a panacea for all ills—a "little pill" (with no side effects) that instantly shifts you to 10 on the happiness and success meter. Since such a quick fix is currently unavailable, we are left with practical solutions that may seem simple but are not easy to apply.

1. Set aside time to examine whether you are exhibiting any of the signs of occupational burnout outlined above. Perhaps it would be useful to ask others what they think about your self-assessment. It's all too easy to stay in denial—even with outside input.

2. Make a decision to take charge of all aspects of your life. We recommend making a written commitment to change or shift problematic situations.

3. Consider where you could adopt more productive lifestyle habits. This includes healthy eating, regular exercise and a consistent sleep schedule. Take a serious look at your work habits. Do you take frequent breaks throughout the day? Do you spend time with family, loved ones or even yourself without being tethered to a laptop or other electronic device? Especially those who work remotely may be tempted to "squeeze in" work all day, every day.

4. Investigate and take advantage of available resources. Attorneys hesitate to reach out for help in large part because of the perceived stigma. Admitting that you need help is a sign of strength and not weakness. A good starting point is to contact the Maine Assistance Program for Lawyers and Judges (MAP). MAP provides confidential services and support to members of the legal profession. At the very least, reach out to a friend, family member or mental health professional.

5. We have embraced mindful lifestyles for many years and firmly believe that any viable remedy must be implemented with a backdrop of mindfulness. We encourage you look for ways to explore mindfulness in your life.

Wellness as an Organizational Issue

Burnout is both an individual and an organizational problem, as workplace factors (especially in the legal setting) can make employees more prone to developing it. According to Gallup poll data, the biggest causes of job burnout include unfair treatment at work, unmanageable workload, lack of role clarity and lack of communication and support from supervisors, as well as unreasonable time pressure.

Many lawyers (including these authors) have been victim to the circumstances of these unhealthy environments. Until recently, law firms and other legal entities have not prioritized lawyer wellness. Thankfully, the trend is changing. Since September 2018, the American Bar Association has collected almost 190 signatories to a well-being pledge by legal employers committing to improve lawyer wellness. Indeed, this is a step in the right direction.

Conclusion

By normalizing conversations about and implementing strategies to effectively cope with burnout, mental health issues, and substance abuse within the legal field, we can create purposeful environments that safeguard and support our ability to be happy, healthy, and productive legal advocates and people.

Becky Howlett, Esq. and Cynthia Sharp, Esq. are co-founders of The Legal Burnout Solution, a community dedicated to the well-being of lawyers. Visit www.legalburnout.com to learn more.

Troubh Heisler LLC
Attorneys-at-Law

Troubh Heisler LLC, a Scarborough, Maine law firm, seeks an experienced Workers Compensation, Employment Law and Civil Litigation attorney to join and complement our multi-disciplinary practice. We may accommodate a partial work-from-home arrangement. We offer a relaxed atmosphere and collegial support, with opportunities for internal referrals among practice areas. Partner level applicants with a book of businesss are welcome. Replies will be kept strictly confidential.

Reply to: Susan K.L. Fritts
Director of Operations
PO Box 1150
Scarborough, Maine 04070
sfritts@troubhheisler.com



WE SPEAK LEGAL EASY.

"Easy to deal with. Very professional. Would recommend!"

– Daniel Dube, Esq., Lewiston, Maine

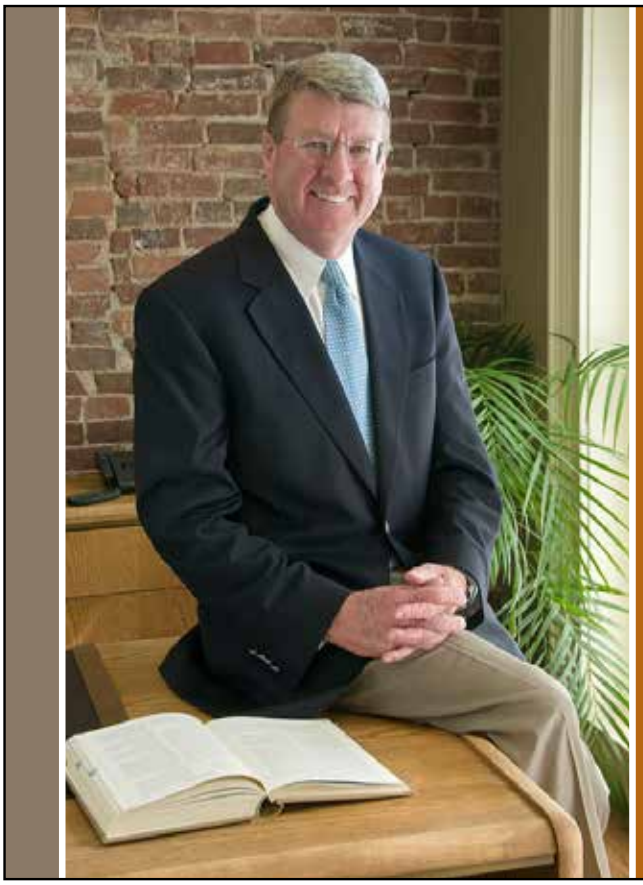
Proud to be your Maine State Bar Association-endorsed legal malpractice insurance carrier.

Apply now and get back to what matters most!

alpsinsurance.com/maine

ALPS

LEGAL MALPRACTICE INSURANCE MADE EASY.



KELLY, REMMEL & ZIMMERMAN

is pleased to have

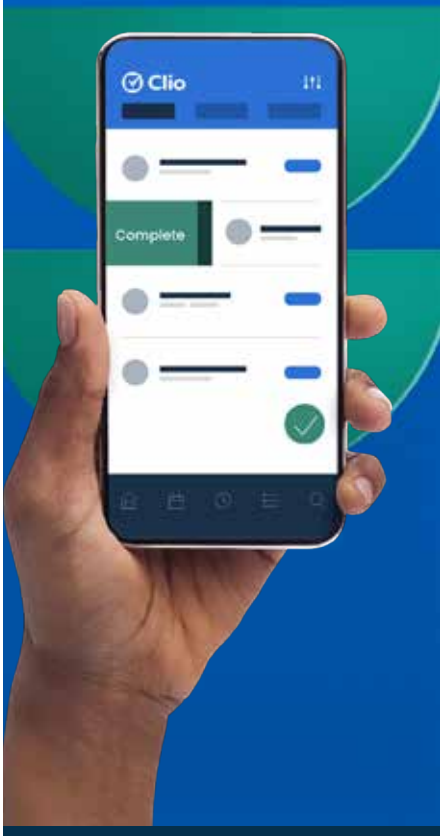
ROBERT E. CROWLEY at

the firm, following his retirement as a Justice of the Superior Court.

He is available to conduct private trials, arbitration, mediation, and early neutral evaluation of cases.

www.krz.com (207) 775-1020 rcrowley@krz.com

Keep clients in the loop automatically.



Claim your 10% MS Bar discount at clio.com/msbar

SCAN ME

Clio

Maine State Bar ASSOCIATION

UNIVERSITY of MAINE
FOUNDATION

"Twenty years ago, I contacted the planned giving staff at the University of Maine Foundation for assistance with the language I needed to achieve my clients' goal of establishing an engineering scholarship through their estate plans. My clients and I wanted to be confident that their gift would be used in exactly the manner they expected. The Foundation respected my clients' desire for anonymity at the planning stage and just as easily respected the surviving spouse's wish for recognition and stewardship at the time of her husband's death 15 years ago. She took great joy in the Foundation letting her know how much her and her husband's generosity was appreciated. Now that both of my clients are gone and the scholarship is fully funded, fewer students will have to face an inability to attend UMaine because of finances. My clients' legacy of helping Maine students will forever be an incredible testament to their success and I am grateful to the University of Maine Foundation staff for helping us accomplish the planning goals."

David J. Backer, Esq.
Drummond Woodsum
Portland, Maine





To learn more about giving for the University of Maine through estate planning, please contact:

Sarah McPartland-Good, Esq.
or Karen Kemble, Esq.
University of Maine Foundation
Two Alumni Place
Orono, Maine 04469-5792
207.581.5100 or 800.982.8503

Dee Gardner
University of Maine Foundation
300 Fore Street
Portland, Maine 04101
207.245.3656

umainefoundation.org • umainefoundation@maine.edu

William Howell *MBA, ASA, CPA/ABV/CFF* 603.232.7791

BUSINESS VALUATION SERVICES

ESOP • Estate & Gift Taxes • Succession Planning
• Shareholder Disputes • Marital Dissolution
• Buy-Sell Agreements • Economic Damages

www.howellvaluation.com

HOWELL
VALUATION



Managing Risk and Reward since 1866

Investment management and financial planning for individuals, families, businesses and non-profit organizations

Call Sarah Ruef-Lindquist, JD, CTFA* today.

Allen Insurance and Financial, 31 Chestnut St., Camden, ME 04843. Securities and Advisory Services offered through Commonwealth Financial Network®, Member FINRA, SIPC, a Registered Investment Adviser. *CTFA signifies the Certified Trust and Fiduciary Advisor designation of the Institute of Certified Bankers.

Allen Insurance | Financial

AllenIF.com/financial | (207) 230-5848

Barry L. Kohler

Family Law Attorney (retired)

Certified Financial Planner™ ▪ CADRES Rostered Mediator

FINRA Rostered Mediator/Arbitrator



- **Offering video and telephone mediation services state-wide.**
- Mediation and ADR services at rates affordable for counsel and clients.
- Particularly experienced with disputes involving the intersection of family/relationship and financial issues (including domestic relations, probate administration, and partnership matters).

barry@barrykohlerconsulting.com 207-838-3300 barrykohlerconsulting.com



Since 1998, MARK BASSINGTHWAIGHTE, ESQ. has been a Risk Manager with ALPS, an attorney's professional liability insurance carrier. In his tenure with the company, Mr. Bassingthwaighte has conducted over 1200 law firm risk management assessment visits, presented over 400 continuing legal education seminars throughout the United States, and written extensively on risk management, ethics, and technology. Mr. Bassingthwaighte is a member of the State Bar of Montana as well as the American Bar Association where he currently sits on the ABA Center for Professional Responsibility's Conference Planning Committee. He received his J.D. from Drake University Law School.

How to Secure Your Smartphone

Smartphones can be a significant cybersecurity risk, in part because many owners take a lackadaisical view when it comes to properly securing them and attackers know it. Couple this with the reality that smartphones are network connected devices that store all kinds of data, to include passwords, personal and financial information, location data, documents, photos, and client confidences and the reason smartphones are such an attractive target becomes self-evident. Now, add into the mix that there is no work from home or personally owned device exception to the rules of professional conduct and your obligations as a lawyer become clear. Every smartphone anyone is using for firm business must be properly secured. There can be no exceptions.

What Type of Threats Do We Need to Be Concerned About?

The following are the most common concerns:

Phishing attacks that use social engineering tactics to trick someone into doing something that enables a successful attack. The attack vectors vary. It could be anything from placing a malicious link in an email or text message, leaving a concerning voicemail, sending numerous multifactor authentication (MFA) prompts at one in the morning hoping the target will eventually accept one, and the list goes on. Should someone click on the malicious link, return the wrong call, or approve that annoying MFA request, it's game over. Making matters worse, the victim will often not even be aware that their actions enabled a successful hack.

The downloading of a malicious app. Malicious apps may be available for free or for a price and can even be hidden inside well-known useful free apps. Malicious apps typically exploit software vulnerabilities on the smartphone that can allow a hacker to access device data.

Connection threats. A smartphone's ability to connect to a network via GPS, Bluetooth, Wi-Fi, or cell service can be exploited by hackers in multiple ways. A few examples include users being tricked into logging into fake sites, unwittingly connecting to rogue networks or access points, or unintentionally allowing access to their geolocation data.

Device theft. Smartphones are small, easy to steal devices that contain a treasure trove of valuable information.

What Steps Should We Be Taking to Address the Problem?

While there are additional things that can be done, such as regular user training on how to spot a phishing, smishing, or vishing attack, if your firm is able to accomplish all of the following, you're going to be off to a great start.

Secure all smartphones. **Set pins and passwords** and make them as strong as possible. For device passwords, this means all passwords should be comprised of a combination of numbers and letters that is at least eight to 10 characters long. The longer the better, and the use of a unique passphrase is fine. Avoid using facial recognition or fingerprint scanning as biometric based security is less secure.

Enable the auto lock feature and set it to lock if the phone is idle for no more than five minutes. A setting of one minute is ideal.

Enable the find my phone feature. This feature will help you locate a lost or stolen phone and will also help you remotely delete your phone's data should that ever prove necessary.

Enable an auto factory reset after 10 to 15 incorrect attempts to unlock the phone. This will delete most data, to include downloaded apps should someone try to gain access to a phone's data.

Make sure that the encryption function is turned on as one additional step to protect the data stored on each device. Note that on some smartphones data encryption is built in.

Keep all phone operating systems and apps up to date. Enable auto update and accept those updates whenever they are made available. Users may need to manually check for app updates, which should be done at least monthly.

Install a robust security app on all smartphones. Examples include Bitdefender, Norton, Trend Micro, and VIPRE. Avoid using free versions of security apps as free versions will not provide the same level of protection. If the security app comes with a VPN, turn that on. If it doesn't, then also install a VPN app on all phones. While any data stored on a smartphone is encrypted if encryption is enabled, data traveling to or from a smartphone isn't. The use of a VPN addresses that concern. Here again, avoid the use of free VPNs if you want to have your data stream be as secure as possible. Examples of trusted VPN providers include CyberGhost, NordVPN and ProtonVPN.

Disclaimer:
ALPS presents this publication or document as general information only. While ALPS strives to provide accurate information, ALPS expressly disclaims any guarantee or assurance that this publication or document is complete or accurate. Therefore, in providing this publication or document, ALPS expressly disclaims any warranty of any kind, whether express or implied, including, but not limited to, the implied warranties of merchantability, fitness for a particular purpose, or non-infringement.

Further, by making this publication or document available, ALPS is not rendering legal or other professional advice or services and this publication or document should not be relied upon as a substitute for such legal or other professional advice or services. ALPS warns that this publication or document should not be used or relied upon as a basis for any decision or action that may affect your professional practice, business or personal affairs. Instead, ALPS highly recommends that you consult an attorney or other professional before making any decisions regarding the subject matter of this publication or document. ALPS Corporation and its subsidiaries, affiliates and related entities shall not be responsible for any loss or damage sustained by any person who uses or relies upon the publication or document presented herein.

Disable Wi-Fi auto connect and Bluetooth auto pairing. In addition, it's a good idea to turn off Wi-Fi and Bluetooth when they are not in use. In short, you don't want to the leave potential entry points open and unmonitored.

Institute a firmwide policy that prohibits the downloading of any apps from untrusted sources. Stick to using apps available from your devices' official app store, for example the Google Play Store and the Apple App Store. Many apps from untrusted sources contain malware that can steal data and install viruses just for starters. In addition, train users to be cautious about accepting all requested app permissions. Permission should only be granted to phone features that the app needs to function properly. For example, why would a flashlight app need access to a phone's camera, location data, and the contact list? Don't grant these kinds of permissions to any app that doesn't need them.

Finally, **never donate, recycle, resell, or otherwise replace a smartphone without erasing all the data, signing out of and then deleting all downloaded apps, and resetting the phone to factory defaults**. Letting go of a smartphone without properly deleting all data is just asking for trouble.







Maine-based psychologist AMY WOOD, Psy.D. helps attorneys be happier and more productive through coaching, training, and consulting. She is currently writing a book called Lawyer Like an Athlete, to be published by the American Bar Association in 2024, and frequently offers CLE opportunities through the MSBA. To learn about upcoming events, visit www.mainebar.org. For more information about Dr. Wood, go to www.amywoodpsyd.com.

Want to Solve Your Problems? Optimize Your Optimism!

As an attorney, you know that the stressors coming at you can make it pretty tempting to feel discouraged, demoralized, and even want to give up at times. Which is why the most successful attorneys realize early on that they can't afford the drain of a glass-half-empty perspective.

The attorneys you see at the top, those who make it through all the stultifying hurdles, get there by adopting a glass-half-full perspective that bats away noise, then hones in on valid problems and swiftly addresses them. The real pros know how to navigate through hardship without getting mired in it, which prevents the squelching of energy from an overly negative focus.

What the smartest attorneys have mastered is referred to by psychologists as the solution-focused approach. Solution-focused therapists help their clients get unhooked from "stuckness" by tamping down on complaining and maximizing positive movement. Solution-focused therapy can be transformative in just eight to ten sessions because it teaches the pragmatic skills needed to not get unnecessarily weighed down by the inexorable trials of life and work. The primary benefit of being solution-focused is a healthy intolerance for situations that slow your progress with being at your best, so you feel freer, more rewarded, more confident.

What a solution-focus comes down to is regularly taking a step back from your work and life to see fully what is going on, and take immediate responsibility for removing any obstacle under your control. To get good at this, you must look seriously at the outwardly oppositional circumstances–critical feedback about your performance, attacks on your character, for example–you encounter, extract what you can improve upon, then act on a proactive course forward. By examining what's hard to hear, looking for kernels of truth before you toss it out or let it waylay you, you'll eventually develop the solution-focus steeliness necessary for success in the legal world.

Before you take on this challenge, understand that the forward thinking I'm advocating is underdeveloped in humans and it's going to take consistent effort. All of us are stubbornly hardwired to notice problems over solutions, prioritize the negative over the positive, for survival reasons. It made sense at the beginning of civilization for us to be hyper aware of saber-toothed tigers, poisonous plants, and all manner of primitive hazards lurking about; if you looked away even for a minute, you could get wiped out. But that fight-flight age is long gone, our threats are less immediate, and the over-emphasis on what's not good keeps us from capitalizing on what *is* good.

Self-help books tell us that we can avoid the inevitable pain of being human by drowning out the negative with positive affirmations: *I can do whatever I want. I deserve the best. I am unbeatable (even if I have glaring issues and don't like myself very much*). Famous people with chronic diseases tell us that we can avoid suffering by just "deciding" to be happy. Motivational speakers assure us that we can accomplish whatever we want by simply going over and over our desired positive outcomes in our heads. What we take away from all this "positive thinking" hype is that force-feeding ourselves happy thoughts will bulldoze us over insecurity, doubt, fear, sadness, grief, and every other inconvenient psychological experience and coax us toward eternal bliss.

The best part of practicing positivity is that it has an enormous impact on how your life plays out around you. As you continue to evolve your optimism, letting go more and more of that negative grip, you will increasingly be propelled rather than compromised by complications.

Optimism is a courageous discipline that prospers over time as clear-sightedness steadily takes hold over wishful thinking. It's not about denying reality, telling yourself everything is fine when it's not, pushing down uncomfortable emotions, or plastering a perpetual smile on your face. The capacity to look at life squarely is an art that requires daily intention and dedication. By performing this art, you acknowledge what you're dealing with, and to make it your mission to work with (rather than resist or regret) whatever situation is before you. There's no getting through life as a human being without disappointments, failures, losses, condemnations, and all sorts of other hindrances and unexpected disasters, but optimism certainly makes trials and tribulations easier to bear and work around.

No matter where you are currently on the optimism scale—overly optimistic to the point where you miss important information, so pessimistic that you see only doom and gloom, or somewhere in between—solution-focused thinking is no nonsense hard work.

The best reason for doing the work?
The payoff of being an optimistic problem solver is that positivity attracts positivity, meaning that good breaks come much more readily.

Have you noticed that attorneys who complain incessantly, blame everyone but themselves for their troubles, and seem to be forever in crisis just bring on more of the same? Just like the rest of us, attorneys are more likely to attract good fortune when they limit their griping, access their own personal power for positive change, and then make the most of what they already have right now. That's optimism in a nutshell.

Now, here are some strategies you can employ to optimize your optimism:

Notice positive moments: You can feel steadily more optimistic by simply striving to see what's going well in your life. And while landing a new client or paying off a loan counts, it's the little things you're probably missing that matter most here. Like noticing when someone happens to smile at you or open a door for you as you go about your day. Really observing the clear sky above you and the fresh air around you when you're walking from one place to the next. Or fully savoring the aroma of your morning coffee or a blossoming plant in spring. Being purposefully open to what delights you will increasingly weaken that all-too-human reflex to turn toward what's not so enjoyable. (Before the skeptical side of you does an eyeroll here, consider that even the tiniest bit of gratitude boosts your mood and opens your mind, thereby encouraging the motivated, grounded-in-reality problem-solving state you're after.)

End on a positive note: It's an instinct to recall each day according to what went wrong, and noting that you didn't accomplish something or got criticized can dampen your evening. You can exercise optimism by recalling instead three things that went well. And again, start with the small things that you've probably been dismissing. Maybe you can count for today that you managed to take that bullying judge less personally, you drank more water than usual, or you found time for a reviving break.

Embrace what is: Think of an area of your life you want to improve in some major way. Maybe you have outgrown your job or house and can't see a clear path to the next step. Find a way to make your current circumstances more satisfying and see what happens. You might make a list of what you *do* like about your current job or house and decide to be more fully engaged with what you already have at hand. By drawing optimism from the present, you will likely bring on remedies and routes you hadn't considered.



Find the problem in the solution: Think of a problem you're dealing with currently, something you're really struggling with. Ask yourself what opportunities are hiding in this trying situation. Maybe a difficult person is helping you to become more patient. Perhaps unemployment is allowing you extra time to learn more about yourself. Consider intriguing pathways or possibilities you hadn't noticed or appreciated before. And when you're struggling, ask a mentor what good you're not seeing.

After you've played with optimism for a week or two, stop and consider what you're experiencing. Are you sensing your mind opening? Do you notice anything becoming easier or feeling lighter? Are ideas, insights, and answers coming more readily? What are you attracting?

The best part of practicing positivity is that it has an enormous impact on how your life plays out around you. As you continue to evolve your optimism, letting go more and more of that negative grip, you will increasingly be propelled rather than compromised by complications. As you refine your solution focus more and more, you'll see greater and greater proof that your optimism is resulting in improved circumstances at work, home, and everywhere else.

Lawyers Professional Liability Insurance

Protection · Experience · Value

Maine Agents for Maine Attorneys



Call Jeff or Julie

1-800-762-8600 · 207-942-7371

afma@InsuranceMadeEasy.com

Allen/Freeman/McDonnell Agency

141 North Main Street

Brewer, ME 04412

Trusted Choice

REGISTER TODAY!

Summer Bar Conference

June 26-28, 2023 |

Bar Harbor Hotel, Spa & Marina

Bar Harbor





DANIEL J. MURPHY is a shareholder in Bernstein Shur's Business Law and Litigation Practice Groups, where his practice concentrates on business and commercial litigation matters.

BEYOND THE LAW: SEAN TURLEY

Clutching a bottle of hard cider, Sean Turley wanders to the back of the Portersfield Cider's farmhouse in Pownal and points to an ancient, sprawling wild apple tree that has provided some of the fruit for the limited-run batch in his hand. In stark contrast to a carefully pruned grafted apple tree, the hundred-plus year old wild apple tree is enormous and unruly, extending its tangled network of branches outward and upward toward the sky. For years, Turley has assisted the owner of Portersfield Cider (and other cider makers) on their shared quest to find distinctive, native fruit for their ciders. Employing a variation on the old tradition of gleaning, Turley sources wild apples for his brewers from landowners around the state and returns their kindness with bottles of hard cider at the end of the fermentation cycle several years later. Turley recently sat down with *Maine Bar Journal* to discuss his interest.

How did you first become interested in apples and apple cider?
I grew up in a very fruit-positive household. The only thing my parents would buy that was not on sale was fruit. Later, in terms of heirloom apples, I became interested during a trip that my partner and I took in 2013 driving around Maine. We went to an orchard near the center of the state that had a couple dozen apple varieties that I had never heard of. I considered myself fairly well-informed as a connoisseur of fruit, but on this trip, I was blown away by the range of varieties. After this experience, I found myself drawn to John Bunker's talks and apple tastings at the Common Ground Fair.

And from there, it was a pretty deep dive. I put on apple tastings in Portland with the Portland Food Map. I did that for about six years. From there, things kept spiraling. I became involved with two local cider makers who both needed fruit. Much of my focus at this point was providing them fruit during the fall and trying to find new wild apple varieties that might be worth promulgating. Also, for a brief stint during law school, I wrote about apples for the Portland Press Herald. Basically, the food staff writers at the time were tired of writing about apples in the fall. They thought it might be good to have someone else handle it, so I did. It has been a precipitous fall into the apple world.

Do you remember where that orchard was in central Maine that first ignited your interest in apples?
Yes. The orchard is called Sandy River Apples in Mercer. It's run by the Fenton family and has been in operation since the 1800s. It is a cool orchard with several old heirloom varieties. In one moment, you can be driving around central Maine, and in the next you find this Shangri-la of very exotic apples.

Do you remember some of the varieties that were being grown when you visited Sandy River Apples?
I do. They had a lot of old American classics. So, things like Northern Spy, Baldwin, Esopus Spitzenberg. These kinds of apples in their day would have been very popular. People would have imported scionwood for grafting in Maine and other places. That is why they have endured throughout the United States. But you really cannot find any of these varieties in local supermarkets today. They were extremely common in the past and now somehow have become rare and unique.

Some of apples that we see at the supermarket look beautiful, but they do not have the flavor, texture, or juiciness of varieties that that have fallen out of favor. They are nice to look at, but not to eat.
I have talked about this often. Every year, I do an apple tasting at a place called Scott Farm in Vermont. They grow about





120 varieties of apples. We termed what you described as the "supermarketization of apples." Basically, apples are selected for their shelf life and red color, but at the exclusion of all other attributes, such as taste, crunchiness, use, and so on. Like many things, capitalism has taken over and people are primed to buy what is advertised, at the expense of the rest.

For snacking apples, do you have a particular variety that you could recommend to our readers?
There is one that you can find locally at times. The Portland Co-op is good place to check. It is called a Chestnut Crab. It is grown locally at McDougal Orchards in Springvale. It is a tiny apple, about an inch and a half in diameter. It ripens in early September and it's packed with a great flavor punch, almost as if they concentrated a traditional apple down to a small size. The Chestnut Crab also runs counter to everyone's assumption that small apples are disgusting, ornamental apples. The Chestnut Crab looks likes one of those apples you saw growing up and would never eat, but it has phenomenal flavor.

Also, locally in Maine, one of my favorite apples that you can get is called Gray Pearmain. It's a native Maine apple that is just exquisite. In a weird way, it is like a pear, but in the best possible sense.

Does the Chestnut Crab have a tart flavor?
It's balanced: tart and sweet. There are all sorts of crab apples that are good for eating. It is just that people usually associate them with ornamental fruit, grown solely for flowers. Historically, the apples that were grown and consumed were much smaller than those that we now think of as commercial apples.

How about apples that are grown for making cider? I understand that they can be quite astringent but result in excellent cider.
Exactly. When you think of a traditional apple, you have a combination of acid and sugar. If you ferment the sugar, all that you are really left with is the acid. If you took a Honeycrisp apple and made cider with it, you would have a very tart drink. For cider, what you really are looking for is apples with some tannin, like you might have in wine. This translates in terms of fresh flavor as astringency, or cottony feeling in the mouth, and bitterness. A good cider apple is high in sugar so it can produce alcohol and high in these astringent and bitter qualities. As a result, cider apples by their nature are not good for fresh eating and were never expected to be suitable for snacking.

Historically, Maine people made cider based on whatever apples they had. They were not discerning. They had a tree on the property that was not good for anything else but to make cider. In fact, with subsistence or homestead farming in Maine, you would have trees for different purposes, such as for making cider, vinegar, or storage apples. This tradition is different from England and France, where they developed specific cider varieties over hundreds of years and have grown them consistently. The idea of purposefully selecting and growing cider fruit was not common in the United States, except in places like New Jersey.

Today, cider has been more resurgent, but there is not enough actual cider fruit. There are two responses to this. First, some people make cider anyway, resulting in cider that tends to be either really tart or acid forward, if it is dry. They will add sugar to help balance it out. Or, you find people doing what

I do, which involves finding interesting apples in the wild or in old orchards.

How do you source and supply apples to cider makers?
My work is mostly around finding wild trees that are growing on the side of the road or in someone's backyard that have desirable qualities, such as astringency and bitterness, that would be good for making cider. There is a funny cohort of people who are doing this work across the country. They share their finds and try to get orchards to grow certain apples to provide a source of fruit for cider makers. In America, we just never had enough cider fruit to support cidermaking at an industrial scale. I go to the owners of fruit trees and private orchards to see if they would be willing to share their fruit with cider makers.

Are there any specific cider makers that you provide fruit to?
I work with two cider makers. First, I work for a cider maker based in Cornish, Maine, aptly named Cornish Cider. Most of their product is wild fermented, meaning there is no added yeast so whatever yeast is on the apples causes fermentation. I also work for Portersfield Cider in Pownal, which has a local tasting room. They use a similar process in terms of wild apples, although the cider maker there pitches the yeast.

Generally, these cider makers are mixing wild apples with known historic varieties. They are fermenting over the course of nine months, a year, or two years. It can be very slow going to get as much flavor out of what you are fermenting. For instance, I did a co-release with Cornish Cider last winter. That was made from fruit that has been fermenting since 2020. The fruit came from three properties, including a tree in Cape Elizabeth on the side of the road.

How do you request owners of apple trees to provide fruit for cider?
This is where cider making overlaps with my law practice in a very interesting way. I live in a condominium in Portland, and I have no orchard. My fall is spent in the car looking for apples. I spend a lot of time assessing where trees are located, whose property they are located on, and then trying to meet with the property owners. This can be quite challenging. My land use work overlaps with this activity. I am looking at tax maps and deeds trying to track people down. If I get approval, I hope to take some fruit and come back in future years. I usually will prune the tree and take care of it. I might share scionwood so others can graft branches on to their trees. I would say that at least nine times out of ten, landowners are incredibly hospitable and want to share their fruit. They are excited that someone cares about their apples and that they can be used for cider making. They also enjoy the opportunity to participate in the process.

Two words, one simple fact

Why have six words in a name when your neighbors only use two? Your wisdom prevails: we are happy to announce that for simplicity's sake we have officially changed our name to what you've already been calling us for years. We are now **"Woodman Edmands."**

A community mainstay on Main Street, Biddeford for decades, we are a full-service law firm, and we've been adding legal talent to our roster of fine attorneys.

The communities in this corner of York County are growing and growing younger. Naturally new families and innovative busines owners, like everyone eventually does, will need legal counsel of some sort. Our name is now easy to remember. We've been helping people like you since 1985, and as one of York County's larger law firms we can handle whatever issue comes your way. Get to know us!

Woodman Edmands
234 Main Street, Biddeford, Maine 04005

In exchange for the fruit supply, do you provide a sample of the final product to the landowners?
I try to. There is usually a delay, but I try to give a bottle of whatever became of the fruit that the landowners provided. This year, I was able to deliver a bottle to a guy on a farm where I have picked the tree twice, once in 2018 and once in 2020. It was great fun to say, "Here it is, here is your fruit!" And it is exciting and fun for them as well.

Can we find any of these ciders commercially in Maine?
Cornish Cider is distributed well in Maine, so places like the Co-op and Maine & Loire in Portland and Lorne in Biddeford will have it. Smaller shops also carry it. Meanwhile, Portersfield mostly distributes out of their tasting room. It has a beautiful space. You can purchase different ciders there, including one that I have been involved in. There is also great cheese and other items. It is a terrific spot.

I understand that before beer really took off, cider was the drink of choice in New England. Do you know about this history?
Sure. Having an apple tree on your property was kind of a critical aspect of a home farm. Most properties in New England were subsistence farms. The farmers were hoping to generate most of the things they ate and drank from their own property. People would buy apple seeds, but when you plant from seed you get a whole new type of tree. Once you had your orchard in place, you could assess for different uses. Apples that keep well would be storage apples. Apples that were less than ideal might be for vinegar, which is what occurs when cider is exposed to oxygen.

Coming into the twentieth century, there was a greater emphasis on selling particular varieties to people. A company called Stark Brothers distributed catalogs throughout the country. They were the ones who actually were the first to popularize Red Delicious and then Golden Delicious. Their pitch was basically, "Look at all varieties are growing; they're hard to grow. They're susceptible to disease. You know, buy this beautiful red apple that you know can survive really well and doesn't need much care."

Also, in Maine, in the winter of 1933-1934, there was a deep freeze that killed something in the order of about one million apple trees. Maine had a very large amount of Baldwin apple trees. These are historical apples that originated in Massachusetts. During that winter, there were wild fluctuations in temperature, a swing of between 50 to 60 degrees in a single day. Trees literally exploded because they would add moisture and then freeze quickly. This decimated the Maine apple orchard industry. And after that, growers turned to the Mcintosh as a replacement. That's why we have so many Macs in this state. What has kept the orchards going in part has been the pick-your-own experience and other activities to augment apple sales. It is only in the last 15-20 years that people have started returning to these older varieties and trying to sell them to people. We are returning a bit to the apples of the past. We are very lucky in this state that there is a deep and rich cultural connection to apples and the people who are involved in this. I think we're kind of unique in that way.

You mentioned John Bunker earlier. Can you tell us a little bit about him?
He's kind of the oracle at this point. He has been doing this work finding historic varieties for about 40 years. He started Fedco Trees, which is responsible in a large way for distribution of these heirloom apple varieties across the country. He also started the Maine Heritage Orchard up in Unity, which is a depository of 300-400 apple trees of varieties that were grown in Maine historically. He also runs an apple CSA called Out On A Limb, which offers different apple varieties throughout the season. So, John has has been instrumental in creating this community.

You mentioned that you live in a condo. Do you have your own apple trees?
I have one apple tree at my family property up in St. George. It is just a seedling now, which is exciting. I have also sent scionwood to others to graft into their orchards, so I have a certain connection to those trees.

Here is a question that we ask all our interview subjects: what is the best advice you've ever received?
I was thinking about that question. I think it's kind of a simple directive, and it's to follow your breath. I'm a practicing Buddhist, and an important part of my life is meditation and approaching conflicts in a way that is not unnecessarily antagonistic. I had a very important professor when I studied at Bowdoin College who offered me this different way of looking at the world and processing it. The key idea was to breathe and focus on all that exists—that is, this moment. That translates into all kinds of situations, including when I am spending hours and hours in my car in the fall. I drove 2,000 miles last year and did a lot of meditating and processing of the world. This also applies to lawyering. That is pretty key. Better to take that breath and not create a conflict where there doesn't need to be one.

BEYOND THE LAW features conversations with Maine lawyers who pursue unique interests or pastimes. Readers are invited to suggest candidates for Beyond The Law by contacting Dan Murphy at dmurphy@bernsteinshur.com.



Maria Fox, Esq.

Employment Law
Mediations
Arbitrations
Independent Investigations

MURRAY PLUMB & MURRAY
ATTORNEYS AT LAW

MFOX@MPMLAW.COM
(207) 699-3306

75 PEARL STREET
PORTLAND, ME
MPMLAW.COM

Berry · Talbot · Royer
CERTIFIED PUBLIC ACCOUNTANTS

Financial Analysis for Effective Litigation

Help make your case with business valuations, damage measurements, and financial analysis of evidence.

WE OFFER:
- Bankruptcy & Business Reorganizations
- Business Claims
- Compliance with Auditing Standards
- Court Accountings
- Divorce Settlements
- Business & Asset Valuations

BERRY TALBOT ROYER CPAs WELCOMES
Maine valuation expert Mark Filler CPA, CBA, CVA, formerly of Filler & Associates, P.A. Certified Public Accountants

BTR-CPA.COM BTR (207) 781-3445 | Falmouth, ME

SAVE THE DATE:

Real Estate Institute
September 6-7, 2023
Augusta Civic Center

CompCon 2023
September 29, 2023
Augusta Civic Center

Bankruptcy Institute
October 5, 2023
Hilton Garden Inn, Freeport

Visiting Scholar
Harvard Law School

Judge

Private Practitioner

Prosecutor

For briefs, mediations
and references

JOHN C. SHELDON

jsheldon37@gmail.com
(207) 591-5365

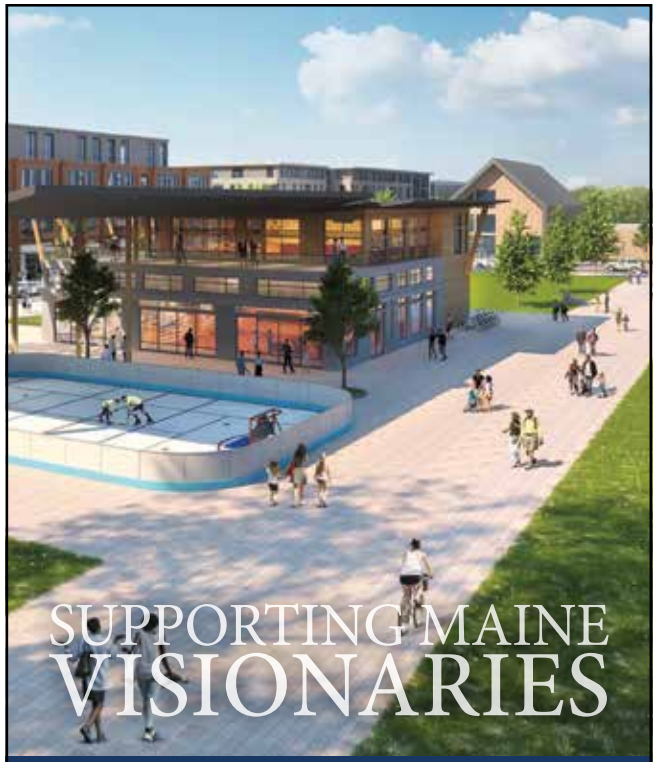
MaineDisputeResolution.com
MaineLegalResearch&Writing.com

STATE-WIDE
HEIR RESEARCH

Genealogical research to document kinship and locate missing or presently unknown heirs and beneficiaries for intestate probate cases.

Over 40 years' experience
Member Maine Genealogical Society
Bachelor of Science Degree
University of Maine Orono
Majoring in Rural Sociology

William G. Moulton
Genealogy Researcher
123 Moulton Road
Pittston, ME 04345
wgmoulton@roadrunner.com
Text or call: 1-207-582-2515



This 524-acre Live-Work-Play Community is Setting a New Standard

THE DOWNS

Jensen Baird partners with visionary clients to help bring their projects to life.

Our legal expertise in business, real estate, and local government helps facilitate planning, permitting, financing, and more for remarkable projects.

The Downs in Scarborough is an exciting, mixed-use community with residential and commercial elements. Jensen Baird is proud to work with the site redeveloper, Crossroads Holdings, to bring the project to life.

JB JENSEN BAIRD
ATTORNEYS AT LAW

JensenBaird.com | 800.756.1166 | Portland & Kennebunk

2023 ROSTER

THE NATIONAL ACADEMY OF DISTINGUISHED NEUTRALS

MAINE CHAPTER

www.MEMediators.org

The following attorneys are recognized for

Excellence in the field of Alternative Dispute Resolution



James BOWIE



Deborah BUCCINA



George BURNS



Greg CLAYTON



Pat COUGHLAN



Jerry CROUTER



Chris DINAN



Elizabeth GERMANI



Robert HATCH



Durward PARKINSON



Peter SCHROETER



Check preferred available dates or schedule appointments online directly with Maine's top neutrals!

Free web service funded by our members

As voted by local members of the national plaintiff and defense bar associations

AMERICAN ASSOCIATION for JUSTICE

dri Lawyers Representing Business.™

* The National Academy of Distinguished Neutrals (www.NADN.org) is an invitation-only professional association of over 1000 litigator-rated mediators & arbitrators throughout the US and a proud sponsor of the AAJ and DRI. For more info, please visit www.NADN.org/about



KRISTIN MURRAY-JAMES, Esq., is executive director of the Maine Assistance Program for Lawyers and Judges. She may be reached at maineassistanceprogram@gmail.com.

Loneliness Takes Its Toll

It's late April, and I am sitting in my kitchen in Wayne, Maine, contemplating the craziness of these past few years. I had an in-person MAP meeting this week and felt so happy to be in a room with others. I realized I had taken the simple pleasure of sitting with other people and talking for granted. So many of us felt a real sense of loss and loneliness during the height of the pandemic, when our worlds became smaller, and we could not visit loved ones or meet a friend for coffee.

Experts say that there was "An Epidemic of Loneliness" in the United States even before the pandemic. Loneliness is defined by a gap in the level of connectedness you want and what you have. Surgeon General Vivek H. Murthy, in a talk given at the Yale School of Management, says a survey done from 2018-2020 found that 60 percent of us described feeling lonely and that these numbers reach 75 percent among younger Americans. This survey was done before COVID-19's stay-at-home orders, shifting to at-home work, and not seeing our family and friends for fear of spreading the virus. It does not take a study to conclude that COVID-19 resulted in a significant change in our connection with others for many of us.

General Murthy warns that loneliness has some real effects on physical and emotional health. Loneliness can increase rates of heart disease, depression, and anxiety and can lead to an increased risk of dementia and early death.

Attorneys excel in so many areas of life. Unfortunately, we also outpace other professions in our rates of anxiety, depression, suicidal ideation, and substance use disorder. It may come as no surprise that the legal profession is also the loneliest.

I do not have any scientific data regarding loneliness and Maine's legal profession. However, I have anecdotal knowledge from many legal professionals in our state, and many of us are experiencing loneliness.

What can we do? How can we address the issue of loneliness in our own in our offices, firms, courthouses, and among our friends and colleagues?

The answer can be as simple as starting a conversation with a colleague, offering praise for a job well done, or inviting a co-worker for coffee. Reaching out to one another and connecting can not only make ourselves and others feel better, but it can also decrease feelings of loneliness and the possible mental and physical ailments that result from not feeling connected.

The Maine Assistance Program for Lawyers and Judges (MAP) not only assists the legal community with mental health and substance use issues but also serves as a proactive program to encourage attorney well-being. One of the most successful MAP programs is our free and confidential MAP volunteer peer-to-peer support. All MAP volunteers are attorneys in Maine. Please reach out if you think connecting with a MAP volunteer would help you or another attorney.

Let's take care of each other.

ENDNOTES

1 https://www.nytimes.com/2022/04/20/nyregion/loneliness-epidemic.html
2 https://som.yale.edu/story/2022/us-surgeon-general-vivek-h-murthy-03-discusses-loneliness-epidemic
3 Id.
4 Krill, Patrick R. JD, LLM; Johnson, Ryan MA; Albert, Linda MSSW. The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys. Journal of Addiction Medicine 10(1):p 46-52, January/February 2016. | DOI: 10.1097/ADM.0000000000000182
5 https://hbr.org/2018/03/americas-loneliest-workers-according-to-research

LawPay®

AN AFFINIPAY SOLUTION

+

Maine State Bar ASSOCIATION

Member Benefit Provider

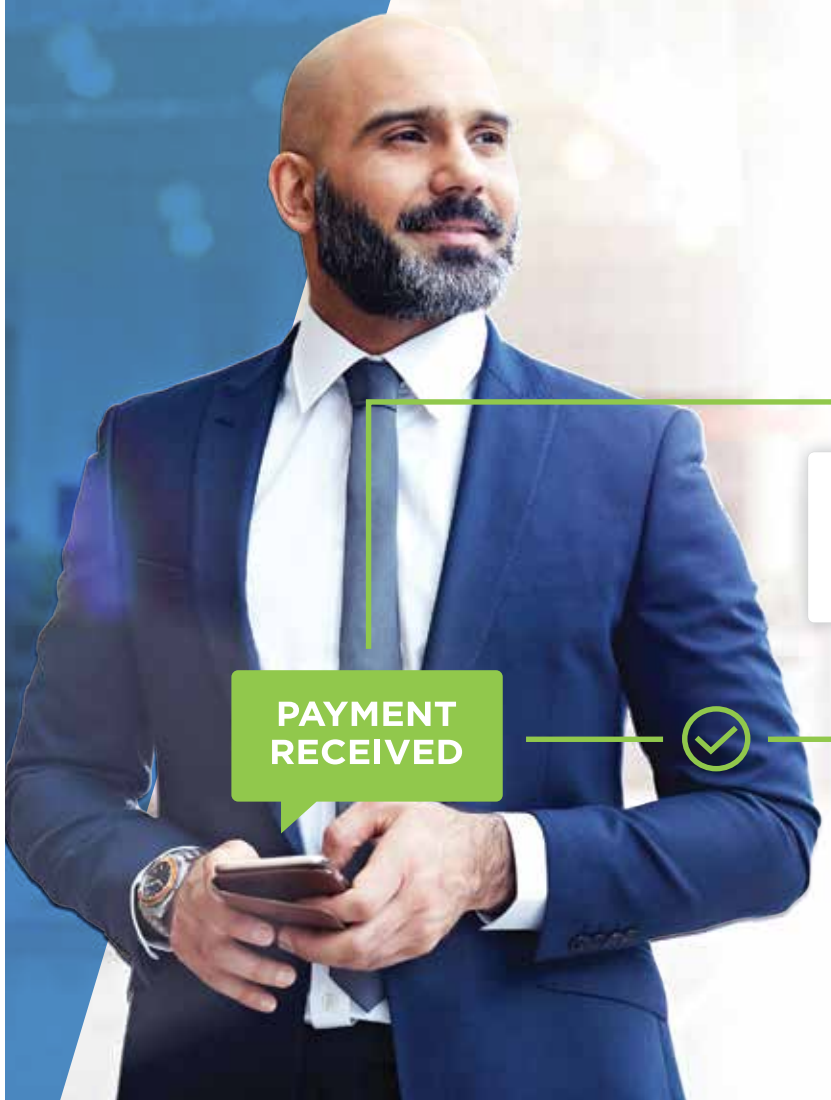
> **I love LawPay!** I'm not sure why I waited so long to get it set up.
>
> *– Law Firm in Ohio*

Trusted by 50,000 law firms, LawPay is a simple, secure solution that allows you to easily accept credit and eCheck payments online, in person, or through your favorite practice management tools.

22% increase in cash flow with online payments

Vetted and approved by all 50 state bars, 70+ local and specialty bars, the ABA, and the ALA

62% of bills sent online are paid in 24 hours



YOUR FIRM LOGO HERE

Trust Payment
IOLTA Deposit

New Case Reference

**** **** **** 9995 ***

TOTAL: $1,500.00

VISA AMEX POWERED BY LawPay

eCheck DISCOVER PAY ATTORNEY

Get started at
lawpay.com/mainebarjournal
866-730-4140

Data based on an average of firm accounts receivables increases using online billing solutions.

LawPay is a registered agent of Synovus Bank, Columbus, GA., and Fifth Third Bank, N.A., Cincinnati, OH.



MICHELLE DRAEGER is the Executive Director of the Maine Justice Foundation as of May 2020. A native of Maine, much of Michelle's career has been spent in public service including Pine Tree Legal Assistance, the U.S. Securities and Exchange Commission in Washington DC and Boston, and serving as an Assistant United States Attorney for the District of Maine. She can be reached at mdraeger@justicemaine.org.



LINSEY MACDOUGALL joined the Maine Justice Foundation as Development and Programs Manager in March 2022. Prior to joining the foundation Linsey has spent her career working in marketing, sales, corporate partnerships and special events in the commercial arts and entertainment, sports, tourism, and hospitality industries. She can be reached at lmacdougall@justicemaine.org.



ANGELA DOYLE is the Director of the Campaign for Justice. Before joining the Maine Justice Foundation in 2020, her most recent experience was working on the Colby Fund as part of Colby College's $756 million dollar Dare Northward campaign.

Efforts in the Quest to Ensure Access to Justice

Campaign for Justice

2022 proved to be another challenging year for Mainers. Skyrocketing inflation, an uncertain economic future, an ongoing housing crisis and more factors continue to push at-risk individuals into a tight spot. Maine's civil legal aid providers help as many as they can, but resources do not allow them to help everybody. That's where the Campaign for Justice aims to assist, and members of Maine's legal community responded enthusiastically in 2022.

The Campaign for Justice, the annual fundraising campaign to the Maine Bar, raised $633,000 for needy Mainers last year. Nearly 1,400 members contributed a gift. In addition, 54 volunteers turned out to lend a hand in fundraising efforts, donating 740 hours of their time at an estimated value of $148,000.

"We never cease to be amazed by the incredible generosity of the Maine Bar who collectively commit so much time and money toward helping Mainers in need. We are grateful to Maine lawyers and judges for their selflessness and leadership in ensuring access to justice via the Campaign for Justice," says Michelle Draeger, Executive Director of the Maine Justice Foundation.

Since 2004, the Maine Justice Foundation has led fundraising efforts for the Campaign for Justice from the Maine Bar, more than $9 million has been raised for six civil legal aid providers: the Cumberland Legal Aid Clinic, Immigrant Legal Advocacy Project, Legal Services for the Elderly, Maine Equal Justice, Pine Tree Legal Assistance, and Volunteer Lawyers Project. These legal aid providers serve over 20,000 people every year—Mainers who need, but are not able to afford, help for life-changing issues like protection from abuse and harassment, divorce, eviction, health care, immigration, or loss of government benefits.

The work of the Campaign for Justice, and the six legal aid providers it helps support, is not nearly done. At current funding levels, Maine's civil legal aid providers are able to help only about one in four who seek their services. For those reasons, the Campaign for Justice seeks an even higher goal for 2023: $660,000, though more is certainly needed.

With a volunteer staff of over 50 people, the oversight of the Campaign is a significant undertaking. The Campaign for Justice is pleased to announce its leadership team for 2023:

Maine Justice
FOUNDATION
Because fairness matters
Celebrating 40 Years

Tim Pease is a partner at Rudman Winchell in Bangor. Tim has over twenty years of experience representing clients in areas like labor, employment**,** land use, and environmental issues. In his many years of practice, Tim has been general counsel to multiple counties, municipalities, and the regional electric utility.

Tim is a Maine native who graduated from the University of Maine. After completing his undergraduate degree, he served in the Air Force before earning his law degree from the University of Seattle.

David Abramson is counsel at Verrill in Portland. David is a talented litigator known for his work in family law, where he focuses on areas like custody and equitable division of assets. David also works in the sports law arena, where he has represented dozens of athletes in contract negotiations and endorsements.

David is a certified Player Agent with the MLB Players Association. He also serves as a Fellow of the American Academy of Matrimonial Lawyers and as a founding member of the American Academy of Certified Financial Litigators.

Tim and David are welcome additions to the Campaign for Justice team. They may reach out to you soon. We hope you find their calls and emails informative and helpful.



David S. Abramson, Esq. Timothy A. Pease, Esq.

LGBTQ+ Fund Announces 2023 Grant Round

The LGBTQ+ Fund of the Maine Justice Foundation was formed by seven founding donors in 2016. The Fund was started to provide grants to organizations assisting members of the LGBTQ+ community with access to justice issues. The first grants were awarded in 2019.

The movement for full equality for LGBTQ+ people has made incredible progress, but there are still threats to the laws that protect LGBTQ+ Mainers. For LGBTQ+ people, who suffer disproportionately from discrimination, the need for a lawyer can be acute. LGBTQ+ youth are especially vulnerable and at-risk when subjected to institutionalized bias in their communities and schools.

For 40 years, the Maine Justice Foundation has led the effort to ensure access to justice for Mainers in need. This includes underwriting efforts to identify and address inequities of justice across groups of differing race, gender, age, national origin, and sexual orientation. The Maine Justice Foundation is pleased to announce that it is preparing for a grant round from the LGBTQ+ Fund in 2023. An RFP will be posted in late spring, and the Foundation will accept online applications from non-profit organizations working to address the civil legal aid needs of low-income and vulnerable LGBTQ+ Mainers. Grants will be made to qualified organizations for programs to achieve awareness, productive dialogue and eliminate LGBTQ+ bias throughout Maine.

Guided by an Advisory Committee, who will establish the application guidelines and assist with the request for proposals and application review, the Fund seeks to support LGBTQ+ sensitive programs, processes, education, and systems at every level of Maine society. This includes, but is not limited to, the legal system, healthcare, education, the workplace, food insecurity, the courts and housing. In 2023, the founders of the Fund and the Maine Justice Foundation have committed a total of $50,000 to be granted this year. Applicants must be Maine-based and must demonstrate the involvement and participation of Maine residents who are LGBTQ+ identifying in all aspects of the proposed project.

Legal issues most often produce profound consequences. Civil legal aid can make all the difference for people and for our communities.

For additional information on the LGBTQ+ Fund, please email Linsey MacDougall, Development & Programs Manager, at lmacdougall@justicemaine.org.

Legal Service Providers and Others Garner Support for LD 564 on Access to Justice Day

March 21 was Access to Justice Day in Augusta, and the Judiciary Committee heard testimony from local and national access to justice leaders, civil legal aid providers, and clients about the importance of civil legal aid and the need to further investment in access to justice for Mainers with low incomes with passage of LD 564, "An Act to Improve Access to Civil Legal Services."

Approximately 356,500 Maine people (26.7 percent) are low income and eligible for free legal services. Most low-income Mainers face at least one civil legal issue each year that cannot be fairly resolved without legal advice or advocacy. These legal issues often relate to an individual or family's ability to meet basic human needs such as housing, health care, public benefits and helps protect individuals from domestic and elder abuse. These legal issues most often produce profound consequences. Civil legal aid can make all the difference for people and for our communities.

In the words of Hon. Andrew M. Mead, Senior Associate Justice of the Maine Supreme Judicial Court, Chair of the Justice Action Group,

> *"A commitment to justice for all is a commitment to equal access to legal representation, which can only be achieved through a commitment to increasing the capacity of civil legal services providers. Every year, thousands of Mainers face civil legal problems without help. Justice for all requires that the state step up its investment in both criminal defense and civil legal services."*

Between 2019 and 2022, civil legal service providers have seen a significant increase in demand for services on housing related issues. The overall demand for legal aid has also continued to increase and create instability among individuals, families, and the civil legal service providers seeking to respond to these growing needs. LD 564 builds upon $1.3 million that was appropriated for civil legal aid in 2022. The bill would provide civil legal aid funding of $11.7 million in the next two years in an effort to shrink the gap between legal needs and services available.

Maine Justice Foundation Access to Justice Tax Credit Application Period Opens June 1st

In 2023, the Access to Justice Tax Credit Program will authorize five new lawyers who practice in underserved areas to claim a $6,000 state income tax credit. The 2023 application period will open on June 1 and close on June 15.

For more information and to apply please visit justicemaine.org/grants-and-programs/

Upcoming in Spring and Summer 2023

Bar Fellows Nominations

Each year, the Maine Justice Foundation Board of Directors issues nominations for the Bar Fellows Program. The Bar Fellows is an honorary organization of attorneys, judges, law faculty and legal scholars who have demonstrated outstanding achievements and dedication to the welfare of their communities and to the highest principles of the legal profession. The program formally recognizes Maine Bar members who, through their professional activities, promote the provision of civil legal services to people in need, support legal education and scholarship, and engage in activities designed to enhance the legal profession's ability to serve the public throughout Maine. We look forward to welcoming the 2023 Bar Fellows who join the Maine Justice Foundation and support our mission. For a full list of current Bar Fellows please visit www.justicemaine.org/bar-fellows.

Access to Justice Tax Credit Applications

The second application period for the Access to Justice Tax Credit program will be open June 1-15, 2023. In an effort to encourage lawyers to provide services to underserved areas of our state, the Legislature enacted this program. In 2022, the program authorized five lawyers who practice in underserved areas and maintain eligibility for five successive years to claim a $6,000 state income tax credit. In 2023, the Foundation will certify up to five new additional attorneys.

To be eligible for selection, attorneys must commit to practicing law in an underserved area for at least five years, must be rostered by the Maine Commission on Indigent Legal Services to accept court appointments to represent clients in an underserved area, and must agree to perform *pro bono* legal services in an underserved area. Information will be available at www.justicemaine.org when the 2023 application period opens. For questions or additional information please email Linsey MacDougall, Development & Programs Manager, at lmacdougall@justicemaine.org.





NANCY A. WANDERER is Legal Writing Professor Emerita at the University of Maine School of Law. For decades, she oversaw the updating of Uniform Maine Citations, and her articles on proper citation, email-writing, and judicial opinion-writing have appeared in the Maine Bar Journal, the Maine Law Review, and the National Association of State Judicial Educators News Quarterly. Off and Running: A Practical Guide to Legal Research, Analysis, and Writing, co-authored with Prof. Angela C. Arey, is being used as a textbook in first-year legal writing classes. Nancy may be reached at wanderer@maine.edu.

Legal Typography: Not Just Another Pretty Face

During the Middle Ages, long before the invention of the printing press, English legal documents were handwritten by scribes in Gothic, an almost illegible form.[1] Not until the Renaissance, when the more rounded Roman letter shapes finally supplanted Gothic, only lawyers, judges, and their clerks could read or write legal documents, including case law and statutes.[2]

The persistence of Gothic's unintelligible letter shapes hampered access to the law by laypeople. Even statutes enacted by Parliament proved inscrutable not only to England's subjects, but even to the lawmakers who had drafted them.[3] Nevertheless, the use of Gothic persisted. Its resilience lay in the fact that it had come to symbolize English law and that members of the legal community had a vested interest in making sure that letter shapes were used that only they could read and write.[4]

As the law developed during the Middle Ages, legal handwriting became increasingly specialized.[5] Distinct Gothic forms distinguished one governmental body from another.[6] Three main governmental bodies existed—the law courts, the Chancery, and the Exchequer—each of which developed its own "departmental set hand."[7] Court and chancery hands proved to be the most pervasive of the three, requiring the emergence of a class of professional clerks for court business.[8]

When Johannes Gutenberg invented moveable type around 1450, he opted to make the final product of his invention resemble manuscripts handwritten in Gothic style, not the more legible Roman.[9] At the turn of the seventeenth century, as Roman was becoming more popular, the term "blackletter" began to be used to describe the strong visual impression of Gothic type on the page[10] in contrast to the simpler, cleaner Roman. The style of Gothic dominant in England at that time featured space-saving measures that resulted in a dense, "picket-fence impression of blackness,"[11] leading to its description as "blackletter"; documents printed in the less dense Roman style were described as "whiteletter," based on the perception of how much black or white appeared on the page of the respective type styles.[12]

After Parliament outlawed the use of Gothic in the courts in 1731, opting for the simpler, more legible Roman style, the term "blackletter law" began to take on a different meaning, describing law that was old enough to have been printed or handwritten in Gothic form, sometimes to the point of being arcane.[13] With the publication of West's hornbook series of study aids for law students, though, blackletter law began to signify established law, the meaning with which we are familiar today.[14]

Modern Document Design

Just as the invention of the printing press and, later, the typewriter, changed the appearance of legal documents, the availability of computerized word-processing programs has created opportunities and challenges that never existed before. In the beginning, most attorneys simply used their computers as super-typewriters that made editing and formatting more efficient and seamless. Eventually, however, legal writing scholars began encouraging attorneys to pay more attention to the appearance of the legal documents they were producing, even to the point of making strategic decisions about fonts, font size, spacing, and how best to show emphasis.[15]
As discussed in an earlier *Res Ipsa Loquitur* column, charts and other graphics can enhance legal documents.[16] Nevertheless,



attorneys cannot rely solely on pictures to articulate their arguments. Although the words on the page matter the most, visual effects, including the way the words themselves are laid out on the page, enhance understanding and persuasiveness.

Research conducted by educator Edgar Dale on the effectiveness of learning based on various means of communicating information led to the creation of a widely cited learning pyramid.[17] Although learning by listening appears at the top of the pyramid, effective visual and audiovisual techniques can increase learning retention.[18] Moreover, the look of the words and paragraphs affects visual perception; even with text alone, legal writers can create "a picture using typography as paint on the canvas of the page."[19]

Principles of Legal Typography

Typography is the visual component of the written word.[20] Typography matters because it helps to conserve the most valuable resource a legal writer has—reader attention.[21] Good typography can help a reader pay less attention to the mechanics of reading and more attention to the message; effective typography can make good writing even better.[22] The effectiveness of typography is measured by how well it reinforces the goals of the text.[23]

The following guidelines may help lawyers seeking to incorporate more effective typography in their legal writing.

Follow court rules when formatting documents to be filed in court.

Conforming to court rules is always the first principle when writing for any court. State and federal courts publish rules on margins, spacing, font, type size, and page limits. Court clerks often check for compliance with these rules before accepting documents for filing.[24] The United States Court of Appeals for the Seventh Circuit has posted a comprehensive, seven-page summary of legal typography principles on its website.[25]

Choose a readable font that is appropriate for the document.

Unless you are writing for a court that has specified the font to use, you should choose a font that is easy to read. Your first decision will be whether to use a serif or a sans-serif font. A "serif," or "wing," is the extra little line at the bottom of letters. **Times New Roman** is an example of a serif font.[26] Sans-serif fonts, on the other hand, do not have that extra little line;[27] a sans-serif font like Calibri is "without wings."[28]

Graphic design experts generally believe that serif fonts are preferable for large blocks of text.[29] They contend that the serifs lead the reader's eye from one letter to the next and that serif fonts are simply more legible.[30] The Seventh Circuit agrees with these conclusions and offers other suggestions for making effective font choices.[31]

According to the Seventh Circuit, typographic decisions should be made for a purpose.[32] Explaining that *The Times of London* chose Times New Roman to serve an audience looking for a "quick read," the court asserted that lawyers do not want their audience to read quickly and throw the document away; rather, they want a typeface that maximizes retention.[33] As Chief Judge Frank Easterbrook explained, "Desktop publishing does not imply a license to use ugly or inappropriate type and formatting—and I assure you that Times New Roman is utterly inappropriate for long documents. . . . It is designed for narrow columns in newspapers, not for briefs."[34]

Although some courts allow monospaced fonts to be used, legal writers should generally opt for a proportionally spaced font. Proportional fonts use different widths for different characters. Monospaced type, like **Courier New**, with every character the same width, ends up looking out of date, as if it were produced on a typewriter.[35]

Furthermore, type must be large enough to read comfortably, but not too large. Generally, court rules require a minimum of 12-point type in text and 11-point type in footnotes when using a proportionally spaced font.[36] The national standard for federal appellate briefs is 14-point type[37] for proportionally spaced fonts with serifs, or 12-point for monospaced fonts.

Pleadings and motions in Maine trial courts require at least 12-point type, except for footnotes and quotations,[38] which may appear in 11-point type.[39] The Maine Supreme Judicial Court, sitting as the Law Court, requires all printed matter to appear in at least 14-point type, except footnotes and quotations, which may appear in 11-point type.[40] The United States Court of Appeals for the First Circuit requires a 14-point, proportionally spaced font or a 12-point, monospaced font.[41] Rule 32(a)(5) of the Federal Rules of Appellate Procedure further requires that a "proportionally spaced face must include serifs, but sans-serif type may be used in headings and captions" as long as they are 14-point or larger.[42] The United States Supreme Court allows both proportionally spaced and monospaced typefaces to be used.[43] Further, a proportionally spaced typeface must include serifs, although a sans-serif font may be used in headings and captions.[44] All proportionally spaced typeface must be 14-point or larger.[45]

Although courts allow fonts that are larger than 14-point, anything larger than that, even in headings, seems "loud and aggressive;" anything smaller than 10-point type seems like "'fine print,' designed *not* to be read."[46] Some court rules suggest that two fonts might be used in a single document: one font for text and another for headings and captions. For headings, a bold sans-serif font can provide contrast with the text and make the headings stand out. No more than two fonts should be used in a document, however. Too many font changes can create a confusing, even haphazard appearance that might leave a bad impression and put off the reader.

Using Bold-faced Type, Italics, Underlining, and All Caps for Emphasis

When legal documents were produced on typewriters, lawyers had few options for emphasizing headings, captions, or phrases to which they wanted to draw the court's attention. Except for United States Supreme Court briefs, which were probably prepared by professional printers, most briefs and motions were produced on ordinary typewriters, which provided only two options for emphasis: underlining and TYPING IN ALL CAPITAL LETTERS ("all caps"). As a result, conventions arose requiring main headings to be typed in ALL CAPS, with subheadings and case names underlined.

After lawyers gained access to computerized word processing, **bold-faced text** and *italics* became available, although it has taken some time for them to become widely used. Old habits die hard, like the use of two spaces between the end of one sentence and the beginning of another.

Research has shown that the use of all caps in a heading dramatically decreases reading speed as compared to ordinary upper- and lower-case letters.[47] During repeated tests on adults, studies have indicated that the use of all caps extended the reading time of an average reader by 38 words/minute.[48] Moreover, when participants were asked for their opinion regarding legibility, 90% preferred ordinary, upper- and lower-case letters.[49]

Now that typewriters are a thing of the past, lawyers should retire "the ill-suited practice of using all caps in headings, boilerplate, and any other place where the object is to emphasize rather than de-empathize the content."[50] Although underlined text, *italicized text*, and **bold-faced type** also cause the reader to spend a bit more time discerning the words being read, studies have shown that bold-faced type slows reading the least and tends to be preferred as the way to show emphasis by most readers.[51]

Along with discontinuing the use of all caps, except for titles and very short captions, lawyers should stop using underlining altogether. Italics should be used for case names; different and larger fonts can be used for headings and captions; and bold-faced type and italics can be used for emphasis throughout the text.

Conscious Use of White Space

White space is all the area on a page where no words appear, including page margins and the space around text elements like headings, block quotations, bulleted items, sentences, and paragraphs. The space around text elements separates the elements from the rest of the document and makes them stand out. Breaking up a long document with headings, block quotations, and other text elements helps guide readers through the document and show them how different sections fit together.

Although courts generally specify a minimum margin width, using slightly larger margins enhances readability by creating more white space and preventing lines from being too long.[52]

If the document is going to bound, be sure to add an extra half-inch to the appropriate margin.

Paragraph indents also add white space and provide shape and definition to a paragraph. Indent the first line of each paragraph using automatic paragraph formatting to keep them consistent. Using the tab key, the first line of each paragraph should be set to indent about a quarter of an inch, certainly no more than half an inch, the default on most word processors.[53] In a single-spaced document, leave an extra line between paragraphs.

Indented block quotations must have left and right margins of equal size. Like the rest of the document, however, the text should not be fully justified with the text aligned at both the left and the right margins.[54] Unless a document is being prepared by a professional typographer, forcing the text to both margins results in word spacing that is unevenly distributed across the page, making text more difficult to read.[55] When the document is flush left, the uneven right margin provides visual clues to help the reader find the beginning of the next line.[56]

Just as illegible fonts discourage careful reading, long paragraphs make readers want to skim through the text as quickly as possible. Writers need to break up long paragraphs into smaller paragraphs, using transitional words and phrases to lead the reader through the content. Using too many choppy, short paragraphs can also be off-putting. My advice on the subject of paragraph length is this: Avoid one-sentence and one-page paragraphs. Of course, sometimes a one-sentence paragraph can be used for special emphasis, but page-long paragraphs are almost never a good idea. Ideally, a page has at least two paragraphs, preferably of varying length. Such a page is more appealing because of the increased amount of white space and the variety that captures the reader's interest.

Farewell to the Typewriter

Writing this column has been a humbling experience. For more than sixty years, I have prided myself on my typing skills, which have stood me in good stead throughout my education and career, even in my retirement. As with most things, I can thank my mother for making sure I learned how to touch-type when I was a young teenager. It's not that she imagined me ever becoming a secretary or a stenographer. She just knew that excellent typing skills would be an asset in any future endeavor, and, of course, she was right.

Now, however, I need to ignore some of the lessons I learned from my rigid, slightly terrifying typing teacher at the New Kensington Commercial College so many years ago. Although I will forever be grateful to her for pushing me to type as fast as I could without looking at my fingers on the keys, I need to set aside some of the spacing and other rules she drummed into my head, never to be forgotten.

I have had the most difficulty setting aside the rule to put two spaces between sentences and after colons and semi-colons. For twenty years, I required my law students to put two spaces between sentences, even though many of them told me that this was no longer the norm. I couldn't let it go because I didn't understand why I should. Conducting research for this column, I discovered the reason I needed to change my ways. According to Matthew Butterick, the foremost authority on legal typography, putting an extra space between sentences disrupts the balance of white space on the page.[57] Multiplied across the whole page, "'rivers' of white space can appear,"[58] interrupting the reader's attention. Then he cut to the quick, asserting that "one space is the well-settled custom of professional typographers. You don't need to like it. You only need to accept it."[59]

With that mantra in my head, I am aspiring to discard any obsolete idea I still harbor from my typing-school days and embrace the exciting possibilities for document design offered by modern word-processing. I hope this column has proved helpful to other attorneys, especially those who learned to type on old-fashioned typewriters. We still have a lot to offer, and it is never too late to learn a few new tricks, even if we do have to seek technical assistance from our grandchildren to pull them off.

ENDNOTES

1 Kasia Solon Cristobal, *From Law in Blackletter to Blackletter Law*, 108 Law Libr. J. 181, 181 (2016).
2 *Id.* at 183.
3 *Id.* at 184.
4 *Id.*
5 *Id.* at 185.
6 *Id.* at 186.
7 *Id.*
8 *Id.*
9 *Id.* at 188.
10 *Id.*
11 *Id.* at 189.
12 *Id.*
13 *Id.* at 211-12.
14 *Id.* at 212.
15 Ellie Margolis, *Visual Legal Writing: A Bibliography*, 18 Legal Comm. & Rhetoric 195 (2021) (providing an extensive list of articles and books about legal document design and typography).
16 *See generally* Nancy Wanderer, *Legal Writing Illustrated: The Persuasive Power of Pictures*, 38 Me. Bar J. 34 (2023).
17 Ruth Anne Robbins, *Painting with Print: Incorporating Concepts of Typographic and Layout Design into the Text of Legal Writing Documents,* 2 J. Ass'n Legal Writing Directors 108, 110 (2004).
18 *Id.*
19 *Id.*

20 Matthew Butterick, *Typography for Lawyers: Essential Tools for Polished & Persuasive Documents* 20 (2d ed. 2015).
21 *Id.*
22 *Id.* at 24.
23 *Id.* at 29.
24 Bryan A. Garner, *The Redbook: A Manual on Legal Style* 87 (3d ed. 2013).
25 *See generally* U.S. Court of Appeals for the Seventh Circuit, *Requirements and Suggestions for Typography in Briefs and Other Papers,* htts://www.ca7.uscourts.govrules/type.pdf.
26 *See* Font Squirrel, *Serif Fonts*, https://www.fontsquirrel.com/fonts/list/classification/serif (listing serif fonts).
27 Wikipedia, *List of Sans-serif Typefaces,* https://en.wikipedia.org/wiki/List_of_sans_serif_typefaces (listing sans-serif fonts).
28 Robbins, *supra* n. 17, at 119.
29 *Id*.
30 *Id.* at 120.
31 U.S. Court of Appeals for the Seventh Circuit, *supra* n. 25, at 3.
32 *Id.*
33 *Id.*
34 Frank H. Easterbrook, *Challenges in Reading Statutes* (Chicago, IL, Sept. 28, 2007), http://lawyersclubchicago.org'docs/Challenges.pdf.
35 *See Standard Windows Fonts,* https://www.autoitscript.com/autoit3/docs/appendix/fonts.htm (listing monospaced and proportional fonts in Windows).
36 U.S. Court of Appeals for the Seventh Circuit, *supra* n. 25, at 2.
37 Garner, *supra* n. 24, at 89 (citing Fed. R. App. P. 32(a)(5)).
38 Although 11-point type seems adequate for footnotes, using such a small typeface for block quotes is inadvisable. As it is, readers typically skim block quotes or skip them altogether. If the print in them is too small to read comfortably, block quotes will frequently be ignored. If a block quote is important enough to include, it should be as accessible and readable as possible. That means using the same size font for a block quote as appears in the rest of the document.
39 Me. R. Civ. P. 7(f).
40 Me. R. App. P. 7A(2).
41 Fed. R. App. P. 32(a)(2).
42 Fed R. App. P. 32(a)(5).
43 S. Ct. R. 32(a)(5).
44 *Id.*
45 *Id.*
46 Garner, *supra* n. 24, at 89.
47 Robbins, *supra* n. 17, at 115.
48 *Id.*
49 *Id.*
50 *Id.* at 117.
51 Mary Beth Beazley, *Hiding in Plain Sight: Conspicuous Type Standards in Mandated Communication Statutes*, 40 J. Legis. 1, 34 (2013).
52 Garner, *supra* n. 24, at 91.
53 *Id.*
54 *Id.*
55 *Id.*
56 *Id.*
57 Butterick, *supra* n. 20, at 41.
58 *Id.*
59 *Id.*

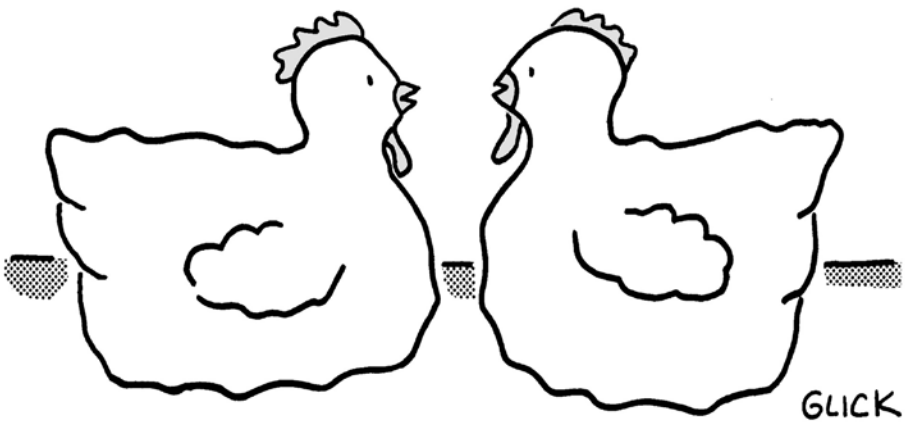


KELLY, REMMEL & ZIMMERMAN

is pleased to announce that Attorney Sanchita Mukherjee has been elected to the Board of Directors of the Maine Trial Lawyers Association ("the MTLA"). She joins Attorneys Lauri Boxer-Macomber (2021-2022 MTLA President) and Stephen Koerting (past Amicus Committee Co-chair) on the statewide board whose mission includes promoting the administration of justice, improving the practice of law, protecting access to Maine courts, and ensuring the right to a jury trial. She is a 2021 graduate of the University of Maine School of Law, Ms. Mukherjee is believed to be the youngest attorney ever to be elected to the MTLA's Board of Directors. At KRZ, Ms. Mukherjee represents victims of traffic trauma, practices family law, and works on a variety of civil cases.

JEST IS FOR ALL

By Arnie Glick



"Why did the chicken keep crossing the private way?
To eventually acquire an easement by prescription."





PAUL MCDONALD is a shareholder and the general counsel of Bernstein Shur Sawyer & Nelson. In addition to his commercial and business litigation practice, Paul represents lawyers in ethics, risk management, and malpractice matters. He can be reached at pmcdonald@bernsteinshur.com.

Termination of the Attorney-Client Relationship Part Two: Obtaining Leave to Withdraw and Continuing Obligations to the Client

This is Part Two of a two-part discussion dealing with the ethical issues and recommended practices surrounding termination and withdrawal from an attorney-client relationship prior to conclusion of the matter. Part One included an in-depth discussion of Rule of Professional Conduct 1.16, entitled "Declining or Terminating Representation,"[1] and addressed the circumstances where withdrawal is ethically mandated and those situations that permit, but do not require, withdrawal.[2]

Part Two will address the situation in which the lawyer seeks to terminate and withdraw from representing a client in a matter that involves litigation in court, an arbitration, or some other proceeding before a "tribunal."[3]

Motions To Withdraw

When Necessary

Me. R. Prof. Conduct 1.16(c) states that "a lawyer must comply with applicable law and rules requiring notice to or permission of a tribunal when terminating a representation,"[4] Both the Maine Rules of Civil Procedure and the Local Rules of the United States District Court for the District of Maine have provisions dealing with motions to withdraw from representation.[5]

Maine Rule of Civil Procedure 89 requires that a lawyer file a motion to withdraw and obtain leave of court to do so unless (i) substitute counsel simultaneously enters an appearance, (ii) there are no pending motions, and (iii) no trial date has been set, in which case the withdrawal may be made by filing and serving a notice of withdrawal on all parties and the client.[6] Local Rules 83.2 (civil rules) and157.5 (criminal rules) of the United States District Court for the District of Maine require the filing of a motion to withdraw and obtaining leave of court in all cases.[7]

Form And Content of The Motion

Neither Maine Rule of Civil Procedure 89 nor the Maine Rules of Professional Conduct address the form or content of a motion to withdraw.[8] However, Local Rule 157.5 of the Maine District Court offers some guidance. It states, in pertinent part, that:

> a motion to withdraw shall set forth sufficient information to enable the Court to rule. Such information may be filed under seal, submitted to the Court in camera, and shall not be made part of the public record, except by order of the Court.[9]

Official Comment 3 to Rule 1.16 provides additional helpful guidance in this respect. It states, in pertinent part, that:

> The court may request an explanation for the withdrawal, while the lawyer may be bound to keep confidential the facts that would constitute such an explanation. *The lawyer's statement that professional considerations require termination of the representation ordinarily should be accepted as sufficient.* Lawyers should be mindful of their obligations to both clients and the court under Rules 1.6 and 3.3. (Emphasis added).[10]

The Comment specifically mentions the lawyer's obligations under Rule 1.6, which deals with the lawyer's duty of confidentiality, and Rule 3.3, which deals with candor toward the tribunal.[11] Unfortunately, neither Rule 1.6 nor the Comments thereto refer to motions to withdraw.[12] Likewise, Rule 3.3 is silent on the issue.[13]

Ultimately, when moving to withdraw, the lawyer must strike the right balance between their duty to preserve the client's confidences and secrets on the one hand and the need to provide the tribunal with sufficient information to rule on the motion on the other hand.[15]

How Much Confidential Information May Be Disclosed?

Thus, the withdrawing lawyer's dilemma: how much, if any, confidential information can be revealed in a motion to withdraw if the client has not given informed consent to disclose such information? Unfortunately, "courts have differed widely as to whether any specific information regarding a lawyer's reasons for seeking withdrawal is required in a motion to withdraw, and if so, how much."[14] Ultimately, when moving to withdraw, the lawyer must strike the right balance between their duty to preserve the client's confidences and secrets on the one hand and the need to provide the tribunal with sufficient information to rule on the motion on the other hand.[15]

A prudent approach to the dilemma, as suggested in Official Comment 3 to Rule 1.16, is not to reveal any confidential information in the motion beyond the request to withdraw,[16] state that professional considerations permit or require termination, and offer to submit additional information, if required by the court to resolve the motion, under seal and *in camera*.[17] In the event further disclosures are required by the Court, the lawyer should be mindful that disclosures of client confidences and secrets should be limited "to the extent the lawyer reasonably deems necessary."[18]

Post-Termination Obligations to The Client

If a motion to withdraw is granted, the lawyer still owes duties to the former client, including the overarching duties of loyalty and confidentiality. Rule 1.16(d) sets forth certain specific obligations the lawyer must adhere to upon termination of an engagement.[19] It provides that:

> Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, including giving reasonable notice to the client, allowing time for employment of other counsel, refunding any advance payment of fees or expenses that has not been earned or incurred, and complying with Rule 1.15(f) concerning the information and data to which the client is entitled.

These items are straightforward. Note, however, that they apply even in circumstances where the lawyer has been unfairly discharged by the client.[20]

Recommended Practices

Termination of and withdrawal from an engagement almost always is a stressful process. Many withdrawals, particularly where the matter is before a tribunal and leave to withdraw is required, are fraught with ethical challenges. In all cases the lawyer should proceed cautiously.

While only Rule 1.16(5) expressly requires the lawyer to warn the client that the lawyer will seek leave to withdraw before doing so (when the withdrawal is based on the client's failure to fulfill an obligation to the lawyer),[21] prudence suggest that in all cases, if practicable, the lawyer should discuss their intent to withdraw with the client and seek to obtain the client's informed consent to retain new counsel and consent to the withdrawal.

If the client will not consent to the lawyer's withdrawal/substitution of new counsel and a motion to withdraw is required, the prudent approach is not to reveal client confidences or secrets in the initial motion papers beyond the fact of the request to withdraw. As for the reason(s) supporting withdrawal, the motion should state only that professional considerations permit or require termination, and offer to submit additional information, if required by the court to resolve the motion, under seal and *in camera*. If an *in camera* disclosure is made, the disclosure of the client's confidence and secrets should be limited to the extent the lawyer reasonably deems necessary.[22]

Once a motion to withdraw is granted, the lawyer should take appropriate steps to protect the client's interests and cooperate in the transition of the matter.

ENDNOTES

1 Me. R. Prof. Conduct 1.16.
2 *See* Paul McDonald, *Termination And Withdrawal From Representation Part One: Mandatory And Permissive Withdrawal*, 38 Me. Bar. J. 38 (Winter 2023).
3 "Tribunal" is defined in Maine Rule of Professional Conduct1.0(m), and "denotes a court, an arbitrator in a binding arbitration proceeding or a legislative body, administrative agency or other body acting in an adjudicative capacity. A legislative body, administrative agency, or other body acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a binding legal judgment directly affecting a party's interests in a particular matter."
4 Me. R. Prof. Conduct 1.16(c). *See* Mr. R. Civ. P. 89; Me. Dist. Ct. Local Rule 83.2 (civil rules), 157.5 (criminal rules).
5 Me. R. Civ. P. 89; D. Me. Local Rule 157.5.
6 Me. R. Civ. P. 89(a).
7 D. Me. Local Rules 83.2, 157.5.
8 *See* Me. R. Civ. P. 89; Me. R. Prof Conduct 1.16.
9 D. Me. Local Rules 83.2, 157.5(b).
10 Me. R. Prof. Conduct 1.16, Official Comment 3.
11 *See* Me. R. Prof. Conduct 1.6, 3.3.
12 *Id.* R. 1.6.
13 *Id.* R. 3.3.
14 *See* American Bar Association Committee On Ethics and Professional Responsibility Formal Opinion 476 (Dec. 19, 2016) ("Formal Opinion 476") p. 4 (citing cases).
15 *Byrd v. Mahaffey*, 78 P.3d 671, 676 (Wyo. 2003) ("[A]n artful balance between confidentiality and providing an adequate basis for withdrawal must be maintained by counsel requesting to withdraw counsel requesting to withdraw.").
16 The lawyer's request to withdraw without client consent is itself considered a "secret" subject to the lawyer's duty of confidentiality. *See* Me. R. Prof. Conduct 1.6(d) ("…'secret' refers to other information relating to the representation if there is a reasonable prospect that revealing the information will adversely affect a material interest of the client or if the client has instructed the lawyer not to reveal such information.").
17 *See* Formal Opinion 476, p. 9.
18 Me. R. Prof. Conduct 1.6(b).
19 *Id.* R. 1.16(d).
20 *Id.*, Official Comment 9.
21 *Id.* R. 1.16(5).
22 Me. R. Prof. Conduct 1.6(b).



Shaheen & Gordon
ATTORNEYS AT LAW

It's different here

shaheengordon.com

Every Client is Unique.

So Are Our Attorneys.

Welcoming Teresa (Tess) Farley!

Tess joins the firm's family law group. She has significant experience representing sexual assault and domestic violence survivors in matters including protection from abuse; divorce; and parental rights and responsibilities. She is an advocate of reproductive rights and was a co-founder of the Reproductive Freedom Fund of NH.

tfarley@shaheengordon.com
(207) 282-1527
75 Pearl Street, Suite 205
Portland, ME 04101

Concord • Dover • Manchester • Nashua • Peterborough • Portland



Maine Law Practice Collection

A collaboration between the MSBA and MCLE | New England®

A Practical Guide to Discovery and Depositions in Maine
Practical guidance from experts in the Civil Litigation field
510 pages in 1 volume; no. 2140577B00; © 2020

A Practical Guide to Divorce in Maine
An essential reference for Maine family law attorneys
478 pages in 1 volume; no. 2160242B00; © 2020

A Practical Guide to Employment Law in Maine
336 pages in 1 volume; no. 2190677B00; © 2019

A Practical Guide to Estate Planning in Maine
Tested guidance—on topics from marital deducation planning to gift taxes to lifetime asset transfers and life insurance planning
914 pages in 2 volumes; no. 2130449B00; © 2021

A Practical Guide to Evidence in Maine
An indispensable resource for courtroom counsel in Maine
418 pages in 1 volume; no. 2160241B00; © 2020

A Practical Guide to Land Use in Maine
586 pages in 1 volume; no. 2170247B00; © 2018

A Practical Guide to Probate in Maine
Practice, procedure, and code provisions—made plain
562 pages in 1 volume; no. 2210196B00; © 2020

A Practical Guide to Residential Real Estate Transactions and Foreclosures in Maine
An essential reference for your daily practice
590 pages in 1 volume; no. 2130546B00; © 2020

A Practical Guide to Superior Court Practice in Maine
An essential reference for Maine civil and criminal litigators
718 pages in 1 volume; no. 2150298B00; © 2020

All titles are available in print or ebook format

For more information, visit www.mcle.org

Follow us on Social Media

Sustaining Members of the Maine State Bar Association

The MSBA offers grateful thanks to these members, whose additional support makes possible some of the work of the Association on behalf of the lawyers and residents of our state.

2023 Sustaining Members as of 5/1/2023

The Honorable Donald G. Alexander
The Honorable John R. Atwood
Randall Bates
Henri A. Benoit, II
Benjamin I. Bornstein
Deborah Aronson Bornstein
James M. Bowie
Michael S. Bowser, Jr.
James W. Brannan
J. David Canarie Jr.
Paul W. Chaiken
John D Clifford IV
Eric N. Columber
Meghan E. Connelly
Thaddeus V. Day
Joel A. Dearborn, Sr.
Jonathan M. Dunitz
Paula H. Elkins
Thomas B. Federle
Emily Gaewsky
Peter C. Gamache
Carl R. Griffin, III
Kristin A. Gustafson
Francoise M. Haasch-Jones
James B. Haddow
Bruce M. Harris
W. John Hathaway
Brian C. Hawkins
Barry J. Hobbins
The Honorable Andrew M. Horton
Phillip E. Johnson
Blair A. Jones
Samuel C. Kilbourn
Robert W. Kline
Robert L. Knupp
Robert A. Levine
William W. Logan
Dennis L. Mahar
James L. McCarthy
The Honorable Andrew M. Mead
William L. Neilson
Kenneth M. Nelson
The Honorable Stephen D. Nelson
Christopher Northrop
The Honorable Alan C. Pease
Thomas P. Peters II
Jonathan S. Piper
Robert F. Preti
Jane Surran Pyne
Christopher J. Redmond
Robert J. Ruffner
Leigh I. Saufley
William E. Saufley
David M. Schwartz
Lendall L. Smith
Gregory E. Snow
Brian Patrick Sullivan
Scott Webster
Tanna B. Whitman
Debby L. Willis
Steven F. Wright

The Law Offices of Joe Bornstein

Sustaining memberships permit MSBA members to make additional commitments to the Maine State Bar Association. As established by the MSBA's Board of Governors, an individual Sustaining Membership is $100 in addition to a member's regular membership dues.

MSBA Member Benefits

BUSINESS SERVICES

- Decisis (free online legal research)
- Maine Bar Journal
- CLE & CLE Club Membership
- Annual Bar & Summer Bar Conference
- Discounted Services & Products
  - ABA Books for Bars
  - Clio
  - Conference Calling
  - CuroLegal Consulting Services
  - Earthlink
  - Evergreen Decisions
  - Expedia
  - FedEx
  - LawPay (credit card processing)
  - Paychex
  - Smith.ai (virtual receptionist)
  - Verizon Wireless

FINANCIAL & INSURANCE SERVICES

- ABA Retirement Funds
- Health, Life, Dental & Disability Insurance
- Automotive, Homeowner's & Renter's Insurance
- Long-Term Care Insurance
- Professional Liability Insurance

PERSONAL & NETWORKING SERVICES

- ALPS Attorney Match
- Silent Partners (helping lawyers deal with problems in substantive and administrative areas of law)
- Online Career Center
- Online Member Directory

CALL 1-800-475-7523

Maine State Bar
ASSOCIATION
Chartered in 1891



The MSBA's Silent Partners program offers low-key assistance to lawyers in dealing with problems in substantive and administrative areas of the law where there may be a lack of familiarity or comfort, where some help and guidance would benefit both the practitioner and the client.

The coordinator has a list of attorneys associated with organizations, sections, and committees who are willing to provide help. The program provides confidentiality recognized by M.R. Prof. Conduct 1.6(b)(4).
We can provide guidance and assistance in most areas of law.

Admiralty Law
Appellate Practice
Bankruptcy
Business Associations (Corporation/ Partnership)
Civil Rights/Discrimination
Collections
Commercial and Consumer Law
Criminal Law
District Court Practice
Economics and the Practice of Law
Education Law
Elder Law
Employment Law
Engineering
Ethics
Family Law
General Practice
Gender Bias
Immigration Law
Intellectual Property
Labor and Employment Law
Litigation
Mediation
Medical Malpractice
Municipal Law
Natural Resources/Environmental Law
Probate Law
Real Estate
Tax Law
Trademark
Social Security Disability
Workers Compensation

To learn more, call Angela Armstrong at 207-622-7523 or email aarmstrong@mainebar.org.

MSBA CLE

CALENDAR

Maine State Bar ASSOCIATION
Chartered in 1891

LIVE PROGRAMS

June 13
ChatGPT in the Legal Field: Benefits, Pitfalls and Ethical Considerations | 1.0 ethics

June 26-28
Summer Bar Conference
Bar Harbor Hotel, Spa & Marina, Bar Harbor | 6.0

July 20
6th Annual CLE by the Sea: NE Solo & Small Firm Conference
Blue Ocean Event Center, N. Salisbury, MA | 6.25

AUDIO WEBCASTS

June 6 2023
Trust and Estate Planning Update

June 7 2023
Ethics in Civil Litigation Update: Part 1 | 1.0 ethics

June 8 2023
Ethics in Civil Litigation Update: Part 2 | 1.0 ethics

June 9
The Art and Science of Conditional Gifts in Estate Planning | 1.0

June 12
Selection and Preparation of Expert Witnesses in Litigation | 1.0

June 13
Talking About Wealth Transfer Plans: Practical Strategies to Avoid Disputes Among Beneficiaries | 1.0

June 14
Buying and Selling Commercial Real Estate: Part 1 | 1.0

June 15
Buying and Selling Commercial Real Estate: Part 2 | 1.0

June 16
Diversity, Equity & Inclusion in Law Practice | 1.0 H&D

SAVE THE DATE

Sept. 6-7
Real Estate Institute | Augusta Civic Center

Sept. 14
Lawyer Like an Athlete | 3.0 ethics

Sept. 29
CompCon 2023, Augusta Civic Center

Oct. 5
Bankruptcy Update 2023, Hilton Garden Inn, Freeport

Nov. 2-4
New England Bar Association Annual Meeting | Salem, MA

Nov. 16
Legal Year in Review | Augusta Civic Center

Dec. 5-6
Bridging the Gap | Hilton Garden Inn, Freeport

Advertiser's Index

Allen/Freeman/McDonnell Agency… p. 73
Allen Insurance & Financial… p. 67
ALPS… p. 65
Berman & Simmons…Inside Front Cover
Berry Talbot Royer CPA… p. 79
Clio… p. 66
Cross Insurance… p. 93
Gideon Asen… Inside Back Cover
Howell Valuation… p. 67
Jensen Baird… p. 80
Kelly Remmel & Zimmerman… p. 65, 92
Barry L. Kohler… p. 67
LawPay… p. 83
Maine Employee Rights Group… p. 87
William Moulton… p. 80
Murray Plumb & Murray… p. 79
National Academy of Distinguished Neutrals… p. 81
John Sheldon… p. 80
Shaheen & Gordon… p. 96
Troubh Heisler LLC… p. 64
University of Maine Foundation… p. 66
Woodman Edmands… p. 77

Classified Ads

WANTED Want to purchase minerals and other oil/gas interests.
Send details to: P.O. Box 13557, Denver, CO 80201.



GIDEON ASEN

Champions for medical malpractice victims, and for Maine's future.

As a member of 1% for the Planet, Gideon Asen donates one percent of all fees generated to environmental non-profits, to ensure that the wonders of Maine are preserved for future generations.

BELOW ARE SOME OF THE CHARITIES GIDEON ASEN PROUDLY SUPPORTS.

Maine Huts & Trails · Maine Audubon — Conserving Maine's wildlife. For everyone. · Friends of Acadia · Maine Farmland Trust · Friends of Baxter State Park · Wolfe's Neck Center for Agriculture & the Environment · Native Fish Coalition Est. 2017 · Friends of Katahdin Woods & Waters · 1% for the Planet

gideonasen.com | help@gideonasen.com | (207) 206-8982

Maine State Bar
ASSOCIATION
Chartered in 1891

ADDRESS SERVICE REQUESTED

124 State St.
Augusta, ME 04330

The MSBA is committed to serving our members as well as supporting our employees during these uncertain times. In order to minimize physical contact, the MSBA office is open to the public on a limited basis. However, the staff is working and is available to assist you. Please continue to contact us through email, telephone, and regular mail. Thank you.

MAINE STATE BAR ASSOCIATION

124 State St.
Augusta, ME 04330

CONTINUING LEGAL EDUCATION
T: 207.622.7554
or 877.622.7554
F: 207.623.0083
cle@mainebar.org

MEMBERSHIP & MEMBERSHIP BENEFITS
T: 207.622.7523
F: 207.623.0083
membership@mainebar.org

LAWYER REFERRAL SERVICE
T: 800.860.1460
lrs@mainebar.org

GENERAL INQUIRIES
T: 207.622.7523
F: 207.623.0083
info@mainebar.org

Maine State Bar Association: Always Here For You

Now more than 2,800 members strong, the Maine State Bar Association is the largest and most active alliance of lawyers in Maine. Our members include active and inactive attorneys, judges, law professors, corporate counsel and government lawyers. The goal of the MSBA is to provide its members with membership services and benefits to enhance their practice and enrich their experience in the legal profession. Our MSBA leadership and professional staff are dedicated to meeting your high expectations of quality, commitment and service.

