

Rhode Island Bar Journal

Rhode Island Bar Association Volume 65. Number 4. January/February 2017



**Rhode Island DUI Conditional
Hardship Licenses: The Sequel**

2016 Education Legislation Review

**When Is Mediation a Good Choice
for Your Client?**

**40 Years of Practice: Your
Reputation Precedes You!**



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Our Duty to Assist Those in Need



Armando E. Batastini, Esq.
President
Rhode Island Bar Association

While the Bar Association makes efforts to help as many as possible, much more is needed. We are not able to fulfill all of the requests for pro bono representation, particularly in family law and bankruptcy.

This past year was the thirtieth anniversary of the Rhode Island Bar Association Volunteer Lawyer Program. The Bar Association celebrated this milestone with a reception at the Law Center on October 27, 2016. RI Supreme Court Chief Justice Paul Suttell, Rhode Island Legal Services Executive Director Robert Barge, and Christine Engustian, chairperson of the Bar Association Public Services Committee, spoke. Each expressed similar sentiments, emphasizing the critical need for volunteer pro bono representation and recognizing the substantial contribution that the Bar Association makes providing these much needed services. Rhode Island Legal Services also presented the Bar Association with a beautiful crystal memento marking this anniversary, which is greatly appreciated.

Great credit for these efforts goes to the Bar Association staff, and most particularly, Public Services Director Susan Fontaine and her team.

The Bar Association has five full-time staff members whose sole responsibility is the intake and placement of these cases. The Bar Association receives well over 1,000 requests for representation each month, and we are able to place a fair percentage of these matters as a result of the staff's remarkable efforts.

Of course, none of this would be possible without our volunteer lawyers. Rhode Island lawyers contributed over 3,000 hours of pro bono services last year. We have some attorneys who routinely provide over 100 hours of pro bono legal representation per year. All told, the Bar Association, through the Volunteer Lawyer Program and its other pro bono programs, is the single largest source of volunteer pro bono legal services in the state. Making this fact more remarkable, most of our volunteer lawyers are small firm and solo practitioners, so their pro bono contributions directly impact their bottom line.

While the Bar Association makes efforts to help as many as possible, much more is needed. We are not able to fulfill all of the requests for pro bono representation, particularly in family law and bankruptcy. I therefore encourage every

member to take on pro bono cases. Even if you are not a litigator, the Bar staff will find a pro bono matter that aligns with your expertise.

While all lawyers should participate in pro bono because it is the right thing to do, I remind Bar members that it is also our ethical obligation to do so. Specifically, Rule 6.1 of the Rhode Island Rules of Professional Conduct obligates all Bar members to "render at least 50 hours of pro bono public legal services per year."

Providing pro bono services also provides tangible benefits. One of the most rewarding experiences I have had as a lawyer is participating in the Volunteer Lawyer Program. As a new associate, pro bono representation provided me with valuable trial work that I otherwise would not have experienced. When opportunities thereafter arose to handle other litigation, I could plausibly hold myself out as having the skills and experience necessary for those matters. I add that the Bar Association offers a mentorship program as part of the Volunteer Lawyer Program, so that newer lawyers can work on types of matters that are new to them with the assistance of an experienced lawyer.

The best reward, however, is the genuine gratitude that pro bono clients provide, knowing that someone is there for them, and the satisfaction of making a difference for people who truly need help. ♦

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According to Rhode Island Bar Member and Johnston-based Attorney Angelo A. Mosca III: ***In my opinion, the Bar's List Serve is one of the best things to come to the Bar in recent years.***

Since its inception under the sponsorship of Past Bar President Michael McElroy, our Bar's List Serve has grown exponentially in participating members and in a wide range of answered questions. From nuances of the Rhode Island Courts e-filing system to requests for local and out-of-state referrals, List Serve members are providing each other with timely answers. List Serve topics encompass a wide range of practice areas including consultants, traffic violations, medical marijuana, landlord/tenant, divorce, *pro hac vice*, immigration and more!

Free and available for all actively practicing Rhode Island attorney members, the Bar's List Serve gives you immediate, 24/7, open-door access to the knowledge and experience of hundreds of Rhode Island lawyers. If you have a question about matters relating to your practice of law, you post the question on the List Serve, and it is emailed to all list serve members. Any attorney who wishes to provide advice or guidance will quickly respond.

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RHODE ISLAND BAR JOURNAL

Editorial Statement

The Rhode Island Bar Journal is the Rhode Island Bar Association's official magazine for Rhode Island attorneys, judges and others interested in Rhode Island law. The *Bar Journal* is a paid, subscription magazine published bi-monthly, six times annually and sent to, among others, all practicing attorneys and sitting judges, in Rhode Island. This constitutes an audience of over 6,000 individuals. Covering issues of relevance and providing updates on events, programs and meetings, the *Rhode Island Bar Journal* is a magazine that is read on arrival and, most often, kept for future reference. The *Bar Journal* publishes scholarly discourses, commentary on the law and Bar activities, and articles on the administration of justice. While the *Journal* is a serious magazine, our articles are not dull or somber. We strive to publish a topical, thought-provoking magazine that addresses issues of interest to significant segments of the Bar. We aim to publish a magazine that is read, quoted and retained. The *Bar Journal* encourages the free expression of ideas by Rhode Island Bar members. The *Bar Journal* assumes no responsibility for opinions, statements and facts in signed articles, except to the extent that, by publication, the subject matter merits attention. The opinions expressed in editorials represent the views of at least two-thirds of the Editorial Board, and they are not the official view of the Rhode Island Bar Association. Letters to the Editors are welcome.

Article Selection Criteria

- The *Rhode Island Bar Journal* gives primary preference to original articles, written expressly for first publication in the *Bar Journal*, by members of the Rhode Island Bar Association. The *Bar Journal* does not accept unsolicited articles from individuals who are not members of the Rhode Island Bar Association. Articles previously appearing in other publications are not accepted.
- All submitted articles are subject to the Journal's editors' approval, and they reserve the right to edit or reject any articles and article titles submitted for publication.
- Selection for publication is based on the article's relevance to our readers, determined by content and timeliness. Articles appealing to the widest range of interests are particularly appreciated. However, commentaries dealing with more specific areas of law are given equally serious consideration.
- Preferred format includes: a clearly presented statement of purpose and/or thesis in the introduction; supporting evidence or arguments in the body; and a summary conclusion.
- Citations conform to the Uniform System of Citation.
- Maximum article size is approximately 3,500 words. However, shorter articles are preferred.
- While authors may be asked to edit articles themselves, the editors reserve the right to edit pieces for legal size, presentation and grammar.
- Articles are accepted for review on a rolling basis. Meeting the criteria noted above does not guarantee publication. Articles are selected and published at the discretion of the editors.
- Submissions are preferred in a Microsoft Word format emailed as an attachment or on disc. Hard copy is acceptable, but not recommended.
- Authors are asked to include an identification of their current legal position and a photograph, (headshot) preferably in a jpg file of, at least, 350 d.p.i., with their article submission.

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Rhode Island DUI Conditional Hardship Licenses: The Sequel



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There are still unresolved issues with the ignition interlock statute, but these recent changes by the Rhode Island General Assembly demonstrate that they are keenly aware of the need to continue to refine the statute.

On June 24, 2016, the Rhode Island General Assembly enacted new legislation amending R.I. Gen. Laws 31-27-2.8 (“ignition interlock statute”). The new statute permits individuals convicted of drunk driving pursuant to R.I. Gen. Laws 31-27-2 (“DUI statute”) and refusal to submit to a chemical test pursuant to R.I. Gen. Laws 31-27-2.1 (“refusal statute”) to be granted a conditional hardship license (“CHL”) in specific instances. The new statute contains language that is both more and less restrictive than the prior version of the statute, which took effect on January 1, 2015. The new statute includes three (3) new distinctions.

The first distinction is the removal of judicial discretion in most cases. Under the prior ignition interlock statute, “the sentencing judge or magistrate **may** grant the person a conditional hardship license.”¹ The new statute requires the granting of a conditional hardship license with

a few exceptions. The statutory language reads “the sentencing judge or magistrate **shall**, upon request, grant the person a conditional hardship license.”² There are specific instances in which the judge or magistrate does retain discretion in granting conditional hardship licenses. In cases “where a motorist has a prior alcohol-related offense or a prior reckless driving conviction under § 31-27-4

or reckless eluding conviction under § 31-27-4.1, within the prior ten (10) years of the offense, or when the instant offense involves a motor vehicle accident, the judge or magistrate may exercise their discretion in the granting of the hardship license by imposing up to a ninety (90) day loss of license prior to any imposition of the hardship license.”³ In DUI cases with blood alcohol content (“BAC”) readings of .15 or over, “the judge or magistrate may exercise his or her discretion in the granting of the hardship license by imposing up to a six (6) month loss of license prior to any imposition of the hardship license.”⁴

The second distinction is the expansion of eligibility to obtain a conditional hardship license. Under the prior statute “[s]aid hardship

license shall be valid only for twelve (12) hours per day to get to and from employment.”⁵ The new statute expands beyond employment and permits “necessary medical appointments, job training, schooling, or **any other valid reason** approved in advance by the sentencing judge or magistrate.”⁶ The statute further defines “any other legitimate reaso[n] justifying a hardship license” to include “any unemployment training, schooling, medical appointments, therapy treatments, or any other valid requests.”⁷ The need for the requested conditional hardship license must still be proven through written affidavits.

The final distinction is the ability to obtain a conditional hardship license without entering a plea to either a DUI or refusal charge. Under the prior statute, a person had to be “convicted” before a sentencing judge or magistrate would determine their eligibility for a conditional hardship license.⁸ The new statute allows for a conditional hardship license when entering a plea to the DUI or refusal charge or at the “initial suspension under § 31-27-2.1(b).”⁹ In refusal cases, the initial suspension of a person’s license occurs at the arraignment. In addition, the conditional hardship license can be granted without the installation of the ignition interlock device. The new statute allows “that in a case where a conditional hardship license shall be granted by the sentencing judge or magistrate upon an initial suspension under § 31-27-2.1(b) and prior to the installation of an ignition interlock device, said hardship license shall be issued to the motorist upon proof of installation of an ignition interlock device.”¹⁰ The new statute allows for a motorist to obtain a conditional hardship license and then have the ignition interlock device installed in their motor vehicle. Presumably, the Rhode Island Division of Motor Vehicles (“DMV”) would issue the license upon proof that the device was installed. The ability to obtain a conditional hardship license without entering a plea to any charge is extraordinarily beneficial for the motorist. It allows motorists to maintain their employment while preserving their right to trial. From a practical standpoint, it also allows attorneys the ability to fully obtain and review discovery and discuss the case with a representa-

tive from the Attorney General's office and/or the municipal prosecutor.

The typical motorist requires a hardship license to get to and from their employment. To prove their need for the hardship license, a motorist must provide an affidavit from their employer. Therefore, the motorist must inform their employer that they were arrested and charged with DUI and/or refusal to submit to a chemical test. Depending on the nature of their employment, some motorists may not wish to disclose that prejudicial information.

As previously stated, the granting of the conditional hardship license requires the installation of an ignition interlock device. This device is a miniature breathalyzer machine, which is connected to the ignition of a motor vehicle. A motorist

is required to blow into the machine to activate the motor vehicle. While driving, the motorist is required to blow into the machine at random intervals. The DMV has approved five (5) companies to install these devices.¹¹ Each company charges an installation fee, a monthly monitoring fee, and a removal fee. Although fees vary based on the type of motor vehicle and the duration of the ignition interlock device sentence imposed by the Court, most motorists will pay approximately \$700 to have the device in their motor vehicle.

There are also fees charged by the DMV and imposed by the Court. The minimum fines, fees and assessments for a refusal to submit to a chemical test charge is \$939.25, which consists of a \$200 fine, \$200 Department of Health assessment, \$500 highway safety assess-

ment, and \$39.25 in court costs.¹² The minimum fines, fees and assessments for a DUI with BAC readings of .08, .10-.15 or unknown BAC readings is \$780.50, which consists of \$100 fine, \$500 highway safety assessment, \$86 assessment, and \$94.50 in court costs. The minimum fines, fees and assessments for a DUI with BAC readings of .15 or greater is \$1,225.50.¹³ The DMV imposes a \$351.50 fee for license reinstatement, a \$106.50 fee for having the ignition interlock device, and there is a \$350 fee for the DUI school.¹⁴ The DUI school or alcohol education program is mandated by statute and imposed in both refusal and DUI cases. Also, motorists may be required to pay a registration reinstatement fee of \$251.50.¹⁵

The installation of the ignition interlock device, combined with the court and registry fees, renders this a useful, but expensive option. Even with the new statute, several questions remain. When the device is a mandatory part of a sentence, what happens to a motorist without the necessary funds to pay for the device? What happens to the motorist who does not own a motor vehicle in which to install the device? There are still unresolved issues with the ignition interlock statute, but these recent changes by the Rhode Island General Assembly demonstrate that they are keenly aware of the need to continue to refine the statute. Nevertheless, both the original statute and the amended statute have been extremely beneficial for Rhode Island citizens charged with drunk driving and/or refusal to submit to a chemical test.¹⁶

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ENDNOTES

- 1 R.I. GEN. LAWS 31-27-2.8(b)(7)(emphasis added).
- 2 *Id.*
- 3 R.I. GEN. LAWS 31-27-2.8(b)(7).
- 4 *Id.*
- 5 *Id.*
- 6 R.I. GEN. LAWS 31-27-2.8(b)(7) emphasis added).
- 7 R.I. GEN. LAWS 31-27-2.8(b)(7).
- 8 *Id.*
- 9 *Id.*
- 10 *Id.*
- 11 <http://www.dmv.ri.gov/inspections/interlock/> (last visited September 29, 2016).
- 12 R.I. GEN. LAWS 31-27-2.1
- 13 R.I. GEN. LAWS 31-27-2.
- 14 <http://www.dmv.ri.gov/adjudication/reinstate/ment/index.php> (last visited September 29, 2016).
- 15 *Id.*
- 16 The author expresses his deep appreciation for the assistance of Kimberly A. Petta, Esq., in the preparation of this article. ❖

2016 Education Legislation Review



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North Smithfield School
Committee

Among the education-related bills that were passed in 2016, some have a significant impact on daily activity in schools, including but not limited to instruction, curriculum, and discipline issues, and the day-to-day operations of elementary, middle, and secondary schools.

During the Rhode Island General Assembly's 2016 legislative session, a number of education-related bills were passed. In some cases, these have a significant impact on daily activity in schools, including, but not limited to, instruction, curriculum, and discipline issues. Many bills will directly impact the current 2016-2017 school year, and that warrants a review and discussion of those addressing the day-to-day operations of elementary, middle, and secondary schools, as opposed to legislation dealing with post-secondary schools, the establishment or expansion of charter schools or other schools, and school funding, which, while very important, are worthy of a separate examination. All the bills noted below took effect upon passage and are effective now, except where noted otherwise.

Extended/free-play recess for students in grades K-6

A new section of the General Laws, § 16-22-4.2, entitled "Free-play recess," provides that free-play recess is now a mandated requirement in public schools for certain grades. Any child enrolled in a public school that has elementary grades kindergarten to grade six, must receive "at least twenty consecutive minutes of super-

vised, safe, and unstructured free-play recess each day."¹ The new statute provides that free-play recess can be counted and considered instructional time for any schools that would otherwise be required to extend their school day to meet the provisions of this law.²

Education – Children with disabilities – Duty to pay

R.I. Gen. Laws § 16-24-1, entitled "Duty of school committee to provide special education," was amended to address the issue of funding of certain post-secondary or transitional programs for students who turn twenty-one during the school year. The amendment provides that if a child with a disability is enrolled in such a pro-

gram and the child turns twenty-one years of age while enrolled in the program during the school year, the school committee or local education agency must continue to pay for such child's participation in the program through to the conclusion of the school or program's academic year. In other words, if the child with special education needs is in a transitional program and turns twenty-one years of age during the school year, the school district cannot withdraw funds when the child turns twenty-one, but must continue to pay until the school year is completed.³

Health and safety of students – Allergic emergencies

R.I. Gen. Laws § 16-21-22 insures that schools are being equipped with the proper tools and skills to assess and solve issues of anaphylaxis in students of elementary and secondary schools. In 2016, that statute was amended to expand the availability of epinephrine. Specifically, the amendments provide that school departments may allow schools "within their jurisdiction to maintain epinephrine in cartridge injections for the purpose of emergency first aid to students who are experiencing allergic reactions."⁴ The amendment also directs that school departments' policies address the storage and administration of epinephrine, bearing in mind that this drug is often administered as part of emergency first aid.⁵

Health and safety of pupils – Automatic external defibrillators

The General Assembly also added a new section, R.I. Gen. Laws § 16-21-33.1, entitled "Automatic external defibrillators." In this statute, the General Assembly made several key findings of fact regarding the use of automatic external defibrillators. These included that, while it is difficult to obtain clear numbers on the number of children who will suffer sudden cardiac arrest (SCA), some experts estimate the number of deaths among those aged twenty-one and under at three hundred per year. However, if defibrillation is administered within five to seven minutes of the onset of SCA, then the chances of survival are increased by forty-nine



Rhode Island Bar Foundation

Founded in 1958, the Rhode Island Bar Foundation is the non-profit philanthropic arm of the state's legal profession. Its mission is to foster and maintain the honor and integrity of the legal profession and to study, improve and facilitate the administration of justice. The Foundation receives support from members of the Bar, other foundations, and from honorary and memorial contributions.

Today, more than ever, the Foundation faces great challenges in funding its good works, particularly those that help low-income and disadvantaged people achieve justice. Given this, the Foundation needs your support and invites you to complete and mail this form, with your contribution to the Rhode Island Bar Foundation.

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percent.⁶ Based on those findings, the legislature passed new requirements that all high schools and middle schools, public and private, maintain on school grounds, functional, automated defibrillators (AED) in amounts the commissioner of education determines adequate. In addition, during school and school functions, including athletic contests held at any location, schools must “ensure the presence of at least one person who is properly trained in the operation and use of an AED.”⁷ The training must be given by appropriately qualified personnel, such as employees of the municipality's police and fire departments. This particular act does not take effect until August 1, 2017.⁸

Right to a safe school

The General Laws already provide that every student, staff member, teacher and administrator has a right to attend or work in a safe and secure school. The school environment must revolve around learning and be threat-free. Disruptive students may be properly disciplined to ensure a safe school environment, and, in certain cases, this discipline may include suspension. For example, the suspension of a disruptive student may be served in school, as long as the student is not a threat to his peers, teachers, and staff. In some cases, the suspension may be served outside of school. This session, the General Assembly amended R.I. Gen. Laws § 16-2-17 to provide that, as part of creating a safe school, all school superintendents are required to review the discipline data in their school district. The purpose of this review is to determine if discipline is being imposed in a disproportionate manner to students based upon race, ethnicity, or disability status. If any disparity is found, school districts are directed to submit a report to the council on elementary and secondary education on the disciplinary actions taken, and other details including the frequency of the conduct, prior disciplinary actions for the conduct, and after discussion with faculty representatives, plans to address the disparity in the administration of discipline.⁹ The legislation also added a new section, R.I. Gen. Laws § 16-2-17.1, entitled “In school suspensions,” limiting the reasons for which a student's suspension can be served out of school, as opposed to an in-school or in-house suspension. These reasons include students who exhibit “a demonstrable threat to

students, teachers, or administrators.”^{10,11}

Holocaust and genocide education

Pursuant to Chapter 16-93 of the General Laws, genocide education is already required in secondary schools. In 2016, the General Assembly amended this chapter to identify and include several genocides, including, but not limited to, the Holocaust of World War II and genocides in Armenia, Cambodia, and Darfur.¹² The new legislation directs school districts to include in their curriculum “a unit of instruction on holocaust and genocide,” including materials made available by the Department of Education, starting with the 2017-2018 school year.^{13,14}

Health and safety of pupils – Healthy foods and beverages

The General Assembly amended and expanded the provisions regarding healthy foods and beverages that can be sold in schools. The new legislation amended the provisions of R.I. Gen. Laws § 16-21-7, entitled “School health.” The new law provides that elementary, middle, and high schools that serve “competitive foods and beverages” during the school day may only serve “healthier foods and beverages” in accordance with several federal laws and standards, including the Healthy, Hunger-Free Kids Act of 2010.¹⁵ The board of education or local school committees may adopt more restrictive policies or stricter standards than Federal law requires. The state law provides that career and technical schools with culinary arts programs may request exemptions from the law for food that is prepared by culinary students through a curriculum program at the school.¹⁶

Compulsory attendance for kindergarten students

With this legislation, the General Assembly amended the provisions of R.I. Gen. Laws §§ 16-2-27 and 16-19-1 to provide that any child enrolled in kindergarten is subject to the compulsory attendance requirements applicable to other students. This addresses the issue of students aged five and in kindergarten. Compulsory attendance under the prior law began at age six. This law eliminates the situation of having some students in kindergarten subject to compulsory attendance laws, while others in the same class would not be subject to the law.¹⁷

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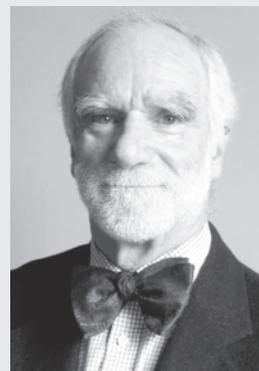
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Dyslexia – Education and training

The General Assembly amended the Rhode Island Literacy and Dropout Prevention Act, Chapter 16-67, to address dyslexia. The literacy program established pursuant to this chapter is now required to include assistance to students with dyslexia-targeted assistance, that is, “assistance to students by providing strategies that formally address dyslexia, when appropriate.”¹⁸ The act directs the department of elementary and secondary education to offer school districts training for dyslexia instruction. The law also includes a definition of dyslexia, which is “a specific and significant impairment in the development of reading, including, but not limited to, phonemic awareness, phonics, fluency, vocabulary, and comprehension that is not solely accounted for by intellectual disability, sensory disability or impairment, or lack of appropriate instruction.”^{19,20}

Child abuse hotline

The General Assembly added several new requirements regarding the duty to report child abuse. A new section, R.I. Gen. Laws § 16-21-36, requires all public and private schools to post the notice of the state’s toll-free telephone number used to report suspected cases of child abuse. Further, R.I. Gen. Laws § 40-11-3, the Duty to report statute, was amended to direct the Department of Children, Youth, and Families to create a new sign conveying the number and to make the sign available electronically so school districts can comply with the new posting requirements.²¹

Internet filtering

Today, many, if not most, schools employ devices that screen and filter or limit the ability of students to access certain websites that contain material deemed inappropriate for student use in school. These devices vary in their ability and intensity, and, on occasion, both students and educators can be frustrated by filters which block access to internet sites with legitimate educational uses. Teachers are regularly told to integrate technology into the classroom. How does one strike a balance between preventing the dissemination of inappropriate (and often disruptive) material through school, while maximizing the educational benefits of the internet? The General Assembly addressed this issue through bills creating

a new Chapter 16-21.6, entitled “Internet filtering in schools.” This chapter directs each school district to adopt the model written policy developed by the department of education for the use of internet filtering. The department of education is directed to develop this policy, which should, among other things: 1) set forth how and why sites are blocked; 2) include procedures for teachers to request a blocked site be unblocked; and 3) establish a criteria used for overruling a request to allow access to a website blocked by internet-filtering measures.²² School districts are directed to maintain a public record of requests to allow access to a blocked site, and the response to each request.²³ The policy is to be posted on each school department’s website. Further, an annual report shall be provided to the school committee on the number of unblocking requests granted and denied in the district.²⁴

Student registration for transportation

A new provision of the General Laws passed this session, R.I. Gen. Laws § 16-21-1.1, allows school committees to “maintain a registry of any students who will require busing during the school year.”²⁵ The law provides that students’ parents may register the names and addresses of students with the school district at the start of each school year, and the school district may then use the information “to more cost-efficiently provide transportation to its pupils.”²⁶

Biliteracy seal

A new chapter of the General Laws, Chapter 16-22.2, entitled “Biliteracy seal,” establishes a new certificate of recognition for students who reach a high level of proficiency in one or more languages in addition to English. The seal is an insignia placed on a student’s diploma and transcript recognizing the student achieved this proficiency. The council on elementary and secondary education is directed to promulgate rules and regulations to establish how a student would achieve this recognition.²⁷

Closing the achievement gap

Stretching the inclusion of bills, these final two bills cut across all levels of education. The first is included due to its reference to third grade students. The General Assembly enacted R.I. Gen. Laws § 16-97-10, entitled “Closing the

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achievement gap.” This new statute directs the Board of Education and the Council on Elementary and Secondary Education to develop state goals for “closing the achievement gaps” for third grade students in the areas of reading and math. The target stated in the statute is to close gaps by fifty percent by 2020 and complete closure by 2025. The statute also speaks to recruiting more minority teacher-preparation students, and to the development of plans to close all achievement and opportunity gaps across all levels of public education.²⁸ In other legislation, the General Assembly also passed R.I. Gen. Laws § 16-97-9, entitled “Comprehensive study - Unified approach to statewide education,” authorizing the Board of Education to undertake a study as to how the various curriculums employed in school districts align and prepare students for the curriculums they will meet in college.²⁹ These statutes may not immediately impact school classrooms, but they have the potential to direct where education will be in the next five to ten years.

Author’s Note: I thank all our summer high school interns who helped in putting this piece together and giving their input.

ENDNOTES

- 1 R.I. GEN. LAWS § 16-22-4.2.
- 2 2016 R.I. PUB. LAWS Chapters 151 And 157.
- 3 2016 R.I. PUB. LAWS Chapter 173 And 185.
- 4 R.I. GEN. LAWS § 16-21-22(E).
- 5 2016 R.I. PUB. LAWS Chapters 126 And 140.
- 6 R.I. GEN. LAWS §§ 16-21-33.1(A)(3) And (5)
- 7 R.I. GEN. LAWS § 16-21-33.1(B).
- 8 2016 R.I. PUB. LAWS Chapters 336 And 357.
- 9 R.I. GEN. LAWS § 16-2-17(D).
- 10 R.I. GEN. LAWS § 16-2-17.1.
- 11 R.I. GEN. LAWS Chapters 171 And 186.
- 12 R.I. GEN. LAWS §§ 16-93-1, 16-93-2.
- 13 R.I. GEN. LAWS § 16-93-3(2).
- 14 2016 R.I. PUB. LAWS Chapters 92 And 104.
- 15 R.I. GEN. LAWS § 16-2-7(C).
- 16 2016 R.I. PUB. LAWS Chapter 529.
- 17 2016 R.I. PUB. LAWS Chapters 467 And 471.
- 18 R.I. GEN. LAWS § 16-67-2(A)(6).
- 19 R.I. GEN. LAWS § 16-67-2(B).
- 20 2016 R.I. PUB. LAWS Chapter 205
- 21 2016 R.I. PUB. LAWS Chapters 63 And 465.
- 22 R.I. GEN. LAWS § 16-21.6-1(B) (1-3)
- 23 R.I. GEN. LAWS § 16-21.6-1(C).
- 24 2016 R.I. PUB. LAWS Chapters 427 And 428.
- 25 R.I. GEN. LAWS § 16-21-1.1(A)
- 26 2016 R.I. PUB. LAWS Chapters 461 And 462.
- 27 2016 R.I. PUB. LAWS Chapters 97 And 111.
- 28 2016 R.I. PUB. LAWS Chapter 523.
- 29 2016 R.I. PUB. LAWS Chapter 507. ❖



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client is sued, we take the first steps responsive to the litigation process to defend them and their interests.

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In its very broadest sense Alternative Dispute Resolution (ADR) is an “alternative to problem solving by power, the courts, violence or any other form in which one party’s inherent advantages rule out a fair settlement.”¹ ADR has evolved in the legal field to offer non-litigation alternatives to disputing parties. Generally

speaking, ADR refers to one of many methodologies during which a neutral person helps parties resolve their case without a trial. The methodologies most often used include negotiation, arbitration and mediation, processes that have been employed in various forms since the time of ancient civilizations.

Commercial arbitration was utilized in the early Dutch and British colonial periods in New York City. Born of distrust for courts and lawyers, the colonists set up their own informal arbitrations to resolve community conflicts. It wasn’t until the 20th century that ADR was advanced as a litigation alternative.² In 1920, Congress passed the Federal Arbitration Act, one of the most important aspects of which was to give courts the power to enforce arbitration awards. In the ensuing decade, over a dozen states passed arbitration laws. In 1926, the American Arbitration Association (AAA) was formed to provide guidance to arbitrators and parties and to this day is the organization that promotes business arbitration in the US.³

Most lawyers engage in some forms of negotiation. Many have had experience with arbitration, a quasi-judicial proceeding presided over by a neutral third party who acts as finder of fact and ruler of law, and who, like a judge, issues a decision that may or may not be binding. As lawyers, we often have input into the selection of an arbitrator. The process can be attractive as it promises cost and time savings, as well as other efficiencies. It may be faster, less stressful and more private than court proceedings. It is common for many contracts to include arbitration clauses designating it as the agreed upon conflict resolution mechanism.

Like arbitration, mediation engages a neutral person who facilitates negotiations between or among parties to a dispute. Unlike arbitration, however, mediation is a voluntary and more flexible process. A skilled mediator can manage the process such that parties move away from entrenched positions and become able to articulate their underlying interests, needs and priorities, and eventually, move towards a jointly acceptable resolution. While there are many styles of mediation, “facilitative” and “evaluative” are perhaps the two most utilized styles.

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Generally speaking, facilitative mediators do not offer advice, recommendations or opinions to the parties. Evaluative mediators on the other hand, may intervene, point out strengths and weaknesses of the parties' arguments, make recommendations and provide opinions on what might happen should the dispute go back to court. Unlike an arbitrator, a mediator may never reach the substantive merits of the case. S/he guides the process however enabling parties themselves (either with or without counsel) to craft their own resolutions. Mediation can be very hard work for the parties and mediator but it has the capacity to achieve disputing parties' goals with a comparatively small investment of time and money. Some lawyers believe mediation is the same thing as case settlement. This is not true, although case settlement often results from successful mediation.

Like arbitration, the origins of mediation in this country may be found in the history of labor law. In the late 1890s, mediation was instituted for collective bargaining disputes "as a tool to avoid unrest, strikes and the resultant economic disruption."⁴ In 1913, the US Department of Labor appointed a panel called the "Commissioners of Conciliation" to deal with labor management issues. These commissioners became the US Conciliation Service in 1917 when Congress appropriated funds for it under the Department of Labor. In 1926, the Railway Labor Act (RLA) rejected arbitration in favor of mediation for resolution of collective bargaining disputes. In 1934, Congress created the National Mediation Board to administer the RLA and two years later extended the RLA to cover the airline industry. In 1947, that entity became the Federal Mediation and Conciliation Services (FMCS), operative today, to facilitate employment negotiations.⁵

Mediation can be started at any stage of a case, whether before or during trial or throughout the appellate process. In all states, parties can seek mediation and choose any mediator before a case is filed in court.⁶ For example, in California state courts, mediation is encouraged at the outset of a case by a procedural requirement found in a court rule requiring plaintiffs to serve a copy of its court ADR package upon each defendant, along with the complaint.⁷ Local civil rule 4 requires parties to utilize some form of ADR prior to trial in all non-criminal and non-juvenile cases.⁸ In most states, parties retain



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the freedom to choose mediation any time after filing a complaint.⁹

If parties choose arbitration for the security of a proceeding that feels quasi-judicial and retains an aura of fairness and impartiality, under what circumstances might parties choose mediation?

First, look at your client's situation through a conflict resolution lens that is broader than the courts. Rise above the details and foundations of established legal positions and attempt to discern what other issues and dynamics may be present in the dispute. While lawyers are not social scientists, we are all familiar with the strong opinions and feelings of our clients that often have no outlet in litigation. Evaluate these dynamics to help inform your own decision as to whether mediation may serve your client's interests. What is most important to your client? How can you help him/her achieve that?

The following questions may be helpful when considering mediation on behalf of your clients:

1. Are you willing to work from an exploration of ultimate interests rather than entrenched positions?
2. Are you confident of your client's ability to articulate those interests?
3. Can you establish a role for yourself that supports this process?
4. Are you willing to accept that there is no single truthful or right outcome?

If you have considered these questions and respond mostly in the affirmative, you may wish to speak to a mediator about how he/she may be able to help you and your clients.

Although many states recommend qualifications for mediators, no state has requirements for the practice of mediation. In any state, a mediator can practice in private settings without being licensed, certified, or listed.¹⁰ RI Gen. Laws § 9-19-44, which governs mediator confidentiality, requires only that mediators have a minimum of 30 hours of mediation training.¹¹ Mediators need not be attorneys, although many are. Only in the District of Columbia is a mediator required to be an attorney to mediate civil court cases other than family disputes.¹² You can certainly find a mediator who has some knowledge and expertise in the substantive area of your client's dispute, although subject matter expertise is not a requirement for mediation to be a success. Mediation is being utilized in many forums in Rhode Island from the municipal through the Supreme Courts. Many,



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though not all, of these practitioners are current and former trial lawyers and former judges. People with backgrounds in diverse fields, however, including psychology, finance, education and art are also doing excellent mediation work in RI. Locally, the Center for Mediation and Collaboration Rhode Island (cmcricri.org) and the Rhode Island Mediators Association (rimediators.org) can help you to locate a capable mediator. Currently, the Rhode Island Bar Association does not have a section for practitioners of ADR, however the American Bar Association does offer a section membership for ADR practitioners. Membership includes many resources for mediators, including a list of members, a monthly magazine, seminars, and a useful library of webinars addressing issues of theory and practice. The Judicial Arbitration and Mediation Services (JAMS), founded in 1979, is a resource for all those seeking neutral ADR practitioners. It is the largest private provider of ADR services, including mediation and arbitration.

Despite its efficiencies, there are reasons mediation may not be chosen as a dispute resolution mechanism. Significantly, there is sometimes a financial disincentive for lawyers. Proceeding in mediation may deprive lawyers of fees they might otherwise be able to earn in the traditional litigation process. This conflict can be a significant impediment to the recommendation and selection of mediation as a litigation alternative.

A related problem for lawyers may be defining a role for yourself in mediation. Unlike judicial or even quasi-judicial proceedings, the mediation process does not prescribe an established role for counsel. Mediators determine the extent to which they want counsel involved. Any perceived surrender of control can be problematic for many attorneys who see their role as zealous advocate eclipsed by the mediator. In my experience, however, mediators are eager to get counsel on board with their process and will work with counsel to establish procedures that allow attorneys to ultimately advise and assist their clients prior to any ultimate resolution.

If trust in a mediator is an issue for you or your client, consider that Bernard Mayer, a leader in the field on conflict resolution, believes that “mediators change the dynamic of the conflict in four ways:”¹³

“First, mediators bring a different structure to the conflict. People will pres-

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ent their cases differently in front of a third party and mediators usually set a structure for communication, giving each party time to talk. Second, mediators bring their commitment, vision and humanity to the interaction. Mediators have faith in mediation as a form of conflict resolution and their optimism that an agreement can be made affects the process. Third, mediators bring sets of skills. Since mediators deal with conflict daily, they learn skills such as reframing and analysis to identify issues and options. This often has a comforting effect on the parties involved. Fourth, mediators bring sets of values and ethics. This helps set a foundation that hopefully brings trust, respect and comfort to the parties and the process.”¹⁴

These four mediator dynamics have a unique capacity to move conflicts in the direction of resolution. Parties want an opportunity to be heard and validated. There is more to all of us than the elements of the dispute, and calling all of who we are into play is the untapped potential of mediation.¹⁵ If a mediator successfully earns the parties’ trust such that parties become vested in the process and honestly express their interests (rather than sticking to simply legally supported positions), they move to a unique and constructive place, where the swift and complete resolution of a conflict that satisfies their most important priorities, is possible.

ENDNOTES

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- 4 *Id.*
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- 9 Mediation, *supra*.
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- 15 Daniel Bowling & David A. Hoffman, *BRINGING PEACE INTO THE ROOM: HOW THE PERSONAL QUALITIES OF THE MEDIATOR IMPACT THE PROCESS OF CONFLICT RESOLUTION* (2003) citing Lois Gold, “Mediation and the Culture of Healing.” ❖

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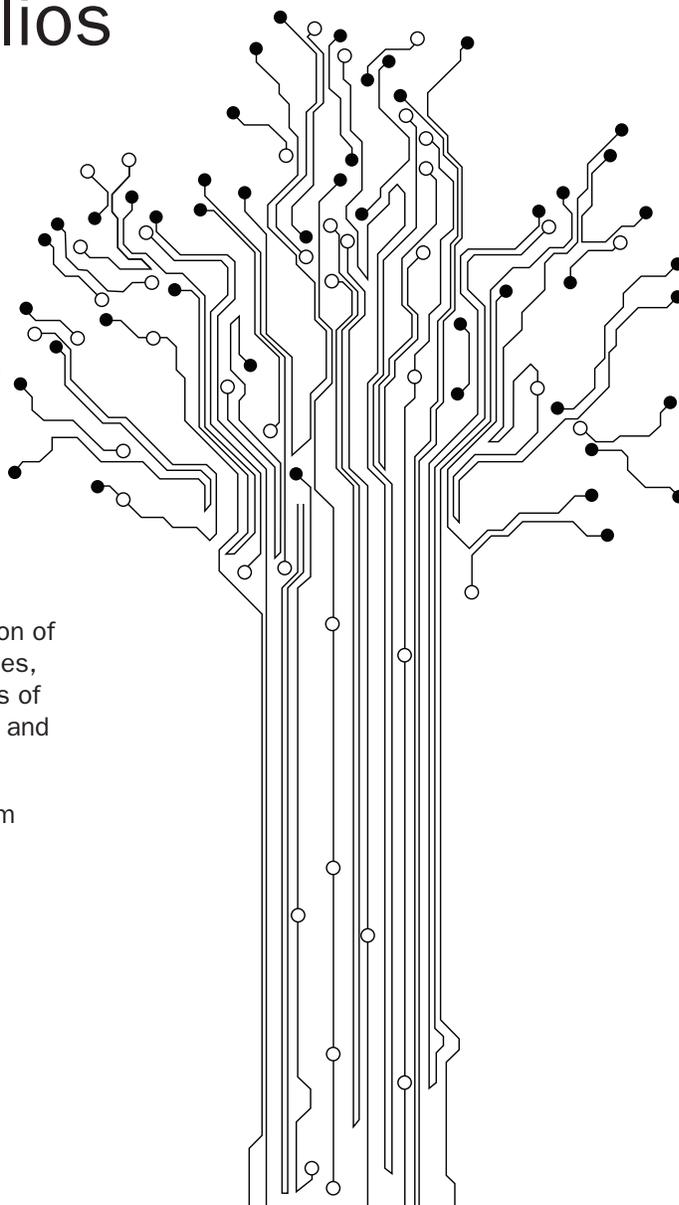
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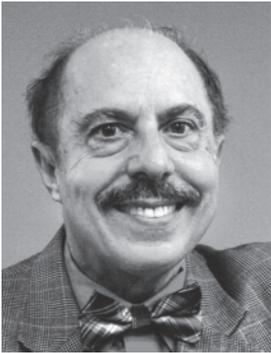
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The single most important lesson I have learned over 40 years is that your reputation precedes you, based upon who you are and how you practice law. Judges will develop a book on you, and other counsel will as well. I practice principally in the Rhode Island Family Court, and this is a truly intimate court, where, like the bar in *Cheers*, everybody knows your name.

In the story, *The Picture of Dorian Gray*, by Oscar Wilde, Dorian Gray is granted the right to remain youthful in appearance, while his portrait reflects his age and actions. Over time, his portrait turns hideous based on his dissolute life. When he dies, his portrait reveals the rapacious and murderous life he lived.

I first came to know that my reputation was “out there” after 15-20 years, when I had a case with Frank Little, Esq., a gentleman, and an honorable senior attorney, who has since passed away. When it occurred that he became opposing counsel on my case, he told me that he had “looked up this guy DiMonte” in order to know what I was like. When we finished the case, he advised me, “You were as good as your reputation said you were.”

In an effort to become a Bar Association Officer in 1998, I asked certain members of the House of Delegates to send a letter of recommendation for me to the Nominating Committee. I was astonished to receive a copy of a letter by a (younger) attorney who advised that when she first began to practice law in family court, she observed how I practiced law, and modeled herself after me in the way I respected the court, opposing counsel and opposing parties. I was honored and humbled! That attorney and I have had cases against each other since then, but we have maintained mutual respect to this day.

At the Sheriff’s Outing on July 14, 2006, I was approached by someone I had never met, who, however, had good things to say about me, and noted that they just wanted to meet me.

We all have our individual characteristics and personalities. We must be ourselves. However, our character remains consistent. It is with our character that we draw our portraits and fashion our reputations. Our reputations do precede us, sight unseen. When a justice prepares to review a case in advance, they already have an impression of the case based on their knowledge of our reputations.

I offer some other valuable advice based upon 40 years of practice.

1. **Be Professional.** At each and every moment, no matter where we are or what we are doing, the public is judging us as professionals. The Rules of Professional Conduct relate to our ethical and moral standards as attorneys and judges. The Supreme Court has also promulgated Standards for Professional Conduct within the Rhode Island Judicial System. If we demand respect from the public for the work that we do, then we must also recognize that we operate as models of professionalism.

2. **Get Involved.** Join committees, and get involved in the structure of the Bar Association, like the House of Delegates. Committees provide a valuable network of other professionals, who discuss issues at their meetings. From the House of Delegates, you can graduate to the Executive Committee, become an Officer, and (who knows) become President, just like I did. (President, July 1, 2001 to June 30, 2002.)

3. **Be a Public Servant.** There are numerous activities in which we, as attorneys, can participate, both within the Bar and outside in the community. The Bar Association sponsors a Speakers Bureau, in which you can volunteer to speak on Law Day (a favorite of mine). You can devote your time to community groups or your local parish or faith group. It is deeply rewarding.

It has been an exhilarating 40 years of practice, and I am still learning! I wake up each morning, excited to begin a new day in all my varied roles: Officer and Attorney of the Supreme Court, a colleague, a litigator, and Past President of the Rhode Island Bar Association. I end with a quote from my good friend and consigliere, Holly Hitchcock, former Director of MCLE: “When the day has ended, it is the people whom we serve and help, whether as clients or as citizens, that make our endeavors rewarding.” ♦

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Amy R. Tabor was born in Chicago in 1949. She moved to Rhode Island when she was nine and her father joined the Economics Department at the University of Rhode Island. She graduated from South Kingstown High School, and then attended the London School of Economics for a year. Amy then attended the University of Michigan, where she majored in history and minored in economics. Upon graduation from college, she moved to Boston and began work at Massachusetts Halfway House, Inc., an organization providing services to individuals released from prison. After one year with the organization, Amy began law school at Northeastern University. She graduated in 1975, passed the bar in Rhode Island and Massachusetts, and then joined the firm, McKinnon and Fortunato. At McKinnon and Fortunato, she handled primarily criminal defense and civil rights cases, and worked on a number of civil liberties cases with Steve Fortunato on behalf of the ACLU. Amy left the firm in 1981, and joined another industry leader in criminal defense and civil rights, Mann and Roney. She spent roughly three years practicing at Mann and Roney before going out on her own. While on her own, she initially focused on employment discrimination and family law, and served as a cooperating attorney with the ACLU. In the late 1980s, Amy's practice shifted, and she immersed herself in special education law, her current specialty. We had the opportunity to speak with this forty-plus-year veteran of the Rhode Island Bar. Excerpts from our conversation follow.



Amy R. Tabor, Esq.

What made you decide to become a lawyer?

Like many people during that time, it was a real sense of idealism, the idea that the law could be one tool to help change the world for the better.

Please describe a really memorable experience that you had as a lawyer.

Two cases always stand out in my mind — one of them was the class action lawsuit against the Rhode Island Truancy System, and Tom Lyons and I were the two Rhode Island attorneys. The Rhode Island Family Court had created a truancy program and magistrates were sent into any school system that agreed to have a magistrate. The idea was a great one. What happened over time was that more and more children were being brought into the truancy system.

And I think one of the lessons I learned from this case included how important due process rights really are and what the difference is between fundamentally fair proceedings and Star Chamber-like, secretive proceedings, and how wonderful that aspect of the American legal system is, that normally we do have due process; normally the courts are open to the public, and people can know what's going on. The other thing I learned, or I relearned, was the importance of freedom of the press. God bless the First Amendment. When we brought the class-action lawsuit the press became very interested. There was extensive coverage in the Providence Journal and elsewhere, and that media coverage finally exposed the abuses that the system was committing.

And the other one, the other very significant case, was one of my most memorable experiences. I was advisory counsel to two groups of plowshares protestors, and these were individuals who were basically engaged in civil disobedience in efforts to stop the proliferation of nuclear weapons.

To what do you attribute your success as a lawyer?

Well, to the extent I've achieved success, it's probably stubbornness. Determination to just keep pushing, keep investigating. I am very surprised at how tenacious I can be. I don't see myself as a stubborn or tenacious person, but when I'm working on one of these cases, something kicks in.

What's the best advice you ever got?

Probably from my father. I think I was about 14 years old, and I was feeling mopey and fed up with the world, and I made some whiny comment in the back seat of the car. And I think he had it up to here with my whininess, and with a great deal of impatience he just said, "Well, you can either try to do something to change things or you can just sit on your ass."

What advice would you give to somebody who is just getting out of law school?

I think maybe the basic, the most important advice I would give to new lawyers is to look carefully with your client or potential client at whether this is a battle that is worth taking on or whether this is a battle that it makes more sense to walk away from and get on with your life.

Now Accepting 2017 Nominations

Dorothy Lohmann Community Service Award
Joseph T. Houlihan Lifetime Mentor Award
Chief Justice Joseph R. Weisberger Judicial Excellence Award

All 2017 Award Nominations Are Due March 17, 2017.

2017 Dorothy Lohmann Community Service Award

This award recognizes Rhode Island attorneys who donate their time and legal expertise for charitable work, similarly to the efforts of Rhode Island attorney Dorothy Lohmann. Ms. Lohmann devoted her entire professional life working to help the poor, volunteering her services at many human service organizations and advocating for laws and policies to relieve the suffering of the poor and disenfranchised. The Lohmann Award Committee is particularly interested in candidate actions most closely reflecting those of the award's namesake as detailed in the nomination criteria and award entry form accessed on the Bar Association website at ribar.com, under the NEWS AND EVENTS tab on the left side of the Home page. All nominations are due no later than March 17, 2017. **Please Note:** Lohmann Award nomina-

tions are *only* accepted from representatives of organizations where Rhode Island attorneys have devoted a significant amount of their time and efforts on a strictly voluntary, non-paid basis. Postal mail or email nominations and/or direct questions to:

2017 Dorothy Lohmann Community Service Award
Committee
Helen D. McDonald
Rhode Island Bar Association
41 Sharpe Drive
Cranston, RI 02920
telephone: (401) 421-5740
email: hmcDonald@ribar.com

2017 Joseph T. Houlihan Lifetime Mentor Award

This award honors individuals who, like Attorney Joseph T. Houlihan, have, during their careers, consistently demonstrated an extraordinary commitment to successfully mentoring in the Rhode Island legal community. The award recognizes an attorney who serves as a role model to other lawyers in Rhode Island, who has significantly contributed to the profession and/or the community and who, with their excellent counsel, have excelled as mentors and contributed to the ideals of ethics, civility, professionalism and legal skills. The Houlihan Award Committee is particularly interested in candidate actions most closely reflecting those of the award's namesake as detailed in the nomination criteria and award entry form accessed on the Bar Association website at

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Committee
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Rhode Island Bar Association
41 Sharpe Drive
Cranston, RI 02920
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2017 Chief Justice Joseph R. Weisberger Judicial Excellence Award

This award, named in honor of its first recipient the late Chief Justice Joseph R. Weisberger, is presented to a judge of the Rhode Island State Courts or Federal District Court for exemplifying and encouraging the highest level of competence, integrity, judicial temperament, ethical conduct and professionalism. The Weisberger Award Committee is particularly interested in candidates whose actions most closely reflect those of the award's namesake as detailed in the nomination criteria and award entry form accessed on the Bar Association website at ribar.com, under the NEWS AND EVENTS tab on the left side of the Home page. All nomina-

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Helen D. McDonald
Rhode Island Bar Association
41 Sharpe Drive
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telephone: (401) 421-5740
email: hmcDonald@ribar.com

House of Delegates Letters of Interest, Due February 17, 2017

Involvement in the activities of our Bar Association is a richly rewarding experience. One way to become familiar with Bar Association activities is by serving as a member of the House of Delegates. For those interested in becoming a member of the Bar's Executive Committee and an eventual Bar officer, House of Delegates' membership is a necessary first step. To learn more about Rhode Island Bar Association governance, please go to ribar.com.

The Nominating Committee will meet soon to prepare a slate of officers and members of the 2017-2018 Rhode Island Bar Association House of Delegates. The term of office is July 1, 2017 – June 30, 2018. If you have not already done so, to be considered for appointment to the House of Delegates, please send a letter of interest no later than **February 17, 2017**.

PLEASE NOTE: Current members of the Bar's House of Delegates who wish to be considered for reappointment must also send a letter of interest by this date.

Letters of interest should include the member's length of service to the Rhode Island Bar Association (i.e., participation in Committees and positions held in those Committees; community service to the Bar Association and outside the Bar Association; and positions held outside the Bar Association). Testimonials and letters of recommendation are neither required

nor encouraged. Direct and indirect informal contact, by candidates or those wishing to address candidates' qualifications, to members of the Nominating Committee is prohibited. Please send letters of interest to:

HOD Nominating Committee Chairperson
Rhode Island Bar Association
41 Sharpe Drive
Cranston, RI 02920

Or, you may send your letter of interest to Helen Desmond McDonald, Executive Director by fax: (401) 421-2703, or email: hmcDonald@ribar.com

There will be an Open Forum at the Bar Headquarters at a date in February or March, to be determined, at which candidates for the House of Delegates and for Officer Position(s) may, but are not required to, appear before the Nominating Committee and further explain their candidacy. Candidates for officer positions and candidates for the House at large will be given up to ten minutes each to speak (or as determined by the Chair). Candidates who elect to address the Nominating Committee are encouraged to present their vision of how they would advance the mission of the Bar through their service in the office.

Any member planning to make a presentation at the Open Forum must inform Executive Director Helen McDonald, prior to the Forum, via email: hmcDonald@ribar.com or telephone: (401) 421-5740.

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30th Anniversary Celebration of the Bar's Volunteer Lawyer Program



Rhode Island Supreme Court Chief Justice Paul A. Suttell, Bar Foundation President Michael A. St. Pierre, Esq., Rhode Island Legal Services Executive Director Robert M. Barge, Esq., Bar Association Public Services Involvement Committee Chairperson Christine J. Engustian, Esq., and Bar Association President Armando E. Batastini, Esq.

On October 27th, 2016, the Rhode Island Bar Association celebrated its 30-year commitment to providing access to justice to low-income members of the Rhode Island community. Members of the Bar, and advocates for the program, marked the milestone by honoring the incredible work of the Volunteer Lawyer Program's (VLP) commendable volunteers, and highlighting the Program's accomplishments. Rhode Island Supreme Court Chief Justice Paul A. Suttell, Rhode Island Legal Services Executive Director Robert M. Barge, Bar Association President Armando E. Batastini, Bar Foundation President Michael A. St. Pierre, and Bar Public Services Involvement Committee Chairperson Christine J. Engustian, were all gracious enough to offer their congratulatory remarks to the crowd. The VLP, funded through a grant from Rhode Island Legal Services, Inc. and the Rhode Island Bar Foundation, provides pro bono legal services to qualified low-income Rhode Islanders. The collective contributions of the Program's dedicated members provide thousands of Rhode Island's poorest and most vulnerable citizens with access to the justice system.



l to r: Bar Foundation President Michael A. St. Pierre, Peter L. Lewiss, Esq., and Bar Association President-Elect Linda Rekas Sloan, Esq.



RI Superior Court Associate Justice Nettie C. Vogel and Joseph J. Roszkowski, Esq.



l to r: Joseph J. Roszkowski, Esq., W. Kenneth O'Donnell, Esq., Charles Greenwood, Esq., and Vincent A. DiMonte, Esq.



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January 6 <i>Friday</i>	Bridge the Gap RI Law Center, Cranston 8:30 a.m. – 4:30 p.m.	February 2 <i>Thursday</i>	Food for Thought Cyber Attacks – A Threat to Every Law Firm RI Law Center, Cranston 12:45 p.m. – 1:45 p.m., 1.0 credit <i>Also available as a LIVE WEBCAST</i>
January 12 <i>Thursday</i>	Food for Thought Don't Slip Up on Slip & Fall Cases RI Law Center, Cranston 12:45 p.m. – 1:45 p.m., 1.0 credit <i>Also available as a LIVE WEBCAST</i>	February 9 <i>Thursday</i>	Food for Thought New & Creative Uses of the Bail Guidelines & Superior Court Sentencing Benchmarks RI Law Center, Cranston 12:45 p.m. – 1:45 p.m., 1.0 credit <i>Also available as a LIVE WEBCAST</i>
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Justice Assistance Honors Five



Left to right: Jamie A. Hainsworth, U.S. Marshal, District of RI; J. Joseph Baxter, Jr., Chief Court Administrator, RI Supreme Court; Walter R. Stone, Associate Justice, RI Superior Court; Vincent Vespia, Jr., Chief, South Kingstown Police Department; Tom Parrish, Executive Director, Trinity Repertory Company.

Justice Assistance, a nonprofit criminal justice agency located in Cranston, hosted the 35th Annual Neil J. Houston, Jr. Awards Presentation on Thursday, October 13th at the Providence Marriott. Presented every year since 1981, the award is given to individuals who are representative of the very best in Rhode Island and notably "for dedicated service and citizen contribution toward the justice profession and the public interest." Each recipient was selected from a pool of statewide nominations received by the organization. The 2016 Neil J. Houston, Jr. Memorial Award Recipients included J. Joseph Baxter, Jr., RI Supreme Court Chief Court Administrator; Jamie A. Hainsworth, U.S. Marshall, District of RI; Hon. Walter R. Stone, Associate Justice, RI Superior Court; and Trinity Repertory Company. Justice Assistance also honored Chief Vincent Vespia, Jr., of the South Kingstown Police Department, with the 2016 Edward V. Healey, Jr. Lifetime Achievement Award named for the Honorable Edward V. Healey, Jr., former Senior Associate Justice of the Rhode Island Family Court. This tribute to the late Judge Healey recognizes his many years of invaluable advice and counsel to Justice Assistance. Each recipient of the award has demonstrated a consistent concern for justice and a genuine respect for people.

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The Rhode Island Bar Association applauds the following attorneys for their outstanding pro bono service through the Bar's Volunteer Lawyer Program, Elderly Pro Bono Program, US Armed Forces Legal Services Project, and Foreclosure Prevention Project during October and November 2016.

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For information and to join a Bar pro bono program, please contact the Bar's Public Services Director Susan Fontaine at: sfontaine@ribar.com or 401-421-7758.

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The Bar also thanks the following volunteers for taking cases for the Foreclosure Prevention Project and for participating in Ask A Lawyer and Legal Clinic events during October and November.

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Wondering how to set up CasemakerDigest?

First, you will need to log in to **Casemaker**, via the bar association's website, ribar.com. Once on the Casemaker Homepage you will see the **Features** tab in the blue navigation bar; you can click this tab and then click the link for **CasemakerDigest** to access the Digest system, which will open in a new window.

On the CasemakerDigest page you will see four icons in the top right section of the blue toolbar. One of these icons is for email, it looks like an envelope with the @ symbol on it. Click this icon.

The filters screen will open displaying your options. To add a new filter, first click the Add button. A new window will appear with filter and email options. First give your new filter a name in the top box. Then you can move on to set up what content you would like to receive.

You have a lot of options to choose from when setting up your CasemakerDigest content. You can set up your filters by **Jurisdiction, Court, Judge, Category, Practice Area, Keyword, or Type**. Keep in mind, you can also leave any of these options blank to get all the content in the category.

Next you can set up the emails themselves, including **Frequency, Status, and Schedule**. You can also let CasemakerDigest know if you want any additional information in the Email Output Options.

After all of your selections have been made, you can save your filter. Your filter now will be used to send an email of new cases at the schedule you specified.

You also can get an email manually at any time— simply click **Run Now** and CasemakerDigest will immediately send any emails that are relevant to your filter for the dates you selected.

These changes and new options are the first steps in a planned redesign of the CasemakerDigest system. We hope you find them helpful and we will keep you informed of more changes as they happen!

If you have any questions about Casemaker, please contact the Rhode Island Bar Association at 401-421-5740.



Lawyers on the Move

Jose F. Batista, Esq. has opened his own law practice, **The Law Office of Jose F. Batista**, 1445 Broad Street, Providence, RI 02905.
401-415-0151
jose@jfbatistalaw.com
jfbatistalaw.com

Amanda Briggs, Esq. is now an associate at **Marasco & Nesselbush**, 685 Westminster Street, Providence, RI 02903.
401-274-7400
abriggs@m-n-law.com
m-n-law.com

George E. Lieberman, Esq., is now Of Counsel to the law firm **Gianfrancesco & Friedemann, LLP**, 214 Broadway, Providence, RI 02903.
401-270-0070
george@gianfrancescolaw.com

Robert F. Lynch, Jr., Esq., and Alexandra F. Miga, Esq. are now associates at **McLaughlinQuinn, LLC**, 148 West River Street, Suite 1E, Providence, RI 02904.
401-421-5115

Thomas Moran, Esq. is now an associate at **Marasco & Nesselbush**, 685 Westminster Street, Providence, RI 02903.
401-274-7400
tmoran@m-n-law.com
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Oster Law Offices has moved to 640 George Washington Highway, Building B, Suite 103, Lincoln, RI 02865.

Rickie M. Sonpal, Esq. is now a partner at **Robinson+Cole**, One Financial Plaza, Suite 1430, Providence, RI 02903.
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When contacting Coastline EAP, please identify yourself as a Rhode Island Bar Association member or family member. A Coastline EAP Consultant will briefly discuss your concerns to determine if your situation needs immediate attention. If not, initial appointments are made within 24 to 48 hours at a location convenient to you. Or, visit our website at www.coastlineeap.com (company name login is "RIBAR"). Please contact Coastline EAP by telephone: 401-732-9444 or toll-free: 1-800-445-1195.

Lawyers Helping Lawyers Committee members choose this volunteer assignment because they understand the issues and want to help you find answers and appropriate courses of action. Committee members listen to your concerns, share their experiences, offer advice and support, and keep all information completely confidential.

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SOLACE

Helping Bar Members in Times of Need

SOLACE, an acronym for Support of Lawyers, All Concern Encouraged, is a new Rhode Island Bar Association program allowing Bar members to reach out, in a meaningful and compassionate way, to their colleagues. SOLACE communications are through voluntary participation in an email-based network through which Bar members may ask for help, or volunteer to assist others, with medical or other matters.

Issues addressed through SOLACE may range from a need for information about, and assistance with, major medical problems, to recovery from an office fire and from the need for temporary professional space, to help for an out-of-state family member.

The program is quite simple, but the effects are significant. Bar members notify the Bar Association when they need help, or learn of another Bar member with a need, or if they have something to share or donate. Requests for, or offers of, help are screened and then directed through the SOLACE volunteer

email network where members may then respond. On a related note, members using SOLACE may request, and be assured of, anonymity for any requests for, or offers of, help.

To sign-up for SOLACE, please go to the Bar's website at www.ribar.com, login to

the **Members Only** section, scroll down the menu, click on the **SOLACE Program Sign-Up**, and follow the prompts. Signing up includes your name and email address on the Bar's SOLACE network. As our network grows, there will be increased opportunities to help and be helped by your colleagues. And, the SOLACE email list also keeps you informed of what Rhode Island Bar Association members are doing for each other in times of need. These communications provide a reminder that if you have a need, help is only an email away. If you need help, or know another Bar member who does, please contact Executive Director Helen McDonald at hmcDonald@ribar.com or 401.421.5740.

Seeking Law-Related Education Program Attorney Volunteers!

Your Bar Association supports law-related education (LRE) for Rhode Island children and adults through three, longstanding programs: *Lawyers in the Classroom* and *Rhode Island Law Day* for upper and middle school teachers and students, and the *Speakers Bureau* for adult organizations. Responding to LRE requests, Bar volunteers are contacted – based on their geographic location and noted areas of legal interest – to determine their interest and availability.

If you are interested in serving as a LRE volunteer, please go to the Bar's website at ribar.com, click on **FOR ATTORNEYS**, click on **LAW RELATED EDUCATION**, click on **ATTORNEY ONLY LRE APPLICATION**. All Bar members interested in serving as LRE volunteers, now and in the future, *must* sign-up this year, as we are refreshing our database.

Questions? Please contact: Frederick D. Massie, Director of Communications or Kathleen Bridge, Assistant Director of Communications at: **401-421-5740**.

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In Memoriam

Louis J. Cosentino, Esq.

Louis J. Cosentino, 95, of Providence, passed away Wednesday, November 9, 2016. He was the beloved husband of 72 years to Margherita "Rita" (Ricci) Cosentino. Born in Bristol, he was the son of the late John and Rosalie (Brunelli) Cosentino. Louis was a 1939 graduate of LaSalle Academy, received his Ph.B. from Providence College in 1942 and his LL.B. from Boston University School of Law in 1949, being admitted to the RI Bar Association the same year. He served as legal counsel to the RI Registry of Motor Vehicles and to the former Child Welfare Services, was the former Chairperson of the RI Family Court Bench Bar Committee, and project counsel to the Providence Redevelopment Agency. He served in the U.S. Navy in active duty for four years during WWII, and the Naval Reserve from 1946 to 1970, retiring with the rank of Commander. Louis was a communicant of St. Augustine's Church in Providence, a member and past Grand Knight, Dillon Council, of the Knights of Columbus, member of American Legion Post #56, Past RI State Commander of the American Legion, and a former member of Kirkbrae Country Club and West Palm Beach Country Club. He was the father of Judith M. Cosentino of Greenacres, FL, John L. Cosentino, Esq. and his wife Sandra J. of Gunnison, CO, and the late Richard C. Cosentino; grandfather of Christopher Cosentino and his wife Tatiana and Nicholas Cosentino and his wife Leitha; great grandfather of Marcus, Melana and Easton; brother of the late John R. Cosentino, Esq.; and brother in law of Lena Cosentino of Providence. He is also survived by several nieces and nephews.



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E. Lyman D'Andrea, Esq.

E. Lyman D'Andrea, 86, passed away October 12, 2016. He was the beloved husband of Marie D. Pontarelli D'Andrea for 57 years. Born in Providence, he was a son of the late Julius and Marie Linehan D'Andrea and Rev. Carl and Burnette Mann Pearson. Lyman was the brother of Thelma Wunschel. Lyman was a graduate of the University of Rhode Island, Boston University, where he earned his Master's degree, and of Suffolk Law School. He practiced law for over 30 years. He served for four years in the U.S. Navy during WWII. Lyman was an avid golfer and a member of the Jamestown Country Club. He was a former director of the RI Division of Services for the Blind for over 30 years.

Arne R. Johnson, Esq.

Arne R. Johnson, 82, passed away November 10, 2016. Born in Bridgeport, Connecticut, he was the only child of the late Alexandra (MacLeod) Johnson and Everett R. Johnson, and the husband of Nancy (Rodgers) Johnson for the last 39 years. Arne was a long time member of the Newport Rotary and a Paul Harris Fellow, and Judge Advocate for 26 years of the Newport Navy League. He was a member of the Newport County Bar Association, as well as a member of the RI, NY and CT Bar Associations, and was also a member of the Portsmouth Conservation Commission and the Corporate Secretaries of America. He was a graduate of the Taft School, Amherst College and Harvard Law School. After many years as a corporate attorney, he practiced family law in Newport, retiring in 1999. Besides his wife, he is survived by his daughters, Alison Lee Johnson of Middletown, CT, and Kathryn MacLeod Tracy, his step-daughter, Lynn Bushoven, and cousin, Elaine Pearson. He was predeceased by his stepson, Jay J. Bigos.

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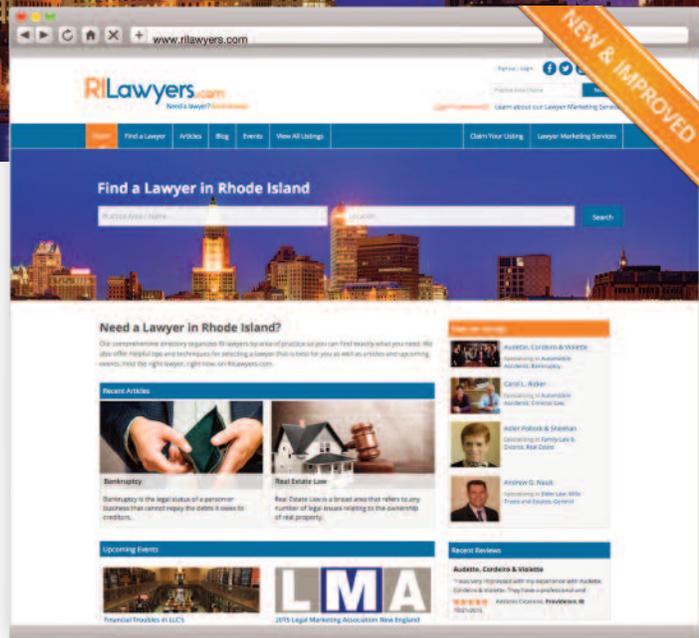
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