

# Rhode Island Bar Journal

Rhode Island Bar Association Volume 58, Number 1. July/August 2009



**Rhode Island Bar Association Officers 2009-2010  
Association Annual Report and Committee Reports  
Annual Meeting and Awards  
Ponzi Schemes**

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Tower Hill Equestrian Center, North Kingstown  
by Brian McDonald

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## Summer Hours

### Rhode Island Bar Association

Beginning  
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## RHODE ISLAND BAR ASSOCIATION LAWYER'S PLEDGE

As a member of the Rhode Island Bar Association, I pledge to conduct myself in a manner that will reflect honor upon the legal profession. I will treat all participants in the legal process with civility. In every aspect of my practice, I will be honest, courteous and fair.

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# Servant Leader



**Victoria M. Almeida, Esq.**  
President Rhode Island  
Bar Association

*It is the ability  
of a leader to do  
nothing out of  
selfishness or vain  
glory, but rather  
to humbly regard  
others as more  
important than  
oneself.*

I agree with Alfred Lord Tennyson: “I am part of all that I have met.”<sup>1</sup>

As I officially begin my term as your President, I am keenly aware of all that I have met in my life both before and after I became a lawyer. The experiences that were and are most profound involved persons with a commonality of virtue.

Recently, I had the honor to host the annual Rhode Island Bar Association Dinner in honor of the Bar’s Past Presidents. I wanted to offer a toast to them, and I searched for simplicity of language that would pinpoint with accuracy these splendid individuals, each of them, irrespective of their ages, dates of service or areas of practice. I recalled a concept I first heard while I was in college in the early seventies that resonated with me on my drive back from the Cape one Sunday afternoon. The concept is servant leadership. It was popularized in the 1970s by Robert Greenleaf and represents an approach to leadership that stresses the leader’s role as *steward* of the resources of an organization, namely, the financial, the human and every other aspect of institutional viability. It seeks to encourage leaders to serve others in achieving goals while remaining faithful to the organization’s mission and values and preserving the organization’s integrity. It is the ability of a leader to do nothing out of selfishness or vain glory, but rather to humbly regard others as more important than oneself. This concept predates the 1970s (although my generation thought we invented everything) and is said to be rooted first in the East, in China, Circa 600 B.C. in the words of Lao Tzu who said:

The greatest leader forgets self  
And attends to the development of others.  
Good leaders support excellent workers.  
Great leaders support the bottom ten percent.  
Great leaders know that  
The diamond in the rough  
Is always found “in the rough.”<sup>2</sup>

In the course of human events, Lao Tzu’s words were lived in the memorable lives of Moses, Jesus, Mohamed, Martin Luther King, Jr., Mother Theresa and others who changed the course of the world. While we cannot

change the course of history, as few have, we can and must change the course of how we treat each other.

I am *your* servant leader and, as Clarence Darrow said in his closing argument in his defense of Henry Sweet in April, 1926, I believe in the law of love. I promise to serve you in our love of our glorious profession and in our love for each other. In these interesting times, civility is no longer the appropriate benchmark. We need a higher calling – a calling to be good and not just civil to one another. I can be fair and civil in my professional relationship with a lawyer I may not like, but to be good to that lawyer, to care for that lawyer, to find the “diamond in the rough” now, that’s a challenge. But, Justice William Robinson reminds us of the words of Philo of Alexandria, “Be kind for everyone you meet is fighting a greater battle.”

As lawyers we are good “technicians.” The word “technician” comes from the Greek “teknikus” meaning “of the art.” But we have to be more than good legal technicians of the art of law. We must be good people and literally take care of each other. Lawyers experience a great deal of second-hand trauma in handling a myriad of client matters. As a reminder, we have the highest rate of depression and associated risks of any other profession.

So, may I ask you to join me as a servant leader in caring for each other and to leave a colleague a little bit better than she or he was before you entered the courtroom, the office, the coffee shop or the elevator? Civility is a lesser and included virtue in the greater virtue of what it means to be good. If we are good to each other, civility will take root when we are in right relationship with one another. I think you will agree with me that service to others, and being good to others, in and of itself, is rewarding and good for the spirit.

<sup>1</sup> Alfred Lord Tennyson and Aidan Day, *Alfred Lord Tennyson: Selected Poems* (Penguin Books 1991).

<sup>2</sup> *The Way of Leading People: Unlocking Your Integral Leadership with the Tao Te Ching*, available at [www.wayofleadingpeople.com](http://www.wayofleadingpeople.com) (last visited June 5, 2009). ♦

# Rhode Island Bar Association President and Executive Officers



Rhode Island Bar Association President Victoria M. Almeida promises to exemplify the servant leader and is dedicating her term to ensure greater justice for all through a focus on pro bono service. Rhode Island Bar Foundation President and past Rhode Island Bar Association President John A. Tarantino praised Victoria's many professional and personal accomplishments and pledged his support for her Presidential efforts.



The 2009-2010 Rhode Island Bar Association Executive Officers were enthusiastically and unanimously endorsed at the 2009 Annual Meeting. I-r: Victoria M. Almeida, Esq., President: partner and shareholder of Adler Pollock & Sheehan P.C; William J. Delaney, Esq., Treasurer: partner of Kaplan & Delaney; Michael R. McElroy, Esq., Secretary: partner of Schacht & McElroy; Lise M. Iwon, Esq., President-Elect: partner of Laurence & Iwon.

## RHODE ISLAND BAR JOURNAL

### Editorial Policy Statement

The Rhode Island Bar Journal is an official publication of the Rhode Island Bar Association for Rhode Island attorneys and judges and others interested in Rhode Island law. We publish scholarly discourses, commentary on Bar activities, and articles on the administration of justice. While we are a serious journal, our articles need not be dull or somber. We strive to publish a journal that is topical, thought-provoking and addresses issues of interest to significant segments of the Bar. We want to publish a journal that is read, quoted and retained.

The Journal encourages the free expression of ideas by Rhode Island Bar members. The 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 are not the official view of the Association. Letters to the Editor are welcome.

### Bar Journal Article Selection Criteria

We invite article submissions. All articles are subject to the editors' approval, and they reserve the right to edit or reject any articles submitted for publication.

- Original articles, written expressly for first publication in the Bar Journal, by attorney members of the Rhode Island Bar Association are given preference over those from other authors. Articles previously appearing in other publications are not encouraged and only accepted at the discretion of the editors.
- 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.
- Usual article size is approximately 3,500 words. Larger or smaller articles are accepted.
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- 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 encouraged to send a brief biographical sketch and a photograph (headshot) preferably in a jpg file with their submissions.

### Send articles for consideration to:

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# Rhode Island Bar Association 2009-2010 Officers' Profiles

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**Victoria M. Almeida, Esq.**  
President

**Victoria M. Almeida, Esq.**, is President of the Rhode Island Bar Association. She is a shareholder at Adler Pollock & Sheehan P.C. practicing civil and criminal litigation and health care and Co-Chair of the firm's Government Relations and Higher Education Practice groups. Vicky is a member of the Rhode Island Bar Association's Executive Committee, House of Delegates and the Bar Journal Editorial Board. She has chaired the Bar's Ethics and Professionalism, Public Relations and Centennial Committees, and she is Chair of the Strategic Planning Committee. She has received the Dorothy Lohmann Community Service Award for her work on behalf of the disabled community. Vicky is a Lifetime Fellow of the Rhode Island Bar Foundation. She is a member of the ABA, the Defense Research Institute, RI Defense Counsel, the National Association of Criminal

Defense Attorneys. In addition to her service to the Bar, Vicky is active in public and community service as Vice Chairperson of the Rhode Island Parole Board, and Vice Chairperson of the Rhode Island Health Services Council. She is Vice Chairperson of the Diocesan Catholic School Board and Co-Chair of the Anchor of Hope Committee of the Diocese of Providence and serves on the Boards of St. Rita Health Centre in Cumberland, St. Antoine Residence in North Smithfield and the Poverello Wellness and Food Center of St. Francis Chapel and City Ministry in Providence. She is a Dame in the Order of Malta and serves as Hospitaller of the Rhode Island Chapter of Malta. The Order of Malta is a 900 year old Catholic organization dedicated in service to the sick and poor throughout the world.

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**Lise M. Iwon, Esq.**  
President-Elect

**Lise M. Iwon, Esq.**, is President-Elect of the Rhode Island Bar Association. She is a partner with the law offices of Laurence & Iwon in Wakefield where she practices in a range of areas. Lise is a member of the Rhode Island Bar Association Executive Committee and the Family Court Bench/Bar Committee, and she is a Fellow of the Rhode Island Bar Foundation. She served as Co-Chair of the 2006 Annual Meeting Planning Committee. She is a recipient of the Rhode Island Bar Association's Dorothy Lohmann Community Service Award and the Volunteer Lawyer Program's *Pro Bono Publico*

and Continuing Service Awards. She received two Pro Bono Publico Awards from the American Bar Association and was one of Lawyers Weekly, USA's Attorneys of the Year. She received the Susan B. Anthony Award from the National Organization for Women. She has served as an Adjunct Professor of the Roger Williams University School of Law, and she served for 21 years as a Performance Judge for the Legal Education Partnership. Lise loves traveling, enjoying her family and friends, and living life to the fullest.

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**William J. Delaney, Esq.**  
Treasurer

**William J. Delaney, Esq.**, a resident of Barrington, Rhode Island and a partner of Kaplan & Delaney in East Providence, is Treasurer of the Rhode Island Bar Association. He received his undergraduate degree from the University of Notre Dame, his MBA from Rensselaer Polytechnic Institute, his J.D. degree from Albany Law School of Union University and his L.L.M. in American Banking Law Studies from the Morin Center, Boston University School of Law.

He is a member of the House of Delegates of the Rhode Island Bar Association and a member of the Bar's Executive Committee. He is a Lifetime Fellow of the Rhode Bar Foundation and a Fellow of the American Bar Association. Bill is certified as a Creditors' Rights Specialist by the American Board of Certification. He has previously served on the Board of Directors of Rhode Island Legal Services. Bill has completed his seventh year as an Adjunct Professor at

Roger Williams University School of Law. He is a member of the American Bar Association, the American Bankruptcy Institute, and the Massachusetts, New Hampshire, Vermont, New York, Pennsylvania and Connecticut Bar Associations. He is a past recipient of a Rhode Island Bar Association's *Pro Bono Publico*

Award and received the Bar's Continuing Service Award this year as a member of the Bar's Volunteer Lawyer Program. He has served as a member and Chair of the Town of Barrington's Appropriations Committee. In his spare time, Bill enjoys relaxing with his family.



**Michael R. McElroy, Esq.**  
Secretary

**Michael R. McElroy, Esq.**, a resident of Providence, is Secretary of the Rhode Island Bar Association. He is a partner in the Providence law firm of Schacht & McElroy. A graduate of the University of Rhode Island, he earned his law degree from Boston University School of Law and his Masters Degree in Taxation from Bryant University. He is a former three-term Chairman of the Superior Court Bench/Bar Committee and is a member of the House of Delegates and the Executive Committee of the Bar Association. He is a Fellow of the Rhode Island Bar Association. He is admitted to practice in Rhode Island, Massachusetts, and

Tennessee, as well as various United States District Courts, Courts of Appeal, and the United States Supreme Court. He is a member of the American and Rhode Island Associations for Justice. He is a former Special Assistant Attorney General, and is currently Legal Counsel to the Rhode Island Personnel Appeal Board. He is a member of the Advisory Board of Jammatt Housing and Community Development Corp., a non-profit community organization. He was Captain of the University of Rhode Island Crew Team and continues to enjoy sports. He and his wife Christine have three children. ❖

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# Ponzi Schemes: A Man Called Charles



**Willis H. Riccio, Esq.**  
Senior Counsel with Looney  
& Grossman LLP., Boston

*Charles Ponzi defrauded hundreds of investors in the 1920's. The scheme that bears his name is central to many fraudulent schemes, especially in the securities area.*

Scottish born Peter Marshall was a Presbyterian minister, author and outstanding orator. His speaking abilities allowed him to communicate with men of all faiths and to inspire them to give of themselves to the higher works of mankind. His base of operations was the Church of Presidents, St. Johns, across from Lafayette Park in Washington, D.C. His life was the inspiration for the movie, *A Man Called Peter*.

Proceeding along the moral spectrum to its lower end we have another individual whose oratory skills were also inspirational in convincing men of all faiths to give their money to the greed, not of mankind, but of one man. This man's base of operations was 27 School Street in Boston, Massachusetts. This man's name was Charles – our Man Called Charles –Ponzi.

Charles Ponzi, an Italian immigrant, defrauded hundreds of investors in the 1920's. The scheme that bears his name is central to many fraudulent schemes, especially in the securities area. Essentially it involves the concept of paying off old investors with money coming in from new investors, in short, a kite. Also, two characteristics are, in one form or another, always present in such schemes: first, an ostensible, but not real, business; and second, an insatiable need for new money. Ponzi schemes in the securities area have been going on for years, are still going on and will continue in the future, the theatrical wrath of the U.S. Congress notwithstanding. The recent Madoff and Stanford cases have excited interest in the phenomena, occurring periodically and also vanishing periodically in the face of something more newsworthy.

By way of illustration as to how, in a general way, a Ponzi scheme works the following is instructive. Investor A gives Promoter (P) \$1,000 on P's promise to repay \$1,000 plus \$100 interest in 90 days. During the 90 days, P makes similar promises to investors B and C, receiving \$1,000 from each of them. At the end of the first 90 day period, P may offer to pay A the \$100 interest and to return the original \$1,000. More likely, however, he will invite A to re-invest the \$1,000 plus the \$100 interest for a similar or higher return at the end of another 90 days.

Thereafter, A, believing he can receive a good return on his investment, is likely to bring other investors to P, and thus becomes a bird dog, an important role in a Ponzi scheme. In this manner, P collects a pool of money that he can use to pay out to those few wishing a more immediate return on their money.

P may operate this scheme for some time before pulling the plug, that is, either disappearing with all the money or presenting the bad news that the alleged investments went sour.

A major factor in the eventual collapse of a Ponzi scheme is that there is no significant source of income other than from new investors, thus, if this dries up, so does the scheme.

An example of an actual Ponzi scheme in operation taken from the Securities and Exchange Commission (SEC) archives involved one Robert Dale Johnson, who, operating as Ridge Associates, promoted a purported wine import business. The business involved the purchase and sale of industrial wine, ostensibly for use in the manufacture of salad dressing and other wine by products. In fact, there was no such thing as industrial wine. Investors were sold short term promissory notes in amounts ranging from \$2,500 to \$250,000. They were promised a return of the amount borrowed plus a profit ranging from 30% to 100% within 6 to 9 months, depending upon the maturity date. In this case, there was no wine import business, no real investment, but real and substantial monetary losses – for the investors, that is, not Johnson.

Johnson used the borrowed money for his own purposes, including stock market purchases, a new automobile and other personal items. The operation kept going because many investors, instead of cashing their promissory notes upon maturity, agreed to new ones. They thought this would allow their capital and profit to accumulate. Those investors who did not want to continue, would be paid off with funds from new or existing investors.

One popular variation of a Ponzi scheme is the so-called Pyramid Scheme. A pyramid scheme is essentially a business variation of the familiar chain letter. The promoter offers A and

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B the chance to invest by purchasing distributorships at \$1,000 each. The distributorships give A and B the exclusive right to sell distributorships to others for \$1,000 each and to sell certain products to the public. However, each \$1,000 that A and B receive from their sales of distributorships must be divided with the Promoter, for example, 50-50. Thus, theoretically, A and B can realize \$500 on each distributorship they sell. They can completely recover their initial \$1,000 investment by selling only two distributorships. There, obviously, lies the motivation which is reinforced by a strong and very calculated sales pitch. The promoter, however, has received not only A and B's \$1,000 each, but also \$500 for each distributorship that A and B sell. Initially, it appears that this can go on forever, with no one being hurt and everyone making money. However, the number of investors needed to keep the pyramid going quickly exceeds the population of the United States. Assuming the promoter initially sells distributorships to six people, each of whom brings in an additional six purchasers per month, this is what the exponential scale would look like schematically:

MONTHS	PARTICIPANTS
1	6
2	36
3	216
4	1,296
5	7,776
6	46,656
7	279,936
8	1,679,616
9	10,077,696
10	60,466,176
11	362,797,056
12	2,176,782,336
13	13,060,694,016

This example illustrates why such a scheme is called a pyramid – the promoters are at the top of a pyramid-shaped flow of money. Money coming from later investors flows upward to the top. Being at or near the top may actually result in one receiving a considerable amount of money quickly, but, after a certain amount of time, it is virtually impossible to determine one's position in the pyramid, and therein lies the fraud. Investors are not told, or purposely misled, where they are in the pyramid. It cannot be gainsaid that in addition to laziness and greed on the part of victims, the Ponzi type is very skillful, articulate and persuasive. Many such individuals could make a fortune

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honestly, but for some strange reason suffer a quirk in their personalities that impels them in a fraudulent direction.

An example of another form of Pyramid Scheme is a multi-level distributorship, again just another variant of a Ponzi Scheme. A multi-level distributorship operates as follows. First, assume the ostensible business involves recruiting people and getting them involved in selling cosmetics door to door. The promotion looks like this > > > > > >

As you can see, at Level 1 is the beauty advisor whose income is derived solely from retail sales of cosmetic products made available to him or her at a 45%

discount. At Level 2 is the supervisor or retail manager. To become a supervisor, a \$1,000 investment is required. In return,

a supervisor receives cosmetics at a 55% discount which can be sold either to the public directly or held for wholesale dis-

	COSMETIC DISCOUNT	REQUIRED INVESTMENT	INVESTOR	PROMOTER (KOSCOTT)
Level 3 (Distributor)	65%	\$5,000	\$3,000 (60%)	\$2,000 (40%)
Level 2 (Supervisor)	55%	\$1,000	\$600 (60%)	\$400 (40%)
Level 1 (Beauty Advisor)	45%	None	None	None

## Rhode Island Fall Judicial Conference September 25, 2009

On September 25, 2009, a judicial proceeding, with all judicial officers of the Rhode Island Supreme Court, Superior Court, District Court, Family Court, Workers' Compensation Court, and the Traffic Tribunal shall be convened in accordance with Article VIII of the Supreme Court Rules. The Fall Judicial Conference agenda includes topics relative to the improvement in practice and procedure in the courts in order that the ends of justice will be served more promptly and efficiently. Therefore the Rhode Island state courts shall remain open, but their regular calendars shall be suspended for Friday, September 25, 2009, allowing judges and judicial staff to participate in the Conference. Each court may designate a duty judge to be available for emergency matters and such other proceedings as may be necessary.

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tribution to the beauty advisor. In addition, the supervisor who recruited another supervisor for the promoter receives \$600 of the \$1,000 investment paid. At Level 3 we have the distributor, whose position requires an investment of \$5,000 with the promoter. A distributor is entitled to purchase cosmetics at a 65% discount for distribution to supervisors and beauty advisors. For sponsoring a supervisor, the distributor would receive \$600 and for sponsoring another distributor, he or she would receive \$3,000.

The investment promotion was made at an Opportunity Meetings conducted by the promoter's employees in conformity with scripts prepared by the promoter. The promoter's employees were instructed to drive to meetings in expensive cars (preferably BMW's or Cadillacs), to dress expensively and to flaunt large amounts of money. The employees informed prospects of the virtues of enlisting in the promoter's program. At the meetings, investors (and soon to be victims) were instructed how to borrow money, obtain loans for prospects, and various other strategies (such as, showing up early in morning before a prospect was fully awake). The program was designed so that prospects would be induced into signing on by these ostentatious displays and the evangelical atmosphere of the meetings. However, the promoters emphasized the money to be made from becoming a supervisor or distributor and then recruiting other investors, while little effort was made to actually promote sales of cosmetics to the public. Consequently, investments could be recouped only by a never-ending increase in the number of investors at all levels, a mathematically impossible scenario.

Ponzi schemes constitute only one type of fraud. However, through the years with regard to investment securities situations, they have been extremely bothersome to the Securities and Exchange Commission. Thus, it is ironic, that the pernicious operation conducted from 27 School Street operated under the name, Securities and Exchange Corporation!

#### ENDNOTES

1 While Ponzi's name is given to this nefarious, sometimes ingenious scheme, Charles Dickens' novel, *MARTIN CHUZZLEWIT*, published in 1844, described what we now call a Ponzi Scheme long before Ponzi was born in 1882.

2 See, for example, *U.S. v. Hill*, 298 F. Supp. 1221 (D. Conn., 1968) with regard to "roll-overs."

3 See *SEC v. Glen W. Turner*, 474 F.2d 476 (9th Cir.) and *SEC v. Koscoff Interplanetary, Inc.*, 497 F.2d 473 (5th Cir.). ♦



Co-sponsored by the United States Bankruptcy Court and the Rhode Island Bar Association's Volunteer Lawyer Program, the Continuing Legal Education seminar, *Updates in Bankruptcy Practice and Procedure*, was offered free to members of the Volunteer Lawyer Program. In turn, participating attorneys immediately accepted over 40 pro bono cases for families in financial distress. Presenters included: Alexander Strom, Esq., Steven J. Boyajian, Esq., Jeffrey T. Dana, Esq., Gary Donahue, Esq., Susan M. Thurston, Esq., and Lisa A. Geremia, Esq.

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**Sheryl Serreze, Esq.**

*Former Assistant United States Trustee for the District of Rhode Island and  
Senior Fellow at the WilmerHale Legal Services Center of Harvard Law School*

has joined the Firm as "Of Counsel"

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To check your email address, go to Bar's website: [www.ribar.com](http://www.ribar.com) and check your listing on the online Attorney Directory located on the web HOME page. Simply type in your last name and first name and, when your entry pops up, click on VIEW DETAILS to see if all your information, including your email address, is correct. And, while you are checking your contact information, if you don't have your photograph posted, or the one you have is seriously out of date, please consider posting one. Questions? Please contact the Bar's Technical Services Coordinator Karen Lomax by telephone: 401-421-5740 or email: [klomax@ribar.com](mailto:klomax@ribar.com).

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# A Tribute: Hon. Gilbert T. Rocha

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**Hon. Laureen D'Ambra**  
Rhode Island Family Court  
Associate Justice

---

*Judge Rocha was  
a judge's judge.  
He served as a  
role model to  
many of us.*

---

What constitutes a great judge? The Rhode Island Judicial Nominating Commission and the Governor must respond to this question when considering candidates for Rhode Island Judiciary positions. One such position includes the seat previously held by Family Court Associate Justice Gilbert T. Rocha, who passed away in December 2008.

The many attributes of Judge Rocha certainly serve as guide in any of these considerations. Of course, legal experience and trial practice is always a must, but special personal characteristics are the hallmarks of truly great judges.

Judge Rocha was a judge's judge. He served as a role model to many of us. He was a thoughtful arbitrator. He considered all of his cases important and was a very good listener. Litigants felt they had had their day in court, even if they did not like the outcome. He was never rude or condescending. Of course, he had strong opinions on certain things, but he never imposed his views on others. As a state legislator, early in his career, he knew the art of compromising and getting along with others.

In addition to his enthusiasm about the law, he loved his wife and family whom he talked about frequently. Judge Rocha also took great pride in his alma mater, Boston College. Judge Rocha knew all the attorneys who were "Double Eagles." Like Judge Rocha they went to Boston College and graduated from its law school. He went to all the sporting events, visited with the President of the College, and parked in a special space on campus.

With friends and colleagues, he took great pleasure sharing that he received a football scholarship to Boston College, but that his wife, Joan, paid his law school tuition. He loved his children and talked of his Portuguese heritage on occasion. Judge Rocha often discussed his daughter Pat, especially if she had a big case, he would ask me whether I saw the headlines. He was extremely proud of her many accomplishments as an attorney, but, most importantly, what a wonderful mother she is to her sons. What made Judge Rocha's stories so special was the fact that they came from his heart and there was so much warmth when he spoke about his family.

I always considered him a renaissance man. He was well rounded and truly enjoyed every aspect of his life. Being a judge was a part of it, but he had an identity beyond the black robe. Judge Rocha was known as a snazzy dresser, who could be in GQ (Gentleman's Quarterly). He only drank black coffee and stayed trim and slim. He was a very young seventy-something. How he enjoyed driving his silver convertible on sunny summer days.

When I joined the Family Court five years ago, Judge Rocha and I shared responsibilities for the Department of Children Youth and Families (DCYF) calendar in Providence County. He was often available to discuss the legalities of a particular case or a new decision rendered by the Rhode Island Supreme Court. He considered the DCYF cases very difficult and heart-wrenching. However, most amazing, was his ability to ask others for advice and for legal assistance. I was a judge on the bench for only a few months when he asked my opinion about a DCYF case he was hearing. He had been a Family Court Judge for over 20 years, yet he wanted my input. We both confided in each other and discussed these issues many times thereafter.

Judge Rocha was a wealth of information and his legal expertise was highly regarded and well respected. He loved to talk about the law and the many cases he had heard over the years. He developed his own intricate case filing system, which was readily available at all times. He took great pride in sharing the law and his files. If I had a legal question, Judge Rocha answered it, handed me a case, and underlined the important sections. Judge Rocha was a wonderful mentor. To me, this speaks volumes about the person that he was and his legacy as a judge.

Judge Rocha had a strong work ethic and handled his calendar efficiently. He was a fair-minded jurist and a dignified gentleman who was even-tempered and soft-spoken. He possessed all the qualities that made him a great judge! Let us hope that there are more individuals selected as judges who possess many of Judge Rocha's unique characteristics. ❖

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of practice.



## 2009 Ralph P. Semonoff Award for Professionalism

The Ralph P. Semonoff Award for Professionalism honors a member the Rhode Island Bar who has demonstrated the highest degree of professionalism with distinction in their career. The award is named for Ralph P. Semonoff who left a legacy of the law as a high calling, of justice as a defendable right, and of public service as the beacon of a life's work.



**Susan Leach DeBlasio Esq.**, partner in the Providence law firm of Adler Pollock & Sheehan P.C., received the Rhode Island Bar Association's 2009 Ralph P. Semonoff Award for Professionalism. A Phi Beta Kappa graduate of Wheaton College, Magna Cum Laude, and active in the Rhode Island Bar Association since her graduation from law school and passing the Rhode Island and Massachusetts Bar exams in 1979, Susan began her

career as a judicial law clerk to former Chief Justice Joseph R. Weisberger. Throughout her career, Susan has served her profession and her colleagues with distinction. She has a respected reputation of proficiency in her areas of practice, including corporate and health care law, and has devoted many years of volunteer work to public service. She is a past President of the Rhode Island Bar Association, as well as past President of the Rhode Island Bar Foundation. In these positions, and as member and chair of many Bar Association committees, as past Editor-in-Chief of the Rhode Island Bar Journal, through her work in the House of Delegates and the Executive Committee,

and her service as Director of the Rhode Island Law Institute and as a member and chair of the Rhode Island Supreme Court Disciplinary Committee, she provided, and continues to provide, excellent vision and leadership. Her many contributions, including her efforts on behalf of Continuing Legal Education, have strengthened and sustained both the Bar Association and the Bar Foundation, allowing both to grow and prosper in their service to Rhode Island lawyers and the public. Susan has also generously provided her time and effort to charitable causes including, but not limited to, past and current leadership of the Jewish Seniors Agency, the Jewish Federation of Rhode Island and the board of Miriam Hospital.

According to Attorney Lori Caron Silveira, "*Susan has the utmost respect for the law, and she is especially knowledgeable in matters of professional conduct and ethics. She is, in fact, one of the attorneys to whom we look for assistance in working through difficult issues that may involve the Rules of Professional Conduct. Susan is a leader. She lives and practices by the highest standards of integrity and is committed and dedicated to the practice of law. Having known and practiced with Ralph Semonoff, I can think of no one who better fits the award criteria than Susan.*"

## Chief Justice Joseph R. Weisberger Judicial Excellence Award



Rhode Island Superior Court Associate Justice Francis J. Darigan, Jr.'s long and distinguished service was recognized with the 2009 *Chief Justice Joseph R. Weisberger Judicial Excellence Award*. Named in honor of its first recipient, Chief Justice (ret.) Joseph R. Weisberger, the Award is given to a Rhode Island jurist for exemplifying and encouraging the highest level of competence, integrity, judicial temperament, ethical

conduct and professionalism.

Judge Darigan was appointed to the Rhode Island District Court bench in 1984 and has served as an Associate Justice of the Rhode Island Superior Court since 1991. In his 25 years of judicial service, he has earned a reputation as one of the most respected judges in Rhode Island. He has presided over many significant and noteworthy cases, some of which were highly-charged politically and emotionally, drawing intense public and

news media attention. In all these cases, Judge Darigan exemplified the dignity of his office, handling each case and the people involved with grace, authority and sensitivity.

A graduate of LaSalle Academy, Providence College and Suffolk University School of Law, Judge Darigan holds a Master of Arts in Public Administration from the University of Rhode Island. He served as an active and reserve duty officer in the United States Army and as a member of Providence's City Council and Home Rule Charter Commission.

Judge Darigan's contributions to Rhode Island encompass his outstanding efforts to improve the courts and the state's judicial system, his ongoing service to encourage and support law-related education, and his active involvement in many state and local non-profit and organizations dedicated to assisting people on a range of issues including, but not limited to ethics, literacy, education, and immigration.

According to Attorney J. Robert Weisberger, "*Judge Darigan is a jurist who commands the respect of all, not because of his position of power and authority, but because of his humility, kindness and significant legal ability.*"

## 2009 Florence K. Murray Award

The Florence K. Murray Award is presented to a person who, by example or otherwise, has influenced women to pursue legal careers, opened doors for women attorneys, or advanced opportunities for women within the legal profession. The award is named in honor of the first recipient, Hon. Florence K. Murray, who, in a distinguished 56 years at the bar, pioneered the causes of women in the law as the first woman attorney elected to the Rhode Island Senate, the first woman Justice on the Superior Court, the first woman Presiding Justice of the Superior Court, and the first woman on the Rhode Island Supreme Court.



Rhode Island Superior Court Justice Netti C. Vogel is the recipient of the Rhode Island Bar Association 2009 Florence K. Murray Award. Judge Vogel has served as an Associate Justice of the Rhode Island Superior Court since 1994 having practiced law for 19 years prior to taking the Bench. At the time of her judicial appointment, she was the managing partner of Vogel, Souls & Woodbine. Judge Vogel was the first woman

in the private sector to try jury trials on a regular basis. In the mid-1970s, Judge Vogel was the only woman lawyer handling back-to-back trials in the Superior Court. She developed extensive jury and non-jury trial experience in both the state and federal courts. In 1980, she became the first lawyer in the history of the state to try a jury trial in a maternity dress. In 1990, she became the first woman in Rhode Island to head a civil litigation defense firm.

As a lawyer, she served as a member of Rhode Island Bar Association's Executive Committee, the House of Delegates, and many Bar committees. As a judge, she continues to participate in Bar Association panels and programs. Judge Vogel has served on the State's Commission on Judicial Tenure and Discipline, the Supreme Court Committee on the Unauthorized Practice of Law, and the Superior Court Arbitration Rules Committee. Judge Vogel lectures frequently to both students and attorneys on a wide variety of legal topics, and previously taught Advanced Evidence to law students as a member of the adjunct faculty of Roger Williams University School of Law.

According to Rhode Island Superior Court Associate Justice Alice Bridget Gibney, "*During her long and distinguished career as a trial attorney Judge Vogel served as a mentor to, and role model for, a generation of attorneys, males as well as females. In her years on the Bench, she has continued to be welcoming to any attorney desirous of her advice and guidance.*"

Notes Senior United States Circuit Court Judge Bruce Selya, "*By word and deed, by effort and example, Judge Vogel has influenced an entire generation of young women to pursue careers in the law. It is Judge Vogel and others like her who have succeeded, at long last, in making our profession one of equal opportunity for both genders.*"

## 50 Years of Service – 2009 Honorary Members



### Rhode Island Bar Association 2009 50 Year Honorary Members

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At the 2009 Annual Dinner, the Rhode Island Bar Association recognized and honored the distinguished Rhode Island attorneys who achieved a noteworthy 50 years of service. While not all the honorary members were able to attend the Dinner, those who did ably represented this august group.

## 2009 Joseph T. Houlihan Lifetime Mentor Award



Joseph A. Kelly, Esq. of the Providence law firm of Carroll Kelly & Murphy was honored with the 2009 Rhode Island Bar Association's Joseph T. Houlihan Lifetime Mentor Award. Named for the late Joseph T. Houlihan who was known for his generosity of spirit and legal expertise in and out of the courtroom, the Award honors individuals who, during their careers, have consistently demonstrat-

ed 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 and who has significantly contributed to the profession and/or the community. The award recognizes those, who with their excellent counsel, have excelled as mentors and contributed to the ideals of ethics, civility, professionalism and legal skills.

In his decades of practicing law, Joseph A. Kelly has served as an example and mentor to generations of Rhode Island attor-

neys. Throughout his career, Attorney Kelly has generously shared his wisdom and experience with both new and seasoned Bar members. He is well known as a model for the advancement of the professionalism through his leadership, high standards of integrity, commitment and dedication.

A graduate of Providence College and Northeastern University School of Law, Joe is a past recipient of the Rhode Island Bar Association's Ralph P. Semonoff Award for Professionalism. He is a Fellow of the Rhode Island Bar Foundation, and a member of the Inns of Court and American Board of Trial Advocates, a Fellow of the American College of Trial Lawyers, and a member and Past Chairman of the Rhode Island Board of Bar Examiners.

According to Attorney Martin K. Donovan, "*Fortunately, my first job in the private practice of law was in Joe Kelly's law firm, Carroll, Kelly & Murphy. Joe is more a do-as-I-do rather than a do-as-I-say teacher, the former being much harder than the latter. Joe was and is the best advocate for the legal profession. He truly loves being a lawyer and his enthusiasm for the law is infectious. For many years, and maybe to the present time, he would speak to the newly sworn in attorneys and invariably left the group chomping at the bit to get started in the real practice of the art he so passionately embraces.*"

## Rhode Island Bar Journal 2009 Lauren E. Jones Writing Award

Rhode Island Bar Journal 2009 Lauren E. Jones, Esq. Writing Award authors are selected on the basis of: 1) presentation clarity; grammar; organization; and need for editorial revisions; 2) article interest and information presentation; 3) information usefulness for the practice of law, presentation of an important legal issue and timeliness; and 4) accuracy and depth of research and information provided.

The Editors and Editorial Board of the Rhode Island Bar Journal congratulate Harris K. Weiner, Esq., the 2009 Rhode Island Bar Journal Lauren E. Jones Writing Award recipient. Harris is of counsel to the Law Office of Jeffrey B. Pine, P.C. His winning article, *Eminent Domain and Economic Development: Rhode Island General Assembly Addresses Kelo vs. City of New London*, was published in Volume 57, Number 3, November/December 2008 issue of the Rhode Island Bar Journal. Of particular note, Harris' blending of Mel Brooks quotes with a scholarly legal article was a first for the Bar Journal and possibly for the whole country!

Harris' Weiner's article may be accessed through the free, Bar membership benefit, Casemaker, the online law library available through the Rhode Island Bar Association web site. Bar members may also access other past Rhode Island Bar Journal articles through Casemaker.

The Bar Journal's Editors and Editorial Board strongly encourage all Rhode Island Bar Association members to read the Article Selection Criteria included in every issue of the Bar Journal. Based on those guidelines, please submit articles for consideration to Rhode Island Bar Journal Editor Frederick D. Massie via email: [fmassie@ribar.com](mailto:fmassie@ribar.com). For information, telephone 401-421-5740.



David N. Bazar, Esq., Rhode Island Bar Journal Editor-in-Chief; Harris K. Weiner, Esq. 2009 Rhode Island Bar Journal Lauren E. Jones, Esq. Writing Award winner; Frederick D. Massie, Rhode Island Bar Journal Editor.

## 2009 Volunteer Lawyer & Pro Bono Program For The Elderly Award Recipients

### PRO BONO PUBLICO AWARD

Established in 1987, this award recognizes the outstanding efforts of attorneys who provide equal access to justice to the needy through the Volunteer Lawyer Program and Pro Bono Program for the Elderly. Award criteria include: case type and difficulty, the number of hours served, and the total number of cases for the past year. Length of service through the program and total number of cases taken since joining is also considered.



**Michael A. Devane, Esq.** graduated from the University of Rhode Island and earned his law degree from Suffolk University School of Law. He is a partner in the Pawtucket based law firm of Devane & Devane. Michael has participated in the public service programs of the Rhode Island Bar Association for many years and joined the Lawyer Referral Service in 1994. Through the Lawyer Referral Service he expressed an

interest in “assisting senior citizens on a fixed budget.” Always willing to accept elderly clients qualifying for pro bono and reduced fee services, he was asked to participate in a new public service collection clinic project that began last summer at the Bar Association Headquarters. As a result of the economic climate, the number of citizens needing assistance with collection matters has significantly increased including vulnerable senior citizens, even judgment proof elderly are still continually threatened by collection agencies. Just this past year, Michael was the volunteer attorney at nine collection clinics and provided 60 clients with needed legal assistance, contributing 120 pro bono hours. Michael is a member of the Bar’s Volunteer Lawyer

Program and Confidential Assistance Committee. He is a former Probate Judge in Pawtucket and on the Board of Directors for the Rhode Island Council on Alcoholism.

**Dawn M. Vigue Thurston, Esq.** graduated from the University of Rhode Island and received her law degree from Quinnipiac University School of Law. She is a sole practitioner at Acorn Law in Cranston. Dawn has been a member of the Volunteer Lawyer Program for five years and has accepted both family law and bankruptcy matters on a regular basis every year. Since 2007 she has handled 15 cases and contributed over 125 pro bono hours, not counting currently open pro bono cases. Additionally, she willingly assists low income seniors and recently collaborated on a case for an elderly client represented through the Rhode Island Legal Services Tax Clinic. When asked, Dawn will tell you that her most rewarding pro bono experience to date involved filing a bankruptcy that allowed an HIV client to stay in his home.



### CONTINUING SERVICE AWARD

Established in 1991, this award recognizes previous Pro Bono Publico Award recipients who have made a steadfast commitment to the administration of justice to the poor through the Volunteer Lawyer Program and/or Pro Bono Program for the Elderly. Selection of the recipient is based upon previously receiving the Pro Bono Publico Award; total number of cases during length of service to the program; case type and difficulty; and number of hours. Recipients have contributed hundreds of hours of pro bono service to the poor.



**Christine J. Engustian, Esq.** graduated from College of the Holy Cross and earned her law degree from Boston University School of Law. She is licensed to practice in Rhode Island, New York, Massachusetts, the United States Claims Court, Mashantucket Pequot Tribal Court and Mohegan Gaming Disputes Court. Christine is a sole practitioner in East Providence where she is engaged

in the general civil practice of law. She has been the East Providence Deputy Probate Judge since 1999 and Probate Judge since 2008. A member of the Bar’s Volunteer Lawyer Program since 1987, Christine received the Pro Bono Publico Award for her outstanding dedication to pro bono clients in 2000. Her support for the economically disadvantaged is never ending, and she is always handling a VLP case or two. As soon as she completes a case, she insists on accepting another wherever the need is the greatest. Her remarkable support of the Bar Association’s pro bono efforts extends to the Pro Bono Program for the Elderly where she has accepted many guardianship matters for frail and vulnerable clients. In the past few years, her combined

contribution totals a remarkable 199 pro bono hours. Christine's Bar Association contributions include her House of Delegates membership since 2000, service as Chair of the Legal Services Committee, membership on the District Court Bench Bar and Probate and Trust Committees, as well as her past participation in many other Bar committees. Her memberships and public service activities are not limited to the Bar Association. She is a member of the national Armenian Bar Association where she is currently Secretary of the Board of Governors and Chairperson of the Scholarship Committee. Christine has been a member of the Board of Trustees of the Sts. Vartanantz Armenian Apostolic

Church where she also taught Sunday School. She is currently on the Board of Directors for the East Bay Center and volunteered for this organization as well as others too numerous to list in various capacities throughout the years.

## 2009 Dorothy Lohmann Award for Community Service

Named in memory of Rhode Island attorney Dorothy Lohmann who devoted her entire professional life to helping the poor, the Dorothy Lohmann Community Service Award honors lawyers who make noteworthy contributions in time and effort to a Rhode Island non-profit organization on a strictly voluntary, non-paid basis.

**Malcolm Farmer III, Esq.**, received his Dorothy Lohmann Community Service Award for his outstanding volunteer work on behalf of the Providence-based, Family Service of Rhode Island, Inc. Founded in 1892, Family Service of Rhode Island

is one of the oldest and largest human services, non-profit agencies in Rhode Island. Family Service responds creatively to the unmet needs of individuals, families and the community by building partnerships that help people help themselves.



Family Service of Rhode Island Senior Vice President Anthony H. Bliss, Malcolm Farmer III, Esq., and Rhode Island Bar Association President Victoria M. Almeida, Esq.

According to Family Service Chief Executive Officer Margaret Holland McDuff, "*Malcolm Farmer III, better known as Mac, currently a senior partner at Hinckley, Allen, Snyder, LLP, is the Board President of Family Service of Rhode Island. Mac has always had a vision for Family Service, seeing the organization branch out into different clinical, as well as geographical areas. He saw early on the potential for Family Service to partner with other non-profit organizations to reduce duplication of services, providing greater efficiency and lower administrative costs. Mac exudes a deep commitment and compassion, leading with humor, expertise and attention to detail. He always keeps the clients in mind when making decisions on the agency's behalf. He is someone who cares deeply for the welfare of the human race – not because of income, ethnicity, sexual orientation, or national origin, but because they are people.*"

# Unique Rhode Island Law Day Classroom Lessons Stimulate Student Participation

Through the efforts of the Rhode Island Law Day Committee, volunteer teams of lawyers and judges helped Rhode Island upper and middle school teachers deliver over 50 law related education classroom programs to their students. This year's unique to Rhode Island lesson plans, including relevant background information and related news media stories as well as questions to elicit student participation, were developed by the Rhode Island Bar Association, with assistance from the Rhode

Island Law Day Committee. 2009 Rhode Island Law Day topics were: 1) Sexting (sending naked or revealing photographs via cell telephones and/or the internet); 2) Downloading music from the internet; and 3) Posting personal information on the web & cyber bullying. These distinctive topics stimulated active student participation in discussions aimed at helping them understand how laws directly affect them and the roles lawyers and judges play in administering justice.



Rhode Island Supreme Court Associate Justice and Rhode Island Law Day Committee Co-Chair Francis X. Flaherty with Rhode Island Bar Association President Victoria M. Almeida led a lively discussion of legal issues related to cellular telephones and the internet with Cranston High School East teacher Scott Maynard's students.



Rhode Island Family Court Magistrate Edward H. Newman and retired Rhode Island Family Court Associate Justice Howard I. Lipsey engaged in an animated give and take with teacher Tammy McMichael's Barrington High School students.

## Rhode Island Law Day 2009 Volunteer Acknowledgement

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 J. Robert Weisberger, Jr., Esq.  
 Bruce A. Wolpert, Esq.  
 Samuel D. Zurier, Esq.

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## Scituate High School Student Wins 2009 Rhode Island Law Day Essay Contest

The Rhode Island Bar Association and the Rhode Island Judiciary, with support from Roger Williams University School of Law, and the Rhode Island Police Chief's Association sponsored the 2009 Rhode Island Law Day essay contest. Open to all Rhode Island 10th and 11th grade students, the 2009 Rhode

Island Law Day Essay Contest offered a choice of how one of the following topics present 10th and 11th grade students with significant challenges in accepting their legal responsibilities: 1) sexting (sending revealing and or nude photographs via cell telephone); 2) downloading copyrighted music; and 3) posting personal information on the web and cyber bullying.

Caitlyn Hayes, of Scituate High School, is the winning author for her essay on the legal and ethical aspects of sexting. Caitlyn received a \$1,000 Scholastic Award made possible through the generosity of the Rhode Island Police Chief's Association and Cardi's Furniture, she also received an internship opportunity with a Rhode Island state court judge and an engraved trophy cup. Scituate High School received a permanent plaque commemorating the win and will keep the annual Rhode Island Law Day Essay Award Trophy Cup to display until the next Rhode Island Law Day Essay Contest in 2010.



Left, Rhode Island Law Day Essay Contest Winner Caitlyn Hayes presented her case, **TEENAGE SEXTING: PROBLEMS, SOLUTIONS AND PROBLEMATIC SOLUTIONS**, IN THE RHODE ISLAND SUPREME COURT COURTROOM.

Below, l-r: Scituate High School teacher Jean Buonacorsi, Caitlyn's mother Kristin Hayes, brother Reilly, Nick Cardi, Pawtucket Police Chief George L. Kelly III, Caitlyn's stepfather Rick Leite, Ron Cardi, Central Falls Police Department Colonel Joseph P. Moran III, 2009 Essay Contest Winner Caitlyn Hayes, Pete Cardi, and Rhode Island Supreme Court Associate Justice Francis X. Flaherty.



# Proposed Title Standards Revisions for Bar Member Review and Comment

The Rhode Island Bar Association's Title Standards and Practices Committee, chaired by Albert K. Antonio, Esq., voted unanimously to submit the following two proposed Title Standards revisions to the Rhode Island Bar Association Executive Committee for its consideration. The two proposed Title Standard revisions are prefaced by the Committee's explanation regarding the proposed revisions.

**Bar members are invited to comment on these proposed changes, no later than August 14, 2009, by contacting Rhode Island Bar Association Executive Director Helen Desmond McDonald by email: [hmcDonald@ribar.com](mailto:hmcDonald@ribar.com).**

## **Title Standard 7.15**

In the high-volume and fast-paced secondary mortgage market there are secondary and wholesale lenders that often use terms and take actions that are not exactly consistent with historical and accepted practice in Rhode Island but the intent is clear and there is no discernible risk of mistaken intent. As a matter of custom and practice in the secondary mortgage market lenders frequently employ servicers and/or outside professionals in distant locations to conduct and confirm foreclosures, short sales and resales to third parties. Those servicers and/or professionals usually act pursuant to a power of attorney. Recorded documents refer to such authority. Occasionally, but not rarely, the power of attorney is either silent as to necessary delegation of authority or the power of attorney cannot be found of record. The ultimate consumer can be exposed to potentially difficult and costly delays and even lose the benefit of their contemplated purchase while the distant lenders are pushed to produce the power of attorney or authority document. This Standard would allow the careful conveyancer to rely upon the representations made or implied to the effect that those documents do exist and that they are proper and appropriate for the contemplated transaction.

## **SECTION VII CONTINUED**

### **STANDARD 7.15**

#### **USE OF POWERS OF ATTORNEY BY FINANCIAL INSTITUTIONS FORECLOSING ON ONE-TO-FOUR FAMILY RESIDENTIAL PROPERTY**

A power of attorney from a financial institution foreclosing a mortgage on one-to-four family residential properties should be granted directly by the financial institution to the attorney-in-fact who conducted the foreclosure sale and/or executed the foreclosure deed.

However, titles derived through a foreclosure sale conducted by an attorney-in-fact appointed under a power of attorney in which the financial institution's attorney-in-fact is the donor, and/or documents executed by such attorney-in-fact, are not

on that account defective, and do not, on that account, render the foreclosure sale defective or the title unmarketable. Due authorization from the financial institution to its attorney-in-fact to appoint other attorneys-in-fact will be presumed, even in the absence of the recording of the power of attorney from the financial institution to its attorney-in-fact.

COMMENT: For purposes of this standard, a 'financial institution' shall mean a business, organization or other entity that manages money, credit, or capital, (including, but not limited to, commercial and retail banks, credit unions, insurance companies, investment companies, trust companies, savings and loan associations and securities brokers or dealers) whether acting on its own behalf or in a fiduciary or representative capacity.

## **Title Standard 3.10**

It has been noted by real estate practitioners that more often than in the past title examiners have had to review record transactions by a putative attorney in fact although the power of attorney can not be found of record. It is highly unlikely that such a transaction, if a matter of record for a long period of time, would be challenged in the future. If such a matter was to be challenged that would likely occur reasonably soon after the transaction is recorded. Adverse possession would offer a formidable obstacle to a challenge made after ten (1) years. Certainly within twenty (20) years a life event would have brought the transaction to light if a challenge was to be made. A careful conveyancer ought to be able to rely on the passage of time as a cure rather than put property owners to the task of quieting title in Superior Court.

## **SECTION VII CONTINUED**

### **STANDARD 3.10**

#### **EFFECT OF UNRECORDED OR DEFECTIVE POWER OF ATTORNEY ON VALIDITY OF CONVEYANCE**

The validity of a recorded deed executed by an attorney-in-fact whose power of attorney is not recorded or is, in some manner, defective, is not for that reason impaired, and the title conveyed by that deed shall be considered as marketable as if an actual, effective power of attorney had been recorded, provided that: (a) twenty (20) years have elapsed since the deed was recorded, except in the instance of a conveyance by a financial institution in which case the period shall be five (5) years; and (b) there is no record evidence of a challenge to the validity of the deed.

COMMENT: This standard is intended to apply to deeds that are already on record. An attorney involved in a current transaction who has been asked to record a deed that is executed by an attorney-in-fact should always insist that the original power of attorney also be produced and recorded.



## Rhode Island Bar Foundation 2009 Annual Meeting

The Rhode Island Bar Foundation Annual Meeting was held in concert with the Rhode Island Bar Association Annual Meeting. During the Bar Foundation Luncheon, Foundation Fellows were recognized for their outstanding dedication to the welfare of the community and their efforts to achieve the Foundation's objectives. Rhode Island Bar Foundation President John A. Tarantino also recognized the recipient organizations of the Interest on Lawyers' Trust Account (IOLTA) grants. This calendar year, over \$1.2 million was granted for the provision of Rhode Island legal services and the administration of justice.

### 2009 – 2010 Rhode Island Bar Foundation Officers Elected

John A. Tarantino, Esq., President; Michael A. St. Pierre, Esq., Vice-President; Allan M. Shine, Esq., Secretary; and James A. Jackson, Esq., Treasurer



John A. Tarantino, Esq., Rhode Island Bar Foundation President.



Stephen A. Fanning, Esq., Rhode Island Bar Foundation and Rhode Island Bar Association Past President, City of Cranston Mayor Allan W. Fung, Esq., Fellow and 1992 Thomas F. Black, Jr. Memorial Scholar, and James A. Jackson, Rhode Island Bar Foundation Treasurer.



R. Kelly Sheridan, Esq. Chairperson of the Scholarship Committee, Paul D. Lynch, Trustee of the Kimball Foundation, Joshua Bouchard, 2009 Scholarship recipient, Matthew Kimberlin, 2009 Scholarship Recipient, Norman D. Baker, Jr., Trustee of the Kimball Foundation, John A. Tarantino, President of the Rhode Island Bar Foundation, and Thomas F. Black, III., Trustee of the Kimball Foundation.



Amy E. Moses, Esq., 2001 Thomas F. Black, Jr. Memorial Scholar, addressed the audience and met with the 2009 Scholarship recipients and guests.

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Rhode Island  
Bar Association

Annual

2008-2009

Report

## Report of the Executive Director on 2008-2009

*The mission of the Rhode Island Bar Association is to represent the members of the legal profession of the state, serve the public and profession, and promote justice, professional excellence and respect for the law.*



**Helen D. McDonald**  
Executive Director

It is a pleasure to submit a report on the activities and accomplishments of your Bar Association during 2008-2009, a year in which RIBA leadership and staff continued to focus our efforts to develop new endeavors and fulfill the Rhode Island Bar Association goals and objectives to ensure we are doing the best we can to meet or exceed member expectations.

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### Public Service

One of our most noble goals is facilitating the availability of legal services. We support pro bono, services for the elderly and those of modest means. Last year, the Rhode Island Supreme Court Amended Rule 6.1 of the Rules of Professional Conduct, to provide the aspirational goal that each attorney perform 50 hours of pro bono service per year. The weakening economy and loss of IOLTA revenue has heightened the need for the Bar to address unmet legal needs, and we continue to make this a priority. In March the Rhode Island Bar Association, Rhode Island Legal Services and Roger Williams University School of Law sponsored a Pro Bono Celebration and Open House. Honoring those who support public service, we announced incoming President Victoria M. Almeida's theme of *Greater Justice for All* and highlighted the increasing needs and openings for attorney public service participation including the Bar Association's Volunteer Lawyer Program (VLP), the Law School's Pro Bono Collaborative and the Legal Services' Tax Clinic. This was the start for a series of ongoing, public service-oriented events, culminating in the American Bar Association (ABA) designated Pro Bono Week on October 25-31, 2009.

A free, three-credit seminar, *Updates in Bankruptcy Practice and Procedure*, was held on April 30th co-sponsored by the Bar Association's VLP and the United States Bankruptcy Court. Over 75 attor-

neys registered and agreed to accept a pro bono bankruptcy case. We are extremely grateful to the Court for their support and underwriting of the majority of the expense related to this seminar. There has been a substantial increase in the need for pro bono assistance in this area due to the economic crisis.

One of the current initiatives of the Rhode Island Bar Association's Volunteer Lawyer Program and Legal Information & Referral Service for the Elderly pro bono programs are a series of Collection Clinics presented on an ongoing basis at both the Bar Association headquarters and volunteer attorneys' offices. These clinics, for senior citizens and others, began in August 2008 to help Rhode Island residents with the effects of the economic downturn. Volunteer attorneys meet with 10 to 12 clients in one afternoon and do the necessary follow up to resolve the serious issues the clients are facing with collection agencies. In addition to the daily operations of the Law Referral Service, Reduced Fee Program and Legal Information and Referral Service for the Elderly, the Association continues to work closely on pro bono initiatives with many organizations including but not limited to: Rhode Island Legal Services, International Institute, Rhode Island Coalition for the Homeless, Women & Infants cancer unit, Roger Williams University School of Law Mediation Clinic, Coalition with the Homeless and

## Report of the Executive Director on 2008-2009

Amos house. We participated with Bradley Hospital on the Third Annual Bradley Hospital Family Resource and Educational Fair last October. We are now implementing a new Health Care Durable Power of Attorney Clinic at Senior Centers around the state. A senior handbook, *A Guide to Getting Your Affairs in Order*, was prepared by volunteer attorneys through the Bar Association's Legal Services Committee and distributed this year to hundreds of seniors through care facilities and organizations for senior citizens.

The Ask a Lawyer – Bar & NBC10 Partnership continued in May when on May 6th and May 20th, during the NBC10 news period, Rhode Island Bar Association Lawyer Referral Service (LRS) attorneys responded to viewer legal questions concerning, respectively, creditors' and debtors' rights and bankruptcy. Attorneys on in-studio panels responded via telephone and the internet.

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### Rhode Island Bar Foundation

President John A. Tarantino and the Board of Directors of the Rhode Island Bar Foundation continues its hard work to maximize Interest on Lawyers Trust Account (IOLTA) income and assess legal needs in order to maximize foundation support for Rhode Islanders' legal services.

The Rhode Island Bar Foundation and the Rhode Island Bar Association joined in a proposal to the Supreme Court to change Rule of Professional Conduct 1.15 to make IOLTA mandatory for all non-exempt Rhode Island attorneys and to clarify the language that prohibits attorneys from keeping IOLTA in banks that discriminate against IOLTA accounts. The Rule was adopted by the Court, and we have added over 400 new accounts since March 1.

The Rhode Island Bar Foundation also administers the Thomas F. Black, Jr. Memorial Scholarship Fund established in 1989 to support and foster high legal practice standards by assisting Rhode Island residents who show promise of becoming outstanding lawyers and who need financial assistance to study law. The Scholarship is in honor of the late Thomas F. Black, Jr., a person known for his impressive ability as a lawyer and banker, his deeply rooted legal scholarship and his notable participation in civic and charitable causes. Three scholarships of \$15,000 each were awarded this spring for Rhode Island students entering their first year of law school.

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### Professional Development

The Association's Continuing Legal Education (CLE) department continued to explore ways to ensure that quality CLE programming is as accessible and affordable as possible for our members. To that end, numerous CLE Seminars were offered in the areas of Recent Developments, Immigration, Workers Compensation, Technology, Real Estate, Driving While Intoxicated (DWI), Mortgages, Business Practice, Estate Planning, Domestic Law, Civil Practice, Consumer Bankruptcy, Federal Practice, Special Education, USRRA, Nuptial Agreements, Psychological Injury, and many more. The series, *Maintaining Professionalism*, focusing on client relationships was once again very well received. The CLE Committee has completed program planning for the balance of the calendar year and has selected programs and speakers for the September and

October 2009 programs. They will include: premises liability, a Medicare set asides, QDROs, succession planning in a law practice, Title Standards, interrogatories, administering a small estate, buying foreclosed property, and the 2009 recent developments.

Aon Affinity continues to offer a free ethics CLE each year to our members as part of an overall loss prevention program. The topic for the coming year's risk management seminar (to be presented in August and September 2009 throughout Rhode Island) is *Protect and Build Your Law Practice in a Tough Market*. This free program will focus on: managing your firm's money to avoid economic stress; using retainer letters to build clear and enforceable client relationships; marketing your services efficiently and ethically; supervising staff and firm lawyers to prevent ethical shortcuts; and, expanding or

## Report of the Executive Director on 2008-2009

changing your practice areas while maintaining competence. The speaker is Professor Niki Kuckes from Roger Williams University School of Law.

New joint publication programs with Massachusetts Continuing Legal Education and the American Bar Association are underway. Visit the CLE page at [www.ribar.com](http://www.ribar.com) for the most current information.

The 2009 Annual Meeting was a great success under the leadership of Chairperson J. Robert Weisberger, Jr. The program included both social and networking opportunities as well as numerous breakout sessions on topics including stress in law practice & life, ethics, immigration, media & the courts; closely-held corporations, DCYF, family law, collaborative law practice, employment discrimination, expert testimony, social security, mechanics'

liens, ADA, business law, bankruptcy, medicaid planning, national security, civics education, criminal law, civil case law, real estate, law practice management, workers compensation, and technology. Featured speakers included Academy Award winning actor Richard Dreyfuss and Professor Amiram Elwork. Chairperson J. Robert Weisberger, in conjunction with Richard Dreyfuss developed a civics education seminar to follow Mr. Dreyfuss' Annual Meeting Plenary Session address on Friday, June 19. Participating was the new Rhode Island Commissioner of Education Deborah Gist, Providence School Superintendent Thomas Brady, Providence Mayor David Cicilline, and a number of educators and educational administrators from throughout the state.

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### Involvement of New Lawyers

The New Attorney Advancement Task Force has implemented a number of programs to stimulate new lawyer interest and participation in the Rhode Island Bar Association which will lead to greater participation in all organizational education, professional and public service activities and eventually develop strong involvement in leadership. Bar committee Chairpersons have been requested to increase their membership by conscripting new lawyers as members. Several informative and entertaining networking events were held focusing on professional networking strategies and other legal profession aids.

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### Member Benefits

Another Rhode Island Bar Association goal is to provide benefits, programs and services to promote growth and enhance our members' professional and personal quality of life. We continue to monitor the latest technologies, and to seek out tools to assist members with their practices. In addition to insurance, office management products and services, we also offer technology discounts in areas such as website development; video conferencing; online research; case management software and more.

Since 2004, as a free membership benefit, the Rhode Island Bar Association has provided Bar members with unlimited access to **Casemaker** legal research. From case law to codes to federal materials,

Casemaker has become one of, if not the, most valued member benefit. Over the last six months, several Casemaker Consortium States have been working with Casemaker to create and release a new version of the program. Casemaker 2.1, is now available to Rhode Island Bar Association members. And, it is more user-friendly, faster, and comprehensive than ever.

Other member benefits include: *Aon Attorneys' Advantage*, the professional liability insurance program for our Bar members, also provides expanded coverage through the *Aon Property and Casualty* program. The RIBA Sponsored program offers property, liability, workers' compensation and other miscellaneous coverage to the members of RIBA.

## Report of the Executive Director on 2008-2009

Personal Lines Insurance is provided through **Amica** Mutual Insurance Company, a full line of superior, competitively priced products including automobile, homeowners, life, marine and personal liability coverage.

The *ABA Members Retirement Program* is providing retirement plans – 401(k), profit sharing, and defined benefit plans to Rhode Island law firms and lawyers. Whether you operate a solo practice or a large firm, the ABA Program can provide an effective plan for your firm; *Massachusetts Mutual Life Insurance Company* (MassMutual) is a sponsored provider of Disability Income Insurance and Long Term Care Insurance for Bar Association members, insurance services and discounts are also available through the *Robert J. Gallagher Company*. *USI New England* is the Rhode Island Bar Association's rela-

tionship administrator with Blue Cross Blue Shield and Delta Dental. USI New England will act as a liaison between Blue Cross/Delta Dental and Bar members as an alternative to direct Bar member contact with Blue Cross/Delta Dental. USI will also provide Rhode Island Bar members with enrollment, billing service, and insurance advice.

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### Work-Life Balance

The Bar Association continues to support our member's quality of life with our Lawyers Helping Lawyers program. Any member experiencing a personal or professional crisis may obtain immediate assistance from licensed, caring professionals as well as peer support if they so choose. The Lawyers Helping Lawyers Committee is working on several educational programs and outreach initiatives in the areas of balance, wellness, stress, and quality of life. A program on "compassion fatigue," presented in May, was very well received. Articles on gambling addiction were published in the Rhode Island Bar Journal.

Professor Amiram Elwork, a professor at Widener Law School and expert in the area of Stress Management for Lawyers was the plenary speaker on Thursday morning at the Annual Meeting. That program was sponsored by Aon Affinity as part of their loss prevention partnership with the Bar Association.

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### Law Related Education

The Association has a goal to increase public understanding of and respect for the Law. Our many legal clinics, working with the Court on the Rhode Island Law Day program and the associated statewide essay contest are all longstanding success stories for the Association. The Rhode Island Bar Association's Director of Communications and Law Related Education (LRE) Coordinator developed unique, classroom lesson plans and compiled related background information packages for three, 2009 Rhode Island Law Day topics: 1) Downloading Music From The Internet; 2) Posting Personal Information On The Web & Cyber Bullying; and 3) Sexting (sending naked or revealing photographs via cell telephones

and/or the internet). These topics were also used for the 2009 Rhode Island Law Day Essay Contest. Over 60 presentations were made in 35 schools. Volunteer lawyers, with assigned partners from the Rhode Island Judiciary, delivered the classroom lessons on Friday, May 1st.

## Report of the Executive Director on 2008-2009

### Committees

In addition to the significant amount of time and energy Bar members volunteered in both the pro bono and CLE arena, thousands actively participated in the work of the Bar Association committees. Without the hard work and commitment of these volunteer Bar members, the Association would be unable to offer quality CLE programming.

Bar committees continue to meet monthly and work hard reviewing current issues. Recently, we publicized the possible restoration of the Bar Association's Environmental Law Committee under the new name "Environmental and Energy Law Committee." We believe it is important for the Bar to have an active group that will keep each other and the Bar informed of developments in these practice areas and review important policy issues particularly with the many rapid changes taking place in this field.

The Creditors & Debtors Rights Committee is currently reviewing the selection process for the appointment of receivers in Rhode Island and will recommend reforms.

The Federal Court Bench/Bar Committee is participating, for the second year, in a University Symposium Series co-sponsored by the United States District Court for the District of Rhode Island, Brown University, Providence College, Rhode Island School of Design, Roger Williams University School of Law, and the University of Rhode Island.

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### In Conclusion

I thank the Executive Committee and House of Delegates for their support and guidance throughout the year. Each member brings great perspective and leadership for the members. I also thank the tremendous Rhode Island Bar Association staff. We are fortunate to have these very committed individuals contributing their talent to the delivery of quality services and benefits to our members. Their hard work and dedication are remarkable: Director of Continuing Legal Education Nancy Healey, Director of Communications Frederick D. Massie, Director of Finance Karen Thompson; Director of Public Services Susan Fontaine, Rhode Island Bar Foundation Program Director Virginia Caldwell, our Lawyer Referral Service Coordinators Elisa King and Laura Bridge, Volunteer Lawyer Program Coordinator John Ellis, VLP Program Assistant Debra Saraiva, CLE & Tech Services Coordinator Karen Lomax, Member Services Coordinator Kathleen Bridge, Office Manager Susan Cavalloro, Continuing Legal Education and Communications Assistant Tanya Nieves and Law Related Education Coordinator Allison B. Baker.

We are mindful of meeting the goals and objectives adopted by the House of Delegates on your behalf and will continue to work toward our vision. The programs and services of the Rhode Island Bar Association contribute to increased availability of legal

services, a more efficient, effective, and independent judicial system, and increased public understanding about the law. Next year, under the leadership on incoming President Victoria M. Almeida, we will see some new initiatives to help steer the course and promote even greater public service. Please feel free to contact any of the officers or staff at the Bar Association with your concerns, questions or suggestions. We will keep you informed and invite you to become involved as we work to fulfill our mission.

Helen Desmond McDonald  
Executive Director



## Rhode Island Bar Association

### Legislative Positions and Amicus Briefs Official Notice 2009

The Rhode Island Bar Association restricts action on legislation either as a proponent or opponent to that related to the practice of law or administrative of justice. In 2008-2009 the Rhode Island Bar Association (RIBA) did not file as amicus curiae in any matters.

With regard to legislation, the Association supported four recommendations by the Probate & Trust Committee re: the homestead exemption, property tax exemption and trusts and estate tax reformation. Each of these bills was approved by the Probate and Trust Committee unanimously. 1. An Act Relating to Levy and Sale on Execution (Insurance Exemption; Homestead Exemption). 2. An Act Relating to Transfer Taxes: Estate and Transfer Taxes: This proposed bill would provide for the construction of wills and trusts executed prior to September 12, 1981 that contain marital deduction formula clauses in a manner that would provide for the optimum federal estate tax marital deduction. 3. An Act Relating to Estate and Transfer Taxes: the exemption from Rhode Island estate tax currently stands at \$675,000, making it the least favorable state from the taxpayer's point of view in New England with respect to estate taxes. The purpose of this bill would be to increase the Rhode Island estate tax exemption to \$1,000,000. 4. An Act Relating to Fiduciaries: This act would formalize a procedure usually designated as "decanting a trust." It could permit a trustee of a trust that gives the trustee absolute power to invade principal of the trust to make distributions to or for the benefit of beneficiaries to instead make distributions to a trust (part of the original trust or a new trust) for the benefit of the same beneficiaries.

At the recommendation of the Business Organizations Committee, the Association opposed S 295 which would repeal existing provisions of Rhode Island law governing business corporations, including the; Rhode Island Business Corporation Act and would enact in its place a new corporation law modeled on the Delaware general corporation law. The Business Organizations Committee is concerned that a wholesale change to the Rhode Island corporation law adopted so soon after the significant modification to that law made in 2004 will erode confidence in the continuity of law and cause unnecessary hardship for practitioners who are now adjusting to the Existing Act. The Business Organizations Committee also believes that merely adopting the Delaware corporation law will be insufficient to make Rhode Island attractive as a jurisdiction for organization of new corporate entities or the redomestication of existing entities. The Business

Organizations Committee believes it best for the bill to be held until sufficient resources can be devoted to address conflicts between the bill and Rhode Island law and practice.

The Association supported S 0271 which allowed for a divorce in this state whether or not the parties would have been eligible to marry in Rhode Island so long as the marriage or domestic relationship is recognized elsewhere and as long as the parties meet the jurisdictional requirements for a divorce in Rhode Island.

The Association supported legislation proposed by the Title Standards Committee) to amend Section 34-26-7 of the General Laws in Chapter 34-26 entitled "Redemption, Release, and Transfer of Mortgages" was circulated and reviewed. The proposal clarifies and reduces the time after which a recorded mortgage would be unenforceable against the real estate securing the mortgage. The current 50 years is beyond the 40-year marketable record title act period. The proposed 35 year period would be more consistent with provisions in Massachusetts and Connecticut.

A member may, within sixty days of the date of the mailing of the Journal, allege that the lobbying activity for a specific bill or an amicus brief filing in a specific case was impermissible or a "non-core" activity on the part of the Rhode Island Bar Association, by notice, in writing, to the Executive Director of the Rhode Island Bar Association.

#### **Rhode Island Bar Association 2009-2010 Annual Budget**

The Bar Association funds derived from members' dues are employed for the furtherance of the Bar's mission which is to represent the members of the legal profession of the state, serve the public and profession, and promote justice, professional excellence and respect for the law. A detailed budget appears on the following page.

# Rhode Island Bar Association 2009-2010 Annual Budget

*The Rhode Island Bar Association funds derived from members' dues are employed for the furtherance of the Bar's mandate which includes among other things the administration of justice.*

## GENERAL FUND

(Administrative and Member Services)

Income	Budget 09/10
Bar Journal Ads & Subscriptions	\$ 55,000
Contract Service Income	67,200
Interest Income	20,000
LRE Grant Income	15,000
Mailing List Income	2,000
Malpractice Prevention	25,000
Member Dues & Fees	990,000
Miscellaneous Benefit Income*	20,000
Miscellaneous Income	500
Personal Lines Insurance	17,000
	<u>\$ 1,211,700</u>
<b>Expenses</b>	<b>Budget 09/10</b>
Awards	\$ 1,500
Bar Journal	110,250
Casemaker	94,500
Clerical Assistant	2,500
Computer	30,000
Consultants	5,000
Copier	10,500
Depreciation Expense	15,000
Dues & Subscriptions	5,250
Insurance	15,000
Lawyer Assistance Program	12,600
Legislative Counsel	26,250
Lobby Tax	10,500
LRE Expenses	15,000
Maintenance & Repair	25,000
Medical Benefits	60,000
Miscellaneous Expense	5,250
Office Supply & Expense	20,000
Pamphlets & Advertising	1,500
Payroll Tax Expense	33,600
Printing & Postage	30,000
Professional Fees	21,000
Property Tax	6,300
Public Relations	10,000
Records Management	5,000
Regular Meetings	12,000
Rent & Electricity	140,000
Retirement Plan	36,750
Salaries	374,850
Telephone	12,600
Travel	35,375
Website	10,500
	<u>\$ 1,193,575</u>
Net Income:	\$ 18,125

## LAWYER REFERRAL SERVICE

(LRS and Public Services)

Income	Budget 09/10
Interest	\$ 100
Dues	25,000
Fees	20,000
	<u>\$ 45,100</u>
<b>Expenses</b>	<b>Budget 09/10</b>
Advertising	\$ 1,000
Convention & Travel	0
Depreciation Expense	0
Medical Benefits	12,000
Miscellaneous Expense	500
Office Supplies	525
Payroll Tax Expense	3,150
Printing & Postage	6,000
Professional Fees	525
Rent	1,200
Retirement Plan	3,150
Salaries	31,500
Telephone	1,575
	<u>\$ 61,125</u>
Net Income:	\$ (16,025)

## CONTINUING LEGAL EDUCATION

(CLE Professional Development)

Income	Budget 09/10
Annual Meeting	\$ 400,000
Publications	15,000
Seminars	300,000
	<u>\$ 715,000</u>
<b>Expenses</b>	<b>Budget 09/10</b>
Annual Meeting	\$ 280,000
Clerical	500
Computer	5,000
Copier	1,000
Depreciation	1,000
Dues & Subscriptions	500
Medical Benefits	18,000
Miscellaneous Expense	500
Office Supplies	10,000
Payroll Tax Expense	10,500
Printing & Postage	14,000
Professional Fees	5,250
Publications	10,000
Rent	15,000
Retirement Plan	14,000
Salaries	124,950
Seminar Expense	180,000
Travel	1,000
Website	1,500
	<u>\$ 692,700</u>
Net Income:	\$ 22,300

## OPERATING BUDGET

	General Fund	LRS	CLE	Total
Income	\$ 1,211,700	\$ 45,100	\$ 715,000	\$ 1,971,800
Expense	1,193,575	61,125	692,700	1,947,400
	<u>\$ 18,125</u>	<u>\$ (16,025)</u>	<u>\$ 22,300</u>	<u>\$ 24,400</u>

## Grants and Restricted Funds

ProBono	\$ 192,360
Elderly	84,350
CRF	125,000
Total:	<u>\$401,710</u>

## 2009-2010

Total Revenue	\$ 2,373,510
Total Expense	<u>\$ 2,349,110</u>
	<u>\$ 24,400</u>

\* Miscellaneous Benefit Income includes Benefits Unlimited, Lexis, and MBNA Income.

## Bar Association Committee Reports

### Annual Meeting Planning



**J. Robert Weisberger, Jr.**  
*Chair*

The 2009 Annual Meeting Committee produced a diverse, valuable and enriching program. Supporting this, the Bar Association staff worked with the Committee to ensure a seamless presentation of workshops and social events. As such, our Annual Meeting provided an outstanding opportunity to learn, to improve your practice, and to socialize with your colleagues.

The Meeting offered a wide range of workshops providing guidance in family, federal and trial law, as well as law office management. Program highlights included, but were not limited to, seminars on immigration raids, collaborative law practice, real estate short sales, handling client funds, and the ever-popular civil and criminal case law updates. All the offerings were enhanced by the participation of many distinguished and accomplished presenters. This year a diverse range of law related exhibitors presented their products and services at the meeting.

The Annual Meeting's Plenary Session speakers were particular standouts. Academy Award-winning actor Richard Stephen Dreyfuss addressed the pressing importance of teaching civics education in our schools and the vital supporting roles lawyers can play securing the future of democracy. Dr. Amiram Elwork, Director of the Law-Psychology Graduate Program at Widener University, delivered an entertaining and informative address on managing stress.

We honored the achievements of our outstanding colleagues at our Annual Meeting Dinner and Luncheon and welcomed the election of our new slate of Officers for the upcoming year.

The Chair and the Committee members extend their heartfelt appreciation to the many individuals who so graciously served as workshop speakers and moderators and prepared workshop materials for the benefit of the entire Bar. The Committee greatly appreciates the support and assistance received from the Rhode Island Bar Association Executive Director, Helen McDonald, Continuing Legal Education Director, Nancy J. Healey, Communications Director, Frederick D. Massie, and the entire Bar staff without whom this year's event would not have been possible.

### Business Organizations



**James H. Hahn**  
*Chair*

The Business Organizations Committee met monthly throughout the past year. In addition to developing Annual Meeting programs devoted to business buy-sell agreements, advising small business, and issues arising out of non-disclosure agreements, Committee members organized and presented a number of seminars, including the annual seminar on organizing a Rhode Island business. The Committee devoted significant time to review of the Revised Uniform Limited Liability Company Act (RULLCA), analyzing the differences between existing Rhode Island limited liability company law and the RULLCA and identifying those concepts embodied in the

RULLCA that merit consideration for inclusion in the Rhode Island Limited Liability Company Act. The Committee intends to complete its review during the fall of 2009 and have draft language available for review in early 2010. The Committee also reviewed and commented on several pieces of legislation introduced in the 2009 session of the General Assembly.

## Bar Association Committee Reports

### Continuing Legal Education



**Richard M. Peirce**  
*Chair*

The Continuing Legal Education Committee again provided full and varied programming for the 2008-2009 year. In 67 separate events, including our popular Food For Thought sessions, longer seminars and themed series, we presented the quality and quantity of sessions needed by the Bar Association's members to fulfill CLE requirements at a very reasonable cost.

In early fall, the two-hour ethics seminar was presented at five different times and three separate locations to make the program accessible to our members. The program this year focused on ethics issues which arise in a challenging economy. We thank Affinity Insurance Services, Inc. (Aon) for underwriting the cost of this program allowing its presentation, free of charge.

Our Practical Skills and Recent Developments programs continued this year. The five-part interactive professionalism program, begun in 2008, was presented again in 2009 in conjunction with the Bar Association's Ethics and Professionalism Committee. A four-part series on Federal practice planned by the Federal Court Bench/Bar Committee was also presented.

The Committee continued a series of seminars in law practice management focused on starting and maintaining a small office. We are planning three additional sessions in the fall focused on transitioning and retiring from practice. In an effort to address timely topics, we recently presented a longer seminar

on fraudulent conveyances and Ponzi schemes which was well received.

On-line seminars continue to be offered through the Bar Association website. Under the Committee's auspices, the Bar Association has entered into agreements with both Massachusetts Continuing Legal Education and the American Bar Association for discounts on books and web broadcasts. I am optimistic that we will begin simulcasting a limited number of the Mass. CLE programs at Rhode Island locations beginning in the fall, making the selected MCLE programs more accessible to our members.

I thank all Committee members for their hard work in planning these programs and those Rhode Island lawyers who volunteer their time as presenters, and I particularly thank Nancy Healy, the Bar Association's CLE Director, who provides such great support. I invite Bar Association members to submit programming suggestions at any time or to volunteer for our Committee.

### Creditors' and Debtors' Rights



**Richard L. Gemma**  
*Chair*

This past year has been busy for the members of the Creditors' and Debtors' Rights Committee. As everyone knows, the local and national economies have struggled through unprecedented economic times. As a result, the number of bankruptcy proceedings, receivership proceedings, and/or other forms of insolvency actions have proliferated.

Despite the increased demands upon their time, many members volunteered to speak at the Bar's Annual Meeting and at CLE seminars held throughout the year. The Committee has also formed two separate subcommittees. One is examining Rhode Island's limited liability statute and whether to make a recommendation to amend the statute to include certain corporate statutory principles dealing with ownership dis-

putes, insolvency, and related matters. The other is examining the receivership selection process and the appropriateness of the disclosures to be made by a receiver prior to or in connection with the receiver's appointment. This year, the Committee had the pleasure of meeting with the Honorable Michael A. Silverstein of the Court, to discuss the receivership process and obtain his firsthand observations on the nuances of the process.

Many members of the Committee have agreed to and continue to participate in an email communication system in which members of the Committee are updated on insolvency issues in state and federal courts.

## Bar Association Committee Reports

### Criminal Law Bench/Bar



**George M. Muksian**  
Co-Chair

This year, the Committee was devoted to the design and presentation of continuing legal education (CLE) programs providing attendees with the opportunity to accrue a total of 5 CLE credit hours. Our CLE season began with *Electronic Recording of Custodial Interrogation: An Overview*. Panelists included Michael A. DiLauro, Peter J. Hopkins, John J. McMahon, and George M. Muksian. The program offered a survey of current law in the United States; an evaluation of case outcomes where electronic recording has been instituted; an examination of the different legal approaches to instituting electronic recording policy; a comparative study of the conflicting views on the issue; and related ethical implications from the prosecutor's viewpoint.



**John J. McMahon**  
Co-Chair

Our May program was developed through our relationship with the Family Life Center (FLC). We previously engaged in a series of meetings for the purpose of reviewing and suggesting revisions of bills introduced by the FLC and related to criminal justice. Nick Horton, FLC Policy Analyst, met with us on several occasions in a workshop format focusing on bills designed to address a variety of issues, including problems related to court-cost indebtedness of individuals with disposed cases. This year, our interaction with FLC and Nick Horton was through a CLE, *The Meaning of Guilt: Principles of Justice in Substantive Violation Hearings*, including a viewing of the film *Stronger Than Their Walls: Guilty Untitled Proven Innocent*. A post-screening discussion focused on the merits of legislation filed on behalf of FLC to terminate the violation sentences of those who have subsequently been exonerated of the underlying charges triggering the probation violation.

A limited reprise of our earlier CLE on the electronic recording of custodial interrogations was presented at the Bar Association's 2009 Annual Meeting with a focus on legal considerations and practical implications. All the programs allowed for serious reflection and discussion on these controversial topics in criminal justice with a give-and-take dialectic that generated meaningful reflection initiating further inquiry and connection between theory and practice.

The future of Rhode Island courts e-filing, a Herculean project, is under the guidance of a special task force of Court personnel and pertinent Bar committees. Co-Chair Jack McMahon and Assistant

Attorney General Bill Ferland represent the Committee at monthly project work sessions devoted to examining and dissecting current court systems function so, with analysis, technology can pave the way for easier, yet secure and reliable, e-filing. Special recognition goes to the Supreme Court's Bob Baynes who marshaled the project full speed ahead until we lost him to ALS. May he rest in peace.

Given its balance of expertise, the Committee continues to serve the Bar Association as a resource for responding to news media inquiries regarding criminal cases and/or legal controversies. During the past year, the Committee fielded a number of inquiries from the electronic and print media.

Responding to Past President Marcia McGair Ippolito's request for Bar committees to produce guides for their areas of legal interest, the Rhode Island Bar Journal published *Attorney Practice Guide: Criminal Defense Representation – Part I: The Pretrial Phase*. We are still developing Part II: The Trial Phase, and are looking forward to its publication in the fall.

If we, as lawyers, are to have some influence in the legislative and judicial decisions impacting our professional lives and the lives of those for whom we advocate, we need to stay organized and actively committed to our mission. The Committee is a collegial and diverse group of lawyers committed to the ideals associated with a progressive justice system, and we welcome you to join us in assuming our role as guarantors of justice.

## Bar Association Committee Reports

### Ethics and Professionalism



**Kathleen G. DiMuro**  
Co-Chair

The Committee continued its practice of monthly meetings from September through May. Invited guests included David Curtin from the Office of the Disciplinary Counsel who spoke about the areas which receive the most calls in his office. Once again, the need for lawyers to talk to their clients was emphasized. The most frequent complaints the Office receives from disgruntled clients are relative to lawyers who don't return telephone calls. David also mentioned that on some occasions, the lawyers also fail to return the calls from the Disciplinary Counsel.

President Elect Victoria Almeida attended the April meeting and discussed her plan for the upcoming year. The Committee will work on a lawyer community service day scheduled for early in 2010. This will be separate from Law Day and will give lawyers the opportunity to serve in the community, not as lawyers but as members of the greater community.

The Committee developed Spring Training seminars offering refreshers in various fields of law, including family law, transactional law and civil practice. These were well attended and received good attendee evaluations.

The Committee was involved in two Annual Meeting Seminars: one was a 90-

minute interactive program *Ethics in the Actual Practice*; and the other was *Web Site Optimization and Internet Search Engine Technology for Lawyers*.

The Committee plans to offer a future seminar on communication failures between lawyers and clients and between lawyers and other lawyers. Through the summer, Committee members will work on the service day program.



**Stephen G. Linder**  
Co-Chair

### Family Court Bench/Bar



**Jane F. Howlett**  
Chair

The Family Court Bench/Bar Committee met on the second Tuesday of each month at the Garrahy Complex. Laurie Medwin-Fine served as the Treasurer and Nancy Garcia Ponte served as the Secretary. I thank both Attorney Medwin-Fine and Attorney Ponte for their assistance and support.

We had a number of informative and enlightening Committee meetings. Our first such meeting featured a presentation by Judge Howard Lipsey and Judge Debra DiSegna concerning the practices and procedures utilized in their Courtrooms. Judge DiSegna discussed the Post Final Judgment Calendar in Courtroom 5K. Judge DiSegna outlined typical cases assigned to this Calendar and the particular protocol followed in her Courtroom, such as asking the Court to hold a matter, asking the Court for a conference, and the Judge's practice on seeking a continuance. Judge DiSegna discussed the impor-

portance of proper preparation of an Order or Judgment and the importance of putting agreements on the record. Judge Lipsey discussed the practices followed in Courtroom 5F where he presides over the Pre-Trial and Trial Calendars. Judge Lipsey addressed important scheduling issues, courtroom protocol and pre-trial and trial preparation. Judge DiSegna and Judge Lipsey outlined the services available to practitioners and litigants, such as mediation and the services offered by the Family Court Investigative Unit. Thank you to both Judge DiSegna and Judge Lipsey for their time and effort and for their continued support of the Family Court Bench/Bar Committee.

Several very informative Continuing Legal Education courses were presented throughout the year. *Immigration Issues and the Family Court* was presented by Attorney Carl Krueger, Immigration Attorney for the Feinstein Center for Citizenship and Immigration Services. This course focused on

## Bar Association Committee Reports

marriage-based permanent residence petitions, conditional residence issues, Violence Against Women Act protections for non-citizens and issues relating to non-citizen juveniles. This program was particularly relevant in light of recent immigration issues in our state, and highlighted the importance of considering these issues in Domestic Practice.

Again this year, Attorney Elizabeth Segovis of Rhode Island Legal Services gave a course entitled *Basic Tax Considerations in Separation and Divorce*. This informative presentation addressed the myriad issues practitioners must consider when couples separate and divorce. These include tax deductions, filing a joint return and the various forms required by the IRS. Thank you to Attorney Segovis for her time and expertise.

The Family Court Bench/Bar Committee and the LGBT Issues and the Law Committee held a joint CLE presentation entitled *An Update on Legal Remedies Available to Married or Divorcing Same Sex Couples in Rhode Island Family Court*. Presentation speakers were Steven Brown, Executive Director of the Rhode Island Chapter of the American Civil Liberties Union, Karen Loewy, staff attorney at Gay and Lesbian Advocates and Defenders and Kathy Kushnir, Executive Director of Marriage Equality Rhode Island. This highly-informative and well-attended course addressed the legal remedies

attorneys can offer clients in the wake of the **Ormiston v. Chambers** decision, as well as an update on the promulgation of legislative solutions and the status of bills in the Rhode Island legislature.

We had a number of new attorneys join the Committee this year, and some of our members served as mentors to new attorneys. I again made a presentation at the annual Family Court Judicial Conference in September at the Christian Brothers in Narragansett. Chief Judge Jeremiah invited all Committee members and many attended. Dinner followed the conference and was a truly enjoyable event.

The annual Holiday event was held at the Union Station Brewery. The food was excellent and members mingled in a social atmosphere to celebrate the holiday season.

It has been a pleasure to serve as the Chair for a fourth year. Thank you to Chief Judge Jeremiah and all of the Family Court Judges and Magistrates as well as Committee members who continue to make my appointment as Chair a great experience.

### Fee Arbitration



**Henry V. Boezi, III**  
Chair

During fiscal year 2008-2009, twenty six petitions for fee arbitration were filed with the Rhode Island Bar Association. Three matters were dismissed because the respondents were unwilling to proceed with the arbitration. Ten matters were arbitrated or settled directly with the assistance of the Committee prior to a formal arbitration hearing. Thirteen matters are still pending hearing. The amount of fees in dispute ranged from amounts of \$1,500 to \$46,000. Several disputes were between lawyers who had been involved in the same case.

We continue to arbitrate controversies, some of which could have been avoided by a clear fee agreement, timely billing practices and/or better lawyer/client communications. The proceedings are primarily informal and serve as an alternative to litigation. Members of the Committee serve voluntarily without compensation and are commended for their service to the Bar.

The fee arbitration program fosters greater understanding and confidence in the legal profession. We need and appreciate the continued support of Bar members, who are encouraged to utilize the Committee to resolve fee disputes they may have with either clients or fellow counsel.

## Bar Association Committee Reports

### Federal Court Bench/Bar



**Brooks R. Magratten**  
Chair

For past few years, the mission of the Federal Bench/Bar Committee has been, in a word, outreach. The Committee has been reaching out to members of the Bar and public through a series of educational events designed to inform lawyers and the public about aspects of federal practice and the role of federal courts in our society.

As in past years, the Committee sponsored three springtime continuing legal education programs. This year's programs focused on admiralty law, employment law and criminal law. The Committee also presented an Annual Meeting program on evidence and expert witnesses.

In addition, Matt Oliverio and Kristin Rodgers have been carrying out an initiative, begun in 2007, to bring the federal court into local high schools. Through this program, the federal judiciary and local lawyers have appeared in high schools talking to students about the business of the federal court and obligations they may soon undertake as prospective jurors, witnesses or litigants. This program has been well received. Several schools have contacted Matt and Kristin. They need volunteers to appear at future high school events.

The Committee is also continuing on an initiative begun in 2008 to promote interaction between the federal judiciary and our local colleges and universities. As part of last year's centennial celebration, the Committee sponsored three symposia in conjunction with the Court, local practitioners

and university representatives. The series addressed topics including *Civil Gideon*, rights of crime victims and courthouse architecture. This year, the symposia series commenced with a program addressing first amendment and internet issues. The Committee is planning symposia in September and November of 2009 on judicial selection and independence, and immigration reform.

The Committee is dedicated to increase its membership and offer better and more services to the Bar at large. It welcomes any and all members of the bar to join and participate in its meetings.



**Beverly E. Ledbetter**  
Vice Chair

### Fund for Client Reimbursement



**Michael A. St. Pierre**  
Chair

The Rhode Island Bar Association's Client Reimbursement Fund was established as a public service to promote confidence in the administration of justice and the integrity of the legal profession. The primary focus of the Fund is to reimburse the losses of clients who have been victimized by the relatively few Rhode Island lawyers who violate the profession's ethical standards and misappropriate funds entrusted to them. Losses reimbursed by the Fund include the theft of estate and trust assets, settlements in real estate and personal injury cases, money embezzled in investment transactions within an attorney-client relationship and the practice of law, and unearned fees

paid in advance to lawyers who falsely promise legal services.

The Client Reimbursement Fund Committee meets regularly to review and act upon claims and propose rules and procedures. The Committee administers the Fund, which is funded by an annual assessment of \$25.00 per Rhode Island Bar Association member. All claimants are required to exhaust reasonably available alternate sources of recovery before the Committee will consider claims, and we receive subrogation rights after claims are paid. In several cases, attorneys convicted of theft of client funds are also subject to court restitution orders.

Since the inception of the fund in 1981, the lawyers of the state of Rhode Island have given away



## Bar Association Committee Reports

more than \$1.2 million to the victims of the few dishonest lawyers in this state. No public funds have been involved; these gifts are financed solely by payments from lawyers.

The fund provides some measure of reimbursement to client/victims who have lost money or property due to theft or dishonest conduct. Unfortunately, there have been a number of severe losses recently. In 2008-2009, twenty seven claims were received. Eleven claims have been paid to date for a total of \$170,212 which is the largest amount paid in one year since 1993. Twelve major claims are still awaiting action pending receipt of further information and four claims were denied as not reimbursable under our rules.

I will continue to keep you informed as the Fund continues to serve the public. Thank you for your support.

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### Government and Public Sector Lawyers



**Erika Leigh Kruse**  
*Co-Chair*



**Debra Saunders**  
*Co-Chair*

The Government and Public Sector Lawyers Committee began the year by meeting at the Rhode Island Supreme Court to discuss the Committee's theme of discovering the role of legal counsel in various state and governmental departments. In September, the Committee visited Rhode Island Resource Recovery for a tour and lively discussion. The October meeting was held at the Providence Emergency Management Agency headquarters and led by Director Peter Gaynor who described the major functions of the agency and presented an emergency management video. The Committee sponsored an ethics presentation in November featuring Committee member Jason Grammit, who addressed various ethical issues concerning gifts for government attorneys. Due to the holidays in December, the Committee did not meet, and the January meeting, originally scheduled at the Airport Corporation, was cancelled due to inclement weather. The February meeting was devoted to an informative tour and engaging question and answer session at the Rhode Island Board of Elections, punctuated by several examples from the general election the preceding November.

In March, the committee convened at the headquarters of Save the Bay, and was enlightened with a tour of the environmentally-friendly facility. The Rhode Island Airport Corporation hosted the April

meeting at T.F. Greene Airport, where members were granted a behind-the-scenes tour and a very informative discussion about airport initiatives and the FAA. The year concluded with our June meeting at the Traffic Management Center of the Department of Transportation.

For the 2009-2010 Committee year, we are already hard at work planning some innovative programs to assist our members in learning about the functions and responsibilities of fellow government counsel. We look forward to seeing you there!

## Bar Association Committee Reports

### Insurance Programs



**Stephen J. Angell**  
*Chair*

The Committee on Rhode Island Bar Association Insurance programs met regularly over the 2008-2009 year to review and recommend programs of professional liability, health, life, accident and other insurance for members of the Association. Current programs include:

#### *Professional Liability Insurance*

**Aon Attorneys' Advantage** program offers professional liability insurance coverage sponsored by the Bar Association. Through a combination of Affinity Insurance Services, Inc. offices and a network of Independent Territorial Administrators, Aon Attorneys' Advantage program provides broad coverage, competitive rates outstanding local service and risk management service. To learn more about the benefits and features of the program visit the Aon website at [www.attorneys-advantage.com/law](http://www.attorneys-advantage.com/law).

#### *Business Owners Property & Casualty*

Aon Attorneys' Advantage, now also provides expanded coverage through the **Aon Property and Casualty** program. The Bar-sponsored program offers property, liability, workers' compensation and other miscellaneous coverage to Bar members. Aon's access to major property casualty companies that specialize in this market enables them to place your coverage with an insurance carrier that can provide your business with the best and most comprehensive coverage at the most competitive prices.

#### *Personal Lines Insurance*

As a Bar member, you are invited to apply for insurance coverage as part of the Bar Association's Personal Lines Insurance Program. This valuable program gives you access to a full line of superior, competitively-priced products from **Amica Mutual Insurance Company** including automobile, homeowners, life, marine and personal liability coverage. Visit Amica's website at [www.amica.com/ads/riba.htm](http://www.amica.com/ads/riba.htm).

#### *Disability and Long Term Care*

**Massachusetts Mutual Life Insurance Company (MassMutual)** is a Bar-sponsored provider of Disability Income Insurance and Long Term Care Insurance for Bar members. Members receive discounts on these products from MassMutual, the discounts on Long Term Care Insurance also extend to members' parents, grandparents, children and in-laws. For general product information on Disability Income Insurance, go to: <http://producers.halfapaycheck.com/?13315>; for Long Term Care Insurance, go to: [www.massmutual.com/ribar](http://www.massmutual.com/ribar).

#### *Disability*

**ISI New England** has provided bar associations with insurance plans nationally for over four decades. As a member benefit, Bar members have access to disability products at discounted rates and with simplified underwriting through ISI New England. For more information call 1-888-474-1959 or visit their website at [www.isi1959.com](http://www.isi1959.com).

#### *Term Life Insurance*

**Robert J. Gallagher & Associates'** representatives are happy to review Bar members' insurance needs. Their Affinity plan is underwritten by ReliaStar. For more information, contact Robert J. Gallagher, Jr., at 401.431.0837, e-mail him at [rjgiggs@aol.com](mailto:rjgiggs@aol.com), or visit their website at <http://www.gallagherassoc.com>.

#### *Health & Dental*

Health and Dental Insurance is offered to Bar members who have an office located in Rhode Island. The plans are administered through **USI New England**. Interested members may contact Rhode Island Bar Association New Business/Renewal Assistance & Plan Options, by telephone, at 401-372-1173.

The Committee continues to educate new Bar members about the insurable risks confronted by them in the practice of law. Program participants are provided with information concerning particular insurance programs endorsed by the Bar Association.

I thank the Committee members for their many hours of work on your behalf, and I extend a special thanks to Helen McDonald and the Bar Association staff for the tireless assistance they provide to the committee and to the membership.

## Bar Association Committee Reports

### Labor and Employment Law

This year, guests of the Labor and Employment Law Committee provided members with a wide range of perspectives on topics of Committee concern. Committee members John Leidecker and Vincent Ragosta, Jr. began the year by discussing the challenges of negotiating a labor contract in the current economic and political environment. The presentation focused on the negative impact the recently enacted Paiva-Weed law is having on local school districts and the recent insertion of high-deductible health insurance plans into negotiations.

**Thomas R. Landry**  
*Chair*

Michael Evora, the Executive Director of the Rhode Island Commission for Human Rights, and Cynthia Hiatt, Legal Counsel to the Commission, led a discussion and examination of recent amendments to the American with Disabilities Act (ADA) and the resulting changes in Rhode Island law. Rosemary Pye, National Labor Relations Board Regional (NRLB) Director for Region 1, and members of her staff, including Beth Vorro, Elizabeth Gemperline, Robert Redboard and Ronald Cohen returned in March for their annual Committee presentation. The NLRB officials provided an overview of the NLRB and discussed changes to its e-filing program. Ms. Pye also summarized some recent decisions of interest, including **Northeastern Land Svc., Ltd. v. NLRB**. In April, labor arbitrator Michael Stutz addressed the Committee on the topic of *Internet and E-Mail-Related Discipline Cases*. Arbitrator Stutz focused

on several cases he recently decided in this area and numerous issues likely to arise in the workplace with an increasingly connected population. The Committee closed the year with a presentation by Nancy DiPietro of the U.S. Department of Labor's Employment Standards Administration. Ms. DiPietro provided an overview of recent changes to the Family Medical Leave Act. The participation of guest speaker Nancy DiPietro was made possible through the work of member Charles S. Kirwan, who coordinated the presentation. The Committee greatly appreciates his efforts.

As always, the Committee also seeks to encourage additional members of the Bar to participate in, and benefit from, the Committee during the coming year. Toward that end, if any current or new members have topics or issues for the Committee to discuss or speakers they would like to address the Committee, please contact the Chair.

### Lawyers Helping Lawyers



**Brian Adae**  
*Chair*

The Lawyers Helping Lawyers Committee met monthly over 2008-2009. Discussion focused on outreach, crisis management, education and general quality of life issues. The first meeting of the Committee serves as an orientation session, reviewing the Committee's role as a resource to members, providing support and encouragement when needed.

The Lawyers Helping Lawyers Committee conducted several educational programs and outreach initiatives in the areas of balance, wellness, stress, and quality of life. A program on compassion fatigue was presented in May. Articles on gambling addiction were included in 2008-2009 issues of the *Rhode Island Bar Journal*. A Health Tips column was initiated in the *Bar Journal*. Professor Amiram Elwork, a professor at Widener Law School and expert

**Joseph R. Miller**  
*Vice Chair*

in the area of Stress Management for Lawyers was the plenary speaker on Thursday morning at the Annual Meeting. That program was sponsored by Aon Affinity as part of their loss prevention commitment to the Bar Association.

Early in the year, a successful appeal to join the Committee was made to the membership, as the Committee's success depends upon a network of lawyers who give generously of their time to help their colleagues. The Committee members' primary role is not to serve as counselors, doctors or therapists but, rather, to lend an ear, provide support, encouragement and referral to appropriate resources. The Association contracts with Resource International Employee Assistance Services (RIEAS) that provides professional clinical services including assessment and referral. The Committee commends

## Bar Association Committee Reports

and thanks Judith G. Hoffman, LICSW, CEAP, Executive Director, RIEAS for her valuable contribution. Seventeen members of the bar were assisted by RIEAS in the past calendar year. Issues included depression, eldercare, alcohol, anxiety, divorce and addiction.

The Committee looks forward to providing additional outreach and educational programming in the coming year. The best way to assist lawyers with the help they need is to get the message out to them that help is available and confidential.

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### Legal Services



**Christine J. Engustian**

*Chair*

The Legal Services Committee's charge is "to make recommendations and review policies and procedures relating to the equal access to legal counsel for all citizens..." This fits with the Rhode Island Bar Association goal "to facilitate the availability of legal services to all who need them." Toward that end, this past year, the Committee considered and pursued many avenues to promote increased participation by attorneys in pro bono activities, programs and services benefiting the residents of our state. These included: 1) unbundling legal services; 2) granting incentives such as a free seminar in bankruptcy law (conditional on the participating lawyer agreeing to take a Volunteer Lawyer Program (VLP) bankruptcy case) since the VLP program has experienced in this challenging economy a marked increase in the community's demand for bankruptcy assistance; and 3) enhancing incentives to provide pro bono services by obtaining the Bar Association's Executive Committee May 2009 approval of our Committee's recommendation that three continuing legal education (CLE) credit hours from Bar Association-sponsored seminars would be afforded, at no charge, to attorneys contributing thirty or more pro bono hours, in one calendar year, through Bar Association pro bono programs. The Committee, through efforts of its individual members, supported the Bar Association's public service projects and initiatives including free clinics for clients of both the Volunteer Lawyer Program and Elderly Pro Bono Program. In addition, through their attendance, Committee members supported the *Pro Bono Celebration* held on March 19, 2009 at the J. Joseph Garrahy Judicial Complex, where speakers included Supreme Court Justice

Maureen McKenna Goldberg, Bar President Victoria Almeida and David Logan, Dean of the Roger Williams University School of Law.

The Committee is diligently working on a seminar for the 2010 Annual Meeting aimed at educating and training lawyers in the law required to address a particular community need. In addition, the Committee plans on recognizing the American Bar Association's October 2009 celebration of pro bono work by raising local awareness of the need for and available opportunities to participate in pro bono legal services to the poor and needy.

I eagerly thank the talented members of the Committee, not only for their dedication to the work of the Committee, but also for taking the Committee's mission to heart in the way they live a significant part of their professional lives for others without an expectation of compensation or praise. The Committee extends its utmost gratitude to Ms. Susan Fontaine, Public Services Director of the Rhode Island Bar Association, who sits on our Committee as a liaison and unofficial recording secretary; she keeps us thoroughly informed of all activities falling under the Public Services umbrella and domain, helps us identify and address community needs, and lends her support in every aspect of this Committee's work. Our year ends with an appeal to the Bar membership for their participation in pro bono services and other initiatives to provide equal access to legal counsel for all persons.

## Bar Association Committee Reports

### Lesbian Gay Bisexual & Transgender Legal Issues



**Martha A. Holt**  
Co-Chair

The Lesbian Gay Bisexual & Transgender (LGBT) Legal Issues Committee continued its work promoting professional and educational opportunities for LGBT members of the Rhode Island Bar Association, and promoting greater awareness of and educational programs relative to the legal issues affecting the LGBT community for the benefit of all members of the Rhode Island Bar Association. LGBT refers to the gay and lesbian community in all of its diversity, including bisexual and transgender persons. We hold regular meetings at the Providence office of Edwards, Angell, Palmer & Dodge. New members are always welcome.



**Laura A. Pisaturo**  
Co-Chair

Last year, the Committee sponsored a number of free, continuing legal education (CLE) seminars. The first seminar occurred during the Bar Association Annual Meeting in June titled *Legal Issues in the Wake of Chambers v. Ormiston*. The June panel consisted of attorneys Rene Evangelista, Edwards, Angell, Palmer & Dodge, Robert Brooks, Adler, Pollock, & Sheehan, Jim Lee, RI Department of Attorney General, and Patrick Smock, Equity National Title. In February, the Committee and the Family Court Bench Bar Committee hosted a joint presentation titled

*An Update on Legal Remedies Available to Married or Divorcing Same Sex Couples in Rhode Island Family Court*. Karen Loewy, Staff attorney at Gay and Lesbian Advocates and Defenders, Kathy Kushnir, Esq., Executive Director of Marriage Equality Rhode Island, and Steven Brown, Executive

Director of the Rhode Island chapter of the American Civil Liberties Union joined us to present this free legal seminar.

In addition to our CLE presentations, we continue to be active in our community. The Committee hosted a holiday party in December at Pizzico on Hope Street in Providence. Approximately 30 attorneys, law students, and legal professionals attended. In April, some members of the Committee participated in a Career Development Panel at Roger Williams Law School. Throughout the year, members of our Committee routinely spoke at various venues on legal issues specific to our LGBT communities.

For the fourth consecutive year, our Committee submitted a written request to the Rhode Island Bar Association Executive Committee asking for support of three bills pending in the General Assembly concerning the administration of and access to justice for same sex couples, that: 1) enlarge the jurisdiction of the Family Court to grant a divorce to same sex couples validly married elsewhere; 2) allow for equal marriage; and 3) provide family medical leave, nursing home visitation, and funeral planning rights to same sex couples. We are pleased to report that last September the Rhode Island Bar Association House of Delegates (HOD) voted to support the divorce legislation. We continue to encourage members of the Executive Committee and HOD to take a leadership position supporting equality legislation during this legislative session.

### New Attorney Advancement Task Force



**Elizabeth A. Suever**  
Chair

The New Attorney Advancement Task Force was created in 2008 to meet regularly to review and analyze the programs and services in place at the Rhode Island Bar Association to promote diversity, and enhance opportunities and the professional development of newly admitted practitioners in Rhode Island. Over the past year, Task Force members discussed ways to assist new attorneys with the support of the Bar Association's volunteer leadership and staff utilizing existing Bar resources including, but not limited to, the web site, Bar committees, the *Bar Journal*, and continuing legal education programming. Additionally, Task Force members surfaced many valuable rec-

ommendations concerning the unique needs of new attorneys. As a result, the Task Force developed and implemented programming designed to address these needs.

*Networking 101: Don't Hate the Players... Learn the Game!* was an informative and entertaining educational and social event focusing on professional networking strategies. The event's topics included: 1) networking for jobs; 2) networking for clients; 3) internal networking to achieve workplace success; 4) non-traditional networking; and 5) networking within the Bar Association. Participants were assigned to each topic table for timed, fifteen-minute sessions facilitated seasoned Bar volunteers.

*Gone in 30 Seconds: How an Elevator Speech*

## Bar Association Committee Reports

*Can Make or Break Your Legal Career* utilized an interactive program led by Jacob Belt, President of Sandler Training to help a group of attendees recognize their professional strengths and turn those into a short statement of no more than 30 seconds to use when meeting potential clients or possible employers.

*View from the Bench*, presented by Bar member Douglas J. Emanuel, Esq. and presided over by Rhode Island Superior Court Associate Justice, Patricia A. Hurst included a mock, Superior Court Motion Calendar, including narrative and explanation, followed by a question and answer period allowing attendees ask Judge Hurst questions about motion calendar practice.

New Attorney Advancement Task Force members are working on new programming for 2009-2010.

### Probate and Trust



**David T. Riedel**  
Chair

The Committee on Probate and Trust considers proposed changes in the legal system as it relates to the probate and trust areas. The Committee was active during the current year, meeting generally once each month exclusive of the summer months. The Committee consists of over one hundred members, many of whom were regular attendees and active participants at Committee meetings. Several probate judges were members of the Committee, and they provided a useful perspective on Committee discussions.

The Committee was involved in the preparation of proposed legislation during the current session that would: 1) protect existing property tax exemptions upon certain transfers of property, including transfers to trusts; 2) increase the homestead exemption from \$200,000 to \$500,000 and extend the exemption to trust beneficiaries or other individuals occupying property; 3) provide a statutory basis for the technique of decanting irrevocable trusts; 4) increase the exemption for Rhode Island estate tax purposes from \$675,000 to \$1,000,000; 5) adopt the Uniform Prudent Management of Institutional Funds Act (this bill has passed the House); and 6) provide for the automatic "optimum marital deduction" for documents drafted prior to 1981.

The Committee also reviewed proposed legislation submitted during the current session that would, *inter alia*: 1) make certain revisions to the laws regarding Probate Court proceedings, includ-

ing, specifically, claims procedure, rights of a surviving spouse and inheritance; 2) clarify that the expiration date for estate tax liens is ten years after death of the property owner; 3) permit an executor or trustee to donate a conservation easement; 4) provide for a remedy where corporate sureties fail to honor surety bonds. It is uncertain whether any of the remaining proposed legislation referenced above will be enacted in the current session, since the Legislature is in session at the time of this report.

The Chair was given invaluable assistance by a number of Committee members who made themselves available to draft and review proposed legislation in the probate and trust area and who, as individual practicing lawyers or other professionals, made themselves available for testimony before House and Senate Committees. The Chair would like in particular to acknowledge the assistance of the Vice-Chair, Richard J. Petrucci, Jr.



**Richard J. Petrucci Jr.**  
Vice-Chair

## Bar Association Committee Reports

### Superior Court Bench/Bar



**Mark B. Morse**  
Chair

The Superior Court Bench Bar Committee met on the first Monday of each month since September 8, 2008. This year, the Committee concentrated on presenting programs and seminars to assist our membership in the practice of law. We were fortunate to present three different seminars with guest speakers.

The first featured Attorney Gerald Visconti who presented a seminar on the law of Mechanic's Liens. He spoke to a packed house, and through the Bar Association, we were able to offer one credit for attendance at the seminar.

Pasco Picano attended a Committee meeting and shared his wealth of experience to Committee members on the necessary procedure involving both the mundane and the unique remedies and procedures in the Superior Court. Pat's instructions were highly informative and he was well received by those in attendance.

We had a joint bench bar meeting with the District Court and Attorney Lynda Laing presented a seminar on collection and post judgment remedies in the district and superior court. This seminar was also offered for credit, and Lynda's presentation was, as always, useful and instructional.

In March, Presiding Justice Rodgers met with DRI President, Robert Quigley, Rhode Island Association for Justice President Miriam Weizenbaum, and the Committee Chair, for a discussion of the trial calendar, and what members of the Bar can do to help ease the burden created by the lack of appointments to the Bench. The Committee formed a subcommittee to consider further recommendations and ideas, to be presented to the Presiding Justice.

In April, at the request of members outside Providence County, we held our meeting in the Kent County Courthouse. A regular business meeting was conducted, with topics including *voir dire*, issuance of executions, letters rogatory, and the annual meeting. We hope to continue to hold at least one meeting each year in an outlying county.

Our Bar's 2009 Annual Meeting had three seminars presented by the Superior Court Bench/Bar Committee. Ben Pushner moderated a presentation by trial lawyers Bud DeLuca and Miriam Weizenbaum entitled *Jury Trial Techniques*. Jessica Papazian Ross moderated, and Gerald Visconti presented *The Practical Guide to the Mechanic's Lien Statute-What Litigators, Real Estate Practitioners*

*and Business Counsel Need to Know*. This was a repeat and expanded version of the seminar presented to the committee in October 2008. In conjunction with the Federal Bench Bar Committee, George Lieberman moderated a panel consisting of Chief Judge Mary Lisi, Judge William Smith, Judge Daniel Procaccini, Mark B. Morse, and Gordon Cleary entitled *Opinion and Expert Testimony and the Federal and Rhode Island Rules of Evidence-Do the Differences Matter? Oh Yes, You Bet They Do!*

At the Committee's last meeting in June, the Presiding Justice made a presentation, discussing topics of interest to the members of the Committee.



**Melissa E. Darigan**  
Vice Chair

## Bar Association Committee Reports

### Technology in the Practice



**Peter V. Lacouture**  
Chair

The Committee on Technology in the Practice met regularly this year and addressed a number of technology issues important to lawyers.

The Committee's major effort was reviewing systems for the electronic backup and storage of lawyers' critical computer information. The Committee received demonstrations of services by a number of vendors that provide various levels of automated electronic backup. The Committee anticipates issuing a request for proposals (RFP) and recommending a vendor to the Bar Association by the end of 2009. The Committee has also examined other technology offerings that might be presented to members of the Bar as affinity programs or otherwise.

Committee member Howard Walker organized a technology seminar entitled *Tech Tips for Success-*

*fully Managing your Law Practice* that was well received by the attendees. The Committee arranged for well-known lawyer, speaker and legal-technologist Ross L. Kodner to present three technology-related seminars at the Rhode Island Bar Association 2009 Annual Meeting.

The Committee invites interested Bar members to join and we are looking forward to a productive 2009-2010.

### Title Standards and Practices



**Albert K. Antonio**  
Chair

The Title Standards and Practices Committee met eight times. Attendance continued to improve as the condition of the economy and the real estate market provided inspiration for quite a number of lively discussions on topics of interest and frustration. Many potential title standard changes and new title standards were considered, along with proposed legislation to assist consumers and improve practices. As in the past, only title standards and legislation that received the unanimous support of the committee was forwarded to the Executive Committee for consideration.

Seven new Title Standards were approved by Committee, advertised in the *Bar Journal* and adopted by action of the Bar Association's Executive Committee. Two additional Title Standards have been approved by the Committee and are awaiting publication. The new Title Standards seek to make uniform certain practices which recognize that real estate titles can be shown to effectively convey ownership without reasonable risk of loss even though documentation may not be perfect.

The Committee drafted and supported eight proposals for legislative change. One, with regard to ancient mortgages, was introduced in the legislature and is pending. A number of other proposals support by the Bar Association were supported and followed by the Committee, but none have been acted upon at this time.

The Committee continues to be concerned about a blossoming of errors and title insurance claims based on less than careful practices in transactional matters. Many have only nuisance impact, but many others cause title challenges. In the coming year, the Committee will consider suggestions for improving this situation while it also continues to improve and modernize its Title Standards and Practices.



## Bar Association Committee Reports

### Workers' Compensation Bench/Bar

**Paul V. Mancini**  
Co-Chair

The Workers' Compensation Bench/Bar Committee met regularly on the third Wednesday of each month at the Garrahy Judicial Complex. There was a solid group of Bar attendees who took the opportunity to engage in lively discussions with Chief Judge George Healy, as well as the other Workers' Compensation Court judges who were regularly present at the meetings. Throughout the year, the meetings acted as a forum for attorneys and judges to openly discuss any problems relating to the Workers' Compensation Court including, for example, scheduling, availability of lawyers engaged in other courtrooms and jurisdictions, timely attendance by lawyers at pretrial conferences, and economical use of limited courtroom space.

**Jack R. DeGiovanni**  
Co-Chair

At almost every meeting, Co-Chair Jack R. DeGiovanni updated the Committee concerning changes in new forms and availability of resources to assist in attorneys' practice before the Court, including the availability of Preferred Provider Networks (PPN) and Impartial Medical Examiner lists on-line. The tradition of keeping the Court a model of efficiency and of open communication between the Bench and the Bar continues. Attorney Steven Minicucci kept the Committee informed throughout the year regarding the various new legislative initiatives relevant to workers compensation which have been discussed at Capitol Hill.

The annual holiday gathering was held in early December at Downcity Diner in Providence. It was a well attended and a pleasant evening, with rave reviews by the members in attendance, which included a strong contingent from both the Bench and the Bar. The Committee owes a tip of the cap to former Chairperson, Karen Finley and to attorney Elaine Wallor for their assistance in coordinating this fun event.

In May 2009, the Committee members were afforded the opportunity to obtain one continuing legal education (CLE) credit by attending a presentation given by well respected attorney Roberto Gonzalez and Ms. Carolina Bernal Program Director of the Institute for Labor Studies & Research. The timely topic discussed was *Understanding and Representing the Immigrant Client in the Workers' Compensation Setting*. Mr. Gonzalez emphasized what steps should be taken to assist immigrant clients in presenting their cases at the Workers' Compensation Court. He emphasized that the cultural differences between our American culture and the immigrants' are so great that one must "see the world through the eyes of the client." Mr. Gonzalez

and Ms. Bernal also stressed the importance of the use of a proper interpreter, one who is familiar with the various dialects of the various immigrants' countries, as well as making the client comfortable in the courtroom setting. Extra time and patience must be used to educate these clients as to our judicial system as many immigrants who are appearing and testifying before our Courts are used to a completely different legal system in their native country.

The Bench/Bar Committee sponsored the annual golf outing which is scheduled on June 23, 2009 at the Crestwood County Club. Many thanks go out to attorney Jeffrey Liptrot for helping to coordinate this fun event!

## Volunteer Bar Lawyers Offer Information and Free Advice on Rhode Island Bar/NBC10 Ask A Lawyer Partnership Programs



NBC Channel 10 aired two news segments beginning with the 5:00 p.m. news broadcast and carrying through to their 5:30 and 6:00 p.m. news casts on Wednesday, May 6th and Wednesday, May 20th featuring Rhode Island Bar Association attorneys addressing issues related to respectively, Creditors' and Debtors' Rights and Bankruptcy. These news segments, developed in partnership with the Bar's Communications and Public Service departments, served as lead-ins to live, NBC10 studio panels of Rhode Island Bar Association Lawyer Referral Service (LRS) and Volunteer Lawyer Program (VLP) attorneys fielding viewer questions via telephone and the internet.

NBC10 reporter Mario Hilario produced a news story concerning VLP Lawyer Micheal A. Devane's free legal clinic for the economically disadvantaged. Focused on debtors' rights, this was one of the many free legal clinics offered by the Rhode Island Bar Association's Public Service Department and presented by Michael and other volunteer Bar attorneys.

### Rhode Island Bar/NBC10 Ask A Lawyer Volunteers Answer The Call



Christopher M. Lefebvre, Joseph P. Casale, Steven J. Hart, and Joseph F. Hook responded to over 100 viewer calls at the May 20th Ask A Lawyer Bankruptcy panel.



Sheryl Serreze, Gregory P. Massad, Michael A. Devane, and Joseph J. Roszkowski responded to over 90 viewer calls and internet inquiries at the May 6th, Ask A Lawyer, Creditors' and Debtors' Rights panel.

## Bar President Victoria M. Almeida and NBC10 Anchor Frank Colletta Highlighted Volunteer Lawyer Contributions on Sunrise Show



Rhode Island Bar Association President Victoria M. Almeida and NBC10 Sunrise Show news anchorman Frank Colletta discussed the volunteer efforts of the state's lawyers and judges delivering the unique, 2009 Rhode Island Law Day lessons and the free legal advice offered by Bar volunteer lawyers through the 2009 Rhode Island Bar/NBC10 Ask A Lawyer partnership.

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**2009 ANNUAL MEETING**

This year's Annual Meeting Committee produced a diverse, valuable and enriching program. Supporting this, the Bar Association staff worked with the Committee to ensure a seamless presentation of workshops and social events. There was a wide range of outstanding seminars and all the offerings were enhanced by the participation of many distinguished and accomplished presenters.

Harvey Rishikof, Esq., of the Law and National Security Studies at the National War College presented NATIONAL SECURITY LAW ISSUES.



Lauren E. Jones, Esq., Jones Associates; Hon. Joseph R. Weisberger, (ret.) RI Supreme Court; Hon. Netti C. Vogel, RI Superior Court; Hon. Michael A. Silverstein, RI Superior Court; and Hon. Frank J. Williams, (ret.) RI Supreme Court; delivered the always-popular annual CRIMINAL LAW CASE UPDATE.

Bar member and Captain Michael P. Jolin, Assistant Judge Advocate Rhode Island National Guard presented KILL THE SNIPER: THE LAW OF WAR AND THE LEGAL BASES FOR THE USE OF FORCE.



Hon. Marvin Homonoff, Barrington Probate Court and Mark A. Sjoberg, Esq., Sjoberg & Votta delivered CURRENT DEVELOPMENTS IN ESTATES, TRUSTS, AND PROBATE.



Tracey McPeak Morel, Esq., Law Offices of Brown, Sherry & Weller; Andrew S. Caslowitz, Esq., Rappoport, DeGiovanni & Caslowitz; Michael S. Schwartz, Esq., Mandell Schwartz & Boisclair, and Bruce J. Balon, Esq., Law Office of Michael D. Lynch delved into NEW DEVELOPMENTS IN WORKERS' COMPENSATION – THE GATE – IS IT OPEN OR SHUT?

John J. McMahon, Esq., Assistant Attorney General (retired) Office of the Attorney General; Peter J. Hopkins, Esq., Woonsocket Police Department; George M. Muksian, Esq., Assistant Public Defender, Office of the Public Defender; and Michael A. DiLauro, Esq., Assistant Public Defender, Office of the Public Defender; provided insights on ELECTRONIC RECORDING OF CUSTODIAL INTERROGATIONS.





Thomas S. Brown, Esq., Rodio & Brown; Humberta M. Goncalves-Babbitt, Esq., Goncalves Law Offices; Alison M. Foley, Esq., Fall River, MA; Roberto Gonzalez, Esq., Gonzalez Law Offices, Inc.; Thomas G. Briody, Esq., Law Offices of Thomas Briody; and Joan Mathieu, Esq., Law Offices of Joan Mathieu; reviewed the timely topic **IMMIGRATION RAIDS: WHAT YOU NEED TO TELL EVERY EMPLOYER.**



Bruce W. McIntyre, Esq., RI Department of Health and Luis M. Matos, US Attorney's Office reviewed legal issues relating to **UNLICENSED: ALTERNATIVE HEALTH CARE PRACTICES.**



Edward J. Eberle, Esq., Roger Williams University School of Law; James Taricani, WJAR, NBC Channel 10; Joseph V. Cavanagh, Jr., Esq., Blish & Cavanagh, LLP; Thomas Heslin, Providence Journal; Hon. William P. Robinson, III, RI Supreme Court; and John A. MacFadyen, III, Esq., MacFadyen, Gescheidt & O'Brien conducted a lively debate on **MEDIA AND THE COURTS: WHEN FIRST AND SIXTH AMENDMENTS COLLIDE.**



Hon. William E. Smith, US District Court; Gordon P. Cleary, Esq., Vetter & White; Hon. Mary M. Lisi, US District Court; Hon. Daniel A. Procaccini, RI Superior Court; Mark B. Morse, Esq., Providence; and George E. Lieberman, Esq., Vetter & White provided Bench and Bar perspectives on **OPINION AND EXPERT TESTIMONY AND THE FEDERAL AND RHODE ISLAND RULES OF EVIDENCE.**



Amiram Elwork, Ph.D Director of Widener University Law-Psychology Graduate Program delivered the well-received Thursday Keynote Address **HOW TO HANDLE STRESS IN YOUR LAW PRACTICE AND LIFE.**

Peter Margulies, Esq., Roger Williams University School of Law; Howard E. Walker, Esq., Hope Valley; Robert G. Flanders, Jr., Esq., Hinckley, Allen & Snyder, LLP; and Jason Gramitt, Esq., RI Ethics Commission discussed the thorny issues relating to **ETHICS IN ACTUAL PRACTICE.**



## J. Robert Weisberger, Esq. Secures Annual Meeting Star Power



Through the excellent efforts of Rhode Island Bar Association Annual Meeting Chair J. Robert Weisberger, the Meeting featured academy award winning actor and civics education activist Richard Stephen Dreyfuss as an Annual Meeting keynote speaker. Attorney Weisberger introduced Mr. Dreyfuss following a musical prelude of the movie scores from some of Mr. Dreyfuss' most memorable movies.

## Academy Award Winning Actor Turns the Spotlight on Civics Education



Amid a flurry of pre-and post-Meeting news media coverage, Academy Award-winning actor and civics education activist Richard Stephen Dreyfuss championed the cause of civics education in his address at the Bar Association's Annual Meeting on Friday, June 19, 2009. In an inspiring and eloquent address, Mr. Dreyfuss noted the vital importance of civics education in maintaining and sustaining democracy and noted he wants to have students explore the substance of issues and appreciate the value of dissent, debate and civility.

## Civics Education Forum

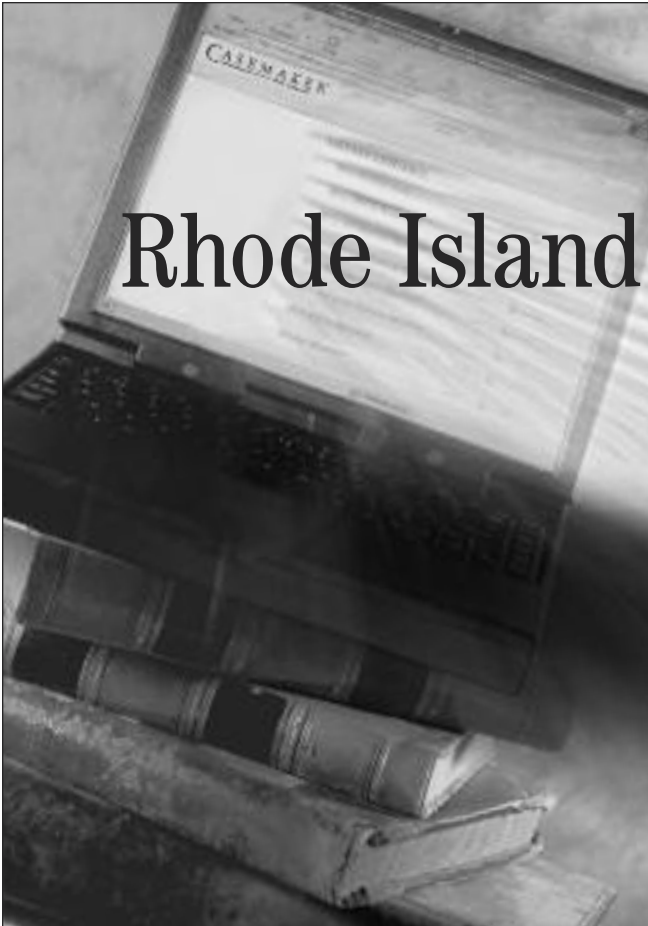
An audience of Bar members and invited guests from the Rhode Island Education community participated in a lively, civics education discussion with panelists immediately following Richard Dreyfuss' Annual Meeting keynote address on Friday, June 19th.



Civics education discussion panelists, l-r: Frederick D. Massie, Rhode Island Bar Association Director of Communications; J. Robert Weisberger, Jr., Esq., Rhode Island Bar Association Annual Meeting Committee Chair; Robert G. Flanders, Jr., Esq., Rhode Island Department of Elementary and Secondary Education Board of Regents Chair; Deborah Gist, Rhode Island Commissioner of Education; Richard Stephen Dreyfuss, Actor and Civics Education Activist; David N. Cicilline, Esq., Mayor of Providence; and Thomas M. Brady, Superintendent for Providence Public Schools.

2009 Annual Meeting  
Snapshots





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Assistance Services (RIEAS), which has a contract with the Rhode Island Bar Association. You may contact RIEAS by telephone: 401-732-9444, 800-445-1195 or 800-833-0453 and identify yourself as a Rhode Island Bar Association member seeking help. A RIEAS Case Manager will discuss your concerns and arrange an appointment at a location convenient to you.

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## Lawyers on the Move

**Kristen J. Assalone, Esq.** is now of counsel to **Glenn A. Carlson, Esq., Ltd.** located at 1050 Main Street, Suite 25, East Greenwich, RI 02818.  
telephone: 401-885-7277 email: Kristen@gacesq.com

**Ellen R. Balasco, Esq.** is now Deputy Chief of Legal Services for the Rhode Island Department of Business Regulation located at the John O. Pastore Center, 1511 Pontiac Avenue, Bldg. 68-1, Cranston, RI 02920.  
telephone: 401-462-9538 email: ebalasco@gw.doa.state.ri.us

**John D. Biafore, Esq.** has moved **Biafore Law Offices, LLP** to 123 Dyer, Suite 3B, Providence, RI 02903.  
telephone: 401-274-1300

**Thomas S. Brown, Esq.** and **Stephen A. Rodio, Esq.** have moved **Rodio & Brown, Ltd.** to 2139 Broad Street, Cranston, RI 02905.  
telephone: 401-274-4040 email: tbrown@rodiobrown.com  
email: srodio@rodiobrown.com web: www.rodiobrown.com

**Christopher J. Browning, Esq.** is now an associate of the law firm of **Winograd, Shine & Zacks, P.C.** located at 123 Dyer Street, Providence, RI 02903.  
telephone: 401-273-8300 email: cbrowning@wszlaw.com  
web: www.wszlaw.com

**Amy L. Crane, Esq.** is now an Associate at the **Law Offices of Richard S. Humphrey** located at 3852 Main Road, Tiverton, RI 02878.  
telephone: 401-624-6152  
email: asnelling@richardhumphreylaw.com  
web: www.richardhumphreylaw.com

**Paula Cuculo, Esq.** and **Stewart Title Guaranty Company** have relocated to 15 Messenger Drive, Warwick, Rhode Island 02888 on June 16, 2009.  
telephone: 401-861-1511

**Louise Durfee, Esq.**, and retired **Senior Magistrate Judge for the U.S. District Court, District of Rhode Island Jacob Hagopian**, received honorary degrees from the Roger Williams University School of Law.

**Patricia M. French, Esq.** is now Vice President and Assistant General Counsel at **Kern River Gas Transmission Company** located at 2755 East Cottonwood Parkway, Suite 300, Salt Lake City, UT 84121.  
telephone: 801-937-6068  
email: patricia.french@kernrivergas.com

**John B. Garry, Esq.** is now an attorney for the Department of Homeland Security – Office of General Counsel in Washington, DC. He was recently promoted to Commander in the Navy Reserve.  
telephone: 202-447-3089 email: john.garry@dhs.gov

**Brian G. Goldstein, Esq.** is now Of Counsel with the **Law Offices of Jeffrey B. Pine, Esq., P.C.** located at 321 South Main Street, Suite 302, Providence, RI 02903.  
telephone: 401-351-8200 email: bgg@pinelaw.com  
web: www.pinelaw.com

**John (Jay) R. Gowell, Jr., Esq.** of **Burns & Levinson LLP** received the 8th Annual John Hazen White, Sr. Leadership Award for outstanding dedication and support of the Rhode Island Philharmonic Orchestra and Music School.

**Mark B. Heffner, Esq.** of **Heffner & Associates** and **John D. Lynch, Esq.** of **Lynch, Bernard & Lynch** were appointed members of the Rhode Island Ethics Commission.

**Laura M. Krohn, Esq.** of East Greenwich has been selected as a member of the Special Needs Alliance (SNA).

**Paul A. Lietar, Esq.** has moved his offices to 123 Dyer Street, Suite 3B, Providence, RI 02903.  
telephone: 401-490-3695

**Patricia A. M. Vinci, Esq.** is now Director of the Rhode Island Volunteer Guardianship Program at **Cornerstone Adult Services, Inc.**, 140 Warwick Neck Avenue, Warwick, RI 02889.  
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## Last Call For 2008-2009 Bar Committees Sign-Up

If you have not yet signed up as a member of a 2009-2010 Rhode Island Bar Association Committee, please do so today. While the date for committee sign-ups has passed, Bar President Victoria M. Almeida is allowing an extension of the deadline to July 31, 2009.

Committee membership supports and strengthens our professional lives and connects us to our colleagues, providing valuable, direct networking within distinct areas of the law. Bar committee participation is a particularly excellent means for new lawyers to grow and advance professionally



while benefiting from the experience and wisdom of our more seasoned Bar members. Additionally, Bar committees often provide opportunities for meeting members of the Judiciary and discussing matters of importance.

Members who wish to serve on a Bar committee must register each year – *either* online or via a printed registration form – as committee membership does not automatically carry over from one Bar year to the next. And, using

the quick and simple online option for committee sign-up facilitates the process and helps ensure your spot on your committee choice.

Bar members may sign-up for committees via the Members Only area of the Rhode Island Bar Association website. Using this system, members may now register for committee assignments for July 1, 2009 – June 30, 2010.

**PLEASE NOTE:** Even Bar members currently serving on Bar committees must reaffirm their interest by completing a committee registration form *either* online or by mail. Members interested in serving on a Bar committee are advised to do so only if they intend to be active members, attend monthly meetings and lend a hand.

For online committee sign-up, please go to the Bar's web site at [www.ribar.com](http://www.ribar.com). You may access the Committees page under either the ABOUT RIBA or the MEMBERS ONLY page. Once there, scroll down to the COMMITTEE SIGN-UP button and enter your Bar identification number and password. As an alternative, you may download the Committee Application form appearing above the button and mail or fax it to the Bar Association. **Please only use one method to register to avoid duplication.**

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# In Memoriam

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## **Joseph M. DiGianfilippo, Esq.**

Joseph M. DiGianfilippo, 67, of East Greenwich, passed away on, April 30, 2009. He is survived by his beloved wife, Carol A. Petrucci DiGianfilippo. Born in Providence, he was the son of the late Silvio and Jennie DeSantis DiGianfilippo.

Mr. DiGianfilippo was a graduate of Providence College and Suffolk University Law School, and a member of the Massachusetts and Rhode Island Bar Associations. His legal career began as a law clerk for Justice Kelleher of the Rhode Island Supreme Court. For more than 20 years, he was a partner of Sutherland and DiGianfilippo, Ltd., based in Woonsocket. For the past 12 years, he was senior partner at the law firm of Vieira and DiGianfilippo Ltd., located in Providence. Mr. DiGianfilippo served as legal counsel to the North Providence Housing Authority, the East Greenwich Housing Authority and various banking institutions. In 1989, he served as Special Assistant Disciplinary Council to the Rhode Island Supreme Court. He was recently recognized for his loyal service as Housing Advocate for NRI Community Services, Inc. In 1986, he successfully fought to equalize the inheritance rights of illegitimate children in the Rhode Island Supreme Court.

In addition to his wife, he is survived by his children: Stephen J. DiGianfilippo, Esq. and fiancée, Annette; Alisa A. Loisselle and husband, Edmond III; and Kim D. Izzi and husband, David.

## **Hon. Andrew E. McConnell**

Andrew E. McConnell, 64, of Hollywood Lane, Lincoln passed away April 17, 2009. He was the husband of Pamela R. St. John.

He was born in Pawtucket, son of the late Andrew P. and Helen L. McCaughey McConnell. Judge McConnell was a 1959 graduate of St. Joseph's School, Pawtucket, a 1962 graduate of St. Raphael Academy, Pawtucket, and a 1966 graduate of Providence College, a 1967 graduate of the U.S. Army Officer Candidate School earning the rank of First Lieutenant and served in the Ordinance Corps for 2 years.

He received his Juris Doctorate Degree from Suffolk Law School in 1973. He had been a practicing attorney in the City of Pawtucket. He was a member of the Pawtucket and Rhode Island Bar Associations. He was elected as a member of the Rhode Island House of Representatives serving District 78, Pawtucket for 5 terms and was elected Majority Whip by his peers in 1980. He served as Administrative Assistant to former Pawtucket Mayor Henry Kinch from 1981-82 before being appointed by former Governor J. Joseph Garrahy to serve in the Workers' Compensation Court where he was a Judge for 20 years before his retirement in 2002.

He enjoyed summers on Bowdish Lake, in West Gloucester since 1952. He was a member of the Lincoln Country Club. He enjoyed golf, reading, bowling, all sports, travel, and gardening. He was a longtime coach for his childrens' baseball,

basketball, and softball recreational leagues in North Smithfield. The most important part of his life and his proudest accomplishment were his children and family.

Besides his wife he leaves his children: Sarah McConnell Dubois, Woonsocket; Andrew J. McConnell and his wife Sabrina, Norton, MA; Jeanne McConnell, Pascoag; Edward McConnell, Riverside; Mary McConnell, Little Ferry, NJ; and his sister, Ann Kulacz of Pawtucket.

## **Richard P. McMahan, Esq.**

Richard P. McMahan of Kenilworth Way, Pawtucket, 82, passed away on June 1, 2009. He was the husband of the late Eleanor Hess McMahan. He was the son of John and Mary McMahan.

A graduate of Georgetown University and Harvard Law School, he was a retired partner in the law firm of McMahan and McMahan and a Past President of the Rhode Island Bar Foundation. He was also active in various other professional and charitable organizations.

## **William W. Rymer, Esq.**

William W. Rymer, 87, passed away on June 8, 2009. He was the husband of Louise Dunning Rymer. Born in Benton, Tennessee, a son of the late William W. Rymer and Iola Harrison Rymer, he resided in Providence for almost 40 years.

He graduated from the University of Tennessee with a degree in Chemical Engineering in 1943, after which he served in the Armed Forces and was stationed on a Navy ship during the testing of the atomic bomb at Bikini Atoll. He attended Harvard Law School, graduating in 1950. His legal career spanned over 50 years. He was a partner in the Boston law firm of Fish & Richardson for many years and subsequently practiced on his own until his retirement in 2004. He was also a lecturer on patent law at Harvard Law School from 1968-1980.

An avid reader, he was a lifelong student of history, government and politics and enjoyed many lively conversations on those topics. He was a member of the Hope Club, Agawam Hunt and the former Turks Head Club, and participated on the Boards of many local organizations, including the Hope Club, The Wheeler School and St. Martin's Church.

Besides his wife of 50 years, he is survived by a brother, Walter N. Rymer, of Hurricane Mills, Tennessee, two daughters, Caroline R. Elliott and her husband Glendon M. Elliott, II of Barrington, and Emma R. Roberts and her husband T. Williams Roberts, III of Wenham, Massachusetts.

## **Robert W. Shadd, Esq.**

Robert W. Shadd, of Barrington, RI and Freedom, NH, passed away on June 10, 2009. Born in Chicago in 1923, he was the son of the late Harold C. and Josephine Olson Shadd.

A 1947 graduate of the University of Michigan and a 1950 graduate of its law school, he was elected associate

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## In Memoriam

editor of the Law Review and a member of the Barristers Senior Honor Society. During World War II, he served with Army Ordinance in the China-Burma-India Theater.

He was a partner in the then Hinckley, Allen, Tillinghast and Wheeler law firm. Until his retirement in 1988, was a partner in Hinckley, Allen and Snyder. He was a member of the American, Rhode Island and Bristol County Bar Associations and a member of the National Panel (Rhode Island advisor) of the American Arbitration Association.

Mr. Shadd twice served as Barrington Town Moderator and was later named Moderator Emeritus. He was elected President of the Town Council and served as chairman of the Barrington Charter Commission. He also served as a member of the Republican Town Committee.

He was Senior Warden of St. John's Episcopal Church in Barrington and a member of the Standing Committee and the Commission on Ministry of the Episcopal Diocese of Rhode Island. He served as Vice Chairman of the Episcopal Charities Fund and as Trustee and President of St. Andrew's School in Barrington. He was chairman of the Committee on Canons of the Episcopal Diocese. He was a founding member, Building Committee chairman, director, and chairman of the Barrington Branch and a director and trustee of the Greater Providence YMCA. He was the president of Family Service, Inc. and a national director of the Family Service Association of America. He was a member of the first comprehensive Health Planning Council of Rhode Island and chairman of the Governor's Commission on Mental Retardation. He was a member of the Barrington Yacht Club, the former Turks Head Club, and the University Club.

Mr. Shadd served as a corporation member of Rhode Island Hospital (Lifespan), St. Mary's Home, Butler Health Center and was member of the Rhode Island Municipal Chief Executives Association. He was a director of Rhode Island Textile Co., RITCO Realty Co., Cooley, Inc., Orchard Mfg. Co., The Standard Nut and Bolt Co., C.I. Hayes, Inc., Belon Chemical Co., and Modern

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Shoe Stores Co.

He was married for forty years to the late Karen Vollrath Shadd and is survived by his second wife Catherine Hill Stewart Shadd; two daughters, Deborah A. Shadd (wife of William R. Grimm) of Cohasset, MA and Catherine Shadd Rosenfeld (wife of Dov Rosenfeld) of Oakland, CA; and a stepson, David E. Stewart of Tiverton, RI.

### **John F. Sherlock, Jr. Esq.**

John F. Sherlock, Jr., 90, of Robert St., Pawtucket passed away on May 30, 2009. He was the husband of the late Leora A. Balkcom Sherlock.

He was born in Pawtucket, the son of the late John F. and Mary A. King Sherlock. He was a Lt. Colonel in the United States Army serving in Europe during WWII. Mr. Sherlock was an attorney in the City of Pawtucket for many years.

He is survived by his children: John F. Sherlock III and his wife Karen of McLean VA; Matthew P. Sherlock and his wife Patricia of Seekonk MA; Mark P. Sherlock and his wife Paige of Pawtucket; Lauren Petrucelli and her husband Joseph of Duxbury MA; Moira Walker and her husband Ron; and Lisa Roberts and her husband Chris, both of Swansea MA; his brothers: Gerald Sherlock of Smithfield and Henry Sherlock of Providence and his sisters: Martina Higgins of Narragansett; Angela Brousseau of Wakefield; and Helene Mainor of North Kingston.

---

*Please contact the Rhode Island Bar Association if a member you know passes away. We ask you to accompany your notification with an obituary notice so we may note this in the Rhode Island Bar Journal. Please send member obituaries to the attention of Frederick D. Massie, Rhode Island Bar Journal Managing Editor, 115 Cedar Street, Providence, RI 02903. Email: [fmassie@ribar.com](mailto:fmassie@ribar.com), facsimile: 401-421-2703, telephone: 401-421-5740.*

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This spring, the Rhode Island Bar Association's Criminal Law Bench/Bar Committee sponsored a 2.0 credit CLE, "The Meaning of Guilt: Principles of Justice in Substantive Violation Hearings" The program included a screening of the film "Stronger Than Their Wall: Guilty Though Proven Innocent." Film producer and director Nick Horton, William J. Ferland, Esq. of the Attorney General's Department and Committee Chair George M. Muksian, Esq., of the Office of the Public Defender participated in a post screening discussion with attendees.

## Memoriam July 2008 – June 2009

.....

Muriel Allen, Esq.  
 Maurice L. Caron, Jr., Esq.  
 G. Chandler Beals, Esq.  
 Hon. Albert E. DeRobbio  
 John A. DeSano, Esq.  
 Joseph M. DiGianfilippo, Esq.  
 Alan Peter Gelfuso, Esq.  
 Hon. William G. Gilroy, Sr.  
 Steven Goldman, Esq.  
 Edwin H. Hastings, Esq.  
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 LeRoy V. Marcotte, Esq.  
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 Robert H. Newman, Sr., Esq.  
 Everett A. Petronio, Esq.  
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Question: Why should you change from a no deductible to a high deductible plan?

Answer: Simple. In some cases you can save thousands.

A high deductible plan is perfect for a person or family that is fairly healthy. Why over-pay your insurance premium when you can hold onto the premiums tax free, invest them and only use them for expenses if needed? Best of all, you can offer the plan to just those that want it, and still keep your favorite plan option side by side with the new plan.

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BCBS \$3,000 High Deductible Plan Premium:  
Individual: \$332.99  
12 month cost: **\$3,995.88**

Savings if no further medical claims: **\$1,910.64**

Participant shelters money in HSA account tax free and accrues 2% interest at year end:

Savings @ 38% tax rate: **\$1,140**  
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2% interest: **\$60**  
Total Saved **\$3,110.64**

And, if you did have medical expenses, you will have over the \$3,000 you saved to pay the deductible expense. If you did not have claims, the entire amount may continue to grow in year two, three, etc., with tax free interest. Savings may be withdrawn tax and penalty free for any section 213d health expense (including over the counter remedies such as aspirin, Tylenol, Tums, etc.). Savings may be withdrawn penalty free (but Taxable) at or over age 65. For further information contact: Joel H. Cooper, Executive Vice President, USI New England by telephone at 401-372-1158; cell at 401-465-1176; or email Joel.Cooper@usi.biz.

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