Rhode Island Bar Journal

Rhode Island Bar Association Volume 67. Number 6. **May/June 2019**

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Manchester Street Power Station, Providence, RI The Manchester Street Power Station was built in 1903. Originally an oil-fired plant, it was converted to a natural gas burning plant in the 1990s.

RHODE ISLAND Bar Association 1898

Editor In Chief, Mark B. Morse, Esq.

Editor, Kathleen M. Bridge

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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The Last Piece of Advice

Carolyn R. Barone, Esq.
President
Rhode Island Bar Association

I am continuously surprised by the number of times during this past year colleagues have offered their sympathies to me and asked if I regretted being elected president of the Bar Association. My response is consistent and never tentative: "Absolutely not." Being president has its moments of stress and many nights of working in and past the wee small hours of the morning (no different than the majority of days in the life of any lawyer), but responding to critical issues that touch upon the business of law and lawyering and making decisions on matters that will ripen in the future have been very gratifying. I, like every past bar president, have had the benefit of growing into this leadership position. Being a member of the House of Delegates and spending years on the Executive Committee, I had the benefit of learning from past bar leaders the finer points of how the Association conducts its business to maintain its objectives as set forth in Bar Association's Bylaws.[1] My objective during the past year has been to preserve the Association's position as the leading provider of continuing legal education at unparalleled low-cost to members; to sustain its ability to create and maintain programs that improve the quality of our lawyering, law practices, and personal well-being; and of utmost importance, to continue its commitment to public outreach by providing free and reduced-fee legal services to our citizens who qualify.

Being president has its moments of stress and many nights of working in and past the wee small hours of the morning (no different than the majority of days in the life of any lawyer), but responding to critical issues that touch upon the business of law and lawyering and making decisions on matters that will ripen in the future have been very gratifying.

If my objective has been met, then it is the result of two hard-working groups: your Executive Committee and the entire staff of the Rhode Island Bar Association. During my tenure as president, I was blessed to have the support of the following Executive Committee members: David Bazar, Nicole Benjamin, Richard D'Addario, Janet Gilligan, Christopher Gontarz, Michael Jolin, Lynda Laing, Mark Morse, Holly Rao, J. Richard Ratcliffe, and Linda Rekas Sloan. On crucial issues that came before the Association, their voices were strong and their opinions, albeit varied, were solid. I thank each and every member of this Committee for their wisdom and guidance.

When you become a frequent visitor to the Association's Law Center, you realize that it takes a small village, above and beyond the membership, to carry out the Association's objectives. This village is comprised of professionals, administrative staff, and clerical personnel who work daily to ensure that the programs established for the members' benefit and public outreach are properly administered. The entire staff is dedicated to supporting the Bar's programs and providing assistance to the governing bodies. I thank each and every staff member not only for the respect and courtesy shown to me, but, more importantly, for all the work you do for all members of the Bar Association.

Returning to our Association's Article II Objectives, I am taking this opportunity to "...encourage and cultivate social intercourse..." by inviting all of you to attend the Rhode Island Bar Association's 2019 Annual Meeting (Thursday, June 13, and Friday, June 14). Consider the Annual Meeting as a way to spend two days away from your office without feeling guilty. There is no dearth of seminars and presentations from which you may choose to attend and receive your CLE credits. In addition to seminars, the Annual Meeting will present two internationally renowned plenary speakers, Loretta LaRoche, a stress management expert cum comedian (Thursday morning), and Jack Marshall, a legal ethics expert cum entertainer (Friday afternoon). At the Awards Reception on Thursday afternoon, continue to enjoy conversations with your colleagues while also honoring and congratulating our awards recipients. At Friday's Annual Meeting Luncheon, I will be passing my gavel to our incoming president, David Bazar, who will be sworn in by Chief Justice Paul Suttell. David will ably and honorably carry out the duties demanded of the president, and I look forward to being a part of his Executive Committee.

This is my final President's Message. The first time I spoke to you through these pages, I relayed the story of my very first day employed as an attorney. I will end this message recalling that same day. I was having lunch with my law partner at McGarry's Restaurant. I revealed three pieces of advice he gave me that day: your word is your

bond; sleep with dogs and you will wake up with fleas; and if you lie to a judge or me, you are fired. There was a fourth piece of advice given that same day, the origins of which are found in many biblical passages, and derivations through the centuries are abundant. While continuing to sip on my root beer, I heard the words, "When you leave this earth, people will always remember one of two things about you: your good name or your bad name. You decide."

I am both honored and humbled to have been your steward during the past year. It has been a privilege and pleasure to serve you. ◊

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[1] **ARTICLE II - Objectives**

Section 2.1. The objectives of the Association shall be to uphold and defend the Constitution and laws of the United States and the Constitution and laws of Rhode Island and to maintain representative, democratic government; to advance the science of jurisprudence; to promote the administration of justice; to uphold the honor and dignity of the process of law; to apply its knowledge and experience in the field of the law to the promotion of the public good; to encourage and cultivate social intercourse among the members of the Rhode Island Bar; and to cooperate with the American Bar Association, other national, regional and state bar associations and the local bar associations in the State of Rhode Island. *(Rhode Island Bar Association Bylaws)*

Your Bar's 2019 Annual Meeting Highlights

Thursday, June 13th, Plenary Session

Stress Less with Humor and Optimism

A life that is fulfilling is predicated on discovering how to use thoughts, feelings, and behaviors to enhance our mental and physical well-being. Many of us go day to day hypnotized by internal dialogue that leads us down the path of negativity and unhappiness. It is often the result of parental and societal messages, but it can also be an inherited predisposition towards depression and/or anxiety. Optimism, which is a resiliency based model, can be taught. It is not the fairy tale concept of simply thinking positive thoughts, but rather an explanatory style. When we add the ingredient of humor, our ability to handle life's inevitable ups and downs becomes more accessible. Ms. LaRoche will explore how to shift from pessimistic thoughts that create feelings of failure and rejection to those that are more optimistic, how purpose and passion help to enhance meaning in one's life, and how fun can be the antidote to stress.

Loretta LaRoche is an international stress management expert who embraces the use of humor as a coping mechanism. She has authored eight best-selling books and has starred in seven PBS shows aired in over eighty stations nationwide. She was an adjunct faculty member at the Mind/Body Medical Institute an affiliate of Harvard Medical School for fifteen years. She has shared the stage with former President Bill Clinton, Tony Robbins, Dr. Phil, Suze Orman, Arianna Huffington, Quincy Jones, Ellen DeGeneres and a host of other dignitaries and celebrities. Her signature humor is her ability to observe the absurdities that are so much a part of the human condition and culture which often lead to stress.

Please see your **2019 Rhode Island Bar Association Annual Meeting Brochure** for more information about the Meeting's 40 CLE-credited seminars, social events, and other interesting and informative activities. If you haven't received your brochure in the mail yet, you can access your registration form and brochure PDF on the Bar's website, **ribar.com**. **Please note, to save $25, you must register before June 7, 2019**.

Rhode Island Bar Journal

Editorial Statement

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

Article Selection Criteria

> The *Rhode Island Bar Journal* gives primary preference to original articles, written expressly for first publication in the *Bar Journal*, by members of the Rhode Island Bar Association. The *Bar Journal* does not accept unsolicited articles from individuals who are not members of the Rhode Island Bar Association. Articles previously appearing in other publications are not accepted.

> All submitted articles are subject to the *Journal*'s editors' approval, and they reserve the right to edit or reject any articles and article titles submitted for publication.

> Selection for publication is based on the article's relevance to our readers, determined by content and timeliness. Articles appealing to the widest range of interests are particularly appreciated. However, commentaries dealing with more specific areas of law are given equally serious consideration.

> Preferred format includes: a clearly presented statement of purpose and/or thesis in the introduction; supporting evidence or arguments in the body; and a summary conclusion.

> Citations conform to the Uniform System of Citation

> Maximum article size is approximately 3,500 words. However, shorter articles are preferred.

> While authors may be asked to edit articles themselves, the editors reserve the right to edit pieces for legal size, presentation and grammar.

> Articles are accepted for review on a rolling basis. Meeting the criteria noted above does not guarantee publication. Articles are selected and published at the discretion of the editors.

> Submissions are preferred in a Microsoft Word format emailed as an attachment or on disc. Hard copy is acceptable, but not recommended.

> Authors are asked to include an identification of their current legal position and a photograph, (headshot) preferably in a jpg file of, at least, 350 d.p.i., with their article submission.

Direct inquiries and send articles and author's photographs for publication consideration to:
Rhode Island Bar Journal Editor Kathleen Bridge
email: **kbridge@ribar.com**
telephone: **401-421-5740**

Finding the Right Level: Viewing the Providence Water Supply from Historical and National Perspectives

Samuel D. Zurier, Esq.
Providence

In 1967, the General Assembly expanded the jurisdiction of the Public Utilities Commission to include municipal water works that sold water to customers outside their territorial limits.[15] In the same session, however, the General Assembly passed a second law authorizing the Providence Water Supply Board to set its own rates.

More than a century ago, the City of Providence made a bold and farsighted investment in the future, building a state of the art water supply that provides the majority of Rhode Islanders with inexpensive, high quality water. As a reward, the General Assembly granted Providence an unusually meager local benefit. In recent decades, the General Assembly and the Public Utilities Commission went further, turning a modest local benefit into a burden. In so doing, the State has deprived Providence of its best available tool to address its serious financial challenges.

Part 1 of this article describes the history of Providence Water's relationship with its host city and nonresident customers since 1871. Part 2 compares that relationship with prevailing arrangements nationally. Part 3 offers a proposal to rebalance that relationship in better accord with the City's prior history and with national norms.

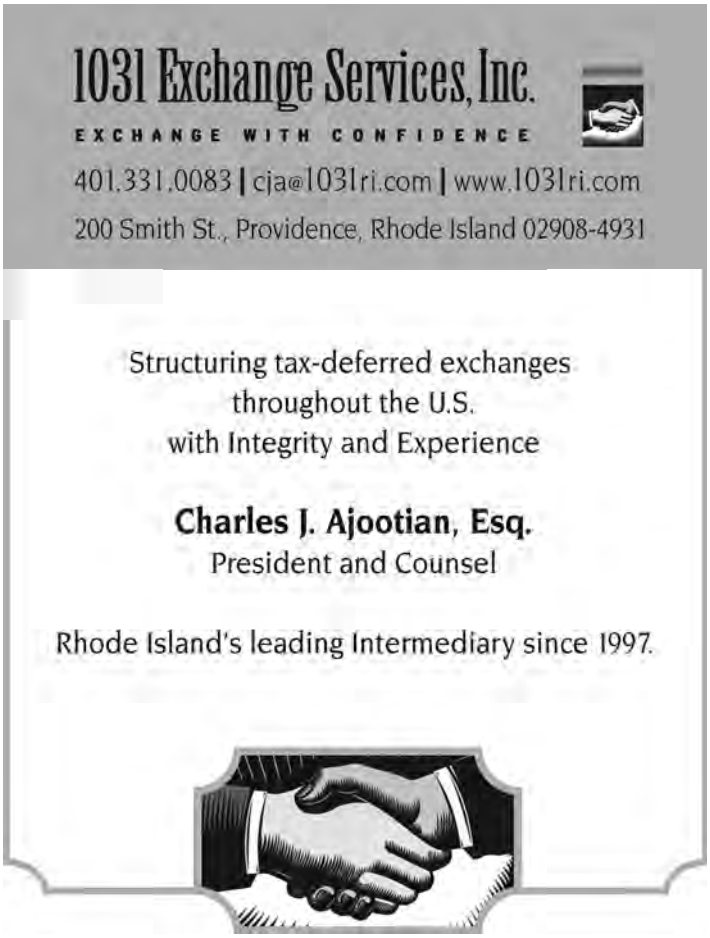
1. The History of Providence Water

In 1871, Providence opened a water supply that drew from the Pawtuxet River in Pettacomsett in Cranston.[1] It was a metropolitan water supply, serving Providence and four neighboring communities.[2] It ran at a profit, generating the equivalent of $4 million in today's dollars for the City in 1878.[3] Between 1890 and 1910, Providence's population grew from 132,146 to 224,326.[4] To support this growth, Providence petitioned the General Assembly to condemn land in the watershed of the northern branch of the Pawtuxet River to construct an expanded water supply. In 1915, the General Assembly passed enabling legislation (1915 R.I. Pub. Laws § 1278, referred to below as "the Act") providing, among other things, that the City of Providence would become the owner, in fee simple, of any land it acquired for this purpose.[5] The Act authorized cities within the affected watershed to purchase water from Providence at "fair" wholesale rates reached by agreement or, in the absence of agreement, through arbitration.[6] The Act authorized Providence to treat its water supply board as if it were a "department of city government," which would receive municipal appropriations through the budgeting process to meet any necessary expenses.[7] The Act directed the City to establish a "sinking fund" to receive all excess revenues to be used to pay future costs and obligations.[8]

Between 1915 and 1929, the City of Providence spent almost $21 million (the equivalent of more than $300 million in today's dollars) to build the water supply.[9] In the decades that followed, Providence Water made further investments in its plant, recently valued at $390 million net of depreciation.[10] During that time, the General Assembly extended the right to purchase Providence Water to other cities and towns that never had access to the Pawtuxet River watershed, and that never contributed to the water supply's capital costs.[11] In 1959, Providence Water implemented a rate increase (for both wholesale and retail customers) that included a 25% discount for Providence residents.[12] Beginning in the late 1960s, the City of Providence allocated surplus revenue from Providence Water into the Emergency Public Improvement Fund ($1.63 million in 1968)[13] and the general fund (as much as $871,000 per year during 1969-74).[14]

In 1967, the General Assembly expanded the jurisdiction of the Public Utilities Commission to include municipal water works that sold water to customers outside their territorial limits.[15] In the same session, however, the General Assembly passed a second law authorizing the Providence Water Supply Board to set its own rates.[16] The Governor signed the first of these bills into law on May 24, 1967, and the second one on May 26, 1967.[17]

In 1974, Providence Water implemented a rate increase of 25%-29%.[18] In 1977, the Providence Water Supply Board announced further rate increases of upwards of 60%.[19] When neighboring communities threatened to sue, the Providence Water Supply Board requested the Attorney General's opinion as to whether its rates were subject to the Public Utilities Commission's jurisdiction.[20] Based on his affirmative opinion, the Providence Water Supply Board submitted its proposed rates to the Public Utilities Commission, which approved an increase of approximately half the amount requested.[21] In 1980, the Providence Water Supply Board petitioned the Rhode Island Supreme Court to review the Attorney General's opinion.[22] In a decision dated April 29, 1980, the Court held that the 1967 statute authorizing



Providence to set its own water rates controlled, and that the Public Utilities Commission lacked jurisdiction.[23] Three weeks later, the General Assembly passed legislation overruling the Supreme Court.[24]

Since that time, the Public Utilities Commission has transformed Providence Water from a municipal water supply that also serves nonresidents to a State resource that burdens its founder and sponsor for the benefit of nonresidents. The Public Utilities Commission promptly ended the City's practice of appropriating surplus water revenues for general operations.[25] In the early years, the Commission approved Providence's practice of charging higher rates to nonresidents,[26] but in later years it eliminated the City's home-town discount.[27] The Commission prevented the City of Providence from charging Providence Water property tax for its holdings located within the City, even as it authorized every other Rhode Island city and town to charge property tax for Providence Water assets within their jurisdictions, adding those charges to the water rates paid by all customers (including Providence residents).[28] Notwithstanding these Commission policies, the Rhode Island Supreme Court held, in **R&R Associates v. Providence Water Supply Board**, 724 A.2d 432 (R.I. 1999), that the City of Providence, acting through its Water Supply Board, is solely responsible for any liability resulting from its condemnation activities without the right to indemnity from the communities and water districts that purchase Providence water and enjoy its benefits.

2. The State's Unusual Treatment of Providence Water

In addressing the tension between the interests of Providence taxpayers/customers and nonresident customers, Providence Water and the State of Rhode Island face an issue that is common in many states. A law journal article described the competing concerns this way:

> A city's purchase of a utility plant is made on behalf of its citizens, who then become both consumers and owners. The requirement of serving non-residents at the same rates as residents partly defeats the purpose of the purchase by decreasing the benefit derived from the resident consumers' ownership. Utility service is only one phase of a prevalent situation in which non-residents adjacent to cities enjoy the economic and other advantages of city life without being subjected to all the responsibilities of citizens. Thus, in many instances, cities serve fringe areas at the expense of the municipal taxpayers. The obvious solution to the problem is annexation of these fringe areas; the lever of higher utility rates might serve as a means of persuading non-residents to favor annexation. In the meantime higher rates would relieve to some extent the burden on city residents incurred in supporting adjacent non-residents in other ways.
>
> To resolve both the economic and political considerations many states have made the extraterritorial sale of municipal utility service subject to rate regulation by the state public utilities commission. Thus the nonresidents are afforded protection against exorbitant rates, and the cities are allowed a fair profit from sales beyond their corporate boundaries. Where, as in Texas, there is no utilities commission, the courts can achieve the same desirable result by setting aside unreasonable rates to the non-residents.

Note, **Municipal Utilities – Rate Discrimination in Sale of Water to Non-Residents**, 101 U. PA. L. REV. 160 (1952).[29]

The prevailing practice nationally[30] balances these competing interests by authorizing municipalities to establish water works (or other utilities) that generate a "reasonable" profit to pay for other municipal operations;[31] recognizing the right of municipally-owned water works to impose a "reasonable" rate surcharge on non-resident customers;"[32] and upholding determinations by public utility commissions that municipalities confer these local benefits in favor of municipal utilities serving nonresidents.[33]

Rhode Island's Public Utilities Commission did not follow the prevailing practice of recognizing Providence's right to a reasonable rate of return for building the State's water system. Instead, it took away Providence Water's authority to realize a profit for the City, and/or to charge lower rates to residents. Indeed, the Public Utilities Commission penalized Providence even further, denying the City the authority to tax Providence Water for its Providence property, in contrast to every other Rhode Island city and town, which charge Providence Water and its ratepayers millions of dollars of taxes every year.

3. A Fair Rebalancing for Providence

Why did the General Assembly decide to limit Providence's local benefit (when compared to national norms) when Providence built one of the nation's best water supplies? We must leave that question to the historians, but two salient facts appear on the surface. First, Providence negotiated with a General Assembly that was unfairly stacked against it. In those days, the Rhode Island Senate had a "rotten borough" apportionment of one member per city or town without regard to population, meaning that while Providence housed around 40% of the State's residents, it was represented by a single Senator out of 39.[34] Second, Providence, in 1915, was a wealthy City that was more concerned about accommodating its rapid growth than about protecting its financial well-being. Notwithstanding that, Providence Water, for many years, provided City residents with a 25% hometown discount, and also realized a modest surplus from water sales to fund general operations until neighboring cities petitioned the General Assembly to retract its prior arrangement, and subject Providence to the harsh edicts of the Public Utilities Commission. The historical explanation for this change lies beyond this article's scope, but one triggering event appears to have been Providence's attempted implementation of significantly higher water rates in a single shot in the late 1970s.

From a Providence resident's point of view, it would have been fairer to allow the City to realize a reasonable rate of return on its investment from the beginning, following the prevailing national practice. Providence then could have used part of the surplus it earned each year to pay for system's maintenance and expansion, while using the remaining surplus to fund municipal operations, putting to rest the current dispute concerning "who owns the Providence water supply." While a demand for retrospective relief may be unrealistic, fairness calls, at a minimum, for a reasonable prospective remedy. More specifically, it would be fair for the Public Utilities Commission to follow the national norm by allowing Providence to realize a reasonable rate of return prospectively (based on a fair calculation of its historical investment), allowing it to charge a reasonable price differential in favor of residents and allowing the City to incorporate a reasonable tax on Providence Water property into water rates. Also, Providence should be placed on an equal footing with other Rhode Island cities and towns that collect property taxes from Providence Water holdings. Given the fact that Providence Water is the least expensive publicly owned water supply in Rhode Island today,[35] it is only fair to charge nonresident water customers a modest rate increase that would bring Providence Water more in line with other municipal water works across the country.

ENDNOTES

1 "*History of Providence Water,*" *available online at Providence Water's website.*

2 ***Id.*** *The 1871 system also served Cranston, Warwick, North Providence and Johnston.*

3 ***See*** *Wayland Ingham,* THE PROVIDENCE WATER WORKS, *1869-1969 (manuscript available at the Hope Adult Library in North Scituate), pp. 117-19 (noting $160,000 profit in 1878).* ***See also*** *U.S. Bureau of Labor Statistics (Consumer Price Index comparison).*

4 *U.S. Census data.*

5 ***Id.****, §§ 18, 24.*

6 ***Id.****, § 18.*

7 ***Id.****, § 27.*

8 ***Id.**, § 28.*
9 *Providence began acquiring land in 1915 in anticipation of the General Assembly's passage of enabling legislation.* ***See*** *Wayland Ingham, n. 3,* ***supra****, p. 19. For a tabulation of these expenses,* ***see*** *Fifteenth and Final Report of the Providence Water Supply Board (1929).* ***See also*** *U.S. Bureau of Labor Statistics (price levels).*
10 *Providence Water Supply Board, Financial Statements for the years ended June 30, 2017 and 2016, p. 8.*
11 ***See****, 1931 R.I. Pub. Laws Ch. 1815 (North Providence); 1931 R.I. Pub. Laws Ch. 1966 (Warwick, Kent County Water Authority); 1936 R.I. Pub. Laws Ch. 2316 (Johnston, Smithfield, East Smithfield Water District and Greenville Water District); 1963 R.I. Pub Laws Ch. 158 (East Providence); 1967 R.I. Pub. Laws Ch. 162 (Bristol County Water Authority, Barrington, Bristol and Warren); 1985 R.I. Pub. Laws ch. 442 (Lincoln); 1986 R.I. Pub. Laws Ch. 84 (Burrillville).*
12 *Ingham, n. 3,* ***supra****, p. 117.*
13 *Providence Water Supply Board, 1968 Annual Report.*
14 ***See*** *Providence Water Supply Board, Annual Reports of 1967, 1968, 1969, 1971, 1974.*
15 *1967 R.I. Pub. Laws Ch. 156.*
16 *1967 R.I. Pub. Laws Ch. 162.*
17 ***See City of Providence by and through Water Supply Board v. Public Utilities Commission****, 414 A.2d 465, 466 (R.I. 1980).*
18 Providence Journal, *Feb. 22, 1974, p. A1; March 1, 1974, p. B1.*
19 Providence Journal-Bulletin, *July 2, 1977, p. 5.*
20 Providence Journal, *July 21, 1977, p. A3.*
21 Providence Journal, *September 8, 1977, p. B1;* Providence Journal, *August 4, 1978, p. A1.*
22 ***City of Providence****, n. 17,* ***supra****.*
23 ***Id.***
24 *1980* R.I. *Pub. Laws ch. 335.*
25 Providence Journal, *October 13, 1988, p. D6.*
26 Providence Journal, *October 13, 1988, p. D6.*
27 ***See, e.g.,*** *Rhode Island Public Utilities Commission Docket No. 4618 (approving uniform rates for 2017).*
28 ***See City of Providence v. Hall****, 49 R.I. 230, 142 A. 156 (1928) (establishing that Scituate and all other communities have the right to tax Providence Water property).*
29 *Court decisions have provided these and other rationales.* ***See, e.g., Platt v. Town of Torrey,*** *949 P. 2d 325, 333 (Ut. 1997).*
30 *There are a minority of states that mandate municipal utilities to charge equal rates for nonresidents.* ***See, e.g., Jung v. City of Phoenix,*** *160 Ariz. 38, 770 P.2d 342 (1989).*
31 ***See, e.g., Campbell v. Water Works and Sanitary Sewer Bd. of City of Montgomery,*** *270 Ala. 33, 115 So. 2d 519 (1959);* ***Hansen v. City of San Buenaventura,*** *42 Cal. 3d 1172, 233 Cal.Rptr. 22, 729 P. 2d 186 (1986) (70% surcharge on water fees for nonresidents is reasonable, where municipal water works' rate of return for residents is 3.0% versus 8.67% for nonresidents, and surplus is transferred to general fund);* ***Bennett Bear Creek Farm Water and Sanitation District v. City and County of Denver,*** *928 P.2d 1254 (Col. 1996);* ***Barr v. First Taxing Dist.,*** *151 Conn. 53, 192 A.2d 872 (1963) (upholds water rate for "outer district" that is twice the rate for "inner district" stating "[a] reasonable rate for nonresident users should include fair compensation for the services rendered and should yield a fair return to the municipal supplier on the value of the property as a going concern used for the public");* ***Messenheimer v. Windt,*** *211 Ga. 575, 87 S.E. 2d 402 (1955);* ***Shawnee Hills Mobile Homes, Inc. v. Rural Water District No. 6,*** *217 Kan. 421, 537 P.2d 210 (1975);* ***City of Henderson v. Young,*** *119 Ky. 224, 83 S.W. 583 (Ky. App. 1904) (City operating electric plant can extend service to points outside the city limits "in such a way as to advantage the city and its inhabitants");* ***General Textile Printing & Processing Corp. v. City of Rocky Mount,*** *908 F.Supp. 1295 (E.D.N.C. 1995);* ***Shirk v. City of Lancaster,*** *313 Pa. 158, 169 A. 557 (1933) (upholds price structure whereby city makes profit on water sales to nonresidents to subsidize sewer system that serves only residents);* ***Travaillie v. City of Sioux Falls,*** *59 S.D. 391, 240 N.W. 336 (1932) (permitting city to transfer profits on water sales into general fund);* ***Killion v. City of Paris,*** *192 Tenn. 446, 241 S.W.2d 524 (1951) (city may appropriate profits from sale of water to fund other municipal purposes);* ***Handy v. Rutland,*** *156 Vt. 397, 598 A.2d 114 (1990) (non-resident sewer hookup fee exceeding $10,000 is reasonable);* ***City of Newport News v. Warwick County,*** *159 Va. 571, 166 S.E. 570, 579 (1932), amended and aff'd, 159 Va. 571, 167 S.E. 583 (1933);* ***Faxe v. Grandview,*** *48 Wash.2d 342, 351, 294 P.2d 402;* ***City of West Allis v. Public Service Commission,*** *42 Wis. 2d 569, 167 N.W. 2d 401 (1969) (upholding Public Service Commission determination that city of Milwaukee water utility could realize a return on*

its investment, charge higher rates to non-resident customers and realize a higher rate of return on its service to nonresident customers).

[32] ***See, e.g., Delony v. Rucker,*** *227 Ark. 869, 302 S.W. 2d 287 (1957);* ***Hansen v. City of San Buenaventura,*** *43 Cal. 3d 1172, 233 Cal.Rptr. 22, 729 P. 2d 186 (1987), n. 25,* ***supra; Durant v. City of Beverly Hills,*** *39 Cal. App. 2d 133 (1940) (upholding 15% water rate differential);* ***Bennett Bear Creek Farm Water and Sanitation District v. City and County of Denver,*** *928 P.2d 1254 (Col. 1996), n. 25,* ***supra; Barr v. First Taxing Dist.,*** *151 Conn. 53, 192 A.2d 872 (1963), n. 25,* ***supra; Messenheimer v. Windt,*** *211 Ga. 575, 87 S.E. 2d 402 (1955);* ***Keeven v. City of Highland,*** *294 Ill. App. 3d 345, 228 Ill. Dec. 599, 689 N.E. 2d 658 (5th Dist. 1998) (upholds 75% rate differential);* ***Usher v. City of Pittsburg,*** *196 Kan. 86, 410 P.2d 419 (1966) (upholding 100% increase in rates for nonresident customers);* ***Louisville & Jefferson County Metropolitan Sewer Dist. v. Joseph Seagram & Sons,*** *307 Ky. 413, 211 S.W. 2d 122 (1948) (upholding 50% differential in sewer rates for nonresidents);* ***Bleick v. City of Papillion,*** *219 Neb. 574, 365 N.W. 405 (1985);* ***Fulghum v. Town of Selma,*** *238 N.C. 100, 76 S.E. 2d 368 (1953);* ***City of Bedford v. City of Cleveland,*** *1975 Oh. App. LEXIS 6025 (Oh. Ct. App. 8th Dist. Cuyahoga Cty. April 3, 1975) (municipality can charge suburban customers higher rates, but must dedicate surplus revenue to maintenance of system);* ***Shirk v. City of Lancaster,*** *313 Pa. 158, 169 A. 557, 563 (1933);* ***City of Altoona v. Penn. Public Utility Commission,*** *168 Pa. Super. 246, 77 A.2d 740 (1951) (reversing Public Utilities Commission, holding that town has right to realize a reasonable profit on water service provided to nonresidents while providing water at cost to residents);* ***Childs v. City of Columbia,*** *87 S.C. 566, 70 S.E. 296 (1911);* ***Town of Terrell Hills v. City of San Antonio,*** *318 S.W.2d 85 (Tex. Ct. Civ. App. – San Antonio, 1958) (upholds rate differential of 29%-39% in water rates);* ***Platt v. Town of Torrey,*** *949 P. 2d 325 (Ut. 1997) (higher rate for nonresidents is presumptively reasonable, but subject to judicial review);* ***Handy v. Rutland,*** *598 A.2d 114 (Vt. 1990);* ***Faxe v. Grandview,*** *48 Wash.2d 342, 351, 294 P.2d 402 (1956) (upholding city's charging water rates for nonresidents that are 50% higher than for residents); but* ***see City of Asheville v. State,*** *192 N.C. App. 1, 665 S.E.2d 103 (2008) (upholding constitutionality of State legislation mandating that city of Asheville provide water service to neighboring towns within Buncombe County at same rates charged to Asheville residents).*

[33] ***See, e.g., Re Linton,*** *P.U.R. 1921E, 295 (Ind. Pub. Serv. Comm'n) (7.5% return);* ***City of Covington v. Public Service Commission,*** *313 S.W. 2d 391 (Ky. 1958) (upholds rate ruling by public service commission that allows city water department a return on investment and different rates for residents versus nonresidents, but differential is based on different costs and rate base);* ***City of Hagerstown v. Public Service Commission,*** *217 Md. 101, 141 A.2d 699 (1958) (upholds rate ruling by public service commission allowing city water department a return on investment and different rates for residents versus nonresidents, but differential is based on different costs and rate base);* ***City of Novi v. City of Detroit,*** *433 Mich. 414, 446 N.W. 2d 118 (1989);* ***Botts v. Brookfield,*** *P.U.R. 1917D 224 (Mo. Pub. Serv. Comm, 1917 (approving 7% rate of return);* ***Ambridge Borough v. Pennsylvania Public Utility Commission,*** *137 Pa. Super. 50, 8 A.2d 429 (Pa. Super. 1939);* ***City of Altoona v. Penn. Public Utility Commission,*** *168 Pa. Super. 246, 77 A.2d 740, 743 (1951), n. 25,* ***supra; City of West Allis v. Public Service Commission,*** *42 Wis. 2d 569, 167 N.W. 2d 401 (1969).*

[34] *In 1915, Providence was represented by 25 members in the Rhode Island House of Representatives out of a total delegation of 100, which also was significantly less than its share of the State's population.*

[35] *Comparative water rates in February, 2017 for publicly owned water supplies regulated by the Public Utilities Commission were as follows:*

Newport Water	*$809.74*
Kent County Water Authority	*$641.24*
Pawtucket Water	*$545.44*
Woonsocket, RI	*$473.28*
Providence Water	*$434.98*

Source: Providence Water website. ◊

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Navigating Title IX and Campus Sexual Misconduct Defense – Advocacy's Wild West

John R. Grasso, Esq.
Law Office of John R. Grasso
Providence

A major overhaul to the way colleges and universities handle sexual misconduct is critical to a safe campus for all students.

Just before 1:00 a.m. on September 17, 2016, Bob called for an Uber to bring him and a young lady he just met to his dormitory 1.02 miles from the downtown club where the two had unintentionally bumped into one another an hour or so earlier. During that hour, the two chatted. Betsy sipped on a drink that she had been holding since Bob first approached her. She hadn't purchased another the entire time they were together and Bob had finished his one only beer of that evening before he introduced himself.

Seemingly sober, the two flirted until they ultimately decided to go back to Bob's dormitory together. Bob called for an Uber at 12:59 a.m. It arrived 4 minutes later and 5 minutes after that, at 1:08 a.m., Bob and Betsy stepped onto the sidewalk in front of Bob's dormitory building.

Until that moment, neither Bob nor Betsy discussed where the other attended college nor did they talk about where they resided.

When the Uber dropped them off in front of Bob's dormitory, Betsy realized that not only did Bob attend her college, he lived a few buildings from her. In that moment, Betsy's mood changed and 7 minutes later, Bob was tucking himself into his bed alone.

Thirteen months and a day after that, Betsy filed a Title IX complaint with her college. In it, she alleged that Bob digitally penetrated her during the 5 minute Uber ride to campus. She claimed that when the two got out of the Uber, she told Bob that she had changed her mind and just wanted to go to sleep. She said that Bob got angry, physically assaulted her by throwing her to the ground in front of the entrance to her dormitory, followed her into her building, up the stairs, down the hallway, pushed his way into her room, tore off her clothes and raped her.

If Betsy believed what she reported, the evidence would prove that Betsy possessed a distorted recollection of the events of her brief encounter with Bob.

A few days later, the Title IX Office informed Bob that he was the target of a Title IX investigation, that another student had accused him of raping her more than a year earlier, that he was ordered to have no contact, and that he would be contacted by an investigator in the near future.

Sexual assaults certainly happen on campus. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act or Clery Act,[1] requires colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses. There is a monetary penalty for failing to comply.

"Title IX" has become part of campus vocabulary. Without adequate guidance, that 1972 federal law – intended to prevent gender discrimination in schools – has been applied to reported sexual violence on college campuses. "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."[2]

In Davis v. Monroe Cty. Bd. Of Educ.[3], the Supreme Court held that Title IX applied to a school's disparate provision of programs, aid, benefits or sanction on the basis of sex. It also prohibits a school's deliberate indifference to acts of sexual harassment committed by one student against another.

Most folks on campus are familiar with the term but too few understand it – because it is unclear, undefined, and arbitrarily administered.

Campus sexual misconduct is handled much differently at Providence College than it is at Brown University or URI. I have participated in Title IX cases on every Rhode Island campus and no two colleges or universities follow the same process. The result is disparate and inadequate treatment of the very students it intends to protect. Procedures for campus sexual misconduct investigation and discipline are all over the board, and much of the blame belongs in Washington for its failure to promulgate clear and consistent mandates.

While it is important to protect students and provide a space for unbiased investigation, this is not how it actually plays out. When a Title IX complaint is made, some colleges rely on their own employees to investigate, while others hire external investigators. In either case, these "investigators" most often lack relevant investigation experience. Many are attorneys with a background

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in labor law and none have the skillset of a police detective. From the start, the campus disciplinary system is doomed when it endeavors to investigate criminal conduct without investigators experienced in criminal investigations.

Most campuses assemble a hearing panel (even though federal guidance does not require a hearing). These folks are the jury who decide guilt and punishment. Rules of evidence do not apply. Unlike a trial, these hearings fail to include a gatekeeper to control the flow of evidence. Instead, the admissibility of evidence is a free for all.

At the University of Rhode Island, for example, the panel is composed of mostly students who sit the accused at the same table as the victim.[4] Imagine several young adults, some still teenagers, judging their colleagues, and then having to call one of them a liar. Without any legal training, these students are called upon to employ a legal standard – fair preponderance of evidence. At Roger Williams University, for example, the hearing panel was told that if the weight of the evidence is "equal plus a feather," then it has to find the accused guilty.[5]

Too often, these unprepared jurors decide another student's fate on pure emotion. The system provides no check on this decision. It is almost always final.

Finally, the accused and the accuser are given a list of faculty or staff to rely on as their advisor through the "investigation" process. It's concerning that the campus chef or gardener could be on that list, but trained attorneys have yet to appear on any list that I have been privy to.

The process has been designed to discourage attorney participation by prohibiting attorneys to speak except to their student client.

Typically, a young adult, many miles away from home, is accused of sexual assault. The accused student is put into a campus security vehicle that looks a lot like a police car by a uniformed security officer who looks a lot like a police officer. The accused student has none of the rights he or she would otherwise have if these were real police. By the time the accused walks away from that interrogation, he almost always has said too much and more often than not, his statement was unreliable. Here's why.

In almost all of the cases I have been involved in, it seems to me that when a young man is accused of non-consensual campus sexual contact, his first reaction is to avoid saying anything that might upset his accuser. The result has almost always been an apology for something that, after careful review of the evidence, did not warrant an apology. By then it is too late and the school is quick to use that apology as an admission.

For those fortunate enough to hire an attorney – and many are not that fortunate – the campus disciplinary system does not allow the attorney to speak for the accused. At Providence College, I am told that I must be "the potted plant in the room." I am not allowed to speak with the investigator at any point in the investigation. During an interview between the investigator and the accused, I have to ask my questions through my student and the investigator passes her answer back in the same direction.[6] The student is literally a puppet. It is inefficient, ineffective, and ludicrous. To make matters worse, Providence College will not accommodate the advisor's schedule. The College decides when to have the hearing and it will not reschedule that hearing if the advisor is unavailable.[7]

The accused has no right or opportunity to confront the

accuser. Unless the complaining student decides to participate beyond her first complaint, she is never compelled to answer a question or appear before the factfinder. Without any opportunity to assess for itself the complaining student's credibility, the factfinder's focus is on the accused. The presumption of innocence is noticeably absent.

As discussed above, Title IX mandates colleges and universities to act in response to reports of campus sexual misconduct, but it has provided no definitive instruction on how to carry out that duty. The affected students and their parents are left with an entirely unreliable result. Innocent students have been found guilty while surely some guilty students continue to put campuses at risk. A major overhaul to the way colleges and universities handle sexual misconduct is critical to a safe campus for all students.

To appreciate the landscape upon which an attorney is called to navigate when advising a student accused of a Title IX offense, it helps to have a glimpse at the blueprint that was handed out to colleges and universities by the Obama Department of Education.

On April 4, 2011, President Obama's Department of Education issued that famous "Dear Colleague" letter. It was intended to provide "significant guidance" to assist its recipients in meeting their obligations under Title IX by explaining "that the requirements of Title IX pertaining to sexual harassment also cover sexual violence." "Sexual violence is a form of sexual harassment prohibited by Title IX." "If a school knows or reasonably should know about student-on-student harassment that creates a hostile environment, Title IX requires the school to take immediate action to eliminate the harassment, prevent its recurrence, and address its effects." The letter extended the school's obligation to this sort of harassment even if the act occurred off school grounds and outside a school's education program or activity.

That guidance made clear that the school's Title IX obligation was different and independent from "any law enforcement investigation." "Schools should not wait for the conclusion of a criminal investigation or criminal proceeding to begin their own Title IX investigation." Imagine that a student accused of campus sexual assault while being investigated for or charged by the police with a crime arising out of the same alleged conduct is called to be interviewed by the school's investigator. The accused is never informed that he has a right against self-incrimination or a right to have an attorney present because in a Title IX investigation, no such rights exist. The accused simply does not yet appreciate the gravity of what is about to happen to him as he goes about doing his best to explain why he is not responsible for any wrongdoing. Under the right set of circumstances, that unreliable "confession" will fall squarely into law enforcement hands and used against him as though he had been Mirandized and intelligently waived his Fifth and Sixth Amendment rights.

In a very recent case, a Providence College student was suspended after being found responsible for a Title IX violation. He fully participated in the investigation and the hearing including making several statements. A year later, he received a telephone call from the Providence Police informing him that he was the subject of a sexual assault investigation. Everything he said during the investigation and his statements to the Title IX hearing panel was available to the police to use against him.

I can say with certainty that every student I have interviewed told me that at the time they were interrogated by their college or university, they had no idea that they could decline to answer questions. Every single one of the dozens I have represented said that he reasonably believed that he had no choice but to make a statement. None of them had the skillset – or were warned by their college – that their statements could be used by law enforcement.

The "Dear Colleague" letter did not require a recipient school to adopt a specific policy. Its requirements were general. Each school was left to develop its own system to meet the requirements imposed on it under Title IX. As a result, there is very little uniformity amongst the procedures employed by our various colleges.

The letter required schools to provide "equitable grievance procedures" but were not required to conduct investigations or hold hearings to determine whether sexual harassment or violence occurred. On many campuses, a single investigator model is the norm. The same person charged with fact-finding, relevance, and credibility is also charged with determining whether the accused is guilty. The school "must use" a preponderance of the evidence standard. The letter did not require schools to permit parties to have lawyers at any stage of the proceedings.

Finally, the letter strongly discouraged schools from allowing cross-examination. I have never witnessed any school allow confrontation in a Title IX proceeding.

All, if not most, of the tools that trained advocates routinely rely upon to unearth the truth are noticeably absent from Title IX proceedings.

By the time Bob had his Title IX hearing and was exonerated of Betsy's false accusation, so much time had passed that it intersected his normal graduation and the college handed him an empty diploma when he walked across the stage. Despite having finished his college experience working to exonerate himself and get back his good name, Bob passed his classes and maintained his excellent GPA. Here's how he did it.

Bob did the police work that the school's investigator did not do. Bob advocated for himself the way his criminal defense attorney guided him and not the way the biology professor who was first assigned to be Bob's advisor had suggested. Bob was able to resurrect his Uber receipt from a year earlier which proved that he and Betsy had been in the Uber for less than 5 minutes. He compelled the college to locate the records of who swiped into what door at the relevant time and proved that it would have been impossible under any circumstances for Bob to have been inside Betsy's room for even a moment. He was able to secure Betsy's text messages from that early morning hour which proved that she was actively engaged in messaging with friends at the same time that she claimed Bob was tearing off her clothes and raping her. He searched for, located and interviewed witnesses who provided their own text messages with Betsy that turned the accusation upside down.

Bob's Uber picked him and Betsy up at 1:03 a.m. It dropped them off 60 yards from Betsy's door at 1:08 a.m. There were no reports of any suspicious behavior recorded by the Uber driver to indicate that an assault had occurred in his backseat. At 1:12 a.m., less than 4 minutes after exiting the Uber, Betsy swiped into the front door of her dormitory building after walking the 60 yards from where the Uber dropped her off. There were no reports of any suspicious activity, assaults, or any other noteworthy events in front of Betsy's busy building at a very active time for college kids.

Three minutes after Betsy swiped into her building, at 1:15 a.m., Bob swiped into his building several hundred yards away.

During her interview, Betsy told the investigator that she didn't remember how she got into her building, to the second floor, or into her room. She admitted that she had no memory of having sex with Bob. Despite her failed memory, she was

certain that Bob was "mad at her and accusing her of using him for a ride home." When confronted by the investigator that Bob claimed the two never discussed where each other attended school or resided, Betsy agreed and had no explanation why Bob would have accused her of having "used him for a ride home."

There were more compelling inconsistencies in Betsy's story. First, she told the investigator that she woke up in the clothes she had on the night prior. In a follow up interview and after she reported that Bob viciously removed her clothing, she told the investigator she woke up naked. In a pile of text messages between Betsy and several friends, Betsy texted that she was not sure whether she had sex with Bob.

When the investigator confronted Betsy with the records of door access which proved that Bob had entered his building 3 minutes after Betsy swiped into her building, Betsy scrambled for an alternate theory. Betsy suggested that Bob ran to his building, swiped into it, ran back to her building, accessed her building when someone opened the door for Bob, and then violently raped her.

Even Betsy's alternate theory had giant holes in it. Betsy could not explain how she could have been actively text messaging her friends 25 minutes after Bob swiped into his building.

For Betsy's alternate theory to hold up, Bob would have had to sprint the several hundred yards from Betsy's building to his in under 3 minutes, as evidenced by his own swipe record. He would have had to sprint back the same several hundred yards to Betsy's building. Someone with access to Betsy's building would have had to be standing there to allow Bob into it so that Bob could access it without leaving a record. Bob would have had to travel to the second floor, force his way into Betsy's room, tear off her clothes and rape her.

All those things would have had to happen in less than 20 minutes and without anyone else taking notice.

None of the above happened quickly or easily. Bob had to fight for every piece of evidence. At his hearing 6 months after being accused of violently sexually assaulting Betsy, Bob put his own investigation in front of the hearing panel. The panel found him not responsible. It wasn't in time for Bob to graduate with his class and it came with an incredible cost to a young man.

Unlike the video surveillance of the drop-off point and the dormitories that spoiled long before Betsy made her complaint, Bob was fortunate that the other evidence he relied on remained available. There are no discovery mechanisms available in a Title IX investigation. If Betsy or any of the other witnesses had refused to make available the information that exonerated Bob, Bob could not have compelled it. Had it been only his word against hers, I don't think the result would have been the same.

If you are called on to defend a young adult as part of a Title IX adjudication:

- Know that the basic principles of due process do not exist. Whatever due process your client receives will come as the result of your own ingenuity and behind the scenes advocacy.
- Be hyper-vigilant to mistakes by those administrators who have been unfairly put in positions they are not prepared for.
- Force your way into the investigation and ignore any noise

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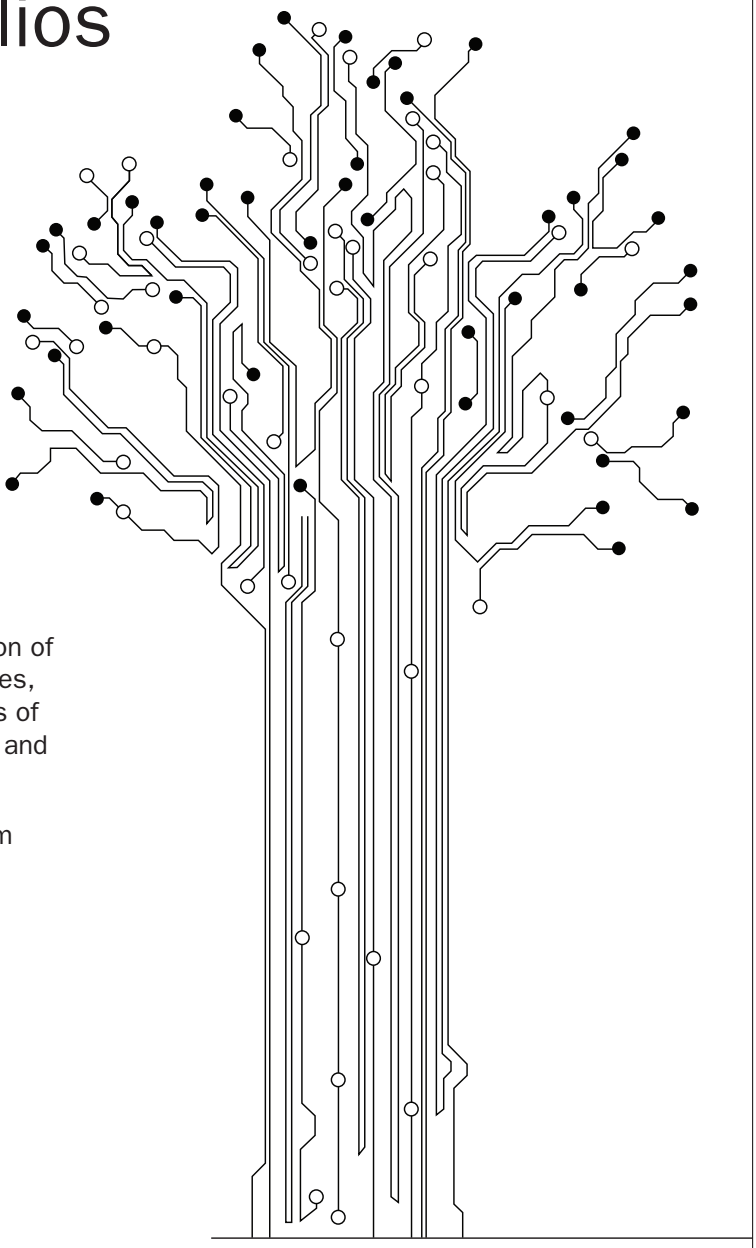

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Your Moral Imperative to Routinely Practice Self-Care

Katherine Itacy, Esq.
Detroit, MI

As a responsible adult, attorney, social advocate, and volunteer, I should've made it my priority to stay at my strongest (mentally, emotionally and physically) so that I could properly attend to my clients and causes.

During orientation week at Roger Williams University School of Law, our Dean of Students spoke a bit about the importance of maintaining one's health and physical appearance as a practicing attorney. I remember the biggest take away from that speech being that if you look unhealthy, overweight, or disheveled to your clients, they'll view you as being sloppy, disorganized, and/or unable to handle the stress of the job. And if you present yourself in that way, they'll be less likely to believe that you can properly and zealously represent their best interests. As the Dean put it, if you look like you're one cheeseburger away from a heart attack, the client is probably going to be pretty nervous about you being healthy enough to see their case through until the end. Since all of this could potentially cost you clients or job opportunities during your legal career, the advice was sound and appropriate to mention at the beginning of a student's entry into the legal profession.

Still, the Dean's advice didn't seem all that applicable to me at the time. I was just three months out of college, and had *just* finished eight years of competitive track and field, during which time I was putting in at least three-to-four hours of strenuous exercise every day. I'd managed to earn two majors and one minor during my four years at Penn State, all while being a teacher's assistant, research assistant, and competing in Division One NCAA athletics. In my mind, I was a master of self-discipline, multitasking, and time management, so staying physically fit while taking care of business was *not* going to be a problem for me.

And for the most part, I was indeed able to balance physical fitness with the daily requirements of law school. I handled the new levels of stress fairly well, even taking on internships, research assignments, trial team and moot court without completely giving up all physical activity. I even bought an under-desk pedal exerciser during bar prep so that I could continue to work out while still devoting most of my waking hours to passing that exam.

But then came the real world – practicing law. All of a sudden, working out, eating well, and getting enough sleep were nothing short of fantasies. I had real-life criminal defense clients to help, and civil rights organizations to assist. Others' freedom, physical safety, and quality of life were at stake. And within one year of being sworn into the bar, I'd hung my own shingle, which meant that I was not only 100% responsible for each case that I handled, but also entirely responsible for my own financial livelihood. So what if I missed a meal here or there? How important could a good night's sleep be when my clients were facing decades in prison, social isolation, and/or homelessness? How could I take more than a few hours off each week when I had a business to run?

In my mind, I was performing triage – I devoted my immediate time and attention to the people who needed my help the most, and to my obligations as a business owner. I kept thinking that if I had the willpower to suffer through strained/failing health, I could still do the work that I loved, and would have time to fix my health later, once I'd finished helping those in greater need. The problem was, as many of you know all too well, there will *always* be others in more dire circumstances than yours. If you wait to take care of yourself until you've sufficiently taken care of others, you'll be waiting forever. Unfortunately, I was doing irreparable damage to my body that would have effects for *years* to come. By looking at things with a "who needs my energy more" analysis, I used all of my energy and strength on others, leaving none to take care of myself.

The thing is, I *loved* my work. I felt like it was my calling in life. I derived a great deal of purpose and strength from being an advocate for others: those most despised by the general public, those without the financial resources to pay for a zealous defense, those who were discriminated against, and those who didn't have a voice of their own (or at least an audience willing to listen to them) to effectively fight for themselves. The truth is, I was *really* good at caring and fighting for others' best interests, but I was *terrible* at caring about my own.

I'd gone far beyond hard work and multitasking – I was burning the candle at both ends and on *all* sides. I would put in a good ten hours in court, the jails and prisons in Rhode Island and Massachusetts, and the office, then head to the State House, where I'd wait for several hours

before being allowed to testify for ten-to-fifteen minutes on a pending criminal justice or civil rights-related bill. I would then head home and continue working, sometimes waking up at 2 AM to finish a brief and manually bind twenty copies that were due the next day in Boston. Other times, I would drive for six-to-seven hours round trip, just to pick up a small number of sealed court records in Western Mass that *had* to be picked up in person. At one point, I was also working as an assistant track coach at a local high school, so I would need to leave work, head to practice or a track meet, and then finish work after it was over. I was also on three boards of directors, and, during my last year running my firm, volunteering for a mayoral campaign.

Now, I know that I'm not unique in prioritizing obligations over my own well-being, *especially* as a member of the legal profession. In fact, according to Douglas Abrams and The Dalai Lama, this desire to push myself beyond my physical limitations, with little-to-no concern for self-preservation or self-care, is merely a part of modern culture:

> Modern culture makes it hard for us to have compassion for ourselves. We spend so much of our lives climbing a pyramid of achievement where we are constantly being evaluated and judged, and often found to be not making the grade. We internalize these other voices of parents, teachers, and society at large. As a result, sometimes people are not very compassionate with themselves. People don't rest when they are tired, and neglect their basic needs for sleep, food, and exercise as they drive themselves harder and harder…. People tend to feel anxious and depressed because they expect themselves to have more, be more, achieve more. Even when people are successful and grab all the brass rings, they often feel like failures or frauds, just waiting to fall off the merry-go-round.[1]

The thing is, I wasn't the average workaholic. I was (and remain) a longtime Type 1 brittle diabetic, so I was already bound to endure a poorer quality of life and shorter lifespan than most of my colleagues. Indeed, as of 2017, the life expectancy for those with Type 1 diabetes was, on average, twelve years less than the average lifespan for the rest of the general population.[2] Type 1 diabetes leads to increased risk of developing gum disease, heart disease,[3] having a heart attack, and/or a stroke.[4] It can lead to nerve damage,[5] gangrene and amputation of the toe, foot, and/or leg,[6] eye disease, macular edema, cataracts, glaucoma, and/or blindness,[7] is the leading cause of kidney disease,[8] and can even cause sexual and bladder problems.[9]

So when I neglected my health and my diabetes, I paid a significant price. Just a few months after starting the firm, I found out that I'd developed diabetic retinopathy — a condition in which the blood vessels in my eyes started to leak. For four out of the five years that I ran that firm, I was undergoing surgeries and medical procedures every one-to-two months. I underwent at least two dozen laser eye surgeries (each of which involving the doctor shooting six *hundred* laser points into my eyes), received several Avastin injections directly into the eyes, endured two vitrectomies to surgically remove blood from my eyes once they'd hemorrhaged, underwent two cataract surgeries, as well as two additional laser surgeries to remove scar tissue from atop the new cataract lenses.

And as if all of these complications weren't bad enough, one of my eyes hemorrhaged during a child molestation trial, causing me to see a veil of red in that eye and become extremely

light-sensitive, even indoors. I was driving to and from Newport Superior Court and my office in Warwick in summer beach traffic while my vision felt as if I was wearing 3D glasses outside of the movie theater. Not exactly the safest way to drive, nor the easiest thing to handle during the rigors of a trial.

During that same time period, I was also having difficulty moving my fingers, making a fist, and holding various objects in my hands. Doctors diagnosed me with two diabetes-related conditions: tenosynovitis and diabetic neuropathy. The tenosynovitis was causing such inflammation in each of my fingers that the tendons were getting stuck as I tried to bend and straighten each digit. Not ideal for typing… The diabetic neuropathy, which would later also occur in both legs and feet, was causing the sensory nerves in my elbows and wrists to tingle and go numb. These two conditions collectively required another half-dozen surgeries.

And let me tell you, as if poor vision and limited use of one's hands wasn't bad enough for a practicing trial and appellate attorney, undergoing surgery every few months, as well as attending all of the accompanying pre- and post-op doctor's appointments and physical therapy sessions for four straight years while trying to operate a law firm was just **absurd**. Most of my "free time" was spent in doctors' waiting rooms. I needed family members to drive me to and from court and prisons, and I was filing more and more requests for extensions of time to file my appellate briefs and trial and pretrial motions. I often had to type with one hand, write notes with my non-writing hand, and/or use only one eye to see.

Multiple doctors told me that I was in imminent danger of going blind, and if I didn't immediately make some significant life changes, could die from diabetic-related complications. One of my colleagues pointed out that if I went blind because I was pushing myself too hard, I probably wouldn't be able to help anyone, and I *certainly* wouldn't be helping anyone if I worked myself to death. Of course, I understood this on an intellectual level; I just didn't take it to heart. I refused to accept it as my truth, telling myself that I could power through my deteriorating health. Sadly, it took until I'd endured my thirty-fifth diabetes-related surgery in four years for me to accept the reality of my situation.

Once I did, I decided to shut down my law firm and take a job with the Office of the Federal Public Defender for the Western District of Texas. I reduced my workweek hours from at least one hundred hours a week to about forty. I began working out practically every day again, ate consistent, healthier meals, and focused on getting my diabetes under better control. Unfortunately, just one year after I'd finally developed a healthy work/life balance, the remnants of a spinal tumor I'd had removed as a child regrew, ultimately leaving me incapable of working at all.

In February of 2017, when I finally admitted to myself and my employer that I was no longer physically or mentally able to perform my required job duties, I began the process of retiring based upon disability. It was a *huge* blow to my spirit. I very quickly had to accept the loss of my profession, my independence, and my understanding as to exactly why I'm here on this planet. I started feeling a great deal of anger towards my body–resenting the fact that it was keeping me from doing and being what I loved.

My days are now mostly spent in bed, enduring constant spinal (as well as polyneuropathy) nerve pain, as well as a wide

variety of other symptoms from my recurring tethered spinal cord and diabetes. I'm now physically unable to practice law; I'm essentially night blind, have intense light sensitivity and very limited peripheral vision. I'm unable to do even the most basic chores and tend to sleep anywhere from twelve-to-twenty hours each day due to chronic fatigue.

I'm still mourning the loss of my career and identity as a criminal defense attorney and civil rights activist. But what I've come to realize is that even though I'm no longer helping others in the courtroom, board rooms, or congressional committee hearing rooms, there are still ways in which I can keep trying to make the world a better place. I'm now using my few hours of energy each day to blog, podcast, and speak out on social media regarding disability issues as well as diabetic management and prevention. And now, a year after initiating the venture, I am releasing a memoir about the lessons I've learned over the thirty-year period in between my two spinal surgeries. I'm hoping that it will generate honest, open, respectful discussions on a wide variety of subjects, including: the criminal justice system, white privilege, body issues, eating disorders, sexual assault and sexual encounters in general, physical disabilities and the treatment of those who are differently-abled or have mental health issues, and the treatment of patients by healthcare professionals in this country.

Now, hindsight is certainly 20/20, but what I can say for certain is that even after receiving the best medical care and education out there, I unequivocally failed to take my diabetes and my general health as seriously as I should have. If I had the chance to do it all over again, of course I would take better care of myself, but obviously, I can't go back and fix the past. As a responsible adult, attorney, social advocate, and volunteer, I should've made it my priority to stay at my strongest (mentally, emotionally and physically) so that I could properly attend to my clients and causes. Sure, if I'd taken some time to take care of myself, I wouldn't have worked on as many cases each year; but in the end, I probably would've stayed a bit healthier and been able to work longer. If that'd happened, I would've ultimately been able to help dozens, if not hundreds of additional clients.

In the end, the Dean's advice during orientation week was *especially* applicable to me and my life. But I want you all to know that it's also applicable to yours, whether you're disabled, diseased, or the picture of perfect health. **Please**, take care of yourselves and your health. I know how time-consuming and stressful the practice of law can be, but you have a moral

imperative to yourselves, your loved ones, and your clients to practice self-care at every possible opportunity. Do your best to establish healthy boundaries between your personal and professional lives. Take five-to-ten minutes each morning to meditate and center yourself before jumping back into the chaos of the legal world. Take a break from all electronic devices for an hour or two each week. Make sure that you're eating healthy and getting in some physical activity at least a few times a week. Get your rest.

You are important to your job and to your clients. But you're also important to your friends and family, and have value outside of your identity as an attorney. Make sure that you remind yourselves of that, and treat yourselves with at least as much kindness and respect as you'd treat any other important person in your life. Doing anything short of that would be a disservice to the profession and to the world.

Rhode Island Bar Association members and their dependents may receive free and confidential help, information, assessment and referral for personal concerns through the Lawyers Helping Lawyers Program. Services are available through the Association's contract with Coastline Employee Assistance Program (Coastline EAP, formerly RIEAS) and through the members of the Rhode Island Bar Association's Lawyers Helping Lawyers Committee. See page 34 for the Lawyers Helping Lawyers Committee listing.

ENDNOTES

1 *His Holiness The Dalai Lama XIV, Archbishop Desmond Tutu, and Douglas Abrams*, The Book of Joy: Lasting Happiness in a Changing World *(New York: Avery, 2016), 260.*

2 *Melanie Copenhaver and Robert P. Hoffman, "Type 1 Diabetes: Where Are We in 2017?," Translational Pediatrics 6, no. 4 (2017): 359-364.*

3 *"Diabetes, Gum Disease, & Other Dental Problems," National Institute of Diabetes and Digestive and Kidney Diseases, last modified September 2014, https://www.niddk.nih.gov/health-information/diabetes/overview/preventing-problems/gum-disease-dental-problems.*

4 *"Diabetes, Heart Disease, and Stroke," National Institute of Diabetes and Digestive and Kidney Diseases, last modified February 2017, https://www.niddk.nih.gov/health-information/diabetes/overview/preventing-problems/heart-disease-stroke;*

5 *"What Is Diabetic Neuropathy?," National Institute of Diabetes and Digestive and Kidney Diseases, last modified February 2018, https://www.niddk.nih.gov/health-information/diabetes/overview/preventing-problems/nerve-damage-diabetic-neuropathies/what-is-diabetic-neuropathy.*

6 *"Diabetes and Foot Problems," National Institute of Diabetes and Digestive and Kidney Diseases, last modified January 2017, https://www.niddk.nih.gov/health-information/diabetes/overview/preventing-problems/foot-problems.*

7 *"Diabetic Eye Disease," National Institute of Diabetes and Digestive and Kidney Diseases, last modified May 2017, https://www.niddk.nih.gov/health-information/diabetes/overview/preventing-problems/diabetic-eye-disease.*

8 *"Diabetic Kidney Disease," National Institute of Diabetes and Digestive and Kidney Diseases, last modified February 2017, https://www.niddk.nih.gov/health-information/diabetes/overview/preventing-problems/diabetic-kidney-disease.*

9 *"Diabetes, Sexual, & Bladder Problems," National Institute of Diabetes and Digestive and Kidney Diseases, last modified June 2018, https://www.niddk.nih.gov/health-information/diabetes/overview/preventing-problems/sexual-bladder-problems.* ◊

Your Bar's 2019 Annual Meeting Highlights

Friday, June 14th, Plenary Session

Ethics Rock Extreme!

Using parodies of widely-recognized hits from the 70s and 80s, ***Ethics Rock Extreme!*** explores current ethical problems and dilemmas in an entertaining manner. Supported by the strains of rock classics by Freddie Mercury, Don Henley, Sting, Gerry Rafferty, Paul Simon, Bob Dylan, Billy Joel, Harry Chapin, and the ever-classic Lennon/McCartney, Ethics Rock Extreme! tackles ethics issues such as:

- Firm hand-offs from transactional to litigation
- How to be ethical when a partner has screwed up
- When impairment becomes a firm ethics matter
- Why it's harder to be ethical now
- Non-verbal lies from witnesses and clients on the stand
- The public records exception, and opposing former clients
- Up to the minute technological competence and confidentiality traps
- The limits of advocacy
- Conduct "prejudicial to the administration of justice"…or not
- Internal investigations of a corporate client, and many more.

There is no faster paced, more up-to-date, memorable and challenging way for an attorney to fulfill the legal ethics requirement. The songs will be expertly arranged and performed by New York musician, actor, and rock singer **Mike Messer**. Messer is a singer and actor who has been performing nationally and internationally for 18 years.

Jack Marshall, who founded and has served as president and CEO of ProEthics, Ltd. for 22 years, has created more than 240 interactive ethics programs for bar associations, law firms, Fortune 500 companies, local and national government agencies, trade associations, and non-profit organizations. He also has worked to develop rules of professional responsibility for attorneys in emerging African democracies through the International Bar Association, and for the judiciary of the post-Soviet Republic of Mongolia, through USAID.

A member of the Massachusetts and District of Columbia Bar Associations, Marshall has served as adjunct professor of legal ethics at the American University School of Law in Washington, D.C. A graduate of Harvard College, where he specialized in American government and leadership, and Georgetown University Law Center, he practiced criminal law in Massachusetts and organization law in the District of Columbia, and led non-profit organizations devoted to education, public policy research, and health. Marshall's articles and commentary on topics ranging from leadership to ethics to popular culture have appeared in numerous regional and national periodicals, and his ethics analysis has been featured on a wide variety of talk shows, from the Montel Williams Show to Neil Cavuto's "News Hour" to PBS's "Religion and Ethics Weekly" to National Public Radio's "Tell Me More." In 2014 he was also named to the "Top 100 Thought Leaders in Trustworthy Business" (trustacrossamerica.com). Marshall is also an award-winning stage director, and for 20 years served as the artistic director for The American Century Theater, a professional non-profit theater company dedicated to producing classic American plays.

Please see your **2019 Rhode Island Bar Association Annual Meeting Brochure** for more information about the Meeting's 40 CLE-credited seminars, social events, and other interesting and informative activities. If you haven't received your brochure in the mail yet, you can access your registration form and brochure PDF on the Bar's website, **ribar.com**. **Please note, to save $25, you must register before June 7, 2019**.

Rhode Island Probate Court Listing and Judicial Communications Survey on Bar's Website

The Rhode Island Bar Association regularly updates the Rhode Island Probate Court Listing to ensure posted information is correct. The Probate Court Listing is available on the Bar's website at **ribar.com** by clicking on **FOR ATTORNEYS** on the home page menu and then clicking on **PROBATE COURT INFORMATION** on the dropdown menu. The Listing is provided in a downloadable pdf format. Bar members may also increase the type size of the words on the Listing by using the percentage feature at the top of the page. The Bar Association also posts a chart summarizing the preferences of Superior Court justices relating to direct communications from attorneys, and between attorneys and the justices' clerks which is updated yearly. The chart is available by clicking **MEMBERS ONLY** on the home page menu and then clicking **JUDICIAL COMMUNICATIONS**.

Snake Eyes

American Bar Association Delegate Report
Midyear Meeting 2019

Robert D. Oster, Esq.
ABA Delegate and Past Rhode Island Bar Association President

The American Bar Association Midyear meeting in Las Vegas on January 28, 2019 was pivotal for the ABA and the legal community in many ways. If the ABA stands for anything, it is the rule of law, professional excellence, and service to the community. As an aside, having taught comparative law in China this past summer, I can attest as to how the rule of law infuses a society. The meeting was held in the middle of the longest federal government shutdown in history, as of this writing, and this was the elephant in the room. President Bob Carlson eloquently addressed the House and said the shutdown is a "deprivation of justice" and a breakdown in the rule of law. He addressed the 80,000 case backlog in immigration cases involving asylum while judicial appointments to handle the job were held due to budgetary concerns. Trials and other court functions were also delayed, to say nothing of the unpaid military, federal employees, law enforcement and first responders and their families, and President Carlson acknowledged that failure to fund is our issue as attorneys. Resolutions relative to the immigration and border debate were passed. Family reunification and a prohibition on separating children from their parents in detention families were passed.

We engaged in a debate on a host of other issues that affect the profession. We were urged to pass a Resolution forcing online providers of documents to abide by ABA Best Practices, given that they are here to stay in the legal market. As times have changed, so have lawyers and their clients. The Young Lawyers Division of the House sponsored, and we passed, a Resolution calling for the provision of lactation rooms for nursing mothers who are lawyers, as well as the public. Also passed was a parental leave provision for attorneys whose cases are reached for trial but who are unable to attend court due to medical reasons.

The House passed two important Resolutions on gun violence. The Subcommittee on Gun Violence, on which I sit, proposed a voluntary program for those who have suicidal thoughts and own a firearm, which the House passed. As many of you know, suicide is a national public health and legal issue as some 30,000 people each year commit suicide, and many of those were gun deaths. Secondly, we resolved that firearms should not be carried by teachers in school as this exacerbates an already dangerous situation. The continuing opioid crisis was addressed, as well as child torture crimes, and a Resolution reaffirming prohibition. The ABA House has general oversight of law school and paralegal programs, and as such, we are often called upon to act on provisions affecting accreditation and standards. In many ways, this is one of the most important duties of the House, that is, to ensure quality legal education and diversity initiatives within the pipeline.

As always, it has been, and continues to be, an honor and privilege to serve the Rhode Island Bar Association, and I am always available to discuss concerns or questions. ◊

HONOR ROLL

Volunteers Serving Rhode Islanders' Legal Needs

The Rhode Island Bar Association applauds the following attorneys for their outstanding pro bono service through the Bar's Volunteer Lawyer Program, Elderly Pro Bono Program, US Armed Forces Legal Services Project, Foreclosure Prevention Project, Legal Clinics, and Ask a Lawyer during February 2019 and March 2019.

FEBRUARY 2019

Volunteer Lawyer Program

Robert A. Arabian, Esq., *Arabian Law Offices*
David N. Bazar, Esq., *Bazar & Associates, P.C.*
Neville J. Bedford, Esq., *East Providence*
Justin T. Bonnick, Esq., *Greenville*
Michelle A. Buck, Esq., *Steele & Buck, LLC*
Michael A. Castner, Esq., *Jamestown*
Rebecca E. Dupras, Esq., *Orson & Brusini, Ltd.*
Lisa A. Geremia, Esq., *Geremia & DeMarco, Ltd.*
Susan Gershkoff, Esq., *Counsellor at Law*
Deborah S. Gonzalez, Esq., *Roger Williams University*
Edward F. Grourke, Esq., *Finan & Grourke*
Jane F. Howlett, Esq., *Bristol*
Phillip C. Koutsogiane, Esq., *Law Offices of Phillip Koutsogiane*
Robert H. Larder, Esq., *Woonsocket*
Mark B. Laroche, Esq., *Providence*
James J. Lombardi, Esq., *Providence*
John T. Longo, Esq., *Citadel Consumer Litigation, PC*
Bienvenido Perez, Esq., *A.C. Law Group, LLC*
Michael J. Pisaturo, Esq., *Law Office of Michael J. Pisaturo PC*
Elizabeth Peterson Santilli, Esq., *Cutcliffe Archetto & Santilli*
Denneese C. Seale, Esq., *East Providence*
Megan E. Sheehan, Esq., *The Law Office of Maura L. Sheehan*
Gregory P. Sorbello, Esq., *Peter M. Iascone & Associates, LTD.*
Thomas E. Wright, Esq., *Warren*

Elderly Pro Bono Program

Brian Adae, Esq., *RI Disability Law Center, Inc.*
Steve Conti, Esq., *North Providence*
James P. Creighton, Esq., *Johnston*
Joanne C. D'Ambra, Esq., *Cranston*
Zona Douthit, Esq., *Shechtman Halperin Savage, LLP*
Sherry A. Goldin, Esq., *Goldin & Associates, Inc.*
Brian G. Goldstein, Esq., *Law Offices of Brian G. Goldstein*
Kristin N. Matsko, Esq., *Orson & Brusini, Ltd.*
Samantha McCarthy, Esq., *McCarthy Law, LLC*
Steven T. Orsini, Esq., *Cumberland*
Arthur D. Parise, Esq., *Warwick*
Peter J. Rotelli, Esq., *East Providence*
Elizabeth Peterson Santilli, Esq., *Cutcliffe Archetto & Santilli*
Gregory P. Sorbello, Esq., *Peter M. Iascone & Associates, LTD.*
Susan D. Vani, Esq., *Providence*

US Armed Forces Legal Services Project

David N. Bazar, Esq., *Bazar & Associates, P.C.*
Priscilla Facha DiMaio, Esq., *Providence*
Kenneth Kando, Esq., *Warwick*
Gregory P. Sorbello, Esq., *Peter M. Iascone & Associates, LTD.*

MARCH 2019

Volunteer Lawyer Program

Michael A. Castner, Esq., *Jamestown*
Rebecca F. Clarke, Esq., *Newport*
Michael K. Glucksman, Esq., *Law Office of Michael Glucksman*
Casby Harrison III, Esq., *Harrison Law Associates, Inc*
David B. Hathaway, Esq., *Warwick*
Judith A. Jamieson, Esq., *Kalander & Shaw, Ltd.*
Doris A. Lavallee, Esq., *Lavallee Law Associates*
Arthur D. Parise, Esq., *Warwick*
Elizabeth Stone, Esq., *Cranston*

Elderly Pro Bono Program

Robert J. Ameen, Esq., *Law Offices of Robert J. Ameen, Esq.*
Cristina A. Azzinaro, Esq., *Azzinaro Manni-Paquette*
Marcia J. Boyd, Esq., *Wakefield*
Joanne C. D'Ambra, Esq., *Cranston*
Thomas M. Dickinson, Esq., *Law Offices of Thomas M. Dickinson*
Richard K. Foster, Esq., *Coventry*
Edward J. Gomes, Esq., *Law Office of Edward J. Gomes*
Charles Greenwood, Esq., *Providence*
Phillip C. Koutsogiane, Esq., *Law Offices of Phillip Koutsogiane*
Richard E. Kyte, Jr., Esq., *Warwick*
Robert A. Mitson, Esq., *Mitson Law Associates*
Arthur D. Parise, Esq., *Warwick*
Denise Acevedo Perez, Esq., *The Law Office of Denise Acevedo Perez*
Gregory P. Sorbello, Esq., *Peter M. Iascone & Associates, LTD.*

US Armed Forces Legal Services Project

Regina Schwarzenberg, Esq., *Attorney at Law*

The Bar also thanks the following volunteers for taking cases for the Foreclosure Prevention Project and for participating in Legal Clinic and Ask a Lawyer events during February and March.

Foreclosure Prevention Project

Brian G. Goldstein, Esq., *Law Offices of Brian G. Goldstein*
Peter J. Rotelli, Esq., *East Providence*
Gregory P. Sorbello, Esq., *Peter M. Iascone & Associates, LTD.*

Legal Clinic

Tara R. Cancel, Esq., *Providence*
Samantha McCarthy, Esq., *McCarthy Law, LLC*
Theodore A. Topouzis, Esq., *Topouzis & Associates, PC*

Ask a Lawyer

Joseph M. Proietta Esq., *Law Office of Joseph M. Proietta*

For information and to join a Bar pro bono program, please contact the Bar's **Public Services Director Susan Fontaine** at: **sfontaine@ribar.com** or **401-421-7758**. For your convenience, Public Services program applications may be accessed on the Bar's website at **ribar.com** and completed online.

The Ada Sawyer Award: The Rhode Island Women's Bar Association's Recognition of Women Lawyers

Kelly I. McGee, Esq.
Associate General Counsel,
Lifespan, Providence
Vice-President, Rhode Island
Women's Bar Association

In 1920, after a three-year court battle, Ada Lewis Sawyer became the first female lawyer in the state of Rhode Island. In Ada Sawyer's case, the Rhode Island Supreme Court ruled that the word "person" in the bar rules, with respect to admission, referred to a woman as well as a man, and Ada Sawyer paved the way for women lawyers in Rhode Island.

Each year the Rhode Island Women's Bar Association (RIWBA) presents the Ada Sawyer Award in recognition of Ada Sawyer's step forward for gender equality. The Ada Sawyer Award recognizes women who exemplify the mission of the RIWBA – the promotion and enhancement of the status of women in our community and in the legal profession.

The RIWBA began giving the Ada Sawyer Award in 1995. Those women who have received the Award are not only distinguished in their areas of expertise, but have mentored those women lawyers who came after them.

The past recipients of the Ada Sawyer Award are:
1995 – Barbara Margolis
1996 – Lynette Labinger
1997 – Carolyn Mannis
1998 – Margaret Lynch-Gadaleta
1999 – Margaret Curran
2000 – Justice Alice Gibney
2001 – Marilyn Shannon McConaghy
2002 – Justice Haiganush R. Bedrosian
2003 – Justice Victoria Lederberg
2004 – M. Teresa Paiva-Weed
2005 – Justice Maureen McKenna Goldberg
2006 – Stacey Pires-Veroni
2007 – Judge Patricia Moore
2008 – Denise Aiken
2009 – Judge O. Rogeriee Thompson
2010 – Tracy Baran
2011 – Justice Sandra A. Lanni
2012 – Patricia R. Recupero
2013 – Barbara Hurst
2014 – Donna Nesselbush
2015 – Melody Alger
2016 – Justice Laureen A. D'Ambra
2017 – Katie Ahern
2018 – Justice Patricia A. Hurst

Ada Sawyer, Esq.

Next year will mark the centennial celebration of Ada Sawyer's admission to the Rhode Island Bar. The RIWBA is grateful to Ada Sawyer and to all of the women lawyers that have and continue to promote and enhance the status of women in our community and in the legal profession.

The *Journal* will feature a series of articles related to Ada Sawyer and how she enhanced the status of women in Rhode Island. The articles are leading up to a commemorative event, organized by the Bar Association's Ada Sawyer Centennial Planning Committee and supported by the RI Women's Bar Association and the Roger Williams University School of Law, scheduled for October 15, 2020.

BOOK REVIEW

Life is Short – Wear Your Party Pants

by Loretta LaRoche

Dana N. Weiner, Esq.
Chisholm, Chisholm & Kilpatrick, LTD., Providence

Loretta has a refreshingly crisp way of reminding you to slow down and enjoy life. Throughout the book, she forces the reader to pause for self-reflection and consider the ways we, as members of modern society, tend to overlook the small victories and high points of each day. To help promote positivity during each of our days, Loretta provides several tips that can prove to be useful without being burdensome.

For example, she suggests keeping a "joy journal." Instead of beginning the day thinking about all the tasks we have to accomplish and obligations we have to fulfill, keeping a joy journal involves starting the morning by writing about topics such as who or what makes us happy.

She also discusses practicing being present in the moment by stopping your mind from spiraling into chaos. Actively stepping back and acknowledging the internal voices helps to create separation between the present and negative or consuming thoughts, allowing for self-control and heightened awareness.

Other simple tips discussed within the book can help boost your outlook. One study from Clark University revealed that the act of frowning caused an individual to feel angry, while the act of smiling invoked feelings of happiness and catalyzed laughter. These simple facial movements are choices that we make day in and day out, and these choices can alter how we approach and react to the circumstances life presents to us.

Another choice we face daily is the amount of noise encompassing our environments. The world around us has become increasingly loud. Music is played at high volumes everywhere from coffee shops to retail stores and even restaurants. Yet loud noise creates tension in our brains, and we are more prone to get distracted easily. In quiet spaces, our brains become more creative, and concentration improves. Taking time to be conscious about the levels of noise exposure we surround ourselves with is simple and fairly effortless, but it can help achieve a calmness otherwise evaded.

In sum, the book reads as a lighthearted set of instructions relating to the power of positivity. If you find yourself feeling stressed, depressed, or defeated, taking the time to settle down in a quiet spot with *Life is Short – Wear Your Party Pants* will provide a great subtle reminder that many aspects of our own happiness are within our very own control. ◊

You can enjoy a presentation by Loretta LaRoche at our 2019 Rhode Island Bar Association Annual Meeting! Loretta will kick off the Meeting as our plenary speaker on Thursday morning, June 13, at the RI Convention Center. For more information about Loretta and her Meeting presentation, see page 4. If you haven't yet received your Annual Meeting brochure in the mail, you can find it on our website at ribar.com.

Sign Up For Your 2019-2020 Bar Committee Membership Today!

If you have not yet signed up as a member of a 2019-2020 Rhode Island Bar Association Committee, please do so today. Bar Committee membership runs from July 1st to June 30th.

Even Bar members who served on Bar Committees this year must reaffirm their interest for the coming year, as Committee membership does not automatically carry over from one Bar year to the next. Bar members may complete a Committee registration form online or download and return a form to the Bar. Please join no more than three committees.

To sign up for a 2019-2020 Bar Committee, go to the Bar's website at ribar.com and go to the MEMBERS LOGIN. After LOGIN, click on the BAR COMMITTEE SIGN-UP link.

As an alternative, you may download the Bar 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. If you have any questions concerning membership or the sign-up process, please contact the Bar's Member Services Coordinator Erin Bracken at (401) 421-5740.

Thanks to Our CLE Speakers

The success of the Rhode Island Bar Association's Continuing Legal Education (CLE) programming relies on dedicated Bar members who volunteer hundreds of hours to prepare and present seminars every year. Their generous efforts and willingness to share their experience and expertise helps to make CLE programming relevant and practical for our Bar members. We recognize the professionalism and dedication of all CLE speakers and thank them for their contributions.

Below is a list of the Rhode Island Bar members who have participated in CLE seminars during the months of March and April.

Timothy Baldwin, Esq.
Whelan, Corrente, Flanders, Kinder & Siket LLP

Joshua R. Caswell, Esq.
Howland Evangelista Kohlenberg Burnett LLP

Michael J. Colucci, Esq.
Olenn & Penza, LLP

David J. Correira, Esq., LLM
Correira & Correira LLP

Eric D. Correira, Esq., LLM
Correira & Correira LLP

Thomas M. Dickinson, Esq.
Law Offices of Thomas M. Dickinson

Nicole P. Dyszlewski, Esq., M.L.I.S.
Roger Williams University School of Law

Cassandra Feeney, Esq.
Adler, Cohen, Harvey, Wakeman & Guekguezian, LLP

Susan M. Fink, Esq.
Attorney-at-Law

Leigh E. Furtado, Esq.
Howland Evangelista Kohlenberg Burnett LLP

Christopher S. Gontarz, Esq.
Lynch & Pine, LLC

Robert H. Humphrey, Esq.
Law Offices of Robert H. Humphrey, Esq.

Lauren V. Iannelli, Esq.
Rhode Island Department of Attorney General

Marissa Janton, Esq.
Rhode Island Commission for Human Rights

Hon. Maureen B. Keough
Rhode Island Superior Court

Kristen Sloan Maccini, Esq.
K. Sloan Maccini Law & Mediation, LLC

Carolyn A. Mannis, Esq.
Law Offices of Michael F. Campopiano, Inc.

Barbara L. Margolis, Esq.
Office of Disciplinary Counsel

Henry S. Monti, Esq.
Gemma Law Associates, Inc.

Kimberly A. Petta, Esq.
Law Offices of Robert H. Humphrey, Esq.

Charlene Elva Pratt, Esq.
Office of the Public Defender
The Jubilant Frog

MOVIE REVIEW

On the Basis of Sex

Jenna Giguere, Esq.
Deputy Chief of Legal Services
Department of Business Regulation

The name "Ruth Bader Ginsburg" has been on my mind recently as I am looking forward to participating in the ceremonious swearing-in before the U.S. Supreme Court. R.B.G. has also become a pop culture icon, a trend I participated in with my recent purchase of a make-up bag printed with the pattern of the famous R.B.G. dissent collar. And so, I set aside a Sunday afternoon to view the film "On the Basis of Sex" to learn more about R.B.G.'s life-story. I enthusiastically report that it was an afternoon very well spent – I found the film inspirational and would highly recommend it to any attorney, colleague, or friend.

The film covers a period of time in R.B.G.'s career beginning from her first day at Harvard Law School and continuing through her struggle to find employment upon graduation that led her to a starting path in academia. The film ends with the oral arguments before the U.S. Court of Appeals for the Tenth Circuit in ***Moritz***, a tax case in which R.B.G., along with her husband Marty (and the ACLU), challenged the gender-based distinction that prevented their client from claiming a caregiver tax deduction for the care of his ailing mother. Defining moments showing R.B.G.'s passion for fighting against gender discrimination for society as a whole build upon instances where she herself faced situations permeated by gender stereotyping (such as the Harvard Dean's opening speech as to what it means to be a "Harvard Man"). While focusing on her legal career, the film also provides glimpses into R.B.G.'s private life and struggles as a wife and mother, to which a broader audience may relate, such as her husband Marty's recovery from testicular cancer and her daughter Jane's rebellious teenager phase.

In this film, R.B.G.'s nervousness was palpably compounded by her deep desire for a result that would make major strides in her calling, gender equality law, in the context of her realistic consideration of her lack of experience in giving such oral arguments.

R.B.G. was portrayed as struggling not only with the negativity arising from gender stereotyping, but also battling with that universal human emotion of self-doubt as she prepared for oral arguments before the Tenth Circuit. In this film, R.B.G.'s nervousness was palpably compounded by her deep desire for a result that would make major strides in her calling, gender equality law, in the context of her realistic consideration of her lack of experience in giving such oral arguments. The film casts R.B.G.'s internal self-doubt against the backdrop of the doubts planted by society (of her capability as a woman) and of her fellow attorneys who expressed their own doubts about her lack of experience (one even suggesting she was not a "real lawyer"). As I hit the bottom of the popcorn bag, this film had me rooting for the small but mighty R.B.G. as she faced the daunting experience of the Tenth Circuit oral arguments.

Soon, I will be on my flight to the Capital for the U.S. Supreme Court swearing-in, my anticipation mounting for the great honor and memory of R.B.G.'s presence. And in my carry-on bag will be my next venture into learning more about this hero for justice, this time in print, the book "In My Own Words," which captures this legacy in R.B.G.'s own words. ◊

Lawyers on the Move

Lynne Barry Dolan, Esq. is now counsel at **Hinckley Allen**, 100 Westminster Street, Suite 1500, Providence, RI 02903.
401-457-5316 ldolan@hinckleyallen.com
hinckleyallen.com

Patricia M. French, Esq. is now a United States Administrative Law Judge at the Federal Energy Regulatory Commission in Washington, D.C.
202-502-8003 Patricia.French@ferc.gov

Joseph C. Moran, Esq. is now a partner at **Izzo, Gardner & Moran, LLP**, 101 Dyer Street, 3rd Floor, Providence, RI 02903.
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How to "Win" at Mediation
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Department of Labor and Training: What Government Attorneys Need to Know
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Also available as a LIVE WEBCAST!

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Navigating through the DEM Administrative Adjudication Department (AAD)
Rhode Island Law Center, Cranston
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Rhode Island Bar Foundation

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

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

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In Memoriam

William F. Buckley, Esq.
William F. Buckley, 86, of Wakefield and Hobe Sound, FL, with offices formerly in Providence and Wakefield for many years, passed away on March 15, 2019. He was the husband of the late Magdalen M. Buckley, RN and father of the late Eileen M. Buckley. Born in Newport, a son of the late Frank P. Buckley and Margaret M. (Furey) Buckley, he lived in Wakefield since 1974. He was a graduate of De La Salle Academy, Newport, Providence College, an alumnus of the Boston University Graduate School, and graduated from Suffolk University Law School. He was a veteran of the Korean Conflict and served in the US Marine Corps Reserve and the US Air Force. He was the former RI District Counsel and a litigation attorney for the New England region for the Small Business Administration. He also served as a Special Assistant US Attorney. Additionally, he served as chief legal counsel for the Department of Administration's Workers' Compensation Division and was a Special Assistant Attorney General. He served for a number of years as an adjunct professor of law at the Graduate School of Business, Bryant University. He was also an officer of the Federal Bar Association. He was active in Providence College Alumni affairs serving as Homecoming Chairman, Loyalty Fund Chairman and was Class Agent. He was a member of Glocester Country Club and Point Judith Country Club. He was a former member of Rotary Club International and the South Kingstown Lions Club. He leaves two daughters: Sheila A. Darelius of Florida and Susan F. Guevremont of Kingston, and a son, William B. Buckley. He also leaves 4 grandchildren. He was predeceased by brothers David Buckley of NY and Paul Buckley of RI, sisters Mary Sousa of RI, Nancy Gomes and Patricia Castigliego, both of Connecticut.

Eileen G. Cooney, Esq.
Eileen G. Cooney passed away on Friday, March 1, 2019. Born in Providence, Eileen was the daughter of the late Gertrude (Quinn) and Noel J. Cooney. Eileen attended St. Mary Academy–Bay View and graduated from Trinity College in Washington, D.C. Her career began as a social worker in Boston but then turned to law. She was an honors graduate of Suffolk University Law School where she was on the editorial board of the Law Review. Eileen clerked for Rhode Island Supreme Court Chief Justice Joseph Bevilaqua. She then was appointed as a Special Assistant Attorney General handling civil litigation, trials and appeals before going into the private practice of the law. The Rhode Island Bar Association awarded Eileen the Dorothy Lohmann Community Service Award for her volunteer work with women in need at Dorcas Place. She was actively involved in the Cranston Democratic Party and volunteered for several candidates. Eileen is survived by her four sisters, Rosemary Dean (Jack), Susan Murphy (Jim), Karen Burke (Joe) and Patricia Dandrea (Brian). She is survived by her thirteen nieces and nephews and thirteen grand-nieces and nephews.

Donald J. Maroney, Esq.
Donald J. Maroney, 61, of North Kingstown, passed away March 8, 2019. Donald was born in Providence to the late Stephen and Dorothy Maroney. Donald was a graduate of Providence College, Bryant University, and Vermont School of Law. He then went on to work as a partner at Kelly, Kelleher, Reilly and Simpson for over 30 years and proudly served as solicitor to the towns of North Kingstown and Narragansett. He is survived by his wife, Donna (Vingi) Maroney, his children Donald, Jackie, Jennifer, Cory, and his siblings, his twin brother Dennis, Stephen, Mary Anne, Kevin, Patricia and his late brother Edward.

Vincent J. Montecalvo, Esq.
Vincent J. Montecalvo, 77, of Smithfield, died on December 12, 2018. He was the husband of Joyce (Catalano) Montecalvo. Born in Providence, he was the son of Norma (Conca) and Vincent Montecalvo. Vincent graduated

Do you or your family need help with any personal challenges?

We provide free, confidential assistance to Bar members and their families.

Confidential and free help, information, assessment and referral for personal challenges are available **now** for Rhode Island Bar Association members and their families. This no-cost assistance is available through the Bar's contract with **Coastline Employee Assistance Program (EAP)** and through the members of the Bar Association's Lawyers Helping Lawyers (LHL) Committee. To discuss your concerns, or those you may have about a colleague, you may contact a LHL member, or go directly to professionals at Coastline EAP who provide confidential consultation for a wide range of personal concerns including but not limited to: balancing work and family, depression, anxiety, domestic violence, childcare, eldercare, grief, career satisfaction, alcohol and substance abuse, and problem gambling.

When contacting Coastline EAP, please identify yourself as a Rhode Island Bar Association member or family member. A Coastline EAP Consultant will briefly discuss your concerns to determine if your situation needs immediate attention. If not, initial appointments are made within 24 to 48 hours at a location convenient to you. Or, visit our website at coastlineeap.com (company name login is "RIBAR"). Please contact Coastline EAP by telephone: 401-732-9444 or toll-free: 1-800-445-1195.

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

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SOLACE

Helping Bar Members in Times of Need

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

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

The program is quite simple, but the effects are significant. Bar members notify the Bar Association when they need help, or learn of another Bar member with a need, or if they have something to share or donate. Requests for, or offers of, help are screened and then directed through the SOLACE volunteer email network where members may then respond. On a related note, members using SOLACE may request, and be assured of, anonymity for any requests for, or offers of, help.

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

In Memoriam Continued

from Bryant College and Suffolk University Law School. Vincent was a veteran of the Air Force, which provided military honors during his funeral services. A practicing attorney for nearly 50 years, Vincent was admitted to the RI Bar in 1969 and maintained his private practice from offices in Providence and Warwick. Vincent served as Probate Judge of the town of Smithfield for nearly 10 years. In addition to his wife and siblings, Vincent is survived by his two sons, Craig V. Montecalvo and his wife Lara (Ewens) Montecalvo, and Keith A. Montecalvo and his wife Karen (Potter) Montecalvo; and his two beloved grandsons, Landon James Montecalvo and Matthew Vincent Montecalvo. Craig and Lara Montecalvo are practicing attorneys in Rhode Island. Vincent leaves a sister Caroline (Montecalvo) Ranucci, of Providence, and a brother Donald Montecalvo, of Montreal, Canada.

Marybeth Senger, Esq.
Marybeth Senger, 71, of Newport, passed away on February 19, 2019. Marybeth was born in Hamilton, OH to Joseph Senger and Mary Senger. Marybeth graduated from nursing school as a registered nurse, and went to night school to become a lawyer, graduating in 1980, then began her career as a lawyer in Fall River, MA. In 2013, Marybeth was honored with the Paul J. Liacos Mental Health Advocacy Award. Prior to her death, Marybeth was the attorney in charge for Brockton-Bridgewater State Hospital Commitment Unit of the Mental Health Litigation Division. She was a long time parishioner of St. Joseph's Church in Newport. Marybeth is survived by her son, Zachary Senger, her brother Joseph M. Senger and his wife Christina, and 14 nieces and nephews.

Quinlan J. Shea, Jr., Esq.
Quinlan J. (Quin) Shea, Jr., of Chagrin Falls, OH, died on March 16, 2019. He was the husband of Hedi S. Shea. Born in Providence to Quinlan J. and Angela B. Shea, he was raised in Barrington. Quin graduated high school from La Salle Academy in Providence, received a Bachelor of Laws degree from Boston College in 1959, and graduated second in his class with a Master of Laws from Harvard University in 1960. Quin enlisted in the U.S. Army and was assigned to the Judge Advocate General Corps (JAG). He held numerous leadership positions within the JAG Corps, including Assistant Staff Judge Advocate, VII Corps, in Germany; Staff Judge Advocate, Intelligence Command; Staff Judge Advocate and Assistant Chief of Staff, Intelligence (G-2), Second Infantry Division, in Korea; and Legislative Liaison Officer, Office of the Secretary of the Army, at the Pentagon. Quin was honorably discharged in 1972 with the rank of Major. Quin joined the US Department of Justice (DOJ) as Deputy Chief of the Public Accommodations and Facilities Section of the Civil Rights Division, and later director, Office of Privacy and Information Appeals; director and counsel, Executive Office for United States Trustees; and senior management counsel. He received three Meritorious Service Medals during his time at DOJ, as well as the Attorney General's Award for Outstanding Contributions. Quin retired from Federal Government service in 1986 to lead a private practice that specialized in access to government information. He wrote numerous books and law review and other articles, particularly regarding legal issues underlying the Freedom of Information Act. He was a longtime member of the American Bar Association, the Rhode Island Bar Association, the Society for History in the Federal Government, and the American Society of Access Professionals. He was the father of Quinlan J. III of Olney, MD, wife Robin; Kevin T. of Monterrey, Mexico, wife Bertha; and Christina S. Lordan of Chagrin Falls, husband Tim. He was the grandfather of Christopher, Sean, Brian, Connor and Claire Lordan.

Campus Sexual Misconduct

continued from page 15

the school might make about "tampering with witnesses." If you don't talk to witnesses, there is a good chance that no one else will.

- Keep in mind that if your client loses, his college will expel him and it will not refund the $250,000 or more that he and his parents invested in his education. The next institution of higher learning will want to know why he left his former college and if it requests the record, he is not likely going to be admitted.
- Perhaps the most important force behind your efforts is the simple fact that a young man wrongly accused of sexually assaulting a fellow classmate will never be the same young man he was before the Title IX accusation. Your efforts to exonerate him are all he has to regaining his sense of wholeness. As it stands today, the system in place to protect him from this Title IX assault on his character is far from an "equitable grievance procedure."
- Look at the growing body of case law emerging across the country as a result of challenges to Title IX adjudications and make every effort to influence change on your campus by educating the Title IX authorities and the Office of General Counsel.

At the time of this writing, the Department of Education had promulgated substantial regulation to address the inadequacies and confusion arising out of the 2011 Dear Colleague Letter. On January 31, 2019, the period for public comment on those proposed regulations closed. Those regulations, if approved, will have the force of law.[8]

If enacted, the proposed regulation will require schools to respond meaningfully to all sexual harassment reports. It will empower complainants with greater control over the type of response that will best serve their needs. It will require the school to investigate and apply certain due process standards that are absent from existing guidance. It promotes transparency.

Every survivor is taken seriously and every person accused knows responsibility has not been predetermined.

The proposed regulations require schools to have "actual knowledge" of a violation before it is accountable and it clarifies that a report to the Title IX coordinator constitutes actual knowledge.

The proposal makes clear that geography is not what determines the school's jurisdiction. Conduct that occurs within the school's own program or activity is what determines whether Title IX is implicated.

Perhaps the most important change between the old "Dear Colleague" letter and the proposed regulation is cross-examination. Where the "Dear Colleague" letter discouraged cross-examination, the proposal requires that the school allow it but it makes it clear that only the students' advisors are allowed to confront a witness. It spells out that no personal confrontation by the parties is allowed.

Unlike the present guidance which mandates the lowest standard of proof, the regulation leaves the standard of proof to each school. Each school will be able to decide for itself whether a fair preponderance of the evidence or clear and convincing evidence best suits its community.

Until the process is streamlined, consistent, and mandates

real due process, defending the Title IX complaint will remain a shootout that requires an experienced, dynamic, and determined response. As long as colleges and universities are required to adjudicate the equivalent of a capital felony, attorney advisors must advocate loudly for real due process protections. Otherwise, the accused remains not properly protected, the victim is left to rely on an inadequate system of justice, and the campus is no safer than it would be without Title IX.

ENDNOTES

1 *The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act or Clery Act, 20 U.S.C. § 1092.*

2 *20 U.S.C. § 1681(a).*

3 ***Davis v. Monroe Cty. Bd. Of Educ.,*** *526 U.S. 629 (1999).*

4 *"In non-academic incidents, the hearing panel consists of four students and one faculty selected from the Board trained members." University of Rhode Island Student Handbook.*

5 *"The Hearing body uses a preponderance of evidence standard, understood as "more likely than not" (i.e., 51%) to evaluate alleged violations of the Sexual Misconduct/Gender-Based Misconduct Policy." Roger Williams University Student Handbook.*

6 *"The Advisor's role is limited to providing support and consultation. The Advisor may not speak on behalf of a party nor actively participate in an investigation or proceeding." Providence College Sexual Misconduct/Relationship Violence Policy.*

7 *"A party (i.e., a complainant or respondent) should select as an Advisor a person whose schedule allows attendance at the scheduled date and time of the meeting or proceeding because, normally, delays will not be allowed due to the scheduling conflicts of an Advisor." Providence College Sexual Misconduct/Relationship Violence Policy.*

8 *The Department of Education published a concise summary of the relevant proposed regulations. That Background and Summary can be accessed at https://www2.ed.gov/about/offices/list/ocr/docs/background-summary-proposed-ttle-ix-regulation.pdf. The complete proposed Regulations with a comprehensive history and references to controlling law can be accessed at https://www2.ed.gov/about/offices/list/ocr/docs/title-ix-nprm.pdf.* ◊

Do You Have an Idea for an Article, or a Point/Counterpoint Article?

You have a lot to share, and your colleagues appreciate learning from you. We are always in need of scholarly discourses and articles, and we also encourage point-counterpoint pieces. Or, if you have recently given, or you are planning on developing a Continuing Legal Education seminar, please consider sharing your information through a related article in the *Rhode Island Bar Journal*. While you reached a classroom of attorneys with your CLE seminar, there is also a larger audience among the over 6,500 lawyers, judges and other *Journal* subscribers, many of whom are equally interested in what you have to share. For more information on our article selection criteria, please visit the Bar's website, under News and *Bar Journal*, and click *Bar Journal* Homepage. The Editorial Statement and Selection Criteria is also on page 4 of every issue. Please contact Director of Communications Kathleen Bridge at 401-421-5740 or kbridge@ribar.com if you have any questions.

Caption This! Contest

We will post a cartoon in each issue of the *Rhode Island Bar Journal*, and you, the reader, can create the punchline.

How It Works: Readers are asked to consider what's happening in the cartoon above and submit clever, original captions. Editorial Board staff will review entries, and will post their top choices in the following issue of the *Journal*, along with a new cartoon to be captioned.

How to Enter: Submit the caption you think best fits the scene depicted in the cartoon above by sending an email to kbridge@ribar.com with "Caption Contest for May/June" in the subject line.

Deadline for entry: Contest entries must be submitted by June 1st, 2019.

By submitting a caption for consideration in the contest, the author grants the Rhode Island Bar Association the non-exclusive and perpetual right to license the caption to others and to publish the caption in its Journal, whether print or digital.

Winning caption for March/April

"Gentlemen, I don't believe this is what the judge had in mind when she ordered 'damages to the Defendant.'"

LEE A. GREENWOOD, ESQ.

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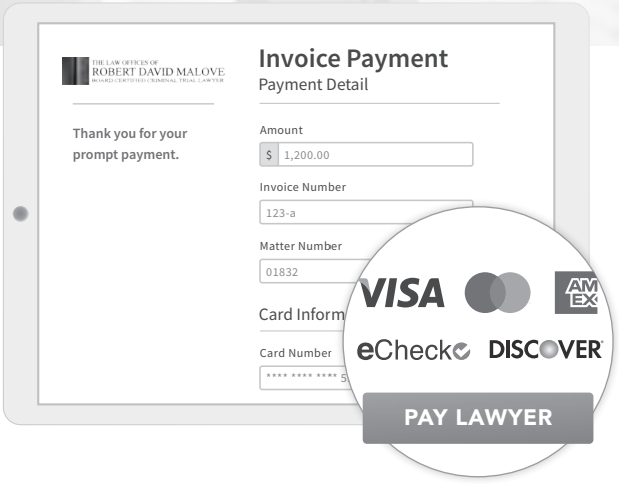

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Often referred to as the most important meal of the day, eating breakfast can have a noticeable impact on your performance throughout your day. Because breakfast helps to restore and boost glucose, eating in the morning can contribute to better memory and concentration levels, as well as improve your mood and lower your stress levels.

Make a Good First Impression

First impressions can be nearly impossible to reverse or undo, and they often set the tone for the relationship that follows. After only 5 seconds, many people have already created an impression of you because of the way you dress and your body language. How can this disadvantage be overcome? Be aware that the "impression time window" is short. Use a sincere smile, give direct eye contact, be a patient listener, and watch the handshakes!

Don't Break the Chain

The concept called "don't break the chain" is a motivational construct that can help you reach a goal that can easily fall prey to procrastination. The idea is, you should spend time working on your goal at least once a day. Once the task is complete you mark an "X" through that day on the calendar. The more X's we see on the calendar, the more motivated we feel. Whether it's spending three minutes or a full day working on your goal, don't break the chain.

Working from Home: Get Dressed First

It's important to establish healthy work habits when working from home. Keep a routine that starts with getting dressed and doing most of what you would normally do if you were heading out the door to work. Getting dressed and presenting your best self, even if alone, can help you feel engaged and energized and increase your productivity.

Make Your Workspace Healthier with Plants

Working in the office can be tough, especially when it's beautiful outside and you'd rather be enjoying the outdoors. When you can't be outside, bring some of the outdoors in. Plants can help freshen up your work area, improve air quality, reduce stress, and can have positive psychological benefits as well.

Could You Be Depressed and Not Know It?

Depression can take hold gradually, without a person realizing that depressive thoughts and feelings are increasingly dominating their life. But no matter how hopeless you feel, you can get better. *If you think you need help, visit our website ribar.com to learn how RI Bar Association members can receive confidential assistance through the Lawyers Helping Lawyers Committee and Coastline EAP.*