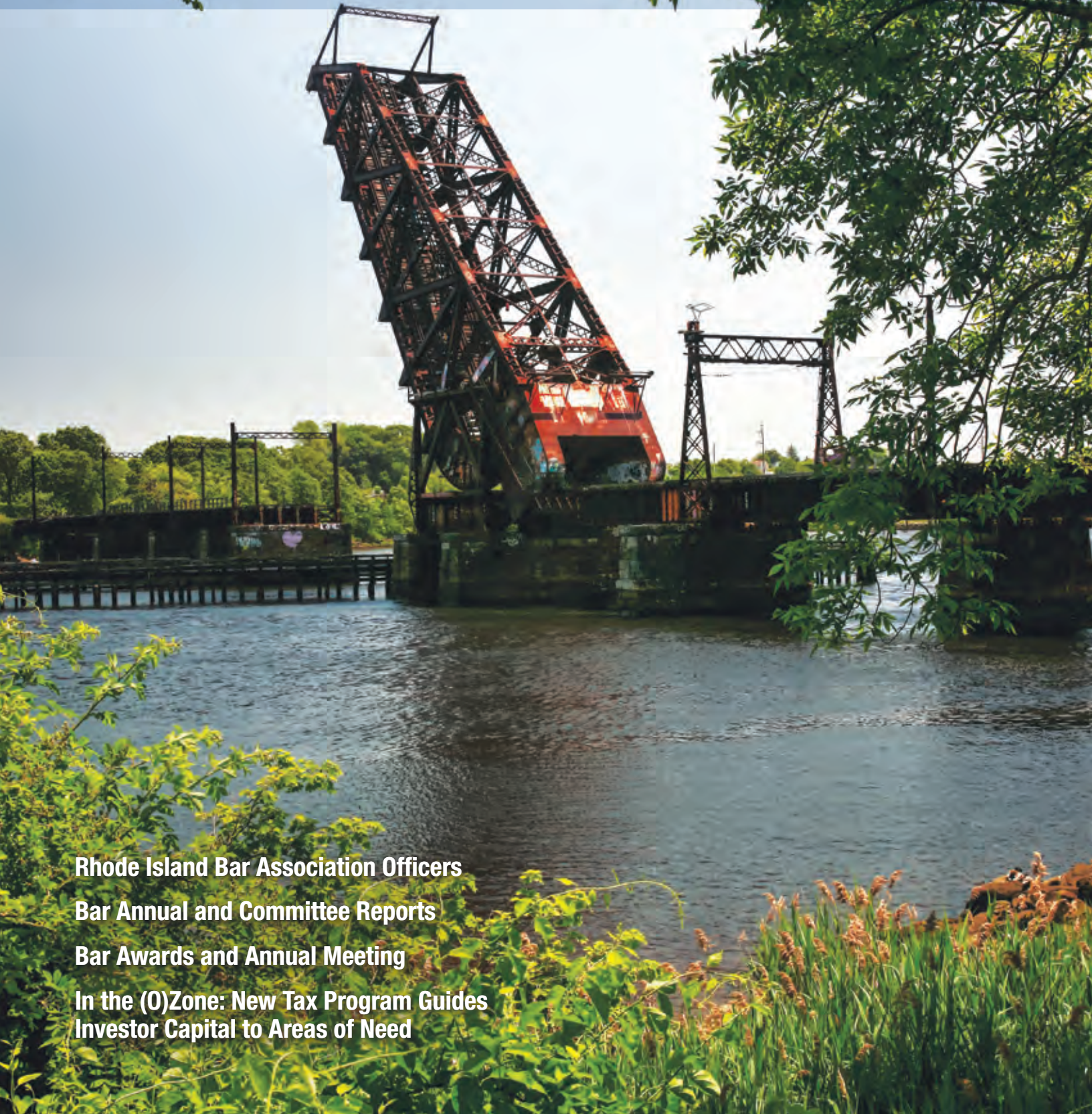


# Rhode Island Bar Journal

Rhode Island Bar Association Volume 68, Number 1, July/August 2019



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**Bar Annual and Committee Reports**

**Bar Awards and Annual Meeting**

**In the (O)Zone: New Tax Program Guides  
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**Crook Point Bascule Bridge, Providence, RI** The Crook Point Bascule Bridge spans the Seekonk River, connecting the city of Providence to the city of East Providence. It was built in 1908 as part of the East Side Railroad Tunnel project, providing a direct connection to the old Union Station on the New York, New Haven, and Hartford Railroad line.



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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 Heart of the Profession



David N. Bazar, Esq.  
President  
Rhode Island Bar Association

**May we set an example for others that society is best served by people listening to each other, and being compassionate and thoughtful.**

Why are bar associations critical to society? The messages of the presidents who precede me echo many of the thoughts running through my mind about our future. Among them: the importance of the Bar Association and the honor of being a lawyer. I want to take the opportunity in this first message to address the second topic.

Mark Mandell wrote, “To me, the practice of law is a sacred trust. Representing people who are hurt, powerless, and in need reposes in each of us very significant responsibilities. By trusting us to represent them, our clients have presented us with the highest of compliments – and the greatest of duties. Practiced wisely and fairly, we as lawyers are given the privilege of experiencing the powerful feelings of pride in one’s life work and the satisfaction which occurs in the presence of Justice – win or lose.” He’s right. Each client and every case we handle is important. However, even more significant than the individual cases we handle is the fact that we help to maintain the integrity of our legal system and the rule of law.

I recently heard a fable that former Attorney General Robert Jackson told to emphasize the role of lawyers in preserving liberty. It is about three stonemasons asked to describe their work. The first stonemason focuses on how the job benefits him. He says, “I am earning a living.” The second narrowly describes his personal role: “I am cutting stone.” The third man exhibits a different perspective. His face lights up as he explains what the work means to others: “I am helping to build a cathedral.” As lawyers, we help to preserve the foundation on which our society is built.

The law is the barrier that stands between democracy and anarchy. Faith in our laws and our courts is the basis for commercial transactions, keeping people free from governmental interference and providing an avenue to resolve differences through a peaceful, logical process.

John W. Davis, in an address to the Association of the Bar of the City of New York in 1946, said, “True, we build no bridges. We raise no towers. We construct no engines. We paint no pictures – unless as amateurs for our own amusement. There is little of all we do which the eye of man can see.

But we smooth out difficulties; we relieve stress; we correct mistakes; we take up other [folk’s] burdens and by our efforts we make possible the peaceful life of [individuals] in a peaceful state.”

As lawyers, we are often too involved in the process to see the effect of what we do as a whole. In 2017 my family suffered a near tragedy. The case resulted in a trial in New York this past winter. In some ways, it was like being in an episode of *Law and Order*. The state was represented by two very able and dedicated assistant district attorneys. The defendant was represented by a court-appointed attorney. It was very difficult for my family, at times, to view this drama play out, but I was able to get through the ordeal by trying to watch the process in a dispassionate manner and observing everyone in their different roles. Everyone from the judge to the court personnel played an important role in this drama. In the end, this case validated all of the important aspects of lawyers serving justice and why we do what we do.

In playing our role in this process, we should always do so with civility. As lawyers, it is our ethical duty to zealously represent our clients, however, this does not require us to act without graciousness. Rhode Island is a small state; acting with courtesy to our clients, other lawyers and the judiciary is not only the right thing to do, it is a requirement. May we set an example for others that society is best served by people listening to each other, and being compassionate and thoughtful.

In Lauren Jones’ first President’s Message, he wrote that many presidents use the first message to outline their goals for the year. He went on to say that he hoped it would be a quiet year and that the Bar Association was well run and in a good place. “If it ain’t broke, don’t fix it.” I couldn’t agree more. Lauren went on to state that he had no particular agenda but rather one simple goal: “to continue the positive and effective efforts of those who have preceded me, and to leave the Association in as good or better shape than when I came in.” I urge all of our members to consider taking an active role in this endeavor. While we as lawyers, individually help construct the “cathedral” of justice, our work is most effectively done collectively through the Bar Association. ♦

## Retired Chief Justice Presents Seminar on How to Win at Mediation



l to r: Hon. Frank J. Williams (ret.), and William A. Poore, Esq.

The May 21 seminar, *How to 'Win' at Mediation*, addressed techniques and strategies critical to a successful mediation as well as practices which should be avoided. Presenters Hon. Frank J. Williams and Attorney William A. Poore discussed how mediation offers the ability to effectively resolve disputes in an expeditious fashion, without the costs associated with trial, the retention of experts and related, but substantial, court fees. They discussed current mediation practices and strategies and offered insights on issues relevant to a successful mediation, including the initiation of the mediation, as well as preparation and participation in the mediation process. This CLE program is now available on-demand for purchase and viewing on the Continuing Legal Education section of the Bar's website at [ribar.com](http://ribar.com).

## Generate Business

With the Bar's **Lawyer Referral Service!**



Attorney **Ryan Kelley**, a member of the Lawyer Referral Service, enthusiastically supports the program. *"I have made recoveries for three clients this year referred to me by LRS, after having been rejected by other firms. The recoveries were substantial and very much appreciated by my clients and my firm. I am expecting another fairly sizable recovery for an out-of-state gentleman who did not know where to turn to for a good recommendation. I cannot be more thankful. Especially given the minimal cost up front for membership, the reasonable referral percentage, and the ease of communication (mostly done via email)."*

Membership in the Rhode Island Bar Association's Lawyer Referral Service (LRS) is an excellent and inexpensive way to increase your client base and visibility within the community while expanding public access to legal representation. Optional special LRS projects include: **Ask A Lawyer** providing live, television studio lawyer panels in partnership with Channel 10; **Senior Citizen Center Clinics** throughout the year and the state; **Reduced Fee Program** offered to qualifying clients; and the **Arts Panel** for local artists' legal needs all offer unique opportunities for increasing your business while you provide an important public service to your community.

**Applications and more detailed program information and qualifications may be found on our website [ribar.com](http://ribar.com) in the Members Only section. You may also request information by contacting Public Services Director Susan Fontaine at 401-421-7799 or email [sfontaine@ribar.com](mailto:sfontaine@ribar.com).**

### 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:  
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# New Rhode Island Bar Association President and 2019-2020 Executive Officers

## New Rhode Island Bar Association President

Past Rhode Island Bar Association President Carolyn R. Barone passed the Bar's gavel to new Bar President David N. Bazar who thanked Carolyn for her inspiring leadership and pledged to uphold and further the Bar Association's core mission and goals.



## Rhode Island Bar Association 2019-2020 Executive Officers

The Rhode Island Bar Association Executive Officers were enthusiastically and unanimously endorsed at the 2019 Annual Meeting.

[l to r] David N. Bazar, Esq., President, senior partner of Bazar & Associates; Richard P. D'Addario, Esq., President-Elect, principal, The Law Offices of Richard P. D'Addario; Lynda L. Laing, Esq., Treasurer, partner, Strauss, Factor, Laing & Lyons; and Mark B. Morse, Esq., Secretary, principal, Law Office of Mark B. Morse.



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## Rhode Island Bar Association 2019-2020 Officers' Profiles



**David N. Bazar, Esq.** is President of the Rhode Island Bar Association. He is the senior partner of Bazar & Associates in East Providence. David is a graduate of the Providence Country Day School and Trinity College. He is a member of the Rhode Island Bar Association Executive Committee and the House of Delegates, and he is a Fellow of the Rhode Island Bar Foundation. He served as Editor In Chief of the *Rhode Island Bar Journal* and on several standing Bar committees. David actively participates in the Bar's Volunteer Lawyer Program, Lawyers for the Elderly, and the U.S. Armed Forces Legal Services Project. He is the recipient of the Rhode Island Bar Association's 1987 *Pro Bono Publico Award* and the Bar's 1998 Continuing Service Award. David and his wife, Susan, reside in East Greenwich, Rhode Island.

**Richard P. D'Addario, Esq.** is President-Elect of the Rhode Island Bar Association. He is a solo practitioner with an office at One Courthouse Square in Newport, presently concentrating in real estate, probate and related litigation. After graduating from Boston College and New York University Law School, he came to Rhode Island as a Vista Volunteer at Rhode Island Legal Services where he worked for five years before going into private practice. He is admitted in both Rhode Island and New York, the United States District Court of Rhode Island and the U.S. Supreme Court. Richard has been a long-standing member of the House of Delegates and the Executive Committee and he chaired the Annual Meeting Planning Committee in 2015. He has been the Probate Judge in the Town of Tiverton since 1993 and in Little Compton since 2014. He is also serving as the Municipal Court Judge in Portsmouth which was founded in 2014. Richard is a member of the

Supreme Court Unauthorized Practice of Law Committee, which he chaired for over ten years. He has an active law practice in Newport, has served on the boards of numerous non-profit organizations, and is a Fellow of the Rhode Island Bar Foundation. Richard has been a participant in the Bar Association's Volunteer Lawyer Panel for many years.

**Lynda L. Laing, Esq.** is Treasurer of the Rhode Island Bar Association. She is a partner at Strauss, Factor, Laing & Lyons concentrating her practice in creditors' rights. Lynda graduated from Albion College and earned her law degree from Case Western Reserve University. She has been nominated as a "Super Lawyer." Lynda has taught numerous seminars for the Rhode Island Bar Association and other national groups. She was Chairperson of the District Court Bench/Bar Committee, the Annual Meeting Planning Committee, and the Committee on Limited Scope Representation. Lynda is married to Thomas Lyons, Rhode Island Bar Association President 2007-2008, and has two daughters.

**Mark B. Morse, Esq.** is Secretary of the Rhode Island Bar Association. He graduated from the University of Rhode Island and the New England School of Law where he served as research editor of the *New England Law Review*. Mark lectures on a variety of legal issues, including ERISA litigation, evidence, subrogation liens, expert testimony, civil trial practice, the Rhode Island Rules of Civil Procedure, and Rhode Island domestic law. He has volunteered as a judge to the regional law school mock trial competition, and acted as chief judge for the regional competition on multiple occasions. Mark served as Editor In Chief of the *Rhode*



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*Island Bar Journal*. He is a member of the Animal Law Committee, the Family Court Bench Bar Committee, the Superior Court Bench Bar Committee, and past chair of the Superior Court Bench Bar Committee and Annual Meeting Planning Committee. He also chaired the Subcommittee to Review and Revise the Rhode Island Civil Rules of Procedure enacted June 15, 2006. He is a fellow of the Rhode Island Bar Foundation. He is past president of the RI Association for Justice and presently serves on its Board of Governors. He has been nominated through peer recognition as a "Super Lawyer" by Thomson Reuters for twelve consecutive years in the state of Rhode Island. Mark was chosen by the Massachusetts Continuing Legal Education Commission to be co-editor of the Discovery and Depositions Rhode Island Practice Volume published in September 2010. The publication was honored with an ACLEA's Best Award from the Association for Continuing Legal Education (ACLEA) for outstanding achievement in the category of Best Publication. He is legal counsel to Defenders of Animals, the Friends of the Music Mansion, and The Feinstein Foundation. In 2011, Mark was awarded the Dorothy Lohmann Public Service Award for his work with Defenders of Animals. Mark is married with three children. ♦



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# In the (O)Zone: New Tax Program Guides Investor Capital to Areas of Need



Matthew R. Joyce, Esq.  
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Included in the landmark overhaul of the Internal Revenue Code, passed in December 2017 as the Tax Cuts and Jobs Act (“TCJA”), is a new tax incentive program intended to guide investor capital to economically disadvantaged communities called “Opportunity Zones.” This new “Opportunity Zone” program offers investors significant tax benefits including temporary income tax deferrals and permanent exclusions.<sup>1</sup> Like many prior tax incentive programs, Opportunity Zones are a limited time offer. The program’s legislation sunsets on December 31, 2028, meaning new investments cannot be made after this date, and only ‘early adopters’ investing on or before December 31, 2019 will qualify for all of the program’s tax benefits. The Opportunity Zone program is particularly compelling for Rhode Island as Opportunity Zones exist across the state. This article will examine the tax benefits associated with the Opportunity Zone program and explore how investors stand to benefit from this Congressional carrot.

## I. Identification and Location of Opportunity Zones

Opportunity Zones are low-income communities comprising “qualifying census tracts.” One sponsor of the Opportunity Zone legislation described these qualifying census tracts as “communities where millions of Americans face the crisis of closing business, lack of access to capital, and declining entrepreneurship.”<sup>2</sup> Unlike many prior tax incentive programs, the Opportunity Zone program is based on the self-directed investment of private capital with limited government oversight. Following the enactment of the Opportunity Zone program, the governors of each state were allowed to designate up to 25% of the low-income communities in their respective states as Opportunity Zones.<sup>3</sup>

As of the date of this article, all Opportunity Zones have been designated throughout each of the 50 states, the District of Columbia, Puerto Rico and certain United States possessions. Barring new legislation that expands Opportunity Zone areas, the designations will not change. Investors can readily determine if a specific address is located within an Opportunity Zone by using the Treasury

Department’s Community Development Financial Institutions Fund mapping tool available online at [cdfifund.gov](http://cdfifund.gov).<sup>4</sup> From a local perspective, Opportunity Zones are located throughout Rhode Island. Designated communities in Rhode Island include parts of Providence, Pawtucket, Woonsocket, Warwick, Narragansett, and Newport. In nearby Massachusetts, Opportunity Zones have been designated in areas of Fall River and New Bedford.

## II. Investor Tax Benefits

The core of the Opportunity Zone program is built on two unique tax benefits.<sup>5</sup> Each of the two tax benefits function through the adjustment of the investor’s basis in his or her Opportunity Zone investment (i.e., the Opportunity Zone program is neither a tax credit nor a deduction).<sup>6</sup> The first tax benefit provides current, albeit temporary, relief from federal income tax. This temporary deferral is subject to a sliding scale, discussed below, pursuant to which investors maintaining Opportunity Zone investments for five or seven years can convert part of the temporary deferral into a permanent exclusion of 10-15% of the deferred gain. The second benefit permanently excludes gain incurred on the sale or disposition of an Opportunity Zone investment by stepping up the investor’s basis in the Opportunity Zone investment to its fair market value on the date of sale.

### A. Current Relief: Deferral of Tax and Reinvestment of Qualified Gains

Participation in the Opportunity Zone program begins with realizing capital gain from the sale or exchange of property with an unrelated taxpayer.<sup>7</sup> The statutory definition is broad. Any capital gain from the sale or disposition of property taxed as a capital gain under the Internal Revenue Code is eligible for deferral through the program.<sup>8</sup> Upon the realization of an eligible capital gain, an investor can elect to exclude from gross income, for the taxable year in which the gain is realized, so much of the gain as the investor elects to reinvest into a ‘qualified opportunity zone fund’ (an “Opportunity Fund”) within 180-days from the date the gain was realized.<sup>9</sup> By making a timely investment of the capital gain into an Opportunity Fund, federal income tax on the capital gain is deferred until the

**Opportunity Funds can, in turn, invest in a diverse array of assets without running afoul of the program’s rules; however, the program is best-suited for certain long term investments such as real estate.**

## What's A Business Worth?



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earlier of the date when the investor's interest in the Opportunity Fund is sold, or December 31, 2026.<sup>10</sup>

To incentivize investors to make long-term investments in Opportunity Funds, the deferred gain recognized is reduced over time. The amount of deferred gain ultimately recognized is reduced by 10% if the Opportunity Fund investment is owned for at least five years and by an additional 5% (15% total) if the Opportunity Fund investment is owned for seven years. Given the December 31, 2026 deferred gain recognition date, investors will need to make Opportunity Fund investments by December 31, 2019 in order to satisfy the seven-year holding period requirement. The operation of the temporary deferral benefit is illustrated below:

*Example:* John sells a rental condo in East Greenwich for \$500,000 on January 1, 2019. At the time of sale, John's adjusted basis in the condo was \$200,000. On February 1, 2019, John reinvests his \$300,000 gain into an Opportunity Fund. John holds his Opportunity Fund investment for ten years. When John files his 2026 federal income tax return, John recognizes his deferred capital gain from the condo sale – which, after claiming his fifteen percent (15%) basis step up is \$255,000 calculated as follows:

Reinvested Gain (2019):	\$300,000
Income Tax Paid (2019):	\$0
Five Year Basis Step-Up (2024):	\$30,000
Seven Year Basis Step-Up (2026):	\$15,000
Total Basis Step-Up:	\$45,000
Gain Recognized (2026):	\$255,000

Unlike other tax deferral provisions of the Internal Revenue Code, there are no tracing requirements or debt replacement rules to complicate the Opportunity Zone program. John could have taken the \$500,000 received when his East Greenwich condo sold and spent the money on a fabulous vacation, only to later withdraw \$300,000 from his savings account to make his Opportunity Fund investment.

### B. Future Tax Benefit: Exclusion from Income

Taxpayers holding Opportunity Fund investments for at least ten years qualify for a second and potentially more valuable tax benefit, an exclusion from income for appreciation of the Opportunity Fund investment. The exclusion operates as a step up in basis of the investor's Opportunity Fund interest to its fair market value on the date of disposition. The value of this tax benefit is uncapped. Continuing the example above, in late 2029, John sells his interest in the Opportunity Fund. Due to fortuitous decision making, the Opportunity Fund had invested in a Providence-based social media startup located in an Opportunity Zone. John's initial \$300,000 investment has ballooned to \$10,000,000. *John's entire \$9,700,000 gain (\$10,000,000 - \$300,000) is excluded from income when John calculates his 2029 federal income tax.* This crown jewel of the Opportunity Zone program will benefit those investors who are able to hold their Opportunity Zone investments for ten years.

### III. Structuring Investments in Opportunity Funds.

Eligibility to participate in the Opportunity Zone program begins with realizing a capital gain. Eligible taxpayers include



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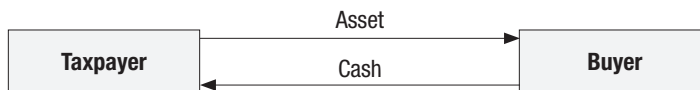
individuals, corporations, partnerships, trusts, estates and most other domestic taxpayers.<sup>11</sup> In the case of individuals and C-corporations, the identity of the taxpayer realizing the gain eligible for investment in an Opportunity Fund is straightforward. Where partnerships and S-corporations are involved, the question of which taxpayer recognizes an eligible gain is muddled by the pass-through nature of these entities (i.e., must the entity or its owners reinvest the gain in an Opportunity Fund).

The Treasury Department has taken a taxpayer favorable position as to capital gains realized by pass-through entities. Either the pass-through entity (the partnership or S-corporation) or its owners allocated capital gain can reinvest the gain into an Opportunity Fund. The pass-through entity recognizing the gain has the “first chance” to make an entity-level reinvestment of the gain. If the pass-through entity does not reinvest the gain and instead allocates the gain to its owners, the owners are each eligible to reinvest their share of the allocated gain.<sup>12</sup> This favorable pass-through rule creates an enticing planning opportunity.

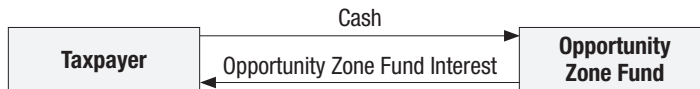
While the pass-through entity’s 180-day reinvestment period begins on the date the entity realizes the capital gain, if the entity fails to timely reinvest its gain, the gain can be allocated to its owners on their Schedule K-1s for that year. By allocating eligible gain in this manner, the owners have 180-days from the end of the tax year to reinvest their allocated share of the original gain.<sup>13</sup> This means a partnership could realize a capital gain on January 1, 2019 and its partners could invest their allocable share of the gain into an Opportunity Fund within 180-days after December 31, 2019.<sup>14</sup>

Gain must be reinvested in an Opportunity Fund within 180-days from and including the date of sale. Taxpayers investing in an Opportunity Fund must file a gain deferral election with the IRS for the tax year in which the gain was realized. Following the Opportunity Fund’s receipt of investor capital, the Opportunity Fund must, in turn, invest in “Qualifying Opportunity Zone Property” (discussed below). The flow of Opportunity Fund investments is illustrated at right.

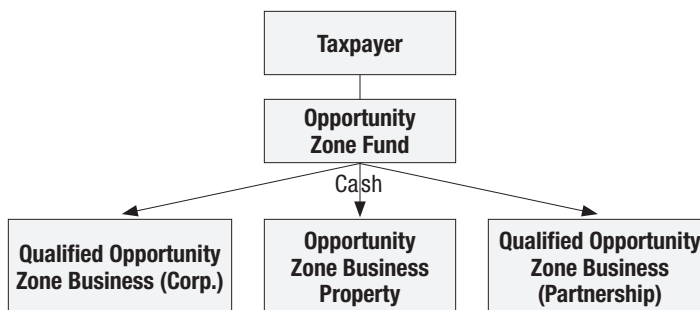
**Step 1:** Taxpayer sells asset and realizes capital gain.



**Step 2:** Taxpayer contributes cash up to the amount of the capital gain to the Opportunity Zone Fund within 180-days after (including the date of sale) realizing the gain in exchange for an interest in the Opportunity Zone Fund.



**Step 3:** The Opportunity Zone Fund invests the cash directly in the acquisition of Opportunity Zone Business Property or indirectly through the acquisition of equity interests (partnership interests or stock) in one or more Qualified Opportunity Zone Businesses.



#### IV. The Opportunity Fund

##### A. Structuring the Opportunity Fund

The Opportunity Zone legislation is flexible as to how Opportunity Funds are structured. Opportunity Funds can, in turn, invest in a diverse array of assets without running afoul of the program’s rules; however, the program is best-suited for certain long-term investments such as real estate. To qualify as an Opportunity Fund, the fund must be organized as either a domestic corporation or partnership. The Proposed Regulations clarify that only the entity’s federal tax classification matters when

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determining Opportunity Fund eligibility.<sup>15</sup> The Opportunity Fund must next file a self-certification with the IRS with its tax return for the year in which Opportunity Fund status is originally claimed, and certify each year thereafter that 90 percent of its assets (calculated as the average of two semi-annual testing dates discussed below) comprise “Qualified Opportunity Zone Property.”<sup>16</sup> Compliance with the investment standard imposed by the semi-annual testing dates is critical as Opportunity Funds are subject to penalties for failure to comply. The investment standard and penalties are discussed below. For this reason, operating an Opportunity Fund is extremely complex.

The permissive Opportunity Zone rules incentivize taxpayers to create their own Opportunity Funds. While 2018 and 2019 have seen a flurry of activity in the private equity world as firms rush to establish publicly offered Opportunity Funds, the Opportunity Zone legislation does not require taxpayers to invest in syndicated transactions. Taxpayers who are not interested in co-investing with others may simply create their own Opportunity Fund. The option to create an individual Opportunity Fund provides another compelling selling point of the program. Investors used to maintaining sole control over their investment activities need not cede control to others to obtain Opportunity Zone tax benefits. On the other hand, syndicated Opportunity Funds may be better suited for investors with limited gains to reinvest or with limited experience in managing real estate and entrepreneurial ventures.

Structuring an Opportunity Fund is conceptually simple, but the operational details are complicated by statutory requirements. Compliance is important as failing to comply can lead to disqualification of the Opportunity Fund and loss of tax benefits as well as the application of a potential penalty. Operating the Opportunity Fund requires understanding the permitted investment rules pertaining to Qualified Opportunity Zone Property (“QOZP”).

## B. Qualified Opportunity Zone Property

Opportunity Funds must invest in QOZP. QOZP is comprised of two types of property: (1) Qualified Opportunity Zone Stock and Partnership Interests (“QOZBI”), and (2) Qualified Opportunity Zone Business Property (“QOZBP”).<sup>17</sup> QOZBI must be acquired by the Opportunity Fund through an original issuance (e.g., the stock or partnership interest must be issued to the Opportunity Fund directly by the corporation or partnership and not purchased at resale).<sup>18</sup> QOZBP is tangible property (a) acquired by purchase from an unrelated person after December 31, 2017, (b) the original use of which in the Opportunity Zone commences with the Qualified Opportunity Zone Business (a “QOZB”), and (c) during substantially all of the QOZB’s holding period, substantially all of the use of the property occurs in the Opportunity Zone.<sup>19</sup> A QOZB is a trade or business in which substantially all (70%) of the tangible property owned or leased by the business is QOZBP.<sup>20</sup>

Opportunity Funds can invest directly or indirectly. In the case of a direct investment, the Opportunity Fund is a QOZB (i.e., the Opportunity Fund is an operating business). In the case of an indirect investment, the Opportunity Fund invests in one or more QOZBs through the acquisition of QOZBI (the Opportunity Fund is a passive investor in an operating business).

Real estate is an ideal Opportunity Fund investment. Real estate qualifies as QOZBP when it is substantially improved



through construction, renovation or rehabilitation. Land can even be purchased and a building constructed. This means that the purchase of a stabilized apartment building will not satisfy the QOZBP definition, but the acquisition and renovation of a distressed building would qualify as an Opportunity Fund investment.

### C. The 90% Test

To qualify as an Opportunity Fund, at least 90% of the entity's assets must comprise QOZP – as measured by the average of two testing dates *each year*.<sup>21</sup> The two testing dates occur on the last day of the first six-month period of the Opportunity Fund's tax year and on the last day of the Opportunity Fund's tax year. If the average of these two testing dates fails to satisfy the 90 percent threshold, a penalty is imposed. Special rules apply for Opportunity Funds formed or selecting a mid-year self-certification date. The mid-year testing date is subject to change depending on the Opportunity Fund's formation or self-certification date. The end-of-year testing date does not change. The December 31 measuring date applies irrespective of when an Opportunity Fund is formed or self-certifies, meaning it would be a risky proposition to form an Opportunity Fund late in a year without a clear plan to satisfy the 90 percent test.

The penalty imposed for failure to satisfy the 90 percent test applies "for each month" that an Opportunity Fund fails to meet the minimum investment threshold. The penalty is calculated as (i) the excess of 90 percent of the Opportunity Fund's assets over the total value of the Opportunity Fund's eligible assets, multiplied by (ii) the current underpayment rate established under I.R.C. § 6621(a)(2) as of such date. The goal of the penalty calculation is to determine and penalize only the amount by which an Opportunity Fund falls short of the 90 percent threshold.

### V. Conclusion

The goal of the Opportunity Zone program is noble. Encouraging investment of private capital to reinvigorate distressed, low-income communities should bring welcome change to blighted neighborhoods. The flexible rules governing the program and generous tax benefits are sure to entice investor capital to flow into Opportunity Funds, largely prior to December 31, 2019, to seek the full slate of available tax benefits. Rhode Island, in particular, stands to benefit from the legislation as Opportunity Zones have been designated across the state. Throughout the remainder of 2019, in particular, practitioners should be mindful when counseling clients incurring substantial capital gains. The Opportunity Zone program presents compelling tax saving opportunities but, like many tax benefits, the rules to qualify are complex and require competent counsel. Nonetheless, the broad applicability of the program combined with the flexibility for investors to create their own Opportunity Funds warrants serious consideration for investors planning projects in a designated Opportunity Zone.

#### ENDNOTES

<sup>1</sup> *The Opportunity Zone program is enacted as new I.R.C. Sec. 1400Z-1 which creates a procedure to designate geographic areas as "Opportunity Zones" and new I.R.C. Sec. 1400Z-2 which sets out the tax benefits associated with Opportunity Zone investments.*

<sup>2</sup> *Senator Scott, Tim (R-SC). Press Release, February 2, 2017. (<https://www.scott.senate.gov/media-center/press-releases/senator-scott-introduces-the-bipartisan-investing-in-opportunity-act>).*

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3 I.R.C. Sec. 1400Z-1(b)(1). For purposes of the Opportunity Zone program, “low income communities” means low income communities as designated under I.R.C. Sec. 45D(e).

4 The CDFI Fund mapping tool is a good place to start, but the automated tool is not a substitute for confirming that a specific property is located in an Opportunity Zone or performing a site visit.

5 I.R.C. Sec. 1400Z-2.

6 Basis is a basic element in the computation of gain or loss for federal income tax purposes. Basis is a mathematical expression of the taxpayer’s investment in property for tax purposes.

7 For purposes of the Opportunity Zone legislation persons are related to each other if they bear a relationship described in I.R.C. Secs. 267(b) or 707(b)(1), determined by substituting 20% for 50% each place it occurs in such sections. This means that in any sale or exchange – there may be a related party issue for Opportunity Zone purposes if there is ownership cross-pollination between the investor-seller and buyer in excess of 20% of equity ownership.

8 Characterization as short or long term capital gain is irrelevant except for I.R.C. Sec. 1231 gains. Only I.R.C. Sec. 1231 gains taxed as long term capital gain are eligible for deferral. Proposed Regulation Sec. 1.1400Z-2(a)-1(b)(2).

9 I.R.C. Sec. 1400Z-2(a)(1)(A). The 180-day period begins on, and includes, the date capital gain is realized.

10 I.R.C. Sec. 1400Z-2(a)(1)(B).

11 Proposed Regulation Sec. 1.1400Z-2(a)-1(c)(2)(iii).

12 Proposed Regulation Sec. 1.1400Z-2(a)-1(c).

13 Proposed Regulation Sec. 1.1400Z-2(a)-1(b)(3). Owners of pass-through entities may, but need not, wait until the last day of the pass-through entity’s

taxable year for gain to be allocated on Schedule K-1. Owners of pass-through entities can elect to cause an early pushout of their allocable share of the capital gain when it is determined that the pass-through entity will not reinvest the capital gain into an Opportunity Fund at the entity level. When an early pushout occurs, the owners of the pass-through entity must reinvest their allocable share of gain within 180 days after the pass-through entity realized the capital gain.

14 The 180-day period begins on and includes December 31, 2019 as if the taxpayer sold an asset individually to realize a capital gain.

15 Proposed Regulation Sec. 1.1400Z-2(d)-1(a)(1).

16 The self-certification election is made by filing Form 8996 attached to the tax return of the self-certifying entity for the tax year in which the election is intended to take effect. The Proposed Regulations allow an Opportunity Fund both to identify the taxable year in which the entity becomes an Opportunity Fund and to choose the first month in the year in which the entity elects to be treated as an Opportunity Fund. If an eligible entity fails to choose a month, then the first month of the selected tax year is selected by Treasury for the Opportunity Fund.

17 I.R.C. Sec. 1400Z-2(d) and Proposed Regulation Sec. 1.1400Z-2(d)-1(c)(1). QOZBI includes equity interests acquired by an Opportunity Fund in either a corporation or a partnership in exchange for capital contributions of cash or property.

18 As to stock, the original issuance requirement is contained in I.R.C. Sec. 1400Z-2(d)(2)(B)(i). As to partnership interests, the original issuance requirement is contained in Proposed Regulation Sec. 1.1400Z-2(d)-1(c)(3)(i).

19 “Original use” means property that is newly-acquired and placed in service by the QOZB or substantially improved by the QOZB. Property is treated as “substantially improved” if, during any 30-month period after acquisition, the QOZB makes capital expenditures with respect to the property equal to or in excess of the property’s acquisition cost.

20 For the most part, any business located in an Opportunity Zone can qualify as a QOZB, however, there are some exceptions generally referred to as “sin” businesses. For purposes of the Opportunity Zone legislation, “sin” businesses include private or commercial golf courses, country clubs, massage parlors, hot tub facilities, suntan facilities, racetracks or other gambling facilities, and liquor stores.

21 The Proposed Regulations permit QOZBs to establish working capital reserves – meaning that funds can be held without running afoul of the 90% qualifying assets test – provided that (i) the amount of working capital so held is reasonable, (ii) the intended uses of the working capital are designated in writing, (iii) there is a reasonable written schedule providing for the deployment of the working capital, and (iv) the working capital is used in a manner consistent with these written plans. Provided these requirements are complied with, the Proposed Regulations authorize working capital to be held and invested over a period of up to 31 months. ◇

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## CLE Program Reviews Social Media Considerations



l to r: Eric B. DiMario, Esq., and David D. Curtin, Esq.

The May 14 seminar, *Ethical Considerations When Communicating with Clients and Using Social Media*, reviewed the correct and ethical way to contact clients. The speakers discussed the various avenues attorneys can communicate with clients and the public, when the attorney/client relationship begins, how to manage client expectations with effective communication, tips on how to deliver unfavorable news to your client, what to watch out for when communicating with the public via social media, the applicable ethical rules and how to avoid violating them, and what to do if a complaint has been made against you. This CLE program is now available on-demand for purchase and viewing on the Continuing Legal Education section of the Bar’s website at [ribar.com](http://ribar.com).



# Lunch with Legends: Trailblazers, Trendsetters and Treasures of the Rhode Island Bar



Stephen Adams, Esq.  
Barton Gilman LLP, Providence



Jenna Pingitore, Esq.  
Barton Gilman LLP, Providence

Bill Poore grew up in Maryland, outside of Washington, D.C. He moved to Rhode Island in 1966 to attend Providence College. After graduating from PC, Bill attended Suffolk University Law School. He was admitted to the bar in 1973. He was then commissioned as a Captain in the JAG Corp, where he spent four years prosecuting and defending under the Uniform Code of Military Justice. His initial work for the JAG Corp was instrumental in preparing him for a busy trial practice that he began when he returned to Rhode Island after his military service. He's been here ever since, trying cases and serving as one of the state's top mediators.

We had the opportunity to speak with this veteran trial lawyer. Excerpts from our conversation follow.

## *What made you decide to be a lawyer?*

It was just serendipity. I enrolled in ROTC at Providence College after I received a year's credit due to my parents sending me to a military high school. I was assigned in my junior year to the branch called Air Defense Artillery, which was a good branch. It had a school located in Arizona. There was very little likelihood that you would have to go to Vietnam, because there were no planes to shoot down. After the Tet Offensive, which I think was in my junior or senior year, they lost a lot of second lieutenants. They changed my branch from Air Defense Artillery to just regular artillery, which was a very, very difficult position to have and very dangerous. You were usually a forward observer. And so I thought that I needed to look at some ways, maybe, to further my education. I went to law school for three years, and when I got out of law school, I was already a commissioned captain with two or three years' service. So it worked out great. But I wasn't planning on doing that.

## *Who were your mentors when you started practicing law?*

Well, when I first came back to the state, I just generally did my own work. The first cases that I tried were criminal cases, because that was my background from the Army. Jack Cicilline was just a wonderful attorney to work with, and so I had a few cases with him. And then I just started trying cases on my own, learning from my own mistakes. I needed a mentor!

## *If you had to hire a lawyer to represent you, who would you hire?*

That's a good question. There are a number of wonderful lawyers in this state. I think it would be difficult to pick out just one.



William A. Poore, Esq.

## *Let's hear about some memorable mediations.*

On a Saturday, at a very significant medical malpractice mediation, I approached the plaintiff's attorney after the parties were separated and asked them to move off the previous number, which he told me he was prepared for and that he would do it. And he passed along a number to me, which was hair-raising. It was just as possibly reasonable as you could get. And he said he didn't want to go back and forth, and when the check was ready, he was going to be at Capriccio with his girlfriend and would like to have it delivered before he left. There were a group of defense attorneys who were all in mediation mode. And I said, I've got good news and bad news. What would you

like? And they spent a few minutes kind of wondering what they wanted first. And they said, okay, we'll take the good news. And the good news was the demand. And it was difficult for them to cheer, but I could tell by the look on their faces they were very happy. And they said, well, what could possibly be the bad news? I said, the bad news is that counsel for the plaintiff has left, he's over at Capriccio with his girlfriend, and he wants the check delivered to his table.

## *What's the best advice you ever got?*

I think the best advice I ever got was, number one, if you're on trial, to be there on time, and number two, to be honest, because in our profession your candor is really your calling card.

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## 2019 Chief Justice Joseph R. Weisberger Judicial Excellence Award

Named in honor of its first recipient, the late Chief Justice Joseph R. Weisberger, this Award is given to a Rhode Island jurist for exemplifying and encouraging the highest level of competence, integrity, judicial temperament, ethical conduct and professionalism.



**Hon. William E. Smith**, Chief Judge of the US District Court for the District of Rhode Island, is honored with the 2019 *Chief Justice Joseph R. Weisberger Judicial Excellence Award*. Judge Smith was appointed to the US District Court for the District of Rhode Island in 2002 by President George Bush to fill the seat vacated by Ronald Lagueux. He became Chief Judge in 2013. A graduate of Georgetown University in Washington,

D.C., where he was a George F. Baker Scholar, and Georgetown Law Center, graduating cum laude, Judge Smith started his professional career as an associate at Edwards & Angell, LLP in 1987, becoming partner in 1994. In 2000, he became Staff Director of the Rhode Island Office of U.S. Senator Lincoln D. Chafee. He returned to Edwards & Angell in 2001, before taking the bench in 2002. Prior to his appointment to the bench, he served as City Solicitor for the City of Warwick, counsel to the Rhode Island Secretary of State, and Municipal Court Judge for the Town of West Warwick. He was a member of the Rhode Island Judicial Tenure and Discipline Commission and the Task Force on Alternative Dispute Resolution. Judge Smith has written and published hundreds of opinions, and handled many cases of substantial public interest. He has sat by designation on the First Circuit Court of Appeals and the Ninth Circuit Court of Appeals for many years. He was appointed by the Chief Justice of the United States to several committees, and currently serves as chairperson of the Federal Judicial Center's District Judges Education Committee. In 2014, Judge Smith received the Citizen of the Year Award from the Rhode Island Association for Justice. And, in May 2019, he was awarded an honorary degree from Bryant University. Judge Smith created a highly successful "Litigation Academy" for young lawyers to gain practical experience in trying cases in federal court; a "re-entry court" (the HOPE court) for prisoners returning to society after long periods of incarceration; and a "Deferred Sentencing Program" designed to help young offenders stay out of prison and help them become productive members of society. He has initiated programs and policy changes to make the federal court more accessible to the media and public. Judge Smith is the Chair of the Board of Directors of Roger Williams University Law School and a Member of the Roger Williams University Board of Trustees. He is also a member of the adjunct faculty of the law school. Judge Smith co-authored a book in 2015, and has had several articles and essays published in legal journals. He currently sits on the Boards of Family Service of Rhode Island, the YMCA of Greater Providence, and the Rhode Island Burn Foundation. He spent many years on the Board and as Chair

of the Rhode Island Community Food Bank, and is currently an emeritus board member.

According to Attorney J. Richard Ratcliffe, *Judge Smith displays, in exemplary fashion, the competence, integrity, judicial temperament, ethical conduct and professionalism that are the criteria for selecting a jurist for this honor. His greatest contributions, however, are in guarding fundamental fairness and the independence of the judiciary, as well as ensuring that the next generation of lawyers is properly trained to competently try a case in court.*

According to the Honorable John J. McConnell, Jr. of the US District Court for the District of Rhode Island and Roger Williams University School of Law Dean Michael J. Yelnosky: *Chief Judge Smith is well-respected by his colleagues on the bench, the lawyers and litigants who appear before him, court staff, and a wide swath of nonlawyers in Rhode Island. He is a true leader in the legal and broader community. Moreover, through his work sitting by designation in courts across the country and his involvement in the activities of the Federal Judicial Conference and the Federal Judicial Center's Committee on District Judge Education, Chief Judge Smith's reputation is increasingly national. His commitment to judicial education echoes the remarkable contributions made by Chief Justice Weisberger at the National Judicial College.*

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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.

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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.



## 2019 Joseph T. Houlihan Lifetime Mentor Award

Named for the late Joseph T. Houlihan, who was known for his generosity of spirit and legal expertise in and out of the courtroom, the Joseph T. Houlihan Lifetime Mentor Award honors individuals who, during their careers, have consistently demonstrated an extraordinary commitment to successfully mentoring in the Rhode Island legal community. The Award recognizes an attorney who serves as a role model to other lawyers in Rhode Island and who has significantly contributed to the profession and/or the community, and those who, with their excellent counsel, have excelled as mentors and contributed to the ideals of ethics, civility, professionalism and legal skills.



**Janet Gilligan, Esq.**, Deputy Director of Rhode Island Legal Services is honored with the Rhode Island Bar Association 2019 Joseph T. Houlihan Lifetime Mentor Award. She received a BA from the University of Rhode Island in 1975 and her JD from the University of Maine in 1978. Janet began her legal career as a staff attorney at Rhode Island Legal Services. Her practice was primarily in the Rhode Island Family Court in both

domestic and child welfare cases. In 1982, she directed a pilot project for the Rhode Island Public Defender's Office that led to the establishment of its Parental Rights Unit. Janet went on to become a public defender in New Hampshire from 1983 to 1986. While in New Hampshire, she represented defendants in

misdemeanor and felony cases before the New Hampshire District and Superior Courts. She returned to Rhode Island in 1986 and worked as legal counsel for the Rhode Island Department for Children Youth and Families for several years. She returned to Rhode Island Legal Services in 1990. Most of Janet's legal work has involved representing victims of domestic violence and families involved in the child welfare system. She has appeared in the Rhode Island Family and Supreme Courts. Janet frequently presents at Rhode Island Bar Association and Volunteer Lawyer seminars and has been a trainer with the national Center for Legal Aid Education, now the Shriver Center, since 1999. She has been a trainer at a variety of legal practice trainings in Massachusetts, Florida, South Carolina, Mississippi, Nevada, and the District of Columbia. Janet is a member of the Rhode Island Bar Association's Executive Committee and House of Delegates. She also serves on the Unauthorized Practice of Law Committee. Janet is an adjunct faculty member at the Roger Williams University School of Law where she teaches family law.

According to RI Family Court Associate Justice Lia Stuhlsatz: *"Her unwavering commitment to treating the client as a whole person, not just a fact pattern with an issue presented, informed all her advice. She was always available to answer every question, listen to the mock-cross examination, make suggestions and even come right over to the courthouse for any young lawyer who found him or herself in a bind or dilemma. Her endless patience and humor always restored and inspired. I must truly and humbly say that I would not be a judge today without the encouragement and guidance she afforded me. She is a one-of-a kind role model and one of the best and most generous trial lawyers in the state."*

According to RI Child Advocate Jennifer Griffith: *"Janet has unparalleled skill in the courtroom and this is agreed upon by most judges, attorneys and court staff. She has mentored hundreds of Rule 9 student attorneys and licensed attorneys, and I am thankful to be one of them. I can remember countless phone calls, texts and meetings where she would advise and counsel me, so I could then provide the best advice and counsel to my client. Even today, she remains as my top choice for advice, guidance and support. The best example of Janet Gilligan's consistent mentorship and service to others is this: an old and faded picture drawn many years ago by her daughter, now a public interest attorney in Brooklyn. It shows Janet at her desk and a line of people (presumably employees of Legal Services) out her door with the caption 'Help, Janet! Help!'"*

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## 2019 Award of Merit

The Award of Merit is awarded in recognition of many years of faithful and diligent service to the Rhode Island Bar Association and the legal profession.



Outgoing President Carolyn R. Barone (left) presents the Award of Merit to Barbara L. Margolis, Esq. (right).


**Barbara L. Margolis, Esq.**, Deputy Disciplinary Counsel at the RI Supreme Court Office of Disciplinary Counsel, a graduate of the University of Rhode Island and the New England School of Law, is honored with the 2019 Award of Merit. Barbara has served on several Bar committees over the years, including, but not limited to: the Family Court Bench/Bar Committee, the Lesbian, Gay, Bisexual, and Transgender Legal Issues Committee, the Task Force on Divorce, the Government Lawyers Committee, and several awards committees. Barbara has also been a longstanding member of the Public Service Involvement Committee (formerly the Legal Services Committee). As a member, she has continually volunteered to assist with projects that expand equal access to legal representation, especially focusing her contributions toward strengthening pro bono legal assistance. She has been the lead developer, organizer and/or speaker at nine Continuing Legal Education programs offered free to volunteer attorneys in exchange for their membership in the Volunteer Lawyer Program and acceptance of a pro bono case over the past 16 years. In 2001, Barbara volunteered for the Bar's Rhode Island Breast Cancer Advocacy Project and moderated a corresponding CLE program that placed more than 60 cases assisting women with breast cancer. The Project was later awarded the 2002 Community and Educational Outreach Award from LexisNexis and the National Association of Bar Executives (NABE). From her years of experience at Legal Aid Society of RI representing low-income clients in family law matters, Barbara is keenly aware of the needs of the poor and unrepresented. She knows exactly, as a planner of public service sponsored CLE

seminars, what issues will draw the greatest number of attorneys to volunteer and the corresponding ethical concerns to address.

Barbara has been the “key” to the successful recruitment of outstanding speakers from the Judiciary and private bar resulting in the placement of 50-plus pro bono cases with volunteer attorneys in 2018 alone. Over the years, hundreds of cases for the poor have been placed because she has been willing to organize and plan so many educational programs. Currently, on the recommendation of the Public Service Involvement Committee members, a seminar series on the topic of the legal and ethical issues surrounding electronic evidence is now being coordinated by Barbara. This series, “Saw It on the Internet...It Must Be True...,” is being offered in late October and early November. Once again, Barbara’s efforts, along with all the phenomenal speakers, will promote professional education and the critically needed recruitment of volunteer attorneys.

In grateful recognition of the major contribution of her time, expertise and energy to the Bar Association membership and its pro bono efforts for those in greatest need, the Award of Merit is presented to Barbara Margolis.

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*Visit our website resource page at*  
[www.barrettvaluation.com](http://www.barrettvaluation.com)

## 2019 Dorothy Lohmann Community Service Award

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



**Nicholas Trott Long, Esq.**, of Little Compton, is recognized for his outstanding work on behalf of Dorcas International Institute of Rhode Island. Dorcas International is an independent, non-profit agency with a guiding mission to empower individuals and families, especially the underserved, immigrants, and refugees, to become self-sufficient and fully participating members of our diverse community. With nearly 100 years

of experience, Dorcas International Institute provides an impressive selection of education, employment, and citizenship and immigration services for low-income adults and families.

Nicholas has volunteered for Dorcas International handling asylum cases for indigent immigrants in Rhode Island for approximately twenty years. He helps some of the most vulnerable clients with complicated cases at United States Citizenship & Immigration Services and in immigration court. These cases are

labor-intensive and can drag on for years. He has been a tireless advocate for these clients, and is now also participating in the Immigrant Coalition in Rhode Island, a group of attorneys and community partners that mobilized and organized to support immigrants as they become more and more affected by the current administration.

According to the Dorcas International's Citizenship & Immigration Services Program Director Tatyana Tsangarakis-Almeida: *The results of his work have been tremendous for our organization. We are not able to handle many asylum claims due to our caseload, and his willingness and ability to take on difficult cases has been an invaluable asset to our organization and to our community.*

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

Established in 1986, Rhode Island Bar Journal Lauren E. Jones, Esq. Writing Award authors are selected on the basis of: 1) presentation clarity; grammar; organization and need for editorial revisions; 2) article interest and information presentation; 3) information usefulness for the practice of law, presentation of an important legal issue and timeliness; and 4) accuracy and depth of research and information provided.



GARY R. PANNONE



SAMANTHA M. VASQUES

**Gary R. Pannone, Esq.**, of Pannone, Lopes, Devereaux & O'Gara, LLC, and **Samantha M. Vasques, Esq.** of Locke Lord, LLP, received the 2019 *Rhode Island Bar Journal* Lauren E. Jones, Esq. Writing Award for their article, *Married, But Not Certified: An Overview of the Rhode Island MBE/WBE Certification Process and Its Application to Married Women*, published in the *Rhode Island Bar Journal*: Volume 67, Number 2, September/October 2018.

The Editors and Editorial Board of the *Rhode Island Bar Journal* congratulate Attorneys Pannone and Vasques and strongly encourage all Rhode Island Bar Association members to read the Article Selection Criteria included in every issue of the *Rhode Island Bar Journal*. Based on those guidelines, please submit articles for consideration to: *Rhode Island Bar Journal* Editor Kathleen Bridge via email: [kbridge@ribar.com](mailto:kbridge@ribar.com). For information, telephone (401) 421-5740.

As a reminder, this article, and the full contents of *Rhode Island Bar Journals* from the July/August 2009 issue forward, are available and may be viewed online and downloaded, by clicking on the *Bar Journal* icon on the Bar's website home page. Articles may also be accessed through Casemaker, the free-to-Bar-members, 24/7, online law library on the Bar's web site.



## 2019 Volunteer Lawyer Program Pro Bono Publico Award Recipients

Established in 1987, this award recognizes the outstanding efforts of attorneys who have provided equal access to justice to the needy through a Rhode Island Bar Association Pro Bono Program during the past two years. Selection for this award is based on the number of cases accepted, case type and difficulty, the number of pro bono hours, and total length of service through the programs. Additionally, qualities considered include the attorney's professionalism, compassion and commitment to public service.

This year's Pro Bono Award recipients, Joanne C. D'Ambra and Stephen G. Linder, have made exceptional contributions through the Volunteer Lawyer Program and Elderly Pro Bono Program. These two attorneys are outstanding representatives of the contributions and support given by sole practitioners throughout the state.



### Volunteer Lawyer Program

**Stephen G. Linder, Esq.** graduated from the University of Rhode Island and received his law degree from Suffolk University School of Law. Steve is a distinguished Honorary Member of the Bar Association and practices in East Providence where he concentrates in family law and personal injury matters. During his legal career, Attorney Linder was a partner for ten

years at the Lovett & Linder firm and then Letts, Quinn & Licht prior to being a sole practitioner.

Steve's outstanding Bar Association public service contributions include his longstanding support and membership in the Volunteer Lawyer Program. As a volunteer attorney for over 20 years, he has consistently participated and accepted complex family law matters such as divorce and custody. Without any thought of recognition, Attorney Linder has willingly continued his pro bono representation of clients in need, some victims of abuse, even when the original case evolved into another complex matter. In the past two years, he has given 150-plus hours of pro bono service. This number of hours does not include a trial scheduled for one such client in June.

Attorney Linder's well-established and ongoing participation in Bar Association activities includes being a member of the House of Delegates for 15 years and chairperson of the Ethics and Professionalism Committee for 10 years. His ongoing support of public service includes his membership in the Lawyer Referral Service. He is also a member of the Edward P. Gallogly Family Law Inns of Court, a Rhode Island Bar Foundation fellow, and acts as a mediator in the annual Superior Court mediation program.

Steve has an extensive history of community service. For countless years, he was a member of the Board of Trustees for the Rhode Island Philharmonic Orchestra and ran the Rhode Island fund drive for the American Cancer Society. Many of the public recognize him from his 27 years of giving advice as the host of the WPRO radio talk show "Legal Tips."

Steve is married to Sharon Linder and they are the proud parents of Sydney Linder Panis and Olivia Linder and grandparents of Beatrice.

Attorney Linder's concern for others is evident by the value he places on volunteerism. His willingness to share his expertise has reinforced the purpose and mission of the Volunteer Lawyer Program to represent those in greatest need.



### Elderly Pro Bono Program

**Joanne C. D'Ambra, Esq.** graduated from Rhode Island College. She earned a Master of Science in Library and Information Science from Simmons College and a JD from New England Law. Joanne is a general practitioner in Cranston. She practices in several areas of law including bankruptcy, probate and family law and is a compassionate and dedicated volunteer attorney through the Bar Association's Elderly Pro Bono Program.

Attorney D'Ambra is keenly aware of the financial risks associated with getting older and responds quickly and directly when foreclosure, collection and bankruptcy cases for the elderly are presented for placement. Many seniors with only Social Security income turn to credit to bridge basic expenses such as food and health care. In a short time, they aren't even able to make the required minimum payments. Joanne understands that for most elderly, it is not an easy decision to seek legal relief. Her approach eases their fears and her representation helps them work toward financial stability. In the past two-plus years, she has handled 17 cases for elderly clients with overwhelming debt, as well as family law and guardianship matters contributing over 150 pro bono hours.

Joanne's Bar Association activities include being a member of the Lawyer Referral Service. She has also been a member of the Volunteer Lawyer Program since 1996, and was recognized in 2004 for her extraordinary pro bono service. Also, as a member of the Lawyer Referral Service, she offers reduced fee services to financially eligible clients. When time permits, Joanne enjoys reading, drawing and traveling to sporting events in cities throughout the country.

Fortunately for the community, Attorney D'Ambra has made public service and protecting the rights of our neediest senior citizens a true priority.


## 2019 Rhode Island Bar Association Honorary Members

At the 2019 Annual Meeting Luncheon, the Rhode Island Bar Association recognized and honored the distinguished attorneys who achieved a noteworthy 50 years of service to the legal profession. While not all the Honorary Members were able to attend the Luncheon, those who did superbly represented this outstanding group.



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### Honoring our colleagues achieving fifty years of legal service

- |                              |                             |
|------------------------------|-----------------------------|
| C. Russell Bengtson, Esq.    | William T. Murphy, Esq.     |
| Stephen E. Cicilline, Esq.   | Robert R. Nocera, Esq.      |
| Hon. Albert R. Ciullo        | Hon. John J. O'Brien, Jr.   |
| Cary J. Coen, Esq.           | John J. Pattera II, Esq.    |
| Hon. George N. DiMuro        | George T. Patton, Esq.      |
| Joseph F. Dugan, Esq.        | William J. Riccitelli, Esq. |
| Dana H. Gaebe, Esq.          | Mitchell S. Riffkin, Esq.   |
| Hon. Bennett R. Gallo        | Laurent L. Rousseau, Esq.   |
| Vincent M. Garvey, Esq.      | Steven S. Saber, Esq.       |
| Pasco Gasbarro Jr., Esq.     | William G. Savastano, Esq.  |
| Hon. Henry Gemma, Jr.        | Edward P. Sowa, Jr., Esq.   |
| Charles A. Hambly Jr., Esq.  | Max H. Wistow, Esq.         |
| Raymond C. Holland Jr., Esq. | Mario J. Zangari, Esq.      |
| Harry J. Hoopis, Esq.        |                             |
| Aram P. Jarret Jr., Esq.     |                             |
| Edward G. Lawson, Esq.       |                             |
| John T. Madden, Esq.         |                             |
| Terrance S. Martiesian, Esq. |                             |
| John E. Martinelli, Esq.     |                             |
| J. Peter McGuirl, Esq.       |                             |

## 2019 Hon. Francis J. Darigan, Jr. Rhode Island Law Day Essay Contest



Celebrating Catherine and Sarah's awards during a ceremony at the Supreme Court of Rhode Island were (l to r): RI Supreme Court Chief Justice Paul A. Suttell, RI Supreme Court Associate Justice and Law Day Committee Chair Gilbert V. Indegliia, RI Superior Court Associate Justice (ret) and initiator and namesake of the Rhode Island Law Day Essay Contest Award Francis J. Darigan, Jr., Sarah Maciel, Edward P. Gallogly Family Law Inns of Court President Timothy J. Conlon, Catherine Sawoski, RI Bar Association Outgoing President Carolyn R. Barone, and RI Workers' Compensation Court Associate Judge Alfredo T. Conte.

The Rhode Island Law Day (RILD) Committee, with particular help from the Rhode Island Bar Association, the Rhode Island Judiciary, Roger Williams University School of Law, and the Rhode Island Police Chiefs' Association, sponsored the 2019 *Hon. Francis J. Darigan, Jr. Rhode Island Law Day Essay Contest*. Open to all Rhode Island 10th and 11th grade students, the Contest focused on *Free Speech, Free Press, Free Society*, the same topic offered through this year's RILD Classroom Programs.

Catherine Sawoski, a student at The Wheeler School in Providence, won first place in this year's contest. Catherine received a \$1,000 scholastic award made possible through the combined generosity of the Rhode Island Bar Association and the Rhode Island Police Chiefs' Association. She also received a personalized engraved trophy cup, and her school received the *Hon. Francis J. Darigan, Jr. Rhode Island Law Day Essay Contest* trophy cup for a one-year display and a permanent plaque commemorating Catherine's achievement. And, thanks to the generosity of the Edward P. Gallogly Family Law Inns of Court, a second place winner, Sarah Maciel, a Narragansett High School student, was awarded a \$250 scholastic award and a personalized engraved trophy cup.



Essay contest winners Sarah Maciel and Catherine Sawoski received their awards at a ceremony held at the Supreme Court of Rhode Island in June.



## *Free Speech, Free Press, Free Society*

Working with the Rhode Island Law Day Committee, chaired by Rhode Island Supreme Court Associate Justice Gilbert V. Indeglia, the Rhode Island Judiciary and the Rhode Island Bar Association organized volunteer teams of judges and lawyers who delivered law related education programs to 64 upper and middle school classrooms throughout the state. Lesson plans, including background information and recommended questions for student consideration, drawn from the American Bar Association's 2019 National Law Day program topic, *Free Speech, Free Press, Free Society*, were posted on the Bar's website for open access by lawyers, judges, teachers, students and the news media. Participating lawyers and judges solicited student opinions, surfaced the legal issues relating to the topic, and reviewed the role of judges, lawyers and police officers. This year's topic helped stimulate active student participation, helping students understand how laws directly affect them and the roles lawyers and judges play in administering justice.



Rhode Island Supreme Court Chief Justice Paul A. Suttell and 2018-19 Rhode Island Bar Association President Carolyn R. Barone discussed how the students at Classical High School in Providence can relate freedom of speech to how they interact on social media, school dress codes, and even bullying.



RI Family Court Magistrate Angela M. Paulhus and Attorney Jenna Giguere (not pictured) led a Law Day program at Park View Middle School in Cranston discussing how the boundaries of free speech are continuously challenged.



RI District Court Associate Judge Stephen M. Isherwood and Attorney Eric Miller kept the students of St. Peter School in Warwick entertained and informed.



Attorney Diana Pearson and RI Superior Court Associate Justice Sarah Taft-Carter engaged the students at South Kingstown High School and discussed how freedom of speech and the press are among the most important foundations for a free society.



2019-20 Rhode Island Bar Association President David N. Bazar and Rhode Island Superior Court Associate Justice Richard A. Licht explored how changes in technology have reshaped how free speech and free press work in the everyday world at North Providence High School.

## 2019 Rhode Island Law Day Volunteer Acknowledgement

These attorneys and judges, drawing on their knowledge and experience, presented classroom lessons on the law throughout Rhode Island, helping thousands of students and teachers better understand the administration of justice.

### Rhode Island Bar Association

James Bagley, Esq.  
 Carolyn R. Barone, Esq.  
 Barbara A. Barrow, Esq.  
 David N. Bazar, Esq.  
 Nelson Brinckerhoff, Esq.  
 MaryJo Carr, Esq.  
 William J. Connell, Esq.  
 John E. Corrigan, Esq.  
 David A. Coughlin, Esq.  
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 Marissa Janton, Esq.  
 Robert F. Kando, Esq.  
 Neil F.X. Kelly, Esq.  
 Shannah Kurland, Esq.  
 Erica Laros, Esq.

Valerie Leon, Esq.  
 Edward L. Maggiacomo, Esq.  
 Mary Welsh McBurney, Esq.  
 Eric Miller, Esq.  
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 Andrew Rodgers, Esq.  
 Sharlene Rossi, Esq.  
 Kara Scott, Esq.  
 Stephen A. Smith, Esq.  
 Mark L. Smith, Esq.  
 Christine Sturtevant, Esq.  
 Gerard B. Sullivan, Esq.  
 Joel Votolato, Esq.  
 Bruce Wolpert, Esq.  
 Patrick Youngs, Esq.

### Rhode Island Judiciary

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 Hon. Elaine T. Bucci  
 Hon. Keith Cardoza  
 Hon. William E. Carnes, Jr.  
 Hon. James J. Caruolo  
 Hon. Alfredo T. Conte  
 Hon. Brian Van Couyghen  
 Hon. Lauren Q. D'Ambra  
 Hon. Melissa A. Darigan  
 Hon. Domenic A. DiSandro III  
 Hon. Melissa R. Dubose  
 Hon. Michael J. Feeney  
 Hon. Robert M. Ferrieri  
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 Hon. Brian P. Stern  
 Hon. Paul A. Suttell  
 Hon. Sarah Taft-Carter  
 Hon. Erika Kruse Weller

## 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, and Legal Clinics April 2019 and May 2019.

### APRIL 2019

#### Volunteer Lawyer Program

David D. Bagus, Esq., *Woonsocket*  
Michael A. Castner, Esq., *Jamestown*  
James P. Creighton, Esq., *Johnston*  
Joanne C. D'Ambra, Esq., *Cranston*  
Ronald C. Desnoyers, Esq., *Law Office of Ronald C. Desnoyers, Inc.*  
Deborah S. Gonzalez, Esq., *Roger Williams University School of Law*  
Meredith F. Howlett, Esq., *Howlett Law Offices*  
Clare T. Jabour, Esq., *Providence*  
Judith A. Jamieson, Esq., *Kalander & Shaw, Ltd.*  
John F. Killoy, Jr., Esq., *Law Office of John F. Killoy, Jr., LLC*  
Robert H. Larder, Esq., *Woonsocket*  
Doris A. Lavalley, Esq., *Lavalley Law Associates*  
Kermin Liu, Esq., *Law Office of Kermin Liu*  
Laurie A. Meier, Esq., *Providence*  
Elisha Morris, Esq., *Elisha L. Morris, Esq.*  
Adam G. Northup, Esq., *Law Office of Adam G. Northup*  
Cristina M. Offenber, Esq., *Silva, Thomas, Martland & Offenber*  
Arthur D. Parise, Esq., *Warwick*  
Jennifer M. Reynolds, Esq., *The Law Office Howe & Garside, Ltd.*  
Elizabeth Stone, Esq., *Cranston*  
David J. Strachman, Esq., *McIntyre Tate LLP*  
Peter C. Tashjian Esq., *Tiverton*  
Thomas E. Wright Esq., *Warren*

#### Elderly Pro Bono Program

Michael A. Castner, Esq., *Jamestown*  
Susan Gershkoff, Esq., *Counsellor at Law*  
Samantha McCarthy, Esq., *McCarthy Law, LLC*  
Gregory P. Sorbello, Esq., *Peter M. Iascone & Associates, LTD.*

#### US Armed Forces Legal Services Project

Dennis T. Grieco II, Esq., *Grieco Law*

### MAY 2019

#### Volunteer Lawyer Program

Cristina A. Azzinaro, Esq., *Azzinaro Manni-Paquette*  
Lauren T. Balkcom, Esq., *Obolensky & Balkcom, LLC*  
Barbara A. Barrow, Esq., *Moore, Virgadamo & Lynch, Ltd.*  
Joseph P. Carroll, Esq., *Woonsocket*  
Michael A. Castner, Esq., *Jamestown*  
Lauri Medwin Fine, Esq., *Lauri Medwin Fine, Esquire*  
Andrew Kanter, Esq., *Kanter Law Office, LLC*  
Phillip C. Koutsogiane, Esq., *Law Offices of Phillip Koutsogiane*  
Keith G. Langer, Esq., *Wrentham*  
Laurie A. Meier, Esq., *Providence*  
Adam G. Northup, Esq., *Law Office of Adam G. Northup*  
Thomas B. Orr, Esq., *Law Office of Thomas B. Orr*  
Charles A. Pisaturo, Jr., Esq., *Providence*  
Janne Reisch, Esq., *Attorney at Law*  
Gregory P. Sorbello, Esq., *Peter M. Iascone & Associates, LTD.*  
Samuel D. Zurier, Esq., *Samuel D. Zurier, Esq.*

#### Elderly Pro Bono Program

Cristina A. Azzinaro, Esq., *Azzinaro Manni-Paquette*  
Michael J. Chazan, Esq., *Merolla, Accetturo & Lough*  
Thomas M. Dickinson, Esq., *Law Offices of Thomas M. Dickinson*  
Richard K. Foster, Esq., *Coventry*  
Brian G. Goldstein, Esq., *Law Offices of Brian G. Goldstein*  
Christopher E. Heberg, Esq., *Warwick*  
Peter M. Iascone, Esq., *Peter M. Iascone & Associates, LTD.*  
Cristina M. Offenber, Esq., *Silva, Thomas, Martland & Offenber*  
Kimberly Ann Page, Esq., *North Kingstown*  
Elizabeth Peterson Santilli, Esq., *Cutcliffe Archetto & Santilli*  
Mariah L. Sugden, Esq., *Newport*

The Bar also thanks the following volunteers for taking cases for the Foreclosure Prevention Project and for participating in Legal Clinic events during April and May.

#### Foreclosure Prevention Project

Cristina A. Azzinaro Esq., *Azzinaro Manni-Paquette*  
Brian G. Goldstein Esq., *Law Offices of Brian G. Goldstein*

#### Legal Clinic

Sandra Terry Dobson, Esq., *North Kingstown*  
James S. Lawrence, Esq., *Lawrence & Associates, Inc.*  
Kermin Liu, Esq., *Law Office of Kermin Liu*  
Robert D. Oster, Esq., *Oster Law Offices*  
Sarah B. Oster, Esq., *Oster Law Offices*  
Gregory P. Sorbello, Esq., *Peter M. Iascone & Associates, LTD.*  
Theodore A. Topouzis, Esq., *Topouzis & Associates, PC*

For information and to join a Bar pro bono program, please contact the Bar's **Public Services Director Susan Fontaine** at: [sfontaine@ribar.com](mailto: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](http://ribar.com) and completed online.



Rhode Island  
Bar Association  
2018-2019

ANNUAL REPORT



# Annual Report 2018-2019

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



Helen D. McDonald, *Executive Director*

Carolyn R. Barone, *President*

It is our pleasure to submit the Annual Report for 2018-2019. The Association's membership, leadership, and staff worked consistently to meet the goals embodied in our mission to represent the legal profession, serve the public, promote justice, and encourage professional excellence and respect for the law. We continue to place the highest priority on educating our membership and the public about our positions, activities, and services. We built upon already exceptional relationships with the judiciary, legal service providers, and the public.

We have exceptionally strong standing and special **committees**. Over sixteen hundred Bar Association members serve on Bar Committees. All the work our members contribute through our committees forms the backbone of the Rhode Island Bar Association. This issue of the *Rhode Island Bar Journal* contains summaries of the committees' activities, and I encourage you to read them. For example, the Bar's Technology in the Practice Committee & E-filing Working Group continues to meet regularly to discuss updates to the e-filing system and public portal. The Ethics & Professionalism Committee was asked to review and make recommendations regarding the American Bar Association's recent amendments to the ABA Model Rules of Professional Conduct. The Committee is finalizing those findings and will be submitting their recommendations to the Executive Committee in the near future. Committees help bring members together in collegial and educational forums and serve to improve and develop the ongoing relationship between the Bar and the courts. Joining a Bar committee is an excellent way for members to network, seek guidance in a particular area of the law, and keep up with new trends and current changes.

## Diversity

The Ada Sawyer Centennial Planning Committee was formed in the summer of 2018 to plan a celebration to be held on October 15, 2020, marking the 100th anniversary of Ada Sawyer being deemed a "person" and being the first woman in Rhode Island to take the RI Bar Exam, opening up the doors for women in Rhode Island to become lawyers. We have featured short articles related to Ada Sawyer in issues of the *Rhode Island Bar Journal* and will continue to do so in issues leading up to the event.

We also continue to celebrate the role of women in the Rhode Island legal community through an interview series in the *Bar Journal* called "Rhode Island Women Lawyers: Past, Present, & Future." The series was inspired by Roger Williams University School of Law's annual Women in Robes event and was created in alliance with their recent project, The First Women, which recognized and honored the first women of the Rhode Island Bar. So far, RI Superior Court Associate Justice Netti C. Vogel and Attorney Susan Leach DeBlasio have been featured. The September/October 2019 issue will feature Attorney Lise Gescheidt.

## Health and Wellness

The Association continues to place great emphasis on attorney wellness. In addition to serving clients, lawyers must also pay attention to their own mental, emotional, and physical health. The law profession is challenged by this. RIBA has created a Lawyers Living Well page on our website, separate and apart from the Lawyers Helping Lawyers section but, with shared resources. We offer a number of CLE and other enrich-

ment programs to members and continue to provide resources for attorneys focusing on preventative care to instill a greater well-being in the profession. We provide regular wellness features and tips in the *Bar Journal* and on social media.

The Lawyers Helping Lawyers Committee serves as a confidential resource to Bar members and their families, providing support and encouragement when needed. Committee volunteers give generously of their time to help their colleagues. Their primary role is to lend an ear and assist in making an appropriate referral to professional resources. The communications between lawyers seeking help and members of the Committee are strictly confidential, even within the Committee itself.

## Professional Development

The educational programs sponsored by the Association are led by a dedicated CLE Committee and diligent staff. This year, the CLE Office produced a total of thirty-six (36) seminars. Attendees welcomed a wide range of topics offered during the year, including seminars on divorce law for estate planners, reverse mortgages, supervising employees, expungement and sealing of records, fair housing, stress management for lawyers, adoption, wills and trusts, sexual harassment, communicating with LGBTQ+ clients, subpoenas, client communications, records requests, mediation, criminal law practice, and summary judgment.

The Bar Association's CLE year kicked off in August and September with the annual Aon Attorneys' Advantage **free ethics seminar**, providing all Bar members the opportunity to earn two (2) free ethics credits. This seminar was offered five (5) times at various locations in the state. This year's speaker was Daniel Lukasik, who spoke to members about stress, anxiety, and depression in the legal profession with ways to combat stress and have a healthier work/life balance. A total of 1,316 members of the Bar attended this year's program.

Aside from our partnership with Aon Affinity, with our Public Services Department and Bar committees, we have been able to offer a total of **11 free credits** to our members this past year. Areas covered by the programming included:

- a three-part child custody series, which reviewed the direct & cross-examination of the plaintiff, direct and cross-examination of the defendant, and direct & cross-examination of a clinical psychologist expert witness
- creating a social media policy
- ethics and discipline issues for government attorneys
- ethical use of social media
- administrative law issues

The Bar Association partners with Mesa CLE to offer live webcast seminars to our members. Over 200 attorneys have registered for these webcasts so far this year. This partnership allows for Bar members to hear from national speakers on vari-

ous ethics topics without having to travel outside of the state and for a substantially lower cost than hearing them in person. In addition, our On-Demand Course Catalog offers members the advantage of learning on demand by offering previously recorded CLE programming available for viewing 24/7. Five hundred twenty-eight (528) members have taken advantage of our On-Demand Catalog this year thus far.

## 2019 Annual Meeting

The Annual Meeting was held on June 13-14, 2019 at the Rhode Island Convention Center in Providence. The opening plenary speaker was Loretta LaRoche, international stress management and humor consultant. Her program, "Stress Less with Humor & Optimism," explored the use of "defensive pessimism" and how to shift from pessimistic thoughts that create feelings of failure and rejection to those that are more optimistic. Our closing plenary speaker was Jack Marshall, who presented his wildly popular "Ethics Rock Extreme" program. Other program topics included: Marijuana Laws Update; Developing a Plan for Lawyer Well Being; Asset Protection Planning; Board Governance in the Wake of the #MeToo Movement; Meet the New AG, Valuation of Assets; Environmental, Energy & Coastal Law; State Court E-Filing Update; Family Law Update; Meet the New Traffic Tribunal Chief Judge; Immigration & U Visas; Campus Sexual Assault Misconduct Proceedings; Using Resiliency to Preserve Your Fitness to Practice Law; RI Superior Court Business Calendar; and Section 1983 Actions.

## Membership Benefits

Since the fall of 2018, we have offered access to a virtual law practice management consultant to our members. A lawyer starting their own firm now has a resource to call on for advice on what software, equipment, etc. is necessary when starting out, as well as unlimited advice related to billing, client relations, data management, financial management, marketing, office technology, time management, and disaster prevention and recovery—all free of charge. To date, 61 law firms have taken advantage of this resource. Law practice management is an everyday part of life for many lawyers.

We are very excited to offer this opportunity to our members which we believe will help you optimize your practice, become more effective and efficient, and make the best business decisions for your particular situation.

**Casemaker** is a Web-based legal research system offered to our members for free (\$950 value). Casemaker has teamed up with CosmoLex to offer an affordable practice management tool to make it much easier for lawyers to accurately bill clients for the time spent on legal research at an affordable rate. It allows Casemaker users to automatically track research time



# Report of the Executive Director on 2018-2019

by client matter and assign it to client invoices, at a fraction of the cost of a freestanding law office management system. It will also eliminate the “leakage” and billing compliance issues typically associated with legal research.

Our website provides other great services. You can access our many discount programs, easily register for CLE seminars, sign up for Bar committees and public service programs, as well as utilize the calendars and the great member directory. The directory gives you instant information on every member, including their email address and photo when provided.

Our email List Serve continues to be a well utilized service for Rhode Island Bar Association members to use for online, law-related discussions. The List Serve is a welcome form of networking for our members, particularly for exchanging referrals for various legal services and contacts.

## Public Service

One of the most noble of our goals is facilitating the availability of legal services. We support pro bono publico services for all low-income citizens, the elderly, and those of modest means, through the Volunteer Lawyer Program (VLP), Pro Bono Program for the Elderly, the Foreclosure Prevention Project, the US Armed Forces Legal Services Project, and the LRS Modest Means program. Financially-eligible clients were represented by volunteer attorneys in matters including bankruptcy, collections, foreclosure, consumer, education, family law, guardianships, and employment. Many of the members’ efforts to provide legal assistance are facilitated through membership in the Bar Association’s public service programs.

This year alone, 12,000-plus members of the public received referrals through the public service programs, of which 3,800 were qualified for reduced fee or pro bono services. The public service area fielded at least 3,000 more calls and provided information to the public and attorney members.

Recently, we notified the membership that the opportunity to receive Limited Scope referrals is available through the Lawyer Referral Service. Now, more than ever, the Lawyer Referral Service is receiving telephone calls from the public who are seeking attorneys who will provide limited scope representation in a variety of areas including family law, collections, landlord/tenant, contracts, etc. Individuals contacting the LRS have asked to be referred to attorneys for many limited scope services including the preparation and filing of documents, review of contracts, final judgments, and more.

The three-part seminar series, “Call Your First Witness,” to recruit attorneys for the Volunteer Lawyer Program, was offered free of charge last fall. The sessions covered direct and cross examination of the plaintiff, defendant, and an expert witness. Over 50 family law pro bono cases were placed as a result of

offering these three seminars for a total of six CLE credits. The series was recorded and is available to additional attorneys in exchange for accepting a case.

Plans are underway for an electronic evidence series to be held this October/November 2019. We are in the process of recruiting speakers for this three-part series.

We are working with the Bankruptcy Court to offer a three-credit CLE to volunteer attorneys on September 12, 2019. The speakers will include the trustees.

Attorneys reporting 30-plus pro bono hours annually are sent coupons to attend three one-credit Food for Thought programs or one three-credit seminar of their choice free of charge. This is one way to show our appreciation for all they do, and, as of the end of April, 61 attorneys have been sent these coupons. More coupons will be sent as hours are reported.

On-site collections clinics have been held at the Bar Association for low-income individuals as well as a divorce clinic for seniors with uncontested matters. Over 40 clinics have been held statewide at senior centers and organizations. This number includes Ask A Lawyer programs and, recently, a request for a collections clinic in Woonsocket.

We continue to place referral requests from the Department of Elderly Affairs Volunteer Guardian Program for our most vulnerable senior citizens. We place these cases with volunteer attorneys once the DEA has secured a volunteer guardian.

## Law Related Education

The Rhode Island Bar Association is dedicated to helping Rhode Island teachers interested in law related education (LRE) by providing volunteer lawyers for classroom presentations and as educational resources. The Association’s goal is to increase public understanding of, and respect for, the law and the role of lawyers and judges in the legal system. We had another successful Law Day this May with 40 Rhode Island schools sponsoring 64 classroom presentations. 52 attorneys, 50 state court judges, and 5 municipal or probate court judges participated. We had 7 new schools sign up for Law Day this year following a letter from the president urging more schools to participate. The Bar offers LRE classroom programs featuring volunteer lawyers to Rhode Island middle and upper school teachers and students throughout the year.

## Rhode Island Bar Foundation

Through our continued partnership with the Rhode Island Bar Foundation, we are celebrating four years in our Rhode Island Law Center! We have reduced the pressure on Association dues, allowing enhanced long-term planning, advanced technology, expanded parking, and greater meeting and event flexibility. The Foundation continues their hard work to maxi-

mize Interest on Lawyers Trust Account (IOLTA) income and assess legal needs to maximize foundation support for legal services in Rhode Island. The Rhode Island Bar Foundation also administers the Thomas F. Black, Jr. Memorial Scholarship Fund, established in 1989, to support and foster high legal practice standards by assisting Rhode Island residents who show promise of becoming outstanding lawyers and who need financial assistance to study law. The Scholarship is named in honor of the late Thomas F. Black, Jr., a person known for his impressive ability as a lawyer and banker, his deeply rooted legal scholarship, and his notable participation in civic and charitable causes. Two scholarships of \$20,000 each were awarded this spring for Rhode Island students entering their first year of law school. To date, 64 scholarships have been awarded to promising law students from Rhode Island. The Bar Foundation was honored with a generous donation from Hon. Thomas J. Caldarone Jr., which was used to establish an endowment for summer fellowships. As Caldarone Fellows, law school students will have the opportunity to assist in providing crucial legal services to the public and, in so doing, may be encouraged to pursue public service careers. This year, two students at Roger Williams University School of Law have been selected to be the recipients of the Hon. Thomas J. Caldarone, Jr. Fellowship. One will be placed at the Rhode Island Commission for Human Rights and the other at the Rhode Island Public Defenders Office.

Finally, I want to acknowledge and thank the staff of the Rhode Island Bar Association, whose hard work and dedication are remarkable. We are fortunate to have these very committed individuals contributing their talent to the delivery of quality services and benefits to our members. The hard work and dedication of the entire staff is remarkable: Director of Public Services Susan Fontaine, Director of Continuing Legal Education Tanya Nieves, Director of Communications Kathleen Bridge, Director of Finance Renee Bourbonniere, Rhode Island Bar Foundation Program Director Virginia Caldwell, Member Services Coordinator Erin R. Cute, Gatekeeper and Program Assistant Heather Chea, Office Manager Susan Cavalloro, Volunteer Lawyer Program Coordinator John Ellis, Lawyer Referral Service Coordinator Elisa King, CLE Program Coordinator Karen Lomax, and VLP Program Assistant Angelica Bazyk.

The Rhode Island Bar Association provides relevant and valuable programs and services to our members, increased availability of legal services to our citizens, a more effective and independent judicial system, and increased public understanding about the law. Please feel free to contact any of the officers or staff at the Bar Association with your concerns, questions, or suggestions. We will keep you informed and invite you to become involved as we work to fulfill our mission.

## Rhode Island Bar Association Legislative Positions and Amicus Briefs Official Notice 2019

The Rhode Island Bar Association takes positions as a party or amicus in litigation only on matters related to the practice of law or administration of justice. On June 18, 2018, the Supreme Court issued orders inviting the Bar Association and others to submit amici curiae briefs as to whether the conducting of a real estate closing, inter alia, constitutes the practice of law. Pursuant to that request, the Association submitted amicus briefs in the following matters: In re William E. Paplauskas, Jr.; In re Daniel S. Balkun and Balkun Title & Closing, Inc.; and In re Southcoast Title and Escrow, Inc.

The Rhode Island Bar Association briefs supported the determination of the Supreme Court Unauthorized Practice of Law Committee (“UPL Committee”) that the following activities constitute the practice of law: (1) conducting a title examination to determine the marketability of title; (2) conducting a real estate closing; (3) drafting a deed on behalf of a party to a real estate transaction; (4) drafting a residency affidavit on behalf of a party to a real estate transaction, and (5) drafting a power of attorney on behalf of a party to a real estate transaction. Accordingly, it was the opinion of the Bar Association that these services should only be performed by an attorney or, at least, supervised by an attorney. In reaching the conclusions set forth in the briefs, the Executive Committee of the Bar Association established an ad hoc committee comprised of six attorneys, solicited and received written comments from its members, and conducted a special meeting of its House of Delegates where the position of the Bar Association was discussed and approved. We greatly appreciate the efforts of attorneys Nicole Benjamin and Richard Ratcliffe who drafted the briefs and represented the Association, pro bono, on this important matter.

With regard to legislation, the Executive Committee voted to support the unanimous recommendations of the Bar’s **Superior Court Bench/Bar Committee** to introduce legislation dealing with the Uniform Interstate Depositions and Discovery Act.

With regard to legislation, the Executive Committee voted to support the unanimous recommendations from the **Probate & Trust Committee** to introduce “An Act Relating to Fiduciaries” which is intended to permit a so-called “directed trust.”

In addition, the Executive Committee voted to support the recommendation of the **Probate & Trust Committee** to introduce “An Act Relating to Taxation – Portability.” The proposed act relating to taxation would adopt the concept of “portability” for Rhode Island estate tax purposes. The Internal Revenue Code adopted the portability concept for federal estate tax purposes several years ago.

# 2019-2020 Annual Budget

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

## GENERAL FUND

(Administrative and Member Services)

Income	Budget 19/20
Bar Journal Ads & Subscriptions	\$ 52,000
Contract Service Income	53,158
Interest Income	28,000
Mailing List Income	500
Malpractice Prevention	25,000
Member Dues & Fees	1,200,000
Royalties & Miscellaneous	6,500
Health Insurance Royalties	20,000
	<u>\$ 1,385,158</u>
<b>Expenses</b>	
Awards	\$ 1,500
Bar Journal	120,000
Casemaker	85,000
Clerical Assistant	2,500
Computer	26,000
Consultants	2,500
Copier	11,000
Depreciation Expense	16,000
Dues & Subscriptions	5,500
Insurance	25,000
Lawyer Assistance Program	12,000
Legislative Counsel	27,500
Lobby Tax	9,000
LOMAP	20,000
Maintenance & Repair	40,000
Medical Benefits	65,000
Miscellaneous Expense	1,500
Office Supply & Expense	30,000
Pamphlets & Advertising	1,000
Payroll Tax Expense	35,000
Printing & Postage	30,000
Professional Fees	25,000
Property Tax	8,500
Public Relations	2,500
Records Management	2,500
Regular Meetings	18,000
Rent & Electricity	165,000
Retirement Plan	54,000
Salaries	465,000
Telephone	12,000
Travel	32,000
Website	10,000
	<u>\$ 1,360,500</u>
Net Income:	<u>\$ 24,658</u>

## LAWYER REFERRAL SERVICE

(LRS and Public Services)

Income	Budget 19/20
Interest	\$ 250
Dues	22,000
Fees	25,000
	<u>\$ 47,250</u>
<b>Expenses</b>	
Medical Benefits	\$ 20,000
Office Supplies	1,000
Payroll Tax Expense	4,200
Printing & Postage	4,000
Retirement Plan	4,800
Salaries	54,000
	<u>\$ 88,000</u>
Net Income:	<u>\$ (40,750)</u>

## CONTINUING LEGAL EDUCATION

(CLE Professional Development)

Income	Budget 19/20
Annual Meeting	\$ 525,000
Publications	4,000
Seminars	140,000
Miscellaneous Income	250
On-Line Income	70,000
	<u>\$ 739,250</u>
<b>Expenses</b>	
Annual Meeting	\$ 260,000
Clerical	750
Computer	13,000
Copier	1,200
Depreciation	1,500
Dues & Subscriptions	1,000
Medical Benefits	25,000
Miscellaneous Expense	500
Office Supplies	12,000
Payroll Tax Expense	12,210
Postage	4,000
Professional Fees	10,000
Publications	3,500
Rent	15,000
Retirement Plan	13,000
Salaries	152,000
Seminar Expense	165,000
Travel	1,500
Website	1,000
	<u>\$ 692,160</u>
Net Income:	<u>\$ 47,090</u>

## OPERATING BUDGET

	General Fund	LRS	CLE	Total
Income	\$ 1,385,158	\$ 47,250	\$ 739,250	\$ 2,171,658
Expense	1,360,500	88,000	692,160	2,140,660
	<u>\$ 24,658</u>	<u>\$ (40,750)</u>	<u>\$ 47,090</u>	<u>\$ 30,998</u>

### Grants and Restricted Funds

	2019-2020
ProBono	\$ 204,721
Elderly	52,613
CRF	125,000
Total:	<u>\$ 382,334</u>

### 2019-2020

Total Revenue	\$ 2,553,992
Total Expense	\$ 2,522,994
	<u>\$ 30,998</u>



Rhode Island Bar Association  
(A Non Profit Organization)  
Statements of Financial Position\*  
June 30, 2018 and 2017

<b>Assets</b>	<b>2018</b>	<b>2017</b>
Cash and cash equivalents	\$ 1,761,615	\$ 1,328,075
U.S. treasury bills	4,591,834	4,576,137
Accounts receivable	74,816	65,553
Other assets	45,181	52,896
 Furniture and equipment (net of accumulated depreciation of \$98,682 in 2017 and \$78,954 in 2016)	 125,887	 139,431
<b>Total Assets</b>	<b>\$ 6,599,333</b>	<b>\$ 6,162,092</b>
 <b>Liabilities and Net Assets</b>		
<b>Liabilities</b>		
Accounts payable	\$ 48,038	\$ 58,343
Accrued expenses	99,725	92,305
<b>Total Liabilities</b>	<b>\$ 147,763</b>	<b>\$ 150,648</b>
 <b>Net Assets</b>		
Unrestricted	\$ 3,681,400	\$ 3,364,661
Temporarily restricted	2,770,170	2,646,783
<b>Total Net Assets</b>	<b>6,451,570</b>	<b>6,011,444</b>
<b>Total Liabilities and Net Assets</b>	<b>\$ 6,599,333</b>	<b>\$ 6,162,092</b>

\*The Statement of Financial Position on page 3 of the Audited Financial Statements for the years ended June 30, 2018 and 2017 is the official name of the Balance Sheet for a non-profit organization.

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# Bar Association Committee Reports



## **Animal Law**

**Lenore M. Montanaro, Chair**

The Animal Law Committee provides a collegial forum for members of the legal community to exchange ideas and information of mutual concern, to make recommendations on the practices and procedures relating to animal law, to work

toward the improvement of this area of law, and to keep the Bar informed of developments in this practice area.

The ad hoc Animal Law Committee was established in February 2018. Since this time, the Animal Law Committee has held monthly meetings, during which the members discussed various topics within the context of the practice of animal law. Some of the topics that we covered include dangerous dog hearings, dog bites, pet trusts, animal cruelty laws, property issues, family law issues, and assistance animals.

Additionally, the Animal Law Committee submitted a proposal that was later approved for a CLE program titled, "Public Records Requests." This program featured a presentation by Leslie Rudloff, Esq., Director of Legal Affairs for the Physicians Committee for Responsible Medicine. During the presentation, Attorney Rudloff discussed federal and Rhode Island records requests. Specifically, she noted that records requests are a helpful tool that animal law practitioners can use to gather information.

Also, the Animal Law Committee welcomed Joe Warzycha, President of the RISPAC, to speak with the members of the Animal Law Committee about animal cruelty law. This robust conversation within the criminal law context included, among other practice topics, a discussion of the animal cruelty laws and the dangerous dog hearings procedure.

Finally, the Animal Law Committee submitted and received approval to host a workshop at the 2019 Annual Meeting. The title of the workshop, "Hot Topics in Animal Law," featured three Animal Law Committee members. The topics presented during the workshop include housing issues involving animals, animal accommodations and assistance animals, and dangerous dog proceedings.

The Animal Law Committee is grateful to the Rhode Island Bar Association, the Bar President, the Executive Committee, and Rhode Island attorneys for providing the Committee with the opportunity to grow. As the Animal Law Committee evolves, it will offer additional programs and educational opportunities in support of the practice of animal law to serve members of the Bar.



## **Business Organizations**

**Elizabeth Manchester, Co-Chair**

**Marcus Howell, Co-Chair**

The Business Organizations Committee met on a monthly basis throughout the past year. Committee members reviewed and responded to legislation introduced during the General Assembly's 2019 session.

The Committee completed a full revision of the Nonprofit Corporation Act and submitted it for consideration to the Executive Committee. The Committee hopes to present this Act to the General Assembly in 2020.



The Committee intends to complete revision and modernization of the Limited Liability Company Act, General Partnership Act, and Limited Partnership Act in 2019-2020.

The Committee would benefit from greater input and a larger volunteer base. If you have interest in matters affecting business or nonprofit organizations, we hope you will join the Committee next year. Even if you cannot attend every meeting, we believe you will find participation in this Committee gratifying and an opportunity to impact the practice of business law in Rhode Island.

## **Client Reimbursement Fund**

**John A. Tarantino, Chair**



The Rhode Island Bar Association's Client Reimbursement Fund was established as a public service to promote confidence in the administration of justice and the integrity of the legal profession. Our experience continues

to confirm that the overwhelming majority of Rhode Island lawyers are honest, caring, diligent, ethical, and deserving of their clients' trust. The Fund reimburses the losses sustained by clients who are victimized by the few Rhode Island lawyers who violate the profession's ethical standards and misappropriate funds entrusted to them. Losses reimbursed by the Fund include the theft of estate and trust assets, conversion of settlement proceeds in real estate and personal injury cases, money embezzled in investment transactions within an attorney-client relationship and the practice of law, and unearned fees paid in advance to lawyers who falsely promise, but then do not provide, legal services. The Fund Committee meets when and as necessary to review and act upon claims and to propose rules and procedures with respect to the Fund.

The Committee administers the Fund, which is funded by an annual assessment of \$25 per Bar member, together with interest on the invested funds and any money collected as a result of subrogation rights against the defalcating lawyers. As a fund of grace, all claimants are required to exhaust all alternate sources of recovery before the Committee will consider claims. Since its inception in 1981, Rhode Island lawyers have reimbursed more than \$2.2 million to the victims of the few dishonest lawyers in this state. No public funds are or have been involved. Rather, these reimbursement awards are financed solely by payments from lawyers. In 2018-19 five new claims were received. Other pending claims were considered and \$251,359.99 was paid to 11 claimants. Two claims were denied as not payable under our rules and one claim was withdrawn. There are no current claims pending. I will continue to keep you informed as the Fund serves the public. I am grateful for your support.



### **Continuing Legal Education**

**Miriam A. Ross, Chair**

The Continuing Legal Education Committee (CLE Committee) plans and administers the program of continuing legal education for all members of the Bar. The CLE Committee develops creative, flexible, innovative seminars to

meet the needs of Rhode Island practitioners at all levels of experience. CLE programs include the bar member favorite “Food for Thought” one-hour seminars, and two and three-hour seminars providing in-depth information and practical skills. Many CLE programs are offered in person and via live webcast to accommodate all members of the bar throughout the state. During the past year, every committee member has actively participated in the planning and implementation of one or more CLE seminars.

During the 2018-2019 year, the CLE office, in collaboration with the CLE Committee, produced a total of thirty-six (36) programs. Seminar attendees welcomed a wide range of topics offered during the year, including seminars on divorce law for estate planners, reverse mortgages, supervising employees, expungement and sealing of records, start-ups, fair housing, stress management for lawyers, adoption, wills and trusts, sexual harassment, communicating with LGBTQ+ clients, subpoenas, client communications, records request, mediation, criminal law practice in RI, and summary judgment. The CLE schedule also included the always popular seminar “Recent Developments in the Law,” plus a comprehensive, half-day program “Commercial Law - Update.” Overall, CLE programs, with the support of the Association’s excellent CLE department, educated over 1,300 Bar members.

In addition, in August and September, the annual Aon Attorneys’ Advantage free ethics seminar, providing all Bar members the opportunity to earn two (2) free ethics credits, was held. This seminar was offered five (5) times at various locations in the state. This year’s speaker, Daniel Lukasik, from New York, spoke to members about stress, anxiety, and depression in the legal profession with ways to combat stress and have a healthier work/life balance. A total of 1,316 members of the Bar attended this compelling seminar.

For the past four (4) years, the CLE Committee has distributed a survey to all Bar members at the end of May to get feedback on the CLE programs as a whole, top practice areas, challenges in the profession, and subject areas of interest. The responses from the survey are used to inform the CLE Committee of program topics for seminars in the coming year. Response from the Bar was excellent and affirmed that the CLE Committee is providing seminars and programs responsive to the needs and interests of members. The survey also provided ideas for future programming.



### **Creditors’ and Debtors’ Rights**

**Richard J. Land, Chair**

Thank you to our members for contributing your time and expertise to the Committee’s work this past year. I am pleased to have worked with you in addressing a variety of issues that are pertinent to the creditor and debtor bar. The Committee actively debated several important legislative matters, all of which passed through the Committee and were presented to the Executive Committee for consideration. Our members have continued to actively support the annual bar meeting and the professional education of practitioners by regularly presenting seminars and other educational programs.

This year has brought on a change in our judicial landscape as Judge Silverstein retired and Judge Stern became the senior member of the business calendar court. While Judge Silverstein’s daily presence will be missed, Judge Stern, together with Judges Licht and Taft-Carter will surely carry forward and further develop the efficiency and effectiveness of the business calendar court.

Looking to the future, I am certain the Committee will continue its thoughtful and engaging consideration of legal issues facing creditors, debtors and their respective counsel, in both state and federal courts. I encourage Committee members to continue to bring forth important legislative initiatives for consideration and lively debate. I look forward to working with you all through the 2019-20 year.



# Bar Association Committee Reports



## **Criminal Law Bench/Bar**

**Matthew S. Dawson, Chair**

This past year, the Rhode Island Bar Association's Criminal Law Bench/Bar Committee continued to explore a host of issues which affect the practice of criminal law and continued our mission to foster the relationships between the criminal bench and the bar. The Committee continued to have active members representing the RI Office of the Public Defender, RI Department of the Attorney General, the United States Attorney's Office, and many outstanding private criminal defense attorneys. The main topic this past year involved the continued implementation of the State of Rhode Island's Justice Reinvestment initiatives. Particularly, the Committee has been involved in assisting with the implementation of the Superior Court's Diversion Program. We were also happy that one of the Committee's biggest supporters and most active members, Stephen Dambruch, was appointed Chief of the Attorney General's Criminal Division. Steve provided the Committee with the initial ideas from the RIAG as to how they are working towards expanding the Diversion Program and touched upon other issues his office will be addressing in the coming months. The Committee appreciates the cooperation of new Attorney General Peter Nerohna and his staff and wishes them well as they take on their new responsibilities. In the upcoming year, the Committee will continue to monitor and assist with the Court's relationship with the criminal defense bar. We also hope to offer a number of CLEs in conjunction with the Court, including another "View From the Bench," which was a success in the past.



## **District Court Bench/Bar**

**Meghan Barry, Chair**

The District Court Bench/Bar Committee 2018-2019 had several well-attended meetings, with Judge Houlihan and Judge Goldman in the Sixth and Third Division District Courts. Both were recently assigned to those courtrooms. At the meetings, the judges discussed the streamlining of scheduling cases, and working with scheduling around criminal days in Third Division. They responded thoroughly and thoughtfully to the questions and concerns presented by the Bar, including electronic filing issues. The District Court judges submitted a proposal to the Supreme Court for a rule change to make motions to extend time to serve rule of court. This proposed change would dramatically reduce the number of cases on the court's already busy calendars. Both judges have done an excellent job communicating with the Bar, and hearing concerns

about matters before them. Additionally, the Committee put on a panel at the Annual Meeting: District Court Civil Trials. The panel focused on the practical aspects of conducting a District Court trial, focusing on best practices, pitfalls to avoid, and reference to the most commonly relied upon rules. The Committee thanks panelists Judge Stephen Isherwood, Sonja Deyoe, Jeffrey Michaelson, and moderator Meghan Barry.

## **Environmental and Energy Law**

**Richard M. Fil, Chair**



The Bar's Environmental and Energy Law Committee (EELC) is in its tenth year, and continues to offer a range of programs on emerging and relevant issues for environmental and energy law practitioners. EELC typically holds its regular meetings on the third Friday of the month, from September through May, from 12:30 to 2:00 p.m. Regular meetings include activity announcements, updates on legal developments, and member discussions on current events and trends. Most regular meetings include a guest or EELC member speaking on an issue-oriented topic coordinated by Vice Chair Linda George. This year's speakers included: EELC members Jennifer Cervenka and Seth Handy (updates on emerging trends in environmental law, including the implementation of state climate change resilience and mitigation measures); Maria Meleschnig, Senior Environmental & Construction Reviewer at Citizens Bank, and EELC member Elizabeth Henthorne, Environmental Risk Manager at The Washington Trust Company (overview of the environmental due diligence programs at their respective banks, and the evaluation and mitigation of environmental risks in the lending context); EELC member Christopher D'Ovidio (legal and political aspects of restoring an urban river in a historic setting); United States Senator Sheldon Whitehouse and Grover Fugate, Executive Director of the Coastal Resources Management Council (preparing Rhode Island communities for sea level rise, and the threats posed to the state by climate change); and EELC member Gregory Schultz, Special Assistant Attorney General (summary of the Attorney General's environmental regulatory litigation and advocacy efforts). As has become tradition, an informal holiday gathering was held in December. Members of EELC hosted a workshop for the Bar's Annual Meeting to provide environmental, energy, land use, and real estate practitioners with an update on federal and Rhode Island case law developments, regulatory changes, and Rhode Island legislative changes.



### **Ethics and Professionalism**

**Christy B. Durant, Co-Chair**  
**Kyla M. Pecchia, Co-Chair**



The Ethics and Professionalism Committee is charged with examining the practice of law in Rhode Island and recommending actions the RI Bar Association can take to foster the highest possible standards of ethics and professionalism. The Committee membership was made up of several dedicated attorneys with diverse personal and professional backgrounds, and their experience illuminated several of the Committee's discussions. The Committee met four times this year.

Our first Committee meeting was held during the time of the Kavanaugh hearings, which prompted much discussion about the role of ethics and professionalism during the entire event for all sides involved. The Committee also had a roundtable conversation about recent opinions reported from the Ethics Advisory Panel since the Committee had met last session. Although the Committee would touch upon current events as relevant issues arose, most of the Committee's time this year was spent on review of different portions of the Rhode Island Rules of Professional Conduct. In the fall, the Committee reviewed and discussed the report and recommendation submitted to the House of Delegates by the Task Force charged with reviewing a proposed amendment to Rule 8.4 of the Professional Rules of Conduct. At the winter meeting, the Committee received a written request from Chief Justice Suttell via Rhode Island Bar Association President Carolyn Barone requesting that the Committee review and make recommendations based on recent amendments to the American Bar Association Model Rule 7.1 - 7.5 of the Rules of Professional Conduct, and determine whether such changes should be further explored and adopted in Rhode Island. The Committee spent the several months that followed conducting a detailed analysis of the amended Rules in comparison to our current Rhode Island rules, and met on multiple occasions to discuss Committee member opinions. A formal report and recommendation have been submitted to the RIBA Executive Committee with this Committee's final recommendations.

The Committee also spent time discussing other topics of interest to members, and areas they would like to explore further at future meetings. As discussed last year, it was reiterated that the Ethics and Professionalism Committee should work towards being a leader in the Bar Association community by regularly creating content for publishing in the *Bar Journal* or other Bar Association publications, as several Committee members were concerned that the legal community was unaware that the Com-

mittee could be used as an ethical resource.

The Ethics and Professionalism Committee provides a forum in which issues related to ethics and professionalism can be identified, discussed, and disseminated amongst the ranks of the Association. Members of the Bar are invited to submit topics to the Committee for consideration during the upcoming year.



### **Family Court Bench/Bar**

**Jane F. Howlett, Chair**

The Family Court Bench/Bar Committee meets on the second Tuesday of each month at 4:30 pm on the fifth floor of the Garrahy Complex. We have also had several meetings at the Bar Association's headquarters, including our annual CLE on "The Tax Consequences of Divorce and Separation" which was masterfully presented by Attorney Elizabeth Segovis. Once again, Attorney Segovis brought attendees up to date on the current tax law changes and the consequences of those changes as they apply to divorce and separation. Filing status, head of household and the changes regarding alimony were discussed in length. Thank you, Attorney Segovis, for your hard work and dedication to our Committee.

Members of the Family Court Clerk's Office came to one of our meetings to discuss e-filing issues such as common reasons for rejected pleadings, e-filing procedure, and inclusion of necessary language on certain pleadings. This meeting provided Committee members with valuable information regarding the e-filing system. Of note was the discussion regarding the filing of "M" cases, or Miscellaneous Petitions, the proper procedure for doing so and the scheduling of those matters. Thank you to the Family Court Clerk's Office for donating their time and for their ongoing patience with e-filing snags and glitches.

Also of significant note is the change to the 60-day waiting period for a hearing on the merits following the filing of a Complaint for Divorce. The 60-day waiting period prior to scheduling a hearing on the merits has been eliminated, however the parties must still wait 90 days prior to entering the Final Judgment after the hearing on the merits. This amendment to RI Gen. Laws § 15-5-14 is a significant change to the scheduling process.

Members of the Technology in the Practice Committee and E-Filing Working Group attended a recent meeting. Attorneys Rhiannon Huffman and Michael Goldberg engaged our Committee in an in depth discussion of the e-filing system, including what documents should be marked as "Confidential," service contacts, and errors in e-filing. By way of example, if for some reason a pleading or document is filed in the wrong case, then you must file a Motion to Seal that document so that it isn't available for viewing through the public portal. Likewise, if there is an error in filing, such as failure to mark a document

# Bar Association Committee Reports

“Confidential,” make a call to the clerk’s office and follow it up with an email to create a paper trail of the steps taken to correct that error. A discussion of adding/removing yourself as a service contact as well as using an email account that you constantly monitor for service purposes yielded some important information and provided the Committee with useful and sound advice. Thank you to Attorneys Huffman and Goldberg for your time and expertise.

As always, members of the Committee were provided with all new Administrative Orders as well as any new legislation and the most recent Family Court opinions from the Supreme Court.

I want to remind current members to again sign up for this Committee in the fall, as your membership doesn’t carry over from year to year. The next meeting of the Family Court Bench/Bar Committee will be scheduled in the fall.



**Federal Court Bench/Bar**  
**Patricia K. Rocha, Chair**

The Federal Court Bench/Bar Committee once again worked closely with the Court including Chief Judge William A. Smith, Judge John J. McConnell, as well as Clerk of Court Hanorah Tyer-Wytek and her staff, to update the members of the Bar on various court projects.

Highlights of this year include the continued success of the Litigation Academy, first held in 2014, and presented jointly by the Court, the Roger Williams University School of Law and the Rhode Island Chapter of the Federal Bar Association under the leadership of Co-Directors Brooks Magratten and Professor Niki Kuckes of Roger Williams University School of Law. The Academy has developed four programs: Direct and Cross-Examination, Depositions, Opening Statements and Closing Arguments, and Mediation. The training sessions continue to be reasonably priced and include a good cross section of participants from law firms, as well as the public sector. Participants come from across the county with representation from numerous other districts. Faculty members continue to include judges in the Federal and State courts, as well as practicing attorneys.

The Civics Education Program, initiated in 2017, continues with attendance by school-age children who are introduced to the workings of the Court. The program is available to schools throughout Rhode Island. Co-Chairs Stacey Nakasian and Melissa Horne and their subcommittees are busy at work preparing for the 2019 District Court Conference to be held on October 18, 2019 in Providence. The theme of the conference is the independence of the judiciary with an afternoon focus on immigration. Subcommittees continue to work on updates to the local rules and e-discovery issues. There still remains a vacant judgeship; however, we are hopeful that a nomination

will be confirmed in the near future.

Thanks to all Committee members and the Court for their efforts on the various projects through the year.



**Fee Arbitration**  
**Henry V. Boezi III, Chair**

During fiscal year 2018-19, thirteen petitions for fee arbitration were filed with the Rhode Island Bar Association. Three matters were returned, as they did not constitute a fee dispute under the rules. One matter was settled prior to a formal arbitration hearing. Five matters were dismissed because the respondent was unwilling to proceed with the arbitration. Two matters were arbitrated with the Committee’s assistance. Three matters are still pending. The amount of fees in dispute ranged from \$900 to \$12,626. Several disputes were between lawyers involved in the same case. We continue to arbitrate controversies that could have been avoided by well-written fee agreements, sound billing practices, and/or better lawyer and client communications. The proceedings are primarily informal, serving as an alternative to litigation. Members of the Committee serve voluntarily without compensation. They are commended for their service to the Bar and the public. This program increases public confidence in the legal profession and accelerates fee dispute resolution. We hope more attorneys utilize this vehicle for fee dispute resolutions to take advantage of the benefits of the program.



**Government Lawyers**  
**Jenna Giguere, Chair**

Government Lawyers Committee (GLC) membership continues to grow, up 18% this season. We welcome all state and local government attorneys from all branches, as well as private attorneys who frequently appear before or work with state and local authorities, or are otherwise interested in topics such as administrative law, open government, etc. We are so thankful to all of our speakers, as well as the support of the Bar Association. Each and every committee member who takes the time to gather and collaborate contributes to GLC’s value of providing a forum for learning and networking.

To summarize the 2018-2019 Committee Season, we kicked off with some icebreaker activities and discussion of the events to come that season and ended with a pizza party watching funny lawyer movie clips. What a productive season of learning we had in between! GLC was pleased to offer its members three



free CLE credits, including one ethics credit, featuring Jonathan Gutoff (law Professor, RWU Law) presenting on administrative law issues in the news; and, Brian Lamoureux (Partner, Pannone, Lopes, Devereaux and O’Gara) presenting on social media in the public sector. The third CLE was a joint panel of our very own dedicated GLC member experts, Barbara Margolis of the Office of Disciplinary Counsel, and Lynn Radiches of the Ethics Commission. GLC was honored to be hosted by the General Assembly for a presentation on the mechanics of the legislative process, including a tour of the State House. In addition, we also invited speakers to the rest of our meetings so that we could learn about topics that inform and improve our government lawyering practice while enjoying free lunch! These meetings featured several GLC members as speakers: Mary-Rose Pellegrino (Department of Administration) on the Rhode Island Code of Regulations, Michael Jolin (R.I. Office of Veterans Affairs) sharing the good work of his agency, and a presentation from the Department of Business Regulation on bills that were introduced this session that are of general interest to government attorneys (such as Open Meetings Act and Access to Public Record Act bills). Additional lunch meeting speakers included Alex Stine presenting on LeanRI (the Governor’s process improvement directive to state agencies) and Suzanne Harrington-Steppen and Eliza Vorenberg (RWU Law Pro Bono Collaborative) on supervising legal interns and subordinate attorneys and staff.



**Lawyers Helping Lawyers**  
Nicholas Trott Long, *Chair*

The Lawyers Helping Lawyers Committee serves as a confidential resource to Bar members and their families, providing support and encouragement when needed. Committee volunteers give generously of their time to help their

colleagues. Their primary role is to lend an ear and assist in making an appropriate referral to professional resources. The communications between lawyers seeking help and members of the Committee are strictly confidential, even within the Committee itself. Lawyer-Committee member contacts are noted only for statistical purposes and no names are ever mentioned.

The RIBA contracts with the Coastline Employee Assistance Program (EAP), [coastlineeap.com](https://www.coastlineeap.com), which provides professional clinical assessments and facilitates getting appropriate treatment for Bar members and their family members. Coastline is headed by Judith G. Hoffman, LICSW, CEAP who has provided the Committee with invaluable service for more than two decades. Coastline has expanded and revised its website, providing many new opportunities to assist our members.

The 2019 Rhode Island Bar Association annual meeting was highlighted by three presentations related to wellness.

The opening plenary speaker featured Loretta Laroche, a well known national speaker on stress. In addition, the Lawyers Helping Lawyers Committee coordinated a presentation by Bree Buchanan, Chair of the ABA Commission on Lawyers’ Assistance Programs and co-chair of the National Task Force on Lawyer Well-Being on “How to Get Your Bounce Back.” The Lawyers Helping Lawyers Committee also presented a panel discussion, featuring attorneys Stacie Collier, Cassandra Feeney, and Charlene Pratt, on “Promoting Lawyer Wellness in Large Firms, Small Firms and Government Offices.”

The Committee met with Nancy Murray, Problem Gambling Program Manager for the Rhode Island Problem Gambling Services Network, who outlined the services they provide to deliver counseling services for both insured and noninsured individuals seeking help with a gambling problem. Following that discussion, a member of the Committee participated in the Rhode Island Council on Problem Gambling’s 4th Annual Conference in April.

Aon continues to sponsor the annual loss prevention series of CLE programs at several locations where over 1,500 Rhode Island Bar members attend at no charge. The 2018 program featured Daniel Lukasik, a personal injury trial lawyer and former managing partner of a law firm in Buffalo who has dealt with depression for many years. Mr. Lukasik discussed coping with depression and the stresses of work and managing client expectations while trying to maintain work/life balance. He is a frequent speaker on depression in the legal profession for law schools and bar associations across the county and maintains a website, [lawyerswithdepression.com](http://lawyerswithdepression.com), that provides access to many resources on lawyers’ mental health.

Several other programs dealing with stress, quality of life, and wellness were presented by the CLE Department.

All issues of the *Rhode Island Bar Journal* and the Bar Association’s website contain information about the Lawyers Helping Lawyers Program as well as the SOLACE program, both aimed at helping Bar members and their families in need. Coastline EAP, with which the Association has had a relationship for almost 30 years, provides free evaluations and help with placements for all attorneys and members of their families seeking help with mental health, including substance use disorders and similar addictions. Coastline also maintains a huge library of helpful resources that can be accessed confidentially.<sup>1</sup>

In addition, the Association regularly emails members giving tips on wellness, and features articles on health and wellness in the *Bar Journal*, and on the website including a recent article, “Your Moral Imperative to Routinely Practice Self-Care” by Katherine Itacy, Esq.

<sup>1</sup> To gain access to the library, go to <https://www.coastlineeap.com/>; choose Employers; login with employer password “RIBAR.”

# Bar Association Committee Reports



## **Lesbian, Gay, Bisexual, & Transgender Legal Issues**

**Christopher J. Gerlica, Co-Chair**  
**Thomas G. Shaffer, Co-Chair**

We would like to thank the Committee members for a successful committee year. We appreciate everyone's efforts in attending meetings and contributing to the Committee. During our committee meetings, members discussed state statutes that omit sexual orientation and gender identity as a protected class, legislation submitted in the state legislature that would have eliminated a so-called gay panic defense, and legislation regarding parentage and other family law related issues. While the Committee

took no action, the discussion led to a better understanding of the issues and for determining a path forward for next year.

In the fall, members of the Committee partnered with Roger Williams University School of Law to provide a mentorship program with LGBTQ+ law students. In the spring, the Committee conducted a CLE titled "Safe Zone Training: Competently and Ethically Communicating with LGBTQ+ Clients." This was a well-attended CLE which provided a safe space for members of the Bar to better understand the changing terminology and best practices in regards to having clients or colleagues who are members of the LGBTQ+ community.



## **New Lawyers**

**Matthew B. DiMario, Chair**

The New Lawyers Committee works to aid attorneys recently admitted to practice in the State of Rhode Island by bringing awareness to important issues and promoting access to all of the benefits that the Rhode Island Bar

Association has to offer. The Committee continued its work on initiatives to increase involvement and engagement in Bar Association activities among recently admitted lawyers. At one of our regular meetings, the Committee welcomed Carolyn Lavin, of Lavin Marketing Communications, who reviewed the basic building blocks of law firm marketing, including setting reasonable goals and working through common challenges. Brand elements, such as website, online presence, and social media, were specifically addressed. The Committee also sponsored a CLE program worth one free ethics credit in May at the Bar Association. Attorney Brian Lamoureux, of Pannone Lopes Devereaux & O'Gara LLC, presented "The Ethical Use of Social

Media in the Legal Profession," which explored the role and impacts that social media and devices have had on litigation, evidence, and ethical issues in Rhode Island courts. Working with Superior Court Bench Bar Committee Chairperson Dana Horton, Rebecca Briggs of the Federal Bar Association's Rhode Island Chapter, and Committee member Alexander Friedman, the Committee was proud to sponsor an Annual Meeting workshop on out-of-state subpoenas and depositions in state and federal court. The Committee is also looking into new ways to increase the sharing of information and opportunities with the Rhode Island Federal Bar Association Young Lawyers Committee, and hopes to put together a networking event with their group at some point in the near future. Although the Committee's programming is primarily aimed at those who have been practicing for ten years or less, all are welcome, and both new and more seasoned Bar members are invited to join the Committee and participate in activity planning for the coming year.



## **Probate and Trust**

**David T. Riedel, Chair**

The Committee on Probate and Trust considers proposed changes in the legal system as the changes relate to the probate, trust, and estate tax areas. The Committee was active, meeting six times during the 2018-2019 year.

The Committee consists of over one hundred members, many of whom were regular attendees and active participants at Committee meetings. Several probate judges were members of the Committee, and the judges provided a useful perspective for Committee discussions.

The Committee reviewed, revised, and submitted (after approval by the Bar Executive Committee) legislation that would permit so-called "directed trusts" (which would permit a settlor to designate a person other than a trustee as responsible for trust investments). The Committee also prepared and introduced, with the approval of the Bar Executive Committee, proposed legislation with respect to portability between spouses of the Rhode Island estate tax credit. In cooperation with the local representatives of the Commissioners on Uniform State Laws, the Committee also considered legislation with respect to access of fiduciaries to digital assets. All bills are being held for further study by the appropriate Committees of the House or Senate at this time, and passage is uncertain.

The Chair was given invaluable assistance by a number of Committee members who made themselves available to review proposed legislation in the probate and trust area; several members also made themselves available to testify regarding legislation before Committees of the General Assembly.



### **Public Service Involvement** Christine J. Engustian, *Chair*

The Public Service Involvement (PSI) Committee strongly encourages all members of the Bar to join the volunteer programs of our Association. Obviously, the more attorneys who join, the more Rhode Island residents who are in need

of such valuable pro bono services will receive them! With each pro bono case that is taken by a program attorney, the Committee's mission of creating greater access to justice for all people is served. Therefore, the Committee spends much of its time in discussing and forging concrete ways in which the Bar Association can likely increase the number of attorneys who will join its volunteer programs. This past fall, through the efforts of the PSI Committee, the Bar Association held a three-part CLE seminar series entitled, "Call Your First Witness," which was set up as a mock contested custody trial presided over by Rhode Island Family Court Judges McCann, Lynch-Bernard, and Gill. There was a high number of attorneys who attended each seminar, and the feedback was overwhelmingly positive. Every attorney in attendance was obligated to take a pro bono case and over 40 cases were placed. The Committee gives a special "thank you" to the participating attorneys and judges. This spring, a PSI subcommittee began planning another three-part CLE seminar series on the topic of electronic evidence, including the types of such evidence and its admission into court, which will be held this coming fall. Attending attorneys will again have to commit to accepting a pro bono case through the Bar Association. In addition, Committee members planned two seminars for the 2019 Bar Association Annual Meeting. One seminar covered U Visa applications for immigrant victims of crime and related issues and the other seminar addressed the impact of the Tax Cuts and JOBS Act of 2018 on low- and middle-income taxpayers. Our Committee's consideration of emeritus practice rules that began last year was placed on hold at this time.

A PSI subcommittee selected Attorneys Stephen G. Linder and Joanne C. D'Ambra to receive the 2019 Pro Bono Publico Award for their outstanding service to the poor through the Volunteer Lawyer Program and Elderly Pro Bono Program, respectively. The recipient is selected based on the number of cases and complexity, pro bono hours reported, length of service, professionalism, compassion, and commitment to public service. The Committee congratulates Stephen and Joanne and thanks them for their service.

The Committee happily thanks Public Services Director Susan Fontaine and all staff members, who provide the PSI Committee with continual assistance and with guidance on those matters that would benefit from the Committee's efforts and/or would further the Committee's mission. We are very grateful for them.

Everyone is busy in his or her practice of law and in life.

There can be a multitude of reasons that feel sound and just for not volunteering. However, when we serve others, it opens doors not only for those whom we serve but also in our own lives. There are many persons throughout time who have extolled the benefits of serving others. Among my favorite quotes on the subject are that of Albert Einstein: "Only a life lived for others is a life worthwhile" and Winston Churchill: "We make a living by what we get; we make a life by what we give." If you are not a member of the Bar Association's pro bono programs, please do not let another day pass without "joining" in on life's rewards!



### **Real Estate Title Standards and Practices**

Michael B. Mellion, *Chair*

The Real Estate Title Standards and Practices Committee met nine times this year. Attendance continued strong with an average of 33 members attending each meeting, a 33% attendance

rate. The members benefited from informative presentations by Committee members on recent cases of interest to real estate practitioners decided in Rhode Island, Massachusetts, and federal courts, discussions among committee members regarding new developments in the law and transactional practice, and reviews of pending legislation.

Thanks are due to the following Committee members who presented cases at meetings this year: Susan W. Cody, Donato A. D'Andrea, Martha Day, Brittane Donley, Robert J. Donnelly, William A. Dorry IV, Philip W. Gasbarro, Erika Hoover, Francis J. Nolan, Justin T. Shay, and Linda Rekas Sloan.

The Chair is grateful, as ever, for the extraordinary work of Nancy M. Davis, the Committee's Recording Secretary, whose comprehensive minutes of our meetings are invaluable.

I also want to thank John A. Comery for ably chairing the December 13, 2018 meeting, and Philip W. Gasbarro, Chair of the Legislative Subcommittee, for preparing well-organized, detailed reports on pending legislation of interest to our members.

In response to the enactment of Chapter 30.1 of Title 42, entitled "Uniform Law on Notarial Acts," which took effect on January 1, 2019, our Forms Subcommittee, consisting of Nancy M. Davis, Lloyd Garipey, Mark S. Krieger, and Joseph Raheb, developed a set of model acknowledgment forms that was approved by the Committee at its May 16, 2019 meeting. They will be sent for publication and comment as new Practice Form 15 in the next edition of the *Rhode Island Bar Journal*.

The Committee continues to be concerned with issues pertaining to recording and abstracting practices, as well as transactional matters. We always welcome suggestions for improving transactional practice in Rhode Island, and continue to review and modernize our title standards, practice standards and forms.



# Bar Association Committee Reports



## Superior Court Bench/Bar

Dana Horton, *Chair*

The 2018-2019 term was extremely productive for the Superior Court Bench/Bar Committee. I am pleased to report the following accomplishments and achievements:

The Committee finalized its proposal to amend Rule 26(b)(4) of the Superior Court Rules of Civil Procedure in the wake of *Cashman Equipment Corp., Inc. v. Cardi Corp., Inc., et al*, 139 A.3d 379 (2016). The proposed rule change addresses experts, document production from experts, and reports. Upon approval by the Executive Committee of the Rhode Island Bar Association and House of Delegates, the proposed amendment was submitted to the Superior Court, where a Judicial Subcommittee is now reviewing and examining the proposal.

After careful review and study, the Committee recommended the adoption of a form of the Uniform Interstate Depositions and Discovery Act, which was approved by the Executive Committee. If adopted, the Act will streamline the discovery process related to out of state actions requiring discovery within our jurisdiction and would bring Rhode Island in line with at least forty (40) other jurisdictions that have adopted a version of the Act. The proposed bills are currently pending before the bodies of the Rhode Island legislature.

Perhaps most notably, working with Justice Stern, Professor Kuckes, and others, we finalized our proposed change to the R.I. Rules of Evidence, adding a version of Rule 502 that is comparable to the federal rule enacted in 2007. This amendment would govern the Rhode Island courts' approach to several important but narrow questions related to waivers of attorney-client privilege and work product protection in litigation. The proposal has been supported by the Rhode Island Supreme Court and is out for public comment and hearing.

We continued to work with the Technology in the Practice Committee, serving as a member of the E-Filing Working Group, as we collectively continue to work with the Court, administration, practitioners and the vendors with regard to troubleshooting and fine tuning our e-filing system.

In the spirit of continuing to educate our committee, as well as incorporating the bench into our meetings, we were pleased to have Justices Melissa Long and Melissa Darigan join us for our March meeting at the Providence County Superior Court, discussing the state of the civil motion calendar and other related issues pertaining to Superior Court practice and procedure.

Lastly, the Judicial Communications Survey was updated to reflect current information for all participating Justices and remains available online. The Survey remains a great resource for all practitioners, and we are grateful to the Rhode Island Bar Association for assisting our Committee with keeping the infor-

mation up to date.

It has been my pleasure to have served as Chairperson of this great Committee for the past five years! I hope to remain an active member of the Committee going forward and to continue to seek out opportunities for change and betterment of the practice of law. Thank you to all members who participated in the Committee this term. Your hard work and dedication greatly contributed to the Committee's success.



## Supreme Court Bench/Bar

Lauren E. Jones, *Chair*

The Supreme Court Bench/Bar Committee met only once in the last term. The Committee intended to have a second meeting when electronic filing for the supreme court was initiated, but did not meet, in part because electronic

filing at the supreme court did not actually come into place this year.

The principal concern discussed by the Committee is the transition by the Supreme Court to electronic filing and amendments to the appellate rules to address e-filing changes. The Committee has not been involved in, or been asked to be involved in, those changes, which are presently in progress. The Committee hoped to hear from the Supreme Court Clerk and the Deputy Court Administrator with the details of the transition to e-filing but the process of moving to e-filing has taken a long time and is not yet lined up. The Committee chairperson has offered the assistance of the committee members to the ongoing process.

The Committee hoped to present a seminar at the 2019 Annual Meeting on the expected new e-filing system, but because the timing of the commencement of e-filing at the supreme court remained uncertain, the Committee did not sign up for or prepare a seminar for this year's meeting.

The Committee discussed the R.I. Judiciary e-Notice system that was implemented in the last year. Members of the Committee expressed appreciation for the system, with the only concern being whether e-Notices are sent on all events that occur on a docket.

The Committee discussed changes in personnel in the supreme court staff, including the new Executive Assistant. The Committee hoped, and intends, to invite the Executive Assistant to a later meeting of the Committee.

The Committee devoted considerable discussion about videotaping or audio-recording oral arguments. The Committee outlined significant points that could be made in favor of some sort of recording of oral arguments, to be detailed in a position paper at the appropriate time. The Committee noted that Suffolk University Law School has taken on the responsibility of video-

taping the oral arguments at the Massachusetts Supreme Judicial Court and considered whether Roger Williams University School of Law might be willing to do the same in Rhode Island, if the Court deems the project worthwhile.

The Committee commented favorably on the fact that the Court now tweets when decisions are rendered, and that those decisions are readily available on the Court's website.

The Committee discussed other issues of interest including how appendices are submitted on show-cause cases, whether the new rules will be based on word-count rather than page-count, and the effectiveness of Appellate Mediation on certain appeals.

At the time this report is being prepared, the new appellate rules, including those relating to electronic filing, have not been issued. The Committee expects that during the 2019-2020 year e-filing will be implemented at the supreme court and expects to have significant engagement with those new rules when they come into effect.



### **Technology in the Practice**

**Michael M. Goldberg**, *Chair*  
**Rhiannon S. Huffman**, *Vice Chair*

The Technology in the Practice Committee's noteworthy activities this year again focused on issues regarding the Case Management System (CMS) and Electronic Filing (E-Filing) System in the Rhode Island State Courts.

The Committee continued to organize and moderate the E-Filing Working Group, which consists of bar members and representatives from multiple Bar Association Bench/Bar Committees. The E-Filing Working Group acts as a conduit between Bar members and the

Rhode Island Judiciary. The E-Filing Working Group has developed into a resource for Bar members to effectively utilize various features of the CMS and E-Filing Systems. The E-File Working Group has likewise brought Bar members' concerns relating to the systems to the Judiciary for possible resolution.

The members of the Committee have spoken upon invitation at other Bar Association Bench/Bar Committees to discuss current technology trends affecting the legal profession, as well as the CMS and E-Filing System.

The Committee had provided reports of our progress to the Bar Association President Carolyn R. Barone who had passed along the information to the membership through the President's Messages in the Rhode Island Bar Journal, as well as through Bar Committee updates, an all-member email, and news postings on the Bar's website and social media accounts.

The E-Filing Working Group and the Judiciary representatives again jointly presented a seminar reviewing the current status and previewing future developments relating to the CMS and E-Filing System during the 2019 Bar Association Annual Meeting.

### **Workers' Compensation Bench/Bar**

**William Gardner**, *Chair*

The Committee met at the Garrahy Judicial Courthouse on the third Thursday of each month and was regularly attended by Chief Judge Robert Ferrieri and the Court's associate judges. The Court and Committee also welcomed Associate Judge Susan Pepin Fay and Associate Judge Keith Cardoza to the bench this year. Issues raised by members of the bench and bar were addressed, as well as recent changes to settlement procedures and the anticipated expansion of the mediation program. In the winter, the Committee hosted a presentation on rever-sionary Medicare Set-Aside Agreements and current trends for these agreements, which was highly informative and very well-attended. The Court's mediation program continues to be very successful and it is expected that a mediation week will be instituted for those claims not currently in litigation. A special thanks to the retired and active judges that continue to lend their time to the program, as they have been instrumental in its success. The annual fall golf outing was again held at Triggs Memorial Golf Course and continues to be one of the most heavily attended events for both active and retired practitioners and judges. Judge Morin and Chief Judge Ferrieri were again instrumental in setting up this event. The most recent golf outing, held in May at Montaup Country Club, was also well-attended by members of the bench and bar. The Committee is presently taking a break from meetings over the summer and will return in the fall.

## Rhode Island Bar Foundation 2019 Annual Meeting



Michael A. St. Pierre, Esq.  
Rhode Island Bar Foundation President



New Bar Foundation Officers (l-r): Secretary Lauren E. Jones, Esq.; President Michael R. McElroy, Esq.; Vice President Victoria M. Almeida, Esq.; and Treasurer James A. Jackson, Esq.

The Rhode Island Bar Foundation held its Annual Meeting and Fellows Luncheon on June 13, 2019 at the Rhode Island Convention Center in Providence. Foundation President Michael A. St. Pierre and the Board of Directors welcomed and thanked the Foundation Fellows who, through their professional, public and private careers, have demonstrated outstanding dedication to the welfare of the community and objectives of the Foundation. President St. Pierre expressed gratitude to the members of the Board and the hard-working Foundation Committees.

During the Luncheon, the newest Foundation Fellows, as well as representatives from organizations receiving 2019 Interest on Lawyers Trust Account (IOLTA) grants, were recognized. This year, \$393,109 was granted for the provision of Rhode Island legal services and the administration of justice. Attorney participation in the IOLTA program accounts for the most significant source of grant revenue. The Foundation also recognized and honored the recipients of the 2019 Thomas F. Black, Jr., Memorial Scholarship and the recipients of the Honorable Thomas J. Caldarone, Jr., law student summer Fellowship Program.



Norman D. Baker, Jr., Trustee, the Horace A. Kimball and S. Ella Kimball Foundation; Edward Marth, Trustee, the Horace A. Kimball and S. Ella Kimball Foundation; Thomas F. Black, III, President, the Horace A. Kimball and S. Ella Kimball Foundation; and R. Kelly Sheridan, Chairperson, Scholarship Committee.



Lenore Montanaro, Esq., 2012 Thomas F. Black, Jr. Memorial Scholar, addressed the Bar Foundation Fellows and guests.



## The Bar Foundation Welcomed 7 New Fellows at the Annual Meeting

The Bar Foundation receives support by annual contributions through our Fellows program. Membership in the Foundation as a Fellow is a professional honor. Fellows are selected from Rhode Island Bar Association members whose professional, public and private careers demonstrate their outstanding dedication to the welfare of the community and maintenance of the Rhode Island Bar Foundation's objectives.

Yvette M. Boisclair  
 Sonja L. Deyoe  
 Thomas M. Dickinson  
 Christopher M. Lefebvre  
 Paul Silva  
 Hon. Lia N. Stuhlsatz  
 Nicole M. Verdi

## The Honorable Thomas J. Caldarone, Jr. Fellowship Program

The RI Bar Foundation was recently honored with a generous donation from Hon. Thomas J. Caldarone Jr. which has been used to establish an endowment for summer fellowships. Annually, a student entering their second year at Roger Williams University School of Law, will receive a stipend for an internship in a Rhode Island nonprofit organization engaged in providing legal services to persons of limited means. As Caldarone Fellows, second year law school students have the opportunity to assist in providing crucial legal services to the public and in so doing may encourage those students to pursue public service careers. The Rhode Island Bar Foundation is very pleased to be able to award two fellowships this year. Cory Lee will be interning at the Rhode Island Commission for Human Rights, and Christopher Deisenroth will be interning at the Rhode Island Public Defender's Office.



Rhode Island Bar Foundation 2019 Hon. Thomas J. Caldarone, Jr. Summer Fellowship Recipients Cory Lee (pictured left) and Christopher Deisenroth (right) with Roger Williams University School of Law Dean Michael J. Yelnosky (middle).

## Thomas F. Black, Jr., Memorial Scholarship Program

The Rhode Island Bar Foundation's Thomas F. Black, Jr. Memorial Scholarship Fund was established in 1989 to support and foster high legal practice standards by assisting Rhode Island residents who show promise that they will become outstanding lawyers and who need financial assistance to study law. The Scholarship is in honor of the late Thomas F. Black, Jr., a person known for his impressive ability as a lawyer and banker, his deeply rooted legal scholarship and his notable participation in civic and charitable causes. This year, the Foundation granted two, \$20,000 scholarships to first-year law students. We are also proud to announce that we are celebrating 30 years of scholarships thanks to the extraordinary vision of the Program's founders!

### Special Thank You to Scholarship Program Contributors

The Horace A. Kimball and S. Ella Kimball Foundation  
 The Champlin Foundation  
 The Nicholas J. Caldarone Foundation  
 The Rhode Island Bar Foundation Fellows



2019 Thomas F. Black, Jr., Memorial Scholarship Recipients Logan P. Duffy and Laura Caro Ruiz. Logan is attending Harvard Law School and Laura is attending Boston College Law School.





THE PAST PRESIDENTS CLUB





2019 ANNUAL MEETING

This year's hard-working Annual Meeting Committee, chaired by Bar member Patrick Guida, produced a diverse and enriching program. Supporting this effort, many Bar members and the Bar staff worked with the Committee to ensure a seamless presentation of workshops and social events. As a result, the Annual Meeting provided nearly 1,500 attendees with a diverse range of interesting and informative seminars over the two days. The Meeting offered Bar members outstanding opportunities to learn, improve their practice, recognize and honor Bar award winners, socialize with colleagues, and fulfill annual CLE requirements.



Thursday Plenary speaker and humorist Loretta LaRoche had the ballroom filled with laughter (and even a little singing) as she entertained attendees.



New 2019-2020 Rhode Island Bar Association President David N. Bazar was sworn-in by Rhode Island Supreme Court Associate Justice Maureen McKenna Goldberg.



Speakers Preston Halperin, Esq. and Cannabis Regulator for the State of Rhode Island Norman Birenbaum discussed the current state of marijuana law, both federally and in RI, during their **Marijuana Law Update** session.



Chief Judge of the United States District Court for the District of Rhode Island William E. Smith was honored with the Chief Justice Joseph R. Weisberger Judicial Excellence Award at the Annual Meeting Luncheon.



Panelists Matthew B. DiMario, Esq., Rebecca F. Briggs, Esq., and Dana M. Horton, Esq. presented **Beyond Our Borders: Service of Out-of-State Subpoenas and Depositions in RI State and Federal Court**.



The distinguished panelists (l-r) Hon. Francis Flaherty, Hon. Francis J. Darigan, Jr. (ret.), Hon. Sandra A. Lanni, Professor Jared Goldstein, law student Luis Rivera, Lara E. Montecalvo, Esq., Thomas M. Dickinson, Esq., and Lauren E. Jones, Esq. gave attendees updates on both civil and criminal case law.



Musician Mike Messer and Jack Marshall, Esq. closed out the Meeting Friday afternoon with their lively session, **Ethics Rocks Extreme!**



Panelists Eric M. Shorr, Dena M. Castricone, CIPP-US, CIPM, Deborah A. George, Esq., and Cindy Lepore, CLCS, CGS discussed how to protect your law firm and clients in their workshop, **The Latest on Cyber Threats & Cyber Liability Insurance.**



During the **Superior Court Business Calendar—Basics & Beyond** presentation, panelists Hon. Brian P. Stern, Harmony Conti Bodurtha, Esq., Richard J. Land, Esq., and Andre S. Digou, Esq. (not pictured) reviewed the newly entered administrative order and comments from the Justice regarding form, preferences, and practice tips.



At the **Family Law Update**, presenters Vincent A. DiMonte, Esq., Joanna M. Achille, Esq., Stephen M. Prignano, Esq., and Jane F. Howlett, Esq. discussed important changes to family law cases and administrative orders.



Many attendees were eager to hear from the RI Attorney General Peter F. Neronha, Esq. (second from left) along with John A. Tarantino, Esq., Victoria M. Almeida, Esq., and David D. Curtin, Esq., at their session, **Meet Rhode Island's New Attorney General.**



Presenters Patricia Antonelli, Esq., Chip Palmer, Jr., Esq., and Richard J. Land, Esq. gave attendees a review of RI statutory and case law on civil and criminal usury interest rates at their **Usury in Rhode Island: Commercial and Consumer Issues** workshop.



Chief Magistrate of the RI Traffic Tribunal Domenic A. DiSandro III and Magistrate Joseph A. Abbate reviewed case law updates, trends on appeal and other changes during their session **Rhode Island Traffic Tribunal Update**.



David Morowitz, Esq. presented **Summation**, discussing methods and tips for effective preparation and presentation.



Outgoing President Carolyn R. Barone, Esq. was presented with flowers and a plaque as a thank you for her excellent work during her presidency.



Michael M. Goldberg, Esq., Rhiannon S. Huffman, Esq., Gail M. Valuk, Esq., and Lauren E. Jones, Esq. presented the always popular **Rhode Island State Court E-Filing Current Developments and Future Plans** workshop.



Presenters Steven M. Richard, Esq., Jonathan Cook, Esq., and Janet Elie Faulkner, Esq. discussed the new Title IX regulations at their workshop **Campus Sexual Misconduct Proceedings: The Litigation and Regulatory Playing Field**.



The panelists Nicholas Trott Long, Esq., Stacie Collier, Esq., Cassandra L. Feeney, Esq., and Charlene Elva Pratt, Esq. discussed a pertinent topic at their session, **Developing a Plan for Lawyer Well-Being**.



Elizabeth Segovis, Esq., Peri Ann Aptaker, Esq., T. Keith Fogg, Esq., and Gregory Porcaro, CPA, discussed the new tax act and its effects in their workshop, **The Impact of the Tax Cuts and JOBS Act of 2018 on Low and Middle-Income Taxpayers**.



Jared D. Correia, Esq. discussed how to take the next step in developing your virtual law firm in his session, **Surprise! You're Already Running a Virtual Law Firm, So You Might as Well Make the Most of it**.



Executive Committee member Christopher S. Gontarz, Esq. and RI Family Court Associate Justice John E. McCann III shared a laugh at the Friday Annual Luncheon.





Attendees learned about new ABA Advance Care Planning guidelines at the session **Are You Up to Date with Helping Clients Talk About Healthcare Wishes?** with presenters Harriet Warshaw and Maureen G. Glynn, Esq.



Hon. John E. Martinelli, David D. Curtin, Esq., John J. Pattera II, Esq., and Harry J. Hoopis, Esq. shared their experiences, challenges, and war stories at the always popular **Golden Nuggets** session.



**The Dos and Don'ts of Medical Depositions** were discussed by Hon. Keith A. Cardoza, Jr., Hon. Susan Pepin Fay, Christopher Chihlas, M.D., John F. Cascione, Esq., and Jeffrey M. Liptrot, Esq.



Hon. Cristine L. McBurney, Hon. Paula M. Cuculo, and Hon. Christine J. Engustian reviewed decisions, legislation, and developments in probate court practice at their session **Current Developments in Estates, Guardianships & Trusts**.



Avi Nevel, Miriam A. Ross, Esq., and Oded Kadosh, Esq. discussed advising clients of various elements of start-up businesses in their presentation, **Start-Ups 101: Legal Strategies and Experiences from Israel, the Startup Nation**.



During their session, **An Exploration of Uncommon Entity Structures in RI**, presenters Marcus Howell, Esq., Amy T.M. Oakley, Esq., Theodore B. Howell, Esq., and Maureen Ewing offered an analysis of lesser-adopted entity types in RI, and discussed ways to avoid common lawyer filing errors.

Bree Buchanan, JD, along with moderator Nicholas Trott Long, Esq. (not pictured) discussed the unique difficulties facing our profession and the ethical requirements for doing so at their workshop, **Getting Your Bounce Back: Using Resiliency to Preserve Your Fitness to Practice**.





## 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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## Congratulations to our Volunteer Lawyer Program Raffle Winner Steven A. Robinson of Cranston!



Attorney Steven A. Robinson, of Robinson & Robinson in Cranston, was the lucky Boston Red Sox tickets raffle winner at the RIBA Annual Meeting! Any Bar member who accepted a case for the Volunteer Lawyer Program at the Annual Meeting was entered to win the prize, and Steven has been a longtime volunteer for our program! We are so grateful for Steven's continued service to our program and to the public. We urge anyone interested in following in Steven's footsteps to contact Public Services Director Susan Fontaine today at 421-7758 or [sfontaine@ribar.com](mailto:sfontaine@ribar.com) to find out more about the Volunteer Lawyer Program and how you can give back to those in need. We will even provide mentors for attorneys unfamiliar in a particular area of law, so don't let that stop you from reaching out. It feels good to give back!

We would also like to send a special thank you to WEEI 103.7 FM for their generous donation of Red Sox tickets for our raffle. By supporting our program, you have made a huge difference in the lives of many families in need!

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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](http://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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## Lawyers Helping Lawyers Committee Members Protect Your Privacy

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

## SOLACE ..... Helping Bar Members in Times of Need

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](http://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](mailto:hmcDonald@ribar.com) or 401.421.5740.

## Lawyers on the Move

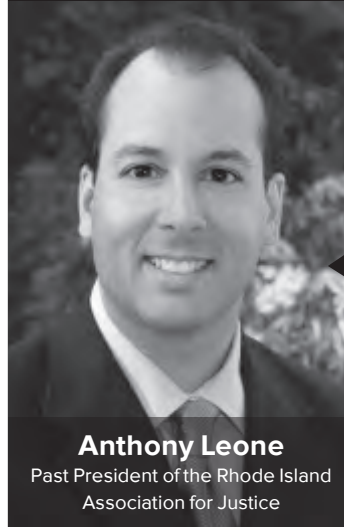
**Paula M. Cuculo, Esq.** has moved her office to The Limerock Center, 1525 Old Louisquisset Pike, Suite 205 B, Lincoln, RI 02865. 401-228-2695 pcuculo@yahoo.com

**Higgins, Cavanagh & Cooney, LLP**, has opened a Connecticut office at 100 Pearl Street, 14th Floor, Hartford, CT 06103. 800-274-5299 www.hcc-law.com

**Kenneth J. Macksoud, Esq.** has moved his office, **Law Office of Kenneth J. Macksoud**, to the D'Amico-Burchfield Building, 536 Atwells Avenue, Providence, RI 02909. 401-831-6966 macksoudlaw@yahoo.com macksoudlawoffice.com

**Sarah E. Wheeler, Esq.** is now an associate at **Higgins, Cavanagh & Cooney, LLP**, 10 Dorrance Street, Suite 400, Providence, RI 02903. 401-272-3500 swheeler@hcc-law.com hcc-law.com

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## In Memoriam

### Louis E. Azar, Esq.

Louis E. Azar, 89, died March 29, 2019. He was the beloved husband of the late Marie A.J. (Melucci) Azar. Born in Central Falls, a son of the late Joseph and Ella (Sarkas) Azar, he had lived in Lincoln for the past fifty-one years. Judge Azar was a graduate of Central Falls High School, and earned a bachelor's degree from Providence College and a Juris Doctorate from the Boston University School of Law. He went on to a distinguished law practice for over fifty years in Pawtucket, and was appointed Probate Judge in the City of Central Falls. He had also served as a Judge Advocate General in the U.S. Army. He was chairman for twenty-five years of the Lincoln Town Democratic Committee, past president of the Pawtucket Bar Association, and a communicant of the Church of St. Basil the Great. He is survived by four daughters, Pamela M. Azar of Lincoln, Patricia A. Antonelli of Lincoln, Priscilla A. Azar of Cumberland, and Paula Wilson, and her husband Brian, of Glendale, AZ; two sons, Louis E. Azar, Jr., and his wife Patricia Connor-Azar, of Woonsocket, and Dr. Anthony C. Azar, and his wife Dawn R. Houliker-Azar, of Rehoboth, MA; one sister, Barbara Deeb of East Greenwich; two brothers, Joseph Azar, Jr. of Central Falls, and Robert Azar of Warwick; five grandchildren, and several nieces and nephews. He was the father of the late Richard Azar.

### Memoriam 2018-2019

Louis E. Azar, Esq.  
E. Jerome Batty, Esq.  
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William F. Buckley, Esq.  
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Eileen G. Cooney, Esq.  
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We will post a cartoon in each issue of the *Rhode Island Bar Journal*, and you, the reader, can create the punchline.



**Winning caption for  
May/June**



**"Officers, for the last time,  
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**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](mailto:kbridge@ribar.com) with "Caption Contest for July/August" in the subject line.

**Deadline for entry:** Contest entries must be submitted by August 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.*

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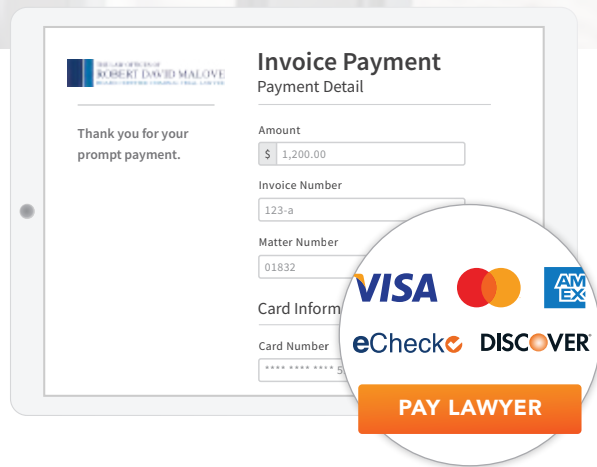
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