

Rhode Island Bar Journal

Rhode Island Bar Association Volume 66. Number 5. March/April 2018



**How to Win Land and Influence Policy:
A Practical Guide to Adverse
Possession in Rhode Island**

The Business Calendar: A Deeper Bench

**A Comprehensive Guide to Sealing and
Expunging Criminal Records After New
Reform**

**Book Review: *Business and
Commercial Litigation in Federal Courts*
- Fourth Edition**



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THE PALMER MEETING HOUSE, WEST GREENWICH, RI

The Palmer Meeting House, located at 195 Escoheag Hill Road in West Greenwich, was donated to the West Greenwich Land Trust by the Palmer family in April 2004. It was originally built in 1897 as the Escoheag Advent Christian Church.

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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 Practice of Law: Your Job, Your Career, or Your Calling?



Linda Rekas Sloan, Esq.
President
Rhode Island Bar Association

... the journey itself is the process I am advocating, not the destination. If you are self-aware, that growing awareness will change your perspective about how life should be.

Have you ever driven to work with thoughts preoccupying your mind and suddenly you arrive at work having no clear memory of driving there? Similarly, we often go through life on autopilot, only to realize later that we have lost sight of our passions and goals along the way.

I have heard that one's work is either a job, a career, or a calling. A job is described as something that you do for money to make a living and support yourself; it is a means to an end.

A career is sometimes described as a ladder that you climb for some combination of prestige, success, status, power and/or money; where your progress is tracked through your appointments and achievements. During your "career" phase, your internal compass and point of reference is based on meeting the expectations of others, not your own self-fulfillment.

Finally, a calling may include elements of a career such as prestige, success, status, power and/or money, *but* your internal compass and point of reference is yourself. It is personally fulfilling. It is when you combine your daily activities with your character which in turn makes your work meaningful. If your professional life is your calling, it is because you are in pursuit of your life's purpose.

I believe that many lawyers start out after law school simply looking for a job which evolves into a career. There is absolutely nothing wrong if your current situation is any one of these: a job, a career, or a calling. At various points in my work life [and sometimes even at various points in any particular day], I too have viewed my work as any one of these orientations. Wherever you are along this path, I hope being a lawyer is or *becomes* your calling because I believe being a lawyer is an extraordinary privilege. You deserve much more, and the world deserves more from you.

Steve Jobs, who mastered living and working purposefully, asked himself one important question in the mirror every morning:

"If today were the last day of my life, would I want to do what I am about to do today?" If the answer is 'no' for too many days in a row, I know I need to change something."

So, imagine that you are 100 years old and have lived your life exactly as you had wished. You are fulfilled, happy, and at peace. Now imagine what your life would need to have consisted of, to bring you to this point. Did you contribute to your community? Did you have good relationships with your family and friends? Did you give yourself permission to follow your passions? If so, what were they? Did they include public service, charity, travel, music or art?

Is the life that you are living now likely to take you to that place of peace, happiness and fulfillment? If not, then why not, and what are you going to do about it?

I am urging you to pursue a path. Honestly, the journey itself is the process I am advocating, not the destination. If you are self-aware, that growing awareness will change your perspective about how life should be. Spend time with people who inspire, support, and nurture you. Avoid those who are toxic to you. You know who they are. From there, you become aware of your own inherent talents and good qualities. Hopefully, from this awareness, you learn of what your purpose in life might be. Remember that as humans, we are constantly evolving. As your purpose takes shape, something extraordinary starts to happen. You find an ability to identify goals and set priorities which support your purpose. Your ingrained autopilot habits start to fall by the wayside and your life comes into balance.

I have a friend, Pat Landers, who was a successful insurance defense lawyer in Rhode Island for almost 20 years. He was always passionate about animals and decided to make a major career change. He applied for and was accepted into Tuft's Veterinary School. I remember him telling me that vet school was the hardest thing he has ever had to go through; much harder than law school. I admired him so much for pursuing that path despite the difficulty he knew he would endure as an older student. He is now an Emergency Room Veterinarian. He also travels the world on safaris taking professional photographs of wild animals.

I tell you Pat's story, not because I want you to leave the practice of law, but because I want

you to enjoy your work. Our time on this earth is short. I want you to be able to look back and say I took steps to make my work fulfilling. So if you get anxiety every Sunday in anticipation of the work week or if you feel nauseous when you pull into the parking lot at work, please recognize that it does not have to be this way. I am not telling you to quit your job. What I am saying is to think about ways to modify your path to make your work meaningful. Talk to whoever you need to talk to: the partners at your firm, your contemporaries, your adversaries, a mentor, a therapist, your family and friends, a member of the Lawyers Helping Lawyers Committee, someone from the

Coastline Employee Assistance Program, a volunteer on the Rhode Island Bar Association Online Attorney Resources Directory or me. And, if you find that your current work is not allowing you to follow your path, you may elect to change your workplace, your specialty, or even your career. If you feel a calling, answer it. ♦

Good Business for Good Lawyers

Build Your Practice with the Bar's Lawyer Referral Service!



Attorney Brian Fogarty, a Lawyer Referral Service member, enthusiastically supports LRS. *Participating in the Lawyer Referral Program over the last twenty years has allowed me to give back to the community and, at the same time, expand my client base. I would highly recommend it.*

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 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.

RHODE ISLAND BAR JOURNAL

Editorial Statement

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

Article Selection Criteria

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

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

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Rhode Island Bar Association Volunteer Lawyer Program 31 Years of Pro Bono Service 1986-2017 2017 Highlights and Accomplishments

PROGRAM SUMMARY

In keeping with its mission, The Rhode Island Bar Association's Volunteer Lawyer Program (VLP) continued to provide legal assistance to those who cannot obtain legal representation either on their own or through other legal resources. Administered by the Bar Association for thirty-one years, the Volunteer Lawyer Program continues to offer many interesting opportunities for the private bar to handle pro bono cases. VLP membership provides a satisfying variety of experiences that cannot be duplicated elsewhere while opening the door to justice for low income citizens. Volunteer Lawyer Program attorneys impact their clients' lives in a significant and purposeful way. The contributions of volunteer attorneys are essential to the system of justice. The ethical commitment of the Bar Association to the delivery of pro bono assistance is reflected in the ongoing dedicated public service activities of its VLP members.

Education – A Member Benefit

Focusing on recruitment of VLP members is essential to respond to the needs of the community for pro bono assistance. The most effective method of member recruitment and retention is through sponsoring and providing free continuing legal education in cooperation with the Bar's Continuing Legal Education (CLE) department.

A three-part family law series seminar, *Custody Litigation & Related Issues*, was offered free to volunteer attorneys in March and April of 2017. The sessions covered trial preparation, trial tactics, case presentation and post-trial special issues. This series was sponsored by the

Volunteer Lawyer Program in conjunction with the Bar's Public Service Involvement Committee. The outstanding panelists included Associate Justices Karen Lynch Bernard and John E. McCann III, General Magistrate Feidlim E. Gill, Magistrate Paul T. Jones, Jr., Carolyn R. Barone, Esq., Deborah S. Gonzalez, Esq., Jane F. Howlett, Esq., Barbara L. Margolis, Esq., Richard A. Merola, Esq., Denise Acevedo Perez, Esq., Peter Sangiovanni, Jr., Esq. and Elizabeth W. Segovis, Esq. Offering this series resulted in the placement of more than twenty pro bono family law/ domestic violence cases.

In May 2017, the Volunteer Lawyer Program/ Foreclosure Prevention Project sponsored the CLE seminar *Bankruptcy Best Practices: Chapter 7 & 13*. The excellent speakers included Janet J. Goldman, Esq. and US Bankruptcy Court Trustees Lisa A. Geremia, Esq., Charles A. Pisaturo, Esq., and John Boyajian, Esq. The moderator was Bankruptcy Clerk of the Court Susan M. Thurston, Esq. This seminar was offered *free* to all volunteers and, as a result, over 20 pro bono bankruptcy cases were immediately placed.

In addition to the free seminars that are sponsored by the Volunteer Lawyer Program (VLP), members who contribute and report thirty-plus hours of pro bono service annually



Custody Litigation & Related Issues Session 3 Speakers (l-r) Elizabeth W. Segovis, Esq.; Denise Acevedo Perez, Esq.; Deborah S. Gonzalez, Esq.; Magistrate Paul T. Jones, Jr.



Bankruptcy Best Practices: Chapter 7 & 13 Speakers (l-r) Charles A. Pisaturo, Esq.; John Boyajian, Esq.; Lisa A. Geremia, Esq.; Janet J. Goldman, Esq.; Susan M. Thurston, Esq., US Bankruptcy Clerk.



Michael A. Castner, Esq.
Pro Bono Publico



Colleen P. Murphy, Esq.
Pro Bono Publico

are eligible to receive CLE coupons to be used in the following calendar year to attend one, free, three-credit seminar or three Food for Thought seminars of their choice. Instituted in 2009, this policy reflects the Bar's long-standing support of pro bono legal assistance and public service.

Volunteer Recognition/Events

The Pro Bono Awards presentation was held at the Bar Association's Annual Awards Reception on June 15, 2017. Bar President Armando Batastini presented Attorneys Michael A. Castner and Colleen P. Murphy with Pro Bono Publico Awards for their outstanding pro bono contributions through the Volunteer Lawyer Program. The amazing pro bono contributions of these two award recipients exceeded a remarkable 500 hours!

National Pro Bono Week

In honor of the American Bar Association's National Pro Bono Week in October, 2017, a limited scope Collections Clinic for low-income citizens being constantly pursued by debt collectors was held and presented by Attorney Christopher Lefebvre. These clinics will continue to be scheduled in 2018.

Placement Strategies

VLP staff attended numerous 2017 Continuing Legal Education seminars at the Rhode Island Law Center, as well as at off site locations, where they recruited new attorney members and placed cases. Pro bono case summaries were prepared and distributed to attendees to emphasize the need for pro bono legal assistance and encourage participation. This was

one of several effective methods of case placement, in addition to the traditional direct calls to panel members and blast e-mailing. Direct mail was also used to promote free CLE offerings.

The majority of potential clients contacted the VLP by telephone to request pro bono service. The public is continually referred to this program by the human service network Rhode Island Legal Services and other legal

assistance agencies, the internet/Rhode Island Bar Association website, law offices, the courts, and other sources.

In 2017, requests for assistance were accepted for bankruptcy, collections, consumer, education, employment, foreclosures, guardianships, landlord/tenant, license registry, non-profit, probate, tort defense, and family law issues.

Foreclosure Prevention Project

We continue to receive requests from clients in desperate need of assistance with foreclosure prevention and foreclosure relief matters. We look forward to expanding and strengthening private bar resources for assistance for our clients especially in the area of prevention in 2018. The CLE seminar, "Tax Lien Foreclosures" scheduled for March 20, 2018 was planned during the fall of 2017 and is being offered free to volunteer attorneys who handle pro bono cases through the project.

Partners Overcoming Domestic Violence (PODV)

The pro bono cases from this collaborative project are identified through the Volunteer Lawyer Program and then assigned to volunteer lawyer attorney teams to provide survivor's with representation for their divorce, custody and visitation cases.

In 2017, project collaborators from the Rhode Island Bar Association, Rhode Island Legal Services, Inc., Rhode Island Coalition Against Domestic Violence, and the Roger Williams University School of Law met to propose and plan a repeat of the successful 2016 comprehensive 12 CLE credit training sessions in domestic violence and family law to begin in 2018.

Notes of Appreciation

Evaluations of the legal assistance received in 2017 reflect the amazing dedication of the volunteer attorneys and the sincere appreciation of the clients and referral agencies. These client evaluations emphasize the critical need for expanded and continued private bar involvement to protect the rights of our poorest citizens. The following quote shows the value of representation given to those in dire need, and mirrors so many comments received from our clients throughout the year.

I could never attend court alone. I suffer with severe anxiety and I would have ended up in the hospital. Without the attorney's help my life would be absolutely miserable. I can't thank you enough.

Our clients truly need your help and joining is a simple process! For information about the Volunteer Lawyer Program, please contact Susan Fontaine at: sfontaine@ribar.com or 401-421-7758. For your convenience, VLP membership applications may be accessed on the Bar's website at ribar.com and completed online. Once we receive your application, we will contact you.

The Rhode Island Bar Association's Volunteer Lawyer Program is funded by Rhode Island Legal Services, Inc. and the Rhode Island Bar Foundation. ❖

How to Win Land and Influence Policy: A Practical Guide to Adverse Possession in Rhode Island



Jenna Wims Hashway, Esq.
Professor of Legal Practice
Roger Williams University
School of Law

Highly valuable land is likely to be highly valued, and correspondingly closely guarded. To succeed, you'll want to find a place a bit more out of the way and overlooked.

Admit it, you've thought about it. What first-year law student nodding over a Property casebook hasn't at least considered the possibility of someday adversely possessing a piece of land? It's tempting to think that a little ingenuity and a lot of patience could yield a prime piece of real estate. But like many a 1L dream of post-bar life, the reality falls somewhat short of the fantasy. The overwhelming number of Rhode Island Supreme Court cases addressing adverse possession deal with boundary disputes in which, after long litigation, the would-be possessor stood to gain only a few feet at the edge of his own property.¹ Is it even possible to employ this ancient doctrine today to win a sizeable piece of buildable land? Perhaps surprisingly, the answer is decidedly yes.

In September 2017, the Rhode Island Superior Court awarded four lots of land in scenic Little Compton to an adverse possessor who had assiduously and intentionally set out to stake his claim.² Although the Rhode Island Supreme Court may yet have the final word, Justice Van Couyghen's decision in *Carroll v. Rodrigues*, grounded as it is in fifty years of precedent, seems likely to be upheld. If it is, then the plaintiff Carroll will have given us all something in exchange for those lots of land—a tutorial on how to adversely possess land in Rhode Island.

Taking the *Carroll* case as a starting point, I surveyed thirty Rhode Island Supreme Court cases stretching back to 1912. Little has changed in the last century; although the high court literally raises an eyebrow³ at the doctrine of adverse possession, it still applies it with some regularity. Despite being “a legal anachronism reminiscent of a time when landowners lived on or near their land and thus could observe encroachments on their property,”⁴ the doctrine remains enshrined in Rhode Island law. Under § 34-7-1 of the Rhode Island General Laws, one who “shall have been for the space of ten (10) years in the uninterrupted, quiet, peaceful and actual seisin and possession of any lands” can obtain title by adverse possession if he or she can establish by

clear and convincing evidence “actual, open, notorious, hostile, continuous and exclusive use of the property under a claim of right.”⁵ As to that “claim of right,” one needn't be innocent of the existence of another owner—indeed, the Court has held that “black-hearted trespassers” may “still adversely possess the property in question under a claim [of] right to do so if they use it openly, notoriously, and in a manner that is adverse to the true owner's rights.”⁶ So, let us wear our black hearts on our sleeves as we take a tour through Rhode Island's purloined parcels.

Choose your target

If you're going to invest ten years and (as you'll see below) some cash and labor in this venture, you'll want to choose the target property carefully. Although an oceanfront lot may be tempting, or a city terrace appealing, the more desirable the location, the greater the odds against adverse possession. One of the traditional justifications for the doctrine of adverse possession is that land should be put to its most productive use.⁷ Assuming that to be true, it should come as no surprise that the most desirable spots have long since been put to productive use. Highly valuable land is likely to be highly valued, and correspondingly closely guarded. To succeed, you'll want to find a place a bit more out of the way and overlooked.

A little spot in Colt State Park or a cabin in Lincoln Woods might sound nice, but remember, “the statute does not run against the sovereign” —you can't adversely possess public lands.⁸ The state, however, can acquire property by adverse possession, as it did a lake bed in *Reitsma v. Pascoag Reservoir & Dam, LLC*.⁹ If it's waterfront you're after, beware of the beach. The towns of Barrington and Little Compton were the bathing “suit” winners in adverse possession contests for their respective town beaches.¹⁰

Thanks to that Little Compton suit, I and my fellow residents can enjoy swimming at South Shore Beach.¹¹ Little Compton seems to be something of a hotbed of adverse possession.¹² It's likely that the town's off-the-beaten-path location and undeveloped nature account for its outsized presence in Rhode Island's adverse possession jurisprudence. In any event, it's

A Straightforward Prescription



Jim Purcell, Esq.

RI Bar President Linda Rekas Sloan has asked me to write an article on what fitness/wellness means to me as an attorney. Several opening caveats:

- I'm now 72 years old, and limit my practice to being an arbitrator, mediator, or facilitator, so I'm an old guy with a little more free time than most of you.
- I believe that the best approach is "wellbeing" rather than just fitness or wellness.
- During the pressures of full time law practice, I could and should have done better.

Over the past two years, I have lost 35 pounds, and have almost completely eliminated prescription medications with the exception of blood pressure and cholesterol meds, which I now take in doses of a quarter of what I was taking. I hope (with the doctor's permission) to eliminate those entirely next year, and declare freedom from prescription medications. But I don't run road races and yes, my knees still ache at times, but the lost weight has pushed away any thoughts or replacements for now.

What did I do? I have always been relatively healthy and have always exercised "some." But not enough. My inspiration was a book titled *Younger Next Year*, written by Chris Crowley, a retired trial lawyer from New York City, and his primary care doctor, Henry Lodge. Crowley had just retired and wanted to ski and thrive into his 80s. Together with Dr. Lodge, they prescribed the following straightforward rules: exercise six days a week; eat what you know you should; connect to other people; and commit to feeling passionate about something.

What have I discovered on my own journey? Several things.

Lots of Exercise is Essential: Most of us feel pretty good with three times a week for 45 minutes a pop. That is not enough by a long shot. And don't give me this business about not being able to fit it in. You need six days a week, with a mixture of cardio (heart and legs) and weights (balance and core). Exercise will, all by itself, make you more focused and energized, and will help your practice enormously. It's all about making exercise a habit at least an hour a day six days a week. Be a little selfish.

It IS About What You Eat: You will not lose weight, even if you exercise a lot, without watching what you eat. I do not follow a prescribed "diet" as such. The unfortunate reality is that we must eat the right stuff and less of it, but more often each day. I often skipped breakfast—no more. I often ate at night after working at home. No more. But I don't get all wadded up in high protein, low carb, etc. Just cut back on processed sugar and flour. Make your treats count. It works. A helpful suggestion: I have found myfitnesspal.com to be a great help. It is all about calories in, calories out. Try it out, but please don't "friend" me.

Wellbeing: Just focusing on the physical side is like one hand trying to clap. "Wellbeing" refers to the whole person. We know that the mental/emotional side can be even more important than the physical side. Mental and emotional challenges are huge road blocks to achieving the physical health we want. Being an attorney and experiencing stress go hand in hand. We need to deal with stress through exercise, connecting with others, having passion about something, and occasional counseling. And I think we're all adult enough to get over the fear of good psychological counseling as needed. It works.

Medications: We live in an age of miracle drugs. Who amongst us doesn't take statins (cholesterol) and blood pressure meds? And SSRIs. These drugs should not (with some exceptions) be life-long sentences. They should be temporary stabilizers that allow us to make the needed lifestyle and other changes to achieve good health without them. Having cholesterol and blood pressure in acceptable ranges while taking meds is not being healthy. It's being medicated. We can do better.

So, what has that meant for me? Have I achieved serenity yet? Nope. Mindfulness meditation may be next on the list, but I draw the line at yoga. Yet, I do sleep better at night; I focus more easily despite my age; I seem to worry for shorter periods of time; and I treasure the realization that I am being responsible to myself and those who love me. Not so bad for a lawyer.

where Mr. Carroll set his sights.¹³ He combed the town's Land Evidence Records to identify properties that were not on the tax rolls.¹⁴ After finding a property with no apparent record owner, he deeded the property from himself to himself and his wife, and then recorded the deed.¹⁵ In so doing, he arguably performed a public service by assuming the taxes on property that had not previously generated any revenue for the town.¹⁶

The two lots¹⁷ that Mr. Carroll identified each consisted of six or seven wooded, "mostly undeveloped" acres on Amy Hart Path.¹⁸ For those picturing a quiet woodland getaway, it's worth noting that Amy Hart Path's nearest neighbor is the Little Compton Transfer Station (known to locals as "the dump"). Again, the most valuable properties are likely fully valued. Mr. Carroll chose a property that was secluded and absent from the tax rolls—a good indication that no one would be watching it very closely. In identifying your own target property, you'd do well to follow his example.

The lots Mr. Carroll chose had been used as "woodlots."¹⁹ A woodlot is "a privately maintained tract of land used as a source of fuel, posts and lumber;" generally "maintained as a property separate from the owner's residence."²⁰ Woodlots have the advantage of offering seclusion to a would-be possessor who would prefer to establish his use of the property without drawing too much attention. That is no doubt the reason they pop up so frequently in adverse possession cases.²¹ Assuming you have your pick of woodlots, choosing one with an out-of-state owner is useful.²² With luck, out of state means out of mind. Further, the wilder the wild land, the better. In *Carnevale v. Dupee*, although the record owner argued that "dense overgrowth of bullbriars and other mature vegetation" cloaked the possessor's adverse use of the land, the court held that "the fact that a portion of the land [was] inaccessible and not easily visible" was not sufficient to defeat the adverse possessor's claim.²³

Finally, before you choose a target in Little Compton, a word of caution. The *Carroll* court, in a tantalizing footnote, noted that it remains unclear precisely how many properties Mr. Carroll deeded to himself beyond the lots that were the subject of the case.²⁴ If you find a likely lot, there remains the possibility that Mr. Carroll beat you to it.

Actual, Open, Notorious

Now that you've chosen your lot, you must establish your possession of it. A possessor must meet the elements of "actual, open, notorious, hostile, continuous and exclusive use of the property under a claim of right."²⁵ As a practical matter, the court considers "actual, open, and notorious" as one element.²⁶ To meet this element, you needn't pitch a tent, as actual occupation may not be necessary.²⁷ "Rather, it is sufficient that 'the use to which the land has been put is similar to that which would be made ordinarily of like land by the owners thereof.'"²⁸ In other words, open and notorious use can be established in many and varied ways, as long as the use attracts "enough attention to place the world on constructive notice" of the adverse possessor's claim.²⁹

The most common way to establish notorious use (particularly in boundary cases) is by maintaining the property.³⁰ Regular maintenance such as mowing,³¹ clearing land,³² and building retaining walls and fences³³ announces to the world that you are openly using the property as an owner would. Half measures won't do, however. Merely planting decorative trees, spreading a little crushed stone, and hanging some bird feeders will not suffice to put the landowner on notice of your intentions.³⁴

The number two means of establishing notorious use in Rhode Island is a bit more scatological. Building a cesspool³⁵ or septic system,³⁶ spreading manure,³⁷ and using an outhouse³⁸ (as late as 1963, I relate with my own "raised eyebrow") have been sufficient to establish open and notorious use. In earlier years, one could establish notorious use by using landfill to extend riverfront,³⁹ shorefront,⁴⁰ or "swampy" land. I cannot, in good conscience, suggest employing such a make-it-yourself approach to property today. Presumably, the Rhode Island Department of Environmental Management or Coastal Resources Management Commission would have something to say about it.

Mr. Carroll established his actual, open and notorious possession of the lots in question by clearing the property lines, placing boundary markers, improving the access road, bringing in utilities, and installing drainage pipes.⁴¹ He also subdivided the initial two lots into four and recorded the deeds, paid property taxes, and marketed the lots for sale.⁴² In short, Mr. Carroll invested significant time, effort, and expense in openly demonstrat-

"Check Out the Big Brain on Brad!"

– Jules, *Pulp Fiction*

Even though I'm in the industry, I feel that physical fitness is overrated. It's just one component of physical health (a *distant* second to nutrition) which is just one piece of the total health pie. I love the book "Fourfold Path to Healing" by Dr. Thomas Cowan. He writes that to achieve optimal health, we need to have our physical, mental, spiritual, and emotional bodies in balance. I agree, and have some ideas on how to implement mental training into your routine.

Here are 8 ways to get your brain as shredded as your abs:

1. Practice awareness in movement to strengthen your mind-body connection. People often tell me that they run to "turn the brain off." I understand, but think running mindfully (i.e. noticing how your foot strikes the ground, monitoring your cadence, paying attention to your breathing, etc.) is better and will have the same stress-relieving effect. This applies to all movement, but great examples are balancing which is an excellent skill that demands focus, and carrying which will also test your fortitude. Try these and other movements in various settings/situations and you'll have your brain's full and undivided attention!
2. Get nervous, then conquer! Whether you're preparing for a race, first date, court, etc., performing while tense is good for your mental power. The rush of getting your central nervous system fired up and the subsequent confidence that comes from prevailing during these experiences build strong minds! I'll take that over a strong body any day!
3. Deal with it (for a little while)! A group of friends and I do monthly cold water plunges. The discomfort is undeniably strong, but it's temporary and definitely worth the serotonin reward! Or, from the "don't knock it 'til you try it" file, start your day with cool-cold showers! I can almost guarantee it'll be the toughest mental battle you face all day!
4. Respond like an optimist. One of my heroes, Jocko Willink, says "GOOD" every time he's faced with adversity. This technique was also mentioned in Angela Duckworth's book "Grit." Blizzard-like conditions? GOOD! Let's gear up and shovel for exercise. Ozone alert during your marathon? GOOD! Let's see how that hydration strategy holds up! You get the idea...
5. Honor your brain's messages. We all have strong and weak days, high and low energy days. If your body says "walk" on a day you've scheduled a run, then listen. But, if your body says "faster" or "heavier" during your workout, listen then too!
6. Meditate. Start with 5 minutes, you'll love it.
7. Set your mind free! Every now and then be spontaneous and random in your workout! Don't have a plan, just move! Chances are you'll do things you did when you were a kid; in other words, you'll be more creative and have more fun!
8. Do some research and eat brain food. The act of research and self-experimentation is an awesome learning experience. In general, high quality fat is good for your brain and sugar/refined carbs are not. You can take it from there.

Bonus activities: visualization exercises can help your performance, walking/running up hills test your will, and "all-weather" workouts build toughness. Now go train your brain!



Ryan McGowan is a former engineer who left the construction industry to help people become healthier and more adventurous. His company, Laid-back Fitness, is located in Warwick and is a combination of a fitness center and playground. He recently won the Projo Readers' Choice Award for Best Personal Trainer, and is the co-founder of the Frozen Clam Obstacle Plunge, a charity obstacle course + cold water plunge on New Year's Day.

A Remembrance of the Honorable Corinne Grande

In 1972, I became a Special Assistant Attorney General in the administration of Richard J. Israel. My assignment was the District Court to which I would travel from Westerly to Pawtucket and courts in between. I had the pleasure of working with, and appearing before, Judge Corinne Grande. Judge Grande was a wonderful member of the Court. Smart, diligent, fair and courteous to all who appeared before her. She was a credit to the Rhode Island Judiciary. Following Judge Grande's elevation to the Superior Court, I continued to appear before her as I began trying jury trials. She was a quick learner getting to the heart of a matter seeking a resolution. I have very fond memories of my experiences appearing before this most gracious woman.

- Past Bar Association President Philip M. Weinstein, Esq.

ing his possession of the property. This was wise, given the court's expressed distaste for willful adverse possessors. In *Cahill*, the Supreme Court reluctantly conceded that even possessors fully aware of another's record claim to property can nevertheless prevail, cautioning, "to the extent that Tavares's reference to 'black-hearted trespassers' suggests that this Court endorses an invade-and-conquer mentality in modern property law, we dutifully excise that sentiment from our jurisprudence."⁴³ It would be prudent to keep in mind—as Mr. Carroll surely did—that the standard of proof is "clear and convincing evidence" and anything less is likely to result in a judgment for the record owner.

Hostile and Exclusive

Assuming you have established open and notorious use, you must also prove that this use was under a claim of right. "[T]o require adverse possession under a claim of right is the same as requiring hostility, in that both terms simply indicate that the claimant is holding the property with an intent that is adverse to the interests of the true owner."⁴⁴ Hostility is characterized as use that is "inconsistent with the right of the owner, without permission asked or given."⁴⁵ In other words, act like you own the place.

Actions normally undertaken by an owner: conveying a utility easement,⁴⁶ regularly parking a car while requesting that interlopers remove their cars,⁴⁷ and posting "no trespassing" signs⁴⁸ have all contributed to a finding of hostile use. Actions that acknowledge another's superior claim, however, will dash an adverse possessor's hopes. In *DiPippo v. Sperling*, the would-be possessor established open and notorious use by way of a hammock strung between trees on the disputed parcel.⁴⁹ However, after the statutory period had run, the possessor sought permission to place the hammock.⁵⁰ The court held that by asking permission, the possessor had "acknowledged that someone else had superior title over the disputed property."⁵¹ Better to beg forgiveness, then, than to ask permission.

Similarly, an offer to purchase the disputed property was the downfall of the possessor in *Cahill*.⁵² Although Mrs. Cahill had established the requisite use of the property for the statutory period, some sixteen years later, she made an offer to purchase the land she had seemingly already adversely possessed.⁵³ The

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majority acknowledged that “an offer to purchase does not automatically invalidate a claim already vested by statute,” but determined that such an offer provided a window into whether Mrs. Cahill’s original possession had been made under a claim of right.⁵⁴ The court then vacated the lower court’s decision vesting title in Mrs. Cahill by adverse possession.⁵⁵ Although the dissent asserted that an offer to purchase would not divest a possessor of property once possessed,⁵⁶ the moral of the story here is to refrain from any actions or statements inconsistent with your title by adverse possession, even well after the statutory period has expired.

In the recent Superior Court case, the Carrolls proved that their possession was hostile to the true owners by developing and marketing the lots for sale, by granting permission to neighbors to run dogs on the lots, by posting no trespassing signs and, crucially, by refraining from making any statement that would indicate that they “ever considered their interest to be subservient to another’s.”⁵⁷ Act like you own the land long enough, and you just may. Long enough, though, is very long, indeed.

Continuous Possession for the Ten-Year Statutory Period

In determining whether a claimant can establish continuous possession, the court considers the nature of the property, “taking properly into account the geographical nature” of the land.⁵⁸ In the case of vacation properties, year-round occupation is not required, as long as the use is consistent with that of similar neighboring properties.⁵⁹ Therefore, May-to-September might suffice in say, Misquamicut, but not in Pawtucket. In the case of wild or remote land, it is sufficient “if it has been maintained in the manner in which owners of like land in similar locations make use thereof.”⁶⁰ If you have found a winsome woodlot, cutting trees and gathering firewood two or three times a year over the course of ten years would be sufficient to establish continuous possession.⁶¹

Perhaps spending ten consecutive years on the land seems a bit tiresome, in which case you could establish the requisite continuity through tacking. If you have tenants on the land, their actions may inure to your benefit, by tacking their years onto your tally.⁶² But be careful.

continued on page 34

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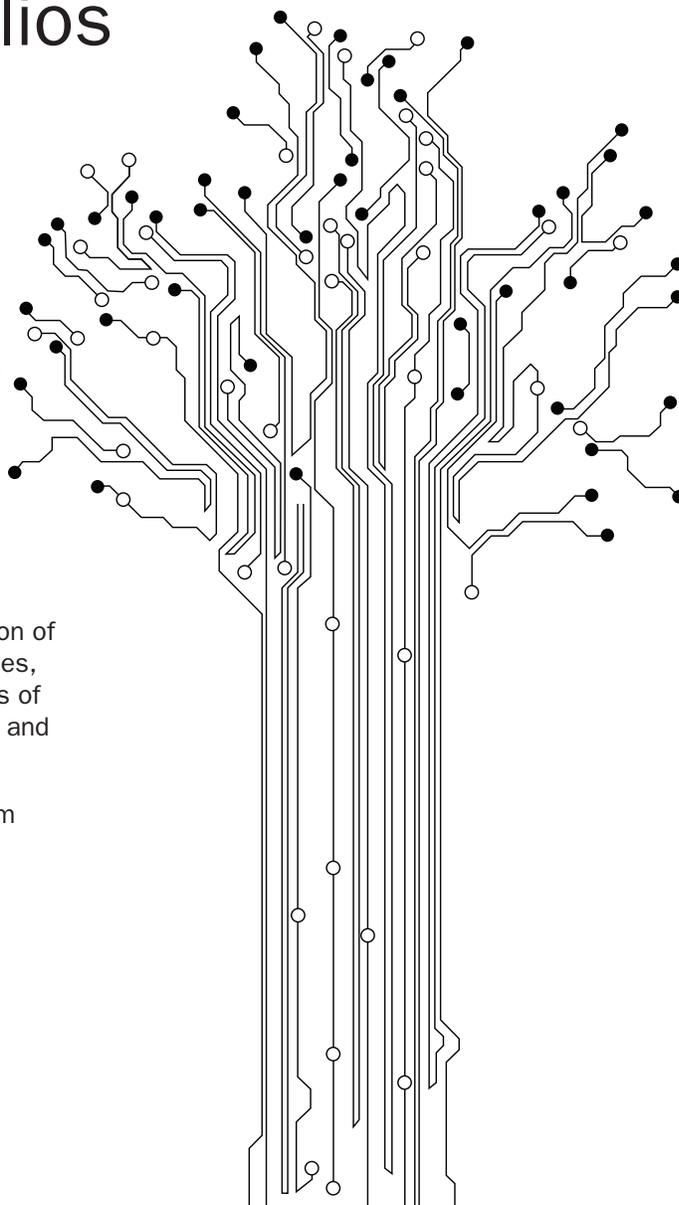
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The Business Calendar: A Deeper Bench



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Providence

While some practitioners prefer the predictability and convenience of litigating matters in their home county, businesses are looking for efficient, cost-effective solutions to their legal disputes and are increasingly aware of the advantages of using the Business Calendar as a forum for their disputes.

Introduction

For the past sixteen years, Rhode Island has provided a dedicated forum for businesses to litigate their commercial disputes—the Superior Court Business Calendar. Businesses are drawn to states whose courts understand and deftly handle the complexity of business litigation.¹ There are currently twenty-seven states in this country with a business court,² and at least a handful more in which the establishment of business courts is under consideration. The State is following the judiciary’s lead in creating a more business-friendly environment³ and it is only natural that the Business Calendar is expanding to meet the growing litigation needs of Rhode Island businesses.

The latest shift in the Business Calendar lineup occurred on September 3, 2017.⁴ Justice Michael A. Silverstein continues, as he has since 2001, to expertly handle matters on the Business Calendar in Providence County. Justice Brian P. Stern moves from the Out-County Business Calendar to assist on the Business and Trial Calendars in Providence County. And, Justice Richard A. Licht moves from assisting in Providence County to run the Out-County Business Calendar. The rapid growth from one to three Superior Court Justices on the Business Calendar reflects how well this calendar has addressed the litigation needs of the Rhode

Island business community tripling in size in just sixteen years. It also reflects a growing national trend in favor of establishing business calendars and business courts.

History of Business Courts

Perhaps the most well-known business court in the United States is the Delaware Court of Chancery. The Court of Chancery has a well-developed body of case law and seasoned judges that quickly adjudicate complicated cases. Attorneys and judges in jurisdictions around the country often look to Delaware for guidance. But, the history of busi-

ness courts has its origins in the Courts of Equity found in England.

The existence of business courts reaches as far back as the King’s Chapel in feudal England.⁵ The early goal was to provide judicial relief for disputes where the law did not offer it.⁶ This same flexible approach to business disputes has survived and is alive and well today in Rhode Island.

The Establishment of the Business Calendar in Rhode Island

While its origins do not reach back quite as far as England or Delaware, Rhode Island was an early adopter of a business court for commercial disputes. On April 17, 2001, Presiding Justice Joseph F. Rodgers, Jr. (Ret.), recognizing a distinct need in Rhode Island, established the Business Calendar for the Counties of Providence and Bristol.⁷ Justice Michael A. Silverstein was appointed to commence operations on Monday, June 4, 2001. The intent was clearly stated: “to process matters on the Business Calendar in as expeditious a manner as possible.”⁸ One need only look to the history that follows to know that this goal is being met.

So much so that in 2011, Presiding Justice Alice B. Gibney established a Statewide Business Calendar for all of the counties in Rhode Island.⁹ And, with the addition of the remaining counties in Rhode Island, the Business Calendar gained a second Superior Court Justice, Brian P. Stern. But, it did not stop there.

Now, a third Justice of the Superior Court, Justice Richard A. Licht, has been assigned to the Out-County Business Calendar. Justice Licht has been assisting Justice Silverstein for the past two years in Providence County. This frees up Justice Stern to assist Justice Silverstein on the Business Calendar in Providence County.

Why choose assignment to the Business Calendar?

As the Business Calendar has grown, it has become more accessible to attorneys and their business clients statewide. The question remains whether attorneys across the state are taking full advantage of the benefits of an expanded



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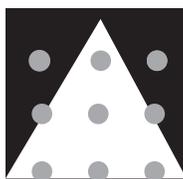
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Business Calendar. While some practitioners prefer the predictability and convenience of litigating matters in their home county, businesses are looking for efficient, cost-effective solutions to their legal disputes and are increasingly aware of the advantages of using the Business Calendar as a forum for their disputes. A recent *Providence Business News* article profiled the Business Calendar, touting its success stories and highlighting its ability to save businesses time and money in litigation.¹⁰ Consequently, Rhode Island attorneys should be ready to advise clients about the Business Calendar. Here is a quick cheat sheet of the advantages that the business calendar offers:

- **Experience:** Justices Silverstein, Stern and Licht have extensive experience, initially as practitioners and later as judges, in handling business disputes. They have presided over some of Rhode Island's most complex and high profile business cases, such as the 38 Studios litigation and the Westerly Hospital receivership. In a complicated business case, it saves your client time and money to have a judge whose primary focus is business litigation.
- **One judge, cradle to grave:** Once assigned to the Business Calendar, a case stays with the same judge from beginning to end. The benefits to your client are numerous, not the least of which is the judge's familiarity with the attorneys, the parties and the unique facts and procedural history of a case. There is no need to re-educate the court about your case each time you file a motion.
- **Efficiency:** With the calendar devoted only to business disputes, cases move along faster than they would on the general civil calendar, again saving your business clients time and money. Also, Justices Silverstein, Stern and Licht make themselves available to handle emergency matters that require immediate judicial action.
- **A well-developed body of case law:** As previously stated, the Providence County Business Calendar has been in existence in Rhode Island now for over sixteen years. Justice Stern has presided over the Out-County Business calendar for the last six years. As a result, there is now an abundance of published and unpublished opinions addressing both the common and novel business issues that your clients are likely to encounter.

This can be an invaluable resource when attorneys are advising their clients about their likelihood of success in prosecuting or defending a case in the Rhode Island courts.

- **Flexibility:** As a result of their expertise, Justices Silverstein, Stern and Licht are able to think “outside the box” of traditional litigation and to assist parties with finding alternative solutions to their legal disputes, whether it be through the appointment of a special master to oversee business operations, the appointment of an examiner to examine business operations or guiding a hospital through the uncharted waters of a receivership.

Case Study: Town of Burrillville, et al v. Clear River Energy, et al

A case currently pending before Justice Silverstein on the Providence County Business Calendar offers a prime example of how advantageous a Business Calendar assignment can be.¹¹ The litigation involves a high profile dispute between the Town of Burrillville and the Town of Johnston over water supply to a proposed power plant in Burrillville. The power plant has become a lightning rod of controversy in Burrillville due in large part to concerns about its environmental impact. Clear River Energy’s licensing application for construction of the power plant is currently before the Rhode Island Energy Facility Siting Board.

Meanwhile, the Town of Burrillville and the Conservation Law Foundation have filed lawsuits against, *inter alia*, the Town of Johnston which, if successful would create a significant, possibly insurmountable, obstacle to the construction of the plant. Burrillville and the Conservation Law Foundation are seeking a declaratory judgment on the legal issue of whether the Town of Johnston is permitted by statute to re-sell water it obtains from the Providence Water Supply Board to Clear River Energy. Without a supply of water, Clear River Energy will be unable to operate the power plant.

Despite some initial reluctance, the case was assigned to the Business Calendar in Providence County. For a variety of reasons, this matter is particularly well-suited to the Business Calendar. Justice Silverstein is no stranger to adjudicating cases in the public eye, having presided over some of Rhode Island’s most high profile cases, such as 38 Studios and the

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lead paint litigation.

It is also a matter that needs prompt judicial attention given that the licensing process for the power plant is already under way. If the Rhode Island Energy Facility Siting Board grants Clear River Energy a license, then the Court's decision could be the decisive blow to plans for the construction of the plant. The public interest will be well served by an expeditious resolution to the litigation.

The docket reflects just how efficiently the litigation has progressed thus far. In the six months since suit was filed, the Court has already decided a motion to dismiss, addressed necessary discovery, issued a scheduling order and taken up a motion to stay the litigation pending arbitration.

There is also the added wrinkle of having the administrative approval process for the plant proceed simultaneously with the litigation. With Justice Silverstein overseeing the case from start to finish, he is in a better position to monitor the status of the administrative proceedings as the Business Calendar litigation moves forward.

What cases are appropriate for the Business Calendar?

Not all commercial matters are appropriate for assignment to the Business Calendar. At the outset, the Superior Court made clear what matters may be assigned to the Business Calendar:¹²

- Breach of contract or fiduciary duties, fraud, misrepresentation, business tort or statutory violations arising out of business dealings and/or transactions;
- Transactions governed by the provisions of the Uniform Commercial Code;
- Complicated transactions involving commercial real property;
- Shareholder derivative actions;
- Commercial class actions;
- Commercial Bank transactions;
- Matters affecting the internal affairs or governance of business organizations or entities;
- Business insolvencies and receiverships.

Not only does the Court make clear what is appropriate for the Business Calendar, but it also makes clear what is not to be assigned to the Business Calendar.¹³ These types of cases are: simple collection matters, declaratory judgment proceedings with respect to

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insurance coverage, confirmation or vacation of arbitration awards, and general landlord and tenant issues.

How to assign your case to the Business Calendar

Assignment to the Business Calendar is at the discretion of the Justice assigned to the calendar. The party seeking assignment should request a chambers conference from the clerk and prepare a Business Calendar Case Opening Sheet for presentation at the conference. Any request for assignment to the Business Calendar does not need to be made upon the filing of a complaint, answer or other responsive pleading in a given case, but must be made prior to assignment to the general trial calendar. Furthermore, each of the three Justices on the Business Calendar have either established scheduling orders or have specific preferences and it is best practice to contact the clerk and inquire about scheduling conferences and hearings.

For example, on October 23, 2017, Justice Licht issued a Notice detailing his new schedule and preferred procedures for scheduling conferences and hearings on the Out-County Business Calendar.¹⁴ Justice Licht will conduct regular sessions of the Out-County Business Calendar in Kent County on the first and third Mondays of each month at 9:30 a.m. Dispositive motions may also be scheduled on those days. Justice Licht is also available to hear formal matters and brief (10-15 minutes) contested matters on Tuesdays and Thursdays at 9:00 a.m. in Providence County. Emergency matters and conferences on new or pending cases may also be scheduled in Providence County by emailing Justice Licht and his clerk, Michael Rampone.

Conclusion

The addition of a third Superior Court Justice to the Business Calendar assignments is a testament to the popularity of this forum with Rhode Island businesses and their attorneys. The depth of expertise, flexibility, and efficiency that these Justices bring to their courtrooms is at the core of its growth with no signs of diminishing in the near future. Given its successful history and bright future, the Business Calendar can only be seen as a home run for the Rhode Island business community and their attorneys.

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ENDNOTES

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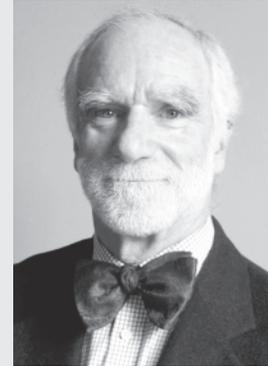


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A Comprehensive Guide to Sealing and Expunging Criminal Records After New Reform



Allison C. Abilheira, Esq.
Abilheira Law, LLC

A motion to seal is appropriate when a case results in an acquittal or exoneration, while a motion to expunge is proper when a case results in a criminal conviction or sentence.

Prior to the extensive changes enacted by our legislature this year, criminal defendants were left with few options when it came to addressing their criminal record. Previously, individuals were eligible to *seal*¹ a criminal case if that case resulted in an acquittal or exoneration or *expunge*² a criminal conviction if they were a “first time offender.”³ Over time, these restrictive statutes prevented deserving individuals from removing criminal cases from their records, which ultimately sparked the need for change.

During the 2017 legislative session, legislators in the Rhode Island General Assembly presented several amendments to the expungement laws⁴ that were signed into law by the Governor. The amendments, encompassed in House Bill 5205 Substitute A and Senate Bill 0426 Substitute A, significantly expanded eligibility for criminal record expungement.

This comprehensive guide will attempt to explain the options available to attorneys seeking to clear their client’s criminal record.

The Differences Between a Motion to Seal and Motion to Expunge

Fundamentally, a motion to seal and a motion to expunge accomplish the same goal: “the destruction or elimination from public view of certain records of criminal arrests and/or convictions.”⁵ However, there is a substantial difference between a motion to seal and a motion to expunge. A motion to seal is appropriate when a case results in an acquittal or exoneration, while a motion to expunge is proper when a case results in a criminal conviction or sentence.

Motion to Seal

An individual is eligible for a motion to seal under R.I. Gen. Laws § 12-1-12.1 if their case resulted in an acquittal or an exoneration, such as a dismissal, a not guilty finding after trial, no true bill after grand jury proceedings, or no information after the felony screening process.

That being said, even if a defendant was acquitted or otherwise exonerated of a crime,

having a felony conviction on their record will render them ineligible for a motion to seal. For the purposes of the sealing statute, a felony conviction includes a jail sentence, a suspended sentence or a fine. Please note that under *State v. Poulin*,⁶ argued by Attorney Abilheira before the Rhode Island Supreme Court, a nolo contendere plea to a felony charge followed by a period of probation is *not* a felony conviction for sealing purposes. Additionally, a plea of nolo contendere to a felony charge followed by a deferred sentence is not a felony conviction for sealing purposes.⁷

When reviewing a client’s criminal record, attorneys should pay particular attention to cases where a defendant was found not guilty after trial, as they will be eligible for a motion to seal despite having a felony conviction on their record.⁸

Unlike motions to expunge, a motion to seal can be filed immediately after the case is disposed of without any requisite waiting period.

Motion to Expunge – First Time Offenders

Depending on the criminal sentence imposed at the conclusion of a defendant’s case and their prior criminal history, an individual may fall into one of four expungement categories.

The first expungement category pertains to “first time offenders” and allows individuals to remove one criminal conviction from their record. For the purposes of expungement, a conviction includes a fine, a probation sentence, a suspended sentence, and a jail sentence.

Under R.I. Gen. Laws § 12-1.3-2(a) an individual is eligible to have a case expunged if

1. They are a first time offender (they do not have any other misdemeanor or felony convictions or probation sentences).
2. They have waited the requisite period of time since the completion of their sentence: five (5) years for misdemeanors and ten (10) years for felonies.
3. During the waiting period, they have not been convicted of nor arrested for any felony or misdemeanor.
4. There are no criminal proceedings pending against the individual.

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5. They have exhibited good moral character.

Although an individual may meet the criteria above, they will be precluded from expungement if their offense is considered a “crime of violence.”⁹

Motion to Expunge – Multiple Misdemeanor Convictions

The second expungement category pertains to individuals who have been convicted of multiple misdemeanor offenses. This form of expungement was created for those individuals who have several misdemeanors on their record, but have rehabilitated themselves and maintained a clean criminal history for a period of at least ten (10) years.

Individuals may now seek to expunge multiple misdemeanor convictions under amended¹⁰ R.I. Gen. Laws § 12-1.3-2(b) if

1. They have been convicted of more than one (1) but less than six (6) misdemeanors.
2. They have not been convicted of a felony.
3. They have waited ten (10) years since the completion of their last misdemeanor sentence.
4. During the ten (10) years since the completion of their last sentence, they have not been arrested nor convicted of any felony or misdemeanor.
5. They have no pending criminal cases.
6. They have exhibited good moral character.

Under the newly amended expungement statutes, individuals attempting to expunge more than one misdemeanor case *cannot* expunge a crime of violence, nor can they expunge a domestic violence charge,¹¹ a driving under the influence (DUI) charge,¹² or a chemical test refusal charge.¹³

Motion to Expunge – Deferred Sentences

The third category of expungement pertains to individuals who received a deferred sentence. Upon the successful completion of a deferred sentence, an individual may immediately file a motion to expunge as long as they meet the following requirements:

1. They have complied with all of the terms and conditions of the deferral agreement including, but not limited to, the payment of all fines, fees, costs, assessments and restitution to victims of crimes.

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2. They have no pending criminal charges.
3. They have not been previously convicted of a crime of violence.
4. They have established good moral character.

Motion to Expunge – Filings

Finally, the fourth category of expungement affects individuals sentenced to a filing. Although cases resulting in a filing are to be destroyed automatically by statute,¹⁴ they often are not. Therefore, attorneys should be aware that a person is eligible to expunge a filing immediately upon the completion of the one year filing period, so long as they complied with all of the terms and conditions of their filing. Although, an individual who was charged with a domestic violence offense and sentenced to a filing must wait a period of three (3) years from the date of their filing to have the case expunged from their record.¹⁵

Procedure for Filing a Motion to Seal or Expunge

The procedure for filing a motion to seal and a motion to expunge is the same regardless of which type of relief the individual is seeking.

Although many attorneys prepare their own motions, the Rhode Island Judiciary website¹⁶ provides forms for motions to seal and motions to expunge, which include all of the necessary criteria for determining eligibility. There are three different expungement forms: a District Court form, a Superior Court misdemeanor form, and a Superior Court felony form. An affidavit must accompany the motion and needs to be signed by the individual seeking relief and must be notarized. Attorneys are no longer permitted to sign on behalf of their clients.

Once the motion and affidavit are complete, it must be filed in the court where the case was adjudicated. This is particularly important when expunging more than one misdemeanor, as the motions are not automatically heard together and may require multiple court appearances.

Before filing the motion, attorneys must choose a hearing date and schedule the motion on the State’s Motion Calendar. The hearing should be at least ten (10) days after the date of filing. Once the hearing is scheduled, notice, including a copy of the motion and affi-



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davit, must be sent to the Office of the Attorney General and the arresting agency.

If a motion to expunge a criminal conviction is granted, the defendant will be required to pay a fee of \$100 per motion. This fee is not required when a motion to seal is granted, nor is it required when expunging a case resulting in a deferred sentence or filing.

Finally, if the motion is granted, attorneys should obtain several certified copies of the court order. One copy should be sent to the Bureau of Criminal Identifications in order to remove the case from the individual's criminal record. A second copy should also be sent to the arresting agency, so that they may destroy all records of the arrest. A copy should also be retained by the defendant and the defendant's attorney.

Conclusion

Attorneys should strive to make use of the liberal expungement laws now in place in the State of Rhode Island. Many of the individuals we represent have criminal histories that may prevent them from pursuing higher education, gainful employment, and suitable housing. These new expungement options ensure that the stigma of a criminal conviction no longer has to burden individuals who made mistakes in the past.

ENDNOTES

- 1 See R.I. GEN. LAWS § 12-1-12 and 12-1-12.1.
- 2 See R.I. GEN. LAWS § 12-1.3-1 et seq.
- 3 Under R.I. GEN. LAWS § 12-1.3-1(3) a first time offender is defined as "a person who has been convicted of a felony offense or a misdemeanor offense, and who has not been previously convicted of or placed on probation for a felony or a misdemeanor and against whom there is no criminal proceeding pending in any court."
- 4 R.I. GEN. LAWS § 12-1.3-1 et seq.
- 5 *State v. Poulin*, 66 A.3d 419,424 (R.I. 2013).
- 6 See *id.* at 425-426.
- 7 See R.I. GEN. LAWS § 12-19-19
- 8 See R.I. GEN. LAWS § 12-1-12.1(a).
- 9 Under R.I. GEN. LAWS § 12-1.3-1(1), a "crime of violence" includes "murder, manslaughter, first degree arson, kidnapping with intent to extort, robbery, larceny from the person, first degree sexual assault, second degree sexual assault, first and second degree child molestation, assault with intent to murder, assault with intent to rob, assault with intent to commit first degree sexual assault, burglary, and entering a dwelling house with intent to commit murder, robbery, sexual assault, or larceny."
- 10 See H.R. 5205 Sub. A, 2017 Sess. (R.I. 2017); S. 426 Sub. A, 2017 Sess. (R.I. 2017).
- 11 See R.I. GEN. LAWS § 12-29-1 et seq.
- 12 R.I. GEN. LAWS § 31-27-2.
- 13 R.I. GEN. LAWS § 31-27-2.1.
- 14 R.I. GEN. LAWS § 12-10-12.
- 15 R.I. GEN. LAWS § 12-1-12.1.
- 16 <https://www.courts.ri.gov/PublicResources/forms/Pages/default.aspx>. ♦

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New Bar Members and Bar Committees Meet and Mingle at Speed Networking Event

Rhode Island Bar Association Committees offer a wealth of professional and personal benefits to Bar members. On January 25th, over 30 new lawyers and third-year law students at Roger Williams University School of Law, along with chairs and representatives from 22 Bar committees, took part in a casual, informative, and interactive speed networking event at the Bar's headquarters in Cranston. Co-sponsored by the Bar's Executive Committee and New Lawyers Committee, the event provided opportunities for new lawyers to talk with committee chairs and/or representatives for timed periods, allowing each participant to visit with as many as ten committees. Committee chairs followed up with interested new lawyers, inviting them to attend their next committee meeting. Participants also had an opportunity to learn about the Bar's Volunteer Lawyer Program and Lawyer Referral Service programs. To learn more about Bar Association committees, visit the Bar's website or contact Member Services Coordinator Erin Bracken at ebracken@ribar.com.



New Lawyers Committee Chairperson Matthew B. DiMario welcomed the attendees and thanked all the Bar committee chairpersons/representatives for attending.



Executive Committee member and former Criminal Law Bench Bar Committee Chair Christopher S. Gontarz and current Criminal Law Bench Bar Committee Chairperson Matthew S. Dawson talked to some prospective members about the Committee's purpose.



Public Services Committee Chairperson Christine J. Engustian and Committee volunteer David F. Reilly.



Family Court Bench Bar Committee Chairperson Jane F. Howlett discussed the benefits of joining the Committee with a potential new member.



Real Estate Title Standards & Practices Committee Chairperson Michael B. Mellion and Committee volunteer David M. Dolbashian gave attendees a rundown of what a typical meeting agenda might look like.



Creditors' & Debtors' Rights Committee Chairpersons Richard L. Gemma and Richard J. Land.



Bar President Linda Rekas Sloan encouraged attendees to visit committee tables that may be outside of their practice area, as they may discover some new interests!



New Lawyers Committee Chairperson Matthew B. Mario talked about some programs that his committee puts together.



Volunteer Lawyer Program Coordinator John Ellis discussed some of the Bar's public service programs with attendees.



The hard-working committee volunteers and chairpersons made the event a success!

Lawyers on the Move

Thomas A. Cappalli, Jr., Esq. is now an associate at **O'Leary Murphy, LLC**, 4060 Post Road, Warwick, RI 02886.

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Matthew P. Gabrilowitz, Esq. has moved **Gabrilowitz Law Office** to 35 Sockanosset Cross Road, Cranston, RI 02920.

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David S. Hirsch, Esq. is now a partner at **Hinckley Allen**, 100 Westminster Street, Suite 1500, Providence, RI 02903.

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Dana M. Horton, Esq. is now a partner at **Robinson+Cole**, One Financial Plaza, Suite 1430, Providence, RI 02903.

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Shad Miller, Esq. is now an associate at **Wistow, Sheehan & Loveley, PC**, 61 Weybosset Street, Providence, RI 02903.

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Robyn A. Sisti, Esq. has moved her law office to 201 Wayland Avenue, 2nd Floor, Unit #8, Providence, RI 02906.

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Stephen J. Sypole, Esq., of **Gidley, Sarli & Marusak LLP**, has been appointed as the Judge of the Housing Court for the Town of Warren.

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Timothy C. Twardowski, Esq. is now a partner at **Robinson+Cole**, One Financial Plaza, Suite 1430, Providence, RI 02903.

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BOOK REVIEW

Business and Commercial Litigation in Federal Courts – Fourth Edition

by Robert L. Haig, Editor-in-Chief



Deming E. Sherman, Esq.

The authors devote a number of chapters to the purely practical: case evaluation, drafting a complaint, selecting an expert, ADR and settlements, even litigation avoidance and litigation management for both companies and law firms and technology in the courtroom.

Four years ago I reviewed the third edition of a unique eleven-volume tool for business litigators entitled *Business and Commercial Litigation in Federal Courts* published by the ABA Section of Litigation and Thomson Reuters (West). Recently, the fourth edition has been published, overseen again by Editor-in-Chief Robert L. Haig, Esq., a distinguished New York litigator. It is an impressive improvement on an already first-rate legal resource. Expanded to 14 volumes and 17,142 pages, 4,000 pages more than the previous edition, the fourth edition's 153 chapters (including 25 new chapters) reflect the growth of federal procedural and substantive law. The treatise offers a practical, soup to nuts, guide to all aspects of federal civil practice, from federal jurisdiction to appeals, from substantive areas such as environmental law to the law of employment discrimination, securities and business torts. The work does not

replace such treatises as *Moore's Federal Practice*. Rather, it is a hybrid that is designed to aid the practitioner to litigate in the federal courts by combining a treatise on federal practice with summaries of substantive law common in federal litigation. Included with the set is a CD containing electronic forms of the pleadings and jury instructions that are set forth in the treatise and that may be copied and modified for pending cases.

Mr. Haig supervised the contributions of 269 distinguished practitioners throughout the United States and 27 federal appellate, district, bankruptcy and state judges who authored (or co-authored) the 153 chapters. Authors include such recognizable litigators and judges as David Boies and Theodore Wells, and retired District Judge Shira Scheindlin. Many of the authors who wrote chapters in the previous editions carried over their work to this fourth edition, so there is both an expansion of previous work and a consistency of quality.

Most chapters have practice aids, such as checklists, model interrogatories and requests for

production, and jury instructions. New chapters address a wide range of subjects, including social media, cross-border litigation, and marketing to potential business clients, health care institutions, and effective trial performance (written by a judge). The chapters that carry over from the prior edition cover key topics relating to business and commercial litigation: procedural topics, including federal subject matter and diversity jurisdiction, removal, pleadings, discovery, motions, mediation and arbitration, class actions, multidistrict litigation, and trials; and substantive topics, including antitrust, product liability, commercial real estate, business torts and employment law. There is even a chapter on litigation management in a law firm.

As stated in the Foreword, this treatise is "unique in legal literature." That is correct. It covers every aspect of a commercial case, from the assessment that takes place at the inception through pleadings, discovery, motions, trial, and appeal. Each chapter is designed to assist the practitioner with both substantive and practical information. The authors address strategic considerations for both plaintiffs and defendants. Citations to cases are copious, but equally important are references to articles, treatises, law reviews, A.L.R. and other resources. The authors devote a number of chapters to the purely practical: case evaluation, drafting a complaint, selecting an expert, ADR and settlements, even litigation avoidance and litigation management for both companies and law firms and technology in the courtroom.

In a new chapter on social media, the authors address both discovery issues and evidentiary issues such as authenticity and provide examples of interrogatories and requests for production, as well as cautionary instructions to a jury about their own use of social media. As examples of the blend of the theoretical with the practical that characterizes this treatise, the author of the chapter on the Complaint not only reviews the technical pleading requirements for filing a complaint under the federal rules, but infuses the chapter with strategic and tactical considerations in drafting the document. Similarly, a separate chapter addresses both the technical and strategic

Thanks to Our CLE Speakers

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



Below is a list of the Bar members who have participated in CLE seminars during the months of January and February.

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requirements in responding to a complaint by motion or by answer, including affirmative defenses, counterclaims and crossclaims. The chapter on cross-examination not only sets forth the basic rules of cross-examination, but sets forth examples of effective cross-examination both as to lay and expert witnesses.

Likewise, authors of the substantive law chapters on, for example, employment discrimination not only cover the statutory law, but also the bases for liability, litigation issues and checklists. There are related chapters on ERISA and OSHA claims. The methodology employed by the authors is both a useful guide for the less experienced practitioner as well as a refresher for the more experienced practitioner. For those drawn to disputes in the areas of products liability, malpractice, and business torts, there are chapters that address each of these.

In summary, it is unusual to find in one treatise the full scope of federal practice and federal substantive law set forth. The fourth edition is a highly useful tool for business and commercial litigators. ♦

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Continued on next page



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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.

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Exhibit space is limited, and previous exhibitors receive location preference, but there are still some spaces available. Please note that sending in an application does not guarantee a space as exhibit spaces are assigned based on availability and product and service mix. **Completed Exhibit Space Application Contracts are due no later than March 16, 2018.** Exhibit space assignment and confirmation occurs by March 30, 2018. Exhibit payment is due on or before space confirmation.

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8:30 a.m. – 10:30 a.m.,
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March 7
Wednesday
Sue Unto Others As You Would Have Them Sue Unto You
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March 8
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2018 Hardship Licenses & Ignition Interlock Devices
RI Law Center, Cranston
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March 13
Tuesday
2018 Hardship Licenses & Ignition Interlock Devices
Phil's Main Street Grille, Wakefield
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March 14
Wednesday
Thou Shalt Not Lie, Cheat & Steal: The Ten Commandments of Legal Ethics
1:00 p.m. – 2:00 p.m., 1.0 ethics
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March 15
Thursday
Workers' Compensation Practice in Rhode Island: A Practical Skills Series
RI Law Center, Cranston
9:00 a.m. – 3:00 p.m., 4.0 credits + 1.0 ethics

March 20
Tuesday
Tax Lien Foreclosures
RI Law Center, Cranston
1:00 p.m. – 2:30 p.m., 1.5 credits

March 21
Wednesday
Loose Lips Sink Partnerships (and Clients Too): The Ethical Way to Honor Client Confidentiality
1:00 p.m. – 2:00 p.m., 1.0 ethics
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March 23
Friday
Let's Talk Communication! Tools to Use to Save Time, Avoid Hassles & Make the Most of Limited Resources
RI Law Center, Cranston
5:30 p.m. – 7:30 p.m., 2.0 ethics
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March 28
Wednesday
Medical Records in Personal Injury Cases
RI Law Center, Cranston
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April 5
Thursday
Choice of Entity
RI Law Center, Cranston
12:45 p.m. – 1:45 p.m., 1.0 credit
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April 10
Tuesday
Objections & the Evidence Maze
RI Law Center, Cranston
12:00 p.m. – 2:00 p.m., 2.0 credits

April 12
Thursday
Raiders of the Lost Title: How to Hunt for Real Estate Records
RI Law Center, Cranston
12:45 p.m. – 1:45 p.m., 1.0 credit
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Dana Horton, a member of the firm's Insurance + Reinsurance Group, focuses her practice on representing and advising insurance companies in large loss property subrogation matters, property insurance coverage disputes, and bad faith claims.

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Win Land, Influence Policy

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Any interruption in use, or any action that acknowledges a superior title, will reset the ten-year clock.⁶³

The Carrolls established continuous use for nearly twenty-three years, despite the defendants' argument that there were gaps in activity that sometimes spanned years.⁶⁴ This is the usefulness of "wild land" to the would-be adverse possessor. Because the woodlots, like their neighbors, saw little activity, the court found the inactive periods "not inconsistent with that historical use, and at no point was the possession interrupted."⁶⁵

Conclusion

Thirty-one years after Mr. Carroll found two likely lots and deeded them to himself and his wife, the Carrolls succeeded in an ingenious and completely legal scheme that netted them four lots of buildable land.⁶⁶ However, consider their downside risk. Mr. Carroll recorded his deed to the lots in November 1986.⁶⁷ He and his wife then cleared the boundary line, had the lots surveyed, and applied to subdivide the lots (an application that required testimony before the town council).⁶⁸ They also widened Amy Hart Path (bringing in an engineer, installing drainage pipes and improving the path's structural integrity).⁶⁹ In 1995, they even brought suit to have Amy Hart Path declared a public road.⁷⁰ At that point, nine years into their occupation, the record owners could have appeared and asserted their superior claim. No matter how careful they had been, the risk of ejection (and commensurate loss of investment) always loomed large.

Perhaps, in view of that risk, adverse possession is not such a bargain. You can't choose the most desirable property, your risk of loss is great, and your reward, if you prevail, may include your neighbors' opprobrium. In the words of one commentator, "The bad faith adverse possessor is almost universally regarded as a scoundrel."⁷¹ But is this fair? After all, "[i]t is inconsistent to view someone as a thief or a bad faith actor for doing nothing more than knowingly employing the law's own process for acquiring land."⁷²

The Carroll decision is a textbook case of adverse possession, illustrating both its advantages (making productive use of undeveloped land and expanding the tax rolls) and its seeming unfairness

(depriving record owners of a property interest). Is the ancient doctrine of adverse possession worth keeping in the modern age? The Rhode Island Supreme Court has clearly expressed its disapproval of the purposeful taking of another's property, but has continued to enforce the statute as written. Perhaps in light of **Carroll's** illustration, the General Assembly will at last consider whether adverse possession itself should be evicted from our jurisprudence.

ENDNOTES

1 See generally *Acampora v. Pearson*, 899 A.2d 459, 461 (R.I. 2006); *DeCosta v. DeCosta*, 819 A.2d 1261, 1263 (R.I. 2003); *Anthony v. Searle*, 681 A.2d 892, 895-96, 900 (R.I. 1996); *Gammons v. Caswell*, 442 A.2d 361, 363 (R.I. 1982); *Taffinder v. Thomas*, 381 A.2d 519, 521 (R.I. 1977).

2 *Carroll v. Rodrigues*, No. NC-2009-0142, 2017 WL 4330489 at *10 (R.I. Super. Sept. 22, 2017).

3 *Cabill v. Morrow*, 11 A.3d 82, 88 (R.I. 2011) (stating "[I]t is not without an eyebrow raised at the ancient roots and arcane rationale of adverse possession that we apply the doctrine to this modern property dispute.").

4 *Id.* at 95 (Flaherty, J., dissenting).

5 R.I. GEN. LAWS § 34-7-1 (1956); *Cabill*, 11 A.3d at 88.

6 *Cabill*, 11 A.3d at 89 (quoting *Tavares v. Beck*, 814 A.2d 346, 350 (R.I. 2003)).

7 Kristine S. Cherek, From Trespasser to Homeowner: The Case Against Adverse Possession in the Post-Crash World, 20 Va. J. Soc. Pol'y & L. 271, 282 (2012).

8 See *Armour & Co. v. City of Newport*, 110 A. 645, 648 (R.I. 1920) (noting that "[i]n Rhode Island, the doctrine 'nullum tempus occurrit regi' prevails.") (emphasis supplied).

9 *Reitsma v. Pascoag Reservoir & Dam, LLC*, 774 A.2d 826, 834 (R.I. 2001) (holding that "the state's thirty-two year maintenance of a portion of its boat ramp upon the lake bed amounts to a classic case of adverse possession.").

10 See *Waldman v. Town of Barrington*, 227 A.2d 592, 596 (R.I. 1967); *Talbot v. Town of Little Compton*, 160 A. 466, 469 (R.I. 1932).

11 *Talbot*, 160 A. at 469 (holding that the town's use of the beach—harvesting sand and gravel, hunting, fishing and bathing—for a period of time far exceeding the statutory ten-year period was sufficient to acquire title).

12 See *Tavares*, 814 A.2d at 348; *DelSesto v. Lewis*, 754 A.2d 91, 93 (R.I. 2000); *Chace v. Anarumo*, 241 A.2d 628, 628 (R.I. 1968); *Talbot*, 160 A. at 467.

13 *Carroll*, 2017 WL 4330489 at *1.

14 *Id.*

15 *Id.*

16 See *id.*

17 Mr. Carroll would later subdivide these lots, yielding the four lots he was eventually awarded. *Carroll*, 2017 WL 4330489 at *2.

18 *Id.* at *2.

19 *Id.*

20 *Id.* at n.4.

21 See *Tavares*, 814 A.2d at 352-53; *Sleboda v. Harris*, 508 A.2d 652, 653 (R.I. 1986); *Chace*, 241 A.2d at 629; *Sherman v. Goloskie*, 188 A.2d 79, 82 (R.I. 1963).

Child Support Update Seminar Reviews Changes



At the January 12th Child Support Update seminar, attorneys Frank J. Dibiase, Esq. and Sharon A. Santilli, Esq., of the Rhode Island Office of Child Support Services, reviewed the revised Child Support Guidelines that became effective September 1, 2017. This seminar is available on-demand on the Bar's website.

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

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2 *See Tavares*, 814 A.2d at 353 (finding that the “quantum and intensity of use” necessary to establish adverse possession does not vary with the residence of the record owner. Record owners are chargeable with knowing what transpires on their property).

23 *Carnevale v. Dupee*, 853 A.2d 1197, 1200 (R.I. 2004).

24 *Carroll*, 2017 WL 4330489 at *1, n.2.

25 *Cabill*, 11 A.3d at 88.

26 *See, e.g., Tavares*, 814 A.2d at 352.

27 *See id.*

28 *Id.*

29 *Id.* (quoting *Carnevale*, 853 A.2d at 1201).

30 *See, e.g., Acampora*, 899 A.2d at 466; *Carnevale*, 853 A.2d at 1200-01; *Paquin v. Guiorguiev*, 366 A.2d 169, 170 (R.I. 1976).

31 *See Acampora*, 899 A.2d at 466.

32 *See Carnevale*, 853 A.2d at 1200-01.

33 *See Paquin*, 366 A.2d at 170.

34 *McGarry v. Colletti*, 33 A.3d 140, 143, 146 (R.I. 2011).

35 *Lafreniere v. Sprague*, 271 A.2d 819, 823-24 (R.I. 1970).

36 *Walsh v. Cappuccio*, 602 A.2d 927, 929, 930-31 (R.I. 1992).

37 *Anthony*, 681 A.2d at 895, 899 (in which Justice Bourcier observed, “Sometime in late July 1991 the cow manure that Anthony had worked into the soil of the disputed border line was blown about by the foreboding winds of battle into the proverbial fan.”).

38 *Russo v. Stearns Farms Realty, Inc.*, 367 A.2d 714, 716, 717, 718 (R.I. 1977).

39 *Hilley v. Simmler*, 463 A.2d 1302, 1303, 1305 (R.I. 1983).

40 *Dodge v. Lavin*, 83 A. 1009, 1012 (R.I. 1912).

41 *Carroll*, 2017 WL 4330489 at *8.

42 *Id.*

43 *Cabill*, 11 A.3d at 91.

44 *DiPippo v. Sperling*, 63 A.3d 503, 508 (R.I. 2013) (quoting *Tavares*, 814 A.2d at 351).

45 *Id.* (citation omitted).

46 *Lee v. Raymond*, 456 A.2d 1179, 1181, 1184 (R.I. 1983).

47 *Taffinder*, 381 A.2d at 522.

48 *Carnevale*, 853 A.2d at 1200.

49 *DiPippo*, 63 A.3d at 504, 508.

50 *Id.* at 509.

51 *Id.*

52 *Cabill*, 11 A.3d at 93-95.

53 *Id.* at 89.

54 *Id.* at 93-94.

55 *Id.* at 95.

56 *Id.* at 96 (Flaherty, J., dissenting).

57 *Carroll*, 2017 WL 4330489 at *8, *9.

58 *Carnevale*, 853 A.2d at 1201 (citation omitted).

59 *See Lee*, 456 A.2d at 1183.

60 *Chace*, 241 A.2d at 630.

61 *See Sleboda*, 508 A.2d at 653, 659.

62 *Taffinder*, 381 A.2d at 521.

63 *See DiPippo*, 63 A.2d at 509.

64 *Carroll*, 2017 WL 4330489 at *10.

65 *Id.*

66 *Id.*

67 *Id.* at *9.

68 *Id.* at *2.

69 *Id.*

70 *Id.*

71 *Lee Anne Fennell*, Efficient Trespass: The Case for “Bad Faith” Adverse Possession, 100 Nu. U. L. Rev. 1037, 1046 (2006).

72 *Id.* at 1044. ❖

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In Memoriam

Calvert C. Groton, Esq.

Calvert Cottrell Groton, 87, of Boca Grande, FL died on December 25, 2017. He was the youngest son of the Rev. John Mansfield Groton and Anngnette Cottrell Groton of Westerly, RI. He is survived by his wife, Louise (Loulie) Mauran; his children Anne Jacobs of Yarmouth, ME, Virginia Goelz of Briarcliff, NY, Calvert Groton, Jr. of Dedham, MA; his 9 grandchildren; and his sister, Anngnette Tyler. He was predeceased by his first wife Mary Jane Clark Groton (1954-1976); his second wife Constance Wolcott Groton (1978-2003); and his brothers John Groton, Jr. and William Groton, MD. He is survived by Connie's daughters Patricia O'Loughlin of Bedford, NH and Pamela Cerne of Wayland, MA, and their 5 children. He is also survived by Loulie's daughters Marion Mariner of Providence, RI; Louise Nadler of Marion, MA; Hope Mauran of New Palz, NY; Harriette Merrill of Morrisville, VT; Margaret Zuccotti of Jenkintown, PA; their 13 children and a grandson. Mr. Groton graduated from Episcopal Academy (1948), Harvard College (1952), and Harvard Law School (1957). He served in the U.S. Navy as Communications Officer and Officer of the Deck underway on the destroyer escort USS Huse (1952-1954). He began his law career in 1957 as an associate at Edwards & Angell, LLP (now Locke Lord LLP) in Providence, became a partner, and was a member of the RI and FL Bar Associations. He had numerous civic and philanthropic interests, and in 2006 received the Harold B. Soloveitzik Professional Leadership Award from The Rhode Island Foundation. He served on the boards of the VNA of RI, Westerly Hospital Foundation, RI Renal Institute, Weekapaug Fire District (Moderator 1970-1974), RI Industrial Facilities Corp, and Industrial Foundation of RI. He served on the boards of the RI Scenic Roadways, RI Audubon Society, Westerly Land Trust, Nope's Island Association, and supported Lemon Bay Conservancy. He was a Junior and Senior Warden at St. Martin's Episcopal Church, and board Member of the Episcopal Diocese of RI, Episcopal Divinity School, Weekapaug Chapel Society, The Wheeler

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School, Harvard Club of RI, Weekapaug Tennis Club, and Agawam Hunt. At the time of his death, he was a member of St. Andrews Episcopal Church and the Gasparilla Inn & Club in Boca Grande.

George Graboys, Esq.

George Graboys, 85, passed away Saturday, December 16, 2017. He was the husband of Lois (Wolpert) Graboys. He was born in Fall River, MA, a son of the late Lewis and Rebecca (Sobiloff) Graboys. He graduated from Tabor Academy in 1950, Dartmouth College in 1954, and the University Of Pennsylvania School Of Law in 1957.

George was the President, Chief Executive Officer, and Chairman of Citizens Financial Group (Citizens Bank) from 1969-1992, and an Executive in Residence and adjunct Professor at the University of Rhode Island School of Business from 1993-1995. He was the Chairman of the Rhode Island Board of Governors for Higher Education, the University of Rhode Island Foundation, the Rhode Island Foundation, and the Rhode Island Urban Project; and was a Founding Member and Chairman of The Rhode Island Children's Crusade. George was awarded the Anti-Defamation League Torch of Liberty Award; Rhode Island Business Person of the Year; and New England Business Magazine Business Person of the Year. Besides his wife, he is survived by his sons Ken Graboys and his wife Sharon Graboys of Glencoe, IL and James Graboys of Prattville, AL; daughter Angela Graboys Rudner and her husband Lewis Rudner of Providence, RI; and grandchildren Noah, Sam, Jed, and Rebecca Graboys, and Julianne Rudner. He was the brother of the late Dr. Thomas Barr Graboys, Marilyn Graboys Wool, and Helen Sue Graboys.

Hon. Corinne Grande

Associate Justice of the Rhode Island Superior Court Judge Corinne P. Grande, 89, passed away January 12, 2018. Born in Providence, she was a daughter of the late Hon. William G. and Gemma Grande. Judge Grande attended Northeastern University in Boston and earned a law degree there in 1952, then spent seven years practicing law with her father. In

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In Memoriam (Cont.)

1960 she became the first female lawyer in the state Attorney General's office. She was chief of the department's appellate division in 1968, when she was elected to the city council in Cranston. In November 1977, Gov. J. Joseph Garrahy named her as one of the 19 Judges of the Superior Court. She was the presiding justice in the second Claus Von Bulow Trial in 1985. She is survived by her sister Elaine G. Miele and her husband Anthony, sister Claudia E. Williams, sister Elissa Grande, sister Lydia A. Grande and her husband Brian, brother Robert W. Grande and his wife Louise. She was the sister of the late William G. Grande, Jr., and aunt to two nieces and five nephews and several great nieces and nephews.

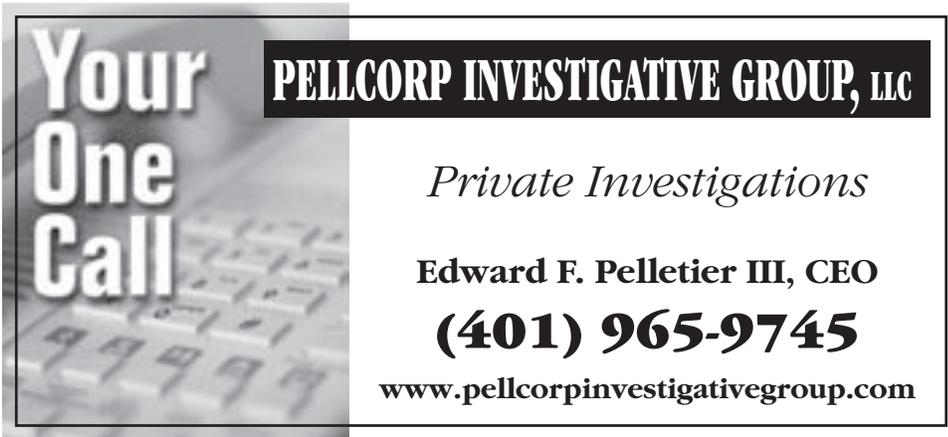
Ryder J. Kenney, Jr., Esq.

Ryder J. Kenney, 76, of Narragansett, passed away on Thursday, January 18, 2018. He was the husband of 47 years to Judith (Van Orden) Kenney. Born in Providence, he was the son of the late Joseph R. Kenney, Sr. and Margaret (Harty) Kenney. Ryder was a graduate of Hope High School, Bryant College and New England School of Law. He also served in the US Navy. Ryder was an all-state hockey player, an avid golfer, and a great story teller. Ryder began his law career as a public defender and later went on to private practice. Besides his wife he is survived by his loving children, Susan E. Kenney of NY, J. Ryder Kenney III of FL and Vanessa J. Petrella and her husband James of Cranston. Ryder was also the brother of Martha Parker, Elizabeth Dubois, Margaret Driscoll, Denis Kenney, Paul Kenney, Edward Kenney and Dorothy Mahoney.

James Miller Sloan III, Esq.

James Miller Sloan III, 87, passed away on Thursday, December 14, He is survived by his wife of 63 years, Alice Donahue Sloan. Son of Scottish and Canadian immigrants, James M. Sloan and Marguerite Naud Sloan, he attended St. Pius School and became a graduate of La Salle Academy (1949) and the College of the Holy Cross (1953) before serving in the US Army Counter Intelligence Corps in New York

City. Earning his law degree from Boston University under the GI Bill (1958), he joined the Providence law firm, Gardner, Sawyer, Cottam & Gates (later to become Gardner, Sawyer, Gates & Sloan), where he worked for 55 years. He was general counsel to the Rhode Island Builders Association (RIBA) for 53 years, and real estate counsel to the Roman Catholic Diocese of Providence and AMICA Mutual Insurance Company. He provided extensive pro bono legal services to various Catholic organizations. He treasured memories of the years that his daughter, Kristen, practiced law with him and of the zoning work that he collaborated on with son, Jim. Mr. Sloan was active in civic, religious, and educational organizations, including the RI Jaycees and the Holy Cross Club of RI, both of which he served as president. He was a long-time parishioner and trustee of St. Augustine's Church and was a trustee and board chair of LaSalle Academy, into whose Hall of Fame he was inducted (2004). He was a member of several social clubs, including the Turks Head Club, Metacomet Country Club, Touisset Point Community Club, and the Squantum Association, where he served as president. He is also survived by his sister, Marguerite Sloan Bailey of Newport, three daughters and three sons: Maryalice Sloan-Howitt (Arnold Martin Howitt), Cathleen Sloan Hood (Donald Tucker Hood), James Miller Sloan IV, Kristen Sloan Maccini (Robert John Maccini), Peter Leonard Sloan (Christine Agnew Sloan), and Stephan Christopher Sloan (Lara Schaefer Sloan), and 17 grandchildren and four great-grandchildren.



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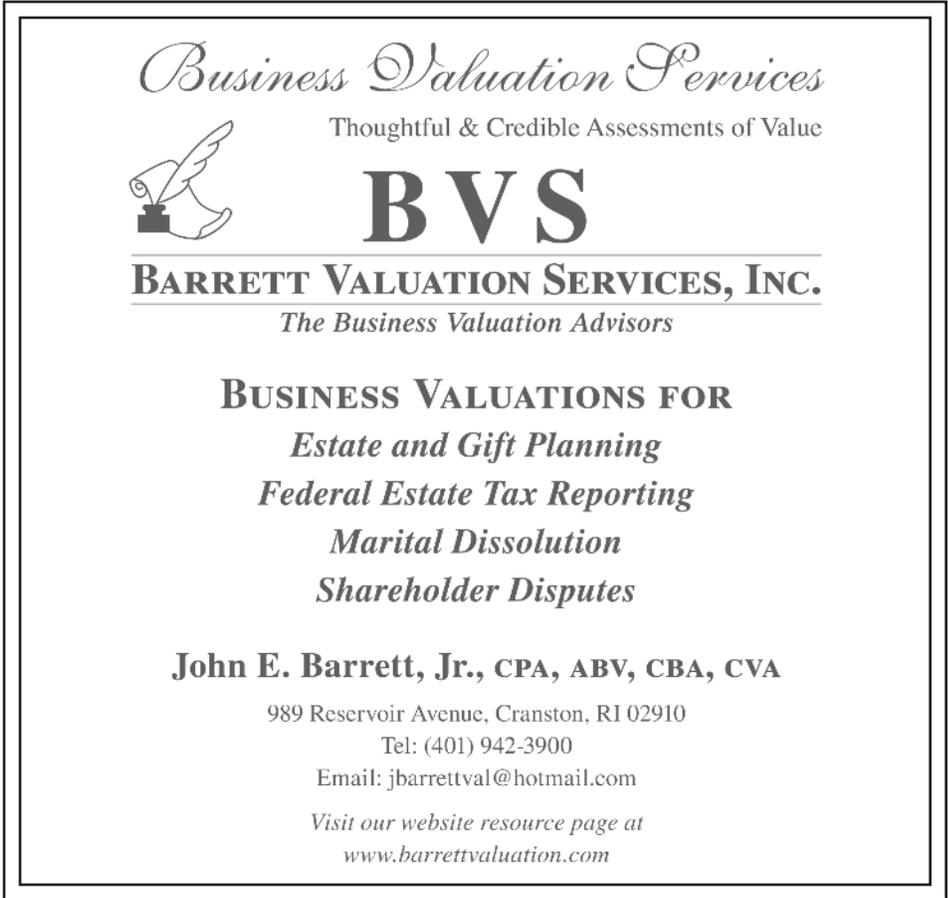
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Caption This! Contest

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

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

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

Deadline for entry: Contest entries must be submitted by April 1st, 2018.

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



Winning caption for January/February issue cartoon



"The devil is in the details."

GEORGI J. VOGEL ROSEN, ESQ.

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The Rhode Island Bar Association's Government Lawyers Committee is sponsoring a free-to-Bar-members, one-credit, Committee CLE seminar on Thursday, March 1st, from 12:30 pm – 1:30 pm at Rhode Island Bar Association headquarters, 41 Sharpe Drive in Cranston. The program, *Artificial Intelligence in the Law*, is presented by Attorney William J. Connell and State Librarian Megan Hamlin-Black. This CLE program will help attendees understand what artificial intelligence is, and how it might affect the legal profession.

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