



Rhode Island Bar Journal

Rhode Island Bar Association Volume 73. Number 5. March/April 2025

**Creditor Challenges to Decanting — Be
Sure to Check the Decanter for Cracks**

Rhode Island's Door-Closing Statutes

**Rhode Island Women Lawyers:
Past, Present, & Future Featuring
Laura Pisaturo**

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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 Rule of Law & Judicial Independence

The views expressed in this President's Message represent the author's own perspective and analysis but serve as the foundation for the official statement released by the RIBA denouncing the unjust criticism of US District Court for the District of RI Chief Judge John J. McConnell, Jr. While the views here remain relevant, the formal statement reflects RIBA's official position. Readers are encouraged to review both.



Christopher S. Gontarz, Esq.
President
Rhode Island Bar Association

“...the rule of law is essential for maintaining a just society, as it safeguards individual freedoms and ensures that all members of society are held accountable.”

In the fall I had the opportunity to speak at a Woonsocket school along with then-RI District Court Judge Melissa R. DuBose for Constitution Day 2024. We were asked to address the students and speak about First Amendment rights in the digital age, specifically how to navigate AI, social media, and the dangers of information overload.

As I was preparing to leave, a group of students approached me with some questions. A recurring question that emerged was, “What is the rule of law?” The students had read about the First Amendment prior to our presentation, and the cases we used for examples were easily accessible to them. They spoke about current events that referred to failures to comply with the rule of law, which raised questions about this amorphous term. Where could they find it in the United States Constitution? I explained that the Judiciary is found in Article III of the Constitution, and it sets forth the framework for the branches of government and their relationship to the courts.

I explained that the rule of law is essential for maintaining a just society, as it safeguards individual freedoms and ensures that all members of society are held accountable. It also helps prevent tyranny and abuse by establishing clear regulations and processes that govern behavior, and most importantly, by ensuring judicial independence. I tried to explain this in terms they could all understand. The genesis of Article III is found in Federalist No. 78, where Alexander Hamilton noted, “There is no liberty if the power of judging is not separated from the legislative and executive powers.”

Members of the Bar should be very cognizant of the influence we have when speaking about the judiciary. We are often asked our opinion about ongoing cases and controversies. While a critical analysis is warranted, we must avoid ad hominem attacks, partisanship, and hyperbolic responses that are favored for TV sound bites. Judicial independence is a cornerstone of the judiciary, ensuring that judges can make decisions based solely on the law and facts, free from external pressure. It is crucial for maintaining the integrity, impartiality, and public confidence in the judicial system. Our legal system is “a power which has no guards, no palaces, no treasures, no armies, but

truth and wisdom, its splendor consists in justice and the publicity of its judgments.”¹ Attacks on the judiciary are not a recent phenomenon: In 1805, President Thomas Jefferson tried, but failed, to remove US Supreme Court Judge Samuel Chase because of his decisions.

Attorneys understand that the Rule of Law is “the doctrine that every person is subject to the ordinary law of the realm enforced in the ordinary tribunals”² throughout the country or it’s the doctrine that general constitutional principles are the result of judicial decisions determining the rights of private individuals in the courts. Either way, as Chief Justice William Rehnquist noted, “It is not enough to have an impressive catalogue of individual rights in the Constitution if the Judges who are called upon to enforce these rights are not truly independent.”³

Chief Justice John Roberts recently spoke about the importance of judicial independence in our country in his 2024 Year-End Report on the Federal Judiciary. He explored a brief history of Judicial Independence but stated that he felt “compelled to address four areas of illegitimate activity that, in [his] view, do threaten the independence of judges on which the rule of law depends: (1) violence, (2) intimidation, (3) disinformation, and (4) threats to defy lawfully entered judgments.”⁴ He went on to provide examples of the perceived threats, and one in particular caught my attention. Roberts noted, “Public officials too, regrettably have engaged in recent attempts to intimidate judges—for example, suggesting political bias in the judge’s adverse rulings without credible basis for such allegations. Within the past year, we have seen the need for *the state and federal bar associations* (emphasis added) to come to the defense of a federal district justice whose decisions in a high-profile case prompted an elected official to call for her impeachment. Attempts to intimidate judges for their rulings in cases are inappropriate and should be vigorously opposed. Public officials

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certainly have a right to criticize the work of the judiciary, but they should be mindful that the intemperance in their statements when it comes to judges may prompt dangerous reactions by others.”⁵

When considering the rule of law, it is helpful to remember what former Florida Supreme Court Chief Justice Harry Lee Anstead, who was instrumental in the Florida Court decision in ordering a statewide recount of the votes in the 2000 **Bush v. Gore**⁶ matter, observed: “The Rule of Law is not a liberal value or a conservative value and it is certainly not a Republican or Democratic value...it is an American value.”⁷

ENDNOTES

- 1 *Marquis de Barbe-Marbois, French diplomat who negotiated the Louisiana purchase in 1803.*
- 2 *Garner's Dictionary of Legal Usage, Third Edition, Oxford University Press (2013).*
- 3 *Rehnquist, William (2004), "Judicial Independence." University of Richmond Law Review Vol 38: Iss. 3, Article 6.*
- 4 *2024 Year End Report on the Federal Judiciary.*
- 5 *Id.*
- 6 *Gore v. Harris, 772 So. 2d 1243 (2000).*
- 7 *University of Richmond Law Review, (2004).* ◇

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 magazine published bi-monthly, six times annually, and digitally distributed to, among others, all practicing attorneys and sitting judges, in Rhode Island. This constitutes an audience of over 6,300 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 articles, interviews, columns, and editorials are not the official view of the Rhode Island Bar Association. Letters to the Editor are welcome.

Article Selection Criteria

- > Contributors are requested to submit article, book review, editorial, and interview topic ideas for approval to the Managing Editor prior to submission.
- > The *Rhode Island Bar Journal* gives primary preference to original articles, written expressly for first publication in the *Bar Journal*, by attorney and judicial 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 unless co-authored with a RIBA member. Law student members may submit articles co-authored by either a law school professor (not necessarily a RIBA member) or a RIBA member.
- > A maximum of two authors (co-authors) is permitted for article submissions.
- > Articles previously appearing in other publications are typically not accepted.
- > All submitted articles are subject to the *Journal's* Editor's 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 Editor reserves 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 Editor.
- > Submissions are preferred in a Microsoft Word format emailed as an attachment.
- > Authors are asked to include an identification of their current legal position and a photograph, (headshot) preferably in a jpg file of, at least, 350 d.p.i., with their article submission.

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Build your **Client Base** and **Serve Your Community** with the **Bar's Lawyer Referral Service!**



Attorney **Lauren Bailey**, a member of the Lawyer Referral Service, enthusiastically supports the program. *“The Lawyer Referral Service not only benefits individuals in need but also provides a unique opportunity for attorneys to contribute to their community. By joining this program, you become part of a network that connects people with qualified legal representation. It's a chance to make a meaningful impact and expand your practice!”*

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: **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.

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Rhode Island Bar Association Volunteer Lawyer Program 38 Years of Pro Bono Service 1986–2024 2024 Highlights and Accomplishments



Program Summary

The Rhode Island Bar Association has administered the Volunteer Lawyer Program (VLP) for 38 years. Hundreds of our tireless members continually promote and respond to the ongoing need for legal assistance for indigent clients who cannot obtain legal representation either on their own or through other legal resources. The Bar Association supports and applauds Volunteer Lawyer Program members in recognition of their public service focus and dedication in providing marginalized persons legal assistance in priority areas, with the end goal of increasing the quality of their lives. Annually, VLP attorneys donate hundreds of pro bono hours to our neediest families and individuals, including veterans and the elderly. These valued contributions are essential to our statewide system of justice.

Assistance with Language Barriers

For over 20 years, dedicated bilingual staff have fielded calls and completed intakes for Spanish and Portuguese-speaking clients. Interpreters are provided during court proceedings, but many non-English-speaking VLP-eligible clients are in dire need of an interpreter for their case prior to Court. We are very fortunate to have Spanish translation services donated by Maria Valdez of One Voice Interpreting Service in Providence. We also wish to acknowledge Monica Teixeira, a Professor of Law at Roger Williams University School of Law for volunteering to translate for Portuguese-speaking clients. Because of their assistance, non-Spanish/Portuguese-speaking attorneys may also accept pro bono cases for clients who speak these languages.

The need for additional volunteers to translate is ongoing, and the recruitment of bilingual volunteer attorneys continues to be a priority.

CLE – Recruitment & Recognition

VLP attorneys were offered free registration for several CLE seminars throughout 2024 in exchange for accepting pro bono cases. Recruiting and retaining existing VLP members is essential to respond to the legal needs of the most vulnerable in our state. Historically, the most effective method of recruitment and retention is through sponsoring and providing the benefit of free continuing legal education. This is accomplished annually in cooperation with the Bar's Continuing Legal Education (CLE) department and the ongoing support of the Public Service Involvement Committee members as well as outstanding volunteer speakers.

Annually, volunteer attorneys are given the opportunity to attend CLE seminars free of charge in exchange for accepting a pro bono case through the VLP. In March, VLP attorneys had the opportunity to attend free of charge *The Guardian Ad Litem: Eyes & Ears of the Court*. The three-credit CLE, *Best Bankruptcy Practices Post-COVID* sponsored by the VLP, was presented during National Pro Bono Month in October. This seminar was available as a live webinar or in person at the RI Law Center. The excellent speakers included Attorneys Janet J.

Goldman, Charles A. Pisaturo, Jr., and Christopher M. Lefebvre, who presented and moderated the program. Also, during National Pro Bono Month, volunteer attorneys were invited to attend free of charge the following two seminars: *Access to Justice: Bridging Language Barriers* and *Trauma Sensitive Lawyering: Best Practices for RI Attorneys*.

As a result of the December 2024 case placement appeal, 30 cases were accepted by VLP attorneys. Participating attorneys received three one-credit coupons to attend a RIBA CLE seminar(s) of their choice in 2025.

All seminars sponsored by the VLP are made available for later viewing to volunteer attorneys unable to attend who are willing to accept pro bono cases.

In addition to the free seminars sponsored by the VLP, members who contribute and report thirty-plus hours of pro bono service annually are eligible to receive CLE coupons to be used in the following calendar year. They are given the choice of attending one, free, three-credit seminar or three one-credit Food for Thought seminars of their choice. Instituted in 2009, this policy reflects the Bar's longstanding support and encouragement of pro bono legal assistance and public service. Annually, based on self-reporting, 40-plus attorneys receive these coupons.



Best Bankruptcy Practices Post-COVID
(l-r): Christopher M. Lefebvre Esq., Janet J. Goldman Esq., Charles A. Pisaturo, Esq.

Mentoring

Messaging to members continued in 2024 about the availability of mentors for any volunteer attorney interested in accepting



Rhode Island Bar Foundation

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

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

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IOLTA Honor Roll Banks

The Rhode Island Bar Foundation sends its grateful appreciation to the banks participating in our Interest on Lawyers Trust Accounts (IOLTA) Honor Roll Bank program. Many banks in Rhode Island participate in the Rhode Island Bar Foundation IOLTA Program, which is administered by the Rhode Island Bar Foundation. The IOLTA Program funds critical services in Rhode Island communities. Through IOLTA grants, thousands of our most vulnerable citizens receive free or low-cost civil legal services. The RI Bar Foundation would like to especially highlight our IOLTA Honor Roll Bank participants. These financial institutions agree to pay a net yield of at least 65 percent of the federal fund's target rate on IOLTA deposits. Their participation in the IOLTA Program exemplifies their commitment to upholding the Federal Community Reinvestment Act. Participating banks appear below:



Rhode Island Bar Foundation Spotlight

The RI Bar Foundation has awarded \$1.4 million in IOLTA grants for 2025. Below are the organizations your IOLTA funds are helping support.

- Center for Justice
- Center for Mediation
- Coalition to End Homelessness
- Day One
- Disability Rights RI
- Dorcas International
- Justice Assistance
- Kids In Need of Defense
- Phoenix Odyssey
- RIBA Elderly Program
- RIBA Pro Bono Program
- RI Coalition Against Domestic Violence
- RI Legal Education Foundation
- RI Legal Services
- RI Parent Information Network
- Sojourner House

a pro bono case. The requests for mentors for VLP cases ranged from those attorneys wishing to incorporate a new area of law into their practice to those wanting to expand their areas of expertise while helping a pro bono client. Our dedicated volunteer mentors in 2024 were Attorneys Carolyn Barone, Michael Castner, James Creighton, John Flanagan, Murray Gereboff, Dadriana Lepore, Tracy Loignon, Samantha McCarthy Jarvis, Joseph Proietta, Eileen O’Shaughnessy and Elizabeth Santilli.

Case Placement Strategies

Preparing and distributing pro bono case summaries to emphasize the critical need for legal assistance and encourage participation is ongoing. This is one of several effective methods of case placement, in addition to the traditional direct calls to panel members and blast-emailing. Themed appeals such as March Gladness, April is Volunteer Month, National Pro Bono Month, Thanks for Giving, and the Gift of Giving were several successful case placement promotions. For example, during Volunteer Month in April, all volunteer attorneys who accepted a pro bono case were entered into a raffle to attend the two-day 2024 Annual Meeting free.

Most potential clients contact the Volunteer Lawyer Program by telephone to request pro bono service. The public is referred by the human service network, including the courts, Rhode Island Legal Services and other legal assistance agencies, Community Action Programs, senior citizen organizations, the Rhode Island Bar Association website, law offices, and the internet.

In 2024, the public was assisted by volunteer attorneys with bankruptcy, collections, consumer issues, education, employment, guardianships, landlord/tenant, license registry, non-profit designation, probate matters, tort defense, and various family law issues. Although there is no longer specific funding available for foreclosure-related matters we continue to accept requests from clients desperate to save their homes. We will continue to

2024 Continuing Service Award Recipient

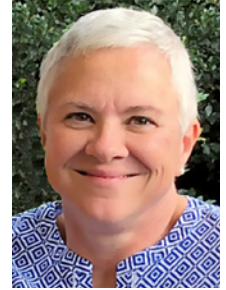


Michael A. Castner, Esq.

2024 Pro Bono Publico Award Recipients



Samantha L. McCarthy Jarvis, Esq.



Eileen C. O’Shaughnessy, Esq.

conduct intake for these matters within the parameters allowed.

The on-site legal clinic format for pro bono clients is also planned when needed. A divorce clinic was held in May 2024 with Attorney Michael Castner.

Volunteer Recognition

The dedication and commitment of our remarkable Pro Bono Award recipients was recognized at the Bar Association’s 2024 Annual Meeting Awards reception in June. Attorney Michael Castner was selected for the 2024 Continuing Service Award, honoring his many years of commitment to providing pro bono representation, accepting 195 VLP cases and providing 2,000 hours in his pro bono-only practice in the past 5 years. Samantha McCarthy Jarvis and Eileen O’Shaughnessy were the recipients of the 2024 Pro Bono Publico Award for their commitment and service through the Volunteer Lawyer Program, having donated a total of over 200 hours of pro bono service.

Collaboration

Each year, we frequently receive requests for assistance with domestic violence, landlord/tenant, bankruptcy, divorce, custody, collections, guardianships, probate matters, etc. On an ongoing basis we work closely and collaborate with Rhode Island Legal Services and the Office of Healthy Aging Volunteer Guardianship program.

Join for Justice

VLP clients are pre-screened daily by the staff for case type and financial eligibility. Volunteer Lawyer Program clients are families and individuals, including veterans and the vulnerable elderly in our communities statewide, with nowhere else to turn for legal assistance.

Joining is a simple process, and mentors are available upon request. For more information about the Volunteer Lawyer Program, please do not hesitate to contact Susan Fontaine at: sfontaine@ribar.com or 401-421-7758. For your convenience, the VLP membership application 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.

Establish Yourself as a Thought Leader!

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



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Attorney **Amanda Wuoti**, a member of the Volunteer Lawyer Program (VLP), enthusiastically supports the program. *"As a corporate attorney who primarily works from home, the VLP not only affords me the opportunity to interact with and help my community, it also refreshes legal doctrine that has gone stagnant since bar prep. The VLP has shown me that pro bono service is excellent for the mind and soul and often reminds me why I went to law school!"*

Participation in our **Volunteer Lawyers Program** provides crucial legal assistance to those in need. Whether you have been an attorney for years or it is the beginning of your career, pro bono cases can provide the opportunity for you to explore new areas of law, and seasoned members of the Bar are available as mentors. Your involvement in VLP ensures marginalized individuals receive vital representation, playing a key role in fostering justice. Join today and you can make a difference in the lives of those who need it most.

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.

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Rhode Island Bar Foundation Seeks Law School Scholarship Applicants

The Rhode Island Bar Foundation is offering several scholarship opportunities to Rhode Island residents interested in a career in the law for the academic year 2025–2026.

The Thomas F. Black, Jr. Memorial Scholarship Fund was established in 1989 to support and foster high legal practice standards by assisting Rhode Island residents who show promise that they will become outstanding lawyers and who need financial assistance to study law. Since 1984, this fund has awarded 76 scholarships to promising law students from Rhode Island. The Scholarships are named in honor of the late Thomas F. Black, Jr., a person known for his impressive ability as a lawyer and banker, his deeply rooted legal scholarship and his notable participation in civic and charitable causes. Two \$25,000 Black scholarships will be available to incoming first-year law students.

In addition to the Thomas F. Black, Jr. Memorial Scholarships, the Foundation will award two new \$25,000 scholarships, the Patrice A. Tarantino Memorial Scholarship and the Nicole J. Benjamin Scholarship. The Patrice A. Tarantino Memorial Scholarship Fund was established in 2022 by former Bar Foundation President John A. Tarantino, Esq., in memory of his late wife, Pat. The Scholarship is a lasting tribute to Pat's memory. The Nicole J. Benjamin Scholarship was founded in 2023, also by former Bar Foundation President John A. Tarantino, Esq., and recognizes attorney Benjamin's exemplary contributions to the legal community. It aims to support aspiring legal professionals who exhibit leadership potential and a commitment to service to the community.

Two additional law school scholarships from the Papitto Opportunity Connection Foundation in the amount of \$25,000 each will be awarded to candidates who are committed to actively promoting diversity, equity, and inclusion in society. Papitto candidates must provide specific examples of strategies that have been undertaken, or will be undertaken, within both the legal profession and the broader community to promote diversity, equity, and inclusion. Founded in December 2020, the Papitto Opportunity Connection was formed by Barbara Papitto as a continuation of the long-time commitment she and her late husband Ralph have made to creating educational opportunities and supporting diversity, equity, and inclusion in Rhode Island.

In January 2025, the Rhode Island Bar Foundation will be accepting applications for all of these scholarships for the academic year 2025–2026. Each scholarship is a one-year, non-renewable award for full-time Rhode Island residents entering their first year of law school in September 2025. The Rhode Island Bar Foundation Scholarship application deadline is **March 31, 2025**. For application forms, telephone: (401) 421-6541 or email: tgallo@ribar.com. More information on the scholarships and application forms is also available on the Rhode Island Bar Association website: ribar.com, in the Rhode Island Bar Foundation section.

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Creditor Challenges to Decanting— Be Sure to Check the Decanter for Cracks



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“If decanting is desired, ideally the ability to do so and the scope of its use will be spelled out in the governing instrument.”

I. Introduction—Sometimes a bottle of wine can be improved by decanting.

Decanting, whether through statutory authority or under the terms of the trust instrument, is a popular mechanism to address changed circumstances or less-than-ideal planning. The ability to address a number of different circumstances not dealt with adequately under the governing instrument, such as tax planning, special needs planning and creditor protection, provides another tool in the planner’s toolbox to address these situations. In the creditor protection arena, great care must be taken if the decanting is to be successful and for the planner to avoid embroiling himself or herself in the controversy.

Decanting completed without invoking the aid of a state statute relies on the authority contained within the trust instrument as executed, while decanting under a state statute relies on the instrument containing sufficient breadth to comply with the particular state’s decanting statute. Often this breadth is minimal, such as simply having the authority to distribute principal.¹

Attacks on decanting come in two forms. For non-statutory decanting, the issue in the first instance is whether decanting is authorized under the terms of the instrument and, secondly, if so, whether the decanting goes too far. Attacks on instruments decanted pursuant to a state statute focus on whether the decanting violated the rights of a class of individuals described within the statute, often referred to as exception creditors, or if the decanting itself was effectuated in a manner that violated a creditor’s rights.

II. A. Authority in the Instrument — Is the wine good in the first place.

If decanting is desired, ideally the ability to do so and the scope of its use will be spelled out in the governing instrument. A specific provision may exist in the governing instrument authorizing decanting.² Conversely, if there is a prohibition on decanting in the instrument, decanting should not be used.

Decanting based on the instrument, when not expressly authorized, comes down to the age-old adage of effectuating settlor intent. Can it be gleaned from the four corners of the document

that decanting was intended by the settlor? If not, an ambiguity more than likely exists within the document and extrinsic evidence should be considered.³ The existence of phrases such as “to or for the benefit of” are pointed to as supporting a trustee’s authorization to decant. Language such as “income and principal may be distributed in equal amounts either outright or in further trust without regard to the effect on the remaindermen” is helpful. Some courts have rationalized that the ability to make an outright distribution includes by its nature the ability to give something less, including a beneficial interest in trust with spendthrift protection.⁴

B. Authority under State Statute

A majority of the states now have decanting statutes. When decanting pursuant to statute, strict adherence to the requirements of the statute is critical. The following areas must be examined.

- Is notice to beneficiaries required?
- If the original trust has an ascertainable standard can the new trust be a purely discretionary trust?
- Can a mandatory income interest be removed?
- Can the new trust contain a power of appointment that can be exercised in favor of persons who are not beneficiaries of the existing trust?
- Can a remainder beneficiary’s interest be accelerated?
- Should you give notice to existing creditors?

If the new trust, often referred to as trust number 2, violates the terms of the statute under which it is being established, does that invalidate the entire process, or will the offending provision simply be stricken? Drafting should include language to the effect that any offending provision will be modified to the extent necessary to ensure compliance.

Consideration must also be given to the law of the jurisdiction that will control trust number 2.

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As states compete for trust business, they are offering more benefits to attract business to their jurisdiction. Wyoming, for example, provides that an existing creditor that is given constructive notice of a decanting can, after 120 days, be foreclosed from pursuing a claim.⁵ Based on the comments in the Uniform Voidable Transfer Act (UVTA), however, which is the successor to the Uniform Fraudulent Transfer Act, an argument exists that if you decant from a trust in a jurisdiction that has adopted the UVTA and seek a benefit in the new jurisdiction that does not exist under the law of the state the trust is decanting from, the transfer is voidable per se. If constructive notice doesn't exist under the jurisdiction for trust number 1 and you are coming from a UVTA jurisdiction, that may create an argument that the transfer to the new trust is ineffective.⁶

III. Post Decanting Attacks

A. Sometimes wine doesn't improve in the decanter: If the decanting has been properly completed pursuant to the instrument or a state decanting statute, the next level of inquiry is whether the transfer can be attacked by a judgment creditor.

If the decanting is to occur under a state statute, careful review of that statute must be made for so-called exception creditors. Most decanting statutes exclude certain classes of creditors, such as support orders or other family court obligations and wrongful death or tortious personal injury creditors.

B. Fraudulent Transfers

1. The decanter has a hole in it. A majority, but not all, of the state decanting statutes require notice to be given to certain beneficiaries, which affords them an opportunity to object to the

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decanting for a specified time period. The transfer of assets from trust number 1 to trust number 2 cannot occur until the expiration of the time period set out in the statute has expired (typically 30, 60 or 90 days), which begins to run after notice is properly given. The notice statutes allow a beneficiary that receives notice to waive this statutory period, which, if given, allows the trustee to transfer the assets from trust number 1 to trust number 2 immediately. The waiver, often phrased in terms of a consent, has the effect of renouncing the terms of the original trust in favor of the terms of trust number 1. This consent creates an opportunity for a creditor to assert that the debtor/beneficiary engaged in a fraudulent transfer.

2. **Is it a hole or just a crack in the crystal?** If the consent is held to be a special/limited power of appointment, the law in many jurisdictions is that creditors cannot reach assets subject to such a power.⁷ For a general power, most jurisdictions provide that the assets subject to a general power that has been exercised are deemed in equity part of the power holder's estate for the purpose of enforcing claims against the debtor's estate.⁸

As most decanting statutes place limits on who the trust assets can be decanted in favor of, is that enough to successfully argue the consent is a limited power? This argument should fail because, but for the debtor/beneficiary's consent to send the decanted assets elsewhere, the decanted assets would have been available to the consenter's creditors. This equates to a general power.

The law on whether creditors can force a debtor to exercise a general power varies by jurisdiction and sometimes even within the jurisdiction, but several courts have held that creditors cannot reach the assets over which a debtor holds an unexercised

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general power of appointment.⁹ What if the debtor/beneficiary receives notice but takes no action—neither objects nor provides consent?¹⁰ This will delay the start of the running of the statute of limitations for a creditor to bring a claim by the period of time set forth in the notice.¹¹ But more importantly, is the failure to act enough for the power of appointment to be considered non-exercised?

Consenting or not acting should not alter the result because in each case the debtor/beneficiary controlled the outcome of whether they received wealth, however, the affirmative act of consenting does make the transfer easier to “see.” Also, it is not inconceivable that a court may find this difference important, based on ancient theories revolving around the idea that a person should not be forced to receive a gift or inheritance.¹² The result may vary case by case, and the particular equities of each situation are likely to influence the ultimate outcome. As such, the short delay caused by the debtor taking no action may be a worthwhile tradeoff.

IV. Summary

Decanting is an especially useful tool. When advising a trustee that is considering decanting, careful attention should be paid to whether the instrument authorizes it or if it can be accomplished under a state statute. If being done under a statute, that statute should be complied with strictly. An attorney familiar with the law into which the trust is being decanted should be consulted to ensure the desired result is accomplished and there is not an unexpected result. If the debtor/beneficiary seeks advice on consenting or not, the Trustee should advise him or her to obtain independent counsel. In advising a debtor/beneficiary, there may be a slight advantage to not consenting. Even though this will result in a small delay in the running of the statute of limitation period, that debtor/beneficiary may be better off not responding to a decanting notice.

ENDNOTES

1 See, e.g., R.I. GEN. LAWS § 18-4-31(a).

2 *Sample Clause: Without notice to the qualified beneficiaries, a Trustee authorized to make distributions to or for the benefit of a beneficiary may, by an instrument in writing, signed and acknowledged by the Trustee and filed with the records of the trust, instead exercise the power by appointing all or part of the principal of the trust subject to the power in favor of a Trustee of another trust for the benefit of one (1) or more of the beneficiaries under the same trust instrument or under a different trust instrument.*

3 See *Ferri v. Powell-Ferri*, 72 N.E. 3d 541, 546 (Mass 217) and *Hodges v. Johnson*, 177 A. 3d 86 (NH (2017)).

4 *Bhipps v. Palm Beach Trust Co.*, 196 So. 299 (Fla. 1940).

5 W.S. 4-10-507.

6 *Voidable Transfers in Self-Settled Spendthrift Trusts*, ACTEC Trust and Estate Talk, Featuring ACTEC Fellow, George D. Kiribatian, Episode 160 – July 2021.

7 See *U.S. v. Baldwin*, 391 A.2d 844(1978).

8 See *Scott and Bratcher*, *The Law on Trusts* § 147.3 (4th ed. 1987).

9 *Page on the Law of Wills* § 45.24 (3rd ed. 1962); *Scott and Fratcher*, *The Law on Trusts* § 147.3 (4th ed. 1987).

10 *An important corollary issue, which is beyond the scope of this note, exists as to whether the Trustee should offer the notice recipient advice on whether to consent or to not take any affirmative action.*

11 *Rhode Island law allows an existing creditor to bring a claim within the so-called 4 and 1 rule; the claim challenging a transfer to an RI asset protection trust as fraudulent must be brought within the later of 4 years of the transfer occurring or 1 year of when the transfer was or could reasonably have been discovered by the creditor.* § 18-9.2-4(b).

12 See *Dean, David Gamin, Renunciation of Testamentary Benefit as Fraudulent Transfer*, 37 Case W. Rsv. L. Rev. 148 (1987). ◇

Rhode Island's Door-Closing Statutes

This article is a special project by a participant of the 2023–2024 Leadership Academy, developed with feedback and edits from their mentor. It reflects the dedication and growth fostered within our program. We are proud to showcase the hard work and insights of our future leaders.



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“Determining whether a foreign business is ‘transacting business’ is not straightforward!”

Imagine this: a member of a Delaware limited liability company contacts your office, seeking representation to file a lawsuit in Rhode Island state court against a Rhode Island-based limited liability company that breached a valid service contract. This potential client notes it transacts business in Rhode Island but is not registered with the Rhode Island Secretary of State as a foreign limited liability company. These circumstances may be a familiar hypothetical for many Rhode Island attorneys who represent foreign business entities in state court cases. Your potential client's comment that it transacts business in Rhode Island but has not registered with the Secretary of State reveals a pitfall every litigator must navigate to protect their clients' interest, either plaintiff or defendant. Understanding this hidden potential danger is essential to ensuring successful litigation.

Rhode Island, like many other states, enforces “door-closing” statutes that bar out-of-state business entities from pursuing claims in state courts unless they register with the Secretary of State or obtain a certificate of authority. Rhode Island General Laws § 7-16-54(a) requires any foreign limited liability company transacting business in the state to register before initiating legal action.¹ Similar requirements apply to foreign corporations, limited partnerships, and limited liability partnerships.^{2,3} These statutes necessitate that every Rhode Island litigator determine whether their client or any other party is a foreign business entity conducting business in the state and ensure they have the necessary registration or certificate of authority.

I. To What Foreign Business Entities do Rhode Island's “Door-Closing” Statutes Apply?

Foreign business entities transacting business in Rhode Island must register to file suit in state court.⁴ The Model Business Corporation Act of 1984 § 15.02, similar to Rhode Island General Laws § 7-1.2-1418, aims to encourage prompt qualification without harsh sanctions.⁵ The American Bar Association further suggests that one should favor encouraging qualification over imposing severe penalties.⁶ Questions may arise about whether a foreign business is transacting business in Rhode Island and whether

registration is burdensome or cost-effective for future protection.

Determining whether a foreign business is “transacting business” is not straightforward. Not all contact with the state constitutes transacting business. Certain activities do not qualify. Activities that the statute does not consider “transacting business” include:

- Participating in legal actions, administrative proceedings, or arbitrations, or arranging the settlement of such cases, claims, or disputes.⁷
- Hosting meetings of shareholders or directors, or managing other activities related to the business entity's affairs.⁸
- Keeping bank accounts in Rhode Island.⁹
- Operating offices or agencies to register, exchange, or transfer the business entity's securities, or naming trustees or keeping depositories for said securities.¹⁰
- Making “sales through independent contractors.”¹¹
- Obtaining orders—via mail, employees, agents, or otherwise—“where the orders require acceptance outside of this state before becoming binding contracts.”¹²
- Borrowing or lending, acquiring debts, mortgages, “or other security interests in real or personal property.”¹³
- “Securing or collecting debts or enforcing any rights in property securing the debts.”¹⁴
- “Transacting any business in interstate commerce.”¹⁵
- Engaging in a one-time transaction completed within thirty days, not a part of a series of similar transactions.¹⁶
- “Acting as a general partner of a limited partnership which has filed a certificate of limited partnership... or has registered with the secretary of state....”¹⁷
- “Acting as a member of a limited-liability company which has registered with the secretary of state....”¹⁸

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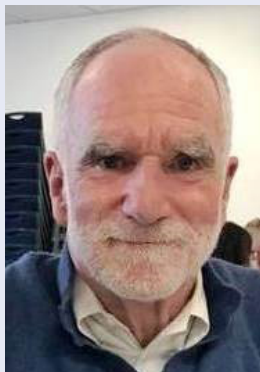
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This list is not exclusive, and more regular, systematic conduct requires obtaining a certificate of authority or registration.¹⁹

Applications to register as a foreign limited liability company, foreign limited partnership, or foreign limited liability partnership, or obtaining a certificate of authority as a foreign corporation, are available online or via paper application. Registration fees vary, and the process requires providing a certificate of good standing and identifying a registered agent in Rhode Island.²⁰

II. How the Door-Closing Statutes Impact Your Litigation Practice

Plaintiff attorneys should verify their client’s registration status before filing suit to avoid unnecessary motion practice. While registration is required, failure to register does not automatically bar a foreign business entity from suing. Key cases, such as *New England Die Co., Inc. v. General Products Company, Inc.* and *Custom Metals Systems v. Tocci Building Corporation*, illustrate that compliance during trial is acceptable. Defendants should consider these statutes as a defense but note that motions to dismiss based on lack of registration are often unsuccessful.

In *New England Die Co., Inc. v. General Products Company, Inc.*, the Rhode Island Supreme Court addressed the timing of registration.²¹ The Court concluded that Rhode Island law does not bar a foreign corporation from filing a breach of contract action, provided the corporation complies with the registration statute, even if during trial.²² This case highlights that failure to register before filing suit is not fatal to a plaintiff’s claims.

Similarly, in *Custom Metals Systems, Ltd. v. Tocci Building Corporation*, the Court held that a foreign business entity does not need to maintain a certificate throughout litigation, as long as it reinstates the certificate before final judgment.²³ This decision underscores the importance of understanding the nuances of the door-closing statutes.

Defendant parties may be tempted to file a motion to dismiss due to the failure to register, but this is unlikely to be successful. In *Tiffany Agency of Modeling, Inc. v. Butler*, the Supreme Court held that dismissal based on lack of capacity under the door-closing statute cannot be obtained via a motion to dismiss.²⁴ Instead, compliance during trial is sufficient to acquire standing.²⁵

While a motion to dismiss is likely to be unsuccessful, failure to raise the issue that a foreign business entity lacked the capacity to assert any claim in state courts before trial will likely lead to a waiver of the defense at trial. In *World-Wide Computer Resources, Inc. v. Arthur Kaufman Sales Company*, the Supreme Court concluded that dismissing claims based on a late defense was erroneous, as the issue could have been raised earlier.²⁶

III. Conclusion

Whether representing a foreign business entity or those being sued by one, attorneys should determine early in the litigation process whether the entities are registered in Rhode Island. Plaintiffs can avoid costly litigation by registering, while defendants may prevail by asserting lack of capacity as a defense. Determining a foreign business entity’s registration status is simple and can save time and money.

ENDNOTES

- 1 R.I. GEN. LAWS § 7-1.2-1418(a).
- 2 See R.I. GEN. LAWS § 7-12.1-1002(b); R.I. GEN. LAWS § 7-13.1-1002(b). Both statutes were adopted in 2022 and became effective on January 1, 2023. See P.L. 2022, ch. 123, § 2, eff. Jan. 1, 2023; P.L. 2022, ch. 121, § 2,

eff. Jan. 1, 2023.

³ Three of the four business types are required by statute are required to “register” with the Rhode Island Secretary of State, while foreign corporations are required to obtain a “certificate of authority” For the readers’ ease, this article will use “register” as an action for all types, while explicitly acknowledging here that foreign corporations must obtain a certificate of authority from the Secretary of State.

⁴ R.I. GEN. LAWS § 7-16-54(a); R.I. GEN. LAWS § 7-1.2-1418(a).

⁵ REVISED MODEL BUSINESS CORPORATION ACT 378 (1984).

⁶ *Id.*

⁷ See R.I. GEN. LAWS § 7-1.2-1401(b)(1); R.I. GEN. LAWS § 7-16-54(e)(1); see also, R.I. GEN. LAWS § 7-12.1-1005(a)(1); R.I. GEN. LAWS § 7-13.1-1005(a)(1).

⁸ See R.I. GEN. LAWS § 7-1.2-1401(b)(2); R.I. GEN. LAWS § 7-16-54(e)(2); see also, R.I. GEN. LAWS § 7-12.1-1005(a)(2); R.I. GEN. LAWS § 7-13.1-1005(a)(2).

⁹ See R.I. GEN. LAWS § 7-1.2-1401(b)(3); R.I. GEN. LAWS § 7-16-54(e)(3); see also, R.I. GEN. LAWS § 7-12.1-1005(a)(3); R.I. GEN. LAWS § 7-13.1-1005(a)(3).

¹⁰ See R.I. GEN. LAWS § 7-1.2-1401(b)(4); R.I. GEN. LAWS § 7-16-54(e)(4); see also, R.I. GEN. LAWS § 7-12.1-1005(a)(4); R.I. GEN. LAWS § 7-13.1-1005(a)(4).

¹¹ See R.I. GEN. LAWS § 7-1.2-1401(b)(5); R.I. GEN. LAWS § 7-16-54(e)(5); see also, R.I. GEN. LAWS § 7-12.1-1005(a)(5); R.I. GEN. LAWS § 7-13.1-1005(a)(5).

¹² See R.I. GEN. LAWS § 7-1.2-1401(b)(6); R.I. GEN. LAWS § 7-16-54(e)(6); see also, R.I. GEN. LAWS § 7-12.1-1005(a)(6); R.I. GEN. LAWS § 7-13.1-1005(a)(6).

¹³ See R.I. GEN. LAWS § 7-1.2-1401(b)(7); R.I. GEN. LAWS § 7-16-54(e)(7); see also, R.I. GEN. LAWS § 7-12.1-1005(a)(7); R.I. GEN. LAWS § 7-13.1-1005(a)(7).

¹⁴ See R.I. GEN. LAWS § 7-1.2-1401(b)(8); R.I. GEN. LAWS § 7-16-54(e)(8); see also, R.I. GEN. LAWS § 7-12.1-1005(a)(8); R.I. GEN. LAWS § 7-13.1-1005(a)(8).

¹⁵ See R.I. GEN. LAWS § 7-1.2-1401(b)(9); R.I. GEN. LAWS § 7-16-54(e)(9); see also, R.I. GEN. LAWS § 7-12.1-1005(a)(9); R.I. GEN. LAWS § 7-13.1-1005(a)(9).

¹⁶ See R.I. GEN. LAWS § 7-1.2-1401(b)(10); R.I. GEN. LAWS § 7-16-54(e)(10); see also, R.I. GEN. LAWS § 7-12.1-1005(a)(10); R.I. GEN. LAWS § 7-13.1-1005(a)(10).

¹⁷ See R.I. GEN. LAWS § 7-1.2-1401(b)(11); R.I. GEN. LAWS § 7-16-54(e)(11).

¹⁸ See R.I. GEN. LAWS §§ 7-1.2-1401(b)(12); 7-16-54(e)(12); § 7-13.1-1005(a)(8); 7-12.1-1005(a)(8).

¹⁹ See R.I. GEN. LAWS § 7-1.2-1401(b); R.I. GEN. LAWS § 7-16-54(e); see also, REVISED MODEL BUSINESS CORPORATION ACT 374 (1984).

²⁰ See R.I. GEN. LAWS §§ 7-16-49; 7-1.2-1405; 7-12.1-1003; 7-13.1-1003; Rhode Island Department of State, Register Your Business in RI, Rhode Island Secretary of State, <https://www.sos.ri.gov/divisions/business-services/foreign-business/register-your-business-in-ri> (last visited June 7, 2024).

²¹ 92 R.I. 292, 168 A.2d 150 (1961).

²² *Id.* at 298-99, 154.

²³ 57 A.3d 674, 676 (R.I. 2013).

²⁴ 110 R.I. 568, 573, 295 A.2d 47, 50 (1972).

²⁵ *Id.*

²⁶ 615 A.2d 122, 124-25 (R.I. 1992). ◊

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Rhode Island Women Lawyers: Past, Present, & Future

This series was inspired by Roger Williams University School of Law's annual *Women in Robes* event and was created in alliance with their exciting new project, *The First Women*, which recognizes and honors the first women of the Rhode Island Bar.



Laura A. Pisaturo, Esq.

To say that Laura Pisaturo has worn a few different hats during her legal career is an understatement. From prosecutor and pro bono civil rights litigator to estate planning and family law attorney, university professor, and head of the Child Advocacy Center, her path has spanned multiple legal arenas. Today, she serves as the full-time Chairperson of the Rhode Island Parole Board—a role that brings her unique blend of experience, service, and compassion to one of the most important aspects of the criminal justice system.

Before launching her legal career, however—in fact, before even beginning her collegiate studies—Ms. Pisaturo took an unexpected detour into youth ministry after high school. These formative years would spark her commitment to service—a value instilled in her by her father, the late Charles A. Pisaturo, a longtime Providence attorney, city councilman and public servant. An Italian immigrant, Mr. Pisaturo became the “community lawyer” for the Silver Lake neighborhood, often paid in barter with pepper biscuits and eggs. He taught his children to put service above personal or financial gain,

a lesson that deeply shaped Laura's life.

Clearly, she followed in her father's footsteps, pursuing a legal career alongside three of her seven siblings. After graduating law school, she spent three years at Hinkley, Allen & Snyder as a civil litigator. In a time when the legal profession was overwhelmingly male, she recalls being mistaken for an assistant in court. Despite the challenges, her mentors at Hinkley Allen supported her and showed her the ropes—especially during the busy Providence motion calendar.

But it was the call to public service that has truly defined Ms. Pisaturo's career. In 1998 she joined the Office of the Attorney General, where she spent seven years prosecuting everything from probation violations to murder cases. As a Deputy Chief in the Criminal Division under then-Attorney General Patrick Lynch, she mentored new prosecutors as they moved up the ranks and gained invaluable courtroom experience.

Her passion for helping others led her to Day One (then known as the Sexual Assault & Trauma Resource Center), where she directed legal and advocacy services for survivors of sexual and physical abuse. As director of the Rhode Island Children's Advocacy Center (CAC), the agency's flagship multi-disciplinary forensic interview and advocacy program, she played a key role in gaining national accreditation for the CAC, all while working with some of the state's most vulnerable populations.

In 2011, Laura returned to private practice, handling a wide range of cases in family law, estate planning, probate, and at the Rhode Island Traffic Tribunal. She never strayed far from her commitment to community service, accepting pro bono work with GLAD Law to protect LGBTQ+ rights, running for public office, and advocating for marriage equality in Rhode Island.

In 2014, she was appointed by Governor Lincoln Chafee to chair the Rhode Island Parole Board, where she remains today. The board's role is critical: it evaluates whether individuals incarcerated in the state have been sufficiently rehabilitated to gain early release to the community. With a deep understanding of the



Angela Yingling, Esq.
RI Assistant Public Defender

Jenna Giguere, Esq.

weight of this responsibility, Ms. Pisaturo credits her staff and fellow board members for their commitment to professionalism, accountability and fairness. Under her leadership, the board has embraced evidence-based tools and forged meaningful partnerships with the Department of Corrections and community providers to try to ensure a successful reintegration process for parolees.

Ms. Pisaturo is passionate about her current role, which has broadened her perspective on the world. Through her work with justice-involved individuals, she has come to believe that many people are “better than the worst thing they've ever done” and that, with the right support and a willingness to take personal responsibility, redemption is possible. She advocates for creative, empathetic solutions that consider both the complexities of people's lives and the seriousness of their actions and impacts on others.

One example of this approach is the partnership between Mentor RI, the Department of Corrections, and the Campus Reentry Program, where new inmates are mentored by more experienced individuals—either those who have chosen a better path within the prison or those who have successfully reintegrated into the community after incarceration. These mentors provide positive role models and help mentees navigate the challenges of prison and re-entry.

Ms. Pisaturo also recognizes the importance of community organizations like Amos House, Open Doors, Building Futures RI, Polaris MEP, the RI Reentry Alliance, Roger Williams University, mental/behavioral health programs, and parole officers, who offer crucial support for second chances while promoting personal accountability.

Her wide-ranging legal experiences have reinforced her belief that “doing the right thing is more important than being right,” and that respect for all parties is essential to finding the best solutions. As the Parole Board continues to evolve, Ms. Pisaturo is committed to a system where all stakeholders—law enforcement, incarcerated and formerly incarcerated individuals, their families, victims and their families, commu-

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nity members, and public officials—work collaboratively toward outcomes that promote healing, justice, and lasting positive change.

Outside her professional life, Ms. Pisaturo is an avid traveler who enjoys the outdoors. Two more recent excursions included a nine-day cycling trip along the Croatian coast and a two-week adventure in South Africa, including a safari—both of which she highly recommends for their breathtaking scenery, welcoming people, and exceptional local cuisine.

Although her travels sometimes take her far from Rhode Island, Ms. Pisaturo remains deeply connected to her home state. While she may not be paid in pepper biscuits these days, it's clear that she has embraced the public service legacy her father instilled in her, continuing to serve and uplift Rhode Island's communities in meaningful ways. ◊

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Seeking Law Related Education Program Attorney Volunteers: Update Your Preferences Today!

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

A new question has been added to the LRE form to inquire if potential volunteers speak another language besides their primary language. This addition will help us better match volunteers with language-specific speaking opportunities. Please ensure we have your updated preferences by filling out the LRE Volunteer Application today!

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

Questions? Please contact Director of Communications Erin Cute at ecute@ribar.com or **401-421-5740**.

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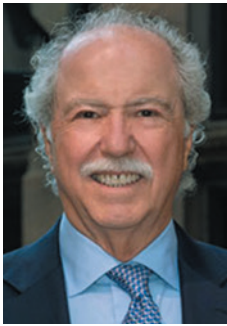
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Member Benefit Spotlight

Explore Training Resources for the New vLex Fastcase Platform

With the recent merger of Fastcase and vLex, Rhode Island Bar Association members now have access to an enhanced legal research platform. The new vLex Fastcase system offers expanded content, powerful search tools, and AI-driven features to streamline legal research.

To help members transition smoothly, vLex Fastcase provides a variety of free training options, including video tutorials, guided platform tours, and live webinars. To access these resources, log into the Rhode Island Bar Association website and navigate to **vLex Fastcase**. Once on the platform, look for the blue **"Get Started"** button at the bottom of the page. Clicking this button will open a menu with training videos, platform walkthroughs, and upcoming webinars designed to help you make the most of the new system.

A free member benefit to all Rhode Island Bar Association attorneys, vLex Fastcase provides 24/7 access to comprehensive online legal research, helping lawyers stay current with the law and provide cost-effective client service.

To access vLex Fastcase, log in to the Rhode Island Bar Association website at ribar.com. For questions or technical support, contact the **vLex Fastcase Help Desk** Monday–Friday from 8 a.m. to 9 p.m. EST, by email at helpdesk-us@vlex.com, or by phone at **866-773-2782**.



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The Rhode Island Bar Association applauds the following attorneys for their outstanding pro bono service through the Bar's Volunteer Lawyer Program, Elderly Pro Bono Program, Legal Clinics, VLP Mentor Program, and the US Armed Forces Legal Services Project during December 2024 and January 2025.

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

PRO BONO PUBLICO RESOLUTION

In 2008, the Rhode Island Bar Association House of Delegates adopted the following policy and urges its members to act accordingly.

We urge our members to engage in public service. Recognizing the continuing need for legal assistance for economically disadvantaged citizens attempting to obtain legal services in our state, we as an association are mindful of the opportunity that is present for us to fulfill our moral, ethical and social duty to those who have limited or no access to the legal system. We therefore reaffirm our strong commitment to the delivery of legal services to the poor by strongly urging each member of this association to render pro bono publico legal services in accordance with Rule 6.1.

The association urges all attorneys, as well as law firms, government and corporate employers to support, endorse and adopt a Pro Bono policy that will encourage open participation by associates and employees.

Be it resolved that in order to implement the above statement of policy the association urges each member to join and participate in a Volunteer Lawyer Program of the Rhode Island Bar Association.

Don't Go It Alone

The Bar has numerous resources at your disposal to assist you with life's professional and personal hurdles. The following list of resources is brought to you by the Bar's Lawyers Helping Lawyers Committee.

LAWYERS HELPING LAWYERS COMMITTEE Pursuant to Supreme Court Rule 8.3 (d)(e), members of the Committee are available, on a strictly confidential basis, to assist members of the bar and their families with any personal problem. Many committee members have experience in a variety of areas of practice and are happy to share their insights. Even within the Committee, the identities of individuals seeking help are kept confidential, and the Bar Association does not track individuals who access the website. The names and contact information of Committee members are available below or on the Bar's website: ribar.com/Page.aspx?id=50.

BUSINESS MANAGEMENT Red Cave Consulting is a free resource for all RI attorneys on practice management. Contact Jared Correia at jared@redcavelegal.com. The RI Bar Association also has a law practice management page on the website, which includes more information about Jared's services and links to different free programs that he has provided to the Bar Association: ribar.com/members-only-area/law-practice-management/.

COUNSELING CorpCare is a consulting service contracted by the Association to assist you at no charge. They provide health counselors to work with you to address your concerns. Call (866) 482-8378 for confidential, round-the-clock support. Visit their website for additional resources: corpcareeap.com/.

For instant referrals zencare.co is a good resource for finding in-network, local providers.

ETHICS The Ethics Advisory Panel was established by the Rhode Island Supreme Court in 1986 to provide any member of the Rhode Island Bar in good standing with confidential advice concerning his or her prospective conduct as an attorney under the Rules of Professional Conduct as set forth in Article V of the Supreme Court Rules. Requests for an advisory opinion must be made to the Panel in writing, either via email sent to EAP@courts.ri.gov or in hardcopy form mailed to the Panel's attention at the Licht Judicial Complex, 250 Benefit Street, Providence, RI 02903, and should set forth the factual situation in detail and, if possible, the applicable section(s) of the Rules of Professional Conduct at issue. All requests are deemed confidential and the identities of the inquiring attorney and all involved parties are not publicly divulged. The Panel considers requests in the order in which they are received at its next occurring monthly meeting. After deliberation, the Panel will either draft and issue an advisory opinion based upon the facts as presented in the written inquiry, request further information, or decline to render an advisory opinion for one or more of the reasons set forth in Rule 2 of the Rules of the Rhode Island Supreme Court Ethics Advisory Panel, such as if the matter in question is currently pending before a court or other tribunal or if the request seeks advice on a question of substantive law. Should the Panel issue an advisory opinion, the inquiring attorney who acts in accordance with the opinion shall be conclusively presumed to have abided by the Rules of Pro-

fessional Conduct, provided no misrepresentation or omission of material fact was made in his or her written inquiry. For more information, including a searchable library of past Ethics Advisory Panel opinions, please visit courts.ri.gov/attorney-resources/Pages/Ethics-Advisory-Panel-default.aspx.

MENTORSHIP For traditional mentoring, the RI Bar Association program matches lawyers one-on-one with experienced mentors in order to assist with law practice management, effective client representation, and career development. If you would like to volunteer and serve as a mentor, please visit ribar.com, select the MEMBERS ONLY area, and complete the Mentor Application form and return it to the listed contact. For more information, contact Erin Cute at ecute@ribar.com.

The Bar Association also offers the **Online Attorney Information Resource Center (OAR)**, available to Bar members through the MEMBERS ONLY section of the Bar's website, to help members receive timely and direct volunteer assistance with practice-related questions. For more information, contact Erin Cute at ecute@ribar.com.

The Bar's **Volunteer Lawyer Program (VLP)** facilitates the placement of hundreds of pro bono cases each year. Volunteer attorneys positively impact the quality of their clients' lives by providing critically needed representation and protections for people who could not otherwise afford it. Join today and you can be matched with a seasoned mentor when you accept a pro bono case! Whether you have been an attorney for years or it is the beginning of your career, pro bono cases can provide the opportunity for you to explore new areas of law with a seasoned mentor. For more information about the Volunteer Lawyer Program and how to join, please contact Susan Fontaine at sfontaine@ribar.com or (401) 421-7758.

DISCIPLINARY COUNSEL The Rhode Island Supreme Court's Office of Disciplinary Counsel investigates allegations of attorney misconduct. The Office of Disciplinary Counsel cannot give legal advice but may serve as a resource for attorneys regarding their obligations under the Rules of Professional Conduct. For more information, please call (401) 823-5710 or email disc@courts.ri.gov.

MORE Additional resources are available at the RI Bar Association "Membership Benefits" website at ribar.com/Page.aspx?id=31 and at both the Bar Association's Lawyers Helping Lawyers Community Resources ribar.com/for-attorneys/lhl-resources/ and the Committee's page of links to Other State Attorney Assistance Programs by State ribar.com/for-attorneys/new-england-attorney-assistance-programs/.

Thank you Jared Correia, Lise Gescheidt, Justin Correa, Erin Cute, Susan Fontaine, Katy Bridge, Maria Lenz, Nicholas Trott Long, and Neville Bedford for sharing information about the respective resources highlighted above.

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RIBA President Christopher S. Gontarz, Esq. (left), immediate Past-President and current member of the National Conference of Bar Professionals Executive Council Nicole J. Benjamin, Esq., and RIBA President-Elect Patrick A. Guida, Esq. (right) recently attended the 2025 National Conference of Bar Presidents in Phoenix, AZ.

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Bar Association Mentor Programs

Our Bar Association is proud to offer mentorship opportunities that foster professional development, strengthen collegiality, and provide valuable guidance and support in the practice of law. Experienced practitioners can share their wealth of knowledge and experience with mentees, and mentees receive a helping hand as they begin or revitalize their legal careers. Over the years, the Bar Association has matched numerous new members with seasoned attorneys, and we would like to refresh our directory.

For traditional mentoring, our program matches new lawyers one-on-one with experienced mentors in order to assist with law practice management, effective client representation, and career development. If you would like to volunteer and serve as a mentor, please visit ribar.com, select the **MEMBERS ONLY** area, and complete the **Mentor Application** form and return it to the listed contact.

As an alternative, the Bar Association also offers the Online Attorney Information Resource Center (OAR), available to Bar members through the **MEMBERS ONLY** section of the Bar's website, to receive timely and direct volunteer assistance with practice-related questions.

If you have any questions about either form of mentoring, or if you would like to be paired with a mentor through our traditional program, please contact Director of Communications Erin Cute at ecute@ribar.com or **401-421-5740**.



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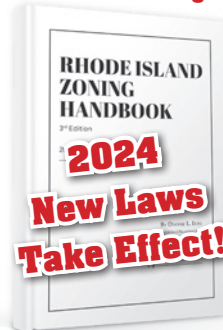
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Below is a list of the Rhode Island Bar members who have participated in CLE seminars during January and February.

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Rhode Island District Court

Hon. Nicholas J. Parrillo
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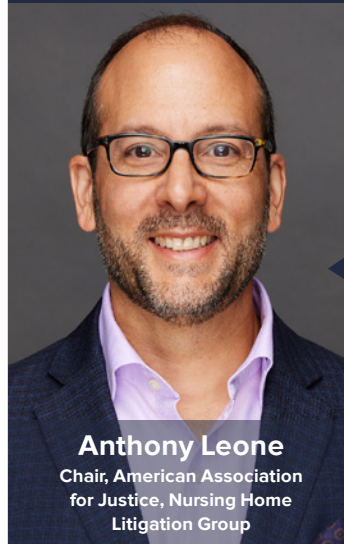
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The CLE Department has embraced a paperless approach.

Going forward, all CLE publications will be emailed as PDF files, ensuring convenience and easy access for members.

Title	Book #	Price	Total
Business			
NEW! Bankruptcy Best Practices Post-COVID	24-13	\$45	
Doing the Deal Right: Navigating Insolvency Issues when Buying or Selling a Practice	23-17	\$35	
Commercial Law 2023	23-16	\$60	
Collections – Start to Finish	23-03	\$40	
Family			
NEW! The Parental Estrangement Model: An Alternative to Parental Alienation Syndrome	24-15	\$35	
Division of Retirement Assets in Divorce	23-19	\$45	
Analyzing Self-Employment Income for Alimony & Child Support Purposes	23-18	\$50	
Law Practice Management			
What "Will" You Do with Your Law Firm? Succession Planning Best Practices	23-20	\$60	
Practical Skills			
UPDATED! Workers' Comp Practice in RI	24-05	\$75	
Planning & Administering an Estate 2022	22-01	\$80	
Criminal Law Practice in RI	19-09	\$75	
Civil Law Practice in RI Superior Court	18-04	\$60	
Residential Real Estate Closings in RI	17-02	\$90	
Domestic Relations Practice	16-07	\$85	
Basic Commercial & Real Estate Loan Documentation	12-02	\$65	
Civil Practice in District Court	12-01	\$40	
Probate/Estate Planning/Elder Law			
Helping Clients & Their Families Navigate Long-Term Care Eligibility	23-23	\$40	
Supported Decision Making: What It Is & Why We Need It	23-22	\$40	
Death & Taxes: Understanding the RI Estate Tax & Mechanics of Estate Tax Returns	23-21	\$50	
RI Tax Updates & Reminders	23-06	\$40	
Preparation of Gift Tax	23-01	\$60	
Real Estate			
NEW! No Double-Dipping: Evolving Rules for Conflicts of Interest in Real Estate Transactions	24-16	\$50	
RI Title Standards Handbook	TS-24	\$60	
Recent Developments in Land Use Law	23-24	\$40	
Evictions in a Post-Pandemic World Handbook	23-09	\$15	
Civil Litigation/Trial Practice			
2024 DUI Laws & Hardship Licenses	24-12	\$50	
Cross Examination Techniques	24-09	\$30	
The New Norm: Experts in Slip & Fall Cases	24-08	\$45	
Appellate Practice and Preserving the Record	24-07	\$60	
A National and Local Perspective on Opioid Litigation	24-01	\$75	
Increase Your Chances of Success in Arbitration & Mediation Handbook	23-30	\$20	
Public Protection Bureau: Public Law for the People of RI	23-27	\$45	
Inside View of the RI Supreme Court	23-26	\$35	
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Title	Book #	Price	Total
Miscellaneous			
NEW! Recent Developments in the Law 2024	RD-24	\$75	
NEW! The Ethics of Case Withdrawal Workbook	24-14	\$25	
Defending Mental Health Court Clients	24-11	\$50	
RI Liquor Liability	24-10	\$25	
The PACT Act and Its Implications for Representing Veterans in VA Disability Cases	24-04	\$20	
Recreational Marijuana – What's Next?	24-02	\$45	
Seeking Justice for Survivors of Sexual Violence in RI's Legal System	23-29	\$40	
Medical Malpractice in Rhode Island	23-11	\$55	
RI Supreme Court Access to Justice	23-05	\$50	
SSI/SSDI Claims & the Federal Court	22-02	\$40	
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RI Bar Association Continuing Legal Education Seminars

Register online at the Bar's website ribar.com and click on CONTINUING LEGAL EDUCATION on the left-side menu or call 401-421-5740.

All dates and times are subject to change.

Seminars are always being added to the CLE schedule, so visit the [CLE calendar](#) for the most up-to-date information.

- March 5**
Wednesday
Technical Fouls: Even Minor Ethics Violations Can Have Major Consequences
1:00 – 2:00 pm, 1.0 ethics
LIVE WEBINAR ONLY
- March 10**
Monday
Launching Pad: Building a 'Go-To-Market' Plan for a New Law Firm
1:00 – 2:00 pm, 1.0 credit
LIVE WEBINAR ONLY
- March 11**
Tuesday
Making Non-Statutory Dog Bites Less Ruff
12:30 – 1:30 pm, 1.0 credit
LIVE WEBINAR ONLY
- March 20**
Thursday
Legal Ethics Is No Laughing Matter: What Lawyer Jokes Say About Our Ethical Foibles
1:00 – 2:00 pm, 1.0 ethics
LIVE WEBINAR ONLY
- March 26**
Wednesday
Draft at Warp Speed: Using A.I. in Contract Drafting
1:00 – 2:00 pm, 1.0 credit
LIVE WEBINAR ONLY

- March 27**
Thursday
2025 DUI Laws & Hardship Licenses
2:00 – 4:00 pm, 2.0 credits
In-person at the RI Law Center, Cranston



- April 2**
Wednesday
Excelling in Commercial Law Litigation
1:00 – 4:00 pm, 3.0 credits
In-person at the RI Law Center, Cranston
- April 4**
Friday
Electronic Discovery Conferences and Orders—Rhode Island and Federal
12:30 – 1:30 pm, 1.0 credits
LIVE WEBINAR ONLY
- April 8**
Tuesday
Chat OMG: The Ethical Pros and Cons of Using AI
1:00 – 2:00 pm, 1.0 ethics
LIVE WEBINAR ONLY
- April 12**
Saturday
The 2025 Ethy Awards
12:00 – 2:00 pm, 2.0 ethics
LIVE WEBINAR ONLY
- April 16**
Wednesday
Glow Up: Five Strategies for Law Firm Growth
1:00 – 2:00 pm, 1.0 credit
LIVE WEBINAR ONLY
- April 23**
Wednesday
Arbitration Avenues Available in the Practice of Law in Rhode Island
3:00 – 4:00 pm, 1.0 credit
In-person at the RI Law Center, Cranston
Also available as a live webinar!
- April 29**
Tuesday
I Think, Therefore I AM...Biased: How Implicit Biases Manifest in the Legal Profession
1:00 – 2:00 pm, 1.0 ethics
LIVE WEBINAR ONLY
- April 30**
Wednesday
Lights, Camera, Contracts: Legal Considerations for Creative Businesses
2:00 – 4:00 pm, 2.0 credits
LIVE WEBINAR ONLY

New lawyer pricing available for members admitted after January 2020! Visit the [CLE calendar](#) on our website for more details.

The Bar Journal assumes no responsibility for opinions, statements, and facts in any article, editorial, column, or book review, except to the extent that, by publication, the subject matter merits attention. Neither the opinions expressed in any article, editorial, column, or book review nor their content represent the official view of the Rhode Island Bar Association or the views of its members.

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In Memoriam

Harold W. Demopulos, Esq.

Harold W. Demopulos, of Bristol, died on September 16, 2024. He was the husband of the late Frances (Scorzoni) Demopulos. Born to the late George K. and Grace (Loures) Demopulos, Harold lived in Rhode Island for 100 years. He took great pride in his Army service in Europe during World War II, his more than fifty years practicing law in downtown Providence, and his alma mater, Brown University. Harold is survived by his daughters, Amelia and Abigail Demopulos; son-in-law, Bismarck Myrick Jr.; sister-in-law, Tina Demopulos; two grandchildren; and many nieces and nephews. In addition to his wife and parents, he was predeceased by his siblings, Constantine G. Demopulos, MD; Georgette Martins; and Joan Latos.

Michael L. DeSimone, Esq.

Michael L. DeSimone was the husband of Elaine (Moretti) DeSimone. Born in Providence, he was the son of the late Patrick and Mary (DiRienzo) DeSimone. After graduating from Cranston West in 1969, Michael enlisted in the Coast Guard Reserve before beginning his educational journey at CCRI. He later earned a B.S. in Engineering from Roger Williams University and a J.D. from the New England School of Law, launching a career in private practice that spanned over twenty years. In addition to his legal career, Michael taught Business Law at various institutions, including CCRI, Roger Williams University, and New England Tech. In addition to his wife, Elaine, he is survived by his daughters, Christina Perlov and her husband, Pavel, of Hopkinton, MA, and Claire O'Connor and her husband, Matthew, of Sudbury, MA; and multiple grandchildren. He was the son-in-law of Claire Moretti and predeceased by his brother Patrick DeSimone.

John Gorham, Esq.

John Gorham, 92, of Greenville, died on January 27, 2025. Born on October 23, 1932, in Providence, he was the son of Sayles and Ruth (Campbell) Gorham. He was the husband of the late Barbara (Nye) Gorham. He was a graduate of Hope High School (1950), Brown University (1954), and Harvard Law School (1957). He also served in the United States Army from 1957 to 1958. John was a longtime resident of Scituate, where he lived from 1959 to 2019. As an attorney, he was a partner at the law firm of Gorham & Gorham from 1958 until his retirement in 1997. During this time, he served as the Town Solicitor of Scituate, beginning in 1958. He was a member of the Rhode Island Bar Association, the American Bar Association, and the Harvard Law School Association of Rhode Island, and was a Fellow of the Rhode Island Bar Foundation. He also served as a former member of the Rhode Island Bar Association House of Delegates and the Thomas F. Black, Jr. Memorial Scholarship Committee, administered by the Rhode Island Bar Foundation. After retiring from law, he became Chairman of the Champlin Foundation in 1998, having served on its Distribution Committee since 1975. During his tenure, he was instrumental in land conservation efforts across Rhode Island, working with The Nature Conservancy, the Department of Environmental Management, and other organizations to preserve thousands of acres. He also established the Champlin Scholars Program at Brown University, which provided scholarships to graduates of Rhode Island public high schools for undergraduate and medical school studies. John was actively involved in the Town of Scituate, serving as a member and past president of the Scituate Lions Club, a trustee and former chairman of the North Scituate Public Library, a past president of the Scituate-Foster Little League, and a member of several other local organizations. He is survived by his children, Timothy N. Gorham and his wife, Carolyn, of Wakefield, RI; Peter C. Gorham of Greenville, SC; and Rebecca G. Norton and her husband, Paul, of Norfolk, MA; five grandchildren; and his sister, Desire Palmer of Rehoboth, MA. In addition to his wife, he was predeceased by his brothers, Bradford Gorham, Esq., and Dr. Nicholas Gorham.

Joseph William Harsch, Esq.

Joseph William Harsch was the husband of Constance Mann Harsch (Connie). Born in Washington, D.C., on January 22, 1939, he was the son of Joseph Close Harsch and Anne Wood Harsch. Bill attended the Beauvoir and St. Albans Schools, the Pomfret School, and Williams College, spending a year at Cambridge University before earning his law degree from Harvard Law School in 1964. After a year of Army service, he began his career as a congressional staffer on Capitol Hill. In the 1970s, he worked on high-speed rail development at MIT's Urban Systems Laboratory and held leadership roles in Rhode Island government under Governors Philip Noel and J. Joseph Garrahy. He was the first director of the Department of Environmental Management, where he helped establish Beavertail State Park. In 1977, he returned to Washington as Deputy Associate Director in the Office of Management and Budget under President Jimmy Carter, playing a key role in the creation of FEMA and the Energy Security Act of 1980. Bill later practiced law at Powers & McAndrew and the New England Law Partnership, focusing on energy rate cases. In the 1990s, he returned to Rhode Island and established a practice specializing in environmental law, representing citizen groups and municipalities on regulatory and conservation issues. He also served on the board of the Quonset Development Corporation, was Vice Chair of the Rhode Island Ethics Commission, and ran twice for Attorney General. In addition to his wife, he is survived by his three children, Joseph Close Harsch II (Joe), Christiana Wood Harsch (Chrissy), and Elizabeth Fowler Harsch-Fricker (Liza); three grandsons; his daughter-in-law, Sonja Harsch; his son-in-law, Paul Fricker; and his brothers, Jonathan H. Harsch and Paul A. Harsch III.

William G. Savastano, Esq.

William G. Savastano Sr., 81, died on Tuesday, February 4, 2025. He was the husband of Sylvia M. (Rezendes) Savastano. Born in Providence, he was the son of the late Saverino and Concetta (DiGregorio) Savastano. He had resided in Cumberland for the past five years, having previously lived in North Smithfield and Johnston. William was a graduate of La Salle Academy and Providence College. He later earned his law degree from Suffolk Law School. He practiced law for 50 years at his firm, William G. Savastano Law, in North Smithfield, where he worked alongside his longtime colleague, Robert H. Larder. He also served as a probate judge for the town of North Smithfield and focused primarily on general family law, as well as practicing as a Supreme Court and appellate attorney. After graduating from Providence College, William lost his arm at age 20. With the support of his wife, Sylvia, he learned to write with his left hand, attended law school, and continued his education while raising a family. He was also a polio survivor and later survived cancer. In addition to his wife, he is survived by his five children: William G. Savastano Jr. of Cumberland; Sylvia M. Smith and her husband, William, of Lincoln; Gregory J. Savastano and his wife, Gretchen, of Illinois; Thomas S. Savastano and his wife, Gina, of Illinois; and Michael Vincent Saverino Savastano of Warwick; numerous grandchildren; his sister, Linda Ventura, and her husband, Anthony, of South Carolina; as well as several nieces and nephews.

Joseph R. Tutalo, Esq.

Joseph R. Tutalo, of Providence, died on December 8, 2024. He was the husband of Patricia Tutalo. Born in Providence, he was the son of the late Joseph and Ellen (Bertone) Tutalo. Joseph was an attorney, practicing law for over 50 years. He was a graduate of Providence College and later earned his Juris Doctor degree from Boston University School of Law. In addition to his wife, Joseph is survived by his son, John; daughter-in-law, Courtney; and two grandsons.

Caption This! Contest

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

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

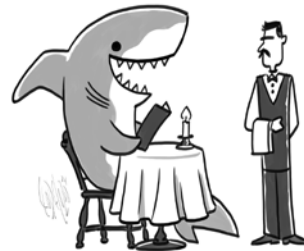
How to Enter: Submit the caption you think best fits the scene depicted in the cartoon above by sending an email to ecute@ribar.com with "Caption Contest for March/April in the subject line.

Deadline for entry: Contest entries must be submitted by April 1st, 2025.

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



"Gimme a large calamari to go, and make it snappy—I can't hang around Legal Seafoods!"

DIANNE L. IZZO, ESQ.

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Lawyers on the Move

Julissa Arce, Esq. is now an Associate at **Duffy & Sweeney**, 321 South Main Street, Suite 400, Providence, RI 02903.
401-455-0700 Jarce@duffysweeney.com duffysweeney.com

Jonathan D. Persky, Esq. is now Partner at **Constangy, Brooks, Smith & Prophete**, 535 Boylston St., Suite 902, Boston, MA 02116.
617-607-6384 jpersky@constangy.com constangy.com

Rhode Island Municipal Court Listing

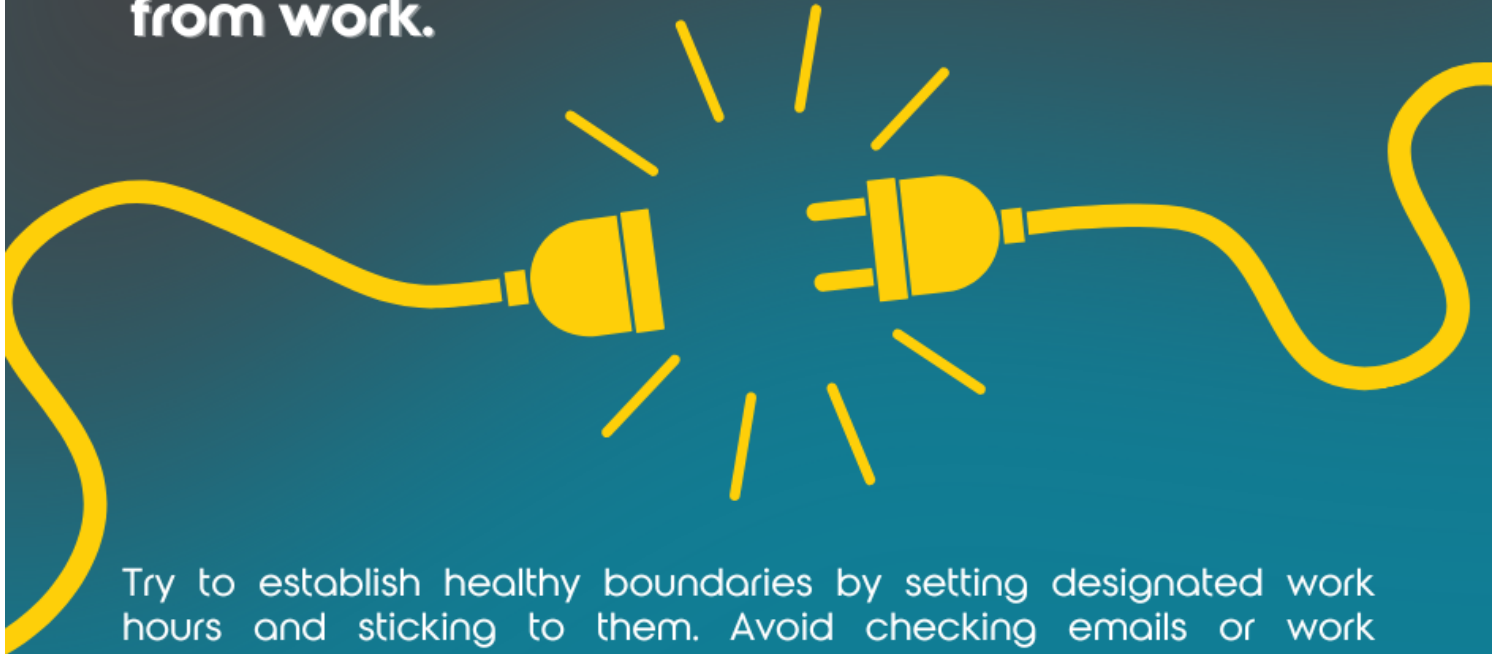
The Rhode Island Bar Association recently created a Municipal Court Listing, similar to our popular Probate Court Listing. Bar staff will regularly update the listing to ensure posted information is correct. The Municipal Court Listing and the Probate Court Listing are available on the Bar's website at ribar.com by clicking on **FOR ATTORNEYS** on the home page menu and then clicking on **MUNICIPAL COURT INFORMATION** or **PROBATE COURT INFORMATION** on the dropdown menu. Both Listings are provided in a downloadable pdf format. Bar members may also increase the type size of the words on the Listing by using the percentage feature at the top of the page.

The Bar Association also posts a chart summarizing the preferences of Superior Court justices relating to direct communications from attorneys, and between attorneys and the justices' clerks which is updated yearly. The chart is available by clicking **MEMBERS ONLY** on the home page menu and then clicking **JUDICIAL COMMUNICATIONS**.

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