

THE
VERMONT BAR JOURNAL

237

Spring 2024, Volume 50, No. 1





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*Detail from Black-and-White
Mottled Bird on Tulip Stem,
with Daffodils and Butterflies.
Artist unknown. ca. 1800–1830
Pen and ink, graphite
on coated wove paper
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Try out the
Crossword Puzzle
by Kevin Lumpkin, Esq.
on page 37!

VERMONT BAR JOURNAL

Vol. 50, No. 1

Spring 2024

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Published four times a year by the
Vermont Bar Association.
Subscription rates: 1 year \$35. 2 years \$65.
Printed by Stillwater Graphics.

VBA assumes no responsibility for claims arising in connection with products or services advertised in the *Vermont Bar Journal*. The information in these materials is intended for general guidance and is not meant to be a substitute for professional legal advice and independent legal research. Statements of expressions of opinion or comments appearing herein are those of the authors and not necessarily those of the Vermont Bar Association.

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PRESIDENT'S COLUMN

Update on Initiatives

Happy Spring,

In my last column, I introduced the two areas of focus for my year as President of the VBA generally and discussed the first area, workforce development. I'd like to follow-up on some initiatives I mentioned on workforce development before turning to the second area of focus, transition or succession planning for senior attorneys.

Workforce Development

The VBA's new Loan Repayment Assistance Program ("LRAP") granted awards to 14 recipients. As demonstrated by the following thank you note excerpts, the recipients are grateful and recognize the investment their fellow attorneys are making in their careers and futures:

- Thank you so much! This will make a huge difference for me and my partner as we put down roots here. After starting my career practicing in NJ, I am consistently amazed by how collegial and kind the Vermont bar is. This very generous award only reinforces that impression.
- I write to express my sincerest thanks and appreciation that you selected me as a recipient of the LRAP awards. I cannot express how much this means to me and my family. I am excited to continue building my career in Vermont and I am so grateful to practice in a state with such wonderful opportunities and generosity amongst the Bar. I am hopeful that one day I am able to repay the kindness back to the members of the VBA.

Another important initiative for us this year is outreach to the wider community, particularly Vermont school students. We want to inspire the next generation of legal professionals and the pipeline into a legal career begins in school. As part of this initiative, attorneys and other legal professionals throughout the state are engaging with educators to sponsor Law Day events. Law Day is officially May 1, but we have had a full season of "Law Day" events with more to come. A team of volunteers in Washington County are leading Law Day events on First Amendment issues at U-32 and Montpelier High School. VBA members have sponsored Law Day events at Burlington High School and will be going to South Burlington High School, on May 1, and another group is working with stu-

dents served by the Burlington Boys and Girls Club to plan an event. The Rutland County Bar will be holding a trial featuring Barbie, Ken, and perhaps Allan, for younger students, and other Law Day events will be held in Bennington County. Thank you to all those attorneys participating. I'd like to personally encourage all of you to reach out to your local schools to coordinate opportunities to expose Vermont students to the rule of law and the practice of law.

Succession and transition planning

Regarding succession and transition planning, another of our major initiatives this year, thank you to everyone who participated in our recent survey. The complete results will be summarized into a report, but I wanted to discuss some highlights here.

A total of 361 of our members responded, with the largest cohort being those aged 41-62. Approximately 76% of the respondents work in some form of private practice from solo practice to firms with eleven or more attorneys. More than 76% have begun to think about retiring from the practice of law. Half of those have begun to plan for retirement.

More than half of respondents, nearly 60%, indicated that they plan on transitioning to part-time practice before retiring. In the narrative answers, however, many respondents worried that issues like liability insurance, the demands of electronic filing, the absence of administrative support, and learning how to down shift from full-time practice create obstacles to transitioning to part-time practice. The most frequently identified challenges to retirement were financial adjustments, 56%, loss of professional identity, 32%, and adjusting to a different daily routine, 29%. Identifying new interests or activities and the social aspects of retirement followed close behind with 21% of respondents noting each as a challenge.

For those attorneys who do plan to retire, 34% responded that they were very prepared financially, and 36% responded they were somewhat prepared. About 10% answered they were very unprepared and somewhat unprepared financially for retirement.

To the question whether their firm or business was prepared for their retirement, 20% responded very prepared, 31% responded somewhat prepared, and 33%



Judith L. Dillon, Esq.

of responders indicated neutral. Approximately 16% responded that their firms were either somewhat prepared or very unprepared.

About 27% of respondents indicated they would be interested in staying involved in the legal field or providing pro bono services after retirement. Concerns about the cost of maintaining liability insurance, the need to maintain training and education, and the desire to do something unrelated to law were high among the reasons given for not wanting to volunteer in the legal field after retirement.

Respondents were also asked whether they would be interested in mentoring a new or young attorney in their area and about developing or supporting a legal practice in their area. About 35% answered "no." Only 30% answered "yes," and approximately 35% of the respondents answered "unsure." This is an alarming result.

Similarly disturbing was the response to the question whether, "you would be interested in learning about opportunities to connect with or mentor new or young attorneys." A total of 62% answered "no" to that question.

I would like to encourage those of you who answered "no" to consider mentoring or reaching out to younger or newer attorneys to help guide or support them in practicing in your geographic or substantive area. Mentoring or networking or opening doors for these newer attorneys helps ensure that your neighbors and communities

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will continue to have lawyers to draft contracts and wills, represent them in court, facilitate their home or business sale, and to provide the myriad other services that lawyers supply every day to Vermonters. We must build a bridge of knowledge, experience, and opportunity between our more senior attorneys and newer attorneys to avoid the expertise shortfall that may otherwise result when our senior attorneys retire.

I encourage you to follow the example of some of the respondents who have hired and supervised Law Office Study students, new associates, or interns, or offered advice to a new lawyer. Making these connections is necessary for those 39% of respondents who indicated that they would consider bringing in a new attorney to their practice to enable them to transition to part-time or retirement.

The highlight of the survey for me was that 75% of attorneys responded that they feel satisfied practicing law. For those providing narrative responses to this question, some described the practice as a privilege, and that they were lucky to have such a rewarding and "endlessly fascinating" ca-

reer. One member exclaimed, "I love the Vermont Bar. With few exceptions, my colleagues have been kind & helpful mentors, admirable advocates, and respectable adversaries."

Some respondents, however, shared a grimmer summary of their legal experience. Many members mentioned the stress of practicing, the time commitment, and the hours spent away from family and other commitments. Several mentioned that their career was more satisfying years ago when there was more camaraderie among lawyers. Several discussed the decline in civility as leading to protracted delays and a decline in job satisfaction. Others mentioned the changes that technology has had on the profession and the expectation that attorneys be on call 24 hours a day seven days a week.

I call on those of you that have and continue to enjoy practicing law to be generous with your time and to continue the spirit of respect and camaraderie and explore mentoring and other networking opportunities with newer and younger attorneys.



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PURSUIITS OF HAPPINESS

Kristen Saroyan — Improbable Baseball Fan

KSV: Thanks for agreeing to be interviewed, Kristin. As you know, for this feature, we talk to attorneys who have interests and passions outside of the practice of law which help keep them balanced, bring them joy, widen their horizons, etc.

I've known you for a year or two now as part of the group of incubator attorneys, and I got a little frisson when you mentioned that you are a big baseball fan. It was just unexpected, given what I know about your professional interests in representing artists and creative people, and your generally scholarly and demure demeanor (if you'll permit that observation). But it's true, isn't it, that baseball occupies a big part of your time outside of work?

KS: Thanks for thinking of me for this column, Kim. It's fun to talk with you outside the incubator group. Yes, baseball consumes an enormous amount of my free time, more than I ever could have imagined.

KSV: And you love it?

KS: To my great surprise, I do.

KSV: We're going to talk more about how you got into it, as the parent of two young baseball players, but for starters, tell me, were you surprised to find that you there was a baseball fan in you waiting to emerge? Were you into sports as a kid?

KS: I was not a sports fan growing up. In fact, it wasn't until after college that someone explained to me that the Giants are a baseball team as well as a football team.

KSV: OK, before we get into the baseball details can you give a little summary of your background. Where did you grow up?

KS: I'm from Loudonville, New York, just outside of Albany.

KSV: And what about your education?

KS: I moved to NYC for college and graduate school. I studied art history with a focus on color theory.

KSV: So, you were set up then for a career in the arts in New York, and I know you pursued that. Can you tell me a little about your work in the New York art world?

KS: Sure. I started out as an intern at an auction house. Then I managed estate property—including an enormous collection of books housed in a Bronx warehouse—at a downtown law firm. After that I worked at a commercial art gallery in the Fuller Build-



ing on Madison Avenue. I then worked in the curatorial field at a non-profit organization and later at the Hunter College Art Galleries. The broad experience with auctions and non-profits as well as commercial and academic galleries has served me well in my art-focused law practice.

KSV: You are coming to us now from your home in Norwich, VT where you work and live with your husband and two boys so that was a big change. Can you tell a little bit about how and why you made the move to Vermont?

KS: We were searching for greener pastures and good schools. When we first ar-

rived in Norwich there were kids ice skating on the town green and the school offered us a tour on the spot. There was an incredible art exhibit in the school's entryway. We loved everything about it.

KSV: When did you first think about going to law school?

KS: I stayed home with my kids for many years. When my younger son started kindergarten, I started thinking about what to do next. I reached out to VLGS, and they were so welcoming. I took the application process one step at a time. Suddenly, I was a law student.

KSV: When did you graduate?

KS: Spring 2021.

KSV: So you were juggling parenting with law school. How was that?

KS: When I told my older son I was thinking about going back to school he said it was fine if I still picked him from up school every day. VLGS was great about letting me split cohorts so I could make it back to Norwich by 3pm. There were still some stressful moments. Fortunately, there were many other parents in the program. I had lots of company.

KSV: Can you tell me a little about your law practice? Origins? Direction?

KS: My practice (Marigold Law PLLC) is fo-



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cused on artists and people in creative fields. I work with non-profits and help artists form business entities and manage intellectual property. I have always loved working in the creative industry. I feel fortunate that I continue to do so as a lawyer.

KSV: OK. Let's talk about baseball. How old are your boys now?

KS: They are 15 and almost 13.

KSV: And when did they start playing baseball?

KS: Goodness...kindergarten? First grade?

KSV: Can you tell me a little about their progression, and your progression as a fan of the sport?

KS: Once they started playing, they never stopped. We went to a few major league games and the boys discovered the Upper Valley Nighthawks and the Burlington Lake Monsters. Somewhere along the way, I realized I was spending an astounding amount of time at baseball games...and enjoying it.

KSV: When your sons started getting serious about it in a way where it became obvious that it was going to require a really significant amount of your time and effort, did you feel any reluctance? How has that played out?

KS: I still have moments of disbelief. Just last night I drove my younger son three hours round trip for a one-hour baseball practice. I've found, however, that the time in the car with them is precious, especially as they've entered their teens and become increasingly independent.

KSV: Has it been a challenge to fit their playing commitments in with your work?

KS: I developed my law practice, in part, to accommodate the boys' schedules. I work remotely and maintain a paper-free office. Almost all my meetings are on Zoom. I am grateful for the flexibility.

KSV: When I first asked you about doing this you said your kids would laugh because you 'know nothing about baseball.' What do you mean? That you don't know the statistics and strategies for baseball? It doesn't mean that you don't know the rules at this point, does it?

KS: It does mean that I don't know the rules. Of course, I know the basics, but the rules have changed as the boys have gotten older and advanced. When I watch major league games, I'm amazed by how little I know. Fortunately, the boys can explain the game to me.

KSV: Of course, any parent whose children are serious about sports often has to make a similar lifestyle choice. What do you like about it?

KS: I like that it's unexpected. If you'd asked me fifteen years ago if I would spend as much time as I do on the boys' activities, I would have laughed. The boys love baseball. Their joy is my joy, it turns out.

KSV: I know you have made plans with your family to visit every major league professional baseball field in the country. When did that plan get hatched? Was it your idea? The kids?

KS: The idea was hatched pre-pandemic. I don't remember exactly when, but I'm pretty sure it was my idea. It occurred to me that most MLB stadiums are in big cities that also happen to have art museums. We've combined art museum visits with almost all our MLB stadium outings.

KSV: How many are there and how many have you made it to so far?

KS: There are 30 stadiums and we've made it to 10. We were slowed a bit by the pandemic as you might expect.

KSV: Do you have a plan for the next one?

KS: Honestly, I'm not sure. The boys' summer baseball schedules will take them all over the Northeast, as well as to Alabama and Georgia. We'll figure out what makes sense between those trips.

KSV: It all sounds like such a great way to spend time with your kids as a family. Can you share a little about that?

KS: Time with the boys really has been the best part. I'm more aware with each passing month that they will soon be off on their own journeys. Even when we're exhausted from a long trip and a day spent in the blazing sun, I am grateful for the time.

KSV: Is everyone still on board to do all 30 ballparks?

KS: That's a great question. They boys do have a favorite MLB team and lately they've been focused on getting to that stadium. For me, it's about the process more so than an end goal.

KSV: I think I know the answer, but I'm wondering, if your kids decided one of these days that they had enough of baseball, would you continue to go to games and be a fan?

KS: You know, I think I would. Crazy, right?

KSV: Anything else you'd like to say about your experience with all this?

KS: I'm really happy I got to talk about baseball with you, Kim!

KSV: Thanks so much, Kristin, for sharing your "pursuit of happiness" with the VBJ.

Do you want to nominate yourself or a fellow VBA member to be interviewed for Pursuits of Happiness? Email info@vtbar.org.

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WHAT'S NEW

That's a Wrap! VBA's Brown Bag Law Program Has Covered All UBE Subjects — Recordings Available in the Digital Library

Vermont is one of the few states that continues to offer a path to attorney licensing through an apprenticeship program. Vermont's venerable law office study (LOS) program is run by the Vermont Judiciary. Qualified participants study 25 hours a week for four years with a Vermont attorney or a judge to prepare for the bar exam. The parameters and requirements of the program are set out in Rule 7 of the Rules of Admission to the Bar of the Vermont Supreme Court. Currently there are currently 51 students registered in Vermont's LOS program.

In February of 2023, the VBA launched the "Brown Bag Law Program" to provide instruction on bar exam subjects to LOS students. The UBE tests in some combination of: Business Associations, Civil Procedure, Conflict of Laws, Constitutional Law, Contracts, Criminal Law and Procedure, Evidence, Family Law, Real Property, Secured Transactions, Torts and Trusts and Estates.

In most cases, LOS participants get detailed training in the areas of law in which their sponsor practices. It is unlikely, however, that most will get an introduction to, much less an actual course of study in, those areas in which the sponsor doesn't practice. The sessions were not designed to replace law school courses, or even to stand in for bar review courses. Instead, the goal was to provide students with an introduction to the key terminology and concepts in each of the tested areas. Volunteer presenters, all experienced practitioners or faculty members at Vermont Law and Graduate School, offered one or two



zoom webinars each month until each topic was covered. We got through all of them in April of 2024.

While the BBLP was aimed at LOS students, the courses were also useful for licensed attorneys with gaps in their knowledge, or who needed a refresher. Registration was thus open to all, with CLE credit available for licensed attorneys. The courses were offered for \$25 each for registered LOS students and at the regular rate (\$35 per credit hour for VBA members, \$90 per hour for nonmembers) for licensed attorneys. Most subjects were covered in two 90-minute sessions. All the sessions were recorded and are now available on demand from the VBA's digital library. They will be available there until Vermont makes the move to the NextGen Bar Exam in July 2027. Anyone who attended a live pro-

gram and would like to re-watch a presentation, perhaps while preparing for the bar exam, can do so at no charge by contacting VBA Program Coordinator, Laura Welcome: lwelcome@vtbar.org.

Thank You to All BBLP Presenters!

Jim Knapp, the co-chair of the VBA's property law section, was a guiding light in the program. He conceived the design, recruited instructors, and taught sessions. Jim kicked off the effort, teaching two sessions on real property, in February 2023. He also taught the final subject covered in the series, secured transactions, in April of 2024. In between, he taught conflicts of law in February of 2024. This is just a sample of Jim's dedication to teaching legal professionals in Vermont. (Jim was presented with a richly deserved President's Award at Mid-Year Meeting in 2023 partly in recognition of his great contribution to continuing legal education in Vermont).

Of course, the program required lots of effort beyond Jim's extraordinary contribution. It would not have been possible without commitments and hard work by other VBA member attorneys (many of them members of the VBA Board of Managers) and faculty from Vermont Law and Graduate School. Prof. Nicole Killoran of VLGS, who works closely with the VBA on many projects, took news of the project to her fellow faculty members and many of them signed up to teach BBLP subjects.

Here, then, is the BBLP honor roll of volunteer presenters: **Jim Knapp**, real property, conflicts of laws, and secured transactions; **Benj Deppman**, contracts; VBA Board members **Alfonso Villegas** and **Jordana Levine**, criminal law and procedure; VBA Pres. Elect, **Rich Cassidy**, torts; **Breanna Weaver** and **Amber Barber**, a past president of the VBA, family law; **A.J. Larosa**, civil procedure; **Prof. Oliver Goode-nough**, business associations; **VLGS Pres. Rod Smolla**, constitutional law; **Prof. Stephanie Kupferman**, evidence; **Prof. Stephanie Wilbanks**, trusts and estate.

Thanks to all of them and to all the LOS students and former law students who participated in the programs! Again, you can find the recordings in the Digital Library on the VBA website CLE calendar: <https://www.vtbar.org>.



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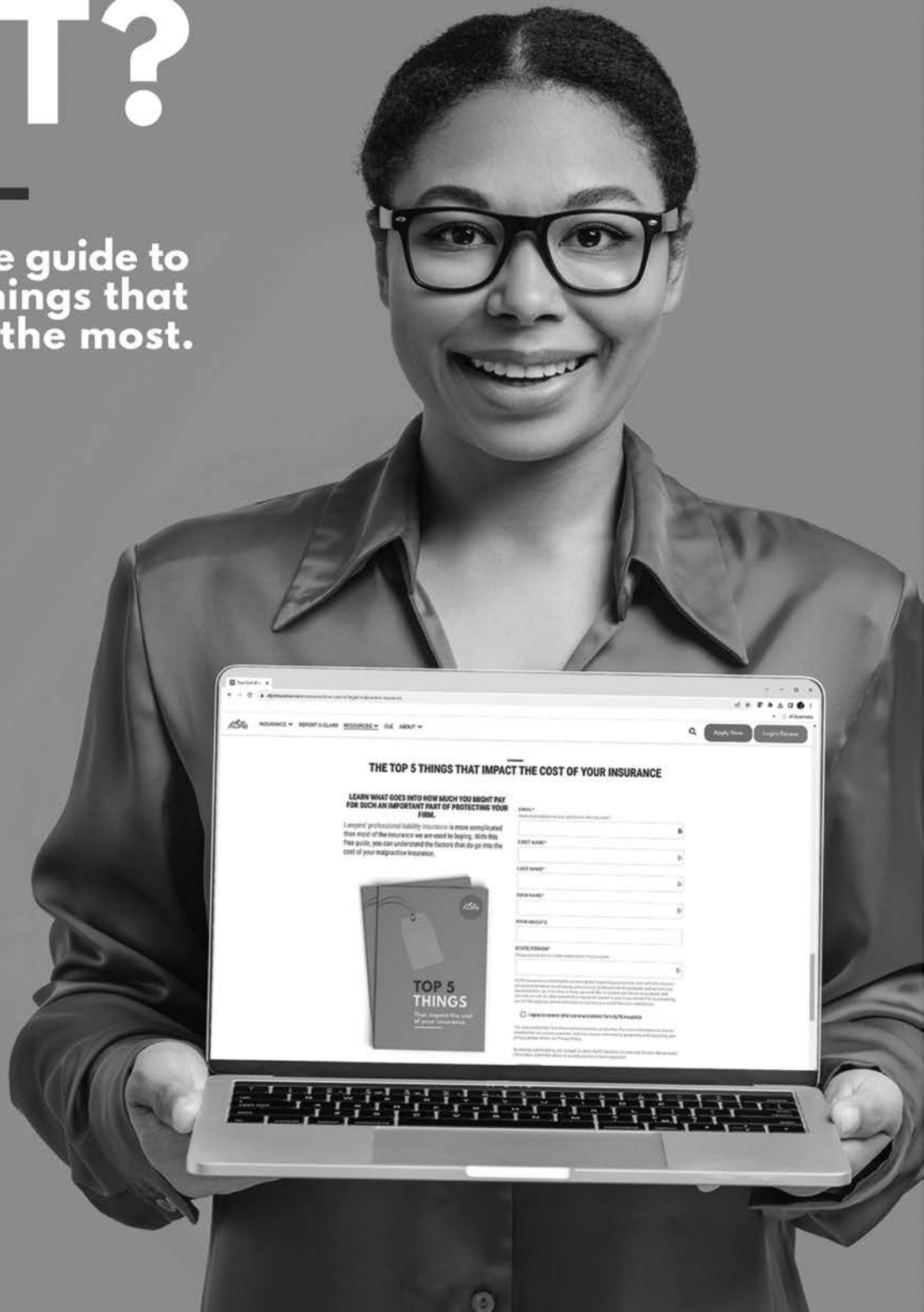
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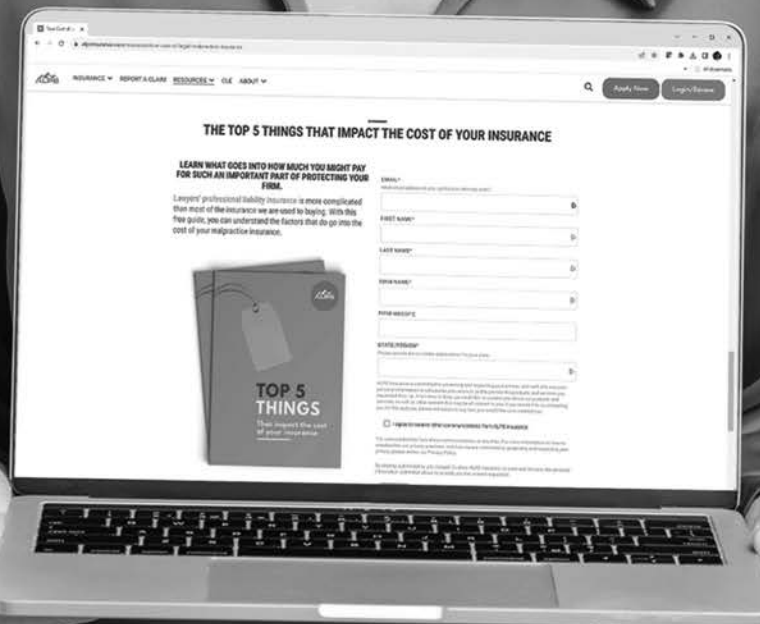
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WHAT'S NEW

2024 Mid-Year Meeting Recap

The VBA held its 2024 Mid-Year Meeting at the Burlington Hilton Lake Champlain on March 29. With about 240 attorneys, 40 Vermont judges, 21 sponsors (a post-pandemic record), and special guests, there were more than 300 people on hand for the big day. The weather cooperated, more or less - it was cold and windy but there was lots of sunshine over the lake.

The day began with a continental breakfast with meeting sponsors followed by the first CLE session. Attendees could choose from learning about managing trauma in the legal workplace, led by Cassie Gillespie, Summary Judgment Motion Practice in Vermont, which was taught by Judges Sam Hoar, Helen Toor, and Dan Richardson and attorney Nicole Andreson, or Cyber Security, which was led by Mike Servidio of TCI and Bar Counsel Mike Kennedy.

After the first CLEs wrapped up, attendees had a break to eat, socialize, and talk to the sponsors. The crowd then headed off to the next CLE session: available choices were Developing Housing on Brownfields (panel made up of Matt Chapman, Steven LaRosa, Section Chair David Mears, Jeff Polubinski, Kirsten Merriman Shapiro, and Kathy Beyer), or International Law (panel made up of Kristen Connors, Molly Gray, Section Chair

Mark Oettinger, Maya Tsukazaki, and Nathan Virag).

Business Meeting

The business meeting followed and was presided over by VBA President Judith Dillon. Judith got things off to an auspicious start by introducing Justice Anisa Rasooli. In 2018, Justice Rasooli became the first woman to serve on the Supreme Court of Afghanistan. Judith told the crowd that throughout her career, which was cut short by the U.S. withdrawal, Justice Rasooli had been a powerful advocate for bringing more women into judicial positions. She worked for 23 years in the judicial system of Afghanistan before being forced to evacuate in 2021. She now lives in Colchester. As Dillon noted, Rasooli is often referred to as "the RBG of Afghanistan."¹ Judith asked Justice Rasooli to stand and be recognized, and the entire room stood with her, offering a long, heartfelt, standing ovation. Justice Rasooli was accompanied to the meeting by Molly Gray, executive director of the Vermont Afghan Alliance, who was presenting at the international law CLE that day, and translator Yassin Hashimi.

Judith also announced that long-serving

environmental law judge, Thomas Durkin was retiring at the end of April. Judge Durkin was on-hand and got a warm round of applause.

Judith then moved on to the main business of the meeting. After getting approval of minutes from last year's meeting and the treasurer's report, she recognized the VBA members who passed away in this last year. She included some details and a brief remembrance of each person. This touch was appreciated by the crowd, which stood again to recognize those lost this year. The agenda then moved to the election of new officers.

Elections 2024

There were four uncontested races. All those nominated for these positions were confirmed: President-Elect is Richard Cassidy, a longtime VBA Board Member. Matthew Valerio, the current treasurer, was returned as treasurer. Likewise current and long-serving Board secretary, Edward "Ted" J. Tyler, was re-elected to that position. Former VBA President Elizabeth Kruska was re-elected as ABA Delegate.

There were also three contested races for two-year members-at-large. The candi-



Judith Dillon, Justice Anisa Rasooli, Judge Elizabeth Novotny, and Molly Gray



Pro Bono Award Winner Seth Lipschutz with Maya Tsukazaki, Jill Martin-Diaz, Dawn Siebert, and Dawn Matthews.

dates in each of these competitive races addressed the meeting prior to the vote. Lisa Champion, who was challenged by Linda Colombe, won that contest. Champion will begin her term in October. Kate Lamson, a current Board member, prevailed in her race against another current Board member James Rodgers. She and Rodgers will finish their terms and her new term will commence in October. Alfonso Villegas, another current Board member, won the election against Keith Roberts. Villegas will likewise complete his current term and start a new two-year term on the Board in October.

The VBA Young Lawyers Division, which has its own board and officers, also held their meeting and election on March 29th. Ryan Long was chosen to be chair elect. Current YLD chair Pam Eaton becomes past chair and Justin Brown moves to Chair from Chair-Elect. Kathy Zhou was elected treasurer, Zach Dayno, treasurer. Members-at-large on the YLD Board are Margaret Shugart, Collette Schmidt, and Alexander Cyr.

The YLD has three members who also serve on the VBA board – the past chair, the current chair, and the chair elect. Long, Eaton, and Brown are the three who will rep-

resent the YLD on the Board, effective immediately. VBA President Judith Dillon presented Kevin Lumpkin, the past chair of the Division who is now moving off the Board of Managers, with a certificate at the meeting on Friday in thanks for his service.

The Women's Division also met on March 29th and chose Caryn Connolly as their new Chair, replacing Erin Gallivan. The Women's Division chose Breanna Weaver to serve as their representative to the Board of Managers and she will be stepping in at the next Board meeting in the spot previously held by Gallivan.

Pro Bono Awards

The Pro Bono Award is given annually by the VBA's Board of Bar Managers to recognize attorneys who have provided extraordinary legal services to indigent and disadvantaged clients in our community. Judith presented this year's award to Attorneys Seth Lipschutz and Brooke Dingledine.

Dingledine was nominated by grateful residents of a Bennington community that became embroiled in complex litigation over the placement of a pair of solar projects in their neighborhood. The character of



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Judith and Pro Bono Award Winner Brooke Dingledine

their neighborhood as well as the integrity of the town plan was at stake. The group had no money for attorney's fees. The legal wrangling lasted seven years, including multiple trips to the Vermont Supreme Court, with Dingledine sticking with the case (homeowners prevailed) on a pro bono basis to its end.

Lipschutz is renowned for his long career serving Vermont's prison population. After logging 30 years as a public servant, in his "retirement" he has taken on significant pro bono caseload representing asylum seekers and helping settle them in this country. Dillon said Lipschutz received several letters of nomination, including one from Jill Martin-Diaz, executive director of the Vermont Asylum Assistance Project. Martin-Diaz and her colleagues were on hand to show their appreciation for Lipschutz's impressive service as did the rest of the crowd.

VBF Reports and Close of Day

At that point the program was handed over to representatives of the Vermont Bar Foundation. Maya Tsukazaki is the current poverty law fellow, a service position funded by the VBF. She talked about her year serving young clients in need of immigration law assistance. She highlighted the impact of this work on the lives of her clients and urged all assembled to support the VBF. She also gave a shout-out to incoming Poverty Law Fellow, Deanna Hartog, who will be focusing on legal issues faced by the un-housed. (See interview with Deanna in this issue).

Jose Herrera, executive director of the VBF, followed. He asked all VBF donors to stand and be recognized, and directed everyone's attention to the donation envelopes that were on the tables.

Judith called for any new business, or any old business. None was raised and the meeting was adjourned. Though the program was crowded, the entire agenda was completed within the time allotted.

As they exited the lunch, attendees in the know grabbed some sweets from the sponsors before heading back to the classrooms for more CLEs. The choices after lunch were an update on the US Supreme Court with Rod Smolla, president of the Vermont Law and Graduate School, or "My New Clients are So Old..." A CLE provided by elder law Section Chair Glenn Jarrett and his law partner, Julie Hoyt. Members of the Business Law Section (Zach Berger, Jerry Carter, and Section Chair Chip Mason) offered a CLE on the new Corporate Transparency Act.

One more break followed those CLEs, then, to wrap up the day, we had an ethics CLE led by Bar Counsel Mike Kennedy and special VBA guest, Stuart Teicher.

Teicher, an attorney and a professional speaker, is an ethics expert and a fan of



Judge Durkin



Kate Lamson

Mike Kennedy's. He is a "CLE Performer," who has presented several remote CLEs for the VBA. The Mid-Year meeting was Stuart's first-time, live in Vermont. The two ethics experts did a memorable hour-and-a-half session based on ethics questions from the audience.

When Mike and Stuart wrapped up so did the in-person part of the meeting. With the sun still shining, attendees made their way back out of the hotel with a palpable sense of good cheer.

Follow Up

A total of 12 CLE hours was on offer that day at the Hilton. Of course, because many sessions were offered in parallel, it was impossible to see them all. For that reason, this year, attendees who paid the full registration fee (\$285) will have the option to access recordings of any of the CLEs presented at this year's In-Person Mid-Year Meeting. Just contact VBA program coordinator Laura Welcome (lwelcome@vtbar.org) **between April 1st and April 30th, 2024,**

and she will provide you with access to the recording(s) in the VBA digital library at no additional charge when they become available.

As has been the practice since in-person VBA meetings resumed post-pandemic, we followed the hotel meeting with a week of remote Zoom CLEs. A further 10 programs carrying 12 credits were available a la carte (separate registration for each) during the first week of April. These included the twice-a-year Basic Skills Series, which was sponsored again this year by ALPS.

Thanks to all our presenters and to all who attended on March 29 or the post-meeting remote sessions. We will see you for the annual meeting on Sept. 27th at Lake Morey!

¹ Rasooli was also one of many Afghan women judges who came to Vermont in the early-to-mid-2000s for legal training and a cultural exchange. That effort was spearheaded by the Hon. Patricia Whalen (ret.) and sponsored by the International Association of Women Judges and the U.S. State Department. See the Winter 2023 Vermont Bar Journal for that story. The VBJ is available on the VBA Website under the "for attorneys" tab.



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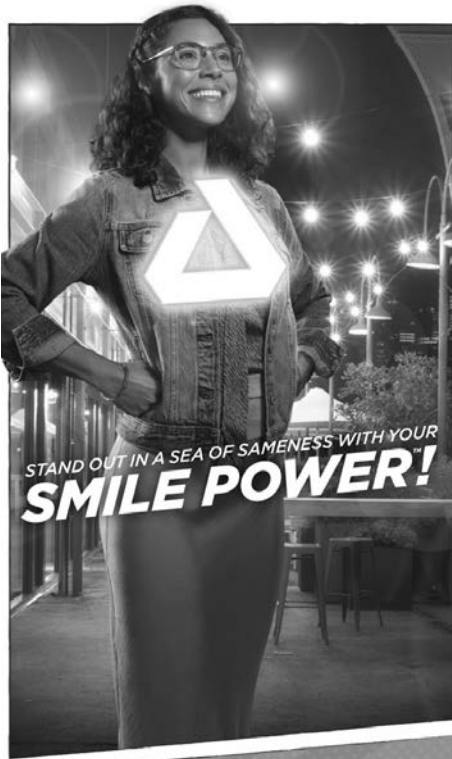
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WHAT'S NEW

Welcome Caitlin Janus!

There's a new face and voice at the Vermont Bar Association. Caitlin Janus joined our staff in February as administrative assistant. She took the spot vacated by Erica Back, who has moved on to become a victim's advocate with the Washington County State's Attorney's Office.

Caitlin is a native Vermonter who earned a bachelor's degree in pre-veterinary science from U. Mass. Amherst. She comes to the VBA with a long history of working with and caring for animals. (Now she is taking good care of VBA members and staff).

Caitlin lives in Barre with her husband, Dwayne, three horses, three dogs, three cats, and eight chickens. Please join us in welcoming Caitlin to the VBA.



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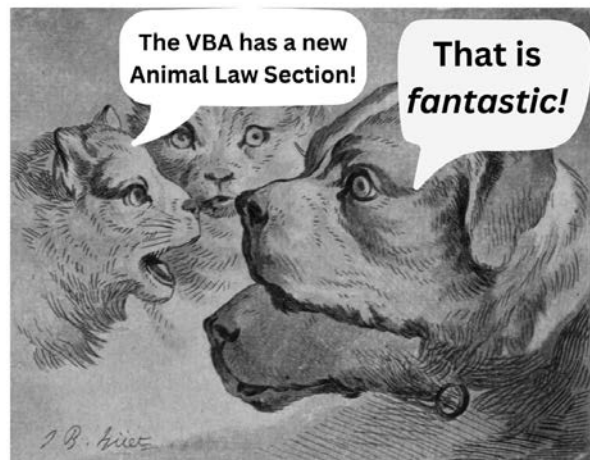
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WHAT'S NEW

VBA Establishes Animal Law Section

The Board of Managers of the Vermont Bar Association approved the creation of a section Animal Law at its meeting on March 28 in Burlington. The first chair of the section is Laura Fox, Visiting Professor and Director of the Farmed Animal Advocacy Clinic (FAAC) at Vermont Law and Graduate School. Fox was one of the presenters at the VBA CLE on Feb. 8 of this year on how to incorporate animal law into your practice.

The section will concern itself will all areas of law touching on animals. A forum has been created for the new section on VBA Connect. Anyone interested can reach out there to ask questions or make suggestions.



Join the conversation or ask questions on VBA Connect:
www.vtbar.org

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BE WELL

Work-Life Balance in the Digital Age

What is work-life balance?

Someone achieves work-life balance when they are able to satisfactorily engage in both work and nonwork roles.¹ This requires minimal conflict between work and nonwork roles.² These nonwork roles can be related to family, friends, community, or other important facets of someone's life and identity.

Awareness of work-life balance can allow everyone to live a more meaningful and intentional life. Research has shown that better work-life balance contributes positively to work, such as increasing job performance and decreasing job burnout.³ Work-life balance also contributes positively to nonwork parts of life, such as improving marriages, increasing family satisfaction, increasing leisure activity time, and decreasing conflict with family members.⁴

How the digital world influences work-life balance.

The ability for employees to work in-person, at home, or a mix of both has altered the workplace. Depending on the person, this could bring benefits or drawbacks. According to an American Bar Association survey conducted in 2022, most attorneys have the option to work remotely. About 30% of attorneys work from home all the time, about 30% work in the office all the time, and the other approximately 40% do both.⁵

Remote work can allow employees to have a more flexible schedule.⁶ This can allow employees to make room for important nonwork parts of their life. Whether this is working at a different time, allowing a greater ability to manage health, or

being able to take their dog on a lunch walk, remote work can give employees more control over what they are able to do with their day. Additionally, the ability to work from home saves time by cutting out the daily commute and prep that goes into working from an office outside of the home. This could also save employees money by cutting down on gasoline, public transportation costs, or car maintenance costs. For employees who prefer this kind of work, remote work can help improve employee well-being.⁷

While remote work has its benefits, it's not necessarily best for everyone. Remote work can cause a lack of connectedness with coworkers and increased social isolation. Additionally, those whose home is their office may also have a decreased ability to separate work time from time set aside to other parts of their life.⁸ Particularly among young employees, remote work can negatively impact their ability to receive mentorship.

These benefits and drawbacks are highly dependent on many factors, such as the work environment, the home environment, distance of commute, and whether someone's home office is segregated from the rest of their home.

Ideas to achieve better work-life balance.

Of course, each of us needs to determine whether full-time in-person work, full-time remote work, or a mix of the two is the best for us – if our work affords us the ability to choose.

Part- or full-time remote workers can take advantage of the benefits of remote work while minimizing the detriments. The

benefits, such as increased time and flexibility, can give remote workers more control over their daily lives while still allowing them to meet their work goals. While this is true, remote workers must also be careful not to allow their work to overpower the nonwork needs in their life.

For example, remote workers can help separate their work and nonwork obligations by creating a physical separation. This could include putting your office in a spare room with a door and shutting that door when you decide to put work away. This can also help minimize distractions when you are working so you can maximize your working hours.

Work-life balance is a journey, not a destination. Life changes and so do your needs. This could mean that at one point in your life in-person work is the best option for you, but later down the road a part-time remote schedule makes more sense. In order to maintain work-life balance, we must continuously reassess our needs and situation to determine whether we should make adjustments.

Julia T. Guerrein is an Associate Attorney at Heilmann, Ekman, Cooley & Gagnon in Burlington and co-chair of the VBA Lawyer Well-Being Section. Do you have ideas for future Be Well articles, or for wellness initiatives for the VBA? Do you want to get more involved in the Well-Being Section? Email Julia at jguerrein@healaw.com.

¹ M. Joseph Sirgy & Dong-Jin Lee, *Work-Life Balance: an Integrative Review*, *Applied Res. Quality Life* 12:229-254, 230 (2018).

² *Id.*

³ *Id.* at 236–37.

⁴ *Id.* at 237.


⁵ ABA survey: Most lawyers want options for remote work, court and conferences, American Bar Association (last visited March 4, 2024) <https://www.americanbar.org/news/abanews/aba-news-archives/2022/09/aba-survey-lawyers-remote-work/?login>

⁶ L. Vyas, "New normal" at work in a post-COVID world: work-life balance and labor markets, *Pol'y & Soc'y* 41(1), 155-167, 160 (2022).

⁷ Dodi Wirawan Irawanto et al., *Work from Home: Measuring Satisfaction between Work-Life Balance and Work Stress during the COVID-19 Pandemic in Indonesia*, *Economies* 9:96, 2 (June 25, 2021).

⁸ *Id.*; Vyas, *supra* at 157.





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United States vs. His Excellency Thomas Chittenden, Esq.: Guilty

Why was Vermont's first governor, Thomas Chittenden (1730-1797), convicted by a jury of a federal crime and then threatened with imprisonment only days before he died on August 24 (25?), 1797; the only governor among 82 others in state history to ever experience such an ignoble fate?¹ His offense? Selling alcohol without a license and allowing its consumption in an unlicensed establishment.

That Chittenden ran afoul of the law in such a seemingly innocent way could not have surprised anyone who knew him. Greatly admired, his solid, pragmatic political reputation preceded him for more than two decades of public service, including as governor overseeing the region's coalescence and admission into the Union as the fourteenth state. At the same time, Chittenden was also well-known among his peers for his hail-fellow-well-met, bon vivant bearing. A surviving *Wine Account for the General Assembly of 1787* provides ample evidence of the copious amounts of alcohol "His Excellency Gov. Chittenden" and other politicians consumed in their work environment.² Now, in the physically weakened autumn of his life, instead of basking in the glow of his accomplishments among friends, he faced the prospect of conviction of a federal crime for his alcohol-infused gregariousness, penalized for doing what so many others did.

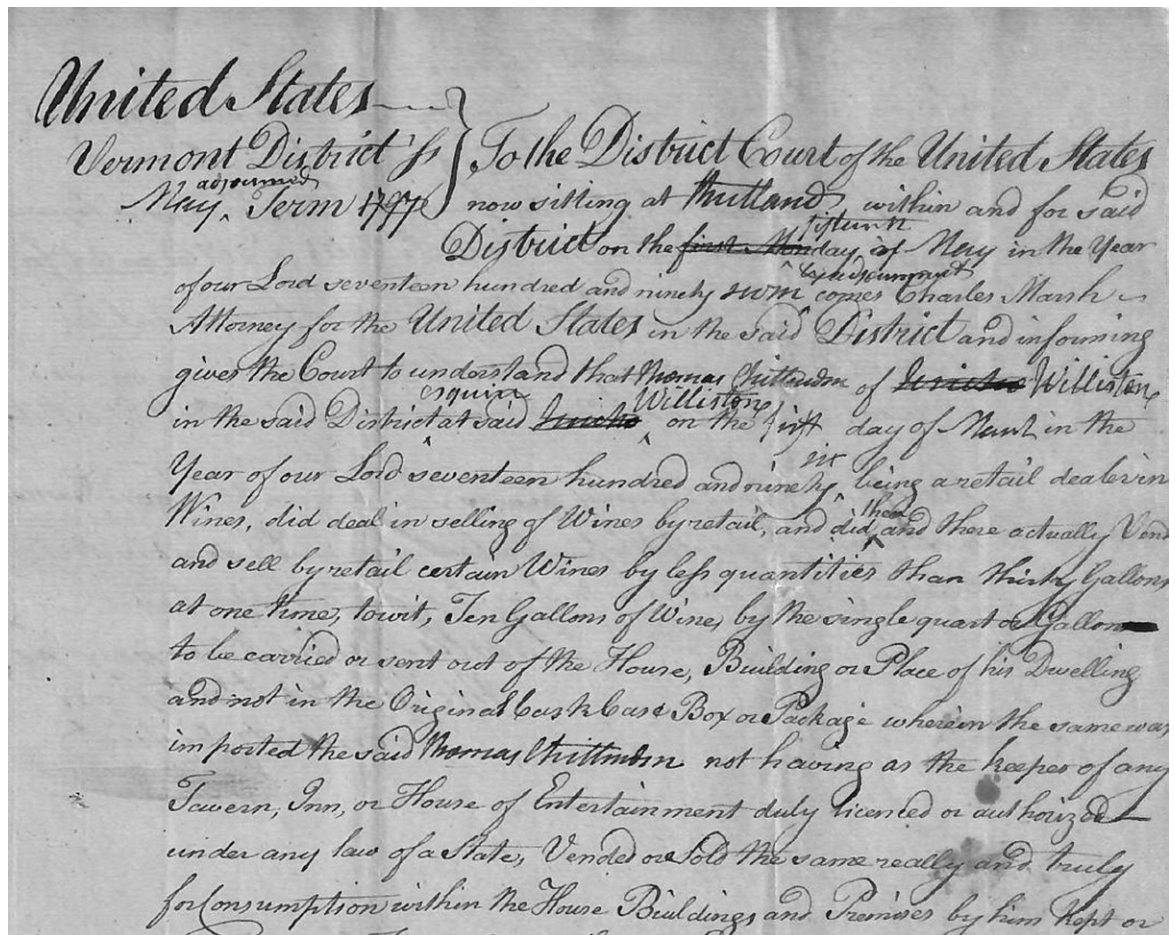
The question for modern day students of those times is why has this information of Chittenden's stumble not been revealed until now? Why did those in positions of power and a probing press at the time, each knowing full well of his problem, fail to publicly acknowledge or report it? For answers, it is necessary to inquire into not only the context of these turbulent times, but also the extant Vermont federal court records housed at the National Archives

and Records Administration in Boston pertaining to Chittenden and some of his constituency receiving similar convictions.³

In the process, it is worth remembering that "history records what people do, rather than what they are."⁴ Reserving judgment on Chittenden's personality, these documents will, with reasonable certainty, allow us to reconstruct what happened to finally reveal a missing part of that long-ago story.

Background

Following the end of the Revolutionary War and settling the lingering border dispute with New York, the recognition of Vermont as a state in 1791 meant the sudden introduction of federal laws and accompanying institutions into the Green Mountains, changes embraced by its inhabitants with varying degrees of enthusiasm. Foremost were those provisions surrounding the collection of revenues to fund the new nation's infrastructure, assure its operations, and retire its significant debt incurred fighting the



war. Accordingly, customs laws and the appointment of a supervising collector and his deputies gathering fees and operating customs houses suddenly appeared across the landscape. They worked zealously to bring malefactors before newly created federal judges presiding in district and circuit court-houses in Burlington, Rutland, and Windsor. They were backed up by a US marshal and his deputies, alongside bailiffs and clerks, solidifying an all-too-real federal presence in the state.

The will of strong-minded advocates of a national government, called Federalists, overlaying this new legal system across the existing, domestic one that independent Vermonters, including Chittenden, had already become familiar with presented its own unique challenges. Unaware of the disruptive changes awaiting them, some gathered on the eve of statehood in Rutland to celebrate. Their revels were attended by esteemed legal illuminati, including: “judges of the supreme federal court, the attorney general and other officers of the court.” Then, to the sound of booming cannon, the assemblage raised their glasses in recognition of a new dawn. Making a series of rousing “federal toasts,” they praised “his excellency governor Chittenden,” prayed that “federal officers ... act with integrity and merit the confidence of the people,” and wished that “may we never experience a less happy moment than the present under the federal government.”⁵

The timing of these events coincided precisely with those taking place only a few hundred miles away in Pennsylvania. There, violent opposition rose up against the same federal government that Vermonters welcomed. Indigent frontier settlers deeply resented the government’s recent imposition of the Tariff of 1791 imposing an excise tax on the large quantities of spirits they distilled, with great difficulty, from their abundant grain crops. Their steady opposition soon escalated into the Whiskey Rebellion (1791-1794) forcing President George Washington to send in thousands of troops to quell. The response further prompted the government’s prosecution of dozens of farmers for treason; an effort many viewed as heavy-handed overstepping, a trampling of the downtrodden by the powerful.

How national leaders handled the Pennsylvania problem generated significant interest in Vermont. Increasingly, after the arrival of federal personnel in 1791, the laws they enforced seemed to appear overnight. In addition to their courts, in May 1793 revenue officials established offices in each of Vermont’s counties. They required their inhabitants to license every still producing spirits they operated and assessed unwelcomed fees on each, with fines for violators.⁶ These early, unpopular efforts to support the young federal government with its intrusive

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laws soon tested Vermonters’ tolerance for them and provide an important backdrop to Governor Chittenden’s own impending legal problems.

Revenue Woes

Nobody likes to pay taxes. Vermont, of course, is endowed with an international border separating the USA from Canada, then also known as British North America. The onus of paying the customs duties for goods crossing south from Canada fell prin-

cipally on those local Vermont importers. While the law initially imposed but modest duties on their shipments of alcohol (i.e., five cents for a gallon of beer, 10 cents for Jamaica proof spirits, 18 cents for Madeira wine, etc.), they became more burdensome, doubling on the heels of Pennsylvania’s rebellion.⁷ Only days before Chittenden’s breach of the law in March 1796, the Democratic Society of Rutland expressed concern about the effects these duties imposed on those living in the northwest part of the state, including in Williston where he

lived. The duties were onerous, it said, forcing honest merchant-retailers to shoulder an unfair monetary burden passed on to them by their suppliers, but which their smuggling neighbors could avoid. As a result, it placed the honest retailer in an untenable position of having to “constantly account to his customers for a higher price of his goods.”⁸

Honest retailers were also required to purchase licenses from customs officials, costing \$5 a year. In the government’s eagerness to ease the flow of alcohol to generate needed income, the law made generous provision allowing virtually anyone to obtain a pre-signed license from Vermont’s supervising collector of revenue or any of his five auxiliary officers. Then, after receiving alcohol in bulk casks from their importers/wholesalers, the licensed retailers could sell it in smaller quart and pint quantities from their licensed taverns and inns. It could be consumed either on the premises or taken away as the customer desired. Those failing to obtain the necessary license to sell faced a \$50 fine and paying the costs of prosecution.

The first revenue officers in the Green Mountains did not face serious challenges to their authority in the months following statehood. However, on December 17, 1792, at “Bason (sic) Harbor” on the east shore of Lake Champlain, where officials stored seized casks of illegally imported spirits, the

first recorded, coordinated attack against federal authorities took place. Perhaps because of its remoteness and insufficient number of officers guarding the casks, the assault marked Vermont as an outlier among its New England neighbors. None of the records of the federal courts for Connecticut, Massachusetts, New Hampshire, or Rhode Island, where a denser population lived along the Atlantic seaboard and a more robust federal presence existed, reveals a single instance of such violence against revenue officials throughout the 1790s.

In response to the attack, records of Vermont’s new federal district court describe its first “special term” convening in Burlington by order of recently-appointed Federalist judge Nathaniel Chipman. The term was commenced in May 1793 with the swearing in of a 14-member grand jury. Six men from Vermont and New York were quickly indicted for their roles in the attack. They were charged with violently removing two casks of spirits (“with force and arms”), containing 37 gallons each, valued at \$200 out of the custody of two revenue officers, and then “secreting” them from discovery.⁹ Thereafter, between 1793 and 1795, the courts’ records reflect a period of relative calm. In Washington, Congress passed two new laws (effective: June 1794) strengthening the government’s grip on alcohol-related issues out-

lawing the unlicensed sale of wine and spirits; provisions that came into play in Chittenden’s case.¹⁰

By February 1796, the escalating violence in Pennsylvania, where hundreds of rioters set fire to the regional revenue collector’s home, alarmed Vermont’s second federal district court judge, Federalist Samuel Hitchcock (soon to oversee Chittenden’s prosecution). Hitchcock feared similar conduct in the Green Mountains, possibly even exceeding the violence that had occurred at “Bason Harbor” two years earlier. To ward off such a prospect, in welcoming a newly-empaneled grand jury in Windsor, he told it to vigorously protect the new federal government’s interests by enforcing its revenue laws. Initially, he acknowledged that “Hitherto there has been but little business before this Court,” attributed, he “hoped,” to “the virtuous and orderly disposition of its citizens.” But then he pragmatically acknowledged the inclinations of some of them to use the increased forms of violence seen in Pennsylvania. Wishing that “exemplary punishment” might rain down on such offenders, he urgently instructed the grand jury, with palpable concern, to “Let no character feel himself above the law” in bringing charges against them.¹¹

It is not surprising then that between 1797 and 1799, prosecutions for the unlicensed sale of alcohol in Vermont escalated dramatically. Authorities brought 49 defendants before the district and circuit courts in that short period of time. While the specific number of others operating outside of the law is unknown, the name of “Thomas Chittenden, Esq.,” as he is notably identified in the court’s papers, ranks among the first snagged by vigilant customs officers headed by Supervising Collector Stephen Keyes (Federalist). Chittenden’s alleged transgressions were then brought to the attention of newly-appointed prosecutor District Attorney Charles Marsh (Federalist) in the spring of 1796.

Offenses

The heavy drinking that Chittenden and his friends engaged in during the legislative session seems to have continued unabated at his home in Williston. One history describes him (in a coded manner) as someone who “enjoyed the fellowship and love of his friends and neighbors.” He was “particularly noted for sociability and hospitality, his house being at all times open to the ever-welcome guest.”¹² Other watering holes like the one at Chittenden’s home existed throughout the county. They were probably conducted in the same informal manner, selling alcohol without a license. In 1796, only 49 licenses to sell wine and 187 for spirits were issued statewide, generating a measly \$1,180 for the national treasury.¹³ In a state

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 Thomas Chittenden
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 Cost - 61.79
 Ex - 50
 \$ - 661.79
 Execd Augth 12 1797

notorious for its alcohol consumption, sales of wine and spirits were clearly taking place outside of those few licensed outlets servicing a population of 154,465 in 1800.¹⁴ Records reveal that in 1801, Chittenden County officials identified 34 licensed inns operating within their bounds among the 489 doing so statewide.¹⁵ Some obtained the necessary licenses to sell alcohol, but not all did.

There was always an undercurrent of lawlessness surrounding the enforcement of federal alcohol revenue collection efforts in these years because of manpower spread too thin around the state. Law enforcement continued after Chittenden's misstep in 1796, leading up to 1808 when two militiamen attempting to enforce the revenue laws were killed by smugglers in an alcohol-infused ambush (the Black Snake Affair) on the Onion River downstream from his home.¹⁶ But for the time being, in 1796 Chittenden's transgressions would have been commonplace.

According to court papers, on March 1, 1796, Chittenden committed two offenses, one concerning the unlicensed sale of wine and the second involving spirits, allowing their consumption on his unlicensed premises. The quantity involved was sizeable: 10 gallons of wine distributed in quart and gallon containers and two gallons each of French Brandy, West India Rum, and Holland Gin dispensed in the same manner, 16 gallons in total. No one can say today what occasioned this well-lubricated event. The timing of it coincides with the topsy-turvy Democratic-Republican run-off election cycle taking place between December 1795 and February 1796 for the US House in Vermont's western district that included Chittenden County. The outcome of that election was not known at the time with candidates Matthew Lyon (his son-in-law) and Israel Smith swapping leads. From the opposing political party, Federalist Judge Hitchcock's name was also in the mix, but who ultimately came up short when Lyon won out.¹⁷

Thereafter, the timing of events surrounding Chittenden's prosecution offers undertones of political payback, possibly related to the election results. His democratic-republican sympathies may have prompted those stern instructions made by the law-and-order Hitchcock in February to the grand jury advocating for rigid enforcement of the liquor revenue laws so that "no character" could "feel themselves above the law." Aside from the prospect of violence that increasingly bold smugglers and those intent on disrupting the work of revenue officers presented, his comments could also have been intended as a shot across the bows of Chittenden and his friends.

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Prosecution, conviction, sentence

Proceeding by "Information" (thereby bypassing the need to present evidence before a grand jury as used in similar prosecutions) and using the same boilerplate language appearing in other violators' paperwork, that pertaining to Chittenden was filed by prosecutor Marsh with Judge Hitchcock, sitting in Rutland, on May 15, 1797, more than a year after Chittenden's alleged missteps. The reason for this delay is uncertain, but we do know that the 67-year-old governor's health was already in decline at the time. In February 1797, Chittenden either wrote, or dictated, a one-page letter to his lieutenant governor, Paul Brigham, to advise that he had been confined to his home for the preceding fortnight making him unable to attend the approaching legislative session. He was suffering, he explained, from the effects of "an extraordinary cold."¹⁸

Perhaps acting with speed because of Chittenden's health, Judge Hitchcock immediately accepted Marsh's allegations. Just days later, on May 20, he summoned Chittenden to appear in his Windsor court "on the first Monday of August [7] next" to attend trial. However, Deputy US Marshal Samuel Fitch did not serve the summons on Chittenden until July 21. As Fitch notes on its reverse, he did so by leaving a copy of it at "the dwelling house of the within named Thomas Chittenden, Esq." in Williston.

Despite Fitch's delay, Chittenden must have been aware of the summons beforehand. Subpoenas issued by Hitchcock on July 1 and 20 commanding the presence of several noteworthy witnesses at trial to provide testimony "in behalf of the United States" could not have escaped his knowledge. They were Chittenden's associates

and friends and included: Federalist Solomon Miller, Esq. (Chittenden County justice of the peace appointed by Chittenden and probate court judge); Jonathan Spafford (Williston representative); Joshua Stanton, Jr. (attorney, Colchester town clerk and assistant county judge); and, Amos Brownson (Richmond justice of the peace and former Williston representative). But did they actually appear? Did any of them testify? If so, did their testimony concern witnessing Chittenden's transgressions or were they willing participants themselves? Could politics have influenced their testimony in any way? Were there additional witnesses whose names did not survive in the court's paperwork? There are no transcripts of the proceedings, so we do not know.

In an undated entry, and with Hitchcock's approval, attorney Daniel Buck (Federalist) made his appearance on Chittenden's behalf, entered not guilty pleas to the two counts and placed his client's fate in the hands of a jury (or, in the period vernacular, "puts himself on the country"). The experienced Buck was a Revolutionary War veteran who saw action at Bennington in 1777, where he lost an arm. The injury, however, did not hold him back from advancement. He was involved in several pivotal moments in the state's formation, served as its second attorney general (succeeding Hitchcock) and, just two months before assuming Chittenden's representation, on March 3 ended a two-year term as Vermont's representative to the U.S. House of Representatives.

In July 1797, facing mounting pressure from his prosecution and health, Chittenden penned his only public statement about his plans not to seek continued public office. While many in Vermont's power structure at the time were aware of the charges he was

facing in Hitchcock's court, they remained silent. Neither was there any press coverage of them, while Chittenden was similarly silent. As an unfortunate result, *in toto*, they allowed the letter's representations to stand alone, lacking context omitting the trial's importance thereby leaving a gaping hole in the historical record.

Despite its open-ended date of "July 1797," Chittenden's de facto resignation letter first appeared on August 4, three days before the trial commenced, in *Spooner's Vermont Journal*, published in Windsor where the trial unfolded. The letter omitted any mention of the impending trial. Neither did the newspaper's editor mention it, thereby allowing him to graciously end his many years of public service without further comment.¹⁹ No doubt "Impaired as I am, as to my health," he wrote, it was the sole reason he identified "to decline being considered as a candidate" at the next election. Thanking his constituency for their past support, he asked them to choose someone other than himself.

Chittenden's court papers provide no direct information about the conduct of the trial itself, relating only that it occurred over the course of a single day, on August 7. A brief entry regarding the jury's verdict, signed by local storekeeper foreman Allen Hayes, states simply that it found Chittenden "guilty of the first count [selling 10 gallons of wine] and not guilty of the second count [selling 6 gallons of spirits]." Whereupon, in accord with the applicable statute, Judge Hitchcock sentenced Chittenden "to pay a fine to the Treasury of the United States of Fifty Dollars and the costs of prosecution taxed at sixty one dollars and seven nine cents."

No doubt shaken by the jury's verdict and sentence, as well as his health, Chittenden sought to excuse himself from attending any further proceedings. Accordingly, the following day Buck requested of the court that his client's "personal appearance . . . be dispensed with & he be allowed to proceed by attorney." Hitchcock granted the request. Buck then moved for a "new tryal" arguing that the jury's verdict was wrongfully imposed because it believed the law allowed the Secretary of the Treasury to remit, or negate, the finding of guilt and/or the fine. Correcting that misinformation, he explained that no such provision existed and that "the jury have mistaken the law in this case" rendering its verdict invalid. Motion denied.

Four days later, on Aug. 12, Hitchcock ordered US Marshal Jabez Fitch to seize \$111.79 of Chittenden's property to pay the fine and costs. Should Fitch be unable to find such assets, he was further "commanded to take the body of the said Thomas and him commit to the keeper of the gaol in the City of Vergennes . . . who is hereby com-

manded to receive the said Thomas within the said gaol and him safely keep until he pay [the penalty] with your fees, or otherwise be discharged by order of Law."

It soon became impossible for Fitch to fulfill the order because Chittenden died quietly in his sleep on August 24 or 25 (inconsistent dates are cited).²⁰ Marking the document "wholle [sic] unsatisfied" on September 13, Fitch wrote that "before I had time . . . [to execute it] Thomas Chittenden departed this life."

Conclusion

Thomas Chittenden is the only governor in Vermont's history to be convicted of a crime committed while in office. Those unsettled first years of statehood brought myriad newfound challenges for many: new federal laws, new federal institutions, and uncertain enforcement mechanisms creating a legal landscape difficult to navigate. The changes affected even those with the best intentions, regardless of rank or position, including himself. It may be that Chittenden was specially targeted for prosecution by those with federalist intentions (i.e., Judge Hitchcock, Collector Keyes, and District Attorney Marsh) because of his democratic-republican leanings. Were they fearful that if he went unpunished, violence against revenue officials would increase as it had in Pennsylvania? However, if he was meant to serve as an example to other licensing scoff-laws, then why was information about his offense suppressed? Could the federalists have realized, too late, that they had overplayed their hand against an accommodating, elder statesman held in high regard and in a weakened state commanding sympathy instead? Or was Chittenden simply caught up, like his neighbors, in their frenzy committing seemingly inconsequential violations of the revenue laws marking this important man as undeserving of public condemnation? The current evidence is silent on all points.

When he was housebound with illness in February 1797 unable to attend the upcoming legislative session, Chittenden temporarily passed the baton to Lt. Gov. Brigham: "You will therefore of course," he counseled, "take my place, put on the fortitude of a man and conduct the business to the best advantage in your body."²¹ He recovered only briefly after that, turning to face his tormentors in his last days. Then, after experiencing the indignity of having his reputation besmirched by a jury of his peers, his body quietly gave out. Choosing to ignore the circumstances of that last, sad chapter in his life, the press respectfully announced his passing, ending with praise: "Superior to a PRINCE – A GREAT MAN here has fallen."²²

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torney general and assistant U.S. attorney who also acted as a legal advisor to governments in Kosovo and Iraq. He is the author of several publications concerning Vermont history written from a legal perspective.

¹ The author thanks former Governor James Douglas and Vermont historian Kevin Graffagnino for noting the prosecutions brought by state prosecutors against governors Horace F. Graham (1920) and Charles M. Smith (1937). While similar to Chittenden's case because of their shared position, neither of them involved offenses determined to have been committed during their terms as governor. Only Chittenden bears that distinction.

² Wine Account, Johnson Family Papers, Doc 574, Vermont Historical Society.

³ *United States vs. Thomas Chittenden*, RG 21.48.1, Vermont U.S. District Court, 1792-1797, Box 1, National Archives and Records Administration, Waltham, MA., *passim*.

⁴ *Saint Ansgar*, Franciscan Media, <https://www.franciscanmedia.org/saint-of-the-day/saint-ansgar/>

⁵ *Vermont Gazette* (Bennington), 28 February 1791.

⁶ *Id.*, 10 May 1793.

⁷ *Vermont Journal* (Windsor), 29 July 1789.

⁸ *Id.*, 29 February 1796.

⁹ *U.S. v. James Fitch; Martin Van Dusen; David Callendar; Jacob Green; Philerus Brush; Joseph Poor*, RG 21.48.1, Box 1, National Archives, Boston.

¹⁰ *An Act laying duties on licenses for selling Wines and foreign distilled spiritous liquors by retail; An Act making further provision for securing and collecting Duties on foreign and domestic Spirits, Stills, Wines and Teas*, eff. June 5, 1794, Public Statutes at Large, vol. 1, chaps. XLVIII; XLIX (Boston: Charles C. Little and James Brown), 376-381.

¹¹ *Vermont Journal*, 15 February 1796.

¹² Hamilton Child, *Gazetteer and Business Directory of Chittenden County for 1882-1883* (Syracuse: Hamilton Child, 1882), 256.

¹³ *American State Papers. Documents, Legislative and Executive, of the Congress of the United States, Commencing March 3, 1789, and ending March 3, 1815*, vol. 5, (Washington: Gales and Seaton, 1832), 396.

¹⁴ Gary G. Shattuck, *Green Mountain Opium Eaters: A History of Early Addiction in Vermont* (Charleston, SC, The History Press, 2017), *passim*; *Return of the Whole Number of Persons Within the Several Districts of the United States, 1800*, Vermont Historical Society, https://vermonthistory.org/client_media/files/Learn/Census%20Records/1800-Census.pdf

¹⁵ *Innkeepers Licenses, 1791-1849*, A123-00001, Vermont State Archives and Records Administration.

¹⁶ Gary G. Shattuck, *Insurrection, Corruption and Murder in Early Vermont: Life on the Wild Northern Frontier* (Charleston, SC, The History Press, 2014), *passim*.

¹⁷ Elections Division, Vermont Secretary of State, <https://electionarchive.vermont.gov/elections/view/83330/>

¹⁸ Letter, Gov. Chittenden to Paul Brigham, 13 February 1797, Paul Brigham Papers, mss-940, Silver Special Collections, University of Vermont. Thanks, again, to Kevin Graffagnino for referring the author to this resource.

¹⁹ *Vermont Journal*, 4 August 1797.

²⁰ *Id.*, 22 September 1797.

²¹ Chittenden to Brigham, 13 February 1797.

²² *Vermont Journal*, 22 September 1797.



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Multidistrict Litigation, Mass Torts, and Average Vermonters: Can They Find the Legal Expertise They Need?

The concept of mass tort multidistrict litigation (MDL) may be unfamiliar to many attorneys, and especially so in Vermont. Until recent years, law schools did not really teach about these subjects and law professors did not write much about them either.¹ Anecdotally, Google searches show a dearth of Vermont attorneys offering representation in mass tort MDL cases, as well as a lack of Vermont-based CLE programs covering these topics. In response to that observation, this article seeks to provide a basic overview of mass tort multidistrict litigation and then explore the question of whether Vermonters have adequate access to legal representation for these types of cases.

So, what are mass torts? There is no agreed-upon definition but generally mass tort cases involve numerous individual plaintiffs alleging injuries caused by a common act or omission.² Usually, these cases involve products, and often those products are medications—Tylenol, for instance.³ But there are many types of products that have caused mass tort injuries, from a one-wheeled electric skateboard⁴ to earplugs,⁵ social media apps,⁶ ride-sharing apps,⁷ infant formula,⁸ vaping devices,⁹ and the list goes on. As one author succinctly put it, mass torts are “primarily personal injury claims arising out of use of or exposure to products.”¹⁰

And, what about MDL? To understand what an MDL is, it is helpful to understand what it is not—it is not a class action.¹¹ In an MDL case, individual plaintiffs each file their own individual lawsuit, which is quite different from a class action where one plaintiff files one lawsuit to represent the interests of an entire class of people.¹² By way of example, the 3M earplug MDL involved a staggering 250,000-plus individually filed lawsuits.¹³ However, one nuance to this procedure is that a class action can be filed in an MDL alongside the individual claimants, but the main point stands: MDL cases involve lots and lots of lawsuits.¹⁴

Naturally, the next question is how can attorneys and courts possibly handle many thousands of individual lawsuits proceeding in tandem, each with its own docket, discovery, and motion practice? The answer is found in the federal MDL statute, 28 U.S.C. § 1407, enacted by a 1968 Congressional Act “[t]o provide for the tempo-

rary transfer to a single district for coordinated or consolidated pretrial proceedings of civil actions pending in different districts which involve one or more common questions of fact.”¹⁵ This legislation, originally conceived in the wake of a flood of anti-trust cases, has become the litigation vehicle for the modern-day mass tort case.¹⁶ Some commentators even refer to the time after the early 2000s as the “post-class action era” on account of MDLs becoming the preferred way for courts and litigants to handle mass tort cases.¹⁷

At the heart of the MDL statute is the Judicial Panel on Multidistrict Litigation (JPML). The panel consists of seven circuit and district court judges who are authorized to transfer cases pending in multiple federal district courts to a single court for “coordinated or consolidated pretrial proceedings.”¹⁸ In effect, this means that if the panel so orders, then individual cases filed in federal courts around the country are transferred—whether the litigants want to be transferred or not—to one federal court where one judge will oversee pretrial discovery and motions.

After consolidation in the transferee court, the MDL will have its own case number and docket just like any other lawsuit, and the judge will appoint a group of plaintiffs’ attorneys to perform “common benefit” work on behalf of all plaintiffs in the MDL.¹⁹ The case will then proceed on a schedule through discovery and dispositive motions, usually with a heavy emphasis on experts and common questions of negligence and causation.²⁰

While the statute provides for cases to remand back to transferor courts at the conclusion of pretrial proceedings,²¹ thus envisioning individual trials in the home court, the reality is that the vast majority of MDL cases settle.²² So, for plaintiffs’ attorneys not part of the MDL leadership group, they are responsible for monitoring the MDL litigation, reviewing orders as they come out, updating their clients, and working through settlement issues if one is reached.²³

Perhaps an obvious point, but still worth noting, is that the MDL statute provides no authority over state court cases. However, after an MDL is formed, an MDL defendant will often seek to remove state court actions to the local federal district court (usually based on diversity jurisdiction) where

the actions can then be transferred into the MDL.²⁴

With this basic sketch of mass tort MDLs in hand, we turn to the question of whether Vermonters are adequately represented in these cases. The first broad data point to consider is that a significant number of federal civil cases are part of an MDL. While the statistics vary from year to year, some recent estimates show that that one out of every two civil cases filed in federal court is subject to the MDL statute.²⁵

According to the JPML, as of September 30, 2023, a total of 417,137 actions were pending in 171 MDLs.²⁶ This represents approximately one MDL action for every 804 people in the United States.²⁷ If this ratio held true for Vermont, there would have been 805 Vermonters with a pending MDL action as of late 2023.²⁸

The JPML also publishes annual data on a federal district-by-district basis. Because Vermont has its own federal district, the data can show trends attributable solely to Vermonters, assuming that actions filed in Vermont federal district court involve a Vermont plaintiff. In fiscal year 2023, the Vermont federal district court transferred one action out of Vermont and into an MDL.²⁹ Taking a broader look, in the 55 years that the MDL statute has been in existence, Vermont has sent 159 actions into an MDL.³⁰

Over the same 55-year time period, neighboring states have transferred plaintiffs’ cases into MDLs as follows: New Hampshire – 505; Maine – 949; Massachusetts – 5,074; New York – 20,541.³¹ Even adjusting for population, these numbers suggest that Vermonters are not participating in MDLs to the same extent as our neighbors—in some cases, it is not even the same ballpark. Across the board, Vermont has sent fewer plaintiffs into MDLs than any of the 94 federal districts, with the exception of the Virgin Islands (144 cases), Guam (40 cases), and Northern Mariana Islands (4 cases).³² Even Wyoming, the only state with a population less than Vermont, has transferred more cases (173 cases).³³

However, the JPML data has some notable limitations. A majority of MDL plaintiffs “direct file” into an MDL after it is formed, meaning that their cases will not be captured in the above transfer data. Of the total 1,196,563 MDL plaintiffs that have ever existed, only 286,251 were plaintiffs trans-

ferred out of their home district and into the MDL court.³⁴ The remaining plaintiffs (910,312) directly filed their suits in the MDL court, and those direct-file plaintiffs could live in any state, including Vermont.³⁵

The genesis of this article came from informal observation, and so another anecdotal idea is that if Vermonters are participating in mass tort MDLs, then Vermont lawyers and courts would sometimes refer to these cases in court filings. For instance, the terms “mass tort” and “multidistrict litigation” have been used nearly 2,000 times in all states’ case law, but the Vermont Supreme Court has only used one of those terms once in an unpublished entry order from 2002.³⁶ In that case, the Court referred to an MDL pending in Maryland as a “so-called multidistrict litigation”—as if the Court itself was unfamiliar with the concept.³⁷

Although the data is far from perfect, it certainly points to a low level of participation by Vermonters in MDLs. Is it possible that Vermonters are more isolated from the harms alleged in MDLs than those living in other states? Perhaps, to some extent. For example, it is doubtful that many professional football players call Vermont home and so it is unlikely that Vermonters had claims to allege in the NFL concussion injury MDL.³⁸

But several more recent MDLs would surely seem to implicate Vermonters. For example, in 2023, the Vermont Attorney General sued social media company Meta “to hold the company accountable for its contribution to the mental health crisis that grips teens in ... Vermont.”³⁹ In the press release announcing the suit, the Attorney General is quoted as saying “Instagram’s harm to teens, and particularly girls and young women, is well-documented.”⁴⁰ But will any of those harmed Vermont teens become individual plaintiffs in the pending mass tort MDL?⁴¹

Similarly, it has been widely reported that Vermont is not immune from the nationwide youth vaping epidemic, and Vermont’s former Attorney General gave a statement in 2022 about how the vaping company JUUL “targeted young people, including children, in their advertising and product design. As a result, a generation of youth are newly addicted to nicotine – a crisis that is evident in schools across Vermont.”⁴² Later that year, JUUL offered \$1.7 billion to settle claims with 10,000 MDL plaintiffs.⁴³ But will any Vermont teens receive compensation for their injuries?

As noted above, it is possible Vermonters are direct filing into MDLs and not being captured in the transfer statistics that show low—indeed, almost no—participation by Vermonters. Nonetheless, based on the data and observations discussed in this article, it seems possible that injured Ver-

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monters do not have many options for Vermont-based legal representation in mass tort multidistrict litigation.

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¹ Paul D. Rheingold, *Litigating Mass Tort Cases* § 3:35 (2023).

² See, e.g., *In re Depakote*, 87 F. Supp. 3d 916, 919–20 (S.D. Ill. 2015) (“this litigation involves a mass tort action ... in which numerous plaintiffs allege that they sustained personal injuries from the use of Abbott’s prescription drug Depakote”).

³ See *In re Acetaminophen - ASD/ADHD Products Liab. Litig.*, 637 F. Supp. 3d 1372 (U.S. Jud. Pan. Mult. Lit. 2022).

⁴ See *In re Future Mot., Inc. Products Liab. Litig.*, 2023 WL 8539210 (U.S. Jud. Pan. Mult. Lit. 2023).

⁵ See *In re 3M Combat Arms Earplug Products Liab. Litig.*, 366 F. Supp. 3d 1368 (U.S. Jud. Pan. Mult. Lit. 2019).

⁶ See *In re Soc. Media Adolescent Addiction/ Personal Injury Products Liab. Litig.*, 637 F. Supp. 3d 1377 (U.S. Jud. Pan. Mult. Lit. 2022).

⁷ *In re Uber Techs., Inc., Passenger Sexual Assault Litig.*, ___ F. Supp. 3d. ___, 2023 WL 6456588 (U.S. Jud. Pan. Mult. Lit. 2023).

⁸ See *In re Recalled Abbott Infant Formula Products Liab. Litig.*, 621 F. Supp. 3d 1349 (U.S. Jud. Pan. Mult. Lit. 2022).

⁹ See *In re Juul Labs, Inc., Mktg., Sales Practices, and Products Liab. Litig.*, 396 F. Supp. 3d 1366 (U.S. Jud. Pan. Mult. Lit. 2019).

¹⁰ Rheingold, *supra* note 1 at § 1:1.

¹¹ Roger Michalski, *MDL Immunity: Lessons from the National Prescription Opiate Litigation*, 69 Am. U.L. Rev. 175, 191 (2019) (“An MDL is not a class action.”).

¹² See Fed. R. Civ. P. 23 (allowing representative parties to sue on behalf of class members).

¹³ Carron Nicks, *3M Company’s Military Earplug Multi-District Litigation*, Nat. Law Rev., Sept. 21, 2021, <https://www.natlawreview.com/node/156494/printable/print>.

¹⁴ Michalski, *supra* note 11 at 191-92 (“Within the MDL, any plaintiff could theoretically move for class certification.”).

¹⁵ Pub. L. No. 90-296, 82 Stat. 109 (1968) (codified at 28 U.S.C. § 1407).

¹⁶ Rheingold, *supra* note 1 at § 3:1.

¹⁷ David L. Noll & Adam S. Zimmerman, *Diversity and Complexity in MDL Leadership: A Status Report from Case Management Orders*, 101 Tex. L. Rev. 1679, 1682 (2023).

¹⁸ 28 U.S.C. § 1407.

¹⁹ David L. Noll, *What Do MDL Leaders Do? Evidence from Leadership Appointment Orders*, 24 Lewis & Clark L. Rev. 433, 436 (2020).

²⁰ Rheingold, *supra* note 1 at §§ 3:12, 3:16.

²¹ 28 U.S.C. § 1407(a).

²² Judge Stephen R. Bough & Anne E. Case-Halferty, *A Judicial Perspective on Approaches to MDL Settlement*, 89 UMKC L. Rev. 971 (2021).

²³ Paul D. Rheingold, *MDL Plaintiffs’ Lawyers: Don’t Neglect Your Clients!*, ABA (Dec. 13, 2023), <https://www.americanbar.org/groups/litigation/resources/newsletters/mass-torts/dont-neglect-your-clients/>.

²⁴ Rheingold, *supra* note 1 at § 3:18.

²⁵ Noll, *supra* note 17 at 1683.

²⁶ *Statistical Analysis of Multidistrict Litigation Under 28 U.S.C. § 1407*, U.S. Jud. Panel on Multidistrict Litig. (Nov. 29, 2023), https://www.jpml.uscourts.gov/sites/jpml/files/JPML_Fiscal_Year_2023_Report-11-29-23_0.pdf.

²⁷ Using the U.S. Population number of 335,451,137 as of October 1, 2023, from census.gov/popclock.

²⁸ Using the Vermont population number of 647,464 as of July 1, 2023, from <https://www.census.gov/quickfacts/fact/table/VT/PST045222>

²⁹ See JPML Statistical Analysis, *supra* note 26.

³⁰ See *id.*

³¹ See *id.*

³² See *id.*

³³ See *id.*

³⁴ See *id.*

³⁵ See *id.*

³⁶ Based on search results from Westlaw using the search term “mass tort” or “multidistrict litigation.”

³⁷ See *Elkins v. Microsoft Corp.*, No. 2001-431, 2002 WL 34423564, at *1 (Vt. May 2002). In fairness, the entry order is from 2002 at a time when multidistrict litigation was certainly even less familiar.

³⁸ See *In re: Natl. Football League Players’ Concussion Injury Litig.*, 842 F. Supp. 2d 1378 (U.S. Jud. Pan. Mult. Lit. 2012).

³⁹ Press Release, Vermont Attorney General, *Attorney General Clark Sues Meta for Instagram’s Harm to Teens’ Mental Health* (Oct. 24, 2023), <https://ago.vermont.gov/blog/2023/10/24/attorney-general-clark-sues-meta-instagrams-harm-teens-mental-health>.

⁴⁰ *Id.*

⁴¹ See *In re Soc. Media Adolescent Addiction/ Personal Injury Products Liab. Litig.*, 637 F. Supp. 3d 1377 (U.S. Jud. Pan. Mult. Lit. 2022).

⁴² <https://ago.vermont.gov/blog/2022/09/06/vermont-joins-33-states-in-438-5m-agreement-with-juul-labs>

⁴³ Christina Jewett, *Vaping Settlement by Juul Is Said to Total \$1.7 Billion*, N.Y. Times (Dec. 10, 2022), <https://www.nytimes.com/2022/12/10/health/juul-settlement-teen-vaping.html>.

Artificial Sweetener: How Law Firms Should Engage AI Now

Artificial intelligence has finally captured the popular zeitgeist, via ChatGPT – a generative AI program, that can provide near-instantaneous responses to almost any query. Before we get too far along here, note that artificial intelligence is essentially the mimicking of human intelligence by a computer system, that has learned via a ‘large language model’, i.e. – lots of varied data. Generative AI is simply an AI program that offers data output, whether it’s text (like ChatGPT and Google Gemini), or images (like MidJourney or Dall-E). You can ask these tools just about anything; and, they will offer an answer. ‘Hey, Google Gemini – I have these five ingredients in my refrigerator: generate a recipe for me.’ ‘Midjourney, I want you to create an image of Joe Biden and Donald Trump holding hands and skipping through a field of daisies.’ ‘ChatGPT – Draft me a contract clause for default on a commercial real estate transaction.’ (Yup, that too.) The more effectively you craft these ‘prompts’, the better the response will be. (And, if you’re a really good prompt engineer, you might have another, highly-compensated career opportunity unfolding before you). Obviously, AI is, at the very least, a really impressive tool, that is a testament to human ingenuity (and, perhaps, overreach), and which is currently generating a massive effect in every business industry, and everyone’s personal lives. Now, that’s all well and good; but, it also begs the question: How should lawyers use ChatGPT, and tools like it?

AI Is Currently an ‘Assistive’ Technology

If you’ve seen any science fiction movie of the last . . . well, ever: you’ll know that AI is almost always portrayed as a rogue force that goes off the rails, and eventually attacks its creator, along the themes of the classic ‘Frankenstein’ story. And, we’ll probably get there, honestly. Just probably not in our lifetimes. That means that AI is at an earlier, mostly benevolent, stage. It’s currently an assistive technology. That means that its sole goal is to help humans with their queries – sort of like a virtual butler, or a much-advanced version of Siri, and similar virtual assistants. The fact that you can ask a generative AI tool almost anything, and get a pretty coherent response, is a testament to the technology, but also to the breadth and variance of the data

fed into the model, from which it learns – it’s also learning each time it interacts with you. So, the technology continues to improve, to pick up speed, and to learn from every interaction it entertains. And, you’d be foolish not to use it, as a human, as an attorney, and as a business owner – since it is a viable tool for providing shortcuts to a final product. In the end, AI as it’s presently constituted, is a time-saving device, just like a second computer monitor, but with far more horsepower. And, if you are a lawyer, especially an attorney who owns a law firm, you should always endeavor to use time-saving tools. But, when you’re using any new technology, you should be aware that it has limitations, and approach it with some level of caution. That doesn’t mean that you shouldn’t use it – the early adopter catches the worm, after all – you should just utilize it with an appropriate level of discretion. So, here are some tips for doing just that:

Oversee AI Like a Staffperson

In many ways, generative AI tools sit on the razor’s edge between being a useful technology, and being a staffperson, which is something that legal ethics attorneys will be forced to reckon with before long. An AI tool is effectively a software, for sure – but, it’s a software with which you can have a conversation. You can ask it a question, or make a request of it. You can even iterate in the tool, by asking it to refine its response, in a way that will revise the answer, e.g.: “be less formal, add bullet points, summarize this section, cite your sources.” And, AI tools will endeavor to do everything you need them to do, to the best of their abilities.

Now, so will your staffperson. If you ask a paralegal or an associate attorney to draft you a motion, or a contract – they will perform that task to the best of their abilities, too. But, does that mean that you would turn that document over to a client, sight unseen, without reviewing it? Of course not. And, you wouldn’t do that for at least a few reasons: it’s not good business sense -- as the boss you should be approving everything that goes out the door under your letterhead, and (as an attorney) you have a stone-cold ethical obligation to oversee your staff, including their performance, but especially their work product. So, although AI is functionally just another technology

program in your toolbox, it’s really a bit more than that. It’s actually another staffperson; therefore, treat AI work product, as you would a staffperson’s work product. Review it with a fine-tooth comb, both for quality and accuracy, and make appropriate edits (which may be heavy), before anything leaves the physical or virtual confines of your office. Where lawyers have gotten over their skis, is by being too trustworthy of AI, and assuming it is correct, without checking over the final work product. But, as you would never do that with a staffperson, don’t do it with a technology product that emulates a staffperson.

Talk to AI Like a Kid

When I ask my kids to do anything, I have to be extremely specific. I can’t just say, ‘clean up after dinner’. I have to relate a set of granular instructions, like: ‘Take your plate from the table. Use the fork to scrape off any stray food into the garbage. Wash off any remaining residue in the sink. Place the plate inside the dishwasher tray. Drop any utensils in the basket, etc.’ You get it. And, you have to treat AI the same way. Don’t presume it knows anything at all, if you want to get more effective results. This is why prompt engineering is so important: to get the most out of any AI tool, you have to ask the right questions. And, you can start by priming the pump. Tell the AI tool about the persona you want to use: ‘Draft this as if you were a real estate attorney in Stowe, Vermont, with 20 years experience.’ Then, perhaps, feed it some supporting documentation: ‘I’m going to now input several emails I’ve drafted, so you can try to copy my style.’ After that, start to edit the output, until it’s more refined, in terms of quality, tone, style, information sets included, etc. And, once you think the output has a fine point on it – review it again. Measure nine times, cut once. Just like you would check over your child’s homework, or review the work product of a staffperson.

Don’t Believe AI (The ‘Hallucination’ Problem)

The biggest news stories in the legal vertical related to AI involve ‘hallucinations’ – which is a fancy way of saying that AI makes things up. In at least a couple of cases, AI has ‘hallucinated’ or made up case citations

that weren't real; and, attorneys have been disciplined, because they submitted these documents to courts. Now, this should not be surprising, because that's how AI works. It's programmed to provide an answer, no matter what – and, like a child – if it can't provide an answer, it panics, and makes something up. But, this isn't a reason to avoid using AI. You simply need to check your sources, and ensure that the information that AI is providing is accurate – the same way you would in reviewing a staff-person's work. And, you also don't want to ask AI if its sources are real, and leave it at that – because if it's already making things up, its programming will force it to compound the lie. Check your sources and cite independently, as part of your review process.

Don't Trust AI (The Confidential Data Problem)

It's still somewhat murky, in the AI landscape, when it comes to how the data in the learning modules is collected and used. Several prominent authors recently filed a lawsuit against Open AI, which operates ChatGPT, for copyright infringement. They claim that their works have been used to train the bot – which is probably true. And, as alluded to previously, these systems are learning from you via every interaction you have with their systems, including with respect to the data you input – unless you are able to toggle that feature off. So, in that environment, for now, it makes sense not to input any sensitive or confidential data into a publicly available, generative AI tool, until these issues are clarified to a greater degree. So, at the very least, don't include actual client names or identifying information.

Though, note that this problem will likely be obviated as legal products, behind subscriptions and logins, have begun to utilize AI technology in their closed systems.

...

Artificial intelligence is far from perfect; but, it is useful, as is. And, as a lawyer, you'll want to access it sooner, rather than later, in order to familiarize yourself with how AI works. In fact, as you're reading this, legaltech software vendors around the world are building out extensive new AI features. Oh, and the technology products you use everyday are probably already implementing AI, at some level – even if you're not aware of it. These features will surface in a more transparent way in the near-term.

If technology awareness and utilization is an important part of the modern attorney's competency obligation, then you *must* begin to understand the AI tools you're already using, as well as those you will come

to use. Lawyers are often late adopters, lagging behind in technology upgrades, and efficiencies; but, that approach has never been a wise one – and, it's also a dangerous strategy, when it comes to AI, which your competitors will use to outpace you, at a massive scale. It's time to enter the race – before it's too late to catch up.

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Mary Ashcroft, Esq. mashcroft@vtbar.org

Professor Nicole Killoran NAKilloran@vermontlaw.edu

Meet the VBF's New Poverty Law Fellow, Deanna Hartog

Vermont Bar Foundation board members Breanna Weaver and Sebastian Arduengo met with Deanna Hartog, who recently accepted the position as Vermont Poverty Law Fellow for 2024-2026. The focus of Deanna's fellowship is justice for people experiencing homelessness.

BW: Hello, please introduce yourself – let us know your name, where you're in school now, and a few things about yourself.

DH: My name is Deanna Hartog. I am currently a 3L at the George Washington University Law School in Washington, DC. I'll start with some fun things about me and then get to the more serious. I absolutely love dogs! I'm very much looking forward to being in Vermont and adopting a dog and having the opportunity to be outside more. On a more serious note, I spent many years as an EMT before law school, so that definitely informs some of my practice and knowledge about the field. And I just generally want to say that I'm really, really excited to get started on the work as the Vermont Poverty Law Fellow.

BW: Am I remembering correctly from your interview process, did you say you were 16 years old when you became an EMT?

DH: Yes.

BW: So, you became an EMT really young. Tell us about what or who inspired you to do that.

DH: My father is actually a career paramedic. He was a paramedic for a very long time in New York City and I grew up having him as a role model. I looked up to him a lot and the work that he did. He's the Deputy Director of the EMS service in the town I grew up in, and that service has a program for high schoolers to start volunteering at age 16. He had tried to get my two older sisters to do the program, but they didn't really have much interest, so he gave it a third shot with me. I had expressed a lot of interest in medicine already. I was planning to go the pre-med route in college and he thought this would be a great opportunity to be exposed to the medical field. I don't think he quite knew how into it I would be. I think he expected that I would do it in high school, put it on my resume on my college applications, and call it quits there. But I fell in love with it. It was really just watching my dad's service to his community and

his selflessness – the things that he gave up in his personal life in order to help other people – that really inspired me to kind of dive in and do the same. And here we are, years later.

BW: Did you say that was in New York City? Is that where you grew up?

DH: My dad was a paramedic in New York for most of his adult life. And then when my parents had kids, they moved to Connecticut. At that point, he started working for the EMS service in our town, and eventually became the Deputy Director.

BW: As an EMT, were there any noticeable differences in the health emergencies faced by people experiencing homelessness versus people who were housed? And if so, what were they?

DH: I think one of the main differences that I noticed was how people in the health care system – whether it be emergency responders or providers in the hospital – treated patients experiencing homelessness. A lot of assumptions are made about someone who's unhoused, whether it be their life story or what caused them to experience homelessness, and unfortunately, those assumptions do bleed into treatment. Whether it be actual health-care decisions or just the attitude of providers toward the patient, I definitely noticed a stark difference between treating someone who was housed versus someone who was experiencing homelessness. And that was very disturbing to me. There were also preventable health conditions that people experiencing homelessness were dealing with, things that you would not see in someone who was housed and had resources to have conditions looked at in the beginning stages. It was surprising to see, you know, advanced stages of these conditions and say, wow, I haven't seen that before because for the most part, the community that I worked in was quite well off. It was just very disturbing to see preventable conditions causing pain and suffering for people.

BW: So, following up on that, how did substance use disorder impact health emergencies faced by folks experiencing homelessness?

DH: I think the biggest thing that I can speak to is the lack of understanding about



substance use disorder, especially how it is a disease rather than a choice. I wrote a paper last semester about the role of EMTs and paramedics in treating substance use disorder in rural communities in the United States. My research found that the biggest obstacle to overcome is the judgment and the lack of understanding on the part of EMS providers. And so it's unfortunate. I also think, from both my own experience and from my research, that this judgment comes from a place of trauma. A lot of EMS providers are dealing with massive trauma, and that includes trauma from treating overdoses and other substance-related medical emergencies. That repetitive trauma without intervention can lead to very negative assumptions being made about people experiencing substance use disorder.

BW: I am assuming that you saw substance use disorder across both the homeless population and the housed population. Was there a difference in how medical personnel responded if there was someone with housing resources who had a medical emergency that stemmed from substance use disorder versus a person experiencing homelessness?

DH: It depends. The majority of calls that involved opioids affected people ei-

ther experiencing homelessness or poverty. And so those assumptions that I just discussed kind of come in with when you hear a call for an opioid overdose. As a provider, you're already assuming certain things about that patient. I will also say that we had many patients experiencing alcohol intoxication, and many times, those people were from housed communities and positions of privilege. The attitude and treatment of people experiencing alcohol intoxication differ drastically depending on things like their appearance and where you're picking them up from. If you go to a \$5 million mansion and your patient is intoxicated and in the same medical condition as someone that you're picking up in their car under the highway, there unfortunately tended to be more empathy towards the person in the mansion.

BW: Considering all you shared, and I'm sure we are barely scratching the surface of your experience as an EMT, how do you think your experiences from your EMT days will impact your approach to your fellowship?

DH: One of the biggest things I've noticed that followed through from my EMT days into my legal practice is the cultural humility and the trauma-informed lens that I bring to my interactions with my clients. I think a lot of people who come to law school, maybe with less life experience or less interaction with people outside their community, don't really know how to engage with someone who's experiencing something traumatic or difficult. For better or for worse, I had to learn that starting at age 16. I'm able to interact with people from different walks of life and who are experiencing traumatic things. I'm able to meet them where they are and do my best to not make judgments and to make them feel safe and to trust me as someone who's here to support them rather than to judge them.

BW: So, your fellowship is slated for two years. What would you like to do after your fellowship ends?

DH: I definitely want to continue with direct services, whether that be legal aid or some other organization. I really want to dive into the community and understand from a ground level what issues are afflicting people the most. At some point in my career, I would love to have an impact from a policy level because I think there are different ways to make more systemic changes, but it's really important, at least for me as an individual, to get as much experience on the ground with people who these issues are impacting before going to a policy level. I think it can be problematic when policymakers haven't actually worked with and gotten to know people who are suffer-

ing from these issues, especially when the policymaker doesn't personally know what it's like to be impacted by those issues.

BW: On this note, after your fellowship ends would you consider staying and working in the Vermont area?

DH: Definitely! My partner and I actually recently drove to Burlington while we were visiting family in Connecticut, and we absolutely fell in love with the city. We had suspected from what we'd heard that we would love it, but being there, we could see ourselves living there for a long time.

BW: This is likely true for being an EMT as well as being an attorney, but self-care and work-life balance is really important, especially when you're tackling something so heavy as homelessness. What are you willing to share with us about your approach to self-care and maintaining that really critical work-life balance?

DW: I'm grateful for law school for many things, but especially for teaching me how critical it is to take care of myself. Everyone says law school is difficult, but I don't think I was fully prepared for at least the first year and how difficult that was going to be. The first thing I would say is therapy. I think everyone should be in therapy, but especially if you're tackling something heavy. I've been in therapy throughout law school and I will continue that for sure. That's my number one advice to anyone. The second thing I've found so important is to take time with my loved ones. I have an incredible partner who's so supportive, and that has really been a saving grace during law school. I think when you're tackling something heavy and you have a really rigorous career, people sometimes tend to isolate a bit more. And for myself personally, that's the worst thing I could do. Spending time with my partner and friends and family is so crucial. I need to be around people that I love and that I know care about me, so I will certainly continue to do that. Another skill that I've honed recently is allowing myself to feel things. I think as lawyers, we're kind of trained that we're not supposed to let our work affect us, but at least for myself personally, that has a very detrimental effect. Instead, I let myself reflect on experiences that were difficult and feel those emotions, and then by feeling them, I'm able to move on. I guess the last thing I'll mention is just doing things that are relaxing and fun. If I'm feeling burnt out, I'll allow myself to watch a movie tonight and stay in and put away my work. All of this has worked really well for me, so I'm going to try to continue doing that and hope it works moving forward.

BW: Those are my questions. So with that, I'll hand it over to Sebastian.

SA: It sounds like you were preparing for a career in medicine and pivoted to a career in law. So I'm curious about how that transition happened.

DH: You know, it almost took place in the background in a way that I didn't really realize the pivoting that was happening. I actually started my college career in the NYU School of Nursing and that was not a good fit for a variety of reasons. But I think that was the moment where I took a step back and I reflected on why I wasn't feeling like medicine was the right place for me. And that led me to realize that I was very frustrated by some of the more macro things that were affecting patients. As much as medical providers – whether it be nurses, physician assistants, doctors – are so crucial to an individual's health, I was recognizing that medical intervention is often reactive rather than proactive. I became interested in making more systemic-level changes. I knew when I started law school that I wanted to do something that was going to help other people, but I had no idea where that was going to end up. I entered law school being like, hopefully I'll find my way into what feels right. I just knew that there was an opportunity to help people from a more macro level and that's what brought me to law school, and then I found my way to public health law.

SA: What do you think is the intersection between health law and policy and housing law and policy?

DH: I think it's almost impossible to separate the two. Housing law has so many health implications and health has so many housing implications. The social determinants of health really touch every single aspect of a person's life. As I continued taking law classes related to social justice issues, I found that there are so many ways to understand social justice from a public health perspective. Housing is a public health issue. If a person does not have access to adequate, safe, and healthy housing, that's going to lead to detrimental physical and mental health issues. One of the first things I think about now when I'm looking at a client's case is where does this person live? What environment are they in? That goes to not just the literal housing structure, but also the community and the neighborhood. The Dean of my law school wrote an incredible book called *Just Health* that is about her family's experience living in areas of poverty and how that physical environment led to physical health conditions. A bit of a long-winded answer, but in my mind, health law and housing law are very inseparable.

SA: Well, you talked a little bit about some of the classes you took in law school, and I wanted to ask what your favorite class

has been so far and why?

DH: There are a lot of them, but if I had to pick one, I think it was a class called “Law and Medicine.” I loved it because it felt like it was a mixture of ethics, philosophy, and law. Whereas most of my other law classes were coming at cases from a strictly legal perspective, in this class, we considered what the implications of a legal holding are for different communities. We tackled nuanced issues like abortion and physician-assisted death and what happens when someone loses mental capacity. I really enjoyed being able to think about those difficult issues from a variety of perspectives, to have it be more well-rounded.

SA: And speaking of the variety of perspectives on an issue, we spoke a little bit about the intersection between health and housing law. Housing law itself is just an enormously huge and complicated issue and I think some people would arguably call the housing crisis generally the biggest short-term crisis that Vermont is facing right now. So I was curious about what you think your approach to the fellowship will be in terms of how you’re prioritizing the myriad of issues that are related to housing?

DH: I won’t fully know until I actually start, so this might change, but I think my initial approach is to bring that micro and macro lens. From the micro level, what I’m

referring to is when a client comes and says I’m unhoused right now and here are the legal issues that’s causing it. From a triage perspective, that takes priority. I can’t address policy or systemic issues that are more theoretical in nature if I know that I have clients who are actively suffering and need intervention immediately to live safely and healthily. That micro level needs to be at the forefront, but then taking those micro experiences and bringing them to a macro level through advocacy. The best way I can explain it is through a metaphor I love. If that building over there is actively on fire, we should probably put that fire out first. But then six buildings way over there are also at high risk for combusting at any moment. I’m not going to want to address that until I put that active fire out, but once that active fire is out, those six buildings are going to be the next priority. I want to mitigate the risk of those six buildings as soon as possible. I don’t want to wait until a building is on fire to put it out. I want to try to mitigate those risks to make it safer and prevent the fire in the first place.

SA: I like that analogy.

DH: It’s a very public health way of thinking. You need to be reactive when you need to be reactive, but the goal is to be proactive to then reduce the amount of reactive intervention you need.

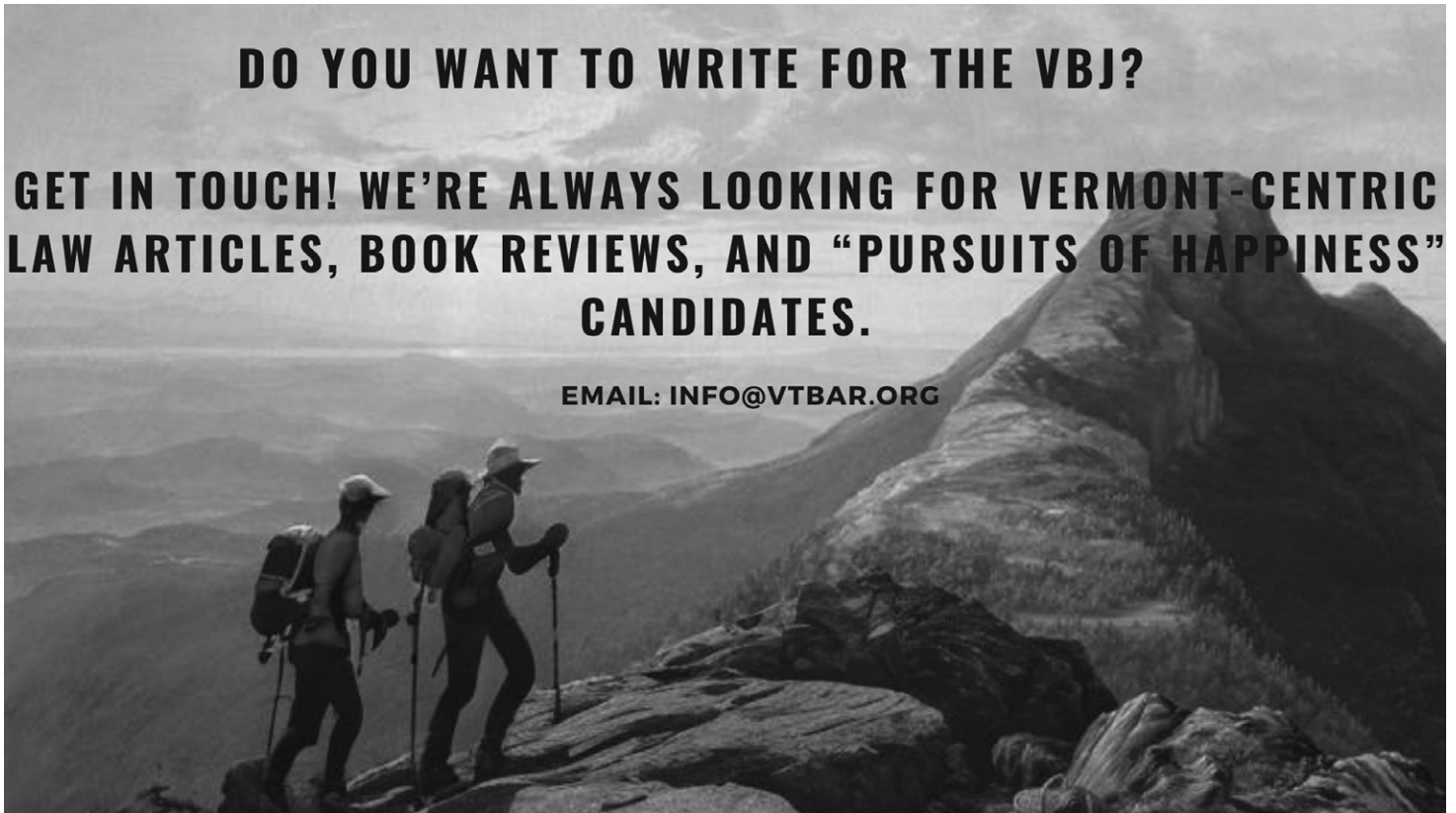
SA: So now we’re going to step away from the heavy questions and get to know you better as a person and ask what you’re doing when you’re not working, or I guess right now when you’re not studying and dealing with all of the stressors of being a student.

DH: I’d say my favorite thing to do is just hang out with my partner and my friends. I wouldn’t necessarily characterize myself as a homebody, but it takes a bit of energy to convince myself to go out and do a social activity rather than to stay in and invite friends over. But when I do go out, I love eating. Eating brings me so much joy! I love trying new restaurants and exploring new areas through food. I also try to get outdoors here in DC, but it’s a little bit more difficult than I hope it will be in Vermont. I try to go for my daily walks if it’s weather permitting. And usually, while I do that, I listen to some podcasts. I love podcasts. I don’t listen to intellectual, heavy podcasts because I like to take a mental break from the heaviness. I listen to more lighthearted podcasts. But that’s kind of a week in my life: I eat yummy food, I take walks, I hang out with my partner and my friends, and I watch TV and listen to podcasts. 

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Cybersecurity Assessments for Law Firms: How Not to Screw Them Up

Should You Have a Cybersecurity Assessment Every Year?

Absolutely. A fair number of firms perform cybersecurity assessments twice a year. For most firms, we'll settle for once a year. It is also true that most cyberinsurance companies will also settle for once-a-year assessments. The biggest firms may do it twice a year (or more), but most of you reading this are probably doing just fine with yearly assessments.

We have lived through 2023 – in which we saw more law firm breaches than ever before. And we saw (horrifyingly) a stream of class action lawsuits filed against breached law firms. So yes, we need to pay attention to cybersecurity assessments – not put them off or skip a year for budgetary reasons. While we often hear that budgets don't allow for a cybersecurity assessment, if you get breached, your budget is going all to hell. Better to spend the money and avoid the breach.

Do you need a penetration test which takes longer and is much more expensive? If you're big enough, yes. But for solos, small and midsize firms, a cybersecurity assessment is generally considered to be reasonable. Penetration tests are very expensive, complex and include an authorized simulated attack performed on your network(s) to evaluate security weaknesses. Testers act as attackers, simulating a variety of attacks. We could write an article on penetration testing alone but suffice it to say that most law firms will be ethically compliant with a yearly cybersecurity assessment.

Can You Use Your Own Internal IT/Cybersecurity Team to Do an Assessment?

That is one of the stupidest questions we've ever heard and, sadly, we hear it a lot. In fact, employees tend to encourage management to let them do the testing. Why? The unvarnished answer is that they are afraid that weaknesses in the network will be revealed, and they will be blamed.

Here's the horrifying truth: In over 25 years of business, only ONCE have we done a cybersecurity assessment without finding a critical vulnerability. Just once. Kudos to that law firm for a job well done by great employees with the full support of management.

However, normally our reports contain a

sizeable list of vulnerabilities, critical, high, medium and low. As IBM says, critical vulnerabilities should be prioritized for immediate remediation. High vulnerabilities should be reviewed and remediated whenever possible. Medium vulnerabilities pose minimal risk to data security – fix them when you can or when the budget allows. Low vulnerabilities are more cautionary or informational.

How Do You Find a Qualified Cybersecurity Assessment Provider?

One thing you are looking for is a long list of cybersecurity certifications. Assessments need to be done by highly qualified experts. Clearly, they are often costly, especially if they are large entities. For most law firms, the better alternative is smaller firms with a lot of certifications and references from other law firms that you can check with.

It is very useful to seek out your friends in other law firms as a first step. They have no vested interest. Ask questions of your friends – did the experts get along well with the in-house IT/cybersecurity folks? Did they offer a flat fee cost? What was it? (We prefer flat fee pricing based on the number of devices to be assessed). Were their reports thorough and not written in technical jargon? Did they clearly prioritize the recommendations? Did they offer a cost estimation for remediation of the vulnerabilities?

Be Wary of Cybersecurity Assessment Providers Who Work for Cyberinsurance Companies

We are seeing a very disturbing trend in the cyberinsurance market. Insurance carriers are partnering with managed security and IT providers to gain more insight into your data and infrastructure. They offer lower premium rates if you use their partners. The justification is that the carrier has a much better idea of its risk exposure when they have firsthand knowledge about your data and infrastructure. The problem is that they have firsthand knowledge about your data and infrastructure.

You install agents within your environment that monitor status and activity. In other words, they have "eyes" into your data, your client data, vulnerabilities and pretty much everything about your firm's operation. No thank you.

You Hold Your Cybersecurity Assessment in Your Hands: Now What?

Assuming you had a reasonably priced but expert firm do the assessment, you now have a perfect roadmap in your hands. If the project remediation costs don't seem reasonable, you can always choose another firm. But if the firm's employees did well in working with your employees, that's a very good sign. They are likely to work well with your employees in remediating the vulnerabilities.

Don't put this off – that happens way too often. Get those critical vulnerabilities squared away and give serious thought to how and when you can take care of the High and Medium vulnerabilities. Getting management buy-in can be a royal pain, so be ready with the stats of breached law firms, the costs to deal with the breach and the terrible publication relations disaster – no law firm in today's legal environment can escape having to report a breach, often to multiple entities.

Final Words

P.T. Barnum once said, "There's no such thing as bad publicity." Where law firm data breaches are concerned, let us assure you that P.T. Barnum was wrong.

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Do Lawyers Need to Be Concerned About Deepfakes?

The short answer is yes, everyone does; but the reason lawyers need to be concerned requires a longer explanation.

What is a deepfake?

The word “deepfake” comes from combining the words “deep learning” with the word “fake.” A deepfake is digital content that can be created using powerful techniques from machine learning and artificial intelligence to manipulate existing or generate new visual and audio content that can easily deceive others who view or hear it. Deepfakes aren’t by definition all bad, for example deepfake technology is used by the film industry. It’s only when a bad actor creates a deepfake for use in furtherance of a cyberattack, fraud, extortion attempt, or other scam that they become a serious concern.

Isn’t creating a deepfake crazy hard to do?

Not anymore. Jai Vijayan, Contributing Writer at Dark Reading recently stated: “It’s time to dispel notions of deepfakes as an emergent threat. All the pieces for widespread attacks are in place and readily available to cybercriminals, even unsophisticated ones.”

Researchers with the security company Trend Micro expressed similar concerns in an online post this past September with this opening statement: “The growing appearance of deepfake attacks is significantly reshaping the threat landscape. These fakes bring attacks such as business email compromise (BEC) and identity verification bypassing to new levels.” They went on to say that more serious attacks will be forthcoming because of the following issues:

1. “There is enough content exposed on social media to create deepfake models for millions of people. People in every country, city, village, or particular social group have their social media exposed to the world.
2. “All the technological pillars are in place. Attack implementation does not require significant investment and attacks can be launched not just by national states and corporations but also by individuals and small criminal groups.

3. “Actors can already impersonate and steal the identities of politicians, C-level executives, and celebrities. This could significantly increase the success rate of certain attacks such as financial schemes, short-lived disinformation campaigns, public opinion manipulation, and extortion.

4. “The identities of ordinary people are available to be stolen or recreated from publicly exposed media. Cybercriminals can steal from the impersonated victims or use their identities for malicious activities.

5. “The modification of deepfake models can lead to a mass appearance of identities of people who never existed. These identities can be used in different fraud schemes. Indicators of such appearances have already been spotted in the wild.”

Why do lawyers need to be concerned?

I would hope it would be self-evident. Due to the amount of other people’s money law firms are responsible for coupled with the amount and variety of sensitive and confidential information lawyers maintain, law firms have been and will continue to be an attractive target for cybercriminals and scammers. The only thing that is changing is the sophistication of the attacks.

As a lawyer, you need to know that a tool that enables someone to create a deepfake of you exists. That deepfake could be used to hack your Amazon Alexa; manipulate a colleague, family member, friend, or employee into moving money; used to hijack your bank account, bypass an identity verification process, or even to plant fake evidence in an attempt to blackmail you. All that person needs is a good photo or a short voice recording. How many people do you know, including yourself, who have already posted all kinds of audio, video, and photos in the social media space? You and I both know it’s practically all of us.

My purpose in sharing all of this is not to instill fear. Rather, it is to create awareness and an appropriate level of concern. We all need to continue to stay abreast as to how the attack vectors continue to change in order to have an opportunity to be proactive



in our efforts to avoid falling prey to these ever evolving cyberattacks and scams.

What should law firms do about the deepfake threat?

As with so many cyber and scam threats, there is no one step you can take and there are going to be no guarantees that any combination of steps will successfully block this threat. All you can do is try your best. That said, the following are becoming more important than ever.

1. Use multifactor authentication on every critical or sensitive account or service. Think bank and other financial accounts, cloud-based services such as practice management programs, email accounts, remote access, and the list goes on.
2. Mandate the use of an out-of-band communication process to verify the legitimacy of every request to transfer funds, regardless of the communication channel the person making the request uses. And if you are not already aware, an out-of-band communication is a method of challenge and response to the requestor of a transfer, payment, or delivery of money using a communication method that is separate and distinct from the communication method the requestor originally used.
3. Conduct periodic mandatory training that over time covers all the various tactics utilized in social engineering attacks. Include current examples in or-

der to demonstrate how these attacks “look and feel.” Note that mandatory means no exceptions; all lawyers and staff must participate.

4. Encourage social media users to limit their presence on social media and to minimize the posting of high-quality personal images online.
5. Consider using biometric verification processes for access to critical accounts such as banking or other financial accounts. The reason why is bio-

metric data typically has minimal public exposure.

6. Make all conference calls, video calls, etc. private and/or password protected. The goal is to ensure that only trusted known individuals have the ability to participate.

Since 1998, Mark Bassingthwaighe, Esq. has been a Risk Manager with ALPS, the nation’s largest direct writer of professional liability insurance for lawyers. In his tenure with the company, Mr. Bassingth-

waighte has conducted over 1200 law firm risk management assessment visits, presented numerous continuing legal education seminars throughout the United States, and written extensively on risk management, ethics, and technology. Mr. Bassingthwaighe is a member of the State Bar of Montana as well as the American Bar Association where he currently sits on the ABA Center for Professional Responsibility’s Conference Planning Committee. He received his J.D. from Drake University Law School.



CROSSWORD PUZZLE

by Kevin Lumpkin, Esq.

Kevin is back with a new crossword for this issue. Kevin is a litigation partner at Sheehy Furlong & Behm in Burlington, and in his spare time he enjoys puzzles and trivia of all kinds, especially crossword puzzles.

Note: For those who solve the New York Times crossword puzzle, this is about a Tuesday-level difficulty. Many thanks to Liz Logsdon, Esq., a law school classmate of Kevin’s for test-solving this puzzle.

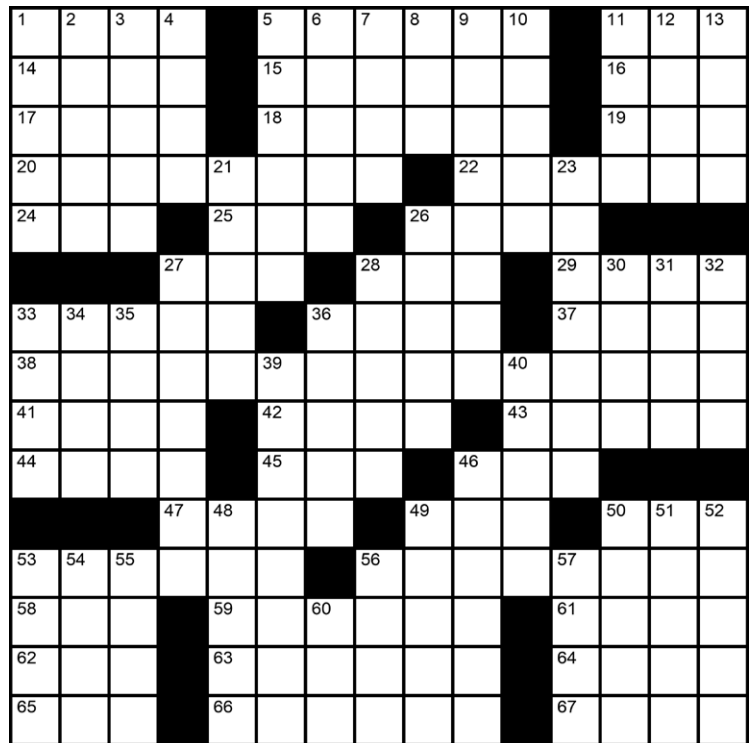
See page 41 for the Fall Journal’s Crossword Solution.

Across

1. Fake
5. Mag. that went all-online in 2023
11. Fitting
14. Erstwhile Burlington Mayor Weinberger
15. Accustomed (to)
16. Triton’s domain
17. Like
18. Perfume ingredient
19. Rooster, but also not a rooster
20. Looks for*
22. Boil ‘em, mash ‘em, stick ‘em in a stew
24. These are billable for many attys
25. Cool, back in the day
26. ____ Diga Eebowai (“The Book of Mormon” song)
27. Priests (abbr.)
28. Gymnast Mary ____ Retton
29. France’s Dominique Strauss-____
33. Coll. in Texas (not to be confused with the H.S. in South Burlington)
36. Depilatory brand
37. ____ fixe
38. What can be found at the start of 20-A, 48-D, and 56-A
41. Key
42. ____ Cong
43. Luxor’s Land
44. Abbr. on sheet music

Down

1. What the Hulk does
2. One found on the Long Trail
3. Star sign for Lady Gaga and Lil Nas X
4. Robed figure
5. Tea options
6. Outdo
7. Green movement?
8. Sign for a sellout
9. Alpha ____
10. They can be bright or half-baked
11. Tennis legend Arthur
12. One of 12 on a jury
13. Gets some color
21. Bit of greenery
23. Fifth Amendment clause
26. Raise
27. Something for nothing
28. Don’t go chasing waterfalls, just stick to the rivers and the ____ that you’re used to
30. The Beatles’ “ ____ in the Life”
31. Assist
32. Sticky pad?
33. Baseball stats
34. First name in “Casablanca”
35. Heaven’s Gate, for one
36. Boisterous
39. First track on many cast recordings
40. Outfit
46. Trimming tools
48. B equivalent
49. Concur
50. Canine affliction
51. Commonly sprained joint
52. Catch-all survey option
53. Honey
54. Tied
55. Not new, as email
56. Airport approximations (abbr.)
57. Landlocked Asian country
60. Sloth, e.g.



IN MEMORIAM

Rex Bennett Stratton III

Rex Bennett Stratton III passed away on Feb. 9, 2023 at the University of Vermont Medical Center from complications following major heart surgery. If names presage a person's identity, Rex was aptly named. His grand stature signaled the greatness of his heart and his generosity of spirit.

Everywhere Rex went he exuded joy, warmth, and reassurance; people gravitated to his charismatic personality. Rex had a mischievous spirit; he was inventive and creative with an astute business acumen combined with wisdom and human insight that benefited those who worked with him and the causes to which he dedicated himself.

Born at the dawn of a new year on Jan. 2, 1945 in Falls City Nebraska, to Rex Bennett Stratton Jr. and Florence Ida Barlow Stratton, Rex was their only child. He

Rex studied political science at Wabash College, in Indiana, where he pledged Sigma Chi and made lifelong friends. During summers, Rex worked for the forest service in Montana, building trails and doing forest-fire cleanup.

He met his future wife, Barbara Faye Eastman, at the Church of our Savior in Chicago. They married the following year, 1967, in that same church and moved to Missoula, Montana where Rex attended law school at the University of Montana.

His only child, Kimberly Barlow Stratton, was born in 1968.

After clerking for the Honorable William James Jameson, United States District Court for Montana, the family moved to Seattle in 1971; Rex began practicing business law at the firm of Schweppe, Doolittle, Krug, and Tausend. Later, he switched to Intellectual Property law and practiced on his own or with other partners.

He was very active at St. Mark's Episcopal Cathedral in a variety of capacities, was a member of the Waterfront Lion's Club, the University Rotary Club, and assistant coach for his daughter's soccer team.

Rex said that his greatest achievement during those years was "saving" the Northwest School, a new and precarious private school his daughter attended, which emphasized an integrated education in arts, humanities, and the environment. Rex worked tirelessly and creatively as President of the school's Board of Directors for almost a decade, guiding its founders, dedicated staff, and families through difficult circumstances.

In 1998 Rex and Barbara moved to Vashon Island, where Rex again made sig-

nificant contributions to the community through Rotary (he was club President and a Paul Harris Fellow), the Vashon Island Fire & Rescue (first as a volunteer, driving the water truck, and later as the elected Fire Commissioner), and Church of the Holy Spirit (where he enjoyed being a licensed Eucharistic minister and serving on the altar guild).

One of Rex's most significant and enduring contributions to Vashon Island was co-founding Island GreenTech (<https://islandgreentech.org>), which pursues a variety of initiatives to benefit the local community and promote environmental causes, such as the Vashon Electric Vehicle Association, fundraising to purchase a digital-3D projector for the local movie theatre (which is loaned to non-profit organizations for use one night a week), bringing Puget Sound Cooperative Credit Union to the island, founding ZeroWasteVashon, and initiating the Vashon-Maury Healthcare Collaborative.

His work to benefit the Vashon Island community garnered a special "Thank You Rex Stratton," displayed on the Vashon Theatre's marquee in 2016.

In 2016 Rex and Barbara decided to embark on another adventure and move across the country to Middlebury, Vermont, to start a new life closer to their daughter, Kimberly, and her family. In Vermont, Rex continued his commitment to community service at Rotary and St. Stephen's Episcopal church. He also continued to practice IP law, attracting new clients in Vermont while maintaining long-standing relationships with clients from the Pacific Northwest.

Rex was beloved by most everyone he met, whether the cashier at the local grocery store, a client, neighbor, or friend. He devoted himself to improving his community and brought legal skills, wisdom, and nonconformist creativity to solve problems for his clients and favorite organizations.

James C. Foley, Sr.

James C. Foley Sr. passed away peacefully at the age of 93 at his home in East-View, Middlebury, Vt. on April 16, 2023, surrounded by loving members of his family. Jim was born Feb. 10, 1930, the son of Hannah Frederica Foley (Hunt) and James John Foley of Walden, N.Y.

Jim graduated from Walden (NY) High School, Colgate University (Phi Beta Kappa), and Yale Law School (Order of the Coif), and then served in the U.S. Navy as an intelligence officer attached to ship's company of the aircraft carrier U.S.S. Bon

Homme Richard, ending his military career in 1957. He married the love of his life Saraann (Sally) Meehan Foley in 1953 during his last year of law school. He joined his first law firm, Chadbourne, Parke, Whiteside and Wolff, in New York City in 1958, where he was an associate attorney, and then moved to California in 1961, where he then worked as Assistant General Counsel to North American Aviation, Inc.

Jim and Sally raised their four children (two girls and two boys) in southern California until the family made the bold move to relocate the whole clan to Middlebury, Vt., in 1972, where Jim agreed to join his Yale Law School classmate, Chester S. Ketcham (Chet), in the Middlebury law practice then known as Underwood, Lynch & Ketcham. Wynn Underwood then moved on to become a Vermont Supreme Court Justice, Chet Ketcham became the Addison County Probate Judge, and Jim and Tom Lynch joined forces with another Middlebury attorney, John Deppman, to form Deppman & Foley, P.C., now known as Lynch & Foley, P.C. It wasn't until Jim reached his early eighties that he finally retired from the practice of law.

Jim was an avid reader and enjoyed skiing, sailing, jogging, and generally being in the outdoors. Otherwise, most days, one would typically find Jim dressed in a coat and tie, following in the footsteps of his father-in-law, Thomas G. Meehan. Jim was also a faithful member of the St. Mary's parish and also enjoyed serving on a number of Addison County community boards and committees.

Hon. Christine Ann Hoyt

The Hon. Christine Ann Hoyt, affectionately known as Chrissy or Deedee, passed away peacefully on Dec. 17, 2023, age 61, at home surrounded by family in Tunbridge, Vermont. She was born May 15, 1962, in Somerville, New Jersey, to her parents, Patti Rudder and Harry Doremus.

Christine was a loving wife, mother, grandmother, sister and friend. She will be deeply missed by her husband, Tom Hoyt, her sister Lynne Russell, her brothers Jeff Doremus and Shawn Carroll, and her children Logan Russell, Tommi Hoyt, Maryann Caron, Danielle Hoyt, Thomas Hoyt and Tonya Hoyt-Wyman. Grandchildren, Cecilia Bent, Diem Bent, Morgan Caron, Stevie Wyman, Zakk Wyman, Gabe Wyman, Ben Hoyt, Alex Hoyt; nephews, Shannon Bavos, Thomas Carroll; nieces, Danielle Castro, Ava Carroll and Lizzy Carroll. She was preceded in death by her parents.

Christine's educational journey began at Lamont Elementary School and continued at Harwood Union High School. She went on to graduate from the University of Vermont in 1983 and later obtained her law degree from Vermont Law School in 1986.

With a passion for justice, Christine embarked on a successful career in law. From 1986 to 1988 she served as a lawyer before becoming a magistrate on August 10, 1988. When she was appointed by Governor Howard Dean. She dedicated herself to upholding the law and ensuring fairness for all.

Beyond her professional pursuits, Christine embraced life to the fullest, she found joy in kayaking, biking, hiking, camping and attending concerts. Playing and watching softball and exploring new destinations during her vacations. Her adventurous spirit was an inspiration to those around her.

Her friend and colleague, the Hon. Alicia Humbert, provided this remembrance: *I will always remember Chris for the kindness with which she treated everyone – always having a smile on her face and greeting everyone with a kind word. One of my first judicial assignments was in the Windsor Family Division. It was a great assignment because my chambers were just down the hall from Chris's chambers. She constantly checked in on me to make sure that I was doing alright and was not feeling overwhelmed. It was incredibly reassuring knowing that I could just walk down the hall anytime and speak with her about any issues that had arisen. She was a great mentor and friend and will always be missed.*

Edwin Amidon

Edwin Henry Amidon Jr., age 89, of Charlotte died peacefully after a short hospital stay on Dec. 26, 2023.

Ed grew up in central New York, graduating from Central Square High School in Oswego County in 1951. He worked for a year as a junior draftsman at New Process Gear in Syracuse before entering Williams College, from which he graduated in 1956. Ed was an active Williams alumnus, including serving recently as his class president.

Following college, Ed was admitted to the U.S. Air Force Officer Candidate School and was commissioned as a second lieutenant in May 1957. He initially served at a radar station in Montana before being transferred to Washington, D.C., and assigned to the Central Intelligence Agency. Following his active duty, Ed entered the CIA training program and was employed as a case officer for several years. He subsequently remained in the U.S. Air Force Reserve for many years, assigned primarily to the U.S. Air Force Intelligence Center, retir-

ing as a major in 1980.

In the early '60s, Ed attended Harvard Law School, graduating cum laude. He went to work for the Boston firm of Foley, Hoag & Eliot, where he was involved primarily in public utility, securities and banking areas, as well as state and federal regulatory matters. In late 1968, a call came from Jim Jeffords, a law school acquaintance and the newly elected Vermont attorney general. Ed wasted little time in accepting an offer to become an assistant attorney general in a then-small office. This gave him the opportunity to argue the "nearby differential" federal milk price regulation case in the U.S. Supreme Court on behalf of the State of Vermont, as well as to explore many hiking trails on the weekends.

After his service in Montpelier, Ed was fortunate in the early '70s to be hired by the Burlington firm headed by judge Albert Coffrin. Ed quickly acquired a banking and utility practice and also assisted with the firm's insurance defense practice. The firm became Coffrin, Pierson, Affolter & Amidon, and then Pierson, Affolter & Amidon after Coffrin's appointment to the U.S. District Court bench.

In 1976 Ed was appointed to the Superior Court bench by governor Thomas Salmon. This was under the old system in which eight general trial jurisdiction judges "rode circuit" to the far corners of the state. Ed was proud of his trial court decisions involving the application of the Vermont Constitution, including the constitutional challenge to Act 250, the Sunday closing "blue law" and electoral cases. The Act 250 decision was the subject of an article in the Vermont Law Review.

Ed left the bench in 1983 to return to private practice in Burlington and ultimately joined in a long-lasting law partnership with Robert Roesler, Richard Whittlesey and Marsha Meekins. He was proud to be a lawyer's lawyer, representing other lawyers in the Professional Conduct Board and providing ethics opinions. As mediation and arbitration came into common use, these became a major part of his practice, as well as acting as a hearing officer and adviser for state agencies, municipalities and nonprofit organizations. Ed was on the Vermont Bar Association Board of Managers for many years and was president from 1990 to 1991.

In the late '80s, Ed was appointed by Gov. Madeleine Kunin to the board of the Vermont Student Assistance Corporation, serving for 12 years, including as chair of the governance committee. He was a member of the Champlain Valley Union High School board from 1992 to 1996, including serving as vice chair.

Ed represented Charlotte in the Vermont House from 2001 to 2004, where he

sat on the Ways & Means Committee. He completed his years of public service as a trustee of the University of Vermont from 2003 to 2009, where he was chair of the audit committee and vice chair of the governance committee, and as chair of the state Act 60 town valuation board from 2011 to 2015.

Many happy hours were spent paddling one of his fleet of canoes on Lake Champlain and in his favorite sport of "hiking with canoes" between small ponds and lakes in the Adirondacks. Ed was an early and active member of the Northern Vermont Canoe Cruisers, now the Vermont Paddlers Club. Whitewater runs were explored and made in aluminum canoes with no flotation or spray covers, including the Hudson River Gorge prior to the era of water releases and commercial raft trips. Many family paddling trips to Algonquin Park in Ontario and with family and friends into the tundra rivers of northern Canada were prized parts of Ed's life. In the early years of backcountry skiing, he was privileged to have the location of the now well-established Bolton-Trout Club Road train marked for him on a topographical map by one of its builders.

Ed was a longtime member of the First Unitarian Universalist Society of Burlington, where he taught Sunday school in the '70s and '80s and later served on the board of trustees. Additionally, for over 35 years he enjoyed the lively discussions of his book club, the Greater Westford Literary Society.

Ed was a very active and greatly loved husband, father and grandfather. He was survived by Louise McCarren, his wife of over 45 years. Louise died in Feb. of this year (see her In Memoriam entry in this issue of the VBJ). He was also survived by his daughter Martha Ware and her husband, Andrew Ware, of Chalfont St. Giles, England; his daughter Jane Amidon of Beverly, Mass.; his son, William Amidon, and his wife, Susan Parsons, of Cornwall, Vt.; and his stepson, Patrick McCarren, of South Burlington, Vt. Survivors also include his grandchildren, Georgia Ware, Mattie Ware, Eliza Ware, Nora Hopkins, Pippa Amidon and Marley Amidon; his sister Marion Amidon of Gardner, Mass.; as well as nieces, nephews and cousins. He was predeceased by his parents, Edwin Henry Amidon Sr. and Elaine Wilson Amidon, and his sister Ann David.

Richard Gadbois

Richard "Dick" Arthur Gadbois, of Franklin, VT, died peacefully and on his own terms, Thursday, Jan. 4, 2024, surrounded by his loving family at UVM Medical Center.

Dick was born on May 24, 1941, in Monroe, NC to Eleanor and Richard Gadbois.

When Dick was four, his family moved to St. Albans, VT where his parents operated the Jesse Welden Inn. His family later moved to Sheldon, VT where they operated the Portland Inn. His mother's New Year's Eve party and Swedish buffet were legendary around the county.

Following her early passing (Dick was only 9 years old), the family moved back to St. Albans where his father continued in the hotel business and ran the Blue Lion Restaurant. Dick graduated in 1959 from St. Mary's High School in St. Albans. The class held reunions every five or ten years and for the past few years they also met monthly for lunch at Jeff's Seafood. Dick always looked forward to these get togethers.

Dick matriculated to St. Michaels College where he met and married Marjorie Croft (of Bakersfield) in 1962. After his freshman year, they moved to Boston where Dick earned his undergraduate and law degree from Boston University while working multiple part-time jobs and graduating at the top 10% of his law school class. During that time, their two children, John Albert and Elizabeth Ann, were born. He was admitted to the Vermont Bar in 1968 and retired on August 31, 2023.

Shortly after graduating from BU, the family returned to St. Albans and Dick began his long and illustrious career in law. In 1975 they bought their first home in Franklin, VT where Dick lived for the remainder of this life. In 1992 he married the love of his life, Pauline "Polly" Wright.

A career spanning six decades, Dick was a highly respected litigator and advocate for those who needed a champion. His vast resume includes State's Attorney, St. Albans City Attorney, Chairman of the WHEY Authority, an owner of Sherman Hollow, serving on the Franklin Planning Commission and a volunteer EMT with Franklin Rescue for over 20 years. In addition, he

was an advocate, judge, husband, father, grandfather and friend to name just a few. Many awards, citations and commendations also followed him throughout his career. He rarely turned anyone in true need away and more than one client paid him with jars of jam, pickles or a chicken if that was all they could offer. He loved being a lawyer and valued intellect, the truth and knowledge above all else. He was determined, strong and unstoppable in his quest to better his life.

Dick's passions were numerous, but motorcycles and golf were at the very top. He owned and operated a motocross track in Berkshire, VT and even took apart his beloved Goldwing motorcycle in the living room one winter to painstakingly restore it piece by piece. In 1985 he closed his practice for six weeks, hopped on this BMW Dakar motorcycle and headed to Alaska. He traveled the southern Canadian provinces on his way up to visit his son John in Alaska and returned via the northern US. A trip of a lifetime he always said. In high school he earned extra money as a caddy at the Champlain Country Club and was even crowned Flight B champion one year. Some years later his love for golf was renewed when he and Polly took up the sport together. They played most all the Vermont courses but Enosburg Falls Country Club was their home course and you'd find them there many a summer night.

For most all his life, Dick collected memorabilia, art and antiques. He proudly created the most complete Vermont milk bottle collection in the state and amassed a wide range of vintage dairy related items. It is truly staggering. He also collected stamps, coins, golf balls, Hawaiian shirts and so many more objects of beauty. Dick and Polly would regularly go to auctions together, sitting in the front row. Every auctioneer in Vermont knew them personally. They also

shared a fondness for the theater and especially Broadway! On their many trips to NYC they would gobble up seven or more shows, save all the Playbills and then relish each and every moment years later.

But his most favorite way to spend time was simply being with Polly and their dog Samantha (or Sammie G as she is known). They loved their camp at Lake Carmi, rides in the BMW convertible on warm summer nights and simple quiet evenings talking for hours with one another at home. Their love story was decades long and each was truly blessed with having the other.

Dick leaves behind his soulmate and wife Polly, his two children John (wife Jolene) and Beth (partner Chip Dillon), his two stepchildren Pam Deuso (husband Howard) and Tom Patterson (wife Jeri), his grandchildren Ethan and Jacob, step-grandchildren Adam, Timmy, Anthony, Billy, Alex, Erika, Kelli, and Carson, and seven step-great grandchildren. Dick was predeceased by his father and mother, Richard and Eleanor Gadbois; his first mother-in-law, Florence Croft; his father and mother-in-law, Harrison and Geraldine Wright, his step-daughter, Patricia Patterson Labor and his brother-in-law, Roger Wright.

Louise McCarren

Louise McCarren passed away at her home on Friday, Feb. 16, 2024. She was born in San Mateo, Calif., in 1947, not long after the end of World War II. Her ancestors on both sides came from long lines of early California settlers. Her father was a bomber pilot in the Pacific during World War II, once bailing out over China towards the end of the war. As a child she enjoyed skiing and waterskiing near their family cabin at Lake Tahoe that her father built in the 1950s.

JUNE is Procrastinators' MONTH! More Programs Coming. Watch the VBA CLE Calendar and Get Your Credits!

- **6/20** Rethinking Neurodiversity in the Legal Industry(DEI)
- **6/18** ChatGPT & Ethics
- **6/25** Mastering Mediation: Tips from All Perspectives
- **6/18** Mindful Moments for Wellness (Wellness)
- **6/25** Effective Time Management for Attorneys
- **6/26** Run Your Practice Like a Business
- **6/4** Business Entities
- **6/5** Business Succession Planning for Family Businesses
- **6/12** Trust Us...The Basics
- **6/10** Title Matters Regarding Foreclosures (Women's Division Presentation)
- **6/12** Vermont Foreclosures: An Overview (Women's Division Presentation)
- **6/13** Critical Infrastructure Development: Trends & Overview in Telecom & Broadband Expansion* (Women's Division Presentation)

Louise attended Notre Dame high school in Burlingame, graduating from U.C. Berkeley in 1969. This was an interesting time as her brothers were serving in Vietnam, and the counter-culture revolution was unfolding in the Bay Area. She then graduated from UCLA School of Law in 1972, where she reportedly drove a motorcycle around Los Angeles.

She moved to Vermont in the early 1970s with her first husband, Peter McCarren, where they had her first son, Patrick McCarren. She began practicing law in Vermont at a time when there were not many female lawyers and was considered a trailblazer in that regard. Her first marriage ended in divorce, perhaps prompting her to publish an early guidebook on how women could obtain a divorce in Vermont.

She met her second husband, Edwin Amidon, in the late 1970s, outside a courtroom where he was an acting judge. Their first date to Trader Dukes at the Sheraton was supposedly a bomb, but she was taken by his sense of adventure, and they soon began whitewater canoeing together as early members of the Vermont Canoe Cruisers club. They built a house in Charlotte in 1979, which was completed just after giving birth to their son, her second child William Amidon.

Louise's career took her into regulatory economics. She eventually became chairman of the Vermont Public Service Board under Governor Richard Snelling in the 1970s and subsequently the commissioner of the Vermont Department of Public Service. She briefly became involved in Vermont politics, unsuccessfully running for Lieutenant Governor against Howard Dean in 1988.

She served as a senior vice president for the Chittenden Bank, and during the 1990s, began consulting for utilities, eventually becoming president and CEO of NYNEX, later Verizon Vermont, in the late 1990s. By the mid-2000s, she became chief executive of the Western Electric Coordinating Council, which helps to manage the western U.S. power grid. Through the years she was known as a strong leader who could "cut to the chase" and connect with employees at all levels of an organization, while gaining national recognition for visionary thinking in regulatory environments. Over the years, she served on numerous corporate boards, including the Fletcher Allen Hospital, ISO-New England, Vermont Law School, Campaign for Vermont, and the National Life Insurance Company.

Louise was an avid athlete and adventurer who was rarely idle. During the '80s and '90s she was a triathlete, once competing in the Hawaii Ironman. She shared a passion for wilderness canoeing with her husband Ed, and they worked together to launch many multi-week canoe expedi-

tions to the Canadian Arctic on rivers such as the Coppermine, Kazan, Hood, Burnside and Noatak. She also enjoyed gardening and was known for gifting huge bouquets of flowers to everyone and anyone. In her later years, she played tennis and women's hockey and greatly valued being a part of those communities.

Louise returned to Charlotte full time around 2013 and became involved in the life of the town. She was a frequent volunteer at the Charlotte Food Shelf and the Charlotte Senior Center and served on the selectboard for several years. She enjoyed being able to spend time with her sons and her two granddaughters, Pippa and Marley Amidon, who brought her a great deal of joy. Her final show of strength was as a steadfast caregiver to her husband Ed until his passing in late December 2023.

Louise lived a vibrant and generous life, touching the lives of countless people with her generosity. She was constantly focused on what she could do for others, providing assistance to countless friends and strangers over her life. Louise is survived by her sons Patrick McCarren and William Amidon, her granddaughters Pippa and Marley Amidon, her step-daughters Jane Amidon and Martha Amidon Ware, her brothers

Michael and Tony Moroney, and her sister Mollie Moroney. She will be dearly missed by many.

Timothy Jerald Wells

Timothy Jerald Wells, 72, died Feb. 27, 2024, at Dartmouth Hitchcock Medical Center in Lebanon, NH.

He was born July 26, 1951, in Sherburne, VT, a son of Edwin and Marjorie (Neil) Wells. Tim grew up in West Hartford, VT and graduated from Hartford High School before serving in the US Navy from 1969-73. While in the Navy he attended Texas A&I College. Following his honorable discharge from the Navy Tim earned his Bachelor's degree in Criminal Justice from Castleton State College and his law degree from Vermont Law School. He practiced law at Wells Law Office in Hartford and later Putney, VT until retiring in 2023.

Tim continued to honor his country by serving in the Army National Guard JAG corps for many years, including deployment to foreign countries retiring from the guards as a Lt. Colonel.

He was predeceased by his wife of 37 years, Leslie, in 2018 as well as his parents,

Here's the Fall Journal's Crossword Solution!

H	I	J	A	B		D	O	T		P	L	A	N	O	
O	K	A	P	I		A	R	E		A	L	L	O	W	
N	E	B	R	A	S	K	A	N		S	A	L	O	N	
G	A	S			N	E	A	L		R	A	M	O	N	E
					C	A	R	B	O	N	D	A	T	E	D
D	I	S	T	A	L				U	A	E				
A	S	T	O			O	A	S	T		N	A	I	L	S
Y	E	A	R	O	F	T	H	E	R	A	B	B	I	T	
S	E	R	I	F		S	E	R	A		C	A	S	A	
					F	E	E			N	O	S	R	A	T
B	A	R	B	A	R	A	B	U	S	H					
A	T	H	E	N	A			A	S	O	F		S	T	U
T	R	E	N	D			B	A	R	M	I	X	E	R	S
H	I	T	T	O			O	E	D		N	E	X	U	S
S	A	T	O	N			F	D	A		E	S	T	E	R

and brothers, Rodney and Gary Wells.

Tim leaves his daughter, Joddy Wells Mitchell (Doug) of Hollis, NH; step-daughter Sarah J. Ballou of Putney, VT; grandchildren Emily Canty (Connor) of Fort Walton Beach, FL, Michael and Adam Mitchell both of Hollis, NH and Georgia Ballou of Putney, VT; sisters Cheryl Wells Gilbert and Lynda Wells Hart (Randy) all of West Hartford, VT and many nieces nephews, aunts, uncles and cousins.

Kate Piper

Kathryn "Kate" Aring Piper of Lower Waterford, Vermont was born on Aug. 30, 1951 in Milwaukee, Wisconsin. She died peacefully at her home, surrounded by family, on March 6, 2024, of an untreatable, degenerative neurological disease. Kate was 72 years old.

Kate did everything with her full, committed heart and powerful intellect. She was always striving to create purpose in life and make an impact in the world, especially when it came to injustices faced by children. The people in her life knew how deeply they were loved, and the outpouring of support she experienced in the last few months of her life from family, friends and colleagues from every stage of her life was a beautiful testament to the relation-

ships she built and nurtured. Kate had a sense of adventure and was an avid skier, cross country skier, biker and walker. She loved nothing more than summer in Vermont, where she could be found picking and arranging flowers from her garden, rowing on her beloved Connecticut River, and plunging into ice-cold mountain streams. Kate was also known for her smile, mid-western friendliness, and good humor. She often said that raising her children was her proudest accomplishment, and she took great delight in helping to raise her grandchildren as well. She will be sorely missed by all who knew her.

Kate is survived by her husband of 51 years, Bill, her three children, and their spouses: Alison Piper Fox (Jeff Fox) of Bozeman, Montana, Samuel B. Piper (Shey Piper) of Truckee, California and Caroline B. Piper (Thaddeus Houston) also of Truckee, California; along with her four grandchildren, Oliver (12) and Graham (11) Fox and Willa (4) and Otis (1) Piper-Houston. She is also survived by her sister, Julia Uihlein (David V. Uihlein Jr.) of Milwaukee, and many long-time friends and extended family. Kate was predeceased by her father, Charles W. Aring, her mother, Dorothy B. Aring, and her brother, Charles W. Aring, Jr.

Kate graduated high school in 1969 as valedictorian. She attended Middlebury

College where she fell in love with Vermont... and with Bill. She graduated from the University of Wisconsin and got married in 1972. Kate received her Juris Doctor degree from Suffolk Law School in 1976. She and Bill moved to the Northeast Kingdom that same year, where they worked for Downs Rachlin Martin in St. Johnsbury. Kate soon left private practice to pursue her interest in criminal law and became the only female public defender in the Northeast Kingdom. After two years as a public defender, Kate began clerking for the Hon. Sterry Waterman at the U.S. Court of Appeals for the Second Circuit. In 1980, Kate passed the New Hampshire Bar Exam, intending to practice law there. But because New Hampshire had a residency requirement that Kate believed to be unconstitutional, she could not begin practicing there right away. So she brought suit in federal court, ultimately prevailing in 1985 in an 8-1 decision by the U.S. Supreme Court, in *N.H. v. Piper*. Kate's Supreme Court victory spoke to her intolerance for injustice and her determination to see projects through. Kate attended and taught at Lyndon State College and received her Master's Degree in Teaching and Counseling. In 1992, Kate became the Juvenile Defender in the Northeast Kingdom representing children in abuse, neglect and other proceedings. She continued in that role until 2011 when she enrolled in the PhD program at the Heller School at Brandeis University, receiving her PhD in Social Policy in 2016. For the next five years, Kate was the Senior Policy Analyst at the American Professional Society on the Abuse of Children.

Kate was an active member of the community and served on many state and local committees and volunteer organizations. Among them were: the Waterford Planning Commission; Fire Department; and School Board. She also served as the Chair of the Waterford Democratic Committee, was the Trustee of the Lower Waterford Church, and the founder of the Waterford Preservation Trust. Kate further helped establish Umbrella, initiated the creation of the Caledonia Family Treatment Court, volunteered with the Guardian Ad Litem Program, served on the committee to create the Community Justice Center, and delivered Meals on Wheels. At the state level, Kate served on the Justice for Children Task Force, was a board member of Voices for Vermont's Children, was appointed by two governors to the State Board of Education and served on the Board of Bar Examiners.



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