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# VERMONT BAR JOURNAL

245

Spring 2026, Volume 52, No. 1



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## DEPARTMENTS

### PRESIDENT'S COLUMN

- 5 — Meet VBA Board President, Jordana Levine, Esq.  
*Interview by Kim S. Velk, Esq.*

### PURSUIITS OF HAPPINESS

- 8 — Laura Gans Pictures Vermont  
*Laura Gans, Esq.*

### WHAT'S NEW

- 12 — 2026 Martin Luther King Middle School Poster  
Essay Contest Results  
14 — Recap of 2026 Mid-Winter Thaw  
16 — Allow Me to Introduce Myself – The VBA's New  
Executive Director  
*Kim Velk, Esq.*  
18 — Investing in Justice: Launching the Vermont IOLTA  
Leadership Circle  
*Hannah King*

### BE WELL

- 21 — Walter Judge Listens to his New Heart  
*Walter Judge, Esq.*

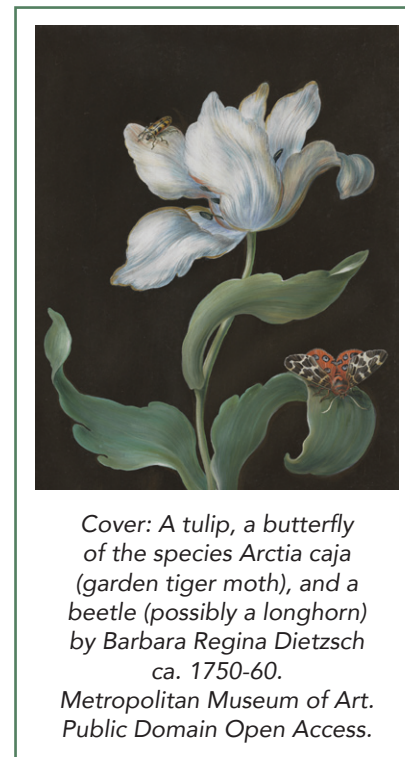
### 33 — BOOK REVIEWS

### 36 — IN MEMORIAM

### 38 — CLASSIFIEDS

## FEATURES

- 22 — Meet Vermont's Two New Supreme Court Justices – the Hons. Christina Nolan and  
Michael Drescher Interviews  
*Kim S. Velk, Esq.*
- 27 — Vermont Fair Employment Practices Act Does Not Require an Adverse Employment Action  
*Thomas Nuovo, Esq.*
- 29 — Nonjudicial Settlement Agreements Under the Vermont Trust Code:  
A Practical Framework for Use and Misuse  
*Ryan J. Mazalatis, Esq. and Livia K. DeMarchis, Esq.*
- 32 — Insurance Coverage Issues for Lawyers in the Era of Generative AI  
*Mark Basingthwaight, Esq.*



Cover: A tulip, a butterfly  
of the species *Arctia caja*  
(garden tiger moth), and a  
beetle (possibly a longhorn)  
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## ADVERTISERS INDEX

ALPS .....	16
Caffry Law, PLLC.....	6
Cleary Shahi & Aicher, P.C.....	28
CLIO .....	15
Community Financial Services Group .....	20
Dinse .....	17
Fidelity National Title .....	6
Gideon Asen .....	17
Heritage Family Credit Union .....	26
Houston Auto Appraisers.....	18
Law Pay .....	11
Marks Powers LLP .....	34
National Academy of Distinguished Neutrals.....	9
Northeast Delta Dental .....	31
O'Connor, First, Joslin.....	7
Pajcic & Pajcic.....	19
Primmer Piper Eggleston & Cramer PC.....	Inside Front Cover
Silverlake Psychological Consultants .....	4
TCi Technology Consultants, Inc.....	Inside Back Cover
Trust Company of Vermont .....	Back Cover
VT Private Eye .....	28

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# PRESIDENT'S COLUMN

## Meet VBA Board President, Jordana Levine, Esq.

**KV:** Welcome, Jordana, to the presidency of the VBA! By the time this issue of the Journal gets into people's hands, you will have been handed the gavel at the Mid-Year Meeting in Burlington. Lots of our members will know who you are if they made it to the meeting, or because they know you professionally, but we wanted to introduce you to everyone. Can we start with your background? Where did you grow up?

**JL:** I grew up in Sherman, Connecticut. It was a pretty incredible place to grow up. I went first grade through eighth grade at The Sherman School, and there were only 18 of us in my eighth grade class. Pockets of us have kept in touch, so it wasn't hard to bring us all together for a twenty-year reunion. We now have a group chat and try to get together every couple of years. Sherman doesn't have a high school, so we all went in different directions for high school.

**KV:** What brought you to Vermont?

**JL:** I came to Vermont to attend UVM.

**KV:** Can you tell us a little about your law practice?

**JL:** I feel lucky to have grown where I started in White River Junction. I practice state and federal criminal defense, and family law.

**KV:** Of course, Josh Diamond, our immediate past president, served an extra six months in his term and you're serving an extra six months in your term as president because of the untimely death in April last year of prior president elect, Rich Cassidy. Is that a daunting prospect? Or a special opportunity? Maybe both?

**JL:** Definitely both! I think Josh ended up with the more daunting side of the extra six months, having to cover two legislative sessions during his tenure and for that I am very grateful. The opportunity to be VBA president is a special opportunity on its own, but the extra time helped me feel less overwhelmed with transitioning all of the responsibilities of the VBA president into my schedule.

**KV:** What first drew you to become involved with the Vermont Bar Association, and how has your involvement evolved over the years?

**JL:** My first active involvement with the

VBA began in July 2018 when I was appointed to the Commission on Sentencing Disparities and Criminal Code Reclassification. But I'm embarrassed to say that other than that, while I've been a member of the VBA since 2005, I was not really active until the roll out of Odyssey during the pandemic.

My involvement in addressing the issues with Odyssey made me realize how much information and connection with the legal community I missed, and how important it is to pay attention to what is going on and be ready to advocate for change. That involvement grew into my participation on the VBA's Board of Managers, the Advisory Rules Committees for the Rules of Criminal Procedure and the Rules for Electronic Filing, the Odyssey Court Users Group, the AI Sub-Committee for Court Rules, and to be on a Hearing Panel for the Professional Responsibility Board.

**KV:** Are there mentors or experiences in your career that significantly shaped the way you approach the practice of law or leadership within the profession?

**JL:** Absolutely. Starting with my parents, they are the foundation of every opportunity that has shaped my life. After my parents, it was all the amazing educators going back to The Sherman School, the University of Vermont, and Vermont Law and Graduate School. There is one professor at UVM that I met by chance, who changed the direction of my education, and remained a huge support, friend, and mentor after graduation. Don Loeb challenged me to take his philosophy class, and that turned into a philosophy major. Even after I graduated, he made time to support my goal of going to law school, and provided guidance throughout the process. I learned so much from John and Marilyn Larkin when I managed their restaurant before heading to law school. Throughout law school and my career there are just too many people to name that have played important roles for me.

**KV:** As you step into the role of president of the Board of Managers, what are you most looking forward to in the coming year?

**JL:** I am most looking forward to working with you and seeing what we are going to do together. I am also a history lover – so the two big anniversaries we have com-



ing up celebrating America and Vermont are up there.

**KV:** How do you hope the association can continue to support Vermont lawyers at different stages of their careers—from new admittees to more experienced practitioners?

**JL:** The VBA works hard to connect with and maintain relationships with all aspects of the legal community. I hope that we can identify the different ways our membership needs to receive important information, and how everyone can be involved without feeling overwhelmed by the idea of that commitment.

**KV:** What role do you think the bar association should play in fostering collegiality and professionalism across the Vermont legal community?

**JL:** I think the VBA can play an important role that starts with the association's interactions with membership and creating dialogue about the issues that matter to attorneys.

**KV:** From your perspective as a defense attorney, what trends or changes have you noticed in the practice of law in Vermont in recent years?

**JL:** Clients want to interact differently. Everyone wants to email and text. Everyone wants pre-programmed reminders for appointments and court dates. But most significantly, everyone's emotional bandwidth is tapped out – people's threshold

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for anger, frustration is much lower.

**KV:** What challenges do you think Vermont lawyers are facing today, and how can the bar help address them?

**JL:** My two prior answers really address this question.

**KV:** What do you enjoy most about practicing law in Vermont?

**JL:** I'm able to see the impact of the work that I do here in my own community. I like the fact that we have a small, very connected bar. The sense of community is important to me.

**KV:** Outside of your work and bar service, what are some interests or activities that help you recharge?

**JL:** Family and friends – both are definitely involved. Other activities keep me going too, like running, rock climbing, gardening, and spending time with my dogs and chickens. Really just being outside and moving!

**KV:** If you could give one piece of advice to newer Vermont attorneys, what would it be?

**JL:** Yikes, I guess I would start with something that I learned from Rob Baker. He's the former Senior Vice President and General Counsel at IDX Systems Corporation

where I did a summer internship in law school. He told me to always ask for what I wanted. He said that my mentors, employers, etc. – can't read my mind or know that I am interested in a specific opportunity or project, and that I need to ask for the opportunities I wanted. The worst that could happen would be that I would be told "no", but having asked for the opportunity, the people in charge would know what I wanted and what I was interested in.

**KV:** Is there anything you'd like VBA members to know as you begin your term?

**JL:** I'm interested in what works and what doesn't work, we can only be as good as the communication we are having with the membership. Reach out! 📧



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# PURSUIITS OF HAPPINESS

## Laura Gans Pictures Vermont

I was honored when Kim asked me to contribute the "Pursuits of Happiness" column, and on a separate note, feel we are quite fortunate to have her at the VBA's helm. Congratulations, Kim!

It's hard to believe, but I have been practicing law for 27 years. Most of that time has been with Vermont Legal Aid, Inc., representing people lacking sufficient resources to survive, often compounded exponentially by their mental, physical, and/or intellectual disabilities. The work is challenging, and rewarding, both, and I am grateful I get to help people in such dire need. I do wish, of course, that my job will someday be made obsolete.

My work has ranged most recently from representing people facing homelessness because of eviction and loss of a housing subsidy, to people subjected to forced medication, involuntary sterilization, and end-of-life petitions, along with involuntary guardianship and commitment to a mental health institution or other locked facilities. In addition to straightforward lawyering, I often try to give my clients as much understanding and empathy as I can, or some way to move forward despite the outrageously difficult circumstances they are facing. I know it is very often not enough or not presented in a way that really reaches them, but it is always a huge part of the representation equation for me.



*Snowy cabin, Waterbury.*

When I am not working, I will most likely be out taking photos. This is pretty much my favorite thing to do. I love it. In fact, I am more-or-less obsessed with taking pictures, and I find that photography naturally helps balance out my work life.

I am unbelievably fortunate to have this outlet when so many of the people I serve lack the most basic necessities. My clients face the most onerous, often life-threatening and/or changing circumstances. It is often hard to square their immense challeng-



*Trees in Waterbury Center.*



*Flowers in Moretown.*



*Richmond barn.*

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es and pain with the security, stability and tranquility I have been very lucky to know and access all of my life.

For me, taking photos is both transportive and life-affirming, whether I am shooting snow-covered evergreens or a window reflecting the bright morning light. Part of the thing I love about photography is its ability to convey the feeling I get when taking these photos to those who are viewing them.

My subjects are mostly of the natural world, mostly here in Vermont; not only because its beauty is endless, but also, for the more practical reason that I am not set up to travel much at the moment. (I am planning to do so down the road). I also love street photography and want to do more of that as well.

I don't have any formal or technical training beyond what I have learned from Google or watched on YouTube. But grow-



*Flowers and fence in my yard*

ing up, my parents were both involved in the arts. I believe they imparted the same love and appetite for art to me.

I have chosen a few photos to share here. I give much humble thanks for your time viewing them, and reading my thoughts, which I hope inspire you to do what you love alongside lawyering.

These photos were all taken in Vermont over the last few years. These are among my current favorites because they depict objects and lifeforms in a way that I hope highlights their essential character. 📷



*Apartment building in Montpelier.*



*Great Blue Heron at the Colchester Causeway (a new favorite spot)*

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# WHAT'S NEW

## Results for the 9th Annual VBA Martin Luther King, Jr. Middle School Poster-Essay Contest

Each year, a committee comprised of representatives from Vermont Bar Association staff, the VBA Diversity Section, and the VBA Young Lawyers Division, choose a quotation by Dr. Martin Luther King, Jr. to inspire Vermont's middle school students to participate in a Poster-Essay Contest. This year's quotation was, "Courage is an inner resolution to go forward despite obstacles."

Students from around the state are invited to participate. After removing the names and identifying information from the entries, the judges choose a winner, a first runner-up, and a second runner-up. The judges this year were again impressed with the varied and thoughtful responses of all the contestants.

In addition to being published here and on the VBA website, the winning entries were displayed at the VBA Young Lawyer's Division Mid-Winter Thaw in Montreal over the 2026 Martin Luther King, Jr. holiday weekend. In addition, the winners and their families were invited with their teachers to an award ceremony in March with Gov. Phil Scott followed by a meeting with the Vermont Supreme Court justices. The winning entries are then displayed in the lobby of the Supreme Court. All entries outside of the top three were awarded honorable mentions, all of which were well-deserved.

### 2026 Winners



### First Place Winner

The top prize this year went to Isabel Bridgeman of Main Street Middle School (5th Grade). Her colorful poster features MLK leading a small group of protesters. The judges were impressed by the verve of her poster and the touching sentiment of her essay. Her effort to research and share details of MLK's life and activism was also impressive.

Isabel's first-place essay is printed below.

Courage is an inner resolution  
to go forward despite obstacles."  
- Dr. Martin Luther King, Jr.



**First Runner Up**

First Runner-Up went to Dorothy C. Webb of Main Street Middle School (5th Grade). Her poster had great charm, depicting a stylized African American child reaching for the stars, bruised, but undaunted. Her essay describes her thought process in using the image to convey MLK's message of hope through resilience.

**Second Runners Up**

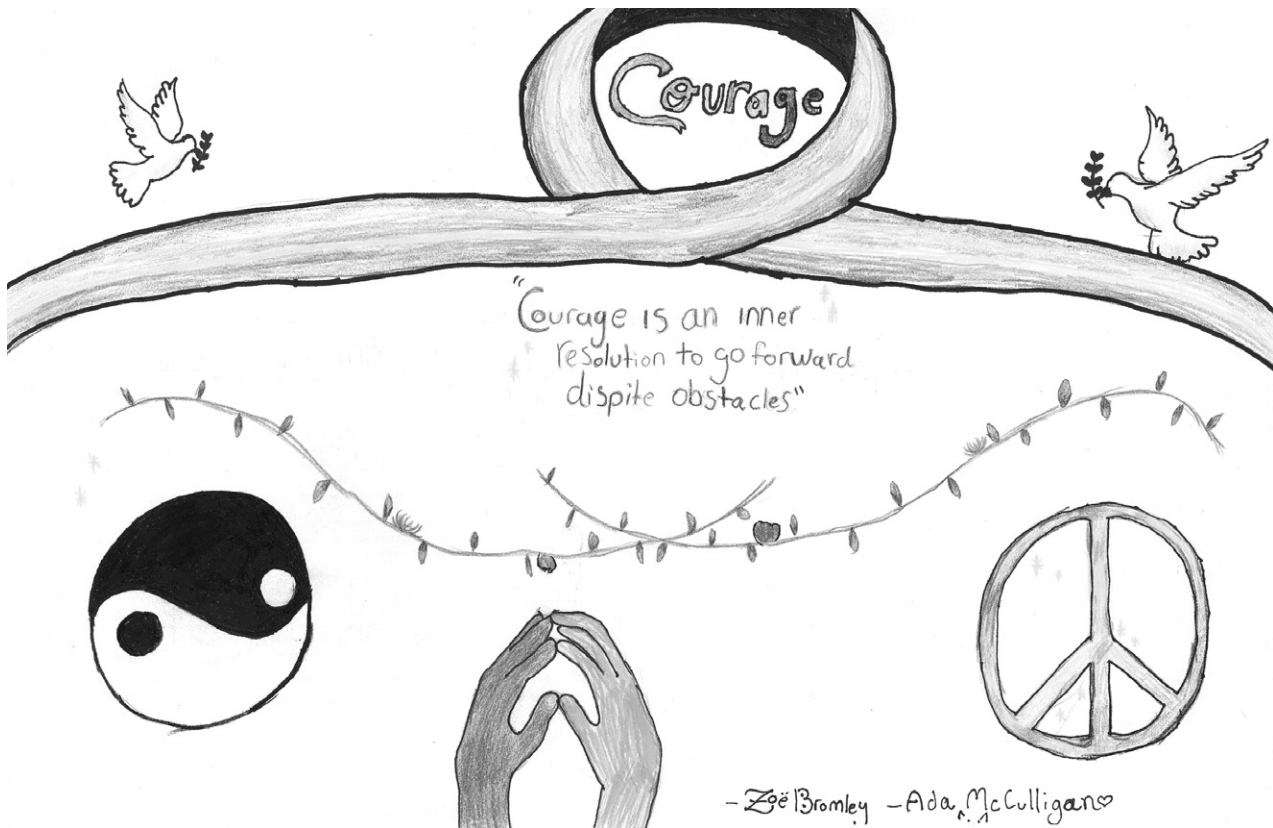
Second Runners-Up were the team of, Zoe Bromley and Ada McCulligan, also of Main Street Middle School (5th Grade). Their poster depicts various symbols of peace and of obstacles. They detail the meaning of the symbols in their essay and relate them to MLK's life.

**First Place Essay**

"*Courage is an inner resolution to go forward despite obstacles*"  
- Martin Luther King Jr.

In my poster Martin is leading a protest, but there are only four people there. This never really happened to him but his life had many obstacles. For instance, once someone bombed his and his brother's houses. But that never stopped him. He showed people love even when people tried to kill him. He kept protesting his whole life. Actually Martin died protesting. He was helping garbage workers on strike in Tennessee in 1968 when he was shot. Martin had so much courage. He was always cautious about being assassinated; he once said "Surely I don't want to die but if anyone has to die, let it be me." As to show he doesn't want anyone to get hurt but himself if that was the case. He was a very important person in history. He changed lives and influenced lots of people, for example my school has a space for Black Indigenous People Of Color, or BIPOC for short. It's a room where black and/or hispanics, like myself and other people like that can be themselves freely and not be scared to. In conclusion Martin Luther King was one of the most important activists and left a mark even when he died, and more and more people are learning about him every day.

Isabel Bridgeman  
Main Street Middle School (5th Grade)



- Zoe Bromley - Ada McCulligan

# WHAT'S NEW

## 2026 YLD Mid-Winter Thaw Recap



The Young Lawyers Division once again hosted the Vermont Bar Association's beloved Mid-Winter Thaw in Montreal over the Martin Luther King Jr. holiday weekend.

This year's gathering brought Vermont legal professionals together for a weekend of camaraderie, learning and celebration at a new location: Le Westin Hotel, situated at the edge of Montreal's Chinatown and Old Montreal.

More than 200 members of Vermont's legal community attended — an impressive turnout, especially given the cold and snowy weather that accompanied the weekend. Over the two-day meeting, attendees had access to 9.25 CLE credits, making the event both professionally enriching and socially rewarding.

The weekend also offered plenty of opportunities for attendees and their guests to connect outside the classroom. Vermont

Law and Graduate School hosted a Friday evening cocktail reception that featured drinks, sweeping nighttime city views and a crowd-pleasing poutine bar.

Saturday morning's popular brunch featured a standout program, beginning with a keynote address by Maj. Gen. Gregory Knight, adjutant general of the Vermont National Guard. Knight shared insights into the Guard's history and ongoing work before taking questions from attendees. His appearance was arranged by immediate past YLD President Justin Brown, who also serves as a Guard member.

Another memorable brunch moment was the presentation of the Peter W. Hall Award, which the YLD awards annually to a Vermont attorney or judge who exemplifies the qualities for which the late Judge Hall was known: integrity, humility, empathy, good humor, love of Vermont, and an unwavering commitment to public service

and the rule of law. Members of the Bar are invited to nominate candidates for the award each year, and the winner this year was the recently retired Vermont Supreme Court Justice, Willam Cohen.

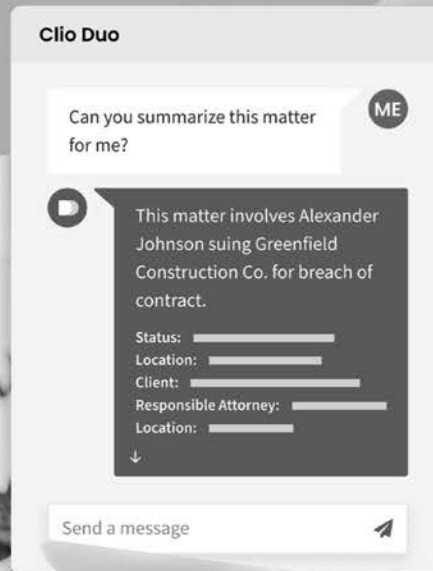
YLD Treasurer Zach Dayno presented the award to Justice Cohen. Cohen, who knew and worked with Hall, spoke movingly about receiving the honor. He was recognized again at the VBA's midyear meeting in Burlington in March with a President's Award.

Following brunch, attendees transitioned into a full day of CLE programming, rounding out a weekend that successfully balanced professional development with community building.

The event's success is a testament to the hard work of the YLD organizers — especially current Chair Ryan Long of Primmer Piper — along with the CLE presenters, the staff at Le Westin and all who attended. ❧



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## WHAT'S NEW

# Allow Me to Introduce Myself — The VBA's New Executive Director

As befits the season, this issue of the VBJ is filled with introductions and new beginnings. The VBA has a new Board President, Jordana Levine (you can read an interview with her at the front of the magazine). We also welcome two new Vermont Supreme Court Justices—a signal event in a state with a five-member Supreme Court. You can learn more about our new Justices in this issue as well.

If you're holding a paper copy of the Journal, you may also notice it looks a bit different from previous issues. Our long-time printer, Stillwater Graphics, has closed its printing business. We are sorry to see them go, but pleased to introduce our new printer, Sutherland Printing—which also gives us a bit more color to work with in these pages. Let us know what you think.

And then there is me: your new Executive Director.

Many of you already know me, either from my years as an attorney in our small state or from my four-year tenure here as

the VBA's Director of Education and Communication. When our former Executive Director, Bob Paolini, announced last year that he was going to retire—for real this time—I decided to apply for the role.

Bob is a tough act to follow. More than one person has pointed this out to me, and I agree. I'm glad to say that Bob is staying on through the remainder of this legislative session as I learn the job. For the time being, I am also continuing in my previous role. Since there's no one on staff—at least not yet—to interview me, I thought I would simply introduce myself.

I was officially offered the position at the January board meeting, held in Montreal during the Mid-Winter Thaw. I stood up and said hello to the crowd at brunch, following a gracious introduction from our now past president, Josh Diamond.

That moment had a particular resonance for me personally. I was born and raised in upstate New York, but I began my life in law at McGill's Faculty of Law (I earned my



law degree there in 1995—a long story). My family has longstanding ties to Montreal, but I have spent my entire legal career in Vermont—from 1995 to this very minute.

In my 30 years as a Vermont attorney, I have worked in most of the legal settings our profession offers: small firm, large firm,

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a stint as a prosecutor, and mostly as an Assistant Attorney General in the Agency of Human Services. Most recently, of course, I have been here at the VBA. It has been my favorite law job ever.

I was also a VBA board member back in the late 1990s as President of the Young Lawyers Division. Some of the people who worked at the VBA then are still—blessedly—here today.

At our recently completed Mid-Year Meeting, Josh surprised Bob with a President's Award. In his short, extemporaneous remarks, Bob emphasized the contribution of the staff, and he was absolutely right to do so. The staff at the VBA are exceptional: dedicated, intelligent, and deeply committed to serving this profession. They were a huge reason why I decided to seek the Executive Director role.

I expect you already know this if you have ever called our office or stopped for a chat at the registration table during one of our major meetings. Lovely people, all. I sought this position because I wanted to help preserve the high-functioning force for good that I found here at the VBA. I am also a true believer in the VBA's mission: to serve the profession and the public.

It has never been easy to be an attorney. We take on the cares and causes of others. We protect their most critical interests. We all know the sleepless nights and the terrifying moments on our feet in court, trying to do the right thing—the best we can—for our clients.

Our mission at the VBA is to help attorneys do what they need to do, do it well, and support them in work that is so critical to human flourishing.

As ever, our profession faces real challenges. Is AI an existential threat or an unparalleled opportunity? Both? Neither? We are in the midst of figuring that out together.

What's more, in addition to our regular professional duties, our country is at a critical moment. Those of us with legal training—and with oaths to uphold—carry a special responsibility. The VBA is not a partisan entity, but our Board of Managers has repeatedly affirmed our commitment to the rule of law, the independence of the judiciary, the primacy of the Constitution, and the separation of powers. These are not partisan issues. They are foundational to life in our country. And these principles will not defend themselves. I'm here for that.

I'm also here to make the VBA useful to its members, who I know are dedicated to doing the best job they can. I look forward to hearing from you and working with you.



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# WHAT'S NEW

## Investing in Justice: Launching the Vermont IOLTA Leadership Circle

The Vermont Bar Foundation (VBF) is pleased to announce the launch of the Vermont IOLTA Leadership Circle, a new voluntary initiative designed to strengthen and stabilize funding for civil legal aid across our state.

For decades, Interest on Lawyers' Trust Accounts (IOLTA) has served as a cornerstone of funding for civil legal services and justice initiatives in Vermont. Interest earned on lawyers' trust accounts helps fund critical legal assistance for Vermonters facing housing instability, domestic violence, immigration challenges, barriers to public benefits, and other serious legal matters. These funds support organizations working on the front lines of access to justice in every corner of the state.

Yet one important reality often goes unnoticed: the interest rates offered by financial institutions directly affect how much funding is available to support this work. When rates fluctuate, or when IOLTA accounts are not structured to offer competitive returns, the impact is felt by legal aid providers and, ultimately,

by the Vermonters who rely on them.

The Vermont IOLTA Leadership Circle was created to address this challenge by establishing a clear, transparent framework that encourages strong banking partnerships and long-term sustainability. Participation in the Leadership Circle is entirely voluntary for financial institutions. The initiative recognizes banks and credit unions that choose to demonstrate leadership by offering competitive interest rates on IOLTA accounts.

Under the Leadership Circle framework, participating institutions commit to offering an interest rate at or above 65 percent of the low end of the Federal Funds Target Rate, along with a minimum floor rate of 1 percent that applies if the Federal Funds Target Rate falls below that level. This dual structure helps ensure that IOLTA revenue remains more stable and predictable - even during periods of declining or fluctuating interest rates.

Dave Gurtman, Chair of the Vermont Bar Foundation's IOLTA Committee, emphasized the broader goal of modernization and align-

ment with national best practices. "We are excited to launch the IOLTA Leadership Circle as a way to modernize Vermont's IOLTA program and bring it in closer alignment with best practices in peer states," he said. "By encouraging and recognizing financial institutions that commit to meaningful interest rates on IOLTA funds, we strengthen the foundation of sustainable support for the Vermont Bar Foundation and the critical civil legal aid organizations it funds."

The creation of the Leadership Circle was guided by the VBF's IOLTA Committee and approved by the Foundation's Board of Directors. Together, they sought to create a clearer and more transparent structure that benefits financial institutions, members of the Bar, and the justice community as a whole.

Participating institutions receive public recognition and program materials outlining their commitment to access to justice. The Foundation also provides documentation that may support Community Reinvestment Act (CRA) activities, offering banks and cred-

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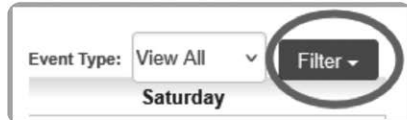
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it unions a meaningful way to demonstrate community investment through their IOLTA practices

In the coming weeks, members of the VBF's IOLTA Committee will conduct outreach to banks and credit unions across Vermont to introduce the Leadership Circle and invite voluntary participation. The Foundation has developed comprehensive materials to support these conversations, including clear benchmarks for participation and information about the benefits of joining.


Members of the legal community also play an important role in strengthening IOLTA funding. As outreach begins, attorneys are encouraged to familiarize themselves with the Leadership Circle and to consider how their choice of financial institution can help advance access to justice in Vermont.

IOLTA remains one of the most powerful collective tools the legal profession has to ensure that low-income Vermonters have access to justice when they need it most. The Vermont IOLTA Leadership Circle represents an important step toward stabilizing and modernizing that tool - reinforcing the partnership between the legal community and financial institutions in service of a more just Vermont.

To learn more about the Vermont IOLTA Leadership Circle, visit [vtbarfoundation.org/programs/iolta/](http://vtbarfoundation.org/programs/iolta/) or contact the Vermont Bar Foundation directly. 📞

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# BE WELL

## Listening to My (New) Heart

A couple of weeks ago, I flipped open the Winter 2025 edition of the *Vermont Bar Journal*, and was delighted to see photos of lawyers practicing cardiopulmonary resuscitation (CPR) at the September 2025 VBA Annual Meeting. How appropriate, because lawyering is a very stressful job!

I did not attend that meeting. Maybe I should have because of the CPR training that was offered. You see, I had a heart attack in January 2025 – a heart attack that culminated in a total heart transplant a month later. I survived to tell the tale and am back at work part-time as an attorney after lengthy hospital stays at UVM Medical and Tufts Medical, and ongoing medical treatment. But, honestly, it was an extremely close call. I will not blather on at length about my heart attack, except to mention that it was actually a “slow-motion” event that was happening even as I was taking a deposition (of a retained medical expert for the plaintiff, ironically enough).<sup>1</sup>

As I write this, it has been one year since my transplant (my “heart-iversary,” if you will): Feb. 28, 2025. I feel very lucky, and I am grateful to be where I am: sporting a healthy, well-functioning heart (from an anonymous donor) that is 25 years younger than the rest of me<sup>2</sup>; back at my home in Burlington; independent, and not connected to a pump; able to live my pre-heart attack daily life, with adjustments (and improvements!); enjoying better health than I’ve had in many years; exercising (plus lots of shoveling this winter!); able to work (part-time); and, overall, feeling better than I did before my heart attack.

Which is not to say that, having survived a heart attack, my life is stress-free. Being a practicing, Type-A lawyer at age 65 mixes poorly with having to devote so much time in the week to medical and health care appointments, semi-retirement planning, and administrative issues, such as disability applications and forms; Social Security applications and forms; dozens of forms involved in the transition to Medicare health coverage and the supplemental insurances required; transition to part-time / pre-retirement status at my firm; routinely checking the online “MyCharts” medical portals of the Tufts and UVM medical centers for test results and new appointments; checking the retirement account; scheduling many medical appointments and check-ups; and keeping track of medical “co-pays,” etc. Every lawyer in the 65-67 age range – even

without major health issues – has or soon will feel some sense of the bureaucracy of the aging and retirement planning process. It is a full-time job! Add to that my ongoing dialysis treatments (3 X per week until I receive the kidney I need)<sup>3</sup> and you have a very full week! And the legal caseload – although mercifully reduced – is still there, the daily deluge of emails is still there, the deadlines are still there, and the clients want and deserve prompt attention.

But I am alive, do have my health, and honestly just don’t care quite as much anymore about arbitrary, artificial, and mostly self-imposed deadlines, or doing everything myself. That is to say, even after I get a kidney transplant and am off dialysis forever (soon!), I’m never going back to a full-time caseload. No one at age 65, in any profession, should work full-time. Especially lawyers, with the stress that representing clients entails. Even with a reduced caseload, the stress of often being behind on my “To Do” list takes a mental toll.

Changing your lifestyle, *i.e.*, not working all the time, is good, even if, in some cases, like mine, it’s drastically forced upon you by the physical body shutting down or not functioning properly. A forced slowdown is better than no slowdown. This is my warning to lawyers at or approaching retirement age and wanting to “slow down”: it’s really hard to do – even if you don’t simultaneously have serious health issues to contend with! If it hadn’t been for my heart attack, I’m afraid nothing in my life would have changed. I would have continued doing what I always did: work all the time, under stress, and with relatively little physical activity and “outside time.” For those senior attorneys who have been putting off thinking about and planning for “life after lawyering”: it only will get harder the longer you wait after age 65. So, do not wait to make a realistic plan to ease out of full-time work. Also, in the meantime, get yourself out of the office and get physical activity. A heart attack is not a retirement plan!

Thanks to VBA Attorney Well Being Section Co-chair Samara Anderson for her contributions to this essay.

*Walter Judge is a Senior Director at Downs Rachlin in Burlington, focusing his practice on business and commercial litigation. He has represented insurance companies, product manufacturers, property owners, intellectual property owners,*



*trucking companies, etc. Walter has tried approximately twenty-five cases to jury verdict.*

<sup>1</sup> Editor’s Note – For those with an interest in all the details, you might want to listen to Walter’s Dec. 2025 interview with Mark Johnson on the “802 News Podcast.” The “Walter’s New Heart” episode is available wherever you get your podcasts including Spotify and Apple podcasts and also on the WCAX website: <https://www.wcax.com/page/802-news-podcast/> Walter was also interviewed in March 2026 for a podcast by the International Association of Defense Counsel, “A Change of Heart: Resilience, Perspective, and Life After Transplant.” You can hear that at <https://www.spreaker.com/episode/a-change-of-heart-resilience-perspective-and-life-after-transplant--70656782>

<sup>2</sup> When I am asked about my age, I am tempted to respond, “What part of me are you asking about?” The question will be even more interesting in a few months when I receive a kidney transplant, as it, too, like my younger heart, is very likely to be younger than the rest of me.

<sup>3</sup> The lack of blood flow from a failing heart can damage the kidneys. Sometimes they recover; sometimes they don’t, and dialysis is necessary until a kidney transplant. 🙏



# Meet Vermont Supreme Court Justice Christina Nolan

**KV:** As all Vermont attorneys know, Christina Nolan is one of our two new Vermont Supreme Court justices. Justice Nolan, on behalf of Vermont Bar Journal readers everywhere, thank you for taking time to meet with us, and congratulations on your appointment.

**CN:** It's an honor to be a new member of the court. I'm very happy to chat, and thank you very much.

**KV:** You were nominated by Gov. Scott in January of this year to fill the vacancy on the court left by the retirement of Karen Carroll. You were confirmed by the Senate on February 3. Tell me, did the court put you right to work?

**CN:** Right to work. I watched the Senate confirmation vote on the second floor of the courthouse. I was in a room with my partner, Jill, our court administrator, Teri Corsones, and Leda Moloff. As soon as the vote was announced, Chief Justice Reiber and Justice Eaton entered the room, greeted Jill and me warmly, and gave us a tour of the building. Directly after that, the chief justice swore me in, and very shortly after that — the same day — I was told about my assignments and was off to the races.

**KV:** Can you share a little about your feelings putting on that robe, sitting on the bench for the first time?

**CN:** It's a cascade of feelings. It is momentous and humbling, and I had some jitters. Suddenly, you have to make a series of decisions of enormous importance to the litigants — their case, their moment in court, often the most important day of their lives — and those decisions can affect

Vermonters for generations. The weight of that responsibility, and what those decisions mean to people, has motivated me to be as prepared and thoughtful as I possibly can when the robe goes on.

I was also struck by a powerful sense of reciprocal appreciation for everyone in the courtroom. I am now learning firsthand about the diligence and hard work that go into a judge's arrival on the bench, and it has deepened my respect and appreciation for our hardworking Vermont judges, their chambers and staff, so many of whom I've had the privilege to appear before. And, of course, coming directly from private practice, I remain keenly aware of the hard work that goes into the lawyers' preparation of their arguments, so I'm determined to come to every hearing as prepared as I possibly can be, so they and their clients receive the hearing they deserve.

**KV:** You're coming to the court after working for several years at Sheehey Furlong & Behm in Burlington. Can you tell me about the work that you did there?

**CN:** I don't think I could have had a better experience in private practice. I worked with a tremendous team of lawyers and staff at Sheehey and became deeply invested in the clients and my coworkers. It was bittersweet to have to leave them. Not only did we work hard every day advocating for clients, but the office also had an ethos of mutual support and teamwork, which you can't take for granted anywhere, let alone in private practice. I think that Sheehey culture — as much as the raw talent of the people in the office, whether lawyers, staff, or paralegals — made for a special workplace



and led to excellent results for clients. I believe my time at Sheehey, practicing as a civil litigator and criminal defense attorney in state and federal courts all over Vermont, was essential experience to prepare me for the bench.

**KV:** Can you walk us back through your career? You were, as the whole bar knows, the U.S. attorney for Vermont before you went into private practice at Sheehey. Can you talk about your experience there — maybe the highlights and the challenges of that work?

**CN:** Every public service opportunity is a gift. Before becoming the U.S. attorney,



I had served as a line assistant U.S. attorney in the office's criminal division, and I loved being a federal prosecutor. The role gave me the chance to advance justice every day, and it was deeply rewarding to advocate for crime victims, survivors and their families.

When I became U.S. attorney, it was a great privilege to lead law enforcement and the office, especially as a native Vermonter with a commitment to this state and existing strong relationships with the office's lawyers and staff. We accomplished some meaningful things during those years, but the credit truly belongs to the entire office: the outstanding assistant U.S. attorneys, support staff and paralegals who fought hard for justice.

Through their tireless efforts, day in and day out, the office secured significant results in the Purdue Pharma and EB-5 Northeast Kingdom fraud cases and other noteworthy matters, such as the Brian Folks human trafficking conviction. We were equally proud of our work partnering with community and treatment stakeholders — for example, sponsoring the opening of the recovery house at Jenna's Promise and launching Face of Recovery, an addiction prevention documentary focused on the story of the remarkable recovery of Vermonter Justin Goulet.

I think one of the greatest challenges of the U.S. attorney job was deciding how to allocate resources. It was very hard to triage limited resources when every case carried great importance, and every Vermont community and local prosecutor needed help and support. I found it hard to say no sometimes, and that might have led to a few too many yeses, but that takes me back to lauding the hard and unsung work of the outstanding public servants who served with me at the U.S. attorney's office. They managed to get all the work done, and they did it well.

There were other challenges, to be sure. It was the first time, for example, I had to

interface with the press because the job required me to become spokesperson for the U.S. attorney's office and the work of Vermont law enforcement.

**KV:** And let's keep time traveling backward. Can you trace your path to the Vermont U.S. attorney's office for us?

**CN:** I am a born-and-raised Vermonter. I got my undergraduate degree at the University of Vermont and decided to go to law school after taking constitutional law classes in the political science department at UVM. I attended Boston College Law School and started my career in the Boston area, first clerking for Dennis Saylor of the U.S. District Court for the District of Massachusetts, then working as a litigation associate at Goodwin in Boston for about five years.

At Goodwin, I had the privilege to be selected for a six-month rotation to serve as an assistant district attorney in Middlesex County, Massachusetts. That's when I got bitten by the courtroom and public service bug. Shortly after the rotation, I left Goodwin to serve as a "special" assistant district attorney in Middlesex County. It was called "special" because the district attorney's office did not have funds to pay me when I joined, so I worked without compensation until I accepted an offer to work as an assistant U.S. attorney in the criminal division of the U.S. attorney's office in Vermont.

**KV:** So other than your time in Massachusetts for law school and the work you did there, you've been all Vermont. Do I have that right?

**CN:** All Vermont except for that early-career excursion to the big city.

**KV:** Were your parents Vermonters as well? Can you tell us a little about your upbringing?

**CN:** I grew up on Woods Hollow Road in Westford with my siblings Adele, Mary and Sam. My parents are also Vermonters, my

mom from Jericho and my dad from Underhill. They met at MMU and got together in college, and they both attended UVM. Woods Hollow is a dirt road; we had the station-wagon-stuck-in-mud-during-mud-season stories, we played in the woods, and we tapped trees in the spring. It was a beautiful way to grow up. I am grateful, and it's a big part of my motivation to give back, to serve the state that gave me so much.

When we were young, my dad worked as a carpenter and my mom stayed home. Later, my dad supervised the civilian maintenance crew at the Vermont National Guard, and my mother taught elementary and high school music at several Vermont schools. Around junior high, we moved to South Burlington, and over the years I attended Westford Elementary, Mater Christi and Rice Memorial High School. I also have three younger siblings from my dad's marriage to my stepmother, Michelle: Jake, Julia and Sophia.

**KV:** What was the family's reaction to your nomination?

**CN:** They were very happy and supportive. My parents, brothers and sisters, and friends told me variations of "this is where you belong," which is exactly what you need to hear from your loved ones when you embark on such a big assignment.

**KV:** OK — let's clutch and shift again to your making this move onto the bench. Was that a longstanding career goal for you? Can you tell me about your thought process around applying for the seat on our Supreme Court?

**CN:** I did not have a long-term plan to become a judge. I have always felt the pull of public service, but my work in private practice advocating for clients of all kinds, especially my court-appointed criminal defense work, had become very rewarding and meaningful for me. I was not seeking to leave my job at Sheehey, but when they



announced an opening on the Supreme Court, I recognized it could be a rare — if not once-in-a-lifetime — public service opportunity, and I felt called to apply.

Justice Nancy Waples has been a longtime friend, mentor and role model of mine, so I had the perfect resource for asking questions about the ins and outs of the job before formally applying. Everything I learned from Justice Waples — and just knowing of her deep commitment, love and appreciation for the job — confirmed my intuition that this was an open door I was meant to try to walk through. Having my dear friend Justice Waples on the bench with me has made this transition all the more meaningful and poignant.

**KV:** Did the governor call you personally to let you know he was going to nominate you? What was your reaction?

**CN:** Yes. On New Year's Eve. As best I recall, he said, "Are you still interested in being an associate justice of the Vermont Supreme Court?" I was speechless for what felt like a few moments, and then I came to and said, "1,000 percent."

The other thing I recall is that my phone intercepted the governor's incoming call and I watched my screen asking him to identify himself, which is not something my phone usually does. I didn't know it could do it. I could see him on my screen identifying himself as Gov. Phil Scott, so as soon as I got on with him I felt a little embarrassed, and I apologized for the rudeness of my phone and tried to explain it has a mind of its own. He was, of course, totally gracious.

**KV:** Of course, Justice Waples was the first visible minority to serve on our Supreme Court. I believe Beth Robinson, who was appointed to the U.S. Court of Appeals for the 2nd Circuit in November 2021 after 10 years as an associate justice on the Vermont Supreme Court, was the first out LGBTQ justice that we had, which would make you the second. As near as I could tell, this was a complete nonissue in your nomination and confirmation process, but I wonder if you feel some special weight of responsibility or that there is a historic element to your service here.

**CN:** I do feel the weight of responsibility. I was fortunate to go through a confirmation hearing in a place like Vermont, where my identity did not trigger public opposition. But that cannot be taken for granted

anywhere — it was only when I was in my late 20s that the Vermont Legislature enacted marriage equality — and diverse candidates for public service still face headwinds across this country. So those of us in positions of leadership here in Vermont must recognize that we are setting an example for many and giving hope to many, including young people from all walks of life. I absolutely feel a leadership responsibility to be a resource and mentor, and I hope that my service on the Vermont Supreme Court encourages people of diverse backgrounds not to be afraid to step forward and walk through those open doors.

**KV:** Did you practice before the Vermont Supreme Court as an attorney?

**CN:** I did have experience with appellate work as a civil litigator and as a federal prosecutor. At Sheehey, I handled an appeal before the Vermont Supreme Court shortly before I was nominated by Gov. Scott. I also handled a number of appeals before the 2nd Circuit while I served as an assistant U.S. attorney.



**KV:** Can you tell me a little about your interests outside of work?

**CN:** You know what's surprising me about this question is that if you had asked me five years ago, my answers would be quite a bit different than they are now. Right now, I'm very into my hot yoga practice. It's really helped me find some inner calm and strength and pursue growth in a more inward-facing way. I'm not sure how much progress I'm making, but that's another story.

In the last several years, I developed a love of soccer. The NFL had previously been my near-singular sports focus. I'm especially invested in English soccer, the Premier League, and my team, Everton. Up the Toffees. (Another member of the Court

is a fan of Everton's archrival Liverpool, and yet another member is a fan of the Wolverhampton Wanderers.)

For Major League Soccer here in the U.S., I root for Inter Miami and Lionel Messi.

I spend a lot of time hanging out with — and prolifically photographing — my beloved rescue cats, Felix and Huckleberry.

**KV:** Having seen lots of lawyers in practice, any tips for those who will be arguing in front of you in your new role?

**CN:** Well, I used to have nerves at appellate oral arguments, and plenty of other times in court. I would say that's a good thing — embrace it, because it's a reflection of the seriousness with which you are taking the argument and proof that you have the appropriate level of concern for your client. It's probably not a good thing if you stop feeling those butterflies.

On the other hand, let them fly away in due course because we on the bench are just as anxious about getting it right for the parties and the community as you are to get a good result for your client, so we

are all feeling approximately the same way, just coming at the problem from different angles.

Other than that, if you arrive prepared and are yourself, you won't go wrong.

**KV:** Is there anything you'd like to add to introduce yourself to our VBJ readers?

**CN:** I would like to thank everyone in the Vermont judiciary, some I've known for years and some I'm meeting for the first time, for greeting me with such a warm welcome. The transition, much as it's been a challenge, has felt as seamless

as possible because of the support I've received from folks across the judiciary. I've stepped into a wonderful community, and I'm very grateful. I look forward to meeting more of you as time goes on.

*Thanks to state court administrator Teri Corsones and the Justices for their photos of their investiture ceremonies. Videos of the ceremonies are available on YouTube. Justice Nolan's at <https://www.youtube.com/live/Pie4kMkyUwk> and Justice Drescher's at <https://www.youtube.com/live/Xprt2nKqRYI>.*

## Meet Justice Michael Drescher

**KV:** Welcome to the bench, Justice Drescher. Let's start at the beginning. Where are you from originally?

**MD:** Thank you. I grew up in Southern California.

**KV:** I know you didn't start out planning to become a lawyer. Can you talk a bit about how and when you got onto that path?

**MD:** When I was initially thinking about a career, I didn't think being a lawyer would be particularly enjoyable. My father was an attorney. He was always bringing work home in heavy briefcases — this was well before computers — and spent long hours at the office.

My first job after college was at a large advertising agency in Chicago. The accounts I worked on included an orange juice brand, a cookie and cracker company, and a mattress company. After about four years there, I decided I did not want to spend the rest of my life helping companies market products to consumers. I wanted a career that would feel more meaningful.

At that point, I reconsidered my previous aversion to being a lawyer. I applied to a few law schools, and when I got into Northwestern, that was an easy choice because my wife Chrissie had a great job in Chicago and we could stay there.

**KV:** How and when did that path bring you to Vermont?

**MD:** After law school, my first job was as a law clerk to Judge Fred I. Parker of the U.S. Court of Appeals for the 2nd Circuit. His chambers were in Burlington, and we traveled to New York City for arguments about one week each month. It was an incredible experience.

During that clerkship year, Chrissie and I decided we wanted to build our life in

Vermont. At Judge Parker's suggestion, I spoke to a handful of firms and eventually landed at the Burlington firm then known as Sheehey Brue Gray and Furlong.

**KV:** Can you outline your legal career here in Vermont?

**MD:** I gained valuable litigation experience during my time at Sheehey. I learned from some extraordinary litigators, including Jeff Behm, Don Rendall and Christina Reiss. Unlike my law school classmates who went to work at big law firms, I immediately was taking depositions and handling matters in court as a relatively junior lawyer. I tried cases before juries and worked on appeals. I also represented several clients before what was then known as the Public Service Board, now the Public Utility Commission.

During my clerkship year, I got to know several assistant U.S. attorneys who worked at the U.S. attorney's office in Burlington. After I started at Sheehey, I paid attention when that office was hiring.

There was an opening in that office when 9/11 happened. Shortly after that day, I submitted an application. I received the offer to work there from Peter Hall on Thanksgiving weekend 2001 and joined the U.S. attorney's office as an assistant U.S. attorney in its civil division in January 2002.

As a civil AUSA, my work included defending the United States when it was sued. Sample cases included defending the U.S. Fish and Wildlife Service when its program to control the invasive sea lamprey in Lake Champlain was challenged under the National Environmental Policy Act. I also defended medical malpractice cases brought against federal health care providers, such as the Veterans Administration. In one case, I defended the CIA in a Freedom of Infor-



mation Act case.

I was also involved in affirmative investigations, including, for example, the investigation into what was then known as Fletcher Allen Health Care, now UVM Medical Center, regarding false statements made relating to its Renaissance Project construction of its ambulatory care center and underground parking garage.

In 2009, I moved from the civil division to the criminal division. As a criminal AUSA, I spent a lot of time investigating and prosecuting gun and drug offenses. I was also the lead AUSA in prosecutions related to a \$30 million Ponzi scheme premised on raising money for a movie production.

I also teamed up with a civil division AUSA to investigate and prosecute Purdue Pharma in connection with paying a kick-back to an electronic medical record company in an effort to induce increased opiate prescriptions. During that case, my fellow



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new justice, Christina Nolan, was leading the office as the U.S. attorney.

My work also included prosecutions involving the sexual abuse of children.

As both a civil and criminal AUSA, I handled several appeals before the U.S. Court of Appeals for the 2nd Circuit.

In 2023, I became the first assistant U.S. attorney, the No. 2 position in the office and the highest role for a career AUSA. When the 2024 presidential election resulted in a new administration, upon the resignation of Nikolas Kerest on Jan. 20, 2025, I automatically became the acting U.S. attorney pursuant to the Federal Vacancies Reform Act.

I continued as the nonpolitically appointed leader of the office until I resigned Jan. 9, 2026, after Gov. Phil Scott announced that I was one of his choices for the Vermont Supreme Court.

**KV:** Looking back, are there particular experiences that you feel most prepared you for serving on the Vermont Supreme Court?

**MD:** There are no specific experiences that come to mind. I assess that it is the entirety of my 30 years of practice in Vermont — in state court, administrative proceedings and federal court — that has prepared me. I've made plenty of mistakes as a lawyer and have seen others make mistakes, too.

I know how hard it is to try a case, handle a suppression hearing and argue an appeal. I also appreciate how stressful it can be to be subject to a judge's authority. It would be nearly impossible to cite a specific moment or experience that alone prepared me for my new role.

**KV:** What has surprised you most in your first weeks on the Vermont Supreme Court, if anything?

**MD:** I did not expect the cases to keep me up at night. They do.

**KV:** How does the work of an appellate justice differ from your previous legal roles in ways that attorneys might not immedi-

ately appreciate?

**MD:** As a trial attorney, you are making the record that will be reviewed should there be an appeal. The role of the appellate judge is more passive. Our review is constrained by the record before the court and the arguments made arising from that record.

**KV:** What do you hope attorneys appearing before the court understand about how justices read briefs and prepare for oral argument?

**MD:** It is difficult to overstate how closely we read the briefs and review the record in each case. For me, by the time argument occurs, I have tried to identify the questions I am most interested in getting answered. Through these questions, I may seek to confirm my understanding of the record or to probe one side's response to the other side's argument.

**KV:** From your perspective on the bench, what makes an appellate brief particularly effective?

**MD:** I appreciate when a brief is succinct, well organized, hews closely to the record and argues from the court's precedent. I also appreciate it when the issues presented are well framed and do not merely duplicate the point headings in the table of contents. It should also go without saying that citations to legal authority should be scrutinized for accuracy before the brief is submitted.

**KV:** What advice would you give younger lawyers who hope to develop strong appellate advocacy skills?

**MD:** To get better at anything takes practice and repetition. Seek out opportunities to draft motions and briefs and to analyze legal issues in writing. Also seek out opportunities to get feedback on your writing. Seek out opportunities to argue in court.

I also suggest listening to oral arguments, including those before the U.S. Supreme Court.

**KV:** Outside the courtroom, what activities help you recharge or maintain balance?

**MD:** Chrissie and I have two dogs whose company we very much enjoy. We also enjoy visiting our daughters, who live in the Boston area. In the past couple of years, I have taken up pickleball, which I love to play with friends.

**KV:** Is there a book, mentor or experience that has had a lasting impact on your approach to law or leadership?

**MD:** I have been fortunate to learn from a number of great lawyers and leaders and to benefit from their mentorship over my career. One experience I'll highlight again was my time clerking for Judge Parker.

He had no pretense. He told me once that as he started to work on a case, he would try to identify what personal biases he might harbor and would thereafter try to ensure those biases were not influencing his approach to the case.

He always listened patiently to the views of his law clerks and welcomed disagreement. I hope my law clerks will have a similar experience working with me.

**KV:** What is one thing colleagues or members of the bar might be surprised to learn about you?

**MD:** I am a big fan of Liverpool Football Club in the English Premier League. The team happens to be rivals with Everton, the team Justice Nolan supports.

**KV:** As you begin your tenure on the court, what goals or aspirations do you have for your service?

**MD:** I want to always remember how difficult it is to brief and argue an appeal and to appreciate the stresses of the attorneys and their clients relating to the cases before us. I want to always be prepared. I want to know the record in the cases before us.

I want the losing side in any appeal to understand that their arguments were carefully considered and to understand the reasons underlying the court's decision.

**KV:** Looking ahead, what do you hope Vermont attorneys and the public will say about the court's work in the years to come?

**MD:** That before the Supreme Court, they will be held to a high standard but also treated fairly and with dignity.

*Thanks to state court administrator Teri Corsones and the Justices for their photos of their investiture ceremonies. Videos of the ceremonies are available on YouTube. Justice Nolan's at <https://www.youtube.com/live/Pie4kMkyUwk> and Justice Drescher's at <https://www.youtube.com/live/Xprt2nKqRYI>. 📺*

# Vermont Fair Employment Practices Act Does Not Require an Adverse Employment Action

Nothing in the Vermont Fair Employment Practices Act (VFEPa) requires an employee to suffer an “adverse employment action” to bring a harassment or discrimination claim. Under 21 V.S.A. § 495(a), it is an unlawful employment practice “to harass or discriminate against any individual because of” a protected status. By contrast, federal law focuses on specified adverse actions affecting “compensation, terms, conditions, or privileges of employment.”<sup>1</sup>

This article explains how the federal “adverse employment action” requirement migrated into VFEPa jurisprudence, why that requirement is inconsistent with the statute’s text and history, and why Vermont courts should reorient their analysis to reflect the broader protections enacted by the Legislature.

## A. Overview of the Vermont Fair Employment Practices Act and Title VII

The VFEPa provides a cause of action to individuals subjected to employment harassment or discrimination. The statute makes it an unlawful employment practice for an employer “to harass or discriminate against any individual” because of protected characteristics, including race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, age, or disability.<sup>2</sup>

This language differs meaningfully from

Title VII, which provides that it is unlawful for an employer to fail or refuse to hire, discharge, or otherwise discriminate against an individual “with respect to his compensation, terms, conditions, or privileges of employment.”<sup>3</sup> Title VII thus limits actionable conduct to specific employment-related harms affecting the terms or conditions of employment.

By contrast, the VFEPa broadly prohibits harassment or discrimination without tying liability to a discrete employment action or tangible job consequence. Vermont law also provides a private cause of action for “[a]ny person aggrieved” and allows recovery of compensatory and punitive damages, equitable relief, attorney’s fees, and other appropriate remedies.<sup>4</sup>

The Legislature’s choice to allow compensatory damages—rather than limiting recovery to lost wages or benefits—reflects an intent to remedy a broader range of harms, including emotional injuries. In short, the VFEPa prohibits all unlawful harassment and discrimination, not only conduct that results in a materially adverse employment action.

## B. How the Vermont Supreme Court Accidentally Adopted the Adverse Employment Action Standard

Despite the statute’s broad language, Vermont courts have repeatedly required

plaintiffs to show an “adverse employment action” as part of a prima facie case. In *Kelly v. University of Vermont Medical Center*, the Vermont Supreme Court reiterated that the standards and burdens of proof under the VFEPa are “identical” to those under Title VII and applied the familiar four-part test derived from *McDonnell Douglas Corp. v. Green*.<sup>5</sup>

That framework requires a plaintiff to show, among other elements, that they suffered an adverse employment action.<sup>6</sup> However, *McDonnell Douglas* was a failure-to-hire case, where an adverse action was inherent to the claim.

The Vermont Supreme Court first adopted the *McDonnell Douglas* framework in *State v. Whitingham School Board*, another failure-to-hire case.<sup>7</sup> In that context, reliance on federal precedent was appropriate because both Title VII and the VFEPa prohibit discriminatory hiring decisions.

The problem arose when the court assumed that the VFEPa was patterned on Title VII and continued to apply federal standards without examining differences in statutory text.<sup>8</sup> In fact, the VFEPa predates Title VII. Vermont enacted the statute in 1963—one year before Congress passed the Civil Rights Act of 1964.<sup>9</sup>

The original VFEPa broadly prohibited discrimination in any matter “directly or indirectly related to ... employment” and imposed penalties without requiring a show-

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ing of adverse employment action.<sup>10</sup> It did not initially include a private right of action but nevertheless made any discriminatory practice unlawful.<sup>11</sup>

In 1975, the Legislature amended the statute to add sex as a protected category and created a private right of action.<sup>12</sup> Still, nothing in the statutory language imposed an adverse-action requirement.

The phrase “adverse employment action” did not appear in Vermont case law until *Gallipo v. City of Rutland*, a retaliation case.<sup>13</sup> There, the court required proof of an adverse action because retaliation claims inherently depend on employer responses to protected activity. That requirement made sense in the retaliation context.

It does not follow, however, that harassment or discrimination claims require the same showing. Discrimination can occur through differential treatment, bias, or prejudice that does not rise to the level of a tangible employment action or a hostile work environment.

Indeed, “discriminate” means to treat differently or show partiality or prejudice.<sup>14</sup> The VFEPA expressly makes such conduct unlawful.<sup>15</sup> Nothing in the statute requires that the conduct also produce a material change in employment status.

The Vermont Supreme Court has recognized that federal interpretations are persuasive but not binding when inconsistent with state law.<sup>16</sup> The continued importation of Title VII’s adverse-action requirement therefore conflicts with the VFEPA’s broader language and independent legislative history.

In 2023, the Legislature reinforced this broader approach by defining “harass” to include unwelcome conduct that interferes with work or creates an intimidating, hostile, or offensive environment.<sup>17</sup> The amendment emphasizes that even a single incident may constitute unlawful harassment and that liability does not depend on tangible job consequences.<sup>18</sup>

To give effect to the statute, Vermont courts should recognize that all harassment

and discrimination prohibited by the VFEPA are actionable, regardless of whether they rise to the level of an adverse employment action.

As Justice Waples, joined by Chief Justice Reiber, observed in *In re Miller*, workplace discrimination and harassment remain serious concerns, and robust enforcement is necessary to support a diverse workforce.<sup>19</sup> Limiting claims through an adverse-action requirement risks undermining those goals and narrowing protections the Legislature deliberately chose to make broad.

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<sup>1</sup> 42 U.S.C. § 2000e-2(a)(1).

<sup>2</sup> 21 V.S.A. § 495(a)(1).

<sup>3</sup> 42 U.S.C. § 2000e-2(a)(1).

<sup>4</sup> 21 V.S.A. § 495b(b).

<sup>5</sup> *Kelly v. Univ. of Vt. Med. Ctr.*, 2022 VT 26, ¶ 17; *Gallipo v. City of Rutland*, 2005 VT 83, ¶ 15; *Robertson v. Mylan Labs., Inc.*, 2004 VT 15, ¶ 25; *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 (1973).

<sup>6</sup> *Robertson*, 2004 VT 15, ¶ 25.

<sup>7</sup> *State v. Whitingham Sch. Bd.*, 138 Vt. 15 (1979).

<sup>8</sup> *Graff v. Eaton*, 157 Vt. 321, 323 (1991); *Hodgdon v. Mt. Mansfield Co.*, 160 Vt. 150, 161 (1992).

<sup>9</sup> Act of June 29, 1963, No. 196 (Vt.).

<sup>10</sup> *Id.* § 1.

<sup>11</sup> *Id.* § 3.

<sup>12</sup> Act of 1975 Adj. Sess., No. 198, § 1 (Vt.).

<sup>13</sup> *Gallipo v. City of Rutland*, 163 Vt. 83, 92 (1994).

<sup>14</sup> *Webster’s New Twentieth Century Dictionary* (2d ed. 1962).

<sup>15</sup> 21 V.S.A. § 495(a).

<sup>16</sup> *Payne v. U.S. Airways, Inc.*, 2009 VT 90, ¶ 10.

<sup>17</sup> 2023 Vt. Laws No. 80 (S. 103).

<sup>18</sup> *Id.*

<sup>19</sup> *In re Miller*, 2024 VT 35, ¶ 25 (Waples, J., concurring). ¶ 5

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# Nonjudicial Settlement Agreements Under the Vermont Trust Code: A Practical Framework for Use and Misuse

## I. Introduction

Since Vermont's adoption of the Uniform Trust Code ("UTC") in 2009, Nonjudicial Settlement Agreements ("NJSAs") have emerged as a significant component of contemporary trust practice in this state.<sup>1</sup> Codified at 14A V.S.A. § 111, the NJSA establishes a statutory process enabling trustees and beneficiaries to resolve specific trust matters without involving the Probate Division of the Superior Court.<sup>2</sup> This statutory mechanism introduced welcome flexibility into Vermont trust administration, enabling families and fiduciaries to address administrative challenges efficiently and privately. When used appropriately, NJSAs conserve judicial resources, reduce legal expenses, and help preserve family relationships by avoiding adversarial proceedings. In recent years, however, increasing awareness of the NJSA mechanism, coupled with pressure to limit legal fees and cut down on the time and expense of court proceedings, has created a countervailing risk: that NJSAs may be employed reflexively, rather than judiciously. What was designed as a narrow, statutory tool to resolve administrative or interpretive matters has, in some instances, been overextended to effectuate change in circumstances where it is not the correct device. As explained in greater detail below, certain trust modifications, such as those that impact tax or public benefits eligibility, or those that may violate a material trust purpose, should always involve judicial oversight regardless of agreement amount interested persons. While an NJSA can be a powerful, and very helpful tool, it is not appropriate in all cases.<sup>3</sup>

Even though Vermont adopted the UTC over 15 years ago, judicial and/or administrative guidance regarding the NJSA is limited. Consequently, Vermont practitioners must rely on the statutory language of § 111, official commentary to the UTC, persuasive authority from other UTC jurisdictions, and related areas of law when evaluating whether a proposed NJSA is enforceable and/or appropriate. This article provides an overview of issues to consider before deciding whether to use an NJSA to the modify, terminate or interpret a trust governed by Vermont law.<sup>4</sup> As NJSAs become more common, their limits may be examined more closely and possibly re-

stricted by courts, or by taxing or other authorities.

## II. What Is a Nonjudicial Settlement Agreement?

Section 111 of the Vermont Trust Code provides that interested persons may enter into a binding nonjudicial settlement agreement with respect to any matter involving a trust, provided that the agreement does not violate a material purpose of the trust and could be approved by a court if presented for judicial resolution.<sup>5</sup> The controlling statute is derived directly from Section 111 of the Uniform Trust Code, and the accompanying commentary makes clear that the provision was intended to encourage private resolution of trust matters while preserving essential safeguards for beneficiaries and settlor intent.<sup>6</sup>

The primary advantages of an NJSA are efficiency and predictability. Because all interested persons must negotiate and execute the agreement, parties can achieve a level of certainty that is rarely available in litigation. NJSAs typically result in lower legal fees, minimize delays associated with congested court dockets, and can allow for customized solutions tailored to a particular family or trust structure. At the same time, the statute deliberately restricts private agreements from overriding essential trust purposes or statutory protections, and in doing so stakes out a policy balance between flexibility and fidelity to settlor intent.

## III. Core Requirements for a Valid NJSA

For an NJSA to be valid, it must satisfy certain statutory requirements. Foremost, the agreement must not violate a material purpose of the trust. Although the Vermont Trust Code does not define the term "material purpose," the Restatement (Third) of Trusts describes it as a significant objective motivating the settlor to establish a trust rather than make an outright gift.<sup>7</sup> Courts in other UTC jurisdictions have adopted similar formulations, for example, holding that a material purpose is one whose defeat would substantially impair the settlor's overall plan, rather than merely alter its administrative details.<sup>8</sup> Discretionary distri-

bution standards, spendthrift protections, and long-term asset management provisions are frequently cited as examples of material purposes, whereas purely administrative provisions are less likely to rise to that level.<sup>9</sup>

Equally fundamental for validity of an NJSA is that all interested persons consent to the agreement.<sup>10</sup> "Interested persons" in the NJSA context means "persons whose consent would be required in order to achieve a binding settlement were the settlement to be approved by the Probate Division of the Superior Court,"<sup>11</sup> which most often includes all current and future beneficiaries, as well as the current trustee.<sup>12</sup> Where minors or unborn beneficiaries are involved, best practice is to obtain consent from a disinterested parent or to seek appointment of a guardian ad litem. Practitioners should get the consent of every living potential, contingent remainder beneficiary to maximize enforceability and long-term finality of an NJSA. It is also important for living beneficiaries whose unborn descendants might later be included in the class of beneficiaries to sign on behalf of themselves and their unborn descendants.

## IV. A Framework for Analyzing When to Use an NJSA

The decision to utilize an NJSA should be guided by a structured legal analysis, rather than by the assumption that consent of all interested persons, alone, is sufficient to accomplish any desired change to a trust agreement. Practitioners who are faced with an irrevocable trust in need of modification, termination or interpretation should begin by determining whether the proposed modification or clarification is of a type that requires court approval as a matter of law, and must also think about whether practical considerations caution against an NJSA. This article focuses on three main situations where an NJSA may not be the correct choice: (A) where the substance of the NJSA involves highly technical matters closely regulated by rules beyond the trust code, such as tax law and benefits for disabled beneficiaries; (B) where an NJSA might violate a material purpose of the trust; and (C) where dynamics between the interested persons call for the finality of court involvement.

### A. Are Other Highly Regulated, Technical Areas Involved?

Trust modifications that involve technical and highly regulated areas of the law beyond the probate code generally require judicial involvement. Modifications with estate tax or generation-skipping transfer (“GST”) tax implications or that involve the interests of beneficiaries qualifying for public benefits are perhaps the most important examples.

A modification to a trust that is exempt from GST tax, for example, and designed to fall within an IRS safe harbor to preserve that exempt status is more likely to be respected by the Internal Revenue Service (“IRS”) and the Vermont Department of Taxes if accomplished through a court proceeding rather than a private agreement.<sup>13</sup> In such instances, a court order affirms that the modification meets the state law requirements of the IRS safe harbor and should therefore be legally effective to preserve GST exempt status.<sup>14</sup> The Supreme Court case, *Commissioner v. Estate of Bosch*,<sup>15</sup> has been interpreted by the IRS to mean that rulings from a state’s highest court must “deal with property rights and have some effect under state law before they are binding on subsequent tax litigation,”<sup>16</sup> and when considering lower state court proceedings, the IRS makes independent determinations as to whether the highest state court would have accepted the lower court’s ruling.<sup>17</sup> While judicial trust modification by a state court can’t guarantee a federal tax outcome if the modification is audited by the IRS, federal tax consequences that result from a Probate Division trust modification are significantly more defensible than those that result from an independent NJSA.<sup>18</sup>

Modifications involving special needs trusts (“SNTs”) or beneficiaries who depend on means-tested public benefits require heightened scrutiny and, in most cases, judicial oversight.<sup>19</sup> This issue can arise, for example, when a remainder beneficiary develops a qualifying disability after the death of the settlor but before the death of the current beneficiary. In such circumstances, practitioners may consider using an NJSA to revise the dispositive provisions to protect the disabled beneficiary’s interest in a continuing SNT to preserve eligibility for Supplemental Security Income (SSI) or Medicaid. However, eligibility for these programs is determined by a complex federal statutory and regulatory framework.<sup>20</sup> A trust modification in the SNT context that does not involve the courts and alters vested remainder rights, accelerates or defers distribution, or restructures beneficial interests may be scrutinized by public-benefit agencies as an impermissible attempt to recharacterize assets retroactively, or cir-

cumvent eligibility requirements, potentially resulting in disqualification from certain benefits or in penalty periods.<sup>21</sup> Additionally, the extent to which a disabled beneficiary participates in directing assets into continuing trust for themselves may jeopardize the trust’s qualification as an SNT. Accordingly, it may be safer if a disabled, interested person doesn’t actively participate in an NJSA to modify a trust for SNT protections, necessitating court involvement. Proposed trust modifications intended to create, preserve, or restore means-tested benefits eligibility are generally more appropriately addressed through court-supervised proceedings, where the modification can be reviewed for compliance with the relevant benefits regimes, and where any final determination does not hinge on the affirmative sign-off of a disabled beneficiary.

### B. Will the NJSA Violate a Material Purpose?

As mentioned, another critical consideration is whether the proposed modification would contravene the limitation set forth in 14A V.S.A. § 111(c), which prohibits NJSAs that conflict with a material purpose of the trust.<sup>22</sup> If the modification would violate this limitation, judicial involvement becomes mandatory. Importantly, the entire NJSA is invalid if it involves an action that violates a material trust purpose. This should give practitioners pause, and requires cautious analysis.

The question becomes how to identify or define a “material purpose.” Some provisions relating to a material purpose can be spotted easily, for example, discretionary as opposed to outright distribution provisions, or provisions that create protective features central to the settlor’s estate plan. But in many instances, it can be difficult to determine what was “material” for a predeceased settlor. The Restatement (Third) of Trusts, acknowledges this challenge:

Material purposes are not readily to be inferred. A finding of such a purpose generally requires some showing of a particular concern or objective on the part of the settlor, such as concern with regard to the beneficiary’s management skills, judgment, or level of maturity. Thus, a court may look for some circumstantial or other evidence indicating that the trust arrangement represented to the settlor more than a method of allocating the benefits of property among multiple beneficiaries . . . Sometimes, of course, the very nature or design of a trust suggests its protective nature or some other material purpose.<sup>23</sup>

Given the inherent ambiguity in what constitutes a “material purpose,” if a contemplated revision falls into a gray area, it is best practice to involve the court. If all interested parties agree that the NJSA will not violate a material purpose of the trust, it is advisable to include explicit language in every NJSA describing what the material purposes of the trust are, and explaining why the proposed modification aligns with and supports the trust’s material purposes. Such recitals are not merely cosmetic; they provide important context if the agreement is later scrutinized by a court. If there is uncertainty as to whether a material purpose may be violated, practitioners should err on the side of invoking the Probate Division’s jurisdiction.<sup>24</sup> As stated above, if practitioners are too cavalier with this analysis and allow NJSA modifications that violate a material purpose of the trust, if and when any interested party challenges the agreement, the entire NJSA could be invalidated.

### C. Do Circumstances Otherwise Recommend Court Involvement?

Even when a court order is not strictly required by the subject matter of a contemplated NJSA, practitioners should assess whether judicial approval would nevertheless be advisable given the circumstances on the ground. For example, a history of family conflict or litigation surrounding the trust at issue, or significant interpersonal conflict among the interested persons could both strongly suggest that an NJSA—though technically possible—may not be the best course. If the interested persons do not have a history of agreement and cooperation, there is more risk that an NJSA may later be challenged on grounds such as lack of informed consent, undue influence, or improper representation. In these circumstances, obtaining a court order can confer legitimacy and reduce the risk of subsequent disputes.

### V. Statutory Categories Appropriate for NJSAs

Section 111(d) of the Vermont Trust Code identifies several categories of matters that may be resolved by NJSA, though the list is expressly nonexclusive.<sup>25</sup> Even within these categories, the practitioner must remain mindful of the material purpose limitation and any collateral issues that could require court involvement. One common application of an NJSA is the resignation of a trustee, or the appointment of a trustee, for example, one with specialized responsibilities. Changes to governing law or situs can also frequently be accomplished through NJSA, and NJSAs are effective for updating administrative provisions that no

longer reflect current fiduciary practices, including outdated investment restrictions or reporting requirements. Trustees and beneficiaries may use an NJSA to formalize the terms of a loan from the trust to a beneficiary, divide a spray or sprinkle trust into separate shares,<sup>26</sup> or authorize the sale of a trust asset earlier than originally contemplated. In appropriate cases, an NJSA may clarify or expand a trustee's discretion to distribute principal when doing so advances the trust's material purpose, even if the original instrument provided only for income distributions.

## VI. Conclusion

NJSAs permit increased, and often desirable, flexibility in trust administration. That said, there is significant potential for misuse. If implemented without careful consideration of statutory limitations, the trust's material purposes, the interests of absent or future beneficiaries, or adverse consequences in a related area of law, NJSAs may result in the very litigation and expenses they are designed to prevent. Since Vermont adopted the UTC in 2009, the use of NJSAs has become relatively common in trust practice. Today, practitioners are more frequently encountering older, questionably drafted, or overly broad NJSAs, and increased judicial scrutiny of these documents may emerge.

NJSAs remain a powerful tool, but tools that are overused tend to provoke constraint. If practitioners treat 14A V.S.A. § 111 as a convenient alternative to court proceedings in circumstances where judicial review is prudent, and challenges to these agreements are later brought by the interested parties, or authorities such as the IRS or public benefits agencies, a body of case law may eventually develop that narrows the perceived flexibility of the statute through more exacting scrutiny of "material purpose," representation, and court-approvability requirements. The prudent course is not to abandon NJSAs, but, rather, to reserve them for situations that fall squarely within their intended function and don't risk triggering more legal issues, and potentially bad case law, down the road.

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<sup>1</sup> VERMONT TRUST CODE, 2009 Vermont Laws No. 20 (S. 86).

<sup>2</sup> 14A V.S.A. § 111.

<sup>3</sup> See, e.g., I.R.S. Priv. Ltr. Rul. 200231011 (May 7, 2002); I.R.S. Priv. Ltr. Rul. 201711002 (Mar. 17, 2017); I.R.S. Priv. Ltr. Rul. 201833015 (Aug. 17, 2018) (addressing federal tax consequences of trust modifications and/or court-approved changes, including analysis under the GST "modification" regulations).

<sup>4</sup> Other states have adopted different statutory language related to NJSAs, some more restrictive, and some more permissive than Vermont's, and the rules in other jurisdictions are outside the scope of this article.

<sup>5</sup> 14A V.S.A. § 111(a)-(c).

<sup>6</sup> Uniform Trust Code § 111 cmt.

<sup>7</sup> Restatement (Third) of Trusts § 65 cmt. d (2003).

<sup>8</sup> *In re Trust Created by Fenske*, 303 Neb. 430, 438-41 (Neb., 2019).

<sup>9</sup> See *In re Trust of Winn*, No. 22-2052 (Iowa Ct. App. Mar. 27, 2024) (finding that a trust's grant of sole discretion reflects an asset protection intent presumed to be a material purpose); *In re McGregor*, 308 Neb. 405, 411-13 (Neb., 2021) (finding that spendthrift provisions constituted a material purpose); *Shriners Hospitals for Children v. First Northern Bank of Wyoming*, 373 P.3d 392, 407-08 (Wyo., 2016) (finding that retaining a ranch until the year 2100 constituted a material purpose of the trust).

<sup>10</sup> 14A V.S.A. § 111(a).

<sup>11</sup> *Id.*

<sup>12</sup> See Uniform Trust Code § 111 cmt. (stating that "the consent of the trustee would ordinarily be required to obtain a binding settlement with respect to matters involving a trustee's administration"); State of Vermont, Superior Court Probate Division, Form 700-00111Pc - List of Persons Interested in Trust (04/2025); 14A V.S.A. § 411 (describing parties who must consent for modification or termination of noncharitable irrevocable trust by consent).

<sup>13</sup> See Treas. Reg. § 26.2601-1(b)(4)(i)(D) (providing that modifications, judicial constructions, settlement agreements, or trustee actions will not cause a grandfathered or exempt trust to lose its GST tax-exempt status only if they do not shift beneficial interests to younger generations or extend vesting beyond the original trust term); See also I.R.S. Priv. Ltr. Rul. 201825007 (Mar. 15, 2018) (applying § 26.2601-1(b)(4)(i)(D) to a modification of income allocation and concluding the trust did not lose GST exempt status

because beneficial interests and vesting periods remained unchanged).

<sup>14</sup> Modification of a trust by a state court should be binding upon that state, except where state statute specifically prohibits the modification (Mark Cohen, *Uniform Trust Code, V. Creation, Validity, Modification and Termination of Trusts — Article 4*, ESTATES, GIFTS AND TRUSTS PORT. (BNA) 864-2nd (2010)). The rules around whether a state court decree controls for federal purposes are less certain, but an order from the Probate Division of the Superior Court provides significantly more security than an NJSA when it comes to trust modification that results in federal tax consequences. In *Commissioner v. Estate of Bosch* (387 U.S. 456 (1967)), the U.S. Supreme Court held that, where the United States is not a party in a court proceeding about property rights or the characterization of such interests, a state's highest court is the best authority. If there isn't a decision of the state's highest court, then federal courts should decide the matter under state law, giving "proper regard" to rulings of other courts in the state that may be relevant (Cohen, *V. Creation, Validity, Modification and Termination of Trusts — Article 4*).

<sup>15</sup> 387 U.S. 456 (1967).

<sup>16</sup> Cohen, *V. Creation, Validity, Modification and Termination of Trusts — Article 4*, quoting TAM 8346008.

<sup>17</sup> Cohen, *V. Creation, Validity, Modification and Termination of Trusts — Article 4*.

<sup>18</sup> A court order may also be used by an interested party as the basis for requesting a private letter ruling from the IRS to get finality about a tax issue.

<sup>19</sup> See 42 U.S.C. § 1396p(d)(4)(A)-(C) (setting forth strict statutory exceptions for special needs and pooled trusts); See also *Lewis v. Alexander*, 685 F.3d 325, 343-44 (3d Cir. 2012) (discussing congressional intent to prevent manipulation of trusts to manufacture Medicaid eligibility).

<sup>20</sup> See, e.g., 42 U.S.C. § 1396p(d); 42 U.S.C. § 1382b; See also SSA POMS SI 01120.200-203 (SSI trust resource-counting policy).

<sup>21</sup> See, e.g., 42 U.S.C. § 1396p(d)(3) (countability of certain trusts); 42 U.S.C. § 1396p(c) (transfer-of-asset penalty rules); SSA POMS SI 01120.201 (trusts as resources); SI 01150.110 (uncompensated transfers and penalty periods).

<sup>22</sup> 14A V.S.A. § 111(c).

<sup>23</sup> Restatement (Third) of Trusts Section 65 cmt. d (2003).

<sup>24</sup> 14A V.S.A. § 201.

<sup>25</sup> 14A V.S.A. § 111(d).

<sup>26</sup> Although caution should be exercised if any potential tax issues, for example, generation-skipping transfer tax, might be implicated, and the probate court should be involved, if so. ☛

# Insurance Coverage Issues for Lawyers in the Era of Generative AI

I am one who can admit when I'm wrong. A few years ago, I was convinced the Metaverse was going to be a big deal, eventually even significantly impacting how lawyers would interact with their clientele. Oops. Got that one wrong. Well, at least for the time being. However, one thing I did get right was realizing how significant generative AI would become, how fast its adoption would be, and how much of its potential yet remains to be developed.

When it comes to generative AI the future is here and lawyers in firms of every shape and size are finding ever more creative ways to tap into its potential. Like me, these lawyers see the benefits of these technologies. Of course, as with all things tech related, lawyers also have an ethical obligation to explore and understand the associated risks of any tech deployed in a law practice. I suspect it's because of what I do for a living, but as I see it, in order to fully understand the associated risks of deploying generative AI, one mustn't forget to look into the associated insurance coverage implications. Thus, the following are a few key considerations lawyers should keep in mind when integrating generative AI into their practice.

## Malpractice Involving AI Output

At the time of this writing, lawyers' professional liability (LPL) policies typically do not exclude coverage for claims alleging negligence arising as a result of the use of generative AI. That said, coverage may depend upon on whether the conduct at issue meets the policy's definition of "professional services." Don't assume that it always will. Currently, a well-known risk with generative AI is the hallucination problem. What if an AI tool produces a fake, incorrect, or misleading response and a lawyer relies on the accuracy of the output? Yes, a negligence claim might follow, but would it be a covered claim? The answer could be no.

If this lawyer is unable to demonstrate that she exercised reasonable care and due diligence with her use of the AI tool, then an insurer could argue that no professional service was ever provided because the lawyer simply chose to blindly rely on third-party technology. No professional service means no coverage; and unfortunately, the coverage analysis doesn't stop there. If the subject lawyer did make a deliberate decision to blindly accept the output as accu-

rate, this act might also trigger a policy's intentional act exclusion.

A risk management takeaway is lawyers must always accept accountability and responsibility for all AI-generated output by validating the accuracy of outputs. Understand that a lawyer's duties of competence and diligence can never be delegated to a machine. It's as simple as that.

## AI Interfacing with Clients or the General Public

If a law firm markets AI-generated content or tools (e.g., an online chatbot or a DIY legal form generator) directly to clients or the public and a malpractice claim arose out of that service, would this be a covered claim? Here again, depending upon the specifics of the situation and the jurisdiction in which the alleged negligence occurred, the answer could well be no for two reasons. First, if firm lawyers allowed the AI to make critical legal judgements without attorney oversight, this could be viewed as the unauthorized practice of law and LPL policies typically exclude coverage for the unauthorized practice of law. Second, the lack of attorney oversight also implies that no professional services were rendered by an attorney; and as you now know, no professional service means no coverage. In short, over-reliance on an AI tool, or allowing it to make legal decisions without attorney oversight can create unintended consequences.

A risk management takeaway is to exercise caution when deploying AI tools that interact directly with the public and/or clients because a lawyer's duty to supervise and review all work remains paramount. The fact that an AI Tool is a non-human member of the "staff" makes not one iota of a difference.

## Confidentiality and Data Security

Feeding sensitive or confidential client information into a generative AI tool, especially one that is cloud-based and accessible to the public or not specifically designed for secure use by legal professionals, could result in a data breach or unauthorized access to this client information potentially giving rise to a claim. Again, would this be a covered claim? Under your malpractice policy, quite possibly no.

The reason is that most LPL policies have exclusions related to intentional acts or



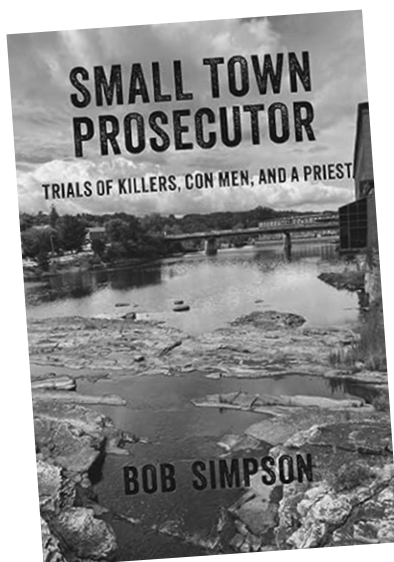
breaches of confidentiality that are not the result of a negligent act. That said, if your firm has purchased cyber liability insurance, coverage may be available under that policy depending upon the specific circumstances of any breach. Just be aware that here too an intentional acts exclusion could come into play.

A risk management takeaway is to only use generative AI platforms that come with strict data privacy assurances, allow users to opt out from data retention, and are in compliance with your jurisdiction's data protection regulations. And yes, this does mean you need to read and understand the terms of service before using any generative AI platform.

I hope this information helps you in any generative AI decision making process going forward because I do believe that generative AI offers incredible opportunities for our profession, opportunities that will enhance how legal services are delivered. While these three coverage concerns aren't the only concerns with AI, they are ones I believe every lawyer should be most aware of. As for me, I guess I'm kind of relieved the whole metaverse thing seems to have lost its steam. When I start to think about all the coverage issues with that one, it makes my head hurt.

*Mark Bassingthwaighte, Esq. is the resident Risk Manager at ALPS Insurance. To learn more about how ALPS can support your solo or small firm visit: [alpsinsurance.com](https://alpsinsurance.com).*

# BOOK REVIEWS



## ***Small Town Prosecutor: Trials of Killers, Con Men, and a Priest***

By Bob Simpson

Onion River Press (2024)

246 pages, \$17.95 Paperback

Reviewed by Philip Back, Esq.

Bob Simpson's *Small Town Prosecutor* isn't simply a book of legal war stories, though it is full of war stories: both legal and actual. Nor is it simply a memoir, even if it technically meets the definition. The book is a must-read for neophyte prosecutors in Vermont and law students considering a career in the state's criminal justice system. *Small Town Prosecutor* provides numerous examples of how basic legal principles apply to real-life court cases. For experienced Vermont attorneys, and readers familiar with criminal law and the rules of evidence, the book also tells the recent legal history of Vermont, from one former State's Attorney's point of view. The book fills in the gaps and provides the backstory to many Vermont Supreme Court cases that I read as a law clerk, cases that have shaped the criminal law in the state over the past 47 years.

The introductory section of the book introduces readers to the author, a Vietnam veteran and dedicated public servant who rose through the ranks to become Chittenden County's chief law enforcement officer<sup>1</sup> before his retirement. The first few chapters also explain the basics of jury draw and criminal trials, which are important components of almost every subsequent chapter of the book. For trial attorneys, particularly in Chittenden County, many of these pages can be skipped without detracting from the rest of the book. For law students and new attorneys, it may be difficult to fully appreciate the war stories in *Small Town Prosecu-*

*tor* without the explanatory material at the beginning of the book.

The book proceeds chronologically. The first half of the book tracks Simpson's career as a government attorney, first as a deputy state's attorney in Vermont's most populous county, then as an assistant attorney general litigating civil and criminal cases. After an unsatisfying stint in private practice, Simpson returned to public service as an administrative attorney, litigating public utility cases for the Department of Public Service for three years. The second half of the book follows the author's return to the Chittenden County State's Attorney's Office in 1994, first as a deputy then as chief deputy before his appointment and subsequent election as the State's Attorney. Following his retirement from state employment, Simpson spent his remaining working years teaching criminal justice at Champlain College.

The book highlights the social and legal issues that are still present in every courthouse in the state. Almost every chapter describes a crime and a trial as well as the legal problems Simpson had to address to win a conviction. But in addition to refreshing our memories of legal principles learned in law school, the book also illustrates the intersection of the law with everyday social issues: juvenile delinquency, recidivism, elder abuse, immigration, drug addiction, and domestic violence. Along with the lucid explanations of hornbook law are stories about common social problems that are understandable to non-attorney readers. At the heart of each difficult case litigated by the author is one of these intractable social problems.

For example, the book recounts the story of a violent juvenile delinquent, who will become a familiar face in court. The chapter describes the juvenile's dangerous action of threatening a young woman with a knife, and Simpson explains his charging decision by examining the elements of offense, as he does in most chapters in the book. In this case, the boy was charged with a misdemeanor, not a felony, because the victim persuaded her assailant to put his knife away before she was injured. But the lesson here isn't the difference between simple and aggravated assault. The real lesson is demonstrated in the next chapter, in which this juvenile delinquent subsequently becomes a criminal defendant who is eventually convicted of a brutal child murder. Today's prosecutors know all too well how repeat offenders often get their start as juvenile delinquents.

This story from the early 1980's is compelling because of the ages of the victims

and the defendants, the vicious details of the crime, the rare interlocutory appeal, the venue change, and the public outrage that resulted in a special legislative session which modernized juvenile law. This horrible child-murder case, which the author worked on before it was tried by another deputy state's attorney, provided the impetus for the statute allowing children as young as ten to be tried in the criminal division for the "Big Twelve" felonies.<sup>2</sup> When Simpson started working as a prosecutor, children under 16 had to be tried in juvenile court, regardless of the offense, and could be released on their 18<sup>th</sup> birthdays.

The author recounts how other social issues have complicated his trials, issues that are still quite challenging for prosecutors today. Sympathetic victims are not always good trial witnesses. In his chapter, "Preying on the Elderly," Simpson recalls how he was able to secure fraud convictions, even though one victim was 88 years old and unable to identify a defendant, and the other victim, who was 93 years old, did not testify. The chapter also provides a good lesson on the rule of evidence<sup>3</sup> that generally prohibits the introduction of prior bad acts at trial. Thus, the jury convicted the defendants without hearing about their previous home-improvement schemes that targeted senior citizens in Vermont.

Drug addiction is another social problem that affected the criminal cases prosecuted by the author. Although the opioid epidemic resulted in an explosion of criminal cases—and overdoses—in the 21<sup>st</sup> century, drug addiction has been a perennial problem for state's attorneys for much longer. When he returned to the State's Attorney's Office in 1994, Simpson successfully prosecuted an involuntary manslaughter case arising from a drug overdose. Simpson won this groundbreaking case, with particularly egregious facts, before it was a specific offense to dispense an illegal drug with death resulting. This "precedent setting" case "was believed to be the first time a Vermont jury [was] asked to find that a defendant was criminally liable 'for failing to come to the aid of a victim of a fatal drug overdose.'" (Simpson, 2024, p. 135). An important takeaway from this chapter is that prosecutors have more options to prosecute drug crimes today, giving them greater flexibility in their charging decisions than their predecessors had in Simpson's day.

Chittenden County has a significant immigrant community that is not immune to crime. This poses additional challenges to the State's Attorney's Office, particularly when the main witnesses don't speak

**MARKSPOWERS<sup>LLP</sup>***Prepared. Patient. Persistent.***DONALD (TAD) POWERS, ESQ.<sup>+</sup>****MICHAEL MARKS, ESQ.<sup>+</sup>****ADAM L. POWERS, ESQ.****THE MEDIATION FIRM***<sup>+</sup>National Academy of Distinguished Neutrals**<sup>+</sup>Best Lawyers for Mediation & Arbitration*[www.markspowers.com](http://www.markspowers.com)1205 THREE MILE BRIDGE ROAD  
MIDDLEBURY, VT**(802) 388-2211***Call Kristin or check website for availability.*

English and a violent defendant exercises his Fifth Amendment right to a speedy trial. Nevertheless, Simpson was able to secure a conviction against a Vietnamese refugee only two months after the defendant nearly killed two other Vietnamese men in a bloody meat cleaver attack.<sup>4</sup> The author then outlines how he was able to secure a sentence of 45 years to life in prison, walking the reader through the “aggravating factors” Simpson had to prove to obtain this sentence, including a previous murder of a Vietnamese refugee. Bewilderingly, the Mississippi prosecutor in that case could not explain to Simpson how the plea bargain in that case resulted in a wholly suspended sentence. A bargain indeed for the man who fled that state after being charged with first-degree murder.

While domestic violence is not a new social problem, it was not a social problem frequently addressed by criminal courts at the start of Simpson’s career. But when he returned to the State’s Attorney’s Office in the mid-90s, these kinds of crimes made up a significant portion of the Office’s caseload. He faced the same kinds of problems that his successors face today, like victims who refuse to testify or recant when compelled. Moreover, these cases often have repeat players because without the victim’s cooperation there is usually insufficient evidence. This inevitably results in the defendant’s release from jail or termination of his conditions of release. Then the defendant is free to abuse the victim again or a new victim. The cycle of violence continues . . . until it stops, as tragically demonstrated in the penultimate chapter of the book.

Again, the book provides another example to law students and neophyte attorneys of how a recurrent social problem (domestic violence) intersects with the criminal law. The chapter on “Robert Jones’s Trial” shows how a hornet’s nest of legal issues—excited utterances, sexual assault in a romantic relationship, cross-jurisdictional plea deals, prior bad acts—affected one defendant and the mother of his children. The chapter ends with Simpson successfully convincing a judge to sentence a domestic-abuser-turned-convicted-murderer to 50 years to life in prison as a habitual offender. This difficult capstone came not long before Simpson retired from public service and began working as a college instructor.

The most informative and interesting chapter recounts the author’s participation in one of the most notorious cases in Vermont history: “The Raid at Island Pond.” In state’s attorneys’ offices across the state, child-protection cases are almost as common as shoplifting and DUI cases. Generally, such cases involve one or two parents, their children, and Vermont’s Department for Children and Families (DCF). Drug ad-

dition, mental illness, and poverty are usually the driving causes of the State’s request to separate abused and neglected children from their parents. The Island Pond case was not the usual child-protection case.

Practitioners in the Northeast Kingdom are familiar with the Twelve Tribes, a small religious community in Island Pond, Vermont. In 1984, Simpson was an assistant attorney general working with a local prosecutor and DCF’s predecessor agency to execute a warrant in “a shocking use of the state’s power” (Simpson, 2024, p. 73). “[A]pproximately 140 Vermont state police and social workers seized 112 children living in the community” (Simpson, 2024, p. 73). Although state’s attorneys in every county routinely file confidential CHINS petitions seeking state custody of abused and neglected children, few involve widespread news coverage or direct participation by the governor and department commissioners.

The chapter—by far the longest in the book—recounts the legal history of the Twelve Tribes and the numerous legal and political decisions leading up to and following the Island Pond raid. This fascinating case demonstrates how one judge can review extensive evidence to find probable cause, while another judge’s view of the same evidence can lead to the case’s dismissal. Although many in Vermont viewed the case as little more than government oppression of an unorthodox religious minority, the author takes pains to defend his actions to protect children who were physically abused by church members. There was “no dispute that it was a basic tenet of the Twelve Tribes’ beliefs that this ‘discipline’ should be routinely inflicted not only by a child’s parents but also by any one of the roughly 100 adult members of the church community” (Simpson, 2024, p. 74).

Although this case represents a rare loss for Simpson, he notes that his central argument was vindicated decades later by the European Court of Human Rights. The European Court upheld a German family court order permanently separating Twelve Tribes’ children from their parents. The evidence showed that church members used systematic canings and beatings to discipline children, and the German court found that “bringing up children in this way was not justified by the parents’ freedom of religion” (Simpson, 2024, p. 102). Simpson hails this European court case as a victory for children’s rights and faults Vermont judges who “ignored the rights of the children, and the result was decades of misery for children in the Twelve Tribes ‘community’” (Simpson, 2024, p. 102).

My final reason for enjoying this book has nothing to do with esoteric legal principles or the ugly side of my humanity. It’s the name dropping. This successful public

litigator started his career 47 years ago. In all that time, he worked with some very notable and talented people in the legal community. Many of his former colleagues or bosses were retired judges and attorneys general when I began practicing. I enjoyed reading the names of people I recognized, like familiar characters in a book who I know from a later chapter in their career. I even worked briefly in the Attorney General's Office with one of the author's former bosses—Chittenden State's Attorney Scot Kline, mentioned at the beginning of the second half of the book—before he was elevated to the bench. Simpson's first boss at the Chittenden State's Attorney's Office, Mark Keller, was a respected senior superior court judge when I began clerking for the judiciary. The same goes for one of Simpson's colleagues—Matthew Katz—who worked with the author during his first stint in private practice. Another respected retired judge, Michael Kupersmith, was one of the author's worthy opponents when the former was a notable criminal defense attorney. Several judges that Simpson practiced in front of subsequently served on Vermont's highest court, as well as a few of his superiors at the Attorney General's Office. Simpson even worked on a famous case involving an infamous assistant judge, who left an indelible mark on the judiciary in the 1980s. It is these nuggets of Vermont legal history that make *Small Town Prosecutor* a particularly enjoyable read for attorneys in this state.

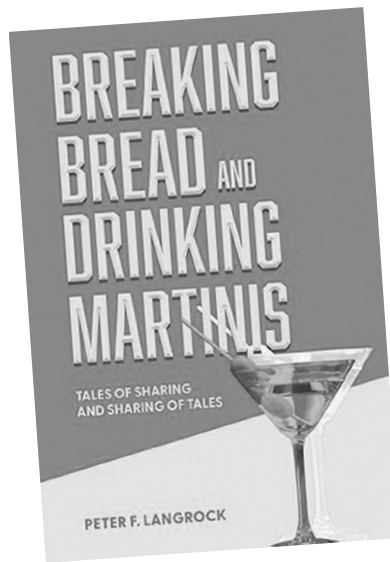
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<sup>1</sup> *O'Connor v. Donovan*, 2012 VT 27, ¶ 25, 191 Vt. 412, 48 A.3d 584 (state's attorney is county's chief law enforcement officer).

<sup>2</sup> This law was originally codified at 33 V.S.A. § 5506(a) and was subsequently transferred to 33 V.S.A. § 5204(a) when the laws governing juvenile judicial proceedings were overhauled in 2008. The modern version of this statute, allowing transfers from juvenile court to criminal court, raises the minimum age from 10 to 12. In 2024, one of the 12 major felonies was removed from the statute, and now the law only allows for a court transfer if the youth is charged with one of 11 felonies, not 12.

<sup>3</sup> V.R.E. 404(b).

<sup>4</sup> This meat-cleaver attack in the Queen City is different from the one perpetrated by a Nepali immigrant in 2017, which eventually resulted in a conviction for first-degree murder and attempted murder, affirmed by the Supreme Court *eight years later*, after a previous trip to the Court, in a case prosecuted by the Attorney General's Office after the State's Attorney dismissed the case. See *State v. Gurung*, 2025 VT 52, 346 A.3d 459. 🍷



***Breaking Bread and Drinking Martinis*  
(Tales of Sharing and Sharing of Tales)**

By Peter Langrock  
Onion River Press (2025)  
180 pages, \$18.95

Reviewed by James Valente, Esq.

An outsider might assume that most Vermont attorneys can skillfully interact with their fellow humans (or at least the lawyers). Those of us in the bar know better. In *Breaking Bread and Drinking Martinis*, Peter Langrock recounts his many humorous, unusual escapades surrounding a lifelong search for good food and drink. But he also raises an interesting counter to a condition that many attorneys face: balancing the protection of arteries, livers, and lungs with the need for vital comradery and exploration.

Langrock is one of Vermont's most prominent attorneys. He founded the storied firm Langrock Sperry and Wool in 1960 and has handled "matters from traffic cases to arguments before the U.S. Supreme Court," as the firm's website observes. Langrock's third book completes a trilogy that began with *Addison County Justice*, a 1997 collection of vignettes from Langrock's first decades in practice. Some readers might have suspected Langrock's epicurean interests from such episodes as the Zucchini-based defense to cannabis distribution. Langrock's second book, 1999's *Beyond the Courthouse: Tales of Lawyers and Lawyering*, hinted again at a Master of Provender during an unexpected discussion of how to properly pick an apple.

The central accomplishment of both volumes, though, was to capture lawyering and the law during a transformative period in Vermont history in the tradition of Deane C. Davis's *Justice in the Mountains*. After a 25-year break, Langrock returns with a third book that inverts his previous approach—this time, the law is ancillary to

gastronomy, and the format is more akin to Anthony Bourdain's *Kitchen Confidential*.

In *Breaking Bread*, Langrock shares the lessons (and recipes) he's learned during eight decades spent embracing rural Vermont yet searching out every experience the world has to offer. Readers learn about martini composition, finding quality oysters at a reasonable price, avoiding Mounties while smoking a joint, and how to prepare moose and partridge recovered from the roadside. More importantly, Langrock recounts how libations, calorie-rich meals, and surgeon general-discouraged smoking have nevertheless played central roles in meeting his wife, many of his friends, and the countless kindred spirits that made his life richer.

This serves as a reminder that, while our profession has understandably focused on addressing the negative impact of substance use disorder, some forms of consumption should not be condemned based solely on harm to the body. The issue is relevant to the many lawyers who grapple with common mental health issues that don't reduce productivity but nevertheless make it feel impossible to meet, spend time with, and open up to others.

The immediate consequences of missing one or two get-togethers may seem trivial, but loneliness is a problem on the rise. According to polling data from Pew Research Center, one in six people felt "lonely all or most of the time" in 2025. More than 60 percent of lawyers score above average on loneliness scales. The danger to short- and long-term health is now quantifiably severe; the Surgeon General recently announced that the impact of loneliness is comparable to smoking 15 cigarettes each day.

This is why we should be mindful that the daunting aspects of spending time with others ("What will we talk about?") are often easily overcome when the interaction involves a meal or a beer. For Langrock, this meant adventures that began with Escovitch in Jamaica, barbeque in Texas, gin in England, and halibut in Alaska. For his readers, it will mean something else entirely. The point is that there is great value in emulating Langrock's zest for getting to know each other when the instinct for restraint can be temporarily dulled.

*James Valente is a native of Marlboro, Vermont. He read for the law under the tutelage of Thomas W. Costello. James is now the managing partner of Costello, Valente & Gentry, P.C., in Brattleboro. He concentrates his practice on civil, criminal, and family litigation, with an emphasis on the trial of cases.* 🍷

# IN MEMORIAM

## Stephen J. Murphy

Stephen J. Murphy, 76, of Montpelier, Vermont passed away peacefully on Feb. 21, 2026 at his home with his wife of 54 years, Cynthia, by his side.

Steve graduated from Saint Michael's Graded and High School in Montpelier, Loyola College in Montreal, and earned his Juris Doctor from the New England School of Law in Boston, Massachusetts. He was a member of the Knights of Columbus, Vermont Bar Association, Vermont Association for Justice, Vermont Right to Life Committee, and a faithful member of Saint Augustine's Catholic Church.

Steve married his high school sweetheart, Cynthia A. Arioli, on Aug. 14, 1971. Together they had four children of whom he was tremendously proud.

Steve was admitted to the Vermont Bar in 1975 and practiced law for 48 years. He represented parties in civil litigation, personal injury, products liability, criminal litigation, real estate, and corporate law, though he was most well-known for the work he did in the areas of family and juvenile law. Through this work, he used his caring nature, calm demeanor, and sometimes fiery advocacy to bring together parties from both sides of the table. Further, he served as acting judge and magistrate in more than half the counties in Vermont. He was known for rarely saying no to pro-bono work and for his great generosity in support of the Vermont Volunteer Lawyers Project. One president of the Vermont Bar referred to him, on more than one occasion, as "an example of the type of lawyer [they] as a bar needed to encourage others to become."

Steve was the chairman of three of the four state boards of appeal and did over 700 tax appeals. He was a mentor to many young lawyers through his career and presented at numerous seminars and CLE trainings in respect of divorce, custody, and parentage. Steve presented at the Vermont Judicial College several times. Amongst many others he completed the Visitations Master's Training. Steve was on the Governor's Commission for Mobile Homes and the Supreme Court Advisory Committee, playing a role in implementing the family court system in the State. He was highly involved in collaborative law and was one of the few people in the area who did divorce mediation rather than going to court. He has been acknowledged by the Vermont Supreme Court and Family Court Oversight Committees for his dedication and service. As testament to his ability to form and maintain lasting professional relationships, he shared all his years of practice with only three secretaries.

Steve further served his community as a member of the Montpelier School Board for almost ten years, many of which he was chairman, which is remarkable because at that time he didn't even have children in the school system. He lived his life in service to others.

Somehow, in between all this work, Steve found time to live a vibrant life creating lasting connections with dear friends and family. He spent many summers with his family at the camp his grandparents built on Woodbury Lake waterskiing, swimming, fishing, and playing his guitar around the campfire. Anyone who knew him, knew the enormous role music played in his life. He was an avid musician, beginning with his teenage band, The Misfits. He performed original songs at baptisms, graduations, and weddings for family and friends. When his kids were small, he sat in the hallway in between their bedrooms and sang them to sleep. He recorded his own music and in his retirement spent long afternoons with his Thursday music group. He was an avid reader and collector of historic books. He also had an affinity towards artwork and other collectibles and was on an eternal hunt through antique stores for his next great find. He loved attending his grandsons' sporting events, even when they were far away and outside in the rain. He was a high school basketball star player and went on to play at the collegiate level. Until recently he continued to hit the courts, often schooling players half his age.

Steve was known for his gentle calming presence. His roots and connection in this community reach back 4 generations and are rich and deep. He was a devoted member of St. Augustine's church where he was a Eucharistic Minister, a member of the choir, a member of the hospitality committee, and for many years attended Adoration. He was known in every space he walked into and was adored by so many, young and old. Many of his children's friends saw him as a role model and as a quiet voice of comfort especially when it was needed most.

Steve's dedication to his children was unmatched. He would do anything for them. He never missed a game or event even if it meant racing from court to the field still in his suit and trenchcoat. He was extremely proud of them and travelled afar to be with them from Boston to San Francisco to Peru. Above all, Stephen adored his "One and Only", as he called her, Cynthia. Their courtship began at age 14 and their partnership endured until his last day. He attributed his victories to her in part, always saying that having her by his side was what got him through.

The family and the community are forever changed by his loss, and his presence will be deeply missed every day.

He was predeceased by his grandparents, J. Leo and Marguerite S. Johnson, and Andrew and Ann Murphy; his mother, Grace Johnson Murphy McGuire; his father, John Murphy; his stepfather, Pat McGuire; and his uncle, D. Paul Johnson.

He is survived by his beloved wife, Cynthia (Arioli); his sons, Kristopher Murphy of Peru, and Martin Murphy of Wyoming; his daughters, Sarah Kitchen and her husband, David, of Montpelier, and Leah Jones and her husband, Keith, of Montpelier; his niece, Krista Willmann and, her husband Ben, and their son, Henry, of Colorado; his siblings, Joanne Betit and her husband, Greg, Carole Murphy, Kathryn Flynn and her husband, Patrick, Christine Murphy-Egri and her husband, Roy McDonald, and Andrew Murphy; his brothers-in-law, Paul Arioli and Joseph Arioli and his wife, Sally Borden; his adoring grandsons, Owen, Dean, and Cole Jones, and Sabin Kitchen. He also leaves many nieces and nephews who were very dear to him across the country.

## Christopher Webber

Christopher Allen Webber Jr., born Oct. 23, 1944, in Rutland, Vermont, passed away peacefully on Feb. 12, 2026, at the age of 81. His loving family was by his side during the final weeks of his accomplished and meaningful life.

The son of Christopher and Esther (Ladue) Webber, Chris grew up in Rutland before attending Millbrook School and later Middlebury College, where he majored in music and enjoyed playing hockey. He went on to earn his law degree from the University of Maine. Following law school, Chris returned to Rutland to practice alongside his father and brother, proudly continuing the legacy of five generations of Vermont lawyers.

During this time, Chris was actively involved in the community. He played an instrumental role in bringing Rutland's first indoor hockey rink to life and helped develop the local Pee Wee hockey program. As a young adult he also became an experienced pilot and enjoyed flying throughout New England with his trusted co-pilot York, a Labrador Retriever. During his years in Rutland, Chris met Constance "Coco" Brewer. They married in 1976 and built a life together in East Wallingford, Vermont, while spending summer vacations in Ocean Point, Maine — a place that would later become their second home. Chris enjoyed many hobbies over the years, yet Fly fish-

ing and music were constants throughout his life. Fishing was truly his passion and led him to remote streams and quiet ponds across Northern New England. Some of his most cherished memories were made at the Lake Mitchell Trout Club, where he first fished with his parents and later shared the tradition with his two sons. Chris was also a talented pianist and composer. He created an extensive collection of original compositions, many of which he thoughtfully wrote for friends and family, leaving behind a lasting legacy. Chris is survived by his beloved wife of nearly 50 years, Coco Webber; his son, Christopher A. Webber III, his wife Hannah, and their two children, Christopher IV ("Chip") and Hayes, of Dover, Massachusetts; his son, Peter Webber and his husband, Greg Winter, of Concord, Massachusetts; and his sister, Mary Munroe. He was predeceased by his brother, John Webber.

### Christopher Howe

Christopher Hunter Howe, 68, of West Castleton, Vermont, passed away peacefully, surrounded by family, on Feb. 9, 2026.

Chris was born on Aug. 10, 1957, in Rutland, Vermont, to Cranston and Mary Jane (Poljacik) Howe. He grew up in Poultney and spent his summers at his family's cottage on Lake Bomoseen, where his lifelong love of the lake began. In his youth, he owned and operated Chris Howe Boats, reflecting both his entrepreneurial spirit and his deep connection to the water.

As a teenager, while boating along Cedar Mountain Road, he met Susan Stannard. Their friendship grew into a lifelong partnership and marriage, and Susan remained the center of Chris's life, his closest companion, confidant, and greatest love. Chris earned degrees from the University of Vermont and Vermont Law School and dedicated his professional life to law and public service. He practiced law in Fair Haven for 43 years, including early years alongside his father at Howe & Howe, and served for 24 years as Probate Judge for the District of Fair Haven. He was widely respected for his fairness, integrity, and compassion. He was also the unpublished author of *Lawyer in a Box*, a book into which he poured his heart and research.

Outside of work, Chris embraced life fully. He loved anything involving the lake, enjoyed golfing, attending auctions, genealogy, traveling around the nautical destinations in New England with Sue, and singing karaoke with his grandchildren. He served as president of both the Lake Bomoseen Association and the Fair Haven Rotary, giving generously to organizations he cared deeply about. Chris was a devoted husband, father, grandfather, brother, and friend. Known for his honesty, quick wit, and ability to "shoot from the hip," he will be remembered for

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his love of family, deep roots in his community, and gift for telling a good story. Chris is survived by his wife, Susan; his daughters, Courtney (Jon) and Amanda; his brother, Jefferson (Virginia); his grandchildren, Adriana, Caroline, Vincent, Emelia, Katherine, Jonathan, and Vivian; and his beloved pets, who were his constant companions.

### Mary Just Skinner

Mary Just Skinner, 79, unexpectedly passed away in her sleep from natural causes on Jan. 9, 2026. She had been visiting her children and grandchildren in the Bay Area in California. Mary remained herself right up to the end and enjoyed spending time with her family over the holidays, attending her grandchildren's performances and helping with pickups after school.

Mary was born in South Bend, Ind., and raised in Oak Park, Ill., just outside of Chicago. Her parents, Theodor Just and Mary McGarry Just, were both academics. Her father was the chief curator of the botany department at the Field Museum in Chicago, and her mother taught biology at Saint Mary's College in Indiana and then geology at Rosary College (now Dominican University) in Illinois. Mary was the second of three daughters.

After graduating from high school, Mary moved to New York City to attend Barnard College and Columbia Law School. At Columbia, Mary met and fell in love with fellow

law student Scott Skinner. They married in New York City in 1970 and spent the next 48 years together, until Scott's death in 2018.

From New York, Mary and Scott first moved to Guilford, Vt., and then Montpelier before settling in Middlesex in 1977. Their two sons grew up there. Over the years, they raised various types of chickens and beef cattle (including Scottish Highlands and Belted Galloways) and even some pigs in their earliest years in Middlesex.

After working at a legal aid organization in New York, Mary spent several years as an attorney at Vermont Legal Aid. As just the 47th woman sworn in as a lawyer in Vermont, Mary was part of a pioneering generation of women practicing law in the state.

In the mid-1970s, Mary represented a pregnant U.S. Marine who had been wrongly discharged. They initially lost the case in federal district court but appealed to the Second Circuit Court of Appeals. Mary and her cocounsel received advice and assistance on the case from Ruth Bader Ginsburg, then the director of the ACLU's Women's Rights Project. In *Crawford v. Cushman*, the Second Circuit held that a Marine Corps regulation that required the discharge of a woman for pregnancy was unconstitutional. Mary saw RBG years later after a speaking appearance, and she still remembered all the facts of the case!

In 1974, Mary represented a group of low-income Vermonters in what was known as the "purchased power" case. They pre-

vailed at the Vermont Supreme Court, which meant utilities could not automatically increase rates without the approval of the Public Service Board (now the Public Utility Commission). Mary opened her own private law practice in Montpelier in the late 1970s and focused primarily on family law, real estate and probate.

In addition to her legal career, Mary was also a force in Vermont's political world. She was elected to the Vermont State Senate in 1978 at the age of 32, becoming a role model for younger women interested in serving in the legislature. She represented Washington County in the Senate for 14 years and served as the chair of several key Senate committees, including the powerful Finance and Judiciary committees. Mary was a fierce advocate for legislation aimed at uplifting the state's most vulnerable residents, protecting the environment, improving fairness in education finance and keeping costs down for all Vermonters.

Mary later served on the Middlesex Select Board for 24 years. At the time of her death, Mary was a member of the Vermont Human Services Board, the Washington Electric Cooperative Board and the Central Vermont committee for UVM's Osher Lifelong Learning Institute (OLLI).

The emphasis that Mary and Scott both placed on working to serve the public interest in their careers influenced their sons to pursue their chosen professions of legal aid immigration attorney and public school teacher, respectively.

Mary was a voracious reader and an active participant in her book group in central Vermont. She also loved the theater and attended many plays in New York and Vermont throughout her life. Mary maintained

a lifelong interest in art and liked visiting art museums and collecting affordable art from lesser-known artists. She had a particular passion for folk art; the more colorful, the better.

Being a skilled bargain hunter was a point of pride for Mary. She also loved to read the newspaper in hard copy form, particularly the New York Times and the Times Argus. An ideal fall Sunday for her would be relaxing with family, reading the newspaper and watching a Patriots game.

Though she had not been particularly drawn to athletics as a child, Mary turned herself into what she termed a "middle-aged jock" as an adult in Vermont. She biked and hiked extensively in New England and beyond, and for many years she walked several miles each morning. Mary completed challenging treks in the Himalayas and proudly summited Mount Kilimanjaro in Tanzania at the age of 59.

Mary was predeceased by her parents; her husband, Scott; and her sister Jane. She is survived by her sons, Justin and Wilson; her daughters-in-law, Bronwyn and Angela; and her grandchildren, Noah Grace, Cosmo Theodor and Bryn; as well as her nephew, Matthew, and her sister Anne.

### Stephanie Mapes

With peace in her heart and her loved ones by her side, Stephanie Jill Mapes, age 65, peacefully put her angel wings on and sailed into her new life on Jan. 6, 2026. She leaves her husband Scott Michael Mapes, son Scott Lennon Mapes and his fiancé Colette Giroux, soon to be in-laws Jason and Siersha Giroux, Sister Diane Miller, her beloved guardian cat Skunk, Lennon's Godparents David and Diane Bahrenburg, many uncles, aunts, nieces and nephews, and a multitude of friends.

The daughter of Benjamin and Dolores Miller, she grew up in Wilmington, Delaware and learned to ski in middle school. Her ski club took trips to Stowe and that's how she discovered that she belonged in Vermont. While a student at University of Delaware, she was drawn to one class: Economics and The Law. This led her to Vermont Law School where she met Scott. Eventually, she became the first female president at Paul, Frank & Collins where she stayed for her entire 35-year career. She was very involved in her legal community serving on the board of the Vermont Captive Insurance Association, the Champlain College Board of Trustees as well as serving on the Lake Champlain Regional Chamber of Commerce board and Stephanie was involved with the Champlain College Cooperrider Center for Appreciative Inquiry. She introduced and educated her entire law firm on her appreciative inquiry approach - a positive, all-inclusive, non-hierarchical, collaborative style. At her retire-

ment party, she declared she had entered "The Year of the Sloth," which in her words was so wonderful. "Just hanging back in the trees. Out of the fray. Still in tune but watching from a distance. Moving ever so slowly and deliberately. Hiking. Swimming. Yoga. Biking. Sitting on the beach. Sitting on the porch, or in the late afternoon breeze of nothing more than our own, beautiful backyard."

On Oct. 1, 2024 Steph was diagnosed with HPV-inspired throat cancer. From that day forward, she said, "I am not going to let this illness define me. It is not going to become me, and I am not going to become it. It arrived as part of my path. To teach me and move me forward. But it needs to move on once it has served its purpose." Stephanie led a rich life and she leaves a profound impact on the world, captured in her words, "So many of us are asking today, how can we be happy and what can we do when so much is wrong in the world. It is so overwhelming. Well, what you say to yourself; what you see and envision becomes reality. If you keep searching for wrong, you will find it. But remember, the opposite is also true. If you seek what is right, in your body, your organizations and the world, you will find that too. It's out there. Don't deny yourself from seeing or finding it out of anger, bitterness or cynicism. Peace is every step. Each of us must become the flickering light that is needed to find our better future."

There are many people to thank especially over the last few years and over all the years, but we give a special thank you to our amazing community of witches, wizards and goddesses: Che' Schreiner, Nicole Smith, Piper Abbott, Emily Davidson, Montana Burns, Michelle Sabourin, Rick Kolo-dinsky, Diane Bahrenburg, Jill Badolato, Michael Lemnah and the tremendous team at Vermont Wellness Medicine and Integrative Oncology (Dr. Fresh), and the wonderful care team at UVM Oncology (Dr. Kahn) and UVM Hospice and Dr. Haddad at Dana-Farber.

### Gregory Ullstrom

Gregory C. Ullstrom, (1947-2026) earned his B.A. from Harvard before going onto law school at New York University where he earned his law degree in 1974. After practicing in New York City, Greg was drawn to Vermont by the appeal of running a small ski lodge. He stayed forever after, practicing at Meub and Associates in Rutland. His practice focused on litigation and real estate law. In his retirement days he loved to fish, go antiquing, and travel with his beloved wife. (Editor's note: No full obituary was available for Attorney Ullstrom at the time the Journal went to press.)

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