



Rhode Island Bar Journal

Rhode Island Bar Association Volume 72, Number 3, November/December 2023

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What You Need to Know**

**Artificial Sweetener:
How Law Firms Should Engage AI Now**

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As a member of the Rhode Island Bar Association, I pledge to conduct myself in a manner that will reflect honor upon the legal profession. I will treat all participants in the legal process with civility. In every aspect of my practice, I will be honest, courteous and fair.

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USPS (464-680)ISSN 1079-9230

Rhode Island Bar Journal is published bimonthly by the Rhode Island Bar Association, 41 Sharpe Drive, Cranston, RI 02920.

PERIODICALS POSTAGE PAID AT PROVIDENCE, RI

Subscription: \$30 per year

Postmaster

Send Address Correction to:
Rhode Island Bar Journal
41 Sharpe Drive
Cranston, RI 02920

ribar.com

Charity, Public Service and Gratitude



Nicole J. Benjamin, Esq.
President
Rhode Island Bar Association

“It is therefore incumbent on us to give our time, talent, and treasure to help close the gap on unmet legal needs.”

As a child of the '90s, one of the earliest lessons I can recall on the importance of charity and service comes from an unlikely source—the chart-topping American hip-hop group Arrested Development.

In Mrs. Muir’s sixth grade class, my classmates and I were challenged to develop the most memorable, attention-grabbing opening for a “public” speech. My topic was charity. And for my memorable, attention-grabbing opening, I stood in front of my sixth-grade class and recited the first ballad of the Billboard hit “Mr. Wendal” from Arrested Development’s debut album, *3 Years, 5 Months and 2 Days in the Life Of...* It went like this:

“Here, have a dollar

In fact, no brotherman here, have two

Two dollars means a snack for me

But it means a big deal to you.”

Years later, I struggle with the appropriateness of quoting lyrics that beat out of my Sony Walkman in 1992 in any professional setting, let alone the *Bar Journal*, but it seems fitting in this season of giving.

When the Rhode Island Supreme Court unified the Bar Association in 1973, the Bar Association reported to the Court that it:

provides aid to the Court and the public through its members by maintaining a lawyers referral program, by maintaining a panel of lawyers who serve without compensation in borderline indigent cases and by maintaining a panel of lawyers who volunteer to serve indigent persons when called upon to do so by the Justices of the Federal District Court of the District of Rhode Island and by the Justices of the District Court of the State of Rhode Island.¹

Over the course of the next fifty years, the Rhode Island Bar Association’s public services program has expanded greatly, as has the need for its services.

A report from the American Bar Association in 2016 found that 80 percent of the civil legal needs of lower-to-middle-income individuals in the United States went unmet.² The need is equally great here in Rhode Island. Each month, the calls RIBA receives from the public seeking the assistance of a lawyer are staggering. In August, the RIBA’s Public Services department fielded 1,420

calls. 743 clients were referred to Lawyer Referral Service panel attorneys, with an additional 191 clients referred to reduced fee panels. 63 elderly clients were referred to elderly panel attorneys, with an additional 34 referred to reduced fee elderly panels, and another 13 were assisted through the pro bono elderly program. 66 cases were handled by the Volunteer Lawyer Program, primarily in the areas of family law, bankruptcy law and landlord/tenant law. Clients were also referred through the Lawyers for the Arts panel, the Armed Forces Legal Services Project and RISERVES. These numbers are not outliers. Month after month, RIBA’s Public Services department fields thousands of calls, many of which are from those unable to afford the services of an attorney. You can make a meaningful impact on our community by joining one of the many programs offered through the Public Services department. If you are interested in learning more, please contact Public Services Director Susan Fontaine at sfontaine@ribar.com.

Just as the public need has expanded, so too has the willingness of our members to devote their time and talent to these programs. One need not look any further than the nominations for the Dorothy Lohmann Community Service Award, the Victoria M. Almeida Servant Leader Award, the Pro Bono Publico Award, and the Continuing Service Award to find the selfless servants among us. The extraordinary stories of service and representation of those in need that are recounted in each nomination reflect the remarkable generosity and dedication of our members.

The need, however, continues to grow, and the work is never done. It is therefore incumbent on us to give our time, talent, and treasure to help close the gap on unmet legal needs.

The same lessons of charity and service that I learned from the lyrics to “Mr. Wendal” in the sixth grade are reflected in Rule 6.1 of the Rhode Island Rules of Professional Conduct. As

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our Chair of our Public Service Involvement Committee, Christine J. Engustian, reminds us, Rule 6.1 makes it a “professional responsibility to provide legal services to those unable to pay.”³ And “[b]ecause the provision of pro bono services is a professional responsibility, it is the individual ethical commitment of each lawyer.”⁴

The rule establishes an “aspirational goal” that attorneys render at least 50 hours of pro bono publico legal services per year.⁵ The rule provides:

In fulfilling this responsibility, the lawyer should:

- (a) provide a substantial majority of the (50) hours of legal services without fee or expectation of fee to:
 - (1) persons of limited means or
 - (2) charitable, religious, civic, community, governmental, and educational organizations in matters that are designed primarily to address the needs of persons of limited means; and
- (b) provide any additional services through:
 - (1) delivery of legal services at no fee or substantially reduced fee to individuals, groups, or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental, and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization’s economic resources or would be otherwise inappropriate;
 - (2) delivery of legal services at a substantially reduced fee to persons of limited means; or
 - (3) participation in activities for improving the law, the legal system or the legal profession.⁶

In addition to delineating the service expected of attorneys, Rule 6.1 also addresses the charity expected of attorneys, providing that “a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.”⁷

The rule recognizes that we are all busy professionals and is not blind to the fact that we have other professional commitments.⁸ But, as the rule also recognizes, “personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer.”⁹ As “Mr. Wendal” put it:

“Now that I know him, to give him money isn’t charity.

He gives me some knowledge, I buy him some shoes.”

While Rule 6.1 is aspirational only, as a

result of mandatory pro bono requirements at many law schools, our newer lawyers have come into the practice with a profound appreciation for public service. Long before they have ever had a paying client, many of our newer lawyers have experienced the power and satisfaction of utilizing their own talents to help someone in need. That satisfaction will continue to fuel their desire to serve others, and I hope it will be contagious.

While pro bono service and charity are the focal points of Rule 6.1, the rule also recognizes that there are myriad other forms of public service. To that end, Rule 6.1 recognizes the value of lawyers engaging in activities that improve the law, the legal system or the legal profession. Comment 8 provides:

Serving on bar association committees, serving on boards of pro bono or legal services programs, taking part in Law Day activities, acting as a continuing legal education instructor, a mediator or an arbitrator, and engaging in legislative lobbying to improve the law, the legal system or the profession are a few examples of the many activities that fall within this paragraph.¹⁰

I warmly welcome you to join our bar committees, take part in our Law Day activities, and, of course, engage with our public services department.

In this season of gratitude and thanksgiving, I am especially grateful for the exceedingly generous and selfless servants among us. As you establish your goals and aspirations for the coming year, I encourage you to think about the altruistic responsibilities and ethical obligations each of us has under Rule 6.1 as attorneys admitted to practice in Rhode Island and to carry out those responsibilities by giving your time, talent, and treasure to help close the gap on unmet legal needs.

ENDNOTES

1 *Petition of the Rhode Island Bar Association for Unification of the Bar of the State of Rhode Island*, No. 1156-M.P. (1973).

2 *ABA Comm’n on the Future of Legal Servs., Report on the Future of Legal Services in the United States* (Aug. 2016), available at https://www.americanbar.org/content/dam/aba/images/abaneews/2016FLSReport_FNL_WEB.pdf.

3 *R.I. R. Prof’l Cond.* 6.1.

4 *R.I. R. Prof’l Cond.* 6.1 cmt. 9.

5 *Id.* cmt. 12.

6 *R.I. R. Prof’l Cond.* 6.1.

7 *Id.*

8 *Id.* cmt. 1.

9 *Id.* cmt. 1.

10 *R.I. R. Prof’l Cond.* 6.1 cmt. 8. ◊

Rhode Island Bar Journal

Editorial Statement

The *Rhode Island Bar Journal* is the Rhode Island Bar Association’s official magazine for Rhode Island attorneys, judges and others interested in Rhode Island law. The *Bar Journal* is a magazine published bi-monthly, six times annually, and digitally distributed to, among others, all practicing attorneys and sitting judges, in Rhode Island. This constitutes an audience of over 6,300 individuals. Covering issues of relevance and providing updates on events, programs and meetings, the *Rhode Island Bar Journal* is a magazine that is read on arrival and, most often, kept for future reference. The *Bar Journal* publishes scholarly discourses, commentary on the law and Bar activities, and articles on the administration of justice. While the *Journal* is a serious magazine, our articles are not dull or somber. We strive to publish a topical, thought-provoking magazine that addresses issues of interest to significant segments of the Bar. We aim to publish a magazine that is read, quoted and retained. The *Bar Journal* encourages the free expression of ideas by Rhode Island Bar members. The *Bar Journal* assumes no responsibility for opinions, statements and facts in signed articles, except to the extent that, by publication, the subject matter merits attention. The opinions expressed in articles, interviews, columns, and editorials are not the official view of the Rhode Island Bar Association. Letters to the Editor are welcome.

Article Selection Criteria

- > Contributors are requested to submit article, book review, editorial, and interview topic ideas for approval to the Managing Editor prior to submission.
- > The *Rhode Island Bar Journal* gives primary preference to original articles, written expressly for first publication in the *Bar Journal*, by attorney and judicial members of the Rhode Island Bar Association. The *Bar Journal* does not accept unsolicited articles from individuals who are not members of the Rhode Island Bar Association unless co-authored with a RIBA member. Law student members may submit articles co-authored by either a law school professor (not necessarily a RIBA member) or a RIBA member.
- > A maximum of two authors (co-authors) is permitted for article submissions.
- > Articles previously appearing in other publications are typically not accepted.
- > All submitted articles are subject to the *Journal*’s Editor’s approval, and they reserve the right to edit or reject any articles and article titles submitted for publication.
- > Selection for publication is based on the article’s relevance to our readers, determined by content and timeliness. Articles appealing to the widest range of interests are particularly appreciated. However, commentaries dealing with more specific areas of law are given equally serious consideration.
- > Preferred format includes: a clearly presented statement of purpose and/or thesis in the introduction; supporting evidence or arguments in the body; and a summary conclusion.
- > Citations conform to the Uniform System of Citation
- > Maximum article size is approximately 3,500 words. However, shorter articles are preferred.
- > While authors may be asked to edit articles themselves, the Editor reserves the right to edit pieces for legal size, presentation and grammar.
- > Articles are accepted for review on a rolling basis. Meeting the criteria noted above does not guarantee publication. Articles are selected and published at the discretion of the Editor.
- > Submissions are preferred in a Microsoft Word format emailed as an attachment.
- > Authors are asked to include an identification of their current legal position and a photograph, (headshot) preferably in a jpg file of, at least, 350 d.p.i., with their article submission.

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More Funds Available to Invest in the RI Non-Profit Community!



Michael R. McElroy, Esq.
President
Rhode Island Bar Foundation

“...we are currently on pace to earn more money for the IOLTA program this year than at any time in the history of your Bar Foundation.”

There is a modernized version of a quote from the early 19th century, attributed to Francis Bacon in its original form, that says “money, like manure, does no good till it is spread.”

I am pleased and excited to report to you that we are on pace at your Rhode Island Bar Foundation to have by far our best year ever in terms of IOLTA income earned. This is primarily because rising interest rates are generating more money from your IOLTA accounts. As you know, this money is sent to the Rhode Island Bar Foundation. Your Foundation then makes grants to nonprofit organizations in Rhode Island that provide legal services to the disadvantaged, improve the delivery of legal services, promote knowledge and awareness of the law, and improve the administration of justice.

Since its inception, the Bar Foundation has granted over \$25 million to Rhode Island organizations that provide legal services to the poor, as well as to organizations that improve the administration of justice.

However, in recent years, because of the very low interest rates being paid by the banks on lawyers’ trust accounts (close to 0%), your Foundation has been limited in the amount of grants that we have been able to award. Since I became president in 2019, we have awarded just under \$400,000 per year in grants.

As a result of the recent increase in interest rates, banks are now paying significantly more interest to the Foundation. In fact, we are currently on pace to earn more money for the IOLTA program this year than at any time in the history of your Bar Foundation. As a result, the Board of Directors of the Foundation recently unanimously voted to do two things.

First, in September, the Foundation made supplemental grants to each of our current grantees, totaling 50% of their existing grant for the calendar year 2023. This will result in an additional total payment to our grantees for this year of just under \$200,000.

Second, the Board also unanimously voted to significantly increase the grant awards for the upcoming 2024 calendar year to \$1 million.

The current Foundation grantees are:

- > Rhode Island Legal Services
- > Dorcas International Institute of Rhode Island
- > Rhode Island Coalition Against Domestic Violence
- > Rhode Island Coalition for the Homeless
- > Center for Mediation and Collaboration
- > Rhode Island Legal Education Foundation
- > Rhode Island Bar Association Legal Information and Referral Service for the Elderly
- > Rhode Island Bar Association Pro Bono Project
- > Day One, which provides legal advocacy for victims of sexual assault
- > Rhode Island Center for Justice

Now that we have additional funds for the first time in years, we are pleased to be able to increase the grants to all of our existing grantees, and we are hopeful that in 2024, we will be able to announce additional organizations receiving grants from our Foundation for the first time.

It is important to note that the primary function of an organization seeking a grant must be to provide legal services to the poor in Rhode Island, to improve the delivery of legal services in Rhode Island, to promote knowledge and awareness of the law in Rhode Island, and/or to improve the administration of justice in Rhode Island.

Among other things, priority is given to applications requesting funds for the direct representation of clients, especially through pro bono programs. Funds are not awarded to provide legal assistance with respect to any fee-generating cases.

Of course, grants are not automatically awarded simply because an application is filed. All applications are reviewed each year, in detail, by the Foundation’s Grants Committee for compliance with all of our grant criteria and availability of funds, among other considerations.

If you are interested in learning more, please visit the Rhode Island Bar Association website for the detailed IOLTA grant criteria. From the homepage, please select the Rhode Island Bar

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Rhode Island Bar Foundation

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

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

Help Our Bar Foundation Help Others

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My enclosed gift in the amount of \$ _____

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Questions? Please contact Theresa Gallo at 421-6541

or tgallo@ribar.com

Foundation, then go to Bar Foundation Grants and Scholarship Programs.

At the Bar Foundation, our mission is to effectively distribute these newfound funds throughout the community, maximizing their positive impact and reaching as many people as we can. We look forward to sharing the names of our 2024 grantees with you early next year. ◇

IOLTA Honor Roll Banks

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



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Seismic Changes to RI's Land Use Laws: What You Need to Know



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“Clients whose applications have been denied in recent years may find that these recent changes to the ZEA provide them a better chance of success with a repeat application...”

Introduction

In the General Assembly's June 2023 press release announcing the enactment of thirteen bills known informally as Speaker K. Joseph Shekarchi's housing package, the Speaker affirmed the need to “fundamentally change [the State's] approach to housing development.”¹ By enacting the housing package, the General Assembly did just that and more, as the amendments go beyond changes to residential development, affecting all aspects of both small-scale and large-scale development requiring municipal review and approval. In this article, we'll review what land use attorneys need to know about the new legislation. Except where noted, all of these laws take effect on January 1, 2024. Please note that due to space limitations, this article will not cover each and every aspect of the laws discussed herein, focusing instead on the highlights of the new laws.

Changes to the Zoning Enabling Act

The Rhode Island Zoning Enabling Act of 1991 (“ZEA”), codified at Title 45, Chapter 24 of the Rhode Island General Laws, sets forth requirements for zoning ordinances and governs the review of applications for zoning relief. Prior to 2023, the ZEA had been tweaked over the years but had not been amended in a comprehensive fashion. The law amending the ZEA in 2023 consists of several targeted, specific amendments that collectively will have a significant impact on zoning law and procedure.²

One of the most impactful sections of this law amends the standards for granting a dimensional variance, which the ZEA defines (in an updated definition) as “permission to depart from the dimensional requirements of a zoning ordinance under the applicable standards set forth in § 45-24-41.” Two of the required standards for approval of a dimensional variance have been eliminated: the requirement that the hardship must not result primarily from the applicant's desire to realize greater financial gain and the requirement that the relief granted is the least relief necessary. The requirement that the applicant must suffer more than a mere inconvenience if the variance were denied has been clarified; the law now provides that this means “that relief sought is minimal to

a reasonable enjoyment of the permitted use to which the property is proposed to be devoted.” This newly-defined standard, however, merges language from case law defining both “least relief necessary” and “more than a mere inconvenience” into one standard.

Another significant change to the ZEA requires municipalities to allow the granting of a special use permit in conjunction with a variance. Previously, municipalities had the option to allow these two forms of relief to be granted for the same application simultaneously. It is now required. Similarly, dimensional modifications must now be allowed, meaning that an applicant can receive administrative approval for dimensional relief of up to 15 percent, although municipalities can allow administrative approval of dimensional relief of up to 25 percent.

Many of the amendments to the ZEA require corresponding amendments to zoning ordinances that will more or less mirror the changes to the law. However, one area where municipalities will have some discretion is in reviewing and revising standards for uses permitted by special use permit. Many uses now designated as permitted by special use permit in zoning ordinances lack specific and objective criteria for approval. The ZEA, as amended, provides that “if an ordinance does not expressly provide for specific and objective criteria for the issuance of a category of special use permit such category shall be deemed to be [a] permitted use.” Attorneys representing applicants in connection with special use permit applications should ensure that such specific and objective criteria are, in fact, set forth in the ordinance.

Finally, one major change that will affect zoning applications is not specified in the ZEA at all; instead, it is set forth in the law amending the Development Review Act, discussed in further detail below. Unified development review (“UDR”), in which a planning board can grant zoning relief for projects under its jurisdiction, is now man-

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



Attorney **Mariah Sugden**, a member of the Lawyer Referral Service, enthusiastically supports the program. *"Unbeknownst to me until recently, the Rhode Bar Association was founded in 1898. Among its many objectives, those that stood out to me are to 'promote the administration of justice; to uphold the honor and dignity of the process of law; to apply its knowledge and experience in the field of the law to the*

promotion of the public good...' Staying true to that mission is the Lawyer Referral Service. I have found few, if any, states that offer such an invaluable, essential service to the public. Indeed, leave it to Rhode Island. I cannot think of a better avenue to provide the public with access to an attorney. And for me, it's an additional opportunity to build my practice."

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

Applications and more detailed program information and qualifications may be found on our website, ribar.com, in the Members Only section. You may also request information by contacting Public Services Director Susan Fontaine at 401-421-7799 or sfontaine@ribar.com.

Help Us Grow Our List Serve

Free and available for all actively practicing Rhode Island attorney members, the Bar's List Serve gives you immediate, 24/7, open-door access to the knowledge and experience of over 700 Rhode Island lawyers. If you have a question about matters relating to your practice of law, you can post the question on the List Serve, and it will be emailed to all list serve members. Any attorney who wishes to provide advice or guidance can, and hopefully will, quickly respond. Help us grow our online community by joining TODAY! Visit ribar.com and the Members Only section, and click **List Serve** for instructions on how to join.

datory. UDR was enabled in 2016 and initially made optional for municipalities, although not widely adopted outside of the urban core.³ With UDR now becoming mandatory, zoning board dockets will likely become lighter. Practitioners should familiarize themselves with the UDR process and requirements for submittal.

Practice Tip: Taken together with the 2022 amendments that eliminated the requirement of a four-person supermajority for the approval of zoning applications, the 2023 amendments to the ZEA represent a lowering of the bar for zoning relief. Clients whose applications have been denied in recent years or whose applications were not permitted altogether (for example, because the municipality did not permit the granting of a variance in conjunction with a special use permit), may find that these recent changes to the ZEA provide them with a better chance of success with a repeat application if the standards upon which the denial was based were the amended standards in the 2023 legislation.

Changes to the Development Review Act

The Development Review Act ("DRA") was enacted in 1992 and is codified at Title 45, Chapter 23 of the General Laws. The new law represents a dramatic overhaul of the DRA that will require municipalities to rewrite their land development and subdivision regulations.⁴ The law alters the review and approval process for all applications now subject to review by planning boards, administrative officers, and technical review committees. As for subdivisions, the law revises the definition for both major and minor subdivisions. The DRA previously defined a minor subdivision as a plan for a subdivision consisting of five or fewer lots. As amended, a minor subdivision is defined as a plan for a subdivision creating nine or fewer lots. Similarly, the definition of a land development project has been standardized. Previously, the DRA allowed some variation among municipalities as to the definition of a land development project. Now, the law defines what constitutes a major and minor land development project. Major projects are still subject to a three-stage review, consisting of master, preliminary, and final. Some minor projects can now be reviewed administratively. Additionally, the law defines and standardizes the process for development plan review, allowing municipalities to utilize development plan review for specific projects as an alternative method of review.

Changes Affecting Affordable Housing

The Rhode Island Low and Moderate Income Housing Act ("LMI Act") was enacted in 1991 and is codified at Title 45, Chapter 53 of the Rhode Island General Laws. Like the ZEA, it has been amended here and there over the years, but the 2023 amendments represent the most significant change to the LMI Act since its enactment.⁵ The LMI Act governs the review and approval of comprehensive permit applications, which are proposals for residential development in which a minimum of 25% of the dwelling units are deed-restricted as affordable. The law sets forth a limited set of permissible grounds for denial of such applications. One important tweak to this list raises the bar for one of those grounds; specifically, for a planning board to deny an application because the municipality is "meeting housing needs," this must include a showing that at least 20 percent of the total residential housing units approved in that city or town are affordable. In practice, this means that many planning

boards will be unable to deny an application on this ground because most municipalities in Rhode Island cannot make such a showing.⁶

The structural changes to the LMI Act are even more significant. Under the law as it previously existed, comprehensive permit applications were eligible for density bonuses, which were not specifically defined, meaning that such developments could contain more dwelling units than would otherwise be permitted. The amendments now set forth the minimum zoning incentives that must be provided for comprehensive permit applications. These incentives vary depending on whether the property is connected or eligible for connection to public utilities and on the percentage of dwelling units that are affordable. Further, the law, as amended, sets forth certain dimensional standards and other requirements that constrain municipal authority to regulate development. With regard to procedure, the master plan review stage is completely eliminated. Finally, the law eliminates the required finding that the application has “no significant negative environmental impacts.”

A separate law also amends the requirements for inclusionary zoning.⁷ Inclusionary zoning is a tool for municipalities to encourage the production of affordable housing. Where enabled under the zoning ordinance—it remains optional, not mandatory—residential developments over a certain threshold of dwelling units must deed-restrict a minimum percentage of those units as affordable. Amendments to this section of the ZEA, which is codified at § 45-24-46.1, function in a similar manner to the amendments to the LMI Act, in that they now set forth specific minimum thresholds for density bonuses, zoning incentives, and municipal subsidies for developments subject to inclusionary zoning.

Practice Tip: With the elimination of the master plan stage of review for comprehensive permit applications, it will take more time to prepare these applications for review and approval by planning boards; however, once the applications are before the board, the LMI Act as amended lowers the hurdles to passage.

Changes Affecting Comprehensive Plans

Not to be confused with a comprehensive permit, a comprehensive plan is an overarching statement of a municipality’s goals, policies, and objectives. The Rhode Island Comprehensive Planning and Land Use Act (the “Comprehensive Plan Act”) was adopted in 1988 and is codified at Title 45, Chapter 22.2 of the Rhode Island General Laws. The piece of the housing package that focuses on comprehensive plans does not function as an overhaul of the Comprehensive Plan Act; rather, it represents a limited amendment to this enabling act.⁸ The law requires comprehensive plans to include “specific goals, implementation actions, and time frames for development of low- and moderate-income housing.” It sets an 18-month deadline for a municipality to bring its zoning map into conformance with the future land use map set forth in the comprehensive plan if needed. In a nod to previous litigation over this topic, it provides that the future land use map in a valid comprehensive plan shall govern all local municipal land use decisions. And perhaps most importantly, it provides that if a comprehensive plan has been stale for 12 or more years—that is, if the municipality has not fully updated and re-adopted its comprehensive plan within 12 years—then it cannot serve as a basis for denial of a development application. This provision will likely spur a number of municipalities

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Zachary Mandell, Esq.
*Annual Meeting
Planning Committee
Chair*

Do you have a workshop suggestion for the 2024 Annual Meeting? How about ideas for speakers? The Annual Meeting Planning Committee is looking for your input!

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Please consider submitting one or more workshops for consideration to help us plan a program that will meet the needs of the bar membership. Initial proposals consisting of a brief description of the proposed workshop are due by **November 8, 2023**.

To access the 2024 Annual Meeting workshop proposal form, please [click here](#), or visit the Bar's website at ribar.com and click on the Continuing Legal Education dropdown menu and select the 2024 AM Proposal Form. Please contact CLE Director Madeline Benner at 401-421-5740 or mbenner@ribar.com if you have any questions.

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to dust off their comprehensive plans and begin the process of review and amendment.

Practice Tip: The comprehensive plan remains an important aspect of the permitting process, and its position at the top of the hierarchy of local rules (over the zoning ordinance and regulations) is unchanged, but various aspects of the housing package make it more difficult for municipalities to use the comprehensive plan as a basis for denial of development applications. It's also important to be aware of the status of the municipality's comprehensive plan as of the date that your application is filed or certified complete, as appropriate.⁹

Changes Affecting Appeals & Procedure

As land use attorneys know, appeals relating to zoning and planning board decisions can sometimes languish in Superior Court. Now, all appeals relating to development applications will be assigned to a newly created Land Use Calendar.¹⁰ Zoning boards will no longer sit as planning boards of appeal. Additionally, through separate legislation, the State Housing Appeals Board, which previously handled certain appeals related to comprehensive permit applications, will sunset at the end of 2023, making the Superior Court the proper venue for all appeals related to municipal development applications.¹¹

Practice Tip: Because "all matters assigned to the land use calendar shall be expedited," taking an appeal simply to preserve appellate rights without filing a memorandum in support of the appeal will likely be eliminated as a strategy for appellants. Attorneys should be prepared to follow through with briefing any appeals they file.

Miscellaneous Changes

As another example of the Legislature's focus on encouraging the production of new housing units, a law regarding adaptive reuse encourages the creation of existing commercial buildings for residential use and places limits on municipal authority to impose certain density and dimensional requirements on such projects.¹² Adaptive reuse is defined as the conversion of any commercial building (including offices, schools, religious buildings, medical buildings, and malls) into residential units or mixed-use developments, including at least 50 percent of the existing gross floor area as residential units. The law curtails the ability of a city or town to limit the density of such developments and additionally exempts these developments from off-street parking requirements from over one space per dwelling unit. Existing building setbacks and height shall remain and be considered legal nonconforming. Adaptive reuse projects must be permitted as of right with respect to use; however, they will still be subject to land development project review as set forth in the DRA.

Notice requirements for land use applications have been amended effective as of passage, primarily by eliminating the requirement that notice to abutters shall be sent by certified mail and by adding the requirement that municipalities advertise these applications on their websites.¹³

A pilot program centered on transit-oriented development ("TOD") was also adopted as part of the housing package.¹⁴ This law is intended to encourage residential development near public transportation centers. The Department of Housing is charged with promulgating regulations establishing criteria for the program, which would provide increased density for devel-

opment (at a minimum of 10 units per acre) and relaxed dimensional restrictions and parking requirements.

Practice Tip: As stated at the outset of this article, we have focused on the highlights of the housing package rather than the minute details. Remember that there is no substitute for reviewing both the enabling acts, as amended, in detail, along with the text of the zoning ordinance and/or local regulations, as appropriate.

Accessory Dwelling Units

Lastly, a brief note on the only piece of the housing package that failed to gain passage: amendments to the law governing accessory dwelling units (ADUs). This proposed legislation would have overhauled a law enacted in 2022.¹⁵ The General Assembly's press release on the housing package indicated that "Speaker Shekarchi and sponsor Representative Speakman intend to continue working to refine that bill ahead of next year's legislative session."¹⁶

Conclusion

As you can see, our description of these amendments as a seismic shift to the land use review and approval process in Rhode Island is not an exaggeration. Going forward, both the substance and procedure of land use law will be markedly different from that of the last several decades. Further, because the House of Representatives has authorized the legislative commissions from which these amendments emanated to continue in existence until 2025, more changes could be on the horizon.¹⁷ Stay tuned for updates on any new amendments to these land use laws in 2024.

ENDNOTES

1 [Cite for press release goes here].

2 P.L. 2023, ch. 304; P.L. 2023, ch. 305.

3 P.L. 2016, ch. 527.

4 P.L. 2023, ch. 308; P.L. 2023, ch. 309.

5 P.L. 2023, ch. 310; P.L. 2023, ch. 311.

6 See generally 2022 Housing Fact Book, available at www.housingworksri.org.

7 P.L. 2023, ch. 302; P.L. 2023, ch. 303.

8 P.L. 2023, ch. 314; P.L. 2023, ch. 315.

9 The State maintains a website listing the status of comprehensive plans, available at <https://planning.ri.gov/planning-areas/local-comprehensive-planning/comprehensive-plans-and-state-approval-status>.

10 P.L. 2023, ch. 306; P.L. 2023, ch. 307.

11 P.L. 2023, ch. 312; P.L. 2023, ch. 313.

12 P.L. 2023, ch. 321; P.L. 2023, ch. 322.

13 P.L. 2023, ch. 316; P.L. 2023, ch. 317.

14 P.L. 2023, ch. 323; P.L. 2023, ch. 324.

15 P.L. 2022, ch. 437; P.L. 2022, ch. 440.

16 [Cite for press release goes here].

17 House Resolution 229, enacted Apr. 6, 2023 (extending reporting and expiration dates for Affordable Housing Commission to June 7, 2025, and June 28, 2025, respectively); House Resolution 230, enacted Apr. 6, 2023 (extending reporting and expiration dates for Land Use Commission to June 8, 2025, and June 30, 2025, respectively). ◇

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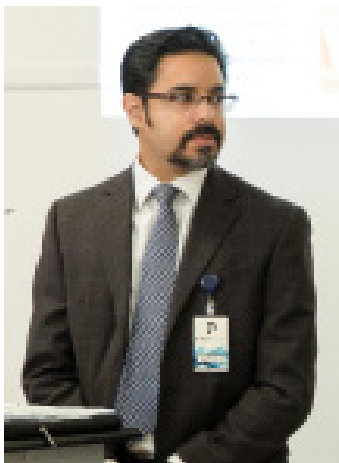
In commemoration of Constitution Day, the Rhode Island Judiciary's Committee on Racial and Ethnic Fairness in the Courts and the Rhode Island Bar Association's Diversity, Equity, and Inclusion Committee partnered to launch a pilot program aimed at educating Rhode Island students about the law and civics. The inaugural Constitution Day program was held on Friday, September 15th, and focused on the First Amendment and its relevance to social media and the issue of bullying. The presentations took place at five different schools across Rhode Island: Central High School, Classical High School, PVD Preparatory Middle School, Sophia Academy Middle School, and Westerly High School. Notably, Secretary of State Gregg Amore attended the presentation at Classical High School.



Rhode Island Supreme Court Associate Justice Melissa A. Long was joined by attorneys Etie-Lee Schaub and Stella Guerra for a fun and informative lesson at Sophia Academy Middle School in Providence.



Secretary of State Gregg M. Amore joined RI Supreme Court Associate Justice Erin Lynch Prata and attorneys Lynette Labinger and Crystal Peralta for an entertaining presentation at Classical High School in Providence.



Attorneys Hamza Chaudary and Jennifer Sylvia together with RI Family Court Magistrate Alberto Aponte Cardona engaged students at PVD Preparatory Middle School in Providence.





RI Family Court Magistrate Edward Newman, RI Workers' Compensation Court Associate Judge Keith A. Cardoza, Rebecca Dupras, Esq., and Sarah Oster Kelly, Esq. presented to 200 seniors at Westerly High School.



We want to thank all of the attorneys and judges listed below who volunteered their time for the inaugural Constitution Day program. The program represents a significant step towards empowering Rhode Island students to become informed and engaged citizens and encourage them to consider a future in the legal profession. The Rhode Island Judiciary and the Rhode Island Bar Association look forward to expanding this educational endeavor in the years to come.

Rhode Island Bar Association

- James Bagley, Esq.
- Hamza Chaudary, Esq.
- Rebecca Dupras, Esq.
- Philip Gasbarro, Esq.
- Stella Guerra, Esq.
- Sarah Oster Kelly, Esq.
- Lynette Labinger, Esq.
- Crystal Peralta, Esq.
- Etie-Lee Schaub, Esq.
- Jennifer Sylvia, Esq.

Rhode Island Judiciary

- Hon. Alberto Aponte Cardona
- Hon. Keith A. Cardoza
- Hon. Melissa R. DuBose
- Hon. Melissa A. Long
- Hon. Edward H. Newman
- Hon. Erin Lynch Prata



RI District Court Associate Judge Melissa DuBose returned to her old classroom with attorneys James Bagley and Philip Gasbarro for a lively discussion at Central High School in Providence.

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Artificial Sweetener: How Law Firms Should Engage AI Now



Jared D. Correia, Esq.
Red Cave Law Firm Consulting
RIBA Law Practice Management
Consultant



Megan E. Sheehan, Esq.
Sheehan & Associates, LLC
Providence

“...AI as it’s presently constituted, is a time-saving device, much like a second computer monitor but with far more horsepower.”

Artificial intelligence (AI) has finally captured the popular zeitgeist via ChatGPT—a generative AI program that can provide near-instantaneous responses to almost any query. Before we get too far along here, note that artificial intelligence is essentially the mimicking of human intelligence by a computer system that has learned via a ‘large language model,’ i.e., lots of varied data. Generative AI is simply an AI program that offers a data output, whether it’s text (like ChatGPT and Google Bard) or images (like MidJourney or Dall-E). You can ask these tools just about anything, and they will offer an answer. ‘Hey, Google Bard—I have these 5 ingredients in my refrigerator; generate a recipe for me.’ ‘Midjourney, I want you to create an image of Joe Biden and Donald Trump holding hands and skipping through a field of daisies.’ ‘ChatGPT—Draft me a contract clause for default on a commercial real estate transaction.’ (Yup, that too.) The more effectively you craft these ‘prompts,’ the better the response will be. (And, if you’re a really good prompt engineer, you might have another highly compensated career opportunity unfolding before you.) Obviously, AI is, at the very least, a really impressive tool that is a testament to human ingenuity (and, perhaps, overreach) and which is currently generating a massive effect in every business industry and everyone’s personal lives. Now, that’s all well and good, but it also begs the question: How should lawyers use ChatGPT and tools like it?

AI Is Currently an ‘Assistive’ Technology

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

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

Oversee AI Like a Staff Person

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

The same goes for your staff members. If you ask a paralegal or an associate attorney to draft you a motion or a contract, they will perform that task to the best of their abilities, too. But, does that mean that you would turn that document over to a client, sight unseen, without reviewing it? Of course not. You wouldn’t do that for

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at least a few reasons: it's not good business sense; as the boss, you should be approving everything that goes out the door under your letterhead; and (as an attorney), you have a stone-cold ethical obligation to oversee your staff, including their performance, but especially their work product. So, although AI is functionally just another technology program in your toolbox, it's really a bit more than that. It's actually another staff person; therefore, treat AI produced work as you would a staff person's work product. Review it with a fine-tooth comb, both for quality and accuracy, and make appropriate edits (which may be heavy) before anything leaves the physical or virtual confines of your office. Where lawyers have gotten over their skis is by being too trustworthy of AI, and assuming it is correct without checking over the final work product. But, as you would never do that with a staff person, don't do it with a technology product that emulates a staff person.

Talk to AI Like a Kid

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

Don't Believe AI (The 'Hallucination' Problem)

The biggest news stories in the legal vertical related to AI involve 'hallucinations,' which is a fancy way of saying that AI makes things up. In at least a couple of cases, AI has 'hallucinated' or made-up case cites that weren't real, and attorneys have been disciplined because they submitted these documents to courts with false case citations. Now, this should not be surprising, because that's how AI works. It's programmed to provide an answer, no matter what—and, like a child, if it can't provide an answer, it panics and makes something up. This isn't a reason to avoid using AI. You simply need to check your sources and ensure that the information that AI is providing is accurate—the same way you would in reviewing a staff person's work. And you also don't want to ask AI if its sources are real; leave it at that—because if it's already making things up, its programming will force it to compound the lie. Check your sources and cites independently as part of your review process.

Don't Trust AI (The Confidential Data Problem)

It's still somewhat murky in the AI landscape when it comes to how the data in the learning modules is collected and used.




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

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

...

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

If technology awareness and utilization is an important part of the modern attorney's competency obligation, then you must begin to understand the AI tools you're already using, as well as those you will come to use. Lawyers are often late adopters, lagging behind in technology upgrades and efficiencies, but that approach has never been a wise one—and it's also a dangerous strategy when it comes to AI, which your competitors will use to outpace you on a massive scale. It's time to enter the race—before it's too late to catch up. ♦

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Rhode Island Women Lawyers: Past, Present, & Future

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



Hon. Melissa R. DuBose
RI District Court Associate Judge

Humble and genuine are the first words that come to mind in describing the impression Associate Judge Melissa DuBose leaves on those she meets. These qualities, along with her demonstrated hard work and passion, led her to become a great addition to the District Court.

One of Judge DuBose's first jobs was as a barista (before there was such a fancy name) at a café in Providence that served many high school students. She was always talkative and supportive of her student customers, which led her down a path to apply her caring attitude toward a teaching career. She started teaching part-time at School One while earning her education degree from Providence College. Then she transitioned to a full-time position teaching history and western civilization to high school students. She absolutely loved her students, growing strong bonds with them through empathy and caring about what happened to them beyond the school walls. It was not until a tragedy struck her group of students that she thought about law school.

While teaching at Textron Chamber of Commerce Academy Charter School, one of Judge DuBose's former students was arrested for murdering another student in gang-related violence. The arrestee was a smart and sweet student, and no one expected him to do something like that.

This horrible event struck Judge DuBose and her students to their core. Many students were asking what would happen in the juvenile court system, as a lot of distrust existed about that system. That is when she decided the best way she could give back to her community was by being a part of the solution from within the legal system.

Judge DuBose was one of the last groups of students in Roger Williams University School of Law's night-time law program, attending while simultaneously teaching at Central High School. She is grateful to her high school students who supported and cheered her on through law school. After receiving her law degree, Judge DuBose continued teaching until an opportunity arose to join the Office of the Rhode Island Attorney General as a prosecutor.

Reflecting on being a prosecutor, Judge DuBose was always mindful of the power of the position, determining whether or not to prosecute any given case. She made it her mission to make sure every case that came before her was appropriate for prosecution, supported by adequate evidence. She saw this as an opportunity to create justice. Reflecting back on her students, Judge DuBose shared that they felt a sense of betrayal when she took this new position prosecuting juveniles, individuals just like them. She was determined to persuade her former students that the justice system was not as terrifying and crooked as they believed, frequently inviting them to the Superior Court to watch the system operate firsthand. Those experiences she facilitated gave many students a better impression of the justice system, even motivating some of her former students to become lawyers in practice today.

After her service at the AG's Office, Judge DuBose's life then took a completely different turn when she became in-house corporate counsel at Schneider Electric. This was not something she ever planned, but felt it was worth the leap of faith. While it was a completely different culture from public service (where the profit margin was of course one of the most important focal points), she loved being part of the impact of the company, bringing energy to low-income areas and developing nations. Though noting that the work was more transactional than interpersonal, she



Jenna Giguere, Esq.



Jennifer L. Sylvia, Esq.
Moses Ryan Ltd.

succeeded very well in that position, becoming an expert on compliance with the regulations that the business was subject to.

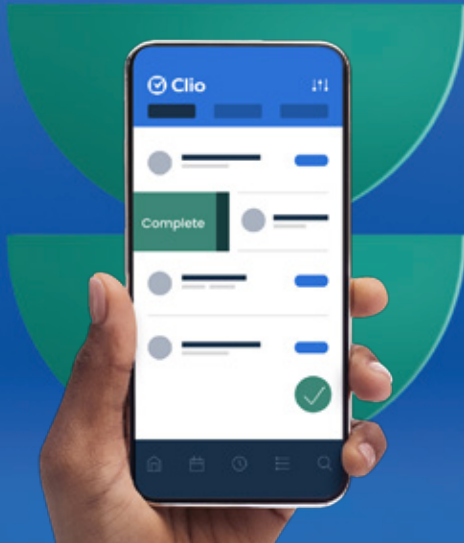
When a judgeship opened in District Court, many of Judge DuBose's supportive friends and neighbors encouraged her to apply. Her approach to the application process was to be her genuine self, an approach that kept stress at bay. Governor Raimondo saw her talent as a great asset to the bench and she was sworn in in 2019. Many of her students were at her swearing-in because of the continuing strong relationship she has with them. Since then, she has been a great contribution to the District Court for lawyers and all individuals that appear in front of her.

After the tragic police killings of black individuals in the summer of 2020 (including George Floyd), Judge DuBose began to think more and more about the judiciary's role in the fight against racial injustice. She started having conversations with Justice Long, Judge Smith, and (Ret.) Judge Clifton about what the Rhode Island Courts should be doing. Chief Justice Suttell joined in the conversation, and this ultimately led to the creation of the Court's Committee on Racial and Ethnic Fairness (CREF). Judge DuBose was involved in drafting the 'This We Believe' public statement by the Committee in response to the tragedies of 2020. She felt it was important that the judiciary take steps to combat racial injustice as it is part of their oath to "build public faith and confidence in the courts," which is currently very low throughout the country.

Judge DuBose discussed CREF's first big project, the removal of legacy fees and costs. After hearing from defendants caught in the never-ending cycle of court fee debt and the mental health impact of knowing they will never be able to pay off this debt that prevented them from living their lives, Judge DuBose pushed for a program to eliminate that debt. She was surprised by hearing about how much trauma these debts caused, and some people had contemplated suicide. The program ultimately eliminated approximately 2 million dollars in court costs and fees. Judge DuBose is still an active member of CREF, listening to marginalized communities about how the judiciary can become fairer and



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more representative of the communities it serves.

Judge DuBose's advice to other lawyers is that it is okay to pivot. She never thought her life would take the many different turns it did, but it brought her to where she is today, and she values all those life experiences. She emphasizes allowing yourself to change and having the courage to be your authentic self. When you do what you believe, it makes all the difference. Judge DuBose encourages us to own our voice and own our space. Being different in an environment that you're not used to can be intimidating, but finding your own voice and space in that environment gives you the courage to push through.

Judge DuBose still lives in the same area of Providence she grew up in, where she continually learns from her surrounding neighbors who have become her closest friends. When she is not on the bench, you will find her hosting parties with friends because she loves getting to know people through great conversation. She also enjoys gardening and is a strong competitor when playing video games with her sons.

Judge DuBose is a great asset to the Rhode Island Courts and will continue to be a valuable role model for many years to come. Rhode Island is very lucky to have an amazing individual committed to making a difference through our state justice system. ◇

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Committee Corner

In an effort to promote more involvement in our Bar committees, the *Journal* will now feature brief reports from a few committees in each issue. The reports will include summaries of recent meetings, the committee's goals for the year, and/or projects the committee is currently working on. If you decide that you would like to join one of the committees below or any of our 28 Bar committees, please contact Membership Services Coordinator NaKeisha Little at nlittle@ribar.com.



Continuing Legal Education Committee

Collin E. Bailey, Co-Chair
Krista J. Schmitz, Co-Chair

The Continuing Legal Education Committee is actively involved in planning and managing the Bar Association's annual continuing legal education program for its members. We resumed our committee meetings in September and have already begun offering CLE programs for the 2023 reporting year. We're pleased to provide programs in both virtual and in-person formats.

To start the season, we've covered a diverse range of topics, including trauma-informed lawyering, opioid litigation, recreational marijuana, and more. You can access all these programs in our extensive on-demand catalog, which features

speakers from both local and out-of-state sources. As a reminder, Rhode Island attorneys can earn up to six (6) credits annually through video replay (on-demand) seminars, and there's no limit on live webcast credit accrual.

Later this year, we have programs scheduled on liquor liability laws, artificial intelligence, appellate practice, cybersecurity, environmental law, and various other topics.

Any members who have program ideas or who are interested in presenting a topic can reach out to Madeline Benner, CLE Director, via email at mbenner@ribar.com. Any members interested in serving on this important committee are welcome to join.



Government Lawyers Committee

Jenna Giguere, Chair

On October 5, the Government Lawyers Committee (GLC) called its first meeting of the season. We featured guest speaker Matthew Gendron, General Counsel for Financial Services at the Rhode Island Department of Business Regulation (DBR). Matt gave an excellent PowerPoint presentation on *Insurance 101 for Attorneys*. He provided a brief history of the development of insurance contracts and defined key terms. We also learned about different types of policies and common exclusions. Matt also shared the role DBR plays in regulating insurance, including consumer complaints and auditing. We had great audience participation, with interesting questions including issues about cybersecurity insurance and environmental exclusions. During introductions, GLC members shared their appreciation for the content GLC has continued to provide over the years and the sense of community it cultivates. GLC members are looking forward to the remainder of the committee season. We welcome any attorney in a governmental role just as much as we welcome anyone else who takes an interest in the content we provide.

any members who have program ideas or who are interested in presenting a topic can reach out to Madeline Benner, CLE Director, via email at mbenner@ribar.com. Any members interested in serving on this important committee are welcome to join.



Lawyers Helping Lawyers Committee

Nicholas Trott Long, Chair

The Lawyers Helping Lawyers Committee serves as a confidential resource for Bar members and their families, providing support and encouragement when needed. Committee volunteers give generously of their time to help their colleagues. Their primary role is to lend an ear and assist in making an appropriate referral to professional resources. The communications between lawyers seeking help and members of the Committee are strictly confidential, even within the Committee itself. Lawyer-Committee member contacts are noted only for statistical purposes, and no names are ever mentioned.

Members of the Committee are also available to meet with specialized bar association members at their respective meetings and other Bar Association committees. The Lawyers Helping Lawyers Committee also has its own page on the Association website, (<https://ribar.com/quick-links/lawyers-helping-lawyers/>), and from there members can directly and confidentially reach out for help from the Pennsylvania Lawyers Concerned for Lawyers, (<https://www.lclpa.org/>) and the Massachusetts Lawyers Concerned for Lawyers, (<https://www.lclma.org/>), among others.

The RIBA contracted last year with CorpCare, which provides professional clinical assessments and facilitates getting appropriate treatment for Bar members and their family members. CorpCare offers up to eight professional and confidential counseling sessions, work-life programs that include eldercare referrals, childcare referrals, and assistance with financial referrals, and 24/7/365 availability of master's level therapists. Counselors answer the phone 24/7 to provide immediate support and assistance. Simply pick up the telephone and call 866-482-8378 for confidential, round the clock support. Virtual telehealth consultations with a counselor are available upon request. Online resources are also available to Rhode Island Bar members. Bar members can access these resources by visiting: Client Resources | CorpCare Associates, Inc. (corpcareeap.com) and enter the Life Advantage code: RIBALAP.

The Committee is currently working on 2024 Annual Meeting workshop proposals, outreach to affinity groups and local bar associations, and content for the *Rhode Island Bar Journal*. Any members interested in serving on this important committee are welcome to join.

New Lawyers Committee

Alyse Antone-Smyth, Co-Chair
Meredith Howlett, Co-Chair

The first meeting of the New Lawyers Committee was held in early October. Members met to discuss plans for the upcoming year, and committee member Hannah Colone provided an update on the Bar's inaugural Leadership Academy. She gave an overview of the Orientation and the schedule of programs for the remainder of the Academy.

The committee is currently brainstorming ideas for 2024 Annual Meeting workshop proposals, CLE Seminars, and prospective guest speakers for upcoming meetings. In the past, the Commit-



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Volunteer Lawyer Program Spotlight



During the month of August, Volunteer Lawyer Program (VLP) members Michael Castner, Esq., and Whitney Anderson, Esq., hosted a legal clinic at the RI Bar Association. Over the course of two days, nine clients were assisted with divorce matters. We extend a special thank you to Michael and Whitney for generously volunteering their expertise to help resolve these issues. We are excited to report that legal clinics are once again being scheduled regularly after a hiatus during the pandemic.

The Bar's Volunteer Lawyer Program (VLP) facilitates the placement of hundreds of pro bono cases each year. Volunteer attorneys positively impact the quality of their clients' lives by providing critically needed representation and protection for people who could not otherwise afford it.

Join today, and you can be matched with a seasoned mentor when you accept a pro bono case! Whether you have been an attorney for years or it is the beginning of your career, pro bono cases can provide the opportunity for you to explore new areas of law. For more information about the Volunteer Lawyer Program and how to join, please contact Public Services Director Susan Fontaine at sfontaine@ribar.com or 401-421-7758.

tee has hosted esteemed judges, professional development experts, and fellow committee chairs as guest speakers during meetings. This year, we are committed to continuing this tradition and invite suggestions for who should attend and speak about their expertise.

We are excited about our plans to craft a comprehensive survey for all new members of the Rhode Island Bar Association. This survey will serve as a platform for new members to voice their insights and ideas on how the Bar can best support their professional growth and practice. We look forward to working together to enhance the quality of the Bar's offerings.

The committee meets regularly to network and discuss new ideas. New attorneys are encouraged to join the committee any time during the year!

Keep Your Directory Listing Up to Date

The Bar's online Attorney Directory is available for the convenience of Bar members, clients, and potential clients, so be sure to keep your listing up-to-date! Attorney Directory contact information may include the Bar member's name, photograph, law office name, postal address, email address, telephone number, and facsimile number. Have your photo taken at the Bar Association or send in your own headshot to NaKeisha Little at nlittle@ribar.com. Photographs must be provided in a jpg format of at least 300 dpi.

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Volunteers Serving Rhode Islanders' Legal Needs

The Rhode Island Bar Association applauds the following attorneys for their outstanding pro bono service through the Bar's Volunteer Lawyer Program, Elderly Pro Bono Program, and Legal Clinics during August 2023 and September 2023.

AUGUST 2023

Volunteer Lawyer Program

Whitney R. Anderson, Esq., *Anderson Law*
Joseph P. Carroll, Esq., *Woonsocket*
Jodie A. Caruolo, Esq., *Cumberland*
Michael A. Castner, Esq., *Jamestown*
Barry L. Dolinger, Esq., *Providence*
Clare T. Jabour, Esq., *Providence*
John F. Killoy Jr., Esq., *Law Office of John F. Killoy, Jr., LLC*
Doris A. Lavalley, Esq., *Lavalley Law Associates*
Cristine L. McBurney, Esq., *McBurney Law Services*
Adam G. Northup, Esq., *Law Office of Adam G. Northup*
Dawn F. Oliveri, Esq., *Providence*
Eileen C. O'Shaughnessy, Esq., *Stewart Title Guaranty Company*
Louis M. Pulner, Esq., *Warwick*
Janne Reisch, Esq., *Attorney at Law*
Timothy J. Robenhymmer, Esq., *Warwick*
John S. Simonian, Esq., *Pawtucket*

Elderly Pro Bono Program

Maryanne Bevans, Esq., *Petrarca & McGair, Inc.*
Michael A. Castner, Esq., *Jamestown*
Stefanie DiMaio-Larivee, Esq., *Providence*
Michael K. Glucksman, Esq., *Law Office of Michael Glucksman*
Sherry A. Goldin, Esq., *Goldin & Associates, Inc.*
Dianne L. Izzo, Esq., *Attorney at Law*
Clare T. Jabour, Esq., *Providence*
Gregory P. Massad, Esq., *Messier, Massad, Burdick & Assoc., LLC*
Samantha McCarthy, Esq., *McCarthy Law, LLC*
John S. Simonian, Esq., *Pawtucket*

Legal Clinics

Whitney R. Anderson, Esq., *Anderson Law*
Michael A. Castner, Esq., *Jamestown*
Michael J. Chazan, Esq., *Casner & Edwards, LLP*

SEPTEMBER 2023

Volunteer Lawyer Program

Michael A. Castner, Esq., *Jamestown*
Barry L. Dolinger, Esq., *Providence*
Sean C. Donohue, Esq., *The Law Offices of Sean C. Donohue, LLC*
Keith G. Langer, Esq., *Wrentham*
Stephen G. Linder, Esq., *Law Office of Stephen G. Linder*
James J. Lombardi, Esq., *Cranston*
Robert A. Mitson, Esq., *Mitson Law Associates*
Adam G. Northup, Esq., *Law Office of Adam G. Northup*
Eileen C. O'Shaughnessy, Esq., *Stewart Title Guaranty Company*
Richard James Angelo Pacia, Esq., *Pawtucket*
Tia M. Priolo, Esq., *Scungio & Priolo*
John S. Simonian, Esq., *Pawtucket*

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Michael J. Furtado, Esq., *Attorney at Law*
Daniel Jon Holmander, Esq., *Adler Pollock & Sheehan P.C.*
Frank J. Manni, Esq., *Johnston*
Samantha McCarthy, Esq., *McCarthy Law, LLC*
Sarah F. O'Toole, Esq., *Providence*

Legal Clinics

Susan Gershkoff, Esq., *Susan Gershkoff, Esq., Ltd.*
Daphne Robson Hamilton, Esq., *McCarthy Law, LLC*
Samantha McCarthy, Esq., *McCarthy Law, LLC*

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

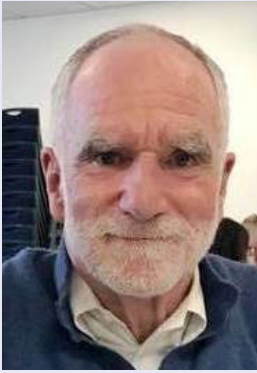
PRO BONO PUBLICO RESOLUTION

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

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

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

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



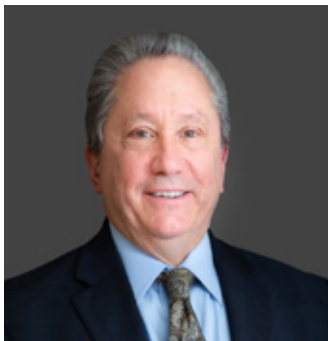
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Bar Association Mentor Programs

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

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

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

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

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New Members Warmly Welcomed by the Bar and Bench



On October 13, 2023, the Rhode Island Bar Association (RIBA) celebrated the return of its New Member Reception. This event warmly welcomed RIBA members with less than five years of practice and offered an opportunity to connect with esteemed members of the Judiciary and Bar Association leadership.

Distinguished speakers at the event included RIBA President Nicole Benjamin, Rhode Island Supreme Court Associate Justice Melissa A. Long, Rhode Island Family Court Chief Judge Michael B. Forte, Rhode Island Workers' Compensation Court Chief Judge Robert

M. Ferreiri, and U.S. District Court District of Rhode Island Chief Judge John J. McConnell, Jr. Each of these legal leaders shared their invaluable insights and wisdom with the attendees.

Additionally, the event featured the presence of various RIBA committee chairs and local affinity groups. New members had a unique opportunity to engage with these committee chairs and representatives, who were on hand to answer questions and provide insights about their respective committees.

We extend our heartfelt thanks to everyone who attended and contributed to making this night an immense success. We look forward to hosting this event annually, fostering continued opportunities for connection and collaboration in the years to come!

Thanks to Our CLE Speakers

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



Below is a list of the Rhode Island Bar members who have participated in CLE seminars during the month of September and October.

William J. Balkun, Esq.
Law Office of William J. Balkun

Nicole J. Benjamin, Esq.
Adler Pollock & Sheehan P.C.

Maura Jean Black, Esq.
Chisholm, Chisholm & Kilpatrick, LTD

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Megan E. Sheehan, Esq.
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Hon. Jeanne L. Shepard
Magistrate, RI Family Court

Do you or your family need help with any personal challenges?

We provide free, confidential assistance to Bar members and their families.

Confidential and free help, information, assessment and referral for personal challenges are available **now** for Rhode Island Bar Association members and their families. This no-cost assistance is available through the Bar's contract with **CorpCare Lawyer Assistance Program** and through the members of the Bar Association's Lawyers Helping Lawyers (LHL) Committee. To discuss your concerns, or those you may have about a colleague, you may contact a LHL member, or go directly to professionals at CorpCare who provide confidential consultation for a wide range of personal concerns including but not limited to: balancing work and family, depression, anxiety, domestic violence, childcare, eldercare, grief, career satisfaction, alcohol and substance abuse, and problem gambling.

The CorpCare helpline provides counseling resources that quickly and professionally assist you in handling problems affecting your personal or

work life. Counselors answer the phone 24/7 to provide immediate support and assistance. Simply pick up the telephone and call **866-482-8378** for confidential, round the clock support. Virtual telehealth consultations with a counselor are available upon request. Bar members can also access a wide variety of resources online by visiting corpcareeap.com and enter the Life Advantage code: RIBALAP.

Lawyers Helping Lawyers Committee members choose this volunteer assignment because they understand the issues and want to help you find answers and appropriate courses of action. Committee members listen to your concerns, share their experiences, offer advice and support, and keep all information completely confidential.

Please contact us for strictly confidential, free, peer and professional assistance with any personal challenges.

Brian Adae, Esq.	(401) 831-3150
Donna Maria Arciero, Esq.	(561) 441-1679
James G. Atchison, Esq.	(401) 453-1200
Neville J. Bedford, Esq.	(401) 348-6723
Susan Leach DeBlasio, Esq.	(401) 274-7200
Sonja L. Deyoe, Esq.	(401) 864-5877
Kathleen G. Di Muro, Esq.	(401) 944-3110
Mary Cavanagh Dunn, Esq.	(401) 831-8900
Christy B. Durant, Esq.	(401) 272-5300

Cassandra L. Feeney, Esq.	(401) 455-3800
Brian D. Fogarty, Esq.	(401) 821-9945
Merrill J. Friedemann, Esq.	(401) 270-0070
John K. Fulweiler Jr., Esq.	(401) 667-0977
Daniel Jon Holmänder, Esq.	(401) 274-7200
Adrianna Hughes, Esq.	(401) 490-3954
Nicholas Trott Long, Esq. (Chairperson)	(401) 351-5070
Patricia A. McLaughlin, Esq.	(401) 996-6618

Henry S. Monti, Esq.	(401) 467-2300
Sarah F. O'Toole, Esq.	(401) 385-3877
Kristin Barkett Pettey, Esq.	(401) 278-2291
Erica S. Pistorino, Esq.	(401) 324-9786
Christopher J. Yagoobian, Esq.	(401) 274-7200
Professionals at CorpCare	(866) 482-8378

Lawyers Helping Lawyers Committee Members Protect Your Privacy

SOLACE, an acronym for Support of Lawyers, All Concern Encouraged, is a new Rhode Island Bar Association program allowing Bar members to reach out, in a meaningful and compassionate way, to their colleagues. SOLACE

communications are through voluntary participation in an email-based network through which Bar members may ask for help, or volunteer to assist others, with medical or other matters.

Issues addressed through SOLACE may range from a need for information about, and assistance with, major medical problems, to recovery from an office fire and from the need for temporary professional space, to help for an out-of-state family member.

The program is quite simple, but the effects are significant. Bar members notify the Bar Association when they need help, or learn of another Bar member with a need, or if they have something to share or donate. Requests for, or offers of, help are screened and then directed through the SOLACE volunteer email

SOLACE Helping Bar Members in Times of Need

network where members may then respond. On a related note, members using SOLACE may request, and be assured of, anonymity for any requests for, or offers of, help.

To sign-up for SOLACE, please go to the Bar's website at ribar.com, login to the Members Only section, scroll down the menu, click on the SOLACE Program Sign-Up, and follow the prompts. Signing up includes your name and email address on the Bar's SOLACE network. As our network grows, there will be increased opportunities to help and be helped by your colleagues. And, the SOLACE email list also keeps you informed of what Rhode Island Bar Association members are doing for each other in times of need. These communications provide a reminder that if you have a need, help is only an email away. If you need help, or know another Bar member who does, please contact Executive Director Kathleen Bridge at kbridge@ribar.com or 401-421-5740.

BOOK REVIEW

Conscription, Conscientious Objection, and Draft Resistance in American History

by Jerry Elmer



Margaret E. Curran, Esq.
Attorney at Law
Providence

“The discussion of the legal issues that Mr. Elmer emphasizes in illuminating the historical picture should appeal especially to lawyers....”

Jerry Elmer’s new book, *Conscription, Conscientious Objection, and Draft Resistance in American History* (Brill, 2023), is an essential addition to the history of the draft and anti-war activism in the United States. This work has a powerful narrative drive and lucid, accessible scholarship based on deep research, including many primary sources.

It is surprising to learn that the book represents the first time anyone has presented the entire history of conscription in America, from pre-Revolutionary War militias through the end of the draft, in January 1973, after the Paris Peace Accords were signed, ending the involvement of America’s armed forces in Vietnam. Its many original sources include government documents obtained by Freedom of Information Act requests, sources that have been disregarded or missed by earlier historians writing on these topics.

I must disclose that Jerry and I are friends, and I have followed the book from near inception. We live near each other, and over countless pleasant hours on my pandemic-safe front porch, starting in the summer of 2020, I heard about the project’s organization, the research trips, the individual chapters as they were finished, the case law reviewed, and finding a publisher. When the manuscript was completed in August 2023, I could not wait to read it. Agreeing to write a review ensured my early access.

And I was not disappointed. While the book contains much detailed information, covers roughly 200 years, and runs almost 350 pages, it is an inviting read. Jerry Elmer writes very well, and his tone is almost conversational. He presents a wealth of fascinating facts in ways that keep the reader engaged and moving forward. Whatever your political views, it would be hard to deny that this work has been done with great intellectual honesty and rigor and teaches the reader not only about the draft and resistance to it but also about the broad social, economic, and political context in which these issues were debated.

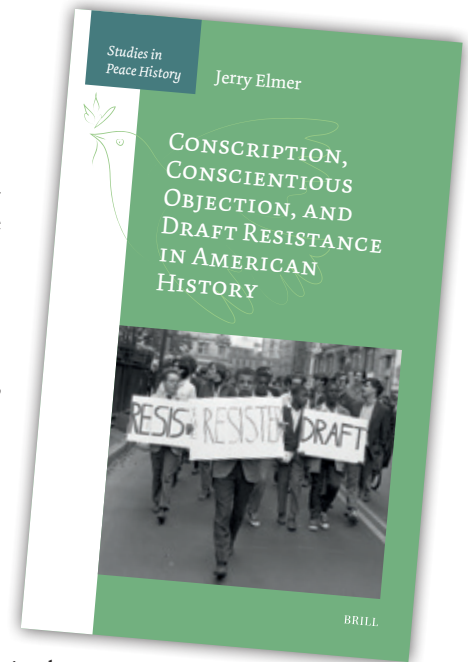
The book is splendidly organized. After an introduction and initial chapter titled “Background and Context,” each of the following chapters, Chapters 2 through 7, is devoted to a discrete period: “The Civil War: the Union;” “The Civil War: the Confederacy;” “World War I;” “World War II;” “The Cold War and the Korean War;” and “The Vietnam War Era,” after which is the final chapter, “Conclusion.”

The chapters’ narrative structure makes the information, ideas, and arguments cohere and flow. The discussion of the legal issues that Mr. Elmer

emphasizes in illuminating the historical picture should appeal especially to lawyers, but the book is unquestionably for the general reader, too. Using the same structured format, each of chapters 2 through 7 starts with a detailed description of the relevant statutory provisions, along with an explanation of how the system created by those laws operated. They then relate the legislative proceedings, debates, and competing positions thrashed out in the process. Interestingly, as the author notes, many prior writers ignored the actual language of the applicable conscription laws, relying instead on secondary sources, resulting in a less complete picture of the legal foundations of conscription.

After addressing the conscription legislation, each chapter moves on to a detailed review and description of the breadth of opposition, touching on both violent and nonviolent opposition, religious and secular, legal and illegal, public and secret. Finally, after expansively reviewing the opposition and how it was dealt with, each chapter expounds on the case law, addressing both the conscription system and opposition to it.

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Mr. Elmer appropriately indicates early in the book that he is not neutral on the matters covered. Active in the peace movement during the Vietnam era, he was himself a draft resister and was convicted for his involvement in destroying draft board records in Providence, Rhode Island. He notes that all that is attested to in his earlier book, *Felon for Peace: The Memoir of a Vietnam-Era Draft Resister* (Vanderbilt, 2005). Nevertheless, his treatment of the material throughout is very balanced. He gives all sides their say.

What the author describes as his principal thesis, and what the reader may conclude is a major reason for writing this book, is to demonstrate that significant opposition to conscription was not something unique to the Vietnam era but much more widespread and consistent throughout American history than most people, including historians, have recognized. Having provided an impressive amount of evidence, he has compellingly made his case. Even the most stalwart supporters of conscription should agree that he has done so fairly.

Mr. Elmer has also presented much that one suspects lies well outside the general understanding of conscription. For example, leading up to World War I and continuing through all later conscription schemes, the government made clear that providing men for military service was only one purpose of the Selective Service System. The System, through deferments and exemptions and the prohibition of voluntary enlistment, was also intended to channel all men into positions that the government considered in the national interest during the war. So-called channeling was intended to avoid the problems that Britain had created during World War I by allowing voluntary enlistment and losing the men needed to maintain the country's necessary industries, including agriculture and public services.

Millions of Americans have been affected by the draft. Conscription remains a matter of general concern. While the draft was abolished in the United States fifty years and several other American wars ago, discussion regularly arises about reinstatement! Unfortunately, however, this book will not be marketed to a general audience. It is published by Brill, a Dutch academic publisher. As such, it is priced above general market titles, at \$136, and will be marketed primarily to academic institutions, academicians, and libraries. I hope that, given the public's interest in this history and its continued relevance, a less expensive version will someday be made available.

ENDNOTE

1 See, e.g., Jason Dempsey & Gil Barndollar, The All-Volunteer Force is in Crisis, *THE ATLANTIC* (July 3, 2023), <https://www.theatlantic.com/ideas/archive/2023/07/all-volunteer-force-crisis/674603> (accessed Sept. 14, 2023). ◇

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Rocky Mountain Reflections

American Bar Association Delegate Report – Annual Meeting 2023



Robert D. Oster, Esq.
ABA Delegate and Past Rhode
Island Bar Association President

The American Bar Association Annual Meeting was held on August 7 and 8, 2023, in Denver, Colorado. Several significant Resolutions were adopted. The Meeting started with a virtual greeting from the Governor of Colorado, and, after a trooping of the Colors, we began deliberations. Our new President, Mary Smith, who is a Native American, was elected as the ABA President. This marks another significant change in leadership for the ABA's big tent. She promised me she would visit Rhode Island as long as the weather was not too cold like in her hometown of Chicago. The swearing-in ceremony was quite moving, as she was wrapped in a ceremonial blanket by the Chickasaw Nation representative. In addition to Mary Smith, we elected Marvin Dang, Esq., of Hawaii, as an officer of the Association, marking the first Asian American to be elected to that post. Both Mary and Marvin are expected to contribute greatly to the ABA over the next few challenging years.

Additionally, we listened intently as United States Attorney General Merrick Garland addressed us on the subject of the United States' involvement in Ukraine. Needless to say, he was constrained from speaking on matters now pending or under indictment from his office. I thought it was interesting that he noted that part of his family was from what is now Belarus, bordering Ukraine, and that several family members were murdered during the Holocaust.

Among the distinguished guests of honor was Fred Gray, Esq., of Tuskegee, Alabama, the recipient of the ABA's Medal of Honor. His leadership during the Civil Rights movement, including his representation of Rosa Parks, which was monumental and historic, was recognized and appreciated. He was recently feted in Rhode Island as well. Amazingly, given his advanced years, he still practices law in Tuskegee. John Echohawk, Esq., was presented with the Thurgood Marshall Award for his work defending tribal government rights. Additionally, our own Tom Lyons, Esq., was elected to the Board of Governors of the ABA as the New England representative. We should be proud of Tom for taking on this task, which requires many hours of weekly and monthly meetings and preparation. Tom brings to the ABA an intelligent

and independent mind that will contribute to the Board.

Resolution 100, which concerns Model ABA Rules of Professional Conduct, was hotly debated. It would have, if passed, seemed to create a new duty for the lawyer to investigate the source of his client's funds and activity if there was a reasonable suspicion of illegal activity. The Resolution was revised and passed. Many Resolutions fell outside the ambit of my major concern, which is the active day-to-day practice of law for the Main Street lawyer. The line between what is germane to the practice of law and what is outside that line is something to be aware of.

A Resolution condemning Islamophobia in all its forms was unanimously approved, as was a resolution to support rural communities and their ability to attract lawyers to serve rural America. Resolutions were passed dealing with trans and/or LGBTQ+ issues and the impact on LGBTQ+ and minority youth in residential care. Cybersecurity and AI and the risks and benefits they pose to law firms were another subject of a Resolution. There were also Resolutions passed on law school debt and post-Dobbs relative to access to abortion care.

I have been involved in and am a member of several committees of the House. I am currently serving a term on the Resolution Impact and Review Committee, attend the meetings of the General Practice and Solo Division, the Women's Caucus, the Racial and Ethnic Diversity Caucus, and am the RI State Chair for membership outreach for the ABA. Tom and I also attended the New England Bar Association meeting, where we discussed issues for the upcoming House meeting.

I invite your comments or suggestions going forward or for in-depth discussion of issues facing lawyers and the ABA. It is a privilege to serve the Bar as its representative to the ABA. ◇

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Monday

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Wednesday

9:00 am – 2:30 pm, 4.0 credits + 1.0 ethics

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November 17 Recent Developments in the Law 2023

Friday

9:00 am – 3:30 pm, 6.0 credits

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November 29 ChatOMG:

Wednesday

The Ethical Pros and Cons of Using AI

1:00 – 2:00 pm, 1.0 ethics

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Proposed Practice Standard 10.1

SECTION X ELECTRONIC DOCUMENTS 10.1 PAPERING OUT ELECTRONIC RECORDS

The Rhode Island Bar Association's Real Estate Title Standards and Practices Committee, chaired by John A. Comery, Esq., at their meeting on September 21, 2023, voted unanimously to submit the following Proposed Practice Standard 10.1 to the Rhode Island Bar Association's Executive Committee for its consideration. Bar members are invited to comment on these proposed changes, no later than December 1, 2023, by contacting Rhode Island Bar Association Executive Director Kathleen Bridge by postal mail: 41 Sharpe Drive, Cranston, RI 02920 or email: kbridge@ribar.com.

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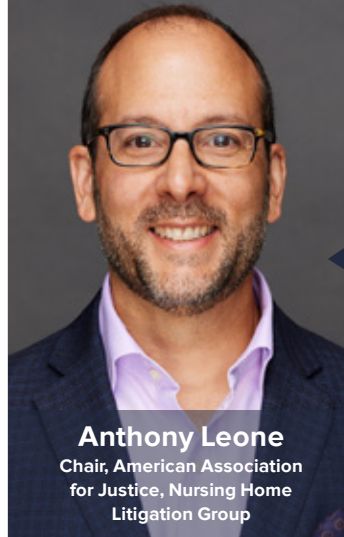


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In Memoriam

Matthew F. Callaghan, Esq.

Matthew (Matt) F. Callaghan, 80, of Narragansett, died on Saturday, August 26, 2023. Matt was the husband of Judith (Whalon) Callaghan. He grew up in South Providence and was a graduate of LaSalle Academy, Providence College, and Boston College Law School. For the last 11 years, he and his son James practiced together at Callaghan & Callaghan in Wickford. Matt represented his native South Providence in District 9 from 1968 to 1974 as a Rhode Island State Senator. He served as Town Solicitor for the Town of North Kingstown since 2017 and previously served as Solicitor for the Town of Narragansett from 1978 to 1987. He was also Chair of the Narragansett Land Trust from 1991 to 2011 and served on the Rhode Island Attorney Disciplinary Board. In addition to his wife, Matt is survived by his children, James M. Callaghan and his wife Linsey of Narragansett; Mark M. Callaghan and his wife Krista of North Kingstown; David M. Callaghan and his wife Samantha of Jersey City, NJ; and Mary B. Grey and her husband Stephen of Charlestown, MA; and many nieces, nephews, and grandchildren. Matt was predeceased by his father, Matthew F. Callaghan, Sr.; mother, Beatrice (Feeney) Callaghan; and brother, John A. "Jack" Callaghan.

Patricia M. Hessler, Esq.

Patricia McLaughlin Hessler died on August 12, 2023. Patricia was an immigrant from Scotland whose family settled in New York. She graduated from the University of Rhode Island with the highest honors, the Kennedy School at Harvard University, and Roger Williams Law School. A member of the Rhode Island Bar, Patricia represented the Department of Children, Youth and Families. Patricia chaired the Ladies Guild at Fogerty Memorial Hospital and was a member of the Board of Trustees at Landmark Medical Center, Sojourner House, and Rhode Island Country Club. Patricia is survived by her three children, Elisabeth (Scott), Paul (Cynthia), and Craig (Lauren), as well as four grandchildren.

James H. Lerner, Esq.

James (Jim) H. Lerner, of Canton and Falmouth, MA, died on September 14, 2023. Jim was the husband of Pat Rocha. He was the son of the late Frederick and Elaine Lerner. Raised in Newton, MA, Jim attended Newton South and received his undergraduate degree from Tufts University. He graduated from Boston College Law School. After graduation, he began his law practice at Riemer & Braunstein in Boston. Jim later joined Goulston & Storrs, where he continued his practice until the present day. Jim was involved in several professional groups in the real estate industry, including serving as a Past President of the Real Estate Finance Association and a sponsor of the Boston chapter of the Real Estate Lenders Association. In addition to his wife, Jim is survived by his children, John Lerner (wife Meggie Hickey), Chris Lerner (wife Megan), and Matt Lerner (girlfriend Marti Fergenbaum); and four grandchildren. He was predeceased by his sister, Jane Lerner.

Stephen C. Mackie, Esq.

Stephen (Steve) C. Mackie, 80, of Providence, died on Sunday, September 24, 2023. He was the husband of Janice M. (Reilly) Mackie. Born in Providence, he was the son of the late Joseph C. and Anne (Donohue) Mackie. Steve was a graduate of Townson State University in 1969, Baltimore, MD, and a 1970 graduate of the University of Baltimore Law School, MD. He joined the Rhode Island Bar Association in 1973, and in 1974, he was

admitted to the United States District Court in Rhode Island. Before his retirement, his career spanned over 42 years at Mackie and Reilly Law Office. In addition to his wife, he is survived by his two daughters, Michaela A. Vaccari of Seattle, WA; Kathleen M. Parenteau and her husband Leo of Smithfield; three sisters, Ann Davis of East Falmouth, MA; Eileen O'Brien of Warwick, RI; and Dorothy Whitelaw of Foster, RI; as well as three grandchildren and many nieces and nephews.

Benjamin G. Paster, Esq.

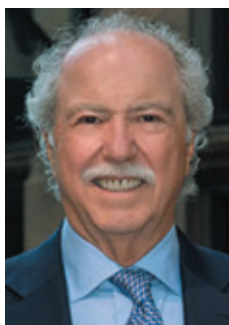
Benjamin G. Paster died on September 16, 2023. He was the son of David and Ruth Paster of St. Louis. Ben was the husband of Linda Paster. A graduate of the Wharton School, Ben went on to earn law degrees from the University of Cambridge (LL.M.) and Yale University (J.D.). He also studied at the Hague Academy of International Law, the Netherlands, and the London School of Economics, England. Ben practiced trust and estate law in several large law firms before founding a boutique firm with John Harpootian, his partner of 40 years. Ben served as Chairman of the Miriam Hospital Foundation and as a member of the Board of Directors of the Rhode Island Foundation. In recognition of his service to the state, Ben was bestowed the honorary title of Rhode Island Commodore. In addition to his wife, Ben is survived by his daughter, Nicole Campbell (and her husband, Keith), granddaughter, brother Jim (and his wife, Flora), and numerous nieces and nephews. He is predeceased by his first wife, Judith Ann (Gray), and his sisters, Betty Leavitt and Toby Rossner.

James M. Silva, Esq.

James M. Silva, 74, died on Friday, September 1, 2023. He was the husband of Helen M. (Laureanno) Silva. Born in Providence, he was the son of the late James and Erminia (Augusto) Silva. James was a pharmacist for the V.A. Hospital in Providence for 33 years as chief of outpatient pharmacy before retiring. He was a 1967 graduate of LaSalle Academy. He attended the University of Rhode Island College of Pharmacy, graduating in 1972. In 1992, he earned his law degree, graduating from the New England School of Law. In addition to his wife, he is survived by his son, Mark Silva, his wife, Andrea of Rumford, and his two grandchildren.

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UNITED STATES POSTAL SERVICE® (All Periodicals Publications Except Requester Publications)

1. Publication Title Rhode Island Bar Journal		2. Publication Number 444680		3. Filing Date 10/01/2023	
4. Issue Frequency Bi-monthly		5. Number of Issues Published Annually 6		6. Annual Subscription Price 30.00	
7. Complete Mailing Address of Known Office of Publication (Not printer) (Street, city, county, state, and ZIP+4®) Rhode Island Bar Journal 41 Sharpe Drive, Cranston, RI 02920				Contact Person K. Bridge Telephone (include area code) (401) 421-5740	
8. Complete Mailing Address of Headquarters or General Business Office of Publisher (Not printer) Rhode Island Bar Association 41 Sharpe Drive, Cranston, RI 02920					
9. Full Names and Complete Mailing Addresses of Publisher, Editor, and Managing Editor (Do not leave blank) Publisher (Name and complete mailing address) Rhode Island Bar Association 41 Sharpe Drive, Cranston, RI 02920 Editor (Name and complete mailing address) Eric Correia, Editor-in-Chief Rhode Island Bar Association, 41 Sharpe Drive, Cranston, RI 02920 Managing Editor (Name and complete mailing address) Erin Cute, Managing Editor Rhode Island Bar Association, 41 Sharpe Drive, Cranston, RI 02920					
10. Owner (Do not leave blank. If the publication is owned by a corporation, give the name and address of the corporation immediately followed by the names and addresses of all stockholders owning or holding 1 percent or more of the total amount of stock. If not owned by a corporation, give the names and addresses of the individual owners. If owned by a partnership or other unincorporated firm, give its name and address as well as those of each individual owner. If the publication is published by a nonprofit organization, give its name and address.) Full Name Complete Mailing Address Rhode Island Bar Association 41 Sharpe Drive, Cranston, RI 02920					
11. Known Bondholders, Mortgagees, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages, or Other Securities. If none, check box <input checked="" type="checkbox"/> None Full Name Complete Mailing Address					
12. Tax Status (For completion by nonprofit organizations authorized to mail at nonprofit rates) (Check one) The purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes: <input type="checkbox"/> Has Not Changed During Preceding 12 Months <input type="checkbox"/> Has Changed During Preceding 12 Months (Publisher must submit explanation of change with this statement)					
13. Publication Title Rhode Island Bar Journal		14. Issue Date for Circulation Data Below 09/01/2023			
15. Extent and Nature of Circulation		Average No. Copies Each Issue During Preceding 12 Months		No. Copies of Single Issue Published Nearest to Filing Date	
a. Total Number of Copies (Net press run)					
(1) Mailed Outside-County Paid Subscriptions Stated on PS Form 3541 (Include paid distribution above nominal rate, advertiser's proof copies, and exchange copies)		3736		3777	
b. Paid Circulation (By Mail and Outside the Mail)					
(2) Mailed In-County Paid Subscriptions Stated on PS Form 3541 (Include paid distribution above nominal rate, advertiser's proof copies, and exchange copies)		2862		2859	
(3) Paid Distribution Outside the Mails Including Sales Through Dealers and Carriers, Street Vendors, Counter Sales, and Other Paid Distribution Outside USPS®					
(4) Paid Distribution by Other Classes of Mail Through the USPS (E.g., First-Class Mail®)					
c. Total Paid Distribution (Sum of 15b (1), (2), (3), and (4))		6598		6636	
d. Free or Nominal Rate Distribution (By Mail and Outside the Mail)					
(1) Free or Nominal Rate Outside-County Copies included on PS Form 3541					
(2) Free or Nominal Rate In-County Copies included on PS Form 3541					
(3) Free or Nominal Rate Copies Mailed at Other Classes Through the USPS (E.g., First-Class Mail)		11		7	
(4) Free or Nominal Rate Distribution Outside the Mail (Carriers or other means)		25		25	
e. Total Free or Nominal Rate Distribution (Sum of 15d (1), (2), (3) and (4))		36		32	
f. Total Distribution (Sum of 15c and 15e)		6634		6668	
g. Copies not Distributed (See Instructions to Publishers #4 (page #3))					
h. Total (Sum of 15f and g)		6634		6668	
i. Percent Paid (15c divided by 15f times 100)		99%		99%	
* If you are claiming electronic copies, go to line 16 on page 3. If you are not claiming electronic copies, skip to line 17 on page 3.					
16. Electronic Copy Circulation		Average No. Copies Each Issue During Preceding 12 Months		No. Copies of Single Issue Published Nearest to Filing Date	
a. Paid Electronic Copies		▶			
b. Total Paid Print Copies (Line 15c) + Paid Electronic Copies (Line 16a)		6598		6636	
c. Total Print Distribution (Line 15f) + Paid Electronic Copies (Line 16a)		6634		6668	
d. Percent Paid (Both Print & Electronic Copies) (16b divided by 16c × 100)		▶		99%	
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17. Publication of Statement of Ownership <input checked="" type="checkbox"/> If the publication is a general publication, publication of this statement is required. Will be printed in the 11/1/23 issue of this publication. <input type="checkbox"/> Publication not required.					
18. Signature and Title of Editor, Publisher, Business Manager, or Owner Kathleen Bridge, Executive Director				Date 10/01/2023	
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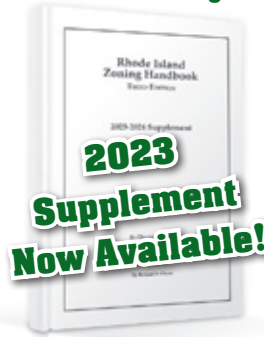
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We will post a cartoon in each issue of the *Rhode Island Bar Journal*, and you, the reader, can create the punchline.



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

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

Deadline for entry: Contest entries must be submitted by December 1st, 2023.

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

**Winning caption for
September/October**



"Girls' Night Out with a Watchful Eye."

ARYA A. OMSHEHE, J.D.

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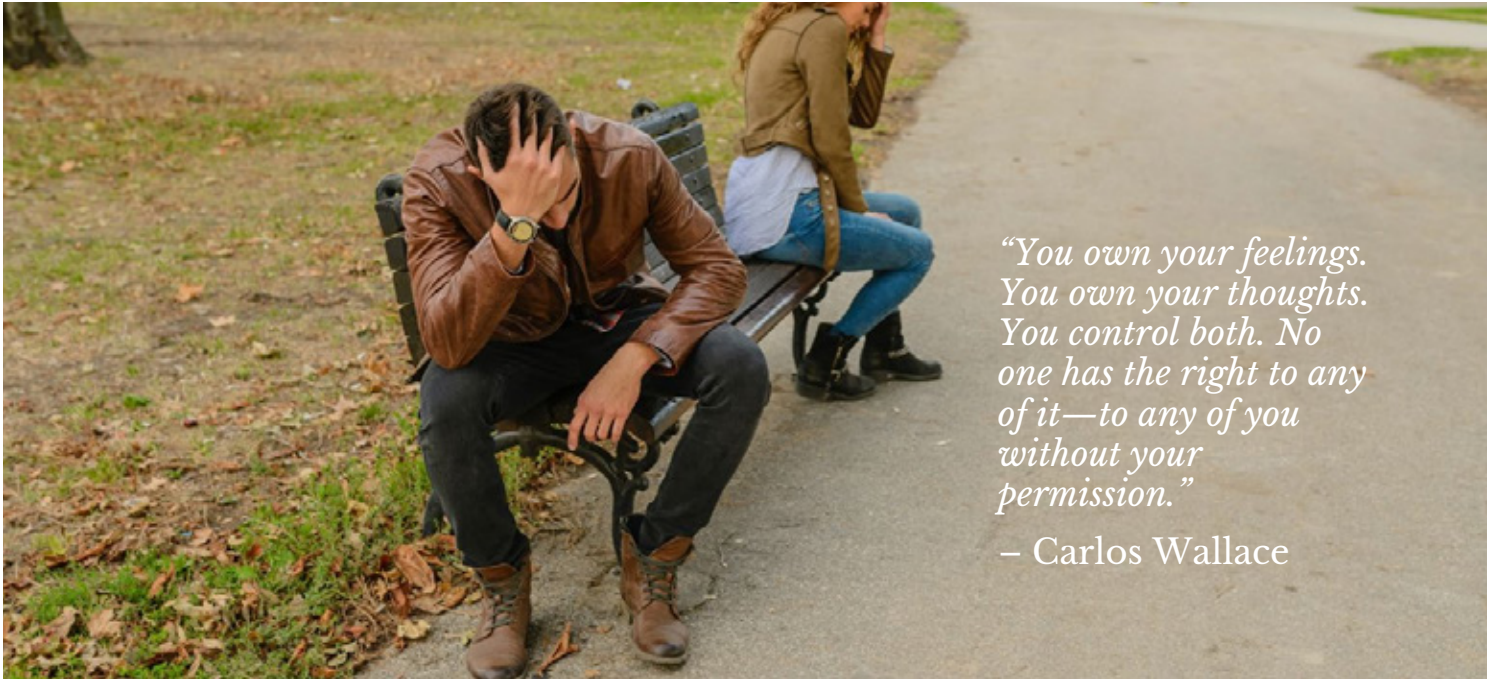
Day Pitney LLP has relocated its Providence office to 100 Westminster Street, Providence, RI 02903. 401-283-1234 daypitney.com

RIBA DEI Committee Call to Action!

For those who may be interested, the Rhode Island Bar Association's Diversity and Inclusion Task Force created a Diversity, Equity, and Inclusion ("DEI") Pledge that invites lawyers, law firms, legal departments, legal services, and law-related organizations to join RIBA in its commitment to increase diversity in the legal profession. Those who participate in the Pledge will be acknowledged on the RIBA website and in the quarterly DEI Newsletter for their good faith efforts. For more information on the Pledge and how to sign up, visit the DEI page on the Bar's website.

The RIBA DEI Committee is in the process of creating a list of contacts of DEI chairpersons at the various law firms in the state. The list will be used as a resource to communicate and collaborate on RIBA's DEI initiatives. We are working to compile the list of contacts over the next few months. If your firm has a DEI Committee, Task Force, and/or contact person, please reach out to Membership Services Coordinator NaKeisha Little at nlittle@ribar.com with the contact information of your firm's DEI Committee chair.

Thank you in advance for your help and support in making the Bar Association a more inclusive organization for all of our members!



*“You own your feelings.
You own your thoughts.
You control both. No
one has the right to any
of it—to any of you
without your
permission.”*

– Carlos Wallace

Problems are sure to arise when we’re dealing with other people. But there are times when we can prevent challenging situations from turning into hurtful or serious struggles. Below are some tips to help you manage those tough challenges and keep your cool.

De-escalation Techniques:

Check your body language. Ask yourself: “How is the other person seeing me?” Uncross your arms, drop your shoulders, unclench your jaw, and relax your face. Adjusting posture and facial cues to be open and soft helps disarm the other person.

Focus on your breathing. Deep breathing helps regulate your central nervous system, which can keep you from going straight into “fight” mode. The more regulated you are, the more intentional you can be with our responses.

Speak steadily. Lower your voice and slow down your words, even if the other person is yelling. This helps you maintain control of the conversation and can influence the other person to meet you at your level.

Filter your responses. Before responding to someone, pause and ask yourself: “Do I really need to say that?” or “How could this be said in a different way?”

Empathize. Try viewing the situation from the other person’s perspective. Listen to them to ask a question, not to make a point.

Schedule a time to talk. Plan to revisit the conversation at a different time when things are less heated. Doing this demonstrates respect for both you and the other person.

Work together. When a person is very defensive, it’s time to collaborate. Tell them, “Let’s work through this together, would you mind helping me?”



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