Rhode Island Bar Journal

Rhode Island Bar Association Volume 60. Number 4. **January/February 2012**

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RHODE ISLAND BAR ASSOCIATION LAWYER'S PLEDGE

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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Westerly Town Hall, by Brian McDonald

Reflections on the Bar: Past, Present and Future

William J. Delaney, Esq.
President
Rhode Island Bar Association

...extraordinary economic conditions demand more from the Bar Association in proving its value and commitment to new and seasoned lawyers alike.

As a departure from the usual format for Bar President's Messages, I am sharing my letter to my son, Brendan, in which I extolled the values of our Bar Association. I hope you enjoy it as much I as enjoyed writing it.

Dear Bren,

By the time you get this, it will be January, the start of the New Year. I wanted to give you an update on what our new lawyers are up to, and what we at the Bar Association are doing to help them along their professional careers.

As you know, I attended five bar admission ceremonies this past November at the Supreme Court. At each of the ceremonies, one of the Supreme Court Justices administered the Attorney's Oath to approximately 180 newly-admitted attorneys. Continuing the tradition established by past Bar President Vicky Almeida a few years ago, I presented quill pens to each new attorney along with a warm welcome on behalf of the Bar Association.

With these new members, there are now approximately 6,500 members of the Bar Association, with over 1,800 admitted in the last ten years. This statistic, while perhaps overwhelming, is, in fact, welcomed by the Bar Association.

However, passing the bar examination only establishes minimum competency on the part of each successful candidate. As you may remember when you were much younger, those weekends when I was sitting in our den pouring over law and case books (and not paying as much attention as I should have to you) clearly illustrated my need to prepare arguments for the Court the following Monday. And, throughout those times, I relied on materials prepared by other Bar members for assistance in my clients' representation.

I recall, many Junes ago, taking you to the Bar Association's annual meeting in Newport which always seemed to take place on the sunniest Thursdays and Fridays. There, I introduced you to some of my oldest Motion Calendar friends and their children who are now, like you, in their late 20s. I remember taking a sail with at least ten of you kids under the Newport Bridge with you in a life vest that was at least two sizes too small. Those Annual Meetings were a fun time for all of us because, for the most part, all of us felt like we were joined together in the practice of law.

Those carefree days, or at least for those two glorious days, have given way to mandatory continuing legal education, and for young lawyers, an explosion in the price of their legal education, as well as significant cost increases in almost everything else. These changes have greatly impacted our profession and particularly our newest lawyers. Today's new lawyers often have the unenviable task of balancing a career with staggering student loans and, unfortunately, in a very few cases, mortgage payments that prior generations of lawyers never had to address.

These extraordinary economic conditions demand more from the Bar Association in proving its value and commitment to new and seasoned lawyers alike. The Bar's New Lawyers Committee offers networking opportunities for new members to share ideas and concerns among themselves in a friendly and supportive setting. I specifically attended the first meeting of the New Lawyer's Committee and came away with a greater understanding of their needs and desires and suggestions of what they are interested in learning about the practice of law.

As you know from your college experience, the proliferation of computers in your undergraduate years carried through to graduate school and your professional life. During their law school experiences, most students' legal research needs were met by unlimited and free access to online legal research engines. With graduation, however, their ability to continue to use school-supplied legal research engines dried up. Fortunately, the 24/7CASEMAKER legal research library is a free member benefit put to use on a daily basis by most of our members.

Additionally, through Bar reviewed and co-sponsored membership benefit programs, Bar members may secure reduced cost malpractice, business owners', personal lines, and disability insurance, as well as retirement programs. Our firm has taken advantage of several of the member benefits offered by the Bar Association, and, over the years and into today, benefits are expanded and added to meet members' needs and expectations.

You attended part of last June's Bar Annual

Meeting including the dinner when Rhode Island Supreme Court Chief Justice Paul Suttell administered my Bar President's oath. These Annual Meetings offer members the choice of over forty Continuing Legal Education (CLE) seminars representing a myriad of legal topics ranging from administrative law to zoning. This past June, approximately 1,400 members attended the Annual Meeting, and I hope we can attract this many and more to the upcoming meeting this year.

The Bar Association's CLE director, staff and volunteers also do an outstanding job of soliciting and producing CLE seminars throughout the year, ranging from lunch, full day and evening presentations, furnishing new and seasoned members alike with knowledge and skill enhancements for their practices. In addition, members also receive the opportunity to attend a free ethics seminar for credit along with discounts on malpractice policies from, Aon, the Bar's affinity program insurance provider.

The Bar is on the cutting edge of technology, providing all of us with opportunities to attend online, CLE webinars and the like from the comforts of our office, a perk that, down the line, will have greater impact for the profession as we all move into the technological age. These are exciting times from an educational standpoint alone, and the Bar Association is keeping pace, providing all of our members with reasonably priced, efficient educational and professional offerings.

As important as the Bar's educational contributions, are the Bar-sponsored opportunities, for new and seasoned attorneys alike, to seek guidance from their more experienced colleagues. Recognizing the value of these relationships, and in addition to the wonderful opportunities afforded by Bar committee memberships, over the past year, the Bar Association has developed and launched the Online Attorney Resource Program (OAR) to make these connections faster and easier.

The OAR program's goal is to match experienced volunteer attorneys willing to provide assistance to new, and even old, attorneys concerning particular practice areas based on the volunteer's professional knowledge and experience. We are currently inviting Bar member volunteers to join OAR and provide assistance to their colleagues in practice areas including family, probate, and administrative law to mention a few. We believe the OAR Program will provide new practitioners with the help they are seeking.

You know of my deep personal commitment to provide legal assistance to those who are unable to afford conventional engagements. The good news is that the Bar has a range of excellent public service programs and projects, including, but not limited to the Volunteer Lawyer Program, which provides new lawyers with mentors on accepted cases, the United States Armed Forces Legal Services Project, and the Pro Bono Program for the Elderly. It is my hope that, notwithstanding these trying economic times, every member of the Bar will participate in one of the Bar's wonderful public service programs. It is always heartwarming to present the Pro Bono Publico Awards to deserving Bar members, particularly when the recipient is a new Bar member.

So there you have it, Bren. See what you missed by choosing not to practice law? But, seriously, I hope you can sense the pleasure the Bar Association, and particularly Executive Director Helen McDonald has furnished me these past 24 years and what it provides our new lawyers today and down the line.

As you know, being a Rhode Island attorney has been the greatest professional honor bestowed upon me, and I treasure my 24 years as a Rhode Island Bar Association member. I am proud to be a member of an organization dedicated to treat me and my colleagues well, as well as to help us better serve our clients and the public at large. What more can you ask for?

Take care and keep warm, Bren. I look forward to seeing you on June 14th, the night of the Annual Meeting Dinner. In the meantime, be assured that the new, young, seasoned, and older lawyers of the Rhode Island Bar Association are growing in their practices each and every day. And Rhode Island, as well as our country, will be better served by their practices.

Love,
Dad

I wish a healthy and prosperous new year to all my friends and colleagues of the Rhode Island Bar! ❖

RHODE ISLAND BAR JOURNAL

Editorial Statement

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

Article Selection Criteria

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

Direct inquiries and send articles and author's photographs for publication consideration to:
Rhode Island Bar Journal Editor Frederick D. Massie
email: **fmassie@ribar.com**
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Help Our Bar Foundation Help Others

Michael A. St. Pierre, Esq.
Rhode Island Bar Foundation President

You, as lawyers, know, first-hand, the barriers that low-income and disadvantaged people encounter when trying to access the justice system.

As you may be aware, over the last several years, we have seen a significant decrease in Interest on Lawyers Trust Accounts (IOLTA) income. Given the severe downturn in real estate activity, and the precipitous decline of interest rates paid by financial institutions which administer IOLTA accounts, we are clearly far below the IOLTA levels we enjoyed in prior years. Of course, the real victims of these circumstances are the IOLTA grantees we have serviced for so many years.

As you know, the IOLTA fund provides significant contributions to Rhode Island Legal Services, the International Institute, the Rhode Island Legal Educational Partnership Program and many other worthy entities. These grantees are certainly suffering devastating cuts not only from our IOLTA program, but from other sources of income as well.

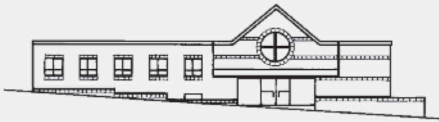
This situation is certainly not unique to Rhode Island. Across our country, Bar Foundations have been and continue to struggle with severe decreases in income while addressing an increase in need from grantees. Indeed, many of our fellow Bar Foundations have effectively closed their doors to their IOLTA programs. The net effect, of course, is a devastating blow to low income people most in need of our services, their health and safety remain at risk and the impact on the elderly, victims of domestic violence, the disabled, children, veterans, and others is incalculable.

On one hand, I am proud to say that the Rhode Island Bar Foundation IOLTA Program has survived these circumstances. This is due, largely, to the hard work of the Board of Directors, and the finance and grant committee members who long ago recognized the need to have a reserve on hand in the event that there were some vagaries in the interest markets or the real estate markets. However, having said that, and despite our conservatism and our reserve accounts, we too have had to substantially cut our funding to our grantees, nearly 75% in the last three years alone. Bottom line is we need your help.

For the IOLTA program to stay viable, more operating costs now need to be absorbed by the general foundation and we are working toward that objective. The Bar Foundation needs more revenue allocated for the general operating costs associated with staying in business, such as maintenance of the Rhode Island Law Center, which services our Bar Association CLE programs, legal clinics, mediation programs, law related education programs, and serves many other purposes. We need more revenue as well to maintain the administration of other vital programs such as the Thomas F. Black, Jr. Memorial Scholarship Program which we have been so fortunate to maintain for many years and benefiting numerous award winners who have gone on to do great things in the law.

You, as lawyers, know, first-hand, the barriers that low-income and disadvantaged people encounter when trying to access the justice system. What I am asking in these dire times, is that each of you consider making a contribution to the Bar Foundation to help us address these challenges, maintain the viability of our Rhode Island IOLTA program, and continue to benefit those most in need of our good counsel and services. May I be so bold as to suggest at minimum the equivalent of one billable hour as a fair contribution?

Please complete and return the form on the following page if you choose to contribute to the Foundation at this time. Thank you so very much for your support, and please accept my sincere wishes to you and your family for health, happiness and peace in this new year. ❖



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 from honorary and memorial contributions.

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

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Bogus Email Scam Claims Rhode Island Bar Referral

Bar members are receiving emails from individuals and companies claiming they were referred by the Rhode Island Bar Association. The Bar Association does not refer clients to lawyers except through the Rhode Island Bar Association's Lawyers Referral Service (LRS). Only members of LRS receive client referrals, and these referrals are always accompanied by an official confirmation from the Rhode Island Bar Association. According to the Office of the Disciplinary Counsel: *In this particular scam, the client claims to be residing or traveling out of the country and looking to buy either commercial or residential real estate. Once the connection with the lawyer is made, the client forwards a substantial check to be used as a down payment/cash purchase. The client later has a change of heart and asks for a refund, minus, of course, a fee for the attorney's time. The lawyer is instructed to send the client's refund by wire transfer. Only after the funds are wired out, it is discovered the original check is counterfeit. In more sophisticated cases, the attorney is contacted by a local, reputable, real estate company to act on the client's behalf. The attorney wrongly assumes the real estate company has vetted the client. One Rhode Island attorney lost over $100,000 this way. The most sophisticated scammers send in an actual person posing as a client who pretends to be very wealthy and asks the attorney to act as his or her agent in a purchase, claiming that if the seller knew the buyer's identity, he or she would bump up the price.*

Modest Proposals for Rhode Island Superior Court Reform

David A. Wollin, Esq.
Adler Pollock & Sheehan P.C., Providence, RI

... ten proposals for reforming current practice to augment the commendable efforts being undertaken in the Superior Court.

Under the leadership of Presiding Justice Alice Gibney, the Superior Court has done yeoman's work in moving civil cases through the judicial system. These recent efforts are designed to reduce the backlog of cases and ensure that litigants receive their day in court in a timely manner. As former Chief Justice Warren Burger has observed, "A sense of confidence in the courts is essential to maintain the fabric of ordered liberty for a free people," and one of the main things that could "destroy that confidence and do incalculable damage to society: that people come to believe that inefficiency and delay will drain even a just judgment of its value."[1]

In that spirit, I offer ten proposals for reforming current practice to augment the commendable efforts being undertaken in the Superior Court. Many of these proposals can be implemented immediately. A few require retooling of existing procedures. Each one owes its origin to the federal system, the experience of other state court systems or recent developments in our own court.

1. Mandatory Mediation

Courts are designed to resolve conflict. They can do so in a number of ways, most notably through full-blown litigation or alternative dispute resolution (ADR). The Superior Court's highly successful "Settlement Week" is an excellent example of the latter approach.[2] Mediation is also required in medical malpractice cases. There is no reason why ADR cannot occur early on in every case.

Mediation should be required after a lawsuit has been pending for three months, even if a dispositive motion is pending. The mediation should be scheduled within the succeeding three months and require the presence of the parties. The parties can draw on the mediation services available in the court system or retain a private mediator if they so choose. With the Rhode Island Bar Association's cooperation, mediators who will need to be recruited should be given Continuing Legal Education credit for each case mediated.

The benefits of mediation are legion. In broadest terms, mediation is less expensive and more expeditious than litigation and eliminates the need for appeals. Parties tend to be more satisfied with outcomes upon which they have mutually agreed than those imposed upon them by a judicial decision-maker such as a judge or jury. The process also allows for the parties to have more control over the outcome and to craft their own customized agreements to cover the spectrum of disputed issues. In this way, the parties can feel they have a greater voice in the final result and this, in turn, enhances the prospect of future compliance with the terms of the settlement.

2. Scheduling Orders Governing Discovery

Cases filed in Superior Court, with certain exceptions, do not have scheduling orders governing discovery.[3] When a lawsuit is filed, there are no deadlines for disclosure of experts, the closure of discovery or even the filing of summary judgment motions. As a result, parties are free to conduct discovery right up to the eve of trial. Indeed, because there is no obligation for plaintiffs to disclose experts by any particular deadline, many defendants hold back until they see the plaintiffs' expert case, thereby creating delay in a system that is ripe for foot-dragging.

At the outset of the case, a scheduling order should issue establishing deadlines for disclosure of plaintiffs' expert witnesses, if any, and then the defendants' experts, the close of discovery, and the filing of summary judgment motions. Each scheduling order should establish an eighteen-month deadline for discovery to end, subject to modification by the court upon the parties' request. Expert deadlines can be set beginning at the one-year mark. Summary judgment motions, while they may be filed at any time, should be required no later than thirty days after discovery has concluded. Except in large or complex cases, a lawsuit that lingers longer than two years is a drag on the system and the litigants.

Scheduling orders now an integral part of medical malpractice cases, have been routinely used in the federal courts with excellent results and should provide significant benefits by focusing the parties and their attorneys on the

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task at hand. The deadlines should encourage the participants to work expeditiously toward resolution of the case. Staggered expert disclosures will ensure fairness in the process by giving plaintiff's counsel adequate time to prepare their respective experts and providing defense counsel sufficient notice of the plaintiffs' expert theories to prepare an appropriate response. The discovery closure will allow the parties to prepare for trial, if necessary, without the worrisome prospect that more discovery will be sought by the opposing side as trial nears.

3. Mandatory Meetings On The Status Of Medical Records In Personal Injury Cases

In personal injury cases, significant delays can result from the collection of the plaintiff's medical records and in seeking to resolve disputes over the scope of relevant documents. Often, the plaintiff's counsel prefers to control the gathering of such records and to limit their time-frame. Defense counsel, by contrast, seeks to expand the scope of relevancy by including the records in years before the injuries and to gather the documents through subpoena or medical release. Absent cooperation among the parties' counsel, many months are often expended while the plaintiff's counsel collects the records, opposing counsel spar over the scope of the requests, and the court grapples with the inevitable fallout when good-faith efforts at compromise fail to succeed.

Counsel for the parties in any case involving personal injuries should be required to meet and confer within ninety days of the filing of the lawsuit to discuss the scope of the medical records requests and the mechanism and timeline for achieving those records. If there is agreement, an appropriate subpoena can be crafted to ensure that health care providers timely produce all the relevant information. After the meeting, if any disputes remain, the parties should be required to raise them before the court within thirty days so that a prompt determination can be achieved. If receipt of medical records reveals the need for further discovery, neither party would be precluded from raising additional issues at a later date. These requirements should be made part of the standard scheduling order issued when the lawsuit is filed.

The foregoing meet-and-confer requirement should reduce the delay that often results in personal injury cases from the collection of medical records. While many plaintiffs' counsel appreciate that medical records are a priority, this certainly should become the norm in all cases. By the same token, counsel for both parties will have assurances that there is a mechanism in place for prompt resolution of medical-records issues. The result should be a win-win for both sides and lead to greater focus on the merits of the case.

4. Status Conferences With The Court After One Year

After a lawsuit has been filed, with the exception of medical malpractice cases, there normally is little or no judicial supervision, absent motion practice, prior to a control calendar call. By that time, however, the case could have been pending in the court system for many years. In fact, if the parties' attorneys take few steps to move the case forward, it can languish in the system far too long.

A status conference with a judicial officer should be required at the first-year anniversary in every case. The purpose of the conference would be to discuss

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the progress of discovery, any problems encountered or anticipated in the litigation, and the likelihood of dispositive motions when discovery has closed. The prospects for resolving the case through settlement, ADR or trial should be addressed as well.

In the long run, meaningful judicial supervision will ensure that cases receive the attention they deserve and that the parties and their counsel appreciate their particular role in moving them toward a timely conclusion. These status conferences should motivate sluggish counsel facing the one-year anniversary to step up their efforts. Few attorneys will want to approach the judicial officer at the status conference with a blank to-do list.

5. Automatic Assignment To The Trial Calendar After Two Years

Currently, cases are not placed on the trial calendar unless one of the parties files a motion. In Providence County, for instance, the moving party must certify that discovery in the matter is "substantially complete," which means there is no outstanding discovery that will delay the trial when the matter is reached.[4] An opposing party can object to the assignment, arguing that the standard has not been met. Absent a motion, however, cases can remain in limbo, despite the length of time they have been pending.

If the proposals above are implemented, most cases should be ready for trial in two years, though larger or more complex cases, usually with multiple parties, will need more time. In the vast majority of cases though, discovery will be completed within two years and cases should receive automatic assignment to the continuous jury or non-jury trial calendar. This should be the rule rather than the exception.

Automatic assignment has the virtue of driving cases toward trial or perhaps even settlement. At the same time, the parties' counsel will recognize that they must complete discovery lest they proceed, unprepared, at trial. To the extent that automatic assignment poses problems for parties or attorneys in a given case, the court retains the authority to grant an appropriate extension and relieve one side or the other of the hardship.

6. Abolition of Conditional Orders Of Dismissal

A major aspect of court practice that

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undermines the prospect of prompt resolution of cases is the conditional order of dismissal. A conditional order of dismissal is entered *after* the requesting party has successfully moved to compel discovery and *after* the responding party has failed to comply with a court order requiring discovery to be answered within a specified period of time. By that time, normally, several months have elapsed since the discovery was first propounded without response. The availability of a conditional order of dismissal only encourages parties to delay responding to discovery when initially received or, in some cases, complying with an order compelling discovery. This extra step is neither necessary nor required by the civil rules. In fact, Rule 37(a) of the Superior Court Rules of Civil Procedure allows for the original order compelling discovery to expressly provide for entry of final judgment dismissing a claim or action if there is a lack of compliance within thirty days.[5]

Conditional orders of dismissal should be abandoned. If a party fails to respond to discovery in a timely manner, an order should be entered requiring compliance in thirty days and court-ordered sanctions, at a later hearing, upon non-compliance.[6] The order should not be an invitation to another step in the process – a conditional order of dismissal – and another bite at the apple.

Although cases should be decided on the merits, court orders must have teeth. If an order to compel will only lead to a conditional order of dismissal without further consequences, then there is little or no incentive to comply with the original order. Instead, a party can merely wait for the conditional order and comply at that time. Vigorous enforcement of the parties' discovery obligations and initial discovery orders will have a salutary effect on reducing or eliminating tardiness.[7]

7. Expert Reports

Rule 26(b)(4)(A) of the Superior Court Rules of Civil Procedure allows a party to propound an interrogatory requiring the opposing party to identify its expert witness at trial, "to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion." However, the

continued on page 34

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Arbitration and the Unauthorized Practice of Law: A Legal Drama in Two Acts

Ernest G. Mayo, Esq.
Warren Municipal Court Judge
Johnson & Wales University Legal Studies Professor

... here's my problem, the rules govern only us lawyers, not non-lawyers...

Cast

ATTICUS: An older, experienced lawyer and arbitrator.

PORTIA: A youngish, driven, yet thoughtful lawyer.[1]

Act I

Scene: It is 7:45 a.m. in the café where Atticus and Portia, both dressed for a day in court, are sharing a quick breakfast.

ATTICUS: Why do we come here every day? The toast is never truly toasted, the coffee is weak and tepid at best, and the men's room hasn't been cleaned since Oliver Wendell Holmes was last in town.

PORTIA: O.K.... great... let's return to our daily agenda of why this and why that, how do we know the earth isn't flat, etc., etc. First, we come here because it is convenient to both Superior and District, second, it's a short walk from the least expensive parking in the city, and third, you like the owner calling out your name when you come in. I might also add that I have no response to the men's room condition, and I don't know that Justice Holmes ever stopped for breakfast in Providence.

ATTICUS: Oh sure, try to apply logic to simple life pleasures like a decent piece of toasted rye. And, just for your information, I was referring the Oliver senior – I think there is evidence the doctor was fond of visiting his fellow Brahmins on College Hill.

PORTIA: Of course the fact that there would not have been any indoor plumbing in a dump like this circa 1860 would play no role in the creditability of your position.

ATTICUS: Fine ... let's move on ... for now. I have a dilemma to discuss.

PORTIA: Please Atticus don't start the day with another one of your "is God dead or just hiding at the Coffee Exchange" brain twisters ... it's exhausting.

ATTICUS: No, no, no, this is a real problem – help me out will you?

PORTIA: Sure, I'll try to chew quietly and not think about my client's needs – please proceed.

ATTICUS: Thanks – good choice. Alright, I've been appointed to arbitrate a super simple, no sweat, contract dispute–

PORTIA: *(interrupting)* Is this a hypothetical or real?

ATTICUS: Real. I'm really appointed and I'm really troubled. May I continue?

PORTIA: Sure, just be mindful of the clock, jury selection waits for no woman.

ATTICUS: Its only *(looking at the wall clock)* – oh damn – how can it take 30 minutes to get untoasted toast? Anyway, long story short, here's the problem: I'm asked to serve as a sole arbitrator; I accept; Rhode Island corporation one, respondent, is represented by a Rhode Island lawyer – o.k. so far – Rhode Island corporation two, claimant, is not represented by counsel, local or otherwise, but plans to have its vice president appear at the hearing...

PORTIA: *(interrupting)* So, what's the problem Atticus, arbitration is supposed to be informal – relaxed rules of procedure, evidence, yada, yada[2]

ATTICUS: *(interrupting)* No, listen. The V.P. is not appearing as a witness, but plans to question witnesses, introduce documents, basically be "*lawyer for a day*."[3]

PORTIA: Well, he can't. Case closed. Notify the case administrator, and all will be right with the world, and you will have fulfilled your duty to protect our guild – nice, nice. Eat your eggs, time's flying.[4]

ATTICUS: Ah. If only life was so simple. Here's the problem: the administering ADR organization's rules clearly say that a party, in this case corporation two, is free to be represented – I emphasize *represented* by anyone – anybody – any damn fool – no mention of, or apparently need for, those pesky lawyers.[5]

PORTIA: Okay, fine, just check the rules of professional conduct, find your answer, recuse yourself or not, and move on. But look Atticus, it's getting late, I have to get to Courtroom 20 pronto.

ATTICUS: But the rules don't solve the dilemma...

PORTIA: Can we talk tomorrow? I hate to be late, it makes clients feel uneasy. How about same place same time tomorrow?

ATTICUS: Not good, I need to take some action tomorrow. Time is short, can we meet for lunch later? Back here at 1:00ish?

PORTIA: If I'm out of court. I have to go now. See ya.

[Portia exits the café and Atticus sits to finish his coffee.]

Act II

Scene: It is 1:16 p.m. at the café where Atticus and Portia, both looking a bit wrinkled and tired, are waiting in line to place sandwich orders.

PORTIA: We only have about half an hour so tell me what couldn't wait 'til tomorrow.

ATTICUS: Our rules only address the out of state lawyer representing a client in an arbitration in Rhode Island. A very reasonable and accommodating rule I might add.[6] But, and here's my problem, the rules govern only us lawyers, *not non-lawyers* a.k.a. Mr. VP of corporation two.[7]
(to the café clerk) Oh, sorry, I'll have a Federal Hill with no onions…

PORTIA: *(to the café clerk)* And I'll have a Spicy Veggie Pocket.
(to Atticus) Proceed.

ATTICUS: Proceed? That's it? Your thoughts in 25 words or less?

PORTIA: Gee, here's a thought, have you checked the General Laws, case law, court rules, your magic eight ball, anything?

ATTICUS: Yes. The eight ball indicates that all is not lost, but I may not have framed the issue correctly, so I can't hold it responsible. The statutes lead me to believe that Mr. VP will be a felon[8] upon presenting his opening statement[9] and that I have a duty to: a) prevent it; or b) report it once it happens.[10]

PORTIA: Sounds rather over the top.

ATTICUS: Does it? Well the case law doesn't help much, the court rules are conveniently silent, and the rules of professional conduct apply to only us, not to non-lawyers. Am I right?[11]

PORTIA: Why not rely on the rules of the ADR organization? I assume that the one governing your arbitration is, if I'm not mistaken, as reputable, respectable, sincere, and generally as A-O-K as the others. So, let them worry about it.

ATTICUS: Sure, but what about the unauthorized practice of law issue? Don't I have a duty to notify the Committee, or the AG, or at least the ADR administrator? I'm thinking I should just resign the appointment?

PORTIA: Resigning just pushes the dilemma onto someone else. You, at least, have a duty to the rest of us in that regard! And, besides, the problem should not just linger.

ATTICUS: Report and resign then.

PORTIA: Let's think for a minute: you are left with the rules of the ADR organization[12] and the unauthorized practice of law statute and cases,[13] the two of which are quite incompatible, yet both are rather reasonable in their respective goals.

ATTICUS: Yup, easy, affordable access to a fair hearing without the maddening formalities, versus protection of the uninformed from the unscrupulous.

PORTIA: So, the ADR rules are trying not to limit anyone's access to arbitration even if they don't want or can't pay for a lawyer, a good thought. On the other hand, the rules governing us as practicing lawyers don't even mention a dilemma such as yours. The Supremes have clearly stated that corporations cannot act *pro se* and have an unauthorized practice committee to handle this

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stuff, and the statutes criminalize unauthorized practice. None of this, it would appear, and correct me if I'm wrong, provides clear instructions for you, the arbitrator-lawyer who knows there is something amiss.

ATTICUS: That's about it.

PORTIA: What-cha-gonna-do?

ATTICUS: I was hoping you would know!

PORTIA: I know that I'm on trial in 16 minutes, and I know that you will do what you have to do, and remember, Atticus, a good night's sleep without ethical demons – or should it be unethical demons? – circling your bed will prolong your life.

ENDNOTES

1 *With kindest regards to Harper Lee's* To Kill a Mockingbird *and William Shakespeare's* The Merchant of Venice.

2 *"Since the parties determine the procedural rules, they can opt for* simplicity and informality." *Stephen B. Goldberg, Frank E. A. Sandler, Nancy H. Rogers, and Sarah R. Cole,* Dispute Resolution: Negotiation, Mediation, and Other Processes *(New York: Aspen Publishers, 2007), 214.*

"Arbitration is an informal, flexible process. *When compared with trial judges, arbitrators have relatively few procedural rules to curb their discretion in administering a hearing. Formal rules of evidence do not prevail.... The parties are also* free to craft their own rules of procedure *and can agree to particular features of litigation procedure if they desire." Edward Brunet, Charles B. Craver, and Ellen E. Deason,* Alternative Dispute Resolution: The Advocates Perspective *(San Francisco: Matthew Bender, 2006), 430.*

"The primary objective of arbitration is to arrive at a just and enforceable result, based on a private procedure that is fair, expeditious, economical, and less burdensome and adversarial than litigation."

International Institute for Conflict Prevention & Resolution, http://www.cpradr.org/Portals/0/Resources/ADR%20Tools/Clauses%20&%20Rules/2007%20CPR%20Rules%20for%20Non-Administered%20Arbitration.pdf (accessed October 16, 2011) (All endnote emphasis added by author here **et seq.***)*

3 *Pursuant to R.I. Gen. Laws § 11-27-2, the practice of law is defined, in relevant part, as "the doing of any act for another person usually done by attorneys at law in the course of their profession, and, without limiting the generality of the definitions in this section, includes the following: (1) The appearance or acting as the attorney, ... or representative of another person before any ... body authorized or constituted by law to determine any question of law or fact or to exercise any judicial power,...; (2) The giving or tendering to another person for a consideration, direct or indirect, of any advice or counsel pertaining to a law question or a court action or judicial proceeding ...; (3)* The undertaking or acting as a representative or on behalf of another person to commence, settle, compromise, adjust, or dispose of any civil or criminal case or cause of action*; (4) The preparation or drafting for another person of ... any instrument which requires legal knowledge and capacity and is usually prepared by attorneys at law."*

4 *R.I. Gen. Laws § 11-27-5. Practice restricted to members of bar.* No person, except *a duly admitted* member of the bar of this state, *whose authority as a member to practice law is in full force and effect,* shall practice law in this state.

R.I. Gen. Laws § 11-27-11. Practices permitted to persons not members of bar. None apply to this matter.

See ***Unauthorized Practice of Law Committee v. State of Rhode Island Department of Workers Compensation, et al.****, 543 A.2d 662 (R.I. 1988) for discussion of some services and providers excepted from R.I. Gen. Laws § 11-27-5. Practice restricted to members of bar; and* **infra** *note 9.*

5 *R.I. Sup. Ct. Art. V, Rule 2.4, Commentary 2.* "Lawyer-neutrals may also be subject to various codes of ethics, *such as the Code of Ethics for ... the American Arbitration Association...."*

R.I. Sup. Ct. Ethics Adv. Panel, Opinion 2008-01. "While the Court *has exclusive jurisdiction over the practice of law, and has jurisdiction over court-annexed arbitrations and court-sponsored mediations, it* does not regulate private mediation and arbitration practices.

See, **e.g.**, *AAA Rule R-24 provides, in relevant part:* "Any party may be represented by counsel or other authorized representative." American Arbitration Association. *"Commercial Arbitration Rules." American Arbitration Association Rules. June 1, 2009. http://adr.org/sp.asp?id=22440#R24 (accessed October 15, 2011);*

AAA Code of Ethics for Arbitrators in Commercial Disputes Canon IV § C provides, in

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In RI, MA & FL
Certified Elder
Law Attorney
LLM in Estate Planning

Maria H. (Mia) Lahti
Admitted to Practice
In RI & MA
Focusing on Probate
and
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relevant part: "The arbitrator should not deny any party the opportunity to be represented by counsel or by any other person chosen by the party." AMERICAN ARBITRATION ASSOCIATION. *"The Code of Ethics for Arbitrators in Commercial Disputes." American Arbitration Association. March 1, 2004. http://adr.org/si.asp?id=4582 (accessed October 15, 2011).*

CPR Rule 4.1 provides, in relevant part: "The parties may be represented or assisted by persons of their choice." INTERNATIONAL INSTITUTE FOR CONFLICT PREVENTION & RESOLUTION. *"Rules for Non-Administered Arbitration." November 1, 2007. http://www.cpradr.org/Resources/ALLCPRArticles/tabid/265/ID/600/2007-CPR-Rules-for-Non-Administered-Arbitration.aspx (accessed October 16, 2011); and*

NAF Rule 3 provides, in relevant part: "Parties may act on their own behalf or may be represented by an attorney or by a person who makes an appearance on behalf of a Party." NATIONAL ARBITRATION FORUM. *"Rules of Procedure." August 1, 2008. http://www.adrforum.com/main.aspx?itemID=1561&hideBar=False&navID=357&news=3 (accessed November 7, 2011)*

6 *See generally, R.I. Sup. Ct. Art. V, Rule 5.5, Unauthorized practice of law; Multijurisdictional practice of law.*

7 ***Id.** at §§ (a), (b), (c), and (d) each refers to "a lawyer" only.*

R.I. Sup. Ct. Art. V, Rule 8.3, Reporting Professional Misconduct. (a) A lawyer *who knows that* another lawyer *has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority.*

R.I. Sup. Ct. Art. V, Rule 8.4, Misconduct. It is professional misconduct for a lawyer to: (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects; (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation; (d) engage in conduct that is prejudicial to the administration of justice, …

8 *Actually it's a misdemeanor for the 1st offense, see R.I. Gen. Laws § 11-1-2 for definition of misdemeanor and § 11-27-14, **infra** at note 9 for relevant penalties.*

9 *See R.I. Gen. Laws § 11-27-5, **supra** note 4.*

*"This Court has said that it is a 'well established principle that a corporation may be represented only by licensed counsel.'" **Mobile Homeowners Rights, Inc. v. Mobile Village, Inc., et al.**, 736 A.2d 98, 98 (R.I. 1999)*

R.I. Gen. Laws § 11-27-14. Penalties for violations. Any person violating any of the provisions of this chapter shall, upon a first conviction, be imprisoned for a term not exceeding one year, or fined not exceeding five hundred dollars ($500), or both. Any firm, corporation, or other entity violating any of the provisions of this chapter shall, upon a first conviction, be fined not exceeding five hundred dollars ($500).

R.I. Gen. Laws § 11-27-16. Practices permitted to corporations and associations. None apply to this matter.

N.B. Could the following, permitting non-lawyer representation before informal workers' compensation hearings, *be the ice on the slippery-slope to permitting non-lawyers to appear in a representa-*

Captain Michael P. Jolin Presents Bar With US Flag and Citation

Bar member and Rhode Island National Guard Captain Michael P. Jolin, currently serving in Afghanistan, presented the Rhode Island Bar Association with a United States flag flown over a military base in Afghanistan and a citation honoring the Bar for its support of those who have served and are serving in the nation's military services.

Captain Jolin's citation reads as follows:

So that all shall know, this flag was flown in the face of the enemy at Bagram Airfield, Afghanistan. Illuminated in the dark, by the light of justice, it bears witness to the successful detention and interrogation of terrorists threatening the freedom of the United States of America and the world. In remembrance of all who lost their lives on the 11th day of September, 2001, it was flown with great honor and pride by our nation's military forces within the Detention Facility In Parwan (DFIP).

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PRESIDENT JOHN F. KENNEDY

Certified by:
CPT Michael P. Jolin
Trial Counsel
Task Force Protector
Bagram Airfield, Afghanistan

Bar President William J. Delaney and Past Bar President Victoria M. Almeida, who initiated the Bar's United State Armed Forces Legal Services program, proudly display Captain Jolin's gift to the Bar, now on display at the Rhode Island Law Center.

Bar member response to the call for the United States Armed Forces Legal Services (USAFLS) program volunteers is outstanding. However, the Bar still needs more volunteers, as demand is greater than our current volunteers can handle. The good news is, for those who volunteer to take a program case, free malpractice insurance is available to cover most pro bono cases accepted through the Bar's pro bono programs. To become a USAFLS volunteer, please contact Public Services Director Susan Fontaine by email: sfontaine@ribar.com or telephone: 401-421-5740.

tive capacity at arbitrations? "It has long been the law of this state that the definition of the practice of law and the determination concerning who may practice law is exclusively within the province of this court…. We must remember that the practice of law at a given time cannot be easily defined. Nor should it be subject to such rigid and traditional definition as to ignore the public interest." ***Unauthorized Practice of Law Committee v. Department of Workers' Compensation, et al.****, 543 A.2d 662,664-665 (R.I. 1988)*

10 *"We previously have noted that only those corporations organized pursuant to the Professional Service Corporations Act (G.L.1956 § 7-5.1-1) may practice law in this state,* **Carter v. Berberian***, 434 A.2d 255 (R.I.1981) (per curiam), and that any such corporation may not permit or allow any unauthorized persons to practice law in violation of chapter 27 of title 11.* ***In re Rhode Island Bar Association****, 106 R.I. 752, 263 A.2d 692 (1970). Indeed,* we have cautioned that any attorney who aids or assists any corporation, association, or individual in engaging in acts constituting the unauthorized practice of law *as set out in chapter 27 of title 11 would by so doing be in violation of DR 3-101(A) of the Code of Professional Responsibility, the progenitor of what is now Article V Rule 5.5(b) of our Rules of Professional Conduct. Berberian, 434 A.2d at 256."* ***In Re Rule Amendments to Rules*** *5.4(A) and 7.2(C) of* ***The Rules Of Professional Conduct.*** *815 A.2d 47, 50 (R.I. 2002).*

R.I. Gen Laws § 11-27-19. Unauthorized practice of law committee – Powers and duties – Duties of attorney general. (a) There is established an unauthorized practice of law committee to be appointed by the supreme court consisting of any number that shall be determined by the supreme court. (b) It shall be the duty of the attorney general and the unauthorized practice of law committee to enforce the provisions of this chapter and to investigate and prosecute all violations. It shall be the duty of the attorney general to prosecute all criminal violations. The superior court shall have jurisdiction to restrain and enjoin any of the acts prohibited in this chapter upon a complaint brought by the attorney general, by any member of the bar of this state whose authority as a member to practice law is in full force and effect *or by the unauthorized practice of law committee.*

11 *"It is well established that in situations in which a statute and a rule approved by the Rhode Island Supreme Court are in conflict,* the court rule prevails." ***Heal v. Heal****, 762 A.2d 463, 467 (R.I. 2000)*

Supra *note 7.*

12 ***Supra*** *note 5.*

13 ***Supra*** *notes 4, 9 and 10.* ❖

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Without prior notification to the state, on May 19, 2010 the city of Central Falls bypassed this process and sought receivership protection in the Providence County Superior Court.

Like most of you, I do not currently represent a municipality; but I do follow current events. So, as a lawyer with more than a passing familiarity with the bankruptcy code, I have been watching the Central Falls, Rhode Island receivership from afar, with more than a few nagging questions. Overcoming inertia, I began to examine some of those questions and have attempted to formulate what I believe to be the answers thereto.

Q. Can a state declare bankruptcy under federal law?

A. No. The 10th Amendment prohibits a federal entity from running the financial affairs of a state.[1] Conversely, a state cannot force a creditor to compromise its claim without violating the constitutional prohibition against the state impairment of contracts.[2]

Q. Can a municipality file for U.S. bankruptcy protection?

A. Yes, if there is a state law which permits it. The country is divided almost equally, with twenty-five (25) states *not* permitting the filing.[3] Rhode Island (until June 11, 2010) did not authorize the filing of a municipal bankruptcy petition, but now does. Once again, the reason that state permission is needed is the 10th Amendment to the U.S. Constitution.[4] A state cannot be compelled constitutionally to submit to *federal* fiscal regulation; but may do so *voluntarily* for its sub-entities, e.g. towns, cities, counties, other types of bonding/taxing authorities, etc.[5] In 2010, when the Rhode Island legislature created the new, so called "municipal receivership" statutes,[6] it did provide for the state-appointed receiver to file for protection under Chapter 9 of the bankruptcy code on behalf of the municipality under his/her control.[7] This is the only time a Rhode Island city or town can be placed into bankruptcy. In other words, for a city or town in Rhode Island to be placed into bankruptcy (Chapter 9), it must already be in state receivership. In effect, state receivership is a necessary predicate for a municipal bankruptcy filing in Rhode Island.

Q. If a municipality files for bankruptcy, can the bankruptcy Receiver (the term Trustee is not used in Chapter 9) sell off municipal assets (a park, firehouse, equipment, municipal buildings, etc.) to pay for the debts of the public entity?

A. No. The type of bankruptcy protection provided to municipalities is found in Chapter 9[8] (not in Chapters 7,[9] 11[10] or 13[11] as is common for individuals or businesses). This type of bankruptcy provides only for a re-organization of debt analogous to Chapter 11 (for businesses) and therefore does not permit the forced sale of public assets to pay off creditors. It is *not* similar to a Chapter 7 filing which is, essentially, the liquidation of the assets of an individual/business for the benefit of creditors.

Q. So what *is* going on with Central Falls?

A. Prior to May of 2010, a municipality with budget problems in Rhode Island was required to work with the state auditor general to develop a deficit-reduction plan.[12] Without prior notification to the state, on May 19, 2010 the city of Central Falls bypassed this process and sought receivership protection in the Providence County Superior Court, ostensibly, in an effort to seek relief from its union and pension obligations.[13] This is believed to be the first time any municipality sought protection in a judicial receivership under Rhode Island law. The City's thinking was that it needed the power of a judicial receivership to address/change the then existing union/pension contracts.[14] On, May 19, 2010, the court appointed Attorney Jonathan N. Savage as the temporary receiver for Central Falls.[15] Almost immediately (June 11, 2010), the Governor and Rhode Island General Assembly acted to create a new receivership law granting the state the power to intervene in the affairs of budget-strapped municipalities and made the law retroactive in its application.[16] It is clear that the state legislature passed this modification to the state receivership statute specifically with Central Falls (and other struggling municipalities) in mind,[17] and that these efforts were motivated because of pressure being put on the state by nervous municipal bond rating

agencies.[18] The new law is entitled, § 45-9 Budget Commissions.[19] This receivership statute prohibits future municipal *judicial* receiverships[20]; but allows municipalities that are under "financial distress" to seek *state* receivership protection.[21] It creates, in essence, a three-step process. First, upon a petition by the city/town's finance director, and with the agreement of the state auditor general, the financially strapped municipality may seek the appointment of a "fiscal overseer." Secondly, if need be, a "budget commission" can be added to help run a municipalities financial affairs. Lastly, if the budget commission concludes that its powers are insufficient to "restore financial stability", the state director of revenue shall appoint a state receiver.[22] In a "fiscal emergency" the state director of revenue can go straight to the appointment of a receiver and bypass the previously-described intervening steps.[23] This is the situation Central Falls has found itself in since July 16, 2010, when the state auditor general appointed retired Superior Court Judge Mark S. Pfeiffer the state receiver for Central Falls under a six month contract.[24] Subsequently, and after a brief extension of Judge Pfeiffer's services, newly-elected Governor Lincoln Chafee appointed former Supreme Court Associate Justice Robert G. Flanders, Jr. as the state receiver, and he assumed those responsibilities as of February 15, 2011.[25]

Q. What powers does the state receiver have, and can he/she overrule the mayor, city council or other elected officials?

A. R.I. Gen. Laws § 45-9-7 (b) outlines the extensive powers of the receiver. Which include:

"… any function or power of any municipal officer or employee, board, authority or commission, whether elected or otherwise…impacting the fiscal stability of the city or town including, without limitation, school and zoning matters;[26] …the receiver shall have the right to exercise the powers of {any} elected officials …impacting the fiscal stability of the city or town…the powers of the receiver shall be superior to and supersede the powers of elected officials….{who} shall continue to be elected… and serve in an advisory capacity to the receiver."[27]

In effect, this makes elected officials observers under the receivership. Since almost everything a city/town does has a fiscal effect, the receiver has the final say

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Q. Can the state receiver hire and fire employees?

A. Yes, but with important limitations. Remember, a state receiver cannot abrogate a contractual obligation. A receiver could therefore fire/layoff any "employee at will."[28] But, today, most municipal workers in Rhode Island are unionized. An employee covered by a collective bargaining agreement may or may not be fired or laid off depending on the terms of that contract. But the receiver could, by exercising management rights, downsize the number of employees and let the union contract(s) sort out who stays and who goes, presumably on the basis of seniority.

Q. Can the state receiver abrogate/rewrite a collective bargaining agreement?

A. No, R.I. Gen. Laws § 45-9-9 of the new receivership law[29] clearly states that "This section shall not be construed to authorize the … receiver under this chapter to reject or alter any existing collective bargaining agreement, unless by agreement…" But a receiver can, and in the case of Central Fall did, insist on changes in staffing, wages, benefits, etc. with the various municipal unions based on economic necessity. The receiver does have the right to decide and control municipal fiscal matters. This would include the size of government and the services it provides. It would make sense that a union would want to be part of that decision making process to negotiate the preservation of as many jobs as possible, rather than having its remaining membership determined simply by seniority. R.I. Gen. Laws § 45-9-9 further provides that no new collective bargaining agreement (including any new contract with teachers), or amendment to an existing agreement, can exist without the participation and approval of the state receiver.[30]

However, the receiver is not unarmed when negotiating with the unions. Clearly, R.I. Gen. Laws § 45-9-7 (3) provides that the receiver can file for bankruptcy under Chapter 9. This gives the receiver a powerful weapon. If the unions refuse to negotiate in good faith, the receiver always has the option of placing the city into federal bankruptcy where contracts can be abrogated and re-written. And, this is exactly what Receiver Flanders did

New Bar Members and Committee Representatives Meet and Mingle at Speed Networking Event

Rhode Island Bar Association Committees, with their friendly and experienced members, and the Bar's excellent public service programs, offer a wealth of professional and personal benefits to Bar members. This Fall, over 70 new lawyers and Bar committee chairs and representatives took part in a casual, fun, informative and interactive speed networking event at the Bar's headquarters in Providence. Co-sponsored by the Rhode Island Bar Association's New Lawyers Committee and the Bar's Executive Committee, this event is one many Bar initiatives aimed at helping new members advance in the profession. To learn more about upcoming new member programs and initiatives, please contact New Lawyers Committee Co-Chairs Rebecca Dupras: redupras@gmail.com and Cristen Ciresi: cciresi@smsllaw.com. Bar members are also invited to join the New Lawyers Committee to help plan and develop new lawyer-focused events and programs. To join the New Lawyers Committee, please contact the Bar's Communications Coordinator Kathleen Bridge via email: kbridge@ribar.com or telephone: 401-421-5740.

Superior Court Bench Bar Committee Co-Chairs Karen A. Pelczarski and Melissa E. Darigan were among the 20 Bar committee representatives who provided new lawyers with information and insights.

Environmental and Energy Law Committee Co-Chair Jennifer Reid Cervenka discussed her committee's focus on topic-related guest speakers at their meetings.

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on August 1, 2011.[31]

Q. Can a creditor force the sale of municipal assets such as equipment, unused buildings, a park, etc.?

A. No. There is nothing in the new state law (R.I. Gen. Laws § 45-9-1 et seq) which provides for the petition of a creditor to seek or force the sale of municipal assets to pay off a debt.

Q. Could the receiver sell municipal assets?

A. Yes and no. The sale of unused or excess personal property/equipment owned by the municipality is probably fair game as part of the normal budgeting process. However, there is no provision in the new state law (R.I. Gen. Laws § 45-9-1 et seq) which addresses (and therefore would authorize) the receiver to direct the sale of real property belonging to a municipality.

Q. Who pays the state appointed receiver?

A. A quick reading of the state receivership statute leaves this is a bit unclear. However, the current receiver is appointed by the state, has a contract with the state, and is answerable to the state director of revenue. So, it is fair to say that the state appointed receivers are to be paid by the state. Attorney Jonathan Savage, the judicially appointed receiver, submitted his bill to the state[32] and so does the current receiver, Robert Flanders.[33] Which means, ironically, that every pension payment, wage, benefit and contract connected to the municipality of Central Falls and its employees is now under the control and scrutiny of the bankruptcy court, with the exception of the compensation for the receiver.

Q. How much are the receivers being paid?

A. The judicially appointed receiver, Jonathan Savage charged $290 per hour for a total of $170,000, which he later reduced to $140,000.[34] Savage also presented an additional series of charges amounting to $136,000 covering the work of specialists hired by the receiver.[35] Receiver Mark Pfeiffer was hired for six months at $200.00 per hour with a maximum fee of $164,000,[36] but was extended for an additional one month at the same hourly rate.[37] The terms of Robert Flanders hire are, as of this writing,

unknown to this scrivener and appear to remain unpublished. Presumably, the terms are similar to those reached with Mark Pfeiffer.

Q. What happens to Central Falls now that it is in bankruptcy?

A. Receiver Flanders placed the city into bankruptcy to address (reduce) existing union contracts and pension obligations. In essence, to balance the municipal budget by reducing benefits to current and past employees. To change these contractual obligations/benefits, he needed the agreement of the parties or the approval of a bankruptcy judge. Not getting the former, he is now seeking the latter. Subject to the approval of the bankruptcy judge, all pension contracts and benefits packages can be rewritten and, presumably, reduced. Currently, rather than have that done unilaterally, the unions, pensioners and municipal receiver are in negotiations to try to do this by agreement. But, let there be no mistake, the bankruptcy judge can approve, and thereby impose, a reduction of benefits and a rewriting of union contracts and existing pensions even if no arrangement is reached. Another available option is to cancel existing contracts to privatize some municipal services, such as trash pickup and recycling.[38] The receiver has also discussed the possible merger of municipalities, or, in the alternative, municipal services, expressly fire and police, with nearby Pawtucket.[39] Of course, it remains to be seen what the upside of such an arrangement might be for Pawtucket or any other nearby municipality.

Q. How does Central Falls get out from under this state receivership?

A. Presumably the bankruptcy will end with a balanced City budget reflecting rewritten union contracts and pension benefits. This still leaves the state receivership. The receiver, through periodic reports to the state director of revenue regarding the fiscal well being of the municipality will, presumably, at some point, indicate that the city has become financially stable. At that point, the receivership will end. After which, however, there is, in essence, the creation of what can only be described as a period of probation.[40] The state receivership

continued on page 38

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All dates and times are subject to change.

January 12
Thursday
Food for Thought
Contract Negotiations – Avoiding Ethical Missteps
RI Law Center, Providence
12:45 p.m. – 1:45 p.m., 1.0 ethics credit

January 13
Friday
Practical Skills
Civil Law Practice in Rhode Island District Court
RI Law Center, Providence
9:00 a.m. – 3:00 p.m.
4.0 credits + 1.0 ethics

January 18
Wednesday
Food for Thought
Bankruptcy Issues in a Domestic Law Case
Holiday Inn Express, Middletown
12:45 p.m. – 1:45 p.m., 1.0 credit

January 19
Thursday
Food for Thought
Bankruptcy Issues in a Domestic Law Case
RI Law Center, Providence
12:45 p.m. – 1:45 p.m., 1.0 credit

January 24
Tuesday
Food for Thought
Contract Negotiations – Avoiding Ethical Missteps
Casey's Restaurant, Wakefield
12:45 p.m. – 1:45 p.m., 1.0 ethics credit

February 1
Wednesday
Session One – Fundamentals of an Uncontested Divorce Series
How to Conduct the Client Interview
A Volunteer Lawyer Program
RI Law Center, Providence
4:00 p.m. – 5:30 p.m., 1.5 credits

February 3
Friday
Practical Skills
Basic Commercial and Real Estate Loan Documentation
RI Law Center, Providence
9:00 a.m. – 3:00 p.m.
4.0 credits + 1.0 ethics

February 9
Thursday
Food for Thought
New Developments in Employer Liabilities
RI Law Center, Providence
12:45 p.m. – 1:45 p.m., 1.0 credit

February 16
Thursday
Practical Skills
Civil Law Practice in Rhode Island Superior Court
RI Law Center, Providence
9:00 a.m. – 3:00 p.m.
4.0 credits + 1.0 ethics

February 28
Tuesday
Food for Thought
New Developments in Employer Liabilities
Casey's Restaurant, Wakefield
12:45 p.m. – 1:45 p.m., 1.0 credit

February 29
Wednesday
Medicaid 202 – Beyond the Basics
RI Law Center, Providence
1:00 p.m. – 4:00 p.m., 3.0 credits

March 7
Wednesday
Session Two – Fundamentals of an Uncontested Divorce Series
Document Preparation and Filing
A Volunteer Lawyer Program
RI Law Center, Providence
4:00 p.m. – 5:30 p.m., 1.0 credits + .5 ethics

March 14
Wednesday
DUI Update 2012
RI Law Center, Providence
1:00 p.m. – 4:00 p.m., 2.5 credits + .5 ethics

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2012 ANNUAL MEETING

June 14 & 15, 2012
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Reminder: Bar members may complete three credits through participation in online CLE seminars. To register for an online seminar, go to the Bar's website: **www.ribar.com** and click on CONTINUING LEGAL EDUCATION in the left side menu.

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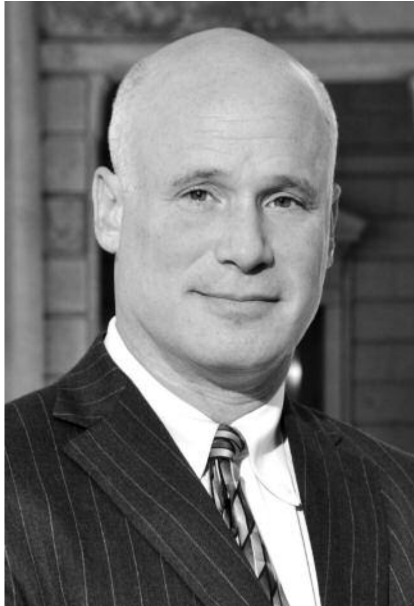

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John F. McBurney, Jr. has worn many hats throughout his career but, no matter what his role, his life's theme is serving others. Born in Pawtucket, Rhode Island in 1925, Mr. McBurney graduated from high school in 1942, and attended Providence College for a brief period before World War II. Mr. McBurney served in both the Army Air Corps and the Infantry, fighting in France, Germany, Belgium, Czechoslovakia, Italy, and Austria, and honored with the Bronze Star and the French Legion of Honor for his courage and valor.

John F. McBurney, Jr., Esq.

Following his distinguished military service, he returned to Rhode Island, graduating from Providence College and earning a teaching degree from Rhode Island College of Education. Mr. McBurney's service continued as a teacher at Pawtucket West High School (now Shea) while running the Collins Electrical Shop. He continued teaching night school at West while attending law school at Boston College, gaining admission to the Bar in 1951.

He initially worked as a solo practitioner in Pawtucket, handling both criminal and civil cases and briefly served as Pawtucket's Assistant City Solicitor. In 1958, he was elected and served as a Rhode Island State Senator, a post he held until 1974 while maintaining his thriving private practice. We spoke with Mr. McBurney about his diverse and notable career, and the following excerpts are from our interview.

Your long service as a State Senator while sustaining your private practice is remarkable. How did you manage to do both of those things and do them so well for so long? Extra time – I was no genius. I had to spend a lot of time on cases too, you know, to get ready for court.

Did you find your two roles, as a lawyer and a legislator, intersected positively? Oh, I recommend lawyer[s] try for public office…it helps your practice, and you can help the people.

In the 60 years you've been practicing law, what do you think is the biggest change you've seen in the legal profession or in the practice of law here in Rhode Island? Well, contributory negligence is out. And, advertising.

When you say advertising, how has that been a change? Well, we weren't allowed to advertise until about 1968, I guess. And, I'm death on advertising. I think it's hurt the profession.

What has been the biggest challenge or hurdle or obstacle of the course of your legal career? Well, for 16 years, contributory negligence was tough. After that, things got easier.

What is some of the best advice that you ever received as a lawyer? [Former Speaker of the House Harry F.] Curvin, who wasn't a lawyer, would advise me: rehearse your case; marry your client completely; and write it out, type it out, and everything. He had a fourth grade education at St. Mary's, but he was pretty, pretty sharp.

What advice would you give to new lawyers? You've got to know your case, and you've got to know it as good as the other side, otherwise, you're going to go down.

What challenges to do you foresee for newer members of the Bar? Advertising. I would advise them not to do that. And then lately, it's become personal, vindictive, one lawyer against another…we didn't have that in the old days. Everybody got along, even though you were on opposite sides.

If you had to hire a lawyer to represent you, who would you hire? Well the sharpest one in my days would be Judge Selya. He knew the law of the case. And, of course, if you're on the other side of Judge Selya, you better have a dictionary with you.

After speaking with John McBurney, soldier, electrician, teacher, lawyer and elected official, we quickly learned that he is the consummate serviceman. Mr. McBurney tends to divert discussion of his accomplishments, as he's every bit as modest as he is uniquely skilled and capable. Notwithstanding his seeming reluctance to accept credit, the authors believe his service to our Bar, our State, and our Country warrants gratitude. To that end, thank you, Mr. McBurney, for all you have done.

Bar's Volunteer Lawyer Program and RWU School of Law Free Family Mediation Clinic

This fall, Roger Williams School of Law (RWUSL) Mediation Clinic students, under the supervision of Professor Bruce Kogan, joined with attorneys from the Bar's Volunteer Lawyer Program offering a Family Law Mediation Day Clinic at the Bar Association in Providence. Ten couples received pro bono mediation services and have since been referred to VLP attorneys to finalize the process. This collaborative effort began providing alternative legal assistance to low income litigants with uncontested or nominal matters in 2010. Given this collaborative effort's success, the clinics are now offered twice a year.

Front, l to r: Caitlin Lantagne*, RWUSL Clinic Administrator Margie Caranci, Julie Tran*, Christen Laurence*, Amanda Sorenson*, Mariana Ormonde*, Jolee Messier*, RWUSL Professor Olivia Milonas, RWUSL Professor and Mediation Clinic Director Bruce Kogan

Back, l to r: Philip Ornstill*, RI Family Court Mediation Unit Director Cheryl Martone, Bar VLP Neville Bedford, Esq., Chris Marovelli*, Bar VLP Dadriana Lepore, Esq., Bar VLP Christine Engustian, Esq., Bar Public Services Director Susan Fontaine, and Jessica Doyle*

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Oh, Canada!

American Bar Association Delegate Report: ABA Annual Meeting

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

Toronto, to me, with all apologies to New Yorkers, is a clean and polite version of New York City. I love New York in small doses, but having lived in the Midwest during law school and spending substantial time overseas, I am able to compare the regions in terms of lifestyle. Toronto's economy is booming, as I could not move without bumping into a crane erecting a new building or infrastructure improvement. Although it has no ocean, it has the next best thing in Lake Ontario. The neighborhoods are inviting, the architecture diverse, and the city's cultural life is vibrant.

The American Bar Association's (ABA) Delegates were addressed by the Chief Justice of Canada, Rosalie Silberman Abella, who is also a Holocaust survivor. Her personal and professional journey moved the chamber to tears of sadness and joy.

I sat up close in a panel discussion on civics education featuring former Supreme Court Justice Sandra Day O'Connor and current Justice Stephen Bryer. Justice O'Connor, who I greatly admire, is busy in retirement, devoting herself to promoting national civics education though her iCivics program, which our own Chief Justice Paul A. Suttell has also embraced.

The substantive issues addressed by the House of Delegates included Ethics 20/20, an update on our Model Rules on Professional Responsibility in light of the new normal of confidentiality in the age of cyber-security and cloud-computing. The Delegates addressed a challenge to the "birthright" clause of the Fourteenth Amendment, which would deny citizenship to children of illegal aliens and others who were born on United States soil.

As I write this, Rhode Island is recovering from Hurricane Irene and disaster preparedness is high on the ABA's concerns. Additionally, a model act covering Representation of Children in Abuse, Neglect and Dependency Proceeding was adopted, as well as initiatives to combat human trafficking, an issue that has surfaced in Rhode Island. There were also votes taken on child pornography offenses, immigration law reform, Brady disclosures in federal criminal cases, judicial disqualification rules, and the membership of Guam and other United States Territories in the ABA.

The ABA Medal, its highest honor, was given jointly to David Boies (of California's Proposition 8 fame) and Theodore Olson (former Solicitor General) for their ability to "disagree without being disagreeable" in such high profile cases such as **Bush v. Gore**.

As always, I am truly proud, honored and humbled to be your ABA representative. Anyone with any questions or concerns about the ABA may contact me by telephone at 724-2400 or by email at rdoesq@yahoo.com. ❖

Dear Colleagues,

One of our Bar members recently asked what motivates me to devote a substantial portion of my time and energy to the ABA, and I am taking this opportunity to explain my reasons. In 2003, I became the Bar's ABA Delegate. I will always remember our previous delegate Justin Holden's words to me when I took the job: "Be an advocate for the legal services for the dispossessed in our society." At the time, I did not really understand what he meant.

In the last eight years, I have learned several things while following Justin's advice. We need a national voice to continually advocate on behalf of the Legal Services Corporation as it has been under attack by those who would deny the poor adequate representation. If there is one stigma we must change, it is the idea that justice can be bought with a highly-paid lawyer.

Since I joined the ABA, it has taken other significant positions affecting all Americans on the death penalty, bankruptcy reform, ethics in the profession, diversity pipeline issues, judicial selection and compensation, juvenile justice standards, criminal procedure, and substantive law to name a few. In addition, the ABA still rates candidates for federal judicial office.

Make no mistake, when the ABA, as the world's largest organization of lawyers, speaks to an issue, the world listens. I have seen the ABA's power when visiting United States Senators and Representatives on ABA Day in Washington, D.C., and our law schools and courts listen to the ABA when it sets forth Model Rules and Standards in almost all practice areas.

In sum, I have traveled a long way with the ABA, both literally and figuratively, and I am convinced the time I devote on behalf of our Bar is well worth it to me and to the profession. Our Bar and the ABA are both vibrant and progressive organizations, and I am proud of my time commitment and membership in both.

As a solo practitioner I have sacrificed much of my free time to the Rhode Island Bar and the ABA. It has been worth it. I only wish more solos, indeed, more members of our Bar, would become involved to reap the benefits of direct engagement.

I hope I have answered your questions relative to my continued commitment to the ABA and, although we may disagree at times, I promise to work with you all to promote our respective visions of our profession's future.

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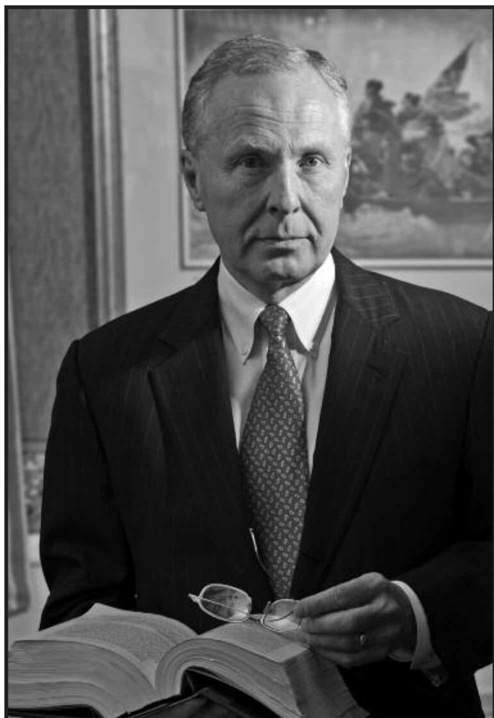

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LLM in Taxation, Georgetown University

5 Benefit Street, Providence, Rhode Island 02904
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Creative Receivership and Redevelopment: A Commentary

W. Mark Russo, Esq.
Ferrucci Russo, P.C.,
Providence

This initiative is based on strengthening a partnership between existing healthcare and educational institutions and aimed at driving a new, knowledge-based economy.

In June of 2010, Justice Michael A. Silverstein, presiding over the Providence County Superior Court Business Calendar, placed the assets of a former jewelry plating company under the protection of a receivership. The consolidated cases are **Edward Marandola, Jr. v. Victory Properties, Inc.**, P.B. 10-1861; **Edward Marandola, Jr. v. Poisitano Realty Co., Inc.**, P.B. 10-1862 and **Edward Marandola, Jr. v. Wyndham Properties, LLC**, P.B. 10-1863. The real estate is situated in close proximity to Rhode Island Hospital, Hasbro Children's Hospital, Women and Infants' Hospital and the new location of Brown University's Medical School. However, the real estate did not have any redevelopment approvals, the buildings were abandoned and in extreme disrepair, and the site was impacted by environmental issues. The Receiver, Vincent A. Indeglia, Esq., recognized the real estate's redevelopment potential and began to work with the City of Providence through the receivership process to incentivize the marketplace.

Through a unique partnership effort between the Rhode Island Superior Court Business Calendar, the Receiver and the City of Providence, on July 18, 2011, the Providence City Council enacted an economic development initiative designed to revitalize the land occupied by the abandoned, jewelry-plating company. The property, known as Victory Square, lies in the heart of the City of Providence's Jewelry District which the City is actively working to transform into a new Knowledge District. This initiative is based on strengthening a partnership between existing healthcare and educational institutions and aimed at driving a new, knowledge-based economy.

As a result of this partnership and initiative, the Receiver successfully marketed and sold the Victory Square real estate for a significant return, reflecting the potential for redevelopment within the envisioned knowledge-based economy. The Victory Square initiative is significant because it will spur development in the Knowledge District, and it was structured, negotiated and pursued by a Court-appointed Receiver.

A receivership is a process in which the Rhode Island Superior Court appoints an attorney to preserve the value of distressed assets for the benefit of creditors and stakeholders. The distressed assets can be a real estate project, the assets of a failed business, or an ongoing business. In addition to traditional stakeholder interests such as the banks who lent money to the failed project, stakeholder interests can also include the preservation or creation of economic investment in the State of Rhode Island. Quite simply, the preservation and/or creation of economic investment leads to jobs and economic growth. Given the current, dire state of Rhode Island's economy, receiverships have become a critical area of the law.

In this instance, the Receiver recognized the physical and geographic attributes of the property relative to the City of Providence's focused and related economic development efforts. The Receiver realized the distressed property could be used to replicate an ambitious project similar to the Gateway Park Project in the City of Worcester, Massachusetts, which began as a coalition between Worcester Polytechnic Institute and the Worcester Business Development Corporation. Based upon the Receiver's research, the Gateway Park Facility operates as a 550,000 square foot mixed-use facility providing space for a range of commercial enterprises, including biomedical and technical research and development, laboratory and clinical studies, professional education, retail operations and corporate offices.

At the time the Receiver was considering initiating the development of Victory Square, Gateway Park was expected to expand to include a new, 92,000 square foot facility providing further space for laboratory, educational and office spaces. However, Victory Square had several hurdles to overcome before the marketplace would recognize this asset's value and appreciate the City's work to advance its knowledge-based economy initiative.

As attorneys, in the past, we have had occasion to assist developers on significant development initiatives including the Masonic Temple Hotel. So, why not assist the Receiver in striving toward making Victory Square more attractive

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to the marketplace? The Receiver was able to secure Master Plan Approval for a 700,000 square foot mixed-use development for biomedical, technology, research and development, medical manufacturing and office space that will, hopefully, serve as the centerpiece of the Knowledge District. Additionally, the Receiver was able to secure loans to address immediate environmental issues created by abandoned plating lines and years of industrial use. Furthermore, the Receiver was able to negotiate the economic development initiative enacted on July 18, 2011.

The significance of Victory Square is not only in the fact that the property will now be acquired and developed as a key element in the Knowledge District concept, it also comes from an examination of what it took to advance Victory Square through a Receivership proceeding.

First, it required the Rhode Island Superior Court to allow the Receiver the creativity and flexibility to pursue this concept. The Superior Court, long ago established a Business Calendar, currently run by Associate Justice Michael A. Silverstein, specifically designed to expedite and allow flexibility in business matters, including receiverships, to help preserve investment and jobs in the State of Rhode Island. Without the Court's involvement, Victory Square could not have been advanced.

Second, the City of Providence embraced and supported a new and novel approach. The Office of City Council President Michael A. Solomon and Mayor Angel Taveras' Office openly supported a method and process allowing the enticement of private developers and private funding to spur economic growth for the City of Providence and, ultimately, the State of Rhode Island. An excellent illustration of their progressive philosophy is the ordinance recently enacted by the Providence City Council. Negotiated by City Council Finance Chairman John J. Igliozzi, the ordinance will secure, for the City, an immediate payment of back taxes at closing, stabilize taxes to encourage future private development, and help establish a far-reaching "Buy-Providence" initiative aimed at giving Providence businesses advantages with regard to supplying materials for development and ongoing operation of Victory Square, as well as preference with regard to future job opportunities.

In a day and age when we continually

read about negative economic issues such as pension funding that seem to saddle our State with a debilitating sense of paralysis, Victory Square was undertaken with existing economic development tools and leadership that is willing and eager to be creative and flexible. Victory Square was not paralyzed, because it involved unique, dynamic approaches. Hopefully, Victory Square will help transform what was once our Jewelry District into the Knowledge District, becoming a center for a new, knowledge-based economy providing new industry, identity and job opportunities for Rhode Island. If it does, there is some leadership to thank, instead of blame.

Editor's Note: *W. Mark Russo, Esq. acted as counsel to Receiver, Vincent A. Indeglia, Esq.* ❖

Lawyer Morse and Judge Hurst Honored for *Practical Guide to Discovery and Depositions*

Massachusetts Continuing Legal Education (MCLE), a non-profit organization dedicated to raising the caliber of lawyers' professional and ethical service to their communities, announced that MCLE | New England's Rhode Island collection received the Association for Continuing Legal Education's **ACLEA Best** award. At the Association for Continuing Legal Education's 47th Annual Meeting in August, ***A Practical Guide to Discovery and Depositions in Rhode Island***, edited by Mark B. Morse, Esq., of the Law Office of Mark B. Morse in Providence, and Hon. Patricia A. Hurst, Rhode Island Superior Court Associate Justice, received an Award for Outstanding Achievement in the category of Best Publication. The book was praised for its conversational style and such practical features as judicial and ethical commentary, practice notes and descriptive examples.

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Modest Proposals

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rules do not require experts to provide reports detailing their opinions and conclusions. As the notes to 1993 amendments to the Federal Rules observed, "The information disclosed under the former rule in answering interrogatories about the 'substance' of expert testimony was frequently so sketchy and vague that it rarely dispensed with the need to depose the expert and often was even of little help in preparing for a deposition of the witness."

Consistent with current practice in federal court, Rule 26 should be amended to require parties to submit a comprehensive report for each expert witness testifying at trial. The report should contain: 1) a complete statement of all opinions the expert will express and the basis and reasons for them; 2) the facts or data considered in forming those opinions; 3) all exhibits that will be used to summarize or support the opinions; 4) the witness's qualifications, including a list of all publications authored in the previous ten years; 5) a list of all other cases in which, during the previous four years, the witness testified as an expert at trial or deposition; and 6) a statement of the compensation to be paid for the study and testimony in the case. The expert should sign the report under penalty of perjury as is the case with interrogatory answers.

Expert reports serve several purposes. They enable opposing parties to understand the expert's opinions and their factual grounding so that proper rebuttal can be prepared. From an efficiency standpoint, comprehensive expert reports should reduce the length of expert depositions and, in some cases, eliminate their need altogether. In fact, such expert reports might even convince one party or other of the virtues of settlement.

8. Pretrial Orders And Final Pretrial Conference.

Recently, in Providence County, pursuant to administrative order, cases that have been assigned to the trial calendar, other than business calendar and medical malpractice cases, proceed to a pretrial conference to address a variety of pre-trial issues including dispositive motions, trial witnesses and exhibits, potential trial issues, ADR and other special or unique

issues particular to the parties or the case.[8] The conference is conducted pursuant to Rule 16 of the Superior Court Rules of Civil Procedure and Rule of Procedure 2.4.

The Superior Court's administrative order is a welcome improvement that is sure to facilitate preparation of cases for trial and thus expedite their resolution. The administrative order should address the filing of motions *in limine* prior to trial and the scheduling of a final pretrial conference before the actual trial judge who will hear the case. Further, counties beyond Providence should be included within the administrative order's ambit. The goal is for the parties to be prepared for trial and, equally as important, for the court to have sufficient time to consider any pretrial motions.

Moreover, there should be a standard pretrial order governing the disclosure of trial witnesses, the pre-marking of exhibits, the disclosure and use of demonstrative exhibits and the filing of proposed jury instructions. The order should require counsel to meet and confer to resolve as many evidentiary objections as possible and establish deadlines for exchanging and cross-designating deposition testimony for use at trial. The use of courtroom technology or other innovative techniques should be explored as well.

9. Phasing Out The Motion Calendar

Despite the best efforts of the motion judges to move through the daily calendar, the sheer volume, particularly of non-dispositive motions, makes expeditious resolution a daunting task. The result is that most non-dispositive motions are not well briefed or even read before the court takes the bench, and attorneys are required to wait, sometimes hours, before a contested motion is heard. On dispositive motion days, the court is frequently faced with multiple motions of significance without the benefit of the considerable study time that one normally finds in the federal court system. In both instances, the court may be facing the matter for the first and only time with little more of the case background and history than what might be provided orally or in briefing.

The motion calendar should be phased out. The Superior Court should move toward the federal court model by assigning each case to a single judge from the outset until discovery closes and disposi-

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tive motions are resolved. This would allow judges to keep track of their own case loads and schedule motions in light of the time and attention necessary for each particular one.[9] Equally important, the court itself can track the progress of each judge's supervision of the cases so that they move through the system at the appropriate pace.

Arguably, phasing out the motion calendar, given its lengthy history, is not a modest proposal for reform. However, the court's business calendar is a model for this form of change. The success of that calendar suggests that a modified federal court approach would be equally successful for all cases.

10. Reduction Of The 12% Pre-Judgment Interest Rate.

Rhode Island law provides for 12% prejudgment interest which runs from the date the cause of action accrues. R.I. Gen. Laws § 9-21-10. Compared to interest rates available elsewhere such as the U.S. Treasury rate, Rhode Island's rate is exorbitant. Worse, the rate rewards plaintiffs for delaying cases and punishes defendants, even those who legitimately want to move them forward.[10] While it is true that the rate may prompt defendants to expedite cases, plaintiffs are often in the driver's seat, inasmuch as they normally dictate when, for instance, they will depose the opposing party or disclose their experts. Thus, a defendant may be held financially liable for delay that it did not cause. Indeed, it can be argued that the extremely high prejudgment interest rate is an impediment to settlement in many cases.

Rhode Island's prejudgment interest statute should be amended. This will require the General Assembly to take action because the court lacks the power to effect this particular change. Nonetheless, the court can use its considerable influence to recommend change as it has done in other areas of the law when warranted.

While any rate reduction may be considered an arbitrary exercise, the rate should effectuate two primary goals – encourage early settlement of cases and compensate the injured for the loss of use of money. There are a variety of approaches that the General Assembly might use to achieve these goals such as a Treasury bill rate plus a certain percentage, say 3%. However, in light of the long-standing use of a single figure, a 6% interest rate would appear to be reasonable and appropriately promote the necessary goals without providing a perverse incentive to delay the resolution of cases.

ENDNOTES

1 *Warren Burger, WHAT'S WRONG WITH THE COURTS: THE CHIEF JUSTICE SPEAKS OUT, U.S. News & World Report (Vol. 69, No. 8, Aug. 24, 1970) 68, 71 (address to ABA meeting, Aug. 10, 1970).*

2 *Currently, only cases assigned to the trial calendar are eligible for Settlement Week. Settlement Week should be expanded to include those cases that are not necessarily on the trial calendar but that the parties believe are sufficiently far along that there is a significant likelihood of settlement.*

3 *In medical malpractice cases, no later than the first anniversary of the commencement of the action, the parties must file a joint motion for a discovery conference, after which the court will issue an order establishing a schedule for fact discovery and expert disclosure and a deadline for completion of expert depositions. Administrative*

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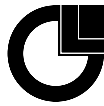
Order No. 2009-26.
4 *Superior Court Administrative Order No. 2011-07.*
5 *As a further basis to expedite discovery, it is recommended that the time for a party to respond to interrogatories and requests for production be reduced from forty days to thirty, as is the case with requests for admissions and for written discovery in the federal system. This would require a change to the existing rules of civil procedure.*
6 *Sanctions can run the gamut from an award of costs to waiver of objections.*
7 *Since signed orders are a staple of the court system, the court should appoint a single "orders" clerk responsible for receiving proposed orders and ensuring that they are executed by the appropriate judicial officer and are filed in the case file.*
8 *Superior Court Administrative Order No. 2011-07.*
9 *Even if the motion calendar is retained, the court should consider scheduling a morning and afternoon session, perhaps based on even and odd case numbers, so that wait times are reduced.*
10 *Indeed, the high interest rate encourages plaintiffs to postpone filing their lawsuits until right before the statute of limitations expires. As a stark example, a personal injury plaintiff who files suit just prior to the three-year limitations period has accrued 36% prejudgment interest even before the case has commenced. In Massachusetts, by contrast, prejudgment interest in tort cases runs from the date that the lawsuit was filed. In contract cases, interest is calculated from the date of the breach or demand, but if that date is not established then from the commencement of the action.* ❖



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Municipal Insolvency *Lite*

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statute[41] requires the appointment of, and funding for, an independent "financial officer" for five years. All financial matters in the city regarding the transfer of funds, borrowing, or involving a contract lasting more than one fiscal year must be submitted to and reviewed by this independent financial officer who must then write an opinion as to whether or not the municipality's financial resources and revenues will be adequate to support the proposal. This opinion is to be submitted to the elected chief executive officer prior to any appropriation. In effect this gives the financial officer control (a veto) over municipal spending, since expenditures in excess of appropriations are legally prohibited under the municipal receivership statute.[42] At the end of the five years, presumably, the probation will end, and Central Falls can revert back to governance under its municipal charter without direct state involvement. Whether this means the state will also no longer be fully funding the Central Falls Schools remains unanswered.

ENDNOTES

1 *U.S. Constitution, 10th Amendment: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."*

2 *U.S. Constitution, Article I, section 10, clause 1: "No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility."*

3 *David L. Dubrow, Chapter 9 of the Bankruptcy Code: A Viable Option for Municipalities in Fiscal Crisis,?, 24The Urban Lawyer 3, 548 (Summer 1991).*

4 *From Riski, Municipal Bankruptcy,<http://freerisk.org/wiki/index.php/Municipal_bankruptcy>;* ***see also*** *PLRI Public Law Research Institute, Municipal Bankruptcy: State Authorization Under the Federal Bankruptcy Code, <http://w3.uchastings.edu/plri/fal95tex/muniban.html>.*

5 ***See*** *(i) above.*

6 *R.I. Gen. Laws § 45-9-1 – 17.*

7 *R.I. Gen. Laws § 45-9-7 "(b) The receiver shall have the following powers…(3) The power to file a petition in the name of the city or town under Chapter 9 of Title 11 of the United States Code, and to act on the city's or town's behalf in any such proceeding.*

8 *11 USC §§ 901-946.*

9 *11 USC §§ 701-784.*

10 *11 USC §§ 1101-1174.*

11 *11 USC §§ 1301-1330.*

12 *Randal Edgar, Carcieri OKs receivership guidelines law, The Providence Journal, Tuesday, June 15, 2010, <http://www.projo.com/news/content/CARCIERI_SIGNS_BILLS_06-15-*

1008ISLC_v18...,> (last visited – 3/21/11).

13 *Ted Nesi,* BANKRUPT CENTRAL FALLS GETS RECEIVER*, PROVIDENCE BUSINESS NEWS, May 19, 2010, <http://www.pbn.com/Bankrupt-Central-Falls-gets-reciver,49958?sub_id=49958&print=1> (last visited 03/21/2011).*

14 *John Hill, $3* MILLION IN DEBT*, CENTRAL FALLS* IN RECEIVERSHIP*, THE PROVIDENCE JOURNAL, Thursday, May 20, 2010, <http://www.projo.com/news/content/CENTRAL_FALLS_FINANCES_05-20-1-_GQII810...,> (last visited – 3/21/11).*

15 ***Id.***

16 *John Hill,* RECEIVER ACTS SWIFTLY TO TAKE CONTROL OF CENTRAL FALLS, DEMOTING MAYOR FIRST*, THE PROVIDENCE JOURNAL, July 20, 2010, <http://www.projo.com/news/content/RECEIVERSHIP_FOLO_07-20-10_JRJ8ELR_V16.1... ,> (last visited 3/22/11).*

17 *John Hill,* BILL IN R.I. GENERAL ASSEMBLY DESIGNED TO END CENTRAL FALLS' RECEIVERSHIP*, THE PROVIDENCE JOURNAL, Thursday, June 10, 2010, <http://www.projo.com/ri/centralfalls/content/RECEIVERSHIP_LEGISLATION_-6-10-10...,> (last visited 3/21/11).*

18 *John Hill,* RECEIVER ACTS SWIFTLY TO TAKE CONTROL OF CENTRAL FALLS DEMOTING MAYOR FIRST*, THE PROVIDENCE JOURNAL, July 20, 2010, <http://www.projo.com/news/content/RECEIVERSHIP_OLO_07-20-10_JRJ8ELR_v61.1....,> (last visited 3/22/11); see also, Heather M. Forrest, State Court Receivership Alternative to Chapter 9, American Bankruptcy Institute Journal, www.abiworld.org, (last visited 3/21/11).*

19 *R.I. Gen. Laws § 45-9-1 et seq.*

20 *Gregory Smith,* RETIRED JUDGE STEPS IN TO RUN CENTRAL FALLS FINANCES*, THE PROVIDENCE JOURNAL, Saturday, July 17, 2010, <http://www.projo.com/news/content/Central_Falls_Receive_07-17-10_RUJ7QRM_18.16...,> (last visited 3/21/11).*

21 *R.I. Gen. Laws § 45-9-1.*

22 *R.I. Gen. Laws § 45-9-3, 4, 5, 6 & 7.*

23 *R.I. Gen. Laws § 45-9-8.*

24 *R.I. Gen. Laws § 45-9-9.* ***Collective Bargaining Agreements.*** *Notwithstanding…the general laws or any other special law or any charter or local ordinance to the contrary, new collective bargaining agreements and any amendments ….shall be subject to the approval of the….receiver…in effect at that time…*This section shall not be construed to authorize a …receiver under this chapter to reject or alter any existing collective bargaining agreement, unless by agreement, during the term of such collective bargaining agreement. *(Emphasis added).*

25 *John Hill,* FLANDERS ARRIVES AS NEW RECEIVER*, THE PROVIDENCE JOURNAL, February 15, 2011, <http://www.projo.com/news/content/FLANDERS_FIRST_02-15-11_7TMF303_v38.lalbf...,> (last visited 3/26/11).*

26 *R.I. Gen. Laws § 45-9-7 (b) 2 & 3.*

27 *R.I. Gen. Laws § 45-9-7 (c).*

28 *R.I. NEWS DIGEST: REDUCTIONS FOR CENTRAL FALLS COMMUNITY CENTER, THE PROVIDENCE, JOURNAL, March 25, 2011, <http://www.projo.com/news/content/NEWS_DIGEST_25_03-25-11_JJN5UAQ_v10.193fd...,> (last visited 3/26/11).*

29 *R.I. Gen. Laws § 45-9-9.*

30 ***Ibid.***

31 *Michael McDonald & David McLaughlin, "DIRE" FINANCES FORCE R.I. CITY INTO BANKRUPTCY, Bloomberg, August 1, 2011, <http://www.bloomberg.com/news/...forces-rhode-island-city-of-central-falls-into-bankruptcy.html> (last visited 10/07/11).*

32 *CENTRAL FALLS RECEIVERSHIP HISTORY, THE PROVIDENCE JOURNAL, December 17, 2010, <http://www.projo.com/news/content/CF_TIMELINE_12-17-10_ IKLGVD0_v9.3312b59.ht...,> (last visited*

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3/21/11).

33 *Judge Flanders, speaking at "Constitution Day," at the Fabre Line Club, Providence, R.I., on September 16, 2011.*

34 *John Hill, Lawyer Jonathan Savage cuts $30,000.00 from bill for running financially troubled Central Falls, The Providence Journal, December 10, 2010, <http://www.projo.com/ri/centralfalls/content/SAVAGE_CUT_12-10-10_EDLCUQM_v24....,> (last visited 3/26/11).*

35 *John Hill, Judicial receiver presents Central Falls a $310,000 bill, The Providence Journal, November 4, 2010,<http://www.projo.com/ri/centralalls/contents/CF_FEES_11-04-10_5AKOE0J_v24.171712....>, (last visited 3/26/11).*

36 *Gregory Smith, Retired judge steps in to run Central /falls finances, The Providence Journal, July 17, 2010, <http://www.projo.com/news/content/Central_Falls_07-17-10_RUJ7QRM_v18.16>, (last visited 3/21/11).*

37 *RI. gov: Rhode Island Government: Governor Lincoln D. Chafee Announces 30-Day Extension of Judge Mark Pfeiffer's Contract as Central Falls Receiver, <http://www.ri.gov/press/view/12963>, (last visited 3/21/11).*

38 *W. Zachary Malinowski, 3 firms bid to privatize Central Falls Trash pickup, The Providence Journal, September 27, 2011,<http://www.projo.com/news/content/FLANDERS_BID_09-27-11_O4QJREB_vll.73bc9.html> (last visited 10/07/11).*

39 *Judge Flanders, speaking at "Constitution Day," at the Fabre Line Club, Providence, R.I., September 16, 2011.*

40 *The use of the word "probation" is an editorial comment and is not found in the statute.*

41 *R.I. Gen. Laws § 45-9-10.*

42 *R.I. Gen. Laws § 45-9-11.* ❖

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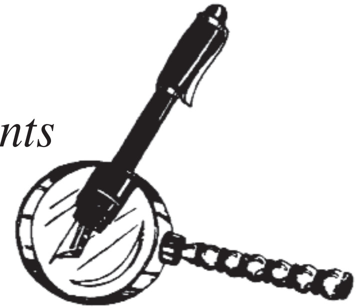

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SOLACE, an acronym for Support of Lawyers, All Concern Encouraged, is a new Rhode Island Bar Association program allowing Bar members to reach out, in a meaningful and compassionate way, to their colleagues. SOLACE communications are through voluntary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

Lawyers on the Move

Paul G. Bettencourt, Esq. moved his law office to 197 Warren Avenue, Suite 201, East Providence RI 02914.
401-431-6411 pgblaw@cox.net

John L. Calcagni III, Esq. relocated the **Law Office of John L. Calcagni III, Inc.** to One Custom House Street, Suite 300, Providence, RI 02903.
401-351-5100 jc@calcagnilaw.com www.calcagnilaw.com

Louise Durfee, Esq. was appointed Chair of the **Rhode Island Judicial Nominating Commission** by Governor Lincoln D. Chafee.

Louis A. Geremia, Esq., Lisa A. Geremia, Esq., and **Paul Demarco, Esq.** have moved the law office of **Geremia & DeMarco, Ltd.** to Village on Vine, 620 Main Street, CU 3A, East Greenwich, RI 02818.
401-885-1444 lou@geremiademarco.com
lisa@geremiademarco.com paul@geremiademarco.com

John R. Grasso, Esq. has moved the **Law Office of John R. Grasso, Inc.** to One Custom House Street, 3rd Floor, Providence, RI 02903.
401-272-4001 jrg@johngrassolaw.com
www.johngrassolaw.com

Taylor J. Hills, Esq. has joined the law firm of **Aurora Law Ltd.** as an associate attorney, 40 Webb Street, Cranston, RI 02920.
401-942-6550 taylor@auroralaw.us

Patrick J. Smock, II, Esq. is now the Compliance Director for CFO Compliance at One Park Row, Fifth Floor, Providence, RI 02903.
401-454-0990 patrick@cfo-compliance.com
www.cfo-compliance.com

Seth Yurdin, Esq. has relocated his law office to 86 Weybosset Street, Suite 400, Providence, RI 02903.
401-484-7207 syurdin@yurdinlaw.com

For a free listing, please send information to: Frederick D. Massie, Rhode Island Bar Journal Managing Editor, via email at: fmassie@ribar.com, or by postal mail to his attention at: Lawyers on the Move, Rhode Island Bar Journal, 115 Cedar Street, Providence, RI 02903.

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In Memoriam

John J. Hardiman, Esq.

John J. Hardiman, 56, of Love Lane, North Kingstown, passed away on October 19, 2011. Born in Providence, he was the son of Dr. James F. and Margaret E. Hogan Hardiman. He was the father of Elizabeth L. Hardiman of North Kingstown and Emmett K. Hardiman and his wife Calla of North Kingstown, two brothers, Dr. James M. Hardiman of Lithia-Pinecrest, FL, Dennis F. Hardiman of Tampa, FL, two sisters, Anne M. Hardiman of Watertown, MA and Lucille M. O'Donnell of North Kingstown. John spent his 30 year career with the Rhode Island Public Defender's Office.

Julius C. Michaelson, Esq.

Julius C. Michaelson, 89, of Angell St., Providence, passed away on November 12, 2011. Born in Salem, MA he was the son of the late Carl and Celia Cooley Michaelson. A Providence resident for most of his life, Mr. Michaelson was educated in Providence Public Schools graduating from Hope High School and graduating from Boston University School of Law. He received his Masters Degree in Philosophy from Brown University. He served as a First Lieutenant in the U.S. Army during WWII. A Past President of the Rhode Island Bar Association, he began his law career with Milton Stanzler, as a principle partner in the law firm of Abedon, Michaelson and Stanzler, retiring in 2010 from Michaelson & Michaelson, where he was a partner with his son Jeffrey. He was general counsel to the State AFL-CIO, served as a Senator in the Rhode Island General Assembly for a dozen years and was the Rhode Island Attorney General. He concentrated much of his political and legal efforts championing causes of social justice to aid the ordinary citizen and society's less fortunate. In 2002, he was inducted into the Rhode Island Heritage Hall of Fame. Part of its citation reads as follows: "Your real accomplishments rise above office holding. You have been a community stalwart your entire life and seamlessly joined the causes of social justice into your legislative life. You spoke out against racial injustice and chaired an Ad Hoc group to study the problem, and eventually led the charge in the General Assembly that passed a Fair Housing Law, and paved the way for open public meetings. At the same time, you gave your vocal stamp of approval to women's rights legislation like the Equal Rights Amendment in your capacity as chairperson of the Senate Judiciary Committee. In 1971, it was pointed out that you concentrated much of your efforts on bills to help the ordinary citizen, such as the Fair Housing Law, consumer protection, antipollution, conservation and for school teachers rights to collective bargaining, (the bill named the Michaelson Act), and that your work in these areas attracted much attention beyond the borders of Providence. It has been said that whatever the issue, you seemed to instinctively side with society's less fortunate, not always a popular or pragmatic position to take. You followed the star of social justice regardless of the consequences. In a larger frame, you served on the National Institute for Democracy under Madeline Albright to promote democracy in third world countries, were a delegate to the 1980 Conference on Security and Cooperation in Madrid, and in 1988, you participated in American-Russian bilateral talks in Moscow. In a break with partisanship, President Reagan appointed you to the Foreign Service Grievance Board. Throughout your distinguished career, you rose above party politics to do what you thought was the right thing. You truly represent the State's Independent Spirit." Mr. Michaelson is survived by Rita, his wife of sixty-one years, sons, Mark and Jeffrey, and daughter-in-law Karen.

Hans Peter Olsen, III, Esq.

Hans Peter Olsen, III, 73, of Providence, passed away on October 28, 2011. He was the husband of Elizabeth Gayton Olsen. Peter was born in Detroit, Michigan, the son of Hans Peter Olsen, Jr. and Paula Eckers Olsen. He graduated from Michigan State University, Georgetown University Law School and received a Master of Laws, in Taxation, from New York University. He served as a clerk at the United States Court of Claims and, in 1972, joined the law firm then known as Hinckley, Allen Salisbury & Parsons (now Hinckley, Allen & Snyder LLP), becoming a partner in 1974. He was a member of the Distribution Committee of The Champlin Foundations and a former member of the Board of Directors of Crossroads Rhode Island and the Fund for Community Progress. He was a member of St. Joseph Church in Providence, where he served on the Parish Council and Finance Committee, and tutored at Crossroads Rhode Island. Besides his wife he leaves: a son, Hans Peter Olsen IV, M.D., of Mountain Top, PA; two daughters, Heidi S. Patterson and Stephanie E. Olsen both of New York City; and a sister, Marcia Macpherson of Tucson, AZ.

Please contact the Rhode Island Bar Association if a member you know passes away. We ask you to accompany your notification with an obituary notice for the Rhode Island Bar Journal. Please send member obituaries to the attention of Frederick D. Massie, Rhode Island Bar Journal, Managing Editor, 115 Cedar Street, Providence, Rhode Island 02903. Email: fmassie@ribar.com, facsimile: 401-421-2703, telephone: 401-421-5740.

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Have joined CATIC in its Rhode Island office

Anthony joins CATIC as Senior Title Counsel. He has been a member of the Rhode Island Bar for over 50 years, and has focused exclusively on real estate law and title insurance.

Judy is CATIC's new Business Development Representative for Rhode Island. Judy is a member of the Rhode Island Bar Association and a former prosecutor in the office of the Rhode Island Attorney General.

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