Rhode Island Bar Journal

Rhode Island Bar Association Volume 60. Number 6. **May/June 2012**

The Haymarket Riots and a Legacy of Injustice

***Riggs* Case: Clarity on Net Metering Energy**

Family Limited Partnerships in Estate Tax Planning

St. Thomas More and the Cranston West Prayer Banner Case

Family Court Rehabilitative Support Awards

Articles

5 **Haymarket Riots and a Legacy of Injustice: A Commentary**
Jerry Elmer, Esq.

11 **Lunch with Legends: Trailblazers, Trendsetters and Treasures of the Rhode Island Bar**
Matthew R. Plain, Esq. and Elizabeth R. Merritt, Esq.

15 ***Riggs* Case: Clarity on Net Metering Energy**
Seth H. Handy, Esq.

21 **Using Family Limited Partnerships In Estate Tax Planning**
Eric Atstupenas, Esq.

27 **Commentary: St. Thomas More and the Cranston West Prayer Banner Case**
John T. Mulcahy, Esq.

31 **Family Court Rehabilitative Support Awards: When and How Much?**
John R. Grasso, Esq. and Amy Broderick, Esq.

33 **Bourbon Street Blues – American Bar Association Delegate Report: ABA Mid-Year Meeting**
Robert D. Oster, Esq.

35 **BOOK REVIEW – BUCKLEY: William F. Buckley and the Rise of American Conservatism by Carl T. Bogus**
Anthony F. Cottone, Esq.

Features

3 Recognizing the Value of Family and the Bar

4 Rhode Island Probate Court Listing on Bar's Website

7 Live! From the Bar! It's CLE Seminar Simulcasting!

9 Where can you hear a psychotherapist, a chaplain and a stand-up comedian provide you with great advice about managing stress in your practice and life?

10 Twittering from the Rhode Island Courts

17 All Bar Members Invited – Environmental & Energy Law Committee Meeting on Beautiful Block Island: Tours and Two CLEs, Friday, May 18, 2012

17 Publish and Prosper in the *Rhode Island Bar Journal*

19 Continuing Legal Education

26 New, Unique, Members Only Online Attorney Resources (OAR)

34 SOLACE – Helping Bar Members in Times of Need

40 Lawyers on the Move

46 In Memoriam

47 Advertiser Index

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.

Editor In Chief, David N. Bazar

Editor, Frederick D. Massie

Assistant Editor, Kathleen M. Bridge

Editorial Board

Victoria M. Almeida, Esq.
Ellen R. Balasco, Esq.
Susan Benfeito, Esq.
Moshe S. Berman, Esq.
Roland E. Chase, Esq.
Jerry Cohen, Esq.
Debra Conry, Esq.
Eric D. Correira, Esq.
Diane B. Daigle, Esq.
William J. Delaney, Esq.
Anastasia Dubrovsky, Esq.
Matthew Louis Fabisch, Esq.
Kevin J. Gallagher, Esq.
Maureen D. Gemma, Esq.
Jay S. Goodman, Esq.
Bryan W. Hudson, Esq.
Hon. Patricia A. Hurst
Marcia McGair Ippolito, Esq.
Tobias Lederberg, Esq.
Courtney L. Manchester, Esq.
Ernest G. Mayo, Esq.
Elizabeth R. Merritt, Esq.
Kerri M. Morey, Esq.
Matthew R. Plain, Esq.
Kevin N. Rolando, Esq.
Miriam Ross, Esq.
Krista J. Schmitz, Esq.
Elliot Taubman, Esq.
Timothy C. Twardowski, Esq.
Harris K. Weiner, Esq.

Executive Director, Helen Desmond McDonald

Association Officers

William J. Delaney, *President*
Michael R. McElroy, *President-Elect*
J. Robert Weisberger, Jr., *Treasurer*
Bruce W. McIntyre, *Secretary*

Direct advertising inquiries to the Editor, Frederick D. Massie, Rhode Island Bar Journal, 115 Cedar Street, Providence, RI 02903, (401) 421-5740.

USPS (464-680) ISSN 1079-9230
Rhode Island Bar Journal is published bimonthly by the Rhode Island Bar Association, 115 Cedar Street, Providence, RI 02903.
PERIODICALS POSTAGE PAID AT PROVIDENCE, RI

Subscription: $30 per year

Postmaster
Send Address Correction to Rhode Island Bar Journal, 115 Cedar Street, Providence, RI 02903

www.ribar.com

Front Cover Photograph
Central Falls City Hall, by Brian McDonald

Recognizing the Value of Family and the Bar

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

Over the years, the Bar has provided me with assistance and resources, making me a better lawyer and person.

The following letter to my wife addresses the joys of having a loving and supportive partner. It is followed by a few thoughts to Bar members.

Dear Jean,

Well, this is it, my last President's Message. And, I've saved the best for last to send you this note of love, thanks and appreciation.

For the past twenty-one years and today, you are the constant in my professional and personal lives. You support me through the good and bad times. You counsel and advise me on becoming a better lawyer for my clients and father to our girls and Bren. For all you have done for me, I am always in your debt.

As a Rhode Island attorney, I met you in the teller line at Hospital Trust in 1991, following a day in court. Our honeymoon was shortened in 1992 due to an emergency hearing before Judge Votolato that no one else could handle. Thankfully, on Cape Cod, we were close to Bankruptcy Court.

We have had our ups and downs as I have developed my practice, but each night when I came home to you and, later, our girls, I knew your confidence, trust and support was always there for me.

The Bar Association and the practice of law in Rhode Island have evolved during our time together. Continuing legal education, technological gains in legal research and many new public service programs are benefiting Rhode Island lawyers and Rhode Islanders in need of legal services.

I have had the honor of serving the over 6,000 members of the Bar Association over this past year, and I am humbled by my good fortune as a Rhode Island lawyer. The relationships I have developed with my peers across the country and my involvement as the spokesperson for my fellow Rhode Island attorneys will always be a part of me. With your support and presence throughout this year, I have had the time of my life.

Well, my year is up, and I look forward to focusing on you, Blair, Jilly, Bren and my practice and resuming my academic duties at Roger Williams University School of Law and Suffolk Law School. Teaching law, as you know, gives me great confidence in my abilities as a Rhode Island lawyer.

So, there you have it, Jean. For my year serving and representing some of the best and brightest lawyers in the country as Bar Association President, I am so happy you were with me, and I look forward to continuing to develop my practice and skills with you and the girls at my side.

With great love,
Bill

****

Lilacs. I am visualizing lilacs and their aroma as I write this final message to my friends and colleagues of the Rhode Island Bar. Back in Albany, we had several lilac bushes surrounding the back porch of our home at 40 Betwood Street, where I grew up from 1957 through 1968. My brother Joe and I shared a room when Joe wanted to be a professional golfer, and I first became aware I wanted to be a lawyer.

Fate drew me to Rhode Island. On June 16, 1987, Joe and my parents drove to Providence for my swearing in before the late Supreme Court Justice Murray. My mother always kept the photo of Joe and me, taken after the admission ceremony, in front of the Supreme Court until I brought it home to Barrington following her passing in March.

My parents instilled me with the traits of diligence and perseverance, and I hold them as important means in evaluating others. My mom, her sister, Marie, and her brother, Elmer, were instrumental in my quest to become a lawyer. Marie, Elmer and my mom quizzed me on each of my courses at Albany Law. Marie and Mom helped me with the flash cards, as I studied for the bar exam. The lilacs transplanted from Betwood Street to my parents' new home were in full bloom as I prepared for and passed the Rhode Island bar exam.

Moving to Rhode Island and looking for a job proved a daunting, yet exciting, challenge. Fortunately, a Notre Dame man took a chance on me, and I am forever thankful to two great gentlemen, Jim Murphy and Joe Kelly.

On my first day as a Rhode Island lawyer, I became involved with the Rhode Island Bar Association. Over the years, the Bar has provided me with assistance and resources, making me a better lawyer and person. I have taken advan-

tage of the many benefits of Bar membership, including many fulfilling assignments from the Bar's Volunteer Lawyer Program. These have included a significant number of adoption and, now, military cases where I enjoy observing the elevated spirits of clients who never had a lawyer to assist them in resolving their problems.

Eleven years ago, I started climbing the Bar's leadership ladder through election to the Executive Committee. In my Bar positions, I regularly interact and work with many fine Rhode Island lawyers with great leadership skills who advance not only the profession, but the spirit of giving back to the people of Rhode Island through their effective and competent representation. Of particular note is the Bar's Executive Director Helen McDonald. Her dedication in furthering the Bar Association's mission in providing access to justice, among other excellent initiatives, is one of the reasons we have the finest and most beneficial bar association in this country.

Rhode Island lawyers make significant contributions to Rhode Islanders every day. Our work is known throughout the country, and many of our Bar's unique programs serve as models for other, and often larger, bar associations.

Given our proud history, we need to ensure the next generation of Rhode Island lawyers is able to carry on our mission and assuring Rhode Islanders that every Rhode Island lawyer is competent and effective on their behalf. That is the least we can do for our fellow Rhode Islanders and current and future Rhode Island lawyers.

Michael McElroy, who will be succeeding me as President in July, is a fine person who will do great things on behalf of the Bar Association. Please support Mike, and Bar Officers Bob Weisberger and Bruce McIntyre during the upcoming years by becoming more involved in the Bar Association. Join one of our 26 committees or volunteer to serve on our Bar's unique, Online Attorney Resource (OAR) Program, sharing your knowledge and experience with our newest members. Take a pro bono case through the Bar's Volunteer Lawyer Program. *Please*, become involved in the Bar Association.

This unusual winter has led to some lilac bushes blooming in my backyard. Their fragrance brings back everlasting memories which make me even more committed to be a better lawyer for my clients and give back to my community.

I am so honored to have been in this leadership position representing your interests for the past year. These memories will always remain with me. While I look forward to the next twenty-five years as a Rhode Island lawyer, I also look back on the first twenty-five as ones of growth and development. The Rhode Island Bar Association has furnished me with the skills and support to grow in the practice of law, and I know our Bar will continue to similarly help others in years to come.

I have exceeded my parents' and my expectations of all those years ago on Betwood Street. I am a Rhode Island lawyer and a member of the Rhode Island Bar Association. And, I will always be honored to be a Rhode Island lawyer, Bar Number 3643.

To all my brothers and sisters of the Rhode Island Bar: Thanks for everything over the past twenty five years, and best wishes and luck down the line for all of us! ❖

Rhode Island Probate Court Listing on Bar's Website

The Rhode Island Bar Association regularly updates the Rhode Island Probate Court Listing to ensure posted information is correct. The Probate Court Listing is available on the Bar's website at **www.ribar.com** by clicking on **FOR ATTORNEYS** on the Home page menu and then clicking on **PROBATE COURT INFORMATION** on the dropdown menu. The Listing is provided in a downloadable PDF format. Bar members may also increase the type size of the words on the Listing by using the percentage feature at the top of the page.

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**
telephone: **401-421-5740**

Material published in the *Rhode Island Bar Journal* remains the property of the *Journal*, and the author consents to the rights of the *Rhode Island Bar Journal* to copyright the work.

Haymarket Riots and a Legacy of Injustice: A Commentary

Jerry Elmer, Esq.
Conservation Law
Foundation Staff Attorney

Prosecution witnesses proffered wholly invented testimony, riddled with obvious contradictions and impossibilities.

May 1st is May Day, the international workers' holiday honoring the labor movement. May Day is celebrated in at least 80 countries worldwide, from Argentina to Vietnam, but not in the United States. Our Labor Day was scheduled in September by President Grover Cleveland in 1894 so we would not observe May Day, with its radical roots in Syndicalist labor history. This is deeply ironic, as the event that gave rise to May Day observances the world over, the bombing at Haymarket Square, Chicago, on May 4th, 1886 during a labor rally, occurred in the United States.

The Haymarket riot in 1886 involved the movement for the eight-hour work day. The movement started in 1877 when the Workingmen's Party in Chicago called a general strike, beginning July 25th, supporting the eight-hour day. The next day, thousands of strikers were attacked and beaten by police and U.S. Army infantrymen with fixed bayonets. Thirty strikers, including a number of children, were murdered by the police and federal troops.

The national eight-hour day movement reached a crescendo in the mid-1880s. In 1885, there were 645 strikes nationwide at over 2,400 businesses supporting the eight-hour goal. In 1886, the year of the Haymarket riot, the number of strikes had more than doubled to 1,400, affecting over 11,000 businesses.

On Saturday, May 1st, 1886, a nationwide general strike in support of the eight-hour day was observed. In Chicago alone, 60,000 workers walked off their jobs. The general strike for the eight-hour day continued on Monday, May 3rd. That afternoon, August Spies was addressing a rally of striking workers locked out of the McCormick Reaper Works in Chicago when hundreds of police officers began shooting into the crowd of workers. Several workers died, and many others were wounded. That night, Albert Parsons, Spies, and other anarchist labor organizers printed leaflets calling for a labor rally the next afternoon in Haymarket Square to protest the murders of the unarmed strikers by police.

The Tuesday, May 4th labor demonstration in Haymarket Square was peaceful until the very end. Parsons spoke to the group, and then left the rally to meet his family at a nearby labor hall. Spies spoke at the rally, urging peaceful action to protest the previous day's murders and to support the cause of the eight-hour day. Chicago Mayor Carter Harrison attended and reported to the police that the demonstration was "tame" (Harrison's word) and peaceful. But, near the end of the event, an unknown person threw a bomb into the phalanx of police officers attending the rally. In response, the police officers attacked the unarmed laborers. Hundreds of police officers fired into the terrified, fleeing crowd. An unknown number of people were killed and many others were wounded including police officers, some seriously, by gunfire. However, every wounded police officer was shot by other police officers. In the bloody police riot that followed the bombing, police officers fired wildly and at random, and labor protesters and police officers alike were shot.

In the days after the riot, eight local Chicago anarchists were indicted and arrested: Parsons, Spies, Michael Schwab, Samuel Fielden, Louis Lingg, George Engel, Adolph Fischer, and Oscar Neebe. The indictment acknowledged the bomb was "thrown by an unknown person," but alleged the unknown bomb-thrower was "aided, abetted, and encouraged" by the indicted anarchists. In the aftermath of the indictments, a kind of brutal martial law was imposed on Chicago. Anarchist and labor meeting halls were closed down. Hundreds of suspects were rounded up, interrogated, and held by police without charges. Mayor Harrison closed down Chicago's leading labor newspaper and banned public meetings by ukase. Mainstream newspapers blamed the eight-hour movement for the bombing and ensuing bloodshed, and, in the Red Scare that followed, the eight-hour movement fizzled for a time. In fact, the eight-hour work day did not become law in the United States until the enactment of the Fair Labor Standards Act in 1938.

All eight of the defendants were tried and convicted. Seven were sentenced to death. Fielden and Schwab later had their sentences

Florida

Legal Assistance Statewide

Edmund C. Sciarretta, Esq.
Suffolk Law 1970

PERSONAL INJURY
WORKERS' COMPENSATION
REAL ESTATE CLOSINGS • TITLE INSURANCE
PROBATE ADMINISTRATION
PROBATE LITIGATION
MARITAL & FAMILY LAW • GUARDIANSHIP
BANKRUPTCY • CRIMINAL LAW

Sciarretta & Mannino
Attorneys at Law

7301A West Palmetto Park Road • Suite 305C
Boca Raton, Florida 33433

1-800-749-9928 • 561/338-9900

Office Space Available
Within Existing Law Office

AMENITIES
Receptionist • Conference Rooms
Copier • Parking
Secretarial Stations • Filing Cabinets
Great Location

CONTACT
Jim Goldman
51 Jefferson Boulevard
Warwick, Rhode Island
401-781-4200, ext. 11

commuted to life imprisonment. Lingg died on the eve of his scheduled execution, possibly assassinated by the police, although some accounts say Lingg died by his own hand. Neebe was sentenced to 15 years. Parsons, Spies, Fischer and Engel were hanged. In a final gesture of retribution, the ropes used to kill the prisoners were made too short, so instead of dying instantly when the trap doors opened on the gallows, each prisoner suffocated to death slowly and excruciatingly. American justice.

There were two big things wrong with this situation. First, at least seven, and maybe all eight, of the defendants were actually innocent. By actually innocent, I do not mean there was some hyper-legalistic technicality working in their favor. I mean they had nothing whatever to do with the bombing. Some of them were not present when it happened. For instance, Parsons was at a labor hall, and Engel was at home on Milwaukee Avenue. The defendants had not known the bombing would occur. They were not involved in any planning or abetting. They had had nothing whatever to do with the crime. Some historians argue one of the eight defendants, Louis Lingg, *may* have been tangentially involved in bomb-making. However, no scintilla of evidence of that allegation was introduced at his trial.

This raises an important issue concerning the propriety of capital punishment. Opponents of capital punishment sometimes point to the risk of innocent people being executed. Supporters of capital punishment say the many procedural protections in capital cases eliminate that risk. Dawinda Sidhu, in his book *On Appeal: Reviewing the Case Against the Death Penalty* claims most arguments against the death penalty, such as the risk of executing an innocent person, are of little, if any, merit.[1] In fact, many actually innocent people have been executed. Recently, Cameron Todd Willingham was executed in Texas on February 17th, 2004 for the arson deaths of three children. After the execution, it turned out Willingham was actually innocent, and no crime had been committed. The fire that caused the deaths was not deliberately set.

The second problem with the execution and imprisonment of the Haymarket martyrs is their trial's extreme injustice. On July 15th, 1886, prosecutor Julius Grinnell made his opening statement, stressing the need to convict the danger-

ous anarchists in the dock. The next day, Judge Joseph E. Gary delivered a lengthy address to the jury, repeating most of the points raised by the prosecutor, and re-emphasizing the importance of convicting all the defendants. Judge Gary was very clear on this point. The defendants needed to be convicted, not for what they had actually done, but for what they believed. The defendants were admitted anarchists. No one was surprised. Judge Gary spent weeks carefully selecting a jury that was bound to convict. When prospective jurors claimed that they were prejudiced against anarchists, Judge Gary put them on the jury. When prospective jurors said they believed these specific defendants were guilty, Judge Gary put them on the jury. Judge Gary even seated a juror who was a relative of one of the slain police officers! Prosecution witnesses proffered wholly invented testimony, riddled with obvious contradictions and impossibilities. The defense offered the proverbial parade of witnesses testifying the defendants did not throw the bomb or were elsewhere when the bomb was thrown. All the defendants were convicted. Four, or depending on how you look at it, five, were executed.

There was an international outpouring of support for the condemned Haymarket anarchists. Protest meetings, some featuring prominent people, were held in Paris, London, The Hague, Vienna, Brussels, Lyon, and elsewhere. This was, in fact, the ætiology of the worldwide observance of May Day. In the United States however, the Haymarket trial led to reaction and a Red Scare, the first of several Red Scares in U.S. history. Illinois passed a law making it illegal to advocate "destruction of the existing order." Similar laws were passed in other states and at the federal level. Cornell Professor H.C. Adams was one of many who lost his job after speaking out about the Haymarket trial injustices. Later Red Scares in the United States included the post-World War I Palmer Raids of 1919 and 1920, and, of course, the post-World War II McCarthy era. Emma Goldman was deported as part of the Palmer Raids, and a fine book was recently published about the Raids by Kenneth D. Ackerman, *Young J. Edgar Hoover and the Red Scare 1919-1920*.[2]

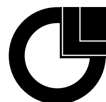
On September 13th, 1886, the Illinois Supreme Court rejected the appeal of the Haymarket defendants. *The Anarchists'*

Live! From the Bar!
It's CLE Seminar Simulcasting!

The Rhode Island Bar Association is now presenting live, streaming-video simulcasts, on the web, of designated Continuing Legal Education (CLE). Throughout the year, selected CLE seminars are offered as both in-person classroom programs *and* as real-time, live, streaming-video simulcasts on the web. For those choosing simulcasts, CLE seminar course materials are included in a PDF format.

Except where the RI Supreme Court's carryover credit limitation applies, there is no limit to the number of credits Bar members may accrue by participating in real-time, live, streaming-video simulcasts of CLE seminars. However, the 3.0 credit limit, established by the RI Supreme Court for watching pre-recorded CLE seminars via the web – as opposed to real-time, live, streaming video simulcast CLE seminars – remains in effect. Self study seminars, including those in podcasts, dvds, cds, and stand-alone, printed transcripts of seminars, *do not* receive CLE credit.

To find out which Bar CLE seminars are available as simulcasts, please check the CLE Calendar available on the Bar's website at www.ribar.com. If you have any questions about the Bar's SLE seminars, please contact the Bar's CLE office by telephone: 401-421-5740 or email: **tnieves@ribar.com**.



WORKERS' COMPENSATION AND SOCIAL SECURITY CONSULTATION

ALBERT J. LEPORE, JR.

COIA & LEPORE, LTD.
226 SOUTH MAIN STREET
PROVIDENCE, RI 02903
401-751-5522

www.Coialepore.com

Email: aleporej@coialepore.com

Attorney-to-Attorney Referrals

Workers' Compensation Injured at Work?

Accepting referrals for workers' compensation matters.

Call Stephen J. Dennis Today!
1-888-634-1543 or 1-401-453-1355

High End Value

Calart Tower
Providence address, Cranston convenience
(401) 965-7771

SelectSuites
Shared office environments

Case,[3] the case report from the Illinois Supreme Court, takes up 130 pages in the Northeast Reporter and 265 pages in the Illinois Reporter. The overwhelming sense one gets from reading the case is that the Haymarket martyrs were convicted, imprisoned and executed not for what they had done, for there was no evidence of that, but for what they believed and said.

The first thirty pages of the case in the Northeast Reporter (67 pages in the Illinois Reporter) are a collection of newspaper articles that appeared in Chicago labor newspapers with which the defendants were associated and reports of speeches given over the years by one defendant or another.

The newspaper clippings come from three, Chicago-area labor newspapers of the era. What is most interesting in this vast collection of articles cited and quoted by the Illinois Supreme Court is that the Court makes not the slightest attempt to connect any article(s) to any defendant(s). The trove of clippings is merely provided to explicate why the defendants were dangerous and deserved their sentences. The articles date back to 1884, and many advocated for the eight-hour work day. For example, on May 1st, 1886, one newspaper published these dangerous, inflammatory words: "For twenty years the working people have been begging extortioners to introduce the eight-hour system, but have been put off with promises. Two years ago they resolved that the eight-hour system should be introduced in the United States on the first day of May, 1886. The reasonableness of this demand was conceded on all hands."[4] There was another dangerous newspaper article the very next day: "Even where the workingmen are willing to accept a corresponding reduction in wages with the introduction of the eight-hour system, they were mostly refused."[5]

Then there were the speeches. For example, the Court tells us Parsons gave a speech on April 24th, 1886 urging workers to demand an eight-hour day.[6] He gave another speech on April 3rd, 1886 urging an "attempt to inaugurate the eight-hour system."[7] Indeed, the Illinois Supreme Court tells us: "During the years 1885 and 1886 the defendants Fielden, Parsons, Engel, Spies, and Schwab made numerous speeches to workingmen."[8] The Court goes on to recite the dates and locations of some of these speeches, which defendants spoke and in what sequence, and notes

the defendants were advocating the eight-hour work day. "At a meeting at Twelfth Street Turner Hall on October 11th, 1885, Mr. August Spies was introduced…and offered a resolution…for the establishment of an eight-hour work-day, to begin May 1, 1886…"[9]

After losing in the Illinois Supreme Court, the defense team, led by lawyers William Perkins Black and Ben Butler, sought review by the U.S. Supreme Court. Their argument to the U.S. Supreme Court was novel for the time. They argued that the procedural irregularities of the trial violated guarantees of the Bill of Rights which, they argued, were made applicable to the states through the due process clause of the then recently-enacted Fourteenth Amendment.

This was an audacious argument (perhaps a better word would be unwise). The law of the land at that time, as set forth in the leading Supreme Court case **Barron v. Baltimore**,[10] was that the Bill of Rights only limits actions by the *federal* government; the guarantees contained in the Bill of Rights do not apply to laws passed at the *state* level. Under that rule, a state could enact a law making it illegal to publicly criticize the Governor, because the First Amendment only applies to Congress, not the states. Likewise, a state could constitutionally pass a law making it illegal to be Jewish.

After the Civil War, even though the plain text of the Fourteenth Amendment makes it clear it is applying constitutional liberties to the states, "No State shall . . . nor shall any State deprive any person of life, liberty or property, without due process of law…," the Supreme Court still disagreed. In the notorious **Slaughter-Houses Cases**,[11] the Supreme Court again found the Bill of Rights' guarantees are not applicable to the states.

The Supreme Court made short shrift of the argument of the Haymarket defendants' defense team. **The Anarchists' Case**.[12] "That the first 10 articles of amendment were not intended to limit the powers of the state governments in respect to their own people, but to operate on the national government alone, was decided more than half a century ago, and that decision has been steadily adhered to since. [The Supreme Court here collects cases for the abecedarian proposition, starting with **Barron v.**

continued on page 37

Where can you hear a psychotherapist, a chaplain and a stand-up comedian provide you with great advice about managing stress in your practice and life?

At the 2012 Bar Annual Meeting on June 14th and 15th, that's where!

While most of us acknowledge experiencing change is stressful, there is little clarity about what this means. What kind of change are we talking about? And, in light of changes over which we have no control, how do we respond? For lawyers, change, and related stress, is a significant part of our careers. The often adversarial nature of our professional relationship, client demands, new practice-related technology, increasing competition both at home and from global outsourcing, and more all create stressful changes, affecting our professional and personal lives and our physical and mental health. Dr. Will Miller's educational and entertaining presentation clarifies what is known about coping with change, and he offers coping strategies rooted in excellent advice. Will's content is persuasive, constructive and achievable in our professional and personal lives. A psychotherapist, a Campus Minister, and a hospital and police chaplain, Will Miller has worked in Community Mental Health Centers, as well as in drug and alcohol rehabilitation programs. Will also has a successful career as a stand-up comedian, headlining in clubs and theaters across the country, appearing with Aretha Franklin and Natalie Cole among other stars and on the *Today Show, Good Morning America, Larry King* and *The O'Reilly Factor*. Dr. Will served as a spokesman for the National Institute for Mental Health. He is one of the country's foremost media and popular culture analysts, and was profiled on NBC's *Dateline* and in *People* magazine. Currently, Dr. Miller is a therapist and Campus Minister at Purdue University where he lectures on Organizational Leadership and Media Effects. Come hear Will's keynote address at the Rhode Island Bar Association's Annual Meeting on Thursday, June 14th. And don't miss the great Meeting programming during the rest of the day and on Friday the 15th!

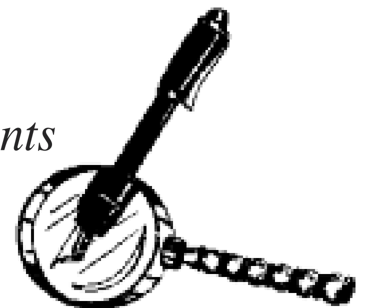
Dr. Will Miller's seminar is brought to you by the Bar's Lawyers Helping Lawyers Committee.

Court Qualified • Signature Comparison • Questioned Documents
Jury Selection • Neurophysiological Research • Seminars • Publications

AFFILIATIONS:
American Psychological Association
American College of Forensic Examiners

Seifer Handwriting Consultants

Marc J. Seifer, Ph.D.
Box 32, Kingston, R.I. 02881
(401) 294-2414
email: mseifer@verizon.net



Handwriting Expert: Over 25 Years Experience

Twittering from the Rhode Island Courts

Initiated by Rhode Island Supreme Court Chief Justice Paul A. Suttell, the Rhode Island Judiciary introduced **@CourtsRI Twitter** page. After reviewing the approaches of other states' court systems, the Judiciary embarked on its own feed. Beginning with announcements including links to Rhode Island Supreme Court opinions as they are published, anticipated future messages may feature links to Judiciary news releases ranging from Supreme Court committee assignments, matters that affect the Bar, updates from other Rhode Island courts, and announcements should the weather affect court operations. You may access the Court's new Twitter page and messages via a button on upper right side of the Rhode Island Court's Home page at **www.courts.ri.gov**. Past and current Court Twitters are posted on the website. You may connect to future tweets by signing up as a follower, allowing you to receive these through your computer on the Internet and/or by installing an appropriate application on your handheld communication devices and tablets.

LAW OFFICE OF
HENRY V. BOEZI III, P.C.

U.S. TRADEMARK SEARCHES AND REGISTRATIONS

U.S. COPYRIGHT SEARCHES AND REGISTRATIONS

U.S. PATENT SEARCHES

DOMAIN NAME REGISTRATION AND DISPUTE RESOLUTION

INTELLECTUAL PROPERTY LITIGATION

M.I.P. – MASTER OF INTELLECTUAL PROPERTY

67 CEDAR STREET
SUITE #105
PROVIDENCE, RI 02903
VOICE: 401.861.8080 FAX: 401.861.8081
EMAIL: HVBoeziIII@aol.com
WEBSITE: www.hvbiiilaw.com

Wills & Trusts | Advanced Estate Planning | Estate & Trust Administration | All Probate Matters
Custodian & Fiduciary Services | Early & Crisis Planning for Senior Care | Tax Matters, Appeals & Litigation

Richard H. Gregory III

Attorney & Counsellor at Law

LLM in Taxation, Georgetown University
5 Benefit Street, Providence, Rhode Island 02904
Tel: 401-331-5050
Fax: 401-454-4209
Email: rhg@richardhgregory.com
Web: www.richardhgregory.com

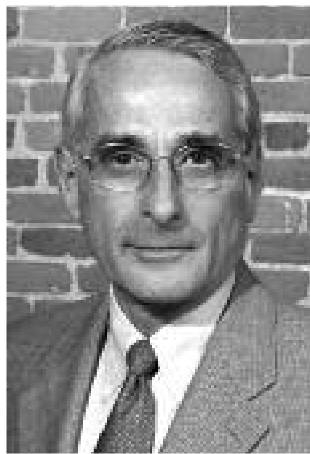
Attorney to Attorney Consultations / Referrals

The R.I. Supreme Court licenses all lawyers in the general practice of law.
The court does not license or certify any lawyer as an expert or specialist in any field of practice.

Lunch with Legends:
Trailblazers, Trendsetters and Treasures of the Rhode Island Bar

Matthew R. Plain, Esq. **Elizabeth R. Merritt, Esq.**
Taylor Duane Barton & Gilman, LLP, Providence

Bankruptcy attorney, Allan Shine spent his formative years in Rhode Island, attended Classical High School in Providence, and studied government and history at Columbia College. After reading a biography by Arthur Garfield Hayes, one of the founders of the ACLU, Mr. Shine was inspired to attend Columbia Law School, earning Bar admission in 1961. Mr. Shine began his legal career under the tutelage of Max Winograd, working on creditors' rights matters, collections, receiverships and Chapter 11 cases. Mr. Shine explains Mr. Winograd's unexpected death thrust substantial responsibilities upon him in a relatively early stage of his career. To this day, Mr. Winograd's name remains in the title of Mr. Shine's firm, Winograd Shine Land & Finkle, P.C.



Allan Shine, Esq.

Herein are excerpts from our conversation with Mr. Shine:

What is your most memorable experience over the course of your career practicing law?

[T]he first case I ever had was before Judge Fred Perkins. He was a brilliant, fair-minded, wonderful person and judge. When the trial concluded, [Judge Perkins] began to give his decision, reciting and summarizing the facts, and he said that, based on his findings, he's going to deny the injunction. But, as he went on summarizing the facts, I realized he was actually, inadvertently, I assume, misstating the facts. As this was the first case I ever handled, and I didn't know anything about etiquette with judges, I didn't know enough to be afraid of them. So, I stood up and I said, "Excuse me, your Honor, I don't mean to interrupt your decision, but in several matters you just recited, I think the parties have stipulated to the contrary. I ask you to reconsider, and I assume other counsel would confirm that." The judge looked at the other counsel, and he said, "What are those facts?" I summarized them, and he looked at the other counsel and he said, "Is that correct?" [Opposing counsel] said, "Yes, your Honor, we did agree and stipulate to those facts." So, to his credit, the judge leaned back and said, "Well, under those circumstances, forget everything I said," and he proceeded with the rest of his decision, and he gave us the injunction. How could you have a better day in court than that?

What do you think has been the single biggest change in the legal profession since you started practicing in 1961?

The number one change is the explosion of the number of lawyers in Rhode Island. I'm guessing there were probably 1,200 lawyers when I passed the Bar. Now, it's close to 7,000, and the population is virtually the same, and, certainly, the economy has not grown. That means we have an awful lot of young people, with a lot of high expectations and equally high loans, struggling to succeed and pay their loans back, so there's enormous competition. You've got new lawyers doing things maybe they shouldn't be doing because they're under such pressure to work. As a result, there are more discipline problems with the disciplinary counsel.

I also think the practice of law is much more like running a business, in terms of hours, profit issues, associates being profit centers, and more. That takes us away from the collegiality that we had in the good old days which we frequently hear about it, and I think there is something to that. When we had a much smaller Bar, everyone knew everybody, or almost everyone.

If you had to hire a lawyer today, who would you hire?

If it were a business-related matter, I would hire Mark Russo.

What is it about Mark that would lead you to hire him?

Well, number one, he played football at URI and he's very large. Number two, aside from his imposing stature, he is extremely bright, and he's one of the hardest-working people, not just lawyers, but people, I have ever known. And, he is excellent at so many diverse subjects: business matters; insolvency matters; real estate matters; regulatory matters and more.

What's the best advice you've ever received as a lawyer?

Max Winograd told me to be credible, work hard, listen, and if you don't like what you're doing, do something else.

Certainly, Mr. Shine found his calling as both a businessman and attorney, and after a half-century of practice in Rhode Island, has worked hard for his legendary status.

EXPERIENCED, THOROUGHLY PREPARED & SUCCESSFUL TRIAL ATTORNEY

Since 1984, I have been representing people who have been physically and emotionally harmed due to the criminal acts or negligence of others. I have obtained numerous million dollar plus trial verdicts and many more settlements for victims of birth injury, cerebral palsy, medical malpractice, trucking and construction accidents. Between the criminal and civil cases I have been lead counsel in over 100 jury trial verdicts.

My 12 years of working in 3 different prosecutors' offices (Manhattan 1982-84; Miami 1984-88, R.I.A.G. 1988-94) has led to my enduring commitment to seek justice.

I welcome your referrals. My case load is exceptionally small.
I do and will continue to personally handle every aspect of your client's medical malpractice or serious personal injury case from beginning to end.

THE LAW OFFICE OF DAVID MOROWITZ, LTD.

www.morowitzlaw.com
155 SOUTH MAIN ST., SUITE 304, PROVIDENCE, RI 02903
(401) 274-5556 (401) 273-8543 FAX

I am never too busy to promptly return all phone calls from clients and attorneys.

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

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

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

When contacting Coastline EAP, please identify yourself as a Rhode Island Bar Association member or family member. A Coastline EAP Consultant will briefly discuss your concerns to determine if your situation needs immediate attention. If not, initial appointments are made within 24 to 48 hours at a location convenient to you. Please contact Coastline EAP by telephone: 401-732-9444 or toll-free: 1-800-445-1195.

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

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

Name	Phone
Neville J. Bedford, Esq.	709-4328
Henry V. Boezi III, Esq.	861-8080
David M. Campanella, Esq.	273-0200
Diana Degroof, Esq.	274-2652
Sonja L. Deyoe, Esq.	437-3000
Kathleen G. DiMuro, Esq.	944-3110
Jeffrey L. Koval, Esq.	230-7277
Nicholas Trott Long, Esq., Chairperson	351-5070
Genevieve M. Martin, Esq.	274-4400
Dennis J. McCarten, Esq.	965-7795
Daniel P. McKiernan, Esq.	223-1400
Joseph R. Miller, Esq.	454-5000
Henry S. Monti, Esq.	368-9913
Roger C. Ross, Esq.	723-1122
Adrienne G. Southgate, Esq.	301-7823
Ms. Judith G. Hoffman, LICSW, CEAP, Coastline EAP	732-9444 or 800-445-1195

Lawyers Helping Lawyers Committee Members Protect Your Privacy

New Name, Same Excellent, and Free, Confidential Assistance for Bar Association Members and Their Families

For many years, the Bar Association has provided members and their families with free and *totally confidential* assessment and referral services for any personal issues through its contract with Resource International Employee Assistance Services. The service remains same but the organization has changed its name to Coastline Employee Assistance Program (EAP). Ms. Judith Hoffman remains our contact person at Coastline EAP, and you are welcome to telephone her or her colleagues at: (401) 732-9444 or 800-445-1195.

Are You a Binge Drinker?

The Centers for Disease Control and Prevention recently reported that new estimates show that binge drinking is a bigger problem than previously thought. More than 38 million US adults binge drink, about 4 times a month, and the largest number of drinks per binge is on average 8. This behavior greatly increases the chances of getting hurt or hurting others due to car crashes, violence, and suicide. Drinking too much, including binge drinking, causes 80,000 deaths in the US each year and, in 2006 cost the economy $223.5 billion.

- Most alcohol-impaired drivers binge drink.
- Most people who binge drink are not alcohol dependent or alcoholics.
- More than half of the alcohol adults drink is consumed while binge drinking.

Binge drinking costs everyone.

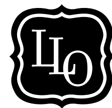
- Binge drinking, cost $746 per person, or $1.90 a drink, in the US in 2006. These costs include health care expenses, crime, and lost productivity.
- Binge drinking cost federal, state, and local governments about 62 cents per drink in 2006, while federal and state income from taxes on alcohol totaled only about 12 cents per drink.
- Bing drinking significantly increases the chance of getting sick and dying from alcohol problems.

Have a Question About Your Drinking or Drinking by a Member of Your Family?
Contact a member of the Rhode Island Bar Association's Lawyers Helping Lawyers (LHL) Committee, or contact Judith Hoffman at Coastline EAP, 732-9444 or 800-445-1195. By rule of the Supreme Court, all communications with LHL Committee members, Ms. Hoffman and her colleagues at Coastline EAP is completely confidential and privileged.

Michael T. Lahti
Admitted to Practice
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
Guardianship Issues

Stephen T. O'Neill
Admitted to Practice in RI & MA
Fellow of the American College of Trust and Estate Counsel



Lahti, Lahti & O'Neill, LLC
ESTATE PLANNING & ELDER LAW

1 Richmond Square, Suite 303N, Providence, RI 02906 **Telephone 401-331-0808**
Additional Offices in New Bedford and West Harwich, Massachusetts
WWW.LLO -LAW.COM

Attorney to Attorney Consultations / Referrals

The Rhode Island Supreme Court licenses all lawyers in the general practice of law. The court does not license or certify any lawyers as an expert or specialist in any particular field of practice.

[Some are known for doing something well. For us, it's condominiums.]

Document drafting, common fee collection, covenant enforcement, construction defects.
Referrals welcome.

GSL
Goodman, Shapiro & Lombardi, LLC

Concentration in condominium law.
Visit www.goshlaw.com or call Frank A. Lombardi at 401-455-0420.

Riggs Case:
Clarity on Net Metering Energy

Seth H. Handy, Esq.
Handy Law LLC, Providence

Rhode Island's net metering policy is designed to facilitate the self-supply of renewable energy.

The Division of Public Utilities and Carriers and our state legislature have recently provided clarity regarding the self-supply of energy in Rhode Island. The State policy called "net metering" enables those consuming energy to co-locate their own energy production in order to offset their consumption. The central issue in the **Riggs** case, addressing the price paid to the Town of Portsmouth for power from its wind turbine, was whether a municipality should be permitted to supply all of the town's consumption from one generating facility.[1] As decided by the Division and our legislature in its last session, it is both consistent with federal law and good public policy to ensure that they can and are encouraged to do so.

In May 2010, Mr. Benjamin Riggs filed a complaint alleging that the Town of Portsmouth was receiving too high a price for excess power generated from the wind turbine it built on the grounds of its high school. The turbine produces much more energy than is consumed on site at the school but still less than the Town consumes at all of its facilities. Portsmouth was net metering the energy generated from its turbine through receipt of a check from National Grid for the total amount of its production at the retail rate, which was then used to offset what it paid for its electric bills, as contemplated by net metering. Mr. Riggs contended that Portsmouth was only allowed to net meter against consumption at the site of the wind turbine (the high school) and was not entitled to a check at the net metering rate for energy that was actually sent to the grid. The dispute in the Portsmouth case was whether the Town was fundamentally engaged in a regulated, wholesale sale of power for resale or whether it was using its wind turbine to supply its own power. Federal law, administered by the Federal Energy Regulatory Commission (FERC) says that when a utility purchases power for resale it must purchase that power at "avoided cost" rates.[2] The utility's avoided cost is the market rate it typically pays to get power from its other wholesale sources. However, both federal law and FERC decisions are clear that when a generator of renewable energy consumes more energy than it produces pursuant, that generator is not engaged in a wholesale sale of energy for resale but is net metering.[3] This rule is rational because self-supply does not involve a sale, but is simply production to offset use. Federal law very clearly defers to the states on how they want to define and administer their net metering laws designed to encourage the self-supply of power.[4]

Rhode Island's net metering law has allowed generators of renewable energy to either distribute their produced energy to their own facilities, receive a credit from the utility to be applied against its municipal meters, or send their energy directly to the grid in exchange for a check valued to offset what they otherwise would have paid to receive that produced energy.[5] The check mechanism was designed to facilitate the administration of the net metering program, making it much easier for both the generator and the utility to account for distributed energy and the netting transaction. The amendments to Rhode Island's net metering law, passed last summer, made it clear that while private developers may not produce and net meter more than 125 percent of what they consume at the site of that generation and will receive a reduced, "avoided cost" rate for the excess 25 percent of production, municipalities may credit produced energy against any municipal accounts whether or not they are on the site of the generating facility.[6] These amendments were both consistent with federal law and entirely appropriate, recognizing that municipalities net their energy production against their consumption across the town.

Rhode Island's net metering policy is designed to facilitate the self-supply of renewable energy. It is proper and good that the Division of Public Utilities and Carriers and our state legislature have recently upheld and supported it as such.

ENDNOTES

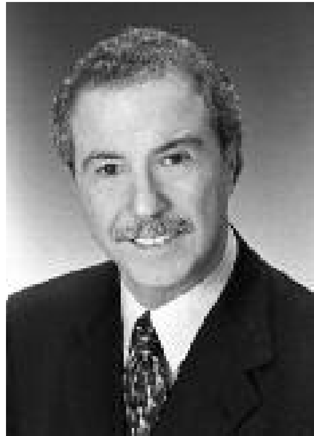
1 *Docket No. D-10-126 - Division of Public Utilities and Carriers' ("Division") Investigation Into Net Metering Complaint Relating to the Town of Portsmouth Wind Generating Facility (see http://www.ripuc.org/eventsactions/docket/D-10-126page.html).*

2 *16 USC 824(a)-3 (2006). It should be noted here that recent FERC guidance makes it clear that states can define*

MIGNANELLI & ASSOCIATES, LTD.
Attorneys At Law

10 Weybosset Street, Suite 205 • Providence, RI 02903
Tel: (401) 455-3500 Fax: (401) 455-0648

www.mignanelli.com



Anthony R. Mignanelli
Attorney at Law

Wills/Trusts

Estate Tax Planning

Estate Settlements

Trusts for Disabled Persons

Personal Injury Settlement Trusts

All Probate Matters

The R.I. Supreme Court Licenses all lawyers in the general practice of law.
The court does not license or certify any lawyer as an expert or specialist in any field of practice.

"avoided cost" by specific generating source (i.e., what the utility would pay to get energy from similar sources) and thereby account for non-market policy factors like health and environmental impacts. ***California Public Utilities Commission****, 133 FERC ¶61,059 at pp. 13-14 (Oct. 21, 2010).*

3 ***SunEdison****, 129 FERC ¶61,146 at ¶18 (2009) ("the Commission does not assert jurisdiction when the end-use customer that is also the owner of the generator receives a credit against its retail power purchases from the selling utility").*

4 ***MidAmerican Energy Co.****, 94 FERC ¶61,340 at 5-6 (2001)(net billing arrangements are left to state regulatory authorities).*

5 *R.I. Gen. Laws § 39-26-6(g)(ii)(C).*

6 *R.I. Gen. Laws §§ 39-26.2-2(2);(3).* ❖

Publish and Prosper in the *Rhode Island Bar Journal*

The Rhode Island Bar Journal is one of the Bar Association's **best means of sharing your knowledge and experience with your colleagues.** Every year, attorney authors offer information and wisdom, through scholarly articles, commentaries, book reviews, and profiles, to over 6,000 subscribers in Rhode Island and around the United States. In addition to sharing valuable insights, **authors are recognized by readers as authorities in their field and, in many cases, receive Continuing Legal Education** (CLE) **credit for their published pieces.** The *Bar Journal*'s Article Selection Criteria appear on page 4 of every *Bar Journal* and on the Bar's website at www.ribar.com.

Aspiring authors and previous contributors are encouraged to **contact the *Rhode Island Bar Journal*'s Editor Frederick Massie by telephone: (401) 421-5740 or email: fmassie@ribar.com.**

All Bar Members Invited – Environmental & Energy Law Committee Meeting on Beautiful Block Island: Tours and Two CLEs, Friday, May 18, 2012

The Rhode Island Bar Association's Environmental and Energy Law (EEL) Committee invites all Bar members to participate in a day of education and fun on Block Island on Friday, May 18th. This unique event includes guided tours of Block Island's environmental and energy sites, two, 1.0 credit, Committee CLEs, lunch, and more! The two Committee CLEs are free. However, there are related costs of approximately $50 for the round-trip ferry trip, the initial Island tour and lunch. Participants must pay for their own ferry fares and provide cash to the EEL Committee representative on the Island. The event schedule appears below. Pre-registration is required. To register, and for additional information, please contact EEL Co-Chair Christopher D'Ovidio by telephone: 739-2900 Ext: 308 or email: cdovidio@merollalaw.com

Block Island EEL Committee Event Schedule:

9:00 am – Ferry departs from Point Judith ($24.95 round-trip fare).
Enjoy the sights, sounds and salty air of Block Island Sound!

10:15 am – Guided Island Tour ($7 bus fare).
Depart from the ferry landing for an informative and enjoyable interactive guided tour of the Island's environmental and energy related sites including: New Harbor marinas; Transfer Station; wind turbines; solar installations; and Mohegan Bluffs with a view toward the Deepwater Wind location. Guide Howard Rice, a former Town Counselor and lifelong Island resident, will answer questions on Block Island's rich history and ecology.

11:30 am – Free CLE: Climate Change and Affect on Islands – National Hotel
Lead speaker is Jane Weidman, M.P.A., New Shoreham Town Planner, and has a grant to work with scientists on these issues. The seminar discussion addresses how legal regulation interacts with the science on the rising sea. 1.0 CLE Credit

12:30 pm – Lunch at the National Hotel ($18)
Includes a delicious meal with your colleagues in a historic and scenic setting.

1:30 pm – Free CLE: Renewable Energy and Affect on Islands – National Hotel
Speaker Brian Wilson, M.Arch, presently the on-Island coordinator for Deepwater Wind, focuses on the implementation of large offshore wind turbines and local regulatory issues pertaining to laying a cable to/from the Island and reducing environmental risk.

Speaker Everett Shorey, M.B.A., consultant for investor-owned utilities as well as government and non-profit entities and a member of the Island Energy and Utility Task Group, discusses renewable options for the Island from a regulatory and financial perspective.

2:30-4:45 pm – Old Harbor Walking Tour, Event Wrap-Up & Free Time (no cost)
First Warden Kimberley Gaffett, a life-long Island resident, will provide an interactive guided tour and commentary on the Island's coastal ecology, migratory birds and other Island environmental features. Elliott Taubman, EEL member and Island resident provides a lawyer's perspective and moderates an informal discussion on the day's presentations. Free time is available for participants to explore the New Shoreham.

5:00 pm – Ferry departs to Point Judith

NOTE: ***Alternate event date, in case of ferry service cancellation, is Friday, June 8th.*** Registrants can call (401) 783-7996, the morning of the event, for notice of ferry cancellation. If there is demand, the historic National Hotel will provide interested participants with an event-discounted, hotel room. Please alert Christopher if you are interested when registering.

CLE Publications Order Form

NAME ____________________

FIRM or AGENCY ____________________

MAILING ADDRESS ____________________
Cannot be a P.O. Box

CITY & STATE ____________________

ZIP __________ PHONE ____________________

EMAIL ADDRESS ____________________

BAR ID # ____________________

☐ Check enclosed (made payable to RIBA/CLE)
Please do not staple checks.

☐ Please charge to my credit card checked below

☐ MasterCard ☐ VISA ☐ AMEX ☐ Discover

Exp. Date __________

Card No. ____________________

Signature ____________________

Please make check payable to:
Rhode Island Bar Association/CLE
and mail with order form to: CLE Publications, Rhode Island Bar Association, 115 Cedar Street, Providence, RI 02903.

Please do not staple checks.

SHIPPING/HANDLING INFORMATION
Please allow 2-3 weeks for delivery.
All books are sent by FedEx Ground.

Publication Total	Shipping and Handling Cost
Up to $45.00	$6
$45.01 - $75.00	$9
$75.01 - $100.00	$12
$100.01+	$15

OFFICE USE ONLY

Check No. __________ Amount __________

Date Rec'd __________ Date Sent __________

Title	Book #	Price	Qty.	Total
BANKRUPTCY				
Avoiding Foreclosure/Loan Modifications	10-14	$40		
BUSINESS				
Practical Skills - Basic Commercial & Real Estate Loan Documentation	12-02	$70		
Practical Skills - Organizing a Rhode Island Business	11-18	$55		
Commercial Law 2011: Update on Recent Developments	11-13	$40		
ENVIRONMENTAL LAW				
Responding to DEM & CRMC Enforcement Actions	09-17	$30		
FAMILY LAW				
Practical Skills - Domestic Relations Practice	12-06	$70		
QDRO Practice in RI from A-Z	09-13	$40		
LAW PRACTICE MANAGEMENT				
Establishing a Law Firm in RI	09-19	$25		
Planning Ahead	09-14	$39.95		
PROBATE/ELDER LAW				
Practical Skills - Planning for and Administering an Estate (available after 5/10/12)	12-09	$45		
Medicaid Forms and Regulations	11-15	$35		
Administrative Local Rules	PR-11	$65		
REAL ESTATE				
Practical Skills - Residential Closings	12-07	$70		
The Ins & Outs of Landlord Tenant Law	11-11	$15		
RI Title Standards Handbook (through 1/12)	TS-12	$35		
TRIAL PRACTICE				
DUI Update 2012	12-04	$35		
Practical Skills - Civil Practice in Superior Court	12-03	$45		
Practical Skills - Civil Practice in District Court	12-01	$45		
Practical Skills - Criminal Law Practice in RI	11-16	$55		
Soft Tissue Injuries Explained	11-12	$35		
Social Host Law	09-11	$25		
Model Civil Jury Instructions	03-02	$49.95		
WORKERS' COMPENSATION				
Practical Skills - Workers' Compensation Practice in Rhode Island (available after 6/1/12)	12-11	$45		

Books $ __________

Shipping & Handling $ __________

Sub-Total $ __________

7% R.I. Sales Tax $ __________

Total $ __________

Detach Here

Continuing Legal Education Update

To register for CLE seminars, contact the Rhode Island Bar Association's CLE office by telephone: 401-421-5740, or register online at the Bar's website: www.ribar.com by clicking on CONTINUING LEGAL EDUCATION in the left side menu.
All dates and times are subject to change.

May 3
Thursday
Food For Thought
SSDI Benefits – A Review
RI Law Center, Providence
12:45 pm – 1:45 pm
1.0 credit

May 8
Tuesday
Food For Thought
SSDI Benefits – A Review
Casey's Restaurant, Wakefield
12:45 pm – 1:45 pm
1.0 credit

May 9
Wednesday
Food For Thought
Corralling Your Technology
Holiday Inn Express, Middletown
12:45 pm – 1:45 pm
.5 credit + .5 ethics

May 10
Thursday
Practical Skills
Planning and Administering an Estate
Crowne Plaza Hotel, Warwick
9:00 am – 3:00 pm
5.0 credits +1.0 ethics

May 15
Tuesday
Claim Settlement:
Solving the Medicare Compliance Puzzle
RI Law Center, Providence, in Person
LIVE SIMULCAST, 2:00 pm – 5:00 pm
2.5 credits +.5 ethics

May 17
Thursday
Food For Thought
Corralling Your Technology
RI Law Center, Providence
12:45 pm – 1:45 pm
.5 credit + .5 ethics

May 24
Thursday
Food For Thought
Estate Planning – Avoiding Conflicts
RI Law Center, Providence, in Person
LIVE SIMULCAST, 12:45 pm – 1:45 pm
1.0 ethics credit

May 31
Thursday
Food For Thought
Friending, Tweeting & Blogging – Protecting Your Practice
RI Law Center, Providence, in Person
LIVE SIMULCAST, 12:45 pm – 1:45 pm
1.0 ethics credit

June 1
Friday
Practical Skills
Workers Compensation Practice
RI Law Center, Providence
9:00 am – 3:00 pm
4.0 credits + 1.0 ethics

Rhode Island Bar Association

Annual Meeting
June 14th and 15th

Rhode Island Convention Center, Providence

Over 40 excellent CLE Seminars, practice-related products and service exhibits, Annual Bar Awards and more!

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.

The Attorneys Advantage online application process offers a convenient way for small firms to get a professional liability coverage quote –

Quick. Easy. Online!

We don't think all the extra work required to secure professional liability coverage should keep you from addressing your clients' pressing needs. That's why we streamlined our application process. Simply log on to **www.attorneys-advantage.com/online**.

Depending on the size and location of your firm, you may qualify to obtain a real-time quote and the option to purchase online; or you'll be able to submit an application online for further review. Either way, we think you'll find our streamlined online application process more convenient than ever.

It's As Simple As: QUOTE. CLICK. DONE.

At **www.attorneys-advantage.com/online** you'll find immediate access to dependable coverage plus useful tools and information to help you manage your firm's risk and reduce the chance of claims. And, while visiting the site, you can also register your email address to receive additional information about the program.

Apply online today! Visit **www.attorneys-advantage.com/online**

The Attorneys Advantage Professional Liability Program is Sponsored By

AON

Attorneys Advantage online process is brought to you by Affinity Insurance Services, Inc., in association with Liberty Insurance Underwriters Inc. (a member company of Liberty Mutual Group). Affinity Insurance Services, Inc. is the program administrator of the Attorneys Advantage program.

Aon Affinity, is the brand name for the brokerage and program administration operations of Affinity Insurance Services, Inc.; (AR 244489); in CA, MN & OK , AIS Affinity Insurance Agency, Inc. (CA 0795465); in CA, Aon Affinity Insurance Services, Inc., (0G94493), Aon Direct Insurance Administrator and Berkely Insurance Agency and in NY and NH, AIS Affinity Insurance Agency

Insurance underwritten by Liberty Insurance Underwriters Inc. (a member company of Liberty Mutual Group). Liberty International Underwriters® is the promotional name of this entity. Home office: New York City, New York.

Please consult the specimen policy language for specific language or benefit definitions. Not all policy features are available in all states.

E-9491-0112

Using Family Limited Partnerships In Estate Tax Planning

Eric Atstupenas, Esq.
Mackie & Reilly, Providence

…estate planners may use FLPs as long as they are willing to continue to adapt their methods in response to the judicial climate and challenges posed by the IRS.

I. Introduction

Over the past few decades, family limited partnerships (FLPs) have been heralded by estate planners as a way to help donors simultaneously transfer wealth within families while decreasing their gift and estate taxes. As the IRS challenges against FLPs have historically risen, and while constant litigation in this realm has made it is increasingly difficult for estate planners to safely predict the outcome of FLP planning, it is important now, more than ever, that estate planners adopt a more conservative approach in forming FLPs to ensure that the FLP will withstand the scrutiny of the Internal Revenue Service (IRS).

II. The Dawn of Family Limited Partnerships in Estate Tax Planning

So what are FLPs, and why have estate planners in recent decades encouraged their clients to form them? FLPs are simply limited partnerships formed under state law, and funded with the business or investment assets of one or more family members. For instance, the Rhode Island Uniform Limited Partnership Act requires that a limited partnership have at least one general partner and one limited partner.[1] In a typical FLP structure, the parents (or in some cases grandparents) would take a general partnership interest and divide the limited partnership interests amongst the children or grandchildren. By taking a general partnership interest, the parents can control and manage the partnership. After the partnership is formed and funded, the parents effect a transfer of the underlying assets, to children and other descendants, by gradually transferring the partnership interests.

The reason for the formation of so many of these entities seems quite curious. However, a brief look at how the tax base is determined under the transfer taxes sheds light upon the motives. In general, the Internal Revenue Code imposes a federal estate and gift tax.[2] The Code requires that the property included in the gross estate, or subject to the gift tax, "shall be taxed on the basis of the value of the property at the time of death of the decedent, the alternate date if so elected, or the date of the gift."[3] The value is generally defined as "the price at which the property would change hands between a willing buyer and a willing seller when the former is not under any compulsion to buy and the latter is not under any compulsion to sell, both parties having reasonable knowledge of relevant facts."[4]

In calculating the entire value of closely-held entities, such as FLPs, there is no specific formula that can be followed. Rather, the appraiser must consider several factors in making this determination. After the fair market value of the partnership, as a whole, is calculated, the fractional share of the partnership interest transferred, or held by the decedent at his or her death, is then determined, taking into account various discounts for either a minority interest or lack of marketability.[5] Suffice it to say, it is a very complicated process, beyond the scope of this article. However, as estate planners realized the availability of such discounts could substantially suppress valuation, and thereby reduce transfer taxes, FLPs became one of the go-to tools in the estate planner's toolbox.

III. Initial Challenges and Trends

Initially, FLPs enjoyed favorable treatment by the Service. For instance, in **Estate of Harwood v. Commissioner**, the Tax Court allowed the decedent's estate to claim a fifty percent discount on the valuation of retained partnership assets.[6] However, by the 1990s, the Service began viewing those valuation discounts as unwarranted, and attempted to curtail their application.[7] In one such instance, the Service unsuccessfully used both § 2703(a) and § 2704(b) to attack the legitimacy of FLPs.[8]

It was not until the early to mid-1990s, that the Service began to consider the possible application of § 2036 to FLPs, after the Court in **Estate of Strangi v. Commissioner** seemingly gave the Service a thumbs up to use this as the basis of its attack.[9] In many of the early private letter rulings and technical advice memoranda, the Service was unsure of the strength of the § 2036 argument, and concluded that inclusion under § 2036 was foreclosed where the transferor owed a fiduciary duty to the other partners.[10]

During these initial years of challenging

Announcing that PLAN of Massachusetts is now

PLAN of Massachusetts and Rhode Island

A nonprofit organization with 30 years of experience managing special needs trusts

Special Needs Pooled Trusts — Self-funded or funded by Third Parties – are our exclusive focus. While each beneficiary's funds are tracked separately through a sub-account, assets are combined for investment purposes. This option opens up high-quality investment opportunities and reduces administrative costs. There is no required minimum amount to fund the trust.

We provide professional, independent trust administration and investment management services to ensure that the financial resources are there — now and in the future — to provide continuity of care for people with disabilities.

Our highly qualified social workers meet directly with each beneficiary to ascertain the individual's needs and develop an appropriate spending plan. Our knowledgeable staff identify resources to meet a range of legal, emotional, medical, care-giving and educational needs. They also monitor crucial government benefits such as SSI and Medicaid to ensure they are preserved.

Quality of life, peace of mind, for people with disabilities

Contact us at
617 244-5552 or info@planofma-ri.org
For additional information,
visit our website: www.planofma-ri.org

There's only one ...

RI Zoning Handbook, 2d

by Roland F. Chase, Esq.

• Completely revised • 340 pages • Comprehensive text-and-footnote analysis of Rhode Island zoning law, plus federal zoning law (new!) • Kept up to date with annual supplements • Table of Cases • Table of Statutes • Exhaustive index • $80.00 plus $5.60 tax • No shipping charge for pre-paid orders. Further information and order form at **www.rizoning.com.**

Chase Publications, Box 3575, Newport, RI 02840

FLPs, the Service proved most unsuccessful. Unknowingly, it also undercut the most effective argument it had, the one based upon § 2036, by adding a fiduciary duty exception which could be used by almost any partnership to preclude the application of § 2036. However, it was not very long until the Service became aware of its folly and its strategy would take a marked turn.

IV. A Shift in IRS Strategy

Prior to 1997, it had become abundantly clear that the FLP floodgates had opened as taxpayers began taking advantage of the Service's considerable losses. Having lost a flurry of cases on previous theories and unable to secure the help of Congress, the Service reformatted its argument and began a new line of attack, solidifying its § 2036 argument.[11]

The infamous § 2036 operates to include in the decedent's gross estate, the value of all property which the decedent transferred, but retained the possession or enjoyment of, the right to income from, or the right to designate who should enjoy the property or income, for the decedent's life or any period which cannot be calculated without reference to the decedent's death.[12] Importantly, however, the statute provides a parenthetical exception for any transfer made as a bona fide sale for full and adequate consideration for money or money's worth.[13] Where the decedent's estate can prove that this exception applies, the full value of the FLP assets will not be included in the decedent's gross estate, and in all likelihood, the estate will be entitled to take a valuation discount on the value of the partnership assets.

In the 1997 case **Estate of Schauerhamer v. Commissioner**, the Service successfully utilized its renewed § 2036 argument.[14] The Tax Court ruled that where the decedent's relationship with the transferred assets remains the same after the transfer as before, § 2036(a)(1) requires that the value of the assets be included in the gross estate. In finding the assets includible, the court found probative the facts that: the decedent had retained the property's entire income stream; there was an implied agreement among the partners that decedent retain economic benefits of the property transferred; the income derived from the partnerships' assets had been commingled with her personal assets and income derived from other sources; and

the property was managed the same as it had been in the past.[15] Interestingly enough, the entire decision is devoid of any mention of a fiduciary duty exception, evidencing an apparent end to this short-lived and contrived exception.

In Estate of **Thompson v. Commissioner**, the Service revisited an issue that it had already addressed in a 1991 Technical Advice Memorandum where a decedent transferred ninety-five percent of his property into a partnership shortly before his death.[16] Ruling in favor of the Service, the Third Circuit found that an implied agreement existed between the decedent and the family partners, resulting in his receiving cash distributions from the partnership where he did not retain sufficient assets to support his costs of living.[17]

By 2005, the Tax Court, in **Estate of Bongard v. Commissioner**, announced a new test to be applied in analyzing the bona fide sale prong of the parenthetical exception in § 2036(a)(1), by requiring that, in addition to having an arm's length transaction, there must also be significant and legitimate nontax reasons for creating the partnership.[18] Importantly, the Court ruled that "[t]he objective evidence must indicate that the nontax reason was a significant factor that motivated the partnerships creation. A significant purpose must be an actual motivation, not a theoretical justification."[19]

A wide acceptance of the analysis developed in the **Bongard** case has lent credence to the Service's § 2036 theory, and has provided the Courts with a solid framework to determine the legitimacy of FLPs in the context of estate tax planning. Unfortunately however, this framework made FLPs less user friendly, and has made it slightly more onerous, however not impossible, for estate planners to use successfully.

V. Recent Developments in Case Law

Recent developments in case law suggest that estate planners wishing to use FLPs in order to take advantage of the valuation discounts develop and adopt a new strategy to ensure a certain level of predictability. Of the recent cases, some of the most notable include **Estate of Jorgensen v. Commissioner**, **Estate of Black v. Commissioner**, and **Estate of Holman v. Commissioner.**[20]

A. Estate of Jorgensen v. Commissioner

Some commentators have posited the

You want it. We have it.

Guardian Disability Income Insurance
10% discount to RI Bar Members

As a legal professional, you may have begun to think you'd never be able to find the kind of high-quality disability income coverage you need. Coverage that includes:

- benefit payments when you can't work *at your own occupation* - even if you can work at another one
- non-cancellable and guaranteed renewable to age 65
- waiver of premiums during disability benefit period

If this sounds like the kind of disability protection you've been looking for and you'd like to discuss your options or just learn more about it, please call:

Robert J. Gallagher & Associates, Inc.
A Representative of Guardian
Robert J. Gallagher, Jr., CLU, ChFC
Agent
P.O. Box 154467
Riverside, RI 02915
401-431-0837
rjgiggs@aol.com

GUARDIAN®

Disability income products underwritten and issued by
Berkshire Life Insurance Company of America, Pittsfield, MA a wholly owned stock subsidiary of
The Guardian Life insurance Company of America, (Guardian) New York, NY.
Products not available in all states. Product provisions and features may very from state to state

JOSEPH A. KEOUGH
Retired Magistrate Judge / Rhode Island Superior Court

Is Now Available For
Mediation & Arbitration Services
Torts, Business Disputes, Domestic Matters

110 Armistice Boulevard, Pawtucket, RI 02860
(401) 724-3600 jakemast@aol.com
Alternate Dispute Resolution

RHODE ISLAND PRIVATE DETECTIVES & PROTECTIVE SERVICES LLC

Former Federal Agents & Police Investigators

Licensed in RI & MA

* INVESTIGATIONS
* ARMED SECURITY
* FINGERPRINT SERVICES

Henry Roy, Senior Partner **Napoleon Brito, Managing Partner**

www.riprivatedetectives.com
www.RIbodyguard.com

One Richmond Square Suite 125B **(401) 421-5705**
Providence, Rhode Island 02906 info@riprivatedetectives.com

Call us today to learn how our qualified business valuators have helped clients with:

- Mergers/acquisitions
- Business purchase/sale
- Succession planning or buy/sell agreements
- Estate and gift taxes
- Divorce asset allocation
- Adequacy of insurance
- Litigation support
- Financing
- Mediation and arbitration

Want a qualifed, expert business valuation? Count on us.

PICCERELLI, GILSTEIN & COMPANY, LLP

Certified Public Accountants and Consultants

William J. Piccerelli, CPA, CVA ◆ John M. Mathias, CPA, CVA ◆ Kevin Papa, CPA, CVA
144 Westminster Street, Providence, RI 02903 ◆ 401-831-0200 ◆ pgco.com

Jorgensen case is merely another case with "bad facts."[21] However, the case provides an interesting scenario in which all of the purported nontax motives were contrary to the actual operation of the partnerships. In short, this case is an excellent illustration of what *not* to do when forming an FLP. The Jorgensen case involves the formation of two FLPs. In the first, Mr. Jorgensen was the general partner, and in the second, formed after Mr. Jorgensen's death, Mrs. Jorgensen was named general partner. The children and grandchildren were given a limited partnership interest in both FLPs, however, they never contributed to either partnership. Furthermore, during the formation of the FLPs, the attorney emphasized the importance of using an FLP in order to reduce their estate taxes, stating this many times in the correspondence between him the Jorgensens.[22]

When the FLPs were eventually challenged by the IRS, the Tax Court ruled that the requirements of the parenthetical exception of § 2036(a)(1) had not been met, and therefore, the FLPs were not entitled to any valuation discounts. In making this determination, the Court found that the evidence presented was contrary to all of the nontax reasons proffered by the estate. For instance, although the estate argued that the partnerships were formed for the purpose of achieving a management succession scheme, the Court found this was only a valid and legitimate nontax reason where there was an underlying active business which requires an active management. These partnerships were merely "passive investment vehicles" which did not require any sort of active management, and where the investments remained unchanged for years, without any contemplation of any sort of change.[23]

Furthermore, the Court rejected the idea that the partnerships were formed for the purpose of financial education and to promote family unity, since Mr. Jorgensen never taught his children about investing, and since the children were never allowed to participate in the management decisions. Likewise, the Court rejected the proposition that the FLPs were formed to perpetuate an investment philosophy and to motivate participation in the partnerships, since the perpetuation of a buy and hold investment strategy are neither significant nor legitimate nontax reasons, particularly where the

children and grandchildren were not allowed to participate in the decision-making process.[24]

In addition to the above findings, the Court also found probative in its analysis that: 1) valuation discounts appeared to be a significant motivator; 2) there was a disregard for partnership formalities; 3) neither of the partnerships maintained separate books or records; the checkbook was never reconciled; and 4) Ms. Jorgensen used some partnership assets for personal funds.[25]

B. Estate of Black v. Commissioner

The **Black** case provides an interesting example of where facts, similar to those in **Jorgensen**, can result in a rare instance of taxpayer victory. While working for Erie Indemnity Co., Mr. Black acquired company stock, and subscribed to a buy and hold strategy. Mr. Black created a trust for his son, and each grandchild, and gradually transferred nonvoting stock into each. When the stock split and appreciated in value, Mr. Black feared the beneficiaries would sell. This fear, coupled with the concurrent family discord, caused Mr. Black to create an FLP in order to "consolidate and retain the family's Erie stock" which constituted 13-14 percent of the total Erie stock.[26]

The Tax Court ruled that Mr. Black's transfer of stock to the Black LP constituted a bona fide sale for adequate and full consideration. In reaching this conclusion, the Court again considered the nontax motives surrounding the partnership's formation, accepting the estate's argument that the partnership was formed to provide a long-term centralized management and protection of the stock to: preserve Mr. Black's buy-and-hold investment philosophy; pool the family's stock; and protect the stock from creditors and divorce.[27]

While the Court cited to the **Jorgensen** decision in apparent acknowledgement that a buy and hold investment strategy did not constitute a legitimate or significant nontax reason for the transfer of assets into a partnership, the Court nevertheless found that this set of circumstances was "unique."[28] In making this determination, the Court found probative the fact that there was a lengthy and loyal relationship between Mr. Black and Erie, and Mr. Black was concerned about

continued on page 41

Your Green Building Lawyer

Christine J. Engustian
Attorney at Law

One Grove Avenue
East Providence, RI 02914
telephone: 401.434.1250
email: cjengustian@gmail.com

If you need an experienced lawyer to handle legal matters related to environmentally-friendly green building issues, please contact me.

- **First Rhode Island attorney to earn the United States Green Building Council (USGBC) Leadership in Energy and Environmental Design Accredited Professional (LEED AP) designation**
- **LEED AP with Building Design and Construction credential**
- **Over 25 years of experience in land use, planning and zoning law, and real estate development and permitting**
- **Member of Rhode Island Builders Association, Rhode Island Chapter of the USGBC, Rhode Island Chapter of the American Planning Association**

SOCIAL SECURITY DISABILITY
MEDICAL MALPRACTICE

Donna M. Nesselbush
Joseph P. Marasco
Mariam A. Lavoie
Joseph P. Wilson
Mark H. Grimm
Jennifer L. Belanger
Paul E. Dorsey
A. Chace Wessling
Timothy P. Lynch
Jane E. Duket
Kyle E. Posey
David H. Leveillee

Attorney Referrals Welcome

MN LAW OFFICES MARASCO & NESSELBUSH LLP

WWW.M-N-LAW.COM

PROVIDENCE	WOONSOCKET	WARWICK	WAKEFIELD
685 Westminster St.	603 Park Ave.	51 Jefferson Blvd.	231 Old Tower Hill Rd.
274-7400	762-9800	738-7700	783-0000

New, Unique, Members Only
Online Attorney Resources (OAR)

The Rhode Island Bar Association developed the unique Online Attorney Resources (OAR), exclusively for Bar members and available through the Members Only section of the Bar's web site at www.ribar.com, to help Bar members provide and receive timely and direct assistance with practice-related questions.

OAR provides Bar members with the names, contact information and Bar admission date of volunteer attorneys willing to answer questions concerning particular practice areas based on the volunteer's professional knowledge and experience. As the Rhode Island Bar Association does not and cannot certify attorney expertise in a given practice area, the Bar does not verify any information or advice provided by OAR volunteers. Questions channeled through OAR volunteers may range from inquiries concerning specific court procedures and expectations to current and future opportunities within practice areas. *However, OAR is NOT a forum for Bar members to engage other Bar members as unofficial co-counsel in an on-going case.*

Since everyone's time is a limited and precious commodity, all Bar members who contact volunteers must formulate their questions concisely prior to contact and ensure the initial contact takes no longer than 3 to 5 minutes unless mutually-agreed upon by both parties.

OAR offers two options:

1. **Bar members willing to volunteer as information resources.**
2. **Bar members with questions about a particular area of the law.**

OAR practice areas include: Domestic/Family Law Practice; Civil Practice in Rhode Island District Court – Collections Law & Evictions; Civil Practice in Rhode Island Superior Court – Plaintiff's Personal Injury Practice; Criminal Law Practice; Commercial Real Estate Transactions; Organizing a Rhode Island Business; Probate and Estate Planning; Residential Real Estate Closings; Workers' Compensation Practice; Creditors' and Debtors' Rights; Federal Court Practice; and Administrative Law

To sign-up as a volunteer resource or to review the names and contact information of Bar members serving as Bar volunteers, please go to the Bar's website at www.ribar.com, login to the Members Only section and click on the OAR link.

Immigration Lawyer

Joan Mathieu

Call me if your legal advice may affect your clients' immigration status. Protect yourself and your client

401-421-0911

We practice only US Immigration Law with 15 years experience in

- IRCA. 1-9, no-match advice for US employers
- Foreign Investor, business and family visas
- Visas for health care professionals
- Visas for artists and entertainers
- Minimizing adverse immigration consequences of crimes
- Deportation/removal
- All areas of immigration law – referrals welcome

*Member and past CFL chapter president of the American Immigration Lawyers Association. BU Law and MPA Harvard Graduate. Full resume on my web site **www.immigrators.com***

Law offices of Joan Mathieu, 248 Waterman Street, Providence, RI 02906

Paralegal Services

PERSONAL INJURY LAW

Medical Malpractice
Products Liability
Airline Accidents
Automobile Accidents

- Pleadings, including Interrogatories & RFP of Documents
- Deposition Summaries
- Intake Interviews
- Factual Investigation

Joseph P. Catalano, M.S.
401-392-1211
jpc.catalano@gmail.com

Seven Plus Years of Experience
ABA Approved Certificate

Commentary: St. Thomas More and the Cranston West Prayer Banner Case

John T. Mulcahy, Esq.
Associate, Adler Pollock & Sheehan P.C.

The protection of freedom of conscience, so important to Thomas More, is the bedrock of religious freedom in the United States.

The United States District Court for the District of Rhode Island recently ordered that the City of Cranston remove a religious banner from Cranston High School West. Although not immediately evident, the Court's decision promotes the principle of freedom of conscience, a principle at the core of the belief system of St. Thomas More, the patron saint of lawyers. More's writings reflect the significance and import of freedom of conscience to our society and this essential lesson from the **Ahlquist** decision.

Saint Thomas More was King Henry VIII of England's closest advisor in the early 1500s.[1] More was a lawyer and devout Roman Catholic, who made faith his top priority in life, campaigning against the invasion of the Protestant Church in England.[2] Henry VIII, like Thomas More, initially also defended the Church against Protestant influence in England, but Henry soon broke off from the Church.[3] Henry was unhappy that the Church would not grant him an annulment of his first marriage to his wife Catherine.[4] In order to have a male heir to the throne, Henry sought the Church's approval to leave Catherine and instead marry Anne Boleyn.[5]

Pope Clement VII rejected Henry's petition for an annulment, which, in turn, led Henry to abandon the Church and declare himself the supreme authority over church and state in England.[6] Soon England split off from the Church and Henry was excommunicated by the Vatican.[7] Henry reacted by naming himself the head of the Church of England, requiring all English citizens to recognize him as their religious leader.[8] For Thomas More, the decision to recognize Henry as his religious leader would directly contradict More's deep Catholic convictions.[9] Ultimately, More refused to recognize Henry as his religious leader, instead resigning from Henry's administration.[10] More, however, did not publicly criticize Henry and did not attempt to prevent others from declaring their allegiance to Henry.[11] Nevertheless, Henry could not live with the fact that More, one of his closest associates, was choosing the Church over him.[12] In 1535, Henry had More executed for putting his faith before his allegiance to the King.[13]

For Thomas More, the decision to die for his faith was a matter of conscience. He believed so firmly that he had the right to live according to his own conscience, which told him that the Church was supreme to the state, that he ultimately gave his life for this principle. More's writings reveal his unwavering dedication to freedom of conscience. Shortly before he died, More wrote to his daughter, Margaret Roper: "I thought myself I might not well do so, because that in my conscience this was one of the cases in which I was bounden to that I should not obey my prince, with that whatsoever folk thought in the matter (whose conscience and learning I would not condemn nor take upon me to judge), yet in my conscience the truth seemed on the other side."[14] In this letter More reveals that his conscience is what led him to refuse to take an oath to the King.

Likewise, More's writings from this period also show a belief that every individual should be able to pursue his or her own conscience. For instance, More also wrote to his daughter Margaret, "Howbeit (as help me God), as touching the whole oath, I never withdrew any man from it, nor never advised any to refuse it, nor never put, nor will, any scruple in any man's head, but leave every man to his own conscience."[15] In writing that all people should be "left" to follow their own conscience, More expressed a belief that people of all different persuasions must be protected.[16] This explains why More never publically criticized Henry nor "advised" anyone to refuse the oath to Henry.[17]

St. Thomas More's values are particularly relevant to the recent Cranston High School West religious banner case, **Ahlquist v. City of Cranston**, No. CA 11-138L, 2012 WL 89965 (D.R.I. Jan. 11, 2012). Although at first blush, the **Ahlquist** decision can be interpreted as an attack on religious practice, the case actually serves to further the religious freedom St. Thomas More held so dearly.

Alhquist involves a prayer banner (Banner) at Cranston West, which the United States District Court for the District of Rhode Island ruled must be removed for violating the First Amendment of the U.S. Constitution.[18] The Banner contains the following text:

SERVER DOWN?

DEADLINES APPROACHING? NO EMAIL?

NO PROBLEM!!

With a customized backup, recovery and business continuity solution utilizing the best available technology and managed by DataNet Cloud Services, business disruption can be minimized.

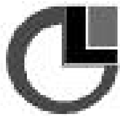
For more information or to schedule a complimentary assessment of your current backup systems, contact DataNet Cloud Services:

(401) 228-8290 ext 5

info@datanetcloud.com

www.datanetcloud.com

Business Class Onsite and Offsite Computer Backup, Recovery and Continuity Solutions



Coia & Lepore, Ltd.
226 South Main Street
Providence, RI 02903
(401) 751-5522

Mediation

FAMILY DISPUTES
DIVORCE AND SEPARATION
DOMESTIC MATTERS

Gain a new perspective on divorce and family disputes. Mediation is a cost and time efficient way to resolve domestic relations matters. A fulfilling advantage to the personal resolution of your dispute.

Dadriana A. Lepore, Esq.
LL.M., Alternative Dispute Resolution
Benjamin Cardozo School of Law
DLEPORE@COIALEPORE.COM

Our Heavenly Father,
Grant Us Each Day The Desire To Do Our Best,
To Grow Mentally And Morally As Well As Physically,
To Be Kind And Helpful To Our Classmates And Teachers,
To Be Honest With Ourselves As Well As With Others,
Help Us To Be Good Sports and Smile When We Lose As Well As When We Win,
Teach Us The Value of True Friendship,
Help Us Always To Conduct Ourselves So As To
Bring Credit To Cranston High School West
Amen.[19]

The plaintiff, Jessica Ahlquist, is a junior at Cranston West High School.[20] Although the lawsuit was brought in Ahlquist's name (with her father as her "next friend"), the suit was initiated by the American Civil Liberties Union (ACLU), which contacted the plaintiff and asked her to be the named party after it had received complaints about the Banner.[21] The case was filed in April 2011.[22] The ACLU selected Ahlquist as the plaintiff because she had publicly voiced her discomfort with the Banner.[23] She told her peers about her objections to the Banner and she started a Facebook page discussing the Banner.[24] Furthermore, Ahlquist testified at her deposition that the Banner made her feel ostracized and excluded at school.[25] The Court held that the Banner created the impression that Cranston West endorsed its religious message.[26] ("When the Prayer Mural was hung in 1963, a reasonable observer would no doubt have concluded that Cranston West endorsed its message, and approved its installation in a place of prominence in the new auditorium."). The Court further held that the placement of the Banner "in a place of honor to the right of the stage, next to the clock," also conveyed endorsement by Cranston West.[27] The Court ultimately concluded that the Banner communicated a Christian message and it would have to be removed for violating the Establishment Clause.[28]

What would St. Thomas More say about the Banner? It is likely that More, in his complete dedication to freedom of conscience, would agree with the Court's ruling that the Banner must be removed. With the placement of the Banner on the

auditorium wall, the school endorses the message contained in it. This consequently infringes on freedom of conscience by giving the impression that only those values espoused by the Banner are the only ones to be followed. Put another way, the School's endorsement of this message infringes on the views of those people who do not agree with the Banner. More would likely be troubled by these circumstances seeing that More did not want his position as an authority figure to repress people's ability to pursue their own consciences. More never publicly criticized Henry nor tried to convince people to not take the oath. That is why More would likely be troubled by the risk that the Banner poses to students' ability to follow their own consciences.

And freedom of conscience was the basis of the Court's decision in **Ahlquist**. The Court recognized the principle enshrined in the Constitution that where the State endorses religion, it impedes an individual's freedom of conscience. The Court closed its opinion by quoting Roger Williams, who pleaded for "liberty of conscience" and believed that neither "Papists, Protestants, Jews or Turks be …compelled from their own particular prayers or worship, if they practice any."[29] The Court's decision acknowledges that a violation of one individual's freedom of conscience is a violation of all individuals' freedom of conscience. If one individual cannot follow his or her own religious values, what would stop one religion from dominating our government and excluding all of those people whose religious values are not in accord with that chosen faith.

In closing, although the **Ahlquist** court feared that its decision would be interpreted as a "harsh" commentary on religious practice,[30] the decision conversely promotes religious freedom. In reaching its holding on the basis of freedom of conscience, the **Ahlquist** Court promotes religious freedom. The protection of freedom of conscience, so important to Thomas More, is the bedrock of religious freedom in the United States. Indeed, religious freedom has always been a principle guiding our nation's mores. As Judge Edward F. Harrington of the U.S. District Court in Massachusetts wrote, the "[t]he idea of 'separation of church and state' was never meant to protect the state. Rather, it was designed to protect the religious rights of the people from the

Why Outsource Legal Writing and Research?

- Gain the fresh perspective an outside attorney can bring to your case;
- Provide a sounding board to help frame and narrow the issues;
- Weather the inevitable busy times; and
- Avoid fixed overhead. Pay only for the time to complete the project

Law Offices of Maurene Souza
50 South Main Street
Providence, RI 02903
401-277-9822 souzalaw@cox.net
Licensed in Rhode Island and Massachusetts.

Social Security Disability SSI/SSDI

Green & Greenberg
Counselors at Law

Offices located in Providence, Pascoag, Central Falls, Woonsocket, Taunton, New Bedford, Fall River, Brockton and Middletown

Referrals Accepted.
New client appointments at your office or ours.

116 Orange St., Providence, RI
telephone 401.331.8989
fax 401.331.6644
www.ggsslaw.com

Chisholm Chisholm & Kilpatrick LTD
is pleased to announce that Thomas R. Bender, Esq. has joined the firm in its new location on the 11th floor of the Turks Head Building, in Providence, RI.

Thomas R. Bender, Esq.

Tom, a Fellow of the American Academy of Appellate Lawyers, brings a wealth of appellate advocacy experience in civil matters to CCK. He will focus his skills on representing disabled armed service veterans in the federal courts, including the U.S. Court of Appeals for the Federal Circuit, as well as select appellate matters in the U.S. Court of Appeals for the First Circuit and the Rhode Island Supreme Court.

Chisholm Chisholm & Kilpatrick LTD
One Turks Head Place, Suite 1100
Providence, RI 02903
401.331.6300
800.544.9144
www.cck-law.com

incursion of the government."[31] The State is to stay out of matters of religion so that Americans have the "freedom" to follow religion as they see fit. Thomas More is a hero for freedom of conscience and the **Ahlquist** decision furthers that principle, assuring that people of all different religious backgrounds are afforded the liberty to embrace whatever religious views they desire.

ENDNOTES

1 *Saint Thomas More, SELECTED WRITINGS, xxxi (John F. Thornton & Susan B. Varenne, eds., Vintage Books 2003).*
2 ***See id.***
3 ***See id.***
4 ***See id.***
5 ***See id.***
6 ***See id.***
7 ***See id.** at xxxi-xxxii.*
8 ***See id.** at xxxii.*
9 ***See id.***
10 *See Steven D. Smith, INTERROGATING THOMAS MORE: THE CONUNDRUMS OF CONSCIENCE, St. Thomas L. Journal 580, 583 (2003).*
11 ***See id.***
12 *See Selected Writings at xxxii.*
13 ***See id.***
14 ***See** Selected Writings, 137.*
15 ***See id.** at 139.*
16 ***See id.***
17 ***See id.***
18 ***See id.** at *1.*
19 ***See id.** at *2.*
20 ***See id.** at *3.*
21 ***See id.** at *3, 6.*
22 ***See id.** at *6.*
23 ***See id.** at *3.*
24 ***See id.***
25 ***See id.***
26 ***See id.** at *15*
27 ***See id.***
28 ***See id.** at *17.*
29 ***See id.** (internal quotations and citations omitted).*
30 ***See id.** at *17*
31 *Edward F. Harrington, THE METAPHORICAL WALL, America, Jan. 17, 2005, http://www.americamagazine.org/content/article.cfm?article_id=3965 (last visited Feb. 26, 2012).* ❖

BALSOFIORE & COMPANY, LTD.

FINANCIAL INVESTIGATIONS

FORENSIC ACCOUNTING LITIGATION SUPPORT
FINANCIAL PROFILES OF INDIVIDUALS AND BUSINESSES
LOCATE PEOPLE – ASSET SEARCHES

Brian C. Balsofiore, CFE
Certified Fraud Examiner
RI Licensed Private Detective
bbalsofiore@cox.net
(401) 486-7145

Family Court Rehabilitative Support Awards: When and How Much?

John R. Grasso, Esq.
Law Office of
John R. Grasso, Inc.

Amy Broderick, Esq.
Practices law in California

Where the factors weigh in favor of support, the Rhode Island Supreme Court has not been shy to grant alimony payments…

Amber graduated from college and married Richard in her early twenties.* Shortly thereafter, she chose to leave her roots in Kansas, moving to Maryland so Richard could begin his career. Less than one year later, Amber chose to uproot herself again and moved to Arizona so Richard could pursue an even better employment opportunity. After settling down in Arizona and starting their family, Amber chose to move to Los Angeles so Richard could again better his career. Five years later, Amber chose to move to Rhode Island so Richard could make his ultimate career advancement. Amber made these choices because, she believed, each move supported the best interest of her family.

Along the way, Amber chose to begin a family with Richard. Each time Amber chose to move, she packed up her young family. New homes in Kansas, Maryland, Arizona, California and Rhode Island, new schools, new friends, and new challenges were a part of Amber's life after her marriage. Despite the heavy costs of uprooting herself and the children, each time Richard found a better career opportunity, Amber did what needed to be done so Richard could have a better job and earn more money. Even after Richard filed for divorce, which he later revoked when Amber agreed to move, Amber chose to follow him, ultimately ending up in Newport, Rhode Island.

Amber graduated from the University of Kansas with a Bachelor's degree in marketing. Amber began her marketing career when the couple moved to Phoenix, Arizona where Amber secured work as a sales representative for a large marketing firm. During the years that followed in Phoenix, Amber developed a reputation as a skilled sales representative. She cultivated and maintained a steady client base that supported her full-time work. After the birth of the couple's first child, Amber continued to work part-time, allowing her additional time for her new family.

In 2002, Richard asked Amber to move the family to Los Angeles. Unlike the first two moves, this move proved exceptionally challenging to Amber's career. Not only did Amber have to leave her established client base behind, she had to start over in an entirely new environment, by this time, with two young children to care for. Nevertheless, Amber was able to find part-time employment for a small company, working only a few days a week, allowing her greater time to care for her family. However, during the five years the family resided in Los Angeles, Amber was never able to re-build a client base or establish herself as a full-time marketing representative. Instead, Richard worked full-time while Amber took care of the family and worked as often as her schedule permitted.

Five years after their move to Los Angeles, Richard was offered employment in Newport, Rhode Island. When confronted with the choice, Amber expressed her concerns about having to establish herself again in another entirely new place and about her ability to earn a reasonable income. With Richard's assurances that his new salary would be more than enough to provide for the family, Amber made the same choice she had made three previous times and the same choice she made every other time Richard had the opportunity to better his career.

In 2009, the couple arrived in Rhode Island. Richard began his new job, earning approximately $180,000 per year, while Amber worked to establish a new home. A few years later, Richard filed for divorce. Having to raise her young children in Rhode Island without the benefit of any family support, with Richard unavailable at least one weekend per month due to traveling for his new job, confronted with a depressed economy, and having to deal with an aggressive divorce, Amber has been unable to reestablish herself professionally. Amber was left with few other choices than to seek rehabilitative alimony which the Rhode Island Family Court does not grant without a clear showing of need.

The Family Court must consider certain factors when called upon to decide whether and how much rehabilitative alimony to award a spouse seeking assistance from the other spouse. These factors are set out in Rhode Island General Laws § 15-5-16.[1] These factors include: 1) the length of the marriage; 2) the

conduct of the parties during the marriage; 3) the health, age, station, occupation, amount and source of income for each party, the vocational skills of each party, and the employability of the individual parties; and 4) the state, liabilities, and needs of each party.[2] Additionally, § 15-5-16 encourages the court to consider: 5) the extent to which the parties are unable to support themselves due to: a) absence from employment; b) outdated skills; c) the time and expense required for training and education; d) the probability of becoming self-supporting; e) the standard of living during the marriage; f) the opportunity for either party for future income; and g) the ability of the other spouse to pay.[3]

Where the factors weigh in favor of support, the Rhode Island Supreme Court has not been shy to grant alimony payments to the party in need of it.[4] Amber's case, like many before her, is one ripe for rehabilitative alimony. She is a now single-mother left to care for her children, without the support of her family who all reside in her native Kansas, after being a devoted wife for the past fifteen years. During her long marriage, Amber was the epitome of a faithful and loyal spouse. Amber presently resides in Rhode Island where she has been unable to return to the workforce due to her responsibilities as a full-time mother, her lack of connections to anyone in the state, and confronted with a depressed national economy.

So what makes Amber's request reasonable? Why should she receive rehabilitative alimony in addition to child support and the equitable division of the marital assets?

Amber sacrificed her career so her soon-to-be-ex-husband could pursue his. Amber left the workforce for her husband and her children. She has the potential to be self-supporting, but she needs time, and she needs support to rehabilitate herself to allow her to return to the workforce with a reasonable chance of success.

Rhode Island courts view alimony as temporary relief paid by one spouse to help the other become self-supporting in light of those factors set out above. This financial support was designed for cases just like Amber's where one party is left holding all the cards while the other left her cards on the table while supporting her husband and children. In Amber's case, the Family Court should award sufficient alimony based on Richard's income, Amber's financial need, and a detailed, workable plan designed to help Amber succeed in the workforce.

**EDITOR'S NOTE: This is a hypothetical case intended to illustrate the authors' points.*

ENDNOTES

1 ***See*** *R.I. Gen. Laws 1956, § 15-5-16.*

2 ***See*** *R.I. Gen. Laws 1956, § 15-5-16.*

3 ***See*** *R.I. Gen. Laws 1956, § 15-5-16.*

4 ***See Giammarco v. Giammarco****, 959 A.2d 531, 535 (R.I.2008) (Family Court properly granted alimony in the amount of $200 a week for a period of three years in addition to the equitable distribution award as well as ongoing social security payments as the defendant did suffer from a variety of medical maladies but was healthy enough to participate in hobbies and therefore would eventually become employable);* ***Vicario v. Vicario****, 901 A.2d 603, 612 (R.I.2006) (Family Court properly considered all statutory factors in granting rehabilitative alimony in the amount of $500 a week for a period of three years as that was the amount the husband gave the wife every week during the marriage to pay the bills. This award was granted to help the wife from dissipating all of the marital assets in her attempt to re-enter the workforce).* ❖

BANKRUPTCY

Revens, Revens & St. Pierre

James E. Kelleher

946 Centerville Road

Warwick, RI 02886

(401) 822-2900 **telephone**
(401) 826-3245 **facsimile**
jamesk@rrsplaw.com email

Attorney to Attorney Consultations/Referrals

TITLE CLEARING

QUIETING TITLE ACTIONS

Roger C. Ross

Blais Cunningham & Crowe Chester, LLP

150 Main Street
Pawtucket RI 02860

TELEPHONE: (401) 723-1122
FAX: (401) 726-6140
EMAIL: *rross@blaislaw.com*

Bourbon Street Blues

American Bar Association Delegate Report: ABA Mid-Year Meeting

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

NOLA. The Big Easy. The Crescent City. Home of Archie Manning. Describe it any way you want, New Orleans is unique with its fusion of music, southern cooking and "let the good times roll" attitude. The ABA Mid-Year meeting there in February was packed full of events, speaking engagements, and the House of Delegates meeting. The Opening Assembly was addressed by Mitch Landrieu, the up and coming young Mayor who described the obvious resilience of the city after the devastation of Hurricane Katrina.

At each ABA meeting I attend a variety of events and committee meetings on a broad range of topics. This year, Linda Klein, the Chair of the ABA House of Delegates and a putative ABA President in-waiting, appointed me to the Committee on Delegate Involvement whose charge is coordinating House of Delegates' activity with the ABA's overall aims. Additionally, I continue my involvement in the General Practice, Solo and Small Firm Division, the Section of Family Law, the Minority Caucus, Women's Caucus, Disability Forum, and the Caucus of State Bar Associations, of which I am a Past President. I also attended a few National Association of Bar Executives and the National Conference of Bar Presidents events where we are ably represented by the Bar's Past President Tom Lyons and Executive Director Helen McDonald.

A keynote event was a review of the state of the US Supreme Court and other federal court dockets by Associate Justice Antonin Scalia. Railing against what he characterized as a "plethora of nickel and dime" criminal cases demanding the federal court precedence, he argued civil case attention is suffering. And, at another presentation, US Attorney General Eric Holder expressed his department's continued support of allocating sufficient the resources to indigent defense.

The ABA House's three major policy initiatives are as follows:

1) Addressing the crisis in funding for the state and federal judiciaries due to state and federal budget shortfalls. Eric Washington, head of the Conference of Chief Justices, detailed the problems faced by state courts (in some jurisdictions, retailers and lawyers are asked to supply pens and paper to court offices) in maintaining their mission while under budget and forced employee and judge furloughs. ABA President William Robinson's mantra is, "No courts, no justice, no freedom" to describe the crisis in court funding. As Hamilton said in the Federalist No. 78, "The judiciary is beyond comparison the weakest of the three departments of power; that it can never attack with success either of the other two; and that all possible care is requisite to enable it to defend itself against their attacks."

2) Addressing the mushrooming cost of a legal education and the dearth of jobs for law school graduates. There are ongoing recriminations about the causes of these problems and theoretical solutions abound. One thing is clear. Given the graduates' large loans and the burgeoning needs of our country's indigent population, we can and must find a way to incentivize these graduates to service these needy populations while, at the same time, retiring their debt.

3) Addressing ignorance concerning the rule of law and how the lack of civic education in our schools erodes confidence in our legal system. While some new civic education programs are moving forward, they are threatened by the same budgetary priority crisis as our courts.

Other issues addressed by the House included: Ethics 20/20, the study of and implementation of ethics recommendations in light of global practice and technology trends; cross border discovery; changes in the practice of law caused by increased use of electronic devices and mobile technology; military spouse bar admission requirements; accommodating Bar exam test takers with disabilities; the use of simulcasts and recorded seminars satisfy legal education requirements; and a series of criminal law and procedure resolutions.

I thoroughly enjoy representing our Bar Association in the ABA, and I am happy to receive any concerns from Bar members concerning issues before ABA House of Delegates. It is an honor and privilege to serve you in this position. ❖

SOLACE

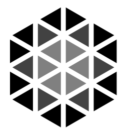
Helping Bar Members in Times of Need

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. If you need help, or know another Bar member who does, please contact Executive Director Helen McDonald at hmcdonald@ribar.com or 401.421.5740.



StrategicPoint

A FOCUS FINANCIAL PARTNER

StrategicPoint is an independent investment advisory firm serving the Rhode Island community for more than 20 years.

We can help your clients manage their finances resulting from:

- **Settlements from Personal Injury Lawsuits or Divorce**
- **Probate Resolutions**
- **Estate Inheritance**
- **Medical Malpractice Settlements**

Providence & East Greenwich
1-800-597-5974
StrategicPoint.com

Managing Directors:
Richard J. Anzelone, JD
Betsey A. Purinton, CFP®

StrategicPoint Investment Advisors, LLC is a federally registered investment advisor and is affiliated with StrategicPoint Securities, LLC, a federally registered broker-dealer and FINRA/SIPC member.

BOOK REVIEW

BUCKLEY: William F. Buckley and the Rise of American Conservatism

by Carl T. Bogus

Anthony F. Cottone, Esq.
Sole Practitioner &
Providence Deputy City
Solicitor*

The focus of the book, however, is not Buckley's personality, management skills or social panache, but the quality of the ideas he promoted.

Roger Williams University Law Professor Carl T. Bogus' informative and well-written new book, *BUCKLEY: William F. Buckley and the Rise of American Conservatism* (Bloomsbury Press, 2011), reached local bookstores just as the political cognoscenti were turning their attention to the GOP presidential primaries. As has been widely observed, the early primaries, while not lacking in bizarre political theater, have left the GOP rank and file questioning the true ideology of their presumptive nominee, which makes Professor Bogus' new book especially timely.

Buckley spent the better part of his life waging an ideological battle for the heart of conservatives, fusing together an eclectic mix of libertarians and religious neoconservatives, attempting to wrest GOP control from the more pragmatic Burkians who historically represented the party's moderate center. As Bogus recounts, Buckley's battle culminated with Ronald Reagan's election as president, prompting Buckley to joke that "with Reagan in the White House… he [Buckley] would henceforth list his occupation as ventriloquist."

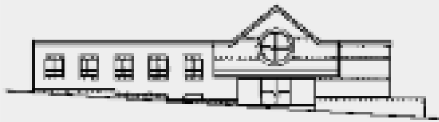
Yet, more than two decades post-Reagan, the GOP's ideological warriors seem as divided as ever. Perhaps this is because, as Bogus notes, Burkian conservatism and libertarianism are theoretically opposite and practically irreconcilable, a truism which many in the GOP seem unwilling to accept, despite the internecine political warfare.

Although an avowed liberal, Bogus goes out of his way to be fair to the conservative Buckley who, one suspects, he genuinely admires, focusing on the period from the birth of *National Review* in 1955 to Richard Nixon's election in 1968. Bogus gives Buckley credit for the rise of modern conservatism, which "changed the course of history," and suggests the movement's political success was directly attributable to Buckley's determination, selflessness, and considerable personal skills, which enabled the new movement to avoid being painted with a brush wielded by right-wing extremists, such as John Birch Society founder Robert Welch.

The focus of the book, however, is not Buckley's personality, management skills or social panache, but the quality of the ideas he promoted. Thus, it is curious that one of Bogus' central theses – that Buckley "was not a political philosopher with original ideas… [and] more or less inherited his ideas from his father and took them for granted" – depends upon a very personal, rather than political, insight, which Bogus does little to support. Although Bogus' detailed treatment of Buckley's father's days as an archetypal ugly American oil baron during the Mexican revolution is entertaining in its own right, it does not adequately support this sweeping generalization. (Coincidentally, Mitt Romney shares an ancestral Mexican connection with Buckley, although in the case of Romney's grandfather, Mexico's appeal evidently was more about polygamy than oil).

Not surprisingly, the liberal Bogus concludes that Buckley's ideology was more a political than practical success. What does come as somewhat of a surprise is Bogus' fair-mindedness, which is a welcome contrast to the harsh partisan tone of much political writing these days. Bogus recounts the Cold War's greatest hits in an engaging style which only occasionally betrays his professorial penchant for the extraneous detail and persuasively illustrates how Buckley's *National Review* was simply wrong on many of the most pressing issues of the day, such as civil rights. Buckley opposed federal intervention, believing that we could "evolve our way up from Jim Crow" and Vietnam. The *National Review's* voice on foreign policy, former Trotskyite James Burnham, rejected George Kennan's containment theory in favor of a more aggressive rollback policy. Finally, Bogus undermines a fundamental premise of many Reagan acolytes by noting that the national deficit, as well as the size of the federal government, grew dramatically during Reagan's tenure as President, while opining that "Reagan's contributions to bringing about the demise of the Soviet Union and the end of the Cold War were made just as much in spite of modern conservatism as because of it."

Perhaps an important insight into Buckley's



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.

Help Our Bar Foundation
Help Others

RHODE ISLAND BAR FOUNDATION GIFT

PLEASE PRINT

My enclosed gift in the amount of $ ____________________

Please accept this gift in my name

or

In Memory of ____

or

In Honor of ____

Your Name(s) ____

Address ____

City/State/Zip ____

Phone (in case of questions) ____________________________

Email: ____

Please mail this form and your contribution to:

Rhode Island Bar Foundation
115 Cedar Street
Providence, RI 02903

Questions? Please contact Virginia Caldwell at 421-6541
or gcaldwell@ribar.com

belief system and the political durability of his ideology can be gleaned from his seemingly visceral dislike of Ayn Rand, who, as Bogus recounts, Buckley attempted to "read right out of the conservative movement" by assigning the review of her most famous novel, *Atlas Shrugged*, to Whittaker Chambers. At the time, Chambers was *National Review's* most well-known conservative, and, as Buckley was well aware, Chambers could not stomach either Rand's philosophy or her literary style, as he made perfectly clear in a scorching review that became, at least in certain circles, nearly as well-known as the novel. Buckley even went so far as to write an uncharitable obituary of Rand, and according to Bogus, "to this day *National Review* continues to publish articles denouncing Rand and her work."

It was not her public policy positions, as Buckley and Rand agreed on most issue, but her atheism which precipitated Buckley's extreme reaction. Despite his ready wit and taste for linguistic gymnastics, Buckley's brand of conservatism was premised less upon intellectual rigor than, as Bogus notes, upon what Buckley viewed as "the immutable truths of human nature and Christian values." No doubt the current appeal of such an approach to the GOP base is not lost upon the party's likely nominee, a Mormon who uses every opportunity to describe the upcoming general election as "a battle for the soul of America." If true, it is a battle which would have put Buckley, the uber Roman Catholic, in quite a bind.

**The views expressed are solely those of the author and do not reflect those of the City or any City official or entity.*

Haymarket Riots

continued from 9

Baltimore in 1883.]"[13]

It was not until the twentieth century, starting with **Gitlow v. New York**,[14] that the Supreme Court began making the Bill of Rights' guarantees applicable to the states through the due process clause of the Fourteenth Amendment, but only on a piecemeal basis. Although **Gitlow** was the beginning of this process, the victory for Mr. Gitlow himself was rather a pyrrhic one. Ben Gitlow was convicted of violating New York State criminal anarchy statute.[15] His sole offense was he had published an Anarchist Manifesto. New York's criminal anarchy statute made it illegal to advocate anarchism in speech or in writing, regardless of how theoretically or abstractly. Gitlow appealed from the highest appellate court in New York, the Court of Appeals, to the U.S. Supreme Court. "The sole contention here is, essentially, that as there was no evidence of any concrete result flowing from the publication of the Manifesto or of circumstances showing the likelihood of such result, the statute as construed and applied by the trial court penalizes the mere utterance, as such, of doctrine having no quality of incitement."[16] Gitlow argued that this circumstance violated the First Amendment, made applicable to the states through the Fourteenth Amendment. In dictum, the Court said, and this is why the case is famous: "For present purposes we may and do assume that freedom of speech and of the press – which are protected by the First Amendment from abridgement by Congress – are among the fundamental personal rights and 'liberties' protected by the due process clause of the Fourteenth Amendment from impairment by the States."[17] The Court then upheld the constitutionality of New York's criminal anarchy statute, and upheld Gitlow's conviction. Justice Holmes issued a brief dissent, which Justice Brandeis joined, repeating his view that there should be no punishment of speech absent "a clear and present danger" of resulting violence.[18] Ben Gitlow went to prison for publishing a manifesto.

Justice Sanford's dictum in **Gitlow**, that the guarantees in the Bill of Rights *could* be made applicable against the states through the due process clause of the Fourteenth Amendment, but not in that case, set off one of the great debates

Mark Dana is pleased to announce the opening of his new firm **Dana & Dana, Attorneys at Law**.

Mark brings over 23 years of experience in litigating both civil and criminal cases. He is a member of the American Board of Trial Advocates and has over 40 jury trials to his credit. Clients retain Mark on the most difficult and complex cases often involving multi-million dollar damage claims. Between 2006 and 2011 Mark obtained jury verdicts on behalf of his clients totaling over $3 million. As principal of Dana & Dana, Mark is committed to producing the best results for his clients.

MARK DANA, ESQUIRE

35 Highland Avenue • East Providence, Rhode Island 02914
P: (401) 438-3800 • F: (401) 438-3804
Email: mwdanalaw@gmail.com

127 Dorrance Street
All Inclusive Class A Office Space

Absolutely beautiful professional office space located at 127 Dorrance Street, Providence (Directly next door to the Garrahy Courthouse).

Multiple individual offices available in different sizes. Large Conference room with library and Palladian windows. Interior glass windows throughout office.

Full service offices include Utilities, Receptionist, Heat, Electric, Cox Internet, Copier and Fax. Rents range from $475 month to $750 month (all inclusive) depending on size of office.

(401) 580-4511

running through twentieth century jurisprudence in the United States. The debate was between conservatives, like Justice Felix Frankfurter, who argued that the Fourteenth Amendment did not provide for broad incorporation of the Bill of Rights, and liberals like Justice Hugo Black, who argued that the very purpose of the Fourteenth Amendment was to provide complete, wholesale incorporation of the Bill of Rights. A classic example of the clash between these two judicial titans is found in **Adamson v. California**.[19] **Adamson**, like the Haymarket case, involved a death penalty. The Supreme Court recognized and acknowledged that Adamson, a California death-row prisoner, was compelled to testify against himself in violation of the Fifth Amendment. The Court ruled that the Fifth Amendment protection against self-incrimination did not apply to the states. Adamson was executed.

Both Frankfurter's concurrence and Black's dissent in **Adamson** are classics of the genre. And, neither Frankfurter nor Black confined their argument to Supreme Court opinions. After Frankfurter retired from the Court, he set forth his argument in the pages of the Harvard Law Review. Felix Frankfurter, *Memorandum on "Incorporation" of the Bill of Rights Into the Due Process Clause of the Fourteenth Amendment*.[20] This was Frankfurter's last published work. Not to be outdone, Justice Black responded in a pair of James S. Carpentier Lectures delivered at Columbia University in March 1968, and later expanded into a book, *A Constitutional Faith*.

As the twentieth century progressed, one after another of the guarantees in the Bill of Rights were made applicable against the states through the Fourteenth Amendment. Today, as Yale Law School Professor Akhil Reed Amar points out, the parts of the Bill of Rights applied to the states "reads like the greatest hits of the modern era": freedom of speech and the press (**New York Times v. Sullivan**,[21]); privilege against compelled self-incrimination and right to counsel (**Miranda v. Arizona**,[22]); right to counsel (**Gideon v. Wainwright**,[23]); and right to a jury trial in a criminal case (**Duncan v. Louisiana**,[24]) in his book, *The Bill of Rights and the Fourteenth Amendment*.[25]

But, when plied in 1886 by the lawyers for the Haymarket defendants, the argument that the Bill of Rights applied to the

At the end of the day...

Who's Really Watching Your Firm's 401(k)?

And, what is it costing you?

Please visit the ABA Retirement Funds Booth at the upcoming Rhode Island Bar Association Annual Meeting for a free cost comparison and plan evaluation. June 14-15, Rhode Island Convention Center, Providence, RI

	YES	NO
Does your firm's 401(k) feature no out-of-pocket fees?	☐	☐
Does your firm's 401(k) include professional investment fiduciary services?	☐	☐
Is your firm's 401(k) subject to quarterly reviews by an independent board of directors?	☐	☐

*If you answered no to any of these questions, contact the ABA Retirement Funds Program by phone **(866) 812-1510**, on the web at **www.abaretirement.com** or by email **contactus@abaretirement.com** to learn how we keep a close watch over your 401(k).*

Who's Watching Your Firm's 401(k)?

The American Bar Association Members/Northern Trust Collective Trust (the "Collective Trust") has filed a registration statement (including the prospectus therein (the "Prospectus")) with the Securities and Exchange Commission for the offering of Units representing pro rata beneficial interests in the collective investment funds established under the Collective Trust. The Collective Trust is a retirement program sponsored by the ABA Retirement Funds in which lawyers and law firms who are members or associates of the American Bar Association, most state and local bar associations and their employees and employees of certain organizations related to the practice of law are eligible to participate. Copies of the Prospectus may be obtained by calling (866) 812-1510, by visiting the website of the ABA Retirement Funds Program at www.abaretirement.com or by writing to ABA Retirement Funds, P.O. Box 5142, Boston, MA 02206-5142. This communication shall not constitute an offer to sell or the solicitation of an offer to buy, or a request of the recipient to indicate an interest in, Units of the Collective Trust, and is not a recommendation with respect to any of the collective investment funds established under the Collective Trust. Nor shall there be any sale of the Units of the Collective Trust in any state or other jurisdiction in which such offer, solicitation or sale would be unlawful prior to the registration or qualification under the securities laws of any such state or other jurisdiction. The Program is available through Rhode Island Bar Association as a member benefit. However, this does not constitute an offer to purchase, and is in no way a recommendation with respect to, any security that is available through the Program.

C12-0201-010 (2/12)

DENISE C. PAULSON

Professional Spanish and Portuguese Interpreter Services in legal and medical settings.

- Fluent in 3 languages.
- Professionally trained at Boston University with emphasis in legal and medical interpreting.
- Experience in legal and medical settings including in court, depositions, arbitrations, mediations, general hospital and emergency rooms.

denise.paulson@comcast.net • Cell # 508-965-5556

states through the due process clause of the Fourteenth Amendment was a sure-fire loser. The Supreme Court declined even to hear the Haymarket appeal.[26]

Today, I hazard that not one American in 100 knows about the Haymarket riot, even though it provided the basis for the worldwide observances today of May Day. Probably not one American in a thousand could identify Albert Parsons or August Spies, much less Michael Schwab or Adolph Fischer.

Some Americans, however, do remember. On October 5th, 1969, in connection with the "Days of Rage," the Weatherman faction of Students for a Democratic Society (SDS) bombed the police statute standing in Haymarket Square. The statue was a memorial to the police officers, but not the workers, slain in the 1886 riot. The two who committed the 1969 bombing were Bill Ayers, who describes the bombing in his 2001 book, *Fugitive Days*,[27] and Terry Robbins, who would die a few months later in the Greenwich Village townhouse explosion on March 6th, 1970. After the 1969 bombing, the Chicago city fathers rebuilt and re-installed the police statute in Haymarket Square, and one year later, on October 5th, 1970, the Weathermen blew it up again.

The 1969 bombing was tainted by its association with the Days of Rage. I was on the staff of the War Resisters League (WRL) in New York at the time. The Days of Rage were so ill-conceived my WRL staff colleagues and I speculated whether the project was the work of President Nixon's *agents provocateur.* And the 1970 bombing was accompanied by a statement that accurately reflected the Weathermen's completely tin ear: "We blew away the Haymarket pig statute… all-out war between the pigs and us…. We learned from Amerikan history…."

Today, May Day is the international workers' holiday, observed in much of the world, but not here in the United States where the events occurred that originally gave rise to the holiday.

ENDNOTES

1 *111 W. Va. L. Rev. 453, 487 (2009).*
2 *Viral History Press, September 27, 2011.*
3 *122 Ill. 1, 12 N.E. 865 (1887).*
4 *122 Ill. at 26-27, 12 N.E. at 880.*
5 *122 Ill. at 26-27, 12 N.E. at 880.*
6 *122 Ill. at 48, 12 N.E. at 888-889.*
7 *122 Ill. At 48, 12 N.E. at 888.*
8 *122 Ill. at 889, 12 N.E. at 50.*
9 *122 Ill. at 52, 12 N.E. at 890.*

Professional Offices

$300-$600 PER MONTH

Newly-renovated office space

with a common waiting area, kitchen, and a
conference room with a large, flat-screen television.
Possibility to share receptionist and telephone service

1588 Newport Avenue, in Pawtucket
at the South Attleboro line

300 yards off Route 95 with easy on/off ramps
Walk to train station and bus line
Just minutes from Providence and TF Green Airport
45 Minutes to Boston and Logan Airport

Contact Bob Lallier
Telephone: (401) 258-2258 Email: relallier@gmail.com

Your One Call

PELLCORP INVESTIGATIVE GROUP, LLC

Private Investigations

Edward F. Pelletier III, CEO
(401) 965-9745
www.pellcorpinvestigativegroup.com

OCEAN STATE Weather

STEVEN R. CASCIONE
Meteorologist

109 Larchmont Road
Warwick, Rhode Island 02886
Tel: 401-439-9023

CONSULTING & EXPERT WITNESS SERVICES

IMMIGRATION LAW

JAMES A. BRIDEN

Blais Cunningham & Crowe Chester, LLP
150 Main Street
Pawtucket, RI 02860

401-723-1122

10 32 U.S. (7 Pet.) 243 (1833).
11 83 U.S. 36 (1872).
12 123 U.S. 131, 8 S.Ct. 22, 31 L.Ed. 80 (1887).
13 123 U.S. at 166, 8 S.Ct. at 24.
14 268 U.S. 652 (1925).
15 268 U.S. at 653, 45 S.Ct. at 654.
16 268 U.S. at 664, 45 S.Ct. at 629.
17 268 U.S. at 666, 45 S.Ct. at 630.
18 268 U.S. at 672, 45 U.S. at 632.
19 332 U.S. 46 (1947).
20 78 Harv. L. Rev. 746 (1965).
21 376 U.S. 254 (1964).
22 384 U.S. 436 (1966).
23 372 U.S. 335 (1963).
24 391 U.S. 145 (1968).
25 101 Yale L. Journal 1193 (1992).
26 123 U.S. at 182, 8 S.Ct. at 32.
27 (Beacon Press, 2001), at 162-164. ❖

Lawyers on the Move

Victoria M. Almeida, Esq., Past President of the Rhode Island Bar Association and partner at **Adler Pollock & Sheehan, PC** was asked to and wrote the foreword of the 2012 Roger Williams University Law Review's Rhode Island Edition.

Robert P. Audette, Esq. of **Audette, Bazar, Cordeiro & Grasso**, 35 Highland Avenue, East Providence, RI 02914, authored, *The Longshore and Harbor Workers' Compensation Act – Comparison and Interaction with the Rhode Island Workers' Compensation Act, a chapter in the book, A Practical Guide to Workers' Compensation in RI.*

Thomas R. Bender, Esq. has joined the law firm of **Chisholm Chisholm & Kilpatrick LTD.**, One Turks Head Place, Suite 1100, Providence, RI 02903.
401-331-6300 www.ckk-law.com

Jerry Cohen, Esq., of the Boston law firm **Burns & Levinson LLP**, was elected President of the Massachusetts Bar Foundation.

Mark Dana, Esq. has opened the law practice, **Dana and Dana, Attorneys At Law LLC**, 35 Highland Avenue, East Providence, RI 02914.
401-438-3800 mwdanalaw@gmail.com

Monique A. Desormier, Esq. opened the law office of **Monique A. Desormier, Esq.**, 650 Washington Hwy, Suite 201, Lincoln, RI 02865.
401-333-3377 mdesormier@aol.com

John (Jay) R. Gowell, Esq. and **Rebecca M. McCormick, Esq.** have joined **Pannone Lopes Devereux & West**, 317 Iron Horse Way, Suite 301, Providence, RI 02908.
401-824-5100 JGowell@pldw.com
RMcCormick@pldw.com www.pldw.com

Tracie C. Kosakowski, Esq., CAMS® was promoted to the Head of Economic Sanctions Operations for RBS Citizens, N.A., 100 Sockanosset Cross Road, Cranston, RI 02920.
401-477-5819 Tracie.C.Kosakowski@citizensbank.com

Brian J. Lamoureux, Esq., Linda E. Holden, Esq., and **Jeffrey W. Ray, Esq.**, are now Partners in the law firm of **Pannone Lopes Devereux & West**, 317 Iron Horse Way, Suite 301, Providence, RI 02908.
401-824-5100 bjlamoureux@gmail.com
lholden@pldw.com jray@pldw.com www.pldw.com

Elizabeth A. Lonardo, Esq. is now an associate of **Salter McGowan Sylvia & Leonard, Inc.**, 321 South Main Street, Providence, RI 02903.
401-274-0300 elonardo@smsllaw.com www.smsllaw.com

George Page, Esq. opened a solo law practice, **George Page Attorney at Law LLC**, 285 Main Street, Suite 7, Woonsocket, RI 02895.
401-356-1566 gpageattorney@aol.com
www.georgepagelaw.com

J. Katherine Scott, Esq. and **Laura G. Handwerger, Esq.** announce the opening of their new firm, **Scott & Handwerger, LLP**, 690 Warren Avenue, East Providence, RI 02914.
401-654-6770 kscott@riestatelaw.com
lhandwerger@riestatelaw.com www.riestatelaw.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.

Family Limited Partnerships

continued from page 25

the beneficiaries' monetary and marital issues, and lack of financial prowess.[29]

The **Black** Court suggests some of those nontax motives previously asserted in **Jorgensen** may actually be permissible where a unique set of circumstances presents itself. However, it does not necessarily clarify what exactly those circumstances are. The case may suggest it is permissible to use the perpetuation of a buy and hold investment strategy as a nontax motive where the transferor has a personal connection or relationship to the stock, or where it is necessary to protect or solidify the stock when there are legitimate fears of creditors, divorce or fragmentation of the shares, that could result in the loss of a voting block.

C. Estate of Holman v. Commissioner

While originally, the Service's argument under § 2703 had failed to gain recognition, it has recently been reasserted successfully in the **Estate of Holman v. Commissioner.**[30] Under § 2703(a), any options, agreements, or rights to acquire/use transferred property at a price less than that of the fair market value, or any restrictions on the right to sell or use the property, are disregarded when calculating the value of the property. Section 2703(b), however, sets out an exception whereby § 2703(a) will not apply if it involves a bona fide business arrangement when it does not operate as a device to transfer the property to members of the decedent's family for less than full and adequate consideration, and its terms are comparable to similar arrangements entered into by people in arm's length transactions.[31]

While an in-depth discussion of **Holman** is not necessary here, it is notable that the Tax Court found that the exception in § 2703(b) had not been met, and therefore, § 2703(a) applied to disregard the "restrictions" placed upon the partnership assets.[32]

The Court's analysis does not provide planners with much instruction as the ruling does not address each of the three prongs of the exception in § 2703(b). However, the Court's acknowledgement of the § 2703 argument in **Holman** makes it clear that planners must also consider new and improved challenges posed by the IRS in forming FLPs.

WORKERS' COMPENSATION

Revens, Revens & St. Pierre

Michael A. St. Pierre

946 Centerville Road, Warwick, RI 02886
telephone: (401) 822-2900 facsimile: (401) 826-3245
email: mikesp@rrsplaw.com

Attorney to Attorney Consultations/Referrals

MARC J. SOSS, ESQUIRE

5910 Post Boulevard
P.O. Box 110127
Lakewood Ranch, Florida 34211
(941) 928-0310
mjs@fl-estateplanning.com
www.fl-estateplanning.com

Available to assist you and your clients in Florida with Estate Planning, Probate Administration and Document Review.

Office Space to share – 615 Jefferson Blvd. Warwick

Come join Attorneys **JULIE A. BRUNO** and **JOSEPH J. RANONE** in a shared office environment on the very popular and busy Jefferson Blvd. in Warwick (across from the new commuter rail and minutes from T.F. Green Airport).

We recently remodeled 1800 sq. ft. of office space to create a relaxed and professional work space. We spared no expense to provide you a rich and elegant, brand new, private office with flat screen television, state of the art computer and telephone electronics, shared waiting room, receptionist, conference room, private bathrooms, full kitchen/ break room and plenty of space for your staff and your files.

Call 401-921-5200 for more information. Available immediately.

MASSACHUSETTS
Legal Representation Statewide

Marital & Family Law

Domestic Matters

Criminal Law

Drunk Driving

Personal Injury

Atty. David A. Coughlin
141 Power Road
Pawtucket, RI 02860
Tel. 401–723–2670

I welcome Attorney Referrals

VI. Practice Pointers for Successfully Using FLPs in Uncertain Times

Although it has become slightly onerous for estate planners to successfully use FLPs in the context of estate tax planning, by no mean is it impossible. It should be noted that in forming FLPs and counseling clients as to their use, one FLP does not fit all. In fact, attorneys may wish to consider who their client is before even suggesting that an FLP be used. For instance, clients who are less likely to adhere to partnership formalities would probably not be the best candidate for an FLP as part of a plan to decrease their estate tax.

Keeping in mind that it is difficult to predict which partnerships the IRS will challenge, the best any estate planner can hope to do is to be as conservative as possible when forming an FLP in the context of estate tax planning. The list below is not exhaustive, and by no means are all of the factors absolutely necessary in order to avoid an IRS challenge. However, each should be considered, in light of recent case law, to ensure that the FLP formed is as safe as possible.[33]

1. Any correspondence with the client should emphasize the nontax advantages. Particularly in the **Jorgensen** case, the Court found it extremely probative that the communications between the attorney and client stated that the formation of the partnership was to minimize any potential estate tax.
2. During the creation of the partnership, all parties should engage in arm's length negotiations and transactions. In fact, it may be prudent to have each family member be represented by a different attorney. This is naturally important to satisfy the strictures of the parenthetical exception of § 2036.
3. The FLP members should strictly observe partnership formalities. They should hold meetings, keep records, keep minutes, etc.
4. The FLP members should not commingle partnership and personal assets. While a family member may transfer a personal asset into the partnership, such an asset becomes an asset of the partnership in exchange for a partnership interest. Further, income generated by the partnership should be deposited into a partnership account and not into a personal account.
5. Consider whether the partnership is engaged in an active business. In **Jorgensen**, the Court noted that the

partnership was not engaged in an active business since it simply held investments. If the partnership is primarily structured to hold investments, the partnership should consider changing those investments from time to time and meet with financial planners to discuss such changes to ensure that the partnership is viewed as engaged in an active business.

6. It is important to document any nontax reasons for the formation of the partnership and make sure they are prevalent throughout any of the partnership documents (i.e. the partnership agreement, minutes of meetings, etc.).

7. The operation of the partnership should further the nontax reasons asserted for its formation. Simply stating there were nontax reasons for forming a partnership is not sufficient, particularly where glaring evidence suggests otherwise.

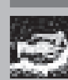
8. Family members should pay the fair market value for the use of all FLP assets. If, for instance, a house is an asset of the partnership, a member should not be living there rent-free. This helps to ensure that the partnership is treated as a separate entity.

9. Clients should be advised against putting all of their assets into the FLP, or retaining only enough assets to cover living expenses. Such actions show an implied agreement to disregard the partnership entity. Additionally, if a client wishes to put his or her primary residence into the partnership, they should be prepared to pay the fair market rent on the property.

10. The general partners must also owe the partnership a fiduciary duty, and must demonstrate that such a duty is in fact owed to the partnership. Such a duty is generally required by R.I. Gen. Laws §§ 7-12-32 and 7-13-24, and the lack of this duty will undercut the partnership's legitimacy.

11. Even after all of the general partners have died, it is important the FLP continue to operate, and the FLP does not pay for the estate taxes of the general partners, or suddenly disperse all of its funds to the remaining partners. For obvious reasons, such actions make it clear the purpose for the FLP were purely testamentary in nature and for the sole purpose of minimizing the estate tax.

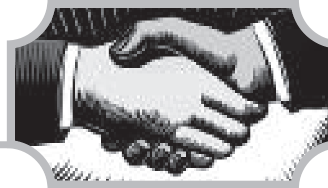
12. If, and when, any partners receive distributions from the partnership, such

1031 Exchange Services, Inc.
EXCHANGE WITH CONFIDENCE

401.331.0083 | cja@1031ri.com | www.1031ri.com
200 Smith St., Providence, Rhode Island 02908-4931

Structuring tax-deferred exchanges
throughout the U.S.
with Integrity and Experience

Charles J. Ajootian, Esq.
President and Counsel

Rhode Island's leading Intermediary since 1997.



Do You Need DRO or QDRO Help?

Kristy J. Garside, Esq.
and Jeremy W. Howe, Esq.

We prepare Domestic Relations Orders...
- Civil Service (COAP)
- U.S. Military (DRO)
- State/Local Governments & Teachers (DRO)
- ERISA (QDRO)
- Child Support (QDRO)

We consult...
- Pre-Agreement and Pre-Trial consultation for all pension plans.

We deliver...
- Approval and submission correspondence with plan administrator.

Eliminate your risk.
Save your time.
Close your files.

Call 401.841.5700 or visit us online at CounselFirst.com

The Law Offices of Jeremy W. Howe, ltd.
55 Memorial Boulevard, Unit 5 | Newport, Rhode Island 02840
EMAIL: jhowe@CounselFirst.com | www.CounselFirst.com

distributions should be made on a *pro rata* basis only and in amounts equal to each partner's interest in the FLP.

13. Only the general partners should have control over and the authority to manage the partnership. Therefore, general partners should be the only ones who have the power to write checks. The Court found this particularly probative in its analysis in **Jorgensen** where a limited partner nevertheless had the power to write checks.

14. Perhaps most obviously, the FLP should not be something that is created at a time when the client is terminally ill, particularly if the client desires to utilize the FLP to minimize potential estate taxes.

VII. Conclusion

FLPs have long been effective in achieving favorable valuation discounts in order to substantially reduce the value of taxpayers' gross estates. The ever-changing jurisprudence concerning the legitimacy of FLPs in the context of estate tax planning has made it difficult for planners to use FLPs with the typical degree of certainty with which they were accustomed. While the use of FLPs in this context has become slightly more onerous, estate planners may nevertheless continue to use FLPs as long as they are willing to continue to adapt their methods in response to the judicial climate and challenges posed by the IRS. Therefore, it is important, in such uncertain times, when no FLP is absolutely challenge-proof, to utilize a more conservative approach in forming FLPs in order to maximize the predictability of their success.

ENDNOTES

1 *R.I. Gen. Laws § 7-13-1 to 7-13-65.*
2 *26 U.S.C. §§ 2001(a) & 2501(a)(1).*
3 *Rev. Rul. 59-60, 1959-1 C.B. 237.*
4 ***See, e.g., Id.***; *Treas. Reg. § 20.2031-1(b); Treas. Reg. § 25.2512-1.*
5 ***See, e.g., Id.***; *Jonathan C. Lurie & Edwin G. Schuck, Jr., Valuation, in ALI-ABA, Estate Planning In Depth 231, 268 (2008).*
6 ***Harwood v. Comm'r***, *82 T.C. 239 (1984).*
7 *Lurie & Schuck, **supra** note 7, at 291.*
8 *Leslie A. Droubay, The Certainty of Death and Taxes for Family Limited Partnerships, 7 J. Small & Emerging Bus. L. 523, 526-7 (2003).*
9 *John F. Ramsbacher, FLP's and LLC's – Is There Life After Strangi?, 330 PLI/Est 185, 194 (2004); **Strangi v. Comm'r**, 115 T.C. 478, 486 (2000); **Strangi v. Comm'r**, 293 F.3d 279, 281 (5th Cir. 2002).*
10 ***See, e.g.***, *Technical Advice Memorandum 91-31-006; Private Letter Ruling 94-15-007.*
11 *Ramsbacher, **supra** note 9, at 193; **see** Treas. Reg. § 1.701-2.*
12 *26 U.S.C. § 2036(a).*

MARK A. PFEIFFER
Alternative Dispute Resolution Services
www.mapfeiffer.com

Bringing over three decades of experience as a Superior Court judge, financial services industry regulator, senior banking officer, and private attorney to facilitate resolution of legal disputes.

ARBITRATION MEDIATION PRIVATE TRIAL

(401)787-6995 / adr@mapfeiffer.com / 86 State Street, Bristol, R.I. 02809

Your Free Casemaker Online Law Library is Even Better!

Your free-to-Bar-members, 24/7, online law library, Casemaker, is now updated to give you state-of-the-art, Google-like search capabilities and more! New features include:

- Faster search results with a more intuitive interface
- Personalized search history, save and reuse your research
- Save research in folders organized *your* way.

Universal Search Bar is modeled closely on Google's familiar search and appears at the top of every page. You can use simple queries or enter complex search language, and, once results are delivered, intuitive filters help narrow your results.

You can now Casemaker saves your settings and search history for future visits!

Organization

- Create individual folders to store your research, and rename, reorganize, or delete with just a few clicks.
- Using the notes feature, write, post, and save notes directly to cases as you review them.
- Create client or topical folders to organize your research for future reference.

Consolidation

- Search capabilities make the wide range of libraries easily accessible and additional through features such as *citation references, search history*, and *Most Used Collections*.
- Track time spent researching for clients and create client billings.

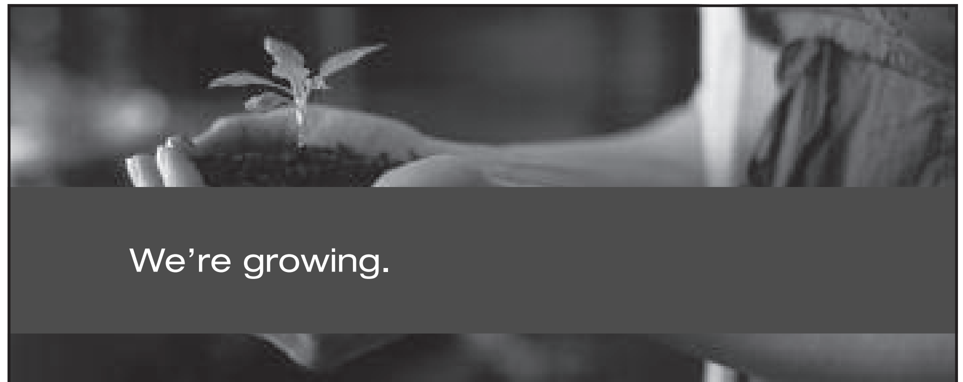
New Casemaker Personalized Search and Notation Password Protection

To protect your work product, you must create a new password within Casemaker in addition to your Bar website name and password used to access the Bar's MEMBERS ONLY section and Casemaker. This new access code prevents any unauthorized use of your personalized notations. You may use Casemaker without creating a personalized password, but you will not be able to access the personalized features of the website. You may make this choice when prompted on the Casemaker page. If you choose to create a Casemaker password, please remember that password is valid *only* within Casemaker website and you need to retain your separate Rhode Island Bar website login.

If you have any questions about Casemaker, please contact the Rhode Island Bar Association at 401-421-5740.

CASEMAKER

13 *Id.*
14 ***Schauerhamer v. Comm'r***, 73 T.C.M. (CCH) 2855 (1997).
15 *Id.*
16 ***Thompson v. Comm'r***, 382 F.3d 367 (3d Cir. 2004).
17 *Id.*
18 ***Bongard v. Comm'r***, 124 T.C. 95 (2005).
19 *Id.* at 118.
20 ***Jorgensen v. Comm'r***, 97 T.C.M. (CCH) 1328 (2009); ***Black v. Comm'r***, 133 T.C. 15 (2009); ***Holman v. Comm'r***, 130 T.C. 170 (2008).
21 Linda B. Hirschson, et al., Family Limited Partnerships And Limited Liability Companies – Watching The Law Develop, 352 PLI/Est 309, 326 (September 14-15, 2009).
22 ***Jorgensen v. Comm'r***, 97 T.C.M. (CCH) 1328 (2009).
23 *Id.*
24 *Id.*
25 *Id.*
26 ***Black v. Comm'r***, 133 T.C. 15 (2009).
27 *Id.*
28 *Id.* at 47-48.
29 ***Black v. Comm'r***, 133 T.C. 15 (2009).
30 ***Holman v. Comm'r***, 130 T.C. 170 (2008).
31 26 U.S.C. § 2703.
32 ***Holman v. Comm'r***, 130 T.C. 170 (2008).
33 For a concurrence with the factors listed, ***see e.g.***, Kathleen Sablone, Sablone On Planning With Family Limited Partnerships After Jorgensen, Lexsee 2009 Emerging Issues 3749 (July 11, 2009); Katy A. Wiles, Closely Held Business Succession Planning: How A Family Limited Partnership Can Still Work To Your Advantage In Spite Of Section 2036, 1 Entrepren. Bus. L.J. 213 (2005); Ramsbacher, ***supra*** note 9. ❖



Stewart Title Guaranty Company is adding more experts to serve you better.

Contact us or visit stewart.com/rhodeisland for more information on why Stewart is the right underwriter for you.

Stewart Title Guaranty Company
15 Messenger Drive
Warwick, RI 02888
(800) 273-2229
stewart.com/rhodeisland

stewart

© 2012 Stewart.

DAVID W. DUMAS

ATTORNEY AT LAW

5 DIVISION STREET,
EAST GREENWICH,
RI 02818

MISSING HEIRS LOCATED - GENEALOGY
CONSULTATION ON DIFFICULT TITLES

401-884-3678

IF YOUR CLIENT NEEDS AN EXPERT BUSINESS VALUATION… CALL IN A REAL EXPERT.

Over 2,500 accurate, independent and defendable valuations provided since the early 1980s. Decades of experience in both bench and jury trials.

LEO J. DELISI, JR., ASA, MCBA, ABAR

Accredited Senior Appraiser
Master Certified Business Appraiser
Accredited in Business Appraisal Review
Fellow, American College of Forensic Examiners
Valuing Businesses since 1984

WWW.DELISIANDGHEE.COM

989 Reservoir Avenue
Cranston, RI 02910
401.944.0900
Leo@DeLisiAndGhee.com

BUSINESS VALUATIONS ARE ALL WE DO. ALL DAY. **EVERYDAY.**

In Memoriam

Edmund C. Bennett, II, Esq.

Edmund C. Bennett, II, 69, passed away on February 27, 2012. He was the husband of Carol Anne Field Bennett. Ed was born in Providence, the son of Edmund J. and E. Gladys Bennett. He received his legal education in Washington, DC and worked for several years at the Internal Revenue Service. He returned to Providence and joined the law firm of Tillinghast, Collins and Tanner where he later became a partner. He was subsequently a partner at Hinckley & Allen, and established his own law practice. He served as Chancellor of the Episcopal Diocese of Rhode Island for 32 years and as Vice Chair of Rhode Island Hospital and The Miriam Hospital. He was a member of several boards of trustees and served as an officer of the Providence Preservation Society, Preserve Rhode Island, Bradley Hospital and Museum of Yachting. Besides his wife, he leaves a son Andrew Bennett of Vienna, Virginia and a daughter Sarah Allison of Lebanon, Tennessee.

George C. Berk, Esq.

George C. Berk, 88, of Cranston, passed away on February 5, 2012. He was the beloved husband of the late Claire Besden Berk. Born in Providence, he was a son of the late Alfred and Sarah Genter Bearcovitch. He was a World War II U.S. Army veteran serving in the South Pacific. George was a Harvard Law School graduate and was elected to the Board of Directors, Harvard Law School Forum. He was admitted to the U.S. District Court, District of Rhode Island and U.S. Court of Appeals, First Circuit. He served as an instructor in Business Law at the University of Rhode Island. Mr. Berk served as a member of: the Rhode Island House of Representatives; Chairman of the Commission on Uniform State Laws for the State of Rhode Island; the National Conference of Commissioners on Uniform State Laws; the Panel of Arbitrators, American Arbitration Association; and the American and Rhode Island Bar Associations. George was an Assistant Legal Counsel, Rhode Island Department of Human Services. He was a general practice lawyer in Providence for many years, retiring in 1989. George was a member of Temple Beth-El, a former member of Temple Beth Israel, and a member of Touro Fraternal Association. He was the devoted father of Suzi Nichols of Kennebunk, ME, Mimi Seabury and her husband Preston of Cranston and Robert Berk of Warwick.

Margaret Agnes Laurence, Esq.

Margaret (Peg) Agnes Laurence, 63, lawyer, mentor, teacher, philanthropist, lover of golf, sailing, and many sports, civil libertarian, business woman, devoted and beloved wife, aunt, sister, dear friend to many, passed away on March 2, 2012. Peg was a tenacious fighter and a zealous advocate. She was deeply involved in a broad spectrum of numerous community activities ranging from the arts, theater, the disenfranchised, and victims of all forms of discrimination and abuse. Her vision, leadership, compassion and generosity created change that improved the quality of lives throughout the Rhode Island community. Peg served on the boards of the Domestic Violence Resource Center of South County, the Women's Fund of Rhode Island, Perspectives Corporation, Ocean State Theatre Company, The Elizabeth Buffum Chace Center, and she was active with DayOne, the Rhode Island affiliate of the ACLU, the Rhode Island Bar Association, Rhode Island Legal Services, Habitat for Humanity, the YWCA of Rhode Island, Marriage Equality of Rhode Island, Planned Parenthood, and the Gay and Lesbian Advocates and Defenders of Boston. Peg was truly a renaissance woman. After graduating from URI, she worked for RI Blue Cross and Lever Brothers, then returned to school and graduated summa cum laude from Rhode Island College, with a masters in counseling education. Peg received a Juris Doctorate from Franklin Pierce Law Center, (now the UNH Law School). For twenty-nine years, Peg and her partner in life and law, Lise M. Iwon, operated Laurence & Iwon, Attorneys at Law, with world headquarters in Wakefield, Rhode Island. Lise was her soul mate and the love of her life. They met in law school in 1980, and it was love at first sight. Together, their dynamic, loving relationship impacted so many. In addition to her partner, Lise, of thirty-two years, she is survived by siblings Robert, and his wife Joyce, Clare and her husband Laurence Dunn, William and his wife Judith, and Thomas Henry. Peg is also survived by the Queen of England, Martina Navratilova, Ellen Degeneres, and Nelson Mandela.

John Charles Levanti, Esq.

John Charles Levanti, 63, of Westerly, passed away peacefully on March 25, 2012. He practiced in Rhode Island and Connecticut for over three decades having served as a criminal prosecutor, Westerly Solicitor and Probate Judge, and private practice. He graduated from Westerly High School, Boston University and New England School of Law. He was a member of the Calabrese Society, Westerly Yacht Club, Wood-Pawcatuck Watershed Association, Connecticut Bar Association, Washington County Bar Association, and many other civic and social organizations. He is survived by his sister, Lisa Jarvis, of Meriden Connecticut.

Steven W. Pennacchini, Esq.

Steven W. Pennacchini, 60, of East Hampton, CT, passed away February 10, 2012. He was the husband of Karen L. Campbell Pennacchini. Born in Providence, the son of the late Peter N. and Ann Manocchio Pennacchini, he lived in Warwick until moving to East Hampton 10 years ago. He was a graduate of the University of Rhode Island, and received his law degree from Ohio Northern University. He was a member of the Rhode Island and Federal Bar Associations. Mr. Pennacchini was employed as an attorney and contract director at BAE Systems in Nashua, NH for 25 years. Besides his wife, he is survived by a daughter, Amanda L. Soderlund of East Providence; a son, Jeremy E. Pennacchini of Warwick; and a sister, Doreen Cipolla of Warwick.

In Memoriam (continued)

Elliott A. Salter, Esq.

Elliott A. Salter, 86, of Barrington and Providence passed away on February 3, 2012. He was the husband of the late Geraldine Conheim Salter and the late Helene Yale Salter. Born in Providence, he was a son of the late Nathan and Eva Levy Salter. Elliot was a graduate of Brown University and George Washington University Law School. He practiced Intellectual Property Law in Rhode Island, and was the founder of the law firm Salter and Michaelson. He was the beloved father of Robert S. Salter and his wife Rebekah of Providence; the devoted brother of Lester Salter and his wife Nina of Providence; and the step-father of Doug Bonoff of Portsmouth and Lauren Fessenden of New York City. He is also survived by his great friend and caretaker Alice "Babe" Fisher.

Albert D. Saunders, Jr., Esq.

Albert D. Saunders, Jr., 78, of Portsmouth, RI, passed away on March 7, 2012. He was the husband of Valerie J. Evans Saunders for 53 years. Born in Providence, he was the son of the late Albert D. and Viola Freeman Saunders. Mr. Saunders was educated in the East Providence Public School System and attended Brown University. He was a graduate of the University of Rhode Island where he received his Bachelor of Science Degree and Georgetown University where he received his Bachelor of Law Degree. Al served as a Lieutenant in the U.S. Army Infantry in Forty Benning, GA and in Korea. He was admitted to the Virginia Bar Association, the Connecticut Bar Association and the Rhode Island Bar Association. He practiced law privately in New Haven, CT, in Providence, East Greenwich, Warwick, and North Kingstown. While a student at the University of Rhode Island, he was President of the Phi Mu Delta Fraternity. He was an East Greenwich Delegate to the 1973 RI Constitutional Convention; he previously served on the East Greenwich Town Council and as its President; he was President of the University of RI Alumni Association, a recipient of the URI Ram Award, and a member of the Executive Committee and Trustee of the University of Rhode Island Foundation; and a member and Paul Harris Fellow of the East Greenwich Rotary Club. Al enjoyed all outdoor activities, reading and traveling the world with his wife, Val. In addition to his wife, he is survived by his sister, Nancy V. Feifert of Warwick.

Milton Stanzler, Esq.

Milton Stanzler, of Providence, passed away on March 6, 2012. He was the son of Dora Finkel and Abraham Stanzler. He was a partner in the law practice of Abedon, Michaelson, Stanzler & Biener. He argued before the RI Supreme Court, the First Circuit Court of Appeals and the U.S. Supreme Court. An avid theater lover, he cofounded Trinity Repertory Company, serving as its first board Chairman. In 1959, he founded the Rhode Island Affiliate of the American Civil Liberties Union (ACLU). He was president of the Jewish Community Center, Chairman of the American Veterans Committee, and Chair for Israel Bonds. In 1972, he represented Rhode Island at the Democratic National Convention. He received the Rhode Island Bar Association's Ralph P. Semonoff Award for Professionalism and inducted into the Rhode Island Heritage Hall of Fame in 2005, and honored by the RI ACLU in 2009. He is survived by his wife Selma Schmuger-Klitzner, his children, Jonathan Stanzler, Jill Stanzler-Katz and her husband Jeff Katz,and step children Stephanie Penzell, David Penzell and his his wife Nannette.

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.
fmassie@ribar.com 401-421-5740

Advertiser Index

ABA Retirement 38
Ajootian, Charles – 1031 Exchange Services 43
Aon Liability Insurance 20
Balsofiore & Company, Ltd. – Forensic Accounting, Litigation Support 30
Boezi, Henry – Trademark/Copyright 10
Briden, James – Immigration Law 40
Chisholm Chisholm & Kilpatrick, LTD – Bender 30
Coia & Lepore, Ltd. – Workers' Comp. 7
Coia & Lepore, Ltd. – Mediation 28
Dana & Dana Attorneys at Law 37
DataNet LLC 28
Delisi & Ghee, Inc. – Business Appraisal 45
Dennis, Stephen – Workers' Compensation 8
Dumas, David – Heirs/Genealogy 45
Engustian, Christine – Green Building Lawyer 25
Goodman Shapiro & Lombardi LLC – Legal Services 14
Green & Greenberg Law Firm 29
Gregory, Richard – Attorney & Counselor at Law 10
Lahti, Lahti & O'Neill, LLC 14
Marasco & Nesselbush – Social Security Disability/Medical Malpractice 25
Massachusetts Legal Representation – David Coughlin 42
Mathieu, Joan – Immigration Lawyer 26
Mediation – Howe & Garside 43
Mediation & Arbitration – Joseph Keough 23
Mignanelli & Associates, LTD. – Estate Litigation 16
Morowitz, David – Law Firm 12
Ocean State Weather – Consulting & Witness 39
Office Space – Providence 37
Office Space – Warwick 6
Office Space – Warwick – Bruno & Ranone 42
Paralegal Services – Joseph Catalano 26
Professional Office Space – Pawtucket 39
PellCorp Investigative Group, LLC 39
Pfieffer, Mark – Alternate Dispute Resolution 44
Piccerelli, Gilstein & Co. – Business Valuation 24
Plan of Mass & RI 22
Revens, Revens & St. Pierre – Bankruptcy 32
Revens, Revens & St. Pierre – Workers' Compensation 41
Rhode Island Private Detectives LLC 24
R. J. Gallagher – Disability Insurance 23
Ross, Roger – Title Clearing 32
Sciarretta, Edmund – Florida Legal Assistance 6
Seifer Handwriting 9
Select Suites – Calart Tower – Cranston 8
Soss, Marc – Florida Estates/Probate/ Documents 41
Souza, Maureen – Drafting/Research 29
Spanish/Portuguese Interpreter – Denis Paulson 38
StrategicPoint – Investment Advisory Services 34
Stewart Title Guarantee Company 45
Zoning Handbook – Roland F. Chase 22

You may ask yourself…

How does the Rhode Island Bar Association help me?

THE RHODE ISLAND BAR ASSOCIATION is much more than a name. Your Bar consists of people and programs dedicated to enriching and enhancing your practice and your life. Through the thoughtful, caring leadership of volunteer attorneys, the Bar develops offerings designed specifically for Rhode Island lawyers. And, with the excellent assistance of the Bar's friendly and professional staff, your Bar creates and delivers a wide range of programs and services tailored to meet your needs.

Your Bar helps you **professionally** through…

- Fully interactive Bar website connecting you to your free law library, latest news, seminar information and registration, committee meeting schedules and more at www.ribar.com
- Superb Continuing Legal Education (CLE) seminars offered live and online throughout the year
- Free, 24-hours-a-day, 7-days-a-week, online law library services with Casemaker
- Terrific avenues for working with other members of the Bar and the Bench on a wide range of Bar Committee efforts
- Outstanding Lawyer Referral Service (LRS) connections to clients in search of representation
- Myriad membership benefits offering preferential products and services negotiated for you by your Bar leaders
- Respected forums for sharing your knowledge and opinions in every issue of the *Rhode Island Bar Journal*
- Informed answers to legal questions through the Bar's Online Attorney Resource (OAR) center's volunteer attorneys.
- Wonderful Annual Meeting offerings ranging from excellent CLE seminars to profession-oriented product and service providers and more
- Powerful presence in legislative matters affecting the practice of law
- Instant client and colleague connections through the Bar website's Attorney Directory

Your Bar helps you **personally** through…

- Opportunities for pro bono service to those who need it the most, coupled with free training and mentoring in important practice areas
- Lawyers Helping Lawyer Committee programs including the Bar's partnership with Resource International Employee Assistance (RIEAS) offering free-to-members services for confidential help, information, assessment and referral for a wide range of personal concerns
- SOLACE (Support of Lawyers, All Concern Encouraged) allows Bar members to offer or ask for aid and assistance to or from their colleagues
- Law Related Education (LRE) volunteer opportunities to visit classrooms with judges on Law Day and assist educators throughout the year

Same as it ever was…

…Only better

Take advantage of these benefits today through the Bar's website at www.ribar.com, or telephone the Bar today at 401-421-5740