



# Rhode Island Bar Journal

Rhode Island Bar Association Volume 69, Number 3, November/December 2020

**Conscription After *Bostock v. Clayton County***

**Mediation and the Problem of COVID-19**

**Ada L. Sawyer and *The Providence Journal***

# Articles



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Front Cover Photograph by Brian McDonald

**South County Museum, Blacksmith's Forge, Narragansett, RI** The South County Museum was founded in 1933 in North Kingstown. The property, in its current location in Narragansett, contains artifacts dating from the 17th century and is made up of several buildings. The Blacksmith's Forge is an exhibit as well as a fully functioning working forge, which includes an extensive collection of blacksmithing tools.

## Access to Justice



**Richard P. D'Addario, Esq.**  
President  
Rhode Island Bar Association

**For those under the poverty level that would qualify for legal services, there will always be an issue of access to justice until we are committed to adequately funding programs.**

I have had the privilege of attending a few ABA meetings recently in preparation for my year as President of our Bar, and one of the major issues being tackled in some of the seminars has been the access to justice, or should I say, the lack of access to justice in our country. This is a complex issue, one that touches all of us and is the responsibility of our Bar, our Judiciary, and our legislature. The issue of lack of justice in our legal system touches persons of all economic levels, with the exception, perhaps, of the very wealthy.

For those under the poverty level that would qualify for legal services, there will always be an issue of access to justice until we are committed to adequately funding programs such as Rhode Island Legal Services. Our Rhode Island Bar Association, in association with the Rhode Island Bar Foundation, has fully supported, and will continue to support legal services programs designed to provide representation for those qualified to receive such legal help. We need to encourage our legislators on all levels to fiscally support these programs.

I have attended seminars where discussions were held concerning the licensing of non-lawyers to perform certain “legal” tasks, such as handling simple divorce cases, evictions, other civil matters, and similar seemingly uncomplicated or uncontested matters. Arizona has become the second state in recent months to approve non-lawyer ownership or investment in law firms, concepts that have previously faced strong opposition in the United States.

Utah and Arizona have also approved a new category of non-lawyer licenses called “legal paraprofessionals” who will be able to represent clients in court, joining a couple of other states in broadening the pool of permitted legal practitioners. Arizona has implemented rules that provide that legal paraprofessionals must meet certain educational and experience requirements, pass a professional abilities examination, and a character and fitness process. Sounds like what we all went through to become members of the Bar. The hope in these states is that legal paraprofessionals will be able to provide members of the public with more affordable legal representation.

The State of Washington, I believe, was the first

to move in this direction as a pilot program but has since abandoned the concept, citing cost concerns and lack of interest.

It is our responsibility as members of the Bar to explore this issue and its related reality: why are we seeing so many pro se litigants? Is it a product of our internet culture, where everyone can go online and become an instant lawyer, ready to handle their personal legal problems? Or is it an economic issue? For example, can a couple earning a total of \$80,000 combined afford the ongoing cost for an uncontested divorce even when there are no children and no assets? Can an owner of real estate that has a tenant that has not paid rent in two months afford the cost of an eviction? As a result, the question some bars are addressing is whether the licensing of non-lawyers, and the resulting regulation of this new legal services provider, is necessary to tackle the lack of justice issue.

A few thoughts: when I started practicing law in 1971, we did not have the benefit of technology to aid us in the delivery of legal services to our clients. When it was necessary to file a divorce complaint, for example, or a warranty deed for a closing, we took a piece of paper, a piece of carbon paper, and a second piece of paper, inserted them into a typewriter and hoped that we did not make a mistake requiring us to redo the whole project. Now, we can pull up a template on our computer, change the names and other details as required, and hit the print button. It is not necessary to take or mail the document to the appropriate clerk’s office; a few clicks and it is e-filed.

At this point, we are required to ask whether we have passed along these time savings to our clients. In my opinion, we owe it to ourselves to take a hard look at the fees charged for simple, uncontested matters before we embark on a program to license non-attorneys to do these tasks.

At the same time, we need to make sure we are providing legal services in as efficient a way as possible to be able to charge reasonable, realistic fees to our clients.

Finally, our Judiciary must ensure that it operates in as efficient a manner as it can so that we do not waste valuable, billable time,

in providing services to our clients. The recent practice of scheduling hearings for a specific time, implemented as a result of the COVID-19 restrictions, may be the answer to wasted time in the courthouse waiting for our cases to be reached. I believe we should explore this, even as we move out of the pandemic and back to normal business, hopefully in the coming future.

If we all work together, with these goals in mind, we can go a long way to lessening the access to justice problem in our State. ◇

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## Letter to the Editor

Dear *RI Bar Journal*: I recently read President D'Addario's message in the most recent *Bar Journal* with much interest. Yes, our profession has undergone numerous changes (I've been in practice since 1990): good, bad and indifferent! President D'Addario seems "alarmed" that a colleague actually responded to a client's email after 11:45 PM. I still recall several years ago when Disciplinary Counsel David Curtin reminded the local bar membership during an ethics seminar that the most disciplinary complaints result from when we attorneys fail to respond to clients' communications. And although I believe this email could have been reasonably responded to during the following day... I believe we have all come to this point, as we live in an era when individuals have an entitlement mindset; they believe life owes them a few. I have actually witnessed the judiciary encouraging clients to seek recourse or relief against their attorneys. And we are living in an era when everything needs to be delivered yesterday, maybe even several days beforehand! No, I do not find this attorney's "willingness" to respond to what most of us sane individuals consider as out-of-sorts behavior and conduct... we also live in an era where we as attorneys must take that extra step to cover our derrieres. How many of us retain our files beyond the required seven (7) years... hold onto every last note, etc. regarding a communication with opposing counsel or a client... and just document everything and anything???

Yes, President D'Addario is correct in his assessment; this profession has become that much more stressful... certainly less cost efficient... and downright "less than what we all expected or were told in law school." In conclusion, it has become a shame how what was once such a prestigious choice of profession and a superior intellectual challenge has come to all this... no peace of mind... little satisfaction... and further bane of society in general. My condolences to all my colleagues who still hang on and fight in the trenches each and every day. I remain in great admiration of these practitioners as well!

Charles M. Vacca Jr., Esq.

## 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 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 Kathleen Bridge**  
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## Jim Jackson – The Foundation of our Foundation



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

...he has devoted himself to being a careful steward of the funds entrusted to the Bar Foundation through the IOLTA program, our scholarship and fellowship programs, and the generous contributions of our Fellows and other members of the Bar.

For those of you who may not know him, I would like to introduce you to James (Jim) Jackson, the long-time Treasurer of our Bar Foundation. Jim has been Treasurer of the Bar Foundation for so long that no one presently associated with the Foundation could remember a time when he was not the Treasurer. After a little bit of digging, however, I have discovered that Jim has been our Treasurer for over 30 consecutive years, starting in 1990.

We are very lucky to have an absolute treasure serving as our Treasurer. Jim is 90 years old, and as they say, “sharp as a tack.” His advice and counsel have been invaluable to me as President of the Bar Foundation and I am sure every Bar Foundation president for the last 30 years would echo my sentiment.

Past Bar Foundation President John Tarantino told me “Jim is iconic. He has always been there for us. In many ways, he is the foundation of the Foundation.”

Past Bar Foundation President Michael St. Pierre told me that Jim has been “the one constant stalwart” and “the voice of reason not to give away

more monies simply because we had it, but the voice of caution in maintaining our reserves. I dare say, had not Jim guided us through those years, the IOLTA program would have been gutted years ago.” In fact, a number of bar foundations throughout the country have ceased functioning because they did not have Jim Jackson’s voice of reason guiding them.

Past Bar Foundation President Susan Leach DeBlasio told me that Jim “has spent many thousands of hours working hard to help manage and safeguard the Foundation’s financial condition and help preserve and grow its assets.” She also said that Jim “is the example that our seminars and journal articles intend when describing the ultimate professional—maintaining the highest level of competency, civility, and ethics at all times through a long and very distinguished career.”



James A. Jackson, Esq.

In recognition of this, in 2018 the Bar Association awarded Jim the Ralph P. Semonoff Award for Professionalism. This Award is given to an attorney who champions “the law as a high calling, justice as a defensible right, and public service as the beacon of a life’s work.” As Michael St. Pierre said in his letter nominating Jim for the Semonoff Award, “I can think of no better person to exemplify these traits than James A. Jackson...”

Jim has been practicing law for 64 years and has been a partner in two of Rhode Island’s most prestigious law firms. Over the last 30 years, including after his retirement from Hinckley, Allen, and Snyder, he has devoted himself to being a careful steward of the funds entrusted to the Bar Foundation through the IOLTA program, our scholarship and fellowship programs, and the

generous contributions of our Fellows and other members of the Bar. We can all sleep well at night knowing that Jim has a firm hand on the rudder of the Bar Foundation’s finances.

I am particularly grateful that during my time as President, Jim has literally been seated at my right hand at every Bar Foundation Board of Directors meeting, guiding us through every financial challenge. He is without question “the foundation

of our Foundation,” and we are greatly indebted to him for his exemplary service.

One excellent way to thank Jim for the thousands of hours he has invested in our Foundation would be to make a contribution to the Bar Foundation in his name. In this *Bar Journal*, there is a **contribution** form that you can utilize to make a tax-deductible contribution, and you can make the contribution in Jim’s name. You can also rest assured that Jim will take very good care of your contribution and will make sure it is utilized where it is most needed to carry out the charitable efforts of our Bar Foundation. ◇



## Rhode Island Bar Foundation

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

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

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## Conscription After *Bostock v. Clayton County*



**Jerry Elmer, Esq.**  
Retired Attorney

...societal norms and community understandings of words may change over time, but courts are still obligated to interpret the meaning of statutes in front of them.

Whenever the United States has enacted conscription, draft resisters and draft evaders have sought legal and illegal methods to avoid the draft.

The United States' first federal conscription law was enacted by the thirty-seventh Congress and signed into law by President Abraham Lincoln on March 3, 1863, at the height of the Civil War.<sup>1</sup> When federal enrollment (draft registration) officers came to cities and towns to register men, tens of thousands of men hid out in the woods so they could not be registered; at the time, they were called "skeeaddlers."<sup>2</sup> After receiving draft notices, over 20% of actually drafted men simply refused to appear,<sup>3</sup> but no-show rates were significantly higher in some places than in others: 30.6% in Wisconsin, 31.4% in Maryland, and a whopping 43.8% in Missouri.<sup>4</sup>

And that's not all. Men stole draft records from enrollment officers at gunpoint, burned down draft offices with the records inside, and assaulted and even killed draft officers.<sup>5</sup> (Thirty-eight enrollment officers were killed and another 60 were wounded in attacks from unwilling conscripts.<sup>6</sup>) The New York City draft riots in July 1863, immediately following the enactment of the country's first draft law, were the worst riots in American history up to that point – or since.<sup>7</sup>

When the Civil War ended, conscription in the United States lapsed. On December 18, 1865, the first of the post-Civil War Reconstruction-Era Amendments was adopted. The Thirteenth Amendment barred "involuntary servitude."

In the later drafts that accompanied World War I, World War II, and the Vietnam War, some creative draft opponents (and their creative lawyers) tried arguing that conscription was an unconstitutional violation of the Thirteenth Amendment's ban on involuntary servitude. This was, of course, an argument that had not been available during the Civil War draft, because the Thirteenth Amendment had not been in existence during the Civil War. During World War I, this approach was tried by Donald Stephens and others.<sup>8</sup> During World War II, the approach was tried by Jack Bryant Ryals,<sup>9</sup> Edward C. Commers,<sup>10</sup> and others. During the Vietnam War, this was tried by George

William Crocker<sup>11</sup> and *many* others.

The argument that the draft is unconstitutional because it represents involuntary servitude in violation of the Thirteenth Amendment never worked – not once, not ever. Courts uniformly explained that the Thirteenth Amendment was meant to, and did, ban chattel slavery in the immediate aftermath of the Civil War that had been fought, in part, about the issue of slavery. Many of the courts that so held quoted a 1916 Supreme Court case, **Butler v. Perry**:

This amendment was adopted with reference to conditions existing since the foundation of our government, and the term involuntary servitude was intended to cover those forms of compulsory labor akin to African slavery... [It] certainly was not intended to interdict enforcement of those duties which individuals owe to the state, such as services in the army, militia, on the jury, etc.<sup>12</sup>

And, of course, these many courts were absolutely correct. The Thirteenth Amendment was meant to ban slavery. It was not intended to make conscription illegal. High school students learn this simple fact in American History class.

Fast forward to 2020. On June 15, 2020, the United States Supreme Court handed down its decision in **Bostock v. Clayton County**.<sup>13</sup> The question in the case was whether Title VII of the Civil Rights Act of 1964<sup>14</sup> protects gay and transgender people from workplace discrimination. Both sides agreed that the 1964 statute had outlawed workplace discrimination based on race, color, religion, national origin, and sex.

Both sides agreed that, by including sex, the drafters of the statute had meant to bar workplace discrimination against women, and had not meant to bar discrimination against gay or transgender people. Both sides agreed that, since the enactment of the law, the statute had been widely understood not to protect gay or transgender people. In fact, both sides agreed that – precisely because the law was widely understood not to protect gay or transgender people – 16 separate bills had been introduced into Congress over the years to *add* gay people to the enumerated classes protected by the statute. Both sides agreed that, for the same reason, an *additional* seven bills had been intro-

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duced over the years to add both gay and transgender people to the protected classes.

Both sides agreed that – had the original Civil Rights Act protected gay and transgender people – those 23 separate, proposed, statutory amendments (all introduced by supporters of LGBT rights) would have been wholly unnecessary. As Justice Alito said in his dissent:

The Court tries to convince readers that it is merely enforcing the terms of the statute, but that is preposterous....

[O]ur duty is to interpret statutory terms to ‘mean what they conveyed to reasonable people *at the time they were written*. If every single living American had been surveyed in 1964, it would have been hard to find any who thought that discrimination because of sex meant because of sexual orientation – not to mention gender identity, a concept that was essentially unknown at that time.<sup>15</sup>

The Supreme Court’s 6-3 majority, speaking through Justice Gorsuch, grounded its contrary ruling in the judicial doctrine of textualism, a method of statutory interpretation championed by the late Justice Antonin Scalia. Justice Scalia was the coauthor, with Bryan A. Garner, the renowned lexicographer, of *Reading Law: The Interpretation of Legal Texts* (2016). Justice Scalia’s argument was that if the plain language of a statute is clear, that is the end of the inquiry; in that case, one need not inquire what a legislature (or 535 separate legislators) may or may not have been thinking at the time a statute was enacted. Similarly, one need not do a hypothetical poll of the entire United States population more than 50 years earlier to find out how ordinary people may have interpreted various words at the time the law in question was enacted.

Justice Gorsuch acknowledged that the drafters of Title VII may not have had sexual orientation and gender expression in mind when they wrote it. He acknowledged that the meanings of words evolve over time – yet in interpreting a statute, one still needs to look at plain meaning first and foremost:

Those who adopted the Civil Rights Act might not have anticipated their work would lead to this particular result. Likely, they weren’t thinking about many of the Act’s consequences that have become apparent over the years, including its prohibition against discrimination on the basis of motherhood or its ban on the sexual harassment of male employees. But the limits of the drafters’ imagination supply no reason to ignore the law’s demands. When the express terms of a statute give us one answer and extratextual considerations suggest another, it’s no contest. Only the written word is the law...<sup>16</sup>

Justice Gorsuch went on to describe at some length these (and other) multiple ways that the Title VII prohibition on workplace discrimination based on sex have changed and evolved over the decades in ways that the drafters of the Civil Rights Act of 1964 could scarcely have imagined: sexual harassment, hostile work environment, discrimination against men, and so forth. In each of these prior cases, the Supreme Court rooted its holding in the plain language of the text barring discrimination “on account of sex,” while not being at all troubled by the fact that this latest gloss was almost certainly not what the drafters of the Civil Rights Act had envisioned decades earlier.

That is, societal norms and community understandings of words may change over time, but courts are still obligated to interpret the meaning of statutes in front of them. The Court



concluded its **Bostock** opinion this way:

Ours is a society of written laws. Judges are not free to overlook plain statutory commands on the strength of nothing more than suppositions about intentions or guesswork about expectations. In Title VII, Congress adopted broad language making it illegal for an employer to rely on an employee's sex when deciding to fire that employee. We do not hesitate to recognize today a necessary consequence of that legislative choice: An employer who fires and individual merely for being gay or transgender defies the law.<sup>17</sup>

Now let's return to the post-Civil War cases that challenged conscription based on the Thirteenth Amendment. The conscripts who brought those cases would no doubt cheerfully agree that when the Thirteenth Amendment was adopted in 1865, Congress had meant for it to abolish chattel slavery. But the Amendment does not say "chattel slavery." Instead, the Amendment bars "involuntary servitude." One need not be especially radical to acknowledge that military conscription is involuntary servitude within any plain, ordinary meaning. At every time the United States has had a draft, it also accepted volunteers. The only reason that draftees were drafted is that they were being conscripted *involuntarily*. And they were being involuntarily conscripted into the armed *services*. Their service was *involuntary*.

The teaching of **Bostock** is that, even when the common understanding of a statute's words evolve over time, interpreting courts are still obligated to interpret the plain words of a statute whenever that is possible. That is the textualism valorized by *conservative* jurists such as the late Justice Scalia.

**Query:** If conscription were to be enacted today and a party with standing (such as a conscript) were to mount a Thirteenth Amendment challenge, what result?

Jerry Elmer is a recently retired Providence attorney. He is the author of *Felon For Peace: The Memoir of a Vietnam Era Draft Resister* (Vanderbilt University Press 2005). He is currently working on a book about the history of conscription in the United States.

#### ENDNOTES

- 1 12 Stat. 731.
- 2 Robert E. Sterling, Civil War Draft Resistance in the Middle West, unpublished PhD Dissertation, Northern Illinois University, 1974.
- 3 James W. Geary, We Need Men: The Union Draft in the Civil War Northern Illinois University Press (1991), at 83.
- 4 Eugene C. Murdock, One Million Men: The Civil War Draft in the North, State Historical Society of Wisconsin (1971), at 352, 353, 355.
- 5 *Id.*, at 41-58.
- 6 *Id.*, at 28.
- 7 See, e.g., Iver Bernstein, The New York City Draft Riots: Their Significance for American Society and Politics in the Age of the Civil War (University of Nebraska Press 2010); Barnett Schecter, The Devil's Own Work: The Civil War Draft Riots and the Fight To Reconstruct America (Walker 2005).
- 8 *United States v. Stephens*, 245 F. 956 (D. Del. 1917); see also *Arver v. United States, Selective Draft Law Cases*, 245 U.S. 366, 390 (1918).
- 9 *United States v. Ryals*, 56 F. Supp 772 (N.D. Ga. 1944).
- 10 *Commers v. United States*, 66 F. Supp. 943 (D. Mont. 1946).
- 11 *United States v. Crocker*, 294 F. Supp. 776 (D. Minn. 1969).
- 12 *Butler v. Perry*, 240 U.S. 328, 332 (1916).
- 13 *Bostock v. Clayton County*, No. 17-1618; 590 U.S. \_\_ (2020).
- 14 78 Stat. 255, 42 U.S.C. § 2000e-2(a)(1).
- 15 *Bostock* (Alito, dissenting, Slip Op., at 3).
- 16 *Bostock*, Slip Op., at 2.
- 17 *Bostock*, Slip Op., at 33. ◇



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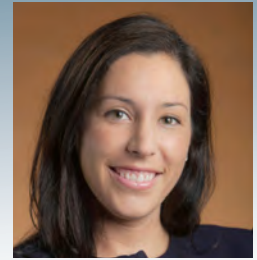
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# Lunch with Legends: Trailblazers, Trendsetters and Treasures of the Rhode Island Bar



Stephen Adams, Esq.  
Barton Gilman LLP, Providence



Jenna R. Trott, Esq.  
Barton Gilman LLP, Providence

Constance “Connie” Howes grew up in North Canton, Ohio, formally the home of the Hoover Vacuum Cleaner Company. She graduated from Kenyon College and went on to obtain her law degree from the University of Virginia after being inspired by her father, an attorney, and later by her mother, a CPA, who graduated law school in her mid-60s after raising six children. Attorney Howes was admitted to the Rhode Island Bar in 1978 and went to work for Tillinghast, Collins and Graham, where she became a partner. In 1995, she left the firm to join Women and Infants Hospital as general counsel and eventually became the President and CEO and then the Executive Vice President for Women’s Health for Care New England.

Excerpts from our conversation with this trailblazing attorney follow:

***Please describe a really memorable experience that you had as a lawyer.***

I did a lot of corporate and securities work and very much enjoyed the pressure around closing a deal, working crazy hours to get the parties to agree and get it all wrapped up. I remember one time, literally, in the middle of the night negotiating a deal – my fellow attorney was divorced from the attorney on the other side. And all of a sudden, I realized that the negotiation wasn’t about our client at all. And I said, I am going to go in the other room for a half-hour, and I’ll be back, and I just let them work it out a little bit.

***What was your most inventive legal argument?***

You know, it’s funny, I practiced law for 20 years and then I totally switched careers. If you have been doing something for 20 years, you have a lot of confidence in what you do. Then to go into a totally different field is extremely unsettling. I went to Women and Infants as general counsel, and when I became first the chief operating officer and later the CEO, I quickly realized that the skills that you have as a lawyer might not work in a business setting. You can’t be sitting there taking notes because you are disengaging when you are doing that. You can’t negotiate the way you can in a business setting, where you weigh the leverage on each side and you go for the jugular, because you have to preserve the relationship, and you want to be able to have those people come out of it, feeling respected and heard, and that is not something that lawyers are trained for. I quickly

realized, wow, all of these tools I have been using, I’ll put them on the shelf and go back to square one. So that was my reinvention, going from being a lawyer to being in an administrative and leadership position in a hospital setting.



Constance Howes, Esq.

***Who were your mentors when you started practicing law?***

I had a lot of mentors. Louise Durfee was definitely a mentor. An attorney who’s since died, Ed Bennett, was a mentor. Tom Parris, who was the prior president of Women and Infants Hospital, took a huge leap of faith and put me in as chief operating officer. There was another attorney, Alfred Stapleton, who, if you could design somebody who’s the opposite of me, you would have picked Alfred Stapleton. But he entrusted his clients to me, as he was getting ready to retire. Having those people look out for you is really a great blessing. I say to people now, any time somebody asks to meet with you, to be counseled by you, say yes. One of the great pleasures of my life is to work with

people who are young and help them out a little bit, give them a little advice and watch them flourish. It’s a wonderful thing to help someone progress in their career.

***What advice would you give to somebody who is just getting out of law school?***

When somebody asks you to do something, say yes, and get involved in the community, because that is a tremendous source of pleasure. As a very young lawyer – this shows you how far back this goes – as a very new lawyer, a group of women formed the Coalition of Women Lawyers, because we tried to get the Equal Rights Amendment passed.

***Would you do this all over again?***

Yes, I would. I have to say this, that what a gift it is to really actively practice law for 20 years, then for 20 years be a hospital administrator.

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## Mediation and the Problem of COVID-19



**Tricia P. Martland, Esq.**  
Professor of Legal Studies  
and Mediator, Roger Williams  
University



**Lori J. Giarrusso, Esq.**  
Director, Rhode Island Family  
Court Mediation

**In virtual mediation, parties that were once unwilling to “be in the same room” due to ongoing acrimony or safety concerns can now participate in mediation in a way that is both meaningful and tailored to their needs.**

“Necessity is the mother of invention” according to an old English proverb. As a result of COVID-19, we have all experienced the challenge of finding new ways to adapt in a very different world. The same is true for families in crisis who, even more so today, need help navigating conflict in their lives. To meet these needs in a pandemic world, welcome the arrival of on-line mediation services.

Mediation has long been used as a successful method of alternate dispute resolution to resolve differences and promote better communication. The process has been used by different cultures as a method of resolving differences for the past 3,000 years. One of the reasons the mediation process works is because it is easy to understand. Mediators or third-party neutrals work with clients to identify viable solutions to problems, encourage and model good communication between parties and support the drafting of resolutions designed by the parties.

In Rhode Island, family and divorce mediation services are offered by our Family Court as well as by private mediators to support self-determination and innovative solutions to family conflict. Since 1998, the Family Court has supported mediation to resolve family-related disputes as an alternative to litigation. With the onset of COVID-19, family mediators have adapted to meet the needs of families in crisis by using on-line platforms to deliver their services. Whether parties choose to retain a private mediator or access the Court based mediation program one thing that remains clear in both options is access to in-person services have become more challenging as people attempt to navigate avoiding exposure to a deadly virus.

### **Solution: Can I get that online?**

When discussing the purchase of an important item or service, a popular refrain is often “Can I get that online?” If you had asked earlier this year about mediating family disputes online the answer would have unequivocally been that it would not work – too impersonal, not confidential, people will be distracted, many people will not have the technology required to participate and

the list goes on. Then came COVID-19. Family conflict does not stop in the face of a Pandemic and some may argue it is exacerbated by it. So, “Can I get that online?” Yes! You absolutely can! Today, to connect with families in crisis and meet these needs, Rhode Island family and divorce mediators are now using a number of different online platforms to deliver mediation services. There are many advantages to offering virtual mediation including convenience, availability, and, one of the most important considerations in today’s economy, cost savings. So to those who say online is not the same – you are correct. Online mediation is not the same as in-person, it just might be even better. Here is why...

### **Technology with How to Access Online Platforms**

There are many alternative dispute resolution options, all with varying degrees of human intervention and involvement. Our experience as family and divorce mediators has shown that more human intervention and less automation provides the best situation for addressing differences between parties linked by children and/or marriage, so we were faced with the challenge of adjusting our usual in-person services to connect with parties virtually. How do you do this you ask? Well, there’s an app for that! While unfamiliarity with technology may present as an obstacle for parties considering virtual mediation, current technology has proven to be user friendly and easy to follow. Instead of greeting parties in an office setting, one click of a button allows us to see and hear them on our computer or phone screen by using any of the various video conferencing platforms.

Zoom and WebEx are two of the more widely used video conferencing applications. The Rhode Island Family Court is using WebEx to conduct their court hearings as well as their mediations. Private mediators have been using WebEx as well and some have found Zoom to be a better fit. Parties referred to Court based mediation receive an email detailing helpful tips to make their virtual mediation a success as well as a link to a web address that will transport them to a WebEx virtual conference room at their scheduled mediation time. Think of the web address as a unique street address – type that web address into the browser’s

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address bar and you land in the mediator's virtual conference room. Private mediators are using a combination of WebEx and Zoom platforms. When scheduling, most private mediators prefer to use an email invitation sent to parties which contains the appointment time and link to the virtual meeting room. The email generates an Outlook calendar event that automatically appears in all participants' calendars once the appointment is accepted. The link to the virtual session is embedded in the calendar event – easily located by the party at any time from any device. Overall, online software is user friendly, allowing a party to click a link from any computer or device and immediately be connected to a mediator and other parties in a video conference.

### Troubleshooting

Some parties may believe the virtual mediation process is inaccessible to them due to not having access to a device, computer, or internet service available for a prolonged period of time. Mediators have been able to assist parties with troubleshooting connectivity issues, sometimes even mediating the logistics of the mediation – will they participate by telephone only, no video, perhaps they will go to their attorney's office and use a space and device there – we are quite resourceful with helping parties be able to participate. A recent Zoom session included an 87-year-old nun in a headset – with virtually no technical hiccups!

### Convenience and Safety

At a time when many people do not feel comfortable traveling to an office or commercial setting, virtual mediation is a safe alternative. For parents who do not have childcare, sessions can be set up at naptime or in the evenings at a time that works best for the parties. Whether using WebEx or Zoom, parties log on to the session at a time certain and in the privacy of an environment where each party is most comfortable. Parties to an online mediation are not coming into a session stressed from participating in something short of The Amazing Race, having left work early, navigated the traffic on I-95, bartered for a parking space and barely arrived on time to the Courthouse mediation office or another public venue. Instead, they may sit in their parked car, on their backyard patio, or in their second-floor spare bedroom, and access their session. The familiar environment enables parties to be open and relaxed and free to express how they feel. They may use computers, laptops, iPads, phones, and other devices to join a scheduled meeting. Similar to in-person mediation sessions, the mediator guides the parties through the mediation process. Once parties enter the meeting, the mediator follows the traditional mediation steps to better understand their concerns and help them explore their options for resolution. Virtual mediation allows parties to resolve issues at their own pace and in a setting that is safe, comfortable, convenient, and familiar to them.

### Additional Advantages to Online

The benefits of virtual mediation go well beyond the ability of each party to be in the comfort of their own space. In virtual mediation, parties that were once unwilling to “be in the same room” due to ongoing acrimony or safety concerns can now participate in mediation in a way that is both meaningful and tailored to their needs. Some parties choose to use the live video, others choose voice only – allowing a sense of control over their

surroundings and level of participation. Sometimes mediators mediate the logistics of the mediation before they even begin the session! One client recently shared that having her dog by her feet during an online mediation provided a sense of calm emotional support, something that was unheard of in other settings.

Mediators also have a few extra tools in online mediation that do not exist with in-person sessions. First, the mute button is priceless when necessary and mediators also have the ability to use private rooms to caucus or speak with one party at a time. Another feature is the virtual waiting room, a place for parties to wait until the start of the mediation or while the mediator meets privately with the other party or attorneys. Mediators also control the opportunity for parties to communicate before or after the session. In other words, the mediator controls whether the parties hear and see each other while waiting for the session to begin as well as when the session ends. This eliminates the problem of parties engaging in impromptu hallway discussions that can quickly go south, sabotaging the process! Another advantage is both WebEx and Zoom have features that allow either party or the mediator to screen share, allowing viewing of a document for purposes of a mediated discussion. It might be a receipt for an item or a court order the parties need to reference for discussion or even more helpful, a Word document where the mediator memorializes agreements parties have made in real time while they look on. This allows for collaboration on wording and inclusion of everyone in the drafting process. It allows for greater clarity and impartiality in the agreement process since the details are visible to everyone at the same time.

One important feature of mediation that does not go away with moving online is the ability to give both parties the opportunity to speak and be heard, as well as empowering each party to advocate for themselves. Mediation can be an emotional process. It is often a place where parties have an opportunity to vent feelings and concerns in a less formal setting than a courtroom. At the start of the process, parties take turns sitting quietly while the other tells their so-called side of the story. Tensions rise and emotions run high when dealing with family relationships. This process can still be accomplished via video conferencing. Remember that mute button? If one party attempts to continually interrupt the other, a simple click of the mute button prevents the party from continuing interruption. If a party needs to take a break to compose themselves, they have the option to step away or stop sharing their video and/or audio. If the mediator believes meeting separately would be a benefit, caucus is still available using either the WebEx lobby or Zoom breakout room feature.

Our experience has been that the disadvantages to virtual mediation are far outweighed by the advantages. Meeting with parties virtually may be perceived as impersonal and some alternate dispute professionals have commented that you lose the ability to “read the room,” that is, appreciate the tone and temper of a party’s comments. Additionally, some have offered that it is difficult to recognize cues and body language staring at someone through a computer screen. These are all relevant concerns and we have found that as mediators, we simply had to change the way we made these observations. Instead of picking up on a party looking in the exact opposite direction of the other party when speaking and sitting with their arms folded across their chest, we are now attuned to a party looking down




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at their keyboard/device or pushing their chair back, away from the screen to distance themselves. A well trained, experienced mediator works in real time to overcome these logistical challenges presented by virtual mediation. Remaining professional, calm, patient and continually reassuring to parties have become the most important qualities of a mediator. Of course, the occasional humorous antidote still works to lighten the weight of the moment and help parties reorient to the matter at hand. Listening and processing – online or in-person – are still the hallmarks of an effective mediator.

### Confidentiality

Another very important concern of mediating via an online platform is the ability to maintain confidentiality. Parties are asked ahead of time to situate themselves in an area with no third parties present, out of ear shot of any children, and to turn off their other devices, reducing the opportunity to record or take a screenshot during the session. Similar to in-person mediation, a party is asked to sign an "Agreement to Mediate" the only difference being the online agreement sets out the expectation the party has complied with the requirements of participating from a confidential space. Also, though most online platforms allow for generation of a transcript of the video conference communications, mediators are able to modify the specific software's settings to prohibit recording or transcribing of the session and restrict "chat" communication between parties.

### Some things never change....

Virtual mediation should not be seen as a replacement for any of the more traditional methods of dispute resolution but rather the natural evolution of improving upon an already successful tool available to parties looking to resolve their differences on their own terms. The ability to meet clients wherever and whenever they need it is now made possible using the online format. Mediators help parties see their options for resolving their concerns and encourage them to problem-solve on their own terms in a way that is both timely and safe. A mediated agreement is far more likely to be followed by parties because they agreed on the terms. Most importantly, during this time of continued uncertainty, virtual mediation is an effective and timely alternative for parties who wish to resolve family conflict swiftly and without delay so they may concentrate on moving forward. ◊

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**November 5** **Child Support and the COVID-19 Court**  
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*Wednesday* 1:00 p.m. – 2:00 p.m., 1.0 ethics

**November 12** **Cyber Security and IT Made Easy**  
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**November 14** **The 2020 ETHY Awards**  
*Saturday* 11:00 a.m. – 1:00 p.m., 2.0 ethics

**November 17** **Federal Court Practice: Jury Trials During the Pandemic**  
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*Friday* 12:00 p.m. – 1:00 p.m., 1.0 ethics

**November 24** **Technical Fouls: Even Minor Ethics Violations Can Have Major Consequences**  
*Tuesday* 12:00 p.m. – 1:00 p.m., 1.0 ethics

**December** **The RI Parentage Act**  
**(TBD)**

**December 10** **COVID-19 Employment Law Update**  
*Thursday* 11:00 a.m. – 1:00 p.m., 2.0 credits

*Times and dates subject to change.  
For updated information go to [ribar.com](http://ribar.com)*

**NOTE: You must register online for live webinars.**

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**Reminder:** Bar members may complete six credits through participation in video replay or on demand CLE seminars. To register for an online seminar, go to the Bar's website: [ribar.com](http://ribar.com) and click on CONTINUING LEGAL EDUCATION on the left side menu.

## It's Not Too Late to Sign Up for Your 2020-2021 Bar Committees!

If you have not yet signed up as a member of a 2020-2021 Rhode Island Bar Association Committee, you can still do so! Bar committee membership runs from July 1st to June 30th.

**Even Bar members who served on Bar committees this year must reaffirm their interest for the coming year, as committee membership does not automatically carry over from one Bar year to the next.** Please join no more than three committees. Please note that committees are meeting via Zoom videoconference or teleconference until it is safe to meet in person again.

**For more information, visit the Bar's website under For Attorneys – Bar Committees. Anyone signing up for Bar committees after August 15th can do so by contacting Erin Cute at [ecute@ribar.com](mailto:ecute@ribar.com).**

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# First Virtual ABA Meeting a Success

## American Bar Association Delegate Report

### Annual Meeting 2020



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

The ABA House of Delegates met virtually at the beginning of August 2020 for our first time. I initially had some reservations about how 500 or so Delegates and thousands of observers would meet, much less vote, on important Resolutions. COVID-19 has changed the way we practice law, and we held the ABA House to the same principle of flexibility and adaption. I did miss the face-to-face meeting and hope all will be well soon. However, the electronic meeting worked seamlessly. One device joined the meeting and another device, in my case my iPhone, voted electronically.

As usual, the Delegates were greeted by the host city dignitary, in this case, the mayor of Chicago, Lori Lightfoot. She reminded us that as purveyors of justice, we are part and parcel of the interminably difficult issues of racial and ethnic justice, diversity in our legal system, and violence in our country, whilst dealing with a deadly and stubborn pandemic and seeking solutions to many of the other ills that face our society.

Our invocation was delivered posthumously by US Representative John Lewis of Georgia, which he gave live to the ABA Delegates 10 years ago. It was as moving then as it is now, especially coinciding with his recent death. “Don’t give in or give up” as he stated, is often good advice for attorneys. Sometimes “good trouble” is what we do.

The Delegates voted on several issues of special importance to lawyers: immigration reform, law student debt and forbearance on loans in light of

COVID-19; the paucity of good paying jobs for recent law school graduates; third party litigation funding; updated criminal justice standards, including restraints, in light of recent civil disturbances all around the country; animal rights law; honoring the centennial of women’s suffrage and the 19th Amendment to the Constitution; and the role of women and gender bias in our profession.

We also voted on a host of issues related to international justice such as the repression of civil rights and the rule of law and adherence to treaties in Hong Kong, the apparent mass violence in Cameroon, and representation in the ABA of US Virgin Islands, Guam, and the Marianas. In addition, we addressed the very current issue of interference in our election process by countries and other non-state actors who wish to sow discord here in electronic media, such as Facebook and other platforms.

Any one of the above issues deserves more thorough attention than I can give to a report of this size, and I welcome further discussion electronically or in-person of how the ABA works to better the practice of law. As always, I am honored and humbled to represent the RI Bar in the ABA. For me, it has offered opportunities and valuable ways of adapting to the future of the practice of law. I am still proud to be a member of this great profession. I would encourage you to join if you are not already a member. ♦

## Help Us Grow Our List Serve!

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

## Bar's Government Lawyers Committee Hosts Virtual Q&A with Law Students

On Wednesday, October 21st, the Government Lawyers Committee held a virtual event with law students from Roger Williams University School of Law, where committee members shared insights on government practice with the future lawyers of our community. In attendance were Committee Chairperson Jenna Giguere, committee members William J. Connell, Etie-Lee Schaub, Michael P. Jolin, Kara DiPaola, and 16 law students. Chairperson Giguere kicked off the meeting by introducing herself and explaining her role as Deputy Chief of Legal Services for the Rhode Island Department of Business Regulation. She also encouraged students to make the most of their bar membership when they join the Association by getting involved and joining committees. The next half hour was dedicated to committee members introducing themselves and explaining their different roles in government practice. After introductions, students used Zoom's polling feature to ask the attorneys 6 questions that they prepared in advance. Attorneys were able to answer the questions in real-time and discuss their personal experiences with the students. The questions asked were related to work-life balance, career growth, and the different challenges government attorneys face. At the end of the event, students were split up into virtual breakout rooms with one attorney per room giving students the opportunity to ask additional questions in a more personal setting. The event was a great success and provided law students with valuable insight into the profession.



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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. Or, visit our website at **coastlineeap.com** (company name login is "RIBAR"). 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.*

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## Lawyers Helping Lawyers Committee Members Protect Your Privacy

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

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

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

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

## SOLACE ..... Helping Bar Members in Times of Need

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

To sign-up for SOLACE, please go to the Bar's website at [ribar.com](http://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](mailto:hmcdonald@ribar.com) or 401.421.5740.



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## Proposed Title Standard 12.5 Open for Bar Member Review and Comment

The Rhode Island Bar Association's Real Estate Title Standards and Practices Committee, chaired by John A. Comery, Esq., at their meeting on October 15, 2020, voted unanimously to submit the following Proposed Title Standard 12.5 to the Rhode Island Bar Association's Executive Committee for its consideration. Bar members are invited to comment on these proposed changes, no later than December 1, 2020, by contacting Rhode Island Bar Association Executive Director Helen Desmond McDonald by postal mail: 41 Sharpe Drive, Cranston, RI 02920 or email: [hmcDonald@ribar.com](mailto:hmcDonald@ribar.com).

### Explanation

#### SECTION XII CONTINUED

#### STANDARD 12.5

#### RELIANCE UPON NOTICE OF DISPOSAL IN TAX LIEN CASE

Where title to real estate derived through a tax sale has been cleared by the use of a petition to foreclose rights of redemption brought under R.I.G.L. §§ 44-9-25, 44-9-25.1 or 44-9-25.2, the validity of the entry of a decree forever foreclosing and barring all such rights of redemption (as evidenced by the recording of a Notice of Disposal in Tax Lien Case pursuant to R.I.G.L. § 44-9-32) may be presumed, and it shall be unnecessary to examine either the records of the entity that conducted the tax sale or the proceedings brought in Superior Court, provided that: (a) the names of all parties specified in R.I.G.L. § 44-9-11(a) as being entitled to notice of the tax sale appear in the collector's deed; (b) the same parties, plus any other parties appearing to be interested in the title, are named as respondents in the Notice of Disposal in Tax Lien Case; (c) more than two years have elapsed since the date of recording of the Notice of Disposal in Tax Lien Case; and (d) no record evidence exists of a challenge of any kind to the tax sale or the proceedings to foreclose the rights of redemption.

#### COMMENTS:

1. R.I.G.L. § 44-9-11(a) states that as long as their interests were of record at least ninety days prior to the date of the tax sale, only the following interested parties are entitled to notice of the tax sale: (a) the present owner of record; (b) mortgagees of record and assignees of record; (c) former fee holders whose right to redeem has not been foreclosed; (d) holders of tax title; (e) federal agencies having a recorded lien on the property; (f) holders of life estates of record; and (g) holders of vested remainder interests who can be identified from an examination of the land or probate records of the municipality where the land is located.

Posting and publication of notice of the sale as prescribed by R.I.G.L. § 44-9-9 is deemed sufficient notice to all other interested parties.

2. R.I.G.L. § 44-9-12(a) states that if the collector's deed is recorded, it is prima facie evidence of all facts essential to the validity of the title conveyed by the deed.
3. Prior to the enactment of Chapter 351 of the 2018 Public Laws, which took effect on July 10, 2018, R.I.G.L. § 44-9-12(a) stated that failure to record the collector's deed within sixty days after the tax sale rendered the deed invalid. The enactment of Chapter 351 amended the statute to state that the deed is not valid against any intervening interests unless recorded within sixty days after the sale. That change applied only to deeds recorded after the effective date of Chapter 351.
4. The form for the Notice of Filing Petition is set forth as Form No. 7 in R.I.G.L. § 44-9-46; the form for the Notice of Disposal in Tax Lien case appears as Form No. 10 in the same section. Recording of both forms is required by R.I.G.L. § 44-9-32.

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## Ada L. Sawyer and *The Providence Journal*



Denise C. Aiken, Esq.  
Providence

Back in the summer of 2001, on a whim, I went over to the Providence Journal building to visit their “morgue.” It was a wonderful place that I had discovered while in high school. My theory was: if you can’t find it in the Encyclopedia Britannica, you can find it at the ProJo.

I was interested in Ada Sawyer, and the ProJo did not disappoint. They had a fat little envelope chock full of clippings of articles that had appeared in the *Providence Journal* and the *Evening Bulletin*. The clippings were yellow with age and a bit crispy. But I was able to make photostatic copies. The *Providence Journal* had a long relationship with the woman they had dubbed “The Providence Portia.”

On November 14, 1920 they ran a three-column article, with a photo, about Miss Ada L. Sawyer passing the bar examination without the benefit of college or law school. She was one of only twelve who passed.

On April 7, 1921 they checked in with Miss Sawyer at her office in the Turk’s Head Building and another lengthy article appeared. She was interviewed about the clients that she was able to bring in to the firm because women evinced confidence in her.

On January 12, 1925, the Washington Bureau of the *Evening Bulletin* ran an article announcing that Miss Sawyer, Rhode Island’s first female attorney, was admitted to practice before the US Supreme Court. (They ran the article with the same photo that we included with this article.)

Then on April 17, 1925, the *Providence Journal* announced that Miss Sawyer was chosen unanimously to be the secretary of the Children’s Law Commission. The article goes on to say that it was through her efforts as head of the State Federation of Women’s Clubs and as the drafter of the bill creating the commission and the law signed by Governor Pothier, that the commission was formed.

Articles followed in 1935 and 1937 that painted a picture of Ada Sawyer’s involvement in the arenas where law and politics merged.

And on June 1, 1964, the *Providence Journal* staff writer Florence Clement recapped the early career of Miss Sawyer when she received an honorary Doctor of Laws from Brown University. At the age of 72, Ada Sawyer finally put on a cap and gown.



Ada Sawyer, Esq.

The *Journal* will feature a series of articles related to Ada Sawyer and how she enhanced the status of women in Rhode Island. The articles are leading up to a commemorative event, organized by the Bar Association’s Ada Sawyer Centennial Planning Committee and supported by the RI Women’s Bar Association and the Roger Williams University School of Law, scheduled for October 14, 2021.

The Ada Sawyer Centennial Planning Committee is developing a digital memorial booklet to honor Ada’s accomplishments and show how her courageous actions changed the future of the profession in our state. We are asking Bar members who may have known or been influenced by Ada, or who may have had doors opened as a result of her actions, to submit a short piece detailing how you were affected. Please click here to access the [submission form](#).

**MISS SAWYER CAN PRACTICE BEFORE SUPREME COURT**

President of Rhode Island Federation of Women's Clubs Admitted to Bar of That Tribunal. Only Woman of 11 Attorneys Who Qualify.

From the Washington Bureau of the Evening Bulletin, 725 Fifteenth Street, Washington, Jan. 12.—Ada L. Sawyer, President of the Rhode Island Federation of Women's Clubs, was admitted to the Supreme Court bar at today's session of the court on motion of Alexander H. McCormick, a local attorney. Of the 11 attorneys admitted today she was the only woman, although a number of women lawyers have qualified to practice before the court at the present term.

Miss Ada L. Sawyer, the first woman admitted to the practice of law in Rhode Island, has added to that distinction the honor of being the first Rhode Island woman lawyer to be admitted to the bar of the Supreme Court of the United States.

Miss Sawyer passed her examination for the Rhode Island bar in the fall of 1920, after studying in the law office of Percy W. Gardner, to which she went as stenographer, following her graduation from the Classical high school in 1909.

Her entire professional preparation was gained there and by dint of the ambition that drove her into the profession, she passed high among the 15 candidates admitted to practice in October, 1920; all of them graduates of college or law schools. She registered for the right to take the examinations three years in advance, as demanded by the Rhode Island statute governing candidacy of admittance.

Miss Sawyer is also President of the Rhode Island State Federation of Women's Clubs. She is a member of the Women's Republican Club, in which she is active as lecturer and legal adviser; the Four Leaf Clover Club and the Gaspee Chapter of the Daughters of the American Revolution.

Photo by Sabina  
**ADA L. SAWYER**

## Thanks to Our CLE Speakers

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



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

**Nicole J. Benjamin, Esq.**  
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**Leon C. Boghossian III, Esq.**  
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**OAR** provides new and more seasoned Bar members with the names, contact information and Bar admission date of volunteer attorneys who answer questions concerning particular practice areas based on their professional knowledge and experience. Questions handled by **OAR** volunteers may range from specific court procedures and expectations to current and future opportunities within the following **OAR** practice areas:

Administrative Law	Business Law
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### TO CHOOSE YOUR OAR OPTION:

- Bar members with questions about a particular area of the law.
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## In Memoriam

### Robert G. Driscoll, Esq.

Robert G. Driscoll, age 70, of Portsmouth, died on August 19, 2020. Robert (Bob) was born in Newport, RI to George and Eloise (Phillips) Driscoll. He graduated from Brown University and the University of Maine School of Law. Bob worked as a practicing attorney for many years before taking on the position of town administrator for Portsmouth from 1990-2011. He also served as town solicitor and served on the Town Council. He remained active through the community, serving on the Board of Directors for the Portsmouth Free Public Library, the State Coastal Resource Management Council, RI League of Cities and Towns, and the Police Officers Standards and Training Commission. Bob also enjoyed sharing his knowledge and experience as an adjunct professor of Business Law and Contracts at Salve Regina University. Bob is survived by his partner, Susan Barrett of Portsmouth, his brother Gerald Driscoll and wife Heidi of Wakefield, his sister Patricia Driscoll of East Providence, and nieces and nephew.

### George Patton, Esq.

George Patton, 86, of Greenville, died September 6, 2020. Born in Providence, he was the son of the late George and Madeline (O'Neill) Patton. George was the chief information officer for the State of RI for 35 years before his retirement. He was a 1951 graduate of La Salle Academy, a 1960 graduate of Providence College, and a 1970 graduate of Suffolk University, where he received his doctorate and earned his law degree. George was a devout Catholic and a communicant of St. Philips Church, Greenville. George

leaves his nieces and nephew D. Linda Smith and her wife Cathy Rocco, Katherine O'Donnell and her husband Thomas, George Smith, and Janice Smith-Elliott and her husband Mathew. He also leaves his grand-nephews and niece Dylan O'Donnell, McKenzie, and Ryan Elliott. He was the brother of the late Joan Smith.

### Edward von Gerichten, Esq.

Edward "Ted" von Gerichten, of Boston, MA and Georgetown, ME, husband of Carmen Duarte and father to Alex and Kristina, died September 19, 2020. Ted was raised in East Northport, New York, and spent his adult years in New England. He attended Brown University, where he was a member of the men's soccer team that reached the NCAA tournament final rounds during two of his seasons. Ted was an attorney in Brown's Office of the General Counsel for his entire career. He held leadership roles in the Rhode Island Soccer Association, ultimately serving as president of Bruno United FC. Ted was a strong supporter of the YMCA, serving on the Bayside YMCA Board of Directors in Barrington for several years, and more recently engaged with the Bath, Maine YMCA near Georgetown. Ted is survived by his wife of 37 years, Carmen; his daughter Alex and husband DJ Salmon of Boston, MA, and daughter Kristina of London, England. He is also survived by his brother Gerald of Ridgewood, N.J. and sister Marlene of Chicago, IL.

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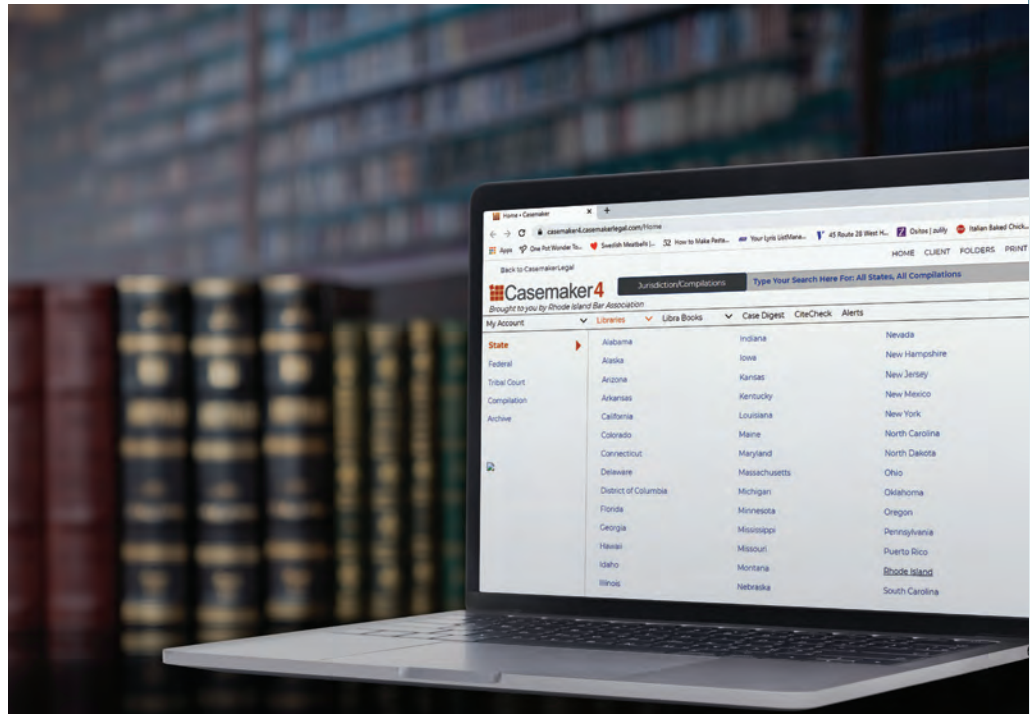
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# Casemaker Tip: Document Toolbar and Case Document Tabs

When you first click on a case from your search results, the **document tab** on the left of the screen is highlighted letting you know that you are viewing the case document. If you click the **Citing References** tab it will be highlighted. The **Citing References** tab will display the list of all the cases that have cited this case. Also, on the document page is the **Negative Treatment** tab. This will display the listing of cases that have negatively affected the case you are researching. The **Cited Cases** tab provides a listing of all the cases the case you are researching has mentioned. On all three tabs mentioned, you have the ability to conduct a search within the listed cases, and you can limit them by jurisdiction, court, date range, and case type.



When viewing the case, the **Document Toolbar** provides us with some useful links. On the left is a link to return to the listing of results. You can also navigate your results by using the set of arrows to go to the next and previous results. Next, there is a set of arrows to toggle back and forth between occurrences of your search terms. Search terms are highlighted to be easily recognizable. The two paper icons allow you to toggle between the full document and the paragraphs with hits from your search query. In the **Document Toolbar**, you will also notice the page jump feature. This makes navigating a lengthy case easier – simply select where in the document you want to jump to. Next to the page jump feature is our font resize option. You have the ability to increase the font with just one click.

The **Note** function gives you the ability to add, show, or hide notes. The notes you add here will always be available when you view this case, or when you view your notes in your **My Account** menu.

At the right end of the document toolbar are a number of tools for printing, saving, and more. First, are the icons for the **Print Queue** allowing you to add just the document or the document and all its citing references to your print queue. The **graph** icon lets you view

the citing references graph. Using the **Alert** icon, you can create a document alert to track changes. The **printer** icon will print your document now while the envelope allows you to email the document to yourself or others. The folder will allow you to save the document in the folder of your choice. And the **download** icon will save the document to your computer. Finally, the **link** icon will give you a sharable link to the document, allowing others to view it even if they are not Casemaker users.

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# Caption This! Contest

We will post a cartoon in each issue of the *Rhode Island Bar Journal*, and you, the reader, can create the punchline.



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

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

**Deadline for entry:** Contest entries must be submitted by December 1st, 2020.

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

## Winning caption for September/October



"Title Insurance! I said to that real estate lawyer. 'Why would I spend more money on title insurance?'"

CHARLES N. REDIHAN, JR., ESQ.

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## Lawyers on the Move

**Sydney R. Kirsch, Esq.** is now an associate at **Higgins, Cavanagh & Cooney, LLP**, 10 Dorrance Street, Suite 400, Providence, RI 02903.

401-272-3500 [skirsch@hcc-law.com](mailto:skirsch@hcc-law.com) [www.hcc-law.com](http://www.hcc-law.com)

**Tyler J. Pare, Esq.** is now an associate at **Higgins, Cavanagh & Cooney, LLP**, 10 Dorrance Street, Suite 400, Providence, RI 02903.

401-272-3500 [tpare@hcc-law.com](mailto:tpare@hcc-law.com) [www.hcc-law.com](http://www.hcc-law.com)

## Keep Your Directory Listing Up to Date!

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

# BEAT THE Winter Blues BEFORE THEY START

8 Tips to Help Prevent the Symptoms of Seasonal Affective Disorder (SAD).

## Create A Morning Schedule

The days are getting shorter, but you can combat the early darkness by syncing your daily schedule with the sunrise. Waking up an hour earlier can make you feel sleepier and ready to go to bed sooner, giving your day a lot less darkness, and a lot more light.



## Start A Nighttime Hobby

It can be hard to ignore the restless feeling SAD creates once you finish work for the day. So, make a distraction for yourself that will be fun, and you can look forward to. Try starting a craft project, read a book, cook your favorite meal, or bake your favorite treat. Doing something that is of interest to you offers an opportunity to feel more in control.



## Have a Good Cry

It's OK to have moments where you feel overwhelmed and upset. You're not alone! Having a good cry can be therapeutic, and a good way to release any anxiety you've been feeling. After you've dried your tears, get busy. Consider doing a task that takes you away from the overwhelming feelings and towards a happier place.



## Redeconate

Taking on a home improvement project can be a great way to keep you busy, declutter your surroundings, and give you a fresh start in the same space. Little successes, like rearranging the furniture or adding a fresh coat of paint, can help you feel a sense of accomplishment and purpose.



## Make A Winter Bucket List

When you create a list of fun winter activities you want to try, you will have things to look forward to, and it can help break up your normal routine. By the time winter hits and SAD is at its strongest, you can have go-to plans for bad days.



## Manage Your Screen Time

Cold weather often means we spend more time indoors, and that tempts us to spend more time watching television, looking at our computer screen or playing on our phone. Too much screen time diminishes mood, builds fatigue and creates too many distractions. Try making a point to put down your devices if you are suffering.



## Make Time for Sunshine

One of the main natural sources of vitamin D is sunlight. Reduced sunlight in fall and winter can create a deficiency in vitamin D. This can affect you, your mood, or your energy levels. If the weather allows for it, schedule an early-morning walk or a lunchtime stroll to make sure you're getting in your daily dose of mood boosting sunlight!



## Get Moving

Once the temperatures drop, it can be hard to find motivation to exercise. Switching up your fitness routine can prevent boredom. With the abundance of new apps and ways to stream exercise programs on your phone, TV, or tablet, now is the time to try out a new online kickboxing class or Pilates session.



## Lawyers Helping Lawyers

A Rhode Island Bar Association Member Benefit. For more information, visit our website at [ribar.com](http://ribar.com), and the *Do You Need Confidential Help Quick Link*. Also, learn how to log in to *Coastline EAP*, a private non-profit consulting service contracted by the Association to assist you at no charge.

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