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# GUIDE



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# From Disruption to Environmental, Social, and Governance (ESG) Achievements and Sustainable Growth

By AMY LIN MEYERSON

**O**n September 25, 2015, 193 world leaders joined together and committed to the United Nation's 17 Sustainable Development Goals (SDGs)<sup>1</sup> or UN Global Goals with the objectives to end extreme poverty and hunger, fight inequality and injustice, and tackle climate change, by 2030. The SDGs build upon decades of socially responsible undertakings to improve the lives of people across the globe, including the UN Millennium Development Goals,<sup>2</sup> UN Principles of Responsible Investing,<sup>3</sup> and the UN Global Compact.<sup>4</sup>

Historically, institutional investors and analysts often took a pessimistic view of a company's corporate social responsibility efforts to advance these global goals, reporting such sustainability activities as risks that would eat into profits. It was once held that the "consideration of ESG by pension funds and other financial institutions and intermediaries in investment decisions was unlawful or a breach of fiduciary duties."<sup>5</sup> Some critics argued that companies were only highlighting ESG endeavors as a marketing ploy, making grand promises they did not intend to fulfill, or "greenwashing" by conveying a false impression that the company's products were environmentally sound. Fortunately, this negative thinking and reluctance to embrace ESG issues has largely shifted.<sup>6</sup>

Over the past decade, more than \$7.2 billion has been invested in companies

*Amy Lin Meyerson is the 2020–2021 President of the Connecticut Bar Association. She is a sole practitioner in Weston, Connecticut, practicing business, general corporate, and nonprofit law. She is the American Bar Association's Deputy Representative to the United Nations.*



with core business models that advance solutions to global, environmental, educational, and workforce development; responsible consumption and production; worker safety; and societal challenges, as reported by KKR.<sup>7</sup> Global assets tied to ESG criteria have almost doubled in four years, and more than tripled over eight years, to \$40.5 trillion in 2020.<sup>8</sup> Bloomberg reports that a new study by PwC predicts that by 2025, at least 60 percent of all mutual fund assets will be ESG funds.<sup>9</sup>

This focus on ESG puts companies in a position to identify risks for disasters before they occur, and therefore, to implement effective and scalable solutions, positively impacting profits. Integration of environmental, social, and governance considerations into investment processes and decision-making is not only good policy but also financially sound. Further focus and closer examination of ESG and its reporting are on the horizon. The SEC Division of Enforcement recently announced the creation of a Climate and ESG Task Force charged with developing initiatives to proactively identify ESG-related misconduct.<sup>10</sup>

The White House has named climate change and racial and gender equality issues among the nation's priorities.<sup>11</sup> Companies around the world have done the same. Unlike the approach during the 2007-2009 financial crisis where companies focused on finances and all but eliminated efforts to include social responsibility, companies are actively promoting innovation and sustainability work. Blackrock CEO Larry Fink noted that "[f]rom January through November 2020, investors in mutual funds and ETFs invested \$288 billion globally in sustainable assets, a 96% increase over the whole of 2019."<sup>12</sup>

The Connecticut Bar Association (CBA) embraces the important impact of ESG factors on our organization's sustainability, growth, and success. The pandemic has made us all take a closer look at how we use energy and resources, and how we affect and are affected by the environment and society around us. No one could have predicted that we would be experiencing great social unrest and injustice, mental health and wellbeing issues, extremely disparate impacts on the economy, and threats to our democracy,

right in the middle of a global pandemic! This time of disruption has forced us to embrace technology and examine how we have been doing things, collaborate, and implement creative solutions, further ensuring the advancement of diversity, equity, and inclusion, and sustainability. We have let go of old ways to embrace ESG-compliant practices in order to become stronger, more resilient, more inclusive, and more valuable to our members and communities.

The CBA makes every effort to use resources wisely and is conscientious about the resources we take in, the emissions and waste we discharge, and the consequences of our actions for our staff, members, and visitors to the CBA offices. We have been replacing incandescent and fluorescent lighting with LEDs as bulbs burn out and added timers with photocells to outside lights. Our periodic energy conservation assessment includes planning for roof upgrades to further promote energy efficiency. We have shifted to paperless, electronic correspondence and virtual meetings. The CBA helped its members “go green” by offering Shredding Days on May 12th (Fairfield) and 19th (West Hartford).

As a member service association, the CBA focuses much of its efforts on the S (Social) and G (Governance) rather than the E (Environment) of ESG. Social practices that advance diversity, equity, and inclusion reflect the broad, diverse society in which we live and bring about positive change. According to a recent study by Goldman Sachs, “Increased diversity of experience, gender identity, race, ethnicity, and sexual orientation reduces the risk of groupthink and unlocks creative and impactful solutions.”<sup>13</sup>

In 2014, Paulette Brown took over as the first African American female president of the American Bar Association. Under her leadership, the ABA Board of Gov-

ernors passed a mandatory rule requiring all ABA-sponsored CLE panels to include at least one diverse speaker or moderator. Opponents argued that she was attempting to lower the quality of CLEs by requiring the inclusion of diverse panelists.<sup>14</sup>

We strongly believe the diversity of our panelists strengthens the content and depth of CBA’s award-winning CLEs. The declaration we made six years ago at the March 2015 CBA House of Delegates meeting is perhaps even more relevant today: “We are a richer and more effective association because of diversity, as it increases our association’s strengths, capabilities, and adaptability. Through increased diversity, our organization can more effectively address member and societal needs with the varied perspectives, experiences, knowledge, information, and understanding inherent in a diverse relationship.”<sup>15</sup>

With regard to governance, our work is greatly facilitated by the diverse composition of CBA leadership in gender, practice area, practice setting, geographical location, age, ethnicity, and experience from across all CBA entities. As reflected in our Strategic Plan, through transparency, disclosure, and accountability, we strive to improve the internal system of practices, controls, and procedures we adopt to govern our organization, make effective decisions, comply with the law, and meet the needs of our stakeholders.

ESG considerations are intertwined. By thinking about and acting on ESG issues, we have been able to safeguard the CBA and continue to serve our members and communities during this disruptive time. Maintaining a strong ESG position has helped us expand our services, reach new members, and further promote access to justice. Our association has become stronger, more connected, and more inclusive. Through our leadership;

staff; and over 70+ sections, committees, and task forces, the CBA stands ready to assist you with our ESG programs and initiatives.

Because of the pandemic, many of us have had to adapt to a new way of doing things, whether working from home, taking on new practice areas, or even changing jobs or firms. We honored some of our colleagues, who thrived in this challenging environment, at our virtual Celebrate with the Stars event, held on April 8, and highlighted on page 10 in this issue.

During our annual meeting, on June 15th, we will take the opportunity to pay tribute to the people in the Connecticut legal community who passed away this year and the lives lost throughout the state due to the pandemic. Our thoughts and hearts are filled with gratitude for frontline workers, especially the frontline attorneys, who put themselves and their families at risk to help clients with critical legal matters. They have continued to provide in-person representation on emergency and time-sensitive issues, such as individual health, safety, and liberty; family relations and stability; health care and end-of-life planning; criminal defense; and immigration.

The CBA cordially invites you to join us at our Connecticut Legal Conference, to be held virtually on June 15-17, with over 10 educational tracks, concurrent sessions, and plenaries featuring local and national speakers, and the 2021 Annual Meeting and Officer’s Installation. (Please see the complete Connecticut Legal Conference Guide on page 14.)

On June 15th, during the President’s Track, from 2:00 p.m. to 4:00 p.m., the Executive Committee and the In-House Counsel Committee are co-sponsoring “What General Counsel and In-House

*Continued on page 40 —*



Learn more about this topic at the 2021 Connecticut Legal Conference in **PT02 What General Counsel and In-House Counsel Are Doing to Drive Change and Achieve Results**. Register online at [ctlegalconference.com](http://ctlegalconference.com).

# News & Events

## Project Feed Connecticut Raises \$40,000 in Past Year



In April 2020, more than a dozen Connecticut professional organizations partnered to establish **Project Feed Connecticut** to collect monetary donations to benefit the state's two largest food donation organizations at the time—Foodshare and Connecticut Food Bank, which have since merged—as a response to the increased challenges and demands to feed the countless people in need of support during these unprecedented times. CBA past president and chair of the 2020 COVID-19 Pandemic Task Force Public at Large Subcommittee, Jonathan M. Shapiro, along with his subcommittee, have spearheaded Project Feed Connecticut's efforts. In the year since its inception, Project Feed Connecticut has raised over \$40,000, including a \$16,000 contribution from the CBA.

Project Feed Connecticut is a joint effort by the Connecticut Bar Association, Hartford County Bar Association,

CFA Society Hartford, Connecticut Chapter of the American College of Surgeons Professional Association, Connecticut Asian Pacific American Bar Association, Portuguese American Bar Association, George W. Crawford Black Bar Association, New Haven County Bar Association, Middlesex County Bar Association, Connecticut Society of Certified Public Accountants, the Connecticut Chapter of the American Institute of Architects, Pullman & Comley's ADR Group, the Connecticut Trial Lawyers Association, the South Asian Bar Association of Connecticut, the Connecticut Hispanic Bar Association, and the Connecticut Italian American Bar Association.

Donations can be made through the CT Bar Institute, Inc., a 501(c)(3) organization, at [ctbar.org/Project-FeedCT](http://ctbar.org/Project-FeedCT). All donations received will be distributed to the newly-merged Connecticut Food Bank/Foodshare.

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## IN MEMORIAM



**Hon. Frederica S. Brenneman** passed away on March 15 at the age of 94. In 1950, she was accepted to the first class of women admitted to Harvard Law School. In 1967, Judge Brenneman was working as a law clerk to the Connecticut legislature's Judiciary Committee when the United States Supreme Court, in the landmark decision of *In Re Gault*, held that children facing delinquency proceedings are entitled to due process of law, including the constitutional right to legal counsel. She was subsequently appointed to the Connecticut Juvenile Court, becoming only the second female judge in the history of Connecticut, and went on to serve as a superior court judge in 1978, when the juvenile and superior courts merged. As a champion of juvenile justice throughout her career, Judge Brenneman specialized in abuse and neglect cases; pushed for stronger legal protections for children; shaped clear statewide protocols and case law; trained countless judges; and educated caseworkers, attorneys, parents, and the public on court procedures. In 1979, she helped found Children in Placement, which monitors and supports children in Connecticut's foster care system. From 1999 to 2005, Hon. Brenneman served as advisor on the television drama, *Judging Amy*, which was inspired by her life and work and which she co-created with her daughter, Amy.

**Nicholas W. Rosa** passed away on February 26 at the age of 90. He attended Georgetown University Law Center for his JD, and practiced in general law from 1957 to 2021 in Waterbury, until his death. Attorney Rosa was a member of the Waterbury, Connecticut, District of Columbia, and American

Bar Associations, and he was admitted to practice before the United States District Court for the District of Columbia (1956), the State of Connecticut Bar on (1957), the United States District Court for the District of Connecticut (1961), and the United States Court of Appeals for the Second Circuit (1971). He was the recipient of a Certificate of Recognition from the Chief Justice of the Connecticut Supreme Court and the Presiding Judges of the Superior Court for the Judicial District of Waterbury, for participating in Alternate Dispute Resolution Programs by serving as an attorney trial referee since 1989.



**Patricia R. Kaplan** passed away on February 14 at the age of 81 after a courageous battle with ALS. She was a true champion of access to justice for all and embodied the highest ideals of the profession. She began her legal career as a staff attorney at New Haven Legal Assistance Association (NHLAA) after interning there during law school, and rose to the role of executive director. Attorney Kaplan supervised junior lawyers and legal interns and taught at law schools, using every opportunity to teach the highest ideals of the profession to the next generation of lawyers. After retiring from NHLAA after 34 years of service, she established a private practice, and offered pro bono and low bono services directly to clients. She left her door, email, and phone lines open to assist both new and experienced lawyers. She received the Edward F. Hennessey Professionalism Award, which recognizes and honors a member of the bar whose career has manifested a dedication to the highest ideals and standards of the legal profession, posthumously at the CBA's annual awards celebration,

Celebrate with the Stars, on April 8. She previously received the Charles J. Parker Legal Service Award in 2008.



**Austin J. McGuigan** passed away on March 23 at the age of 77. He attended Merrimack College, then served in Army intelligence,

returning home to finish law school at Boston University. Attorney McGuigan served as chief state's attorney from 1978 to 1985, where he became known for prosecuting organized crime and government corruption. After leaving office, he went on to become a prominent defense lawyer and co-founder of the Hartford firm, Rome McGuigan PC. Attorney McGuigan's practice experience included the defense of intellectual property/trade secret litigation as well as corporate investigations both in regulatory and criminal cases.



**Daniel P. Scapellati** passed away on March 18 at the age of 63. He graduated from Villanova University and received his JD from the

University of Bridgeport (now Quinnipiac University School of Law). He practiced over 30 years in insurance coverage and bad faith litigation at Halloran & Sage LLP in Hartford, where he was a partner. Attorney Scapellati took pride in mentoring the firm's new associates and he served as chairman of Halloran Sage's Hiring Committee. He was an elected member of the Federation of Defense and Corporate Counsel as well as a member of the Claims and Litigation Management Alliance. Prior to joining Halloran Sage, Attorney Scapellati served for seven years as staff counsel to the Connecticut Supreme and Appellate Courts.

## PEERS AND CHEERS

### Attorney Announcements

**Jennifer E. Czarnowski** has joined Neubert Pepe & Monteith PC in the firm's real estate and commercial finance & banking practice groups.

**Allison P. Dearington** has been promoted to principal at Jackson Lewis PC in the firm's Hartford office. Her practice is focused on employment litigation, including class and collective action defense, and preventive counseling.

**Peter J. Ryan** has published the new book, *How to Avoid Foreclosure: A Step-by-Step Guide to Loan Modifications, Short Sales, and Deeds in Lieu: A handbook for realtors, attorneys, and homeowners*, which is a detailed handbook for attorneys or realtors looking to complete foreclosure avoidance programs like short sales, deeds in lieu, or loan modifications. It is available for purchase at Amazon.com.

CBA Past President **Ndidi N. Moses** received the Quinnipiac University Black Law Students Association's (BLSA) Thurgood Marshall Award, which recognizes an outstanding person in law, education, or politics who exemplifies Marshall's dedication to improving society through the advancement of civil rights, civil liberties, and human rights.

### Firm News

The Law Firm of Clair & Gjertsen, Esqs. welcomes **Wendy Marie Weathers** as a partner, and the firm will now be known as Clair Gjertsen & Weathers PLLC. Additionally, Erin K. Flynn has been promoted from associate to partner in the firm.

**Butler Tibbetts** has promoted two of its lawyers to partner. Meredith McBride handles a variety of marital and family law matters, including divorce and alternative dispute resolution. Tommy Noonan handles complex cases involving a broad range of sectors and scenarios, focused primarily in the areas of health-care and managed care, civil and commercial, construction, corporate, personal injury, and probate.

Attorneys Stephen P. Fogerty, Thomas P. Lambert, and Eric D. Bernheim have launched the full-service law firm, **FLB Law PLLC**. The firm is located at 315 Post Road West in Westport. FLB Law's legal services include litigation; real estate transactions, finance, and development; banking and commercial transactions; employment law; family law; and trust and estates. The firm's clients include large corporations, local businesses, and individuals. ■

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# PULLMAN & COMLEY

## We are Pleased to Announce Our New Members and Associates

Pullman & Comley, LLC is pleased to announce the promotion of three attorneys to Members of the Firm and welcomes three new Associates.



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# Professional Discipline Digest

VOLUME 29 NUMBER 4 | BY JOHN MORRIS

**Proposed disposition** to reprimand Respondent is ordered. Reprimand issued pursuant to agreed disposition where attorney acknowledged that there was sufficient evidence to prove violations of Rule 1.15 and 8.1(2) and Practice Book Sections 2-27 and 2-32(a)(1). *Michael Bowler vs. Brian Dale Russell*, #19-0460 (10 pages).

**Presentment** ordered for violations of Rules 1.4(a)(3) and (4); 1.5(a), 1.15(b), (d), (e); 1.16(d); 8.1(2); and Practice Book Section 2-32(a)(1) for failure to keep the complainant reasonably informed of the status of the litigation, failure to separate client's funds from personal funds, for charging an unreasonable fee, failing to confirm the termination of the representation, and failure to return unearned client funds. *Christopher Janazzo vs. Robert O. Wynne*, #19-0234 (8 pages).

**Presentment** ordered for violations of Rules 1.15(b), (j), and (k) (3); 8.1(2); and Practice Book Section 2-27(a) and 2-28(b) and (h) for failure to properly conduct transactions within his Connecticut IOLTA account, for his use of such account as a firm operating account, failing to comply with bar counsel's requests for information, and for maintaining client funds in a Connecticut trust account where he does not maintain an office and when he did not have consent of the clients or third persons to do so. *Michael Bowler vs. Christopher A. Bacotti*, Complaint #18-0738 (8 pages).

**Proposed disposition** to reprimand Respondent is ordered. Reprimand issued pursuant to agreed disposition where attorney

acknowledged that there was sufficient evidence to prove violation of Rule 3.4(7) and is required to take at least one credit hour of CLE in civility / zealous advocacy within ethical boundaries or similar conduct. *Joshua Kosswig vs. Abelardo J. Arias*, #19-0321 (9 pages).

**Presentment** ordered for violations of Rule 8.4(4) and 8.1(2) and Practice Book Section 2-32(a)(1) for failing to comply with an agreed upon disposition of a prior grievance matter. Presentment ordered pursuant to Practice Book Section 2-47(d) because Respondent had been disciplined more than three times in response to complaints filed within the past five years. *Brian Staines vs. Jeffrey Cedarfield*, #19-0331 (9 pages).

**Reprimand** ordered for violations of Rules 1.4(1)(2) and (3) for  
*Continued on page 40* →

Prepared by CBA Professional Discipline Committee members from public information records, this digest summarizes decisions by the Statewide Grievance Committee resulting in disciplinary action taken against an attorney as a result of violations of the Rules of Professional Conduct. The reported cases cite the specific rule violations to heighten the awareness of lawyers' acts or omissions that lead to disciplinary action.

Presentments to the superior court are de novo proceedings, which may result in dismissal of the presentment by the court or the imposition of discipline, including reprimand, suspension for a period of time, disbarment, or such other discipline the court deems appropriate.

A complete reprint of each decision may be obtained by visiting [jud.ct.gov/gsgcdecisions](http://jud.ct.gov/gsgcdecisions). Questions may be directed to editor-in-chief, Attorney John Q. Gale, at [jgale@jgqlaw.com](mailto:jgale@jgqlaw.com).

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# Celebrate with the STARS!

## A Night of Honor and Inspiration

BY CORRINE KING

**M**ORE THAN 260 LEGAL PROFESSIONALS, ELECTED OFFICIALS, community members, families, and friends gathered virtually on April 8 to honor 14 individuals and more than 30 attorneys observing 50 years of practice at the eighth annual Celebrate with the Stars.

Before the main event began, those admitted to the bar a half-century ago gathered for a reunion. They shared “war stories,” funny moments, and how the legal profession has changed since they were first admitted to the bar in 1971. When asked what the most challenging thing about their legal careers was, they all agreed the past year and the changing technology within the legal profession has been the largest obstacle in their careers.

Senator Richard Blumenthal, Governor Ned Lamont, and Lieutenant Governor Susan Bysiewicz kicked off the event by sharing personal anecdotes and remarks about the award recipients and congratulated and thanked the attorneys observing 50 years of practice for their dedication to the legal profession and rule of law.

Attendees then viewed a video presentation of the 50-year honorees’ most proud professional accomplishments, which ranged from memories of when they were

first sworn-in to the bar to arguing their first case to reflections on their pro bono service. The list of those celebrating 50 years of practice was read by the event’s emcees—President Amy Lin Meyerson, President-elect Cecil J. Thomas, and Vice President Daniel J. Horgan.

The Honorable Anthony V. DeMayo Pro Bono Award was the first award of the evening and was presented to four attorneys for their dedication to the provision of pro bono legal services. William “Liam” Bohannon was honored for his work with the Connecticut Veterans Legal Center. Louis M. Federici was recognized for his 25-year history with Statewide Legal Services of Connecticut. Basam E. Nabulsi was celebrated for his work with Connecticut Legal Services’ Stamford Day Laborer Clinic, Stamford Pardons Clinic, and the Eviction Defense Pro Bono Partnership. Richard S. Order was honored for his work with Greater Hartford Legal Aid, helping victims of domestic violence

obtain restraining orders against their abusers.

The celebration of serving some of Connecticut’s most vulnerable residents continued with the presentation of the Charles J. Parker Legal Service award to Kathy Flaherty. She was honored for her work as executive director of the Connecticut Legal Rights Project, Inc.; dedication to the provision of legal services; representation of low-income individuals with mental health conditions on matters related to their treatment, recovery, and civil rights; and consistent advocacy for people and lawyers living with disabilities.

Later in the evening, Patricia R. Kaplan, a previous Charles J. Parker Legal Service Award recipient and legal service advocate throughout her career, was honored posthumously with the Edward F. Hennessey Professionalism Award. Attendees celebrated her work mentoring others in the legal profession, her dedication to access to justice for all, and for her embodiment of the highest ideals of the profession. Remarks written by Attorney Kaplan before her passing in February, read by Amy Eppler-Epstein, moved some attendees to tears while others shared the impact of her professional legacy in the chat box.

Jennifer Levi, a professor at Western New England University's School of Law and director of GLBTQ Advocates and Defenders (GLAD) Transgender Rights Project, was awarded the Tapping Reeve Legal Educator Award. Professor Levi expressed that it was her honor to receive the award, and went on to state, "But really the pleasure and the joy has been all mine to have the opportunity that Western New England University Law School has given me to educate a generation of lawyers that are in the legal community changing the world and inspiring me and giving me tremendous hope for the future of the profession, but truly for the future of our world."

Two CBA members were recognized for their outstanding work with some of the association's largest sections. Amy Calvo MacNamara was honored with the John Eldred Shields Distinguished Professional Service Award for her above-and-beyond work and dedication to the Family Law Section and family law practice throughout the COVID-19 pandemic. Kyle A. McClain received the Young Lawyers Section (YLS) Vanguard Award for his current role as public service co-director and previous role as CLE co-director.

Four individuals were honored for their work in the community. Attorney Greg Davis was presented with the Citizen of the Law Award for his dedication to the Hartford-area community and work with Hartford Public Library, Bloomfield Public Library, and Hartford Youth Scholars. Conley F. Monk, Jr. received the Citizen



(Top L to R) Amy Calvo MacNamara, James M. and Rebecca Corbin Loree, (Bottom L to R) Greg Davis, and Richard S. Order were among those honored at the 2021 Celebrate with the Stars.

for the Law for his life-long dedication to supporting veterans in Connecticut and fighting for veteran benefits. Rebecca Corbin Loree and James M. Loree were presented with the Distinguished Public Service Award for their contributions to the Connecticut community and work through the Loree Foundation, which provides grants for educational assistance, training, and support of individuals in need.

The final award of the evening, the Henry J. Naruk Judiciary Award, was presented to retired Connecticut Supreme Court justice, Richard N. Palmer, for his substantial contributions to the administration of justice in Connecticut. "I'm deeply honored to have been selected among so many deserving members of our state and federal

judiciary and to be included among the truly outstanding previous recipients," said Justice Palmer in his remarks. He also thanked former Chief Justice Chase T. Rogers and current Chief Justice Richard A. Robinson who are both former recipients of the award.

The evening was made possible through the support of our many sponsors, including Headline Sponsor Kronholm Insurance Services. We thank all of our sponsors, along with the evening's attendees and all of those who provided video testimonials and introductions for making the event a success. Learn more about the awardees at [ctbar.org/awards](http://ctbar.org/awards). ■

*Corrine King is the marketing lead at the Connecticut Bar Association.*

## 50-Year Awardees

*These CBA member attorneys are observing the 50th anniversary of their admission to practice in Connecticut:*

- |                         |                    |                      |                    |                         |
|-------------------------|--------------------|----------------------|--------------------|-------------------------|
| Hon. Jonathan J. Kaplan | Steven M. Fast     | Edward M. Kveskin    | Steven R. Rolnick  | Averum Jay Sprecher     |
| Hon. Joseph A. Egan     | Lawrence Roy Fish  | Frederick P. Leaf    | Helen F. Ryan      | Dominick J. Thomas, Jr. |
| Barbara B. Brown        | Richard S. Fisher  | Robert R. Moran, Jr. | Jay H. Sandak      | John L. Vecchiolla      |
| J. Michael Cantore, Jr. | Dana Eric Friedman | William S. Nathanson | David W. Schneider | Walter D. Wagoner, Jr.  |
| Thomas A. Covill        | Martin P. Gold     | John D. Paul         | Thomas F. Shea     | Martin B. Waterman      |
| James F. Early          | Carolyn P. Gould   | David Reif           | James H. Shulman   | Craig F. White          |
| Robert M. Elliott       | Carolyn P. Kelly   | Penn Rhodeen         | David J. Skolnick  | Steven H. Winkler       |
|                         | Paul E. Knag       | Richard C. Robinson  | Ramon S. Sous      |                         |

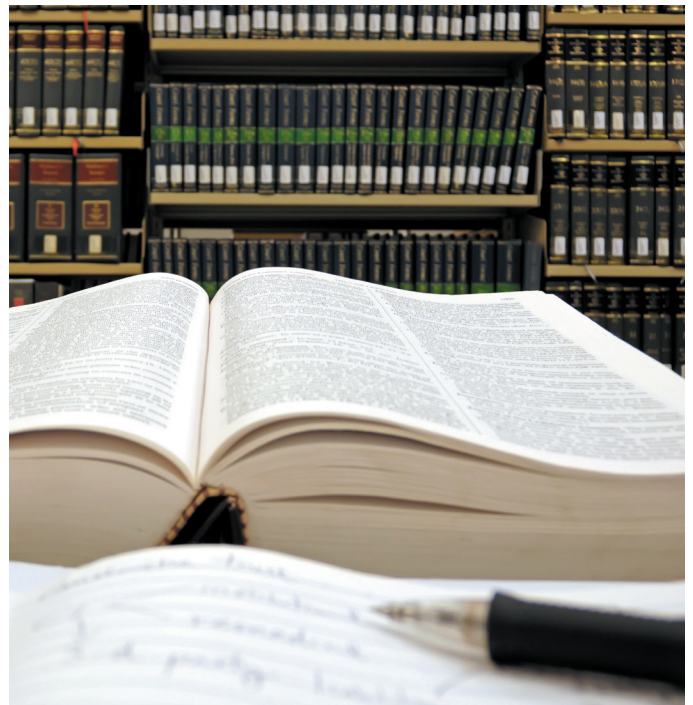
*To view the video presentation of the 50-year honorees' most proud professional accomplishments, visit [ctbar.org/awards](http://ctbar.org/awards).*

## CBA Legal Research and Writers Community List

By DAVID A. ROBINSON

**N**eed a legal research or writing assistant? The Connecticut Bar Association now has a Legal Researchers and Writers Community List, accessible at [ctbar.org/LegalResearchAndWritersCommunity](http://ctbar.org/LegalResearchAndWritersCommunity). CBA attorney members are invited to join and use the Legal Researchers and Writers Community list, which is a resource available exclusively to CBA members. The list aims to build community by connecting attorney members who need research and writing assistance with CBA attorney members who can provide those legal services. The legal research and writing projects may be for compensation as negotiated between CBA lawyer list members. The list provides a way for lawyers to gain valuable experience and compensation for helping other lawyers with legal research and/or writing projects.

One difficulty as a solo or small firm practitioner is that you often don't have an associate available for legal research and writing. You must do legal research and writing yourself. Some solo and small firm practitioners enjoy doing legal research and writing. Others don't. Some enjoy it but don't have the time to do it as meticulously as they'd like. At the same time, some solo and small firm practitioners love doing legal research and writing. They love doing it for their own clients and would love doing it on a freelance basis (as an independent contractor, not an employee) for other lawyers who want it done. Such research/writing can be for an hour (e.g., a short legal document), 10 hours (e.g., a brief), 100 hours (e.g., second-chair in a trial), or however long or short is needed. A lawyer on the Legal Research and Writers Community List—we can call that lawyer the researcher/writer—would charge whatever is agreed upon with the lawyer who requests the legal research and writing. As with any type of law practice, different lawyers



charge different fees. Lawyers on the list can, if they choose to, list their fees, areas of practice, law school attended, years of experience, and other biographical information.

Some researchers/writers may charge a sliding scale depending on the other lawyer's ability to pay. Or, depending on circumstances, the researcher/writer may charge a flat fee for a research/writing assignment. A researcher/writer may be willing to charge a contingent fee. If the researcher/writer is doing research/writing for a lawyer who is representing a plaintiff in a personal injury case, the researcher/writer may be willing

■ The CBA is not recommending, endorsing, or "vouching for" the lawyers on this Legal Researchers and Writers Community list, nor is the CBA evaluating, qualifying, or verifying the capabilities of the lawyers, or the quality, or accuracy of the work of the lawyers on the list, or verifying the information they provide through the list. The CBA is simply acting as a conduit or portal by providing a forum for lawyers who have expressed a desire to receive compensation for performing legal research and writing for other lawyers. The CBA is not providing any of the legal services or legal research services, and is not a party to the relationship between the lawyers or legal work. Any fee negotiations and agreements are between the researching attorney and the attorney seeking your legal services. Please see Conn. R. Prof. Conduct 1.1 (Commentary: Retaining or Contracting with Other Lawyers). Any lawyer placing themselves on the list and any lawyer contracting with a lawyer from the list for performance of legal research or writing agree to hold the CBA harmless from any and all legal claims which may arise from the use of the list and resultant legal services performed.

to accept, instead of an hourly fee, a percentage of the fee the plaintiff's lawyer eventually collects (for example, one-third of the one-third that the plaintiff's lawyer collects).

Another way to describe the relationship is "wholesale lawyer" and "retail lawyer." The researcher/writer is the wholesale lawyer. The wholesale lawyer provides service to the retail lawyer, who in turn provides service to the end user: the client. When I practiced law in Massachusetts from 1977 to 2008, I did research and writing for other lawyers and represented some clients myself. I called my research/writing for other lawyers my *wholesale* law practice and my representation of my own clients my retail law practice. I moved to Connecticut, was admitted to the Connecticut Bar, and taught for many years at the University of New Haven. When my job at the university ended, I began doing legal research and writing for Connecticut lawyers. One of them is solo practitioner, Ken Lerman, current vice chair of the CBA Business Law Section, who I developed the concept of the Legal Research and Writers List and community with. We proposed it to the CBA, and the CBA adopted it.

In "wholesale" as well as "retail" law practice, ethical issues can arise. Both the wholesale and retail lawyer must avoid conflicts of interest and preserve confidentiality of clients. They

must read and follow Conn. R. Prof. Conduct 1.1 (Commentary: Retaining or Contracting with Other Lawyers). The Rule 1.1 comment provides some guidance on whether the retail lawyer needs to disclose to the client that a wholesale lawyer is helping the retail lawyer. Whether and how much the retail lawyer charges the client for the wholesale lawyer's services is something the retail lawyer must think about and, depending on circumstances, discuss with the client. Some courts frown on or even prohibit a lawyer's ghostwriting for a *pro se non-lawyer client* but few, if any, courts frown on a lawyer's ghostwriting for another lawyer. The retail lawyer—the lawyer who actually signs the document—is, of course, responsible for the document.

I encourage CBA lawyer members to sign up to be on the list (be available to do legal research/writing for other lawyers) or to utilize the services of lawyers on the list. Whether you are a solo and small-firm lawyer, from large and medium-sized firms, or in-house counsel, all are welcome to be on and/or utilize the list. ■

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*David A. Robinson is a solo practitioner in North Haven. He practiced in Massachusetts from 1977 to 2008. He earned his JD in 1977 from Washington University in St. Louis.*

The advertisement features a white central text box with a decorative border of orange and white triangles. At the top is the Connecticut Bar Association logo. The text is centered and uses a mix of bold and regular fonts. The event details include the date, location, and pricing, with a note about registration. A link to register online is provided at the bottom.

  
**Join us for the**  
Connecticut Legal Professionals/  
CBA Past Presidents  
**Summer Family BBQ**

Outdoor Games and Activities  
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Food and Drinks

**Sunday, June 27 | 11:00 a.m. to 5:00 p.m.**  
**Holiday Hill | 43 Candee Rd, Prospect, CT**

**\$10 Adults | \$5 Children (3-11 y/o)**  
Registration is required and no walk-ins will be allowed.

Learn more and register online at [ctbar.org/BBQ](http://ctbar.org/BBQ)

The advertisement is enclosed in a black rectangular border. It features the company name in large blue letters, followed by the appraiser's name in smaller blue letters. Below that is the certification and services offered, the address, and contact information including email, phone, and website.

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\* The CBA intends to record all concurrent sessions, unless otherwise noted. **The MP01, EP01, MP02, LP02, EP02, and EP03 plenaries will not be recorded.** All CBA members who register for the conference will have access to all the concurrent session recordings until December 31, 2021.

Note that refunds will not be granted after June 7, 2021.

The Connecticut Bar Association/CT Bar Institute is an accredited provider of New York State CLE. These programs may qualify for transitional and/or non-transitional CLE credits. Attorneys seeking NY CLE credit who have been admitted to the New York State Bar for two years or less must attend the live seminar for skills or ethics credit, or a fully interactive videoconference. Diversity, Inclusion, and Elimination of Bias CLE credits are only available as non-transitional credits. For further information about transitional and non-transitional courses, please see the NYCourts.gov page on CLE: <http://ww2.nycourts.gov/attorneys/cle/index.shtml>. Financial hardship information is available upon request.



# Tuesday, June 15

9:00 a.m. - 9:45 a.m. EDT | MP01 Morning Plenary

## Why Bar Associations Matter for Democracy

Asha Rangappa, Yale Jackson Institute for Global Affairs, New Haven

Asha Rangappa is a senior lecturer at the Yale University's Jackson Institute for Global Affairs and a former associate dean at Yale Law School. Upon graduation from Princeton University, she was awarded a Fulbright scholarship to study constitutional reform in Bogotá, Colombia. Attorney Rangappa has published op-eds in The New York Times, The Atlantic, and The Washington Post, among others, and has appeared on NPR, BBC, and several major television networks. She is an editor for Just Security and is currently a legal and national security analyst for CNN.

Sponsored by Kronholm Insurance Services, CATIC, and LEAP. This plenary will not be recorded.



## 10:00 a.m. – 11:00 a.m. EDT | Morning Concurrent Sessions

### PT01 State of the Legal Profession and Design Thinking

The President's Track | Presented by the State of the Legal Profession Task Force



In 2020, the crisis caused by COVID-19, social injustice, and access to justice challenges forced the bar and bench to develop new creative legal solutions and innovations. Many of these advances occurring across the state and country were ushered in by a process known as legal design thinking. Come learn about what this process is and how it is helping the legal community serve the public.

#### You Will Learn

- What legal design thinking is and how it is being used across the country
- About legal innovations and technological developments being developed by bar associations and judicial systems across the country to improve the legal profession
- About innovations being proposed and implemented across the country to innovate the way law schools educate, prepare, and evaluate future lawyers

#### Speakers

**Hon. Elizabeth A. Bozzuto**, Connecticut Superior Court, Hartford  
**Logan Cornett**, IAALS, University of Denver, Denver, CO  
**Patrick A. Palace**, Palace Law LLP, University Place, WA  
**Andrew M. Perlman**, Suffolk University Law School, Boston, MA  
**Zachary Zarnow**, National Center for State Courts, Middletown

#### Moderator

**Ndidi N. Moses**, CBA Past President, New Britain  
CLE Credit: 1.0 CT (0.5 General; 0.5 Ethics); 1.0 NY (0.5 AOP; 0.5 Ethics)

Sponsored by Clio and Webster Bank

### RP01 Antitrust Issues in Real Estate

The Real Property/Environmental Law Track

This session will explore antitrust issues that have arisen in the area of real estate. Specifically, we will discuss instances where restrictive covenants in real estate contracts or conveyance documents have led to antitrust liability, including DOJ investigations. We will also examine the antitrust implications of "pocket listings" and the ways courts have analyzed such conduct under traditional antitrust doctrine. We will also discuss recent developments in price-fixing litigation in the real estate broker context. Finally, we will cover the Connecticut Supreme Court's recent ruling in *Reserve Realty, LLC v. Windemere Reserve, LLC*, which revisited the tying doctrine under Connecticut's state antitrust statutes.

#### You Will Learn

- Insights for successful antitrust issue spotting in the real estate context

#### Speakers

**Robert M. Corp**, Shipman & Goodwin LLP, New York, NY  
**John J. DiMarco**, Shipman & Goodwin LLP, Washington, DC  
**Jill M. O'Toole**, Shipman & Goodwin LLP, Hartford  
**Diane C. Polletta**, Shipman & Goodwin LLP, Stamford

#### Moderator

**Lisa M. Zana**, Shipman & Goodwin LLP, Stamford  
CLE Credit: 1.0 CT (General); 1.0 NY (AOP)

### TT01 Appellate Brief Writing

The Trial Track

This session will discuss advanced issues in writing persuasive appellate briefs.

#### You Will Learn

- The process for choosing appellate issues
- How to structure your statement of facts, appellant's argument, and appellee's argument, as well as your reply argument

#### Speakers

**Hon. Nina F. Elgo**, Connecticut Appellate Court, Hartford  
**Wesley W. Horton**, Horton Dowd Bartschi & Levesque PC, Hartford  
CLE Credit: 1.0 CT (General); 1.0 NY (Skills)

### TT02 The Fifth Amendment for Civil Litigators

The Trial Track | Presented by the Criminal Justice Section

This session will provide a review of the law relating to a person's right against self-incrimination under the 5th Amendment of the United States Constitution and Article First, Section 8 of the Connecticut Constitution and the implications for invoking that right in the civil litigation context. This session will assist civil litigators in identifying potential self-incrimination issues of parties and witnesses and evaluating them relative to litigation strategy.

#### You Will Learn

- When and how a party or witness may invoke his or her 5th Amendment right against self-incrimination (considering intentional and unintentional waiver)
- Effects of invoking or waiving one's Fifth Amendment rights in the context of civil litigation
- Strategy in approaching 5th Amendment issues

#### Speaker

**Cody N. Guarnieri**, Brown Paindiris & Scott LLP, Hartford  
CLE Credit: 1.0 CT (General); 1.0 NY (AOP)

### TT06 Candor to the Court

The Trial Track | Presented by the Federal Practice Section

A panel discussion from the perspectives of the bar, the bench, and academia on the interplay between the Connecticut Rules of Professional Conduct and common aspects of federal practice, such as discovery disputes, settlement negotiations, motion practice, and what to do if a client goes rogue in open court.  
CLE Credit: 1.0 CT (General); 1.0 NY (AOP)

### WP01 Preparation for a Formal Hearing

The Workplace Track | Presented by the Workers' Compensation and Young Lawyers Sections

The session will focus on pre-formal and formal hearings in the Workers' Compensation Commission.

#### You Will Learn

- Tips and strategies regarding preparation for a formal hearing
- How best to prepare a physician for a formal hearing

#### Speakers

**Judith L. Gorelick, MD, FAANS, FABNS, FACS**, Neurosurgery Orthopedics and Spine Specialists, Waterbury  
**Melanie I. Kolek**, Connecticut Education Association, Hartford  
**Matthew S. Necci**, Halloran Sage, Hartford

#### Moderator

**Nicole A. Fluckiger**, McGann Bartlett & Brown, East Hartford  
CLE Credit: 1.0 CT (General); 1.0 NY (Skills)

Sponsored by Ametros

## 11:30 a.m. - 12:30 p.m. EDT | LP01 Lunchtime Plenary

### 2021 Connecticut Bar Association Annual Meeting

Chief Justice Richard A. Robinson will address the CBA and discuss the current events of the Judicial Branch. President Amy Lin Meyerson will deliver her farewell address before the 2021-2022 officers are installed. Incoming CBA President Cecil J. Thomas will present his vision for the 2021-2022 bar year.

Sponsored by Kronholm Insurance Services



## 2:00 p.m. – 4:00 p.m. EDT | Afternoon Concurrent Sessions

### PT02 What General Counsel and In-House Counsel Are Doing to Drive Change and Achieve Results

*The President's Track | Presented by the CBA Executive and In-House Counsel Committees*

This session will discuss the work of the CBA's In-House Counsel Committee, timely issues of interest to corporate counsel, and what in-house counsel want and need from their outside counsel and law firms.

#### You Will Learn

- About the work of the CBA's In-House Counsel Committee
- About issues of interest to corporate counsel
- What in-house counsel want and need from their outside counsel and law firms

#### Speakers

**Jung Choi**, Stanley Black & Decker Inc., New Britain

**Joe Khanna**, Mastercard, Purchase, NY

**Ginny Kim**, Raytheon Technologies, Hartford

**Amy Lin Meyerson**, CBA President; Law Office of Amy Lin Meyerson, Weston

**Amanda G. Schreiber**, CBA Secretary-Treasurer; Cigna, Avon

**Hoyt K. Webb**, Legrand North America LLC, West Hartford

*CLE Credit: 2.0 CT (General); 2.0 NY (AOP)*



### BL01 Antitrust Basics: What Every Litigator, Transactional Attorney, and General Practitioner Needs to Know

*The Business Law Track | Presented by the Antitrust & Trade Regulation Section*

The session will address a number of common antitrust issues that are sometimes overlooked, particularly by attorneys who do not regularly practice antitrust law.

#### You Will Learn

- Important distinctions between federal and state antitrust law, including traps for the unwary
- Recent developments in the areas of non-compete and non-solicitation agreements, including the potential risk of criminal exposure, with an overview of ethical issues
- What types of information may not be shared by competitors prior to consummation of a merger, acquisition, or joint venture, with an overview of ethical issues
- Under what circumstances attorneys may run the risk of antitrust exposure, with an overview of ethical issues

#### Speakers

**Peter A. Barile III**, Lowey Dannenberg PC, White Plains, NY

**Robert M. Langer**, Wiggin and Dana LLP, Hartford

**Jill M. O'Toole**, Shipman & Goodwin LLP, Hartford

*CLE Credit: 2.0 CT (1.5 General; 0.5 Ethics); 2.0 NY (1.5 AOP; 0.5 Ethics)*

### FL01 Family Law Year in Review

*The Family Law Track | Presented by the Family Law Section*

Join us for the annual review of cases pertaining to the field of family law. Participants will be provided with richly detailed materials summarizing all relevant and current family law cases.

#### You Will Learn

- About the seminal family law cases from 2020 and 2021 in a candid and lively environment
- About the new family court procedures

#### Speakers

**Alexander J. Cuda**, Needle | Cuda, Westport

**Steven R. Dembo**, Berman Mickelson Dembo & Jacobs LLC, Hartford

**Amy Calvo MacNamara**, The Law Offices of Amy Calvo MacNamara, Greenwich

**David A. McGrath**, Loudon Katz & McGrath LLC, Hartford

**Louise T. Truax**, Reich & Truax PLLC, Southport

**Aidan R. Welsh**, Schoonmaker George Colin Blomberg Bryniczka & Welsh PC, Old Greenwich

*CLE Credit: 2.0 CT (General); 2.0 NY (AOP)*

Sponsored by MPI

### LT01 The 21st Century Litigator: How to Take Depositions, Use Them at Trial, and Get Your Evidence Admitted in the Age of Remote Depositions and Trials

*The Legal Technology Track | Presented by the Litigation Section*

The proliferation of remote depositions has created a host of new issues for even the most seasoned litigator. This session is designed to bring practitioners up to speed on these issues, and provide them with practical tips for how to deal with the "new normal" that we will all have to navigate in the years to come.

#### You Will Learn

- About new issues raised by the proliferation of remote depositions, such as how to cross examine and judge the credibility of remote or masked witnesses
- How to remotely impeach witnesses, refresh witness recollection, and admit exhibits

#### Speakers

**Jonathan A. Kaplan**, Pullman & Comley LLC, Hartford

**Julia Simon-Kerr**, UConn School of Law, Hartford

#### Moderator

**James F. Sullivan**, Logan Vance Sullivan & Kores, Torrington

*CLE Credit: 2.0 CT (General); 2.0 NY (Skills)*

### RP02 The End of the Transfer Act: Is It Too Good to be True?

*The Real Property/Environmental Law Track | Presented by the Environmental Law Section*

The session will include a discussion of the status of the Transfer Act, what it covers, and the current exemptions. The session will also discuss recent changes to environmental regulations relating to clean-ups in Connecticut, as well as the recently passed P.A. 20-09 sunseting the Transfer Act upon the adoption of new Release Based Program regulations. The panelists will discuss practical ways of handling real estate and business transactions during this transition time.

#### You Will Learn

- The current status of the Transfer Act law, including recent revisions and how P.A. 20-09 outlines eventual sunseting of the Act
- The most up-to-date status of environmental laws and regulations affecting site remediations that recently went into effect
- Practical information on how to handle deals during this transition period

#### Speakers

**Ann M. Catino**, Halloran Sage, Hartford

**Samuel R. Haydock**, BL Companies, Meriden

**Nancy K. Mendel**, Winnick Ruben Hoffnung Peabody & Mendel LLC, New Haven

#### Moderator

**Elizabeth R. Fortino**, Winnick Ruben Hoffnung Peabody & Mendel LLC, New Haven

*CLE Credit: 2.0 CT (General); 2.0 NY (AOP)*

### CL01 Commercial Law and Bankruptcy: The Year in Review

*The Updates in Case Law Track | Presented by the Commercial Law and Bankruptcy Section*

Three experienced practitioners will address recent case law in commercial litigation, consumer bankruptcy, and business bankruptcy.

#### You Will Learn

- A primer on case law development in commercial litigation, consumer bankruptcy, and business bankruptcy

#### Speakers

**John L. Cesaroni**, Zeisler & Zeisler PC, Bridgeport

**Andrew A. DePeau**, Robinson+Cole, Hartford

**Paige M. Vaillancourt**, Rescia Law PC, Enfield

#### Moderator

**Roberta Napolitano**, Chapter 13 Trustee, Office of the US Trustee, Hartford  
*CLE Credit: 2.0 CT (General); 2.0 NY (AOP)*

### WP02 Current Issues in the Workers' Compensation System

*The Workplace Track | Presented by the Workers' Compensation Section*

The session will provide an annual review of workers' compensation caselaw, a legislative update, and an address by the agency chairman.

#### You Will Learn

- The latest in workers' compensation law rendered by the Compensation Review Board (CRB), Connecticut Appellate, and Supreme Courts
- About recent legislative developments and issues

#### Speakers

**Commissioner Stephen M. Morelli**, State of Connecticut Workers' Compensation Commission, Hartford

**David B. Banach, MD, MPH**, UConn School of Medicine, Farmington

**Jason M. Dodge**, Strunk Dodge Aiken & Zovas, Rocky Hill

**Lucas D. Strunk**, Strunk Dodge Aiken & Zovas, Rocky Hill

#### Moderator

**Colette S. Griffin**, Howd & Ludorf LLC, Hartford

*CLE Credit: 2.0 CT (General); 2.0 NY (AOP)*

*Sponsored by Ametros*

## 5:00 p.m. - 7:00 p.m. EDT | EP01 Evening Plenary

### Motley Speaker Series | The Color of Law: A Forgotten History of How Our Government Segregated America

**Richard Rothstein**, Economic Policy Institute, Washington, DC

Racial segregation characterizes every metropolitan area in the US and bears responsibility for our most serious social and economic problems – it corrupts our criminal justice system, exacerbates economic inequality, and produces large academic gaps between white and African American schoolchildren. We've taken no serious steps to desegregate neighborhoods, however, because we are hobbled by a national myth that residential segregation is de facto—the result of private discrimination or personal choices that do not violate constitutional rights. *The Color of Law* demonstrates, however, that residential segregation was created by racially explicit and unconstitutional government policy in the mid-twentieth century that openly subsidized whites-only suburbanization in which African Americans were prohibited from participating. Only after learning the history of this policy can we be prepared to undertake the national conversation necessary to remedy our unconstitutional racial landscape.

Chief Justice Richard A. Robinson will facilitate a question and answer segment with Rothstein. A panel discussion will follow to highlight what has been done in the past year and how we will continue to address racial inequality in Connecticut in honor of the legacy of Hon. Constance Baker Motley.

*Richard Rothstein is the author of The Color of Law: A Forgotten History of How Our Government Segregated America, a New York Times Best Seller, and a distinguished fellow of the Economic Policy Institute, the Thurgood Marshall Institute of the NAACP Legal Defense Fund, and of the Haas Institute at the University of California (Berkeley). In addition to The Color of Law, he is the author of many other articles and books on race and education.*

*CLE Credit: 2.0 CT (Ethics)*

*This plenary will not be recorded.*



## Wednesday, June 16

### 9:00 a.m. - 9:45 a.m. EDT | MP02 Morning Plenary

#### Access to Justice: New Frontiers of Possibility

**Rebecca L. Sandefur**, American Bar Foundation, Chicago, IL

*Rebecca L. Sandefur is a faculty fellow at the American Bar Foundation, where she founded and leads the Access to Justice Research Initiative. She investigates access to civil justice from every angle—from how legal services are delivered and consumed; to how civil legal aid is organized around the nation; to the role of pro bono; to the relative efficacy of lawyers, nonlawyers, and digital tools as advisers and representatives; to how ordinary people think about their justice problems and try to resolve them. In 2018, she was named a MacArthur Fellow for her work on inequality and access to justice.*

*Sponsored by Kronholm Insurance Services, CATIC, and LEAP. This plenary will not be recorded.*



Learn more about these sessions at [ctlegalconference.com](http://ctlegalconference.com):

**PT04 Assessing and Addressing Connecticut's Access to Justice Gap in the "New Normal"**

**BL03 Tax Section Concurrent Session**

**FL02 So You Want to Be a (Microsoft) Team Player?—Best Practices for Conducting Virtual Trials and Hearings**

**FL04 Family Law Section Concurrent Session**

**HT02 Immigration Law and Reform: Priorities and Impact of the New Administration**

**PE01 Ethics—The Year in Review 2020**

**TT03 Court Future**

**WP04 Annual Employment Law Update**

## 10:00 a.m. – 11:00 a.m. EDT | Morning Concurrent Sessions

### PT03 Effective Opening and Closing Arguments in Civil Jury Trials

*The President's Track | Presented by the CBA Executive Committee*

Experienced trial lawyers share their winning techniques and strategies on opening and closing statements in civil jury trials focusing on personal injury cases.

#### You Will Learn

- How to prepare a winning opening and closing argument
- The three keys to success: 1. Know your case inside and out, 2. Have a winning theme and stick to it, 3. Educate the jury to reach the verdict you desire
- How to tie in the evidence with your theme during closing arguments

#### Speakers

**Hon. John J. Nazzaro (Ret.)**, Reardon Law Firm, New London

**Jay F. Huntington**, Conway Stoughton LLC, Hartford

**Humbert J. Polito, Jr.**, Polito and Harrington LLC, Waterford

#### Moderator

**Daniel J. Horgan**, CBA Vice President; Horgan Law Offices, New London  
*CLE Credit: 1.0 CT (General); 1.0 NY (AOP)*

### RP03 FIRPTA (Foreign Investment in Real Property Tax Act)

*The Real Property/Environmental Law Track | Presented by the Real Property Section*

FIRPTA is the IRS acronym for the Foreign Investment in Real Property Tax Act, 26 USC Sect. 897. It is becoming more common for foreign persons to own property in the United States. While there are no prohibitions on non-US citizens holding title to real property, when those owners sell, they are subject to the same capital gains taxes as US citizens pay. Sellers and buyers, and their attorneys, need to know what to expect when dealing with a foreign seller and how to comply with the act's requirements that are imposed on the parties in the real estate transaction.

#### You Will Learn

- Why it is important to know about FIRPTA
- What types of real property transactions are subject to IRS tax withholding requirements
- What is required to comply with FIRPTA

#### Speakers

**David S. Veleber**, Connecticut Attorneys Title Insurance Company, Hartford

**Bruce A. Zawodniak**, Connecticut Attorneys Title Insurance Company, Hartford

*CLE Credit: 1.0 CT (General); 1.0 NY (AOP)*

*Sponsored by CATIC*

### CL02 Annual Review of Connecticut Supreme and Appellate Court Cases

*The Updates in Case Law Track | Presented by the Appellate Advocacy Section*

This session will provide an enlightening and comprehensive review of Connecticut Supreme Court cases from the past year by Kenneth J. Bartschi, followed by an insightful and thought-provoking review of Connecticut Appellate Court cases from the past year by Karen L. Dowd.

#### You Will Learn

- The latest developments in the Connecticut Supreme Court and Appellate Court, including holdings in significant cases in all areas of the law
- About changes in the personnel on the bench and what effect the newer jurists are having on the courts' jurisprudence
- Practical tips, such as the perils of failing to raise or present issues properly, as demonstrated by recent decisions

#### Speakers

**Kenneth J. Bartschi**, Horton Dowd Bartschi & Levesque PC, Hartford

**Karen L. Dowd**, Horton Dowd Bartschi & Levesque PC, Hartford

*CLE Credit: 1.0 CT (General); 1.0 NY (AOP)*

### WP03 COVID-19 and The Workplace: How Far We Have Come, Where We Are, and Where We Are Heading

*The Workplace Track | Presented by the Young Lawyers Section*

This session will focus on changes to employment laws and best practices in connection with the COVID-19 pandemic.

#### You Will Learn

- Best practices for employers as they continue to navigate a safe reopening of workplaces and remote workers return to the workplace
- About the current status of employment laws, regulations, and various guidances issued by state and federal agencies as they relate to the COVID-19 pandemic
- How the pandemic might impact workplace laws, policies, and complaints in the coming years
- Considerations for post-pandemic workplace policies relating to health, hygiene, remote work, and preparation for future emergencies

#### Speakers

**Alan H. Bowie, Jr.**, Carmody Torrance Sandak & Hennessey LLP, New Haven

**Cindy M. Cieslak**, Rose Kallor LLP, Hartford

#### Moderator

**Amanda M. DeMatteis**, Garrison Levin-Epstein Fitzgerald & Pirrotti PC, New Haven

*CLE Credit: 1.0 CT (General); 1.0 NY (AOP)*

## 11:30 a.m. - 12:30 p.m. EDT | LP02 Keynote Plenary

### Evicted: Poverty and Profit in the American City

**Matthew Desmond**, Princeton University's Eviction Lab, Princeton, NJ

Evictions used to be rare. But today, for many poor Americans, eviction has become a way of life. Desmond's groundbreaking book *Evicted: Poverty and Profit in the American City* follows tenants and landlords swept up in the process of eviction. Drawing on the urban reportage and original statistical data gathered for the book, his lectures show that eviction is a cause, not just a condition, of poverty and that the face of America's eviction epidemic belongs to mothers and children. Presenting new insights into the fundamental role housing plays in deepening inequality in America, Desmond affirms the centrality of home, without which nothing else is possible.

**Matthew Desmond** is the Maurice P. Daring professor of sociology at Princeton University and Pulitzer Prize-winning author of *Evicted: Poverty and Profit in the American City*. He is the founder and principal investigator of Princeton's Eviction Lab, which collects national data on eviction to help answer fundamental questions about residential instability, forced moves, and poverty. Desmond is the recipient of a MacArthur Fellowship, the American Bar Association's Silver Gavel Award, and Harriet Beecher Stowe Center's Stowe Prize for Writing to Advance Social Justice. In addition to New York Times Best Seller, *Evicted*, Desmond has written three other books, is a contributing writer for The New York Times Magazine, and has written for The New York Times, The Washington Post, The New Yorker, and The Chicago Tribune.

*Sponsored by Kronholm Insurance Services, CATIC, and LEAP. This plenary will not be recorded.*



Learn more and register at [ctlegalconference.com](https://ctlegalconference.com).

## 2:00 p.m. – 4:00 p.m. EDT | Afternoon Concurrent Sessions

### BL02 Cut the Valuation Knot

*The Business Law Track | Presented by the Alternative Dispute Resolution Section*

Valuations lie at the heart of many disputes—the family business or real estate that makes up the bulk of an estate's or divorcing couple's assets, the respective shares in a company's buy-sell agreement, the value of a lost business or development in commercial litigation or bankruptcy. If the parties can settle on a value for those assets, the resolution of the rest of the dispute falls into place or, worst case, the litigation can focus on liability, making it less complicated. This session will explore how to reach that agreement.

#### You Will Learn

- How to work through any mediation in reaching small agreements that have a large impact in resolving a dispute
- How to negotiate, with the assistance of a mediator and experts, seemingly large differences in asset valuations in business or real estate assets
- How resolution of valuation can help settle estate, family, and commercial disputes
- How to effectively use experts in settling business or commercial real estate disputes

#### Speakers

**Andrew Bostian**, CliftonLarsonAllen, Boston, MA

**Elizabeth Ciccone**, Marcum LLP, New Haven

**Michael B. Gold**, Michael B. Gold Associates Inc., Westport

**Christopher P. Kriesen**, Kalon Law Firm LLC, Hartford

*CLE Credit: 2.0 CT (General); 2.0 NY (1.0 AOP; 1.0 Skills)*

*Sponsored by Marcum LLP and MPI*



### DI01 Diversity and Beyond: Fatigue and Allyship

*The Diversity and Inclusion Track | Presented by the Diversity, Equity, and Inclusion Committee*

This is a two-part panel with the first hour focusing on diversity fatigue from the viewpoint of DEI professionals highlighting their own exhaustion while simultaneously motivating others to hone their awareness of diversity issues. The second part focuses on how to make a meaningful contribution to diversity, equity and inclusion as a member of a traditionally non-diverse community.

#### Speakers

**Gabriel J. Jiran**, Shipman & Goodwin LLP, Hartford

**Asker A. Saeed**, Saeed Consulting Group, Glastonbury

#### Moderators

**Aigné S. Goldsby**, Connecticut Public Utilities Regulatory Authority, New Britain

**Michelle L. Querijero**, Allied World Insurance Company, Farmington

*CLE Credit: 2.0 CT (Ethics); 2.0 NY (D&I)*

### FL03 Special Education Considerations in the Practice of Family Law

*The Family Law Track | Presented by the Family Law Section*

This session is designed to provide insight and helpful information for family law practitioners involved in cases where the children have special education needs.

#### You Will Learn

- About special education requirements and options as well as the process involved
- How special education considerations may impact custody, parenting plans, and finances in a divorce or custody proceeding

#### Speakers

**Andrew A. Feinstein**, Feinstein Education Law Group LLC, Mystic

**Brette H. Fitton**, Brette Law LLC, Essex

**Jillian L. Griswold**, Feinstein Education Law Group LLC, Mystic

**Adrienne G. Smaller, Ph.D.**, Franklin Group for Psychotherapy LLC, Madison

*CLE Credit: 2.0 CT (General); 2.0 NY (AOP)*



### PE02 The Ethical Duty of Technology Competence: What Every Lawyer Needs to Know

*The Ethics Track | Presented by the Standing Committee on Professional Ethics*

The Rules of Professional Conduct include specific obligations regarding technology. What does this mean for lawyers and what obligations to clients does it create? In this session, we will review the requirements of the Rules of Professional Conduct and the many reasons to be technologically competent.

#### You Will Learn

- About current trends in technology
- How to maintain an appropriate level of technological expertise
- Tips to avoid technological incompetence

#### Speakers

**Brendon P. Levesque**, Horton Dowd Bartschi & Levesque PC, Hartford

**Michael S. Taylor**, Horton Dowd Bartschi & Levesque PC, Hartford

*CLE Credit: 2.0 CT (Ethics); 2.0 NY (Ethics)*

### RP04 Real Property Case Law Year in Review

*The Real Property/Environmental Law Track | Presented by the Real Property Section*

Review of cases and legislation of interest to real property lawyers.

#### Speakers

**Elton B. Harvey**, Isaac Law Offices LLC, Farmington

**Eugene A. Marconi**, Berkshire Hathaway Home Services New England Properties, Wallingford

**Gregory P. Muccilli**, Shipman & Goodwin LLP, New Haven

**Valerie Ann Votto**, Valerie Ann Votto LLC, Old Lyme

*CLE Credit: 2.0 CT (General); 2.0 NY (AOP)*

### TT04 Nuts and Bolts of Direct and Cross Examination and Dealing with Experts

*The Trial Track*

Highly-skilled trial practitioners and judges will walk you through the "Ten Commandments" of direct and cross examination and how to effectively elicit the necessary testimony from experts. *State v. Chauvin* direct and cross video clips will provide relevant and timely examples for the presenters to showcase the effectiveness of the commandments as trial tools.

#### You Will Learn

- The Ten Commandments of direct examination
- The Ten Commandments of cross examination
- How to effectively elicit the necessary testimony from experts

#### Speakers

**Hon. Eliot D. Prescott**, Connecticut Appellate Court, Hartford

**Hon. Susan Quinn Cobb**, Connecticut Superior Court, Hartford

**James W. Bergenn**, Shipman & Goodwin LLP, Hartford

*CLE Credit: 2.0 CT (General); 2.0 NY (Skills)*

## 5:00 p.m. - 6:00 p.m. EDT | EP02 Evening Plenary

### Strategies to Create Inclusive and Equitable Cultures within Legal Workplaces

**Dr. Arin N. Reeves**, Nextions LLC, Chicago, IL

This interactive plenary will explore why the right incentives matter when creating sustained change in diversity and inclusion as well as how the "business case" and "right thing to do" are outdated models that measure efforts based on activity, which does not always lead to achieving results. Additionally, this presentation will explore questions that produce innovative solutions, such as How can you articulate and communicate the difference between diversity and inclusion? and How can organizations and individuals ensure that they are working on inclusion alongside their diversity efforts because each is ineffectual without the other? Dr. Arin N. Reeves will incorporate how inclusion needs to continue to play a role during these challenging times and incorporate new research that reflects the new realities of the workplace during and post COVID-19.

*Dr. Arin N. Reeves has served as one of the country's leading advisors to businesses on inclusion and leadership strategies for more than two decades. As the founder and managing director of the research and advisory firm Nextions, she helps businesses create a more diverse and inclusive future using research-backed solutions. Dr. Reeves is the author of The Next IQ, One Size Never Fits All, and Smarter Than A Lie. She practiced law for several years and served as an adjunct professor at Northwestern University where she taught classes on law and society.*

*Sponsored by Kronholm Insurance Services, CATIC, and LEAP. This plenary will not be recorded.*



# Thursday, June 17

9:00 a.m. - 9:45 a.m. EDT | MP03 Morning Plenary

## Well-Being is Here to Stay: Large and Small Firm Models for Changing Culture to Promote Mental and Physical Health and Productivity



*The Hot Topics Track | Presented by the Lawyer Well-Being Committee*

This plenary is designed to help law firms shift toward a culture of well-being. Panelists will describe the issues that led the participating firms to prioritize well-being, any roadblocks and barriers that needed to be addressed, how those challenges were addressed, subsequent positive impacts of well-being prioritization, and future goals for continued improvement.

### You Will Learn

- The three distinct models for promoting a firm-wide well-being culture
- How to address challenges, such as resistance to change

### Speakers

**Robin Belleau**, Kirkland & Ellis LLP, Chicago, IL  
**Krista Larson**, Morgan Lewis & Bockius LLP, Boston, MA

### Moderators

**Tanyee Cheung**, Finn Dixon & Herling LLP, Stamford  
**Traci Cipriano**, Traci Cipriano JD, PhD LLC, Woodbridge  
*CLE Credit: 0.75 CT (Ethics)*



## 10:00 a.m. – 11:00 a.m. EDT | Morning Concurrent Sessions

### D103 Mental Health and Acquired Issues in the Disability Context

*The Diversity and Inclusion Track | Presented by the Diversity, Equity, and Inclusion Committee*



This session will address how attorneys can become affected by mental health and acquired disabilities and what law firms can do to support them. Many attorneys acquire health conditions and become impaired but don't view it as a disability and are afraid to mention it. This session is intended to discuss those issues.

### You Will Learn

- What issues are considered to be a disability
- The factors that contribute to attorneys not knowing they have a disability/ignore that they have a disability
- How firms and other organizations can support attorneys with disabilities

### Speakers

**Stephen M. Byers**, Disability Rights Connecticut, Hartford  
**Michelle Duprey**, City of New Haven—Office of Corporation Counsel, New Haven  
**Kimberly Jacobsen**, Commission on Human Rights & Opportunities, Hartford  
*CLE Credit: 1.0 CT (Ethics); 1.0 NY (D&I)*

### LT02 Connect with Casemaker—Free Legal Research for Connecticut Bar Association Members

*The Legal Technology Track*

Make the most of your legal research member benefit with an introduction to basic legal research. The session will include how to run a search; how to download, print, and share resources, tips, and tricks for conducting efficient legal research; and general research skills.

### You Will Learn

- How to login to Casemaker
- Available Casemaker content
- Tools and tricks for legal research
- CaseCheck+ and CiteCheck features
- How to utilize Casemaker Digest

### Speaker

**Rebecca L. Skeeles**, Casemaker, Columbus, OH  
*CLE Credit: 1.0 CT (General); 1.0 NY (Skills)*

### LT03 Data Privacy Laws and How They Impact Your Clients

*The Legal Technology Track | Presented by the Young Lawyers Section and Cyber Security and Technology Committee*

This session will explore data privacy laws not just in Connecticut, but across the globe and touch on how the changing landscape impacts not just your business but also your clients. You'll hear from experienced professionals on existing and pending legislation across 31 other states as well as recent enforcement actions both domestically and internationally.

### You Will Learn

- About existing Connecticut laws on proactive data protection measures and data breach response and notification obligations
- The possibility and extent of a Connecticut Consumer Privacy Act and a law that provides liability protections for businesses that adopt cybersecurity standards
- The varying pending and recently signed legislation across the nation at a high level
- About recent rulings and enforcement actions
- How to spot issues for clients and ensure compliance

### Speakers

**Dena M. Castricone**, DMC Law LLC, North Haven  
**Joshua J. Devine**, UnitedHealthcare, Hartford  
**Tara L. Trifon**, Locke Lord LLP, Hartford

### Moderator

**Ronald Houde**, Ouellette Deganis Gallagher & Grippe LLC, Cheshire  
*CLE Credit: 1.0 CT (General); 1.0 NY (AOP)*

### TT05 The Appealing Road to Ethical Ruin

*The Trial Track | Presented by the Appellate Advocacy Section*  
The speakers, led by moderator Tom Donlon, will discuss ethical pitfalls and issues related to modern appellate practice in the context of a series of scenarios—some hypothetical, some real.



### You Will Learn

- How to anticipate and avoid making ethical mistakes in appellate litigation
- How to identify ethical mistakes made by opposing counsel
- How to interact ethically with the appellate tribunal and opposing counsel
- How to provide appellate advocacy that is both effective and ethical

### Speakers

**Justice Steven D. Ecker**, Connecticut Supreme Court, Hartford  
**Jennifer G. Brown**, Quinnipiac University School of Law, North Haven

### Moderator

**Thomas J. Donlon**, Robinson+Cole, Stamford  
*CLE Credit: 1.0 CT (Ethics); 1.0 NY (Ethics)*

## 11:30 a.m. - 1:30 p.m. EDT | LP03 Ethics Lunchtime Plenary

A two-hour presentation by some of Connecticut's authorities on ethics.

Attend this plenary and earn up to 7.5 percent premium credit off two years on professional liability insurance offered through this CBA exclusively endorsed program, underwritten by CNA.

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## 2:00 p.m. – 4:00 p.m. EDT | Afternoon Concurrent Sessions

### **DI02 Diversity & Inclusion: Learning the Nuts & Bolts**

*The Diversity and Inclusion Track | Presented by the Diversity, Equity, and Inclusion Committee*



Do you wish to do more to diversify your practice and make it more inclusive? Then this session is for you. Although geared towards small to midsize firms, it will benefit large firms as well.

#### **You Will Learn**

- How implicit biases can manifest themselves in the workplace to impede opportunities for all individuals
- Why diversity and inclusion is good for business
- How to get started assessing where you are and where you want to go, including how to draft a substantive diversity policy and following up on that commitment
- About proper employment practices from the advertisement, through the interview to hiring to broaden diversity
- How to be mindful of societal conditioning in order to retain good talent

#### **Speakers**

**Hon. Angela C. Robinson (Ret.)**, Halloran Sage, New Haven

**John M. Letizia**, Letizia Ambrose & Falls PC, New Haven

*CLE Credit: 2.0 CT (Ethics); 2.0 NY (D&I)*

### **FL05 The POWER Act: Pro Bono Representation and the Prevention of Domestic and Sexual Violence**

*The Family Law Track | Presented by the Pro Bono Committee*

This session will re-introduce the legal community to the Pro Bono Work to Empower and Represent Act of 2018, known as the POWER Act. The act mandates that federal courts hold annual public empowerment events in partnership with domestic violence service providers and volunteer lawyer projects to promote “pro bono legal services as a critical way in which to empower survivors of domestic violence, dating violence, sexual assault, and stalking, and to engage citizens in assisting these survivors.”

#### **You Will Learn**

- How to encourage lawyers to provide pro bono resources in an effort to assist victims and survivors as they navigate the legal system
- How to educate the legal community about the importance of pro bono services and the issues unique to the representation of victims and survivors
- About legal resources, available survivor assistance programs, training available through the CBA, and how to pledge to provide pro bono services

#### **Speakers**

**Hon. Kari A. Dooley**, US District Court District of Connecticut, Bridgeport

**Ines Cenatiempo**, US Attorney's Office, Bridgeport

**Pilar Gonzalez**, US Attorney's Office, New Haven

**Margaret Groban**, US Attorney's Office, District of Maine, Portland, ME

**Alina Marquez Reynolds**, Grace Farms Foundation, New Canaan

*CLE Credit: 2.0 CT (General); 2.0 NY (AOP)*

### **HT01 Advocating for Residents in Nursing Homes and Other Facilities**

*The Hot Topics Track | Presented by the Elder Law Section*

Over the course of the past year, COVID-19 has cast nursing homes and other living facilities into the spotlight. State of Connecticut's Long Term Care Ombudsman Mairead Painter and Attorney Julia M. Brown will discuss the rights of residents and effective methods of advocating for residents from nursing home admission through to discharge.

#### **You Will Learn**

- The nursing home admission process—tips and traps for the unwary
- About bed holds and readmissions—why protecting that nursing home bed is critical
- The importance of care plan meetings—the key to getting good care
- About discharges—wrongful discharge, advocacy steps to delay discharge, and ensuring safe discharge
- About advocacy in assisted living facilities and nursing homes and how they differ
- About COVID-19 related guidance and any current state executive orders

#### **Speakers**

**Julia M. Brown**, Law Office of Julia M. Brown LLC, Waterbury

**Mairead Painter**, CT Long Term Care Ombudsman Program, Hartford

#### **Moderator**

**Lara Stauning**, CT Department of Aging and Disability Services, Hartford

*CLE Credit: 2.0 CT (General); 2.0 NY (AOP)*

### **RP05 The Top 10 Things Every Lawyer Should Know about Land Use Law**

*The Real Property/Environmental Law Track | Presented by the Planning & Zoning Section*

This session is intended to provide lawyers the basics of what they need to know about land use law and how land use can impact private property rights.

#### **You Will Learn**

- About variances, zoning regulations, private property rights, and enforcement options
- Procedural issues in land use applications (meetings, hearings, and decisions)
- The basics of environmental intervention, 8-30g—Affordable Housing, and Historic District Commissions
- About the Religious Land Use and Institutionalized Persons Act (RLUIPA)

#### **Speakers**

**Nicholas R. Bamonte**, Berchem Moses PC, Westport

**Eric D. Bernheim**, FLB Law PLLC, Westport

**Andrea L. Gomes**, Hinckley Allen, Hartford

**Jason A. Klein**, Carmody Torrance Sandak & Hennessey LLP, Stamford

**Evan J. Seeman**, Robinson+Cole, Hartford

#### **Moderator**

**Dorian Reiser Famiglietti**, Kahan Kerensky Capossela LLP, Vernon

*CLE Credit: 2.0 CT (General); 2.0 NY (AOP)*

### **CL03 Updates in Connecticut Construction Law**

*The Updates in Case Law Track | Presented by the Construction Law Section*

Significant new developments are occurring regularly in the dynamic area of construction law. It is essential for those involved in this field in Connecticut—whether as a “veteran” construction lawyer, an occasional practitioner, or as an owner or contractor—to keep abreast of this changing law, legislative initiatives, and recent statutory enactments. This session will provide you with up-to-date information about the current state of construction law.

#### **You Will Learn**

- About changing laws, legislative initiatives, and recent statutory enactments

*CLE Credit: 2.0 CT (General); 2.0 NY (AOP)*

## 5:00 p.m. - 6:00 p.m. EDT | EP03 Evening Plenary

### **Reflections on the Supreme Court**

**Neal Katyal**, Hogan Lovells LLP, Washington, DC

Neal Katyal, who has argued 44 cases before the US Supreme Court, will discuss the current term and how decisions will continue to make news on a variety of issues. As an accomplished litigator on the Supreme Court, he will share his insights into the decisions of the Court, what we could expect this term, and their importance for the country. Additionally, Katyal will detail the Court's sometimes tragic role in protecting our civil liberties.

**Neal Katyal** is the former Obama administration acting solicitor general of the United States, the Paul and Patricia Saunders professor of law at Georgetown University, a partner at Hogan Lovells, a New York Times best-selling author, a constitutional scholar, and a TED speaker. He has argued more Supreme Court cases in US history than has any minority attorney, recently breaking the record held by Thurgood Marshall. Attorney Katyal has received numerous distinctions and has appeared on virtually every major American news program, as well as on The Late Show with Stephen Colbert and House of Cards.

*Sponsored by Kronholm Insurance Services, CATIC, and LEAP. This plenary will not be recorded.*



# RACIAL INEQUALITY: OUR FIRST YEAR IN REVIEW



Honorable Constance Baker Motley

By HON. BARRY F. ARMATA, VANESSA AVERY, AND CECIL J. THOMAS

**L**AST MAY, THE SHOCKING MURDER OF GEORGE FLOYD AWAKENED A COLLECTIVE consciousness in this country about the devastating, and often lethal, effects of racism. Mr. Floyd was one among countless other Black men and women who have been killed in similarly shocking and tragic ways. And yet, because of the circumstances of Mr. Floyd's death, we were able to bear witness to just how little value his life held to those who participated in his killing, and to those who stood by watching it occur. Mr. Floyd's death rightfully shocked our collective conscience and renewed an ongoing battle for civil rights and equality in this country, and around the globe.

Mr. Floyd's death, as well as the deaths of Ahmaud Arbery and Breonna Taylor and so many others, together with multiple national civil protests that occurred, served as a wake-up call, inviting us to engage in a long-overdue reckoning with the manifestations of structural and systemic racism that continue to exist today. As part of this movement, the Connecticut Bar Association and Connecticut Bar Foundation joined together last July to launch the Constance Baker Motley Speaker Series on Racial Inequality ("the Series"). The Series has continued as an ongoing forum for the Connecticut legal community to explore issues of racial inequality and systemic racism throughout this past year.

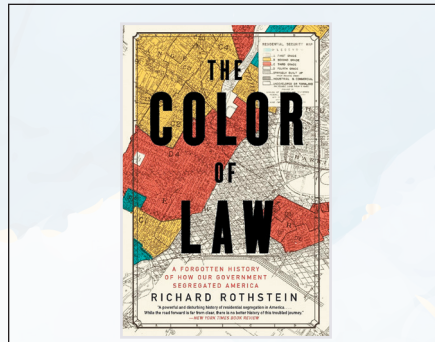


On the evening of Tuesday, June 15, 2021, we invite you to join us for the summative event of the first year of the Series, which will feature an address by Richard Rothstein, author of *The Color of Law: A Forgotten History of How Our Government Segregated America*, a discussion between Professor Rothstein and Chief Justice Richard Robinson of the Connecticut Supreme Court, and a panel discussion evaluating our collective efforts to combat structural and systemic racism this past year. While there is much progress to be made in our ongoing quest for racial equality and justice, we hope that this event will allow us a collective moment to pause, reflect on how we got here, and consider the road ahead.

### Honoring Judge Constance Baker Motley

The Series is named in honor of the Honorable Constance Baker Motley, a trailblazer who was responsible for numerous landmark court victories in the civil rights movement before becoming the first Black woman appointed as a federal judge in the country.

Constance Baker Motley was born and raised in New Haven and attended New Haven public schools before attending college at Fisk University and New York University. She then became the first Black woman to attend and graduate from the Columbia University School of Law. Judge Motley began her legal career at the NAACP Legal Defense Fund, where she argued and won numerous seminal civil rights court victories. During this time, Judge Motley litigated over 200 desegregation cases in 11 southern states. She argued ten cases before the United States Supreme Court, winning all but one (which was later overturned in her favor). Judge Motley went on to become the first Black woman ever elected to the New York State Senate and then to be elected as Manhattan Borough president. In 1966, she was appointed to the federal bench by



*The first 100 attendees of this seminar who request a copy of featured speaker Richard Rothstein's book, The Color of Law, will receive a free copy. Not attending the conference? Visit [ctbar.org/Motley-Series](http://ctbar.org/Motley-Series) to register to attend.*

President Lyndon Johnson, and she continued as a federal judge for 38 years, ultimately becoming chief judge before taking senior status.

Judge Motley maintained her Connecticut roots throughout her career. She was married to her husband, Joel Motley, Jr., in New Haven, and maintained a seasonal home in Chester throughout much of her life. Her funeral, in 2005, was held in the same New Haven church where she had been married in 1946.

Judge Motley's former Chester home was recently selected as a historic site for the Connecticut Freedom Trail, "a state designation that places it among a select few sites that celebrate extraordinary individuals whose lives expanded the circle of freedom and opportunity for all Americans."<sup>1</sup> Part of her former property now forms the Constance Baker Motley Preserve in Chester, which is open to the public and serves as an ongoing testament to her life and accomplishments.<sup>2</sup>

We hope that the Series is a fitting tribute to the life and accomplishments of Judge Constance Baker Motley, and that her life's work is an inspiration to all of us to

continue the fight to root out racism in all its many forms. We are grateful to Judge Motley's son, Joel Motley III, for his ongoing support for the Series as it has taken shape over the past year.

### The Series in Review

The Series launch took place in July of 2020, featuring a candid conversation between Chief Justice Richard Robinson and Justice Maria Kahn of the Connecticut Supreme Court, with Professor Marilyn Ford and Dean Emeritus Timothy Fisher serving as moderators. The series continued with individual sessions on housing segregation, voting rights and political access exclusion, educational inequalities, land use and zoning reform, a two-part presentation on policing and race, employment law, language bias, consumer finance, the insurance industry, and the jury selection process. You can access all of the Series sessions on the CBA website at [ctbar.org/ConstanceBakerMotleySeries](http://ctbar.org/ConstanceBakerMotleySeries).

The series has also featured a number of virtual roundtable discussions, allowing for further feedback, reflection, and exchange on the topics covered within the Series. Each session of the Series has drawn hundreds of participants. Our hope is that this focused opportunity for education will increase awareness, foster dialogue, and prompt much-needed action towards a more just and equitable society. Student leaders from our local law schools (Quinnipiac University, the University of Connecticut, Western New England University, and Yale University) have also participated in the development of the Series, so that future generations of lawyers can have important conversations around these vital topics.

### Acknowledgments

Each session of the Constance Baker Motley Speaker Series has been organized by subcommittees of highly dedicated attorney and judge volunteers, who have helped shape the series, select topics,



## The Constance Baker Motley Speaker Series

identify speakers, and participate in panels themselves. The series would also not be possible without the dedicated staff of the Connecticut Bar Association and Connecticut Bar Foundation. Amani Edwards, Tom Genung, and Phanny Cahill of the Connecticut Bar Association, along with Natalie Wagner, Liz Drummond, Sarah Caputo, and Veatrice Carabine of the Connecticut Bar Foundation, have worked tirelessly all year to ensure the ongoing success of the Series. We are deeply grateful for their time and effort.

### Looking Forward

The Series has just begun the exploration of how structural racism affects so many fundamental aspects of our systems of law, democracy, and civil society. We hope that the education provided through the Series has prompted

heightened awareness, which in turn will prompt action and much-needed change.

As we reflect upon the Series, we acknowledge that there is much that has not yet been addressed. For this reason, we are excited that the Series will continue in the years to come, as a continued joint effort of the Connecticut Bar Association and Connecticut Bar Foundation. While others will eventually take up the charge of leading and shaping the series, we have been deeply grateful for this opportunity to honor the life, legacy, and work of Judge Constance Baker Motley.

Thank you for your ongoing and enthusiastic support for the Series. We hope you will join us on the evening of Tuesday, June 15, 2021, as we bring the first year of the Constance Baker Motley Speak-

er Series on Racial Inequality to a close and take some time to reflect together on where we have been, and where we have yet to go. ■

*Hon. Barry F. Armata, Vanessa Avery, and Cecil J. Thomas have served as the co-chairs of the Constance Baker Motley Speaker Series on Racial Inequality during the 2020-2021 bar year. Judge Armata is the chair of the Connecticut Bar Foundation James W. Cooper Fellows. Attorney Avery is the vice president of the Connecticut Bar Foundation. Attorney Thomas is the president-elect of the Connecticut Bar Association and co-chair of its Diversity, Equity, and Inclusion Committee.*

### NOTES

- 1 <http://www.chesterlandtrust.org/motley-preserve---the-ct-freedom-trail.html>
- 2 Constance Baker Motley | Connecticut History | a CTHumanities Project; Constance Baker Motley — CT Women's Hall of Fame ([cwhf.org](http://cwhf.org)); Constance Baker Motley | Connecticut History | a CTHumanities Project; Constance Baker Motley: A Warrior for Justice | Connecticut History | a CTHumanities Project

■ The views and opinions expressed in this article are those of the authors. They do not purport to or necessarily reflect the official policy or position of their employers, including state agencies or officials, or other affiliated organizations.

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# FIRPTA

(Foreign Investment in Real Property Tax Act)

## A Quick Overview

By DAVID S. VELEBER AND BRUCE A. ZAWODNIAK

### What Is FIRPTA?

FIRPTA is the IRS acronym for the Foreign Investment in Real Property Tax Act, 26 USC Sect. 897. While there are no prohibitions on non-US citizens holding title to real property, when those owners sell, they are subject to the same capital gains taxes that US citizens pay. In order to ensure that any such gains are reported and any tax due is paid, the U.S. Congress legislated a withholding requirement at 26 USC Sect. 1445, and the IRS has implemented regulations regarding that requirement.

### Why Do I Need to Worry about It?

If you represent the buyer from a non-US citizen who is subject to the tax and you fail to withhold the required amount, your client may be liable for the payment of any tax, interest, and penalties that are due if the seller fails to pay. Even if the seller pays the tax, the buyer may be liable for the interest and penalties for late payment or non-filing.

### What Is Required?

In any *disposition* of a *US real property interest* by a *foreign person*, the *transferee* is required to withhold an amount equal to 10 percent or 15 percent (depending on the amount realized and the intended use by the transferee) of the *amount realized* from the *transferor's* proceeds and send it to the IRS along with the proper forms.

The italicized words in the above statement all have defined meanings under the IRS regulations, 26 CFR Sect. 1.1445-1 *et seq.* Note these important items regarding the definitions:

1. A “*foreign person*” includes a non-resident, non-US citizen, and non-US corporations (except those that have made a valid election under section 897(i) of the Internal Revenue Code to be treated as a domestic corporation), partnerships, trusts, estates, and limited liability companies.



This article is a brief overview of the nature and scope of, and requirements under, FIRPTA, and its impact on attorneys representing buyers and sellers. Learn more about this topic at the 2021 Connecticut Legal Conference in **RP03 FIRPTA (Foreign Investment in Real Property Tax Act)**. Register online at [ctlegalconference.com](http://ctlegalconference.com).

Image credit: Be\_Noire iStock/Getty Image Plus



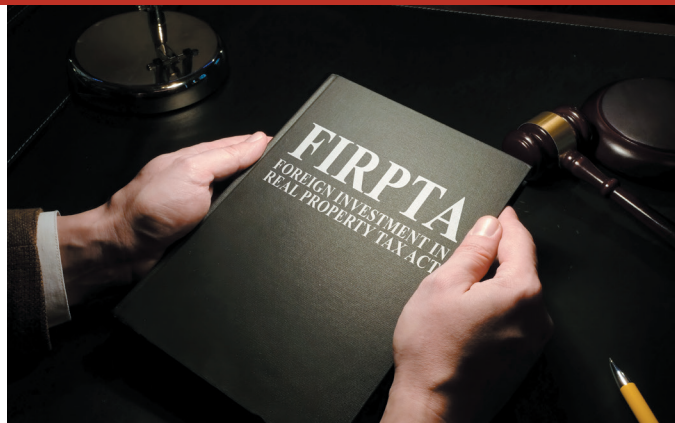


A non-US citizen who has resident status (“green card” status) is not a foreign person for FIRPTA purposes and is considered a lawful US resident. A person who meets the “substantial presence” test may also be considered a resident alien for tax purposes.

2. The “amount realized” is the purchase price or the consideration paid. It is not just the net proceeds.

The amount withheld must be remitted to the IRS along with Form 8288 and Form 8288-A. Both forms require that the transferee’s and transferor’s Taxpayer Identification Number (TIN) be provided. In the case of a foreign person who does not have a social security number or does not qualify for one, a Form W-7 must also be completed and submitted with the Forms 8288 and 8288-A. An Individual Taxpayer Identification Number (ITIN) will be assigned and can be used to file the subsequent tax return.

The tax on Form 8288 is due to the IRS by the 20th day after the date of transfer. An extension of the time to pay over the withholding is permitted if the taxpayer has filed an application for a certificate of waiver from the withholding requirement (a withholding certificate), and has not yet received a decision. Once the IRS makes a determination on the withholding certificate and on



what funds (if any) are due, the funds are due to the IRS within 20 days of that determination.

### Are There Exceptions to the Filing Requirement?

Yes. If the transfer is a gift and no liabilities are being assumed, the amount realized is zero, and no withholding is required.

Also, if the transferor is not a foreign person within the definition set out in 26 CFR Sect. 1.1445-2(b)(2), no withholding or filing is required. This section allows the transferee to demand and to rely on a certification of non-foreign status (aka the non-foreign or FIRPTA affidavit) obtained from the transferor. The certification must be retained for five years.

There are four certification forms: Individual, Entity, Owner of Disregarded Entity—Individual, and Owner of Disregarded Entity—Other Entities.

A “disregarded entity” is defined in 26 CFR Sect. 1.1445-2(b)(2) (iii). The most common form of disregarded entity is the single member LLC where the member uses his/her own social security number for the entity tax identification number. The owner of the disregarded entity is treated as the transferor of property and must provide a certificate of non-foreign status to avoid withholding.

A further exemption from the requirement to withhold is found at 26 CFR 1.1445-2(d). This section applies when:

1. the amount realized by the transferor is not more than \$300,000; AND
2. at the date of the transfer, the transferee or member of the transferee’s family has definite plans to reside in the property for at least 50 percent of the time the property is occupied during each year of the two-year period following the transfer. The transferee must be an individual.

If you intend, as the buyer’s counsel, to rely on this exemption, you should obtain written confirmation from your clients of their present intent to occupy the property in the manner required by the regulations. Although the exemption may be available, the buyer does not need to proceed under the exemption and can still

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require the requisite amount to be withheld.

### The Withholding Certificate—A Seller's Option

Foreign persons who are about to transfer title to real estate may avoid withholding under certain circumstances if they apply for and obtain a withholding certificate pursuant to 26 CFR Sect. 1.1445-3. Grounds for requesting a withholding certificate include the fact that the amount to be withheld exceeds the taxpayer's maximum tax liability, the reduced amount would not jeopardize collection, the transferor is exempt from the payment of US tax, or the transferor has entered into a separate agreement with the IRS for payment of the tax.

There are six categories of applications for a withholding certificate. IRS Publication 515 provides a good discussion of the six categories and the instructions for requesting the certificate. The most common situations would use a Form 8288-B to apply for the withholding certificate.

If the foreign person does not have a taxpayer identification number or an ITIN, an application to obtain the tax identification number (using Form W-7) must be submitted and an identification number obtained. Note that the IRS will not process a request for a withholding certificate without a taxpayer identification number or ITIN.

Processing such an application for a withholding certificate takes time. Applications should be made as soon as possible before closing.

### Summary

FIRPTA should be a consideration in every closing you do. If you represent a buyer, you should obtain a certification of non-foreign status (if applicable) in every instance to protect your client. If withholding is in fact required, ensure that sufficient funds are withheld and processed correctly. If you represent a seller, you should determine early in the process whether the seller is a foreign person within the meaning of FIRPTA, and explore the withholding requirement. Early action will avoid a closing disruption. ■

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# The “Why” and the “Why Not” of Your Diversity, Equity, and Inclusion Efforts

By CECIL J. THOMAS AND KAREN DEMEOLA



**I**n the Hans Christian Andersen folktale, the Emperor’s New Clothes, a vain emperor hires two weavers to make him the most exquisite suit of clothes, for which he pays a great deal of money. The weavers, who intend to defraud him, inform the emperor and his ministers that the clothes are invisible to those who are unintelligent. The emperor, not wishing to be called a fool, continues to pay for the weavers to work on empty looms until they present him with the finished product. The emperor’s nobles and courtiers, also not wishing to be seen as unintelligent or outside of the inner circle, praise the splendor of the garment in effusive terms. As the emperor parades through the town, to show off the magnificence of his new clothing, his subjects uncomfortably join in collective

praise. Finally, as the well-known story goes, a young child calls out that the emperor is naked, disrupting the charade. At this moment, “[t]he Emperor shivered, for he suspected they were right. But he thought, ‘This procession has got to go on.’ So he walked more proudly than ever, as his noblemen held high the train that wasn’t there at all.”

The classic folktale continues to resonate because it holds so many lessons for us today: in groupthink and organizational psychology, in leadership and the importance of honest counselors, in the ease with which we might embrace convenient lies, personally and organizationally, because the truth is uncomfortable. The story also holds lessons for our organizational diversity, equity, and in-

clusion efforts, where our commitments may be genuine and perceptible, or hold as much substance as the emperor’s “new clothes.” Like that infamous outfit, a diversity, equity and inclusion commitment (“DEI”) may be largely empty, held up by written statements and policies, the affirmations of those who wish to be seen as part of the team, and a collective fear of the consequences of telling the truth. The difference between an authentic DEI initiative, and one that lacks substance and impact, is in your “why.”

Your stated organizational “why” may be values or mission-based (e.g., “the right thing to do,” a guarantee of true equal opportunity, a commitment to combat historic and ongoing discrimination) or self-interested (e.g., client expectations, marketability, competitiveness, “the business case for diversity”), or some combination thereof. We will explore some of these in greater detail in a future column. We have previously encouraged you to pursue organizational and personal DEI efforts as an enduring value system, and as a commitment to an evolutionary and ongoing journey. Broadly stated, an impactful organizational DEI commitment lies in a combination of committed leadership, a culture of authenticity and empathy, and intentional efforts to identify and eliminate the improper impacts of explicit and implicit biases. These are not accomplished overnight, and any of those elements may fail because of changes in people and roles, diminished prioritization, or the absence of meaningful commitment.

Organizational DEI initiatives focus on



“I’ve learned that people will forget what you said, people will forget what you did, but people will never forget how you made them feel.”

—Dr. Maya Angelou

“People don’t buy what you do; they buy why you do it. And what you do simply proves what you believe.”

—Simon Sinek, *Start with Why: How Great Leaders Inspire Everyone to Take Action* (2009)

our essential workplace systems: recruitment and hiring, training and education, compensation, workplace culture, policies and procedures, mentorship, and the paths to growth and advancement. Within each of these systems, there are best practices that may be employed to advance DEI. Whether those best practices are effective lie in your DEI “why” or “why not.” You may create diverse hiring committees, but intentionally or subconsciously disregard or dismiss those diverse perspectives within the hiring process. You may hire or promote diverse individuals, but tokenize those individuals in those roles, implicitly or explicitly labeling them “diversity hires.” You may employ diverse individuals within your organization, but not invest in their growth and advancement, or maintain promotion systems that are not transparent and too susceptible to the impact of individual implicit biases. You may form a DEI committee, or hire dedicated DEI personnel, but effectively silo those efforts, preventing them from having meaningful impact.

The potential “why not” reasons are legion, and not always due to improper motivations. Lack of leadership com-

mitment; a culture of resistance; limited capacity; prioritization of other matters and concerns; fear of change; or a strong positive bias in favor of the status quo, resistance, apathy, skepticism, or fatigue may all obstruct your DEI efforts. In the absence of an authentic and sustained “why,” the “why not” often fills the resulting void.

Let us consider DEI-focused training to further illustrate our point. Often, an organization that is seeking to start or reinvigorate its DEI efforts will do so with a training on an aspect of DEI, such as implicit bias. This starting point makes logical sense, as a way of understanding the relevant issues, and providing a baseline for everyone within the organization before embarking further. The organization may make the training event mandatory, and schedule the training at a time to ensure maximum availability and participation. The training may be scheduled for an hour, 90 minutes, or even longer. The trainers should be skilled, and provide engaging and insightful content that fuels further reflection and heightens awareness. A significant amount of organizational energy, time, and resources will be devoted to the coordina-

tion and delivery of this training event. On an individual level, participants are taking time away from their other functions, such as serving clients and billing for that service, to engage, which also reflects a significant measure of commitment. After the training, everyone commends those involved for a job well done, feeling rightfully proud of the significant effort and evidence of organizational DEI commitment.

Will that training have impact? Is that even a fair question? These are far more complicated issues, and the answers lie in the “why” and “why not” of the organization’s DEI efforts. Was the train-

*Continued on page 40 —*



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Attorney Thomas is the co-chair of the CBA’s Diversity and Inclusion Committee, having previously served as co-chair of the Committee from 2015 through 2018, including with Attorney DeMeola in 2017. Attorneys Thomas and DeMeola have been instrumental in the development of many of the CBA’s diversity and inclusion initiatives, and regularly speak and teach on diversity, equity, and inclusion in the legal profession.



Learn more about this topic at the 2021 Connecticut Legal Conference in **EPO2 Strategies to Create Inclusive and Equitable Cultures within Legal Workplaces**. Register online at [ctlegalconference.com](http://ctlegalconference.com).

# Matching Ideals and Commitment with Time and Opportunity: Pro Bono Engagement through the Connecticut Bar Association

By CECIL J. THOMAS

**E**ach of us has that never-ending to-do list, perhaps categorized by the immediate, the short-term, the long-term, the ongoing, and the aspirational. Time is a constant consideration and source of pressure for lawyers: the professional accounting and billing of time, the demands of our clients upon our time; time deadlines set by law or by court rule; the balancing of time that all of us must do to meet our personal, social, and familial obligations; and the time necessary for wellness, self-care, and restoration.

Amidst all of these and the many other demands on our time, lies our ethical obligation to provide pro bono legal representation to those who are unable to afford it. Connecticut Rule of Professional Conduct 6.1 states that “[a] lawyer should render public interest legal service.” The Commentary to Rule 6.1 reminds us that “[t]he basic responsibility for providing legal services for those unable to pay ultimately rests upon the individual lawyer... Every lawyer, regardless of professional prominence or professional workload, should find time to participate in or otherwise support the provision of legal services to the disadvantaged.”<sup>1</sup> Of course, many of our personal and professional obligations require us to “find time,” and doing so for the provision of pro bono legal representation can be challenging. At the same time, our ethical obligation to provide pro bono legal representation to the disadvantaged is more important now than ever, as the economic impact of the COVID-19 pandemic widens an ever-growing access to justice gap.



The Commentary to Rule 6.1 also wisely reminds us that “personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer.” While the press of time may make prioritization of pro bono legal representation difficult, the time that you find and make available for this work is vital and incredibly impactful. Our civil legal access to justice crisis is greatest in those areas that affect fundamental matters of personal concern: housing security, family relations and safety, income protection and maintenance, education access, and immigration status. In these critical legal controversies, there is often an imbalance of power between the parties, forcing a financially disadvantaged or otherwise vulnerable individual to litigate, without the assistance of counsel, against a party with far greater resources. Pro bono legal representation is then an essential protection against the destabilizing and devastating effects of homelessness, domestic violence, family breakup, loss of subsistence income, educational inequity, or loss of immigration status. Lawyers standing in that breach, without

any thought to compensation or reward, represent our profession at its best.

The CBA Pro Bono Committee is tasked with supporting pro bono engagement and offers a variety of pro bono volunteer programs and opportunities, designed to match your commitment and available time with an appropriate opportunity. Whether you have one hour or 20, there is a CBA program designed to support your participation in pro bono service. We hope you will consider participating in all of them.

## **CT Free Legal Answers**

*(Advice and counsel; estimated time commitment of 30 minutes to one hour)*

CT Free Legal Answers is a collaborative project of the American Bar Association and Connecticut Bar Association. Low-income individuals are screened for income eligibility through an online portal, and may then privately post a question there, in topics ranging from family law, probate matters, bankruptcy, consumer issues, education, employment, housing, workers’

compensation, wills, and estate planning. Attorneys may sign up to volunteer for CT Free Legal Answers at [ctbar.org/CT-FreeLegalAnswers](http://ctbar.org/CT-FreeLegalAnswers). You will then be able to access submitted questions, preview them to select the questions that you are comfortable answering, and submit responses anonymously or ask additional questions, within the Free Legal Answers portal. The CT Free Legal Answers platform allows you to save drafts of responses if you are interrupted or need more time, mark responses “closed” when you have provided all available information, and track the amount of time that you have spent answering questions. Once you are registered through CT Free Legal Answers, you can log in at your leisure to review and respond to questions, according to your availability. This is the perfect pro bono opportunity for your “spare” time, allowing you complete control over how many questions you choose to answer, and how often you participate.

### **CBA Virtual Pro Bono Legal Clinics**

*(Advice and counsel; estimated time commitment of 30 minutes to an hour)*

Prefer a brief pro bono opportunity with real-time interaction? Consider participating as an attorney, paralegal, or law student volunteer during our Virtual Pro Bono Legal Clinics. Applicants to the clinics are able to sign up directly, or be referred by Statewide Legal Services, to obtain legal assistance in matters such as housing, family, and consumer law. Once registered, paralegal and law student volunteers work with the applicant to gather more information and complete the intake and referral documentation. The applicant is then matched with an attorney for a 30-minute advice consultation, scheduled virtually through the CBA’s Zoom™ account. Volunteer attorneys can sign up for as many advice consultations as they prefer, in the topics of their prefer-

**“Lawyers have a license to practice law, a monopoly on certain services. But for that privilege and status, lawyers have an obligation to provide legal services to those without the wherewithal to pay, to respond to needs outside themselves, to help repair tears in their communities.”**

—US Supreme Court Associate Justice Ruth Bader Ginsburg (March 2014)

ence, and are covered by the CBA’s malpractice insurance during the virtual clinic consultation.

During the 2020-2021 bar year, the CBA has hosted two virtual legal clinic sessions, first during National Pro Bono Week in October of 2020, and again from April 27-29 of 2021.<sup>2</sup> If you missed signing up for one of these sessions, keep an eye out for our next Virtual Legal Clinics in October of 2021. For the most up-to-date information about the clinics, visit [ctbar.org/ProBonoClinic](http://ctbar.org/ProBonoClinic).

### **CBA Lawyers in the Libraries**

*(Advice and counsel; estimated time commitment of one to two hours)*

If you prefer to meet with applicants in your own community, consider participating in the Lawyers in the Libraries program. In December of 2020, the CBA launched this new program, allowing volunteers to provide pro bono legal services to members of the public in a community setting, in 20-minute pre-scheduled appointments. The program was started at public libraries in New London and Stamford, with plans to expand it to additional libraries as safety permits. If you are interested in volunteering through the Lawyers in the Libraries program, email [probonoclinic@ctbar.org](mailto:probonoclinic@ctbar.org).

### **CBA Pro Bono Connect**

*(Limited scope to full representation; estimated time commitment of five to 20 hours)*

As you are able to undertake limited scope and full representation pro bono matters, you may sign up to receive case referrals and training through CBA Pro Bono Connect. This program connects Connecticut residents in need of pro bono service with legal service providers as well as volunteer attorneys with legal service providers who need assistance with pro bono cases and training to take on a pro bono case. Consider taking the Pro Bono Pledge<sup>3</sup> to provide representation in at least one housing, family, education, consumer, immigration, or veterans benefits matter in the coming year. In exchange for taking the pledge, you will receive access to free training videos and materials, accessible through the CBA Education Portal, and available to you for a full year after you take the pledge. There are currently more than 15 different on-demand training webinars, with accompanying

*Continued on page 40 —*



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Learn more about pro bono work at the 2021 Connecticut Legal Conference in **FL05 The POWER Act: Pro Bono Representation and the Prevention of Domestic and Sexual Violence**. Register online at [ctlegalconference.com](http://ctlegalconference.com).

# Amending Repeals

By CHARLES D. RAY and  
MATTHEW A. WEINER

In *One Elmcroft Stamford, LLC v. Zoning Board of Appeals, S.C. 20393* (released Jan. 25, 2021), the Supreme Court, pulled back the curtain on some curious legislation in order to answer the basic question of whether the repeal of a statute counts as an “amendment” to that same statute. Not being big on suspense, we’ll tell you up front that “no” is the answer to this simple question. The details, as is often the case, are much more complicated, and serve to prove the truth of the well-worn adage about not looking too closely at the making of either laws or sausages.

We begin in 2016, when Pisano Brothers Automotive applied to the Department of Motor Vehicles for a used car dealer license. General Statutes § 14-54 required that Pisano Brothers also obtain a “certificate of approval of the location” from the appropriate local authorities—in this case, the City of Stamford. Pasquale Pisano filed an application with the Stamford ZBA, which eventually approved it with conditions. One Elmcroft, an abutting neighbor, took an appeal to the superior court, arguing, in part, that the ZBA had failed to conduct the “suitability analysis” required by General Statutes § 14-55.

It may be best to pause here, so we can explain the source of the brouhaha that followed Pisano Brothers all the way to the Supreme Court. For that, we need to go back to 2003 and look at two public acts. The first, No. 03-184, repealed § 14-55, effective October 1, 2003. The second, No. 03-265, enacted just several days later, repealed and replaced § 14-55, with some changes, also effective October 1,



2003. Subsequent published editions of the General Statutes list § 14-55 as having been repealed. Can you see where this is headed?

The trial court held that § 14-55 was still in place and should have been adhered to, but that the ZBA had effectively complied with the statute by conducting what amounted to a suitability analysis of Pisano Brother’s proposed location. In short, a classic example of no harm, no foul. One Elmcroft begged to differ and took the matter to the appellate court, where it, once again, argued that § 14-55 remained in effect and had not been complied with. The ZBA agreed that § 14-55 remained in place, but argued that it had substantially complied with the statute’s mandate for a suitability analysis. Pisano Brothers

took the position that § 14-55 had been repealed, but that even if that wasn’t true, the ZBA had substantially complied with its requirements.

The appellate court—Judge Lavery, for a unanimous panel—reversed the trial court, concluding that § 14-55 remained in place and that the ZBA had not complied with the requirements of that statute. *One Elmcroft Stamford, LLC v. Zoning Board of Appeals*, 192 Conn. App. 275 (2019). Judge Lavery began by citing General Statutes § 1-2z, which requires courts, in the first instance, to discern the meaning of a statute “from the text of the statute itself and its relationship to other statutes.” Next, in what should become a classic judicial statement, Judge Lavery noted that “[f]ollowing the apparent repeal of § 14-

55, we are left with no text to consider.” Accordingly, the court looked to the legislative history from 2003 in its effort to sort through what the legislature had in mind. In this endeavor, the court was aided by a 2011 superior court opinion that had looked at the same issue and concluded that § 14-55, as modified, remained in effect, notwithstanding its “repeal” by the legislature in 2003 and notwithstanding that subsequent editions of the General Statutes continued to list the statute as having been repealed.

At this point, we should once again interrupt our story, to tell you about the legislature’s effort to deal with the fact that its left hand evidently does not always know what its right hand is doing. For that, we turn to General Statutes § 2-30b, which, with our emphasis added, provides, in subsection (a), that:

When two or more acts passed at the same session of the General Assembly *amend* the same section of the general statutes, or the same section of a public or special act, and reference to the earlier adopted act is not made in the act passed later, each amendment shall be effective *except* in the case of *irreconcilable conflict*, in which case the act which was passed last in the second house of the General Assembly shall be deemed to have repealed the irreconcilable provision contained in the earlier act, except as provided in subsection (b) of this section.

Applying § 2-30b, the appellate court concluded that, having been enacted last, Public Act 03-265—which repealed and replaced § 14-55—remained in effect and, thus, a suitability analysis was required. And on the money issue—whether the ZBA had substantially performed that analysis—the appellate court concluded that it had not, because it had not made any specific factual findings on the factors set forth in § 14-55.

But wait, you say, Public Act 03-184 did not amend § 14-55, it repealed it! The appellate court had an answer for that: *State v. Kozlowski*, 199 Conn. 667 (1986). *Kozlo-*

*wski*, according to Judge Lavery, “held that the term ‘amendment,’ as used in § 2-30b, applies ‘to all acts which expressly change existing legislation,’ including public acts.” But wait, you say again, what about the subsequent editions of the General Statutes, all of which list § 14-55 as having been repealed? Those compilations do not, according to a previous decision of the Appellate Court, “constitute the actual law of this state....” *Figueroa v. Commission of Correction*, 123 Conn. App. 862, 970 (2010), *cert. denied*, 299 Conn. 926 (2011).

Our guess is that the Pisano brothers were scratching their heads at this point, but on we go to the Supreme Court, which granted certification on the question: “Did the Appellate Court correctly conclude that General Statutes § 14-55 was not repealed in 2003?” *One Elmcroft Stamford, LLC v. Zoning Bd. of Appeals of City of Stamford*, 333 Conn. 936 (2019). You should already know the answer to this question, but let’s take a look at how and why the Supreme Court resolved the issue differently than the appellate court.

Justice Kahn, for a unanimous court, first took on the notion that subsequent editions of the General Statutes were not really law. For this, she relied on General Statutes § 2-56(g), which requires the Legislative Commissioners’ Office to: “[c]onsolidate and codify all the statutes and public acts of the state, and arrange and codify the same under chapter and sections with headnotes, annotations and references to original text and to any decisions of the Supreme Court interpreting the same, and revise such volumes thereof as have become obsolete by reason of the number of amendments thereto or related legislation subsequently enacted.” In 2005, the Legislative Commissioners performed this function and noted that § 14-55 was “repealed.” The legislature then “adopted, ratified, confirmed and enact-

ed” the resulting codification in a public act. The fact that this procedure was repeated seven times in subsequent years—without any legislative effort to resuscitate § 14-55—did not help One Elmcroft’s case with Justice Kahn.

If you thought this conclusion ended matters, you’d be wrong. Although the resulting product from the LCO and the legislature is “entitled to significant weight,” the presumption of correctness can be overcome if the party seeking to do so, “bears the burden of proving its infirmity.”

One Elmcroft failed this test because, according to Justice Kahn, “the Appellate Court improperly applied § 2-30b(a) to the present case.” There were two primary reasons for this conclusion. First, the word “amend” as used in § 2-30b does not include the concept of “repeal,” at least according to common usage and what appears to be every other court that has considered the question of whether a repealed statute can be amended. Second, the Supreme Court did not actually mean what it appears to have said in *Kozlowski*, because there it was dealing with a public act that repealed and replaced a portion of the General Statutes, as opposed to an act, like this one, that simply did a repeal.

So back the case goes to the Appellate Court to resolve claims raised by One Elmcroft unrelated to the amendment/repeal issue. We’re thinking the Pisano Brothers should try to shake some attorneys’ fees out of the legislature. ■



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■ Any views expressed herein are the personal views of DASA Weiner and do not necessarily reflect the views of the Office of the Chief State’s Attorney and/or the Division of Criminal Justice.

# Highlights

## Recent Superior Court Decisions

The Connecticut Law Reporter is a weekly publication containing the full text of Superior Court opinions. For copies of the opinions described here, or information about the reporting service, call (203) 458-8000 or write The Connecticut Law Book Company, PO Box 575, Guilford, CT 06437.

### ■ Administrative Law

Possession of a medical marijuana permit and daily use of marijuana precludes a Connecticut applicant from qualifying as a “suitable person” for a pistol permit, because the State Pistol Permit Statute disqualifies for eligibility to carry a pistol any person who has been convicted of a felony, Conn. Gen. Stat. § 29-28(b)(2), and under federal law possession of marijuana is a felony. *Stratford Police Department v. Board of Firearms Permit Examiners*, 70 CLR 266 (Cordani, John L., J.).

### ■ Bankruptcy and Foreclosure

The fair market value of property involved in a foreclosure action for purposes of ruling on a creditor’s PJR application may not be established by the use of values recorded on an assessor’s field card. *JP Morgan Chase Bank, N.A. v. Ryder*, 70 CLR 250 (Tierney, Kevin, J.T.R.).

### ■ Civil Procedure

*Bocchino v. Travelers Indemnity Co.*, 70 CLR 272 (Abrams, James W., J.), holds that reliance on the Wrong Defendant Statute to save an action dismissed for naming the wrong defendant does not require evidence that the plaintiff acted diligently.

The provision of the Municipal Powers Statute that extends authority to an assistant town clerk to exercise all of the powers of the town clerk “in the absence or inability of the town clerk,” Conn. Gen. Stat. § 52-57, extends authority for an assistant town clerk to accept service of process while a town clerk is absent or unable to act. *Fairfield Housing Corp. v. Fairfield Conservation Commission*, 70

CLR 239 (Berger, Marshall K., J.T.R.).

*N.E. Leasing, LLC v. Perrotti*, 70 CLR 279 (Young, Robert E., J.), holds that although the Prejudgment Remedy Statute contemplates the filing of a prejudgment application before the related civil action is commenced, there is no error in simultaneously filing a civil action and its related PJR application.

A plaintiff’s statutory 20-day time limit to assert a direct claim against a third-party defendant impleaded by a first-party defendant pursuant to the Third Party Impleader Statute, Conn. Gen. Stat. § 52-102a(c), is directory and not mandatory. Therefore, such a plaintiff may serve a third-party complaint against an impleaded third-party defendant at any time before the limitations period has lapsed. *Gombos v. Whole Foods Market Group, Inc.*, 70 CLR 283 (Krumeich, Edward T., J.).

### ■ Civil Rights

*CHRO v. Edge Fitness*, 70 CLR 232 (Cordani, John L., J.), holds that although the provision of the Discrimination in Public Accommodations Statute establishing exceptions from the statute’s prohibition of discrimination based on a person’s sex expressly provides for only two exceptions (the rental of sleeping accommodations for the exclusive use of persons of the same sex and separate bathrooms or locker rooms), Conn. Gen. Stat. § 46a-64(b)(1), the act allows a more general exception for circumstances in which legitimate gender privacy concerns provide justification for a broader range of exceptions. This opinion holds that the

practice of public physical fitness facilities to offer women-only work out areas while denying men single-gender accommodations does not violate the act.

Even though the Anti-Bullying Statute defines “bullying” to require more than one incident of bullying, Conn. Gen. Stat. § 10-222d, the plaintiff in an action against a public school system for a student’s suicide death allegedly caused by the school’s failure to protect the decedent from bullying is entitled to discovery of records of other students charged with even a single incident of bullying, because such information falls within the scope of discovery allowed by the Practice Book discovery rule, Practice Book § 13-2 (information “reasonably calculated to lead to the discovery of admissible evidence”). *Palosz v. Greenwich*, 70 CLR 242 (Genuario, Robert L., J.).

### ■ Contracts

*Strazza Building & Construction, Inc. v. Harris*, 70 CLR 92 (Genuario, Robert L., J.) (Strazza I), holds that the Supreme Court’s recent recognition of a rebuttable presumption that a construction project subcontractor is in privity with its general contractor for res judicata and collateral estoppel purposes does not apply to the reverse situation. That is, collateral estoppel cannot be asserted by subcontractors in later litigation against third parties. The opinion reasons that the Supreme Court’s ruling was based on the fact that a general contractor is likely to have broad knowledge concerning the performance of all subcontractors, so it is reasonable to presume that a general contractor’s interests are being sufficient-

ly protected in subcontractor litigation against third parties for application of collateral estoppel in later litigation involving the general contractor. On the other hand, individual subcontractors are less likely to be familiar with the performance of other subcontractors and therefore there is less justification for applying the doctrines in later disputes between a general contractor and third parties. This opinion holds that a ruling in an action unsuccessfully prosecuted by a project sponsor against a single subcontractor for the release of a mechanic's lien, that any lienable funds had been exhausted and therefore unavailable to satisfy any subcontractor claims, is not entitled to res judicata or collateral estoppel in a subsequent action brought by the general contractor against the project sponsor.

## ■ Criminal Law

A superior court opinion holds that the collateral estoppel doctrine can be applied to retrials in criminal cases only with respect to findings rendered in connection to charges on which a defendant was acquitted, because it is only in the event of an acquittal that a defendant could not be retried with a possible change in the resolution of the issue for which estoppel is being claimed. The opinion presents an interesting discussion of the application of the collateral estoppel doctrine to criminal trials. *State v. Epps*, 70 CLR 253 (Blawie, John F., J.).

## ■ Employment Law

*Stavridis v. National Spine & Pain Centers, LLC*, 70 CLR 23 (D'Andrea, Robert A., J.), holds that a dispute between an employer and employee over a noncompete agreement does not arise in "trade or commerce" and therefore does not give rise to a CUTPA claim, even if the dispute is based on an alleged interference by the employer with the plaintiff's ability to work for another employer.

A superior court opinion holds that allegations that an employer violated the Connecticut Fair Employment Practic-

es Act by terminating an employee for the manner in which a chronic medical condition was being treated (the use of a marijuana-based oil to treat a skin disease) state a claim, even though CFEPA requires proof that discriminatory conduct was based on the *existence* rather than the *manner* of treating a disability. *Peck v. Waterbury Board of Education*, 70 CLR 8 (Gordon, Matthew D., J.).

The opinion in *Martin v. United Capital Corp.*, 70 CLR 19 (Moukawsher, Thomas G., J.), presents a useful explanation of the court's decision to award mandatory attorney's fees well in excess of a claimant's recovery on a claim under the Conn. Minimum Wage Statute, Conn. Gen. Stat. § 31-68 (providing that an employer who violates the Minimum Wage Statute "shall be required to pay the costs and such reasonable attorney's fees as may be allowed by the court"). The opinion observes that the traditional rules governing discretionary fee awards are not directly applicable to claims under statutes that impose *mandatory* fee awards.

## ■ Environmental Law

The authority granted by the Inland Wetlands Statute to local IWC agencies for the delegation of the authority to approve field modifications to an approved permit, Conn. Gen. Stat. § 22a-42a(c)(2), coupled with a local ordinance tracking the language of the statute, extends to an agent's approval for the deposit of 300 cu. ft. of fill in an upland review area. *Zahid v. Greenwich Inland Wetlands & Watercourses Agency*, 70 CLR 245 (Berger, Marshall K., J.T.R.).

## ■ Family Law

*Moncure v. Crane*, 70 CLR 259 (Brazzel-Massaró, Barbara, J.), holds that the marital privilege applies only to confidential communications during the course of a marriage and therefore has no application to communications after a divorce, even if the relationship of the spouses remains amicable. However, the privilege remains in effect after di-

voice for the communications occurring during a marriage.

Although the transfer of a diamond ring to a person to whom the donor is engaged is implicitly conditioned on the occurrence of the marriage, thereby requiring the return of the ring if the marriage does not occur, there is no implication that a transfer to a person with whom the donor has a long-term romantic relationship is conditional. *Lewis v. Doria*, 70 CLR 270 (Genuario, Robert L., J.).

## ■ Social Services

*Commissioner of the Department of Social Services v. FOIC*, 70 CLR 229 (Cordani, John L., J.), holds that although on its face the statute prohibiting the Department of Social Services from disclosing information concerning applicants for assistance is broadly worded to prohibit the disclosure of any information concerning applicants, Conn. Gen. Stat. § Conn. Gen. Stat. § 17b-90, the purpose of the act is to prevent the disclosure of information that might reveal the *identity* of applicants. The prohibition, therefore, does not apply to requests for copies of information that have been redacted to eliminate information that might reasonably lead to the discovery of the identity of an applicant.

## ■ Zoning

*Bailey v. New Milford ZBA*, 70 CLR 237 (Pickard, John W., J.T.R.), holds that a home occupation zoning regulation limiting such uses in a single-family residential zone to situations in which (a) there be no external evidence of the business, (b) there is no outside noise beyond what is normal for a single-family residence, (c) the business be conducted entirely within the main dwelling, (d) the business be clearly incidental and secondary to the residential use, and (e) the business not be disruptive to adjacent neighbors, has not been satisfied by the operation of a commercial dog-handling business with outside dog runs accommodating up to 20 dogs. ■

# Getting Comfortable with Effective Networking

By CINDY M. CIESLAK

**O**ver the past couple of years, I have been often asked what advice I would give to law students and younger attorneys. My response remains consistent: new and prospective attorneys should get comfortable with effective networking. Candidly, I was very uncomfortable with networking during law school and even for a few years following my admission to the bar. I only became comfortable with networking once I understood the purpose of networking beyond exchanging business cards. Through my involvement with the Young Lawyers Section, as well as various discussions with valuable mentors, I became familiar with effective networking techniques and strategies.

Effective networking is more than being able to recite what we do and what we are good at; it is about engaging in memorable conversations and making lasting connections. Some of this will involve learning more about the person with whom we speak instead of educating them about ourselves. In order to learn about others, we must ask questions and engage in meaningful conversations. I often suggest that law students and attorneys practice effective networking by asking questions of family, friends, and colleagues with whom they are comfortable so that they can be prepared, confident, and comfortable asking questions of a new acquaintance so that the discussion may progress beyond what we do day-to-day at our jobs. If a connection is established beyond the “surface-level,” then we will have talking points allowing us to build upon that foundation in future

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**“...if new attorneys are not taking advantage of networking opportunities, they could be missing out on an opportunity to meet a potential mentor.”**

conversations, thereby making a distinct and lasting impression.

Of course, part of making a lasting connection will, at the appropriate time, include the natural progression of how the individuals within the conversation can add value or otherwise benefit each other’s goals, either personally or professionally. But oftentimes, effective networking does not begin with this part of the discussion, and that is precisely where young attorneys sometimes struggle—they want to make an instant connection that will immediately progress their career without taking the time to cultivate a lasting relationship that could be beneficial in the long run.

I am at this unique point in my career—I am not a brand-new attorney, but I also know that there is plenty more to learn and significant room for growth. There-

fore, I not only give this advice, but I regularly practice it.

This past year has been interesting as we learned how to practice law virtually. However, we have not lost a year of networking simply because we have not been able to go into courts, attend meetings, or enjoy in-person cocktail hours. Although it required some creative thinking, professional organizations have been able to keep its members connected through socially distanced events such as hiking and golf, as well numerous virtual events, including trivia nights, speed networking, murder mystery parties, escape rooms, fireside chats, book clubs, Zoom cocktail-making hours, educational panel discussions, and events that encouraged critical and timely discussions regarding diversity, equity, and inclusion. If you have not yet participated in one of these events, I highly encourage you to register



for one and bring a friend! If you are like me, you are starving for a little more social interaction.

As I mentioned in my initial article this bar year, I believe the pandemic has had and will continue to have an impact on the ability for young attorneys to benefit from mentorship. Further, if new attorneys are not taking advantage of networking opportunities, they could be missing out on an opportunity to meet a potential mentor. Although I have high hopes that we will soon be able to engage in the more traditional type of networking events, there is no reason to wait for that time to come when great opportunities for networking currently exist. And remember, the techniques and strategies we utilize to effectively network should not be reserved only for circumstances that are specifically coined as “networking” events, but rather, we can build relationships with every person with whom we talk. ■

Image credit: Ani\_Ka/DigitalVision Vectors



## Serving the Needs of the Connecticut Legal Community

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## President's Message

Continued from page 5

Counsel are Doing to Drive Change and Achieve Results." In this exciting program, we will hear from corporate counsel about how the desire to achieve sustainability and advance ESG is driving change in their companies, and what companies need from outside counsel to address ESG factors, regulation, and reporting.

The CBA has been with you throughout these unprecedented, trying times and we will stand with you as we navigate and define the new normal. To better serve you and your professional needs, please take a minute to update your CBA profile, including firm size and type, and area of practice, so that we can continue to deliver the high-quality content that you deserve.

As we begin to safely reopen the CBA offices and bring back in-person meetings, please mark your calendars and join Connecticut legal professionals and the CBA past presidents and their families at our Summer BBQ on Sunday, June 27 from 11:00 a.m. to 5:00 p.m. at Holiday Hill in Prospect. Learn more and register at [ctbar.org/BBQ](http://ctbar.org/BBQ).

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## DE&I

Continued from page 31

ing reactive, or part of an affirmative and comprehensive program to achieve long-term change? Will the training be part of an ongoing DEI effort, building knowledge or awareness over time, or simply a one-time "check the box" event with little or no follow-up? If implicit biases are deeply-held positive and negative associations built up within our subconscious minds over time, can we reasonably expect a stand-alone training to challenge those associations in 60 or 90 minutes? Can such a training, without more, guarantee the individual and organizational action steps necessary to effectuate actual and long-term change? Relying on an isolated training event to meaningfully advance DEI is akin to utilizing a lecture or a good book to ad-

Stay safe and be well. ■

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## NOTES

1. [www.un.org/sustainabledevelopment/sustainable-development-goals/](http://www.un.org/sustainabledevelopment/sustainable-development-goals/)
2. [www.un.org/millenniumgoals/](http://www.un.org/millenniumgoals/)
3. [www.unpri.org](http://www.unpri.org)
4. [www.unglobalcompact.org](http://www.unglobalcompact.org)
5. [www.responsible-investor.com/articles/the-rise-of-esg-law-firms-part-i-esg-law-gets-hot-and-ceos-get-bothered-leading-to-integrated-esg-legal-practices](http://www.responsible-investor.com/articles/the-rise-of-esg-law-firms-part-i-esg-law-gets-hot-and-ceos-get-bothered-leading-to-integrated-esg-legal-practices)
6. [www.forbes.com/sites/george-kell/2018/07/11/the-remarkable-rise-of-esg/?sh=782e67b71695](http://www.forbes.com/sites/george-kell/2018/07/11/the-remarkable-rise-of-esg/?sh=782e67b71695)
7. [www.kkr.com/businesses/global-impact](http://www.kkr.com/businesses/global-impact)
8. [www.pionline.com/esg/global-esg-data-driven-assets-hit-405-trillion](http://www.pionline.com/esg/global-esg-data-driven-assets-hit-405-trillion)
9. [www.bloomberg.com/news/articles/2020-10-19/almost-60-of-mutual-fund-assets-will-be-esg-by-2025-pwc-says](http://www.bloomberg.com/news/articles/2020-10-19/almost-60-of-mutual-fund-assets-will-be-esg-by-2025-pwc-says)
10. Bloomberg L.P. (3/4/2021). Climate, ESG Task Force Formed by SEC in Enforcement Division. Retrieved from Bloomberg database
11. [www.whitehouse.gov/priorities](http://www.whitehouse.gov/priorities)
12. [www.blackrock.com/corporate/investor-relations/larry-fink-ceo-letter](http://www.blackrock.com/corporate/investor-relations/larry-fink-ceo-letter)
13. Goldman Sachs 2019 Sustainability Report Driving Inclusive Growth at p. 24.
14. [www.americanbar.org/groups/litigation/committees/diversity-inclusion/articles/2017/winter2017-0217-paulette-brown-engineer-for-justice/](http://www.americanbar.org/groups/litigation/committees/diversity-inclusion/articles/2017/winter2017-0217-paulette-brown-engineer-for-justice/)
15. [www.ctbar.org/about/diversity-equity-inclusion](http://www.ctbar.org/about/diversity-equity-inclusion)

vance personal health and wellness. You may learn important lessons in 60 to 90 minutes, but impact is ultimately determined by whether you apply those lessons in what you do afterwards.

Take the time to find or reexamine your DEI "why" and "why not." Be honest in your self-reflection and examination, challenging your fears and assumptions as necessary. Your DEI "whys" and "why nots" are often quite perceptible, particularly to those within your organization who are impacted by the product of your collective efforts, or lack thereof. In the end, your DEI commitment should be real and spectacular: a woven tapestry of the collective experiences and differences of the people that make your organization truly strong, effective, and inspiring. ■

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## PDD

Continued from page 9

withdrawing a pending action without permission of the Complainant and for failing to keep the Complainant reasonably informed of the status of her case. *Cathy Topping vs. Michael A. Peck*, #19-0374 (9 pages).

**Proposed disposition** to reprimand the Respondent is ordered. Reprimand issued pursuant to agreed disposition where attorney acknowledged that there was sufficient evidence to prove violation of Rule 8.4(3) and is ordered to initiate the Connecticut Bar Association fee arbitration process for the parties. *Robert Boisvert vs. James R. Hardy III*, #19-0471 (10 pages). ■

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## Time to Go Pro Bono

Continued from page 33

reference materials, available through CBA Pro Bono Connect. You may access these trainings at your convenience, and will be able to coordinate with the referring civil legal service provider to take a case according to your availability within the year after you take the Pro Bono Pledge. While the time commitment is greater, you will be a great reassurance to a low-income individual or family navigating unfamiliar systems and difficult circumstances. Learn more and sign up at [ctbar.org/CBAProBonoConnect](http://ctbar.org/CBAProBonoConnect).

I hope you will find an opportunity to engage in pro bono legal service through all of the CBA's many pro bono programs. Each of them is tailored to your availability, provides support for your involvement, and will allow you to give your time, expertise, and professional skills to those in greatest need of our help. ■

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## NOTES

1. Connecticut Rules of Professional Conduct, Rule 6.1 (2021)
2. [www.ctbar.org/events-education/upcoming-special-events/pro-bono-clinic](http://www.ctbar.org/events-education/upcoming-special-events/pro-bono-clinic)
3. [www.ctbar.org/members/volunteer-today/pro-bono/CBA-pro-bono-connect](http://www.ctbar.org/members/volunteer-today/pro-bono/CBA-pro-bono-connect)



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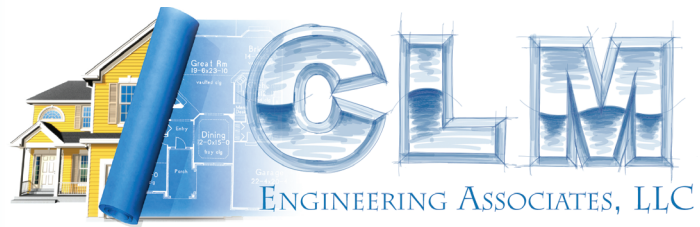
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