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# CT

# LAWYER

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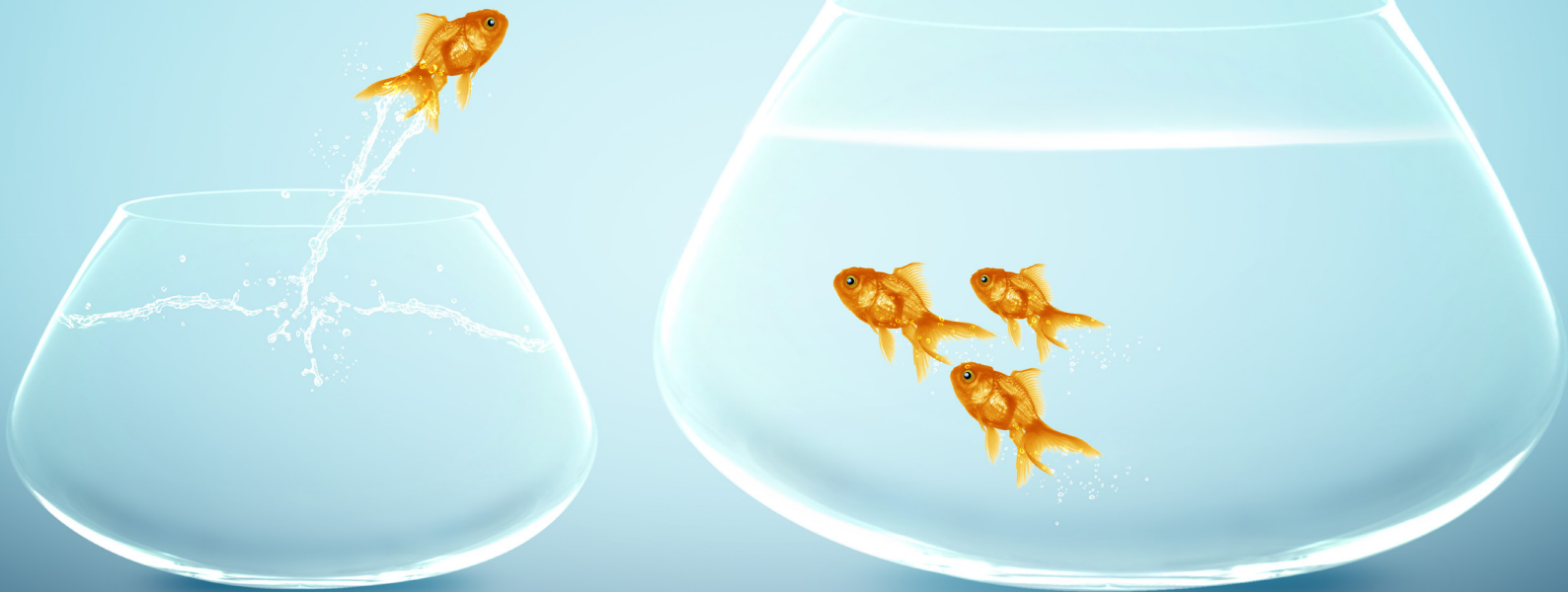


June 13, 2022

Learn more on page 18



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# Equity, Continued

By CECIL J. THOMAS

I was four or five years old at the time of my earliest experience, that I am able to recall, related to my race and the color of my skin. I was standing inside a grocery shopping cart in the checkout aisle, riding at the helm as if in a chariot, which I enjoyed doing on the rare occasion when that was permitted. Another child, around my age, faced me from a similar shopping cart. We looked at each other, my father unloading groceries onto the belt while the other child sat in the child seat of the cart ahead, looking at me. In that few moments' pause, and completely unexpectedly, the other child made a biting remark about the way I looked and the color of my skin. I remember my primary feeling, at the time, being one of confusion. Looking back, I feel some sadness that the differences in our appearance motivated that child towards a hateful comment, even at such a young age.

I wish I could say that this was an isolated incident. As I have shared previously, I spent the majority of my childhood growing up in the Winter Hill neighborhood of Somerville, MA. When my parents moved into the neighborhood, they found many things that we remain grateful for to this day: decent, safe, affordable, and stable housing, in an apartment that remained our home for over 12 years. That home, despite its size, was always full of family, friends, and fellowship. From that apartment, my parents worked incredibly hard, sent my brother and I to local Catholic schools to receive a good education, helped build strong and vibrant communities, and eventually saved enough to purchase a home of their own in a suburb of Massachusetts.

My parents were also recent immigrants in those early days, and we were marked by those differences in many ways. Some of our neighbors were welcoming. My mother has an uncanny ability to form

*Cecil J. Thomas is the 98th president of the Connecticut Bar Association. He is an attorney at Greater Hartford Legal Aid, where he has represented thousands of low-income clients, predominantly in housing matters, and has obtained significant appellate and class action victories on behalf of low-income Connecticut residents.*



and maintain strong social connections, and we have maintained close ties of friendship from bonds formed during those early years. Some of our neighbors were decidedly unwelcoming, and those negative experiences are also memorable. Racial epithets directed at my family were not uncommon. When my brother and I would play outside of our apartment, or in the local park, those experiences would escalate, with cries for us to "go back to where we came from." Both of us were born in this country, so those calls only reaffirmed that for some, our different appearance would always deny us a sense of belonging. Every four years or so our family would visit India, where even our closest family members would note how different and very American we were, affectionately teasing us for our mannerisms or the way we would butcher our mother tongue.

Even in those early days, I had a hard time "knowing my place." Neighborhood children sought to define the limitations of that place, or exclude us from other spaces, through the use of fear, insults, and at times, physical violence. I grew up with the saying that "sticks and stones may break my bones, but names will never hurt

me!" It was an easy response that likely diminished much of what I experienced. I understand today that those efforts to exclude, to ostracize, to diminish, and to control were all designed to invoke fear. Those behaviors were also likely drawn from a place of fear: fear of the unknown, fear of the unfamiliar, fear of change. While the hate we experienced was directed at us, I know that very little of it had to do with who we were as individuals, as a family, and as a community. Rather, that hate was directed at what others thought we represented, an irrational fear based in a whole host of negative assumptions that had no basis in truth or reality.

When my family moved into that neighborhood, the neighborhood was changing, becoming more diverse. New waves of immigrants of Hispanic, South Asian, Southeast Asian, and other backgrounds and identities were moving into neighborhoods that had previously been predominately white. There were times for me in which that diversity came together in beautiful expression: I remember fondly learning to play soccer in the public park and learning to swim at the local YMCA with children and youth of every different identity. My small group of school friends

***“We cannot play ostrich. Democracy just cannot flourish amid fear. Liberty cannot bloom amid hate. Justice cannot take root amid rage. America must get to work. In the chill climate in which we live, we must go against the prevailing wind. We must dissent from the indifference. We must dissent from the apathy. We must dissent from the fear, the hatred and the mistrust... We must dissent because America can do better, because America has no choice but to do better. The legal system can force open doors and sometimes even knock down walls. But it cannot build bridges. That job belongs to you and me.”***

—Hon. Thurgood Marshall,  
Liberty Medal Acceptance Speech, July 4, 1992

during that time were representative of that new diversity, even if we were not collectively welcomed by some within the majority. One could likely have tracked and accounted for those changing demographics within my childhood neighborhood, and said that they reflected a growing diversity of identity. You could not say, however, that the neighborhood was always inclusive and welcoming, based on the totality of our experiences.

This is my second column expanding on the word “Equity” in the theme for this year, “Together for Justice, Together for Equity, Together in Service.” So much of my own journey to this role as CBA president has been tied to our organizational efforts to promote greater diversity, equity, and inclusion (DEI) within the Connecticut Bar Association and the Connecticut legal profession. Before my nomination to the officer track of the CBA, I served as co-chair of our CBA DEI Committee under past presidents Bill Clendenen, Monte Frank, Karen DeMeola, and Jonathan Shapiro. I have continued in this role, joined by my co-chairs Neeta Vatti and Kean Zimmerman, our CBA Director of Diversity Dr. Amani Edwards, and so many other dedicated volunteer members, these past two years, as president-elect and president of the CBA. In seeking to advance DEI within the profession and our bar association, I have been motivated by these positions of trust and responsibility. My efforts have also been largely informed by my own experiences with exclusion, in the hopes that we might promote a more inclusive profession for others.

Our CBA DEI efforts have grown at the same time we have seen an increase in di-

verse representation throughout our Connecticut legal community. Four of our last five CBA presidents have been the first people of color to lead the organization in its almost 150-year history. Past Presidents Hon. Ndidi Moses, Amy Lin Meyerson, and I have held the responsibility of leading the CBA in the midst of a global pandemic. The CBA has weathered those storms well, which I will write further on in my next and final column. We have seen noteworthy firsts in diverse representation within the leadership of our private and non-profit Connecticut law firms, in-house corporate legal departments, government organizations, law schools, various elected offices, and the judiciary. As I write this, the United States Senate has just voted to confirm Judge Ketanji Brown Jackson as the 116th justice of the United States Supreme Court and the first Black woman serve on the Court. These are milestones that should be celebrated, as they speak to the immense possibility of this country. They speak also to our profession’s commitment and significant efforts in advancing greater diversity, equity, and inclusion. Every such “first” marks promise for the future, that there will be others to follow, moving us towards a Connecticut legal profession and judiciary that reflects the rich diversity of the society that we serve.

It may be tempting, with all of these trailblazing accomplishments, with the growth and expansion of our various CBA DEI programs and initiatives described in my earlier column, to declare “mission accomplished.” Visible representation of diverse individuals at high levels of our organization and our profession present an aspect of inclusion, but do not present a complete

picture. In our efforts to advance DEI, we have also sought to measure our diversity more broadly. In 2016, the CBA launched the Connecticut Legal Community’s Diversity and Inclusion Pledge and Plan. Organizations were invited to sign on to a multi-year pledge for strategic and accountable DEI. To date, over 40 organizations have signed the pledge. Each year since 2017, we have collected and reported on diversity metrics from these organizations, allowing us to measure the overall diversity of our profession, and benchmark our progress year-over-year and in comparison to national lawyer diversity data.

The data we have collected reflects progress, but also the importance of the journey yet ahead. I invite you to join us in October 2022 at our 7th Annual Diversity, Equity, and Inclusion Summit, during which time we will present the latest annual statistics. The data that I will present below is based on our 2021 report, presented during our October 2021 Summit.

**Gender:** Among our private law firm pledge signatories, which provide data for over 1,200 attorneys working in Connecticut, women make up approximately 55 percent of associates and non-partner attorneys, and approximately 30 percent of partners. The National Association for Law Placement (NALP) issues an annual *Report on Diversity in U.S. Law Firms*,<sup>1</sup> most recently in January 2022. Connecticut’s gender representation data, among private law firm partners and associates, is higher than the national aggregate statistics reported by NALP. According to the NALP report, women make up 48 percent

*Continued on page 40* →

# News & Events

## Elizabeth A. Alquist Receives 2022 Ladder Award

The CBA Women in the Law Section, in association with the CBA Young Lawyers Section (YLS) Women in the Law Committee, honored Attorney Elizabeth “Beth” A. Alquist as the 2022 recipient of the Ladder Award at “Pathways to Leadership for Women Lawyers,” on March 3 at the Aqua Turf Club in Southington.

The Ladder Award was created by the YLS Women in the Law Committee in 2007 to honor a woman attorney who has “left the ladder down” for women to follow in her footsteps, and values the importance of leadership development, mentoring, and supporting junior lawyers in their journeys to success. This year marked the return of the “Pathways to Leadership for Women Lawyers” event, which had not been held since 2019 due to the COVID-19 pandemic. Attorney Alquist joins a prestigious group of past awardees that includes Hon. Anne C. Dranginis, Rosemary E. Giuliano, Kathleen L. Brandt, Margaret A. Deluca, Hon. Elizabeth J. Stewart, Maureen Danehy Cox, Hon. Nada K. Sizemore, Diane W. Whitney, Tanya A. Bovée, Hon. Maria A. Khan, Deirdre M. Daly, Hon. Lynda B. Munro, and Elaine S. Amendola.

CBA Women in the Law Section Chair Garlinck Dumont welcomed attendees to the program, and past Ladder Award recipient and the current highest-ranking woman official in the state’s judiciary system, Justice Maria A. Khan, introduced keynote speaker, Lt. Governor Susan Bysiewicz. Justice Khan noted that the lieutenant governor, “...has continuously advocated for women throughout her career and she currently chairs Governor Lamont’s Council on Women and Girls, which provides a coordinated state response to various issues impacting the lives of women and girls and families throughout the state.”



*(L to R) CBA Women in the Law Section Chair Garlinck Dumont, Ladder Award Recipient Elizabeth A. Alquist, Connecticut Supreme Court Justice Maria A. Khan, Lt. Governor Susan Bysiewicz, and CBA President Cecil J. Thomas.*

Lt. Governor Bysiewicz spoke on the important role women leaders in the fields of law and government provide in the form of mentorship to the younger generations of women colleagues. She noted that “While women make up over 50 percent of our population and over 50 percent of students in law school, we represent only 37 percent of lawyers, 27 percent of congress, and only eight percent of fortune 500 company CEOs.” While recognizing the continuing presence of gender inequity, Lt. Governor Bysiewicz also pointed to achievements in increasing women’s positions in leadership, including the recent addition of ten organizations to the Paradigm for Parity Initiative, which calls upon Connecticut companies to pledge to have at least half of their board and c-suite executives be comprised of women by 2030. She emphasized the importance of the Ladder Award stating,



*Bonnie Amendola, front right, daughter of 2020 Ladder Award Recipient Elaine Amendola, accepted a bouquet of flowers on behalf of her mother and spoke on her achievements.*

“This annual recognition of women who left the ladder down for other women to follow in their footsteps celebrates such a critical component of creating more



diversity, equity, and inclusion in our legal profession.”

Following the lieutenant governor’s keynote speech, Attorney Dumont recognized past ladder award winners, including the 2020 Ladder Award recipient, Elaine Amendola, whose celebration was unfortunately cancelled that year due to the onset of the COVID-19 pandemic. Attorney Amendola’s daughter, Bonnie Amendola, accepted a bouquet of flowers on behalf of her mother and provided remarks on her mother’s numerous achievements in promoting women’s rights under Title IX of the Education Amendments of 1972.

YLS Women in the Law Committee Co-Chair Emily Zaklukiewicz provided background on the meaning of the Ladder Award and introduced Attorney Andraya P. Brunau, a colleague of Elizabeth Alquist at Day Pitney LLP and one of several people who nominated her for the award. Attorney Brunau extolled Alquist’s traits and achievements



*Elizabeth Alquist presents her acceptance speech after receiving the 2022 Ladder Award.*

stating, “She really is a leader in all sense of the word, and she is there in the trenches with her team to make sure that outstanding work is done for clients and that we have more women in private practice in the legal profession.”

As Attorney Alquist was invited to the podium, she received resounding applause from the audience. She spoke about the importance of increasing the presence of women in legal positions and the continuing difficulties of

establishing gender equity in the field. She stated, “As a trial lawyer, there simply weren’t that many women—they aren’t really in the courthouses, even still, and there certainly aren’t enough on the bench. And role models matter.” She pointed out that, “It’s a lot easier to believe that I can do something when I see someone like me, a cis-gendered, married, mother of three doing it. And it’s even harder for women of color in our profession or for transgender women. What we need are more role models for each one of them.” Attorney Alquist ended her presentation by emphasizing the importance of reciprocity in the relationship between experienced woman mentors and younger women entering the field: “The next generation has so much to teach us. Those of us in leadership positions in law firms, in corporations, and in government, we have to listen to them, we have to learn from them, and we have the mantle, and we need to take action with that knowledge.”

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## CBA Leaders Advocate For Members during 2022 ABA Days

As part of the 25th Annual ABA Days during the week of April 4-8, 2022, a delegation from the Connecticut Bar Association (CBA) and American Bar Association (ABA) met with Connecticut's federal legislators to advocate for issues important to members and encourage efforts to narrow the access to justice gap in Connecticut. Whether it was a discussion with Senator Richard Blumenthal examining the growing eviction crisis in Connecticut or brainstorming about student debt relief with Representative Jim Himes, the legislators and attendees participated in a productive exchange of information and ideas.

This year's primary advocacy issues at the ABA Days included the following:

**1. Increasing funding for the Legal Services Corporation:**

Thanking our Connecticut federal legislators who have protected the program from calls to dismantle it, supported recent funding increases, and advocated for future funding increases. As part of these discussions, the CBA highlighted significant access to justice issues in Connecticut, including increasing housing instability.

**2. Effective Assistance of Counsel in the Digital Era**

**Act:** Encouraging support for legislation ensuring that prison employees cannot interfere with the attorney-client

privilege as it relates to federal prisoners' emails with counsel.

**3. Student Debt Relief:** Discussions about immediate and lasting solutions addressing the student loan debt crisis, including student loan forgiveness, simplifying repayment options, allowing discharge of student loans in bankruptcy, and making recent temporary improvements to the Public Service Loan Forgiveness program permanent in the future.

Dana M. Hrelc served as the Connecticut State Captain for the team; she spearheaded the efforts, led the discussions, and provided helpful information and resources for the team about the advocacy issues.

Additionally, other members of the CBA delegation that met with legislators were President Cecil J. Thomas, Immediate Past President Amy Lin Meyerson, Treasurer David M. Moore, Secretary Sharad A. Samy, Assistant Secretary-Treasurer Cindy M. Cieslak, Director of Access to Justice Initiatives Jennifer L. Shukla, and Connecticut State Delegate Daniel A. Schwartz. Additionally, President-Elect Daniel J. Horgan, Vice President Margaret I. Castinado, and Past President Jonathan Shapiro helped the Connecticut delegation prepare for the meetings with legislators.

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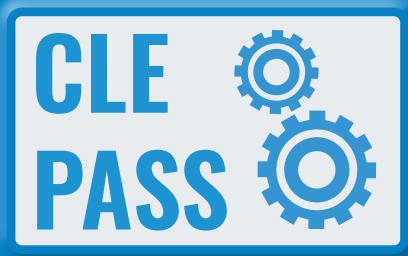
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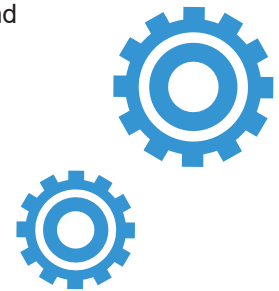
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- CBA section meetings that offer CLE credit



The CLE Pass may only be used for programs that take place during the 2022-2023 bar year.

CBA members may purchase a CLE Pass while renewing their membership for the 2022-2023 bar year . Alternatively, any time during the 2022-2023 bar year (July 1, 2022 - June 30, 2023), members may purchase a CLE Pass from the CBA website. \*Exclusions apply

## CBA and UConn School of Law Collaborate to Help Low Income Individuals

The Connecticut Bar Association and UConn School of Law jointly held a Free Legal Answers Comes to Campus event on April 1. At the event, CBA President Cecil J. Thomas, CBA President-Elect Daniel J. Horgan, and UConn School of Law Dean Eboni S. Nelson spoke to student participants about the access to justice gap in Connecticut and the need for volunteer and pro bono assistance. After opening remarks, a team of eight volunteer attorneys from the CBA mentored a group of 20 UConn law students through the process of providing free legal advice to individuals with low or no income. The free advice was provided through CT Free Legal Answers, an American Bar Association (ABA)-supported website that allows individuals in need to post written questions about their legal situations and receive confidential responses written by volunteer attorneys.

“The CBA is proud of our many collaborations with the University of Connecticut School of Law, particularly in addressing the civil access to justice gap,” said CBA President Cecil J. Thomas. “UConn law students have been an integral part of our Virtual Free Legal Advice Clinics and have now proved invaluable in working alongside our attorney volunteers through our CT Free Legal Answers program. The civil access to justice gap in Connecticut is significant, but I am incredibly hopeful for the future when I see the enthusiasm that the future members of our profession bring to these volunteer opportunities. I look forward to seeing many more such collaborations in the future.”

At the Free Legal Answers Comes to Campus event, the CBA and UConn School of Law volunteers assisted 19 Connecticut clients by posting responses to real-world client questions. The clients seeking help included, among others, six who were experiencing family law issues, such as being subjected to abuse, and five clients facing housing issues, such as eviction or landlord misconduct. Due to the outstanding efforts of all who were involved with the event, the participants set a record for the most questions answered in Connecticut on the ABA Free



*Law students responded to CT Free Legal Answers posts in breakout groups.*

Legal Answers website in one day.

The CBA is grateful to the event speakers: CBA President Cecil J. Thomas, CBA President-Elect Daniel J. Horgan, and Dean Eboni S. Nelson as well as Assistant Dean Karen DeMeola and Associate Dean Jennifer Mailly of UConn Law School, who worked with CBA Director of Access to Justice Initiatives Jenn Shukla, to organize and coordinate the event. In addition, the CBA thanks the additional volunteer attorneys and law students who volunteered their time to help narrow the access to justice gap at the event.

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Adam Zwick

# CBA Members, Family, and Friends Annual Outing

## Holiday Hill

June 26, 2022

11:00 a.m. to 5:00 p.m.

**Don't miss out on this year's event!** Connecticut legal professionals and their families are invited to the summer picnic and festivities, including a lake with rowboats, kayaks, and canoes. All other sporting equipment will be supplied by Holiday Hill.

### Activities include:

- Airbrush Tattoos
- Disc Jockey with Music for Dancing and Games
- Pony Rides for the Children
- "Alpine" Rock Climbing Wall
- Bingo Games with Prizes
- Swimming Pool
- Contests, Games, and More!

### Price per person

**\$5.00** All Kids 12 and Under

**\$10.00** Member and Member's Guest(s)

**\$25.00** Non-Members

No limitations to number of guests



**Holiday Hill**  
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## PEERS AND CHEERS

**Billers Sachs & Robert** is pleased to announce that **Brianna Kastukevich Robert** has become a named partner with the firm. Attorney Robert has been with the firm for almost a decade and her primary focus is insurance coverage litigation on behalf of policyholders and representation of victims of serious personal injuries. The firm has also welcomed **Cileena Terra** as an associate. Attorney Terra joined the firm as a law clerk in 2018 while attending law school and joins the firm's insurance coverage and personal injury practice.

**Brown Paindiris & Scott LLP** is pleased to welcome **Mackenzie R. Angels** and **Cara T. Cavallari** as associates to the firm. Attorney Angels is a member of the Commercial Law and Real Estate Departments in the Glastonbury office, working with both individuals and institutional clients. Attorney Cavallari is a member of the Litigation Department in the firm's Hartford office, focusing primarily on criminal defense and personal injury.

**Cummings & Lockwood** is pleased to announce that **Heather J. Rhoades** has been appointed the new chairman of the firm's Private Clients Group. She will replace **Laura Weintraub Beck**, who will assume the role of chairman and managing director of the firm.

**Czepiga Daly Pope & Perri** is pleased to announce the promotion of four of its attorneys. **Paul Knierim** and **Colleen Masse** have been named partners of the firm. Attorney Knierim, former judge and probate court administrator, concentrates his practice on probate litigation, mediation and arbitration of complex probate and elder law disputes, and estate planning; Colleen E. Masse is the chair of both the firm's Special Needs Planning and Trustee Services Departments. **Jeffrey Rivard** and **Jennifer Reale** have been promoted from associate to counsel. Attorney Rivard is chair of the firm's estate administration practice area; Attorney Reale represents clients in the areas of trustee litigation, will contests, contract disputes, and conservatorships.

**Ericson Scalise and Mangan PC**, in New Britain, is pleased to announce its expansion with the acquisition of the Avon law practice of Attorney Michael J. Donoghue. Established in 1945, Ericson Scalise and Mangan PC provides a range of legal services for Connecticut individuals, families, and business owners with a focus on estate planning, probate, real estate, and elder law.

**PEERS and CHEERS SUBMISSIONS**  
e-mail [editor@ctbar.org](mailto:editor@ctbar.org)

## IN MEMORIAM



**Frank S. Berall** passed away on March 31 at the age of 93. After graduating from Yale College in 1950, with a degree in Economics,

he served as an army officer in the field artillery, as a forward observer, and also gunnery instructor for two years during the Korean War. Honorably discharged as a first lieutenant in 1952, he returned to Yale Law School, graduating in 1955, was admitted to the New York Bar, and immediately started his legal career as an associate with the Wall Street law firm of Mudge Stern Baldwin & Todd, while earning a Masters of Law Degree in Taxation from New York University's School of Law (1959). In 1960, he joined the legal department of the

Connecticut General Life Insurance Company (now CIGNA). Returning to private practice in 1968, he became a partner in a predecessor of Copp & Berall LLP. He was an adjunct instructor at the University of Connecticut's Law and Insurance Schools, and adjunct assistant professor at the University of Hartford's Graduate Tax Program and instructor in the American College (of Life Insurance). Continuing education was always important to him as a lecturer and instructor, as well as student; he was working on his PH.D. degree in law from Leiden University in the Netherlands, right up until his death. Throughout his career, he held numerous leadership positions in both the Connecticut and American Bar Associations, as well as the American College of Trust and Es-

tate Counsel. As an active member of the CBA, he was a longtime member of the *CT Lawyer* Advisory Committee and the *Connecticut Bar Journal* Board of Editors (on which he served as the probate and estate planning senior topical editor) and wrote numerous articles for both publications. He is a former chair of the CBA's Tax and Estates and Probate Sections and was involved in the development of the Federal Tax Institute of New England, for which he served as its event chair for many years. He received the Federal Tax Institute's Achievement Award in recognition of his dedication and leadership to promoting quality professional legal education in the fields of trusts, estates, and tax law. ■

# Keep an eye out, your membership card is on its way!



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## Membership Benefits

CBA members receive special perks with various retailers and vendors, including resources for practitioners and discounts on recreational activities, services, and goods. Take advantage of everything your membership has to offer by viewing the full list of benefits at [ctbar.org/memberbenefits](http://ctbar.org/memberbenefits) or by scanning the QR code.



## Introducing Your Connecticut Bar Association Membership Card

CBA membership cards will now be distributed on a yearly basis at the start of each bar year. After renewing your CBA membership, you will receive a new 2022-2023 membership card.

This membership card provides proof of your affiliation with the CBA for the remainder of the 2021-2022 bar year. The membership card includes your name, member ID number, and a QR code that provides an easy to access link to the CBA's extensive collection of member benefits and discounts. This card also serves as your proof of membership when taking advantage of certain member benefits.

The CBA is consistently enhancing its member benefits package by utilizing the strength of its membership community to offer you significant discounts on law practice management services. We are also currently in the process of adding new personal, social, and entertainment discounts to our extensive list of benefits. The details of the member benefits available to you can also be accessed at [ctbar.org/memberbenefits](http://ctbar.org/memberbenefits).

If you have any questions regarding your CBA membership card, please contact [msc@ctbar.org](mailto:msc@ctbar.org).

# Professional Discipline Digest

By CONOR A. SCALISE

## VOLUME 30 NUMBERS 3&4

**Presentment** ordered for violation of Rules 8.4(2), 8.4(3), and 8.4(4) where attorney took a false acknowledgment on a deed, entered a false date on a deed, and allowed the same to be recorded on the land records in contravention of Conn. Gen. Statutes § 531-142a. *Singh v. Americo Carchia*, #18-0737 (10 pages).

**Sanction** issued for violation of Rules 8.1(1) and 8.4(4) where attorney failed to take affirmative steps to halt a foreclosure action she mistakenly initiated against an innocent party. Attorney subsequently misrepresented to local grievance panel that her firm did not “advance the case in any fashion” after discovering the mistake, but the firm had in fact taken steps to move the action forward. Attorney ordered to take three credit hours of in-person CLE in Law Office Management in addition to the annual requirements of Practice Book Section 2-27A. *O’Connor v. Jo-Ann Lambert*, #19-0010 (10 pages).

**Presentment** ordered for violation of Rules 1.1, 1.3, 1.4(a), 1.5(a), 1.5(b), 8.1 (2), and 8.4(3) and Practice Book Section 2-32(a)(1) where attorney accepted a legal fee of over \$10,000 to represent the Complainant in an immigration matter and, among other things, never performed any substantive legal work on the matter, never created a legal case file, never entered into a written fee agreement, failed to communicate with client regarding objectives and status updates, and failed to

answer the grievance complaint. Panel directed Disciplinary Counsel to include a claim of violation of Rule 8.4(2) in the presentment and recommended Disciplinary Counsel to pursue restitution. Attorney had an extensive disciplinary history. *Adamu v. Musa P. Sebadduka*, #19-0568 (11 pages).

**Presentment** for consolidation ordered by agreement where attorney had another presentment pending and probable cause was found that attorney violated Rules 8.1(2) and 8.4(4) and Practice Book Section 2-32(a)(1). *Gallo v. Corey A. Heiks*, #20-0040 (8 pages).

**Presentment** ordered for violation of Rules 1.3, 1.4(a)(2) and (3), 1.5(a), 1.6(a), 8.1(2), 8.4(3), and 8.4(4) and Practice Book Section 2-32(a)(1) where attorney accepted a combined \$10,000 in legal fees to initiate a civil action and then failed to respond to several pleadings, including a motion for nonsuit; revealed information related to clients’ case without authorization, failed to communicate with clients about the status of the suit, and failed to answer the grievance complaint. *Lewis v. David Vacco Chomick*, #19-0663; *Pantalone v. David Vacco Chomick*, #19-0685 (consolidated) (8 pages).

**Presentment** ordered for violation of Rules 1.3, 1.4(a)(2), 1.4(a)(3), 1.4(a)(4), 1.5(a), 1.15(d), 8.1(2), 8.4(3), and 8.4(4) and Practice Book Section 2-32(a)(1) where attorney accepted a \$2,500 fee to represent client in divorce proceeding and attorney never initiated the action, failed to communicate with client regard-

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/sgc-decisions](http://jud.ct.gov/sgc-decisions). Questions may be directed to editor-in-chief, Attorney John Q. Gale, at [jgale@jqglaw.com](mailto:jgale@jqglaw.com).

ing the status of the case and requests for information, failed to deposit client funds into client trust account, and failed to answer the grievance complaint. *Brown v. David Vacco Chomick*, 19-0601 (8 pages).

**Presentment** ordered for violation of Rule 8.1(2) and Practice Book Section 2-32(a)(1) where attorney failed to file an answer to grievance complaint. Reprimand was warranted, but presentment was ordered in light of attorney’s recent and extensive disciplinary history and attorney’s lack of compliance with reprimands issued in past. *Cross v. David Vacco Chomick*, #19-0577 (8 pages).



## VOLUME 31 NUMBERS 1&2

**Reprimand** issued by stipulated disposition pursuant to P.B. § 2-82(d) for violation of Rule 4.2 where attorney admits that he communicated with a party about the subject of representation despite being aware that the party was represented by another lawyer. The other lawyer did not consent to the communication. Attorney ordered to take three hours of in-person CLE in Legal Ethics in addition to the annual requirements of Practice Book Section 2-27A. *Stamford-Norwalk Grievance Panel v. Phillip T. Newbury, Jr.*, #19-0584 (11 pages).

**Reprimand** issued by stipulated disposition pursuant to P.B. § 2-82(d) for violation of Rules 1.1, 1.3, and 1.4 where attorney admits that he neglected client's file, failed to communicate with client, and did not provide competent representation to client. Attorney ordered to take six hours of in-person CLE in Legal Ethics in addition to the annual requirements of Practice Book Section 2-27A. *Powell-Garba v. Raymond T. Trebisacci*, #19-0779 (10 pages).

**Reprimand** issued by stipulated disposition pursuant to P.B. § 2-82(d) for alleged violation of Rules 1.5(a), 1.5(b), and 8.4(3) where attorney acknowledges that there is sufficient evidence to prove the facts constituting said violation. Attorney ordered to submit fee dispute at issue to fee arbitration. *Herbert v. Robert A. Schrage*, #20-0121 (10 pages).

**Presentment** for consolidation ordered by agreement pursuant to P.B. § 2-82(g) where attorney had another presentment pending and probable cause was found that attorney violated Rules 1.15(b) and 8.1(2). *Bowler v. Keith v. Sitnick*, #21-0019 (8 pages).

**Reprimand** issued by stipulated disposition pursuant to P.B. § 2-82(d) where attorney acknowledges that there is sufficient evidence to prove the facts constituting a violation of Rules 1.1, 1.3, 1.4(a)(3), 1.4(a)(4), and 1.15(e). Attorney ordered to make restitution to client in the amount of \$1,500. *Griffin v. Daniel F. Roper*, #19-0718 (10 pages).

**Reprimand** issued by stipulated disposition pursuant to P.B. § 2-82(d) for violation of Rules 1.5(b), 1.6(a), 1.7, 1.14(b), and 3.7(a) where attorney acknowledges that there is sufficient evidence to prove that he: (1) did not have a written fee agreement with client, (2) disclosed client's personal and confidential financial information without authorization, (3) had a conflict of interest, (4) failed to use adequate protective measures regarding client's health issues, and (5) acted as an advocate in a probate proceeding that he would likely have to be a witness in. Attorney represented that he is no longer practicing law and agreed to file an Attorney Permanent Retirement Written Notice (form JD-GC-26) with the Statewide Bar Counsel. *Gilbertson v. A. Reynolds Gordon*, #19-0263 (11 pages).

**Reprimand** issued by stipulated disposition pursuant to P.B. § 2-82(d) where attorney acknowledges that there is sufficient evidence to prove the facts constituting a violation of Rules 1.5(b), 1.8(a)(1), 1.8(a)(2), 1.8(a)(4), 1.15(b), 1.15(e), 8.1(2), and 8.4(4). Attorney ordered to make restitution to client in the amount of \$3,000. *Mercier v. William A. Lichtenfels*, #19-0386 (12 pages).

**Reprimand** issued by stipulated disposition pursuant to P.B. § 2-82(d) where attorney acknowledges that there is sufficient evidence to prove the facts constituting a violation of Rules 1.5(a) and 1.5(b). Attorney ordered to make restitution to client in the amount of \$2,000. *Every v. Suzann L. Beckett*, #18-0522 (11 pages).

**Presentment** ordered for violation of Rules 1.5(b), 1.15, 8.1(2), 8.4(3), and 8.4(4) and P.B. § 2-32(a)(1) where attorney accepted a retainer fee to probate an estate and then failed to perform any services to that end. Attorney also failed to enter into a written fee agreement, failed to provide billing statements or accountings of the retainer fee, failed to adequately communicate with her client regarding the matter, and failed to answer the grievance complaint. *Gebo v. Tina Ann Locasto*, #19-0629 (8 pages).

**Reprimand** issued for violation of Rules 1.5(b), 1.15(j), 5.4(a), and 8.4(1) where attorney failed to enter into and retain a separate written fee agreement, impermissibly shared his legal fee with an online legal marketplace, UpCounsel, and misrepresented his firm's name on his 2020 attorney registration. Attorney ordered to take three hours of in-person CLE in Legal Ethics and two hours of in-person CLE in Law Office Management in addition to the annual requirements of Practice Book Section 2-27A. *Wood v. Thomas J. Love, Jr.*, #19-0338 (15 pages).

**Reprimand** issued for violation of Rules 3.1, 3.4(7), 4.4(a), 8.4(3), and 8.4(4) where, in attempting to collect a judgment for his client, attorney made degrading statements about the opposing counsel and her competency to practice law and threatened to file grievance against opposing counsel and report complainant to Immigration and Customs enforcement. Attorney ordered three hours of in-person CLE in Legal Ethics and three hours of in-person CLE in Civil Litigation in addition to the annual requirements of Practice Book Section 2-27A. *Fairfield J.D. Grievance Panel v. Zachary T. Lawrence*, #19-0181 (12 pages).

**Reprimand** issued by stipulated disposition pursuant to P.B. § 2-82(d) for violation of Rules 1.5(b), 1.15(e), and 8.4(4)

where attorney admits that he did not have a written fee agreement with complainant, failed to return funds to complainant in a timely manner, and served the opposing party with a writ, summons, and complaint at an address that he knew the party no longer resided at. Attorney ordered to make restitution to complainant in the amount of \$2,000. *Wirta v. Frank J. Romeo, III*, #19-0517 (10 pages).

**Reprimand** issued by stipulated disposition pursuant to P.B. § 2-82(d) where attorney acknowledges that there is sufficient evidence to prove the facts constituting a violation of Rules 1.1, 1.5(a), 1.5(b), and 1.15(b). Attorney ordered to take three hours of in-person CLE in IOLTA Management and three hours of in-person CLE in Criminal Law in addition to the annual requirements of Practice Book Section 2-27A. *Raboin v. Christopher Parker*, #19-0714 (12 pages).



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VOLUME 31 NUMBER 3

**Reprimand** issued for violation of Rules 1.3, 1.4, 1.15(b), and 8.1(2) and Practice Book Section 2-32(a)(1) where attorney failed to pursue a motion to modify and to timely object to a motion to dismiss, failed to keep client adequately informed about the matter, failed to keep client’s retainer in a separate client’s funds account, and failed to answer grievance complaint without good cause. Attorney ordered to take three hours of in-person CLE in Law Office Management and three hours of in-person CLE in IOLTA Account Management in addition to the annual requirements of Practice Book Section 2-27A. Attorney had been reprimanded by the committee on two prior occasions. *Ciurcina v. Alisha C. Mathers*, #19-0769 (10 pages).

**Presentment** for consolidation ordered by agreement pursuant to P.B. § 2-82(g) where attorney had another presentment pending and probable cause was found that attorney violated Rules 5.5(b)(2), 8.1(2), and 8.4(4) and Practice Book Section 2-32(a)(1). Attorney failed to register for 2021 with the committee and was not in good standing at the time of this decision. *Izzo v. Keisha S. Gatison*, #19-0783 (8 pages).

**Presentment** for consolidation ordered by agreement pursuant to P.B. § 2-82(g) where attorney had another presentment pending and probable cause was found that attorney violated Rules 8.1(1), 8.1(2), and 8.4(4), and Practice Book Sections 2-32(a)(1) and 2-27(d). Attorney failed to register for 2021 with the committee and was not in good standing at the time of this decision. *Izzo v. Keisha S. Gatison*, #19-0766 (8 pages).

**Presentment** for consolidation ordered by agreement pursuant to P.B. § 2-82(g) where attorney had another presentment pending and probable cause was found that attorney violated Rules 1.15(b), 8.1, 8.1(1), and 8.1(2) and Practice Book Sections 2-27, 2-27(d), 2-28, and 2-32(a)(1). *Slack v. Lisa C. Roberts*, #21-0218 (8 pages).

**Presentment** for consolidation ordered by agreement pursuant to P.B. § 2-82(g) where attorney had another presentment pending and probable cause was found that attorney violated Rules 1.15(b), 8.1, 8.1(1), and 8.1(2) and Practice Book Sections 2-27, 2-27(d), 2-28, and 2-32(a)(1). *Slack v. Lisa C. Roberts*, #21-0265 (8 pages).

**Presentment** ordered for violation of Rules 1.15(b) and 8.4(4) and Practice Book Section 2-32(a) where attorney failed to honor letter of protection and remit payment to client’s medical provider. Upon disbursing settlement funds to client, attorney withheld \$2,960 of client’s funds for the purpose of reimbursing said medical provider. *Duque v. Jose Luis Altamirano*, #21-0012 (7 pages).

**Presentment** ordered for violation of Rules 1.3, 1.4(a), 1.5(a), 1.15(b), 1.16(d), 8.1(2), 8.4(3), 8.4(4) and Practice Book Section 2-32(a)(1) where attorney charged client \$3,000 to represent client in divorce proceeding and, after filing the initial lawsuit, attorney abandoned the case, stopped communicating with his client, and took no further action in representing the client or furthering the case. Attorney was already under suspension arising from prior grievance complaints. *Rotatori v. Jose Luis Altamirano*, #20-0026 (7 pages).

**Reprimand** issued for violation of Rules 1.3, 1.4, 1.5(a), 1.15(b), 1.15(d), and 8.1(2) and Practice Book Section 2-32(a)(1) where attorney failed to actively pursue custody matter after filing initial appearance and seeking custody evaluation, failed to appear in court, failed to keep client adequately informed about the matter, failed to keep client’s retainer in a separate client’s funds account, and failed to answer grievance complaint without good cause. Attorney ordered to submit fee dispute at issue to fee arbitration. Attorney had been reprimanded by the committee on two prior occasions. *Lewis-Golden v. Alisha C. Mathers*, #20-0135 (9 pages). ■

# Standards of Title Committee Drafts Second Proposed Standard on Connecticut Estate Tax Liens

By ELLEN L. SOSTMAN

**T**he Special Committee on Standards of Title has drafted and approved the second of two new proposed standards on the Connecticut Estate Tax Lien. An article on the first of these standards, Proposed Standard 23.2, was published in the January/February 2022 edition of *CT Lawyer*. Proposed Standard 23.2 will now be submitted to the Board of Governors for its approval.

Here is the second proposed new standard in its entirety:

## PROPOSED

### STANDARD 23.3

#### Protection of Certain Persons Against the Connecticut Estate Tax Lien Until Notice Thereof Has Been Recorded in the Town Clerk's Office.

The estate tax lien arising at the date of death under Chapter 271 of the Connecticut General Statutes for decedents dying on or after January 1, 2005 is not valid against certain persons identified in Sec. 12-398(d). These protected persons include lienors, mortgagees, judgment creditors and bona fide purchasers who acquire a lien on or interest in the real property prior to the recording of a certificate of estate tax lien in the land records of the town in which the real property is located.

**Comment 1.** Although the Connecticut estate tax is based on the federal estate tax in many respects, the Connecticut statutes pertaining to

the estate tax lien do not mirror the language of the federal statutes in all respects, especially with regard to protected parties. 26 USC Sec. 6324(c)(1) protects from the federal estate tax lien, whether inchoate or recorded, only certain types of creditors and liens as set forth in 26 USC Sec. 6323(b). See Standard 25.3 for discussion. Section 12-398(d) renders the Connecticut estate tax lien **invalid** against “any lienor, mortgagee or judgment creditor” until notice of the lien is filed or recorded in the town clerk’s office. Thus, any lienor, mortgagee or judgment creditor who acquires its interest in the property while the estate tax lien is inchoate takes priority over such lien, whether or not it may have knowledge of the existence of such tax lien. There is no statutory requirement that such person or entity be bona fide and without notice.

**Comment 2.** As to purchasers, however, the state law differs in language from the federal law. 26 USC Sec. 6323(b) protects “any purchaser” of property until notice of the lien is recorded. Section 12-398(d) protects only a “bona fide purchaser”. While this is not a defined term under the state estate tax statutes, the definition afforded by Connecticut case law is a purchaser who gives valuable consideration without notice or knowledge, actual or constructive, of a claim by a third party. See Comments 2, 3 and 4 to Standard 2.7. Inasmuch as all persons are deemed to have

constructive notice of recorded title documents, where the record chain of title reveals that such title passed out of a decedent’s estate or from an heir or devisee of a decedent, it is impossible to conclude that one purchasing such title to real property can be a bona fide purchaser, unaware of the existence of an inchoate estate tax lien. Therefore, the Committee concludes that, for such a title to be marketable in the hands of a purchaser, a release of the estate tax lien or other documentation as set out in Standard 23.2 must always be obtained and recorded, regardless of whether or not the lien itself is of record.

Following the publication of this article, there will be a 60-day comment period, during which any interested party is invited to submit comments on Proposed Standard 23.3. Any such comments can be emailed to the committee chair at [eslaramie15@gmail.com](mailto:eslaramie15@gmail.com) or to any other member of the Standards Committee. A list of the Committee members and their contact information may be found on the Real Property Section’s page on the CBA website. The committee will review all comments and make any revisions it deems appropriate, and will then present Proposed Standard 23.3 to the Board of Governors for final approval and inclusion in the *Connecticut Standards of Title*. ■

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*Ellen L. Sostman is a retired senior title counsel at Connecticut Attorneys Title Insurance Company, a member of the CBA’s Real Property Section’s Executive Committee, and chair of the Standards of Title Committee.*





## Meet Our Featured National CLE Presenter

### Jan Schlichtmann

Environmental lawyer and author,  
subject of the film *A Civil Action*

## Schedule

2022 CLC Schedule			
7:30 a.m. - 9:00 a.m.	Registration, Breakfast, and Exhibitor Showcase	2:00 p.m. - 2:30 p.m.	Break - Exhibitor Showcase
9:00 a.m. - 10:00 a.m.	Session A Seminars	2:30 p.m. - 4:30 p.m.	Session C Seminars
10:00 a.m. - 10:15 a.m.	Break - Exhibitor Showcase	4:30 p.m. - 4:45 p.m.	Break
10:15 a.m. - 12:15 p.m.	Session B Seminars	4:45 p.m. - 5:45 p.m.	Session D Seminars
12:15 p.m. - 2:00 p.m.	Annual Meeting and Luncheon	5:45 p.m. - 7:00 p.m.	President's Reception

## Pricing

Conference registration includes a ticket to the Annual Meeting and Luncheon, and parking in designated garages. Note that refunds will not be granted after June 7, 2022.

2022 CLC Pricing Full Day	Regular 5/1 – 5/31	Late 6/1 – 6/13
Member	\$299	\$319
Non-Member (Includes One-Year CBA Membership)*	\$499	\$519
Law/Paralegal Student Member	\$99	\$119
Limited Streaming Access (CBA Members Only)**	\$299	\$319

\*Non-member registration pricing includes a one-year membership (July 2022 – June 2023) with the Connecticut Bar Association.

\*\*CBA Members who choose this option will also have complimentary access to all recorded seminars. The following popular seminars will be streamed:

- A05 and B05 Family Law Seminars
- B08 and C08 Making the Case: Solving the Adversary's Dilemma Parts 1 and 2
- C04 Better Safe than Sorry!
- D09 Are We Done Yet? A Primer on When to Appeal

# 2022-2023 CBA Officers

The installation of the CBA's incoming officers will occur at the CBA Annual Meeting, which will be held at the Connecticut Legal Conference on Monday, June 13. These officers will lead the CBA for the next bar year, beginning on July 1, 2022.



## President

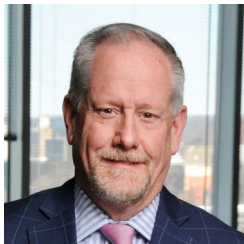
**Daniel J. Horgan** will serve as the CBA's 99th president. Attorney Horgan is an experienced trial lawyer with Horgan Law Offices in New London. He represents clients in workers' compensation cases and various civil matters in both state and federal courts as well as the

Mashantucket and Mohegan Tribal Courts.



## President-Elect

**Margaret I. Castinado** will serve as president-elect. Attorney Castinado is a senior assistant public defender at the Office of the Public Defender in New Haven. She has defended thousands of clients with criminal matters since 1999.



## Vice President

**James T. Shearin** will serve as vice president. Attorney Shearin is chairman of Pullman & Comley LLC. He has wide-ranging experience in federal and state courts at both the trial and appellate levels, and before arbitration and mediation panels.

He represents clients in a wide variety of litigation matters.



## Secretary

**J. Paul Vance, Jr.** will serve as secretary. Attorney Vance is a partner at Logan Vance Sullivan & Kores LLP and he focuses his practice in the areas of personal injury, workers' compensation, and medical malpractice. He has represented clients from all over

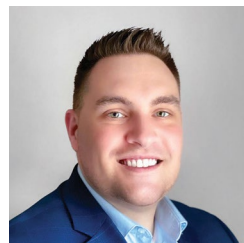
the State of Connecticut and beyond in federal and state court and before many administrative bodies.



## Treasurer

**Sharad A. Samy** will serve as treasurer. Attorney Samy is general counsel of the Commonfund for Nonprofit Organizations and is a solo practitioner at The Law Offices of Sharad A. Samy LLC in Darien. He has over 20 years of transactional and litigation

experience, has served as general counsel of two prominent operating companies, as a partner of an international law firm, and as a military attorney in the U.S. Army Reserve.



## Assistant Secretary-Treasurer

**Joshua J. Devine** will serve as assistant secretary-treasurer. Attorney Devine is investigations lead counsel and associate general counsel at UnitedHealthcare in Hartford, where he advises on data protection and cyber security laws. He graduated from Massachusetts School of Law in 2012.



## Immediate Past President

**Cecil J. Thomas** will serve as immediate past president. Attorney Thomas is an attorney at Greater Hartford Legal Aid, where he has represented thousands of low-income clients, predominantly in housing matters, since 2006, and has obtained significant

appellate and class action victories on behalf of low-income Connecticut residents.



# CLE Seminars At-A-Glance

Track	Session A 9:00 a.m. – 10:00 a.m.	Session B 10:15 a.m. – 12:15 p.m.	Session C 2:30 p.m. – 4:30 p.m.	Session D 4:45 p.m. – 5:45 p.m.
The President's Track	<b>A01</b> What Are We Doing About Hate Crimes?	<b>B01</b> The Art of Successful Mediation	<b>C01</b> Sandy Hook, the Battle for Truth, and the Fabric of our American Society	<b>D01</b> Racial and Ethnic Justice in CT
Business/Legal Technology Track	<b>A02</b> "Own the Deal": A Panel on Venture Financing Transactions	<b>B02</b> Commercial Law and Bankruptcy: The Year in Review	<b>C02</b> The Ethical Duty of Technology Competence: What Every Lawyer Needs to Know	<b>D02</b> Fastcase
Diversity, Equity, and Inclusion Track	<b>A03</b> Words Matter	<b>B03</b> Intersectionality, Hidden Identities, and the Law	<b>C03</b> Cultural Humility: Going Beyond Diversity, Equity, and Inclusion Basics	—
Ethics Track	<b>A04</b> Ethics: The Year in Review	<b>B04</b> Better Safe than Sorry!	<b>C04</b> Better Safe than Sorry!	<b>D03</b> Getting Paid: Ethical and Practical Considerations for Fees
Family Law Track	<b>A05</b> Family Law Seminar	<b>B05</b> Family Law Seminar	<b>C05</b> Family Law Year in Review	<b>D04</b> Family Law Seminar
Current Topics Track	<b>A06</b> Mindset Matters  <b>A07</b> So Long and Thanks For All the Fish: Fisheries Regulation in the Age of Climate Change  <b>A08</b> Seeking Post-Judgment Awards of Attorney Fees and Interest	<b>B06</b> Construction Law Year in Review	<b>C06</b> History of Racially Restrictive Covenants  <b>C07</b> Exploring the Dispute Resolution Toolbox	<b>D05</b> A Multi-Dimensional Model of Lawyer Well-Being  <b>D06</b> State Liens, Claims, and 4a-16 Notices  <b>D07</b> Coronavirus as a Disability
IP/Antitrust/Regulation Track	<b>A09</b> What's My Trade Secret Misappropriation Claim Worth?	<b>B07</b> Hot Topics in Antitrust and Trade Regulation	—	<b>D08</b> Consumer Protection Developments
Featured CLE Presenter/ Trial Track	<b>A10</b> Annual Review of Connecticut Supreme and Appellate Court Cases	<b>B08</b> Making the Case: Solving The Adversary's Dilemma (Part 1)	<b>C08</b> Making the Case: Solving The Adversary's Dilemma (Part 2)	<b>D09</b> Are We Done Yet? A Primer on When to Appeal
Real Property/ Environmental Law Track	<b>A11</b> Common Problems, Common Solutions: Top Title Issues and How to Clear Them	<b>B09</b> Real Property Case Law Year in Review	<b>C09</b> Emerging Issues in Environmental Due Diligence	—
The Workplace Track	—	<b>B10</b> Annual Employment Law Update	<b>C10</b> Recent Developments in CT Workers' Compensation	<b>D10</b> Workers' Compensation Appeal Process

# CLE Seminar Information

Visit [ctlegalconference.com](http://ctlegalconference.com) for the latest information and to register.

Session A | 9:00 a.m. – 10:00 a.m.

## The President's Track

### A01 What Are We Doing about Hate Crimes?

*Presented by the CBA Executive Committee*



Whether people are uncomfortable, fear retaliation, or are uncertain that justice will be served, there is a significant disparity between hate crimes that actually occur and those reported to law enforcement. Working collaboratively with the governor's office, legislature, Judicial Branch, law enforcement, and our communities throughout Connecticut, the Connecticut Hate Crimes Advisory Council is responsible for encouraging and coordinating programs that increase community awareness, report hate crimes, and combat such crimes. It also can make recommendations for legislation, including recommendations on the reporting, investigation, and prosecution of hate crimes; restitution for victims of hate crimes; community service designed to remedy damage caused by hate crimes; and additional alternative sentencing programs for first-time offenders and juvenile offenders involved in hate crimes. Join us for this engaging program to hear the council's recommendations, FBI and federal efforts, and how you can join the fight to prevent and combat hate crimes.

#### Moderator

Amy Lin Meyerson, Law Office of Amy Lin Meyerson, Weston

#### Speakers

Hon. Douglas S. Lavine (Ret.), Connecticut Appellate Court, Hartford  
James C. Rovella, Connecticut Department of Emergency Services and Public Protection, Middletown  
Anish Shukla, Federal Bureau of Investigation, New Haven  
Richard Wilson, University of Connecticut School of Law, Hartford

**CLE Credit:** 1.0 CT (Ethics); 1.0 NY (D&I)

Kathy Flaherty, Connecticut Legal Rights Project Inc., Middletown  
Rachel Goldberg, Lambda Legal, Stamford  
Carolyn A. Ikari, Office of the US Attorney, Hartford  
Alex Kapitan, Radical Copyeditor

**CLE Credit:** 1.0 CT (Ethics); 1.0 NY (D&I)

## Ethics Track

### A04 Ethics: The Year in Review

*Presented by CBA's Standing Committee on Professional Ethics*



Presenters will discuss recent ethics-related rule changes, opinions, and cases. They will also discuss ethics issues that will be important in your daily practice, updates to the Rules of Professional Conduct and new opinions from the CBA Standing Committee on Professional Ethics, and recent cases involving ethics issues/grievances since our last presentation.

#### Speakers

Stephen Conover, Carmody Torrance Sandak & Hennessey LLP, Stamford  
Brendon Levesque, Horton Dowd Bartschi & Levesque PC, Hartford  
Kim Rinehart, Wiggin and Dana LLP, New Haven

**CLE Credit:** 1.0 CT (Ethics); 1.0 NY (Ethics)

## Family Law Track

### A05 Family Law Seminar

*Presented by the Family Law Section*

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

## Business Law Track

### A02 "Own the Deal": A Panel on Venture Financing Transactions

*Presented by the Young Lawyers Section*

This seminar draws upon the panelists' broad transactional expertise in providing strategic legal and business advice to start-up and early-stage companies raising capital as well as in advising funds and investors in such investments to provide attendees with a comprehensive primer on venture financing and thoughtful and practical tips for junior lawyers on how to make a positive impact on the deal. The panelists will present on the foundations of venture capital financing transactions through a discussion on navigating common challenges to reach closing and will discuss, from their experiences, how best to aid clients in their funding efforts.

#### Moderator

Jermaine A. Brookshire, Jr., Wiggin and Dana LLP, New Haven

#### Speakers

R.J. Kornhaas, Wiggin and Dana LLP, Stamford  
Sharad A. Samy, General Counsel, Commonfund, Wilton  
Adam Silverman, Wiggin and Dana LLP, New Haven

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

## Current Topics Track

### A06 Mindset Matters

*Presented by the Lawyer Well-Being Committee*



This seminar will cover how to reduce stress and improve mental health by shifting mindset. It will provide an overview of cognitive distortions and how they can negatively affect our mindset, our productivity, and our well-being as well as techniques and tools to improve mindset and overcome thinking traps.

#### Speakers

Tanyee Cheung, Finn Dixon & Herling LLP, Stamford  
Sara Bonaiuto, Shipman & Goodwin LLP, New Haven

**CLE Credit:** 1.0 CT (Ethics)

## Current Topics Track

### A07 So Long and Thanks For All the Fish: Fisheries Regulation in the Age of Climate Change

*Presented by the Animal Law Section*

This program will discuss the impact of global climate change on fisheries and oceanic and wetland wildlife in Connecticut and in New England, taking both a local and global perspective on what is both a global and local issue. The program will discuss state, federal, and international law provisions—to the extent they exist or are effective—aimed at mitigating climate change as it relates to fisheries and oceanic wildlife. The program will discuss how fisheries issues are dealt with in Connecticut and will discuss regional cooperation to fight destruction of fisheries. Finally, the program will discuss how attorneys can be a part of the solution to the destruction of fisheries and to global climate change in general.

#### Speakers

Daniel Cooper, Cooper & Kurz, Stamford  
Jamie Woodside, University of Connecticut School of Law, Hartford

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

## DE&I Track

### A03 Words Matter

*Presented by the DE&I Committee*



Words matter. As Gautama Buddha said: "Whatever words we utter should be chosen with care for people will hear them and be influenced by them for good or ill." Words can hurt, help, or heal. Many words have nuances and hidden meanings, known mostly within social, racial, and ethnic groups, and often unappreciated for better and worse by others. Some words can be used directly to discriminate. Some words are wrongly and hurtfully used without conscious intention but sometimes with implicit bias. Some words may be used to help and heal and demonstrate inclusiveness and a shared appreciation of what is common across a wide range of groups.

#### Moderator

Sheila Hayre, Quinnipiac University School of Law, Hamden

#### Speakers

Hon. Dawne G. Westbrook, Connecticut Superior Court, Rockville



## Current Topics Track

### A08 Seeking Post-Judgment Awards of Attorney Fees and Interest

*Presented by the Litigation Section*

Dana Hrelac will present on seeking an award of attorney fees. What to ask, when to ask, and how to ask are often mysteries to the inexperienced and experienced alike. James Fogarty will present on the issue of seeking an award of interest on top of your judgment.

#### Moderator

Lenny Isaac, Isaac Law Offices LLC, Waterbury

#### Speakers

James R. Fogarty, Fogarty Cohen Russo & Nemiroff LLC, Old Greenwich  
Dana Hrelac, Pullman & Comley LLC, Hartford

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

## IP/Antitrust/Regulation Track

### A09 What's My Trade Secret Misappropriation Claim Worth?

*Presented by the Intellectual Property Section*

The Defend Trade Secrets Act (DTSA) of 2016 provided parties a private right of action for asserting trade secret misappropriation in federal courts. Yet, the DTSA did not preempt trade secret misappropriation claims from being brought under state law. This has led to a rise in case filings involving trade secret misappropriation claims, while also creating new and different methods for assessing damages. This program is designed to provide perspectives on the valuation of a trade secret claim from three perspectives—outside litigation counsel, economist, and in-house counsel. The program will address how to assess potential damages arising from a trade secrets claim and how to apply that valuation to achieve better business and litigation results for clients.

#### Speakers

Lynda Godkin, WEX Health, Simsbury  
Sushrut Jain, Edgeworth Economics LLC, Washington, DC  
Matthew Murphy, Axinn Veltrop & Harkrider LLP, Hartford

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

## Featured CLE Presenter/Trial Track

### A10 Annual Review of Connecticut Supreme and Appellate Court Cases

*Presented by the Connecticut Bar Institute*

This seminar provides an analytical and thought-provoking review of Connecticut Supreme Court cases from the past year by Kenneth J. Bartschi, followed by an insightful and practical review of Connecticut Appellate Court cases from the past year by Karen L. Dowd.

#### 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)

## Real Property/Environmental Law Track

### A11 Common Problems, Common Solutions: Top Title Issues and How to Clear Them

*Presented by the Real Property Section*

This program will discuss some of the most common closing issues which can derail and delay a closing and help real estate practitioners to address them to keep their closings going smoothly.

#### Speakers

David S. Veleber, Connecticut Attorneys Title Insurance Company, Rocky Hill  
Bruce Zawodniak, Connecticut Attorneys Title Insurance Company, Rocky Hill

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

## Session B | 10:15 a.m. – 12:15 p.m.

## The President's Track

### B01 The Art of Successful Mediation

*Presented by the CBA Executive Committee*

Mediation is a structured, interactive process where an impartial third party assists disputing parties in resolving cases through the use of specialized communication and negotiation techniques. These experienced panelists will share their knowledge and insights to help lawyers successfully engage in mediation.

#### Moderator

Prof. William D. Logue, Quinnipiac School of Law, North Haven

#### Speakers

Hon. Elaine Gordon (Ret.), Gordon ADR LLC, Westbrook  
Hon. Angela Robinson (Ret.), Halloran Sage, New Haven  
Dale Faulkner, Faulkner and Graves PC, New London  
Joseph Garrison, Garrison Levin-Epstein Fitzgerald & Pirrotti PC, New Haven

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

## Business Law Track

### B02 Commercial Law and Bankruptcy: The Year in Review

*Presented by the Commercial Law and Bankruptcy Section*

The presenters will discuss case law developments in each of three categories—commercial litigation, consumer bankruptcy, and business bankruptcy.

#### Moderator

Roberta Napolitano, Chapter 13 Standing Trustee, Hartford

#### Speakers

Robert Fleischer, Green & Sklarz LLC, New Haven  
Jeffrey Hellman, Law Offices of Jeffrey Hellman, New Haven  
Suzanne Sutton, Cohen and Wolf PC, Bridgeport

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

## DE&I Track

### B03 Intersectionality, Hidden Identities, and the Law

*Presented by the DE&I Committee*



While many are familiar with traditional diversity, equity, and inclusion concepts, intersectionality—the unique forms of discrimination, oppression, and marginalization that can result from the interplay of two or more identities—can have a profound effect on all players within the legal system. What is it? And is it a useful lens to address inequities in the legal system and workplace? How do intersectional experiences connect to broader systems of structural inequities within society, and what can that tell us as we strive to bring equity and inclusion into our workplaces, the justice system, and society? Join us as we explore these concepts with our distinguished panelists.

#### Moderator

Prof. Kathy Taylor, Naugatuck Community College, Waterbury

#### Speakers

Hon. Tejas Bhatt, Connecticut Juvenile Court, Middletown  
Dr. Jonathan Wharton, Southern Connecticut State University, New Haven

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

## Ethics Track

### B04 Better Safe than Sorry!

*Presented by the Insurance Programs for the Bar Committee*



A comprehensive discussion on how best to keep your practice safe from potential malpractice exposures.

#### Moderator

John Kronholm, Kronholm Insurance Services, A Division of Brown & Brown of Connecticut Inc., Rocky Hill

#### Speakers

Stephen Conover, Carmody Torrance Sandak & Hennessey LLP, Stamford  
Brendon Levesque, Horton Dowd Bartschi & Levesque PC, Hartford

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

## Family Law Track

### B05 Family Law Seminar

*Presented by the Family Law Section*

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

## Current Topics Track

### B06 Construction Law Year in Review

*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 program will provide you with up-to-date information about the current state of construction law.

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

## IP/Antitrust/Regulation Track

### B07 Hot Topics in Antitrust and Trade Regulation

*Presented by the Antitrust and Trade Regulation Section*

This program will address developments of interest to commercial, labor, employment, health care, consumer, and litigation practitioners. Attendees will learn about key developments in employment, health care, trade regulation, and wage suppression.

#### Moderator

Michael Kurs, Pullman & Comley, Hartford

#### Speakers

Lisl Dunlop, Axinn Veltrop & Harkrider LLP, Hartford

Scott P. Perlman, Mayer Brown, Washington DC

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

## Featured CLE Presenter/Trial Track

### B08 Making the Case: Solving The Adversary's Dilemma (Part 1)

*Presented by the Connecticut Bar Institute*

This two-part interactive session will help attendees identify the adversary's challenges in making the case and how to overcome them. Using real world

examples from the simple to the complex, attendees will learn how to efficiently gather, analyze, and present the case while avoiding the perils and pitfalls of the adversarial mindset. Whether plaintiff, defendant, or unsure, you will learn how to cope with the elemental forces of the legal universe that threaten, bedevil, and inspire every practitioner with power, facts, science, truth, law, and justice.

#### Speaker

Jan Schlichtmann, Morgan & Morgan, Boston, MA

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

## Real Property/Environmental Law Track

### B09 Real Property Case Law Year in Review

*Presented by the Real Property Section*

This perennial program is an overview of important case law developments in real property and will update attendees on trends and decisions.

#### Speakers

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

Eugene A. Marconi, Berkshire Hathaway HomeServices New England Properties, Wallingford

Valerie Ann Votto, Valerie Ann Votto LLC, Old Lyme

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

## The Workplace Track

### B10 Annual Employment Law Update

*Presented by the Labor and Employment Section*

This seminar will provide a review of recent significant Federal and Connecticut decisions impacting employment law.

#### Speakers

Joshua Goodbaum, Garrison Levine-Epstein Fitzgerald & Pirrotti PC, New Haven

Mary E. Kelly, Livingston Adler Pulda Meiklejoh & Kelly PC, West Hartford

John G. Stretton, Ogletree Deakins Nash Smoak & Stewart PC, Stamford

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

Session C | 2:30 p.m. – 4:30 p.m.

## The President's Track

### C01 Sandy Hook, the Battle for Truth, and the Fabric of our American Society

*Presented by the Executive Committee*

On December 14, 2012, a gunman killed 20 first-graders and six educators at Sandy Hook Elementary School in Newtown, CT. Ten years later, Sandy Hook has become a foundational story of how false conspiracy narratives and malicious misinformation have gained traction in society. In the aftermath of the Sandy Hook tragedy, the families of the victims have fought a battle to preserve their loved ones' legacies even in the face of threats to their own lives. This pattern of attack, denial, misinformation, and conspiracy theories have come to characterize some Americans' response to almost every major event in the past ten years. The rise of misinformation and rapid spread of conspiracy theories through American society pose serious threats to the pillars of our democracy and the rule of law, raising national security concerns, and undermining confidence in our legal institutions. Join us to hear from Elizabeth Williamson, author of *Sandy Hook: An American Tragedy and the Battle for Truth*, who has chronicled the stories of the Sandy Hook families in the aftermath of that great tragedy, and Attorney Monte Frank, who played a pivotal role in advocating for the Sandy Hook families through their ensuing struggles. Asha Rangappa, Senior Lecturer at the Yale University Jackson Institute for Global Affairs and former FBI agent, will speak to the broader implications of the rise of misinformation in our society, as we collectively consider our obligation, as a profession, to uphold and protect the rule of law and our legal institutions.

#### Moderator

Cecil J. Thomas, CBA President, Greater Hartford Legal Aid Inc., Hartford

#### Speakers

Monte E. Frank, Pullman & Comley LLC, Bridgeport

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

Elizabeth Williamson, Author, *The New York Times*, Washington, DC

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

## Legal Technology Track

### C02 The Ethical Duty of Technology Competence: What Every Lawyer Needs to Know

*Presented by the Connecticut Bar Institute*



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.

#### 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)

## DE&I Track

### C03 Cultural Humility: Going Beyond Diversity, Equity, and Inclusion Basics

*Presented by the DE&I Committee*



The purpose of this seminar is to further educate attendees on areas of cultural humility that arise in our work and personal lives. This is beyond the basics of diversity, equity, and inclusion and delves into the more subtle ways discrimination, unfair treatment, insensitivity, and bias may be occurring and ways to identify and correct the behavior.

#### Moderator

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

#### Speakers

Karen DeMeola, University of Connecticut School of Law, Hartford  
Michelle Dumas Keuler, Commission on Human Rights and Opportunities, Hartford  
Cheryl A. Sharp, Commission on Human Rights and Opportunities, Hartford  
Jody Walker-Smith, Commission on Human Rights and Opportunities, Hartford

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

#### Ethics Track

##### C04 Better Safe than Sorry!

*Presented by the Insurance Programs for the Bar Committee*



A comprehensive discussion on how best to keep your practice safe from potential malpractice exposures.

#### Moderator

John Kronholm, Kronholm Insurance Services, A Division of Brown & Brown of Connecticut, Inc., Rocky Hill

#### Speakers

David P. Atkins, Pullman and Comly LLC, Bridgeport  
James L. Brawley, Morrison Mahoney LLP, Hartford

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

#### Family Law Track

##### C05 Family Law Year in Review

*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 and will learn about the seminal family law cases from 2021 and 2022, as well as 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  
Louise T. Truax, Reich & Truax PLLC, Southport

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

#### Current Topics Track

##### C06 History of Racially Restrictive Covenants

*Presented by the Real Property Section*



Presenters will provide the history of the creation of the covenants, what redlining is and its history, case law (e.g., *Shelley v. Kramer*), title insurance practice and policy, and recent legislative initiatives re: redacting of covenants.

#### Moderator

Zachary Kammerdeiner, CATIC, Rocky Hill

#### Speakers

Bethany R. Berger, University of Connecticut School of Law, Hartford  
Anika Singh Lemar, Yale Law School, New Haven

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

#### Current Topics Track

##### C07 Exploring the Dispute Resolution Toolbox

*Presented by the Alternative Dispute Resolution Section*

The history of alternative dispute resolution was driven on a desire to find quicker, cheaper, fairer, and often more private ways to resolve their disputes than traditional trials. As arbitration became more expensive and mediation, often utilized on the eve of trial, did not solve these initial goals, lawyers and their clients have adopted new variations of these traditional methods. The panel will discuss many of these resolution solutions, focusing on how to choose and effectively use them for your dispute.

#### Speakers

Roy De Barbieri, Zangari Cohn Cuthbertson Duhl & Grello PC, New Haven  
Richard Silberberg, Dorsey & Whitney LLP, New York, NY  
Eric Wiechmann, WiechmannADR, New Canaan  
Carolyn Wilkes Kaas, Quinnipiac University School of Law, Hamden

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

#### Featured CLE Presenter/Trial Track

##### C08 Making the Case: Solving The Adversary's Dilemma (Part 2)

*Presented by the Connecticut Bar Institute*

This two-part interactive session will help attendees identify the adversary's challenges in making the case and how to overcome them. Using real world examples from the simple to the complex, attendees will learn how to efficiently gather, analyze, and present the case while avoiding the perils and pitfalls of the adversarial mindset. Whether plaintiff, defendant, or unsure, you will learn how to cope with the elemental forces of the legal universe that threaten, bedevil, and inspire every practitioner with power, facts, science, truth, law and justice.

#### Speaker

Jan Schlichtmann, Morgan & Morgan, Boston, MA

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

#### Real Property/Environmental Law Track

##### C09 Emerging Issues in Environmental Due Diligence

*Presented by the Environmental Law Section*

Attendees will learn about emerging issues related to due diligence in transactions, including updates to the ASTM standard for performing a "Phase I" environmental investigation as well as case law on due diligence, including a recent 7th circuit case in which a buyer lost CERCLA liability protections because of Phase I defects, and how upcoming changes to release-based remediation regulations change how we think about environmental due diligence.

#### Speakers

Deborah Brancato, Carmody Torrance Sandak & Hennessey LLP, Stamford  
Aaron Levy, Shipman & Goodwin LLP, Hartford  
Emilee M. Scott, Robinson+Cole, Hartford

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

#### The Workplace Track

##### C10 Recent Developments in CT Workers' Compensation

*Presented by the Workers' Compensation Section*

Learn about the latest in workers' compensation, including legislative updates, case law updates, an update from Chief Administrative Law Judge Stephen M. Morelli, and Connecticut vocational retraining.

#### Moderator

Colette Griffin, Howd & Ludorf LLC, Hartford

#### Speakers

Hon. Stephen M. Morelli, Chief Administrative Law Judge, Workers' Compensation Commission, Berlin  
Jason Dodge, Strunk Dodge Aiken Zovas LLC, Rocky Hill  
Karen Sargent, Worker's Rehabilitation Services  
Luke Strunk, Strunk Dodge Aiken Zovas LLC, Rocky Hill

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

## New York State CLE Credit Categories Key

**AOP:** Areas of Professional Practice

**D&I:** Diversity, Equity, and Elimination of Bias

**Ethics:** Ethics and Professionalism

**LPM:** Law Practice Management

**Skills:** Skills

**The President's Track**

**D01 Racial and Ethnic Justice in CT**

*Presented by the CBA Executive Committee*



Racial and ethnic justice in Connecticut—fact or falsehood? The panel will explore if and how racial and ethnic justice has improved since the Black Lives Matter (BLM) movement. The panel will also discuss how the pandemic has helped or hindered racial and ethnic justice.

**CLE Credit:** 1.0 CT (Ethics); 1.0 NY (D&I)

**Legal Technology Track**

**D02 Fastcase**

*Presented by Fastcase*

Learn about the free legal research tool available to CBA members. Fastcase succeeds Casemaker as the legal research tool offered by the CBA. Explore the multitude of search options, parameters, and libraries.

**CLE Credit:** 1.0 CT (General)

**Ethics Track**

**D03 Getting Paid: Ethical and Practical Considerations for Fees**

*Presented by the CT Bar Institute*



Lawyers who get it right with client fee arrangements not only avoid disciplinary trouble, they increase the chances of getting paid. This program will outline the ethical requirements for fee arrangements. It also will offer practical advice on how to avoid fee disputes with clients, and how to best deal with them if they arise.

**Speakers**

David Atkins, Pullman & Comley LLC, Bridgeport  
William Stempel, W. D. Stempel LLC, Hamden

**CLE Credit:** 1.0 CT (Ethics); 1.0 NY (Ethics)

**Family Law Track**

**D04 Family Law Seminar**

*Presented by the Family Law Section*

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

**Current Topics Track**

**D05 A Multi-Dimensional Model of Lawyer Well-Being**

*Presented by the Lawyer Well-Being Committee*



This program will describe the multidimensional aspects of lawyer well-being, as illustrated by a new model.

**Speaker**

Traci Cipriano, Traci Cipriano JD PhD LLC, Woodbridge

**CLE Credit:** 1.0 CT (Ethics); 1.0 NY (DE&I)

**Current Topics Track**

**D06 State Liens, Claims, and 4a-16 Notices**

*Presented by the Elder Law Section*

During the June 2021 Special Session, Public Act No. 21-2, An Act Concerning Provisions Related to Revenue and Other Items to Implement the State Budget for the Biennium Ending June 30, 2023, made changes to when the state can file liens on real estate and recover from a recipient or his/her estate. This presentation would discuss those changes and how the changes may impact future benefit planning. (Provisions of Public Act No. 21-2 to be discussed: Sec. 454. Section 4a-16; Sec. 455. Section 17b-79; Sec. 456. Section 17b-93; Sec. 457. Section 17b-94; Sec. 458. Section 17b-95)

**Speakers**

Lisa Nachmias Davis, Davis O'Sullivan & Priest LLC, New Haven  
Stephen B. Keogh, Keogh Burkhart & Vetter, Norwalk

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

**Current Topics Track**

**D07 Coronavirus as a Disability**

*Presented by the CT Bar Institute*

The panel will discuss COVID-19 as a disability under the Americans with Disability Act (ADA). The panel will explore reasonable accommodations, anti-harassment, protected characteristics, and return to work for persons with a disability as a result of COVID-19.

**Speaker**

Audrey B. Blondin, Blondin Law Offices, Torrington

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

**IP/Antitrust/Regulation Track**

**D08 Consumer Protection Developments**

*Presented by the Antitrust and Trade Regulation Section*

Robert M. Langer and Connecticut Commissioner of Consumer Protection Michelle Seagull will share their knowledge and insights about important developments in consumer protection.

**Speakers**

Robert M. Langer, Wiggin and Dana LLP, Hartford  
Michelle Seagull, Commissioner of the Department of Consumer Protection, Hartford

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

**Featured CLE Presenter/Trial Track**

**D09 Are We Done Yet? A Primer on When to Appeal**

*Presented by the Appellate Advocacy Section*

Three panelists—an Appellate Court judge, a Supreme and Appellate court staff attorney, and an experienced appellate practitioner—will speak with a moderator to explain the current state of the final judgment rule in Connecticut courts.

**Moderator**

Johanna Katz, Pullman & Comley LLC, Hartford

**Speakers**

Hon. Michael Sheldon, Connecticut Appellate Court, Hartford  
Linda Morkan, Robinson & Cole LLP, Hartford  
Jessie Opinion, Connecticut Judicial Branch, Hartford

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

**The Workplace Track**

**D10 Workers' Compensation Appeal Process**

*Presented by the Workers' Compensation and Young Lawyers Sections*

The program will address the process of appealing a decision to the Compensation Review Board, arguing at the Compensation Review Board, and next steps after a Compensation Review Board decision.

**Speakers**

Hon. Maureen E. Driscoll, Workers' Compensation Commission, Hartford  
Andrew J. Morrissey, Morrissey, Morrissey & Rydzik LLC, Naugatuck  
Joseph J. Passaretti, Jr., Montstream Law Group LLP, Rocky Hill

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

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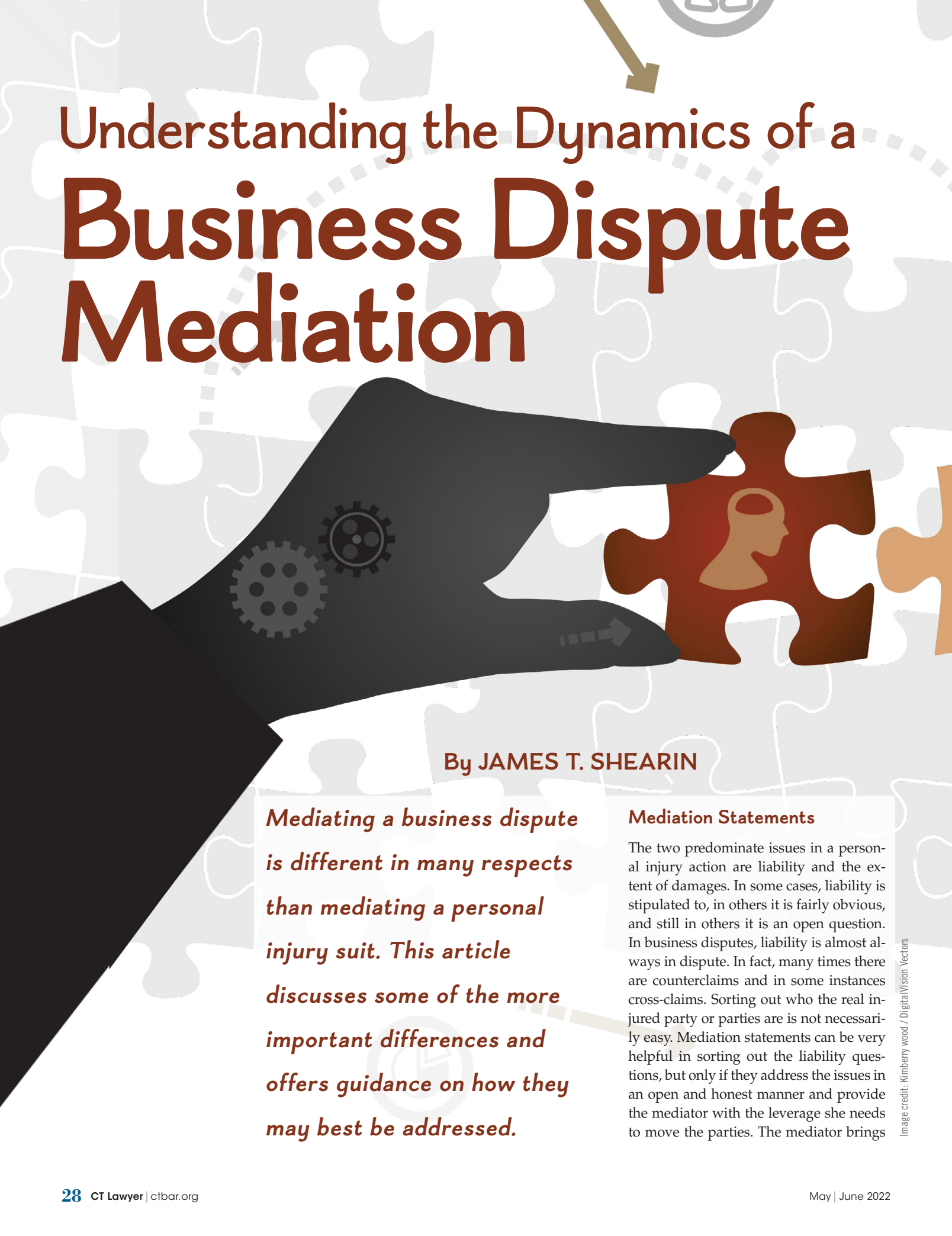


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# Understanding the Dynamics of a Business Dispute Mediation

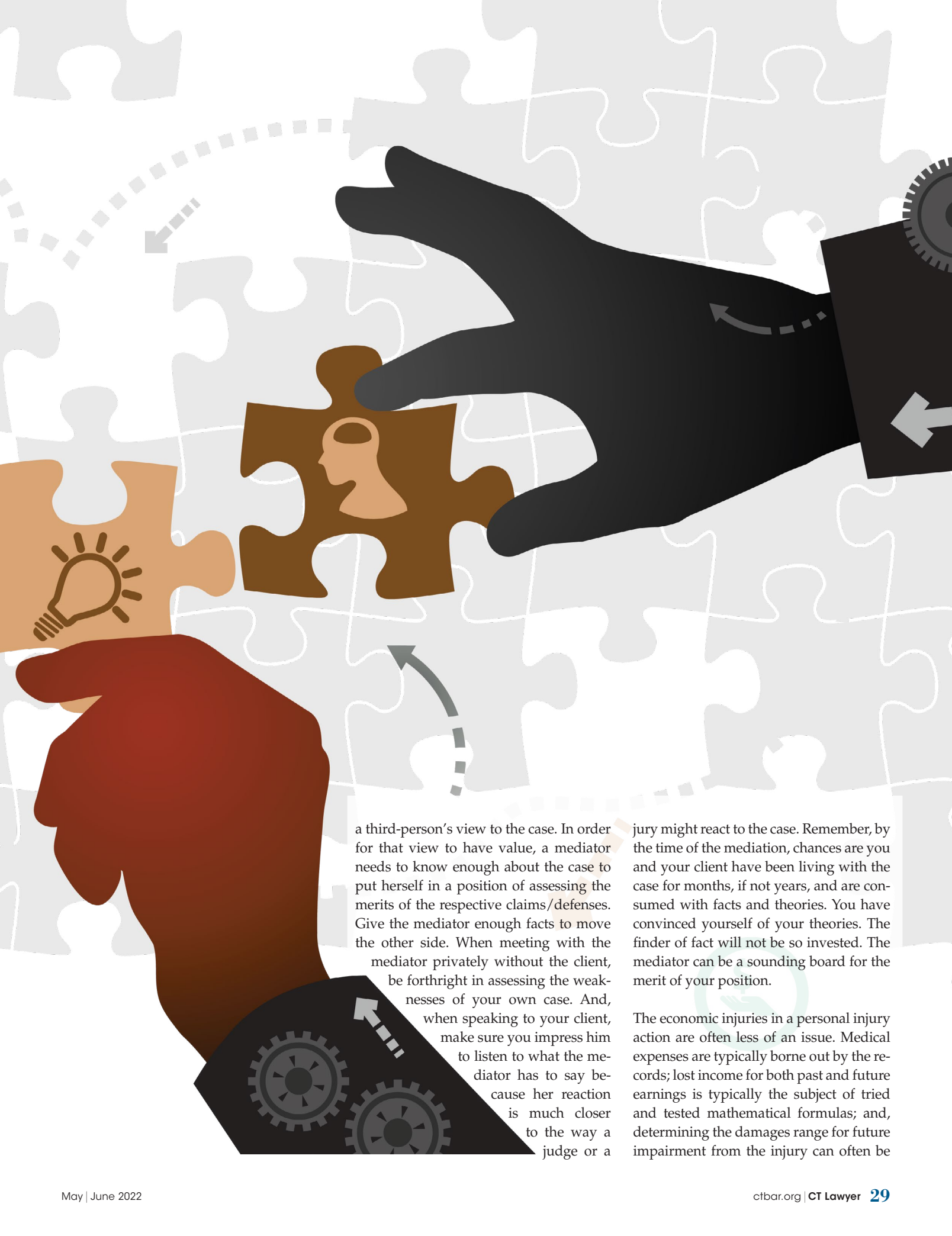
By JAMES T. SHEARIN

*Mediating a business dispute is different in many respects than mediating a personal injury suit. This article discusses some of the more important differences and offers guidance on how they may best be addressed.*

## Mediation Statements

The two predominate issues in a personal injury action are liability and the extent of damages. In some cases, liability is stipulated to, in others it is fairly obvious, and still in others it is an open question. In business disputes, liability is almost always in dispute. In fact, many times there are counterclaims and in some instances cross-claims. Sorting out who the real injured party or parties are is not necessarily easy. Mediation statements can be very helpful in sorting out the liability questions, but only if they address the issues in an open and honest manner and provide the mediator with the leverage she needs to move the parties. The mediator brings

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a third-person's view to the case. In order for that view to have value, a mediator needs to know enough about the case to put herself in a position of assessing the merits of the respective claims/defenses. Give the mediator enough facts to move the other side. When meeting with the mediator privately without the client, be forthright in assessing the weaknesses of your own case. And, when speaking to your client, make sure you impress him to listen to what the mediator has to say because her reaction is much closer to the way a jury or a

jury might react to the case. Remember, by the time of the mediation, chances are you and your client have been living with the case for months, if not years, and are consumed with facts and theories. You have convinced yourself of your theories. The finder of fact will not be so invested. The mediator can be a sounding board for the merit of your position.

The economic injuries in a personal injury action are often less of an issue. Medical expenses are typically borne out by the records; lost income for both past and future earnings is typically the subject of tried and tested mathematical formulas; and, determining the damages range for future impairment from the injury can often be

## Business Dispute Mediation

found in accessible databases. That is not to say that every broken arm is the same, but it is to say that there is a range of damages for a broken arm one can find from prior successful mediations and jury verdicts. For certain, non-economic damages can be more speculative, but there, too, is a fairly accessible body of knowledge as to how prior cases with similar injuries were resolved.

The damages in a business dispute can be difficult to determine. Determining lost profits, a reasonable royalty, or what a frustrated investment might have yielded are often not easily determined and not nearly something found in public databases. Here again, the mediation statements need to be sufficiently detailed to point out the theories of relief, the weaknesses with those theories, and the range of damages depending on the success of each parties' claims or defenses. Initial demands and offers should be exchanged ahead of time just to set the outside borders for the discussions. Otherwise, the mediator is left with the perennial problem of who goes first. But, those demands and offers should be realistic if the parties want to settle. An unrealistic offer or demand drives people apart. By the time of the mediation, there should be no secrets as to the parties' respective positions on damages. Consider those positions when educating the mediator. Importantly, do not draw lines in the sand or let your clients do so. They are not helpful. Announcing in the first hour that you will not take less than "X" or pay more than "Y" helps no one, and in my experience is rarely true. What it does is drive a wedge between the mediator, lawyer, and client so the mediator is then pitted against the lawyer for drawing the line.

Another factor that often comes into play in the calculation of damages for a business dispute are counsel fees. Unlike in personal injury cases where plaintiff's lawyer is typically being paid on a contingency basis and the defense lawyer is being paid by the insurance company, in business disputes, more often than not, the litigants are paying their own freight as they go. By the time the mediation has

been scheduled it is likely both sides have incurred significant fees and will incur many more if the case does not settle. The amount of those fees is often something each side wants to recover as part of the mediation. It is incumbent on counsel to manage the client's expectation with response to this issue and many others. Clients need to be told that recovering their fees will be difficult. If the issue remains a dominant factor for the client, the matter should be addressed with the mediator at the outset on an *ex parte* basis. It is much easier for a mediator to incorporate some component of the fees as part of an overall settlement amount than it is to treat it as a separate line item that simply invites rejection by the other side.

### Setting the Setting

For a business mediation to be successful, the parties need to be in the right frame of mind. Advocates need to make sure that their clients understand that what is set forth in their mediation statement is the best case scenario; it does not mean that is where the parties will end up. That is not to say that lawyers should put themselves in an awkward position where they appear to be less than zealous, but it is to say that they should speak frankly to the clients about the pros and cons of the case. Most importantly, to the extent that there is a disconnect between the client's realistic expectations and what can be realistically accomplished in the mediation, share that concern with the mediator privately in an *ex parte* conference, in advance of the mediation so the mediator can deal with it from the outset. The mediator should be used as a buffer with the client if the lawyer's relationship would otherwise be jeopardized in doing it. It has often been said that the best mediation is when both parties walk out unhappy, but the matter is resolved. Most clients don't know that going into the mediation. The sooner they understand it the more likely it is that the case can be resolved.

Part of managing expectations is managing emotions. In many personal injury cases there is no possibility of an ongoing relationship. The injured driver will never meet or speak to the negligent driver

who hit her. That is not always the case in business disputes. Often times, the parties will remain competitors in an industry, see each other at trade shows, or have employees that move back and forth. Emotions run high and deep. Reputational loss can predominate the discussions. For that reason, I believe it is best to keep the parties separate and make it clear from the beginning that mediating a broken friendship is not one of the agenda items. To that end, refrain from offering opening remarks, they are often counterproductive. Advocates do what they are trained to do and point the finger at the other side demanding millions of dollars or making clear they won't pay a dime. It rarely serves a useful purpose. Rather, it drives the litigants to their respective corners resulting in wasted time trying to get people back.

Business disputes sometimes involve the conduct of a particular individual or individuals who, while perhaps not sued, desire to vindicate their actions and certainly not live with the consequences of an adverse outcome or expensive settlement. These behind-the-scenes internal dynamics are often more consequential than how much money is involved. Which business line is going to be tagged with the expense of the litigation and who will take the internal fall are issues that sometimes motivate people's decision making. If these dynamics exist and the lawyer cannot manage them, he should share that problem with the mediator in advance, not in a mediation statement shared with the client, but in an initial *ex parte* conference between the lawyer and the mediator directly. Assuaging egos, providing counseling, or even simply positioning the settlement in a way in which fingers are now pointed is something that has to be orchestrated from the outset. The only way that can be accomplished is if the mediator has the knowledge she needs upfront.

### Client Attendance

Having clients available in a mediation is important. Having the right client is even more important. Oftentimes, the client representative is an in-house attorney





without authority to bind the business line whose balance sheet may be affected by the settlement. Sometimes the client representative is somebody too low on the totem pole to negotiate. Sometimes the representative is an insurance adjuster whose interests may or may not be aligned with the client itself. It is counsel's obligation to do what they can to make sure the right representative is present. But most mediators know that counsel are in an unenviable position of asking for someone more senior to attend or someone who doesn't have a limit to his authority. That issue is best addressed before the mediation. The mediator can then ask for confirmation upfront that the person has full authority to settle or, she could make sure the client contact who will be present will be able to communicate with the true client with authority on an ongoing basis during the mediation, or she may insist that she talk to the person with authority ahead of time to impress upon that person that his absence cannot be used as a settlement strategy. What doesn't work, however, is to go through the whole process of the mediation only to find out at the end of the day that there is someone behind the scenes who still needs to approve the resolution. Invariably, and often justifiably, the other side is upset because it is showing its hand in good faith believing that all parties are present to resolve the case.

### Confidentiality and Non-Disparagement

Confidentiality provisions are standard fair in most settlement agreements for resolving business disputes, but whether such a provision will be included is something that should be addressed early in the day. In both instances, confidentiality and non-disparagement provisions should be raised by the mediator almost as standard terms along with general release language. Otherwise, if it is treated as unique, one party may hold that provision hostage for additional consideration when, in fact, it really should not be a game changer.

Caution has to be exercised with the non-disparagement provisions. Offering that as a part of the settlement agreement can be problematic if it is obvious that one side or the other is destined to breach it. In that event, the settlement can actually get derailed. It is sometimes best to raise that issue once there is a sense that settlement is possible and people are interested in getting the case resolved rather than worrying about what one might say about the other.

Some cases resolve without confidentiality or non-disparagement language because what becomes most critical is the fact of the settlement. In those instances, there is often the necessity of having a jointly written statement by both parties of the fact of the settlement and whatever

other information might be agreeable to the parties. If a joint statement is to be issued, it is best to raise that issue later in the day after settlement becomes possible. The mediator should take ownership of the draft in consultation with both counsel alone first, and then with the litigants. That way, it is less of an advocacy piece and more of a neutral statement.

### Signed Agreement

Whenever possible, an agreement should be signed before the parties leave the mediation. Ideally, the mediator should be drafting a settlement agreement throughout the course of the day, changing provisions as the settlement develops. Cementing the parties into their position before they leave and have a chance to second-guess themselves is critical. It doesn't mean they are being locked into a bad deal, it means they are being locked out of a deal they think they could renegotiate better. That is a mistake. If a full agreement cannot be reached before people leave, at the very least write down the salient terms and have people initial it. ■

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*James T. (Tim) Shearin, chairman of Pullman & Comley, has widespread experience in federal and state courts at the trial and appellate levels, and before arbitration and mediation panels. He is also a privately-retained mediator and an American Arbitration Association-qualified arbitrator. Attorney Shearin is the CBA vice president for the 2022-2023 bar year.*

# UConn Law Student from Ukraine Leading by example

By DANIEL J. HORGAN

**O**ne of the many advantages of having an Access to Justice Initiatives Director is the ability to expand our pro bono reach to law students. That is what happened on April 1st when Jenn Shukla organized a CT Free Legal Answers clinic at UConn School of Law. Hosted by Dean Nelson, several CBA leaders went to the campus to mentor eager law students. The idea was to educate the students on how important pro bono services are and to explain how the CT Free Legal Answers program works. We broke the students into small groups and each lawyer helped the students answer open questions from Connecticut residents by assisting them in research and drafting responses to “real world” client questions. As I have said in earlier editions of this column, the FLA program is

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**“The three most important ways to lead people are: by example, by example, and by example.”**

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– Albert Schweitzer

the easiest way for our CBA members to participate in our pro bono programs simply by taking 30 minutes per week and logging in.<sup>1</sup>

My group had three 1L students. They were excited to use research and critical analysis skills to help answer four open questions involving landlord/tenant, social security disability, wage complaint, and a parental termination matter. Each

of the three students in my group told me how good it felt to actually use skills they were learning to help people who could not afford lawyers. One of the students, Alona Voronova, a full-time student and mother of two children, emigrated from Ukraine. Alona has many relatives living in Ukraine. We discussed the horrors occurring in her home land and she told me that her family and friends were safe for now but couldn’t hide her concern. I could not stop thinking of how hard it must be on Alona to concentrate on her studies and raise her children while under that amount of worry; yet, here she was, volunteering to help those in need in Connecticut. Truly inspirational and an example to our members that no matter what may be occurring in our work/personal lives, we can spare some small amount of time to participate in one of our pro bono programs. I encourage you to select one of our programs:

**CT FREE LEGAL ANSWERS** is an online civil legal service for people who cannot afford to pay for an attorney. Attorneys will answer questions through an online portal.

**VIRTUAL FREE LEGAL ADVICE CLINICS** allow Connecticut residents with legal questions to sign up in advance for a



Daniel J. Horgan with his group of UConn law student volunteers at the CT Free Legal Answers clinic.

## Lawyers in Libraries Program

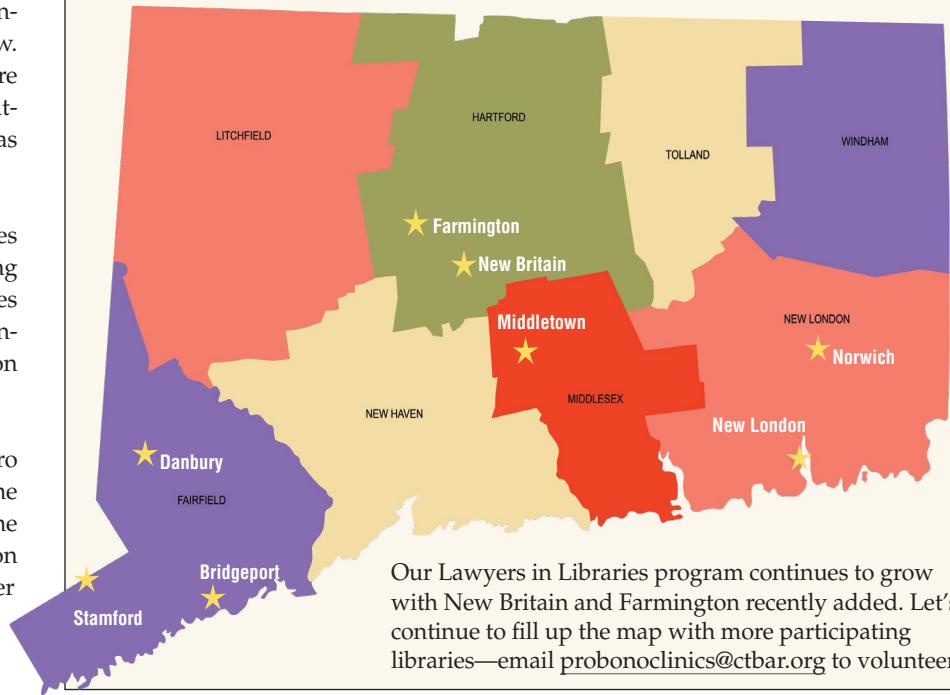
free 30-minute appointment with a volunteer attorney in a particular area of law. Law student and paralegal volunteers are needed to conduct intake interviews. Attorneys can volunteer for as many or as few time slots as they want.

**CBA PRO BONO CONNECT** provides volunteers with complimentary training and educational seminars and matches them with a case referred by one of Connecticut's legal service providers based on your expressed pro bono interests.

**LAWYERS IN LIBRARIES** provides pro bono legal services to members of the public in libraries throughout state in the areas of landlord/tenant, immigration law, family law, employment, consumer rights, and personal injury.

Visit [ctbar.org/ProBono](http://ctbar.org/ProBono) to learn more about these programs and how to register to volunteer.

This Free Legal Answers clinic was very successful, as 15 law students signed up to continue to help provide research and draft answers for our members who



might need or want support in answering questions. Quinnipiac, Yale, and WNEU law schools will also be collaborating in future pro bono exercises with the CBA. We have a lot of great pro bono programs happening—join us! ■

### NOTES

1. Congratulations to CBA member Ron Japha who has answered 60 questions since October 1! Also, members Vivian Moreno-Zelinka and Meghan Maynard have been incredible consistently answering questions. Thank you.

Image credit: Kosmozoo/DigitalVision Vectors



### CBA Free Legal Advice Clinic: Volunteers Needed

Tuesday, July 26, 2022  
10:00 a.m. - 6:00 p.m.

Wednesday, July 27, 2022  
10:00 a.m. - 6:00 p.m.



If you have 30 minutes free, you can volunteer. Volunteer attorneys will answer legal questions in their area of practice during a 30-minute remote session with a client.

Volunteers are needed in the following areas:

- Fraudulent Business/Debt Collection
- Employee Rights/Unemployment
- Immigration Law
- Landlord/Tenant
- Family Law
- Tax Law
- Bankruptcy
- Pardons
- Wills and Estates
- Torts

Volunteer opportunities are available for paralegals and law students as well. Visit [ctbar.org/FreeLegalAdviceClinics](http://ctbar.org/FreeLegalAdviceClinics) to learn more and register.



# Now That You Know, What Are You Prepared to Do?

By KATHY FLAHERTY

**I** am so grateful to CBA President Cecil Thomas for inviting Kimberly Jacobsen, Michelle Duprey, and me to contribute to the Diversity, Equity, and Inclusion conversation in this magazine. Our profession too often ignores disability as an axis of diversity, despite the best efforts of a few of us over the last couple of decades. I hope that after reading my colleagues' commentaries you are now interested in joining the conversation, whether you identify as a disabled lawyer, a lawyer with a disability, an ally, or a co-conspirator.

What will you do differently, now that you know more about disability in our profession? Are you prepared to speak up about access issues even when there is no one with a visible disability in the room? If you are participating as a panelist on a Zoom webinar, or are hosting one, are you ensuring that you provide information to attendees about requesting accommodations? Do you know how to request ASL interpretation or arrange for live captioning (disabled people call automated captions "craptions" for a reason)? As we slowly return to in-person events, are you considering how to accommodate people who are unable to attend large events in person by arranging methods for hybrid participation?

We have been talking about lawyer and law student mental health and well-being for a number of years now. Are we making the fundamental changes necessary in the way we operate in order to proactively affect students, bar applicants, and lawyers in a positive way? I am not sure we have, or that our profession is ready for that con-



versation. What I observe is that too often, we continue to do things the way we have always done, and then decry the still-increasing numbers of lawyers and law students who cope by using alcohol and/or other substances, struggle with depression and anxiety, and die by suicide. We change nothing (or very little) yet expect different results. We must do better.<sup>1</sup>

I am a member of the Lawyer Well-Being Committee. Connecticut Legal Rights Project is a signatory of the CBA's Diversity Pledge. Theoretically, I am part of the solution—but collectively we continue to perpetuate the problems. I have raised questions at various meetings over the years, only to get crickets in response. When presenters have asked those questions of other attendees in the room, the crickets only get louder. Here are among the questions for which I have yet to find satisfactory answers. If you would like to join me in the struggle to come up with solutions, please reach out.

- ▶ Are existing loan forgiveness programs enough to support young lawyers who graduate with six figures of law school debt to work in public service for the long term?
- ▶ Do employers provide health insur-

ance benefits that enable lawyers with disabilities to access the health care they need? Health insurance plans with high deductibles are not the way.

- ▶ Do employers provide enough paid leave to address the needs of lawyers with disabilities?
- ▶ Is passage of a bar exam the best way of determining whether a person has sufficient knowledge to practice law?
- ▶ Are our expectations of the number of hours a lawyer "should" work in a given week realistic, or is there a different way of achieving this mythical work-life "balance"?
- ▶ Is the legal profession prepared to accommodate law students and lawyers with disabilities? When will this profession start to consider that people requesting accommodations are not asking to be "coddled" but instead are seeking respect for our civil rights and for justice?

Change in the "Land of Steady Habits" is hard. I periodically remind people that it took nearly 20 years to change the rules for admission to acknowledge that the questions on the bar application need-

ed to comply with the requirements of the Americans with Disabilities Act, and another decade to remove the “mental health” questions altogether. I am hoping that this next dismantling of barriers for disabled law students and lawyers with disabilities does not take as long. The arc needs to bend. ■



*Kathy Flaherty is the Executive Director of Connecticut Legal Rights Project; she combines her personal experience as a psychiatric and long COVID-19 survivor and her legal background to write about issues affecting people with disabilities. She tweets @ConnConnection and writes on a variety of topics, including politics, law, mental health, adoptee rights, and soccer.*

#### NOTES

1. For one example of how we can do better, see Jonathan Todres, “Work-Life Balance and the Need to Give Law Students a Break,” University of Pittsburgh Law Review Online Edition, forthcoming April 2022, available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4031849](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4031849).



## The Constance Baker Motley Speaker Series on Racial Inequality

**Register for these upcoming seminars today!**

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Voting Rights 2: The Ongoing Battle at the Ballot Box

**June 8:**  
Constance Baker Motley Series Seminar

The Constance Baker Motley Speaker Series on Racial Inequality was established by the Connecticut Bar Association and Connecticut Bar Foundation as an ongoing forum for the Connecticut legal community to explore issues of racial inequality and systemic racism. This series is named in honor of civil rights trailblazer Judge Constance Baker Motley with the goal of supporting and fostering renewed commitment to advancing civil rights and social justice.

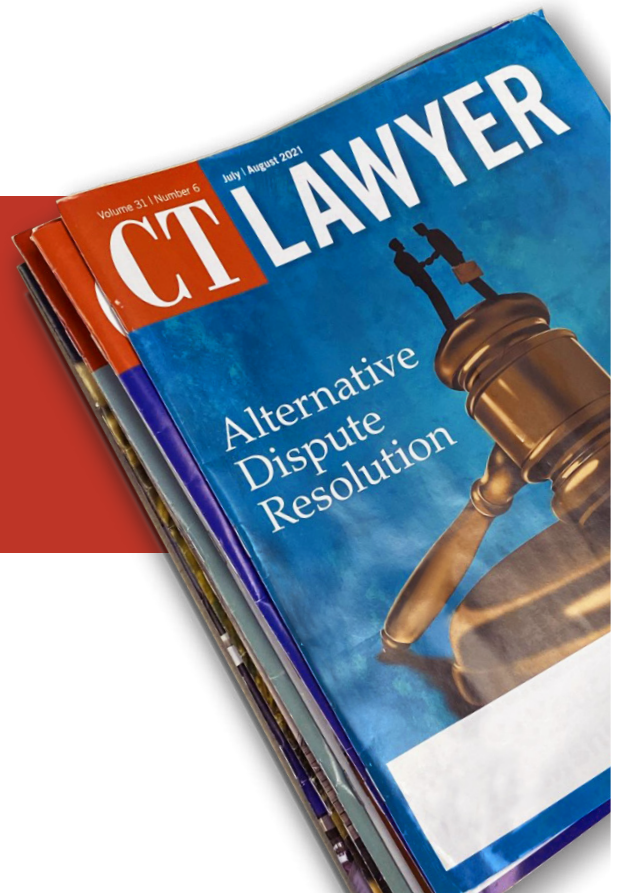
Visit [ctbar.org/MotleySeries](https://ctbar.org/MotleySeries) to register and access past seminar recordings.

# CT LAWYER

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# Nolo Contendere Debated

By CHARLES D. RAY and MATTHEW A. WEINER

The plea of *nolo contendere* is a bit of an odd duck in the world of criminal procedure. Wikipedia (the source of all that is true) tells us that the words “come from the Latin phrase for ‘I do not wish to contend’” and that the plea is “also referred to as a plea of no contest.” We inherited the concept from the English common law without, as best we have been able to discover, much critical thought being devoted to the manner of either its adoption or its use. Still, the *nolo* plea is said to further two primary purposes. First, to aid plea negotiation in criminal cases, by allowing a defendant to concede a conviction without admitting guilt. Second, to prevent collateral consequences befalling the “*nolo*” defendant in subsequent proceedings.

As a practical matter, a *nolo* plea differs very little from a guilty plea. The procedures for both are largely the same, as is the result. Indeed, Practice Book § 39-18(b) mandates that when accepted by the court, a plea of *nolo contendere* “shall be followed by a finding of guilty.” Thus, in terms of aiding plea bargaining, a *nolo* plea differs from a guilty plea only by allowing a defendant the ability to maintain his or her innocence despite a conviction on the underlying charges. But this unwillingness to admit guilt inhibits acceptance of responsibility by and rehabilitation of criminal defendants, both of which are said to be cornerstones of a criminal justice system in which plea bargaining is encouraged and most often rewarded in terms of sentencing. After all, it’s hard to see how the criminal justice system is served by allowing defendants to maintain their innocence



despite having accepted punishment for a conviction.

Understanding this, preventing collateral consequences becomes the much more dominant of the two policies that courts rely on when discussing the underpinnings and justifications for *nolo* pleas. For better or worse, the general rule is that a plea of *nolo contendere* cannot be admitted in a subsequent proceeding to prove the happening of a criminal act. This general rule is memorialized in Section 4-8A of our Code of Evidence and appears to allow a financially strapped criminal defendant to marshal his or her resources in defense of a subsequent civil action brought by their victim rather than

having to expend those resources in defense of both a civil and a criminal case. If you’re like us, you might wonder why the civil case plaintiff gets the short end of this particular stick, but our current purpose is not to debate the validity of *nolo* pleas.

Instead, we’re here to discuss the Supreme Court’s recent decision in *Allstate Insurance Co. v. Tenn*, 342 Conn. 292 (2022), a case in which the Court explored and debated the contours and limits of the general rule precluding admission of a *nolo* plea in a subsequent civil proceeding. The issue came to the Court by way of a certified question from a federal judge: “Whether a plea of *nolo contendere* and the resulting conviction can be used to

trigger a criminal acts exclusion in an insurance policy.”

Some history might be helpful. Donte Tenn was charged with assaulting Tailan Moscaritolo with a baseball bat and entered a nolo plea to the charge of assault in the first degree. In the meantime, Mr. Moscaritolo brought a civil action in Superior Court against Mr. Tenn, alleging counts for: 1) assault; 2) negligent assault; 3) intentional infliction of emotional distress; and 4) negligent infliction of emotional distress. Mr. Tenn was evidently cooperating in this action, while Allstate provided him with a legal defense (subject to a reservation of rights) under a homeowner’s policy bought by Mr. Tenn’s mother. A second civil action, brought by Allstate in federal district court, sought a declaration that Allstate had no obligation to either defend or indemnify Mr. Tenn in the lawsuit brought by Mr. Moscaritolo.

Allstate grounded its argument on the policy’s criminal acts exclusion, which rejects coverage for “bodily injury or property damage intended by, or which may reasonably be expected to result from the intentional or criminal acts of the insured person.” The exclusion applies “regardless of whether or not such insured person is actually charged with, or convicted of a crime....” Allstate sought summary judgment as to coverage, arguing that Mr. Tenn’s nolo plea trounced any argument that he had not committed a crime. The district court reserved decision and certified the legal issue to the Supreme Court.

The majority, Justice Kahn (for herself, Chief Justice Robinson, and Justices Mullins, Ecker and Keller), began its analysis with the general rule – “a plea of nolo contendere in a criminal case is inadmissible in a subsequent proceeding to prove the occurrence of a criminal act.” Highlighting this aspect of nolo pleas, Justice Kahn emphasized that the ban on collateral usage was the only factor that distinguished a nolo plea from a guilty plea. The impor-

ance of this difference is, according to Justice Kahn, exemplified by the prohibition against collateral use specifically enshrined in the Code of Evidence, Section 4-8A(a)(2), which precludes admission of a nolo contendere plea against the person who entered the plea in any subsequent civil or criminal case. Given the common law origins of the general rule, as codified in the Code of Evidence, the “simple answer” to the certified question is that a “plea of nolo contendere cannot be used as proof of criminal conduct.”

For the majority, use of a nolo plea as proof of criminal conduct in a subsequent case would “undermine the very essence of the nolo contendere plea itself.” In this context, the fact that a nolo plea does not act as an absolute privilege against all collateral consequences (there are some statutory exceptions) makes no difference. This is because Allstate’s policy exclusion does not depend on a criminal conviction and is, instead, triggered by criminal acts committed by the insured person. And Mr. Tenn’s nolo plea is inadmissible as a matter of evidence and policy. Case solved, question answered.

For Justices D’Auria and Justice McDonald, who concurred in part and dissented in part, the analysis was a touch more complicated. To begin with, they agreed with the majority that Mr. Tenn’s nolo plea does not necessarily “trigger” Allstate’s criminal acts exclusion. They disagreed, however, with the “majority’s balancing of...competing public policy concerns” and would hold that the plea was admissible in Allstate’s declaratory judgment action. In support, Justice D’Auria began with the proposition that Mr. Tenn’s plea is relevant evidence on the coverage issue and moved then to the notion that a court

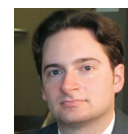
should admit relevant evidence. The dissent then notes that the salutary purpose underlying nolo pleas—the efficient disposition of criminal cases—comes with a sacrifice of other equally beneficial purposes—rehabilitation of the defendant and restitution to the victim. The task for the Court in this case was to determine “what lengths must the judiciary, through its rules of evidence, go to encourage plea bargaining and thereby deprive one or more forums of relevant evidence to resolve a subsequent controversy.”

For the dissent, admission of Mr. Tenn’s nolo plea in Allstate’s case would not undermine the essence of the plea and would, instead, further the public policy of not indemnifying insureds for criminal acts. Given the context in which Allstate raised the issue, the dissent was “not convinced that admitting a defendant’s conviction into evidence in a coverage dispute will result in so many fewer plea bargains that it merits excluding relevant evidence from this collateral controversy.” The result, for the dissenters, may well have been different if the issue had arisen between Mr. Tenn and Mr. Moscaritolo in the civil action.

Is there a “right” answer to all of this? Certainly not. The case does demonstrate, however, that the role of a judge can, and often does, involve the balancing of competing public policy interests. Like or not, that’s what we pay judges to do. ■



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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.

# The YLS Executive Committee and Accountability for its 2021-2022 Initiatives

By JOSHUA J. DEVINE

**S**pring is here and for many of you, so is a return to the traditional in-the-office work setting (albeit for some, like me, you may have already been back in the office in a modified hybrid form). For me, it has felt wonderful to get out of the house and to be back in the office three days a week. The flexibility to work from home two days a week has been great. I save on commuting expenses and it also enables me to focus an entire day on critical work assignments, without the distractions of preparing for commuting to and spending the day in the office. That said, I've also truly enjoyed resuming in-person meetings versus what seemed like day-long Zoom meetings for nearly two years. In addition to the arrival of spring and some return to normalcy, it's also that time of year when we appreciate that the close of the bar year is quickly approaching. This is my fifth column as chair of the YLS for the 2021 – 2022 bar year. My final message will come this summer, only months from now. To say the past two years have been unprecedented would be an understatement. No one could have predicted what we've all just gone through and how the world has changed in so many ways. Time has surely gone by quickly for me. But for all of us, the future looks bright!

Throughout the year I provided you with updates on the challenge I issued to the YLS Executive Committee to provide 1,000 total hours of combined pro bono and volunteer services to our local communities. I thought now would be a good time to share what we've achieved in that

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regard as well as where we stand with some other key initiatives.

### **Pro Bono and Volunteerism (Completed More Than 600 of our 1,000 hour goal)**

At our annual leadership retreat in August of 2021, the YLS Executive Committee was divided into nine teams. Typically, these groupings are created with the expectation that each team will organize a fun non-CLE social event throughout the bar year for YLS members. However, this year these groupings served a dual role in also being the YLS Executive Committee teams for the Pro Bono Challenge, with the team with the most volunteer hours donated in their communities through pro bono work to be honored with an award in June. Of the nine teams, Team Four, made up of Sara Dickson, John Russo, Jr., Michael Curley, Kelly Scott, Hannah Kalichman, and Kara Zarchin currently leads the way in terms of both hours and accountability with nearly every member participating and, as a group, accruing close to 200 hours of the more than 600 hours that the YLS Executive Committee has provided in pro bono and volunteer services.

### **Prelaw Symposium and Diversity, Equity, and Inclusion**

Scott Garosshen and Leland Moore, the YLS Executive Committee's civics education directors, have successfully led a committee made up of Haseeb Khan and Nicole Fluckiger in planning and coordinating a Prelaw Symposium, with the goal of bringing together approximately 125 high school students in the greater New Haven and Middletown areas and Connecticut legal professionals to discuss topics beginning with the impact of the legal profession on society and concluding with strategies to navigate the path to a legal career. The revitalization of this program is one of our pipeline initiatives to nurture diversity, equity, and inclusion in the profession. Our goal is to work with high school students to ensure folks from a diverse array of backgrounds have the resources and network to make a legal career a reality.

### **CBA Membership Growth**

Growth of the Connecticut Bar Association, and specifically the Young Lawyers Section, was another goal for both myself as chair and the YLS Executive Commit-



tee this year. Despite the challenges of the ongoing pandemic, the YLS Executive Committee has put on successful networking events nearly every month, hitting the capped registration numbers on multiple occasions. While it is not common to place a cap on registration, this has been a safety measure implemented during the pandemic to ensure we were offering both valuable and safe events as we navigated the need to social distance. As we head into the closing months of the bar year, I expect that success to carry on as we offer our year-end event at a Hartford Yard Goats game for all YLS members and their families to attend as well as other networking and CLE opportunities. Lastly, our YLS Executive Committee members have been hard at work planning CLEs every week on a variety of topics and practice areas for young lawyers, which provides us with an opportunity to both learn from and network with talented attorneys throughout the state.

As we all edge ever closer to a return to both social and workplace normalcy (or



whatever our post pandemic professional lives evolve to be) and the end of the bar year, I'd like to remind all our members that our individual accountability is key to driving our continued successes. I do hope this article serves as both an update on some of our events as well as an accountability and progress check-in for the Executive Committee. If you are interested in more details on any of our events, please reach out to me directly. If

you want to challenge or see something new from the YLS Executive Committee, please also reach out and let me know that as well. While my time as chair is quickly ending in a few months, it is my intention to leave the YLS Executive Committee primed for continued success. In that regard, I would appreciate any thoughts you might have as I prepare to close out my term and pass the torch to the incoming chair. ■

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## President's Message

Continued from page 5

of associates nationally, and just under 26 percent of partners. The representation of women in Connecticut law firms has also grown steadily since 2018. The representation of women among associates and attorneys at our private signatory law firms has increased almost 11 percentage points since 2018, and by almost six percentage points among partners. Men still make up the majority of private law firm partners in Connecticut, at 77 percent of income partners, and 73 percent of equity partners.

Among our non-profit legal organization signatories, the representation of women is quite significant. Women make up over 76 percent of the attorneys working in this sector, and almost 71 percent of the leadership. Among government legal organizations in Connecticut, women make up over 51 percent of the attorney population, and almost 40 percent of the attorney leadership.

**Racial and Ethnic Diversity:** Even when aggregating all categories of racial and ethnic diversity, the representation of racially and ethnically diverse attorneys among Connecticut private law firm pledge signatories remains very low. Racially and ethnically diverse attorneys make up just over 16 percent of associates, just under eight percent of all attorneys, and under five percent of all partners at our Connecticut private signatory firms. In all three categories, Connecticut tracks significantly below the NALP reported figures. (See Chart 1.) Looking back over time, we have not seen the representation of racially and ethnically diverse attorneys grow by more than one percentage point in any of these three categories since 2018.

Among our non-profit legal organization signatories, racially and ethnically diverse attorneys make up just a third of all attorneys, and just over a quarter of all attorney leadership. Racially and ethnically diverse attorney representation within government legal agency signatories is also comparatively low, at just 20 percent of all attorneys, and under 15 percent of all attorney leadership.

**Sexual Orientation, Gender Identity, and Disability:** Our ability to reliably track and report LGBTQ and disability attorney representation data in Connecticut is limited. All of our demographic diversity data is based upon information provided by our signatory organizations, which is in turn based upon self-reported data by attorneys within those organizations. Based on the data available to us, lawyers who identify as LGBTQ make up 1.82 percent of attorneys working at Connecticut private law firms, compared to 3.31 percent nationally according to the NALP Report. Lawyers with disabilities make up just 1.24 percent of attorneys working at Connecticut private law firms, slightly higher than the NALP reported figure of .88 percent nationally. Many of our signatory organizations do not collect data about sexual orientation, gender identity, or disabilities, which limits our ability to accurately report this data.

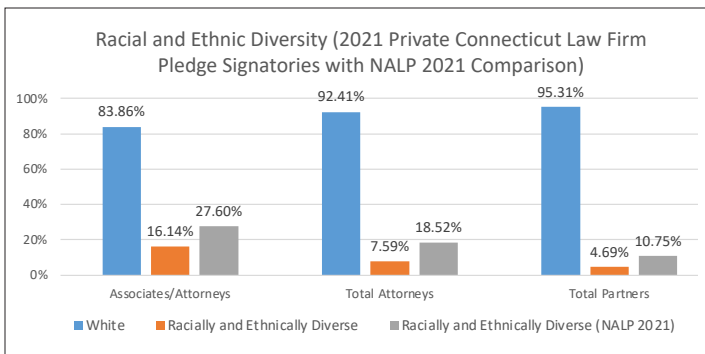
This is just a snapshot of the data that we collect and report upon each year, which I hope illuminates just how much progress we have yet to realize in our efforts to promote a more diverse legal profession. This is a snapshot drawn from over 40 organizations that have signed a DEI pledge. I know, from many years of working with these organizations, that there is no shortage of good intentions and good faith efforts

in advancing DEI. And yet, year over year, these statistics show that we still have much left to accomplish.

Data and statistics have significant limitations. They cannot provide explanations or illuminate

individual experience and organizational culture. If you were able to track the demographic data of the Winter Hill neighborhood of Somerville, MA in the 1980s and early 1990s, you likely would have seen a numeric increase in racial and ethnic diversity. Those diversity statistics would have only given you part of the story. My narrative, shared here, and the stories of others who experienced the same place in that time, would be required for a fuller understanding. The same is true for our efforts to track DEI within the legal profession. Numbers can only tell us part of the story. Trailblazing accomplishments, noteworthy milestones, and a variety of impactful DEI programs and initiatives are all vital, but cannot speak to the culture of an organization, or the way it is experienced by diverse individuals. In our work to advance Rule 8.4(7) of the Rules of Professional Conduct in 2020 and 2021, I became much more aware of some of those narratives. We learned of national surveys that revealed the prevalence of discrimination, harassment, and sexual harassment in professional contexts within the legal profession. A brief Connecticut survey provided significant evidence of this conduct within the legal profession in Connecticut, providing numerous narratives of painful personal experiences that were deeply troubling to me and to others.<sup>2</sup>

Addressing these experiences and working to promote more equitable and inclusive cultures is what I refer to as "everyday DEI." These efforts are small, personal, and may go unsung: individual acts of mentorship and sponsorship, small acts that promote a welcoming environment and encourage inclusion. This is our true challenge, as we are called not just to open doors, and to break down barriers, but also to build bridges. That job, as we were reminded by the Honorable Thurgood Marshall, belongs to you and me. ■



### NOTES

1. National Association for Law Placement, Report on Diversity in U.S. Law Firms (2021) <https://www.nalp.org/reportondiversity>
2. See "Maintaining the Integrity of the Profession: Connecticut Rule of Professional Conduct 8.4(7)," *CT Lawyer*, November/December 2021.

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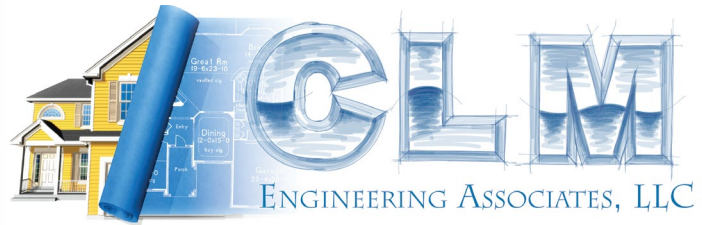
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