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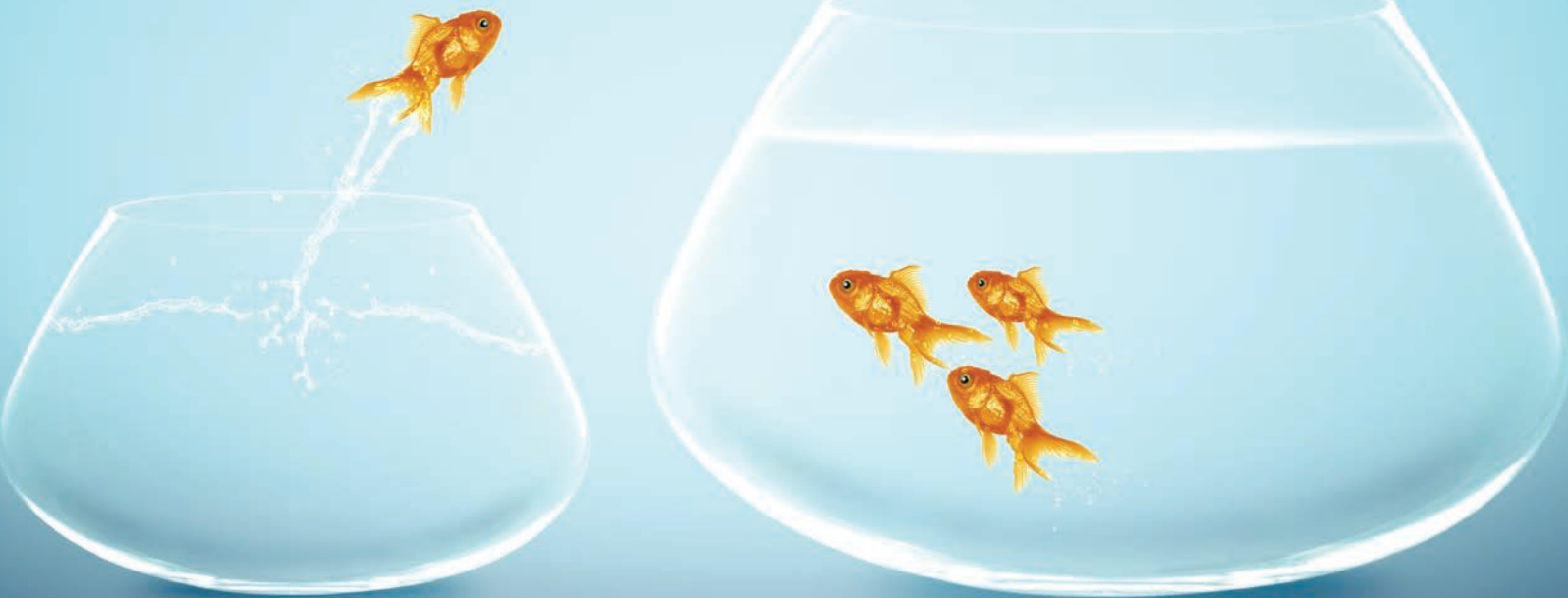
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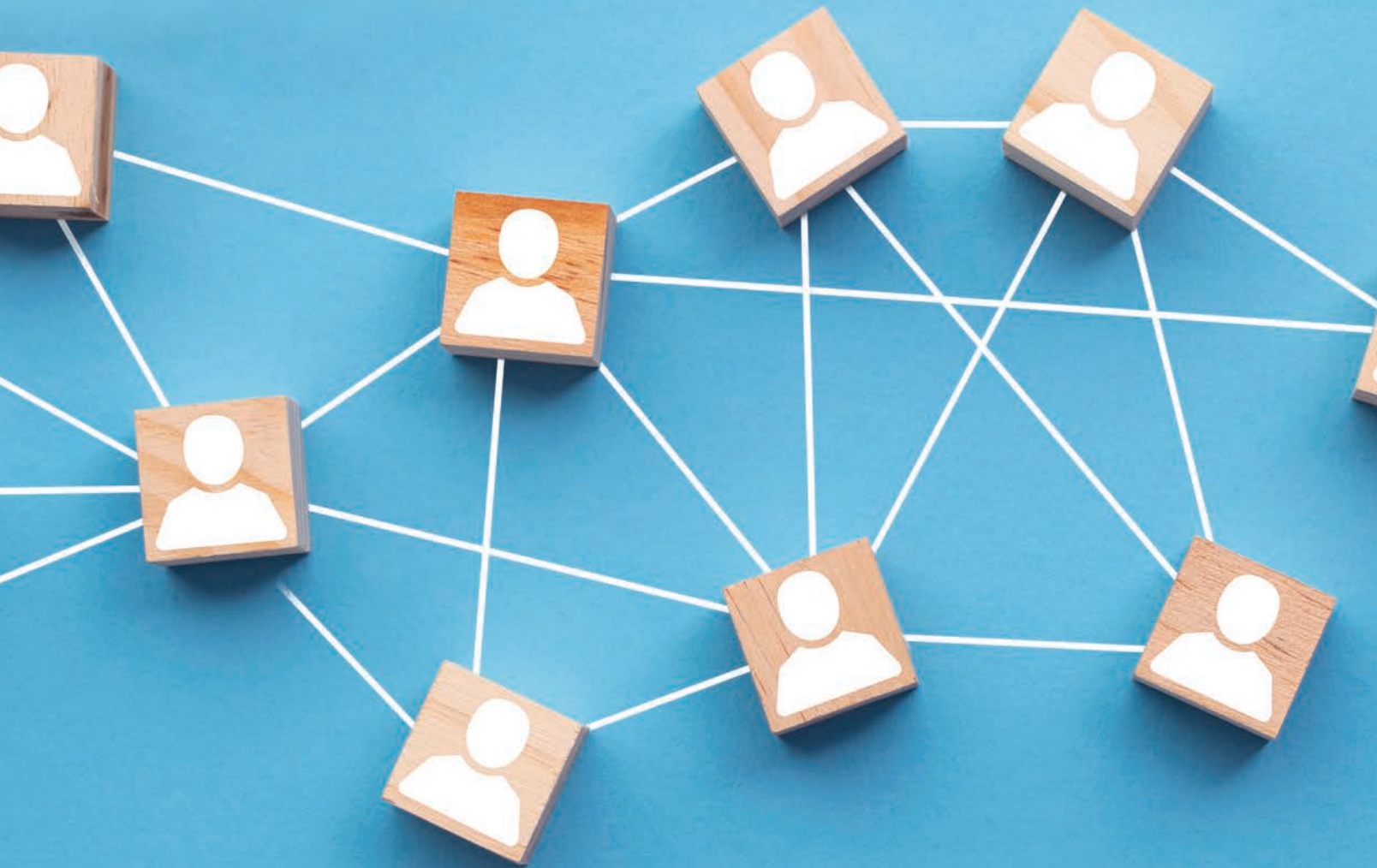
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CT LAWYER

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Mentorship and March Madness

Leadership Lessons from the Mentee

By DANIEL J. HORGAN



This year, St. Patrick's Day was lucky and special for me. No, I was not visited by leprechauns in my dreams and I did not win a lifetime supply of Guinness either. I was fortunate to attend the NCAA men's basketball tournament first round games in Albany, NY with my best chum and law school roommate, Michael Atkins. Irish eyes were smiling on me because our UConn Huskies were sent to that region by the basketball gods matched up against Rick Pitino's Iona Gaels. The first-round game was played to a capacity and partisan UConn crowd on St. Patrick's Day. Accompanying us on the trip was our former mentee, Joey Harris from Springfield, MA (the birthplace of basketball). We met Joey while attending WNEC Law School. Joey was 12 years old and in the eighth grade. Michael volunteered to coach a local Springfield Catholic Youth Organization (CYO) basketball team and asked me to be his assistant.

Joey was a skilled player with a chip on his shoulder, which came in handy in his rough neighborhood but could be an impediment when it came to team leadership and unity. The basketball team kept Joey busy after school and lifted some burden of worry from his mother, who worked outside the home and was raising six kids. We took a special interest in Joey, recognizing his leadership potential on and off the court with the right amount of mentoring and guidance. Joey quickly responded in a positive manner to the team rules, structure, and difficult practices Coach Mike laid down. He put maximum effort in practices and followed all the rules, earning the role of captain. Joey had a knack for showing his teammates both

Daniel J. Horgan is the 99th president of the Connecticut Bar Association. Attorney Horgan is an experienced litigator with Horgan Law office in New London, representing clients in workers' compensation cases and various civil matters in both State and Federal courts as well as the Mashantucket and Mohegan Tribal Courts. He has been chosen by his peers to frequently act as an arbitrator and mediator.



by example and with his words what it would take to turn them into competitors and winners—and win we did against talented teams from Springfield and New Haven. His leadership skills developed before our eyes. Special to witness.

As Joey entered high school, Michael and I were graduating and starting our professional careers in different states, losing contact with Joey for over 20 years. Out of the blue, Joey reached out to Michael who

was practicing law in New Hampshire. He told Coach Mike how important it was to have the mentorship and support all those years ago, and how he was paying it forward by coaching youths in Springfield. Joey, the mentee, had become a mentor to kids in his community through coaching basketball and dispensing life skill advice to those youngsters. Joey had become much more than a mentor as he was the first to graduate college in his family, earning cum laude honors and then working towards his master's degree in public administration. He also raised four children and professionally advanced to the role of deputy sheriff of a county corrections facility. That is not all. He started an annual charity basketball tournament between law enforcement and community leaders called Unity in the Community Basketball Springfield Shoot Out, which benefits community development programs in the greater Springfield area. Joey's impact on the disadvantaged youth in his community encourages others to follow in his footsteps. The leadership skills he

has developed serves his career well as he continues to climb the professional ladder, never forgetting how he got to where he is. In between the games in Albany, Joey outlined his leadership philosophy, which he imparts to the men and women he supervises. He incorporated the philosophy in a catchy acronym called “CHAIR.”

CHALLENGE

Challenge your staff to do their job to the best of their abilities and not to the best of your abilities. There is a difference! They may not be capable of what you are capable of, even if you teach them. Explain what you do and why you do it to give them an understanding of your expectations. Let them know what they can expect from you and what you expect from them. If they do not meet those expectations, hold them accountable. However, accountability does not always warrant a reprimand. It simply means taking a corrective action that changes the behavior of an employee or demands growth from the employee.

HONESTY

Be upfront and straightforward with your staff; they can spot when you are being dishonest, deceptive, or evasive. Always tell your staff what they need to hear and not what you think they want to hear. This establishes you as trustworthy and respectable. If you cannot deliver your message or the organization’s message without being dishonest, then you should acknowledge your limitations and leave the assignment to someone else. The only thing worse than a supervisor or manager who is not honest with their staff is the one who pretends to be!

ADAPTABILITY

What motivates one person may not motivate the next, so you must adapt your leadership style to get the most productivity out of your staff. You cannot manage everyone the same. The most important aspect of adaptability is understanding that you will make an impres-



Michael Atkins, Joey Harris, and Daniel J. Horgan at the UConn vs. Iona NCAA men’s basketball tournament game.

sion on some, you will impact some, and you will inspire some so much it motivates them to accomplish something they never believed they were capable of.

INSPIRE

I truly believe in coaching and trying to get people to maximize their potential. As a leader, you must offer guidance and advice on being a better employee, future advancement within the organization, education, and personal issues when asked. This should be easy for a leader because you should have already set the example. Your career failures are just as important as your success, because it teaches resiliency. Do not just tell employees or mentees what to do—show them how to do it!

RESPECT

If you do not respect the effort and job your staff does, then you will fail. Let your staff make decisions and offer positive feedback or constructive criticism when necessary. Acknowledge and show appreciation for the job they do. Leaders stand out when they treat their staff with the same dignity and respect they demand themselves.

Wow! What practical words of wisdom Joey preaches to his colleagues and those lucky enough to be mentored by him. As mentors and leaders in our legal profession, we too can have a great impact on our associates, staff, organizations, and communities. We are doers. We cannot sit idly by and expect eager young associates to pick up skills and fully understand how to be successful in our profession if we do not show them the way. Our skills, knowledge, and patience are needed now more than ever. Do not let the shot clock run out before we do our part to positively impact and mentor a member of our community and profession. “Show me a successful individual and I will show you someone who had real positive influences in his or her life. I do not care what you do for a living—if you do it well, I am sure there was someone cheering you on or showing the way. A mentor.” — *Denzel Washington*

Cheers to you Joseph Harris for your inspiration and cheers to UConn who won the 2023 NCAA Men’s Basketball National Championship! ■

News & Events

CBA Delegation Attends 2023 ABA Day

(L to R) CBA President Daniel J. Horgan, CBA Past President Amy Lin Meyerson, Scott Schwefel, Alison J. Toumekian, and Daniel A. Schwartz.



On March 27-29, a Connecticut Bar Association delegation traveled to Washington, DC to attend the American Bar Association (ABA)'s 2023 ABA Day event. ABA Day is a three-day conference and is the legal profession's largest lobbying event of the year, where thousands of professionals across the country advocate on behalf of issues of importance to the legal profession. The CBA delegation consisted of CBA President Daniel J. Horgan, ABA State Captain Daniel A. Schwartz, CBA Past President Amy Lin Meyerson, Scott Schwefel, and Alison J. Toumekian.

During the trip, the CBA delegation met with Connecticut Senators Chris Murphy and Richard Blumenthal; Representative Jim Himes; and staff members of Representatives Joe Courtney, Rosa DeLauro, John Larson, and Jahana Hayes to discuss issues of importance to the CBA, ABA, and the legal profession. They advocated for increasing funding for the Legal Services Corporation, which is a national program that provides free legal assistance to individuals with low or no income.



(L to R) Scott Schwefel, Alison J. Toumekian, Daniel A. Schwartz, Senator Richard Blumenthal, CBA Past President Amy Lin Meyerson, CBA President Daniel J. Horgan.

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Holiday Hill

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June 25 • 11:00 a.m. – 4:30 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 sporting equipment will be supplied by Holiday Hill.

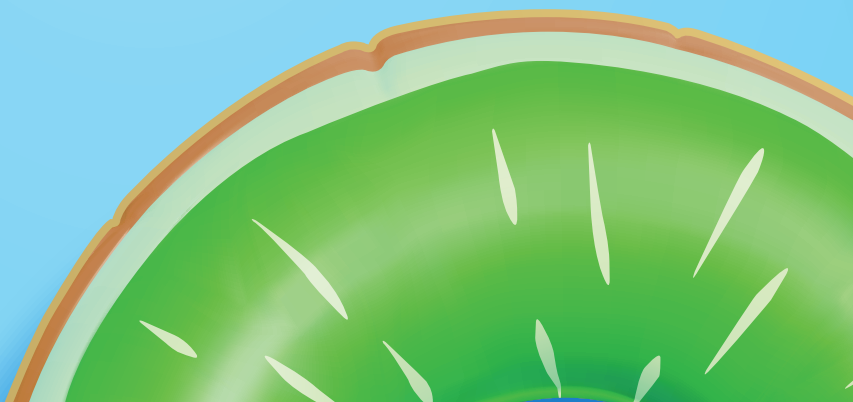
Activities include: airbrush tattoos, disc jockey with music for dancing and games, pony rides for the children, "alpine" rock climbing wall, bingo games with prizes, swimming pool, contests, games, and more!



To learn more or register online, visit us at ctbar.org/SummerOuting or scan the QR code.



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Attorney Tanyee Cheung Receives 2023 Ladder Award

The CBA Women in the Law Section, in association with the CBA Young Lawyers Section (YLS) Women in the Law Committee, honored Tanyee “Tan” Cheung as the 2023 recipient of the Ladder Award at Pathways to Leadership for Women Lawyers on March 2 at the Aqua Turf Club in Plantsville.

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.

CBA Women in the Law Section Chair Kathryn L. Bissonnette was the first speaker of the evening; she welcomed attendees to the event, and shared that reaching her own goals, including her journey to becoming a partner, was directly impacted by the support of other female attorneys. She went on to say, “In a world where negativity, uncertainty, and hardship are barriers to success, especially for women, having the knowledge that there are other women out there who’ve been through similar experiences, and thrived through those experiences, provides the fuel for all of us to keep going, so we’re here tonight to celebrate those women.”

Women in the Law Section Vice Chair Michelle Napoli introduced the event’s keynote speaker, Connecticut Appellate Court Judge Nina F. Elgo. In her keynote speech, Judge Elgo emphasized the importance of the women in the legal field that came before her, who helped guide her in the path that led to her current position. She noted that she shares a common interest with Attorney Cheung in well-being practices, which she feels assists in combatting biases and ensuring success. “Taking a pause is a lesson I’ve learned over and over again, especially when our emotions get triggered.... The pause has helped me check myself and pull back from anger, shame, or humili-



The 2023 Ladder Award recipient Tanyee Cheung speaks to the audience.

ation and ask, is this really about me or someone else.... Pausing helps us check for the distortion that our own or others’ emotions can affect,” stated Judge Elgo.

Young Lawyers Section Women in the Law Committee Co-Chair Kara Zarchin began her remarks by thanking the five prior Ladder Award recipients who attended the event: Hon. Anne C. Dranginis, Elizabeth Alquist, Tanya A. Bovée, Rosemary E. Giuliano, and Diane W. Whitney. Before presenting the Ladder Award, Attorney Zarchin spoke about how Attorney Cheung had led a memorable YLS workshop in 2021, during which she empowered the young attorneys in attendance with stories of her family and work experiences. Attorney Tamu Lewis, a colleague of

Tanyee Cheung at Finn Dixon & Herling LLP, provided additional remarks about Attorney Cheung’s traits and achievements, stating, “Tan’s contributions stand far beyond the field of corporate finance. Her unceasing energy and her commitment to the development and advancement and well-being of junior attorneys is truly remarkable.”

As Attorney Cheung was invited to the podium, she received resounding applause from the audience. She began by inviting the room to take a calming pause and join her in three deep breaths. Attorney Cheung noted that, according to a recent article in *The Washington Post*, practicing law is the most stressful occupation in the United States. In response to the article and similar supporting statistics, Attorney Cheung stated, “The important thing to remember is that we can do something about it. For ourselves, we can recognize the importance of self-care and self-compassion. We can take the time to see that occupational well-being is but one pillar of well-being and that we need to spend time nurturing the other pillars of well-being: physical, mental, emotional, spiritual, and environmental.” She noted that through actions, people can affect not only their own well-being but support that of their colleagues. “We have the opportunity to listen, encourage, and empower the people we work with and if enough of do so we can shift the environment of the whole legal profession.”



(L to R) CBA President Daniel J. Horgan, Hon. Nina F. Elgo, CBA Women in The Law Section Chair Kathryn L. Bissonnette, 2023 Ladder Award Recipient Tanyee Cheung, and CBA President-Elect Margaret I. Castinado.

YLS Hosts Student Outreach Event at UConn School of Law



(L to R) YLS Chair Christopher A. Klepps, YLS Law School Outreach Director Shanique D. Fenlator, and YLS Law School Outreach Director Andrew J. Glass participated in a panel.



UConn Law students participated in small group discussions during the event.

On February 15, the Young Lawyers Section (YLS) held a student outreach event at the University of Connecticut (UConn) School of Law with current UConn law students. At the event, YLS members and other attorneys discussed the benefits of networking and membership with the CBA. Participants met in small groups to discuss networking strategies and best practices as well as the students' career goals and how best to achieve them.

"As practitioners, we know that networking is vital to our success. We also know that, for a law student, networking can be intimidating," stated YLS Law School Outreach Director Shanique D. Fenlator. "We chose an informal environment because we wanted the students at UConn School of Law to feel comfortable. Our volunteer attorneys were not only relatable, but also transparent about their experiences, and that made the event a huge success."

IN MEMORIAM



Vincent J. Dowling passed away February 27 at the age of 95. He earned a BS in mechanical engineering from Lehigh University and worked as an engineer until he was drafted into the US Army; he served in Korea and was awarded the Bronze Star. Attorney Dowling earned his JD from UConn

School of Law and began his practice with his brothers Victor and Donald at Dowling & Dowling in Hartford. He went on to join Cooney & Scully, later renamed Cooney Scully and Dowling, where he practiced law and tried cases in state and federal courts for more than 40 years. Building on his background as an engineer, Attorney Dowling developed an internationally respected practice in construction law, with an emphasis on defense of architects and related complex litigation. In addition to extensive pro bono case work, he spent more than two decades as legal counsel for the Catholic Archdiocese of Hartford.

J. L. Pottenger, Jr. passed away on February 23 at the age of 72. He received his undergraduate degree from Princeton University and his JD from Yale Law School. After two judicial clerkships and a few years at Paul Weiss in New York City, Attorney Pottenger devoted his career to the Yale Law School clinical programs, where his wide-ranging service work included legislative advocacy, prison legal services, trial practice, landlord/tenant law, and professional responsibility. He was dedicated to fair housing and community development, through which he made a major impact in the Greater New Haven and larger Connecticut communities. Attorney Pottenger helped cofound Open Communities Alliance, an organization that aims to unwind Connecticut's history of government-perpetuated segregation and focuses on reducing social, economic, and health disparities experienced by low-income families of color.



David M. Wallman passed away on February 8 at the age of 77. He graduated from the University of Pennsylvania with a degree in political science and received his JD from the UConn School of Law. He founded Wallman Law Firm LLC in 1976, which focused on serving Connecticut busi-

nesses and residents by offering a select group of practice areas with an emphasis on commercial litigation. Attorney Wallman practiced law for more than 40 years and had experience in both state and federal court trials and appeals. He was a law clerk to the Honorable Jay E. Rubinow, judge of the Connecticut Superior Court and Probate Court Administrator.

EXPAND YOUR LEADERSHIP POTENTIAL

Apply for the CBA Presidential Fellows Program

By BRIDGET C. GALLAGHER

THE PRESIDENTIAL FELLOWS PROGRAM LAUNCHED IN 2015, with the objective of identifying young lawyers who demonstrate leadership potential, for the purpose of assisting them in developing their leadership skills and enhancing their involvement in a CBA section. These prestigious appointments are the result of a competitive application process that occurs annually, following the submission of all applications in the summer. The appointments are for a period of two years. Many of the past Fellows have gone on to hold CBA leadership positions, as well as other prestigious leadership positions in the legal community at large. Former Fellow Emily Gianquinto was nominated for the CBA vice president position for the 2023-2024 bar year. The application process is now underway and qualified applicants are encouraged to apply.

The program welcomed two new Fellows in the fall of 2022, Shanique D. Fenlator and Allison Kaas. Attorney Kaas is a deputy assistant state's attorney with the Division of Criminal Justice. She was already well-acquainted with the Connecticut judicial



THE CBA HOSTED AN EVENT FOR CURRENT AND PAST CBA presidential fellows, along with other bar leaders, “What Makes You Indispensable?—Managing Your Personal Brand to Elevate Your Career” this past April. During the program, globally acclaimed motivational speaker and author, Kaplan Mobray, provided a uniquely vibrant and energetic presentation to attendees, teaching them how to develop their branding as attorneys, build trust with others, stand out from the pack, and develop their leadership skills. Kaplan Mobray is pictured with current and past Presidential Fellows along with CBA leadership.

system when she accepted that position, as she served as a family relations officer for 12 years. Attorney Fenlator migrated from Jamaica, matriculated through Hartford Public Schools, and became a first-generation lawyer in 2011. Attorney Fenlator then began a career in personal injury defense and workers’ compensation and was recently nominated to be a Connecticut Workers’ Compensation Administrative Law judge.

Submit Your Application at ctbar.org/Fellows

The Committee seeks to promote active involvement of young lawyers, lawyers who no longer qualify for membership in the Young Lawyers Section, and diverse lawyers in the leadership and activities of the CBA. Special consideration is also given to lawyers in government service.

The Committee plans events and activities designed especially for the Fellows, including the current class of Fellows and past Fellows, geared toward the development of leadership skills. The appointment also introduces each Fellow to attorneys who are already actively involved in bar leadership.

Programming for the 2022–2023 bar year included a welcome dinner for the new Fellows and panel discussion at the Grassy Hills Country Club in Orange, an in-person presentation about personal branding by national speaker Kaplan Mobray, and a Zoom leadership presentation with four prominent leaders in the Connecticut legal community. Current Fellows are encouraged to engage with everyone who has gone through the program, creating a unique community for all participants.

The Fellows also serve on the executive committee of their selected section as ex-officio members and section leadership is encouraged to involve their Fellows in a section project in order to make the experience more meaningful. For instance, when Jennifer Shukla was a Fellow on the Alternative Dispute Resolution Section Executive Committee, the section was in the process of reviving the Resolution of Legal Fee Disputes Program, and managing old “legacy” cases that had been lingering for a long time. The section co-chairs asked Attorney Shukla for assistance on this project, and she demonstrated her leadership skills in assessing the status of the pending cases, identifying the work to be done to actively resume the program, and managing the many details needed to get the program back on track. She served as the chair for the Resolution of Legal Fee Disputes Program Committee during that period, and was instrumental in a successful re-launch of the program, which continues to actively accept new dispute submissions for mediation or arbitration. Attorney Shukla is currently the CBA’s director of access to justice initiatives.

Each Fellow will serve as a section ambassador to the Young Lawyers Section to promote membership and participation of other young lawyers, diverse lawyers, and lawyers transitioning to a new career, such as a change from private practice to public sector. Fellows also enjoy a waiver of all fees for section membership and attendance at section meetings.

To be considered for selection, applicants must (1) fall into one of the three designated categories (young, transitioning to a new position, or diverse), (2) have practiced in their listed practice area(s) for at least one year, (3) be younger than 40 years of age or have been admitted to the bar less than 10 years, and (4) have demonstrated leadership potential. Previous membership in the applicable section is not required. Special consideration is given to lawyers in governmental service.

PRESIDENTIAL FELLOWS



The 2022-2024 Presidential Fellows, Allison Kaas and Shanique Fenlator.

2022-2024

Shanique Fenlator
Allison Kaas

2021-2023

Aigné Goldsby
Andres D.
Jimenez-Frank
Thomas Lambert
Yamuna Menon
Johnny Ross III
Megan Wade

2020-2022

Jeffrey D.
Bausch, Jr.
Jenna Cutler
Samim Jabarkhail
Paige M.
Vaillancourt

2019-2021

Sara J. Dickson
Choity R. Khan
Madiha M. Malik
Gabriella I. Martin
Je'Quana S. Orr
Justyn P. Stokely
Amanda C. Telesco

2018-2021

Claire Howard
Kyle J. LaBuff
Patricia Mwilwa
Abena A. Sarpong
Jennifer Shukla
Thomas Wilkeson

2017-2019

Daniel R. Cooper
Suphi A. Philip

2016-2018

Steven Allinson
Tamar Bakhbava
LaTisha Davis
Danielle Edwards
Karolyn Ryan
Andrew Walter

2015-2017

Thamar
Esperance-Smith
Emily A.
Gianquinto
Cody Guarnieri
Lucas Hernandez
Susan Kirkeby
Jessie Opinion
Mark A. Riley

Prospective Fellows must complete an application and also submit two (2) letters of recommendation, a resume, and a cover letter describing why the applicant is interested in becoming a Fellow and how they plan to contribute to the section. Applications are reviewed and considered by the Presidential Fellows Selection Committee each fall. The 2023 application deadline is August 18, 2023. The application can be found on the CBA website at ctbar.org/Fellows.

Questions about the program can be directed to Bridget C. Gallagher, chair of the Presidential Fellows Committee, at bgallagher@bpslawyers.com. ■

Bridget C. Gallagher is a senior partner at Brown Paindiris & Scott LLP and current chair of the Presidential Fellows Committee. Attorney Gallagher practices in commercial and transactional law, as well as real estate and probate litigation.

CBA Hosts Inaugural Well-Being Summit

On May 3, the first CBA Well-Being Summit was held at the University of Connecticut School of Law. The summit was focused on physical and mental wellness practices and featured a diverse assortment of presentations and activities led by professionals in their areas.

The summit began with a welcome by CBA President Daniel J. Horgan. "Let's face it. Life and careers are stressful, but being attorneys adds unique stresses not shared by many or any professions," stated President Horgan. "How can we be on top of our game for our clients if we don't take care of ourselves? Today's featured speakers will help us understand how we have to start today to take care of ourselves."

CBA Lawyer Well-Being Committee Co-Chair Tanyee Cheung began the day's activities by leading attendees in a guided ten-minute meditation. The opening

meditation was followed by the summit's keynote presentation, provided by Heidi Alexander, director of the Massachusetts Supreme Judicial Court Standing Committee on Lawyer Well-Being. She spoke about the statistics showing high rates of burnout, anxiety, depression, substance abuse, and suicidal thoughts in the legal profession; the current state of well-being in law; and the movement underway to make changes in the profession. "The work that we are doing here today is part of the solution," stated Alexander. "We have to create more awareness of the issues in our profession, the problems, and the barriers



(L to R) CBA President Daniel J. Horgan, CBA Well-Being Committee Co-Chairs Sara Bonaiuto and Tanyee Cheung, and CBA President-Elect Margaret I. Castinado.

Well-Being Summit Attendee Testimonials

The Well-Being Summit was a great experience. It was enjoyable, educational, and important: making space for wellness is crucial. We all know how to tough it out and push through and do more, now we need to learn how to rest, restore, and replenish. There were many surprises, both good (new plant!) and bad (some of the stats on lawyer happiness are ghastly), and a wonderful selection of speakers and attendees. The sound healing was amazing, so heart opening.

– Cynthia Barlow, Public Defender

I really enjoyed the CBA Well-Being Summit. I especially loved how CBA President Attorney Horgan began the event by emphasizing that “maintaining our well-being is part of a lawyer’s duty of competency.” I aim to stress that same lesson with my law students—mindful of their journey as aspiring attorneys and future leaders of the legal profession. The sound bath meditation and planting exercise was my favorite part of the day—it physically required me to put down my phone for more than five minutes. Listening to the singing bowl while potting a plant was a very relaxing experience. I can’t wait for the next Well-Being Summit!

– Ashley Binetti Armstrong, Assistant Clinical Professor
UConn School of Law

The Summit was an amazing testament to the CBA, CBA leadership, and Lawyer Well-Being Committee’s commitment to lawyer wellness. Presenters were varied and offered a nice balance of statistics, practical strategies, and some things that pushed me out of my comfort zone. I am not a successful gardener but loved the guided planting exercise; that, accompanied by sound therapy, and the sound of the presenter’s voice allowed me to chill out and be present in the moment. And my plant is still alive!

– Karen DeMeola, Assistant Dean for Diversity, Belonging and Community Engagement
UConn School of Law

This event was full of some information I already knew, some information I didn’t, and also unexpected surprises and a lot of fun. My plant, remarkably, is still alive.

– Kathy Flaherty, Executive Director
Connecticut Legal Rights Project

I am truly thrilled to see this Well-Being Summit come to fruition! The summit surpassed my expectations and the energy in the room was beautiful. Not to be missed event!

– Margaret I. Castinado, Senior Assistant Public Defender
Office of the Public Defender

The 2023 CBA Well-being Summit was a breath of fresh air to the law community. It was a pleasure to hold space and provide lawyers with an immersive nature-based activity as well as sound healing and mindfulness. Research shows that lawyers are at the top of the list when it comes to stress and anxiety. I implore more lawyers to take steps to be more mindful of their inner well-being while managing their high performing positions. I commend the CBA Wellness Committee for their ongoing efforts in empowering wellness in the workplace. Great leaders invest in wellness.

– Tamar Draughn, CEO/Director of Integrative Medicine
Phoenix Professional Services, LLC

Well-Being Summit



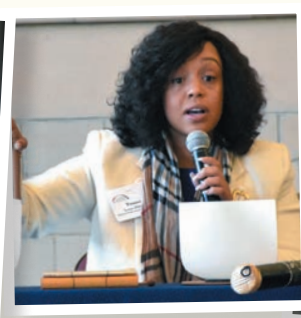
Heidi Alexander

Director of the Massachusetts Supreme Judicial Court Standing Committee on Lawyer Well-Being Heidi Alexander provided the summit's keynote presentation.



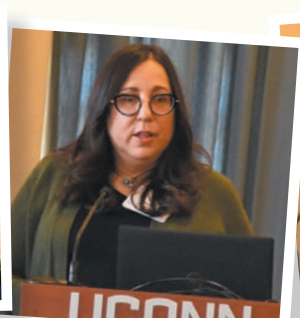
Aaron Zanchi

Presenter Aaron Zanchi provided information on how to assist well-being through nutrition and a balanced lifestyle.



Tamar Draughn

Presenter Tamar Draughn led attendees in a sound healing activity.



Traci Cipriano

CBA Lawyer Well-Being Committee member Traci Cipriano presents "Promoting Well-Being and Creating Change: Understanding the Big Picture and Finding Focus" to the attendees.



David Williams

Director of Lawyers Concerned for Lawyers Connecticut (LCL-CT) and CBA Lawyer Well-Being Committee member David Williams introduced attendees to LCL-CT's newly redesigned website.

to well-being and how we're going to make those changes. One of the reasons why is because stigma continues to be the number one reason why people don't get help."

Aaron Zanchi, founder and coach of Freedom Foodies & Fitness and owner and coach of Wingman Fitness, presented on the importance of nutrition and stress management as components of

well-being. He identified the importance of a lifestyle prioritizing a diet focused on proteins and plants, proper periods of sleep, and regular daily activity. "If we can maintain those things, it doesn't matter what stressor you come up against," Zanchi remarked. "You will be able to meet it and respond to it and meeting it and responding to it is going to be the most important and valuable thing for your well-being on a consistent basis."

Tamar Draughn, president and director of integrative medicine at Phoenix Professional Services LLC, provided attendees with a sound healing session. During the session, she encouraged everyone present to write positive affirmations and the names of loved ones on clay pots placed on the tables in the room. She continued by asking everyone to add soil to their pot and plant provided leaf cuttings, emphasizing the connection between people and nature.

CBA Lawyer Well-Being Committee member, Traci Cipriano, led the presentation "Promoting Well-Being and Creating Change: Understanding the Big Picture and Finding Focus." Dr. Cipriano shared her new model of lawyer well-being, which is the basis of her forthcoming book. She identified resistance from law firms' leaders as one of the most significant impediments to increased well-being in law, stating, "I can give you all the tools in the world in your toolbox, but if you're not being supported and you're in an unhealthy workplace, you're going to burnout."

Director of Lawyers Concerned for Lawyers Connecticut (LCL-CT) and CBA Lawyer Well-Being Committee member, David Williams, provided the final portion of the summit, where he introduced attendees to LCL-CT's newly redesigned website and the various services the organization offers to attorneys struggling with issues such as alcohol and drug use, depression, stress, and anxiety.

CBA Lawyer Well-Being Committee Co-Chairs Sara Bonaiuto and Tanyee Cheung closed the summit, thanking everyone who attended and encouraging them all to advocate for an increased focus on well-being in the legal profession. ■

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Referrals by a Retired Attorney

OPINION 22-02

NOVEMBER 16, 2022

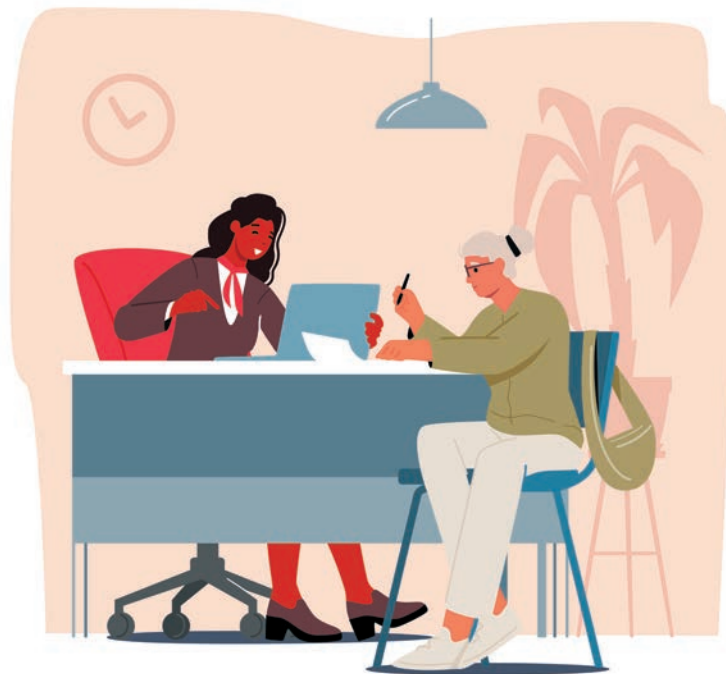
A lawyer has requested an opinion on whether a retired lawyer who is no longer practicing and has a “judicial department status of retired or inactive,” may still be paid referral fees for new matters he refers to other lawyers.¹ We conclude that the answer is no. Regardless of whether the lawyer is retired, permanently retired, or on inactive status, payment of a referral fee for matters referred post-retirement would not be permissible.

There are two angles from which to look at the issue: (1) the retired lawyer’s conduct in receiving the fee; and (2) the active lawyer’s conduct in paying the fee for the referral. While the question is framed with respect to only the retired lawyer’s conduct, as a practical matter, both issues are relevant to analyzing the ethical issues in question. Because the second question provides helpful insight into analyzing the first, we address it first.

I. A Lawyer Generally May Not Pay a Referral Fee to a Non-Lawyer for Recommending the Lawyer’s Services

Subject to certain enumerated exceptions, Rule 7.2(c) of the Rules of Professional Conduct provides that “[a] lawyer shall not compensate, give or promise anything of value to a person for recommending the lawyer’s services....” Subsection (4) provides an exception allowing a lawyer to “refer clients to another lawyer or nonlawyer professional pursuant to an agreement not otherwise prohibited under these Rules that provides for the other person to refer clients or customers to the lawyer, if: (A) the reciprocal referral agreement is not exclusive; and (B) the client is informed of the existence and nature of the agreement....” The Commentary to the Rule explains that “a lawyer who receives referrals from a lawyer or nonlawyer professional [pursuant to this provision] must not pay anything solely for the referral” except as permitted by Rule 1.5(e).

Rule 1.5 addresses attorneys’ fees and Section (e) allows “[a] division of fee between lawyers who are not in the same firm...only if: (1) The client is advised in writing of the compensation sharing agreement and of the participation of all the lawyers involved, and does not object; and (2) The total fee is reasonable.”



Thus, taken together, Rule 7.2(c) and Rule 1.5 permit a lawyer to pay an individual a referral fee for recommending the lawyer *only* where the individual providing the referral is also a lawyer (who has undertaken a limited representation of the client to provide the referral) and where the arrangement is explained to the client and the total fee is reasonable.

As we have previously explained,

[A]n attorney who uses his or her legal expertise to gather relevant information about a case, to evaluate both liability and damages,

and, if appropriate, to attempt to match a case with an appropriate legal specialist is rendering legal services whether those services are advertised under the heading of ‘Attorney Referral Services’ or under ‘Attorneys,’ and whether those services are performed by a law firm or by lawyers employed by a business entity which calls itself something other than a law firm.

Informal Opinion 01-03.²

Thus, here, a lawyer could not pay a fee to the retired attorney unless that attorney is still considered a lawyer capable of forming an attorney-client relationship and is one who could be paid for legal services rendered. As discussed below, we conclude a retired or inactive lawyer could not.

II. A Retired or Inactive Lawyer Is Not Permitted to Receive Compensation for Referrals

In addressing the question presented, we first clarify that there are several potential lawyer statuses at issue in Connecticut.

The Connecticut Practice Book distinguishes among retired, permanently retired, and inactive attorneys. A retirement granted pursuant to Practice Book Section 2-55 is revocable at any time upon notice to the Hartford judicial clerk and statewide bar counsel. Upon retirement, an attorney will be exempt from paying the client security fund fee required by Practice Book Section 2-70(a), but the attorney must continue to comply with the registration requirements required by Practice Book Sections 2-26 and 2-27(d). Such retirement “shall not constitute removal from the bar or the roll of attorneys.” Practice Book Section 2-55(a). While the retired lawyer will not be eligible to practice law for compensation, she may thereafter engage in uncompensated services to clients under the supervision of an organized legal aid society, a state or local bar association project, or a court-affiliated pro bono program. See Practice Book Section 2-55(e).

A permanent retirement, granted pursuant to Practice Book Section 2-55A, is not revocable for any reason. Upon permanent retirement, an attorney will be exempt from paying the client security fund fee required by Practice Book Section 2-70(a) and will no longer have to comply with the registration requirements required

by Practice Book Sections 2-26 and 2-27(d). Practice Book Section 2-55A(a) provides that permanent retirement “shall not constitute removal from the bar or the roll of attorneys,” but a permanently retired attorney may no longer practice law in Connecticut under any circumstances without reapplying for admission to the bar pursuant to Practice Book Sections 2-8 or 2-13. Practice Book Section 2-55A(c).

Finally, an inactive attorney is an attorney placed on inactive status by court order pursuant to Practice Book Section 2-57, 2-58, or 2-59. An inactive attorney is considered among a class of “deactivated attorneys” under Practice Book Section 2-47B. Although not expressly stated in the pertinent Practice Book provisions, it is presumed that an inactive attorney remains a member of the Connecticut bar. See Practice Book Section 2-60 (inactive attorney may seek reinstatement). Pursuant to Practice Book Section 2-56, however, an attorney placed on inactive status “shall be precluded from practicing law” in Connecticut.

In summary, a permanently retired lawyer or a lawyer placed on inactive status may not engage in the practice of law. In comparison, a retired lawyer may engage in uncompensated services to clients when supervised by an organized legal aid society, a state or local bar association project, or a court-affiliated pro bono program.

Regardless of which status would apply to the requestor, however, it is clear that he could not continue to accept referral fees for cases. Because the provision of referrals by lawyers is considered the practice of law, as discussed above, and because permanently retired attorneys and attorneys on inactive status may not engage in the practice of law, these two classes of attorneys are prohibited from providing referrals in their capacity as lawyers. (Therefore, they cannot take advantage of Rule 1.5(e)’s fee-splitting exception to the prohibition against the payment of referral fees.) And, while a retired attorney is permitted to engage in certain uncompensated legal services post-retirement, the rules are clear that they must be just that—uncompensated. Thus, this category too would not permit the receipt of a referral fee post-retirement.

In sum, we conclude that the Rules of Professional Conduct would prohibit a retired or inactive attorney from continuing to receive referral fees for matters referred after he ceases practicing law.

NOTES

- 1 This Opinion only addresses the question of whether the retired lawyer may receive referral fees in connection with new referrals made after the lawyer has retired, not a scenario where the lawyer made the referral while in active practice, but would be paid subsequent to retirement.
- 2 See also Informal Opinion 13-04 (explaining that “[e]ven though a referring attorney is required neither to provide services in nor to assume joint responsibility for the representation in the referred case, ... Rule 1.5(e) by necessary implication requires that *each lawyer receiving a fee from the representation of a client establish a lawyer-client relationship with the client and, as an attorney for the client, be bound by the Rules of Professional Conduct, even if the scope of the lawyer-client relationship is the referral itself.*”) (emphasis added).

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Whether Prior Co-Counsel Relationship Presents a Conflict

OPINION 23-01

MARCH 15, 2023

The Committee has been asked whether a criminal defense lawyer (the “Requester”) who periodically serves as co-counsel with another defense attorney in serious criminal cases may represent an individual charged with conspiracy to commit murder, where the other attorney with whom he has co-counseled has been retained to represent a co-defendant in the same alleged conspiracy. The Requester explains that he and the other attorney maintain separate law practices in separate office locations. The request presents the following questions:

1. Would the representation create a conflict of interest or potential conflict of interest in violation of Rule 1.7 of the Rules of Professional Conduct (the “Rules”)?¹
2. If so, are there procedures to avoid violation of the Rules?

Rule 1.7(a) provides that a lawyer shall not represent a client if the representation involves a concurrent conflict of interest, unless the conflict is waivable and the client provides his or her informed consent in writing to that representation. “A concurrent conflict of interest exists if: (1) the representation of one client will be directly adverse to another client; or (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer’s responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.”

Rule 1.7(a)(1) would typically prohibit the same lawyer from representing both co-defendants in a criminal case, since there is

significant risk that the defendants might have incompatible defense strategies. As we have previously explained, “generally speaking, the risks attendant to such dual representation in a criminal case are so grave that ordinarily a lawyer should decline to represent more than one co-defendant....” Informal Opinion 94-09; *see also* Revised Formal Opinion 26 (1988) (concluding that it would be inappropriate to undertake common representation of co-defendants in a criminal matter given the risk that one defendant may elect to cooperate with the prosecution and become a witness against the other).

Here, however, there are two lawyers—one representing each defendant. The issue presented under Rule 1.7(a)(1) is thus whether the potential adversity between the two co-defendants is imputed to the lawyers based on the fact that the two lawyers have served as co-counsel together in various other criminal cases. Rule 1.10 governs imputation of conflicts and provides that “while lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so.” The term “firm” is defined under the Rules as “a lawyer or lawyers in a law partnership, professional corporation, sole proprietorship, or other association authorized to practice law; or lawyers employed in a legal services organization or the legal department of a corporation or other organization.” Rule. 1.0(d). The Commentary further explains:

Whether two or more lawyers constitute a firm ... can depend on the specific facts. For example, two practitioners who share office space and occasional-

ly consult or assist each other ordinarily would not be regarded as constituting a firm. However, if they present themselves to the public in a way that suggests that they are a firm or conduct themselves as a firm, they should be regarded as a firm for purposes of the Rules. ... A group of lawyers could be regarded as a firm for purposes of the Rule that the same lawyer should not represent opposing parties in litigation, while it might not be so regarded for purposes of the Rule that information acquired by one lawyer should be attributed to another.

Thus, the Commentary suggests that there may be some informal arrangements among lawyers that may rise to the level of constituting a “firm” for purposes of imputation. However, the Commentary also explains that, even where two practitioners share office space and consult with one another from time to time, this would ordinarily *not* be regarded as a firm unless other factors were present—such as operational integration or if they held themselves out to the public in a way that suggested that they were a firm. Here, the Requester indicates that he and the other lawyer maintain separate office space and periodically work together as co-counsel to clients in specific cases (approximately two cases per year). In the Committee’s view, this type of co-counseling arrangement does not transform the lawyers into a “firm” for purposes of imputation under Rule 1.10. Thus, based on the facts presented, the Committee concludes that there is no conflict under Rule 1.7(a)(1) that would preclude the Requester from taking on the representation.

The representation is therefore permissible unless, under Rule 1.7(a)(2), there is a significant risk that the Requester's representation of his client would be materially limited by the lawyer's responsibilities to his former co-counsel or by his personal interest in his relationship with this other attorney. In the absence of unique factors (such as reliance on the other lawyer for a significant portion of the Requester's business or an extremely close personal relationship), the Committee's view is that a periodic co-counseling arrangement such as the one described here would not rise to the level of creating a material limitation conflict. In fact, in some circumstances, it may benefit the client for a lawyer in the Requester's position to have knowledge about a co-defendant's counsel. Ultimately, however, as described below, the Requester is in the best position to make the determination of whether the relationship with the other lawyer creates a material interest conflict.

While not directly analogous, this Committee previously addressed the question of whether one attorney's representation of his opposing counsel in another lawsuit would violate the "material limitation" provision of Rule 1.7(a)(2). See Informal Ethics Opinion 2012-10. There, the Committee noted that "the relevant inquiry is highly fact-specific" and explained that, given the limited factual record, it could not offer an opinion. Nevertheless, in pointing out the factual circumstances that might be relevant to that analysis, the Committee cited ABA Formal Opinion 97-406 (Conflicts of Interest: Effect of Representing Opposing Counsel In Unrelated Matter), in which the ABA addressed whether a conflict in violation of Rule 1.7(a)(2) would arise "when one lawyer has formed or proposes to form a lawyer-client relationship with another lawyer, at a time when the two lawyers represent clients whose interests are adverse." The ABA pointed to the following considerations to determine whether the relationship between the two lawyers would present a conflict for the representation of their third-party clients:

These include: (1) the relative importance of the matter to the represented lawyer; (2) the relative size of the fee

expected by the representing lawyer; (3) the relative importance to each lawyer and to his client, of the matter involving the "third-party" clients; (4) the sensitivity of each matter; (5) the substantial similarity between the subject matter or issues of the two representations; and (6) the nature of the relationship of one lawyer to the other and of each lawyer to his third-party client. No one of these considerations is necessarily dispositive, nor does this list encompass every circumstance that may create a material limitation. One lawyer's duty to, or interest in the work of the other lawyer may materially limit the lawyer's representation of his third-party client in any case in which the relationship between the lawyers might cause either or both of them to temper advocacy on behalf of their opposing third-party clients.

These factors should also bear on the analysis of how the lawyers' relationship might affect their ability to represent the co-defendants in question.

Moreover, the Commentary to Rule 1.7 provides that "[w]hen lawyers representing different clients in the same matter or in substantially related matters are closely related by blood or marriage, there may be a significant risk that client confidences will be revealed and that the lawyer's family relationship will interfere with both loyalty and independent professional judgment." It therefore recommends that the lawyers 'seek clients' informed consent to proceed with representation in these circumstances. Similarly, while there are no facts in this request that would suggest that the relationship between the two attorneys here would give rise to a violation of Rule 1.6 (concerning confidentiality), the possibility of improper disclosures given the proximate working relationship between the two attorneys should also be considered in assessing whether the representation of the co-defendants would be materially limited by the lawyers' prior engagement.

Ultimately, however, "Connecticut authority instructs that it is the attorney himself who is in the best position to determine

whether there exists a conflict of interest in his representation of two clients." Informal Ethics Opinion 2012-10 (internal quotations omitted). The requesting attorney must therefore undertake the analysis of whether his historic co-counsel relationship with the other attorney presents a material limitation to the representation of his client in the case at hand, with all of these considerations in mind.

Should the requesting attorney conclude that the relationship between the lawyers would create such a material limitation, he may seek his client's informed consent to proceed with the representation only if he reasonably believes that he can provide competent and diligent representation in spite of his relationship with his former co-counsel, pursuant to Rule 1.7(b). See Informal Opinion Number 2013-06. Any such consent must be in writing. Moreover, assuming that the Requester concludes there is no material limitation and thus no conflict requiring consent, the Requester could still, out of an abundance of caution, disclose the relationship; explain that he does not believe there is a conflict; and advise the client if he or she has any concerns, the client may: (1) retain other counsel in the criminal case, and/or (2) obtain the advice of other counsel regarding the decision whether to continue with the Requester as counsel. As an additional precaution, it would be advisable to provide this information in writing, with the client's acknowledgement that he or she has received the information from the Requester.

NOTES

- 1 The Requester also asks whether the representation violates Rule 1.6 of the Rules of Professional Conduct regarding confidentiality of information. Given that the Requester does not share office space with the co-defendant's counsel, and there is no indication that the Requester and the other lawyer share any office staff or that they plan to jointly engage investigators and/or experts who may become privy to client confidences, we do not perceive any issue under Rule 1.6 that would bar the representation. Of course, the Requester remains obligated to maintain the confidentiality of information relating to the representation, as he would in any case (absent, for instance, client consent to share information with co-defendant's counsel based on a determination that there is a common interest in defending the matter).

Representation of Multiple Union Members

OPINION 23-02

MARCH 28, 2023

You are one of three staff attorneys who represent a public employee union with thousands of members. Under applicable union rules, the union is obligated to provide members with legal representation for certain types of matters, including investigations arising out of complaints concerning a member's alleged misconduct. You have asked whether you may represent a union member under investigation while other union staff attorneys simultaneously represent another union member who is a potential witness in the investigation. You note that the member who is a witness may have legal interests that are adverse to the subject of the investigation.¹

As a threshold matter, we conclude that under Rule 1.10 of the Rules of Professional Conduct, the conflicts of each union attorney would be imputed to all other attorneys in the organization. Specifically, Rule 1.10(a) provides that “[w]hile lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7 or 1.9.” The Official Commentary to Rule 1.10 in turn provides that “[f]or purposes of the Rules of Professional Conduct, the term ‘firm’ denotes lawyers in a law partnership, professional corporation, sole proprietorship, or other association, authorized to practice law; or lawyers employed in a legal services organization or the legal department of a corporation or other organization.” See also Official Commentary to Rule 1.0 (“[W]ith respect to the law department of an organization, including the government, there is ordinarily no question that the members of the department constitute a firm within the meaning of the Rules of Professional Conduct”). Accordingly, assigning different attorneys employed by the union to different individual clients would not resolve the conflict. Because the union attorneys are employed by the same organization, their conflicts would be imputed to each other.

The question then becomes whether under the circumstances described in the request, union staff attorneys may simultaneously represent both the subject and a witness to the same investigation, where the interests of each client may be adverse. Rule 1.7(a) of the Rules of Professional Conduct provides that “except as provided in subsection (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest,” which exists where “(1) the representation of one client will be directly adverse to another client” or “(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer’s responsibilities to another client.”

Rule 1.7(b) in turn provides that, where there is a concurrent conflict of interest, simultaneous representation of multiple clients may only proceed if: (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client; (2) the representation is not prohibited by law; (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or the same proceeding before any tribunal; and (4) each affected client gives informed consent, confirmed in writing. Lawyers considering whether to undertake joint representations should recognize that not all conflicts are waivable. See also Official Commentary to Rule 1.7 (explaining that “some conflicts are nonconsentable”).

Based on the admittedly limited facts presented in the inquiry, we believe that the conflict inherent in attempting to simultaneously represent both the target of the investigation and an individual witness with adverse legal interests likely is not waivable. We note that even where the target of the investigation and witness seem to be completely aligned at the outset, the direction and outcome of an investigation is impossible to predict. As this Committee recognized in Informal Opinion 07-10, “[c]oncurrent representation that appears permissible under Rule 1.7(b) and that is acceptable to the clients at the outset can be burdened by conflicts as new information becomes available, a possibility that one should fully discuss with potential clients from whom conflict waivers are requested.”

In conclusion, on the facts presented, we conclude that it likely would not be permissible under Rules 1.10 and 1.7 of the Rules of Professional Conduct for staff attorneys employed by the same union to simultaneously represent the subject of an investigation and a potential witness to the same investigation with potentially conflicting legal interests. ■

NOTES

- 1 We understand there is a body of substantive labor law holding that in some circumstances the union itself, and not its constituent members, is the union lawyer’s only client, even with respect to grievances and disciplinary proceedings in which the union is obligated to provide a defense to its members. See *Peterson v. Kennedy*, 771 F.2d 1244, 1258 (9th Cir. 1985), cert. denied, 475 U.S. 1122 (1986); *Waterman v. Transport Workers’ Union Local 100*, 176 F.3d 150 (2d Cir. 1999); *Air Line Pilots Ass’n v. O’Neill*, 499 U.S. 51, 76 (1991); *Vaca v. Sipes*, 386 U.S. 171, 177 (1967); Joseph L. Paller Jr., “The Duty of Fair Representation,” p. 168 n.26 (collecting cases); see also DC Bar Ethics Opinion 314 (noting cases). Because the premise of your inquiry is that the individual union members involved in the investigation would be the clients, we do not address a scenario where the union is your only client.



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

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Paulette Brown

American Bar Association Past President; National Bar Association Past President

Paulette Brown currently serves as principal of the consulting firm she founded, MindSetPower LLC, where she harnesses her entrepreneurial skills and groundbreaking experience in diversity, equity, inclusion, and belonging (DEIB) to educate and assist other organizations with improving DEIB and understanding the impact of implicit bias. She is also the first woman of color to have led the American Bar Association (ABA) as its president (2015-2016) in the association's history.

Her presidential initiatives resulted in an unprecedented number of new ABA policies, which have had a long-lasting impact on diversity and inclusion in the legal profession and the justice system. Attorney Brown has practiced for more than 45 years; founded her own law firm; is a past president of the National Bar Association; and has served as partner and chief diversity & inclusion officer for an AmLaw 100 law firm, in-house counsel for Fortune 500 companies, and as a municipal court judge.

Paulette Brown will present **B07 Back in the Saddle: Networking and Business Development beyond the Pandemic**; learn more about this seminar on page 24.



Michelle Behnke

Chair of the American Bar Association Commission on Racial and Ethnic Diversity in the Profession; State Bar of Wisconsin Past President

Michelle Behnke is principal of the firm Michelle Behnke & Associates. Her practice focuses on the areas of business advising, real estate, and estate planning. She has spent decades refining her practice and networking skills while simultaneously managing and growing the business of her firm, which just celebrated its 25th anniversary this year.

Attorney Behnke currently serves as the chair of the American Bar Association's (ABA) Commission on Racial and Ethnic Diversity in the Profession, is a past treasurer of the ABA, and has served on the ABA Board of Governors. She previously served as the president (2004-05) and treasurer (1997-98) of the State Bar of Wisconsin.

In addition to her professional roles, she is active in her community, serving on the board of Capitol Bank, the University of Wisconsin Law School Board of Visitors, and the board of the University of Wisconsin-Madison's Wisconsin Foundation & Alumni Association.

Michelle Behnke will present **C08 Roll Up Your Sleeves and Get to (net)Work**; learn more about this seminar on page 25.

CLE Seminar Information | Visit ctlegalconference.com for the latest information and to register.

The Connecticut Bar Association/CT Bar Institute is an accredited provider of New York State CLE. These programs may qualify for newly admitted and experienced attorneys CLE credits. Visit ctlegalconference.com for more information about NY CLE credits for each seminar. For further information, please see the NYCourts.gov page on CLE: <http://ww2.nycourts.gov/attorneys/cle/index.shtml>.

New York CLE Credit Categories: Areas of Professional Practice (AOP); Cybersecurity, Privacy, and Data Protection-Ethics; Cybersecurity, Privacy, and Data Protection-General; Diversity, Inclusion, and Elimination of Bias (D&I); Ethics and Professionalism (Ethics); Law Practice Management (LPM); Skills

Session A 9:00 a.m. – 10:00 a.m.

The President's Track

A01 Handling Hate Crimes in Connecticut

Presented by the CBA Executive Committee

Presenters will define hate crimes and how they are handled in Connecticut. They will briefly summarize the Connecticut Hate Crimes Advisory Council's (HCAC) recommendations to prevent and combat hate crimes and how these recommendations are being implemented, including the Council's community awareness efforts, legislative priorities, and restorative justice.

Speakers

Hon. Douglas S. Lavine (Ret.), Connecticut Appellate Court, Hartford

TaShun Bowden-Lewis, Connecticut Division of Public Defender Services, Hartford

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

Richard A. Wilson, UConn School of Law, Hartford

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



CLE Credit: CT: 1.0 CLE Credits (General); NY: 1.0 CLE Credits (Cybersecurity, Privacy, and Data Protection - General)

DE&I Track

A03 Equality v. Equity: How Reframing Your Diversity Focus May Help You Achieve Your Diversity Goals

Presented by the DE&I Committee

This seminar examines the role of equality versus equity in our efforts toward a more inclusive and just society for all. Participants will learn about reframing their focus on equity, rather than numbers, as a means to achieve meaningful participation for all legal professionals.

Speakers

Hon. Cecil J. Thomas, State of Connecticut, Judicial Branch, Norwich

Hon. Angela Robinson (Ret.), Robinson Diversity Consulting LLC, New Haven

Moderator

Michelle Querijero, Farmington

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



Ethics Track

A04 Ethics: The Year in Review

Presented by the CBA's Standing Committee on Professional Ethics

Presenters will discuss recent ethics-related rule changes, opinions, and cases.

Speakers

Stephen J. Conover, Carmody Torrance Sandak & Hennessey LLP, Stamford

Brendon P. Levesque, Barry Barall Taylor & Levesque LLC, Manchester

Kim E. Rinehart, Wiggin & Dana LLP, New Haven

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



Family Law Track

A05 Who Is a Parent? Navigating the Connecticut Parentage Act

Presented by the Family Law Section

This program will cover the Connecticut Parentage Act and the impact it has had over the last year. The Act was enacted on January 1, 2022 and is intended to create clear and accessible pathways to legal parentage and ensure gender equality and all-gender access to legal parentage.

Speakers

Ashley A. Cervin, Loudon Katz & McGrath

LLC, Hartford

Douglas NeJaime, Yale Law School, New Haven

Richard A. Rochlin, Richard Rochlin Family Law and Mediation, West Hartford

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

Current Topics Track

A06 The Symbiotic Relationship of Self-Care and Productivity

Presented by the Lawyer Well-Being Committee

This program will examine the relationship between self-care and productivity, provide tools to help attorneys be more productive and facilitate self-care, and share ways to educate clients on the benefits of reasonable deadlines, focused work, (i.e. not responding to emails in a nano second), and lawyers who exercise self-care.

Speaker

Tanyee Cheung, Finn Dixon & Herling LLP, Stamford

CLE Credit: CT: 1.0 CLE Credits (Ethics)



Current Topics Track

A07 Intersectional Allyship and Well-Being

Presented by the LGBT Section

How does intersectionality, allyship, and well-being all connect to one another? Intersectional allyship is important, but often allyship does not reach where it should or could be, leading to serious mental health and well-being issues for those in the legal profession. This seminar will explore these ideas, pose open questions about what we can collectively do as a movement and community, and consider next steps.

Speaker

Heidi Alexander, Supreme Judicial Court Standing Committee on Lawyer Well-Being, Boston, MA

Moderators

Jenna Cutler, Wiggin & Dana LLP, New Haven

Yamuna Menon, State of Connecticut – Office of the State Comptroller, Hartford

CLE Credit: CT: 1.0 CLE Credits (Ethics)



Current Topics Track

A08 Abuse of Older Adults: Fraud, Scams, and Financial Exploitation

Presented by the Elder Law Section

This is a timely presentation regarding the fraud, scams, and exploitation that frequently target our clients, especially the older adult population. These schemes are sometimes seemingly innocuous and may

Business/Legal Technology Track

A02 The New CT Consumer Data Privacy Law: Important Considerations for Business Lawyers

Presented by the Business Law Section and the Privacy and Cybersecurity Committee

This program will provide an overview of the CT Data Privacy Act, set to take effect on July 1, 2023, with an emphasis on business obligations under the Act and how they interact with other duties and obligations. Further, the presenters will consider strategies for compliance and address coordinating compliance efforts with laws in other jurisdictions.

Speakers

Russell F. Anderson, Pullman & Comley LLC, Bridgeport

Kenneth B. Lerman, Kenneth B. Lerman PC, Hartford

Michele Lucan, Office of the Attorney General, Hartford

Tara L. Trifon, Locke Lord LLP, Hartford

Moderator

Dena M. Castricone, DMC Law LLC, North Haven

even be perpetrated by persons closest to the unsuspecting victim, including financial advisors, family members, or someone seeking romantic involvement.

Speaker

Heather Cherry, United States Attorney's Office, District of Connecticut, New Haven

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

Antitrust/Regulation Track

A09 CUTPA 50 Years!

Presented by the Antitrust and Trade Regulations Section

The year 2023 is the 50th anniversary of the passage of the Connecticut Unfair Trade Practices Act (CUTPA). This seminar will discuss CUTPA's remarkable development over the past half-century, including its profound importance in reshaping the fundamental nature of the relationship between businesses and consumers. Attendees will learn how and why CUTPA has achieved such importance both within Connecticut and nationwide.

Speakers

Robert M. Langer, Wiggin and Dana LLP, Hartford

David A. Slossberg, Hurwitz Sagarin Slossberg & Knuff LLC, Milford

Michael C. Wertheimer, Connecticut Office of the Attorney General, Hartford

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

Trial/Appellate Track

A10 Annual Review of Connecticut Supreme and Appellate Court Cases

Each year the Connecticut Supreme and Appellate Courts issue cases that dramatically change the law. This year is no different. This seminar will provide an analytical and thought-provoking review of Connecticut Supreme Court cases from the past year, presented by Kenneth J. Bartschi, followed by an insightful and practical review of Connecticut Appellate Court cases from the past year, presented by Karen L. Dowd.

Speakers

Kenneth J. Bartschi, McElroy Deutsch Mulvaney & Carpenter LLP, Hartford

Karen L. Dowd, McElroy Deutsch Mulvaney & Carpenter LLP, Hartford

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

Workplace Track

A11 Pay Transparency, Non-Competes, Arbitration Clauses, and Non-Disclosure Agreements: The Next Frontiers in Labor and Employment Law

Presented by the Labor and Employment Law Section

In this program, experienced speakers will provide a guided tour through a series of rapidly developing topics in the labor and

employment arena. Pay transparency and non-compete legislation as well as new developments and case law with respect to arbitration clauses and non-disclosure agreements are posing new challenges for employment lawyers.

Speakers

Allison Dearington, Jackson Lewis PC, Hartford

Joshua Goodbaum, Garrison Levin-Epstein FitzGerald & Pirrotti PC, New Haven

Moderator

Zachary D. Schurin, Pullman & Comley LLC, Hartford

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

Session B

10:15 a.m. – 12:15 p.m.

The President's Track

B01 Ethics and the Pro Bono Representation of Nonprofits

Presented by the CBA Executive Committee

This program will address ethical issues attorneys may face when representing a nonprofit organization on a pro bono basis.

Speaker

Maruice K. Segall, Pro Bono Partnership Inc., White Plains, NY

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



Business/Legal Technology Track

B02 Commercial Law and Bankruptcy: The Year in Review

Presented by the Commercial Law and Bankruptcy Section

The presenters of the program will discuss recent cases in each of three categories: commercial litigation, consumer bankruptcy, and business bankruptcy.

Speakers

Julie A. Lavoie, Murtha Cullina LLP, Hartford

Patrick R. Linsey, Neubert Pepe & Monteith PC, New Haven

Christopher H. Thogmartin, Law Office of Christopher H. Thogmartin, Plantsville

Moderator

Kristin B. Mayhew, Pullman & Comley LLC, Hartford

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

DE&I Track

B03 Mental Health and the Practicing Lawyer

Presented by the DE&I Committee

A diverse group of panelists will present and have a conversation on mental health and the practicing attorney. The panel will discuss the challenges faced by lawyers who wish to seek or are in treatment, the risk of self-medication through alcohol and narcotics, and mental health resources available to lawyers.

Speakers

Alyssa Cretella, BHcare, Ansonia

Karen DeMeola, University of Connecticut School of Law, Hartford

Aigné S. Goldsby, Letizia Ambrose & Falls PC, New Haven

Uriel J. Lloyd, Office of the Public Defender, New Britain

David R. Williams, Lawyers Concerned for Lawyers Inc., Rocky Hill

Moderator

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

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



Ethics Track

B04 How to Ethically Use Social Media Marketing and Best Practices to Optimize Growth While Also Safeguarding Your Practice

Presented by the Insurance Programs for the Bar Committee

As many lawyers continue to work remotely, law firms and courts alike are faced with additional ethical challenges related to technological competence, client confidentiality, digital marketing, and social media usage. Join this expert panel of lawyers for a discussion of how not to run afoul of the ethics rules while practicing law in a digital world.

Speakers

Stephen Conover, Carmody Torrance Sandak Hennessey LLP, Stamford

Brendon P. Levesque, Barry Barall Taylor & Levesque LLC, Manchester

Erin McCarthy, Attorney Protective, Flourtown, PA

Moderator

John Kronholm, Kronholm Insurance Services, Part of the Brown & Brown Team, Rocky Hill

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



Family Law Track

B05 What to Do When DCF Knocks: How to Address DCF Involvement in Your Family Case

Presented by the Family Law Section

This program will address how DCF (Connecticut Department of Children and Families) involvement can impact custody and access aspects of a family case. The presentation will cover how to advise clients when a DCF investigation has commenced; obtaining, using, and admitting DCF records into evidence; the effect a safety plan has; and the authority of DCF to remove children from a home.

Speakers

Alexander J. Puzone, The Children's Law Center, Hartford

Eddie Salinas, Department of Children and Families, Manchester

Scott A. Sandler, Scott Allan Sandler Attorney at Law LLC, Hartford

Nieka Thompson, Department of Children and Families, Hartford

Moderator

Natassia M. Fodor, Schoonmaker George Blomberg Bryniczka & Welsh PC, Old Greenwich

CLE Credit: CT: 2.0 CLE Credits (General); NY: 2.0 CLE Credits (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 an owner or contractor—to keep abreast of changing laws, 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: CT: 2.0 CLE Credits (General); NY: 2.0 CLE Credits (AOP)

National Presenters Track

B07 Back in the Saddle: Networking and Business Development beyond the Pandemic

This interactive program will provide tools needed for lawyers to enhance their networking and business development skills, demonstrating that there is not a one-size-fits-all approach to being successful. Paulette Brown will draw from 45+ years of experience, focusing on the networking and business lessons gained from the COVID-19 Pandemic and how to best leverage these lessons and reach beyond your comfort zone. She will also address the ways in which the best approaches to networking and business development can differ based upon demographics and area of practice.

Speaker

Paulette Brown, MindSetPower LLC, Charleston, SC

CLE Credit: CT: 2.0 CLE Credits (General)

Trial/Appellate Track

B08 Appellate Law Considerations in Family Law Cases

Presented by the Appellate Advocacy Section

This program will feature family law practitioners with appellate experience and an appellate jurist discussing key considerations for (a) family law practitioners to keep in mind during trial for purposes of appeal and (b) those practitioners or appellate counsel retained after trial to keep in mind in pursuing an appeal in a family law case, from filing to disposition.

Speakers

Hon. Bethany J. Alvord, Connecticut Appellate Court, Hartford

Kenneth J. Bartschi, McElroy Deutsch Mulevaney & Carpenter LLP, Hartford

Danielle Edwards, 1818 Law PLLC, Stamford

Brandon B. Fontaine, Kahan Kerensky

Capossela LLP, Vernon

Scott T. Garosshen, Robinson + Cole LLP, Hartford

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

Real Property/Environmental Law Track

B09 Real Property Case Law Year in Review

Presented by the Real Property Section

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

Speakers

Matthew J. Cholewa, Old Republic National Title Insurance Company, Hartford

Gillian Ingraham, Baillie & Hershman PC, Greenwich

Lisa J. Lugauskas, Old Republic National Title Insurance Company, Hartford

Valerie Ann Votto, Valerie Ann Votto LLC, Old Lyme

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

Workplace Track

B10 Workers' Compensation Series: Let Me In—The Primrose Path of Jurisdiction

Presented by the Workers' Compensation Section

This seminar will be the first in a series of overviews of the seminal cases under the Connecticut Workers' Compensation Act. The discussion will feature the elements of jurisdiction, including who may bring a claim, whether a claim can be brought against the employer, and if a claim qualifies as an injury.

Speakers

Hon. William J. Watson III, State of Connecticut Workers' Compensation Commission, Hartford

Lucas D. Strunk, Strunk Dodge Aiken Zovas LLC, Rocky Hill

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

Session C

2:30 p.m. – 4:30 p.m.

The President's Track

C01 Baby Formula Mass Tort (NEC): The Race to Save Preemies' Lives

Presented by the CBA Executive Committee

North Stonington lawyer Stephen Reck's 2020 federal lawsuit against two baby formula producers has led to nationwide mass tort action related to cases of necrotizing enterocolitis in premature infants. The panel will present on how to identify and develop a class action lawsuit. They will also discuss how cow's milk-based formulas caused necrotizing enterocolitis and death in premature infants.

Speakers

Stephen M. Reck, Levin Rojas Camassar & Reck LLC, North Stonington

Jose Rojas, Levin Rojas Camassar & Reck LLC, North Stonington

Moderator

Christopher P. Anderson, Anderson Trial

Lawyers, Norwich

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

Business/Legal Technology Track

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

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, the presenters will review the requirements of the Rules of Professional Conduct and the many reasons to be technologically competent.

Speakers

Brendon P. Levesque, Barry Barall Taylor & Levesque LLC, Manchester

Michael S. Taylor, Barry Barall Taylor & Levesque LLC, Manchester

CLE Credit: CT: 2.0 CLE Credits (Ethics); NY: 2.0 CLE Credits (Cybersecurity, Privacy and Data Protection - Ethics)



DE&I Track

C03 Using Remote or Hybrid Work Environments as an Instrument of Diversity and Employee Retention

Presented by the DE&I Committee

This program will discuss remote and hybrid work scenarios and the benefits of not limiting our job search pool solely to those who can physically come to work during specific hours.

Speakers

Kimberly Jacobsen, Commission on Human Rights and Opportunities, Hartford

Robin Sharp, Easter Seals Capital Region and Eastern Connecticut, Windsor

Sarah R. Skubas, Jackson Lewis PC, Hartford

Moderator

Michelle Querijero, Farmington

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



Ethics Track

C04 How to Ethically Use Social Media Marketing and Best Practices to Optimize Growth While Also Safeguarding Your Practice

Presented by the Insurance Programs for the Bar Committee

As many lawyers continue to work remotely, law firms and courts alike are faced with additional ethical challenges related to technological competence, client confidentiality, digital marketing, and social media usage. Join this expert panel of lawyers for a discussion of how not to run afoul of the ethics rules while practicing law in a digital world.

Speakers

James L. Brawley, Morrison Mahoney LLP, Hartford

Dana M. Hrelac, Pullman & Comley LLC, Hartford

Erin McCarthy, Attorney Protective,

Flourtown, PA

Moderator

John Kronholm, Kronholm Insurance Services, Part of the Brown & Brown Team, Rocky Hill

CLE Credit: CT: 2.0 CLE Credits (Ethics)
NY: 2.0 CLE Credits (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.

Speakers

Campbell D. Barrett, Pullman & Comley LLC, Hartford

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

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

David A. McGrath, Louden Katz & McGrath LLC, Hartford

Moderator

Leslie I. Jennings-Lax, Reich & Truax PLLC, Fairfield

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

Current Topics Track

C06 Speaking Up for the Voiceless: Advocacy and Guardians Ad Litem

Presented by the Animal Law and Family Law Sections

Advocates speak up for the voiceless.

Advocates can be appointed by courts to represent the interests of animals, infants, minors, mentally incompetent persons, and more for the duration of a legal proceeding. Guardians *ad litem* are an invaluable and crucial part of our justice system affecting several areas of law.

Speakers

Tara Cooley, UConn School of Law, Hartford
Paige S. Quilliam, Gould Larson Bennet & McDonnell PC, Essex

Paige S. Quilliam, Gould Larson Bennet & McDonnell PC, Essex

Jessica Rubin, UConn School of Law, Hartford

Moderator

Cassandra L. Dulepski, Polinsky Law Group LLC, Hartford

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

Current Topics Track

C07 Ethics in the Public Health System

A diverse panel will present an overview of the public health system in America, focusing on the four principles of public health ethics, key ethical issues in public health, health care disparities, case law relevant to public health ethics, municipal public health challenges, and ethics and the law in public health.

Speakers

Hon. Anne C. Dranginis (Ret.), Pullman & Comley, Bridgeport

Audrey B. Blondin, Blondin Law Offices,

Torrington

Maritza Bond, City of New Haven, New Haven

Dr. Karl Minges, University of New Haven, New Haven

CLE Credit: CT: 2.0 CLE Credits (1.0 General; 1.0 Ethics);
NY: 2.0 CLE Credits (1.0 AOP; 1.0 Ethics)



National Presenters Track

C08 Roll Up Your Sleeves and Get to (net)Work

During this program, Michelle Behnke will utilize her years of experience to present strategies for networking and rainmaking, allowing participants to develop their own personal action plan for client development. Attendees will learn how to identify natural networking allies and referral sources. Attorney Behnke will teach how to develop authentic engagement in community organizations and bar associations to increase your connections, visibility, and expertise in your practice areas.

Speaker

Michelle A. Behnke, Michelle Behnke & Associates, Madison, WI

CLE Credit: CT: 2.0 CLE Credits (General)

Trial/Appellate Track

C09 Stare Decisis and the New Roberts Court

The US Supreme Court's decision to overrule *Roe v. Wade* has many questioning whether the new Roberts Court approaches *stare decisis* in a fundamentally different way than its predecessors. In the last five years alone, the Court has overruled major precedents and upended long-standing law, running the gamut from Second Amendment rights to religious exercise. At the same time, the Court has declined opportunities to overrule other influential but deeply criticized (and polarizing) precedent. Join us for a panel discussion where leading scholars will explore this tension, discuss where they see the Court heading, and offer their perspectives on what role precedent plays in that journey. Attendees will learn the role *stare decisis* plays in the Roberts Court, what recent major precedents have been upended or overturned, and what the larger significance of those decisions is.

Speaker

Akhil R. Amar, Sterling Professor of Law, Yale Law School, New Haven

Moderators

Dana M. Hrelac, Pullman & Comley LLC,

Hartford

Scott T. Garosshen, Robinson & Cole LLP, Hartford

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

Real Property/Environmental Law Track

C10 PFAS Litigation and Regulation Update

Presented by the Environmental Law Section
Per- and polyfluoroalkyl substances (PFAS) are a group of chemicals that have been the subject of increasing regulation, litigation, and public attention. This program will provide an update on PFAS litigation and regulation.

Speakers

Megan Baroni, Robinson+Cole LLP, Stamford
Richard Desrosiers, GZA GeoEnvironmental, Glastonbury

Julianne Lombardo Klaasen, RisCassi & Davis PC, Hartford

Moderator

Emilee Mooney Scott, Robinson+Cole LLP, Hartford

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

Workplace Track

C11 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, and updates from Chief Administrative Law Judge Stephen M. Morelli and an appellate clerk.

Speakers

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

Jason M. Dodge, Strunk Dodge Aiken Zovas LLC, Rocky Hill

Christopher Buccini, Strunk Dodge Aiken Zovas LLC, Rocky Hill

Melanie I. Kolek, Connecticut Education Association, Hartford

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

Session D 4:45 p.m. – 5:45 p.m.

The President's Track

D01 Reinvigorating the Lawsuit

Presented by the CBA Executive Committee

This program will take the form of an engaging discussion between two old friends who don't always agree on ways litigation might better serve lawyers, clients, and the country. They will discuss the benefits of shedding needless complexities and directly answering the questions raised by plaintiffs and defendants.

Speaker

Hon. Thomas G. Moukawsher, Connecticut Superior Court, Middletown

Moderator

James T. Shearin, Pullman & Comley LLC, Bridgeport

CLE Credit: CT: 1.0 CLE Credits (General)

Business/Legal Technology Track

D02 Exploring Legal Research with Fastcase

Learn how to improve the speed and efficiency of your legal research in Fastcase—this presentation will cover how to search, browse, share, and save documents inside of Fastcase's vast legal library.

Speaker

Alex Shaffer, Fastcase, Washington, DC

CLE Credit: CT: 1.0 CLE Credit (General)

Current Topics Track

D03 Media and Lawyers: Working with the Press

Presented by the CBA Executive Committee

Experienced media professionals and Attorney Sullivan will explore media relations, ethical practices, and crisis strategies for lawyers.

Speakers

Jonathan Grella, JAG Public Affairs, Washington, DC

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

Lt. J. Paul Vance (Ret.), Former Public Information Officer, Connecticut State Police, Middletown

David Ward, WFSB-TV, Rocky Hill

Moderator

J. Paul Vance, Jr., Logan Vance Sullivan & Kores LLP, Torrington

CLE Credit: CT: 1.0 CLE Credits (0.5 General); 0.5 Ethics)



Family Law Track

D04 The Pathfinder: Navigating the Pathways Process

Presented by the Family Law Section

This program will feature speakers from the judiciary, the court system, and practitioners providing updated information on the new Pathways Program. The presentation will cover how the program has changed since its implementation and what it means for practitioners and clients. The presentation will also cover the goals of the program, important considerations for motion practice, managing discovery issues, and other techniques for efficient case management.

Speakers

Hon. Michael A. Albis, Connecticut Superior Court, Middletown

Joseph DiTunno, Judicial Branch of Connecticut, Wethersfield

Samuel V. Schoonmaker, IV, Broder Orland Murray & DeMattie LLC, Westport

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

Current Topics Track

D05 Firearms, Probate, and Estate Planning

This program will assist estate planning and probate attorneys on Connecticut's classifications of firearms, how to transfer them, and risks/liabilities of fiduciaries.

Speaker

Vincent A. Liberty, Jr., Halloran & Sage LLP, Hartford

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

Current Topics Track

D06 Social Media Influencers: Endorsements and Compliance

Presented by the Sports and Entertainment Law Section

As more individuals are monetizing their online presence and recent regulatory crackdowns have made headline news, there is a need to address important legal considerations in representing or partnering with influencers. This program will discuss what attorneys need to know regarding influencer transactions, endorsement deals, online reviews/sponsored content, and required disclosures.

Speakers

Michael Atleson, FTC Bureau of Consumer Protection, Washington, DC

David G. Mallen, Loeb & Loeb LLP, New York, NY

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

Current Topics Track

D07 Health Care Fraud and Abuse: Legal Update and War Stories

In this seminar, speakers from private practice as well as from government will discuss the state and federal False Claims Act, recent relevant case law, and pending Supreme Court decisions. The speakers will describe the lifespan of a health care fraud case and provide tips for how to avoid becoming a target. Participants will hear war stories from actual cases handled by the attorneys and gain tips for creating effective compliance programs and self-disclosing overpayments.

Speakers

Jolie Apicella, Wiggin and Dana LLP, New York, NY

Jody Erdfarb, Wiggin and Dana LLP, Stamford

Joshua Jackson, Office of the Attorney General, Hartford

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

Antitrust/Regulation Track

D08 Antitrust Violations and the DOJ Antitrust Leniency Program

Presented by the Antitrust and Trade Regulation Section

In this hour-long discussion, our panel will examine the DOJ's corporate leniency program, why the program was created, how it works, what changes have been made, the impact of those changes, and what to expect moving forward. Our seasoned practitioners and recent DOJ alums will also evaluate the risks and benefits of a leniency application from both a criminal and civil perspective.

Speakers

Hon. Kari A. Dooley, U.S. District Court, District of Connecticut, Bridgeport

James W. Attridge, Axinn Veltrop & Harkrider LLP, Washington, DC

Eytayo St. Matthew-Daniel, Paul Weiss Rifkind Wharton & Garrison LLP, New York, NY

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

Trial/Appellate Track

D09 SCOTUS and the New Queer Legal Frontier

Presented by the LGBT Section

This seminar will review recent cases from the US Supreme Court, explore these cases' future implications for the LGBTQIA+ community, and examine their potential impact in Connecticut and, more broadly, nationally.

Speaker

Kenneth J. Bartschi, McElroy Deutsch Mulvaney & Carpenter LLP, Hartford

Taylor Brown, LGBTQ & HIV Project, American Civil Liberties Union, New York, NY

Moderators

Jenna Cutler, Wiggin & Dana LLP, New Haven
Yamuna Menon, State of Connecticut - Office of the State Comptroller, Hartford

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

Real Property/Environmental Law Track

D10 Common Title Claims and How to Avoid Them

Presented by the Real Property Section

This program will teach you about some of the more common types of claims title insurance companies encounter and how you can help avoid them.

Speakers

Joseph J. Taborsak, CATIC, Hartford

David S. Veleber, CATIC, Hartford

Bruce A. Zawodniak, CATIC, Hartford

CLE Credit: CT: 1.0 CLE Credits (.9 General; .1 Ethics); NY: 1.0 CLE Credits (AOP)



Workplace Track

D11 Evidence in the Workers' Compensation Forum

Presented by the Workers' Compensation Section

The presenters of this program will discuss how the rules of evidence are applied in the Workers' Compensation System. The presenters will address how judges handle issues of evidence. The program will include a focus on the use of surveillance.

Speakers

Jonathan H. Dodd, The Dodd Law Firm LLC, Cheshire

Heather K. Porto, Strunk Dodge Aiken Zovas LLC, Rocky Hill

Moderator

Katherine M. DuBaldo, Morrison Mahone LLP, Hartford

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



2023-2024 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 June 5. These officers will lead the CBA for the next bar year, beginning on July 1, 2023.

President



Margaret I. Castinado will serve as the CBA's 100th president and will be the first Hispanic leader of the association. 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.

President-Elect



James T. Shearin will serve as president-elect. Attorney Shearin is the immediate past 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.

Vice President



Emily A. Gianquinto will serve as vice president. Attorney Gianquinto is special counsel at McCarter & English LLP, where she counsels employers on day-to-day employment matters and represents them before federal and state courts, administrative agencies, and mediation and arbitration panels. Her experience includes litigating all manner of business disputes.

Secretary



Jeffrey A. Zyjeski will serve as secretary. Attorney Zyjeski is a compliance and government relations attorney at the Law Offices of Jay F. Malcynsky PC in New Britain. He has over 20 years of experience advocating for clients before the state legislature and executive branch.

Treasurer



Sharad A. Samy will serve as treasurer. Attorney Samy is general counsel of the Common Fund for Nonprofit Organizations and is a solo practitioner at The Law Offices of Sharad A. Samy LLC in Darien. He has over 25 years of transactional and litigation experience and has served as a partner of an international law firm and as a military attorney in the US Army Reserve and the Connecticut Army National Guard.

Assistant Secretary-Treasurer



Christopher A. Klepps will serve as assistant secretary-treasurer. Attorney Klepps is senior counsel at The Hartford where he provides legal advice regarding coverage issues on a wide variety of claims, as well as manages litigation involving The Hartford throughout the country.

Immediate Past President



Daniel J. Horgan will serve as immediate past president. Attorney Horgan is an experienced litigator with Horgan Law Offices in New London, representing clients in state and federal courts. He has been chosen by his peers to frequently act as an arbitrator and mediator in personal injury cases. He is on the board of governors of the Connecticut Trial Lawyers Association.



DOUBLE NEGATIVES

**and Other Drafting Ambiguities
Impede Public Understanding of Ballot
Proposals to Change Existing Law**

The 2022 Connecticut statewide ballot included a proposed amendment to the Connecticut Constitution “to permit the General Assembly to provide for early voting.” The proposal passed by a margin of approximately 21 percent among those who voted on the proposal. (The secretary of the state website indicates that the total number of votes cast on this proposal was less than the total number of votes cast for United States senator, governor, secretary of the state, and other statewide offices.)

In 2014, Connecticut voters failed to approve a proposed amendment to the state constitution “to remove restrictions concerning absentee ballots and to permit a person to vote without appearing at a polling place on the day of an election.” The Office of the Secretary of the State issued a press release in October 2014 advising Connecticut voters that a “Yes” vote would not result in any immediate change to Connecticut voting laws, but would “permit the General Assembly to loosen our current restrictions on absentee voting and potentially enact some form of early voting, as 35 other states have done.” The 2014 proposal was voted down by approximately 52 percent of votes cast on the proposal. (As in 2022, the total number of votes cast on this 2014 proposal was less than the total votes cast for the 2014 gubernatorial

candidates.) Some of the “No” votes may have resulted from concerns that passage could have automatically allowed voting without any personal appearance at a polling place on Election Day. There may also have been concerns that a “Yes” vote could increase voter fraud. Some have theorized that the wording of the 2014 proposal was confusing, causing many voters to refrain from casting any vote on the proposal, for or against. The 2014 voters may not have been familiar or comfortable with a “no excuse” absentee ballot concept. A “No” vote may have been considered the safer option in case of doubt (since it preserves status quo).

In the ensuing eight years, a narrower and less confusingly worded proposal to amend the Connecticut Constitution’s restrictions on early voting eventually made its way through the General Assembly. The 2022 proposal did not refer to absentee voting (only in-person early voting) and clarified that a “Yes” vote would authorize the General Assembly to consider early voting legislation. Unlike in 2014, “no excuse” absentee voting was not part of the 2022 proposal.¹

Proposals to amend state constitutions and to pass statewide referenda are clearly difficult to draft and difficult to explain

to prospective voters, in a manner that is succinct, accurate, and neutral. Some have suggested that statewide voter proposals be drafted to require not more than an 8th grade reading level.² By way of very rough comparison, the Consumer Product Safety Commission generally prefers product safety warning labels to be drafted at no higher than a 6th grade reading level, although the commission recognizes that “the 8th grade level is considered ‘plain English.’”³ One recent study suggests that Connecticut’s 2022 early voting proposal required a 12th grade reading level.⁴

New Mexico undertook a similar “redo” for what should have been a less controversial and largely nonsubstantive, cosmetic amendment to its state constitution. In 2002, New Mexico voters failed to approve an amendment that would have repealed a 1921 New Mexico constitutional prohibition against foreign-born individuals ineligible for US citizenship (and corporations majority-owned by such individuals) acquiring any interest in New Mexico real property (a so-called “alien land law”). In 2002, 49 percent of voters approved the proposed repeal; afterwards, concerns were raised that some who voted against repeal did not understand the substance of the proposal or the impact of a “No” vote. Sponsors of the 2002 propos-

al might have thought the proposal was noncontroversial, in part because the New Mexico constitutional provision arguably had been effectively superseded by a series of US Supreme Court decisions in the late 1940s striking down similar types of prohibitions applied to foreign-born individuals lawfully within the United States who (due solely to their race, ethnicity, national origin, or similar characteristics) were ineligible for U.S. citizenship.⁵ In addition, the New Mexico legislature had enacted a statute in 1975 that effectively overrode the 1921 New Mexico constitutional alien land law provision.⁶

When the 2002 New Mexico proposal was redrafted and resubmitted to New Mexico voters in 2006, it passed with close to 70 percent voter approval. The 2006 “redo” proposal in New Mexico was presented as having the affirmative or positive purpose of “protect[ing] the right of all persons to acquire and possess real property.” In contrast, the original 2002 proposal

was described as the proposed repeal of Section 22 of Article 2 of the New Mexico constitution, “which mandates that unless otherwise provided by law, aliens who are not eligible to become citizens, and corporations majority-owned by such aliens, are prohibited from acquiring any interest in real property in New Mexico.”⁷ The 2002 proposal therefore described an existing constitutional provision that would have been repealed by a “Yes” vote—an affirmative vote with a purpose of a fundamentally negative nature (an overturning purpose). Some voters opposed to the existing constitutional provision may have mistakenly voted “No” in 2002, thinking that they were voting against the existing constitutional provision. Similarly, the Connecticut 2014 unsuccessful voting proposal was described in part as a proposal to remove certain absentee ballot restrictions from the state constitution.

Florida also failed to repeal an alien land law provision in its state constitution in 2008 (the proposal was voted down by 52 percent of voters), but a subsequent 2018 proposal passed with approximately 62 percent of voters supporting the proposal. Some speculated after the 2008 defeat that Florida voters may have thought they were being asked to permit undocumented immigrants to own Florida real property.⁸ The 2008 proposal asked Florida voters to decide whether to delete “provisions authorizing the Legislature to regulate or prohibit the ownership, inheritance, disposition and possession of real property by aliens ineligible for citizenship” (so that a “Yes” vote would have removed certain provisions from the Florida constitution and certain powers from the Florida legislature). The 2008 proposal was not well publicized and had been characterized as “obscure” and “very complicated.”⁹ Florida law may also limit the number of words that may be used to describe a proposed constitutional amendment.¹⁰ Interestingly, the Florida alien land law repeal eventually approved by Florida voters in 2018 linked the repeal to two unrelated constitutional amendments;¹¹ the purpose of the 2018 proposed alien land law repeal was simply described as “[r]emov[ing] discriminatory language related to real property rights.”

Some of the drafting and voter education lessons that may be learned from these recent unsuccessful and successful statewide ballot proposals may also apply to technical advice drafted by lawyers, accountants, and other professionals for clients who are not well-versed in the relevant substantive legal or regulatory principles. ■

Elizabeth C. Yen is a partner in the Connecticut office of Hudson Cook, LLP. She is admitted to practice in Connecticut only. Attorney Yen is a fellow and regent of the American College of Consumer Financial Services Lawyers, a past chair of the Truth in Lending Subcommittee of the Consumer Financial Services Committee of the American Bar Association’s Business Law Section, a past chair of the CBA Consumer Law Section, and a past treasurer of the CBA. The views expressed herein are personal and not necessarily those of any employer, client, constituent, or affiliate of the author.

NOTES

- 1 See Resolution Act Nos. 19-1 and 21-1. Resolution Act No. 21-2 (a no-excuse absentee ballot proposed amendment to Section 7, Article Sixth, of the Connecticut constitution) requires 2023 General Assembly approval in order to appear on the 2024 ballot. See also *Soto v. Connecticut General Assembly*, (Super. Ct. Docket No. HHD-CV22-5075490S), motion to dismiss granted December 15, 2022 (Noble, J.).
- 2 See, e.g., S. Reilly and S. Richey, *Ballot Question Readability and Roll-off: The Impact of Language Complexity*, 64 *Political Research Quarterly* 59 (2011).
- 3 See 87 Fed. Reg. 8640, 8663 (Feb. 15, 2022) (footnote and citation intentionally omitted).
- 4 See Ballotpedia, 2022 ballot measure readability scores, available at https://ballotpedia.org/Ballot_measure_readability_scores_2022 (last accessed April 18, 2023).
- 5 See, e.g., discussion in Blumrosen, A., *Constitutional Law—Equal Protection—Validity of State Restraints on Alien Ownership of Land*, 51 *Mich. L. Rev.* 1053, 1055 and n. 9 (1953) (generally discussing the constitutionality of state alien land laws and noting that Connecticut and six other states gave resident aliens the same real property ownership rights as citizens); cf. Turrentine, J., *Connecticut Restrictions on Ownership of Real Property by Nonresident Aliens*, 58 *Conn. B.J.* 325, 332-336 (1984) (concluding that it was “highly improbable that a constitutional attack on the overall validity of Connecticut’s common law restrictions [on ownership of land by nonresident aliens] would succeed”).
- 6 See NM Stat. Section 45-2-111(B). For a similar Connecticut statute, see *Conn. Gen. Stat. Section 47-7a* (enacted in 1985 and originally codified as Section 47-58a). See also Turrentine, J., *Connecticut Restrictions on Ownership of Real Property by Nonresident Aliens*, n. 5 *supra* (summarizing Connecticut common law and statutory restrictions

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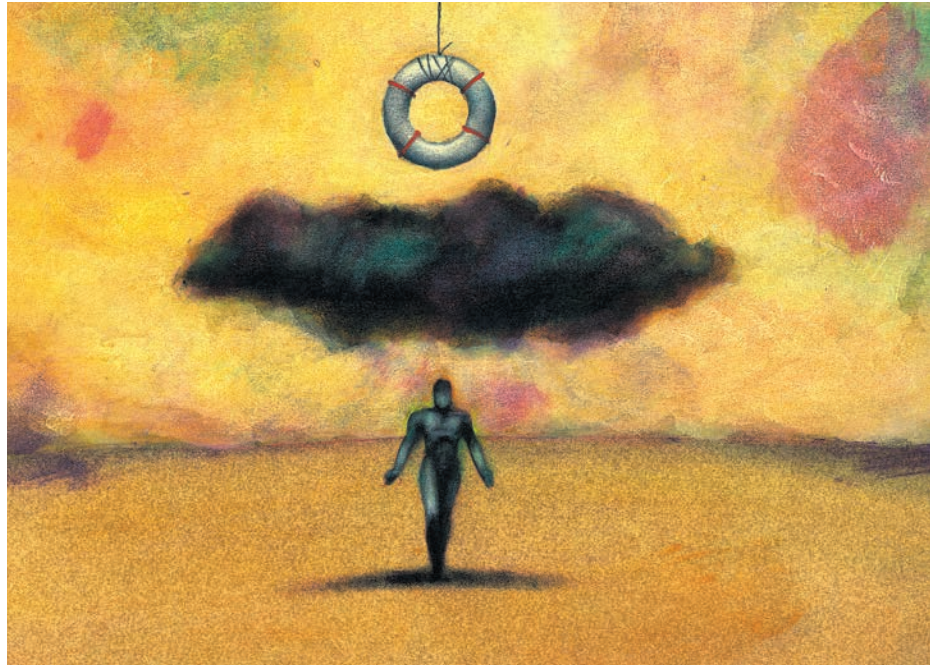
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Being the Change: Improving Well-Being in the Legal Profession

By TANYEE CHEUNG

At the Well-Being Summit this March, our keynote speaker, Heidi Alexander, President-Elect of The Institute for Well-Being in Law (IWIL), asked, “Can lawyers thrive?” Based on headlines, we might well doubt this is possible. An article in *The Washington Post*¹ from earlier this year cautioned readers that if they want to be happy, they shouldn’t be a lawyer, advising readers that practicing law is the most stressful occupation in the US. Somehow, we lawyers managed to get ourselves to a place where wielding a pen is more stressful than wielding a scalpel or a chainsaw. A May 2022 article from the *ABA Journal*² reported that 19 percent of respondents in a survey of lawyers and staffers from Biglaw contemplated suicide at some point in their careers, and research from the Nee Foundation ranked American lawyers 5th occupationally in the incidence of suicide. The harsh statistics surrounding well-being in the legal profession is not new and for many, the “statistics” are all too real. Studies show that lawyers have some of the highest rates of depression, anxiety, and substance abuse and if not suffering ourselves, the probability is high that we know someone who is.³

But the challenges we face are only half the story. There is great work being done across our country to help raise consciousness and provide tools to improve well-being throughout the legal community. In 2017, a National Task Force on Lawyer Well-Being was formed and in 2021, that task force became the Institute for Well-Being in Law (IWIL), a formal 501(c)(3) entity. These initiatives and state-



centric well-being advocates have fueled a movement toward well-being in law and have provided invaluable support to help bring greater education and awareness on how to attain greater well-being. IWIL assists states with important research and scholarship by supporting state and local research, aggregating research and survey data, and conducting longitudinal studies. Through conferences and content, IWIL is not only shining a light on the challenges in our community, they are also providing tools to overcome them. Their creation of Well-Being Week in Law asks the legal community to come together one week every year to highlight all the ways that we can bring greater wellness into our lives. Building on the foundational support of IWIL, states across the country are focusing on well-being and have used this week to feature some of the many options available to improve well-being in the legal community. I am happy to report that

Connecticut eagerly joined this movement and continues to bring well-being to the workplace.

It has been an exciting year, starting with the Connecticut Bar Association’s (CBA) first ever Well-Being Summit in March. During the inaugural summit, we were treated to an amazing presentation from Heidi Alexander, who stressed the importance of a two-pronged approach toward progress and thriving in the legal profession: individual action and structural solutions. Attendees were given concrete examples of ways to increase individual well-being through mindfulness practices, setting healthy boundaries, asking for help, developing healthy body habits such as good sleep and nutrition and cultivating healthy relationships. The Well-Being Summit gave attendees an opportunity to work their individual well-being muscles, offering meditation and sound healing

practices and allowing attendees to reconnect with old friends and colleagues. You can read more about the summit on page 12 of this issue.

For the second prong, we were reminded of the work that must be done on a systemic level if we hope to make meaningful impact. As change agents for institutions, those of us who can, must take action to foster well-being. One of the many ways we can champion the well-being movement is by providing a more open and supportive work environment. In doing so, we can help alleviate the greatest barrier to individuals seeking help for their mental health and substance abuse challenges and the stigma associated with these challenges. It is important to bear in mind that as lawyers, we are ill-equipped to deal with these pressing issues that face our profession. The first step as change agents and leaders is to recognize the need for training. There are experts that can provide partners and managers the awareness and skills they need to build a safer environment. Unfortunately, much of the legal profession remains steeped in a world where focus is placed on “billable hours” and “instant response times,” encouraging burn-out and turning a blind eye to the importance of a healthy workforce. By partnering with experts in the well-being space, partners and managers can learn how to lead with compassion, and to value their team members for their skill and worth rather than their billable hours or how quickly they respond to an email. We can equip mentors with the tools for greater well-being and empower them to share their experiences and connect through healthy activities such as exercise and meaningful contribution (e.g. habit for humanity). Organizations can consider workshops to help address unconscious bias, microaggressions, and civility in the workplace. The Well-being Summit provided powerful ideas on how we can take action to improve well-being in law.

May’s Well-Being in Law Week provided yet another opportunity for the CBA to showcase tools that can help us on our well-being journey. Attorneys had the opportunity to participate in various

activities aimed at promoting a healthier lifestyle, such as meditation, chi gong, and nutrition seminars. For those who may be struggling, David Williams, executive director of Connecticut’s Lawyers Concerned for Lawyers provided invaluable information on resources for attorneys in need of help.⁴ Attendees were also reminded that well-being is not only for individuals; well-being is needed in the workplace and there are significant benefits for having a healthy organization—better work product, higher retention, and greater teamwork, to name a few. For individuals, a healthier, more balanced lifestyle can lead to improved concentration, better decision-making, and increased efficiency at work. Attorneys who prioritize their well-being may find they can accomplish more in less time and with less stress. A focus on well-being can improve communication and interpersonal skills, leading to stronger relationships with colleagues and clients helping to boost morale and job satisfaction. Success can be possible, not in spite of self-care, but because of it.

I am buoyed by the strides being made in the legal community in the well-being arena and am hopeful that CBA events such as the Well-Being Summit and programming for Well-Being Week in Law inspire lawyers across Connecticut to exercise self-care not just at these events but on a continual basis. It can be as simple as taking a few minutes each day to disconnect from the world, going for a walk, or even just taking a power nap. Setting boundaries, taking breaks, developing meaningful relationships, and engaging in activities beyond our jobs that bring us joy and fulfillment is vital to improving the overall health of lawyers and the legal community as a whole. Focusing on well-being can have a profound impact on an attorney’s life, both professionally and personally. By taking care of ourselves, we can show up with clearer minds and greater energy. We can do better because we are better. We can show up as the best version of ourselves, for our family, for our clients, for our colleagues, and for ourselves. And isn’t that the true meaning of success? Not to be the best litigator, to close the biggest

deals, or have the most clients, but to be and live our best lives.

I hope dear reader that you had the opportunity to participate in the CBA well-being events we have had this year. If you have not or if you want more ways to help move you along on your own well-being journey, please consider reaching out and joining the CBA Well-Being Committee. Throughout the year, we will be engaging in community walks, holding book club sessions, crafting meditations, and inviting members to share their well-being experiences and learnings. The CBA Well-Being Committee is committed to helping lawyers on their well-being path. It is our hope that by hosting well-being events, we can remind our community that we are not alone in our struggles or in our desire to thrive and that there are resources available to us as we seek to overcome our struggles and thrive. I hope that you join us in this movement—by doing so we can come together and take steps to improve not only our own well-being but those of our legal brothers and sisters. ■



Tanyee Cheung is a debt finance partner at Finn Dixon & Herling LLP and is chair of her firm’s Wellness Committee and co-chair of the Connecticut Bar Association’s Wellbeing Committee. Attorney Cheung received her Master’s in applied positive psychology from the University of Pennsylvania.

NOTES

- 1 Kathleen Parker, “Want to be happy? Then don’t be a lawyer,” *The Washington Post*, January 20, 2023, www.washingtonpost.com/opinions/2023/01/20/jobs-happiness-lawyers-nature.
- 2 Debra Cassens Weiss, “About one-fifth of lawyers and staffers considered suicide at some point in their careers, new survey says,” *ABA Journal*, May 10, 2022, www.abajournal.com/news/article/19-of-surveyed-lawyers-and-staffers-said-they-considered-suicide-at-some-point-in-careers.
- 3 Michael S. Webb, “Dissenting from Death: Preventing Lawyer Suicide,” *American Bar Association*, November 24, 2021, www.americanbar.org/groups/senior_lawyers/publications/voice_of_experience/2021voice-of-experience-november-2021/dissenting-from-death-preventing-lawyer-suicide.
- 4 <https://lclct.org>

Reviewing the Connecticut Bar Association Diversity and Inclusion Strategic Plan

In March of 2015, the Connecticut Bar Association adopted its first Diversity and Inclusion Policy, approved unanimously by the CBA House of Delegates.¹ Later that year, the CBA adopted its first Diversity and Inclusion Strategic Plan, to take concrete steps to implement the newly adopted Policy. Over the past eight years, that Strategic Plan has guided the CBA's diversity, equity, and inclusion efforts.

During this time, the CBA has made significant progress in its diversity, equity, and inclusion efforts, with greater diversity of representation in all levels of leadership, important committees and task forces, and other organizational efforts. The CBA has maintained a dedicated director of diversity position within its staff, which has allowed for consistency and support for the CBA's varied diversity, equity, and inclusion efforts. The CBA has produced robust diversity, equity, and inclusion programming and initiatives, including the Constance Baker Motley Speaker Series on Racial Inequality; the Connecticut Legal Community Diversity and Inclusion Pledge and Plan, with over 40 signatory organizations; and our CBA Diversity, Equity, and Inclusion Summit, which has been held annually for the past seven years. The CBA has also focused on ensuring diversity in the pipeline to our profession, with its Future of the Legal Profession Scholars Program, and its annual LAW Camp. You may review the CBA's various diversity and inclusion efforts and programs by visiting ctbar.org/diversity.

The CBA Diversity, Equity, and Inclusion (DE&I) Committee is currently undertaking a review of the 2015 Diversity and Inclusion Strategic Plan to consider its effect over the past eight years and whether revisions are necessary as we look to the future of the CBA's diversity, equity, and inclusion efforts. As part of that process, the CBA DE&I Committee would welcome your comments and feedback on our current Diversity and Inclusion Strategic Plan, which is reprinted below. Has the current plan been effective in advancing the CBA's Diversity and Inclusion Policy and Constitutional purpose "to promote diversity within the Bar and the Bench"?² Should it be revised and/or updated for the future? What changes may be necessary as the CBA continues to advance diversity, equity, and inclusion within the Connecticut legal community? **Please review the CBA's current plan, consider the CBA's DE&I efforts and progress over the past eight years, and share your candid feedback to DEI@ctbar.org by the end of this bar year, on June 30.**

THE CBA STRATEGIC DIVERSITY AND INCLUSION PLAN

I. OBJECTIVES OF THE DIVERSITY AND INCLUSION PLAN

This Plan sets forth numerous objectives and broad goals. In addition, certain implementation recommendations are set forth as specific actions the CBA will undertake in the immediate future.

II. ELEMENTS OF THE CBA DIVERSITY AND INCLUSION PLAN

A. The President-Elect or the Vice President of the CBA shall serve as a chair of the Committee on Diversity and Inclusion for the purposes of implementing and ensuring compliance with this Diversity and Inclusion Plan.

B. Encourage wide dissemination of the Diversity and Inclusion Plan within the CBA, and make the Plan publicly available including:

1. Membership-wide dissemination of the Diversity and Inclusion Plan after adoption, with a letter from the CBA President, President-Elect, Vice President and CBA Executive Director.
2. Creation of a diversity page on the CBA website which will include the CBA's Diversity and Inclusion Policy, this Diversity and Inclusion Plan, the biennial Diversity Reports and other relevant information on the CBA's diversity and inclusion efforts.
3. Distribution of the CBA Diversity and Inclusion Plan and the URL for the Plan on the website to all new CBA members.
4. Make the CBA Diversity and Inclusion Plan reasonably accessible to members with disabilities or visual/language barriers.
5. Make reference to the CBA Diversity and Inclusion Plan in appropriate member solicitation materials.

C. Promote and track diversity within the CBA's leadership, including:

1. CBA officers (President, President-Elect, Vice President, Immediate Past President, Secretary, Treasurer and Assistant Secretary-Treasurer).

2. House of Delegates.
3. Board of Governors.
4. All sections, committees, task forces, commissions, and institutes and the presidentially appointed leadership positions for these groups.
5. It is understood that implementation of this goal will be subject to the then-current provisions of the Constitution and applicable bylaws and rules of procedure, and that said governing documents may require modification to implement the provisions of this plan.

ACTION RECOMMENDATION 1

The CBA shall designate the Executive Director with the assistance of the Committee on Diversity and Inclusion to provide oversight of the implementation of this Diversity and Inclusion Plan. The Executive Director with the assistance of the Committee on Diversity and Inclusion will assess the current levels of diversity within the CBA and prepare a report as required by this Plan. After the initial assessment, a survey and assessment will be conducted every two years to gauge the increased diversity and inclusion within each entity (the biennial CBA Diversity Report).

D. Promote and track diversity and inclusion in the leadership nominating and leadership development processes throughout the CBA:

1. Encourage diversity and inclusion as an emphasis in all leadership nominating processes, including diversity among the nominating decision-makers.
2. Encourage diversity and inclusion as a factor in the presidential election process.
3. Encourage the CBA Nomination Committee, Sections and Committees, and other CBA entities to emphasize diversity and inclusion in leadership training and development programs.
4. Build diversity and inclusion-related sessions into committee and section conferences, leadership training efforts and the CBA Legal Conference.

ACTION RECOMMENDATION 2

The CBA shall review the composition of the House of Delegates and Board of Governors to ensure that the Diversity and Inclusion Policy is being executed.

E. Each section will adopt and submit to the Committee on Diversity and Inclusion specific diversity and inclusion plans that are consistent with the CBA Diversity and Inclusion Policy.

1. Require biennial review and updating of Section diversity and inclusion plans.
2. Recommend designation of Section diversity liaison or other Section leader with responsibility for ensuring implementation of Section diversity and inclusion plans and

to interact with the Executive Director and the Committee on Diversity and Inclusion.

3. Broad dissemination of CBA Section diversity and inclusion plans.

F. Promote diversity and inclusion in CBA membership

1. CBA marketing and membership solicitation materials should be inclusive and welcoming to diverse populations.
2. CBA entities are encouraged to engage in active marketing, recruitment and outreach efforts to organizations, legal communities, and law schools to promote diversity and inclusion.
3. The CBA will reasonably support affinity bar associations and other organizations dedicated to the promotion of diversity and inclusion in the Connecticut legal community.
4. The CBA will continue to explore additional membership campaigns and incentives designed to enhance and encourage a diverse and inclusive membership.

ACTION RECOMMENDATION 3

The CBA shall create an award or other form of recognition to honor on an annual basis the CBA Section demonstrating outstanding leadership in diversity and inclusion related membership, leadership initiatives, and other diversity and inclusion efforts.

G. Promote diversity and inclusion in continuing legal education and other programming, both live and virtual.

1. Encourage CBA entities to continue to offer and increase opportunities to improve diversity and inclusion among speakers, moderators, and attendees.
2. Ensure program content appeals to diverse communities, consistent with sponsoring CBA entities' subject matter specialties.
3. Encourage CBA entities to explore opportunities with affinity bars and other organizations that can contribute to diversity and inclusion.
4. Ensure that program venues are accessible to participants with disabilities, or visual/language barriers.
5. Encourage CBA entities to use program locations and venues, as well as social media, to enhance opportunities for participation by diverse lawyers and law students.

ACTION RECOMMENDATION 4

The CBA shall encourage all CBA Entities to increase opportunities for diverse attorneys to participate actively in programming.

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Parsing Public Policy

By CHARLES D. RAY



In a true “at will” employment relationship, an employer has the ability to fire an employee at any time, for any reason, or for no reason at all. On the flip side, an employee is free to leave their employment under the same terms. And while an employee’s ability to leave a job has remained largely intact over the years, an employer’s ability to fire employees has been curtailed to a degree, largely by way of statutory prohibitions, but also by way of a judicially created public policy exception to the at will employment doctrine.

Under the exception, first enunciated by the Supreme Court in *Sheets v. Teddy’s Frosted Foods, Inc.*, 179 Conn. 471 (1980),

an employee is able to state a claim for wrongful discharge if they can prove a “demonstrably improper reason for dismissal, a reason whose impropriety is derived from some important violation of public policy.” *Id.* at 475. Important public policies can derive from statutes, constitutional provisions, or judicial decisions. But the exception is a narrow one, and the public policy relied on is supposed to be one that has been “clearly articulated.” In the case of a statute, the public policy should be no broader “than that represented in the statute.” And a claim based on a statute will fail if a plaintiff is unable to establish a material issue of fact as to whether the defendant actually violated the statute in question.

The Supreme Court applied these principles in *Dunn v. Northeast Helicopters Flight Services, LLC*, SC 20626 (March 21, 2023). Mr. Dunn’s claim of public policy centered on General Statutes § 31-73, a reasonably old piece of convoluted writing, the aim of which is to prevent employers from exacting monetary gain from employees in return for employment or continued employment. Based on Mr. Dunn’s allegations, the operative language is in § 31-73(b) and provides that “[n]o employer...shall, directly or indirectly, demand, request, receive or exact any...sum of money...from any person...upon the representation or the understanding that such...sum of money...is necessary to secure employment or continue in employ-

ment.” Violations carry the possibility of both a fine and imprisonment.

Mr. Dunn is a helicopter flight instructor and began working for the defendant in 2006. During the course of his employment he was promoted to chief pilot and held that position for about eleven years. No contract governed the employment relationship. At some point, Mr. Dunn discussed with the defendant’s owner (Mr. Boulette) the possibility of Mr. Dunn becoming an examiner for the Federal Aviation Administration. As an FAA examiner, Mr. Dunn would be able to earn fees based on his testing of student pilots.

A position for an FAA examiner opened in the region in 2017. Mr. Dunn claims that Mr. Boulette urged him to pursue the opportunity. In order to do so, however, Mr. Dunn needed to attend training in Oklahoma. He approached Mr. Boulette about a loan to cover costs and Mr. Boulette agreed, provided that the loan be repaid from Mr. Dunn’s future examination fees and that Mr. Dunn also split any additional examination fees on a 50/50 basis. Although Mr. Boulette thought Mr. Dunn had agreed to the repayment and fee split deal, in fact, Mr. Dunn paid his own Oklahoma expenses. When he informed Mr. Boulette’s wife (an employee) that he would not agree to split future FAA examination fees, Mr. Dunn was told to clean out his desk and that he was no longer an employee.

Both sides moved for summary judgment. The trial court granted the defendant’s motion, concluding that the evidence, even construed in favor of the plaintiff, did not establish a violation of § 31-73. The Appellate Court agreed with this conclusion, and added that § 31-73 was inapplicable anyway, because the fee-sharing arrangement requested by the defendant could not be attributed to the plaintiff’s employment relationship with the defendant. Thus, at the Supreme Court, the issues were whether the statute applied at

all and, if it did, whether the plaintiff’s evidence was sufficient to make it past summary judgment.

The majority (Justice McDonald for himself and Justices D’Auria and Ecker) answered “yes” to both questions. In doing so, Justice McDonald first noted that because it is a remedial statute, § 31-73 should be construed in a manner that furthers that remedial purpose. A key part of the majority’s analysis stems from the fact that the statute prohibits an employer from either “directly or indirectly” demanding or requesting a sum of money for an employee or prospective employee. The inclusion of the phrase “evidences the legislature’s contemplation of both explicit communications—such as overt threats or demands—as well as interactions of a more tacit or unspoken nature—such as insinuated or implicit demands or requests.”

In terms of the applicability of the statute, the majority first concluded that the phrase “sum of money” was unambiguous and broad, and can include “earnings or other money, whether the source is related or unrelated to the employment relationship at issue.” Next, the majority rejected the defendant’s contention, adopted by the Appellate Court, which the statute does not apply to private business dealings between parties, even when an employment relationship exists. For the majority, such a narrow construction flies in the face of the broad language used by the legislature. “In short, the statute is aimed at preventing an employer from exercising authority over an employee to require that employee to turn over funds that belong to the employee, regardless of how those funds are obtained by the employee.”

The majority next turned to the requirement that the plaintiff prove that the request for the fee sharing was made “upon the representation or the understanding that such...sum of money...is necessary

to secure employment or continue in employment.” Here, the majority rejected the defendant’s claim that the statute requires a mutual understanding that the plaintiff agreeing to the fee-sharing proposal was a condition to his continued employment. Based on the common understanding of the term “understanding,” the majority held that § 31-73 permits either “a mutual understanding between the employer and the employee or a unilateral understanding on the part of the employer.” As to the term “representation,” the majority relies on the “directly or indirectly” language to conclude that the statute is not limited to only explicit threats by an employer. Instead, where an employer harbors a unilateral understanding “and acts on that understanding by discharging the employee for his refusal, which conduct is in violation of the statute, regardless of whether the understanding was communicated to the employee.”

Having interpreted the statute as it did, the majority had little trouble concluding that Mr. Dunn’s evidence was sufficient to overcome the defendant’s summary judgment motion. For the dissent (Justice Mullins for himself and Chief Justice Robinson), the statute simply did not apply, “because any request or demand for future FAA examination fees concerned unrealized funds from a proposed future business venture between the parties.” In addition, Justice Mullins notes that the real issue is “whether the employer leveraged employment [either prospective or continued] to exact a sum of money. That did not happen under the facts of this case.”

All in all, *Dunn* best represents yet another case involving the nuances and varied meanings of language, with nary a ball or strike in sight. ■



Charles D. Ray is a partner at McCarter & English LLP, in Hartford. He clerked for Justice David M. Shea during the Supreme Court’s 1989–

1990 term and appears before the Court on a regular basis.

■ Any views expressed herein are the personal views of the author.

Redefining Personal Narratives

By CHRISTOPHER A. KLEPPS

Everyone has a personal story or narrative about who they are. Those stories aren't limited to past events. Most people also have a story about their future and who they will become. For some reading this, your story may entail becoming partner at a large firm, opening up and building a firm of your own, or becoming general counsel of a corporation. Writing our future stories helps us take the proper steps to achieve an ultimate goal. However, personal stories may also limit us and hold us down. As any attorney knows, the further we are into a piece of writing, the harder it is to rewrite it. Stories therefore can become obstacles to professional and personal growth.

I know this firsthand. Here's my story.

I grew up in Bristol, CT. I didn't grow up wanting to be a lawyer. In high school I gravitated toward English classes because I enjoyed writing and critical thinking and did not like math. When I graduated from college, I applied to law school because I honestly didn't know what else to do with an English degree, but also because being a lawyer seemed interesting and would hopefully pay well.

I did well at Quinnipiac School of Law, but I had no idea what kind of lawyer I wanted to be. In the fall of my 2L year, I applied to several law firms for a summer associate position because faculty told me that I should. I accepted a summer position at a Hartford law firm because I received an offer. It was there that I discovered I wanted to be a litigator. I accepted a position at that same firm after graduation because that's where I spent my 2L summer.

Christopher A. Klepps is the chair of the Connecticut Bar Association Young Lawyers Section for the 2023-2023 bar year. Attorney Klepps is senior counsel at The Hartford where he provides legal advice regarding coverage issues on a wide variety of claims, as well as manages litigation involving The Hartford throughout the country.



As a young associate, the story I had written was to work hard and make partner in seven years. It's what I think I wanted at the time, but it's also what people around me expected. But my story doesn't end as a partner in private practice. Here's why.

I was sticking to my personal narrative as a fifth-year associate. Reviews were good, the people who mattered seemed to like me, and I was hitting my billable hour targets. I always *hated* billable hours, but they were manageable. That changed in August 2017. My wife and I were expecting our first child. I was also stressed at work. One day, while sitting in my office checking emails, my heart abruptly jumped to what felt like 200 beats-per-minute. I thought for a terrifying moment that I was dying, but later discovered I had experienced my first panic attack. Although my heart rate soon returned to normal, I wasn't ever able to fully shed the anxiety that episode produced. Working long hours to hit a billable hour target suddenly became a lot harder.

Billing hours became harder still after my son was born in March 2018. The value proposition had shifted. I wanted to work on interesting and challenging matters but without an arbitrary hour target that reset every year.

In early 2019 I was encouraged to apply for partner later that year. That's when I realized I needed to find a job outside of private practice. I knew I couldn't continue on the same trajectory, and making a career change would be harder if I made partner. My job was interesting and intellectually challenging, but I wanted better (for me) work/life balance. I accepted a job at The Hartford, where I currently have all of those things.

That day in August 2017 was not part of the story that I had written as a first-year associate, but I doggedly stuck to the script for over two years. I kept telling myself that I would figure it out and that everything would fall into place. But there's a fine line between resilience and stubborn

denial. Making a career change is also difficult and scary. And so I chose the status quo for too long, avoiding a major rewrite.

Goals are important for any person or organization. But it is hazardous to persistently stick to your predefined story. I allowed my story to act as an obstacle rather than as a guiding principle for far too long. It's difficult, but I am constantly working toward being flexible in the face of abrupt change, and also not shying away from being the force that changes the status quo.

My message to young attorneys is this: don't stick to a script simply because it's what you wanted at a prior point in your life or what others want for you. Be flexible, constantly reassess, understand that who you are now is a different person than who you used to be, and don't be afraid to take a leap if deep down you know that the right decision is to jump. ■



“Be flexible, constantly reassess, understand that who you are now is a different person than who you used to be, and don't be afraid to take a leap if deep down you know that the right decision is to jump.”

Image credit: Tim Teebken/Photodisc/GettyImage



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ACTION RECOMMENDATION 5

The CBA shall present at least one CLE program focused on diversity and inclusion at the Connecticut Legal Conference.

H. The CBA shall encourage diversity and inclusion in CBA publications (hard copy and electronic).

1. Implement strategic actions to increase diversity and inclusion in CBA members responsible for editorial policy and content of publications.
2. Ensure the inclusion of content of publications relating to the Diversity and Inclusion Policy.

I. The CBA shall encourage diversity and inclusion in CBA events (e.g. annual awards dinners, luncheons, receptions, etc.) including:

1. Diversity of planning and award nominations committees.
2. Diversity in speakers.
3. Diversity of award recipients.

J. Develop tracking and reporting of progress in diversity and inclusion efforts, including:

1. Encourage robust participation and tracking by CBA entities, using the resources and support provided by the Committee on Diversity and Inclusion and encourage greater promotion of the reporting process by CBA leadership and accountability by entities that require significant improvement in their diversity and inclusion efforts.
2. Provide widespread dissemination of a biennial CBA Diversity Report to CBA leadership and to all CBA entities and through posting on the CBA website.

K. Encourage CBA entities to develop and enhance mentoring of young lawyers and law students, and are designed to advance diversity and inclusion within these CBA entities.**II. PROMOTION OF THE CBA DIVERSITY AND INCLUSION PLAN ACCOMPLISHMENTS**

The CBA Diversity and Inclusion Plan accomplishments shall be promoted through various means, including the following:

- A. Develop and prominently post on the CBA website information about successful diversity and inclusion programs and activities.
- B. Contribute content to pertinent legal and diversity publications to showcase CBA diversity and inclusion accomplishments.

ACTION RECOMMENDATION 6

The CBA shall actively promote in all possible media, diversity and inclusion advancements.

Thank you for reviewing the CBA Diversity and Inclusion Strategic Plan. Please send your comments to DEI@ctbar.org by June 30, 2023 so that they may be timely reviewed and considered as the CBA DE&I Committee undertakes its review of the CBA Diversity and Inclusion Strategic Plan. Your involvement and input are crucial in this process, and we thank you for your thoughtful consideration. ■

NOTES

- 1 The CBA Diversity and Inclusion Policy, adopted unanimously by the House of Delegates on March 23, 2015, provides as follows:

The Connecticut Bar Association is committed to diversity in its membership, officers, staff, House of Delegates, Board of Governors, executive committee, sections and committees, and their respective leaders. Diversity is an inclusive concept encompassing gender, gender identity, race, color, ethnic origin, national origin, religion, sexual orientation, age, and disability.

We are a richer and more effective association because of diversity, as it increases our association's strengths, capabilities, and adaptability. Through increased diversity, our organization can more effectively address member and societal needs with the varied perspectives, experiences, knowledge, information, and understanding inherent in a diverse relationship.

- 2 CBA Constitution, Article II (Purpose).

Double Negative

Continued from page 30

on real property ownership by nonresident aliens and supporting enactment of Connecticut legislation to repeal such restrictions; the article observed that as of its writing "Connecticut [was] one of only four States that still recognize[d] this ancient restriction").

7 See Constitutional Amendment 4 appearing on the 2002 New Mexico general election ballot, summarized at www.nmlegis.gov/Publications/New_Mexico_State_Government/Constitutional_Amendment/Constitutional_Amendments_2002.pdf (Last accessed April 18, 2023).

8 See, e.g., summary of Amendment 11 appearing on the 2018 Florida general election ballot contained at www.floridabar.org/the-florida-bar-journal/amendment-11-property-rights-removal-of-obsolete-provision-crimi-

[nal-statutes/](http://www.floridabar.org/the-florida-bar-journal-statutes/) (Last accessed April 18, 2023).

9 See E. Delcorto, Repeal of alien land law long overdue, some say, *Naples Daily News* (Oct. 24, 2008), copy available at <https://archive.naplesnews.com/news/politics/elections/repeal-of-alien-land-law-long-overdue-some-say-ep-401019129-344350812.html> (Last accessed April 18, 2023).

10 See D. Cave, "In Florida, An Initiative Intended to End Bias is Killed," *New York Times* (Nov. 5, 2008), copy available at www.nytimes.com/2008/11/06/us/06florida.html (Last accessed April 18, 2023).

11 The 2018 Florida proposal (known as Amendment 11) bundled the proposed alien land law repeal with amendments to remove an obsolete high-speed rail provision and to repeal a prohibition against legislative amendments to criminal statutes applying to prosecutions or punishments for crimes committed

before such amendments. See also *Detzner v. Anstead*, 256 So.3d 820 (Fla. 2018) (per curiam) (rejecting challenges to (*inter alia*) Amendment 11 and holding that the bundling of three unrelated proposals in Amendment 11 and the ballot language summarizing Amendment 11 did not cause Amendment 11 to be defective; the Florida Supreme Court therefore ordered Amendment 11 to appear on the November 2018 general election ballot). All three of these constitutional amendments were proposed by the Florida Constitution Revision Commission. (See n. 8 *supra*.) Ballotpedia scored the title and summary of Amendment 11 at grade levels 16 and 15, respectively. See [https://ballotpedia.org/Florida_Amendment_11_Repeal_Prohibition_on_Aliens_Property_Ownership_Delete_Obsolete_Provision_on_High-Speed_Rail_and_Repeal_of_Criminal_Statutes%27_Effect_on_Prosecution_Amendment_\(2018\)](https://ballotpedia.org/Florida_Amendment_11_Repeal_Prohibition_on_Aliens_Property_Ownership_Delete_Obsolete_Provision_on_High-Speed_Rail_and_Repeal_of_Criminal_Statutes%27_Effect_on_Prosecution_Amendment_(2018)) (Last accessed April 18, 2023).

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