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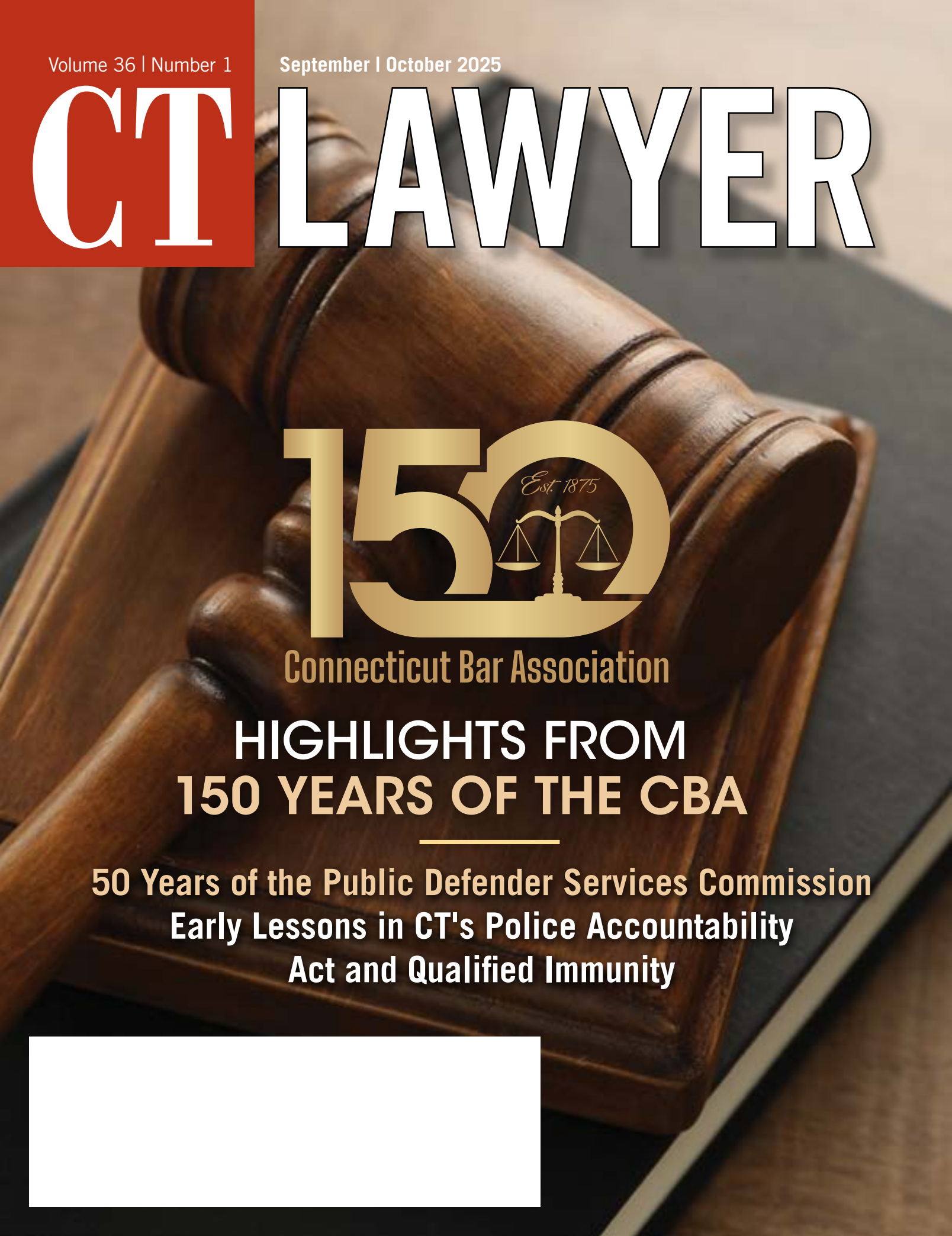
CT LAWYER



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CT LAWYER

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COLUMNS

DEPARTMENTS

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Building Community in Our 150th Year

By EMILY A. GIANQUINTO

Emily A. Gianquinto is the CBA's 102nd 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.

During my installation speech at the Connecticut Legal Conference in June, I discussed my accidental theme for my presidential bar year: Community. With the bar year now well underway, I want to use my first President's Message to talk a little more about what that theme means to me and how it will shape our association's 150th year.

First, I'd like to recognize an important force behind our series of anniversary events: Our new executive director, Lina Lee. When she stepped into her new role in January, she almost immediately focused in on the significance of our association's birthday. I was only able to announce a calendar of events at the CLC in June because of Lina's leadership. I am grateful every day to have her steering the ship in Meriden, and I look forward to working with her and our whole staff this year.

The CBA is a community I've grown up in. I joined and started attending Young Lawyers Section events when I was just a baby lawyer, in my first year out of law school. I got more involved, joined the YLS Executive Committee, and never left. Through job changes, marriage, and having children, the CBA has remained a constant and important presence in my life. The connections I've made here—with veterans of the bar, judges on the state and federal benches, young lawyers, and even law students—have truly helped shape the person and the lawyer I am today.

Those connections, and that sense of community, are to me the biggest value of bar association membership. And this year, I plan to work hard to make sure that our members are reminded of that value by providing more ways to connect with this community. At our 150th Anniversary Gala on October 16, we will honor not just our association's history but also our entire bar community at a black-tie celebration that promises to be a great night. If you don't have your ticket by the time this article is published, hurry up! You need time to make sure that tuxedo fits (or to rent one) or to find your gown. It's not every day we throw a fancy party, and our planning committee has been working overtime to make sure this is a fun evening. I promise it will not be a program-heavy event; it's truly intended to be a good party with a few hundred of your closest friends reflecting on a shared history and raising money to support our access to justice programs. Anniversaries like this don't happen often, so don't miss it!

We're also encouraging members to connect with each other while serving their local communities, with coordinated events aimed at helping members meet a pledge of providing 150 minutes of community service. The first events just took place, and planning is underway for the next batch. If you have connections to a local nonprofit, school, house of worship, civic group, or other community organization, help us recruit members to volunteer to assist them. Bonus points if it's an event where members can bring family and friends to help out, too. I'd love to see this effort grow and be sustained beyond this bar year.

Connecticut is not a big state, and the CBA is not one of the largest bar associations around. But in our 150 years, the CBA has had an outsized impact on our nation's legal community. Our members organized the meeting that led to the formation of the American Bar Association (ABA). Our association played a key role in lobbying for the federal public defender system and in our own statewide public defender program, one of the first in the nation. Our *Connecticut Bar Journal* was the first of its kind. Our "Junior Bar"—now known as the Young Lawyers Section—was so successful that it repeatedly won awards from the ABA in the early years after its formation.

We continue to play a significant role nationally through our strong and influential delegation to the ABA's House of Delegates (HOD). One of the perks of being a CBA officer is having the opportunity to serve as part of that delegation and attend the ABA's annual and midyear meetings. I previously served as a member of the Connecticut delegation more than a decade ago as the CBA's young lawyer delegate to the ABA HOD, and it is a pleasure to be back again. Our ABA delegation is a fantastic, committed group of people who have worked hard for many years to develop and maintain Connecticut's influence at a national level.

"Those connections, and that sense of community, are to me the biggest value of bar association membership. And this year, I plan to work hard to make sure that our members are reminded of that value by providing more ways to connect with this community."

I return from every ABA meeting inspired by what other bar associations are doing and with a new appreciation for just how much our association manages to accomplish each year. Those accomplishments include our robust CLE programming on cutting-edge topics, pro bono initiatives that serve larger populations each year, a DEI commitment that is about to turn 10 years old and has helped to literally change the face of our bar leadership, a very active Civics Education Committee that manages several thriving mock trial competitions, a strong partnership with both our state and federal benches, and strong advocacy concerning legislation impacting our profession.

But these national bar association gatherings also never fail to remind me that we can—and in some cases, must—do more. Bar associations of all sizes are doing important work all across our country, and recent threats to the rule of law and to the physical safety of our judiciary have laid bare the need for lawyers to join together to speak up and to do so together. At the August annual meeting in Toronto, I attended a session presented by the United States Holocaust Museum about the legal mechanisms used by the Nazi party to advance its agenda in Germany. It was a sobering reminder that our legal system can, without proper safeguarding, be compromised. Our system doesn't work unless the public trusts and has confidence in its ability to apply the law fairly. I believe that truth is why our association's purpose is first "to promote the public interest through the advancement of justice and the protection of liberty."

Immediate Past President Tim Shearin did much to advance that purpose last year, making sure that the CBA spoke out loudly and often on the need to protect our legal system. I intend to do the same, and have been particularly inspired by the efforts of one of our sister bar associations on this front. As a result, our Rule of Law Committee is collaborating with the CT Lawyer Advisory Committee to put together a special issue of our magazine featuring people from across our state talking about what the rule of law means to them. We hope to collect short essays from not only lawyers and judges, but from educators, legislators, community activists, historians, students, and others within the Connecticut community, all giving their own perspectives on the importance of protecting our system of justice. If you'd like to be part of this effort, or want to suggest someone who should be invited to contribute, please reach out to me or to our staff.

And as always, if you have questions about anything we're working on, don't hesitate to call me. We are a membership organization, and your feedback truly does matter.

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CBA Hosts 2025 Law Camp in Hartford for High School Students

During the week of July 7, the Connecticut Bar Association (CBA) hosted its annual Law Camp in Hartford for a group of Connecticut high school students. Law Camp exposes high school students to the legal profession and teaches them critical and analytical thinking to help them succeed in their educational and professional careers.

During the weeklong camp, the students heard presentations and participated in activities with numerous CBA member attorneys and judges who volunteered to participate. The camp's events were held at the University of Connecticut (UConn) School of Law, the Hartford Superior Courthouse, the Connecticut Supreme Court, and the law offices of Pullman & Comley LLC, McCarter & English LLP, Reid & Reige PC, Day Pitney LLP, Shipman & Goodwin LLP, and Robinson & Cole LLP.

The week began with the campers arriving at UConn School of Law for a welcome breakfast and reception, where they heard remarks from CBA President Emily A. Gianquinto and UConn School of Law Dean Eboni S. Nelson. "Take advantage of the opportunities you will have this week to meet with practicing attorneys and judges and others who can provide you with insight on applying to and attending law school, being a lawyer, and serving in other roles in our legal system," stated President Gianquinto. "We are all volunteering our time with this program because we know learning about our legal system is important. We know that you are important to ensuring that our legal system and the rule of law hold strong in the future."

Throughout the first day of camp, the participating students learned about the legal profession and heard from attorneys, law students, and career advisors on how to pursue and achieve a successful career in law and the different communities and groups, such as bar associations, that support attorneys. They also learned about the Connecticut court system and the processes and procedures

The Connecticut high school students who attended the 2025 Law Camp gathered at the Connecticut Supreme Court for the final round of the camp's mock trial competition.

Throughout the camp, the students participated in several educational sessions led by Connecticut Bar Association members that taught them about court procedures and the roles of attorneys, judges, and juries.

During breakout sessions, six different teams of students prepared to compete in the camp's mock trial competition.

involved in court proceedings.

On Tuesday and Wednesday, the students continued to learn about the different roles that lawyers, judges, and juries play in the courtroom; developing opening and closing statements; making effective use of documents and exhibits; and conducting direct and cross examinations. They were also split into six teams that began working with coaches to prepare for the camp's mock trial competition.

On Thursday, the campers experienced the legal system firsthand during a visit to Hartford Superior Court. There, they observed a live jury trial and received lessons on the principles of advocacy and courtroom etiquette. Later in the day, each team visited one of several downtown law firms for lunch before engaging in a final round of mock trial preparation, receiving mentorship and feedback from practicing attorneys at the firms.

The week culminated on Friday with the mock trial competition, with preliminary rounds held at the Hartford Superior Court. Superior Court Judges Nuala Droney, Matthew Gordon, and Neeta Vatti volunteered to adjudicate the mock trial preliminary round and provide feedback to campers. The top two teams advanced to argue their case before Connecticut Appellate Court Judge Robin L. Wilson and CBA Civics Education Committee Co-Chair Jonathan Weiner at the Connecticut Supreme Court. Following the final round, Judge Wilson provided remarks to the campers, praising them for their professionalism and impressive work throughout the week. Prior to the end of camp, the students were able to enjoy refreshments and celebrate with a closing reception held at UConn School of Law.

Reflecting on the week, one of the campers, Yulisa Ma, remarked, "This is such an amazing opportunity … and I got to meet so many incredible peers and attorneys. This was so fun and so inspiring, definitely a highlight of my summer! I truly enjoyed every day of camp and learned so much throughout the experience. Additionally, one of the camp's mock trial coaches, Aly Gallo, noted, "I had an absolutely amazing time at camp. I was beyond proud of my group for making it to the Finals - getting to conduct the trial in the Supreme Court with my campers was a truly unforgettable experience." ▯

In the final round of the mock trial competition two teams of campers argued their case before Connecticut Appellate Court Judge Robin L. Wilson and CBA Civics Education Committee Co-Chair Jonathan Weiner.

Conversations with Campers

We interviewed three campers from the winning teams of the Law Camp Mock Trial Competition. Here's some of what they had to say.

Emma Imanov

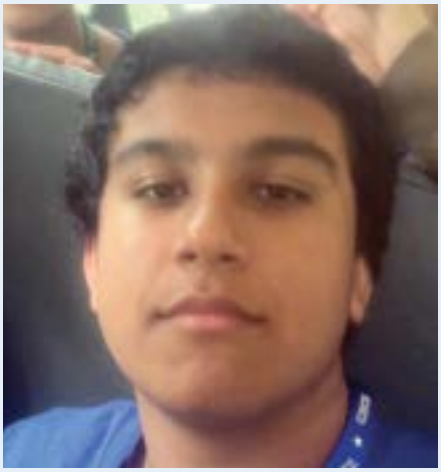
Rising Junior, Amity Regional High School

- One student from Law Camp is already changing the legal profession for the better. At the age of 15, Emma Imanov, from Amity Regional High School, started a new organization, Young Female Lawyers (YFL). YFL is "dedicated to empowering and supporting young female high school students aspiring to pursue a career in law" through "engaging workshops, impactful mentorship programs…and enlightening law panels." Emma's organization is rapidly growing and already has about ten different chapters in the U.S. and abroad with a website, social media, newsletter, and in-person events. We asked Emma about her organization and her experiences with Law Camp.
- Emma describes herself as someone who wants to use her voice to "help others and create change."
- On what stood out to her about Law Camp: Emma mentioned she enjoyed "getting to see the legal system in action" by observing a jury trial, which "brought everything they were learning to life." She also loved learning about a variety of legal careers and commented that "before camp, from TV and media," she had mostly only heard "about lawyers in suits in courts;" she was happy to learn about many different paths lawyers can take "while still making an impact."
- On a special memory from Law Camp, Emma was "inspired" by "all the speakers" at camp; in particular, seeing women in roles like President of the CBA and Appellate Judge "excited her" and made her be able to see herself and her peers in similar roles in the future.

Laura Esguerra

Rising Senior, Southington High School

- On why she wants to be a lawyer: "I come from a Hispanic household where there's no one who is a lawyer in my family. Since I was young, I have had that ambition."
- On the mock trial experience: "[H]onestly, I had a great time doing it. I loved my team. … When we heard that we were moving on to the finals, it was super exciting and super, super intense at the same time. … Being in the Supreme Court, speaking in front of all of these people was a very surreal experience that not a lot of people get."
- Advice for future campers: "Just go for it. That's my biggest piece of advice … You make friends and I think that's also what it's about too. … I think that this is also a great experience to meet new people, put yourself out there, and get out of your comfort zone. It's just such a fun way to expose yourself to new things and just see what could happen."



Aniket Srivastav

Rising Senior, Glastonbury High School

- On why he applied to Law Camp: "When I saw that there was a camp being hosted at UConn Law and it's completely accessible and it's here in Connecticut, I was really happy. I applied almost instantly when I found it."
- On what he learned from Law Camp: "I learned a lot about the process of being a lawyer and the various things about the court that I had no idea about. The information sessions in the first few days offer a lot of information that comes at you pretty quickly. … The amount of preparation we did for the mock trial also changed how much I respect lawyers now."
- On a lasting memory from Law Camp: "When my team came up with our catch phrase and theme for our case. … We were told to make our theme catchy. That's something we learned in the information sessions. One of the immediate suggestions was 'Sam Snape snaps.' We wouldn't stop laughing whenever someone said it because we all thought it was so cheesy at the time. But then we grew into it. We actually did make our entire case around that, those three words, and it worked out for us."

CBA DEI Committee Celebrates Judge Cecil Thomas at Final Meeting of the Bar Year

On June 30, members of the CBA Diversity, Equity, and Inclusion Committee gathered at Café Amici in Hamden for their final meeting of the 2024-2025 bar year. During the meeting, past CBA President Judge Cecil J. Thomas announced that he will be stepping down as a DEI committee co-chair, after spending 11 years leading and driving the CBA's DEI efforts. He shared that he intends to give space for new leaders to bring new ideas and further the growth of the committee's efforts.

Past CBA Presidents Monte Frank and the Hon. Karen DeMeola commended Judge Thomas for his many years of outstanding service. 2025-2026 CBA President Emily Gianquinto, Immediate Past President James T. (Tim) Shearin, and Executive Director Lina Lee also attended the meeting to show their support for Judge Thomas' and the committee's efforts.

(L to R) Back row: CBA Immediate Past President James T. (Tim) Shearin, CBA President Emily A.Gianquinto, Alix Simonetti, Josh Taylor, Ron Houde, David Herz, David Williams, CBA past President Monte Frank, CBA past President Hon. Karen DeMeola, Verna Lilburn, Lina Lee. Second row: Olta Shkembi, Jasjeet Sahani, Mallori Thompson, Kean Zimmerman, CBA past President Hon. Cecil J. Thomas. Front row: Lisa Moyles, Tim Tomcho, Tina Mohr, CBA Director of Access to Justice Initiatives and Interim Director of Diversity, Equity, and Inclusion Jenn Shukla

YLS Leaders Attend 2025 Annual Leadership Retreat and Recognize Members for Service

The Connecticut Bar Association's Young Lawyers Section (YLS) hosted its annual leadership retreat on August 8-9 at Foxwoods Casino in Ledyard. The YLS Executive Committee holds this event each summer to familiarize new members of the committee with the duties of their leadership roles and to present awards to members of the committee for their service during the previous bar year.

(L to R) YLS Secretary Olivia L. Benson; YLS Treasurer Jermaine A. Brookshire, Jr.; YLS Chair Paige M. Vaillancourt; CBA Assistant Secretary-Treasurer Vianca T. Malick; and YLS Chair-Elect Sara Bonaiuto

The retreat began with welcome remarks from YLS Chair Paige M. Vaillancourt and CBA Vice President Rowena A. Moffett, who introduced herself to the members of the YLS Executive Committee. "My goal here is to welcome you, to thank you, and to make sure you know how valued the young lawyers are to the CBA," stated Vice President Moffett. During lunch, former United States Attorney for the District of Connecticut Vanessa R. Avery provided the retreat's keynote presentation. In her speech, Attorney Avery focused on the various recent attacks on the rule of law in the United States. "Unchecked power is the most significant threat to democracy and our way of life here in America," warned Attorney Avery. "The question is how we are going to continue to allow our country to be governed. We are a nation for the people by the people." She praised the members of the YLS Executive Committee for actively pursuing the responsibility of leadership and encouraged them to pursue careers in government roles to help defend the integrity of our nation's institutions.

In addition to the keynote speech and the various trainings held throughout the day, the retreat included the presentation of awards to four YLS Executive Committee members for their service during the 2024-2025 bar year.

Kyle A. Bechet received the Leadership Award from 2024-2025 YLS Chair Vianca T. Malick.

Star of the Year Award
Jenna Cutler received the Star of the Year Award for her work as a YLS diversity director. She organized the 2025 Diversity Dinner, one of the most successful events of the bar year which was attended by over 60 members and focused on the current state of DEI in the United States.

Leadership Award
Kyle A. Bechet received the Leadership Award for his work as a YLS membership director as well as his commitment and passion, which has been key to the section's success over the past bar year. He helped members of the YLS plan many successful non-CLE events throughout the year.

CBA Vice President Rowena A. Moffett provided welcome remarks during the retreat.

Former United States Attorney for the District of Connecticut Vanessa R. Avery served as keynote speaker.

Rookie of the Year Award
Hugh T. Sokolski, Jr. received the Rookie of the Year Award for surpassing his duties as a committee chair. As an active member of the CBA's LGBT Section, he helped organize the YLS's donation to the Annual One Big Event Gala and was integral to the planning and organization of the YLS Holiday Party.

Volunteer of the Year Award
Jermaine A. Brookshire, Jr., received the Volunteer of the Year Award for providing over 121 hours of pro bono and community service during the past bar year. His continued commitment to pro bono and community service remains unparalleled.

Jermaine A. Brookshire, Jr. received the Volunteer of the Year Award from 2024-2025 YLS Chair Vianca T. Malick.

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15 Solo/Small Firm CLE Series | HR Essentials for Solo & Small Law Firms: Building a Strong Foundation✦

17 Arising Out of and in the Course of Employment

22 Solo/Small Firm CLE Series | IOLTA/Law Office Management

23 AI & the Law | Ethical Consideration When Using AI✦

23 Conservatorship, Title XIX, and Probate, Oh my!

24 2025 Diversity, Equity & Inclusion Summit: The Collaboration Blueprint

27 Witches of Scotland✦

28 Estate Planning Meets Insurance: Safeguarding Clients Against Long-Term Care Risks✦

30 2025 Federal Tax Institute of New England

31 Solo/Small Firm CLE Series | Bootstrap Your Briefcase: Cost-Effective Strategies for Generating Clients Online and Off✦

NOVEMBER

5 Solo/Small Firm CLE Series | Law Firm Financial Management✦

6 Advanced Residential Real Estate Closings

13 Practice, Procedure and Protocol in the Connecticut Courts

18 Elder Law Seminar✦

19 Joint Meeting: Probate Court and CBA | Hot Topics in Probate

21 AI & the Law | Privacy, Safety, and Security When Using AI✦

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Informal Opinion 25-1

Virtual Unbundled Services for Criminal Matters

A Connecticut criminal defense attorney ("the Requester") seeks guidance as to whether they violate Rule 1.2(c) of Connecticut's Rules of Professional Conduct by creating and using a virtual (*i.e.*, online) platform to offer limited scope representation—for a fee—to criminal defendants.

The Requester specifies that the proposed legal services would be provided to self-represented (a/k/a *"pro se"*) criminal defendants charged with "minor criminal offenses," which the Requester defines as "infractions, misdemeanors, and Class D felonies."[1] The Requester's proposed limited scope representation would not include filing an appearance on a defendant's behalf, and any legal advice proffered to the client would be conveyed solely through the proposed virtual platform with neither phone nor in-person contact occurring.

Additional facts provided by the Requester indicate: (1) the virtual platform would consist of purely chat (*i.e.*, exchange of text messages), with no video or voice communications; (2) documents will be shared by and with the client by email; (3) information would be gathered from the potential client via a questionnaire posted on the lawyer's website associated with the virtual platform; (4) the work contemplated to be performed by the lawyer would include evaluation of state's case in terms of strength of evidence against the accused, possible defenses, suggestions on possible investigation that should be conducted, and discussion and review of any documents in the client's possession, such as police reports and collateral documents[2]; (5) the client would be given the option of hiring the lawyer for full representation, or the lawyer may advise the client on how to get other representation or apply for a public defender; and (6) the risks of this proposed limited representation would be conveyed to the client by the lawyer through an advisement on the lawyer's website associated with the virtual platform.

Rule 1.2(c) imposes two requirements on a lawyer when limiting the scope of a representation: first, that the limitation be "reasonable under the circumstances" and, second, that the client "gives informed consent" to the limited representation. The Commentary to Rule 1.2 also requires that "[a]ll agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law."[3]

As further explained below, the Committee finds there is no *per se* violation of Rule 1.2(c) in providing virtual, unbundled legal services to criminal defendants; however, compliance with the full scope of the Rules when in engaging in such limited scope representation may prove difficult, if not impossible, in most of the defined "minor criminal" cases.[4]

I. Unbundled Legal Services Are Generally Acceptable.

In general, unbundling of legal services is acceptable and even beneficial to those providing and receiving agreed-upon limited legal services. The American Bar Association's Standing Committee on the Delivery of Legal Services highlights that such limited-scope representations provide benefits for clients, lawyers, and the courts: "(1) clients get just the advice and services they need and therefore pay a more affordable overall fee; (2) lawyers expand their client base by reaching those who cannot afford full-service representation but have the means for some services; and (3) courts benefit from greater efficiency when otherwise self-represented litigants receive some counsel." ABA Unbundling Resource Center, *available at* https://www.americanbar.org/groups/delivery_legal_services/resources/. The ABA has further voiced support for lawyers assisting pro se parties on a limited, behind-the-scenes basis in Formal Opinion 07-446 (Undisclosed Legal Assistance to Pro Se Litigants). There, the ABA's Standing Committee on Ethics and Professional Responsibility concluded that "there is no prohibition in the Model Rules of Professional Conduct against undisclosed assistance to pro se litigants, as long as the lawyer does not do so in a manner that violates rules that otherwise would apply to the lawyer's conduct." ABA Formal Opinion 07-446 (May 5, 2007). The Connecticut Bar Association has likewise voiced support for limited scope representations, including "[p]roviding legal advice to an individual about a case or a legal problem they are involved in." Conn. Bar Assoc., Limited Scope Representation (LSR): Grow your

Practice; Promote Access to Justice (2022 Attorney Toolkit), at 10.

II. Rule 1.2(c) and the Proposed Virtual Representation

A. "Reasonableness" of the Proposed Virtual Representation

A lawyer violates Rule 1.2(c) if a limited representation of a client is not "reasonable under the circumstances." There is no "one size fits all" assessment of reasonableness under this Rule, therefore, the Rule requires that each matter be assessed based on its own facts. The commentary to Rule 1.2 discusses a hypothetical where the lawyer provides advice to a client regarding a "common and typically uncomplicated legal problem" via a "brief telephone conversation" noting this limited scope representation is permissible. However, the commentary immediately warns that such a brief conversation "would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely."

We note that the spectrum of complexity presented by the defined "minor criminal matters" is quite broad, ranging from mere traffic infractions to Class D felonies.[5] The Requester's ability to comply with the Rule's "reasonableness" requirement via the proposed virtual platform is dependent on the complexity of the underlying charges, the facts and evidence regarding those charges, and the lawyer's ability to become possessed of all the relevant information necessary to provide competent advice.

Gathering facts and information necessary to competent representation under this proposed limited scope representation is problematic. For example, the proposed representation would have all client communications occurring via text through a virtual platform. As a result, the Requestor would never personally observe nor orally communicate directly with the client and would not know the information customarily obtained by criminal defense lawyers gleaned through the observation of and communication with clients (*e.g.*, the client's personal appearance, verbal skills, intelligence, comprehension, and emotional affect, to name a few). While there may be some clients facing "minor criminal matters" where such information is not needed, for many others failing to gain this information would render the limited scope representation unreasonable under the Rule. Additionally, many *pro se* defendants will not know how to gain access to documents and evidence possessed by the prosecuting authorities, and some information is not available to a *pro se* defendant without an order of the court. Providing legal advice of the strength of the State's case to a *pro se* criminal defendant without first reviewing the relevant documents and evidence (*e.g.*, police reports, witness statements, physical evidence, laboratory reports, crime scene photos, etc.) would be incompetent and render the representation unreasonable.[6]

In every matter the relevant information gathering needs to be tailored to each individual client. For example, in some defined minor criminal cases, the information necessary to provide competent advice will also require knowledge of the client's immigration

Image credit: chiewr/Getty Images

status, criminal history, type of motor vehicle license and/or employment information. The Requester indicates that all information regarding the client and the underlying charges faced by that client will be gathered via a questionnaire posted on the lawyer's website associated with the virtual platform. Any such questionnaire, however, must be robust enough for the lawyer to obtain all the information necessary to provide competent and diligent representation under Rules 1.1 and 1.3.

Finally, while a limited scope representation may start out as reasonable under the circumstances, it may become unreasonable as the representation continues and circumstances change. Should this occur, the lawyer must act accordingly.

B. Informed Consent to the Proposed Virtual Representation

The second requirement of Rule 1.2(c) is that the client give "informed consent"[7] to the limited representation. To comply with this requirement, the Requester plans to provide an engagement letter to the client specifically alerting the client that the lawyer will not file an appearance in the criminal matter on the client's behalf. The Requester also plans to provide an "advisement" of the risks of the proposed limited representation on the website associated with the virtual platform. The Requester did not provide a sample of the proposed engagement letter or a copy of the "advisement" to be posted on the website. Without these documents it is difficult to determine what "material risks and reasonably available alternatives" to the proposed virtual representation are being conveyed to clients. If we assume a generic "advisement" were drafted sufficiently broad enough to provide adequate information to clients charged with one or more of any of the defined "minor criminal matters," such an advisement would include a vast amount of information. While some of this information would apply to many limited scope representations, much of it would be applicable to only small subsets of clients. Such an onerous "advisement" would not discharge the lawyer's duty under the Rule to communicate "adequate information and explanation" enabling that client to make an "informed" decision.

Compliance with the informed consent provision requires that communications be tailored to the specific client and that specific client's matter. There should also be communication as to any risks associated with the chat/text messaging via the virtual platform.[8] Informed consent also requires the client's understanding of the "alternatives" to the proposed limited scope representation. For example, the Requester should advise the client about any available limited scope representation wherein the client would have direct access to a lawyer by phone or in person.

Continued on page 36 →

Informal Opinion 25-2

Duty to Former Client

From 2002 to 2019 the requester was an in-house counsel for a large insurance company, representing the company in all manner of legal issues with its employees, including preparing separation agreements and making inquiries into workplace misconduct.

In August 2019, she left the company. One month later, the person whom she directly advised on these issues, the head of Human Resources, also left the company and was replaced by a person she had not previously advised. It appears that soon thereafter there was considerable change in staffing in the portion of the Legal Department dealing with employee issues.

Since the requester left the company, she has represented twelve current and former employees of the company on issues similar to those in which she had represented the company previously. However, none of the twelve were involved in any problem on which she had worked before her departure from the company in August 2019. The company said nothing about any conflict until 2024, when it claimed a violation of Rule 1.9(c)(1) and (2) because of her "vast knowledge of the [company's] leaders and managers, [its] internal procedures, and [its] strategies and propensities for resolution of employment disputes," and said it would not waive any conflict as to any representation of its current or former employees at any time in the future. The company did not mention anything specific about the twelve employees, nor did it claim a violation of Rule 1.9(a) or 1.9(b), which concern conflicts arising out of representation in "the same or substantially related matter."

Rule 1.9 is entitled "Duties to Former Clients." It states:

> (a) A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.
> (b) …[1]
> (c) A lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not thereafter:
> (1) use information relating to the representation to the disadvantage of the former client except as these Rules would permit or require with respect to a client, or when the information has become generally known; or
> (2) reveal information relating to the representation except as these Rules would permit or require with respect to a client.

Even though subsection (a) is not raised by the requester or the company, we must discuss it first in order to understand subsection (c). Rule 1.9(a) prohibits changing sides "in the same or a substantially related matter." We look to the Official Commentary to construe the rules because it serves "to explain, illustrate and guide" the decision-making process. *Cohen v. Statewide Grievance Committee,* 339 Conn. 503, 516 (2021). The Commentary states:

> Matters are "substantially related" for purposes of this Rule if they involve the same transaction or legal dispute or if there otherwise is a substantial risk that confidential factual information as would normally have been obtained in the prior representation would materially advance the client's position in the subsequent matter. For example, a lawyer who has represented a businessperson and learned extensive private financial information about that person may not then represent that person's spouse in seeking a divorce. In the case of an organizational client, general knowledge of the client's policies and practices ordinarily will not preclude a subsequent representation; on the other hand, knowledge of specific facts gained in a prior representation that are relevant to the matter in question ordinarily will preclude such a representation.

In construing "confidential factual information" in the context of the "same transaction or legal dispute", the Commentary thus distinguishes between facts at a high level of specificity (such as a client's finances in a divorce proceeding) and those at a high level of generality (such as a company's policies and practices). An example of the former is *Fallacaro vs. Fallacaro,* 1999 WL 241743 (Ap. 8, 1999), involving the individual client's earnings in both the current and previous cases. An example of the former is *Fallacaro v. Fallacaro,* 199 WL 241743 (Apr. 8, 1999), involving the individual client's earnings in both current and previous cases.

The American Bar Association likewise gives a relatively narrow reading of (a) by apparently agreeing with a test followed by the Second Circuit that the relationship between the issues must be "'patently clear' or that the issues are 'identical or essentially the same'". ABA Formal Opinion 99-415, page 4. We essentially adopted that view in our Informal Opinion 06-11, in which we advised that "the type' of relationship the Rule is concerned are with depends on the similarity of the *factual* issues." (Emphasis in original.)

We have reviewed the company's letter to the requester and the requester's letter to us. It appears to us that the relationship between the matters is at a high level of generality and thus not "the same or a substantially related matter." That the company does not even claim a violation of subsection (a) fortifies our conclusion.

We now turn our attention to subsection (c) of Rule 1.9.

Neither 1.9 nor Rule 1.0 defines "matter" or "information." While in one sense subsection (c) is narrower than subsections (a) and (b) in that a violation of (c) does not automatically mandate disqualification, in another sense subsection (c) is broader than (a) and (b) because the subsequent representation need not be substantially related to the former representation. Nevertheless, "matter" and "information" should not be interpreted so broadly that they refer to *any* prior representation of the company, or lawyers could never take on matters on other side. The Official Commentary supports a cautious reading of subsection (c) with language that is directly on point here:

> The scope of a "matter" for purposes of this Rule depends on the facts of a particular situation or transaction. The lawyer's involvement in a matter can also be a question of degree. When a lawyer has been directly involved in a specific transaction, subsequent representation of other clients with materially adverse interests in that transaction clearly is prohibited. *On the other hand, a lawyer who recurrently handled a type of problem for a former client is not precluded from later representing another client in a factually distinct problem of that type even though the subsequent representation involves a position adverse to the prior client.* Similar considerations can apply to the reassignment of military lawyers between defense and prosecution functions within the same military jurisdictions. The underlying question is whether the lawyer was so involved in the matter that the subsequent representation can be justly regarded as a changing of sides in the matter in question.

(Emphasis added.) This language suggests that the requester's representation of the company's current or former employees is not likely to create a risk of a violating subsection (c). She "recurrently handled a type of problem" for the company and "is not precluded" from representing the twelve clients "in a factually distinct problem *of that type*" (emphasis added) "adverse to the" company.

Nevertheless, as we cautioned in Informal Opinion 06-11, the requester needs to be alert to the fact that if she does have information from her prior representation that is specific to the representation of her current clients she may not use such information to the disadvantage of the company or otherwise reveal such information. For example, in our Informal Opinion 99-14 we addressed the situation of a lawyer who wanted to represent a parent in a special education case in which she would need to cross-examine the child's teacher about information the lawyer apparently had learned in the course of representing the teacher in an unrelated matter. The lawyer could not resolve such a *current* client conflict by terminating the representation of the teacher because even if the teacher became a *former* client, the lawyer could not cross examine the teacher without violating Rule 1.9(c).

Unlike the situation in 99-14, the company here claims only that the lawyer violates her duty because of her vast knowledge of its internal processes and strategies. While this reference is remarkably general, there may be specific confidential information she knows from her prior job that is tailor-made for one or more of her current clients. Her use of that information would violate subsection (c), especially if she would need to cross-examine someone at the company on it. Moreover, if she is prevented from using that information by Rule 1.9(c), then she then must consider whether she would have to withdraw from her current representation under Rule 1.7(a)(2) because her work may be materially limited.

With that major caveat in mind, the lawyer in 2024 does not violate her duty ho her former employer-client by her representation of the company's current or former employees as to whom the lawyer did not advise the company before her departure in August 2019.[2]

NOTES

[1] Subsection (b) applies (a) to the whole law firm.

[2] Had we received the inquiry shortly after the requester left the company rather than five years later, we might have reached a different conclusion. On the one hand, passage of time itself does not waive a conflict. On the other hand, the requester's knowledge of the company's internal processes and strategies is likely to have been a lot more specific shortly after she left the company.

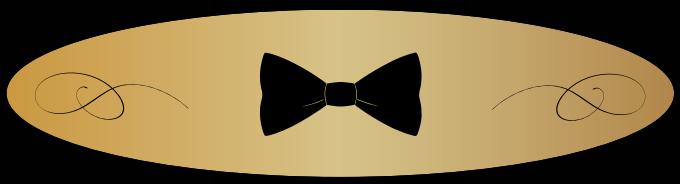
Connecticut Bar Association

150th Anniversary Gala

Thursday, October 16

6:00 p.m. to 10:00 p.m.

Anthony's Ocean View, New Haven



The CBA cordially invites you to join us for a black tie celebration honoring a century and a half of dedication to the Connecticut legal community. Enjoy an elegant night of dinner, live music by Eight to the Bar, and a special tribute to the leaders who have guided the CBA since 1875.

Reserve your tickets at **ctbar.org/150Gala** or Call **(844) 469-2221**

Connecticut Bar Association

Marking the Moment:
Highlights from 150 Years of the CBA

One hundred and fifty years ago, a few determined lawyers gathered in Hartford with a bold idea: that the legal profession could be better—more unified, more ethical, and more engaged with the public it serves.

On June 2, 1875, the Connecticut Bar Association was born, not as a mandate, but as a voluntary alliance committed to raising the standards of justice in a rapidly changing world.

In the 150 years since, the CBA has done more than keep pace with change—it has often been the force behind it. From launching legal publications and advancing judicial reform to founding pro bono initiatives and shaping ethics rules, the Association has never shied away from difficult questions or big ideas. Along the way, it has grown from 58 members to thousands, added sections and committees, and responded to the evolving needs of the profession—all while maintaining its original commitment to professionalism, public service, and the rule of law.

In celebration of 150 years of legal leadership, we invite you to take a journey through some of the pivotal moments that shaped the Connecticut Bar Association—from its founding vision to its modern-day mission. These highlights remind us that while laws may change, the call to uphold justice with integrity, professionalism, and purpose remains timeless.

As we mark this milestone of the Connecticut Bar Association, we celebrate not only its history, but the generations of lawyers who shaped it—and the future members who will carry it forward.

1875 – Founding of the CBA

The Connecticut Bar Association was officially founded on June 2, 1875. It is one of the oldest voluntary bar associations in the United States and established the source for the modern bar association of today. It was started by William Hamersley, State's Attorney for Hartford, a figure with a history of pressing for legal reform.

"The Association is established to uphold and improve the standard of professional qualifications; to maintain the honor and dignity of the profession of law; to aid all proper measures for the improvement of the jurisprudence of the state, the organization of Courts and mode of practice, and to promote social intercourse among its members." CBA Constitution, Article II

1875–1882 – Origen S. Seymour, First President

Origen S. Seymour, only recently retired as Chief Justice of the Supreme Court of Errors, was elected the first president and served a record-setting seven years.

The founders wanted to bring uniformity to the practice of law and administration of the judicial system. Remarks of Judge Loren Waldo at the June 2nd meeting: *"[He spoke] with decided effect of the beneficial consequences of [a statewide bar association]. His*

Image credit: panom/Getty Images

experience of eight years on the bench had convinced him that regular meetings of lawyers of the different counties of the State would conduce to their positive gain. Uniformity of practice, a right construction of the Statutes, proper and necessary amendment to them, profitable dissertations upon practical law questions, the correction of existing evils concerning delays in the trial of causes, the elevation of honor and integrity of the code of morals of practitioners, the duty of lawyers to clients, and the courtesies to each other were clearly and accurately set forth." - Hartford Courant, June 3, 1875

Record: State Bar Association of Connecticut

The leather-bound volume *Record: State Bar Association of Connecticut* that includes handwritten minutes from 1875 to 1910 are remarkably complete and minutes were recorded in full. The book remains with the CBA today in the President's office at the CBA. The Association had 58 members who were designated as founding members.

1927 – Establishment of the Connecticut Bar Journal

The first issue of the *Connecticut Bar Journal* was published in January 1927. Then-CBA President Carmody envisioned a periodical that would "act as a constant reminder of the existence and purposes of the Association" and offer an opportunity for members to exchange their ideas and opinions in a sophisticated and scholarly manner. "The journal…will indicate to other bar associations that our Association is wide awake," Carmody stated.

1928 – Growth of the CBA

During the late 1920s, the Connecticut Bar Association experienced growing internal debate over its direction and operations, even as its reform efforts found success. In 1928, the Association's advocacy led to the creation of small claims courts in Hartford and Stamford, which saw increasing use and efficiency. By 1929, the model's success prompted the General Assembly to pass legislation allowing any Connecticut community to establish such courts. Additionally, the CBA's push for judicial reform helped establish a Judicial Council in 1927, though its effectiveness was later debated. Despite a membership of over 500 by 1929, only a small fraction attended the annual meeting—highlighting concerns about member engagement. That year also marked the beginning of deeper ideological debates within the Association, starting with a resolution regarding the controversial Eighteenth Amendment (Prohibition).

The Golden Age of the Connecticut Bar Association (1945–1960)

Following World War II, the CBA entered a transformative period marked by unprecedented growth and achievement. Energized by new leadership, a revised constitution, and a renewed sense of civic duty, the Association launched ambitious initiatives that strengthened the judiciary, elevated professional standards, and expanded public service. Key milestones included the creation of the Junior Bar Section and the rise of the *Connecticut Bar Journal* as a leading legal publication. This era, fueled by unity, economic stability, and visionary leadership, laid the foundation for the modern CBA.

As Charles M. Lyman wrote in a 1948 article entitled "On the Rewards of Bar Association Activity,"' members were personally recompensed by such tangible benefits as group health insurance, professional friendships, and the *Connecticut Bar Journal*, but far more important was the satisfaction they derived from gratifying their public spirit and from promoting the health of the legal profession.

1947 – Start of the Young Lawyers Section

In 1946, CBA President William B. Gumbart appointed a committee to explore creating a Junior Bar Section to engage younger attorneys. At the Board of Delegates meeting in October 1947, Chairman Richard H. Bowerman emphasized the need to give younger lawyers their own platform to boost participation and public service. That same evening, after strong encouragement, the Association voted to create the Junior Bar of Connecticut. The Section's by-laws—limiting membership to those under thirty-six years of age and affiliating with the ABA Junior Bar Conference—were ratified on November 17, 1947.

The Junior Bar quickly became a major asset to the Association. Early initiatives included improving membership lists, hosting educational seminars with Connecticut's law schools, conducting a major review of the jury system, and launching statewide young lawyer luncheons. Bowerman noted that while the first year focused on careful organization, it successfully laid the groundwork for even greater progress in the future. By 1949, the Junior Bar was fully active and thriving.

By 1957, the Junior Bar of Connecticut had achieved such repeated success that it was awarded a special "Award of Progress" by the American Bar Association, rather than the usual achievement award, to acknowledge its exceptional record. The Connecticut Bar Association also consistently praised the Junior Bar's contributions through editorials and comments from CBA presidents at annual meetings.

CBA Growth in the Mid-20th Century

As the Connecticut Bar Association deepened its commitment to public service and the legal profession, its membership and organizational structure expanded rapidly. From 880 members in 1945, the CBA grew to over 3,000 by 1961—representing 85%

of all practicing attorneys in the state. Alongside this growth, the number of committees and sections multiplied, reflecting the profession's evolving interests, which extended beyond state matters to national and international legal issues.

1948 – First Official Headquarters

The CBA's first headquarters opened in Downtown Hartford. Prior to that, files were kept in personal offices. *"We had no Executive Secretary, we bad no central office, we operated out of a filing cabinet in my office with a girl who was imposed upon to type after hours to send out bills. About [anything] that anyone got out of . . . membership in the Association at that time was a free banquet once a year."* – Judge Herbert S. MacDonald

1950s – CBA and the Communist Trials of the 1950s

In the 1950s, the Connecticut Bar Association faced a dilemma during the era of anti-Communist sentiment. While many members were deeply opposed to Communism and hesitant to defend Smith Act defendants, the Association simultaneously upheld the constitutional right to fair trial and worked to secure competent legal counsel. By raising funds to support court-appointed attorneys, the CBA reinforced legal integrity and helped lay groundwork for future public defender programs. Their response reflected both a commitment to justice and the complexities of navigating public opinion during a fraught political time.

1959 – Court Reorganization Act

Court Reform: A Defining CBA Achievement
Court reform has long been a central concern of the Connecticut Bar Association, touching on critical issues like judicial efficiency, fairness, and public trust. While many bar associations speak on reform, the CBA took action. Its leadership was instrumental in building consensus over decades, culminating in the landmark 1959 Court Reorganization Act. Though it wasn't the sole architect, the CBA acted as a catalyst, uniting reform efforts across the state. This success remains a powerful example of how bar associations can transform deliberation into lasting structural change.

1965 – Statewide Public Defender System

In 1965, under President Bernard H. Trager, the Connecticut Bar Association advanced civil rights efforts by directly addressing challenging social issues. As President Trager emphasized:

"Our constitutional rights must afford protection to all or they will be preserved to no one. The problem of safeguarding the rights of an accused while at the same time providing effective law enforcement and preserving the right of citizens to be free from criminal molestation is a difficult one, but one to which a solution must be found, and to which the organized Bar can and will make a major contribution."

That year, the Association played a key role in the passage of the Circuit Court Public Defender Bill, making Connecticut one of the first states to establish a statewide public defender system. The CBA also launched a bail bond project and supported the creation of neighborhood law offices in urban centers like New Haven to expand access to legal services for low-income residents, earning praise from Associate Justice Arthur J. Goldberg.

1970 – First Committee on Status of Women

In 1971, prompted by Professor Shirley Bysiewicz of the University of Connecticut School of Law, the Connecticut Bar Association formed a Committee on the Status of Women to address gender issues within the profession. At the midyear meeting in April, Virginia Boyd spoke on behalf of the new committee:

"I come here today, not as a member of Women's Liberation, because I don't belong to any of these proliferated branches, but I am here today as a member of this Association. But I am also here as a woman, and we women, we do have specialized problems. The Woman's Liberation Movement is part of the general cultural movement in which women are moving out, if not to a place in the sun, at least to a place in the dappled shade... we already have undertaken a survey of the women lawyers of the State of Connecticut, feeling that charity begins at home. We are finding out who they are, where they are working, where they are in governmental and educational work, and whether they are in private practice... We plan a series of analyses of the discriminatory statutes of the State of Connecticut, and several members want to propose legislation."

The committee quickly began surveying women lawyers across Connecticut and laying the groundwork for analyzing and challenging discriminatory laws.

1973 – Office of President-Elect Established

This position was created to ensure leadership continuity. *"The president-elect automatically succeeds to the presidency… [allowing them] to identify and contact potential section and committee chairs."* CBA History 1975-2000

1975 – Centennial Celebration

To celebrate its centennial anniversary on June 2, 1975, the Connecticut Bar Association organized a range of events recognizing both its 100-year legacy and the start of its second century. Activities included the creation of a new logo symbolizing "equal justice through law," designed by nationally recognized artist William A. Wondriska, and the publication of *A History of the First One Hundred Years of the Connecticut Bar Association: 1875–1975*. A public ceremony was held at the Old State House in Hartford, and a Centennial Ball took place during the 1975 Annual Meeting. Additionally, a $200,000 fundraising campaign was launched to benefit the Connecticut Bar Foundation.

"Our accomplishments mean nothing compared to the opportunities offered by the people for service." – President William K. Cole

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1986 – Model Rules of Professional Conduct Adopted

In 1985, the CBA House of Delegates voted to recommend the ABA's Model Rules of Professional Conduct, marking a major shift in legal ethics, with the rules adopted by the Superior Court in 1986. The CBA Committee on Professional Ethics and the Unauthorized Practice of Law supported this process and continues to issue formal and informal opinions. Following major attorney defalcations, the CBA helped drive further reforms, including ethics rule amendments, grievance procedures, and oversight proposals—though not all, such as the Office of Attorney Ethics, were implemented. *"Probably the single most important debate the House [has] undertaken."* – President Ralph Gregory Elliot

1987 – First Full-Time Lobbyist Hired

Article II of the CBA Constitution encourages support for good legislation and opposition to bad laws. To strengthen its legislative influence, the CBA hired a full-time legislative counsel in 1987 and established a political action committee (PAC). The legislative counsel, focused solely on CBA priorities, helped build relationships with lawmakers and supported section-led legislative efforts. With fewer lawyers in the legislature, having a dedicated lobbyist has improved the CBA's effectiveness and success in shaping legislation.

1975-2000 – Growth of CBA Staff

Between 1975 and 2000, the CBA staff grew from about 6 to 25 members. Originally based in cramped Hartford offices, the Association moved in 1983 to a modern, more spacious facility in Rocky Hill, shared with CATIC. By 2000, outgrowing that space, the CBA purchased its own building in downtown New Britain, tripling its space to accommodate CLE events, committee meetings, and future growth. This move reflected the leadership's confidence in the Association's continued expansion.

1990 – CT Lawyer Magazine Established

In 1990, the CBA hired a Communications Director to improve both its publications and the public image of the legal profession. This role focused on producing high-quality, profitable content for members and promoting positive publicity about the CBA. Under President Carolyn P. Kelly, *CT Lawyer* launched in its current magazine format, giving members a modern publication.

1998 – Clients' Security Fund Becomes State-Managed

The Clients' Security Fund was created by the Connecticut Bar Association in 1960 to reimburse clients who suffered losses due to attorney misconduct, reinforcing the integrity of the legal profession. Funded entirely by CBA member dues and volunteer efforts, it paid out $7 million to claimants over several decades.

However, due to a rise in large defalcation cases in the late 1980s and 1990s, the fund became unsustainable. After evaluating options, the CBA voted to transfer the fund to the Judicial Branch, which launched a new Client Security Fund in 1999, supported by mandatory contributions from all attorneys practicing in Connecticut. This transition significantly increased funding and ensured more consistent reimbursement for clients harmed by attorney dishonesty.

2000 – 125th Anniversary

To commemorate its 125th anniversary on June 2, 2000, the Connecticut Bar Association commissioned a new historical record: *Connecticut Bar Association History: 1975–2000*, building on the centennial volume published in 1975. This updated history focuses on the CBA's growth, leadership, and evolving role in shaping the legal profession and justice system over the prior 25 years.

The history draws from a wealth of sources—including newsletters, the *Connecticut Bar Journal*, governing body transcripts, and leadership columns—to document key developments in areas such as professional ethics, lawyer advertising, grievance procedures, and judicial reform. Over this period, 25 CBA presidents, supported by the House of Delegates, Board of Governors, and 75+ sections and committees, helped guide the Association's impactful work. Task forces were also regularly convened to address emerging issues, reflecting the CBA's responsiveness to the legal and social climate of the time.

2024 – New Headquarters in Meriden

In a continued effort to support its growing membership and modernize its operations, the Connecticut Bar Association moved its headquarters to 538 Preston Avenue in Meriden. This move reflects not only the CBA's organizational growth but also its enduring commitment to providing a central, accessible hub for Connecticut's legal community. Each relocation over the years has symbolized a new chapter in the Association's evolution—adapting to meet the changing needs of attorneys across the state while remaining rooted in its mission of service, leadership, and professional excellence.

2025 – CBA Celebrates 150 Years

In 2025, the Connecticut Bar Association proudly celebrates 150 years of leadership, service, and commitment to justice. What began in 1875 as a small, volunteer-led organization has grown into a dynamic, statewide association that today serves thousands of attorneys, judges, law students, and legal professionals. Through its many sections, committees, and leadership initiatives, the CBA continues to shape the legal landscape of Connecticut.

Each year, the Association supports over 2,000 individuals through its pro bono programs, advocacy efforts, and public education initiatives, helping to ensure that access to justice remains a reality—not just a principle. Whether advancing legislation, providing free legal services, or training the next generation of lawyers, the CBA remains a powerful voice for the profession and the public it serves.

Connecticut's Police Accountability Act and Qualified Immunity: Early Lessons from HB 6004

By ERIC P. DAIGLE

In July 2020, Connecticut enacted House Bill 6004, the Police Accountability Act, in response to a national movement demanding greater oversight of law enforcement practices. Described as one of the most far-reaching state-level reforms in the country, the legislation targeted transparency, training standards, and, notably, the doctrine of qualified immunity.

The drafters aimed to ensure that individuals whose constitutional rights were violated by police would have a meaningful remedy in Connecticut courts. Nearly four years later, settlements in high-profile cases suggest that HB 6004's qualified immunity reform is reshaping the state's landscape, with a significant impact on municipalities, officers, and individuals.

HB 6004's Qualified Immunity Provision

One of the most debated sections of the Police Accountability Act is its modification of the qualified immunity defense in state courts. Prior to HB 6004, plaintiffs seeking damages for constitutional violations typically sued under 42 U.S.C. § 1983 in federal court, where qualified immunity protects officers unless they violated "clearly established" rights. The United States Supreme Court decision in *Bivens v. Six Unknown Named Agent of Federal Bureau of Narcotics*, established that federal courts have the authority to recognize a cause of action for damages brought by an individual claiming a violation of the Fourth Amendment's prohibition against unreasonable searches and seizures conducted by federal agents pursuant to their authority.[1] Additionally, in *Binette v. Sabo*, the Connecticut Supreme Court recognized a "Bivens-type" cause of action directly under Article First, §§ 7 and 9 of the state constitution for unreasonable searches, seizures, and arrests.[2] Under this framework, individuals could pursue a state constitutional tortious remedy for an officer's wrongdoing that amounted to a constitutional deprivation. This state-created remedy has acted as a source for those seeking redress, without requiring contingency on either common law or alternative federal remedies.

HB 6004 created a state cause of action for civil rights violations, codified in Conn. Gen. Stat. § 52-571k, which establishes a different framework. Under Conn. Gen. Stat. § 52-571k, any person who has been deprived of the equal protections or privileges and immunities of State Law under Article First of the Connecticut Constitution may seek redress pursuant to this authority.[3]

Simply, this provides that state civil lawsuits for alleged violations of an individual's state civil rights. Furthermore, governmental immunity (the state law term for the corresponding federal term of qualified immunity) is not a defense in these cases. In any civil action brought under this section, governmental immunity is only a defense to a claim for damages when, at the time of the conduct complained of, the police officer had an objectively good faith belief that such officer's conduct did not violate the law. This "objectively reasonable" test is less protective than the federal "clearly established" standard and shifts the burden onto the officer to justify their actions. Importantly, Governmental immunity is not a defense in a civil action brought solely for equitable relief. The statute also requires municipalities to indemnify officers for damages awarded,

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except where conduct is found to be willful, wanton, or malicious, in which case indemnification may be denied.

Mubarak Soulemane: A Wrongful Death Lawsuit in State Court

The case of Mubarak Soulemane illustrates the effect of HB 6004 on individuals. In January 2020, before the law was enacted, Soulemane, a 19-year-old with schizophrenia, was shot and killed by a Connecticut State Trooper after a pursuit and alleged carjacking. The Trooper was arrested and charged with First-degree manslaughter, representing the first time in seventeen years that a Connecticut police officer faced charges for an on-duty fatal use of force shooting. Though ultimately acquitted of these charges, in 2024 the family of Soulemane reached a settlement in principle with the State Police and will continue to pursue their Civil claims against the West Haven Police Department. While the settlement terms were not publicly disclosed, it reflects the state's willingness to resolve claims that might have faced steeper hurdles in federal court under the traditional qualified immunity defense.[4]

Randy Cox: Catastrophic Injury and Record Settlement

The Randy Cox case offers another instructive example of the impact of HB 6004. In June 2022, New Haven police arrested Cox on a weapons charge. During transport in a police van without seatbelts, he was thrown headfirst into a metal partition after sudden braking, leaving him paralyzed from the chest down. Video evidence captured officers questioning Cox's injuries and dragging him by his feet rather than promptly providing medical care. Cox sued the city and officers, asserting civil rights violations. In October 2023, New Haven agreed to pay $45 million to settle the case, the largest settlement in Connecticut history.[5]

While the federal claims remained central, HB 6004's state-law remedy ensured that even if federal qualified immunity might apply, plaintiffs retained a viable state avenue with a lower threshold for overcoming immunity. This additional exposure could presumably increase pressure on municipalities and their insurance providers to settle.

Considerations for Practitioners and Municipal Counsel

Officers defending such claims bear the burden of proving this defense, which may depend heavily on department policies, training records, and expert testimony. Municipal counsel must consider these factors in assessing settlement exposure, insurance coverage, and training needs.

Moreover, Conn. Gen. Stat. § 52-571k's indemnification framework requires municipalities to budget for potential liabilities while still allowing for personal contribution by officers in cases of willful or wanton misconduct.

Remaining Questions and Policy Reflections

Despite these changes, HB 6004 does not eliminate federal qualified immunity, which remains intact under 42 U.S.C. § 1983 claims, and provides plaintiff's counsel the opportunity for § 1988 damages if successful. Many plaintiffs file parallel federal and state claims, complicating procedural strategy and settlement negotiations. Going forward, Connecticut courts will need to develop a body of case law interpreting this framework under § 52-571k.

While critics may debate whether these reforms strike the right balance, early evidence suggests HB 6004 has increased the likelihood that victims of constitutional violations will secure financial redress if actions are filed in State Court. The statute's partial limitation of qualified immunity represents a meaningful shift in Connecticut civil rights litigation, one that demands close attention from both plaintiff and defense counsel.[6]

Attorney Daigle, Daigle Law Group LLC, works as a consultant and expert witness for law enforcement pattern and practice abuse. He specializes in management and operational consulting of police, corrections and security clients. He has served as an expert witness in litigation and criminal cases involving police operations, use of force and internal affairs. Mr. Daigle acts as legal advisor to police departments across the country providing legal advice to law enforcement command staff and officers in the areas of legal liability, policy development, employment issues, use of force, laws of arrest and search and seizure.

NOTES

[1] *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics* (403 U.S. 388,91 S.Ct. 1999 (1971)).

[2] Binette v. Sabo (710 A.2d 688 (Conn. 1998)).

[3] *Conn. Gen. Stat.* § 52-571k(a), (b).

[4] Ed Stannard, "Mubarak Soulemane's Family, CT State Police Reach Settlement in Fatal Shooting," *New Haven Register*, April 26, 2024.

[5] Phil Helsel, "Randy Cox, Paralyzed in Police Van, Reaches $45 Million Settlement with New Haven," *NBC News*, October 10, 2023.

[6] State of Connecticut Division of Criminal Justice. "Reports on the Use of Force by Police Officers." Accessed June 21, 2025.

Image credit: Brian/AdobeStock

50th Anniversary
Reflections on the Public Defender Services Commission

By JUSTICE RICHARD N. PALMER

In preparing for this year's anniversary events, and in reflecting upon my tenure as Chairperson of the Public Defender Services Commission, I've been particularly interested both in the formative years of the Public Defender system and in how far we have progressed since then.

Connecticut has had a statewide Public Defender organization—the very first in the nation—since 1917. At inception, it consisted of a single Public Defender appointed by the Judges of the Superior Court in each of the eight counties. Although the number of Public Defenders increased over the years, we remained under the control of the Judicial Branch until the unanimous passage of Public Act 74-317 *(An Act Concerning a Public Services Commission)*, which established an independent supervisory authority, the Public Defender Services Commission, and a separate and autonomous state agency, the Division of Public Defender Services, headed by the Chief Public Defender, effective October 1, 1975.

According to the Division's first Annual Report in 1975, which was issued by our first Chief Public Defender, the Division started with a staff of 87 employees and a total budget of $2 million. Despite these resources, however, and as documented in subsequent Annual Reports, the Division confronted a number of significant issues that, for some years, made it difficult for the Division to represent its clients effectively. These issues included inadequate funding, high caseloads, insufficient support staff, and lack of office space.

Due to the hard work of many staunch supporters, progress was made over time to address these problems. That progress was celebrated on the occasion of our 25th Anniversary, at which time the Division's budget had increased to $32 million and its authorized permanent positions had risen to 360. Of course, much work still needed to be done to ensure that the Division continued to meet the demands of growing caseloads and ever more numerous and complex criminal statutes—many of which carried increasingly lengthy prison sentences.

Over the last 25 years, the Division has met that challenge and, thanks to the Executive and Legislative Branches, has made significant gains in staff, technology, and budget. For example, the Division's broad range of expertise now includes separate specialized units that provide representation in the areas of child protection, complex liti-

gation, psychiatric defense, direct appeals, postconviction proceedings, parole revocation, and claims of actual innocence.

As discussed most recently in the 2024 Annual Report, Division personnel, comprised of attorneys, social workers, investigators, support staff, and managers, work daily to achieve the lofty goals set forth in the Division's mission statement, namely:

> Striving to ensure justice and a fair and unbiased system, the Connecticut Division of Public Defender Services zealously promotes and protects the rights, liberty and dignity of all clients entrusted to us. We are committed to holistic representation that recognizes clients as individuals, fosters trust, and prevents unnecessary and wrongful conviction.

The dedicated and tireless efforts of Division staff—working together as a team—reflect their commitment to this mission and to the needs of the Division's clients.

Over the years, Public Defenders have championed many cases that have played a critical role in protecting the constitutional rights of Connecticut's indigent citizens. While the Division's most prominent cases have been rightly recognized and celebrated, its greatest success continues to lie in the many small victories that are attained on behalf of clients every day by attorneys, investigators, social workers and support staff across the state who have dedicated their careers to this noble effort.

As of FY 2025, Public Defenders have represented indigent clients in more than 2.5 million matters in our GA, JD, and Juvenile courts (including Child Protection cases) over the last 25 years. They have negotiated countless favorable results and prevailed in innumerable trials and dispositive motions—and they now are also successfully advocating for children in juvenile court and for parents and children in child protection matters. Public defenders have also had notable success in the post-conviction arena: in cases of actual innocence; in habeas corpus cases; in securing sentence and probation modifications; in matters before the Psychiatric Security Review Board; and in parole hearings. Division members have also assisted hundreds of clients in preparing for their release from incarceration and reentry into their respective communities.

Public Defenders have succeeded on appeal in our state Supreme Court over 65 times in the last 25 years, and they have also emerged victorious on many occasions in the state Appellate Court. These victories have involved a wide range of areas including, but not limited to, the abolition of the death penalty, improperly seized evidence, prosecutor impropriety, and the right to counsel.[1]

It is important to point out that some of these successes are attributable to the numerous members of the private bar who have devoted themselves to representing clients as Assigned Counsel (formerly known as Special Public Defenders) in a wide variety of cases, including cases in which the Public Defender's office has a conflict. I applaud each such private attorney, and more broadly, I'm grateful to all who have contributed over the years to making the Division what it is today. I am especially proud of the state's confidence in the highly laudatory way in which the Division has discharged its important responsibilities as reflected in the continuing increases in Division funding and staffing.

In that regard, the Commission's FY 2024 expenditures of $84.8 million supported a permanent staff of 433 full-time and 11 part-time employees, 234 of whom are attorneys. Other crucial staff consisted of administrative, social work, investigative, secretarial, and clerical personnel. Given where we started and how far we have come, there is truly cause for celebration in our 50th year.

Additionally, effective April 5, 2024, the Public Defender Services Commission approved an increase in its income eligibility levels from 200% to 225% of the Federal Poverty Guidelines. At the same time, the Commission also approved an increase to 250% of the Federal Poverty Guidelines effective January 1, 2025. I thank the Governor and the Legislature for the increased funding necessary to support these changes, the importance of which cannot be overstated. Indeed, at the prior eligibility level of 200% of the Federal Poverty Guidelines, an individual making minimum wage in this state would not qualify for our services, thereby leaving many without counsel. Fortunately, our Executive and Legislative branches had the wisdom and foresight to forestall that problem—and to honor the constitutional guarantee of the right to counsel recognized by the United States Supreme Court in 1963 in the landmark case of Gideon vs. Wainwright—by making possible the significant increase in those eligible for Public Defender services. It also bears noting that because of this increase in eligibility and the enhanced funding for that increase, the Division has been able to hire Fellowship attorneys pending their passing of the bar examination and admission to the Connecticut bar. All told, approximately 30 staff (including attorneys and support staff) were hired as the Division prepared for the increase in eligible clients.

I also would like to express my gratitude to all members of the Public Defender Services Commission, past and present—with a special "thank you" to those who have served with me on the Commission: Honorable Sheila Pratts, Honorable Elliot Solomon, Honorable William Dyson, Attorney Michael Jefferson, Honorable Russell Morin, and Attorney Herman Woodard. All have selflessly volunteered a great deal of time to ensure the continued success of the Division.

Finally, I want to offer my congratulations and appreciation to each and every member of the Division for their truly outstanding work on behalf of their indigent clients throughout the state. Because of their extraordinary efforts, Connecticut is blessed to have not only the first Public Defender system in the nation, but the preeminent one, as well.

The Honorable Richard N. Palmer is a retired associate justice of the Connecticut Supreme Court.

NOTES

[1] Please keep an eye out for the upcoming update of the Division website, which will identify and explain these and many other successful Division cases.

Professional Discipline Digest

VOLUME 34 NUMBER 2 | By JOHN Q. GALE

Reprimand issued by agreement for violation of Rules 1.3, 1.4 (a)(3) and 1.4 (a)(4) where attorney failed to pursue a lien release in a timely fashion; failed to keep his client informed; and failed to respond to client's request for information. Attorney ordered to disburse funds to satisfy lien of $20,385.74 and pay remaining funds to client within 30 days. *Licari v. James A. Saraceni*, #23-0260.

Reprimand issued by agreement for violation of Rules 1.1, 1.2, 1.4 (a)(1), 1.4 (a)(2), 1.4 (a)(3) and 8.1 (2). *Miranda v. Patrick M. Mullins*, #23-0331.

Reprimand issued for violation of Rules 1.3, 1.4 (a)(2), 1.4 (a)(3) and 1.4 (a)(4) where attorney retained in CHRO matter failed to timely notify client when case was released by CHRO and civil suit could be filed and failed to promptly comply with client's request for information. *Bergsten v. Robert A. Serafinowicz*, #22-0537.

Reprimand issued by agreement for violation of Rules 1.15 and 8.1 (2) and Practice Book 2-32 (a)(1). Attorney to comply with quarterly audits of his IOLTA account for one year. *Bowler v. Isaiah David Cooper*, #19-0626.

Reprimand issued by agreement for violation of Rules 8.1 (2) and 8.4 (4) and Practice Book 2-32 (a)(1) where attorney failed to submit an answer to the grievance complaint and failed to comply with the terms of a prior reprimand, case # 20-0278. CLE also ordered in that case in addition to annual MCLE requirements. *Staines v. Tricia Jessica Johnson*, #23-0468.

Reprimand issued by agreement for violation of Rules 8.1 (2) and 8.4 (4) and Practice Book 2-32 (a)(1) where attorney failed to submit answer to the grievance complaint and failed to comply with the terms of the reprimand issued against her in case #20-0277. CLE also ordered in that case in addition to annual MCLE requirements. *Staines v. Tricia Jessica Johnson*, #23-0467.

Reprimand issued for violation of Rules 1.1, 1.3, 1.4 (a)(1) , 1.4 (a)(2), 1.4 (a)(3), 1.4 (a)(4), 1.4 (b), 1.5 (a), 1.15 (e) and 8.4 (4) where attorney accepted retainer for costs in personal injury matter, filed suit but then failed to competently prosecute case, allowing non-suit to enter for failure to file scheduling order; failed to communicate with client at all after filing suit; and failed to refund unused retainer of $14.82. Attorney ordered to take 3 hours of in-person CLE in legal ethics within 9 months. *Smith v. Eli Bassman*, #23-0293.

Reprimand issued by agreement for violation of Rules 1.1 and 1.16 (a)(3). *Komal v. Timothy Joseph Lee*, #23-0222.

Reprimand issued by agreement for violation of Rules 1.15 (b) and 4.1 (1). *Gabriel v. Dale Robert Funk*, #22-0328.

Presentment ordered for violation of Rules 1.4 (a), 1.15 (e), 1.16 (d), 8.1 (2) and Practice Book 2-32 (a)(1) where attorney, with 3 prior reprimands and 3 pending probable cause determinations, accepted a $1500 retainer to defend client in divorce matter and then, when case was withdrawn by plaintiff, failed to respond to client's requests for itemized bill; failed to refund unused retainer; and failed to timely answer grievance complaint. *Ebow-Sam v. Robert Louis Fiedder*, #22-0098.

Presentment ordered for violation of Rules 1.3, 1.4 (a), 1.5 (a), 1.15 (e). 1.16 (d), 8.1 (2), 8.4 (4) and Practice Book 2-32 (a)(1) where attorney, with 3 prior reprimands and 3 probable cause determinations, accepted $2,900 retainer in divorce matter, filed the case in court, appeared at one hearing and then stopped communicating with client; failed to respond to client's request for information; abandoned client's case; failed to refund any unearned retainer; and failed to respond to the grievance complaint. *Morrison v. Robert Louis Fiedler*, #21-0506.

Reprimand issued for violation of Rules 8.1 (2) and 8.4 (4) and Practice Book 2-32 (a)(1) where attorney failed to return laptop to former employer; failed to respond to small claims case seeking payment for the laptop; failed to pay the $951.47 judgment entered; and failed to respond to grievance complaint. *Duby v. Jennifer May Mongillo*, #21-0293.

Reprimand issued for violation of Rules 1.1, 1.3 and 8.1 (2) where attorney received $7,300 from client, filed a civil suit against client's former business partner, then failed to prosecute matter resulting in a dismissal of case; failed to have case reopened; and failed to timely respond to grievance complaint. *Young v. Jennifer May Mongillo*, #20-0150.

Professional Discipline Digest

VOLUME 34 NUMBER 3 | By JOHN Q. GALE

Reprimand issued for violation of Rules 1.3, 1.4 and 1.5 where attorney, who is under suspension for other matters, received a $1500 retainer to secure a pardon for client but thereafter failed to do any work; failed to communicate with client; failed to respond to client's inquiries; and failed to refund retainer. Attorney also ordered to refund retainer within 45 days. *Sheppard v. Wesley S. Spears*, #23-0478.

Reprimand issued by agreement for violation of Rule 1.15 (b). *Slack v. Naveed Quraishi*, #23-0232.

Reprimand issued by agreement for violation of Rules 5.5 (a), 8.1 (2), 8.4 (3) and 8.4 (4) and Practice Book 2-32 (a)(1) where attorney continued to practice law during two administrative suspensions and failed to respond to the grievance committee. *Spiess v. Naveed Quraishi*, #23-0545.

Agreed Disposition for violation of Rules 1.15 (e) and 1.15 (f). Attorney to take 2 hours of CLE in real estate law and 2 hours of CLE in contract law, within 9 months; all in-person and in addition to annual MCLE requirements. *Carter v. Michael Patrick Murray*, #24-0167.

Reprimand issued by agreement for violation of Rule 1.3 where attorney failed to timely file for a scar evaluation of client. *Corso v. Claudette J. Narcisco*, #23-0514.

Reprimand by agreement for violation of Rules 1.1, 1.5 (b), 1.13 (b), 1.13 (f), 1.15 (b) and 8.4 (3). Attorney further agrees to make restitution to the complainant in the amount of $30,000 within 30 days, which sum is specifically agreed not to be considered in full satisfaction of all monies claimed due. *Brito v. Mark Kostecki*, #22-0336.

Reprimand issued by agreement for violation of Rule 3.4 (3). *Ansonia Milford J.D. Grievance Panel v. Michael Raymond Hasse*, #23-0541.

Reprimand issued by agreement for violation of Rules 1.5, 1.15 (b), 1.15 (d) and 1.16. *Sturgill v. Sebastian O. DeSantis*, #24-0003.

Reprimand issued for violation of Rule 8.4 (2) where attorney, admitted in Connecticut but living in Ohio, accompanied by her mother, sister, an aunt and a minor child confronted complainant in a Kentucky store and brutally physically attacked complainant causing her a concussion, multiple contusions, a torn bicep, and severely torn rotator cuff requiring surgery with total medical bills of over $122,000. The incident occurred the day after attorney's step-father's death; he had fathered a child with complainant 43 years earlier. Attorney was ordered to take 9 hours of in-person CLE in Human Rights, Criminal Justice, Lawyer Well-Being, and/or Mindfulness within 12 months in addition to annual MCLE. *Robinson v. Leslie Faith Lyte*, #23-0363.

Reprimand issued by agreement for violation of Rules 1.4 (a)(2), 1.4 (a)(3), 1.4 (a)(4) and 8.1 (2) and Practice Book 2-32 (a)(1). Attorney is also currently facing presentment for failing to comply with previously imposed discipline. *Pisotti v. George Paul Guertin*, #23-0432.

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

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

A complete reprint of each decision may be obtained by visiting jud.ct.gov/sgc-decisions. Questions may be directed to editor-in-chief, Attorney John Q. Gale, at jgale@jqglaw.com.

Reprimand issued by agreement for violation of Rule 8.4 and Practice Book 2-32 (a)(1). Attorney ordered to take 3 hours of in-person CLE in IOLTA account management within 9 months in addition to annual MCLE requirements. *Staines v. John J. Leen*, #23-0460.

Agreed Disposition for violation of Rules 1.4 (a)(2) and 1.4 (a)(4). Attorney ordered to make restitution to client in the amount of $2,950, payable within 30 days. *County v. William E. Carter*, #23-0495.

New in Connecticut—MCLE Credit for Pro Bono Work

By JENN SHUKLA

"What on earth is civil asset forfeiture?" That's the question I asked myself while poring over every educational legal resource I could get my hands on. At the time, I was a newly licensed attorney helping my very first pro bono client—a kind grandmother who was at risk of losing her house because unbeknownst to her, one of her adult grandchildren stored a small amount of pot in his nightstand drawer. I spent hours and hours learning civil forfeiture laws and hearing procedures for that pro bono case. At the time, those hours helped me be a better attorney and better represent my pro bono client. And for those of you that are curious, yes, my efforts were successful, and my pro bono client kept her family home.

The case got me thinking about the possibility of continuing legal education credits for pro bono work. Fast forward some years (okay, admittedly a lot of years; I'm definitely not a young attorney anymore) to 2023. While working with the CBA Pro Bono Committee, this topic came up again. Attorney after attorney shared stories similar to mine about how every time they take a pro bono case, they find themselves learning a new area of law or brushing up on one they haven't worked with in some time, studying court rules and procedures for a court they've never been in, or discovering improved ways to communicate and connect with clients. Some attorneys commented that they learned more through their efforts in any one pro bono matter than in any traditional educational seminar they've ever attended. The CBA Pro Bono Committee decided to take action. They began working on a proposal for a rule change that would allow attorneys to

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earn Mandatory Continuing Legal Education (MCLE) credits.

As luck would have it, others in the legal community were also on the same page. The CT MCLE Commission later started working on a similar proposal. Like the CBA Pro Bono Committee, the MCLE Commission recognized that providing MCLE credit for pro bono work would further at least three goals:

1. **Fairness to attorneys furthering their legal education**—Attorneys providing pro bono services work hard to become better attorneys for their pro bono clients and deserve to receive some credit for this educational development.
2. **Appreciation of pro bono volunteers**—The work being done by pro bono attorneys is important. There are hundreds of thousands of people living in Connecticut that cannot afford to hire a private attorney and risk losing their homes, access to their children, benefits, livelihood, or way of life without any legal help. Providing MCLE credit to the attorneys making a difference is a small reflection of the idea that as a legal community, we appreciate those pro bono efforts and want to give credit where credit is due.
3. **Encouragement of pro bono work**—Providing MCLE credit may incentivize CT attorneys to provide even more pro bono services than they already do.

For the next two years, the CBA, the CT MCLE Commission, and others worked to enact a rule change. This year, those efforts were fruitful, and Connecticut joined the approximately 19 other states that allow attorneys to earn MCLE credit for pro bono service. Beginning on January 1, 2026, Connecticut attorneys will be able to earn one MCLE credit for every three hours of pro bono legal services performed, up to a maximum of six (of their twelve required) MCLE credits per year. *(Practice Book Section 2-27A(c)(4))*. The new rule provides guidance for attorneys on what types of pro bono services qualify for credit. To receive credit, the pro bono work must be (1) "legal services," (2) provided to "clients unable to afford counsel," and (3) through a program administered by an approved organization. *(Practice Book Section 2-27A(b)(8))*. Approved organizations include the following:

(A) Any Connecticut nonprofit organization, including any legal aid organization, that provides legal representation to clients without charge;
(B) Any state, local, or affinity bar association in Connecticut; and
(C) Any state or federal court in Connecticut."

(Id.) In other words, representing a family member or friend as a personal favor or offering free services to a potential client as a way of bringing in paying business will *not* satisfy these requirements. Instead, the new rule ensures that credit is only given for legal services provided through established pro bono programs run by trusted organizations that ensure compliance with practice and ethical standards.

Attorneys interested in providing pro bono legal services can learn about some pro bono opportunities through the resources below:

1. To learn about the CBA's Pro Bono Programs, visit: CTbar.org/probono
2. To learn about other current pro bono opportunities, visit: CTprobono.org

In addition, members of the CBA Young Lawyers Section can connect with a variety of pro bono organizations at the annual CBA YLS Pro Bono Fair and Golf Event, held on Tuesday, October 14, at the Hartford Golf Club.

Jenn Shukla is the former CBA director of access to justice and is the current program manager for access to justice at the Connecticut Judicial Branch.

MCLE Credit for Pro Bono Rule - At a Glance

Amended Rule:	Practice Book Sec. 2-27A
Effective Date:	January 1, 2026
Credit Calculation:	1 MCLE credit for every 3 hours of pro bono service Up to 6 total MCLE credits per year for pro bono service
Eligible Pro Bono Services:	(1) Legal services; (2) Provided to clients unable to afford counsel; and (3) Through a pro bono program administered by an approved organization
Approved Organizations:	(A) CT nonprofits, including legal aid organizations, that provide free legal representation (B) Any state, local, or affinity bar association in CT (C) Any state or federal court in CT

The Importance of History (Reflections on What We Choose to Remember)

By JUSTICE RICHARD A. ROBINSON (RET.)

Growing up in Stamford, Connecticut, I attended the public school system from kindergarten through my senior year of high school. When it came to the history of the United States, like most people of the "Boomer" generation, I was taught a truncated and sanitized version of our past. Our history was presented as one of unrelenting progress, in which we started out with great things and, as time passed, things continually kept getting better. When it came to Black people, I learned about Crispus Attucks, Booker T. Washington, George Washington Carver, the various uses of peanuts, and the invention of the cotton gin. The history of race-based slavery was glossed over, and inconvenient truths of its aftermath, the birth of Jim Crow laws, Black Codes, and a convict leasing system, were largely ignored. The Black Codes were laws enacted by local governments to circumvent the abolishment of slavery by criminalizing minor offenses such as loitering or vagrancy. This allowed them to arrest and lease out predominantly Black individuals as a source of free labor, effectively replacing the chattel slavery workforce that had been abolished by the 13th Amendment of the United States Constitution.[1] A local government-enforced source of *"Slavery by Another Name"*[2] that mimicked slavery was never mentioned. I only learned of those things from family history, personal observation, and later, through elective Black history courses in high school and college.

I can understand how it can be painfully difficult to teach new generations of Americans about the injustices inflicted upon some of America's most vulnerable people. Some of us, however, are taught a fuller version of our shared history through family accounts, observation, and firsthand experiences. For example, my maternal grandfather would share the story of seeing enemy World War II prisoners of war drinking from "Whites Only" water fountains—a simple act for which he, my grandmother, and their children would have been arrested, beaten, or even killed. This was an extremely difficult story for him to tell and for us to hear, but both were so very necessary. He needed to unburden his soul, and we needed to burden ours. We needed to know about our family's history and our country's history in order to fully understand why we could not sleep at some motels, eat at some restaurants, use some restrooms, or even purchase gas at some gas stations. A history that had a profound effect on not only who we *were*, but who we *are*!

A recent concerted effort to rewrite or erase parts of American history has sparked significant debate. This includes Executive Order 14253, signed on August 12, 2025, which mandates a thorough review of Smithsonian museums to ensure that all exhibits align with the president's interpretation of U.S. history. The order, titled "Restoring Truth and Sanity to American History," aims to eliminate what is deemed "improper ideology" from the museum system and ensure that the Smithsonian celebrates American history and ingenuity. The executive order states, "As we prepare to celebrate the 250th anniversary of our Nation's founding, it is more important than ever that

Image credit: martahlushyk1/AdobeStock

our national museums reflect the unity, progress, and enduring values that define the American story." It further emphasizes the need to "remove divisive or partisan narratives" and to "restore confidence in our shared cultural institutions."

The Executive Order does not define the phrases "improper ideology" or "divisive or partisan narratives." This makes me wonder what will happen to the Smithsonian's National Museum of African American History and Culture. Is the accurate, but inconvenient, history within its walls "improper" and consisting of "divisive or partisan narratives"? Can we ever be truly united if we do not incorporate the stories of those who have been oppressed and excluded into the rich tapestry of our history?

In the interest of full disclosure, I have been to the museum. During my visit, one of the docents approached me and started talking about the amazing exhibits. At some point in our conversation, he asked me what I did for a living, and I told him that I was the Chief Justice of the state of Connecticut. I shared that I was in Washington, D.C., to attend a Conference of Chief Justices meeting. His eyes widened, and he told me that he would be right back. When he returned, he was with four or five other excited docents. They asked me if I would record a video for one of the exhibits. Honored by the request, I agreed. Now I wonder—will my exceedingly small part of that history be erased too?

I think that most of us are aware that when it comes to the issue of race, the United States of America has an extremely complicated history—one that was the beginning of many great things, but also some things that were the polar opposite of what we as a country stand for or strive for today.

When I was thinking about what to write for this column, my curiosity got the best of me, and I typed, "When did discrimination in the United States end?" into a search engine. The results yielded an absence of a definitive date or moment. Instead, I encountered a mosaic of legislative milestones and social shifts: the Civil Rights Act of 1964 outlawing discrimination based on race, color, religion, sex, or national origin; the Voting Rights Act of 1965 targeting barriers to political participation; the Americans with Disabilities Act of 1990 extending protections for disabled citizens; and the *Obergefell v. Hodges* decision in 2015 recognizing marriage equality.

None of these landmarks signal an endpoint; rather, they mark important steps along an unfinished journey. The consensus among historians, legal scholars, and advocates is that discrimination, in its many forms, has not "ended" in the United States. Laws may change, but the underlying structures, attitudes, and inequities often persist in less obvious ways. The contemporary legal and political debates over diversity, equity, and inclusion are themselves evidence of ongoing struggles to define and realize true equity.

This reality underscores the importance of grappling with history honestly and of resisting narratives that treat progress as linear or complete. To assert that we have achieved a "post-racial" America or an "end to discrimination" is to disregard the lived experiences of those who continue to face barriers, exclusions, and injustices. Instead, the work of the legal community and of society at large is to recognize the inequities in our society as an evolving challenge, one requiring vigilance, creativity, and sustained commitment. Yet this framing often ignores the historical and structural context that gave rise to the need for diversity, equity, and inclusion efforts in the first place. Well-thought-out and designed diversity, equity, and inclusion initiatives do not exclude; they correct for exclusion. To counteract centuries of bias and discrimination that continue to shape access to opportunity, we must resist reductive narratives that treat diversity, equity, and inclusion as a zero-sum game.

As the writer David McCullough said in his June 4, 1984, commencement address to the graduating students at Wesleyan University, "History is a guide to navigation in perilous times. History is who we are and why we are the way we are." Silence distorts. When a nation refuses to name the harms that it has historically imposed upon its people, those who carry these harms are asked to explain their pain to the very nation that caused it. If they do speak, they must do so politely and without hurting the feelings of others. The alternative is a forced, painful silence that only exacerbates the cognitive dissonance that arises when truth eventually finds its way out. I must emphasize that honest talk about the United States' history is not an exercise in guilt; it is an exercise in precision. We cannot fix what we are unwilling to face and accurately describe.

Honest history matters because the disparities that we experience today are not mysterious. Wealth gaps track past federal policy; school inequities track district lines and resource formulas; and employment and health patterns track accessibility. If we treat outcomes as accidents, we will continue to reach for symbolic fixes, and meaningful progress will continue to elude us. If we trace outcomes to policy choices, we can make better policy.

The views, thoughts, and opinions expressed in this article are solely my own and do not necessarily reflect those of Day Pitney LLP or any of its partners, attorneys or clients.

Justice Richard A. Robinson, retired Chief Justice of the Connecticut Supreme Court, has over two decades of judicial experience, including appointments to the Appellate and Supreme Courts, and is currently a partner at Day Pitney LLP.

NOTES

[1] Neither slavery nor involuntary servitude, except as a punishment for a crime where of the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. Congress shall have the power to enforce this article by appropriate legislation."

[2] Douglas A. Blackmon, *Slavery by Another Name: the Re-enslavement of Black Americans from the Civil War to World War II* (New York: Doubleday, 2008)

Stemming the Silver Tsunami: Our Bar for the Future

By PAIGE M. VAILLANCOURT

Paige M. Vaillancourt *is a partner at Rescia Vaillancourt, P.C. with offices in Connecticut and Massachusetts and an adjunct professor at Western New England University School of Law. Her practice involves a variety of bankruptcy matters, including debtor and creditor representation, workouts, and trustee litigation, as well as small business representation.*

The Young Lawyers Section is starting this year with an action call.

In 2023, *CT Lawyer* published an article titled, *The Silver Tsunami: The Wave into the Future.*[1] It discussed succession planning in light of a statistic that has been in the back of my mind since reading it. The teaser paragraph stated that, based on data from the Statewide Grievance Committee, as of the end of 2021 approximately one third of lawyers licensed to practice in Connecticut were over the age of 60 and almost two thirds were over the age of 50. The article dubbed the wave of retirement that would hit our ageing bar the "silver tsunami." It urged those within the wave to develop a solid succession plan to satisfy professional obligations and preserve client relationships. But what does that wave mean for us, the one third on the other end of it?

We are truly the future of practice in this state. We have a wide-open lane and an opportunity to shape the legal profession. But it is up to us to seize the opportunity.

My theme for this bar year is a call for law students and new lawyers to get involved and, most importantly, stay involved. This is a call to strengthen the legal community, shield the rule of law against the current storm, and build and maintain the bar that we believe in and want to see survive. This is a call to put the work in. If you do, you will outpace those who choose not to. The YLS is here to help you build a book of business, hone essential practical skills, and cultivate relationships that make sense for you. It is a chance to lead and get recognized, to organize and make change. This is my seventh year with the section and my involvement has paid dividends, not just on the business side, but on the personal side as well. The YLS is a subset of your peers—colleagues who are going through the same life stages, facing the same professional hurdles. It can be one of your greatest support networks. It certainly has been for me.

But this is also a call for the other two thirds to pass the torch. Quality mentorship is the basis of quality practice. Take an associate out to lunch and have a real conversation. Let them sit first chair and guide them through their mistakes. Encourage them to go to networking events and participate in extracurriculars. Ensure your clients are in good hands. From day one, I had a cadre of mentors who continue to be my biggest cheerleaders and best resources, the first of which is now my law partner. I was warmly welcomed into the legal community by the CBA's Commercial Law & Bankruptcy Section and given not just a seat, but a voice, at their table. The bankruptcy bar at large in this state was unexpectedly collegial and collaborative. It flew in the face of what I thought practice, and especially litigation, would be like. All of this flattened the learning curve of such a niche area and it was the medium in which my love for bankruptcy law grew. This is a call for you to share your experience and knowledge. Create a legacy. Be open. It is a disservice to your practice, to your firm, and your clients to fail to invest in the next generation.

The YLS already has a fantastic year planned. The annual Pro Bono Fair is back at The Hartford Golf Club on October 14. Join us for a very affordable round of golf and stick around for the cocktail reception where you can enjoy some appetizers and learn about wonderful pro bono organizations across the state. The YLS tables for the CBA's 150th Anniversary Gala, which promises to be a very fun and glamorous evening, are already full and we look forward to celebrating this historic milestone with you. If you

enjoyed our award-winning diversity dinner this February, you can look forward to another fantastic program this coming February. Meet our Executive Committee at our December holiday party, April sporting event, or May year-end event highlighting the history of the YLS in the CBA's 150 years. Build skills and drum up business at our networking etiquette dinner in November, speed networking in January, and litigation improv in March. Satisfy your CLE requirements at any number of YLS-organized CLE programs, which range in content from 101s to in-depth analyses of complex hot topics in your practice area. We plan to make many of these programs this year mixer events where everyone from law students to judges can mingle and learn.

"My theme for this bar year is a call for law students and new lawyers to get involved and, most importantly, stay involved. This is a call to strengthen the legal community, shield the rule of law against the current storm, and build and maintain the bar that we believe in and want to see survive. This is a call to put the work in."

If it was not apparent, our Executive Committee put in serious work at our leadership retreat in August. The energy in the room this year was fantastic. We had the pleasure of hearing from Vanessa Roberts Avery, former U.S. Attorney for the District of Connecticut, and honored four of our members for their leadership and service. Jenna Cutler was awarded Star of the Year for her work as Diversity Director and organizing last year's diversity dinner, which gained ABA recognition. Kyle A. Bechet was awarded the Leadership Award for his work as Membership Director, exhibiting passion and commitment to the Section as he helped our members plan and execute a number of successful social events. Hugh T. Sokolski, Jr. was awarded Rookie of the Year for surpassing his duties as LGBT Committee

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Stemming the Silver Tsunami: Our Bar for the Future *Continued from page 35*

Chair, being an active and collaborating member of the LGBT Section, and planning a successful holiday event. And Jermaine Brookshire, Jr. was awarded Volunteer of the Year for providing over 121 hours of pro bono and community service, which was unmatched.

As we look back at our accomplishments over the past year and over the past 150 years, I hope some part of this article sticks in your mind like the silver tsunami did in mine. You—law students, associates, partners, judges—as members of this bar, are on the deck of this ship. Join me as we stem the tide and captain it into the future.

NOTES

[1] Jonathan M. Shapiro, *The Silver Tsunami: The Wave into the Future*, CT Lawyer, April 2023, at 22.

Informal Opinion 25-1 Virtual Unbundled Services for Criminal Matters *Continued from page 16*

Assuming the client's informed consent, the lawyer must detail in the engagement letter, as specifically as possible, all the limitations of the representation. *See* Conn. Judicial Branch, Limited Scope Representation FAQs, *available at* https://www.jud.ct.gov/faq/limited_scope_rep.htm ("The retainer letter and fee agreement between the attorney and the client must explicitly articulate and itemize the scope of the legal assistance . . . .").

III. Conclusion

In conclusion, the Committee does not find a *per se* violation of Rule 1.2(c) by providing virtual legal advice for a fee to *pro se* defendants on handling minor criminal cases. Each such limited representation must comply with the two requirements of Rule 1.2(c) throughout the representation—the limited representation must be and remain reasonable under the circumstances, and the client must give informed consent to the limited representation. Additionally, the lawyer must remain cognizant of and comply with all other Rules of Professional Conduct and laws in providing such limited representation, including but not limited to the duties of competence and diligence under Rules 1.1 and 1.3. The Committee opines, however, that compliance with the full scope of the Rules when in engaging in such limited scope representation in a criminal proceeding may prove difficult, if not impossible, in most of the defined minor criminal cases.

NOTES

[1] The Requester, not the Committee, defines these offenses as "minor." Note that a conviction of a Class D felony in Connecticut exposes a defendant to a five-year loss of liberty and a fine of $5,000.00. *See* C.G.S. §§53a-35a and 53a-41. We also note the Requester's definition of "minor criminal offenses" did not mention either unclassified felonies or Class E felonies.

[2] The Requester unequivocally states that they will not prepare or draft any documentation as part of the proposed limited representation.

[3] To the extent the Requester describes a "fee" for the virtual, unbundled services, that fee must comport with Rule 1.5. Similarly, the singular method of "virtual" chat/text communication described in the opinion request must comport with Rule 1.4.

[4] Limiting the scope of the lawyer's representation does not limit the lawyer's ethical obligations to the client, to the court, or to the public. All lawyers, including lawyers providing limited scope representation, among other duties, must perform competently (Rule 1.1), act diligently (Rule 1.3), communicate timely (Rule 1.4), maintain confidentiality (Rule 1.6), and avoid conflicts of interest (Rules 1.7, 1.8, 1.9, and 1.10)

[5] The Connecticut Penal Code classifies many crimes as Class D felonies including some sexual assaults, assaults, possession of child pornography, burglaries, threatening, identity theft, perjury, violation of protective orders, hindering prosecution, intimidation based on bigotry or bias, interfering with police, stalking, larcenies, and robberies.

[6] Without filing an appearance on behalf of the criminal defendant the Requester is unable to file discovery requests. Therefore, if the Requester is relying on the *pro se* client's ability to obtain the relevant documentation and evidence, the Requester still needs to independently verify the client's success in obtaining the relevant information.

[7] *See* Rule 1.0(f): "'Informed consent' denotes the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct."

[8] The Committee notes here the Requester has also indicated documents will be exchanged with the client via email, so this appears to be an inconsistency with the proposed "chat-only" communication structure in the request. This inconsistency highlights possible factual wrinkles that will present themselves as the proposed representation moves from an abstract concept to real representation of a client.

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