
News

Another Land Use Victory for David Goldman

David Goldman chalked up another appellate win in [Zappia v. Town of Old Orchard Beach](#). The Law Court's decision in *Zappia* promises to significantly shape the way in which local municipal land use officials are required to interpret zoning ordinances that restrict the way in which property owners make use of their own private property

This decision arose out of the Ms. Zappia's application for a building permit to construct a greenhouse in her front yard to grow food year round for her family's consumption. The applicable Town zoning ordinance restricted the placement of such a building in a lot's "required front yard." Ms. Zappia took the position that, since she planned to construct the greenhouse outside the Town required fifty foot setback area (i.e. the only portion of her front yard "required" by the Town's zoning ordinance) there should be no issue of her compliance with the ordinance. The Town's code enforcement officer and zoning board of appeals, as well as the Superior Court on appeal of the local zoning officials' decisions, disagreed, interpreting the phrase "required front yard" as being synonymous with "front yard." Ms. Zappia, therefore, was denied permission to build a greenhouse anywhere within her property's front yard.

On appeal, the Law Court ruled that the Zappias' interpretation of the zoning ordinance was consistent with a number of important canons of construction that municipal zoning officials are tasked with applying in interpreting zoning ordinances.

These include the requirement to give meaning, wherever possible, to each word used in the ordinance, which the Town's interpretation failed to do when it ignored the presence of the word "required" in the phrase "required front yard."

Additionally, and most importantly, these canons of construction also include the requirement that, if the meaning of a term is ambiguous such that it could reasonably be interpreted in two different ways, it must be construed strictly against an interpretation that would stop landowners from making use of their private property as they see fit.

Given that many local zoning provisions are worded in ways that create ambiguities regarding their meaning, the impact of the Law Court's choice to emphasize this canon of construction should reverberate widely for many years.

For more information regarding the decision in *Zappia v. Town of Old Orchard Beach* and other land use issues, please contact [David Goldman](#) at (207) 553-4609 or DGoldman@nhdlaw.com.

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John Veilleux Recognized as 2022 Lawyer of the Year in Personal Injury Law

Norman, Hanson & DeTroy is proud to announce that *Best Lawyers* recognized John Veilleux as its 2022 *Lawyer of the Year* in the practice area of personal injury law – defense. John was also highlighted in the 28th Edition of *The Best Lawyers in America* for his high caliber work in the practice area of insurance law.

Kelly Hoffman Settles Landmark Case for Colby Coaches

Norman, Hanson & DeTroy is proud to announce Kelly Hoffman’s settlement of a landmark Title VII and Title IX Discrimination case brought by 5 of the 7 female head coaches at Colby College. Federal and Maine equal pay laws mandate that employers may not discriminate between employees on the basis of their gender by paying wages to any employee at a lesser rate for jobs that have comparable skill, effort, and responsibility. We were honored to represent collectively the majority of Colby’s female head coaches. The Coaches and the Colby College community have settled their disputes and are pleased that the matter has been resolved constructively and amicably.

Please click below for up-to-date media coverage of this historic settlement.

- [NewsCenter Maine](#)
- [CentralMaine.com](#)

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- [Bangor Daily News](#)
 - [Portland Press-Herald](#)

Kelly Hoffman has a national sports practice, assisting coaches, professional athletes, college athletes, and other members of athletic departments with a range of matters from seeking equal pay for equal work to defending individuals in Title IX or other investigations. Whether it is a high-profile news event or navigating complaints made parents or student-athletes, Kelly ensures that her clients are well-advised in **handling** these challenging and emotional processes.

Kelly served as a goalkeeper for both the Johns Hopkins field hockey and lacrosse teams, and was honored as an All-American in field hockey. After university, Kelly served as a member of the USA Field Hockey National Outdoor Team. In 2018, she was named by the U.S. Women's Masters Olympic Field Hockey Committee to its traveling team, and represented Team USA during the International Hockey Federation (FIH) Masters World Cup in Terrassa, Spain.

Kelly may be contacted at KHoffman@nhdlaw.com or 207.553.4683.

David Very Wins Award of Attorney Fees to Insurer before Law Court

In a decision issued today in [Fortney & Weygandt, Inc. v. Lewiston DMEP, et al., 2022 ME 5](#), the Maine Law Court upheld the award of over \$300,000 in attorney fees to Travelers Insurance Company for successfully defending counter-claims against its insured in an action initiated by its insured under Maine's prompt payment statute.

David Very was retained by Travelers to defend a contractor from several counter-claims alleging defective work in response to the contractor filing an action seeking payment from the owner pursuant to Maine's prompt payment statute. The statute provides that the prevailing party in any proceeding to recover payment within the scope of the Prompt Payment Act must be awarded attorney fees.

After several years of litigation, the contractor won the prompt payment action and all of the counter-claims were defeated at trial before Maine's Business Court. Attorney Very filed an application for all of its fees arguing that the defense of the counterclaims was "intertwined" with the prompt pay action, and thus awardable. Attorney Very further argued that the fact that an insurer, rather than the contractor, paid the fees should not exclude the award because to do so would give the owner a windfall and defeat the purpose of the prompt payment statute, which is to deter owners from failing to timely pay contractors. The Business Court agreed and awarded over \$300,000 in fees to the Travelers and the owner appealed.

On appeal, the Law Court agreed that the contractual payment claims and counterclaims were based on a common core of facts so interwoven that separation of fee and non-fee work was not possible. Thus, the Law Court disagreed with the owners' argument that fees paid by Travelers should not have been awarded because counsel was specifically retained to defend the counterclaims, not prosecute the payment claims, as those claims were intertwined. The Court also rejected the owners' argument that Travelers, as an insurer, would not be entitled to fees under the statute, as excluding those fees would violate the purpose of the prompt payment statute. Thus, the Law Court upheld the award of over \$300,000 to the Travelers, plus fees associated with the appeal.

Please click [here](#) for the Law Court's full decision in [Fortney & Weygandt, Inc. v. Lewiston DMEP, et al., 2022 ME 5](#).

For more information about this case, or for questions on construction related matters, please contact David P. Very at dvery@nhdlaw.com.

Lindsey Sands Confirmed as Administrative Law Judge

We are pleased and proud to announce that our colleague and friend, Attorney Lindsey Sands, was unanimously appointed to serve as an Administrative Law Judge by the Workers' Compensation Board for the State of Maine.

Lindsey spent her entire private practice career here at Norman, Hanson & DeTroy, and leaves a lasting legacy of hard work, great client relationships, and outstanding results. Although we are very sad to see her go, we know she will be a great addition to the Bench.

Judge Sands will be presiding in formal hearings from the Workers' Compensation Board's Lewiston Regional Office once her transition from our offices has been completed. The State of Maine is fortunate to have the skills and talents Judge Sands will bring to the Bench. She will be greatly missed.

Isobel Golden Returns to NHD

Norman, Hanson & DeTroy is pleased to announce that Isobel Golden, a former Summer Associate, has returned to the firm as an Attorney. Isobel will be practicing with the firm's professional services practice group, focusing on medical malpractice and professional liability defense.

During her tenure at the University of Maine School of Law, Isobel served as an Articles Editor for the *Maine Law Review*, interned with the Lewiston District Court, and was a summer associate at our firm. After graduating from the Maine Law in 2020, she worked as a judicial law clerk with the Maine Superior Court.

Isobel grew up in Waldoboro, Maine and graduated from Bates College in 2011. Prior to law school, she worked for a number of years as a legislative aide for the Maine State Legislature and served for a term on the Lewiston City Council. She now lives in Lewiston with her husband, Jared, and their daughter.

Langdon Thaxter Joins the Firm

Norman, Hanson & DeTroy is pleased to announce that Langdon Thaxter has joined the firm as an associate attorney in our Commercial Group.

Langdon is a Maine native who grew up in Portland. He attended Bard College in New York State, where he majored in philosophy with a focus on the philosophy of language. After getting his undergraduate degree, Langdon worked for a non-profit in Lewiston where he helped high school students navigate the college application process.

Langdon attended the University Of Maine School Of Law where he graduated *magna cum laude*. During law school he interned at the Federal Defenders Office for the District of Maine and worked at the Cumberland Legal Aid clinic as student attorney where he represented juveniles. Langdon also helped asylum seekers through Maine Law's Immigration Clinic and he traveled to the U.S.-Mexico border as part of Jones Day's Laredo Project where he worked with Jones Day attorneys representing asylum seekers at the border. During the end of his law school career, Langdon was selected to serve as a judicial intern with the Hon. Kermit V. Lipez on the United States Court of Appeals for the First Circuit.

After law school, Langdon was chosen to serve as a law clerk to the Chief Justice of the Maine Supreme Judicial Court by former Chief Justice Leigh Saufley. He clerked for the Court for one year before joining Norman Hanson & DeTroy where he is excited to be starting his legal career. Langdon lives in Portland with his dog Hector, and he enjoys hiking with his dog and skiing in the winter months.

Joe Mavodones Joins NHD

Norman, Hanson & DeTroy is proud to announce that Joe Mavodones has joined the firm's Professional Liability Group focusing on professional malpractice defense, general liability defense, and commercial litigation.

Before joining Norman, Hanson & DeTroy, Joe worked as a judicial law clerk for Justice Thomas E. Humphrey at the Maine Supreme Judicial Court and, most recently, for Magistrate Judge John C. Nivison at the U.S. District Court for the District of Maine.

Joe graduated from the University of Maine School of Law, where he served as Articles Editor on the Maine Law Review. During law school, he interned with the Maine District Court in Portland and with Justice Donald G. Alexander at the Maine Supreme Judicial Court. Prior to attending law school, Joe worked for a ferry company that services the islands off the coast of Portland, during which time he obtained his 100-ton captain's license.

Joe and his wife, Emily, live in Cape Elizabeth with their three kids and enjoy exploring the coast of Maine.

Matthew Mehalic admitted to the US District Court for the District of Massachusetts

Matthew Mehalic was admitted to the United States District Court for the District of Massachusetts on Tuesday, October 19, 2021. Matthew focuses his practice on insurance coverage and defense matters, but also handles general litigation matters, including, but not limited to, construction litigation, product liability, and personal injury. Matthew is willing to assist all of Norman, Hanson & DeTroy's clients with matters pending in Massachusetts state



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Bob Bower Named Best Lawyers' 2022 Lawyer of the Year in Workers' Compensation

Norman, Hanson & DeTroy is proud to announce that *Best Lawyers* recognized Bob Bower as its 2022 *Lawyer of the Year* in the practice area of workers' compensation law. Bob has also been highlighted in the 28th Edition of *The Best Lawyers in America* for his high caliber work in the practice area of labor law.
