

# IN BRIEF

*Current Developments in Maine Law*

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SUMMER 2016

## Special Memorial Edition

On May 28, 2016, the firm lost one of its senior and most respected partners, Peter J. DeTroy, III, suddenly to cardiac arrest while enjoying one of his favorite pastimes, bicycling, near the home that he recently refurbished with his wife on Munjoy Hill in Portland. We extend our sincere condolences and heartfelt wishes to his mother, Christine; his wife, Mary; his first wife and long-time friend, and the mother of his children, Marilyn; and his three children and three stepchildren, as well as his six siblings and granddaughter.

Peter was born on April 13, 1948, in Brunswick, Maine. He obtained degrees from Bowdoin College in 1969 and The University of Maine School of Law in 1972, following which he clerked for The Honorable Sidney W. Wernick of the Maine Supreme Judicial Court. Peter joined the firm in 1977 at a time when Bob Hanson and David Norman were just beginning what would turn out to be a decades-long, successful experiment in striking out on their own to establish a new law firm.

Peter quickly became known among the Maine Bar and beyond the State's borders as one of the best attorneys in everything from criminal defense to civil plaintiff's litigation. He was described by a former Maine Governor as "one of the top five lawyers in the state." Other attorneys sought him out when they needed legal representation with a variety of issues, from divorces to ethics complaints and malpractice. He was a Fellow of the American College of Trial Lawyers and was recognized by the University of Maine School of Law with the Distinguished Service Award in 2012 for his "significant contributions to the legal profession, cultural and charitable organizations and his long standing support for the state's only law school."

Peter's contributions to the law indeed went beyond advocating passionately and effectively for clients of all types, as he also brought his energy and intellect to bear in many capacities in order to better individual lawyers and the legal community as a whole. Over

the years, he served enthusiastically as a member of the advisory committees for the Code of Professional Responsibility and the Maine Rules of Evidence; as a Board member for the Maine Assistance Program for Lawyers and Judges; as the Chair for the Maine State Bar Association's Silent Partners Program; as a co-chair of the Commission in Gender, Justice, and the Courts; and as a volunteer practitioner-coach to Harvard Law School trial practice students.

That same compassion and energy drove Peter to devote time to causes outside the legal profession that benefitted the general public. Among the organizations and causes he actively supported over the years were the Boys and Girls Club, the YMCA, the Center for the Prevention of Hate Violence, the Bicycle Coalition of Maine, and the Falmouth School Board. For his efforts, he became known widely among non lawyers as a generous man and a positive influence in the Maine community. Maine Magazine named him one of the State's 50 "difference makers" in 2013.

Peter was an avid sports participant and fan, earning a reputation among other athletes for passion and competitiveness on the basketball court, in particular. An enthusiastic bicyclist, he participated in the annual "Trek Across Maine," cycling 180 miles across the State from Belfast to Sunday River over three days to raise money for the American

Lung Association. As much as he loved sports, however, he loved family and music more – and thanks to his talented immediate and extended family, he frequently enjoyed both at once.

Peter's professional family members, both attorneys and staff, at Norman, Hanson & DeTroy count themselves fortunate to have had Peter as a partner, mentor, leader, and friend for what has been the majority or, for most, the entirety of our careers in the law.



**Peter J. DeTroy**

1948 - 2016

*David L. Herzer, Jr., Esq*

# Memorial Service Remarks

Merrill Auditorium, June 3, 2016

I want to begin by thanking everyone on behalf of the firm for the unbelievable outpouring of support over this last week. What was particularly amazing was that almost all of the people reaching out to us had specific personal recollections of their own interactions with Peter. I suspect that most of the people in this room at this moment know of Peter not by reputation conveyed to them by others. You don't know about Peter, you actually know Peter, and there is a reason for that.

Plainly and simply, Peter was a doer. He didn't spend 95% of his time in contemplation, hypothesizing about or over-analyzing the situation, and the other 5% trying to advance the ball. He spent 5% of his time putting his finger on the problem and 95% actually doing something about it.

We spent a lot of time this past week at the firm sharing Peter stories. It would take a multi-volume set to record them all. I intend to share only one story. It is representative, not cherry-picked. I chose it because it actually was the first time in my life that I had spent more than five minutes with Peter. It was a little over 35 years ago. Peter was 32 years old. I had been hired by the firm but had not yet started working there. I was invited to play a round of golf at the Portland Country Club with Peter, Bob Hanson and Mark Lavoie. As we started out, I was very impressed, but not by their golf game or their high-level legal discussions. These three guys obviously had spent a considerable amount of their lives to that point elevating trash-talking to an art form. After several entertaining holes, we reached the eighth hole, a par four with water to the right. Peter pulled out his nine iron for the approach shot and hit the ball about a foot—and that is being generous. He then proceeded to use his nine iron four more times, without any discernible benefit whatsoever. The next thing I heard was a helicopter-type sound, which was his nine iron on the way to the bay to swim with the fishes. Peter, acting as if nothing out of the

ordinary just happened (and there probably was a reason for that which we won't go into), proceeded to inform me about the rule in golf that if someone has to use the same club five times in a row, it must be defective. He said it in a fashion that led me to believe he had invoked the rule previously, perhaps on more than one occasion. I resisted the temptation to inform him that I had played golf for several years and never heard of such a rule.

We then proceeded to the ninth hole, walking up the hill back to the clubhouse. When Peter finally got within nine-iron range, he looked at me and said, "Can I borrow your nine iron?" Not knowing Peter at all and having no idea whether Peter had a sense of humor, I mustered up the courage to say, "Are you willing to waive the five shot rule?" After some pause, he responded with a big smile and the promise that, "I had nothing to worry about." He did not elaborate on whether that meant he was about to hit his first good shot of the day, or whether he was agreeing to the waiver. I handed him my nine iron, resisting the temptation to respond, "Could you please just answer the question?" I thought it probably was not a good idea for my first cross-examination as an attorney to be of Peter.

Peter eventually gave up the game of golf years later, declaring it a "non-sport undeserving of his athletic prowess." Whichever counselor persuaded him to do that deserves a pat on the back.

Peter had more unbridled raw energy, intensity and competitiveness than I have ever seen. He was a mentor to me when I started working full-time and obviously a mentor to many others over the years, including I suspect, many outside the firm. Once the firm decided to let me out of the library and do something, all I kept hearing from others in the legal community was "Peter this" and "Peter that." Although I certainly didn't have my finger on the pulse of the Portland legal community, Peter clearly



JAMES D. POLIQUIN, ESQ.

had generated a buzz at a young age, and had laid the foundation for what evolved over the 35 years that followed.

Peter truly loved the law and the legal profession. However, Peter saw the law as merely an instrument. It had no intrinsic value. Its value derived solely from how it interfaced with the real world, human conflict, human frailties, and human transgressions. Although Peter certainly had the intellect to engage in academic legal debates with the best of them, he was far more interested in improving the varied components of the legal system that actually impacted its ability to produce fair and just results. That explains his participation in programs such as the Bar's "Silent Partners" program and the Maine Assistance Program. It explains the countless hours spent helping others develop their skills and knowledge, such as his volunteering with the Harvard Law School Trial Practice Program and his active involvement with the Gignoux Inns of Court. Over the years he served on more committees and boards relating to the legal profession and social causes than I could possibly list. Just reading that list would make me tired, let alone performing it. His tireless efforts and service appropriately have been recognized by a number of awards and honors. Those included the Harrison Richardson Award for Trial Advocacy from the American Board of Trial Advocates and the University of Maine School of Law Distinguished Service Award. Only a couple of weeks ago, he sent an e-mail around advising us that he had committed

himself to be the Chair of the Campaign for Justice in 2017, and therefore we needed to get ready for him to darken our doors.

I spoke earlier of the unbridled raw energy and intensity that Peter exhibited in his early years. People have comment to me in the last few years that Peter has mellowed, saying, “He’s not over the top intense like he used to be.” At first, I concurred with that assessment. But upon further reflection, I don’t think that ever was true. What happened is that Peter learned to harness and

channel that boundless energy and intensity. He turned the tables on it – he was now in control of that resource, rather than the other way around. Because of that, I think every person who has had the good fortune to get to know Peter is better for it.

Peter loved his life. He loved his family, his friends and the people he practiced law with and that is why it is so hard to say goodbye. In that way he was a simple man. He didn’t need the accolades because he loved what he did and thoroughly enjoyed

his life. Not a lot of people have that gift.

After my colleagues knew I was going to speak today, I received an array of quotations that people thought might be appropriate, all of which were cool and right on point. I chose the shortest Oliver Wendell Holmes, Jr. “Every calling is great when greatly pursued.” Peter contributed enough “great pursuit” to life to cover for the rest of us. He will be forever missed and certainly never, ever replaced.

## Personal Reflections

Peter and I became friends at the University of Maine School of Law in 1970. As was the case with more than a few of us, my first real contacts of significance with Peter were on the athletic field or court. Peter was a year ahead of me in law school, but there was a great deal of camaraderie between the law school classes, and the rivalry between classes was fierce! Peter was “earnest,” if not downright aggressive, whether on the flag football field, the basketball court, or the softball diamond.

I have fond memories of playing sports with Peter, one of which included seeing his biggest fan, his young son, Adam, who was probably five years old at the time with a shock of white-blond hair and a big smile! After law school, I was fortunate enough to be on a number of athletic teams with Peter for many years in various leagues around the greater Portland area.

I began the practice of law in a small, one-man firm in Biddeford. Like Peter, in those early days, I had to become a “jack of all trades.” In that role, which saw me in the District Court in York County and in Cumberland County quite frequently, I had occasion to run across Peter on a number of occasions. In those early days, he garnered the respect of members of the bench and bar, which he surely nurtured without trying until his untimely death a few weeks ago.

I joined Norman, Hanson & DeTroy in 1980 and had the pleasure of having an office next to Peter. We talked about legal matters endlessly. We also shared struggles in our efforts to restructure the firm and its practice groups.

While Peter and I were only a few months apart in age, in many respects he served as a valued mentor. In those early days, I had the benefit of being able to discuss cases, litigation strategies and even closing arguments with Peter. After a modest verdict in a defamation case against a local department store, a juror told the Clerk of Courts (who passed it along to me) that what clinched the verdict and the damages award to her was my statement to the effect that “one is not born with his or her reputation. Integrity and reputation are earned through decades of honesty and good conduct . . . .” That was verbatim DeTroy!

In the years that followed, our practice arenas shifted; however our friendship did not. Because Peter spent many months and even years “in the trenches” in the District and Superior Courts, he knew all of the wondrous personalities of the bench and bar from the 70’s and 80’s. Within the week before he died, he sat in my office and we spoke about old times and future plans. When I asked if he remembered the saying, “When in Dutch, call Hutch,” he retorted, “If it’s to jail you’re a going, call I., Edward Cohen.” I asked him if he remembered the legend on a door in Monument Square engraved, “The Only Lawyer on the Square on the Level,” and he did.

If I ever had a problem, and I know the same is true for my colleagues at the firm, Peter’s door always was open. Time and again over the years, I would share a legal issue or a personal dilemma, seeking out his guidance. His advice was always sane, from the heart and unerringly perfect. Peter knew



RODERICK R. ROVZAR, ESQ.

of my sons’ schooling and their march into adulthood, marriage and parenting, and he asked after them frequently. Peter chided me incessantly about guns and hunting and, in his words, “slaughtering innocent wildlife.” He declined my invitations to go hunting, but with a chuckle.

I am blessed to have enjoyed Peter’s friendship and fellowship for 43 years and doubly privileged to have been his law partner during 36 of those years. In sum, I felt I had a special bond with Peter. Reality dawned on me when I looked around the Merrill Auditorium at his Memorial Service and realized that there were literally hundreds who felt the very same.





THEODORE H. KIRCHNER, ESQ.

5:45 Saturday morning; Portland; Law School neighborhood; late 1980's to early 1990's: "Groan (or substitute expletive). I need to be out the door to run with Peter in 15 minutes." That's not to be confused with "20 minutes," or "approximately 15 minutes." Peter was obsessively punctual for our Saturday morning runs. To Peter's credit he would sit in the driveway until 6:00, rather than ring the doorbell and awaken my children. Because they were still pre-teens, Peter could excuse my children's sloth.

On those runs, after forcing our beginning-to-show-their-age legs to move, we began serial conversations about the

important topics of the day. To be sure, there were discussions of politics, world events and, of course, legal developments. Peter's knowledge regarding members of the bar and bench, and their cases or decisions, was legendary – "The Rain Man of the Bar." The specifics of those political and legal debates are lost to me due to the passage of time. Examples of our debates on more eccentric topics are not, however. Sports: Who among Lloyd (later "World B") Free, Darryl ("Chocolate Thunder") Dawkins, or Moses ("Fo Fo Fo") Malone was the most colorful player for the Philadelphia 76ers? Music (contemporary): Whether Martha and the Vandellas' "Heat Wave" or the Ronettes' "Be My Baby" was the indisputably best girl group song of the 60's.

After our runs, Peter typically went straight to the office. There, so I heard, he would fume about what to him was unfathomable – some of the younger lawyers still had not arrived at the office and it was already approaching 7:30 on Saturday morning!

We also played organized league basketball. To paraphrase "The Donald," I could mention, but I won't, the numerous technical fouls that Peter was assessed. Some might find earning technical fouls in a recreational basketball league incomprehensible, given that there was no prize money, nor even any publicity, but they would miss the point. Clearly a player should be permitted to express his heartfelt opinions of the referees' performance, even if those referees were too repressed to appreciate Peter's observations. Perhaps it was better for us when we aged out of team sports and

entered road races – less opportunity for trash-talk and physical confrontation and more gasping for air in a non-contact sport.

At work, Peter and I would enter each other's office and shut the door so we could discuss our cases in a private, less-solemn manner, although Peter always treated his cases and clients with the serious sense of purpose and respect they deserved. Through a certain sardonic lens, though, some of the situations the cases presented, as well as the conduct of the participants, could be viewed as hilarious. Peter was adept at finding the stress-relieving kernels of belly-laugh-inducing humor in otherwise difficult predicaments. One cannot overstate the value of a good hard laugh, almost to the point of tears, during the work day. Our current glass-door office environment inspired us to act more circumspectly over the past two years, but Peter maintained his razor wit throughout the challenges presented by his professional commitments.

All of the professional and personal accolades heaped on Peter over the past several weeks inarguably are well-deserved. Many will recall his boundless energy and passion for life. I choose to remember also the more unique and lesser known aspects of my good friend. We had shared demographics, uncannily similar interests and a mutually acknowledged, somewhat twisted, sense of humor. These are some of the memories of my time with Peter that I will cherish the most. More importantly and without question, I have never known a more thoughtful, kind, and considerate man.

I met first Peter in 2005, when I started law school in the same class as his daughter, Charlotte. Peter was a fixture at Maine Law, often spotted doting on his wife, Mary, who worked in the Advancement and Development Office. He would frequently bring her flowers or take Charlotte out to lunch, and his gregarious personality made him hard to miss there.

After graduation, I kept in touch with Peter and Mary. Peter convinced me to work at Norman, Hanson & DeTroy, and he was instrumental in my successful placement with the firm, despite the recession affecting most of Maine’s legal organizations. However, Peter was extremely passionate and made it his mission to take me under his wing and help advance my career.

Although I was aware of Peter’s magnetic personality before I joined the firm, it was not until I became his associate that I truly understood the depth and breadth of his connections and charm. Peter often had me walk with him to get coffee, in part because he valued exercise and wanted to be inclusive, but also because he hated to waste any moment of the day that could be spent talking about cases. It was difficult to have those strategy sessions out in public

because he was constantly being stopped by passers-by to chat. At times, it seemed there was not a person in Portland who did not know Peter.

It is easy to understand why he was well-liked. He was a guy who, in his sixties, took on a limbo contest at my wedding competitively and put a field of thirty-somethings to shame. When I had cancer, he spent a workday taking me to chemotherapy. He had a way of talking to people that made even most adversarial litigants feel heard and understood.

Peter’s personal qualities were not the only reasons he was a successful attorney. He was exceptionally hard-working and made sure to instill that work ethic in anyone who worked with him. Peter abhorred laziness and would not settle for anything but the best work product. I spent many late nights editing briefs marked up by Peter, only to find them red-lined again by him the next day. Many of the attorneys at NH&D have experienced Peter’s tough love mentoring and “character building,” and we are all better practitioners for it. We will continue to remember him as we carry on where he left off here at NH&D.



KELLY M. HOFFMAN, ESQ.



DEVIN W. DEANE, ESQ.

Peter was, in a word, everything. He was everything you aspire to be within and outside the legal profession. He had a heart of gold, and he acted on it, always. He did not just believe in what was right—he fought for it. And he was uniquely capable of achieving it, no matter the risk or the challenge. As his brother Daniel said at his memorial service, “Peter stood in the gap” always fighting for those worth fighting for.

Peter is, and was already in life, a legend of the Maine bar. His professional accolades and accomplishments speak for themselves. But Peter was just as successful at home, which is not all that common among great trial lawyers. He had a beautiful relationship with his family, especially his wife Mary. She gave him the balance to manage it all, and he absolutely adored her for it.

Peter had it all together. I do not know how best to describe him other than to say he was the best man I have ever met. He

had all the qualities that make good people good—and he had them in spades. But above all else, it was his humanity that made him great. He simply believed in people, and that made him the perfect leader in every context. He brought out the best in everyone around him because he believed in them, and he made them believe that their “best self” was as capable and as good of a person as he was.

Peter was my mentor, my friend, and so much more. He was one of the most important people in my life. He taught me to be a lawyer and a man, a husband and a father, and I will forever cherish my relationship with him.

We have lost a great one in Peter DeTroy, but we must strive to carry forward his legacy by “standing in the gap” and fighting for the causes that move the law and our society forward.

**P**eter Detroy was my lawyer, my colleague and my friend.

In 2014, and after some 50 plus years of trying cases from my home base in Chicago, I made the decision to move that home base to Maine. I told my colleagues in Chicago that I intended to hire the “best lawyer in Maine” and to seek admission by petition – a somewhat unusual move. Peter was the clear choice. He secured my admission to the Maine Bar, but then I was doubly rewarded when given the privilege of joining Peter and his colleagues at NHD.

Little did I know that my decision to come to Maine would introduce me to one of the finest men I have been blessed to know over my 83 years. Little did I know that my affiliation with Peter and his firm would allow me to practice with one of the finest trial lawyers I have seen in action – and I have seen a few. Little did I know that I would find a true friend with whom I would form a bond of kinship that belied our brief association of only 15 months. Peter became my pal and confidant. He was tough but, as evidenced in the courtroom, he had “the touch” — trial lawyers reading this will know what I mean. When conversing with Peter, you know he listened. He was a man with whom you could build an absolute trust. I was privileged to know him, but for too short a time. That is my loss.

When I learned of Peter’s death, I immediately grieved for his beloved Mary, his family, his partners, his colleagues and his many friends. I knew the world had lost a very special guy – a gentleman as defined, for example, by John Henry Cardinal Newman:

*He makes light of favors while he does them, and seems to be receiving when he is conferring. He never speaks of himself except when compelled, never defends himself by a mere retort, he has no ears for slander or gossip, is scrupulous in imputing motives to those who interfere with him, and interprets everything for the best. He is never mean or little in his disputes, never takes unfair advantage, never mistakes personalities or sharp sayings for arguments, or insinuates evil which he dare not say out. From a long-sighted prudence, he observes the maxim of the ancient sage, that we should ever conduct ourselves towards our enemy as if he were one day to be our friend. He has too much good sense to be affronted at insults, he is too well employed to remember injuries, and too indolent to bear malice. He is patient, forbearing, and resigned, on philosophical principles; he submits to pain, because it is inevitable, to bereavement, because it is irreparable, and to death, because it is his destiny....*

Peter was a gentleman who was my lawyer, my colleague, my friend.



ROBERT P. CUMMINS, ESQ.