



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Commission
From: Jonathan Wayne, Executive Director
Date: January 23, 2024
Re: Complaint by William Clardy against Sen. Troy Jackson

On November 8, 2023, the Maine Ethics Commission received a complaint and appendix from Mr. William Clardy about legal services that Maine Senate President Troy Jackson received from Preti, Flaherty, Beliveau & Pachios, LLP (“Preti Flaherty”) in connection with a property dispute. ETH 1-9, 26-91. Shortly after purchasing a second home in Augusta in September 2019, Sen. Jackson and his partner asked the sellers to rescind the sale, contending that the house had undisclosed defects due to an insect infestation and other causes. When the matter did not settle, in June 2020 Sen. Jackson and his partner, represented by Preti Flaherty, filed a lawsuit in the Superior Court of Maine. On July 2, 2020, Mr. Jackson and his partner entered into a contingent fee agreement with Preti Flaherty in which they agreed to pay a percentage of any amounts recovered from the defendants. ETH 70-71.

Mr. Clardy views the fee arrangement as extremely favorable to Sen. Jackson. He asks the Commission to investigate whether the “reduction” in fees charged by Preti Flaherty constitutes a gift that Sen. Jackson should have disclosed in his 2020-2022 annual statements of the sources of his income. ETH 5-6. Mr. Clardy also seeks an investigation into whether Preti Flaherty, a firm that employs lobbyists, should have filed a lobbyist expenditure report with the Commission because it made expenditures on behalf of Sen. Jackson. ETH 1-5. Sen. Jackson and Preti Flaherty have submitted responses to the complaint, summarized below. ETH 18-19, 23-25. Commission staff would be pleased to conduct any investigation directed by the Commission, but we have doubts that the services should be viewed as a gift by Preti Flaherty. Rather, Sen. Jackson entered into a conventional fee agreement with the firm. A third requested investigation related to these facts is discussed in a confidential memo because the Commission is required by 1 M.R.S. § 1013(3-A) to consider the matter in executive session.

Relevant Law

The disclosure requirements raised by Mr. Clardy are in different titles of the Maine Revised Statutes. The allegation that Sen. Jackson filed incomplete personal income statements should be analyzed under 1 M.R.S. §§ 1012 & 1016-G, particularly whether the legal services qualify as a “gift” as that term is defined in 1 M.R.S. § 1012(4). The allegation that Preti Flaherty failed to file a required lobbyist expenditure report should be analyzed under the lobbyist disclosure law in 3 M.R.S. §§ 312-A & 317(1-A), in particular whether Preti Flaherty’s services should be considered an “expenditure” or “anything of value” as those terms are defined in 3 M.R.S. § 312-A(7)&(16).

Personal Income Reporting by Legislators (ETH 92-103)

Definition of gift in legislative ethics law. For purposes of annual income reporting by legislators, the term gift is defined to mean “anything of value, including forgiveness of an obligation or debt, given to a person without that person providing equal or greater consideration to the giver.” 1 M.R.S. § 1012(4). The definition excludes “gifts received from a single source during the [annual] reporting period with an aggregate value of \$300 or less.” 1 M.R.S. § 1012(4)(A).

Annual personal income statements required for legislators. Pursuant to 1 M.R.S. § 1016-G, legislators are required to “annually file with the commission a statement identifying the sources of income received, positions held and reportable liabilities incurred during the preceding calendar year by the Legislator or members of the Legislator's immediate family.” Among other things, the Legislator is required to disclose “the specific source of each gift received by the Legislator” 1 M.R.S. § 1016-G(1)(F).

Commission’s enforcement authority over personal income statements. The Commission is directed to “determine whether a statement [of sources of income] substantially conforms” to the disclosure requirements. 1 M.R.S. § 1016-G(3)(A). If a statement does not substantially conform to the requirements, it is not considered filed. *Id.* The Commission may assess a penalty for failing to file a statement within 15 days of receiving a notice from the Commission. *Id.*

Lobbyist Disclosure Law (ETH 104-110)

Definitions. Maine’s lobbyist disclosure requirements define a lobbyist as a person who is who is paid by a client to lobby for more than eight hours in a calendar month. 3 M.R.S. § 312-A(10). A lobbying firm is a partnership, corporation or other association that employs or contracts with more than one lobbyist. 3 M.R.S. § 312-A(9-A).

Registration and monthly reporting for each client. Lobbyists are required to register for each client. 3 M.R.S. § 313(1). If the lobbyist has a colleague who is also lobbying for the client, the lobbyist may list the colleague in the registration form as a “lobbyist associate.” After registering, the lobbyist must file monthly reports for the client that disclose, among other things, the bills lobbied for the client during the month and the compensation earned. 3 M.R.S. § 317(1). As part of the monthly reporting, the lobbyist must also disclose any expenditures paid for or reimbursed by the client that benefit a covered official or a member of the official’s immediate family. 3 M.R.S. § 317(1)(F)&(G).

Lobbyist expenditure report. A lobbyist may need to file an additional statement if they or their lobbying firm make expenditures benefiting a covered official that are *not* reimbursed by any client. Specifically, if a lobbyist or lobbyist associate, or their lobbying firm, makes expenditures of more than \$300 in a month directly to or on behalf of a covered official or immediate family member that are not reimbursed by any client, the lobbyist or lobbyist associate must file a “lobbyist expenditure report.” 3 M.R.S. § 317(1-A). The Commission proposed this provision in recognition that expenditures by lobbyists or their lobbying firms to benefit officials/family members should be disclosed publicly, even when not made in the course of lobbying on behalf of a specific client. This requirement relies on the definitions of the terms “expenditure” and “anything of value” in 3 M.R.S. § 312-A(7)&(16).

Factual Background

Legal Services

In September 2019, Sen. Jackson and his partner purchased a home at 2076 North Belfast Avenue in Augusta from Paul Godbout and Jane Godbout. Beginning in October 2019, Preti Flaherty assisted them in making claims against the Godbouts alleging that the house was damaged by an ant infestation and other causes. Preti Flaherty wrote two letters in October-

November 2019 requesting that the Godbouts agree to rescind the sale, return the purchase price, and pay for their legal fees in pursuing the claim. ETH 66-69. The Godbouts declined, and Preti Flaherty filed a lawsuit in the Superior Court of Maine captioned *Pelletier v. Godbout*, AUGSC-CV-2020-00081 (filed June 8, 2020). ETH 72-73.

The attorney signing the complaint and subsequent filings was Matthew Warner, Esq., an attorney who does some work in the firm's government affairs practice group. It appears that Mr. Warner occasionally lobbies on legislation, because on two occasions he has been listed as a lobbyist associate on a colleague's registration. ETH 61-62.

The Commission staff does not know the full extent of the legal services provided by Preti Flaherty to Sen. Jackson, but a quick review of the litigation file publicly available at the Superior Court suggests the services included:

- the October-November 2019 letters requesting the rescission of the sale,
- participating in mediation conferences before and after *Pelletier v. Godbout* was filed,
- pursuing plaintiffs' legal claims against the defendants in *Pelletier v. Godbout*, which has involved pleadings, motion papers, hearing appearances, depositions, discovery, *etc.*, and
- defending against the Godbouts' counterclaims.

ETH 72-82. In Preti Flaherty's December 15, 2023 response, it states that continuing to represent Sen. Jackson would result in a conflict of interest because of Mr. Clardy's complaint and that "a motion for leave to withdraw will be filed soon." ETH 23.

Fees to Preti Flaherty

On July 2, 2020, Sen. Jackson and his partner entered into a contingent fee agreement with Preti Flaherty. ETH 70-71. Under the agreement, they are liable to compensate Preti Flaherty for their legal services only if the firm collects damages from the defendants. Sen. Jackson and his partner agreed to pay 33 1/3% of any amounts recovered. In the event of an appeal, the fee would increase to 40% of the amounts recovered. Regardless of whether damages are collected, Sen. Jackson and Ms. Pelletier agreed to pay for Preti Flaherty's "reasonable out-of-pocket expenses and disbursements," such as fees and costs related to witnesses, costs associated with depositions, travel, and delivery of legal documents.

Little information is available concerning whether Sen. Jackson and his partner have, in fact, paid Preti Flaherty, either as reimbursement for out-of-pocket expenses or compensation for attorney services. In its response, Preti Flaherty stated that legal ethics rules preclude the firm from disclosing that information. ETH 25. Sen. Jackson volunteered in his response that he had reached a settlement with one defendant, “the real estate agency that brokered the sale of the house with an undisclosed defect,” and “Preti Flaherty received 33 1/3 percent of the settlement as compensation.” ETH 18. If Preti Flaherty withdraws as counsel, the Commission staff is unsure how that will affect Sen. Jackson’s liability to pay for out-of-pocket expenses or compensation.

Response by Sen. Jackson

In his December 15, 2023 response, Sen. Jackson explains that he and his partner contracted with Preti Flaherty “to seek legal recourse for what we believe to be the failure of a seller to disclose a defect in a house [they] purchased in 2019.” ETH 18. He writes: “a contingent fee agreement is not only appropriate but common for the legal situation described above per Maine Rules of Professional Conduct, Rule 1.5.” *Id.* Because of his agreement to compensate Preti Flaherty and because the firm has already received some compensation from a settlement, Sen. Jackson submits that the legal services do not meet the legal definition of a gift.

Sen. Jackson explains he hired Preti Flaherty because “they are a large, reputable law firm practicing in Kennebec County” ETH 19. He describes himself as sometimes on the same side of legislative issues with Preti Flaherty and sometimes on the opposing side. *Id.* He points out that elected officials need attorneys for personal matters and argues their right to legal representation would be undermined if they were prohibited from retaining a law firm because it deals with matters before the Legislature. *Id.*

Response by Preti Flaherty

In a December 15, 2023 letter by its attorney, Gerald F. Petruccelli, Esq., Preti Flaherty notes that it is required by the Maine Code of Professional Conduct to respect client confidences and the attorney-client privilege. ETH 23-25. The firm explains that at the time it contracted to represent Sen. Jackson and his partner, it was reasonable to anticipate that the case might settle. *Id.* Preti Flaherty contends that “[i]t is not obvious” that Sen. Jackson’s private real estate

dispute is within the scope of the Commission's work. *Id.* It states that it is not required to file a lobbyist expenditure report presently ("there is nothing to report now") and "no reportable event can possibly occur" before the end of the pending litigation. It suggests that the Commission postpone this matter until after the litigation ends. ETH 25.

Analysis by Commission Staff

The reporting of gifts to state officials is important because it allows citizens to understand potential influences on their state government. In Maine, as part of their annual personal income statements, state officials must disclose the source of each gift received during the year with a value over \$300, with some limited exceptions. 1 M.R.S. §§ 1012(4) & 1016-G(1)(F). Lobbyists are required to report expenditures made on behalf of officials, either in their client-specific monthly reports or in a separate lobbyist expenditure report as Mr. Clardy is alleging. 3 M.R.S. §§ 317(1)(F)&(G), 317(1-A).

In this context, it is understandable why Mr. Clardy is requesting an inquiry. He is concerned about the appearance of a law firm with a prominent lobbying practice providing valuable undisclosed services to a State Senator when it is unknown whether the Senator will compensate the firm by paying the market value of the services when calculated at an hourly rate.

Nevertheless, in terms of whether there are grounds to investigate a potential legal violation, fairness requires looking analytically at the language of the applicable disclosure requirements. The Commission staff would be pleased to take any action the Commission believes would be appropriate, but we are unconvinced there is any basis for further investigation.

Allegation that Sen. Jackson Should Have Reported Preti Flaherty's Services as a Gift

Mr. Clardy argues that "the *de facto* reduction in fees Senator Jackson and [his partner] are being charged by Preti Flaherty for legal services would seem to qualify as a gift for reporting purposes." ETH-6. Gift is defined in the legislative ethics law as:

Anything of value, including forgiveness of an obligation or debt, given to a person without that person providing equal or greater consideration to the giver.

1 M.R.S. § 1012(4). Mr. Clardy’s premise is that because Sen. Jackson has not paid the market value of the legal services when calculated at an hourly rate, the “reduced” charges constituted a gift during 2020, 2021, and 2022 that Sen. Jackson should have reported in his annual statements of sources of income. ETH 5-6. Mr. Clardy provided Sen. Jackson’s statements for 2020-2022, which do not include any gift from Preti Flaherty. ETH 28-38.

Commission staff does not have personal experience with contingent fee agreements. We understand they are common in personal injury and some employment law matters, and they may be used for other types of claims as well. Sen. Jackson comments that contingent fee agreements are common for this type of legal situation. ETH 18. Preti Flaherty states that “Contingent fee agreements are regularly used in many situations in which there is a claim for monetary relief, including disputes about breaches of contract.” ETH 25.

An official’s receipt of a service is not a gift if the official has provided “equal or greater consideration” for the service. 1 M.R.S. § 1012(4). Sen. Jackson entered into a type of fee arrangement that is conventional and commercially reasonable in some litigation contexts. We believe that the fees agreed to by Sen. Jackson could reasonably be considered equal consideration, since it is a fee arrangement that is often accepted by plaintiffs’ attorneys in arms-length dealings with clients. We therefore recommend no further investigation of a disclosure violation by Sen. Jackson. If, however, the Commission applies the law differently and ultimately views Preti Flaherty’s services as a gift, this probably would be an unexpected result for Sen. Jackson. You may wish to take a non-punitive approach of urging Sen. Jackson to correct the lapse in disclosure rather than making a finding of violation.

Allegation that Preti Flaherty Should Have Filed Lobbyist Expenditure Reports

If a lobbyist, lobbyist associate, or lobbying firm, apart from lobbying for a specific client, makes expenditures of more than \$300 in a month directly to or on behalf of a covered official or a member of their immediate family, the lobbyist or lobbyist associate must file a lobbyist expenditure report. 3 M.R.S. § 317(1-A). Covered officials include legislators, executive branch officials, and constitutional officers. 3 M.R.S. § 312-A(4-A). Expenditures of \$300 or less are exempt. 3 M.R.S. § 317(1-A)(A)(1). The Commission proposed this provision in 2020 in recognition that expenditures by lobbyists or their firms to benefit officials should be disclosed publicly, even when not made in the course of lobbying for a specific client. P.L.

2019, ch. 587. Current members of the Commission staff believe our department has not received any lobbyist expenditure reports since the law took effect in mid-2020.

The statutory requirement relies on the definitions of the terms “expenditure” and “anything of value” which have been in the law since 1993. 3 M.R.S. § 312-A(7)&(16). The term “expenditure” is defined to mean “anything of value or any contract, promise or agreement to transfer anything of value, whether or not legally enforceable.” 3 M.R.S. § 312-A(7). The term “anything of value” includes 19 categories of financial assets, monetary obligations, property, or other goods or services set forth below (staff has noted in bold the two provisions that seem most relevant to the delivery of professional services):

“Anything of value” means, but is not limited to:

A. Negotiable items:

- (1) Money;
- (2) A bank bill or note;
- (3) A stock, bond, note or other investment interest in an entity;
- (4) A promissory note, bill of exchange, order, draft, warrant, check or bond given for the payment of money;
- (5) An honorarium or compensation for services;
- (6) **The granting of a discount or rebate:**
 - (a) **Not extended to the public generally;** or
 - (b) By a media outlet not extended equally to all candidates for the same office; and
- (7) The sale or trade of something for reasonable compensation that is not available ordinarily to a member of the public;

B. Obligations:

- (1) A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, pledge or transfer of money;
- (2) A receipt given for the payment of money or other property;
- (3) A right in action;
- (4) A promise or offer of employment; and
- (5) An interest in tangible goods or chattel;

- C. Property. The retail or fair market value, whichever is greater, of:
- (1) A work of art, an antique or a collectible;
 - (2) An automobile or other means of personal transportation;
 - (3) Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future interest contingent or vested in realty, a leasehold interest or other beneficial interest in realty; and
 - (4) Other tangible goods; and
- D. Other goods or services. **The retail or fair market value, whichever is greater, of:**
- (1) The purchase of tickets for an event such as a reception, rally or fund-raising event;
 - (2) A meal or lodging; and
 - (3) **Any service not extended free of charge to other members of the public.**

3 M.R.S. § 312-A(16).

The Commission staff understands the lobbyist expenditure report in 3 M.R.S. § 317(1-A) as a form of gift disclosure that applies to lobbyists or lobbying firms. We drafted the requirement to cover situations in which a lobbyist or their firm paid money to benefit a Legislator, for example, if a lobbyist or a lobbying firm purchased goods or services to benefit a covered official, paid for an event that would benefit a covered official, or paid money directly to a covered official. The intention to cover payments of money is reflected in the types of information that must be disclosed in the report: “the *amount* of the expenditure, “a description of the goods or services *purchased*,” and the “event *paid for* by a lobbyist.” 3 M.R.S. § 317(1-A)(B) (italics added).

This is not one of those situations. Rather, Preti Flaherty is delivering its regular professional services in return for compensation. In this context, the subpart of the definition of “anything of value” that seems most relevant is “[t]he granting of a discount or rebate.” 3 M.R.S. § 312-A(16)(A)(6).

If Preti Flaherty were granting a discount to Sen. Jackson, the discount would qualify as anything of value. But the firm is not granting a discount. Rather, it has agreed to accept compensation based on a percentage of amounts recovered. As noted above, this is a fee

arrangement that is commonly used by plaintiffs' attorneys in arms-length dealings with clients. Commission staff believes this should be viewed as reasonable compensation. Even if the fee arrangement were a discount, it is one that law firms extend to the public generally. We therefore recommend the view that Preti Flaherty has not conveyed "anything of value" as that term is defined in 3 M.R.S. § 312-A(16) and its delivery of services is not an "expenditure" that needs to be reported under 3 M.R.S. § 317(1-A).

In the three bullet points on pages 3-4 of his complaint, Mr. Clardy seems to argue that Mr. Warner should have filed lobbyist expenditure reports with the Commission because Preti Flaherty "advanced contracted-for services to a covered official" – regardless of the compensation Preti Flaherty will ultimately receive. ETH 3-4. If that interpretation were correct, any law firm in Maine that engages in lobbying and provides professional services on a personal matter to a covered official/family member would need to file a lobbyist expenditure report with the Commission. Commission staff believes this stretches the disclosure requirement beyond what was intended, which was essentially the reporting of gifts made by lobbyists or their firms.

We recommend taking no action on this part of the complaint and not waiting until *Pelletier v. Godbout* is concluded. Thank you for your consideration of this memo.

William Clardy
13 Maple Street, Apt 1
Augusta, ME 04330
(207) 242-7248
November 8, 2023

Subject: Complaint against Preti Flaherty and Senator Troy Jackson

Jonathan Wayne
Maine Commission on Governmental Ethics and Election Practices
135 SHS
Augusta, ME 04333

Mr. Wayne,

I am filing a complaint regarding Maine Senator Troy Jackson's contingent fee agreement with the lobbying firm of Preti, Flaherty, Beliveau & Pachios, LLP (Preti Flaherty) for legal services in a private lawsuit.

Specifically, I am requesting that the Ethics Commission investigate:

1. Has the lobbying firm of Preti Flaherty failed to properly report expenditures it has made since May of 2020 on behalf of a covered official (Senator Jackson) and a member of that covered official's immediate family (Lana Pelletier)?
2. Did Senator Jackson fail to properly disclose the source of gifts received in 2020, 2021, 2022 and 2023 from the lobbying firm of Preti Flaherty?

[REDACTED]

While some information underlying my complaint originates from the same series of news articles as Representative Andrews' earlier complaint against Senator Jackson, my complaint is independent of his and is focused on issues which are within the Commission's jurisdiction but were not a part of Representative Andrews' complaint.

Did Preti Flaherty fail to properly report expenditures made on behalf of a covered official and a member of that covered official's immediate family?

3 M.R.S. §312-A(9-A) defines "lobbying firm" as "a partnership, corporation, limited liability company or unincorporated association that employs or contracts with more than one lobbyist or lobbyist associate and that receives or is entitled to receive compensation for engaging in lobbying either directly or through its employees."

Advertising services which include “governmental affairs”¹ with an openly identified 12-member “Maine Legislative Team”² (a half of whom are currently registered as Maine lobbyists), Preti Flaherty clearly qualifies as a lobbying firm.

3 M.R.S. §317.1-A requires reporting “expenditures directly to or on behalf of a covered official or a member of the covered official's immediate family that is not reportable under subsection 1, paragraphs F, G or G-1,” with a provision that when such expenditures are made by a lobbying firm, a lobbyist or lobbyist associate from that lobbying firm shall report the expenditure. These lobbyist expenditure reports are required for every calendar month in which “[t]he total amount of expenditures directly to or on behalf of covered officials and their immediate family members is more than \$300” and are due no later than the 15th calendar day of the following month.

Nowhere in §317.1 is there a requirement that the expenditure be for purposes of lobbying. A lobbying expenditure on behalf of a legislator would self-evidently generate a conflict of interest for that legislator on whatever legislation or other question was being lobbied.

3 M.R.S. §312-A.7 defines “expenditure” as “anything of value or any contract, promise or agreement to transfer anything of value.” 3 M.R.S. §312-A.16 declares that “anything of value” includes, but is not limited to:

- “The granting of a discount or rebate”;
- A “contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, pledge or transfer of money”; and
- “The retail or fair market value, whichever is greater, of... [a]ny service not extended free of charge to other members of the public.”

On October 31, 2019, and November 19, 2019, attorney Matthew Warner, a partner³ and a member of the firm’s Government Relations team,⁴ sent letters to Paul and Jane Godbout on behalf of Senator Jackson and his domestic partner, Lana Pelletier.⁵ On June 8, 2020, Mr. Warner filed a legal

¹ “Our state government relations services include comprehensive advocacy... in Massachusetts, Maine and New Hampshire. Our team regularly works before the legislature of each state...” <https://www.preti.com/government-affairs/>, Appendix p. 19, retrieved November 4, 2023.

² <https://www.preti.com/maine-lobbyists/people/>, Appendix p. 18, retrieved November 4, 2023.

³ <https://www.preti.com/matthew-s-warner/>, Appendix p. 25, retrieved November 4, 2023.

⁴ <https://www.preti.com/government-affairs/people/>, Appendix p. 21, retrieved November 4, 2023.

⁵ Appendix, pp. 36-39.

complaint in the Kennebec Superior Court, listing Senator Jackson and Ms. Pelletier as the plaintiffs and Mr. Warner as the attorney of record.⁶

On July 2, 2020, Senator Jackson and Ms. Pelletier signed a contingent fee agreement with Preti Flaherty,⁷ in which Preti Flaherty agreed to represent Senator Jackson and Ms. Pelletier in their claim against the Godbouts. Severin Beliveau signed the agreement on behalf of Preti Flaherty. Mr. Beliveau is a partner in Preti Flaherty, as well as a publicly listed member of Preti Flaherty's Maine Legislative Team.⁸

The agreement does not specify an effective date, only that "the services to be performed relate to the purchase of a defective residence in Augusta from Paul Godbout and Jane Godbout." Rule 1.5 of the Rules of Professional Conduct only requires that "the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation."^{9,10} (*emphasis added*) It is therefore reasonable to infer that the contingent fee agreement is sufficiently retroactive to cover the costs of preparing the initial complaint which was filed on June 8, 2020.

While not illegal or unethical in and of itself, that agreement inherently complicated the relationship between Preti Flaherty and Senator Jackson in terms of Maine's expenditure-disclosure requirements from whatever moment it took effect. Preti Flaherty, a lobbying firm, contracted with Senator Jackson and Ms. Pelletier, a covered official and a member of his immediate family, to assume the immediate financial burden of legal representation for the indeterminate duration of pursuing their claims against the Godbouts.

For purposes of disclosure requirements, Preti Flaherty face three potential outcomes:

- If nothing is recovered for their clients, all of their in-house expenditures will have been for the benefit of a covered official and the remaining question would be whether it should have been reported

⁶ Appendix, p. 42.

⁷ Appendix, p. 40.

⁸ <https://www.preti.com/maine-lobbyists/people/>, Appendix p. 18, retrieved November 4, 2023.

⁹ https://mebaroverseers.org/regulation/bar_rules.html?id=87829, Appendix p. 56, retrieved November 6, 2023.

¹⁰ Paragraph (6) of the signed agreement refers to being subject to "Rule 8 of the Maine Bar Rules", but I believe that is an obsolete reference. Rule 8 of the Maine Bar Rules establishes the composition, powers and duties of the Professional Ethics Commission. Rule 1.5 of the Rules of Professional Conduct explicitly refers to a "general form of Contingent Fee Agreement" attached to the Rule's comments, and paragraph (6) of that form states "This agreement and its performance are subject to Rule 1.5 of the Maine Rules of Professional Conduct."

contemporaneously as either a series of advances or an increasing line of credit, or a loan which is ultimately forgiven.

- If their client prevailed but the amount recovered meant that their compensation was significantly less than what they would normally have billed, then they will have advanced contracted-for services to a covered official, followed by forgiving the at least part of the value of those services.
- If the amount recovered is a large enough that the effective percentage covered Preti Flaherty's normal billing rates, they will still have having advanced contracted-for services to a covered official.

In all three scenarios, Preti Flaherty has been expending measurable resources on Senator Jackson's behalf over at least the last three years. Preti Flaherty's known legal services on behalf of Senator Jackson include:

- Preparing an initial complaint (May and June 2020);
- Preparing an amended complaint (July 2020);
- Preparing a motion asking permission to amend the amended complaint, and then amending the amended complaint (May 2021);
- Preparing a motion for amended scheduling (January 2021) and a subsequent letter on the proposed scheduling (May 2021);
- Preparing a memorandum opposing the Godbouts' counter-suit and a proposed order dismissing their counter-suit under anti-SLAPP (August 2021), along with responses to the Godbouts' objections to the dismissal;
- Preparing for a trial which was delayed (March 2022);
- Responding to a motion seeking sanctions against the plaintiffs (January 2023);
- Conducting the legal minutia of discovery, as well as asking for numerous continuances and extensions;
- Participating in numerous Alternative Dispute Resolution (ADR) conferences; and
- Continuing to represent Senator Jackson and Ms. Pelletier until their legal complaint is finally resolved.

Based upon admittedly limited experience with attorney's hourly billing rates, it seems reasonable to assume that any month which Mr. Warner expended even one hour of his billable time on Senator Jackson's case would have exceeded the \$300 threshold for requiring an expenditure report. It also seems reasonable to estimate that what would have been billable expenditures by Preti Flaherty on behalf of Senator Jackson already total in the tens of thousands of dollars. Preti Flaherty is welcome to rebut those assumptions with bona fide time and billing records.

In contrast to Preti Flaherty's open-ended expenditures, Senator Jackson's potential obligation for Preti Flaherty's legal services is capped at a percentage

of actual damages recovered. Once Senator Jackson and Ms. Pelletier sold of the house at 2076 North Belfast Avenue in December 2021 (for a gross profit of \$103,000), that recoverable amount was presumably reduced by \$220,000.¹¹ Based on published court filings, the remaining claimed damages are:

- \$199 for Terminix to eradicate a carpenter ant infestation in May 2021;
- \$714 for continuing Terminix services through December 20, 2021 – (\$119 per quarter × 6 quarters);
- \$6,430 for water damage;
- Any attorney fees paid by Senator Jackson and Ms. Pelletier not affected by the contingent fee agreement.

Even assuming extensive attorney-client consultation prior to the contingent fee agreement, the remaining maximum amount recoverable does not appear to be more than \$10,000. If the case is appealed to the Supreme Judicial Court, Preti Flaherty would be owed \$4,000. If the case is not appealed, Preti Flaherty's compensation would be limited to \$3,333.¹²

Given the exceptional unpredictability of both Preti Flaherty's expenditures and their eventual compensation (if any), it would be entirely understandable that they could make their best, most sincere effort to accurately report their expenditures and still get it technically wrong. If that were the case, the Commission would be justified in finding them in violation while leniently mitigating any penalty. But judging by public records, Preti Flaherty didn't even try.

Did Senator Jackson fail to properly disclose a source of gifts received?

In accordance with 1 M.R.S. §1016-G, legislators are required to file a Statement of Sources of Income with the Ethics Commission by February 15th of every year.¹³ Included among the items which must be reported are the sources of gifts received by the legislator.

1 M.R.S. §1012(4) defines "gift" as "anything of value, including forgiveness of an obligation or debt, given to a person without that person providing equal or greater consideration to the giver." (emphasis added) Most relevant to this question, §1012 excludes the following from that definition:

¹¹ A corollary question would be whether the sale of the house, by reducing the amount potentially recoverable (and Preti Flaherty's claim to a portion thereof) implicitly forgave a significant portion of Senator Jackson and Ms. Pelletier's obligation to Preti Flaherty.

¹² The above calculations are admittedly speculative. Preti Flaherty is welcome to counter my speculative calculations with their own estimates of recoverable amounts.

¹³ Office of Attorney General, [Legislative Ethics Handbook, 130th Maine Legislature](#), p. 7.

- Gifts received from a single source during the reporting period with an aggregate value of \$300 or less;
- A gift received from a relative or from an individual on the basis of a personal friendship as long as that individual is not a registered lobbyist or lobbyist associate; and
- Legal services when they are provided in a matter of legislative ethics.

None of the Statements of Sources of Income for Legislators filed by Senator Jackson for the years that the contingent fee agreement has been in effect list any sources of gifts, nor any mention of Preti Flaherty.

Clearly, the legal services Preti Flaherty has provided to Senator Jackson have significant value. For obvious reasons, we presume that Senator Jackson does not claim to have provided “equal or greater consideration” to Preti Flaherty in exchange for the discount from whatever their normal billing rates would be. In addition:

- It would strain credulity to think that value provided in 2022 and 2023 hasn’t exceeded the \$300 reporting floor, even after subtracting the maximum compensation still allowable under the contingent fee agreement after the sale of the house;
- Legal services are excluded from reportable gifts only for matters of legislative ethics, not civil torts;
- Personal gifts (e.g., Mr. Warner gifting his time) are excludable only for individuals who are not registered lobbyists or lobbyist associates.¹⁴

Therefore, the ongoing *de facto* reduction in fees Senator Jackson and Ms. Pelletier are being charged by Preti Flaherty for legal services would seem to qualify as a gift for reporting purposes. Because the statute considers only the value of a gift, not its cost to the giver, this would seem to be true independently of whether the costs incurred by Preti Flaherty on behalf of Senator Jackson and Ms. Pelletier are reportable expenditures.

Lastly, the reporting requirement for Senator Jackson did not require him to disclose (or even know) the precise value of what was being provided, only its source.

[REDACTED]

[REDACTED]

[REDACTED]

¹⁴ Mr. Warner was listed as a lobbyist associate on Daniel Walker’s lobbyist registrations for 2022 and 2018. Appendix, pp. 31-32.

[Redacted text block]

[Redacted text block]

- | [Redacted list item]
- | [Redacted list item]
- | [Redacted list item]
- | [Redacted list item]

[Redacted text block]

- [Redacted list item]
- [Redacted list item]

[REDACTED]

[REDACTED]

[REDACTED]

Conclusion

I urge the Commission to carefully consider Senator Jackson’s and Preti Flaherty’s actions in this matter as deliberate choices by some of Maine’s most experienced political individuals, well-versed in Maine law and politics. Preti Flaherty is not a neophyte lobbying firm. It’s a professionally staffed law firm boasting almost a half-century of experience and a “strategic footprint in the Northeast United States.”¹⁷

Nor is Senator Jackson a novice legislator. He served three terms in the Maine House of Representatives and is currently serving his seventh term in the Maine Senate – and his third term as President of that body.

I am asking the Commission to not discourage “best effort” attempts at compliance with undue punishment, but neither am I asking the Commission to treat willful avoidance leniently. For each of my three questions, I ask that the Commission consider:

1. In a nuanced financial agreement covering an extended time, what standards should be applied to protect the public interest in transparency?
2. If reporting requirements haven’t been met, how intentional were the failures?

As 1 M.R.S. §1011 so simply states, “If public confidence in government is to be maintained and enhanced, it is not enough that public officers avoid acts of misconduct. They must also scrupulously avoid acts which may create an appearance of misconduct.”

¹⁷ <https://www.preti.com/by-the-numbers/>, Appendix p. 24, retrieved November 6, 2023.

Oath

On this 8th day of November, in Augusta, Maine, I declare that, to the best of my knowledge and belief, the information herein is true and complete based upon my own analysis of public records, published documents and published copies of public records. I understand this statement is made for use as evidence and is subject to penalty for perjury.



William L. Clardy

enclosures: 1

Wayne, Jonathan

From: William Clardy <william@clardy.org>
Sent: Thursday, November 16, 2023 3:23 PM
To: Wayne, Jonathan
Cc: Troy Jackson; donald.g.alexander; Rush, Max; Currier, Martha
Subject: RE: Two Questions on Complaint

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Director Wayne,

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]



Regards,
William Clardy

From: Wayne, Jonathan <Jonathan.Wayne@maine.gov>

Sent: Tuesday, November 14, 2023 9:52 AM

To: William Clardy <william@clardy.org>

Cc: Troy Jackson <senatorjackson1@gmail.com>; donald.g.alexander <donald.g.alexander@gmail.com>; Rush, Max <max.rush@legislature.maine.gov>; Currier, Martha <Martha.Currier@maine.gov>

Subject: Two Questions on Complaint

Mr. Clardy,

Thank you for your carefully written complaint.

[Redacted]

If you could respond no later than Thursday, I would appreciate it. Thank you.

Jonathan Wayne
Executive Director
Maine Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04333
287-4179

[Redacted text block]



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

November 21, 2023

By Email and Regular Mail

Hon. Troy D. Jackson
167 Allagash Road
Allagash, Maine 04774

Dear Senate President Jackson,

On November 8, 2023, the Maine Ethics Commission received a complaint from Mr. William Clardy about legal services you received from Preti, Flaherty, Beliveau & Pachios, LLP (“Preti Flaherty”) concern a property dispute. Mr. Clardy asserts the legal services constitute a gift that you should have included in your 2019-2022 annual statements of the sources of your income. Mr. Clardy also asserts that your acceptance of the services constitutes a legislative conflict of interest. On November 16, Mr. Clardy emailed supplemental information clarifying that the alleged conflict relates to six cannabis-related bills that you sponsored during the 129th and 130th Legislatures.

Relevant Law

Definition of gift in legislative ethics law. For purposes of annual income reporting by officials, the term gift is defined to mean “anything of value, including forgiveness of an obligation or debt, given to a person without that person providing equal or greater consideration to the giver.” 1 M.R.S. § 1012(4). The definition excludes “gifts received from a single source during the [annual] reporting period with an aggregate value of \$300 or less.” 1 M.R.S. § 1012(4)(A).

Annual personal income statements required for legislators. Pursuant to 1 M.R.S. § 1016-G, legislators are required to “annually file with the commission a statement identifying the sources of income received, positions held and reportable liabilities incurred during the preceding calendar year by the [l]egislator or members of the [l]egislator's immediate family.” Among other things, the Legislator is required to disclose “the specific source of each gift received by the Legislator” 1 M.R.S. § 1016-G(1)(F).

Commission's enforcement authority over personal income statements. A statement of sources of income “is not considered filed unless it substantially conforms” to the disclosure requirements.” 1 M.R.S. § 1016-G(3)(A). The Commission is directed to “determine whether a statement substantially conforms” to the requirements of the subchapter. *Id.* The Commission may assess a penalty not to exceed \$250 for failing to file a statement. *Id.*

Legislative conflict of interest. Title 1, section 1014(1) defines what is a conflict of interest for a legislator. That subsection sets out a number of situations that constitute a conflict, including the following:

1. Situations involving conflict of interest. A Legislator engages in a violation of legislative ethics if that Legislator votes on a question in connection with a conflict of interest in committee or in either body of the Legislature or attempts to influence the outcome of that question unless [permitted by a presiding officer]. A conflict of interest includes: ...

B. When a Legislator or a member of the Legislator's immediate family accepts gifts, other than campaign contributions duly recorded as required by law, from persons affected by legislation or who have an interest in an entity affected by proposed legislation and the Legislator knows or reasonably should know that the purpose of the donor in making the gift is to influence the Legislator in the performance of the Legislator's official duties or vote or is intended as a reward for action on the Legislator's part;

Commission's jurisdiction to investigate conflicts of interest. The Commission is authorized to investigate complaints of a violation of legislative ethics in 1 M.R.S. § 1013(1)(B) and to issue findings of fact and an opinion concerning the complaint. The phrase “violation of legislative ethics” is defined in 1 M.R.S. § 1012(10) to cover certain categories of misconduct that are listed in §§ 1014 & 1015-A. The Commission's procedures for considering a complaint are set out § 1013(2)-(5). The Commission may conduct an investigation or hold hearings as necessary upon a majority vote of the Commission. § 1013(2)(B-1)(2). If the Commission makes findings of fact and an opinion regarding the complaint, the Commission must file the document with the Clerk of the House or Secretary of the Senate. § 1013(2)(I).

Legal Services

In September 2019, you and Lana Pelletier purchased a home at 2076 North Belfast Avenue in Augusta from Paul Godbout and Jane Godbout. Beginning in October 2019, Preti Flaherty assisted you in making claims against the Godbouts alleging that the house suffered from a carpenter ant infestation and other defects. Preti Flaherty wrote two letters in October-

November 2019 requesting that the Godbouts agree to rescind the sale, return the \$220,000 purchase price, and pay for your legal fees in pursuing the claim. The Godbouts declined, and Preti Flaherty filed a lawsuit in the Superior Court of Maine captioned *Pelletier v. Godbout*, AUGSC-CV-2020-00081 (filed June 8, 2020).

The legal services provided by Preti Flaherty have included:

- the October-November 2019 letters requesting the rescission of the sale,
- participating in mediation conferences before and after the suit was filed,
- pursuing your legal claims against the defendants through *Pelletier v. Godbout*, which has involved pleadings, motion papers, hearing appearances, depositions, discovery, *etc.*,
- defending against the Godbouts' counterclaims, and
- any other legal services related to the property dispute.

Commission's Consideration of Mr. Clardy's Complaint

The Commission will consider Mr. Clardy's request at a meeting on January 31, 2024. The meeting will be held at the Commission's office at 45 Memorial Circle in Augusta and will begin at 9:00 a.m. The Commission requests that you participate in person.

No later than December 15, 2023, please respond to the complaint with whatever factual information or legal argument you believe is relevant. In particular, the Commission staff suggests addressing whether the legal services by Preti Flaherty represent a gift, as defined in 1 M.R.S. § 1012(4). You may also wish to address whether your receipt of legal services constitutes a conflict of interest as described in § 1014(1)(B).

The Commission staff is authorized to "gather preliminary factual information that will assist the commission in deciding whether to conduct a full investigation or to hold hearings." 1 M.R.S. § 1013(B-1)(1). The staff has requested preliminary information from Preti Flaherty pursuant to this subsection of statute.

Amended Disclosures

If, after reflecting on the annual income reporting requirement and services received by Preti Flaherty, you determine that you need to amend your annual sources of income statements, please contact me or Assistant Director Martha Currier.

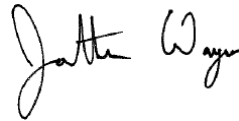
Hon. Troy D. Jackson

Page 4

November 21, 2023

Thank you for your cooperation with this request. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Jonathan Wayne". The signature is written in a cursive style with a large initial "J" and a distinct "W".

Jonathan Wayne
Executive Director

cc: *by email*
Hon. Donald Alexander
Max Rush
William Clardy



Troy D. Jackson
President of the Senate

THE MAINE SENATE
131st Legislature

3 State House Station
Augusta, Maine 04333

December 15, 2023

Jonathan Wayne
Maine Ethics Commission
135 State House Station
Augusta, Maine 04333

Dear Jonathan,

Thank you for your letter and for the other materials regarding the complaint filed by William L. Clardy. This letter is my response to your letter, provided by December 15, 2023, as requested.

As an elected official, I take seriously my moral obligation to the people who have entrusted me with their security, safety, health, prosperity and well-being. A transparent, ethical and accountable government is what I expect from my elected officials and what Maine people deserve. With that being said, I am happy to address what seems to be some confusion on the part of the complainant regarding my procurement of compensated legal services.

My partner and I contracted the legal services of Preti Flaherty to seek legal recourse for what we believe to be the failure of a seller to disclose a defect in a house we purchased in 2019. That contract includes a contingent fee agreement which means that the legal services rendered will be compensated based on the outcome. Though there are certain types of legal action for which this type of compensation agreement is prohibited, a contingent fee agreement is not only appropriate but common for the legal situation described above per [Maine Rules of Professional Conduct, Rule 1.5](#).

In the case of my contract with Preti Flaherty, the contingent fee agreement states:

“Reasonable compensation on the foregoing contingency is to be paid by the Clients to the Attorneys, at the rate of 25% (twenty-five percent) of the value of any settlement amount prior to the commencement of litigation. After the commencement of litigation, your obligation to pay legal fees will be equal to 33 1/3% (thirty-three and one-third percent) of the value of any amounts recovered, in addition to the expenses and disbursements detailed in Paragraph 5 below. In the event of an appeal from a judgment to the Supreme Judicial Court, the fee will be 40% (forty percent) of the value of any amounts recovered.”

The agreement goes on to list other costs that we are liable for reasonable out-of-pocket expenses and disbursements including court filing fees, etc.

Though the lawsuit is ongoing, we have reached a settlement with the real estate agency that brokered the sale of the house with an undisclosed defect. As outlined in our contract, Preti Flaherty received 33 1/3 percent of the settlement as compensation. Maine’s laws regarding legislative ethics define a gift as “anything of value, including forgiveness of an obligation or debt, given to a person

*State House (207) 287-1500 * TTY (207) 287-1583 * Fax (207) 287-5862 * Toll Free 1-800-423-6900
Email: Troy.Jackson@legislature.maine.gov * Web Site: TroyJackson.org*

ETH-18



Troy D. Jackson
President of the Senate

THE MAINE SENATE
131st Legislature

3 State House Station
Augusta, Maine 04333

without that person providing equal or greater consideration to the giver” (1 M.R.S. § 1012-4). Given the fee agreement included in the contract and the subsequent compensation Preti Flaherty received as a part of one settlement, the legal services provided by Preti Flaherty do not meet the legal definition of a gift and it would be unreasonable to view them as such.

In addition, it would be unreasonable to interpret my receipt of *compensated* legal services or any lawmakers’ receipt of compensated legal services to address a private, personal matter as a conflict of interest. The reason I sought legal services from Preti Flaherty was because they are a large, reputable law firm practicing in Kennebec County – the area of jurisdiction for this legal matter. It’s true that the lobbying arm of the law firm advocated on a number of issues before the Legislature. However, there are occasions where we are on the same side of an issue and many, many occasions where we are on opposing sides of an issue. For example, you’ll note that my actual attorney from Preti Flaherty [testified against my bill](#) to prevent the closure of the Maine Veteran’s Homes in Caribou and Machias.

All the bills referenced by Mr. Clardy received either unanimous votes or close to unanimous votes in the Legislature. I’m only listed as the primary sponsor for one bill – LD 1735 from the 129th Maine Legislature – which received unanimous support in the Senate and a vote of 115-3 in the House. I’d also note that the individuals listed from Preti Flaherty appear to have only provided written testimony on one of the referenced bills – LD 939 from the 130th Maine Legislature.

Further, this interpretation of compensated legal services for a private, personal matter as an improper gift would set a concerning precedent. There are a number of personal and professional reasons an elected official would seek legal services ranging from business and estate planning to contract law and family matters. Maine is a small state that is already grappling with a shortage of lawyers. Prohibiting elected officials from retaining compensated legal services at any firm that may deal with matters before the Legislature would drastically undermine the right to legal representation.

Sincerely,

A handwritten signature in black ink that reads "Troy Jackson".

Troy D. Jackson
Maine Senate President



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

November 21, 2023

By Email and Regular Mail

Matthew S. Warner, Esq.
Preti, Flaherty, Beliveau & Pachios, LLP
P.O. Box 9546
Portland, ME 04112-9546

Dear Mr. Warner,

The Maine Ethics Commission received a complaint dated November 8, 2023 from Mr. William Clardy concerning legal services provided by Preti, Flaherty, Beliveau & Pachios, LLP (“Preti Flaherty”) to State Senator Troy D. Jackson. The services relate to a property dispute between Sen. Jackson and the sellers of an Augusta property he purchased in 2019. Mr. Clardy asserts that you or Preti Flaherty should have filed lobbyist expenditure reports listing expenditures that benefited Sen. Jackson. He also asserts that Sen. Jackson violated legislative ethics requirements in title 1, chapter 25 of the Maine Revised Statutes.

Lobbyist Reporting Requirements

Definitions. Maine’s lobbyist disclosure requirements define a lobbyist as a person who is employed by another person for the purpose of lobbying and who lobbies for more than eight hours in a calendar month. 3 M.R.S. § 312-A(10). A lobbying firm is a partnership, corporation or other association that employs or contracts with more than one lobbyist. § 312-A(9-A).

Registration and monthly reporting for each client. Lobbyists are required to register for each client. § 313(1). After registering, the lobbyist must file monthly reports for the client that disclose, among other things, the bills lobbied for the client during the month and the compensation earned. § 317(1)(D)&(H). The lobbyist must also disclose any expenditures paid for or reimbursed by the client that benefit a covered official or a member of the official’s immediate family. § 317(1)(F)&(G).

OFFICE LOCATED AT: 45 MEMORIAL CIRCLE, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179

FAX: (207) 287-6775

ETH-20

Lobbyist expenditure report. A lobbyist may need to file an additional statement if they or their firm make expenditures benefiting a covered official that are *not* reimbursed by any client. Specifically, if a lobbyist or lobbyist associate, or their lobbying firm, makes expenditures of more than \$300 in a month directly to or on behalf of a covered official or immediate family member that are not reimbursed by any client, the lobbyist or lobbyist associate must file a lobbyist expenditure report. § 317(1-A). The Commission proposed this provision in recognition that expenditures by lobbyists or their lobbying firms to benefit officials/family members should be disclosed publicly, even when not made in the course of lobbying on behalf of a specific client. This requirement relies on the definitions of the terms “expenditure” and “anything of value” in § 312-A(7) and (16).

Legal Services by Preti Flaherty

In September 2019, Sen. Jackson and his partner purchased a home at 2076 North Belfast Avenue in Augusta from Paul Godbout and Jane Godbout. Beginning in October 2019, they began making claims against the Godbouts, alleging that the house suffered from a carpenter ant infestation and other defects. Preti Flaherty wrote two letters in October-November 2019 requesting that the Godbouts agree to rescind the sale, return the \$220,000 purchase price, and pay for Sen. Jackson’s legal fees in pursuing the claim. The Godbouts declined, and Preti Flaherty filed a lawsuit in the Superior Court of Maine on behalf of Sen. Jackson and his partner, Lana Pelletier, captioned *Pelletier v. Godbout*, AUGSC-CV-2020-00081 (filed June 8, 2020). The defendants have included the Godbouts, and their daughter and real estate agent:

For purposes of the request below, the legal services provided by Preti Flaherty include:

- the October-November 2019 letters requesting the rescission of the sale,
- participating in mediation conferences before and after the suit was filed,
- pursuing the plaintiffs’ legal claims against defendants through *Pelletier v. Godbout*, which has involved pleadings, motion papers, hearing appearances, depositions, discovery, *etc.*,
- defending against the Godbouts’ counterclaims, and
- any other legal services related to the property dispute.

Request for Response

The Commission is expected to consider Mr. Clardy's request at a meeting on January 31, 2024. The meeting will begin at 9:00 a.m. at the Commission's office at 45 Memorial Circle in Augusta. The Commission is expected to decide whether to take action on Mr. Clardy's complaint, such as directing staff to gather additional information or holding a hearing.

Please respond to the complaint no later than December 15, 2023 with whatever factual information or legal argument you believe is relevant. The Commission requests that you participate in the January 31 meeting in person.

The Commission staff is authorized to "gather preliminary factual information that will assist the commission in deciding whether to conduct a full investigation or to hold hearings." 1 M.R.S. § 1013(2)(B-1)(1). Within your response, please disclose the following factual information with whatever level of detail you believe is appropriate:

1. Does Preti Flaherty regularly use contingent fee agreements when representing clients claiming that property they bought was defective?
2. If not privileged/confidential, have Sen. Jackson and Ms. Pelletier compensated Preti Flaherty for services performed by its attorneys as described above?
3. If not privileged/confidential, have Sen. Jackson and Ms. Pelletier paid for any of the litigation costs listed in the July 2, 2020 contingent fee agreement, such as fees and expenses related to witnesses, costs associated with depositions, travel, and delivery of legal documents. If so, please provide a general description.

After considering this matter, if you determine that you or Preti Flaherty needs to file a lobbyist expenditure report(s), please contact Political Committee and Lobbyist Registrar Emma Burke. Thank you for your cooperation with this request. Please let me know if you have any questions.

Sincerely,



Jonathan Wayne
Executive Director

cc: Hon. Troy D. Jackson, Hon. Donald Alexander, Max Rush, William Clardy (*by email*)



**PETRUCCELLI, MARTIN
& HADDOW LLP**
Attorneys at Law

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Suite 900
P.O. Box 17555
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www.pmhlegal.com

GERALD F. PETRUCCELLI
gpetrucelli@pmhlegal.com

December 15, 2023

BY EMAIL AND U.S. MAIL

Johnathan Wayne, Executive Director
Maine Commission on Governmental Ethics
& Election Practices
135 State House Station
Augusta, ME 04333
Johnathan.Wayne@maine.gov

Re: Your Letter November 21, 2023

Dear Mr. Wayne,

We represent the Preti Flaherty law firm (“the Firm”) and Matthew Warner with respect to your correspondence dated November 21, 2023, concerning a complaint dated November 8, 2023, from Mr. William Clardy. Mr. Clardy asserts violations of legislative ethics requirements by Senator Troy D. Jackson. We do not represent Senator Jackson in this matter. The Firm and Mr. Warner also do not represent Senator Jackson in this matter.

As of this writing, however, Mr. Warner and the Firm remain counsel of record for the plaintiffs in civil litigation in Superior Court captioned: AUGSC-CV-2020-00081 *Jackson, et al. v. Jones, et al.* One direct effect of this complaint, of course, has been to generate a disqualifying conflict of interest for Mr. Warner and the Firm in that case. A motion to stay that litigation is pending and a motion for leave to withdraw will be filed soon.

On review of your letter, I do not discern any allegation of any impropriety by Mr. Warner or the Firm with respect to providing legal services to parties in a real estate dispute if one of those parties is simultaneously an elected member of the Legislature.

December 15, 2023

Page 2

Instead, I take your letter as limited to the possibility of a reporting obligation with respect to services performed for Senator Jackson in this dispute about this residential real estate transaction. Of course, there is no obligation to report anything concerning Ms. Pelletier.

In responding to your letter and in considering any potential or alleged reporting obligations, Mr. Warner and the Firm are simultaneously obligated by the Maine Code of Professional Conduct governing all Maine lawyers to respect client confidences and secrets and to respect rules of evidentiary privilege including particularly the attorney-client privilege. We assume that the Commission recognizes and respects those limitations on any lawyer's ability to speak about a matter of client service, even in something as important as the work of this Commission.

We respectfully suggest that this situation may not ever become a proper subject for inquiry or action by the Commission and that it certainly need not be the subject of any inquiry by this Commission any sooner than the end of the pending litigation. As explained below, no reportable event can possibly occur any sooner than that, if ever. After carefully reviewing the sections of the relevant statutes cited in your letter and given Mr. Clardy's otherwise unexplained possession of a contingent fee agreement to which he is not a party, it seems apparent that any concern this Commission might have cannot arise until after the case is at an end. On its face, the contingent fee agreement obligates the clients to pay the Firm a percentage of any amount recovered and obligates the clients to pay all disbursements or expenditures made on their behalf.

When the contingent fee agreement was executed, there was a claim for unliquidated damages in a reasonably estimated substantial amount. At that time, it was also reasonable to anticipate that the case would settle, particularly after mediation. All contingent fee agreements inherently involve uncertainties and risks. No law requires that every contingent fee agreement where the client is a member of the Legislature must be reported. Mr. Warner has a diverse practice including some lobbying and the Firm has several lobbying clients served by other attorneys and not Mr. Warner. It is not obvious that those facts bring this private real estate dispute within the scope of the Commission's work. Assuming without conceding that a lawyer's services to a client who also is serving in the Legislature may at some point under some circumstances become reportable, even the broadest reading of the statutory requirements and definitions does not require reporting anything that has not yet occurred. It is either unnecessary to report anything about this matter at any time, or it may arguably become necessary to report

December 15, 2023

Page 3

something at the end of the case. We propose to consider whether a report is necessary after the pending litigation ends. I should note in passing, of course, that even when a contingent fee agreement ends because a lawyer is required to withdraw before the case ends, there is a reasonable basis for supposing that the lawyer is nevertheless entitled to a share of any contingent fee ultimately realized.

All that said, I now turn to your specific questions.

As to the first question, the adverb “regularly” is addressed to a firm of 100 lawyers, 75 of whom are admitted to practice in Maine, very few of whom represent any clients with respect to any real estate disputes. Contingent fee agreements are regularly used in many situations in which there is a claim for monetary relief, including disputes about breaches of contract. The question seems to be asking whether there was something anomalous about this specific arrangement. Given the potential for recovery of substantial damages, it was not anomalous to undertake this work on a contingent fee basis. There certainly was nothing to report on execution of the contingent fee agreement and there is nothing to report now.

Your second and third questions correctly anticipate that such information is both privileged and confidential. The Firm is obligated to decline respectfully to disclose any such information. However, I suggest that the Agreement provided by Mr. Clardy speaks for itself as to these matters.

To conclude, we appreciate the suggestion in your closing paragraph. If indeed the Firm determines at the appropriate time that it is legally obligated to file an expenditure report, the Firm will file the appropriate report. We respectfully suggest, therefore, that this complaint ought to be dismissed.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerald F. Petrucci", with a stylized flourish at the end.

Gerald F. Petrucci

GFP/kc

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STATEMENT OF SOURCES OF INCOME FOR LEGISLATORS

Statement Type	Filing Year	Due Date	Filed Date
Annual	2020	02/16/2021	02/11/2021
Name: Troy Jackson		Office and District: Senator, District 1	
Mailing Address: 167 Allagash Road		Phone: (207) 398-4081	
City/Town, State, Zip: Allagash, ME 04774		E-mail Address: senatorjackson1@gmail.com	

Income from Employment by Another			
Employer	Address	Business Activity of Employer	Job Title
IUPAT D.C. #35	25 Colgate Rd., Roslindale, MA 02131	Protecting Workers' Rights	Release Staff
International Union of Painters and Allied Trades DC 35	25 Colgate Road, Roslindale, MA 02131	Worker rights	Staff

Income from Self-Employment		
Business/Trade Name	Address	Business Activity
None		
Client or Customer	Address	Business Activity of Client
None		

Business Entities		
Business	Address	Business Activity
None		

Income from Practice of Law			
Practice or Firm	Address	Major Practice Area	Position
None			

Income from Any Other Source		
Source	Address	Description of Income
None		

Compensation Income of Immediate Family Members

Name and Job Title	Employer's Name and Address	Business Activity of Employer
Lana Pelletier, Clinical Care Specialist	DHHS, 35 Anthony Avenue, Augusta, ME 04330	State and Local Government

Other Sources of Income of Immediate Family Members

Spouse or Partner	Source of Income Name and Address	Type of Income
None		

Loans

Lender's Name	Address	Business Activity of Lender
None		

Gifts, Including Travel and Accommodations

Source of Gift	Type of Gift	Description
None		

Honoraria

Source of Honoraria
None

Positions in Political Action, Ballot Question or Party Committees

Committee	Official or Family Member	Title
Senate Democratic Campaign Committee	Troy Jackson	Principal Officer
Troy Jackson	Maine Senate Democrats	Principal Officer

Conducting Business with State Agencies

Agency	Individual/Organization Selling Goods or Services	Description of Goods or Services
None		

Representing Others Before State Agencies

Agency	Individual Receiving Compensation
None	

Positions in For-Profit and Non-Profit Organizations

Organization/Business and Address	Title	Position Holder	Relationship to Official	Compensated
Aroostook County Action Program, PO Box 1116, Presque Isle, ME 04769	Member - Board of Directors	Troy Jackson	<input checked="" type="checkbox"/> Self <input type="checkbox"/> Spouse/Domestic Partner <input type="checkbox"/> Dependent	No
Fish River Health, 10 Carter Street, Eagle Lake, ME 04739	Member - Board of Directors	Troy Jackson	<input checked="" type="checkbox"/> Self <input type="checkbox"/> Spouse/Domestic Partner <input type="checkbox"/> Dependent	No
Fish River Rural Healthcare, Main Street, Eagle Lake, ME 04739	Member - Board of Directors	Troy Jackson	<input checked="" type="checkbox"/> Self <input type="checkbox"/> Spouse/Domestic Partner <input type="checkbox"/> Dependent	No
Aroostook County Action Program, 771 Main Street, Presque Isle, ME 04769	Member - Board of Directors	Troy Jackson	<input checked="" type="checkbox"/> Self <input type="checkbox"/> Spouse/Domestic Partner <input type="checkbox"/> Dependent	No

Certification

I, Troy Jackson, certify that I have examined this statement and to the best of my knowledge it is true, correct, and complete.

Statement Filed By: Troy Jackson
 Statement Filed On: 02/11/2021
 Last Modified:
 Filer ID: 371266



STATEMENT OF SOURCES OF INCOME FOR LEGISLATORS

Statement Type	Filing Year	Due Date	Filed Date
Update	2020		10/27/2021
Name: Troy Jackson		Office and District: Senator, District 1	
Mailing Address: 167 Allagash Road		Phone: (207) 398-4081	
City/Town, State, Zip: Allagash, ME 04774		E-mail Address: senatorjackson1@gmail.com	

REQUIREMENT TO FILE AN UPDATED STATEMENTS

Legislators are required to update their statement of sources of income within 30 days of a substantial change in income, reportable liabilities, or positions of the Legislator and the Legislator's spouse or domestic partner that occurs in the current calendar year. Substantial changes include, but are not limited to, a new employer or other source of income of \$2,000 or more; a new position in a political committee or for-profit or non-profit organization; a new unsecured loan of \$3,000 or more; and other substantial changes in the information required to be reported in the statement of sources of income.

Income from Employment by Another			
Employer	Address	Business Activity of Employer	Job Title
Food and Medicine	20 Ivers Street, Brewer, ME 04412	Organizer	Solidarity Harvest Organizer
Date of Change: 09/27/2021	New employer		

Certification
I, Troy Jackson, certify that I have examined this statement and to the best of my knowledge it is true, correct, and complete.

Statement Filed By: Troy Jackson
Statement Filed On: 10/27/2021
Last Modified:
Filer ID: 371266



STATEMENT OF SOURCES OF INCOME FOR LEGISLATORS

Statement Type	Filing Year	Due Date	Filed Date
Annual	2021	02/15/2022	02/01/2022
Name: Troy Jackson		Office and District: Senator, District 1	
Mailing Address: 167 Allagash Road		Phone: (207) 398-4081	
City/Town, State, Zip: Allagash, ME 04774		E-mail Address: senatorjackson1@gmail.com	

Income from Employment by Another			
Employer	Address	Business Activity of Employer	Job Title
Food and Medicine	20 Ivers Street, Brewer, ME 04412	Organizer	Solidarity Harvest Organizer

Income from Self-Employment		
Business/Trade Name	Address	Business Activity
None		
Client or Customer	Address	Business Activity of Client
None		

Business Entities		
Business	Address	Business Activity
Jackson Associates	167 ALLAGASH ROAD, Allagash, ME 04774	Logging and Forestry

Income from Practice of Law			
Practice or Firm	Address	Major Practice Area	Position
None			

Income from Any Other Source		
Source	Address	Description of Income
None		

Compensation Income of Immediate Family Members

Name and Job Title	Employer's Name and Address	Business Activity of Employer
Lana Pelletier, Clinical Care Specialist	DHHS, 35 Anthony Avenue, Augusta, ME 04330	State and Local Government

Other Sources of Income of Immediate Family Members

Spouse or Partner	Source of Income Name and Address	Type of Income
None		

Loans

Lender's Name	Address	Business Activity of Lender
None		

Gifts, Including Travel and Accommodations

Source of Gift	Type of Gift	Description
None		

Honoraria

Source of Honoraria
None

Positions in Political Action, Ballot Question or Party Committees

Committee	Official or Family Member	Title
Senate Democratic Campaign Committee	Troy Jackson	Principal Officer
Troy Jackson	Maine Senate Democrats	Principal Officer

Conducting Business with State Agencies

Agency	Individual/Organization Selling Goods or Services	Description of Goods or Services
None		

Representing Others Before State Agencies

Agency	Individual Receiving Compensation
None	

Positions in For-Profit and Non-Profit Organizations

Organization/Business and Address	Title	Position Holder	Relationship to Official	Compensated
Aroostook County Action Program, PO Box 1116, Presque Isle, ME 04769	Member - Board of Directors	Troy Jackson	<input checked="" type="checkbox"/> Self <input type="checkbox"/> Spouse/Domestic Partner <input type="checkbox"/> Dependent	No
Fish River Health, 10 Carter Street, Eagle Lake, ME 04739	Member - Board of Directors	Troy Jackson	<input checked="" type="checkbox"/> Self <input type="checkbox"/> Spouse/Domestic Partner <input type="checkbox"/> Dependent	No
Fish River Rural Healthcare, Main Street, Eagle Lake, ME 04739	Member - Board of Directors	Troy Jackson	<input checked="" type="checkbox"/> Self <input type="checkbox"/> Spouse/Domestic Partner <input type="checkbox"/> Dependent	No
Aroostook County Action Program, 771 Main Street, Presque Isle, ME 04769	Member - Board of Directors	Troy Jackson	<input checked="" type="checkbox"/> Self <input type="checkbox"/> Spouse/Domestic Partner <input type="checkbox"/> Dependent	No

Certification

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Statement Filed By: Troy Jackson
 Statement Filed On: 02/01/2022
 Last Modified:
 Filer ID: 371266



STATEMENT OF SOURCES OF INCOME FOR LEGISLATORS

Statement Type	Filing Year	Due Date	Filed Date
Update	2021		10/03/2022
Name: Troy Jackson		Office and District: Senator, District 1	
Mailing Address: 167 Allagash Road		Phone: (207) 398-4081	
City/Town, State, Zip: Allagash, ME 04774		E-mail Address: senatorjackson1@gmail.com	

REQUIREMENT TO FILE AN UPDATED STATEMENTS

Legislators are required to update their statement of sources of income within 30 days of a substantial change in income, reportable liabilities, or positions of the Legislator and the Legislator's spouse or domestic partner that occurs in the current calendar year. Substantial changes include, but are not limited to, a new employer or other source of income of \$2,000 or more; a new position in a political committee or for-profit or non-profit organization; a new unsecured loan of \$3,000 or more; and other substantial changes in the information required to be reported in the statement of sources of income.

Income from Employment by Another			
Employer	Address	Business Activity of Employer	Job Title
International Union of Painters & Allied Trades	25 Colgate Road, Roslindale, MA 02131	Worker Advocacy	Member Engagement
Date of Change: 09/01/2022	new		

Certification

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Statement Filed By: Troy Jackson
Statement Filed On: 10/03/2022
Last Modified:
Filer ID: 371266



STATEMENT OF SOURCES OF INCOME FOR LEGISLATORS

Statement Type	Filing Year	Due Date	Filed Date
Annual	2022	02/15/2023	02/01/2023
Name: Troy Jackson		Office and District: Senator, District 1	
Mailing Address: 167 Allagash Road		Phone: (207) 398-4081	
City/Town, State, Zip: Allagash, ME 04774		E-mail Address: senatorjackson1@gmail.com	

Income from Employment by Another			
Employer	Address	Business Activity of Employer	Job Title
International Union of Painters & Allied Trades	25 Colgate Road, Roslindale, MA 02131	Worker Advocacy	Member Engagement
Food and Medicine	20 Ivers Street, Brewer, ME 04412	Organizer	Solidarity Harvest Organizer

Income from Self-Employment		
Business/Trade Name	Address	Business Activity
None		
Client or Customer	Address	Business Activity of Client
None		

Business Entities		
Business	Address	Business Activity
Jackson Associates	167 ALLAGASH ROAD, Allagash, ME 04774	Logging and Forestry

Income from Practice of Law			
Practice or Firm	Address	Major Practice Area	Position
None			

Income from Any Other Source		
Source	Address	Description of Income
None		

Compensation Income of Immediate Family Members

Name and Job Title	Employer's Name and Address	Business Activity of Employer
Lana Pelletier, Clinical Care Specialist	DHHS, 35 Anthony Avenue, Augusta, ME 04330	State and Local Government

Other Sources of Income of Immediate Family Members

Spouse or Partner	Source of Income Name and Address	Type of Income
None		

Loans

Lender's Name	Address	Business Activity of Lender
None		

Gifts, Including Travel and Accommodations

Source of Gift	Type of Gift	Description
None		

Honoraria

Source of Honoraria
None

Positions in Political Action, Ballot Question or Party Committees

Committee	Official or Family Member	Title
Senate Democratic Campaign Committee	Troy Jackson	Principal Officer
Troy Jackson	Maine Senate Democrats	Principal Officer

Conducting Business with State Agencies

Agency	Individual/Organization Selling Goods or Services	Description of Goods or Services
None		

Representing Others Before State Agencies

Agency	Individual Receiving Compensation
None	

Positions in For-Profit and Non-Profit Organizations

Organization/Business and Address	Title	Position Holder	Relationship to Official	Compensated
Fish River Rural Healthcare, Main Street, Eagle Lake, ME 04739	Member - Board of Directors	Troy Jackson	<input checked="" type="checkbox"/> Self <input type="checkbox"/> Spouse/Domestic Partner <input type="checkbox"/> Dependent	No
Aroostook County Action Program, 771 Main Street, Presque Isle, ME 04769	Member - Board of Directors	Troy Jackson	<input checked="" type="checkbox"/> Self <input type="checkbox"/> Spouse/Domestic Partner <input type="checkbox"/> Dependent	No

Certification

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SERVICES

Cannabis Business

Construction Law

Corporate and M&A

Animal Law

Emerging Businesses

Hospitality

Immigration

Mergers & Acquisitions

Municipal Broadband

Resort Services

Securities

Taxation

Trusts & Estates

Creditors' Rights &

Bankruptcy

Education Law

Employment Law

Immigration

Energy & Telecommunications

Health Law

Intellectual Property

Copyrights

IP Transactions

Patent Prosecution

Trade Secrets

Trademarks

International Law

Litigation

Antitrust & Competition

Appellate Litigation

Data Security & Privacy

Environmental Litigation

Financial Industry Litigation &
Arbitration

Product Liability Litigation

Professional Liability

White Collar Defense & Government
Investigations

Media Law

Freedom of Information

Municipal Law and Finance

[Cleantech & Renewable Energy](#)
[Climate Strategy](#)
[Municipal Broadband](#)
[Offshore & Onshore Wind Power](#)

[Municipal Broadband](#)

Public Finance

Environmental

[CERCLA Allocation & Mediation](#)
[Cleantech & Renewable Energy](#)
[Climate Strategy](#)
[Environmental Litigation](#)
[Land Use & Permitting](#)
[Natural Resource Damages](#)
[Offshore & Onshore Wind Power](#)
[Stormwater](#)

Real Estate and Finance

[Affordable Housing](#)
[Banking and Financial Services](#)
[Land Use & Permitting](#)

Transportation & Maritime Law

Workers' Compensation

Forest Products Law

Franchising and Distribution Services

Government Affairs

[Administrative Law](#)
[Election Law](#)
[Government Procurement](#)
[Maine Legislative Team](#)

LITIGATION

Litigation is a process. If you want a result, you hire a trial lawyer. Preti Flaherty's Litigation practice group is one of the largest and most respected litigation practices in New England. We are trial lawyers. We recognize that success is often the result of focused pre-trial counseling, careful preparation, and tactical deployment of innovative strategy. Because of the resources we have at our disposal, we are able to decrease risk, manage costs, and manifest victory for the clients we represent.

A Skill Set That Spans Generations

When litigation becomes necessary, clients face a critical choice in selecting legal counsel. Our trial attorneys advocate for our clients wherever necessary, including consensual or mandatory ADR, domestic or international arbitration, and trials in state and federal court. We have achieved noteworthy courtroom successes in matters such as:

- [Antitrust litigation](#)
- Class action disputes
- Commercial litigation
- [Construction claims](#)
- [Environmental litigation](#)
- [Franchise litigation](#)
- Injunction of governmental agencies on constitutional grounds
- Lender liability claims
- Libel defense of national publications and broadcasters
- Multi-district Anti-terrorism Act litigation
- [Professional liability litigation](#)
- [Securities claims](#)
- Toxic tort litigation

Service Contacts



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Our accolades and recognitions include being named *Benchmark Litigation's* Maine "Law Firm of the Year" six of the last seven years, with a win in New Hampshire accounting for the seventh year; eight Benchmark Litigation Stars and two named to the "Under 40 Hot List"; six attorneys recognized in *Chambers USA* for Litigation; 21 *Best Lawyers*; seven Super Lawyers and six Rising Stars; and seven *US News* "Best Law Firm" awards across several fields of litigation. Additionally, co-chair Shana Solomon was named a 2022 "Top Women of Law" by *Massachusetts Lawyers Weekly*, co-chair Tim Bryant has served on the Maine Governor's Judicial Nominations Advisory Committee, and attorney Peter Callaghan is a member of the American College of Trial Lawyers.

A Team That Gets Results

Our Litigation team consists of over 40 attorneys, with 30+ years of trial experience—representing clients from more than 50 industries on matters in 42 states, 13 countries, and five Canadian provinces. Over the last five years, we have appeared before judges and juries at more than 100 trials in Maine and New England, in state and federal courts. Our efforts are supported by the full strength of our firm of more than 100 attorneys, spanning dozens of specialized practice areas. We believe our unique make-up and culture creates an environment where we are a strongly positioned force in matters regional, national, and international.

We pride ourselves on taking a solutions-based approach to client representation. Our process creates an ongoing opportunity for our clients to carefully weigh the pros and cons of how a decision will impact their business from both a cost and outcome perspective. If our client wants to settle, we'll get them the best settlement possible. If they want to win, we'll win.

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MAINE LEGISLATIVE TEAM

Legislative Update

[Pre-Session Legislative Update](#)

Preti Flaherty's Legislative Attorneys Practicing in Maine

Preti's Government Affairs Practice Group includes the Maine Legislative Team – the largest government relations team in the state which includes many of the most successful Maine lobbyists. Originally founded by former state senator Severin Beliveau, Preti's Maine Legislative Team at the State House in Augusta has been representing a diverse array of clients since 1971.

Our attorneys combine decades of lobbying experience with expertise in many subject matter areas, such as health care, energy, construction, insurance and environmental matters. We maximize the long-standing relationships between our team and members of both the executive and legislative branch to benefit our clients by achieving their goals in Augusta.

Preti Flaherty attorneys are well-known figures before the Maine Legislature and regularly appear before virtually every legislative committee, including:

- Appropriations and Financial Affairs
- Energy, Utilities and Technology
- Environment and Natural Resources
- Health and Human Services
- Insurance and Financial Services
- Labor, Commerce, Research & Economic Development
- Taxation

The Preti Maine Legislative Team is one of only a few groups operating in the State House that has the manpower and experience to fully lobby all 186 legislators during important floor fights.

Service Contacts



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Steven A. Hudson

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Our team also has an accomplished record of executive branch lobbying. Preti attorneys are closely connected with political leaders and long-time agency officials across all areas of state government. We work with members of the administration to help them understand our clients' needs and shape their understanding of our positions as we go through the legislative process.

We frequently work closely with the Governor's Office and other members of his administration at many state agencies, including:

- The Department of Health and Human Services
- The Bureau of Insurance
- The Department of Environmental Protection
- The Office of Energy Independence and Security

When seeking a specific legislative change or an agency action for our clients, we craft a comprehensive approach across all three branches of government and leverage the relationships that we have developed over decades of Maine legislative work.

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MAINE LEGISLATIVE TEAM



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GOVERNMENT AFFAIRS

What goes on in government plays an increasingly critical role in the day-to-day functions and long term planning of New England businesses. Securing funding, navigating changes in the regulatory process, and clearing legislative hurdles all require a thorough and strategic understanding of complex public policy and the often-tumultuous legislative process. Preti Flaherty's Government Affairs Practice Group provides clients with a comprehensive suite of government relations services working closely with elected officials and regulatory decision makers across parties and levels of government to meet our clients' needs. Combining decades of experience, subject matter expertise and the ability to take a regional approach, we remain the go-to group for helping businesses intersect with the public sector.

Service Contacts



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[Email](#)



Severin M. Beliveau

207.623.5300

[Email](#)

A Multi-State Government Relations Solution

An extensive team of attorneys and lobbyists in Maine, New Hampshire and Massachusetts brings decades of diverse and bipartisan experience to the task. Clients seeking a regional approach benefit from a coordinated multi-state solution. Members of our team including the well-known Maine lobbyists that make up our [Maine Legislative Team](#), and members of [Preti Strategies](#), a government affairs affiliate based in Boston serving clients in New Hampshire and Massachusetts, come together to work strategically to pursue client goals.

Some problems demand a multifaceted approach. By coordinating across state lines, harnessing the legal experience of the law firm and thinking differently about utilizing communications and public affairs services, our Government Affairs Practice Group saves clients time and money while tackling the toughest challenges.

Our Services

State Government Relations

Our state government relations services include comprehensive advocacy, monitoring and analysis across all areas of state government in Massachusetts, Maine and New Hampshire. Our team regularly works before the legislature of each state, with executive branch officials and before the entire array of regulatory and administrative agencies,

including those responsible for government contracting. While we represent a diverse list of clients from both the private and public sector, we have particular experience in the fields of insurance policy, environmental policy, energy policy, health care policy and construction, among others.

Federal Government Relations

We also maintain a wide-ranging federal practice, both before Congress and before the executive branch. Our attorneys include former employees of the Department of Justice, the Environmental Protection Agency, and Senate committee staffs and maintain an active practice before multiple federal agencies.

Our team is also uniquely qualified to work with members of Congress on a wide range of issues in which our attorneys have focused their practices. We have close relationships with the delegations from the northern New England states, but have worked with elected officials across the country.

Municipal Government Relations

Additionally, we regularly engage with all levels of municipal government and have extensive experience working with administrative officials, local legislative bodies and various boards and commissions. Working alongside our Municipal Law and Finance Group, our team navigates clients through the complicated structure of municipal government, guiding them through the local approval process to keep projects moving forward and providing assistance with zoning applications and appeals, tax issues and various forms of permitting. Often, these matters can involve both state and municipal level government relations and our group is particularly experienced in assisting clients at this juncture.

Administrative and Regulatory Rule Making

When clients turn to us with complex regulatory challenges – often involving a mix of legal and legislative issues – we team up across multiple practice areas to provide progressive counsel and unmatched legal service. When working with government agencies, we leverage our expertise in administrative law to develop a creative approach rather than relying solely on traditional direct lobbying. Serving as a strategic partner from the earliest stages of a project, we can work with clients to develop new ideas, services or products that require regulatory permitting by analyzing the possibilities and challenges at the state, federal and local levels of government.

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GOVERNMENT AFFAIRS



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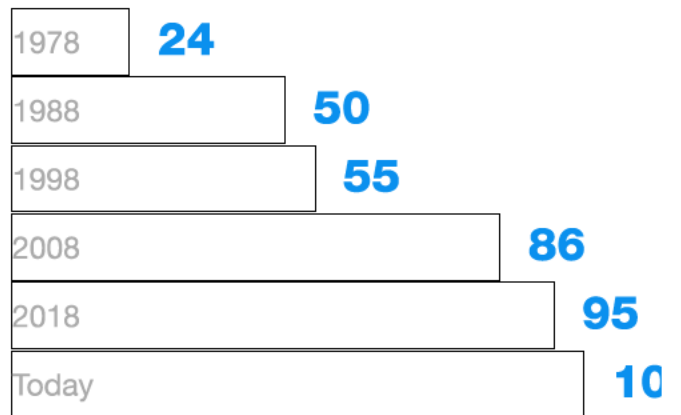


THE FIRM

By The Numbers

Preti Flaherty is proud to partner with our clients to create opportunity. With 100 attorneys practicing across many fields of law, we've built out extraordinarily talented teams to achieve outcomes that are not simply expeditious, but which support our clients' long-term goals and innovative ideas. We're constantly focused on raising the industry standard of service and our peers are taking note. An expanded toolbox of services provides for more strategic campaigns when partnered with our legal strategy in new and novel ways.

Steady Growth



Working Across Disciplines



Regulatory

24%

- Energy Group
- Environmental Law Group
- Government Affairs Group
- Health Law Group



Commercial

38%

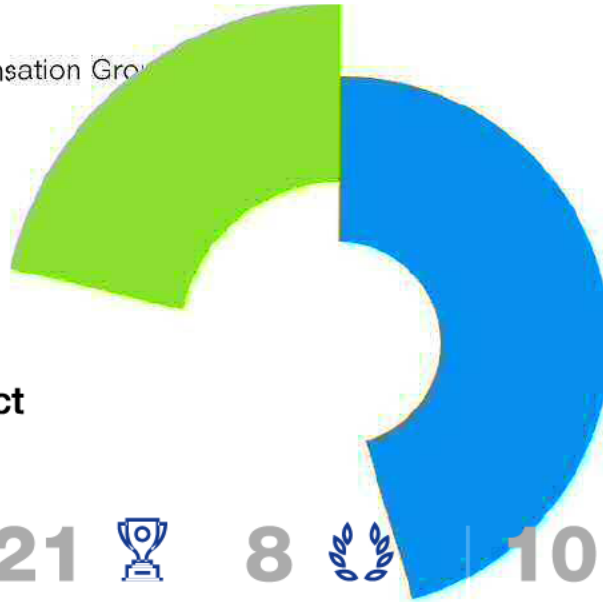
- Business Law Group
- Employment Law Group
- Intellectual Property Group
- Trust & Estates



Litigation

38%

- Litigation Group
- Workers Compensation Group



Earning Respect

46 

Best Lawyers
Attorneys

21 

Chambers
Attorneys

8 

Chambers
Practice Groups

10 

Benchmark
Litigation
Attorneys

26 

Super Lawyers
Attorneys

Geographic Reach



Strategic Footprint
in the Northeast United States



Clients on 6 Continents





Matthew S. Warner

Partner

mwarner@preti.com

[Augusta, ME](#)
207.623.5300

Services

- [Appellate Litigation](#)
- [Cannabis Business](#)
- [Government Affairs](#)
- [Litigation](#)

Matt Warner is an experienced regulatory, political and constitutional lawyer who focuses his practice on the intersection of law, politics and public policy. He's in his comfort zone helping clients navigate difficult and high-profile issues including the direction of the country's legal cannabis industry, efforts to ensure widespread ballot access and free elections, and the future of hydropower and Maine's renewable energy resources.

Equally at home arguing constitutional law in a court of appeals or negotiating with top political leaders, Matt's practice extends nationwide. He has helped clients in more than a dozen states with legal problems ranging from state agencies that improperly deny a license, to state laws that are unconstitutional, to sticky regulatory issues, and even contract disputes. Matt has also been recognized by *Law360* as one of the country's top lawyers in the field of cannabis, after pioneering a series of successful constitutional challenges to state marijuana laws.

Matt also helps clients coordinate political campaigns to influence regulators and policymakers. Drawing on his broad experience as a speechwriter and on political campaigns, Matt enjoys working with clients on everything from messaging and communications to building coalitions and developing facts that can be used to move public opinion.

Admissions

- Maine
- U.S. District Court, District of Maine

Education

- Boston University (B.A., 2006)
- Columbia University School of Law (J.D., 2011)

A native of Holden, Maine, Matt is an enthusiastic mountain biker and ice climber and regularly participates in ultra-endurance races. He lives in Cumberland with his wife and two young sons, both of whom are already better climbers than he is.

Professional Activities

- Maine State Bar Association



- Harlan Fiske Stone Scholar
 - London School of Economics (LL.M., 2011)
 - Merit
 - Adjunct Professor, University of Maine School of Law
 - Board of Directors, New England Mountain Bike Association - Southern Maine Chapter
-

Honors & Recognition



- Recognized as a Super Lawyers New England Rising Star in the area of general litigation
 - *Law360* MVP of the Year in Cannabis, 2021
 - *Benchmark Litigation* "40 & Under List," 2022-Present
-



Matthew S. Warner

Partner

mwarner@preti.com

Raising the Bar

RAISING THE BAR

How has your practice evolved from when you started out?

How hasn't it!? When I left law school, pot was widely illegal and now I deal with marijuana (professionally) every week. So there's that. I've also reached a sweet spot where most of my time is spent dealing with public policy issues ranging from very public disputes over the role of hydropower in Maine to unconstitutional marijuana laws around the country. It's an exciting way to be a lawyer, is political to the right degree, and lets me wrestle with some fairly novel (and, depending who you ask, boring) legal issues, which I dig!

What skills, talents, or methods do you think help you excel in this field?

Being practical, admitting what I don't know, leaning on people who do know, and trying to be friendly with everyone. Many of the problems I've solved for clients come from my close relationships with people in state government, relationships that I've worked hard to build and keep.

Where are you most active or visible within your practice area? Is there a specific niche you're known for?

In academic parlance: administrative law. For real people: suing the government, working with the government, or both.

How would your clients describe you?

To the point.

What do you like best about your practice area?

The intersection of law and politics is a comfortable place to hang out. Dealing with public policy issues and disagreements with the state requires creativity and depends equally on relationships and legal argument. Sometimes you can work it out, sometimes you just need to sue somebody, and most of the time there's a middle ground. Finding that happy medium is fun.

How do you start your day?

Usually I put a pillow over my head and hide, hoping my young boys don't notice me so I can sleep for 5 more minutes. More often than not this backfires because they jump on me, pointy kid limbs and all, until I give up and get up. Then I drink coffee, then more coffee. After the struggle known as trying to dress my 3 year old, I take them to school and am usually forced to listen to a podcast of short nonsensical children's stories on the way. In all truth, it's a delightful way to start the day.

When you're able to sneak in a break during the day, where could you be found?

Mountain biking in the summer, often training for one ultra-race or another, or ice climbing in the winter.

When it comes to reviewing your own peers, what criteria are important? What makes an attorney stand out?

Humility, self-reflection and a lack of pretense all help. Really the same traits that make for a solid person in general make for a kind, and usually good, lawyer.

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Severin M. Beliveau

Partner

sbeliveau@preti.com

[Augusta, ME](#)
207.623.5300

Services

- [Government Affairs](#)
- [Government Procurement](#)
- [International Commerce](#)
- [Maine Legislative Team](#)

Severin is one of Maine's best-known attorneys and has significant experience in legislative and regulatory issues. He is a founding partner of Preti Flaherty and directs the firm's Government Affairs practice in Augusta, ME and Washington, D.C. His practice also involves public issues, environmental projects and international trade.

Severin's private practice experience as a legal generalist, along with his work in public practice, the Maine Legislature and the U.S. Congress, make him uniquely qualified as a litigator concentrating in regulatory law and project development. His comprehensive understanding of every financing and regulatory agency in Maine allows him to employ creative, nontraditional legal solutions to problems by effecting changes in law as an alternative to litigation.

Admissions

- Maine
- U.S. District Court, District of Maine
- U.S. Supreme Court

Throughout his career, Severin has been a leader in national and international organizations, giving him perspectives that transcend state boundaries. As a former director of the bipartisan American Council of Young Political Leaders, he helped promote cultural and political exchange programs among NATO countries and Eastern Europe. His work took him to Moscow, Leningrad, Riga and Tbilisi in the former Soviet Union. He also served on political leadership committees dealing with U.S.-Canadian relations, European security, the environment and technological change.

Education

- Georgetown University (A.B.,

Severin was born in Rumford to a distinguished family of Maine lawyers and judges. His father, Albert J. Beliveau, Sr., was a justice of the Maine Supreme Court. His grandfather, Matthew McCarthy, served as the first municipal court judge in Rumford. His uncle, William E. McCarthy, was a Superior Court judge. His brother, Albert J. Beliveau, Jr., was Oxford County Judge of Probate and is a Member of Preti Flaherty.

1960)

- Georgetown University Law Center (J.D., 1963)

Professional Activities +

- Maine Bar Association
- State Bar Association and the Maine Trial Lawyers Association Director, Emerge Maine

Honors & Recognition +

- Recipient of the French Legion of Honor Award, the highest distinction France awards civilians, for his leadership on key projects to improve the relationship between Maine and France (2008)
- President of the American Association of the Forum Francophone des Affaires, the Maine-based United States chapter of a worldwide alliance of 36 French-speaking nations working to promote economic development through business, industry and technology exchanges
- French Consular Agent for the State of Maine
- Selected by his peers for inclusion in Woodward/White's *The Best Lawyers in America*
 - 2021 and 2023 Lawyer of the Year, Government Relations Practice (Augusta, ME)
- Rated AV[®] Preeminent[™] by Martindale Hubbell
- Distinguished Professor of Franco American Studies at University of Maine, 2008-Present

Civic and Charitable Activities +

- Director, Arts Engage Me
- Former Oxford County District Attorney
- Order National De La Légion D' Honneur, Member, 2009-Present
- Forum Francophone Des Affaires, President, 1996-Present
- Former member of the Maine State Senate and Maine House of Representatives
- Former chair of the Maine Democratic Party
- Former member, Democratic National Committee
- President, Governor John E. Baldacci's 2007 Transition and Inaugural Committee
- Former member of the Commission on Maine's Future

- Former member, Board of Trustees, American Council of Young Political Leaders
 - Former director of Medical Care Development Inc.
 - Former trustee of the University of Maine
 - Founder of the Maine Alliance (part of the Maine Chamber and Business Alliance)
 - Former president of the Samantha Smith Foundation, Board of Trustees, 1993-1996
 - Former member of the Board of Governors of both the Maine State Bar Association and the Maine Trial Lawyers Association
 - Former member of U.S. Capitol Police Department
-
-

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Daniel W. Walker

Partner

dwalker@preti.com

[Augusta, ME](#)
207.623.5300

Services

- [Government Affairs](#)
- [Government Procurement](#)
- [Maine Legislative Team](#)
- [Election Law](#)
- [Administrative Law](#)
- [Education Law](#)
- [Hospitality](#)
- [Cannabis Business](#)

Dan is a Partner and the Chair of Preti Flaherty's Government Affairs Group. He focuses his practice on advocating for clients before the Maine Legislature, the Executive Branch and other state and federal governmental agencies. Dan focuses his practice on regulatory issues, including election and campaign finance law, having represented many elected officials including a former Governor, PACs and campaigns. He represents the statewide association of private non-profit colleges and universities. He also represents the largest medical marijuana dispensary in Maine and has several gaming clients, including a Maine-based casino. Dan has extensive knowledge of the citizen initiative process, having taken clients successfully through this process to business formation.

Prior to joining Preti Flaherty, Dan served as Legal Counsel to the Speaker of the Maine House of Representatives, advising on constitutional, procedural and policy issues. He also completed two clerkships with Judges Gregory K. Orme and James Z. Davis of the Utah Court of Appeals, and formerly practiced as an associate with the litigation group of a Utah-based firm, where he represented Microsoft for two years in *Caldera v. Microsoft*, a private antitrust case.

Admissions

- Maine
- Utah

Professional Activities +

- Maine State Bar Association
- Board of Directors, New England Council
- Maine Marijuana Advisory Commission

Education

Honors & Recognition +

- Dartmouth College (A.B., 1991)
 - Anthropology
 - University of Maine School of Law (J.D., 1996)
 - Editor-in-Chief, Ocean and Coastal Law Journal
 - Selected by his peers for inclusion in Woodward/White's *Best Lawyers in America*
-

Civic and Charitable Activities +

- Leadership Maine, Pi Class, Maine Development Foundation
 - Maine Coast Waldorf School, Board Member (2018)
 - Center for Wellness Leadership, Board Member, Secretary (2016)
 - Freeport United Soccer Club, Board Member (2016)
 - Advisory Board Member, Wolfe's Neck Farm
-

Publications/Presentations +

- Published articles in the Portland Press Herald and the Media Law Resource Center Newsletter on Election Law and Media Law
 - Presented Lecture on Media Law for Lorman Seminars
 - Presented Lectures on Maine Legislative and Lobbying Law for the University of Maine School of Law, the Maine State Bar Association and the Maine Association of Nonprofits
-



Commission on Governmental Ethics and Election Practices
 Mail: 135 State House Station, Augusta, Maine 04333
Office: 45 Memorial Circle, Augusta, Maine
 Website: www.maine.gov/ethics
 Phone: 207-287-4179
 Fax: 207-287-6775

2022 REGISTRATION: LOBBYIST

LOBBYIST INFORMATION	
Daniel Walker Preti Flaherty Beliveau & Pachios 45 Memorial Circle Augusta, ME 04330	Phone: (207) 623-5300 Fax: Email: dwalker@preti.com
CLIENT INFORMATION	
Wellness Connection of Maine PRINCIPAL CONTACT: Ronald MacDonald 685 Congress St., rear Portland, ME 04101	Phone: (207) 415-1312 Fax: Email: r.macdonald@acreageholdings.com
LOBBYIST ASSOCIATES	
Matthew Warner 45 Memorial Circle Augusta, ME 04330	Phone: (207) 623-5300 Email: mwarner@preti.com
Anne Sedlack 45 Memorial Circle Augusta, ME 04330	Phone: (207) 623-5300 Email: asedlack@preti.com
COMMENCEMENT OF LOBBYING ACTIVITIES	
Date when lobbying commenced or is expected to commence: 1/5/2022	Date when lobbying first exceeded 8 hours in a calendar month: 1/31/2022
COMPENSATION	
The amount of compensation or the basis upon which the lobbyist will charge for those services. PORTION OF FLAT FEE BASED ON HOURLY PERCENTAGE	
CLIENT'S BUSINESS DESCRIPTION, LEGISLATIVE INTERESTS, AND LEGISLATIVE COMMITTEES	
<u>Primary Nature of Business:</u>	HEALTH CARE
<u>Description of Business/Mission:</u>	MEDICAL AND RECREATIONAL MARIJUANA DISPENSARIES
<u>Legislative Interests:</u>	HEALTH AND HUMAN SERVICES
<u>Legislative Committees:</u>	Criminal Justice and Public Safety Health and Human Services Judicial

Filed: 12/14/2021
 Last Modified: 12/14/2021
 Printed: 11/4/2023

Lobbyist Registration



Commission on Governmental Ethics and Election Practices
 Mail: 135 State House Station, Augusta, Maine 04333
Office: 45 Memorial Circle, Augusta, Maine
 Website: www.maine.gov/ethics
 Phone: 207-287-4179
 Fax: 207-287-6775

2018 REGISTRATION: LOBBYIST

LOBBYIST INFORMATION	
Daniel W Walker PRETI FLAHERTY BELIVEAU & PACHIOS LLP 45 Memorial Circle Augusta, ME 04330	Phone: (207) 623-5300 Fax: Email: dwalker@preti.com
CLIENT INFORMATION	
Wellness Connection of Maine PRINCIPAL CONTACT: Patricia Rosi-Santucci 685 Congress Street Rear Portland, ME 04102	Phone: (207) 553-9058 Fax: Email: prosi@mainewellness.org
LOBBYIST ASSOCIATES	
Chace J Jackson 45 Memorial Circle Augusta, ME 04330	Phone: (207) 623-5300 Email: chacejackson@preti.com
Diane R Johanson 45 Memorial Circle Augusta, ME 04330	Phone: (207) 623-5300 Email: djohanson@preti.com
Matthew S Warner 45 Memorial Circle Augusta, ME 04330	Phone: (207) 623-5300 Email: mwarner@preti.com
COMMENCEMENT OF LOBBYING ACTIVITIES	
Date when lobbying commenced or is expected to commence: 1/2/2018	Date when lobbying first exceeded 8 hours in a calendar month:
COMPENSATION	
The amount of compensation or the basis upon which the lobbyist will charge for those services. PORTION OF FLAT FEE BASED ON HOURLY PERCENTAGE	
CLIENT'S BUSINESS DESCRIPTION, LEGISLATIVE INTERESTS, AND LEGISLATIVE COMMITTEES	
<u>Primary Nature of Business:</u>	HEALTH CARE
<u>Description of Business/Mission:</u>	MEDICAL MARIJUANA DISPENSARIES
<u>Legislative Interests:</u>	HEALTH AND HUMAN SERVICES
<u>Legislative Committees:</u>	Criminal Justice and Public Safety Health and Human Services Judicial

Filed: 1/9/2018
 Last Modified: 1/9/2018
 Printed: 11/4/2023

Lobbyist Registration

2076 NORTH BELFAST AVENUE

Location 2076 NORTH BELFAST AVENUE

Mblu 43/ 46/A / /

Acct# 11890

Owner AL SALEEM QUSAY & FATIMAH

Assessment \$153,100

PID 7720

Building Count 1

Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2006	\$115,500	\$37,600	\$153,100

Owner of Record

Owner AL SALEEM QUSAY & FATIMAH

Sale Price \$323,000

Co-Owner

Certificate

Address 2076 NORTH BELFAST AVE
AUGUSTA, ME 04330

Book & Page 14296/85

Sale Date 12/20/2021

Instrument 00

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
AL SALEEM QUSAY & FATIMAH	\$323,000		14296/85	00	12/20/2021
JACKSON TROY D	\$220,000		13344/0303	00	09/19/2019
GODBOUT PAUL & JANE	\$158,900		11627/0141	00	02/11/2014
BOUCHER MICHAEL E & WANDA L	\$35,000		2003/0182	00	05/27/1977
GAUTREAU WILLIAM E & LORRAINE	\$0		1462/0232		02/29/1968

Building Information

Building 1 : Section 1

Year Built: 1957

Living Area: 1,592

Building Attributes	
Field	Description

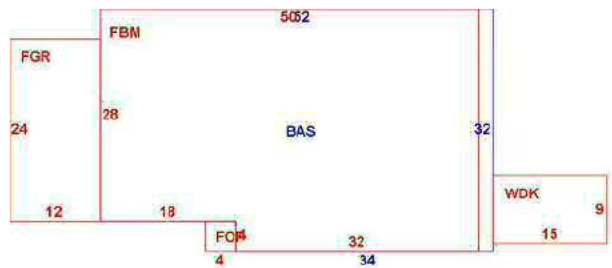
Style:	Ranch
Model	Residential
Grade:	Average
Stories:	1 Story
Occupancy	1
Exterior Wall 1	Vinyl Siding
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Drywall/Sheet
Interior Wall 2	
Interior Flr 1	Hardwood
Interior Flr 2	Carpet
Heat Fuel	Oil
Heat Type:	Hot Water
AC Type:	None
Total Bedrooms:	3 Bedrooms
Total Bthrms:	2
Total Half Baths:	0
Total Xtra Fixtrs:	
Total Rooms:	
Bath Style:	
Kitchen Style:	
Num Kitchens	01
Cndtn	
Num Park	
Fireplaces	
Fndtn Cndtn	
Basement	

Building Photo



(https://images.vgsi.com/photos/AugustaMEPhotos/\0023\1_23590.jpg)

Building Layout



(ParcelSketch,ashx?pid=7720&bid=7080)

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
BAS	First Floor	1,592	1,592
FBM	Basement, Finished	1,528	0
FGR	Garage, Finished	288	0
FOP	Porch, Open, Finished	16	0
WDK	Deck, Wood	135	0
		3,559	1,592

Extra Features

Extra Features				Legend
Code	Description	Size	Value	Bldg #
FLU2	BRICK	1.00 UNITS	\$500	1
HRTH	HEARTH	1.00 UNITS	\$800	1

Land

Land Use		Land Line Valuation	
Use Code	1010	Size (Acres)	0.57
Description	SINGLE FAM MLD-O1	Frontage	124

Neighborhood
 Alt Land Appr No
 Category

Depth 200
 Assessed Value \$37,600

Outbuildings

Outbuildings						Legend
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
PAT1	PATIO-AVG			724.00 S.F.	\$1,500	1
SHD1	SHED FRAME			120.00 S.F.	\$600	1

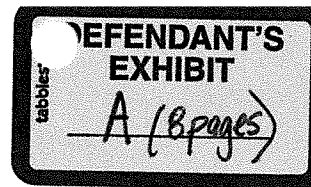
Valuation History

Assessment			
Valuation Year	Improvements	Land	Total
2024	\$115,500	\$37,600	\$153,100
2023	\$115,500	\$37,600	\$153,100
2022	\$115,500	\$37,600	\$153,100

Valuation History

Exemptions			
Exemption Year	Code	Description	Amount
2024	12	HOMESTEAD	\$19,200

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October 19,
August 27,
July 2018,
October 2018,
October 2019

October 31, 2019

Paul and Jane Godbout
c/o Eric Swails
747 Western Ave.
Manchester, Maine 04351

RE: 2076 North Belfast Avenue, Augusta, Maine

Dear Mr. and Mrs. Godbout,

I represent Troy Jackson and Lana Pelletier. They recently purchased the home at 2076 North Belfast Avenue, Augusta from you for \$220,000. They have since realized that there is a serious carpenter ant infestation at the home which requires significant structural repairs. In light of this fact, and given your explicit misrepresentations prior to purchase that there are "no current issues" with ants, I am writing to demand rescission of the home sale.

It is apparent that you knew of the carpenter ant infestation, tried to remedy it, and then tried to conceal it. Following the purchase of the home, Lana and Troy were painting the dining room when they discovered holes in the wall that had been covered with tape and then painted over. Behind these holes were live ant colonies. As they began to cut out pieces of the drywall, the severity of the damage in that specific location was readily apparent. Eventually they hired an inspector to review the damage. He observed "advanced ant damage" and concluded that "in my opinion the seller would have had knowledge of a past or present ant infestation." This conclusion is bolstered by your obvious attempts to treat the ant infestation at some point, then tape over the treatment holes and paint over the tape, all in an attempt to conceal the problem from buyers.

I have attached the inspection report to this letter for your review, along with a number of photos showing the extent of the ant damage around the window in the dining room. The header above the window and the framing all are in need of replacement. This will require extensive carpentry work which includes removing siding and additional demolition before rebuilding the dining room wall.

We are continuing to investigate ant damage elsewhere in the home and are concerned by other locations where you also taped over holes in the wall. The full extent of the structural damage is not yet known.

In summary, it is now obvious that the home had been infested by carpenter ants for some time prior to the sale, that you knew this and took steps to actively conceal the infestation, and that you lied about the infestation to Troy and Lana. It has long been that law in Maine that "a contract obtained through false or fraudulent representations may be rescinded." See Getchell v.

PRETI FLAHERTY

October 31, 2019
Page 2

Kirby, 113 Me. 91, 92 (1915). Troy and Lana would not have purchased the home had you been truthful about the carpenter ant infestation. Therefore, the deal should be promptly rescinded. My clients are prepared to return the deeded home to you in exchange for your return of the \$220,000 purchase price, and your payment of legal fees incurred in pursuing this claim.

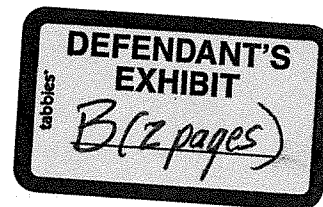
I look forward to hearing from you or your attorney no later than 14 days from the date of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew Warner', with a horizontal line above the name.

Matthew Warner

Cc: Troy Jackson
Lana Pelletier



November 19, 2019

SENT VIA EMAIL
jpgodbout77@gmail.com

Dear Mrs. And Mr. Godbout:

I am in receipt of your e-mail dated November 14, 2019. Your explanation for the ant infestation is contrary to your prior representations to Ms. Pelletier and Mr. Jackson. Specifically, in response to the inspection prior to closing, you informed my clients that "the house was treated professionally for ants when bought 5 years ago and now we seasonally spray the exterior in the springtime as preventative maintenance. No current issues." While the evidence suggests that disclosure was false since there is an active ant infestation, the statements in your email of November 14 appear to be even further from the truth. As I stated in my initial letter, there is ample evidence that you knew of the carpenter ant infestation and chose not to disclose this issue, even when specifically asked by my clients.

There are a number of other problems with the home as well that you failed to disclose:

- There is rampant mold underneath the kitchen sink which appears to have been recently tiled over. This seems to be another act of concealment meriting rescission.
- We have discovered that there was previously a fire in the home. This was disclosed to you by the sellers at the time you purchased the home, but you failed to disclose this material fact to my clients. Indeed, this fire could be the source of some of the other issues on this list.
- You had shut the furnace off at the time of my clients' inspection of the home. Troy and Lana have since discovered that these valves leak when turned on. This should have been disclosed, but instead you turned them off to conceal the problem.
- You took steps to conceal a mold issue beneath the garage which has spread throughout many of the floor joists.

With these numerous issues, not least the carpenter ant infestation, the house is barely habitable. I renew the demand that you unwind the deal, refund my clients' their money and retake title of the home. In addition, we are demanding that you pay for the attorney's fees required due to your fraud in the sale of home.

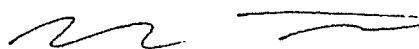
PRETI FLAHERTY

Mr. and Mrs Godbout

Page 2

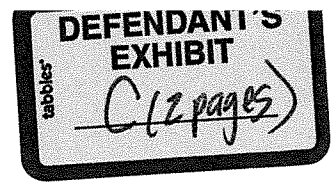
At this point, I suggest you speak with a lawyer. Given the current circumstances I plan to finalize a complaint and file a lawsuit within the next couple weeks if we cannot reach a deal in that time. With this timeframe in mind, I look forward to hearing from you or your lawyer.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew S. Warner". The signature is fluid and cursive, with a long horizontal stroke at the end.

Matthew S. Warner

MSW/smw



CONTINGENT FEE AGREEMENT

July 2, 2020

The Clients, Lana Pelletier and Troy Jackson of Augusta, Maine, retain the law firm, PRETI, FLAHERTY, BELIVEAU, and PACHIOS, LLP, One City Center, PO Box 9546, Portland, Maine 04112-9546, to perform the legal services outlined in Paragraph 1 below. The Attorneys agree to perform them faithfully and with due diligence.

(1) The claim, controversy, and other matters with reference to which the services are to be performed relate to the purchase of a defective residence in Augusta from Paul Godbout and Jane Godbout.

(2) The contingency upon which compensation is to be paid is recovery of damages from any or all of the Defendants.

(3) The Clients will be liable to pay the Attorneys compensation only if the Attorneys collect compensation for the Clients, except as detailed in Paragraph 5 below.

(4) Reasonable compensation on the foregoing contingency is to be paid by the Clients to the Attorneys, at the rate of 25% (twenty-five percent) of the value of any settlement amount prior to the commencement of litigation. After the commencement of litigation, your obligation to pay legal fees will be equal to 33 1/3% (thirty-three and one-third percent) of the value of any amounts recovered, in addition to the expenses and disbursements detailed in Paragraph 5 below. In the event of an appeal from a judgment to the Supreme Judicial Court, the fee will be 40% (forty percent) of the value of any amounts recovered.

(5) The Clients are in any event to be liable to the Attorneys for the Attorneys' reasonable out-of-pocket expenses and disbursements as hereinafter specified:

A. Court costs. Costs of the action, including:

1. Filing fees paid to the Clerk of Courts;
2. Fees for service of process and other documents;
3. Attendance fees and travel costs paid to witnesses;
4. Expert witness fees and expenses;
5. Costs of visual aids; and
6. Costs of taking depositions.

B. Travel expenses. Expenses for travel by the attorney on behalf of the client.

(6) This agreement and its performance are subject to Rule 8 of the Maine Bar Rules.

WE HAVE EACH READ THE ABOVE AGREEMENT BEFORE SIGNING IT.

Chace Jackson
Witness to Client

Lana Pelletier
Lana Pelletier

Chun Juh
Witness to Client

Troy D. Jackson
Troy D. Jackson

PRETI FLAHERTY BELIVEAU & PACHIOS LLP

Leane Spivey
Witness to Attorney

Severin M. Beliveau
By: Severin M. Beliveau

LANA PELLETIER - PLAINTIFF
2076 NORTH BELFAST AVE
AUGUSTA ME 04330
Attorney for: LANA PELLETIER
MATTHEW S WARNER - RETAINED
PRETI FLAHERTY BELIVEAU PACHIOS LLP
PO BOX 9546
ONE CITY CENTER
PORTLAND ME 04112-9546

SUPERIOR COURT
KENNEBEC, ss.
Docket No AUGSC-CV-2020-00081

DOCKET RECORD

TROY JACKSON - PLAINTIFF
2076 NORTH BELFAST AVE
AUGUSTA ME 04330
Attorney for: TROY JACKSON
MATTHEW S WARNER - RETAINED
PRETI FLAHERTY BELIVEAU PACHIOS LLP
PO BOX 9546
ONE CITY CENTER
PORTLAND ME 04112-9546

vs
TAMI JONES - DEFENDANT

Attorney for: TAMI JONES
JED DAVIS - RETAINED
MITCHELL & DAVIS
86 WINTHROP STREET
AUGUSTA ME 04330

PAUL GODBOUT - DEFENDANT
154 KIDDER ROAD
SOUTH CHINA ME 04358
Attorney for: PAUL GODBOUT
JED DAVIS - RETAINED
MITCHELL & DAVIS
86 WINTHROP STREET
AUGUSTA ME 04330

ERIK SWAILS - DEFENDANT
243 LEAVITT ROAD
AUGUSTA ME 04330
Attorney for: ERIK SWAILS
JAMES M BOWIE - RETAINED
THOMPSON BOWIE & HATCH LLC
PO BOX 4630
415 CONGRESS STREET 5TH FLOOR
PORTLAND ME 04112-4630

JANE GODBOUT - DEFENDANT
154 KIDDER ROAD
SOUTH CHINA ME 04358

Receipts

Attorney for: JANE GODBOUT
JED DAVIS - RETAINED
MITCHELL & DAVIS
86 WINTHROP STREET
AUGUSTA ME 04330

BROKEWOOD BUILDERS INC - DEFENDANT
PO BOX 189
SKOWHEGAN ME 04976
Attorney for: BROKEWOOD BUILDERS INC
JAMES M BOWIE - RETAINED
THOMPSON BOWIE & HATCH LLC
PO BOX 4630
415 CONGRESS STREET 5TH FLOOR
PORTLAND ME 04112-4630

Filing Document: COMPLAINT
Filing Date: 06/08/2020
Minor Case Type: CONTRACT

Docket Events:

06/08/2020 FILING DOCUMENT - COMPLAINT FILED ON 06/08/2020

06/08/2020 Party(s): LANA PELLETIER
ATTORNEY - RETAINED ENTERED ON 06/08/2020
Plaintiff's Attorney: MATTHEW S WARNER

06/08/2020 Party(s): TROY JACKSON
ATTORNEY - RETAINED ENTERED ON 06/08/2020
Plaintiff's Attorney: MATTHEW S WARNER

07/23/2020 Party(s): LANA PELLETIER, TROY JACKSON
SUPPLEMENTAL FILING - AMENDED COMPLAINT FILED ON 07/23/2020

08/04/2020 Party(s): ERIK SWAILS, BROKEWOOD BUILDERS INC
SUMMONS/SERVICE - ACCEPTANCE OF SERVICE SERVED ON 07/28/2020
ACCEPTANCE OF SERVICE BY JAMES BOWIE FOR ERIC SWAILS AND BROKEWOOD BUILDERS INC.

08/04/2020 Party(s): ERIK SWAILS, BROKEWOOD BUILDERS INC
SUMMONS/SERVICE - ACCEPTANCE OF SERVICE FILED ON 08/03/2020

08/04/2020 Party(s): ERIK SWAILS
ATTORNEY - RETAINED ENTERED ON 08/03/2020
Defendant's Attorney: JAMES M BOWIE

Party(s): BROKEWOOD BUILDERS INC
ATTORNEY - RETAINED ENTERED ON 08/03/2020
Defendant's Attorney: JAMES M BOWIE

08/04/2020 Party(s): ERIK SWAILS, BROKEWOOD BUILDERS INC
RESPONSIVE PLEADING - ANSWER FILED ON 08/03/2020
Defendant's Attorney: JAMES M BOWIE

08/10/2020 Party(s): PAUL GODBOUT, JANE GODBOUT

RESPONSIVE PLEADING - ANSWER FILED ON 08/10/2020
Defendant's Attorney: JED DAVIS

08/10/2020 Party(s): PAUL GODBOUT
ATTORNEY - RETAINED ENTERED ON 08/10/2020
Defendant's Attorney: JED DAVIS

Party(s): JANE GODBOUT
ATTORNEY - RETAINED ENTERED ON 08/10/2020
Defendant's Attorney: JED DAVIS

08/10/2020 ORDER - SCHEDULING ORDER ENTERED ON 08/10/2020
M MICHAELA MURPHY , JUSTICE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO
PARTIES/COUNSEL

08/10/2020 DISCOVERY FILING - DISCOVERY DEADLINE ENTERED ON 04/10/2021

08/10/2020 ASSIGNMENT - SINGLE JUDGE/JUSTICE ASSIGNED TO JUSTICE ON 08/10/2020
M MICHAELA MURPHY , JUSTICE

11/02/2020 Party(s): LANA PELLETIER,TROY JACKSON
ORDER - ORDER FAIL FILE ADR NOTICE ENTERED ON 10/30/2020
M MICHAELA MURPHY , JUSTICE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO
PARTIES/COUNSEL ORDER IS ISSUED PL HAS
UNTIL 11/30/2020 TO COMPLY WITH ADR RULES

11/09/2020 Party(s): LANA PELLETIER,PAUL GODBOUT,TROY JACKSON,ERIK SWAILS,JANE GODBOUT,BROKEWOOD BUILDERS
INC
MOTION - MOTION FOR ENLARGEMENT OF TIME FILED ON 11/06/2020
CONSENTED TO MOTION TO AMEND SCHEDULING ORDER

11/18/2020 Party(s): LANA PELLETIER,PAUL GODBOUT,TROY JACKSON,ERIK SWAILS,JANE GODBOUT,BROKEWOOD BUILDERS
INC
MOTION - MOTION FOR ENLARGEMENT OF TIME GRANTED ON 11/18/2020
M MICHAELA MURPHY , JUSTICE
COPIES TO PARTIES/COUNSEL EXPERT WITNESS
DES BY 1/10/21, NEW PARTIES MUST JOIN BY, THIRD PARTY COMPLAINTS AND MOTIONS TO AMEND
FILED NO LATER THAN 2/10/21, ADR COMPLETE BY 2/9/21, DEF EXPERT WITNESS DES BY 3/10/21, PL
DEMAND JT BY 5/8/21, DEF DEMAND JT BY 5/18/21, DISCOVERY DEADLINE IS 7/10/21,NO LATER
THAN 15 DAYS AFTER DIS PARTIES SHALL SERVE WIT AND EXH LIST, ALL MOTIONS SHALL BE FILED
NOL ATER THAN 30 DAYS FROM CLOSE OF DIS

11/18/2020 DISCOVERY FILING - DISCOVERY DEADLINE ENTERED ON 07/10/2021

12/11/2020 ORDER - REPORT OF ADR CONF/ORDER FILED ON 12/11/2020
M MICHAELA MURPHY , JUSTICE

12/11/2020 ORDER - REPORT OF ADR CONF/ORDER RESOLVED ON 12/07/2020

12/16/2020 ORDER - REPORT OF ADR CONF/ORDER ENTERED ON 12/16/2020
M MICHAELA MURPHY , JUSTICE

ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO
PARTIES/COUNSEL

12/16/2020 ORDER - ORDER TO FILE DOCKET ENTRIES ENTERED ON 12/16/2020
M MICHAELA MURPHY , JUSTICE

ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO
PARTIES/COUNSEL DOCKET ENTRIES OR OTHER
DOCUMENTS SHOWING FINAL DISPOSITION ARE FILES WITHIN 30 DAYS THIS CASE IS DISMISSED WITH
PREJUDICE

01/14/2021 Party(s): LANA PELLETIER,TROY JACKSON
MOTION - MOTION ALTER/AMEND ORDER/JUDG FILED ON 01/14/2021
Plaintiff's Attorney: MATTHEW S WARNER
WITH MEMORANDUM OF LAW, DRAFT ORDER, NOTICE OF HEARING
SCHEDULING ORDER

MOTION TO AMEND

01/28/2021 Party(s): PAUL GODBOUT,JANE GODBOUT
RESPONSIVE PLEADING - ANSWER FILED ON 01/27/2021
Defendant's Attorney: JED DAVIS

DEF PAUL AND JANE GODBOUTS ANSWER AND OBJECTION TO PL MOTION TO AMEND
ORDER

SCHEDULING

01/28/2021 Party(s): PAUL GODBOUT,JANE GODBOUT
OTHER FILING - OPPOSING MEMORANDUM FILED ON 01/27/2021
Defendant's Attorney: JED DAVIS

DEF PAUL AND JANE GODBOUTS ANSWER AND OBJECTION TO PL MOTION TO AMEND
ORDER

SCHEDULING

01/28/2021 Party(s): LANA PELLETIER,TROY JACKSON
OTHER FILING - REPLY MEMORANDUM FILED ON 01/27/2021
Plaintiff's Attorney: MATTHEW S WARNER
REPLY IN SUPPORT OF MOTION TO AMEND SCHEDULING ORDER

03/12/2021 Party(s): PAUL GODBOUT,JANE GODBOUT
OTHER FILING - DESIGNATION OF EXPERT WITNESS FILED ON 03/09/2021
Defendant's Attorney: JED DAVIS
DAVID LABBE

BRUCE MATHEWS

ROBIN PELLETIER

JESSICA GARTEN

03/12/2021 Party(s): PAUL GODBOUT,JANE GODBOUT
OTHER FILING - WITNESS & EXHIBIT LIST FILED ON 03/09/2021
Defendant's Attorney: JED DAVIS

04/05/2021 Party(s): LANA PELLETIER,TROY JACKSON
MOTION - MOTION ALTER/AMEND ORDER/JUDG GRANTED ON 04/01/2021
M MICHAELA MURPHY , JUSTICE
COPIES TO PARTIES/COUNSEL

MOTION GRANTED

OVER OBJECTION ALL DEADLINES ARE EXTENDED 90 DAYS PL COUSEL TO SUBMIT NEW
SCHEDULING ORDER WITH SPECIFIC NEW DEADLINES FOR SIGNATURES BY COURT

04/05/2021 ORDER - ORDER TO FILE DOCKET ENTRIES VACATED ON 04/01/2021
M MICHAELA MURPHY , JUSTICE

VACATED AS PARTIES SEEM TO AGREE THAT CASE HAS NOT IN FACT SETTLED
ORDER ALSO AMENDED THIS DATE

SCHEDULING

- 04/06/2021 Party(s): LANA PELLETIER
LETTER - FROM PARTY FILED ON 03/31/2021
Plaintiff's Attorney: MATTHEW S WARNER
REGARD TO A MOTION TO AMEND SCHEDULING ORDER
- 04/23/2021 Party(s): LANA PELLETIER
OTHER FILING - OTHER DOCUMENT FILED ON 04/14/2021
PROPOSED AMENDED SCHEDULING ORDER
- 04/23/2021 Party(s): LANA PELLETIER
OTHER FILING - NTS OF EMAIL FILING/RESP DEADL FILED ON 04/14/2021
- 04/23/2021 ORDER - SCHEDULING ORDER AMENDED ON 04/21/2021
M MICHAELA MURPHY , JUSTICE
JURY TRIAL DEMAND BY 10/30/21, DEFENDANT'S JURY TRIAL DEMAND NO LATER THAN 11/8/21.
DISCOVERY DEADLINE IS 1/30/22.
- 04/23/2021 DISCOVERY FILING - DISCOVERY DEADLINE ENTERED ON 01/30/2022
- 05/14/2021 Party(s): LANA PELLETIER,TROY JACKSON
MOTION - MOTION FOR LEAVE FILED ON 05/14/2021
Plaintiff's Attorney: MATTHEW S WARNER
TO FILE SECOND AMENDED COMPLAINT
- 05/14/2021 Party(s): LANA PELLETIER,TROY JACKSON
OTHER FILING - NTS OF EMAIL FILING/RESP DEADL FILED ON 05/14/2021
Plaintiff's Attorney: MATTHEW S WARNER
MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT
- 06/04/2021 Party(s): ERIK SWAILS,BROKEWOOD BUILDERS INC
MOTION - MOTION TO DISMISS FILED ON 06/04/2021
Defendant's Attorney: JAMES M BOWIE
WITH MEMORANDUM OF LAW, DRAFT ORDER, NOTICE OF HEARING
- 06/04/2021 Party(s): ERIK SWAILS,BROKEWOOD BUILDERS INC
OTHER FILING - NTS OF EMAIL FILING/RESP DEADL FILED ON 06/04/2021
MOTION TO DISMISS ON BEHALF OF DEF ERIK SWAILS AND BROOKWOOD BUILDERS
- 06/04/2021 Party(s): PAUL GODBOUT,JANE GODBOUT
LETTER - FROM PARTY FILED ON 06/04/2021
Defendant's Attorney: JED DAVIS
DEF PAUL AND JANE GODBOUT HAVE NO OBJECTION TO PL MOTION FOR LEAVE TO FILE SECOND AMENDED
COMPLAINT AND PROPOSED ORDER ON THE SAME
- 06/21/2021 Party(s): ERIK SWAILS,BROKEWOOD BUILDERS INC
MOTION - MOTION TO DISMISS GRANTED ON 06/17/2021
M MICHAELA MURPHY , JUSTICE
COPIES TO PARTIES/COUNSEL
AGAINST DEF ERIK SWAILS AND BROOKEWOOD BUILDERS INC ARE

ALL CLAIMS
DISMISSED WITH PREJUDICE

06/29/2021 Party(s): LANA PELLETIER,TROY JACKSON
MOTION - MOTION FOR LEAVE GRANTED ON 06/24/2021
M MICHAELA MURPHY , JUSTICE
PL HAS 45 DAYS FROM THE DATE OF THIS ORDER TO FILE PROOF OF SERVICE AND WAIVER OF
SERVICE ON TAMI JONES

08/02/2021 Party(s): PAUL GODBOUT,JANE GODBOUT
MOTION - MOTION FOR LEAVE FILED ON 07/30/2021
Defendant's Attorney: JED DAVIS
DEF PAUL GODBOUT AND JANE GODBOUT MOTION FOR LEAVE TO FILE AMENDED ANSWER TO COMPLAINT

08/02/2021 Party(s): LANA PELLETIER,TROY JACKSON
SUPPLEMENTAL FILING - AMENDED COMPLAINT FILED ON 05/14/2021
MOTION GRANTED ON 6/29/21 TO FILE AMENDED COMPLAINT

08/12/2021 Party(s): TAMI JONES
ATTORNEY - RETAINED ENTERED ON 08/11/2021
Defendant's Attorney: JED DAVIS

08/12/2021 Party(s): TAMI JONES
OTHER FILING - ENTRY OF APPEARANCE FILED ON 08/11/2021
Defendant's Attorney: JED DAVIS

08/23/2021 Party(s): LANA PELLETIER,TROY JACKSON
OTHER FILING - OPPOSING MEMORANDUM FILED ON 08/20/2021
Plaintiff's Attorney: MATTHEW S WARNER
OPP TO GODBOUITS MOTION TO AMEND ANSWER TO ANSWER TO AMENDED COMPLAINT AND FILE
COUNTERCLAIM

08/31/2021 Party(s): PAUL GODBOUT,JANE GODBOUT
OTHER FILING - DESIGNATION OF EXPERT WITNESS FILED ON 08/30/2021
Defendant's Attorney: JED DAVIS
DEF SUPPLEMENTAL DESIGNATION OF EXPERT WITNESSES AND EXHIBITS

08/31/2021 Party(s): LANA PELLETIER,TROY JACKSON
MOTION - MOTION TO DISMISS FILED ON 08/31/2021
Plaintiff's Attorney: MATTHEW S WARNER
WITH MEMORANDUM OF LAW, DRAFT ORDER, NOTICE OF HEARING SPECIAL MOTION
TO DISMISS COUNTERCLAIM UNDER 14 MRS 556 BY LANA PELLETIER AND TROY JACKSON

09/01/2021 Party(s): PAUL GODBOUT,JANE GODBOUT
OTHER FILING - OTHER DOCUMENT FILED ON 09/01/2021
Defendant's Attorney: JED DAVIS
DEF PAUL AND JANE GODBOUT HEREBY WITHDRAW THEIR MOTION FOR LEAVE TO FILE AMENDED ANSWER
DEATED JULY 30,2021, SINCE IT IS MOOT

09/02/2021 Party(s): TAMI JONES
SUMMONS/SERVICE - ACK OF RECEIPT OF SUMM/COMP SERVED ON 07/23/2021
Defendant's Attorney: JENNIFER M BRYANT
SECOND AMENDED COMPLAINT

09/02/2021 Party(s): TAMI JONES
SUMMONS/SERVICE - ACK OF RECEIPT OF SUMM/COMP FILED ON 09/02/2021

09/07/2021 HEARING - REQUEST TELEPHONE CONFERENCE REQUESTED ON 09/03/2021
Defendant's Attorney: JED DAVIS
AND PERMISSION TO PROVIDE THE COURT WITH WRITTEN ARGUMENT BEFOREHAND

09/10/2021 HEARING - REQUEST TELEPHONE CONFERENCE SCHEDULED FOR 09/22/2021 at 11:00 a.m.
TELEPHONIC

09/10/2021 HEARING - REQUEST TELEPHONE CONFERENCE NOTICE SENT ON 09/10/2021

09/17/2021 Party(s): PAUL GODBOUT, JANE GODBOUT, TAMI JONES
MOTION - MOTION FOR ENLARGEMENT OF TIME FILED ON 09/17/2021
Defendant's Attorney: JENNIFER M BRYANT
DEF MOTION TO ENLARGE DEADLINE FOR ANSWER TO PL SPECIAL MOTION TO DISMISS & PROPOSED
ORDER

09/20/2021 Party(s): PAUL GODBOUT, JANE GODBOUT
LETTER - FROM PARTY FILED ON 09/20/2021
SPECIAL MOTION TO DISMISS AND PROPOSED ORDER CAN BE PRESENTED TO THE COURT WITHOUT
OBJECTION

09/22/2021 HEARING - REQUEST TELEPHONE CONFERENCE HELD ON 09/22/2021
M MICHAELA MURPHY , JUSTICE
PARTIES HAVE RESOLVED THE RULE 26(G) ISSUES PENDING AT THIS TIME SPECIAL MOTION
TO DISMISS WILL BE COMPLETE IN MID OCTOBER

09/22/2021 ORDER - COURT ORDER ENTERED ON 09/22/2021
M MICHAELA MURPHY , JUSTICE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO
PARTIES/COUNSEL PARTIES HAVE RESOLVED THE
RULE 26(G) ISSUES PENDING AT THIS TIME THE BRIEFING ON THE SPECIAL MOTION TO
DISMISS WILL BE COMPLETE IN MID OCTOBER AND AFTER IT IS DECIDED THE COURT WILL
CONVENE A TEL SCHEDULING CONF TO IMPOSE NEW DEADLINES GOING FORWARD

10/01/2021 Party(s): PAUL GODBOUT, JANE GODBOUT, TAMI JONES
OTHER FILING - OPPOSING MEMORANDUM FILED ON 10/01/2021
Defendant's Attorney: JENNIFER M BRYANT
DEF MEMORANDUM IN OPP TO PL SPECIAL MOTION TO DISMISS AFF OF DEF JANE
GODBOUT, AFF OF PAUL GODBOUT, AFF OF TAMI JONES

10/18/2021 Party(s): LANA PELLETIER, TROY JACKSON
OTHER FILING - REPLY MEMORANDUM FILED ON 10/15/2021
Plaintiff's Attorney: MATTHEW S WARNER
REPLY IN SUPPORT OF SPECIAL MOTION TO DISMISS COUNTERCLAIM BY LANA PELLETIER
AND TROY JACKSON

10/20/2021 Party(s): PAUL GODBOUT
OTHER FILING - REPLY MEMORANDUM FILED ON 10/19/2021
Defendant's Attorney: JENNIFER M BRYANT
SUPPORT TO DEF OPPOSITION TO PL SPECIAL MOTION TO DISMISS

11/04/2021 Party(s): PAUL GODBOUT
JURY FILING - DEMAND FOR JURY TRIAL FILED ON 11/03/2021

Plaintiff's Attorney: JED DAVIS

11/16/2021 Party(s): PAUL GODBOUT,ERIK SWAILS,JANE GODBOUT
MOTION - REQUEST TELEPHONE CONFERENCE FILED ON 11/15/2021
DEF SECOND REQUEST FOR HEARING

12/01/2021 Party(s): PAUL GODBOUT,JANE GODBOUT
SUBPOENA - SUBPOENA TO PRODUCE EVIDENCE FILED ON 11/29/2021
Defendant's Attorney: JED DAVIS
WITNESS SUBPOENA FOR INSPECTION TRAVELERS CASUALTY
SERVICE

PROOF OF

12/01/2021 Party(s): LANA PELLETIER,TROY JACKSON
OTHER FILING - OPPOSING MEMORANDUM FILED ON 11/29/2021
Plaintiff's Attorney: MATTHEW S WARNER
PL/COUNTERCLAIM DEF OBJECTION TO SUBPOENAS

12/01/2021 Party(s): PAUL GODBOUT,JANE GODBOUT
SUBPOENA - SUBPOENA TO PRODUCE EVIDENCE SERVED ON 12/01/2021
Defendant's Attorney: JED DAVIS
WITNESS SUBPOENA FOR INSPECTION
DANIELSON ESQ

ROBERT
PROOF OF SERVICE

01/11/2022 TRIAL - TRAILING LIST SCHEDULED FOR 01/11/2022

01/19/2022 ORDER - COURT ORDER ENTERED ON 01/19/2022
M MICHAELA MURPHY , JUSTICE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO
PARTIES/COUNSEL PROCEDURAL ORDER PL WILL
HAVE UNTIL 2/4/22 TO SUBMIT THEIR FILING DEF WILL HAVE UNTIL 2/18/22 TO SUBMIT A
RESPONSE

02/09/2022 Party(s): LANA PELLETIER,TROY JACKSON
OTHER FILING - OTHER DOCUMENT FILED ON 02/07/2022
Plaintiff's Attorney: MATTHEW S WARNER
SUPPLEMENTAL BRIEF IN SUPPORT OF SPECIAL MOTION TO DISMISS COUNTERCLAIM BY LANA
PELLETIER AND TROY JACKSON

02/18/2022 Party(s): PAUL GODBOUT,JANE GODBOUT,TAMI JONES
OTHER FILING - REPLY MEMORANDUM FILED ON 02/17/2022
Defendant's Attorney: JENNIFER M BRYANT
DEF RESPONSE TO PL SUPPLEMENTAL BRIEF ON SPECIAL MOTION TO DISMISS COUNTERCLAIMS

03/31/2022 TRIAL - TRAILING LIST NOT HELD ON 01/11/2022

04/27/2022 Party(s): LANA PELLETIER,TROY JACKSON
MOTION - MOTION TO DISMISS GRANTED ON 04/27/2022
M MICHAELA MURPHY , JUSTICE
COPIES TO PARTIES/COUNSEL PL SPECIAL
MOTION TO DISMISS IS GRANTED

04/28/2022 HEARING - OTHER MOTION SCHEDULED FOR 06/13/2022 at 10:00 a.m.
MOTIONS PENDING

04/28/2022 HEARING - OTHER MOTION NOTICE SENT ON 04/28/2022
MOTIONS PENDING

06/03/2022 Party(s): LANA PELLETIER, TROY JACKSON
MOTION - MOTION TO CONTINUE FILED ON 06/03/2022
Plaintiff's Attorney: MATTHEW S WARNER
PL MOTION TO CONTINUE HEARING

06/13/2022 HEARING - OTHER MOTION NOT HELD ON 06/13/2022
MOTIONS PENDING

06/14/2022 Party(s): LANA PELLETIER, TROY JACKSON
MOTION - MOTION TO CONTINUE GRANTED ON 06/13/2022
M MICHAELA MURPHY , JUSTICE
COPIES TO PARTIES/COUNSEL

12/21/2022 HEARING - MOTION TO DISMISS SCHEDULED FOR 01/06/2023 at 02:00 p.m.

12/21/2022 HEARING - MOTION TO DISMISS NOTICE SENT ON 12/21/2022

01/05/2023 HEARING - MOTION TO DISMISS NOT HELD ON 01/05/2022
COUNSEL ADVISED THE MOTION WAS RESOLVED NO NEED FOR A HEARING

01/06/2023 ASSIGNMENT - SINGLE JUDGE/JUSTICE ASSIGNED TO JUSTICE ON 01/06/2023
DEBORAH CASHMAN , JUSTICE

01/13/2023 Party(s): PAUL GODBOUT
MOTION - MOTION FOR SANCTIONS FILED ON 01/13/2023
Defendant's Attorney: JENNIFER M BRYANT
WITH MEMORANDUM OF LAW, DRAFT ORDER, NOTICE OF HEARING
SANCTIONS

DEF REQUEST FOR

01/27/2023 Party(s): PAUL GODBOUT
OTHER FILING - OTHER DOCUMENT FILED ON 01/25/2023
Defendant's Attorney: JENNIFER M BRYANT
LETTER RE PL AMENDED EXP WIT DES EMAILED TO DEF COUNSEL

01/27/2023 Party(s): LANA PELLETIER
OTHER FILING - OPPOSING MEMORANDUM FILED ON 01/26/2023
Plaintiff's Attorney: MATTHEW S WARNER
PL OPP TO MOTION FOR SANCTIONS

01/27/2023 ORDER - CONFERENCE REPORT & ORDER ENTERED ON 01/25/2023
DEBORAH CASHMAN , JUSTICE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO
PARTIES/COUNSEL

01/27/2023 ORDER - SCHEDULING ORDER ENTERED ON 01/25/2023
DEBORAH CASHMAN , JUSTICE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO
PARTIES/COUNSEL
6/30/23, DEF EXP 4/6/23, JT DEMAND 6/6/23, DEF JT DEMAND 6/15/23, DIS 7/15/23

01/27/2023 DISCOVERY FILING - DISCOVERY DEADLINE ENTERED ON 07/15/2023

01/27/2023 Party(s): PAUL GODBOUT
MOTION - MOTION FOR SANCTIONS DENIED ON 01/25/2023
DEBORAH CASHMAN , JUSTICE
COPIES TO PARTIES/COUNSEL

01/27/2023 Party(s): PAUL GODBOUT,ERIK SWAILS,JANE GODBOUT
MOTION - REQUEST TELEPHONE CONFERENCE GRANTED ON 01/06/2023
DEBORAH CASHMAN , JUSTICE
CONF HELD 1/6/23

01/27/2023 Party(s): PAUL GODBOUT
OTHER FILING - OPPOSING MEMORANDUM FILED ON 01/27/2023
Defendant's Attorney: JENNIFER M BRYANT
DEF REPLY TO PL OPP TO MOTION FOR SANCTIONS

04/25/2023 Party(s): PAUL GODBOUT,JANE GODBOUT,TAMI JONES
OTHER FILING - DESIGNATION OF EXPERT WITNESS FILED ON 04/10/2023
DEF'S SECOND SUPPLEMENTAL DESIGNATION OF EXPERT WITNESSES & EXHIBITS.

07/28/2023 OTHER FILING - STATEMENT OF TIME FOR TRIAL FILED ON 07/27/2023
THE PARTIES HAVE CONFERRED AND BELIEVE THAT 4 DAYS WILL BE TRIAL
NECESSARY FOR

08/03/2023 ASSIGNMENT - SINGLE JUDGE/JUSTICE ASSIGNED TO JUSTICE ON 08/03/2023
M MICHAELA MURPHY , JUSTICE
PREVIOUS JUDGE TRANSFERRED

08/11/2023 Party(s): PAUL GODBOUT,JANE GODBOUT,TAMI JONES
MOTION - MOTION FOR ENLARGEMENT OF TIME FILED ON 08/09/2023
Defendant's Attorney: JENNIFER M BRYANT
TO ENLARGE DEADLINE FOR FILING MOTIONS

09/21/2023 MOTION - OTHER MOTION FILED ON 09/18/2023
Defendant's Attorney: JENNIFER M BRYANT
DEFENDANTS UNOPPOSED MOTION TO AMEND MOTION FOR SUMMARY JUDGMENT AND PROPOSED ORDER

09/21/2023 MOTION - MOTION FOR ENLARGEMENT OF TIME FILED ON 09/18/2023
Defendant's Attorney: JENNIFER M BRYANT
SECOND AGREED UPON MOTION TO ENLARGE DEADLINE FOR FILING MOTIONS AND PROPOSED ORDER

09/25/2023 Party(s): PAUL GODBOUT,JANE GODBOUT,TAMI JONES
MOTION - MOTION FOR ENLARGEMENT OF TIME GRANTED ON 09/14/2023
M MICHAELA MURPHY , JUSTICE
COPIES TO PARTIES/COUNSEL

09/27/2023 MOTION - OTHER MOTION GRANTED ON 09/26/2023
M MICHAELA MURPHY , JUSTICE
DEFENDANTS UNOPPOSED MOTION TO AMEND MOTION FOR SUMMARY JUDGMENT AND PROPOSED ORDER

09/27/2023 MOTION - MOTION FOR ENLARGEMENT OF TIME GRANTED ON 09/26/2023

M MICHAELA MURPHY , JUSTICE
COPIES TO PARTIES/COUNSEL

10/13/2023 Party(s): PAUL GODBOUT,ERIK SWAILS,JANE GODBOUT,BROKEWOOD BUILDERS INC,TAMI JONES
OTHER FILING - OTHER DOCUMENT FILED ON 10/05/2023
Defendant's Attorney: JENNIFER M BRYANT
DEFENDANTS AMENDED STATEMENT OF MATERIAL FACTS

10/13/2023 Party(s): PAUL GODBOUT,ERIK SWAILS,JANE GODBOUT,BROKEWOOD BUILDERS INC,TAMI JONES
MOTION - OTHER MOTION FILED ON 10/05/2023
Defendant's Attorney: JENNIFER M BRYANT
DEFENDANTS AMENDED MOTION FOR SUMMARY JUDGMENT

06/08/2020	Misc Fee Payments	\$25.00	paid.
06/08/2020	Misc Fee Payments	\$150.00	paid.
11/04/2021	Misc Fee Payments	\$300.00	paid.

A TRUE COPY

ATTEST: _____
Clerk

Board of Overseers of the Bar

[Home](#) → [Attorney Regulation](#) → Rules

1.5 Fees

(a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. A fee or charge for expenses is unreasonable when, after a review of the facts, a lawyer of ordinary prudence would be left with a definite and firm conviction that the fee or expense is in excess of a reasonable fee or expense. The factors to be considered in determining the reasonableness of a fee include the following:

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) the likelihood that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) the range of fees customarily charged in the locality for similar legal services;
- (4) the responsibility assumed, the amount involved and the results obtained;
- (5) the time limitations imposed by the client or by the circumstances;
- (6) the nature and length of the professional relationship with the client;
- (7) the experience, reputation, and ability of the lawyer or lawyers performing the services;
- (8) whether the fee is fixed or contingent;
- (9) whether the client has given informed consent as to the fee arrangement;
- (10) whether the fee agreement is in writing; and
- (11) any other risks allocated by the fee agreement or potential benefits of the fee agreement, judged as of the time the fee agreement was made.

(b) The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated to the client.

(c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law. A contingent fee agreement shall be in a writing signed by the client and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal; litigation and other expenses to be deducted from the recovery; and whether such expenses are to be deducted before or after the contingent

fee is calculated. The agreement must clearly notify the client of any expenses for which the client will be liable whether or not the client is the prevailing party. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination. A general form of Contingent Fee Agreement is attached to the comments to this rule.

(d) A lawyer shall not enter into an arrangement for, charge, or collect:

(1) a contingent fee in any initial action for divorce, annulment, judicial separation, paternity or parentage, parental rights and responsibilities, emancipation, grandparent visitation, guardianship, or child support, or in any post-judgment proceeding to modify, alter, or amend an order arising from these actions; or

(2) a contingent fee for representing a defendant in a criminal case; or

(3) any fee to administer an estate in probate, the amount of which is based on a percentage of the value of the estate.

(e) A lawyer shall not divide a fee for legal services with another lawyer who is not a partner in or associate of the lawyer's law firm or office unless:

(1) after full disclosure, the client consents to the employment of the other lawyer and to the terms for the division of the fees, confirmed in writing; and

(2) the total fee of the lawyers does not exceed reasonable compensation for all legal services they rendered to the client.

(f) A lawyer may accept payment by credit card for legal services previously rendered, or for an advance payment of fees or nonrefundable fee otherwise permitted by these rules.

(g) A lawyer practicing in this State shall submit, upon the request of the client, the resolution of any fee dispute in accordance with the Supreme Judicial Court's rules governing fee arbitration.

(h) A lawyer may enter into an agreement for a client to pay a nonrefundable fee that is earned before any legal services are rendered. The amount of such an earned fee must be reasonable, like any fee, in light of all relevant circumstances. A lawyer cannot accept a nonrefundable fee, or characterize a fee as nonrefundable, unless the lawyer complies with the following conditions:

(1) The lawyer confirms to the client in writing before or within a reasonable time after commencing representation (a) that the funds will not be refundable and (b) the scope of availability and/or services the client is entitled to receive in exchange for the nonrefundable fee;

(2) A lawyer shall not solicit or make any agreement with a client that prospectively waives the client's right to challenge the reasonableness of a nonrefundable fee, except that a lawyer can enter into an agreement with a client that resolves an existing dispute over the reasonableness of a nonrefundable fee, if the client is separately represented or if the lawyer advises the client in writing of the desirability of seeking independent counsel

and the client is given a reasonable opportunity to seek such independent counsel.

(3) Where it accurately reflects the terms of the parties' agreement, and where such an arrangement is reasonable under all of the relevant circumstances and otherwise complies with this Rule, a fee agreement may describe a fee as "nonrefundable," "earned on receipt," a "guaranteed minimum," or other similar description indicating that the funds will be deemed earned regardless whether the client terminates the representation.

(i) A nonrefundable fee that complies with the requirements of (h)(1)-(2) above constitutes property of the lawyer that should not be commingled with client funds in the lawyer's trust account. Any funds received in advance of rendering services that do not meet the requirements of (h)(1)-(3) constitute an advance that must be deposited in the lawyer's trust account in accordance with Rule 1.15(b)(1) until such funds are earned by rendering services.

(j) For definitions of "advance," "retainer," and "nonrefundable fee" as used in this Rule, see the definitions in Rule 1.0.

COMMENT

Reasonableness of Fees and Expenses

[1] Paragraph (a) requires that lawyers charge fees that are reasonable under the circumstances. The factors specified in (1) through (10) are not exclusive. Nor will each factor be relevant in each instance. Paragraph (a) also requires that expenses for which the client will be charged must be reasonable. A lawyer may seek reimbursement for the cost of services performed in-house, such as copying, or for other expenses incurred in-house, such as telephone charges, either by charging a reasonable amount to which the client has agreed in advance or by charging an amount that reasonably reflects the cost incurred by the lawyer.

Basis or Rate of Fee

[2] When the lawyer has regularly represented a client, she or he ordinarily will have evolved an understanding concerning the basis or rate of the fee and the expenses for which the client will be responsible. In a new client-lawyer relationship, however, an understanding as to fees and expenses must be promptly established. Generally, it is desirable to furnish the client with at least a simple memorandum or copy of the lawyer's customary fee arrangements that states the general nature of the legal services to be provided, the basis, rate or total amount of the fee and whether and to what extent the client will be responsible for any costs, expenses or disbursements in the course of the representation. A written statement concerning the terms of the engagement reduces the possibility of misunderstanding.

[3] Contingent fees, like any other fees, are subject to the reasonableness standard of paragraph (a) of this Rule. In determining whether a particular contingent fee is reasonable, or whether it is reasonable to charge any form of contingent fee, a lawyer must consider the factors that are relevant under the circumstances. Applicable law may impose limitations on contingent fees, such as a ceiling on the percentage allowable, or may require a lawyer to offer clients an

alternative basis for the fee. Applicable law also may apply to situations other than a contingent fee, for example, government regulations regarding fees in certain tax matters.

Terms of Payment

[4] A lawyer may require advance payment of a fee, but is obliged to return any unearned portion. See Rule 1.16(d). A lawyer may accept property in payment for services, such as an ownership interest in an enterprise, providing this does not involve acquisition of a proprietary interest in the cause of action or subject matter of the litigation contrary to Rule 1.8 (i). However, a fee paid in property instead of money may be subject to the requirements of Rule 1.8(a) because such fees often have the essential qualities of a business transaction with the client.

[5] An agreement may not be made whose terms might induce the lawyer improperly to curtail services for the client or perform them in a way contrary to the client's interest. For example, a lawyer should not enter into an agreement whereby services are to be provided only up to a stated amount when it is foreseeable that more extensive services probably will be required, unless the situation is adequately explained to the client. Otherwise, the client might have to bargain for further assistance in the midst of a proceeding or transaction.

However, it is proper to define the extent of services in light of the client's ability to pay. A lawyer should not exploit a fee arrangement based primarily on hourly charges by using wasteful procedures.

Prohibited Contingent Fees

[6] Paragraph (d) prohibits a lawyer from charging a contingent fee in a domestic relations matter when payment is contingent upon the securing of a divorce or upon the amount of alimony or support or property settlement to be obtained. This provision does not preclude a contract for a contingent fee for legal representation in connection with the recovery of post-judgment balances due under support, alimony or other financial orders because such contracts do not implicate the same policy concerns. Paragraph (d) further prohibits a lawyer from charging a fee to administer a probate estate when payment is based upon a percentage of the value of the estate.

Division of Fee

[7] A division of fee is a single billing to a client covering the fee of two or more lawyers who are not in the same firm. A division of fee facilitates association of more than one lawyer in a matter in which neither alone could serve the client as well, and most often is used when the fee is contingent and the division is between a referring lawyer and a trial specialist. Paragraph (e) permits the lawyers to divide a fee subject to certain conditions. The client must consent to the employment of the other lawyer and to the terms for the division of the fees, after full disclosure, which disclosure must be confirmed in writing. In addition, the total fee must be reasonable. Contingent fee agreements must be in a writing signed by the client and must otherwise comply with paragraph (c) of this Rule. A lawyer should only refer a matter to a lawyer whom the referring lawyer reasonably believes is competent to handle the matter. See Rule 1.1.

[8] Paragraph (e) does not prohibit or regulate division of fees to be received in the future for work done when lawyers were previously associated in a law firm, nor does paragraph (e) prohibit payment to a former partner or associate pursuant to a separation or retirement agreement. Paragraph (e) further does not address the issue of the fee division when a lawyer is terminated before the matter is completed, and new counsel is engaged.

Disputes over Fees

[9] A mandatory fee arbitration procedure has been established for resolution of fee disputes. Lawyers must conscientiously comply with the procedure set forth in Maine Bar Rule 9. This Rule prescribes a procedure for determining a lawyer's fee, for example, in representation of an executor or administrator, a class or a person entitled to a reasonable fee as part of the measure of damages. The lawyer entitled to such a fee and a lawyer representing another party concerned with the fee shall comply with the prescribed procedure.

Advisory Committee's Note - June 2014

Paragraph (a) has been amended to make clarifying changes regarding the considerations that bear on the reasonableness of a fee.

In paragraph (a)(2), the requirement that the preclusion of a lawyer's employment be apparent to the client has been removed. A lawyer's reasonable perception of the risk of loss of other employment is relevant to the reasonableness of the fee, whether or not the client is aware of potentially conflicting engagements.

Paragraph (a)(3) has been amended to clarify that in any particular locality, a range of fees, rather than a single precise fee, can very well be charged for a particular service, and that range, rather than anyone particular fee, is relevant to determining the zone of reasonableness of fees in any particular case.

Paragraph (a)(11) is new. It highlights the fact that, as with many commercial contracts, parties to a fee agreement enter the agreement in order to allocate various risks and in the expectation of, or pursuit of, certain potential benefits. Parties make those agreements lacking perfect foresight. The reasonableness of the agreement is to be judged by the reasonableness at the time of contracting, in light of the parties' desire to allocate risks and pursue benefits, not in hindsight. An agreement entered into by parties reasonably seeking certainty despite (or even because of) their lack of perfect foresight should be respected, even if one party might regret it in hindsight or, if the party had had perfect foresight, might not have entered it.

Paragraph (d)(l) is amended to update the current rule prohibiting fees that are contingent upon securing a divorce or contingent upon the amount of alimony, support, or property settlement in lieu thereof. The amendment expands the Rule to include all family matter actions in which a contingent fee arrangement is not appropriate. Neither the existing Rule, nor the amendment prohibits a contingent fee arrangement in a family matter enforcement proceeding.

Paragraph (f) has been amended to clarify that a lawyer can accept an advance paid by credit card or other means that requires initial deposit into the lawyer's operating account, so long as the

lawyer complies with the requirements set forth in newly amended Rule 1.15(b)(1). See the Advisory Committee's Note June - 2014 to Rule 1.15 for discussion of this issue.

Paragraph (g) has been amended to change the reference to "Bar Rule 9" in light of coming revisions to the organization and content of the Bar Rules. No substantive change is intended.

Paragraph (h) is new. It clarifies the conditions that apply to a lawyer's acceptance of a nonrefundable fee.

Paragraph (h)(1) provides that nonrefundable fees are permissible, subject to the requirement of reasonableness that applies to all fees. The paragraph requires certain safeguards to ensure the client's informed consent to the nonrefundability of a fee. Although the safeguards in paragraph (h)(1) are required, they will not guarantee a finding of informed consent in every case and are not exclusive of the factors that otherwise bear on the existence of informed consent. See Rule 1.0(e). When fees are paid prior to the rendition of services and in the expectation that such future services will be rendered, the Committee believes that a client's default expectation will be that the payment is an advance rather than a nonrefundable fee. In order to avoid client confusion, paragraph (h)(1) requires clear disclosure to the client that the fee is nonrefundable and a description of the scope of future services that the client is entitled to receive.

The Committee intends that Opinion No. 206 (Dec. 12, 2012) of the Professional Ethics Commission shall not apply to nonrefundable fees that lawyers accept in compliance with this new paragraph. The amendment differs from the law as stated in Opinion No. 206 in two important ways: (1) it permits nonrefundable fees for more than a lawyer's mere "availability," and allows such fees even though the parties fully expect the lawyer to render specified future services; (2) it requires (where Opinion No. 206 forbids) description of the fee as nonrefundable, in order to ensure the client's informed consent thereto.

A lawyer who accepts payment before services are rendered cannot treat such payment as a nonrefundable fee, unless the lawyer complies with the disclosure requirements of paragraph (h)(1). Without the client's informed consent to nonrefundability in accordance with this paragraph, the lawyer must treat the funds as an advance to be credited against future bills for services and must keep such funds in a trust account, in accordance with Rule 1.15, until future services are rendered, and must refund the unearned portion of any such funds upon termination of representation, in accordance with Rule 1.16(d). If conditions (h)(1) and (h)(2) are met, nonrefundable fees cannot be deposited in the lawyer's trust account as those nonrefundable fees are not the property of a client.

Paragraph (h)(2) prohibits a lawyer from securing a client's advance waiver of the right to challenge the reasonableness of a fee. A client's written agreement to a fee is a factor under paragraph (a) in the determination of its reasonableness. A lawyer should not press further and request or require the client to waive the client's right to have the reasonableness of a nonrefundable fee determined in accordance with law.

REPORTER'S NOTES:

Model Rule 1.5 substantively is equivalent to M. Bar R. 3.3 and replaces M. Bar. R. 8. Because the Task Force thought Model Rule 1.5 clearly and comprehensively set forth the rules governing lawyer’s fee arrangements and included the rules governing contingent fees, it recommended its adoption, subject to the noted modifications.

The Task Force recommended Rule 1.5(a) track M. Bar R. 3.3(a)’s more expansive description of what constitutes an ‘unreasonable fee.’ The language added to Model Rule 1.5(a)(4) reflects the recommended addition to the Maine Rules of Professional Conduct Rule 1.2(c)(1) and (c)(2), allowing, under certain circumstances, lawyers’ provision of limited representation to clients. The Task Force recommended two additional provisions to Rule 1.5: (i) the allowance of credit cards as a method of payment for legal services, and (ii) a recognition of mandatory fee arbitration, in accordance with the provisions set forth in Rule 9.

The Task Force further recommended, consistent with established law, lawyers not be paid a fee for administering a probate estate based on a percentage of the value of a probate estate.

In 2005, the Supreme Judicial Court asked the Advisory Committee on Professional Responsibility (the ‘Advisory Committee’) to consider whether Maine should adopt the Model Rule version of the fee division rule, that allows fee sharing ‘in proportion to the services performed by each lawyer’ or if the referring lawyer ‘assumes joint responsibility for the representation.’ In contrast, M. Bar R. 3.3(d) allows fee division between unaffiliated lawyers if the terms of the fee division are disclosed to the client, and if the total fee is reasonable. The Advisory Committee observed the fee division rule as set forth in M. Bar R. 3.3(d) has been serving its intended purpose of encouraging the early referral of cases to lawyers with greater experience and expertise to handle them. The Advisory Committee solicited comments from members of the Maine Bar, and held an open forum to discuss the fee division issues. Because the vast majority of comments were in favor of maintaining the existing Maine Bar Rule, the Advisory Committee recommended that the language of Model Rule 1.5(e) be replaced with the language of M. Bar R. 3.3(d). The Task Force thought misunderstandings could be avoided, however, if the disclosure to the client about the fee division was confirmed in writing.

Finally the Task Force stressed that Rule 1.5(d) does not address the issue of the fee division when a lawyer is terminated before the matter is completed, and new counsel is engaged. In such a case, the fees paid to the old lawyer and new lawyer must meet the standards set forth in Rules 1.5(a) and (b).

CONTINGENT FEE AGREEMENT

To Be Executed In Duplicate

Date _____, 20__

The client, _____ (Name) (Street & Number) (City or Town)

retains the attorney _____ (Name) (Street & Number)

(City or Town)

to perform the legal services mentioned in par. (1) below. The attorney agrees to perform them faithfully and with due diligence.

(1) The claim, controversy, and other matters with reference to which the services are to be performed are:

(2) The contingency upon which compensation is to be paid is:

(3) The client is not to be liable to pay compensation otherwise than from amounts collected for the client by the attorney, except as follows:

(4) Reasonable compensation on the foregoing contingency is to be paid by the client to the attorney, but such compensation (including that of any associated counsel) to be paid by the client shall not exceed the following maximum percentages of the gross (net) (indicate which) amount collected. Here insert the maximum percentages to be charged in the event of collection. These may be on a flat basis or in a descending scale in relation to amount collected.)

(5) The client is to be liable to the attorney for the attorney's reasonable expenses and disbursements as hereinafter specified.

A. Litigation costs. Costs of the action, including:

(1)

Filing fees paid to the clerk of courts;

(2)

Fees for service of process and other documents;

(3)

Attendance fees and travel costs paid to witnesses;

(4)

Expert witness fees and expenses;

(5)

Costs of medical reports;

(6)

Costs of visual aids; and

(7)

Costs of taking depositions.

B. Travel expenses. Expenses for travel by the attorney on behalf of the client.

C. Telephone. Disbursements for long-distance telephone calls made by the attorney on behalf of the client.

D. Postage. Postage paid by the attorney for mailings on behalf of the client; and

E. Copying. Costs of photocopying and facsimile telecopying done by the attorney on behalf of the client.

F. Other: (Specify). (The client agrees that fees paid pursuant to this agreement will be divided. Attorney _____ will receive _____ (dollars or percent of the contingent fee) and Attorney _____ will receive (dollars or percent of the contingent fee).)

(6) This agreement and its performance are subject to Rule 1.5 of the Maine Rules of Professional Conduct.

WE HAVE EACH READ THE ABOVE AGREEMENT BEFORE SIGNING IT.

Witnesses to signatures

To client: _____

Signature of Client

To attorney: _____

Signature of Attorney

(If more space is needed, separate sheets may be attached and initialed.)

Credits

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1 M.R.S. § 1012. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Close economic association. “Close economic association” means the employers, employees, partners or clients of the Legislator or a member of the Legislator’s immediate family; corporations in which the Legislator or a member of the Legislator’s immediate family is an officer, director or agent or owns 10% or more of the outstanding capital stock; a business which is a significant unsecured creditor of the Legislator or a member of the Legislator’s immediate family; or a business of which the Legislator or a member of the Legislator’s immediate family is a significant unsecured creditor.

1-A. Associated organization. “Associated organization” means any organization in which a Legislator or a member of the Legislator’s immediate family is a managerial employee, director, officer or trustee or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity.

2. Commission. “Commission” means the Commission on Governmental Ethics and Election Practices.

2-A. Domestic partner. [2021, ch. 567, § 2 (RP).]

3. Employee. “Employee” means a person in any employment position, including public or private employment, employment with a nonprofit, religious, charitable or educational organization, or any other compensated service under an expressed, implied, oral or written contract for hire, but does not include a self-employed person.

4. Gift. “Gift” means anything of value, including forgiveness of an obligation or debt, given to a person without that person providing equal or greater consideration to the giver. “Gift” does not include:

A. Gifts received from a single source during the reporting period with an aggregate value of \$300 or less;

B. A bequest or other form of inheritance;

C. A gift received from a relative or from an individual on the basis of a personal friendship as long as that individual is not a registered lobbyist or lobbyist associate under Title 3, section 313, unless the Legislator has reason to believe that the gift was provided because of the Legislator’s official position and not because of a personal friendship;

D. A subscription to a newspaper, news magazine or other news publication;

E. Legal services provided in a matter of legislative ethics;

F. A meal, if the meal is a prayer breakfast or a meal served during a meeting to establish a prayer breakfast; or

G. A meal, if the meal is provided by industry or special interest organizations as part of the informational program presented to a group of public servants.

5. Honorarium. “Honorarium” means a payment of money or anything with a monetary resale value to a Legislator for an appearance or a speech by the Legislator. Honorarium does not include reimbursement for actual and necessary travel expenses for an appearance or speech. Honorarium does not include a payment for an appearance or a speech that is unrelated to the person’s official capacity or duties as a member of the Legislature.

6. Immediate family. “Immediate family” means a Legislator’s spouse, domestic partner or dependent children.

7. Income. “Income” means economic gain to a person from any source, including, but not limited to, compensation for services, including fees, commissions and payments in kind; gross income derived from business; gross income derived from dealings in property, rents and royalties; gross income from investments including interest, capital gains and dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributions from a partnership or limited liability company; gross income from an interest in an estate or trust; prizes; and grants, but does not include gifts or honoraria. Income received in kind includes, but is not limited to, the transfer of property and options to buy or lease, and stock certificates. “Income” does not include alimony and separate maintenance payments, child support payments or campaign contributions accepted for state or federal office or funds or other property held in trust for another, including but not limited to money to be spent on behalf of a client for payment of a licensing or filing fee.

A. [2011, ch. 634, § 2 (RP).]

B. [2011, ch. 634, § 2 (RP).]

7-A. Managerial employee. “Managerial employee” means an employee of an organization whose position requires substantial control over the organization’s decision making, business operations, financial management or contracting and procurement activities. For the purposes of this subsection, financial management does not include tasks that are considered clerical in nature.

8. Relative. “Relative” means an individual who is related to the Legislator or the Legislator’s spouse or the Legislator’s domestic partner as a parent; child; sibling; sibling of a parent; sibling of a parent once removed; first cousin; child of a sibling or of a spouse’s or domestic partner’s sibling; spouse; domestic partner; grandparent; grandchild; parent-in-law; spouse or domestic partner of a child; sibling of a spouse or domestic partner; stepparent; stepchild; stepsibling; and half-sibling and includes the betrothed of the Legislator.

8-A. Reportable liability. “Reportable liability” means any unsecured loan of \$3,000 or more received from a person who is not a relative. “Reportable liability” does not include:

A. A credit card liability;

B. An educational loan made or guaranteed by a governmental entity, educational institution or nonprofit organization; or

C. A loan made from a state or federally regulated financial institution for business purposes.

9. Self-employed. “Self-employed” means that the person qualifies as an independent contractor under Title 39-A, section 102, subsection 13-A.

10. Violation of legislative ethics. “Violation of legislative ethics” means a violation of the prohibitions in section 1014 or 1015-A.

1 M.R.S. § 1013. Authority; procedures

1. Authority. The commission has authority:

- A.** To issue, on request of any Legislator on an issue involving that Legislator, or on its own motion, written advisory opinions and guidance on problems or questions involving possible violations of legislative ethics;
- B.** To investigate complaints alleging a violation of legislative ethics against any Legislator, to investigate a possible violation of legislative ethics upon the commission's own motion, to hold hearings on an alleged or possible violation if the commission determines it is appropriate and to issue findings of fact together with its opinion; and
- C.** To administer the disclosure of sources of income by Legislators as required by this subchapter.

2. Procedure. The following procedures apply.

A. Requests for advisory opinions by members of the Legislature must be filed with the commission in writing and signed by the Legislator requesting the opinion and must contain such supporting data as the commission requires. Commission staff shall inform a Legislator upon that Legislator's request for an advisory opinion that written opinions issued by the commission are public and are submitted to the Clerk of the House and the Secretary of the Senate and entered into the legislative record. When preparing an advisory opinion on its own motion, the commission shall notify the Legislator concerned and allow the Legislator to provide additional information to the commission. In preparing an advisory opinion, either upon request or on its own motion, the commission may make such an investigation as it determines necessary. A copy of the commission's advisory opinion must be sent to the Legislator concerned and to the presiding officer of the legislative body of which the Legislator is a member.

B. Repealed

B-1. Any person may file a complaint against a Legislator alleging a violation of legislative ethics only as described in sections 1014 and 1015-A. The complaint must be filed in writing and signed under oath and must specify the facts of the alleged violation citing the specific provisions of sections 1014 and 1015-A that are alleged to have been violated, the approximate date of the alleged violation and such other information as the commission requires. A complainant shall agree in writing not to disclose any information about the complaint during the time the commission is determining whether or not to pursue the complaint or during the investigation of a complaint. A complaint that does not meet the criteria of this paragraph is considered incomplete and will not be forwarded to the commission.

- (1)** The Legislator against whom a complaint is filed must immediately be given a copy of the complaint and the name of the complainant. Before deciding whether to conduct an investigation or to hold any hearings, the commission shall afford the Legislator an opportunity to answer the complaint in writing and in person to the commission. The commission staff may gather preliminary factual information that will assist the commission in deciding whether to conduct a full investigation or to hold hearings.
- (2)** The commission shall consider only complaints against Legislators in office at the time of the filing of the complaint and only complaints relating to activity that occurred or was ongoing within 2 years of the complaint. Upon a majority vote of the commission, the commission shall conduct an investigation and hold hearings as it determines necessary.
- (3)** The commission shall issue its findings of fact together with its opinion regarding the alleged violation of legislative ethics to the legislative body of which the Legislator concerned

is a member. That legislative body may take whatever action it determines appropriate, in accordance with the Constitution of Maine.

(4) If the commission determines that a Legislator has potentially violated professional standards set by a licensing board, its opinion and such other information as may be appropriate must be referred to the licensing board that oversees the Legislator's professional conduct.

B-2. If the commission receives information other than through a complaint suggesting that a Legislator may have committed a violation of legislative ethics, the commission may commence an investigation or conduct hearings when there is probable cause to believe that a violation has occurred. The commission may consider only activities by a Legislator in office at the time of the investigation that occurred or were ongoing within 2 years of the investigation. The commission shall provide the Legislator with written notice of the possible violation and an opportunity to be heard in accordance with the requirements of paragraph B-1. The commission's consideration of the possible violation is subject to the confidentiality provisions of subsection 3-A.

C. When the conduct of a particular Legislator is under inquiry and a hearing is to be held, the Legislator must be given written notification of the time and place at which the hearing is to be held. Such notification must be given not less than 10 days prior to the date set for the hearing.

D. The commission has authority, through its chair or any member designated by the chair, to administer oaths, subpoena witnesses and compel the production of books, records, papers, documents, correspondence and other material and records the commission determines relevant. The State, its agencies and instrumentalities shall furnish to the commission any information, records or documents the commission designates as being necessary for the exercise of its functions and duties. In the case of refusal of any person to obey an order or subpoena of the commission, the Superior Court, upon application of the commission, has jurisdiction and authority to require compliance with the order or subpoena. Any failure of any person to obey an order of the Superior Court may be punished by that court as contempt thereof.

E. The commission shall adopt rules consistent with due process for the conduct of investigations and hearings under this subchapter. Rules adopted pursuant to this paragraph are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

The commission is not bound by the strict rules of evidence, but its findings and opinions must be based upon competent and substantial evidence.

E-1. The commission may permit the complainant to make a presentation to the commission as part of its consideration whether to conduct an investigation or public hearing.

F. If the commission concludes that it appears that a Legislator has violated a criminal law, a copy of its findings of fact, its opinion and such other information as may be appropriate must be referred to the Attorney General. Any determination by the commission or by a legislative body that a violation of legislative ethics has occurred does not preclude any criminal action relating to the violation that may be brought against the Legislator.

G. If the commission determines that a complaint filed under oath is frivolous or was filed in bad faith or if the complainant fails to appear at the hearing without being excused by the commission, the commission may order the complainant to pay to the Legislator against whom the complaint has been filed that Legislator's costs of investigation and defense, including any reasonable attorney's fees. This order is considered a final agency action, and the complainant may appeal the order pursuant to the Maine Administrative Procedure Act. If the commission determines that the complaint was filed in bad faith, the commission shall refer the case to the Attorney General for investigation.

Such an order does not preclude any other remedy available to the Legislator against whom the complaint has been filed, including, but not limited to, an action brought in Superior Court against the complainant for damages to the Legislator's reputation.

H. The commission shall file with the Clerk of the House and the Secretary of the Senate a copy of written advisory opinions and guidance issued by the commission that were formally requested by a Legislator and that were considered by the commission at a public meeting, with such deletions and changes as the commission considers necessary to protect the identity of the person seeking the opinions or others. The Clerk of the House shall keep a copy of such opinions and guidance in a special binder and shall finally publish them in the Legislative Record. The commission may exempt an opinion or a part of an opinion from release, publication or inspection if it considers such action appropriate for the protection of 3rd parties and makes available to the public an explanatory statement to that effect.

I. A copy of the commission's findings of fact and opinions regarding complaints against Legislators must also be filed with the Clerk of the House and the Secretary of the Senate. The Clerk of the House shall keep them in a special binder and shall finally publish them in the Legislative Record.

J. Repealed

K. When a Legislator has a question or problem of an emergency nature about a possible violation of legislative ethics or an issue involving that Legislator that arises during the course of legislative action, the Legislator may request an advisory opinion from the presiding officer of the legislative body of which the Legislator is a member. The presiding officer may issue an advisory opinion. An advisory opinion issued by the presiding officer must be in accordance with the principles of this subchapter, be in writing and be reported to the commission. The commission may then issue a further opinion on the matter. The presiding officer may refer such a question or problem directly to the commission, which shall meet as soon as possible to consider the question or problem.

L. The commission shall make reasonable efforts to resolve a complaint within 90 days of its filing.

3. Confidentiality. Repealed

3-A. Confidentiality of records and proceedings relating to screening complaints alleging a violation of legislative ethics. Notwithstanding chapter 13, a complaint alleging a violation of legislative ethics is confidential and is not a public record until after the commission has voted pursuant to subsection 2, paragraph B-1 to pursue the complaint, and a commission proceeding to determine whether to pursue a complaint must be conducted in executive session. If the commission does not vote to pursue the complaint, the complaint and records relating to the investigation of that complaint remain confidential and are not public records unless the Legislator against whom the complaint is made submits a written request that the complaint and all accompanying materials be made public. This subsection does not prohibit a complainant from disclosing information that the complainant provided to the commission as part of the complaint or investigation once the commission has determined not to pursue the complaint or the investigation of a complaint is complete. This subsection does not prevent the commission from including general information about complaints in any report to the Legislature. Any person who knowingly breaches the confidentiality of a complaint investigation commits a Class D crime. This subsection does not prevent commission staff from disclosing information to a person from whom the commission is seeking information or evidence relevant to the complaint that is necessary to investigate the complaint or prevent the complainant or the Legislator against whom the complaint is made from discussing the complaint with an attorney or other person assisting them with the complaint. The commission or commission staff shall inform any person with whom they communicate of the requirement to keep any information regarding the complaint investigation confidential.

4. Confidentiality of records other than complaints. Commission records other than complaints are governed by this subsection.

A. Investigative records relating to complaints that the commission has voted to pursue are confidential unless they are provided to commission members or otherwise distributed at a public hearing of the commission.

B. Legislators' statements of sources of income are public records.

C. Findings of fact and recommendations of the commission on complaints alleging violation of legislative ethics are public records.

D. Advisory opinions of the commission and requests for advisory opinions from the commission are public records, except as provided in subsection 2, paragraph H.

5. Prohibited communications. Communications concerning a complaint filed under this section between commission members and a complainant or between commission members and the subject of a complaint are prohibited until after the commission has voted not to pursue a complaint or the commission has taken final action on the complaint.

1 M.R.S. § 1014. Violations of legislative ethics

1. Situations involving conflict of interest. A Legislator engages in a violation of legislative ethics if that Legislator votes on a question in connection with a conflict of interest in committee or in either body of the Legislature or attempts to influence the outcome of that question unless a presiding officer in accordance with the Joint Rules of the Legislature requires a Legislator to vote or advises the Legislator that there is no conflict in accordance with section 1013, subsection 2, paragraph K. A conflict of interest includes:

- A.** When a Legislator or a member of the Legislator's immediate family has or acquires a direct substantial personal financial interest, distinct from that of the general public, in an enterprise that would be financially benefited by proposed legislation, or derives a direct substantial personal financial benefit from close economic association with a person known by the Legislator to have a direct financial interest in an enterprise affected by proposed legislation;
- B.** When a Legislator or a member of the Legislator's immediate family accepts gifts, other than campaign contributions duly recorded as required by law, from persons affected by legislation or who have an interest in an entity affected by proposed legislation and the Legislator knows or reasonably should know that the purpose of the donor in making the gift is to influence the Legislator in the performance of the Legislator's official duties or vote or is intended as a reward for action on the Legislator's part;
- C.** Receiving compensation or reimbursement not authorized by law for services, advice or assistance as a Legislator;
- D.** Appearing for, representing or advocating on behalf of another before the Legislature, unless without compensation and for the benefit of a citizen;
- E.** When a Legislator or a member of the Legislator's immediate family accepts or engages in employment that could impair the Legislator's judgment, or when the Legislator knows that there is a substantial possibility that an opportunity for employment is being afforded the Legislator or a member of the Legislator's immediate family with intent to influence the performance of the Legislator's official duties, or when the Legislator or a member of the Legislator's immediate family stands to derive a personal private gain or loss from employment, because of legislative action, distinct from the gain or losses of other employees or the general community; and
- F.** When a Legislator or a member of the Legislator's immediate family has an interest in legislation relating to a profession, trade, business or employment in which the Legislator or a member of the Legislator's immediate family is engaged and the benefit derived by the Legislator or a member of the Legislator's immediate family is unique and distinct from that of the general public or persons engaged in similar professions, trades, businesses or employment.

2. Undue influence. Repealed

2-A. Undue influence. It is a violation of legislative ethics for a Legislator to engage in conduct that constitutes the exertion of undue influence, including, but not limited to:

- A.** Appearing for, representing or advocating for another person in a matter before a state agency or authority, for compensation other than compensation as a Legislator, if the Legislator makes reference to that Legislator's legislative capacity, communicates with the agency or authority on legislative stationery or makes threats or implications relating to legislative action;
- B.** Appearing for, representing or advocating for another person in a matter before a state agency or authority if the Legislator oversees the policies of the agency or authority as a result of the Legislator's committee responsibilities, unless:

- (1) The appearance, representation or advocacy is provided without compensation and for the benefit of a constituent;
- (2) The Legislator is engaged in the conduct of the Legislator's profession and is in good standing with a licensing board, if any, that oversees the Legislator's profession;
- (3) The appearance, representation or advocacy is provided before a court or office of the judicial branch; or
- (4) The representation consists of filing records or reports or performing other routine tasks that do not involve the exercise of discretion on the part of the agency or authority; and

C. Representing or assisting another person in the sale of goods or services to the State, a state agency or a state authority, unless the transaction occurs after public notice and competitive bidding.

3. Abuse of office or position. It is a violation of legislative ethics for a Legislator to engage in conduct that constitutes an abuse of office or position, including but not limited to:

A. When a Legislator or a member of the Legislator's immediate family has a direct financial interest or an interest through a close economic associate in a contract for goods or services with the State, a state agency or state authority, unless the contract is awarded through competitive bidding or is exempt from competitive bidding pursuant to state purchasing laws or the payment provisions are based on uniform rates established by the State, a state agency, a state authority or other governmental entity;

B. Granting or obtaining special privilege, exemption or preferential treatment to or for oneself or another, which privilege, exemption or treatment is not readily available to members of the general community or class to which the beneficiary belongs; and

C. Use or disclosure of confidential information obtained because of office or position for the benefit of self or another.

4. Contract with state governmental agency. It is a violation of legislative ethics for a Legislator or an associated organization to enter with a state agency into any contract that is to be paid in whole or in part out of governmental funds unless the contract has been awarded through a process of public notice and competitive bidding or is exempt from competitive bidding pursuant to state purchasing laws.

1 M.R.S. § 1015-A. Campaign contributions and solicitations prohibited

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A.** “Contribution” has the same meaning as in Title 21-A, section 1012, subsection 2 and includes seed money contributions as defined in Title 21-A, section 1122, subsection 9, and, with respect to political action committees and ballot question committees, includes contributions as defined in Title 21-A, section 1052, subsection 3. “Contribution” does not include qualifying contributions as defined in Title 21-A, section 1122, subsection 7.
- B.** “Employer” has the same meaning as in Title 3, section 312-A, subsection 5. “Employer” does not include a lobbying firm.
- C.** “Legislative session” means the period of time after the convening of the Legislature and before final adjournment.
- D.** “Lobbying firm” has the same meaning as in Title 3, section 312-A, subsection 9-A.
- E.** “Lobbyist” has the same meaning as in Title 3, section 312-A, subsection 10.
- F.** “Lobbyist associate” has the same meaning as in Title 3, section 312-A, subsection 10-A.

2. Campaign contributions and solicitations prohibited during legislative session. The following provisions prohibit certain contributions and solicitations and offers of contributions during a legislative session.

- A.** The Governor, a member of the Legislature, a constitutional officer or the staff or agent of these officials may not intentionally solicit or accept a contribution from a lobbyist, lobbyist associate, employer of a lobbyist or lobbying firm during a legislative session.
- B.** A lobbyist, lobbyist associate, employer of a lobbyist or lobbying firm may not intentionally give, offer or promise a contribution to the Governor, a member of the Legislature, a constitutional officer or the staff or agent of these officials during a legislative session.
- C.** The prohibitions in paragraphs A and B apply to contributions directly and indirectly solicited or accepted by or given, offered and promised to a political action committee, ballot question committee or party committee of which the Governor, a member of the Legislature, a constitutional officer or the staff or agent of these officials is a treasurer, officer or primary fund-raiser or decision maker.
- D.** The prohibitions in paragraphs A and B do not apply to the following:
 - (1)** The solicitation or acceptance of a contribution from or the offer or promise of a contribution by a lobbyist, lobbyist associate, employer of a lobbyist or lobbying firm that is not the property of that lobbyist, lobbyist associate, employer of a lobbyist or lobbying firm;
 - (2)** The solicitation or acceptance of a contribution from or the offer or promise of a contribution by an employer of a lobbyist or lobbying firm related to a special election to fill a vacancy from the time of announcement of the election until the election; or
 - (3)** The solicitation or acceptance of a contribution from or the offer or promise of a contribution by a lobbyist or lobbyist associate related to a special election to fill a vacancy from the time of announcement of the election until the election if the lobbyist or lobbyist associate is eligible to vote or will be eligible to vote on the day of the election in the district where the special election will appear on the ballot.

1 M.R.S. § 1016-G. Disclosure of specific sources of income, interests and reportable liabilities

Each Legislator shall annually file with the commission a statement identifying the sources of income received, positions held and reportable liabilities incurred during the preceding calendar year by the Legislator or members of the Legislator's immediate family. A Legislator who has completed service in the Legislature shall file the statement within 45 days of the Legislator's last day of service to disclose the sources of income in the Legislator's final calendar year of service.

1. Content of statement. The name and, where applicable, the job title of the individual earning or receiving the income must be disclosed, unless otherwise noted. Each source of income must be identified by name, address and principal type of economic or business activity. If disclosure of this type is prohibited by statute, rule or an established code of professional ethics, it is sufficient for the Legislator to specify the principal type of economic or business activity from which the income is derived.

The statement must identify:

- A.** If the Legislator is an employee of another person, firm, corporation, association or organization that has provided the Legislator with compensation of \$2,000 or more, the name and address of the employer. The Legislator shall identify the title and position held by the Legislator;
- B.** If the Legislator is self-employed, the name and address of the Legislator's business and each source of income derived from self-employment that represents more than 10% of the Legislator's gross income from self-employment or \$2,000, whichever is greater;
- C.** The name, address and principal economic or business activity of any corporation, partnership, limited liability company or other business in which the Legislator or members of the Legislator's immediate family own or control, directly or indirectly, more than 5% of the outstanding equity, whether individually or in the aggregate, that has received revenue of \$2,000 or more;
- D.** Each source of income of \$2,000 or more the Legislator derived from providing services as an attorney, the major areas of law practiced by the Legislator and, if associated with a law firm, the major areas of practice of the firm;
- E.** Each source of income of \$2,000 or more received by the Legislator and a description of the nature of the income, such as rental income, dividend income and capital gains;
- F.** The specific source of each gift received by the Legislator;
- G.** Each source of income of \$2,000 or more received by any member of the immediate family of the Legislator, except that the Legislator is not required to identify the names of dependent children. If the member of the Legislator's immediate family received income of \$2,000 or more in compensation, the Legislator shall identify the source of the compensation, the type of the economic activity and the title of the position held by the immediate family member;
- H.** Each source of honoraria of \$2,000 or more that the Legislator accepted;
- I.** Each executive branch agency before which the Legislator or any immediate family member has represented or assisted others for compensation;
- J.** Each state governmental agency, board or commission to which the Legislator, a member of the Legislator's immediate family or an associated organization has sold, rented or leased goods or services with a value of \$10,000 or more during the preceding calendar year and a description of the goods or services sold, rented or leased;

K. Each party as defined in Title 21-A, section 1, subsection 28, including a party committee, and each organization that is required under Title 21-A, chapter 13 to register with the commission as a political action committee or ballot question committee for which the Legislator or a member of the Legislator's immediate family is a treasurer, principal officer or principal fund-raiser or decision maker;

L. Any offices, trusteeships, directorships or positions of any nature, whether compensated or uncompensated, held by the Legislator or a member of the Legislator's immediate family with any for-profit or nonprofit firm, corporation, association, limited liability company, partnership or business. For the purposes of this paragraph, service as a clerk of a corporation or as a registered agent authorized to receive service of any process, notice or other demand for a business entity is not considered a position with the corporation or business entity; and

M. All reportable liabilities incurred by the Legislator or a member of the Legislator's immediate family during the reporting period.

2. Time for filing. The following provisions govern the time for filing statements.

A. Each Legislator shall file with the commission by 5:00 p.m. on February 15th of each year on the form provided by the commission a statement of the sources of income, interests and reportable liabilities for the preceding calendar year required by subsection 1. Prior to the end of the first week in January of each year, the commission shall deliver a form to each Senator and member of the House of Representatives.

B. A Legislator shall file an updated statement concerning the current calendar year if the income, reportable liabilities or positions of the Legislator or an immediate family member, except for dependent children, substantially change from those disclosed in the Legislator's most recent statement. Substantial changes include, but are not limited to, a new employer that has paid the Legislator or a member of the Legislator's immediate family \$2,000 or more during the current year, another source that has provided the Legislator or a member of the Legislator's immediate family, excluding dependent children, with income that totals \$2,000 or more during the current year or the acceptance of a new position with a for-profit or nonprofit firm that is reportable under subsection 1, paragraph L. The Legislator shall file the updated statement within 30 days of the substantial change in income, reportable liabilities or positions.

3. Penalties. Penalties for violations of this section are as follows.

A. Failing to file a statement within 15 days of having been notified by the commission is subject to a civil penalty not to exceed \$250 for a Legislator or \$100 for a candidate payable to the commission. A statement is not considered filed unless it substantially conforms to the requirements of this subchapter and is properly signed. The commission shall determine whether a statement substantially conforms to the requirements of this subchapter.

B. The intentional filing of a false statement is a Class E crime. If the commission concludes that it appears that a Legislator has willfully filed a false statement, it shall refer its findings of fact to the Attorney General. If the commission determines that a Legislator has willfully failed to file a statement required by this subchapter or has willfully filed a false statement, the Legislator is presumed to have a conflict of interest on every question.

Within 3 business days of a filing deadline, the commission shall mail a notice to a Legislator or candidate who has failed to file a statement required under this subchapter. If a Legislator or candidate does not file the statement within 15 days of the notice, the commission shall mail a notice of a preliminary penalty of \$250 for a Legislator or \$100 for a candidate pursuant to paragraph A. The Legislator or candidate may request a waiver of the penalty within 15 days of the penalty notice. If no request is made, the preliminary penalty of \$250 for a Legislator or \$100 for a candidate is final. If the Legislator or candidate requests a waiver, the commission shall consider the request at its next meeting for a determination of the final penalty, if any. The commission staff shall confirm a final penalty in a written determination to the Legislator or candidate who did not file the statement on time. The commission's determination may be appealed to the Superior Court in accordance with

Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C. Penalties assessed pursuant to this subsection may be enforced in accordance with Title 21-A, section 1004-B.

4. Rules, procedures and forms. The commission may adopt or amend rules to specify the reportable categories or types and the procedures and forms for reporting and to administer this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Public record. Statements filed under this section are public records. The commission shall provide a means for Legislators to file statements in an electronic format that must immediately place the statements on a publicly accessible website. Legislators shall file statements required by this section using the electronic format prescribed by the commission. If a Legislator can attest to an inability to access or use the electronic filing format, the commission may provide assistance to the Legislator to ensure proper and timely placement of the required statements on the publicly accessible website.

3 M.R.S. § 312-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following words have the following meanings.

1. Campaign fund raising activity. “Campaign fund raising activity” means any event or solicitation by letter or any other means that is held for the purpose of receiving contributions for a political party, political committee, political action committee, candidate for political office in any primary or election, any elected official or a referendum committee.

1-A. Campaign contribution. “Campaign contribution” is a contribution, as defined in Title 21-A, section 1012, subsection 2.

2. Committee. “Committee” means any committee, subcommittee, joint or select committee of the Legislature or any special committee or commission, by whatever name, established by the Legislature to make recommendations for legislative action or to develop legislation.

2-A. Commission. “Commission” means the Commission on Governmental Ethics and Election Practices as defined in Title 1, chapter 25.

3. Communicate. “Communicate” means the act of expressing, imparting or conveying information or impressions from one person to another, by either oral or written means.

4. Compensation. “Compensation” means anything of value that is received or to be received in return for, or in connection with, services rendered or to be rendered.

4-A. Covered official. “Covered official” means an official in the executive branch, an official in the legislative branch, a constitutional officer, the Governor and the Governor’s cabinet and staff.

4-B. Domestic partner. [2021, ch. 567, § 3 (RP).]

5. Employer. “Employer” means a person who agrees to reimburse for expenditures or to compensate a person who in return agrees to provide services. Employer includes any political action committee as defined in this section which communicates through or uses the services of a lobbyist to make campaign contributions or to influence in any way the political process.

6. Employment. “Employment” means an agreement to provide services in exchange for compensation or reimbursement of expenditures.

7. Expenditure. “Expenditure” means anything of value or any contract, promise or agreement to transfer anything of value, whether or not legally enforceable.

A. [1993, ch. 691, § 4 (RP).]

B. [2007, ch. 630, § 3 (RP).]

C. [2007, ch. 630, § 3 (RP).]

7-A. Immediate family. “Immediate family” means a person’s spouse or domestic partner and dependent children.

7-B. Grassroots lobbying. “Grassroots lobbying” means to communicate with members of the general public to solicit them to communicate directly with any covered official for the purpose of influencing legislative action, other than legislation that is before the Legislature as a result of a direct initiative in accordance with the Constitution of Maine, Article IV, Part Third, Section 18, when that solicitation is made by:

A. A broadcast, cable or satellite transmission;

B. A communication delivered by print media;

C. A letter or other written communication delivered by mail or by comparable delivery service;

- D. A communication delivered by e-mail, a website or any other digital format;
- E. Telephone; or
- F. A method of communication similar to those listed in paragraphs A to E.

“Grassroots lobbying” does not include a person communicating with the person’s stockholders, employees, board members, officers or dues-paying members.

8. Legislative action. “Legislative action” means the drafting, introduction, consideration, modification, enactment or defeat of any bill, resolution, amendment, report, nomination or other matter by the Legislature, by either the House of Representatives or the Senate, any committee or an official in the Legislative Branch acting in the official’s official capacity, or action of the Governor in approving or vetoing any legislative document presented to the Governor for the Governor’s approval.

8-A. Legislative designee. “Legislative designee” means any employee of a state department or agency who is designated by the head of the department or agency as the primary employee to lobby on behalf of the department or agency or who is reasonably expected to lobby on behalf of the department or agency for more than 10 hours during a legislative session.

9. Lobbying. “Lobbying” means to communicate directly with any official in the legislative branch or any official in the executive branch or with a constitutional officer for the purpose of influencing any legislative action or with the Governor or the Governor’s cabinet and staff for the purpose of influencing the approval or veto of a legislative action when reimbursement for expenditures or compensation is made for those activities. “Lobbying” includes the time spent to prepare and submit to the Governor, an official in the legislative branch, an official in the executive branch, a constitutional officer or a legislative committee oral and written proposals for, or testimony or analyses concerning, a legislative action. “Lobbying” does not include time spent by any person providing information to or participating in a subcommittee, stakeholder group, task force or other work group regarding a legislative action by the appointment or at the request of the Governor, a Legislator or legislative committee, a constitutional officer, a state agency commissioner or the chair of a state board or commission.

9-A. Lobbying firm. “Lobbying firm” means a partnership, corporation, limited liability company or unincorporated association that employs or contracts with more than one lobbyist or lobbyist associate and that receives or is entitled to receive compensation for engaging in lobbying either directly or through its employees.

10. Lobbyist. “Lobbyist” means any person who is specifically employed by another person for the purpose of and who engages in lobbying in excess of 8 hours in any calendar month, or any individual who, as a regular employee of another person, expends an amount of time in excess of 8 hours in any calendar month in lobbying. “Lobbyist” does not include a lobbyist associate. “Lobbyist” does not include an individual who receives no compensation for lobbying other than reimbursement for lobbying-related travel within the State and reimbursement for other out-of-pocket expenditures made by the individual for printing, postage and food and lodging connected with lobbying activities paid for by the individual. For the purposes of this subsection, “reimbursement for other out-of-pocket expenditures” does not include reimbursement for the individual’s time spent lobbying that would have been otherwise compensated by an employer or in the course of the individual’s employment.

10-A. Lobbyist associate. “Lobbyist associate” means an individual who:

- A. Is a partner, associate or employee of a lobbyist or is a coemployee of a regular employee of another person if that regular employee is registered as a lobbyist;
- B. Lobbies on behalf of the employer named on the lobbyist registration; and
- C. Expends more than 8 hours in any calendar month lobbying on behalf of an employer of the lobbyist.

10-B. Media outlet. “Media outlet” means a radio or television station, a cable television system, newspapers, magazines and other published written materials.

10-C. Official in the executive branch. “Official in the executive branch” means an individual in a major policy-influencing position in a department or agency listed in section 959 or in Title 5, chapter 71 and the Governor’s cabinet and staff. As used in this chapter, “major policy-influencing position” means those positions listed in Title 5, chapter 71 and officers or employees of departments and agencies listed in section 959 and in Title 5, chapter 71 who have policy development as a major function of their positions.

11. Official in the Legislative Branch. “Official in the Legislative Branch” means a member, member-elect, candidate for or officer of the Legislature or an employee of the Legislature.

11-A. Original source. “Original source” means any person who pays \$1,000 or more in any lobbying year directly or indirectly to any employer of a lobbyist for purposes of lobbying or grassroots lobbying or to any other person for purposes of grassroots lobbying, except that payments of membership dues to nonprofit corporations formed under Title 13-B, under any equivalent state law or by legislative enactment are not considered payments by an original source.

12. Person. “Person” means an individual, corporation, proprietorship, joint stock company, business trust, syndicate, association, professional association, labor union, firm, partnership, club or other organization, whether profit or nonprofit, or any municipality or quasi-municipality or group of persons acting in concert, but does not include this State or any other agency of this State.

13. Political Action Committee. “Political Action Committee” includes:

A. Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to influence the outcome of an election, including a candidate or question; and

B. Any person, as defined in subsection 12 which serves as a funding and transfer mechanism and by which moneys are expended to advance, promote, defeat, influence in any way, or initiate a candidate, campaign, political party, referendum or initiated petition in this State.

14. Reimbursement. “Reimbursement” means anything of value received or to be received as repayment for expenditures.

14-A. Solicit. “Solicit” means to entreat, implore, urge or ask.

15. Year. “Year” means a 12-month period starting December 1st and ending the following November 30th.

16. Anything of value. “Anything of value” means, but is not limited to:

A. Negotiable items:

(1) Money;

(2) A bank bill or note;

(3) A stock, bond, note or other investment interest in an entity;

(4) A promissory note, bill of exchange, order, draft, warrant, check or bond given for the payment of money;

(5) An honorarium or compensation for services;

(6) The granting of a discount or rebate:

(a) Not extended to the public generally; or

(b) By a media outlet not extended equally to all candidates for the same office; and

(7) The sale or trade of something for reasonable compensation that is not available ordinarily to a member of the public;

B. Obligations:

- (1) A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, pledge or transfer of money;
- (2) A receipt given for the payment of money or other property;
- (3) A right in action;
- (4) A promise or offer of employment; and
- (5) An interest in tangible goods or chattel;

C. Property. The retail or fair market value, whichever is greater, of:

- (1) A work of art, an antique or a collectible;
- (2) An automobile or other means of personal transportation;
- (3) Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future interest contingent or vested in realty, a leasehold interest or other beneficial interest in realty; and
- (4) Other tangible goods; and

D. Other goods or services. The retail or fair market value, whichever is greater, of:

- (1) The purchase of tickets for an event such as a reception, rally or fund-raising event;
- (2) A meal or lodging; and
- (3) Any service not extended free of charge to other members of the public.

17. State employee or state agency employee. “State employee or state agency employee” means employees of the executive branch, the judicial branch, the Department of the Attorney General, the Department of Secretary of State, the Department of the Treasurer and any employee who directly or indirectly represents an entity listed in Title 5, chapter 379.

3 M.R.S. § 317. Reports

A registered lobbyist shall file a report for each month that the Legislature is in session on forms prescribed or approved by the commission, even if no lobbying has been performed or compensation or reimbursement for expenses received for the month.

1. Monthly session reports. During the period in which the Legislature is in session, a registered lobbyist shall file with the commission, no later than 11:59 p.m. on the 15th calendar day of each month, a report concerning the lobbyist's activities for the previous month regarding each employer. The monthly report must contain the following information:

- A. The month to which the report pertains;
- B. The name and address of the lobbyist and employer;
- C. The names of the individuals who lobbied during the month;
- D. The total amount of compensation the lobbyist and lobbyist associates received or expect to receive for lobbying during the month. The amount of compensation for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately.

In the case of a lobbyist or lobbyist associate who is a regular employee of the employer, the amount of compensation must be computed by multiplying the number of hours devoted to the preparation of documents and research for the primary purpose of influencing legislative action and to lobbying by the employee's regular rate of pay based on a 40-hour week;

- E. The total amount of expenditures made or incurred by the lobbyist and lobbyist associates during the month for purposes of lobbying for which they have been or expect to be reimbursed. The amount of expenditures for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately;

E-1. When expenditures made or incurred for the purposes of grassroots lobbying exceed \$2,000 during the month that is the subject of the report, the specific dollar amount of expenditures for grassroots lobbying made or incurred during the month by a lobbyist, lobbyist associate or employer, with separate totals for expenditure categories as determined by the commission, and the legislative actions that are the subject of the grassroots lobbying. Salaries paid to the employer's regular employees are not expenditures for the purposes of this paragraph and are exempt from disclosure under this paragraph;

- F. The total amount of expenditures by the lobbyist and lobbyist associates on behalf of the employer for which they have been or expect to be reimbursed and by the employer directly to or on behalf of one or more covered officials, including members of the official's immediate family;

G. For each expenditure of \$25 or more reported under paragraph F, the person making the expenditure and the date, amount and purpose of the expenditure and the name of the covered official or official's immediate family member on whose behalf the expenditure was made;

G-1. If the total cost for covered officials and the officials' immediate family members to attend an event paid for by the employer or by the lobbyist, lobbyist associate or lobbying firm on the employer's behalf is \$250 or more, the date and a description of the event, a list of the names of covered officials and the officials' immediate family members in attendance and the total cost for the covered officials and the officials' immediate family members to attend the event;

- H. A list of each legislative action by Legislative Document number, specific issue, nomination or other matter in connection with which the lobbyist is engaged in lobbying;

I. A list specifically identifying each legislative action for which the lobbyist and lobbyist associates were compensated or expect to be compensated, or expended in excess of \$1,000 for

lobbying related to those actions and a statement of the amounts compensated or expended for each; and

J. A list of all of the employer's original sources and a statement of the dollar amounts contributed or paid by the original sources to the employer. If the original source is a corporation formed under Title 13 or 13-C or former Title 13-A, nonprofit corporation formed under Title 13-B or limited partnership under Title 31, the corporation, nonprofit organization or limited partnership, not the individual members or contributors, must be listed as the original source.

1-A. Lobbyist expenditure reports. A lobbyist or lobbyist associate who makes an expenditure directly to or on behalf of a covered official or a member of the covered official's immediate family that is not reportable under subsection 1, paragraphs F, G or G-1 shall file a report pursuant to this subsection. If such an expenditure is made by a lobbying firm, a lobbyist or lobbyist associate from that lobbying firm shall report the expenditure.

A. A report under this subsection is required if:

- (1) The total amount of expenditures directly to or on behalf of covered officials and their immediate family members is more than \$300 in a calendar month; and
- (2) The lobbyist or lobbyist associate has not been and does not expect to be reimbursed by any employer.

B. The report must include:

- (1) The date of the expenditure;
- (2) The name and address of the lobbyist, lobbyist associate or lobbying firm;
- (3) The amount of the expenditure made or incurred by the lobbyist, lobbyist associate or lobbying firm either directly to or on behalf of a covered official or a covered official's immediate family member;
- (4) A description of the goods or services purchased by the lobbyist, lobbyist associate or lobbying firm;
- (5) The date and a description and location of an event paid for by the lobbyist, lobbyist associate or lobbying firm at which covered officials and the covered officials' immediate family members were in attendance; and
- (6) The names of all covered officials and their immediate family members to whom the expenditures were directly made or on whose behalf the expenditures were made or who attended an event paid for by the lobbyist, lobbyist associate or lobbying firm.

C. A report under this subsection is due no later than 11:59 p.m. on the 15th calendar day of the month following the month in which the expenditure was made or incurred.

2. Annual report. Repealed

2-A. Electronic filing. Beginning January 1, 2006, a lobbyist shall file monthly session reports under subsection 1 through an electronic filing system developed by the commission. The commission may make an exception to this electronic filing requirement if a lobbyist submits a written request that states that the lobbyist lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted at least 10 days prior to the deadline for the first report that the lobbyist is required to file for the lobbying year. The commission shall grant all reasonable requests for exceptions.

3. Facsimile copies. The commission may, by rules adopted pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, establish procedures and fees by which facsimile copies of duly executed reports required by this section may be received and filed with the commission.

4. Monthly nonsession reports. When the Legislature is not in regular session, every registered lobbyist must either file:

A. With the lobbyist's last monthly report for that regular session a statement that the lobbyist and lobbyist associate will not engage in lobbying when the Legislature is not in session. The lobbyist is required to file a monthly report for lobbying conducted during a special session; or

B. If the lobbyist or lobbyist associate is engaged in lobbying, if the lobbyist, lobbyist associate or employer conducts grassroots lobbying or if the employer makes any expenditures directly to or on behalf of a covered official or a covered official's immediate family member in any of those months, a monthly report in the manner prescribed in subsection 1 even if compensation or reimbursement for expenses has not been received for the month.

If the lobbyist did not expect to be engaged in lobbying when the Legislature was not in session, the commission may waive the requirement for the months between the end of the session and the renewal of lobbying.