

Bonnie Badgewick – supplemental application Superior Court August, 2024

13. Please describe your professional experience in each of the following legal arenas: family, civil, criminal, probate, juvenile, municipal, environmental, or other. Include a description of any legal specialties you possess.

Pre-pandemic all of the civil work, including non-evidentiary court hearings, was conducted live, and in person. Thus, for the first twenty years of practice, I was generally occupied outside of the office in different parts of the state for site visits, client meetings, depositions, mediations, trials and other such discovery and trial related purposes. The topics and clients were interesting and diverse.

Post-pandemic civil work has shifted to a hybrid mix of in-person evidentiary hearings, and mostly remote depositions and mediations. We have grown as a profession into a remote/virtual world which we resisted in favor of the formal process of law. Certainly, there have been some wonderful changes in access to justice, and the expense of litigation in the post-pandemic world. However, that is balanced against the loss of our personal connections and the formality of the process.

Approximately 25-30% of my civil work is administrative, handling workers' compensation matters, (about 90% defense and 10% injured worker representation). The Department of Labor process includes investigation and discovery at the informal level, with determinations of benefits, causation and legal issues by specialists. A party can proceed with full litigation of issues with a formal hearing/trial before an administrative law judge. This process mirrors civil court process in many ways, with the Rules of Evidence and Civil Procedure applied generally. Workers' compensation is governed by title 21 of our Vermont statutes, and Workers Compensation Rules. Workers' compensation appeals from the Department of Labor go to either Superior Court or the Vermont Supreme Court, based upon the issue(s) raised. I have handled hundreds of cases at the informal level over the years, through the discovery process. I have tried approximately twenty cases through to full formal hearing decision, or resolution during hearing. These cases are reliant on expert medical testimony which requires keen attention to medical records, and the ability to effectively communicate the expert opinions through motion practice, direct and cross examination testimony.

My civil practice also includes representing employers/workers' compensation carriers in arbitration matters regarding compensability and coverage. The arbitration process follows the workers' compensation formal hearing process through discovery and final hearing, however with a selected arbitrator (generally an attorney with experience in the workers' compensation arena) to serve as the final decision maker, with no right to appeal.

I have no active practice in criminal court, other than responding to subpoena requests and attending evidentiary hearings for insureds, or private clients. In my civil practice, I have also observed many criminal hearings and trials over the years; as well as criminal trial monitoring for the purposes of civil litigation, and continuing legal education discussions. I interned at the

Rutland County Public Defenders' Office for a summer during law school. During this time, I engaged in motion writing, client interviews and investigations, and observation of all aspects of court proceedings including and up to jury trials.

My experience representing juveniles has included largely pro-bono opportunities acting as either a GAL, or counsel for the juvenile in family court matters (noted above). I have served as a GAL for juveniles on the Relief from Abuse docket as well. In civil work we often are called upon to represent counselors or treatment providers who are subpoenaed to testify in all aspects of juvenile proceedings, at all stages of discovery and formal litigation.

I have extensive experience in probate matters in a variety of counties. In connection with my civil practice, I often establish financial guardianships for minors who settle personal injury claims, or assist families in this process statewide. I have been asked both Rutland and Windsor probate courts over the years to serve either as attorney for a prospective ward, a family member/interested party, or serve as a GAL for purposes of guardianship, generally on a pro-bono basis. Our office has always offered estate planning services, which naturally has led to representation in both contested and uncontested estate distribution cases. These processes are governed both by the Rules of Probate Practice, and to some extent by the Rules of Evidence and/or Civil Procedure. This often means probate process through form work, motions, hearings and filings, as well as evidentiary hearings on a variety of probate related issues.

I consult and represent clients requiring various civil evaluations stemming from domestic or criminal matters through a grant funded program with New Story Center in Rutland. This often develops into full representation in partition actions, conversion claims or landlord tenant issues in Small Claims Court, Superior Court, or Family Court.

Over the years I have been involved in local municipal zoning and developmental review board matters for private clients. Generally, this would include representation in writing and at any Board meeting and/or review through to a decision.

16. Please estimate how many evidentiary hearings, including trials, you have participated in and briefly describe your role(s)

I am lead/sole counsel to my client, acting with the assistance of a court-appointed GAL. There are two other defendants who had representation throughout the course of the matter. My client faces significant legal and factual challenges given the unique structure of the case. It is a privilege to represent him, and our team with use best efforts to represent his interests.

In March 2023, I represented a school district in a four day jury trial to verdict in Woodstock/Windsor County. This case involved extensive motion practice including motions to exclude expert witnesses, and a variety of evidentiary issues raised prior to trial meant to narrow the scope of the testimony and evidence presented.

In December 2022, I had a four-day trial to verdict in Rutland County, also defending a school district in connection with a personal injury claim. This case involved extensive motion in limine practice meant to narrow the issues as well. We also dealt with numerous evidentiary issues both pre-trial and during the trial including demonstrative and physical exhibits and the scope and use of the same (in this case a volley ball base and pole).

I represented one of three defendants in a three-day jury trial in Chittenden County in summer, 2022. This was a personal injury case arising from a car accident. The tortfeasor was a named defendant, as were two insurance carriers. I represented the interest of one of the insurance carriers. The litigation presented with interesting insurance and legal issues for consideration by the parties and presiding judge. This case also was my first live jury trial since the pandemic, and since the roll-out of our on-line filing system in 2020.

I tried a case as lead counsel with an associate to support me in various components of motion practice and witness testimony. Following the submission of evidence and testimony by the Plaintiff, we moved for directed verdict, which was granted by the judge. This case had significant motion practice regarding admissibility of hearsay items and the standard of care for the subject claim. There were interesting legal and evidentiary issues involving the mechanics of injury claimed, and availability of the witnesses.

I acted as second chair for one jury trial which settled after several days of trial. This was a case involving a school district and an alleged failure to report abuse. It was a difficult and emotionally charged case. I was responsible for motion practice, jury charges, and a portion of the witness testimony. In 2019 I had cases in Rutland and Windsor Counties settle after the jury draw and before commencement of trial, both included many motion in limine filings, and pre-trial evidentiary hearings. In one of those cases I was lead counsel, solely, in the other I had an associate assist.

I defended several homeowners on personal injury claims arising out of premises liability and/or dog bite issues before Rutland and Bennington County juries over the last ten years. Each of these cases involved pre-trial and during trial motion practice. For each of those cases I was lead counsel for my client, and in one case I had a co-defendant which allowed for the ability to split some of the litigation tasks.

I had one federal jury trial which settled after the draw, before commencement of trial. Most of the federal cases I have handled have successfully resolved at Early Neutral Evaluation, similar to mediation in the state civil forum.

I have prepared, argued and defended approximately sixty pre-trial motions many requiring the taking of evidence, including expert challenges, proffered testimony by fact and expert witnesses, and other evidentiary issues as they present during both discovery and pre-trial practice. I have also drafted countless dispositive (summary judgment and preliminary motions to dismiss) in cases over the years which have been resolved either with hearing, or on motion.

In the workers' compensation administrative forum, I have handled over twenty cases through formal hearing. Those cases would have included full work up and assessment in discovery, expert discovery and where applicable, motion practice. Several settled following formal hearing, before findings of fact

and conclusions of law were due and/or before final decision. Most recently one of those virtual hearings resulted in both a Superior Court appeal, and a Supreme Court appeal. In 2023 I completed a one-day trial with decision by the Department. In late 2023 into 2024, I was involved in a four-day trial with the Department of Labor which required extensive preparation, evaluation and attention to detail of the claims history dating back to 2019. This recent trial also required extensive review of medical records, and taking the testimony of expert and fact witnesses.

I have participated in at least ten bench trials in various courts over the years, as lead counsel (some multiple day trials). These would have been full evidentiary hearings, requiring motion practice leading up to bench trial. Several of these were multi-day trials in various counties throughout the State.

I have been involved with writing and arguing at least five Supreme Court appeals.

I have also litigated approximately ten to fifteen small claims matters in all Counties where the Rules of Evidence do not necessarily apply, but court room skills are utilized.

Prior to having my own case load, for approximately the first three years of practice, I was mentored by the firm's partners, specifically in civil litigation. In this role, I was afforded the great opportunity to observe, ask questions, and discuss all aspects of the litigation process. I observed hundreds of depositions in this role, attended mediations, client and site visits, and observed any motion practice or trial. While these activities were not part of my own personal hands-on skill training, they were critical to the foundation of my current practice.

18. Please describe your professional experience in each of the following areas:

a. academics, including teaching, presentation and seminars

I am scheduled to serve as the Moderator for the fall 2024 session of the American Inn of Court on-line certificate program on Civility and the Practice of Law.

I am in my third term as President of the Vermont Trial Lawyers Association, in this role, I work with our Board to prepare, organize and deliver annual meetings, including formulating the list of speakers and panelists, with topics which cover all issues of trial practice. We hosted full-day meetings in October 2022, June 2023 and 2024. I presented at the October 2022 meeting as part of a panel on Civil Rules. I also presented in a last-minute Civility discussion in June 2024 when a scheduled speaker was unable to attend last minute. We also hold our business meeting at this annual meeting.

As a Board Member of the Joan Loring Wing Inn of Court we create and deliver presentations to our members eight times a year in a social setting. In my twelve or so years as a member I have presented, moderated or otherwise been involved with approximately thirty presentations. The topics for Inns of Court presentations include ethics, professionalism, trial practice, civility and other such concepts. In the 2021-2022 session, I presented with a fellow member on the issue of electronic signatures both pre- and post- pandemic. I also assisted with the development and presentation of a panel of Inn members with Vermont Law School students meant to re-engage the Law school to our Inn, entitled "Ask Me Anything" which was held in late April 2022. In October 2022, we returned to in-person meetings and I assisted with the development and presentation of a seminar entitled "Emerging from the Screen to a Positive Practice" with the intention of invigorating our old and new members in the practice post-pandemic. As

a member of the Board, I am responsible for developing content/topics for the meetings, as well as securing the speakers.

I have presented fairly regularly since 2017 at the Vermont Workers' Compensation Adjusters Conference, generally on mediation in a mock-mediation format. I have also presented on the topic of Basics in Workers' Compensation at this conference.

Over the years, I have presented with other panelists at National Business Institute CLEs on topics of workers' compensation, employment and business law.

In my role as President of the Tri-State Defense Lawyers Association in 2014, our Board collaborated with speakers to create and present a social evening, and half day continuing legal education program in Portsmouth, New Hampshire. I played a significant role in creating and presenting the program in that year, which included justices from the Supreme Courts of in Vermont, Maine and New Hampshire.

I spoke at the Vermont Bar Association meeting on topics of evidentiary issues involving social media. I also spoke at the Young Lawyers Division Mid-Winter Thaw in January 2020 on the topic of "Difficult Conversations", with a panel of litigators, mediators and judges. We recently re-created this topic at our April 2024 Inn of Court held at Vermont Law and Graduate School. The panelists included Chief Justice Reiber, Justice Waples, Justice Eaton, Hon. Geoffrey Crawford, Judge Timothy Tomasi and Judge Mary Miles Teachout.

Recently, I moderated a panel of mediators at the June 2024 Professional Responsibility Annual Meeting.

I have also most recently presented at Vermont Bar Association continuing legal education seminars regarding changes to the Civil Rules, and recently presented at the Mid-Winter Thaw in January, 2024.

b. management, including business, law firm, human relations or other

Once the new ED is secured, the Hiring Committee and Board as a whole will work to train and develop the ED's role as the public-facing, fundraising key to our organization.

I have been involved in all aspects of law firm management since becoming partner in 2009. As a small firm this includes many non-legal related aspects of law firm and human relations, such as hiring, firing, managing disputes and developing financial considerations and budgets for the firm. Like many firms, this also includes transition of partners to the bench and retirement, as well as the formulation of an entirely new structure in 2022.

I served as President of Woodstock Nursery School Board, for four years. This role, in conjunction with the Board and teachers, required management and financial oversight, as well as communication with families and public.

c. mediation, arbitration, or other dispute resolution

I have acted as mediator for approximately thirty-five workers' compensation and civil matters over the last ten years. We continue to conduct these via Zoom virtual platform, with very good success. I played an active role in several arbitrations on various claims over the years with three panel arbitrators. These would be in both civil and workers' compensation cases. I am currently serving as

an arbitrator in a workers' compensation matter involving an aggravation/recurrence claim between two different employers. In this role, I am responsible for developing the discovery and arbitration schedule with the parties, as well as working through any discovery disputes or other issues which develop as the arbitration date approaches. This also includes issuing decisions on any discovery or legal issues as they develop, and entering a final decision and order following the actual arbitration.

23. Please state any quasi-judicial boards or commissions on which you have served, including the name(s) of the agency(ies) for which you served, the position(s) held, the issues under your jurisdiction, and the dates of service.

The Board's functions include to assist attorneys and the public in providing education to enhance the profession and protect the public and instill confidence in the profession. The Board also serves to investigate and discipline attorney misconduct consistent with the Rules of Professional Conduct. As Vice-Chair, I oversee any conduct complaints which rise to the hearing level when the Chair has a conflict. The Board facilitates resolution of disciplinary complaints, which may include formal prosecution of attorneys through Hearing Panels in a process similar to the civil process. Also in this role I was recently part of the hiring search and interview process for new disciplinary counsel who joined in 2023.

Prior to this appointment, I was a hearing panel member on the PRB, deciding mostly probable cause matters prior to formal litigation. Our three-person panel would review the charge levied against the attorney and determine whether there was probable cause to pursue a formal complaint.

I served twice as Special Counsel to the Judicial Conduct Board. The Board consists of three judges, three attorneys and three lay persons. The Board has jurisdiction over the charges and complaints of Judges under the guide of the Code of Judicial Conduct. As Special Counsel you are tasked with the confidential investigation process to determine any violations of the Canons. Findings are presented to the Board in written and oral format, with the opportunity for input and questions from the Board. If there is evidence of a violation, the Board determines whether a formal complaint is appropriate or some other alternative to the formal complaint process. The formal complaint process includes discovery and a formal hearing before the Board, similar to a civil trial.

In 2019, I was asked to investigate and ultimately charge with a formal complaint a probate court judge. The charges included violations of the Canons specific to the "appearance of impropriety". The charges were contested. The scope of the matter was expanded during the investigation and resulted in a limited discovery period and stipulated public resolution. In 2022, I was asked to investigate and ultimately charge a formal complaint against an Assistant Judge. This resulted in a settlement stipulation and public sanction.

26. If you have experience as a member of any administrative, legislative, judicial, or regulatory boards, commissions, study committees, or agencies, or any private, corporate or non-profit boards, please list them, giving names and dates served.

I also volunteered in 2017/2018 to be part of the Vermont Commission of the Well-Being of the Legal Profession on the legal employer committee which investigated balance and wellness within the profession as it relates to legal employers.

28. Please list all Bar associations and professional societies of which you are a member, give the titles and dates of any office which you may have held in such groups, and identify committees in which you were active.

I am a member of the Defense Research Institute and Tri-State Defense Lawyers. I served as president of TDLA in 2014 and was an officer for four years. I also served as the member of the workers' compensation committee for DRI for about a year.

I am a member of and currently President for the Vermont Trial Lawyers Association and have been on the Board since its inception in 2018. This group is diverse in subject matter, experience and representative clients (defense/prosecution). The sole requirement is that you have an active trial practice that includes one trial (bench or administrative trials included) in your career. The purpose is to have a collaborative and collegial group of trial attorneys networking and working together, to better the practice.

30. Please list all other non-profit, community service, or other organizations, of which you have been aboard member during the past ten years, including the titles and dates of any offices which you have held in each such organization, and/or any other significant volunteer experience.

I am president-elect for the Vermont Bar Foundation, and have been on the VBF Board for about four years. The VBF uses a variety of funding sources to fund legal services for the disadvantaged, and also provide programs to enhance understanding and access to justice. For the last three years I have served as co-Chair or Chair on the Vermont Bar Foundation's Access to Justice Poverty Law Fellowship Campaign. The Campaign is an arm of the VBF raising money to fund the Poverty Law Fellowship. Those selected for the fellowship work for two years on special projects funded by the Campaign and specifically designed to address access to justice issues in Vermont.

I volunteer for the Vermont Bar Association's "Vermont Mentor Advice Program". I was paired with two newly admitted female lawyers in the last several years, and assisted in completing their mandatory training requirements. I more recently was also paired with a newly admitted male attorney from New York. This is a great opportunity to offer mentorship, networking opportunities, and additional insight to our younger lawyer population, or even those just recently admitted to Vermont with years of practice elsewhere.

For the school year 2023-2024, I served on the Windsor Central Supervisory Union Parent Advisory Council. This is a group of parents/guardians of students in the Supervisory Union who meet quarterly to provide feedback and perspectives to the Superintendent and Leadership Team for the Union.

I was the Board of Directors for the non-profit organization Gabriel's Children of the Green Mountains which is a food-shelf and soup kitchen organization serving Rutland County. I held the role for approximately six years.

I served as a mentor to youth in need in the Windsor County area through Windsor County Partners for approximately three years from 2008.

I recently became a “member” of the Ottauquechee Health Foundation, a local non-profit foundation which promotes health and well-being throughout my local community on a variety of causes from financial help for families dealing with cancer to their annual coat drive for the community.

44. Please describe a legal case or experience that has a special significance in shaping you as a lawyer, as a person, or both, and explain why.

I represented a tenant who was being evicted from her home. She had some significant medical disabilities, which made finding suitable housing difficult, and eviction was going to result in a struggle. We raised habitability defenses which were designed to allow her to stay, with the landlord addressing the reported problems. The eviction proceeding resulted in a full bench trial. I was the lead student representative with my clinical supervisor present for oversight.

Despite an entire bench trial, and written findings submitted to the Court, the parties were never given a formal decision in the case. A combination of back-log in the Court, and continued attempts at mitigation of the habitability concerns by the landlord, allowed the matter to simply linger. The client was frustrated and disappointed, but content with continuing to live in her home.

To participate in a bench trial in law school was memorable and exciting, as well as nerve-wracking. It was just a brief look at the experience of a trial lawyer. More importantly, walking a client through a difficult, time consuming, and unpredictable process was unforgettable.

What really stuck with me is the impression my client was left with regarding the judicial system. Despite the efforts to correct the problems with the tenancy and offer her solutions, the end result was not really a result at all, but a continuation of a frustrating circumstance. This has helped me to recognize, from the outset of all matters, the end result from litigation or the legal process, may not be what the client or you expect. The best way to counter this is to be diligent in preparation, and understanding potential downsides, as well as understanding the impact of resources on the process. Communicate early and often, and always bring reasoned judgment to the table. Being flexible, open minded and positive can add comfort and support to a client, or anyone, stuck in an uncomfortable legal situation.

45. Please describe a personal experience that you believe will influence your ability to serve as a successful justice and explain why?

I participated in many of these hearings. I supported the guardianship process for my father, despite my father’s position to the contrary. These were challenging and emotionally charged hearings.

Unfortunately, within several years of her appointment to serve as my father's legal guardian, my mother developed a form of dementia. She was hospitalized for multiple weeks in various hospitals in Vermont as the dementia caused some physical mobility issues, in addition to cognitive decline. In my mother's decline, my father sought to extinguish his guardianship and become guardian for my mother. This, again, was a probate process involving evaluations and hearings for a determination. I once again participated in the process, which was contentious and difficult.

As this struggle was unfolding, I was starting a career in the law, in the same area of practice my father enjoyed for 30 years. Our family was surrounded by the legal process as my parents' health faded.

During this process, lawyers who knew my father reached out and offered support to our family. Lawyers volunteered to represent various components of the family in the process. The system supported my family in a way that it was designed to do, and with a level of decency and compassion which the parties and the process deserve.

Through this process, I saw the need to have compassion and be diligent in the process. These are lessons that continued over the years of practice. We grow as people, our perspectives can change, we can use these concepts in our professional and personal lives to bring integrity to the process.

This experience so early in my career reminded me that most people involved in the legal setting do not necessarily want to be there. They do not want to be judged. They do not want to be intimidated by the process and parties or people. In a lot of instances, they do not want to talk about these problems in open court, or even with their lawyers. This experience reminded me, simply, how important it was and is to be kind to everyone, regardless of their disposition, and how that kindness reflects upon your integrity and ultimately the profession.

This experience on both a professional and personal level started developed the basic foundations of integrity, civility, and professionalism, that I believe are critical to the basic practice of law and delivery of justice. I gained perspective and patience during these years. It also became apparent to me through this process the importance of striving for work-life balance and wellness in this career path.

46. Please describe your experiences working with diverse populations.

In workers' compensation approximately 25% of the cases I handle involve pro-se Injured Workers. I often mediate cases with pro-se Injured Workers as well. The socio-economic differences in the lies of these Injured Workers are presented in stark contrast to the corporate/professional employer and/or insurance company. Balancing these interests in a reasoned and understanding manner is a priority. These individuals are often in physical or emotional pain (or both) and usually facing difficult financial situations. The goal is to be courteous, direct, and respectful, and not to be influenced by any underlying bias regarding the nature of their diversity.

I also have experience navigating challenging and difficult family structures as an attorney for or GAL for children involved in the judicial process. Some of the parentage and relief from abuse work over the years has included working with transgender individuals. It is imperative in those situations to maintain

respect and patience in communications. Something as simple as remembering to identify and utilize preferred pronouns can be critical to open and maintain lines of communication.

Our firm has employed LGBTQ staff and attorneys over the years. We strive to provide a safe, welcome and supportive environment fostering inclusion and positive professional growth with a strong focus on mentorship for everyone at the firm.

47. What do you see as the primary issues facing the judiciary today? What would you propose to address or resolve the issues you've identified?

Traditional methods of interaction including public engagement with schools, local community organizations, and activities where those judges can stay connected to the local community. One great example utilized by our Supreme Court is holding oral arguments "on the road". Simply, providing opportunities for our judicial system to be accessible apart from being involved in the process would expose the public to the system in a more meaningful way. Offering civics education in all levels of schools, or mock trials, is also a great way to engage the public and the younger communities.

Additionally, ensuring that we are teaching our law students how to interact with others in the legal system and the general public in a way that fosters civility would go a long way to encouraging that behavior once those students become practitioners.

Technology provides some fantastic opportunities to improve the public impression of our judicial system. While I am not necessarily a proponent of social media with our courts, the idea of having a modern and easily accessible web-site, along with public access to cases consistent with our Rules, would benefit judges, and also inform litigants who come before the Court. It would make the process more friendly. We have explored these concepts with our new electronic filing system, as well as the public portal. There are surely other ways to publicize the accessibility of the judicial system.

After reflecting on this problem for many years, one other idea that may prove beneficial to our public is to ensure our decisions are written in plain English, as well as our Rules and other content that may be public-facing.

49. Reflecting on your career to date, which individual has had the most profound impact on your work and why?

Justice Eaton also taught the art of being professional in both demeanor and presentation in the profession, and to our clients. He maintained, and taught maintenance of the integrity of the profession and continues to do so on the Supreme Court.

He encouraged involvement in professional associations such as Inns of Court, and Tri-State Defense Lawyers, and also local community involvement such as Windsor County Partners. He encouraged ownership of your own way of doing things, your own style of litigation, and did not project ideas or opinions in his teachings. He genuinely wanted and expected us to grow as people and professionals.

To this day, he continues to engage in seminars, presentations, and mentorship opportunities which strengthen our profession.

He also required full accountability to each other, to our employees and to the profession. He, and the firm, also re-introduced me to running by encouraging firm participation in a local July 4th race. Being physically active is the start of the wellness discussion. His professionalism and steady hand of civility are what I continue to strive for in my professional and personal life.