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**ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE**

1 GRANITE PLACE SOUTH  
CONCORD, NEW HAMPSHIRE 03301

JOHN M. FORMELLA  
ATTORNEY GENERAL



JAMES T. BOFFETTI  
DEPUTY ATTORNEY GENERAL

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July 24, 2024

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

Your Excellency and Members of the Council:

**REQUESTED ACTION**

That approval be and hereby is given to the Attorney General to appoint Michael P. DeGrandis, Position #9U215 (Appropriation #02-20-20-201010-2620-013-500132) as an Assistant Attorney General at a salary level of \$93,000, effective upon Governor and Executive Council approval or August 9, 2024, whichever is later, for a term ending June 30, 2026.

**EXPLANATION**

Mr. DeGrandis, a resident of Hudson, earned his Bachelor of Arts, *magna cum laude*, from Salve Regina University in 1992, and his Juris Doctor from Antonin Scalia Law School at George Mason University in 2005. He began his legal career as an Associate focusing on complex commercial litigation at McGuire Woods LLP from 2007 to 2012. He practiced in the same field at Hunton & Williams LLP, from 2007 to 2012, and Sands Anderson PC, from 2012 to 2014. Mr. DeGrandis was managing member of his own law office from 2014 to 2018. He joined the Civil Liberties Alliance in 2014 and served as senior litigation counsel until 2022. He was Vice-President and General Counsel at American Juris Link from 2022 until he joined the Department of Justice in August 2023. He has been assigned to the Civil Litigation Unit where he has been responsible for discovery, dispositive motions, and evidentiary issues in several significant state and federal cases. He will continue his assignment in the Civil Law Bureau's Litigation Unit. Considering Mr. DeGrandis' experience, I am requesting he be appointed as an Assistant Attorney General. His salary will increase \$3,000 from \$90,000 to \$93,000. A copy of his resume is attached.

RSA 21-M:3 and 94:1-a provide that designation of positions, salary levels, and salary increases for attorneys at the Department of Justice shall be determined by the Attorney General,

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subject to approval of the Governor and Council, within appropriations made to the Department of Justice.

I am pleased to offer Mr. DeGrandis' appointment as an Assistant Attorney General at the above-referenced salary for your approval and respectfully urge your favorable consideration. Thank you.

Respectfully submitted,



John M. Formella  
Attorney General

#4579985

# Michael P. DeGrandis

## *Civil Law Bureau Attorney | Litigation Unit | Office of the Attorney General*

Represents New Hampshire, state agencies, and current and former state employees in New Hampshire state and federal trial court litigation, appeals to the New Hampshire Supreme Court, and agency administrative proceedings. Scope of representation includes matters presenting complex and novel questions of state and federal law. Advises Attorney General Formella and his senior staff regarding matters of critical state interest. Eighteen-year legal career includes complex commercial, administrative law, constitutional law, and civil rights litigation in the highest state courts of Virginia, Massachusetts, and New Mexico, and federal courts of appeals in Virginia and New York. Prior to legal career, designed and taught affordable housing and fair housing regulatory compliance certification courses as Vice President of Research & Development at a national nonprofit.

## ADVOCACY ON BEHALF OF THE STATE OF NEW HAMPSHIRE

N.H. DEPARTMENT OF JUSTICE, OFFICE OF THE ATTORNEY GENERAL | Concord, N.H. | Attorney 2023 – present  
Litigation Unit team member advocating for New Hampshire, its agencies, and its former and current employees through all phases of litigation including motions practice, discovery, mediation and settlement, evidentiary hearings, and appeal. Notable examples include:

### • New Hampshire State & Federal Trial Court Cases

- *Alpert v. Dep't of Nat. & Cultural Res.*, Case No. 217-2023-CV-00424 (Merrimack Super. Ct.)
  - Successfully moved to dismiss a challenge to DNCR's removal of the Elizabeth Gurley Flynn historical marker.
  - Prevailed by arguing that plaintiffs do not have constitutional or statutory standing where they challenge discretionary executive agency action instead of challenging the legality of state fund usage.
  - High-profile case with political overtones that secured a favorable written decision setting the outer bounds of taxpayer standing that will aid in the defense of future cases.
- *Dep't of Health & Hum. Servs. v. Soto*, Case No. 217-2023-CV-00618 (Merrimack Super. Ct.)
  - Successfully appealed a Right-to-Know Ombudsman decision in the first appeal of an Ombudsman order to the Superior Court.
  - Prevailed by arguing that DHHS Administrative Appeals Unit hearings officers' proposed decisions are not in final form because the Commissioner may opt not to accept their recommendations, so the records are exempt from Right-to-Know disclosure.
  - Secured a favorable written decision broadly establishing that hearings officers' proposed decisions are exempt from disclosure due to their pre-decisional character and function.
- *G.K. v. Sununu*, Case No. 1:21-cv-00004-PB (D.N.H.)
  - Shielded Governor Sununu's executive, legislative, and deliberative process records from judicially compelled disclosure by revamping the Governor's prior privilege log to more clearly articulate the bases for his exemption claims and by reconstructing and refashioning record descriptions to enable the court to understand how the records satisfied exemption requirements.
- *C.M. v. Dep't of Children, Youth & Families*, Case No. 217-2019-CV-00677 (Merrimack Super. Ct.)
  - Rehabilitated DCYF's standing with a court that held DCYF had abused discovery. Reformed DCYF's discovery orientation by collecting and reviewing 1 million+ records, producing and indexing 34,000+ pages of documents, and logging 300+ entries as privileged and for attorneys-eyes only, in just three months.
  - Successfully defended each motion brought by plaintiffs in their unusually aggressive motions practice including multiple motions for sanctions and default, positioning DCYF so it could negotiate an acceptable settlement.

### • New Hampshire Supreme Court Cases

- *Hawthorne v. Hanks*, Case No. 2023-0502 (N.H. Sup. Ct.)
  - Successfully solicited the Supreme Court's denial of certiorari to an inmate challenging whether the Department of Corrections properly executed his court-ordered modified sentence.
  - Prevailed by arguing that inmates do not have a right to early release, the Department has a statutory duty to protect the public's and the inmate's interests in rehabilitation, and that the Supreme Court should only hear novel questions of law, not questions grounded in factual intrigue manufactured by threadbare allegations of wrongdoing.
  - Successfully moved to dismiss the companion trial court case on similar grounds.
- *Dep't of Health & Hum. Servs. v. Soto*, Case No. 2024-0230 (N.H. Sup. Ct.)
  - Pending appeal: Will argue that where the DHHS Commissioner retains decision-making authority, a hearings officer's RSA 126-A:5, VIII(c) proposed decision is a preliminary draft and an integral component of the Commissioner's decision-making process, so it is exempt from disclosure under RSA 91-A:5, IX.

### • New Hampshire Administrative Proceedings

- *Minichiello v. Simon*, Investg. No. 2023-MHP-Simon-1425 (Off. of Pro. Licensure & Certification)
  - Successfully moved to dismiss a complaint alleging a Department of Corrections mental health counselor's misconduct.
  - Prevailed by arguing that OPLC does not have jurisdiction to investigate conduct unrelated to a mental health counselor's competence to provide sex offender counseling.
  - Engaged with the OPLC investigator to prevent future baseless accusations and inmates from using the OPLC complaint system to collaterally attack Department sex offender rehabilitation programming and punish mental health counselors.

• **Advocacy Outside the Courtroom**

- New Hampshire's Federal Emergency Management Agency State Mitigation Plan
  - Advised the Attorney General and senior staff regarding potential solutions to FEMA's 44 C.F.R. § 201.3(b)(5) objections to New Hampshire's State Mitigation Plan, implicating New Hampshire's receipt of non-emergency Stafford Act federal assistance.

**ADDITIONAL LEGAL EXPERIENCE**

AMERICAN JURIS LINK   Virtual Office   Vice President & Senior Counsel	2022 – 2023
NEW CIVIL LIBERTIES ALLIANCE   Washington, D.C.   Senior Litigation Counsel	2018 – 2021
DEGRANDIS LAW OFFICE PLLC   Tysons Corner, Virginia   Managing Member	2014 – 2018
SANDS ANDERSON PC   Vienna, Virginia   Counsel	2012 – 2014
HUNTON & WILLIAMS LLP   Tysons Corner, Virginia   Associate	2007 – 2012
MCGUIREWOODS LLP   Tysons Corner, Virginia   Summer Associate; Law Clerk; Associate	2004 – 2007

- **Complex Commercial Litigation:** Developed and executed strategies for the investigation and defense of civil litigation related to contracts and business torts, mass torts and products liability, banking and finance, fair housing and employment discrimination, healthcare, veterans' rights, landlord/tenant matters, and eminent domain in cases that included bet-the-company dynamics.
- **Constitutional & Civil Rights Law:** Initiated litigation and prosecuted appeals defending structural constraints on governmental action and defending civil liberties, including challenges to tenure protections and executive decrees as violative of separation of powers, asserting the right to privacy in individuals' associations, and advocating for qualified immunity reform.
- **Administrative Law:** Petitioned state and federal agencies to engage in statutory rulemaking where agencies sought to regulate third parties, to make COVID-19 grants more inclusive, and to prohibit or curtail speech licensing schemes.
- **eDiscovery:** Served as certified e-discovery specialist at Hunton & Williams LLP, developing, managing, and executing discovery strategies for Rule 26(f) conferences, legal holds, search term and claw-back agreements, document collection/review/production, privilege identification and log creation, written discovery requests and responses, and document review protocols and workflow.
- **Non-Courtroom Legal Work:** Advised a state Attorney General regarding potential Port Preference and Equal Protection Clauses challenges to the Jones Act's cabotage provisions' discriminatory effect on citizens of select states. Managed and conducted internal investigations of publicly traded companies that implicated the False Claims Act and potential white collar criminal liability. Negotiated agreements including cable franchises, settlements, sales contracts, and non-competes.

**OTHER PROFESSIONAL EXPERIENCE**

- NATIONAL CENTER FOR HOUSING MANAGEMENT (NCHM) 1998 – 2004
- **Vice President of Research & Development (2001-2004):** Designed and developed all professional certification courses for national nonprofit affordable housing education organization, including Sec. 8 and Sec. 42 LIHTC occupancy and Fair Housing Act compliance. Evaluated and trained instructors regarding teaching performance and methods. Stakeholder at HUD and REAC regulatory meetings. Secured government contracts to provide training and services that increased NCHM revenue by more than 200%.
  - **Regulatory Compliance Trainer (1999-2004):** Taught housing managers at federally assisted properties how to comply with affordable housing occupancy rules and regulations. Taught Fair Housing Act and Americans with Disabilities Act courses. Achieved the highest national student certification pass rate each year. Earned the highest national teacher approval rating each year.
  - **Director of Operations (1998-2001):** Managed operations, grant writing, and human resources. Turned a nonprofit on the brink of insolvency (and evicted from its D.C. and Puerto Rico offices for rent nonpayment) into a self-sustaining enterprise in just three years.

**EDUCATION**

George Mason University School of Law, Arlington, Virginia | Juris Doctor

- Night student
- Editor-in-Chief, George Mason Law Review
- Writing Fellow, Legal Research & Writing LAW094 and LAW095

Salve Regina University, Newport, Rhode Island | Bachelor of Arts, Politics

- *Magna cum laude* | Bower Award for Research: Most Outstanding Scholarly Work | Rhode Island Intern of the Year

**SELECT MEMBERSHIPS, PUBLICATIONS & ACTIVITIES**

- Member of the New Hampshire Bar Association (No. 277332) and Virginia State Bar (No. 70939)
- Co-author: *Out of the Separation-of-Powers Frying Pan and Into the Nondelegation Fire*, 87 Univ. of Chicago L. Rev. Online 55 (Aug. 27, 2020)
- Author: *Atkins v. Virginia*: Nothing Left of the Independent Legislative Power to Punish and Define Crime, 11 Geo. Mason L. Rev. 805 (Summer 2003 (pub. 2005)) (cited by Michigan Supreme Court in *People v. Correa*, 288 Mich. 989, 791 N.W.2d 285 (2010))
- Virginia Pro Bono Service Honor Roll inductee (2021-22) | Three-time recipient of Williams Award for Outstanding Pro Bono Service
- Continuing Legal Education instructor on e-discovery matters including Fed. R. Civ. P. 26 and social media discovery