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LEGAL ETHICS

## Brain injury leads to suspension for Maine lawyer; 'I couldn't stick to tasks,' he says

POSTED JUN 25, 2014 10:45 AM CDT

BY DEBRA CASSENS WEISS ([HTTP://WWW.ABAJOURNAL.COM/AUTHORS/4/](http://www.abajournal.com/authors/4/))

A Maine lawyer says he can no longer function effectively as a trial lawyer and he agrees with his indefinite suspension, imposed by a Maine Supreme Judicial Court justice on May 27.

Newport lawyer Dale Thistle, 66, attributes his problems to a traumatic brain injury caused by a November 2011 car accident, [CentralMaine.com](http://www.centralmaine.com/2014/06/20/newport-lawyer-agrees-with-his-suspension-over-disability-concerns/) (<http://www.centralmaine.com/2014/06/20/newport-lawyer-agrees-with-his-suspension-over-disability-concerns/>) reports. Complaints made to the bar about his handling of cases “are serious and meritorious and directly stem from my brain injury,” he told the publication. “I even self-reported a misfiling in federal court.”

Thistle says his intelligence is intact but his ability to perform executive functions is impaired. He suffers from minor seizures and small blackouts. “I couldn't organize my day-to-day life,” he told [CentralMaine.com](http://www.centralmaine.com). “I couldn't stick to the tasks. It's just the result of the brain injury.”

The [Bangor Daily News](http://bangordailynews.com/2014/06/09/news/augusta/newport-lawyer-suspended-from-practice-because-of-disability/) (<http://bangordailynews.com/2014/06/09/news/augusta/newport-lawyer-suspended-from-practice-because-of-disability/>) calls Thistle a well-known lawyer in its earlier coverage of the suspension (<http://www.maine.gov/tools/whatsnew/attach.php?id=621489&an=1>). He represented a former Newport official accused of embezzlement, a 14-year-old girl accused of stabbing her aunt 106 times, and class-action clients who claimed they were illegally strip-searched at the Knox County jail.

Thistle can regain his license if his condition improves, but he's not optimistic. “I have no plans at the moment,” he told [CentralMaine.com](http://www.centralmaine.com). “I don't know what I'm going to do.”



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STATE OF MAINE

SUPREME JUDICIAL COURT  
Docket No. BAR 14-10

BOARD OF OVERSEERS OF THE BAR	)
Plaintiff	)
v.	)
	)
DALE F. THISTLE, ESQ.	)
of Newport, Maine	)
Me. Bar #7483	)
Defendant	)

ORDER  
OF SUSPENSION  
M. Bar R. 7.3(e)(2)(B)  
(DISABILITY)

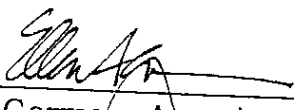
By filing dated May 27, 2014, the Board of Overseers of the Bar (the Board) petitioned this Court for an immediate Order suspending Dale F. Thistle for disability-related reasons from the practice of law in the State of Maine. Included with the Board's Petition was a Confidential Affidavit of Bar Counsel.

For good cause shown by the Board, Dale F. Thistle, Esq. appears to be a disabled attorney; as a result, he has committed apparent violations of the Maine Rules of Professional Conduct, thereby serving as a threat to clients, the public and to the administration of justice. The Court finds that Attorney Thistle's actions constitute violations of M. R. Prof. Conduct 1.3; 1.4(a); 1.15(a)(b)(d)(e); and 8.4 (a)(c)(d).

Accordingly, this Court ORDERS that Dale F. Thistle be suspended from the practice of law in Maine pursuant to M. Bar R. 7.3(e)(2)(B) until further Order of this Court.

The Court further ORDERS that Attorney Michael A. Wiers of Newport, Maine is appointed as the Receiver of Attorney Thistle's practice. The separate Order for the Appointment of Receiver is incorporated herein by reference.

Dated: May 28, 2014

  
 Ellen Gorman, Associate Justice  
 Maine Supreme Judicial Court

RECEIVE

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Clerk's Office  
Maine Supreme Judicial Court

# BANGOR DAILY NEWS

## Newport lawyer suspended from practice because of disability



Gabor Degre | BDN

Cindy Dunton of Newburgh sits in the courtroom with her attorney Dale Thistle during her sentencing at the Penobscot Judicial Center in Bangor in this July 2011 file photo.

By [Judy Harrison](#), BDN Staff

Posted June 09, 2014, at 6:46 p.m.

**AUGUSTA, Maine** — A well-known Newport lawyer has been suspended from the practice of law because of a disability, according to the Maine Board of Overseers of the Bar.

Dale Thistle, 66, was suspended indefinitely on May 27, according to information released Monday by the board.

The nature of his disability was not disclosed.

Thistle's order of suspension, signed by Maine Supreme Judicial Court Justice Ellen Gorman, said that he "appears to be a disabled attorney; as a result, he has committed apparent violations of the Maine Rules of Professional conduct, thereby serving as a threat to clients, the public and to the administration of justice."

His practice was placed into a receivership to be overseen by Michael A. Wiers, 65, of Hartland. He is to deal with Thistle's clients and report to the court about the financial shape of the practice,

among other duties.

To be reinstated, Thistle must apply to the state supreme court. The suspension was recommended by the legal staff at the Board of Overseers.

Thistle has represented many high profile defendants over the years, including Cindy Dunton, 52, the former deputy clerk and treasurer in Newburgh. [She was sentenced July 1, 2011](#), at the Penobscot Judicial Center to to five years in prison with all but 20 months suspended for embezzling nearly \$200,000 from the town since 2006.

Dunton, who pleaded guilty in April 2011 to Class B theft by unauthorized taking, also was ordered to be placed on probation for three years after serving her sentence and to pay about \$252,000 in restitution — which is the sum of the money she stole plus attorney and forensic auditor fees.

Dunton was released Oct. 12, 2012, after serving 15 months of her sentence, according to previously published reports.

Thistle also represented clients in at least half a dozen federal lawsuits alleging illegal strip searches at county jails.

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<http://bangordailynews.com/2014/06/09/news/augusta/newport-lawyer-suspended-from-practice-because-of-disability/> printed on June 25, 2014

# Newport lawyer agrees with his suspension over disability concerns

cm centralmaine.com /2014/06/20/newport-lawyer-agrees-with-his-suspension-over-disability-concerns/

By Doug Harlow Staff Writer [email protected] | @Doug\_Harlow | 207-612-2367

The effects of a brain injury from a November 2011 automobile accident got so bad for Newport lawyer Dale Thistle that he finally reported himself to the state Board of Overseers of the Bar.

That report and other complaints about his work led to Thistle's indefinite suspension from practice by the Maine Supreme Judicial Court this month. Complaints to the bar included Thistle's alleged mishandling of a divorce case, real estate litigation that took too long and on a couple of occasions, misspeaking to the judge in the courtroom.

## Additional Images



**SUSPENDED:** Dale Thistle explains details of the car accident he suffered in 2011 that caused him a brain injury that led to suspension to practice law. Thistle was speaking from his home in Skowhegan on Thursday. Staff photo by David Leaming

**OUT OF WORK:** Attorney Dale Thistle speaks about being suspended to practice law because of a car accident in 2011 at his home in Skowhegan on Thursday. Staff photo by David Leaming

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The June 6 order of suspension, based on a recommendation by the Board of Overseers, refers to Thistle, 66, of Skowhegan, as a “disabled attorney” whose injury caused him to violate the rules of professional conduct and as someone who is “a threat to clients, the public and to the administration of justice.”

Thistle said he agrees with the suspension. He said persistent seizures, mini-blackouts and a lack of direction paint the real picture of what he can do and what he can no longer do following damages to the

nerves in his right frontal lobe.

“They are right — I did not disagree with the action of the board of overseers,” he said in an interview. “The complaints are serious and meritorious and directly stem from my brain injury. I even self-reported a misfiling in federal court. I made an error in filing a document — an error I would never have made previously. I reported on myself, in other words.”

Attorney Gordon Johnson, founder of the Brain Injury Law Group in Sheboygan, Wis., said that while damage to the frontal lobe can be life-changing, there can be hope — not for regeneration of the broken nerves, but from a redirection of the brain’s activity. The frontal lobe of the brain, its largest part, deals with what Johnson calls “executive actions.”

“The executive of the brain is like the CEO of the brain — that’s the person who plans, who marshals assets to get something done. It’s the person who makes the decisions — it’s like what the conductor of the symphony will do,” Johnson said. “I’m a believer in a lifetime of recovery from traumatic brain injury. I believe that the brain has the capacity to use parts of the brain that are not injured to do functions that previously were done by the injured areas.”

## **LASTING EFFECTS**

Thistle said the accident that led to his brain injury happened about 10:30 a.m. Nov. 17, 2011, on Main Street in Palmyra, U.S. Route 2. He said a woman drove through a stop sign on Raymond Road and hit him as he drove west toward Skowhegan.

“She hit me on the driver’s door as I tried to get out of the way and she hit me again on the driver’s rear wheel and sent me flying counterclockwise,” Thistle recalled. “I flew across a ditch and landed on the road she came out of. It threw my head sideways and back, to the right and to the left.”

He was treated and released from Sebecook Valley Hospital in Pittsfield. Both vehicles were destroyed, and police did not file any charges against the woman. A state police crash report confirms details of the accident and notes that Thistle and the other driver were injured.

After the accident, Thistle and his mother traveled to England to spend Thanksgiving with his oldest daughter. That’s when symptoms of brain injury began showing up.

He said family members noticed he was sleeping for long stretches of time.

“Three nights after we got there, at dinner, at the table with my family present, I started talking nonsense,” he said. “I started referring to my daughter as my first wife. They took me to the emergency room in Bath, England, where I was diagnosed with a severe concussion.”

Back in Maine that December, doctors said Thistle suffered from traumatic brain injury, for which he continues to be treated. The nerves in his right frontal lobe had been severed and cannot be regenerated, he said.

The problems he experienced brought him to the point where, he said, he can’t function effectively as a trial lawyer. Thistle said that since the accident he has experienced problems with decision making, organization and discipline.

The frontal lobes are involved in motor function, problem solving, spontaneity, memory, language, judgment and impulse control. Some types of brain injury take longer to overcome, but any kind of recovery will be harder for someone over 50 than for someone who is 25, according to Johnson.

The capacity to substitute functions of the brain and find flexible solutions also diminishes with age,



Johnson said in a telephone interview.

He said the bottom line is to keep mentally active.

“I would not prescribe him to stop using his brain,” Johnson said. “I would do the opposite — I would prescribe him to use his brain, but perhaps in less stressful ways.”

Johnson said that someone like Thistle should consider a career where the mistakes are less critical to others.

“Any brain injury symptoms can be accommodated for,” he said. “I would not say that anyone is permanently disabled from a traumatic brain injury until they have exhausted opportunities to relearn and to accommodate those injuries.”

## **LAW CAREER**

Thistle began to make a name for himself in Maine criminal justice circles in 1994 when he represented Sheri Lee Johnson of Old Orchard Beach. Johnson was 14 years old in October 1993 when she stabbed her great aunt, Hazel Davison, 106 times with a kitchen knife in Davison’s Skowhegan home. Thistle convinced the judge to try Johnson as a juvenile, rather than as an adult.

“Sheri Johnson spent six years in the Youth Center rather than 65 years in an adult female prison,” he said.

She was released from the Youth Center in South Portland in December 1999 when she turned 21.

Thistle also represented Jeffrey Cookson after he was charged with double homicide in 2000 for the shooting death of his former girlfriend, Mindy Gould, 20, and 2-year-old Treven Cunningham, whom she was baby-sitting, in December 1999 in Dexter. Cookson ultimately was found guilty.

Thistle also represented clients in civil cases in federal court, including a class action lawsuit brought by dozens of people who said they were illegally strip searched in the Knox County jail, ending in a \$3 million settlement.

Thistle’s former law partner Joshua Tardy, of Newport, who represented him during recent hearings before the bar, said Thistle is a proud father who is quick to relate success stories about his children and is equally at ease hunting and fishing as he is in the courtroom.

“The thing that strikes me about Dale Thistle the lawyer is that he cares deeply for his clients,” said Tardy, a former Maine House minority leader. “He’s passionate for their causes

“As a lawyer, I felt Dale had an exceptional ability to connect with juries,” he said. “Dale also felt that it was in the best interest of his clients to step aside so he could focus on his health.”

Tardy said Thistle is in tune with local high school athletics and is aware of what is going on in his community. He said he has hope that Thistle will fully recover. In the meantime, he said, Thistle will devote himself to his treatment and steer clear of the high stress of being a lawyer.

“The injuries that Dale sustained in this automobile accident are serious and the prognosis is never truly clear, but I do believe that Dale is making some improvements already,” Tardy said. “I think so long as he can focus on his recovery, he’s going to have a better outcome — I’m hoping for 100 percent improvement and time will tell.”

## **REINSTATEMENT POSSIBLE**

Thistle said if he can demonstrate medical improvement, he can apply for reinstatement of his right to

practice law. In the meantime, his practice has been turned over to attorney Michael Wiers of Newport.

Wiers wouldn't comment on Thistle's situation.

Thistle's road to full recovery is not easy.

"I have to say, discouragingly, I'm beginning to think there's no possibility of improvement, because I've waited two and a half years for some improvement and I have none," Thistle said. "I've had my IQ tested and I'm just as smart as I've always been — I haven't lost my intelligence — I've only lost the ability to perform executive functions within my head as a result of the damage.

"I have no plans at the moment. I don't know what I'm going to do."

Thistle said that though he has not practiced law in more than month, he keeps mentally active reading books, fly fishing, hiking, rustic camping, tending to a vegetable garden and visiting with his grown children, grandchildren and his girlfriend. He lives with his mother in his 1840s Greek Revival home built for Philander Coburn, brother of Gov. Abner Coburn of Skowhegan.

Thistle said he continues to have minor seizures that he said he is unaware of, but others tell him about. Sometimes he loses touch with where he is. He said he has been advised by friends and family members to give up driving until his condition improves.

"It appears to me that I have little direction at the present time," he said. "I had, in my office, when I received the suspension, a number of very good cases, two of which were in federal court and I gave them up — I withdrew from them because I simply couldn't do that kind of work anymore. I couldn't organize my day to day life — I couldn't stick to the tasks. It's just the result of the brain injury."

*Doug Harlow — 612-2367*

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