

# LAWYERS JOURNAL



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[www.MassBar.org](http://www.MassBar.org)

## Logical Next Step: Drug Policy Reforms

Our work this year on sentencing reform and Criminal Offender Record Information legislation has pointed us to some broader issues, those which lie at the root of so many of our social problems: It is undeniable that drugs and alcohol are invariably strongly related to crime, domestic violence, child abuse and divorce. It is time for the bar to ask how we can break the vicious cycles that perpetuate these problems.

### President's View

by David W. White Jr.



Unfortunately, the response to substance abuse problems that we have at the present time is largely punitive, with incarceration and with the removal of children from families, with placement in foster care. Families break up, parents lose visitation with their children, and all family members suffer.

On top of that, the monetary costs are enormous. Focusing only on incarceration in the state's jails and prisons, the cost projected for FY 2009 is \$1.4 billion. That leaves out the costs of prosecution, defense, DSS, probation, and, importantly, the costs to victims.

The cycle does not end; and people who leave jails and prisons have a high likelihood of re-offending, especially given the limited support they receive while incarcerated, and, so many times, when

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White assembles MBA Drug Policy Task Force. See page 23.



MBA delegation takes part in ABA Day in D.C. See page 4.

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## May HOD meeting highlights ceremonial passing of the gavel, creation of two new sections

by Tricia M. Oliver

Massachusetts Bar Association President David W. White Jr. swiftly led the MBA House of Delegates through a full agenda on May 14 at the Salem Waterfront Hotel. The meeting marked the fifth and final meeting of the House until the new association year begins in September. Sprinkled throughout the business of the meeting were various accolades about White's many initiatives since he assumed his presidency last September.

Following reports from the officers, MBA Executive Director Marilyn J. Wellington and General Counsel Martin W. Healy, the delegates unanimously approved the creation of the Juvenile and Child Welfare Section, as well as the Immigration Law Section. Prior to Wednesday's vote, the Juvenile Practice Group existed under the Criminal Justice Section and the Immigration Law Committee was not incorporated into any of the

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MBA President David W. White Jr. (left) passes the ceremonial gavel to President-elect Edward W. McIntyre, whose term begins in September.

## Four Eco-Challenge participants honored for their strides in greening their practices

by Kate O'Toole and Tricia M. Oliver

The work of the Massachusetts Bar Association Energy and Environment Task Force in developing the Green Guidelines and launching the Lawyers Eco-Challenge has been well received by the Massachusetts legal community, with nearly 60 firms and solo practitioners pledging to incorporate more earth-friendly practices into their offices.

On May 14, the Massachusetts Bar Association and its Lawyers Eco-Challenge partner, the Conservation Law Foundation, honored four of those law firms for exemplary leadership in greening the practice of law. The honors took place at the closing reception following the House of Delegates meeting at the Salem Waterfront Hotel.

"Now, more than ever, it is necessary for lawyers to become sustainability leaders. We hope the efforts of our Eco-Challenge pledge partners continue to inspire changes throughout the legal



Representatives from four honored firms — Modern Times Legal; McRoberts, Roberts & Rainer LLP; Milton, Laurence & Dixon; and Borchers, Ware & Guglielmo PC — were on hand at the May 14 reception.

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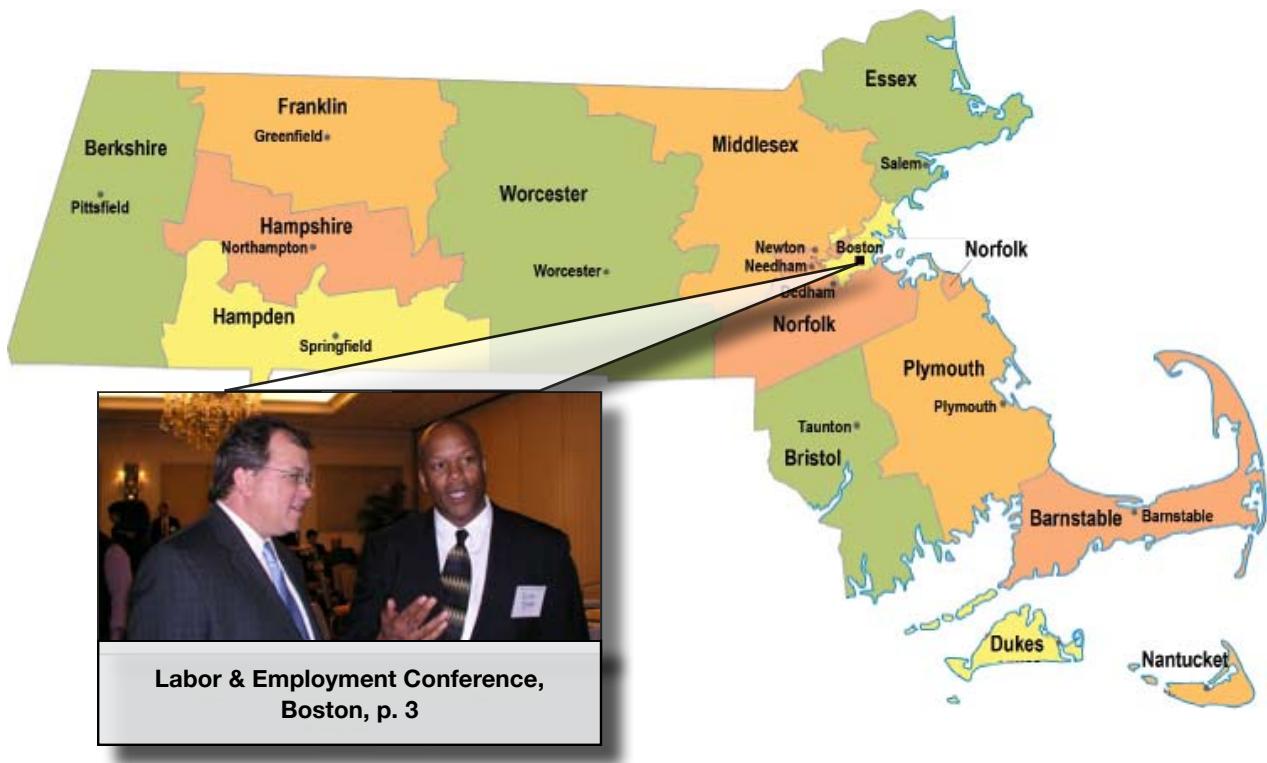
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## Web site log-in change starting June 9

Beginning the week of June 9, MBA members will be prompted to verify their e-mail addresses upon logging onto [www.massbar.org](http://www.massbar.org). The procedure will take just a few minutes and will ensure the integrity of members' e-mail addresses.

After you verify your email address once, you will have the option of logging in using your email address or your six-digit member ID number each time you sign into [www.massbar.org](http://www.massbar.org). Once you log in, you will have access to your online MBA profile to update your mailing address and email preferences.

# Recent and upcoming events



1. **Drug Policy Task Force holds inaugural meeting**  
MBA headquarters, Boston, April 29. *Story on p. 23.*
2. **Massachusetts Mock Trial champion competes at nationals**  
Wilmington, Del., May 8-10. *Story on p. 11.*
3. **29th Annual Labor & Employment Law Spring Conference**  
The Colonnade Hotel, Boston, May 13. *Story on p. 3.*
4. **House of Delegates meeting**  
Salem Waterfront Hotel, 225 Derby Street, Salem, May 14. *Story on p. 1.*
5. **Eco-Challenge Awards**  
Salem Waterfront Hotel, 225 Derby Street, Salem, May 14. *Story on p. 1.*

6. **Shakespeare in the Law's King Lear reading, discussion**  
Cutler Majestic Theatre, Boston, May 21. *Story in July/August issue.*
7. **Second Annual Public Law Conference**  
Holiday Inn Boston at Beacon Hill, 5 Blossom St., Boston, June 4.
8. **"Open Dialogue on Court Practices"**  
Fenton Judicial Center, 2 Appleton St., Lawrence, June 17.

For more information about upcoming events, visit [www.massbar.org](http://www.massbar.org) or call (617) 338-0530. CLE seminars are not included. For a full listing of events, see the Calendar on pp. 20-21, the CLE brochure or [www.massbar.org](http://www.massbar.org).

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# 29th Annual Labor & Employment Law Spring Conference

by Jennifer Rosinski

More than 100 people attended the 29th Annual Labor & Employment Law Spring Conference held May 13 at the Colonnade Hotel in Boston. Representatives from the Massachusetts Commission Against Discrimination presented a special lunchtime address.

Expert panels covered the topics of "Evidentiary Issues in the Labor Arbitration Context," "Implicit Bias and Stereotyping: Theory and Practice," and a "Survey of Employment Law Developments."

"This is one of our premiere events of the year, and again it is a wonderful event," Massachusetts Bar Association President David W. White Jr. told the crowd before introducing representatives from MCAD.

A special lunch presentation featured MCAD Chairman Malcolm S. Medley and Commissioners Martin S. Ebel and Sunila Thomas-George. They provided an overview of the agency's transformation aimed at increasing efficiency and streamlining investigations.

"The MCAD is a constantly evolving organization. We are not trying to identify what has and hasn't worked," Medley said.

Among the changes to help increase efficiency is the creation of a uniform system, followed by all MCAD offices throughout the state, and shifting to a paperless office that allows multiple users to access one file at a time, both at the office and at home. Other modifications are re-introducing a testing program, which will begin this summer to seek out discrimination in hiring, increased use of the commissioner-initiated complaint process and offering training to companies.

"We're trying to cover all our bases in terms of addressing discrimination in the commonwealth," Medley said. "The MCAD, under this leadership, is not out to get anyone, but we're certainly out to do our jobs."

Medley said MCAD is watching with interest several bills pending in the Legislature, including the so-called height and weight and transgender bills.

Commissioner Martin S. Ebel shared some MCAD statistics. Case filings in 2007 went up 10 percent from the year before to 3,500. The top five categories were disability, race, sex, retaliation and age. Disability topped race as the leading cause of action in 2005 and has remained the top category. Among all those filings, 83 percent were related to employment.

Ebel said expectations are that case filings in 2008 will increase by a significant amount as well. Ebel said the number of case filings to date in 2008 is 30 percent higher than the number filed by this time last year.

The testing program mentioned by Medley was elaborated on by Ebel, who said protocols are currently being developed. "We will be employing a number of different methodologies," he said. Some results should be ready to report in the early winter, with the project wrapping up in May 2009.

Thomas-George provided a detailed explanation of enforcement policies and procedures and the breakdown of MCAD into the divisions of enforcement, legal/



Photo by Jennifer Rosinski

**L to R: Panelist Arnold Lizana, trial attorney, Equal Employment Opportunity Commission; Rosemary Pye, member, Labor & Employment Section Council; Catherine E. Reuben, co-chair, Labor & Employment Section Council.**

*Continued on page 15*

## If You Do Real Estate Work In Massachusetts and Are Missing These Critical Policy Coverages.....

### Ask Yourself Why You Don't Have The MBA's Policy?

#### Do You Have .....

- No Exclusion For Punitive Damages
- An Aggregate Deductible Rather Than a Per Claim Deductible
- Waiver Of Deductible When Claim Is Mediated Or Arbitrated
- Non-Profit Directors & Officers Coverage
- Cancellation Only For Non-Payment Of Premium
- BBO Coverage
- Cost Of Court Coverage
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Claims from Real Estate matters have increased in Massachusetts to record levels. Don't be caught with a policy that leaves you paying the claim.



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for information on how to get the protection you need for a difficult market.

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## Massachusetts lobbying efforts carry on to Washington D.C.

Massachusetts and Boston Bar Association leaders participated in ABA Day in Washington on April 17 to discuss issues of importance to the organized bar, such as adequate funding for the Legal Service Corp. and the preservation of attorney-client privilege with members of their congressional delegation.



Photo courtesy of the Boston Bar Association

**From left to right:** Kathy Weinman, vice president, BBA; Anthony Doniger, president, BBA; Sen. John Kerry; David W. White Jr., president, MBA; and Martin W. Healy, general counsel, MBA.



Photos courtesy of the American Bar Association

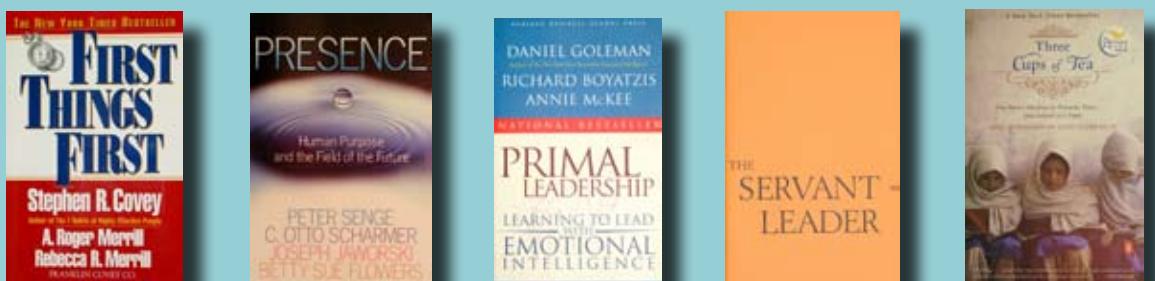
**From left to right,** MBA General Counsel Martin W. Healy, U.S. Rep. Niki Tsongas and MBA President David W. White Jr.



**From left to right,** Maria Fernandes, assistant government relations director, BBA; Deborah Gibbs, government relations director, BBA; Kathy Weinman, vice president, BBA; Anthony Doniger, president, BBA; Sen. Edward Kennedy; Martin W. Healy, general counsel, MBA; and David W. White Jr., president, MBA.

# This is not your parents' book club

## MBA roundtable series aims to cultivate the art of leadership



The covers of some of the books discussed during Leadership Roundtable meetings.

by Tricia M. Oliver

In an effort to grow and shape current and future leaders in the bar association and the community, the Massachusetts Bar Association has hosted Leadership Roundtable discussions since January.

Each month, leaders from across the MBA community are invited to exchange ideas and perspectives to grow together as a leadership community. The discussions center on books about leadership and organization communication penned by some of the most notable experts, including Dr. Stephen R. Covey, Peter M. Senge and Robert K. Greenleaf, or books that share the experiences and stories of leaders such as Greg Mortenson and David Oliver Relin.

The roundtables are the brainchild of MBA President-elect Edward W. McIntyre and Treasurer Valerie A. Yarashus. Last year, they brought the concept to President David W. White Jr., who quickly offered his support.

"Many of the readings concentrate on giving up control and letting others lead," said McIntyre, who first began conceptualizing the program after he and Yarashus were discussing the DirectWomen Institute — a host of workshops and discussions sponsored by the American Bar Association that enlists a distinguished group of women lawyers to help them prepare for service on the boards of public companies.

McIntyre and Yarashus co-facilitate each of the roundtable sessions.

For an hour each month, attorneys' thoughts shift from client fees, statutes of limitations and the burden of proof to the value of listening, how to be a better leader, empowering others and the importance of service. "At the same time that we hope we are enhancing leadership capabilities within the MBA, these forums offer a welcome diversion to improve social skills and revisit the art of conversation," said McIntyre.

"What we see each month is quite remarkable," said MBA Executive Director Marilyn J. Wellington. "I'm sure I'm not alone when I say that I've learned a tremendous amount about leadership from the perspective of service to others, and the development of organizations based on an understanding of the needs and perspectives of the whole."

Participants' satisfaction with the Leadership Roundtable series is attributed to more than just leadership principles. "I've enjoyed getting to know folks on a more personal level," said John N. Affuso Jr., a member of the MBA's Executive Management Board. He mentioned that what he enjoys hearing about the most at

the discussions are the personal experiences that shape individuals' perspectives on leadership.

"Our interaction at the roundtables is very different from typical conversations at events. We really get to know each other in this setting and gain from others' experiences," added Affuso, who has found *Primal Leadership: Learning to Lead With Emotional Intelligence* by Daniel Goleman the most interesting of the readings to date.

EMB member John Carroll is also thrilled to be involved in a network that he describes as eye-opening and heartwarming. "I've always enjoyed reading because it allows me to stop, pause and reflect. The fact that others in the group are doing the same results in a depth of thought that is quite enriching for all of us involved."

Carroll is unable to point to one of the readings as his favorite. Rather, he feels each subsequent assignment is better than the last.

Robert Kerwin, Business Law Section co-chair, agreed. "This series is an opportunity to be with friends and to be introspective about your practice and being a lawyer," said Kerwin, who explains that the flavor of discussions offers unique insight for attorneys.

He feels this experience has made him more cognizant of his approach with his clients, practicing law and leading others as a section council chair. "My wife is jealous — she wishes she had a similar 'book club'." Kerwin's favorite reading so far is *Three Cups of Tea: One Man's Mission to Promote Peace...One School at a Time* by Greg Mortenson and David Oliver Relin.

Ultimately, Kerwin's experience has brought about a renewed admiration for the integrity with which his colleagues approach what they do for a living. "Today, the fact that we are competent lawyers isn't enough," he said.

The Leadership Roundtables' list of readings includes:

- Excerpt/first chapter "The Servant as Leader" and Peter Senge's afterword in *Servant Leadership: A Journey into the Nature of Legitimate Power & Greatness* by Robert K. Greenleaf;
- *Three Cups of Tea: One Man's Mission to Promote Peace...One School at a Time* by Greg Mortenson and David Oliver Relin;
- *Primal Leadership: Learning to Lead with Emotional Intelligence* by Daniel Goleman, Richard Boyatzis, Annie McKee;
- *First Things First* by Steven Covey; and
- *Presence* by Peter Senge.

# New firm strikes an important balance; Yarashus, Wagner launched on May 1

by Tricia M. Oliver

The monthly MBA Leadership Roundtables — in which leadership and the commitment to service are discussed — served as the impetus for a unique vision for a law firm in the commonwealth. As a result of in-depth conversations at the roundtables, the law firm of Yarashus, Wagner, Cook, Freiberger and Washienko was born.

In the eyes of the two founding partners — Valerie A. Yarashus and Charles P. Wagner — bar leadership and giving back to the profession and their communities enrich lifelong learning. These very principles are central in each of their professional worlds and provided the foundation for their brand new firm, where the partners' practice areas include personal injury, medical malpractice, employment and business litigation.

The new law firm with partners Yarashus, Wagner, Kathy Jo Cook, Marc Freiberger and Patricia Washienko launched May 1. Much buzz surrounded this new and exciting collaboration with deep ties to the MBA.

Yarashus is the current MBA treasurer and was recently named president-elect for the upcoming association year, beginning in September. She is also the co-chair of the Diversity Task Force and the Plain English Jury Instruction Task Force, as well as a past chair of the Health Law Section and a past president of the Massachusetts Academy of Trial Attorneys, an affiliated bar association of the MBA.

Wagner sits on the MBA Executive Management Board, the House of Delegates and the Diversity Task Force and is a member of the MBA Individual Rights & Responsibilities Section Council. He also serves as co-chair of the Massachusetts Lesbian & Gay Bar Association, one of the MBA's affiliated bar associations.

Wagner and Yarashus got to know each other during their involvement on the MBA Diversity Task Force, but then conversations they shared as part the MBA Leadership Roundtables brought about a stronger realization of their shared professional views. That strengthened relationship gave way to the concept of developing a firm around bar leadership and excellence in client representation. From there, the idea expanded and Cook, Freiberger and Washienko were naturally folded into the mix.

Around Yarashus' dinner table, plans were cemented for a new kind of practice culture that she and Wagner had envisioned. "All five of us went around the table talking about how to create our dream job, both in terms of our relationships with our clients and with our colleagues," said Yarashus. "As we formalized our new firm, we kept that vision at the core of the continued discussions and planning."

"We had many hard conversations in a short period of time," said Cook, who also explained that bar leadership and giving back to the profession were central to all partners' perspectives during those talks leading up to the firm's May 1 opening. In addition to chairing the MBA Judicial Administration Section Council and serving on the House of Delegates, Cook is now eight weeks into her term as president of the Women's Bar Association.

"I'm delighted to be working with such bright and wonderfully spirited people," said Wagner, who has enjoyed steady referrals since the firm opened its doors.

"I'm proud to be part of a firm that is redefining what it means to be a successful practitioner," he added. "By including bar leadership and community service into that model for success, I really feel we are all able to have a sound life balance."

The partners of the firm believe that this ultimately translates into better client representation.

Wagner explained that interestingly, but not surprisingly, all five partners are equally involved in their hometown communities. Whether they volunteer to coach their children's sports teams, serve on town committees or enjoy other civic involvement, all



Photo by Jeff Thiebaut

**The newly opened law firm of Yarashus, Wagner, Cook, Freiberger & Washienko includes, from left to right: Patricia A. Washienko, Marc D. Freiberger, Valerie A. Yarashus, Firm Administrator Scott Griffiths, Kathy Jo Cook, Operations Manager Katherine Villard-Howe and Charles P. Wagner.**

of the partners lead rich and busy lives outside of the office and bar commitments.

Just two weeks into the firm's steady stride, Yarashus noted that the greater legal community has shown a tremendous amount of support. Yarashus is humbled by the amount of referrals the firm has enjoyed over the last month and said that it appears to be an "indication that our colleagues in the legal community want to see us succeed."

Yarashus commented that the new collaboration is more than she could have asked for. "It has been a treat to enjoy such compatible philosophies on excellence in practice, leadership in the bar and an effective business model to better serve our clients."

That business model comes naturally to all partners, as well as their executive support staff. According to Yarashus and Wagner, the selections of Firm Administrator Scott M. Griffiths and Operations Manager Katherine Villard-Howe were essential in delivering the type of quality service that the partners want clients and colleagues to experience.

Although the new firm's offices occupy the 33<sup>rd</sup> floor of One Beacon St., the partners find that many of their conversations continue to take place at bar association events throughout the state, or at the MBA offices at 20 West St. "The MBA is our mother ship," said Wagner.

"We often joke that we are more likely to see each other at MBA House of Delegates meetings than at the office," said Wagner. However, joking aside, that was reality last month when Wagner, Yarashus and Cook attended the May 14 HOD meeting in Salem and then on May 21, all of the partners congregated at 20 West St. for the morning Leadership Roundtable program.

Yarashus explained that most of the five partners' previous firms were supportive of their bar leadership work, but developing bar association work as a founding principle for a firm is quite unique.

"We all feel bar leadership contributes to the success of a law firm. Besides, it's the right thing to do," Yarashus said.

## Four Eco-Challenge participants honored for their strides in greening their practices

*Continued from page 1*

community and the business world at large," said MBA President David W. White Jr. as he welcomed the guests of honor at the reception.

CLF President Philip Warburg offered words of thanks to the honorees and all the Eco-Challenge pledge partners. "Whether they have worked to reduce energy use, put an end to the massive amount of paper we use, or encouraged employee participation by encouraging public transit and commuting choices, the firms being recognized today — and all the other participating firms — are setting a true example for the rest of the business and legal community in Massachusetts," said Warburg, who was joined at the event by CLF Staff Attorney Susan Reid, who co-chairs the MBA Energy and Environment Task Force.

Partners from McRoberts, Roberts & Rainer LLP in Boston; Milton, Laurence & Dixon in Worcester; Modern Times Legal in Cambridge; and Borchers, Ware & Guglielmo PC in Medway were on hand to accept the awards for their firms' extraordinary efforts in minimizing their offices' impact on the environment.

### Reusable mugs, public transit and double-sided printouts reduce Boston firm's carbon footprint

*McRoberts, Roberts & Rainer LLP, Boston*



**McRoberts, Roberts & Rainer LLP**

For McRoberts, Roberts & Rainer LLP, which focuses its practice on environmental law and land use, joining the Eco-Challenge and becoming a greener office has enhanced the firm on several fronts. As an expert in the environmental field, the firm felt an obligation to examine its practices and lead by example.

"We spend the majority of our days examining and addressing the impacts to

the environment from the acts and omissions of others," explained firm associate Jennifer Bernazani-Ludlum. "It is our objective to demonstrate practical strategies to minimize our consumption of energy while at the same time providing our clients with quality environmental and land-use representation."

The firm signed up for the challenge the same day it was launched in January. Since then, the staff has altered some of its office behaviors to save energy. For example, they switch off lights, computer monitors and speakers at night, and try to keep non-essential lights turned off during the day.

The firm also distributed an electronic newsletter to its clients and colleagues, which featured the MBA's Green Guidelines, and highlighted the steps the firm has taken to reduce its energy use. The newsletter has been met with positive feedback, with firm members receiving thank you notes from clients for the "very helpful guidance."

Before the challenge even began, McRoberts, Roberts used printers that scan and produce double-sided sheets, utilized reusable mugs and containers and recycled cans and bottles. Each staff member also takes advantage of public transportation to commute to the downtown Boston office.

"Our participation has heightened our awareness of the resources that we consume on a daily basis and has spurred us to take active steps to reduce that consumption. The Eco-Challenge was an opportunity for us to reflect on how the operation of our own practice affects the environment," Bernazani-Ludlum concluded.

### Small firm invests in volume scanner to cut down on paper, postage and wasted space

*Milton, Laurence & Dixon, Worcester*

policies," noted partner Jennifer DeFronzo. "But the Eco-Challenge gave us the impetus to evaluate what we were already doing and look at other ways to create a positive impact."

Milton, Laurence & Dixon in Worcester is a five-attorney firm of defense trial lawyers that represents clients before the state and federal courts, and in professional board hearings, mediations and binding arbitrations.

After joining the Eco-Challenge in February, Milton, Laurence & Dixon began making small changes to become more eco-friendly. For example, the staff successfully urged their landlord to install motion-activated soap dispensers, and are working on putting in motion-activated faucets, as well. The firm also initiated a bimonthly electronic newsletter to staff with tips on how to save energy.

According to DeFronzo, "Encouraging simple acts like turning off the lights, making double-sided photocopies when appropriate and writing the bimonthly Eco News have, almost overnight, created a firm-wide culture promoting awareness of the environment."

Another major step for Milton, Laurence was the purchase of a volume scanner, which has helped the staff to reduce its paper volume by e-mailing documents or burning CDs. DeFronzo noted that the scanner has already dramatically improved the operation of the office. "We have not only reduced the amount of paper we use, but reduced the amount of space required for file storage and postage costs," she said.

The firm continues to strive toward more economic and environmental efficiency. "Our next focus will be in evaluating our purchasing decisions and encouraging the use of materials manufactured from recycled materials," DeFronzo said. "As a small firm, we've found that even small changes and a minimal time commitment can generate full-sized results."

### Solo practitioner in Cambridge embraces sustainable practices to streamline business, strengthen client relationships

*Modern Times Legal, Cambridge*



**Modern Times Legal**

Patent attorney Robert J. Sayre's commitment to progressive business practices is reflected in his firm's unique name: Modern Times Legal.

"My clients understand that concerns regarding the environment are real," Sayre pointed out. His clients include top universities and companies in a range of fields, including chemistry, electronics, alternative energy and mechanical

engineering. "It is now more readily apparent to them that I share their values and commitments."

Sayre has pursued a sustainable business model. Before the Eco-Challenge began, he ran a substantially paper-free practice and eliminated his car, instead electing to ride his

## Applauding our pledge signers

All of the firms and solo practitioners who signed the Lawyers Environmental Pledge as part of the Massachusetts Bar Association Eco-Challenge were recognized at the May 14 reception following the House of Delegates meeting at the Salem Waterfront Hotel.

### Signature Signers

Conservation Law Foundation, Boston  
 Breakstone, White & Gluck PC, Boston  
 Brody, Harpoon, Perkins & Kesten LLP, Boston  
 Brown, Rudnick, Berlack, Israels LLP, Boston  
 Burns & Levinson LLP, Boston  
 Debra L. Smith, Attorney at Law, Watertown  
 Foley Hoag LLP, Boston  
 Greenberg Traurig LLP, Boston  
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 Law Office of Susan J. Crane, Sudbury  
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 Modern Times Legal, Cambridge  
 Office of Roberta F. Sawyer, Duxbury  
 Petrucelly, Nadler & Norris PC, Boston  
 Rosenberg, Freedman & Goldstein, Newton  
 Mary Ellen Shea, arbitrator, private practice, Amherst  
 Denise Squillante PC, Fall River

## MBA Lawyers Eco-Challenge Eco-Tips

### Environmentally conscious purchases

Consider energy-efficient equipment when replacing appliances and computers in your office and home.

- Visit Energy Star at [www.energystar.gov](http://www.energystar.gov) to find a wide array of energy-saving products, including printers, copies, refrigerators and computers.
- When replacing computers, consider those that are rated highly by the Electronic Product Environmental Assessment Tool (EPEAT) by visiting [www.epeat.net](http://www.epeat.net). The Web site uses a set of criteria to help consumers compare the energy efficiency of various computers.

### Recycling

Cut down on waste and disposables in your office and work toward recycling items you are no longer using:

- Arrange for your ink cartridge supplier to pick up used cartridges for reuse and/or purchase remanufactured cartridges, rather than new ones, for laser printers.
- Provide pitchers with filtered water, rather than bottled water, to employees and visitors.
- Donate old office equipment, computers and supplies.



### Sustainable practices

Consider using paper products and printing companies that abide by sustainable practices. Among those to consider are:

- Purchase printed stationary from companies that use environmentally-sustainable inks;
- Use paper gleaned from sustainable forests; and
- Choose printing companies that rely on wind power and use soy-based inks.

## White delivers Green Office Workshop keynote speech at UMass-Boston June 24

MBA President David W. White Jr. will serve as keynote speaker at the Green Office Workshop on Tuesday, June 24, at the UMass-Boston Campus & Conference Center. The workshop will run from 8 a.m. to 2:15 p.m.

MBA Law Practice Management Section Chair Alan J. Klevan, a pledge partner of the Lawyers Eco-Challenge, will also participate by leading a half-hour tutorial on creating a paperless office at 10:45 a.m. Klevan will be joined by Boston attorney Jeffrey S. Glassman, a member of the MBA's Energy and Environment Task Force.

Other sessions include Green Purchasing 101, Creating a Successful Recycling Program, Securing Funding for Green Initiatives and Engaging Co-Workers.

**MBA members are eligible for a discounted rate of \$45. All attendees will receive a 60-page Green Office Manual and Green Office Start-Up Kit.**

The workshop is sponsored by the Massachusetts Recycling Coalition, the Massachusetts Operational Services Division, UMass-Boston's Recycling and Sustainability Program and the MBA.

Visit [www.massrecycle.org/greenoffice/](http://www.massrecycle.org/greenoffice/) for more information or to sign up.

Visit [www.MassBar.org](http://www.MassBar.org).

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# May HOD meeting highlights ceremonial passing of the gavel, creation of two new sections

*Continued from page 1*

association's existing sections.

By elevating the Juvenile Law Practice Group to an independent section, the MBA "meets the civil and criminal side of this practice area," said Peter Elikann, who presented the proposal alongside Michael Broderick, both members of the Criminal Justice Section.

Elikann said juvenile law practitioners "find themselves in a strange hybrid of the law."

The idea to elevate this practice area to a section came to Broderick when he first joined the MBA and was selecting his free section. Broderick explained to the delegates that neither the Family Law nor the Criminal Justice Sections fully addressed the unique issues with which practitioners in this field are faced. Broderick is an attorney for the Department of Social Services.

As part of the Immigration Committee Report, Chair Roy J. Watson advocated for his committee's evolution into section status. "Recognize that immigration is a very complex area of law," he said. For solo and small firm practitioners struggling to keep up on the law, the Immigration Law Section will "provide an easy, entry-level gate" for those practitioners to stay updated on the ever-changing laws surrounding immigration.

## Judicial Administration, Public Law and Business Law votes

Kathy Jo Cook, chair of the Judicial Administration Section, called for a vote to expand the pilot program on Massachusetts Rule of Professional Conduct 3.5(d) into criminal cases. The HOD previously approved the section to launch the program with civil cases, but Cook called on the delegates to "modify that house action to incorporate the criminal side of things." Delegates approved that modification.

The lengthiest portion of the meeting surrounded the Public Law Section's bid to have delegates endorse in principle "much needed reform legislation" regarding the Open Meeting Law. Robert L. Quinan Jr., co-chair of the section, explained that the law needed to be updated since its inception in 1975 in order to keep up with technology and to address more timely factors surrounding the law. Ultimately, the HOD approved a twice-amended endorsement.

Peter McDermott, co-chair of the Business Law Section, quickly received an HOD vote to support the resolution to amend the Business Corporation Act to permit businesses to consider the environmental and social impact of corporate action. White added to McDermott's plea, explaining that the MBA's Energy and Environmental Task Force — responsible for orchestrating the popular MBA Eco-Challenge — brought this to the attention of the Business Law Section.



Photos by Bill McCormack

**MBA President David W. White Jr. provides his report at the last HOD meeting of the association year.**

## Passing the gavel, responding with praise

Following the votes and informational reports, White then began the ceremonial passing of the gavel to his successor, Edward W. McIntyre. White spoke about the year ahead under the auspices of McIntyre. Said White, "Ed is focused on the needs of our members." He then spoke of the challenges that lie ahead for the bar, both in and outside of the profession, emphasizing that McIntyre is up for those challenges.

Upon accepting the passed gavel, McIntyre provided words of tribute to White's productive year. He summarized White's year as a "dogged endeavor," describing White as a leader whose "challenge-seeking personal life carried over to his professional life." McIntyre touched on the many accomplishments of White's tenure, most notably his criminal sentencing initiatives, the hugely successful Lawyers Eco-Challenge and an unprecedented sell-out crowd at the Gala Dinner, which was held in November. "David consistently encourages the bar and bench to reach higher," McIntyre said.

White returned to the podium to close the last business meeting of the HOD for this association year and gave some final thanks and reflective remarks. White applauded his wife Denise Murphy; his fellow MBA officers; MBA Executive Director Marilyn J. Wellington and General Counsel Martin W. Healy; other staff he has worked closely with; and finally, the delegates and section council chairs. "Thanks to all of you for making such good news for the MBA, our clients and the law," concluded White.

Delegates retired to a closing reception, at which four law firms were honored for their unique implementation of the Green Guidelines developed by the MBA Energy and Environment Task Force as part of the Eco-Challenge launched in January 2008 (*see story, page 1*).



**Business Law Section Chair Peter McDermott addresses the delegation.**



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## President's view: Drug Policy Reforms

*Continued from page 1*

they are released. Problems can easily be traced to sentencing restrictions, such as mandatory minimum sentences, and to budgetary restraints for programs.

Informal surveys reveal that roughly 80 percent of pre-trial detainees voluntarily report, upon arrival at the jail, that they have addiction problems. The jails have become withdrawal centers, but have limited treatment and rehabilitation facilities for the pre-trial detainees.

There is no lack of good intentions, and there is no lack of good ideas. But sadly, Massachusetts has so far failed to embrace comprehensive reforms that would actually make a difference.

All of this is why we have appointed the MBA Drug Policy Task Force. The task force has met twice now, and the approximately 40 members represent interests from the defense bar, the prosecution, rehabilitation, treatment, the medical society, pharmacists, social workers and others. Appointments to the task force are still in progress. *See related article on page 23.*

The group has a simple four-part mission: To assess current education and prevention programs; to assess current treatment programs; to examine the sentencing system; and to make policy recommendations.

Fortunately, we do not need to re-invent the wheel when it comes to gathering data, though some updating will, of course, be necessary. I am hopeful that the task force will be making bold recommendations before year's

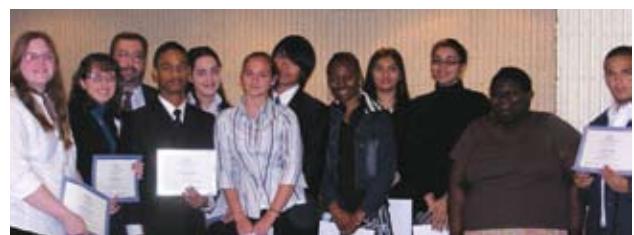
end, so the recommendations can be turned immediately into productive and successful legislation.

You do not need a crystal ball to see that it will all come back to the roots: Better education and prevention, and more effective treatment and rehabilitation will help reduce criminal behavior and the need for expensive incarceration. A new view of addiction as a disease to be prevented or treated, not a crime to be punished, is an important one we must continue to recognize.

Our pages this month are filled with the names of so many of our volunteers. It is amazing how vibrant the MBA is. Our members occupy dozens of committees, all of which are churning out publications, programs and legislation. Others are involved in direct volunteer work with low-income clients, community organizations and other volunteer programs. Thank you, all.

Finally, let me welcome our two newest practice sections. The House of Delegates, as reported this month, authorized the creation of an Immigration Law Section and a Juvenile and Child Welfare Section. Both areas of the law are quite specialized, yet they defied classification into other sections because of the many areas of law they spanned. We look forward to welcoming new members attracted by these additional sections.

## —Get Involved!— Greater Lynn Bar hosts Law Day event



On May 1, the Mock Trial teams from Lynn Classical High School (top), St. Mary's High School in Lynn (middle) and Lynn English High School (bottom), were honored at a Law Day celebration held at Lynn District Court. Judge Michael C. Lauranzo presided over the session, which was organized by Greater Lynn Bar Association President Loring Paul Fluke of Lynn.

## Chatham High School's "We The People" state championship team thanks MBA, O'Neil



Chatham High School, which won the "We The People" Massachusetts state championship on Jan. 26, presented MBA Public and Community Services Director Elizabeth O'Neil with a plaque on April 30.

It was the school's 11<sup>th</sup> state win. The MBA contributed to the team's travel expenses for its trip to the nationals in Washington, D.C. from May 2 to 6.

Teams spend months studying the Constitution and Bill of Rights, making presentations in front of a distinguished panel of volunteer judges, and answering questions.

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# Get Involved!

## Newton South places 22nd at national tournament

by Seth Boyd

After winning the Massachusetts Bar Association Statewide High School Mock Trial Tournament on March 28, 25 members of the Newton South High School Mock Trial team traveled to the National High School Mock Trial Tournament held in Wilmington, Del., from May 8 to 10.

On their six-hour ride to Wilmington, Del., the Newton South High School Mock Trial team members eschewed the lure of their chartered bus' DVD player and kept their conversation of AP exams, 80's rock bands and *Cosmo Girl* quizzes brief. They chose instead to work on directs, crosses, openings and closings in preparation for their appearance in the National High School Mock Trial Tournament.

When they reached Wilmington, the work continued late into the night. Even their time at the hotel pool — where they landed after discovering that their practice room was too small to accommodate the 25-member team — was spent working. With no lifeguard on duty, the team scrimmaged against the team from Maine as Newton South's attorney coach, Elliott Loew, judged from a "bench" that bore a strong resemblance to the hotel's towel-return bins.

"In the state tournament, they could stay in the background more," said teacher coach Brian Hammel,

noting that at nationals, everyone had a role to play, even though the national tournament allows just nine students to compete and be on the official team roster.

At nationals, the students compete in four trials in two days. And unlike the state tournament, they don't know the trial results until the tournament is over. "You get tired in the middle," says Alex Soltoff, whose brother Ben was one of the nine official team members, "but everybody did their best to fight the fatigue." Like most of the students, Soltoff derives energy from "seeing all these other teams from all these other places doing the same thing as you."

When the students reach the closing awards banquet, they don't yet know that they have finished 22 out of 42 teams, with a 2-2 record. Only the top 10 finishers are announced at the banquet and when two of the teams Newton South faced finish fourth and fifth respectively, it's clear that the students are disappointed not to be in the top 10.

Like many on the team, senior Sam Lee takes the news in stride. "There are going to be people who are better at this than you," he says. "And it's a good feeling to go to nationals and see so many people who are really committed to Mock Trial."

Loew and Hammel are working hard to build that sense of commitment in the team. Despite sharing the students' disappointment at not finishing higher, Loew is confident that the team "learned the one thing we really wanted them to take away from this. They want to come back to nationals again."

On the bus ride home, there are differing opinions about their performance, their preparation methods, the judging and the proper balance between the legal and theatrical aspects of a mock trial. But there is also time for spirited debate about where "Born to Run" ranks among Bruce Springsteen's classic songs. Overall, it is clear that the students enjoyed their time in Delaware. "We were the team that came to win," says senior Josh Larson, "but ended up having fun!"

**The 2008 Newton South High School Mock Trial Team**

Sascha Bercovitch  
Eddie Bernson  
Matt Breuer



**The nine official members of Newton South High School's National High School Mock Trial Championship tournament roster pose after a trial at Wilmington's New Castle County Courthouse.**

**Back row, from left to right:** Jay Clifford, Adam Goldsmith and Sam Lee; **front row, from left to right:** Allen Li, Ben Soltoff, Alex Kaufman, Marie Tanaka, Marty Loew and Josh Larson.

Nick Chen  
Jay Clifford  
Dan Freshman  
Adam Goldsmith  
Adam Grossack  
Tom Haskin  
Brian Hoffman  
Dan Hurwit  
Tanny Kang  
Luke Kashdan  
Alex Kaufman  
Dan Klein  
Anthony La  
Josh Larson  
Sam Lee  
Allen Li  
Marty Loew  
Alon Mark  
Roy Michaely

Anusha Mookerjee  
Chloe Pletner  
Dan Sazer  
Sam Sazer  
Alex Schneider  
Alex Soltoff  
Ben Soltoff  
Mike Summergrad  
Marie Tanaka  
Harry Wayne  
DJ Zelle  
Jamie Zhang

**Attorney Coach**  
Elliott Loew

**Teacher Coach**  
Brian Hammel



Photo by Christine Baronas

**On May 9, MBA Past President Mark D Mason presented certificates of merit to the Pioneer Valley Performing Arts Charter High School's Mock Trial team at an awards ceremony in South Hadley. Similar ceremonies were held at schools across the state to recognize regional winners who advanced to the "Sweet 16" round in the 2008 High School Mock Trial Tournament. PVPA was the eventual runner-up in the tournament, which was won by Newton South High School.**

**A team member receives her certificate from PVPA coach Gary Huggett (left) and Mason.**

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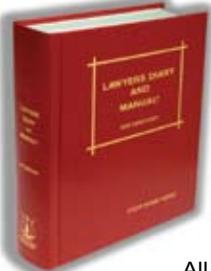
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## Featured benefit

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Remote service	\$55/half-hour <b>half-hour minimum</b>	\$62.50/half-hour <b>half-hour minimum</b>

Visit the Geek Officecalls Web site at [www.geekofficecalls.com](http://www.geekofficecalls.com) for more information. Since 2001, Geek Officecalls and Geek Housecalls have served more than 15,000 local customers.

*\*Valid MBA membership required.*

## Member benefit snapshot

Member benefits are highlighted in each week's issue of *Lawyers e-Journal*. Below is a recently featured benefit.

### EsqSites123.com: Helping solo, small firm attorneys build affordable Web sites

EsqSites123.com is a leading provider of affordable law firm Web sites to sole practitioners and small firms. EsqSites123.com is offering its products to MBA members at a special, discounted rate on packages starting as low as \$99.

Designed for sole practitioners and small firms, EsqSites123.com provides customizable Web site templates that are easy to use and inexpensive to create and maintain, with an affordable, simple pricing structure that consists of a one-time setup fee and monthly maintenance fees.

"EsqSites makes it easy for anyone to set up a basic Web site — it can literally be done in minutes," says CEO and co-founder **Anthony E. Kalikas**. EsqSites offers several Web site packages to provide small-firm attorneys with as much

of a Web presence as they choose, with the flexibility to upgrade and change as needed.

All Web packages purchased from EsqSites123.com offer secure hosting, usage reports and submission to search engines such as Google and Yahoo, personalized e-mail accounts, interchangeable templates and phone support.



**NOTE:** Be sure to enter **discount code "MBA"** to obtain a 25 percent discount on setup fees.

For the full range of MBA member benefits, see this month's insert. It highlights newly added, exclusive discounts as well as our more popular ongoing benefits.

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Your Partner IN THE Profession

## Four Eco-Challenge participants honored for their strides in greening their practices

*Continued from page 6*

bike, rent a Zipcar, or hop on the subway. When the MBA announced the Eco-Challenge, he was thrilled to be a part of it.

"I had not previously seen this commitment take root on a broad scale with a shared sense of purpose among attorneys," Sayre explained. "I found the program highly validating in terms of knowing that my own efforts were not in isolation."

Sayre urges other lawyers to be examples for their clients: "The collective client base of the firms that have pledged to the Eco-Challenge spans the regional economy. As these clients look to their lawyers as trusted advisors, these initiatives will spread further and the impact will be magnified."

Since the Eco-Challenge began, Sayre shifted to using recycled paper and printing double-sided paper, replaced his incandescent light bulbs with compact fluorescent bulbs, and began recycling his printer cartridges. His commitment to sustainability is now an important part of the identity and vision for Modern Times Legal, and he looks forward to continually implementing new ideas.

Sayre added that his awareness of environmental responsibility does not stop when he leaves the office at night, but persists in the aisles of the grocery store, and in his own home.

"It's contagious," he said, "Fortunately, my wife is fully on board and we enjoy working together in greening our home."

### Estate-planning firm cuts down on paper and fuel; saves money and boosts morale

Borchers, Ware & Guglielmo PC, Medway



Photo by Jeff Thiebauth

**Borchers, Ware & Guglielmo PC**

"Our firm is still working on changing years of habits in printing of estate plans and in resistance to telecommuting," said Managing Partner Timothy B. Borchers. "We have bugs to work out." But Borchers, Ware & Guglielmo PC — a six-attorney Medway firm that specializes in estate planning — has taken several important steps to eliminate those bugs.

The firm signed up for the Eco-Challenge the day

after it launched in January. "The Eco-Challenge seemed a logical extension of our vision as a law firm in which we emphasize caring for people and their assets," explained Borchers.

Since then, they have formed a Green Up Committee to implement changes at the firm, which include switching to double-sided printing, installing additional programmable thermostats and implementing new recycling systems. The committee also developed standards for telecommuting effectively from home one day every three weeks.

"We decided to adopt an approach to most of our planning that was along the lines of 'better a little than nothing at all,'" Borchers noted. For example, while the firm is not yet prepared to make telecommuting the office norm, allowing each employee one day per month to telecommute adds up. Ten employees telecommuting once a month spares 120 commutes and several hundred miles per year.

Borchers described the small changes as "very gratifying," though he expects the changes to snowball. He predicts major changes to occur within about a year's time.

The firm has already challenged other businesses in its office building to reduce energy use. The staff has noticed a morale boost not only among themselves, but also among neighboring businesses.

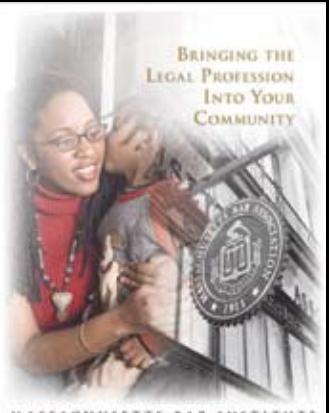
Borchers urges other law firms to embrace the challenge. "Becoming more ecologically friendly boosts morale, image and savings all at once," he explained. "Rather than thinking of this as a burden, schedule times to think through the ideas. Adopt the simple ones first and expand over time."

*For more information on the Lawyers Eco-Challenge,  
visit [www.massbar.org/ecochallenge](http://www.massbar.org/ecochallenge)*

We invite you to invest in the future of MBA programming, as the association continues to expand its roster of community services programs in cities and towns across Massachusetts.

Any and all contributions are welcome.

**For more information, visit  
[www.massbar.org/MBIfund](http://www.massbar.org/MBIfund)**



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NYSE:FCN

## 29th Annual Labor & Employment Law Spring Conference

*Continued from page 2*

hearings and administration. Thomas-George discussed how a 2007 standing order altered the way enforcement is handled. She also mentioned that there is talk of opening a new office in New Bedford.

Attendees of the conference enthusiastically participated in the interactive panels.

“Evidentiary Issues in the Labor Arbitration Context” discussed the basis for obtaining and enforcing arbitral subpoenas, making effective use of information requests and conflicts between orders to provide information and privacy interests. Attendees debated two hypothetical cases involving one fictitious employee accused of stealing a paycheck and employees’ rights to unemployment benefits after termination.

“Implicit Bias and Stereotyping: Theory and Practice” covered the theoretical underpinnings of the notion that implicit bias motivates actions in the workplace, and explored how these insights influence the enforcement of anti-discrimination laws. The attendees were asked to rate the resumes of two fictitious candidates for a summer law clerk position, then discussed the implicit bias associated with particular items on each of the resumes.

“Survey of Employment Law Developments” examined the hottest employment law developments from 2007 and early 2008. Topics included discrimination based on disability, age, race, national origin, religion, gender and sexual orientation; harassment of all types; retaliation; the Family and Medical Leave Act; constitutional claims; common law/business torts including noncompete, nondisclosure and nonsolicitation agreements; wrongful termination; covenant of good faith and fair dealing; interference with advantageous/contractual relations; misrepresentation, deceit and fraud; negligent hire; suspension or retention; defamation and breach of contract; and remedies.

Labor & Employment Section Co-Chair Catherine E. Reuben said the conference was exciting and informative, providing practitioners with a lot of new information and practice tools. “People were getting really into it,” said Reuben, who co-chairs the section with David E. Belfort. “It was a great event.”



Rodney S. Dowell, Esq.  
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## MBF Fellows fund stipends for seven local law students exploring careers in public interest law

To promote careers in public interest law, the Massachusetts Bar Foundation awards stipends to law students who intern at legal aid organizations during the summer months. Since its inception in 1996, the Legal Intern Fellowship Program has awarded more than \$297,000 to 78 law students. Funded through the MBF Fellows Fund and the Smith Family Fund, the LIFP serves as a springboard to public interest law careers for the area's most promising law students.

The Foundation recently selected the following seven students to receive stipends for their summer work:

### **MBF Fellows Fund Fellows**

*Funded through pledge payments of MBF Fellows*

#### **Emily Barbour**

Boston College Law School  
Children's Law Center of Massachusetts – EdLaw Project

#### **Jubilee Menzies**

Boston College Law School  
Alternatives for Community and Environment – Massachusetts Environmental Justice Assistance Network

#### **Matilda Mutanguha**

Suffolk University Law School  
Neighborhood Legal Services – Domestic Violence Immigration Project

#### **Mekhala Raghupathy**

Boston College Law School  
Greater Boston Legal Services – Latinas Know Your Rights Project

#### **Jacqueline Silva-Sanchez**

Stanford Law School  
WilmerHale Legal Services Center

#### **Smith Family Fellow**

*Funded through the Smith Family Fund, and awarded for work with children*

#### **John Espinosa**

University of Michigan Law School  
Children's Law Center of Massachusetts – Education Advocacy Program

In addition, this year, in memory of MBF Fellow and lifelong legal services advocate Nancy King, a special fellowship has been created in her honor.

#### **Nancy King Memorial Fellowship**

*Funded through the contribution of MBF Holmes Fellow Elaine Epstein*

#### **Emily Strickland**

Suffolk University Law School

South Middlesex Legal Services – Housing Unit

Chaired by MBF Trustee Robert Marchand, this year's selection committee faced a daunting task of selecting just seven from a highly competitive pool of

candidates.

"It is humbling to see the work these kids are doing at such early stages of their careers," Marchand remarked. "Despite barriers to entering public interest law, most notably the exorbitant cost of law school, it gives hope that there continues

to be a healthy number of law students committed to dedicating their careers to public service."

*For more information about the MBF's Legal Intern Fellowship Program, visit [www.MassBarFoundation.org](http://www.MassBarFoundation.org).*



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## Member Spotlight

### **Supreme Judicial Court appoints MBA General Counsel Martin W. Healy to Board of Bar Examiners**



**Martin W. Healy**

The Supreme Judicial Court recently appointed Martin W. Healy, general counsel at the Massachusetts Bar Association, to the Board of Bar Examiners. His appointment is effective on June 1 and expires on Oct. 1, 2012. Healy fills the position previously held by Alice E. Richmond, a past president of the MBA (1986-87).

The Board of Bar Examiners, consisting of five members appointed by the SJC, makes rules with reference to examinations for admission to the Massachusetts bar and the

qualifications of applicants, in accordance with SJC Rule 3:01. The board prepares, administers and grades the bar examinations, evaluates applicants' requirements, and issues reports to the SJC.

Healy, of Wilmington, has worked at the MBA since 1989, and was promoted to general counsel in 1997. He also served the MBA in a dual capacity as both general counsel and interim executive director on two separate occasions.

Previously, he was a law clerk in the Suffolk County District Attorney's Office and in the Law Office of William F. Coyne in Boston. Healy has also served as a senior legislative aide in the Massachusetts Senate. Among his numerous professional activities, Healy is a pro bono defense counsel for the Committee for Public Counsel Services, an editorial board member of *Massachusetts Lawyers Weekly* and a member of the SJC Judiciary-Media Committee.

### **Mass. Appeals Court Chief honored at RWU School of Law Commencement**

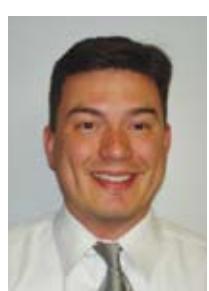


**Hon. Phillip Rapoza**

Roger Williams University School of Law awarded an honorary degree to the Hon. Phillip Rapoza, chief justice of the Massachusetts Appeals Court and an influential figure in international human rights law, at its May 16 commencement ceremonies.

Rapoza received the honorary doctorate of laws for his leadership in the Massachusetts Appeals Court and his commitment to working on international legal issues. He has served as the only U.S. judge on the Special Panels for Serious Crime, a war crimes tribunal established by the United Nations to deal with crimes against humanity and human rights violations committed in East Timor during the country's quest for independence. Within three months of his appointment, he was promoted to chief administrative judge of the panel.

### **Jorge A. Solis to lead National Subrogation Division at Gibson & Behman PC**



**Jorge A. Solis**

Gibson & Behman PC in Burlington recently announced that Jorge A. Solis will head its National Subrogation Division.

In this expanded role, Solis, who joined the firm in 2003, will oversee the firm's division on subrogation cases, one that has grown in the wake of an increasing number of cases whereby insurance companies are paying claims caused by the negligence of a third party.

"It is with pleasure that we announce Jorge as the head of our National Subrogation Division," said Daniel P. Gibson, co-founder and chairman of Gibson & Behman PC. "His background as an assistant district attorney, and the comprehensive work he has done since joining us in 2003, makes him the optimum choice to lead this important and growing division."

### **Massachusetts Association of Court Appointed Attorneys elects new leadership**



**Robert Dimler**



**Deborah Butler**

On April 12, the Massachusetts Association of Court Appointed Attorneys held its annual election at its annual meeting in Worcester.

MACAA President Mark Hare said, "MACAA has united lawyers from every part of the state and has evolved into an organization which has the strength and expertise to effectively address issues of concern to its members."

The 2008-09 officers are: President Mark Hare, Springfield, Hampden County; Vice

President William Smith, Holden, Worcester County; Vice President Robert Dimler, Plymouth, Plymouth County; and Clerk/Treasurer Deborah Sirotnik Butler, Arlington, Middlesex County.

The 2008-09 board of directors are: Michael Cashman, Charlton, Worcester County; Beverly Chorbajian, Worcester, Worcester County; Julia Durnanek, Holyoke, Hampden County; Robert Iacobelli, Worcester, Worcester County; Aviva Jeruchim, Boston, Suffolk County; Nancy McLean, Dennis, Barnstable County; George Mulgrew Jr., Lexington, Middlesex County; D.J. Phillips, Danvers, Essex County; and Marie Elena Saccoccia, Cambridge, Middlesex County.

### **MBA Past President Mark Mason honored with the MBA Community Service Award at MLGBA Annual Dinner**



Photo courtesy of Marilyn Humphries

**MBA President David W. White Jr. presents MLGBA member and MBA Past President Mark D. Mason the MBA Community Service Award on May 9.**

The Massachusetts Bar Association recently honored Past President Mark D. Mason with a Community Service Award for his ongoing commitment to using his legal skills to serve the public. Mason, a Springfield resident, has practiced at Cooley Shriram PC in Springfield for 14 years.

The MBA created the Community Service Award Program in 1984 to recognize attorneys and judges who have made public service contributions to their communities. Recipients are nominated for the award by county and other MBA-affiliated bar associations. Mason was nominated by the Massachusetts Lesbian & Gay Bar Association, of which he has been an active member for 15 years, and was given the award at MLGBA's annual dinner at the Royal Sonesta Hotel in Cambridge in Cambridge on May 9.

"Mark's dedication to his profession and his community is extraordinary," said MBA President David W. White Jr., who presented the award to

Mason. "He leads by example, and has consistently dedicated his time and talent to serve the needs of others."

Mason made history in 2006 when he became the first — and thus far, only — openly gay and married bar association president in the nation. As president of the MBA for the 2006-07 association year, Mason focused on establishing and expanding law-related education programs across the state, including the Choose Law program, the Judicial Youth Corps and Lawyer-Teacher Partnership program.

Mason's volunteer work is diverse, as he divides his time between legal organizations and local community groups. He is co-founder and past president of the Gay & Lesbian Civic Association of Greater Springfield, past chair and commissioner of the Springfield Cultural Council, as well as a board member of the Holyoke Street School, the Community Music School of Springfield and the Hampden County Bar Association.

"It's not a matter of taking time to volunteer. It's a matter of pursuing a lifestyle that you find meaningful and enjoy. It's always been important to me to help people and to be sure there's justice in the world," Mason said.

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## MBA CALENDAR OF EVENTS

\*Unless otherwise indicated, call MBA Member Services (617) 338-0530 or toll-free at (877) 676-6500 for more information or to register.

### Wednesday, June 4

#### Second Annual Public Law Conference

8:30 a.m.–1 p.m.

*Course #: PUB08*

*Holiday Inn Boston at Beacon Hill,  
5 Blossom St., Boston*

Attorneys representing governmental bodies and those who litigate matters before agencies of the government are facing an ever-changing set of issues related to attorney-client privilege, the balancing of governmental transparency and the need for non-public deliberation of legal issues. Governmental bodies are also undergoing change as new leaders and restructured agencies attempt to find more efficient means of resolving disputes and serving various constituencies. In this context, our panelists will address the special role and obligations of public counsel in serving the needs of their client agencies as well as broader public policy objectives. Discussions will focus on attorney-client privilege, the Public Records Law, the Open Meeting Law and the Division of Administrative Law Appeals.

*Faculty:* Robert J. Ambrogi, Esq., Law Office of Robert J. Ambrogi, Rockport; Suzanne M. Bump, Esq., Secretary, Department of Labor and Workforce Development, Boston; Martin S. Ebel, Esq., Commissioner, Massachusetts Commission Against Discrimination, Boston; Daniel J. Hammond, Esq., Office of the Attorney General, Boston; Rebecca Murray, Esq., Office of the Secretary of the Commonwealth, Division of Public Records, Boston; Shelly L. Taylor, Esq., chief administrative magistrate, Division of Administrative Law Appeals, Boston; Thomas J. Urbelis, Esq., Urbelis & Fieldsteel LLP, Boston; Shawn A. Williams, Esq., Office of the Secretary of the Commonwealth, Division of Public Records, Boston.

#### Criminal Trial Practice Series: The Nuts and Bolts of Trial Practice – Wrap Up Session

12:45–2 p.m.

*Course #: CJD08*

*Introductory level*

*Hampden Hall of Justice, 50 State St., Springfield*

Back by popular demand, the successful Criminal Trial Practice Series faculty will return for a fourth wrap-up session that

will provide deeper coverage of practical tips on effective advocacy and proper trial preparation. Join the expert panel for further discussion of the topics you want to hear more about.

*Faculty:* Hon. M. John Schubert Jr., Orange District Court, Orange; Daniel R. Bergin, Esq., Daniel R. Bergin, Attorney at Law, Springfield; James M. Forsyth, Esq., Hampden County District Attorney's Office, Springfield; Mark G. Mastroianni, Esq., Mark G. Mastroianni, Attorney at Law, Springfield; Jane D. Montori, Esq., Hampden County District Attorney's Office, Springfield; William T. Walsh Jr., Esq., Worcester County District Attorney's Office, Worcester.

### Tuesday, June 10

#### Chronic Pain in Workers' Compensation Litigation

4–7 p.m.

*Course #: CLJ08*

*Intermediate level*

*MBA, 20 West St., Boston*

Are you a workers' compensation practitioner whose matters involve claims of chronic pain? Gain a better understanding of the various mechanisms of the condition with the help of medical experts who will supply medical evidence for the available therapeutic options. Panelists will discuss the nature of chronic pain, why it exists and provide an update on current medical evidence and the effective marshalling of evidence to support or controvert a claimant's claims.

*Faculty:* Channing Migner, Esq., program chair, Law Office of Channing Migner, Worcester; Hon. Herbert C. Dike, Department of Industrial Accidents, Boston; Eugenio Martinez, MD, Boston Spine Clinic, New England Baptist Hospital, Boston; Robert Naparstek, MD, Caritas Good Samaritan Occupational Health Services, Avon; Janet D. Pearl, MD, medical director, Complete Pain Care Center, Framingham; Erika G. Soong, Esq., Tentindo, Kendall, Canniff & Keefe, Charlestown; Scott Tromanhauser, MD, Boston Spine Clinic, New England Baptist Hospital, Boston.

### Wednesday, June 11

#### Recent Developments in Elder and Probate Law

4–7 p.m.

*Course #: PLG08*

*Introductory level*

*MBA, 20 West St., Boston*

The MBA's popular Recent Developments in the Law programs provide an annual update on the most significant cases and changes in the law. The practice of elder law requires a constantly evolving knowledge of statutory, regulatory and administrative interpretation, as well as sharp advocacy techniques. This presentation will summarize the national trends in the practice over the past year and discuss expectations about how Massachusetts practice will consequently evolve. Our expert probate law panelists will provide a review of decisions relating to estates, trusts, fiduciary duties and related tax issues in Massachusetts. Faculty will also discuss recently promulgated rules and forms for guardianship proceedings in the probate and family courts.

*Faculty:* John G. Dugan, Esq., program chair, Doherty, Ciechanowski, Dugan & Cannon PC, Franklin; Alex L. Moschella Jr., Esq., Moschella & Winston, Somerville; Edward Notis-McConarty, Esq., Hemenway & Barnes, Boston; Neal A. Winston, Esq., Moschella & Winston, Somerville.

### Thursday, June 12

#### Bread and Butter Issues in Labor Law: Information Requests and Deferral to Arbitration

*Luncheon Roundtable (lunch provided)*

Noon–2 p.m.

*Course #: LEK08*

*Intermediate level*

*Mirick, O'Connell, DeMallie & Lougee LLP, 100 Front St., Worcester*

Two of the most common issues for all labor law lawyers are requests for information and deferral issues. National Labor Relations Board Regional Director Rosemary Pye and Regional Attorney Ronald S. Cohen will review case law and practitioner tips to clarify these problematic topics for both unions and employers. Specific topics will include improving the bargaining relationship by avoiding disputes; weighting the relevance of information; confidentiality issues; circumstances in which the NLRB will and will not defer to arbitration; and more. Faculty will also address any questions on recent NLRB cases and Region 1 procedures.

*Faculty:* Nicholas Anastopoulos, Esq., program chair, Mirick, O'Connell, DeMallie & Lougee LLP, Worcester; Ronald S. Cohen, Esq., NLRB, Boston; Rosemary Pye, Esq., NLRB, Boston.

## Save the Date

### Tuesday, Sept. 23

#### Legal Tech Expo

*Sheraton Boston, 39 Dalton St., Boston*

### Wednesday, Nov. 12

#### Annual Gala Dinner

*John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Boston*

### Friday, March 20, 2009

#### Legal Tech Expo

*Sheraton Framingham, 1657 Worcester Road, Framingham*

#### How to Prepare For and Respond to Federal Compliance Investigations

4–7 p.m.

*Course #: LEJ08*

*Intermediate level*

*MBA, 20 West St., Boston*

Join us for this timely, practical seminar designed to help you assist your clients in promptly and comprehensively responding to federal audits and investigations, and in helping your clients avoid them. The program will feature panels on both DOL and ICE investigations and compliance.

*Faculty:* Christina Montgomery, Esq., program co-chair, Law Office of Christina Montgomery, Waltham; Elizabeth Neumeier, Esq., program co-chair, mediator/arbitrator, Gloucester; Berin S. Romagnolo, Esq., program co-chair, McCarter & English LLP, Boston; Roy J. Watson, Jr., Esq., program co-chair, Watson Law Offices, Bedford; Daniel S. Field, Esq., Morgan, Brown & Joy LLP, Boston; Errol Flynn, special agent, U.S. Bureau of Immigration and Customs Enforcement, Boston; Matthew Lee, Esq., Tocci, Goss & Lee PC, Centerville; Richard D. Neville, Esq., deputy chief counsel, U.S. Bureau of Immigration and Customs Enforcement, Boston; Patricia Slate, wage hour consultant, Newton.

### Tuesday, June 17

#### Symposia on Domestic Relations Practice: Contempt and Modification

4–6 p.m.

*Course #: FLH08*

*Introductory level*

*MBA, 20 West St., Boston*

*Presented by Paul M. Kane, Esq., from*

**January to June 2008**

Join us for the final component of a six-month symposia focusing on domestic relations practice, presented by Paul M. Kane, a partner in the Boston law firm of McGrath & Kane. Specializing in family law, Kane is a former assistant dean of Boston College Law School and has been a family law lecturer at Boston College since 1970. Judge Edward M. Ginsburg (ret.) is the commentator for the symposia. Discussion topics include enforcement of court orders and changed circumstances.

**Tuesday, June 17****An Open Dialogue on Court Practices***4:30–6:30 p.m.**Fenton Judicial Center, 2 Appleton St., Lawrence*

The MBA, the Massachusetts Trial Courts, the Court Management Advisory Board and Essex County Bar Association present a statewide opportunity for dialogue among judges, lawyers and court personnel on court practices and procedures. This is the second in a series planned to take place around the commonwealth from May through October 2008.

**Wednesday, June 18****Managing a Paperless Law Office – Going Green in a Small and Solo Practice***Afternoon Roundtable (refreshments provided)**3–4:30 p.m.**Course #: LPE08**Introductory level**Northampton District Court, 15 Gothic St., Northampton*

Tired of never finding the document you want when you need it most? Intimidated by the growing trend toward electronic filing required in the court and agency systems? Learn to shed your reliance on paper and join the ranks of lawyers shifting toward a paperless, resource-friendly office environment. Those seeking a competitive advantage with larger firms — for both litigation and transactional practices — should attend.

*Faculty:* Channing Migner, Esq., program chair, Law Office of Channing Migner PC, Worcester; Daniel K. Gelb, Esq., Gelb & Gelb LLP, Boston.

**Complex Issues and Emerging Trends in Class Action Litigation***4–7 p.m.**Course #: CLR08**Intermediate level**MBA, 20 West St., Boston*

The purpose of this seminar is to raise awareness of complex issues and to provide an update on current trends and recent developments in state and federal class action litigation. The seminar will provide the perspectives from plaintiff and defense counsel, as well as the bench. Don't miss this seminar if you are a civil litigator handling class actions in either state or federal court in Massachusetts.

*Faculty:* Lauren Guth Barnes, Esq., program chair, Hagens, Berman, Sobol, Shapiro LLP, Cambridge; Hon. Patti B. Saris, district judge, U.S. District Court; R. Bruce Allensworth, Esq., Kirkpatrick & Lockhart Preston Gates Ellis LLP, Boston; Alex H. MacDonald, Esq., MacDonald, Rothweiler & Eisenberg LLP, Boston; Kristen Marquis Fritz, Esq., Thornton & Naumes LLP, Boston; Mark P. Szpak, Esq., Ropes & Gray LLP, Boston.  
*\*Additional faculty to be announced.*

**Thursday, June 19****Practical Information for the Real Estate Attorney – Construction Loans to Short Sales in 2008***4–7 p.m.**Course #: PRD08**Introductory level**MBA, 20 West St., Boston*

A rapid increase in bankruptcy filings and foreclosures is changing the environment for real estate practitioners. Join us for this informative and timely seminar to prepare yourself to practice in this new environment. Discussion topics will include mechanics liens; short sales; construction loans; orders of conditions; attachments and executions and prevention of title mishaps.

*Faculty:* Elizabeth J. Barton, Esq., program chair, Connecticut Title Insurance Co. (CATIC), Wellesley; John M. Donnelly, Esq., Office of the Attorney General, Boston; Amanda Zuretti, Esq., CATIC, Wellesley.

**Wednesday, June 25****Screening and Handling Medical Malpractice Claims***Luncheon Roundtable (lunch provided)**12:45–2 p.m.**Course #: CLL08**Introductory level**MBA Western Mass. office, 73 State St., Springfield*

Gain a deeper understanding of the pertinent issues and tasks related to the decision to pursue and move forward with

**Tuesday, July 22 and Tuesday, Aug. 19****District Court Survival Guide***Course #: CLM08 (civil); Course #: CLN08 (criminal)**4–6:30 p.m.**Introductory level**MBA, 20 West St., Boston*

This pair of seminars is designed to educate practitioners on the fundamentals of civil and criminal litigation in the district courts of Massachusetts. Topics for the civil program will include preparing cases for trial, motion practice, trials and appeals. Topics for the criminal program will include arraignment, bail, trial and 209A practice. The civil seminar meets on Tuesday, July 22, the criminal seminar on Tuesday, Aug. 19.

*Faculty (both programs):* Amy Cashore Mariani, Esq., program chair, Fitzhugh, Parker & Alvaro LLP, Boston; Hon. Robert A. Cornetta, presiding justice, Salem District Court.

*Faculty (civil practice):* Kathleen M. Guilfoyle, Esq., Campbell, Campbell, Edwards & Conroy PC, Boston; Ann O'Malley, Esq., O'Malley & Harvey, Boston.

*Faculty (criminal practice):* Matthew T. Duffy III, Esq., Law Office of Matthew T. Duffy, Everett; Martin F. Kane II, Esq., McGrath & Kane, Boston; Raymond Sayeg Jr., Esq., Denner Pellegrino LLP, Boston.

*\*Discounted rates available for attending both the civil practice and criminal practice seminars.*

**Monday, June 23 and Wednesday, July 23****Trial Practice Luncheon Roundtable Series***Noon–2 p.m.**Course #: CLT08 / CLU08**Introductory level**MBA, 20 West St., Boston*

Join us for two exciting luncheon roundtables that will break down the various components of a trial and help attendees develop and enhance their skills as trial attorneys. Our expert panel, comprising top litigators in their respective fields with a wide variety of experience in trying cases, will share practical tips on effective advocacy and proper preparation. Attendees will learn real-life courtroom skills and specific strategies for implementing those skills in their practice.

**Pretrial Preparation and Jury Issues (June 23)***Course #: CLT08*

Specific topics will include preparing a trial notebook, motions in limine, voir dire and empanelment, jury instructions and preparing witnesses.

**Trial Issues (July 23)***Course #: CLU08*

Specific topics will include opening statements, evidence and objections and closing arguments.

*Faculty:* Jeffrey N. Catalano, Esq., program chair, Todd & Weld LLP, Boston; Hon. Andrew M. D'Angelo, associate justice, Stoughton District Court; Alice B. Braunstein, Esq., Duane Morris LLP, Boston; Terrance J. Hamilton, Esq., Casner & Edwards LLP, Boston.

potential medical malpractice claims.

Faculty will discuss factors to weigh when considering pursuing a potential claim, preparing to file suit and how to succeed in a medical malpractice tribunal. Whether you are an attorney who has handled medical malpractice claims, or are simply considering it, this luncheon roundtable is

an ideal opportunity to learn strategies to succeed.

*Faculty:* Robert H. Astor, Esq., program chair, Law Offices of Attorney Robert H. Astor, Springfield; Susan D. Sachs, Esq., Morrison Mahoney LLP, Springfield.

*\*Additional faculty to be announced.*

## Bar Bulletin Board

Lawyers Journal publicizes the recent and upcoming events of its affiliated bar associations. Submit items for publication to MBA Bar Services Liaison Patricia O. Plasse at [pplasse@massbar.org](mailto:pplasse@massbar.org) by the first week of each month.

The Massachusetts Lesbian and Gay Bar Association held its 23<sup>rd</sup> Annual Dinner Celebration on May 9. The packed ballroom at the Royal Sonesta Hotel in Cambridge honored former MBA President and MLGBA member Mark D Mason with the MBA Community Service Award. Current MBA President David W. White Jr. presented Mason with the award. *See page 18 for related article.*

The MLGBA also honored former MLGBA co-chair and attorney for Foley Hoag, Vickie L. Henry with the Gwen Bloomingdale Pioneer Spirit Award. The Massachusetts Transgender Political Coalition and its director, Gunner Scott, received the Kevin Larkin Memorial Award for Public Service.

In addition, the MLGBA named M. Barusch from Boston University School of Law the second recipient of the Alec Gray Jr. Scholarship, which is granted to one law student each year.

Family law practitioners from Barnstable and Plymouth Counties attended the seminar, "The Elements of Proof in a Removal Case," held at Barnstable Probate and Family Court on April 17. Hosted by the Family Law Committee of the **Barnstable Bar Association**, it examined the dynamic law of removal by staging portions of a fictional trial, *Zelda Zaftig v. Harry Hirsute*. A reception at the Barnstable Tavern followed the seminar.



**From left:** Barnstable Probate and Family Court Judge Robert A. Scandurra and Susan A. Huettner, Law Office of Susan A. Huettner PC, Falmouth, at the reception after the program.

Photo by Bruce McDaniel Photography

The annual **Plymouth County Bar Association** Law Day Ceremonies were held at Hingham District Court on May 1, celebrating the 50<sup>th</sup> anniversary of Law Day. The theme for this year's Law Day was "The Rule of Law — Foundation for Communities of Opportunity and Equity." Fifth and eighth grade students from schools in Hingham, Rockland and Scituate participated in this year's poster and essay contests and presented their submissions. Savings bonds and gifts were presented to the winners.

This year's keynote speaker was the Hon. Margot Botsford, associate justice of the Supreme Judicial Court.

### Lt. Gov. Timothy P. Murray delivers keynote speech at Worcester County Bar Association's Law Day Breakfast

More than 200 people attended the WCBA's Annual Law Day Breakfast, held at the Crowne Plaza Hotel in Worcester on May 1. Lt. Gov. Timothy P. Murray, attorney and former mayor of Worcester, delivered the keynote address, which focused on the 2008 Law Day theme: the meaning of the rule of law.

MBA President David W. White Jr. also presented the MBA Community Service award to attorney Douglas Q. Meystre, of Fletcher, Tilton & Whipple in Springfield.



**Community Service Awardee Douglas Q. Meystre is flanked by David W. White Jr. (left) and Lt. Governor Timothy P. Murray (right).**

Photo by Pat Plasse

### Appeals Court Chief Justice Phillip Rapoza praises the work of lawyers at Bristol County Bar Association Annual Dinner

The Bristol County Bar Association honored Taunton attorney Thomas P. Gay, of Gay, Gay & Field PC, with the MBA Community Service Award on April 18, at the association's annual dinner at Hawthorne Country Club in North Dartmouth. Appeals Court Chief Justice Phillip Rapoza, a New Bedford native who practiced and served as a judge in Bristol County for many years, was the guest speaker at this year's dinner. We reproduce the concluding remarks of his speech with his permission:



**Hon. Phillip Rapoza**

*In conclusion, let me say that there are times when I think we have emphasized too much the distance between the bench and the bar. Even in my current position, I consider myself a lawyer, although my role in the profession is to serve as a judge. This is not necessarily the case in other legal systems around the world. As your president mentioned in his kind introduction, I was a judge on a war crimes tribunal established by the United Nations in East Timor. There I served with judges from across the globe, all of them dedicated men and women doing important work in difficult circumstances. But not one of them had ever been a lawyer. Of course they had law degrees, but in their systems of justice becoming a judge was part of a career path leading directly from law school to the judge's lobby.*

*Not one had ever had a client or had the experience of taking on the burdens of another by representing him. My colleagues were outstanding scholars of the law, but none had ever held the hand of a person in need or seen how justice is experienced from the other side of the bench. Put another way, for them, justice had never been up close and personal the way it is every day for every lawyer in this commonwealth.*

*Justice is not only a basic human right. Justice is also a basic human need. We, each of us, need food and water, shelter and safety. But we also need justice to live lives worth living. Our judicial system is charged with ensuring that the American creed as expressed in the Pledge of Allegiance is made real, and that we are indeed a nation of "liberty and justice for all." There is no group in our society more aware of that fact and more committed to its accomplishment than our lawyers, and I salute them all.*

*It is well for us on the Appeals Court to remember that the magnificent courthouse in which we are located is named not after a judge, but a lawyer. When John Adams wrote the Massachusetts Constitution, in which he laid the foundation for an independent judiciary, he did so not as a judge defending his turf. Rather, he composed that document as a lawyer who understood in the most profound way the importance of a free, impartial and independent judiciary to the rule of law and the democracy that it supports.*

*So as you can see, from the very beginning, our judicial system has depended on the commitment and service of lawyers. And that is true even today. I commend all of you for what you do and I thank you for the opportunity to address you this evening.*



**Pictured, from left are Community Service Awardee Thomas P. Gay, his father Peter Gay and MBA President David W. White Jr.**

## White assembles Drug Policy Task Force



Photo by Tricia Oliver

**Washington State Representative Roger Goodman, left, and MBA President David W. White Jr. speak at the inaugural Drug Policy Task Force meeting.**

On April 29, MBA President David W. White Jr. led the first meeting of the MBA's Drug Policy Task Force. More than one dozen attorneys, as well as civic and other nonprofit group leaders, were in attendance to begin the dialogue surrounding drug policy reform as it relates to criminal sentencing. Since then, the group convened a second time on May 19.

On hand for the task force's inaugural meeting was Washington State Rep. Roger Goodman, who has been instrumental in advocating and implementing policies in his state that focus on rehabilitation rather than incarceration for drug use and distribution offenses. This was Goodman's second visit to the Bay State in recent months. He also was a key panel member at the MBA's Criminal Sentencing Symposium held at the State House in October.

For more information on the MBA Drug Policy Task Force or criminal sentencing initiatives, visit [www.massbar.org](http://www.massbar.org).

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