New voir dire law a ‘victory for fairness’

BY DEBBIE SWANSON

In August, Gov. Deval L. Patrick signed into law Chapter 254 of the Acts of 2014 (“the voir dire law”), allowing attorney-conducted voir dire in the state of Massachusetts. Its passage permits attorneys to question potential jurors in Superior Court trials, with the goal of obtaining a fair and impartial jury. Judges maintain authority to impose reasonable limitations on the process by overseeing the type of questions asked and the amount of time an attorney is permitted.

In addition, the new law allows attorneys to suggest a monetary amount for damages suffered by a plaintiff in a civil trial. This is another long-sought after change that will enable jurors to receive guidance in determining monetary damages, rather than estimating a figure.

Douglas K. Sheff, immediate past president of the Massachusetts Bar Association, said of the bill, “This is a major victory for fairness in the courtroom — a great asset moving forward.”

The signing of the voir dire law had been a long time coming for many Massachusetts trial attorneys. Both the Massachusetts Bar Association and the Massachusetts Academy of Trial Attorneys (MATA) had advocated for attorney-conducted voir dire for more than 20 years. In 2013, both the MBA and MATA again filed bills, which State Rep. Garret Bradley (D-Hingham) consolidated into a broad-based tort-related bill. State Rep. Christopher M. Markey (D-Dartmouth), acting chair of the Judiciary Committee, was also very instrumental in the

President’s View

MARSHA KAZAROSIAN

As we turn the corner into the 2014-15 Massachusetts Bar Association membership year, we can look proudly upon an impressive record of accomplishment by Douglas K. Sheff, our immediate past president. He, like his predecessors, invested his time, resources, energy, blood, sweat and tears to maintain the MBA’s position as the preeminent statewide bar association in the commonwealth. And I know that President

Governor signs uniform adult guardianship law

BY LINDA GOODESPEED

Marsha V. KazaroSian knew she wanted to be a lawyer even before she got to preschool.

“I started taking piano lessons when I was 3, and I knew I wanted to be a lawyer right around the same time,” KazaroSian said. “It was a big joke in my family. I had my whole life planned out by the age of 3.”

Now a nationally recognized attorney, KazaroSian, this month, takes over the presidency of the Massachusetts Bar Association.

“It’s going to be a rocking year,” KazaroSian said with typical enthusiasm. “I’m very excited. The leadership within the Massachusetts Bar Association is just extraordinary, and the collegiality is infectious. It is truly the best and the brightest.”


KazaroSian was Massachusetts Super Lawyers magazine’s cover story in 2006. Since then, she has been named as one of the top lawyers in Massachusetts each year, identified as one of the top 50 Women Lawyers in Massachusetts and New England, named one of the top 100 Lawyers in Massachusetts and named a Super Lawyer in both Family Law and Personal Injury Litigation by Law & Politics. In September 2011, Massachusetts Lawyers Weekly picked KazaroSian as a “Top Woman in the Law” in the commonwealth and, in 1999, named her as one of the Top 10 lawyers in Massachusetts.

Making her mark

KazaroSian grew up in Haverhill, the eldest of three children. After earning her law degree in 1982 from Suffolk University Law School, she joined her father, Paul KazaroSian, a criminal defense attorney and civil litigator, in his practice in Haverhill.

“Dad wasn’t the kind of lawyer who did a lot of teaching, showing me how to do things, other than absorb things,” KazaroSian said. “He’d throw me something and tell me to do it. I had to figure out on my own how to do it. I spent a lot of time watching and listening to him. It was the best way to absorb and gain experience.”

A year of unprecedented opportunity

Sheff would be the first to acknowledge that little could be accomplished without the dedication and leadership of our incomparable Chief Legal Counsel and Chief Operating Officer Martin Healy and our talented staff.

This is an incredible time for the MBA, and I am very excited about the upcoming year — not only because I have the privilege of serving you as MBA president, but because this year attorneys in Massachusetts, and particularly MBA members, will have opportunities that we’ve never had before.

To start, Massachusetts lawyers finally have the right to engage in jury voir dire, allowing us to join 39 other states with

A year of unprecedented opportunity

Sherry T. McGarvey was also very instrumental in the acting chair of the Judiciary Committee, Christopher M. Markey (D-Dartmouth).

Bradley (D-Hingham) consolidated into a broad-based tort-related bill. State Rep. Garret Bradley (D-Hingham) consolidated into a broad-based tort-related bill. State Rep. Christopher M. Markey (D-Dartmouth), acting chair of the Judiciary Committee, was also very instrumental in the
the same opportunity. Just last month Gov. Deval L. Patrick signed into law an MBA-backed bill (Chapter 254 of the Acts of 2014), that will permit attorneys to question jurors in civil and criminal trials throughout the Superior Court. The law also lets plaintiffs specify an amount for damages, which was previously unavailable.

The statute gives discretion to judges to impose reasonable limitations on the voir dire pro- cess, and details about imple- mentation are still evolving. But these invaluable tools represent important steps toward ensuring access to justice and a fair trial, regardless of whether you represent a plaintiff or a defendant.

In recent years we’ve seen bits and pieces of how voir dire works, particularly as more judges have employed the prac- tice by allowing limited attor- ney voir dire. Experienced trial lawyers know that informa- tion gleaned from even limited voir dire questioning reveals only the tip of the iceberg of potential bias. True attorney-conducted voir dire allows for a conversation between lawyers and potential jurors, allowing us to peek below the surface to weed out bias and preconceived notions.

Last month at the Ameri- can Bar Association’s Annual Meeting in Boston, I had the pleasure of serving on a panel with U.S. District Court Judge Shira A. Scheindlin (S.D.N.Y), who told a compelling story about a murder case over which she had presided. The first trial resulted in a hung jury when one holdout refused to join her fellow jurors in a guilty verdict. In the retrial with the same evi- dence, the new jury came back unanimous with an acquittal. The only variable that changed was that the voir dire questions were more thoroughly crafted to uncover juror bias.

Voir dire is all important, and I am so excited to see the improvements that attorney- conducted voir dire will bring to our trial system.

Another new development that is very important to me is that the MBA will be offering free educational programming to members this year, with the exception of conferences and the Practicing with Profession- alism course. That is a tremen- dous member benefit, and an important resource for all. By offering free CLE and MBA On Demand, the MBA is taking an extraordinary stand in our com- mitment to the excellence of our profession.

I’ve always been a big pro- ponent of learning by doing; that’s largely how I got my own start as a trial lawyer. But in looking back, I would have greatly benefitted from every- thing that the MBA offers a new lawyer today. By providing free CLE to all of its members, the MBA has the opportunity to help hundreds of new lawyers who choose to take ad- vantage of this incredible ben- efit.

Of course, free CLE is not just for new lawyers. Even though Massachusetts is not a mandatory CLE state, the number of Massachusetts law- yers who participate in CLE is extraordinarily high, not be- cause we have to, but because we want to be the best that we can be. We are motivated by the desire to practice law ethically, expertly and passionately, and the MBA’s free CLE member benefit helps pave the way.

With classes geared for every level of experience and area of practice, this is something we can all look forward to. I can’t speak about upcoming opportunities without men- tioning the tremendous oppor- tunity — or more accurately, responsibility — that I’ve been given as the new MBA presi- dent to make a positive dif- ference in our profession. I’ve been inspired by the incredible work done by my predeces- sor and great friend, Douglas Sheff, and I hope to build on the legacy he and other great presidents have created for our association.

It’s fortuitous that free CLE is happening this year, because supporting the MBA’s ongoing commitment to profes- sional excellence through CLE is one of the areas I plan to focus on during my presi- dency. In fact, education is the foundation upon which many of my upcoming goals are built.

In the months ahead I will be emphasizing the importance of educating attorneys and the public about the importance of the Rule of Law, the need to maintain an independent ju- diciary and the invaluable role of lawyers in protecting and ensuring a democratic society. I’ll have more to discuss about these important initiatives and others in the coming months as I immerse myself in this im- portant role.

For now, I invite you to join me in the excitement of the coming year. I look for- ward to working with my fel- low officers President-elect Robert Harnais, Vice President John Morrissey, Vice President Christopher Kenney, Treasurer Jeffrey Catalano, and Secretary Christopher Sullivan, and all MBA members as we continue our never-ending pursuit of excel- llence. With so many opportu- nities available today, there has never been a better time to be a lawyer, and in particular, a member of the MBA.
Trial court to add nine new specialty courts

Trial Court Chief Justice Paula M. Carey and Court Administrator Harry Spence have announced that the Trial Court will add nine specialty court sessions across Massachusetts, mainly due to the $3 million designated for specialty courts in the recently approved FY2015 state budget.

The new specialty courts include five drug courts, two mental health courts and two veterans treatment court sessions as follows:

**Drug Court Sessions:**
- Brockton District Court
- Fall River District Court
- Taunton Juvenile Court
- Dudley District Court
- Lowell District Court

**Mental Health Court Sessions:**
- Quincy District Court
- Roxbury Division of Boston Municipal Court

**Veterans Treatment Court Sessions:**
- Middlesex County Session at Framingham/Natick District Court
- Western Mass. Session at Holyoke District Court

The Dudley, Lowell and Roxbury courts began conducting specialty sessions in June, and the other locations will introduce sessions in the coming months. The implementation schedule of these additional sessions will vary by location, as planning and training occurs.

Trial Court opens Court Service Centers

The Trial Court continues to expand the services it offers to people with and without legal representation by opening the state’s first Court Service Centers at the Edward W. Brooke Courthouse in Boston and the Franklin County Courthouse in Greenfield. Both centers have helped hundreds of people since opening this summer.

Court Service Centers offer numerous resources to the general public and attorneys, including assistance with preparing pleadings, court forms and documents, access to public computers and workstations and interpreter services. Managed by Trial Court employees, with assistance from trained volunteers, the centers also provide contact information to community resources, legal assistance programs and social service agencies. On-site law librarians are available to provide assistance with legal research. The Court Service Centers are open during regular court hours: 8:30 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

As part of the effort to assist people coming to court without a lawyer, the Trial Court is also offering multilingual resources online, including a series of new self-help videos on how to prepare for Small Claims court. The how-to videos are available in eight languages at www.mass.gov/courts/selfhelp/.

SJc announces committee to examine voir dire

The Supreme Judicial Court has announced the formation of a committee that will examine the jury selection process in the five Trial Court departments that conduct jury trials. The new committee will examine issues relating to the selection of jurors in all trial courts that conduct jury trials and consider possible amendments to both criminal and civil rules to improve the quality of juror voir dire and promote the right to a fair and impartial jury. The committee will work in conjunction with the Superior Court to develop and recommend procedures for implementation of the new voir dire statute before the effective date of February 2015.

The committee is chaired by SJC Justice Barbara A. Lenk and includes Massachusetts Bar Association President Douglas K. Sheff. Additional members of the committee are:
- Professor David J. Breen, Boston University School of Law
- Professor R. Michael Cassidy, Boston College Law School
- Hon. John P. Corbett, Juvenile Court
- Hon. Judith Fabricant, Superior Court
- Hon. Serge Georges Jr., Boston Municipal Court
- Hon. Jennifer L. Ginsburg, District Court
- Hon. Peter Lauriat, Superior Court
- Assistant District Attorney Mark Lee, Massachusetts District Attorneys Association
- Carolyn J. McGowan, Esq., Committee for Public Counsel Services
- Mark. D. Smith, Esq., Boston Bar Association
- Hon. Jeffrey Wink, Housing Court
- Commissioner Pamela Wood, Office of the Jury Commissioner

SJc invites comments on Rule 1:14

The Supreme Judicial Court Rules Committee invites public comments on proposed amendments to Supreme Judicial Court Rule 1:14. The proposed amendments reflect the enactment of the Massachusetts Uniform Probate Code, G.L. c. 190B. The proposed revisions correct the statutory citations and include the terminology that is used in the new statute. Visit www.mass.gov/court/docs/sjc/docs/rules/proposed-revised-rule-1:14.pdf to view the revisions.

The Rules Committee welcomes all comments on the proposed revisions. Comments should be directed to Christine Burak, Supreme Judicial Court, John Adams Courthouse, One Pemberton Square, Boston 02108 or to Christine.Burak@sjc.state.ma.us on or before Sept. 26, 2014. The comments received will be made available to the public.
Appreciation grows for expanded Judicial Youth Corps program

As the Supreme Judicial Court’s Judicial Youth Corps (JYC) program has grown, so has the popularity of the JYC Appreciation Day event. On Aug. 15, high school students and their families were treated to a standing-room-only reception at the John Adams Courthouse, where members of the judiciary joined court personnel and lawyers from around the state to celebrate the 2014 JYC graduates. A total of 42 students from Boston, Worcester and Springfield completed the program, which ran from May to July.

The JYC program gives urban high school students an opportunity to experience the judicial system and learn about the law through educational sessions and hands-on internships in the courts. The SJC first established the summer program in Boston in 1991. The Massachusetts Bar Association has partnered with the SJC since 2007 to expand the program to Worcester. This year, the MBA partnered with Western New England University School of Law to return the program to Springfield following a 13-year absence from the city.

New SJC Chief Justice Ralph D. Gants opened the reception by welcoming the students, whom he said were now part of the “court family.” Several JYC graduates either took to the podium or stood from the audience to recount their experiences and share their gratitude for their opportunity to be a part of the court community.

MBA President-elect Marsha V. Kazarosian congratulated the students and thanked the volunteers, teachers and sponsors, including the Massachusetts Bar Foundation, the primary sponsor of the Worcester program. She offered special words of gratitude to recently retired Chief Justice Roderick L. Ireland, a long-time supporter of the program who served as the master of ceremonies during JYC Appreciation Day.

“While he will no longer be active on the bench, we are so incredibly fortunate that Justice Ireland will continue to work with the Judicial Youth Corps program even in retirement,” Kazarosian said. “We can’t thank him enough for his ongoing dedication to the students in this program.”

Reflecting on the JYC graduates’ accomplishments, Kazarosian spoke about the educational advantages of learning by doing. “This summer, our students did just that,” she said. “From all of us at the Massachusetts Bar Association, we wish each and every one of you good luck as you pursue your future careers.”

Student reflections from the Judicial Youth Corps

The Massachusetts Bar Association, under the direction of attorney/teacher James Rosseel, has helped run the Judicial Youth Corps program in Worcester since 2007. This year the Worcester JYC students put together a reflection booklet, highlighting some of their fondest (and in some cases, funniest) memories from their experience. Here is a sample of what the students said:

The things I liked the most during my internship were...
- “The good feeling I have because I am now working at the courthouse!”
- “Saying ‘good morning’ to the judges and also having conversations with them.”

Some of the more interesting things I recall from my internship are...
- “Watching the mediation sessions and observing settlement of cases.”
- “Seeing the two sides of lawyers. . . In court they are all serious, but in the file room they are joking around.”

Some of the saddest things that I recall were...
- “When people were not showing up for court.”
- “Watching a lady cry after almost losing her child to DCF.”

Some of the funniest things that I witnessed during my internship are...
- “When a fellow intern said that when he grew up he wanted to be a plaintiff.”
- “Watching a 93-year-old woman and her husband. . . She gave him a friendly tap with her banana.”

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iBelong testimonials will be featured on the MBA website, www.massbar.org, throughout the year.
final passage of the law, which, after pass-
ing through the Senate and the House, was
signed by the governor on Aug. 6, 2014, mak-
ing the commonwealth the 41st state to
allow voir dire.

“This is a tremendous victory for liti-
gants and attorneys who deserve cut-
ing edge procedures to eliminate the poten-
tial of bias or racism from any court proceed-
ing,” said Martin W. Healy, the MBA’s chief
legal counsel and chief operating officer.
“We are grateful to the legislative leaders
in the House and Senate for advancing this
much-needed improvement to our trial sys-
tem.”

History of voir dire
Voir dire is a French term that refers to
the practice of questioning a juror to de-
terminate if they will be fair and impartial
in hearing the case. While the practice has
been used in the United States for more
than 200 years, in Massachusetts, it has re-
tained exclusive to judges, who tradition-
ally ask potential jurors a list of yes or no
questions, and jurors respond with a show
of hands. Without opportunity for ques-
tioning, trial attorneys have been forced to
make decisions based on assumptions.

Those who have been advocating for voir dire feel that when questioned by an
attorney rather than a judge, jurors may feel
less intimidated and offer a more meaning-
ful and honest response.

“It’s difficult in a group setting for a
person to answer a question about their own
prejudices,” said MBA President Marsha V.
Kazarosian. “Voir dire is the only way to
hear what’s on a potential juror’s mind.”

Advocates have also felt that attorneys,
who are most familiar with the details of the
case, should be responsible for formulating
and steering their questions appropriately.
While some innovative Massachusetts
judges have allowed attorney follow-up
questions, it has been on a case-by-case basis.

“By asking questions, [the attorney]
can filter who should and should not be on
a jury,” said Sheff. “Juries may not even
know they have a bias, but something exists
that may make them an unfair juror.”
The process can also help uncover if a
juror is affected by outside influences or has
circumstances going on in their personal
life, which could alter their ability to hear
the case impartially.

Past resistance
Trial attorneys in the commonwealth
have been advocating for voir dire for more
than two decades. Past attempts were met
with resistance, with critics fearing that al-
lowing the practice would negatively im-
pact both costs and time.

Court officials had raised concerns that
voir dire could considerably lengthen the
time it takes for jury selection. However,
the new law gives the judge final authority
over the process, allowing them to specify
the questioning time each attorney is al-
lowed.

Cost has been another dispute; the Of-
cice of Jury Commissioner estimated it
would result in an additional 154,000 sum-
monses mailed next year, increasing post-
age cost, printing cost and juror expense.
Expense would also be passed along to
employers of the potential jurors, who are
obligated to pay a juror’s wages for the first
days of service. However, Superior Court Judge Dennis
Curran did an independent study of actual
court cases that showed concrete savings of
costs with less jurors needed.

“The first question should be about the
fairness of a trial,” said Sheff. “Cost should
be second to that.”

Sheff, who has been in discussions with
colleagues in other states where voir dire is
commonplace, said he is confident that the
process will save time in the long run.

“When a lawyer becomes good at it, it
can be done in a reasonable time frame, and
it may eliminate bad results that can come
from bias jurors, such as appeals,” he added.

The attorney’s role
While the focus of voir dire is on ques-
tioning, Kazarosian said that when done
well, an attorney doesn’t approach the op-
portunity by presenting a series of ques-
tions. Rather, he or she tries to engage the
men and women of the potential jury in a
formal manner.

“With true attorney conducted voir dire,
it’s more of a conversation with a jury pool,
rather than question and answer session.
The attorney brings up situations — past
cases, things that are potential hotbeds —
and tries to draw out conversation,” she ex-
plained.

“A juror may not say they have a preju-
dice, but something comes out in conversa-
tion that raises doubt if they’ll be able to
hear a case impartially,” she said. “I’ve seen
it happen myself; people believe in a con-
cept that would prohibit them from making
an unbiased decision.”

Like any new process, trail lawyers
should expect a learning curve, and the
MBAs will offer educational classes about
voir dire once details are finalized about
the new law’s implementation. In addition,
Kazarosian pointed out that there are many
Massachusetts lawyers who also practice
in states that permit voir dire, so they are
familiar with the process and will become
resources for sharing their knowledge.

How long it takes to perfect it will vary
with each person, said Kazarosian. “It de-
dpends on a lawyer’s level of comfort con-
versing with the group, engaging in give
and take conversations.”

Moving forward
Supreme Judicial Court Chief Justice
Ralph D. Gants had formed a committee to
study the implementation of voir dire dur-
ing the legislative debate over the pending
bill, naming Sheff to serve as the represen-
tative from the MBA. Chaired by Justice
Barbara A. Lenk, the group will also in-
clude representatives from other organiza-
tions and the five Massachusetts Trial Court
departments that conduct jury trials.

While still in its early stages, the com-
mittee’s goal is to improve the quality of
voir dire by identifying best practices and
proposing revisions to the rules of crimi-
nal and civil procedures. When committee
recommendations are released, they will be
applied to all courts that conduct jury trials.

Kazarosian said that it is currently too
early to tell exactly how the process will un-
fold, specifics, including whether potential
jurors are to be approached a group or one-
on-one, have not been nailed out.

“Presently, the bill has left it at the dis-
cretion of the trial judge. That can vary;
some judges may be more limited than oth-
ers. And it’s likely to change over time, as
both judges and lawyers learn more about
the process,” she said.

For trial lawyers in the Bay State, the
passage of Chapter 254 of the Acts of 2014
has ushered in long-awaited improvements
to the jury process.

Jason Scally contributed to this article.

VOIR DIRE
Continued from page 3
Quotable
Notable
AND
MBA MEMBERS IN THE MEDIA

Voir dire legislation

Judge rules without hearing evidence

Video surveillance of employees

Diversity of judicial appointments

where available, news clips — including audio/video — can be found on our website at www.massbar.org.
NEW MBA PRESIDENT
Continued from page 1

As her father’s health declined, Kazarosian took over more and more of the practice, building her own reputation. She developed a wide range of expertise in the areas of SEC whistleblower retaliation, discrimination, divorce and family law and criminal and civil litigation.

Over the years, she has taken on several high-profile media cases, including the 1999 landmark Borne, et al. v. Haverhill Golf and Country Club, Inc. The gender discrimination suit was the first case of its kind to go to trial in the country, resulting in a multi-million dollar judgment and setting a precedent for gender discrimination in a country club/membership-based setting. However, the case, which lasted more than eight years, took its toll.

“For someone to step up in their local community and go against the grain, against the local powers, when you know people are not happy with you, shows the commitment Marsha has when she sees something not right,” said Kazarosian’s partner Walter A. Costello, Jr. “I know she took a lot of abuse for that case.”

“It was pretty much awful,” Kazarosian said. “It was a very difficult case, but I also reaped many rewards far beyond the money and recognition. The clients I had are still close-valued friends. I had the money and recognition. The clients I also reaped many rewards far beyond that case.”

Jr. “I know she took a lot of abuse for Kazarosian’s partner Walter A. Costello, Jr. “I know she took a lot of abuse for that case.”

“I don’t know where Marsha gets her energy,” Costello said. “I’ll get emails from her at 6:30 in the morning. She’s up and raring to go.”

In January 2014, Kazarosian joined Costello, a former president of the Massachusetts Academy of Trial Attorneys, and former MBA president Kathleen O’Donnell, to form Kazarosian Costello & O’Donnell LLP with offices in Haverhill, Salem and Lowell. She regularly serves as a mock trial judge for high school, college and law school students, and speaks and writes frequently on various legal topics.

“As a lawyer, Marsha will take on titans without a second thought,” Sheff said. “She is a real advocate for the little guy. She fights for the underdog, the underrepresented. She is a true lawyer’s lawyer.”

In the early and mid-90s, Kazarosian began getting involved in bar activities. She is a past president of the Massachusetts Academy of Trial Attorneys, as well as the Essex County Bar Association. She has also served a two-year term as one of 25 lawyers in the commonwealth appointed to the Massachusetts Supreme Judicial Court’s Pro Bono Panel, and a six-year term as a Hearings Committee officer for the Massachusetts Board of Bar Overseers.

Kazarosian also wants to step up efforts to educate the public about the role of lawyers and the rule of law.

“No other country has the system of justice we have,” she said. “But it doesn’t just happen. It takes funding and support from lawyers, the public, judges, legislators. People need to be educated.”

She wants members of the bar to “get out there,” speak up, write articles, op-ed pieces and letters to the editor about the importance of court funding and access, as well as consumer protection issues.

“We need to be visible, loud and articulate in order to keep the courthouse doors open,” she said. “We can’t wait until a person being abused by a domestic partner goes to court for help and the doors are shut.”

She said part of educating the public about the law is changing perceptions about lawyers.

“From my perspective, the law is really a license to help people. It’s a phenomenal privilege and a huge responsibility. Lawyers in general do a very good job of meeting that responsibility. But lately, the public perception has been unfairly dismal. I’d like to turn the tables on that perception.”

She also wants to nurture the “sympathetic relationship” between bench and bar.

“We have lawyers. We have judges. One can’t exist without the other,” Kazarosian said. “We need to work together to accomplish the goal of access to justice for everyone. But it can’t happen without the bench and bar working together to get the job done.”

Sheff said there are few lawyers as qualified as Kazarosian to lead the bar.

“Marsha has spent her whole career preparing herself for this position,” Sheff said. “She is somebody who is not just proficient at a skill — there are many people like that. Marsha really cares about people. If I had a question or problem, of all the literally thousands of friends and lawyers I could turn to at the bar, Marsha is one of the first people I would call. She cares so deeply about lawyers, people in general. I feel very comfortable having her in charge. I know she will always do the right thing.”
Feinberg to speak at MBF 50th gala dinner

The Massachusetts Bar Foundation proudly announces that Attorney Kenneth Feinberg will deliver the keynote address at its upcoming 50th Anniversary Gala Dinner. Brockton native and UMass Amherst graduate Feinberg will also receive the MBF’s Great Friend of Justice Award in recognition of his extraordinary and tireless advocacy and assistance to people in need, including serving in a pro bono capacity as administrator of the One Fund Boston Victim Relief Fund. “By helping victims of some of the most horrific tragedies and challenging cases obtain compensation without prolonged, costly, and uncertain litigation, Attorney Feinberg has played a key role helping people navigate the legal system and secure assistance quickly and effectively, said MBF President Robert J. Ambrogi. “He is a true role model and humanitarian who has given of his time and remarkable legal talent again and again when his help is needed.”

All are welcome to attend. Tickets and sponsorship opportunities available now at www.MassBarFoundation.org/Gala.

Lynch named president of NCBF

During the American Bar Association’s 2014 Annual Meeting held in Boston last month, MBF Executive Director Beth Lynch was elected President of the National Conference of Bar Foundations. The NCBF is a professional organization for volunteer leaders and executive staff members who serve the more than 200 local, state and specialty bar foundations across the country. Its mission is to promote law-related philanthropy and to assist bar foundations in fulfilling their charitable missions.

MBF announces grant awards of $1.9 million

The MBF recently awarded $1.9 million in grants through its annual Interest on Lawyers’ Trust Accounts Grants program. This year’s grants will fund 82 programs conducted by 56 nonprofit organizations throughout Massachusetts. MBF IOLTA grants support projects that either offer civil legal services to people who could not afford them, or improve the administration of justice in the commonwealth. Grants providing direct legal services include support to domestic violence programs, special education advocacy, humanitarian immigration assistance and homelessness prevention. Grants to improve the administration of justice include efforts such as court-connected mediation and lawyer of the day programs.

“We are proud to be able to support such worthy programs, knowing they will make the maximum use of these funds to make legal assistance more accessible to those in need,” said MBF President Robert J. Ambrogi. “We couldn’t do it without the generous support of our fellows, almost 100 of whom volunteered their time and expertise to review grant applications and make funding recommendations to the MBF trustees.”

Funds for these grants are provided by the Massachusetts Supreme Judicial Court’s IOLTA program. The Massachusetts Bar Foundation is one of three charitable entities in Massachusetts that distributes IOLTA funds. Although available funds for IOLTA grants have declined by more than 77 percent over the last several years, the MBF is pleased to be able to support many of its longtime grantees as well as to provide funding for two new programs — the Older Youth Advocacy Project of Boston CASA and the Small Claims Wage Theft Project of Justice at Work.


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- ¼ page ad in gala dinner program booklet
- Loop displayed in event web-based communications

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- Gala dinner table for 10 guests — priority seating
- Priority ½ page ad in gala dinner program booklet

BRONZE — $2,500

- Bronze level enrollment in the MBF’s Law Firm and Corporate Partnership Program
- Gala dinner table for 10 guests
- ½ page ad in gala dinner program booklet

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For more information, contact Allison Ford at (617) 338-0647 or AFord@MassBar.org.
MARSHA V. KAZAROSIAN, PRESIDENT

Kazarosian is a principal attorney at Kazarosian Costello & O’Donnell LLP in Haverhill, where she concentrates in civil rights litigation, family law and discrimination law. During her presidency, Kazarosian plans to focus on educating attorneys and the public about the importance of the rule of law, the need to maintain an independent judiciary, the invaluable role of lawyers in protecting and ensuring a democratic society and the MBA’s ongoing commitment to the promotion of excellence in the practice of law. Effective Sept. 1, 2014, the MBA offers free of charge to members. She also plans to facilitate the education of attorney-conducted voir dire, which permits attorneys to question prospective jurors in the Trial Court. Active in the community, Kazarosian has served on numerous committees and councils, including the Joint Court Committee on Judicial Nominations and the Supreme Judicial Court’s Access to Justice Commission’s Committee on the Bar Examination.

ROBERT W. HARN AIS, PRESIDENT-ELECT

Harnais is with Mahoney & Harnais in Quincy, where he concentrates in criminal law, family law, real estate, labor and consumer law. A past MBA secretary, treasurer and vice president, Harnais has volunteered his service to the association for many years. A co-chair of the MBA’s Crime Lab Task Force, Harnais has also served as the chair of the MBA’s Diversity Task Force. Harnais has been a member of the House of Delegates, the MBA’s governing body, since 2006 and is a member of the MBA’s Executive Management Board. He is a past president of both the Massachusetts Association of Hispanic Attorneys and the Hispanic National Bar Association, trade associations he served on with both organizations. As a member of the Norfolk County Bar Association, Harnais has served on the Race and Ethnic Advocacy Board, the MBA’s Crime Lab Task Force, the MBA’s Executive Management Board, the Massachusetts Academy of Trial Attorneys, where he received the President’s Award for his dedication to justice and the health and well-being of low-income patients through legal advocacy. Catalano is also a member of the executive committee for the Massachusetts Academy of Trial Attorneys, where he served as chair of the MBA’s Pro Bono Task Force. In 2014, Catalano was named a New England “Super Lawyer” by Super Lawyers every year since 2005.

CHRISTOPHER A. KENNEY, VICE PRESIDENT

Kenney is a founding member and managing shareholder of Kenney & Sams PC in Boston. He has tried cases before every level of the state’s legal system, including federal appellate courts, where he concentrates in criminal law, family law, real estate, labor and consumer law. A past MBA secretary, treasurer and vice president, Catalano has also chaired the association’s Volunteer, Recognition, Recruitment and Retention Task Force and as a member of the MBA’s Executive Management Board. In the past, Catalano has served as a director of Independent Bank Corp. He was appointed a commissioner of the Hingham Conservation Commission by the Board of Selectmen in 2011, and also identified a pioneering initiative that brings together volunteer attorneys and medical professionals to provide the health and well-being of low-income patients through legal advocacy. Catalano is also a member of the executive committee for the Massachusetts Academy of Trial Attorneys, where he served as chair of the MBA’s Pro Bono Task Force. In 2014, Catalano was named a New England “Super Lawyer” by Super Lawyers every year since 2005.
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Guardianship

Continued from page 1

tion in which to begin an action where more than one state is involved.”

Nagle added: “The bill also allows for full faith and credit to be given by one state to the decree issued by the state [that] took initial jurisdiction by providing for recognition of the authority of a fiduciary initially appointed in another jurisdiction. It also creates a uniform method for transferring, where necessary, jurisdiction from the court from which the initial appointment issued to the appropriate court in another jurisdiction. The benefit to fiduciaries for, and families of, incapacitated persons are obvious.”

The MBA worked cooperatively with AARP of Massachusetts, the Arc of Massachusetts, Alzheimer’s Association: MA/NH Chapter, Massachusetts Guardianship Association, National Academy of Elder Law Attorneys, Massachusetts Chapter and the Uniform Law Commission to obtain the successful passage of this vitally important law.

“This passage of the Uniform Adult Guardianship and Protective Persons Jurisdiction Act is a great help to Massachusetts attorneys and protected persons,” said MBA Probate Law Section Council member Raymond H. Young.

Lauren Anderson contributed to this article.
Senior Partners for Justice founder Edward M. Ginsburg receives 2014 ABA Pro Bono Publico Award

The American Bar Association Standing Committee on Pro Bono and Public Service has awarded Judge Edward M. Ginsburg (ret.) with its 2014 Pro Bono Publico Award. Ginsburg was honored for his work with Senior Partners for Justice (SPF), a pro bono program he founded at the Volunteer Lawyers Project of the Boston Bar Association in 2002 upon his retirement from the Probate and Family Court.

With a corps of nearly 1,000 volunteers, including many experienced practicing and retired lawyers and retired judges, Senior Partners for Justice has provided free legal assistance to several thousand low-income litigants, primarily in family law, guardianship and consumer cases. That translates to more than eight million dollars in donated legal services. For the clients helped, the services are invaluable.

Each year, the ABA Standing Committee on Pro Bono and Public Service presents five Pro Bono Publico Awards to individual lawyers and institutions in the legal community that enhance the human dignity of others by improving or delivering volunteer legal services to the poor or disadvantaged.

### Member Spotlight

**Edwin M. Ginsburg (ret.), center, accepts 2014 Pro Bono Publico Award with Mary K. Ryan of Norton Mccormick & Fish LLP (right) and Judge Lara Livingston of Texas (left).**

The American Bar Association Standing Committee on Pro Bono and Public Service has awarded Judge Edward M. Ginsburg (ret.) with its 2014 Pro Bono Publico Award. Ginsburg was honored for his work with Senior Partners for Justice (SPF), a pro bono program he founded at the Volunteer Lawyers Project of the Boston Bar Association in 2002 upon his retirement from the Probate and Family Court.

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EXPERTS & RESOURCES

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Young Lawyers Division hosts opening meeting

The Young Lawyers Division kicked off the 2014-15 association year by hosting an open meeting on Aug. 28 at the MBA office in Boston. Attendees had the opportunity to meet new board members and learn more about the division and its initiatives for the upcoming year. MBA President-elect Robert W. Harnais (pictured, left) joined the Young Lawyers Division at its meeting.

CONSUMER ADVOCACY SYMPOSIUM

Wednesday, Oct. 29, 4–7 p.m.
Suffolk University Law School
120 Tremont St., Boston

This event is free and open to the public.

Featuring a panel discussion on the roles of the Attorney General and the private bar in consumer protection advocacy.

The MBA will also present its Pinnacle Awards to two companies that have taken pro active steps to benefit consumers in Massachusetts.

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Faculty Spotlight

Deborah M. Faenza, Esq.

Ryan & Faenza, Walpole

Program Co-Chair: Divorce Basics: A View from the Bench and Bar

Faenza is a partner at Ryan & Faenza in Walpole and concentrates her practice in all aspects of family law including divorce, child support, child custody, paternity, alimony, division of property, pre-nuptial and post-nuptial agreements, contempt proceedings, modifications and abuse prevention. As a licensed social worker and former probation officer/family services officer at the Norfolk County Probate and Family Court, Faenza specializes in highly contested custody cases. She is a guardian ad litem on matters involving custody, visitation and waiver of therapeutic privilege pertaining to minor children and to the care and safety of the elderly, and as a special discovery master and parenting coordinator in high conflict parenting cases. Faenza has more than 30 years experience within the Massachusetts Judicial System and is also certified as a conciliator and as a collaborative family law attorney. In addition, she is an author, lecturer and guest speaker on family related issues for the Commonwealth of Massachusetts, Massachusetts Continuing Legal Education and the Massachusetts Bar Association Family Law Council.

... Susan Huettner, Esq.

Law Office of Susan A. Huettner PC, Sandwich

Program Co-Chair: Divorce Basics: A View from the Bench and Bar

Huettner is an experienced trial lawyer and is a resolute advocate of her clients’ interests in the often difficult and emotionally-charged arena of family court litigation. Huettner understands that clients who find themselves caught in the web of domestic relations litigation appreciate an attorney who will carefully explain each step of the process, work with each client as an individual and dedicate her efforts toward reaching the best result possible. Huettner is a graduate of Dartmouth College and the Indiana University School of Law. In addition to her practice, Huettner is actively involved as a bar leader and an educator with the Massachusetts Bar Association, where she is currently a member of the Executive Management Board as well as its regional delegate for Cape Cod, Nantucket and Martha’s Vineyard. Huettner has chaired the family law section councils for the MBA: Family Law, Law Practice Management and General Practice, Solo & Small Firm (now the Sole Practitioner & Small Firm section). These councils work to develop educational programs, monitor and develop legislation, and contribute to legal publications. Huettner also chaired the Barnstable County Bar Association Family Law Committee for a number of years.
One of the key partners in our firm seems to have developed a drinking problem. For years he was known for a certain, shall we say, exuberance at social events, but within the past six to 12 months his drinking has been affecting his work, which has become sloppier, and the impression of clients, who have commented that his speech is slurred and his thought process seems duller when they call him. He is (when sober) brilliant and capable, and has also been a major rainmaker, so we really do not want to lose him, but we feel like we need to do something, perhaps send him away somewhere to get him to quit drinking?

It is worth conferring with LCL clinical staff to more fully assess what is going on with this colleague, but the idea you seem to be referring to, i.e., requiring him to go to rehab, is certainly a distinct possibility. Some things to think through as you contemplate taking action:

- Prepare before acting: Before what amounts to an “intervention,” we would suggest meeting with LCL staff (or equivalently qualified/experienced behavioral health professionals) to double-check your assessment of the situation, brainstorm approaches to addressing it (including rehab) and, if intervening, move ahead in a way that has been thought through.
- Cost/insurance: Rehabs are very expensive and, for the most part, generally not covered by insurance. This may not be an issue for a large firm. If, however, insurance coverage were necessary, we can discuss options such as simple detox (usually a few days) followed by a two to three week day or evening program.
- Choosing a reputable facility: There are many, many rehabs around the country, all of which look great on their websites, but you probably want to choose one that is mainstream and that has been around and respected for decades.
- No guarantees of success: Even with rehab, which can provide a crucial jump-start, sustaining sobriety requires real motivation, and even among those who are motivated, the relapse rate is high (though the improvement rate is also high, and relapses can be regarded as expectable stumbles on the path).
- AftERCare: Long-term recovery (and return to previous level of job functioning) is determined less by rehab than by ongoing recovery-oriented attention and activity. The more frequently he attends therapy/counseling, peer support meetings and ancillary stabilizing practices like exercise and meditation, the better the likelihood of a positive outcome. If recovery becomes a secondary priority in the early months, the chances of relapse increase.
- The firm’s influence: Like the alcoholic or addict, if the partners think the problem is solved merely by having sent the lawyer to rehab, old behavior may very well resurface. Ideally, the firm will be both highly supportive (e.g., facilitate allocating time to outpatient treatment) and still require appropriate follow-up, taking action quickly upon signs of relapse. Some firms might choose to involve the person in LCL “Monitoring” (in which LCL documents participation in appropriate ongoing treatment and support groups and provides random alcohol/drug testing), but that will only have a meaningful impact if there is a real response if and when this partner fails to follow through. Lawyers, perhaps especially those who have reached the partner level, may feel that the usual guidelines don’t apply to them — going along with that point of view actually heightens the risk that you may ultimately lose this valuable colleague as an asset to the firm.

These are difficult waters to navigate, and LCL is here to help.

Questions quoted are either actual letters/emails or paraphrased and disguised concerns expressed by individuals seeking assistance from Lawyers Concerned for Lawyers.

Questions for LCL may be mailed to LCL, 31 Milk St., Suite 810, Boston, MA 02109; emailed to email@lclma.org or called in to (617) 482-9600. LCL’s licensed clinicians will respond in confidence. Visit LCL online at www.lclma.org.
FOR YOUR PRACTICE
You can organize a CLE!

BY DAMIAN TURCO

What better way to brand yourself as an expert than by teaching other lawyers? And, what better time to consider it than this year as the Massachusetts Bar Association’s CLE programming is now largely free to members? Whether substantively focused in your area of practice or otherwise topical to the practice of law, running or participating in a legal education program can be rewarding. You’ll gain notoriety amongst your peers, clients and potential clients and your program will be on your resume forever. But, how does one go about putting together an educational program? It’s easy and I’ll talk you through it.

Step 1: Think of an interesting topic. You want people to attend the program and the first condition is that you cover something interesting. Classic examples are recent changes in the law, practice basics, skill building practice tips and expert panels.

Step 2: Partner with the relevant section council(s). Most educational programs at the MBA originate in the section councils. The section councils are each made up of 15 members and a representative from the MBA’s staff. You can identify the relevant council chair by looking up the section on My Bar Access or by calling the MBA. Engage with this group to develop your idea, to identify potential speakers and to recruit volunteers to help organize.

Step 3: Find interesting speakers. Rarely do people flock to an educational program without there being great speakers. And, if you want people talking positively about the program after (you do), then great speakers are a must. Recruit a diverse group of presenters and you’ll be more than half way to running a successful program.

Step 4: Engage with MBA staff. Led by Marc D’Antonio, the MBA has an excellent education department with impressive capabilities. Connect with Marc to discuss how the program fits into the events calendar and to ultimately select a date, time, and location. The MBA will help with program materials and will simulcast and record for future on-demand viewing as appropriate.

Step 5: Get organized and prepare. Once you have your speakers identified, you’ll need to pull them together for a conference call or meeting, depending on the subject matter. I find that two one-hour meetings are generally enough to effectively collaborate on a one- to three-hour program. You may need more based on the complexity of the subject matter. The program, as a whole, should be reviewed, and the workload and speaking roles delegated. Be sure to keep communicating by email to ensure all your ducks (Powerpoint presentations, handouts, outlines) are in a row. Stay in touch with the education department and make sure you get materials submitted as directed.

Step 6: Promote the program. People aren’t going to attend the program if they don’t know about it. The MBA will help here, promoting the program on the website calendar, through email blasts and the like. To maximize attendance, consider additionally promoting your program through you and your speakers’ own social media accounts.

Step 7: Do a great job. The day of your program can be a little nerve-racking. What if you don’t know the answer to a question from the audience? Don’t worry, you’ll come up with a good answer, and you’ll offer to follow up after with a better response if need be. What if you go way off schedule? You won’t. You’re going to keep an eye on the clock and will make sure program stays on track. What if nobody laughs at your clever law practice management puns? Okay, that one only happens to me, so you shouldn’t have an issue… also, I don’t know the answer. You’ll be fine.

And in the end, you’re going to put on a great program, further establish yourself as an expert and gain notoriety in your organization and legal community as a dedicated volunteer. Good luck!

Damian Turco owns Mass Injury Firm PC, a Boston based personal injury law firm, representing the victims of negligence across Massachusetts. Damian is the vice chair of the Law Practice Management Section.
Night at WBZ provides lawyers, referrals to callers in need

Volunteers from the Massachusetts Bar Association answered questions from more than 100 callers on Aug. 20, during the Ask A Lawyer program, which was presented jointly by the MBA and WBZ Call for Action. Nine MBA members answered the phones at the WBZ studios between 7 and 9 p.m., where they offered advice on a range of legal issues, many involving consumer, criminal, landlord-tenant and family law.

Ask A Lawyer was a regular program from 1978 until 2005, and the MBA and WBZ Call for Action revived the program in 2012 to meet the growing legal needs of the commonwealth’s citizens.

During the second hour of the Ask A Lawyer program, MBA President-elect Marsha V. Kazarosian continued what has become an annual tradition of having an MBA officer appear as a guest on WBZ Radio’s “NightSide with Dan Rea.” In addition to taking calls from program listeners, Kazarosian talked about how the MBA benefits both lawyers and the public. Kazarosian and Rea also stressed the importance of being represented by a lawyer in all legal matters, and touted the MBA’s Lawyer Referral Service as a helpful resource for those who need legal assistance.

Thank you to the following MBA members who volunteered and answered calls during the Ask A Lawyer event:

- Colleen E. Carafotes, Law Offices of Colleen E. Carafotes, Melrose
- Kwadwo Frimpong, Fidelity Investments, Boston
- Sheryl R. Furnari, Furnari Law, Chestnut Hill
- Galen Gilbert, Gilbert & O’Bryan PC, Boston
- Mary K Y Lee, Law Office of Mary K. Y. Lee, Boston
- Daniel Occena, Occena Law, Revere
- Samuel Adam Segal, Brezakstone, White & Gluck PC, Boston
- J. Daniel Silverman, J. Daniel Silverman, Attorney at Law, Wakefield
- Donald Whitmore, DEW Advisory, Watertown

Visitors to the Ask A Lawyer event will receive complimentary wine, beer and hors d’oeuvres.

Visit www.massbar.org for additional event details.
BAR NEWS

MBA hosts networking reception on the Boston waterfront

More than 150 friends and members of the legal community joined the MBA at its final 2014 summer social/networking event at Tia’s on Thursday, Aug. 21.
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