



GANTS CALLS FOR END TO MANDATORY MINIMUMS

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HOUSE OF DELEGATES CONVENES IN MARLBOROUGH

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MASSACHUSETTS LAWYERS JOURNAL



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PRESIDENT'S VIEW
MARSHA KAZAROSIAN

Justice unfunded is no justice at all

The Judicial branch of government is supposed to be on equal footing with the Executive and Legislative branches, but for some reason, that never seems to be the case when it comes to the budget. For too long it seems our courts have suffered disproportionately when purse strings need to be tightened.

While there has been more stability in the courts' funding in recent years, there is no question that the Massachusetts judiciary has consistently been forced to do more with less. The fact that they have been able to keep the judiciary running and even make some modest gains through improved technology and training is a credit to our court leadership, judges and staff. But this time, Gov. Charlie Baker's budget recommendations may be asking too much.

If those recommendations, released last month as House 1, were to become a reality, they would decimate the gains made in the Judicial branch and most certainly turn back the clock. The governor's Trial Court budget proposal of \$603.3 million is nearly \$40 million less than the Trial Court's maintenance request for fiscal year 2016 of \$642.7 million. As Supreme Judicial Court Chief Justice Ralph D. Gants said ➤2

New public safety secretary draws on criminal justice background

BY MIKE VIGNEUX

Daniel J. Bennett is used to looking at things from different angles. During an impressive legal career as both a prosecutor and defense attorney, he's often been on opposite sides of the same issues. Now he has an opportunity to analyze issues from a leadership standpoint and help craft policies that keep the commonwealth a safer place.

Bennett, the senior first assistant for the Worcester County District Attorney's Office for the last four years, was appointed by Gov. Charlie Baker to serve as secretary of the Executive Office of Public Safety and Security in early February. This role includes oversight of 13 state public safety agencies including the State Police, Department of Correction, Parole Board, Massachusetts Emergency Management Agency and the State Police Crime Laboratory.

The broad scope of the position also includes management of agencies such as the Massachusetts National Guard, the Sex Offender Registry Board and the state's 911 Department. Bennett has four undersecretaries that report to him



Secretary of Public Safety Daniel J. Bennett.

and cover specific areas.

Named a Prosecutor of the Year in 2013 by the Massachusetts District Attorneys Association, Bennett acknowledges that his experience on both sides of the legal profession has given him a unique ability to appreciate many view-

points, including those that differ from his own.

"Some of the best relationships I ever built were with defense attorneys when I was a prosecutor and with prosecutors when I was a defense attorney," said Bennett. ➤4

2015 Annual Dinner sponsorships available

The Massachusetts Bar Association will hold its 2015 Annual Dinner on Thursday, May 7, at the Westin Boston Waterfront, 425 Summer St., Boston. The dinner will feature keynote speaker and internationally acclaimed trial lawyer Mark J. Geragos, principal of Geragos & Geragos, APC, in Los Angeles.

The Annual Dinner will also include the presentation of the Massachusetts Bar Association's President's Award to House Speaker Robert A. DeLeo, the Chief Justice Edward F. Hennessey Award to Massachusetts Superior Court Associate Justice Dennis J. Curran and a scholarship award to a third-year law student, in addition to honoring the 2015 Access to Justice Award recipients.

Consider attending this annual event as a sponsor. Sponsorship opportunities include:

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MBA to honor Holtz, Cramer for 'excellence'

BY KELSEY SADOFF

The Massachusetts Bar Association will honor the Hon. Nancy Holtz (ret.) and *Boston Globe* crime and legal reporter Maria Cramer at the May 14 Excellence in the Law event, co-presented by *Massachusetts Lawyers Weekly*. Holtz has been selected to receive the Daniel F. Toomey Excellence in the Judiciary Award and Cramer will be presented with the MBA's Excellence in Legal Journalism Award.

The annual Excellence in the Law event, which will be held at the Marriott Long Wharf Hotel, will also feature award presentations in the following areas: Up & Coming Lawyers, Excellence in Pro Bono, Paralegal, Marketing and Firm Administration.

Holtz, a former Superior Court judge with more than 30 years of legal experience, is now a "go-to" mediator and arbitrator for high-stakes and complex matters for JAMS. Holtz began her career as a trial attorney, as assistant ➤6

PRESIDENT'S VIEW*Continued from page 1*

during his testimony before a hearing of the Joint Committee on Ways and Means, "It would be even worse than the darkest days of the last financial crisis, when one in three of our courthouses had to restrict public hours just to process cases."

Governor Baker is correct. Times are tough for the commonwealth financially. Massachusetts has a \$1.8 billion shortfall. But the Judiciary should not be required to ensure the safety of our citizens and uphold the Rule of Law on a shoestring. According to court figures, since fiscal year 2008, the "non-judicial" state budget increased by 37.3 percent, from \$26.0 billion to \$35.7 billion. During the same period, the Trial Court's budget increased by only 4.6 percent. That makes no fiscal sense.

Staffing levels for the Trial Court are down more than 1,200 positions since 2008, while the rest of the state has added three times that number in new placements. As Court Administrator Harry Spence said in his remarks to the Joint Committee, "We certainly are committed to operating a system that continually seeks efficiency, however we should not be penalized for that efficiency."

Here's the first thing that would happen if House 1 went into effect:

The Trial Court would have to reduce staff by another 550 people. That means our local communities would return to suffering trial delays, court closures and the doors to justice blocked.

Here's what would not happen:

Specialty courts, such as drug courts, won't get the critical funding needed while the commonwealth grapples with a massive addiction problem and recidivism. The Housing Court won't have its much-needed statewide expansion, leaving a full 31 percent of the state without access to this important frontline court. And Court Service Centers, which have assisted tremendous volumes of unrepresented individuals in the two existing pilot programs in Boston and Greenfield, won't have a chance to be expanded to serve the Trial Court's 15 largest courthouses.

The bottom line is without our courts getting the funding they need, there won't be equal access to justice in the commonwealth.

To be fair, the governor had very little time since taking office to fully understand the dire impact his budget proposals would have on the judiciary. And court leaders have since met with the Office of Administration and Finance. The governor's budget is also the first step in a long process. The House of Representatives will be making its

budget proposals in April, and the Senate's budget is typically unveiled a month later.

The MBA will continue to lead the charge for proper court funding throughout the budget process, as we have done year after year. But we urge each of you to get involved as well, because you are the voters, and you hold the purse strings.

The American Bar Association's Tort Trial and Insurance Practice Section, of which I am a member, has created a Full Court Funding Toolkit, which includes information to help you understand the national crisis caused by underfunded courts, as well as tools for all of us to "take action." You can find links to it at www.americanbar.org/tips and on our own site, www.massbar.org.

One of the most powerful components of the Toolkit is a video, which features Boston Municipal Court Clerk-Magistrate Dan Hogan detailing the Massachusetts predicament in one segment. "A majority of a court's budget is based on personnel," Hogan says. "We have eliminated everything, including law clerks. We've slashed ADR programs. Judges, magistrates and others took furloughs."

Our courts cannot afford any more of this. Justice is a fundamental right, and equal justice cannot happen without financial support. Let's make it happen. ■

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Snapshots from around the MBA



Voir Dire Training panelists included (bottom row from left): Suffolk Superior Court Judge Maynard Kirpalani, Annette Gonthier-Kiely, Suffolk Superior Court Judge Bonnie MacLeod-Mancuso, and Program Chair and MBA President Marsha V. Kazarosian. **Additional panelists were (top row from left):** Carolyn McGowan, MBA Past President Douglas K. Sheff, and Suffolk Superior Court Judge Peter Lauriat.

MBA hosts *Voir Dire* Training

Now that Massachusetts attorneys are allowed to question prospective jurors in civil and criminal trials throughout the Superior Court, the Massachusetts Bar Association hosted a *Voir Dire* Training on March 16. Attendees had the opportunity to learn how to conduct *voir dire* from experts who have used it successfully. ■

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LEGAL NEWS

News from the Courts

Dugan appointed to Commission on Judicial Conduct



John Dugan

Trial Court Chief Justice Paula M. Carey recently announced the appointment of John Dugan as an alternate member to the Commission on Judicial Conduct, effective March 9. The term will expire on March 8, 2021.

The Commission on Judicial Conduct, established in 1978, investigates allegations of misconduct by state judges. Pursuant to G.L. c.211 §1, three judges are appointed by the Chief Justice of the Supreme Judicial Court, three attorneys are appointed by the Chief Justice of the Trial Court and three lay persons are appointed by the governor to six-year terms.

Dugan is a principal at the law firm of Doherty, Ciechanowski, Dugan & Cannon in Franklin. His

practice includes a concentration in estate planning, fiduciary administration and probate/fiduciary litigation and he is a frequent lecturer on these topics. He is a past MBA vice president and past chair of the MBA's Probate Law Section Council. He is also past president of the Norfolk Bar Association, the Western Norfolk Bar Association and former town moderator and vice chair of the Millis Charter Commission. Attorney Dugan is a graduate of Holy Cross and Suffolk University Law School.

Quinn appointed deputy court administrator for the Superior Court

Superior Court Chief Justice Judith Fabricant and Trial Court Administrator Harry Spence recently announced the appointment of Elaina Martina Quinn as deputy court administrator for the Superior Court department of the Massachusetts Trial Court.

Quinn has served for the past 14 years as an assistant clerk in the office of Suffolk County Clerk

of Courts for Civil Business, Michael Joseph Donovan. In that capacity, she has served on the Superior Court MassCourts Implementation Committee and the MassCourts Governance Committee, contributing her substantial knowledge of Superior Court civil operations, as well as her commitment to improvement of court processes. In 2013, she received the Excellence in Court Administration Award from the Massachusetts Academy of Trial Attorneys.

Prior to her service in the clerk's office, Quinn served as an assistant district attorney in Middlesex and Norfolk counties, prosecuting cases in both the district court and the Superior Court and mentoring district court prosecutors. Quinn earned a bachelor's degree from the University of Massachusetts in Amherst, and her law degree from Suffolk University Law School. ■

CORRECTION: In last month's story about the retirement of Bankruptcy Judge William Hillman, the print edition mistakenly featured a photo of the U.S. District Court Judge Timothy S. Hillman. The error has been corrected in the online edition.

Baker makes FY16 budget recommendations

Gov. Charlie Baker has released his budget recommendations for FY16.

The legal community was largely disappointed by those recommendations. The Trial Court was allocated \$603 million, which is approximately a \$10 million decrease from FY15 funding and nearly \$40 million below the maintenance request submitted by the court. If Baker's recommendations were to come to fruition, the Trial Court estimates that they would have to eliminate 550 employees. The Trial Court has already had a 17 percent reduction in staffing between July 2007 and July 2014.

Additionally, the Massachusetts Legal Assistance Corporation (MLAC) was allocated \$14,683,589, which is level funding from current FY15 after the midyear cuts in January. MLAC was originally allocated \$15 million in FY15 and had requested a \$10 million increase to \$25 million to address the growing need for civil legal aid.

The House of Representatives is set to take up its version of the budget in April. The MBA will remain proactive in working with the leadership of our affiliated bars and court leaders to advocate for a budget that provides appropriate access to justice for all. ■





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LEGAL NEWS

Gants calls for an end to mandatory minimums at MassINC Criminal Justice Reform Summit

Supreme Judicial Court Chief Justice Ralph D. Gants called for an end to mandatory minimum sentences in drug cases at MassINC's Second Annual Massachusetts Criminal Justice Reform Coalition Summit on March 16 at UMass Boston.

Co-sponsored by the Massachusetts Bar Association and Community Resources for Justice, this year's conference highlighted the state's judicial branch with a focus on state and federal sentencing practices and reforms.

In his keynote address, Gants noted that mandatory minimum sentences for drug offenses are unfair to minority groups, fail to address the drug epidemic and are a poor investment of public funds.

"I am convinced that mandatory minimum sentencing in drug cases will be abolished. The only question is when," said Gants. "Why am I so sure? Because doing so makes fiscal sense, justice sense, policy sense and common sense — and ultimately good sense will prevail."

The program also included a presentation of new research from Bruce Western, Guggenheim Professor of Criminal Justice Policy at Harvard University, and two panel discussions: "High-Performing Sentencing Commissions" and "Justice for Special Populations." The summit wrapped up with closing remarks from Attorney General Maura Healey.



The MBA partnered with MassINC for the second annual Massachusetts Criminal Justice Reform Coalition Summit on March 16. PHOTO BY MIKE VIGNEUX

BENNETT

Continued from page 1

Many of those who were on opposite sides of the courtroom from Bennett during his career were some of the first to call and congratulate him on his appointment.

Before coming to Worcester, Bennett spent four years as senior trial counsel in the Middlesex County District Attorney's Office. He also worked 11 years as criminal defense counsel in private practice and served as an assistant district attorney in the Suffolk County District Attorney's Office. A Bay State native, Bennett is a graduate of Harvard University and Suffolk University Law School.

Reducing recidivism

Although it is early on in the Baker administration, there are several ongoing public safety initiatives that will be looked at as priorities in Bennett's area.

In addition to finding creative solutions to the overall public safety budget, a key priority for the governor will be to work with the Department of Correction and Parole Board to reduce the rate of recidivism with re-entry programs for inmates.

"Gov. Baker wants to work inmates back into society with a plan for where to live and where to get a job so they can re-integrate back into the community and are less likely to re-offend," said Bennett. "If you look across the country it's not a conservative or a liberal issue. It cuts across both sides of the spectrum. It's more an issue of good government."

Bennett notes that specialty courts, particularly drug courts, can play a key role in working to curb the recidivism rate.

"Drug courts make a lot of sense when you talk about recidivism. We need to get people out of that terrible cycle where they commit an offense, we place them into incarceration and they come out and commit another offense," said Bennett. "One way to get them out of that cycle is through drug court. There's certainly a problem with opium right now within the commonwealth and something has to be done to address that."

Bennett has been in the new position

for only a couple of months, but has already made an impression throughout both the legal and criminal justice communities.

"Secretary Bennett has clearly proven over the past few months to be very accessible and keenly interested in the statewide bar's perspective on criminal justice matters," said MBA Chief Legal Counsel and Chief Operating Officer Martin W. Healy.

Perception of police

Public safety, specifically as it relates to police, has recently been part of the national conversation after the shooting and death of teenager Michael Brown in Ferguson, Missouri, last August. Some protests of police activity in other parts of the country resulted in violence, but the protests in Boston were handled by police without incident.

While a tumultuous relationship between the public and the police has developed in some areas since last summer, that typically has not been the case in Massachusetts, a state where police were celebrated after the apprehension of Boston Marathon bombing suspect Dzhokhar Tsarnaev in April 2013.

"Some of the best relationships I ever built were with defense attorneys when I was a prosecutor and with prosecutors when I was a defense attorney."

"In Massachusetts I think people have a good perception of the police and I think the important thing is to work with the police to make sure that continues," said Bennett. "Police officers are individuals, and you have to look at every situation as an individual situation."

Criminal justice attorney compensation

A May 2014 report of the MBA's Blue Ribbon Commission on Criminal Justice Attorney Compensation found

that salaries of attorneys who work in the state's criminal justice system are inadequate. The report also found that salaries of entry-level assistant district attorneys rank well below those in neighboring states such as New Hampshire and Connecticut.

In his role as senior first assistant DA in Worcester, Bennett oversaw assistant district attorneys and witnessed firsthand the challenges that mid-level ADAs face in terms of salary. Many stay for a few years to gain experience and then go on to better paying positions. Losing that mid-level ADA definitely presents a challenge for a DA's office, according to Bennett.

"You're in a cycle where, unless there is an unusual circumstance, you're always going to lose the people that you've trained," he said.

A proven problem solver

Two of Bennett's most valuable qualities gleaned from his experience as a prosecutor are his problem-solving skills and his ability to deal with people in stressful situations.

When Bennett addresses a problem he doesn't panic and he often looks past the seemingly obvious answer. He analyzes all the information and tries to find a different type of answer to solve the problem.

"One thing my experience as a prosecutor has helped me with is the ability to take a problem or an issue that comes up on a daily basis and look for an inventive solution to attack that problem," said Bennett.

"Dan will always educate himself on an issue before he makes a decision. Some people jump to conclusions, but he doesn't," said MBA President-elect

Robert W. Harnais, who worked with Bennett in private practice in Quincy. "When you have a conversation with him, you know he's really listening to you. He was someone I would turn to for advice on cases all the time."

Gerry Leone, a partner at Nixon Peabody LLP and former Middlesex County District Attorney, has known Bennett since high school and was his college roommate at Harvard where they played football together.

"Dan Bennett embodies a special combination of intelligence and mental toughness, personal drive and passion for things he cares about, and dedication to successfully accomplishing whatever goal and objective that he is focused on achieving," said Leone.

During his time in Worcester County, Bennett prosecuted multiple murder cases and often dealt with people in high-stress situations. To succeed in that kind of situation, Bennett learned not to get caught up in the emotions surrounding those cases.

"You have to be the calming influence without getting to their level of stress. You can be an advocate for a position without taking it personally," said Bennett.

Bennett particularly enjoyed his four years working in Worcester where he oversaw all aspects of office administration, including personnel, finance and victim witness services.

"Dan was a great fit for our office," said Worcester County District Attorney Joseph D. Early Jr. "I loved having him around and hated to see him go. The young attorneys in the office learned a lot from him and the victims' families benefitted from his hard work. His work on our unresolved cases in particular was exemplary. Dan is going to be a success wherever he goes."

Throughout his career as both a prosecutor and defense attorney, Bennett has helped people on a case-by-case basis. In his new position, he looks forward to helping make Massachusetts safer for everyone.

"As a DA you can make real differences, changing lives and making things better for individual people," he said. "Here, you can make changes in policies that can improve lives for a lot of people. That's something to really aspire to."



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THURSDAY, APRIL 9: Win a \$250 Amex gift card

Also, join us from 5:30 to 7:30 p.m. for speed networking with a twist. Bring your business cards and join us for an evening of networking and fun at the MBA. Be prepared to introduce yourself, and then share a successful practice tip that you have implemented in your practice this year. As a special treat to show our appreciation at the speed networking event, "spin to win" great prizes.

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LEGAL NEWS

EXCELLENCE

Continued from page 1



Daniel F. Toomey Excellence in the Judiciary Awardee, the Hon. Nancy Holtz (ret.)



MBA Excellence in Legal Journalism Awardee Maria Cramer, of the Boston Globe

corporation counsel for the city of Boston's Law Department, and then became partner at Merrick and Louison, where she tried complex civil and criminal jury trials in U.S. District Court and Massachusetts Superior Court. Holtz went on to serve as commissioner of the Alcoholic Beverages Control Commission, before becoming secretary and general counsel of the Executive Office of Consumer Affairs and Business Regulation, where she gained broad experience in the banking, insurance and telecommunications sectors and excelled at fostering communities of interest between business, regulatory and public stakeholders. Holtz was appointed to the Superior Court bench in 1996 where, for 15 years, she presided over civil and criminal cases, including significant multimillion-dollar business litigation, construction litigation, first degree murder, kidnapping and home invasion.

Holtz, who is chair of the MBA's Alternative Dispute Resolution Committee, is also a member of the American Bar Association Forum on Construction Law, Section on Dispute Resolution Mediation, Section of Litigation Committee, the Women's Construction Alliance and the Boston Bar Association's Litigation: Construction Subcommittee. She has served as a panelist for numerous programs, including the 2011 MBA Centennial Conference and the 2013 ABA's section on Dispute Resolution Spring Conference. In 2012, Holtz served as a Fulbright specialist for the U.S. Department of State for Ulaan Bator, Mongolia, which she was awarded for development and creation of a mediation training program for the National University Law School in Ulaan Bator, Mongolia. Holtz lectured at National University Law School and helped create a mediation course for the law school.

"We are proud to honor Judge Holtz with the Toomey award for Judicial Excellence," said MBA President Marsha V. Kazarosian. "From her impressive career on the Superior Court bench to her work today as a sought-after ADR professional and chair of the MBA's Alternative Dispute Resolution Committee, Judge Holtz has established an impeccable reputation in the legal community for her intellect, fairness and ability to handle even the most complex high-stakes cases."

Cramer, the recipient of the Excellence in Journalism Award, began her career in New Jersey covering municipal government at the *Trenton Times*. In December 2003, she was hired to work for *Globe South*, the suburban zones section of the *Boston Globe*, and was quickly promoted to metro staff as a general assignment reporter in 2005. Cramer was assigned to cover Boston Police, a beat that sparked her love for trial coverage and broke news on some of the biggest stories in the city.

Cramer has led the news pack on cases like Philip Markoff, otherwise known as the Craigslist Killer, Clark Rockefeller, and the Woolson Street murders, the killings of three adults and a two-year-old boy on a Mattapan street. The *Globe* has sent her to Guatemala, Costa Rica, London and Germany to follow not only crime stories but political news. One example is the successful search for undocumented workers hired by Mitt Romney at the same time he was condemning illegal immigration during his presidential run.

In 2013, she was part of the team that won the Pulitzer for coverage of the Boston Marathon bombings and in 2014, she was assigned to cover the state's court system full-time and has broken stories on the Aaron Hernandez case and the Parole Board.

"Maria Cramer is a diligent crime and legal reporter whose thoughtful, yet unbiased articles continue to speak loudly from the pages of the *Boston Globe*, whether she is covering high-profile trials or uncovering behind-the-scenes developments," said MBA Chief Legal Counsel and Chief Operating Officer Martin W. Healy. "Her recent breaking-news story about alleged improper lawyer searches in state prisons is just one example of how her thorough reporting has brought much-needed transparency to our criminal justice system."

To purchase tickets to the May 14 Excellence in the Law event or to find out more on all the events' honorees, visit masslawyersweekly.com/excellence-in-the-law.

BAR NEWS

Nominate a company for an MBA Pinnacle Award

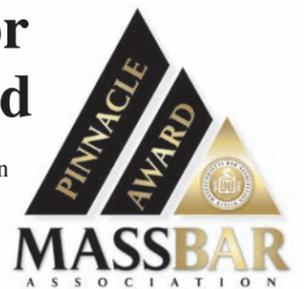
The Massachusetts Bar Association's Consumer Advocacy Task Force is seeking nominations for companies, large or small, that should be considered for the 2015 MBA Pinnacle Awards honoring good corporate citizenship. The task force seeks to recognize one or more companies, which:

- Are in good standing
- Proactively benefit consumers in Massachusetts

The task force is particularly interested in hearing about companies that have taken

the initiative on their own accord to improve products or services in order to benefit consumers, as opposed to those which have made changes in response to litigation.

If any MBA member has a suggestion or nomination of a company that should be considered for a Pinnacle Award, visit www.massbar.org/pinnacleawards to fill out a nomination form and send it to Elizabeth O'Neil at eoeneil@massbar.org by May 29. ■



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Snapshots from around the MBA



Patrick's legacy in print

Former Gov. Deval L. Patrick (center, left) and former Lt. Gov. Timothy P. Murray (center, right) with the majority of the Patrick Administration's judicial appointments during its eight years in office. Massachusetts Supreme Judicial Court appointees are seated, followed by Appeals Court and judges from the seven Trial Court departments. Members of the legal community who participated in the judicial selection process are pictured right, including Executive Secretary of the Joint Bar Committee Martin W. Healy, chief legal counsel at the Massachusetts Bar Association, and Lisa C. Goodheart and E. Macey Russell, former chairs of the Massachusetts Judicial Nominating Commission. Pictured left are members of the Judicial Nominating Commission, including Patrick's Chief Legal Counsel Kate Cook and JNC Executive Director Marilyn Lyng O'Connell.



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EXPERTS & RESOURCES

BAR NEWS

Calendar of Events

THURSDAY, APRIL 9

**Workers' Compensation
Alphabet Soup** 
3-6 p.m.
MBA, 20 West St., Boston

THURSDAY, APRIL 9

**Closely Held Corporation Litigation:
Trends, Traps & Trouble Avoidance**
4:30-6:30 p.m.
Mintz, Levin, Cohn, Ferris,
Glovsky & Popeo PC
1 Financial Center, Boston

MONDAY, APRIL 13

**Trade Secrets Legislation
Open Meeting**
4-6 p.m.
MBA, 20 West St., Boston

MONDAY, APRIL 13

The New NLRB R-Case Rules
12:30 p.m.-2 p.m. 
MBA, 20 West St., Boston

TUESDAY, APRIL 14

**36th Annual Labor and
Employment Law Spring
Conference**
11:30 a.m.-5 p.m.
Suffolk University Law School
120 Tremont St., Boston

TUESDAY, APRIL 14

Criminal Expungement
5-7 p.m. 
MBA, 20 West St., Boston

THURSDAY, APRIL 16

**Central Mass. Health Care
Symposium**
9 a.m.-12 p.m.
UMass Medical School
55 Lake Ave. North, Worcester

THURSDAY, APRIL 16

**Tiered Community Mentoring
Wrap-up Event**
9 a.m.-noon
John Adams Courthouse
1 Pemberton Square, Boston

FRIDAY, APRIL 17

Bench-Bar Meeting
2:30-4:30 p.m.
Barnstable District Court
3195 Main St., Route 6A, Barnstable

THURSDAY, APRIL 30

**Alimony Roundtable: Moving
Along the Pathway from the
Alimony Reform Act of 2011**
5-7 p.m.
Mass School of Law
500 Federal St., Andover

WEDNESDAY, MAY 6

**MBA Monthly Dial-A-Lawyer
Program**
5:30-7:30 p.m.
Statewide dial-in #:
(617) 338-0610

THURSDAY, MAY 7

2015 MBA Annual Dinner
5-7:30 p.m.
Mass School of Law
500 Federal St., Andover

WEDNESDAY, MAY 13

Practicing with Professionalism
9 a.m.-5 p.m.
UMass Medical School
55 Lake Ave. North, Worcester

TUESDAY, MAY 19

**Western Massachusetts Dial-A-
Lawyer Program**
4-7 p.m.
Statewide dial-in #:
(413) 782-1659

WEDNESDAY, MAY 27

**Tech Tips for Lawyers:
Organization and Efficiency**
Noon-2 p.m. 
MBA, 20 West St., Boston

THURSDAY, MAY 28

House of Delegates Meeting
4-6 p.m.
MBA, 20 West St., Boston

FRIDAY, MAY 29

**How to Start and Run a Successful
Solo or Small Firm Practice**
9 a.m.-5 p.m.
Lombardo's, 6 Billings St., Randolph

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BAR NEWS

Letters of intent for Executive Management Board due May 22

The House of Delegates is seeking letters of intent from its delegates to become a member of the Executive Management Board for the 2015-2016 association year. Letters must be filed with the MBA secretary on or before 3 p.m. on, Friday, May 22, 2015.

Submit letters of intent to:
 Massachusetts Bar Association
 Attn: Christopher P. Sullivan, MBA secretary
 20 West St., Boston, MA 02111



Snapshots from around the MBA

YLD teams with Mass. Medical Society for medical malpractice seminar

The Massachusetts Bar Association's Young Lawyers Division, in collaboration with the Massachusetts Medical Society, hosted a substantive discussion on medical malpractice claims on March 5. Attorneys, hospital administrators and physicians discussed the ins-and-outs of medical malpractice, including the claims process, risk management and the legal process, dealing with injured plaintiffs and representing physicians.

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FOR THE ISSUES OF LIFE IN LAW

CONTINUED ON PAGE 10

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CONTINUED FROM PAGE 9

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Snapshots from around the MBA



PHOTOS BY JASON SCALLY

MBA Chief Legal Counsel and Chief Operating Officer Martin W. Healy with his wife, Celeste, and his son Brian, at the 2014 Massachusetts Lawyers Weekly Lawyer of the Year event in March.



MBA President-elect Robert W. Harnais; MBA Executive Management Board member Anthony J. Benedetti; MBA President Marsha V. Kazarosian; MBA Chief Legal Counsel and COO Martin W. Healy, a recipient of the 2014 Massachusetts Lawyers Weekly Lawyer of the Year award; Brian and Celeste Healy; and MBA Director of Policy and Operations Lee Ann Constantine.



Bench-Bar meetings travel to Salem

The Massachusetts Trial Court’s District Court Department, in partnership with the Massachusetts Bar Association and local county bar associations, is holding a series of bench-bar gatherings across the commonwealth to facilitate increased dialogue between judges, clerk magistrates, chief probation officers, local practitioners and other court personnel. The meetings include remarks from Chief Justice of the Trial Court Paula M. Carey and Chief Justice of the District Court Paul C. Dawley. MBA President Marsha V. Kazarosian (pictured, center) spoke to attendees at the Feb. 27 Bench-Bar Meeting in Salem. The next meeting will take place on April 17 in Barnstable.

CONTINUED ON PAGE 11

BAR NEWS

Member Spotlight
Firm draws the ‘Inn’ crowd



Four members of Kenney & Sams PC have served as president of the Boston Inn of Court. (From left) MBA Vice president Christopher A. Kenney, Francis J. Sally, Michael P. Sams and David R. Kerrigan

Attorney David R. Kerrigan, a partner at the Boston boutique litigation firm of Kenney & Sams PC, is co-president, along with Superior Court Judge Kathe Tuttmann, of the Boston Inn of Court — one of only a handful of American Inns in Massachusetts modeled after the English Inns of Court.

Kerrigan explained that American Inns took root in the United States in the late 1970s to early 1980s under then-U.S. Supreme Court Chief Justice Warren E. Burger, who saw the Inns as a way to improve civility and ethics in the legal profession. The Boston Inn of Court was awarded the 100th charter in 1990. Today there are more than 30,000 active members in nearly 400 chartered Inns of Court in the United States, according to the American Inns of Court Foundation.

“The Inns are made up of groups of lawyers, law students and judges, who meet regularly and present programs that try to foster professionalism and ethics in the legal profession,” Kerrigan said.

In leading the Boston Inn of Court, Kerrigan is in some respects carrying on a firm tradition. He is the fourth attorney at Kenney & Sams PC to serve as co-president, joining firm co-founders Christopher A. Kenney (2001) and Michael P. Sams (2010), and former Sally & Fitch leader Francis J. Sally (2003), who is now of counsel to Kenney & Sams.

Kenney, who is vice president of the Massachusetts Bar Association, actually co-founded the Boston Inn of Court while at Boston University School of Law in 1989. He said that the Inn’s commitment to excellence, civility, professionalism and ethics “are probably the common denominators that united us and brought us together at the firm.”

As MBA members, both Kenney and Kerrigan see the Inn as a complement to their bar association activities.

Kenney explained that the Inn’s pupillage-team model, which pairs seasoned “masters” with attorneys from other levels and law students, provides an “immersive experience” and a “fraternal, traditional component that promotes fellowship and mentoring.” He said that fostering a sense of accountability and leadership as attorneys move through the ranks of the Inn is also one of the byproducts.

With modern technology making it possible for a lawyer to do almost anything from a computer, Kerrigan added that the Boston Inn of Court also helps counter the increasingly insular nature of the legal profession through its regular meetings and collaborative programs.

In the practice of law today “you can stay in the office all day and not talk to anyone,” Kerrigan said. “With the Inn, it’s like the old days when you would actually swap stories and you could build a sense of community.”

EXPERTS&RESOURCES

CONTINUED FROM PAGE 10

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Snapshots from around the MBA



The Winsor School wins MBA Mock Trial Championship

The Winsor School of Boston is the State Champion of the MBA’s 2015 High School Mock Trial Program — the school’s third consecutive championship and fourth state title since 2010. Learn more about the 2015 Mock Trial State Championship in the May *Lawyers Journal*.

FOR YOUR PRACTICE

Resilience and your personal brand

BY SUSAN LETTERMAN WHITE



Susan Letterman White

Resilience — the ability to anticipate and bounce back from setbacks quickly — is among the most valuable competencies. Like the ability to easily learn new skills, it catalyzes a person’s ability to respond intentionally, intelligently and with an effective strategy to any surprising and significant change that the person faces.

Resilience is what helps a person adapt to adversity, manage stress and even find hidden resources to meet goals that at first glance appear difficult to attain. It is never more important than when you are trying to discern and adjust your personal brand.

You have a personal brand. Everyone does. It is the image you project and is a consequence of every single aspect of your identity and behavior. This part of your identity is expressed whenever you are communicating, i.e., whenever you are in the same physical or virtual space as another person.

You can’t really identify your brand with accuracy without information from other people about how they perceive you. You may have a few ideas, and your ideas may even be correct. However, personal brand is what other people notice about you.

It’s a particularly difficult challenge to discover that your personal brand isn’t what you thought it was and perhaps not aligned with your goals. This twinge to one’s self image is what has been called an “identity abrasion.” It is easy for someone who is accustomed to excelling academically to have a self-image as a high performer, and interpret the information about his or her brand that doesn’t match the person’s self-images as a fatal mistake

or failure. In truth, it is nothing more than data to evaluate and an opportunity to learn something about how other people, who have experienced you in a particular context, perceive you.

An identity abrasion to someone with low resilience can cause shock and a sense of loss. When this happens, it takes time to psychologically process the feelings associated with shock and loss. Some people are so fearful of an identity abrasion that they will protect themselves by refusing to collect data about their brand from other people. Unfortunately all this strategy achieves is to keep those vulnerable and low resilient people blind to the most valuable gift — feedback about what others believe is true.

People with higher levels of resilience approach challenges with optimism that they will succeed. They have more confidence, are more motivated to tenaciously plow through difficulties, and view themselves as problem-solvers, rather than victims of unfortunate circumstances. Having this attitude, which can be cultivated with training, coaching, and practice, is what directs them to want data on their brand and make sense of it through an analytical lens crafted by curiosity. For this reason alone, developing your brand with the help of a coach is invaluable.

Tips for developing resilience

Identify competencies associated with emotional intelligence and develop them. Learning to manage your strong emotions, such as the anxiety associated with an identity abrasion, is one element of emotional intelligence. Another aspect of emotional intelligence, the ability to affect the emotions of others, will help you develop a brand that will help you expand your network. After all, people like helping people that they like, and people like people who affect their feelings in a positive manner.

Learn to reduce your anxiety with controlled breathing, relaxing your tensed muscles, and using positive imagery.

Learn more about your anxiety through close attention to the circumstances surrounding your anxiety and reflecting on the experience afterwards.

PBN: **P**ause. Take three deep **B**reaths. **N**otice what is happening around you according to your five senses, and to you — physiologically, emotionally and what you are thinking and saying to yourself.

Tips for identifying and developing your personal brand

First ask yourself about yourself: What matters most to you? Who are you? What do you do? How do you do it? How are you different from everyone else? What do you want people to remember about you after you leave?

Second, ask your colleagues, friends, clients, supervisors and anyone else that knows you, what they notice and remember most about you. Not everyone will perceive you in the same way. Your personal brand may vary from one person and context to the next.

Third, given your vision for success, goals and the people with decision-making power that matter to you, how, if at all, do you want to change your brand?

Fourth, what will you do first to change your brand from what it is today to what you want it to be?

The overlap between brand and resilience is the last step for developing your personal brand. That step is when you identify the action steps you will take to notice and manage any identity twinge that might arise.

Susan Letterman White, JD, MS, is a principal in Letterman White Consulting, a consulting practice devoted to improving organization and team performance and training people to think like business leaders. She works with organizations to change their structures and processes to improve business performance. She also runs Lawyers Leaders & Teams, a company devoted to marketing and leadership development training for lawyers.

1. Martin Davidson, “The End of Diversity as We Know it: Why Diversity Efforts Fail and Why Leveraging Differences Can Succeed” (2011).

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MBA MEMBERS IN THE MEDIA



VALOR Act

“Veterans come back with underlying issues that at times aren’t caught and unfortunately, if they’re not caught they manifest themselves in conduct.”

MBA PRESIDENT-ELECT ROBERT W. HARNAIS
TELEGRAM & GAZETTE, MARCH 2

Harnais spoke on the VALOR Act, a law that can allow veterans, active service members or those with a military history to participate in a diversion program in lieu of criminal prosecution.

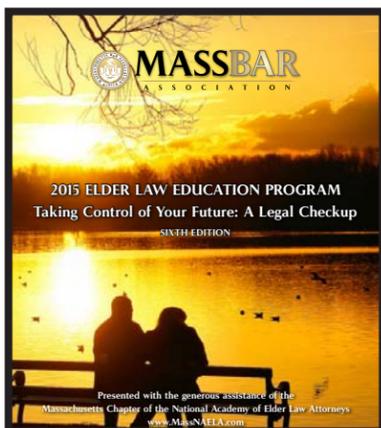


Elder law

“With elder law, the area of practice really helps people understand all their options. It puts people at ease because people are really worried about things.”

MBA MEMBER PAULA ALMGREN
BERKSHIRE EAGLE, MARCH 29

In the article, “The Business of Our Aging: Elder law helps seniors plan for the future,” MBA members Paula Almgren of Lenox and Janice Cook of North Adams discussed elder law services. The MBA, which just published its 2015 Elder Law Program Guide (*Taking Control of Your Future: A Legal Checkup*), was also cited as a source.



‘Solve It 7’: ticket trouble

“This is a third party that sold her tickets. They spent money on tickets, they got their money back, she should be getting her money back. And if she’s not, I’d be filing a claim against them right away.”

MBA PRESIDENT-ELECT ROBERT W. HARNAIS
WHDH TV (CHANNEL 7), FEBRUARY 12

In this segment of “Solve It 7” Harnais provided legal analysis on the case of a consumer who sought a refund for theater tickets she bought from a third party vendor after a show was cancelled due to weather. After nearly two years, the consumer recently received a refund with the help of “Solve it 7.”

New plea bargain rules

“I would concede that, if a prosecutor agrees to a lesser charge based on an agreement, the prosecutor should not have the rug pulled out from underneath him.”

MBA CRIMINAL JUSTICE SECTION VICE CHAIR PETER ELIKANN
MASSACHUSETTS LAWYERS WEEKLY, FEBRUARY 12

Elikann was quoted in a *Massachusetts Lawyers Weekly* story about recent changes made by the Supreme Judicial Court to rules governing pleas and plea bargains.

Where available, news clips – including audio/video – can be found on our website at www.massbar.org.

Court funding

“They can’t absorb [550 layoffs]. You’ve got the courts at their breaking point.”

MBA CHIEF LEGAL COUNSEL AND CHIEF OPERATING OFFICER MARTIN W. HEALY
BOSTON BUSINESS JOURNAL, MARCH 5

Healy was quoted in a *Boston Business Journal* story about possible cuts to court funding under Gov. Charlie Baker’s recently released budget proposal. The trial courts estimate that they could be forced to lay off hundreds of employees under the current proposal.



Prison searches of female lawyers

“It’s repugnant behavior that’s directed at members of our profession that are female. It seems to be on the face of it an attempt to frustrate an attorney’s access to their client.”

MBA CHIEF LEGAL COUNSEL AND CHIEF OPERATING OFFICER
MARTIN W. HEALY, BOSTON GLOBE, FEBRUARY 28

Healy was quoted in a *Globe* story about complaints made by female attorneys concerning improper security searches at MCI-Norfolk. The MBA is calling for an investigation by the Executive Office of Public Safety.



BAR NEWS

Secretary Bennett addresses prison searches at March HOD meeting

The Massachusetts Bar Association's House of Delegates (HOD) held its latest meeting in Marlborough on March 26, at the Courtyard Boston Marlborough hotel, where members welcomed Massachusetts Secretary of the Executive Office of Public Safety and Security Daniel Bennett as guest speaker.

Bennett, appointed in January by Gov. Charlie Baker, addressed the issue of attorney searches at state correctional facilities in Massachusetts, following a *Boston Globe* story that detailed invasive searches of female attorneys during client visits at MCI-Norfolk. While Bennett explained the need to balance the safety of the workers and inmates with the rights of those entering, he said clearly that the procedures at Norfolk were "unacceptable" and improper searches "never should happen."

Bennett, who met previously with MBA President-elect Robert W. Harnais and MBA Chief Legal Counsel and Chief Operating Officer Martin W. Healy after the *Globe* report first surfaced, responded to questions from HOD members, several of whom described inconsistent practices from prison to prison. Bennett said one of his goals was to make the Department of Corrections more consistent, and he pledged to meet with anyone who wanted to discuss this issue further.

Led by Harnais, the HOD also heard regular updates from MBA leaders, including Treasurer Jeffrey N. Catalano, who announced that the Scholarship Committee had chosen the first recipient of the MBA's Oliver Wendell Holmes Jr. Scholarship after receiving applications from every law school in the state. The MBA will present the scholarship to the winner on May 7 at the MBA's Annual Dinner.

In addition to the officers' reports, Healy spoke about the success of the recent MBA-District Court



Secretary of the Executive Office of Public Safety and Security Daniel Bennett speaks to members of the MBA's House of Delegates in Marlborough

Bench-Bar Meetings in Salem and Brockton, and announced the next two would be held on April 17 in Barnstable and May 13 in Worcester. In his legislative update, Healy talked about the court's fiscal year 2016 budget, calling it a "fluid situation." He also gave an update on the Joint Bar Committee, which the MBA administers, saying that it is "an exciting time for the bar in terms of appointments."

Among the new business items, the HOD voted to support, in principle, legislation that would increase compensation amounts related to scarring

and disfigurement in workers' compensation cases. The HOD also approved the nominees for the 2015 Access to Justice Awards. HOD members also heard a proposal from Hampden County Bar Association President Christina M. Turgeon, who asked the MBA to support a return to a regionally based Judicial Nominating Commission. After discussion and several questions, the issue was referred to the MBA's Executive Management Board.

The next HOD meeting is scheduled for May 28 at the MBA's Boston office. ■

Neutrals Like
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MASSACHUSETTS BAR FOUNDATION

Keeping the promise of justice since 1964

Massachusetts Bar Foundation honors Jerry Cohen

At the Massachusetts Bar Foundation's recent annual meeting attorney Jerry Cohen, of Burns & Levinson LLP, was honored with the Great Friend of Justice Award. Over 130 MBF Fellows, grantees and friends attended the event, held on March 3, at the Social Law Library in the John Adams Courthouse in Boston.



2015 Great Friend of Justice Award recipient Jerry Cohen (left) with MBF President Robert J. Ambrogi (right).



John Willshire-Carrera of Greater Boston Legal Services delivering the grantee address.



Encore presentation of the 50th Anniversary President's Award to Roy A. Hammer (left) by MBF Past President Jerry Cohen (right).



From left: 2015 MBF Life Fellows Stephen E. Spelman, Morgan J. Gray, John Achatz, Hon. Antoinette E. M. Leoney, Jerome T. McManus, Hon. Judith G. Dein and John T. Lynch.



2015 MBF Board of Trustees.



MBF President Robert J. Ambrogi.



Hon. Antoinette E. M. Leoney (left) and newly elected MBF Trustee Hon. Deborah A. S. Capuano (right).



From left: MBF Vice President Janet F. Aserkoff, Susan G. Anderson, MBF Executive Director Elizabeth M. Lynch, Deidre M. Giblin and Barbara H. Mitchell.



MBA President-elect Robert W. Harnais.



Newly elected MBF Trustee Iris Taymore Schnitzer (left) and Rosa A. Previdi (right).

MBF TRUSTEES WHO COMPLETED THEIR SERVICE IN 2015



From left (pictured with MBF Executive Director Elizabeth M. Lynch, second from left): MBF Past President Jerry Cohen, Hon. Francis R. Fecteau and Robert V. Ward Jr.



From left: MBF Treasurer Harvey Weiner, Leslie Walker, MBA Vice President Christopher A. Kenney and Jayne Tyrrell.



MBF Past President Laurence M. Johnson (left) and newly elected MBF Trustee John T. Lynch (right).

The Massachusetts Bar Foundation is the commonwealth's premier legal charity. Founded in 1964, the MBF is the philanthropic partner of the Massachusetts Bar Association. Through its grantmaking and charitable activities, the MBF works to increase access to justice for all Massachusetts citizens. There is a role for every lawyer and judge at the MBF to help safeguard the values of our justice system — to ensure that equality under the law is a reality, not just an ideal. Visit our website to learn more about our work and to get involved.

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