A warm welcome to our newest lawyers

Last month, Supreme Judicial Court Clerk for Suffolk County Maura Doyle swore in 1,176 new lawyers here in Massachusetts. The new lawyers took their oath during eight separate admission ceremonies over the course of six days at Faneuil Hall in Boston.

I had the privilege of speaking to many of our newest Massachusetts bar colleagues at the ceremonies. But if I had more time and the opportunity, I would have loved to pass along some words of wisdom to help them get started down the right track.

One of my friends suggested the best words of wisdom I could provide might be, “Don’t do what I did.” But the truth is, I must have done a few things right because I love my profession. I love being a lawyer. So here are a few tips for our newest attorneys:

- Surround yourself with good people. The best part of being a lawyer is the people I get to practice with. Not just people in my office, but the judges, clerks and so many others I see in court day in and day out.
- Don’t be shy about asking for help. Everyone was new at some point. You can get valuable advice from veteran lawyers; most are happy to share their considerable knowledge. If you’re in court, introduce yourself and talk to the people who work there. The more you know about how things work, the better you can perform for your client.
- You will make mistakes. Everyone does. Learn from them. Don’t make them twice.
- No matter which kind of law you are practicing, you will begin to accumulate “wins.” They can come in the form of prevailing in court for your client, making a useful suggestion to an office associate or getting over some other hurdle. They are all good. At the same time, don’t let those “wins” go to your head. We work in an adversarial profession. You will have ups and downs. Keep a level head. Stay grounded.
- Get involved with the Massachusetts Bar Association. We can help you get a strong start with free access to legal research, networking opportunities and so forth. We can help surround you with those good people I mentioned.

I love my profession. I love being a lawyer. I must have done a few things right because the MBA appreciates the support and the firm has great opportunities to provide speakers for CLEs and leadership opportunities for lawyers within the firm. Based in Worcester with offices in Westborough and Boston, Mirick O’Connell began as a business law firm but has since grown strong litigation, labor and employment, trusts and estates, tax law, corporate finance and domestic relations practices. The firm is made up of more than 60 attorneys, 32 of whom are partners. David E. Surprenant is the managing partner of the firm, which also features a four-person management committee.

Richard C. Van Nostrand, firm partner and MBA past president, described the firm as a “big fish in a somewhat smaller pond” and added that they could be described as a “sophisticated Boston practice with a Worcester location.”

The firm is also known for its high level of mentoring in which experienced lawyers serve as role models to help younger attorneys with their professional development.

“For me, one of the greatest attributes of the firm is the attitude toward mentoring,” said Van Nostrand. “The firm and our attorneys have always had an appreciation and enjoyment for the mentoring function here.”

MBA holds first HOD meeting in new Springfield office

The Massachusetts Bar Association’s House of Delegates (HOD) tackled a busy agenda at its Nov. 19 meeting — the first HOD meeting to be held at the MBA’s newly relocated Springfield location at 1441 Main St. The building houses the MBA’s Western Mass. office on the ninth floor.

The Nov. 19 House of Delegates meeting was held at the TD Bank Conference Center at 1441 Main St., Springfield. The MBA’s newly relocated Springfield office is on the ninth floor of the building.

Mirick O’Connell: A century of client and community service

Founded in Worcester in 1916, Mirick O’Connell has served clients in Central Massachusetts, MetroWest and Boston for nearly a century. In June 2016 the firm will celebrate its 100th anniversary.

Mirick O’Connell is a member of the MBA Honor Roll, which is open to all law firms with five or more Massachusetts lawyers, and which enroll 100 percent of their attorneys in the Massachusetts Bar Association within an association year. The Honor Roll acknowledges the strong commitment that many firms have made to full MBA membership.

“The Honor Roll is a formal recognition of the firm’s support and dedication to the MBA,” said Christopher P. Sullivan, MBA treasurer and partner at MBA Honor Roll firm Robins Kaplan LLP. “It’s a win-win situation for the firm and the MBA, because the MBA appreciates the support and the firm has great opportunities to provide speakers for CLEs and leadership opportunities for lawyers within the firm.”

The MBA’s newly relocated Springfield office is on the ninth floor of the building.
Fall Conferences

The MBA hosted the Third Annual Probate Law Conference on Nov. 13 at Lombardo’s in Randolph (pictured left). The sold-out conference featured a keynote address by the Hon. Anthony R. Nesi, first justice of the Bristol Probate and Family Court and concurrent programming tracks addressing the needs of all practice levels. The conference was chaired by Janice C. Negro (left) and John G. Dugan (right). The 13th Annual In-House Counsel Conference: Managing Growth in Changing Times (pictured right) was held on Nov. 19, and offered in-house counsel information on various topics of current interest. Peter Macdonald, executive vice president and general counsel of loanDepot.com LLC gave the keynote address.

MBA testifies before Sentencing Commission

MBA President Robert W. Harnais (table, center) testified before the Sentencing Commission on Nov. 18, at the State House in support of eliminating mandatory minimum sentences for drug-related crimes. Joining Harnais on the panel were Barbara Dougan, Families Against Mandatory Minimums; Raahsaan Hall, director of racial justice for the ACLU of Massachusetts; and Maryanne Nesi, first justice of the Bristol Probate and Family Court and concurrent programming tracks addressing the needs of all practice levels. The conference was chaired by Janice C. Negro (left) and John G. Dugan (right). The 13th Annual In-House Counsel Conference: Managing Growth in Changing Times (pictured right) was held on Nov. 19, and offered in-house counsel information on various topics of current interest. Peter Macdonald, executive vice president and general counsel of loanDepot.com LLC gave the keynote address.

It won’t be long until you’re passing down your own advice to tomorrow’s new lawyers, and you can feel confident that you’ve already started on the right foot. By passing the bar and joining the MBA, you’ve already got two of those “wins” I mentioned earlier under your belt. It’s just the beginning, and I wish you continued success throughout your career. On behalf of all of us at the MBA, welcome to the Massachusetts bar — and welcome to the Massachusetts Bar Association.

PRESIDENT’S VIEW

Earlier. Become involved with our Young Lawyers Division, volunteer at an event, attend free Continuing Legal Education (CLE) classes.

Most importantly, take pride in being a lawyer. You are part of a noble profession. You are taking up the mantle left by your client, but for your fellow lawyer. You are part of a noble profession. You have a responsibility to do your best, not only for the people you represent, but for your fellow lawyer.

It won’t be long until you’re passing down your own advice to tomorrow’s new lawyers, and you can feel confident that you’ve already started on the right foot. By passing the bar and joining the MBA, you’ve already got two of those “wins” I mentioned earlier under your belt. It’s just the beginning, and I wish you continued success throughout your career. On behalf of all of us at the MBA, welcome to the Massachusetts bar — and welcome to the Massachusetts Bar Association.
Murphy, Hesse, Toomey & Lehane LLP honors colleague with a leadership pledge to the MBF

When the partners at Murphy, Hesse, Toomey & Lehane LLP wanted to show their appreciation to a colleague, they turned to the Massachusetts Bar Foundation (MBF) for help in coming up with a very special gift. The MBF is the philanthropic partner of the Massachusetts Bar Association, which works to help thousands of people obtain civil legal assistance.

Attorney Robert S. Mangiaratti had practiced at the firm for more than eight years, and was leaving to become the town of Attleboro’s City Solicitor. The firm wanted to recognize all of the good work Mangiaratti had done on its behalf in a meaningful way. So, they decided to make a contribution to the MBF that would elevate Mangiaratti, already a member of the MBF Society of Fellows, to a Louis D. Brandeis Life Fellow.

“I thought it was a very nice gesture from the firm and, frankly, made me feel like they valued my contribution for them to do such a nice thing,” said Mangiaratti. Katherine Hesse, a founding partner of Murphy, Hesse, Toomey & Lehane LLP and member of the MBF Board of Trustees presented Mangiaratti with a plaque and commended his commitment to the MBF’s mission of improving the administration of justice, promoting an understanding of the law, and ensuring equal access to the legal system for all residents of the commonwealth, particularly those most vulnerable.

Since first joining the Society of Fellows back in 1992, Mangiaratti has been a generous donor and also has volunteered his time each year to review applications for the foundation’s IOLTA Grants Program. As a member of the Southeastern Mass. Regional Grant Advisory Committee, Mangiaratti and other fellows visit organizations throughout the region that apply for critically needed funds that provide civil legal services to the poor or improve the administration of justice. They then make funding recommendations to the MBF Trustees.

The involvement of Fellows at the local level is essential to the MBF’s ability to get scarce funds to where they are needed most. Mangiaratti has always found serving on the committee particularly rewarding and validating, and he noted, “It confirms my belief that we’re doing important work and that the need for and support of civil legal services is as great as ever.”

While Mangiaratti called his efforts modest, his colleagues noticed his involvement. Hesse knew that a gift on Mangiaratti’s behalf, to a cause about which he cared so deeply, would be a wonderful tribute to her friend and colleague.

Of the choice to present Mangiaratti with this gift, Hesse said, “We at Murphy, Hesse, Toomey & Lehanecare really believe in what the [MBF] does, and we know that Bob personally is very proud to be a lawyer and has always given back to the profession, including through the MBF. What could be more appropriate than to recognize him in a manner that would make him proud?”

The MBF is so grateful for Bob’s support and the thoughtful contribution Murphy, Hesse, Toomey & Lehane LLP made in his honor. You can learn more about the MBF Society of Fellows at www.MassBarFoundation.org.
MBA partnership

Mirick O’Connell’s storied history includes a track record of strong involvement at the MBA. Van Nostrand, who has been with the firm for more than 30 years, served as MBA president during the 2003-04 association year and was the recipient of an MBA Community Service Award in 2011. Firm founding partner Lawrence H. Lougee also served as MBA president in 1962-63.

“Active participation in the MBA provides us with the opportunity to participate in and hopefully have a positive impact on issues affecting the profession, particularly including the administration of justice,” said Van Nostrand. “The MBA provides an opportunity for our firm to collectively and collaboratively address issues at the intersection of law and society, and allows us to interact at the highest levels with the leadership of the state’s judiciary, executive and legislative branches.”

Membership in the MBA provides attorneys at Mirick O’Connell with a sense of professionalism and an opportunity to serve the administration of justice through participating in legal services activities and various committees as a way of giving back to the profession. The firm also highly values membership in the MBA because it’s a great opportunity to associate and share ideas with other attorneys outside of the courtroom in a social environment.

“We have always valued the importance of bar associations, whether it be the MBA, the Worcester County Bar Association (WCBA) or the American Bar Association (ABA),” said Van Nostrand. “Activity in bar associations really provides an outlet to serve the community and the firm has always been very supportive of our attorneys being actively engaged.”

A community staple

A hallmark of the firm has always been its high level of involvement within the Central Massachusetts community. A staple of the firm’s community service is participation in the United Way’s annual workplace campaign and Day of Caring. For the most recent Day of Caring, the firm’s attorneys volunteered with Habitat for Humanity to build playhouses for disadvantaged children. Mirick O’Connell has been a frequent pace-setting organization in terms of financial contributions made by its attorneys to the annual campaign.

The firm is currently involved in a recently announced unique medical-legal partnership with Worcester-based Community Legal Aid and UMass Memorial Health Care, one of the firm’s largest clients. Through a Legal Services Corporation pro bono Innovation Fund grant, Community Legal Aid will partner with UMass Memorial Health Care to develop a clinic-based program to address legal needs that negatively impact the health of low-income and minority communities. Several Mirick O’Connell attorneys will be involved in the project by providing pro bono legal services.

Mirick O’Connell has received numerous awards and accolades, including being named one of the Worcester Business Journals 2014 Top Workplaces and receiving a Special Recognition Award from Attorney General Martha Coakley in 2012 for the firm’s participation in the third annual “Legal Food Frenzy” of Massachusetts. The firm was recognized for “Most Actual Food Collected by a Large Firm” and “Most Raised Overall by a Large Firm in Worcester County.”

Is your firm an Honor Roll Firm? Send us your news and updates. We’ll be featuring more Honor Roll Firms in future issues of Lawyers Journal and eJournal. Not in the Honor Roll? Find out how to join by contacting MBA Member Services at (617) 338-0530, or email memberservices@massbar.org.
CIVIL RIGHTS

THE CIVIL RIGHTS ACT: 50 YEARS OF EQUALITY
Tuesday, Jan. 12, 5–6:30 p.m., MBA, 20 West St., Boston

The Civil Rights Act of 1964 exemplifies the significant contributions of brave jurists in a time of great peril. An enduring tribute to progressive initiative, the act’s hallmark takes shape in the seventh of its 11 titles. When a society eliminates considerations of immutable characteristics, such as race, gender, religion or national origin, it begins to weigh the worth of a person based on his or her merits.

Join the Massachusetts Bar Association and Judge Gustavo A. Gelpi for a discourse on the judiciary’s role in preserving the sanctity of the Civil Rights Act of 1964, its impact today, and how the bench and bar can better convey how important the act will remain in the future.

Members of the Massachusetts Chapter of the Federal Bar Association enjoy a discounted rate of $25. Contact MBA Member Services to register.

Faculty: Christopher P. Sullivan, program chair; Hon. Gustavo A. Gelpi

HEALTH LAW

YOUR CLIENT IS INJURED … NOW WHAT? MEDICAL AND LEGAL PERSPECTIVES
Wednesday, Jan. 13, 11 a.m.–1 p.m., MBA, 20 West St., Boston

Wendie Howland, an experienced legal nurse consultant for both plaintiff and defense, will answer your questions about standards of care, levels of care, effects of minor and catastrophic injuries and illnesses, chronic pain, reviewing medical records, how to identify and vet expert witnesses, licensure and certification, and more.

Lorianne Sainsbury-Wong, Esq., will address medical records, including access and privacy, ownership of data, patient rights and responsibilities, and psychiatric records.

Faculty: Lorianne M. Sainsbury-Wong, Esq., moderator

GUARDIANSHIP

THE_trueGuardIANSHIP_act: WHAT IT IS AND HOW TO USE IT
Tuesday, Jan. 12, 5:30–7:30 p.m., MBA, 20 West St., Boston

Gain a thorough understanding of guardianship, how it is declared, and how to use it to help protect your clients.

Faculty: committee members and guest speaker

CRIMINAL LAW

THE TRUE CRIMINAL LAW: 70 YEARS OF THE CONSTITUTIONAL RIGHT TO COUNSEL
Tuesday, Jan. 12, 5:30–7:30 p.m., MBA, 20 West St., Boston

Learn about the principles and implications of the constitutional right to counsel through the lens of First Amendment law and the interpretation of references to “punishment” and “criminal proceeding” in U.S. v. Moussaoui.

Faculty: panelists

UPCOMING COURSE DATES

Thursday, Feb. 11, 2016—Holy Cross, Worcester
Thursday, March 17, 2016—Holiday Inn, Taunton
Thursday, May 12, 2016—Holy Cross, Worcester
Thursday, July 14, 2016—MBA, Boston
Thursday, Sept. 22, 2016—Umass Lowell Inn and Conference Center, Lowell
Friday, Oct. 21, 2016—Western New England University School of Law, Springfield

REGISTER AT MASSBAR.ORG/MASSBARPROFESSIONALISM.

REGISTER ONLINE AT WWW.MASSBAR.ORG/EDUCATION OR CALL (617) 338-0530.
**BAR NEWS**

Symposium tackles consumer issues of food, seafood mislabeling

The Massachusetts Bar Association’s Consumer Advocacy Task Force, chaired by MBA Vice President Christopher A. Kenney, hosted its Second Annual Consumer Advocacy Symposium on Wednesday, Nov. 18, which featured panels of experts, who addressed the legal issues and litigation triggered by food labeling and mislabeling.

The first panel, moderated by task force member Jessica G. Kelly of Sherin and Lodgen LLP, focused on recent litigation alleging false labeling of food as containing healthy and/or natural ingredients. Panelists Andrew Rainer (Public Health Advocacy Institute), John Roddy (Bailey & Glasser) and Joshua Solomon (Pollock Solomon Duffy) discussed examples of cases where companies’ branding or marketing efforts were found to be misleading.

The symposium’s second panel, moderated by task force member Jaimeson E. Porter of Kenney & Sams PC, tackled the legal issues surrounding the mislabeling of seafood, and the steps that have been taken to try to rectify these issues. Panelists John Connelly (National Fisheries Institute), Logan Gregory (National Oceanic and Atmospheric Administration) and Richard Heller (Legal Sea Foods) discussed examples of seafood fraud and offered their opinions on what drives it and who is responsible.

Following the panel discussions, MBA President Robert W. Harnais and task force member Nadine Cohen presented MBA Pinnacle Awards to Fresh Truck and Market Basket. The Pinnacle Awards highlight companies that take proactive steps to protect the consumer and employ business practices, which serve as positive models to others.

Fresh Truck, the Boston based company that uses a retrofitted school bus to operate as a mobile food market, was honored for identifying novel and creative ways of delivering healthy food options to low-income households in Boston. Market Basket, owned by DeMoulas Super Markets Inc., was honored for nearly a century of bringing affordable groceries, dignified jobs, pro-consumer policies and more to Massachusetts communities.

The Pinnacle Award honorees then joined panel members, MBA officers and symposium attendees for a reception in the lobby.

Thank you to Symposium Co-Chairs Andrew Rainer and Nadine Cohen and the rest of the Consumer Advocacy Task Force for organizing the successful event.
**MBA MEMBERS IN THE MEDIA**

**Multidistrict litigation**

It’s like high-stakes poker. You’re in for a lot of money. There’s a high risk associated with it. But it’s exciting. You are collaborating with lawyers across the country, all of whom in my experience are pretty dedicated and committed to the cause. You’re up against powerful attorneys on the other side who also are extremely skilled and knowledgeable.

MBA PRESIDENT-ELECT JEFFREY N. CATALANO
Worcester Telegram & Gazette, Nov. 15

Catalano was quoted by the Telegram & Gazette as a legal expert on multidistrict litigation (MDL) in reference to the federal MDL case against TelexFree LLC, a company that allegedly ran a pyramid scheme.

**Criminal justice reform**

Incarceration doesn’t prevent recidivism. Treatment does.

MBA IMMEDIATE PAST PRESIDENT MARSHA V. KAZAROSIAN
WGBH “Greater Boston,” Nov. 2

Kazarosian appeared on WGBH’s “Greater Boston” to discuss issues of criminal justice reform, including the elimination of mandatory minimum sentences for certain drug offenses.

**Violation of restraining order procedures**

Clearly, there was some sort of neglect in this case. It resulted in the loss of a life.

MBA CHIEF LEGAL COUNSEL AND CHIEF OPERATING OFFICER MARTIN W. HEALY, BOSTON GLOBE, NOV. 7

Healy was quoted in a Globe story on a domestic violence case that occurred in Hyde Park last year. Two Boston police officers are facing possible disciplinary action for violation of restraining order procedures.

**Chism trial**

The only hand to really play would be some kind of mental health defense, either having to do with his actual mental health or try to use the issue of his age.

MBA CRIMINAL JUSTICE SECTION VICE CHAIR PETER ELIKANN
BOSTON.COM, NOV. 10

Elikann was interviewed about the possible use of an insanity defense in the upcoming trial of Philip Chism, 16, who is charged with murdering Colleen Ritzer, a teacher at Danvers High School.

Where available, news clips — including audio/video — can be found on our website at www.MassBar.org.
MBA mourns passing of longtime staff member

It is with a heavy heart that we report that longtime Massachusetts Bar Association employee Linda Maher died in November after a two-year battle with breast cancer. Linda worked at the MBA for 18 years in a number of roles, most notably at the front desk in the Boston office, where she frequently welcomed visitors during the late afternoon and early evenings.

“Linda was quite an exceptional person who was truly fearless in her battle. While we are saddened by the loss of such a loyal member of our MBA family, we are grateful for the time spent with her for so many years,” said Martin W. Healy, the MBA’s chief legal counsel and chief operating officer. “She will be greatly missed by all of us who worked with her, and no doubt also by the hundreds if not thousands of MBA members who saw Linda as the helpful face of the MBA.”

Services were held in her hometown of Norwood in mid-November. Linda’s obituary can be found on Legacy.com.

Senate passes MBA-backed workers’ compensation legislation

The Senate in October passed Massachusetts Bar Association-backed legislation that would increase the maximum allowable benefit for those workers who suffer scarring and disfigurement on the job from a flat $15,000 to 22.5 times the state’s average weekly wage. Additionally, this legislation removes the requirement that the scarring be on the face, neck and hands, thus benefitting those workers who have scarring and disfigurement on their legs, arms and torso. Deborah G. Kohl, chair of the MBA’s Workers’ Compensation Section Council, testified in support of the bill before the Legislature’s Joint Committee on Labor and Workforce Development earlier this year.

The bill now heads to the House of Representatives.
**LEGAL NEWS**

**News from the Courts**

**SJC announces new jury instructions on eyewitness identification**

The Justices of the Supreme Judicial Court have announced that they have approved new jury instructions on eyewitness identification. The new model instruction replaces the provisional instruction approved in *Commonwealth v. Gomes*, 470 Mass. 352, 379-388 (2015). A new preliminary/contemporaneous instruction also has been approved that will be given, upon request of a party, before opening statements or immediately before or after the testimony of an identifying witness.

In *Gomes*, the court stated that it would adopt a model instruction after soliciting public comments on the provisional instruction. In approving the new instructions, the justices expressed appreciation to the Standing Committee on Eyewitness Identification for their recommendations regarding revisions to the provisional instruction, and to the members of the bench and bar who submitted thoughtful comments. Noting that the instructions will need to evolve with new developments in the science of identification and with the experience of judges using them, the justices asked the Standing Committee to continue to review the applicable science, monitor the efficacy of the instructions in providing guidance to jurors and recommend further revisions as needed or warranted.

The statement of the Supreme Judicial Court, the preliminary/contemporaneous instruction, and the Model Eyewitness Identification Instruction can be found at 473 Mass. 1051 (2015), and are also available at www.mass.gov/courts.

**SJC to host Magna Carta exhibit on 800th anniversary**

In recognition of the 800th anniversary of the Magna Carta, the Massachusetts Supreme Judicial Court will host “Magna Carta: Enduring Legacy 1215-2015” in the Great Hall of the John Adams Courthouse from November through January. The traveling exhibit was developed by the American Bar Association, the Library of Congress and the Law Library of Congress. The exhibit features 13 banners reflecting images of Magna Carta and other manuscripts and objects that illustrate Magna Carta’s influence throughout the centuries. The exhibit will be displayed in the Great Hall of the John Adams Courthouse, opened Nov. 19, and is viewable to the public Monday through Friday, excluding holidays, from 8:30 a.m. to 4:30 p.m., until Jan. 7, 2016.

The Supreme Judicial Court, originally called the Superior Court of Judicature, was established in 1692 and is the oldest appellate court in continuous existence in the Western Hemisphere. The Massachusetts Constitution is the oldest, still functioning written constitution in the world. The exhibit has traveled throughout the past year and a half to public buildings such as courthouses, law schools, universities, state houses and public libraries around the United States. For more information about the American Bar Association’s “Magna Carta: Enduring Legacy 1215-2015” exhibit, visit http://ambar.org/mctravelingexhibit.

**NEWS from the Courts**

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**Snapshots from around the MBA**

MBA sponsors leadership scholarship

Massachusetts Bar Association President Robert W. Harnais (right) presented the Leadership Scholarship to third-year Northeastern University School of Law student Jessica Winn at the Massachusetts Lawyers Weekly’s Top Women of Law event in October. This is the third year the MBA has sponsored the scholarship.
Contextual leadership is all that matters

BY SUSAN LETTERMAN WHITE

Contextual leadership is all that matters for today’s law firm, law school or law department leaders. Today’s successful leaders spend less time trying to influence others in their organizations directly and more time adjusting the elements of the context under the leader’s control. The chief talent partner and chief talent officer in a global firm experimented with different ways of structuring talent management processes until they found the options that worked best for their firm. They caused a lot of discomfort, which is actually an incredibly valuable driver of intentional change, and made mistakes, which are part of an effective strategy design and implementation process. They led by aiming change at the elements of the context within their control, and it worked. Now, I’m going to tell you why it worked.

What it means to be a leader in any profession has changed and continues to change because of changes in our world, such as technology, the economy, and culture. In particular, the meaning of expertise and authority have changed. Expertise, presently, has a de facto meaning of someone with a skill in high demand and low supply in the marketplace. Expertise allows one to price one’s services without sensitivity to the effects of the downward pricing pressures of commoditization. It also supplements the power of formal authority to lead others. Others listen and follow because others assume that the expert knows something they do not and, by virtue of that knowledge, is also trustworthy.

The scope of true expertise in the marketplace, based purely on the ability to collect data, analyze it in a linear, logical way, use it in a rote or rule-based manner is narrowing rather than expanding. The scope of true expertise in the marketplace, based purely on the ability to collect data, analyze it in a linear, logical way, use it in a rote or rule-based manner is narrowing rather than expanding. The scope of true expertise in the marketplace, based purely on the ability to collect data, analyze it in a linear, logical way, use it in a rote or rule-based manner is narrowing rather than expanding. The scope of true expertise in the marketplace, based purely on the ability to collect data, analyze it in a linear, logical way, use it in a rote or rule-based manner is narrowing rather than expanding. The scope of true expertise in the marketplace, based purely on the ability to collect data, analyze it in a linear, logical way, use it in a rote or rule-based manner is narrowing rather than expanding.

“Taking-care-of-others” attitude demonstrated by highly publicized organization closings and massive job layoffs.

Susan Letterman White, JD, MSOD, is an organization development/change management consultant in Boston with 25-plus years of experience working in the legal sector, consulting sector, government and higher education. MBA seeks nominations for 2016-17 officer, delegate positions

The Massachusetts Bar Association is currently accepting nominations for officer and delegate positions for the 2016-17 membership year. Nominees must submit a letter of intent and a current resume to MBA Secretary John J. Morrissey by 5 p.m. on Friday, Feb. 19, 2016, to be eligible. To submit a nomination, mail or hand-deliver the information to: Massachusetts Bar Association Attn: John J. Morrissey, MBA secretary 20 West St., Boston, MA 02111 If you have any questions about the nomination process, call MBA Chief Operating Officer Martin W. Healy at (617) 988-4777.
Echoes of past intruding into law school

BY DR. JEFF FORTGANG

Q. Coming from a blue-collar family in a small Southern town, I have some pride in having managed to find my way to a good college near home, and now to entering a prestigious Boston-area law school. Although I’m doing OK academically, it’s been a bumpy road emotionally. I have been getting panicky at unexpected times and places, always kind of on guard and jumpy (not new for me, but more intense). I’ve also been losing sleep because of a lot from nightmares related to some bad memories that also pop into my head during the day, even in class. The most disconcerting thing was a few occasions when I was sitting in my apartment and suddenly it was a couple of hours later than I thought and I couldn’t account for the time that passed. I know that some of this may be related to the fact that I was abused by one of my teachers as a kid, but I don’t see why it should be bothering me more now, and I don’t know whom to talk to or what to do about it — not really that close with anyone.

A. You are describing some of the key symptoms of Post-Traumatic Stress Disorder. That does not mean for sure that this is the problem — you’d need a thorough clinical assessment — but since you report a history of abuse, it’s a distinct possibility. People with PTSD are often subject to intrusive and disturbing memories (which can feel like re-living rather than just remembering), including in the form of nightmares, and to dissociation (various forms of the experience of being mentally removed from oneself, one of which is “losing time”). Such individuals typically avoid thoughts or stimuli that remind them of the trauma, and may also avoid close relationships and assume a stance of “hyper-vigilance.”

Avoidance and dissociation are in fact effective measures for self-protection during a period when someone is in danger or subject to trauma, whether through something like sexual or physical abuse or experiences such as witnessing horrific events. But these automatic maneuvers can also create problems when, months or years later, the danger has passed but the trauma continues to feel very present. In your case, the fact that you have moved far from the physical location of the abuse may have somehow allowed some of the related feelings and fears to emerge.

Certainly, it is an appropriate time for you to get some professional help, and if you come for a clinical evaluation at LCL we will assist you in finding appropriate resources. Psychotherapy with a mental health clinician trained and experienced in trauma is a place to start. It will probably not be brief treatment, but it will be good for you to have someone to talk to and with whom you can build trust. Nowadays, there are several different kinds of therapeutic techniques that have evolved for PTSD; we can review those with you as part of the referral process, and can also discuss the potential role of medications of various sorts (especially the ones without addictive potential) that, while not curative, can reduce the intensity of post-traumatic symptoms.

PTSD is also something to take into account in planning your career as a lawyer. You may (or may not) find that certain kinds of work (e.g., involving direct contact with distressing family or criminal circumstances) tend to trigger trauma-based reactions. On the other hand, work that is related to such matters, but a bit further removed from direct exposure may feel meaningful. Whatever choices you make, it is helpful to remain cognizant of the psychological context of your career choices. As you gradually move toward both symptom reduction and a level of healing from your abusive experiences, you can find your own best ways to find greater professional and personal fulfillment.

Dr. Jeff Fortgang is a licensed psychologist and licensed alcohol and drug counselor on staff at Lawyers Concerned for Lawyers of Massachusetts, where he and his colleagues provide confidential consultation to lawyers and law students, and offer presentations on subjects related to the lives of lawyers. Q&A questions are either actual letters/emails or paraphrased and disguised concerns expressed by individuals seeking LCL’s assistance. Questions may be emailed to DrJeff@LCLMA.org.
New publishing schedule, enhancements in store for Lawyers Journal

BY JASON SCALLY

Massachusetts Bar Association members can expect to see a different Lawyers Journal in 2016 as the MBA’s print newspaper switches to a bi-monthly publishing schedule, starting in January.

The reduction to six print issues per year will coincide with editorial enhancements to the newspaper, including several new practical and personal components. Over the next few issues, readers can expect to see expanded profiles, new columns and a greater focus on sharing individual member news from around the commonwealth. The MBA’s weekly online eJournal, published at www.MassBar.org and emailed to members each Thursday, will continue as the MBA’s main outlet for timely news and announcements.

“Today most attorneys get information instantly and online, but we still see real value in having greatly expanded coverage of the MBA’s news, events and benefits delivered regularly to our members’ doors,” said Martin W. Healy, the MBA’s chief legal counsel and chief operating officer. “I fully believe the changes to Lawyers Journal will complement our online eJournal, My Bar Access and social media platforms and improve our overall bar communications efforts.”

One of the most notable changes will be the addition of the MassBar Bulletin, a new section of Lawyers Journal, which will feature member-submitted news, announcements and photos — similar to those often found in school alumni publications. Inspired by MBA President Robert W. Harnais, the MassBar Bulletin will give members from all corners of the commonwealth a platform to share their latest professional and personal updates.

“The MBA is the largest statewide community of lawyers, but sometimes we miss the ‘community’ part when we’re working in our day-to-day silos. Let’s change that.” said Harnais. “Tell us what you’re doing. The MassBar Bulletin and other new Lawyers Journal features will make it easier to meet your neighbors — those across the state, as well those next door — and hopefully infuse some more congeniality into our profession. I also invite you to share your ideas, your views on the profession and how the MBA can assist you in the practice of law.”

Lawyers Journal will continue to provide regular coverage of both legal and bar news, MBA benefits and events. Here are highlights from some of the new enhancements that readers can expect in 2016:

MassBar Bulletin: member-submitted announcements

Organized by county, the new section will allow MBA members to submit professional updates, including new jobs, recent accomplishments or awards, and more. Members can also share personal news and photos, such as weddings, birth announcements and outside-of-work accomplishments. Members can send updates of 50 words or less to bulletin@massbar.org. Please include your name, firm, town (and county).

While the primary focus of the MassBar Bulletin will be individual announcements, MBA Honor Roll Firms (firms of five or more members with 100 percent of their attorneys enrolled in the MBA) will also have the unique opportunity to submit firm news and announcements. Honor Roll Firm announcements can feature the firm’s logo and a description of 100 words or less.

Section Review and practice alerts

Section Review articles from each of the MBA’s 18 sections and the Young Lawyer Division will continue to be published in Lawyers Journal. The newspaper will also be adding more news and practice-related alerts covering recent developments and hot topics.

Expanded profiles

Lawyers Journal will continue to run member spotlights, but readers can also expect to see more coverage and profiles of MBA Community Service Award honorees, judges and other influential people in the legal community. In addition, the newspaper will include more “insider” profiles with individuals who can offer useful information about navigating courts and agencies around the commonwealth.

Practical columns

In addition to the continuing Lawyers Concerned for Lawyers column, Lawyers Journal will be expanding its “For Your Practice” section. Readers can expect to see columns covering technology, business development and even lifestyle.

Dedicated law student section

A section of Lawyers Journal will be dedicated to news and information for law student members, including calendar highlights of events of particular interest to law students.

Lawyers Journal is always looking for new ideas. Have something to share? Email Jason Scally at jscally@massbar.org.
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17TH ANNUAL WALK TO THE HILL FOR CIVIL LEGAL AID
Thursday, Jan. 28
11 a.m.
Great Hall, State House

www.MassBar.org
The Widow Wave' engages both as maritime tragedy and courtroom drama

BY JOHN B. REST

The Widow Wave is so much more than an old “war story” by an attorney about one of his trials. It is a captivating tale about the loss of a private boat with a captain and his four passengers outside San Francisco Bay; it is about the preparation and trial of the ensuing wrongful death lawsuit; it is about the emotional highs and lows experienced by an attorney during the course of litigation. The author, Jay Jacobs, a maritime defense attorney, has given us a courtroom drama which is both an edge-of-your-seat trial seminar and also a reminder of the emotional and moral responsibilities of a trial attorney.

On the morning of March 9, 1984, the 34-foot cabin cruiser Aloha left Sausalito to make a fishing trip at the Farallon Reef, off the coast of San Francisco. On board was owner Francis Dowd, a Raytheon executive with extensive boating experience, as well as his 19-year-old son, his brother-in-law, a friend and a business associate, Andy Ang. The boat was never seen nor heard from again and a month later, 15 fishing boats found floating in San Francisco Bay about a month later. Fifteen fishing boats left San Francisco Bay that morning heading for Duxbury Reef. Aloha was the only one that did not return.

Suit was brought by Ang’s widow and five children against the estate of Dowd, a captain lost at sea. This is a page-turner from Oct. 25-31, there’s one more reason to contemplate Hamilton’s legacy. It tells us that when the depth of the water is less than half the length of the wave, the wave becomes sharply pointed and refracts (bends) and changes from a smooth wave to a steep breaking one. Under certain circumstances, if two nearly identical waves wrap around a shallow bar and meet, they can create a destructive wave which can be twice the height and quadruple the force of an ordinary wave. It forms, breaks and disappears in seconds.

Aside from the legal and emotional aspects of litigation, the expert testimony in the case provides fascinating information about waves and their physical properties. It tells us that when the depth of the water is less than half the length of the wave, the wave becomes sharply pointed and refracts (bends) and changes from a smooth wave to a steep breaking one. Under certain circumstances, if two nearly identical waves wrap around a shallow bar and meet, they can create a destructive wave which can be twice the height and quadruple the force of an ordinary wave. It forms, breaks and disappears in seconds.

The Widow Wave is a book that is entertaining and thrilling to anyone who is involved in litigation or boating, or just warm, sympathetic verse develops all of his characters vividly so that you get to know their personalities, and you care about what happens to the author. From a legal standpoint, anyone who has tried a case sees his or her own reflection in the preparation, intuition and luck encountered in a trial, with the presentation of evidence; examination and cross-examination of witnesses; and objections, arguments and court rulings as the case proceeds through trial. For non-attorneys, it provides an entertaining and informative insight into how attorneys prepare and try a complex case.


Reflections

Following Hamilton’s pro bono example

BY JOHN CARROLL

For someone who died more than two centuries ago, Alexander Hamilton is in the news quite a bit lately. Some of his newfound notoriety stems from the blockbuster Broadway musical “Hamilton,” a biographical piece that is currently doing better box office than perennial pleasers like “Wicked” and “The Book of Mormon.”

Meanwhile, the legal profession has been on the news quite a bit lately. Some of the most recent examples include the BBA’s pro bono report “Investing in Justice: A Roadmap to Cost-Efficient Funding of Civil Legal Aid in Massachusetts,” found that in 2013 attorneys in Massachusetts supplemented the efforts of four civil legal aid programs in the state with 82,000 pro bono hours. Nonetheless, the BBA found that despite the extraordinary efforts of attorneys doing pro bono work, 30,000 low-income people — about two-thirds of those who qualify for civil legal aid and sought services — were nonetheless turned away due to a lack of resources. The unfortunate reality is that the need for assistance far outstrips the capacity of legal aid organizations and private attorneys doing pro bono work.

Perhaps helping a family that is living paycheck to paycheck stay in their home, ensuring a disabled child receives the educational services to which he or she is entitled, or helping a single mother obtain child support from a former spouse isn’t the stuff of splashy Broadway musicals. But pro bono service has its rewards, as Alexander Hamilton knew — and many lawyers working today also know. It is the satisfaction of knowing one has made a tangible, positive difference in the life of another and the pride of living up to the most important ideal articulated by the Founding Fathers: we are all created equal.

This article was originally published on MySouthEnd.com.
In June 2015, the Trial Court Public Access to Court Records Committee held a public hearing on whether trial court docket entries should be part of the record. The Internet offers online access to the general public, but many lawyers have concerns about the negative effects of such access. Former Massachusetts Bar Association President Denise Squillante, MBA Criminal Justice Section Vice Chair Peter Elkin, MBA Family Law Section Vice Chair Lloyd Godson, the Union of Minority Neighborhoods, the Massachusetts Black Lawyers Association, and many attorneys who represent indigent defendants in the COR called, family law, housing, and other matters testified at the hearing or wrote letters to the committee about the hazards of online access. Some of their major concerns are discussed below.

Internet access to court records by the public would have a disproportionate adverse impact on the poor and particularly further erode confidence in the justice system. Providing case information to the general public on the Internet is especially unfair to the poor because they do not have lawyers to protect their privacy rights. The right to counsel does not extend to litigating collateral consequences of their cases. Individuals with appointed counsel are not informed of the impact of their criminal cases on future employment and housing. In civil cases, many past and present litigants were or are pro se. They are not likely to be aware of the possibility that their case information might be available on the Internet in the absence of an allowed motion to impound records. Future Internet access will affect access to justice because people with meritorious claims would have to choose between filing a complaint avoiding disclosure of personal information related to the case or the Internet.

In a post-Ferguson world, where the fairness of the legal system is frequently called into question, there is increased awareness that people of color are disproportionately involved in the criminal justice system and are often poor. The piling on of further adverse consequences through online access to court records would further erode confidence in our justice system.

The same rules should not apply to Internet access to records because Internet access is different from courthouse access and destroys traditional privacy protections. Historically, courts could take pride in providing public access to court files in clerks' offices while affording privacy protections through the "practical obscurity" of the same records. Presently, the COR system has access to all records that are open to the public at the courthouse online raises novel questions about the court's responsibilities to individuals involved in court cases. The Internet opens an entirely new dimension of communication that operates 24 hours per day with a limitless audience. The assumption that online access to records should be the same as access to records in a clerk's office is flawed because un-fettered Internet access does away with "practical obscurity" and turns a blind eye to privacy and safety concerns. People who would not bother to take a trip to a courthouse to review records can do a lot of damage with just a laptop when information is available in a few seconds online. Cyberbullies, identity thefters, retaliation websites, cyberstalking and the commercial exploitation of personal information by data mining companies are just a few examples. Online access by the general public has the potential to ruin reputations and repeatedly put parties in harm's way.

There is no constitutional right to access online records. Even the presumption of access to records at a courthouse is limited in certain instances depending on the nature of a case or the issue presented to protect litigants, children, witnesses or even business interests. Thus, the rules governing online access by the general public should not be the same as to access to paper records at the courthouse, or the court's balancing of interest. It is a shift too far away from individual privacy, public safety and the realities of data misuse as the Internet continues to evolve.

Putting records online will put former defendants and others in harm's way. You cannot un-ring the bell after information is released on the Internet. Both criminal and civil records can infect a virtual scarlet letter and create barriers to jobs, housing and many other opportunities.

Criminal cases. Mass incarceration and racially disparate involvement in the criminal justice system have come to be known as the new Jim Crow. In general, work is the pathway to a better life, but research shows that most employers will not hire a person with a criminal record. Online access to ongoing or closed criminal records has the potential to deepen poverty in communities of color because it would exacerbate our criminal record sealing laws. If criminal records are accessed or posted online, the information may remain on the Internet forever. If sealing becomes a useless remedy, more people will suffer long term unemployment and destruction of livelihoods due to past criminal records will push communities of color toward a permanent underclass. People who are falsely accused or misidentified also may suffer further harm from online access to records. Internet access to records could trap people in poverty, deepen feelings of hopelessness and add to concerns about the fairness of the justice system.

Family law. Online access to family law cases is another area of concern. Children and their classmates would be able to access embarrassing and devastating information about their own parents or their classmates' parents. Online access would give domestic abusers the ability to send links to records to employers and others to further abuse victims, who are often the subject of bogus criminal cases filed by abusers. Release of certain data contained in abuse or harassment prevention orders and domestic relations protective orders would also violate the Violence Against Women Act. Access to guardianship, civil commitment and mental-health related cases on the Internet could also have unintended consequences on the well-being of named parties.

Housing. The Housing Court put docket entries online several years ago. Attorneys Todd Kaplan and Esme Cara-mello from the Harvard Legal Aid Bu-reau noted that some landlords use online records to reject any applicants with past Housing Court cases as tenants, including those who were not at fault or only sought help when the landlord refused to address bad conditions such as lack of heat in the winter.

Online access by the general pub-lic will fuel commercial exploitation of court data. The Internet has spawned scores of online background screening and data mining companies that troll the web and sell data they aggregate on the Internet for a fee. In 2012, the Na-tional Consumer Law Center (NCLC) issued a report on this phenomenon and concluded that these companies often violate consumer protection laws and the reports they sell are fraught with errors. They often scrape data from online court websites to obtain data at no cost and fail to update information in the reports they sell. This has grave consequences for job seekers, including former defen-dants who face barriers to employment based on past criminal records. As the NCLC explained in a letter to the MBA's Family Law Section Council and Ames Committee.

Conclusion

Potential online access by the general public to our clients' criminal and fam-i-ly law cases would have very serious consequences. The problem of landlords using the online Housing Court database to blacklist tenants also demonstrates the harm that can occur when third par-ties have online access to court records. The Trial Court Public Access to Court Records Committee is to be commended for soliciting feedback on the important issue of access to court records before drafting a rule. The committee will be issuing a proposed rule for public com ment.
Amherst reception honors grantees, Charles J. DiMare

UMass Amherst was the setting for the MBF’s Western Mass. Grantee Reception on October 27. We were delighted to welcome so many MBF Fellows, grantees and friends of the foundation who joined us for this special occasion. MBF Life Fellow Charles J. DiMare was honored with the 2015 President’s Award. Guests also enjoyed remarks from Betsy Williams of The Mediation and Training Collaborative.

Thank you to everyone who joined us to celebrate.

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Lawyers and judges like you, who believe that our justice system must be open to all, are the lifeblood of the MBF. With your generous support, we can provide desperately needed funds to programs across the state, helping people in need access legal assistance that can change their lives for the better.

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