I recently had the opportunity to visit the western part of our state to meet with lawyers and building lawyers, and I came away with filled with optimism. I was honored to speak briefly to members of the Hampshire and Hampden bar associations, and I also addressed a group at Western New England Law School in Springfield. Later this month, on Oct. 21, I’m looking forward to returning to Springfield when I participate with other MBA volunteers on our next Western Massachusetts Dial-a-Lawyer program.

As I mentioned in my inaugural column as the new president of the Massachusetts Bar Association, one of my interests is in trying to help restore the professional congeniality that I’ve always valued so much in my own interaction with fellow lawyers. While our system is adversarial, we can still be civil to one another.

In my visits to western Massachusetts, my sense was that the lawyers I met there enjoy a strong sense of camaraderie and collegiality. And to my way of thinking, that’s the way it should be. One brotherhood/sisterhood under the umbrella of thinking, that’s the way it should be.

Starting Dec. 1, Massachusetts Bar Association members will have free, unlimited access to Fastcase — one of the nation’s most popular legal research services. Fastcase will provide MBA members with nationwide coverage from state and federal courts, state statutes and administrative regulations, as well as court rules, constitutions and other valuable libraries.

“One of the greatest benefits of belonging to the Massachusetts Bar Association is access to tools and services that strengthen an attorney’s practice,” said MBA Chief Legal Counsel and Chief Operating Officer Martin W. Healy. “We’re excited to be able to provide MBA members free access to Fastcase — one of the largest online legal research libraries, and the top-rated app for attorneys.”

Fastcase will supplant Casemaker as of Dec. 1, and MBA members will be able to log into Fastcase in December through www.massbar.org, using their member IDs/emails and passwords.

Richard P. Campbell is a Boston guy to the core. A past president of the Massachusetts Bar Association, Campbell is a graduate of UMass Boston and Boston College Law School. But to really put it in perspective, his baptismal record states Campbell is in the process of stepping down from his role at the firm, a shift which he refers to as “a work in progress.” He is still working on a few pending matters but is not taking on any new assignments.

It has been quite a journey for Campbell, who started a five-lawyer firm as the only partner and shareholder in February 1983. At its earliest stages, Campbell remembers a time when the firm used borrowed office space and typed up notices of appearances while sitting on phone books. More than 30 years later the firm represents some of the biggest and most prominent corporations in the world in multi-district litigation, class actions, aviation disasters, mass torts, toxic tort, product liability and major commercial disputes. The two primary offices for the firm are located in Boston and suburban Philadelphia.

Campbell served as one of seven leaders and shareholders in a national trial counsel for Caterpillar Inc. and also served as lead counsel for a commercial airline in the 9/11 federal litigation in New York City.

“Many of the leaders and shareholders in the firm today have never worked for anybody but me,” said Campbell. “I take great pride in the fact that we created this law firm basically out of whole cloth.”

In a career that has seen many accolades, honors and victories in the courtroom, Campbell is most proud of his induction as a fellow into the American College of Trial Lawyers, which is widely considered the premier professional trial organization in America.

“In trial practice the singular honor of recognition by your peers noted Campbell. “To me, induction as a fellow of the American College of Trial Lawyers is probably the most important professional credit that I have achieved and that’s because it’s recognition by your peers of your accomplishment in your chosen field.”

Richard P. Campbell

Volunteering nationally and locally

Volunteering has always been important to Campbell during his career and he has done so on both a national and local level.

He is a past chair of the 34,000 member Tort Trial & Insurance Practice Section of the American Bar Association and has served on the executive committees for both the International Association of Defense Counsel and the Product Liability Advisory Council.

Locally, Campbell served as MBA president during the 2011-2012 association year, which Campbell describes as a highlight of his legal career.

“In terms of volunteering in lawyer professional associations, the most important job I had was my service as president of the Massachusetts Bar Association,” said Campbell. “To me, as a local guy, ultimately the most important work that you do is local. I will forever hold dear the time that I spent as president of the Massachusetts Bar Association.”

The timing of Campbell’s presidency coincided with the financial crisis in the courts due to a lack of appropriate funding. Under Campbell’s leadership, the MBA launched an unprecedented statewide billboard campaign to raise public awareness about the dire need for court funding.

According to Campbell, this initiative "turned a lot of heads" and addition to providing free and unlimited customer support from experienced reference attorneys, Fastcase will sponsor complimentary monthly training webinars and there will be short video tutorials on the site.
ally a mistake. I’ve traveled to all corners of the commonwealth, and I can assure you there is indoor plumbing, electricity — and good lawyers — everywhere in Massachusetts. And even in cases where there are real differences, we can learn from them and use them to positive ef-fect.

In the coming months, I’ll be talking to you more about some of the issues we as an organization want to pursue legislatively and things we want to try to accomplish through policy. In the mean-
time, I’m going to try to talk to as many people as possible to get a strong sense of what’s going through their minds.

All of us, no matter where we live and where we work, are providing a great service to the people of this commonwealth. They place their trust in us, and they deserve the best representation possible. I am confident that we do that as well as any state in the union. But we can always be even better. One mark of a great lawyer is someone who is always striving to improve. And that’s what we should be doing as a bar association, as well.

Communication is the key. Boston lawyers, Cape lawyers, Springfield lawyers, Salem lawyers, wherever you practice in Massachusetts — we’re all one MBA. I urge you to reach out to us and let us know what you think. I can be reached at robert@harnaislaw.com or you can call the MBA at 617-338-0500 in the Boston office or 413-731-5134 in the Springfield office.

I look forward to hearing from you!
“We’re very excited to welcome members of the MassBar to Fastcase,” said Fastcase CEO Ed Walters. “We’re just launching the new version of Fastcase 7 in a public beta, and Fastcase was just named the #1 app for lawyers in the ABA Tech Survey for the third year in a row. It’s an exciting time, and we’re going to continue working hard with the MassBar to provide the best for its members.”

In addition to extensive law libraries, Fastcase also includes several unique features:

**Data visualization.** Only Fastcase includes the Interactive Timeline, a visual map of search results. Search results in text look all the same — but when you map them, the best answers jump off the page.

**Bad Law Bot.** Fastcase includes Bad Law Bot, the world’s first big data tool for negative treatment history. When your case has been cited with negative history, Bad Law Bot flags the case.

**Mobile sync.** The ABA’s 2013, 2014 and 2015 Tech Survey showed that Fastcase’s legal research apps for iPhone, iPad and Android devices are by far the most popular mobile apps for lawyers. Many MBA members already subscribe to Fastcase’s mobile apps. With our new member benefit, when you sync your app on the desktop, you can save documents on your app to print later from the desktop, share research history across your devices or create mobile trial notebooks for tablet devices.

**HeinOnline.** Fastcase now integrates with HeinOnline, the largest library of law reviews in the world, with more than 2,000 American journals going back to the first page — more than double the size of the law review catalog of traditional research providers. MBA members can search the HeinOnline catalog (which includes the Massachusetts Law Review) and view results for free. To read individual articles, members can subscribe to Hein at a discount. If you’re already a subscriber to HeinOnline, you can access the journals without an additional purchase.

**Annotated statutes.** Fastcase’s statutes include a free annotation service, so you can see how courts have interpreted statute sections. Scroll to the bottom of a statute section to view a list of citing cases.

**Batch printing.** You can use Fastcase’s dual-column printing utility to print clean copies of cases in Word or PDF format, and you can batch print multiple cases, either in a single document, or as a zip file with each document saved as a separate file. It’s a quick and easy way to pull cases, in a format that you could show a judge, opposing counsel or a client.

To access the scope of Fastcase’s coverage, visit [www.fastcase.com/what-isfastcase/coverage](http://www.fastcase.com/what-isfastcase/coverage). Look for more information about the MBA’s newest member benefit at [www.massbar.org](http://www.massbar.org), and in eJournal and Lawyers Journal.

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**Fastcase facts**

**What is Fastcase:** One of the largest online legal research libraries, which includes cases, statutes, regulations, court rules and constitutions, and provides access to a newspaper archive, legal forms and a one-stop PACER search of federal filings

**Available:** Dec. 1

**Users:** More than 800,000 subscribers, including 28 state bar associations and many of the nation’s largest law firms

**Cost:** FREE for MBA members (a $995 savings)

**App:** The most popular mobile app among lawyers, according to the ABA’s annual Tech Survey

**Support:** Available toll free, weekdays from 8 a.m. to 8 p.m. EST.
had a tremendous impact. “The Massachusetts Bar Association stood up, took the lead and helped bring about positive change to properly fund the court system,” noted Campbell.

Campbell also developed and led an MBA task force which studied the changing face of the law economy, including the unemployment conditions for lawyers graduating from law schools. The “Report of the Task Force on Law, the Economy and Underemployment: Beginning the Conversation,” was well received and drew national attention from the ABA who created its own task force to take a national perspective on this topic.

“He was very dedicated to the MBA and during his presidency he always took his responsibilities very seriously,” said Martin W. Healy, MBA chief legal counsel and chief operating officer. “Dick was a great president to work with in addition to being quite an accomplished attorney.”

During Campbell’s time at the MBA, he worked with his fellow officers to get each of them to think beyond their own term as president in developing a collective, ongoing program of initiatives that would be passed on from one president to the next. As a result of this close collaboration, Campbell acknowledges that the MBA officers he worked with became some of his really good friends.

“The whole time he was an officer, Dick was a leader that we always knew we could go to when we needed something important to get done. He not only had great ideas and common sense, but he knew how to make things happen,” said Valerie A. Yarasush, MBA past president. “He was so well respected by everyone for having good judgment about things and getting right to the heart of an issue. He really knew how to focus on what was the right priority.”

Before becoming a fellow officer with Campbell at the MBA, past President Douglas K. Sheff found himself going against Campbell and his firm in several trials throughout the years. “It just shows the power of the MBA that even adversaries can be brought together and become good friends,” said Sheff. “As powerful an adversary as he was in the courtroom, he’s even more powerful as a friend. Just because he’s retiring from the firm doesn’t mean he’s going to be retired from my phone calls.”

Fellow MBA past President Denise Squillante agrees. She sees Campbell continuing to be a trusted resource within the legal community even after his retirement. “He was a great bar leader and stimulated conversations that were elevated to a national level,” said Squillante. “I am happy for him as he begins what I refer to as his third act. But I don’t think Dick is going anywhere because it’s his nature to be involved and help people.”

Influential people

A successful career is typically not built by one person alone. Campbell mentioned several colleagues and mentors throughout the legal profession that have helped shape his career.

Campbell began his career at Shanley & Fisher, PC in New Jersey where partners Raymond M. Tierney Jr. and Thomas F. Campion spent countless hours teaching him how to be an effective trial lawyer.

“Collectively, those two guys invested in me their wisdom and insights and made me the lawyer that I am today,” said Campbell.

Former Superior Court Justice Charles F. Barrett (ret.) was the head of the litigation department when Campbells’s MBA task force which studied the changing face of the law economy, including the unemployment conditions for lawyers graduating from law schools. The “Report of the Task Force on Law, the Economy and Underemployment: Beginning the Conversation,” was well received and drew national attention from the ABA who created its own task force to take a national perspective on this topic.

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MassBarTIPS

A DOZEN WAYS TO MAXIMIZE YOUR MBA MEMBERSHIP

1. Join a section or practice group
2. Take advantage of FREE CLE
3. Become active on My Bar Access
4. Try our free legal research tools
5. Volunteer to serve the public
6. Seek out leadership opportunities
7. Collaborate on legislation impacting the profession
8. Attend a networking reception or bench bar program
9. Write an article for an MBA publication
10. Obtain coverage through MBA Insurance Agency
11. Become a member of Lawyer Referral Service (LRS)
12. Take advantage of the Fee Arbitration Board or Committee on Professional Ethics

LEARN MORE ABOUT WAYS TO GET INVOLVED AT WWW.MASSBAR.ORG/VOLUNTEER

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“On Demand is just one of the amazing benefits of MBA membership. Not only do you receive instruction from experts in their respective areas of law, but you get to do so in the privacy and comfort of your own home or office ... and it’s absolutely FREE to all MBA members!”

Maureen L. Reilly, Esq., Reilly Law LLC, Boston

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BAR NEWS

Harnais gets presidential welcome at Fenway

The Massachusetts Bar Association (MBA) held a reception on Sept. 3 at Fenway Park to celebrate new MBA President Robert W. Harnais and ring in the 2015-16 membership year.

The President’s Reception was held in conjunction with the Hispanic National Bar Association (HNBA)’s Ohlhi Award Reception, part of the HNBA’s Annual Convention, which was hosted in Boston this year.

Harnais was introduced and ceremonially “sworn in” as MBA president by Massachusetts District Court Chief Justice Paul C. Dawley. Harnais told the crowd of judges and MBA, HNBA and Massachusetts Association of Hispanic Attorneys (MAHA) members how proud he was to be the MBA’s first Hispanic president. He also spoke about the need for improved civility among lawyers and pledged to do his part during his presidency.

The joint HNBA-MBA reception was a fitting event to honor Harnais, who is a former president of MAHA and a former regional president of the HNBA. Harnais said he was grateful for the opportunities given to him by each association. He also thanked MBA Past President Marsha V. Kazaroasian, his fellow 2015-16 MBA officers and his many other friends and family in attendance for their support. Harnais’ signature sense of humor was also on display when he made a special point to thank “Judge Berman,” the federal judge whose “Deflategate” ruling earlier in the day rejected the National Football League’s four-game suspension of New England Patriots quarterback Tom Brady.

In addition to the speech by Harnais and the HNBA’s award presentations, the reception featured remarks from Boston Mayor Martin J. Walsh, American Bar Association President Paulette Brown and MAHA Past President Jessica Massey.

BY JASON SCALLY

Court Chief Justice Paul C. Dawley. Harnais told the crowd of judges and MBA, HNBA and Massachusetts Association of Hispanic Attorneys (MAHA) members how proud he was to be the MBA’s first Hispanic president. He also spoke about the need for improved civility among lawyers and pledged to do his part during his presidency.

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Save the Dates

MASSBAR ASSOCIATION

CELEBRATE THE HOLIDAYS WITH THE MBA

5th Annual CASINO Night

THURSDAY, DEC. 10
5:30–8 P.M.
MBA, 20 WEST ST.
BOSTON

Complimentary hors d’oeuvres and beverages
R.S.V.P. AT
WWW.MASSBAR.ORG/CASINO

Western Mass. Holiday Celebration

Tuesday, Dec. 15, 5–7 p.m.
Storrowton Tavern
1305 Memorial Ave
West Springfield

Complimentary hors d’oeuvres and beverages
R.S.V.P. at www.MassBar.org/HolidayReception
MASSBAR CLE — HIGH QUALITY. TIMELY. EFFORTLESS. CONVENIENT. ... FREE

Your MBA membership includes FREE, UNLIMITED CLE seminars and MBA On Demand programming.
( Includes half- and full-day conferences and Practicing with Professionalism courses.)

GENERAL
RISK MANAGEMENT AND THE SJCC’S REVISIONS TO THE RULES OF PROFESSIONAL CONDUCT
Tuesday, Oct. 27, 5–7 p.m., MBA, 20 West St., Boston

There are countless malpractice hazards, even for the most diligent practitioner. Attorneys tend to be careful around ethics quandaries, but sometimes may not recognize issues until it’s too late. Some uncommon problems are buried in a maze of case law, court rules, statutes and regulations. Having a working knowledge of the Rules of Professional Conduct is an attorney’s best chance to recognize and avoid the most common pitfalls.

The Supreme Judicial Court recently adopted revisions to the Rules of Professional Conduct which went into effect July 1, 2015. Our panel of experts will walk you through the changes and how these changes will impact your practice.
Don’t put your livelihood at risk. Attend this program and be prepared.
Faculty: Christian Acraue, Esq.; Scott Banks, Esq.; Terrence Wehme, CPA;DU

FEED YOUR MIND: DRAFTING AND ENFORCING NON-COMPETITION AND NON-SOLICITATION AGREEMENTS
Tuesday, Nov. 3, 12:30–1:30 p.m., MBA, 20 West Street, Boston

Back by popular demand, All Massachusetts Bar Association members are encouraged to attend these free lunchtime programs. We gear these programs toward practitioners of all experience levels, providing an opportunity to participate in a discussion of selected areas of law, or practice, in a collegial setting where you can meet and exchange ideas with other members of the profession.

Michael L. Mason and David M. Rogers will provide expertise and insight on drafting and enforcing non-competition and non-solicitation agreements.
Faculty: Craig Levy, Esq. (co-moderator); Courtney Shea, Esq. (co-moderator); Michael L. Mason, Esq.; David M. Rogers, Esq.

PUBLIC LAW
HOW TO CONDUCT AN OPEN MEETING LAW TRAINING
Tuesday, Nov. 10, 10 a.m.–noon, MBA, 20 West Street, Boston

The Massachusetts Bar Association has partnered with the Attorney General’s Office to conduct a “Trains the Trainer” session on the Open Meeting Law for attorneys who advise municipalities, state agencies, and other public sector clients. Attend this free session to learn how to conduct trainings for public bodies seeking guidance on Open Meeting Law compliance, and those that have been ordered to undergo training after a finding of violation.

The MBA is pleased to offer this program FREE of charge.
Faculty: Kameo P. Rosh, Esq.; Jonathan C. Sciarino, Esq.

42ND ANNUAL ROBERT FUCHS LABOR LAW CONFERENCE
Thursday, Oct. 29, 1–3 p.m., Suffolk University Law School, Boston

The 42nd Annual Robert Fuchs Labor Law Conference will highlight a year of significant legal developments. Do not miss this exclusive opportunity to network with colleagues, program faculty, and the leaders of the labor and employment bar.

A panel of experts will examine the responses by regulators (the NLRB and DOL), and by employee-side and employer-side practitioners, to the new and perplexing challenges to the changing U.S. employment landscape. The panel will also consider the implications of the NLRB’s Browning Ferris decision.

To register, visit: MassBar.org/Fuchs

THIRD ANNUAL PROBATE LAW CONFERENCE
Friday, Nov. 13, 8 a.m.–4 p.m., Lombardo’s, 8 Billings St., Randolph

Join fellow probate judges and practitioners for the Massachusetts Bar Association’s Third Annual Probate Law Conference.

The conference will feature a keynote address by the Hon. Anthony R. Nes, first justice of the Bristol Probate and Family Court. With a concurrent programming track addressing the needs of all practice levels, there is something for everyone.

Conference highlights include:
• Basic Estate Planning
• MassHealth Update
• Federal Issues Under the MLTC and Spendthrift Trusts After Manuestimate
• Contested Durable Powers of Attorney/Health Care Proxies

To register, visit: MassBar.org/Probate

SECOND ANNUAL MBA CONSUMER ADVOCACY SYMPOSIUM AND PINNACLE AWARDS
Wednesday, Nov. 18, 4–7 p.m., MBA 20 West St., Boston

13TH ANNUAL IN-HOUSE COUNSEL CONFERENCE
Thursday, Nov. 19, 5 a.m.–1 p.m., Watlin Waltham Boston, 70 3rd Ave., Waltham

REGISTER ONLINE AT WWW.MASSBAR.ORG/EDUCATION OR CALL (617) 338-0530.
Looking for Dr. Good: seeking a therapist in the HMO era

Q: I work at a Boston law firm and, sensing it was a good time to return to my former therapist in town, found that she has retired. I got another name from a colleague, conveniently located, but she does not take my HMO (or any insurance), and is surprisingly expensive — over $200 per session. The colleague expressed the view that, in terms of confidentiality, self-pay is a better arrangement anyhow, but I hate to part with that kind of money on top of those mounting health insurance premiums that are supposed to cover my health needs. A number of people listed on my HMO list turned out to be working only at hospital clinics which, for one reason or another, are not accessible to me (e.g. because my primary care physician is not at that hospital). There are other names near my home in the suburbs, but those I’ve called have no availability before or after my work hours. Any ideas?

A: You have encountered a reality that we at LCL face recurrently (since a majority of lawyers who come to us for consultation and referral work in Boston). Probably because office rent is more expensive in Boston, and small therapist-friendly offices are few, the supply of therapists practicing in Boston proper is lower than the demand. Although most therapists accept at least one insurance plan (for access to a wider pool of patients and/or because they prefer not to treat only the relatively well-to-do), they would generally prefer self-pay if they can get it. This is because jumping through the managed care hoops can be demanding (each company doing business its own way, and time spent on this is unpaid), and also because signing a contract with a managed care entity means accepting about a 50 percent fee discount.

At LCL, we refer mainly to therapists who do take our clients’ insurance; Sometimes that means trying a therapist we don’t know or whose practices are less conveniently located. We are also sometimes in a position to help with payment for our clients whose incomes/resources are very limited.

The confidentiality/privacy issue that your colleague raised is real, though perhaps not a big enough problem to deter most people from using insurance. On each claim submitted to insurance, the therapist must indicate a diagnosis. In addition, for HMOs and even some non-HMO plans, the therapist will need to request more detailed information in order to get additional sessions (anywhere from perhaps 4 to 12 at a time) authorized. That information typically includes ratings of level of functioning, specific therapy problems and goals, a list of risk factors (such as abusing alcohol/drugs, having suicidal thoughts, having endured past trauma), current medications, etc. The contracts between therapist and insurer and subscriber also permit the insurer to review clinical records (though we have rarely seen this happen with individual practitioners). The upshot:

- If you can easily afford the fee, the somewhat wider range of therapists and decreased concern for confidentiality may be worth it. If not, though, the privacy risks are relatively low.
- LCL’s services are free to you as a lawyer (or law student or judge or family member of one). Although our services are limited to consultation/referral, not ongoing therapy, we can help you navigate managed care and make a more informed choice of therapist. We try to keep our referral database up to date and we urge you, as well, to let us know if you have had either quite positive or quite negative experiences with any therapists.

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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.
Gants to deliver State of the Judiciary, Oct. 20

Supreme Judicial Court Chief Justice Ralph D. Gants will deliver his State of the Judiciary address to the legal community at the Massachusetts Bar Association’s Annual Bench-Bar Symposium at 4 p.m., on Tuesday, Oct. 20, at the John Adams Courthouse.

Gants’ 2015 address will be his second update to the legal community; he was sworn in as chief justice in July 2014.

“The symposium is a great event, which brings together attorneys and judges from across the state,” said MBA President Robert W. Harnais. “The MBA is looking forward to continuing to work with Chief Justice Gants and other members of the judiciary to advance access to justice opportunities throughout the commonwealth.”

In addition to remarks by Gants and Harnais, other scheduled speakers at the event include Paula M. Carey, chief justice of the Massachusetts Trial Court, and Court Administrator Lewis H. “Harry” Spence.

“In last year’s State of the Judiciary address, I set forth an ambitious agenda,” Gants said. “I am eager to update the legal community on the considerable progress we have made on those priorities, and to set forth new ideas related to our civil and criminal justice system that we intend to explore in the year ahead.”

The event is free to attend for members of the Massachusetts judiciary and bar. However, those interested in attending should register, as space is limited. Visit www.massbar.org/BBS today.

The speaking program will be followed by a special reception with complimentary appetizers and beverages.

The MBA hosted a CLE program titled “Eric Holder’s Justice Department: People and Policies” on Oct. 6. Featured speakers included Brendan V. Johnson and Timothy Q. Purdum of Robins Kaplan LLP, Minneapolis — both former U.S. Attorneys from the Obama administration. MBA Treasurer Christopher P. Sullivan served as moderator.

Bar Seen offers snapshots of MBA members and events consultant meteorologist Bob Copeland continues from page 8

Law Office Management Assistance Program

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### Federal News

**Calendar of Events**

**Monday, October 19**
- Mock Trial Teacher Orientation
  - 6 p.m.
  - MBA, 20 West St., Boston

**Tuesday, October 20**
- Mock Trial Teacher Orientation
  - 5:30 p.m.
  - Kingston Public Library,
    6 Green St., Kingston

**Wednesday, October 21**
- Western Massachusetts Dial-A-Lawyer Program
  - 4-7 p.m.
  - Statewide dial-in #: 413-782-1659

**Thursday, October 22**
- Mock Trial Orientation
  - 5 p.m.
  - MBA, Western Mass. Office,
    1441 Main St., Suite 925,
    Springfield

**Friday, October 23**
- Practicing with Professionalism
  - 9 a.m.-5 p.m.
  - Western New England University
    School of Law,
    1215 Wilbraham Road,
    Springfield

**Tuesday, October 27**
- Risk Management and the SJC’s Revisions to the Rules of Professional Conduct
  - 5-7 p.m.
  - MBA, 20 West St., Boston
After practicing in Boston during my first few years in Massachusetts, I recently undertook the project of opening a second office, this time in Newburyport near my home. The game plan: build a divorce and family law practice, supplementing my personal injury practice, while making my own life more convenient.

The process has also brought me through all the basics of opening an office, so I felt it a great time to share my findings through all the basics of opening an office, while making my own life more convenient.

Essentially, you want the best solution within your budget. The problem is, when you first start out, it’s sometimes diffi-
cult to know what your budget should be. Then, faced with a multitude of decisions needing seemingly immediate answers, the likelihood that impulsivity will take over increases. To avoid that, let me offer you some quick but valuable advice.

Office space

There are many options, with pros and cons to each, but generally the best option is space amongst other lawyers with a shared, professional reception and conference room. Find great opportunities by networking with other lawyers or posting an inquiry on a discussion board in My Bar Access.

Target spend: under $1,000 per month.

Furniture

No matter what, you need furniture that will last under the beating of your soon-to-be bustling practice. If your clients will see your office, you will need furniture that appears to be of top quality. That generally means staying away from office superstore furniture. If the office you are taking over has solid, quality furniture, offer to purchase it. That’s where you will get the best deal on quality. The next best option is going to a commercial office furniture liquidator. These companies purchase large lots of office furniture from companies going out of business or upgrading. There are a handful of these throughout the state. I spoke to a few, and ultimately found the best deal with Richard Burke at Atlantic Liquidators in Lynn. You can reach him at 781-593-1090. Target spend: under $2,000.

Equipment

This is possibly the easiest decision. Perfectly adequate new computer packages can be readily found at any major big box retailer, office superstore or on Amazon for $500 or less. Get an all-in-one printer/scan-
er with form feed for $100 to $300, depending on preference. Spend another $50 on all your initial office supplies and see if you can get all of the above delivered for free on the day you take over your space. Target spend: under $1,000 for all of the above.

Software

There are so many options here and you could spend hours and hours sorting it all out. In the end, you need effective solutions within budget. I highly recommend using a practice management software like Clio. It will cost you a few hundred dollars a year, but it will help keep you organized and will make billing your clients easy, and MBA members receive a 10 percent lifetime dis-
count. The other essential is quick, reliable access to the law. The MBA has recently vetted legal research programs and will change to Fastcase, included free with your membership, beginning Dec. 1. Save some money and take advantage. You can always upgrade to a more robust paid service down the road. Additionally, Microsoft Office is a necessity these days, which you can get included in a Microsoft 365 account — highly recommended. Yes, there are free options, but you will increase your productivity and effectiveness by spending some money here. Target spend: about $1,200 a year.

MBA resources

If you are just starting out, I also recom-
mand you take advantage of the many
CLE programs the MBA offers free and on demand. There is no sense learning the hard way with so many resources at your disposal.

Best of luck!

Damian Turco is the chair of the Law Practice Management Section Council and the owner of Turco legal, PC, handling personal injury and family law matters with offices in Boston and Newburyport.
FOR YOUR PRACTICE

Fall back into marketing this autumn

BY DANIELLE SPANG

“Autumn … the year’s last, loveliest smile.” — William Cullen Bryant

Early fall can be stressful at times. Between reestablishing schedules and routines and feeling the end-of-the-year crunch around the corner, marketing sometimes takes a back seat to making sure all deadlines are met. However, fall can also be a great opportunity to include marketing into those schedules and routines if you’re transitioning back out of summer mode.

Here are a few things anyone can do — whether you’re a partner, solo, a new associate or awaiting bar results:

• Schedule to meet for coffee/lunch with two to three contacts each month
• Update your bio, or revamp your elevator speech
• Attend a bar event, CLE or luncheon — in person
• Speak with non-attorneys about your practice — cases you accept, issues of interest
• Blog or write an article about the questions you answered most frequently this year
• Update your social media, or think about establishing accounts

When growing your business (or your book of business), sometimes advice comes from all directions — non-legal business owners, colleagues, mentors, family members, clients and friends. While the advice can differ in many aspects, the overwhelming common thread is to keep active and make sure people know how they can help, whether that means explaining the types of cases you accept to potential referral sources and clients, staying in touch with colleagues so that you’re fresh in their minds when a client asks for referrals or continuing to meet new contacts and grow your networks.

Especially when you’re juggling filing deadlines, research and drafting assignments, court appearances, mediations, negotiations and other work pressures on top of personal and family obligations, marketing can sometimes very easily take a back seat. But this fall — invest your last, loveliest smile in spending some face-to-face time with your contacts (attorney and non-attorney), identifying and meeting with some new potential referral sources or clients and attending bar events in person.

To help with this initiative, you can be on the lookout for a few events the Law Practice Management Section Council will be co-hosting this fall and throughout the year to try to help facilitate meeting and networking between attorneys and other professionals whose expertise dovetails with the law. I look forward to meeting many of you at events this fall!

Danielle Spang is a consumer attorney, focusing her solo practice on assisting people who have been harassed by debt collectors or have errors on their credit reports.

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MBF honors 2015 President’s Award recipients DiMare and Epstein

The Massachusetts Bar Foundation proudly announces that two of its most dedicated volunteers will be honored with President’s Awards at the upcoming MBF Grantee Receptions. Award recipients are:

• Elaine M. Epstein, partner, Todd & Weld LLP, Boston
• Charles J. DiMare, partner, Antonino & DiMare, Amherst

Epstein, an Oliver Wendell Holmes Life Fellow, is being honored for her long-standing support of the MBF and its mission to increase access to justice. A dedicated volunteer and generous donor, she served on the MBF Board of Trustees and the Massachusetts IOLTA Committee, in a past president of the Massachusetts Bar Association, and founded and served as the first president of the Women’s Bar Association. Epstein represents the very best of the legal profession. She will receive her award at the Grantee Reception in Boston on October 15.

DiMare’s active participation in the MBF began in 1995, when he first became a member of the MBF Society of Fellows. Each year, he volunteers to review grant requests from organizations throughout the western region of the state. DiMare’s expertise has helped ensure that the MBF’s grantmaking is truly statewide and reaches effective programs that can further the foundation’s goals and mission. The MBF will honor DiMare for his dedication and tireless advocacy on behalf of the communities of Western Massachusetts. He will receive his award at the Grantee Reception on October 27 in Amherst.

The MBF hosts grantee receptions annually to show its appreciation to its grantees and supporters.

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Why I Give

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“I have worked as a legal aid lawyer and am committed to civil legal aid. I am delighted to have been actively involved in the Mass. Bar Foundation since 2007. First as a fellow, I served on IOLTA grant committees and met with grant applicants. Now as a trustee, I have chaired a subject grant committee for the last two years and worked with the other trustees in making the difficult decisions in apportioning grants with our desperately needed funds.”

The MBF Society of Fellows includes Massachusetts attorneys and judges who are committed to giving back to the profession and supporting legal services for the poor in our state. To learn more, or to join, visit www.MassBarFoundation.org.

NEW MBF LIFE FELLOWS AS OF SEPTEMBER 2015

The MBF would like to recognize those Fellows who have completed their pledges in 2015 to become Life Fellows of the Foundation

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*Please note: in accordance with the Massachusetts Code of Judicial Conduct, this list does not include the names of judges who have become Leadership Fellows.
News from the Courts

Hon. Timothy F. Sullivan appointed Chief Justice of the Housing Court

Trial Court Chief Justice Paula M. Carey has announced the appointment of Judge Timothy F. Sullivan as chief justice of the Housing Court for a five-year term starting Oct. 1, in accordance with G.L. c. 211B, §5. Sullivan has served on the Housing Court since 2004, he succeeds Chief Justice Steven D. Pierce, who retired on Sept. 30.

“I am pleased to announce the appointment of Judge Sullivan to lead the Housing Court,” said Carey. “Judge Sullivan has earned a reputation with his colleagues for being accessible, approachable and receptive to addressing diverse concerns. His philosophy of open communication, collaboration and team building will ensure his ability to address the future challenges facing the department. He is firmly committed to Housing Court expansion and will capably continue the great work of Chief Justice Pierce.”

Sullivan is currently the first justice of the Northeast Division. He previously served as an associate justice in the Worcester Division. As first justice, he has worked to streamline case flow management and increase efficiency, introduced a training and certification program for all Housing Court specialists and expanded community outreach and communication with court users and members of the Housing Court bar. He is a member of the Trial Court’s Standing Committee on Court Security, and served as a member of the Standing Committee on Alternate Dispute Resolution from 2004-2012.

“I am honored by Chief Justice Carey’s appointment and I look forward to working closely with her and her leadership team,” Sullivan said. “The Housing Court enjoys a tradition of collegiality and dedication to its mission. It is a privilege to be called to lead such an extraordinary group of committed public servants. I will strive to follow the standard of excellence set by Chief Justice Pierce in his leadership of the Housing Court.”

Prior to his appointment to the bench, Sullivan maintained a general law practice in Newburyport, with a concentration on landlord-tenant, real estate conveyancing, estate administration and land use. He is a graduate of Merrimack College and New England Law School. He resides with his family in Topsfield.

The Housing Court Department is comprised of five divisions with 10 associate justices, 100 full-time staff, and 200 part-time staff members. The department serves approximately 600 cases annually. The court’s conscience in terms of constitutionally protected rights. The justices issue written opinions on a broad range of criminal and civil cases from September through May. Single justice sessions are held each weekday throughout the year for certain motions pertaining to cases on trial or on appeal, bail reviews, bar discipline proceedings, petitions for admission to the bar and a variety of other statutory proceedings. The associate justices sit as single justices each month on a rotation schedule.

The justices hear oral arguments in the following cases:
- SJC-11906, Public Employee Retirement Administration Commission v. Edward A. Bettencourt
- SJC-11857, Commonwealth v. Lawrence Moore
- SJC-11877, Commonwealth v. Peter Chamberlin
- SJC-11876, Commonwealth v. Kyle L. Johnson

The justices hear appeals on a broad range of criminal and civil cases from September through May. Single justice sessions are held each weekday throughout the year for certain motions pertaining to cases on trial or on appeal, bail reviews, bar discipline proceedings, petitions for admission to the bar and a variety of other statutory proceedings. The associate justices sit as single justices each month on a rotation schedule.

The justices issue written opinions generally within 130 days following oral arguments. Court opinions are available online after 10:00 a.m. on the day the opinion is issued, and can be accessed on the Office of the Reporter of Decisions new published opinions page.

The full bench renders approximately 200 written decisions each year; The single justices decide a total of approximately 600 cases annually.

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Edward A. Bettencourt
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Commonwealth v. Lawrence Moore
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SJC-11857
SJC-11877
SJC-11876
SJC-11906


“I believe that a chief justice must wake up every morning committed to making a difference in the lives of the people of the commonwealth,” Kafker said during his remarks following his swearing in. “The chief justice must be the court’s conscience in terms of constantly comparing its overall performance with its ideals, as the chief is entrusted with the responsibility of being the daily guardian of the court’s administration of justice in the public interest.”

SJC hears oral arguments in special New Bedford sitting

Massachusetts Supreme Judicial Court Chief Justice Ralph D. Gants and the six associate justices of the court heard oral arguments in four cases at a special sitting in the Bristol County Superior Court in New Bedford on Oct. 6. The special sitting provided an opportunity for students, media and residents of the local community to view the work of the highest court of the commonwealth outside of the John Adams Courthouse in Boston, where cases are normally heard.

As part of the special sitting, Bristol County Superior Court Clerk Marc Santos acted as clerk to the justices for the day. A group of ninth- and 10th-grade students from the City on a Hill Charter School in New Bedford and a group of 10th-grade students from the Greater New Bedford Regional Vocational High School attended the special sitting.

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- SJC-11857, Commonwealth v. Lawrence Moore
- SJC-11877, Commonwealth v. Peter Chamberlin
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The full bench renders approximately 200 written decisions each year; The single justices decide a total of approximately 600 cases annually.
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House of Delegates passes tax, criminal justice measures

The Massachusetts Bar Association’s House of Delegates (HOD) hit the ground running at its first meeting of the 2015-16 year in Boston on Thursday, Sept. 24, passing separate proposals from the Taxation Law and Criminal Justice section councils.

The Taxation Law Section Council requested that the HOD endorse communication with the state secretary of administration and finance to discuss issues related to the Appellate Tax Board, including the board’s ad valorem filing fee structure. The measure passed unanimously.

Earlier at the HOD meeting, MBA President Robert W. Harnais welcomed everyone in attendance and was one of several presenters to thank the MBA’s active section councils, whose work is so vital to the association. MBA President-elect Jeffrey N. Catalano made special mention of the energy brought by the MBA’s Young Lawyers Division.

Officer reports were also given by MBA Vice President Christopher A. Kenney and MBA Secretary John J. Morrissey. Kenney, who chairs the MBA’s Consumer Advocacy Task Force, updated HOD members on the task force’s work on the Consumer Resource Center at www.MassLawHelp.com, and said an announcement about the next Consumer Advocacy Symposium and Pinnacle Awards would be coming soon.

Alice Richmond, the American Bar Association’s state delegate, also addressed the HOD members, offering personal remarks on her friend and fellow past MBA President Richard K. Donahue, who died in September. Recalling his sense of humor, she called Dick Donahue “an extraordinary man of extraordinary vision.”

Following the HOD meeting, many HOD members went next door to the Back Deck, where the MBA held its “Welcome Back” member reception.

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Robert W. Harnais (at podium) presides over his first meeting as MBA president.

House of Delegates members attend the first House of Delegates meeting of the 2015-16 membership year.
Healy was quoted in a Herald story about a recent lawsuit filed in Suffolk Superior Court against Red Sox owner John Henry involving a fan who was injured by a foul ball while sitting in the EMC Club during a game at Fenway Park in 2014. The complaint says the injury resulted from renovations to the park, which removed protective glass from the area.

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

Harnais was quoted in a Worcester Telegram & Gazette column about the use of affidavits in obtaining search warrants. A Worcester tactical unit raided a home on Aug. 19 which the homeowners called a mistake. Harnais was also quoted in an additional WT&G story about the incident.

Red Sox lawsuit

The closer the fan is to the action on the field, the greater the risk.

MBA CHIEF LEGAL COUNSEL AND CHIEF OPERATING OFFICER
MARTIN W. HEALY, BOSTON HERALD, AUGUST 29

Healy was quoted in a Herald story about a recent lawsuit filed in Suffolk Superior Court against Red Sox owner John Henry involving a fan who was injured by a foul ball while sitting in the EMC Club during a game at Fenway Park in 2014. The complaint says the injury resulted from renovations to the park, which removed protective glass from the area.

Harnais leads MBA officers for 2015–16

The court is an adversarial system, but it’s not a street fight.
I’d like to go back to the way we used to treat each other.

MBA PRESIDENT ROBERT W. HARNAI S
Patriot Ledger, August 26

The Patriot Ledger ran a feature story on Harnais and his historic appointment as the first Hispanic president of the Massachusetts Bar Association. The election of Harnais and the other MBA officers for 2015–16 was also featured by the State House News.

2015–16 ACCESS TO JUSTICE AWARDS NOMINATIONS

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We encourage nominations from local/affiliated bar associations, government agencies and legal services organizations.
Appeals Court rules interest in irrevocable trust is a marital asset

BY JILLIAN B. HIRSCH, LEIHNA MACAU-LET AND DARIAN M. BUTCHER

On Aug. 27, the Massachusetts Appeals Court held in Pfannenstiel v. Pfannenstiel, Nos. 13-P-906, 13-P-686, & 13-P-1385, 2015 Mass. App. LEXIS 123, that a husband’s interest in an irrevocable trust with an ascertainable standard is a “vested beneficial interest subject to inclusion in the marital estate.” This is a significant decision that could impact the way in which trusts and estates practitioners in Massachusetts draft estate plans for clients concerned about divorce protection. At issue in the case is an irrevocable trust established by the husband’s father for the benefit of the husband and his siblings, as well as their children. The trust contains an ascertainable standard, which obligates the trustees to make distributions of income and principal “to provide for the comfortable support, health, maintenance, welfare and education of [the beneficiaries].” The trust also contains a spendthrift clause, which prohibits the assignment or attachment of trust assets to creditors of any beneficiary.

Between 2008 and August 2010, the trustees made distributions from the trust to the husband totaling $800,000. The parties relied heavily on these distributions; indeed, the distributions alone were the husband’s primary income source during their marriage. The trial court held that the husband’s interest in the trust was “presently enforceable” and that the husband had a 1/11 beneficial interest in the trust. Accordingly, the trial court ordered the husband to pay 60 percent of the value of his 1/11 share to the wife in 24 monthly payments totaling $1,133,047.79. On appeal, the husband contended that he did not have a “present, enforceable right” because the trustees could refuse (and indeed had refused) to make distributions to him pursuant to the trust’s ascertainable standard. He also argued that the existence of a spendthrift clause rendered his interest in the trust incapable of division as marital property.

The Appeals Court, in a 3-2 decision, affirmed the trial court’s decision that the husband’s interest in the trust constituted marital property subject to division pursuant to G.L. c. 208, § 34. Specifically, the Appeals Court held that the trust’s ascertainable standard gave the husband a “present enforceable right to distributions from the 2004 trust” because the trustees of the trust “were obligated to, and actually did, distribute the trust assets to the beneficiaries, including the husband, for such things as comfortable support, health, maintenance, welfare and education.” Therefore, the court held, “the ascertainable standard embedded in the 2004 trust, the enforceability of that standard for distributions to the husband, and the vested nature of the husband’s interest in the 2004 trust warranted the trial court’s inclusion of the husband’s interest in the marital estate.”

In reaching this conclusion, the Appeals Court rejected the husband’s argument that the presence of a spendthrift clause shielded his trust interest from being included in the marital estate. In fact, the court opined that the “spendthrift provision is being invoked [by the husband] as a subterfuge to mask the husband’s income stream and thwart the division of the marital estate in divorce,” and that the “spendthrift scheme … is virtually empty of purpose except as a form of insulation to income and valuation in the divorce process.” While the Appeals Court held (as it has in the past) that the presence of a spendthrift provision does not preclude inclusion of a trust interest in the marital estate, the court did not hold that trustees of an irrevocable trust can be ordered to make distributions directly to the non-beneficiary divorcing spouse.

Lastly, the Appeals Court affirmed the trial court’s award of attorneys’ fees to the wife, although neither the trial court nor the Appeals Court held that the award of attorneys’ fees need be paid from the trust assets.

The dissenting opinion states that the husband’s interest in the trust should have been considered under G.L. c. 208, § 34 as an “opportunity for each [spouse] for future acquisition of marital assets and income” because the value of the husband’s interest in the trust was “too remote and speculative.” In reaching this conclusion, the dissent notes that the trust has an open class of beneficiaries, making the value of the husband’s interest in the trust uncertain. The dissenting opinion also states that the husband’s right to the trust assets was uncertain because the ascertainable standard allows the trustees to determine the amount and timing of distributions as well as consider the funds available to the beneficiaries from other sources.

The Appeals Court’s decision is significant because it holds that an interest in an irrevocable trust with an ascertainable standard — where there is a history of distributions woken into the fabric of the marriage — is a vested, presently enforceable interest and, therefore, properly included in a marital estate for purposes of equitable division of property in divorce proceedings. While the implications of the decision are not yet clear, Massachusetts trusts and estates practitioners should be mindful of this ruling in drafting estate plans and should consider whether to amend revocable trusts to include fully discretionary standards of distribution for clients concerned about divorce protection.

It is unclear at this point whether the husband will seek further appellate review from the Supreme Judicial Court.

Day Pitney LLP and Looney & Grossman LLP represented the wife on appeal. Jillian B. Hirsch of Day Pitney argued the appeal. This article was originally published as a Day Pitney Alert.
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