This September, Todd & Weld LLP partner Jeffrey N. Catalano begins his year as president of the Massachusetts Bar Association. Just don’t be surprised if it feels more like your year.

As one of the cornerstones of his presidency, Catalano is encouraging MBA members to actively join him in leadership. At the same time, he is also looking to groom the next generation of bar leaders through the launch of the MBA’s inaugural Leadership Academy.

Catalano has always been heavily interested in advocacy, education and social justice. He came to the MBA many years ago asking if there was anything he could do (see related President’s View column). Now as president, Catalano believes the MBA offers opportunities — particularly, leadership opportunities — in each of these areas for lawyers of all ages, practices and backgrounds around the commonwealth.

“What I’m looking to do is have the MBA be an army of leaders from every spectrum of the law,” he says. “People who take on the major issues, deal with them head on, jump into the fray and say: ‘Where can I start? I want to help out.’”

The MBA is a lot of things to a lot of people. But Catalano has always seen the MBA as a place where a lawyer can make a difference. That impact begins with MBA leaders, from officers to section councils. But it can also extend to lawyers in the bar, at large — all of whom have a home and a stake in the MBA.

In short, he says, “We want the MBA to be the mother ship for everybody who is looking to be a leader in some spectrum of society.”

Empowering the bar

The MBA has a solid foundation of leadership to stand upon. Through years of strong officers and a vibrant House of Delegates, the MBA has been at the forefront of so many issues, from inclusivity to advocacy to education.

“Sometimes we’re working quietly behind the scenes, but we’re always there showing leadership.”

READ THE PRESIDENT’S VIEW ON PAGE 2
MEET THE 2016-17 MBA OFFICERS ON PAGE 10

2016-17 MBA President Jeffrey N. Catalano is a partner at Todd & Weld LLP in Boston, where he represents victims of catastrophic injuries in the areas of medical negligence, product liability, auto accident, class action and other personal injury cases.
Who am I and how did I get here?

Taking over as president of the MBA is a daunting task when I have to follow in the footsteps of those amazing people who came before me. Our most recent president, Bob Harnais, the first Hispanic president of the MBA, has pretty big shoes to fill. He has done so much to improve the MBA, and I hope to do him and the other incredible officers who preceded me proud by grabbing the MBA banner and continuing the charge ahead.

Little did I know that my leadership training for this position began long ago. I recall that the summer after I turned 16 years old I wasn’t sure what to do with myself. My father said to me: “I’m sure someone has an opportunity for you. Go find it.” So I walked down the street and got the first of many odd jobs I held through high school and college — burger flipper, dishwasher, janitor, factory worker, delivery boy, mail clerk.... While these weren’t particularly glamorous jobs, they did offer me an insight into different types of management and leadership styles, good and bad, of my various bosses. I became an acute observer of how to motivate people to do their best work by treating them with respect. I saw people walk out when they were devalued. But I also learned how far a small compliment like “Nice job” could go to make you work harder.

After graduating from the University of Scranton, I deferred my admission to BC Law for a year to join the Jesuit Volunteer Corps (JVC) in Boston. That was my first deep dive into public service, where I worked with troubled adolescents in an alternative school. I also worked some weekend shifts at the Pine Street Inn homeless shelter. Having come from a rather homogenously working class town, it was my first real introduction to disadvantaged inner city communities. There I learned about leadership not just from people who were in charge of me, but from those for whom I was responsible. I learned the importance of being genuine, honest and caring. I observed that people who have been mistreated or misjudged, or who have been through really rough times, can spot a phony a mile away.

After graduating from law school, I had a burning desire to become part of something bigger. I applied and was accepted to the Massachusetts Bar Association that consists of people who accomplish so much for so many, often humbly. I came to understand that more important than savoring victory and achievement is recognizing the measure of our grit — an essential ingredient for future success.

Since that day, the MBA has given me many opportunities to get involved in a larger community committed to social justice and the improvement of our profession. I also learned, through trial and error, how to lead and motivate others. I have served and chaired section councils, debated substantial issues on the House of Delegates, organized and participated on CLE programs, and testified for the MBA at the State House on important legislation. I came to understand that more important than savoring victory and achievement is recognizing the measure of our grit — an essential ingredient for future success.

And so the rest of the story is that I now have the opportunity to help lead this terrific bar association that consists of people who accomplish so much for so many, often humbly without asking for recognition — another quality I have seen in great leaders. I can overtstate how proud I am to lead an association of people who advocate for the civil rights of those whom I served in JVC so long ago; who volunteer at the Pine Street Inn where I once roamed the halls; who argue for increased pay for judges, public defenders and DAs, so that everyone gets equal access to justice; and who push for improved civility and respect that has been such a part of my upbringing.

The MBA has been out front, leading the charge, with each president becoming the new flag bearer. And as I take my turn, I am mindful that everyone who has fulfilled this position before me has not done it alone, and my situation is certainly no different. I am grateful to the many bosses, mentors and fellow officers who have guided me; to my law firm partners, associates and staff who support me; and to my wife, family and friends who have been through really rough times, can spot a phony a mile away.

And to those of you who have a desire to give back to the profession and make a difference in society while also making great friends and professional connections, I convey that I have the opportunity for you. Come get it.
September

Monday, Sept. 26
Drones — Surveillance and Warfare
5-7 p.m.
MBA, 20 West St., Boston

Wednesday, Sept. 28
It’s Confidential: Privilege Law in Massachusetts
4-7 p.m.
MBA, 20 West St., Boston

Thursday, Sept. 29
Handling Psychiatric Disabilities in the Workplace
Noon-2 p.m.
MBA, 20 West St., Boston

Thursday, Sept. 29
Divorce Primer: A View from the Bench and Bar
5-7 p.m.
MBA, 20 West St., Boston

Friday, Oct. 14 — Saturday, Oct. 15
26th Annual Family Law Conference
Chatham Bars Inn, 297 Shore Rd., Chatham

Tuesday, Oct. 18
Feed Your Mind: Legal Lunch Series
12:30-1:30 p.m.
MBA, 20 West St., Boston

Wednesday, Oct. 19
Let’s Do Lunch: LPM’s Guide to the Legal Galaxy
12:30-2 p.m.
MBA, 20 West St., Boston

Wednesday, Oct. 19
MBF Western MA Grantee Reception
5-7 p.m.
Location: TBA

Thursday, Oct. 20
Annual State of the Judiciary Address
4-6 p.m.
John Adams Courthouse
One Pemberton Sq., Boston
www.massbar.org/soja

Friday, Oct. 21
Practicing with Professionalism
8:30 a.m.-4:30 p.m.
Western New England University School of Law, 1215 Wilbraham Road, Springfield

Wednesday, Oct. 26
MBF Boston Grantee Reception
5-7 p.m.
MBA, 20 West St., Boston

Wednesday, Oct. 26
Western Massachusetts Dial-A-Lawyer Program
4-7 p.m.
Statewide dial-in #: (413) 782-1659

Thursday, Oct. 27
Criminal Record Sealing & Pro Bono Opportunities
4:30-6:30 p.m.
MBA, 20 West St., Boston

October

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

Thursday, Oct. 6
The UCC — Selling Goods into Foreign Markets
12:30-5:30 p.m.
New England Law Boston, 154 Stuart St., Boston

Friday, Oct. 21
Practicing with Professionalism
8:30 a.m.-4:30 p.m.
Western New England University School of Law, 1215 Wilbraham Road, Springfield

Wednesday, Oct. 26
MBF Boston Grantee Reception
5-7 p.m.
MBA, 20 West St., Boston

Wednesday, Oct. 26
Western Massachusetts Dial-A-Lawyer Program
4-7 p.m.
Statewide dial-in #: (413) 782-1659

Thursday, Oct. 27
Criminal Record Sealing & Pro Bono Opportunities
4:30-6:30 p.m.
MBA, 20 West St., Boston

November

Wednesday, Nov. 2
MBA Monthly Dial-A-Lawyer Program
5:30-7:30 p.m.
Statewide dial-in #: (617) 338-0610

Thursday, Nov. 3
43rd Annual Robert Fuchs Labor Law Conference: Assessing the Past, and Predicting the Future
1-5 p.m.
Suffolk University Law School, 120 Tremont St., Boston

December

Thursday, Dec. 1
14th Annual In-House Counsel Conference: What Keeps Counsel Up at Night
9 a.m.-1 p.m.
The Westin Waltham Boston, 70 3rd Ave., Waltham

Tuesday, Dec. 6
Consumer Advocacy Symposium
3-8 p.m.
MBA, 20 West St., Boston
Conference to focus on selling goods to foreign markets

New England Law | Boston commercial law event will take place October 6

International business transactions will be the focus of the Center for Business Law’s fifth annual conference on commercial law at New England Law | Boston.

“Selling Goods to Foreign Markets: Choice of Law, Risks of Sales through Intermediaries, Human Rights, and Challenges of Modern Payment Systems” will be the main topics addressed by leading practitioners and scholars. The event will be free and open to the public.

The conference will take place on Thursday, October 6, 2016, 12:00 p.m.-5:30 p.m., in New England Law | Boston’s Charles H. Childs Hall, and will be co-sponsored by the law school’s Center for International Law and Policy, the Massachusetts Bar Association, and the Uniform Commercial Code Reporter-Digest.

“This conference should be of interest to anyone whose practice or academic interest involves the international sale of goods,” said Professor Gary Monserud, the conference organizer. “We anticipate a good number of practitioners in attendance, and questions and comments from the audience have greatly enriched the panel discussions in prior years.”

The first panel discussion will focus on issues arising under the Convention on Contracts for the International Sale of Goods; legal issues that can arise when selling through intermediaries into foreign markets; and the arbitration of private disputes arising from international sales. Panelists who plan to attend are Lora E. Williams, director, Center for International and Comparative Law, and the Summer Law Program in Madrid, of the Saint Louis University School of Law; Philip D. O’Neill, Jr., Esq., who has taught arbitration at Boston University School of Law and Harvard Law School; and Professor Michael P. Van Alstine, co-director, International and Comparative Law Program of the University of Maryland Carey School of Law. Dean and Professor Emeritus Peter J. McGovern of John Marshall Law School will moderate the discussion.

John F. Sherman, III, Esq., is general counsel and senior advisor to Shift, an independent, nonprofit center for business and human rights practice. He is also a senior program fellow at the Corporate Responsibility Initiative at the Harvard Kennedy School, and is chair of the International Bar Association’s business and human rights working group. Sherman played a key role in developing the United Nations Guiding Principles on Business and Human Rights, which have far reaching implications for international and commercial lawyers. Professor Lisa J. Laplante, director of New England Law’s Center for International Law and Policy, will guide the discussion in this area.

The second panel will address current challenges with payment systems and will feature Professor Sarah Jane Hughes of the Indiana University Maurer School of Law; Professor Stephen Michael McJohn of Suffolk University Law School; and Lorcan Tiernan, a business lawyer from Dublin. Stephen Y. Chow, Esq., partner, with Burns & Levinson LLP, and a commissioner representing Massachusetts on the Uniform Law Commission, will serve as moderator.

Take a giant leap forward with the NEW Dispute Resolution Section

By now, you might have heard the news that the MBA ADR Committee, established some 20 years ago as a closed Standing Committee, has been transformed to the full Dispute Resolution DR Section, to mirror the incredible evolution of our field of practice across all areas of the law. The MBA’s newest section is geared up and celebrating its move to full section status for the 2016-17 association year.

Dispute Resolution has come a long way! Recollection of 1980s perspectives that dispute resolution had modest viability as a practice area is a distant gleam in the eyes of the thousands of practitioners, attorneys, insurers, business people, and consumer laymen who employ DR in everything from routine disputes to complex cases of all varieties. Newsworthy as well, is the name shift to ‘DR’ from alternative dispute resolution or ADR. With less than 2 percent of cases now ever reaching trial, Dispute Resolution has truly become the primary and appropriate means of legal case management and disposition. While it may take time to get used to this shortened moniker, the shift has also been true in the actual use, since our field has grown far beyond strictly mediation and arbitration to a much wider Dispute Resolution Umbrella (see insert).

We’ve put together a truly impressive Section Council of dedicated DR experts who have already begun their work to bring you practical and useful information, educational opportunities, and networking events, including the DR Inaugural Reception on 9/20 from 5:30-7:30pm at the MBA (all are welcome, please RSVP), and the 1st Annual Dispute Resolution Symposium which will be held in May, 2017. We have also assembled an extraordinary Advisory Group, consisting of other prominent DR leaders across many industry aspects, all willing to share their ideas, experience, and advisement to members of our Council and Section.

Please join us as we move forward as the only cohesive, state-wide platform for practitioners and users alike, established to share the knowledge necessary to bring each of us and our clients the most successful DR advantages available. Join the Dispute Resolution Section via My Bar Access at www.massbar.org, or by contacting Jean Stevens at jsstevens@massbar.org.

Contact: Brian R. Jerome, Esq., chair; Sarah E. Worley, vice chair

The Dispute Resolution Umbrella

Adjudication by Referee
Arbitration and its Hybrid Forms
International Arbitration and Negotiation
Collaborative Law
Community-Based DR
Conciliation
Dispute Avoidance Early-Case Management Facilitation
Fact-finding Hearings In-House DR Practices Mediation
Mediation/Arbitration Hybrid
Mini-trial/Summary Jury Negotiation
Ombuds Services Restorative Justice
Settlement Conferences Skills Training and Education Special Masters Services

Law students: Five ways to get the most out of the MBA

By Damian J. Turco, Turco Legal PC (Former MBA Law Practice Management Section Chair)

“Reaching out to MBA Section Council members or attending section council meetings are great ways to meet some of the state’s top performing lawyers and leaders. Because section councils tend to be practice area-specific, this is a targeted, strategic way to build relationships. Few students take this step, but when they do, they tend to stand out to the right people and in doing so, create great opportunities.”

By Victoria M. Santoro, Meehan, Boyle, Black & Bogdanow (MBA Young Lawyers Division Chair)

“Get involved in the YLD. You’ll develop a network of young lawyers, just a few years ahead of you in practice, who you can rely on both personally and professionally.”

By John J. Morrissey, Morrissey, Wilson & Zafiropoulos LLP (MBA Vice President)

“Download the new MBA app and get instant access to thousands of fellow MBA members. You can ask a question, get practice tips and easily connect with attorneys from many practice areas right from your phone or tablet.”
Catalano says he wants young lawyers outside of the MBA to see it as more than a trusted partner in the profession, but someone to look up to and count on. To do this, he recognizes the need to build bridges with other organizations and unaffiliated lawyers.

Catalano has experienced some success connecting people to the MBA already. He helped bring the legal and medical communities closer together through his work on the MBA-MMS collaboration a national model of medical communities working together to reduce medical errors. Catalano has been the MBA representative on MACRMI for the past three years, where he has been focused on protecting patients’ rights. “It’s the MBA working hand-in-hand with the Massachusetts Medical Society (MMS) and local hospitals to address a problem that is the third leading cause of death in the United States: medical errors,” Catalano says, who calls the MBA-MMS collaboration a national model of “cats and dogs getting along.”

The MBA and MMS have worked on legislation together, such as the Apology Bill. And in 2014, the MBA and MMS filed a joint amicus brief in Recks, et al v. Johnson & Johnson, et al. The unprecedented collaboration between doctors and lawyers is a dramatic step forward for patient safety and patient rights.

Catalano is looking to bring more people under the MBA’s umbrella. “If you’re in a county bar [or] if you’re a minority or an affinity bar member, we want to bring you in to the Mass. Bar Association,” he says.

“I expect to see Jeff work really well this year with all members across the state,” says Epstein. “He has such respect for the practice of law, our clients, the judiciary and the legislative process. That should serve us all well this year.”

New lawyers fresh out of law school also have a home here, and he wants them to see the MBA as a place where they can find opportunities to grow professionally. As a positive development, Catalano points to the MBA’s work with the incubator programs being run by several area law schools, which allow recent grads to learn practical skills, run their own practice and serve underrepresented populations.

The MBA itself can be just as valuable to new lawyers. It’s a trait that has never left Catalano. “It’s a trait that a new lawyer can use. I was able to afford, undeniably had to be one of the highlights of my career.”

The president’s practice … in his own words

What type of law do you practice?
Mostly tort-related, medical malpractice, auto accidents. We do a smattering of mass tort work, medical device work and product liability.

How did this become your area of focus?
I started off doing defense work, and I found that what I really enjoyed was just helping people get compensation for things they needed — things connected with my social justice roots. It’s very rewarding settling a case when somebody badly hurt and can use those proceeds for something — modifications to their home, medical services they couldn’t get. It feels good.

What has been your most memorable case?
It would be hard not to say the case I’m most proud of is the one that resulted in a $10 million arbitration award in a case from the MBA’s Lawyer Referral Service. It was the highest dollar award in Massachusetts on behalf of a little girl who was severely disabled. Her parents were amazing people living in a cramped triple-decker in Dorchester. Their little girl’s problems were such that she needed the kind of special education that she wasn’t going to get in the city, and she needed the kind of physical environment that she was not going to get where she was living. To get a reward for them so they could move to a new location where there are better education services for their child, it was something that would be able to afford, undeniably had to be one of the highlights of my career.
Deutsch Williams a leader in attentive client service, bar involvement

What types of law does your firm handle?

Deutsch Williams serves clients in a broad range of fields, including civil and white collar criminal litigation, real estate, trusts and estates, insurance coverage, probate and family law, environmental law, business law and litigation, immigration, public sector labor and employment law, school law, and municipal law.

Are there any areas where the firm has made a name for itself?

Although Deutsch Williams has achieved considerable success and recognition in several areas of practice, including litigation, real estate, trusts and estates, and insurance coverage law, we have gained particular and sustained recognition for our work in the public sector areas of our practice, namely management-side labor relations and employment law, school law, and municipal law.

What firm attribute do clients find most attractive?

The firm’s chief attraction for our clients and prospective clients is our ability to consistently offer one-on-one attention from experienced, senior attorneys at moderate prices.

Briefly describe a recent “win” or client success story that the firm is proud of?

Deutsch Williams represented one of four men, and their estates, in the imprisonment case in the United States, arising from their conviction and decades-long incarceration based on perjured testimony of a notorious mob assassin that was suborned and supported by FBI agents. The case, which was upheld on appeal, garnered international publicity and resulted in the largest judgment and recovery in any wrongful imprisonment case in the United States ($100 million). Dan Deutsch tried the case, and John Fossett contributed to the appeal, along with several attorneys from other law firms.

Describe a recent pro bono project the firm has undertaken.

Through the MBA, two Deutsch Williams attorneys (Tom Barbar and Dan Deutsch) counseled and represented individuals and small businesses victimized by the Marathon Bombing who otherwise may have been unable to obtain legal advice or recoup their losses.

Two departments within the firm (Immigration Law and Family Law) represented an indigent immigrant in actions that involved the Probate and Family Court, as well as the U.S. Citizenship and Immigration Service. Margaret Holland Sparages was able to successfully assert the client’s rights in a VAWA (Violence Against Women Act) petition, which allowed the client to be able to obtain a green card and pursue legal employment. Tom Barbar was able to obtain a judgment from the Probate and Family Court protecting her from her abusive husband and obtaining sole legal and physical custody of her two minor children.

Is your firm regularly active with any organizations outside of the MBA?

The firm itself has participated in South Boston community initiatives and bar association efforts, but the diverse interests of our attorneys have led them to become personally and very actively involved in others in the larger legal community: Board of Directors of the American Bar Association, Discovering Justice, many public boards (including Boards of Selectmen, other executive boards, permitting boards and commissions), the Board of Registration in Medicine, and religious charitable organizations throughout the Boston area. The firm, in addition, has had members participate in numerous MBA programs, such as the Dual-A-Lawyer Program, pro bono cases through the MBA, Massillon Bombing Victims Program, Scholarship programs, and pro bono representation regarding the opioid crisis.

Any announcements from the firm?

We have added attorneys to serve our growing labor and employment and school law practices, and continue to be open to creative lateral hires and mergers which would expand other areas.

What’s one thing about the firm that people might be surprised to learn?

Deutsch Williams is the only law firm in the Boston Design Center, part of the larger Innovation and Design Building, which together house the offices of a major craft brewer, dozens of interior design, architecture, and furnishing businesses; consulting firms; a renowned business incubator; high-technology firms; and a wide variety of other companies.

One of the firm’s founders, Burt Williams, long ago represented Olympic pair skaters Peter and Kitty Carruthers. We currently represent the family of a major Big Band era drummer and a former world champion athlete. Another of the firm’s founders, Allan Drachman, was instrumental in the development of public sector labor law in Massachusetts and the American Bar Association.

Why is it important to have all the lawyers in your firm members of the MBA?

Aside from the practical benefits, such as insurance benefits, malpractice insurance and continuing legal education, Deutsch Williams encourages all of our attorneys to take advantage of all that the MBA has to offer. We want our attorneys to be part of the “voice” of the legal community which the MBA provides across the commonwealth.

How has the MBA benefitted lawyers in your firm?

The MBA provides our attorneys with extremely thorough educational seminars, numerous networking opportunities, access to legal experts in all legal fields, legislative opportunities, organized and meaningful pro bono programs, and perhaps most importantly, the opportunity to be a leader in the legal arena of Massachusetts and to be part of the legal voice of the community and the commonwealth.

Are there any specific MBA programs you find particularly helpful?

Lawyers of the firm who have been members of the MBA’s section councils and have been appointed by the MBA to chair section councils have found their involvement to be particularly rewarding. Also, the MBA recognizes leaders in the law with its various educational panels, committees, subcommittees, task forces and the House of Delegates. The lawyers of Deutsch Williams who have participated in these important roles have felt that they have truly been part of the ever changing legal landscape of Massachusetts.

The MBA — your firm’s partner

MBA Honor Roll firms have five or more Massachusetts lawyers and enroll 100 percent of their attorneys in the MBA within an association year. Learn more about the many ways the MBA can work for your firm at www.massbar.org/honorroll. Join our growing list of Honor Roll firms by contacting MBA Member Services at (617) 338-0530 or memberservices@massbar.org.

Just the facts

Firm Name: Deutsch Williams Brooks DeKennis & Holland, P.C. (a/k/a Deutsch Williams)

Year founded: 1984

Location: Boston

Number of attorneys: 21

Managing partners: Valerie Swett, Senior Managing Principal, Robert D. Hillman, Managing Principal, Daniel R. Deutsch Managing Principal, Steven J. Brooks, Managing Principal Emeritus

YLD receives Service to the Public Special Recognition Award, YLD Star of the Quarter at ABA meeting

Courtney C. Shua, former chair of the MBA’s Young Lawyers (YLD) Division, served as a YLD Delegate for Massachusetts at the American Bar Association YLD Assembly in San Francisco in August. At the assembly, the MBA’s YLD received the YLD Star of the Quarter Affiliate Award for its work hosting the ABA YLD New England Regional Summit on June 18. The MBA’s YLD also received the Service to the Public Special Recognition Award for volunteering at the Greater Boston Food Bank.
Students, mentors close the book on JYC 2016

BY JOE KOURIEH

Twenty-nine high school students received certificates noting their completion of the 2016 Judicial Youth Corps (JYC) program, the Corps’ annual Appreciation Day on August 11. They were given praise, along with valuable advice, from speakers, including Supreme Judicial Court Associate Justice Geraldine S. Hines, Past Massachusetts Bar Association (MBA) President Robert Harnais, Massachusetts Bar Foundation President Janet Aserkoff and several others.

Of the 29, 19 students were from Boston area high schools, and 10 were from Worcester. This year marked the 25th year overall that the JYC has been active, and 10 years since the Worcester area schools joined in. The MBA has run the Worcester program since its inception with financial support from the MBF. This year, for the first time, the Worcester program also received funding from the Worcester County District Attorney’s Office.

The two regional groups faced off in a mock trial to start the day, going through all the regular proceedings of a trial, with pointers and instructions coming from presiding Judge Jonathan Tynes of the Boston Municipal Court, where necessary. The fiction — a murder case — had Boston students defending an elderly man who had shot dead his son-in-law, claiming self-defense. Both parties sought to carefully navigate the intense emotional landscape of the case in constructing their arguments, all while adhering to the appropriate proceedings and conduct of trial. The trial ran too long for the jury to engage in a full deliberation, and a quick survey by Boston JYC Coordinator and Boston Latin School Associate Headmaster Gerald Howland, who sat among the jury, found them split down the middle.

The opposing parties then converged and made their way to the John Adams Courthouse, where they were addressed first by Hines, who said she “look[s] forward to bragging about your accomplishments in the future” as JYC graduates move boldly through their budding careers.

“You can fully embrace new challenges without the fear of failure,” she said, “or you can escape the fear — you can break through it, doing what you know you were called to do. We and your parents have given you roots and wings, and it’s now time for you to fly.”

Harnais also described the JYC as a guiding force for those destined to be involved in the legal profession, whether as lawyers or judges.

“You have an incredible opportunity,” Harnais said. “The experience you’re having right now could open up many doors. Take this knowledge, and let it bring you where you’re meant to go. ... The MBA is proud to be a part of this.”

He also offered simple but important advice to the graduates.

“Love the law,” he said, adding, “This is an incredible system.”

Harnais’ counterpart at the MBF praised the youths for aligning themselves with the court system — what she called “an important American system for change.”

“You all chose to do this program this year,” Aserkoff said, “and I hope that you have been inspired by this to devote some portion of your life, whether it’s your working life or your citizen life, to support our judiciary system. It’s such a vital and important part of how we function as a society.”

“On behalf of the Foundation, we look forward to continuing to participate in and support this program in the years ahead, and we thank all of you for your participation,” she said.

Howland advised the students of the JYC to treat every opponent as a worthy opponent.

“Treat them respectfully, and you’ll have a better trial because of it,” he said.

He went on to praise the individuals throughout the Suffolk County court system who mentor and educate student participants for free. These mentors are “where the strength of this program truly lies.”

“This is a program that is able to happen because of the support of many people, and I’ve found that people in the legal field more than any other are willing to take that extra step to help somebody out along the way.”

A handful of students stood to personally thank their mentors for the opportunities they provided, such as Alexis Thomas from Cathedral High School in Boston’s South End, who assisted in jury selection every morning at Suffolk Superior Court, or Ivan Andrade, a Boston Community Leadership Academy student with aspirations to be a detective, who thanked court officials for helping him hone his discipline and objectivity.

Before the certificates were handed out, two student speakers were invited to give their perspectives on the influence of the JYC, including Ancila Glinic of Kents Hill School in Maine, who reflected on her encounters with many prestigious personalities in the state’s judicial and political scenes, and Tal Usvyatsky from Worcester’s Massachusetts Academy of Math and Science, who said that working in the courts inspires “a new type of personal responsibility.”

“You feel responsible for helping other people with any type of problem they might have,” she said. “You feel responsible for resolving the practical matters but you also feel a very new type of responsibility for the community — for helping in the overarching, broader issues that will help the community at large. ... In that way, this program turns us into conscientious members of the community and into mindful people as well.”

Past MBA President Robert W. Harnais reminds JYC graduates the importance of respecting our country’s judicial system.
Summer snapshots: Tia’s Social and YLD Boat Cruise

The Massachusetts Bar Association hosted its final Summer Social networking reception on the Boston waterfront on Aug. 18, and the MBA’s Young Lawyers Division’s hosted an hour-long End of the Summer Boat Cruise on the Spirit of Boston on Aug. 26.
UPCOMING CLE, SEMINARS AND MBA ON DEMAND PROGRAMMING

MONDAY, SEPT. 26
Drones: Surveillance and Warfare 
Suffolk, 20 West St., Boston
Facility: Frances Howel Rudko, Esq., program chair; UMass School of Law, North Dartmouth; Kade Crockett, ACLU of Massachusetts; Prof. Avery University of Massachusetts School of Law, N. Dartmouth; Jessie J. Rosman, Esq., ACLU of Massachusetts, Boston

THURSDAY, SEPT. 29
Handling Psychiatric Disabilities in the Workplace
Suffolk, 20 West St., Boston
Facility: David E. Belfort, Esq., program chair; Benett & Belfort PC, Cambridge; Meghan H. Slack, Esq., program co-chair; Law Office of Meghan Slack, Arlington; Lauren J. Donoghue, Esq., Morgan, Brown & Joy LLP, Boston; Susan Letterman White, Esq., program chair, Letterman White Consulting, Susan Letterman White, Esq., Legal Galaxy

THURSDAY, OCT. 6
After Pfannenstiel ... now what?
Suffolk, 20 West St., Boston
Facility: Calvin J. Heine, Esq., program chair; Gibbs & Heine LLP, Wellesley Hills; Michael P. Judge, Esq., Burns & Levinson LLP, Boston; Nan M. Sauer, Esq., program chair, Roberts & Sauer LLP, Boston; Michael Xavier, Esq., program chair, Eno, Martin & Donahue LLP, Lowell

WEDNESDAY, OCT. 20
Recent Privacy and Security Risks to the Health Care Industry
Suffolk, 20 West St., Boston
Facility: Kathryn Rattigan, Esq., program chair; University of Massachusetts School of Law, N. Dartmouth; Jesse J. Rosman, Esq., ACLU of Massachusetts, Boston

UPCOMING CLE, SEMINARS AND MBA ON DEMAND PROGRAMMING

Save the dates — Upcoming MBA Conferences

26TH ANNUAL FAMILY LAW CONFERENCE
Friday, Oct. 14—Saturday, Oct. 15
Chatham Bars Inn, Chatham, MA
Annual State of the Court Address
CHIEF JUSTICE ANGELA M. ORDOÑEZ Probate & Family Court Boston

CONFERENCE CHAIRS
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4TH ANNUAL PROBATE LAW CONFERENCE
Friday, Nov. 18, 8 a.m.–4 p.m.
Four Points by Sheraton Norwood

KEYNOTE ADDRESS
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UPCOMING COURSE DATES
Thursday, Sept. 22—Mass Lowell Inn and Conference Center, Lowell
Friday, Oct. 21—Western New England University School of Law, Springfield

Registration is $50 and includes:
• Breakfast and lunch
• All necessary record keeping and attendance reports to the BBO will be handled by the MBA
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Jeffrey N. Catalano is a partner at Todd & Weld LLP in Boston, where he represents victims of catastrophic injuries in the areas of medical negligence, product liability, auto accidents, class action and other personal injury cases. In addition to serving as an MBA officer and member of the MBA’s Executive Management Board and House of Delegates, Catalano has chaired the association’s Volunteer Recognition, Recruitment and Retention Task Force, and the MBA’s Civil Litigation Section Council. He also co-chairs the MBA’s Leadership Academy and leads the MBA’s Oliver Wendell Holmes Jr. Scholarship Committee. In 2015, Catalano launched the MBA Pro Bono Prescription program, a pioneering initiative that brings together volunteer attorneys and medical professionals to promote the health and well-being of low-income patients through legal advocacy. Catalano has served as a member of the executive committee for the Massachusetts Academy of Trial Attorneys, where he received the President’s Award for his dedication to justice and consumer rights. Catalano was recently selected to serve on the Board of Advisors for the National Patient Safety Foundation, a non-profit that partners with patients and families, the health care community, and key stakeholders to advance patient safety and disseminate strategies to prevent harm. From 2013 to 2016, the Boston Globe and Wall Street Journal named Catalano a New England Best Lawyer for Personal Injury and Product Liability. Catalano was also named one of the Best Lawyers in America by U.S. News & World Report from 2015 to 2017. From 2009 to 2016, Super Lawyers selected Catalano as a New England Super Lawyer. In 2014, he was named one of Boston’s Top Rated Lawyers in Medical Malpractice by Legal Leaders™, signifying the “highest level of professional excellence.” Catalano graduated from the University of Scranton in 1990. He went on to earn his J.D. from Boston College Law School in 1994. While at Boston College Law School, Catalano received the Achievement Award for Professional and Personal Achievement. Catalano lives in West Roxbury.

Christopher P. Sullivan is a partner at Robins Kaplan LLP in Boston, where his law practice concentrates in civil jury trials in complex litigation matters, including financial and securities cases and intellectual property matters. Sullivan has served as chair of the MBA’s Membership Committee, and as a member of the MBA’s Executive Management Board and MBA’s House of Delegates. In the past, Sullivan sat on the MBA’s Civil Litigation Section Council and served as co-chair of the Federal Practices and Procedures Committee. In 2014, Sullivan helped establish the MBA’s Consumer Advocacy Committee and leads the Consumer Advocacy Task Force, which brings together volunteer attorneys and consumers to launch the Massachusetts SOLACE (Support of Lawyers/Legal Personnel — All Concern Encouraged) Chapter with the Federal Bar Association. Sullivan has also served as an executive officer, with a term lasting through 2017. Sullivan graduated from the College of the Holy Cross in Worcester and is currently an executive board member of the Holy Cross Lawyers Association. He received his J.D. from Fordham University Law School and is a New England Super Lawyer by Super Lawyers every year since 2005. Sullivan graduated from the University of Massachusetts, Amherst, in 1989 and from Boston University School of Law in 1990.

Denise I. Murphy is a partner at the law firm of Rubin and Rudman LLP in Boston, and chair of its Labor and Employment Division. She counsels regional and national businesses on a broad variety of employment law-related issues; litigates sexual harassment and discrimination claims; and drafts a multitude of employment contracts, severance agreements, handbooks and policy statements. A member of the MBA’s Executive Management Board, Murphy has also served as the association’s Budget & Finance Committee. From 2011–16, Murphy was the chair of the Joint Bar Committee on Judicial Appointments. She previously served as a hearing committee member with the Board of Bar Overseers, and has participated in the association’s Task Force on Employment Opportunities, Task Force on the Court System’s Anniversary Fee Assessment, and the September 11th Committee, Conversations on Law and Liberty Program. In addition to her work with the MBA, Murphy is a mentoring circle leader for the Women’s Bar Association, a member of the Massachusetts Bar Foundation’s ELA Great Review Committee and a group leader for Christmas in the City. Murphy was recognized as one of the Top Women of Law in October 2015 by Massachusetts Lawyers Weekly, and as one of Boston’s Top Rated Lawyers in 2012 by the Boston Globe. In 2011, Murphy was awarded the MBA’s Centennial Award, celebrating her service to the profession and her community. Murphy has been listed as one of Boston Magazine’s Top 50 Women Attorneys and as a Super Lawyer by Super Lawyers since 2008. Murphy lives in Westwood.

Martin W. Healy serves as the Massachusetts Bar Association’s chief legal advisor, as well as the MBA’s liaison to the legislative, executive and judicial branches. Healy is responsible for providing legal advice in corporate matters and legal support in issues of public policy concerning the practice of law and the administration of justice. In addition, he serves as counsel to the MBA leadership team and the MBA House of Delegates and Executive Management Board. In his capacity as a registered legislative and executive agent, Healy works with the MBA’s sections and committees in analyzing legislation, drafting bills and testifying before legislative committees. Healy also serves as executive secretary to the Joint Bar Committee on Judicial Appointments. A National Uniform Law Commissioner for Massachusetts, Healy is also a member of the Massachusetts Commission on Public Counsel Services (CPCS) Board. A long-term member of Massachusetts Lawyers Weekly’s Board of Editors, Healy is a regular contributing columnist of the publication, writing the feature “Healy on the Hill.” Healy was named “Massachusetts Lawyer of the Year” by Massachusetts Lawyers Weekly in 2014 for his work in making attorney-conducted voter drives a reality in Massachusetts. He also serves as an executive, regulatory and executive agent for the Commonwealth of Massachusetts, and the Massachusetts Bar Foundation, an organization dedicated to advancing the science of jurisprudence and fostering improvements in the law’s impact on our society; and the Foundation of the Federal Bar Association, which promotes and supports legal research and education, advances the science of jurisprudence and fosters improvements in the practice of federal law. Sullivan serves as a Board of Directors hearing officer, with a term lasting through 2017. Sullivan graduated from the College of the Holy Cross in Worcester and is currently an executive board member of the Holy Cross Lawyers Association. He received his J.D. from Fordham University Law School and is a New England Super Lawyer by Super Lawyers every year since 2005. Murphy graduated from the University of Massachusetts, Amherst, in 1989 and from Boston University School of Law in 1990.

Christopher A. Kenney is a founding member and managing shareholder of Kenney & Sams PC in Boston. He has tried cases before every level of the state and federal trial court system in Massachusetts, and has served as an appellate advocate before the Massachusetts Appellate Division, Massachusetts Appeals Court, Massachusetts Supreme Judicial Court and the U.S. Court of Appeals for the First Circuit. Kenney also chairs the MBA’s Consumer Advocacy Committee and is a member of the MBA’s Executive Management Board. Kenney has also served in the MBA’s House of Delegates and as a former chair of its Civil Litigation Section. In addition to his work with the MBA, Kenney is a former president of the Massachusetts Defense Lawyers Association (MDLA), former president of the Massachusetts Chapter of the Federal Bar Association and former co-chair of the Boston Bar Inn of Court. The MDLA named Kenney the 2012 Massachusetts Defense Lawyer of the Year. Kenney has served as an adjunct faculty member at Boston University School of Law, and frequently writes and lectures for business groups, trade associations and bar associations. Most recently, Kenney was appointed to serve as director of the IADC Trial Academy at Stanford University Law School. Kenney earned his B.A. from the College of the Holy Cross and his law degree from Boston University School of Law. Boston University School of Law honored Kenney in 2012 with the Silver Shingle Award for outstanding service to the school. Kenney lives in Sudbury, Massachusetts.

John J. Morrissey is a founding partner of Morrissey, Wilson & Zaffinopoulos LLP in Braintree, where he has a trial practice handling personal injury claims, including wrongful death, catastrophic injury and workers’ compensation. He also represents individuals and businesses in commercial and real estate disputes. Morrissey serves as a chair of the MBA Executive Management Board, an arbitrator with the MBA Fee Arbitration Board and a member of the Workplace Safety Task Force. A past MBA secretary and vice president, Morrissey has served on the House of Delegates, and as chair of the MBA Judicial Administration Section Council. In 2013, Morrissey volunteered for the MBA Marathon Bombing Victims’ Legal Assistance Program, where he provided free legal services to victims of the Boston Marathon bombings. Morrissey is a member of the Board of Bar Overseers of the Supreme Judicial Court. He has served as a member of the Massachusetts Academy of Trial Attorneys’ Board of Directors and its Executive Committee. Morrissey is also a life fellow and has served as a member of the Grant Advisory Committees of the Massachusetts Bar Foundation, and serves as a director of Independent Bank Corporation, Rockland Trust Company. Morrissey was appointed a commissioner of the Hutchinson Commission for the Massachusetts Bar Foundation, and serves as an officer, with a term lasting through 2017. Sullivan graduated from the College of the Holy Cross in Worcester and is currently an executive board member of the Holy Cross Lawyers Association. He received his J.D. from Fordham University Law School and is a New England Super Lawyer by Super Lawyers every year since 2005. He is also a member of the Massachusetts Commission on Public Counsel Services (CPCS) Board.
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In this feature, the MBA spotlights some of the good deeds MBA attorneys do that you might not have heard about.

The Pro Bono You Don’t Know

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OCTOBER IS PRO BONO MONTH

OCTOBER PRO BONO OPPORTUNITIES

Monthly Dial-A-Lawyer, Oct. 5 (Boston)
Volunteer attorneys from the MBA answer legal questions from members of the public on the first Wednesday of every month. The next Dial-A-Lawyer is Wednesday, Oct. 5, from 5:30–7:30 p.m. To volunteer, contact DAL@Massbar.org or call (617) 338-0670.

The MBA holds a semi-annual Western Mass. Dial-A-Lawyer in Springfield, where volunteer attorneys answer legal questions from members of the public. The program is co-sponsored by Western New England University School of Law (which hosts the call-in center), the Republican, O’ Pueblo Latino, the Massachusetts Association of Hispanic Attorneys and the National Hispanic Bar Association. The next Western Mass. Dial-A-Lawyer is Oct. 26, from 4–7 p.m. To volunteer, contact DAL@Massbar.org or call (617) 338-0670.

Criminal Record Sealing Seminar and Pro Bono Opportunities, Oct. 27 (Boston)
The MBA is collaborating with Greater Boston Legal Services (GBLS) to recruit attorneys to help clients from low-income communities seal their records and break the cycle of poverty and unemployment. The project seeks volunteers to represent a pro bono client in their region of the state court and/or provide limited assisted representation. Attorneys of all backgrounds are encouraged to volunteer to take a case or help with our community outreach. The required time commitment is likely less than 25 hours, and GBLS provides training, materials and mentoring. Join us for a seminar, where you can also sign up to volunteer.

“CORI Matters — Learn How To Help Clients Seal Criminal Records”
Thursday, Oct. 27, MBA, 20 West St., Boston, 4:30–6:30 p.m. Register at www.Massbar.org/CORIMatters.

MassLegalAnswersOnline
Mass Legal Answers Online is an online legal advice website that is part of the American Bar Association’s Free Legal Answers project. The website, expected to launch in November, is seeking volunteers to answer questions posed by eligible Massachusetts residents.

• Choose the questions you want to answer — when, where and how it’s most convenient for you.
• No required time commitment, although we encourage you to answer at least one question a month.
• Open to all attorneys in good standing who are licensed to practice law in Massachusetts, or registered for pro bono status with the Board of Bar Overseers.
• Malpractice coverage provided to volunteer attorneys for legal guidance provided through the website.

Sign up today at www.MassLAO.org. Email info@MassLAO.org for more information.

WBZ Call for Action — Ask A Lawyer, Nov. 30
Volunteers are needed for the Nov. 30 Ask A-Lawyer call-in program, presented jointly by the MBA, WBZ Call for Action and WBZ NewsRadio 1030. Volunteer lawyers from the Massachusetts Bar Association will be at the WBZ studios to field phone calls from members of the public from 7 to 9 p.m. To volunteer, contact DAL@Massbar.org or call (617) 338-0670.

Elder Law Education Program
Volunteers from the MBA’s Elder Law Education Program organize free educational presentations about elder law throughout the commonwealth in the spring in celebration of Law Day. They also produce, “Taking Control of Your Future: A Legal Checkup,” the MBA resource guide on a wide range of legal issues affecting the lives of seniors. The Elder Law Education Program is made possible due to the assistance and cooperation of both the MBA’s Health and ProBate Law section councils and the Massachusetts Chapter of the National Academy of Elder Law Attorneys.

To volunteer, contact CommunityServices@Massbar.org, or call (617) 338-0695.

Section 35 Helpline
Launched by former MBA President Robert W. Humans in 2016, the MBA’s Section 35 Helpline is a free legal assistance program to help those who are seeking court-ordered inpatient treatment for a family member or friend struggling with opioid addiction. Volunteers offer assistance with a state law, known as “Section 35” (Mass. Gen. Laws ch. 123, Section 35), which permits individuals to petition the courts to involuntary commit substance abusers to an inpatient treatment program when their alcohol or drug use puts themselves or others at risk.

To volunteer, email RHarnais@Massbar.org.

www.MassProBono.org
MassProBono.org is a comprehensive pro bono “marketplace” for would-be volunteers across Massachusetts. The centerpiece of the site is a Pro Bono Opportunities Guide, developed in partnership with the MBA, which has built an extensive statewide list of pro bono opportunities. The Pro Bono Opportunities Guide on MassProBono.org builds on the MBA’s pro bono catalogue and incorporates the interactive functions of the Pro Bono Net platform to create a robust new tool to promote pro bono engagement.

To join MassProBono and review the array of pro bono opportunities, visit www.MassProBono.org.

The Pro Bono You Don’t Know

In this feature, the MBA highlights some of the good deeds MBA attorneys do that you might not have heard about.

Kerri Quintal of the Law Office of Kerri A. Quintal PC, in North Attleboro, is helping to raise money for the Kids Summer Café, an organization in Attleboro that feeds hungry children in the summertime who normally receive free school lunches during the school year. There are four locations for children 18 and under. Quintal’s practice involves working with families in both family law and criminal defense, and she often dedicates much of her pro bono efforts to either families or children. In the past she has done things like feed families for the holidays, winter drives, and Quintal’s Quest To Feed The Hungry.

In her own words

“The kids were hungry and they wanted to participate in helping feed the kids. Since it was something I could do on my own, I thought it was a great opportunity to help the kids and to have fun doing it at the same time.”
News from the Courts

Committee on juror voir dire final report and statement from SJC justices

On August 6, 2014, the Legislature enacted Chapter 254 of the Acts of 2014, granting attorneys and self-represented parties the right to question potential jurors in all Superior Court trials, effective February 2, 2015. Chief Justice Ralph Gants convened the SJC Committee on Juror Voir Dire Committee (in September, 2014). Composed of judges from the five Trial Court Departments with jury trials, as well as attorneys with a wide variety of trial experience, the committee was chaired by Justice Barbara A. Lenk. The committee’s mandate was to recommend how jury selection might be enhanced throughout the Trial Court, including but not limited to how best to implement Chapter 254. Visit http://www.mass.gov/courts for the committee’s final report and a statement from the justices.

Amendments to the Uniform Trial Court Rules for Civil Commitment Proceedings for Alcohol and Substance Abuse Disorders

The Supreme Judicial Court has approved amendments to the Uniform Civil Commitment Proceedings for Alcohol and Substance Abuse Disorders, effective Sept. 6, 2016. Visit http://www.mass.gov/courts to view the amendments.

Amendments to Rule 3:10 of the Rules of the Supreme Judicial Court


SJC justices’ statement on approval of Trial Court Rule XIV on Uniform Rules on Public Access to Court Records

The Supreme Judicial Court has approved Trial Court Rule XIV, Uniform Rules on Public Access to Court Records, which governs access to court records in the trial courts. The court’s approval of the section of the rule that governs remote access by attorneys through the Attorney Portal (Section 5(b)) is provisional and the court will revisit this section in the fall of 2016.

Rule XIV sets out procedures to access court records at the counter in the clerk’s office of every trial court, at a public access terminal in the clerk’s office, and remotely through the internet. The rule attempts to balance the public’s interest in having accessible records with the legislative intent to limit access to criminal records as reflected in the CORI statute and the privacy interests of litigants, victims, and witnesses in some court cases, such as juvenile proceedings, domestic violence cases and child custody and other family matters. It contains provisions addressing access to records in the courthouse, requests for compiled and bulk data, and remote access to court records through a Public Internet Portal and an Attorney Portal.

Because of reasonable concerns that were expressed after recent changes were made limiting the information that had been available to attorneys through the Attorney Portal, the justices have approved the section of the rule (Section 5(b)) that governs remote access through the Attorney Portal on a provisional basis. The justices asked the Chief Justice of the Trial Court to address the concerns that were raised and to make a recommendation no later than the end of October 2016 on whether changes should be made in Section 5(b). Meanwhile, consistent with Rule XIV, the Trial Court is expanding the information that can be viewed remotely through the Public Internet Portal to include searchable criminal docket information, beginning with the Superior Court. The Trial Court plans to make criminal docket information in other court departments available on the Internet over the coming months.

Rule XIV was developed by a Trial Court committee chaired by Superior Court Judge Peter Lauriat. The committee worked for over two years to develop a rule that attempts to balance various interests and clarify procedures. In the course of its work, the committee held a public hearing and also published its proposed rule for public comment for a four month period. The public comments on Proposed Rule XIV Uniform Rules on Access to Court Records are available at http://www.mass.gov/courts.

In addition to approving Rule XIV, the Justices of the Supreme Judicial Court asked the Chief Justice of the Trial Court to appoint a standing committee, with representation from the courts, the bar, and the media, to monitor implementation and make recommendations for changes in the rules to respond to the rapid and significant nature of technological changes.

The justices also approved a new SJC Rule 1.24, governing personal identifying information in court documents. This rule, modeled on SJC guidelines that have been in place since 2009, restricts parties and the courts from including certain personal identifying information in court documents. Both new rules will become effective on Nov. 1, 2016.

Update on public access to court records

The “set up” for remote search by docket number of criminal cases on the public portal in the Superior Court Department has been completed.

The three criminal case types - Indictment, Criminal Complaint, and Probation Transfer are now available at www.masscourts.org. Cases can be searched by docket number or by date range, limited to any period of time where the date range is 30 days or less. A search by name is not allowed for these three case types.

Statement of Chief Judge Jeffrey R. Howard regarding Judge Conrad K. Cyr

The United States Court of Appeals for the First Circuit mourns the death of Judge Conrad K. Cyr and expresses deepest sympathy to his family and friends. Judge Cyr has a fair and compassionate jurist, one who will be tremendously missed by his colleagues on the federal bench, as well as by the bar and the public.

Judge Cyr dedicated the majority of his career to serving the federal judiciary. He was a bankruptcy judge for the District of Maine from 1973 to 1981, when he was appointed to the United States District Court for the District of Maine, where he served until 1989. In 1989, Judge Cyr was appointed to the United States Court of Appeals for the First Circuit. Judge Cyr assumed senior status in 1997 and continued to serve the Court of Appeals as a senior judge until his retirement in 2008.

Judge Cyr’s colleagues celebrate his extraordinary legal intellect and approachable spirit. A man with a deep love of the law and of his home state of Maine, Judge Cyr succeeded in personally engaging with his colleagues and the public. "Judge Cyr was not only an exceptional judge," Chief Judge Jeffrey R. Howard stated, "but also a wonderful friend. His dedication to justice and to his country has left an indelible mark on the legal system and on this nation.”

Adoption of Uniform Bar Examination

The Justices of the Supreme Judicial Court have endorsed the recommendation of the Committee to Examine the Uniform Bar Examination (Committee) to adopt the Uniform Bar Examination (UBE), with an effective date of July 2018. The justices also endorsed the Committee’s recommendation that, beginning in July 2018, applicants for admission to the Massachusetts bar be required to complete a new local component program that will ensure that newly-licensed attorneys are familiar with key Massachusetts laws and procedures. The Court will appoint working groups to develop the Massachusetts law component and to prepare for the transition to the UBE.

The UBE is a uniformly administered, graded, and scored bar examination prepared by the National Conference of Bar Examiners. The UBE produces a portable score that can be transferred to other UBE jurisdictions, subject to the applicant’s satisfying any additional requirements imposed by a jurisdiction. Each jurisdiction sets its own pass rate for the UBE. To date, 23 states and the District of Columbia have adopted the UBE. Eight of these jurisdictions have adopted a local law component.

Hon. Robert J. Cordy and Hon. Margot Bettsford, justices of the Supreme Judicial Court, chaired the Committee. MBA Past President Richard P. Campbell represented the Massachusetts Bar Association on the committee. A full list of committee members is available below.

Committee Members

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<th>Name</th>
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<td>Boston College Law School</td>
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<td>Barbara F. Berenson, Esq.</td>
<td>Supreme Judicial Court</td>
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<td>Geoffrey R. Bok, Esq.</td>
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<td>Hon. Nonnie Burns (ret.)</td>
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<td>Richard Campbell, Esq.</td>
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<td>Dean Michael Coyne</td>
<td>Massachusetts School of Law</td>
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<td>Clerk Maura S. Doyle, Esq.</td>
<td>Supreme Judicial Court for the County of Suffolk</td>
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<td>Melinda F. Drew, Teaching Professor</td>
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<td>Professor University of Massachusetts Law School</td>
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<td>Professor Andrew Kaufman</td>
<td>Harvard Law School</td>
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<td>Wayne Kennard, Esq.</td>
<td>Boston Bar Association</td>
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<td>Kandace Kukas, Asst. Dean</td>
<td>Western New England University School of Law</td>
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<td>Carol R. Lev, Esq.</td>
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<td>Dean Maureen O’Rourke</td>
<td>Boston University School of Law</td>
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<td>Dean Andrew Perlman</td>
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<td>Alice Richmond, Esq.</td>
<td>Board of Bar Examiners (former member)</td>
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<td>Nan M. Sauer, Esq.</td>
<td>Massachusetts LGBTQ Bar Association</td>
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<td>Professor Paul F. Teich</td>
<td>New England Law, Boston</td>
</tr>
<tr>
<td>Marilyn J. Wellington, Esq.</td>
<td>Board of Bar Examiners</td>
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Welcome to the 2016-2017 association year! Our leadership and staff have been working all summer long to provide you with the most relevant programs and initiatives to kick off an exciting new year.

Since my last communication, many of you have reached out to us for ways to become more involved in the MBA — and, specifically, for volunteer opportunities that do not require a huge investment of your time. We heard you and have designed many of our programs with your busy schedules in mind. We are pleased to offer several volunteer opportunities of a more limited duration.

Check out some of our more popular, short term activities that members like you can take advantage of each year to help enrich your practice and the profession:

**Help the community**

- Assist the public by staffing a phone bank and providing free legal guidance at our Dial-A-Lawyer events in Boston or Springfield. Visit a local senior center and make an Elder Law Education presentation. Serve as a resource for families struggling with a loved one’s addiction by answering their Section 35 Helpline questions. Participate in community outreach projects, such as our food, clothing and blood drives, which benefit those most in need.

**Network with colleagues**

- Volunteer as an MBA ambassador at a networking event, and interact with other attorneys and judges outside of the office. Engage with colleagues on the go by answering a question or starting a discussion at www.massbar.org/access to virtually connect with fellow members and share practice information and tips through discussions, blogs and more.

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**Q:** Good Afternoon all, I have my first divorce that requires a QDRO and I’m wondering if anyone is willing to spare a few minutes to talk to me. I am trying to decide whether the QDRO is something I can/should handle or contract it out to another lawyer. Thank you so much for your time.

**A:** Farm it out. Almost everyone does. There are several individuals who focus on QDRO preparation and have relationships and/or experience with the various companies and government entities. Plus, it will cost your clients less overall and you will diminish the need to go “back and forth” with the other party/counsel on the details. The parties can split the cost of preparation which eliminates the issue of your doing all of the work and your client paying for it exclusively.

**A:** I believe many practitioners utilize QDRO Preparation Services. It’s a highly specialized area and it requires knowledge of the tax consequences of the plans involved. Also, the people who do these regularly are familiar with different major employers (GE, HP, etc.) and the different requirements of their plans. I prefer to avoid the potential liability and send them out!

**Marc A. Moccia, Kazarosian Costello LLP, Haverhill**

**A:** I agree, Lillian. This area is a minefield of troubles for those who do not specialize in QDRos. You don’t want to be in the position of trying...

**A:** Lilian, I agree with Marc. Feel free to call me, I am in Chelmsford, I can give you the names of several good QDRO preparers and am happy to talk with you about it.

**Karen J. Levitt, Esq., Levitt Law Group, Chelmsford**

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As you can see by the volunteers highlighted in this month’s insert, the MBA truly offers something for everyone. Make the most of your membership and join our growing list!

**P.S.** — Our upcoming Welcome Back Reception provides the perfect opportunity for you to integrate yourself into the MBA community. Join us on Thursday, Sept. 22, 5:30-7 p.m., at the Back Deck, 2 West St., Boston.

Linda A. Ferrara is the MBA’s Director of Membership & Programs.

### From the Membership Corner

**Your involvement checklist**

From the Lisa A. Ferrara

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**Demetra Pontisakos, Esq., Attorney at Law, Salem**

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**Karen J. Levitt, Esq., Levitt Law Group, Chelmsford**

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Counsel for the President and law student Bette Roth, Esq.

Many of the individuals here appear in multiple roles: Mediator, Arbitrator, Fact Finder, Fee Counsel, etc. Bette Roth, Esq., has been involved in this area of law for over 15 years. She is well qualified to assist you in your legal matters.

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AVIATION LAW
You’ve got a website, now what? Eight online marketing must-dos

By Heidi S. Alexander

These days most attorneys have a website (and, if you don’t, we need to talk). But, a website doesn’t automatically get you business. There is a lot more to online marketing then merely putting up a simple website. You first need to understand what your potential clients are looking for when they seek out and hire an attorney. You can then use that information to develop an effective online marketing strategy. According to a FindLaw U.S. Consumer Legal Needs Survey, potential clients want to know that you have expertise in your field, you are trustworthy, and have a good reputation. Moreover, the survey found that a majority of people who contact an attorney hire the first attorney that they contact. If you can use your online marketing to demonstrate your expertise, trustworthiness, and reputation, you might just be that first attorney.

Here are eight ways to maximize your online marketing:

Have a Mobile-Friendly Website. If your site is not mobile optimized, then you are losing out on potential business. Not only are more Google searches now taking place on mobile devices than on computer, but Google also shows a higher ranking preference to sites that are mobile optimized. Two good reasons to ensure your site is mobile optimized are that more Google searches are now taking place on mobile devices and Google prefers mobile-optimized sites.

Reduce All Barriers to Entry. Whether it’s your website, social media page, or directory listing, you need to make it as easy as possible for a potential client to reach you. For example, if a potential client finds your website on your mobile device, they should be able to click one button to call you from their device. This requires a clickable phone link on your website and an answering service or call specialist to conduct an intake. For directory listings, such as Avvo and Justia, make sure that you’ve claimed your profile and that your contact information is up-to-date.

Produce Good Content. High quality content plays an important role in boosting your search engine rankings as well as demonstrating your expertise in your field. Use your own blog and write for other blogs and publications (and make sure they link back to your site).

Videos. All statistics point to the increasing importance of video as part of an online marketing strategy. By 2017, video will account for nearly 70 percent of all consumer internet traffic. YouTube receives more than one billion unique visitors each month - that represents a huge market of potential clients and referral sources. Video might take the form of an intro to your practice and individual attorneys, a Q & A with the top questions you receive from clients, or a recording of a presentation you’ve given.

Get reviews. This is a great way to build trust among potential clients, plus it factors into Google rankings. Google, Yelp, Avvo, and Facebook are top sites for reviews. Ask for reviews from clients after a good result, and make it easy for them to do so.

Sign up for Google My Business. Google My Business (GMB) puts your business on the map. If you are on GMB, a Google search that results in your firm listing will present an image on the right-hand side with a map of your location and important information about your firm. If you want potential clients to find you on Google, you need to be on GMB.

LinkedIn — Use It To Your Advantage. If someone searches for you online, most likely your LinkedIn profile will end up somewhere on the first page of the results. As such, you should keep your LinkedIn profile up-to-date (that means a professional picture as well) and use keywords to describe your practice. Then, use LinkedIn to disseminate content to demonstrate your expertise and engage with others to boost your reputation.

Facebook — It’s Not Just For Personal Use. With nearly two billion users currently on Facebook, that’s a whole lot of potential clients you don’t want to lose out on. Create a law firm Facebook page and then start posting and promoting it. Use targeted Facebook ads to get in front of your potential clients.

Everything above should be part of a comprehensive marketing and business development strategy which identifies your target market and proper marketing channels, sets forth a plan that is tied to your budget, and includes a method to track and analyze your efforts.

Heidi S. Alexander, Esq., is a Law Practice Management Advisor at the Massachusetts Law Office Management Assistance Program (MassLOMAP), where she advises lawyers on practice management matters and provides guidance in implementing new law office technologies. She frequently makes presentations to the legal community and contributes to publications on law practice management and technology, including American Bar Association’s (ABA) Law Technology Today, Attorney at Work, and Technolawyer. She is also the author of the forthcoming publication by the ABA’s Law Practice Division, Evernote as a Law Practice Tool, and serves on the ABA’s TECHSHOW Planning Board.
You can drive yourself only so far without oil changes

Q: Growing up with one alcoholic parent and then two was so sidetracked by depression, I was sort of pressed into service of necessity in helping to raise my two younger brothers. But I must say that, for the most part, I gained a sense of value and satisfaction from earning something. It feels as if I've tried to do the right thing, but I must be pretty depressed. It feels as if I've tried to move forward.

A: The part that you may be missing completely is probably given your history, is the importance of self-care. Your way of operating falls within my own definition of so-called ‘codependency’ (a vague term that people understand in varying ways) — namely, that you feel overly responsible to take care of and to protect all of others, even at the same time insufficiently responsible for yourself. As you note, you adopted (or, really, were drawn into by necessity) a role of premature responsibility as a child, and you learned to draw upon that caretaker role for your sense of identity, value, and efficacy. On the plus side, it contributed to your working hard in school and making a valuable contribution to your community. On the minus side, you were drawn to marry someone who did not carry his weight or sustain a commitment to you, and you have prioritized caretaking to the point of neglecting the financial management of your own practice, which is the business equivalent to being a great driver who never changes your car’s oil — at some point, the system will break down and jeopardize your ability to move forward.

If you need a tutorial on practice accounting, IOLTA reconciliation and the like, your sister LOMAP program is an excellent resource for that. But I’d suggest that psychotherapy is also a really good idea (and, of course, LCL can assist in finding a therapist) only. Maybe you’re trying to get help at some point and it didn’t lead to lasting improvement. It is important to realize that, when it comes to longstanding, ingrained patterns of personality/behavior, identifying the patterns (which may bring short-term change) is generally not enough. An equal challenge is “working through” — practicing new thinking and new behavior over and over in myriad instances, repeatedly making course corrections when you veer toward the unhelpful familiar, and dealing with the feelings that arise along the way. It’s not fast or easy, and it can be challenging for both client/ patient and therapist to keep the overriding goals in sight. But as you develop an increased sense of running your own life, rather than feeling as if you have no choice, but to focus mainly on others’ needs, you may come to feel more empowered and less depressed.

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 Dr.Jeff@LCLMA.org.
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- Access any document on the go.

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The art of influence when logic just won’t do: How to develop client relationships and advance your career using influence

SUSAN LETTERMAN WHITE

Introduction

The biggest mistake lawyers make when they are in the midst of trying to convince someone to work with them is to assume that the other person has the decision authority to hire. The second is that the person will make a decision logically. Assuming logic will guide the decision-making process can cause people to provide a logical argument for why they should be hired into a new position and why they are trustworthy. Unfortunately, the decision to trust, which is at the foundation of a decision to hire a professional, is grounded in emotions.

Fun Fact: In a research study of investor trustworthiness, investors, who appeared fatigued were rated as less trustworthy.¹ Their knowledge of investing wasn’t nearly as important as their appearance.

Whenever your goals require someone else to do something, your ability to influence their decision-making matters. In 2011, I published a book with Thomson Reuters/West for lawyers called Power and Influence for Lawyers: How to Use it to Develop Business and Advance Your Career. Do you want to know the secret of being more influential? More influential means that other people see you as trustworthy and confident and are primed to make the decisions you want them to make, which coincidentally are those that are mutually beneficial—decisions that will make their lives better and yours.

The secret to being more influential, trustworthy, and confident begins with knowing what you want. If you find that surprising, consider this. Trust is the conclusion people make when they believe they are accurately predicting what a person will do and whatever that behavior also aligns with their interests. People, who don’t know what they want can be unpredictable and unpredictable people aren’t trustworthy because others don’t know what they will do.

What do you want?

I ask this question of every client and it gives about 99% of them difficulty. Many will say that they want to feel happy or successful. There are two problems with that answer.

First, human beings are notoriously bad at predicting what will make them feel happy.² Second, when I ask them to describe their future happy life, they have a difficult time answering the question.

People are motivated to act in particular ways because of their particular goals. Knowing what you want in a very deep way is a highly motivating force. People perform better when they are doing something that interests them—what they want.³ Laura is a lawyer in a health care company. I interviewed her in 2010. She advises lawyers to know “what you want comes from knowing what you enjoy. Think about what you enjoy doing and what positive emotions like hope, inspiration, and joy. Figuring out what you want is the first step in developing an important resource you will use to influence others. Knowing what you really want motivates because the strong desire is intertwined with positive emotions like hope, inspiration, and joy. Figuring out what you want is the first step in developing an important resource you will use to influence others. Knowing what you want comes from knowing what you enjoy. Think about what you enjoy doing and what you find absolutely unbearable, then ask yourself these four questions to discover what you really want:

1. When you have free time, how do you spend it?
2. When you imagine the lifestyle you are accustomed to or aspire to, what will you need to maintain it?
3. What resources do you want for your lifestyle?
4. What do you need to have happen to attain that lifestyle?

Decision-makers

You just identified something that you want. What has to happen before you can attain that goal, meet that need, and satisfy that desire? You have to do or say something to get noticed for what you want by the people who can help you get what you want.

It’s easy to feel uncomfortable with the word “selling.” After all, that’s what the supermarket or the used car salesperson does. It’s not what a highly trained professional does. Or is it?

If you are trying to persuade another person that your position is the correct one, then you are selling an idea. If you are hired for your advice, then you are selling your advice. If you want others to trust and like you, then you are selling yourself. If you are thinking about your personal brand, you are thinking about selling yourself. Yet, accepting the idea that you need to sell someone on something is just the first step.

Most people never bother to consider the decisions that must be made in their favor for them to attain their goals. Most people never think about who will make those decisions. That’s why so many people try to sell something to someone who either doesn’t need or want it or lacks the decision-making authority to purchase it. I’ve worked with many lawyers who are trying to develop new clients in a very disjointed and time-consuming way too much effort and time trying to persuade people who lack the power to hire them or people who don’t need the services they can provide. This is the same problem facing people who want to be hired for a skill-set that is not in demand in an industry that is changing the way they do business. Is this you?

Think about a professional goal. Some common goals for lawyers are to get hired, secure a promotion, or bring in a new client. Then answer the following questions to identify the decision-makers and decisions that matter to you today.

1. Describe your goal in specific terms.
2. Who will make the decisions that affect whether or not you attain that goal?
3. What are the decisions?
4. What factors will affect the decision-maker’s thinking and feelings?

Confidence and trust

By now, you’ve figured out what you want, the decisions that must be made for you to get what you want, and the empowered decision-makers that matter to you. Here’s the next hurdle to overcome.

1. Describe your goal in specific terms.
2. Who will make the decisions that affect whether or not you attain that goal?
3. What do you need to have happen to attain that lifestyle?

Once you have identified the right people, the next most popular mistake is assuming that those people will make decisions the same way you do and that it will be driven by data and logic. First, you, like everyone else, usually make decisions using emotions much more than logic. Second, even if you know how you feel about something, there is no reason to assume everyone else feels and thinks like you do.

This is where trust matters and enters into the equation. Even if you are talking to the right people, before they will consider buying from you, they must trust you. Don’t assume you can persuade someone to hire you for a job, promote you, or give you a business opportunity because you are good at what you do. Their decision will be more about them and who they trust than it is about your ability to do the job.

So, let’s assume you’ve done a few things right and the right person with the right decision-making power has noticed you. Then, what? Here are a few “fun facts” about trust:

• We are less likely to trust others who appear fatigued or impulsive. So make sure to look well-rested and professional in your appearance.
• We are less likely to trust others who cross their arms, lean away from us, or touch our faces, necks, or hands. Keep these “no-nos” top of mind in your next presentation or interview.
• We are more likely to trust others who:
  • Use an expanded posture
  • Stand up straight
  • Tilt their head upwards
  • Place their arms open and raised above their heads
  • Place their arms akimbo
  • Display a decreased gazing at others

To learn more about conveying confidence, Google Amy Cuddy Ted Talk to learn more about how to use your body language to convey confidence.

Unconscious bias in decision-making

You’ve figured out what you want, the decisions that must be made for you to get what you want, who the empowered decision-makers that matter to you are, and how to appear confident and trustworthy. There is much more to unconscious bias in decision-making than you can imagine. Here’s a summary.

Logic and reason

Lawyers, accountants, financial service providers, researchers, and analysts, among other service providers, assume logic and reason—rationality-based persuasion—is the most important decision-making driver. Consequently, this tends to be the only driver they use when trying to influence the decision-making of another person.

How effective is reason and logic at changing your attitudes, beliefs, or emotions? Have you ever changed your feelings from sadness to joy because someone told you why you were wrong to feel sad? If you continue to think that logic is purely objective, think again.

Let’s look closer at reason and logic. How objective is it? Is it not surprising that a person is more likely to respond favorably to a request for a favor if he or she is given a reason to do so. What is surprising is that even a spur-of-the-moment works. Compare the results of the compliance rate with the three requests in the experiment summarized below.¹

Framing a request and compliance rates

<table>
<thead>
<tr>
<th>Request</th>
<th>% Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Excuse me, I have 5 pages. May I use the Xerox machine because I’m in a rush?”</td>
<td>94%</td>
</tr>
<tr>
<td>“Excuse me, I have 5 pages. May I use the Xerox machine?”</td>
<td>60%</td>
</tr>
<tr>
<td>“Excuse me, I have 5 pages. May I use the Xerox machine because I have to make some copies?”</td>
<td>93%</td>
</tr>
</tbody>
</table>

Logic isn’t totally logical after all!
Interests

Are the interests of various individuals or groups driving the decision making process? An example of competing interests is when two departments in a law firm want to advance their own associate to partner and there is only one spot available. The outcome may depend on alliances and trading promises or other favors with anyone who has voting power. Even if the only need is to influence a person not to argue with a firm decision, understanding that person’s interests, in the nature of organizational politics and power, helps.

Aspirations and inspirations

An aspiration is a desire to achieve something. One of my clients, who is in marketing, recognized the need to transform her skill level on the use of a piece of design software that didn’t exist when she began her career. After finding the perfect new position and assessing that didn't exist when she began her career, she decided to take a university course. Her aspiration led her to decide to do whatever necessary to attain that vision of success.

An inspiration is a feeling of enthusiasm. A student, after hearing the managing partner of a particular law firm talk about the opportunities at that firm, might be inspired and decide that joining the firm is the best path to work with the best lawyers and on the most interesting projects in the field to attain his aspirational goal to be doing interesting work.

Emotions, anxiety

Emotions motivate human beings more than anything else. People who were socially anxious increased their rate of cooperation and trust of others by approximately 50 percent. When someone concludes that a situation is similar to a past experience, the person will pull up the past decision with its emotional tagging and use it as a guide for the present decision making. The stronger the emotional tag, like vivid events, personal experiences, or easily imagined events, the more likely the memory will be used for comparison. If a selected action, and its projected outcome, has strong emotional tags, then we are likely to act more decisively. If we have conflicting emotions, then we are more likely to be ambivalent about the proposed action.

Finally, sadness biases preferences toward high-risk/high-reward options, whereas anxiety biases preference toward low-risk/low-reward options. On top of all that, our emotions influence the emotions of others. As Wharton Management professor Sigal Barsade puts it, “people are walking mood inductors, continuously influencing the moods and then the judgments and behaviors of others.” Barsade ran an experiment in which a group of people simulated acting as managers who were meeting to allocate bonuses. Each person represented a single candidate and had two goals: (1) to get the best bonus for his or her candidate, and (2) to help the group allocate the bonus money in a way that would most benefit the company as a whole. Unbeknownst to the rest of the group, a trained actor, who was planted in the group, always spoke up first and made an identical argument. The only variable from group to group was the actor used positive emotions, the groups allocated the bonus money more fairly and in support of the proposed action. “When the person used positive emotions, the groups allocated the bonus money more fairly and in support of the proposed action.” Finally, “sadness biases preferences toward high-risk/high-reward options, whereas anxiety biases preference toward low-risk/low-reward options.”

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Family Feud: Pfannenstiehl-style, part II

BY STEVEN D. WEIL

Last month, the Supreme Judicial Court issued a much anticipated decision in Pfannenstiehl v. Pfannenstiehl, a divorce case in which a wife was awarded 60% of the marital estate to the husband, in part because he had a vested interest in an irrevocable spendthrift trust established by the husband’s father. Reversing the Probate and Family Court judge, the Supreme Judicial Court held that the husband’s interest in the trust was so speculative as to constitute nothing more than an expectancy, and thus it was not includable in the parties’ divisible marital estate.

The lower courts ruled that the trust’s interest was includable in the marital estate because it was subject to an ascertainable standard, which allowed the husband’s interest to be valued and assigned as marital property for purposes of equitable division pursuant to G.L. c. 208, § 34. The Supreme Judicial Court disagreed, holding that this standard did not render the husband’s future acquisition of trust assets sufficiently definite to include them in the marital estate.

For those watching this case make its way through the appellate process, Pfannenstiehl presented another difficult battle for the spouses seeking to protect the hard-earned assets of a prior generation and those seeking equity for a lesser-moneyed spouse. Due to the increasing use of trusts to direct the distribution of family assets between generations, these battles are appearing with greater frequency throughout our Probate Courts.

1. Bad facts make bad law? Perhaps. In her decision, the trial judge effectively marshalled the facts necessary to award a disproportionate division of marital assets in favor of the wife. The husband and wife had a 12-year marriage, with two children, one of whom was born with Down syndrome.

The wife, under pressure from the husband’s family, retired early from the Army Reserves to care for the children, and in so doing, gave up her right to receive a future military pension. At the time of the divorce, she earned only $1,672 per year working as an ultrasound technician. In contrast, the husband earned an artificially high salary of $170,000 per year as an assistant book store manager due to his father’s ownership of the business. With money supplemented by the husband’s family, the parties enjoyed an upper middle class lifestyle. At the time of the divorce, there was no excessive home, several vacations per year, and membership in a country club.

In the approximately two years that followed, the wife filed for divorce, he received distributions from the trust totaling $800,000. These distributions ceased upon the husband’s filing of a divorce complaint because the trustees considered them vulnerable to filing a divorce complaint because the husband had received distributions from the trust two and a half years before the husband filed for divorce, he received distributions from a living testator who may alter a will. Such assets are not included in the marital estate subject to equitable division, the Supreme Judicial Court did not conclude that the judge abused her discretion in fashioning a disproportionate property division.

The husband’s trust interest included income and principal. Any non-discretionary rights the beneficiary spouse has to withdraw, appoint, or compel distributions of the trust are includable in the marital estate. The Supreme Judicial Court made it clear that there are limits to what may be included. When a property interest is so speculative as to constitute nothing more than an expectancy, the court has ruled it is not assignable to a marital estate.

The Supreme Judicial Court re-affirmed the well-established principle that equitable property divisions must make a treatable a palpable tension between what is legally permissible and what the equities of the case require. More to the point, on remand, the judge may consider whether it is possible to achieve a similar outcome by altering the division of assets and alimony, without overreaching into the trust. In this task, the judge may consider rebalancing the prior asset division, awarding alimony based on the disparity between the husband and wife’s incomes, and issuing an additional alimony order that requires payment to the wife if, and as when the husband receives trust distributions.

The suggestions made by the court to divorce practitioners dealing with beneficary interests in spendthrift trusts include the following.

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The Massachusetts and federal governments have increased efforts to ensure employees are paid fair wages. These efforts include (1) the introduction of new wage-related laws and regulations; and (2) the increased enforcement of all wage laws. Attorneys advising employers and employees should stay abreast of the changes to Massachusetts and federal wage laws, and should advise their clients about the impact of increased enforcement efforts in Beacon Hill and Washington, D.C.

The enactment of new laws ensures fair wages

The Massachusetts Legislature has demonstrated an increased focus on the payment of fair wages by enacting laws which increase the wages Massachusetts employees earn. The Legislature increased the total wages many Massachusetts workers earn by increasing the minimum wage from $9.00 to $10.00 for the period January 1, 2016 to December 31, 2016, and from $10.00 to $11.00 beginning January 1, 2017. (M.G.L. c. 151, § 1, 2). The Massachusetts Legislature also enacted the new Earned Sick Time Law, ensuring that employers with eleven (11) or more employees pay their employees one hour of sick time for every thirty hours worked, up to a total forty hours. (M.G.L. c. 149, § 148C).

Massachusetts’ efforts to ensure its employees are paid a fair wage are similar to efforts nationwide. The Department of Labor has made efforts to ensure non-exempt workers are fairly paid overtime by enacting new overtime regulations. These new regulations, which went into effect in December 2016 more than doubled the base salary for overtime exemption, from $455 per week to $913 per week (or approximately $47,000). As a result, most employees who earn less than $913 per week are now classified as non-exempt workers, and must be paid time and a half for work performed in excess of forty (40) hours per week. The Department of Labor expects that these changes will affect approximately 4.2 million workers nationwide, with 84,000 of those workers in Massachusetts alone.

The increased enforcement of new and existing laws ensures proper payment of wages

In addition to new wage laws, there is a heightened interest by local, Massachusetts and federal governments in policing wage theft through the increased enforcement of all wage laws. Locally, officials have taken creative steps to leverage laws already in existence, in an effort to maximize compliance with all wage-related laws in their jurisdictions. On October 23, 2014, Boston Mayor Martin J. Walsh signed an Executive Order requiring city vendors to certify compliance with state and federal wage laws before being awarded city contracts. According to the Mayor’s office, the certification of compliance, made under oath, is intended to “strengthen the City’s ability to hire vendors that treat their employees fairly.” On September 17, 2015 Mayor Walsh issued another innovative directive aimed at preventing wage theft: a requirement that any business seeking to renew a food or liquor license before the Boston Licensing Board must certify, under oath, its compliance with state and federal wage laws. The directive also expands the Mayor’s Office of Workforce Development to include a “Theft & Living Wage Division” to educate workers about their rights and to actively investigate employers suspected of violating wage-related laws. Violating employers are referred to the Boston Licensing Board for potential disciplinary action, including loss of license.

Similar commitment to fighting wage theft exists at the state level. On July 21, 2016, Attorney General Maura Healy announced that her office reached an agreement with national restaurant company “Bloomin’ Brands, Inc.” to pay $210,000 in restitution and penalties for failure to pay wages for required training: a violation of state law. This settlement is part of a larger trend demonstrating Healy’s ongoing efforts to combat wage theft. In the first quarter of 2016, Healey issued 29 civil citations against construction companies totaling nearly $260,000 in restitution to employees and $68,000 in fines levied against the companies. According to the Attorney General’s Office, this is an increase from the previous two quarters. Healey has publicly declared that her Office will continue its increased enforcement of wage laws noting that, “[w]age theft is a real issue in Massachusetts, including in the construction industry where dishonest companies continue to cheat their employees. Our office is working to level the playing field so that workers are paid fairly and contractors who follow the rules are not at a disadvantage.”

Massachusetts’ increased focus on wages is unlikely to subside, as numerous wage-related bills are currently pending in the Legislature. For example, the Massachusetts Senate passed An Act to Prevent Wage Theft and Promote Employer Accountability (S.B. 2434). If enacted, S.B. 2434 would afford the Massachusetts Attorney General the right to issue stop work orders to businesses violating certain Massachusetts wage laws, including the aforementioned minimum wage and Earned Sick Time Laws. The anticipated stop work orders, coupled with the already significant penalties for wage theft (including treble damages and reasonable attorneys’ fees awards, M.G.L. c. 149, § 150), will likely substantially decrease wage law violations. S.B. 41 represents the Massachusetts Legislature’s recognition that laws increasing wages are toothless without corresponding laws increasing enforcement.

Enforcement efforts are also increasing at the Federal level. The Department of Labor has collected an average of nearly $250 million per year in back pay for workers during fiscal years 2011 to 2015. This represents a nearly 35% increase from the annual average of $184 million collected in back pay for workers from fiscal years 2006 to 2010. U.S. Secretary of Labor Thomas Perez has credited the Department’s enlarged roster of wage theft investigators for the success in this area, and has credited local and state government entities for serving as much needed “redundancies in law enforcement.”

Conclusion

This increased focus on wages, both in Massachusetts and federally, is unlikely to subside. Accordingly, employment lawyers must focus on educating themselves and their clients about new wage laws and increased efforts to enforce all wage laws. With proper education and guidance from their attorneys, employers can assist the federal and state governments to ensure that all workers are paid a fair wage.
The Massachusetts Bar Foundation recently awarded more than $2.6 million to 92 programs conducted by 60 nonprofit organizations through its annual IOLTA grants program. For the first time since the recession, the MBF was able to award a significantly higher amount of funding to its grantees.

“Thanks to funding the MBF received from a national-wide settlement with Bank of America, we were able to increase funding for grants almost by $700,000 over last year,” said MBF President Janet F. Aserkoff of Rappaport Aserkoff & Gelles in Boston. “MBF grantees are working every day to meet an enormous demand for civil legal assistance. We are proud to be able to support these critically needed programs throughout the state.”

Massachusetts Bar Foundation IOLTA grants support projects that either offer civil legal services to people who could not afford them, or improve the administration of justice in the commonwealth. Grants providing direct legal services include support to domestic violence programs, special education advocacy, humanitarian immigration assistance and homelessness prevention. Grants to improve the administration of justice include efforts such as court-connected mediation and lawyers-of-the-day programs.

The MBF is one of three charitable entities in Massachusetts that distributes funds from the Massachusetts Supreme Judicial Court’s Interest on Lawyers’ Trust Accounts Program. Funds from the Bank of America settlement were distributed to IOLTA programs all over the United States.

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To the right is a complete listing of the 2016–17 IOLTA grant recipients by region. Additional information about the MBF and its IOLTA Grants Program is available at www.MassBarFoundation.org.

**IOLTA GRANTS ORGANIZATIONS BY REGION**

**CENTRAL**
- Casa Project Inc.
- Community Legal Aid Inc.
- Diamis House of Central Mass.
- Jewish Family & Children’s Services
- Worcester County Bar Association
- YWCA of Central Massachusetts

**GREATER BOSTON**
- Casa Myrna Vaquez Inc.
- Community Dispute Settlement Center
- Community Legal Services and Counseling Center
- DOVE Inc.
- Greater Boston Legal Services
- Housing Families
- Just-A-Start Corp.
- Lawyers Clearinghouse
- MetroWest Legal Services
- MetroWest Mediation Services Inc.
- Middlesex County Bar Association
- Veterans Legal Services
- Somerville Community Corp.

**NORTHEAST**
- Essex County Bar Association
- Jeanne Geiger Crisis Center
- North Shore Community Action Programs Inc.

**SOUTHEAST**
- Barnstable County Bar Association
- Bristol County Bar Association
- Cape Cod Dispute Resolution Center Inc.
- Catholic Social Services of Fall River Inc.
- Greater Brockton Center for Dispute Resolution
- JFK Health Law Institute
- New Hope Inc.
- Pilgrim Advocates Inc.
- Plymouth County Bar Association
- South Coastal Counties Legal Services
- The Women’s Center
- WE CAN

**STATEWIDE**
- Ascentria Community Services Inc.
- Children’s Law Center of Massachusetts Inc.
- Finex House Inc.
- Flaschner Judicial Institute
- Health Law Advocates Inc.
- Irish International Immigration Center
- Justice at Work
- Lawyers’ Committee for Civil Rights and Economic Justice
- Mass. Advocates for Children
- MIRA Coalition
- Mass. Law Reform Institute
- Pine Street Inn
- Political Asylum/Immigration Representation Project
- Prisoners’ Legal Services
- Third Sector New England
- Women’s Bar Foundation of Massachusetts Inc.

**WEST**
- Berkshire County Regional Housing Authority
- Berkshire Immigrant Center
- Center for New Americans
- Community Action!
- Community Legal Aid Inc.
- Franklin County Bar Advocates Inc.
- Hampden County Bar Association
- Hampshire County Bar Association
- Quabbin Mediation
- Safe Passage Inc.

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“Nutter supports the Massachusetts Bar Foundation because it shares the commitment to social justice, pro bono representation and community service that our firm has embodied since its founding by Louis D. Brandeis and Samuel Warren in 1879. My MBF work, initially as a fellow and now as a trustee, has given me the opportunity to assemble with admirable people working together to allocate MBF and IOLTA resources to worthy organizations that serve and inspire the community. I frequently encourage other attorneys to get involved in this grant review process so that they, too, can learn more about these incredible organizations. This grant review work was a very positive experience for me, one that motivated me to become more involved by becoming an MBF trustee.”

David C. Henderson, Esq.
MBF Trustee and Foundation Fellow
Partner, Nutter McClennen & Fish LLP

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Audit shows agency taking cases outside its jurisdiction

By Peter Vickery

Just before the Fourth of July holiday the state auditor released the report of its performance audit of the Massachusetts Commission Against Discrimination (MCAD). The report covers the two year period 2012-2014 and it reveals the usual, legislature that established the cut-off point and only the Legislature that can change it. By flouting the limitation period so often, the MCAD has arrogated to itself the power to legislate, a power the Massachusetts Constitution expressly reserves to the legislative branch.

Eventually, of course, after three or four years, a respondent charged in a late-filed complaint may well open the mail and read with relief that the MCAD has issued a finding of lack-of-probable-cause on jurisdictional grounds, meaning that the case will not go forward to public hearing. No harm, no foul? Hardly. In the intervening years, MCAD investigators will have required that party (usually a current or former employer) to devote hours responding to questions and demands for internal documents and to attending “investigative conferences” at the agency’s offices.

There is a mechanism in place designed to prevent this. One of the MCAD’s regulations (804 CMR 1.13) provides that timeliness is a threshold issue and that the agency must not investigate where it lacks jurisdiction. But, for whatever reason, this regulation does not prevent the MCAD from investigating cases that it should have screened out. Relying on intake staff to flag late-filed cases and expecting investigating officers to refrain from investigating them simply does not work, at least not well enough to prevent more than 100 untimely cases from slipping in the door.

So how can we keep the MCAD from investigating people it has no business investigating at all? Given that the key shortcutting in current system is its implicit assumption that agency employees will reject untimely complaints of their own volition (an example, perhaps, of faith-based policymaking) any effective remedy must include some way for respondents to enforce the 300-day limitation period.

In adjudicatory settings, e.g. courtrooms across the commonwealth, the tried and trusted mechanism is the motion to dismiss. True, the MCAD regulations do already provide this mechanism (804 CMR 1.05(C)(3)). But filing the motion does not act as a brake. The investigation may steam ahead anyway, while the respondent waits for a judge to determine whether the investigating commissioner denies the motion, the respondent’s only recourse is to the full commission, i.e., the investigating commissioner plus the other two commissioners. Anecdotal evidence indicates that reversals are rare.

A better and more just way to resolve jurisdictional disputes would be as follows: (1) If a respondent files a motion to dismiss for lack of jurisdiction, the MCAD should have to suspend its investigation until it has adjudicated the motion; and (2) if the motion is denied, the respondent should have the right to an interlocutory appeal to the Superior Court.

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Peter Vickery
Announcements

ESSEX

MBA Past President Marsha V. Kazarosian has recently been appointed by the UMass Amherst Trustees, upon the recommendation of Chancellor Kumble R. Subbaswamy, to the UMass Amherst Campus Council, which advises the president and trustees on issues concerning the campus and the direction of the university.

SUFFOLK

Christian G. Kiely has joined Todd & Weld LLP as a litigation associate and represents clients in a variety of matters, including intellectual property disputes, and government and internal investigations of companies accused of fraud and other misconduct. Kiely’s trial practice includes all aspects of discovery, as well as appellate matters.

Lerrin Beth Goldberg has joined Todd & Weld LLP as an associate in the firm’s Family Law practice group. Goldberg has extensive experience assisting clients in resolving complex domestic relations issues, including child support and enforcement, custody disputes, paternity and adoption, valuation of assets, and negotiation and enforcement of premarital agreements. An experienced litigator, Goldberg has tried cases and argued numerous dispositive motions.

WORCESTER

Christopher Hunt of Hopedale recently opened his own office in nearby Milford after many years of practicing in Boston. The Hunt Law Firm LLC focuses on civil litigation, including personal injury, business litigation, and products liability. Hunt, a longtime musician and producer, also maintains an entertainment, copyright and music

MBA Treasurer Christopher A. Kenney was appointed to serve as director of the IADC Trial Academy at Stanford University Law School.

We’re not trying to be paternalistic, but the reality is both the bench and the bar feel it’s important to remind each other of a need to be professional and polite. — MBA President Jeffrey N. Catalano

New MBA President Jeffrey N. Catalano was featured in the Boston Business Journal (Sept. 2) about his initiatives for the 2016–17 association year, including the MBA’s new guidelines on civility and professionalism.

“Inmates flooding courts with frivolous lawsuits,” Boston Herald (Sept. 9) — MBA Chief Legal Counsel and Chief Operating Officer Martin W. Healy was quoted in a “Full Court Press” column about hundreds of frivolous pleadings filed by inmates in Massachusetts, which can bog down judges and cause delays in the court system.

“Ask the Experts: Bankruptcy may not discharge housing debt,” The Republican (Aug. 31) — MBA members Michael S. Gove and Susan A. McCoy answered readers’ legal questions on bankruptcy and real estate law.

“Why should we care about the rule-of-law crisis in Turkey? Thousands of judges, prosecutors, police officers and journalists, previously identified as being unsympathetic to the current regime, have been jailed without evidence of supporting the attempted military coup or having committed any crime.” — Kevin J. Curtin

MBA member Kevin J. Curtin, senior appellate counsel at the Middlesex County, Massachusetts District Attorney’s Office, wrote an editorial in the Boston Herald (Aug. 15) on an ABA-approved and MBA-introduced resolution condemning recent detentions and arrests of people in the Turkish legal community.
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