When Christopher P. Sullivan became a lawyer more than 40 years ago, he took an oath — the same oath that Massachusetts attorneys still take today when being sworn in.

The oldest attorney’s oath in the United States, it reads: “I solemnly swear that I will do no falsehood, nor consent to the doing of any in court; I will not wittingly or willingly promote or sue any false, groundless or unlawful suit, nor give aid or consent to the same; I will delay no man for lucre or malice; but I will conduct myself in the office of an attorney within the courts according to the best of my knowledge and discretion, and with all good fidelity as well to the courts as my clients. So help me God.” (Massachusetts General Laws, Chapter 221, Section 38)

For Sullivan, who began his year as president of the Massachusetts Bar Association on Sept. 1, the basic concepts in the oath still hold true today, especially in times of uncertainty. What he refers to as “bedrock legal principles,” such as the rule of law, due process, access to justice and equal protection, are fundamental aspects of the special role that lawyers play in society.

A partner at Robins Kaplan LLP in Boston, Sullivan plans to emphasize these basic legal principles throughout the association year. He also hopes to encourage lawyers to think more about their citizenship and civic responsibilities in becoming what he calls “attorney citizens.” Sullivan remembers a time 30 years ago when half of the elected state legislators in Massachusetts were lawyers — a percentage that has dropped significantly since that time. He thinks lawyers have a duty to get more involved in civic matters and should also consider being more politically active, including running for elected office.

Another priority for Sullivan is to strengthen the bar’s relationship with the judiciary by defending it and explaining certain controversial or difficult court rulings or decisions. According to Sullivan, the judiciary is often constrained by the law or judicial ethics when making decisions, such as the granting of parole to defendants in certain criminal matters, as well as issuing mandatory minimum sentences for drug offenses. Depending on the case, a judge might have little or no discretion in determining the outcome based on the law. Instances such as these are where Sullivan sees the bar as having a role in educating the public as to why the court decided what it did.

“The organized bar has...
Happy New Year! Welcome back!

Christopher P. Sullivan

It’s that time of year: Summer is ending. Autumn is just around the corner, and the Massachusetts Bar Association begins its new year. Welcome back.

A new year offers the opportunity to set new goals and get a fresh start. It is time we make all sorts of promises to ourselves that we hope will make us better this year. I hope you will promise yourself to become a more active and involved MBA member. When I was a young associate, the partner I worked for said the MBA was like a relationship: the more I put into it, the more I would get out of it. Looking back at almost 40 years of practicing law in Massachusetts, I realize that his advice was some of the best I ever received.

The MBA provided a way to meet and interact with my peers; network with older, more experienced practitioners; and get to know judges outside the confines of a courtroom. Some of my closest friends are people I met through the MBA. Many of those friends have practices very different from mine. If it wasn’t for the MBA, I may never have even met them. These friends have enriched my professional life in many different ways.

My MBA membership also offered an opportunity to continue my legal education so I could keep up with the latest developments in the law and pick up practical tips on how to be a better lawyer. As you may know, now all of the MBA CLEs are free to members.

Before I became a more active member, I didn’t realize just how much the MBA does for the judicial system, for our profession and how much it has to offer to its members. In addition to advocating for proper funding for our courts, the MBA has an influential presence on Beacon Hill where it actively supports or opposes pending legislation that impacts the courts or our profession. Through its Amicus Committee, the MBA takes positions in appellate cases that involve significant and important legal issues affecting the legal community or society at large. In short, the MBA is a legal force in our commonwealth that is respected and appreciated.

The MBA also takes an active role in promoting community service with programs, such as the Tiered Community Mentoring, Judicial Youth Corps and SOLACE programs. The Mock Trial Committee runs a competition for high school students who participate in mock trials. The MBA also provides pro bono opportunities through its monthly Dial-a-Lawyer program, where MBA members volunteer a couple of hours of their time to answer legal questions over the phone that are asked by people seeking legal assistance. Often these callers are referred to the MBA’s Lawyer Referral Service, where they are answer legal questions over the phone that are asked by people seeking legal assistance.

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All submissions are subject to editing for length and content. Submit letters and commentaries to: Editor, Lawyers Journal, 20 West St., Boston, MA 02111-1204.

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Leadership in law school

JILL A. COLLINS

They say law school is a marathon, not a sprint. Like many run-
ners, incoming law students want to know the secrets for maxi-
mizing their performance. They focus on the grades because they are told (or come to be-
lieve) that grades are the only measure of success in law school. While there is truth to that, attorneys know that there are many additional skills required for success in practice that are not reflected in grades alone.

One of the best ways for law students to enjoy their law school experience and develop non-legal skills is by getting involved in extra-curricular activities. Students who get involved, especially those who take on leadership roles, de-
velop many skills that are relevant in le-
gal practice. Among the most beneficial are event management, networking and collabora-
tion.

The first skill set, organization and event management, is practical. When new attorneys initially get involved in event management, is practical:

When law stu-
dents assume leadership roles in student organiza-
tions, they quickly learn how powerful it is to network around shared
interests. Yasmin Ghassab, a 2014 grad-
uate of BU Law, held leadership roles in the
Legal Follies, Middle Eastern South-
est Asian Law Students Association (MESALSA) and OutLaw, and offers a compelling example. “I received my first job offer from a firm where an alumnus of a BSL student organization intro-
duced me to the firm’s recruiter. I have personally recommended individuals from student organizations for positions (with a high success rate of offers being
extended), and even referred clients to attorneys I met in student organizations at BU.” Yasmin is currently an associate at DLA Piper.

Obtaining a desirable job is an ideal outcome of networking. Outreach made
through student organizations, however, can also help to build networks for en-
gagement outside the law firm, which is often where clients are cultivated. Bri-
an Balduzzi, BU Law 2013 JD, 2014 Tax
LLM, agreed. “Acting as Treasurer for OutLaw encouraged me to become more active in the LGBTQ community in Boston and helped me become more au-
thentic in the workplace and classroom. I would not have had the conviction to
join the MA LGBTQ Bar Association Board or SpeakOut Board.”

The third skill student leaders de-
velop is management of others. Jared
Shwartz, BU Law JD 2014 and former
president of the Student Government
Board or SpeakOut Board.

I am fortunate to observe, time and
again, the truth of Yasmin’s statement. Like the Boston Marathon runners who get high fives from the crowd to help pro-
pel them to the finish line, law students reflect fondly on their law school expe-
rience when they get involved early and
take on leadership roles. Moreover, they arrive at the finish line better prepared to serve their clients and their commu-
nities. I encourage all law students to consider engagement and leadership as essential parts of the law school experi-
ence.

School of Thought is a regular column geared for
law student members.

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Prenups & postnups: the dawning of sunrise/sunset clauses

BY VICKI SHEMIN

In a recent matter, an interesting dilemma arose. The parties were negotiating the terms of their prenuptial agreement with assistance of independent counsel. My clients, the bride-to-be (“Elizabeth”), had significantly fewer assets than her fiancé (“Joe”).

During my meeting with Elizabeth, we discussed the pros and cons of a sunset clause—a provision that would render the entire prenup null and void upon the arrival of their child, they could simply amend or revoke the document at that time. While seemingly perfectly logical on its face, this advice and approach troubled me considerably.

It occurred to me that Elizabeth and Joe would find themselves in the position of essentially negotiating a postnuptial agreement. As with a prenup, one of the most basic tenets of a postnup is that there must be absolutely no evidence of coercion, duress or undue influence.

So, what is the takeaway lesson? It is clear that any sunset clauses of a prenup—that give rise to renegotiation such that they render the sunset clause in the prenup. His reasoning was this: There was no need to include the clause; if Elizabeth and Joe wanted to alter any of the terms of the agreement after the arrival of their child, they could simply amend or revoke the document at that time.

While seemingly perfectly logical on its face, this advice and approach troubled me considerably. As with a prenup, one of the most basic tenets of a postnup is that there must be absolutely no evidence of coercion, duress or undue influence. Coercion. Duress. Undue influence. Those elements can be likened to pornography—different in the eyes of the beholder, and yet, you kind of know it when you see it.

Often, when considering whether someone is truly under duress, a judge will attempt to ascertain the emotional state of mind of the spouse who feels she or he was acting out of a loss of free will. As to coercion and undue influence, the court will look to see if one spouse was directly or tangentially instilling fear in the other to cause him or her to act against their will.

Similarly, undue influence can arise by applying steady pressure on another individual over time or imposing a stronger will over a weaker person’s will by exploiting a relationship.

Anyone who has experienced parenthood for the first time can attest to the sheer exhaustion, fog and haze that accompanies this time of life. It is hard to imagine that a new parent could be well positioned to negotiate important contract terms while in this state of mind. The carefully considered decisions and discussions that characterized the prenup period become in sharp contrast to the chaotic and muddled mindset with which one would have to negotiate anew the disposition of significant contract terms involving key assets and liabilities.

In our case, Elizabeth and Joe gave the matter a great deal of thought and eventually opted for the sunset clause to remain an integral part of their postnup.

By Vicki L. Shemin, J.D., LICSW, ACSW is a family law attorney, mediator, collaborative lawyer, parenting coordinator and partner at Fields and Dennis LLP.

Vicki can be reached at (781) 489-6776, or vshemin@ fdlawattorneys.com.

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THURSDAY, SEPT. 7
Bust Through Procrastination — Five Steps to Stop Putting Things Off
12:30–2 p.m., MBA, 20 West St., Boston

Faculty: Dr. Sarah Reiff-Henkin

Practice Launch Pad Series Week 1 — Introduction to the Practice Launch Pad
1–3 p.m.,
• Faculty: Susan Letterman-White, Esq., program co-chair, Damian Turco, Esq., program co-chair

TUESDAY, SEPT. 12
Attract and Retain Millennials to Increase Profit
12:30–2 p.m., MBA, 20 West St., Boston

Faculty: Lynn Thomas, Esq., program chair

THURSDAY, SEP. 14
Update on the New Marijuana Law: Impacts on the Landlord-Tenant Relationship
1–3 p.m., MBA, 20 West St., Boston

Faculty: Margaret Helen Paget, Esq., program co-chair; Meghan H. Stack, Esq., program co-chair; Anthony Caillano, Esq.; Matthew Fagelman, Esq.; Constance McGrane, Esq.

THURSDAY, SEPT. 14
Practice Launch Pad Series Week 2 — Business Planning Workshop
1–3 p.m., MBA, 20 West St., Boston

Faculty: Susan Letterman-White, Esq., program co-chair, Damian Turco, Esq., program co-chair; Sofia Lingo, Esq.

TUESDAY, SEP. 19
Estate Planning 101 Series: Trust Basics
4–7 p.m., MBA, 20 West St., Boston

Faculty: Lisa M. Rico, Esq., program chair

THURSDAY, SEPT. 21
Practice Launch Pad Series Week 3 — Finance Your Firm
1–3 p.m.,
• Faculty: Susan Letterman-White, Esq., program co-chair, Damian Turco, Esq., program co-chair; Dmitry Lev, Esq.

TUESDAY, SEPT. 26
Maximizing the Value of Expert Testimony
4–7 p.m., MBA, 20 West St., Boston

Faculty: Paul J. Klehm, Esq., program co-chair; Michelle L. Schaffer, Esq., program co-chair

THURSDAY, SEPT. 28
Practice Launch Pad Series Week 4 — Operations Management
1–3 p.m.,
• Faculty: Susan Letterman-White, Esq., program co-chair; Damian Turco, Esq., program co-chair; Gabriel Cheong, Esq.

THURSDAY, OCT. 5
Practice Launch Pad Series Week 5 — Using Technology Effectively
1–3 p.m.,
• Faculty: Damian Turco, Esq., program chair; Heidi Alexander, Esq.

THURSDAY, OCT. 12
Practice Launch Pad Series Week 6 — Marketing 101 and Networking Effectively
1–3 p.m., MBA, 20 West St., Boston

Faculty: Susan Letterman-White, Esq., program co-chair; Damian Turco, Esq., program co-chair

THURSDAY, OCT. 19
Practice Launch Pad Series Week 7 — Marketing II: Internet Marketing
1–3 p.m.,
• Faculty: Susan Letterman-White, Esq., program co-chair; Damian Turco, Esq., program co-chair; David W. White, Esq.

THURSDAY, OCT. 26
Practice Launch Pad Series Week 8 — Community Involvement
1–3 p.m., MBA, 20 West St., Boston

Faculty: Susan Letterman-White, Esq., program co-chair; Damian Turco, Esq., program co-chair; Natasha Thomas, Esq.

Register online at MassBar.org/Education or call (617) 338-0530.

MBA ON DEMAND
The New Child Support Guidelines (Recorded July 25)
Probate Litigation: A View from the Bench and Bar (Recorded June 21)
Let’s Do Lunch: LPM’s Guide to the Legal Galaxy — Techno Mind Meld (Recorded June 14)
Probate and Family Court’s e-Filing System (Recorded June 12)
Tax Takings and Tax Title Foreclosures (Recorded June 8)
Fastcase Training for MBA Members (Recorded June 7)
Limited Assistance Representation (LAR) Training (Recorded June 6)
The New Marijuana Law: Impacts on the Landlord-Tenant Relationship (Recorded June 1)
Equity Actions (Recorded May 31)
Rising Above: Breaking the Glass Ceiling in Domestic Relations Practice (Recorded May 25)
Implicit Bias in the Workplace (Recorded May 24)
How to Become a Mediator (Recorded May 23)
Reclaim Your Time and Clear Your Mind (Recorded May 23)
Life cycle of a Business Part III (Recorded May 18)

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Massachusetts Bar Association continues equal legal representation

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Massachusetts Bar Association continues equal legal representation.
SAVE THE DATES — UPCOMING CONFERENCES

27TH ANNUAL FAMILY LAW CONFERENCE
Friday, Oct. 13—Saturday, Oct. 14
Sea Crest Beach Hotel
350 Quaker Road, North Falmouth

CONFERENCE PRICING
MBA law students, new admittees (2017) and paralegals $180
Sponsoring section members $250
MBA members $265
Non-members $350

Room reservations: Special rate of $219 per night (group code 10H5GW) if booked by Wednesday, Sept. 13. Discount also offered three days before and three days after the conference.

Register at www.MassBar.org/FamilyLaw or (617) 338-0530.

FIFTH ANNUAL PROBATE LAW CONFERENCE
Friday, Nov. 3, 8 a.m.—4 p.m.
Four Points Sheraton
1125 Boston Providence Turnpike, Norwood

Registration: 8 a.m.
Programming sessions: 9 a.m.
No walk-ins accepted.

CONFERENCE PRICING
MBA law students, new admittees (2017) and paralegals $99
MBA members $99
Non-members $250

Register at www.MassBar.org/ProbateLaw or (617) 338-0530.

15TH ANNUAL IN-HOUSE COUNSEL CONFERENCE
Leadership and Innovation in Changing Times
Thursday, Nov. 16, 9 a.m.—1 p.m.
Sheraton Framingham
1657 Worcester Road, Framingham
Lunch will be served.

CONFERENCE PRICING
MBA law students $40
MBA members, new admittees (2017) and paralegals $80
Non-members $160

Register at www.MassBar.org/InHouse or (617) 338-0530.

48TH ANNUAL MEETING
November 2–4, 2017
The Salem Waterfront Hotel and Suites
225 Derby Street | Salem

SCHEDULE
THURSDAY, NOV. 2
4–6 p.m. Registration and Reception
FRIDAY, NOV. 3
8 a.m.—3:30 p.m. Breakfast, NEBA Board Meeting, Conference and lunch
6 p.m. Reception and Dinner
SATURDAY, NOV. 4
9:10:30 a.m. Conference

Room Reservations: (978) 740-8788
ROOM RESERVATION DEADLINE: Thursday, Sept. 14, 2017
ROOM RATES:
Single/double, Thursday evening $139
Single/double, Friday evening $139

Questions? Contact Pat Olier at POlier@MassBar.org or (617) 338-0596.
News from the Courts

Adoption of amendments to Local Rule 25.0, Local Rule 11.0 and IOP VI

The United States Court of Appeals for the First Circuit hereby provides notice that it has adopted amendments to Local Rule 25.0, Local Rule 11.0 and Internal Operating Procedure VI. The effective date of the amendments is August 21, 2017. Amended Local Rule 25.0 will supersede the court’s September 14, 2009, Administrative Order Regarding Case Management/Electronic Case Files System, which will no longer be in effect as of August 21, 2017. Visit http://www.ca1.uscourts.gov to view Local Rule 25.0, Local Rule 11.0 and Internal Operating Procedure VI, with the amendments incorporated.

Supreme Judicial Court Chief Justice Justice Geraldine Hines as co-chair of the Massachusetts Access to Justice Commission

Supreme Judicial Court Chief Justice Ralph D. Gants will succeed retiring Supreme Judicial Court Associate Justice Geraldine Hines as co-chair of the Massachusetts Access to Justice Commission to provide leadership, vision and coordination in the search for equal justice for all persons in the commonwealth. The commission’s membership includes representatives from the court system, legal aid organizations, bar associations, social service agencies, the private bar, law schools, businesses, and clients, working together to promote equal access to justice.

Supreme Judicial Court Justice Hines is stepping down after having served on the bench for 16 years, first on the Superior Court and then on the Appeals Court before she was appointed to the Supreme Judicial Court in 2014 by Gov. Deval Patrick. Before becoming a judge, Justice Hines practiced as an attorney for three decades, during which she litigated many civil rights cases.

Trial Court issues new child support guidelines

Trial Court Chief Justice Paula M. Carey has announced the promulgation of revised child support guidelines to be effective on September 15, based on a comprehensive review by the 2016-17 Child Support Guidelines Task Force. The task force that conducted the review, which is required every four years, was chaired by Probate and Family Court Chief Justice Angela M. Orrock.

The child support guidelines are used by Trial Court judges in setting orders for child support, in deciding whether to approve agreements for child support, and in deciding cases that are before the court to modify existing orders. The task force recommended a number of clarifications and changes. Some are minor, while others represent new or modified provisions. The most significant include:

- Increasing the minimum support order to $25 per week
- Removing the parenting time/child support calculation that was inserted into the 2013 guidelines
- Including a capped adjustment in the child support calculation for child care and health care costs
- Addressing child support for children between the ages of 18 and 23
- Including provisions related to parental contribution to post-secondary education expenses

Extensive information about all of the provisions of the child support guidelines can be found in the commentary that is included in the guidelines. Additional information on the quadrennial review of the child support guidelines can be found on the court website at: http://www.mass.gov/courts/selfhelp/family.


The economic consultants for this task force were Mark Sarro, Ph.D. and R. Mark Rogers. The task force was supported by Project Manager Denise M. Fitzgerald, Esq.; Christine Yurgelun, Esq.; and Robert Dunphy, Jr., Esq.

Members Helping Members: My Bar Access Q&A

Q: Situation is as follows: Brother dies intestate March 2017 with one heir his sister. If she disclaims it would go to her two children. Before she can disclaim she dies in May of 2017 with a will leaving everything to her two children. In essence everything will go to the sister’s two kids. Can the estate of the sister disclaimer for her and avoid double MA estate tax?


Dale J. Tamburro, Law Office of Dale J. Tamburro, Belmont

Hi Dale:
The sister's estate can disclaim, but disposition of the brother's estate wouldn't be controlled by the sister's last will and testament, it would pass under the laws of intestacy, from the brother's estate as if the sister didn't survive the brother. You will need to probate sister's estate, with a determination of her heirs at law, and you will need to probate the brother's estate with a determination his heirs at law (1) initially, as well as (2) in the event of sister's disclaimer (checking the "Other" box and thoroughly describing the situation for the judge to understand). Feel free to reach out to me if you'd like any pointers.

Joblin C. Younger, Esq., LL.M., Law Office of Joblin C. Younger PC, Beverly

A: I had a similar situation of a mother passing away shortly after her daughter. We opened mother's estate for the purpose of the mother's PR disclosing daughter's estate. You need to be careful about time frames because the disclaimer needs to happen within nine months of the first decedent's death. The mother in my situation lived out-of-state and was on Medicaid. That state's Medicaid said that they weren't interested in out-of-state property (the daughter's estate's only asset was MA real estate). We had that state's Medicaid sign a letter that they were not interested in the property and were okay with the disclaimer being signed. I recommend you review 2-B01, particularly 2-B01(h) to determine if there are reasons that a disclaimer might be barred in your situation. https://malegislature.gov/Laws/GeneralLaws/PartIII/TitleIII/Chapter190B/ArticleIII/Section2-801

Alexis B. Kaplan, Esq., Law Offices of Alexis B. Kaplan LLC, Boston

My Bar Access is an exclusive, online MBA community. Log in at www.massbar.org/access to virtually connect with fellow members and share practice information and tips through discussions, blogs and more.
Statewide expansion of Housing Court a victory for the commonwealth

BY MIKE VIGNEUX

The Massachusetts Housing Court will be expanded to serve the entire commonwealth, according to a provision contained in the FY18 state budget signed into law by Governor Charlie Baker in July. The statewide expansion of the Housing Court fulfills a long-standing position of the Massachusetts Bar Association, which has constantly advocated for expansion and increased funding for several years. The provision will now initiate a statewide expansion of the court to serve approximately two million citizens in Barnstable, Middlesex, Norfolk, Suffolk, Dukes and Nantucket counties, who previously had no access to Housing Court. That population amounts to 84 communities or 31 percent of the state, which lacked Housing Court coverage. In jurisdictions without a Housing Court, disputes were previously taken to District Court, where they were mixed in with all other civil cases.

“It makes sense from an access-to-justice standpoint given our expertise in this area to make the services of the Housing Court available to those 84 communities and approximately two million citizens who up until this point and time did not have access,” said Housing Court Chief Justice Timothy F. Sullivan.

The court previously operated five separate divisions across the state. A sixth division, the Metro South Division, has been added as of July 1; it will be eventually centered in Brockton. While the court does not have a physical presence in that jurisdiction yet, four out of the five original divisions are currently taking filings generated in the new division. Five new judges will also be added to facilitate statewide coverage — two in the Metro South Division, one in the Northeast Division and two as circuit judges.

The Housing Court is a specialty court that provides a legal venue for both landlords and tenants to handle housing disputes and other housing related matters. Providing judges with expertise in complicated local, state and federal housing laws, the court has been described as efficient and user-friendly, and helps reduce homelessness and increase public safety. In each of the last two fiscal years, the Housing Court handled more than 40,000 case filings with 118 total employees.

“As the statewide bar association, we are proud to have played a key role in the effort to make Housing Court an accessible reality for all residents in the commonwealth,” said Martin W. Healy, MBA chief legal counsel and chief operating officer. “We will continue to work very closely with both the bench and bar to ensure a smooth transition of Housing Court expansion across the state.”

The FY18 state budget provides an allocation of $750,000 for the initial phase of the expansion.

“We are enormously grateful to the Legislature, both the House and the Senate and the administration, for the great confidence that they’ve shown in our ability to absorb these 84 communities and two million citizens,” said Sullivan. “We also understand we have a heavy responsibility to live up to the confidence that’s been shown in us.”

MBA Immediate Past President Jeffrey N. Catalano, who made expansion of the Housing Court one of his top legislative priorities, added: “This expansion of the Housing Courts to the rest of the commonwealth represents a monumental achievement by dedicated advocates, judges, legislators and the governor. We will now have more judges and courts to ensure a fair process for tenants and landlords and to protect many citizens’ fundamental need for shelter.”

Earlier this year, Catalano had the opportunity to attend Housing Court in both Boston and Springfield and described his experience in the March/April issue of Massachusetts Lawyers Journal His overall take-away: everyone benefits from Housing Court.

“In general, these courts, their judges and their staff serve vital roles in providing tenants with a fair and efficient process, while also enabling landlords to maintain viable rental income. Through code enforcements and receivings, they also revitalize properties and thereby increase tax revenues to municipalities,” wrote Catalano in his President’s View column.

The Housing Court is working with all other court departments to secure space in existing courthouses to fulfill the statewide expansion effort. No capital expenditures are expected to be made to build additional space.

To address how and when expansion will happen, the Massachusetts Law Reform Institute will host a series of community meetings with Chief Justice Sullivan. The meetings will take place in Chelsea (September 11, 11 a.m.—1 p.m.), Malden (September 18, 8:30-11 a.m.), Framingham (September 20, 5:30-7:30 p.m.), Barnstable (September 21, 9-11 a.m.), and Brockton (September 25, 5:30-7:30 p.m.).

Da Vinci School of Intellectual Property seeks local Adjuncts:
The Da Vinci® School, managed by Da Vinci Partners LLC, an established Europe-based International Patent & trademark firm and owner of the Da Vinci® brand for legal education, seeks local firm collaboration in helping organize and establish regular CLE programs in your city focusing on international global IP strategy, procurement, and enforcement.

For more information, contact us at moetteli@davincischool.com
THE NEW MASSBAR IS COMING

FALL 2017

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Attorney sees mentoring benefits from both sides through the MBA

BY KAT MACNEIL

There is perhaps no better way to learn than through the help of a mentor. Just ask attorney Sara Horatius, who has seen the benefit of the mentor–mentee relationship from both sides through her involvement in several Massachusetts Bar Association programs.

A 2017 Widener University School of Law graduate and former AmeriCorps attorney, Horatius currently works as an adjunct instructor at Roxbury Community College. She credits her upbringing as the inspiration for her interest in a legal career, as well as her passion to volunteer.

Growing up, she lived in an apartment in Mattapan with her immigrant parents and her siblings. She remembers how her landlord would never fix anything that was broken or help when her apartment was infested with roaches. “I remember telling myself that I wanted to become a lawyer so that I can help people, especially immigrants [and others] who don’t know the law or who are being abused by someone, whether it’s their landlord or the government,” she said.

Horatius is an extremely caring individual who loves to get involved in programs that help others. She first got involved at the MBA through the MBA’s Practicing with Professionalism course for newly-admitted attorneys. It was there where she encountered Probate and Family Court Justice Angela Oterochozo, who, during her keynote to the class, mentioned the MBA’s Tiered Community Mentoring (TCM) program, which she founded.

The program pairs high school, college and law school students with attorneys. Horatius got involved in the Tiered Community Mentoring program soon after, and it’s where she learned that “mentors are one of the keys to success in life.”

Serving as a mentor in the TCM program, Horatius has taken time to help her law school mentees’ study and understand topics within law school that they found difficult. She shared that her favorite memory from the MBA’s TCM program was from its first year of involvement, when she was able to help her law student mentee who was having trouble understanding her civil procedure class. “We studied together … and she said that was the greatest thing that anyone has ever helped her with,” Horatius recalled. “She actually ended up doing well on the final.”

Horatius found the MBA’s Tiered Community Mentoring program so valuable that she was inspired to try and find a mentor for herself. She found a perfect match while taking part in the MBA’s inaugural Leadership Academy in 2016–17. Horatius said she enjoyed the program immensely, thanks in large part to her mentor, past MBA President Valerie Varashus, who took her to events and connected her with other attorneys. “It was just really great to have someone that I can relate to and we became really great friends, as well,” Horatius said.

She said her Leadership Academy experience changed her from being a “bystander,” to someone who now finds joy in taking on leadership roles. “[It] spark[ed] that flame in me to want to find these leadership roles, whether it’s in my career, whether it’s in other organizations that I am a part of, or personal things in my life.”

Since graduating from the Leadership Academy, Horatius has become involved with the MBA’s 2017-18 Access to Justice Section Council. She also credits the Leadership Academy experience with helping her to create programs for her students at Roxbury Community College, and to take the lead on multiple opportunities within other organizations that she is part of.

It has also inspired her to get back into the practice of law by getting on the MBA’s Lawyer Referral Service list. Taking on the responsibility of cases, she said, is just another way she can put her leadership skills to use.

The MBA’s Jason Scully contributed to this story.

OCTOBER PRO BONO OPPORTUNITIES

Monthly Dial-A-Lawyer, Oct. 4 (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. 4, from 5:30–7:30 p.m.
To volunteer, contact DAL@MassBar.org or call (617) 338-0670.

Western Mass. Dial-A-Lawyer, Oct. 18 (Springfield)
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, El Puerto Latino, the Massachusetts Association of Hispanic Attorneys, and the National Hispanic Bar Association. The next Western Mass. Dial-A-Lawyer is Oct. 18, from 4–7 p.m.
To volunteer, contact DAL@MassBar.org or call (617) 338-0670.

ONGOING PRO BONO OPPORTUNITIES

Mass Legal Answers Online
The MBA is a participant in Mass Legal Answers Online, an online legal advice website (www.MassLAD.org) that is part of the American Bar Association’s Free Legal Answers Project. The website is seeking volunteer attorneys to answer legal questions posed by eligible Massachusetts residents. The greatest areas of need are for attorneys with family law, housing and consumer experience, but we welcome attorneys from all practice areas.
• Choose the questions you want to answer — when, where and how it’s most convenient.
• No required time commitment, although we encourage you to answer one question per 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 is provided to volunteer attorneys for legal guidance provided through the website.

Sign up today by visiting www.MassLAD.org, or email info@MassLAD.org for more information. For a more detailed overview, visit the link: bit.ly/MLAD-atty-video.

Section 35 Helpline
Launched by former MBA President Robert W. Harmon, 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. Volunteer attorneys offer assistance with a state law known as “Section 35” (M.G.L. ch. 123, § 35), which permits individuals to petition the courts to involuntarily commit substance abusers to an inpatient treatment program when their alcohol or drug use puts themselves or others at risk.
To volunteer, email rhilman@MassBar.org.

Looking Ahead

UPCOMING PRO BONO OPPORTUNITIES

WBZ Call For Action — Ask A Lawyer, Nov. 29
Volunteers are needed for the Wednesday, Nov. 29, Ask-A-Lawyer call in program, presented jointly by the MBA, WBZ Call for Action and WBZ NewsRadio 1030. Volunteer lawyers from the MBA will be at 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) 338-0656.

Elder Law Education Program — May 2018
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, Take Control of Your Future: A Legal Checkup, the MBA’s resource guide on a wide range of legal issues affecting the lives of seniors. The Elder Law Education Program is made possible through the generous assistance and continued collaboration with the MBA’s Health, Probate and Tax 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.

MassProBono.org
Launched by the Volunteer Lawyers Project, in partnership with Pro Bono Net, the Massachusetts Legal Aid Websites Project and the MBA, MassProBono.org is a comprehensive pro bono “matchmaker” 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 listing 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 tool to promote pro bono engagement.
To join and review the array of pro bono opportunities, visit www.MassProBono.org.
The Massachusetts Bar Association has chosen 19 attorneys as Academy Fellows for the 2017-18 class of the MBA’s Leadership Academy, a program for attorneys with three-10 years of experience that is designed to recruit and nurture future bar and civic leaders. (The Leadership Academy also includes the 2017 recipient of the MBA’s Oliver Wendell Holmes Jr. Scholarship.) The fellows, who were selected after a competitive application process, represent a diverse group of talented young attorneys from across the commonwealth.

The MBA’s Leadership Academy is a 12-month program that runs concurrently with the MBA membership year, starting in September. Fellows are provided the opportunity to network, collaborate and build relationships with bar leaders; develop and enhance leadership skills important to their future in the legal profession; and get an insider’s look at the important role the MBA plays within the legal system.

Here are the 2017-18 MBA Leadership Academy Fellows:

• Jason E. Armiger, Gesmer Updegrove LLP, Boston
• Katherine A. Bagdis, Mountain Dearborn LLP, Worcester
• Shara M. Benedetti, Commonwealth of Massachusetts Division of Professional License, Boston
• Barry James Bisson, Law Office of Barry J. Bisson, Boston
• Gary M. Bloom, Law Office of Gary Bloom, Boston
• Robert F. Callahan Jr., Robins Kaplan LLP, Boston
• Vincent N. DePalo, Governo Law Firm, Boston
• Jonathan R. Eaton, Turco Legal PC, Newburyport
• Andrew Giannini, Berkshire District Attorney’s Office, Pittsfield
• Jared L. Hubbard, Hubbard Legal PC, Newburyport
• Travis J. Jacobs, The Jacobs Law LLC, Boston
• Maren L. Law, Maren L. Law, Attorney at Law, Northampton
• Sean M. McKendry, City of Cambridge Law Department, Cambridge
• Anthony H. Melia, Office of District Attorney Joseph D. Early Jr., Middle District, Worcester
• Shayla Mombeleur (2017 Oliver Wendell Holmes Jr. Scholarship), Committee for Public Counsel Services, Boston
• Rita M. Ryan, Vacovec, Mayotte & Singer LLP, Newton
• Amanda J. Shuman, DangerLaw LLC, Newton
• Stephen A. Smith, Law Office of Stephen A. Smith, Millis
• Tinia Snow, Committee for Public Counsel Services, Roxbury

Where will you be October 16 – 20?

We’ll give you five days of choices.

Join the Massachusetts Bar Association for Conflict Resolution Week as we celebrate the many benefits that dispute resolution (DR) processes bring to the legal community and the people of Massachusetts.

• Peacemaker Movie Screening (Cambridge)
• Family & Collaborative Law Options (Marshfield)
• Court-Connected DR (Springfield)
• School & Peer Mediation (Andover)
• Community Mediation Fundraiser (Cambridge)

Look for updates about these DR-related educational programs and other Conflict Resolution Week events in eJournal and at www.MassBar.org.

And save the date for our feature event in Boston on Conflict Resolution Day — October 19!
Experience, empathy the hallmarks of Meehan Boyle team

What types of law does your firm handle? Meehan Boyle handles all types of wrongful death, catastrophic personal injury and commercial premises disasters arising within most fields of liability, including products liability, pharmaceutical and medical device litigation, trucking and automotive litigation, aviation and mass transit disasters, serious bicycling and pedestrian injuries, construction site incidents, and significant medical malpractice cases.

Any areas of specialization? Over the years, Meehan Boyle has found success in a wide variety of high profile cases, including Boston’s “Big Dig” tunnel collapse case, pharmaceutical litigation through to victory at the U.S. Supreme Court, multi-million dollar wrongful death jury verdicts and settlements against national hotel chains, multi-state federal litigation on behalf of U.S. Army Special Forces soldiers against military contractors, alcohol hazing cases against national fraternities and universities, and many other such cases.

The attorneys at Meehan Boyle are particularly proud of their efforts to contribute to the creation of lasting and sustainable safety policy changes, often through negotiated settlements, making everyone in our community safer.

What firm attribute do clients find most attractive? In the thousands of cases that Meehan Boyle has handled for plaintiffs from all walks of life, the most gratifying compliment the firm hears from its clients is that its attorneys and staff are empathetic, caring and supportive. That is crucially important to everyone at Meehan Boyle. The firm counts among its wide family of clients, friends from the 1980s and ’90s who keep in touch to this day. That clients, long after their cases have resolved, not only send photos, emails and holiday letters, but also frequently invite both lawyers and interns at several well-known law firms during the Blizzard of ’78; John Carroll at work with a hundred subrogation files during the Blizzard of ’78; John Carroll started practicing law on the Pine Ridge Indian Reservation after Wounded Knee; Pete Black flew 150 close combat support missions in Vietnam; Mike Bogdanow, Val Yarashus and Tori Santoro are each accomplished musicians; Brad Henry is a Black Belt and an Eagle Scout; and Pete Ainsworth started with the firm as a volunteer shepherd 20 cases through the 9/11 Victim’s Compensation Fund project. The total is greater than the sum of its parts.

Why is it important to have all the lawyers in your firm members of the MBA? The MBA is such an important component of the tight-knit legal community in Massachusetts. Lawyers share responsibility for the support and continued advancement of the profession as a whole, and Meehan Boyle feels it is incumbent on all of its lawyers to be involved in its state bar association. Despite rarely growing larger than its current 10 lawyers, Meehan Boyle’s 30-year history credits no fewer than three MBA presidents, each of whom passed on a legacy of conscientious bar service and the importance of a unified voice among lawyers.

BAR SEEN Snapshots from around the MBA

Springfield JYC Program
Pictured from left to right: Samuel L. Charron, assistant director and public interest coordinator for Career Services at Western New England School of Law; JYC Student Jada Facara; JYC Student Priscilla Villalobos; JYC Student Destiny St. Amand; the Honorable Tina S. Page, Associate Justice of Massachusetts Superior Court; JYC Student Kimberly Martin; and, JYC Student Nichole McCarthy. On June 15, 2017, Judge Page was invited to speak to this year’s group of JYC Springfield high school students. During her presentation, she spoke about her background, where she went to school, how she made the decision to go to law school, her experience in law school, how it was to work as an attorney and then become a judge.

In what ways do you find the MBA beneficial to the lawyers in your firm? The benefits of MBA membership are countless, but chief among them is the association’s engagement with the community — both our legal community and the larger community of citizens across the commonwealth. The law is a profession of service to others, not only to the judiciary and our fellow lawyers, but especially to our most needy constituents. The MBA fulfills these principles through outstanding educational, outreach and community service programs. Meehan Boyle encourages all of its lawyers to pursue the myriad leadership opportunities at the MBA, so that they can be a part of the future development of the MBA and the profession.

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.
Christopher P. Sullivan is a partner at Rubins Kaplan LLP in Boston, where he represents clients in complex civil litigation matters, such as securities fraud, shareholder disputes and intellectual property cases. He has been named as a “Super Lawyer” every year since 2004. Sullivan, who is the former chair of the MBA’s Membership Committee, serves on the MBA’s Executive Management Board and in its House of Delegates. Working with the Federal Bar Association and the MBA, Sullivan launched the Massachusetts Chapter of SOLACE, a network of legal professionals who provide critical aid to those in the profession in their time of need. He is a fellow of the Massachusetts Bar Foundation, the philanthropic partner of the MBA, as well as the American Bar Foundation. He is also a life fellow of the Foundation for the Federal Bar Association. Currently, Sullivan serves as a hearing officer for the Board of Bar Overseers. He graduated from the College of the Holy Cross and received his J.D. from Fordham University Law School. Sullivan and his wife, Beth, live in Hingham.

Christopher A. Kenney, President-elect

Christopher A. Kenney is a founding member and managing shareholder of the Boston law firm of Rubin & Rudman LLP in Braintree, where he practices in the areas of plaintiffs’ personal injury, including wrongful death, catastrophic injury and workers’ compensation claims, and he represents individuals and businesses in commercial and real estate disputes. He is a member of the MBA’s Executive Management Board, the Leadership Academy Steering Committee and the Oliver Wendell Holme Jr. Scholarship Committee. He is also a past MBA secretary and vice president, and he has served on the Board of Bar Overseers of the Supreme Judicial Court. He has been a member of the Massachusetts Academy of Trial Attorneys’ Board of Governors and its executive committee. Kenney has previously served as vice chair of the Board of Bar Overseers, and he has served on the MBA’s Judicial Administration Section Council.

John J. Morrissey is a trial attorney and a founding partner of Morrissey, Wilson & Zafiropoulos LLP in Braintree, where he practices in the areas of plaintiffs’ personal injury, including wrongful death, catastrophic injury and workers’ compensation claims, and he represents individuals and businesses in commercial and real estate disputes. He is a member of the MBA’s Executive Management Board, the Leadership Academy Steering Committee and the Oliver Wendell Holme Jr. Scholarship Committee. He is also a past MBA secretary and vice president, and he has served on the Board of Bar Overseers of the Supreme Judicial Court. He has been a member of the Massachusetts Academy of Trial Attorneys’ Board of Governors and its executive committee. Kenney has previously served as vice chair of the Board of Bar Overseers, and he has served on the MBA’s Judicial Administration Section Council.

Denise J. Murphy is a partner at the law firm of Rubin & Rudman LLP in Boston, where she practices in all areas of Massachusetts labor and employment law, representing both plaintiffs and defendants. Murphy serves on the Executive Board of the Massachusetts Lawyers Weekly’s Best Lawyers in America, and as one of Boston’s Top Rated Lawyers by Boston magazine’s Top 50 Women Attorneys and as a Super Lawyer by Super Lawyers since 2004. Murphy graduated from the University of Massachusetts Boston and received her J.D. from Suffolk University Law School. 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 concern regarding the practice of law and the administration of justice. In addition, he serves as council 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 to analyze legislation, draft bills and amicus curiae briefs, and testify before legislative committees. Healy also serves as executive secretary to the Joint Bar Committee on Judicial Appointments, which confidentially reviews judicial candidates for the governors of the commonwealth. Appointed as a National Uniform Law Commissioner for Massachusetts by Gov. Deval L. Patrick, Healy is also a member of the Massachusetts Office of Attorney General’s Legislative Consulting Services (CPCS) Board, where he represents House Speaker Robert A. DeLeo. A long-term member of Massachusetts Lawyers Weekly’s Board of Editors, Healy is a regular contributing author to the paper through his “Healy on the Hill” column. Healy was honored with Massachusetts Lawyers Weekly’s 2014 Lawyer of the Year award for his work in making attorney-conducted voir dire a reality in Massachusetts. Healy has been named a “Super Lawyer” by Massachusetts Lawyers Weekly and was selected as the 2014 recipient of the CPCS Youth Advocacy Project. Healy has been named a “Super Lawyer” by Massachusetts Lawyers Weekly and has been named to Massachusetts Lawyers Weekly’s Best Lawyers in America, and as one of Boston’s Top Rated Lawyers by Boston Magazine’s Top 50 Women Attorneys and as a Super Lawyer by Super Lawyers since 2004. Murphy graduated from the University of Massachusetts Boston and received her J.D. from Suffolk University Law School. Murphy lives in Westwood.

John J. Morrissey, Treasurer

Thomas J. Barbar, Secretary

Thomas J. Barbar is a partner at Deutsch Williams located in Boston. As part of his probate practice, Barbar specializes in estate administrations, allowance of wills, equity cases, guardianships and conservatorships. Barbar also litigates will contests and objections to appointments of administrators and guardians. His domestic relations practice specializes in all phases of divorce law, paternity and adoption cases. He is a member of the MBA’s Executive Management Board, the Budget & Finance Committee and the House of Delegates. He was the chair of the Law Practice Management Section, and he previously served as the co-chair of the MBA’s Family Law Section. Barbar presently sits on the associate’s Renovations Committee and the Oliver Wendell Holme Jr. Scholarship Committee. He has served on the Membership Committee, the MBA nominating committee, and the MBA nominating committee. Barbar was also a member in the MBA’s tiered community mentoring program. In addition to his work with the MBA, Barbar is a member of the Boston Bar Association’s family law section and trusts and estates section, a member of the Massachusetts LGBT Bar Association, and a founder of the Greater Boston Family Law Inn of Court. Barbar was a recipient of the MBA Volunteer Recognition Award in 2013. Barbar has authored articles for the MBA’s Lawyers Journal, including “Tips for Growing Your Law Practice” (February 2016) and “Yours, Mine and Never Ours: The Trouble with Some Prenuptial Agreements” (December 2011). He also co-authored a piece in the MBA’s Section Anniversaries in February 2009: “Ejstran v. Pecharsky — A Miranda Warning for Prenuptial Agreements” Barbar graduated from Villanova University and received his J.D. from New England School of Law. Barbar resides in Boston.

Martin W. Healy is counsel to the Massachusetts Bar Foundation’s Office of Appellate Advocacy and as a legislative aide in the Massachusetts Senate. Healy graduated from Suffolk University in 1985. He went on to earn his J.D., cum laude, from Suffolk University Law School in 1989.
Christopher P. Sullivan began his term as MBA president on September 1. We asked some of his colleagues about what he brings to his new role as president.

"Chris Sullivan was the driving force behind getting the SOLACE program started in Massachusetts. He came up with the idea of bringing the program here after meeting with the person who founded it in New Orleans, and he worked tirelessly to marshal support for it in Massachusetts and to get it going here. Its existence in Massachusetts is a testament to his leadership and persistence."

— Patrick M. Curran, Ogletree, Deakins, Nash, Smoot & Stewart, P.C. (Federal Bar Association, executive committee, Massachusetts Chapter)

"I've worked with Chris Sullivan on several issues, including on the Membership Committee, which he led for several years and in starting the new ComCom Section within the MBA. I'm struck not just by Chris's clear vision for the MBA as an association that needs to serve and appeal to all lawyers in the commonwealth, but by the selfless way he approaches his role, leading others by example not by dictating and always praising others rather than taking credit himself. Chris also brings integrity to everything he does. The MBA is fortunate to have him at the helm in the coming year."

— Paul E. White, Sugarman Rogers Barshak & Cohen, P.C.

"With Chris Sullivan as president, the MBA is assured a steady hand at the tiller as it continues to lead the bar in matters related to the economics of the practice, improvement of statutory and common law for the benefit of our commonwealth, and all of its citizens, and the protection of our civil liberties. In these perilous times where fundamental rights and protections always are considered to be sacrosanct are placed in serious jeopardy, our society needs a strong and vibrant bar. Chris Sullivan epitomizes professionalism, scholarship and effective leadership. He is a Knight Templar for our members — a lawyer's lawyer. We are lucky to have him serve as our president."

— Anthony A. Frats, managing partner, Robins Kaplan LLP (Boston office)

"Chris brings an incredible wealth of experience, great judgment, loyalty and drive to the MBA as its president. He is the consummate team player, leader and driver of great energy, foresight and follow-through, and has the ability to organize and drive great teams. We are excited to support Chris as president of the MBA."

— Richard P. Campbell, past president, Massachusetts Bar Association; of counsel, Campbell Campbell Edwards & Conroy

"I've worked with Chris Sullivan on several issues, including on the Membership Committee, which he led for several years and in starting the new ComCom Section within the MBA. I'm struck not just by Chris's clear vision for the MBA as an association that needs to serve and appeal to all lawyers in the commonwealth, but by the selfless way he approaches his role, leading others by example not by dictating and always praising others rather than taking credit himself. Chris also brings integrity to everything he does. The MBA is fortunate to have him at the helm in the coming year."

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— Anthony A. Frats, managing partner, Robins Kaplan LLP (Boston office)
The Massachusetts Bar Foundation recently awarded $2 million to 84 programs conducted by 56 different nonprofit organizations through its annual IOLTA grants program.

“The MBF gratefully supports all of these critically needed programs that provide services to communities throughout the commonwealth,” said MBF President Janet F. Aserkoff of Boston’s Rappaport, Aserkoff & Gelles. “We are proud to be able to support these programs, which are critical to ensuring that justice is available to all.”

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

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 (IOLTA). In 2017, the MBF awarded $2 million to 84 programs conducted by 56 different nonprofit organizations through its annual IOLTA Grants Program (IOLTA).

Additional information about the Massachusetts Bar Foundation and its IOLTA Grants Program, as well as a complete listing of the 2017-18 IOLTA grant recipients, is available at www.MassBarFoundation.org.

MBF awards $2 million in grants for legal aid across Massachusetts

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 (IOLTA). The MBF’s IOLTA Grantmaking and Charitable Activities Committee awards grants to improve the administration of justice in the commonwealth. The MBF awards these grants to nonprofit organizations through its annual IOLTA Grants Program.

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

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 (IOLTA). In 2017, the MBF awarded $2 million to 84 programs conducted by 56 different nonprofit organizations through its annual IOLTA Grants Program (IOLTA).

Additional information about the Massachusetts Bar Foundation and its IOLTA Grants Program, as well as a complete listing of the 2017-18 IOLTA grant recipients, is available at www.MassBarFoundation.org.

MBF Law Firm Silver Partner

Why I give

“Nutter supports the Massachusetts Bar Foundation because it shares the commitment to social justice, pro bono representation and community service our law firm has embodied since its founding by Louis D. Brandeis in 1879.

My work, initially as a Fellow and now as a trustee, has given me the opportunity to assemble with a group of admirable people working together to allocate MBF and IOLTA resources to worthy organizations that are an inspiration to the community.”

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

IOLTA GRANT RECIPIENT ORGANIZATIONS BY REGION

CENTRAL:
- Ascentria Community Services, Inc.
- CASA Project, Inc.
- Community Legal Aid, Inc.
- Dismas House of Central Massachusetts
- Worcester County Bar Association
- YWCA of Central Massachusetts

GREATER BOSTON:
- Casa Myrna Vasquez, Inc.
- Community Dispute Settlement Center
- Community Legal Services and Counseling Center
- DOVE, Inc.
- Greater Boston Legal Services
- Housing Families, Inc.
- Irish International Immigrant Center
- Justice at Work
- Lawyers Clearinghouse
- MetroWest Legal Services
- MetroWest Mediation Services, Inc.
- Middlesex County Bar Association
- Somerville Community Corporation
- Veterans Legal Services

NORTHWEST:
- Berkshire County Regional Housing Authority Center for New Americans
- Community Action of the Franklin, Hampshire and North Quabbin Regions
- Community Legal Aid, Inc.
- Franklin County Bar Advocates, Inc.
- Hampden County Bar Association
- Hampshire County Bar Association
- Massachusetts Immigrant and Refugee Advocacy (MIRA) Coalition
- Quabbin Mediation
- Safe Passage

NORTHEAST:
- Children’s Law Center of Massachusetts, Inc.
- Finex House, Inc.
- Flaschner Judicial Institute
- Health Law Advocates, Inc.
- Massachusetts Advocates for Children
- Massachusetts Law Reform Institute
- Pine Street Inn
- Political Asylum/Immigration Representation Project
- Prisoners’ Legal Services
- Third Sector New England
- Women’s Bar Foundation of Massachusetts

STATEWIDE:
- Catholic Social Services of Fall River, Inc.
- Greater Brockton Center for Dispute Resolution
- JRI Health Law Institute
- Pilgrim Advocates, Inc.
- Plymouth County Bar Association
- South Coastal Counties Legal Services
- The Women’s Center
- WE CAN

WEST:
- Berkshire County Regional Housing Authority Center for New Americans
- Community Action of the Franklin, Hampshire and North Quabbin Regions
- Community Legal Aid, Inc.
- Franklin County Bar Advocates, Inc.
- Hampden County Bar Association
- Hampshire County Bar Association
- Massachusetts Immigrant and Refugee Advocacy (MIRA) Coalition
- Quabbin Mediation
- Safe Passage

UPCOMING MBF EVENTS

2017 GRANTEE RECEPTIONS

GREATER BOSTON
TUESDAY, SEPT. 26
- Greater Boston Legal Services
- Housing Families, Inc.
- Irish International Immigrant Center
- Justice at Work
- Lawyers Clearinghouse
- MetroWest Legal Services
- MetroWest Mediation Services, Inc.
- Middlesex County Bar Association
- Somerville Community Corporation
- Veterans Legal Services

CENTRAL AND WESTERN MASSACHUSETTS
TUESDAY, OCT. 3
- Berkshire County Regional Housing Authority Center for New Americans
- Community Action of the Franklin, Hampshire and North Quabbin Regions
- Community Legal Aid, Inc.
- Franklin County Bar Advocates, Inc.
- Hampden County Bar Association
- Hampshire County Bar Association
- Massachusetts Immigrant and Refugee Advocacy (MIRA) Coalition
- Quabbin Mediation
- Safe Passage

To become an MBF Fellow, visit www.MassBarFoundation.org.

Correction: In the July/August issue of Lawyers Journal, the location of Sarah E. Worley Conflict Resolution PC was incorrectly listed as Northampton. It is located in Boston.
Summer snapshots

The Massachusetts Bar Association hosted its Summer Social networking receptions at The Terrace at Hyatt Regency Boston in July and Tia’s on the Boston waterfront in August.
ABA RESOLUTIONS

During the 2017 American Bar Association Annual Meeting, the ABA’s House of Delegates adopted several Massachusetts Bar Association-submitted resolutions with national implications on criminal justice and immigration.

“Courthouses should not be used for routine immigration arrests, House says in resolution,” ABA Journal (August 15) — MBA Immediate Past President Robert W. Harnais and MBA member Wendy S. Wayne were quoted about the ABA’s adoption of Resolution 10C, which urges U.S. Immigration and Customs Enforcement and Border Protection to treat courthouses as sensitive locations and to only conduct such arrests there “upon a showing of exigent circumstances and with prior approval of a designated supervisory official.”

“ABA House backs ban on mandatory minimums,” ABA Journal (August 15) — MBA member Kevin J. Curtin was quoted about the ABA’s adoption of Resolution 10B, which opposes the imposition of mandatory minimum sentences in any criminal case.

JUVENILE PAROLE

“Juvenile parole hearings draw mixed reviews in Massachusetts,” Boston Herald, via Associated Press (July 31) — MBA Chief Legal Counsel Martin W. Healy commented on court rulings that now allow juveniles to be eligible for parole after serving 20 or 30 years of a life sentence when convicted of first-degree murder. This AP article ran in several news outlets across the country.

TEXTING SUICIDE CASE

“Appeal in Michelle Carter case may take years to resolve, experts say,” Boston Globe (August 3) — Former chair of the MBA’s Criminal Justice Section Peter Elikann provided post-sentencing analysis in the Michelle Carter case. Elikann was also quoted by MassLive.com on the conditions of Carter’s probation, which prohibit her from profiting from book or television deals.

AARON HERNANDEZ/JOSE BAEZ

“The man who knows Aaron Hernandez’s secrets,” Esquire (August 15) — MBA Chief Legal Counsel Martin W. Healy offered commentary in a national profile piece on defense attorney Jose Baez, who represented former New England Patriots player Aaron Hernandez in a Boston double-murder trial.

WORKERS’ COMPENSATION

“Nurse injured driving home for weekend entitled to comp,” New England In-House (August 22) — Deborah G. Kohl, chair of the MBA’s Workers’ Compensation Section, was quoted on a recent decision made by a Massachusetts Department of Industrial Accidents Reviewing Board panel.

ATTORNEY VOIR DIRE

“New attorney voir dire rule met with lukewarm reviews,” Massachusetts Lawyers Weekly (August 14) — MBA Chief Legal Counsel Martin W. Healy and MBA members Annette Gonthier Kiely (MATA president), Michelle I. Schaffer (MDLA president), Hon. Maynard M. Kirpalani, Valerie A. Yarashus (MBA past president), and Marc L. Breakstone offered commentary on revised Superior Court Rule 6 dealing with attorney-conducted voir dire.
Contrary to the common belief that private caucuses are a less effective process than joint sessions, they can actually be more beneficial in certain situations. By allowing parties to express their concerns in a private setting, they may be more open and honest, leading to a more productive conversation. Additionally, private caucuses can be a valuable tool in helping mediators understand the dynamics of a case and tailor their approach accordingly. The caucus can also provide an opportunity for a mediator to address unproductive or negative behavior and to promote resolution of issues individually and in a confidential setting. It is important to note that confidentiality is a key aspect of private caucuses, as it allows parties to share their thoughts and feelings without fear of judgment or reprisal. This can lead to a more open and honest conversation, ultimately leading to a more successful resolution. 

In conclusion, private caucuses can be a valuable tool in the mediation process, allowing parties to express their concerns in a private setting, leading to a more productive conversation and ultimately a successful resolution.
This kiss

I have created a very diffi-
cult choice for myself. Janet and I (names changed) have been married 22 years and have two teen-
age kids. We met in college, and I think about her all the time, fasci-
nated with her mind and knocked over by her looks. Over-
time, as we have evolved into co-par-
cents and responsibility sharers, I now realize that we are no longer very in-
teresting to one another.

A jolt of awareness hit me a few weeks ago when I found myself kiss-
ing Sandy, a fellow attorney at the large firm where I work. This hap-
pened at an after-work social gather-
ing at a moment when we both had a lot to drink. Sandy was very attrac-
tor, but I didn’t run away. Things have gone no further physically, but since that event I keep thinking about San-
dy. We work in the same office, and we both keep looking at each other. She is a sharp lawyer and talented
athlete who is full of enthusiasm and very unhappy in her own marriage.

Janet, on the other hand, though she feels like just going through the mo-
dation to Sandy, but the fact is that the
feelings I’m having toward her are a
lot like what I once felt for Janet. I
want to shake myself and get real —
I know a divorce would be awful for
everyone, but the marital status quo
feels like just going through the mo-
tions.

You’re not alone in find-
ing it tempting to respond to a
romantic advance from an attrac-
tive member of the oppo-
site sex. I’m sure that feeling desir-
able after all these years was ex-
ing when I learned that Janet had
feeling like you are not only lim-
slacking, but more distant.

Of course, it is almost inevitable that she feels like just going through the motions of
flirtation. But, ideally, a long-term con-
mected relationship is equally re-
warding, in different ways, based on
factors including shared history and
family mission, knowing each other’s
genuine (vs. public) selves, and a more profound sense of attachment. There’s
no way of predicting where things will go with Sandy, if you choose to
have the chance; but let’s be honest — what are the chances that you’ll feel the same before the infatuation wears
off (which it does), and that your rela-
tionship would survive dual divorces,
the reactions of two sets of kids, and
the gradual infusation of real life, as
each of you begins to notice the oth-
er’s flaws and limitations.

Ultimately, you may decide to
leave the marriage (not necessarily
for Sandy). But since you’ve put
years into it, raised kids together and
are feeling guilty, perhaps this mo-
ment is best to wake-up to the reali-
gulf that has developed between you
and Janet. Do you think she feels good about having withdrawn from the relationship and moved on?

Her detachment partly a function of the years when you likely put much more energy into over 20 years of profes-
the case, which tends not to value awareness of feel-
ings? It sounds, by the way, as if she may be suffering from depression — unless her attentions, too, have
turned elsewhere.

Perhaps the most constructive response to your current dilemma would be to turn toward Janet, and
begin to recognize and address the many aspects of her with her. It prob-
ably be useful for the two of you to enter both individual and couple
therapy. At LCL, we can help you put together an action plan, includ-
ing appropriate resources to sort out your mixed feelings about Janet and about Sandy. Maybe you will be able to re-invoke your marriage; even
if not, better to think through and work through your choices than to act on impulse.

Dr. Jeff Fortgang is a licensed psychologist and licensed alcohol and drug counselor on the 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 the local level of the law. C&A questions are either actual letters/emails or paraphrased and disguised concerns offered by clients seeking professional assistance. Questions may be e-mailed to DrJeff@LCLMA.org.
Legal marketing and client development: What works and what fails

BY JOHN O. CUNNINGHAM

In an increasingly competitive legal services market, lawyers are investing significant money and effort to acquire new clients and develop existing ones. But lawyers are not always investing in efforts to discover what’s working and what’s not.

Based on my review of many client surveys over the years, I have put together a quick glance at some of the common refrains from clients about specific legal marketing and client development tactics.

Starting on a positive note, here are some client development efforts that are working:

• Learning more about a corporate client’s business. Almost every corporate client with whom I’ve spoken has raved about lawyers who invest non-billable time in learning about the client’s business and industry. Clients are generally appreciative of time invested in visits to their corporate offices or plants for this purpose.

• Asking for feedback on how to improve. Clients of all types appreciate a lawyer asking how he or she can improve legal service, especially when suggestions are acted upon quickly. Asking for feedback sometimes results in additional assignments and almost always leaves a favorable impression on a client.

• Sending out timely legal alerts and tips. Clients love receiving newsletters now, emphasizing that the fifth or sixth newsletter on a subject won’t get opened.

• Procuring references and testimonials. Prospective clients generally like to know what others think about a lawyer’s service, especially others who are similar to them in terms of type of occupation, legal quandary and income. They like it when lawyers provide references or written testimonials from existing clients.

• Providing quantitative data related to your experience. Both prospects and clients like to hear how many matters or cases you have handled like their own, what the average cost was per matter, how long it took to close each matter and what happened as a result of the representation. Clients looking for trial advocates like to know the range of possible dollar outcomes to any controversy, and clients needing transactional representation like to know how often a firm closes transactions quickly without stalling negotiations, killing deals, or suffering post-closing lawsuits or claims.

Clients are not shy about stating their opinions on marketing failures either. Here are some of the more frequent types of feedback given by prospects who failed to become clients after a visit with a law firm:

• The lawyers failed to distinguish themselves from their competition. Professional marketers would call this a “value proposition” failure. Clients want to know why you are the best choice among any number of competent choices they could make. This places a burden on the lawyer to know the competition, but that burden is no different than the burden placed on any other service provider.

• The lawyers talked too much about themselves. Clients who say this want to have more of a dialogue than a sales pitch. They are interested in hearing about the lawyer’s competence, but they want to know that the lawyer is interested in them and their problems too. As a client in one survey said, “a pitch on competence is about the lawyer… a pitch on relevance is more about the client.”

• There was just no chemistry. This comment reveals the failure to make a personal connection. A client must trust you to hire you, and they must like you to trust you. Nearly 100 percent of prospective clients have told me they prefer to like who they hire, and more than half have said they must like the prospective legal hire.

• They disrespected my time. This comment arises after a lawyer shows up late for a meeting, takes a call during a meeting or otherwise wastes a prospect’s time. To paraphrase what one CEO said to me, “You are lucky to get 10 minutes of my time. So when a lawyer shows up late, goes over time or interrupts the meeting, he is toast.”

• The firm was not going where we are headed. This feedback is relatively new in legal surveys, and comes mostly from corporate clients who are forward-looking in highly competitive industries. They want to know that a firm is keeping pace with them on utilizing technology, mastering process improvement, executing on diversity initiatives or otherwise keeping pace with a fast-arriving future.

These are just some of the many things clients have to say about what works and what doesn’t in legal marketing and business development.

John O. Cunningham is a writer, consultant and public speaker. As a lawyer, he served as General Counsel to a publicly traded company and to a privately-held subsidiary of a Fortune 100 company. For more information about his work in the fields of legal service, marketing, communications, and management, check out his website and blog at: johnocunningham.wordpress.com.
Lawyer, asked: “So when you use the term ‘quid pro quo,’ that’s just Latin for rat, isn’t it?” But, perhaps the best line of all came from John (“The Executioner”) Martorano (who admitted to murdering some 20 souls); the former Bulger hit man testified for the prosecution that “[my father, the priests, and the nuns] taught me that Judas — Judas was the worst person in the world.” The Matoranos (and apparently the priests and nuns who counseled them) apparently took the admonitions in Leviticus literally.

Bar counsel does not organize lawyer reports of misconduct by other lawyers under Rule 8.3 and, consequently, does not have aggregate data available to demonstrate the frequency of its use. Without empirical data, it is simply impossible to evaluate with confidence whether lawyer disclosures actually reveal otherwise hidden patterns of misconduct or whether victims discover lawyer misconduct as a result of Rule 8.3 reports. Winston Churchill’s insight into human nature in such circumstances rings true today: “Men occasionally stumble over the truth, but most of them pick themselves up and hurry off as if nothing ever happened.”

It is undoubtedly true that some lawyers are peripatetic witnesses of other lawyer misconduct. One can imagine various circumstances that would expose lawyer misconduct to another lawyer thereby activate the obligation to file a Rule 8.3 report. Direct interaction in litigation or in transactions is a possible window to lawyer misconduct. But zealous representation of clients might easily be characterized as “misconduct,” particularly in high stakes winner-take-all contests. Lawyers have ego, after all. Representing a client in a matter that has a prior procedural history often requires a lawyer to review and assess prior counsel’s actions. Ground zero for direct observation of lawyer misconduct is the multiple lawyer organization. Preservation and disclosure of relevant information impact criminal and civil litigation or regulatory investigations is the most fertile ground for misconduct.

Prosecutors can withhold evidence helpful to the defendant or suborn perjury. In his recent novel, “Rogue Lawyer,” John Grisham speaks to the perjury of a jailhouse snitch known as Smut, “an accomplished courtroom liar who testifies all the time and will say whatever the prosecutors want him to say.” Because “the cops needed some testimony,” they arranged to have Smut put in the same jail cell as the defendant after feeding him details of the crimes. Within 24 hours, Smut claimed that he heard a full confession. His testimony at the trial “was quite a performance.” The defense lawyer, the cops, the prosecutors and the judge knew it was all a lie, but the jury “swallowed it in disgust.” Grisham’s tale of the jailhouse snitch brings to mind the statement of an anonymous writer in disgust.” Grisham’s tale of the jailhouse snitch brings to mind the statement of an anonymous writer that “looking for an entirely reliable informant is like looking for a chaste mistress.”

Rule 8.3 (a) provides: “A lawyer having knowledge that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the Bar Counsel’s office of the Board of Bar Overseers.” Rule 8.3 (b) sets forth a similar mandate for knowledge of judicial misconduct. Safe harbors are found in Rule 8.3(c) when the lawyer’s knowledge was derived from confidential client information or participation in a lawyer assistance program. The obligation to report is mandatory (the lawyer “shall inform” bar counsel). It is triggered by (1) “knowledge” of (2) “violation[s] of the Rules of Professional Conduct” that (3) raise a “substantial question” of (4) the offending lawyer’s “honesty, trustworthiness or fitness as a lawyer in other respects.” Rule 8.3 incorporates all rules of professional conduct within its scope, including Rule 8.4 that spells out “misconduct.” But it is not limited to the types of “serious crimes” that would lead to suspension of disbarment as defined in Rule 4:01, §12(3). Conduct that is prejudicial to the administration of justice is reportable under Rule 8.3. Presumably, a lawyer who demonstrably fails to provide competent representation to her client because she lacks the legal knowledge, skill, thoroughness and preparation necessary for the representation of her client should be reported to Bar Counsel. See Rule 1.1 Competence.

In her 2004 bar counsel publication, Nancy Kaufman averred that “absolute certainty” was not necessary to have knowledge of the misconduct. Relying on Comment [3] to Rule 8.3 and the definition found in Rule 9.1(e), she argued that sufficient knowledge of the misconduct comes about when the lawyer had supporting evidence such that a reasonable lawyer would have a firm opinion that the conduct in question had more likely occurred than not. That standard is remarkably fluid in the context of bar discipline.

In Attorney v. The Mississippi Bar, 678 So.2d 963 (Miss. 1996), a
partner in a large, prominent Jackson law firm represented a mobile “pulmonary function testing service” in claims against a plaintiff asbestos lawyer centered on the amount of “fees” said to be owed arising out of an agreement to share tort recoveries by personal injury plaintiffs. The Jackson lawyer averred in writing and orally to the asbestos lawyer (and his counsel) that the asbestos lawyer committed violations of the Mississippi code of professional conduct. The asbestos lawyer denied the allegations. The bar brought a complaint against the Jackson lawyer for failing to report the plaintiff lawyer under Rule 8.3. The Supreme Court held that the circumstances did not dictate a firm opinion on the part of a reasonable lawyer that the conduct in fact occurred.

The court wrote: “It is not for the lawyer to believe or disbelieve the client. … A lawyer must be free to assert his client’s claims, at least until there is evidence apparent that his client is lying. The state of mind necessary to assert the claim, however, falls well short of that required for a “firm opinion” as to whether specific conduct occurred. We must allow lawyers at least this degree of detachment if we are to assure the competent and vigorous representation essential to our adversary system of justice.” Before publishing this article, we confirmed with bar counsel that in the 18 years that Rule 8.3 has been in force (1998–2016) there does not appear to have been a single lawyer disciplined for violating Rule 8.3. The seminal case for bar discipline for violating Rule 8.3 is In re Himmel, 533 N.E.2d 790 (Ill. 1988). Himmel is a successor counsel case. Attorney Himmel came to know that predecessor counsel on the common client’s personal injury claim (Attorney Casey) had converted the client’s settlement funds to his personal use. Attorney Himmel pursued recovery of the funds from Attorney Casey and, on the client’s insistence, did not report the misconduct to state regulatory authority. The Supreme Court of Illinois suspended Attorney Himmel from the practice of law for a year for failing to report Casey’s misconduct, describing Himmel’s and the client’s conduct as compounding Casey’s crime.

The Illinois court said: “This failure to report resulted in interference with the Commission’s investigation of Casey, and thus with the administration of justice. Perhaps some members of the public would have been spared from Casey’s misconduct had respondent reported the information as soon as he knew of Casey’s conversion of client funds.” Rule 8.3 has also been used to deny reinstatement to the practice of law when the petitioner refuses to disclose information about co-conspirators despite receiving immunity from prosecution. In re William A. Borders, Jr., 665 A.2d 1381 (D.C.Ct.of App. 1995) involved an application for reinstatement by a co-conspirator in the solicitation of bribes from criminal defendants in exchange for lenient treatment by then U.S. District Judge Alcee Hastings. Mr. Borders repeatedly refused to identify other co-conspirators despite grants of immunity. The court rejected the application, finding that he had not established his fitness to resume the practice of law.

The court said: “The Hearing Committee found petitioner’s ‘commitment to silence about the events [to be] longstanding and deeply felt,’ but one contrary to his ethical obligations as an attorney. The Board agreed, and we do also. An attorney is obligated under … Rule 8.3 of the Rules of Professional Conduct to report misconduct of other attorneys and judges.” See also, In re Anglin, 122 Ill.2d 531, 537 (1988) (“Petitioner’s refusal to answer questions about the involvement of other persons in his possession of the stolen securities also evidences a present and future inability to conform to the Code of Professional Conduct”).

The good news for lawyers is the absolute privilege arising from Rule 8.3 reports to bar counsel. Rule 4.01, §9(1) (“Complaints submitted to the Board or to the bar counsel shall be confidential and absolutely privileged.”) Bar Counsel v. Farber, 464 Mass. 784 (2013) (complainants and witnesses have absolute immunity for testimony given to the Board, hearing committees, special hearing officers, and hearing panels); see also, Weber v. Cueto, 568 N.E. 2d 513 (Ill App. Ct. 1991) (“we hold that the communication made by the defendant Cueto to members of the Madison County Board pursuant to Disciplinary Rule 1-103(a) is cloaked with an absolute privilege”). So the Rule 8.3 compliant lawyer may be seen as a “betrayed of his group” and “a bum of a person,” but at least he will not be successfully sued by the person reported.

Richard P. Campbell is a fellow of the American College of Trial Lawyers and a past president of the Massachusetts Bar Association. He founded Campbell Campbell Edwards & Conroy, PC, a firm with a national practice, in 1983.

Suzanne Elowwsky practices at Todd & Wald LLP, where she enjoys a diverse complex commercial litigation practice representing individuals and corporations in contract disputes, employment disputes, automobile dealership matters, shareholder disputes, and trademark, trade secret and copyright disputes. Suzanne is a member of the Women’s Bar Association, the Boston Bar Association and the Massachusetts Bar Association (Complex Commercial Litigation Committee; Professional Ethics Committee).
Welcome, from the Law Practice Management Section

The Law Practice Management (LPM) Section welcomes everyone to the 2017-2018 program year. LPM Section is unique in that the challenges and concerns raised by the business of practicing law are applicable to practitioners across all practice areas and modes of practice: government, big firm and solo practitioners alike face the daily onslaught of emails, time management challenges and keeping up with the latest technology.

LPM, in cooperation with other sections of the Massachusetts Bar Association, offers educationalCLE programming, networking, pro bono and volunteer opportunities, and other ways of getting involved for attorneys at all career stages, whether starting out solo, transitioning from a large firm into a smaller environment, succession/retirement planning and traditional, all aimed at enhancing the experience of managing the business of practicing law and striking the appropriate work/life balance. The programming offered by LPM addresses not only the general areas of operating a business, such as accounting, finance, marketing, management, planning and technology, but also presents unique contexts with additional topics applicable more narrowly to the practice of law.

Here is a sampling of programs that LPM has sponsored or co-sponsored over the past few years:

“How to Get Paid: Fee Structures, Referrals and Collecting” provided a discussion of the various fee structures available for attorneys in Massachusetts, including referral fees between attorneys. Also discussed was the MBA’s Fee Arbitration Board, which helps facilitate settlement of fee disputes with former clients.

“Work/Life Balance: How to Have a Productive Day and Still Make it Home in Time for Dinner” offered a panel that included retired Judge Robert A. Gordon, two practicing attorneys, and a guest speaker from Lawyers Concerned for Lawyers. The talk perfectly captures the topics discussed.

“Starting or Jump-Starting an Innovative Law Practice” was a four-part workshop series that combined traditional tools, including business plans, marketing plans, and check-lists, with more innovative tools, such as visual facilitation and imagery, to help develop and leverage an entrepreneurial mindset. This series was co-sponsored with the Solo and Small Firm Section and the Young Lawyers Division.

“Driving for a Ride out of the Box” was a discussion of Key Performance Indicators (KPIs) and how to utilize statistics to learn more about a firm’s clients, define performance targets, and achieve higher profitability. This program was co-sponsored with the Solo and Small Firm Section.

“From Bankruptcy to the Bank” addressed steps to be taken when a client files for bankruptcy, aimed at maximizing the chances of the practitioner getting paid, including how to file proofs of claim, working with bankruptcy trustees, and avoiding violations of the bankruptcy laws.

“When, Where and When to Save” was a presentation on how to better manage a firm’s budget. The topics included rent and office equipment, VOIP phones, virtual assistants and answering services, re-financing agreements, paperless office, and usage of apps to save money and time.

“Data Protection Revisited” provided an updated look at the modern world and practical ways of protecting data, and how attorneys are accountable for safeguarding client information.

“How Video Marketing to Attract More Clients” offered an overview of the importance of video marketing, different types of video marketing, and how video marketing has changed. This program was co-sponsored with the Solo and Small Firm Section.

“Reclaim Time and Clear Your Mind” provided an overview of Evernote and similar programs, their unique application to the practice of law, and their use as a searchable data repository for daily use. The program was presented by Heidi S. Alexander of LOMAP and Chief Justice Angela M. Ordoñez of the Probate and Family Court Department. This program was co-sponsored with the Solo and Small Firm Section.

Here are three examples of different marketing strategies. Which one is closest to what might work best for you?

Marketing without technology

Alex (real person, name changed) doesn’t have a website, Twitter account or LinkedIn page. She isn’t active on social media and doesn’t write blog posts or print articles. She doesn’t plan and deliver programs on her substantive area of law to potential clients or referral sources. She doesn’t send out Christmas cards or newsletters to her clients. Her clients do not have email access to her. By all accounts, she isn’t doing anything that the experts in law firm business development and retention say are necessary to sustain successful revenue generation for today’s solo and small firm lawyers. Yet, she has a steady stream of clients asking for her representation. What’s her secret?

“Alex’s law practice is focused on criminal law. Her potential clients and their referral sources are often where she is demonstrating what she can do — in court. In fact, her clients, potential clients and referral sources do not select their lawyers from their digital footprint; instead they select them by evaluating their performance first-hand. The upside is that Alex has more free time to practice law with a life outside of law. She also manages the client relationships by phone or in-person only. If they want to communicate, they must pick up the phone. If it’s a true emergency, they will get an immediate response. If it’s important to them, but not an emergency, they will get a return call within 24 hours.

Marketing has been explained as communicating to many people simultaneously in-person or digitally. Alex doesn’t intentionally market her law practice. The upside is that she saves time, money and possible anxiety associated with that endeavor. She is, however, delivering content about what she does and how she does it for clients, by being in court, legal writing, and interacting with attorneys and clients of the bar association. It is a relationship business.

Content marketing through technology

Not all practices offer the opportunity for passive marketing, as do some areas of criminal law. In contrast, the market (potential clients) in family law is composed of different niches according to family finances. The Legal Services Corporation reports, “The proportion of the civil legal problems reported by low-income Americans in the past year is focused on bankruptcy litigation and criminal defense.

Find the marketing strategy that’s right for you
anyone who figures out a solution. Damian Turco, a Massachusetts divorce lawyer with a personal injury component of his practice based in Boston, explains: “Prospective clients want to understand the general extent of their legal rights, considering the facts and circumstances of their cases. A natural starting point is the internet. Browsing is anonymous and you can provide them the answers they so need. While doing so, some prospective clients will decide they need representation and, because you’ve already established yourself as a credible solution, some will call you, schedule a consultation, and become paying clients.”

Create a digital presence that answers the questions that are on the minds of your prospective clients and the people who are trying to help them. Then, to further attract the right people further into your marketing funnel, provide the answers to their questions about cost. Turco Legal has designed a specific program for them — Justice for All, — that involves resource-based billing for family law clients.

Content is king for Turco Legal because it is the right content at the right time; however, not all digital marketing content meets this bar. Your digital content may not be as valuable as you think it is. Jayne Na- varre recently wrote about the problem with content that isn’t engaging the right people. She writes, “The “organic” social media produced by law firms — the stuff that was supposed to create conversation and conversion — appeared to be mostly seen and applauded by a handful of their own employees, lawyers and a few real-life friends and relatives.” Create content that will serve as a bread-crumbs trail from your next best client’s concerns and interests to a virtual handshake with you.

Combine low-cost technology with traditional marketing for a cost-effective combination

Even the best content can get lost among similar content online or on tangible venues, like billboards, public transportation and television. You may need to amp up your efforts by focusing on a narrow niche and repeating your message in different venues at different times. Enter the Truck Accident Lawyers in Pennsylvania. Munley Law is a personal injury law practice with niche marketing aimed at clients who have been injured in truck accidents. This enables clear, concise messaging online and on television.

Of course, this costs money and time and you may face stiff competition for tangible space and the right to get noticed by the right people at the right time. If you are going to use tangible venues in your marketing efforts. Bernie Munley, Chief Marketing Officer of personal injury law firm Munley Law in Pennsylvania, says, “Integrate them with your social media and digital marketing efforts. Social media allows marketers to build brand awareness, engage with their audience, and even target potential clients — typically at a lower cost than traditional media. It would be a mistake to overlook this opportunity.”

Susan Letterman White, JD, MS, is a law practice advisor with the Massachusetts Law Office Management Assistance Program (LOMAP) and an adjunct professor teaching organizational leadership and leadership ethics at Northeastern University in Boston. Before joining LOMAP, she led Letterman White Consulting as its founder and managing partner for 10 years. Before that, she practiced employment law for more than 20 years and was the managing partner of a law firm. She can be reached at susan@masslomap.org.

Worcester

The Worcester JYC students met with Honorable Denise Meagher, Associate Justice of Probate and Family Court and Attorney Stephanie K. Fattman, Worcester County Register of Probate.
Top 10 reasons to support criminal justice reform

Incarceration has proven to have little effect on crime rates in Massachusetts and is incredibly costly to taxpayers.
Massachusetts has racially disparate rates of incarceration that erode public confidence and call into question the fairness of the criminal justice system as a whole.
Massachusetts has high recidivism, and employment is a leading factor in reducing recidivism. Gaps and faulty provisions in CORI statutes and other laws shut many people out of the economy by imposing overly long waiting periods for sealing of CORI, by giving people lifetime forever sealable records for very common offenses, such as resisting arrest, and by creating other barriers to jobs, training, occupational licensing and other opportunities.
Massachusetts is an outlier with a felony-larceny threshold of only $250, which makes felons of countless people who commit low-level offenses, including many young adults and people with substance abuse issues. The felony status triggers a decade-long waiting period to seal the record.
The right to due process and equal protection of the law prohibits courts from punishing poverty or incarcerating low-income criminal defendants solely because they are unable to pay a fee or fine.
Low-income defendants often cannot afford even low bail, which results in pretrial detention, and loss of jobs and income. This affects their ability to keep their homes, support their children, pay their bills, and successfully re-enter society and the workforce.
There is no uniform standard for waiver of fees, and probation and myriad other fees routinely imposed in a criminal case quickly accumulate into debt for those who have little or no ability to pay. A person’s later incarceration for failure to pay fees likely costs the state more than the revenue that the fees would have generated.
Mandatory minimum sentences put too much power in the hands of prosecutors, prevent judges from imposing fair sentences in all cases and further contribute to racial disparities in incarceration.
Defendants facing mandatory minimum sentence minimums have little choice, but to take plea deals that result in incarceration rather than risk longer mandatory incarceration sentences if they go to trial.
Mandatory minimum sentences cast too wide a net and impose overly harsh sentences on people with addiction issues when public dollars would be better spent on treatment programs rather than on incarceration.

Smarter on crime measures

The Council for State Government Justice Center, in its recent study of our court system, noted that 43 percent of individuals sentenced to the House of Corrections (HOC) in 2013 had a prior sentence within three years. Criminal justice reform should matter to everyone because individuals released from incarceration are clearly in need of support and institutional strategies that promote reentry-to-the-workforce and post-incarceration success.
MassINC, a non-partisan think tank, issued a report in 2016 stating that the elevated level of recidivism is a symptom of “tough on crime” era policies, and that too often after incarceration, “prisoners leave hardened and more prone to commit crime than when they entered.” In 2017, MassINC polled voters and found that they largely approve of major criminal justice reforms. Key findings were that a plurality of voters think that we incarcerate too many people, and that the present system increases rather than prevents crime. Voters also want to move in the direction of ending mandatory minimum sentences, permitting people to seal their records sooner, raising the felony-larceny threshold and permitting compassionate release from incarceration of terminally ill people.
MassINC Advisors, grassroots coalitions, such as Jobs NOT Jails and the Juvenile Justice Coalition; Neighbor to Neighbor; ROCA; MassINC, Citizens for Juvenile Justice and other youth groups; civil legal aid (Greater Boston Legal Services and Mental Health Legal Advisors); the League of Women Voters; and busloads of people from EPOCA (an exponenter’s group in Worcester) and the Coalition for Social Justice from New Bedford.
Legislators also are increasingly outspoken about the need for extensive criminal justice reform. Leaders, such as Senators William Brownsberger, Sonia Chang-Diaz, Michael Barrett, Cynthia Creem, Linda Dorcena Forry, James Eldridge, Pat Jehlen and Karen Spilka, and Representatives Mary Keefe, Liz Malia, Evandro Carvalho, Byron Rushing, Claire Cronin, and others, filed bills that address criminalization of poverty, fees and fines, bail reform, gaps in CORI laws, raising of the felony-larceny threshold, racial profiling, “fine time,” expungement, repeal of mandatory minimum sentences in drug cases, and other important issues. The Harm Reduction and Drug Law Reform Caucus and the Black and Latino Legislative Caucus also have been highly visible in their campaigns for criminal justice reform.

Racial inequality

Advocacy for criminal justice reform in Massachusetts is also a call for an end to racial disparities in the criminal justice system. In a post-Ferguson world, the fairness of the legal system is more frequently called into question, and there is greater public awareness that people of color are disproportionately involved in the criminal justice system and often poor. While Massachusetts touts its low incarceration rate as compared to many other states, our incarceration rate in 2014 was seven-and-a-half times higher for blacks than whites, while the ratio for the U.S. was five to one. Our state incarceration rate was 4.3 times higher for Hispanics than whites — much higher than the one-to-four ratio for Hispanics nationwide.

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When people are incarcerated for non-payment, it prolongs the life of their criminal cases and puts their jobs, housing and what little financial stability they have in jeopardy. The same also applies to low-income defendants who cannot make bail. Studies show that detaining low- or moderate-risk defendants, even for short periods of time or with too much supervision, leads to higher rates of recidivism. Pretrial incarceration results in countless people.

The Senate Committee on Post Audit and Oversight studied a sample of defendants serving “fine time” in three counties for failure to pay fees. It found that defendants incarcerated for failure to pay fees had mostly represented themselves at their hearings on non-payment of fees, although over 60 percent of them were previously found indigent for purposes of appointment of counsel. Eighty-three percent of these defendants served over three-quarters of the sentences they received for not paying fees or fines, ostensibly because they could not afford to pay the sums they owed.

Studies show that employment is a major factor in reduction of recidivism and successful re-entry. CORI reform in 2010 was an important first step, but many gaps in the law remain, which impede many people from returning to the workforce and getting their lives back on track. This year’s waiting period to seal misdemeanors and the 10 year waiting to seal felony convictions are too long. Most employers will not hire a person with a criminal record. Waiting periods should never be more than seven years for most crimes because recidivism studies show that after a seven year absence of crime, the risk of a new offense is the same as for a person who never had a record. Most recidivism occurs within 18 months to three years of the last criminal occurrence.

Senator Brownsberger's bill (Senate 777) and Senate 791/ House 2308, filed by Senator Chang-Diaz and Representative Keefe, are critical and comprehensive bills that would address many barriers to employment and re-entry success. The bills would:

- Reduce overly long 10- and five-year waiting periods for sealing of records to three and seven years;
- Permit sealing of resisting arrest convictions, which are now never sealable offenses;
- Increase the felony larceny threshold to at least $1500;
- Clarify the law so as to exclude cases dismissed before arraignment from CORI reports;
- Clarify that no juvenile cases are to be included in adult CORI reports unless the employer has a statutory level of access to CORI that specifies access to such records;
- Clarify that petitioners can say they have “no record” once their records are sealed when applying for housing, and fill other gaps in CORI related laws that make it hard to impossible for people to not disclose sealed records when they apply for housing, and other opportunities.

Senator 777 also would make helpful changes to RMV laws that create barriers to jobs and re-entry including elimination of most license suspensions that are unrelated to use of a vehicle.

In sum, this legislative session has the potential to be life changing for countless people.

'Jobs not jails’ — not just a slogan

Senator Brownsberger’s bill (Senate 777) and Senate 791/ House 2308 also call for a uniform fee waiver standard. Senate Bill 755 and House Bill 3077 would also increase the “fine time” credit for each day served for non-payment of fees from $30 to $90 per day.

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Mandatory minimum sentences endanger public safety

BY PETER Elikann

Mandatory minimum sentences may indeed be tough on certain individual offenders, but they are, ironically, soft on crime.

A plethora of evidence-based research over decades has proved that scarce crime-fighting dollars diverts to mandatory sentencing practices is one of the least effective ways to lower the crime rate and reduce recidivism. These unnecessary mandatory sentences endanger the public by soaking up a lion’s share of resources rather than allocate them to methods that are dramatically more successful in enhancing public safety.

One of the strongest arguments is that, although crime is down everywhere, the states that have followed the evidence-based research and repealed mandatory sentencing have seen the most extraordinary crime drops.

A 2013 Pew study notes that the 10 states with the biggest decline in imprisonment rates saw a larger decrease in crime than the 10 states with the highest imprisonment rate increases.

This may be why a number of conservative states with previous reputations for harsh sentencing have moved further than Massachusetts and reduced or eliminated mandatory sentencing in favor of evidence-based, smart-on-crime legislation, including Texas, Mississippi, Georgia, North Carolina, South Carolina and Kentucky.

A case in point is Texas, where, like many states, it had quadrupled its prison population from 1980 to 2005, and, in fact, built 38 new prisons under then Governor George W. Bush while simultaneously seeing its crime rate rise. Since 2005, as a unique bipartisan right-left alliance in Texas made a concerted effort against mandatory sentencing, the crime rate dropped 22 percent, the incarceration rate is down 12 percent, three adult prisons were closed and Texas has its lowest crime rate since 1968. In every single category of offense, the Texas crime rate is improving faster than the U.S. average.

By keeping more offenders out of prison through its elimination of mandatory sentences, Texas was able to free up money to support more recidivism-reducing programs inside its prison walls for job training, education and reentry, and became a model of efficiency for programs inside its prison walls for job training, education and reentry, and became a model of efficiency.

The following hypothetical question raises the singular best argument against mandatory minimum sentences, bar none: If a person in Massachusetts — perhap s a teenager or a welfare mother given $50 to carry a bag weighing more than 200 grams for a drug dealer — either decides to exercise their right to a trial and loses, or is arrested in a county that, as policy, does not break down mandatory sentences ever, then they will be sentenced to a minimum of a dozen years in prison.

The cost of warehousing one individual will be close to three-quarters of a million dollars. So here’s the question: what if someone said to you something to the effect of “here is almost three-quarters of a million dollars. Take that money and do something with it to fight the scourge of illegal drugs in Massachusetts. I’m giving you free rein — be creative.” Will you take that money and provide drug education to thousands of people? Or will you provide drug treatment to many hundreds of people? Will you decide to exercise their right to a trial and lose, or is arrested in a county that, as policy, does not break down mandatory sentences ever, then they will be sentenced to a minimum of a dozen years in prison.

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At first glance, it might seem that this one-size-fits-all sentencing, where we sentence the offender rather than tailor the punishment to the individual offender, would result in a uniform sentence for one and all of those who committed the same crime regardless of their background and history. But one of the byproducts of this is that prosecutors are too often giving the most draconian sentences to the most minor offenders, since the more high-profile offenders are frequently able to reduce their sentences by providing information. Regardless, there is absolutely no uniformity of sentencing since there are some counties in Massachusetts where the mandatory charge is never ever broken down as a policy; other counties might break it down on only one level as policy, and, if one chooses to go to trial, all hope of such a breakdown is lost. There is inappropriately a staggering inconsistency of sentencing.

A collateral issue is that mandatory sentences disproportionately affect the minority population. Arguments have been heard from both sides on whether this is purposefully intentional or not, but what is indisputable is that this reprehensibly inexcusable disparity exists. The difference is not explained by drug usage rates; whites do not use drugs at lower rates than non-whites. Nationally, African-Americans are four times as likely to be arrested for marijuana offenses, even though both have same rates of use as whites. African-Americans are 13 times more likely to be incarcerated than whites even though they comprise 13 percent of regular drug users. In Massachusetts, in 2013, racial and ethnic minorities comprised 32 percent of all convicted offenders and made up 75 percent of all those convicted of mandatory drug offenses.

The bottom line is that those who divert money from the evidence-based best practices of lowering the crime rate to ineffective mandatory minimum sentences without doing the research may be tough on some individuals, but soft on crime. And that compromises public safety and endangers the lives of the good, law-abiding citizens who pay by the rules.
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