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February 22, 2017

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**Re: Comments on Proposed Amendments Superior Court Rules and Standing Order**

Dear Attorney Peña ,

On behalf of the Boston Bar Association (BBA), I thank you for the opportunity to comment on the proposed Superior Court Rules and Standing Order Revisions. The BBA appreciates and recognizes the efforts put forth by the Superior Court Rules Committee in recommending these revisions.

The proposed amendment to Standing Order 1-88 was discussed by the BBA's Business and Commercial Litigation Law Section, which drafted the attached comments. The comments were reviewed by all BBA Sections and the BBA Council, which approved their submission to the Superior Court Rules Committee.

Please note that the enclosed document does not constitute a position of the BBA as a whole, but rather reflects the views of individual members of the aforementioned groups. We hope that they may be useful to the Superior Court as it considers the proposed revisions.

Thank you for providing members of the bar with an opportunity to weigh in on these important proposed revisions, and please feel free to contact me should you have any questions or concerns.

Very Truly Yours,

Carol Starkey  
President

**Comments of the Boston Bar Association's Business & Commercial Litigation  
Section on Superior Court Standing Order 1-88  
February 22, 2017**

In response to an invitation for comments from the Superior Court, the Boston Bar Association's Business and Commercial Litigation Section reviewed the proposed amendment to Standing Order 1-88.

The BBA notes that these comments do not represent a formal position of the Association, but rather are a collection of comments from interested Section members intended to help the Superior Court in its consideration of the proposed changes to Standing Order 1-88.

Members of the Business & Commercial Litigation Section were generally supportive of the proposed changes, which create a formal "final trial conference" to be held "shortly before trial . . . before the trial judge whenever possible." With a new Superior Court Rule 6 in place as well, setting forth procedures for attorney and self-represented party participation in jury voir dire, it is the expectation of the members that a great deal of the groundwork for voir dire will be laid during the final trial conference.

It has been the experience of members that many Superior Court judges already act to regularize a number of logistical and procedural issues that arise immediately before trial and will not have been ripe when a final pretrial conference was held—sometimes months before trial: the final witness list, the parties' final lists of agreed and contested exhibits, and deposition designations; witness scheduling constraints; and motions in limine.

Still, members felt that the proposed changes to Standing Order 1-88 will be beneficial to Superior Court litigants, in formalizing this "final trial conference" process.

One potential ambiguity in the proposed amendment was identified which may merit additional attention. Section I.2.b.1 requires the parties to submit a "final joint witness list (if different from the final pretrial conference memo)." It was suggested that there be clarification that this language does not authorize unilateral additions to a party's witness list.