



Boston Bar
ASSOCIATION

WINTER 2008

Solo & Small Firm Section

WINTER 2008 Newsletter

A PUBLICATION OF THE BOSTON BAR ASSOCIATION SOLO & SMALL FIRM SECTION

WINTER 2008

1

Section Co-Chairs Corner

We hope that 2007 was a great year for Section members. The 2007-08 program year has gotten off to a strong start for the Solo and Small Firm Section. So far the Section has offered three brown bag programs, all of which were well-received.

In **September** SSF sponsored (with the New Lawyers Section) *Insurance 101: What Insurance Does Your Practice Need?* **Jack Kukowski** of USI Bertholon-Rowland talked about basic insurance needs of the small firm, including malpractice and business owner policies and workers' compensation. Please see Jack's article inside this issue for key points from his presentation on malpractice insurance.

In **November** SSF sponsored (with the Labor and Employment Section) *Approaches to Billing: How and When to Banish the Billable Hour*. **Jay Shepherd** of Shepherd Law Group and **Nina Kimball** of Kimball Brousseau LLP addressed creative alternatives to billing by the hour, after which there was a lively discussion. (We have reprinted in this issue a 2006 Office of Bar Counsel article on fees and billing as a follow-up to the November program.)

Finally, in **December** SSF sponsored (with the New Lawyers Section) *Electronic Marketing: Using E-Mail Newsletters and Blogs to Enhance your Practice*. This well-attended program featured **Zak Barron** of Constant Contact®, **David Harlow** of the Harlow Group LLC, author of "HealthBlawg," and **Edward Wiest**, a solo in Cambridge. The panel shared ideas and entertained questions on how best to use electronic marketing tools in a small practice.

We are busy planning events for 2008 – see Calendar inside for confirmed programs. Additional programs under consideration (for April and beyond) include Marketing to and Working with In-House Counsel, Use of Internet Social Networking Tools and a reprise of the *Managing Client Relations* CLE. We also plan to have an end-of-year social networking event. Check the BBA website at www.bostonbar.org and BBA Week for updates.

We invite all members to join the Steering Committee (see Calendar for meeting schedule). Your participation would be very welcome!

Clare D. McGorrian and **Rodney Dowell**

Inside this Issue

Section Co-Chairs Corner
Page 2

Calendar
Page 3

Spotlight on the Law: Are Your Employment Policies Up-To-Date?

By: James Livingstone
Page 4

Malpractice Insurance for the Small Firm Professional

By: Jack Kukowski
Page 6

The Ethics of Charging and Collecting Fees

By: Nancy E. Kaufman, Esq. and Constance V. Vecchione, Esq.

Page 9

Announcement: Law Office Management Assistance Programs

Page 15

Solo and Small Firm Section Member Directory

Page 16

Section Co-Chairs



Rodney Dowell

Law Office Management
Assistance Program
31 Milk Street, Suite 810
Boston, MA 02109
(857) 383-3250
rodney@masslomap.org



Clare D. McGorrian

Health Law Counsel and Consulting
22 Putnam Avenue
Cambridge, MA 02139
(617) 871-2139
info@cdmhealthcounsel.com

Calendar of Section Events

Steering Committee

The Solo & Small Firm Section Steering Committee is open to **ALL** Section members and their guests. Steering Committee meetings are usually held at noon on the second Monday of the month. The Steering Committee will hold its next meeting on **February 11, 2008, at 12:00 p.m.**

Brown Bag Lunch Series

Thursday, February 7, 2008

12:00 p.m. - 1:30 p.m.

Time Management: Tips for Powering up Productivity and Powering Down Stress

Cosponsored by the New Lawyers Section, Bankruptcy Law and Environmental Law Sections

Speakers: **Anne Braudy**, Braudy Legal Consulting, and **Dr. Jeffery Fortgang**, Lawyers Concerned for Lawyers, Inc.

This program will address how to run a small or solo practice more efficiently, including strategies for combating internal obstacles to applying proven time management techniques.

Wednesday March 26, 2008

4:00 p.m. - 5:30 p.m.

Establishing and Using a Home Office and Sharing Office Space

Special Location: Morse, Barnes-Brown & Pendleton PC, 1601 Trapelo Road, Waltham

Speakers: **Don Lassman**, Esq., **Connie Rudnick**, Esq., and **Morris Robinson**, Esq.

This program will address key considerations for lawyers who are contemplating or have established a home office as well as those who are sharing office space with others. The panelists will bring their varied, real-world experience to bear on the practical and ethical issues arising from the important decision of setting up one's office.

CLE Programs

Wednesday, February 27, 2008

4:00 p.m. - 7:00 p.m.

Residential Purchase and Sale Agreements

Sponsored by the New Lawyers Section and the Real Estate Law Section

Stephen D. Silveri, of the Law Office of Stephen D. Silveri, will provide a paragraph-by-paragraph explanation of the standard form Purchase and Sale Agreement, examining what each means. He will also explain critical modifications that must be made depending on the transaction in order to protect both buyer and seller clients. This program is essential for the new associate, or anyone who is unfamiliar with residential real estate transactions and interested in gaining a better understanding.

Thursday, February 28, 2008

4:00 p.m. - 6:30 p.m. Conference

6:30 p.m. - 7:30 p.m. Reception

Twelfth Annual Superior Court Bench Meets Bar Conference

Sponsored by the Litigation Section and Administration of Justice Section

Join us for this exciting annual conference that covers timely topics in Superior Court practice and procedure. At the conclusion of the seminar, all attendees are invited to attend a reception where you will have the opportunity to meet with the panelists and fellow attorneys. **Chief Justice Barbara J. Rouse** will discuss the state of the Superior Court, and Superior Court Judges and experienced practitioners will discuss current issues and recent developments.

All meetings and programs are held at the BBA, 16 Beacon Street, unless otherwise noted. All interested Section members and guests are invited to attend. Please RSVP by emailing us at sections@bostonbar.org.

Program and meeting dates are subject to change. Please check the weekly BBA e-newsletter for updated information.

Spotlight on the Law: Are Your Employment Policies Up-To-Date?

By James Livingstone

Many employers have to focus on employment issues that arise during this time of year, such as reviewing employees, deciding compensation issues, and other similar issues. As you are addressing these issues, it can also be a good opportunity to review and evaluate the employment policies that your organization has (or does not have) in place.

Review Your Current Employment Policies.

First, it is important to review annually any employment policies that are in effect and make sure they contain the policies that your organization follows and wants to follow. It can take a great deal of time and effort to draft and implement employment policies. The policies you adopt, however, can quickly become outdated as your organization or its needs change. It is important that the policies in place reflect the practices and needs of your organization.

You may be bound by your current policies.

Having updated policies is particularly important as Massachusetts courts have found that policies and personnel manuals that are distributed to employees can create binding commitments on employers. This remains true even if employers may unilaterally change policies unless the policy specifically states that it creates no rights. As the Massachusetts Appeals Court recently stated in *LeMaitre v. Massachusetts Turnpike Authority*, 70 Mass.App.Ct. 634, 641, 876 N.E.2d 888, 893-94 (2007), if an employer does not want to be bound by its policies, it should include “in a very prominent position” a statement that “there is no promise of any kind by the employer contained in the manual; that regardless of what the manual says or provides, the employer promises nothing.”

Make sure policies comply with current laws.

You should also make sure that your policies are in compliance with any recent developments in employment law. You should consult with an employment lawyer to determine what changes, if any, have occurred since you last updated your policies.

Implement New Policies If Needed.

In addition to reviewing employee policies that you have adopted, you may also think about creating and implementing new policies. Employee policies can address any employment issues from vacations to office hours to office filing practices. Written policies can be useful to make sure that all employees are working from the same playbook.

You may be required to have a sexual harassment policy.

Certain types of policies may be important for other reasons as well. For instance, if your company has six or more employees, you are required to have an appropriate sexual harassment policy under Massachusetts law. Such a policy is also important to adopt because it may limit the liability of your organization. In fact, having a sexual harassment policy, which you follow when you receive a complaint, can limit or eliminate your organization’s exposure to liability under federal law. Even if you have less than six employees, it is still a good idea to have a sexual harassment policy. It can be useful to define and discourage inappropriate conduct.

Email and internet policies are useful.

It may also be useful to adopt an internet/e-mail policy for your office. Many employers do not regularly monitor their employee’s internet and email usage. Even if employers do have not the resources or inclination to undertake such efforts, internet and email policies can still serve a purpose. Massachusetts courts have found that employees may have privacy rights with respect

to emails they send using private email accounts from company computers and even some emails sent using company email accounts when companies did not have policies in place specifying that the employees did not have any privacy rights. Such rulings have limited employers' ability to use former employees' emails in litigation against the former employees. Clear and specific email and internet policies help avoid such results.

Make Sure Your Employees Know Your Policies.

Finally, for any policy you adopt, you should make sure that your employees are aware of the policy and have access to the latest version. Many companies distribute policies annually to employees and require the employees to sign an acknowledgement of receipt. This can be an effective way to ensure that your policies have been distributed to all employees.

Conclusion

Employers often overlook the benefits of having and updating employment policies. Employment policies can help provide guidance to employees and avoid disputes down the road. Employers must, however, be careful with whatever policies they adopt because of the potential issues policies can create in employment-related litigation.

If you would like more information regarding employment policies, the websites of the Federal Equal Employment Opportunity Commission (www.eeoc.gov) and the Massachusetts Commission Against Discrimination (www.mass.gov/mcad) have useful information regarding the requirements of federal and state discrimination laws. You may also refer to Mass. Gen. Law, Ch. 151B, § 3A, which outlines the requirements for sexual harassment policies for employers in Massachusetts.

James Livingstone is an Associate at Nystrom, Beckman & Paris. His practice focuses on litigation and employment-related matters. He has extensive experience advising clients regarding employment-related issues and representing them in employment litigation.

Malpractice Insurance for the Small Firm Professional

By Jack Kukowski

Why do insurance companies ask the questions they do? What is “underwriting”? And what does it have to do with paying my claim? I am a good lawyer, so why are my malpractice insurance premiums so high? This article attempts to answer some of these questions and to help you better understand your professional liability insurance needs as a solo or small firm practitioner.

The first question must be: Why do I need professional liability insurance? My answer to that is simple - mistakes happen, and the financial burden to defend one’s actions can be devastating. And it is not necessary that you make a “mistake”, it is only necessary that your client perceives that a mistake was made or that their expectation of a result was unmet.

The American Bar Association started collecting claims data on law firms beginning in 1990. A review of that data shows that anywhere between 4 and 6 percent of lawyers has a claim in any given year. Most never have a claim. Sixty five percent of all claims come from firms with between 1 and 5 lawyers. While approximately half of those claims did not lead to a loss payment, there were defense costs. Out of the 30,000 claims reviewed in the last American Bar Association study, a small but significant minority paid expenses in excess of \$50,000.

Another reason to contemplate buying professional liability insurance is new Rule 4:02, Subsection 2A, which requires that you tell the Board of Bar Overseers (BBO) that you have insurance at the time of license renewal. The BBO will keep that information on file and I am told intends to share it with the public via its website.

In Massachusetts the lawyer has many, many outlets from which to purchase professional liability coverage, all of us marketing ourselves. You choose from whom you buy. So let’s talk a few necessary concepts.

What is “Claims Made”?

“Claims made” is the only available type of policy for lawyers’ professional liability insurance. It is unlike your automobile or homeowner’s policy. In these policies, the accident happens, and three or four years later (statutes of limitations aside), you are sued. The policy in force at the time of the accident is the policy that responds to the claim. These are called “occurrence” policies because the occurrence triggers the loss defense. These occurrence forms have generally not been available for lawyers since the late 1980’s.

Claims Made is a policy that is triggered by *when the claim is made* against the law firm. In its purest form, it means that the policy in force when the claim is actually made against you is the policy that will defend (assuming there is coverage), regardless of when the “accident” or incident occurred. It is a mechanism for underwriters to use current pricing structures to more adequately pay for the claims that are presented. But few “pure” policies are sold.

Some key terms:

- **RETROACTIVE DATE** or **PRIOR ACTS DATE**. This is the date when coverage starts. Any claim against the policy must BOTH occur *and* be made after this date.
- Most policies are **CLAIMS MADE AND REPORTED**, which means not only that the claim must be made in the policy year, but also reported in the same policy year. A circumstance that becomes known must be reported in that policy year, or the lawyer runs the risk of a declination in the future.
- **NOTICE**. The notice provisions of the policy generally require the insured to report a claim as soon as practical. Prompt reporting protects your rights to coverage in the future.

- **APPLICATION.** The application generally becomes part of the policy and statements therein are relied upon by the insurance company. Some companies treat the statements made in the application as warranties made by the applicant firm. Most treat them as representations. Misstatements or false statements can lead to the rescission of the policy.
- **EXTENDED REPORTING PERIOD.** There are legitimate circumstances under which a claims made policy must end. These could include, but are not limited to, the death of the lawyer, the dissolution of the firm, the non-renewal of coverage and subsequent inability of the firm to purchase prior acts coverage. Most claims made policies contain a provision that for a sum of money, the policy can extend the period of time (into the future) during which a claimant can make a claim against the policy. For an additional premium, a firm can purchase a block of time equal to one, two, three years or up to an unlimited period. It is important to note that most companies extend the last policy period and whatever limits are left in that policy. If there have been claims, then the limit is decreased by that amount.

What is a claim?

A *claim* is a demand for money or a demand for a refund, free work or something similar. A *circumstance* is an act or situation that could give rise to a claim, such as an expression of dissatisfaction with the work done, or a fact pattern where a claim is possible. Let me give you an example.

An estate planning attorney is assisting the spouse of a nursing home patient (the actual client) in an application for Medicaid. He advises that the spouse contact one of a list of financial advisors to annuitize excess assets to comply with Medicaid assistance guidelines by keeping those assets below a regulated limit. The spouse engages her own advisor, who annuitizes close to the limit. The application was denied as the total assets had grown in value and were then above the set limit. The firm has since appealed on the basis that there is no regulation that assets be kept below that limit after the application is made, but no decision has been made. The spouse has expressed frustration and unhappiness and has pointed the finger of blame, but no demand for damages.

Is this a *circumstance*?

What effect does a claim have on underwriting?

Every insurance company has an established procedure about claims and pricing. These procedures can involve the use of a “surcharge” that is applied to the base premium. However, the following should be noted:

- The use of a surcharge is usually determined by the size of the claim, often as a function of the deductible. For example, a claim may not be subject to a surcharge unless the paid value exceeds twice the deductible amount.
- The surcharge usually applies in a declining percentage for a period of up to 5 years. That percentage varies based on the company, but could be as high as 50 percent.

Frequency and severity of claims are also key issues. In response to a large loss a company’s reaction may be curative (such as non-renewal) but that is not always the case. The reason is that a single claim may not be indicative of the firm’s risk management procedures. However, a series of small claims is often indicative of some activity that is endemic within the firm – inadequate supervision, for example.

What Limit of Liability should I buy?

There is no clear path to choosing the limit of liability for a law firm. Often the decision is driven by cost, sometimes by client demand. Here are some guidelines:

- Consider the monetary value of the matters handled by your firm. Consider the potential economic damage to your firm if a claim arose from your biggest case. Many lawyers rely on this worst case scenario approach. Others use a factor of 2X or 3X.
- Determine whether your practice concentrates in areas of law that have a higher frequency of claims. Loss experience studies identify plaintiff personal injury and real estate matters (especially in New England) as having the highest frequency. Lower frequency areas (but still high) include business transactions, family law, collection/bankruptcy, workers’ compensation and estate planning.

- Take into account the personal assets of the attorneys in the firm.
- Consider the number of attorneys in the firm.
- Evaluate the known risk factors:
 - Do you have an active risk management program?
 - Are you confident in your docket, work control, conflicts check, filing, and mail handling procedures?
 - Do you have a good reputation?
 - Do you provide training for all new attorneys and staff?
- The need for higher limits may remain after the nature of services rendered changes.
- Does a statute of limitations apply to your work? Is it short or long? When does it trip?
- Keep in mind that the costs of defense are most often included within the limit of liability. Defense costs vary with the complexity of the case and are always paid before any indemnity. Will there be enough left?
- Understand what “Claims Made” means. It generally means that the limit of liability in force at the time the claim is made against you is the one that will defend the case. Exposure to claims GROWS over time as more and more matters have been handled. Therefore, the limit of liability chosen 10 years ago may not be adequate today.
- Similarly, the value of money erodes year to year, if for no other reason than simply due to inflation. \$100,000 does not buy as much today as it did 5 years ago.

*This article is based on a talk given by **Jack Kukowski** at the BBA on September 21, 2007, on insurance issues affecting solos and small firm lawyers. Mr. Kukowski is Regional Sales Executive for USI Bertholon Rowland in Boston. He can be reached at 800-747-1018 or jkukowski@brcorp.com.*

The Ethics of Charging and Collecting Fees

By Nancy E. Kaufman, Esq. & Constance V. Vecchione, Esq.

Board of Bar Overseers, Office of Bar Counsel

Bar Counsel's Handling of Fee Complaints

Lawyers' fees are a frequent cause for complaint to the Office of Bar Counsel. In particular, approximately 10% of the 6000 inquiries received annually by Bar Counsel's Attorney and Consumer Assistance Program (ACAP) involve fee disputes. ACAP is often able to resolve these complaints by contacting the lawyer and having him or her provide a written explanation and itemization of the fees charged, or advising the parties of the availability of fee arbitration or other forums for mediating the dispute. If the dispute cannot be resolved through ACAP or the complaint alleges disciplinary violations, a file will be opened.

Rules of Professional Conduct and Ethical Considerations in Fee Cases

Duty to Charge a Reasonable Fee

The Massachusetts Rules of Professional Conduct (Mass. R. Prof. C.) prohibit clearly excessive fees. Mass. R. Prof. C. 1.5(a). "Clearly excessive" is not defined. The rule lists eight factors considered in deciding whether a fee is "clearly excessive." These factors include the time and labor required, the fee customarily charged, the nature and length of the professional relationship, the reputation and ability of the lawyer, and whether the fee is fixed or contingent. A fee may also take into account, in proper circumstances, the result obtained. When the client and the lawyer agree to payment on a time-charge basis, however, the lawyer may not unilaterally charge a bonus or premium on top of time charges for results obtained. *Beatty v. NP Corp.*, 31 Mass. App. Ct. 606 (1991).

A fee may be clearly excessive and in violation of Mass. R. Prof. C. 1.5 even where an attorney performed the work billed according to an agreement with the client, if the fee is grossly disproportionate to what was required in the case and customarily charged for such services. In *Matter of Fordham*, 423 Mass. 481 (1996), the court censured an attorney who charged \$50,000 for an OUI case. The fee was calculated on an hourly basis. The time charged was expended in

a conscientious and diligent manner, some of it in becoming conversant with such cases since the lawyer did not have experience in district court. The court nonetheless found the lawyer (an experienced civil litigator) and his associates had devoted substantially more hours than would have been spent by a prudent experienced lawyer and the fee charged was much higher than the fee customarily charged for this type of bench trial. The court observed,

It cannot be that an inexperienced lawyer is entitled to charge three or four times as much as an experienced lawyer for the same service. A client "should not be expected to pay for the education of a lawyer when he spends excessive amounts of time on tasks which, with reasonable experience, become matters of routine."

Consideration is also given to the work performed for the fee. It is generally improper to charge for non-legal work at legal rates. See *The Matter of Kliger*, 18 Mass. Att'y Disc. R. 350 (2002), where a public reprimand was imposed for inadequate record keeping and charging an excessive fee by charging legal rates for non-legal services, including acting as caretaker for a mentally ill but legally competent client.

Duty to Explain the Fee

The rules require a lawyer who has not regularly represented a client to communicate the basis or rate of the fee, "preferably in writing," before or within a reasonable time after commencing the representation. Mass. R. Prof. C. 1.5(b). When the fee is not contingent, the fee agreement need not be in writing. Good practice dictates a written fee agreement to prevent surprise or confusion. Mass. R. Prof. C. 1.5(c) provides that a fee may be contingent on the outcome of the matter for which the service is rendered, except where a contingent fee is prohibited by Mass. R. Prof. C. 1.5(d) or other law. The use of a percentage by an attorney to calculate his reasonable fees at the conclusion of a case does not automatically constitute a contingent fee, although it is a strong indication that a contingent fee is being collected. See *Matter of Saab*, 406 Mass. 315, 320 (1989). The

question is whether the collection of all or part of the fee is contingent by agreement of the lawyer and the client upon the outcome of the case. A percentage fee might be excessive if the client was bound to pay it regardless of the outcome, since a lawyer is not entitled to collect for the risk factor associated with contingent fees in such circumstances. See *Matter of the Discipline of an Attorney*, 2 Mass. Att’y Disc. R. 115 (1980).

Mass. R. Prof. C. 1.5(c) requires a contingent fee to be in writing. See *Grace & Nino v. Orlando*, 41 Mass. App. Ct. 111 (1996) (lawyer’s attempt to introduce parol evidence to explain ambiguity improper; any portion of a contingent fee agreement not in writing would not comply with then SJC Rule 3:05 and would be champertous and unenforceable). It must be signed in duplicate, and the lawyer must provide a signed duplicate copy to the client within a reasonable time after making the agreement. The lawyer must also retain a copy of the contingent fee agreement for seven years after the conclusion of the contingent fee matter. There are two exceptions to these requirements. Contingent fee agreements for collection of commercial accounts or insurance subrogation claims need not be in writing and need not contain all the information set forth in Mass. R. Prof. C. 1.5(c).

Mass. R. Prof. C. 1.5(f) suggests a form for contingent fee agreements. A lawyer’s failure to have a properly executed contingent fee agreement ordinarily results in discipline.

Mass. R. Prof. C. 1.5(d) prohibits charging a contingent fee in a criminal case and in a “domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of alimony or support, or property settlement in lieu thereof.”

Lawyers settling contingent fee cases through structured settlements cannot collect the fee by calculating the agreed-upon percentage on the total settlement figure. Instead, the lawyer must either take the applicable percentage from each installment payment as it is received or calculate the total contingent fee based on the present value of the total settlement or of the annuity purchased by the insurer to fund the settlement. (See, however, *Doucette v. Kwiat*, 392 Mass. 915, n.1 (1984), which cited decisions from other jurisdictions invalidating contingent fees calculated on a present value basis without reaching whether such calculations are

permissible in Massachusetts.) *Matter of Callahan*, 11 Mass. Att’y Disc. R. 23 (1995), and *Private Reprimand no. 90-34*, 6 Mass. Att’y Disc. R. 439 (1990), are two excessive fee disciplinary cases involving attorneys who took their fees up front on the total of the installment payments rather than applying the percentage to the present value of the settlement, thereby collecting a clearly excessive fee in violation of former DR 2-106. When the possibility of a structured settlement is foreseeable, lawyers should set out the method by which the lawyers’ fees will be calculated in the event of a structured settlement in the written agreement.

Ambiguities in any fee agreement are construed against the lawyer who drafted it. In *Matter of Kerlinsky*, 406 Mass. 67 (1989), an attorney was publicly censured for, among other things, unilaterally increasing the one-third percentage fee provided for in the contingent fee agreement to one-half of a tort recovery for handling a successful appeal from a defendant’s verdict. Absent a valid supplementary agreement for extra compensation in the event an appeal was taken, the one-third cap set forth in the fee agreement was construed as including all services, including an appeal, which led to the recovery. Kerlinsky was required to make restitution pursuant to G.L. c.221, §51, which provides that a lawyer who unreasonably neglects to pay over money collected for the client shall forfeit five times the lawful rate of interest on the money from the time of demand. See also *Grace & Nino, Inc. v. Orlando*, supra, construing an “obscurity” in a contingent fee agreement against the attorneys who drafted it.

In *Cambridge Trust Company v. Hanify & King*, 430 Mass. 472 (1999), the lawyers and client had negotiated a contingent fee agreement which provided that the law firm be paid a percentage of the amount recovered. The underlying claim went to arbitration. The arbitrator awarded damages and attorney’s fees. The firm claimed to be entitled to apply its percentage fee to the aggregate of the awards of damages and attorney’s fees. The client sought to limit the lawyers’ recovery to the awarded fees. The court held that the attorneys were entitled to a percentage of the sum of both awards under the circumstances presented, because the language in the agreement was clear and the clients were sophisticated and had independent counsel during the negotiation of the fee agreement. The court held, however, that “where a contingent fee agreement is ambiguous or silent as to how attorney’s fees are to be treated, the contingent percentage must be calculated on the total amount minus the court-

awarded fees, with the attorney awarded the greater of the two amounts.” *Hanify*, supra at 479. The form of contingent fee agreement in Mass. R. Prof. C. 1.5 has since been amended to reflect this default rule.

Settlement or discharge of outstanding liens is ordinarily part of the services provided in return for a contingent fee. A lawyer who retained additional funds from a structured settlement as a fee for settling liens violated G.L. c.221, §51, and was required to pay the amount withheld plus interest at five times the lawful rate from the date of the client’s demand for payment. *Doucette v. Kwiat*, 392 Mass. 915 (1984). See also *Delano v. Milstein*, 56 Mass. App. Ct. 923 (2002), overturning a superior court order requiring a lawyer who wrongfully withheld trust funds to repay the funds plus two times the lawful rate of interest. The Appeals Court ruled that the multiplier of five is mandatory, not discretionary. It is unprofessional conduct to collect a contingent fee for collecting a routine PIP payment. MBA Ethics Op. 77-7.

An attorney discharged from a case before obtaining recovery may not ordinarily recover under the contingent fee agreement but may recover under quantum meruit. For this reason, lawyers should keep time records even if the agreement provides for a contingent fee. *Salem Realty v. Matera*, 10 Mass. App. Ct. 571 (1980), aff’d, 384 Mass. 803 (1981).

Malonis v. Harrington, 442 Mass. 692 (2004), considers the liability of the client and successor counsel, Harrington, for paying a fee claimed by prior counsel, Malonis, whom the client had discharged in good faith prior to the conclusion of a contingent fee case involving an automobile accident. Malonis had performed significant work on the case prior to his discharge, including filing a complaint and conducting discovery. After being discharged, Malonis sent a notice of lien to the client; Harrington; and BFI, the self-insured employer of the operator of the other vehicle involved in the accident. Harrington settled the case with BFI, assuring BFI that he “would take care of” Malonis. Id. at 695. Harrington refused, however, to pay any portion of his fee to Malonis, deeming Malonis’s demand “ridiculous.” Id. Malonis then sued the client, Harrington, and BFI.

The court disposed of the immediate question of liability by holding Harrington responsible for paying the fee due to his explicit assumption of responsibility at the time of settlement for “taking care of” Malonis. The court recognized, however, the confusion that exists in sorting out the respective responsibilities of prior counsel, successor counsel, and the client in

satisfying the legitimate quantum meruit demands of a lawyer who is discharged before the conclusion of a contingency fee case.

To address the confusion, the court referred the question to its standing advisory committee on the rules of professional conduct. In the interim, the court laid down certain principles to be followed pending the adoption of a rule. Citing the strong fiduciary duty lawyers owe to clients, the court noted that Rules 1.16(d) and (e) require a withdrawing lawyer to take reasonable steps to protect the client’s interest. That duty includes discussing with the client the consequences of the discharge and the lawyer’s expectation of being paid for work performed. Id. at 700. In addition, Mass. R. Prof. C. 1.4(b) requires a lawyer to advise the client sufficiently to enable the client to make informed decisions about the representation. Consequently, the lawyer who is discharged and the successor lawyer share an obligation to have a “frank discussion” with the client about the discharged lawyer’s expectation of being paid and whether that fee will come from the client’s share or the lawyer’s share of the recovery. Id. at 701. The obligation to communicate the basis of the fee to the client is also found in Mass. Rules of Prof. C. 1.5(b), to have a clear written contingent fee agreement in Mass. R. Prof. C. 1.5(c), and to refrain from charging a clearly excessive fee in Mass. Rules of Prof. C. 1.5(a). “A client should never be made to pay twice.” Id. at 702.

To avoid disputes in the future, we would advise successor counsel, before he or she receives the case, to confer with the client on the issue and to execute a written agreement unambiguously identifying the party responsible for payment of former counsel’s reasonable attorney’s fees and expenses. Id. at 702. Absent an express agreement to the contrary, the client will properly assume that both lawyers will be paid from the contingent fee obtained under the second agreement. Id. at 701-702. The “advice” given in the opinion “shall govern the situation” until further recommendations are made.

Mass. R. Prof. C. 1.5(c) also requires in contingent fee cases that the lawyer provide the client with a written statement as to the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination. In addition, a lawyer must account for the receipt, maintenance, and distribution of funds. Mass. R. Prof. C. 1.15.

Mass. R. Prof. C. 1.8(e) permits the repayment by the client of court costs and expenses of litigation to be

contingent on the outcome of the matter. This option is reflected in the language of clause 3 of the form of contingent fee agreement set out in Mass. R. Prof. C. 1.5.

Duty to Provide Notice to Clients as Fees are Withdrawn

Mass. R. Prof. C. 1.15 was substantially amended as of July 1, 2004. The rule mandates detailed accounting and record keeping for client funds. Mass. R. Prof. C. 1.15(d) requires, first, that upon final distribution of any trust property or upon request by the client or third person on whose behalf a lawyer holds trust property, the lawyer shall promptly render a full written accounting regarding such property, and second, that on or before the date on which a withdrawal from a trust account is made for the purpose of paying fees due to a lawyer, the lawyer shall deliver to the client in writing an itemized bill or other accounting showing the services rendered, written notice of amount and date of the withdrawal, and a statement of the balance of the client's funds in the trust account after the withdrawal.

Division of Fees

Mass. R. Prof. C. 1.5(e) governs division of fees among lawyers. Lawyers are permitted to divide fees with members of their firms or with former members pursuant to a retirement or settlement agreement without client consent. Mass. R. Prof. C. 1.5(e) provides that a lawyer may divide a fee with a lawyer who is not a partner or associate in the same firm only if the client has been informed that a division of fees will be made, consents to the joint participation, and the total fee is reasonable. Although the rule does not so specify, the SJC has held that the client's consent must be in writing. See *Saggese v. Kelley*, 445 Mass. 434 (2005). Thus, the client must consent in advance and in writing to the lawyer's payment of a referral fee. Further, the comments to the rule note that, although the lawyer is not required to volunteer the specific fee division between counsel, if the client requests that information, then the lawyer is required to disclose the share of each lawyer.

In *Matter of Kerlinsky*, 406 Mass. 67 (1989), the attorney violated former DR 2-107(A)(1) by withholding an additional 15% of a tort recovery to pay for services of an out-of-state attorney when the client did not receive full disclosure and did not give his prior consent to the arrangement. See also *Matter of Fine*, 12 Mass. Att'y Disc. R. 149 (1996), a public reprimand holding that a lawyer who divides his fee

with another lawyer is obligated to assure himself that the client has consented to the fee split.

A lawyer has special responsibilities if someone other than the client is paying the fee. Mass. R. Prof. C. 1.8(f) provides that the client must be consulted and consent in advance if the lawyer's fee is to be paid by a person other than the client, and, of course, that there be no interference with the lawyer's independent professional judgment or with the client-lawyer relationship. The client does not surrender any rights or privileges because he or she is not paying the fee. It is the client, not the person paying the fee, who directs the lawyer's actions.

Fee Disputes

When the client disputes the right of an attorney to withdraw a fee from funds the lawyer is holding, the lawyer may not pay himself or herself and leave the client to his or her remedies. The lawyer is required to turn over to the client the funds belonging to the client and maintain the disputed funds in escrow until the dispute is resolved. Mass. R. Prof. C. 1.5(c). Lawyers should attempt to avoid fee controversies with clients and should not lightly sue a client. Among other concerns, a lawsuit against a client for fees is an invitation to a counterclaim for malpractice. See *Fishman v. Brooks*, 396 Mass. 643 (1986).

Mass. R. Prof. C. 1.15(b)(2), as revised effective July 1, 2004, restates and clarifies an attorney's obligation to hold disputed fees in trust. The revised rule confirms that a lawyer who knows that the right of the lawyer or law firm to receive such portion is disputed shall not withdraw the funds until the dispute is resolved. A new provision of the rule requires that the disputed portion must be restored to a trust account until the dispute is resolved if the right of the lawyer or law firm to receive such portion is disputed within a reasonable time after the lawyer sends the notice required by Rule 1.15(d) that the funds have been withdrawn.

G.L. c. 221, §50, is the only statute that establishes an attorney's lien ("charging lien"). There must be an authorized commencement of an action, counterclaim, or other proceeding in any court or before any state or federal department, board, or commission. In such matters, the attorney may assert a lien for reasonable fees upon the judgment, decree, or other order in the client's favor and upon the proceeds derived therefrom. *Boswell v. Zephyr Lines, Inc.*, 414 Mass. 241 (1993); *Cohen v. Lindsey*, 38 Mass. App. Ct. 1 (1995).

The attorney may not withhold the file from the client to collect a fee. Mass. R. Prof. C. 1.16(e) requires an attorney to make available to a former client all papers and documents that the client supplied and all pleadings and other court papers. The lawyer can require reimbursement for out-of-pocket expenditures for items such as depositions, photographs, reports, or medical records before turning them over and, if the lawyer and client have not entered into a contingent fee agreement, may withhold work product for which the client has not paid. Payment for these expenditures and work product may not be required as a condition of turning over the documents if withholding the materials would prejudice the client unfairly.

In *Torphy v. Reder*, 357 Mass. 153 (1970) the court held that the attorney may not assert a possessory lien upon client property (stock certificates and bankbooks) held for a special purpose or as escrow agent. A lawyer may not secure a fee by taking a lien on the subject matter of the litigation except in contingent fee cases. Mass. R. Prof. C. 1.8(j). MBA Op. 91-1 advises that a lawyer may not take as a retainer in a divorce case a promissory note secured by the marital home where it is foreseeable that the home part of the subject matter of the divorce; *Private Reprimand 92-32*, 8 Mass. Att’y Disc. R. 325. Where otherwise appropriate, an attorney under Mass. R. Prof. C. 1.8(j) may acquire a lien granted by law, including pre-judgment attachment or trustee process, to secure the collection of fees. See also BBA Op. 93-2.

Attorneys sometimes send notice to successor counsel or an insurer regarding fees owed. There is no authority for requiring an insurance company or successor counsel to honor such notices. It would be deceptive and misleading on the part of the attorney to suggest otherwise. The former client’s directives must take precedence. A notice sent to either successor counsel or an insurance company must not imply that the attorney has an enforceable lien unless a statutory lien has been filed under G.L. c.221, §50.

Mass. R. Prof. C. 1.6(b)(2) permits a lawyer to reveal confidences or secrets necessary to establish a claim on behalf of the lawyer in a controversy between the lawyer and the client. Comment 19 to Rule 1.6. However, disclosure of information must be restricted to that information and those persons essential to collect the fee and must not unduly prejudice the client. See *Private Reprimand 94-2*, 10 Mass. Att’y Disc. R. 309 (1994) (lawyer revealed confidences and secrets beyond those “necessary” to collect the fee).

Retainers

A “classic” retainer binds the attorney to employment for ongoing services and to the exclusion of adverse parties. The retainer is seen as payment for the establishment of this exclusive relationship. The advantage to the client is in securing the services of the lawyer of choice over a period of time, while the lawyer foregoes the possibility of employment by others whose interests might be adverse to the client. The payment is in return for the attorney’s agreement to be bound to the client and is therefore “earned” when paid. *Blair v. Columbian Fireproofing Co.*, 191 Mass. 333 (1906). Retainers may be considered as earned when paid when the attorney makes clear to the client that the attorney will have to forego other work to take on the case and the total fee is reasonable.

More typically, the word “retainer” refers to the payment of a fee in advance to the lawyer for a particular service or in a particular case. The fee is earned as services are provided. Retainers paid in advance are client funds and must be deposited to a trust account until earned by the lawyer. Mass. R. Prof. C. 1.15.

Retainers should be deposited to an IOLTA account unless the lawyer believes the retainer will be held for a substantial period of time or unless the retainer is so large that it will generate significant interest. In that case, the retainer should be deposited to an individual trust account. Mass. R. Prof. C. 1.15(e). Since the lawyer may not commingle personal funds with client funds, the lawyer must promptly withdraw the fee from the client funds account as it is earned. Mass. R. Prof. C. 1.15(b)(2). *Matter of Karahalios*, 7 Mass. Att’y Disc. R. 130 (1991).

As noted above, Mass. R. Prof. C. 1.15 requires lawyers to maintain appropriate records regarding the receipt, maintenance, and distribution of client funds. Retainers are in this category. Mass. R. Prof. C. 1.15(d) requires the attorney to render a full written accounting upon final distribution of trust property or upon request of the client or third person entitled to the funds, as well as to provide an itemized bill or accounting, written notice of the amount and date of the withdrawal, and a statement of the balance each time that the lawyer withdraws any part of the retainer from the trust account to pay his or her fees. Mass. R. Prof. C. 1.5(c) also requires written accountings at the conclusion of contingent fee matters.

A flat fee or non-refundable fee, as with all other fees, must be reasonable. The fee may not interfere with client's right to discharge the attorney at any time. Mass. R. Prof. C. 1.16(a)(3). In *Smith v. Binder*, 20 Mass. App. Ct. 21 (1985), the clients paid the attorneys a retainer of \$8,500 for representation in criminal case. The clients sued the attorneys for an accounting and refund after they discharged the attorneys three weeks later. The attorneys claimed the fee was non-refundable and asked the court to take judicial notice that it is an accepted custom and practice among attorneys of the criminal bar that retainers taken in connection with representation of criminal defendants are non-refundable. The trial judge found that the plaintiffs knew the fee was non-refundable. The Appeals Court reversed, finding no evidence to support that finding. In a footnote, the Appeals Court noted authority that requiring a client to agree to a non-refundable fee was unethical. In its opinion, the Appeals Court observed that the right to change lawyers at any time was "[e]ssential to the lawyer client relationship" and that, if the lawyer were permitted to keep the unearned portion of the fee, the right to change lawyers would be of little value. See also *Matter of Cooperman*, 633 N.E.2d 1069 (N.Y.Ct. App. 1994), holding that non-refundable special retainers are unethical and unconscionable, and MBA Op. 95-2, advising that an attorney may not enter into a fee agreement with a client for a particular case or service if the agreement requires the client to pay a non-refundable retainer, citing the Cooperman decision.

For further guidance about the ethics of charging and collecting fees, please visit the Office of Bar Counsel website, www.mass.gov/obcbbo.

Edited by Alison Mills Cloutier, Esq. Copyright 2006 by the Massachusetts Board of Bar Overseers, Office of Bar Counsel. All rights reserved. Reprinted with permission.

Announcement: Law Office Management Assistance Program

In July 2007 the Law Office Management Assistance Program (LOMAP) was launched with the support of the Office of Bar Counsel, the Board of Bar Overseers, and the Massachusetts judiciary. Rodney Dowell, co-chair of the Solo and Small Firm Section, is LOMAP's director. LOMAP focuses on the "business of law," assisting with practice management issues, including but not limited to:

- Technology Consulting
- Calendaring and Docketing Systems
- Billing and Collecting
- Time-keeping Systems
- Time management
- File Maintenance
- Trust Accounting Instruction
- Malpractice Insurance Decisions

The goal of LOMAP is to help lawyers establish and institutionalize professional office practices and procedures in order to increase their ability to deliver high quality legal services, strengthen client relationships, and enhance their quality of life. LOMAP consults with attorneys, provides reference materials, participates in educational programs, and makes referrals to other professionals where appropriate. These services are currently free and are always confidential.

A typical LOMAP client would be a solo or small firm practitioner who is just starting out and wants assistance creating a business plan or partnership agreement, or a lawyer who needs assistance learning how to reconcile the IOLTA. Lawyers often also call about software that has been purchased, but is not being effectively implemented, or one who is in the market for new equipment but doesn't want to over-buy. LOMAP addresses each of these needs.

For more information on the Massachusetts Law Office Management Assistance Program, visit www.masslomap.org or call toll-free (888) 545-6627.

Solo & Small Firm Section Member Directory 2007-2008†

SECTION CO-CHAIRS

Clare D. McGorrian

Health Law Counsel & Consulting
22 Putnam Avenue
Cambridge, MA 02139
Tel: (617) 871-2139
Fax: (617) 871-2141
info@cdmhealthcounsel.com

Practice Areas: Health insurance eligibility/ coverage, consumer health care law

Rodney S. Dowell*

Director, Law Office Management Assistance Program
31 Milk Street, Suite 810
Boston, MA 02109
Tel: (857) 383-3250
Fax: (617) 482-9909
rodney@masslomap.org

Practice Areas: Law Practice Management Advisor and Consultant

SECTION LIAISON TO BBA

Alexis Hill

LRS & Member Benefits Manager
16 Beacon Street
Boston, MA 02108
Phone: (617) 778-1976
Fax: (617) 778-1977
ahill@bostonbar.org

† **EDITOR'S NOTE:** This directory does not reflect the entire Section membership. Listings are based on participation in the Section Steering Committee and other activities and responses to the spring 2007 survey. (Additions and changes since May 13, 2007 are marked with an asterisk.) Please let a Section Cochair know if you wish to be included in the next printing of the directory.

MEMBERS

John Barker

Michienzie & Sawin, LLC
745 Boylston Street, 5th Floor
Boston, MA 02116
Tel: (617) 227-5660
Fax: (617) 227-5882
jb@masatlaw.com

Practice Areas: Civil litigation, employment (employer-side), commercial, products liability, insurance defense/coverage, First Amendment

John H. Bernstein

65 Franklin Street, Suite 300
Boston, MA 02110
Tel: (617) 357-9123
Fax: (617) 482-6581
bernsteinjhb@comcast.net

Practice Areas: Commercial/ business litigation, collections, landlord-tenant, employment/ discrimination and other civil litigation

Susan A. Bernstein

Susan A. Bernstein, Attorney at Law
1000 Winter Street, Suite 1100
Waltham, MA 02451
Tel: (781) 290-5858
Fax: (781) 290-7589
Sabernlaw@aol.com

Practice Areas: Environmental, Land Use, Real Estate

Anita Bille

President and CEO
Legal Search Solutions LLC
P.O. Box 76
Hopkinton, MA 01748
Phone: (508) 497-0960
Fax: (508) 435-0036
abile@legalsearchsolutions.com
Practice Areas: Professional Legal Search Consultant

Anne Braudy*

Braudy Legal Consulting
P.O. Box 470454
Brookline, MA 02447
Tel: (617) 232-3644
anne@annebraudy.com

Practice Areas: Law Practice Management Advisor and Consultant

Steven A. Clark

Flynn & Clark, P.C.
One Main Street
Cambridge, MA 02142
Tel: (617) 354-1550
Fax: (617) 661-2576
sclark@flynnclark.com

Practice Areas: Immigration for corporate, managerial and professional clients

Drew Colby*

Colby Law Office
110 Cedar Street, Suite 250
Wellesley MA 02481
Tel: (781) 431-7300
Fax: (781) 431-7301
www.construction-lawyers.com

Practice Area: Construction law

Susan J. Crane

Law Office of Susan J. Crane
34 Robert Best Road
Sudbury, MA 01776
Tel: (978) 440-8700
Fax: (978) 440-8777
sjc@susancrane.com

Practice Area: Environmental

Joan B. Di Cola

Law Office of Joan Di Cola
63 Atlantic Avenue
Boston, MA 02110
Tel: (617) 227-8886
Fax: (617) 227-3384
jdicola@socialaw.com

Practice Areas: Tax, estate planning and business

Gina DiMento

58 Emerson Road
Winthrop, MA 02152
Tel: (617) 526-8964
gmdimento@gmail.com

Practice Area(s): Corporate, business, securities

David T. Dinwoodey

Business Law Section Liaison
15 Broad Street, Suite 305
Boston, MA 02109
Tel: (617) 367-9050
Fax: (617) 367-9559
dtdlaw@comcast.net

Practice Areas: Corporate finance, business transactions

Edward F. Dombroski, Jr.

Travers Dombroski, P.C.
75 Federal Street
Boston, MA 02110
Tel: (617) 423-0099
Fax: (617) 423-5880
efd@traverslaw.com

Practice Areas: Family law (prenuptial agreements, divorce, custody, modifications/enforcement of judgments)

Richard P. Duffley

Law Office of Richard P. Duffley, PhD
378 Treble Cove Road
Billerica, MA 01862
Tel: (978) 670-5930
Fax: (978) 670-5930
Rduffley@aol.com

Practice Areas: Patent Drafting, Estate Planning

Stephanie F. Dyson*

Dyson Law, P.C.
60 State Street, Suite 700
Boston MA 02109
Tel: (617) 248-0861
Fax: (617) 607-9311
stephaniedyson@dyson-law.com

Practice Area: Immigration Law

Pauline Edmonds*

29 Farragut Road
Boston, MA 02127
Phone: (617) 222-7515

Practice Areas: Elder, Family, Real estate

Nan Elder

Bowman Moos Elder & Noe LLP
222 Third Street, Ste. 3220
Cambridge, MA 02142
Phone: (617) 494-8808
Fax: (617) 494-8960
elder@bmenlaw.com

Practice Area: Family Law

Agnes Acosta Escurel

Cambridge Lawyers Group, LLC
929 Massachusetts Avenue, Suite 01
Cambridge, MA 02139
Phone: (617) 868-2500
Fax: (617) 868-2520
senga8@gmail.com

Practice Areas: Immigration, Family, Personal Injury

John David Ferrer

Law Offices
24 Union Ave., Suite 3
Framingham, MA 01702
Phone: (508) 626-0352

Practice Area: ADR

Thomas G. Fiore

Urbelis & Fieldsteel, LLP
155 Federal Street
Boston, MA 02110
Tel: (617) 338-2200
Fax: (617) 338-0122
tgf@uf-law.com

Practice Areas: Environmental compliance counseling, brownfields development, land use

Edmund J. Gorman

Law Office of Edmund J. Gorman
19 Middle Street
Boston, MA 02127
Tel: (617) 269-2229
Fax: (617) 269-4484
Lawejg@aol.com

Practice Areas: Environmental, land use, business transactions and civil litigation

Peter A. Hahn

Law Office of Peter A. Hahn
22 Putnam Avenue
Cambridge, MA 02139
Tel: (617) 871-2140 ext. 102
Fax: (617) 871-2141
peter@peterhahnlaw.com

Practice Areas: Juvenile delinquency, CHINS, education, DSS

William E. Hannum III

Schwartz Hannum PC
11 Chestnut Street
Andover, MA 01810
Tel: (978) 623-0900
Fax: (978) 623-0908
whannum@shpclaw.com

Practice Areas: Labor and Employment Law

Ed Juel

Law Offices of Edward J. Juel
Six Beacon Street, Suite 600
Boston, MA 02108
Tel: (617) 523-5835
Fax: (617) 507-1286
ed@edwardjuel.com

Practice Areas: Civil and Criminal Appeals, SSDI

Ellen S. Kief

International Law Section Co-Liaison
Law Offices of Ellen S. Kief
8 Winter Street, 12th Floor
Boston MA 02108
Phone: (617) 482-0200
Fax: (617) 426-5251
ekief@KieflLaw.com

Practice Areas: Immigration and Family Law

Nina Joan Kimball

Kimball Brousseau LLP
One Washington Mall, 14th Floor
Boston, MA 02108
Tel: (617) 367-9449
Fax: (617) 367-9468
nkimball@kbattorneys.com

Practice Areas: Employment law and civil litigation

John Kirwan*

The Law Office of John Kirwan
318 Woodlands Way
Abington, MA 02351
Tel: (781) 405-6492
Fax: (951) 344-2233
john@johnkirwanlaw.com
Practice Areas: Estate Planning,
Elder Law, Consumer Law

Alexander Klibaner

Sally & Fitch LLP
One Beacon Street, 16th Floor
Boston, MA 02108
Tel: (617) 542-5542
Fax: (617) 542-1542
ak@sally-fitch.com
Practice Areas: Employment law
and business litigation

John Koenig*

Indigo Venture Law Offices
9 Meriam Street, Suite 21
Lexington, MA 02420
Tel: (781) 676-1900
Fax: (781) 676-1919
John@indigoventure.com
Practice Area: Corporate/business
law

Monique Kornfeld

199 Wells Avenue, Suite 201
Newton MA 02459
Tel: (617) 323-5049
Fax: (617) 323-2503
mkornfeld@rcn.com
Practice Area: Immigration law

Richard W. Kraft

Kraft Law Office
28 State Street, Suite 1100
Boston, MA 02109
Tel: (617) 573-0010
Fax: (617) 573-5221
rick@kraftlawboston.com
Practice Area: Estate planning

B. J. Krintzman

Law Offices of B. J. Krintzman
30 Avalon Road
Waban (Newton), MA 02468
Tel: (617) 244-7700
Fax: (617) 965-6493
bjkrintzman@comcast.net
Practice Areas: General practice
- divorce, employment, real estate,
probate and wills; also serves as
mediator and arbitrator

Michael Leccese

Law Offices of Michael Leccese,
P.C.
790 Turnpike Street, Suite 202
North Andover, MA 01845
Tel: (978) 686-4420
Fax: (978) 686-6710
mleccese@ip-lawoffices.com
Practice Area: Intellectual Property

Dmitry Lev

Law Offices of D. Lev, P.C.
77 Franklin Street, 3rd Floor
Boston MA 02110
Tel: (617) 556-9990
Fax: (617) 830-0005
dlev@levlaw.net

Brenda Levy

Brenda G. Levy Associates LLC
50 Congress Street, Suite 235
Boston, MA 02109
Tel: (617) 720-4695
Fax: (617) 720-0520
Bglevyesq@aol.com

Jeff Levy*

Corrigan & Levy, LLP
37 Walnut Street
Wellesley Hills MA 02481
Tel: (781) 898-7679
Fax: (866) 238-4790
jeff@corriganlevy.com
Practice Areas: Commercial,
securities and employment
litigation

James Livingstone

Nystrom Beckman & Paris
10 St. James Avenue, 16th Floor
Boston, MA 02116
Phone: (617) 778-9107
Fax: (617) 778-9110
jlivingstone@nbparis.com
Practice Areas: Business litigation,
criminal defense

Lawrence Lopez*

Strategic Research
49 Fayette Street
Cambridge, MA 02139
Tel: (617) 497-6700
Fax: (617) 497-6678
larrylopez@srresearch.com
Practice Areas: Licensed Private
Investigator

David E. Lurie

Lurie & Krupp, LLP
One McKinley Square
Boston, MA 02109
Tel: (617) 367-1970
Fax: (617) 367-1971
dlurie@luriekrupp.com
Practice Areas: Civil and Criminal
Litigation

Francis J. MacDonald, Jr.

43 Putnam Street
Winthrop, MA 02152
Tel: (617) 846-6707
Fax: (617) 846-6867
Practice Area: Plaintiff personal
injury law

William M. Mandell

Pierce & Mandell, P.C.
11 Beacon Street, Suite 800
Boston, MA 02108
Tel: (617) 720-2444
Fax: (617) 720-3693
bill@piercemandell.com
Practice Area: Health Law

Jonathan D. Messinger

Law Offices of Jonathan D. Messinger
133 Liberty Street
Danversport, MA 01923
Tel: (617) 905-9221
Fax: (978) 774- 8038
jdm@jdm-law.com

Practice Areas: International Business, Consumer Law, Employment Discrimination, Civil Rights, Contracts, Probate & Estate Administration, Real Estate, Tax, Immigration, Family, Criminal

Patricia Ann Metzger

Vacovec Mayotte & Singer LLP
Two Newton Place, Suite 340
255 Washington Street
Newton, MA 02458
Tel: (617) 964-0500
Fax: (617) 969-2002
pmetzer@vacovec.com

Practice Areas: Tax, exempt organizations and employee benefits

Randy J. Milou, Jr.

Law Offices of Randy J. Milou
P.O. Box 1015
West Springfield, MA 01090
Tel: (413)781-5400
Fax: (413) 737-1303
rmilou@comcast.net

Practice Areas: Litigation, Corporate, Real Estate, Criminal

Malcolm F. Nathan

28 Glen Road
Boston MA 02130
Tel: (617) 524-7848

Carol Nesson*

Law Office of Carol E. Nesson
160 Gould Street, Suite 100
Needham MA 02494
Tel: (781) 453-7337
carol.nesson@verizon.net

Practice Areas: Pension and retirement estate planning

Curtis P. Patalano

Curtis P. Patalano, LLC
195 Main Street, Suite 5
P.O. Box 254
Franklin, MA 02038
Tel: (508) 528-0003
Fax: (508) 408-0282
patalano@gis.net

Practice Areas: Business law, family law, estate planning

Laura Peltonen

Giarrusso, Norton, Cooley & McGlone
308 Victory Road
Marina Bay
Quincy, MA 02171
Tel: (617) 770-2900
Fax: (617) 773-6934
lpeltonen@gncm.net

Practice Areas: Business and commercial litigation

Robert Plotkin

Intellectual Property Law Section
Liaison
Robert Plotkin, P.C.
35 Corporate Drive, 4th Floor
Burlington MA 01803
Tel: (978) 318-9914
Fax: (978) 318-9060
rplotkin@rplotkin.com

Practice Area: Patents for computer technology

Edward Principe

Law Office of Edward Principe
10 Tremont St., 4th Floor
Boston, MA 02108
Tel: (617) 742-9400
Fax: (617) 742-9401
Ed@PrincipeLaw.com

Practice Areas: Family, Real Estate, Mediation

Thomas A. Reed

Holtz & Reed, LLP
One Bowdoin Square
Boston, MA 02114
Tel: (617) 720-0501
Fax: (617)720-0502
treed@holtzandreed.com

Practice Areas: General commercial litigation, non-compete and severance agreement advising

Alicia Rinaldi

Family Law Practitioner, PC
12 Alfred Street, Suite 300
Woburn, MA 01801
Tel: (978) 470-3366
Fax: (978) 470-4933
aer@yourfirm.com

Practice Areas: Family law (divorce, custody, modifications)

William Rogerson

Hay & Dailey
33 Broad Street, 11th Floor
Boston, MA 02109
Tel: (617) 227-3581
Fax: (617) 227-3709
w.rogerson@verizon.net

Practice Area: Real Estate

Zick Rubin

The Law Office of Zick Rubin
288 Walnut Street, Suite 230
Newton, MA 02460
Tel: (617) 965-9425
Fax: (617) 965-9426
zrubin@zickrubin.com

Practice Areas: Copyright, trademark, publishing, media, and internet law

David Russman

The Russman Law Firm, P.C.
33 Bellevue Street, Suite 1
Boston MA 02125
Tel: (617) 282-5300
www.russmanlawfirm.com

Practice Area: General litigation

Iris Taymore Schnitzer

Law Office of Iris Taymore Schnitzer
65 E. India Row
Boston, MA 02110
Tel: (617) 227-4968
itschnitzer@usa.com

Practice Areas: Estates and Trusts, Wealth Management, Arbitration and Mediation

Tim Schofield

Schofield Campbell & Connolly, LLC
6 Beacon Street, Suite 720
Boston, MA 02108
Tel: (617) 557-4545
Fax: (617) 531-0136
tim@schofieldcampbell.com

Practice Areas: Litigation

Kevin Patrick Seaver

8 Whittier Place, Suite 104
Boston MA 02114
Tel: (617) 263-2633
Fax: (617) 742-7587

Practice Areas: Department of Social Services, family, juvenile, admiralty and maritime law

Ken Shea

Shea Law Office
40 Salem Street, Bldg. 2
Lynnfield, MA 01940
Tel: (781) 876-4030

Practice Area: Construction law

Stephen D. Silveri

Law Office of Stephen D. Silveri
Eastbrook Executive Park
30 Eastbrook Road, Suite 301
Dedham, MA 02026
Tel: (781) 461-1192
Fax: (781) 461-9068
stephen@silverilaw.com

Practice Areas: Real estate, wills and trusts, litigation

Robert S. Sinsheimer

Denner Pellegrino LLP
4 Longfellow Place, 35th Floor
Boston, MA 02114
Tel: (617) 227-2800
Fax: (617) 973-1562
www.dennerlaw.com

Practice Area: Civil Litigation, Criminal Defense

Lisa J. Smith

220 North Main Street
Natick, MA 01760
Tel: (508) 652-0011
Fax: (508) 653-0119
LJSmithLaw@netscape.net

Practice Area: Divorce/paternity law

Ellen D. Stone

Law Office of Ellen D. Stone
70 Walnut Street
Wellesley, MA 02481
Phone: (781) 239-8238
ellenstone@comcast.net

Practice Area: Estate/tax planning

Kathleen Stone*

16 Union Park
Boston, MA 02118
Tel: (617) 320-4339
stone@kathleenstonelaw.com

Practice Areas: Commercial litigation

Joel Suttenger

Law Office of Joel P. Suttenger
15 Broad Street, Suite 305
Boston, MA 02109
Tel: (617) 338-7557
Fax: (617) 723-1839
joelsuttenger@hotmail.com

Practice Area: Civil litigation

Pamela A. Thomure

Attorney Pamela A. Thomure
101 Tremont St., Suite 900
Boston, MA 02108
Tel: (617) 482-8222
Fax: (617) 482-2228
attypamt@earthlink.net

Practice Areas: Civil, Family, Probate & Estate Litigation

Laura Unflat

Family Law Section Liaison
New Lawyers Section Liaison
Law Office of Laura M. Unflat
Ten Laurel Avenue
Wellesley, MA 02481
Tel: (781) 237-4600
Fax: (781) 239-2932
laura@unflatlaw.com

Practice Area: Family law

Stephen G. Viegas

2 Haven Street, Suite 306
Reading, MA 01867
Tel: (781) 944-5290
Fax: (781) 944-8863
stephen@viegaslaw.com

Practice Areas: Family (serves as divorce mediator), employment

Stephen C. Warneck

Warneck Law Offices
350 Lincoln Street, Suite 2400
Hingham, MA 02043
Tel: (781) 740-1115
Fax: (781) 740-1145

E-mail: steve@warnecklaw.com

Practice Areas: Estate planning and administration; business transition and succession planning and implementation; business formation and governance; negotiations, contracts, and transactions

Roy J. Watson, Jr.

International Law Section Co-Liaison

Watson Law Offices
140 Great Road
Bedford, MA 01730
Tel: (781) 533-7700
Fax: (781) 533-7711
rjw@watson-law.com

Practice Area: Immigration law

Edward R. Wiest

Litigation Section Liaison
Edward R. Wiest, P.C.
81 Dana Street
Cambridge MA 02138
Tel: (617) 547-6530
erwiest@wiestlaw.com

Practice Areas: Litigation, ADR

Michael Winters

Franchek Law, LLC
92 State Street, 8th Floor
Boston, MA 02109
Tel: (617) 573-0020
Fax: (617) 778-0676
mgwinters@francheklaw.com

Practice Area: Civil Litigation

Lori Yarvis

Schlesinger and Buchbinder LLP
1200 Walnut Street
Newton, MA 02460
Tel: 617-965-3500
Fax: (617) 965-6824
lyarvis@sab-law.com

Practice Areas: Business law and real estate law

Frank B. Yunes

Attorney at Law, LLC
244 Bedford Street
Lexington, MA 02420
Tel: (781) 674-0234
Fax: (781) 674-0235
fyunes@yunes.org

Practice Areas: Estate planning,
estate administration and
corporations

Denise N. Yurkofsky

75 Boston Post Road
Wayland, MA 01778
Tel: (508) 358-4878
Fax: (508) 358-6353
dyurk@comcast.net

Veronica Zolina

David Burgess & Associates
37 Main Street
Concord, MA 01742
Tel: (978) 371-1900
Fax: (978) 371-1144
veronica@burgesslaw.com

Practice Areas: Criminal defense
and civil litigation (mainly
business and employment
disputes)