



BARRISTER

PUBLISHED BY THE BARNSTABLE COUNTY BAR ASSOCIATION

FALL 2020

GREETINGS FROM THE BCBA PRESIDENT:

It is with great sadness and hope that I succeed Holly Harney, our outgoing President. We are tremendously grateful for her leadership at the onset of the pandemic as we transformed to a virtual reality. Holly rose to the challenge of providing all of us with the critical information, support, and programming needed to address and adapt to the crisis. We cannot thank her enough for her efforts during this difficult time, and I will do my best to serve you as well.

We lost so much this past year. Time and experiences together, over 200,000 lives in the U.S. and over 1 million worldwide. Many of us have lost clients, loved ones, and friends, or could not be with them. Most recently, we mourn the loss of U.S. Supreme Court Justice Ruth Bader Ginsburg, a champion for equality, and Chief Justice Gants, who did so much for our legal community and left us far too soon.

We are still in crisis mode – and indefinitely so. Many of you are stretched thin and feeling the pressures of this anxious time. Please know that we are here for you. As you may recall, with the help and support of the late Chief Justice Gants, following a 2017 Report to the Justices, The **SJC Standing Committee on Lawyer Well-Being** was created last year to provide services and tools to attorneys to alleviate high rates of stress, anxiety, and depression. The Report found that “the relentless pace makes it very difficult for lawyers to set boundaries between

work and the rest of life, and appears to be significantly exacerbated by the technology-fueled demands for constant availability.” Citing an MBA report, they noted the following:

“By far the single most common cause of stress . . . was technology. The fact that technology allows attorneys to always be accessible to colleagues, partners, clients, and courts creates the expectation that they will always be accessible. Technology impacted the ability of attorneys to unwind, relax, and focus on the non-legal aspects of their lives. . . . A common issue . . . is that they feel they never truly get away from work to recharge.”

And this was pre-COVID.

Work/home boundaries have effectively disappeared for many of us, and we are zooming with demanding clients at all hours, while feebly attempting to teach our children in the background and pretend this is normal. The stress on our profession has increased exponentially. Our Bar Association is committed to acknowledging the toll this has taken and do what we can to support you. The SJC Standing Committee on Lawyer Well-Being met last week and our representative, BCBA Executive Board Member Kristen Rufo, is actively working with them to bring resources to improve lawyer well-being to Barnstable County. While we cannot meet in person at this time, we will do all we can to ensure that you are not isolated and have support to thrive in this profession.

Beyond helping attorneys, our Bar Association is very much here for the



community as well. Many of you stepped up to ensure that the **Lawyer of the Day Program** did not falter when it had to go virtual –and I encourage all of you to keep supporting this important program for those in our community most in need. In particular, the Probate Court is seeking volunteer Lawyers of the Day for Guardianships and Conservatorships and would welcome your support. Please contact bcbav@verizon.net if you can spare even just a few hours to make a tremendous difference in someone’s life and help relieve the Court during this exceptionally difficult time.

In June, we announced our support and solidarity with members of our community that experience racism, inequity, and injustice, and pledged to stand with local leaders, the SJC and other organizations in denouncing the discriminatory treatment of black people and people of color. To that end, we have established a **BCBA Equity and Inclusion Committee** to gather information on any racial inequities in

Continued on page 2

"Real change, enduring change, happens one step at a time." - RBG

PRES. GREETING

(cont'd from page 1)

our County and determine how we can take action toward positive changes, including addressing disparities and preventing them from occurring in the future. Please be on the lookout for a survey from the committee seeking your feedback and perspective on these important issues.

We will continue to provide you with timely programming so that you can stay informed and connected – like our recent **Bench and Bar with the Probate and Family Court** (summary and helpful takeaways from the Court below at page 12) and our upcoming **October 8th Panel on Land Court & Probate Court Best Practices and Pitfalls** (details below at page 6).

Finally, in the interest of lifting your spirits, I will leave you with 3 Good Things:

Soon after COVID hit, to counter the incessant barrage of negative news, I subscribed to Good News Network to get positive daily stories of people helping each other throughout the world. If you'd like to wake up to a story like "99-Year-Old WWII Veteran Raises \$3.3 Million for Hospital Workers Simply By Walking Laps of His Garden" rather than "Breaking News: Something Awful Just Happened Somewhere", then I highly recommend it.

Be inspired by a Local Good News Story: Megan G. Fates of East Orleans received a \$700 scholarship from the BCBA several years ago to attend law school and work with special needs students and their families. This August,

we received from Attorney Fates a thank you note and a check for \$1,000 "so some other hopeful Cape Cod legal aspirant may reach his or her goal and dreams." We thank her, and we encourage our membership to learn about our newly rejuvenated scholarship fund (see page 12).

We thank Judge Ordoñez for sharing with us a touching video featuring Chief Justice Gants, and 4 other Chief Justices, reading "Goodnight Status Quo", a tribute to the classic "Goodnight Moon," available at <https://vimeo.com/457804339>.

I look forward to seeing you all again soon.

Ingrid Epperly, President
2020-2021

"Reading is the key that opens doors to many good things in life. Reading shaped my dreams, and more reading helped me make my dreams come true." - RBG



POCKET PARTS FROM THE BARNSTABLE LAW LIBRARY

Throughout the pandemic, the library staff has been available to assist people with their legal research requests by phone and email. We have been open to the public since July 13, 2020 by appointment with reduced hours (M-F 8:30 – noon & 1:00 – 3:30) and limited access. Traffic to the library has increased steadily as the word has gotten out that we are open. Appointments are strongly encouraged and users will be allowed 2 hours of research time per day. As always, most library materials are available for loan with a 2-week loan period. Borrowers are encouraged to return materials in a timely fashion as all materials are quarantined for 72 hours before being made available for other users.

Please feel free to call or email us if there is anything we can do to save you a trip to the courthouse!

Suzanne & Mitzi, Barnstable Law Library
508-362-8539 / barnstablelawlibrary@gmail.com

Young Lawyers' Division Update

I hope that you and your families are safe and well during the ongoing COVID-19 pandemic. The world-wide pandemic is certainly posing challenges to each and every one of us as we navigate this new and mostly virtual "normal". I would encourage all members of the bar to take good care and reach out to friends and colleagues to provide support during these unprecedented times.

I know that I have been missing the social aspect of the bar community and camaraderie that we all shared. Certainly, we are members of a truly unique and dynamic bar and I sincerely hope that we are able to come together again soon. In the meantime, please be on the lookout for future dates for virtual events being held by the Young Lawyers Division. We are hoping to organize a virtual happy hour or get together in the coming months.

We will also be continuing our tradition of Young Lawyers Spotlights in the quarterly Barrister. Please check out the Spotlight this quarter which features Attorney Katherine Wibby, the newest member of the Bar Association's Executive Board authored by Attorney Nicole Ouellette. I am looking forward to learning more about Attorney Wibby. We are requesting that any nominations for future Spotlights be sent to us via email at BarnstableYLD@gmail.com. The deadline for submissions for the next newsletter

NEW TO THE BAR? NEW TO CAPE COD? YOUNG AT HEART? JOIN THE BCBA'S YOUNG LAWYERS' DIVISION!

is December 10, 2020.

Last year the Young Lawyers' Division was able to participate in a Toy Drive as a part of the Winter Social on December 19, 2019. Attorney Rachel Hodgman and I delivered a large number of collected toys to the Orleans Police Department and they were so appreciative to receive your generous donations. I am hopeful that we can continue the tradition this year. Many members of our community have been impacted by the COVID-19 pandemic severely and now, more than ever, our community is in need of donations. The Young Lawyers Division intends to set up collection sites for nonperishable food items and toys in advance of the upcoming holidays. Please check out the Young Lawyers Division Facebook Page for more information.

The class of 2020 continues to face hurdles as a result of the pandemic. Law school graduations were cancelled throughout the Commonwealth and the Bar exam was rescheduled from the original summer dates of July 28 and 29. Since then, the September 30 and October 1 dates for the Uniform Bar Examination have also been cancelled. On October 5 and 6, Massachusetts will offer a remotely-administered exam for admission to

the Massachusetts bar as an alternative, which poses its own challenges with reciprocity in other states. Surely, all of these changes and uncertainties have created great stress for recent graduates. I encourage all members of the bar to reach out to recent graduates and provide mentorship – virtual or with appropriate social distancing measures – or support if possible. In my experience, the Barnstable Bar Association stands out as a result of the camaraderie and mentorship between members and we should be extending this to recent graduates as well.

Please do not hesitate to contact the Young Lawyers Division via email at BarnstableYLD@gmail.com. We look forward to hearing from you. Please Like and Follow our Facebook page for future updates.

Be well.

Kara E. Leary, Esquire
Chair – Young Lawyers' Division



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UPDATE FROM THE BARNSTABLE PROBATE AND FAMILY COURT



We are grateful to the Barnstable County Bar Association's members for their patience and understanding as we continue to navigate and find our new "normal" here at the Barnstable Probate and Family Court. The Court continues to keep in mind the health and safety of our court patrons and employees. To that end, the Court is trying to do the majority of work virtually due to the limited number of people that we can have in the building.

Court Hearing all Case Types

The Court is now hearing all case types. While it is open on a very limited basis, most of the hearings are being conducted via Zoom or telephonically. You will be notified if the Court will conduct your hearing in-person. With respect to 1A Divorces, you no longer need a Motion to Waive an Appearance of a Party as the hearing will be conducted by Zoom. You would only need to file such a Motion and Affidavit if your client is not available by Zoom. As court dates are at least thirty days out, we urge you not to continue your court date unless it is an absolute necessity. Also, please practice Zoom with your client prior to your hearing so that everyone knows how to use it when the Judge is ready to hear your case.

Motion Dates

If you need a court date for a motion, unfortunately, at this time, you cannot use the Barnstable Probate and Family Court Website: www.barnstablecountypfc.com, to pick your Motion date as there is a limited number of cases that can be heard per day by video conference. You may call the Court at (508) 375-6846, (508) 375-6719, or (508) 375-6726 for a Motion date. Please only leave one message on one extension.

Filing Pretrial Memorandum and Financial Statement

The Court requires that you file your Pretrial Memorandum and Financial Statement at least 36 hours before your hearing. You may use the Barnstable email address of barnstableprobate@jud.state.ma.us to file these documents. The Court also requires that counsel and parties have their meeting to

discuss possible settlement and issues for trial *prior* to the Pretrial Conference. If this meeting does not occur, the Court may postpone the Pretrial Conference date.

Court Filings: E-filing is Strongly Encouraged and Only One Method of Filing

The Court is accepting **Emergency** Court filings at barnstableprobate@jud.state.ma.us. Please do not use this address to email the Court the night or morning before the hearing. We cannot guarantee that the pleadings will get in the file. We also ask that you do not email your pleadings to multiple people in the Courthouse. Kindly use this one email address unless a court staff member specifically requests that you email them something. If your case is not an emergency, please file your case via E-filing or by mail. 1A Divorces may now be E-filed. In addition, 1B Divorces, Guardianship of Incapacitated Persons, Conservatorships, Informal and Formal Estate filings, Voluntary Personal Representative Statements may also be E-filed. The cost to E-file is \$22.00 per case. This is the only fee and there is no new fee once the Answer, Objections, Oppositions or Motions are E-filed. The benefit is that, if the court papers are in order, a staff member will accept the case right away and you can view it in the Attorney Portal. You will be able to let your client know that it has been docketed and scanned. You may access E-filing at <https://efilema.tylerhost.net/ofswb#e>

Drop Box

While we discourage people from coming to Court, there is a drop box at the front door by security if it is absolutely necessary for you to drop off court paperwork. However, using the drop box will not necessarily enable us to process your request faster. Cases are handled on a first-come, first-served basis by filing date unless there is an emergency. The drop box should not be used for emergencies unless instructed to do so by a staff member.

Virtual Registry

The Barnstable Registry Office is

conducting a Virtual Registry via Zoom on Tuesdays and Thursdays from 9:00am until 11:00am and other days by appointment. The link for the Virtual Registry is: <https://www.zoomgov.com/j/1605462604>

If you have a question on a case, you may enter the Virtual Registry to speak with a staff member face-to-face, rather than coming to court. If you have a complicated case and would like to schedule a Virtual Appointment, please call the Court at (508) 375-6710 or email the Court at barnstableprobate@jud.state.ma.us.

Attorney Portal

If you are not familiar with the Attorney Portal, attorneys may now view all cases filed in 2008 forward online by using their BBO number. You may print out plain copies from your office. You may access the Attorney Portal at <https://www.mass.gov/how-to/view-electronic-case-information-through-the-attorney-portal>. If you need to make an appointment to review a file prior to 2008, you should call the Registry for an appointment at (508) 375-6710 or email us at barnstableprobate@jud.state.ma.us. You may use a handheld scanning device or a scanning app on your phone to copy what you need.

Copy Order Requests for Certified or Attested Copies

If you need certified or attested copies for Land Court or any other reason, you may make the request for what you need to barnstableprobate@jud.state.ma.us. We no longer have a public copy machine available in the Registry. Please leave at least five (5) business days to order your attested copies especially if you need them for Land Court.

Continued on page 5

**UPDATE FROM THE BARNSTABLE
PROBATE AND FAMILY COURT
(Continued from page 4)**

As you know, the real estate market is extremely busy right now and we are experiencing a high volume of these requests.

Attorneys Seeking Attachments or Trustee Process

It has been the past practice of the Court to prepare Orders of Attachment or Trustee Process. Due to the volume of cases that we are experiencing, the Court will require that you prepare proposed Orders of Attachment or Trustee Process if you are seeking that relief.

No Notary Service at this Time

In order to keep staff safe, the Registry will not provide Notary Service at this time for Court documents. It would be helpful if the Attorneys notarize their client's documents.

Virtual Lawyer of the Day

The Court is grateful to all of the lawyers who have volunteered as Lawyer of the Day, virtually. This is working well as the lawyer calls the patron from their own office. There is no longer an in-person Lawyer of the Day. If anyone is interested in volunteering to be a Probate/Guardianship/Conservator Lawyer of the Day, Madeleine Delorey is taking volunteers and you may email the Bar Association at bcba@verizon.net.

Retirement of Michael Stevens, longtime Judicial Case Manager

As many of you know, Michael Stevens retired at the end of June 2020 after serving the public for many years at the Court. We wish Mike a very happy retirement with his family. Attorney Lisa MacKenzie

has been appointed Acting Judicial Case Manager. We all wish Attorney Mackenzie well and look forward to working with her in her new role.

I want to thank all members of the Barnstable County Bar for their patience and understanding during these very difficult times. If you have questions or concerns, please feel free to reach out to me at (508) 375-6717.

I hope that you and your families are safe and well.

*Sincerely,
Anastasia Welsh Perrino, Esq.
Register of Probate*



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LAWYER OF THE DAY
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VIRTUALLY**

***Clients call the Court and calls
are then distributed to
the LOD for response.**

**Please consider helping
people in these difficult times.**

**FOR MORE INFO,
CONTACT
BCBA@VERIZON.NET.**



October 8, 2020
1:00 pm
Barnstable Probate & Family Court
Zoom Session

Panel Discussion on Probate & Registered Land Titles

with
Christina Geaney, Chief Title Examiner, Land Court
Hon. Jennifer S.D. Roberts, Land Court
Deborah J. Patterson, Recorder, Land Court
Anastasia Welsh Perrino, Register of Probate,
Barnstable County Probate & Family Court
Bonnie-Jean Nunheimer, Esq., LaTanzi, Spaulding & Landreth

Topics will include:

- Complaint for certificate after death (land court order)
 - Death of one tenant by the entirety
- Death of any number of joint tenants but the last
 - Sale under decree (license) of probate court
 - Deed under power of sale in will

Co-Sponsored by the Barnstable County Probate &
Family Court & the Barnstable County Bar Association

RSVP to Chelsea Callahan
ccallahan@latanzi.com
(zoom link to follow)

KARA E. LEARY & RACHEL C. HODGMAN

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— LAW OFFICE —

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Court Report: The Barnstable County Superior Court

Dear members of the BCBA:

I want to thank the Bar Association for giving me this opportunity to address them with what is going on in Superior Court. We have two conference rooms on the second floor that can be used by attorneys to have private conversations with their clients or to use to talk with other counsel about resolving a case. The rooms can also be booked for depositions if necessary by contacting me at 508-375-6684 and when you get to the opening message press 6. They are located in the old third session Judge's lobby and the former jury check-in office on the second floor.

There is a lounge to be used by attorneys and court staff only to wait during court recesses, lunch recesses and during jury deliberations. The lounge contains two restrooms and is located in the old victim witness room by the elevator on the second floor. This room is not to be used for meetings with your clients as we have conference rooms for that purpose.

All Civil Pre-Trial conferences, Trial Assignment conferences and motions hearing are now being held via zoom meetings. If you have not received the call in information for your hearing, please let us know as we are trying to catch up on the cases that were scheduled before we went to all zoom meetings in July. I ask everyone's patience as we have experienced some technology issues. Also, please be patient as we are doing our best to be on time but hearings or conferences sometimes go longer than expected. When you came to the court in person, you had to wait at times, well the same is true for zoom meetings.

On criminal matters, the list is being called at 9am and attorneys call in via poly-com or teleconference. All custody matters involving the Barnstable House of Correction are called at 10 am. Motions on criminal cases will not be scheduled until the motions are actually filed in the clerk's office. We will

be staggering the times that motion hearings will be heard to comply with in person limits due to Covid-19.

At present, we are only doing jury-waived or non-jury trials on civil cases and bench trials on criminal cases. Barnstable Superior Court is one of the locations that will host jury trials when they begin again. At present, I do not know when that will exactly be. On civil cases, we are offering 6 person juries and a three judge panel, if parties wish to try to get their case heard earlier. Please contact me if both sides are interested in this procedure.

I am happy to introduce Kathryn Kock, new Case Specialist in my office. She will be the main cashier and handling new civil filings and other pleadings. Please welcome Kathy to the office and she is happy to help anyone with questions.

I would like to remind the bar that the e-filing pilot in the Superior Court has been up and running for almost two years in Barnstable Superior Court. We are accepting all types of civil cases and filings. I am pleased that Barnstable Superior Court was chosen for this pilot as it shows our commitment to be on the forefront of court technology and the confidence court administrators have in myself and my office. If you are filing a 9A package, please review the notes on Tyler's homepage because if the correct procedure is not followed, we will reject the filing. Any questions, you can contact my office manager John Dale at 508-375-6682.

I would like to remind the bar that it is the attorney's responsibility to



Photo credit: John Phelan, https://commons.wikimedia.org/wiki/File:Barnstable_County_Courthouse,_Barnstable_MA.jpg#file.

write down the start and end times of their cases if they want us to approve FTR requests! My staff will not accept FTR request that state from 9-1 or worse 9-4 as times to look for their hearing. We do not have the time to listen through hours of recordings to get to your case. Therefore, if you are not more specific so we can easily find the case, **WE WILL REJECT THE REQUEST.**

Also, since we are now scanning all documents, I am asking the bars help and not staple pleadings but to use paperclips. Staples do not go through our scanners and it takes time to remove the staples so we can scan items in. I appreciate your help in this regard and since all courts will be scanning more documents, you should just stop stapling and use paperclips.

As always if any member of the bar has any questions, comments, concerns, suggestions, please feel free to contact me at 508-375-6684 then press 6 or by email at scott.nickerson@jud.state.ma.us.

I wish everyone a happy and healthy Fall!

Scott W. Nickerson, Esq.
Clerk of Courts
Barnstable County

Young Lawyers' Division Spotlight

This Issue Featuring: Katie Wibby

After interning in the Fall River office of South Coastal County Legal Services as a law student, Katie Wibby had solidified an ever-present aspiration to work in public service. She tells me that she always planned to be a public servant. While her career took a jaunt through criminal defense at the public defenders' agency, she returned to SCCLS in 2015 and can't imagine doing anything else. She feels as though the five years have flown by. SCCLS is the principle provider of free civil legal assistance to low-income and poor individuals, families, elders and the disabled throughout Southeastern Massachusetts. At SCCLS, Katie specializes in providing low-income clients with legal assistance regarding housing matters and government entitlements including SNAP, Medicare, Social Security and unemployment benefits. A majority of her work involves evictions and subsidized housing issues. She finds that approximately 70% of the legal assistance she provided over the past few years was centered on housing issues. Even now, as her focus has shifted to elders in the region, she sees an overwhelming need to help clients with housing.

Her eloquence matches her commitment to public service. She readily has answers to describe the burgeoning needs of Cape Cod and South Coastal County residents facing homelessness, evictions, and financial deprivations. She tells me about the expanding population of people in the area that require assistance. Currently serving on the Elder Law Project of SCCLS, an undertaking that is grant-funded by Elder Services and the Medicare Advocacy Project, she works directly with elders in the community finding support beyond the Council on Aging within their towns. Often times, she finds elders in the region in need of simple estate planning or health care proxy information but more than that, they face Medicare issues, evictions, and other benefit obstacles. She is hoping to build a network of additional resources in the area to provide legal assistance through *pro bono* attorneys involved in local bar associations across the Cape and Islands. Additionally, Katie has noticed that there is a lack of resources available for individuals who suffer from hoarding. Hoarding issues are typically rooted in mental health or physical disabilities to organize and clean out and the result is individuals being evicted for issues directly related to disabilities.

Mental health concerns among her clients aren't the only budding complication during COVID-19. She recognizes that going virtual is posing a difficult barrier to access for elders in the community who are not always tech savvy. Computer use or availability has its disadvantages for those who are not experienced. She reports that there is discussion within many Councils on Aging to provide computers or tablets but there is still the concern of people appearing in person to use them. Very few Councils on Aging are

accepting people in-person because of the health concerns. She states that actually seeing people in courts—the clients and attorneys—has a powerful way of making impressions that cannot be made over the phone.

Katie serves on the Orleans Municipal Affordable Housing Trust Board and the DTA Advisory Board in Hyannis. Additionally, she is a member of the Affordable Housing Committee for Orleans after resigning her role as Chair to make time for the new baby girl on her way. Katie and her husband, Kyle, have two adorable daughters and will certainly be busier with another daughter expected soon. But busy is certainly what she knows. When attending Roger Williams School of Law, she graduated not only with a Juris Doctor but also a Masters in Criminal Justice. As a law student, she practiced pursuant to SJC Rule 3:03 as a student attorney in an adult defenders' clinic. Upon graduation in 2012, Katie joined the Barnstable County location of the public defender agency (CPCS), where she met her husband, Kyle Wibby. In hopes of having a continued happy marriage, she decided it was time to be a little farther than the next door in a small office. Katie's office with SCCLS is in downtown Hyannis and Kyle works nearby. Together, they comprise a public service power couple, and they have created a beautiful family. She states that when they aren't in court, they are "here for the beaches!" They round up the girls and find a spot that they can enjoy together. COVID-19 has posed many challenges—sometimes, there is a meltdown (Harper, oldest daughter) over losing iPad privileges. When they didn't have daycare, they learned to be parenting partners in the home and in running home offices. But as much as the occasional contending cries can interrupt a virtual meeting, there are moments that she says have not gone unappreciated. Some days, her new office mates surprise her with a hug or a smile and that is a reminder of her role as a mother. She wants her girls to learn to be independent thinkers and know that they can do anything they put their minds to. "The world isn't fair, and some are not as fortunate," she comments. She wants her girls to learn that they, too, can take actions to make opportunities more available for *everyone*. It is clear that being a public servant is not only a professional passion, but also a parenting one.

By Nicole Ouellette



"I would like to be remembered as someone who used whatever talent she had to do her work to the very best of her ability." - RBG

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Attorney Susan Rossi Cook

BCBA Spotlight: Mike Stevens

Mike Stevens, Esq. recently retired from his role as the Judicial Case Manager of the Barnstable County Probate and Family Court. When I spoke to him for this interview, his smile was shining through the phone. He was quick to express gratitude for the comradery that he knows and truly believes “starts at the top.” Treating others in a way that makes their lives a little easier is a way to show respect for others.

When he and his wife moved to Cape Cod, he joined the Barnstable County Bar Association. Of course, just participating at events was not where his involvement stopped—Mike was Chair of the Family Law Committee and led the Association as President in 2006-2007. I met him on the BCBA’s annual trip, “Red Sox Fever!” The trip, which ran thirteen years, secured premium seats at Fenway Park for members of the BCBA along with their friends and family. Tickets to the game were paired with provided charter bus transportation. Mike, the vivacious emcee of the evening, greeted everyone as they boarded the charter bus. The bus ride often promised shrimp cocktail, local oysters and homemade treats prepped by attendees, and members received comfy t-shirt and a group photo to memorialize the evening. It was an opportunity for BCBA members to get to know each other and celebrate America’s favorite pastime without a legal debate (unless you favored the Yankees).

Mike started his career with the Department of Probation in the Norfolk County Probate Court in 1980. He decided to pursue his juris doctor and attended New England School of Law at night. In 1988, one year before he graduated from law school, he became the Assistant Registrar of Probate for Norfolk County. It was there he first met Judge Scandurra. Judge Scandurra (Ret.) happened to be sitting for a month in Norfolk. They talked about Mike’s house on Cape Cod and when an opportunity arose, Judge Scandurra

let him know that there was an opening and encouraged him to go through the application process. It was the right fit. Mike became the First Assistant Registrar in 1999 and Judicial Case Manager of the Barnstable County Probate and Family Court in 2003. What he loved about Barnstable County was the way people continued to help each other—attorneys, litigants and staff. He comments about the outstanding staff he was lucky to work with including the judges and Registrar, Anastasia Welch Perrino. He misses them and hopes to find a way of incorporating some legal path into his retirement.

As a child, he grew up in Brighton, and while jumping on the trolley and running into the city, who was around the corner but a young Judge Robert Rufo! It turns out they grew up just blocks away.

Mike and his wife, Janet, have other passions they will continue to pursue now that he has retired. She still works part-time and has a business as a personal trainer that she loves. Mike is also an athletic enthusiast. In his spare time, he was an on-field college official referee for 25 years. More recently, he has played the role of a college football instant replay referee—a job and

passion that takes him all over the country. When he isn’t traveling and reviewing plays, he is helping to sharpen the minds of undergrad and continuing education students at Curry College. He teaches Business Ethics and has an MBA course starting up in a few weeks.

Mike and Janet look forward to travel in the future when things are safe—they hope to visit Italy and get back to Ireland. While local, they continue to enjoy the masterpiece that is Cape Cod. Every now and then, they make a day trip to Woods Hole, sometimes grabbing lunch at the Landfall to sit along the water and watch the boats float by; they feel as though they are in a whole new world.

Mike keeps busy; he keeps happy and keeps Barnstable County and the people of the BCBA in his mind and heart. He sends his regards to Madeleine Delorey and Kathleen Snow, the young lawyers as they maneuver their way through their careers and to the staff of Barnstable County Probate. Finally, he looks forward to a chance when we can all get together and maybe sing “Sweet Caroline” another time at Fenway as a group.

By Nicole Ouellette



Above: Mike Stevens, Judicial Case Manager (Ret.), Anastasia Welch Perrino, Registrar, and Judge Ryley of Probate and Family Court.

PAYING IT FORWARD

The BCBA Executive Board recently received a wonderful surprise: a past BCBA scholarship was graciously paid forward, in hopes that a gift its recipient once received would be awarded to a legal aspirant. Attorney Megan Grist Fates sent in a thank you note along with a generous contribution wishing, "My best to all—and may you continue to represent what is right in these unpredictable times." We recognize that the past six months have posed additional financial burdens on some members of our legal community, but for those who have been fortunate, please consider a donation to our revived scholarship fund. Let us keep in mind the future members of our bar association—current law school students seeking promise of a career in a challenging climate. Our community has always been founded on building professional and rewarding relationships among its members. If you are interested in donating so that a future Cape Cod law student may receive assistance, please contact us at bcba@verizon.net.

"I'm a very strong believer in listening and learning from others." -RBG

FALMOUTH DISTRICT COURT STAFF

DISPLAY HEROIC RESPONSE

September 29, 2020 proved to be a day beyond the normal docket. A car carrying a passenger in cardiac arrest, pulled in front of the Falmouth District Court as the driver realized the person had stopped breathing. Micela Earle, a staff member of the Clerk's Office, heard the driver's cries for help and ran into the building to notify Court Officer Cecelia Martinez, posted at security. Officer Martinez immediately radioed to the other Court Officers, Rob King, Steph Kelly, and Assistant Chief Patrick O'Donoghue. Within seconds' time, a life-saving medical kit was grabbed and the court officers, along with Bar Advocate James Morse (former police officer and EMT), were performing CPR on the woman. The swift and efficient response of the court officers and staff was nothing short of amazing, and thanks to their teamwork and alertness in such an emergency, the woman was revived and a life was saved.

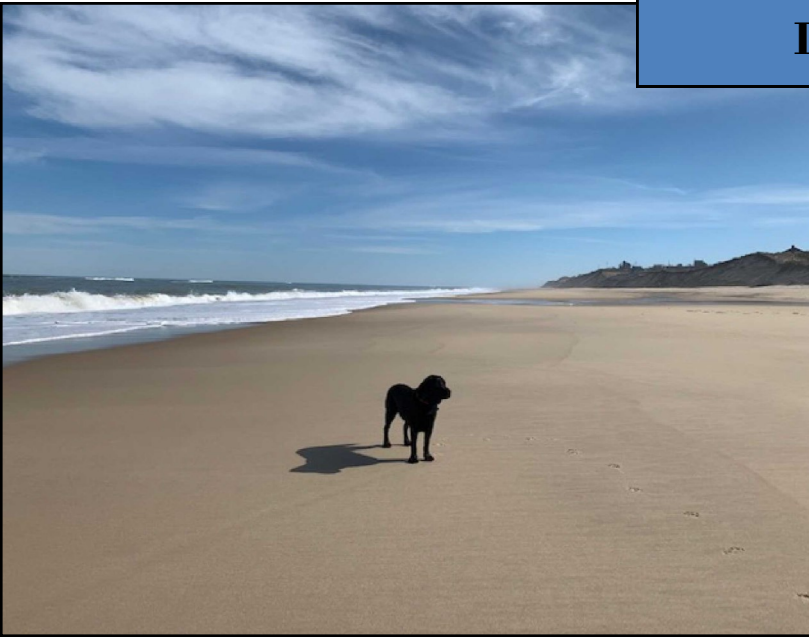
TAKEAWAYS FROM THE BCBA'S (VIRTUAL) BENCH & BAR

By Crissa Morton

Thank you to Judge Ryley, Judge Ordoñez, Register Welsh Perrino, and Chief Probation Officer Feinberg for taking time out of their day and joining us for the Barnstable Probate and Family Court Bench and Bar webinar on Thursday, September 24, 2020. If you were unable to attend the webinar, here are some takeaways:

- Utilize e-filing as much as possible! Recently expanded to allow §1B and §1A divorces to be e-filed. Expect additional case types to be added to the e-filing list. E-filing is a faster way to process cases.
- Do not use the online calendar for scheduling motions – call the Registry to get the next available date.
- Email emergency filings to barnstableprobate@jud.state.ma.us, and only that address; do not copy other staff on the email. Once you've emailed a pleading, do not also mail a copy to the court.
- Prepare proposed Writs of Attachment and Trustee Process and file them with the Registry.
- Use the Virtual Registry! Tuesdays & Thursdays, 9 – 11 a.m. via Zoom (<https://www.zoomgov.com/j/1605462604>).
- Probation now operating at 75% in-court staffing. All staff now have laptops and can work remote/conduct video conferences.
- Probation cannot conduct in-person child interviews and no remote interviews with children under 14 years old. Drug testing, hair follicle screens are still taking place. Seek work orders are hard to monitor.
- Pre-Trial Conferences – make sure you have a pre-trial meeting with all parties before the PTC (there is no excuse not to meet virtually!). File memos and financial statements at least 36 hours in advance of the PTC. You can email barnstableprobate@jud.state.ma.us to file documents for pre-trials.
- You can ask the Sessions Clerk to send your case into a breakout room on Zoom until the case is ready for hearing.
- Evidentiary hearings & trials – non-party witnesses stay in their cars until it is time for them to testify. Make sure you have the witness's cell number to let them know when to come into the courthouse. Provide physical copies of contested and uncontested exhibits books to the court, even if trial/evidentiary hearing is being conducted via Zoom.
- All of the court staff – Registry, Judicial, Probation – are very busy; try to resolve issues, identify mutually available dates/times, etc., before contacting staff.

LAWYERS WITH DOGS



Above: Attorney Chris Ward of LaTanzi and his lab, Joey (as in Joey Tribbiani, also pictured left), hang seaside.

*BCBA does not exclude other pets such as cats, horses, or pigs, etc. To submit your photo, contact nouvellette@publiccounsel.net.

**Because of you WFG is
celebrating its 10 year anniversary
and we want to say...**



Thank you!

10
YEARS

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a Williams Financial Group company



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THE TRIAL COURTS ARE PLEASED TO ANNOUNCE THE ANNUAL CULTURAL APPRECIATION WEEK, OCT. 19 - 23

In the past, the Trial Court employees have shared food, music, art, and stories as well as participated in activities to learn about each other's cultures. This year, with COVID-19 concerns and limitations, each court will be finding time and innovative ways to encourage learning about each other's cultures.

VIRTUAL DEPOSITIONS, WORKING WITH ZOOM & COURT REPORTING

By Linda Kelly

Over the past several months, attorneys have expressed an increased interest in remote depositions. Courts are starting to schedule more proceedings, so doing discovery remotely may be an avenue you are considering. While not all-inclusive, this information may help you with getting started.

Pursuant to SJC OE-144, for depositions in a civil case under MRCP 30 & 30A and Court Department rules & standing orders, remote depositions may occur. The court reporter/officer must be able to see and hear the deponent to be able to identify that person. Anyone who views or listens to a remote deposition, at any time, shall be identified on the record. To start, set up a video-conferencing vendor, such as Zoom. Zoom had some issues at the beginning for the legal setting but program has been updated, and many legal participants are using it.

Free Zoom memberships are useful for one-on-one meetings or if you are hosting multiple-member meetings under 40 minutes. Memberships at \$15/month have wider capabilities. It is recommended that court reporters be the host on all depositions. There are controls on Zoom meetings that only the host has and it is recommended that someone who is an impartial officer of the court be the host. Agreeing to waive those controls to an interested party might not protect your clients' interests. For instance, the host can record and save recordings, etc. Giving opposing counsel the ability to retain recordings of either the deposition or off-the-record discussion might not be advisable. Also, the host can allow participants to share screens for exhibits.

If you wish to schedule a Zoom deposition, send the notice to your court reporter, with the email addresses of all parties who will need the invitation link. The Deponent needs to be informed they will need a government-issued ID. PLEASE put in the "Subject" line some important identifiers like Deponent's name, Docket Number, Date of Deposition, etc. Depositions reschedule several times and this helps to keep track. The court reporter will create a "Zoom invitation" and distribute the invitation. This

invitation can be created when the deposition is scheduled or closer in time. You and your court reporter can work out the best option for your situation. The court reporter/host should get all of the names, email addresses, and phone numbers of the attendees, as Zoom has an option of having invitees go into a "waiting room" before connecting to the meeting. The CR/host can also lock the room once all of the invitees are present. This is a safety measure so that uninvited guests cannot enter into the meeting without being authorized.

Marking exhibits: If you know what exhibits you intend to present to the deponent, you can either pre-mark them with real stickers and scan/label them individually. Then, email them to the court reporter (and/or opposing counsel and/or deponent), or you can scan each exhibit individually and have the court reporter mark them electronically. While it can be done during the deposition, this is a faster option to handle marking before or after the deposition. Most court reporters write/create real-time transcripts during the deposition; having the notice, exhibits, and/or a word list ahead of time makes for a faster turnaround and a better rough draft and/or expedited transcript, should you need that added service. The more information a court reporter has beforehand, the better prepared they can be to fulfill your transcript delivery needs.

Test out your Zoom or vendor app/software before the deposition. You can do dry-runs with members of your firm or family to get a feel for the software and some court reporters will offer to do a test-run before the day of the deposition. Some court reporters also open the meeting 30 minutes before the start time to handle any troubleshooting.

You must have a camera and microphone. Laptops or iPads are helpful as they have larger screens. While a phone can connect, exhibits are going to be too small to be seen, and you may not be able to see all of the participants. While it can be done, it's not the best option. You can mute/unmute your microphone and should mute yourself if not actively speaking to reduce extraneous background noise. Some users

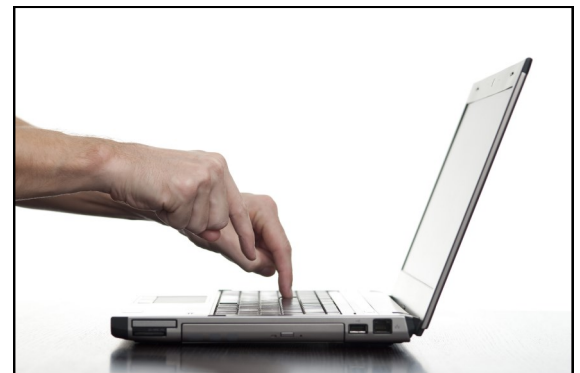


find that headphones or speakers are helpful to improve the sound quality. It is better to stay on video so that the participants can tell if your screen has frozen. If the screen freezes, often the audio has also. This tells the other participants about a connection issue and that the deposition needs to stop until corrected.

If you are going to use a landline computer, you will need an add-on camera and microphone (though you can also connect the audio-only by phone if you don't have a microphone) and will need to set that up ahead of time. If you are going to connect a laptop that you've only used via Wi-Fi but want a more stable connection, an Ethernet cable may be a better option. Check your laptop for Ethernet ports. If yours doesn't have one, there are options using a USB or HDMI port and an adapter. Your favorite computer accessory retailer can probably help you.

Connections: wireless connections are far less stable than Ethernet connections. If you have a wireless vendor that shares your router with other customers (like Xfinity/Comcast), it is best to turn off all wireless devices that can use up your bandwidth, including printers, gaming computers, iPads, security cameras, etc. With some service providers, it might be helpful to turn off your router for several minutes (check to make sure no one is currently using it for a class or meeting first!) and reboot the system.

Continued on page 15



Recruitment of Hearing Committee Members for the Board of Bar Overseers

The Board of Bar Overseers encourages interested attorneys and members of the public across the Commonwealth to apply for appointment to a three-year term (2021-2023) as a volunteer Hearing Committee member.

- Applicants must have a computer equipped with a camera and microphone as well as reliable internet, and be comfortable with the use of remote technology.
- Committee members receive no monetary compensation and devote their time as a public service in the vital interest of preserving the integrity of the legal profession.
- The Board will provide comprehensive training, including in the use of the relevant remote technology.
- The Board seeks to maintain a broad-based representation of attorneys and members of the public within the Committee ranks, and strongly encourages diverse applicants, women, candidates with varied backgrounds, small-firm practitioners, and individuals in public service.

- Active members of the bar with at least ten years of professional experience should forward a statement of interest and résumé and should specify their major field(s) of practice.
- Members of the public (non-lawyers) may apply as long as they are not paralegals or employed in a legal-related field, and should complete an application form available on our website at <http://www.massbbo.org/volunteer>.
- Please note that all Hearing Committee members are considered special state employees subject to the state conflict of interest law, G.L. c. 268A.

Contact Sandra Mahabir, by mail at:
Board of Bar Overseers
99 High Street
Boston, MA 02110
E-mail at: HCR@massbbo.org
on or before October 31, 2020

ZOOM/REPORTING (cont'd from page 14)

That clears out the bandwidth for your connecting for a Zoom deposition. If your speeds are still too slow or connection inadequate, increasing your level of service may be a small investment for decreasing the amount of frustration with bad connections. *TIP: Electronic connections get overwhelmed by too many voices trying to be transmitted at the same time via over speaking and this can cause freezes, lags, and disconnections. Slowing down the speaking patterns may actually increase the productivity of the Zoom deposition.

Be aware of your court reporter; watch and listen for their feedback. They are the keeper of the record and collaboration toward a better record is key. Remote depositions are stressful for everyone. Breaks are a helpful tool to a better record.

Please advise participants to treat a Zoom deposition as if this were a legal proceeding -- because IT IS. Each participant should plan to be available for the length of the deposition (just as pre-pandemic), in a safe and undisrupted location/environment. Snacking, working out, watching TV, driving, etc. will not protect your record.

As with in-person depositions, extra-

neous noises are the enemy of a good record -- but are amplified via microphones and hijack the sound/connection stability. Tapping, papers rustling, pen-clicking, snack bags, water running, doors, birds chirping, dogs barking, are all amplified via Zoom/remote connections.

Backgrounds: It is far better to have a real background than a virtual background. Virtual backgrounds use up bandwidth and they also bleed and slow down the Wi-Fi making it unstable. If you wish to keep your background private, screens or curtains are an option. Have a light in front or on an angle of you, not backlighting. *TIP: Zoom has an option to "touch up" your appearance.

Zoom depositions vs. videotaped depositions: As pre-pandemic, videotaped depositions must be noticed as videotaped depositions. Per SJC OE-144, the videographer is required to be in the room with the deponent unless the parties stipulate otherwise. Again, it may be best practice to have an impartial professional videographer. A professional legal videographer will have the sole duty of being on/off the record pursuant to the rules and will "pin" the deponent, with a video similar to an in-person videotape deposition.

Do not ask your CR/host to videotape the deposition. Legal videographers have strict rules. Some CR/hosts may have an option to record a Zoom deposition as a

work-product tool, but that video may not meet the legal requirements of a "videotape deposition."

If you do choose to do an in-person deposition, please put on the notice the pandemic protocols expected (social distancing, clear screens, masks, breaks, temperatures, certificates of health, etc.). This will help everyone participating to know what to expect and be ready to comply. The American Arbitration Association has some helpful guidelines on its website.

As with all things during this pandemic, while you can certainly use services that are not local, please consider supporting your local services/vendors -- who support other local businesses and municipalities.

Please stay safe --

Linda L. Kelly
Certified Shorthand Reporter
Registered Professional Reporter
Certificate of Merit
Kelly Reporting & Video Services
of Cape Cod
PO Box 1023
Barnstable, MA 02630
508-428-3743
krvsc@comcast.net



The Barnstable County Bar Association wishes to extend our deepest sympathy to the family and friends of Chief Justice Ralph Gants.

We are honored that our membership was able to welcome Chief Justice Gants and the other Justices of the Supreme Judicial Court to Barnstable County to hear arguments last year.

We are also grateful to have witnessed his exceptional guidance and leadership.



"Fight for the things that you care about, but do it in a way that will lead others to join you." - RBG

The physical offices of the Child Support Enforcement Division of the Massachusetts Department of Revenue (DOR) have been closed since March and will remain closed for the foreseeable future. Its employees, however, continue to telecommute and to provide the services on which many of your clients depend. Please share this information with your clients so they know how to reach us and how to obtain information regarding their child support cases.

Child Support and COVID-19

We know that this is an unsettling time for our customers. We want you to know that we are still here to work for you and your family. We can do that best by working together. Even though our offices are closed for in-person visits, you can still safely access and manage your child support case without visiting an office. Please reach out to us to see how we can help you with your child support needs during these unprecedented times.

Our Customer Service Representatives are here to help.

Call us at 1-800-332-2733.

We also have 24/7 self-service options to make payments, update your information and get information on your case.

Child Support Payments

Making Payments:

You can pay online (deduction from checking or savings account) 24/7 at www.mass.gov/cse over the phone (credit card) M-F 8:30 am - 4:30 pm at (800) 332-2733 or by mail (check or money order) to DOR/CSE, PO Box 55144, Boston, MA 02205-5144.

Receiving Payments:

Child support payments are still being processed. There may be some delay if you are still receiving paper checks by mail. Sign up for direct deposit or a debit card by calling us or logging in to your Case Manager account.



is pleased to announce

PAUL G. FARRELL, ESQUIRE

has joined the firm as

Of Counsel

**Don't want to miss a
BCBA update?**

**Visit our webpage at
www.barnstablebar.org**

&

**add the
Barnstable County
Bar Association
on Facebook to receive
the latest info!**



BARNSTABLE COUNTY BAR ASSOCIATION LAWYER REFERRAL SERVICE

<https://barnstablebar.org/referrals>

The BCBA receives calls from prospective clients in need of a lawyer specializing in a particular area of law. Our service attempts to bring together the prospective client with a participating member of the Lawyer Referral Service.

To fully implement our goal of providing a full range and diversity of legal services within the pool of participating lawyers, a reciprocal commitment to the Lawyer Referral Service is a prerequisite. As such, we kindly invite all members of the Barnstable County Bar Association to participate in the Lawyer Referral Service. Go to <https://barnstablebar.org/referrals> for additional information and to become a part of our Lawyer Referral Service.

Have something to share with the members of the BCBA or want to be featured in our next newsletter? We welcome law reviews, opinion sections, volunteer opportunities, and upcoming events that may interest our legal community.

These contributions are free to our members.

Want to place an ad for your financial,
transcription, or other services?

How about a space for rent?

We reach over 300 members quarterly.

Prices for ads are as follows:

1/8 page: \$75

1/4 page: \$125

1/2 page: \$200

Full page: \$300

Contact Nicole Ouellette at nouvellette@publiccounsel.net or bcba@verizon.net.

BARNSTABLE COUNTY BAR ASSOCIATION

P. O. BOX 718

BARNSTABLE, MA02630

508-362-2121 - phone / 508-362-7604 - fax

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Emir Sehic

Katie Wibby

Not a member of the BCBA?

Membership: <https://barnstablebar.org/membership>

Admitted 2019/2020: \$0

Admitted 2016-2018: \$50

Admitted Prior to 2016: \$100

Government or Public Defender: \$25

Bar Advocate and Legal Aid Attorneys: \$25

Retired or over 70 years of age: \$0