

# BARRISTER

PUBLISHED BY THE BARNSTABLE COUNTY BAR ASSOCIATION

## PRESIDENT'S MESSAGE

Summer 2016

Barnstable County Bar Association President's  
Report – 2015-2016

It was an active year for the Barnstable Bar. I was blessed with an Executive Committee ready to work, a Bar membership that was receptive to change and advancement and the best Executive Director around.

Our membership increased 26% to 272 members, demonstrating our strength and indicating a continued willingness of the Barnstable County attorneys to believe in community and teamwork.

The increase in members, along with the continued support from the Mass Bar Foundation, resulted in strong financials (an increase in gross income of 11% year over year) providing an opportunity to address lagging issues. We improved the office technology with a new computer, software and printer and secured training to ensure a smooth transition. We also began the process to update our website with the intent to provide a fresh look and incorporate practical use. We were able to do this with no increase in membership dues.

We achieved success in several initiatives this year. The Barnstable County Bar Young Lawyers Division was created with the purpose of encouraging and supporting those attorneys new to the practice of law as they establish their practices. The YLD will host its first event this summer, with financial assistance

from the MBA. As the group gains momentum, it hopes to offer basic educational seminars, to civically engage through pro bono services with South Coastal Counties Legal Services and We Can, a Habitat for Humanity build, and to offer mentorship and meet and greet opportunities. I am also proud to announce that Sara Kohls was elected to the MBA YLD Board of Directors as the Regional Director for Barnstable/Dukes/Nantucket County. Please support our new attorneys in this new endeavor.

The Barnstable County Bar Directory was circulated in February as an added membership benefit. I hope you have found it helpful as it provides contact information, including emails, and practice areas.

Please encourage your fellow members to submit their information to Madeleine for the next update and those non-members as well.



The District Court Conciliation program returned and many members participated in the training last fall. Spearheaded by Robert Lawless, we expect to institute pro bono services for opiate sectioning, a program outlined by the MBA with

accompanying training, to address and mitigate this major issue facing our community.

We had a well-attended Bench and Bar event this fall with Judge Gary Nickerson reminding us of our dear friend, Judge Jim O'Neill and providing a short stand-up routine. Judge Kathryn Hand hosted a "town hall" style event that was followed by our annual new admittee gathering at the Barnstable Tav

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ern. I reiterate Judge Hand's comments to contact her if you have concerns or comments regarding the operations of the Court.

In April, the Bar hosted an event to recognize each and every attorney that provides pro bono services in our county, which encompasses most of our lawyers. An idea born from our Probate Court Register, Anastasia Welsh Perrino, and instituted by our Social Chair, Holly Harney, it was a fun social gathering with appreciative comments from Register Perrino, Judge Robert Scandurra, Judge Arthur Ryley, Judge Kathryn Hand and Judge Gary Nickerson. We hope to add this event to the annual calendar.

I was able to attend and participate in the Assembly of Delegates this year and last month, our incoming President Elisa Zawadzka attended the President's Summit. Recognizing that our funding comes from off Cape, it is important to remind the rest of the Commonwealth about our strong Bar and commitment to the law.

The annual Law Day was successful with the students celebrating the 50th anniversary of *Miranda v. Arizona*. It is amazing to see the participation by our local schools year after year.

Our Red Sox outing was sold out again. It offers a night to socially interact outside of the courtrooms and is a refreshing reminder of the friendships within our legal community.

There were two recognition events recognizing members of our Bar. First, at the Red Mass Celebration, Robert Donahue was recognized as a Distinguished Attorney and Matthew Bresette received the Joseph P. Harrington Founders Award. Within our own Bar, we recognized Stephen DeYoung as the Lawyer of the Year.

I would like to thank retiring Executive Committee members, Elizabeth Lynch, Bonnie Nunheimer, and Kim Hogan, and welcome new Executive Committee members, Michael Pierce, Ingrid Epperly, Heidi Grinsell, and Adam Schanz.

It's been an honor and privilege to lead the Barnstable County Bar Association. Thank you for the opportunity.

**Christopher J. Ward, President**  
**Barnstable County Bar Association**

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## News from the Child Support Enforcement Division

The Child Support Enforcement Division of the Massachusetts Department of Revenue (DOR/CSE) announces several changes. First, our mailing address has changed. In an effort to streamline business processes and take advantage of new technology, mail will be opened and scanned in a centralized location and made available to CSE staff online. Mail for the Barnstable office (and for all of our regional offices) should be addressed to:

**Massachusetts Department of Revenue**  
**Child Support Enforcement**  
**P.O. Box 7057**  
**Boston, MA 02204-7057**

The physical location of our office has not changed; we remain at 60 Perseverance Way, Suite 1-E, Hyannis, and we continue to maintain an office at the Barnstable Probate Court.

Second, we have had some changes in staffing and case assignments. Our Interstate Unit has merged with the Enforcement Unit, and the entire unit has been relocated to our Regional Office at 540 Myles Standish Boulevard in Taunton. The telephone number for the Taunton office is 774-299-6400. You can also continue to contact us at our Customer Service Bureau, 1-800-332-2733, or you can email us through our website at [www.mass.gov/cse](http://www.mass.gov/cse).

Our Legal Operations team remains in the Hyannis office, and we continue to offer customer service at that location as well. Thank you for helping us achieve our mission: to make a difference in the lives of children by enforcing the financial obligations of parenthood.

Lisa M. Barr, Counsel

# Welcome to Judge Kathryn Hand

On behalf of the Barnstable County Bar Association it is my pleasure to congratulate the Honorable Kathryn E. Hand for her recent appointment as presiding justice of the Barnstable District Court.

In November 2015 Judge Hand was appointed replacing the beloved Judge W. James O'Neil who passed away in September. Prior to that appointment Judge Hand served, since 2013, as the regional administrative justice who was responsible for management and scheduling for nine district courts in Barnstable, Dukes, Nantucket, Bristol and Plymouth counties.

Judge Hand, a 1987 graduate of Barnstable High School, received her bachelor's degree from Harvard University and a Juris Doctor from Boston College Law School. Judge Hand was appointed to Barnstable District Court as an associate justice in 2006 by Gov. Mitt Romney.

Judge Hand has demonstrated a desire for bottom up leadership. In April, Judge Hand initiated a "town hall"

type meeting where she invited members of the bar to give suggestions and feedback as to how the court could run as smoothly and effectively as possible and pledging continued accessibility.

Whether she is presiding over a contentious restraining order hearing or socializing at a bar association function it is evident that she listens, is thoughtful and respects the opinions of others.

We are lucky to have a judge with such grace, intelligence, and clear desire for justice as a leader in this community as well as a representative of the Barnstable County Bar Association.

Judge Hand, thank you for choosing this bar to serve and congratulations on your appointment.

Very Truly Yours,

Elisa Zawadzka

Barnstable County Bar Association, Vice President



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Fellow members of the Barnstable County Bar Association, I hope you are enjoying your summer here on the Cape. It certainly has been a warm one so far.

I would like to take this opportunity to introduce you to Dana A. White, the most recent Assistant District Attorney here on the Cape and Islands.

Dana is a graduate of the University of Connecticut and Suffolk Law. She has interned in the Plymouth and Norfolk District Attorney's offices and has worked as an attorney in a family law practice since 2014.

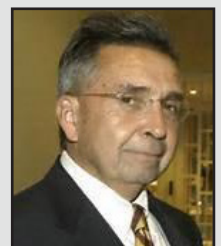
I will officially swear her in on Thursday, July 28, 2016 and I am pleased to have her on our staff.

Please say hello to Dana when you see her in Court.

As always, if you have any issue which you would like to make me aware of or discuss, I am but a phone call or visit away.

Very Truly Yours,

Michael O'Keefe  
District Attorney



**Barnstable County Sheriff's Office**

# **CIVIL PROCESS DIVISION**

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# 2016's Attorney of the Year Steven DeYoung

At the 2016 Annual Dinner the Barnstable County Bar Association honored Hyannis attorney Stephen DeYoung with its First Lawyer of the Year Award.

Attorney Marybeth Holland O'Hearn made the presentation. The award was the idea of BCBA Board Member Holley Ann Harney. Recommendations were made by the membership to the Board who developed the criteria and voted on the nominees. Steve was one of the first attorneys nominated and finished strong.

The criteria included requirements that the nominees have made significant contributions to the local bar including pro bono work, the ability to cooperate with others, attorney's that have overcome difficulties but have continued to provide compassionate and zealous advocacy for their clients and attorneys that practice in a manner that is of the highest ethical and moral levels.

Attorney Holland-O'Hearn noted among Steve's accomplishments were working with Judge Robert Scandura and other attorneys in creating the ARC Program (Attorneys Representing Children). Many other courts around the state have picked up the program which provides representation for children where they would not otherwise have a voice in matters before the probate court.

Steve is often asked by the judges and just as often takes on pro bono cases. Steve is marked by his compassion. To have worked with him or to have seen him in action is

to have witnessed his compassion and humanity. This is evident in how he treats other lawyers, or how he reaches out to persons he encounters, or his care in dealing with children in legal matters so as to not further traumatize them. Steve dispels the myth that behind a lawyer's eyeglasses are the reflections of dollar signs. Behind Steve's eyeglasses there is heart.

Steve sits on the Yarmouth Zoning Board as its chairman and was formerly on the Yarmouth Planning Board. He has served on countless community and business boards across the Cape.

Marybeth Holland-O'Hearn's comments included Steve taking the time to drive a colleague to appointments at Dana Farber in Boston and noting him as a loving husband, father and grandfather.

If we were writing a movie script for the compassionate, ethical and consummate professional making a difference in the local court system you couldn't do better than Steve's story.

The Bar Association made an excellent choice in naming Steven DeYoung as its first Lawyer of the Year, 2016.

Matthew Murphy, Editor

## Local Lawyers on the Move

As do so many BBA members, Bruce Bierhans tries to give back to the community. Bruce is Chairman of the Arts Foundation of Cape Cod and Vice President of the Cape Wellness Collaborative, an organization he formed with musician Sarah Swain to raise funds for integrative therapies for cancer patients in Cape Cod. In its first year, Cape Wellness has provided funding to over 100 cancer patients and is about to enter into a collaboration with Cape Cod Hospital. He is also a Founder and board member of Wellfleet Preservation Hall and on the board of community radio station WOMR. Previously, Bruce was the President and Chair of Outer Cape Health Services, President of the Payomet Performing Arts Center and President and CEO of the Wellfleet Harbor Actors Theater (WHAT). Bruce's Cape offices are in Hyannis and Chatham. Bruce previously practiced in Boston before moving to Wellfleet in 1999. He is also the Regional Governor for MATA for the Cape and Islands.

In his free time Bruce is petitioning for a 28 hour day and eliminating all references to a day of rest.

Matt Murphy, Editor





# NEWS FROM THE BARNSTABLE PROBATE AND FAMILY COURT

Dear Members of the Barnstable County Bar Association,

I hope everyone had a nice summer. I have the following news from the Barnstable Probate and Family Court:

1. Linda A. Larkin was promoted to Assistant Register effective July 7, 2016. Linda has worked at the Barnstable Probate and Family Court for almost 20 years. As many of you know, Linda previously worked in the trial assignment department at the court and was a Deputy Assistant Register. In addition to many new duties, Linda will also continue to work as backup in the trial assignment department. She will also remain in charge of all out of county cases and all appeals at this court. Linda is available to assist you with any questions or concerns. Please feel free to call either Linda (508) 375-6722 or myself (508) 375-6717 if we can assist you at any time.

2. First Justice Robert A. Scandurra appointed Attorney Lisa M. MacKenzie as an Assistant Judicial Case Manager effective July 25, 2016. Attorney MacKenzie was appointed to the fill the vacant position due to the retirement of Kathy Nagle in April. Many of you already know Attorney MacKenzie as she has practiced law in Barnstable County in for more than twenty years. She has had experience in all of the courts in Barnstable County as well as in courts in several other counties. I hope you will all welcome Attorney MacKenzie as she assumes her new role in the courtroom assisting the Judges, the Registry staff, and court customers.

3. I have been working on a new Barnstable County Probate and Family Court website. The new website is scheduled to be launched on or before September 1, 2016. The website will be more user friendly with your mobile devices and will be easier to navigate. The website will continue to have the Judicial Calendars which are updated daily so that you may pick your own date to schedule your Motion without the necessity of calling the court. In addition, the website will continue to feature a section where you can Email the court with a question.

4. The Probate and Family Court has released many new and updated forms for probate and estate administration. In addition, the Probate and Family Court has released the Second Edition of the MUPC Estate and Administration Procedural Guide. This extensive guide is very informative and I recommend that everyone use it when filing a probate or estate administration. The link for the Procedural Guide is as follows:

<http://www.mass.gov/courts/court-info/trial-court/pfc/notice-second-mupc-guide-available.html>

5. As a reminder, the Registry Office has a walk-in Magistrate Session for Informal Probate and every Thursday morning from 9:00 a.m to 11:00 a.m.. We have a sign-up sheet at the counter and handle these matters on a first come, first served basis. I hope this helps you better serve your clients in the event there is a closing or any other type of urgent need to obtain an expedited appointment of an Informal Personal Representative.

6. As you may have seen, there is some art work on display outside the probation office on the way to Judge Ryley's courtroom. The trial court received a grant entitled "Creating Community Connection through the Arts". I have collaborated with Roberta Miller, Executive Director of the Cape Cod Art Association and the plan is to have the Cape Cod Art Association rotate the art work every month to feature a new local artist. By participating in this initiative, it is my goal to provide something beautiful and interesting for our court customers and visitors to look at while waiting in court for what are often very difficult family matters. The feedback has been very positive. Our court customers, visitors and attorneys have commented that it is a calming distraction to have artwork to look at while waiting at court.

All of us at the court wish you a happy and relaxing summer. If I can assist you in any way, please feel to call me at (508) 375-6717.

Sincerely,  
Anastasia Welsh Perrino, Esq.  
Register



# A lot going on in the Superior Court

There is a lot going on at Barnstable Superior Court. We now have two new 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. There is now a new lounge to be used by attorneys and court staff to wait during court recesses and during jury deliberation. The lounge contains two restrooms and is located in the old victim witness room by the elevator on the second floor.

The Probation Department has moved to their new location down the main corridor and the main entrance is at the end of the corridor on the left before going up to the rear entrance to the main session courtroom. Please drop by to visit them in their new location.

The District Attorney's office has relocated all their offices in Superior Court to the old Probation Department Office on the second floor. I am pleased to announce that a new Safe and Secure Waiting area is in place as required by state law. The new Safe and Secure Waiting area is only to be used by witnesses for the Commonwealth and victims of crimes and entry is controlled by the DA's office and is located next to the new District Attorney's office space on the second floor.

We have a new third session courtroom located in the old Rooms 11 & 12 on the main level. It is being used at present for video bail review hearings and hopefully will eventually be used for a magistrate session as well as other video conferencing events. The room will also be available for use by other courts for non-jury trials and hearings by appointment through myself and the clerk of the requesting court.

There is a new jury check-in office at the top of the ramp on the second floor and new wall mounted TV's in the new jury waiting area and the two jury deliberation rooms so that the jury instructional video can be shown to first day jurors instead of being done in the main session courtroom.

I want to thank Judge Nickerson for his invaluable work on making sure that this project went forward. We would not be where we are now without his help. I wish to also thank Judge Rufo for his assistance in getting computers and other technology for our collective use. This would not have been accomplished without the direction of Mary Gorham and all the people in the Executive Office of the Trial Court and the approval of CJ Fabricant, CJ Carey and Harry

Spence, trial court administrator. I want to thank the County Commissioners for giving us the space and Stephen Tebo and his staff for all their hard work in getting all the areas ready so we could move in and on time.

We are hoping that the new lock-up project will begin by the end of the year. This project has been long overdue and we are pleased to see that it will hopefully be coming to completion soon. I will keep the bar updated on this project.

Please say hello to the newest member of my office Susan Allain, who is taking over for Karen Birely who is retiring on July 19th. She will be at the main counter and taking in new complaints and be the main cashier as well as other civil duties.

The new trial court recording system is now in place in Barnstable Superior Court and many members of the bar came to an instructional session I offered in June. The system will be used when we do not have court reporters in the courtroom and eventually full time when court reporters will no longer be in the Superior Court sometime by year end. I am available to give a review of the new session to any member of the bar as my time allows. This recording system called FTR will be in all trial court departments in the future so it will be beneficial for all members of the bar to become familiar with the system regardless of what courts they practice in. When the system is being used, anyone can request audio access of non-impounded recordings and request transcripts by going to [us.court.fm](http://us.court.fm). There is a fee involved in requesting access which at present is \$50.50 per recording. The recordings can be requested online at any time but will need to be approved by my office and this will only be done during normal business hours of the clerk's office. I am very pleased and proud that Barnstable Superior Court was chosen as a pilot for this service as it shows how well this office is run and the great staff I have working for me.

My office was also chosen to be a pilot for the scanning project. For cases filed in 2015 and after; complaints, answers, judge's decision and other court paperwork can be viewed online by attorneys on civil cases. Again, it was a privilege to be chosen for this project as it shows the confidence the trial court administration has in my office and my staff. We are adding new scanned documents all the time and I hope that these documents will be available to the public online at some future date but that decision will be made in Boston. At present, criminal documents are not available online and I am awaiting decisions by Boston as to when that may occur.

As always if any member of the bar has any questions, comments, concerns, suggestions, please feel free to contact me at 508-375-6684 or by email at [scott.nickerson@jud.state.ma.us](mailto:scott.nickerson@jud.state.ma.us). I hope everyone had a happy and healthy summer!

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



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