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- **Name** (page 59)
- **Name of Firm** (page 58)

We are also providing you with:

- A comprehensive glossary of legal terminology (page 50)
- A guide to the Massachusetts Court System (page 48)
- Contact information for the Chief Justices of the Massachusetts courts (page 49)

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Bocamazo is a 1988 graduate of Providence College and a 1991 graduate of Harvard Law School.

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Gelb is a contributing author to MCLE's Massachusetts Superior Court Civil Practice. She is an associate editor of the Massachusetts Law Review and has been published in that journal as well as in Massachusetts Lawyers Weekly and the Massachusetts Bar Association Civil Litigation Section News. She has served as a hearing committee member of the Board of Bar Overseers.

At the Massachusetts Bar Association, Gelb was a member of the Family Law Section Council. She also served as vice chairperson for the Public Relations and Speakers Committee, as a member of the Family Law Section Committee to Improve the Probate & Family Court, and on a Financial Decisions Subcommittee of the Governor's Special Commission on Divorce. She is a life member of the Massachusetts Bar Foundation. She is also listed as a New England Super Lawyer.

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Rachel B. Goldman has practiced law in Massachusetts for over 20 years. She specializes in collaborative law, mediation, settlement negotiation and parent coordination. Her areas of practice include all aspects of divorce and family law, including alimony, child support, custody, parenting plans, division of marital assets, post-divorce modifications, same-sex partnership dissolutions and divorce, marital mediation, and prenuptial and postnuptial agreements. She has represented clients and served as mediator and parent coordinator in hundreds of cases involving complex legal and emotional issues.

In addition to her law and mediation practice, Rachel frequently teaches and presents to professional groups, law students and the public about collaborative law and mediation. She was one of the first collaborative attorneys to be trained in Massachusetts and is a leader in the collaborative law community. She is a faculty member of and was instrumental in designing the three-day Interdisciplinary Collaborative Practice Training currently offered in Massachusetts. She also teaches introductory and advanced mediation courses with the Community Dispute Settlement Center and Massachusetts Continuing Legal Education.

Rachel has been a board member of the Massachusetts Collaborative Law Council since 2005. She currently serves as its clerk and co-chair of the Advanced Training Committee. She is a member of the Massachusetts Council on Family Mediation and the International Academy of Collaborative Professionals. She provides pro bono services as a volunteer mediator with the Community Dispute Settlement Center.



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Laurie Israel combines a family law practice with estate planning, mediation and collaborative law. She is a former board member of the Massachusetts Council on Family Mediation and the Massachusetts Collaborative Law Council. Her writings include articles on marital mediation, collaborative practice, marriage, divorce, prenuptial and postnuptial agreements. She is a frequent presenter at professional conferences. Laurie writes for The Huffington Post on divorce, mediation and other topics.



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Left to right: Karen Richards, Katherine Triantafillou, Nicole DiPentima, Jean Kolling, Rachel Goldman, Richard Woman, Vicki Shemin, David Hoffman, Don Greenstein, Israela Brill-Cass, Lenore Pellani

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Kauffman's practice focuses exclusively on traditional and non-traditional family law. Her work is primarily in the areas of divorce, dissolution, paternity, guardianship, adoption and Assisted Reproductive Technology (ART). Kauffman specializes in legal issues impacting the lesbian, gay, bisexual and transgender community.

Kauffman is the recipient of the Gwen Bloomingdale Pioneer Spirit Award, Massachusetts Lesbian and Gay Bar Association, 2007; the Fisher Davenport Award, Family Pride Coalition and COLAGE, 2004; and the Barney Frank Award, Massachusetts School of Law, 2003. She is a member of the National Family Law Advisory Council of the National Center for Lesbian Rights and was selected by Massachusetts Lawyers Weekly as one of the 2009 Lawyers of the Year.

## FAMILY LAW & MEDIATION



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In the past three years since she began her office, Judge Boorstein has seen domestic, trust issues and estate disputes in mediation. She has sat as arbitrator on cases involving post-divorce contempts and modifications and disputes arising out of the language in agreements, and as special master hearing cases in divorce, post-divorce modifications, contempts, contested accounts, estate, and equity actions. Judge Boorstein has been a commissioner for sale of real estate, served as special administrator of contested estates and served as special master under Rule 70 to perform certain act(s).



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David Hoffman is a mediator, arbitrator and attorney. Before founding Boston Law Collaborative, LLC, he was a litigation partner at Hill & Barlow, where he practiced for 17 years. David's practice is focused on resolving conflict in business, family, and employment cases. He is the co-author of "Massachusetts Alternative Dispute Resolution (with Prof. David Matz) (Butterworth Legal Publishers 1994, 2d ed. 1996)" and co-editor of "Bringing Peace into the Room: How the Personal Qualities of the Mediator Impact the Process of Conflict Resolution (with Daniel Bowling) (Jossey-Bass 2003)." David is the past chair of the ABA Section on Dispute Resolution. In November 2004, he was chosen as one of the Top 100 Lawyers in Massachusetts in Boston magazine's Super Lawyers Directory and has been consistently named a New England Super Lawyer since the listing began. David is also listed in "The Best Lawyers in America" in the categories of Alternative Dispute Resolution, Collaborative Family Law and Family Law Mediation. David teaches the Mediation course at Harvard Law School, where he was recently named John H. Watson, Jr. Lecturer on Law. He has served as mediator and arbitrator in more than 1,000 commercial, family, employment, construction, personal injury, insurance and other business cases.



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Eugene Nigro has extensive experience in all aspects of family law, divorce and custody, probate and estate litigation, contempts, modifications, civil litigation and resolution. His central objective in practicing law is the creative application of legal and practical methods to resolve problems for clients. He is also experienced with alternative dispute resolution methodology and mediations. He is a leading Massachusetts trainer and educator in conciliation and mediation practices. Nigro is the first recipient of the Essex County Bar Association Pro Bono Justitia Award.

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Griffin is an expert source on a full spectrum of health care matters, including acute and non-acute hospitals, skilled nursing facilities, community health centers, assisted living and senior living communities, physicians and allied health professionals in matters involving transactions, corporate governance, contracts, legislative and regulatory matters, reimbursement and tax-exempt financing.

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Parker represents corporations in connection with their immigration needs in Massachusetts and around the United States, including H-1B, L-1, E-1/2, O-1 and F-1 visas and visa status, employment-based permanent residence applications and naturalization matters. He also represents individuals in connection with employment and family-based immigration matters.

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Berman, who was recently chosen as “Boston Lawyer of the Year, Legal Malpractice Law - Defendants” for 2012 by Best Lawyers, concentrates his practice in malpractice and ethical and insurance issues affecting lawyers and other professionals. He has served as Chairman of the Board of Overseers. He is an honors graduate of Harvard University and Harvard Law School.



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Weiner has defended lawyers in about 600 malpractice claims over the past 20 years and founded his firm's professional liability defense group. He has also defended insurers for the last three decades in insurance coverage cases around the country. He has spoken on legal malpractice issues before numerous professional groups and insurers at the national, state and local levels. Weiner was recently named "Boston Insurance Lawyer of the Year" for 2012 by Best Lawyers. He is listed in Best Lawyers in America and U.S. News & World Report in both insurance law and legal malpractice

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law and was on the Members Consultative Group for the America Law Institute's Restatement of the Law Governing Lawyers and the Principles of the Law of Liability Insurance.

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William Boesch has a broad range of experience representing businesses and individuals in litigation arising out of intellectual property rights, including patent, copyright and trademark disputes, trade secrets, licensing and unfair competition. His clients are engaged in such diverse industries as publishing, the arts, biotechnology, Internet, software, medical devices, electronics, manufacturing and telecommunications. William has substantial experience representing intellectual property lawyers in legal malpractice claims and artists and authors in disputes involving intellectual property rights. He has been recognized by Best Lawyers and was named in Boston magazine as one of the Top 100 Lawyers in Massachusetts.

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Zaharoff focuses his practice on intellectual property and licensing law, representing providers of information and technology, including software companies, Internet and e-commerce businesses, life sciences ventures, publishers and authors. His substantial experience includes technology acquisition, development, distribution and licensing, as well as the protection and registration of copyrights and trademarks.

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Alan's office has over 30 years of experience representing landlords and tenants. He has experience as a consultant with TV, radio and the print media. His office handles matters throughout Massachusetts and looks forward to assisting your needs as a landlord or tenant. Massachusetts laws regarding the landlord and tenant relationship can be complicated and technically challenging. Failure to properly and timely notify a tenant regarding late rent or other issues that are creating problems for the landlord will result in dismissal of an eviction case and require starting the process from the beginning. Corporate landlords must be represented by a Massachusetts attorney; they cannot use an employee or an agent in eviction proceedings.

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Berman, who was recently chosen as “Boston Lawyer of the Year, Legal Malpractice Law - Defendants” for 2012 by Best Lawyers, concentrates his practice in malpractice and ethical and insurance issues affecting lawyers and other professionals. He has served as chairman of the Board of Overseers. He is an honors graduate of Harvard University and Harvard Law School.

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Regina Roman co-chairs the firm's Professional Liability Group. She frequently advises and represents attorneys in professional liability suits, and has significant experience in cases involving law firm breakups, partnership disputes, fee disputes and disciplinary proceedings. Regina currently serves on the Massachusetts Supreme Judicial Court's Standing Advisory Committee on the Rules of Professional Conduct. She previously served as a hearing officer for the Board of Bar Overseers and as co-chair of the Boston Bar Association's Ethics Committee. Regina has been recognized by Best Lawyers and was named in Boston magazine as one of the Top 50 Female Lawyers in Massachusetts and New England.



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Weiner has defended lawyers in about 600 malpractice claims over the past 20 years and founded his firm's professional liability defense group. He has also defended insurers for the last three decades in insurance coverage cases around the country. He has spoken on legal malpractice issues before numerous professional groups and insurers at the national, state and local levels. Weiner was recently named "Boston Insurance Lawyer of the Year" for 2012 by Best Lawyers. He is listed in "The Best Lawyers in America" and U.S. News & World Report in both insurance law and legal malpractice law and was on the Members Consultative Group for the America Law Institute's Restatement of the Law Governing Lawyers and the Principles of the Law of Liability Insurance.

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Pisegna is the firm's senior trial attorney with more than 30 years of experience representing clients in a wide range of litigation focusing on real estate and business litigation. He represents many commercial property management firms and is widely published in the fields of commercial litigation and commercial property management matters.

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Carolyn Latti specializes in representing fishermen, merchant seamen and passengers who have been injured and families who lost loved ones due an accident on a vessel or on the water. In 2001, Carolyn was selected as one of the Top 10 Massachusetts Lawyers of the Year by Massachusetts LawyersWeekly and has had one of the top 10 verdicts of the year in Massachusetts LawyersWeekly in two separate years. Carolyn was recently nominated as Chair-Elect of the Admiralty Division for the American Association for Justice.

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Israela Adah Brill-Cass is Executive Director and ADR Program Manager at Boston Law Collaborative, LLC. In addition to her experience as a lawyer in private practice, she is also a skilled facilitator and trained mediator. Israela mediates commercial (including contract, property and employment) cases, provides facilitation and systems design for workplace conflicts, and serves as an in-person hearing officer for wage garnishment matters involving federally backed student loans as well as a Parenting Coordinator in family law matters. Israela was chosen as a “New England SuperLawyer” for ADR in Boston Magazine’s SuperLawyer Directory in November 2011. In March 2011, Israela became a member of the Administrative Office of the Trial Court’s Standing Committee on Dispute Resolution and she has been co-chair of Massachusetts Continuing Legal Education (MCLE)’s Annual ADR and the Law Conferences (First – Third, 2009-2011). She is part of MCLE’s faculty for mediation training programs and has developed and provided mediation, arbitration, negotiation and facilitation skills trainings for the ABA, MCLE and state agencies for almost 10 years. Israela has designed and managed conflict resolution programs, including the Gillette/Procter and Gamble Severance Denial Appeal Program, for the Superior Court, commonwealth and federal agencies, and large, for-profit corporations. During her five years at the Massachusetts Office of Dispute Resolution (MODR), she facilitated intra-agency disputes and created the first federally funded Agricultural Mediation Program in New England. Israela served on a national team of ADR professionals to develop technology quantifying the benefits of mediation and during her two years at the American Arbitration Association, she managed large Complex Commercial Disputes for cases exceeding \$1 million in claims.

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Treannie counsels clients in all aspects of domestic and international patent protection, with particular attention to the integration of patent strategy with the business focus of the client. In addition, her practice is devoted to the analysis of patent issues in the context of opinions and due diligence, including freedom to operate analyses and opinions regarding patent infringement, scope, validity and enforceability.

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Henry handles complex, high-profile death and catastrophic damage cases. He was plaintiffs' liaison counsel in the "Big Dig" litigation involving the death of Milena DelValle (2006-2009), and represented the estates of Dr. James Allen, who died of a heart attack in 2002 when an MBTA train would not stop for help, and Scott Krueger, who died in a 1997 hazing at MIT. Henry's 20-year practice includes five years as an aviation defense attorney.

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Kreindler & Kreindler has been involved, typically as lead counsel, in virtually every major aircraft disaster around the world. As lead counsel in the Pan Am 103 disaster over Lockerbie, Scotland, the firm aggressively prosecuted to success the largest recovery in aviation history. The firm's resident partner in Boston, Tarricone has prosecuted aviation cases for over 30 years in Massachusetts, around the country and the world.

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Michael Appel has more than 25 years of experience representing clients in medical malpractice and serious personal injury matters. He has represented plaintiffs in litigation against pharmaceutical and medical device companies and has tried over 50 cases in the state and federal courts. His successes have included significant verdicts and large settlements in cases involving defective medical devices, adverse reactions to drugs, toxic material exposure, workplace injuries and vehicular accidents. Michael is a member of the American Board of Trial Advocates and has been recognized by Best Lawyers in the area of personal injury litigation.



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Wrongful death and catastrophic injury cases are the most complex of tort cases, requiring substantial experience, personnel and financial resources, tactical savvy and access to the most qualified experts. Since 1950, Kreindler & Kreindler has shown time and time again that it can take on the largest, most well-heeled defense firms and corporations in the world to bring justice to its clients.



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David Barry concentrates his practice in the defense of complex product liability cases and has tried over 60 jury trials. He regularly represents national and international manufacturers and distributors in complex product liability claims, particularly in the areas of automotive design, industrial machinery and heavy equipment, power tools and consumer products. David is a Fellow of the American College of Trial Lawyers and a member of the International Academy of Trial Lawyers and the American Board of Trial Advocates. He has been recognized by Best Lawyers and has been named one of the Top 100 Lawyers in Massachusetts and New England in Boston magazine.

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Christopher J. Petrini is founder and principal of Petrini & Associates, P.C., a municipal law firm in Framingham. Petrini's practice focuses on municipal law, labor and public construction law and litigation. Petrini & Associates, P.C. serves as town counsel to the towns of Framingham, Medway, Sherborn and West Brookfield, and as special counsel to various municipalities throughout the commonwealth on issues relating to municipal law, labor, public construction and litigation. Petrini is a cum laude graduate of Georgetown University and a high honors graduate of Duke University School of Law. Petrini served as president of the

Massachusetts City Solicitors and Town Counsel Association in 2009-2010 and is presently a member of its Executive Committee. Petrini was selected by his peers as a New England Super Lawyer in 2009 and 2010. Petrini also is a co-chair of the Massachusetts Bar Association Civil Litigation Section Construction Committee.



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- Represents financial institutions, investors, developers and other public and private entities
- Practice encompasses downtown office buildings, suburban office parks, mixed-use developments, hotels, health care institutions, retail complexes, industrial properties and not-for-profit uses
- Fellow of the American College of Real Estate Attorneys and the American College of Mortgage Attorneys; Member of The Abstract Club; Past president of the Real Estate Finance Association (REFA); Prior co-chair of the CREW Network Committee of New England Women in Real Estate

# SPORTS CONCUSSIONS & BRAIN INJURY

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For over 30 years, The Law Office of Kenneth I. Kolpan, P.C. has been representing individuals with traumatic brain injuries (TBI) and other catastrophic injuries. The principal and founder of the firm, Kenneth I. Kolpan, has been a longtime advocate for the rights of persons with TBI, working closely with medical experts from the Boston medical community and other nationally renowned teaching hospitals. Kolpan has recently been elected president of the Brain Injury Association of Mass. He has made numerous national presentations to attorneys, medical providers, brain injury programs and survivors on the legal rights of persons with brain injuries. Kolpan brings to each client his experience working as an attorney at two Boston-area hospitals as well an assistant professor at Tufts University Medical School. For the last 25 years, Kolpan has been co-chairman of a three-day medical legal conference sponsored by the North American Brain Injury Society (NABIS), where attorneys throughout the country learn how to represent persons who have traumatic brain injuries. Kolpan has also published articles in medical journals on brain injury litigation, all of which are on his website, [www.kolpan.com](http://www.kolpan.com). Kolpan is proud to serve on the Executive Committee and as former treasurer of the Massachusetts Brain Injury Association.

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Gould brings over 30 years' experience in counseling and litigating on behalf of a wide range of travel and transportation-related entities, including numerous tour operators, cruise lines, airlines and others. He has performed litigation and offered expert testimony for clients and venues in matters throughout the United States, Europe, South America and Africa.

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- Member of the Boston Probate and Estate Planning Forum; Member of the Trusts and Estates and Probate Sections of the Boston Bar Association; Member of the Board of Managers of the Nantucket Maria Mitchell Association; Member of an ad hoc committee formed by the Massachusetts, Boston and Women's Bar Associations that considers revisions to the Massachusetts Spousal Elective Share legislation

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Jeff represents whistleblowers under the False Claims Act (state and federal); the Dodd Frank Act (financial fraud); the Internal Revenue Code; The Foreign Corrupt Practices Act (FCPA); cases relating to Medicare and Medicaid Fraud; and Bank Fraud. His cases have successfully resulted in significant settlements including one claim resulting in a \$35 million recovery by the U.S. government. Jeff has also litigated complex tort matters to juries that have resulted in substantial verdicts and judgments, including a recent case resulting in an award of \$6.7 million to the estate of a Northeastern University student who died after falling down stairs in a Boston bar. A former reporter, Jeff was also a criminal prosecutor in the Middlesex District Attorney's Office and has written articles and books on various legal topics.

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- Taught prosecutorial ethics at B.C. Law School

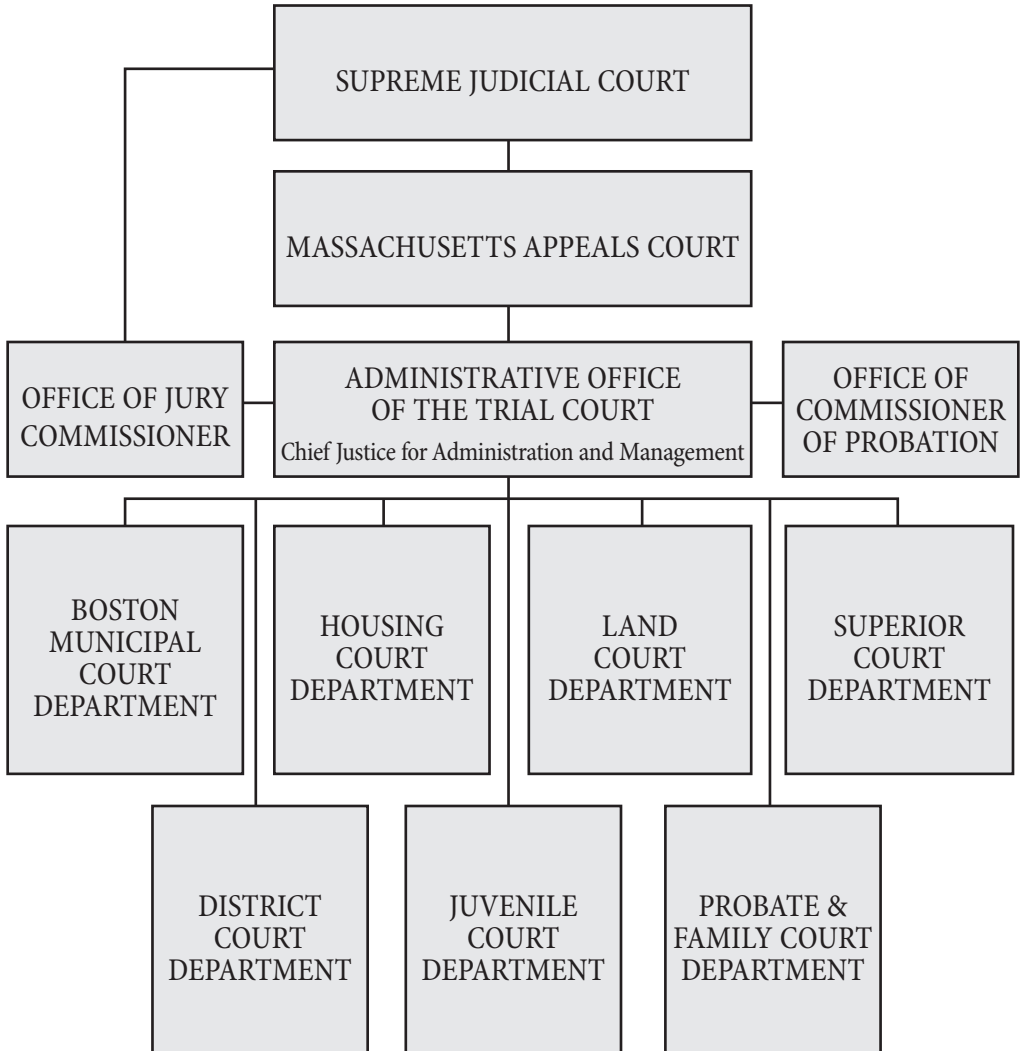


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# MASSACHUSETTS COURT SYSTEM



# MASSACHUSETTS COURT SYSTEM MEDIA INQUIRIES

The Public Information Office is the central communications office for the Massachusetts court system. All media inquiries and requests should be directed to one of the following:

Public Information Office  
Main number: 617-557-1114  
Fax number: 617-742-1807

Joan Kenney  
Public Information Officer  
Supreme Judicial Court  
John Adams Courthouse  
One Pemberton Square, Suite 1-100  
Boston, MA 02108  
Phone: 617-557-1113  
Cell: 617-529-3928  
Email: joan.kenney@sjc.state.ma.us

Additional information is available on the courts' websites:

Massachusetts court system website:  
[www.mass.gov/courts](http://www.mass.gov/courts)

Supreme Judicial Court and Appeals Court website:  
[www.mass.gov/courts/sjc](http://www.mass.gov/courts/sjc)

Massachusetts Trial Court website:  
[www.mass.gov/courts](http://www.mass.gov/courts)

Superior Court Docket and Calendar information:  
[www.ma-trialcourts.org](http://www.ma-trialcourts.org)

# MASSACHUSETTS COURT CHIEF JUSTICES

The Offices of the Chief Justices are listed here for your information. However, media inquiries should be directed to the Public Information Office (see page 48).

Hon. Roderick L. Ireland  
Chief Justice, Supreme Judicial Court  
John Adams Courthouse  
One Pemberton Square, Suite 2200  
Boston, MA 02108  
Executive Director: C. Clifford Allen (interim)

Hon. Phillip G. Rapoza  
Chief Justice, Appeals Court  
John Adams Courthouse  
One Pemberton Square, Suite 3500  
Boston, MA 02108  
Court Administrator: Gilbert P. Lima Jr.

Hon. Robert A. Mulligan  
Chief Justice for Administration and  
Management  
Administrative Office of the Trial Court  
Two Center Plaza, Suite 540  
Boston, MA 02108  
Executive Director: Francis J. Carney Jr.

Hon. Charles R. Johnson  
Chief Justice, Boston Municipal Court  
Edward W. Brooke Courthouse  
24 New Chardon Street, 6th Floor  
Boston, MA 02114  
Court Administrator: Cheryl A. Sibley

Hon. Lynda M. Connolly  
Chief Justice, District Court  
Edward W. Brooke Courthouse  
24 New Chardon Street  
Boston, MA 02114  
Director of Court Operations: Ellen S. Shapiro

Hon. Steven D. Pierce  
Chief Justice, Housing Court  
Edward W. Brooke Courthouse  
24 New Chardon Street, 6th floor  
Boston, MA 02114  
Director of Court Operations: Paul J. Burke

Hon. Michael F. Edgerton  
Chief Justice, Juvenile Court  
Three Center Plaza, 7th Floor  
Boston, MA 02108  
Court Administrator: Jane Strickland

Hon. Karyn F. Scheier  
Chief Justice, Land Court  
Three Pemberton Square  
Boston, MA 02108  
Court Administrator: Jill K. Ziter (acting)

Hon. Paula M. Carey  
Chief Justice, Probate & Family Court  
John Adams Courthouse  
Pemberton Square, Mezzanine  
Boston, MA 02108  
Court Administrator: Kim J. Wright

Hon. Barbara J. Rouse  
Chief Justice, Superior Court  
Suffolk County Courthouse, 13th Floor  
Three Pemberton Square  
Boston, MA 02108  
Court Administrator: Dana L. Leavitt

# GLOSSARY OF LEGAL TERMS FOR MASSACHUSETTS

## -A-

**accessory:** A person who assists another in the commission of a crime, either before or after the fact.

**adjudication:** A declaration by a judge.

**administrator:** A person appointed by the court to settle the estate of a dead person when there is no will, or when there is a will but the executor has died, resigned or been removed from office.

**affidavit:** A written or printed statement under oath.

**affirmative defense:** A defense in which the accused is required to produce the supporting evidence.

**affray:** Fighting together of two or more persons in a public place to the terror of the persons lawfully there.

**aggravated:** Characterized by some feature defined by law that enhances the crime, as the intention of the criminal or the special vulnerability of the victim.

**amicus curiae:** A “friend of the court”; usually an interested person or agency, not a party to an ongoing case, that wishes to make its position known. This is most often done in writing.

**amortization:** The payment of a debt by installments.

**answer:** A document filed in response to a complaint.

**appeal:** An application or proceeding for review by a higher tribunal.

**appearance:** The procedure by which an attorney acknowledges his representation of a party in a suit; also the submission of the defendant to the jurisdiction of the court.

**appellant:** The party appealing a decision to a higher court.

**appellate court:** The court having jurisdiction of appeal and review of law; not a trial court.

**appellee:** The party against whom an appeal is taken.

**arraignment:** The reading of a charge and the entering of a plea in response.

**assault:** A threat of some type of violence, not the actual bodily contact itself.

**assignment for the benefit of creditors:** The turning over of the assets of a debtor to a creditor or trustee to help pay off his debts.

**attachment:** A lien on a defendant’s property to satisfy a legal claim that the plaintiff hopes to prove.

## -B-

**bail:** An amount of money or security posted by a person against whom criminal charges are pending, to guarantee his appearance in court. The bail is determined by considerations such as the nature and circumstance of the charges, whether the person charged is a flight risk, and the likelihood of their appearance. It is not a reflection of guilt or innocence.

**bail hearing:** An appeal to a superior

court judge for the reduction of bail set by a judge in a lower court.

**bankruptcy:** A method of declaring insolvency when the debtor's liabilities exceed his assets. It has the practical effect of wiping out past debts. A Chapter 11 bankruptcy permits the continued operation of a business, with the proceeds to go to a trustee for the creditors.

**battery:** An un-consented touching.

**bench warrant:** A warrant issued "from the bench" for the arrest of a person. It is frequently imposed when a witness or litigant fails to show up for an appearance.

**bill of particulars:** A written statement by a prosecutor specifying the details, such as time, place, manner and means of a crime he expects to prove against the defendant.

**brief:** A written or printed argument prepared by counsel to support his case, usually containing a statement of facts and a discussion of law.

**burden of proof:** The duty of affirmatively proving disputed facts in a case.

## -C-

**cause of action:** The right a party has to institute a judicial action: a suit or litigation.

**certiorari:** A special type of proceeding in which a court (usually the superior court) is asked by a concerned party to review the proceedings of a state or local administration, agency or board.

**circumstantial evidence:** Evidence formed by a non-eyewitness.

**civil action:** A non-criminal case.

**class action:** Form of lawsuit where a large group of people collectively bring

a claim to court.

**codicil:** A supplement or addition to a will.

**comparative negligence:** A doctrine applicable to those negligence cases in which both the plaintiff and the defendant are found to be negligent. If the "degree" of the plaintiff's negligence is less than that of the defendant, the plaintiff is still entitled to prevail but any damages allowed are reduced in proportion to the plaintiff's negligence.

**condemnation:** The legal process by which real estate of a private owner is taken for public use without his consent but upon the award and payment of just compensation.

**consecutive (on and after) sentence:** One sentence to be served upon completion of another sentence, as opposed to concurrent sentences.

**consent decree:** An agreement of the parties made under the sanction of the court to be bound by certain stipulated facts.

**contempt of court:** Any act calculated to embarrass, hinder or obstruct a court in the administration of justice or to lessen its authority or dignity.

**contingent fee:** A charge for services, agreed to in advance, based on the lawyer's successful handling of the case. It is usually a set percentage of the amount won in a lawsuit.

**copyright:** Gives the creator of an original work of authorship exclusive rights to control its distribution for a certain time period.

**costs:** Actual expenses connected with prosecuting or defending a suit, including filing fees, sheriff's service, etc., but not including attorney's fees.

**counterclaim:** A claim filed by a defendant against a claimant in the same action.

## **-D-**

**de novo:** Usually applied to trial de novo, a system that permits a defendant to elect a second, totally new trial before a jury if the first trial was before a judge and the defendant is dissatisfied with the judge's decision.

**declaratory judgment:** Declares the rights of the parties or the opinion of the court on a question of law.

**decree:** Decision or order of the court in certain types of cases; a final decree fully and finally disposes of the litigation; an interlocutory decree is provisional. A final decree has the same effect as a judgment.

**default:** In a criminal case, failure to appear upon order of the court. In a civil case, failure to file a pleading or appear within the time allowed.

**defendant:** Any party who is required to answer the complaint of a plaintiff or pursuer in a civil lawsuit before a court, or any party who has been formally charged or accused of violating a criminal statute.

**deposition:** Sworn testimony taken prior to trial out of court and in the presence of a stenographer, usually for the purpose of "discovering" in advance what the witness is going to say and also to preserve testimony. (See discovery)

**direct evidence:** Proof of facts by witnesses who saw and heard what they are testifying about, as distinguished from circumstantial evidence, which is called indirect evidence.

**directed verdict:** An instruction by the trial judge ordering that judgment be

entered without the jury considering the matter; used usually when one party has failed to produce enough evidence, considering the merits of the case.

**discovery:** The term used to describe various methods for obtaining evidence in advance of trial, including such things as interrogatories, depositions and various motions to permit the inspection of documents, etc.

**dismissal without prejudice:** Permits plaintiff to sue again on the same cause of action; dismissal "with prejudice" bars the action forever.

**double jeopardy:** A doctrine that prohibits prosecution of a defendant in a criminal matter more than once for the same offense.

## **-E-**

**eminent domain:** The power of a government or of certain agencies to take private property for public use, even against the will of the owner, and to pay compensation.

**escrow:** The holding by a third person of something of value, e.g., money, deed to property, etc., until some agreed-upon contingency.

**estoppel:** A doctrine that prevents any action by a person who has earlier made a statement or taken a position inconsistent with his present posture. Example: One is estopped from denying a fact he earlier tried to prove.

**ex parte:** A proceeding where only one side is heard.

**ex post facto:** An act or fact occurring after some previous related act.

**exclusionary rule:** A rule prohibiting the use in criminal prosecutions of illegally obtained evidence.

**executor:** A person named by the decedent in a will to carry out the will's provisions.

**extradition:** The surrender by one state to another of an individual accused or convicted of an offense in the demanding state's jurisdiction. In Massachusetts, extradition and rendition are interchangeable.

**-F-**

**felony:** Any crime punishable by a year or more in state prison.

**fiduciary:** A person who undertakes the duty to act primarily for another's benefit, usually in financial areas. A fiduciary is bound by a high standard of good faith.

**-G-**

**garnishment:** Proceeding whereby property, money or credits of a debtor in the possession of another are applied to the debts of the debtor, as in the garnishment of a person's wages.

**grand jury:** A jury that receives complaints and accusations in criminal cases, hears the evidence and issues indictments in cases where it feels a trial ought to take place. It meets in a secret proceeding not open to the public.

**guardian ad litem:** A person appointed by the court to represent the rights of minors, the unborn and others under legal disability.

**-H-**

**habeas corpus:** Literally, "you have the body." An order of the court to bring a person before it; commonly used to test the legality of a prisoner's detention.

**hearsay:** An out-of-court statement offered for the truth of the matter as asserted.

**-I-**

**impeachment of witness:** Throwing doubt on the credibility of a witness by testimony showing prior inconsistency, contradiction or a conviction of a crime.

**implied contract:** An agreement, not in writing, in which the conduct of the parties indicates their intention to be bound.

**in camera:** A judge's chambers; in private.

**indemnify:** To compensate another for loss or damage that has already occurred or to give security against future loss.

**indictment:** The formal accusation made by a grand jury charging a person (named or unnamed) or corporation with a specific crime.

**interlocutory:** Court orders that are provisional, temporary and not final.

**interrogatories:** Written questions served on a party which must be answered under oath before trial; one of the methods of discovery.

**intervention:** A method by which a person may make himself a party to an action in which he has some special interest.

**intestate:** Dying without a will.

**-J-**

**jumping bail:** To fail to appear for a court appearance after depositing (posting) bail with the intention of avoiding prosecution, sentencing or going to jail.

**jurisdiction:** The authority of a court to hear a particular case and to render a judgment.

**-L-**

**larceny:** The criminal taking, obtaining or converting of personal property, with intent to defraud or deprive the owner permanently of the use of it; including all forms of larceny, criminal embezzlement and obtaining by criminal false pretences.

**leading question:** One that suggests an answer to the witness.

**levy:** The seizure of property by legal process.

**libel:** Communication (written or any other means) of a statement that makes a false claim.

**lien:** A claim upon the property of another on account of a debt.

**lis pendens:** Generally a notice filed in the registry of deeds to warn persons that title to certain property is in litigation.

**litigation:** a legal proceeding in a court; a judicial contest to determine and enforce legal rights.

**-M-**

**malfeasance:** The performance of an act that a person ought not do. The term is usually applied in connection with public officers.

**mandamus:** A court order directing a lower court, agency or official to perform its specific duty.

**manslaughter:** Unlawful killing of another without malice during the commission of certain minor crimes or in the heat of passion or through willful, wanton or reckless misconduct. Massachusetts recognizes two kinds: voluntary and involuntary.

**mens rea:** Latin for “guilty mind;” men-

tal element of offence that accompanies the criminal act.

**misdemeanor:** A criminal offense less than a felony, generally punishable by fine or imprisonment in a jail or a house of correction rather than a state prison.

**moot:** Loosely, an issue that has been settled by some happening other than judicial determination.

**motion:** A request that a court act or rule in a certain way.

**murder:** The killing of a human being, with malice aforethought.

**-N-**

**negligence:** The omission of an act that a reasonable person, guided by ordinary considerations, would do; or the commission of an act that a reasonable and prudent person would not do, which may result in injury, damage or loss to another person.

**no bill:** The report of a grand jury that has found insufficient evidence to support an indictment.

**no-fault divorce:** A divorce based on irretrievable marital breakdown and involving mutual consent of the parties.

**nolle prosequi:** Commonly, nol pros; a prosecutor’s decision not to prosecute a criminal case after charges have been brought.

**nolo contendere:** Commonly, nolo; a plea indicating the defendant will not contest a criminal charge.

**non obstante verdicto:** Notwithstanding the verdict; a judgment entered by a trial judge that is contrary to the jury verdict.

**nunc pro tunc:** Literally, “now for then”; acts or entries of decrees or judgments made retroactive to an earlier date.

## -O-

**objection:** a motion during a trial to disallow a witness’s testimony or other evidence.

**opinion:** The formal written decision rendered by a judge or court in a case; it contains the legal principles and reasons upon which the decision was based.

**opinion evidence:** What the witness thinks, believes or infers, as distinguished from personal knowledge; limited admissibility.

**ordinance:** A rule having the force of law established by a city.

## -P-

**parole:** supervised release of a prisoner before the completion of his/her sentence.

**patent:** set of exclusive rights granted by a state to an inventor for a fixed period of time in exchange for a disclosure of an invention.

**per curiam:** Literally, “through the court”; an opinion of an appellate court not attributable to any one judge.

**peremptory challenge:** The right to reject a juror without assigning a cause.

**perjury:** Stating under oath as true what is known to be false.

**personal recognizance:** Bail consisting of a promise to appear in court when required.

**petition:** A written request addressed to the court asking for some favor or relief.

**petit jury:** A trial jury, as opposed to a grand jury. Also called a petty jury.

**plaintiff:** The party who initiates a lawsuit before a court.

**pleading:** The process by which parties in an action raise and define in writing the issues to be resolved.

**power of attorney:** Written authorization permitting one person to act for another.

**prejudicial error:** A legal error that warrants an appellate court’s reversal of a lower court’s decision.

**preliminary hearing:** A hearing held to determine whether a person charged with a crime should be held for trial.

**preponderance of evidence:** Evidence supporting a proposition that outweighs evidence offered to contradict it; the standard of proof required in a civil case for the plaintiff to win.

**presentment:** A notice by a grand jury, from its own knowledge or observation to the court, that a crime has been committed; similar to the indictment.

**pretrial motion:** Any motion made in advance of trial.

**prima facie:** Literally, “at first sight”; when applied to evidence, such evidence as is sufficient to establish a given fact or facts constituting the party’s claim or defense which, if not rebutted, will remain sufficient.

**probable cause:** Reasonable belief. For example, probable cause is required for the issuance of a search warrant and the arrest of a person without a warrant.

**probate:** The legal process of establishing the validity of a will and settling an estate.

**probation:** Supervision by authorized

court personnel over the activities of a person released after conviction of some criminal offense.

**pro bono:** Shortening of Pro bono publico (Latin “for the public good”); when lawyers work on a voluntary, unpaid basis.

**pro se:** Representing oneself without the assistance of legal counsel.

## **-Q-**

**quash:** To vacate, annul or void any written order.

## **-R-**

**rape:** Sexual intercourse or unnatural sexual intercourse by a person with another person who is compelled to submit by force and against his will or by threat of bodily injury, or sexual intercourse or unnatural sexual intercourse with a child under sixteen years of age.

**reasonable doubt:** The standard by which criminal cases are decided.

**receiver:** A neutral person appointed by the court to manage the property or business of another, pending legal action.

**recklessness:** Conduct whereby the actor does not desire harmful consequence but foresees the possibility and consciously takes the risk. Can be used to determine mens rea.

**recuse:** To disqualify oneself as a judge in a particular case.

**remand:** A decision by an appellate court, sending a case back to the court from which it came for further proceedings.

**respondent:** The party who answers an appeal. (See appellee)

**restraining order:** A temporary court order directing a person to do, or not to do, a particular act pending further hearing. It is often used to order one person stay away from another.

**retainer:** A fee paid by a client to an attorney in anticipation of legal work that the attorney will perform.

## **-S-**

**search warrant:** Written judicial authorization for a search of specified premises for specified articles.

**separate maintenance:** A court-ordered allowance granted to one spouse for self-support and child support while living apart for justifiable cause.

**sequestration of witnesses:** Separating witnesses so they may not hear one another’s testimony.

**slander:** A malicious, false, and defamatory spoken statement.

**specific performance:** A legal remedy for forcing compliance under an agreement; most commonly used to force the transfer of real property.

**statute of limitations:** Time within which a criminal or civil action must be commenced.

**statutory law:** The written law enacted by legislative bodies.

**stay:** The postponement of judicial action by court order, usually temporary and usually related to some other contemplated action.

**stipulation:** A statement by the attorneys or the parties that certain matters have already been agreed upon.

**subpoena:** A court order compelling a witness to appear and give testimony.

**subpoena duces tecum:** A court order compelling a witness to produce certain documents.

**summary judgment:** A judgment decided by a judge without the necessity of a trial.

**suppression hearing:** A request filed by the defendant to prohibit the use of evidence gathered in violation of the defendant's rights; this hearing is held outside the presence of the jury.

**suspended sentence:** A sentence that need not be served if the defendant complies with certain court-imposed conditions.

## -T-

**testator:** Maker of a will.

**title search:** A thorough investigation of public records to ascertain ownership of property, or to discover any liens or encumbrances against a property or other defects in title to the land.

**tort:** A civil injury or wrong.

**true bill:** The endorsement made by a

grand jury upon a bill of indictment when it finds sufficient evidence to warrant a criminal charge.

## -U-

**unlawful detainer:** Retaining possession without the right to do so.

**unreasonable search and seizure:** An action executed contrary to legal guidelines that tightly regulate the way in which a private citizen's property may be searched and seized by the government.

## -V-

**venire:** The group of people who are summoned for jury duty.

**voir dire:** Generally applied to the questioning of jurors during impaneling to test their qualifications and determine possible bias; also, a hearing conducted during the trial by a judge out of the presence of the jury.

## -W-

**waiver:** The express or implied voluntary surrender of a right.

**writ:** Any of numerous orders issuing from a court.

SOURCE: Massachusetts Bar Association

Lawyers Weekly is grateful to the MBA for the use of this informative resource.

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