



August 2020

Dear clients and friends,

On behalf of our entire team, thank you for your continued support and loyalty.

The past several months have been unlike anything we've ever experienced, and we're working hard to continue to provide the best service to you in new ways, even if it may look a little different than it has in the past. Your health, and the health of our employees, are our top priority.

During these unprecedented times, K&S formed a task force that spent its time learning the new emergency legislation as it evolved, publishing client alerts, advising on construction best practices, employment, business and insurance issues, and serving as industry leaders.

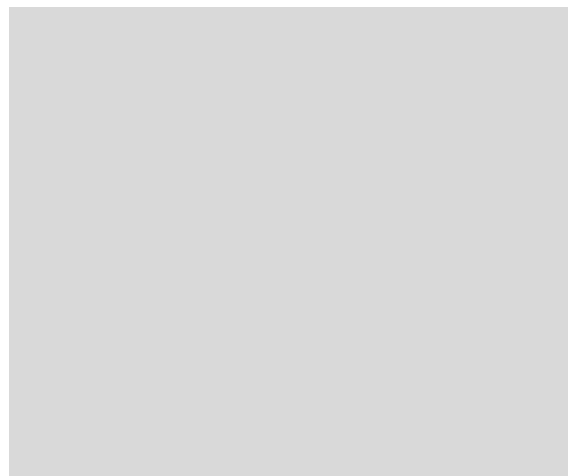
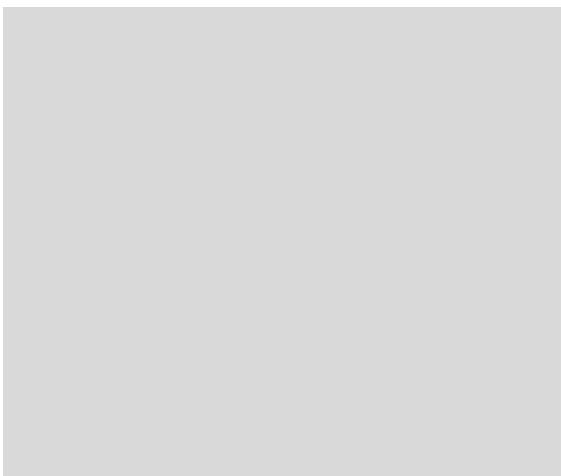
Please see all of our current articles on our website:

[Kenney & Sams COVID-19 Updates](#)

BEST LAWYERS 2021



**Congratulations to our team for their selection in
Best Lawyers 2021**





Chris Kenney was recognized by *The Best Lawyers™* in the fields of Insurance Law and Labor and for Employment Litigation.



Mike Sams was recognized by *The Best Lawyers™* for Construction Law and for Insurance litigation.



J. Nathan Cole was selected for inclusion in *The Best Lawyers™* in the field of Personal Injury Litigation.



Alex Zwillinger was included in the inaugural edition of the *The Best Lawyers™*: Ones to Watch in the field of Construction Law and Construction Litigation.

Drew Colby Joins the Firm as a Director



Drew's construction law practice encompasses both transactional matters and litigation of payment and performance disputes. His clients comprise the entire spectrum of the construction industry from owner/developers to subcontractor, as well as design professionals. Drew is universally recognized as one of the foremost leaders in construction law by industry members and counsel, a reputation earned over the course of his 35-year career in construction law and litigation.

WE HAVE BEEN BUSY



Chris Kenney and Dave Kerrigan achieved an historic victory at the Massachusetts Supreme Judicial Court in *Brady v. State Ballot Law Commission*

Our client, Helen Brady, is a candidate for Congress from the ninth congressional district. Her political opponents challenged 1,066 voters' signatures on her nomination sheets for access to the ballot. After an expedited trial before the state Ballot Law Commission, Ms. Brady was stricken from the ballot on the basis that she purportedly had not complied with the new electronic signature-gathering process necessitated by the coronavirus pandemic.

We immediately petitioned the Massachusetts Supreme Judicial Court to review the case on an expedited basis. The court accepted our appeal and ordered briefing and oral argument to be completed within a week to meet the deadline for congressional ballots to be printed in time for the primary election.

After oral arguments, The SJC agreed with our legal position, reversed the Ballot Law Commission's ruling, and ordered the MA Secretary of State to place Helen Brady's name on the ballot for the 2020 election. We are proud to have ensured that democracy is not another victim of the coronavirus pandemic!

ARTICLES OF INTEREST

Corporate Officers Cannot Be Individually Liable For Pure Prevailing Wage Claims

By: Julianne Fitzpatrick

In a recent decision, *Donis v. American Waste Services, LLC*, the Massachusetts Supreme Judicial Court ("SJC") held that employees suing their employer under the Prevailing Wage Act, for failing to pay prescribed wage rates on public works jobs, could not also recover from their employer's corporate officers under the Wage Act. The SJC found that permitting recovery under both statutes



on that sole basis would be duplicative and contrary to the Legislature's intent.

[Read Full Article Here](#)

Pitfalls to Avoid When Transitioning to An Unlimited Vacation Policy



By: Emyr Remy

An increasing number of companies are offering unlimited vacation days as a key benefit of employment. Known as “unlimited vacation” or “unlimited paid time off (PTO)” this trendy benefit presents several important legal considerations for employers and employees in Massachusetts and across the country.

[Read Full Article Here](#)

Risks and Rewards for Landlords with Real Estate in Cannabis-zoned Areas



By: Benjamin Hinks

In July 2017, Governor Baker signed into law An Act to Ensure Safe Access to Marijuana, General Law Chapter 94G, which allows individuals over the age of 21 to lawfully operate marijuana establishments for retail, cultivation, manufacturing and testing. Over a year later, in November 2018, the first legal sale of recreational marijuana was made at a dispensary in Leicester. Today, more than 50 retail establishments have opened state-wide.

[Read Full Article Here](#)

Employers Beware: Practical Implications of Governor Baker's Newly Issued Travel Order, Effective August 1, 2020

****Updated****



By: Michelle De Oliveira

On July 24, 2020, Governor Baker issued a COVID-19 Travel Order^[1] to safeguard residents from exposure to the Coronavirus due to interstate travel. The Travel Order went into effect on August 1, 2020, requiring visitors and returning residents entering Massachusetts to complete and submit a Travel Form and self-quarantine for 14 days *unless* the individual is exempt from the mandated quarantine.

[Read Full Article Here](#)

FIRM HAPPENINGS



Our team has been a leading voice in educating the business community on the novel and significant impacts that the coronavirus has imposed in Massachusetts.

During the ongoing COVID-19 pandemic, as businesses reopen and bring employees back into physical work spaces, employers must ensure that they are familiar with key federal and state laws relating to employer obligations, and develop plans to protect their employees' health and safety. These seminars will help you recognize employee risk factors, and how to best manage and support a changing workforce.

Webinar # 1

Presented by Michelle De Oliveira

**Managing a Changing Workforce During COVID-19 |
September 3, 2020 | 10:00 am - 11:00 am**

This webinar will provide answers to the following questions that are often posed by employers that are trying to balance the implications of COVID-19 in the workplace, while keeping their businesses afloat.

- How do employers deal with employees who have used all of the time allotted but cannot return to work because their children are still at home?
- How do employers deal with employees who don't want to return to the office because of health concerns?
- Can employers reduce hours or salaries for employees who can only return to work in the office part-time?
- Can employers change the job title and/or responsibilities for an employee who can only return part-time?

This Webinar will also cover best practices when handling a request for a reasonable accommodation and will address issues employers should consider

relating to vacation and leave policies.

- Engaging in an interactive dialogue with employees.
- The impact of other disabilities and medical conditions on accommodations in the workplace.
- Vacation and leave policies in the backdrop of self-quarantine directives.
- Handling leave policies to provide more leeway for employees in high-risk categories to be out on leave, while minimizing potential discrimination liability.

Webinar # 2

**Complying with New DOL Guidelines |
October 8, 2020 | 10:00 am - 11:00 am**

Moderated and Presented by:

Mike Sams, Kenney & Sams, P.C.

Michelle De Oliveira, Kenney & Sams, P.C.

The U.S. Department of Labor published additional guidance on leave issues, non-discrimination and wage and hour rules. This webinar will cover commonly asked questions and answers that address these critical components of employment practices in the midst of COVID-19.

[Click Here To Register On-line](#)

Past seminars included an employment law update presented by Michelle and moderated by Mike Sams discussing the Families First Coronavirus Response Act (FFCRA), ADA and reasonable accommodations, employee privacy concerns as well as discussing unemployment benefits.



Michelle De Oliveira has been appointed as a Vice Chair of the Massachusetts Bar Association's Labor and Employment Section Council.

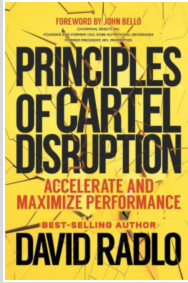


Mike Sams spoke at DRI's nationally based Construction Law Seminar concerning risk management during the pandemic in the areas of job site management, contracts, and related project issues.

Mike also participated as a weekly speaker on ABC's coronavirus seminars featuring legal updates and risk management.



Kenney & Sams Prides Itself on Having "Raving Fans"



Kenney & Sams Client, David Radlo, recently authored *Principles of Cartel Disruption*, an Amazon best-selling book. In Chapter 3, "Understand the Legal Game," Dave notes that ***"Former Massachusetts Bar President Chris Kenney and his partners are excellent litigation attorneys."***

