



Kenney & Sams, P.C. News & Updates

July 2017

Kenney & Sams thanks you for your continued support and subscription to our email list. We hope you find the content useful and interesting.

Enjoy the summer with your family and friends!

In This Issue:

[Recent Successes](#)

[Legal Issues You Should Know!](#)

[Noteworthy Events](#)

[Legal Publications](#)



Congratulations!

Chris Kenney has recently been named President-elect of the Massachusetts Bar Association ("MBA"). The MBA is a statewide bar association covering all practice areas in the commonwealth.



Recent Successes

Mike Sams, Mandy Cox and Ryan Menard won a jury verdict after a five week trial in Middlesex County Superior Court. We represented a charter school that was locked into a 25 year lease in a converted office park that lacked consistently working HVAC. Unfortunately, the lease had a seemingly insurmountable standard (at least from the landlord's perspective) for termination, and the landlord refused to allow the school out of the lease.

Our team had to prove that the HVAC deficiencies constituted "a lack of critical services" that constituted "substantial interference" with school operations for at least 90 consecutive days. Otherwise, termination would be denied and the school would have had to remain in the buildings or pay the balance of the rent if it moved out. Our challenge in proving substantial interference was complicated by the school's great success: It ranked second in the state for its students' proficiency in test scores and was noted for its novel pedagogical approach and outstanding academic achievement.

The standard of proof required expert testimony from a mechanical engineer on HVAC systems and from a doctor and two environmental engineers concerning air quality issues and the health effects of poor ventilation. It also required testimony from multiple teachers about the impact on their teaching and the students' learning.

After five weeks of trial and nine hours of deliberations, the jury ruled for our client and terminated the lease. This has saved the school a substantial sum and allows it to relocate to a new, healthy and fully operable location.

Mike Sams and Ryan Menard successfully tried a case involving our client, a condominium association that was sued by one of the condominium owners. Mike and Ryan defended the condominium association and were able to get the case against our client dismissed on the first day of trial and saved the client the time and expense of further litigation after establishing via cross examination that the plaintiff's experts were not qualified to testify under the circumstances.

Legal Issues You Should Know!

Do You Have A Duty To Read Your Insurance Policy?

By: J. Nathan Cole

When your company's insurance policies arrive in the mail, do you or someone responsible for your company's risk management read them to make sure that each policy includes the insurance coverage your company thinks it purchased? ... Or do you file the policies without them reviewing them?...Now imagine that your company is sued for something that you believe your agent told you would be covered...What's your duty?

[READ FULL ARTICLE HERE](#)

Who Has The Jurisdiction In A Wrongful Death Case?

By: Anthony DeProspo

Every year, Massachusetts swells with out-of-state and international residents attending Massachusetts universities. Massachusetts' high-tech industry and world-class medical facilities similarly attract thousands of non-Massachusetts residents. In a Massachusetts wrongful death action, "the local law of the state where the injury occurred determines the rights and liabilities of the parties.... "

[READ FULL ARTICLE HERE](#)



Massachusetts Law Review Case Comment - The Spearin Doctrine

Sakib Khan recently published a Case Comment in the Massachusetts Law Review regarding the "*Spearin doctrine*", which requires the contractor to build according to plans and specifications prepared by the owner. The contractor will not be responsible for the consequences of defects in the plans and specifications.

[Massachusetts Law Review: The Spearin Doctrine](#)

Noteworthy Events

MBA Labor and Employment Spring Conference



MBA

David Kerrigan discussed cutting-edge discovery issues at this year's premier labor and employment law spring conference.

Second Annual MBA Complex Commercial Litigation

Conference

Lindsay Burke recently co-chaired the Second Annual Complex Commercial Litigation Conference in Boston for the MBA. The conference featured a keynote address from Supreme Judicial Court Justice Margot Botsford. Other programming topics included "The Impact on Commercial Litigation One Year After the Defend Trade Secrets Act," "Under Siege: Bankruptcy's Effect on Director and Officer Protections," and "The Perspective from the Other Side of the Bench."

MBA Annual Dinner



More than 1,000 members and guests attended the annual MBA dinner on May 4, 2017, where Chris Kenney presented Robert Muldoon, Jr. of Sherin & Lodgen, with the MBA's Gold Medal Award.

Legalization of Marijuana

Mike Sams spoke to a group of professional construction remodelers at a Building and Remodelers Association of Greater Boston meeting regarding the new marijuana law and its effect on employment.



How Wage and Hour Issues Affect All Companies



Tony Deprospo and Ryan Menard presented for Gould Construction Institute and the American Builders and Contractors, Inc. concerning how wage and hour issues affect all companies.

Knowing the law and how to comply with it is critical for construction companies looking to reduce their risk and avoid lawsuits from employees.



Mike Sams has recently become a Fellow in the Construction Lawyers Society of America, a national association recognizing excellence across all practices relating to construction law.

Solo and Small Firm Symposium

Judy Murray of Kenney & Sams, was a featured speaker at Northeastern University School of Law's Solo and Small Firm

Symposium, where she discussed the financials of a law firm and what options exist for managing your money.

Mike Sams also chaired a panel discussion at the symposium, discussing law firm management.



Mike Sams chaired a Massachusetts Continuing Legal Education seminar entitled *Making Objections At Trial*.



Legal Publications



Construction Litigation Desk Reference **A State Compendium**

Lindsay Burke, Tony DeProspo, Mandy Cox, Ross Wecker, and Mike Sams authored the chapter on Massachusetts Construction Law in the new Construction Litigation Desk Reference for DRI. The collection of state-by-state chapters focus on the most important current issues in construction litigation. Topics addressed include: insurance; causes of action; construction/materialman's lien; surety/bond issues; defenses; arbitration/ADR, and more.

[Visit DRI](#) to purchase your copy.



Trial-Think ['tri(ə)l θɪŋk] *noun*

1. An approach to dispute resolution and risk management that brings trial experience, preparation and effectiveness to everything we do for our clients.

**Litigation - Construction Law - Employment Law - Business Law -
Insurance Law - Risk Management**

STAY CONNECTED:

