



FEBRUARY 2019

**We have moved our
MetroWest Office!**

**Reservoir Corporate Center
144 Turnpike Road
Southborough, MA 01776
508-490-8500**

**Boston Office:
Old City Hall
45 School Street
Boston, MA 02108
617-722-6045**



www.KSlegal.com

Articles of Interest

***OSHA Standards Impermissibly Applied to
Construction Employers are Held Invalid***

By: Kristen R. Ragosta

The United States Occupational Safety and Health (OSH) Review Commission has ruled that the Secretary of Labor impermissibly applied certain OSHA standards to construction employers. The Commission held that the standard was promulgated initially to cover non-construction employers and that the Secretary of Labor impermissibly expanded the standard's scope to apply it to private parties engaged.

[Read Full Article Here:](#)

***OSHA's New Standard for Confined Space in
Construction***

By: Jason R. Rogers

The Occupational Safety and Health Administration (OSHA) has published standards

governing Confined Spaces in Construction (29 C.F.R. 1926, Subpart AA) ("Confined Spaces Standards"), to provide added protections to employees performing work in confined spaces. Specifically, spaces (a) large enough for a worker to enter with (b) limited or restricted means of entry or exit and (c) not designed for continuous occupancy (e.g., sewers, manholes, HVAC ducts, boilers, crawl spaces, tanks, and pits). The Confined Spaces Standards went into effect on August 3, 2015.

[Read Full Article Here:](#)

Pregnant Workers Fairness Act: What Every Employer Should Know

By: Michelle De Oliveira

As the new year begins, it is an ideal time for employers to assess whether their policies and procedures are compliant with Massachusetts law—including the Pregnant Workers Fairness Act. It goes without saying that most companies will, at one point or another, have an employee who is pregnant or who experiences a condition related to pregnancy. The purpose of this article is to examine the Pregnant Workers Act ("PWFA") and provide a refresher on its requirements.

[Read Full Article Here:](#)

Firm Happenings



Massachusetts Bar President, Chris Kenney, recently presented a keynote address for the Equal Justice Coalition's "Walk to the Hill" to request increased funding for legal services to the poor. Other keynote speakers were Chief Justice Ralph Gants of the Massachusetts Supreme Judicial Court and Jonathan Albano, President of the Boston Bar Association.

Chris also spoke on corporate risk management strategies at the MBA's 16th Annual "in-house counsel conference" at Bentley University.



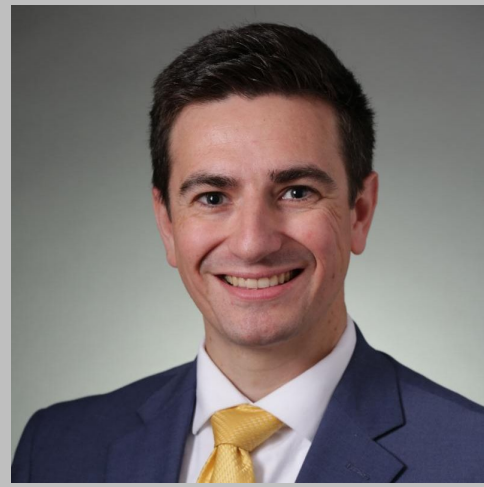
Mike Sams has been asked to serve as faculty on the MCLE's upcoming Practicing with Professionalism Program.

He will also chair the MCLE's trial practice program entitled Making Objections.

Mike is chairing a program for Northeastern University School of Law entitled, *Surviving and Thriving In A Private Practice Law Firm*.



Lindsay Burke has been named to the Executive Board of the Women's Bar Foundation. She currently also serves as Clerk.



Ryan Menard recently chaired and moderated a CLE for the Massachusetts Bar Association on employment law



David Kerrigan appointed to Massachusetts Clients' Security Board

On December 28, 2018, the Massachusetts Supreme Judicial Court appointed David to a five year term to be a member of the Massachusetts Clients' Security Board. The seven member Clients' Security Board mission is to preserve the public's trust in the legal profession by reimbursing clients whose Massachusetts lawyer had stolen from them. The reimbursed funds are provided solely by the lawyers of Massachusetts as part of their annual dues. The Board can make a reimbursement when the lawyer who is the subject of the claim was a member of the Massachusetts bar and either: has been disbarred or suspended by the Supreme Judicial Court; has resigned; or has died.



The firm welcomes **Alex R.**



The firm welcomes **Alan Y. Wong.**

Zwillingier. Alex is a civil trial lawyer focusing on general business, real estate, technology, construction and healthcare litigation. He also counsels clients in risk management, breach of contract, tort and employment related disputes

Alan focuses his practice in tort and contract litigation in Massachusetts, Connecticut and Rhode Island. His experience includes business disputes, construction law and product liability claims.

In Case You Missed it!



[MBA President, Chris Kenney, speaks with Jordan Rich](#)

Jordan Rich talks with new Massachusetts Bar Association President Christopher A. Kenney about his goals for the 2018-19 year, including the MBA's role in promoting civics and civic education. Kenney also unveils plans for the MBA Trial Academy, which will train the next generation of trial lawyers and encourage them to provide limited assistance representation (LAR) to unrepresented individuals in court. The MBA's Leadership Academy and the association's work with the courts on lawyer well-being are also discussed.

[MBA President to Promote Civic Education, Launch Trial Academy](#)

[Ask a Lawyer with MBA President, Chris Kenney, and Dan Rea](#)

Every year, WBZ's Call for Action, the Massachusetts Bar Association, and NightSide with Dan Rea team up to bring you our "Ask A Lawyer" program! Mass Bar Association President Chris Kenney joins Dan in the NightSide studio to talk about some of the most pressing legal issues facing Massachusetts.

[Ask a Lawyer: Nightside with Dan Rea](#)

Recent Successes

- Mike Sams and Jason Rogers recently won an arbitration for our client, a general contractor, in its dispute with the tenant restaurant owners relating to the build-out of its new location in the Seaport. After three days of hearings, the arbitrator awarded our client damages for the tenant's breach of contract, interest on the unpaid contract balance, along with an award of costs and attorney's fees. The ruling fully adopted the themes and arguments we asserted in our case.
- In a recent appellate argument before the U.S. Court of Appeals for the First Circuit, Chris Kenney persuaded a three-judge panel to affirm a \$2.8 million jury verdict Chris won at trial in the U.S. District Court.
- David Kerrigan successfully argued before the First Circuit Court of Appeals on January 9, 2019. David represented plaintiffs challenging an enforcement notice regulating firearms issued by Attorney General Healey because the notice is too vague for the plaintiffs to understand. After the Attorney General's office lost the motion to dismiss, the Attorney General filed an appeal from one aspect of the decision on a technical legal issue of whether the state was immune from a state

law claim in federal court. After David acknowledged that the complaint did not assert a state law claim, the First Circuit panel, including former Supreme Court Justice David Souter, summarily dismissed the appeal from the bench, in a rare move. This victory for the firm's clients allows the case to proceed.

- After our general contractor client substantially completed a home remodeling project, the homeowner paid less than 10% of the bill, demanded a 50% discount to settle the homeowner's class of defective work, and filed suit when our client refused to budge. Ryan Menard defended our client and brought counterclaims against the homeowner, resulting in the homeowner paying more than 97% of the bill.



Welcome to our new team members:

Sabrina Johnson, Jill Candlen and Suzanne Itani!

