

## Chief Justice Margaret H. Marshall

### Some notable decisions\*

#### Class Action

*Salvas v. Wal-Mart Stores, Inc.*, 452 Mass. 337 (2008). Reversing a lower court decision granting summary judgment to Wal-Mart in lawsuit brought by former employees, and holding that the employees, who alleged that Wal-Mart wrongfully had withheld compensation and denied or cut short work breaks to which they were entitled, could maintain their case as a class action.

#### Criminal Law

*Commonwealth v. Vasquez*, 456 Mass. 350 (2010). Adopting the "harmless beyond a reasonable doubt" standard of review for drug offense convictions where drug certificates were admitted without testimony from the analysts and without objection from defense counsel, where the defendant was tried and convicted after the Supreme Judicial Court declared that drug certificates were not "testimonial" for purposes of the Sixth Amendment, but before the United States Supreme Court declared otherwise in *Melendez-Diaz v. Massachusetts*, 129 S. Ct. 2527 (2009).

*Commonwealth v. Pring-Wilson*, 448 Mass. 718 (2007). Announcing a new rule granting trial court judges the discretion in self-defense cases to admit evidence of the victim's prior bad acts, even if unknown to the defendant, for the purpose of supporting the defendant's contention that the victim was the first aggressor.

*Commonwealth v. Woodward*, 427 Mass. 659 (1998). Affirming a trial judge's reduction of a jury verdict of murder to involuntary manslaughter on the ground that the Legislature has granted such powers of postconviction relief to trial and appellate justices to ensure that the result in every criminal case is "consonant with justice."

#### Discrimination/Employment Law

*Commonwealth v. Bernardo B.*, 453 Mass. 158 (2009). Where a juvenile male was charged with various sexual offenses, including rape of a child, which he allegedly perpetrated against three juvenile females who were his friends but who were not charged in connection with the incidents, the boy was entitled to discovery from the Commonwealth that would allow him to investigate and if possible support his claim that he was the victim of selective prosecution on account of gender.

*Gasior v. Massachusetts General Hospital*, 446 Mass. 645 (2006). Concluding that an employee's claim against his employer under the Massachusetts anti-discrimination statute for allegedly wrongful dismissal or failure to reinstate survives the employee's death.

***Dahill v. Police Department of Boston***, 434 Mass. 233 (2001). In contrast to the United States Supreme Court's interpretation of the Americans with Disabilities Act, concluding under the Massachusetts anti-discrimination statute that a person may assert that he was a victim of handicap discrimination under Massachusetts law even if the person's impairment "has been or can be alleviated by the use of corrective devices or other mitigating measures."

***Dartt v. Browning-Ferris Industries, Inc.***, 427 Mass. 1 (1998). Clarifying the prima facie standard for bringing a claim of handicap discrimination under the Massachusetts anti-discrimination statute, and holding that it is not a requirement of the plaintiff's prima facie case to show that he was terminated "solely" because of his handicap.

## **Family Law**

***Ansin v. Craven-Ansin***, SJC Docket No. 10548 (July 16, 2010). Recognizing the validity of post-nuptial or marital agreements for the division of property upon divorce and establishing the legal standard for determining the enforceability of such agreements.

***Goodridge v. Department of Public Health***, 440 Mass. 309 (2003). Holding that the Massachusetts Constitution prohibits denying same-sex couples access to the protections, benefits, and obligations of civil marriage.

***DeMatteo v. DeMatteo***, 436 Mass. 18 (2002). Establishing the legal standard for determining the enforceability of pre-nuptial or pre-marital agreements.

***Woodward v. Commissioner of Social Security***, 435 Mass. 536 (2002). Where a married couple arranged for the husband's sperm to be withdrawn and preserved for the purpose of artificially inseminating his wife, and where the woman was impregnated with that sperm after her husband's death, holding that in certain circumstances the posthumously born child may enjoy the inheritance rights of "issue" under the Massachusetts intestacy statute.

***L.W.K. v. E.R.C.***, 432 Mass. 438 (2000). Where a deceased parent had a child support obligation to his nonmarital child and attempted to disinherit the child in his will, holding that his estate was legally obligated to pay child support. Under the Massachusetts omitted child statute, a "parent charged with an obligation to support his child cannot nullify that legal obligation by disinheriting his child. "

***Youmans v. Ramos***, 429 Mass. 774 (1999). In a case of first impression in Massachusetts, recognizing the legal status of "de facto parent," and affirming a visitation order between a child and the maternal aunt who had been the child's sole caretaker; the best interests of the child in maintaining a relationship with the only parent she has ever known is "powerful," and the child "is entitled to be protected from the trauma caused by the disruption of that relationship."

## **Fiduciary Duties**

*Doe v. Harbor Schools, Inc.*, 446 Mass. 245 (2006). Holding that an untrained counselor to a young woman living in a group residential home had a fiduciary duty to the woman, which he breached by engaging in sexual relations with her; tolling the statute of limitations on the breach of fiduciary duty claim until such time as the plaintiff has "actual knowledge" that she has been injured by the fiduciary's conduct.

*Matter of Trusts Under the Will of Crabtree*, 449 Mass. 128 (2007). Holding that courts may apply "the severe sanction of removal" of trustees of an estate where trustees' actions, viewed as a whole, reflect a fundamental lack of understanding of their obligations as fiduciaries.

## **Personal Injury**

*Matusyama v. Birnbaum*, 452 Mass. 1 (2008), and *Renzi v. Paredes*, 452 Mass. 38 (2008). In a case of first impression in Massachusetts, holding that Massachusetts law permits a plaintiff in a medical malpractice wrongful death action to recover damages for "loss of chance" where the plaintiff medical provider's negligence reduced or eliminated the patient's prospects for achieving a more favorable medical outcome.

*Haglund v. Philip Morris, Inc.*, 446 Mass. 741 (2006). Concluding that, except in certain fact-specific circumstances, a cigarette manufacturer in a cigarette-related product liability action may not assert as an affirmative defense that the decedent smoker knew that his or her use of cigarettes was unreasonable. "Because no cigarette can be safely used for its ordinary purposes, smoking, there can be no nonunreasonable use of cigarettes."

## **Procedure**

*Commissioner of Revenue v. Comcast Corp.*, 453 Mass. 293 (2009). Establishing the test for determining when a document prepared by a third party consultant at the request of an attorney falls within the "work product doctrine" shielding the document from discovery in litigation in certain circumstances.

*Suffolk Construction Co. v. Division of Capital Asset Management*, 449 Mass. 444 (2007). Concluding that Massachusetts public record statute does not preclude protection under the attorney-client privilege of confidential communications between government entities, officers, and employees and their legal counsel undertaken for the purpose of obtaining legal advice or assistance.

## Speech, Press, and Religion

*Astra USA, Inc. v. Bildman*, 455 Mass. 16 (2009). Former CEO of a drug company who was fired for sexual misconduct and harassment of employees was a "limited purpose public figure" who could prevail in his libel suit against his former employer only by producing clear and convincing proof that the allegedly libelous statements were made with actual malice; "the issue of widespread sexual harassment at a publicly traded company employing 1,000 people is a matter of general concern," and the former CEO himself actively attempted to influence public debate on the issue.

*Maffei v. Roman Catholic Archbishop of Boston*, 449 Mass. 235 (2007). Holding that parishioner-plaintiffs could not bring claims against the Roman Catholic Archbishop of Boston for alleged breach of fiduciary duties or confidential relationship because the claims raise issues of church governance that are protected from government intrusion under the First Amendment.

*Cape Cod Times v. Sheriff of Barnstable County*, 443 Mass. 578 (2005). Concluding that the Massachusetts public record law requires an elected sheriff to permit a newspaper to have access to the names and addresses of individuals appointed as "reserve deputy sheriffs."

*Martin v. Corporation of the Presiding Bishop of the Church of Jesus Christ of the Latter-Day Saints*, 434 Mass. 141 (2001). Reversing the decision of a Superior Court judge that the Dover Amendment, which prohibits the use of zoning ordinances to restrict the use of land for religious purposes, did not apply to the request of the Church of Jesus Christ of the Latter-Day Saints to build a steeple atop its new temple in Belmont because the steeple was not a necessary element of the Mormon religion. It "is not for judges to determine whether the inclusion of a particular architectural feature is 'necessary' for a particular religion."

***\*NOTE: The case descriptions are abbreviated summaries intended for informational purposes only, and do not constitute official case summaries of the Supreme Judicial Court.***