

COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT

SUFFOLK COUNTY  
No. OE

---

IN THE MATTER OF DIANE E. MORIARTY

---

CONDITIONAL SUBMISSION TO THE SUPREME JUDICIAL COURT  
UPON ACKNOWLEDGED EVIDENCE BY THE COMMISSION ON  
JUDICIAL CONDUCT AND THE HONORABLE DIANE E. MORIARTY  
PURSUANT TO G.L. C. 211C AND COMMISSION RULE 13B  
ON COMMISSION COMPLAINT NUMBERS 2007-89 AND 2007-108

---

VOLUME II

**IMPOUNDED**

---

September 9, 2010

## TABLE OF CONTENTS

### **VOLUME I**

	Page
<u>Section 1</u>	
Conditional Submission to the Supreme Judicial Court Upon Acknowledged Evidence pursuant to G.L. c. 211C and Commission Rule 13B . . .	1
<u>Section 2</u>	
Complaint Number 2007-89 . . . . .	29
Complaint Number 2007-108 . . . . .	52
<u>Section 3</u>	
Statement of Allegations . . . . .	71
<u>Section 4</u>	
Exhibits: Statement of Evidence and Statement of Allegations . . . . .	86
Exhibit A . . . . .	86
Exhibit B . . . . .	95
Exhibit C . . . . .	98
Exhibit D . . . . .	106
Exhibit E . . . . .	109
Exhibit F . . . . .	113
Exhibit G . . . . .	116
Exhibit H . . . . .	136
Exhibit I . . . . .	145
Exhibit J . . . . .	150
Exhibit K . . . . .	163

TABLE OF CONTENTS

**VOLUME I (cont.)**

	Page
Exhibit L . . . . .	167
Exhibit M . . . . .	179
Exhibit N . . . . .	184
Exhibit O . . . . .	202
Exhibit P . . . . .	204
Exhibit Q . . . . .	207
Exhibit R . . . . .	214
Exhibit S . . . . .	224
Exhibit T . . . . .	229
Exhibit U . . . . .	232
Exhibit V . . . . .	241
Exhibit W . . . . .	251
Exhibit X . . . . .	253
Exhibit Y . . . . .	259
Exhibit Z . . . . .	281
Exhibit A1. . . . .	285
Exhibit B1. . . . .	294

## TABLE OF CONTENTS

### **VOLUME II**

	Page
<u>Section 5</u>	
Judge Diane E. Moriarty's Response to the Statement of Allegations (with Exhibits) . . . . .	309
Exhibit 1 . . . . .	316
Exhibit 2 . . . . .	339
Exhibit 3 . . . . .	356
Exhibit 4 . . . . .	359
Exhibit 5 . . . . .	361
Exhibit 6 . . . . .	371
Exhibit 7 . . . . .	378
Exhibit 8 . . . . .	381
Exhibit 9 . . . . .	406
Exhibit 10 . . . . .	422
Exhibit 11 . . . . .	434
Exhibit 12 . . . . .	457
Exhibit 13 . . . . .	462
Exhibit 14 . . . . .	464
Exhibit 15 . . . . .	468
Exhibit 16 . . . . .	505
Exhibit 17 . . . . .	547

## TABLE OF CONTENTS

### **VOLUME II (cont.)**

	Page
Exhibit 18 . . . . .	580
Exhibit 19 . . . . .	612
Exhibit 20 . . . . .	616
Exhibit 21 . . . . .	618
Exhibit 22 . . . . .	624
Exhibit 23 . . . . .	628
Exhibit 24 . . . . .	630
Exhibit 25 . . . . .	632
 <u>Section 6</u>	
G.L. c. 211C . . . . .	636
 <u>Section 7</u>	
Rules of the Commission on Judicial Conduct . . . . .	644
 <u>Section 8</u>	
Code of Judicial Conduct (Supreme Judicial Court Rule 3:09) . . . . .	654

JUN 30 2010

June 29, 2010

Stephen E. Neel, Chairman  
Commission on Judicial Conduct  
11 Beacon Street, Suite 525  
Boston, MA 02108

RE: Complaint Nos. 2007-89 and 2007-108

Dear Judge Neel:

Thank you very much for the opportunity to respond to the charges contained in the Commission's Statement of Allegations. I will attempt to respond to each of the allegations, and I request an opportunity to be heard in person.

1. Alien Warnings

I concede that I did not provide the full statutory warnings to the defendants referenced in January, 2005.<sup>1</sup> At that time, the law was unclear as to whether the full warnings had to be provided in the colloquy to citizens who would not suffer adverse consequences under the statute.

Indeed, the Supreme Judicial Court has determined that a judge must be reversed in accepting a plea without giving the statutory warnings only if the defendant can demonstrate that he or she may face one of the enumerated consequences contained in the statute. See *Comm. v. Berthold*, 441 Mass. 183 (2004); See also, *Comm. v. Casimir*, 68 Mass. App. Ct. 257 (2007); *Comm. v. Barreiro*, 67 Mass. App. Ct. 25 (2006); *Comm. v. Agbogun*, 58 Mass. App. Ct. 206 (2003).

At that time and subsequent to that time, there have been hundreds of decisions by the Appellate Courts in Massachusetts concerning a judge's duty to provide alien and other necessary warnings in his/her, plea colloquy. (See Exhibit 1). These cases reflect appellate decisions on a matter of law and do not represent an intentional violation of the canons of judicial conduct. I did sign the section of the tender of plea form that certified that I addressed and informed each defendant of the consequences of the tender of plea if he was an alien. The certification was not correct, but the act was not intended to be untruthful. It was a form that I signed, a form that is used to guide a judge through the colloquy and disposition of the tender of plea. I signed the form to ensure that I completed the requirements. Knowledge of the place of birth of each defendant, I believed, completed the section's requirement. In retrospect, I should have marked the section, "citizen" or something of equal value. I was not attempting to establish an untruthful record.

---

<sup>1</sup>

These incidents occurred 5 ½ years ago, and I have changed my practice for many years and in hundreds of pleas and colloquies.

Of more importance, however, is that when I was informed by the Office of the Attorney General that my interpretation of the statute was incorrect and I was required to give the full statutory warning in each case, I have been doing just that. On January 26, 2006, I provided the full warning to each of the three defendants. I have provided the full warning for the last 4 ½ years, and there has not been one complaint since January, 2005.<sup>2</sup>

## 2. Colloquy

I admit, as well, that in two cases in September, 2003 in accepting a tender of plea, I failed to verbally inquire whether the defendants were under the influence of drugs and alcohol.

Again, this legal issue has been the subject of numerous appellate decisions. The appellate case law is replete with decisions concerning the adequacy of the colloquy, even after the judge signed the tender and certification. (See Exhibit 2). Just last month, the Supreme Judicial Court through Justice Ireland reiterated that a motion to vacate a plea should not be allowed unless the three constitutional rights contained in the statute had not been provided. *Comm. v. Hubbard*, 457 Mass. 24 (2010).

The position taken by the Commission is contrary to what I believed, at the time, was the most natural reading of the certification. The second sentence of the certifications begins, "I made appropriate inquiry...." The most natural reading to me, at the time, was that I was required to "ma(k)e appropriate inquiry" into the mental capacity of each defendant to enter into the plea. To satisfy this requirement, I proceeded under the belief that I was required to ask a direct question concerning the defendant's consumption of "drugs, medication, liquor or other substances." In my view at the time, resolving this issue by situational inference would reflect uncertainty. My belief was that the court must probe into the relevant inquiry with a direct question that asked each defendant whether he had consumed any alcohol or drugs. I believed that this question was required in order to find that the defendants voluntarily entered into their pleas. I did not believe that it was permissible, as suggested by the Commission's statement of Allegations, that I could make the certification "merely" because I "was satisfied that each defendant was 'not under the influence of any drugs, medication, liquor or other substance that would impair his or her ability to fully understand those rights' on the date of their pleas."

In *Comm v. Correa*, 43 Mass. App. Ct. 714 (1997), the Appeals Court stated that, to determine whether a defendant's plea is voluntary, the court should conduct a "real probe of the defendant's mind," which should include a determination of "whether the defendant was under the influence of alcohol or drugs." *Id.* at 717-718. In the context of a motion for a new trial, the Appeals Court decided in *Comm v. Estrada*, 69 Mass. App. Ct. 514 (2007), that absent any indication of impairment the failure to make the inquiry will not provide, as matter of law, a right

---

2

The issue with regard to alien warnings was not unique to me and was the practice of a number of judges at Chelsea District Court. The letters from retired Justices Alan Jarasitis and Paul Buckley make clear that we all discussed this legal issue at the Chelsea District Court and had all, incorrectly, followed the same procedure. (See Exhibits 3 & 4).

to relief. The court stated,

“(a)bsent some indication that the defendant’s judgment is impaired by alcohol, drugs or medication at the time of his admission or plea, particular questions from the judge probing that possibility, while helpful, are not essential to establishing the intelligence and voluntariness of the admission of the admission or plea. Much more probative are the judge’s observations of the defendant during the colloquy, particularly the defendant’s interactions with his attorney and the judge and the manner in which the defendant follows and responds to questions posed. Ordinarily, the judge may infer from these observations the defendant’s understanding and competence to enter an admission or plea.” (Footnote omitted)

*Id.* at (2007). And the court noted that, “(t)he mere fact that the defendant ‘had any drugs or alcohol in this system’ does not render the defendant incompetent or his plea involuntary. What is important is whether the defendant’s understanding is so impaired by alcohol, drugs or medication as to render him incapable of rational judgment.” *Id.* at n.7. But, at the time, I understood the language of the form as requiring, as matter of law, that I make the determination, and in a direct and unambiguous way. I vacated the pleas because of my understanding and the demonstrated showing through the transcript that, contrary to what I believed was required, I did not make the “appropriate inquiry.” The Appeals Court has explained the context of what questioning is required. My interpretation was different. My legal reasoning should not be characterized as being “not true.” More importantly, since the Appeals Court decision, I always make a specific note on each plea regarding this portion of the colloquy.<sup>3</sup>

Finally, I could not have ruled on Jamie Estrada’s motion on July 6, 2006. The defendant’s motion is dated July 6, 2006. Notice of the motion was delivered, in hand, to the Norfolk County District Attorney on July 7, 2006. My endorsement of the allowance of the motion is made on the page dated by defense counsel as July 6, 2006. The Commonwealth’s motion for clarification, Exhibit Q, states that, as of October 11, 2006, my ruling had not been entered on the docket. The Commonwealth references an exhibit, but it is not part of the record. Each docket does place the date of my decision as having occurred on July 6, 2006. But, these are typewritten entries. Respectfully, the docket entries must have been reconstructed. And, the reconstruction must have used my endorsement on the page of the date the defendants’ motions were drafted as the date of my decision.

---

3

With regard to the allegations regarding ex parte communications concerning these cases, upon receipt of the letter I did call Suffolk County/ADA Christina Miller to discuss procedural and scheduling issues. I was not attempting to gain any tactical advantages. It was not a violation of Canon 3(b)(7)(A).

With regard to the allowance of the motions, both presented the same issues in open court and one as an emergency motion. I should not have acted upon them without the presence of the Suffolk County District Attorney, but a Norfolk County District Attorney was present.



I did consult with my colleagues. My counsel's statement to the Commission, a conveyance of my statement to him, was the truth. I understand that docket entries generally control, but the evidence reveals that in the administrative duty of reconstructing the docket, there was an error. I could not decide a motion on a date prior to when counsel for the defendants appeared before me.

### 3. Mathew West

I fully concede that I should not have allowed the motion to vacate for Mathew West. But, I would like to place that inappropriate decision in context.

Defense counsel had represented that all of the relevant parties were not objecting to the allowance of the motion-the Suffolk County District Attorney, the United States Attorney, and the Federal District Court Judge. (See Transcript attached as Exhibit 5).<sup>4</sup>

Further, I was in the midst of a heart attack during the hearing. Due to my impaired medical condition, I made an error in judgment allowing the motion to vacate. After my hospitalization and upon review of the transcript of the hearing, I sua sponte vacated my decision. When I reviewed the transcript, I did not recall most of the hearing but I do remember trying to ask questions so no one would see that I was ill while I tried not to pass out. I recall thinking I just need to get off the bench, and I allowed the motion in error. I do not recall even reading the submissions or which document I signed. On September 24, 2007, my judgment was impaired by my medical condition including dizziness, lightheadedness, chest pain, uncontrolled hypertension, fear, anxiety and inability to make appropriate decisions.

I understand and state emphatically that I should never have taken the bench that day. I should not have heard cases and or made rulings that day. I was driven home by a court officer and my husband took me to the emergency room at New England Medical Center as a result of my condition. A copy of the emergency room record has been provided to the commission.

A brief summary of my medical issues leading up to the day of the West case are as follows. As a result of abdominal surgery to remove a uterine mass in June, 2007, while at the hospital I began to experience tachycardia (rapid heart rate). I underwent several tests to rule out post-operative embolism and was released from the hospital. While recovering, I continued to have this heart issue which caused dizziness, lightheadedness, exhaustion and hypertension. In late August, 2007, I was taken to the hospital emergency room as a result of severe heart symptoms. I was admitted to New England Medical Center to undergo testing and for medical treatment for the tachycardia and chest pain. During the echocardiogram stress test, the front wall of my heart stopped. I was taken to the Operating Room for a cardiac catheterization procedure. I was advised that I had a blockage in the coronary arteries. After five or six days of treatment and testing, I was released

---

4

Similar to the motions in the Estrada matters, it was error for me to hear this motion without a representative from the Suffolk County District Attorney being present, but I accepted the representations of defense counsel and the Norfolk County Assistant District Attorney who was present.

from the hospital with a cardiac treatment plan including a cardiac loop monitor which I wore everyday. I was told to send in transmissions when I experienced any heart symptoms. (See Exhibit 6).

Several days leading up to the September 24, 2007, West case, I had been suffering from chest pain but assumed it would be resolved with the new medication. When I arrived at court on September 24, 2007, I was not feeling well. I was told by Judge McGovern that I didn't look well and should go home or to the doctor. I did not want to leave my session work to another judge, and I thought the heart issues would subside with the medication. I did send a heart monitor transmission via phone and discussed the symptoms. I was told to take the medication and send another monitor transmission in twenty minutes. The first transmission was at 11:10 a.m., and the second transmission was at 11:29 a.m. when the symptoms were worsening. I was advised to call 911. I did not want to go to the nearest hospital, Quincy Medical Center, where the ambulance would be required to take me. I wanted to go to the emergency room at New England Medical Center (New Tufts Medical Center). A court officer drove me home from court, and my husband drove me to New England Medical Center emergency room. The first EKG showed elevated ST waves indicating an abnormality, possibly a blockage in the heart. Again, I was taken to the operating room for an emergency cardiac catheterization where again coronary artery blockage was found. I was admitted to the hospital. The diagnosis was possible unstable angina, coronary artery disease, hypertension, gastrointestinal reflux disease and further tests were ordered. I have had further medical issues since this date including several strokes as evidenced by the June, 2009 MRI and both carotid artery and heart surgery. (See Exhibit 7).<sup>5</sup>

While my medical condition(s) (see Exhibits 8, 9, 10, 11 & 12) and my acceptance of the representations of defense counsel do not excuse my legal error, I hope you will consider the context in which it was made.

#### 4. Pattern of Bias

I concede that I made legal errors in 2003 and 2005 on the alien warnings and colloquies which never adversely affected a defendant or the Commonwealth, but there have been no further complaints on either issue for over 5 ½ years. I have corrected the legal mistakes I made at that

---

5

Exhibit 7 is a letter from my primary care physician. In the letter, Dr. John M. Mazzullo states:

"It is apparent that Judge Moriarty was affected by her coronary disease on the morning of September 24, 2007. She would have experienced pain, fear and anxiety as a result of her cardiac condition. Many patients demonstrate an inability to focus and an ambivalence over whether to remain in a safe environment (in this case the courthouse) or to leave and seek treatment. Cardiac patients also tend to delay treatment in the hope that the symptoms will abate. The cardiac episode of September 24<sup>th</sup> would negatively affect Diane's memory, comprehension, and decision making ability."

time.<sup>6</sup>

I conduct myself fairly and impartially to all parties. I am not prejudiced or biased against the Commonwealth. As a judge for almost twelve years, I have always attempted to balance the interests of those who appear before me. In the Fontina case, I accepted the defendant's plea and terms of disposition. In Delgado, I rejected the defendant terms of disposition. In Rodriguez, I accepted the disposition requested by the defendant and the Commonwealth. In the case of Jaime Estrada, I rejected the dispositional terms offered by the defendant. I rejected the dispositional terms offered by Gabriel Estrada. In the West case, I also rejected the dispositional terms suggested by West. I do not harbor a bias against the Commonwealth. (See affidavits of Police Prosecutors (Exhibit 13) and former Suffolk County District Attorneys (Exhibit 14)). (See also attached copies of my evaluations (Exhibits 15, 16, 17 & 18)).

#### 5. Discourteousness

The Commission asserts that I violated the Code of Judicial Conduct in the manner that I responded to the Commonwealth's request that I provide the so-called alien warnings. I understand that the Commission can inquire into the conduct of a judge which occurred more than one year prior to the date of a complaint. Yet, as to the allegation that I was discourteous, I am disadvantaged in responding to the allegation. Reproduced in the Statement of Allegation is my exchange with the prosecutor. It is a moment in time in the course of a colloquy. It is advanced that the prosecutor first objected, but the exchange is stripped of this context, and, at least in the case of Commonwealth v. Anthony Fontina, what has been reproduced suggests that the prosecutor had, at least once before, made an objection. The context of how I responded to this objection or what exchange occurred is not part of the Statement of Allegations or the exhibits. It is suggested that, in the case of Commonwealth v. Jennifer Delgado, I "(Exclaim[ed])," "Well, Make a record! I just told you I wouldn't do it. Take it up!" I do not recall the specific exchange, but it would not be my practice to vehemently tell the Commonwealth to do, or not to do, a particular act. Having said that, if any exchange between a judge and a litigator becomes heated or contentious, it is the judge's responsibility, I acknowledge, to control the particular situation and ensure that both decorum and order are maintained. Respectfully, in fairness, it has not been demonstrated that I have exhibited a pattern of discourteous treatment toward the Commonwealth, and the abstracted record should not be a basis on which to proceed with a formal allegation.

#### 6. Mass.R.Crim.P 12(c)(5)

The Commission in its Statement of Allegations alleges that I violated Cannons 1A, 2A, and 3B(2), by "fail[ing] to adhere to Rule 12C (5) of the [Massachusetts] Rules of Criminal Procedure and to established precedent when [I] granted the motions to vacate in the **Estrada** cases." Respectfully, Rule 12C(5) governs the court's obligation to determine the voluntariness of a plea and

---

6

I would suggest that those legal mistakes made many years ago are now stale, have been changed in my practice since then in literally hundreds, if not thousands, of cases, and should not now serve as evidence of bias against the Commonwealth so many years later.

the factual basis of the charge. In addition, it informs the court that at the end of the hearing, a judge must state "the court's acceptance or rejection of the plea or admission." Rule 12(c)(5)(B). The rule does not govern the context to which it is applied.

#### 7. Sanction

While assuming responsibility for the legal errors I have made, I feel that any suspension is fully disproportionate to my mistakes. I immediately changed my practice when corrected. Chief Justice Connolly has assigned me to be mentored by Justice Robert Rufo of the Superior Court, and I have learned from his advice and suggestions. (See letter from Justice Robert Rufo (Exhibit 19)). Since 2006, I have attended 25.5 days of judicial training/education. I also believe that my many years of hard work and dedication to the work of the judicial system far outweigh any of the legal errors which I made. (See affidavit of First Justice Mark Coven (Exhibit 20) and Exhibits 21-25).

I fully accept responsibility for my legal mistakes; I have adjusted my practice; but, I do not believe a suspension is warranted.

Sincerely,

A handwritten signature in cursive script, appearing to read "Diane E. Moriarty".

Hon. Diane E. Moriarty

# EXHIBIT 1

CITATION	PARALLEL CITATION	TITLE
777 N.E.2d 804	437 Mass. 809	Com. v. Hilaire
777 N.E.2d 116	437 Mass. 797	Com. v. Villalobos
766 N.E.2d 912	54 Mass.App.Ct. 1114	Com. v. Brache
769 N.E.2d 342	55 Mass.App.Ct. 1103	Com. v. Meade
769 N.E.2d 341	55 Mass.App.Ct. 1103	Com. v. Frantz
765 N.E.2d 287	54 Mass.App.Ct. 1107	Com. v. Ramos
766 N.E.2d 563	54 Mass.App.Ct. 1112	Com. v. Hall
773 N.E.2d 404	437 Mass. 521	Doe v. Commissioner of Transitional Assistance
767 N.E.2d 29	436 Mass. 690	Adoption of Peggy, In re
2002 WL 31973248		Com. v. Nunez
771 N.E.2d 770	437 Mass. 312	Kent v. Com.
2002 WL 1923871		Turgeon v. Naparstek
778 N.E.2d 997	56 Mass.App.Ct. 506	Com. v. Gonsalves
778 N.E.2d 1039	56 Mass.App.Ct. 1110	Estate of Palmer v. Commissioner of Revenue
764 N.E.2d 814	436 Mass. 316	Cottam v. CVS Pharmacy
766 N.E.2d 492	436 Mass. 537	Com. v. Seng
770 N.E.2d 1002	55 Mass.App.Ct. 1107	Tieu v. City of Boston
2002 WL 1489610		Martinelli v. Custom Accessories, Inc.
776 N.E.2d 455	56 Mass.App.Ct. 901	Tilton v. Union Oil Co. of California
778 N.E.2d 976	56 Mass.App.Ct. 486	Jacome v. Com.
775 N.E.2d 803	56 Mass.App.Ct. 176	Fidalgo v. Columbus McKinnon Corp.
2002 WL 1592523		Rose v. The Sports Authority
773 N.E.2d 478	55 Mass.App.Ct. 1113	Franks v. City of Newton
763 N.E.2d 516	54 Mass.App.Ct. 49	Com. v. Alcalá
778 N.E.2d 1038	56 Mass.App.Ct. 1110	Cole v. Jiminy Peak, Inc.
768 N.E.2d 605	54 Mass.App.Ct. 853	Laura L., In re
2002 WL 1924882		Martins v. Healy
2002 WL 1579283	2002 Mass.App.Div. 129	White v. Times Square Restaurant, Inc.
766 N.E.2d 873	436 Mass. 657	Com. v. Girouard
777 N.E.2d 125	437 Mass. 845	Com. v. Sirois
777 N.E.2d 1280	56 Mass.App.Ct. 391	Com. v. Sneed
2002 WL 1334798	2002 Mass.App.Div. 113	DiMauro v. Stop & Shop Companies, Inc.
2002 WL 1020734		Konan v. George
774 N.E.2d 167	55 Mass.App.Ct. 677	Com. v. Gendraw
772 N.E.2d 1098	55 Mass.App.Ct. 1112	Com. v. DiGiambattista
2002 WL 31973254		Rallo v. Woburn Housing Authority
777 N.E.2d 202	56 Mass.App.Ct. 1105	Com. v. Wallace W.
770 N.E.2d 30	55 Mass.App.Ct. 224	Com. v. Ramirez
763 N.E.2d 583	54 Mass.App.Ct. 1102	Com. v. Hinkson
2002 WL 207584	2002 Mass.App.Div. 25	Prestopino v. Shaw's Supermarkets, Inc.
2002 WL 31324094		Com. v. Betances
771 N.E.2d 815	55 Mass.App.Ct. 467	Com. v. West
774 N.E.2d 677	55 Mass.App.Ct. 916	Com. v. Fraire
770 N.E.2d 50	55 Mass.App.Ct. 238	Com. v. LeClair
779 N.E.2d 693	56 Mass.App.Ct. 675	Com. v. Barros
763 N.E.2d 508	436 Mass. 137	Com. v. Wilkerson
780 N.E.2d 489	56 Mass.App.Ct. 1117	Connolly v. Fowler & Sons, Inc.
2002 WL 32156924		Kobrin v. Gastfriend
779 N.E.2d 166	56 Mass.App.Ct. 1112	Lazzara v. Wyle Electronics, Inc.
765 N.E.2d 826	54 Mass.App.Ct. 1109	Reflections, Inc. v. Board of Selectmen of Dennis
2002 WL 1805396		Com. v. York
768 N.E.2d 616	54 Mass.App.Ct. 1118	Com. v. Umberto U.

## CITATION

766 N.E.2d 128  
 775 N.E.2d 462  
 766 N.E.2d 50  
 2002 WL 31483056  
 780 N.E.2d 2  
 2002 WL 1972138  
 772 N.E.2d 601  
 771 N.E.2d 214  
 760 N.E.2d 273  
 768 N.E.2d 616  
 2002 WL 1020661  
 764 N.E.2d 324  
 2002 WL 31680230  
 780 N.E.2d 489  
 767 N.E.2d 1119  
 773 N.E.2d 478  
 2002 WL 1602455  
 2002 WL 31957000  
 2002 WL 31236110  
 779 N.E.2d 165  
 765 N.E.2d 286  
 778 N.E.2d 927  
 761 N.E.2d 519  
 768 N.E.2d 616  
 778 N.E.2d 1038  
 2002 WL 1924113  
 769 N.E.2d 342  
 770 N.E.2d 36  
 2002 WL 1554583  
 2002 WL 1489613  
 770 N.E.2d 23  
 765 N.E.2d 237  
 769 N.E.2d 784  
 2002 WL 389681  
 2002 WL 775662  
 2002 WL 1290209  
 761 N.E.2d 923  
 2002 WL 1283669  
 767 N.E.2d 114  
 768 N.E.2d 546  
 765 N.E.2d 825  
 779 N.E.2d 1005  
 2002 WL 441985  
 767 N.E.2d 1101  
 766 N.E.2d 1288  
 763 N.E.2d 1140  
 767 N.E.2d 619  
 772 N.E.2d 1089

## PARALLEL CITATION

54 Mass.App.Ct. 1111  
 56 Mass.App.Ct. 1101  
 436 Mass. 443  
  
 438 Mass. 213  
  
 55 Mass.App.Ct. 1111  
 55 Mass.App.Ct. 440  
 435 Mass. 558  
 54 Mass.App.Ct. 1118  
  
 436 Mass. 273  
  
 56 Mass.App.Ct. 1117  
 54 Mass.App.Ct. 768  
 55 Mass.App.Ct. 1113  
 2002 Mass.App.Div. 134  
  
 56 Mass.App.Ct. 1111  
 54 Mass.App.Ct. 1106  
 56 Mass.App.Ct. 397  
 53 Mass.App.Ct. 636  
 54 Mass.App.Ct. 1118  
 56 Mass.App.Ct. 1109  
  
 55 Mass.App.Ct. 1103  
 55 Mass.App.Ct. 231  
  
 55 Mass.App.Ct. 201  
 436 Mass. 408  
 55 Mass.App.Ct. 132  
  
 435 Mass. 743  
  
 54 Mass.App.Ct. 1115  
 437 Mass. 1002  
 54 Mass.App.Ct. 1108  
 56 Mass.App.Ct. 1114  
 2002 Mass.App.Div. 38  
 54 Mass.App.Ct. 743  
 436 Mass. 671  
 54 Mass.App.Ct. 1104  
 54 Mass.App.Ct. 656  
 55 Mass.App.Ct. 557

## TITLE

Com. v. Joyce  
 Hills v. Venezia  
 Com. v. Levesque  
 Fredette v. Simpson  
 Com. v. Jimenez  
 Brienzo v. Town of Acushnet  
 Com. v. Ruiz  
 Com. v. Brown  
 Com. v. Fletcher  
 Com. v. Bates  
 Redfern v. Howard  
 Com. v. Beland  
 Kahale v. EMC Corp.  
 Crack-Sealing, Inc. v. Lucini Motor Sales, Inc.  
 Woods v. O'Neil  
 Hurwitz v. Strain  
 Barkan Management Co. v. Sheehan  
 Healey v. Massachusetts Civil Service Com'n  
 Boye v. Nashoba Regional School Dist.  
 Com. v. Bernstein  
 Eaton v. Pelletier  
 Dziamba v. Warner & Stackpole LLP  
 Com. v. Curtis  
 Com. v. LaFlash  
 Com. v. Andrade  
 Applegarth v. General Cinema  
 Mierzejewski v. City of Fitchburg  
 Com. v. Ormonde  
 Kallio v. Fitchburg State College  
 Com. v. Miller  
 Ventresco v. Liberty Mut. Ins. Co.  
 Com. v. Serino  
 Com. v. Montanez  
 Ganley v. Percuoco  
 Winsmann v. Choate Health Management, Inc.  
 Winsmann v. Choate Health Management, Inc.  
 Com. v. Vao Sok  
 Cartagena v. Lotus Development Corp.  
 Murphy v. DiNisco  
 Com. v. Robinson  
 Com. v. Stimson  
 Com. v. Anderson  
 Hale v. Building 19 1/6  
 Farm Family Mut. Ins. Co. v. Whelpley  
 Com. v. Fernandes  
 Com. v. Brown  
 Com. v. Santiago  
 Carmel Credit Union v. Bondeson

CITATION	PARALLEL CITATION	TITLE
797 N.E.2d 26	59 Mass.App.Ct. 1106	Com. v. Aboulmal
780 N.E.2d 971	57 Mass.App.Ct. 1102	Com. v. Donkor
782 N.E.2d 556	57 Mass.App.Ct. 1107	Com. v. Bastardo
794 N.E.2d 1276	59 Mass.App.Ct. 240	Com. v. Kotlyarevskiy
799 N.E.2d 118	60 Mass.App.Ct. 13	Com. v. Johnston
790 N.E.2d 752	58 Mass.App.Ct. 1107	Com. v. Goncalves
797 N.E.2d 947	59 Mass.App.Ct. 1109	Com. v. Sean
788 N.E.2d 1007	58 Mass.App.Ct. 206	Com. v. Agbogun
2003 WL 23018810		Brienze v. Casserly
798 N.E.2d 336	59 Mass.App.Ct. 850	Greenslade v. Mohawk Park, Inc.
792 N.E.2d 149	58 Mass.App.Ct. 1109	Com. v. Vick
799 N.E.2d 606	60 Mass.App.Ct. 1106	Zackular v. Grant Wilber, Inc.
785 N.E.2d 691	439 Mass. 84	Com. v. Gaboriault
784 N.E.2d 673	57 Mass.App.Ct. 1112	Com. v. Collins
2003 WL 1962458		Dorman v. Norton Co.
781 N.E.2d 839	57 Mass.App.Ct. 80	Com. v. Simon
794 N.E.2d 629	59 Mass.App.Ct. 86	Com. v. Mark M.
2003 WL 23163121		Gentes v. Massachusetts Bay Transp. Authority
784 N.E.2d 625	438 Mass. 790	Com. v. Haskell
798 N.E.2d 1005	440 Mass. 396	Com. v. Platt
781 N.E.2d 71	57 Mass.App.Ct. 1104	Babin v. Massachusetts-American Water Co.
799 N.E.2d 605	60 Mass.App.Ct. 1105	Dischino v. Boston College
2003 WL 22481100		Joyce v. GF/Pilgrim, Inc.
791 N.E.2d 894	439 Mass. 805	Com. v. Ira I.
2003 WL 22049454		Birnbrich v. New England Business Service, Inc.
780 N.E.2d 1244	438 Mass. 372	Com. v. Alfonso A.
2003 WL 22700354		Cournoyer v. Plainville Truck Stop, Inc.
786 N.E.2d 437	57 Mass.App.Ct. 1116	Com. v. Browne
795 N.E.2d 1202	59 Mass.App.Ct. 350	Com. v. Garner
797 N.E.2d 946	59 Mass.App.Ct. 1109	Com. v. Ellen
797 N.E.2d 5	59 Mass.App.Ct. 542	Com. v. Clark C.
2003 WL 21326968		Coe v. Franco
794 N.E.2d 1229	59 Mass.App.Ct. 190	Com. v. DiGiambattista
2003 WL 369676		Com. v. Conway
2003 WL 21027147		Com. v. Sepulveda
796 N.E.2d 1284	440 Mass. 216	Com. v. Sneed
791 N.E.2d 380	58 Mass.App.Ct. 546	Com. v. LaFleur
2003 WL 21500661		Dyer v. Creative Packaging, Inc.
784 N.E.2d 674	57 Mass.App.Ct. 1112	Com. v. Archeval
782 N.E.2d 1105	57 Mass.App.Ct. 326	Com. v. Brown
797 N.E.2d 899	440 Mass. 263	Fredette v. Simpson
785 N.E.2d 403	57 Mass.App.Ct. 629	Com. v. Kipp
787 N.E.2d 1154	58 Mass.App.Ct. 1102	Coffey v. Keating
798 N.E.2d 585	59 Mass.App.Ct. 1111	Com. v. Melton
785 N.E.2d 427	57 Mass.App.Ct. 1114	Com. v. Curadossi
792 N.E.2d 718	58 Mass.App.Ct. 1110	Com. v. Whitaker
784 N.E.2d 646	57 Mass.App.Ct. 529	Com. v. Andujar
2003 WL 21342456		Com. v. Nieves
798 N.E.2d 1045	60 Mass.App.Ct. 1102	Com. v. Smejlik
799 N.E.2d 1251	440 Mass. 475	Com. v. Collins
797 N.E.2d 449	59 Mass.App.Ct. 622	Com. v. Gonzalez
781 N.E.2d 70	57 Mass.App.Ct. 1103	Com. v. Giorgio



## CITATION

799 N.E.2d 601  
 786 N.E.2d 352  
 782 N.E.2d 48  
 792 N.E.2d 657  
 790 N.E.2d 712  
 792 N.E.2d 719  
 2003 WL 21246167

2003 WL 1901341  
 796 N.E.2d 465  
 797 N.E.2d 26  
 2003 WL 22454645  
 790 N.E.2d 1126  
 792 N.E.2d 1031  
 2003 WL 23197897  
 796 N.E.2d 886  
 792 N.E.2d 1018  
 800 N.E.2d 727  
 797 N.E.2d 502  
 791 N.E.2d 393  
 2003 WL 22244974  
 797 N.E.2d 456  
 795 N.E.2d 1170  
 781 N.E.2d 71  
 790 N.E.2d 747  
 781 N.E.2d 881  
 799 N.E.2d 159  
 787 N.E.2d 1154  
 781 N.E.2d 27  
 789 N.E.2d 1093  
 2003 WL 21781556  
 2003 WL 22350945  
 782 N.E.2d 7  
 796 N.E.2d 890  
 799 N.E.2d 89  
 788 N.E.2d 586  
 789 N.E.2d 138  
 781 N.E.2d 1237  
 2003 WL 21246200  
 794 N.E.2d 1284  
 786 N.E.2d 1191  
 2003 WL 151931  
 782 N.E.2d 556  
 794 N.E.2d 613  
 798 N.E.2d 275  
 785 N.E.2d 368  
 2003 WL 21781564

799 N.E.2d 158  
 790 N.E.2d 242

## PARALLEL CITATION

60 Mass.App.Ct. 88  
 439 Mass. 153  
 57 Mass.App.Ct. 1105  
 58 Mass.App.Ct. 631  
 58 Mass.App.Ct. 412  
 58 Mass.App.Ct. 1111

2003 Mass.App.Div. 65  
 59 Mass.App.Ct. 1103  
 59 Mass.App.Ct. 1107

58 Mass.App.Ct. 498  
 58 Mass.App.Ct. 747

59 Mass.App.Ct. 517  
 58 Mass.App.Ct. 769  
 60 Mass.App.Ct. 1109  
 59 Mass.App.Ct. 1108  
 58 Mass.App.Ct. 1108  
 2003 Mass.App.Div. 157  
 59 Mass.App.Ct. 631  
 440 Mass. 195  
 57 Mass.App.Ct. 1103  
 58 Mass.App.Ct. 439  
 57 Mass.App.Ct. 1105  
 60 Mass.App.Ct. 1104  
 58 Mass.App.Ct. 1102  
 57 Mass.App.Ct. 36  
 58 Mass.App.Ct. 1106

57 Mass.App.Ct. 192  
 59 Mass.App.Ct. 524  
 440 Mass. 405  
 58 Mass.App.Ct. 147  
 439 Mass. 492  
 438 Mass. 535

59 Mass.App.Ct. 231  
 439 Mass. 206

57 Mass.App.Ct. 1107  
 59 Mass.App.Ct. 47  
 440 Mass. 296  
 439 Mass. 47

60 Mass.App.Ct. 1104  
 58 Mass.App.Ct. 1106

## TITLE

Com. v. Jones  
 Com. v. Caputo  
 Cremaldi-Vickery v. Otis Elevator, Inc.  
 Com. v. Donovan  
 Com. v. Davis  
 Com. v. Santry  
 Cahaly v. Benistar Property Exchange Trust Co., Inc.  
 Benzaquin v. Friendly Ice Cream Corp.  
 Com. v. Driscoll  
 Com. v. Moore  
 Lautieri v. Bae  
 Clancy v. McCabe  
 Stolzoff v. Waste Systems Intern., Inc.  
 Purcell v. Norco Mfg. Corp.  
 Petchel v. Collins  
 Chicago Ins. Co. v. Lappin  
 Com. v. Greene  
 Com. v. Bocchino  
 Colman v. Westin Hotel Co.  
 Reed v. Phillips  
 Com. v. Muckle  
 Kavanagh v. Trustees of Boston University  
 Com. v. Hankey  
 Ali v. City of Boston  
 Kourouvacilis v. Travelers Ins. Co.  
 Gendron v. Hally  
 Com. v. Perrot  
 Com. v. Scott  
 JOyner v. Massachusetts General Hosp.  
 Ross v. Beldare Enterprises, Inc.  
 Com. v. Lora  
 Com. v. Emuakpor  
 Com. v. Richotte  
 Com. v. Koumaris  
 Com. v. Howze  
 Com. v. Quinn  
 Com. v. Mitchell  
 Sword v. Biofertec, Ltd.  
 Com. v. Gilmore  
 Com. v. Molina  
 Irvin v. Roxbury Community College  
 Com. v. Hodgdon  
 Com. v. Deloney  
 Com. v. O'Day  
 Com. v. Jordan  
 DiLuca v. Communications and Power Industries, Inc.  
 Shaw v. First Marathon, Inc.  
 Jones v. Town of Sharon

CITATION	PARALLEL CITATION	TITLE
820 N.E.2d 274	62 Mass.App.Ct. 1116	Com. v. Payano
804 N.E.2d 355	441 Mass. 183	Com. v. Berthold
809 N.E.2d 1099	61 Mass.App.Ct. 1108	Com. v. Fernandes
818 N.E.2d 640	62 Mass.App.Ct. 1111	Com. v. Keane
814 N.E.2d 1097	442 Mass. 1031	Com. v. Casimir
2004 WL 2075458		Pontes v. New England Power Co.
802 N.E.2d 1039	441 Mass. 1002	Com. v. Rodriguez
803 N.E.2d 287	441 Mass. 46	Com. v. Catanzaro
802 N.E.2d 589	60 Mass.App.Ct. 374	Com. v. Giavazzi
815 N.E.2d 1104	62 Mass.App.Ct. 1105	Michael Lynch v. Toys 'R' Us, Inc.
810 N.E.2d 1272	61 Mass.App.Ct. 423	Bishins v. Richard B. Mateer, P.A.
802 N.E.2d 565	440 Mass. 1201	Opinions of the Justices to the Senate, In re
810 N.E.2d 1290	61 Mass.App.Ct. 1116	Com. v. Villanueva
801 N.E.2d 300	60 Mass.App.Ct. 908	Feinstein v. Beers
2004 WL 1429967		Casey v. Pactiv Corp.
809 N.E.2d 1090	61 Mass.App.Ct. 299	Costa v. Boston Red Sox Baseball Club
2004 WL 2341569		Chamian v. Sharplan Lasers, Inc.
810 N.E.2d 863	61 Mass.App.Ct. 1112	Com. v. Mongelli
812 N.E.2d 1244	61 Mass.App.Ct. 1120	Smart v. Sears Roebuck and Co.
2004 WL 877984		Hancock ex rel. Hancock v. Driscoll
806 N.E.2d 472	60 Mass.App.Ct. 1127	Maynard v. Benjamin's Restaurant, Inc.
805 N.E.2d 942	441 Mass. 358	Com. v. Rivera
2004 WL 2337647		Com. v. Martin
810 N.E.2d 1289	61 Mass.App.Ct. 1114	Elmore v. Burns
2004 WL 2698978		Conroy v. J&F Marinella Development Corp.
2004 WL 2853936	2004 Mass.App.Div. 191	Rodriguez v. Winiker
812 N.E.2d 1169	442 Mass. 262	Com. v. Novo
810 N.E.2d 1289	61 Mass.App.Ct. 1115	Com. v. Duclos
2004 WL 3152406		Liljestrand v. First Allmerica Financial Life Ins. Co.
806 N.E.2d 128	60 Mass.App.Ct. 1126	Com. v. Corrette
810 N.E.2d 1291	61 Mass.App.Ct. 1116	Williams v. Bihrlle
805 N.E.2d 497	441 Mass. 344	Com. v. Ostrander
820 N.E.2d 274	62 Mass.App.Ct. 1116	McGaffigan v. Weisberg
801 N.E.2d 267	60 Mass.App.Ct. 255	Com. v. Walker
816 N.E.2d 554	62 Mass.App.Ct. 912	Com. v. Perez
809 N.E.2d 1075	61 Mass.App.Ct. 287	Sonin v. Massachusetts Turnpike Authority
818 N.E.2d 632	62 Mass.App.Ct. 928	Protestant Guild for Human Services, Inc. v. Deputy Director of Div. of Employment and Training
810 N.E.2d 1288	61 Mass.App.Ct. 1113	Com. v. Tucci
2004 WL 1895058		Com. v. Roeun
2004 WL 2915725		Locke v. W.R. Grace & Co.-Conn.
804 N.E.2d 317	441 Mass. 122	Com. v. Carkhuff
818 N.E.2d 217	62 Mass.App.Ct. 579	Gupta v. Deputy Director Of Div. Of Employment & Training
814 N.E.2d 1080	442 Mass. 617	Com. v. Denis
813 N.E.2d 1261	442 Mass. 554	Com. v. Torres
812 N.E.2d 262	442 Mass. 185	Com. v. Walker
806 N.E.2d 104	60 Mass.App.Ct. 734	Com. v. Biasiucci
2004 WL 1982350		Mammone v. President and Fellows of Harvard College

CITATION	PARALLEL CITATION	TITLE
2004 WL 2550458		Zabilansky v. American Bldg. Restoration Products, Inc.
2004 WL 1739405		Sawyer v. Indevus Pharmaceuticals, Inc.
812 N.E.2d 1218	442 Mass. 329	Com. v. John
810 N.E.2d 1289	61 Mass.App.Ct. 1114	Cetrullo v. Howland
2004 WL 2550470		Beane v. Massachusetts Container Corp.
814 N.E.2d 764	61 Mass.App.Ct. 1124	Com. v. Lynch
2004 WL 1293262	2004 Mass.App.Div. 91	Keikian v. Norwegian Cruise Line
2004 WL 2745923		Com. v. Muller
2004 WL 542243		Com. v. Lapen
805 N.E.2d 531	60 Mass.App.Ct. 1122	Com. v. Gorrasi
808 N.E.2d 331	61 Mass.App.Ct. 1105	Com. v. Cooper
804 N.E.2d 961	60 Mass.App.Ct. 1118	Com. v. Avila
813 N.E.2d 820	442 Mass. 485	Com. v. Murphy
804 N.E.2d 927	441 Mass. 233	Ali v. City of Boston
808 N.E.2d 1257	61 Mass.App.Ct. 1106	Herbert ex rel. Herbert v. Kearns
815 N.E.2d 1104	62 Mass.App.Ct. 1105	Renkowic v. Department of Correction
807 N.E.2d 832	61 Mass.App.Ct. 144	Com. v. Rousseau
813 N.E.2d 516	442 Mass. 423	Com. v. DiGiambattista
2004 WL 316502	2004 Mass.App.Div. 21	Brothers v. Lipp
2004 WL 210686		Fellman v. Khalsa
805 N.E.2d 531	60 Mass.App.Ct. 1122	Com. v. Pezzano
815 N.E.2d 655	62 Mass.App.Ct. 1102	Com. v. Pacheco
812 N.E.2d 1178	442 Mass. 299	Com. v. Cruz
818 N.E.2d 596	62 Mass.App.Ct. 505	Com. v. Pileeki
816 N.E.2d 1255	62 Mass.App.Ct. 1108	Zou v. Deputy Director of Div. of Employment and Training
807 N.E.2d 862	61 Mass.App.Ct. 1103	Com. v. Sok
819 N.E.2d 176	443 Mass. 60	Com. v. Conkey
2004 WL 1429957		Puopolo v. Burr
2004 WL 3120093		Professional Staffing Group, Inc. v. Champigny
816 N.E.2d 112	442 Mass. 1034	Com. v. Roberts
802 N.E.2d 130	60 Mass.App.Ct. 1113	Bachand v. Ciccarelli
2004 WL 1171247		Ristaino v. D.C. Bates Equipment Co., Inc.
2004 WL 119851		Com. v. Sanchez
2004 WL 1427167		Cadrin v. Trans Spec Truck Service, Inc.
806 N.E.2d 969	61 Mass.App.Ct. 1101	Wells v. Deputy Director of the Div. of Employment and Training
816 N.E.2d 182	62 Mass.App.Ct. 1106	Com. v. Scott
805 N.E.2d 1007	60 Mass.App.Ct. 728	Com. v. Morales
802 N.E.2d 129	60 Mass.App.Ct. 1112	Sabree v. Superintendent
807 N.E.2d 863	61 Mass.App.Ct. 1104	Com. v. Martinez
804 N.E.2d 345	441 Mass. 170	Com. v. Ortega
804 N.E.2d 902	441 Mass. 199	Com. v. Brum
811 N.E.2d 1042	61 Mass.App.Ct. 532	New England Wooden Ware Corp. v. Commissioner of Dept. of Employment and Training
812 N.E.2d 913	442 Mass. 250	Coe v. Sex Offender Registry Bd.
812 N.E.2d 1245	61 Mass.App.Ct. 1121	Redferb v. Howard
809 N.E.2d 1099	61 Mass.App.Ct. 1108	Com. v. Yelle
810 N.E.2d 1289	61 Mass.App.Ct. 1114	Com. v. Paquette
2004 WL 1895053		Galeas v. Chelsea Housing Authority

CITATION

2004 WL 2341344  
810 N.E.2d 1289

814 N.E.2d 764  
818 N.E.2d 608  
815 N.E.2d 656  
810 N.E.2d 1290

PARALLEL CITATION

61 Mass.App.Ct. 1114

61 Mass.App.Ct. 1125  
62 Mass.App.Ct. 599  
62 Mass.App.Ct. 1103  
61 Mass.App.Ct. 1116

TITLE

Young v. Deloitte & Touche, LLP  
Kiessling-Cooper v. Zoning Bd. of Appeals of  
Bedford  
Com. v. Tash  
Com. v. Angelo Todesca Corp.  
Sinkevich v. Labor Relations Com'n  
Ocean State Job Lot of Hyannis, Inc. v. Com'r of  
Dept. of Employment and Training

CITATION	PARALLEL CITATION	TITLE
828 N.E.2d 956	63 Mass.App.Ct. 1117	Com. v. Ciampa
825 N.E.2d 115	63 Mass.App.Ct. 1110	Com. v. Andrade
835 N.E.2d 1159	64 Mass.App.Ct. 854	Com. v. Farley
834 N.E.2d 297	64 Mass.App.Ct. 529	Houston v. Houston
837 N.E.2d 662	445 Mass. 304	Sylvester v. Commissioner Of Revenue
831 N.E.2d 959	64 Mass.App.Ct. 1103	Scafuri v. Lumenis, Ltd.
827 N.E.2d 708	444 Mass. 306	Com. v. Sebastian S.
831 N.E.2d 391	64 Mass.App.Ct. 115	Tilton v. Union Oil Co. of California
2005 WL 705960		Dusoe v. Union Carbide Corp.
2005 WL 2542936		Belanger v. Safeskin Corp.
2005 WL 911299		Bello v. Karl Storz Endovision, Inc.
825 N.E.2d 114	63 Mass.App.Ct. 1109	Com. v. Adiletto
827 N.E.2d 198	444 Mass. 213	Com. v. Martin
821 N.E.2d 95	62 Mass.App.Ct. 783	Boyd v. National Railroad Passenger Corp.
2005 WL 1476872		Brockman v. Sweetheart Cup Co., Inc.
832 N.E.2d 701	64 Mass.App.Ct. 260	Adoption of Serena, In re
838 N.E.2d 592	65 Mass.App.Ct. 227	Com. v. Costa
2005 WL 705102		Boike v. Brinker Massachusetts Corp.
840 N.E.2d 66	65 Mass.App.Ct. 1109	Com. v. DaGraca
2005 WL 2461933		Finnerty v. Concentra Integrated Services, Inc.
829 N.E.2d 659	63 Mass.App.Ct. 1120	Collins v. The Green Briar Tavern, Inc.
828 N.E.2d 952	63 Mass.App.Ct. 697	Newton Police Ass'n v. Police Chief of Newton
2005 WL 1812466		Lopez v. Target Corp.
823 N.E.2d 383	443 Mass. 597	Com. v. Hilton
830 N.E.2d 1108	64 Mass.App.Ct. 1	Dorman v. Norton Co.
2005 WL 3627226		Medina v. Pillemer
2005 WL 706041		Tran v. Christophilos
835 N.E.2d 1179	64 Mass.App.Ct. 1113	Com. v. Rodriguez-Rodriguez
2005 WL 1669121		Gauthier v. Town of Dracut
835 N.E.2d 1178	64 Mass.App.Ct. 1113	Adoption of Travis, In re
827 N.E.2d 236	63 Mass.App.Ct. 503	Com. v. Shindell
836 N.E.2d 1142	65 Mass.App.Ct. 1102	Boston Housing Authority v. Garcia
2005 WL 4056740		Kelly v. Wyeth
833 N.E.2d 1130	445 Mass. 96	Modern Continental/Obayashi v. Massachusetts
		Com'n Against Discrimination
837 N.E.2d 728	65 Mass.App.Ct. 1104	Com. v. Chaloux
2005 WL 3722405		Gerrie v. Karl Storz Endovision, Inc.
827 N.E.2d 258	63 Mass.App.Ct. 1115	Com. v. Figueroa
2005 WL 418598		Ahanon v. Cerebral Palsy of Massachusetts
822 N.E.2d 1213	63 Mass.App.Ct. 1103	Clarke v. Saxton
2005 WL 3670923		Pruner v. CVS Pharmacy, Inc.
824 N.E.2d 487	63 Mass.App.Ct. 1108	Konan v. Sterling Suffolk Race Course, LLC
838 N.E.2d 1220	445 Mass. 481	Com. v. Leahy
825 N.E.2d 989	444 Mass. 58	Twomey v. Com.
2005 WL 3721098		Blagrove v. Walgreen Co.
2005 WL 3739754		Follis v. Town of Wareham
833 N.E.2d 130	445 Mass. 1001	Com. v. Foley
835 N.E.2d 642	64 Mass.App.Ct. 1112	Com. v. White
832 N.E.2d 20	64 Mass.App.Ct. 1104	Glover v. Massachusetts Com'n Against
		Discrimination
834 N.E.2d 322	64 Mass.App.Ct. 1109	Mathews v. Tage Inn Corp.
2005 WL 2864790		Fischer v. President & Fellows of Harvard

CITATION	PARALLEL CITATION	TITLE
827 N.E.2d 669	444 Mass. 234	College
829 N.E.2d 659	63 Mass.App.Ct. 1120	Com. v. Rogers
821 N.E.2d 517	62 Mass.App.Ct. 1120	Com. v. Batrin
828 N.E.2d 549	63 Mass.App.Ct. 651	Com. v. McAskill
836 N.E.2d 1142	65 Mass.App.Ct. 1102	Fistel v. Favaloro
822 N.E.2d 330	63 Mass.App.Ct. 1101	Com. v. Baez
834 N.E.2d 276	64 Mass.App.Ct. 503	Com. v. Johnson
2005 WL 1751724		Com. v. Ilges
828 N.E.2d 510	444 Mass. 444	Com. v. Cordry
825 N.E.2d 114	63 Mass.App.Ct. 1109	Com. v. Damiano
822 N.E.2d 699	443 Mass. 409	Prentiss v. Cotton
2005 WL 705384		Com. v. McMahon
828 N.E.2d 471	444 Mass. 348	Evans v. TJ Maxx
2005 WL 2373911		Com. v. Auclair
823 N.E.2d 808	63 Mass.App.Ct. 131	King v. Costco Wholesale Corp.
2005 WL 1156159		Com. v. Wilcox
840 N.E.2d 65	65 Mass.App.Ct. 1109	Dean v. City of Fitchburg
824 N.E.2d 486	63 Mass.App.Ct. 1107	Girard v. Krupnick
2005 WL 704947		Com. v. Fuentes
835 N.E.2d 628	64 Mass.App.Ct. 767	Moutsos v. Clark
832 N.E.2d 705	64 Mass.App.Ct. 1105	Peters v. Haymarket Leasing, Inc.
827 N.E.2d 246	63 Mass.App.Ct. 523	Com. v. Foley
840 N.E.2d 65	65 Mass.App.Ct. 1109	Cablevision of Boston, Inc. v. Shamatta
820 N.E.2d 275	62 Mass.App.Ct. 1117	Com. v. DePascale
822 N.E.2d 1213	63 Mass.App.Ct. 1102	Devine v. North Bennett Street School
831 N.E.2d 375	64 Mass.App.Ct. 70	Com. v. Newell
2005 WL 705837		Com. v. Shellenberger
823 N.E.2d 1256	443 Mass. 707	Danahy v. Bui
2005 WL 2218977		Com. v. Rodriguez
822 N.E.2d 329	62 Mass.App.Ct. 1122	Massachusetts General Hosp. v. Waldman
835 N.E.2d 1179	64 Mass.App.Ct. 1113	Williams v. Sodexho, Inc.
2005 WL 705952		Com. v. Burl
823 N.E.2d 436	63 Mass.App.Ct. 1105	Com. v. Fleming
823 N.E.2d 823	63 Mass.App.Ct. 1106	Com. v. Innis I.
831 N.E.2d 406	64 Mass.App.Ct. 1102	Com. v. Gauthier
		Gallagher v. Director of Div. of Employment and Training
825 N.E.2d 1080	63 Mass.App.Ct. 1112	Com. v. Lauro
836 N.E.2d 349	65 Mass.App.Ct. 1101	Rallo v. Woburn Housing Authority
825 N.E.2d 114	63 Mass.App.Ct. 1109	Paroyan v. Powers
840 N.E.2d 66	65 Mass.App.Ct. 1110	Spillane v. Shaw's Supermarkets, Inc.
2005 WL 937312		Com. v. Can-Port Amusement Corp.
833 N.E.2d 659	64 Mass.App.Ct. 403	Ahearn v. Vose
836 N.E.2d 1085	445 Mass. 268	Com. v. Shuman
821 N.E.2d 517	62 Mass.App.Ct. 1120	Shipps v. Commissioner of Correction
2005 WL 3629285		Torres v. D*University of Massachusetts
829 N.E.2d 1094	444 Mass. 511	Com. v. Almonte
2005 WL 1869170		Bradshaw v. ITT Sheraton Corp.
838 N.E.2d 622	65 Mass.App.Ct. 1107	North Shore AIDS Health Project, Inc. v. Rushton
		Trundle v. Wildwood, Inc.
825 N.E.2d 583	63 Mass.App.Ct. 1112	Com. v. Anderson
834 N.E.2d 1159	445 Mass. 195	

CITATION  
828 N.E.2d 484

PARALLEL CITATION  
444 Mass. 393

TITLE  
Admission to Bar of Com., In re

CITATION	PARALLEL CITATION	TITLE
842 N.E.2d 11	65 Mass.App.Ct. 1117	Com. v. Perez
841 N.E.2d 287	65 Mass.App.Ct. 1114	Com. v. Flores
855 N.E.2d 1158	67 Mass.App.Ct. 1112	Com. v. Mercado
850 N.E.2d 621	66 Mass.App.Ct. 1117	Com. v. Leal
851 N.E.2d 474	67 Mass.App.Ct. 25	Com. v. Barreiro
2006 WL 2089699		McFadyen v. Maki
852 N.E.2d 100	447 Mass. 431	Carrel v. National Cord & Braid Corp.
2006 WL 832588		Wood v. Marina
2006 WL 1704103		Com. v. Woodbine
843 N.E.2d 1119	65 Mass.App.Ct. 1124	Com. v. Machado
2006 WL 4968277		Aspinall v. Philip Morris Companies, Inc.
2006 WL 2971490		Aspinall v. Phillip Morris Companire, Inc.
848 N.E.2d 787	66 Mass.App.Ct. 414	Com. v. Guthrie G.
2006 WL 832865		Thibodeau v. Ballardvale Trust Three, LLC
854 N.E.2d 1249	447 Mass. 546	Com. v. Dagraca
843 N.E.2d 1117	65 Mass.App.Ct. 1122	Taylor v. Bowser
2006 WL 2678488		Griem v. Town of Walpole
2006 WL 2846962		Arsenault v. McConarty
858 N.E.2d 316	67 Mass.App.Ct. 1118	Com. v. Summers
854 N.E.2d 144	67 Mass.App.Ct. 1107	Com. v. Jones
847 N.E.2d 365	66 Mass.App.Ct. 1107	Com. v. Dillon D.
2006 WL 280968		McCue v. P. Gioioso & Sons, Inc.
2006 WL 2848018		Pierce v. C.R.C. Line, Inc.
2006 WL 2424878		Hartel v. D & D Enterprises, Inc.
852 N.E.2d 136	67 Mass.App.Ct. 1103	Wheatley v. Harbor Cruises, LLC
2006 WL 4117125		Com. v. Toney
847 N.E.2d 307	446 Mass. 729	Crivello v. All-Pak Machinery Systems, Inc.
840 N.E.2d 1005	65 Mass.App.Ct. 423	Com. v. Brunnell
842 N.E.2d 930	446 Mass. 128	Com. v. Angelo Todesca Corp.
843 N.E.2d 680	65 Mass.App.Ct. 703	Com. v. Mark M.
2006 WL 2440008		National Economic Research Associates, Inc. v. Evans
2006 WL 2507129	2006 Mass.App.Div. 135	Jordan v. Free
2006 WL 708664		City of New Bedford/Ronald LaBelle v. Goldblat
850 N.E.2d 619	66 Mass.App.Ct. 1115	Com. v. Kieliszek
847 N.E.2d 1140	66 Mass.App.Ct. 1109	Com. v. Passias
849 N.E.2d 257	66 Mass.App.Ct. 1112	Liljestrand v. First Allmerica Financial Life Ins. Co.
849 N.E.2d 257	66 Mass.App.Ct. 1113	Bourassa v. County of Hampden
857 N.E.2d 46	67 Mass.App.Ct. 1115	Com. v. Berredi
845 N.E.2d 356	446 Mass. 540	Boyd v. National R.R. Passenger Corp.
2006 WL 225835		Ortega v. Wakefield Thermal Solutions, Inc.
2006 WL 1644889		Com. v. Cardin
841 N.E.2d 1229	446 Mass. 46	Boston Police Patrolmen's Ass'n, Inc. v. Police Dept. of Boston
852 N.E.2d 127	67 Mass.App.Ct. 103	Palochko v. Reis
2006 WL 1084101		Com. v. Cahoon
849 N.E.2d 256	66 Mass.App.Ct. 1111	Com. v. Adams
847 N.E.2d 276	446 Mass. 657	Mammone v. President and Fellows of Harvard College
2006 WL 3361525	2006 Mass.App.Div. 165	Ide v. Foreign Candy Co., Inc.
841 N.E.2d 1235	446 Mass. 72	Com. v. Kendrick



CITATION	PARALLEL CITATION	TITLE
2006 WL 2848667		J.M. Davis Design Associates v. Massachusetts Com'n Against Discrimination
854 N.E.2d 144	67 Mass.App.Ct. 1107	Adoption of Vartan, In re
844 N.E.2d 1124	66 Mass.App.Ct. 1101	Rodriguez v. Winiker
851 N.E.2d 1087	67 Mass.App.Ct. 42	Bray v. Community Newspaper Co., Inc.
2006 WL 446108		Creedon v. Middlesex House of Correction
2006 WL 279025	2006 Mass.App.Div. 10	Reichenbach v. Financial Freedom Centers, Inc.
858 N.E.2d 746	448 Mass. 95	Chervin v. Travelers Ins. Co.
849 N.E.2d 910	66 Mass.App.Ct. 646	Commonwealth Elec. Co. v. MacCardell
2006 WL 4119715		Boston Public Health Commission v. Boston Emergency Medical Services - Boston Police Patrolmen's Ass'n, IUPA No. 16807, AFL-CIO
2006 WL 1867908		Com. v. Giarusso
2006 WL 467351	2006 Mass.App.Div. 25	Reznik v. Garaffo
2006 WL 2627577		Baker v. Lvovskiy
2006 WL 1461252		Kiaresh v. Vivenzio
842 N.E.2d 11	65 Mass.App.Ct. 1117	Hancock v. LaChance
854 N.E.2d 1258	67 Mass.App.Ct. 567	Com. v. Miozza
841 N.E.2d 287	65 Mass.App.Ct. 1115	Com. v. Bertino
855 N.E.2d 1157	67 Mass.App.Ct. 1112	Com. v. Lockridge
852 N.E.2d 1124	67 Mass.App.Ct. 215	Com. v. Reynolds
2006 WL 709999		Com. v. Aman
2006 WL 1075464		SimplexGrinnell, LP v. Rancho El Eden, Inc.
858 N.E.2d 760	67 Mass.App.Ct. 804	Mad Maxine's Watersports, Inc. v. Harbormaster of Provincetown
850 N.E.2d 621	66 Mass.App.Ct. 1117	Com. v. Calhoun
840 N.E.2d 983	65 Mass.App.Ct. 394	Chervin v. Travelers Ins. Co.
843 N.E.2d 1117	65 Mass.App.Ct. 1121	Com. v. Fevrier
2006 WL 3246401		Transocean Capital, Inc. v. Fortin
2006 WL 4119643		Normandy v. Royal Industries, Inc.
840 N.E.2d 913	445 Mass. 782	Com. v. Peterson
847 N.E.2d 1119	66 Mass.App.Ct. 360	Com. v. Herring
853 N.E.2d 221	67 Mass.App.Ct. 1106	Zabilansky v. American Bldg. Restoration Products, Inc.
2006 WL 1238671		Spagnulo v. Com., Dept. of Environmental Management
2006 WL 2004215		Covucci v. Keane Consulting Group, Inc.
850 N.E.2d 619	66 Mass.App.Ct. 1115	Com. v. Son
843 N.E.2d 1119	65 Mass.App.Ct. 1124	Com. v. Vega
849 N.E.2d 256	66 Mass.App.Ct. 1112	Com. v. Alvarez
2006 WL 2423287		Islamic Soc. of Boston v. Boston Herald, Inc.
2006 WL 3725582		Morreale v. Town of Wayland
2006 WL 541038		Citizens Bank of Massachusetts v. Business Products Online, Inc.
853 N.E.2d 221	67 Mass.App.Ct. 1105	Com. v. Drummy
2006 WL 4114306		Wright v. Kelleher
849 N.E.2d 867	66 Mass.App.Ct. 576	Com. v. Abramms
855 N.E.2d 1113	67 Mass.App.Ct. 636	Com. v. Rodriguez
849 N.E.2d 924	66 Mass.App.Ct. 1113	Pruner v. CVS/Pharmacy, Inc.
2006 WL 2423808		Finlan v. Verizon New England, Inc.
858 N.E.2d 302	67 Mass.App.Ct. 815	Com. v. Lites
852 N.E.2d 1143	67 Mass.App.Ct. 1104	Adoption of Primo, In re

CITATION

847 N.E.2d 1080  
 2006 WL 2848123  
 844 N.E.2d 719  
 848 N.E.2d 1253  
 851 N.E.2d 1133  
 2006 WL 4114297  
 843 N.E.2d 721

PARALLEL CITATION

446 Mass. 785  
  
 65 Mass.App.Ct. 1126  
 66 Mass.App.Ct. 515  
 67 Mass.App.Ct. 1102  
  
 65 Mass.App.Ct. 1121

TITLE

Com. v. Weichell  
 Powers v. Polson  
 Com. v. Silva  
 Com. v. Santiago  
 Gavegnano v. TLT Const. Corp.  
 Bash v. Clark University  
 Com. v. Veiga

CITATION	PARALLEL CITATION	TITLE
875 N.E.2d 549	70 Mass.App.Ct. 1108	Com. v. Arteaga
877 N.E.2d 641	70 Mass.App.Ct. 1114	Com. v. Casimir
876 N.E.2d 487	70 Mass.App.Ct. 721	Com. v. Rodriguez
874 N.E.2d 505	70 Mass.App.Ct. 1103	Com. v. Marine
860 N.E.2d 49	68 Mass.App.Ct. 1102	Com. v. Barreiro
868 N.E.2d 1259	69 Mass.App.Ct. 514	Com. v. Estrada
869 N.E.2d 632	69 Mass.App.Ct. 1110	Com. v. Estrada
861 N.E.2d 497	68 Mass.App.Ct. 257	Com. v. Casimir
875 N.E.2d 548	70 Mass.App.Ct. 1107	Com. v. Ortega
870 N.E.2d 1131	69 Mass.App.Ct. 1115	Com. v. Andrade
874 N.E.2d 506	70 Mass.App.Ct. 1104	Com. v. Durango
2007 WL 3407466		Kelly v. Wyeth
877 N.E.2d 279	70 Mass.App.Ct. 1113	Com. v. Semedo
875 N.E.2d 548	70 Mass.App.Ct. 1107	Rozenvayn v. BMW of North America, LLC
862 N.E.2d 76	68 Mass.App.Ct. 1109	Com. v. Trochez
2007 WL 1302589		Kelly v. Wyeth
868 N.E.2d 138	69 Mass.App.Ct. 206	Lanza v. EQR-Lincoln Lawrence, LLC
877 N.E.2d 567	450 Mass. 182	Coombes v. Florio
876 N.E.2d 437	70 Mass.App.Ct. 618	MacFadyen v. Maki
876 N.E.2d 498	70 Mass.App.Ct. 1109	Com. v. Garcia
866 N.E.2d 1003	69 Mass.App.Ct. 1105	Com. v. Granados
872 N.E.2d 230	69 Mass.App.Ct. 1117	Jones v. Division of Unemployment Assistance
2007 WL 796175		Evans v. Lorillard Tobacco Co.
877 N.E.2d 620	70 Mass.App.Ct. 800	Com. v. Stone
870 N.E.2d 1131	69 Mass.App.Ct. 1115	Nelson v. Groswald
2007 WL 4165698		Com. v. Malave
2007 WL 2938349		Com. v. Stazinski
878 N.E.2d 937	71 Mass.App.Ct. 16	Sullivan v. Rich
2007 WL 2301544		Com. v. Richards
870 N.E.2d 117	69 Mass.App.Ct. 1112	Nazzaro v. Director of Workforce Development
2007 WL 4357853		Essex Ins. Co. v. David's Floor Service, Inc.
2007 WL 2219302		Matthews v. Cole
863 N.E.2d 1287	448 Mass. 793	Com. v. Dillon D.
876 N.E.2d 498	70 Mass.App.Ct. 1109	Com. v. Gutierrez
2007 WL 1056818		Terravecchia v. Fleet Bank
877 N.E.2d 1286	70 Mass.App.Ct. 1116	Kalsow v. Shaughnessy Crane Service, Inc.
2007 WL 4510212		Dahmer v. Satlow
2007 WL 2045431		Cutler v. Aristo-Craft of America, Inc.
871 N.E.2d 1103	69 Mass.App.Ct. 751	Com. v. Kelly
2007 WL 1983000		Com. v. Zinkievich
877 N.E.2d 945	70 Mass.App.Ct. 826	Com. v. Chase
874 N.E.2d 1142	70 Mass.App.Ct. 1105	Com. v. Gainey
2007 WL 803770		Com. v. Ancrum
868 N.E.2d 954	69 Mass.App.Ct. 1108	Mireault v. Northeast Motel Associates, LP
863 N.E.2d 563	68 Mass.App.Ct. 544	Com. v. Ferrer
873 N.E.2d 249	70 Mass.App.Ct. 137	Com. v. Ka
860 N.E.2d 703	68 Mass.App.Ct. 1105	Com. v. Medeiros
2007 WL 969079		Com. v. Blagojevic
864 N.E.2d 42	68 Mass.App.Ct. 1117	Zanfagna v. Jackson Ventures, Inc.
2007 WL 2935816		Com. v. Houghton
877 N.E.2d 601	70 Mass.App.Ct. 752	Com. v. Nunez
877 N.E.2d 279	70 Mass.App.Ct. 1112	Com. v. Jones

CITATION	PARALLEL CITATION	TITLE
2007 WL 2822515		Com. v. Harrison
875 N.E.2d 880	70 Mass.App.Ct. 1109	Com. v. Barron
2007 WL 3289016		Com. v. Oliver
2007 WL 5731667		Com. v. Oliver
868 N.E.2d 90	449 Mass. 367	Commonwealth v. DePeiza
865 N.E.2d 1209	68 Mass.App.Ct. 1121	Krivoy v. Sullivan
2007 WL 1089337		Brown v. DePuy Spine, Inc.
2007 WL 738475		Bookstein v. Kohn
862 N.E.2d 749	448 Mass. 548	Com. v. Anderson
2007 WL 4878914		Mustapha v. DaimlerChrysler Co., Inc.
878 N.E.2d 581	71 Mass.App.Ct. 1102	Com. v. Cooper
2007 WL 4099194		Tisdale v. Leominster Donuts, Inc.
868 N.E.2d 955	69 Mass.App.Ct. 1110	Com. v. Cooper
865 N.E.2d 834	68 Mass.App.Ct. 911	Esturban v. Massachusetts Bay Transp. Authority
860 N.E.2d 931	448 Mass. 304	Com. v. Kirwan
2007 WL 2409846	2007 Mass.App.Div. 132	Frank v. Westwood Associates, Inc.
874 N.E.2d 693	70 Mass.App.Ct. 519	Com. v. Santiago
870 N.E.2d 602	449 Mass. 576	Com. v. Sargent
2007 WL 4708088		Muth v. Hyatt Corp.
2007 WL 3104405		Com. v. Blake
876 N.E.2d 411	450 Mass. 55	Commonwealth v. Burton
2007 WL 3012673		Bardige v. Performance Specialists
2007 WL 2734289		Doe v. Walsh
862 N.E.2d 470	68 Mass.App.Ct. 1112	Com. v. Zengotita
872 N.E.2d 1142	70 Mass.App.Ct. 87	Com. v. Peppicelli
2007 WL 2367788		Hannam v. Worcester County Sheriff's Office
868 N.E.2d 955	69 Mass.App.Ct. 1109	Christopher P. v. Department of Social Services
870 N.E.2d 645	69 Mass.App.Ct. 607	Com. v. Pagels
870 N.E.2d 46	449 Mass. 562	Com. v. Valerio
2007 WL 738925		Bayliss v. Hannan Construction Corp.
2007 WL 2935449		Arbella Protection Ins. Co. v. Arnold
861 N.E.2d 809	68 Mass.App.Ct. 1106	Com. v. Rodriguez
875 N.E.2d 539	70 Mass.App.Ct. 608	Com. v. Avellar
862 N.E.2d 77	68 Mass.App.Ct. 1110	Com. v. Miller
866 N.E.2d 438	69 Mass.App.Ct. 1102	Chief Justice for Administration & Management of Trial Court v. National Ass'n of Government Employees/Service Employees Intern. Union
866 N.E.2d 1003	69 Mass.App.Ct. 1105	St. Laurent v. Route 38 Entertainment, Inc.
2007 WL 1829392		Com. v. Ramirez
2007 WL 738689		Stuart v. Atlantic Track & Turnout Co.
872 N.E.2d 840	69 Mass.App.Ct. 1118	Lagosh v. Commissioner of Div. of Unemployment Assistance
862 N.E.2d 341	448 Mass. 473	Com. v. Bly
868 N.E.2d 953	69 Mass.App.Ct. 1107	Brooks Automation, Inc. v. Blueshift Technologies, Inc.
2007 WL 4633307		Murphy v. Wachusett Regional School Dist.
870 N.E.2d 1122	69 Mass.App.Ct. 670	Pratt v. Martineau
866 N.E.2d 938	69 Mass.App.Ct. 113	Com. v. King
865 N.E.2d 825	68 Mass.App.Ct. 835	Com. v. Miller
875 N.E.2d 549	70 Mass.App.Ct. 1108	Com. v. Burke
2007 WL 2822533		Hathaway v. Raytheon Engineers and Constructors, Inc.

CITATION  
864 N.E.2d 24

PARALLEL CITATION  
68 Mass.App.Ct. 644

TITLE  
Kurker v. Shoestring Properties Ltd. Partnership

CITATION	PARALLEL CITATION	TITLE
883 N.E.2d 986	71 Mass.App.Ct. 907	Com. v. Cartagena
888 N.E.2d 385	71 Mass.App.Ct. 1126	Com. v. Alvarez
882 N.E.2d 871	71 Mass.App.Ct. 1113	Com. v. Berganza
891 N.E.2d 268	72 Mass.App.Ct. 1108	Com. v. Viel
889 N.E.2d 981	72 Mass.App.Ct. 1107	Com. v. Deangelo D.
893 N.E.2d 384	72 Mass.App.Ct. 589	Com. v. Kobrin
883 N.E.2d 905	451 Mass. 43	Com. v. Garden
882 N.E.2d 298	450 Mass. 780	Doe v. Sex Offender Registry Bd.
885 N.E.2d 175	71 Mass.App.Ct. 1123	Com. v. Mederos
2008 WL 5608972		Cespedes v. C&C Const. Corp.
879 N.E.2d 691	71 Mass.App.Ct. 81	Com. v. Becker
2008 WL 4515137		Com. v. Creighton
891 N.E.2d 717	72 Mass.App.Ct. 1111	Com. v. Johnston
2008 WL 5608253		Hanlan v. Chandler
895 N.E.2d 517	73 Mass.App.Ct. 1102	Com. v. Parent
895 N.E.2d 507	73 Mass.App.Ct. 50	Quinn v. Morganelli
2008 WL 5505467		Beauregard v. Caterpillar, Inc.
887 N.E.2d 312	71 Mass.App.Ct. 1125	Com. v. Ancrum
889 N.E.2d 450	72 Mass.App.Ct. 1104	Ogni v. Schlien
885 N.E.2d 175	71 Mass.App.Ct. 1123	Com. v. Rambert
878 N.E.2d 582	71 Mass.App.Ct. 1103	Roper v. City of Fall River
2008 WL 2357732		Com. v. Rodriguez
2008 WL 516672		Com. v. Edmunds
894 N.E.2d 1181	72 Mass.App.Ct. 1120	Com. v. Anketell
2008 WL 4739184		By v. Massachusetts Registry of Motor Vehicles
2008 WL 2745086		Fischer v. President & Fellows of Harvard College
896 N.E.2d 59	73 Mass.App.Ct. 1103	Com. v. Mark
2008 WL 5146918		Routhier v. Keenan
2008 WL 5787693		Com. v. Lemos
2008 WL 1923063		Massachusetts Smokeless Tobacco Litigation, In re
2008 WL 2121382		Vaccaro v. University of Massachusetts Memorial Medical Center
896 N.E.2d 59	73 Mass.App.Ct. 1103	Com. v. Sullivan
886 N.E.2d 754	71 Mass.App.Ct. 788	Com. v. Means
878 N.E.2d 572	71 Mass.App.Ct. 46	Brooks v. Peabody & Arnold, LLP
2008 WL 5780815		Com. v. Bright
896 N.E.2d 622	452 Mass. 573	Com. v. Santiago
2008 WL 2415415		Wood v. Fineberg Management, Inc.
2008 WL 4368217		Com. v. Rosado-Perez
891 N.E.2d 717	72 Mass.App.Ct. 1111	Com. v. Francis
879 N.E.2d 1247	71 Mass.App.Ct. 130	Com. v. Bush
889 N.E.2d 451	72 Mass.App.Ct. 1105	Henderson v. Burlington Coat Factory Warehouse of Braintree, Inc.
884 N.E.2d 956	451 Mass. 244	Com. v. LeBeau
883 N.E.2d 342	71 Mass.App.Ct. 1115	Brooks v. Massachusetts General Hosp.
888 N.E.2d 385	71 Mass.App.Ct. 1126	Com. v. Browder
881 N.E.2d 171	71 Mass.App.Ct. 1110	Simonds v. Walsh
898 N.E.2d 1	73 Mass.App.Ct. 274	Com. v. Dingle
2008 WL 2651794		Com. v. Bing
2008 WL 5216259		Ferry v. Rosewood Const. Corp.

CITATION	PARALLEL CITATION	TITLE
887 N.E.2d 313	71 Mass.App.Ct. 1126	Boston School Committee v. Service Employees Intern. Union, Local 888
2008 WL 2357015		Rhodes v. AIG Domestic Claims, Inc.
894 N.E.2d 642	72 Mass.App.Ct. 1119	Com. v. Crosby
2008 WL 1799765		Frank v. Westwood Associates, Inc.
886 N.E.2d 684	451 Mass. 451	Com. v. Thomas
2008 WL 466591	2008 Mass.App.Div. 63	Jillson Co., Inc. v. Reznik
897 N.E.2d 548	452 Mass. 733	Com. v. Fremont Investment & Loan
882 N.E.2d 309	450 Mass. 794	Com. v. Holliday
893 N.E.2d 19	452 Mass. 295	Com. v. Clemente
891 N.E.2d 718	72 Mass.App.Ct. 1113	Weber v. Community Teamwork, Inc.
881 N.E.2d 169	71 Mass.App.Ct. 1108	Com. v. Mullen
879 N.E.2d 1278	71 Mass.App.Ct. 1105	Com. v. Gigliotti
882 N.E.2d 833	450 Mass. 858	Com. v. Mathews
895 N.E.2d 775	73 Mass.App.Ct. 85	Commonwealth v. Porter P.
888 N.E.2d 976	72 Mass.App.Ct. 60	Commonwealth v. McBrown
2008 WL 2357239		Com. v. Fitzpatrick
884 N.E.2d 550	71 Mass.App.Ct. 1117	Com. v. Maiden
891 N.E.2d 268	72 Mass.App.Ct. 1109	Com. v. Alonzo A.
894 N.E.2d 611	72 Mass.App.Ct. 773	Com. v. Ramos
897 N.E.2d 618	73 Mass.App.Ct. 1106	Com. v. Sumler
889 N.E.2d 982	72 Mass.App.Ct. 1107	Tavernese v. Shaw's Supermarkets, Inc.
2008 WL 2688762		Hoffman v. Town of Burlington
881 N.E.2d 828	71 Mass.App.Ct. 1111	Com. v. Felt
886 N.E.2d 125	71 Mass.App.Ct. 1124	Com. v. Orozco
897 N.E.2d 1043	73 Mass.App.Ct. 1110	Com. v. Ribeiro
2008 WL 2875452		Proctor Group Insurance Agency, Inc. v. Jones
885 N.E.2d 785	451 Mass. 370	Com. v. Stephens
883 N.E.2d 341	71 Mass.App.Ct. 1115	Commonwealth v. Walker
883 N.E.2d 342	71 Mass.App.Ct. 1115	Com. v. Smith
886 N.E.2d 688	451 Mass. 425	Com. v. Lora
887 N.E.2d 312	71 Mass.App.Ct. 1125	Com. v. Brown
2008 WL 4965289		Com. v. Ferreira
2008 WL 2423265		Bank of America, N.A. v. Deloitte & Touche LLP
2008 WL 240838		Garrett Const. Co., Inc. v. New England Equipment, Inc.
889 N.E.2d 52	72 Mass.App.Ct. 136	Com. v. Mullen
2008 WL 650412		Woldemariam v. Pilgrim Parking
879 N.E.2d 1278	71 Mass.App.Ct. 1106	Irany v. Salem State College
894 N.E.2d 1181	72 Mass.App.Ct. 1121	Com. v. Vieira
2008 WL 325269		Smith Barney Div. of Citigroup Global Markets Inc. v. Griffin
2008 WL 4456752	2008 Mass.App.Div. 218	Porcaro v. O'Rourke
891 N.E.2d 716	72 Mass.App.Ct. 1111	Com. v. Perez
2008 WL 4514662		Costabile v. Barnstable County Fire and Rescue Training Academy
2008 WL 2941260	2008 Mass.App.Div. 163	Revere Housing Authority v. Chouchos
882 N.E.2d 850	450 Mass. 894	Com. v. Williams
892 N.E.2d 777	72 Mass.App.Ct. 419	Renovator's Supply, Inc. v. Sovereign Bank
884 N.E.2d 488	451 Mass. 200	Com. v. Brown
896 N.E.2d 1262	452 Mass. 662	Com. v. Mercado

## CITATION

886 N.E.2d 125  
2008 WL 2415394  
884 N.E.2d 500  
897 N.E.2d 574  
897 N.E.2d 620

## PARALLEL CITATION

71 Mass.App.Ct. 1124  
  
451 Mass. 216  
452 Mass. 700  
73 Mass.App.Ct. 1108

## TITLE

Petricca v. Pricewaterhousecoopers, LLP  
Fales v. Hooten  
Com. v. Disler  
Com. v. Boyarsky  
Com. v. DiFalco



CITATION	PARALLEL CITATION	TITLE
914 N.E.2d 129	75 Mass.App.Ct. 347	Com. v. Diaz
901 N.E.2d 730	73 Mass.App.Ct. 1124	Com. v. Marrero
914 N.E.2d 362	75 Mass.App.Ct. 1106	Com. v. Rodrigues
905 N.E.2d 604	74 Mass.App.Ct. 1110	Com. v. Grannum
909 N.E.2d 558	74 Mass.App.Ct. 1125	Com. v. Morel
2009 WL 2449860		Francois v. JRM Hauling & Recycling Services, Inc.
913 N.E.2d 832	455 Mass. 24	Com. v. Weston W.
906 N.E.2d 368	74 Mass.App.Ct. 1112	Com. v. Sargent
908 N.E.2d 788	74 Mass.App.Ct. 514	Com. v. Watts
2009 WL 2231192		Cape Cod Builders, Inc. v. Commonwealth Div. of Capital Asset Management
913 N.E.2d 925	75 Mass.App.Ct. 302	World Species List-Natural Features Registry Institute v. Reading
910 N.E.2d 281	454 Mass. 318	Com. v. Murphy
899 N.E.2d 778	453 Mass. 28	Angwafo, In re
900 N.E.2d 535	73 Mass.App.Ct. 1118	Thomas v. General Hosp. Corp.
2009 WL 3086239		Kaitbenski v. Tantasqua Regional School Dist.
904 N.E.2d 783	74 Mass.App.Ct. 142	Com. v. Becla
904 N.E.2d 787	74 Mass.App.Ct. 148	Com. v. Burbine
907 N.E.2d 646	454 Mass. 81	Com. v. Means
899 N.E.2d 118	73 Mass.App.Ct. 1115	Com. v. Sasseville
2009 WL 2604417		Fadgen v. Fairlawn Medical Investors, LLC
901 N.E.2d 670	453 Mass. 266	Com. v. Diaz
907 N.E.2d 244	74 Mass.App.Ct. 366	Frankston v. Denniston
909 N.E.2d 47	74 Mass.App.Ct. 635	Anderson v. Paulo
908 N.E.2d 819	74 Mass.App.Ct. 544	Siebe, Inc. v. Louis M. Gerson Co., Inc.
913 N.E.2d 900	75 Mass.App.Ct. 280	Com. v. Monteiro
2009 WL 1744000	2009 Mass.App.Div. 97	Buttrick v. Intercity Alarms, LLC
907 N.E.2d 213	454 Mass. 37	Leavitt v. Brockton Hosp., Inc.
914 N.E.2d 990	75 Mass.App.Ct. 1108	Com. v. Aragon
914 N.E.2d 990	75 Mass.App.Ct. 1108	Com. v. Bennett
914 N.E.2d 78	455 Mass. 147	Com. v. Lopes
2009 WL 323360		Murthy v. Abbott Bioresearch Center, Inc.
2009 WL 975780		Com. v. Araujo
2009 WL 1663961		Martelli v. Gallant
908 N.E.2d 1285	454 Mass. 223	Com. v. Ly
907 N.E.2d 681	74 Mass.App.Ct. 1117	Com. v. Jean-Jacques
903 N.E.2d 606	74 Mass.App.Ct. 1101	Lewis v. Massachusetts Institute of Technology
909 N.E.2d 557	74 Mass.App.Ct. 1124	Com. v. Hassan H.
904 N.E.2d 488	74 Mass.App.Ct. 125	Com. v. McPherson
903 N.E.2d 201	453 Mass. 474	Com. v. Ruiz
903 N.E.2d 1127	74 Mass.App.Ct. 38	Case of Drumm
2009 WL 3353493	75 Mass.App.Ct. 513	Com. v. Moran
901 N.E.2d 1267	73 Mass.App.Ct. 1126	Com. v. Salameh
914 N.E.2d 362	75 Mass.App.Ct. 1106	Com. v. Rossier
904 N.E.2d 397	453 Mass. 634	Com. v. Tolan
907 N.E.2d 1161	74 Mass.App.Ct. 1119	Com. v. Phelan
2009 WL 996951		Com. v. Hayden
903 N.E.2d 1144	74 Mass.App.Ct. 1103	Jackson v. Suffolk County Sheriff's Dept.
900 N.E.2d 912	73 Mass.App.Ct. 1120	Fomunyan v. Work, Community, Independence, Inc.

CITATION	PARALLEL CITATION	TITLE
911 N.E.2d 240	74 Mass.App.Ct. 1129	Com. v. Corbin
906 N.E.2d 368	74 Mass.App.Ct. 1112	Entrata Communications Corp. v. Superwire.com Inc.
906 N.E.2d 299	453 Mass. 782	Com. v. Silva-Santiago
910 N.E.2d 400	74 Mass.App.Ct. 709	Com. v. Cote
903 N.E.2d 194	453 Mass. 485	Morton Street LLC v. Sheriff of Suffolk County
906 N.E.2d 1031	74 Mass.App.Ct. 1114	Com. v. Dargon
2009 WL 3069005	2009 Mass.App.Div. 191	Sarno v. Ingalls
901 N.E.2d 1266	73 Mass.App.Ct. 1125	Belopolsky v. Cole Hersee Co.
904 N.E.2d 494	74 Mass.App.Ct. 1106	Com. v. Latorre
913 N.E.2d 339	454 Mass. 721	Com. v. Hensley
2009 WL 3321443	75 Mass.App.Ct. 472	Com. v. Putnam
902 N.E.2d 421	453 Mass. 431	Aspinall v. Philip Morris, Inc.
905 N.E.2d 70	453 Mass. 686	Com. v. Druce
2009 WL 200571	2009 Mass.App.Div. 1	Barron Chiropractic & Rehabilitation, P.C. v. Premier Ins. Co. of Massachusetts
913 N.E.2d 356	454 Mass. 808	Com. v. Connolly
914 N.E.2d 362	75 Mass.App.Ct. 1107	Com. v. Zewiey
907 N.E.2d 1161	74 Mass.App.Ct. 1120	Com. v. Vasquez
903 N.E.2d 606	74 Mass.App.Ct. 1101	Com. v. Williams
904 N.E.2d 778	74 Mass.App.Ct. 135	Barrasso v. Hillview West Condominium Trust
912 N.E.2d 1014	454 Mass. 744	Com. v. Avila
901 N.E.2d 1222	453 Mass. 352	Welch v. Sudbury Youth Soccer Association, Inc.
900 N.E.2d 891	73 Mass.App.Ct. 634	Hammell v. Shooshanian Engineering Associates, Inc.
905 N.E.2d 118	74 Mass.App.Ct. 164	Com. v. Nicholas
912 N.E.2d 468	75 Mass.App.Ct. 103	Frishman v. Maginn
899 N.E.2d 117	73 Mass.App.Ct. 1114	Com. v. Efreem E.
2009 WL 2604195		LaPointe v. UMass Memorial Medical Center
2009 WL 3282941		Callahan v. Norfolk & Dedham Group
900 N.E.2d 914	73 Mass.App.Ct. 1122	Com. v. Perry
909 N.E.2d 60	74 Mass.App.Ct. 1122	Clemens v. Vermont Mut. Ins. Co.
913 N.E.2d 880	75 Mass.App.Ct. 235	Com. v. Rodriguez
2009 WL 884605		Galvin v. Jaffe
2009 WL 2438331	2009 Mass.App.Div. 151	Lee v. Premier Ins. Co.
905 N.E.2d 603	74 Mass.App.Ct. 1110	Com. v. Fernandez
901 N.E.2d 708	73 Mass.App.Ct. 758	Com. v. Leach
914 N.E.2d 22	455 Mass. 72	Com. v. Vallejo
899 N.E.2d 919	73 Mass.App.Ct. 1117	Com. v. Luisi
2009 WL 3337576	455 Mass. 230	Com. v. Hart
905 N.E.2d 602	74 Mass.App.Ct. 1108	West v. Johnson
2009 WL 2231195		Landsberg v. Beck
900 N.E.2d 913	73 Mass.App.Ct. 1120	Standley v. Hockeytown U.S.A., Inc.
909 N.E.2d 557	74 Mass.App.Ct. 1124	Com. v. Hallberg
909 N.E.2d 1193	74 Mass.App.Ct. 1125	Com. v. Hoyt
903 N.E.2d 1145	74 Mass.App.Ct. 1105	Gold Medal Bakery, Inc. v. Commissioner of Div. of Unemployment Assistance
2009 WL 995483		NPS LLC v. StubHub, Inc.
899 N.E.2d 117	73 Mass.App.Ct. 1114	Com. v. Taylor
905 N.E.2d 577	74 Mass.App.Ct. 227	Case of Lopes
907 N.E.2d 681	74 Mass.App.Ct. 1116	Com. v. Ilario I.
907 N.E.2d 682	74 Mass.App.Ct. 1117	Monteleone-Wasson v. Wasson

CITATION

909 N.E.2d 1194  
2009 WL 2230940  
907 N.E.2d 265  
909 N.E.2d 59

PARALLEL CITATION

74 Mass.App.Ct. 1127  
  
74 Mass.App.Ct. 1115  
74 Mass.App.Ct. 1120

TITLE

Lacroix v. Hiltz  
Silva v. Town of Falmouth  
Com. v. Merchant  
Adoption of Jade, In re

# EXHIBIT 2

CITATION	PARALLEL CITATION	TITLE
778 N.E.2d 31	56 Mass.App.Ct. 1108	Com. v. Howard
779 N.E.2d 1004	56 Mass.App.Ct. 1113	Com. v. Thomas
769 N.E.2d 342	55 Mass.App.Ct. 1103	Com. v. Meade
778 N.E.2d 31	56 Mass.App.Ct. 1108	Com. v. Rivera
771 N.E.2d 206	55 Mass.App.Ct. 903	Com. v. Colon
761 N.E.2d 549	53 Mass.App.Ct. 1111	Com. v. Ramos
765 N.E.2d 825	54 Mass.App.Ct. 1107	Com. v. Smith
776 N.E.2d 1040	56 Mass.App.Ct. 1104	Com. v. Farley
779 N.E.2d 165	56 Mass.App.Ct. 1111	Com. v. Williams
768 N.E.2d 616	54 Mass.App.Ct. 1117	Com. v. Flaherty
777 N.E.2d 804	437 Mass. 809	Com. v. Hilaire
762 N.E.2d 920	53 Mass.App.Ct. 1118	Com. v. Hilts
769 N.E.2d 341	55 Mass.App.Ct. 1103	Com. v. Frantz
778 N.E.2d 1	56 Mass.App.Ct. 348	Com. v. Desrosier
2002 WL 732152		Com. v. Gaumond
766 N.E.2d 912	54 Mass.App.Ct. 1114	Com. v. Brache
771 N.E.2d 214	55 Mass.App.Ct. 440	Com. v. Brown
766 N.E.2d 563	54 Mass.App.Ct. 1112	Com. v. Hall
774 N.E.2d 1186		Com. v. Puopolo
760 N.E.2d 774	53 Mass.App.Ct. 548	Com. v. Thurston
763 N.E.2d 1130	54 Mass.App.Ct. 146	Com. v. Ridlon
778 N.E.2d 1038	56 Mass.App.Ct. 1110	Com. v. Adams
777 N.E.2d 116	437 Mass. 797	Com. v. Villalobos
761 N.E.2d 551	53 Mass.App.Ct. 1114	Com. v. Guest
774 N.E.2d 677	55 Mass.App.Ct. 916	Com. v. Fraire
778 N.E.2d 1037	56 Mass.App.Ct. 1109	Com. v. Rivera-Marrero
765 N.E.2d 826	54 Mass.App.Ct. 1109	Com. v. Cedeno
774 N.E.2d 179	55 Mass.App.Ct. 1114	Com. v. Lorenzo
2002 WL 31236221		Com. v. Gomes
778 N.E.2d 30	56 Mass.App.Ct. 1106	Com. v. Hood
765 N.E.2d 827	54 Mass.App.Ct. 1110	Com. v. Jackson
778 N.E.2d 1037	56 Mass.App.Ct. 1109	Com. v. Pires
767 N.E.2d 1134	54 Mass.App.Ct. 1116	Com. v. Morales
765 N.E.2d 825	54 Mass.App.Ct. 1108	Com. v. Deramus
765 N.E.2d 825	54 Mass.App.Ct. 1107	Com. v. Washington
779 N.E.2d 166	56 Mass.App.Ct. 1111	Com. v. Pride
779 N.E.2d 1005	56 Mass.App.Ct. 1114	Com. v. Forish
777 N.E.2d 1273	56 Mass.App.Ct. 913	Com. v. Monteiro
766 N.E.2d 129	54 Mass.App.Ct. 1112	Com. v. Feliciano
762 N.E.2d 920	53 Mass.App.Ct. 1118	Com. v. Finkley
768 N.E.2d 616	54 Mass.App.Ct. 1118	Com. v. Greene
762 N.E.2d 874	53 Mass.App.Ct. 757	Com. v. Pike
779 N.E.2d 165	56 Mass.App.Ct. 1111	Com. v. Frazier
761 N.E.2d 551	53 Mass.App.Ct. 1114	Com. v. Foster
766 N.E.2d 564	54 Mass.App.Ct. 1113	Com. v. Davila
765 N.E.2d 827	54 Mass.App.Ct. 1110	Com. v. Cousins
775 N.E.2d 1284	56 Mass.App.Ct. 1102	Com. v. Obraitis
761 N.E.2d 991	53 Mass.App.Ct. 700	Com. v. Orben
768 N.E.2d 1120	55 Mass.App.Ct. 1101	Com. v. Belbin
777 N.E.2d 202	56 Mass.App.Ct. 1105	Com. v. Vasquez
777 N.E.2d 167	438 Mass. 47	Grella, In re
769 N.E.2d 1258	437 Mass. 163	Com. v. Balliro

CITATION	PARALLEL CITATION	TITLE
778 N.E.2d 1038	56 Mass.App.Ct. 1109	Com. v. Andrade
770 N.E.2d 558	55 Mass.App.Ct. 1105	Com. v. Hunt
765 N.E.2d 237	436 Mass. 408	Com. v. Serino
2002 WL 31973199		Com. v. Gonzales
760 N.E.2d 812	53 Mass.App.Ct. 912	Com. v. Gaumond
766 N.E.2d 564	54 Mass.App.Ct. 1113	Com. v. Jones
770 N.E.2d 558	55 Mass.App.Ct. 1104	Com. v. Kaski
770 N.E.2d 560	55 Mass.App.Ct. 1106	Com. v. Jackson
765 N.E.2d 286	54 Mass.App.Ct. 1106	Com. v. Mercurio
761 N.E.2d 550	53 Mass.App.Ct. 1112	Com. v. Rodriguez-Grullon
765 N.E.2d 287	54 Mass.App.Ct. 1107	Com. v. Ramos
774 N.E.2d 167	55 Mass.App.Ct. 677	Com. v. Gendraw
767 N.E.2d 1135	54 Mass.App.Ct. 1117	Com. v. Carter
770 N.E.2d 559	55 Mass.App.Ct. 1105	Com. v. Paquette
766 N.E.2d 913	54 Mass.App.Ct. 1114	Com. v. Wilkerson
770 N.E.2d 1002	55 Mass.App.Ct. 1107	Com. v. Creary
778 N.E.2d 913	438 Mass. 1004	Nadheerul-Islam v. Com.
761 N.E.2d 1013	53 Mass.App.Ct. 1115	Com. v. Burke
779 N.E.2d 1005	56 Mass.App.Ct. 1114	Com. v. Anderson
770 N.E.2d 559	55 Mass.App.Ct. 1105	Com. v. Morris
778 N.E.2d 1037	56 Mass.App.Ct. 1108	Com. v. Gordon
779 N.E.2d 1004	56 Mass.App.Ct. 1112	Commonwealth v. Alvarado
770 N.E.2d 1002	55 Mass.App.Ct. 1107	Com. v. Malone
775 N.E.2d 1283	56 Mass.App.Ct. 1102	Com. v. Piedra
765 N.E.2d 286	54 Mass.App.Ct. 1107	Com. v. Pyne
765 N.E.2d 826	54 Mass.App.Ct. 1109	Com. v. Jackson
763 N.E.2d 583	54 Mass.App.Ct. 1103	Com. v. Reynoso
778 N.E.2d 1039	56 Mass.App.Ct. 1110	Com. v. Way
780 N.E.2d 118	56 Mass.App.Ct. 775	Com. v. Henriquez
773 N.E.2d 921	437 Mass. 606	Com. v. Bruzzese
773 N.E.2d 968	437 Mass. 592	Com. v. Tim T.
769 N.E.2d 798	55 Mass.App.Ct. 1103	Com. v. Hampton
779 N.E.2d 165	56 Mass.App.Ct. 1111	Com. v. Riberio
765 N.E.2d 285	54 Mass.App.Ct. 1105	Com. v. Habicht
760 N.E.2d 815	53 Mass.App.Ct. 1110	Com. v. Bernadin
767 N.E.2d 1086	54 Mass.App.Ct. 719	Com. v. Allen
776 N.E.2d 1040	56 Mass.App.Ct. 1104	Com. v. Dukes
760 N.E.2d 300	53 Mass.App.Ct. 488	Com. v. Frias
768 N.E.2d 611	54 Mass.App.Ct. 877	Com. v. Little
778 N.E.2d 31	56 Mass.App.Ct. 1108	Com. v. Cardozo
766 N.E.2d 461	436 Mass. 488	Com. v. Marrero
775 N.E.2d 1283	56 Mass.App.Ct. 1102	Com. v. Snow
760 N.E.2d 733	435 Mass. 1011	Constantine v. Com.
766 N.E.2d 908	54 Mass.App.Ct. 624	Hosie, In re
773 N.E.2d 390	437 Mass. 487	Com. v. Knight
767 N.E.2d 597	54 Mass.App.Ct. 919	Com. v. Rose
771 N.E.2d 189	55 Mass.App.Ct. 384	Com. v. Sattelmair
779 N.E.2d 165	56 Mass.App.Ct. 1111	Boston Police Dept. v. Dean

CITATION	PARALLEL CITATION	TITLE
799 N.E.2d 601	60 Mass.App.Ct. 88	Com. v. Jones
789 N.E.2d 566	439 Mass. 519	Com. v. Colon
800 N.E.2d 720	60 Mass.App.Ct. 209	Com. v. Bowler
780 N.E.2d 971	57 Mass.App.Ct. 1102	Com. v. Donkor
788 N.E.2d 1007	58 Mass.App.Ct. 206	Com. v. Agbogun
785 N.E.2d 1276	57 Mass.App.Ct. 925	Com. v. Gonsalves
784 N.E.2d 50	57 Mass.App.Ct. 1111	Com. v. Torres
797 N.E.2d 946	59 Mass.App.Ct. 1109	Com. v. Jones
796 N.E.2d 465	59 Mass.App.Ct. 1103	Com. v. Restucci
780 N.E.2d 971	57 Mass.App.Ct. 1102	Com. v. Lara
791 N.E.2d 373	58 Mass.App.Ct. 552	Com. v. Goodreau
798 N.E.2d 586	60 Mass.App.Ct. 1101	Com. v. Benjamin
780 N.E.2d 971	57 Mass.App.Ct. 1102	Com. v. Perkins
785 N.E.2d 428	57 Mass.App.Ct. 1114	Com. v. Phillips
797 N.E.2d 947	59 Mass.App.Ct. 1109	Com. v. Sean
797 N.E.2d 26	59 Mass.App.Ct. 1106	Com. v. Aboulmal
797 N.E.2d 26	59 Mass.App.Ct. 1106	Com. v. Leduc
782 N.E.2d 1136	57 Mass.App.Ct. 1108	Com. v. McCabe
795 N.E.2d 12	59 Mass.App.Ct. 1102	Com. v. DuPont
780 N.E.2d 970	57 Mass.App.Ct. 1101	Com. v. Rivard
797 N.E.2d 449	59 Mass.App.Ct. 622	Com. v. Gonzalez
792 N.E.2d 149	58 Mass.App.Ct. 1109	Com. v. Arzeno
790 N.E.2d 208	439 Mass. 580	Brittle v. City of Boston
2003 WL 21771995		Suffolk County Sheriff v. AFSCME Council 93, Local 3643, AFL-CIO
798 N.E.2d 288	59 Mass.App.Ct. 784	Com. v. Brady
2003 WL 22004943		Com. v. Morris
789 N.E.2d 184	58 Mass.App.Ct. 1104	Com. v. LeDoux
788 N.E.2d 568	58 Mass.App.Ct. 92	Com. v. Durakowski
784 N.E.2d 608	438 Mass. 766	Com. v. Cook
784 N.E.2d 1151	57 Mass.App.Ct. 1113	Com. v. Lopez
790 N.E.2d 698	58 Mass.App.Ct. 368	Com. v. Olivo
789 N.E.2d 184	58 Mass.App.Ct. 1104	Com. v. Hyland
789 N.E.2d 600	58 Mass.App.Ct. 292	Com. v. Dubowski
788 N.E.2d 1021	58 Mass.App.Ct. 1103	Com. v. Guild
790 N.E.2d 752	58 Mass.App.Ct. 1107	Com. v. Goncalves
2003 WL 22459077		Com. v. Langill
797 N.E.2d 502	59 Mass.App.Ct. 1108	Com. v. Doherty
781 N.E.2d 14	57 Mass.App.Ct. 29	Com. v. Berte
782 N.E.2d 556	57 Mass.App.Ct. 1107	Aqua-Leisure Industries, Inc. v. Fireman
796 N.E.2d 406	59 Mass.App.Ct. 378	Com. v. Miranda
799 N.E.2d 158	60 Mass.App.Ct. 1104	Com. v. Nevin N.
786 N.E.2d 437	57 Mass.App.Ct. 1116	Com. v. Browne
800 N.E.2d 346	60 Mass.App.Ct. 1107	Com. v. Velasquez
784 N.E.2d 1092	438 Mass. 808	Com. v. Rolon
796 N.E.2d 466	59 Mass.App.Ct. 1104	Com. v. Mendez
800 N.E.2d 347	60 Mass.App.Ct. 1108	Com. v. Brodeur
781 N.E.2d 70	57 Mass.App.Ct. 1103	Com. v. Holman
786 N.E.2d 437	57 Mass.App.Ct. 1115	Com. v. Ames
786 N.E.2d 1254	57 Mass.App.Ct. 1118	Com. v. DiToro
2003 WL 734415		Com. v. Beeso
782 N.E.2d 48	57 Mass.App.Ct. 1106	Com. v. LeBlanc

CITATION	PARALLEL CITATION	TITLE
792 N.E.2d 1054	58 Mass.App.Ct. 1112	Com. v. Greene
798 N.E.2d 586	59 Mass.App.Ct. 1112	Com. v. Walker
786 N.E.2d 856	57 Mass.App.Ct. 928	Com. v. Hardiman
796 N.E.2d 465	59 Mass.App.Ct. 1103	Com. v. Clark
785 N.E.2d 1279	57 Mass.App.Ct. 751	Com. v. Bartos
793 N.E.2d 372	440 Mass. 1001	Com. v. Grant
796 N.E.2d 466	59 Mass.App.Ct. 1104	Com. v. Guerrero
782 N.E.2d 556	57 Mass.App.Ct. 1107	Com. v. Simmons
780 N.E.2d 971	57 Mass.App.Ct. 1102	Com. v. Rodriguez
785 N.E.2d 416	57 Mass.App.Ct. 657	Com. v. DoVale
800 N.E.2d 309	440 Mass. 568	Com. v. Cheney
797 N.E.2d 946	59 Mass.App.Ct. 1108	Com. v. Yacino
792 N.E.2d 149	58 Mass.App.Ct. 1110	Com. v. Hawkins
790 N.E.2d 708	58 Mass.App.Ct. 381	Com. v. Smith
800 N.E.2d 346	60 Mass.App.Ct. 1107	Com. v. Hendrickson
794 N.E.2d 1229	59 Mass.App.Ct. 190	Com. v. DiGiambattista
781 N.E.2d 70	57 Mass.App.Ct. 1103	Com. v. Peck
796 N.E.2d 843	440 Mass. 1015	Com. v. Henriquez
794 N.E.2d 1254	59 Mass.App.Ct. 908	DuPont v. Commissioner of Correction
786 N.E.2d 1	57 Mass.App.Ct. 1115	Com. v. Frangello
782 N.E.2d 556	57 Mass.App.Ct. 1107	Com. v. Bastardo
798 N.E.2d 575	60 Mass.App.Ct. 24	Com. v. Vickers
796 N.E.2d 448	59 Mass.App.Ct. 446	Ramsdell v. Doliber
784 N.E.2d 673	57 Mass.App.Ct. 1112	Com. v. Arnold
786 N.E.2d 337	439 Mass. 134	Bailey, In re
784 N.E.2d 673	57 Mass.App.Ct. 1112	Com. v. Budwey
792 N.E.2d 141	58 Mass.App.Ct. 624	Com. v. Lucret
781 N.E.2d 1225	438 Mass. 519	Com. v. Reese
798 N.E.2d 1045	60 Mass.App.Ct. 1102	Com. v. Warren
799 N.E.2d 147	60 Mass.App.Ct. 93	Fidelity and Deposit Co. of Maryland v. Sproules
783 N.E.2d 812	438 Mass. 708	Com. v. LaCava
793 N.E.2d 377	58 Mass.App.Ct. 591	Com. v. Downey
780 N.E.2d 970	57 Mass.App.Ct. 1101	Com. v. Corey
781 N.E.2d 882	57 Mass.App.Ct. 1105	Com. v. Hanson
2003 WL 21500678		Holmes v. Rizzi
2003 WL 22052044		Com. v. Peters
2003 WL 21385792		Otis v. Arbella Mut. Ins. Co.
794 N.E.2d 600	59 Mass.App.Ct. 28	Com. v. Speight
788 N.E.2d 592	58 Mass.App.Ct. 155	Com. v. Furr
782 N.E.2d 48	57 Mass.App.Ct. 1106	Com. v. Smith
799 N.E.2d 159	60 Mass.App.Ct. 1104	Com. v. Gonsalves
797 N.E.2d 456	59 Mass.App.Ct. 631	Com. v. Muckle
792 N.E.2d 149	58 Mass.App.Ct. 1110	Com. v. Hill
797 N.E.2d 26	59 Mass.App.Ct. 1107	Com. v. Moore
781 N.E.2d 1237	438 Mass. 535	Com. v. Mitchell
781 N.E.2d 1253	438 Mass. 556	Com. v. Arriaga
797 N.E.2d 946	59 Mass.App.Ct. 1109	Com. v. Medeiros
796 N.E.2d 465	59 Mass.App.Ct. 1104	Com. v. Quiroga
781 N.E.2d 1207	438 Mass. 498	Com. v. Boateng



CITATION	PARALLEL CITATION	TITLE
803 N.E.2d 360	60 Mass.App.Ct. 1116	Com. v. Green
804 N.E.2d 355	441 Mass. 183	Com. v. Berthold
818 N.E.2d 181	62 Mass.App.Ct. 494	Com. v. Yates
809 N.E.2d 987	442 Mass. 1001	Com. v. Casey
809 N.E.2d 1100	61 Mass.App.Ct. 1109	Com. v. Dupras
808 N.E.2d 331	61 Mass.App.Ct. 1105	Com. v. MacLeod
805 N.E.2d 91	60 Mass.App.Ct. 1121	Com. v. Licciardi
805 N.E.2d 531	60 Mass.App.Ct. 1122	Com. v. Howard
802 N.E.2d 130	60 Mass.App.Ct. 1113	Com. v. McWilliams
808 N.E.2d 332	61 Mass.App.Ct. 1105	Com. v. Santiago
817 N.E.2d 340	62 Mass.App.Ct. 1110	Com. v. Ivey
816 N.E.2d 559	62 Mass.App.Ct. 1107	Com. v. Field
803 N.E.2d 1288	60 Mass.App.Ct. 1117	Com. v. Jones
809 N.E.2d 989	442 Mass. 11	Com. v. Mahar
815 N.E.2d 1103	62 Mass.App.Ct. 1103	Com. v. Ventrillo
813 N.E.2d 465	442 Mass. 341	Com. v. Goodreau
815 N.E.2d 1104	62 Mass.App.Ct. 1105	Sentry Ins. Co. v. Moda
802 N.E.2d 1069	60 Mass.App.Ct. 1114	Com. v. Naranjo
806 N.E.2d 127	60 Mass.App.Ct. 1125	Com. v. Acevedo
801 N.E.2d 325	60 Mass.App.Ct. 1111	Com. v. Pierce
807 N.E.2d 252	61 Mass.App.Ct. 1102	Com. v. Baldassari
814 N.E.2d 764	61 Mass.App.Ct. 1124	Com. v. Lynch
808 N.E.2d 788	441 Mass. 741	Com. v. Given
810 N.E.2d 1289	61 Mass.App.Ct. 1115	Com. v. Duclos
806 N.E.2d 128	60 Mass.App.Ct. 1126	Com. v. Almodovar
818 N.E.2d 640	62 Mass.App.Ct. 1111	Com. v. Keane
801 N.E.2d 247	440 Mass. 658	Com. v. Lucien
810 N.E.2d 1196	442 Mass. 127	Com. v. Cahill
815 N.E.2d 274	62 Mass.App.Ct. 145	Com. v. Pelletier
809 N.E.2d 1100	61 Mass.App.Ct. 1110	Com. v. Cain
802 N.E.2d 1059	60 Mass.App.Ct. 416	Com. v. Hernandez
810 N.E.2d 1290	61 Mass.App.Ct. 1116	Com. v. Villanueva
818 N.E.2d 616	62 Mass.App.Ct. 610	Com. v. Cruz
818 N.E.2d 1098	62 Mass.App.Ct. 1113	Com. v. Chaney
817 N.E.2d 339	62 Mass.App.Ct. 1109	Com. v. Tripp
805 N.E.2d 531	60 Mass.App.Ct. 1122	Com. v. Gorrasi
806 N.E.2d 129	60 Mass.App.Ct. 1126	Com. v. Tavares
814 N.E.2d 1097	442 Mass. 1031	Com. v. Casimir
817 N.E.2d 339	62 Mass.App.Ct. 1110	Com. v. Auboung
802 N.E.2d 1039	441 Mass. 1002	Com. v. Rodriguez
807 N.E.2d 863	61 Mass.App.Ct. 1104	Com. v. Martinez
815 N.E.2d 654	62 Mass.App.Ct. 1101	Com. v. Ehrstein
819 N.E.2d 195	62 Mass.App.Ct. 1114	Com. v. Foster
802 N.E.2d 1070	60 Mass.App.Ct. 1115	Com. v. Gaudreau
802 N.E.2d 1069	60 Mass.App.Ct. 1113	Com. v. DaRosa
820 N.E.2d 274	62 Mass.App.Ct. 1116	Com. v. Payano
808 N.E.2d 1258	61 Mass.App.Ct. 1107	Com. v. Battista
806 N.E.2d 127	60 Mass.App.Ct. 1124	Com. v. Rosario
814 N.E.2d 1139	62 Mass.App.Ct. 15	Com. v. McDowell
815 N.E.2d 1104	62 Mass.App.Ct. 1104	Com. v. Thomas
803 N.E.2d 700	441 Mass. 86	Com. v. Comita
813 N.E.2d 584	61 Mass.App.Ct. 1121	Com. v. Donnelly

## CITATION

819 N.E.2d 195  
 803 N.E.2d 1289  
 809 N.E.2d 1099  
 820 N.E.2d 274  
 819 N.E.2d 556  
 809 N.E.2d 1005  
 804 N.E.2d 961  
 819 N.E.2d 195  
 812 N.E.2d 261  
 814 N.E.2d 398  
 816 N.E.2d 1256  
 815 N.E.2d 1104  
 816 N.E.2d 1256  
 812 N.E.2d 1235  
 809 N.E.2d 487  
 820 N.E.2d 275  
 805 N.E.2d 532  
 2004 WL 1429960  
 820 N.E.2d 274  
 819 N.E.2d 633  
 807 N.E.2d 862  
 804 N.E.2d 345  
 806 N.E.2d 127  
 2004 WL 1171242  
 2004 WL 2747604  
 815 N.E.2d 1104  
 808 N.E.2d 829  
 802 N.E.2d 97  
 815 N.E.2d 571  
 2004 WL 1588108  
 807 N.E.2d 237  
 810 N.E.2d 1290  
 813 N.E.2d 1284  
 817 N.E.2d 339  
 811 N.E.2d 512  
 802 N.E.2d 76  
 816 N.E.2d 1249  
 813 N.E.2d 506  
 807 N.E.2d 862  
 812 N.E.2d 1218  
 818 N.E.2d 1098  
 819 N.E.2d 195  
 805 N.E.2d 484  
 805 N.E.2d 91  
 810 N.E.2d 851  
 805 N.E.2d 931  
 808 N.E.2d 331  
 810 N.E.2d 1290

## PARALLEL CITATION

62 Mass.App.Ct. 1114  
 60 Mass.App.Ct. 1118  
 61 Mass.App.Ct. 1108  
 62 Mass.App.Ct. 1116  
 443 Mass. 79  
 442 Mass. 31  
 60 Mass.App.Ct. 1119  
 62 Mass.App.Ct. 1114  
 442 Mass. 1015  
 61 Mass.App.Ct. 776  
 62 Mass.App.Ct. 1109  
 62 Mass.App.Ct. 1104  
 62 Mass.App.Ct. 1109  
 61 Mass.App.Ct. 582  
 441 Mass. 783  
 62 Mass.App.Ct. 1117  
 60 Mass.App.Ct. 1123  
  
 62 Mass.App.Ct. 1116  
 62 Mass.App.Ct. 1115  
 61 Mass.App.Ct. 1103  
 441 Mass. 170  
 60 Mass.App.Ct. 1124  
  
 62 Mass.App.Ct. 1105  
 61 Mass.App.Ct. 205  
 440 Mass. 731  
 442 Mass. 1031  
  
 61 Mass.App.Ct. 132  
 61 Mass.App.Ct. 1116  
 61 Mass.App.Ct. 711  
 62 Mass.App.Ct. 1110  
 61 Mass.App.Ct. 445  
 440 Mass. 715  
 62 Mass.App.Ct. 445  
 442 Mass. 410  
 61 Mass.App.Ct. 1104  
 442 Mass. 329  
 62 Mass.App.Ct. 1113  
 62 Mass.App.Ct. 1114  
 441 Mass. 311  
 60 Mass.App.Ct. 1121  
 61 Mass.App.Ct. 378  
 441 Mass. 329  
 61 Mass.App.Ct. 1105  
 61 Mass.App.Ct. 1116

## TITLE

Com. v. Torres  
 Com. v. Nelson  
 Com. v. Fernandes  
 Com. v. Baez  
 Com. v. Beliard  
 Com. v. Fenton F.  
 Com. v. Dudley  
 Com. v. Solino  
 Gaumond v. Com.  
 Com. v. Flaherty  
 Com. v. Dukes  
 Com. v. Vicente  
 Com. v. Azar  
 Com. v. Boyer  
 Com. v. Miranda  
 Com. v. Moore  
 Com. v. Morel  
 Com. v. Mahan  
 Boston Housing Authority v. Jones  
 Adoption of Viveca, In re  
 Com. v. Sok  
 Com. v. Ortega  
 Com. v. Booth-Hamblin  
 Com. v. DeBerardinis  
 Alesi v. Sex Offender Registry Bd.  
 Com. v. Hickey  
 Com. v. Carter  
 Com. v. Lopes  
 Restucci v. Appeals Court  
 Com. v. Adams  
 Lillith, In re  
 Coholan v. Eastern Lumber Co., Inc.  
 Com. v. Owen  
 Com. v. Gould  
 Com. v. Delacruz  
 Com. v. Dinkins  
 Com. v. Osborne  
 Com. v. Adkinson  
 Com. v. Zekirias  
 Com. v. John  
 Cruthird v. District Attorney for Suffolk Dist.  
 Com. v. Santiago  
 Clancy v. McCabe  
 Com. v. Rodriguez  
 Com. v. Hrycenko  
 Com. v. Swafford  
 Com. v. Zhu  
 Com. v. Titsworth

CITATION	PARALLEL CITATION	TITLE
827 N.E.2d 236	63 Mass.App.Ct. 503	Com. v. Shindell
835 N.E.2d 1178	64 Mass.App.Ct. 1113	Com. v. Morales
825 N.E.2d 583	63 Mass.App.Ct. 1111	Com. v. Sanders
834 N.E.2d 309	64 Mass.App.Ct. 541	Com. v. Berrios
837 N.E.2d 728	65 Mass.App.Ct. 1105	Com. v. Maxwell
825 N.E.2d 115	63 Mass.App.Ct. 1110	Com. v. Andrade
824 N.E.2d 486	63 Mass.App.Ct. 1107	Com. v. Finn
820 N.E.2d 838	62 Mass.App.Ct. 1119	Com. v. Wiitala
838 N.E.2d 623	65 Mass.App.Ct. 1107	Com. v. Barnes
822 N.E.2d 330	63 Mass.App.Ct. 1102	Com. v. Francis
837 N.E.2d 728	65 Mass.App.Ct. 1104	Com. v. Strange
823 N.E.2d 435	63 Mass.App.Ct. 1104	Com. v. Adams
827 N.E.2d 751	63 Mass.App.Ct. 579	Com. v. Bowen
825 N.E.2d 583	63 Mass.App.Ct. 1112	Com. v. Rooney
832 N.E.2d 21	64 Mass.App.Ct. 1104	Com. v. Zawadzki
824 N.E.2d 487	63 Mass.App.Ct. 1108	Com. v. Scott
822 N.E.2d 330	63 Mass.App.Ct. 1101	Com. v. Ramos
826 N.E.2d 265	63 Mass.App.Ct. 1113	Com. v. Guerrero
822 N.E.2d 1213	63 Mass.App.Ct. 1102	Com. v. Gonzalez
823 N.E.2d 823	63 Mass.App.Ct. 1106	Com. v. Areche
840 N.E.2d 66	65 Mass.App.Ct. 1109	Com. v. Tucker
821 N.E.2d 517	62 Mass.App.Ct. 1121	Com. v. Restucci
822 N.E.2d 1213	63 Mass.App.Ct. 1102	Com. v. Newell
835 N.E.2d 641	64 Mass.App.Ct. 1111	Com. v. Donohoe
822 N.E.2d 330	63 Mass.App.Ct. 1101	Com. v. Smith
835 N.E.2d 642	64 Mass.App.Ct. 1112	Com. v. Field
825 N.E.2d 491	443 Mass. 867	Com. v. Walker
823 N.E.2d 435	63 Mass.App.Ct. 1104	Com. v. Berthold
829 N.E.2d 659	63 Mass.App.Ct. 1120	Com. v. Dupras
828 N.E.2d 956	63 Mass.App.Ct. 1117	Com. v. Ciampa
822 N.E.2d 329	62 Mass.App.Ct. 1122	Com. v. Harris
823 N.E.2d 823	63 Mass.App.Ct. 1106	Com. v. Hancock
2005 WL 705398		Com. v. Wilson
840 N.E.2d 65	65 Mass.App.Ct. 1109	Com. v. Gaumond
829 N.E.2d 1185	63 Mass.App.Ct. 1122	Com. v. Soc Khoeun Son
827 N.E.2d 708	444 Mass. 306	Com. v. Sebastian S.
837 N.E.2d 314	65 Mass.App.Ct. 1104	Com. v. Budden
829 N.E.2d 659	63 Mass.App.Ct. 1120	Com. v. Batrin
828 N.E.2d 484	444 Mass. 393	Admission to Bar of Com., In re
832 N.E.2d 1145	64 Mass.App.Ct. 282	Com. v. Fleury
822 N.E.2d 330	63 Mass.App.Ct. 1101	Com. v. Auborg
838 N.E.2d 622	65 Mass.App.Ct. 1106	Com. v. Hunt
833 N.E.2d 1146	445 Mass. 143	McHoul, In re
832 N.E.2d 705	64 Mass.App.Ct. 1105	Com. v. Connors
822 N.E.2d 1213	63 Mass.App.Ct. 1102	Com. v. Lopes
2005 WL 1965968		Com. v. Crowley
838 N.E.2d 1257	65 Mass.App.Ct. 274	Com. v. Simmons
2005 WL 3721096		Com. v. Martin
829 N.E.2d 1090	444 Mass. 497	Com. v. Smith
836 N.E.2d 1142	65 Mass.App.Ct. 1102	Com. v. Baez
828 N.E.2d 956	63 Mass.App.Ct. 1117	Bartlett v. Segal
825 N.E.2d 999	444 Mass. 72	Com. v. Azar

## CITATION

822 N.E.2d 1192  
 826 N.E.2d 733  
 838 N.E.2d 1270  
 830 N.E.2d 219  
 824 N.E.2d 487  
 840 N.E.2d 67  
 839 N.E.2d 343  
 2005 WL 2404106  
 825 N.E.2d 1040  
 837 N.E.2d 267  
 837 N.E.2d 252  
 831 N.E.2d 959  
 820 N.E.2d 260  
 839 N.E.2d 822  
 822 N.E.2d 330  
 838 N.E.2d 604  
 823 N.E.2d 823  
 823 N.E.2d 1256  
 824 N.E.2d 474  
 835 N.E.2d 300  
 837 N.E.2d 313  
 823 N.E.2d 356  
 833 N.E.2d 1195  
 822 N.E.2d 699  
 837 N.E.2d 251  
 835 N.E.2d 324  
 835 N.E.2d 324  
 823 N.E.2d 434  
 837 N.E.2d 728  
 830 N.E.2d 247  
 835 N.E.2d 642  
 837 N.E.2d 729  
 836 N.E.2d 1143  
 826 N.E.2d 794  
 837 N.E.2d 301  
 826 N.E.2d 794  
 838 N.E.2d 572  
 833 N.E.2d 693  
 831 N.E.2d 341  
 822 N.E.2d 307  
 838 N.E.2d 1270  
 826 N.E.2d 769  
 822 N.E.2d 329  
 2005 WL 704952  
 822 N.E.2d 720  
 835 N.E.2d 641  
 835 N.E.2d 1159  
 836 N.E.2d 349

## PARALLEL CITATION

443 Mass. 530  
 63 Mass.App.Ct. 371  
 65 Mass.App.Ct. 1108  
 63 Mass.App.Ct. 801  
 63 Mass.App.Ct. 1108  
 65 Mass.App.Ct. 1111  
 65 Mass.App.Ct. 305  
  
 444 Mass. 143  
 445 Mass. 1016  
 445 Mass. 315  
 64 Mass.App.Ct. 1103  
 62 Mass.App.Ct. 935  
 445 Mass. 1019  
 63 Mass.App.Ct. 1101  
 65 Mass.App.Ct. 259  
 63 Mass.App.Ct. 1106  
 443 Mass. 707  
 63 Mass.App.Ct. 171  
 64 Mass.App.Ct. 708  
 65 Mass.App.Ct. 1104  
 443 Mass. 567  
 64 Mass.App.Ct. 1108  
 443 Mass. 409  
 445 Mass. 1015  
 64 Mass.App.Ct. 1111  
 64 Mass.App.Ct. 1111  
 63 Mass.App.Ct. 1103  
 65 Mass.App.Ct. 1104  
 63 Mass.App.Ct. 1123  
 64 Mass.App.Ct. 1112  
 65 Mass.App.Ct. 1105  
 65 Mass.App.Ct. 1103  
 63 Mass.App.Ct. 1114  
 65 Mass.App.Ct. 112  
 63 Mass.App.Ct. 1113  
 445 Mass. 446  
 64 Mass.App.Ct. 1107  
 64 Mass.App.Ct. 27  
 62 Mass.App.Ct. 866  
 65 Mass.App.Ct. 1108  
 63 Mass.App.Ct. 445  
 62 Mass.App.Ct. 1121  
  
 443 Mass. 502  
 64 Mass.App.Ct. 1112  
 64 Mass.App.Ct. 854  
 65 Mass.App.Ct. 1101

## TITLE

Com. v. Urrea  
 Com. v. Kneram  
 Com. v. Jones  
 Com. v. Foreman  
 Com. v. Pina  
 Com. v. Moore  
 Com. v. Vazquez  
 Massmanian v. Dubose  
 Com. v. Perez  
 Com. v. Hall  
 Com. v. Pagan  
 Judd J. v. Sex Offender Registry Bd.  
 Robinson v. Contributory Retirement Appeal Bd.  
 Glawson v. Com.  
 Com. v. Filkins  
 Com. v. Perez  
 Adoption of Dinah, In re  
 Com. v. Rodriguez  
 Ready, In re  
 Com. v. Medina  
 Com. v. Reyes  
 Erin, In re  
 Com. v. Tavares  
 Com. v. McMahon  
 Fernandez v. Com.  
 Com. v. Harley  
 Com. v. Moran  
 Com. v. Hagblom  
 Com. v. Perez  
 Com. v. Shahin  
 Com. v. Orin O.  
 Com. v. Montanez  
 Com. v. Rost  
 Com. v. Delvalle  
 Com. v. Nwachukwu  
 Adoption of Patty, In re  
 Com. v. Aquino  
 Com. v. Medina  
 Com. v. Hampton  
 Com. v. Alvarez  
 Com. v. Lenesi  
 Com. v. Urkiel  
 Com. v. Austin  
 Com. v. Pike  
 Com. v. Gomes  
 Com. v. Arevalo  
 Com. v. Farley  
 Com. v. Barber

CITATION	PARALLEL CITATION	TITLE
851 N.E.2d 469	67 Mass.App.Ct. 10	Com. v. Hoyle
841 N.E.2d 287	65 Mass.App.Ct. 1114	Com. v. Flores
856 N.E.2d 163	447 Mass. 625	Com. v. Lopez
855 N.E.2d 1158	67 Mass.App.Ct. 1112	Com. v. Mercado
842 N.E.2d 993	65 Mass.App.Ct. 1118	Com. v. Coffin
844 N.E.2d 719	65 Mass.App.Ct. 1126	Com. v. Dorsey
850 N.E.2d 1135	66 Mass.App.Ct. 1118	Com. v. Saati
848 N.E.2d 1262	66 Mass.App.Ct. 1111	Com. v. Correa
856 N.E.2d 206	67 Mass.App.Ct. 1113	Com. v. Bradley
2006 WL 766946		Com. v. Williams
840 N.E.2d 562	65 Mass.App.Ct. 1113	Com. v. Rosario
842 N.E.2d 993	65 Mass.App.Ct. 1119	Com. v. Holmes
857 N.E.2d 507	67 Mass.App.Ct. 1116	Com. v. Webb
848 N.E.2d 1262	66 Mass.App.Ct. 1110	Com. v. Kilburn
850 N.E.2d 619	66 Mass.App.Ct. 1115	Com. v. Son
840 N.E.2d 561	65 Mass.App.Ct. 1112	Com. v. DeLeon
856 N.E.2d 857	447 Mass. 701	Com. v. Berrios
840 N.E.2d 562	65 Mass.App.Ct. 1113	Com. v. Dube
845 N.E.2d 403	66 Mass.App.Ct. 34	Com. v. Castillo
840 N.E.2d 67	65 Mass.App.Ct. 1111	Com. v. Rivera
845 N.E.2d 430	66 Mass.App.Ct. 97	Com. v. Brannon B.
855 N.E.2d 1106	67 Mass.App.Ct. 612	Maheer v. Justices of Quincy Div. of Dist. Court Dept.
842 N.E.2d 994	65 Mass.App.Ct. 1120	Com. v. DeGaetano
854 N.E.2d 463	67 Mass.App.Ct. 1108	Com. v. Watkins
851 N.E.2d 474	67 Mass.App.Ct. 25	Com. v. Barreiro
845 N.E.2d 1224	66 Mass.App.Ct. 1104	Com. v. Santiago
851 N.E.2d 1133	67 Mass.App.Ct. 1102	Com. v. Carlo
842 N.E.2d 11	65 Mass.App.Ct. 1117	Com. v. Perez
844 N.E.2d 720	65 Mass.App.Ct. 1126	Com. v. Serrano
843 N.E.2d 1119	65 Mass.App.Ct. 1124	Com. v. Machado
856 N.E.2d 822	447 Mass. 1018	Com. v. Johnson
840 N.E.2d 561	65 Mass.App.Ct. 1112	Com. v. Phillips
859 N.E.2d 457	67 Mass.App.Ct. 1120	Com. v. Ferreira
857 N.E.2d 46	67 Mass.App.Ct. 1115	Com. v. Ramos
842 N.E.2d 10	65 Mass.App.Ct. 1115	Com. v. McKinley
848 N.E.2d 1262	66 Mass.App.Ct. 1111	Com. v. Brown
857 N.E.2d 46	67 Mass.App.Ct. 1115	Com. v. Berredi
2006 WL 1704100		Com. v. Stevanovich
848 N.E.2d 1262	66 Mass.App.Ct. 1111	Com. v. Leblanc
851 N.E.2d 1102	67 Mass.App.Ct. 49	Com. v. Petersen
849 N.E.2d 924	66 Mass.App.Ct. 1113	Com. v. Haye
857 N.E.2d 507	67 Mass.App.Ct. 1116	Com. v. Moore
2006 WL 453473		Com. v. Matchett
840 N.E.2d 561	65 Mass.App.Ct. 1112	Com. v. Williams
850 N.E.2d 621	66 Mass.App.Ct. 1117	Com. v. Leal
850 N.E.2d 1102	66 Mass.App.Ct. 795	Com. v. Abreu
858 N.E.2d 316	67 Mass.App.Ct. 1118	Com. v. Lynch
840 N.E.2d 561	65 Mass.App.Ct. 1112	Com. v. Gooding
846 N.E.2d 791	66 Mass.App.Ct. 1104	Com. v. Watson
854 N.E.2d 463	67 Mass.App.Ct. 1108	Com. v. Paul
852 N.E.2d 65	447 Mass. 1011	Tavares v. Com.

## CITATION

844 N.E.2d 719  
 857 N.E.2d 507  
 855 N.E.2d 765  
 842 N.E.2d 994  
 2006 WL 1703640  
 843 N.E.2d 1117  
 844 N.E.2d 719  
 844 N.E.2d 698  
 843 N.E.2d 1035  
 845 N.E.2d 1223  
 856 N.E.2d 917  
 844 N.E.2d 719  
 853 N.E.2d 220  
 856 N.E.2d 896  
 853 N.E.2d 557  
 847 N.E.2d 1139  
 842 N.E.2d 955  
 846 N.E.2d 1189  
 855 N.E.2d 758  
 847 N.E.2d 365  
 856 N.E.2d 840  
 857 N.E.2d 473  
 2006 WL 4114302  
 844 N.E.2d 680  
 2006 WL 4114306  
 2006 WL 620666  
 840 N.E.2d 544  
 847 N.E.2d 366  
 859 N.E.2d 456  
 842 N.E.2d 11  
 854 N.E.2d 1267  
 856 N.E.2d 917  
 844 N.E.2d 719  
 854 N.E.2d 1267  
 840 N.E.2d 1005  
 842 N.E.2d 11  
 840 N.E.2d 913  
 853 N.E.2d 221  
 843 N.E.2d 721  
 857 N.E.2d 508  
 851 N.E.2d 1134  
 854 N.E.2d 1267  
 843 N.E.2d 721  
 853 N.E.2d 590  
 855 N.E.2d 1157  
 852 N.E.2d 1072  
 847 N.E.2d 1100  
 844 N.E.2d 608  
 857 N.E.2d 46

## PARALLEL CITATION

65 Mass.App.Ct. 1126  
 67 Mass.App.Ct. 1117  
 447 Mass. 577  
 65 Mass.App.Ct. 1119  
  
 65 Mass.App.Ct. 1122  
 65 Mass.App.Ct. 1126  
 65 Mass.App.Ct. 912  
 446 Mass. 212  
 66 Mass.App.Ct. 1103  
 67 Mass.App.Ct. 1114  
 65 Mass.App.Ct. 1126  
 67 Mass.App.Ct. 1105  
 67 Mass.App.Ct. 744  
 67 Mass.App.Ct. 253  
 66 Mass.App.Ct. 1108  
 65 Mass.App.Ct. 547  
 66 Mass.App.Ct. 283  
 447 Mass. 593  
 66 Mass.App.Ct. 1106  
 447 Mass. 678  
 447 Mass. 750  
  
 65 Mass.App.Ct. 803  
  
  
 445 Mass. 776  
 66 Mass.App.Ct. 1107  
 67 Mass.App.Ct. 1120  
 65 Mass.App.Ct. 1117  
 67 Mass.App.Ct. 1109  
 67 Mass.App.Ct. 1114  
 65 Mass.App.Ct. 1126  
 67 Mass.App.Ct. 1111  
 65 Mass.App.Ct. 423  
 65 Mass.App.Ct. 1116  
 445 Mass. 782  
 67 Mass.App.Ct. 1106  
 65 Mass.App.Ct. 1121  
 67 Mass.App.Ct. 1117  
 67 Mass.App.Ct. 1103  
 67 Mass.App.Ct. 1110  
 65 Mass.App.Ct. 1120  
 67 Mass.App.Ct. 309  
 67 Mass.App.Ct. 1112  
 447 Mass. 494  
 66 Mass.App.Ct. 315  
 446 Mass. 1004  
 67 Mass.App.Ct. 1116

## TITLE

Com. v. Galluzzo  
 Com. v. Cepulonis  
 Com. v. Maloney  
 Com. v. Florentino  
 Com. v. Coughlin  
 Com. v. Mejia  
 Com. v. Kent  
 Com. v. Henriquez  
 Com. v. Durham  
 Com. v. McClure  
 Com. v. Dorne  
 Com. v. Beaulieu  
 Com. v. Zysk  
 Com. v. Gardner  
 Milton v. Commissioner of Correction  
 Com. v. Majocka  
 Com. v. Downey  
 Com. v. Pierce  
 Com. v. Bowden  
 Com. v. Cabral  
 Driscoll, In re  
 Doe v. Sex Offender Registry Bd.  
 Garcia v. Grossberg  
 Smith v. Sex Offender Registry Bd.  
 Wright v. Kelleher  
 Com. v. Connolly  
 Com. v. Osborne  
 Com. v. Manning  
 Com. v. Faretra  
 Com. v. Petrowicz  
 Com. v. Rodriguez  
 Com. v. Brown  
 Com. v. Silva  
 Com. v. Yates  
 Com. v. Brunnell  
 Com. v. Lavoie  
 Com. v. Peterson  
 Com. v. Warner  
 Com. v. McCants  
 Com. v. Burke  
 Com. v. Kenneally  
 Com. v. Carpenito  
 Com. v. Gagne  
 Com. v. Brien  
 Com. v. Letts  
 Com. v. Bryant  
 Com. v. Brazie  
 Pellegrine v. Com.  
 Com. v. Cordero

CITATION	PARALLEL CITATION	TITLE
863 N.E.2d 978	68 Mass.App.Ct. 633	Com. v. Hiskin
864 N.E.2d 1241	68 Mass.App.Ct. 797	Com. v. Sherman
868 N.E.2d 1259	69 Mass.App.Ct. 514	Com. v. Estrada
862 N.E.2d 470	68 Mass.App.Ct. 1112	Com. v. Caceres
872 N.E.2d 230	69 Mass.App.Ct. 1117	Com. v. Bentley
875 N.E.2d 880	70 Mass.App.Ct. 1109	Com. v. Kilburn
868 N.E.2d 953	69 Mass.App.Ct. 1108	Com. v. Forsyth
874 N.E.2d 505	70 Mass.App.Ct. 1103	Com. v. Marine
863 N.E.2d 988	68 Mass.App.Ct. 1116	Com. v. Ivey
866 N.E.2d 1002	69 Mass.App.Ct. 1104	Com. v. Lane
860 N.E.2d 702	68 Mass.App.Ct. 1104	Com. v. Vargas
868 N.E.2d 183	69 Mass.App.Ct. 1107	Com. v. Centeio
870 N.E.2d 676	69 Mass.App.Ct. 1113	Com. v. W.M.M.
868 N.E.2d 1273	69 Mass.App.Ct. 526	Com. v. Taylor
860 N.E.2d 49	68 Mass.App.Ct. 1102	Com. v. Barreiro
861 N.E.2d 810	68 Mass.App.Ct. 1107	Com. v. Pierce
877 N.E.2d 641	70 Mass.App.Ct. 1114	Com. v. Casimir
876 N.E.2d 498	70 Mass.App.Ct. 1109	Com. v. Grady
866 N.E.2d 1002	69 Mass.App.Ct. 1103	Com. v. Cazeau
863 N.E.2d 549	448 Mass. 687	Com. v. Simmons
863 N.E.2d 582	68 Mass.App.Ct. 1114	Com. v. Andrade
869 N.E.2d 632	69 Mass.App.Ct. 1110	Com. v. Perez
866 N.E.2d 1003	69 Mass.App.Ct. 1105	Com. v. Granados
860 N.E.2d 703	68 Mass.App.Ct. 1105	Com. v. Craffey
868 N.E.2d 613	449 Mass. 392	Com. v. Pelletier
863 N.E.2d 94	68 Mass.App.Ct. 1113	Com. v. McFarlane
876 N.E.2d 487	70 Mass.App.Ct. 721	Com. v. Rodriguez
874 N.E.2d 506	70 Mass.App.Ct. 1104	Com. v. Anderson
876 N.E.2d 1185	70 Mass.App.Ct. 1111	Com. v. Hunter
877 N.E.2d 642	70 Mass.App.Ct. 1115	Com. v. Henriquez
864 N.E.2d 42	68 Mass.App.Ct. 1117	Com. v. Davila
861 N.E.2d 497	68 Mass.App.Ct. 257	Com. v. Casimir
867 N.E.2d 372	69 Mass.App.Ct. 1106	Com. v. Sicard
869 N.E.2d 632	69 Mass.App.Ct. 1110	Com. v. Reyes
866 N.E.2d 1003	69 Mass.App.Ct. 1105	Com. v. Charlton
864 N.E.2d 1260	68 Mass.App.Ct. 1119	Com. v. Calhoun
876 N.E.2d 498	70 Mass.App.Ct. 1110	Com. v. Chapman
869 N.E.2d 632	69 Mass.App.Ct. 1110	Com. v. Estrada
872 N.E.2d 229	69 Mass.App.Ct. 1116	Com. v. Henderson
877 N.E.2d 1286	70 Mass.App.Ct. 1116	Com. v. Metcalf
866 N.E.2d 1002	69 Mass.App.Ct. 1104	Com. v. Dutcher
864 N.E.2d 42	68 Mass.App.Ct. 1117	Com. v. Blanco
875 N.E.2d 549	70 Mass.App.Ct. 1108	Com. v. Arteaga
863 N.E.2d 988	68 Mass.App.Ct. 1116	Com. v. Ramos
864 N.E.2d 42	68 Mass.App.Ct. 1117	Com. v. Gandolfo
869 N.E.2d 632	69 Mass.App.Ct. 1110	Com. v. Cardozo
874 N.E.2d 505	70 Mass.App.Ct. 1103	Com. v. McGrath
876 N.E.2d 1186	70 Mass.App.Ct. 1112	Com. v. Bynum
864 N.E.2d 42	68 Mass.App.Ct. 1117	Com. v. Souza
860 N.E.2d 703	68 Mass.App.Ct. 1104	Com. v. Bourque
868 N.E.2d 184	69 Mass.App.Ct. 1107	Com. v. Ruiz
874 N.E.2d 654	449 Mass. 825	Com. v. Cabrera

## CITATION

862 N.E.2d 77  
 877 N.E.2d 279  
 859 N.E.2d 458  
 877 N.E.2d 279  
 874 N.E.2d 1144  
 863 N.E.2d 583  
 864 N.E.2d 1259  
 866 N.E.2d 1002  
 866 N.E.2d 437  
 868 N.E.2d 953  
 874 N.E.2d 1143  
 867 N.E.2d 725  
 877 N.E.2d 280  
 868 N.E.2d 610  
 875 N.E.2d 548  
 874 N.E.2d 1144  
 860 N.E.2d 702  
 876 N.E.2d 1186  
 877 N.E.2d 280  
 865 N.E.2d 1178  
 876 N.E.2d 498  
 866 N.E.2d 1002  
 867 N.E.2d 811  
 877 N.E.2d 1285  
 862 N.E.2d 381  
 863 N.E.2d 988  
 862 N.E.2d 78  
 863 N.E.2d 988  
 2007 WL 1418533

865 N.E.2d 789  
 863 N.E.2d 582  
 865 N.E.2d 777  
 876 N.E.2d 851  
 873 N.E.2d 778  
 862 N.E.2d 30  
 2007 WL 2781936  
 874 N.E.2d 1144  
 2007 WL 2773177  
 877 N.E.2d 232  
 865 N.E.2d 1098  
 871 N.E.2d 1107  
 877 N.E.2d 1286  
 862 N.E.2d 77  
 873 N.E.2d 764  
 863 N.E.2d 567  
 860 N.E.2d 979  
 868 N.E.2d 158  
 2007 WL 1829396

## PARALLEL CITATION

68 Mass.App.Ct. 1109  
 70 Mass.App.Ct. 1113  
 68 Mass.App.Ct. 1101  
 70 Mass.App.Ct. 1113  
 70 Mass.App.Ct. 1107  
 68 Mass.App.Ct. 1115  
 68 Mass.App.Ct. 1118  
 69 Mass.App.Ct. 1105  
 69 Mass.App.Ct. 1101  
 69 Mass.App.Ct. 1108  
 70 Mass.App.Ct. 1106  
 449 Mass. 298  
 70 Mass.App.Ct. 1114  
 449 Mass. 1025  
 70 Mass.App.Ct. 1107  
 70 Mass.App.Ct. 1106  
 68 Mass.App.Ct. 1104  
 70 Mass.App.Ct. 1112  
 70 Mass.App.Ct. 1114  
 69 Mass.App.Ct. 43  
 70 Mass.App.Ct. 1110  
 69 Mass.App.Ct. 1104  
 69 Mass.App.Ct. 326  
 70 Mass.App.Ct. 1116  
 68 Mass.App.Ct. 292  
 68 Mass.App.Ct. 1116  
 68 Mass.App.Ct. 1111  
 68 Mass.App.Ct. 1116

449 Mass. 100  
 68 Mass.App.Ct. 1114  
 449 Mass. 84  
 450 Mass. 118  
 70 Mass.App.Ct. 194  
 448 Mass. 452

70 Mass.App.Ct. 1106

450 Mass. 144  
 449 Mass. 167  
 69 Mass.App.Ct. 757  
 70 Mass.App.Ct. 1116  
 68 Mass.App.Ct. 1110  
 70 Mass.App.Ct. 185  
 68 Mass.App.Ct. 538  
 68 Mass.App.Ct. 1106  
 69 Mass.App.Ct. 348

## TITLE

Com. v. Hollingsworth  
 Com. v. Semedo  
 Com. v. Henderson  
 Com. v. Thompson  
 Com. v. Jackson  
 Com. v. Quinn  
 Com. v. Price  
 Com. v. Perkins  
 Com. v. Aponte  
 Com. v. Duarte  
 Com. v. Doctor  
 Com. v. Millican  
 Gav-Stra Donuts, Inc. v. Michael Gavriel  
 Leo v. Com.  
 Com. v. Ortega  
 Com. v. Williams  
 Com. v. Hullum  
 Com. v. Anderson  
 Com. v. Cromartie  
 Com. v. Hector H.  
 Com. v. Cabral  
 Com. v. Bruno  
 Com. v. Starkus  
 Com. v. Waterman  
 Com. v. Stegemann  
 Doe v. Sex Offender Registry Bd.  
 Com. v. Drury  
 Com. v. Murphy  
 Pantoja v. Commissioner, Massachusetts Dept. of  
 Correction  
 Care and Protection of Sophie  
 Com. v. Burns  
 Com. v. Novo  
 Com. v. Rebello  
 Com. v. Rabb  
 Com. v. Murphy  
 Com. v. Warren  
 Com. v. Currier  
 Com. v. Cheers  
 Com. v. Robidoux  
 Maimaron v. Com.  
 Boston Housing Authority v. Bridgewaters  
 Com. v. Castro  
 Com. v. Larace  
 Com. v. Wooden  
 Com. v. Jarvis  
 Bowser v. Massachusetts Parole Bd.  
 Com. v. Simmons  
 Alphagary Corp. v. Gitto



CITATION	PARALLEL CITATION	TITLE
881 N.E.2d 1148	71 Mass.App.Ct. 348	Com. v. Williams
895 N.E.2d 764	73 Mass.App.Ct. 57	Com. v. Murphy
894 N.E.2d 642	72 Mass.App.Ct. 1119	Com. v. Ward
885 N.E.2d 122	451 Mass. 332	Com. v. Sherman
884 N.E.2d 552	71 Mass.App.Ct. 1119	Commonwealth v. Badillo
891 N.E.2d 268	72 Mass.App.Ct. 1108	Com. v. Viel
891 N.E.2d 268	72 Mass.App.Ct. 1108	Com. v. Furr
884 N.E.2d 550	71 Mass.App.Ct. 1117	Com. v. Ortiz
896 N.E.2d 59	73 Mass.App.Ct. 1103	Com. v. Mark
879 N.E.2d 1279	71 Mass.App.Ct. 1106	Com. v. Rosario
883 N.E.2d 986	71 Mass.App.Ct. 907	Com. v. Cartagena
891 N.E.2d 1164	72 Mass.App.Ct. 1113	Com. v. Lewis
897 N.E.2d 1041	73 Mass.App.Ct. 1108	Com. v. Mooney
881 N.E.2d 171	71 Mass.App.Ct. 1111	Com. v. Maher
891 N.E.2d 717	72 Mass.App.Ct. 1112	Com. v. Sanchez
885 N.E.2d 174	71 Mass.App.Ct. 1122	Commonwealth v. Gallego
878 N.E.2d 582	71 Mass.App.Ct. 1103	Com. v. Perez
879 N.E.2d 139	71 Mass.App.Ct. 1104	Com. v. Elliot
879 N.E.2d 1278	71 Mass.App.Ct. 1105	Com. v. Holstein
2008 WL 4739769		Independence Seaport Museum v. Carter
882 N.E.2d 871	71 Mass.App.Ct. 1113	Com. v. Berganza
879 N.E.2d 1261	71 Mass.App.Ct. 138	Com. v. Eddington
879 N.E.2d 1278	71 Mass.App.Ct. 1105	Com. v. Flores
882 N.E.2d 870	71 Mass.App.Ct. 1112	Com. v. O'Neil
879 N.E.2d 1279	71 Mass.App.Ct. 1106	Com. v. Marion
894 N.E.2d 642	72 Mass.App.Ct. 1120	Com. v. Lebert
881 N.E.2d 800	71 Mass.App.Ct. 269	Costa v. Fall River Housing Authority
897 N.E.2d 619	73 Mass.App.Ct. 1107	Com. v. Blodgett
889 N.E.2d 966	72 Mass.App.Ct. 188	Com. v. Chiappini
897 N.E.2d 620	73 Mass.App.Ct. 1108	Com. v. Valderrama
888 N.E.2d 385	71 Mass.App.Ct. 1126	Com. v. Alvarez
890 N.E.2d 146	72 Mass.App.Ct. 222	Com. v. Coral
887 N.E.2d 313	71 Mass.App.Ct. 1125	Com. v. Ramos
881 N.E.2d 170	71 Mass.App.Ct. 1109	Com. v. Evans
891 N.E.2d 269	72 Mass.App.Ct. 1109	Com. v. Bogues
896 N.E.2d 657	73 Mass.App.Ct. 1105	Com. v. Searles
897 N.E.2d 619	73 Mass.App.Ct. 1107	Com. v. Carrasco
884 N.E.2d 551	71 Mass.App.Ct. 1118	Com. v. Shea
883 N.E.2d 343	71 Mass.App.Ct. 1116	Com. v. Rodriguez
890 N.E.2d 168	72 Mass.App.Ct. 901	Com. v. Castro
888 N.E.2d 387	72 Mass.App.Ct. 1102	Quintal v. Com.
889 N.E.2d 981	72 Mass.App.Ct. 1107	Com. v. Deangelo D.
892 N.E.2d 751	72 Mass.App.Ct. 416	Com. v. Wilson
879 N.E.2d 685	450 Mass. 483	Com. v. McCulloch
879 N.E.2d 675	450 Mass. 1022	Pierce v. Department of Correction
881 N.E.2d 170	71 Mass.App.Ct. 1110	Com. v. McCarroll
885 N.E.2d 173	71 Mass.App.Ct. 1121	Com. v. Reed
882 N.E.2d 298	450 Mass. 780	Doe v. Sex Offender Registry Bd.
897 N.E.2d 1021	73 Mass.App.Ct. 299	Com. v. Rezvi
882 N.E.2d 850	450 Mass. 894	Com. v. Williams
879 N.E.2d 1278	71 Mass.App.Ct. 1105	Com. v. Richards
897 N.E.2d 1041	73 Mass.App.Ct. 1109	DeRosa v. Mitchell

## CITATION

892 N.E.2d 710

882 N.E.2d 870

881 N.E.2d 170

893 N.E.2d 801

881 N.E.2d 1125

897 N.E.2d 992

893 N.E.2d 791

2008 WL 4739517

896 N.E.2d 60

889 N.E.2d 451

891 N.E.2d 257

892 N.E.2d 815

889 N.E.2d 452

879 N.E.2d 138

885 N.E.2d 174

880 N.E.2d 415

2008 WL 5784218

896 N.E.2d 644

883 N.E.2d 928

897 N.E.2d 586

892 N.E.2d 270

885 N.E.2d 785

884 N.E.2d 539

897 N.E.2d 619

884 N.E.2d 546

886 N.E.2d 754

888 N.E.2d 386

891 N.E.2d 209

888 N.E.2d 386

883 N.E.2d 306

879 N.E.2d 138

881 N.E.2d 170

893 N.E.2d 414

881 N.E.2d 144

897 N.E.2d 574

883 N.E.2d 1228

883 N.E.2d 1243

881 N.E.2d 169

896 N.E.2d 60

879 N.E.2d 105

883 N.E.2d 230

881 N.E.2d 171

882 N.E.2d 871

881 N.E.2d 828

898 N.E.2d 502

882 N.E.2d 341

888 N.E.2d 370

895 N.E.2d 744

## PARALLEL CITATION

452 Mass. 199

71 Mass.App.Ct. 1112

71 Mass.App.Ct. 1110

72 Mass.App.Ct. 1117

450 Mass. 1034

452 Mass. 784

72 Mass.App.Ct. 685

73 Mass.App.Ct. 1104

72 Mass.App.Ct. 1106

72 Mass.App.Ct. 308

72 Mass.App.Ct. 478

72 Mass.App.Ct. 1106

71 Mass.App.Ct. 1103

71 Mass.App.Ct. 1122

71 Mass.App.Ct. 1108

73 Mass.App.Ct. 186

451 Mass. 74

452 Mass. 757

452 Mass. 162

451 Mass. 370

71 Mass.App.Ct. 578

73 Mass.App.Ct. 1107

71 Mass.App.Ct. 587

71 Mass.App.Ct. 788

72 Mass.App.Ct. 1101

452 Mass. 97

72 Mass.App.Ct. 1101

71 Mass.App.Ct. 454

71 Mass.App.Ct. 1104

71 Mass.App.Ct. 1110

72 Mass.App.Ct. 643

450 Mass. 729

452 Mass. 700

451 Mass. 163

71 Mass.App.Ct. 542

71 Mass.App.Ct. 1108

73 Mass.App.Ct. 1104

450 Mass. 449

450 Mass. 834

71 Mass.App.Ct. 1110

71 Mass.App.Ct. 1113

71 Mass.App.Ct. 1111

452 Mass. 823

71 Mass.App.Ct. 304

72 Mass.App.Ct. 22

452 Mass. 498

## TITLE

District Atty. for Northwestern Dist. v. Eastern  
Hampshire Div. of Dist. Court Dept.

Com. v. Hayes

Com. v. Andrade

Doe v. Sex Offender Registry Bd.

Tavares v. Com.

Doe v. Sex Offender Registry Bd.

Maxwell v. AIG Domestic Claims, Inc.

Oliver v. Commonwealth of Massachusetts  
Registry of Motor Vehicles

Com. v. Turpin

Com. v. Alliance

Com. v. Parreira

Com. v. Semegen

Com. v. Conway

Com. v. Franz

Crosby v. Commissioner of Correction

Com. v. Paquette

Dorchester Mut. Ins. Co. v. Legeyt

Com. v. Powers

Edge v. Com.

Com. v. Cowen

Ciampi v. Commissioner of Correction

Com. v. Stephens

Com. v. Ruiz

Doe v. Sex Offender Registry Bd.

Com. v. Morales

Com. v. Means

Com. v. Peters

Com. v. Hendricks

Com. v. Pearson

Com. v. Dresser

Com. v. Salls

Com. v. Bowen

Com. v. Irwin

Com. v. Raymond

Com. v. Boyarsky

Com. v. Glacken

Com. v. Dussault

Com. v. Johnstone

Com. v. Martinez

Com. v. Stuckich

Com. v. Perkins

Puopolo v. Department of Correction

Com. v. Roketenetz

Com. v. McMurtrie

Com. v. Dery

Com. v. Ocasio

Com. v. Powell

Com. v. Love

## CITATION

907 N.E.2d 681  
 907 N.E.2d 664  
 905 N.E.2d 603  
 900 N.E.2d 121  
 909 N.E.2d 558  
 901 N.E.2d 730  
 914 N.E.2d 129  
 899 N.E.2d 918  
 904 N.E.2d 801  
 906 N.E.2d 367  
 899 N.E.2d 118  
 899 N.E.2d 117  
 910 N.E.2d 418  
 900 N.E.2d 535  
 899 N.E.2d 918  
 912 N.E.2d 1040  
 904 N.E.2d 800  
 903 N.E.2d 605  
 907 N.E.2d 265  
 906 N.E.2d 369  
 899 N.E.2d 896  
 2009 WL 975780  
 903 N.E.2d 605  
 913 N.E.2d 900  
 906 N.E.2d 359  
 904 N.E.2d 493  
 914 N.E.2d 361  
 902 N.E.2d 433  
 906 N.E.2d 368  
 905 N.E.2d 602  
 901 N.E.2d 686  
 904 N.E.2d 800  
 914 N.E.2d 990  
 912 N.E.2d 1040  
 914 N.E.2d 362  
 905 N.E.2d 604  
 899 N.E.2d 117  
 907 N.E.2d 1161  
 907 N.E.2d 1161  
 903 N.E.2d 1144  
 912 N.E.2d 1040  
 903 N.E.2d 201  
 914 N.E.2d 361  
 900 N.E.2d 536  
 909 N.E.2d 61  
 900 N.E.2d 912  
 899 N.E.2d 117  
 898 N.E.2d 848  
 901 N.E.2d 731  
 900 N.E.2d 913  
 901 N.E.2d 729  
 914 N.E.2d 990

## PARALLEL CITATION

74 Mass.App.Ct. 1116  
 454 Mass. 101  
 74 Mass.App.Ct. 1109  
 73 Mass.App.Ct. 616  
 74 Mass.App.Ct. 1125  
 73 Mass.App.Ct. 1124  
 75 Mass.App.Ct. 347  
 73 Mass.App.Ct. 1116  
 74 Mass.App.Ct. 1107  
 74 Mass.App.Ct. 1111  
 73 Mass.App.Ct. 1115  
 73 Mass.App.Ct. 1114  
 74 Mass.App.Ct. 1128  
 73 Mass.App.Ct. 1118  
 73 Mass.App.Ct. 1117  
 75 Mass.App.Ct. 1103  
 74 Mass.App.Ct. 1107  
 73 Mass.App.Ct. 1128  
 74 Mass.App.Ct. 1115  
 74 Mass.App.Ct. 1113  
 73 Mass.App.Ct. 564  
  
 73 Mass.App.Ct. 1128  
 75 Mass.App.Ct. 280  
 74 Mass.App.Ct. 304  
 74 Mass.App.Ct. 1106  
 75 Mass.App.Ct. 1105  
 73 Mass.App.Ct. 1127  
 74 Mass.App.Ct. 1112  
 74 Mass.App.Ct. 1108  
 453 Mass. 320  
 74 Mass.App.Ct. 1107  
 75 Mass.App.Ct. 1108  
 75 Mass.App.Ct. 1103  
 75 Mass.App.Ct. 1106  
 74 Mass.App.Ct. 1110  
 73 Mass.App.Ct. 1114  
 74 Mass.App.Ct. 1119  
 74 Mass.App.Ct. 1120  
 74 Mass.App.Ct. 1104  
 75 Mass.App.Ct. 1103  
 453 Mass. 474  
 75 Mass.App.Ct. 1105  
 73 Mass.App.Ct. 1119  
 74 Mass.App.Ct. 1122  
 73 Mass.App.Ct. 1119  
 73 Mass.App.Ct. 1114  
 452 Mass. 833  
 73 Mass.App.Ct. 1125  
 73 Mass.App.Ct. 1120  
 73 Mass.App.Ct. 1122  
 75 Mass.App.Ct. 1108

## TITLE

Com. v. Dean  
 Com. v. Furr  
 Com. v. Rosa  
 Com. v. Hunt  
 Com. v. Morel  
 Com. v. Marrero  
 Com. v. Diaz  
 Com. v. Roberts  
 Com. v. Walters  
 Com. v. Fitch  
 Com. v. Villeneuve  
 Com. v. Grinspon  
 Com. v. Leal  
 Com. v. Mouhieeddine  
 Com. v. Gonzalez  
 Com. v. Nash  
 Com. v. Littles  
 Com. v. Thomas  
 Com. v. Mack  
 Com. v. Oconnor  
 Com. v. Argueta  
 Com. v. Araujo  
 Com. v. Gaines  
 Com. v. Monteiro  
 Com. v. Reddy  
 Com. v. Rivera  
 Com. v. McKinney  
 Com. v. Williams  
 Com. v. Cooke  
 Com. v. Hook  
 Com. v. Powell  
 Com. v. Jackson  
 Com. v. Bennett  
 Com. v. Morales  
 Com. v. Rodrigues  
 Com. v. Grannum  
 Com. v. Martinez  
 Com. v. Paulding  
 Com. v. Hubbard  
 Com. v. Shakoor  
 Com. v. Gomes  
 Com. v. Ruiz  
 Com. v. Roach  
 Com. v. Scialdone  
 Com. v. Gonsalves  
 Com. v. Franklin  
 Com. v. Nyamekye  
 Boston Housing Authority v. Bridgewaters  
 Com. v. Barbosa  
 Com. v. Flores  
 Com. v. Baldwin  
 Com. v. Cordero

## CITATION

909 N.E.2d 546  
 901 N.E.2d 731  
 905 N.E.2d 545  
 903 N.E.2d 1098  
 906 N.E.2d 1031  
 910 N.E.2d 974  
 905 N.E.2d 604  
 904 N.E.2d 800  
 904 N.E.2d 801  
 902 N.E.2d 433  
 904 N.E.2d 801  
 914 N.E.2d 362  
 903 N.E.2d 606  
 907 N.E.2d 1140  
 912 N.E.2d 550  
 900 N.E.2d 914  
 901 N.E.2d 731  
 903 N.E.2d 607  
 906 N.E.2d 368  
 909 N.E.2d 557  
 904 N.E.2d 493  
 905 N.E.2d 604  
 903 N.E.2d 1144  
 2009 WL 330918

906 N.E.2d 320  
 900 N.E.2d 871  
 905 N.E.2d 603  
 900 N.E.2d 536  
 905 N.E.2d 560  
 2009 WL 335930  
 2009 WL 3297960  
 907 N.E.2d 233  
 909 N.E.2d 532  
 914 N.E.2d 354  
 900 N.E.2d 536  
 909 N.E.2d 558  
 906 N.E.2d 367  
 904 N.E.2d 493  
 906 N.E.2d 369  
 907 N.E.2d 265  
 914 N.E.2d 362  
 901 N.E.2d 718  
 907 N.E.2d 681  
 909 N.E.2d 59  
 906 N.E.2d 369  
 901 N.E.2d 729  
 910 N.E.2d 400  
 899 N.E.2d 919

## PARALLEL CITATION

74 Mass.App.Ct. 915  
 73 Mass.App.Ct. 1125  
 453 Mass. 739  
 453 Mass. 614  
 74 Mass.App.Ct. 1114  
 74 Mass.App.Ct. 1128  
 74 Mass.App.Ct. 1110  
 74 Mass.App.Ct. 1106  
 74 Mass.App.Ct. 1107  
 73 Mass.App.Ct. 1126  
 74 Mass.App.Ct. 1107  
 75 Mass.App.Ct. 1106  
 73 Mass.App.Ct. 1129  
 74 Mass.App.Ct. 466  
 75 Mass.App.Ct. 1102  
 73 Mass.App.Ct. 1122  
 73 Mass.App.Ct. 1124  
 74 Mass.App.Ct. 1102  
 74 Mass.App.Ct. 1113  
 74 Mass.App.Ct. 1124  
 74 Mass.App.Ct. 1105  
 74 Mass.App.Ct. 1110  
 74 Mass.App.Ct. 1104

453 Mass. 827  
 453 Mass. 203  
 74 Mass.App.Ct. 1110  
 73 Mass.App.Ct. 1119  
 453 Mass. 1024  
 75 Mass.App.Ct. 446  
 74 Mass.App.Ct. 383  
 454 Mass. 267  
 75 Mass.App.Ct. 382  
 73 Mass.App.Ct. 1118  
 74 Mass.App.Ct. 1124  
 74 Mass.App.Ct. 1111  
 74 Mass.App.Ct. 1106  
 74 Mass.App.Ct. 1113  
 74 Mass.App.Ct. 1115  
 75 Mass.App.Ct. 1107  
 73 Mass.App.Ct. 777  
 74 Mass.App.Ct. 1116  
 74 Mass.App.Ct. 1120  
 74 Mass.App.Ct. 1113  
 73 Mass.App.Ct. 1122  
 74 Mass.App.Ct. 709  
 73 Mass.App.Ct. 1117

## TITLE

Com. v. Mazzantini  
 Com. v. Bocchino  
 Com. v. Raposo  
 Costa v. Fall River Housing Authority  
 Com. v. Wright  
 Com. v. Ostrowski  
 Doe v. Sex Offender Registry Bd.  
 Com. v. Oliver  
 Com. v. Brigham B.  
 Com. v. Osorno  
 Com. v. Rivera  
 Com. v. Parnell  
 Com. v. Malloy  
 Guzman v. Com.  
 Com. v. Lane  
 Com. v. Hamilton  
 Com. v. Lusier  
 Com. v. Velez  
 Com. v. Baldessare  
 Com. v. Hallberg  
 Com. v. Doucette  
 Commonwealth v. Archeval  
 Com. v. Torres  
 Wieder Psychiatric Services v. New Hampshire  
 Chief Medical Examiner's Office  
 Pixley v. Com.  
 Com. v. Williams  
 Com. v. Green  
 Com. v. Santos  
 Emelio E. v. Com.  
 Com. v. Walker  
 Com. v. Vasquez  
 Doe v. Sex Offender Registry Bd.  
 Com. v. Blake  
 Cybulski v. Vaiani  
 Com. v. Santiago  
 Com. v. Andre  
 Com. v. Logan  
 Com. v. Brouillard  
 Com. v. Carden  
 Com. v. Drewnowski  
 Com. v. Montana  
 Com. v. Pimentel  
 Com. v. Assaf  
 Com. v. Siciliano  
 Com. v. Bocchino  
 Com. v. Theriault  
 Com. v. Cote  
 Com. v. Morton

# EXHIBIT 3

**McGONAGLE & McGONAGLE, P.C.**

ATTORNEYS AT LAW

4 West Street, Suite 106

Reading, MA 01867

Tel: (781) 942-3770 Fax: (781) 942-3772

Email: McGonlaw@msn.com

Patrick J. McGonagle, Esq.  
Allison Jarasitis McGonagle, Esq.

Hon. Allen J. Jarasitis (Ret)  
*Of Counsel*

June 25, 2010

Commission on Judicial Conduct  
Hon. Stephen E. Neel, Chairman  
11 Beacon Street, Suite 525  
Boston, MA 02108

RE: Hon. Diane Moriarty

Dear Judge Neel,

I am writing on behalf of Judge Diane Moriarty.

I was a District Court Judge from January 22, 1991 to May 31, 2007. During that time I had many discussions with Judge Moriarty as well as other judges regarding the substance of the plea colloquy. We were of the belief that it was not necessary to provide the alien warnings to defendants who were American citizens. While I presided in the Lawrence, Lowell, Chelsea and 23 other District Courts. It was the practice of many of the Judges there to not provide the alien warnings to those defendants who's records indicated that they were born in the United States.

The Commonwealth ultimately took the matter up to the Supreme Judicial Court on a c.211, s.3 petition. This petition was reviewed by an assistant Attorney General who informed me that the alien warning needed to be given to all defendants. I subsequently scheduled a hearing and gave the warning to the defendants as the Commonwealth had requested.

I am familiar with the assistant District Attorney who is involved in the complaint against Judge Moriarty. I had him appear in front of me on several occasions in the Chelsea District Court. He was frequently discourteous in that he would interrupt the Court and would not listen to the Court's rulings. He seemed to believe that he was in charge and the Court's opinions and rulings were irrelevant to the way cases were conducted. I found him to be disruptive to the operation of the Court and to have an attitude of total disrespect for the Court, and unprofessional to the extreme.

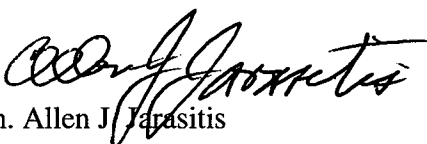
Judge Moriarty and I, as well as other Judges, conferred on many occasions regarding rulings on various motions as well as general discussions of the law. These discussions would take place during both regular court hours as well as before and after regular court hours. It was not unusual for Judges to consult with each other when there was a question about our rulings on

individual cases. We would not necessarily couch these discussion in terms of a specific case but would often have discussions about a legal question without reference to a specific case. In this vein I recall discussions about allowing motions to vacate pleas because of inadequate colloquy was insufficient.

As a judge I cannot say that I never gave an inadequate colloquy. It is an unfortunate fact that in the daily crush of business a colloquy is occasionally insufficient. It is obvious from cases recently coming down from the Supreme Judicial court that the question of plea colloquies is still unsettled.

The certification to be signed by each Judge at the time of the plea is signed as a matter of course and it is my opinion that those that are signed after an insufficient colloquy are not signed in an attempt to circumvent the law or mislead an appeals Court but are signed in error.

Very truly yours,

  
Hon. Allen J. Jarasitis

AJJ/lbv

# EXHIBIT 4



*Honorable Paul V. Buckley, Retired  
5 Landseer Terrace  
West Roxbury, MA 02132*

June 22, 2010

Gillian E. Pearson, Executive Director  
Commission on Judicial Conduct  
11 Beacon Street, Suite 525  
Boston, MA 02108

RE: Honorable Diane E. Moriarty

Dear Ms. Pearson,

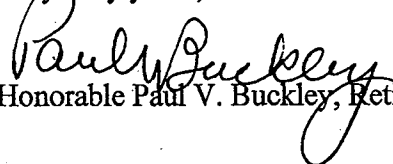
Please accept this unsolicited letter on behalf of Judge Diane E. Moriarty. It has recently come to my attention that Judge Moriarty is being complained of bias against the Commonwealth in certain criminal cases while sitting in Chelsea District Court.

Apparently, Judge Moriarty did not recite the full language on the "green sheet", regarding alien warnings to obvious citizens. Prior to the SJC clarification I also did not recite the alien warnings to obvious citizens when accepting the defendants' pleas or admissions.

I have particular memory of sitting in Chelsea District Court and being verbally admonished by an assistant district attorney for not reading the "alien warnings". Thereafter, the few times I did sit in Chelsea District Court it was uncomfortable to sit on any case prosecuted by that assistant district attorney.

Before it became clear that all defendants, citizens and non-citizens, had to be read the warnings I believe other judges, likewise, did not recite the full "alien warnings" to obvious citizen defendants. I hope that this charge, if substantiated, does not negatively affect Judge Moriarty's judicial appointment.

Very truly yours,

  
Honorable Paul V. Buckley, Retired

# EXHIBIT 5

**Transcript**  
*Commonwealth v. Matthew West*, No. 0102CR2402  
Quincy District Court, Courtroom A  
Monday, September 24, 2007  
Justice Diane Moriarty

[9:33 a.m.]

COURT: Yes?

COURT OFFICER: He wants to speak to you on a case, did you want to confirm it now before?

COURT: On a?

COURT OFFICER: It's got nothing to do with a jury trial matter.

COURT: On a case with the D.A. that's pending?

DEFENSE: It's, actually it's an old case from Roxbury, Judge, and I apologize for bringing it here today, but it is a matter of a little bit of urgency, if you have a minute for me. This is a case from 2001 in Roxbury District Court that you presided over.

COURT: You're not going to expect me to remember this, correct?

DEFENSE: I know that you won't, Judge.

COURT: Thank you.

DEFENSE: You may, I tried to get to you last week and I understand that you were in training. And I appeared before Judge Wright in the Roxbury District Court on it-

COURT: Yeah.

DEFENSE: And he was inclined to act on the motion but he instructed me to speak with you. The papers are in Roxbury, but in sum, Judge, here's what the situation is.

COURT: I told him if he didn't plead guilty, he'd go to jail?

DEFENSE: No, the attorney, according to him-

COURT: Good. Okay.

DEFENSE: Here's what the situation is with respect to Mr. West, Judge. He is scheduled for sentencing today in the federal court in front of Judge Young. He was convicted several months ago after jury trial in the Federal District Court of possession with

intent to distribute a small amount of cocaine. His case is an offshoot of the Boston Police corruption case involving Roberto Polito. Mr. West was alleged to have hosted the unlicensed stripper parties, and the federal government believed that he maintained the guest list. They then selected him -- well, my argument is they selected him for prosecution, a government witness solicited purchase of cocaine from him. He on two occasions sold a total of 750 dollars of cocaine to the government witness. They concluded the investigation with the Boston Police, and then came to see West. He admitted his involvement, but refused to cooperate. They subsequently indicted him and detained him, and he went to trial on that basis. Because of this plea in the Roxbury District Court, which was an assault and battery, he is subject to a career offender-

COURT: Who's the lawyer? Do you remember?

DEFENSE: The papers are there, I looked at it, I'm not sure who the lawyer was, Judge. It was bar counsel I think. But because of this conviction in the Roxbury District Court, his sentence guidelines go from 15 to 21 months to 262 months. Judge, you're-

COURT: This isn't -- was not his only felony charge, right? He's had previous-

DEFENSE: When he was 22 years old, he served time in Virginia for distribution of cocaine. This happened when he was about 35 or so-

COURT: Okay.

DEFENSE: -this assault and battery. He was trouble free, Judge, since his release from incarceration in Virginia.

COURT: And how long did he do in Virginia?

DEFENSE: He got -- he got a pretty heavy sentence. He sold, you know, four grams of cocaine to an undercover. He got ten years, was told he'd be paroled in eight months, but he did four years. When he got out, he then got a job at UNICCO Service Company. He bought a home in Saugus. He's engaged to be married to Tatiana Hall. He's got a ten-year-old daughter and a one-year-old son that was born just after he was arrested on this. He -- this case speaks to what's wrong with the federal sentencing guidelines, Judge, and I think Judge Young recognizes that. Judge Young ruled in a case that was decided in the First Circuit in 2006, *U.S. v. Teague*, that he concluded that even though a person was a career offender, that he should be sentenced according to the post-*Booker* statutory guidelines, and not be subject to what he called an excessive penalty. And I think this is a similar case. And what I'm just trying to do is give Judge Young something to hang his hat on so he can sentence the defendant appropriately with the guideline provisions that apply to him. Essentially what happens is, because of this conviction, the government-

COURT: I know.

DEFENSE: Yeah.

COURT: I know.

DEFENSE: I didn't know-

COURT: But I didn't -- I don't, did you get a copy of the colloquy?

DEFENSE: There's no audiotape of the colloquy.

COURT: Timmy Flaherty says I didn't do it right.

DEFENSE: Well-

COURT: I'm not sure about that. I always made sure that I did it.

DEFENSE: The one unusual thing on the docket, Judge, is that-

COURT: Is there a green sheet?

DEFENSE: There's a green sheet.

COURT: Yeah.

DEFENSE: But on the docket it says, "Colloquy given in court to defendant," and I don't usually see that in dockets. Which -- and I don't know the reason for it. It was just unusual to me. So I don't-

COURT: Was that -- that might have been the new clerk.

DEFENSE: Yeah, it could have been.

COURT: Do you know who the new clerk -- we had a ton of new clerks come in in Roxbury at the time, so I don't know-

DEFENSE: Essentially, Judge, the only basis-

COURT: -but the green sheet has my signature on it, right?

DEFENSE: I'm sure it does, yeah.

COURT: Mmmhmm.

DEFENSE: The only basis for the defendant moving to vacate the conviction is that he wasn't advised of the possible sentencing enhancement potential were he to plea to the assault and battery as a crime of violence. And essentially the facts are-

COURT: I mean, I don't have to give him that for something that might occur in the future. I only have to give him what he can do for state time, right?

DEFENSE: You might be right, Judge, you may be right, but-

COURT: Well, but the reason I'm asking you these questions is I just got turned over on doing this. They said I didn't make -- I did the appropriate colloquy. I didn't have to ask them if they've had any drugs or alcohol. I didn't have to tell them that they might in the future have a problem with federal guideline sentencing.

DEFENSE: Mmmhmm.

COURT: Because I just allowed a motion to withdraw a plea in Chelsea based on similar -- he also had I.N.S. problems, and the Appeals Court two months ago told me that I didn't have to do any of those things. That's what my problem is.

DEFENSE: Well in the interest of justice, Judge, I think you have discretion to vacate, and I would only suggest that the fact-

COURT: Except now you want to, hmm. What is the D.A. -- Did you file with the D.A.?

DEFENSE: I did, yeah, Jonathan Tynes, the supervising D.A. over there-

COURT: What did he say?

DEFENSE: He says-

COURT: He didn't file an opposition, because, I tell you, they took me up in Chelsea.

DEFENSE: Yeah, he tells me that, for the record, what he would do is he would just object for the record, but he would not make a strenuous argument, and that's what his position was in front of Judge Wright. I think-

COURT: I wish I had evidence of that.

DEFENSE: Tynes and I have discussed this.

COURT: Yeah, I know.

DEFENSE: I can give you the sentencing guide -- the pre-sentence report on Matt West. I have a copy of it with me where they go through the whole thing.

COURT: Yeah, let me take a look at it. I don't like to do this. I'm looking at this, this was an easy sentence for me. 90 days suspended.

DEFENSE: I know, Judge.

COURT: Six months probation.

DEFENSE: He completed -- he got anger management, completed -- I mean, you understand what they're doing with this kid.

COURT: I do. What information were they looking for that he wouldn't give them?

DEFENSE: Who the other cops were at the parties.

COURT: The other cops? They're going to find that out anyways.

DEFENSE: They've got it all audio and videotaped. What they did was, they came to him and they said, "Look. You're going to do 25 years-

COURT: Why didn't he just give it to them?

DEFENSE: He's not that type of guy, Judge. He wouldn't tell them -- essentially-

COURT: Someone was going to give it to them.

DEFENSE: What happened -- and the facts were produced at trial. What happened essentially is that the government witnesses solicited him on a couple of occasions. We didn't interpose an entrapment defense at trial because it wouldn't fly with his record.

COURT: Yeah. Yeah.

DEFENSE: But essentially he asked him, can you get us some party favors? And he said, with the girls? I don't do that, that's up to you. And then the informant touched his nose, and my client responded on the audiotape, you mean powders? Well, I can't do that, but I can network it for you. So essentially, the evidence against him is, he received some cocaine from an unidentified person and refused to give the source to the government. He handed it over to the informant, and transferred the money back to the source. And for that he's facing, you know, essentially 22 years. And that's -- you know, they were looking for him -- my first conversation with the AUSA was, they would recommend-

COURT: Was this straight assault and battery on mine?

DEFENSE: He was -- there was assault and battery, maybe disorderly-

COURT: It's assault and battery, malicious destruction of property over.

DEFENSE: Yeah.

COURT: So it's the malicious destruction of property over that's the problem for you?

DEFENSE: No, I think it's the assault and battery, Judge. A crime of violence-

COURT: Even though it's a misdemeanor?

CLERK: I was just going to say, it's a misdemeanor.

COURT: It's a misdemeanor, right?

DEFENSE: I think it's-

COURT: It's not the-

DEFENSE: It qualifies as a crime of violence. I mean I would ask you to vacate-

COURT: Is that what the issue is? You think-

DEFENSE: I believe it's-

COURT: Because, see, I thought it was all felony stuff that triggered the sentencing.

DEFENSE: The way the career offender enhancement section reads, it's two prior felony convictions-

COURT: Right.

DEFENSE: Either one for drugs and one for violence, or two of each, and this assault and battery, I believe, qualifies as a predicate offense for a crime of violence, even though-

COURT: It's not a felony.

DEFENSE: Yeah.

COURT: Because it's not a felony.

DEFENSE: Not in Massachusetts it's not a felony, but I think it's regarded for purposes of career offender enhancements as a felony conviction, or crime of violence that satisfies the predicate. The facts of this case, the assault and battery conviction, were that he and his fiancée were parking a car in Roxbury, and-



COURT: It was a domestic case.

DEFENSE: Well, essentially what happened was, they bumped a -- the pre-sentence makes it look like domestic but it wasn't. They bumped a bumper of a car in front of them, and the guy in that car came out and came after the fiancée. West intervened. A neighbor called the police to defend West, because there was a social club across the street. A bunch of guys piled out, and when the cops arrived there was more yelling and shouting. West got locked up. Titiana was pushing a cop. And, you know, it was one of those things.

COURT: Well, I'm just looking -- he's got the juvenile stuff, he was convicted, but he's got an ABPO in Cambridge.

DEFENSE: But it's beyond the -- it's beyond the applicable time provisions because it's -- the career offenders go back only ten years for the enhancements. So the ones that count are the most recent: Virginia and Suffolk.

COURT: This '92 one?

DEFENSE: According to-

COURT: Ten years?

DEFENSE: But he was released-

COURT: Yeah, I see that.

DEFENSE: You see where he was released in 1996. So it's just within the ten-year time period.

[extended period of silence]

COURT: They didn't charge him with ABPO. Right?

DEFENSE: Yeah they didn't, and it was-

COURT: Which is really what it sounds like it was.

DEFENSE: Right. And I think -- I'm not sure if they were originally charged that way and then they reduced it, but that recitation of facts doesn't read the same way the police report does. The police report is, oddly enough, not as bad against the defendant as the recitation by the probation officer is. The police report, you know, says that he was flailing about, and then it's almost an admission of excessive force because they did kind of bundle him and mace him repeatedly, and then when he was in the cell area he refused medical treatment but he was obviously in agony, and that's when he was-

- COURT: So if this is reduced, what does he get? Do you know?
- DEFENSE: Yeah, he does 15 to 21 months. The -- let me get the sentencing memorandum.
- COURT: 15 to 21 months?
- DEFENSE: The guidelines call, well, I mean it's discretionary-
- COURT: I know. Who's the sentencing judge?
- DEFENSE: Young.
- COURT: Well, Young won't give him the lower end.
- DEFENSE: Well, he'll give him something less than 262 to 327. Young tried the case-
- COURT: Right. So he knows. And what's the government asking for?
- DEFENSE: Well, they're looking for the current enhancement of 262 to 327. And frankly, Judge, in my conversation with-
- COURT: Do you have, it that what they asked for?
- DEFENSE: That's what they're going to ask for today. The AUSA keeps calling me saying have you been able to -- he said, I know you're not going to vacate Virginia, but have you done anything in Mass., and I said, well, we're still working on it. I think he frankly, Judge, is uneasy with this. I think everyone's uneasy with it.
- COURT: Well, when this goes up they're going to overturn me, you understand that?
- DEFENSE: I don't think they're going to appeal it.
- COURT: It was the same office.
- DEFENSE: Not the same D.A.
- COURT: I hope you're right about that.
- DEFENSE: I think I am.
- COURT: Because now they're going to try it all over again. That's not going to make them happy. Right?
- DEFENSE: He'll plea, right after he's sentenced.
- COURT: He will?

DEFENSE: He'll plea to committed time on advice and instruction of counsel.

COURT: Okay. [writing] Tell him it was an early Christmas present.

DEFENSE: You are a just and wise woman.

COURT: [laughs]

DEFENSE: [laughs]. Thank you.

COURT: You're welcome.

DEFENSE: Matt West thanks you.

[9:51 a.m.]

# EXHIBIT 6

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

# EXHIBIT 7

The Honorable Stephen E. Neel  
Judicial Conduct Commission  
11 Beacon Street, Suite 525  
Boston, MA 02108

Re: Judge Diane Moriarty

Dear Commission:

I am writing this letter for submission on behalf of my patient, Diane E. Moriarty. Diane has been my patient for over forty years. I first came to know Diane when she began working at the radiology department at New England Medical Center in the early 1970s. I have been employed in the internal medicine department at Tufts Medical Center, formerly known as New England Medical Center since 1970. The purpose of my letter is give the Commission a general background of Judge Moriarty's medical history, as well as my impressions of her medical condition as it related to the events of September 24, 2007.

I have treated as well as coordinated the treatment for a number of illnesses and medical conditions for Diane Moriarty. More notably, I assisted in the treatment of a severe asthma condition in the late 1980s and early 1990s, and I followed the treatment of multiple orthopedic procedures (arthroscopy, bone grafts, knee replacement) relating to Diane's knees. In 2007, Diane was treated at New England Medical Center for [ REDACTED ] . Following surgery she developed tachycardia which required testing to rule out an embolism.

After Diane's surgery in 2007 I followed her care for symptoms relating to tachycardia. Her symptoms included shortness of breath, chest pain, syncope and dizziness. In August of 2007 her symptoms increased in frequency and intensity so Diane was treated in the emergency room at NEMC. During an inpatient admission, extensive medical testing revealed coronary artery disease, tachycardia, hypertension and angina.

Diane was discharged from the hospital in August, 2007 and her treatment plan included medication and a cardiac loop monitor. She returned to the Quincy District Court on a full-time basis while wearing her cardiac monitor. Diane routinely relayed transmissions from the monitor to the cardio-electrophysiology department at Tufts Medical Center, as a result of her cardiac symptoms.

Page two

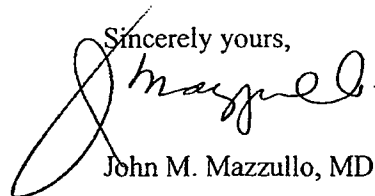
Re: Diane E. Moriarty

On the morning of September 24, 2007 Diane reported that she was experiencing chest pain, light headedness, and dizziness. She relayed her monitor transmissions to the cardio-electrophysiology lab and she was advised to go to the emergency room at Tufts Medical Center.

According to her medical records, Diane arrived at the ER of Tufts Medical early in the afternoon of September 24, 2007. She was immediately seen by physicians and staff and an EKG revealed elevated S-T waves indicating a myocardial infarction. Diane was medicated and transported to the operating room for an emergency cardiac catheterization. Test results supported Diane's complaints and indicated that there was a blockage of her coronary arteries that contributed to her chest pain, light headedness, angina, and high blood pressure. As a result of this hospital admission Diane Moriarty was diagnosed with micro-vessel heart disease. This disease is characterized by constriction of the blood vessels surrounding the heart causing a decrease in the amount of oxygen through the blood vessels.

It is apparent that Judge Moriarty was affected by her coronary disease on the morning of September 24, 2007. She would have experienced pain, fear and anxiety as a result of her cardiac condition. Many patients demonstrate an inability to focus and an ambivalence over whether to remain in a safe environment (in this case the courthouse) or leave and seek treatment. Cardiac patients also tend to delay treatment in the hope that the symptoms will abate. The cardiac episode of September 24<sup>th</sup> would negatively affect Diane's memory, comprehension, and decision making ability.

Since Diane's hospitalization in September, 2007 she has had multiple minor strokes and one major stroke resulting in another hospital admission in June of 2009. During this admission she was diagnosed with carotid artery blockage (95% blockage) as well as a foramen ovale (hole in her heart). She was operated at Tufts Medical Center for carotid artery surgery and she was operated on a second time at the Brigham and Woman's Hospital in May of 2010 for the closure of a patent foramen ovale. In my opinion, which is supported by physician reports and clinical data, these conditions were present in full or in large part as of September 24, 2007 contributing to Diane's cardiac illness and the events of September 24, 2007.

Sincerely yours,  
  
John M. Mazzullo, MD

# EXHIBIT 8

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

# EXHIBIT 9

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

# EXHIBIT 10

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

# EXHIBIT 11

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

# EXHIBIT 12

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]


# EXHIBIT 13

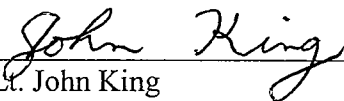
We, the police prosecutors at the Quincy District Court, are writing this affidavit to submit for the record of proceedings pending regarding Judge Diane E. Moriarty. We, personally, work with Judge Moriarty on an almost daily basis and it is our police officers who appear before her as witnesses in the trials that she conducts.

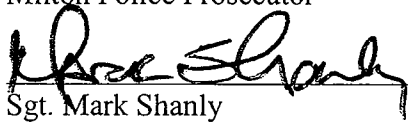
We speak unanimously in stating that Judge Moriarty treats everyone fairly and is respectful to the prosecutors, defense lawyers and the witnesses who appear before her. She is extremely hard working and diligent in all of the proceedings before the court. Never have we witnessed a pattern of conduct which would demonstrate a bias against the prosecution or a lack of impartiality. She may rule against the Commonwealth or uphold the Commonwealth's position, but her decisions are always based on the evidence and the law.

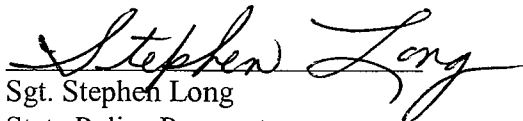
We would be available to provide any further information that you might require.

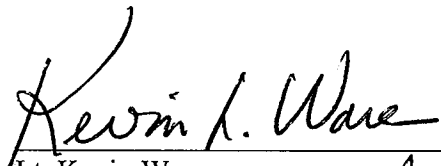
Signed this 17<sup>th</sup> day of June, 2010.

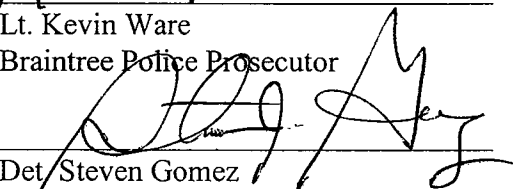
  
Sgt. Richard Potter  
Quincy Police Prosecutor

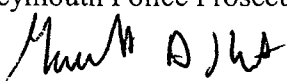
  
Lt. John King  
Milton Police Prosecutor

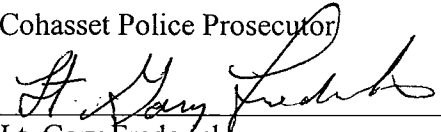
  
Sgt. Mark Shanly  
Holbrook Police Prosecutor

  
Sgt. Stephen Long  
State Police Prosecutor

  
Lt. Kevin Ware  
Braintree Police Prosecutor

  
Det. Steven Gomez  
Weymouth Police Prosecutor

  
Det. Garrett Hunt  
Cohasset Police Prosecutor

  
Lt. Gary Fredericks  
MBTA Police



# EXHIBIT 14

**AFFIDAVIT**

**I state the following is true to the best of my knowledge and belief:**

- 1. My name is Nitin Dalal and I am licensed to practice law in the Commonwealth of Massachusetts.**
- 2. I was employed by the Suffolk County District Attorney's Office and appeared in front of Judge Diane Moriarty in my capacity as an assistant District Attorney on many occasions.**
- 3. I considered Judge Moriarty to be fair in dealing with both the defense and the prosecution.**
- 4. I always felt that Judge Moriarty gave both sides adequate time to make any record that was necessary.**
- 5. In my opinion Judge Moriarty treated each party with courtesy.**

**Signed under the pains and penalties of perjury.**

A handwritten signature in cursive script, appearing to read "Nitin Dalal", written over a horizontal line.

**Nitin Dalal**

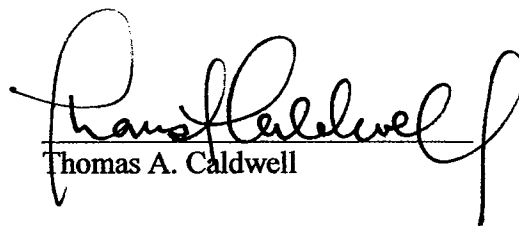
**6-22-2010**

## AFFIDAVIT

I state the following is true to the best of my knowledge and belief:

1. My name is Thomas A. Caldwell and I am an attorney licensed to practice law in the Commonwealth of Massachusetts.
2. I appeared in front of Judge Diane Moriarty on many occasions in my role as an assistant District Attorney in Suffolk County.
3. I observed her for many hours as I was present in the courtroom awaiting my cases.
4. In my opinion Judge Moriarty was fair and impartial. I did not observe her to favor either the prosecution or the defense.
5. Judge Moriarty allowed each side to make the necessary record regarding her rulings.
6. Judge Moriarty treated both sides on each case with courtesy and respect and demanded the same from the parties.

Signed under the pains and penalties of perjury this 27<sup>th</sup> day of June, 2010.

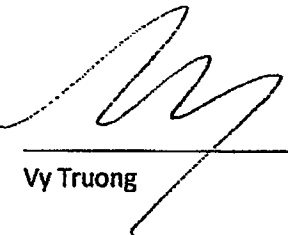
  
Thomas A. Caldwell

# AFFIDAVIT

I state the following is true to the best of my knowledge and belief:

1. My name is Vy Truong and I am licensed to practice law in the Commonwealth of Massachusetts.
2. I was employed by the Suffolk County District Attorney's Office and appeared in front of Judge Diane Moriarty in my capacity as an assistant District Attorney on many occasions.
3. I considered Judge Moriarty to be fair in dealing with both the defense and the prosecution.
4. I always felt that Judge Moriarty gave both sides adequate time to make any record that was necessary.
5. In my opinion Judge Moriarty treated each party with courtesy.

Signed under the pains and penalties of perjury.



Vy Truong

# EXHIBIT 15

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

# EXHIBIT 16

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

# EXHIBIT 17

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

# EXHIBIT 18

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

# EXHIBIT 19

[REDACTED]

[REDACTED]

[REDACTED]



# EXHIBIT 20

I, Mark S. Coven, have been the Presiding Judge of the Quincy District Court since October, 2000. Judge Diane Moriarty has reported directly to me for nearly the last decade.

The Quincy District Court is one of the busiest District Courts in the Commonwealth, in both the criminal and civil areas. In fiscal year 2009, there were 7897 new criminal files in this court.

Judge Moriarty is primarily responsible for the criminal jury session at our court. In the last year, there were over 2300 criminal cases scheduled for jury trial.

It is only through Judge Moriarty's commitment and dedication to the Court and extraordinary hard work that allows us to resolve the criminal work that confronts us on a daily basis. Her work is evidenced in our latest annual metrics report which shows that our 2009 criminal clearance rate is 99.7%. Further, 93.9% of the criminal cases were pending within time standards.


Not only is Judge Moriarty a tireless worker, but she treats all parties fairly and impartially. She conducts her jury trials without any bias or favoritism towards any of the parties. Despite the pressure of the volume of cases that she must handle each and every day, Judge Moriarty always maintains her composure and patience. I have received no complaints either from prosecutors or defense lawyers that they have been treated anything but fairly.

These practices were substantiated by the local lawyers practicing before the court when Judge Moriarty was chosen to receive the Daniel A. Malaney Award from the Quincy Bar Association in 2006 for outstanding legal service.

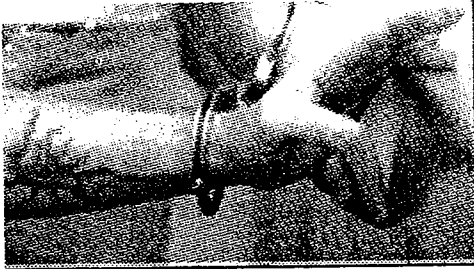
As well as her daily responsibility for conducting criminal proceedings at the court, Judge Moriarty created and has operated the Quincy Drug Court for the last nine years. This drug court has provided supervision to some of the most serious drug and alcohol dependant probationers in this court. It is only through her work that hundreds of substance abusers have regained their sobriety and not reoffended. At our last drug court graduation, one young woman who now has a seven month old child admitted that she probable would have died from a heroin overdose but for the work and compassion of Judge Diane Moriarty.

Judge Diane Moriarty plays a vital role at the Quincy District Court. We could not possibly be as successful in serving the seven communities within our jurisdiction but for her work. She is a critical component of whatever successes we may have.

Signed this 24 day of June, 2010

  
Mark S. Coven  
First Justice

# EXHIBIT 21



# DRUG PROGRAM TOUGH, CARING

broach is  
sunderstood  
many

**INE LAMBERT**  
Patriot Ledger

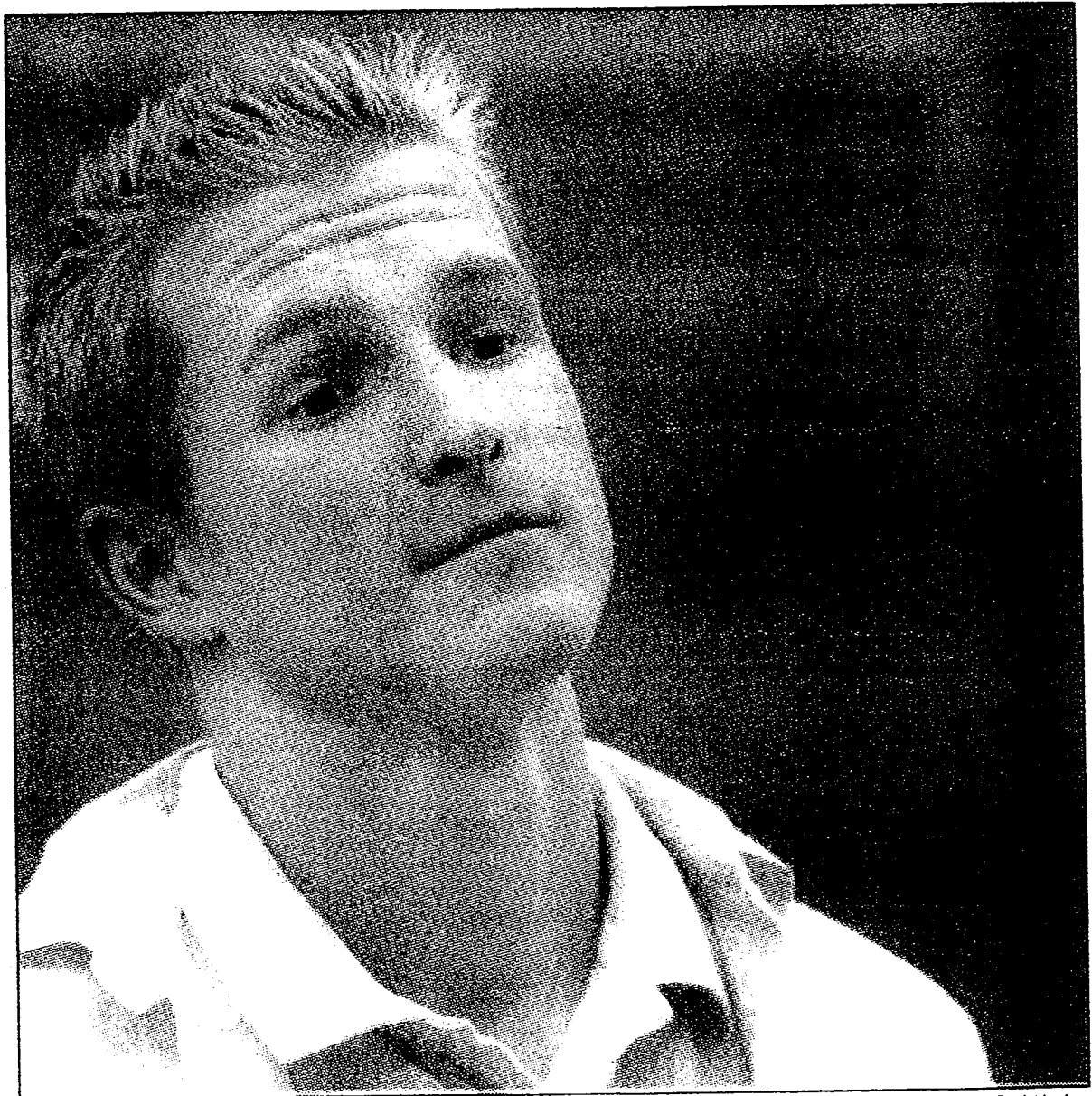
**A** QUINCY slender young man named Tommy is standing in the dock in Quincy District

it's first session room, and Judge Diane arty isn't happy to see here.

Tommy was doing well in treatment, until he left the facility on a pass and didn't return. He was jailed for the violation, and Moriarty tells him she's not sure she's going to let him stay on probation.

"You're focusing on other things," she says as two other men and women on probation watch from the front rows. "I want you to focus to be on your treatment, on changing your life. If you can't do that, you have to do your time and be with your family. Do you understand?"

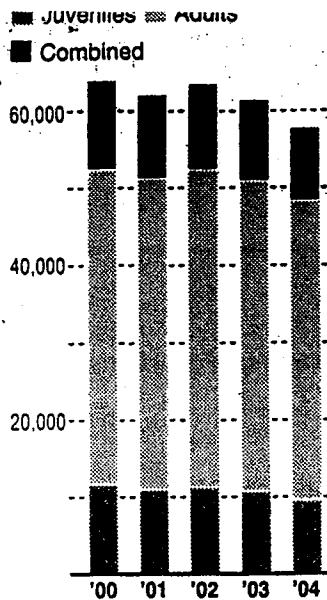
She begins another session in the Quincy Drug Court. It's a law enforcement and intensive rehab, the weekly court has



GARY HIGGINS photos/The Patriot Ledger

■ James Moffett, 23, of Weymouth says he started using drugs at age 8. He is in the first phase of the Quincy Drug Court program and must attend court weekly.

See DRUGS — Page 8



SOURCE: Massachusetts Office of the Commissioner of Probation

NICHOLAS WILLIAMS/The Patriot Ledger

their weekly review of clients. Instead, the judge will add new conditions to his probation: 40 hours of community service, to be performed at his treatment facility.

"He didn't use and he didn't run," Moriarty explained. "With some situations, you have to be individual how you handle it."

#### "A real awakening"

Feetham is among the first to go in front of the judge's bench that afternoon, and his review is brief and complimentary. In the course of an hour, Moriarty orders that a young woman who's been bounced from treatment be picked up on a warrant, and sends an

restraining order.

"Haven't you learned one thing?" she asks him.

When Moffett takes his turn, Moriarty talks to him about the community service, and suggests she might send him a set of toothbrushes for bathroom cleaning duty.

"We don't want you to wind up back there," she says, waving a finger toward the courthouse lockup.

"That's not going to happen," Moffett assures her.

The day ends with a success story: To the applause of other clients, Moriarty recognizes Jane, a Randolph resident who has finished all four phases.

Unlike most clients, the 44-year-old former school security guard got addicted to Percocet and other painkillers when she was recovering from leg surgery.

"I liked the high," she said.

Jane, who asked that her last name not be used, tried detox several times and spent two short spells in the state women's prison in Framingham before she stuck with a second round in Quincy Drug Court.

"Jail was a real awakening," she said as she watched other clients filter out of the courtroom. "I had thought this would never happen to me, but it can happen to anybody. It was degrading. And I put my family through hell."

Like most clients, she initially bridled at the demands that Moriarty and Rothman put on her.

("I didn't like them, and I told them I didn't," she said.) Now she works for a South Shore restaurant, has regained visiting rights with her children, and she speaks of the judge and probation officer with appreciation.

"Judge Moriarty will put you in jail in a second, but she does it because she cares," Jane said. "She saved my life."

When Moriarty is later told of that comment, she nods with satisfaction.

"If you save one person a year, you're saving somebody,"

## Court details

### Phase I

- Inpatient treatment, halfway house
- Drug testing, three times a week
- 12-step program, three times a week
- Drug abuse counseling
- Job training
- Report weekly

### Phase II

- Finish inpatient; to sober housing
- Drug testing, counseling, 12-step
- Report every two weeks

### Phase III

- Into supportive housing
- Testing, counseling, 12-step
- Report every three weeks
- Relapse prevention program
- Work, education, training
- Prepare post-Drug Court support plan

### Phase IV

- Report monthly
- Maintain Drug Court practices
- Hair, other drug tests taken without advance notice

Source: Quincy District Court



# Drug court tough

## ■ DRUGS

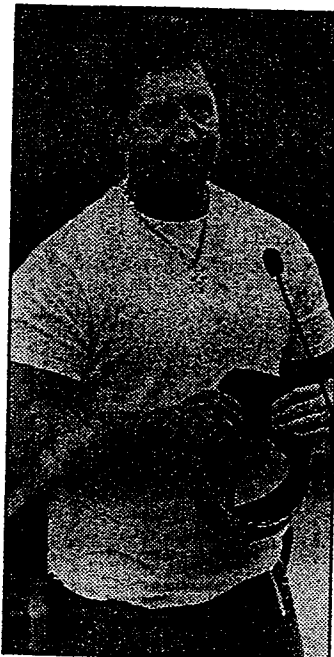
Continued from Page 1

operated since 2001 under Moriarty's direction, with little public attention.

One of 23 such programs in Massachusetts and the only one in Plymouth or Norfolk County, Quincy Drug Court has supervised hundreds of addicts and offenders who would otherwise have gone to the county jail for convictions ranging from heroin possession to theft, forgery and assault. (Drug dealers can't be in the program.)

Highly regarded by offenders and law enforcement officials, drug court is still misunderstood by citizens and taxpayers, according to Moriarty and the probation officers who work with her.

First, they say, drug court doesn't hold separate hearings for drug dealing and possession charges. Nor is the 18-month round of residential treatment, 12-step meetings, drug testing and counseling a "get out of jail pass," as Moriarty puts it — an



**Rob Feetham, 33, of Quincy, calls Judge Diane Moriarty "a hard judge, but a good judge."**

easy way for those on probation to avoid hard time.

Far from it, as anyone in the

program will tell you.

"It's tough," Rob Feetham, 33, of Quincy said. "They keep tight reins on you."

Probation officer Jo Rothman said such discipline is essential to help clients — the court's term — stay clean.

"People in drug court are the survivors," she said. "They're not dead and they're not in prison. A lot of them don't know how to live straight . . . and they're always looking for the angle. So we have to help them unlearn all that."

To that end, Feetham and 55 other men and women in the program must complete four phases of treatment and supervision. They must also seek work, job training or schooling, and promise to stay away from all their old friends and haunts, where their problems often started.

Clients are also expected to join community activities to help them break what Rothman calls the "take, take" attitude that addiction creates. Their last outing was Thanksgiving Day, when clients and staff served

turkey dinners at the Long Island homeless shelter.

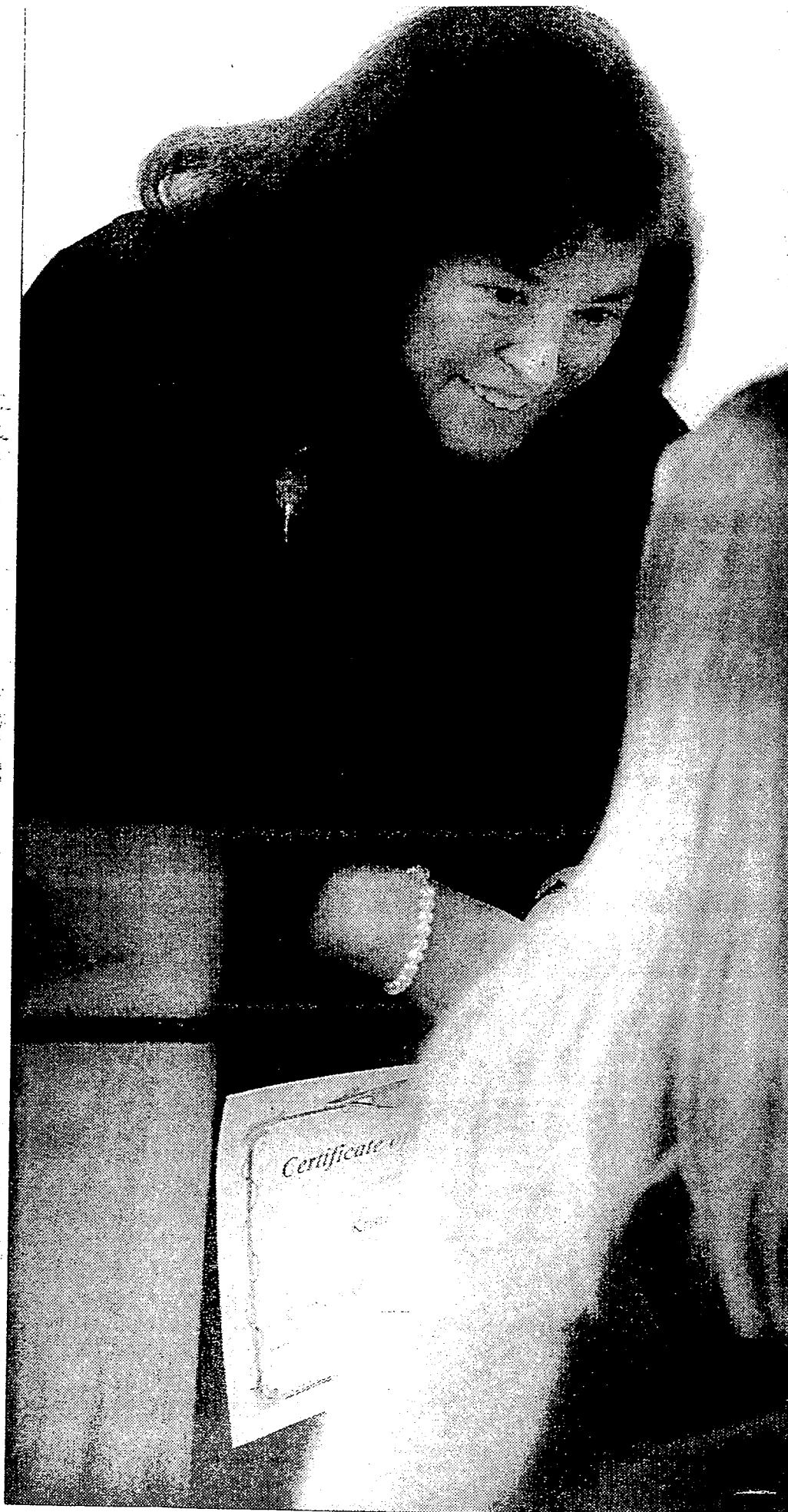
At a district court with more than 2,500 regular probation cases, "we only see people when they foul up," said Moriarty, a former criminal defense attorney. "Here (in Quincy Drug Court), we can help them faster because we see them so often. We know where they are."

### "A hard judge"

Norfolk County District Attorney William Keating is an enthusiastic advocate of that approach and the national drug court system, which was launched and partly funded by a 1994 federal crime law bill. There now are 2,200 drug courts in all 50 states and on numerous Native American reservations. Massachusetts has 680 drug court clients.

"I don't know who could argue with it," Keating said. "It's good for the victims of these crimes, it's good for the offenders, it's good for the taxpayers."

He said drug courts often help end the "one-man crime waves" that addicts commit to pay for their habits.



Judge Diane Moriarty congratulates a participant who has completed the Quincy Drug Court program.

GARY HIGGINS photos/The Patriot Ledger

Rothman said the long-term success rate is hard to calculate since most graduates don't stay in touch. Besides, she said, our people, success is one step at a time."

Clients have to volunteer; they can't do so until they've violated probation at least once. After months or even years in jail, Feetham and others don't complain a bit about the steep line Moriarty takes with the program.

"She's a hard judge, but a good judge," Feetham said. "If you want to stay clean, she'll give you a break."

This is Feetham's second stint in Quincy Drug Court after years in and out of jail, being on probation, driving drunk and addicted to heroin.

He enrolled in March of this year, but started using again and was sent back to the Norfolk County House of Correction when he failed a drug test.

"I didn't want this to go on. I was 50," he said, so he jumped at another chance. Back in the program for two months, he's now in a Dorchester residential facility and working as a carpenter.

James Moffett of Weymouth has been in Quincy Drug Court for 10 months. Now 23, he's been a drug user since he was in grade school. He had been on juvenile and adult probation and faced a 2½-year sentence for heroin possession when he signed up.

"I was headed nowhere fast," he said. "I needed to straighten out my life."

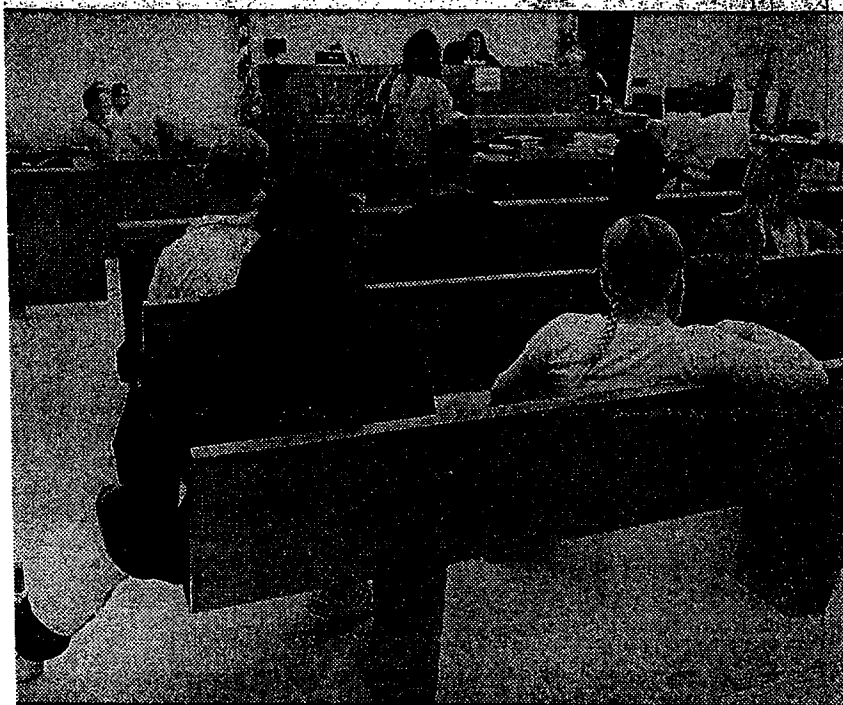
Like Feetham, he praises Moriarty. "She doesn't want you to die," he said. But he's nervous about the day's session.

A couple of weeks earlier, he'd driven a borrowed car to an Alcoholics Anonymous meeting — without a license — and was hit by another driver on the way. He's still in residential treatment, but he's not sure whether Moriarty will send him back to jail.

Unknown to Moffett, Moriarty and Rothman had decided not to

Quincy

# but caring



wait for their turn to face Judge Diane Moriarty and answer questions in Court. The special weekly court has operated since 2001.



# EXHIBIT 22

- [Find Articles in:](#)
- [All](#)
- [Business](#)
- [Reference](#)
- [Technology](#)
- [Lifestyle](#)
- [Newspaper Collection](#)
- [Breaking News Public meeting on 'legal highs'](#)
- [Breaking News Determined to live on her own](#)
- [Breaking News We're adrift in a heartless world](#)
- [Breaking News Businesses need more than sweet talk to sell products](#)
- 
- 
- 
- 

Next Related Article for: **Quincy drug court**

## **These grads from school of hard knocks**

0 Comments | Patriot Ledger, The; Quincy, Mass., Jun 9, 2006  
| by [Lane Lambert](#)

The Patriot Ledger

QUINCY - The graduates were not wearing caps and gowns in Quincy District Court's First Session chamber, and they had no commencement music. There were plenty of dignitaries, though - and not just one valedictorian, but six.

One by one, the men and women stepped to the microphone, certificates in hand, to tell those who packed the courtroom yesterday how the Drug Court probation program had helped them stay clean and sober, how they had repaired broken family ties and now looked forward to the next day.

"I thank you guys for a new life," graduate Scott O'Hara said, as much to the other Drug Court clients as to the judges, probation staff and elected officials in attendance.

### **Related Results**

- [Quincy police make drug arrest](#)
- [Police: Quincy home full of drugs](#)
- [Drug bust in Quincy leads to 2 arrests](#)
- [Court backs suspension of former Quincy lawyer](#)
- [Quincy man charged with drug trafficking](#)

## **Most Popular Articles**

- Was Hitler's homosexuality Nazism's best-kept secret?
- ice in his veins
- Aznar, Trimble to launch new pro-Israel project. 'Friends of Israel
- Gypsy king; Graham Hunter examines the clash between Barcelona's
- 'Not Without My Daughter' dad dies

## **Most Recent Articles**

- Public meeting on 'legal highs'
- Determined to live on her own
- We're adrift in a heartless world
- Businesses need more than sweet talk to sell products
- Victims doubly penalised

This was the third annual ceremony that District Court Judge Diane Moriarty and the Drug Court's probation officers have held since Moriarty and the Quincy court started the program in 2001.

There were eight graduates, but two were away for their children's commencements and couldn't attend.

One of 23 such drug courts in the state and the only one in Norfolk or Plymouth county, the program is a tough, 18-month round of residential treatment, 12-step meetings, drug testing and counseling.

Participants also must seek work, job training or schooling, and promise to stay away from all their old friends and haunts, where their drug problems often started.

It's all aimed at keeping probation clients like O'Hara out of jail and on the road back to health and law-abiding, productive work.

Quincy's Drug Court currently has 58 clients in various stages of the four-phase program. There are more than 2,500 probation cases in the entire Quincy court.

O'Hara and his fellow graduates got congratulations from Norfolk County District Attorney William Keating and Norfolk County Sheriff Michael Bellotti, among others. But the graduates held center stage.

Charlene Daly of Weymouth and Stephen Cohen of Quincy talked about how hard it was in the beginning to stick to the Drug Court's exacting rules. But in the end, Cohen said, "it was one of the best things I've ever done in my life."

Cohen had struggled with alcoholism since he was 15. He now works in Boston at a halfway house for recovering addicts and alcoholics, and hopes to become a drug counselor.

"There is a way out," he said.

Former Drug Court client Ellen Gaumont of Randolph has moved on with her life, too. She completed the program two years ago, as one of the first group of graduates, and now drives a delivery truck for a South Shore bakery company.

Yesterday she returned to speak to the new graduates, with words of caution to "be vigilant toward your disease" while encouraging them to be willing to help other addicts.

Copyright 2006

Provided by ProQuest Information and Learning Company. All rights Reserved.

Advanced Search	Quincy drug court	in	free and premium articles	<input type="checkbox"/>	<input type="checkbox"/>
-----------------	-------------------	----	---------------------------	--------------------------	--------------------------

# EXHIBIT 23

## ALTERNATIVE TO JAIL

# New freedom: 21 graduate from drug court

By JESSICA TORREZ-RILEY

The Patriot Ledger

QUINCY — After 18 months battling drug addiction, 21 Quincy Drug Court participants celebrated at the fourth annual Drug Court Commencement.

"The disease of addiction is never ending," Jo Rothman, parole officer and yesterday's master of ceremonies, said. "Drug court does not end with commencement. . . (Our graduates) commence another point of their lives."

The probation program is an alternative to jail for drug offenders. The Quincy program consists of residential treatment, 12-step meetings, drug testing and counseling.

Chief Justice of Massachusetts Trial Courts Robert Mulligan, Mayor William Rhelan and Norfolk County Sheriff Michael Bellotti, congratulated the graduates and applauded their commitment to fighting addiction.

"Who could have imagined (that you would) have the mayor, sheriff, district attorney, parole officers . . . all here to commend you and not to prosecute you," joked District Court Judge Mark

S. Coven, who had sent many of the graduates to the Drug Court program.

Mulligan said he was impressed by the determination and perseverance of the graduates and that he hoped to learn about the program for the superior courts.

The first drug court session was established in Quincy in March 2001. Since then it has served as an alternative to prison for many substance abusers.

"We are at a point where we just can't keep building jails; we have to do something more creative," said Justice Robert Zieman, a pioneer in establishing Massachusetts drug courts.

Zieman, who gave the keynote address yesterday, said many people in the program ask to go to jail because it's "easier."

Michael Dunford said that was what he thought when he entered the program in 2003. After being on and off probation for 18 years, entering drug court was the "best thing I'd ever did," he said.

The court's presiding justice, Diane Moriarty, presented each graduate with a certificate and gave a brief description of their time in the

program.

While many of the graduates had "slipped up" in the beginning, some went completed it slip-free, like Thomas Damon, who since ending the program in October has a new daughter and is fighting for custody of his 4-year-old son.

All the graduates thanked their counselors and the drug court staff for sticking with them.

Matthew Bragel, who finished the program in January, thanked the court "for giving me a chance when I never gave myself one."

"Since I've been a teenager my life has been a mess," said Daryl Noirent, who finished the program in October. "Since I've been in drug court my life has been working."

The graduates

Dallas Brandon, Matthew Bragel, Anthony Brienzi, Thomas Damon, Kristen Farnham, Michael Ferrigno, Jaime Keegan, James King, James Moffett, Dennis McMahon, Daryl Noirent, Robert Partridge, Joseph Peters, Danielle Prescott, Gary Ramsey, Doreen Robertson, Kristin Serafini, Cleon Tagaris, Kirk Teal, Nicholas Zemetius, and Mark Zieliński.

# EXHIBIT 24



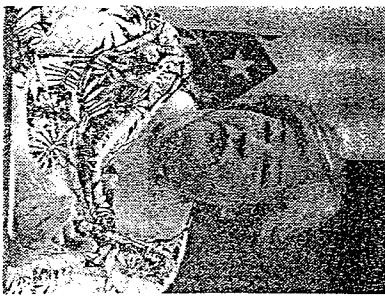
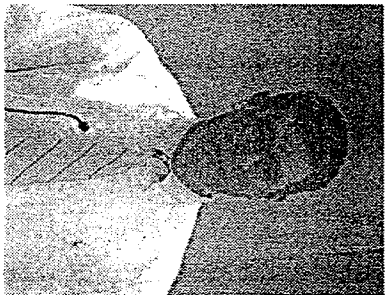
Special Agent Tina Murphy, demand reduction coordinator, DEA, was keynote speaker.

Guest speakers included:

used by dependents.

"It used to be alcoholics, today it's mostly drugs. Drugs are their number one choice. It's cheaper," she

Of the graduates, "the ones that have a slip get right back into the program, call their sponsor, or go to an AA meeting. The program gives





# EXHIBIT 25

# The Quincy Sun

Historic Quincy's Hometown Weekly Newspaper Since 1968

VOL. 41 No. 39

Thursday, June 11, 2009

59¢

## 24 Candidates Earn Diplomas From Quincy District Court Program

By MIRIAM JOSEPH

Twenty-four graduates of the Drug Court program were applauded last Thursdays, whom he "encouraged to continue to make good choices."

He said, "If you are faithful to your further studies, if you are faithful to that job and your colleagues, to your family and to your values, if



Drug Court, each of the 13 who were able to attend the ceremony spoke to the results of their Drug Court experience. Several had been incarcerated at Framingham State Prison.

Renee Foisy's recovery recently lead to her regaining custody of her 6-year-old son. Graduate Michael Powers expressed wonder of his life now, because he has a seven-month-old baby and a driver's license!

Susan Kelly, clean and sober for nearly two years, said, "When I got here I was homeless, with the clothes



CAROL QUEENY, a recently retired probation officer, receives a special award by Associate Justice Diane E. Moriarty for Queeny's years of dedication to the recovery community.

*Quincy Sun Photos/Robert Noble*

years of dedication to the recovery community.

Judge Moriarty closed the program with a quote for the graduates:

"The future is not a result of choices among alternative paths that is offered by the present, but a place that is created. Created first in the mind, in the will, created next in activity. The future is not someplace we are going, but what we are creating...paths are not to be found, but made, and the activity of making them changes both the maker and the destination."

Historic Quincy's Hometown Weekly Newspaper Since 1968

VOL. 41 No. 39

Thursday, June 11, 2009

50¢

## 24 Candidates Earn Diplomas

### From Quincy District Court Program

By MIRIAM JOSEPH

Twenty-four graduates of the Drug Court program were applauded last Thursday at Quincy District Court as they received their diplomas. The program is designed to help individuals complete the court's intensive program to combat substance abuse.

As the graduates rose to accept their certificates, they spoke a few words of gratitude for what the Drug Court had done to change their lives around, and how the program had sometimes gotten them off the streets or kept them out of jail.



SOME OF THE GRADUATES who were commended for completing the Quincy District Court's intensive program to combat substance abuse. From left are: Renee Haley, Probation Officer Jo Rothman, Susan Kelly, Robert Gruszka, Associate Justice Diane E. Moriarty, the presiding justice of Quincy Drug Court, Joan McAvillie, Paul Pike, Colleen Libby, Kevin Nee, Jaqueline McDonald, Michael Powers and William Wells. *Quincy Sun Photo/Robert Noble*

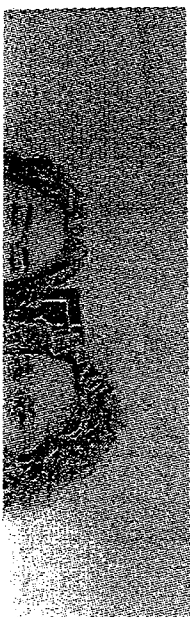
## 24 Graduate Quincy District Court Program

Cont'd From Page 1

Established in 2001, Quincy's Drug Court initially requires probationers to periodically appear for

you are faithful, you will be successful."

2008 graduate Mary Ann Burke addressed the graduates: "My life began the



to periodically appear for judicial reviews. They must complete a 6-month inpatient program, followed by a minimum 3-month stay at what is known as a Sober House.

Among the many other requirements of these candidates is frequent drug and alcohol testing, attendance of meetings, and participation in the Relapse Prevention and Relationships in Recovery Groups.

Probation Officer Jo Rothman welcomed the packed courtroom--graduates and family-members, public officials, law enforcement personnel, judges, past-graduates and others who assist in addiction recovery.

Mayor Thomas Koch thanked the members of Quincy's Drug Abuse Task Force, and praised the graduates, whom he "encouraged to continue to make good choices."

He said, "If you are faithful to your further studies, if you are faithful to that job and your colleagues, to your family and to your values, if

day I graduated from this program, and it got very, very hard. Having the tools that I have learned in this program have made me be able to stand up here today and thank all you people for everything you have given me."

Norfolk County District Attorney applauded the Drug Court Commencement, referring to it as "a fundamental day in terms of what the human spirit is all about and the court acts as a catalyst for great human achievement."

Judge Diane Moriarty, who presented the diplomas and special awards of appreciation, honored all of the graduates of the program, expressing her sincere respect for their commitment to Drug Court and to turning their lives around.

Of the 24 graduates of the Drug Court, each of the 13 who were able to attend the ceremony spoke to the results of their Drug Court experience. Several had been incarcerated at Framingham State Prison.

Renee Folsy's recovery recently lead to her regaining custody of her 6-year-old son. Graduate Michael Powers expressed wonder of his life now, because he has a seven-month-old baby and a driver's license!

Susan Kelly, clean and sober for nearly two years, said, "When I got here I was homeless, with the clothes



ASSOCIATE JUSTICE Diane E. Moriarty (left) presents a special award to Tara Brown of the Norfolk County Sheriff's Department at the recent Quincy District Court Drug Program Commencement.



CAROL QUEENY, a recently retired probation officer, receives a special award by Associate Justice Diane E. Moriarty for Queeny's years of dedication to the recovery community.

*Quincy Sun Photos/Robert Noble*

on my back...warrants out, killing myself...drug court bouncing around...I was showed me how to live."

Paul Pike, clean and sober for over two years said, "This is a journey that I will be on forever, but I have to keep it in the moment."

Special achievement awards were presented to Tara Brown, an employee of the Norfolk County Sheriff's Department, for her extraordinary assistance to the Drug Court regarding medical issues and obtaining medical records.

Recently retired Probation Dept. employee Carol Queeny received a special recognition award for her years of dedication to the recovery community.

Judge Moriarty closed the program with a quote for the graduates:

"The future is not a result of choices; among alternative paths that is offered by the present, but a place that is created. Created first in the mind, in the will, created next in activity. The future is not someplace we are going, but what we are creating...paths are not to be found, but made, and the activity of making them changes both the maker and the destination."

**Massachusetts General Laws c.211C,  
as amended by St. 1987, c.656**

**SECTION 1. Establishment; membership; expenses; term; chairman**

There shall be a commission on judicial conduct consisting of nine members. Three judges shall be appointed by the justices of the supreme judicial court, none of whom shall be justices of said court and no two of whom shall be from the same department of the trial court. Three members of the bar shall be appointed by the chief administrative justice of the trial court, none of whom shall be judges. Three members shall be appointed by the governor, none of whom shall be members of the bar. The members of the commission shall serve without compensation, but shall be reimbursed for all expenses reasonably incurred by them in the performance of their duties. Members of the commission shall serve for six year terms. Commission membership shall terminate if a member ceases to be qualified for the appointment. A vacancy shall be filled by the appointing authority for the remainder of the term. Upon the expiration of the term of office of a member, his successor shall be appointed in the manner aforesaid. No person shall succeed himself as a member of the commission except when his membership is due to an appointment to fill a vacancy for the remainder of an unexpired term. One or more alternate members, as necessary, shall be elected in the manner prescribed for initial appointments in each representative class, and shall serve at the call of the chairman to take the place of those who are disqualified from participating in a commission proceeding pursuant to commission rules.

**SECTION 2. Investigations; hearings; recommendations**

(1) All judges of the trial court, the appeals court and the supreme judicial court shall be subject to discipline pursuant to this chapter. The commission on judicial conduct shall have the authority to receive information, investigate, conduct hearings, and make recommendations to the supreme judicial court concerning allegations of judicial misconduct and allegations of mental or physical disability affecting a judge's performance.

(2) The commission shall have jurisdiction over investigations and recommendations regarding discipline arising from the conduct of all judges, including any retired judge who is assigned to perform the duties of a judge for a temporary period. This jurisdiction shall include all conduct that occurred prior to a judge's assuming judicial office, and conduct of a lawyer who is no longer a judge that occurred while he held judicial office; provided, however, that in evaluating such conduct, the commission shall give substantial weight to relevant decisions of the supreme judicial court and the board of bar overseers regarding bar discipline. The foregoing shall not be construed to derogate the inherent authority of the supreme judicial court to supervise and discipline judges, the authority of the governor with the consent of the council to remove a judge upon the address of both houses of the legislature or to retire a judge involuntarily because of advanced age or mental or physical disability, the authority of the legislature to remove a judge through impeachment, or the supervisory authority of the chief justices of the appeals and supreme judicial courts or of the chief and department administrative justices of the trial court.

(3) Except where the commission determines otherwise for good cause, the commission shall not deal with complaints arising out of acts or omissions occurring more than one year prior to the date commission proceedings are initiated pursuant to section five; provided, however, that, when the last episode of an alleged pattern of recurring judicial conduct arises within the one year period, the commission may consider all prior acts or omissions related to such alleged pattern of conduct.

(4) In the absence of fraud, corrupt motive, bad faith, or clear indication that the judge's conduct violates the code of judicial conduct, the commission shall not take action against a judge for making findings of fact, reaching a legal conclusion, or applying the law as he understands it. Commission proceedings shall not be a substitute for an appeal.

(5) Grounds for discipline shall include:

- (a) conviction of a felony;
- (b) willful misconduct in office;
- (c) willful misconduct which, although not related to judicial duties, brings the judicial office into disrepute;
- (d) conduct prejudicial to the administration of justice or conduct unbecoming a judicial officer, whether conduct in office or outside of judicial duties, that brings the judicial office into disrepute; or
- (e) any conduct that constitutes a violation of the codes of judicial conduct or professional responsibility.

### **SECTION 3. Report; appropriations; offices; rules; immunity; executive director; proceedings**

(1) The commission shall report only to the supreme judicial court. The commission shall be allowed for its purposes annually such amount as shall be appropriated for it by the general court. The commission shall be provided with adequate offices. The commission may adopt rules of procedure, without compliance with the provisions of chapter thirty A, but subject to the approval of the supreme judicial court, and may develop appropriate forms for its proceedings. Such rules shall establish reasonable time limits for all stages of commission proceedings and standards for extending time limits applicable to commission proceedings.

(2) Members of the commission, hearing officers, commission counsel, and staff shall be absolutely immune from suit for all conduct in the course of their official duties. A complaint submitted to the commission or its staff and communications related to the complaint shall be absolutely privileged, and no civil action predicated on the complaint or on such a communication may be instituted against any complainant or witness or his counsel; provided, however, such immunity from suit shall apply only to communications to the commission or its staff and shall not apply to public disclosure of information contained in or relating to the complaint.

(3) The commission shall appoint an executive director who shall serve at the pleasure of the commission. The executive director shall be a member of the Massachusetts bar, shall serve full time, and shall not engage in the practice of law. The executive director shall receive an annual salary, subject to appropriation, which is fixed by the commission consistent with classification and compensation policies of the supreme judicial court, and such expenses as are approved by the commission and incurred in the discharge of the executive director's duties.

(4) The executive director shall have duties and responsibilities as prescribed by the commission, including the authority to:

- (a) receive information, allegations, and complaints;
- (b) make preliminary evaluations;
- (c) screen complaints;
- (d) conduct investigations;
- (e) recommend dispositions;
- (f) maintain the commission's records;
- (g) maintain statistics concerning the operation of the commission and make them available to the commission and to the supreme judicial court;
- (h) prepare the commission's budget for approval by the commission and administer its funds;



- (i) employ and supervise other members of the commission's staff;
- (j) prepare the annual report of the commission's activities required pursuant to section four; and
- (k) employ, with the approval of the commission and subject to appropriation, special counsel, private investigators, or other experts, and clerical assistants, as necessary to investigate and process matters before the commission and before the supreme judicial court. Neither the attorney general's staff nor law enforcement officers shall be employed for this purpose.

(5) The supreme judicial court may delegate the power to enforce process in commission proceedings to another appropriate court. A witness at any stage of commission proceedings may rely on any privilege applicable to civil proceedings.

#### **SECTION 4. Annual report**

The commission shall submit annually to the general court and the supreme judicial court a report of its activities together with recommendations. This report shall be a matter of public record and shall be printed as a public document.

#### **SECTION 5. Initiation of proceedings; inquiry, investigation and evaluation; detailed complaint or statement of allegations; formal charges**

(1) Commission proceedings relating to the conduct of a judge may be initiated by an oral or written complaint stating facts that, if true, would be grounds for discipline, or by the commission's own motion when the commission receives reasonable information, including reports in the news media, as to conduct that appears to constitute grounds for discipline. Upon receipt of such complaint or adoption of such motion, the commission shall promptly notify the judge, except as provided in subdivision (2), and shall conduct a prompt, discreet and confidential inquiry, investigation and evaluation.

(2) The commission shall notify the judge of the proceedings and their subject matter before commencing any inquiry, investigation or evaluation in all cases except as follows:

- (a) where, because of the nature of the complaint, delay is necessary in order to preserve evidence, notice may be delayed until such evidence is obtained, until the matter is dismissed, or until the sworn complaint or statement of allegations is served pursuant to subdivision (6), whichever occurs first;
- (b) where the identity of the complainant could be readily determined by the judge from the nature of the complaint and there is a danger of reprisal against the complainant, notice may be delayed until the danger of reprisal ends, until the matter is dismissed, or until the sworn complaint or statement of allegations is served pursuant to subdivision (6), whichever occurs first; provided, however, that in any such case where there is an ongoing danger of reprisal, the notice and the statement of allegations may be drafted so as to conceal the complainant's identity.

(3) The commission shall discourage and shall promptly dismiss complaints which are frivolous, unfounded or outside commission jurisdiction. The commission shall notify the judge and the complainant, if any, of such dismissal in accordance with the provisions of subdivisions (1), (2) and (10).

(4) At any stage of the proceeding, the commission shall be entitled within the time limits established by commission rule to compel by subpoena the attendance and testimony of witnesses, including the judge, and to provide for the inspection of documents, books, accounts, and other records.

(5) After a thorough inquiry, investigation and evaluation, the executive director shall recommend to the commission, and the commission shall determine, by majority vote, whether there is adequate reason to proceed to the preparation of a detailed complaint or statement of allegations. If so, the commission shall request that the complainant file a detailed sworn complaint against the judge. When a sworn complaint is not obtained, the executive director shall prepare a clear statement of the allegations against the judge and the alleged facts forming their basis. Said complaint or statement of allegations shall clearly set forth each act of misconduct where more than one act of misconduct is alleged, and shall state clearly the provision of statute, code of judicial conduct or code of professional responsibility alleged to have been violated by each alleged act of misconduct.

(6) The judge shall be served promptly with a copy of the sworn complaint or statement of allegations.

(7) The judge shall have twenty-one days after receipt of the sworn complaint or statement of allegations to respond in writing to the charges and, if he wishes, to file a written request for a personal appearance before the commission.

(8) The judge shall be entitled to counsel of his own choice. After the judge is served with the sworn complaint or statement of allegations, he shall be entitled before the issuance of formal charges and within the time limits established by commission rule to compel by subpoena the attendance and testimony of witnesses, through depositions, and to provide for the inspection of documents, books, accounts, written or electronically recorded statements, and other records. The judge may file written material for commission consideration before the issuance of formal charges.

(9) If the judge requests a personal appearance before the commission, he may be accompanied by counsel, his statement and that of his counsel shall be recorded, and the commission shall not issue formal charges until after such personal appearance.

(10) If at any time prior to the issuance of formal charges the commission determines that it does not have sufficient cause to proceed, the commission shall terminate the proceedings by closing the investigation or dismissing the complaint or the statement of allegations. In that event, the commission shall give notice to the complainant, if any, and to the judge that it has found insufficient cause to proceed. The file in any matter so terminated shall be closed.

(11) The commission may not refer subsequently to a file closed before the issuance of formal charges except in the following circumstances:

- (a) in a subsequent proceeding that raises similar allegations against the judge and indicates a pattern of recurring judicial misconduct;
- (b) in a subsequent proceeding alleging conduct in violation of conditions imposed as part of an informal adjustment pursuant to subdivision (1) of section eight;
- (c) in connection with a decision as to the recommended sanction to be imposed in a subsequent proceeding.

(12) The commission may, upon notice to the judge, amend the allegations prior to a finding of sufficient cause to issue formal charges. The judge may amend his written response or submit additional written material for commission consideration before such finding.

(13) After the judge's personal appearance pursuant to subdivision (9), if any, and after the expiration of any time limit upon written submissions by the judge pursuant to subdivisions (8) and (12), the commission shall determine whether there is sufficient cause to issue formal charges. A finding of sufficient cause to issue formal charges shall require the concurrence of the majority of all commission members that there is a preponderance of credible evidence that the judge's conduct constitutes grounds for discipline.



(14) When sufficient cause is found, the commission shall issue formal charges stating those allegations as to which sufficient cause is found. A copy of the formal statement of charges shall be served promptly upon the judge and the judge shall have ten days to respond. Immediately thereafter, a copy of such formal statement of charges and of the judge's written response shall be filed with the supreme judicial court, which shall promptly appoint a hearing officer. Confidentiality shall cease upon this filing, as provided in section six, and after this filing the proceedings shall be governed by the provisions of section seven.

#### **SECTION 6. Confidentiality**

(1) Except as provided in this section, all proceedings of the commission shall be confidential until there has been a determination of sufficient cause and formal charges have been filed with the supreme judicial court. The commission shall ensure that a procedure applicable to commission members, counsel and staff is established for enforcing confidentiality.

(2) Notwithstanding the provisions of subdivision (1), the judge may waive his right to confidentiality prior to a finding of sufficient cause. In addition, in any case in which the subject matter becomes public, through independent sources or through a waiver of confidentiality by the judge, the commission may issue such statements as it deems appropriate in order to confirm the pendency of the investigation, to clarify the procedural aspects of the disciplinary proceedings, to explain the right of the judge to a fair hearing without prejudgment, or to state that the judge denies the allegations.

(3) If the inquiry was initiated as a result of notoriety or because of conduct that is a matter of public record, and is subsequently terminated because there is insufficient cause to proceed, information concerning the insufficiency of cause to proceed may be released by the commission.

(4) Notwithstanding any other provision of this chapter to the contrary, proceedings pursuant to this chapter may remain confidential, even after a finding of sufficient cause, if the judge, the commission, and the complainant, if any, all concur.

(5) If any federal agency, the judicial nominating council, or any like agency for screening candidates for judicial appointment which succeeds the judicial nominating council, seeks information or written materials from the commission concerning a judge, in connection with his selection or appointment as a judge, information may be divulged in accordance with procedures prescribed by commission rule, including reasonable notice to the judge affected, unless the judge signs a waiver of the right to such notice. If, in connection with the assignment of a retired judge to judicial duties, the chief justice of the supreme judicial court or the appeals court or the chief administrative justice of the trial court seeks information or written materials from the commission about the judge, information may be divulged in accordance with procedures prescribed by commission rule, including reasonable notice to the judge affected, unless the judge signs a waiver of the right to such notice.

#### **SECTION 7. Hearing; recommendation for discipline; attorneys' fees**

(1) The commission shall schedule a hearing without undue delay after the appointment of the hearing officer by the supreme judicial court. The commission shall schedule the time and place of the hearing, and shall notify the judge and all counsel of the hearing. The judge shall be afforded ample opportunity to prepare for the hearing and may amend his written response to the charges.

(2) The judge and the commission shall each be entitled to discovery to the extent available in civil proceedings, within the time limits provided by commission rules. The judge and the commission shall each be entitled to compel by subpoena the attendance and testimony of witnesses, including the judge, and to provide for the inspection of documents, books, accounts, and other records.

(3) The formal hearing shall be public and shall be conducted before the hearing officer appointed by the supreme judicial court. At the hearing, all testimony shall be under oath, the rules of evidence applicable to civil proceedings shall apply, and the judge shall be accorded due process of law.

(4) An attorney or attorneys of the commission staff, or special counsel retained for the purpose, shall present the matter to the hearing officer. The commission shall have the burden of proving the charges by clear and convincing evidence. The judge and the commission shall be permitted to present evidence and cross-examine witnesses, subject to the rules of evidence applicable to civil proceedings.

(5) The raising of mental or physical condition as a defense constitutes a waiver of medical privilege.

(6) By leave of the commission or with the consent of the judge, the statement of charges may be amended after commencement of the hearing only if the amendment is technical in nature and the judge and his counsel are given adequate time to prepare a response.

(7) Every hearing shall be transcribed.

(8) The hearing officer shall submit to the commission and to the judge a report containing proposed findings and recommendations, the transcripts of testimony and all exhibits. Counsel for the judge and commission shall have twenty days after receipt of such report to submit written objections to the findings and recommendations, and said objections shall become part of the record.

(9) Before the commission reaches its decision, the judge and the complainant, if any, shall have the right to be heard before the commission regarding its recommendation for discipline, and their statements shall be transcribed. Such hearing shall be public, but commission deliberations regarding such recommendation shall be conducted in executive session. The commission shall reach a decision on the basis of the full record within ninety days after such hearing, unless there is good cause for delay. Its conclusions may differ from those proposed by the hearing officer. Its decision shall state specific reasons for all conclusions and recommendations.

(10) A recommendation for discipline shall be reported to the supreme judicial court only if a majority of all members of the commission concur that discipline should be recommended. Any dissent as to the need for or the form of discipline shall be transmitted with the majority decision. A copy of said recommendation and dissent shall be given to the judge and shall become part of the public record. The entire record, including transcripts, exhibits and the hearing officer's report, shall be transmitted to the supreme judicial court.

(11) If a majority of the members of the commission concur that discipline should not be recommended, the matter shall be dismissed, and the judge and complainant, if any, shall be notified of such dismissal.

(12) The provisions of subdivisions (10) and (11) shall not be construed to prohibit the commission from disposing of the matter by informal adjustment pursuant to section eight as a result of commission deliberations regarding a recommendation for discipline.

(13) The expense of witnesses shall be borne by the party that calls them unless:

- (a) physical or mental disability of the judge is in issue, in which case the commission shall reimburse the judge for the reasonable expenses of the witnesses whose testimony related to the disability; or
- (b) the supreme judicial court determines that the imposition of costs and expert witness fees will work a financial hardship or injustice upon him and orders that those fees be reimbursed.

(14) All witnesses shall receive fees and expenses in the same manner as witnesses in civil actions before the courts. A transcript of all proceedings shall be provided to the judge without cost. Except as provided in subdivision (13), costs of all proceedings shall be at public expense.

(15) With the approval of the supreme judicial court, a judge shall be entitled to the payment of reasonable attorneys' fees by the commonwealth in any case where the matter is dismissed by the commission at any stage after the filing of a sworn complaint or statement of charges, where the supreme judicial court determines despite a commission recommendation for discipline that no sanction is justified, or where the supreme judicial court determines that justice will be served by the payment of such fees.

**SECTION 8. Informal adjustment; sanctions**

(1) With the agreement of the judge, the commission may by informal adjustment dispose of a complaint at any stage of the proceedings by:

- (a) informing or admonishing the judge that his conduct is or may be cause for discipline;
- (b) directing professional counseling and assistance for the judge;
- (c) imposing conditions on the judge's conduct; or
- (d) persuading a judge to retire voluntarily.

(2) The commission may dismiss a sworn complaint, a statement of allegations or a formal statement of charges as unjustified or unfounded at any stage during the proceedings.

(3) The commission may issue a private reprimand with the consent of the judge.

(4) The commission may recommend to the supreme judicial court one or more of the following sanctions:

- (a) removal;
- (b) retirement;
- (c) imposition of discipline as an attorney;
- (d) imposition of limitations or conditions on the performance of judicial duties;
- (e) public or private reprimand or censure;
- (f) imposition of a fine;
- (g) assessment of costs and expenses;
- (h) imposition of any other sanction which is reasonable and lawful.

**SECTION 9. Charges against supreme judicial court member**

The chief justice and the six most senior justices of the appeals court other than the chief justice shall serve in the place of the supreme judicial court when charges are brought against a member of the supreme judicial court.

**SECTION 10. Physical or mental disabilities**

(1) The commission shall have authority to receive information, investigate, conduct hearings, and make recommendations to the court relating to mental or physical disability affecting a judge's performance.

(2) In carrying out its responsibilities regarding physical or mental disabilities, the commission shall follow the same procedures that it employs with respect to discipline for misconduct.

(3) If the judge in a matter relating to physical or mental disability is not represented by counsel, the commission shall appoint an attorney to represent him at public expense.

(4) If a complaint involves the physical or mental condition of the judge, a denial of the alleged condition shall constitute a waiver of medical privilege and the judge shall be required to produce his medical records.

(5) If medical privilege is waived, the judge shall be deemed to have consented to a physical or mental examination by a qualified medical practitioner designated by the commission. The report of the medical practitioner shall be furnished to the commission and the judge.

**SECTION 11. Advisory committee**

The supreme judicial court may establish an advisory committee on the code of judicial conduct, which may render advisory opinions to judges at their request or on its own motion.

**RULES OF THE COMMISSION ON  
JUDICIAL CONDUCT**

**Effective April 1, 1988**

**SCOPE AND TITLE**

These rules govern the procedures of the Commission on Judicial Conduct in the exercise of its jurisdiction pursuant to Chapter 211C of the General Laws as appearing in St.1987, c. 656, and apply to proceedings which are initiated on or after April 1, 1988. These rules shall be known and may be cited as the Rules of the Commission on Judicial Conduct (R.C.J.C.). (Any proceedings initiated prior to April 1, 1988, shall be governed by the rules which were in effect under Chapter 211C before April 1, 1988.)

**RULE 1. DEFINITIONS**

A. "Anonymous Complaint" means a complaint, written or oral, received by the Commission, in which the identity of the complainant is not revealed.

B. "Chairman" and "Vice Chairman" refer to members of the Commission elected as such by vote of the Commission. Whenever used in these rules, the word "Chairman" shall include, in the absence of the Chairman, the Vice Chairman or other member acting as Chairman.

C. "Commission" means the Commission on Judicial Conduct.

D. "Complainant" means a person or entity who has communicated to the Commission a complaint against a judge.

E. "Complaint" means any oral or written statement which alleges judicial misconduct or physical or mental disability of a judge.

F. "Conditions on the Judge's Conduct," for purposes of G.L. c.211C, section 8(1)(c), shall include but not be limited to:

- (1) education;
- (2) training;
- (3) mentoring;
- (4) foreclosing eligibility for recall;

(5) an agreed upon press release to be issued, with no other public comment on the matter by either party;

(6) requiring that a decision in a court case be issued by a certain date;

(7) periodic status reports;

(8) meeting with Commission members and/or staff;

(9) writing an apology to a person or to the public;

(10) requiring the judge to caution the judge's family members regarding misuse of their relationship to the judge;

(11) agreeing never to mediate, hear or rule on any matters involving the attorneys who investigated and prosecuted the matter, or their firms;

(12) insuring that official audio equipment is recording at all times during court proceedings;

(13) holding conferences on the record;

(14) otherwise requiring a judge to comply with the law, the Code of Judicial Conduct and other rules, regulations, orders and procedures.

(15) If the Commission finds that a condition not specified herein would be appropriate, the Commission may file under seal a request with the Supreme Judicial Court to rule within fourteen days as to whether that condition is permissible in this category, without disclosing the identity of the judge.

(a) If the Court does not rule within fourteen days, the Commission may assume that the condition is permissible in this category.

G. "Executive Director" means the Executive Director of the Commission or a member of the Commission's staff acting under the Executive Director's supervision.

H. "Judge" means a judge or justice of any court of this Commonwealth.

I. "Notoriety" means broad public knowledge.

J. "Reasonable Information" means any information, including reports in the news media, which comes to the attention of the Commission and which contains credible allegations about a judge that, if true, would constitute misconduct

or disability within the jurisdiction of the Commission under Chapter 211C.

K. “Shall” is mandatory; “may” is permissive.

L. “Special Counsel” means an attorney, appointed by the Supreme Judicial Court at the request of the Commission, to conduct investigations, to make recommendations to the Commission, and/or to present evidence at a hearing, with respect to a complaint or charges against a judge, or to take any other action related thereto which the Commission may direct.

M. “Statement of Allegations” means a clear statement of the allegations against a judge and the alleged facts forming their basis.

N. “Sworn Complaint” means a detailed written complaint which the complainant signs under oath and files, at the request of the Commission.

Amended September 14, 1999, effective October 1, 1999; amended May 8, 2007, effective July 1, 2007.

## **RULE 2. COMPOSITION OF COMMISSION**

A. The composition of the Commission and terms of its members are as provided in Chapter 211C.

B. A member of the Commission shall not participate in any proceeding in which the impartiality of that member might reasonably be questioned. Disqualification pursuant to this section shall be by the member involved or by affirmative vote of at least five (5) members of the Commission.

(1) Upon the call of the Chairman, an alternate member shall serve in place of a member of the Commission who has been disqualified from participating in a Commission proceeding or is otherwise unable to serve. Whenever an alternate member is called to serve in the place of a member of the Commission, the judge in question and the complainant shall be so notified.

C. If a Commission member ceases to be qualified for the appointment to represent the category for which he was appointed, resigns, or becomes permanently unable to serve for any reason, a vacancy shall occur. An appointment to

fill a vacancy for the duration of the unexpired term shall be made by the appropriate appointing authority forthwith.

## **RULE 3. ORGANIZATION OF COMMISSION**

A. A Chairman and Vice Chairman shall be elected annually by the members of the Commission.

B. Meetings of the Commission shall be held upon the call of the Chairman or the written request of at least three members of the Commission. Meetings shall not be held on less than three days notice; but this requirement may be waived by consent of all the members. The Chairman shall preside at meetings of the Commission, and the Vice Chairman shall act in the absence or disqualification of the Chairman. In the absence or disqualification of both the Chairman and the Vice Chairman, the members shall select one among them as acting Chairman.

C. A quorum of the Commission shall consist of five members, including at least one judge, one member of the bar who is not a judge, and one lay person who is not a member of the bar. An affirmative vote of at least five members of the Commission is required to dismiss, informally adjust, or otherwise dispose of a proceeding; to issue formal charges against a judge; or to make recommendations to the Supreme Judicial Court regarding disciplinary action. A vote may be taken by telephone when a decision is required sooner than a meeting could be held, unless any member objects.

## **RULE 4. JURISDICTION OF THE COMMISSION**

A. The Commission shall have the authority to receive information, conduct investigations and hearings, and make recommendations to the Supreme Judicial Court concerning allegations of judicial misconduct or disability.

B. The Commission’s jurisdiction shall include the conduct of all active judges prior to, as well as during, their service in judicial office and shall also include the conduct of a retired judge who has been recalled.



**RULE 5. CONFIDENTIALITY**

A. All proceedings prior to a determination of sufficient cause and the filing of formal charges shall be confidential.

B. Records, files, and reports of the Commission shall be confidential, and no disclosure shall be made, except as follows:

(1) Upon waiver in writing by the judge at any stage of the proceedings;

(2) Upon inquiry by an appointing authority or by a state or federal agency conducting investigations on behalf of such authority in connection with the selection or appointment of judges; or upon inquiry in connection with the assignment or recall of a retired judge to judicial duties, by or on behalf of the assigning authority, in which case the Commission may:

(a) divulge whatever information is a matter of public record; and

(b) after obtaining the judge's signed waiver, divulge other relevant information; or

(c) divulge other relevant information after giving written notice to the judge affected of its intention to do so and allowing the judge seven (7) days to respond.

(3) In cases in which the subject matter has become public, the Commission may issue such statements as it deems appropriate in order to confirm the pendency of the investigation, to clarify the procedural aspects of the proceedings, to explain the right of the judge to a fair hearing, or to state that the judge denies the allegations;

(4) Upon filing of formal charges, in which case only the formal charges, the answer thereto, the evidentiary hearings thereon, and the final recommendation by the Commission as to disposition shall become public, except as provided in paragraph D below.

C. Where the circumstances necessitating the initiation of an inquiry include notoriety, or where the conduct in question is a matter of public record, information concerning the lack of cause to proceed may be released by the Commission.

D. Proceedings may remain confidential, even after a finding of sufficient cause, if the judge, the Commission, and the complainant, if any, all concur.

E. If, in the course of its proceedings, the Commission becomes aware of credible evidence that any person has committed a crime, the Commission may report such evidence to the appropriate law enforcement agency.

**RULE 6. COMMISSION PROCEEDINGS:  
INITIAL STAGES; GENERAL  
PROVISIONS**

**A. Initiation of Proceeding.** A Commission proceeding relating to the conduct of a judge is initiated when the Commission receives a written or oral complaint, or when the Commission by motion creates its own complaint, on the basis of reasonable information.

**B. Screening.** The Executive Director shall cause each complaint to be screened promptly upon its receipt. The screening may include communication with the complainant, if any, to clarify the contents of the complaint, but shall not include any investigation of the allegations set forth in the complaint.

**C. Docketing and Notification.**

(1) If the Executive Director determines after screening that the complaint does not set forth facts concerning a judge's conduct which, if true, would constitute misconduct or disability within the Commission's jurisdiction, the Executive Director shall notify the complainant that the complaint will not be docketed or investigated by the Commission.

(2) If the Executive Director determines after screening a complaint that it alleges specific facts which, if true, would constitute misconduct or disability within the Commission's jurisdiction, the Executive Director shall docket the complaint.

(3) Except as provided in Rules 6D, 6E, 6F and 6G, the Executive Director shall notify the judge of the complaint promptly after it is docketed. Notification shall be by certified mail or registered mail, addressed to the judge's last

known place of residence, unless the judge has requested a different mailing address or the use of regular mail. Except where notice of the complaint is delayed or withheld pursuant to Rule 6G, the Executive Director shall not conduct any inquiry into or investigation of the complaint until notice has been sent to the judge.

**D. Frivolous or Unfounded Complaints.** If, on the basis of screening, the Executive Director is of the opinion that a docketed complaint is frivolous or unfounded, the Executive Director shall promptly recommend its dismissal to the Commission before notifying the judge of the complaint. If a majority of the Commission votes to dismiss the complaint, the Executive Director shall promptly notify the complainant of the dismissal and the judge of both the complaint and its dismissal. If a majority of the Commission does not vote to dismiss the complaint, except as provided in Rule 6G, the Executive Director shall promptly notify the judge of the complaint in accordance with Rule 6C(3).

**E. Stale Complaints.** When a complaint is docketed in which the allegations arise out of acts or omissions all occurring more than one year prior to the date the complaint was filed, the Executive Director shall, before notifying the judge of the complaint and before undertaking any inquiry or investigation of its allegations, make a recommendation to the Commission as to whether there exists good cause to investigate the complaint. If a majority of the Commission determines that there is not good cause to investigate the complaint, the complaint shall be dismissed without investigation, and the complainant, if any, as well as the judge, shall be so notified. If a majority of the Commission determines that there is good cause to investigate the complaint, except as provided in Rule 6G, the Executive Director shall notify the judge of the complaint pursuant to Rule 6C(3). When a complaint alleges a pattern of recurring misconduct the last episode of which is alleged to have occurred less than one year prior to the filing of the complaint, a determination by the Commission of “good cause” pursuant to this Rule is not necessary.

**F. Anonymous Complaints.** Following the docketing of an anonymous complaint pursuant to Rule 6C(2), the Executive Director shall not conduct any inquiry or investigation of it unless the Commission, upon the recommendation of the Executive Director, determines by majority vote that the allegations of the anonymous complaint would, if true, constitute misconduct or disability within the jurisdiction of the Commission, and the seriousness or the notoriety of the misconduct alleged outweighs the potential prejudicial effect of an investigation into the merits of the complaint. If the Commission does not make such a determination, the complaint shall be dismissed, and the Executive Director shall promptly notify the judge of both the complaint and its dismissal. If the Commission does make such a determination, except as provided in Rule 6G, the Executive Director shall promptly notify the judge of the anonymous complaint in accordance with Rule 6C(3).

**G. Withholding Notification.** If the Executive Director is of the opinion that, because of the nature of the complaint or the identity of the complainant, notification to the judge would create a substantial risk that evidence material to its investigation might be lost or destroyed, or that there is a substantial danger of reprisal or retaliation by the judge against the complainant or any other person mentioned in the complaint, the Executive Director shall recommend to the Commission that notice of the complaint to the judge be delayed or that notice of certain information in the complaint be delayed. No inquiry or investigation into the complaint beyond the screening process shall take place until the Commission has voted on the Executive Director’s recommendation.

(1) If a majority of the Commission does not vote to approve any delay in notifying the judge of the complaint in whole or in part, the Executive Director shall promptly notify the judge of the complaint in accordance with Rule 6C(2).

(2) If a majority of the Commission determines that notice to the judge of the complaint in its entirety would create a substantial risk of



lost or destroyed evidence or of reprisal, the Commission shall vote to approve the delay in notifying the judge of the complaint in whole or in part. If the Commission approves a delay in providing notice to the judge of any portion of the complaint, the Executive Director shall proceed with an investigation of the complaint pursuant to Rule 6H. If the Commission approves a delay in providing notice to the judge of certain information in the complaint such as the identity of the complainant, the Executive Director shall promptly notify the judge in accordance with Rule 6C(3) of all portions of the complaint for which no delay was approved before proceeding with any investigation.

(3) Notice of a complaint may be delayed pursuant to this paragraph only until the Commission obtains the necessary evidence or the risk of reprisal ends.

(4) The Commission shall take reasonable steps to insure that as much notice as possible of the complaint's allegations is provided to the judge at the earliest time feasible in accordance with this Rule.

**H. Investigation.** Unless a complaint is dismissed pursuant to Rule 6D, 6E or 6F, and except as provided in Rule 6G, after notice is given to the judge pursuant to Rule 6C(3), the Executive Director shall initiate a discreet and confidential investigation and evaluation of the complaint.

**I. Request for Special Counsel.** If in the course of an investigation the Executive Director concludes that Special Counsel is required, the Executive Director shall recommend that the Commission request the appointment of a Special Counsel by the Supreme Judicial Court. The Commission may also take such action upon its own motion.

**J. Sworn Complaint or Statement of Allegations.** Within ninety (90) days after the initiation of proceedings, the Executive Director shall recommend to the Commission whether there is adequate reason to proceed to the preparation of a Sworn Complaint or Statement of Allegations.

(1) The Commission shall so decide by majority vote.

(2) If the Executive Director recommends that further investigation is necessary before making this determination, the Commission may vote to continue the investigation on a month-to-month basis.

(3) If the Commission finds that there is sufficient cause to proceed, the complainant, if any, shall be asked to file a detailed, signed, Sworn Complaint against the judge. The Sworn Complaint shall state the facts constituting the alleged misconduct. Immediately upon receipt of the Sworn Complaint, the Executive Director shall make written acknowledgment thereof to the complainant.

(4) When a Sworn Complaint is not obtained, a Statement of Allegations against the judge and the alleged facts forming their basis shall be prepared by the Executive Director. Where more than one act of misconduct is alleged, each act should be clearly set forth in the Sworn Complaint, or in the Statement of Allegations, as the case may be.

(5) In any case where the judge has not yet been notified of the entire complaint pursuant to Rule 6G, if the Commission determines by majority vote that there remains an ongoing danger of reprisal, the Sworn Complaint or the Statement of Allegations may be drafted so as to conceal the complainant's identity.

**K. Same; Service.** The judge shall immediately be served with a copy of the Sworn Complaint or Statement of Allegations.

**L. Same; Answer.** Within twenty-one (21) days after the service of the Sworn Complaint or the Statement of Allegations, the judge may file a written answer with the Executive Director and may request a personal appearance before the Commission, in lieu of or in addition to a written response. If the judge elects to appear personally, his or her statement shall be recorded.

**M. Same; Dismissal.** After the judge's answer and personal appearance, if any, the Commission may terminate the proceeding and dismiss the complaint and, in that event, shall give notice to the judge and the complainant that it has found insufficient cause to proceed.

**N. Same; Amendment.** Amendment of the allegations regarding the misconduct of a judge, whether presented to the Commission in a Sworn Complaint or in a Statement of Allegations, shall be permitted prior to a finding of sufficient cause, provided that notice thereof and an opportunity further to respond within twenty-one (21) days is given to the judge.

**O. Right to Counsel.** The judge shall be entitled to counsel of the judge's own choice.

**P. Right to Compel Attendance of Witnesses and Inspection of Records.** At any stage of the proceeding, the Commission or its designee may administer oaths or affirmations and shall be entitled to compel the attendance and testimony of witnesses, including the judge himself or herself, and the production of papers, books, accounts, documents, electronic recordings, other tangible things, or any other relevant evidence or testimony.

(1) Upon receiving the Sworn Complaint or Statement of Allegations, the judge shall become entitled to compel by subpoena the attendance and testimony of witnesses through depositions, and to provide for the inspection of documents, books, accounts, written or electronically-recorded statements, and other records.

(2) Witnesses may be interviewed, whether or not under oath and whether or not their statements are memorialized, without the presence of other participants. In other circumstances, statements may be taken as depositions, in accordance with Rule 9.

**Q. Privilege.** A complaint submitted to the Commission or its staff, or testimony with respect thereto, shall be absolutely privileged. No civil action predicated on the complaint shall be instituted against a complainant or a witness, or against counsel to either of them.

**R. Recommendation Concerning Assignment.** At any time the Commission may recommend to the Supreme Judicial Court, or to the Chief Justice for Administration and Management and the appropriate Chief Justice, the non-assignment

or special assignment of a judge, pending the final disposition of a proceeding. The Commission shall state the reasons for its recommendation. A copy of any such recommendation shall be sent by the Commission to the judge.

**S. Consultation.** In the course of a proceeding, the Commission may consult with the Chief Justice for Administration and Management and the appropriate Chief Justice about administrative matters.

**T. Record of Commission Proceedings.** The Commission shall keep a record of all proceedings concerning a judge. The Commission's findings, conclusions and recommendations shall be entered in the record.

**U. Extensions of Time.** The Chairman of the Commission may for good cause extend the time for the filing of an answer, discovery, commencement of a hearing, or transmittal of the Hearing Officer's report, and any other time limit set herein.

**V. Enforcement of an agreement for Informal Adjustment** shall be by the Commission, or, upon application by the Commission to the Supreme Judicial Court, by the Court.

Amended September 14, 1999, effective October 1, 1999; amended May 8, 2007, effective July 1, 2007.

## **RULE 7. SUFFICIENT CAUSE FOR FORMAL CHARGES**

A. Following the expiration of the twenty-one (21) days allowed for the judge's response, for any proceeding not dismissed, the Commission shall thereafter hold a formal meeting which shall be conducted in private, at which the rules of evidence need not be observed. The judge shall have the right to make a personal appearance with his attorney, but not to be present during the Commission deliberations.

B. At this meeting the Commission shall vote to dispose of the case in one of the following ways:

(1) If it finds that there has been no misconduct, the Executive Director shall be instructed to send the judge and the complainant notice of dismissal.

(2) If it finds that there has been misconduct for which a private reprimand constitutes adequate discipline, and if the judge consents, it shall issue the reprimand. The complainant shall be notified that the matter has been so resolved.

(3) If it finds that there has been conduct that is or might be cause for discipline but for which an informal adjustment is appropriate, it may, with the agreement of the judge, so inform or admonish the judge, direct professional counseling or assistance for the judge, or impose conditions on the judge's future conduct. The complainant shall be notified that the matter has been so resolved. When either conditions or treatment is prescribed, the Commission shall provide for supervision, enforcement thereof, or both.

(4) If it finds by a preponderance of the credible evidence that there is sufficient cause to believe that there has been misconduct of a nature requiring a formal disciplinary proceeding, the Commission shall issue formal charges against the judge. A copy of the formal charges shall be served promptly upon the judge, and the judge shall have ten (10) days to respond.

(5) If it finds that there has been conduct that is or might be cause for discipline and for which direct submission to the Supreme Judicial Court is appropriate, it may, with the agreement of the judge, make a direct submission in accordance with Rule 13.

Amended May 8, 2007, effective July 1, 2007.

### **RULE 8. SCHEDULING OF FORMAL HEARING**

A. Upon the filing of the judge's written response to the formal charges or the expiration of the time for its filing, a copy of the formal charges and of the judge's written response shall be filed with the Supreme Judicial Court, which shall promptly appoint a Hearing Officer.

B. Immediately upon the appointment of a Hearing Officer by the Supreme Judicial Court, the Commission shall schedule a hearing to take place in not less than thirty (30) nor more than sixty (60) days. The Commission shall immediately notify the judge and all counsel of the time and place for the hearing.

### **RULE 9. DISCOVERY DURING THE FORMAL PROCEEDING STAGE**

A. Attached to the notice required by Rule 7B(4) shall be further notice that the Commission shall, within a reasonable time, make available for inspection upon the written request of the judge all books, papers, records, documents, electronic recordings, and other tangible things within the custody and control of the Commission which are relevant to the issues of the disciplinary proceeding, and any written or electronically recorded statements within the custody and control of the Commission which are relevant to the issues of the disciplinary proceeding. The failure of the Commission to furnish timely any such materials provided for herein shall not affect the validity of any proceedings before the Commission, provided that such failure is not substantially prejudicial to the judge.

B. Within thirty (30) days after service of the formal charges, the Commission or the judge

(1) May upon written request to the appropriate party prior to the hearing:

(a) Have made available to him for inspection and copying within a reasonable period of time all books, papers, records, documents, electronic recordings, or other tangible things which that party intends to present at a hearing.

(b) Obtain the names and addresses of witnesses to the extent known to a party in the proceeding, including an identification of those intended to be called to testify at the hearing.

(c) Have made available to him for inspection and copying within a reasonable period of time any written or electronically recorded statements made by witnesses who will be called to give testimony at the hearing.

(2) May, upon written application to the Commission, upon such terms and conditions as the Commission may impose:

(a) Depose within or without the Commonwealth persons having relevant testimony. The complete record of the testimony so taken shall be made and preserved by stenographic record or electronic recording.

(i) The written application to the Commission shall state the name and post office address of the witness, the subject matter concerning which the witness is expected to testify, the time and place of taking the deposition, and the reason why such deposition should be taken.

(ii) Unless notice is waived, no deposition shall be taken except after at least seven (7) days notice to the other parties.

(iii) Unless otherwise directed by the Commission, the deponent may be examined regarding any matter not privileged which is relevant to the subject matter of the proceedings. Parties shall have the right of cross-examination, and objection. In making objections to questions or evidence, the grounds relied upon shall be stated briefly, but no transcript filed by the notarial officer shall include argument or debate. Objections to questions or evidence shall be noted by the notarial officer upon the deposition, but he shall not have the power to decide on the competency, materiality, or relevancy of evidence. Objections to the competency, relevancy, or materiality of the testimony are not waived by failure to make them before or during the taking of the deposition.

(b) Subpoena relevant witnesses and documents.

(c) Seek any limitation or protection for any discovery permitted by this rule.

C. Nothing in these rules shall be construed to require the discovery of any report made to the Commission by Special Counsel or other person conducting an investigation for the Commission. Furthermore, in granting discovery the Commission shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a witness or party in these proceedings.

D. Other issues relative to discovery which are not covered in these rules shall be addressed or resolved in accordance with the comparable provisions of the Massachusetts Rules of Civil Procedure.

## **RULE 10. FORMAL HEARING**

A. The formal hearing shall be conducted before the Hearing Officer appointed by the Supreme Judicial Court.

B. The hearing shall be open to the public. The rules of evidence applicable to civil proceedings in Massachusetts shall apply, and all testimony shall be under oath. Commission attorneys, or Special Counsel retained for the purpose, shall present the case. The judge whose conduct is in question shall be permitted to adduce evidence and produce and cross-examine witnesses. The Commission shall have the burden of proving the charges by clear and convincing evidence. Every hearing shall be transcribed.

C. The formal charges may be amended after commencement of the public hearing only if the amendment is technical in nature and if the judge and his counsel are given adequate time to prepare a response.

## **RULE 11. POST-HEARING PROCEDURE**

A. Within thirty (30) days after the conclusion of the hearing, the Hearing Officer shall submit to the Commission and to the judge a report which shall contain proposed findings and recommendations, the transcripts of testimony, and all exhibits.

B. Upon receipt of the report of the Hearing Officer, the Commission shall send a copy of the report to the complainant forthwith.

C. Within twenty (20) days after receipt of such report, counsel for the judge and for the Commission shall each be allowed to submit to the Commission written objections to the proposed findings and recommendations. Any such objections shall become part of the record.

D. Within the same twenty (20) day period the judge and the complainant, if any, may file a written request to be heard before the Commission regarding its recommendation for discipline.

E. If either participant does so request, notice shall be given to both as to the scheduled time and place for such hearing, at least seven (7)



## COMMISSION RULES

---

days in advance. Such hearing shall be public, but Commission deliberations regarding such recommendation shall be conducted in executive session.

F. Unless there is good cause for delay, the Commission shall reach a decision on the basis of the full record within ninety (90) days after the hearing concerning recommendation for discipline, if there is such a hearing, or otherwise within ninety (90) days after receipt of the Hearing Officer's report. Its conclusions may differ from those proposed by the Hearing Officer. Its decision shall state specific reasons for all conclusions and recommendations.

### **RULE 12. CASES INVOLVING ALLEGATIONS OF MENTAL OR PHYSICAL DISABILITY**

In considering allegations of mental or physical disability, the Commission shall, insofar as applicable and except as provided below pursuant to Chapter 211C, section 10, follow procedures established by these rules.

A. If in a matter relating to mental or physical disability the judge is not represented by counsel, the Commission shall appoint an attorney to represent him at public expense.

B. If a complaint or statement of allegations involves the mental or physical health of a judge, a denial of the alleged disability or condition shall constitute a waiver of medical privilege and the judge shall be required to produce his medical records.

C. In the event of a waiver of medical privilege, the judge shall be deemed to have consented to an examination by a qualified medical practitioner designated by the Commission. The report of the medical practitioner shall be furnished to the Commission and the judge.

### **RULE 13. DIRECT SUBMISSION TO THE SUPREME JUDICIAL COURT**

At any stage of a proceeding the Commission may, with the agreement of the judge, elect one

of the following methods for direct submission to the Supreme Judicial Court.

#### **A. Final Submission Upon Agreed Facts.**

(1) The Commission and the judge will prepare and sign an Agreement for Final Submission to the Supreme Judicial Court Upon Agreed Facts. The Agreement will contain:

(a) A waiver by the judge of the right to a formal hearing.

(b) A stipulation by the judge to facts sufficient, in the judgment of the Commission, to establish judicial misconduct.

(c) A statement of the section(s) of the Code of Judicial Conduct which the Commission alleges, and the judge agrees, the judge has violated.

(d) Statements by the Commission and by the judge of their joint or disparate recommendations for discipline by the Supreme Judicial Court.

(e) Agreement by the Commission and the judge that the Supreme Judicial Court may accept or reject the recommendations of the Commission or the judge or may impose whatever discipline it deems appropriate.

(f) Acknowledgment by the Commission and the judge that the decision of the Supreme Judicial Court will constitute the final disposition of the case.

(g) A waiver by the judge of any confidentiality rights that would preclude submission of the matter to, or disclosure of the matter by, the Supreme Judicial Court, including the items to be submitted as specified herein, and the Supreme Judicial Court's disposition of the case.

(2) The Commission will submit to the Supreme Judicial Court under seal:

(a) The Agreement for Final Submission Upon Agreed Facts.

(b) A copy of the complaint, statement of allegations and formal charges, if any, and all responses.

(c) Any other information agreed to by the parties.

(3) The Supreme Judicial Court may accept or reject the recommendation of either the Commission or the judge or may impose whatever discipline it deems appropriate.

**B. Conditional Submission Upon Acknowledged Evidence.**

(1) The Commission and the judge will prepare and sign an Agreement for Conditional Submission to the Supreme Judicial Court Upon Acknowledged Evidence. The Agreement will contain:

(a) A waiver by the judge of the right to a formal hearing.

(b) A Statement of Evidence which in the Commission's view provides a basis for a finding of misconduct. The Statement of Evidence will identify the section(s) of the Code of Judicial Conduct which the Commission alleges the judge to have violated.

(c) An acknowledgment by the judge that the evidence set forth in the Statement of Evidence, if presented to and accepted by a Hearing Officer at a formal hearing as clear and convincing, would support a finding of such misconduct.

(d) A recommendation to the Supreme Judicial Court, agreed to by both the Commission and the judge regarding appropriate discipline.

(e) Agreement by the Commission and the judge that (i) if the Supreme Judicial Court accepts their agreed recommendation for discipline, the decision of the Supreme Judicial Court will constitute the final disposition of the case; and (ii) if the Supreme Judicial Court does not accept their agreed recommendation, the Commission will proceed to consider and dispose of the complaint in accordance with these Rules, which disposition may include issuance of formal charges.

(f) A waiver by the judge of any confidentiality rights that would preclude submission of the matter to the Supreme Judicial Court, including the items to be submitted as specified herein.

(g) Agreement by the Commission and the judge that the submission will be made on

condition that it be impounded by the Supreme Judicial Court.

(2) The Commission will submit to the Supreme Judicial Court:

(a) The Agreement for Conditional Submission Upon Acknowledged Evidence.

(b) A copy of the complaint, statement of allegations and formal charges, if any, and all responses.

(c) Any other information agreed to by the parties.

(3) The Supreme Judicial Court may accept or reject the recommended discipline agreed to by the Commission and the judge but may not at this stage impose other discipline.

C. The Supreme Judicial Court may request additional information from the parties or schedule oral argument before acting on a final or conditional submission.

D. If the Commission and the judge fail to agree upon an Agreement for Final or Conditional Submission to the Supreme Judicial Court under either 13.A. or 13.B. above, the Commission will proceed to consider and dispose of the complaint in accordance with these Rules, which disposition may include issuance of formal charges.

Approved May 8, 2007, effective July 1, 2007.

APPENDIX C

**Code of Judicial Conduct**  
**(Supreme Judicial Court Rule 3:09)**

(effective October 1, 2003)

**PREAMBLE**

Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to American concepts of justice and the rule of law. Intrinsic to all sections of this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system. The judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law.

The Code of Judicial Conduct is intended to establish standards for ethical conduct of judges. It consists of broad statements called Canons, specific rules set forth in Sections under each Canon, a Terminology Section, and Commentary. The text of the Canons and the Sections, including the Terminology Section, is authoritative, that is, it is intended to impose binding obligations the violation of which can result in disciplinary action. The Commentary, by explanation and example, provides interpretive guidance with respect to the obligations of the Canons and Sections. At times the Commentary also offers aspirational goals.

When the text of the Canons, Sections, or Commentary uses “shall” or “shall not,” it is intended to be authoritative. When “should” or “should not” is used (in Commentary) the text is intended as hortatory and as a statement of what is or is not appropriate conduct but not as a binding rule under which a judge may be disciplined. When “may” is used, it denotes permissible discretion or, depending on the context, it refers to action that is not covered by specific proscriptions.

The Code must be read as a whole. Judges must be alert to the possibility that more than one Canon or Section may apply to a particular situation. As an example, before concluding that an action appears to be permitted by one of the more detailed provisions of the Code, the judge should consider whether, in the circumstances, the action is improper when measured against a more general provision, for instance, Section 2A. Occasionally a provision of the Code is explicitly stated as being “subject to the requirements of this Code,” or similar language. The absence of language to that effect elsewhere should not lull the judge into indifference to the rest of the Code when the judge focuses on a particular provision; every provision is subject to every other provision.

The Canons and Sections are rules of reason. Some conduct that may literally violate a provision of this Code will be permissible because it does not violate the policy behind the prohibition or is *de minimis*. In addition, not every violation of the Code should result in disciplinary action. Whether disciplinary action is appropriate, and, if it is, what degree of discipline should be imposed, should be determined through a reasonable application of the text and should depend on such factors as the seriousness of the violation, the existence (or not) of a pattern of improper activity, and the effect of the improper activity on others, on the public perception of others, or on the judicial system.

The Code is not intended as an exhaustive guide for the conduct of judges. For example, judges’ conduct is also governed by constitutional requirements, statutes, court rules, and decisional law. The Code is to be construed so as not to impinge on the essential independence of judges in making judicial decisions. The Code is intended to state basic standards which govern the conduct of all judges and to assist judges in establishing and maintaining high standards of judicial and personal conduct.

## TERMINOLOGY

*Terms explained below are noted with an asterisk (\*) in the Sections where they appear. In addition, the Sections where the terms appear are referred to after the explanation of each term below. Terms are not asterisked in Commentary or in this Terminology Section.*

**“Court personnel”** does not include the lawyers in a proceeding before a judge. See Sections 3B(4), 3B(5), 3B(7)(c), 3B(7)(c)(i), 3B(9), 3C(1), and 3C(2).

**“De minimis”** denotes an insignificant interest and therefore one that does not raise a reasonable question as to a judge’s impartiality. See Sections 3E(1)(f), (g) and (h).

**“Economic interest”** denotes ownership of a more than de minimis legal or equitable interest, except that:

(i) ownership in a mutual or common investment fund that holds securities is not an “economic interest” in such securities unless the judge participates in the management of the fund; a judge is not required to inquire as to the identity of the securities held by the fund.

(ii) service by a judge as an officer, director, advisor or other active participant in an educational, religious, charitable, fraternal or civic organization, or service by a judge’s spouse or child wherever residing, or by any other member of the judge’s family residing in the judge’s household, as an officer, director, advisor or other active participant in any organization does not create an “economic interest” in securities held by that organization;

(iii) a deposit in a financial institution, the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association, or of a member of a credit union, or a similar proprietary interest, is not an “economic interest” in the organization unless a proceeding pending or impending before the judge could substantially affect the value of the interest;

(iv) ownership of government securities is not an “economic interest” in the issuer unless a proceeding pending or impending before the judge could substantially affect the value of the securities. See Sections 3E(1)(f) and (g).

**“Ex parte communication”** denotes a communication, which occurs without notice to or participation by all other parties or lawyers for all other parties to the proceeding, between a judge (or by court staff on behalf of a judge) and (i) a party or a party’s lawyer or (ii) another person who is not a participant in the proceeding. See Sections 3B(7), 3B(7)(a), 3B(7)(a) (i) and (ii) and 3B(7)(e).

**“Fiduciary”** denotes an executor, administrator, trustee, guardian and other similar positions. See Sections 3E(1)(f), 4E, 4E(2), and 4E(3).

**“Knowingly,” “knowledge,” “known”** or **“knows”** denote actual knowledge of the fact in question. That a person has actual knowledge may be inferred from circumstances. See Sections 3B(7)(c)(iv), 3B(11), 3D(1), 3D(2), 3E(1)(d),(e),(f),(g) and (h).

**“Law”** denotes court rules as well as statutes, constitutional provisions, and decisional law. See Sections 2A, 3A, 3B(2), 3B(7), 3B(7)(b), 3B(7)(e), 3B(11), 4C(1), 4C(2), 4C(3), 4C(3)(b)(ii), 4D(5)(a), 4H(2), 4I, and 5A(3).

**“Member of the judge’s family residing in the judge’s household”** denotes any relative of a judge by blood, adoption, or marriage, a domestic partner, or a person with whom the judge maintains a close familial relationship, who resides in the judge’s household. See Sections 3E(1)(g), 4D(5), and 4D(5)(b).

**“Political organization”** denotes a political party or other group, the principal purpose of which is to further the election or appointment of candidates to political office or passage of ballot questions. See Sections 5A(1)(a), (b), and (c).

**“Relationship interest”** denotes a relationship as an officer, director, advisor, or other active participant in the affairs of a party that has more than a de minimis legal or equitable interest. See Sections 3E(1)(f) and (g).

**“Require.”** The rules prescribing that a judge “require” certain conduct of others are, like all of the rules in this Code, rules of reason. The use of the term “require” in that context means a judge is to exercise reasonable direction and control over the conduct of those persons subject to the judge’s direction and control. See Sections 3B(4), 3B(5), 3B(6), 3B(9) and 3C(2).

**“Third degree of relationship.”** The following persons are relatives within the third degree of relationship: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew, or niece. See Section 3E(1)(h).



**CANON 1**  
**A JUDGE SHALL UPHOLD THE**  
**INTEGRITY AND INDEPENDENCE**  
**OF THE JUDICIARY**

**1A. An independent and honorable judiciary is indispensable to justice in our society. A judge shall participate in establishing, maintaining, and enforcing high standards of conduct and shall personally observe those standards, so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.**

**Commentary:**

Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. The integrity and independence of judges depend in turn upon their acting without fear or favor. Although judges should be independent, they must comply with the law, including the provisions of this Code. Public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of government under law.

A judicial decision or action determined by an appellate court to be incorrect either as a matter of law or as an abuse of discretion is not a violation of this Code unless the decision or action is committed knowingly and in bad faith.

**CANON 2**  
**A JUDGE SHALL AVOID IMPROPRIETY**  
**AND THE APPEARANCE**  
**OF IMPROPRIETY IN ALL OF THE**  
**JUDGE'S ACTIVITIES**

**2A. A judge shall respect and comply with the law\* and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.**

**2B. A judge shall not allow family, social, political, or other relationships to influence the judge's judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness in an adjudicatory proceeding.**

**2C. A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion, national origin, ethnicity, or sexual orientation. As long as membership does not violate any other provision of this Code, nothing in this Section bars membership in any official United States military organization, in any religious organization, or in any organization that is in fact and effect an intimate, purely private organization.**

**Commentary:**

*Section 2A:* Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on the judge's conduct that might be viewed as burdensome by the ordinary citizen.

The prohibition against behaving with impropriety or the appearance of impropriety applies to both the professional and personal conduct of a judge. Because it is not practicable to list all prohibited acts, the proscription is necessarily cast in general terms that extend to conduct by judges that is harmful although not specifically mentioned in the Code. The test for imposition of sanction for violation of this Canon is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired.

*Section 2B:* Maintaining the prestige of judicial office is essential to a system of government in which the judiciary functions independently of the executive and legislative branches. Respect for the judicial office facilitates the orderly conduct of legitimate judicial functions. Judges should distinguish between proper and improper use of the prestige of office in all of their activities. For example, it would be improper for a judge to allude to his or her judgeship to gain a personal advantage such as deferential treatment when stopped by a police officer for a traffic offense. Similarly, judicial letterhead and the judicial title must not be used in conducting a judge's personal business.

A judge must avoid lending the prestige of judicial office for the advancement of the private interests of the judge or of others. For example, a judge must not use the judge's judicial position to gain advantage in a civil suit involving a member of the judge's family. In contracts for publication of a judge's writing, a judge should retain control over the advertising to avoid exploitation of the judge's office. As to the acceptance of awards, see Section 4D(5)(a) and Commentary.

A judge should be careful to avoid developing excessively close relationships with frequent litigants – such as municipal attorneys, police prosecutors, assistant district attorneys, and public defenders – in any court where the judge often sits, if such relationships could reasonably tend to create either an appearance of partiality or the likely need for later disqualification under Section 3E(1).

Although a judge should be sensitive to possible abuse of the prestige of office, a judge may, based on the judge's personal knowledge, serve as a reference or provide a letter of recommendation. A recommendation, written or otherwise, should not be made if the person who is the subject of the letter is or is likely to be a litigant in a contested proceeding before the judge's court.

Judges may participate in the process of judicial selection by cooperating with appointing

authorities and screening committees seeking names for consideration, by responding to official inquiries concerning a person being considered for a judgeship, and by providing letters of recommendation and testimony, whether solicited or not, for judicial nominees. See also Canon 5 regarding use of a judge's name in political activities.

A judge must not testify voluntarily as a character witness in an adjudicatory proceeding because to do so may lend the prestige of the judicial office in support of the party for whom the judge testifies. Moreover, when a judge testifies as a witness, a lawyer who regularly appears before the judge may be placed in the awkward position of cross-examining the judge. A judge may, however, testify when properly summoned. Except in circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to testify as a character witness. Adjudicatory proceedings include not only proceedings before courts but also before administrative agencies, including disciplinary bodies.

*Section 2C:* Membership of a judge in an organization that practices invidious discrimination gives rise to perceptions that the judge's impartiality is impaired. Section 2C refers to the current practices of the organization. Whether an organization practices invidious discrimination is often a complex question to which judges must be sensitive. The answer cannot be determined from a mere examination of an organization's current membership rolls but rather depends on how the organization selects members and other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic or cultural values of legitimate common interest to its members that do not stigmatize any excluded persons as inferior and therefore unworthy of membership.

Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from its membership or activities on the basis of race, sex, religion, national origin, ethnicity or sexual orientation,

persons who would otherwise be admitted to its membership or activities. The purpose of Section 2C is to prohibit judges from joining organizations practicing invidious discrimination, whether or not their membership practices are constitutionally protected.

Although Section 2C relates only to membership, it would be a violation of Canon 2 and Section 2A for a judge to arrange a meeting at a club that the judge knows or should know practices invidious discrimination on the basis of race, sex, religion, national origin, ethnicity or sexual orientation in its membership or other policies, or for the judge regularly to use such a club. Moreover, public communication by a judge approving of invidious discrimination referred to in Section 2C gives the appearance of impropriety under Canon 2 and diminishes public confidence in the integrity of the judiciary, in violation of Section 2A.

### **CANON 3 A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY AND DILIGENTLY**

**3A. The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law.\* In the performance of these duties, the following standards apply.**

#### **3B. Adjudicative Responsibilities**

**(1) A judge shall hear and decide matters assigned to the judge except those in which the judge is disqualified.**

**(2) A judge shall be faithful to the law\* and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor, or fear of criticism.**

**(3) A judge shall maintain order and decorum in proceedings before the judge.**

**(4) A judge shall be patient and courteous to litigants, jurors, witnesses, lawyers, and**

**others with whom the judge deals in an official capacity, and shall require\* similar conduct of court personnel\* and others.**

**(5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, or socioeconomic status, and shall require\* court personnel\* and others not to do so.**

**(6) A judge shall require\* lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, or socioeconomic status, against parties, witnesses, counsel, or others.**

**(7) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law\*. A judge shall not initiate, permit, or consider any ex parte communication\* concerning a pending or impending proceeding, except that:**

**(a) Where circumstances require, an ex parte communication\* is authorized when it does not deal with substantive matters and is for scheduling or administrative purposes or emergencies provided:**

**(i) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication\*, and**

**(ii) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication\* and allows them an opportunity to respond.**

**(b) [reserved]**

**(c) A judge may consult with court personnel\* whose function is to aid the judge in carrying out the judge's adjudicative responsibilities, or with other judges, subject to the following:**

(i) a judge shall take all reasonable steps to avoid receiving from court personnel\* or other judges factual information concerning a case that is not part of the case record. If court personnel\* or another judge nevertheless bring non-record information about a case to the judge's attention, the judge may not base a decision on it without giving the parties notice of that information and a reasonable opportunity to respond. Consultation is permitted between a judge, clerk-magistrate or other appropriate court personnel and a judge taking over the same case or session in which the case is pending with regard to information learned from prior proceedings in the case that may assist in maintaining continuity in handling the case;

(ii) when a judge consults with a probation officer about a party in a pending or impending criminal or juvenile case, the consultation shall take place in the presence of the parties who have availed themselves of the opportunity to appear and respond;

(iii) a judge shall not consult with an appellate judge, or a judge in a different trial court department, about a case that the judge being consulted might review on appeal; and

(iv) no judge shall consult with another judge about a case pending before one of them when the judge initiating the consultation knows\* the other judge has a financial, personal or other interest which would preclude the other judge from hearing the case, and no judge shall engage in such a consultation when the judge knows\* he or she has such an interest.

(d) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to mediate or settle civil matters pending before the judge.

(e) A judge may initiate, permit, or consider any ex parte communication\* when authorized by law\* to do so.

(8) A judge shall dispose of all judicial matters promptly, efficiently, and fairly.

(9) Except as otherwise provided in this section, a judge shall abstain from public comment about a pending or impending Massachusetts proceeding in any court, and shall require\* similar abstention on the part of court personnel\*.

(a) A judge is permitted to make public statements in the course of his or her official duties or to explain for public information the procedures of the court, general legal principles, or what may be learned from the public record in a case.

(b) This Section does not prohibit judges from discussing, in legal education programs and materials, cases and issues pending in appellate courts. This education exemption does not apply, however, to comments or discussions that might interfere with a fair hearing of the case.

(c) This Section does not apply to proceedings in which the judge is a litigant in a personal capacity.

(10) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the community.

(11) A judge shall not disclose or use, for any purpose unrelated to judicial duties, information acquired in a judicial capacity that by law\* is not available to the public. When a judge, in a judicial capacity, acquires information, including material contained in the public record that is not yet generally known\*, the judge must not use the information in financial dealings for private gain. Notwithstanding the provisions of Section 3B(9), a judge shall not disclose or use, for any purpose unrelated to judicial duties, information that, although part of the public record, is not yet generally known\*, if such information would be expected unnecessarily to embarrass or otherwise harm any person participating or mentioned in court proceedings.



**3C. Administrative Responsibilities**

(1) A judge shall diligently discharge the judge's administrative responsibilities without bias or prejudice, maintain professional competence in judicial administration, and cooperate with other judges and court personnel\*.

(2) A judge shall require\* court personnel\*, including personnel who are directly involved in courtroom proceedings over which the judge presides, to observe the standards of fidelity and diligence that apply to the judge.

(3) A judge with supervisory authority for the judicial performance of other judges shall take reasonable measures to assure the prompt disposition of matters before them and the proper performance of their other judicial responsibilities.

(4) A judge shall not make unnecessary appointments of counsel and staff. The judge shall exercise the power of appointment only on the basis of merit, avoiding appointments based on nepotism or personal or political favoritism. The judge shall not approve compensation of appointees beyond the fair value of service rendered.

**3D. Disciplinary Responsibilities**

(1) A judge having knowledge\* of facts indicating a substantial likelihood that another judge has committed a violation of the Code that raises a significant question about that judge's honesty, integrity, trustworthiness, or fitness for judicial office shall inform the Chief Justice of this court and of that judge's court. A judge having knowledge\* of facts indicating a substantial likelihood that another judge has committed a violation of the Code that does not raise a significant question of that judge's honesty, integrity, trustworthiness, or fitness for judicial office shall take appropriate action.

(2) A judge having knowledge\* of facts indicating a substantial likelihood that a lawyer has committed a violation of the

Rules of Professional Conduct that raises a significant question as to that lawyer's honesty, integrity, trustworthiness, or fitness as a lawyer shall inform the Bar Counsel's office of the Board of Bar Overseers.

(3) [reserved]

**3E. Disqualification.**

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

(a) the judge has a personal bias or prejudice concerning a party or a party's lawyer;

(b) the judge served as a lawyer in the matter in controversy;

(c) a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter in controversy;

(d) the judge has been, or is to the judge's knowledge\* likely to be, a material witness concerning the matter in controversy;

(e) the judge has personal knowledge\* of disputed evidentiary facts concerning the matter in controversy;

(f) the judge is a party to the proceeding or an officer, director, or trustee of a party or the judge knows\*, or reasonably should know\*, that he or she, individually or as a fiduciary\*, has (i) an economic interest\* in the subject matter in controversy or in a party to the proceeding, which interest could be substantially affected by the outcome of the proceeding, (ii) a relationship interest\* to a party to the proceeding where the party could be substantially affected by the outcome of the proceeding or (iii) any other more than de minimis\* interest that could be substantially affected by the outcome of the proceeding;

(g) the judge knows\*, or reasonably should know\*, that the judge's spouse or child wherever residing, or any other member of the judge's family residing in the judge's household,\* has (i) an economic interest\* in the subject matter in controversy or in a party

to the proceeding, which interest could be substantially affected by the outcome of the proceeding, (ii) a relationship interest\* to a party to the proceeding where the party could be substantially affected by the outcome of the proceeding or (iii) any other more than de minimis\* interest that could be substantially affected by the outcome of the proceeding; or

(h) the judge's spouse or domestic partner, as well as a person within the third degree of relationship\* to the judge, the judge's spouse, or the judge's domestic partner, or a spouse or domestic partner of such other person, (i) is a party to the proceeding or an officer, director, or trustee of a party, (ii) is acting as a lawyer in the proceeding, (iii) is known\* by the judge to have any more than de minimis\* interest that could be substantially affected by the outcome of the proceeding, or (iv) is to the judge's knowledge\* likely to be a material witness in the proceeding.

(2) [reserved]

### 3F. Remittal of Disqualification.

(1) A judge disqualified by the terms of Section 3E may, instead of withdrawing from the proceeding, disclose on the record the basis of the judge's disqualification and ask the parties and their lawyers to consider, out of the presence of the judge, whether to waive disqualification. If, following disclosure of any basis for disqualification other than for cases in which remittal is not available, the parties and lawyers, without participation of the judge, all agree that the judge should not be disqualified, the judge may participate in the proceeding. The judge shall permit an opportunity for the attorneys to consult with their clients regarding this issue. The agreement shall be incorporated in the record of the proceeding.

(2) Remittal is not available in cases in which the judge is disqualified under Sections 3E(1)(a), (b), or (d).

### Commentary:

*Section 3B(1):* The obligation to hear and decide all assigned matters should not be construed to preclude a judge from requesting not to be assigned to a particular case or class of cases because of strongly held personal or moral beliefs.

*Section 3B(4):* The duty to conduct proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.

*Section 3B(5):* A judge must refrain from speech, gestures, or other conduct that could reasonably be perceived as evidencing bias or prejudice and must require the same standard of conduct of others subject to the judge's direction and control, including those who are directly involved in courtroom proceedings.

A judge must perform judicial duties impartially and fairly. A judge who manifests any bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. Facial expression and body language, in addition to oral communications, can give to parties or lawyers in the proceeding, jurors, the media, and others an appearance of judicial bias. A judge must be alert to avoid behavior that may be perceived as biased or prejudicial.

*Section 3B(6):* This section does not preclude legitimate advocacy when race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, or socioeconomic status are issues in the proceeding.

*Section 3B(7):* Section 3B(7) proscribes ex parte communications concerning a proceeding except to the limited extent permitted in Section 3B(7)(a) through (e).

Whenever the presence of a party or notice to a party is required by Section 3B(7), it is the party's lawyer, or if the party is unrepresented,

the party, who is to be present or to whom notice is to be given.

A judge must make reasonable efforts, including the provision of appropriate supervision, to ensure that the general prohibition against ex parte communications is not violated through law clerks and other court personnel.

*Section 3B(7)(c):* Section 3B(7)(c) authorizes consultation between a judge and court personnel whose job entails or includes assisting the judge in performing the judge's adjudicative responsibilities, for example clerk magistrates and their assistants, registers of probate and their assistants, and law clerks. A judge may discuss the facts of a pending or impending proceeding with such court personnel, but in view of the judge's obligation to decide a case only on the evidence presented, the judge's factual discussion may be based only on information in the case record. Accordingly, a judge may not solicit non-record factual information from court personnel about a case and must take reasonable steps to avoid receiving unsolicited non-record factual information from them. If, despite such efforts, the judge receives non-record factual information about a pending or impending case from court personnel (or indeed from any source), the judge may not base any decision in the case in whole or in part on that information unless the judge first gives the parties notice and an opportunity to respond.

Probation officers, like clerk magistrates, registers and their assistants, are court personnel who assist the judge in performing the judge's adjudicative responsibilities. However, probation officers often work independently of the judge, since one of their most significant responsibilities is the community supervision of persons sentenced to probation by the court. From their work in the community, probation officers regularly obtain or receive factual information that is not part of a case record but that may have a direct bearing on a particular party in a case. In light of this fact, Section 3B(7)(c)(ii) provides that any consultation between a judge and a probation officer about a party in a specific criminal or

juvenile case take place in the presence of the parties (or their counsel) who have availed themselves of the opportunity to attend, so that there is an opportunity to hear and respond to any information being conveyed by the probation officer. However, a judge may discuss with a probation officer ex parte the specifics of various available programs as long as there is no discussion about the suitability of the program for a particular party.

Section 3B(7)(c) permits a judge to consult with other judges, subject to the limitations set forth there. This is so whether or not the judges serve on the same court. A judge may not consult about a case with an appellate judge who might be called upon to review that case on appeal. The same holds true with respect to those instances in which a judge in one department of the trial court may be called upon to review a case decided by a judge in a different department; a criminal case in which the defendant seeks a review by a judge in the Superior Court of the bail determination made by a judge in the District Court is an example. The appellate divisions of the Boston Municipal Court and of the District Court present a special situation. The judges who sit as members of these appellate divisions review on appeal cases decided by judges who serve in the same court department. However, the designation of judges to sit on the appellate divisions changes quite frequently; every judge on the Boston Municipal Court will, and every judge on the District Court may, serve for some time as a member of that court's appellate division. In recognition of this fact, Section 3B(7)(c)(iii) does not bar judges in the same court department from consulting with each other about a case, despite the possibility that one of the judges may later review the case on appeal. However, when a judge is serving on an appellate division, the judge may not review any case that the judge has previously discussed with the judge who decided it; recusal is required.

Consultation between or among judges, if otherwise permitted under Section 3B(7)(c), is appropriate only if the judge before whom the case is pending does not abrogate the responsibility personally to decide it.

*Section 3B(7)(d):* Section 3B(7)(d) implicitly acknowledges the public policy that favors the settlement of civil cases and the understanding that a judge can play an important role in the settlement process. In settlement discussions, a judge may, with the prior consent of all parties, meet with parties and their counsel separately. The judge must inform all parties of any such meetings, but need not disclose what was discussed.

*Section 3B(7)(e):* Section 3B(7)(e) refers to an ex parte communication authorized by law. Examples include: the issuance of a temporary restraining order in certain circumstances, see, e.g., G. L. c. 209A, § 4; Mass. R. Civ. P. 65(a); the issuance of a prejudgment attachment or trustee process, see Mass. R. Civ. P. 4.1(f), 4.2(g); the determination of fees and expenses for indigent persons, see G. L. c. 261, §§ 27A - 27 G; the issuance of temporary orders related to child custody or vacation of the marital home where conditions warrant, see G. L. c. 208, §§ 28A, 34B; and an ex parte communication authorized or required under the Rules of Professional Conduct (S.J.C. Rule 3:07).

*Section 3B(8):* In disposing of matters promptly, efficiently, and fairly, a judge must give due regard to the rights of the parties to be heard and to have issues resolved without unnecessary cost or delay. When a judge encourages and seeks to facilitate settlement, the judge should not coerce the parties into surrendering the right to have their controversy resolved by the courts.

Prompt disposition of the court's business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to insist that court personnel and litigants and their lawyers cooperate with the judge to that end.

Section 3B(9): The requirement that a judge abstain from public comment regarding a pending proceeding continues during any appellate process and until final disposition. A case is impending for purposes of this section

if it seems probable that a case will be filed, if charges are being investigated, or if someone has been arrested although not yet charged.

"Any court" for purposes of this section means any state or federal court within the United States or its territories.

A judge may, consistent with this section, make public statements about a pending or impending case in the course of his or her official duties. "In the course of his or her official duties" includes statements made in the courtroom and on the public record as well as those statements made by a judge in the performance of his or her administrative duties.

A judge may, consistent with this section, explain what may be learned from the public record in a case, including pleadings, documentary evidence, and the tape recording or stenographic record of proceedings held in open court. The judge may not discuss the rationale for a decision, however, unless the judge is repeating what was already made part of the public record. Speaking to a journalist is public comment even where it is agreed that the statements are "off the record." See also Section 3B(11).

*Section 3B(10):* Commending or criticizing jurors for their verdict may imply a judicial expectation in future cases and may impair a juror's ability to be fair and impartial in a subsequent case. Commendations or criticisms of verdicts may also call into question the judge's ability to rule impartially on any post-trial motions, or on remand, in the same case.

*Section 3B(11):* Information that by law is not available to the public includes but is not limited to information that is sealed by statute, court rule, or court order, all of which is absolutely non-disclosable for any purpose unrelated to judicial duties.

Among the factors to be considered in determining whether the information "contained in the public record that is not generally known" would be expected unnecessarily to embarrass or otherwise harm a person are whether there is



a valid public purpose for disclosure or whether the disclosure is idle chatter or gossip.

There are other rules (for example, Section 2A), that relate to the subject matter of this rule.

*Section 3C(4):* Appointments made by the judge include, but are not limited to, counsel, persons such as guardians *ad litem* and special masters, and court personnel subject to appointment by the judge. See S.J.C. Rule 1:07 regarding fee generating appointments and the maintenance of appointment dockets.

*Section 3D:* This Section requires judges to report conduct indicating a substantial likelihood of a serious violation of professional conduct by judges or lawyers together with the factual basis for this conclusion. Even an apparently isolated violation may indicate a pattern of misconduct that only a disciplinary investigation can uncover. The word “significant” in the Section refers to the seriousness of the possible offense and not the quantum of evidence of which the judge is aware.

Judges are required by this Section to participate actively in maintaining and preserving the integrity of the judicial system. The rule is necessary because judges make up a significant group that may have information about colleagues’ misconduct. For this reason, judges have an opportunity and a special duty to protect the public from the consequences of serious misconduct and the potential harmful results of other violations of the Code.

The following examples are not exhaustive but include misconduct that has been found in particular factual circumstances to raise a significant question about honesty, integrity, trustworthiness, or fitness for judicial office: tampering with or attempting to influence improperly a judicial action of another judge; giving false testimony under oath; tampering with or falsifying court papers to support judicial action; grossly abusing the bail statutes; failing to recuse at a hearing when the judge is engaged in a personal financial venture with lawyers or parties; misusing appointment power to show favoritism;

using court employees during regular work hours for private benefit; engaging in inappropriate political activity, such as attending fundraisers, soliciting money for candidates or causes, and lobbying except on matters concerning the law, the legal system, or the administration of justice; engaging in a pattern of any of the following activities: abuse of alcohol in public, indifference to case law or facts, use of injudicious or abusive language on the bench, or failure to devote full-time to judicial work.

Other Code violations by a judge that are less serious still require appropriate action by the judge who has knowledge of them. Examples include but are not limited to: speaking or being the guest of honor at an organization’s fundraising event; serving as a director of a family business; serving as the executor of an estate of a relative or person with whom the judge had no close familial relationship; frequently starting court business late or stopping it early; soliciting advice about pending cases from a friend who is a law professor without disclosure; placing or leaving a bumper sticker for a political candidate on a vehicle the judge regularly drives; frequently delaying making decisions in cases. Appropriate action by a judge who has knowledge of these less serious Code violations may include: speaking to the other judge directly; asking someone else who may be more appropriate to speak to that judge; reporting to the presiding judge of the court where the violation occurred or where that judge often sits; reporting to the Chief Justice of that judge’s court; and speaking to Judges Concerned for Judges or calling the judicial hotline maintained by Lawyers Concerned For Lawyers, Inc. This list of actions is illustrative and not meant to be limiting.

While a measure of judgment is required in complying with this Section, a judge must report lawyer misconduct that, if proven and without regard to mitigation, would likely result in an order of suspension or disbarment, including knowingly making false statements of fact or law to a tribunal, suborning perjury, or engaging in misconduct that would constitute a serious crime. A serious crime is any felony,

or a misdemeanor a necessary element of which includes misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, or an attempt, conspiracy, or solicitation of another to commit the above crimes. Section 3D(2) does not preclude a judge from reporting a violation of the Massachusetts Rules of Professional Conduct in circumstances where a report is not mandatory. Reporting a violation is especially important where the victim is unlikely to discover the offense. If the lawyer is appearing before the judge, a judge may defer making a report under this Section until the matter has been concluded, but the report should be made as soon as practicable thereafter. However, an immediate report is compelled when a person will likely be injured by a delay in reporting, such as where the judge has knowledge that a lawyer has embezzled client or fiduciary funds and delay may impair the ability to recover the funds.

*Section 3E:* Under this rule, a judge shall disqualify himself or herself whenever the judge's impartiality might reasonably be questioned, regardless of whether any specific rules in Sections 3E(1) (a) through (h) apply. For example, even though a judge may not be required to disqualify himself or herself because of an economic or relationship interest, the judge may be required to do so on other grounds. A more than de minimis interest, under Sections 3E(1)(f)(iii), (g)(iii), and (h)(iii) may include non-financial interests; as an example, support by the judge of an organization advocating a particular position, where the interests of the organization could be substantially affected by the outcome of the proceeding.

If the judge believes there is no real basis for disqualification, a judge may, but is not required to, disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification. See Commentary to Section 3F.

A judge is not necessarily disqualified if a lawyer in a proceeding is affiliated with a legal organization with which the spouse or a relative of the judge is affiliated. Disqualification may be

required in appropriate circumstances, including the closeness of the relationship of the relative with the judge, where the judge's impartiality might reasonably be questioned. Disqualification may also be required where the judge knows that the judge's spouse or relative has an interest in a legal organization and that the organization could be substantially affected by the outcome of the proceeding. See Sections 3(E)(1)(g)(iii) and (h)(iii).

In determining whether an interest could raise a reasonable question as to a judge's impartiality, the judge should consider, among other factors, the dollar value of the interest and whether the interest comprises a substantial portion of the judge's total economic holdings.

In particular circumstances, a judge may need to consider carefully relationships other than those specifically mentioned in Section 3E(1) - for example, a fiancé (or fiancée) or a very close friend - to determine whether disqualification is required.

A lawyer in a government agency does not ordinarily have an association with other lawyers employed by that agency within the meaning of Section 3E(1)(c). A judge formerly employed by a government agency, however, should disqualify himself or herself in a proceeding if the judge's impartiality might reasonably be questioned because of such association.

By decisional law, the rule of necessity may override the rule of disqualification. For example, a judge might be required to participate in judicial review of a judicial salary statute, or might be the only judge available in a matter requiring immediate judicial action, such as a hearing on probable cause or a temporary restraining order. In the latter case, the judge must disclose on the record the basis for possible disqualification and, unless remittal under Section 3F is available, appropriate, and accomplished, use reasonable efforts to transfer the matter to another judge as soon as possible.

If a judge were in the process of negotiating for employment with a law firm or other entity,

the judge would be disqualified from any matters in which the law firm or other entity appeared, unless remittal under Section 3F is available, appropriate, and accomplished.

*Section 3F:* A remittal procedure provides the parties an opportunity to proceed without delay if they wish to waive the disqualification. To assure that consideration of the question of remittal is made independently of the judge, a judge must not hear comment on possible remittal unless the lawyers jointly propose remittal after consultation as provided in the Section. A party may act through counsel if counsel represents on the record that the party has been consulted and consents. As a practical matter, a judge may wish to have all parties and their lawyers sign the remittal agreement. There are circumstances when other provisions, such as Section 2A, may override the remittal procedure of Section 3F. An example would be where a judge's close relative has supervisory responsibility over attorneys prosecuting criminal cases in the county where the judge is sitting.

**CANON 4**  
**A JUDGE SHALL SO CONDUCT THE**  
**JUDGE'S EXTRAJUDICIAL**  
**ACTIVITIES AS TO MINIMIZE THE**  
**RISK OF CONFLICT WITH JUDICIAL**  
**OBLIGATIONS**

**4A. Extrajudicial Activities in General.** A judge shall conduct all of the judge's extrajudicial activities so that they do not:

(1) cast reasonable doubt on the judge's capacity to act impartially as a judge; or

(2) [reserved]

(3) interfere with the proper performance of judicial duties.

**4B. Avocational Activities.** Subject to the requirements of this Code, a judge may speak, write, lecture, and teach concerning legal and nonlegal matters and may participate in legal and nonlegal activities.

**4C. Governmental, Civic or Charitable Activities.**

(1) A judge shall not appear at a public hearing before, or otherwise consult with, an executive or legislative body or official except on matters concerning the law\*, the legal system, or the administration of justice or except when acting pro se.

(2) A judge shall not accept appointment to any governmental position, including a governmental committee or commission, that is concerned with matters other than the improvement of the law\*, the legal system, or the administration of justice. A judge may, however, represent a country, state, or locality on ceremonial occasions or in connection with historical, educational, or cultural activities.

(3) A judge may serve as an officer, director, trustee, or non-legal advisor of an organization or agency devoted to the improvement of the law\*, the legal system, or the administration of justice; or of any educational, religious, charitable, fraternal, or civic organization that is not conducted for profit or for the economic or political advantage of its members, subject to the following limitations and the other requirements of this Code.

(a) A judge:

(i) shall not contribute to, or be a member of, such an organization, except a religious organization, if it is likely that the organization will be engaged frequently in adversary proceedings in the court on which the judge serves; and

(ii) shall not serve as an officer, director, trustee, or nonlegal advisor of such an organization if it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge or will be engaged frequently in adversary proceedings in any court, state or federal, in the Commonwealth.

(b) A judge as an officer, director, trustee, non-legal advisor, or member of an

organization described in Section 4C(3) or in any other capacity as to such an organization:

(i) shall not participate in the management and investment of the organization's funds, shall not assist such an organization in planning fund-raising, and shall not personally participate in the solicitation of funds or other fund-raising activities, except that a judge may solicit funds from other judges over whom the judge does not exercise supervisory or appellate authority;

(ii) may make recommendations to public and private fundgranting organizations on projects and programs concerning the law\*, the legal system, or the administration of justice;

(iii) shall not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or, except as permitted in Section 4C(3)(b)(i), if the membership solicitation is essentially a fund-raising mechanism;

(iv) shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation.

(4) Subject to the requirements of this Code, a judge may serve as an officer, director, trustee, or non-legal advisor of an organization composed entirely or predominantly of judges that exists to further the educational or professional interests of judges. A judge may assist such an organization in planning fund-raising and may participate in the management and investment of the organization's funds, but may not personally participate in the solicitation of funds, except that a judge may solicit funds from other judges over whom the judge does not exercise supervisory or appellate authority.

#### 4D. Financial Activities.

(1) A judge shall refrain from financial and business dealings that tend to reflect adversely on the judge's impartiality, that may interfere with the proper performance of the judge's judicial position, that may

reasonably be perceived to exploit the judge's judicial position, or that may involve the judge in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the court on which the judge serves.

(2) Subject to the requirements of this Code, a judge may hold and manage investments, including real estate, and receive compensation as set forth in Section 4H, but shall not serve, with or without remuneration, as an officer, director, manager, general partner, advisor or employee of any business.

(3) [reserved].

(4) A judge shall manage his or her investments and other financial interests to minimize the number of cases in which disqualification is required or advisable. As soon as the judge can do so without serious financial detriment, the judge shall divest himself or herself of investments and other financial interests that might require frequent disqualification.

(5) A judge shall not accept, and shall urge members of the judge's family residing in the judge's household\* not to accept, a gift, bequest, favor, or loan from anyone except for:

(a) a gift incident to public recognition of the judge, provided the value of the gift does not exceed the amount requiring reporting under Section 4D(5)(h) and provided the donor is not an organization whose members comprise or frequently represent the same side in litigation (or is not an individual or individuals so situated); a gift of books, tapes and other resource materials supplied by publishers on a complimentary basis for official use; or an invitation to the judge and the judge's spouse or guest to attend a bar-related function or an activity devoted to the improvement of the law\*, the legal system, or the administration of justice, provided that if the value of the invitation and any food, travel, and lodging associated with the invitation exceeds the amount requiring reporting under Section 4D(5)(h), the value of the invitation



and such associated items shall be reported under Section 4H.

(b) a gift, award, or benefit incident to the business, profession, or other separate activity of a spouse or other member of the judge's family residing in the judge's household\*, including gifts, awards, and benefits for the use of both the spouse or other family member and the judge (as spouse or family member), provided the gift, award, or benefit could not reasonably be perceived as intended to influence the judge in the performance of judicial duties;

(c) ordinary social hospitality;

(d) a gift from a relative or friend, for a special occasion, such as a wedding, anniversary, or birthday, if the gift is fairly commensurate with the occasion and the relationship;

(e) a gift, bequest, favor, or loan from a relative or close personal friend whose appearance or interest in a case would require disqualification under Section 3E.

(f) a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges;

(g) a scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants; or

(h) any other gift, bequest, favor or loan, only if: the donor is not a party or other person who has come or is likely to come or whose interests have come or are likely to come before the judge; and, if its value exceeds \$350.00, the judge reports it in the same manner as the judge reports compensation in Section 4H. However, a gift, bequest, favor, or loan of the type set forth in Sections 4D(5)(a), 4D(5)(b), 4D(5)(f) or 4D(5)(g) that does not meet the requirements set forth there may not be accepted under the authority of this Section 4D(5)(h).

**4E. Fiduciary\* Activities.** A judge shall not serve as an executor, administrator, trustee, guardian, or other fiduciary\*, except for the estate, trust, or person of the judge's spouse, domestic partner, child, grandchild, parent,

or grandparent, as well as another relative or person with whom the judge maintains a close familial relationship. As such a family fiduciary\* a judge is subject to the following restrictions:

(1) The judge shall not serve if such service will interfere with the proper performance of judicial duties;

(2) The judge shall not serve if it is likely that as a fiduciary\* the judge will be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which the judge serves or one under its appellate jurisdiction.

(3) While acting as a fiduciary\* a judge is subject to the same restrictions on financial activities that apply to the judge in the judge's personal capacity.

**4F. Arbitration and Mediation.** A judge shall not act as an arbitrator or mediator in a private capacity.

**4G. Practice of Law.** A judge shall not practice law. Notwithstanding this prohibition, a judge may act pro se.

**4H. Compensation, Reimbursement, and Reporting.**

(1) **Compensation and reimbursement.** A judge may receive compensation and reimbursement of expenses for the extrajudicial activities not prohibited by this Code, if the source or amount of such payments does not give the appearance of influencing the judge's performance of judicial duties or otherwise give the appearance of impropriety, subject also to the following restrictions:

(a) Compensation shall not exceed a reasonable amount.

(b) Expense reimbursement shall be limited to the actual cost of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion, by the

judge's guest. Any payment in excess of such an amount is compensation.

**(2) Public reports.** A judge shall report on or before April 15 of each year, with respect to the previous calendar year, the date, place, and nature of any activity for which the judge received compensation, the name of the payor, the amount of compensation so received, and such other information as is required by the Supreme Judicial Court or by law\*. Compensation or income of a spouse attributed to the judge by operation of a community property law is not extrajudicial compensation to the judge. The judge's report shall be filed as a public document in the office of the Administrative Assistant to the Supreme Judicial Court (G. L. c. 211, § 3A).

**4I. Disclosure of a judge's income, debts, investments, or other assets is required only to the extent provided in this Canon and in Sections 3E and F or as otherwise required by law\*.**

**Commentary:**

*Section A:* Complete separation of a judge from extra-judicial activities is neither possible nor wise; a judge should not become isolated from the community in which the judge lives. Nevertheless, such activities must not be undertaken in such a way as to cast reasonable doubt on the impartiality of the judge. Expressions of bias or prejudice by a judge, even outside the judge's judicial activities, may cast reasonable doubt on the judge's capacity to act impartially as a judge. Expressions that may do so include jokes or other remarks, made in a public setting, that demean individuals on the basis of their race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status. See Section 2C and accompanying Commentary. Moreover, the appropriateness of undertaking extrajudicial activities or of accepting extrajudicial assignments must be assessed in light of the demands on judicial resources created by crowded dockets and the need to protect the courts

from involvement in extra-judicial matters that may prove to be controversial.

*Section B:* As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the integrity of the legal profession and to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of criminal and juvenile justice. To the extent that time permits, a judge is encouraged to do so, either independently or through a bar association, judicial conference, or other organization dedicated to the improvement of the law. The reference to judges speaking about non-legal subjects and participating in nonlegal activities is added for the sake of completeness to make it clear that ordinarily a judge's social and recreational activities do not raise an issue under the Code.

*Section 4C(1):* See Section 2B regarding the obligation to avoid improper influence.

*Section 4C(2):* Section 4C(2) prohibits a judge from accepting any governmental position except one relating to the law, legal system, or administration of justice as authorized by Section 4C(3). Judges should not accept governmental appointments that are likely to interfere with their effectiveness and independence. Any permission to accept extrajudicial appointments contained in this Code is subject to applicable restrictions relating to multiple office-holding contained in the Constitution of the Commonwealth. See Part 2, Chapter 6, Article two for restrictions on justices of the Supreme Judicial Court and judges of the Probate and Family Court and Article VIII of the Amendments to the Constitution.

Section 4C(2) does not govern a judge's service in a nongovernmental position. See Section 4C(3) permitting service by a judge with organizations devoted to the improvement of the law, the legal system, or the administration of justice and with educational, religious, charitable, fraternal, or civic organizations not conducted for profit. For example, service on the board of a public hospital or public education institution,

unless it is a law school, would be prohibited under Section 4C(2), but service on the board of a public law school or any private educational or other institution described in Section 4C(3) would generally be permitted under Section 4C(3).

*Section 4C(3):* Section 4C(3) does not apply to a judge's service in a governmental position unconnected with the improvement of the law, the legal system, or the administration of justice; see Section 4C(2). As an illustration of the need to be cognizant of all provisions of the Code, service by a judge on the board of an organization described in Section 4C(3) may be prohibited under Section 2C if the organization practices invidious discrimination or under Section 4A if service on the board otherwise casts doubt on the judge's capacity to act impartially as a judge.

*Section 4C(3)(a):* The changing nature of some organizations and of their relationship to the law makes it necessary for a judge regularly to reexamine the activities of each organization with which the judge is affiliated as an officer, director, trustee, or nonlegal advisor to determine if it is proper for the judge to continue the affiliation. For example, non-profit hospitals are now more frequently in court than in the past. Similarly, the boards of some legal aid organizations now make policy decisions that imply commitment to causes that may come before the courts for adjudication.

A bar association is an organization "devoted to the law, the legal system, or the administration of justice" and therefore qualifies as an organization on which a judge may serve as an officer, director, trustee, or non-legal advisor. That permission, however, is qualified by the requirement in Section 4A that such service not "cast reasonable doubt on the judge's capacity to act impartially as a judge" and that it not "interfere with the proper performance of judicial duties." For example, many bar associations have become active in litigation, filing amicus briefs that take sides on a wide range of controversial issues. The more that a judge takes a leadership role or a role as spokesperson in such an organization, the more likely it is that the restrictions contained

in Section 4A would prohibit assuming one of the positions mentioned in Section 4C(3). The same considerations would also hold true with respect to holding office in the other organizations mentioned in Section 4C(3).

*Section 4C(3)(b):* Solicitation of funds for an organization and solicitation of memberships involve the danger that the person solicited will feel obligated to respond favorably to the solicitor if the solicitor is in a position of influence or control. A judge may solicit membership for or endorse or encourage membership efforts of an organization devoted to the improvement of the law, the legal system, or the administration of justice or a nonprofit educational, religious, charitable, fraternal or civic organization as long as the solicitation cannot reasonably be perceived as coercive and is not essentially a fund-raising mechanism.

Use of an organization letterhead listing a judge's name for fund-raising or membership solicitation violates Section 4C(3)(b). A judge must also make reasonable efforts to ensure that court personnel and others subject to the judge's direction and control do not solicit funds on the judge's behalf for any purpose, charitable or otherwise.

A judge must not be a speaker or guest of honor at an organization's fund-raising event, but mere attendance at such an event is permissible if otherwise consistent with this Code. A fund-raising event is one where the sponsors' aim is to raise money to support the organization's activities beyond the event itself. A laudatory reference to a judge, not announced in advance, does not make the judge a "guest of honor" for purposes of this rule. (Judges should also consult the testimonial dinner law, G. L. c. 268, § 9A in relevant cases.)

*Section 4(C)(4):* A judge may also engage in substantial leadership and budget activities with respect to the judge-controlled organizations described in Section 4C(4), but may not engage in personal solicitation of funds except from other judges over whom the judge does not exercise

supervisory or appellate authority. However, the fund-raising activities of judge-controlled organizations must be carried out in a way that does not violate other provisions of this Code, such as Sections 2A and 2B. The names of those who contribute or decline to contribute must not be disclosed publicly or to the judges in the organization, and that policy must be disclosed to those solicited. In some circumstances, fund-raising, even if anonymous, might subsequently require recusal of a judge because of the risk of the appearance of impropriety should the fact of a substantial donation by a party or its lawyer become known.

*Section 4D(2):* For new judges, Section 6B postpones the time for compliance with certain provisions of this Section in some cases.

Participation by a judge in financial and business dealings is subject to the general prohibition in Section 4A against activities that tend to reflect adversely on impartiality or interfere with the proper performance of judicial duties. Such participation is also subject to the general prohibition in Canon 2 against activities involving impropriety or the appearance of impropriety and the prohibition in Section 2B against the misuse of the prestige of judicial office. In addition, a judge must maintain high standards of conduct in all of the judge's activities, as set forth in Canon 1.

*Section 4D(5):* Because a gift, bequest, favor, or loan to a member of the judge's family residing in the judge's household might be viewed as intended to influence the judge, a judge must inform those family members of the relevant ethical constraints upon the judge in this regard and discourage those family members from violating them. A judge cannot, however, reasonably be expected to know or control all of the financial or business activities of all family members residing in the judge's household.

*Section 4D(5)(a):* An exception allowed under Sections 4D(5)(a) through 4D(5)(g) is not subject to the qualification and reporting requirements of Section 4D(5)(h), but is otherwise

subject to the requirements of this Code. See in particular Sections 2A, 2B and Section 4A(1).

Examples of organizations which frequently represent the same side in litigation are a bar association comprised of insurance defense attorneys or of plaintiffs' personal injury attorneys. In addition to applying to organizations, the prohibition also applies to a public recognition gift from an individual or individuals who frequently comprise or represent the same side in litigation.

The acceptance of invitations is an area of special sensitivity, and judges are reminded particularly in that context of the interrelation of all the provisions of the Code, particularly Sections 2A, 2B, and 4A(1), and the avoidance of the appearance of impropriety as well as impropriety itself. All the facts relating to the invitation must be examined by the judge, including the identity of the donor, the amount of time to be devoted to bar-related or similar activities at the event, the costs assumed by the invitor, the duration of the function, and its locale. Examples of facts that singly or in combination, could suggest conflict with Sections 2A, 2B, and 4A(1), are a function during tourist season, a lavish function, a function in a popular tourist locale, or a function distant from the Commonwealth. If there is such a conflict, the taint of impropriety or its appearance exists no matter how assiduously the judge would in fact attend to bar or similar activities at the function. The fact that a function is reported under Section 4H does not obviate the examination just described.

*Section 4D(5)(c):* In accepting ordinary social hospitality from members of the bar, a judge should carefully weigh acceptance of the hospitality to avoid any appearance of bias.

*Section 4D(5)(d):* A gift to a judge, or to a member of the judge's family living in the judge's household, that is excessive in value raises questions about the judge's impartiality and the integrity of the judicial office and might require disqualification of the judge where



disqualification would not otherwise be required. See, however, Section 4D(5)(e).

*Section 4D(5)(e):* The reference to a “close personal friend” is intended to contrast with someone who is a professional or business friend.

*Section 4D(5)(h):* Section 4D(5)(h) prohibits judges from accepting gifts, bequests, favors, or loans from lawyers or their firms if they have come or are likely to come before the judge; it also prohibits gifts, bequests, favors, or loans from clients of lawyers or their firms when the clients’ interests have come or are likely to come before the judge.

Under the last sentence of Section 4D(5)(h), some gifts may not be accepted even if they meet the requirements of Section 4D(5)(h). For example, a gift incident to public recognition of the judge in excess of the reporting amount in Section 4D(5)(h), or a loan on terms available only to judges, may not be accepted even though the donor or lender is not a party or other person who has come or is likely to come or whose interests have come or are likely to come before the judge; but extraordinary social hospitality, or a gift from a friend not for a special occasion, may be accepted if the donor is not a party or other person who has come or is likely to come or whose interests have come or are likely to come before the judge (and the judge reports the gift if the amount requires it.)

*Section 4E:* For new judges, Section 6B postpones the time for compliance with certain provisions of this Section in some cases.

Acting under a durable power of attorney or health care proxy are examples of service by the judge as an “other fiduciary” within Section 4E.

The restrictions imposed by this Section may conflict with the judge’s obligation as a fiduciary. For example, a judge shall resign as trustee if detriment to the trust would result from divestiture of holdings the retention of which

would place the judge in violation of Section 4D(4).

*Section 4G:* This prohibition refers to the practice of law in a representative capacity and not in a pro se capacity. A judge may act for himself or herself in all legal matters, including matters involving litigation and matters involving appearances before, or other dealings with, legislative and other governmental bodies. In acting pro se, a judge must not abuse the prestige of office to advance the interests of the judge. An illustration of such abuse would be appearing before a local zoning board in a matter relating to the judge’s property and referring to the judge’s judicial capacity.

*Section 4H:* See Section 4D(5)(h) regarding reporting of gifts, bequests, favors and loans. The Code does not prohibit a judge from receiving compensation from teaching or from accepting honoraria or speaking fees provided that the compensation is reasonable and commensurate with the task performed. A judge shall ensure, however, that no conflicts are created by the arrangement. A judge must not appear to trade on the judicial position for personal advantage. In addition, the source of the payment must not raise any question of undue influence or the judge’s ability or willingness to be impartial. An illustration of the requirement that compensation not exceed what a person who is not a judge would receive for the same activity would be that a judge’s compensation for teaching a law school course shall not be higher than that of other teachers merely because of the judge’s status as a judge.

*Section 4I:* A judge has the rights of any other citizen, including the right to privacy of the judge’s financial affairs, except to the extent that limitations are established by law and this Code. Disclosure of economic or relationship interests is required under Section 3E if a disqualification is to be overridden because of necessity and under Section 3F if remittal of disqualification is to be considered.

**CANON 5**  
**A JUDGE SHALL REFRAIN FROM**  
**POLITICAL ACTIVITY**

**5A. Political Conduct in General.**

**(1) A judge shall not:**

**(a) act as a leader of, or hold any office in, a political organization\*;**

**(b) make speeches for a political organization\* or candidate or publicly endorse a candidate for public office;**

**(c) solicit funds for, or pay an assessment or make a contribution to, a political organization\* or candidate, attend political gatherings, or purchase tickets for political party dinners, for functions conducted to raise money for holders of political office or for candidates for election to any political office, or for any other type of political function.**

**(2) A judge shall resign from the judicial position held when the judge becomes a candidate either in a primary or in a general election for elective office. On assuming a judicial position, a judge shall resign any elective public office then held.**

**(3) A judge may engage in activity in support or on behalf of measures to improve the law\*, the legal system, or the administration of justice.**

**Commentary:**

While it is recognized that judges have the right to vote, participate as citizens in their communities, and not be isolated from the society in which they live, those rights must be viewed in light of Section 2A which requires that a judge conduct himself or herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

A judge's participation in partisan politics may give the appearance of affecting his or her judicial actions or might actually affect the judge's judicial actions. A judge's endorsement of a candidate or appearance of an endorsement might well be viewed as judicial endorsement,

and thus would advance the "private interests" of that person. Such activity would also create doubt about a judge's impartiality towards persons, organizations, or factual issues that may come before the judge.

A judge may not attend an event that is run to raise money or gather support for or opposition to a political candidate or party. The judge may not attend an event that is partisan in nature. The judge may not engage in any partisan displays of public support, such as driving an automobile with a partisan bumper sticker, posting a campaign sign outside of the judge's residence, signing nomination papers for a political candidate or a ballot issue, carrying a campaign sign, distributing campaign literature, or encouraging people to vote for or give money to a particular candidate or political party.

A judge has the right to be an informed citizen. As such, it would be permissible for a judge to attend an event that is non-partisan, such as a forum that is open to all candidates and is intended to inform the public. Furthermore, in order to participate in an electoral primary, a judge may register as a member of a political party, but may not permit or encourage anyone to make that registration known.

A judge may not avoid the restrictions imposed by this Section by making contributions through a spouse or other family member. Political contributions by the judge's spouse must result from the independent choice of the spouse, and checks by which such contributions are made shall not include the name of the judge.

**CANON 6**  
**COMPLIANCE WITH THIS CODE**

**6A. Retired Judges**

**(1) A judge whose name has been placed upon the list of retired judges eligible to perform judicial duties, pursuant to G. L. c. 32, §§ 65E-65G, shall comply with all provisions of this Code during the term of such eligibility.**

**(2) A judge who has retired or resigned from judicial office shall not, for a period of six months following the date of retirement, resignation, or most recent service as a retired judge pursuant to G. L. c 32, §§ 65E-65G, perform court-connected dispute resolution services except on a pro bono publico basis, enter an appearance, or accept an appointment to represent any party in any court of the Commonwealth.**

**B. Time for Compliance**

**A person to whom this Code becomes applicable shall comply immediately with all its provisions except Sections 4D(2), 4D(3), and 4E and shall comply with those Sections as soon as reasonably possible and in any event within one year.**

**EFFECTIVE DATE OF COMPLIANCE**

**The effective date of compliance of this Code is October 1, 2003.**

COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT

SUFFOLK COUNTY  
No. OE

---

IN THE MATTER OF DIANE E. MORIARTY

---

CONDITIONAL SUBMISSION TO THE SUPREME JUDICIAL COURT UPON ACKNOWLEDGED EVIDENCE BY THE  
COMMISSION ON JUDICIAL CONDUCT AND THE HONORABLE DIANE E. MORIARTY  
PURSUANT TO G.L. C. 211C AND COMMISSION RULE 13B  
ON COMMISSION COMPLAINT NUMBERS 2007-89 AND 2007-108

---

VOLUME II

**IMPOUNDED**

---