

The Review



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Appeals Court Debuts New Initiative: the "Virtual Appellate Clerk"



The Appeals Court Clerk's Office launched in January the "*Virtual Appellate Clerk*," a help center on the Zoom video conference platform where Appeals Court personnel are available to answer questions, to assist court users (attorneys and self-represented parties) virtually, and to provide information about available resources regarding Appeals Court matters.

When asked about the genesis of the idea, John Nolan, a case coordinator in the Clerk's Office, stated that across the Commonwealth, about 200,000 people over the last two years have been assisted by this technology in the Probate and Family Court Department, "to great effect." He continued, "Everyone was responding to this, rather than the phone calls." Yoshiko Taylor, also a case coordinator in the Clerk's Office, opined that the probate user numbers are likely very high because the registry staff was "very keen on not having people come into the courthouse" as

the pandemic raged, so the registry staff "pushed their virtual registry."

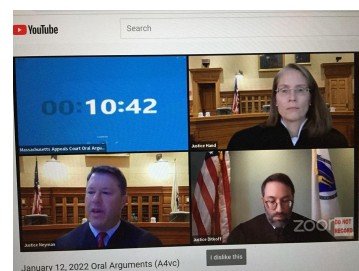
With success skyrocketing in the Probate and Family Court Department, it seemed like something to try at the Appeals Court. The concept was not pursued earlier because there were concerns that Appeals Court litigants might not have sufficient interest. In addition, there were concerns that some potential users might not have the means to access the technology. Nolan added, "Also, here, [the matter] could be urgent, like a motion to stay an eviction or an emergency bail petition." That is, at the Appeals Court, certain matters "live and die in just a couple of days." But the Clerk's Office wanted to continue safety protocols brought on by the COVID-19 pandemic, and also explore ways to better serve court users.

Usage has been slow but steady since its launch in early 2022. The first few weeks averaged about one person per two-hour session, but just one month in, two to three persons per session are logging in seeking assistance. Most have been attorneys or staff from other clerk's or register's offices -- and those users seem to prefer face-to-face contact to a voice on the end of a telephone.

The "Virtual Appellate Clerk" is currently open on Tuesdays and Thursdays from 2 to 4 P.M. As with in-person consultations, Appeals Court personnel are available to answer general and procedural questions, but they do not provide legal advice. Interested persons may click on a recurring Zoom link to join the session, where Nolan and Taylor staff the waiting room. Should a question require an assistant clerk, Nolan or Taylor can contact one and bring them into the Zoom session. "We [also] have many rooms set up, in case" privacy or volume requires it. And, as Taylor notes, "We are open to expanding the hours and days if there is a need," or if users "need help on different days."

Appeals Court Conducts Oral Argument via Zoom in January and February

Based on the sharp rise in COVID infections (and in test positivity rate) in late December of 2021, oral arguments scheduled for the Appeals Court's January and February 2022 sessions were conducted on the Zoom video conference platform with a live stream to the Appeals Court's YouTube channel. No in-person arguments were held.



Two business days before the argument, the Clerk's Office e-mailed notice of the Zoom session and log-in credentials to those persons who previously responded as appearing for an argument. The Appeals Court then held arguments based on the sequence of the cases appearing in the court's online calendar. For further information, counsel and parties were directed to consult the Appeals Court's guide on the use of video conferencing on the Appeals Court website.

Based on the continuing improvement in COVID infection rates, the Appeals Court resumed in-person oral arguments in March. COVID safety protocols remain in effect within the workspace and the courthouse.

The Appeals Court's DEI Challenge



In October of 2021, the Appeals Court's Standing Committee on Diversity, Equity, and Inclusion (DEI) introduced a three-week challenge to Appeals

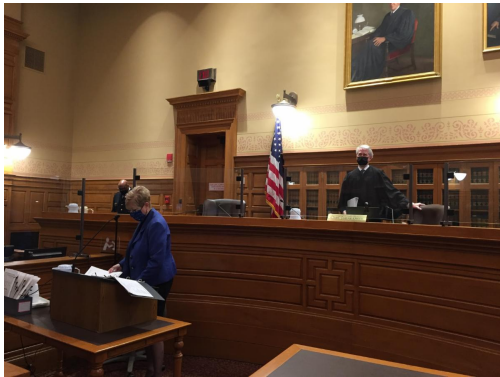
Court judges and staff. The challenge, designed to address issues of race and racism, called on judges and staff to read, listen, and watch selected articles, podcasts, and video recordings for two to three hours each week. Participants were also asked to join a one-hour, small group discussion at the end of each week to discuss the selected materials, the messages they conveyed, and the reactions and thoughts they provoked.

The DEI committee, co-chaired by Justices Kenneth V. Desmond, Jr., and Gregory Massing, initiated the challenge following the committee's own positive experience in the 2021 summer with the American Bar Association's (ABA's) 21-Day Racial Equity Habit-Building Challenge. The ABA challenge, adapted from a concept originally created by diversity expert Eddie Moore, Jr., "to advance deeper understandings of the intersections of race, power, privilege, supremacy and oppression," consisted of twenty-one assignments of varying media that "expose[d] participants to perspectives on elements of Black history, identity, and culture, and to the Black community's experience of racism in America." The DEI committee members found the ABA's challenge to be thought provoking and effective, and decided to design a modified version for the Appeals Court. Drawing from the ABA's materials, as well as other related sources, the DEI committee curated its own truncated syllabus of eleven assignments tailored to the Appeals Court, which included TED Talks by Megan Ming Francis and Vernā Myers and articles by Peggy McIntosh and Nikole Hannah-Jones.

Seventy-four Appeals Court judges and staff members participated in the challenge, including in the discussion groups, which were comprised of seven to fourteen participants from varying positions at the court. The discussion groups were composed of the same participants each of the three weeks to establish a sense of camaraderie and comfort among the group and were facilitated by members of the DEI committee. According to some who participated, the discussion groups provided a unique opportunity to have conversations about diversity and inclusion with other members of the Appeals Court and to learn from the lived experiences and perspectives of others.

After the completion of the challenge, the DEI committee sent an anonymous survey to Appeals Court judges and staff seeking feedback on the challenge to better inform future work by the committee. More than eighty percent of participants who completed the survey found the challenge materials and subsequent group discussions to be "fairly helpful" or "very helpful." One commented, "While there is still much work to be done, the discussion groups felt like a great step forward." *Authored by Tyler Creighton and Kileigh Stranahan.*

Appeals Court Law Clerks Sworn in to Massachusetts Bar



Chief Justice Mark V. Green (right) and Supreme Judicial Court Clerk for Suffolk County, Maura Doyle (left).



The new attorneys.

Twelve Appeals Court law clerks were sworn in as members of the Massachusetts Bar on December 17, 2021. Chief Justice Green presided over the proceedings in the John Adams Courthouse, receiving each motion for admission by either the judge to whom the law clerk is assigned or a professional colleague.

Chief Justice Green began the ceremony by noting what a pleasure it was to be together, even with the COVID-19 protocols; last year's ceremony was held over the Zoom video conference platform due to the ongoing pandemic. He stated that the law clerks were about to "enter into and share in the proud tradition" of being a lawyer in Massachusetts, and detailed the symbolic and tangible meanings of becoming a member of the bar: these lawyers will now have the authorization to represent clients, to sue and be sued on their clients' behalf, and to be trusted advisors. But they also, Chief Justice Green stressed, must "empower the powerless," "defend the defenseless," and consider it their "privilege, honor, and duty" to ensure "justice for all." He reminded everyone in attendance how the importance of the rule of law had become particularly clear in recent months.

The movants for the new admittees offered words of wisdom and compliments on what they so far had achieved, with descriptions ranging from "first-rate law clerk" to "a true contributor already." The event was organized by Maggi Farrell, the Law Clerk Manager, in coordination with the Supreme Judicial Court Clerk for Suffolk

County, Maura Doyle. Chief Court Officer Dana Smith also was in attendance and provided a visual security presence. In the many moments of light and levity, Clerk Doyle expressed dismay about the dearth of born-and-bred Massachusetts natives in the group, but nevertheless moved the process forward for each of the law clerks to join the profession.

After the motions for admission were allowed by Chief Justice Green, Clerk Doyle administered the statutory and attorney's oaths, and then called each law clerk to sign the "Roll of Attorneys." As the law clerks signed the roll, they were presented with their license by their respective moving party. Clerk Doyle concluded by offering insights based on her experience, including, "remember from whence you came -- the gift of intellect and perseverance brings you to this moment"; "be a peacemaker, not a hired gun"; do not measure success by "the size of your annual salary"; and lastly, "lighten up. . . . The work is serious, but don't take yourself too seriously. Life isn't just about the front page, it's about the comics too."

As Chief Justice Green adjourned the ceremony, he encouraged the newly admitted attorneys to take a moment to celebrate their accomplishments and the bright future ahead. The new members of the Massachusetts Bar are: Lauren Calderella, Tyler Creighton, Nicole Dill, Jennifer Guccione, Madison Harris-Parks, Alexandra Klindienst (admitted earlier this year), Gabrielle Muniz, Dylan O'Sullivan, Douglas Plume, Shareefah Taylor, Janki Viroja, and Allison Zakon.

The Appeals Court welcomes them to the profession!



SPOTLIGHT: Appeals Court Law Clerk Tyler Creighton



Newly minted lawyer and 2021-22 law clerk to Appeals Court Associate Justice Gregory Massing, Tyler Creighton was in the spotlight at his law school alma mater, Boston University School of Law (Law '21), for his extensive work in public interest law. The article appeared in the *December 2021 issue of The Record, News and Stories from BU Law.*

As the article details, Creighton applied for and received a public interest scholarship to BUSL after working several post-college years at both Common Cause Massachusetts and ReThink Media in

Washington, D.C. While at BUSL, Creighton was an online editor of the Boston University Law Review and continued his public interest work with internships at Greater Boston Legal Services and the National Consumer Law Center. Even with that background in civil work, the cases that have most interested him at the

Appeals Court have been the criminal cases, i.e., those dealing with the "Fourth Amendment and art. 12, which has been most surprising" to him. Overall, the clerkship experience has for Creighton been "a crash course" in areas of law to which he had not been exposed. After his clerkship year with Justice Massing, Creighton will begin a two-year (possibly longer) position with the Consumer Financial Protection Bureau.

Creighton was admitted to the Massachusetts bar in a ceremony held within the Appeals Court, at the John Adams Courthouse, on December 17, 2021. When asked what the day meant to him, Creighton said, "It felt like a long overdue culmination" of the last few years. He "embark[ed] on this journey, five years ago," when he started thinking about going to law school. Then there was the "LSAT, applications," et cetera. A lot has happened to bring him to this end point, Creighton says, "But in other ways, it is just the beginning."



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