

The Review



Volume 5, Issue 1
March 2023

ASSOCIATE JUSTICE KENNETH V. DESMOND, JR. NAMED PRESIDENT OF HARRY J. ELAM JUDICIAL CONFERENCE



The Justice Harry J. Elam Judicial Conference (formerly the Massachusetts Black Judges Conference) recently announced its new Executive Board members. The Appeals Court's own **Associate Justice Kenneth V. Desmond, Jr.**, was named President of the Conference. Other members of the Executive Board include Justices Arose W. Nielsen, Myong J. Joun, Steven M. Key, and Charles E. Walker, Jr.

The Conference was originally formed in 1977 as the Massachusetts Black Judges Conference by Justice Harry J. Elam, the first Black judge appointed to the Boston Municipal Court. Its mission is to provide support to the justices of color in the state and federal judiciary, to

educate its members and the bar, to be a visible presence and voice for people of color, and to provide a perspective of persons of color and ethnicity who are underrepresented in the judiciary.



MARCH IS NATIONAL JUDICIAL OUTREACH MONTH



The ABA Judicial Division's Judicial Outreach Network Committee urged active and retired judges to invite their communities to their courthouses and to go out into their communities during National Judicial Outreach Month (March) to meet with the public, in person or virtually, and talk about the Rule of Law and the work courts do every day.

Throughout the month of March, several Appeals Court Justices participated in outreach events to advance this important initiative. **Justice Amy Blake** spoke to the Boxford Council on Aging; **Justice Gregory Massing** visited the Melrose Veterans Memorial Middle School to speak to 300 8th grade Civics and Government students; and **Justice Marguerite Grant** spoke to AP US History Students at Fontbonne Academy in Milton (pictured above).

APPEALS COURT OFF-SITE SITTINGS SCHEDULED FOR SPRING

As part of a continuing effort to broaden public awareness, understanding, and accessibility of the Massachusetts court system, the Appeals Court conducted two off-site sittings in March with several more scheduled for later this spring.

March 6, 2023, at **New England Law - Boston** (Justice Blake, Justice Englander, and Justice Walsh).

March 8, 2023, at **Suffolk University Law School, Boston** (Justice Massing, Justice Hershfang, and Justice D'Angelo).

April 5, 2023, at **UMass, Boston** (Justice Sullivan, Justice Desmond, and Justice Singh).

April 10, 2023, at **Boston University School of Law, Boston** (Justice Milkey, Justice Massing, and Justice Henry).

May 1, 2023 (Law Day), at **Worcester Justice Center, Worcester** (Chief Justice Green, Justice Wolohojian, and Justice Sullivan).

May 10, 2023, at **Essex Superior Court, Newburyport** (Justice Meade, Justice Blake, and Justice Brennan).

June 7, 2023, at **Barnstable Superior Court, Barnstable** (Justices TBD).

Appeals Court court officers, representatives from the Clerk's Office, law clerks, and interns attended the sessions to assist at the off-site proceedings.

The remaining Appeals Court Justices hear oral arguments in cases on appeal at the John Adams Courthouse during these months.

New England Law - Boston

Pictured at right are **Justice Amy Blake** (panel chief, center) with **Justice John Englander** (left) and **Justice Maureen Walsh** (right) on March 6th at New England Law - Boston.



Professor Jordan Singer commented after the sitting: "I had several students buzzing to me afterward about the experience – the case precedents they recognized, the lessons of appellate advocacy that they learned, and the postgraduate opportunities that they now see before them."

ASSOCIATE JUSTICE **KATHRYN E. HAND** CO-AUTHORS JUDICIAL WELLNESS ARTICLE



Appeals Court **Associate Justice Kathryn E. Hand** co-authored an article on Judicial Wellness which appeared in the Boston Bar Journal last month. The article was a collaboration with District Court Judge Jennifer L. Ginsburg, who chairs the Judicial Well-Being Subcommittee of the SJC Standing Committee on Lawyer Well-Being. Justice Hand serves as a member of that committee.



The article is a result of the combined efforts of all members of the Judicial sub-committee, including Attorney Heidi Alexander, Hon. Margo Botsford (ret.), Hon. David J. Breen, Hon. Robert G. Fields, Hon. Mary Beth Heffernan, Hon. Susan Jacobs, Hon. Peter B. Krupp, Hon. Janine D. Rivers, Hon. Daniel C. Roache, and Hon. Michael D. Vhay.

The article can be found in Boston Bar Journal **Winter 2023**
Vol. 67 #1.

NOTICE: **EN BANC PILOT PROGRAM** UNDER WAY AT THE APPEALS COURT

In October 2022, the Appeals Court initiated an en banc pilot program that has temporarily replaced the court's protocol under *Sciaba Constr. Corp. v. Boston*, 35 Mass. App. Ct. 181, 181 n.2 (1993). The court has now scheduled its first oral argument

under this program: an en banc re-hearing that will be held on April 28, 2023, in [*Ferreira v. Charland, 2022-P-0300*](#), a summary process appeal. The sitting of all the Justices will be held on the Zoom videoconference platform and publicly livestreamed to the court's [YouTube channel](#). The court has invited the submission of amicus briefs in the case, which are due by April 7th. For details about the issues on appeal and how to file an amicus brief, please visit the court's [amicus briefs web page](#).

A description of the en banc pilot program follows. Under the program, all draft published opinions and rescript opinions will continue to be circulated internally to the justices for their review. Based on that review, a justice may call for a vote by the justices on whether to grant en banc review. En banc review will be granted only upon a majority vote of the justices on the basis that (1) the draft panel decision would conflict with a decision of the U.S. Supreme Court, the Supreme Judicial Court, or the Appeals Court and en banc review is necessary to maintain the uniformity of the court's decisions; or (2) the proceeding involves one or more questions of "exceptional importance."

If a majority of the justices vote in favor of en banc review, the parties will be notified of the en banc re-hearing date, and the amount of time that will be allotted for argument. The court will also notify the parties whether they are to submit supplemental briefing. The court may also solicit amicus briefs.

No party may request en banc review. Requests for en banc review by parties will not be accepted.

The en banc oral argument will be conducted by remote videoconference platform (Zoom) and livestreamed for public access on the Appeals Court's YouTube channel.

THE APPEALS COURT IS **LIVESTREAMING**

As previously announced, the Appeals Court livestreams all oral arguments in the Hale and Armstrong Courtrooms. This is in addition to the livestreaming of Zoom-based arguments.

To see oral argument livestreams, as well as past recordings, [go to the Appeals Court's YouTube channel, located here](#). Livestreams in progress will be featured at the top of the landing page. To find past arguments, you can use the search tab within the channel to search by date, party name, or docket number. (For best docket number searching, use the [full](#) docket number, including leading zeroes -- e.g., 2023-P-0123.)



2022 YOUTUBE CHANNEL - BY THE NUMBERS

During 2022, the Appeals Court held most oral arguments in person, except for January and February when, during a surge of COVID-19 cases, all proceedings were remote and livestreamed to the [Appeals Court's YouTube channel](#). In October, the Appeals Court livestreamed many of its 50th anniversary commemorative events, and in December the court began streaming its in-person arguments at the John Adams Courthouse. Streamed video recordings are archived and available on the YouTube channel.

Throughout 2022, the Appeals Court's YouTube channel had 43,000 views that totaled 7,300 hours of observation -- which equals 304 complete days' worth of watching oral

arguments. Most viewers were from the United States (88%), followed by the Dominican Republic (3%), India, Canada, and South Africa (1% each). The average viewing time was 10:09.

Watchers of the court's YouTube channel did so on various devices: most used a computer (54%), but many used a mobile phone (37%), and others used a tablet (5%) or TV (4%).

By age range, most viewers fell into age bracket 45-54 years old (24.6%), 35-44 (22%), 25-34 (20.5%), 65+ (14.7%), 55-64 (13.9%), and 18-24 (4.4%).

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