

BARRISTER

PUBLISHED BY THE BARNSTABLE COUNTY BAR ASSOCIATION

PRESIDENT'S MESSAGE

Winter 2018

Greetings Everyone - It is my honor and privilege to be serving as your current president of the Barnstable County Bar Association. Along with the wonderful group of lawyers serving on this year's Executive Board, I wish you all a healthy, happy and peaceful holiday season and all good things for 2018.

Some updates for those of you who were unable to make the Fall Bench and Bar Dinner. The Young Lawyers Division (YLD) continues to thrive. We have amongst us a very dedicated group of young lawyers who are very active in volunteering and giving back to this great community we call home. In particular, Rachel Hodgman, Sara Kohls and Nicole Ouelette, have been instrumental in arranging volunteer opportunities for our lawyers. Several lawyers volunteered at the Housing Assistance Corporation's "Big Fix" event which was held on Saturday, September 16, 2017 in Falmouth. Next year a similar event will be held in Harwich. If you are interested, contact Nicole Ouelette. On December 9th, several attorneys volunteered their time at the Cape Abilities Christmas Farm in Dennis. This is the second year lawyers have volunteered for this event. On December 14th, other lawyers volunteered for Housing Assistant Corporation's Annual telethon. We are always looking for other volunteer opportunities, so please let any member of the YLD, or other members of the Executive Board know.

Our Facebook page is up and running thanks to the efforts of Rachel Hodgman. Please check it out and "Like and Share"! There you will find news of upcoming events or other information of interest. In addition, our new and improved website is functioning well thanks to Michael Pierce and Eliza Zawdskas. The website is updated frequently with news of upcoming events and seminars as well as making it easier to register for membership. Here is the link. <https://barnstablebar.org>

The Annual Fall Bench and Bar dinner was held at the Ridge Club, Sandwich, on Thursday November 2nd. This was a well-attended event and the food was delicious. Our keynote speaker this year was Cape and Islands District Attorney Michael O'Keefe who spoke about the new Marijuana laws in conjunction with the Opioid epidemic. This topic led to many different opinions being discussed amongst those in attendance.

This fall we hosted some seminars, in particular one on the new Massachusetts Child Support Guidelines, and hope to continue to have meaningful seminars in 2018. Please email any member of the executive board to let them know of any subject matter you wish to see a seminar held on.

I know it's hard to think about next June given the cold weather we are currently experiencing, but the annual Red Sox game outing is something to think about. It's always a fun event and I hope you will join us. More information to follow.

In closing if you have any ideas thoughts or questions or want to become more involved please don't hesitate to contact me. In the meantime take care of yourselves and each other. As you go about your practice, I leave you with these thoughts for the times in we live:

DESIDERATA:

"Amid the Noise and Haste remember the Peace one finds in Silence. Be Gracious in Disagreement, Calm in Discord, and Gentle to people of lesser station.

Speak your Truth quietly, not Loudly. Let caution in your business not blind you to the virtues of others. Whatever Love you give, make certain it be True. Feigned affection is worse than a curse. Forego the impulse of Youth and take the Counsel of your Years. Keep interested in your Career no matter how humble. Nurture your Spirit for sudden misfortune. Fatigue and Loneliness breed Fear- so, beyond a healthy discipline, be gentle to yourself and keep peace with all Persons, above all- with your Soul. You have a right to belong, no less than the trees. Whatever you conceive God to be, be at Peace with Him. Despite all of its drudgery and broken dreams, this is still a beautiful World and Happiness is yours if you strive for it."

From text Dated 1692 Found in Old St. Paul's Church, Baltimore MD.

All the best, Sarah Manning, President.

A new face in the DA's Office

Fellow members of the Barnstable County Bar Association, I would like to take this opportunity to introduce you to John Mooney, the most recent Assistant District Attorney here on the Cape and Islands.

Matthew is a graduate of the University of Connecticut School of Law. He served as a Captain in the United States Army in Iraq in 2005 -2006, and in the National Guard until 2010.

He was sworn in on October 31, 2017 and I am pleased to have him on our staff.

It was a pleasure to see many of you at the Bench and Bar Dinner.

As always, if you have any issue which you would like to make me aware of or discuss, I am but a phone call or visit away.

Very Truly Yours,

Michael O'Keefe
District Attorney



NEWS FROM SOUTH COASTAL LEGAL SERVICES

SCCLS LAUNCHES NEW PROJECT FOR VICTIMS OF CRIME

Victims of crime often find they need help with a civil legal issue related to the crime. A victim of domestic violence may need help with an abuse prevention order, a divorce, or an immigration matter. An elder suffering from financial exploitation may need help with a credit or housing case. Other crime victims may need help with access to health care, disability benefits or victim compensation.

South Coastal Counties Legal Services has launched a Civil Legal Aid to Victims of Crime (CLAVC) project that will expand the services we provide currently to victims of crime. The CLAVC Project is a statewide initiative made possible by funding from the Massachusetts

Office for Victim Assistance (MOVA) through a Victims of Crime Act (VOCA) grant from the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice.

Applicants in need of services are encouraged to contact our CLAVC Intake Line at 774-488-5958. Applicants can also apply on-line at our website at sccls.org. Additionally, court staff, law enforcement, clinicians, educators, and other social service providers are invited to use a very stream-lined referral form at the following URL: <http://bit.ly/clavcreferral>. This can be used for clients living anywhere in the state as it will direct applicants to the correct CLAVC program for their area.

If you have questions about the CLAVC initiative in Southeastern Massachusetts, Cape Cod and the Islands, please contact Carolyn Sheppard, SCCLS Paralegal for the CLAVC Initiative, at 774-488-5958 or email her at csheppard@sccls.org.

Cara Harding

Attorney At Law
P.O. Box 1236
Barnstable, MA 02630
774.994.0363
caraharding@comcast.net

Specializing in
Qualified Domestic Relations Orders

Where to go with questions about a QDRO

A Qualified Domestic Relations Order, or QDRO, is a court order entered pursuant to a divorce or legal separation that divides a retirement or pension plan. Retirement and pension plans are marital assets and subject to equitable division under Massachusetts General Law, Ch. 208, Section 34. The Probate and Family Court often awards the non-employee spouse a percentage of the employee's retirement annuity. The non-employee spouse becomes an alternate payee, and the QDRO is the document that effectuates the transaction.

QDROs apply to employee pension plans that are subject to the Employee Retirement Income Security Act (ERISA). ERISA is the federal law that governs private sector pensions. A comparable order is required to divide federal, state, municipal and county retirement benefits. The QDRO requires the plan administrator to pay a specified amount to the non-employee spouse as part of the division of the couple's assets, and determines who will pay income taxes on any payment. QDROs are also often required to divide 401K, 403B, IRA or SEP benefits, all of which are assets subject to equitable division in divorce cases.

All QDROs need to be drafted specifically in accordance with the terms of the pension plan

being divided. It is standard practice to submit a proposed Qualified Domestic Relations Order to the pension plan administrator for approval before it is submitted to the judge for his or her signature.

Until now, there has not been a law practice on Cape Cod devoted to drafting QDROs. Attorney Cara Harding saw the need, and is developing a practice which will focus exclusively on drafting QDROs. "After twenty-five years in divorce court, I decided it was time to take my practice in a new direction." Because she is giving up the litigation side of her practice, Attorney Harding will be able to prepare a draft QDRO for approval by the plan administrator within thirty days.

Attorney Harding has owned and operated a law practice on Cape Cod since 1994, and was employed as the Domestic Relations Staff Attorney for Piedmont Legal Services in South Carolina from 1992-1993. She received a B.A. from Boston College in 1987, a J.D. from the University of South Carolina in 1991 and a Master's Degree from Harvard University in 2009. Cara can be reached at caraharding@comcast.net or 774-994-0363. Please visit her website at www.qdrolawycararaharding.com

Dunning, Kirrane, McNichols & Garner, LLP is pleased to announce the addition of a new associate attorney, Nicole B. Norkevicius. She concentrates in representing clients in Family law matters in the Probate and Family Courts. <http://www.dunningkirrane.com/>

Attorney Norkevicius is a graduate of Worcester Polytechnic Institute and a Cum Laude graduate of New England School of Law. She is a member of the Massachusetts Bar and has practiced for over 10 years.





**BARNSTABLE COUNTY
BAR ASSOCIATION**

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Fiscal Year 2017-2018

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Barnstable Probate and Family Court News

On September 15, 2017, Judge Arthur C. Ryley was sworn in as the First Justice of the Barnstable Probate and Family Court by Chief Justice Angela M. Ordonez. Judges, Court officials, Members of the Bar and Court Staff were in attendance to congratulate Judge Ryley and to offer appreciation to Judge Robert A. Scandurra for his many years serving as the First Justice of the Barnstable Probate and Family Court.

As you may know, the Barnstable Probate and Family Court is now accepting certain types of cases for E-filing. You may now file Divorces pursuant to Massachusetts General Laws

Chapter 208, Section 1B, Informal Estates, Formal Estates, Voluntary Personal Representative Petitions, and Guardianships of Incapacitated Persons. With respect to estates, if there is a Will, you must file the original Will within three business days. Please visit www.eFileMA.com for more information.

Please feel free to contact myself or the staff at any time with your questions. My best wishes to all of you for a Happy, Healthy and Successful New Year!

Sincerely,
Anastasia Welsh Perrino,
Esq. Barnstable County
Register of Probate





Mary E. Phillips, RPR

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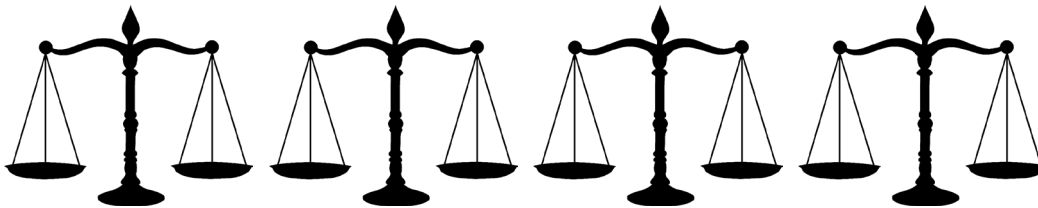
P.O. Box 160, Sagamore Beach, MA 02562



CAPE COD
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PARALEGAL PROGRAM

If you are interested in hiring a student for an unpaid internship, or for more information, please contact program director Justin DuClos at (617) 600-8787 or jduclos@capecod.edu.



Barnstable County Sheriff's Office

CIVIL PROCESS DIVISION

Our deputy sheriffs are strategically located throughout Cape Cod for fast efficient service.

SERVICE OF PROCESS INCLUDES

- Capias (Arrest)
- Summonses
- Complaints
- Subpoenas
- Notice to Quit
- Evictions
- Executions
- Seizures
- Levies
- Sheriff's Sales
- Writs of Attachment
- Letters & Postings
- Domestic Relations
- All Civil & Probate Notices

*Notary services available at our office.
We will notarize, copy and deliver your
service, usually the same day.*

SERVICE OF JUDICIAL PROCESS

Common law has established sheriffs as the highest law enforcement officers within the County. They work diligently to maintain a highly trained and professional staff, as mandated by this statutory responsibility

*The BCSO Civil Process
Division in Barnstable Village is open
Monday through
Friday from 8:30 am to 5:00 pm.*

SERVING ALL OF CAPE COD



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Focus on Barnstable Superior Court

I want to thank the bar association for giving me this opportunity to address them with what is going on in Superior Court. We now have two conference rooms on the second floor that can be used by attorneys to have private conversations with their clients or to use to talk with other counsel about resolving a case. The rooms can also be booked for depositions if necessary by contacting me at 508-375-6684 and when you get to the opening message press 6. They are located in the old third session Judge's lobby and the former jury check-in office on the second floor.

There is now a lounge to be used by *attorneys and court staff only* to wait during court recesses, lunch recesses and during jury deliberations. The lounge contains two restrooms and is located in the old victim witness room by the elevator on the second floor. *This room is not to be used for meetings with your clients as we have conference rooms for that purpose.*

Civil Pre-Trial conferences and Trial Assignment conferences are now being held in the third session judge's lobby on the main floor directly across from the third session courtroom. Attorneys should wait on the bench in the hallway or at the table in the main lobby where you enter the courthouse. Please do not wait upstairs outside the main session courtroom or in the second session courtroom.

The lock-up project will hopefully begin in the summer of 2018. This project has been long overdue and I will keep the bar updated on this project.

The court recording system called FTR will be in all trial court departments in the very future so it will be beneficial for all members of the bar to become familiar with the system regardless of what courts they practice in. When the system is being used, anyone can request audio access of non-impounded recordings and request transcripts by going to us.court.fm. There is a fee involved in requesting access which at

present is \$50.50 per recording. The recordings can be requested online at any time but will need to be approved by my office and this will only be done during normal business hours of the clerk's office. I am very pleased and proud that Barnstable Superior Court was chosen as a pilot for this service as it shows how well this office is run and the great staff I have working for me.

I would also like to announce that the new e-filing pilot in the Superior Court has started in Barnstable Superior Court with a limited number of firms being able to e-file on new tort cases only. We are experiencing some docketing and financial issues which we are in the process of correcting. If any firm or practitioner wishes to join the pilot, *we are looking for a few more offices that file tort cases to test out the pilot program.* If you are interested, please let me know. I am hopeful that by the next newsletter the project will be expanding to other superior courts and maybe other case types. Again, I am pleased that Barnstable Superior Court was chosen for this pilot as it shows our commitment to be on the forefront of court technology and the confidence court administrators have in myself and my office. I will keep the bar updated as things progress.

As always if any member of the bar has any questions, comments, concerns, suggestions, please feel free to contact me at 508-375-6684 then press 6 or by email at

scott.nickerson@jud.state.ma.us. I wish everyone a Happy and Healthy Holiday Season!

Scott W. Nickerson,
Clerk of Courts
Barnstable County



Private Attorney Involvement Project

'Tis the Season for Giving: Over the past year South Coastal Counties Legal Services' Private Attorney Involvement Project ("PAI") has greatly benefitted from the voluntary contributions of over 2,420 hours by 145 attorneys to those most in need in Southeastern Massachusetts, Cape Cod & Islands. Yet, the demand for assistance never ceases, and for that reason, SCCLS needs your help to advise and represent pro bono and compensated clients on the Cape and Islands. We refer cases for a variety of civil legal issues including Ch. 7 bankruptcy petitions; simple document preparation of wills, durable powers of attorney, and health care proxies; family law and guardianships; foreclosure prevention; private housing matters including evictions; and education cases. Mentoring, professional liability coverage for referred cases, reduced-tuition MCLE vouchers upon completion of a case, and free trainings throughout the year are available to all PAI Volunteers. We are in the process of revising our compensated cases referral program. Stand by for the announcement of these revisions in 2018.



Please contact Victoria Gautney at 508-742-1340 or vgautney@sccls.org to learn more about SCCLS' PAI Project and/or to volunteer. Best wishes to all for a wonderful holiday season!



NEW ADMITTEES RECEPTION

Barnstable Tavern on Wednesday,
February 7, 2018 from 5:30 P.M. to
7:30 P.M.



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