



Federal Bar Association

Massachusetts Chapter



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Newsletter

Harrison Kaplan, Editor

SPRING 2019

President's Column

By Jonathan Handler



At the FBA Massachusetts Chapter, we have had a Spring season overflowing with excellent events of broad appeal. Those events included: three entries in the "Breakfast with the Bench" series, featuring U.S. Supreme Court Justice Stephen G. Breyer, Chief Judge Patti Saris of the U.S. District Court for the District of Massachusetts,

and Judge Gary Katzmann of the Court of International Trade; a Young Lawyers Division lunch with Judge George O'Toole of the District of Massachusetts; an Intellectual Property "career night" for law students co-sponsored with the FBA National IP Section; and the much beloved "Goldilocks on Trial" under the auspices of Judge Frank Bailey of the Bankruptcy Court. My deepest thanks as always to all the Chapter Board Members who have worked so hard to make these events successful.

As previewed in my *Winter 2019 Newsletter* column, we also commenced our "FBA MA Chapter Presents" programming in an effort to expand the scope of subjects we address while also broadening our potential audience. Our first program featured UCLA law professor Adam Winkler speaking about his recent book on corporate free speech rights. It was very well received. Most recently, our programming czars David Lawless and Nicole O'Connor organized a superb panel discussion on "Hot Topics in Immigration." That program, too, was well attended and drew a large audience to the Jury Assembly Room at the Moakley Courthouse.

In other news, on May 23, Chapter members helped mark the 10th Anniversary of the federal courthouse in Springfield. It was a great opportunity for all of us to appreciate the award-winning design of the courthouse and the efforts that went into bringing the building to life. After remarks from an august group of speakers including

Chief Judge Saris, Senior Judge Michael Ponsor, Congressman Richard Neal, and courthouse architect Moshe Safdie, Clerk of Court Robert Farrell delivered a rousing tribute to Judge Ponsor. At the conclusion of his remarks, Rob presented Judge Ponsor with a beautiful bench hand-crafted from the fallen limb of a majestic linden tree that stands in the wooded area abutting the courthouse's signature "spiral crescent." It was a wonderful moment.

Of course we are all looking forward to June 11 when the Chapter will host its Annual Judicial Reception in honor of Judge Rya Zobel. We are thrilled to be recognizing Judge Zobel for her 40+ years of dedication to the court, the lawyers who appear before her, and her staff and law clerks. The devotion she inspires among all who have crossed her path is remarkable. In light of the upcoming Judicial Reception, we are particularly enthused about this issue of the newsletter because Wendy Zazik, Vice President and Associate General Counsel for Fidelity Investments, has been kind enough to write the wonderful biography of Judge Zobel (for whom she clerked) that begins on page four. I know you will enjoy it.

We will have further programming over the summer at which we hope to see many of you. We will also publish another issue of the newsletter in the coming months that will include a wrap-up for the 2018-2019 year and a report on the upcoming Judicial Reception.

We look forward to seeing you all on June 11 as we honor Judge Zobel.



THE MASSACHUSETTS CHAPTER OF THE FEDERAL BAR ASSOCIATION

ANNUAL FEDERAL JUDICIAL RECEPTION

JUNE 11, 2019

6:00 PM - 9:00 PM

BOSTON HARBOR HOTEL, WHARF ROOM

WE WILL RECOGNIZE

THE HONORABLE RYA W. ZOBEL FOR

HER SERVICE TO THE JUDICIARY, BAR, AND COMMUNITY

Government Relations Update

By Nathan A. Olin – National Council Delegate, Massachusetts Chapter

As the FBA National Council Delegate for the Massachusetts Chapter, I am pleased to summarize several pieces of interesting information recently coming out of Washington, D.C. First, President Jonathan Handler, Clerk of Court Rob Farrell, President-Elect Juliet Davison, and I attended the March mid-year meeting. Our Massachusetts chapter was highlighted for its robust programming efforts we all engaged in lively discussion around sections, division and chapter issues. Clerk Farrell is emerging as a national leader for the new “Clerk of Courts” division and former Presidents Scott Lopez and Matt Moschella were, respectively, acknowledged as Circuit Vice President and Chair of the national Sections and Divisions Council. I am pleased to continue my role on the Sections and Divisions Council as well as part of the national Diversity and Inclusion Task Force, which is now heading into its third year. One highlight of the national meeting was a reception with Supreme Court Associate Justice Neil Gorsuch.

Second, our chapter provided leadership at Capitol Hill Day on March 21st. President-Elect Davison, Clerk Farrell and I joined FBA leaders from across the country where we met with House and Senate offices and discussed FBA legislative issues that impact the administration of justice and the federal courts. Funding of the courts and the filling of judicial vacancies continue to be areas of critical concern, particularly as the association connects with new leaders in the executive branch. Finally, our chapter is looking to have a strong presence at the national convention in Tampa, Florida, September 5-7, 2019.



Nathan Olin, National Council Delegate, President-Elect Juliet Davison, and Clerk of Court Rob Farrell

Hot Topics in Immigration:

From the Border to the Board Room

On May 30, 2019, the Mass. Chapter of the FBA held a panel discussion focused on current issues in immigration law. The lively and informative conversation was moderated by Shannon Dooling of WBUR and featured panelists Judge F. Dennis Saylor IV, Professor Kristin Collins of Boston University School of Law, Ivan Espinoza-Madrugal, Executive Director of the Lawyers’ Committee for Civil Rights and Economic Justice, Susan Church, of Demissie & Church, and Matthew Maiona, of Maiona Ward Immigration Law. Panelists spoke on a variety of subjects, including asylum, the travel ban, business immigration, sanctuary jurisdictions and policies, and general practice-related questions.

This is the first in a series of events on topical issues in the law hosted by the FBA’s New Programming Committee co-chaired by FBA board members Nicole O’Connor and David S. Lawless. The series is the brainchild of Chief Judge Patti Saris and Clerk of Court Robert Farrell and is intended to provide practitioners and the public with programming that is relevant to current events and trends in the law.



Breakfast with the Bench Series

Each month the Mass. Chapter of the FBA sponsors a breakfast with a member of our bench. Each breakfast features a judge or magistrate judge from the First Circuit or the District Court for the District of Massachusetts. Each breakfast is open to the bar and is held in the Judges' dining room in the Moakley Courthouse. We are fortunate to have judges who enjoy participating in these events and are open and candid about the important issues discussed. Special thanks to all the judges who have participated in this unique program.

RECENT BREAKFASTS:

:: **May 17, 2019**

Judge Gary Katzmann of the U.S. Court of International Trade

On May 17, 2019, Judge Gary Katzmann of the United States Court of International Trade gave a lively and informative presentation on the wide-ranging work of the CIT at a Breakfast with the Bench sponsored by the Mass. Chapter of the FBA. Since September 2016, (following twelve years on the Massachusetts Appeals Court), Judge Katzmann has been a judge on the CIT, an Article III lifetime appointment (equivalent to the Federal District Court). The CIT is a national court and deals with fascinating issues and ranges of cases. For example, Judge Katzmann has written decisions involving an endangered species (the vaquita, the smallest porpoise), the constitutionality of the legislation that has been the basis for "national security" tariffs imposed by the President on steel and aluminum, and fair trade (dumping and unfair subsidies), and customs cases.



From L to R: Assistant US Attorney James Herbert; Clerk of Court Rob Farrell, Chief Judge Patti Saris, Judge Gary Katzmann, President-Elect of FBA-MA Juliet A. Davison, Immediate Past President of FBA-MA Harvey Weiner, and Robert Sinsheimer, Member of the Board of FBA-MA.

:: **June 7, 2019**

U.S. Supreme Court Justice Stephen G. Breyer

On June 7, 2019, the Mass. Chapter of the FBA was delighted to host a special edition of the Breakfast with the Bench series with U.S. Supreme Court Justice Stephen G. Breyer. Justice Breyer described how the Court decides which cases will be heard and how the Justices work together to reach decisions. He then responded to questions from the attendees ranging from topics relating to the Court's jurisprudence in the area of the death penalty to the question of which baseball player's contribution to baseball most resembled Justice Breyer's contribution to the law (A: Jim Rice). It was an informative and engaging presentation and the Chapter thanks Justice Breyer for sharing his time with us so generously.



From L to R: President-Elect of FBA-MA Juliet A. Davison, FBA-MA President Jonathan Handler, Former President Lisa Tittmore, Immediate Past-President Harvey Weiner, Justice Stephen G. Breyer, Former President Michelle Schaffer, and Former President Matthew Baltay.

Profile - Judge Rya W. Zobel

By Wendy Zazik

"[I]t's very important to have a sense of humor in this business. And you cannot take yourself seriously. I mean, you've got to take the business seriously, but not yourself."

Four decades after she first went on the bench, Judge Rya Zobel still believes she has the "best job in the law." That is because she eagerly engages in each of the cases on her docket, deeply appreciates the weight her rulings have on people's lives, has profound respect for the litigants and their attorneys, and treasures her staff. Judges, understandably, may feel daunted by the myriad of complex matters brought before them, but Judge Zobel brings her enthusiastic curiosity to every new subject. Whether learning about "the provenance of a painting in the Museum of Fine Arts, how the internet runs, how cameras are made, how a small city runs itself, or how a river is affected by something that happens upstream," she is a quick study who relishes the opportunity presented by each new case.

It is not only her keen intellect that she brings to every case that distinguishes Judge Zobel, but also her compassion and respect for everyone in her courtroom. She has long understood what lawmakers are only beginning to notice: The Federal Sentencing Guidelines can create unjust results, so she applies them with great care. Indeed, she shows kindness and understanding in matters large and small. When a lawyer missed his train to Boston for a scheduling conference, Judge Zobel graciously and with her signature hearty laugh invited him to participate by phone and, from a station platform with the rattle of passing trains, he gratefully did. Once, following a lobby conference filled with multiple all-male parties and lawyers, one cheerfully called out, "Good-bye girls!" to the Judge and her female staff. Perhaps another judge might have been offended and viewed the farewell as overly familiar or even patronizing. Judge Zobel was unfazed, understanding that she could be more effective when parties felt comfortable with her and, at the same time, confident in her own ability to maintain decorum.

She is beloved by her staff and recognized as much for her intelligence as for her humor and interest in their lives. Her judicial assistant is a close confidante upon whom, along with her courtroom clerk, she relies for advice and expertise. Among her former law clerks is an eclectic collection of federal and state judges, criminal defense attorneys, law firm partners and associates, public interest lawyers, and in-house counsel, all of whom are devotees and many who have become cherished friends. Some of her current and former staff enjoyed joining the judge in yoga and exercise classes held in chambers or being treated to flowers that she delivered weekly.

It is plain to see how Judge Zobel's competence, attitude, and determination have led to her success but she would give due credit to being "in the right place at the right time." When she graduated from Harvard Law School in 1956 and law firms were not hiring women,



Judge Zobel landed a position as a law clerk and remained there for the next decade. She reflects on her good fortune because she was able to work part-time when she had young children which provided more of a work-life balance than if she had gone to a law firm. Thereafter, from being a woman among many who were excluded by virtue of their gender, she became a woman of many "firsts": In 1976, she was elected the first woman partner at Goodwin; In 1979, President Jimmy Carter appointed her the first

woman federal judge for the District of Massachusetts; In 1992, she met with President Bill Clinton as he considered whom he would appoint to be the first woman United States Attorney General. Janet Reno was selected but Judge Zobel returned to Washington three years later as the first woman Director of the Federal Judicial Center. Throughout her career, she never felt demeaned because of her gender, though there were occasionally male colleagues who made rather absent-minded comments and whom she enlightened with gentle humor. While appreciating the significance of her firsts and the impact to men and women alike, Judge Zobel was delighted when other women joined her in every aspect of her professional life, from law firm partnership to the bench to her staff.

In addition to her busy docket, Judge Zobel has spent time in a wide variety of activities often blending professional with personal. For example, she relishes participating in the annual production of "Shakespeare and the Law" alongside companion thespians from the bench and bar. Her international vacations from Antarctica to Zimbabwe may just as easily involve meeting members of a foreign judiciary as going for a spa treatment. At home in Charlestown, she enjoys cooking with herbs cultivated from her rooftop garden where she has created a sanctuary filled with fragrant, bright blossoms. She regularly shares the verdant tranquility of her garden and warmth of her home, welcoming friends and family with delicious feasts she lovingly prepares and often serves on plates painted by her children when they were in grade school. Her many, many close friends span all ages and walks of life, including artists whose work she proudly displays in her home and chambers and whose studios she delights in visiting. She also finds joy in the buzz of activity in her neighborhood, from concerts in City Square to children playing in the park. Moreover, for thirty years Judge Zobel has been actively involved in Boston's Handel and Haydn Society, first serving on the Board of Governors, then the Board of Overseers, and always as a BSO subscriber and enthusiast. Not least, she cherishes her children, grandchildren, and extended family.

(continued on next page)

Profile - Judge Rya W. Zobel *(continued)*

Her love of the arts has been a touchstone throughout her life. Music was a mainstay in her childhood home in Zwickau, Germany where she was born in 1931. Her mother was a concert violinist from Hungary who regularly practiced with a professional quartet in their home creating a conservatory of sorts where her younger brother played violin, she played piano, and her father treasured the music that filled their home. Along with happy memories of music, she fondly recalls going to school and taking walks with her father. Her joy, however, was followed by hardship and then tragedy.

During World War II, a combination of luck and ingenuity enabled her family to survive food shortages and bombings by the Allied forces. Her parents also made it through Nazi interrogations concealing her mother's Jewish identity (a fact Judge Zobel did not learn until she arrived in the United States). In the War's immediate aftermath, American soldiers established themselves in her family's home. When the Americans departed, Russian soldiers marched into their East German town and, in July 1945, arrested her parents after a neighborhood boy denounced them as American spies. She never saw her father again and it would be a decade before she saw her mother. At thirteen years old, she and her younger brother spent the next year and a half on a journey West that ultimately led them to the loving arms of their Hungarian-born maternal uncles and grandmother who had emigrated to America many years earlier, and to whom she remains extraordinarily grateful. She has powerful memories of seeing (and saluting) the Statue of Liberty for the first time as their ship pulled into New York Harbor on January 16, 1947. A bright student and outgoing teenager, she thrived in high school and then Radcliffe College where she studied economics. By the time she was reunited with her mother, she was married and completing law school.

Although she became an American citizen 70 years ago, Judge Zobel still feels the pride of citizenship which she brings, along with profound empathy, when she administers the oath to new immigrants during naturalization ceremonies. Her inquisitiveness and humility drive her to ask questions and listen carefully. At the same time, if asked, she generously shares her wisdom. For those paying close attention, there are many life lessons that extend beyond the courtroom. She encourages new judges to trust that they will learn on the job but also to "learn to be concise, and how to hold their own counsel." She runs her courtroom "gently but firmly, with respect for everyone" and suggests new judges do likewise. To lawyers, be mindful of their own reputation. To all, remain curious and have fun! She is certainly a model in each of these respects.

* * *

Wendy Zazik is VP and Associate General Counsel for Fidelity Investments. After graduation from law school, she proudly served as a law clerk to the Honorable Rya W. Zobel and continues to look forward to their lunches together. Wendy is grateful to Lily DiBlasi, Judicial Assistant to Judge Zobel, for her friendship and contributions to this profile. Wendy also has deep appreciation for two sources she consulted and one from which she quoted:

Gabrielle R. Wolohojian, Associate Justice of the Massachusetts Appeals Court, "An Interview with the Honorable Rya W. Zobel," 58 Boston Bar J. (Fall 2014) with the permission of the Boston Bar Association; and Women Trailblazers in the Law 2008 "Oral History of Rya W. Zobel" (Nancy D. Israel) with the permission of the American Bar Association. ©2008 by the American Bar Association.

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The Ginny Hurley Memorial Scholarship

Ginny Hurley joined the Clerk's Office of the United States District Court, District of Massachusetts in 1976 as a Deputy Clerk. Through the years her responsibilities grew and she touched the lives of virtually every member of the Court family. From 2003 until her passing, Ginny was responsible for organizing all of the educational programs at the Court for the bench, bar and public. Her title of "Outreach Coordinator" reflected the fact that she was the face of the court, welcoming all who came to take part in the judicial system, including dignitaries from around the world, international and national press, and students from down the street, all with grace and a smile. Ginny was a good friend, teacher and mentor. She was a quick wit, and had the ability to make people laugh.

Ginny derived great satisfaction coordinating the Court's summer programs for high school and college students – the Lindsay and Nelson Fellowship programs. She helped nurture and train the next generation to appreciate and participate in the legal progress. In memory of her tremendous work

for these students, the Massachusetts Chapter of the Federal Bar Association has established the Ginny Hurley Memorial Scholarship. This scholarship, for books or tuition expenses, will be awarded annually to all graduating Lindsay and Nelson Fellows.

Donations are welcome. Checks should be made out to **Federal Bar Association – Massachusetts Chapter..**

Please include a note designating the funds for Ginny Hurley Memorial Scholarship..

Donations should be sent to FBA Treasurer Josh Segal, Lawson & Weitzen, LLP, 88 Black Falcon Avenue, Suite 345, Boston, MA 02210

Goldilocks On Trial

Led by Judge Frank J. Bailey in Boston's Federal Bankruptcy Court

On April 30, 2019, our Chapter participated in "Goldilocks On Trial," a mock trial led by Judge Frank J. Bailey in Boston's Federal Bankruptcy Court. Judge Bailey and his staff put on a wonderful event and thankfully called on the MA Chapter of the FBA to help recruit attorney volunteers. The mock trial participants were 5th grade students from The Curtis Guild School, a BPS school in Charlestown. Several FBA members and board members volunteered their mornings to help the children execute a great mock trial.



For some of the kids, it was their first time in Boston and they were awed by just being in the courtroom itself, let alone sitting at Counsel's Table and speaking on behalf of their "clients." Naturally, Goldilocks was "on trial" for Trespass, Vandalism, and Theft; the jury (all children) was deadlocked. One lone holdout from the jury could not be convinced to let Goldilocks off. Interestingly, all the other jurors thought that exigent circumstances (being lost, cold, and hungry) relieved Goldilocks from any guilty finding. Judge Bailey wanted to send the jury back to work harder but since it was already afternoon, he let them off the hook. Goldilocks likely had lots of friends on the jury.



FBA MA Chapter Presents:

Lunch with Professor Adam Winkler

On March 22, 2019, we were pleased to hold the first of our "FBA MA Chapter Presents" events, which featured UCLA Law Professor Adam Winkler discussing his new book, *We the Corporations: How American Businesses Won Their Civil Rights*. The book, which was a finalist for both the National Book Award and the National Book Critics Circle Award, chronicles the history of one of the most successful yet least well-known civil rights movements in American history, i.e., the fight to win equal rights for business corporations. Professor Winkler is among the top twenty most cited law professors in American courts, and his writing has appeared in the *New York Times*, *Wall Street Journal*, *New York Review of Books*, *Washington Post*, *Atlantic*, *Slate*, and the *New Republic*. He gave a fascinating, entertaining presentation on the topic covered by his book and then participated in a spirited Q&A with the attendees, which included Chief Judge Saris and Judge Talwani.



The Chapter appreciates Clerk Robert Farrell for both suggesting the topic and arranging for Professor Winkler to join us. We received remarkably enthusiastic feedback about the event, and many attendees urged us to host similar events in the future. We intend to do just that.



From L to R: Carolyn Meckbach, FBA-MA President Jonathan Handler, Professor Adam Winkler, and FBA-MA Secretary Steve Hansen.

Springfield Federal Courthouse 10th Anniversary Celebration

On May 23, 2019, the United States District Court for the District of Massachusetts warmly celebrated the 10th anniversary of its youngest courthouse, the edifice at 300 State Street in Springfield, which was designed by renowned architect Moshe Safdie. As both District Judge Michael A. Ponsor and Congressman Richard Neal remarked, the structure is geographically situated in the midst of Massachusetts and United States landmarks and is the home to segments of all three branches of the federal government. The main building incorporates a magnificent staircase and sweeping glass windows that reflect grand lights. According to Safdie: “Light is used as a way of expressing the transparency of the judicial process and the celebration of its importance and dignity in our civic society.”



Photo credit: Wesley Olin



Photo credit: Bernadette Wyman

The celebration included additional reflections from Judge Ponsor and Congressman Neal, who is the current chair of the House Ways and Means Committee, on various challenges and joys involved with bringing this important public work to completion in late 2008. Also offering words were Safdie, Chief Judge Patti B. Saris, and District Judge Mark G. Mastroianni, the latter of whom sits in Springfield. Many additional judges and other dignitaries—along with current and former employees, representatives of the Government Services Agency, and friends—were also in attendance. Near the end of the ceremony, Rob Farrell, clerk of court, presented Judge Ponsor with a retirement bench carved out of wood salvaged from one of the ancient trees incorporated into the courthouse design.

Intellectual Property Law Career Night

On April 24, 2019, the Massachusetts Chapter partnered with the Intellectual Property Law Section of the FBA to present “Bright Thoughts for IP Law Careers,” an event geared for law students area to meet, greet, and speak with Boston-based intellectual property law practitioners and get engaged in what the FBA Massachusetts Chapter has to offer.

The event was at the Olde Union Oyster House in Boston and had a great turnout, bringing together law students from all over New England who are interested in the practice of intellectual property.



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