

Legal Lines

A Publication of the Worcester County Bar Association

February 2010

Volume 10, Number 5

PRESIDENT'S MESSAGE

by Blaise P. Berthiaume

You are reading the first edition of Legal Lines to be published and distributed electronically. We thought long and hard about this transition, but in the final analysis, it simply made financial sense. Like many if not most bar associations, the current economic climate compels us to be frugal and the cost of hard copy mailings became hard to ignore.

I am pleased to report that the WCBA has engaged Kittay New Media to redesign the Bar Association's Web site. Dan Kittay has worked for and with bar associations for more than twenty years and also writes frequently on technology topics for Bar Leader magazine. Our redesigned site, once completed,
- continued on page 3

WCBA BANKRUPTCY LAW SECTION MEETING WITH JUDGE ROSENTHAL

Judge Joel B. Rosenthal will make a presentation to the Worcester County Bar Association's Bankruptcy Section on March 4th at 1:00 p.m. at the 55 Pearl Restaurant in Worcester.

Please RSVP to Carl Aframe by email only at aframe@aframebarnhill.com. There will be a \$10.00 charge collected at the door for lunch.

THE FEDERAL DISTRICT COURT COMMITTEE
of the
WORCESTER COUNTY BAR ASSOCIATION

Invites you to attend a seminar on

"EFFECTIVE USE OF VISUAL AIDS AT TRIAL"

Demonstrations on the use of electronics, charts, photographs and visual aids.

Panel

Hon. F. Dennis Saylor, IV, United States District Judge
Hon. Timothy S. Hillman, United States Magistrate Judge
Roy A. Bourgeois, Esq., Worcester
Mary Elizabeth Carmody, Esq., US Attorney's Office, Boston

Moderator

Michael J. Michaelles, Esq., Worcester

Thursday, March 4, 2010

4 p.m. to 5:30 p.m.

United States District Court

595 Main Street, 5th Floor, Worcester, Massachusetts

WCBA members no admission fee, non-members \$40

BENCH BAR DAY PROGRAM PRE-VIEW

Our annual **Bench/Bar Day** will be held on **Thursday, March 18, 2010**, starting at 1:00 p.m. at the Crowne Plaza Hotel, Lincoln Square, Worcester

Worcester County Bench/Bar Day is a day of continuing legal education programs. The seminars presented during Bench/Bar Day are sponsored by a committee or section of the Worcester County Bar Association. Seminar programs start at 1:00 p.m. and run through 5:15 p.m. The seminar programs will be followed by a Judges Reception, sponsored by the Bench/Bar committee.

The following is a preview of the program that will be presented by the Law Office Technology section as part of Bench/Bar Day.

"**Mass Data Security Regulations**", sponsored by the Law Office Technology section.

Topics to be covered are:

- Encrypted e-mail solution;
- Risk assessment and WISP creation; and
- Backup information for e-mail encryption.

This new "standard" requires all businesses that deal with personal data to have a written and executed information security plan (WISP) that details how they will properly store, safeguard and dispose of personal information.

The program moderator is Robert S. White, co-chair of the WCBA Law Office Technology section. The presenters are David Crowe, director of marketing, Catuogno Court Reporting, Charlie Christianson, president, Peritus Security Partners and Daniel Shea, channel partner sales, Zix Corp.

HOPE TO SEE YOU THERE!

RESERVE THE DATE NOW

for our

PUBLIC OFFICIAL RECOGNITION DINNER

The co-chairs of the WCBA Government Relations Committee, Anthony J. Vigliotti and Francis A. Ford, have announced that our Public Official Recognition Dinner will be held on April 7, 2010, at Coral Seafood, Shrewsbury Street, Worcester. Please reserve this date in your calendars now. Further details of the event will be published in future issues of Legal Lines. We hope you will be able to attend and support this very important event.

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Worcester, MA 01608
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Web Site: www.worcestercountybar.org

Our most recent ADR Section meeting was attended by Paul Sushchyk, Carolyn Mitchell, Polly Tatum, Carolyn DePasquale, Joan Arnold and James Van Buren.

An informed and useful proposal was made by James Van Buren to create and institute an ADR Mediation/ Conciliation Program for the Worcester Probate and Family Court. The ADR program would be limited to C. 208, 1B divorce actions (no domestic violence) where both parties are represented by counsel or both pro-se avoiding the appearance of favoring the party with representation. The ADR Program requires approval from chief justice Carey's office.

Participation in the ADR Program would be voluntary by the parties, with a referral (by the judge) to the program at the pre-trial conference stage. The referral would be made to the list coordinator – who in turn would make referral to a conciliator/mediator. The conciliator/mediator would then contact counsel and/or parties and establish a meeting date. The meeting could be held at a location determined by the conciliator/mediator.

The conciliator/mediator may offer to prepare a separation or settlement agreement for the parties to sign and present to the probate court for approval. The program may possibly use a pre-prepared form such as is used in Hampden County. The conciliator/mediator would be required to file a report about the settlement terms reached if the parties do not have an agreement prepared. The parties may also be referred to the Lawyer's Referral Service of the Worcester County Bar Association for further legal assistance.

Ideally the conciliator/mediator would have at least ten years experience in the practice.

A list coordinator person must be found; this person does not have to be a family law attorney, but would only need to be willing to coordinate the referral from the probate court to the conciliator/mediator. It is anticipated that much of the referral would be done electronically by e-mail. There was a suggestion to further investigate a possible individual or someone from a law firm willing to step into this volunteer position.

James Van Buren agreed to contact the list coordinator at the Hampden County Probate & Family Court program to obtain additional information and forms. Several of the ADR section members will travel to meet with the Hampden County coordinator and review the program details.

Following the meeting with the Hampden County Probate & Family Court list coordinator, we will schedule another meeting of the ADR section and invite also the Family Law section and the Probate Court committee members to attend.

Legal Lines

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A monthly publication
of the Worcester County Bar Association,
19 Norwich Street, Worcester, MA 01608
www.worcestercountybar.org

Editor: Brian J. Buckley

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PRESIDENT'S MESSAGE

- continued from front page

will allow WCBA members and the public to have quick, easy access to information about the bar. We will have "members only" areas, such as a member directory. While the content on the directory remains under discussion, possibilities include not only contact information, including email access, but also photos of and background information about members. Also proposed is a podcast download area. We hope to provide audio podcasts of seminars conducted by our various committees and sections, providing our members with convenient and gratuitous access to our educational programs. We also hope to link with professional and social networking sites. I recently read an article in the New York Times which reported that 85% of lawyers between the ages of 26 and 35 belong to sites such as LinkedIn and Facebook. As I learned at the American Bar Association's Bar Leadership Institute in Chicago last March, having a presence on such sites is becoming an effective and low cost marketing tool, particularly to attract younger members of the bar. We also hope to incorporate the WCBA Lawyer Referral Service into the Web site, which will facilitate access to the program by enabling the public to complete a request for information online.

Although I cannot provide a definite completion date, I assure you that this is an active work in progress and it is my hope that the new Web site will be up and running by our annual dinner this June.

I would like to especially thank Attorneys Robert White and Gavin Reardon, co-chairs of our Law Office Technology Committee, whose technological skill, expertise and involvement have been instrumental in moving this project forward. I would also be remiss if I didn't thank our Executive Director, Sandy DiLuzio, whose practical knowledge and experience in the needs and realities of the Bar always keep us on an even keel.

In last month's edition of Legal Lines, in connection with the celebration of the 150th Anniversary of the Massachusetts Superior Court, I asked the bar for comments on noteworthy cases arising out of the Worcester Superior Court. The celebration includes the installation of static exhibits in courthouses across the Commonwealth on such topics as separation of powers, the independence of the judiciary, the jury system and subjects of local and regional interest. Mark Goldstein responded with an article published in this edition of Legal Lines detailing the case that his father, Attorney Arthur Goldstein, brought against the City of Worcester, which changed the way that real estate was assessed and taxed throughout the Commonwealth. Dave Talman wrote of two cases which he argued before the Supreme Judicial Court. Liberty Square Development Trust, et al v. City of Worcester, 441 Mass 605 (2004) defined the constitutional standard for interest payable to condemnees in land damage cases and Whitinsville Plaza, Inc. v. Kotseas, 378 Mass 85 (1979) overruled prior law to uphold anti-competitive covenants in shopping center leases, adding a dimension to the then newly enacted Consumer Protection Act as it applied to businesses as plaintiffs. Thank you, Mark and Dave, for your contributions.

Finally, I recently attended the swearing in of the Hon. David Ricciardone as First Justice of the District Court of Western Worcester in East Brookfield. Judge Ricciardone has always

been involved in the WCBA, having served on the Committee for Professional Responsibility and also as a past president of Bar Advocates of Worcester County, Inc. Congratulations, Judge. The Western Worcester County Bar is happy to have you out here.

LOOKING FOR ATTORNEYS NEW TO THE WORCESTER COUNTY AREA

The Membership Committee of the Worcester County Bar Association, chaired by attorneys John A. Shea and Michael R. Christy, will sponsor our annual New Lawyer Reception on Thursday, April 15, 2010, at 5:00 p.m., at Club Maxine's in Worcester.

The reception is a wonderful opportunity for young attorneys or attorneys new to the area to meet judges, court staff and seasoned members of the bar in an informal, social setting. We are inviting attorneys who were admitted to practice law for three years or less, along with various representatives of the court departments and leaders of the WCBA. If there are any lawyers in your firm who are new to the area or newly admitted to practice, please contact Linda Peters at the WCBA at 508-752-1311 office so we may send them an invitation to attend the event. Thank you for your assistance.

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THE FEDERAL DISTRICT COURT AND
SUPERIOR COURT COMMITTEES
of the
WORCESTER COUNTY BAR ASSOCIATION

Invite you to attend a seminar on

"WITNESS EXAMINATION AND TRIAL OBJECTIONS"

This program is a continuation in a series of trying a case from start to finish, and will focus on witness examination and trial objections.

Panel

- Hon. F. Dennis Saylor IV, United States District Judge
- Hon. Timothy S. Hillman, United States Magistrate Judge
- Hon. John S. McCann, Massachusetts Superior Court Judge
- Hon. James R. Lemire, Massachusetts Superior Court Judge
- Hon. Richard T. Tucker, Massachusetts Superior Court Judge
- John F. Keenan, Esq., Worcester
- Paul P. O'Connor, Esq., Worcester

Moderator

Michael J. Michaelaes, Esq.

Date, Time and Place

Tuesday, April 27, 2010
4 p.m. to 5:30 p.m.
United States District Court
595 Main St, 5th Floor
Worcester, Massachusetts

WCBA members no admission fee, nonmembers \$40

WELCOME NEW MEMBERS

The Worcester County Bar Association would like to welcome the following new member to our Association: Ayham Bahnassi, Matthew J. Holmes, Rebecca Houde, Kathryn A. Kerins, John T. Martin, Chris Milne, Beth Morin-Johnson, Christine A. Olivari, Ross A. Pytko, Sherri Sacks-Martin, Pamela S. Stevens, Michael E. Swain, Brad T. Yaylaian and Courtney E. Ziegler

WELCOME!!

**MICHAEL ES ELECTED TO AMERICAN
BOARD OF TRIAL ADVOCATES**

The American Board of Trial Advocates (ABOTA), a national trial lawyers' association, recently announced that at its annual meeting in Aspen, Colorado, **Michael J. Michaelaes**, Worcester trial lawyer, was elected to membership. Membership is by invitation only, and eligibility is based on high personal character, honorable reputation, and proficiency as a trial lawyer.

Congratulations, Attorney Michaelaes!

MARK YOUR CALENDARS!!!

LAW DAY

Law in the 21st Century:
Emerging Challenges and Enduring Traditions

Friday, April 30, 2010
7:30 a.m. – 9:00 a.m.

Law Day Breakfast

Crowne Plaza Hotel
10 Lincoln Square
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**WORCESTER COUNTY AA LAWYERS
MEETINGS**

The Worcester County AA Lawyers Meeting meets the last Thursday of every month at 5:30 p.m. at Blessed Sacrament Church on Pleasant Street (rear), Worcester, MA. Any questions, please contact Attorney James F. Connors, 58 Oliver Street, Fitchburg, MA 01420, 978-345-2671.

LEGAL LINES

SAVE THE DATE!

The New Membership Committee of the Worcester County Bar Association Annual Cocktail Reception to Welcome New Lawyers to Worcester County Bar Association.

Thursday, April 15, 2010
5:00 p.m. to 7:30 p.m.
Maxwell Silverman's - Club Maxine's
25 Union Street, Worcester, MA

WORCESTER COUNTY BAR ASSOCIATION
presents
Worcester County Bench/Bar Day
A Continuing Legal Education Program

March 18, 2010
Crowne Plaza Hotel, Worcester
1:00 p.m. – 5:15 p.m. – Seminar Programs
5:15 p.m. – Bench/Bar Reception

On Thursday, March 18, 2010 we are holding our Annual Bench/Bar Day, which is a program of continuing legal education seminars. Many of our members, as well as other experts, will present programs filled with information on several areas of law. Listed below are the programs and you will see that the seminars represent an excellent assortment of interests. We will conclude the day with a Bench/Bar cocktail reception.

We extend a special thank you to each WCBA committee/section that is sponsoring a seminar and to all of our speakers.

1:00 p.m. – 2:15 p.m. - First Session

"Water, Water, Everywhere", sponsored by the Real Estate Law Section.

"Estate Planning for Families with Special Needs", sponsored by the Tax, Trusts and Estate Section.

2:30 p.m. – 3:45 p.m. - Second Session

"Landlord Tenant Practice", sponsored by the Housing Court Committee.

"Ethical Issues for the Personal Injury Attorney", sponsored by the Professional Responsibility Committee.

4:00 p.m. – 5:15 p.m. - Third Session

"Establishing Support Orders in Family Law Cases", sponsored by the Family Law Section.

"Massachusetts Data Security Regulations", sponsored by the Law Office Technology Section.

5:15 p.m. – 7:00 p.m.

Bench/Bar Reception – sponsored by the Bench/Bar Committee. (You will be able to register for this event separately if you are unable to attend the full day.)

Registration forms to attend the event will be mailed soon. Watch your mail! If you have any questions please contact the WCBA office at 508-752-1311.

WE HOPE YOU WILL JOIN US ON THE 18th OF MARCH!!!

CLLOUD COMPUTING IN THE LEGAL PROFESSION

By Christopher J. Ryan
Member, WCBA Law Office Technology Section

You may have heard the terms “cloud computing” or “Software as a Service” (SaaS). Cloud computing and SaaS refer to the delivery of software services over the internet to your web browser instead of housing software on your local computer system or network. More and more solos and small firms are choosing SaaS over the traditional business model of purchasing legal software that gets loaded onto your computer or network.

Many attorneys have been using SaaS for quite some time without knowing it. For example, some popular email programs are cloud based such as Gmail, Yahoo Mail, and Mailworks. Calendar programs such as Google Calendar are completely cloud based. Most on-line legal research is cloud based such as Westlaw, Lexis, and my favorite, the Social Law Library on-line legal research portal.

Most attorneys are familiar with the above cloud based services having used at least one of them for some time. It was only a matter of time before other types of web based software services would come to market. For example, a number of companies are offering SaaS practice management software. I personally reviewed Clio (www.goclio.com) and found it to be extremely easy to use with a 30 minute learning curve. It looks to be a great service for a solo or small firm. Two other cloud based practice management services are RocketMatter (www.rocketmatter.com) and Advologix (www.advologix.com).

Besides practice management, SaaS providers offer litigation support with Image Depot (www.imagedepot.com), and Lexbe (www.lexbe.com), time tracking with Bill4Time (www.bill4time.com), Chrometa (www.chrometa.com), and Fossil (www.thirstysea.com) which I personally use on my iPhone. You can find law firm collaboration with PBworks (www.pbworks.com) and Dialawg (www.dialawg.com).

SaaS has some distinct advantages over the traditional model. With SaaS, you are not chained to a specific computer. You can access your files from just about anywhere so long as you have a computer or smart phone and an internet connection. No more forgetting to load up your briefcase with every single document possibly needed only to find that you forgot something while in the court house lobby. With SaaS, you simply log onto your cloud based practice management or document management software and retrieve what you need. There’s nothing like SaaS for the mobile lawyer.

Another advantage is that most SaaS providers have a professional staff that continuously back up all data so the risk of data loss is extremely small. Most solo and small firms have inadequate backup procedures in comparison to the SaaS providers. In addition, with SaaS, long term costs appear to be lower as you simply pay a monthly fee per user. All software and hardware upgrades, etc. are already built into the monthly fee. SaaS eliminates the need for a complicated and expensive computer network and the high costs associated with network maintenance. You won’t need a computer consultant anymore. Expensive hardware and software upgrades will be eliminated. All you’ll need for SaaS is a computer, laptop, or smart phone with internet access. When you compare costs, SaaS appears to be the clear winner.

Lastly, some firms are concerned about SaaS data security. Many SaaS vendors use 256 bit SSL encryption which is similar to what banks use. Vendors perform daily security sweeps and adhere to strict written security policies. Considering that many attorneys regularly use unencrypted email to transmit and receive sensitive data, the SaaS vendors are much more secure than common practice.

In closing, SaaS is an emerging software delivery platform that appears to be the right fit for many solo and small firms. As SaaS vendors and products evolve, more and more firms will embrace the SaaS business model. Software loaded onto computers and networks will be eventually replaced by software delivered to the user via a web browser. It’s happening right now.

WORCESTER COUNTY BAR ASSOCIATION
EIGHTH ANNUAL
WINTER SOCIAL & AMATEUR EIGHT-BALL POOL TOURNAMENT

The WCBA annual Winter Social & Amateur Eight-Ball Pool Tournament is now scheduled to determine this year's bragging rights for the best (or luckiest) amateur pool players among our members and to promote the collegiality for which our Bar Association members are famous. It is a great event for socializing with WCBA members you have not yet met, and for renewing old acquaintances. It promises to be a **FUN TIME** where **EVEN THE NOVICE PLAYER CAN WIN**. The large crowd from the Bar and Bench who attended last year's event all reported having an enjoyable time.

DATE AND TIME: **Thursday March 25, 2010**
 6:00 pm to 9:00 pm

Players should arrive by 5:45 pm for check-in, rules and format info. etc.

WHERE: **BOSTON BILLIARD CLUB**
 454 Grove Street Worcester

As in past years, the event will have teams (2 players on a team) competing against one another in an 8 Ball match. **If you want to sign up but don't have a teammate, you will be paired up with another player.** Other information on the format and rules for the match will be reviewed with players before the start of the event and any questions will be answered by the event's co-chairs, Tony Tomasiello and Tom Manning. **Spectators are welcomed and encouraged to attend.**

The WCBA Pool Team Champions' Trophy, now held by attorneys Peter Gentile and Jack Lapomardo, will be awarded to the winner. The runner up trophy (currently held by attorneys Bob Cotton and Norm Romano) will also be presented to the second place team. Other prizes, awards and honorable mentions will be distributed throughout the event. There will also be an appetizer buffet for those registered for the event. Cash bar.

The event should be well attended and entry may be limited to the first 32 players to sign up, so **SIGN UP EARLY** by completing the registration form and returning it to the Worcester County Bar Association at 19 Norwich Street Worcester, MA 01608 with your **entry fee: \$20.00 per person**

WCBA POOL TOURNAMENT REGISTRATION

Name: _____
Address: _____ E-Mail Address _____

Tel.#: _____
Please list the name of your teammate: _____

If you want to have a teammate assigned, check here _____

Please submit this registration form with the entry fee of \$20.00 per person to:
WCBA 19 Norwich St. Worcester, MA 01608 **by March 19, 2010**

(Referenced in this month's President's Message)

Summary of Court Ordered Assessment Revaluation in the City of Worcester, MA – 1970 - 1980

Upon taking office, an assessor's swears "that I will neither over value nor undervalue any properties subject to taxation, and that I will faithfully perform all the duties of said office." G.L. c. 41 § 29.

The basic cause for revaluation in Worcester, MA was the accumulation of property value inequities. A court order, prompted by a taxpayer's lawsuit, compelled the City of Worcester to revalue the city's properties at full and fair cash value.

Alan and Arthur Goldstein, brothers and lawyers, had bought homes on the opposite sides of a street in Worcester, MA. In comparing their 1971 tax bills, they discovered that the city assessed one home at 57% of the purchase price, and the other at 38%. Based upon this inequity, the Goldstein's conducted research and uncovered sufficient discrepancies involving the assessed value of properties throughout the City of Worcester. Representing 10 taxpayers of the City of Worcester, the Goldstein's filed a Bill of Complaint to force the city to revalue the tax assessments.

Judge Henry Chmielinski, of the Worcester Superior Court, responded to the pleading by issuing a temporary restraining order preventing the City of Worcester from issuing property tax bills. The court also issued a temporary decree forcing the City of Worcester to revalue all of their property. In August, 1972, Judge Chmielinski lifted the restraining order based on a Stipulation Agreement between the parties that the City of Worcester would revalue all of its properties to 100% revaluation.

The Master in the case, Julian Soshnick, Esquire, presented his opinion concerning the city's assessing process:

"That in the years 1970, 1971, and 1972, the assessments of real estate made by the Respondent members of the Board of Assessors of the City of Worcester have been based upon a policy of arbitrariness, discrimination and capriciousness. The assessments placed upon the said properties by the Assessors varied widely from the full and fair case value of the property. The assessments placed upon the real estate ranged between nine-tenths of one per cent (0.9%) of the full and fair cash value to three hundred and twenty-one and forty-three one hundred per cent (321.43%) of the full and fair cash market value. In only one instance of the of a real estate transfer in the City of Worcester, of all of the properties transferred and recorded in the Registry of Deeds in the years 1970 and 1971, was a hundred percent (100%) assessment placed thereon by the Respondent Assessors.

I therefore conclude that the Respondent Board of Assessors and their predecessors in office have pursued a policy and practice of establishing valuations, assessing real estate within the City of Worcester in an arbitrary, discriminatory and capricious manner without regard to the full, fair cash value thereof. As these assessments vary so widely from the full and fair cash value of the properties, I must conclude that there is neither discernible pattern nor comprehensible manner of scheme for distinguishing between various types of property, which has been followed by the assessors. I further conclude that in view of the grossly disproportional relationship between the percentage of assessment placed upon similar types of real estate that there is no pattern or intelligible technique which is followed by the Assessors of the City of Worcester, Respondents herein, in assessing any of the real estate within their jurisdiction." (*Superior Court Equity No. 5215, Alan Goldstein v. Joseph W. Carney Master's Report*)

Although the court had ordered revaluation for all of the properties, the City procrastinated in fulfilling its mandate. The City's first evaluation plan was presented on December 27, 1972 and Judge Chmielinski rejected that plan. The City forwarded a second amended plan, which was also rejected by the Court in February, 1973. A third plan was finally accepted by the court.

Judge Chmielinski made it clear that he had no confidence in the City of Worcester's Assessors to complete the goal of revaluation. He stated after the second rejected plan:

I herewith direct that in or within a week from this date the respondents submit a further plan of revaluation based upon a format which precludes as much as in humanly possible participation by the respondent Assessors, through consistent with the powers and duties which in this case are unfortunately vested in them by Stature; such a plan to bring about a fair, impartial and equitable revaluation of the City of Worcester. Interstitially, I should add that as a part of the plan nothing less than complete candor and honesty, inclusive of making available to the public all notes and working papers used in the valuation process, will be accepted."

To this end I suggest to the respondents that this Court lacks faith in their ability or willingness to carry out their Statutory mandate. To suggest that additional Assessors, selected and/or under the control of the respondents would be satisfactory, is almost an insult to the Court, much akin to setting out the fox to guard the chicken coop. A plan which calls for anything but minimal discretion by the assessors consistent with the powers and duties imposed upon them by Statute will not be acceptable. This court assumes that the Respondents will not be so foolhardy as to submit a further plan which will be inconsistent with the findings and Decree.” (Report prepared on the rejection of the city’s first plan – Judge Henry H. Chmielinski, Justice Superior Court, December 27, 1972)

During the implantation of the plan, there were a number of highly contested city council meetings with irate citizens concerned about the potential increase of their real estate values. The city assessors were not fully invested in the court order and the amended plan. The City Manager, Francis McGrath, had rejected the master’s conclusions and defended his chief assessor during the revaluation process.

The court pulled the city assessors almost completely out of the evaluation process. At one point, there were allegations that the City Assessor had made false statements concerning specific court testimony. The court eventually dismissed the action.

The process to force the City of Worcester to revalue all of its property at 100% assessment was the impetus for all cities and towns within the Commonwealth to adhere to this procedure. Although, the concept of revaluation had created a perception that the taxpayer would be hurt, the issue was that all the taxpayers would be paying their fair assessed value for their property. One hundred percent (100%) assessed evaluation is required by State law. The Goldstein lawsuit was the impetus to ensure that real estate is fairly assessed and taxed by municipalities.

Submitted by:
Mark A. Goldstein, Esquire

Exclusive Professional Liability Insurance for Worcester County Bar Association Members

The WCBA Insurance Committee is pleased to announce a collaboration between North American Professional Liability Insurance Agency, LLC (NAPLIA) and The Worcester County Bar Association to bring a comprehensive program of professional liability insurance to WCBA association membership.

This collaboration brings significant benefits to WCBA members including:

- “One-stop Shopping” with an agency having expertise in professional liability coverage
- Discounted coverage for WCBA members offered exclusively through NAPLIA by Hanover Insurance Company and Delos Insurance Company
- Identity Theft Resolution Services offered free to all WCBA members
- Presentation of Educational programs for WCBA members

Established in 1998, North American Professional Liability Insurance Agency, LLC specializes in providing professional liability insurance, errors and omissions insurance and related products. Their focused approach on education makes them leaders in the industry. NAPLIA has been named to the INC 5000 for the past two years, and has been recognized by the Worcester Business Journal as a Top Insurance Agency.

Contact NAPLIA and you will speak with someone experienced in the Massachusetts Lawyers Professional Liability market. Their goal is to provide you with information and assist you with risk management and making sure that you have the best coverage for your firm.

For more information go to www.naplia.com/wcba, or call NAPLIA directly at 508-656-1300.

North American Professional Liability Insurance Agency, LLC (NAPLIA)
5 Whittier Street, 4th floor
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(fax) 508-656-1399

What Is Your Client's Intellectual Property Strategy?

*By Catherine Rajwani, Co-Chair
Intellectual Property Committee*

Many of our clients do not have an integrated intellectual property strategy. For larger business clients, different divisions – sales, R&D, marketing, legal, *etc.* – function separately without the proper level of coordination concerning the acquisition and clearance of IP rights. Smaller business clients often lack the in-house legal person or team to analyze the various aspects of law implicated – IP acquisition and/or prosecution, licensing and litigation – in order to formulate a comprehensive IP strategy. The results for each client are similar: products go to market without a thorough freedom to operate analysis; R&D efforts are wasted because resulting innovations are not properly targeted and expeditiously protected; marketing campaigns are launched without IP clearance and protection.

Usually in a rush to bring a product to market, proper protection of IP is often overlooked until it is too late. The results can be costly. A client's competitors freely copy a key product. A client must immediately stop an otherwise successful marketing campaign. A client needs to quickly pull and redesign a key product. Any of these occurrences can have a devastating impact on your clients' businesses.

In order for your clients to protect their IP assets and avoid costly conflicts, they need to have a comprehensive IP strategy which is integrated amongst their various business functions. Formulating such a strategy begins by identifying the IP that your client currently owns – patents, trademarks, copyrights, and/or trade secrets. Next, their IP must be valued. Does the portfolio adequately protect the key IP assets of your client's business? Are your client's licenses producing royalty income? Finally, and most importantly, you need to look ahead to where and how your client's business is growing in order to determine whether your clients are taking the correct steps now to obtain and protect their IP assets later. Is IP in-development owned by your client via employment agreements and/or third-party contracts? Are your clients aware of publication, use, and on-sale bars which could cause them to lose their domestic and international IP rights? Are your clients limiting their trademark applications to product or service areas in which they are actually using their trademarks? Do they have the proper security measures in place to adequately protect their trade secrets?

There is no one size fits all IP strategy. In addition, a strategy implemented a few years back may no longer be valid given your client's recent growth, downsizing, new products, or changing R&D environment. Helping your clients to proactively plan and implement their IP strategy will not only be less costly in the long run but it will also give your clients a cohesive and comprehensive blueprint for success.

*Catherine Rajwani is an intellectual property attorney with The Harbor Law Group in Northborough, MA
(www.harborlaw.com).*

MINUTES OF THE INTELLECTUAL PROPERTY COMMITTEE

The Worcester County Bar Association Intellectual Property Committee held a meeting on January 21 at the Harbor Law Group in Northboro. Attendees included Dave Rouille, Catherine Rajwani, Mary Casey, Art Williams, Stan Hill, Rajesh Fotedar, Daniel Kreigsman, and Anya Downing.

Catherine Rajwani gave a presentation regarding "The Accelerated Patent Process - Debunking The Myths". In particular she described how certain myths are not based on facts. These included:

1. The required prior art search being too expensive and possibly resulting in inequitable conduct claims in the event of litigation;
2. A subsequent search could invalidate a patent obtained through the accelerated exam process;
3. The patent will not be granted over the prior art found;
4. The accelerated exam support document creates unfavorable prosecution history; and
5. A patent resulting from the accelerated exam procedure is inferior to a patent obtained through the conventional procedure.

Catherine presented several factors and led discussions showing these myths to be false, and related why the accelerated exam process should be considered by inventors who have a need for obtaining a patent within a year of filing.

The next meeting is scheduled for March 18, 2010, at 3:00 at Chapin IP Law in Westboro. Maria Joseph will be giving a presentation regarding the use of mediation in IP agreements.

If anyone has any topics they would like to see discussed, please bring them to my attention. Any topic related to IP is welcome. The meetings are open to all members of the WCBA.

Submitted by,

David W. Rouille, co-chair
Intellectual Property Committee

DIAL-A-LAWYER VOLUNTEERS NEEDED

The Law Day Committee of the Worcester County Bar Association is sponsoring our annual Dial-A-Lawyer Program from **5:00 p.m. – 7:00 p.m. on Monday, April 26 and Tuesday, April 27, 2010** at the WCBA offices. This program allows the public to make telephone inquiries, free of charge, to volunteers from our association as part of our Law Day activities.

VOLUNTEERS ARE NEEDED TO SERVE THIS COMMUNITY PROGRAM OF THE ASSOCIATION. We need to fill time slots that will run from 5:00 p.m. - 6:00 p.m. and 6:00 p.m. - 7:00 p.m. If you are available for one of these time slots on either evening indicated above, please sign up by calling Sandra M. DiLuzio at the WCBA office at 508-752-1311. Thank you for your continued support and involvement in WCBA sponsored programs.

**The WCBA Law Office Technology Section
presents**

**“The LinkedIn Lawyer”
How to Use Legal Social Media to Enhance Your Practice**

Presented by David A. Barrett, Esq.

**Robert S. White, Moderator
Co-chair WCBA Law Office Technology Section**

David A. Barrett, Esq. is a business litigation attorney in Greater Boston, Massachusetts. David is also Director of Social Media for The Rainmaker Institute, the nation's largest legal marketing firm, and Vice-President of Business Development for LawRex (the Lawyer Referral Exchange).

David will demonstrate how the use of social media tools like LinkedIn, Facebook, Twitter and legal blawging may enhance your legal practice. Topics will include: Generating legal referrals with social media, social media and legal ethics and social media for the busy professional.

**April 8, 2010
4:00 p.m. to 6:30 p.m.
Worcester District Registry of Deeds
Commonwealth Room
90 Front Street, Worcester, MA**

**\$10.00 for WCBA Members
\$40.00 for Non-Member**

Seating is limited so please register in advance by April 2, 2010 by returning the attached form along with your payment to: Worcester County Bar Association, 19 Norwich Street, Worcester, MA 01608.

For questions please call the WCBA office at 508-752-1311. Thank you.

“The LinkedIn Lawyer”

Name: _____

(Firm registrations: please include a list of all individuals attending)

Please register me for this seminar. I have enclosed a check in the amount of: _____

Please make check payable to the Worcester County Bar Association and send to WCBA, 19 Norwich Street, Worcester, MA 01608. Thank you.

CALENDAR OF EVENTS

MARCH

- 3rd Deadline to submit articles for the March Issue of Legal Lines.
- 4th “Effective Use of Visual Aids at Trial”, sponsored by the Federal District Court Committee, 4:00 p.m. – 5:30 p.m., United States District Court, 595 Main Street, 5th Floor, Worcester, MA.
- 9th March Meeting of the Executive Committee, 5:30 p.m., location to be announced.
- 18th **BENCH/BAR DAY**, 1:00 p.m., Crowne Plaza Hotel, 10 Lincoln Square, Worcester, MA.
- BENCH/BAR RECEPTION**, sponsored by the Bench Bar Day Committee, 5:15 p.m., Crowne Plaza Hotel, 10 Lincoln Square, Worcester, MA.
- 25th **WCBA Pool Tournament**, 6:00 p.m. - 9:00 p.m., Boston Billiards Club, 454 Grove Street, Worcester.

APRIL

- 5th Deadline to submit articles for the April Issue of Legal Lines.
- 7th **Public Official Recognition Dinner**, sponsored by the Government Relations Committee, 5:30 p.m., Coral Seafood, Shrewsbury Street, Worcester.
- 8th “The **LinkedIn Lawyer**”, sponsored by the Law Office Technology Section, 4:00 p.m. – 6:30 p.m., Worcester District Registry of Deeds, 90 Front Street, Worcester.
- 13th April Meeting of the Executive Committee, 5:30 p.m., location to be announced.
- 15th **New Lawyer Reception**, sponsored by the Membership Committee, 5:00 p.m. – 7:30 p.m., Maxwell Silvermans’, Club Maxine, 25 Union Street, Worcester, MA.
- 26th **Dial-a-Lawyer**, sponsored by the Law Day Committee, 5:00 p.m. – 7:00 p.m., WCBA Office, 19 Norwich Street, Worcester.

- 27th **Dial-a-Lawyer**, sponsored by the Law Day Committee, 5:00 p.m. – 7:00 p.m., WCBA Office, 19 Norwich Street, Worcester.
- 27th “**Witness Examination and Trial Objections**”, sponsored by the Federal District and Superior Court Committees, 4:00 p.m. – 5:30 p.m., United States District Court, 595 Main Street, 5th Floor, Worcester, MA.
- 30th **Law Day Breakfast**, sponsored by the Law Day Committee, 7:30 a.m. – 9:00 a.m., Crowne Plaza Hotel, 10 Lincoln Square, Worcester, MA.

May

- 3rd Deadline to submit articles for the May Issue of Legal Lines.
- 11th May Meeting of the Executive Committee, 5:30 p.m., location to be announced.

JUNE

- 3rd Deadline to submit articles for the June Issue of Legal Lines.
- 15th **Annual Dinner Meeting**, 5:00 p.m., Wachusett Country Club, 187 Prospect Street, West Boylston, MA.

Stephen J. Brown, Attorney At Law Arbitrations/Mediations/Mini Trials/Case Evaluations

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Over 30 years trial experience Plaintiff and Defense
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WCBA ANNUAL MEETING & DINNER

The Annual Dinner Meeting of the Worcester County Bar Association is scheduled for Tuesday, June 15, 2010, at 5:00 p.m., at Wachusett Country Club, 187 Prospect Street, West Boylston, MA. Please mark the date in your calendars so you don't miss out on this event. Further details will be announced in future issues of Legal Lines.