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Massachusetts Association of Criminal Defense Lawyers

November 2014

Dear MACDL Members,

I am writing to update you on recent MACDL events and activities and our plans for the year ahead.

## Winter Meeting

Our winter meeting will be held at the Newton Marriot on **Wednesday, January 21<sup>st</sup>, 2015** (5:30-9:00pm) – please save the date. We will be presenting the Gideon Award to **Arnie Abelow** and a President’s Award to **Ed Ryan**. Our keynote speaker will be **Kemba Smith**, who served six years in federal prison after becoming involved with a drug dealer. Since her release, Kemba has become an advocate for sentencing reform and speaks nationwide on criminal justice issues from the perspective of a former defendant, client and inmate. She is the author of a memoir, *Poster Child*.

## CLE

In September we held an interesting and entertaining book party for U.S. District Judge Michael Ponsor who read from his novel, *Hanging Judge*.

The **Annual Post-Conviction Litigation Seminar** will be held on Friday, January 16<sup>th</sup>, 9:30am to 5:00pm at Wilmer Hale. Details and registration information will be emailed to you soon.

Planned for the spring is a discussion with retired U.S. District Judge Nancy Gertner on cutting-edge issues to preserve at trial and raise on appeal.

If you have ideas you would like to share or would like to join the CLE committee, please contact co-chairs **Lenore Glaser** at [lglaser@glaser-law.com](mailto:lglaser@glaser-law.com) or **Victoria Kelleher** at [victoriouscause@gmail.com](mailto:victoriouscause@gmail.com).

## Amicus

Our Amicus co-chairs, **Chauncey Wood** and **David Lewis** took over from **Jamie Sultan** and **Alex Philipson** at the beginning of September. Many thanks to Jamie and Alex for the extraordinary job they did for two years, making sure that MACDL’s voice was heard on many significant issues before the SJC.

Since September, MACDL has filed two briefs. In *Commonwealth v. Diatchenko*, **Afton Templin** filed an amicus brief advocating for a right to counsel at Parole Board hearings for juveniles serving life sentences. In *Commonwealth v. Santiago*, MACDL and ACLUM co-signed a brief on whether the SJC should recognize target standing under Article 14; **Alex Philipson** co-wrote this brief on MACDL's behalf. In addition, MACDL has signed on to amicus briefs in *Commonwealth v. DiCicco* (admissibility of expert testimony regarding use of a low-level DNA allele to exclude defendant), *Commonwealth v. Evelyn* (whether defendant's due process rights were violated by counsel's concession in opening and closing, without the defendant's consent, to a lesser-included offense), and *Lavrinenko v. Horgan et al.* (re due process rights relating to detention of noncitizens).

### **Witness Advocacy and Representation Network (WARN)**

Since its inception in March, WARN has made seven referrals to volunteer attorneys who provided *pro bono* representation to individuals who were summonsed to the grand jury or contacted by the police for questioning. All of the cases involved individuals who faced potential exposure to criminal charges and who had a valid 5<sup>th</sup> amendment right to remain silent. In all of the cases, the representation itself or the declaration by the client that they were represented by counsel stopped law enforcement attempts to interrogate the client.

Many thanks to **Derege Demissie** and to those who have volunteered to serve on the WARN panel.

### **New Lawyer Partnership Program**

**Shira Diner**, chair of the Young Lawyers Section, is setting up a New Lawyer Partnership Program in order to better serve new members of the criminal defense bar. In this program new members of MACDL can choose to be paired up with an experienced member who will serve as a welcoming contact for the new member.

Shira is now in the process of matching experienced MACDL members who have volunteered with new members who have asked to participate. New members and members with fewer than three years experience are invited to participate in this program. All you need to do is contact Shira at [sdiner@publiccounsel.net](mailto:sdiner@publiccounsel.net).

Many thanks to Shira and to the volunteers for reaching out to our newer members.

### **Legislation**

In September, MACDL president-elect Mike Hussey and I met with Senator William Brownsberger, Senate Chair of the Joint Committee on the Judiciary, to discuss criminal justice reform. Among the issues we talked about were: mandatory minimums, triggering weights for prescription medications (should be weight of the active substance not the net weight of the pills), expungement, reform of statutory rape statute, elimination of statutory CWOFF bans, elimination of mandatory loss of license for non-alcohol offenses, solitary confinement and medical release. MACDL continues to work with CPCS, the ACLU, FAMM and other groups for criminal justice reform.

## **Criminal Justice Compensation**

In September, Ben Fierro, MACAA's lobbyist, and I met with MBA president Marsha Kazarosian to discuss strategies for implementation of the pay increases recommended by the MBA's report for private counsel as well as for CPCS members. We will be meeting with the president of the BBA on November 19<sup>th</sup> and will submit testimony at the CPCS hearing on private counsel compensation on November 20<sup>th</sup>.

MACDL nominees are serving on several important committees, commissions and advisory committees:

**Randy Chapman**, MACDL's representative on the MBA House of Delegates and member of the MBA/BBA joint committee on judicial nominations

**Tracy Miner**, NACDL Council of Affiliates

**Patty Garin**, Criminal Justice Commission

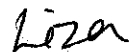
**Bruce Ferg**, SJC Standing Committee for Rules of Criminal Procedure

**Ed Masferrer** and **Marty Rosenthal**, Sentencing Commission. Ed also serves on the Superior Court working group on sentencing practices.

**Nancy Gertner**, MBA Committee on attorney-conducted voir dire

I look forward to seeing you at the Winter Meeting on January 21<sup>st</sup>. Let's hope we don't have a snow postponement again this year. Please contact me any time with your ideas and suggestions about MACDL's activities.

Wishing you all a happy Thanksgiving.



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