MASSACHUSETTS ACADEMY OF TRIAL ATTORNEYS

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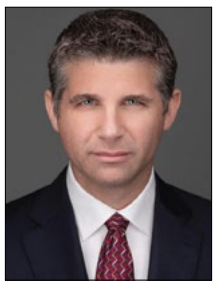
President's Message

Our mission: Vitalize the next generation

By Marc A. Diller

My late dad, who practiced law for 45 years, had the following advice for me:



"There are always people with more experience, who know the right path. Seek those people out. Ask questions. Learn from them."

That's why I joined MATA. Now, 25 years later, it is with great pride that I write this as the current president of MATA.

During my tenure, I am determined to get more young lawyers interested and excited to join the plaintiff's bar right out of law school.

Good luck, you may say. How do you plan to do that for this generation?

I have kids that age. I have employees that age too.

I've heard others complain (especially post-COVID) that this future generation:

1)is different than generations before.

2)has more options than we had.

3)won't work hard just to pay their dues.

So how do we motivate the next generation of lawyers, who started law school after the Pandemic?

Some people are discouraged by our next generation of lawyers.

Not me.

I believe this next generation is a "purpose" driven generation. In other words, if they find purpose or meaning in their work, they will work harder and smarter than any generation before.

Over the next year, MATA and some of its lawyers will be going to the law schools and introducing ourselves to the next generation of lawyers. That generation needs to know we are not defined by the billboards and the TV commercials.

That generation needs to hear, first-hand, about the purpose driven work involved in our practice.

If you are an aspiring, purpose-driven, lawyer, imagine joining a practice where:

- your colleagues spearhead systemic change at organizations who turn a blind eye to sexual assault of athletes and constituents.
- your colleagues take down manufacturers of products known to kill consumers when they choose to prioritize profits over safety
- your colleagues champion patient and public safety resulting in life-saving changes at hospitals and nursing homes.
- your colleagues root out discriminatory practices by employers and institutions who insist on living by the status quo.
- your colleagues clean up construction companies and builders who think it's ok to cut corners exposing many to dangers; or
- your colleagues seek accountability from transportation companies who ignore safety rules, regulations and industry standards governing companies and their drivers.

That is not a comprehensive list of the purpose driven work of our members.

In a world that now gives people options that they have never known before, why would they choose to spend the majority of their waking hours doing work that doesn't inspire

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EDITOR'S NOTE

Three things I learned on trial

By Jonathan A. Karon

The first six months of this year I was mostly either on trial or preparing for trial. Now that I've had a chance to catch my breath, I wanted to share three things I learned:

1. Your best witness isn't always who you think it will be.

I sort of knew this already, but it really became clear at my last trial. My client suffered a brain injury when he slipped and fell on ice at a construction site. My best witness turned out to be his son-in-law, who was also working at the job site and took my client to the hospital. He testified that the parking lot where my client fell was essentially a skating rink and that my client was not the same since. He came off as a down to earth, no b.s. guy, which he was. The defense could not shake him, because he was telling the truth and the jury related to him. I wasn't surprised, but there was no way to really know, based on some phone and Zoom calls, how he'd do.

I've had this experience before. Years ago in my first traumatic brain injury trial, my best witness was the counselor assigned by the Massachusetts Rehabilitation Commission to work with my client. I had only spoken to her on the phone and she didn't charge me for her time. I had no idea how she'd come off, in fact, I didn't even know what she looked like. But she was my best witness. She did a great job explaining the treatment she had referred my client for and, under cross examination, why she was convinced my client had a t.b.i. (my second-best witnesses were my client's teenage sons).

Now sometimes you're pretty sure who your best witness will be and you're right. But every so often, you get the welcome surprise of an unexpected witness who hits it out of the park.

After my last trial, I've started to ask myself who my best witnesses were at my trials and see if there are any common threads. So far, I can say that it's usually not an expert and

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No lawyer is an island: The value of dialogue and collaboration

By Laura D. Mangini

The months and weeks leading up to trial can be lonely. Sometimes, I find myself stuck in my own head, attempting to navigate the roller coaster of emotions and self-doubt that I tend to find myself on before the start of trial. For me, one of the best ways to break this cycle is quite simple: talk to others about your case. As discussed below, the "others" that you talk to are not just limited to the lawyers that you share office space with (although their insight is invaluable).

ALL STAR TIPS

I know how simplistic this advice might sound, but I cannot over emphasize how important it is to have a group of people that you can talk to about the various aspects of your case. For example, I will conduct dry runs of hypotheticals that may arise during trial. What if the defendant makes this objection, how do I get around it? What if the Court sustains the objection – then how do I get that crucial piece of evidence in? What if the witness says this instead of that, how do I impeach them? What if I can't control the expert? By preparing for these scenarios in advance with others, you will often come up with solutions that you otherwise would not have thought of and be better equipped to respond if they occur during trial.

And sometimes you just need that one person to tell you the idea that woke you up at 1:30 in the

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My Relationship With Stress: A Lawyer's Journey

By Dwayne Pennant

When I started working out, it was purely for playing high school football and fun. I enjoyed the physical activity, the endorphin rush, and the sense of accomplishment after a good session at the gym. But as I got older, changed professions, entered law school, and got married while in law school, my life became more demanding—juggling classes, internships, exams, and personal life while trying to envision a productive career in the legal profession. This is when going to the gym and working out stopped being fun but instead became a lifesaver that helped me stay grounded and manage the growing stress that accompanied these challenges.

As lawyers, we encounter high-pressure situations daily, especially when dealing with a personal injury claim where Liberty Mutual is on the other side—but that's a story for another time. Stress is a part of my professional life, whether it's appearing in court, handling a sensitive matter for a client, or just working to meet deadlines. Like many lawyers, I initially saw stress as something to fight or avoid. But over time, I've learned to reframe my approach to stress—and it has made all the difference.

My article is not about getting rid of stress because that is impossible. My goal is to share the helpful gems that I've learned about stress and how to use it as a tool for growth rather than letting it become debilitating. Combining physical exercise, mindfulness practices, and shifting my perspective has allowed me to transform stress from an enemy into an ally.

Stress: the lawyer's constant companion

As lawyers, we live in a high-stress world. We constantly balance deadlines, client expectations, and our personal lives. On top of those things, there's the competitiveness of the profession and the pressure to succeed in it. It's not a surprise that our profession ranks among the most stressed-out ones. At some point along my journey as a lawyer, I started to become overwhelmed by stress and knew I needed to make changes if I was going to survive and thrive. That's when I began to take my stress more seriously. I began reframing it not just as something to manage but as something to harness.

Reframing stress

Many of us grow up believing that stress is harmful and should be avoided at all costs. We see it as the enemy of productivity and well-being. But what if there was a better way to look at stress? That question led me down a path of research and self-discovery.

Kelly McGonigal, a health psychologist at Stanford University, delivered an interesting TED Talk in 2013 titled *"How to Make Stress Your Friend."* In it, McGonigal explains that stress by itself isn't the real problem. The real issue is how we view it. People can see stress as a negative thing or as a positive thing, which could increase their performance and limit adverse health effects.

Instead of fighting stress, I would see it as an indicator that there was something on my radar that mattered to me and that I could learn from, whether it was a case I was working on, the outcome of a negotiation, or even my personal goals. Stress became a sign that I was pushing myself into uncomfortable areas of growth, and I needed to embrace it as part of my journey rather than something to dislike or dread.

Changing my explanatory style: from defeat to hope

I gained valuable insights while navigating life's stressors from Martin Seligman's book *Learned Optimism: How to Change Your Mind and Your Life.* Seligman explains that people have a certain "explanatory style" of interpreting life events, especially negative ones. This explanatory style can be optimistic or pessimistic, and either style influences how we perceive and respond to challenges.

I learned the power of this optimistic view at an early age. When I was 14, I had a bike accident that left me blind in one eye. I remember how, at that time, the challenge wasn't just the physical impact—it was figuring out how to turn what seemed like a roadblock into a resource. That experience shaped my outlook on life, teaching me to see adversity as something I could navigate and learn from rather than as something that would define or limit me. This lesson has stayed with me throughout my life, especially now as a lawyer.

In our profession, it's easy to view setbacks as personal failures or insurmountable problems. When a case doesn't go as planned or when pressure builds, the temptation is to see stress as overwhelming. But by changing my explanatory style—learning to frame challenges

as temporary, specific, and solvable—I've developed a sense of hope and control that has made all the difference.

Instead of letting stress dominate my mindset, I now approach challenges believing they can be overcome. This shift in how I explain stressful situations to myself has been beneficial and empowering. It allows me to buffer myself from the adverse effects of stress and transform it into something that fuels my resilience and growth.

Managing stress through exercise

Another way that I've been able to maintain this healthier relationship with stress is through physical exercise. I work out five days a week, and it's about more than staying fit. This has been my routine for almost 30 years. It's about channeling my energy, releasing tension, and giving myself an outlet for the physical manifestations of stress—whether it's a tight jaw, stiff shoulders, or racing thoughts. It's just me and the weights (or the treadmill) at the gym. For that hour or so, my focus shifts entirely from stress and the day-to-day pressures of life to my body, music, and breath.

Exercise has been a key component of my stress management strategy, allowing me to recharge physically and mentally. It wasn't just the immediate release of tension that made exercise so powerful for stress management. Exercise has been shown to decrease stress hormones like cortisol and increase the production of endorphins, which helps the body's natural mood elevators. When done consistently, exercising created a source of mental discipline and stabilized me when things around me became overwhelming or erratic. Over time, these benefits add up, creating a more resilient mindset better equipped to handle whatever challenges come my way.

Mindfulness and meditation: A daily practice

In addition to physical exercise, I've also incorporated mindfulness into my daily routine. I meditate for 10–15 minutes each day, and while that might not sound like much, it has made a world of difference.

When I first started meditating, it was a class that I took in my twenties at the YMCA, and I still remember that it wasn't easy to quiet my mind. Even now, when I meditate, my thoughts still race, filled with to-do lists, case updates, and looming deadlines. But through practice, I learned to focus on my breath and bring my attention back to the present moment, even when my mind wanted to wander. That mindfulness practice has served me well, especially in my former role as a criminal magistrate. There was a period when nearly every initial appearance involved people charged with murders and violent crimes. Hearing those stories of death and pain took an emotional toll, and I began experiencing a kind of secondary trauma. It wasn't easy to process and then detach from those experiences in time to go home and be fully present as a husband and father. So, meditation became a critical tool for me during that time. It allowed me to ground myself and find a sense of balance between my work and personal life.

In high-stress moments now, instead of reacting impulsively or letting my anxiety spiral, I take a few deep breaths and bring myself back to the present. I remind myself that I've handled difficult situations before and can handle any problem I now face. It's a small but impactful practice that has helped me maintain perspective and composure, even when the pressure is on.

Another critical strategy I've adopted is the importance of taking regular breaks. When we're swamped with work and want to complete the task at hand, becoming tempted to power through and skip breaks seems like a good plan. But stepping away can provide a much-needed reset, even for a few minutes to increase productivity. Whether it was a quick walk around the block, a moment to stretch, or just a few minutes to breathe deeply and clear my mind, making time for breaks allowed me to return to the work I was doing more renewed, focused, and patient. These breaks has enable me to recharge throughout the day, preventing burnout.

Embracing stress as a path to growth

I've come to view stress not as something to be avoided but as one to embrace as a part of life—especially life in the legal profession. Instead of letting it get the best of me, I've learned to work with it, using exercise, mindfulness, and breaks to stay balanced by changing how and what I think about stress; I've changed it from something debilitating into something that forces me to improve. Stress will not disappear, but through our experiences and practice, we can change how we respond to it to fuel our personal and professional growth.

Dwayne Pennant, a former North Carolina magistrate, has transitioned into private practice, where he leverages his extensive legal experience to skillfully manage estate planning, administration, and personal injury cases in both North Carolina and Massachusetts. He currently serves on the MATA Attorney Well Being Committee.

Three things I learned on trial

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it's frequently someone without an axe to grind who talks like a normal human being. None of these are shocking revelations. But knowing that you may have an unexpectedly good witness emphasizes that you always have to be in tune with the rhythm and drama of a trial and adapt as you go along.

2. You're probably going to get individual voir dire

I still believe panel is better, takes less time and you should always ask for it. But the reality is that you're probably going to get individual voir dire. Before I even had a chance to argue, the judges in my last three trials either stated that they only allowed panel voir dire if no lawyer objected to it (causing the defense to object, surprise, surprise) or that they wouldn't allow it even if all the lawyers wanted it. I did my best to argue after that, but there's really nowhere you can go.

I do believe that you can get a fair jury with individual voir dire, but it takes way longer.

Instead of asking a set of questions to the panel you have to ask the same questions to each individual prospective juror. This takes a long time, particularly since we now have to pick fourteen jurors (twelve plus two alternates). It took two trial days for jury selection in each of my last two trials. I thought going back to twelve person juries might nudge judges into allowing panel voir dire, but some believe that panel takes longer. I do not know why they believe this, but in fairness, I haven't seen what happened when they allowed panel voir dire (assuming, of course, that this was based on a bad experience).

In any event, you had better be prepared to do an effective individual voir dire. Know what you need to ask and explain why you need to ask it to uncover potential bias. Insist (respectfully, of course) on being allowed sufficient follow up to develop cause challenges.

You still should ask for panel, which is not only quicker, but has the added benefit of allowing you to see how the prospective jurors will interact with each other. Which means you need to be prepared for panel, as some judges will allow it. But these days most resist it, so be prepared for individual.

3. Recharging your batteries during trial is essential

You have to force yourself to take downtime. This is one of the hardest things to make yourself do. During trial there's always something more that needs to be done. There's always one more witness to talk to; one more article to read for your expert cross; one more case to read; one more exam to prepare; and on and on. But trials are also a test of endurance and mental clarity. If you don't step away for a while each day, you can't have the energy or the focus to try your case properly. You'll simply be a tired stress mess.

My last trial really brought this home. I had just finished the first week of a two week out of town trial. I had been staying in a hotel because it was too far to commute. I drove back exhausted on a Friday. Even though we had another week of trial left, I forced myself to take Saturday completely off and go to the beach. There, floating on an inner tube off the coast of Cape Ann (if you don't believe me, shoot me an e-mail and I'll send you the link for the video of me I posted), I got the mental clarity I needed.

In that case it was the essential step that allowed me to successfully "land the plane". Once a case starts trial, I don't like to be distracted by settlement negotiations. During my trial, there had been some settlement discussions but they hadn't made much progress and I needed to focus on trying my case. But, literally while floating in the ocean, the correct settlement strategy popped in my head. When I went back to court that Monday I was fully prepared to take a verdict. But I also had the right strategy to settle the case if it could be settled and, as a result we settled, literally "on the courthouse steps" for an amount that I believe was in the reasonable range of likely jury verdicts. But even if we hadn't settled, I would have tried a much better case by allowing myself to walk away for a day. It's hard, but you have to do it and not just on weekends. Go for a run, read a book for a few minutes, spend time with your family, whatever relaxes you, but do something to get your mind off your case. Trust me, you'll do your best thinking about your case when you're not thinking about your case.

I've learned something from every case I've tried. Hopefully, some of these recent trial lessons will be helpful and get you thinking about the trial lessons you've learned. I've also learned that after a couple of long trials, the rest of my practice seems a little boring. But also that vacations are good.

Jonathan A. Karon, the editor-in-chief of the MATA Journal, is a past president of MATA. He is the founder of Karon Law, LLC. In his national practice, he represents the catastrophically injured, including cases involving traumatic brain injuries, amusement ride accidents and defective products. He can be reached at (617)405-3200 or at jakaron@karonlaw.net.

No lawyer is an island: The value of dialogue and collaboration

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morning is not quite as brilliant as you first thought it was. Conversely, you sometimes need the reminder that the "bad" fact that you have convinced yourself is going to torpedo your case is not as big of a deal as you think.

You may be thinking to yourself, "Well that's great Laura, but what about us solo practitioners that don't share office space with anyone?" Excellent question! My advice is to reach out to members of your local trial organization. If you are reading this, you are likely already a member of the Massachusetts Academy of Trial Attorneys and know what a great resource the list serve is. I don't know a single attorney in this group who is unwilling to speak with a fellow member to discuss strategy. And you shouldn't be shy in reaching out, because we have all been in your position at one time or another.

I also recommend attending seminars so that you can talk to lawyers nationwide about your case. The better courses allow you to work in a small group setting with lawyers from across the country on discrete aspects of trial. While you may think that there simply isn't enough time to attend a seminar, especially when trial is only a few months out, it is worth it. The seminars force you to spend 1-2 days, free from distraction, refining your case with like-minded lawyers many of whom have dealt with similar challenges.

Finally, you should talk to people that are not lawyers by conducting focus groups. Focus groups are much easier (and cheaper) to run then they were five-ten years ago. Many are now done via zoom, which also allows for a large selection of participants. Focus groups allow you to become more comfortable with aspects such as voir dire and opening statements. They also allow you to understand what is, and is not, important to your case.

While there is no magical solution to eliminate the stress associated with trial preparation, it is important to remember that no lawyer is an island. It is perfectly acceptable to lean on others for support and insight. Embracing collaboration not only enhances your understanding of the case but also allows you to see aspects that you may have overlooked.

Laura Mangini is a partner at Alekman DiTusa, where she has worked since 2013 and has developed a practice representing those most in need. Laura focuses her time and energy providing representation to victims of crime, sexual abuse, and sexual assault, as well as those who are taken advantage of by insurance companies. Laura also represents those who were injured through no fault of their own in automobile collisions, slip and falls, defective conditions, and construction site injuries.

Our mission: Vitalize the next generation

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them? I think we can all expect they will not.

One of my jobs over the next 12 months will be to show that next generation reasons why the plaintiffs' bar offers them a great opportunity to have a lasting impact on human beings and their communities.

I challenge you too.

If you are an experienced attorney reading this, think back to when you were a law student or new lawyer. Help bring this new generation into the embrace of our bar community. Be the person you needed when you were just starting out. This new generation may not be thought of as a generation of joiners, but if we meet them where they are, we might find that they will become a valuable part of our team. They undoubtedly will be a valuable part of our future.

Don't be surprised if they teach us a few things along the way.

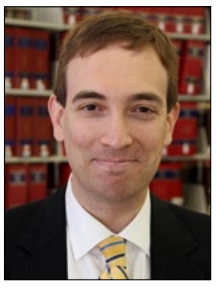
Marc Adam Diller is the managing partner of Diller Law, LLP. He concentrates his practice on plaintiff side catastrophic bodily injury cases including wrongful death, construction site injuries, dangerous premises, products liability, truck, motorcycle and car crash related injuries. Mr. Diller also serves as a trial consultant to other well-respected trial attorneys. He additionally serves on the Judicial Administration Section Council of the MBA. Mr. Diller has received numerous professional recognitions including being selected for eight (8) consecutive years to Super Lawyers Top 100 lawyers in MA and for the past four years, Marc was voted in Massachusetts Lawyers' Weekly Reader Rankings as the top jury/trial consultant in MA. Mr. Diller is a graduate of Suffolk Law School and The University of Michigan, Ann Arbor.

An appellate roadmap, Part 10

By Kevin J. Powers

Prior parts of this series appeared in prior MATA Journal issues beginning in June 2020.

XV. Record Appendix: Technical Requirements



A.Requirement 1: Order.

Order. The materials in the record appendix must follow the order listed in Mass. R. App. P. 18(a)(1)(A).

B.Requirement 2: Cover and pagination.

Cover. A record appendix must contain a cover. Mass. R. App. P. 18(a)(1)(A)(i); Mass. R. App. P. 18(a)(1)(A)(ii). Each record appendix volume must bear a Roman numeral designation, and each record appendix page must bear an Arabic numeral designation. Mass. R. App. P. 20(a)(5)(A).

Pagination. A record appendix, like a brief, must be consecutively numbered with the cover sheet as page "1." Mass. R. App. P. 20(a)(5)(B).

Impoundment. "If the entire case has been impounded, the cover of the appendix shall clearly indicate that the appendix is impounded." Mass. R. App. P. 18(d). If the entire case has not been impounded, "the cover [of any record appendix volume containing the impounded material] shall clearly indicate that it contains impounded material." *Id*. Common practice for indicating impoundment is to place a bold-faced and/or underlined legend, in a large font size, reading "IMPOUNDED" as the first line on each cover sheet.

C.Requirement 3: Table of contents.

Table of contents. Each record appendix volume must contain a table of contents. Mass. R. App. P. 18(a)(1)(A)(i). "The first volume of a multi-volume appendix shall include a complete table of contents referencing all volumes of the appendix, and each individual volume shall include a table of contents for that volume." Mass. R. App. P. 20(a)(5)(C).

Subsidiary documents and exhibits within pleadings. "[W]hen a principal document contains multiple documents attached as exhibits, such as a motion for summary judgment package or administrative agency record, the table of contents should list the motion and each individual document filed with the motion, and the page of the appendix where each document is located." Reporter's Notes to Mass. R. App. P. 18(a)(1)(C) (2019).

Materials from more than one trial court case. "When an appendix contains materials from more than 1 lower court case, the table of contents shall clearly indicate, by reference to the lower court docket number, the case in which each paper was filed and by whom it was filed." Mass. R. App. P. 18(a)(1)(E).

D.Requirement 4: Docket entries.

Docket entries. The first document of the first record appendix volume, immediately following the table of contents, must be "the docket entries in the lower court proceedings." Mass. R. App. P. 18(a)(1)(A)(iii). The docket report need not be certified. Modern practice is to include either a copy of a docket report printed by the trial court clerk's office or a copy of a docket report available on masscourts.org. When using a docket report from masscourts.org, counsel must ensure that the font size is legible and that text wraps from line to line, avoiding the loss of any text clipped beyond the right margin. See Mass. R. App. P. 18(a)(1)(F) (requiring legibility).

E.Requirement 5: Impoundment.

Impoundment. Following the docket report must be "any order of impoundment or confidentiality from the lower court." Mass. R. App. P. 18(a)(1)(A)(iv). "If the entire case has not been impounded, a separate appendix volume shall be filed containing the impounded material and a copy of any lower court order(s) impounding the material." Mass. R. App. P. 18(d). All record appendix volumes containing impounded material must clearly so indicate on their respective cover sheets. *Id*.

F.Requirement 6: Trial court record, including transcript.

Trial court record in chronological order of filing. All necessary trial court pleadings, documents, findings, memoranda of decision, orders, judgments, decrees, adjudications, and notice(s) of appeal must appear "in chronological order of filing in the lower court." Mass. R. App. P. 18(a)(1)(A)(v). Counsel must "includ[e] a typed version of any pertinent handwritten or oral endorsement, notation, findings, or order made by the lower court." Mass. R. App. P. 18(a)(1)(A)(v)(c).

Trial court memoranda. "Except where they have independent relevance, memoranda of law in the lower court should not be included in the appendix." Mass. R. App. P. 18(a)(1)(B). When a memorandum of law in the trial court demonstrates that a party preserved an issue or a claim of error, counsel should include that memorandum of law. Likewise, when a trial court order allowing or

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denying a motion consisted merely of a cursory marginal note, *e.g.*, "allowed" or "denied," without meaningful elaboration, counsel should include the motion and memorandum of law in order to provide the appellate court with a fuller sense of what the trial court "allowed" or "denied." In either instance, fairness and collegiality dictate that counsel should accede to requests from opposing counsel for inclusion of any memorandum in opposition.

Transcript in civil cases. In civil cases, all necessary transcript portions, potentially including the entire transcript, must appear in the record appendix. Mass. R. App. P. 18(b)(4). See Mass. R. App. P. 18(c) ("[i]n a civil case, transcripts or portions thereof shall be reproduced for inclusion in the appendix consistent with [Mass. R. App. P.] 18(b)(4)"). Some counsel place transcripts in the record appendix chronologically before the findings, orders, and/or judgment. Other counsel place transcripts in a separate section of the record appendix, after the notice of appeal. What likely matters most in this sequencing is that the placement of the transcript in the record appendix makes logical sense; no one particular approach likely holds the status of holy writ.

"If the party does not reproduce a transcript of the entire proceedings, the party shall, preceding each portion of the transcript reproduced, insert a concise statement identifying: (A) the witness whose testimony is being reproduced; (B) the party originally calling the witness; (C) the party questioning the witness; (D) the classification of the witness's examination (direct, cross, or other); and (E) the transcript volume and page number from which the reproduced testimony is derived." Mass. R. App. P. 18(b)(4).

Transcript in criminal cases. In a criminal case, "[a record] appendix may contain relevant excerpts of the transcript, but should not duplicate the entire transcript transmitted from the lower court to the appellate court." Mass. R. App. P. 18(a)(2)(B).

All necessary parts. "Parties must include in the appendix all portions of the record that are relied upon in the brief or that relate to an issue on appeal, except portions of the record subject to a motion for transmission pursuant to [Mass. R. App. P.] 18(a)(1)(G)." Mass. R. App. P. 18(a)(1)(D). Counsel must include, for each category of record appendix materials, "*any*" such items "relied upon in the brief," "relating to an issue which is to be argued on appeal," "pertinent to an issue on appeal," or "in question." Mass. R. App. P. 18(a)(1)(A)(v).

Counsel must bear in mind that the trial court does not initially transmit trial exhibits to the appellate court, and the price of an incomplete record appendix may be an appellate holding that the record appendix is insufficient for review of an issue presented, and that the appellant has waived that issue. See, *e.g.*, *Delisle* v. *Commonwealth*, 416 Mass. 359, 361 n.2 (1993) (where "materials are not properly before th[e appellate] court ... argument based on them in the brief need not be considered"); Mass. R. App. P. 9(b) ("[t]he lower court shall make such orders as it deems necessary for the preservation of exhibits, and shall not transmit any exhibit to the appellate court unless pursuant to an order of the appellate court or a justice thereof"); Reporter's Notes to Mass. R. App. P. 9(b) (2019) ("[t]he [2019] amendments clarify that exhibits are not transmitted to the appellate court with the notice of assembly from the lower court, but remain in the lower court, and that parties can, and must, reproduce exhibits in their appendices when pertinent to the issues raised on appeal"); Mass. R. App. P. 18(a)(1)(D) ("appellate court may decline to permit the parties to refer to portions of the record omitted from the appendix unless a motion for transmission of those portions of the record is filed in the appellate court"); Mass. R. App. P. 18(b)(4) ("[f]ailure to reproduce the entire transcript may result in waiver of the issue").

A trap for the unwary arises when the standard of review for an issue ultimate falls back on a question of harmless error. In such instances, counsel may need to include the entire trial transcript, and much of the evidence bearing on the factual issue in question, in order to argue that an error was not harmless. For example, if counsel argues that the trial court abused its discretion or committed an error of law in admitting testimony or evidence, counsel must then argue that the testimony or evidence at issue was not merely cumulative of other properly admitted evidence; if erroneously-admitted testimony or evidence was merely cumulative, then the erroneous admission of that evidence caused no prejudice to the appellant and was harmless. See, *e.g.*, *Commonwealth* v. *Berrio*, 407 Mass. 37, 43 (1990); *Palmer* v. *Palmer*, 23 Mass. App. Ct. 245, 249 (1986). Without a sufficient factual record, the appellate court cannot evaluate whether the testimony or evidence was merely cumulative.

Although the appellate court may discretionarily order the trial court to transmit exhibits not included in the record appendix, instances in which the appellate court exercises that discretion, especially *sua sponte*, are rare. Compare *Commonwealth* v. *Morse*, 50 Mass. App. Ct. 582, 586 n.3 (2000) (Massachusetts appellate courts "are entitled to rely on parts of the record even if not included in the record appendix by the parties"), rev. denied, 433 Mass. 1103 (2001) and Mass. R. App. P. 8(e)(1) ("[o]n motion of the parties or on its own motion, the appellate court or a single justice may direct that any omission be rectified") and Mass. R. App. P. 8(e)(2) ("[o]n motion of the parties or on its own motion, the appellate court or a single justice may direct that any part of the record be corrected") and Mass. R. App. P. 18(a)(1)(D) ("[t]he fact that portions of the record are not included in the appendix or subject to a motion for transmission shall not prevent the appellate court from relying on such portions of the record") and Mass. R. App. P. 18(b)(1) ("parties ... may refer to parts of the record not included in the appendix if permitted by the appellate court or a single justice pursuant to the provisions of [Mass. R. App. P.] 18(a)(1)(D) [but] this does not affect the responsibility of the parties to include materials necessary to their appeal, including exhibits, in the appendix") with Reporter's Notes to Mass. R. App. P. 18(a)(1)(D) (2019) and Reporter's Notes to Mass. R. App. P. 18(b) (1994) ("[Mass. R. App. P.] 18(b) and [Mass. R. App. P.] 18(f), which under some circumstances permit the parties to rely on parts of the record that have not been included in the appendix, specifically refer to leave granted prior to argument or a motion in advance granted by the appellate court or a single justice" but "the normal expectation of appellate judges [is[that the parties will provide appellate courts with an appendix which includes the materials upon which they rely").

For cautionary tales of appellate courts refusing to order transmission of original exhibits to patch inadequate record appendices, see, *e.g.*, *Shawmut Community Bank, N.A.* v. *Zagami*, 411 Mass. 807, 810 (1992) (refusing to reach merits where: "[t]he record appendix was a 'diffusely arranged' collection of material containing some documents that were incomplete, irrelevant, duplicative, or illegible"; "[t]he parties failed to include in the appendix most of the relevant trial and posttrial motions"; "[t]he pages of the appendix were not numbered consecutively nor was the material arranged in chronological order"; parties "did not file copies [of the transcript] with the court"; and "[n] either party asked, prior to argument, for permission to refer to parts of the record omitted from the appendix ... nor did they request that the court dispense with the need for an appendix"); *State Line Snacks Corp*. v. *Town of Wilbraham*, 28 Mass. App. Ct. 717, 720 (1990) ("we are unable to review th[e] rulings [where appellant] has failed to include in the record appendix, or otherwise bring before us, the trial transcript"); *Telecon, Inc*. v. *Emerson-Swain, Inc*., 17 Mass. App. Ct. 671, 673 (1984) ("[n]o leave to refer to portions of the record not included in the appendix was obtained by [appellant] prior to argument" and, "[u]nless such leave is obtained, litigants should not assume that this court will take advantage of its freedom to make use of portions of the record not included in the

appendix"); *Iverson* v. *Bd. of Appeals of Dedham*, 14 Mass. App. Ct. 951, 951 (1982) (while "nothing in [Mass. R. App. P. 18] precludes [the Appeals Court] from referring to [] exhibits [omitted from the record appendix], [the Appeals Court] decline[d] to exercise [its] power to do so.... [in] a case of inexcusable disregard for the Massachusetts Rules of Appellate procedure rather than an instance of an inadvertent omission or an isolated misstep"); *Kunen v. First Agric. Nat'l Bank of Berkshire County*, 6 Mass. App. Ct. 684, 691 (1978) (appendix omitting majority of exhibits insufficient to permit review of any sufficiency of evidence question); *Slater v. Burnham Corp.*, 4 Mass. App. Ct. 791, 791 (1976) ("[n]either the writ nor the motion ... has been reproduced in the appendix, and leave has not been granted the [appellant] to refer to either paper in its brief"; declining "to send for the original papers in order to discover whether there is any merit to the [appellant's] contentions").

But avoid over-designating. "The parties shall not engage in unnecessary designation." Mass. R. App. P. 18(b)(1). The best practice is for counsel to include all necessary materials, perhaps erring a bit on the side of over-inclusion, but to avoid including material clearly unnecessary. For example, in a case in which every issue on appeal is strictly confined to the trial, counsel should not include transcripts or pleadings regarding irrelevant pre-trial motions. Likewise, in an appeal from summary judgment, counsel should not include transcripts or pleadings regarding other, irrelevant motions. On the other hand, where the appeal involves various trial issues, counsel should not attempt to cherry-pick transcripts from only the most relevant trial days; if most of the trial is at issue on appeal, then the entire trial transcript should be in the record appendix.

Legibility. "Any reproduction of an exhibit in an appendix shall be of high quality to ensure a legible and accurate representation of the exhibit, including color if color is relevant." Mass. R. App. P. 18(a)(1)(F). "A color photograph marked or admitted as an exhibit in the lower court and included in the appendix must be reproduced in color." *Id*. "Lower court color-coded forms need not be reproduced in color." *Id*. In formatting the record appendix and ensuring legibility, counsel should bear in mind that the function of the record appendix is not to comply minimally with a list of formal technical requirements, but to provide the justices, law clerks, and staff attorneys of the appellate court with a complete, clear, legible, well-organized, chronological, intuitive package of the record. To the extent that counsel provides an excellent record appendix, he or she will make the work of the court that much easier. While easing the process of analyzing the arguments does not guarantee a victory on appeal, it at least gives the court a reason to thoroughly consider those arguments. The opposite approach so clearly irritates the courts that Mass. R. App. P. 18(a)(1)(F) became necessary. See Reporter's Notes to Mass. R. App. P. 18(a)(1)(F) (2019) ("[f]requently, parties file a record appendix containing exhibits that were copied, scanned, or reproduced in such poor quality that it is difficult or impossible for the appellate court to read or view the exhibit").

Electronic audio or audiovisual exhibits. "At the time of filing an appendix containing a reproduction of an electronic audio or audio-visual exhibit that was part of the lower court record, the filing party shall file a written notice with the clerk, with a copy of the notice sent to all parties, so indicating the inclusion of such reproduction, and specifying the form in which it is reproduced." Mass. R. App. P. 18(e). Customary practice is to file and serve electronic exhibits on DVD discs or USB drives. As with the legibility requirement for printed matter, counsel should strive to make electronic exhibits as accessible as possible for the justices, law clerks, and staff attorneys.

Distinguishing record appendix from addendum to brief. Many attorneys wonder whether a particular item should appear in the record appendix or in the addendum. Counsel, in order to resolve this question, should always bear in mind that the record appendix contains only materials that are part of the trial court record. Everything else with which counsel might supplement the brief—*e.g.*, mandatory addendum materials such as unpublished decisions, or optional addendum materials such as an obscure scholarly authority that the appellate court might find helpful to have while analyzing the case—belongs in the addendum. Authorities belong in the record appendix only if copies of those authorities were actually attached as exhibits or addenda to trial court pleadings and thereby became part of the trial court record.

Additional requirement for criminal cases. "The appellee in a criminal case must include any part of the record relied on by the appellee not otherwise included in the appellant's appendix or contained in the transcript." Mass. R. App. P. 18(a)(2)(A).

Kevin J. Powers, a sole practitioner in Mansfield, has been active in the Massachusetts appellate bar since 2006, a member of MATA's Amicus Committee since 2017, Interim Chair of the Amicus Committee from 2018 to 2019, and current Vice Chair of the Amicus Committee. His reported decisions include Meyer v. Veolia Energy North America, 482 Mass. 208 (2019), and he has co-written or edited many of MATA's recent amicus filings. His article Forging an Effective Appellate Brief appears in the January 2023 issue of Trial Magazine, and his article The Legal Writing Code appears in the January 2024 issue of Trial Magazine. He can be reached at kpowers@kevinpowerslaw.com.

IO, IO, it's off to IOLTA we go

By James S. Bolan and Sara N. Holden

The IOLTA Rules have changed and the practical and legal effects for each lawyer and law firm abound. This article is not intended to restate or paraphrase what has already been set forth in, for example, two articles written by Bar Counsel on the Supreme Judicial Court's decision in *Olchowski*,3, but to focus on what to do when faced with issues that arise out of the rules and the handling of IOLTA accounts and funds.

Every IOLTA account preferably must be reconciled monthly, but no less frequently than bi-monthly.4. These must be so-called 3-way reconciliations, which means identifying the adjusted bank statement balance, the check register balance and the sum balances of each of the individual client sub-ledgers (dollars in and out and still held for each client) and the office bank charges ledger. Those three balances must be the same each time. If not, go through the records and find the errors. Frequent errors include failure to record deposits, withdrawals, wires, transfers, transposition errors, funds put into or withdrawn from the wrong accounts, failure to double check each transaction, failure to see if checks are still outstanding, incorrect data entries, and incorrect date entries [computer financial programs often record dates when entries are made and not when funds have been negotiated so "false negative" balances can appear in ledgers or check registers].

Proper recordkeeping and reconciliation are not optional or a "technical" exercise. It is a requisite with public discipline potential for failure.

What are IOLTA trust funds?

"Trust property" means property of clients or third persons that is in a lawyer's possession in connection with a representation and includes property held in any fiduciary capacity in connection with a representation, whether as trustee, agent, escrow agent, guardian, executor, or otherwise. Trust property does not include documents or other property received by a lawyer as investigatory material or potential evidence. Trust property in the form of funds is referred to as "trust funds." 5. "A lawyer shall hold trust property separate from the lawyer's own property . . . Trust funds shall be held in a trust account." 6.

Do you need to have an IOLTA account?

Simply stated, if you do not have or hold trust funds or property, there is no need to maintain an IOLTA account.

If you have an IOLTA account which is inactive, what do you do about it?

Inactivity is not defined in the Rules, other than to say that monthly automatic interest does not constitute "activity". But, a new provision states:

> (3) If the lawyer has been unable to identify the owner of unidentified funds or to locate the owner of unclaimed funds and transmit the funds to the owner within three years after discovering that the IOLTA account contains unidentified or unclaimed funds, the lawyer shall remit the funds to the IOLTA Committee.

So, what to do? The easy answer is to not let an account become inactive. Check on all accounts regularly. If there has been no activity, make the account active by transacting business within it. Obviously, such steps need to be appropriate and lawful, but such activity would counteract the lack thereof.

If the inactivity has arisen because there are funds in the account the ownership which cannot be identified, or if the inactivity has arisen because you cannot locate the client or third person, then due diligence and reasonable steps need to be taken to identify and then locate the owner.

If the funds being held are the result of a holdback or other "escrow" and there is written agreement signed by all parties to the holdback/escrow, then press that issue to its conclusion, including potentially depositing the money into court for an adjudication in the absence of an agreement by all concerned. Not infrequently, lawyers forget that funds are being held in escrow or as a holdback because it takes a substantial amount of time to cure whatever issues arose in, typically, a real estate transaction and, with the passage of time, the parties lose track of the resolution post-closing. So, we urge that a separate escrow agreement be used in each instance and calendar notices be employed to track such reserved funds.

The object of this exercise, after reasonable steps are taken to address ownership of the funds, is to remove money from the IOLTA account and get it into the appropriate owner's hands.

Inactivity reports and what to do

Financial institutions holding trust accounts enter into an agreement to report inactivity in an IOLTA account.7. Reporting arises

> **(i)** After two and one-half years of inactivity in an IOLTA account, the financial institution shall notify the lawyer and, if known, the law firm at which the lawyer last practiced while holding the account that the account has shown no activity for two and one-half years and that such inactivity shall be reported to the Board if it continues for six more months.
>
> **(ii)** After three years of inactivity in an IOLTA account, the financial institution shall notify the Board that the account is inactive, with copies to the lawyer and, if known, the law firm at which the lawyer last practiced while holding the account.

Inactivity shall be measured from the date of the last transaction or the date when the lawyer notifies the financial institution that the account shall remain open pursuant to subparagraph (h)(7) of this Rule, whichever is later. For purposes of this Rule, automatic interest accrual and disbursement of interest to the IOLTA Committee shall not constitute activity." 8.

When a lawyer receives a copy of the inactivity notification that a financial institution sent to the Board, the lawyer shall close the account and distribute the funds either to the owner of the funds or to the IOLTA Committee, as applicable, unless the IOLTA account contains no unidentified or unclaimed funds, and the lawyer has a valid reason for maintaining the IOLTA account. The lawyer shall notify the Board in writing of the action taken or, if no action is taken, of the reason that the IOLTA account will remain open. If the IOLTA account will remain open, the lawyer shall also notify the financial institution in writing that the IOLTA account will remain open. If, within one year from the date the financial institution sent the inactivity notification to the Board, the lawyer neither closes the IOLTA account nor notifies the financial institution that the IOLTA account will remain open, the financial institution shall distribute the balance of the IOLTA account to the IOLTA Committee and close the IOLTA account. 9. Rule 1.15(h) (7).

You are holding funds and cannot identify or locate the owner.

If the lawyer has been unable to identify the owner of unidentified funds or to locate the owner of unclaimed funds and transmit the funds to the owner within three years after discovering that the IOLTA account contains unidentified or unclaimed funds, the lawyer shall remit the funds to the IOLTA Committee.

We do not read the Rule as requiring a lawyer, as of September 1, 2024, to turn over any funds to the IOLTA Committee that have been in their account unidentified for three years. Attorneys should continue to take efforts, if there are still efforts to be taken, to find the owners and, if all else fails, then remit the funds to the IOLTA Committee through the remittance process established by Bar Counsel. 10.

Part of this analysis is that, if the owner cannot reasonably be determined, the lawyer cannot assume that the unidentified funds should inure to the benefit of her/his law firm.

If, after all good faith efforts to determine ownership or entitlement of the funds, then there is a new process under which funds can be remitted to the IOLTA Committee after an affidavit of due diligence has been filed with Bar Counsel for review. The Rule sets out the process as follows:

> When a lawyer remits funds to the IOLTA Committee pursuant to paragraph (i)(2) or (i)(3) of this Rule, (i) the lawyer shall provide a report to the IOLTA Committee in a form provided by the IOLTA Committee and shall comply with the

Continued from page B8

procedures of the IOLTA Committee for the transfer of funds, and (ii) if the amount of funds transferred to the IOLTA Committee in a twelve-month period exceeds the applicable threshold amount, the lawyer shall, in a form provided by the Board, provide a report to the Board within 14 days of transferring the funds that bring the twelve-month total of funds transmitted to the IOLTA Committee above the applicable threshold amount [presently set at $500]. 11.

You are holding funds that belong to you.

If you can definitively identify funds belonging to you, then withdraw them from IOLTA and deposit them into an Operating account. Do not keep your own funds in the account (other than the bank charges amount). If you intend or need to maintain the IOLTA account going forward or until it can be closed, then keep $200 or less of your own money in each IOLTA account to cover any bank charges that might arise. 12.

What do you do if you cannot reconcile your account?

If, after reasonable efforts have been made to find the correct owner and delivery efforts fail, then the funds must be remitted to the IOLTA Committee through Bar Counsel. 13. Please note that the Massachusetts IOLTA Committee is now listing the names of persons who may be owed funds reported to the Committee. See, Board of Bar Overseers and the Massachusetts IOLTA Committee websites.

For an inactive single-client account (which does not need to be an IOLTA account -- see, *e.g.*, a conveyancing account for a specific bank --) for which the lawyer keeps records manually, a written record that the lawyer has reconciled the account statement from the financial institution with the check register maintained by the lawyer may be sufficient. 14.

How to dispose of funds depending on who the owner is

If you have a valid address for the owner of the funds, send out an IOLTA check to that person or entity. If the check is not negotiated, and you are certain that the address is valid for the owner in question, get a bank check for the amount in question and send that to the owner. In that way, the funds will be finally removed from the account, and you will not await the negotiation of the check in order to draw down the account balance.

How to close an account and when

As to all of the above, the goal is to be able to reconcile the account, dispose of all identifiable funds, dispose of all unidentifiable funds and then with a zero balance, close the account. Prior to closing an IOLTA account (or any account), make sure that there are no outstanding checks and that any automatic interest has been transferred to the IOLTA Committee.

In sum

The process is tedious, but essential. Please do not keep kicking this can down the road. At the end is not a recycling plant, but a cautionary tale!

James S. Bolan is a partner with Brecher, Wyner, Simons, Fox & Bolan, P.C., an "AV" rated firm with a principal office in Newton, Massachusetts. He represents lawyers and law firms in Board of Bar Overseers and malpractice matters, partnership breakups, departures and law firm litigation. He provides counsel to local, national and transnational lawyers and law firms on professional responsibility, practice and ethics matters, malpractice defense and prevention, and risk management and law firm audits.

Sara Holden joined Brecher, Wyner, Simons, Fox & Bolan represents lawyers and law firms in Board of Bar Overseers and malpractice matters, partnership breakups, departures and law firm litigation. She provides counsel to local, national and transnational lawyers and law firms on risk management, law firm audits, malpractice prevention, and professional responsibility, practice and ethics matters. She also represents physicians and other professionals in disciplinary matters and professional and non-professional clients in civil litigation matters.

1. James S. Bolan and Sara N. Holden.

2. With apologies to Disney and the Dwarfs.

3. See, Bar Counsel Articles on Ethics: "January 2024 Update to: Unidentified and Unclaimed Funds in IOLTA Accounts May Result in Public Discipline: So now is a good time for lawyers to clean up their accounts", by Dorothy Anderson, First Assistant Bar Counsel, January 22, 2024 and "Olchowski Decision and the Disposition of Unidentified and Unclaimed IOLTA Funds" by Alison Mills Cloutier and Robert M. Daniszewski, December 28, 2020.

4. Rule 1.15, Comment 11.

5. Rule 1.15(a)(1).

6. Rule 1.15(b)(1).

7. Rule 1.15(h)(1)(5), (6).

8. Rule 1.15(b)(1), (6).

9. Rule 1.15(h)(7).

10. Rule 1.15(i), including (i)(4) (see reference to Form to be submitted).

11. Rule 1.15(i)(4), (6).

12. Rule 1.15(b)(2)(i) and (f)(1)(d).

13. See reference to the Form for submission to the IOLTA Committee on the Board of Bar Overseers website and the Massachusetts IOLTA Committee website.

14. See, Comment 11 to Rule 1.15

Washington Update

By Linda Lipsen

This month, the Energy and Commerce Committee advanced two landmark pieces of legislation aiming to protect children online. The Children's Online Privacy Protection Act 2.0 (COPPA 2.0) and the Kids Online Safety Act (KOSA) limit the ability of online platforms to collect and store children's data, mandate increased privacy settings and parental controls, and impose a Duty of Care to strengthen children's online safety and privacy protections.

Twenty-four hours before the markup, changes were made to the legislation, and concerns were raised on both sides of the aisle about those changes. While both bills were passed out of committee, congressional leadership noted that changes will be necessary to strengthen those protections and pass the legislation in both chambers.

At this point in the legislative calendar, there is limited time in which to move these bills before the scheduled recess for the end of this month, but due to the groundswell of support for both bills, movement is possible. Congress needs to pass a short term funding plan to keep the government open beyond September 30. Once they recess, they are not expected back until the week after Election Day.

Judges

Despite the log jam on government funding, there continues to be positive movement on the confirmation of professionally and demographically diverse judges to the federal bench.

As of this writing, the number of Senate-confirmed judges during the Biden administration is 210, outpacing the three prior administrations by this point in their first four years.

The total number of trial lawyers confirmed to the federal bench is 29, and there are four others awaiting confirmation. Of the Biden nominees who have been confirmed:

42.4% are professionally diverse
58% are people of color
62.8% are women

We anticipate that post-election, confirmations will continue in order to fill approximately three dozen remaining vacancies.

Federal Rules

AAJ closely monitors proposed amendments to the federal civil, appellate, bankruptcy, and evidence rules, and advocates for rules that protect the rights of injured people. Last month, the U.S. Judicial Conference published two proposed amendments for formal comment:

FRAP 29 – Brief of an Amicus Curiae (login required) — The proposed amendments are intended to provide additional information to courts Under the proposed amendments, a party may file an amicus only with leave of court (consent by parties would no longer be permitted), and further disclosures are required between an amicus and parties, as well as non-parties.

FRE 801(d)(1)(A) – Prior Inconsistent Statements (login required) — The amendment would significantly expand the current hearsay exemption to provide broader admissibility of prior inconsistent beyond statements previously made under oath at a formal proceeding. The proposal echoes a 2014 change to Rule 801(d)(1)(B), which provides that all prior *consistent* statements are admissible as substantive evidence, as well as to rehabilitate the testifying declarant (subject to Rule 403).

AAJ encourages members to review these proposals and submit comments by **February 17, 2025, at 11:59 p.m. EST**. To learn more, visit our Federal Rules landing page. For more information, contact Sue Steinman or Kaiya Lyons

AAJ Issues in the News

AAJ's communications team works strategically to educate members of the media and the public about the work trial lawyers do on behalf of their clients.

Axios published an excellent story about forced arbitration that highlights clients' stories and the related bills we are monitoring related. This issue was also the focus of a Slate Money podcast episode.

After the container ship Dali struck

Continued on page B11

MATA Annual Dinner celebrates justice and community

On May 2st, hundreds of MATA members and friends gathered for a day of educational seminars and a night of networking and celebration. At the dinner, MATA honored Lawyers Concerned for Lawyers with the MATA Judicial Excellence Award. Joanne Doroshow of The Center for Justice & Democracy received the MATA Consumer Champion Award. Michael A. Sullivan, Middlesex County Clerk of Courts, received the MATA Excellence in Court Administration Award. The Hon. C. William Barrett received the MATA Judicial Excellence Award. Morton J. Shuman received the MATA Milestone Award. Immediate Past President Rhonda Maloney also presented President's awards to: James Bolan, Scott Goldberg, Jonathan Karon, Timothy Kelleher, Marianne LeBlanc, Thomas Murphy, Kevin Powers, Andrew Nebenzahl, Donald Pitman, and Mala Rafik.

MATA Past President Charles Barrett and Middlesex Superior Clerk of Courts Michael A. Sullivan

MATA Treasurer Matthew Fogelman, President Marc Diller, Immediate Past President Rhonda Maloney, and President Elect Thomas Bond

Kevin Powers, MATA Past President Timothy Kelleher, Immediate Past President Rhonda Maloney, Past President Thomas Murphy, and Governor Andrew Nebenzahl

MATA President Marc Diller and Middlesex Superior Clerk of Courts Michael A. Sullivan

Stacey A. L. Best, Executive Director of Lawyers Concerned for Lawyers and MATA Immediate Past President Rhonda Maloney

MATA Immediate Past President Rhonda Maloney and Hon. C. William Barrett

MATA President Marc Diller and Immediate Past President Rhonda Maloney

MATA Past President Douglas Sheff and Joanne Doroshow, Executive Director of the Center for Justice & Democracy

MATA Governor Morton Shuman and Representative Jeffrey Roy

MATA Executive Director Paul Dullea, Past President Jonathan Karon, Immediate Past President Rhonda Maloney, and Governor Scott Goldberg

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Baltimore's Francis Scott Key Bridge, AAJ supported the introduction of a bill to address the Limitation of Liability Act (LOLA), which limits a ship owner's liability for damages to the value of the ship, regardless of the amount of actual damages. AAJ has been posting about how this act leaves families without justice.

We continue to fight to hold chem-conglomerates accountable for failing to warn Americans about cancer risks associated with their products. One of our staff attorneys is featured in this podcast, explaining AAJ's work and this battle for justice.

We're also tracking ballot proposals such as the one in Nevada, where Uber is trying to cap contingency fees in civil cases.

Your ongoing support makes our work in these critical areas possible. Our goal is to provide this broad advocacy in addition to supporting you with tools to enhance your practices and succeed for your clients. AAJ will continue to fight for access to justice for your clients and will keep you informed on important developments. I welcome your input at advocacy@justice.org.

Linda Lipsen is CEO of the American Association for Justice.

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