



Legal news & views

Issue: IX

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Dear Jaime,

Thank you for reading **news & views** from Kenney & Sams, P.C. We value your time and promise to keep the content brief, educational and direct. If you would like to discontinue receiving this type of communication, please unsubscribe below.

U.S. News - Best Law Firms



2014 - "Best Law Firms"

Kenney & Sams, P.C. has been named a "Best Law Firm" by *U.S. News & World Report*.

[U.S. News and World Report](#)

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Amanda J. Cox

Amanda Cox was recently appointed to the Executive Board of the Milford Area Bar Association. In this role, Mandy will help lead the Association's public service, CLE and networking initiatives.

Around the Firm

Kenney and Sams, P.C. **Growing and On the Move!**

Please note as of December 1, 2013, our **Metrowest Office** has relocated to:



Southborough Executive Park
225 Turnpike Road
Southborough, MA 01772

Our **Boston Office** remains:

Old City Hall
45 School Street
Boston, MA 012108



Mike Sams

Mike Sams moderated a Construction Law Program on Renewable Energy on October 22, 2013 for the Boston Bar Association's Construction Law Committee.



Chris Kenney Presents Trial Advocacy Program to the IADC

The International Association of Defense Counsel, (IADC), selected Chris Kenney as one of two trial lawyers in the country to demonstrate trial advocacy techniques in a mock trial at its mid-year meeting in San Diego, CA. The program was attended by approximately 300 attorneys from the U.S., Canada and Europe.



Awards and Accolades

Super Lawyers

Chris Kenney has been selected a 2013 *Massachusetts Super Lawyer*. Chris focuses his practice in the areas of Business Litigation and Civil Litigation. Chris has been included on this list since 2004.

Mike Sams was selected for inclusion in 2013 *New England Super Lawyers* in the area of Construction Litigation. Mike has been included on this list since 2004.

Frank Sally has been recognized as a 2013 *Massachusetts Super Lawyer*. Frank has been included on this list every year since 2005.

Joseph Calandrelli was chosen for inclusion in the

Kenney & Sams Attorneys Help to Lead DRI



Kenney & Sams is actively involved in DRI, the Voice of the Defense Bar.

- **Mike Sams** serves as Vice Chair of DRI's Construction Law Committee, and
- **Chris Kenney** is National Chair of DRI's Membership Committee. For Further information about DRI and to download a membership application; please click below.
- **David Kerrigan** recently attended DRI's 27th Annual Civil Rights and Governmental Tort Liability in New Orleans. This seminar presented vital information surrounding issues of arrestees, municipal bankruptcy 101, and qualified immunity.

DRI is the largest international membership organization

of attorneys defending the interests of business and individuals in civil litigation.

[DRI Membership Application](#)

New Counsel

Kenney & Sams would like to welcome **Frank Sally** to the firm. Frank joins Kenney & Sams, P.C. after a distinguished thirty year career with Sally & Fitch, LLP, a Boston law firm that he co-founded in 1984, after fourteen years as a trial lawyer with Bingham, Dana & Gould. Frank has more than forty years of experience in business, banking, construction and real estate litigation, products liability, general liability and insurance coverage litigation. His clients have included many leading regional, national and international corporations, utilities, insurers, banks and other financial institutions. Frank has been selected as a *Massachusetts Super Lawyer* every year from 2005 to date.



Francis J. Sally

Additionally, Frank led many civic and charitable organizations, including a term as Co-President of the Boston Inn of court. He presently serves as Chairman of the Board of Directors of the ARC of Massachusetts, a statewide organization that services individuals with developmental and intellectual disabilities. Frank is a graduate of Boston College and Suffolk University of Law School. He is admitted to practice in Massachusetts and Rhode Island.

New Associates



Jared Fiore

Jared Fiore joins Kenney & Sams, P.C. where he will focus his practice on Civil Litigation. Prior to joining Kenney & Sams, Mr. Fiore represented various parties through the Massachusetts Justice Project and the Worcester County Bar Association. Jared interned for the Department of Homeland Security in the Office of the Principal Legal Advisor for Immigrations and Customs Enforcement in Boston, and was a judicial intern to the



Haley Byron

Haley Byron joins Kenney & Sams as an associate with particular experience in Civil Litigation. Before coming to Kenney & Sams, Haley was an associate with Marcus, Errico, Emmer & Brooks, P.C. where she represented developers and real estate clients in a variety of litigation matters, including at the appellate level. Haley also has experience representing individuals in criminal matters in both district and superior courts.

2013 Massachusetts Super Lawyers as a Rising Star.

Super Lawyers is a research-based peer reviewed rating service of outstanding lawyers who have attained a high degree of professional achievement and recognition.



Martindale Hubbell Preeminent AV Rated

Chris Kenney was selected as a 2013 Top Rated Lawyer of "**Labor and Employment Law**", "**Commercial Litigation**" and "**Appellate Law**" by American Lawyer Media and Martindale-Hubbell and was featured in the November Issue of The American Lawyer's Corporate Counsel Magazine.

Mike Sams and **David Kerrigan** have also been recognized as Martindale Hubbell **Preeminent AV Rated Top Rated Lawyers**.

NOTEWORTHY CASES AND MATTERS



Mike Sams and **Adam Ponte** recently convinced a Norfolk Superior Court judge to temporarily restrain a national water tank installer from executing a \$900,000.00 contract with a Massachusetts town due to violations of the State's public bidding laws. Our client, a major New Hampshire-based construction company, was the lowest, responsible bidder for a project involving the installation of a 700,000 gallon water tank. The awarding authority, however, rejected our client's bid, citing our client's alleged

Honorable John S. McCann of the Massachusetts Superior Court.

Jared is a graduate of the College of the Holy Cross and the University of Notre Dame Law School.

Haley attended Boston College and Boston University School of Law. She graduated with honors from both.

inability to satisfy project specifications, and sought to award the contract to another tank installer. At the court's hearing, we successfully argued that the awarding authority's specifications were proprietary and, therefore, violated public bidding laws. As a result, the awarding authority had no other option but to cancel its contract and re-bid the project; this time, in accordance with public bidding laws.

—————
Chris Kenney and **Adam Ponte** prevailed in a Superior Court trial this month when a jury returned a defense verdict for our client, an industry-leading national restaurant chain. The jury rejected plaintiff's claim that the floor tile was defective and posed a safety hazard. We presented an expert engineering witness who tested the co-efficient of friction of the floor tile and testified that it exceeded industry standard for slip resistance. We also rebutted the Plaintiff's damages by showing that her alleged back injury was caused by previous, unrelated accidents.

—————
Mike Sams and **Amanda Cox** recently achieved a victory for our client, a company which constructed and maintained a confined disposal facility ("CDF") pursuant to a license issued by the Massachusetts Department of Environmental Protection. Our client constructed the CDF for the purpose of providing for the permanent containment and isolation of contaminated sediments dredged from the Island End River in Everett. Our client was under a continuing obligation to monitor and maintain the CDF in good repair. Attorneys Michael Sams and Amanda Cox brought suit on behalf of our client against a trespasser who was illegally mooring large vessels to the side of the CDF. Due to the damage the vessels were

Articles of Interest

Overtime For Managers?

By: Jared Fiore

You own a business and employ several managers who are paid a salary. The managers usually work 40 hours a week, but sometimes longer. They supervise two to three other employees, may recommend discipline to you, and have no authority in hiring or firing employees. Are you running afoul of any wage laws with this arrangement? Are you required to pay your managers for over time hours?

[Read Full Article Here](#)

First Circuit Court of Appeals Enforces Non-Solicitation Agreement Where Client Makes First Contact in Soliciting Former Employee

By: Ryan Menard

Employers of salespeople often have the good sense to have those employees sign non-solicitation agreements before they start work-after all, a company's worst nightmare is having a star salesperson skip town like the pied piper, with a line of the company's clients marching behind him.

But is it solicitation when a client is the one to reach out to the ex-employee? A new ruling from the First Circuit Court of

Appeals suggests, to the relief of employers, that the answer may be "yes." Although that Federal Court decision is not binding on Massachusetts State Courts, it is strong ammunition for a wronged employer, and may be enough keep those clients from leaving.

[Read Full Article Here](#)

causing as well as the potential for further and serious damage to the structure, Attorneys Sams and Cox obtained a Temporary Restraining Order which required the trespasser to remove his vessels from the CDF. Although it required the filing of a Complaint of Civil Contempt, the trespasser removed his vessels from the CDF before they could cause a release of hazardous materials from within the structure into the Island End River.



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