



*Greetings from Kenney & Sams. Please peruse our newsletter for recent developments in the law and at our firm! September 2018*

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## *About Us*

***Chris Kenney  
Named President of The Massachusetts Bar  
Association***

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Attorney Christopher A. Kenney, a founding member and managing shareholder of Kenney & Sams PC in Boston, has been elected President of the Massachusetts Bar Association for its 2018-19 year, beginning on Sept. 1. During his year as president, Kenney will seek to



strengthen the MBA's role as a partner to the legal profession, and promote civics and civic responsibility in Massachusetts through education, empowerment and engagement.

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## ***Lindsay Burke Top Women of Law 2018***

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The Top Women of Law event celebrates outstanding achievements made by exceptional women lawyers. Each year Lawyers Weekly honors women attorneys who have made tremendous professional strides and demonstrated great accomplishments in the legal field, which includes: pro bono, social justice, advocacy and business. The awards highlight women who are pioneers, educators, trailblazers, and role models.

**Congratulations Lindsay!**

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Congratulations to Mike Sams and Chris Kenney for being recognized in the 25th Edition of The Best Lawyers in America in the practice areas of Construction Law, Litigation-Construction, Litigation-Insurance, Insurance Law, and Labor and Employment.

Best Lawyers is regarded as the most credible measure of legal integrity and distinction in the United States. As such, recognition by Best Lawyers symbolizes excellence in practice.

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## ***Legal Issues You Should Know***

***Time Is On Your Side: Six-Year Statute Of Repose Applies To Alleged Violations Of***

# ***The Home Improvement Contractors Act***

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**By: Roddy Ames**

The Massachusetts Supreme Judicial Court recently ruled that consumers are limited to six years to sue contractors for defective construction work over unfair business practices under the home improvement contractor and consumer protection laws.

Importantly, the SJC also held that the statute of repose applies to G.L.c.93A, the consumer protection law, and violations began as soon as the work was substantially completed, not when the defect was ultimately discovered.

[Read Full Article Here:](#)

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## ***Massachusetts's New Non-Compete Law: An Overview***

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**By: Lindsay Burke**

After years of fitful attempts, the Massachusetts Legislature finally passed a bill regulating non-compete agreements. Governor Baker signed the “Act relative to the judicial enforcement of non-competition agreements” (MGL c. 149, §24L) on August 10, 2018, and it will take effect on October 1, 2018. The new law ushers in a new era in the enforcement of non-competes, and is likely to cause some misunderstandings (and a host of litigation) as employers and employees adjust to the new system. Here, I break down the new law into its most important parts.

[See Full Article Here](#)

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## ***Massachusetts Employer Not Allowed To Enforce Non-Compete Against Its California Employee***

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**By: Michelle de Oliveira**

On September 7, 2018, the Supreme Judicial Court of Massachusetts (“SJC”) issued a decision in *Oxford Global Resources, LLC v. Hernandez*, holding that a Massachusetts employer could not enforce a confidentiality, non-competition, and non-solicitation agreement against a former California employee. Despite the explicit language in the agreement that it was governed by Massachusetts law and that disputes were to be brought in a Massachusetts court—the SJC declined to enforce it against a California employee.

This case highlights the challenges employers face when hiring employees to work in states other than the state in which the employer is located.

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## ***Massachusetts Public Bidding Laws: What Contractors Need to Know Before & After They Bid***

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**By: Julianne Fitzpatrick**

Massachusetts statutory laws govern the process for bidding on a public construction project, commonly referred to as the “Bid Laws” or “public bidding laws”. These laws were enacted to make the public bidding process objective by requiring awarding public jobs to the lowest eligible bidder. The purpose is to have public projects completed at the lowest cost that fair competition can achieve, to protect contractors and the public from favoritism, by protecting the integrity of and promoting transparency in the bidding process.

[See Full Article Here](#)

## ***Recent Successes***

### **Fighting For You!**

While we often think that victory or defeat comes at trial, more than 97% of cases settle before trial, but after “depositions,” when the parties are questioned by the opposing attorney under oath. Because the client cannot interfere with the questions except to state an objection on the record, our attorneys exhaustively prepare their clients for their deposition, and then carefully object at the deposition to avoid misleading or aggressive questions meant to lure the client into a trap.

The federal court for the District of Massachusetts recently ruled that **Ryan Menard** appropriately and effectively defended his client at his deposition. “Menard had a difficult role,” the Court noted, describing the opposing attorney’s “misleading” tactics and the client’s temper. “Menard properly objected to these tactics.” The Court described and approved of Menard’s defense of his client:

“[Menard] sought at times to clarify the record by objecting and asking for more specificity in a question or asking reasonable questions about which [the opposing attorney] was asking a question...Menard repeatedly told [his client] to wait for a question or to wait until opposing counsel had completed his question before speaking. When it appeared that [his client] was agitated, Menard tried to pour oil on the troubled waters between [the opposing attorney] and [Menard’s client]... [Menard] appropriately instructed his client not to answer certain questions in an attempt to preserve the statutory confidentiality of mediation proceedings and to protect the confidentiality of attorney-client communications.”

# Noteworthy Events



**Michelle Oliveira**

Michelle focuses her practice in the areas of employment litigation and counseling, tort and commercial litigation. She counsels clients on workplace issues and new legal developments in Massachusetts. Michelle regularly represents clients in arbitration and litigation of employment disputes, including discrimination, sexual harassment and wrongful termination.

Michelle is a graduate of Northeastern University School of Law and Northeastern University.



**Kristen R. Ragosta**

Kristen counsels, defends and manages risk for businesses and individuals involved in complex transactions and disputes. Her expertise includes litigating construction, tort, environmental, employment and discrimination disputes. She is a member of the National Association of Women in Construction and a former Assistant District Attorney for the Middlesex County District Attorney's Office.

Kristen is a graduate of Suffolk University Law School and University of New Hampshire Whittemore School of Business and Economics.

Mike Sams has been re-appointed to the Northeastern University School of Law Alumni Board of Trustees. Mike is a Past President of the Board.



Mike Sams is co-chair of MCLE's 50th Year Celebration Program and Moderator of its 50th Anniversary Gala

program, scheduled for October 17th.

Mike also is chairing MCLE's program entitled *Personal Branding and Business Development for Law Firm Associates*. Scheduled for October 10th. For more information see: [MCLE/New England: CLE Programs](#)



event at their Metro West office.

Mike Sams is presenting to BRAGB concerning construction contract issues and risk management on October 30th. Kenney & Sams is hosting this

## *2018 IADC Trial Academy*



Chris Kenney completed his term as the 2018 Trial Academy Director at Stanford University School of Law. Ashley Healy was a student at Trial Academy this year.

## *Julianne Fitzpatrick Appointed a Fellow In The MBA Leadership Academy*



The MBA Leadership Academy was developed to better prepare young attorneys to assume leadership roles at the bar, in their firms or organizations, and in government.

The MBA's Leadership Academy is a highly selective, 12-month program that provides Academy fellows the opportunity to network, collaborate and build relationships with bar leaders; develop and enhance leadership skills important to their future in the legal profession; and to get an insider's look at the important role the MBA plays within the legal system.



## *5th Annual Semi-St. Patrick's Day 2018*

Good Time had by all at the Kenney & Sams 5th Annual Semi-St. Patrick's Day at MJ O'Connors in Boston. It was a great way to celebrate with clients and friends!



### *Welcome*

Welcome Christina Kennedy and Lesley Traver. Two great additions to our ever-growing firm!



Trial-Think ['tri(ə)l thingk] *noun*

1. An approach to dispute resolution and risk management that brings trial experience, preparation and effectiveness to everything we do for our clients.

Litigation - Construction Law - Employment Law - Business Law  
- Insurance Law - Risk Management

Kenney & Sams, P.C.

617-722-6045

[www.KandSlegal.com](http://www.KandSlegal.com)

