

BARRISTER

PUBLISHED BY THE BARNSTABLE COUNTY BAR ASSOCIATION

FALL 2019

PRESIDENT'S MESSAGE

Greetings Fellow Members:

I am looking forward to serving as President of the Barnstable County Bar Association for the 2019-2020 year. I am honored to be taking the reins of what I believe to be one of the finest bar associations and the best place to practice law in Massachusetts. I have been practicing over the last several years in many counties and the comradery, kindness and empathy that is demonstrated by the attorneys and the judges in Barnstable County is truly unparalleled. It will be an Honor to serve as your President. It will not be easy to fill the shoes of our most recent president Kristen Menard and her predecessor Sarah Manning who both did an amazing job representing the Bar Association.

Our jobs are not easy, whether we are working on motions, arguing before the court, meeting with clients, or doing research. Being part of this wonderful Bar Association presents opportunities to share stories and to talk to other attorneys and it helps us to appreciate the practice of law and the unique experience we all have as lawyers. It is my hope that over the next year we can have more occasions to come together. I hope that you all feel comfortable to reach out to me if you have suggestions or ideas on how our bar association can do a better job meeting the needs of the members.

We ended last year on a high note celebrating two fine members of the Judiciary in our County who were moving on. Judge Thomas J. Kirkman and Judge Kathryn Hand will surely be missed in Barnstable County and we hope that they will both continue to be a part of our events. We were also fortunate enough to have several justices from the Appeals Court here to celebrate their departures and to be a part of our annual meeting.

This year we have the exciting opportunity to host the Justices of the Supreme Judicial Court on October 2. The Bar Association will be hosting a Luncheon in their honor and it is sure to be an exciting event. It is expected that the Justices will be spending the morning hearing oral arguments at the Superior Court house much like the Appeals Court did last spring. If anyone has an opportunity to attend, it is sure to be a great opportunity to listen to some compelling arguments close to home.

The Bar Association has a very involved Young Lawyers' Division that continues to develop an active social calendar with many events and chances to come and mix with other members of the Bar. I hope some of you can attend these events and support our young (and some old!) lawyers.

As I embark on the next year, I am hopeful that we can continue the traditional meetings, but I encourage you to get more involved

and to attend these events. I am hopeful we can create more events and chances to come together. I look forward to helping to serve our members.

Best Wishes,
Holly A. Harney
President 2019-2020



**NEW TO THE BAR? NEW TO
CAPE COD? YOUNG AT HEART?
JOIN THE BCBA'S YOUNG
LAWYERS' DIVISION!**

Hello BCBA!

I hope everyone had a lovely summer. The Young Lawyers' Division is gearing up for another exciting year. Keep an eye out for announcements regarding the upcoming social in November, volunteer opportunities, and more!

I want to take the time to thank those who attended the YLD's first ever Summer Social on August 8th at The Lanes in Mashpee – a special thank you to the event's sponsor McNamara & Yates P.C. If your firm is interested in sponsoring a YLD event, please let us know!



Pictured Above: Two recent grads, Chad Yates, JD, and Alex Nee, JD celebrating the summer with the Young Lawyers' Division at the Lanes in Mashpee.

As many of you noticed in the Summer edition of *The Barrister*, the YLD has started a new feature, spotlighting young/new attorneys in Barnstable County. Kara Leary and Rachel Hodgman were featured in the last issue of *The Barrister*, and this issue, we are happy to spotlight John Booth and Muska Yousuf. The YLD Spotlight is intended to introduce new and younger attorneys to the BCBA membership and to encourage participation with the BCBA and YLD. If you know a young or new attorney that you think should be featured, please reach out to the YLD.

Finally, if you are a young attorney and are interested in becoming involved with the Young Lawyers' Division, please do not hesitate to contact us. We are always looking to expand our network of young and

new lawyers in Barnstable County.

The easiest way to get in touch with the
YLD is via email:
BarnstableYLD@gmail.com.

**Our next meeting will be October 8th,
location TBD.**

Thank you and have a great Fall!

Crissa Morton, Chair
BCBA Young Lawyers' Division



YOUNG LAWYERS' DIVISION FALL LINEUP:

THE BIG FIX ON OCTOBER 5, 2019 8AM– 1 PM IN BARNSTABLE: We have a BCBA team assisting in clean-up and repairs on the homes of veterans, senior citizens, and disabled members in our community. Consider donating to the cause! Make a donation to HAC of Cape Cod on behalf of the BCBA team. For more info, contact Nicole Ouellette at nouellette@publiccounsel.net or by phone at 508-815-5732.

THANKSGIVING FOOD DRIVE & FALL SOCIAL, NOVEMBER —DETAILS TBD: Enjoy a cocktail and hors d'oeuvres with colleagues and bring canned goods and other non-perishables for donation to a local pantry.

CAPE ABILITIES FARM VOLUNTEER DAY IN DECEMBER: Spend the day helping with Christmas Tree and Wreath sales or make gift baskets and wrap customers' purchases of holiday gifts.

Young Lawyers' Division Spotlight

This Issue Featuring: Muska Yousuf



Muska Yousuf combines community engagement and alternative fee models to grow her solo practice

By Irie E. Mullin, Associate Town Counsel, Town of Falmouth

Muska Yousuf, 35, launched her solo family law practice six months ago. After growing up in Eastham, Muska attended Suffolk Law and worked in the Boston area before returning to the Cape, a place she missed for “the small community, going into a coffee shop and knowing everyone’s name.” Muska focuses on divorce and family law, including custody issues and child support modifications. In considering whether to pursue solo practice here, Muska found that Barnstable County has a lower than average median income, and that Barnstable Family and Probate Court has a very high rate of *pro se* litigants. In these statistics, Muska saw an opportunity to create a law practice that reaches “this huge pool

of people who are just going it alone” because their income is too high to qualify for *pro bono* services but not enough to afford the traditional hourly rate at many law firms. To accomplish this goal, the Law Practice of Muska Yousuf is centered on Limited Assistance Representation, without hourly fees. Each case is broken into four stages, and a flat fee is charged per stage. Many clients might not need an attorney for the entire case and may get the most out their limited resources by hiring an attorney solely for a critical motion hearing. Muska finds that her clients “really appreciate this new model because it’s more affordable—I don’t charge for communication, so my clients can openly call, email, or text, and they don’t get charged. I don’t charge for travel, and I don’t charge for sitting and waiting to be heard in court.” This model provides services not only at a lower total cost than traditional fee models, but also with greater predictability that allows clients to anticipate and budget for the fee. Under a traditional fee model, she notes, “when people ask ‘how much is this going to cost?’ you have to say ‘it depends.’ And nobody wants to hear ‘it depends,’ especially when they are working on a budget or they are working paycheck to paycheck.” Six months into solo practice, Muska has learned from her successes and her “Rookie Mistakes,” as she calls them. “You start small, you keep your expenses low, you do a really great job, and through word of

mouth, it happens,” she says. Her biggest insight so far has been the importance of personal contact with potential clients in the community. “Where you’re dealing with people in their most vulnerable moments, you really have to get out there and meet people face-to-face.” Volunteering in a variety of contexts helps Muska make these personal connections. She volunteers with local non-profit *We Can*, providing free legal consultations in landlord-tenant and family law, as well as more in-depth workshops on topics in those areas. She also does *Lawyer of the Day* in both Barnstable and Brockton Probate and Family Courts. “Seeing what kind of questions people were coming in with really helped me to figure out how I wanted to set up my business, so I could help this community with those questions,” she says. Muska thinks that Limited Assistance Representation is a model that would be very effective on Cape in many practice areas, and hopes to one day expand her firm to include other attorneys who want to provide alternative-fee services in areas like landlord-tenant law. “You hear that it’s difficult to be in your thirties and start a career on the Cape, but my advice to anyone who wants to start their own solo practice is to do a lot of networking, really study what your clients want, and give them the personal attention that they deserve,” she says. With the growth of her own practice so far, this formula seems to be a recipe for success.

Congrats, Muska!

Young Lawyers' Division Spotlight This Issue Featuring: John S. Booth



Say, “Hello!” to John S. Booth— He’s newer to Cape Cod but not new to getting involved in his community

Greetings BCBA and YLD members!

I’m a proud member of the BCBA and YLD and hope this article encourages other attorneys to be active and support these programs with all of the great events and services they provide.

Originally from Doylestown, PA, I moved to Cape Cod about five years ago for an associate tax attorney position at Haddleton & Associates, P.C. About three years ago, after the passing of the senior attorney and closing of the firm, I started Booth Law, P.C. in Barnstable Village. Long story short, it was a sudden and unexpected transition into solo practice, but I was extremely fortunate to have the help and support of my family, friends, and colleagues during that time and over the past few years. I was also absolutely amazed by the amount of support I received from local attorneys during this transition.

My first ever BCBA meeting was in the summer of 2015 where I met other young attorneys, Kristen Dupuy and Alexa Mislitski, who I now consider dear friends. They then introduced me to their family, including At-

torney Adam Dupuy and Attorney Matt Dupuy, who I’ve had the privilege of working with on various cases. Kristen and I had the opportunity to work on a few cases together and shortly after opening Booth Law, she joined the practice as the managing attorney and head of the real estate department. Since then, the practice has grown and we now have another young attorney, Travis Jackson, who joined our team and expanded our services even further so that we are now essentially a full-service law firm. We also have an incredible support staff of experienced legal assistants, paralegals and accountants who have been crucial to our success.

I quickly learned the importance of the BCBA and the YLD. The BCBA attorney referral program has been a great source of new clients. The BCBA also hosts many functions and socials where younger attorneys get to meet and network with more “experienced” attorneys of Barnstable County. The YLD recently hosted an event at the Dolphin restaurant where Kristen and I were able to connect and socialize with other young attorneys. We listened to speeches from Attorney Crissa Morton and Attorney Sara Kohls about how beneficial it is to young lawyers to be active in the YLD. The YLD also receives incredible support from other BCBA members, attorneys, judges, clerks, and other legal professionals who remember what it’s like to be a young lawyer and are more than happy to provide some wisdom, advice and an occasional anecdote about their first day in court.

I think young attorneys need to stick together and can be an incredible resource for one another for referrals, quick advice on a case, or making new friends on the Cape if you’re a “wash-a-shore” like me. We face many different types of challenges early on in our careers and it’s nice to get out of the office and vent with other young lawyers. My advice to any new or young attorney on Cape Cod is to get involved with the YLD and BCBA programs and you won’t regret it.



SOUTH COASTAL COUNTIES LEGAL SERVICES, INC.

Offices In: Fall River, MA Hyannis, MA Brockton - Justice Center

South Coastal Counties Legal Services' Debt Collection Defense Clinic Anniversary

September marks the one year anniversary of SCCLS' joint Debt Collection Defense project with the Massachusetts Attorney General's Office. Over the past year, private attorney volunteers and staff attorneys have assisted 79 clients with varying levels of assistance including information, advice and full representation in their small claims cases. Of those, 40 clients received full representation which resulted in successful defense against claims worth a total of over \$40,000.

To our clients, savings on these purported debts can make the difference in their ability to obtain or maintain housing, pay for medical expenses, or even feed their families. We, and our clients, are grateful to our essential volunteers, in particular those who make the journey from the Cape to assist in this vital project.

As our clinic and other projects grow, we also have a growing need for additional volunteers, especially to assist with small claims, bankruptcy and other consumer issues. Our Private Attorney Involvement program welcomes volunteers in all substantive areas and levels of experience, in particular those based in Barnstable County. Interested volunteers should contact PAI Coordinator Victoria Gautney at (508) 742-1340 or vgautney@sccls.org.

We appreciate the continued support of the BCBA and its members!



BARNSTABLE COUNTY BAR ASSOCIATION

LAWYER REFERRAL SERVICE

<https://barnstablebar.org/referrals>

The Barnstable Bar Association receives calls from prospective clients in need of a lawyer specializing in a particular area of law. The Service attempts to bring together the prospective client with a participating member of the Lawyer Referral Service.

To fully implement our goal of providing a full range and diversity of legal services within the pool of participating lawyers, a reciprocal commitment to the Lawyer Referral Service is a prerequisite. As such, we kindly invite all members of the Barnstable County Bar Association to participate in the Lawyer Referral Service.

Go to <https://barnstablebar.org/referrals> for additional information and to become a part of our Lawyer Referral Service.

Court Report: The Barnstable County Superior Court

Dear Members:

I want to thank the Bar Association for giving me this opportunity to address them with what is going on in Superior Court. We have two new employees in the clerk's office. Margaret (Maggie) Sennott, who is the head cashier and civil intake person, started with us in May. We also have Nicholas Sears, who is taking over Cameron's job as the criminal intake person and back-up cashier. He just started on August 19th, so please bear with us as he learns his new job. Cameron Scott is now the head account clerk as Lois Ashley retired on August 16th.

We have two conference rooms on the second floor that can be used by attorneys to have private conversations with their clients or to use to talk with other counsel about resolving a case. The rooms can also be booked for depositions if necessary by contacting me at 508-375-6684 and when you get to the opening message press 6. They are located in the old third session Judge's lobby and the former jury check-in office on the second floor.

There is a lounge to be used by **attorneys and court staff only** to wait during court recesses, lunch recesses, and during jury deliberations. The lounge contains two restrooms and is located in the old victim witness office by the elevator on the second floor. **This room is not to be used for meetings with your clients as we have conference rooms for that purpose.**

Civil Pre-Trial conferences and Trial Assignment conferences are now being held in the third session judge's lobby on the main floor directly across from the third session courtroom. Attorneys should wait on the bench in the hallway or at the table in the main lobby where you enter the courthouse. Please do not wait upstairs outside the main session courtroom or in the second session courtroom.

I am happy to announce that the new lock-up for Superior Court is finished and now being used. There is an area for attorneys to speak with their clients outside the earshot of other detainees. We also recently had the judges' lobbies and second session courtroom carpeted, which was sorely needed, and I want to thank Judge Rufo, the county and the administrative office of the trial court for getting this done in one weekend!!

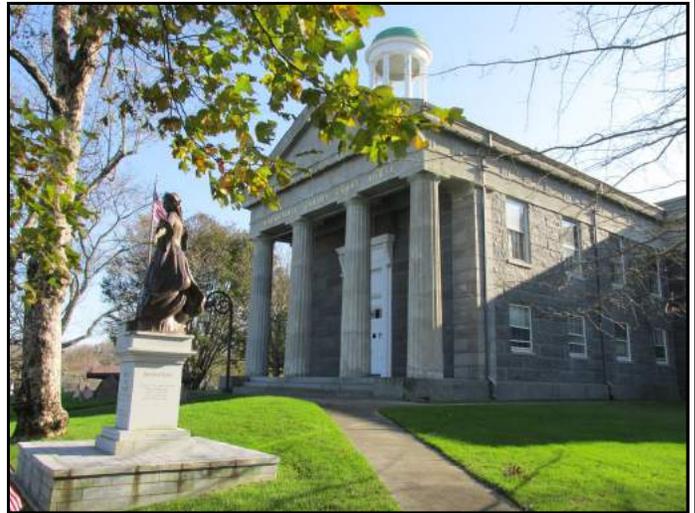


Photo credit: John Phelan, https://commons.wikimedia.org/wiki/File:Barnstable_County_Courthouse,_Barnstable_MA.jpg#file.

I would also like to announce that the e-filing pilot in the Superior Court is well underway in Barnstable Superior Court and you can now e-file any type of civil case. We are still experiencing some docketing and financial issues which we are in the process of correcting. **I have been informed that the e-filing fee rather than per folder filed will be going to a one-time fee paid for by the Plaintiff which will be recoverable if the Plaintiff wins their case. I do not know when this change will take effect.** If any firm or practitioner wishes to e-file, please let me know. Again, I am pleased that Barnstable Superior Court was chosen for this pilot as it shows our commitment to be on the forefront of court technology and the confidence court administrators have in myself and my office. Worcester Superior is now handling e-filing and we hope that Suffolk civil will be added in the next couple of months. I will keep the bar updated as things progress.

I would like to take this opportunity to remind the bar that **Attorney Robert Manning** has joined the office as the new **First Assistant Clerk**. Please welcome him in his new role. We are very excited to have him join our team.

As always, if any member of the bar has any questions, comments, concerns or suggestions, please feel free to contact me at 508-375-6684 then press 6 or by email at **scott.nickerson@jud.state.ma.us**.

I wish everyone a happy and healthy Fall!
Scott W. Nickerson, Clerk of Courts, Barnstable

What's on the Docket in Falmouth District Court?

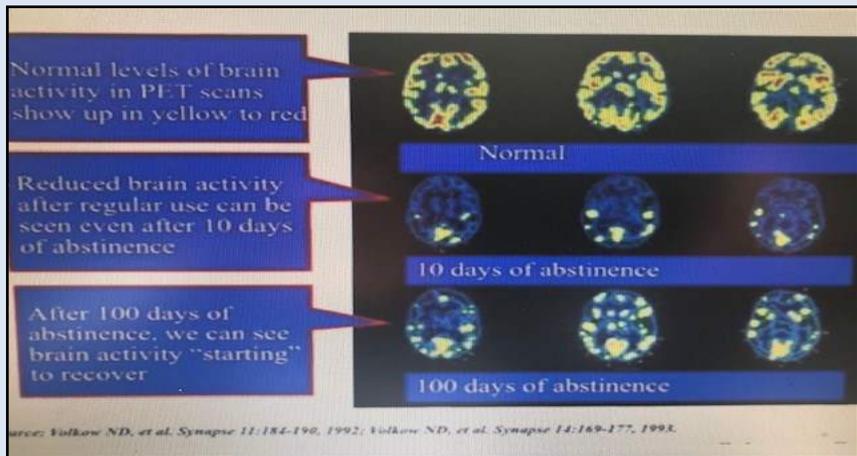
The Falmouth Addiction Intervention and Recovery (FAIR) Drug Court Program

By: Judge Christopher D. Welch

One only needs to look at a brain scan of a person who is using opioids to know that the person has a brain disease. The following picture clearly shows the devastating effect of opiates on the brain.

Without the proper treatment it is a certainty that the individual will continue to commit crime and has a high statistical probability of death. Based upon the incontrovertible medical evidence it is now the mission of our district courts to address the problem.*

Twelve years ago, when I was first appointed, I had not heard of drug courts. When I learned of them, I scoffed at the idea of "hugs for drugs". Thankfully, such ignorance was addressed, as it always is, through proper education and training. My understanding was also assisted by some of the pioneers in the field including The Honorable Joseph



Reardon and Judge John Julian. Judge Julian was kind of enough to suffer my obliviousness with grace and humor. The work Judge Julian has done over the years, particularly those years when such work was not accepted, has saved many lives and united families throughout Barnstable County (and now Plymouth County). Through the leadership and full support of Chief Justice Carey and Chief Justice of the District Court Dawley, drug courts are throughout the district courts. To that end, the

Falmouth Drug Court has opened. I am fortunate to have started and run a drug court prior to Falmouth, in Fall River. Through those efforts, I have a sense of the difficult task ahead and a firm grasp of the science of the evidence-based program. I am buoyed with the thought of my team consisting of our clinician Barbara Hayes, Probation Officer Joanne Mutascio (with back up Ian Ames), and defense counsel Attorneys Genevieve Henrique and Megan English-Braga. The team also includes, with full support, all police departments and the District Attorney's Office and members of the Sherriff's Department. The name of the session is FAIR (Falmouth Addiction Intervention and Recovery).

The process of entering the drug court is simply filling out a referral form and submitting it to Probation Officer Mutascio (the forms are in the courtroom). Thereafter, the individual undergoes an assessment by our clinician, Barbara Hayes.

Continued on next page



Mary E. Phillips, RPR

*Nationally Certified Court Reporter
since 1982*

Reporters serving Cape Cod The Islands Southeastern MA

508.888.6717 / mphiliprpr@gmail.com



P.O. Box 160, Sagamore Beach, MA 02562



FAIR Program Cont'd

The assessment is based on an evidence-based questionnaire and clinical assessment. The individual who is selected for drug court must meet the definition of a "high risk/high need" person. In other words, OUD (or any substance use disorder of any kind) is not the sole criteria. The individual must be someone who requires the type of intense supervision and behavioral modeling which the program provides. At the same time as the clinical assessment occurs, probation is looking into the individual's background, criminal record, history with the courts (restraining orders etc.), and obtaining all relevant documentation (police reports etc.).

The District Attorney's Office also checks with the relevant police departments as to their knowledge of the individual (obviously we do not want a person who is in narcotics sales for a living being in drug court). There may also be other issues such as the person being too violent or has such serious mental health issues that the program would not apply. If the person is screened in to

the program, they meet with me and I go over the program with them and welcome them in. One of the program's attorneys is then assigned to the individual and takes over the case from the attorney who assisted getting them to the program.

The program itself is based upon behavioral modification. The best source of understanding of the program consists of the contract the participant signs, the handbook for the participant, and a description of the program I wrote for the participants. All of these documents are available through the probation department (I too would be glad to provide copies as well). Depending upon the onset of use—with the youngest I encountered as eight years old—the program's goals are to work with the individual until they have a job, safe living environment, a strong recovery maintenance plan, a substantial period of sobriety, relapse prevention techniques, and pro-social activities. Much goes into achieving these goals as each individual's diagnosis is unique to them. By way of example, if one was fifteen when one became addicted

to opiates and the person is now chronologically 25 years old their developmental age remains at 15.

Invariably, there are ups and downs during the course of the program. Week in and week out, the team monitors a person's progress and reports back to me. On the date of the session, I have a full briefing on the individual's progress. In the session, I speak with the individual and go over the week, the decisions made, discuss any slip-ups or problems, and thoughtfully and calmly review all behaviors. It took time to arrive at the compromised state the individuals are in and it takes time and patience to help someone live a responsible substance free existence. I am always available to talk to anyone who wishes to learn more about the program. As to reference materials the NADCP (National Association of Drug Court Professionals), has two volumes of best practices standards which are a good starting place to understanding the tenets and structure of the drug court.

*Oftentimes an individual was exposed to opioids as a result of an injury. Notwithstanding the origins and who is to blame for this epidemic (there is enough blame to go around), I would recommend *Dream Land* by Sam Quinones regarding "The true Tale of America's Opioid Epidemic".

JOIN THE DISCUSSION:

TRENDS & TREATMENT FOR SUBSTANCE USE DISORDER

Hosted by The Barnstable Probate Court & The Law Offices of Michaela D. McCuish, P.C.

Guests to include Judge Ryley and Judge Ordonez

BARNSTABLE PROBATE COURT

NOVEMBER 14, 2019 @ 3:30—5:30

COST: FREE— CLE CREDITS: 2 CAFL/JUV, CRIM TBD

Presenters will provide expertise on substance use disorder, informative tips, and local resources to help clients and their families and assist lawyers across many areas of practice.

Speakers to include members of Gosnold, Duffy Health Center, Herren Wellness, Kristoph Pydynkowski Addiction Treatment Services, and Narcotics Anonymous



Charles J. Ardito, Esq.
1928-2017
Edward J. Sweeney, Jr., Esq.
Michael B. Stusse, Esq.
Donna M. Robertson, Esq.
Matthew J. Dupuy, Esq.
Kelly S. Jason, Esq.
Adam T. Dupuy, Esq.
Noel C.M. Scudder, Esq.
Alexa A. Mislitski, Esq.

Charles M. Sebati, Esq.
of counsel

*Formerly Ardito, Sweeney,
Stusse, Robertson & Dupuy, PC

August 26, 2019

RE: Change of Firm Name to Ardito Law Group

To the Members of the Barnstable Bar Association:

We are excited to announce that as of August 1, 2019, Ardito, Sweeney, Stusse, Robertson, and Dupuy, P.C. has officially begun to do business as **Ardito Law Group, P.C.** This change, reflective of the firm's progression and partnership, pays homage to our founder, the late Hon. Charles J. Ardito, and represents our dedication to remain an integral part of the legal community on Cape Cod and beyond.

You can expect to see this change reflected in correspondence and filings that you may receive from us in the regular course of business.

We look forward to a continuing and professional relationship with each and every one of you for many years to come.

Very truly yours,

Ardito Law Group

The Ardito Law Group:

Edward J. Sweeney, Esq.	Kelly S. Jason, Esq.
Michael B. Stusse, Esq.	Adam T. Dupuy, Esq.
Donna M. Robertson, Esq.	Noel C.M. Scudder, Esq.
Matthew J. Dupuy, Esq.	Alexa A. Mislitski, Esq.

Have something to share with the members of the BCBA or want to be featured in our next newsletter?

We welcome law reviews, opinion sections, volunteer opportunities, and upcoming events that may interest our legal community. These contributions are free to our members.

Want to place an ad for your financial, transcription, or other services? How about a space for rent? We reach over 300 members quarterly.

Prices for ads are as follows:

1/8 page: \$75

1/4 page: \$125

1/2 page: \$200

Full page: \$300

Contact Nicole Ouellette at
nouellette@publiccounsel.net or
bcba@verizon.net.

BARNSTABLE COUNTY BAR ASSOCIATION

P. O. BOX 718

BARNSTABLE, MA02630

508-362-2121— phone / 508-362-7604 - fax

bcba@verizon.net / www.barnstablebar.org

Not a member of the BCBA?

Membership: <https://barnstablebar.org/membership>

Admitted 2019: \$0

Admitted 2016-2018: \$50

Admitted Prior to 2016: \$100

Government or Public Defender: \$25

Bar Advocate and Legal Aid Attorneys: \$25

Retired or over 70 years of age: \$0



FISCAL YR 2019-2020 OFFICERS:

PRESIDENT: Holly A. Harney

VICE PRESIDENT: Ingrid Epperly

TREASURER: Ashton Pouliot

CLERK: Rachel Hodgman

EXECUTIVE DIRECTOR: Madeleine Delorey

EXECUTIVE COMMITTEE:

Mary G. Chamberlain

Ingrid A. Epperly

Holly A. Harney

Rachel C. Hodgman

Sara Kohls

Kara E. Leary

Kristen A. Menard

Crissa Morton

Susan K. Nagl

Nicole K. Ouellette

Ashton G. Pouliot

Kristen Rufo

Emir Sehic

Ben Vaneria

Welcome to our newest Board Members and Officers!