CUMULATIVE TABLE OF CASES	FOR VOLUME 31, 1880E8 1-8
AA&D Masonry, LLC v. Crowsnest Corp 179	Interstate Mat Co., West Concord 5-10-1.00 Store,
Amero v. Townsend Oil Co	Inc. v
Angeles v. Uson	Jones, Provident Funding Associates, LP v
Athenahealth, Inc., Britton v 182	Laguer v. OneWest Bank, FSB
Athy, Intepros, Inc. v	Langthorne v. Lopez
Bandar v. Hayes-Walsh 42	Litton Loan Servicing, L.P., Barrasso v 46
Bank of America, N.A., Commonwealth v	Lopez, Langthorne v
Barrasso v. Litton Loan Servicing, L.P 46	McNamara v. Marks
Bellerman v. Fitchburg Gas & Electric Co 123	Marks, McNamara v
Boyle v. Zurich American Insurance Co 139	Massachusetts Highway Department, XL Specialty
Breen, EMC Corp. v	Insurance Co. v
Britton v. Athenahealth, Inc	Moran, Ryan v
Cannistraro, Fowler v	Okeke v. Dynamex Operations East, Inc 169
Casale, Dow v	OneWest Bank, FSB, Laguer v
Commonwealth y Bonk of America N. A	Princiotta, Commonwealth v
Commonwealth v. Bank of America, N.A	Provident Funding Associates, LP v. Jones
Commonwealth v. Princiotta	Rae, Rupprecht v
Commonwealth v. Rouse	Romeo, Halchak v
Costantino Richards Rizzo, LLP, Scola v	Ross Fialkow Capital Partners, LLP, Sherter v 98
Crowsnest Corp., AA&D Masonry, LLC v 179	Rouse, Commonwealth v
Department of Revenue, Direct TV, LLC v 48	Rupprecht v. Rae
Direct TV, LLC v. Department of Revenue 48	Ryan v. Moran
Doe v. Weston 6	Sanderson v. Verdasys, Inc
Dow v. Casale	Scola v. Costantino Richards Rizzo, LLP
Duxbury v. Troy	Sherter v. Ross Fialkow Capital Partners, LLP 98
Dynamex Operations East, Inc., Okeke v 169	Stackpole, Yoemans v
Egenera, Inc. v. Forest Street Building 165, LLC 198	Stone Street Capital, LLC, In re
EMC Corp. v. Breen	Synkinetics, Inc., George v
Farmer v. Federal National Mortgage Association 204	Townsend Oil Co., Amero v
Federal National Mortgage Association, Farmer v 204	Troy, Duxbury v
Fitchburg Gas & Electric Co., Bellerman v 123	Uson, Angeles v
Forest Street Building 165, LLC, Egenera, Inc. v 198	Verdasys, Inc., Sanderson v
Fowler v. Cannistraro	Wayland Board of Selectmen, Collins v 189
George v. Synkinetics, Inc	West Concord 5-10-1.00 Store, Inc. v. Interstate
Guaman, Commonwealth v	Mat Co
Guzman v. Framingham	Weston, Doe v
Halchak v. Romeo	XL Specialty Insurance Co. v. Massachusetts
Hayes-Walsh, Bandar v 42	Highway Department147
In re Stone Street Capital, LLC 171	Yoemans v. Stackpole
Intepros, Inc. v. Athy	Zurich American Insurance Co., Boyle v 139
CUMULATIVE TABLE OF MASS	
RULES OF PROCEDURE FO	R VOLUME 31, ISSUES 1-8
M.G.L.c. 7, 40E	M.G.L.c. 149, §148
M.G.L.c. 10, §28(4)	M.G.L.c. 185, §67
M.G.L.c. 30A, §21(a)(3)	M.G.L.c. 223A, §6(a)(5)
M.G.L.c. 30A, §22(b)	M.G.L.c. 240, §6
M.G.L.c. 39, §23B(3)	M.G.L.c. 249, §4
M.G.L.c. 39, §23B	M.G.L.c. 260, §31
M.G.L.c. 41, §108L	M.G.L.c. 271, §49(a)
M.G.L.c. 93A 14, 46, 73, 123, 179, 204	Mass.R.Civ.P. §4(e)(5)
M.G.L.c. 120, §49	Mass.R.Civ.P. 56

CUMULATIVE INDEX FOR VOLUME 31, ISSUES 1-8

Accord and Satisfaction, Settlement Agreements, Construction, Settlement Agreement to Reconvey a Home and Pay Damages with Interest Is Interpreted as Requiring Interest on the Value of the Home as well as on the Cash Payment, 196

Actions, Class Actions, Misc. Cases, Opinion Denies Class Certification for an Action Against a Small Business for Unintended Violations of the Federal Telephone Consumer Protection Act by Sending Unsolicited Advertising Faxes to Massachusetts Businesses, 58

Administrative Agencies

Appeal to Courts, Jurisdiction, Court Challenge to a Municipal Board of Selectperson's Reliance on the Litigation Exception to the Open Meeting Law Is Not Rendered Moot by Resolution of the Litigation, 189

Open Meeting Law

Board Votes, Recent Amendments Requiring that Votes During Executive Sessions Be Recorded by Roll Call Do Not Require a Vote for All Executive Sessions and Do Not Prohibit Consensus Decisions Reached Without a Vote, 189

Exceptions

Court Challenge to a Municipal Board of Selectperson's Reliance on the Litigation Exception to the Open Meeting Law Is Not Rendered Moot by Resolution of the Litigation, 189

Litigation Exception, as Applied to Executive Sessions of a Board of Selectmen, Extends to Discussions Concerning Litigation Against Subordinate Town Commissions, But Only to the Extent the Discussions Concern the Board's Own Position Relevant to the Litigation and Not Solely the Commission's Position, 189

Minutes, Recent Amendments Requiring that Minutes Be Maintained of All Executive Sessions Does Not Require the Recording of All Substantive Discussions, 189

Public Hearings, Misc. Cases, Findings Made by the Department of Public Utilities During Formal Investigative and Ratemaking Proceedings Are Entitled to Collateral Estoppel Effect Even Though Based in Part on Public Testimony Not Subjected to Cross Examination, 123

Adverse Possession, In General, Publicly-owned Property

Although Adverse Possession Claims May Be Asserted Against the Commonwealth Based on Possession Occurring Prior to the 1987 Adoption of the Act that Prohibits Future Such Actions, All Claims Relating to Commonwealth Land that Has Been Dedicated to Conservation and Recreational Use Are Barred Regardless of When the Alleged Possession Occurred, 9

Statute Authorizing Quiet Title Actions Waives Sovereign Immunity for an Adverse Possession Action Against the Commonwealth, 9

Arbitration

Application to Compel, Waiver, Party's Failure to Voluntarily Submit to Arbitration for Over Two Years Does Not Waive that Party's Right to Immediately Move to Compel Arbitration After the Other Party Files a Civil Action on the Claim, 97

Arbitration Agreements

Misc. Cases, Opinion Interprets Conflicting Clauses of a Trust Agreement Governing a Two-unit Condominium Trust Agreement, with One Clause Requiring Unanimous Approval for All Trustee Actions and the Other Authorizing a Right to Arbitration to Resolve Disputes, 97

Waiver, Employer's Right to Enforce an Arbitration Clause in an Employment Agreement Is Waived by Participating for Over Two Years in Litigation Over an Employee's Claim Under the Massachusetts Wage Statutes, 169

Attorneys, Disqualification, Misc. Cases, Preparation of a Town Employee for Providing Deposition Testimony in Litigation Over a Bidding Dispute Does Not Disqualify an Attorney from Representing the Town in a Later Action Against the Employee Arising Out of the Employee's Handling of the Bidding Procedure, 119

Banks and Banking

Federal Reporting Requirements, Cash Transactions, Doctrine of "In Pari Delicto" Does Not Bar a Professional Malpractice Action Against an Accountant by a Client Convicted of "Structuring" Bank Transactions to Avoid Federal Reporting Requirements, for Negligently Advising that It Was a Good Business Practice to Keep Cash Transactions Under \$10,000 to Avoid Drawing IRS Attention, 33

Liabilities, Misc. Cases, Tenants of Real Property Are in Privity with a Property Owner and Therefore Bound in a Summary Process Action by the Res Judicata Effect of a Judgment in a Prior Action Between the Landlord and Owner, 37

Civil Service, Career Incentive Programs, Misc. Cases, Grievance Remedies Must Be Exhausted with Respect to a Rehired Police Officer's Claim to Eligibility for a State-sponsored Career Enhancement Program Terminated During a Layoff, 89

Constitutional Law, Commerce Clause, Misc. Cases, Imposition of a Gross Revenue Tax on Satellite TV Companies and Not Cable TV Companies Does Not Violate the Federal Commerce Clause, Even Though the Tax Reduced Satellite TV's Property Tax Advantage Created by Its Reduced Asset Footprint in Massachusetts, 48

Contracts

Actions

Defenses, Doctrine of "In Pari Delicto" Does Not Bar a Professional Malpractice Action Against an Accountant by a Client Convicted of "Structuring" Bank Transactions to Avoid Federal Reporting Requirements, for Negligently Advising that It Was a Good Business Practice to Keep Cash Transactions Under \$10,000 to Avoid Drawing IRS Attention, 33

Forum Selection Clauses, Forum Selection Clause Applicable to "Any Action Brought to Enforce the Agreement" Does Not Apply to Challenges Based on Pre-contract Conduct Such as Fraud in the Inducement, 137

Consideration, Misc. Cases

Estate Executor's Stated Intent to Transfer a Burial Plot Adjacent to the Grave of the Executor's Parent to the Deceased Parent's Longtime Live-in Companion Cannot Be Enforced on a Breach of Contract or Constructive Trust Theory, 193

Longtime Live-in Companion Is Not Entitled to Compensation from a Decedent's Estate for Providing Personal and Medical Care During the Last Years of the Decedent's Life, Under Either a Breach of Contract or Unjust Enrichment Theory of Recovery, 193

Construction

Forum Selection Clauses, Forum Selection and Choice of Law Clauses Designating Texas Is Not Enforceable in an Action Brought by a Massachusetts Employee to Enforce Rights Under the Massachusetts Wage Statutes, 169

Misc. Cases, Settlement Agreement to Reconvey a Home and Pay Damages with Interest Is Interpreted as Requiring Interest on the Value of the Home as well as on the Cash Payment, 196

Noncompete Agreements

New Noncompete Agreement Must Be Executed Each Time There Is a Significant Change in an Employee's Responsibilities, 144

Opinion Enforces a One-year Noncompete Clause of an Employment Agreement Between an Executive Sales Officer and a Computer Component Manufacturing Business, Relying in Part on the "Inevitable Disclosure" Doctrine, 114

Public Works Contracts

Delay Damages

Opinion Relies on a Seldom Used SJC Opinion to Award Delay Damages for Particularly Egregious Contract Mismanagement by the Massachusetts Highway Department, in Spite of the Numerous Exculpatory Clauses of the Department's Standard Specifications for Highways and Bridges, 147

Provision of the Department of Massachusetts Standard Specifications for Highways and Bridges that Precludes Any Breach of Contract Recovery for Delay Damages Arising Out of the Work of a Public Utility Applies Even to a Delay Caused Solely by the Department's Own Negligence, 147

Notice of Claim, General Rule that the Requirement for a Written Notice of a Claim for Delay Damages Against the Massachusetts Highway Department Be Construed Against the Contractor Applies Only to the Time Limit for Filing a Notice of Claim and Not to the Sufficiency of the Contents of a Notice, 147

Conversion, Property, Misc. Cases, Implementation of a Corporate Recapitalization that Unfairly Shifts Voting Control from the Common to the Preferred Shareholders May Constitute the Tort of Conversion, 22

Corporations

Actions, Derivative Actions

Business Judgment Rule Does Not Apply to a Minority Shareholder Action Challenging a Recapitalization Which Results in a Change of Control in Favor of Original Preferred Shareholders Over Original Common Shareholders, 22

Fairness of a Corporate Recapitalization that Results in a Change of Control Can Be Challenged by Either a Derivative or a Direct Action, 22

Capital Stock, Recapitalization

Fairness of a Corporate Recapitalization that Results in a Change of Control Can Be Challenged by Either a Derivative or a Direct Action, 22

Implementation of a Corporate Recapitalization that Unfairly Shifts Voting Control from the Common to the Preferred Shareholders May Constitute the Tort of Conversion, 22

Shareholders, Fiduciary Duties

Minority Shareholders Do Not Incur Fiduciary Liability as a "Control Group" Merely by Voting as a Group to Further a Common Economic Interest, 92

Officer/Shareholder of a Failed Startup Company May Not Obtain Contribution from Other Shareholders to Satisfy a Personal Liability on an Employee Wage Claim Based Solely on the Defendants' Failure to Approve a Corporate Buyout that Would Have Resolved the Wage Claim, 92

Uniform Securities Act, Broker/dealers, Liability of a Broker-dealer Under the Mass. Uniform Securities Act Is Not Limited to Transactions with First Level Buyers Who Deal with the Broker But Rather Extends to Second Level Buyers Who Buy Directly from the Issuer in Reliance on Information from the Broker Forwarded Through First Level Buyers, Even Though There Is No Direct Relationship Between the Broker and Second Level Buyers, 98

Criminal Law and Procedure

Evidence, Motion to Suppress, Miranda Warning May Be Given Orally from Memory, 57

Trial Generally, Competency to Stand Trial, Court Finds that an Ecuadoran Native Who Understands Only an Indigenous Language and Who Has No Understanding of Court Proceedings Is Incompetent to Stand Trial at the Present Time, Even Though the Defendant Has No Disabling Psychiatric Condition or Mental Deficiency, 175

Deeds, Recording, Misc. Cases, Statutory Requirement that Assignments of Mortgages on Registered Land Also Be Registered Does Not Apply to Debts Secured by Such Mortgages; a Loan Secured by Registered Land May Be Assigned Independent of the Mortgage Without Being Recorded, 73

Employment Law, Employment Agreements, Noncompete Agreements, Opinion Enforces a One-year Noncompete Clause of an Employment Agreement Between an Executive Sales Officer and a Computer Component Manufacturing Business, Relying in Part on the "Inevitable Disclosure" Doctrine, 114

Equity, Unclean Hands Doctrine, In General, Doctrine of Unclean Hands Applies Only to Inequitable Conduct in the Specific Transaction Upon Which a Plaintiff's Claim Is Based, 42

Estoppel, Judicial Estoppel, Misc. Cases, Judicial Estoppel Bars a Defendant from Asserting the Res Judicata Effect of a Judgment in an Earlier Action in Which a Counterclaim Asserting the Same Claims Were Dismissed Based on an Erroneous But Unappealed Jurisdictional Challenge, 204

Gaming, Lottery, In General, Usury Statute Applies to the Assignment of Lottery Installment Payments in Exchange for a Discounted Lump Sum Payment, 171

Grand Jury, Subpoenas, In General, Court Order Issued in Response to a Grand Jury's Request for Access to a Suspect's Private Information Provides a Reliable Substitute to a Search Warrant, 68

Insurance, Subrogation, Misc. Cases, Landlord's Settlement with a Fire Insurer Bars Any Recovery by the Landlord Against the Tenant on the Same Loss, 198

Judgments

Defaults, Misc. Cases, Rule that Res Judicata Does Not Apply to a Default Judgment Applies Only to the Defaulted Party and Not to a Plaintiff Who Obtains a Default Judgment, 179

Effect and Validity, Res Judicata

- Claim of Res Judicata Is Waived If Not Raised in a Defendant's First Responsive Pleading, Including Preliminary Pleadings, 204
- Dismissal of a Counterclaim "Without Prejudice" Does Not Constitute a Decision on the Merits for Res Judicata Purposes, 204
- Issues Involved in an Action for Possession of Foreclosed Property and an Action for Wrongful Foreclosure Are Not Sufficiently Identical to Qualify a Judgment for Res Judicata Effect, 204
- Judicial Estoppel Bars a Defendant from Asserting the Res Judicata Effect of a Judgment in an Earlier Action in Which a Counterclaim Asserting the Same Claims Were Dismissed Based on an Erroneous But Unappealed Jurisdictional Challenge, 204
- Motion for Summary Judgment, In General, Trial Court Has the Discretion to Delay Ruling on a Motion for Summary Judgment Until a Later Stage of the Proceedings, 123

Res Judicata

In General, Rule that Res Judicata Does Not Apply to a Default Judgment Applies Only to the Defaulted Party and Not to a Plaintiff Who Obtains a Default Judgment, 179

Misc. Cases

- Findings Made by the Department of Public Utilities During Formal Investigative and Ratemaking Proceedings Are Entitled to Collateral Estoppel Effect Even Though Based in Part on Public Testimony Not Subjected to Cross Examination, 123
- Tenants of Real Property Are in Privity with a Property Owner and Therefore Bound in a Summary Process Action by the Res Judicata Effect of a Judgment in a Prior Action Between the Landlord and Owner, 37

Landlord and Tenant

Lease Agreement

- Construction, Clause Requiring that a Tenant of a Portion of a Commercial Building Indemnify the Landlord for Loss Involving the "Leased Premises" Requires Indemnification for Loss Incurred on Common Areas by Visitors to the Lessee's Business, 109
- Tenant Insurance Obligations, Mistaken Reference, in an "Additional Insured" Clause of a Lease Agreement, to a Standard "Additional Insured" Endorsement Form Normally Used Only in Construction Contracts Creates an Issue of Fact as to Whether the Form Should Be Interpreted as Applicable to this Landlord/tenant Situation, 109

- Rights and Duties of Parties, Property Damage, Landlord's Settlement with a Fire Insurer Bars Any Recovery by the Landlord Against the Tenant on the Same Loss, 198
- Summary Process, Misc. Cases, Tenants of Real Property Are in Privity with a Property Owner and Therefore Bound in a Summary Process Action by the Res Judicata Effect of a Judgment in a Prior Action Between the Landlord and Owner, 37

Master and Servant

Employment Agreements, Misc. Cases

- Contract to Pay a Fixed Sum as Deferred Compensation Payable "at Such Time as the Company Generated Sufficient Revenue" Is Sufficiently Definite to Create a Binding Obligation, 64
- Employer's Right to Enforce an Arbitration Clause in an Employment Agreement Is Waived by Participating for Over Two Years in Litigation Over an Employee's Claim Under the Massachusetts Wage Statutes, 169
- Forum Selection and Choice of Law Clauses Designating Texas Is Not Enforceable in an Action Brought by a Massachusetts Employee to Enforce Rights Under the Massachusetts Wage Statutes, 169
- Employment Contracts, Noncompete Clauses, New Noncompete Agreement Must Be Executed Each Time There Is a Significant Change in an Employee's Responsibilities, 144
- Employment Termination Claims, Misc. Cases, Opinion Grants a Motion to Dismiss a Complaint Brought by an Employee Claiming to Have Been Unfairly Terminated Because of a Personality Conflict with a Co-employee Who Was Romantically Involved with a Company Executive, 182
- Master's Liability to Third Persons, Borrowed Employees, Employee Staffing Company that Provides Nurses for Temporary Assignment to Hospitals with the Hospitals Providing Daily Supervision of Professional Services Is Not Vicariously Liable for Malpractice Claims Against Its Nurses, 1

Wages

Action to Recover Wages

- Contract to Pay a Fixed Sum as Deferred Compensation Payable "at Such Time as the Company Generated Sufficient Revenue" Is Sufficiently Definite to Create a Binding Obligation, 64
- Officer/Shareholder of a Failed Startup Company May Not Obtain Contribution from Other Shareholders to Satisfy a Personal Liability on an Employee Wage Claim Based Solely on the Defendants' Failure to Approve a Corporate Buyout that Would Have Resolved the Wage Claim, 92
- Status as an "Employer" Does Not Disqualify an Upper Level Manager from Suing as an "Employee" to Recover Under the Mass. Wage Act, 64
- Employee Versus Independent Contractor, Temporary Truck Drivers Used by an Oil Delivery Business to Supplement Its Staff of Drivers During Peak Winter Seasons Are Common-law Employees Rather than Independent Contractors, 112

Mortgages

Assignment, In General, Execution of a Mortgage Naming MERS as Mortgagee with the Qualification that MERS Acts "Solely as Nominee for the Lender" Does Not Authorize an Assignment by MERS Without the Lender's Express Authorization, 204

Foreclosure

Compliance with the Federal Servicemembers Civil Relief Act, Obtaining a Land Court Determination that a Mortgage Foreclosure Defendant Was Not Entitled to Protection Under the Federal Servicemembers Civil Relief Act Is Not an Essential Step in a Nonjudicial Foreclosure Proceeding, 73

Misc. Cases

Opinion Grants Judgment for the Defendant on a Chapter 93A Claim Against a Mortgage Servicer for the Alleged Mishandling of a HAMP Application for a Residential Mortgage Modification, Based on Lack of Evidence of Any Misconduct More Serious than Simple Negligence, 46

Statutory Requirement that Assignments of Mortgages on Registered Land Also Be Registered Does Not Apply to Debts Secured by Such Mortgages; a Loan Secured by Registered Land May Be Assigned Independent of the Mortgage Without Being Recorded, 73

Predatory Lending, Claims Based on Violations of the Massachusetts Predatory Home Loan Practices Act Against a Federally-chartered Savings and Loan Association Are Preempted by Federal Law, But Not Claims for Chapter 93A Violations Based on Predatory Practices Act Violations, 14

Right to Foreclose, Institutional Lender's Routine Commencement of Nonjudicial Mortgage Foreclosure Proceedings Before Becoming a Holder of the Underlying Mortgages May Constitute a Chapter 93A Violation, 73

Wrongful Foreclosure, Action for Possession of Foreclosed Property and Action for Wrongful Foreclosure Are Not Sufficiently Identical to Qualify a Judgment for Res Judicata Effect, 204

Modification, Federal Home Affordable Modification Program

Borrower Is Not a Third-party Beneficiary of a Lender's Participation Agreement Under the Federal HAMP Program, 14

Federal HAMP Program Does Not Create a Private Cause of Action, 14

Process, Service, Nonresidents, Service on a Nonresident in a Manner "Directed by the Court" May Be Implemented Retroactively Through the Post-service Entry of a Court Order Issued Nunc Pro Tunc, 137

Public Utilities

Department of Public Utilities, Procedural Matters, Findings Made by the Department of Public Utilities During Formal Investigative and Ratemaking Proceedings Are Entitled to Collateral Estoppel Effect Even Though Based in Part on Public Testimony Not Subjected to Cross Examination, 123 Electric Utilities, Duty to Customers, Opinion Denies an Electric Utility Company's Motion for Summary Judgment in an Action Brought by Customers for Gross Negligence and Chapter 93A Claims Arising Out of Extended Service Outages During a Major Winter Storm Allegedly Caused by the Company's Inadequate Pre-storm Emergency Preparation Plans and Post-storm Response, 123

Telecommunication Companies, Misc. Cases, Imposition of a Gross Revenue Tax on Satellite TV Companies and Not Cable TV Companies Does Not Violate the Federal Commerce Clause, Even Though the Tax Reduced Satellite TV's Property Tax Advantage Created by Its Reduced Asset Footprint in Massachusetts. 48

Real Property, Condominiums, Declarations, Opinion Interprets Conflicting Clauses of a Trust Agreement Governing a Two-unit Condominium Trust Agreement, with One Clause Requiring Unanimous Approval for All Trustee Actions and the Other Authorizing Arbitration to Resolve Disputes, 97

Schools and School Committees, Students, Student Discipline, Opinion Dismisses an Action Brought by a Student Challenging the Constitutionality of Required Attendance at Saturday Classes as a Sanction for Excessive Tardiness, 6

Search and Seizure

With a Warrant, In General, Court Order Issued in Response to a Grand Jury's Request for Access to a Suspect's Private Information Provides a Reliable Substitute to a Search Warrant, 68

Without a Warrant

Cell Phone Records, Cell Phone Records to Determine a Suspect's Location at the Time of a Crime May Be Obtained Without a Warrant, But Not to Trace a Suspect's Movements Through a Protracted Period of Time, 68

Misc. Cases, Purchase of Drugs from an Undercover Police Officer, Coupled with Flight When Approached by Other Officers, Provides Probable Cause for an Arrest and a Warrantless Search Incident to the Arrest, 57

Sovereign Immunity, Waiver, Adverse Possession Claims

Although Adverse Possession Claims May Be Asserted Against the Commonwealth Based on Possession Occurring Prior to the 1987 Adoption of the Act that Prohibits Future Such Actions, All Claims Relating to Commonwealth Land that Has Been Dedicated to Conservation and Recreational Use Are Barred Regardless of When the Alleged Possession Occurred, 9

Statute Authorizing Quiet Title Actions Waives Sovereign Immunity for an Adverse Possession Action Against the Commonwealth, 9

Taxation, Gross Revenue Taxes, Misc. Cases, Imposition of a Gross Revenue Tax on Satellite TV Companies and Not Cable TV Companies Does Not Violate the Federal Commerce Clause, Even Though the Tax Reduced Satellite TV's Property Tax Advantage Created by Its Reduced Asset Footprint in Massachusetts, 48

Torts

Legal Malpractice, Misc. Cases, Use of Law Firm's Letterhead by a Non-member Attorney Working for the Firm on a Contract Basis Does Not Create an Attorney/client Relationship Between the Firm and the Attorney's Personal Trust Administration Clients, 85

Medical Malpractice, Misc. Cases, Borrowed Employees, Employee Staffing Company that Provides Nurses for Temporary Assignment to Hospitals with the Hospitals Providing Daily Supervision of Professional Services Is Not Vicariously Liable for Malpractice Claims Against Its Nurses, 1

Negligence, Vicarious Liability, Borrowed Employees, Employee Staffing Company that Provides Nurses for Temporary Assignment to Hospitals with the Hospitals Providing Daily Supervision of Professional Services Is Not Vicariously Liable for Malpractice Claims Against Its Nurses, 1

Professional Negligence, Misc. Cases, Doctrine of "In Pari Delicto" Does Not Bar a Professional Malpractice Action Against an Accountant by a Client Convicted of "Structuring" Bank Transactions to Avoid Federal Reporting Requirements, for Negligently Advising that It Was a Good Business Practice to Keep Cash Transactions Under \$10,000 to Avoid Drawing IRS Attention, 33

Trade Regulation

Trade Secrets, Misc. Cases, Opinion Enforces a One-year Noncompete Clause of an Employment Agreement Between an Executive Sales Officer and a Computer Component Manufacturing Business, Relying in Part on the "Inevitable Disclosure" Doctrine, 114

Unfair Insurance Practices Act, Unfair Settlement Practices, Liability Insurer's Improper Refusal to Defend an Insured and Permitting Entry of a Default Judgment Against Its Insured Creates Exposure to the Claimant for the Policy Limits Plus Postjudgment Interest Calculated on the Full Amount of the Default Judgment, Not Just on the Amount of the Policy Limits, 139

Unfair Trade Practices Act

Acts Regulated, Institutional Lender's Routine Commencement of Nonjudicial Mortgage Foreclosure Proceedings Before Becoming a Holder of the Underlying Mortgages May Constitute a Chapter 93A Violation, 73

Demand, Statements in Pleadings Submitted in Support of an Earlier Unsuccessful Attempt to Prosecute the Same Claim as a Counterclaim May Be Sufficient to Satisfy the Pre-suit Demand Requirement for a Later Chapter 93A Action, 204

Misc. Cases

Claims Based on Violations of the Massachusetts Predatory Home Loan Practices Act Against a Federally-chartered Savings and Loan Association Are Preempted by Federal Law, But Not Claims for Chapter 93A Violations Based on Predatory Practices Act Violations, 14

Opinion Denies an Electric Utility Company's Motion for Summary Judgment in an Action Brought by Customers for Gross Negligence and Chapter 93A Claims Arising Out of Extended Service Outages During a Major Winter Storm Allegedly Caused by the Company's Inadequate Pre-storm Emergency Preparation Plans and Post-storm Response, 123

Trusts, Resulting Trusts, In General, No Resulting Trust Is Created If the Party Paying the Purchase Price Is Named as a Co-owner, 42

Usury, Loan of Money, In General, Usury Statute Applies to the Assignment of Lottery Installment Payments in Exchange for a Discounted Lump Sum Payment, 171

CUMULATIVE TABLE OF JUDGES FOR VOLUME 31, ISSUES 1-8

BILLINGS, THOMAS P., J., 22, 48, 98, 147 BUDD, KIMBERLY S., J., 57 Cosgrove, Robert C., J., 37 CURRAN, DENNIS J., J., 85, 97, 109, 144, 169, 179, 182, 193, 196, 198 Fabricant, Judith, J., 73 FAHEY, ELIZABETH M., J., 204 HELY, CHARLES J., J., 119

KAPLAN, MITCHELL H., J., 92 KENTON-WALKER, JANET, J., 175

KANE, ROBERT J., J., 68

KIRPALANI, MAYNARD M., J., 46 KOTTMYER, DIANE M., J., 58 KRUPP, PETER B., J., 33, 42, 64 Leibensperger, Edward P., J., 6, 9 MURTAGH, THOMAS R., J., 112 ROACH, CHRISTINE M., J., 114 Rup, Mary-Lou, J., 89 Salinger, Kenneth W., J., 14, 137, 139, 171, 189 WILKINS, DOUGLAS H., J., 123

WILSON, PAUL D., J., 1

Additional three-ring binders for the Massachusetts Law Reporter can be ordered at a cost of \$9.50 plus tax, shipping and handling by calling or writing:

> The Massachusetts Law Reporter P.O. Box 575 Guilford, Connecticut 06437 (617) 423-0203

or use the order form provided at the end of the Highlights.