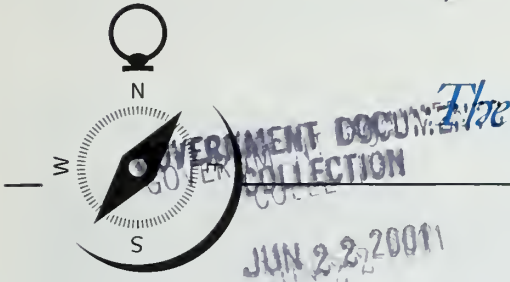


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Justice Robert Cordy Becomes Newest Member of SJC

Supreme Judicial Court Associate Justice Robert J. Cordy says two words characterize his first month on the state's highest court: "exhilarating and daunting."

"It is totally exhilarating to grapple with issues of significance, work with terrifically talented colleagues, and help define and make sure the law is properly applied," he says. "However, there is a lot to learn. The learning curve is straight up."

Justice Cordy became the newest member of the state's highest court on February 1, when he was administered the oath of office by Governor Paul Cellucci. His appointment fills the vacancy created by the retirement in December of Associate Justice Ruth I. Abrams, who was the first woman on the SJC and

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Before a recent drug court session, District Court Regional Administrative Justice Robert A. Cornetta pauses a moment with Lynn District Court personnel who regularly assist with the sessions, including, from left, Court Officer Donna M. Mills, Probation Officer Donald Castle, Probation Officer Jennifer A. Basile, and Assistant Clerk Daniel J. Day.

Drug Court Sessions Help Defendants Defeat Addiction

Since their beginning in early 1992 in Massachusetts, drug courts have spread to seventeen courts across the state, with five more in the planning stages.

Drug courts — the common name for court sessions dedicated to the treatment of defendants with the most severe substance abuse problems — operate in the District Courts in Brighton, Chelsea, Dorchester, East Boston, Framingham, Greenfield, Haverhill, Lawrence, Lynn, New Bedford, Orange, Quincy, Roxbury, South Boston, and Worcester, and in the Essex Juvenile Court in Lynn and Salem.

Chief Justice for Administration and Management Barbara A. Dortch-Okara says that "drug courts are problem-solving courts. They are part of what has been called the 'therapeutic justice movement,' based on the idea that the justice system can and should do more for the people who appear before them. Drug courts have the courts much more involved in providing services to the defendants, or clients,

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Hundreds attend Statewide Conference on Unrepresented Litigants in Worcester. **Page 7**

National Center for State Courts honors Orange District Court First Justice Thomas T. Merrigan **Page 8**

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who served twenty-three years. Illustrious predecessors to the seat also include former Associate and Chief Justice Oliver Wendell Holmes, Jr., who served on the SJC for twenty-two years before his appointment to the United States Supreme Court in 1902.

"Oliver Wendell Holmes has been one of my heroes since law school," Justice Cordy says. "I couldn't believe it when Justice Abrams showed me the list of Justices who have occupied this seat."

Justice Cordy's appointment ends a sixteen-month period of changes to the Court. Justice Margaret H. Marshall became Chief Justice on October 14, 1999, the same day that Associate Justices Francis X. Spina and Judith A. Cowin were appointed. Eleven months later, on September 6, 2000, Associate Justice Martha B. Sosman was appointed to the Court.

None of the current Justices will reach the mandatory retirement age of 70 until the year 2009.

Justice Cordy says he especially enjoys working with the other Justices during the oral argument of cases before the Court. "It's a true pleasure to participate with the other Justices to try to understand — to try to glean from the advocates — exactly what the issues are and how we should view them."

Outside the Courtroom, the work of the SJC also is exhilarating and daunting. "The individual Justices do a lot more than just writing opinions assigned to them. Each Justice has to spend time preparing to hear all the cases and reviewing the other Justices' draft opinions. The amount of time doing that is substantial."

He adds that he is particularly interested in learning more about the SJC's role within the judicial



Photo by Rose Marston

Governor Paul Cellucci administers the oath of office to SJC Justice Robert J. Cordy in the House Chamber of the State House.

'Oliver Wendell Holmes has been one of my heroes since law school. I couldn't believe it when Justice Abrams showed me the list of Justices who have occupied this seat.'

— SJC Associate Justice
Robert J. Cordy

system. "I want to gain a better understanding of how the Court positions itself to ensure that it gets the cases it needs to get to ensure that the law develops and functions as it should. ... The Appeals Court does a wonderful job in hearing a wide range of cases. We can be more selective in choosing cases that can help most appropriately define the law."

Justice Cordy began his legal career after graduating from Harvard Law School in 1974, following his graduation, *cum laude*, from Dartmouth College in 1971. He worked three and one-half years as a defense attorney for the Massachusetts Defenders Committee, then worked for the Department of Revenue, becoming a Special Assistant Attorney General in 1978. In 1979 he became Associate General Counsel in Charge of Enforcement for the State Ethics Commission, before moving to the United States Attorney's Office in 1982.

Under then U.S. Attorney William F. Weld, Justice Cordy rose to the position of Chief of the Public Corruption Unit in 1985. He then practiced four years as a partner in the Boston law firm of Burns & Levinson before returning in 1991 to public service as Chief Legal Counsel to Governor Weld. In 1993 he joined McDermott, Will & Emery, becoming the managing partner of firm's Boston office in 1998. ■

*Drug Courts**continued from page 1*

and helping solve the problems of substance abuse."

The key distinction of a drug court session from a regular court session is the defendants' weekly contact with the judge. According to South Boston District Court First Justice Robert P. Ziemian, who started the first drug court in the state and has helped establish many of the currently operating drug courts, the sessions are a powerful weapon against drug addiction because they combine treatment and the judicial system.

"The big secret to drug courts' success is that judges can coerce people to stick with their treatment programs, whether by threat or actual use of shorter periods of incarceration," he says. "When people are incarcerated for a substantial length of time, the rate of recidivism is much higher. I often will sentence a defendant to jail overnight, for a weekend, or just long enough for them to detox to be able to get them into a treatment program."

Dependable Response

District Court Regional Administrative Justice Robert A. Cornetta, who has been instrumental in dispatching Judge Ziemian to different courts to establish various drug court sessions, adds that defendants who successfully progress through their treatment are gradually required to report to the sessions less frequently.

Those who commit missteps along the way, however, are never abandoned. "This resource is so valuable," Judge Cornetta says, "that we won't use it on first- or second-time offenders. We're looking for the defendant with a very, very high risk of relapse. Once a relapse occurs, the client can anticipate a response that is swift and sure."

The defendants also can count on the court to stick with them. "We never give up on them," Judge Cornetta says. "They know that if they stay long enough they will turn around their lives."

He also emphasizes that judges are highly cognizant of the defendants'

'The big secret to drug courts' success is that judges can coerce people to stick with their treatment programs, whether by threat or actual use of shorter periods of incarceration.'

— South Boston District Court
First Justice Robert P. Ziemian

right to due process. Defendants are represented by counsel at every step, and have the right to opt out of the program at any time. "Drug courts are very intense," he says. "Some people may choose longer jail time as an easier alternative. The only thing we need from the client is their cooperation."

Drug courts depend on more than the intensive, personal involvement of judges, however. Enrolling the defendants in appropriate treatment programs is half the equation, and that requires a high level of cooperation among many court and community organizations.

A crucial factor is the availability of a wide variety of treatment programs, such as detoxification, day reporting, residential, Alcoholics Anonymous, Narcotics Anonymous, and individual counseling. The programs serve clients of varying cultures and languages, and who have widely disparate treatment needs other than substance abuse.

"There has to be someone in the courthouse who can broker all of those services," Judge Ziemian says. "The broker, often someone in the Probation Department, must be someone who can deal with many different kinds of people, and be very familiar with the types of treatment programs in the area."

Salem District Court Chief Probation Officer Judith M. Collins says the drug court session in Lynn, which handles cases from the District Courts in Lynn and Salem and is presided over by Ipswich District Court

Judge David A. Lowy, regularly works with six or seven area treatment programs. Lynn District Court Probation Officers Jennifer Basile and Donald Castle, and Salem District Court Probation Officers Sean Whalen and Ellen Winschel manage the caseload.

Chief Probation Officer Collins adds that the effectiveness of the session became very apparent during a recent graduation ceremony for defendants who completed the program. Several told the court that the graduation marked the most positive accomplishment of their lives. "For anyone who saw that graduation, if they weren't believers before, they certainly are now. There is definitely a place within the system for drug courts."

The Administrative Office of the Trial Court's Office of Community Corrections also is very involved with the drug courts. "We're tapping into OCC resources wherever and whenever possible," Judge Cornetta says. "This partnership is working out very well in places where OCC is available."

In the beginning

Judge Ziemian recalls that the planning for the first drug court, in Suffolk County, began during the Massachusetts Bar Association conference in January 1992. After a seminar on the topic, he began discussing drug courts with members of the non-profit group Boston Coalition Against Drugs and Violence. The Coalition later won a grant, and with that and various other funding, Dorchester District Court opened its first drug session in June, 1995.

The session ran there until February, 1999, when the grants ended, but by then sessions in West Roxbury, Roxbury, and South Boston had begun and were able to continue the services for the Dorchester clients. The Dorchester drug session has since restarted.

Drug courts in Massachusetts have received a powerful boost from

Child Care Initiative Boosts Literacy of Children and Adults

The Trial Court's ten child care centers are actively promoting the importance of reading — to both the children who visit the centers and their parents or guardians — through a program called the Family Literacy Initiative.

Each child visiting a center is given a book to keep, thanks in part to a \$50,000 grant this fiscal year by the Massachusetts Department of Education. Staff members frequently read to their young visitors from a wide selection of children's books at the centers, which also are equipped with personal computers and fun, learn-to-read software programs.

The importance of reading also is emphasized by prominent guest readers, including judges and local legislators, who drop in to read to the children.

Staff at the centers also are able to help parents and guardians who may be struggling with illiteracy. "This is a setting where parents can disclose their own abilities and be referred to



Plymouth Probate and Family Court Judge James V. Menno reads "The Rainbow Fish," by Marcus Pfister, to young visitors at the Brockton Trial Court Children's Center. Judge Menno served as a guest reader as part of the Massachusetts Trial Court Child Care Project's Family Literacy Initiative. His audience also includes, from right, Brockton Children's Center Director Ellen Brown and staff members Lilian Davila and Brianna Berry.

appropriate services," says Alice Reitz, Director of the Massachusetts Trial Court Child Care Project, an office within the Administrative Office of the Trial Court.

Her office now oversees ten children's centers, including one that

opened in February at the Brockton Trial Court and one that opened in March at the Chelsea Trial Court. With all ten centers operating, Ms. Reitz expects approximately 16,000 visitors per year, up from 13,500 visitors last fiscal year.

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the U.S. Department of Justice Drug Courts Program Office. Funding from that program and several smaller sources has totaled approximately \$4.1 million since 1995.

Sandy Souza, AOTC Grant Specialist, explains that the Department of Justice has provided several \$30,000 planning grants for Massachusetts courts. Courts apply for such grants by first forming a team of up to ten people that must include a judge and a planning coordinator, and may include defense attorneys, prosecutors, treatment providers, and community representatives, such as school officials. The grant then helps to pay for four training sessions conducted at successful drug courts in Massachusetts and other states. The Drug Courts Program Office and the

National Association of Drug Court Professionals recently designated the drug court conducted by Judge Thomas T. Merrigan at Orange District Court a mentor court to help train teams from across the United States.

Once the training phase has been completed, the teams can apply to the Drug Courts Program Office for an implementation grant of up to \$500,000 for three years. After that, a court may apply for a \$300,000 enhancement grant to expand services or provide for a different target population. The drug court at Haverhill District Court, conducted by Judge Kevin M. Herlihy, has won one of each of the three grants.

Eventually, however, the grant funding ends and the court must

incorporate costs of the drug sessions into its normal budgetary structure. The most significant cost is for treatment programs for the defendants, and the courts are finding ways to pay for those services. Some can be paid for through OCC and Probation Department resources, the Department of Health, city or town programs, or in some cases, through insurance plans.

Judge Cornetta notes that no matter where the funding comes from, however, it still represents a significant financial savings to the state as a whole. "A year of incarceration costs an average of \$36,000, while treatment in a drug court setting costs \$5,000 or

SJC Committee Encourages *Pro Bono* efforts

Two grandparents entered the Hampden Probate and Family Court with a troubling problem. Their grandchild had been living with them for some time, because their daughter — the child's mother and legal guardian — was struggling with a substance addiction. The daughter's recent arrest, however, meant that custody of the child was about to go to the Department of Social Services.

As they could not afford an attorney, the grandparents entered the courthouse with little more than the simple desire to keep their grandchild living with them. They had no idea of how to obtain a temporary guardianship of a minor, much less of the forms they needed, how to fill them out, or how to present their case to a judge.

Once they got inside the courthouse, however, they discovered that they did, in fact, have an attorney they could turn to for help. Court clerks referred them to the Hampden Probate and Family Court's Lawyer for the Day program, where Northampton attorney Gene Friedlander was volunteering his services.

Mr. Friedlander, who serves in the *pro bono* program about ten days each year, says he helped the grandparents fill out papers for a permanent guardianship and a motion for tempo-

'The Committee is trying to deal with a massive need for *pro bono* work. The number of *pro se* litigants before the courts is a pervasive problem that cries out to be solved.'

— Supreme Judicial Court Associate Justice Francis X. Spina

rary guardianship, and told them what to expect when they came before the judge. By day's end, the judge granted them temporary custody.

"Lots of lawyers do this," says Mr. Friedlander, who helps ten to fifteen litigants each day he volunteers. "Programs such as Lawyer for the Day show that there is this commitment on the part of the bar. It's a good way for lawyers to give something back."

Rule 6.1

Mr. Friedlander's commitment is precisely the kind of attitude that the Supreme Judicial Court is encouraging. On January 4, 1999, the SJC approved Rule 6.1 of the Massachusetts Rules of Professional Conduct, which states that "A lawyer should provide annually at least twenty-five hours of *pro bono publico* legal

services for the benefit of persons of limited means."

In August, 1999, the SJC formed the Standing Committee on *Pro Bono* Legal Services to promote volunteer legal work done throughout the state.

"The Committee is trying to deal with a massive need for *pro bono* work," says SJC Associate Justice Francis X. Spina, who is on the Committee. "It is a pervasive problem that cries out to be solved."

He adds that one way in which the Judiciary helps encourage *pro bono* services is by mentioning the SJC Rule during the swearing-in ceremonies of new lawyers. Packets of information distributed to the new lawyers also include copies of the Rule.

Committee Chair Mary K. Ryan, a partner in Boston's Nutter, McClennen & Fish, LLP, and a former President of the Boston Bar Association, points out that Rule 6.1 does not require lawyers to perform *pro bono* work, but is intended to help maintain the Massachusetts legal tradition of helping people in need.

"The Massachusetts bar has long been committed to a broad range of public service. We're hoping to promote that culture to new members," she says.

Pro Bono

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Drug Courts

less," he notes. "Drug courts are very, very attractive from this viewpoint."

As drug courts became more common, many people involved in their development wanted to preserve their experiences of how to operate an effective session. As part of that effort, Chief Justice Dortch-Okara in 1999 established a working group, chaired by Judge Cornetta, to draft a policy on drug courts' formation and implementation. The policy was approved and promulgated by the Chief Justice in January.

The policy is designed to be flexible to allow drug courts to respond to their local conditions while also providing

guidelines to help new programs run efficiently from the beginning. The policy also calls for a uniform means of collecting data, such as recidivism rates, outcomes of particular treatment types, and anonymous participant profiles.

The drug courts are currently developing a method to track data, but Judge Cornetta estimates that drug court participants have a recidivism rate of 35 percent to 40 percent — well below the recidivism rates of similar defendants in non-drug court programs.

In the end, the drug courts' most significant accomplishment is the opportunity to provide hope for a better

life to the approximately 500 Massachusetts participants.

Chief Justice Dortch-Okara says her visits to two recent drug court graduations were very moving experiences. At the graduation in Lynn, "One woman said she was experiencing the first long-term period of sobriety in her life. She was very thankful to the probation staff."

"Judges feel very good about the progress we're making. The clients feel they're making progress, and, often for the first time, they feel hope for the future. That is what this program can do for them." ■

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Pro Bono

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"Almost fifty percent of the attorneys practicing in Massachusetts have practiced for less than ten years. This highlights the role that bar associations can play to preserve the Massachusetts tradition."

She adds that there is no shortage of opportunity for performing *pro bono* work. As many as ninety percent of all tenants who appear in Housing Court are *pro se*, or unrepresented, while more than half of all litigants in Probate and Family Court are *pro se*.

A way in which the Committee hopes to help shape future *pro bono* efforts is by surveying lawyers on the type and extent of volunteer work they are performing now. Over the next few months, the Committee plans to distribute surveys to attorneys to track changes in participation over time.

"There's really no way to tell how much the amount of *pro bono* work being done has increased since the SJC adopted Rule 6.1," Ms. Ryan says. "We have seen a very high level of interest, but for now the evidence is only anecdotal. Hopefully in the future we'll be able to document an increase."

The Committee is conducting an attorney awareness campaign to promote *pro bono* service. A poster, produced with the help of Massachusetts Continuing Legal Education, encourages lawyers to "Do the Public Good: Volunteer for *Pro Bono*" and lists the telephone numbers of bar associations and legal services organizations. It has been distributed to courts, law firms, law schools, bar associations, and service programs throughout the state.

The Committee also is conducting a series of public outreach meetings. At a well-attended meeting in New Bedford in November, participants discussed both the demand for *pro bono* services and the opportunities for lawyers to serve. A meeting also was held in Worcester, and the third is to be conducted in Springfield this spring.

A major objective of the meetings, Ms. Ryan says, is to "encourage in other

And justice for all?

Across Massachusetts, in every community, on every day, people face serious legal problems. Families are illegally evicted. People are unfairly denied public assistance.

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- The Massachusetts Bar Association at (617) 338-0500
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Sponsored by the Standing Committee on Pro Bono Legal Services of the Supreme Judicial Court

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Legal Services for Cape Cod and the Islands
460 West Main Street
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508-775-7020 ■ www.lscoc.org

Massachusetts Justice Project
57 Suffolk Street 4th Floor
Holyoke, MA 01040
413-533-2660 ■
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Worcester, MA 01608
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Volunteer Lawyers Project of the Boston Bar Association
29 Temple Place
Boston, MA 02111 1350
617-423-0648 ■ www.vlpnet.org

Women's Bar Association of MA
6 Beacon Street, Suite 915
Boston, MA 02108-5004
617-973-6666 ■ www.womensbar.org

parts of the state the replication of programs that have demonstrated success in their local communities."

The Lawyer for the Day program provides an ideal example of how an effective idea can spread to a dozen courts. The program is the brain child of Suffolk Probate and Family Court Judge Nancy M. Gould. As the Suffolk County Assistant Register of Probate in 1990, she developed it as an inexpensive

way to help the rising number of *pro se* litigants coming to the Court.

"It is an incredibly simple idea," she says. "We asked attorneys to serve just one day a year. After we recruited the first hundred, word got out and others came to us to say they wanted to join. We quickly had 250 volunteers — enough to fill the entire year."

Pro Bono

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Judicial Branch Holds Statewide Conference on Unrepresented Litigants

National and state leaders of the judiciary and bar addressed a two-day conference of more than 300 judges, court employees, and lawyers on ways to build consensus on the challenges posed by the rising number of unrepresented, or *pro se*, litigants appearing in courts.

The statewide conference, held at the College of the Holy Cross in Worcester in March, is part of a State Action Plan that also includes recommendations for training judges, clerks, and court staff; and establishing self-help centers for *pro se* litigants. The Plan was developed by a State Team appointed by Chief Justice for Administration and Management Barbara A. Dortch-Okara. The Team consisted of Suffolk Probate and Family Court First Justice Elaine M. Moriarty, East Boston District Court First Assistant Clerk Sandra A. Caggiano, Court Administrator Harvey J. Chopp of the Housing Court, and attorney Edward Notis-McConarty, a partner in the Boston firm of Hemenway & Barnes.

The Team's work was rewarded with a grant of \$39,500 to the Administrative Office of the



Trial Court from the State Justice Institute in Alexandria, Virginia, to fund the conference in Worcester and other initiatives.

In the photo above, Supreme Judicial Court

Chief Justice Margaret H. Marshall thanks Judge Moriarty, at right, and the other members of the conference planning committee during her address to the conference.

Pro Bono

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She says the Register's office prepared instruction materials on frequently used forms and procedures, conducted an orientation for the volunteer attorneys, and launched the program in May, 1990.

"The Suffolk program really hasn't changed much since then," she says, adding that one of the most rewarding aspects of the program for her is in seeing how it has spread to other courts, including District Courts and Housing Courts.

Middlesex Probate and Family Court was the next to begin a Lawyer for the Day program. Then Norfolk Register of Probate Thomas P. Hughes, since retired, started one that eight years ago served as the blueprint for the Hampden program that Mr. Friedlander regularly participates in.

Help for a Difficult Problem

"We were inundated with litigants without advocates," Hampden Register of Probate Thomas P. Moriarty says. "And as the numbers rose, the problems became overwhelming. I've had several

lawyers tell me after they've worked a day in the program, 'Never in my wildest dreams have I imagined what you are up against.'"

The program helps courts — and the people served by them — in several ways. Registers and clerks, as officers of the court, must remain neutral to all disputes that come before it. Thus, the Lawyer for the Day program can give professional help that registers and clerks are unable to provide.

"The amount of paperwork that one case can require can be daunting," Judge Gould says. "People thought we didn't want to help."

Adds Mr. Friedlander, "When people are dealing with a divorce or another family matter, they are often emotionally charged. It's very beneficial for them to be able to talk to a professional who can help them."

Besides helping litigants with filling out forms, the *pro bono* attorneys help the litigants understand the entire process, organize their thoughts, and anticipate

the questions a judge might ask. "People who come before the bar of justice without representation can really bog down the entire system," Register Moriarty says. "If they receive some support, then they're much better prepared and it leads to better efficiency. And as a result of the increased efficiency, the community gains more confidence in the system."

Judge Gould and Register Moriarty agree the Lawyer for the Day program is not a panacea for the challenges that unrepresented litigants may pose for the courts. Both also indicate, however, that the service seems to foster a deep satisfaction within the attorneys who volunteer.

"We've never had any problems in getting enough lawyers," says Register Moriarty. "The response by the bar has ensured the success of the program."

Adds Judge Gould, "The attorneys recognize how important the work is for the litigants and the courts. Many have come back to me and said that's why they went into the law in the first place — to help people." ■

Judge Thomas T. Merrigan Honored for Contributions in Franklin County

The National Center for State Courts has honored Orange District Court First Justice Thomas T. Merrigan with a Distinguished Service Award for his outstanding contributions to improving the administration of justice in Franklin County.

Judge Merrigan was Co-Chair of the Franklin County Futures Lab Task Force, project director of the Franklin County Court and Community Substance Abuse Intervention Project, and has been very involved in other local and national initiatives and conferences concerning drug courts, juvenile diversion programs, restorative justice, case management, and court/community collaborations.

Congratulating Judge Merrigan, center, at a February 15 ceremony in the Greenfield courthouse, are, from left, Greenfield District



Court First Justice Herbert H. Hodos, Chief Justice for Administration and Management Barbara A. Dortch-Okara, National Center for

State Courts Vice President for Research Victor Eugene Flango, and Northampton District Court First Justice W. Michael Ryan.

CALENDAR



APRIL

- 4 Law School for Journalists, Part II, cosponsored by the SJC Judiciary/Media Committee and Flaschner Judicial Institute, at WCVB-TV in Needham, from 6:30 p.m. to 9:30 p.m. (Also on April 25 at the Boston Globe, from 9:30 a.m. to 12:30 p.m.)
- 19 "Magnificent Temples of Justice: Law & Architecture in Massachusetts, 1750-1830," cosponsored by the Flaschner Judicial Institute and the Social Law Library, at the Social Law Library in Boston, from 5:00 p.m. to 7:30 p.m.
- 16 Patriot's Day — Courts are closed.
- 25 Judicial Institute: "Delivering Exemplary Customer Service," for support staff, in Haverhill from 1:00 p.m. to 4:00 p.m.

MAY

- 1 Judicial Institute: "Warrant Management System," for clerk-magistrates and assistant clerk-magistrates, in Brockton from 8:30 a.m. to 4:30 p.m. (A half-day session for selected support staff will be held the next day at the same location. Four more pairs of sessions will be held at various locations through early June.)
- 7 Judicial Institute: "Relapse Prevention Counseling for Substance Abusers Being Pro-Active," for judges and probation officers, in Springfield from 1:30 p.m. to 4:00 p.m.
- 24 "Judicial Involvement in Plea Negotiations: What Role, If Any, Should Judges Play," cosponsored by Flaschner Judicial Institute and UMass-Boston, for judges, in Boston from 9:00 a.m. to 4:00 p.m.
- 28 Memorial Day — Courts are closed.

JUNE

- 13-14 Judicial Institute: "New Employee Orientation," for recently hired support staff, at site to be announced.

For more information on Judicial Institute programs, call (617) 788-6775.

For more information on Flaschner Judicial Institute programs, call (617) 542-8838.

The Court Compass

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