CLIENTS' SECURITY BOARD
OF THE
SUPREME JUDICIAL COURT OF MASSACHUSETTS

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Annual Report

TO THE

Supreme Judicial Court Fiscal Year 2017

September 1, 2016 - August 31, 2017

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CLIENTS' SECURITY BOARD of the Supreme Judicial Court of Massachusetts

August 31, 2017

Dear Reader,

When examining the total annual awards for fiscal years 2016 (\$846,842.96) and 2017 (\$500,701.48) one might be tempted to conclude that lawyer misappropriation is vanishing from the Commonwealth. That would be a misinterpretation of the data for two reasons. First, two years do not make a trend. Second, a quick glance at the Total Awards column on p. 3 shows that for the 23 years between 1992 and 2015, the median annual amount awarded is \$1,963,555 (2001). These figures should keep us from the temptation of either complacency or alarm.

How, then, does one account for the reduction in the award amounts in 2016 and 2017? Although we will never know because of the multiple variables contributing to lawyer misappropriation, one might consider the helpful individual reform measures put in place in recent years. These measures include:

- ❖ Banks notifying the Office of Bar Counsel when a check issued from a lawyer's trust account is dishonored;
- ❖ Insurance companies notifying injured-party payees when the insurers issue checks to the payee's lawyer;
- The energetic program offered by the Office of Bar Counsel to educate lawyers on the revised trust accounting rules;
- ❖ The consulting services offered by the Law Office Management Assistance Program established by Lawyers Concerned for Lawyers; and
- ❖ The mandatory Practicing with Professionalism course now required by SJC Rule 3:16 for new lawyers.

While these measures are welcome steps in the right direction, it is impossible to determine their actual impact on lawyer conduct. The best we can do is to ascribe the recent dip in annual awards to the normal peaks and valleys that occur within all law client protection funds.

During fiscal 2017, the Board will be cooperating with the Office of Attorney General on a program that obtained partial restitution for Spanish and Portuguese-speaking clients of disbarred lawyer David Zak. He charged illegal and excessive fees to those clients while falsely promising to have their mortgages reformed under the federal Home Affordable Mortgage Program. I will have more to say on this in next year's letter.

After a long period with an obsolete website, we have undertaken a re-design of the Clients' Security Board website. With so many more people getting their information from online sources, the Clients' Security Board needed to explore and exploit many technological developments (streaming video, language flexibility, online form completion and submission, etc.) to make our site more approachable and useful. Again, more on this next year.

Finally, in February 2017, the Board met with Associate Justices Botsford (now retired) and Gaziano at the Supreme Judicial Court. The energetic and productive session provided Justice Gaziano, the new CSB liaison, with insight into some of the issues and challenges facing the Board. We look forward to the growth of this spirit of communication and cooperation as we reaffirm our gratitude for the decades of unwavering support from the Chief Justices and the entire Court.

Very truly yours,

D. Ethan Jeffery

Chair

FY 17 – Significant Numbers

Total Awarded	\$500,701.48
Claims Adjudicated	62
Total Awards	47
Lawyers Responsible	26 out of 59,687 (0.04%)
# Claims Pending, Year-End	55
\$ Claims Pending, Year-End	\$2,767,765.30

Clients' Security Fund Balances¹ - FY2016

Fund as of 08/31/16	\$7,270,520
Allocation for FY17	\$729,480
Fund as of 08/31/17	\$7,571,473

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¹ Reflect FY17 fluctuations in market value of investment portfolio (specified in CSB Rule 4) plus increases from interest and restitution payments minus decreases from payments of awards.

Claims Activity Chart 1975-2016

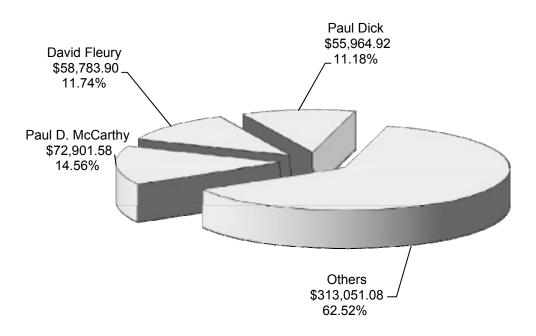
Fiscal Year	Claims Filed	Claims Adjudicated	Claims Dismissed	Awards Made	Total Awards
1975-1979	195	126	76	50	\$148,767.80
1980	126	60	38	22	\$71,208.00
1981	42	126	61	65	\$244,276.18
1982	30	29	9	20	\$80,212.00
1983	35	40	7	33	\$152,005.00
1984	45	42	17	25	\$141,125.67
1985	46	34	12	22	\$224,904.17
1986	23	38	7	31	\$214,810.75
1987	42	34	12	22	\$503,776.00
1988	28	24	13	11	\$267,954.24
1989	51	40	16	24	\$146,720.06
1990	74	73	18	55	\$759,025.23
1991	71	55	20	35	\$624,592.42
1992	124	85	16	69	\$968,894.77
1993	146	95	22	73	\$1,111,181.93
1994	109	157	27	130	\$1,203,911.62
1995	90	103	35	68	\$1,602,217.70
1996	139	100	33	67	\$1,696,870.13
1997	81	113	30	83	\$2,058,900.92
1998	119	102	46	56	\$1,254,229.91
1999	80	98	32	66	\$2,119,675.47
2000	83	108	22	86	\$2,744,848.83
2001	119	70	15	55	\$1,963,555.27
2002	82	94	25	69	\$1,066,379.91
2003	116	56	11	45	\$1,055,477.00
2004	90	157	58	99	\$2,412,597.49
2005	81	81	26	55	\$2,203,527.19
2006	91	93	51	42	\$1,653,026.91
2007	77	88	31	57	\$1,958,904.76
2008	108	89	21	68	\$2,654,436.60
2009	95	116	33	83	\$1,328,039.01
2010	82	106	14	92	\$2,397,677.77
2011	106	97	34	63	\$2,059,194.55
2012	85	113	27	86	\$2,111,791.36
2013	108	83	14	69	\$2,801,665.59
2014	121	142	28	114	\$1,324,815.87
2015	59	86	25	61	\$2,949,085.20
2016	47	50	22	28	\$846,842.96
2017	68	62	15	47	\$500,701.48
	-	TOTAL	•	2,246	\$49,627,827.72

Defalcations & Awards by Disciplined/Deceased Lawyers

Disciplined Lawyer	Town	County	No. of Awards	Amount Awarded	Defalcation Amounts
Paul D. McCarthy	N. Andover	Essex	2	\$72,901.58	\$72,901.58
David Fleury	Taunton	Bristol	2	\$58,783.90	\$58,783.90
Paul C. Dick	Amesbury	Essex	7	\$55,964.92	\$55,964.92
Ross A. Annenberg	Hopkinton	Middlesex	5	\$48,550.86	\$48,550.86
Douglas Tracia	Framingham	Middlesex	2	\$40,000.00	\$40,000.00
George Philip	Providence, RI	Providence	1	\$32,450.00	\$32,450.00
*Alan James Vanaria	Springfield	Hampden	1	\$25,680.90	\$25,680.90
Yuri Levintoff	Newton	Middlesex	2	\$22,672.04	\$22,672.04
Matthew J. McCarthy	Cambridge	Middlesex	1	\$18,585.58	\$18,585.58
Glen R. Vasa	Brockton	Plymouth	5	\$16,526.04	\$16,526.04
*Kearons Whalen	Pittsfield	Berkshire	1	\$15,000.00	\$15,000.00
Thomas Kevin Delehanty	S. Boston	Suffolk	1	\$14,976.83	\$14,976.83
Laird James Heal	Winchendon	Worcester	1	\$13,352.00	\$13,352.00
J. Thomas Babcock	Quincy	Norfolk	1	\$12,000.00	\$12,000.00
Kristin A. Brassard	Fitchburg	Worcester	4	\$8,400.00	\$8,400.00
*Jeffrey Allen	Natick	Middlesex	2	\$8,000.00	\$8,000.00
Deborah Ann Anthony	Methuen	Essex	1	\$7,697.50	\$7,697.50
Ron Meyers	Dorchester	Suffolk	1	\$5,000.00	\$5,000.00
Michael Brown	Newton	Middlesex	1	\$5,000.00	\$5,000.00
Ronald Gary Pinson, Jr.	Wildomar, CA	Riverside	1	\$5,000.00	\$5,000.00
Geoffrey DuBosque	Newburyport	Essex	1	\$4,500.00	\$4,500.00
Valerie F. Hanserd	Brockton	Plymouth	1	\$4,026.00	\$4,026.00
Jay Lipis	Stoughton	Norfolk	1	\$3,233.33	\$3,233.33
Amantino Lopes	Stoughton	Norfolk	1	\$1,800.00	\$1,800.00
Mark F. Roberts	Tewksbury	Middlesex	1	\$600.00	\$600.00
		TOTAL	47	\$500,701.48	\$500,701.48

^{*} Deceased

Lawyers with Highest Defalcations



Awards by Categories

Category	No. of Awards	% of Total Awards	Total Awarded	% Total \$\$ Awarded	Total Defalcation	% of Total Defalcation
Fiduciary	4	8.51%	\$124,061.39	24.78%	\$124,061.39	24.78%
Trusts & Estates	11	23.40%	\$115,941.75	23.16%	\$115,941.75	23.16%
Real Estate	1	2.13%	\$20,976.09	4.19%	\$20,976.09	4.19%
Unearned Retainer	16	34.04%	\$107,145.54	21.40%	\$107,145.54	21.40%
Settlement	5	10.64%	\$37,174.36	7.42%	\$37,174.36	7.42%
PI Settlement	10	21.28%	\$95,402.35	19.05%	\$95,402.35	19.05%
Total	47	100.00%	\$500,701.48	100.00%	\$500,701.48	100.00%

FIDUCIARY: THE MISUSE OF FUNDS HELD BY AN ATTORNEY ACTING AS A FIDUCIARY ARISING FROM AN ATTORNEY-CLIENT RELATIONSHIP.

Disciplined Lawyer	No. of Awards	Total Awards	% of Total Awarded
Laird James Heal	1	\$13,352.00	10.76%
David M. Fluery	2	\$58,783.90	47.38%
Paul D. McCarthy	1	\$51,925.49	41.85%
Total	4	\$124,061.39	100.00%

REAL ESTATE: MISAPPROPRIATION OF DEPOSITS, ESCROWS, PURCHASE MONEY OR SALE PROCEEDS IN PURCHASE, SALE, AND RE-FINANCE TRANSACTIONS.

Disciplined Lawyer	No. of Awards	Total Awards	% of Total Awarded
Paul D. McCarthy	1	\$20,976.09	100.00%
Total	1	\$20,976.09	100.00%

SETTLEMENT: MISAPPROPRIATION OF PROCEEDS FROM THE SETTLEMENT OF NON-PERSONAL INJURY LITIGATION MATTERS.

Disciplined Lawyer	No. of Awards	Total Awards	% of Total Awarded
Ross Annenberg	1	\$3,812.86	10.26%
Ronald Gary Pinson	1	\$5,000.00	13.45%
*Alan James Vanaria	1	\$25,680.90	69.08%
Glen R. Vasa	2	\$2,680.60	7.21%
Total	5	\$37,174.36	100.00%

PERSONAL INJURY SETTLEMENT:

MISAPPROPRIATION OF PROCEEDS FROM THE SETTLEMENT OF PERSONAL INJURY MATTERS.

Disciplined Lawyer	No. of Awards	Total Awards	% of Total Awarded
Ross A. Annenberg	4	\$44,738.00	46.89%
*Kearons J. Whalen	1	\$15,000.00	15.72%
Matthew J. McCarthy	1	\$18,585.58	19.48%
Glen R. Vasa	3	\$13,845.44	14.51%
Jay Lipis	1	\$3,233.33	3.39%
Total	10	\$95,402.35	100.00%

TRUSTS AND ESTATES: THE MISAPPROPRIATION OF ASSETS FROM A TRUST, AN ESTATE, OR THEIR RESPECTIVE BENEFICIARIES BY AN ATTORNEY ACTING AS AN ATTORNEY OR AS A FIDUCIARY, EXECUTOR OR TRUSTEE.

Disciplined Lawyer	No. of Awards	Total Awards	% of Total Awarded
Douglas F. Tracia	2	\$40,000.00	34.50%
Thomas K. Delehanty	1	\$14,976.83	12.92%
*Jeffrey Allen	1	\$5,000.00	4.31%
Paul Dick	7	\$55,964.92	48.27%
Total	11	\$115,941.75	100.00%

UNEARNED RETAINER: CLIENT MONEY ACCEPTED BY AN ATTORNEY WHO FAILED TO PERFORM THE AGREED UPON LEGAL SERVICE. THESE CLAIMS SHOULD NOT BE CONFUSED WITH FEE DISPUTES OR MALPRACTICE CLAIMS WHERE AN ATTORNEY NEGLIGENTLY PERFORMS LEGAL SERVICES CAUSING FINANCIAL LOSS TO A CLIENT.

Disciplined Lawyer	No. of Awards	Total Awards	% of Total Awarded
*Jeffrey L. Allen	1	\$3,000.00	2.80%
George Phillips	1	\$32,450.00	30.29%
Valerie F. Hanserd	1	\$4,026.00	3.76%
Amantino Lopes	1	\$1,800.00	1.68%
Kristin Brassard	4	\$8,400.00	7.84%
Yuri Levintoff	2	\$22,672.04	21.16%
Michael A. Bown	1	\$5,000.00	4.67%
Geoffrey DuBosque	1	\$4,500.00	4.20%
Deborah Ann Anthony	1	\$7,697.50	7.18%
J. Thomas Babcock	1	\$12,000.00	1.74%
Ron Meyers	1	\$5,000.00	1.00%
Mark Roberts	1	\$600.00	0.56%
Total	16	\$107,145.54	100.00%

^{*} Deceased

RESTITUTION

Category	Amount Collected
Court Ordered	\$28,372.40
CSB Activity	\$30,712.81
Voluntary	\$3,800.00
Total	\$62,885.21

BASIS FOR DISMISSED CLAIMS

Category	No. of Claims	
Insufficient Data	3	
No Defalcation	6	
Third Party Recovery	1	
Malpractice	1	
Restitution	3	
Fee Dispute	1	
Total	15	

CLAIMS PENDING

Basis	# of Claims Pending	\$ Total Claims
Real Estate	6	\$211,143.92
Settlement	3	\$125,001.00
Trusts & Estates	4	\$510,844.92
Unearned Retainer	33	\$1,139,463.66
PI Settlement	8	\$127,311.80
Investments	1	\$654,000.00
Total	55	\$2,767,765.30

Information on filing a claim for reimbursement can be found at www.mass.gov/ClientsSecurityBoard

or contact the Clients' Security Board 99 High Street, 2nd Floor Boston, MA 02110

Telephone: 617-728-8700 Fax: 617-482-8000

Board Members

D. Ethan Jeffery, Esq., Chair, was appointed to the Board on January 1, 2011. He is a shareholder in the law firm



of Murphy & King, P.C. where his practice focuses on representing debtors, trustees, and creditors in complex Chapter 11 cases, and representing debtors and creditors in non-bankruptcy restructurings and workouts. Mr. Jeffery received a B.A. from the University of New Hampshire and a J.D. from Villanova Law School. Mr. Jeffery is a member of the American Bankruptcy Institute's Executive Advisory Board for the Northeast Conference, is the co-chair of the Boston Bar Association's Commercial Finance Committee, and is listed in Chambers USA: America's Leading Lawyers for Business.

Amy S. Locke, Esq., Vice Chair, was appointed to the Board effective February 1, 2013. She is a senior litigation



management associate at Coverys, a medical malpractice insurer. Prior to achieving this position, Ms. Locke was a career trial attorney who focused her practice on defending bodily injury claims, investigating and litigating suspected cases of insurance fraud, and analyzing coverage issues. She practiced at the Cambridge firm of Bellotti & Barretto and at the Boston regional office of Wilson Elser. Ms. Locke received her B.A. *magna cum laude* from the University of Massachusetts/Boston and her J.D. *cum laude* from Suffolk University Law School. In 2012, she earned the Registered Professional Liability Underwriter (RPLU) designation and has taught several courses for the program, including the Lawyers Professional Liability Insurance module.

Judith Goldberg, Esq., Secretary, was appointed to the Board effective January 1, 2015. She is a Senior Policy



Analyst in the Massachusetts Office of the Inspector General. She has also worked as a litigation associate at McDermott, Will and Emery, Deputy General Counsel in Governor Romney's Legal Office, Deputy General Counsel for the Executive Office of Health and Human Services, and as in-house counsel at Five Star Quality Care, Inc., a publicly-traded company that manages senior living facilities across the country. Ms. Goldberg earned a B.A. in psychology and sociology from Boston University, an Ed.M. from Harvard University in counseling processes, and a J.D. from Boston University where she was the managing editor of the *Law Review*.

Martin J. Newhouse, Esq., Treasurer, was appointed to the Board effective December 1, 2013. Mr. Newhouse is



President of the New England Legal Foundation. Founded in 1977, NELF is a public interest nonprofit and nonpartisan courtroom advocate for the New England business community, as well as a resource on important business law and property rights issues. Prior to joining NELF in 2004, Mr. Newhouse had a twenty-year legal career at Ropes & Gray LLP, where he was a partner in the Litigation Department, chair of the firm's pro bono committee, and advised the firm on legal ethics. As President of NELF, Mr. Newhouse oversees a legal staff that is active in appellate litigation throughout New England and the rest of the country, filing amicus briefs in both state and federal courts, including the United States Supreme Court, in business and property rights cases. Mr. Newhouse served as a Hearing Officer for the Massachusetts Board of Bar Overseers from 2003-2009, is a member of the Boston Bar Association's Ethics Committee, and teaches Professional Responsibility at Suffolk University Law School. Mr.

Newhouse received an A.B. in economics from Columbia College, a Ph.D. in modern European history from Columbia University, and a J.D. from Yale Law School. In addition to his legal activities, Mr. Newhouse is on the Advisory Boards of the Massachusetts Foundation for the Humanities and the Winchester Community Music School, and has published on a variety of subjects from the philosopher Friedrich Nietzsche to current legal issues.

Board Members



John G. Bagley, Esq., was appointed to the Board effective February 1, 2013. He is a partner in the Springfield office of Morrison Mahoney LLP, where he concentrates his practice in civil litigation. He is a past President of the Hampden County Bar Association; former Chairperson of the Mass. Bar Association Judicial Administration Section; former Chairperson of the Hampden County Medical-Legal Society; has served on the Board of Editors of Mass Lawyers Weekly; and is a former member of the Mass. Bar Association Committee on Judicial Appointments. In 2008, he was elected as a member of the American Board of Trial Advocates. In 2011, he was invited to Fellowship in the American College of Trial Lawyers and presently serves as a member of its State Committee. Mr. Bagley, a graduate of the College of the Holy Cross and Suffolk Law School, was admitted to the bar in 1983.

W. Lee H. Dunham, Esq., was appointed to the Board effective January 1, 2015. He is a retired partner of Sullivan &



Worcester LLP and practiced corporate and securities law. Mr. Dunham served as managing partner of the firm from 1996 to 2002. He has served on the Board of Bar Overseers and was Chair from 2013 to 2014. He has also served as Co-Chair of the Boston Bar Association Senior Lawyers Section and as a Director of Greater Boston Legal Services and received its Southgate Volunteer Award. Mr. Dunham received a B.A. from Harvard College and a J.D. from Yale Law School.

Regina Snow Mandl, Esq., was appointed to the Board effective March 1, 2017. She is a partner in the firm of Smith



Duggan Buell and Rufo LLP with offices in Lincoln and Boston. Ms. Mandl specializes in family law, estate planning and administration, and probate litigation. Ms. Mandl received her BA, cum laude from New York University where she was elected to Phi Beta Kappa, and her J.D. from Boston College Law School. Ms. Mandi's professional activities include the American Inns of Court, where she served on the Executive Committee and member of the Board of the American Inns of Court Foundation in Washington, D.C., and as past president of the Massachusetts Probate and Family American Inn of Court. She also serves on the Board of the New York University Lawyer Alumni Mentoring Program. Ms. Mandl was a twoterm hearing officer for the Massachusetts Board of Bar Oversears. Recognitions include Massachusetts Lawyers Weekly Top Women of Law in 2014, and inclusion in SuperLawyers.

William J. LeDoux Award Recipients

William J. LeDoux served as a member of the Board from 1987 to 1997, including seven years as Chairman. He distinguished himself by tirelessly advancing the Board's goals of serving the public. In 1997 the Board established this award to recognize a lawyer who has demonstrated extraordinary skill and perseverance in representing a claimant before the Board.



William J. LeDoux (1931-1999)



Peter H. Sutton, Boston 1998 Recipient



Nathan H. Proctor, Oxford 1999 Recipient



Charles F. Proctor, Oxford 1999 Recipient



Thomas G. Hoffman, Boston 2000 Recipient



Douglas W. Salvesen, Boston 2002 Recipient



Jerry Cohen, Boston 2003 Recipient



Laura Hancock Barry, Worcester 2004 Recipient



Hung Tran, Boston 2005 Recipient



Hang Nina T.K. Nguyen, Boston 2005 Recipient



Russell S. Channen, Haverhill 2010 Recipient



S. Peter Ziomek, Jr., Amherst 2010 Recipient



Leonard A. Frisoli, Cambridge 2012 Recipient



Timothy J. Perry, Boston 2014 Recipient

PRO BONO LAWYERS

The Board is pleased to acknowledge and thank the following lawyers who generously contributed their time and talents during FY 2017 to represent claimants before the Board for which service, by Court Rule, they may not receive compensation.

David W. Adams, Esq., Belmont, MA	Ara J. Balikian, Esq., Lexington, MA
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Frank A. Caruso, Esq., West Springfield, MA

Dennis J. Conry, Esq., Wareham, MA

Anthony P. Doyle, Esq., Pittsfield, MA George E. Foote, Esq., Lexington, MA

Michael Fulton, Esq., Bedford, MA

Joseph P. Roman, Jr., Esq., Melrose, MA

Michael B. Rosen, Esq., Framingham, MA Elton Watkins, III, Esq., Methuen, MA

Gary M. Weiner, Esq., Springfield, MA Saman Salim Wilcox, Esq., Worcester, MA

Abigail Williams, Esq., Worcester, MA Scott Ian Wolf, Esq., Braintree, MA

CLIENTS' SECURITY BOARD MEMBERSHIP 1974-PRESENT

*Philip J. Assiran (1981-1983)

John G. Bagley (2013-)

Joseph H. Baldiga (2012-2016)

Thomas O. Bean (2005-2010)

George N. Beauregard (1982-1986)

*Barry D. Berkal (1981-1986)

Mark N. Berman (1997-2002)

Stanley B. Bernstein (1992-1996)

Mark I. Berson (1995-2000)

Edward S. Cheng (2008–2013)

*Thomas H. Collins (1974-1981)

J. Elizabeth Cremens (1987-1992)

Judith A. Cross-Donahue (1988-1998)

Peter G. Degelleke (2003-2008)

*Charles R. Desmarais (1974-1980)

Merrilynn R. Douglas (1989-1994)

Patricia M. Dunbar (1997-1999)

W. Lee H. Dunham (2015 -)

John J. Egan (2007-2013)

Harrison A. Fitch (1986-1993)

John R. Gobel (2001-2006)

Charles W. Goddard (2007-2012)

Judith Goldberg (2015 -

Joel S. Greenberg (1980-1988)

*Edward B. Hanify (1974-1979)

*Paul F. Hannah (1974-1976)

Ruth-Arlene W. Howe (1983-1988)

D. Ethan Jeffery (2011-

Raymond J. Kenney, Jr. (1979-1987)

Pamela Jeanne Koehr (2004-2010)

Maria J. Krokidas (1979-1984)

Elizabeth Oneill Lastaiti (1982-1986)

*William J. Ledoux (1987-1997)

Edward J. Lee (1987-1992)

Amy S. Locke (2013-)

Regina Snow Mandl (2017-)

S. Thomas Martinelli (1975-1977)

Denzil D. McKenzie (2007-2013)

Edward W. McIntyre (1999-2004)

*Stanley B. Milton (1974)

Francis C. Morrissey (2010 -2014)

Guy B. Moss (2002-2007)

Frederick L. Nagle, Jr. (1990-1995)

Martin J. Newhouse (2013 -)

Loretta Sullivan O'Brien (1992–1997)

Kathryn A. O'Leary (2004-2010)

Thomas E. Peisch (1994-1999)

Michelle M. Porter (2010-2014)

Dorothy G. Sanders (1992-1997)

Mary H. Schmidt (1997-2002)

Edward D. Simsarian (1984-1989)

Thomas G. Sitzmann (1996-2001)

Joseph D. Steinfield (1998-2003)

Peter H. Sutton (2000-2005)

Evelynne L. Swagerty (1999-2004)

*Berge C. Tashjian (1978-1980)

Charles Y. Wadsworth (1977-1982)

Lucy W. West (2002-2007)

*Deceased

GENERAL COUNSEL STAFF

KAREN D. O'TOOLE General Counsel

ADAM M. LUTYNSKI Deputy General Counsel

BERNICE ADDONIZIO Legal Specialist