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Messing, Rudavsky & Weliky, P.C.
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EDUCATION

University of California at Berkeley - Juris Doctor, 1978

Yale University - B.A., French and English Literature, 1972, magna cum laude with high departmental honors. National Merit Scholar.

PROFESSIONAL EMPLOYMENT

Messing, Rudavsky & Weliky, P.C.¹ - 1988 to present
One Gateway Center, 300 Washington St, Suite 308, Newton, MA 02458
Partner in law firm founded in 1988; practice focuses on labor and employment law, including discrimination.

Harvard Law School - Academic Years 2006-2007 and 2007-2008
Cambridge, Massachusetts
Lecturer in Law responsible for school's course on Labor Law.

McDonald, Noonan and Kaplan - 1986-1988
Newton, Massachusetts
Associate in law firm representing individuals and unions in labor and employment matters.

Avery and Friedman - 1984-1986
Associate in civil rights law firm.

Angoff, Goldman, Manning, Pyle, Wanger and Hiatt - 1980-1984
Associate in labor law firm representing unions and individuals in labor and employment matters. Major client was the Boston University Chapter of the AAUP, which was litigating a major Yeshiva challenge at the National Labor Relations Board.

BAR ADMISSIONS

States: California (1979) (currently retired), Massachusetts (1980); Federal: District of Massachusetts (1981), Northern District of California (1979), First Circuit Court of Appeals (1984), United States Supreme Court (1990)

¹ The firm was known as Shilepsky, Messing & Rudavsky, P.C. until September 1993 and Messing & Rudavsky, P.C. until October 2001.

SELECTED CASES

Blanchard v. Steward Carney Hosp., Memorandum and Order on Defendants' Special Motion to Dismiss (Dec. 7, 2017) (court denies employer's Special Motion to Dismiss on remand from SJC).

Blanchard v. Steward Carney Hosp., 477 Mass. 141, 75 N.E.3d 21 (2017) ("Blanchard I") (establishing new paradigm for challenging anti-SLAPP motion).

Blanchard v. Steward Carney Hosp., – Mass. – No. SJC-12618 (Sept. 23, 2019) ("Blanchard II") (Affirming trial court's denial of anti-SLAPP motion to dismiss following remand, and elucidating the new standard set out in Blanchard v. Steward Carney Hospital, 477 Mass. 141 (2017) ["Blanchard I"]).

Northeastern University v. Pichler, No. 2015-1666-A (Mass. Super. Ct. Nov. 20, 2015) (confirming portion of arbitration award reinstating professor to tenure track as fourth year assistant professor and granting full back pay and benefits; vacating portion of award granting three one-year contracts of employment).

Whelchel v. Regus Management Group, Inc., 2012 WL 5471808 (D.Mass. November 8, 2012)(establishing that employers may not remove cases from the MCAD to federal court on diversity grounds).

Psy-Ed Corporation v. Klein and Schive, 459 Mass. 697 (2011)(Supreme Judicial Court affirms trial court retaliation ruling and expands coverage of G.L. c. 151B anti-retaliation provisions to cover former employees targeted for retaliation after their employment had ended).

Psy-Ed Corporation v. Klein and Schive, No. 99-1640 Middlesex Superior Court (2009) (Plaintiff-in-counterclaim prevails in claim of retaliation under G.L.c. 151B, where she was sued by former employer; fee enhancement awarded).

Messing, Rudavsky & Weliky, P.C. v. President and Fellows of Harvard College, 436 Mass. 347 (2002)(law firm was successful plaintiff in case where SJC elucidated Rule 4.2 of Mass. Rules of Professional Conduct to permit broad ex parte contact between plaintiffs' attorneys and employees of institutional defendants).

McMillan V. Massachusetts Society for Prevention of Cruelty to Animals, 880 F.Supp. 900 (D.Mass. 1995); 140 F.3d 288 (1st Cir. 1998)(cited by Massachusetts Lawyers Weekly as one of the ten most important cases of 1998, because of holding that damages cap for charities does not apply in discrimination cases; later cited by Justice Ginsburg in her dissent in U.S. Supreme Court Lilly Ledbetter equal pay case).

Brown v. Trustees of Boston University, 891 F.2d 337, 133 L.R.R.M. (BNA) 2013, 133 L.R.R.M. (BNA) 2443, 51 Fair Empl. Prac. Cas. (BNA) 815, 52 Empl. Prac. Dec. P 39,497, 52 Empl. Prac. Dec. P 39,707, 114 Lab. Cas. P 11,840, 114 Lab. Cas. P 11,841, 57 Ed. Law Rep. 761, 29 Fed. R. Evid. Serv. 642 (1st Cir. 1989), cert. denied, 110 S. Ct. 3217

(1990)(Court of Appeals affirms district court tenure award to faculty member who proved sex discrimination by University that had denied tenure).

Brown v. Trustees of Boston University, 674 F.Supp. 393, 46 Fair Empl. Prac. Cas. (BNA) 1642, 45 Empl. Prac. Dec. P 37,577, 43 Ed. Law Rep. 592 (D. Mass. 1987) (Court grants tenure to female faculty member denied tenure because of sex).

Brigham & Women's Hospital v. Massachusetts Nurses Association, 684 F.Supp. 1120, 128 L.R.R.M. (BNA) 2320, 111 Lab. Cas. P 10,994 (D. Mass. 1988)(Confirming arbitrator's award to union and rejecting hospital's public policy challenge).

Trustees of Boston University v. Boston University Chapter, American Association of University Professors, 746 F.2d 924, 117 L.R.R.M. (BNA) 2885, 102 Lab. Cas. P 11,222, 20 Ed. Law Rep. 1116 (1st Cir. 1984)(Faculty union case).

PROFESSIONAL AFFILIATIONS

Massachusetts Bar Association, 1980 to present, Labor and Employment Section Council, 2007 to present

Chair, Massachusetts Bar Association, Labor & Employment Section Council, 2011-2012 (previously served as Vice Chair, 2010-2011, and Co-Chair, 2009-2010)

AFL-CIO Lawyers Coordinating Committee, 1983-1988, 2009-2012
(Member of National Advisory Board, 1983-84)

Boston-area Jewish Labor Committee Advisory Council, 2013 to present

PUBLICATIONS

Massachusetts Employment Law

MCLE (2013) (co-author, chapter on Gender Discrimination; 2nd Edition, annual supplements through 2017)

Massachusetts Continuing Legal Education 14th Annual Employment Law Conference

“New Developments in Anti-Discrimination Law, 2011: Expansion of Protection from Retaliation” (December 2011)

American Bar Association Section of Labor and Employment Law Annual Conference

“Arbitration Megatrends – A Perspective From the Northeast” (2011) (co-author with Ellen Messing)

Massachusetts Bar Association Beat Podcast

“Employees and the New Massachusetts Noncompete Law” (May 2019) (co-presenter Ellen J. Messing) (listen [here](#))

WGBH Radio Show

“Book Club: Yale Needs Women” (January 2020) (co-presenter Anne Gardiner Perkins, Connie Royster, Shirley Daniels) (listen [here](#))

Massachusetts Continuing Legal Education Labor and Employment Basics

“Alphabet Soup—Comparison of Similar Statutes” (November 2019)

Massachusetts Bar Association Section Review

“An Employee Perspective on the New Noncompete Laws” (March 2019) (co-author with Ellen J. Messing) (read [here](#))

“Midsummer Report” of the Labor and Employment Section’s Activities for (2009-2010)

Newsletter of the Committee on the Status of Women in the Economics Profession

“Dispatches From the Tenure Wars,” (Spring 2009)

Massachusetts Bar Association Annual Conference

“The Year In Employment Law” (2008-2009) (co-author with Kevin Merritt) (Annotated Outline)

Massachusetts Lawyers Weekly

“SJC Decision Restores Fairness in Litigation,” (April 29, 2002) (co-author with Ellen J. Messing)

The Jewish Advocate (guest columnist)

“What’s At Stake In the Hate Crimes Debate” (April, 2000) (author)

“The Wisdom Of Solomon? Court Stands With Children In Religious Dispute Between Divorced Parents” (January, 1998) (author)

Inside Employee Rights Litigation

John Wiley & Sons, Inc., (September 1997) “Developments in the Law of Privileged Communications Between Plaintiffs and Their Psychotherapists.”

Massachusetts Lawyers Weekly

“The Psychotherapist Privilege: New Developments,” (September 8, 1997) (author)

“1st Circuit ‘Astra’ Ruling Aids Anti-Bias Effort,” (September, 1996) (co-author with Ellen J. Messing)

“Revisiting The ‘Rhetoric’ Of Job Discrimination,” (July 24, 1995) (co-author with Ellen J. Messing)

“How To Respond To Sexual Harassment Complaints,” (July 18, 1994) (author)

Employment Discrimination Law and Litigation

Merrick T. Rossein, Clark Boardman Callaghan (1993) (author, chapter entitled “Tenure Denial as a Form of Discharge”)

A Judicial Guide To Labor And Employment Law,
Walsh, gen. ed. Flaschner Judicial Institute (Boston 1990) (editor, chapter on Damages for Wrongful Discharge Claims)

INVITED PRESENTATIONS

American Association of University Women

Annual Convention, Providence, Rhode Island - (June 21, 2003)
Presenter: Discrimination Law in Debate

Boston Bar Association

“The Court Year in Review: Employment Law” (Presenter, panelist)
(October 14, 2004)

“Damages in Employment Discrimination Litigation” (Panelist) (April 1997)

Colby College

“Prosecuting Gender-Based Discrimination in Higher Education” (Presenter)
(April 19, 2010)

Defense Research Institute

“The Dynamics of Sexual Harassment Mediation and Trial: Keys to Successful Opening Statements and Direct Examination of Expert Witnesses - the Plaintiff’s Perspective” (Presenter) (September 1997)

Harvard Law School

“Using Employee-Side Litigation to Combat Sex Discrimination in the Workplace”
(Panelist) (April 24, 2002)

Lorman Business Center, Inc.

Risk Management in Health Care Settings: “Violence in the Health Care Workplace”
(January 1996)

Massachusetts Bar Association Conferences

MBA 39th Annual Labor and Employment Conference Moderator; “Massachusetts Equal Pay Act: New Developments, Issues and the Attorney General’s Guidance” (May 2018)

MBA 31st Annual Labor and Employment Conference Presenter; “Recent Developments in Employment Law” (March 2010)

MBA 30th Annual Labor and Employment Conference Co-chair; Moderator, Plenary Session: “Challenges of Managing the Diverse Workplace” (June 2009)

MBA 29th Annual Labor and Employment Conference Co-chair, Planning Committee; Plenary Session Moderator: “Implicit Bias and Stereotyping” (May 2008)

MBA 24th Annual Labor and Employment Law Conference (Co-chair, moderator) (May 2003)

MBA 23rd Annual Labor and Employment Law Conference (Co-chair, speaker) (April 2002)

Massachusetts Bar Association Programs

46th Annual Robert Fuchs Labor Law Conference (panelist) (January 2020)

Q&A with In-House Employment Counsel (Co-chair, panelist) (May 2013)

Forum Choice in Light of Changes in Massachusetts Discrimination Law (Presenter, discussion leader) (February 2001)

“Federalism and Discrimination Law: Do the Supreme Court’s Views Matter When Construing State Law?” (Panelist at 21st Annual Spring Conference) (April 2000)

Labor Law Basics - Discrimination Law (Panelist) (October 1999)

Recent Developments in Federal and State Law - Plaintiff’s Perspective Sexual Harassment Update (Panelist) (October 1998)

Psychiatric Records - Issues of Privilege and Waiver (Leader) (December 1998)

Sexual Harassment Update (December 1996)

Violence in the Health Care Workplace (November 1995) (co-sponsored by Health Care Law Section)

Discoverability of Plaintiff’s Psychological Records in Employment Cases (fall 1994)

Mediating Your Client's Employment Dispute (fall 1994)

12th Annual Spring Conference: Litigating Sexual Harassment (May 1992)

Age Discrimination After OWBPA (March 1991)

Individual Rights of Public Employees (March 1991)

Remedies in Wrongful Termination/Employment

Discrimination Litigation (May 1991)

Recent Developments in the Law of Sexual Harassment
(December 1991)

Massachusetts Commission Against Discrimination

Training Seminar: "The Probable Cause Standard" (June 1999)

Massachusetts Continuing Legal Education

Employment and Labor Law Basics (Co-chair, presenter; 2-day interactive format)
(September 2000, October 2001, October 2002, October 2003, October 2004, October
2005, May 2008, November 2009, November 2010, November 2011, November 2012,
November 2013; November 2014; November 2015; November 2016; November 2017;
November 2018; November 2019)

Proving and Valuing Damages in Employment Cases (presenter) (February 2013)

Retaliation Claims in Discrimination Cases: MCLE Employment Law Briefing
Webcast (Chair, presenter) (June 2012)

14th Annual Employment Law Conference (presenter) (December 2011)

Employment Law 2005 Conference (presenter: Punitive Damages) (December 2005)

Arbitration of Employment Cases - Panelist (October 28, 2002)

Discrimination Law Highlights (Presenter) (May 30, 2001)

Discrimination Law Update: "New Supreme Court Decisions" (Presenter) (May
2000)

"What These Employers Did Wrong" (Presenter) (March 2000)

Employment Law Conference: “Emerging Claims and Defenses” (Presenter)
(December 1999)

Discrimination Law Update (June 1999)

Employment Law Conference: “Maximizing and Minimizing Damages” (Panelist)
(November 1998)

Employment and Labor Law Basics “Prohibited Discrimination and Harassment,”
“Ask The Experts” (October 1998)

“Employment Law Trials” (Panelist) (May 1996)

Massachusetts School of Law at Andover

Fifth Annual Employment Law Conference: “Discovery Practice - Rule 35
Examinations” (Presenter) (November 1997)

Fourth Annual Employment Law Conference: “Mediating The Employment Dispute”
(Presenter) (May 1996)

Metrowest Center For Continuing Education

“Handling Sexual Harassment Claims Under The New Massachusetts Law” (Co-
chair) (November 1996)

“Handling Charges of Discrimination Employment and Sexual Harassment”
(Faculty) (September 1996)

M.I.T. Sloan School of Management

Massachusetts Workplace Network: “Massachusetts Commission Against
Discrimination: Alternate Dispute Resolution Experiment” (Discussant) (February
1996)

National Association of College and University Attorneys

Dismissal of Tenured Faculty and Tenured Faculty Members’ Rights (June 1991,
Montreal)

National Employment Lawyers Association

New England Regional Conference: “Arbitration – The Nuts and Bolts” (Panel
Chair, Presenter) (May 2011)

New England Regional Conference: “How and When to Use Focus Groups and Jury Consultants” (Panelist, Presenter) (May 2008)

New England Regional Conference: “Using Mediators” (Panelist, Presenter) (May 2006)

New England Regional Conference: “Strategies for Picking a Jury” (April 1999)

New England Regional Conference: Plenary Session: “Use of Demonstrative Evidence at Trial” (Presenter) (May 1996)

New England Regional Conference: “Litigating Sexual Harassment Claims” (Spring 1994)

The Program On Negotiation (Harvard, M.I.T., Tufts)

Mock Mediation Instructional Videotape (Role of Plaintiff’s Attorney - Age Discrimination/Termination (Thibideau v. Kane Restaurant Supply (May 1998)

Professional Education System, Inc.

Discrimination Law Update (June 1994)

Southeastern Massachusetts University (February 1991)

Conference on Labor Law, Workshop on Discrimination Law and Unions

MISCELLANEOUS

Named Boston-area “Lawyer of the Year” in the “Employment Law-Individuals” practice area by Best Lawyers, 2014, 2017, 2019

Named the winner of the “Employment & Labor – Lawyer of the Year – USA” category of UK-based publication Finance Monthly’s Legal Awards 2019

Ranked as a Band 1 Attorney by Chambers USA under “Labor & Employment Mainly Plaintiffs Representation – Massachusetts,” 2019. Cited for her “particular niche expertise in the representation of women in academia,” and “great reputation for tenure cases with professors.”

Included in Lawdragon’s 500 Leading Plaintiff Employment Lawyers Guide (2018 – inaugural edition, 2019)

Named Boston-area “Lawyer of the Year” in the “Union Representation” practice area by Best Lawyers, 2016

Fellow, College of Labor and Employment Lawyers (Class of 2015)

Listed as Notable Practitioner by Chambers USA under “Labor & Employment Mainly Plaintiffs Representation - Massachusetts,” 2014. Cited for “expertise pertaining to discrimination matters, acting for individual employees and unions,” and “calm demeanor and effective litigation style.”

Recognized by Massachusetts Super Lawyers annually from 2004 to the present; listed in the Top 50 Female Super Lawyers in the state for 2005, 2010 - 2012, and 2017-2018; listed in the Top 50 Female Super Lawyers in New England for 2011

Ranked by U.S. News/Best Lawyers “Best Law Firms” in Tier 1 of Boston for Labor & Employment Litigation Firms (2013 Edition – Present); Employment Law – Individuals (2014 Edition – Present); and Labor Law – Union (2016 Edition – Present)

Listed in Best Lawyers in America annually from 2012 to the present for inclusion in practices areas of: Employment Law – Individuals; Labor Law - Unions; and Litigation - Labor and Employment

Listed in Chambers USA – America’s Leading Business Lawyers, 2003-04

Named in Boston’s Best Employment Lawyers, Boston Magazine, October 2002

Member, American Arbitration Association Employment Advisory Council, 2000

Member, Magistrate Selection Committee, U.S. Federal District Court (appointed by Judges of the District Court), 1999-2000

Selected to Massachusetts Lawyers Weekly’s “Lawyers Of The Year” for 1999

Martindale-Hubbell – AV rating

Member of The Jewish Advocate’s panel of contributing columnists, 1997-1999

Recipient of Georgina Smith Award, American Association of University Professors, 1990, for “outstanding legal advocacy on behalf of academic women.”

Judge, Boylston Prize, Harvard University, 1990

Member, American Constitution Society, 2003 - present

Listed In:

Who’s Who in American Law (7th Edition, 1992-93 and following)

Who’s Who in Human Services (1992-93 Edition and following)

Who’s Who in America (1994 Edition and following)