

**OPENING REMARKS BY PETER B. MCGLYNN,
THE MASSACHUSETTS CHAPTER'S PRESIDENT, DURING THE
MASSACHUSETTS' OCTOBER 8, 2025 ANNUAL FALL DINNER HELD AT THE
WORCESTER COUNTRY CLUB IN WORCESTER, MASSACHUSETTS**

Good evening, ladies and gentlemen. I'm Peter McGlynn from Bernkopf Goodman LLP in Boston and the President of the Massachusetts Chapter of The American Board of Trial Advocates.

Welcome to Massachusetts Chapter's Fall Awards Dinner. We are pleased to be joined for this event by the Worcester County Bar Association. Special thanks to WCBA's immediate Past President, Ryan Avery, and its current President, Maura Tinsley, and their staff, for their support and their hard work.

We are also honored by the presence of members of the Massachusetts District and Superior Courts and the U.S. District Court for the District of Massachusetts

Please allow me to introduce the justices with us tonight (alphabetically called):

- Hon. Michael Allard-Madaus;
- Hon. Timothy Bibaud;
- Hon. David Despotopoulos;
- Hon. Jennifer Ginsburg;
- Hon. Margaret Guzman;
- Hon. Sarah Hamilton;
- Hon. Maura McCarthy;
- Hon. Brian Murphy; and,
- Hon. William Ritter.

Our thanks also goes out to Julia Nomberg, Bernkopf Goodman's Marketing and Business Development Manager, Chris Kenney and Christina Souza, both of whom are from Kenney & Sams, for their efforts in organizing this event.

It is altogether fitting that we gather tonight at the Worcester Country Club. It was 97 years ago that the first Ryder Cup golf competition was held at this club.

During that first competition, two teams, one from the United States and one from England, thrust themselves into three days of intense, yet courteous and professional golf matches; two qualities that are deeply rooted in the history of the noble sport of golf.

I hasten to add that the United States team fared far better in that first Ryder Cup competition than the United States team experienced in Bethpage, New York two weeks ago.



And so, ladies and gentlemen, we gather this evening – by day, zealous advocates for our clients and for the rule of law, and tonight, as friends and colleagues – to celebrate *our* noble profession and to honor two colleagues who have exemplified the qualities of professionalism, ability, temperament, and compassion that make them worthy of recognition this evening.

At this time, I wish to introduce the other Mass. ABOTA Chapter Officers:

- Vice President and President-Elect, John Graceffa from Morrison & Mahoney;
- Treasurer, Dana Zakarian from Smith Duggan Cornell & Gollub;
- Secretary, Christopher Kenney from Kenney & Sams; and,
- Our two national ABOTA Directors, Russell Pollack from Bergstresser & Pollack, and Christopher Duggan from Smith Duggan Cornell & Gollub.
- Their terms are expiring so I ask Russ and Chris join me at the podium now.
 - I am deeply honored and proud to present you with a token of the Massachusetts Chapter's appreciation for your many years of service and hard work for ABOTA. You both have inspired many of us, myself included, to serve ABOTA. You both exemplify the qualities of professionalism and civility that are the hallmarks of ABOTA members nationwide.

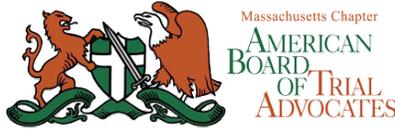
I'd also like to welcome our newest member who was just approved for membership by our national board last week:

- Brian O'Connell from the law firm of Tucker, O'Connell & Fidurko located in Newton, Massachusetts. Welcome, Brian.

I also wish to thank our corporate sponsors:

- Bill Rothrock and his firm, Rothrock Settlement Consulting for his generous support – Bill and his firm have been a long-standing Mass. ABOTA sponsor. Thank you so much, Bill.
- Veritext Legal Solutions represented here by Eric Leone and Eric Ruben. Thank you to both Erics for joining us this evening.

I ask our corporate sponsors if they wish to briefly introduce themselves and their companies.



We also wish to thank our table sponsors (in alphabetical order):

- Bergstresser & Pollack, PC;
- Bernkopf Goodman LLP;
- Burns & Farroy, P.C.;
- Morrison & Mahoney LLP; and,
- Smith Duggan Cornell & Gollub LLP.

To those of you here tonight who are not familiar with ABOTA, please allow me to provide you with a brief introduction to our organization.

ABOTA is national organization comprised of 7,500 trial lawyers and judges.

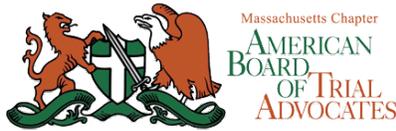
Admission is by invitation and prospective candidates must be approved at both the local chapter and national boards.

- Prospective Members must have at least five years of active trial experience, and must have tried at least seven jury trials to conclusion.
- They must also possess additional trial-related qualifications and agree to abide by ABOTA's code of Professionalism and its principles of professional and civility.

ABOTA's mission is four-fold:

- To preserve the right to a civil jury trial embodied in the seventh amendment to the United States constitution enacted in 1791.
 - In Mass., the right to a civil jury trial can be found in article 15 of the Massachusetts constitution which was enacted 10 years before our constitution was enacted.
- To promote excellence in jury trial advocacy.
- To promote a diverse, inclusive and civil justice system in our country;
- And, for what has now become critically important, to promote judicial independence and the rule of law.

To serve its mission, biennially ABOTA conducts a National Trial College intended for second through sixth year trial attorneys.



- Attendees participate in five days of intensive instruction and mock jury trial exercises.
- You don't have to be an ABOTA member to enroll.

ABOTA also co-sponsors:

- A National Trial Academy with The Tort Trial & Insurance Practice Section of The American Bar known as a “Boot Camp For Lawyers ” ;and
- The “American Inns of Court/ABOTA Trial Academy.”

ABOTA also publishes “*Voir Dire*” magazine which is distributed to ABOTA members and to state and federal judges and law schools across the country, free of charge.

The ABOTA Foundation has also created a “Juror Appreciation” luncheon program whereby local ABOTA chapters host Juror Appreciation luncheons in cooperation with the local trial courts.

One of the items distributed to former jurors during the “Juror Appreciation” luncheons are “I served on a jury” stickers.

Second only to the right to vote, juror service is the most important function citizens can perform in our democracy.

Prospective jurors need to be educated on the importance of jury service.

That's why ABOTA has created programs like the “juror appreciation” luncheons to promote the importance of juror service.

That's the good news, but there is also some not-so-good news.

According to the National Center for State Courts, from 2007 TO 2021, the number of state court jury trials declined 66%.

And jury trials in rural courts which serve 5,000 to 500,000 citizens have declined by 85%.

Federal Courts have experienced a similar decline.

In 2023, there were only 3,266 civil trials conducted in the United States District Courts and only 37% were reported to be jury trials.



- The data is unclear on whether they were all decided by a jury or were settled or resolved via pre-trial motion practice.

Examining these statistics using a wider lens shows that, between 2007 – 2021 the United States' population increased to 330 million; an 11% increase, yet the number of jury trials decreased by approximately 70%.

There are several reasons why the number of jury trials has declined.

Massachusetts United District Court Judge William Young has written extensively on the reasons for the decline in law review articles he's authored and in his published decisions.

He describes the phenomenon as the “vanishing” trial.

Judge Young has written that the federal judiciary's core function in conducting jury trials has diminished as judges spend more time on motion practice – especially dispositive motion practice.

He also has written that parties are increasingly opting for alternatives like arbitration.

As well as the economic incentive by many to avoid trials and their cost and inherent unpredictability.

There are other reasons for the decline.

According to author John Gramlich, the decline is partially due to the public's declining faith in jury service.

While Yale law school professor John Langbein explains that state and federal civil procedures rules play a crucial role in rendering trials obsolete such that he opines that “Pretrial Civil Procedure Has Become Non-Trial Civil Procedure.”

Professor Langbein also believes that expansive discovery rules have displaced many trials by causing more cases to be resolved during the pretrial process, either by settlement or by pretrial adjudication.

Why is this happening?

According to Professor Langbein, “Litigants are now much more aware of the strengths and the weaknesses of their cases which facilitates settlement as both sides have similar expectations concerning their likelihood of success.”



University of Wisconsin law professor Mark Galanter took this a step further when he described the effect of pre-trial resolution as a “self-perpetuating” and a “self-fulfilling” feature of the vanishing trial.

Professor Galanter’s reasoning: Lawyers who rise into decision-making positions in their firms or in their companies and who possess little or no trial experience are more uncomfortable going to trial, and that discomfort looms large in their decision making.

There is also another reason many of us experience.

If you haven’t already done so recently, take a moment to review your mortgage loan agreement, or your car loan agreement, or your insurance policy, or your credit card agreement.

Inserted near the end of many of these documents is a provision waiving your right to a jury trial – such provisions are generally enforceable – or requiring you to agree to submit all disputes to binding arbitration <https://bg-llp.sharefile.com/public/share/web-s0c6b0978569b4e8c9a75b23fe85e4576> at a location, sometimes it seems, in a mid-western locale a long distance from the nearest airport.

Does all of this foreshadow the complete elimination of jury trials in this country?

Not likely, since the right to a jury trial is preserved by the sixth and the seventh amendments of the constitution and in all state constitutions.

But it does foreshadow a continuing constriction of the number of jury trials held in this country each year.

It also means that there will be fewer lawyers who will be adequately trained to try jury cases in the future.

That will be detrimental for the trial bar and for the legal profession as a whole.

It will also be detrimental to clients who are in need of skilled trial lawyers to represent them in civil and criminal trials in front of juries empowered to decide their cases.

Programs like those produced or endorsed by ABOTA, including the “juror appreciation” luncheons, will surely help.

And there are other possible solutions, many of which will likely not receive much support in this country.

For example, Norway found that adding professional judges along with citizens helped to address concerns over a jury’s efficiency. That concept won’t fly in this country.



However, one possible solution that might resonate is mandatory registration for jury service.

Argentina, for example, has found that its mandatory jury registration requirement allows the jury pool to represent a more accurate cross section of the community since all citizens are registered.

The important message that needs to be emphasized is that our nation's jury trial system, despite its flaws, is the best system of its kind in the world.

We all must do what we can to promote this to our colleagues, and to the general public.

Thank you for your time and enjoy the rest of the evening.

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