



Patricia B. Gary

Of Counsel
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Experience

Patricia B. Gary, is Of Counsel at Donovan Hatem LLP, in the firm’s Business Litigation and Professional Practice groups. In addition, Patricia represents individuals, corporations, and insurers in a wide variety of commercial litigation matters in state and federal courts in Massachusetts, Connecticut, New York and New Hampshire.

As a trial and appellate lawyer with over fifteen years of experience, Patricia’s practice at Donovan Hatem concentrates in the area of appellate advocacy. She has argued and prevailed before the Second Circuit as well as the Massachusetts Appeals Court and obtained significant appellate decisions in the area of trade secrets, lender-liability, bankruptcy, anti-trust, FCA, insurance coverage, premises liability, products liability, land use, contract, constructions litigation, and professional liability.

Patricia is also recognized for her expertise in the area of insurance coverage. Her experience includes the representation of both insurers and insureds in hundreds of coverage matters involving all types of insurance policies, including general liability, primary and excess, directors and officers, employment practices, insurance agent/broker, and architects & engineers professional liability. She has obtained significant insurance coverage decisions in state and federal courts. Prior to joining Donovan Hatem, Patricia practiced in the Appellate Department of Burns & Levinson LLP, and at McCormack & Epstein, now The McCormack Firm.

Admitted to Practice

- Massachusetts
- New Hampshire
- United States District Court for the District of Massachusetts
- United States District Court for the District of New Hampshire
- United States Court of Appeals, First Circuit
- United States Court of Appeals, Second Circuit
- United States Supreme Court

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(Patricia B. Gary, continued)

Business and Professional Associations

- Massachusetts Bar Association
- New Hampshire Bar Association

Education

- Suffolk University Law School (J.D., 1989)
- Middlebury College (B.A., English/Fine Art, 1981)

Representative Appeals/Appellate Decisions

LeBlanc v. Logan Hilton Joint Venture, 78 Mass. App. Ct. 699, 942 N.E.2d 970 (2011), rev. granted, 460 Mass. 1101, 949 N.E.2d 923 (2011).

Otto v. Melman, 80 A.D.3d 738, 915 N.Y.S.2d 503 (N.Y.A.D. 2 Dept. 2011), leave to appeal denied, 7 N.Y.3d 703, ___ N.E.2d ___ (2011).

Wood ex rel. U.S. v. Applied Research Associates, Inc., 328 Fed.Appx. 744, 2009 WL 2143829 (2d. Cir. 2009), cert. denied, Wood v. Applied Research, Inc., 130 S.Ct. 1285, 175 L.E.2d 1105 (2010).

Troy Industries, Inc. v. Samson Mfg. Corp., 76 Mass. App. Ct. 575, 924 N.E.2d 325 (2010).

Clerger v. Commerce Ins. Co., 46 Mass. App. Ct. 1123, 702 N.E.2d 820 (1998), rev. denied, 707 N.E.2d 1079 (1999).

Fordham v. Business Equip. Corp., 40 Mass. App. Ct. 1123, 665 N.E.2d 136 (1996), rev. denied, 423 Mass. 1106, 670 N.E.2d 966 (1996).

O'Brien v. Christensen, 422 Mass. 281, 662 N.E.2d 205 (1996).

Cheschi v. Boston Edison Co., 39 Mass. App. Ct. 133, 654 N.E.2d 48 (1995), rev. denied, 421 Mass. 1102, 655 N.E.2d 1271 (1995).

Resendes v. Boston Edison Co., 38 Mass. App. Ct. 244, 648 N.E.2d 757 (1995), rev. denied, 420 Mass. 1105, 651 N.E.2d 410 (1995).

Backman v. Lilly, 38 Mass. App. Ct. 1104, 645 N.E.2d 1192 (1995).

Palhares v. Ritz Carlton Hotel, 36 Mass. App. Ct. 1101, 629 N.E.2d 368 (1994).

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Hartford Cas. Ins. Co. v. New Hampshire Ins. Co., 417 Mass. 115, 628 N.E.2d 14 (1994).

Jillian's Billiard Club of America, Inc. v. Beloff Billiards, Inc., 35 Mass. App. Ct. 372, 619 N.E.2d 635 (1993) rev. denied, 416 Mass. 1108, 625 N.E.2d 1369 (1993).

Flood v. Southland Corp., 416 Mass. 62, 616 N.E.2d 1068 (1993).

Remco Distributors, Inc. v. Oreck Corp., 981 F.2d 1245 (1st Cir. 1992).

Garside v. Osco Drug, Inc., 976 F.2d 77 (1st Cir. 1992).

Sure-Snap Corp. v. State Street Bank & Trust Co., 948 F.2d 869 (2d Cir. 1991).

Representative Cases/Matters

- Obtained summary judgment for architect and dismissal of a \$25 million lawsuit brought by the State of Connecticut against an architect and other design professionals and contractors who designed and built the University of Connecticut Law Library.
- Obtained summary judgment for a Massachusetts real estate agent and dismissal of a lawsuit arising out of a real estate transaction, in which the Buyer alleged that the listing real estate broker misrepresented the condition of the Seller's home.
- Obtained dismissal of a *qui tam* lawsuit brought under the False Claims Act (FCA) against a consulting building and construction engineer, its consultant, and twenty-seven other defendants, arising out of the World Trade Center (WTC) collapse on 9/11, where the plaintiff challenged the investigative findings of the National Institute of Standards and Technology (NIST).
- Successfully moved to dismiss a lawsuit brought against a consulting building and construction engineer and its consultant, arising out of the World Trade Center (WTC) collapse on 9/11, where the *qui tam* plaintiff challenged the investigative findings of the National Institute of Standards and Technology (NIST) and alleged violations of the False Claims Act (FCA).
- Obtained summary judgment for an architect and construction manager (CM) and dismissal of a multi-million dollar antitrust lawsuit brought by the developer of commercial waterfront property in Bridgeport, Connecticut, alleging violations of the Connecticut Antitrust Act and analogous provisions of the Sherman Act, and asserting that alleged conspiracy and corrupt practices had an adverse effect on competition in restraint of trade.
- Obtained summary judgment for a general contractor and a declaratory judgment in an insurance coverage dispute that an insurer had a duty to defend a lawsuit relating to property damage and the performance of construction work. Also obtained an award of all attorney's fees and costs incurred by the insured in defending against the declaratory judgment action brought by the insurer.
- Obtained summary judgment for a general contractor and a declaratory judgment that an insurance company was obligated to defend and indemnify the general contractor against claims of property damage alleged in an underlying lawsuit, and that the general contractor was also entitled to recover all attorney's fees and costs that it incurred to bring the declaratory judgment action.

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- Following removal to federal court, successfully moved to dismiss a lawsuit brought against an Aviation Insurance Broker by a Jet Charter, Maintenance, and Repair Company and its Owner, which alleged that the Broker failed to procure proper insurance for the jets and related facilities.
- Obtained dismissal of a lawsuit brought by a property owner against a Design Professional for damages caused by pile-driving activities at a construction project, by arguing that the Design Professional's contract limited its involvement in the project to developing the criteria and information in a Project Notification Form (PNF) submitted to the Boston Redevelopment Authority.
- Obtained summary judgment for a General Contractor and a declaratory judgment that a general liability insurer had a continuing obligation to defend and indemnify the general contractor through a trial and subsequently, an appeal, against an owner's claims alleging unworkmanlike performance of a construction contract. Also obtained an award of all attorney's fees and costs incurred by the insured in defending against the declaratory judgment action brought by the insurer.
- Obtained summary judgment for an Architect and its Engineer consultants against claims brought by an electrical subcontractor on a public project. The electrical filed sub-bidder challenged Engineer's Decisions for 15 claims, and sought additional compensation for electrical work it performed, by disputing the scope of the Division 16 electrical work in certain drawings and specifications for the Massachusetts Water Resources Authority ("MWRA") wastewater project known as the Braintree-Weymouth Intermediate Pump Station and Headworks.

Articles and Publications

The Evolution of Wrongful Death and Serious Personal Injury Claims in Construction Litigation, co-authored with Kenneth B. Walton, 50th Annual Meeting Of Invited Attorneys, published by Victor O. Schinnerer & Company, Inc. and CNA (2011).

Electronic Discovery: Following the Paperless Trail, co-authored with Kenneth B. Walton, Vol. 93, *Massachusetts Law Review*, 265.(September 2010).

Author, Chapter 13, *The Future of Megaprojects*, Megaprojects: Challenges And Recommended Practices, Editors: David J. Hatem and David Corkum, published by American Council of Engineering Companies, 2010.

Contributing Author, Chapter 4, *Architect-Engineer Contracting*, Federal Government Construction Contracting, Editors: Adrian L. Bastianelli III, Andrew D. Ness, Joseph D. West, published by American Bar Association, 2010.

Use of Rental Income In A Chapter 11 Case, co-authored with Chief Judge Joan Feeney of the United States Bankruptcy Court, *Boston Bar Journal*, Vol. 25, No. 4 (1991).

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Clerkship

Law Clerk to Chief Justice David A. Brock, New Hampshire Supreme Court, 1989-1990

Additional Information

- Editor of the Suffolk University Law Review
- Recipient of Best Brief Award (Suffolk University Law School)
- Law Clerk to Chief Justice David A. Brock, New Hampshire Supreme Court, 1989-1990
- Articles Editor and Staff Member of the Suffolk University Law Review, 1987-1989
- Recipient of Best Brief Award, Moot Court Competition (Suffolk University Law School 1987).

