

GERALD J. CARUSO
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WORK HISTORY

1979-1983 ***DEPARTMENT OF THE ATTORNEY GENERAL, ASSISTANT ATTORNEY GENERAL***

- Represented the Commonwealth, state officials and state agencies in a broad range of litigation involving constitutional and administrative law, civil rights litigation and employment litigation and tort claims generally.
- Tried many cases in federal and state trial courts.
- Acted as special counsel to a number of state agencies.
- Briefed and argued many appellate cases in federal and state appellate courts.
- Briefed and argued Larkin v. Grendel's Den, Inc., 459 U.S. 116 (1983), and acted as co-counsel in Globe Newspaper Co. v. Superior Court, 457 U.S. 596 (1981).

1984-1986 ***PARTNER, SIKORA & CARUSO, BOSTON, MASSACHUSETTS***

- Founded general practice firm engaged in general civil litigation and all aspects of trade regulation, professional licensing and disciplinary matters.

1986-1999 ***SHAREHOLDER, FERRITER, SCOBBO, SIKORA, SINGAL, CARUSO & RODOPHELE, P.C., BOSTON, MASSACHUSETTS***

- Founded new law firm with other attorneys from Attorney General's Office.
- Managed firm from 1990 to 1993, bringing it from an 8-lawyer firm with 22 employees to an 18-lawyer firm with 45 employees.
- Acted as Chief Litigation Counsel for the Massachusetts Municipal Wholesale Electric Company from 1989-1995, litigating cases for it around New England, including construction litigation regarding the Seabrook Nuclear Power Station.

- Handled and tried complex, multi-jurisdictional cases in state and federal courts around New England, as well as before administrative agencies, arbitrators and mediators. Example of cases involving contract disputes, constitutional litigation, interstate compacts, antitrust and malpractice, and initiative petitions.
- Briefed and argued cases before the United States Supreme Court, the Supreme Courts of Rhode Island and Vermont, the First Circuit Court of Appeals and the Second Circuit Court of Appeals.
- Represented alcohol beverage companies, including wholesalers and large multinational suppliers in actions involving franchise disputes with wholesalers, Supremacy Clause challenges to the Massachusetts price posting statutes and regulations, due process and Administrative Procedure Act violations, as well as served as licensing counsel for a number of restaurant chains. Also represented package stores resisting BJs and Costco expansion.

2000-Present **RUBIN AND RUDMAN LLP, BOSTON, MASSACHUSETTS**

- Expanded liquor practice by adding the representation of hotels and restaurants connected with the real estate developments in which Rubin and Rudman LLP played a role. Represented Nine Zero Hotel, the Westin, Boston Convention Center, the Hilton on Broad Street, and the Embassy Suites at the airport. Represented retailers in public hearings regarding the issuance, expansion and discipline of their licenses. Maintained my long term relationship with the suppliers and wholesalers that I continue to represent. In March, 2009, won a franchise case for Heineken USA, Inc.
- Represented real estate developers, hospitals and educational facilities in prosecuting appeals and defending challenges to decisions by the Boston Redevelopment Authority, the Boston Zoning Board of Appeals and the Massachusetts Secretary of Environmental Affairs. The most notable cases included Tremont on the Common Trust v. BRA and Theatre Management Group, Inc., C.A. No. 01-2705 (Suffolk Superior Court, September 23, 2002), a challenge to the BRA's decision to take by eminent domain a portion of a private way owned in part by the plaintiff so that TMG could complete a \$32 million renovation of the Boston Opera House, an old vaudevillian theatre that had fallen into disrepair. Christianson v. BRA and Rose Associates, C.A. No. 00-2314-BLS, establishing the standard for qualifying a commercial development case into the Special Business Litigation Session of the Massachusetts Superior Court. Finally, I represented the Boston Medical Center in its attempt to place a bioterrorism laboratory in Boston. The case was entitled Ten Residents of Boston v. BRA and University Associates Limited Partnership, C.A. No. 05-0109-BLS2 (August 2, 2006).

- Currently acting as co-counsel in litigation involving the direct shipping of wine into Massachusetts and whether a recent legislative enactment unconstitutionally burdens interstate commerce.

EDUCATION

Suffolk University, Boston, Massachusetts
B.S. 1972 Cum Laude

Suffolk University Law School, Boston, Massachusetts
J.D. 1979 Cum Laude

INSTRUCTION

Instructor, Legal Writing, Boston University School of Law, 1983

Instructor, Municipal Law and Legislation, New England School of Law,
1983-1987

Draftsman and Grader, Massachusetts Board of Bar Examiners, 1983-1996

LITIGATION EXPERIENCE

- Briefed and argued over 45 appeals before the Supreme Judicial Court of Massachusetts, the Supreme Court of Rhode Island, Vermont and New Hampshire, as well as the First Circuit Court of Appeals and the Second Circuit Court of Appeals.
- Briefed and argued Larkin v. Grendel's Den, Inc., 459 U.S. 116 (1983), co-counsel in Globe Newspaper Co. v. Superior Court, 457 U.S. 596 (1981).
- Handled and tried many complex, multi-jurisdictional cases, including a case involving an interstate compact between South Windsor/Windham Counties (VT) Solid Waste Management District and the Sullivan County (N.H.) Regional Refuse Disposal District. Represented the Vermont entity and tried the cases before a three-judge panel of arbitrators.
- Represented real estate developers, hospitals and educational facilities in prosecuting appeals and defending challenges to decisions by the Boston Redevelopment Authority, the Boston Zoning Board of Appeals and the Massachusetts Secretary of Environmental Affairs. The most notable cases included Tremont on the Common Trust v. BRA and Theatre Management Group, Inc., C.A. No. 01-2705 (Suffolk Superior Court, September 23, 2002), a challenge to the BRA's decision to take by eminent domain a portion of a private way owned in part by the plaintiff so that TMG could complete a \$32 million renovation of the Boston Opera House, an old vaudevillian theatre that had fallen into disrepair.
- Represented alcohol beverage companies in franchise disputes and Supremacy challenges to pricing regulations in Massachusetts and Commerce Clause issues, including a pending challenge to the Massachusetts direct shipping statute as discriminating against interstate commerce. Only lawyer in the last ten years to win two franchise, successor liability cases at the Massachusetts Alcoholic Beverages Control Commission, including L. Knife & Sons, Inc., et al. v. Heineken USA, Inc., ABCC No. 25E-1227 (April 2009) and Bacardi Imports U.S.A. v. Charles Gilman & Sons, Inc., ABCC No. 25E-1123 (1999).
- A list of reported decisions is attached.

Larkin v. Grendel's Den, Inc., 459 U.S. 116, 103 S. Ct. 505, 74 L. Ed. 2d 297 (U.S. Mass., December 13, 1982) (No. 81-878)

LeClair v. Saunders, 627 F.2d 606 (2nd Cir., Vermont, July 10, 1980) (No. 1070, 79-7113, 1098, 79-7759)

U.S. Gypsum Co. v. Executive Office of Environmental Affairs, 867 N.E. 2d 764 (Mass. App. Ct. June 4, 2007)

Charles E. Gilman & Sons, Inc. v. Alcoholic Beverages Control Commission, 814 N.E. 2d 1102 (Mass. App. Ct. September 3, 2004)

Colonial Wholesale Beverage Corp. v. Labatt USA, L.L.C., 2004 WL 1202439 (D. Mass. April 27, 2004)

Christensen v. Boston Redevelopment Authority, 804 N.E. 2d 947 (Mass. App. Ct. March 15, 2004)

Attorney Gen. v. Department of Telecommunications and Energy, 780 N.E. 2d 33 (Mass. December 16, 2002)

Jet Wine & Spirits, Inc. v. Bacardi & Co., Ltd., 298 F.3d 1 (1st Cir. (N.H.) July 18, 2002)

Jet Wine & Spirits, Inc. v. Bacardi Ltd., 158 F. Supp. 2d 163 (D.N.H. September 13, 2001)

Heublein, Inc. v. Capital Dist. Co., Inc., 751 N.E. 2d 410 (Mass. July 26, 2001)

Callahan v. Quincy Mut. Fire Ins. Co., 736 N.E. 2d 857 (Mass. App. Ct. October 19, 2000)

Boyajian v. Gatzunis, 212 F.3d 1 (1st Cir. (Mass.) May 2, 2000)

Shea v. Boston Edison Co., 727 N.E. 2d 41 (Mass. April 19, 2000)

Hobin v. Coldwell Banker Residential Affiliates, Inc., 744 A.2d 1134 (N.H. January 31, 2000)

Sea Shore Corp. v. Sullivan, 158 F. 3d 51 (1st Cir. (Mass.) October 20, 1998)

Canterbury Liquors & Pantry v. Sullivan, 999 F. Supp. 144 (D. Mass. March 18, 1998)

Canterbury Liquors & Pantry v. Sullivan, 16 F. Supp. 2d 41

Washington Electric Cooperative, Inc. v. Massachusetts Municipal Wholesale Electric Company, 894 F. Supp. 777 (District of Vermont, August 3, 1995) (No. Civ. 5:95-270, Civ. 5:91-271)

Massachusetts Municipal Wholesale Electric Company v. Town of Danvers, 420 Mass 1004, 652 N.E.2d 602 (Massachusetts, July 24, 1995) (No. SJC-06738)

E.E.O.C. v. Tandem Computers Inc., 158 F.R.D. 224, 30 Fed. R. Serv.3d 1030 (District of Massachusetts, November 8, 1994) (No. Civ. A. 92-10745-WGY)

Barry v. Beverly Enterprises-Massachusetts, Inc., 418 Mass 590, 638 N.E.2d 26 (Massachusetts, August 12, 1994) (No. M-6427)

Associated Industries of Massachusetts v. Attorney General, 418 Mass 279, 636 N.E.2d 220 (Massachusetts, July 12, 1994) (No. 92-440)

Massachusetts Municipal Wholesale Electric Company v. State of Vermont, 161 Vt. 346, 639, A2d 995, Util. L. Rep. P 26,386 (Vermont., February 4, 1994) (No. 92-440)

Pascoag Fire District v. Public Utilities Commission of Rhode Island, 636 A2d 689, 149 P.U.R. 4th 352 Util. L. Rep. P 26,385 (Rhode Island, January 21, 1994) (No. 93-92-M.P.)

Hull Municipal Lighting Plant v. Massachusetts Municipal Wholesale Electric Company, 414 Mass. 609, 609 N.E.2d 460 (Massachusetts, March 15, 1993) (No. P-6068)

Washington Electric Cooperative, Inc. v. Paterson, Walke & Pratt, P.C., 985 F.2d 677, 24 Fed. R. Serv. 3d 901, Util. L. Rep. P 13,920 (2d Circuit, Vermont, February 9, 1993) (No. 590, 92-7807)

Gilligan v. Attorney General, 413 Mass. 14, 595 N.E.2d 288 (Massachusetts, July 6, 1992) (No. S-5891)

Thompson v. Attorney General, 413 Mass 21, 594 N.E.2d 853, (Massachusetts, July 6, 1992) (No. S-5906)

Continental Bank, Nat. Ass'n v. Village of Ludlow. 777 F.Supp. 92, Fed. Sec. L. Rep. P 96,437 (District of Massachusetts, October 31, 1991) (No. Civ. A. 90-12535-Y, Civ. A. 90-12941-Y)

Massachusetts Municipal Wholesale Electric Company v. Town of Danvers, 577 N.E.2d 283, Util. L. Rep. P 26,146 (Massachusetts, August 22, 1991) (No. 5616)

Washington Electric Cooperative v. Massachusetts Municipal Wholesale Electric Company, 922 F.2d 92, 18 Fed. R. Serv. 3d 579 (2d Circuit, Vermont, December 18, 1990) (No. 112, 90-7333)

Henry v. Connolly, 910 F.2d 1000 (1st Circuit, Massachusetts, August 8, 1990) (No. 90-1699)

Capezuto v. State Ballot Law Commission, 407 Mass. 949, 556 N.E.2d 366 (Massachusetts, July 11, 1990) (No. 5355)

Somerset Importers, Ltd. v. Alcoholic Beverages Control Commission, 28 Mass. App. Ct. 381, 551 N.E.2d 545 (Mass. App. Ct., March 19, 1990)

United Liquors, Inc. v. Carillon Importers, Ltd., 893 F.2d 1 (1st Circuit, Massachusetts, December 21, 1989) (No. 89-1541)

Nigro v. Attorney General, 402 Mass. 438, 523 N.E.2d 467 (Massachusetts, May 25, 1988) (No. S-4746)

Seagram Distillers Co. v. Alcoholic Beverages Control Commission, 401 Mass. 713, 519 N.E.2d 276 (Mass., February 18, 1988) (No. S-4467)

Rate Setting Commission v. Division of Hearings Officers, 401 Mass. 542, 517 N.E.2d 836, Medicare & Medicaid Guide P 37,003 (Mass., January 14, 1988)

Torpey v. Interstate Equipment Leasing Corporation, Inc., 760 F.2d 364 (1st Circuit, Massachusetts, April 22, 1985) (No. 84-1919)

Board of Selectmen of North Attleborough v. Civil Service Commission, 16 Mass. App. Ct. 388, 451 N.E.2d 1175 (Mass. App. Ct., July 26, 1983) (No. Bris. 82-477)

Loeterman v. Town of Brookline, 709 F.2d 116 (1st Cir., Massachusetts, June 8, 1983 (No. 82-1945)

New England Liquor Sales Co.. Inc. v. Alcoholic Beverages Control Commission, 16 Mass. App. Ct. 921, 449 N.E.2d 1236 (Mass. App. Ct., June 8, 1983) (No. HMDN 82-482)

Borden, Inc. v. Commissioner of Public Health, 388 Mass, 707, 448 N.E.2d 367, 38 A.L.R.4th 1036 (Massachusetts, April 12, 1983) (No. S-2849)

Langone v. Secretary of Com., 388 Mass. 185, 446 N.E.2d 43 (Massachusetts, February 16, 1983) (No. 5-2889)

M.H. Gordon & Son, Inc. v. Alcoholic Beverages Control Commission, 14 Mass. App. Ct. 973, 438 N.E.2d 1095 (Mass. App. Ct., August 13, 1982)

M.H. Gordon & Son, inc. v. Alcoholic Beverages Control Commission, 386 Mass. 64, 434 N.E.2d 986, 1983-1 Trade Cases P 65, 266 (Massachusetts, April 30, 1982) (No. M-2718)

Boston Safe Deposit and Trust Co. v. Commissioner of Revenue, 13 Mass. App. Ct. 492, 434 N.E.2d 218 (Mass. App. Ct., April 28, 1982) (No. W 81-673)

Greenfield v. Commissioner of Revenue, 13 Mass. App. Ct. 486, 434 N.E. 2d 221 (Mass. App.Ct., April 28, 1982) (No. 80-840)

Custody of A Minor, 13 Mass. App. Ct. 66, 430 N.E.2d 840 (Mass. App. Ct., January 21, 1982) (No. W 80-983)

Griffin's Brant Rock Package Store, Inc. v. Alcoholic Beverages Control Commission, 12 Mass. App. Ct. 768, 429 N.E.2d 62 (Mass. App. Ct., December 14, 1981) (No. 80-840)

Loeterman v. Town of Brookline, 524 F.Supp. 1325 (D.C. Mass., November 6, 1981) (No. 80-670-MC)

Breed v. Commissioner of Revenue, 384 Mass. 800, 426 N.E.2d 720
(Massachusetts, October 5, 1981 (No. 8-2352))

Colonial Tavern, Inc. v. Boston Licensing Board, 384 Mass. 372, 425
N.E.2d 284 (Massachusetts, August 13, 1981) (No. S-2376)

Grendel's Den, Inc. v. Goodwin, 662 F.2d 102, 1981-1-2 Trade Cases P
64,310 (1st Circuit, Massachusetts, July 28, 1981) (No. 80-1653, 80-1654)

Grendel's Den, Inc. v. Goodwin, 662 F.2d 88, 1981-1 Trade Cases P
63,978 (1st Circuit, Massachusetts, April 7, 1981) (No. 80-1653, Na. 80-1654)

Tinkham v. Department of Public Welfare, 11 Mass. App. Ct. 505, 417
N.E.2d 452 (Mass. App. Ct., February 27, 1981) (No. S-80-535)

Registrar of Motor Vehicles v. Board of Appeal on Motor Vehicle Liability
Policies and Bonds, 382 Mass. 592, 416 N.E.2d 1380 (Massachusetts, February 13,
1981) (No. S-2050)

Registrar of Motor Vehicles v. Board of Appeal on Motor Vehicle Liability
Policies and Bonds, 382 Mass. 580, 416 N.E.2d 1373 (Massachusetts, February 13,
1981) (No. S-2088)

Grendel's Den, Inc. v. Goodwin, 495 F.Supp. 761, 1980-81 Trade Cases P
63,841 (D.C. Mass., August 14, 1980)

In Re Wireless Telephone Federal Cost Recovery Fees Litigation, 343
F. Supp.2d 838 (W.D. Mo. September 23, 2004)

In Re Wireless Telephone Federal Cost Recovery Fees Litigation, 2004
L 3671053) (W.D. Mo. April 20, 2004)