

Judith Perritano Selected to the 2020 Best Lawyers List

Judith A. Perritano, managing partner at Pierce Davis & Perritano, was selected by her peers for inclusion in the 2020 Edition of *The Best Lawyers in America*®. This is the third year that Judy has been listed in the Litigation – Insurance category.

Judy is a highly skilled litigator with 30 years of extensive experience in the defense and trial of a wide variety of cases ranging from complex, high risk cases involving products liability and exposure to asbestos and other toxic torts to those involving general negligence and dram shop liability. She is involved in all phases of litigation in both state and federal court, from factual investigation through discovery, motion practice, trials and appeals. Judy is counsel to numerous asbestos clients in New England. Additionally, as national coordinating counsel for a product manufacturer in the asbestos litigation, Judy manages and directs discovery, expert development and trial preparation nationwide.

Judy frequently speaks on product liability and mass tort litigation issues. She is co-author of Pierce Davis & Perritano's Toxic Torts Alert newsletter and a member of the Defense Research Institute.

Judy can be reached at 617-350-0950 or jperritano@piercedavis.com.

About Best Lawyers

Since it was first published in 1983, *Best Lawyers*® has become universally regarded as the definitive guide to legal excellence. *Best Lawyers* lists are compiled based on an exhaustive peer review evaluation. *Best Lawyers* has published their list for over three decades, earning the respect of the profession, the media, and the public as the most reliable, unbiased source of legal referrals. Its first international list was published in 2006 and since then has grown to provide lists in over 75 countries. Lawyers on *The Best Lawyers in America* list are divided by geographic region and practice areas. They are reviewed by their peers on the basis of professional expertise, and undergo an authentication process to make sure they are in current practice and in good standing.

John Davis Selected to the 2020 Best Lawyers List

John J. Davis was selected by his peers for inclusion in the 2020 Edition of *The Best Lawyers in America*®. This is the fifth year that John has been listed in the Employment Law – Management category.

John is head of Pierce Davis & Perritano's Governmental Liability and Civil Rights Practice Group. His practice focuses on the defense of cities, towns, and other public employers in suits alleging civil rights violations, discrimination, harassment, negligence, and educators' and school board liability. He has successfully defended police officers sued for wrongful death and civil rights violations in connection with fatal shootings, high speed pursuits, and suicides by pre-trial detainees; school officials accused of harassment; sexual assault or unlawful discipline of students; and other public officials against

allegations of defamation, abuse of process, unlawful license revocation, and wrongful termination.

A member of the Massachusetts and Rhode Island bars, John frequently appears in federal and state courts as well as before the Massachusetts Commission Against Discrimination.

John can be reached at 617-350-0950 or jdavis@piercedavis.com.

About *Best Lawyers*

Since it was first published in 1983, *Best Lawyers*® has become universally regarded as the definitive guide to legal excellence. *Best Lawyers* lists are compiled based on an exhaustive peer review evaluation. *Best Lawyers* has published their list for over three decades, earning the respect of the profession, the media, and the public as the most reliable, unbiased source of legal referrals. Its first international list was published in 2006 and since then has grown to provide lists in over 75 countries. Lawyers on *The Best Lawyers in America* list are divided by geographic region and practice areas. They are reviewed by their peers on the basis of professional expertise, and undergo an authentication process to make sure they are in current practice and in good standing.

First Circuit Holds Phone Records of Service Provider Unprotected by Fourth Amendment

On July 29, 2019, the United States Court of Appeals for the First Circuit affirmed a summary judgment granted below in favor of the defendants, the Town of Duxbury and Duxbury Police Chief Matthew Clancy. [*Johnson v. Duxbury*, __ F.3d __, 2019 WL 3406537 \(1st Cir.\)](#) The plaintiff was a former police officer with the Duxbury Police Department. The case arose out of an internal affairs investigation opened by Chief Clancy after he learned that the plaintiff may have had knowledge of a murder and/or stolen firearms, yet failed to disclose such knowledge to investigating authorities or his superior officers. During the IA investigation, Chief Clancy ordered the plaintiff to produce certain phone records. The plaintiff, through counsel, subsequently produced redacted copies of the phone records, then retired from the DPD and filed suit against the Chief and the Town under 42 U.S.C. § 1983, alleging that the search of phone records without a warrant was a violation of his right to be free from unreasonable searches as guaranteed under the Fourth Amendment to the United States Constitution. The District Court granted defendants' motion for summary judgment on several grounds, including that the search was not unreasonable and, even if it was, plaintiff voluntarily consented to it.

On appeal, the First Circuit affirmed the summary judgment, but for different reasons. Citing the third-party doctrine originally announced in [*United States v. Miller*, 425 U.S. 435 \(1976\)](#), the Court concluded that the plaintiff had "no reasonable expectation of privacy in the phone records at issue." Phone users typically know that the numbers they dial and the calls they receive are recorded on a register maintained by the service provider for legitimate business purposes. Therefore, phone users cannot reasonably expect that such numbers will remain secret. Because plaintiff had no reasonable expectation of privacy in his phone records, Chief Clancy's order that plaintiff produce such records was not a "search" within the meaning of the Fourth Amendment.



Attorney John J. Davis of Pierce Davis & Perritano LLP represented the Town of Duxbury and Chief Clancy.

PDP Attorney Gets Martha's Vineyard Moped Case Dismissed

Pierce Davis & Perritano attorney, Jason Crotty, recently secured a dismissal for the Town of Oak Bluffs in a lawsuit involving the moped crash of Noelle Lambert in 2016. "Lambert and her parents sought damages against the town for medical bills, emotion distress to the parents, and the injuries Lambert received...Oak Bluffs said it was entitled to immunity under Massachusetts General Laws" (Martha's Vineyard Times). Superior Court Judge Robert Rufo ruled in favor of the town Wednesday, April 24, 2019.

For more information about the case, read the full article from Martha's Vineyard Times [here](#).

PDP Partner Quoted in Cape Cod Times Article

Pierce Davis & Perritano Partner, John Davis, was recently quoted in an article by Cape Cod Times titled, "Shark-detection Systems Raise Liability Issues."

"I would agree that they (municipalities) shouldn't simply be guided by whether or not they can be held culpable or liable for decisions they make. They should make decisions based on what's best for the public," said John Davis, a partner at the Boston law firm Pierce Davis & Perritano. Davis said his primary focus is defending cities, towns, and other public employers from civil and criminal claims, and he successfully defended the town of Dartmouth in a landmark case in 1999 that helped established the limits of municipal liability."

Read the full article [here](#)!

PDP Partner John Cloherty Quoted in Rhode Island Lawyer's Weekly

Pierce Davis & Perritano Partner, John Cloherty, was recently quoted in a Rhode Island Lawyer's Weekly article:

"One unusual aspect of the decision is that the court relies on an affidavit from an expert of the plaintiff to support a showing of disputed facts," he said. "I've of course seen that in medical malpractice cases, where there may be disagreement among experts as to what caused an injury, but I haven't seen it in a First Amendment case in the academic context."

The Article, " Free Speech Suit Against RIC Survives, with Issues for Jury," discusses *Felkner v. Rhode Island College, et al.*, in which a former graduate student at RIC claimed the college violated his rights to freedom of speech and expression.

Read the full quote and article here!

Federal Jury Trial Victory for PDP Attorney Sam Gates

Pierce Davis & Perritano attorney Sam Gates secured a defense verdict on behalf of Chief Patrick Keefe and Lieutenant Chad Cooper of the Town of Andover Police Department on a civil rights claim brought by former Andover resident Marie Winfield.

The verdict was announced on March 14, 2019 following a four-day jury trial before Judge William Young in the U.S. District Court for the District of Massachusetts. The twelve-person jury found that Keefe and Cooper did not violate Winfield's

constitutional rights when they removed her from the lobby of the Andover Police Station. Winfield claimed that officers used excessive force. But the evidence at trial clearly showed that Winfield caused a disturbance in the lobby and, over a period of two and half hours, ignored repeated requests to leave voluntarily before being gently escorted to her car. The entire incident was captured by video surveillance and the jury deliberated for under two hours before reaching a verdict in favor of the officers.

PDP partner, Adam Simms, defended Chief Keefe and Lieutenant Cooper through the pre-trial discovery phase.

The case is Marie Winfield, et al. v. Town of Andover, et al., case number 1:17-CV-11051-WGY

PDP Associate Melissa Malloy Admitted to the Bar for the Supreme Court of the United States

PDP Associate, Melissa Malloy, was admitted to the Bar for the Supreme Court of the United States on Tuesday, February 26, 2019. Ms. Malloy, along with 10 other alumni from Roger Williams University School of Law, took the oath of admission before the nine justices of the Supreme Court as part of the School of Law's tenth bar admission swearing-in ceremony.

After being formally welcomed to the Bar by Chief Justice John Roberts, Ms. Malloy and the new admittees were invited to attend the two scheduled oral arguments. The swearing-in ceremony was preceded by a breakfast in the West Conference Room, which traditionally has been used for formal ceremonial functions, including the 2010 swearing-in of Justice Elena Kagan as the 100th Associate Justice of the Supreme Court.



[Melissa Malloy is pictured second from the left in the top row]

PDP Partner Quoted in Front Page Article of MA Lawyers Weekly

Pierce Davis & Perritano Partner, John Davis, was recently quoted in an MA Lawyers Weekly front page article titled, “St. Paddy’s Day revelers get new trial on police misconduct.”

The article discusses the case of *Castagna, et al. v. Edwards, et al.* in which two brothers, who were arrested for disorderly conduct at a St. Patrick’s Day party, claimed police officers unlawfully entered their apartment in South Boston.

Read the full article [here!](#)

Attorney John Cloherty to Speak at MCLE 17th Annual Municipal Law Conference

PDP Partner John Cloherty will be presenting “**Public Employment Law Meets the 1st Amendment**” at MCLE 17th Annual Municipal Law Conference on **March 13th, 2019**. The conference will discuss the latest developments, updates, and challenges in public sector law.

Mr. Cloherty has represented numerous individuals, corporations, municipalities, schools and school districts, and other governmental agencies in defense of negligence, motor vehicle torts, products liability, premises liability, negligent security, medical malpractice, civil rights, discrimination, zoning and licensing disputes, and intentional tort claims. He has represented individuals and public employers under the Civil Rights laws of the United States and Massachusetts and Rhode Island, as well as the state and federal anti-discrimination laws. His trial experience includes diverse cases such as First Amendment claims, police misconduct, motor vehicle torts, breach of contract claims, property nuisance, accounting malpractice, and employment discrimination.

The conference will take place at MCLE Conference Center, 10 Winter Place in Boston from 9am to 5pm. CLE credits For more information and to register for the event click [here](#).