Ben T. Clements: A Massachusetts attorney’s experience in political policy and private law

BY KELSEY SADOFF

Sitting on a desk in Ben T. Clements’ new law office, next to a framed drawing from his little girl of the two of them playing hockey, is an inscribed photo from Gov. Deval Patrick. “To my favorite lawyer,” is scrawled across the bottom of the photo, which features three smiling attorneys: Clements, Patrick and Michael J. Pineault, who was the governor’s deputy chief legal counsel.

“I have been lucky in my career,” said Clements, who in November left his position as chief legal counsel to Patrick and launched his own firm, Clements & Pineault LLP, with Pineault.

Clements, who Patrick calls “the father of ethics reform” in Massachusetts, is jumping back into private legal practice after serving three years as the executive branch’s top lawyer.

“I have held a series of challenging and rewarding positions in the public and private sector and I have really enjoyed moving from one to the other and the ability to serve in both worlds,” he said.

A graduate of Dartmouth College, cum laude, and Cornell Law School, summa cum laude, Clements began his legal career with summer associate jobs in New York and Washington, D.C., before serving as a law clerk for the chief judge of the U.S. Court of Appeals for the First Circuit.

MBA launches task force to address crisis in court funding

BY BILL ARCHAMBEAULT

The Massachusetts Bar Association has created a task force to put a human face on the impact that drastic budget cuts are having on the courts.

The Crisis in Court Funding Task Force will compile stories of hardship among public users of the court system and will present a report to the House of Delegates meeting in March. If endorsed, the report will support calls for the Legislature to adequately fund the state court system, which was cut from an initial fiscal 2009 budget of $467 million.

Criminal legislation, REBA appeal case, medical marijuana top November HOD meeting agenda

BY TRICIA M. OLIVER

The 2009–10 Massachusetts Bar Association House of Delegates met for the second meeting of the association year on Thursday, Nov. 19 at the Mass Mutual Center in Springfield. The full agenda included a busy start to the association year, as officers and section leadership brought forth a collection of timely and relevant proposals for the House to consider.

Make the most of your MBA benefits in 2010

The Massachusetts Bar Association is working hard to provide benefits that will help you every day in the practice of law.

MBA brings the conference’s many components back to one spring event.

VOLUNTEER SPOTLIGHT

Dorothy Varon devotes countless hours to pro bono housing program.

MBA HOLIDAY PARTY

MBA members and friends meet at the MBA to network, socialize.

SEE PAGE 2 FOR A COMPLETE LISTING OF THIS ISSUE’S CONTENTS.
Continued from page 1

of Appeals from the First Circuit.

In 1990, Clements entered private prac-
tice at the Boston firm Hill & Barlow,
which included a brief stint as special as-
sistant district attorney for Middlesex
County. In 1994, Clements was appointed
an assistant U.S. attorney for the District
of Massachusetts.

In 2001, Clements re-entered private prac-
tice, becoming a partner at Boston’s
Sullivan, Weinstein & McQuay PC before
founding Clements & Clements LLP with
his brother Jeff in 2003.

During the 2004 Democratic National
Convention in Boston, Clements lunched
with Patrick, a former Hill & Barlow
partner and colleague who was Coca-Co-
la’s vice president and general counsel
at the time. The two had become friends
while working closely on a number of
cases at Hill & Barlow, and it was at that
lunch that Clements learned Patrick was
thinking about running for governor.

“At the time, I was distraught about
where the politics of this country were
headed, and I was very excited about
the new direction and leadership that De-
val would bring to our politics and our
government,” said Clements.

In January 2005, when Patrick began his run
for governor, Clements became
a legal advisor for the campaign while
maintaining his practice at Clements & Clements
LLP. When Patrick won the election, Cle-
mants was offered — and accepted — the
chief legal counsel position in the Patrick
Administration.

“I believed strongly in Patrick as gover-
nor, and still do. When the person you
helped campaign for governor gets the po-
sition and asks you to take a senior posi-
ton in the administration, there is really
only one answer. I couldn’t pass it up,”
said Clements.

FAMILY TIES

An American growing up in Canada, Cle-
mants moved from Toronto to Con-
necticut when he was 10 years old. The
youngest of four, Clements and his older
brother Jeff are the first two lawyers in
their family.

“We did not necessarily think Ben
would become a lawyer,” said Jeff. “But
we knew he would use his considerable
intellect, sense of right and wrong, and
competitive instinct in whatever work he
chose.”

At Dartmouth, Clements was drawn to
studying moral and political philosophy as
well as legal and political theory — spark-
ing his interest in law school and prompt-
ing him to attend the Cornell Law School
with Jeff.

“We had a great time in law school,
from playing hockey together to being
most court partners,” said Jeff, who was a
year ahead of his brother at Cornell. “We
were both among those who actually en-
joyed law school immensely, and believe
law and litigation, even with its shortcom-
ings, to be a high calling and a real means
of justice.”

“I didn’t go to school with a specific
plan in mind, but I knew I was interested
in pursuing a career in law,” the younger
Clements said. “I was also interested in
government and how it works. I see the
two as closely interrelated, but I had no set
idea on the path I would take.”

Although the Clements brothers would
pursue different legal ventures post-col-
lege, the pair reunited professionally in
2003 to open Clements & Clements LLP
— a boutique litiga-
tion firm.

“Whether we were at different firms or at
different law enforce-
ment agencies, we
would share the joys,
frustrations and oc-
casional absurdities of
active litigation work,”
said Jeff.

When Clements was
offered the chief legal
counsel position and
left the firm in early 2007, he thought he
would return to the firm in two or three
years. However, soon after he left for pub-
lic office, Attorney General Martha Coak-
ley asked his brother Jeff to run the Public
Protection Bureau, and Clements & Cle-
mants LLP dissolved.

“There is enough of an overlap in what
we do, and we have such a strong bond,
that I expect we will work together on
things in the future,” Clements said.

GOING PUBLIC

In 1994, in his first public position, Cle-
mants was an assistant U.S. attorney re-
sponsible for investigating and prosecut-
ing a wide range of federal crimes, includ-
ing public corruption and civil rights vi-
olations. It was through these investiga-
tions that Clements first gained legal experience
on political issues such as campaign fi-
nance law — experience and expertise he
would later lend to Patrick’s campaign.

“As a relatively young lawyer, I was
lucky to work with some superb prosecu-
tors, who taught me a great deal
about what it takes to be an ef-
effective federal prosecutor,” he
said. “It requires combining
the skills of a dogged investigator,
a careful and diligent lawyer,
with a willingness and ability
to make thoughtful and difficult
judgments.”

The Hon. Tim Feeley, associ-
ate justice of the Superior
Court, worked with Clements
for seven years at the U.S. At-
torney’s office. The two worked
as trial attorneys in the Major
Crimes Unit before Feeley was
appointed chief of that unit in
1995 and Clements transferred
to the Public Corruption and
Special Prosecutions Unit.

“Ben took full advantage of
his time at the U.S. Attorneys’
Office to gain trial experience,”
said Feeley, who said Clements
was an attorney who did not try
to avoid tough cases. “Ben in-
vited and solicited work that
would make him a better
lawyer.”

CHIEF LEGAL COUNSEL HIGHLIGHTS

As the Patrick Administration’s first
chief legal counsel — a job likened to
“trying to drink water from a fire hose,”
Clements advised the governor on legal and
policy issues, judicial selection, legis-
lation and all legal issues concerning
the governor.

“Ben is both a respected colleague and
We know each other’s blind spots—not that he has
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However, with the state budget posing a
significant challenge to every aspect of
government, he also believes the courts
will need “to continue to be part of the
solution of this unprecedented budget
gap.”

“The great challenge for the legal pro-
fession and the courts in maintaining a
strong and independent judiciary will be
to preserve and increase the public’s un-
derstanding and respect for the essential
role of the courts,” he said.

JUDICIAL NOMINATIONS

When Clements began his chief legal
counsel position after the election in No-
ember 2006, he also became responsible
for establishing and overseeing the work
of Patrick’s Judicial Nominating Com-
mission, a 21-person committee charged
with reviewing applications and making
recommendations to the governor’s office
for all judicial and clerk-magistrate ap-
pointments. Under Patrick’s executive or-
der establishing the current JNC, the
committee recommends between three
and six applicants for each vacancy.

“The most important legacy that any
chief legal counsel can leave is the judg-

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“Judging is more than getting the rules right; it is appreciating the real-world impact on real people of every decision that a court makes and appreciate the importance of how those people are treated in getting to those decisions.”

— BEN T. CLEMENTS

Clements, second from left, participates in the signing of an Act to Improve the Ethics, Lobbying, and Campaign Finance Laws. Clements, who chaired Gov. Patrick’s Task Force on Public Integrity, helped create this comprehensive legislation that reformed the ethics and lobbying laws in Massachusetts.

With the establishment of Clements & Pineault LLP, Clements will once again be involved in the “competitive, fast-paced” world of litigation.

New law firm partners Clements and Pineault have a long history of working together. The partners attended Dartmouth College together, but were first introduced while clerking in the U.S. Court of Appeals.

“For much of the last 20 years, we have worked together, and it has been a real blessing to have Mike as a colleague and as a friend,” said Clements. “[Pineault] is one of the best lawyers I have ever met.”

Pineault, who wanted to open a law firm with someone he respected professionally and personally, is looking forward to doing high-quality work in a collegial environment with Clements. “I want a colleague whose judgment I value and trust,” said Pineault.

As a lawyer, Pineault and Clements believe Patrick’s legacy in the judiciary is extremely diverse range of backgrounds, professional and personal.” Clemens believes Patrick’s legacy in the judiciary will be his consistent appointment of highly qualified jurists who understand “judging is more than getting the rules right; it is appreciating the real-world impact on real people of every decision that a court makes and appreciate the importance of how those people are treated in getting to those decisions.”

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11th Annual Walk to the Hill to rally support for civil legal aid Jan. 27

The 11th Annual Walk to the Hill for Civil Legal Aid will kick off at 11 a.m. on Wednesday, Jan. 27, in the Great Hall of the Statehouse, where attorneys and legal advocates will highlight the importance of these programs. The need to maintain funding is just as great for fiscal year 2011 as it was last year.

“Our message to legislators will again be twofold: maintain funding for the Massachusetts Legal Assistance Corp. (MLAC) line item at $9.5 million and include this issue as a personal legislative priority,” said Pattye Comfort, director of the Equal Justice Coalition.

Massachusetts Bar Association President Valerie A. Yarashus is slated to speak about the urgent need for more money for the Massachusetts Legal Assistance Corporation (IOLTA) program has plummeted 63 percent since fiscal 2008 and is not expected to increase in fiscal 2010. Compounding this loss is the decrease in the civil legal aid line item — from $11 million in fiscal 2009 to $9.5 million in fiscal 2010.

Walk to the Hill is one of the largest lobbying events at the State House, and last year’s drew a crowd of more than 750, the highest turnout in the event’s history.

Registration: 11–11:30 a.m.
Speaking program: 11:30 a.m.–noon
Legislative visits: noon–1 p.m.
Lunch will be served.

For more information, visit www.equaljusticecoalition.org. To view a funding fact sheet, visit www.equaljusticecoalition.org/PDF/FY11-Fact-Sheet.pdf.

MBA seeks Massachusetts Law Review submissions

Massachusetts Law Review, the MBA’s quarterly comprehensive bar journal, welcomes submissions of articles and ideas for its future issues.

For more information, including deadlines, contact Periodicals Manager Bill Archambeault at (617) 338-0676 or barchambeault@massbar.org.

Ben T. Clements
Continued from page 5

“I think one thing that sets us apart is the depth and breadth of experience and training we have had over our careers,” said Pineault, who noted that both have been in public and private practice, acted as prosecutors and defense attorneys in federal and state courts, held legal positions in government, and have jury and appellate trial experience. “We are fortunate to have had those opportunities. With our background and training, we can provide very high quality legal services in a small-firm setting that is efficient and cost-effective.”

“We work so well together because our approach to issues is similar,” added Pineault. “This really results in a lot of trust in each other’s judgments. We can bounce things off of each other, which is something that I value tremendously.”

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