

PARTNER

# Lynette Paczkowski

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## OVERVIEW

Lynette Paczkowski is a zealous advocate and trusted advisor, with experience representing clients from various industries including construction, utility, professional services, real estate, nonprofit, and education, as well as individuals, in litigation matters and litigation-avoidance strategies. Lynette has significant experience at the trial and appellate levels in the state and federal courts of central Massachusetts and MetroWest handling civil litigation matters, including in the areas of construction litigation, land use disputes, and tort-related claims.

Lynette has a long-standing relationship with one of the largest investor-owned energy companies in the world, handling over 50 matters for that client over a number of years. She has defended the client in severe personal injury suits and wrongful death claims involving motor vehicle accidents, electrical contacts and electrocutions, and other catastrophic occurrences. “I’ve also defended the company against property damage claims,” she added, “and pursued its interests in land use and easement disputes.”

“Clients appreciate my ability to read a room,” Lynette noted, “and to adopt specific approaches that balance the clients’ desired outcomes with the audience and other business considerations and relationships.” Additionally, with experience on both sides of the docket, she better understands how the other side thinks and is particularly adept at using that knowledge to assess the strengths and weaknesses of both parties’ positions.

## Beside work

Lynette takes her recreational softball seriously. “I also enjoy playing golf, though I know better than to take myself seriously on the golf course.” She is also an avid concert- and theater-goer.

## EXPERIENCE

### Taking a zoning case all the way to the Appeals Court and prevailing

A central Massachusetts building inspector said that a billboard was too tall, despite a prior inspector’s issuance of a building permit for the billboard and the billboard’s compliance with that permit. “The inspector ordered my client to lower the sign or tear it down,” Lynette explained. “We argued that the building inspector had exceeded his authority.” Lynette’s client lost its appeal of the order at the ZBA level and then headed to state superior court. When the Court denied cross-motions for summary judgment and crafted an equitable remedy of its own, Lynette’s client appealed to the Massachusetts Appeals Court, where she successfully argued the applicability and interpretation of the town’s

zoning by-laws to a panel of three. “I was about a minute in and still on the first page of my outline when the rapid-fire questions started coming from the bench. It was a challenge to adapt on the fly to be able to answer the Court’s questions and focus on the arguments they were most interested in hearing about, even if I hadn’t intended to spend as much time on those portions of the case.”

## Winning payment in an arbitration for an architect

Lynette obtained an arbitration award in favor of an architecture firm, which had not been paid in full for work performed on a project. The other side argued that her client had actually been overpaid, claiming that the architect exceeded the authorized scope of work on the project. Lynette successfully demonstrated, primarily through invoices and copies of payments, that the owner knew or should have known the full scope of work being performed and billed, despite not having a signed contract or purchase order for the work in question. “Sometimes it’s not as simple as having a bulletproof contract or explicit and clear communications. Sometimes you have to really dig into the documents and piece together what happened in order to prevail.”

## OTHER EXPERIENCE

### Land use and construction

- Easement holder’s rights in connection with adverse possession action between abutting property owners, securing continued easement rights as part of global settlement agreement
- Private school in abutting property owner’s appeals of Conservation Commission and Zoning Board of Appeals decisions in connection with expansion project
- Defended claims in excess of \$2 million brought by a designer-builder against the owner of a senior living facility, in connection with a \$14 million construction project; the arbitration was a multi-party, complex case that spanned over 40 days of hearings
- Utility company in enforcing easement rights against property owners attempting to block/restrict access and use
- General contractors and subcontractors against contract, warranty, and negligence claims pursued payment and enforcement of mechanics lien on behalf of designers, contractors, and subcontractors
- Franchisee in various disputes and through completion of construction project
- Property owners in defense of claims for payment and in seeking damages for incomplete and defective work

### Professional licensure and malpractice

- Accounting firm against claims of vicarious liability and professional malpractice
- Attorney who had sanctions issued against him by trial court; obtained direct appellate review by the Supreme Judicial Court, which vacated the sanctions award
- Non-profit behavioral health and rehabilitation services provider, along with licensed social worker, against negligence claims arising from treatment of minor

### Contractual claims and disputes

- Breach of contract action on behalf of a regional medical product supplier against a global provider of outsourced clinical development services in connection with failure to provide software and hardware for patient data management. After a three-day, jury-waived trial, the Court awarded damages in excess of \$35,000 and doubled them pursuant to M.G.L. c. 93A.

## Tort claims and disputes

- Elder in breach of fiduciary duty claim against family member in connection with family business operations. After a four-day jury trial, the jury awarded damages in excess of \$135,000 and ownership of the business reverted back to the elder.
- Resolved case involving machinery damaged in transport on behalf of a distributor of specialty machinery
- Former director of company against breach of fiduciary duty claims arising from allegations of conspiracy with exiting minority shareholder
- Utility company in negligence/wrongful death action after passenger in motor vehicle was electrocuted upon exiting a vehicle that had struck its utility pole
- Utility company in negligence/wrongful death action after homeowner was electrocuted on his porch following a significant weather event

## AFFILIATIONS

### PROFESSIONAL/COMMUNITY

- President, Worcester County Bar Association (2018 – present)
- Fellow, Construction Lawyers Society of America (2018 – present)
- Communications Committee, National Conference of Bar Presidents (2018 – present)
- Communications Director, Notre Dame Club of Worcester County (2015 – present)
- Executive Committee, Worcester County Bar Association (2013 – present)
- Member, Worcester County Bar Association (2005 – present)
- Member, Young Professional Women’s Association (2011 – present)
- Community Legal Aid Access to Justice Campaign Leadership Committee (2012 – present)
- Associated General Contractors Building Women in Construction Committee (2016 – present)
- *Worcester Business Journal’s* “40 Under 40” award, 2012
- Massachusetts Super Lawyers Rising Star, 2013-2018

### PREVIOUS

- President-Elect, Worcester County Bar Association (2017-2018)
- Development Committee, The Hanover Theatre for the Performing Arts (2015-2016)
- Co-Chair, Young Lawyers Division, Worcester County Bar Association (2010-2013)
- President, Young Professional Women’s Association (2013-2014)
- Vice-President, Young Professional Women’s Association (2012-2013)
- Board member, Young Professional Women’s Association (2011-2014)
- Founding member, Young Professional Women’s Association (2011)

## ARTICLES & TALKS

### ARTICLES

- “Support Responsibilities in an Age of Campus Suicide,” *New England Journal of Higher Education*, June 13, 2018
- “[Contractors Violate Building Code While Adhering to Client Requests](#),” *Banker & Tradesman*, May 2, 2016
- “The Best Offense Is a Good Defense: How the Washington Redskins Overcame Challenges to their Registered Trademarks,” *Bowditch & Dewey*, October 23, 2003
- “Can CAN-SPAM can spam?” *Bowditch & Dewey*, October 22, 2003
- Author and co-author of chapters in the *Massachusetts Deposition Practice Manual*, edited by the Honorable Peter M. Lauriat

## BAR ADMISSIONS

- Massachusetts
- New York
- The United States District Court for the District of Massachusetts
- The United States Court of Appeals for the First Circuit

## EDUCATION

- J.D., Boston College Law School
- B.A., *magna cum laude*, University of Notre Dame