

The Choate Connection

Managing Partner Greeting

As we enjoy some spectacular September weather, we hope this newsletter finds you and your families happy and healthy.

We are very proud to report that Choate had its 16th consecutive year of record financial results in 2007. Our success is due to the contributions of our entire team, and most importantly to our clients, which continue to entrust us with their most important, interesting and challenging matters. We are pleased to report that among the top 200 firms in the country in *American Lawyer's* AmLaw 200 survey, the firm was ranked 19th for value per lawyer, 34th for revenue per lawyer and 55th for net profit per partner. Although we have never managed Choate based solely on financial performance or on rankings in national surveys, we believe in this case they do reflect our progress. Thanks to your past efforts, support and contributions to our success, we continue to provide exceptional service and value to our clients, improve our economic performance and make a difference in our community.

In This Issue

Fall 2008

Attorney Update • New to Choate

p 2

Awards & Honors

p 3

Pro Bono, Diversity & the Community

p 5

Practice Group Round-Up

p 5

New Partners

p 8

Please join us in welcoming Todd Millay to the firm as Managing Director of the Wealth Management Group (details inside). With extensive experience in both the financial services and wealth management industries, Todd will oversee the investment strategy of Choate Investment Advisors and, together with the wealth management team, help provide a wide array of integrated, and we believe unique, services to our clients.

Continuing our longstanding commitment to community, we are very pleased to announce that our partner Kathy Henry was recently named the firm's first full-time Hiring & Pro Bono Partner. In her new role, Kathy will build upon Choate's traditions of serving the community through pro bono efforts and attracting exceptional legal talent.

The quality of our lawyers and the value they bring to our clients has never been greater. Over the course of the last few months, many of our practice areas and attorneys have been recognized as leaders in their respective fields. Most recently, *Chambers USA* named 21 attorneys and eight practice areas among the top in the country. A full list of attorney and practice area honors can

The Choate Connection

Managing Partners' Greeting

Continued from Page 1

be found in the attorney update section. Please join us in congratulating them.

On a sad note, we are very sorry to report that our friend and former partner, Wilnot Pope, passed away in January following a long illness. Mr. Pope practiced at the firm for 43 years up until his retirement in 1991. He was our Partner for 35 years and the firm's managing partner for 12 years.

We are also sad to report that our friend and former partner, Jephtha Wade, passed away early this month following a stroke. Mr. Wade practiced at the firm for 34 years and was the leader of the firm's Trust Department. He laid the foundation for what is now Choate Investment Advisors.

Finally, we were all energized by the arrival and contributions of our new summer associate class. This season, Choate welcomed 24 of the nation's finest law students to spend the summer with us.

We hope that you have had a chance to stop by the firm and say hi. Thank you again for your continued support and friendship over the years. Please keep us posted on your successes. We wish you all a healthy and happy balance of the year.

Warmest Regards,

Bill Gelnow & John Nadas

ATTORNEY UPDATE • NEW TO CHOATE

Wealth Management Group Appoints New Managing Director

In April we welcomed Todd Millay to the firm as Managing Director of the Wealth Management Group. Prior to joining the firm, Todd was a partner at CCC

Alliance and founding Executive Director of the Wharton Global Family Alliance, the research center on family



wealth and family business at the Wharton School. Prior to that, Todd was a consultant at McKinsey & Company specializing in financial institutions. Todd is a graduate of Dartmouth College, a Rhode Scholar at Oxford and a graduate of Yale Law School.

In connection with overseeing the investment strategy and day-to-day operations of Choate Investment Advisors, Todd works closely with the wealth management team to provide clients with objective, integrated solutions to their wealth management needs.

"Todd's extensive experience in the financial services and wealth management industries, along with his legal background, makes him uniquely qualified to lead our Wealth Management Group," said Bill Gelnow and John Nadas. "Under Todd's leadership, we will continue to offer clients independent, comprehensive and institutional-quality solutions to their wealth management needs."

"I am very excited about joining Choate and look forward to building on the firm's enviable position in the marketplace," said Todd. "We offer clients a unique model of holistic wealth management from a trusted, experienced partner. It is a very complex undertaking but we make it simple and convenient for the client."

Jim Shea Joins the Real Estate Group

Choate is excited to welcome Jim Shea as a partner in the Real Estate Department. Jim was formerly the co-chair of the Real Estate Department at Edwards Angell Palmer & Dodge.



Jim continues to focus his high profile practice on representing a broad range of public and private developers, contractors, and lenders, with a particular emphasis on public/private partnerships.

“This is an important lateral addition for Choate. Jim is one of the most talented, experienced, and highly regarded real estate attorneys in Boston, and we are very excited to have this preeminent lawyer joining our firm,” said Michael Sophocles, chair of the Real Estate Department.

Jim’s experience in public/private projects includes:

- the phased, mixed use development on the South Boston waterfront of a 423 room hotel, including two office buildings and a shared underground parking garage;
- the Manulife headquarters office building on Congress Street in South Boston;
- the 550 unit Seaport Apartments project located on D Street and the adjacent 455 room Marriott Hotel;
- the Hilton Hotel at Logan;
- the development of the 1.7 million square foot Boston Convention and Exhibition Center and the adjacent 790 room Westin Hotel;
- the acquisition and development of the 160 acre Boston Army Base/Marine Industrial Park; and
- the redevelopment of the Hood plant in Charlestown, the Nimrod Press facility in the Fenway, and the China Trade Building in Chinatown.

He is also very involved in various projects located in the City of Somerville, including the 150 acre Assembly Square District. Jim has considerable experience representing private developers, including the developers of the recently completed and very successful Marriot Courtyard Hotel in Copley Square and the Hotel Indigo in West Newton, as well as in a number of large affordable housing projects.

AWARDS & HONORS

Brenda Jarrell Named Top 50-Under-45 in IP Law & Business

Brenda Jarrell, co-chair of the Life Sciences Group, has been named to the *IP Law & Business* “Top 50-



Under-45” list of the best young intellectual property lawyers in the country. According to the editor of the magazine, “these winners are distinguished by their sheer brainpower, legal smarts, creativity and hard work.” The list was compiled from 230 nominations and Brenda was the only Massachusetts lawyer to be named.

Brenda was recognized for a practice that revolves around the intersection of law and business in the chemical and biological sciences, with a special focus on patent protection, licensing, and litigation work for pharmaceutical companies, medical institutions, and biotech firms. Her clients include Wyeth Pharmaceuticals, Siemens Medical Solutions Diagnostics, and Harvard University. She has also helped Memorial Sloan-Kettering Cancer Center secure a dozen US patents for a new cancer therapy. Brenda was previously named to the *National Law Journal’s* prestigious “40-Under-40” list and was also listed by *Chambers USA* among the top attorneys in the country in their respective fields, as a *Massachusetts Super Lawyer* Rising Star, and as a *PLC - Which Lawyer* for Intellectual Property.

Choate Named Go-To Law Firm

Choate has been named to *Corporate Counsel Magazine’s* 2008 “Go-To” Law Firm Lists for in-house law departments at America’s Biggest Companies as well as Financial Services Companies and Technology Companies. Choate was named by clients Wyeth, Citrix and Akamai for its intellectual property work. Liberty Mutual and Markel Corporation recognized Choate’s litigation efforts and American Capital Strategies listed Choate for Corporate/

The Choate Connection

2008 SUMMER ASSOCIATE CLASS

In May the firm welcomed a new class of summer associates. We are pleased to introduce them:

Jared Barnes, Tulane University	Haim Machluf, Harvard Law School
Thomas Cecil, University of Virginia School of Law	Trevor Moore, Boston University School of Law
Rachel Chase, Suffolk University Law School	Jesse Nevarez, Boston College Law School
Anita Christy, Harvard Law School	Kaitlin O'Donnell, Boston University School of Law
Kara Coen, University of Virginia School of Law	Emily Oldshue, Yale School of Law
Mark DeFeo, Boston College Law School	Lauren O'Leary, Boston University School of Law
Marc Evans, Suffolk University Law School	Anant Saraswat, Yale School of Law
Mark Fennell, Boston College Law School	Matthew Savoie, Cornell Law School
Sandra Gonzalez, University of Texas, Austin	Nellie Staley, Boston University School of Law
Marcus Hughes, Boston College Law School	Sophie Wang, Washington University School of Law
Jon Jay, Georgetown University Law Center	Anastazja Wieckowski, University of Chicago School of Law
Renat Lumpau, Harvard Law School	Cecile Zwiebach, Georgetown University Law Center

M&A work. Firms on the list were selected from survey data collected from the general counsel of the top 500 companies and further research using public records, leading publications, and well-respected databases.

Twenty-One Lawyers and Eight Practice Areas Ranked Among the Top in the Nation

Congratulations to the 21 partners named by *Chambers USA: America's Leading Business Lawyers* as the top attorneys in the country in their respective fields. The lawyers listed in the 2008 directory are:

- Bill Asher – Corporate/M&A
- Bob Buchanan – Antitrust
- Jack Cinquegrana – Litigation: White-collar Crime & Government Investigations
- Steve Cohen – Private Equity: Buyouts
- Karen Copenhaver – Intellectual Property

- Bob Frank – Intellectual Property and Litigation: General Commercial
- Charlie Glerum – Bankruptcy/Restructuring
- Doug Gooding – Bankruptcy/Restructuring
- Bob Jahrling – Corporate/M&A
- Brenda Jarrell – Intellectual Property
- John Lanza – Intellectual Property
- Brian Lenihan – Private Equity: Venture Capital Investment
- Charlotte Kim - Banking & Finance
- Louis Maret – Tax
- Larry Naughton – Corporate/M&A
- Peter Palladino – Banking & Finance
- Sam Pasternack – Intellectual Property
- Tom Shirley – Labor & Employment
- Christine Solt – Healthcare
- Sandy Taylor – Private Equity: Fund Formation
- John Ventola – Bankruptcy/Restructuring

Chambers also ranked the firm among the top in the country in the following practice areas: Antitrust, Banking

& Finance, Bankruptcy & Restructuring, Corporate/M&A, Healthcare, Intellectual Property, Litigation and Private Equity.

Private Equity Analyst Ranks Choate Among Most Active Law Firms

Private Equity Analyst ranked Choate among the Top 30 "Most Active Law Firms" worldwide based on the number of private equity and venture deals it negotiated and closed in 2007. Additionally, Choate was in the Top 40 "Most Active Law Firms" worldwide based on the number of private equity and venture capital funds worked on for general partners and limited partners that closed in 2007.

PRO BONO, DIVERSITY & THE COMMUNITY

Kathy Henry Named First Ever Hiring & Pro Bono Partner

Kathy Henry, a partner in the firm's Insurance & Reinsurance Group, was named Choate's first full time Hiring & Pro Bono Partner. As part of her new role, Kathy co-chairs the Hiring Committee and is the partner in charge of the firm's extensive Pro Bono Program.



The naming of Kathy to this important new position represents a significant allocation of firm resources and reflects the firm's commitment to its outstanding Legal Recruiting and Pro Bono Programs.

"Over the years, the partners involved in our hiring and pro bono efforts have practiced law while also devoting substantial time to steering these programs. We were looking at bringing additional senior resources to these key areas when Kathy Henry expressed interest in taking on these roles full time," said Bill Gelnaw and John Nadas. "While we didn't want to lose Kathy's considerable talents

as a practicing lawyer, the combination of her unique skills and the ever increasing importance of recruiting and pro bono at our firm made the choice very clear. Kathy was absolutely the perfect person for the position."

Choate Attorney Receives SJC's Adams Pro Bono Publico Award

Congratulations to **Christine Wichers** and **Lisa Gaulin**.



Christine [who recently joined the Civil Enforcement Division of the US Attorney's Office in Boston] and Lisa were among this year's recipients of the *Adams Pro Bono Publico Award*. This award is presented each year by the Massachusetts Supreme Judicial Court to lawyers or law firms that have

made an extraordinary commitment to represent poor and disadvantaged individuals in Massachusetts. The SJC presented Christine and Lisa with this well deserved award for their part in the representation of Humaira Niazi and her family through the Women's Bar Foundation's Family Law Project for Battered Women.

Choate Partner Elected President of AALAM

Charlotte Kim, a partner in the firm's Finance & Restructuring Group, has been elected President of the



Asian-American Lawyers Association of Massachusetts for a two-year term. During her term, Charlotte plans to focus her efforts on promoting a greater unity of purpose, such as working toward the upcoming *National Asian-American Pacific Bar Association Convention* in Boston in 2009, and on advancing shared diversity goals in the legal profession.

PRACTICE GROUP ROUND-UP

Choate Wins Over \$45 Million in Damages for Akamai Technologies

Earlier this year, a Choate team represented Akamai Technologies in a three week federal jury trial against Limelight Networks. A jury in the US District Court for the district of Massachusetts awarded Akamai, the market-leader in Internet content delivery, nearly \$46 million in damages plus interest.

At issue was an Akamai patent covering various methods for delivering content over the internet. Akamai, which filed the case in 2006, asserted that Limelight infringed four of the claims outlined in one of Akamai's US patents. Limelight Networks argued that Akamai's claims were not infringed and were in fact invalid. The jury rejected Limelight's defense. It found that Limelight's method of content delivery infringed all four of the claims asserted at trial and that all four claims were valid. Akamai is seeking a permanent injunction prohibiting Limelight from selling infringing services.

"We are extremely pleased with the jury's verdict," said Melanie Haratunian, senior vice president and general counsel of Akamai. "Today's ruling recognizes the strength of Akamai's patent portfolio and is a tangible reflection of our resolve to vigorously defend the Company's intellectual property."

SJC Issues Unanimous Decision in Favor of MBTA

The Massachusetts Supreme Judicial Court unanimously upheld the favorable decision that Choate attorneys, Brian Davis and J.P. Jaillet won on behalf of the MBTA in a Superior Court lawsuit against the cities of Somerville and Melrose. At issue was whether the MBTA could engage in commercial advertising on its own property in those communities free of local zoning regulations.

The MBTA argued that it was within its rights to display billboard ads on the MBTA's Melrose Cedar Park Commuter Rail Station and the commuter rail maintenance facility adjacent to I-93 in Somerville. The cities of Melrose and Somerville counterclaimed and sought an order barring the signs absent local approval.

Just five months after the suit was filed, the Superior Court ruled in favor of the MBTA. Somerville and Melrose subsequently appealed the ruling to the Massachusetts Appeals Court, and Choate was successful in obtaining direct appellate review by the SJC.

Arguing that the MBTA was exempt by statute from local zoning control and that commercial advertising was reasonably related to the MBTA's essential function of providing public mass transportation services, Brian and J.P. convinced the SJC to unanimously affirm the initial favorable ruling.

The MBTA is thrilled at the successful outcome and especially impressed at the speed with which Choate was able to favorably resolve this matter on their behalf - less than 18 months!

Choate Receives Significant Reinsurance Verdicts on Domestic Reinsurer

Over the last year the Insurance & Reinsurance Group has obtained three favorable results on behalf of a major domestic reinsurer in its bid to collect recoverables at arbitration from reinsurers. Most recently, the case team – David Attisani, Rob Kole, Mike Mullins, Jennifer Brennan, Julie Rising, Meghan Rhatigan, Liz Castellani, Jim DiTullio and Mary Dishaw – obtained an award exceeding \$30 million on behalf of our client. Last October, many of the same lawyers tried a second such matter to conclusion, and the client received and accepted a settlement offer before the case was decided. Finally, in April of this year, we won approximately \$20 million dollars at summary adjudication on behalf of our client.

Each matter involved a dispute concerning reinsurance recoveries for scores of asbestos claims incurred by some of the largest producers/users of asbestos in the industry. The matters were conducted by three separate groups of arbitrators, functioning as a three-judge panel.

Choate Guides National Dry Cleaning Chain Through Workout

Members of Choate's Finance & Restructuring Group recently guided client Zoots Corporation, a national dry cleaning chain, through a delicate year-long workout and sale process that concluded in late June when a judge endorsed the company's restructuring efforts and rejected an attempt to force it into bankruptcy.

Choate's team, led by Bob Jahrling and Doug Gooding and aided by members of the firm's Business & Technology, Insurance & Reinsurance, Labor, Employment & Benefits, Intellectual Property, Real Estate and Tax Groups, helped the Zoots board and its advisors design and implement a strategy that resulted in a series of asset sales conducted with the cooperation of the company's secured lender. After an extensive marketing process, and while managing to fend off creditors seeking to prevent the sales, the large majority of the company's stores and delivery routes, and two of its three processing plants, were sold to various buyers as going concerns. By selling its assets, rather than liquidating, Zoots preserved nearly a thousand jobs, including approximately 200 at its Brockton processing facility. The company's remaining assets were to be distributed out of court, through an assignment for the benefit of creditors, to unsecured creditors on a *pro rata* basis. Choate convinced the company's lender to contribute funds to the assignment estate in order to ensure that a distribution would be available for unsecured creditors.

Disgruntled creditors subsequently filed an involuntary bankruptcy petition against Zoots, asking a bankruptcy judge to oversee the liquidation and distribution of the company's remaining assets. Choate and the assignee successfully argued that the bankruptcy court should abstain from hearing the case because the sales process

and the assignment for the benefit of creditors had been deliberately and properly designed, and had produced the best possible outcome for all of the company's stakeholders. The court agreed, and granted the motion to abstain, clearing the way for the assignee to collect and distribute the company's remaining assets.

Former Managing Partner and Retired Partner, Wilmot Pope, Passes Away

On January 22, 2008 our retired partner and friend, Bud Pope, died after a long illness. Bud practiced at the Firm for 43 years up until the time of his retirement in 1991. He was our partner for 35 years and was a Managing Partner at the firm for 12 years.

He was also the dean of the Massachusetts bank regulatory bar and the author of the Massachusetts Bank Holding Company Act. For many years he handled the most important corporate matters for New England Merchants National Bank and Bank of New England, representing BNE in the first interstate bank merger in the United States (and shepherding that transaction through the Federal Reserve Board and eventually the US Supreme Court). Bud was renowned in the firm and the community as a meticulous and scholarly lawyer. We will miss him.

Former Head of the Trust Department and Retired Partner Jephtha Wade Passes Away

We are also very sorry to report that on August 8, 2008 our retired partner and friend Jephtha Wade passed away after suffering a stroke. Jep joined the Firm in November 1956 and became a partner in 1960. He was the leader of the firm's Trust Department and recognizing the need for dependable investment advice, he laid the foundation for the present Choate Investment Advisors.

[Continues on Page 8](#)

Former Head of the Trust Department

Continued from Page 7

At the same time, Jep was avidly pursuing a wide range of charitable and outdoor activities, which he devoted himself to after becoming Of Counsel in 1988. In 1990 Jep embarked on an exceptionally unretiring retirement, and for the last 18 years, he has served as a mentor, advisor and faithful critic to an entire generation of trustees with his presence both in and out of the building. We will miss his stimulating presence and his ceaselessly active mind.

New Partners

Finally, please join us in extending congratulations to Lee Feldman, Carlos Perez-Albuerno, David Rickerby, and Kathy Shields who were recently elected equity partners. From the associate ranks the following nine new partners were named: Richard Abati (Litigation), Christian Atwood (Private Equity), Hunter Baker (Intellectual Property), Jen Cooney (Business & Technology), Kathy Henry (Insurance & Reinsurance), Kelly Huffman (Private Equity), Bill McMahon (Finance & Restructuring), Andrea Robidoux (Intellectual Property) and Jolie Siegel (Private Equity).

The enclosed material is provided for educational and information purposes by Choate Hall & Stewart to alumni and others who may be interested in the subject matter. If you would prefer to receive this newsletter electronically, please send an email to kweller@choate.com.

Editor
Cameron (Bunk) Read

Copyright © Choate Hall & Stewart LLP 2008
All rights reserved.