History of MATA's Amicus Committee filings

Rev: October 17, 2018

Appellant(s)	Appellee(s)	Court	Dkt. No.	D/filing	Doc filed	Synopsis	Holding	Keywords
Everest National Ins. Co. No. 84	Berkley Place Restaurant Limited Partnership	SJC	SJC-12550	10/17/18	Brief	Here MATA urged the Court to recognize the duty of reasonable care that a valet owes to the general public to refuse to turn car keys over to a driver who appears intoxicated, or in the alternative, to take affirmative steps to notify law enforcement upon handing the keys over to such a driver.		Duty of care;
Lewis	Rocco	AC	2017-P-1253	2/15/18	Brief	MATA's brief supported of an appeal from a judgment on the pleadings in a case in which counsel had not complied with the 30-day notice provision of Ch. 84, Sec. 21. Though the statute concludes that the failure "to give such notice shall not be a defense under this section unless the defendant proves that he was prejudice thereby" the trial judge accepted a flimsy one-page affidavit simply claiming, but not proving, prejudice due to the lack of notice.	AC affirmed and appellate counsel for the plaintiff requested further appellate review in the SJC.	Notice; prejudice; proof
Correa	Walgreens Eastern Co., Inc., et al	SJC	SJC-12409	1/2/17	Brief	In a brief co-authored with AAJ, MATA urged the Court to recognize the duty of reasonable care that a pharmacy owes to its customer to notify her physician that her insurer will not pay for her prescription medication without prior authorization.	Walgreens had a limited duty to take reasonable steps to notify both the patient and her prescribing physician of the need for prior authorization each time she tried to fill her prescription. Walgreens's duty extends no further, however -- the pharmacy was not required to follow up on its own or ensure that the prescribing physician in fact received the notice or completed the prior authorization form.	Duty of care; preauthorization;
Dzung Duy Nguyen, et al	MIT	SJC	SJC-12329	10/2/17	Brief	MATA argued that a University whose agents know that a student is at risk of committing suicide owes that student a duty of reasonable care to avoid taking actions which increase that risk. Additionally, it argued that the student has a contract with the school such that the duty to prevent suicide arose under the contract.	Affirmed, but recognized a limited duty.	Duty of care; suicide
H. Fisk Johnson, III	Andrew Segal	SJC	SJC-12291	8/14/17	Brief	MATA briefed two issues. One was whether the lower court erred in holding defendants individually liable under G.L. c. 149, § 148 as "agents having the management" of the company. The other was whether the plaintiff had to pierce the corporate veil in order to recover.	Reversed and remanded for a new trial.	Wages; agent having management; statutory construction
George, et al	National	SJC	SJC-	1/12/17	Brief	MATA argued that the SJC should "yes" to a	No; pre-judgment interest	Prejudgment interest; Wage Act;

History of MATA's Amicus Committee filings

	Water Main Cleaning Co.		12191			certified question from a federal district court judge asking whether, in light of the provisions in Chapter 231 requiring prejudgment interest at 12%, that interest is to be added to an award of liquidated (treble) damages under G.L. c. 149, § 150, the Wage Act.	does not apply to the trebled amount.	punitive damages;
Peters	Shaw's, et al	SJC	FAR-	7/18/16	Amicus Committee letter	The Appeals Court in a Rule 1:28 decision affirmed a Superior Court judgment which entered for two defendants after a jury found for both, but unfortunately the trial judge's charge misstated the law. After the plaintiff requested FAR from eh SJC the Committee wrote a letter of support, encouraging them to accept the case and offering some insights.	FAR denied	None
Parr	Rosenthal	SJC	SJC-12014	3/15/16	Brief with Addendum/ Opposition to Motion to Strike MATA's brief	After a jury found a med-mal plaintiff's claim had been filed beyond the statute of limitations the Appeals Court reversed, applying the "continuing treatment doctrine" similar to the continuing representation doctrine in legal malpractice cases. On further appellate review MATA argued that Massachusetts should, as other states, formally recognize the doctrine as tolling the statute of limitations in these cases – the pro-consumer rule applied to lawyers should also apply to doctors. NB: this was the first time the defense moved to strike a MATA brief.	Argued April 5, 2016 and affirmed September 2, 2016. Though this plaintiff lost, the Court adopted the "Continuing Treatment Doctrine" as tolling the statute of limitations in the Commonwealth, though it does not apply to others in the defendant-doctor's practice group.	Continuing treatment doctrine; Medical malpractice; Statute of Limitations
T.T.S. Trio Corp., et al	Howard H. Bayless, Admin'r	SJC	SJC-11958	12/18/15	Brief	The Superior Court had denied a motion to strike plaintiff's affidavit, signed by counsel and based on information and belief, in support of a decedent's dram-shop case. The defense had moved not only to strike it but also for summary judgment, and when that failed it took an interlocutory appeal which the Appeals Court allowed. The SJC, *sua sponte*, pulled the case to decide whether an affidavit, which must "set forth sufficient facts to raise a legitimate question of liability appropriate for judicial inquiry", must be based on personal knowledge or not.	Affirmed. An "affidavit based on information and belief may be sufficient to satisfy the requirements of §60J" but it "must provide identifiable sources of information that are reasonably reliable" and an "assurance that the complaint is not frivolous."	Affidavit; dram-shop case; information and belief
Bowers	P. Wile, Inc.	SJC	SJC - 11923	11/18/15	Brief	In another 'mode of operation' case, the Appeals Court reversed a Superior Court judge's entry of summary judgment for the defendant in a fall-down case and the SJC granted FAR. Here, the defect causing the fall was not an item for sale but an errant stone on a walkway. MATA wrote in support of the new approach to proving notice in self-service establishments.	There was a fact question as to whether use of gravel rather than a non-mobile surface (e.g., grass) represented a "particular" mode of operation that made the reoccurring hazard of stones on the walkway, after customers have walked through the self-service area, foreseeable. Summary judgment was vacated and the case was remanded.	Mode of operation; notice; forseeability
Molina	State	SJC	FAR-	9/25/15	Amicus	The Appeals Court affirmed a Superior Court	FAR denied	None

History of MATA's Amicus Committee filings

	Garden, Inc.				Committee letter	Judge judge's entry of summary judgment for the defendant in a leased-employee case. The decision was based on an insurance endorsement, adding the tortfeasor as an additional insured, and a purported waiver. MATA wrote in support of Molina's request for further appellate review.		
DiCarlo	Suffolk Const. Co., Inc.	SJC	SJC-11854	9/16/15	Amicus Brief	Plaintiff appealed the denial of an amended petition for approval of a settlement under G.L. c, 152, § 15; that denial was because plaintiff had allocated a too much of the settlement to non-economic damages as countenanced by *Curry v. Great American*, 80 Mass. App. Ct. 592 (2011). The Appeals Court reversed, as *Curry* is the law, but Justice Agnes's concurrence questioned the wisdom of *Curry*; the SJC granted FAR.	Affirmed and remanded. The SJC read the word "injury" in the first sentence of the statute as suggested in MATA's brief: non-economic damages are beyond the reach and immune from the application of a the lien. Excluding the value of damages for pain & suffering recovered in tort neither infringes on the insurer's right to reimbursement nor affords a plaintiff-employee double recovery. **Huge victory!**	Workers' compensation lien; Petition for approval of a settlement; G.L. c, 152, § 15; interpretation of statute
Zurich Insurance Company	Joseph and Janice Boyle	SJC	SJC-11791	3/19/15	Amicus Brief	Boyle made a bodily injury claim against Zurich's insured a garage policy. The insurer investigated the matter and after the claim was dormant for some time, closed the file. Boyle later sued the insured who went into default. After giving on notice of the assessment of damages hearing, plaintiff recovered a sizeable award and their individual claims against Zurich. But they pursued Zurich, as assignees of its insured, and recovered; the judge offset the settlement of the individual claims from the award on the assigned claims. Both the Boyle's and Zurich appealed.	Affirmed in part and reversed in part. The judge had not erred in holding Zurich had breached its duty to defend; under *Johnson Controls, Inc. v. Bowes*, 381 Mass. 278 (1980), an insured's failure to comply with a notice obligation in an insurance policy does not relieve the insurer of its duties under that policy unless the it demonstrates that it suffered prejudice as a result, and Zurich failed to do so. While there was no violation of G. L. c. 93A, the court concluded that the sum agreed upon to settle the Boyles' individual claims should not have been subtracted from the damages awarded to the Boyles as C&N's assignee.	Coverage; prejudice; offset; release
Murray	Town of Hudson	SJC	SJC-11816	3/17/15	Amicus Brief	A student baseball player from the visiting team was injured in the dugout during a game and sued the Town. Relying on the recreational use statute,	Reversed; the Town had a "special relationshop" with the student fron the visiting	Recreational Use Statue;

History of MATA's Amicus Committee filings

						a Superior Court Judge granted the Town summary judgment. The SJC transferred the case from the Appeals Court, *sua sponte.* The question was whether the statute applied to out-of-town players or whether there was a "special relationship" between the school and the visiting-team student such that there was no immunity.	school. To hold otherwise would be the height of unsportsmanlike conduct.	
Silverio, Homsi, and Gentile No. 70	Commerce Insurance Company	SJC	SJC-11706	2/23/15	Amicus Brief	Relying on an "operator exclusion form" Commerce, filed a DJ looking to avoid paying bodily injury coverage for a driver its insured had, when she signed the form two years earlier, said would not drive the insured car. He did and did so badly, causing devastating injuries. The Appeals Court affirmed the summary judgment for Commerce, concluding that the insured signing the form "ripened" into misrepresentation entitling Commerce to deny coverage. The SJC granted further appellate review.	Affirmed; the Appeals Court's well-reasoned decision was in order.	Misrepresentation; excluded operator form; denial of coverage; declaratory judgment
Sarkisian	Concepts Restaurants, Inc.	SJC	SJC-11786	2/2/15	Amicus Brief	Plaintiff fell on spillage on a dance floor in a saloon. She lost her tort case on summary judgment because she could not prove notice. The question before the court was whether the "mode of operation" approach sanctioned in *Sheehan* v. *Roche Bros. Supermarkets, Inc.*, 448 Mass. 780 (2007) applied to a bar. MATA argued that given the way the defendant ran the bar (a veritable pandemonium) it were on notice before there as a word for it!	Reversed. The mode-of-operation approach applied to the facts at hand.	Mode of operation; Restaurants
Johnson & Johnson	Reckis	SJC	SJC-11677	11/17/14	Amicus Brief	Drug manufacturers appealed a record verdict – $50 million for an injured child and $6.5 million for the consortium claims of each of her parents – in a failure-to-warn case. There were three issues: one was whether the claim was preempted under federal law; the second was whether the $63 million compensatory damages was supported by the evidence, or if it was in effect punitive and therefore subject to the due process limits. The last had to do with expert testimony.	Judgment affirmed. The SJC held that the "savings" clause in the federal statute did not exempt the products liability claim but there was no "conflict preemption" and the state-law claims survived. As to damages, they were not excessive and in any event the defendants had failed to create a record (by having the jury itemize the award) and had waived the objection by not asserting it timely in the trial court.	Negligence, Pharmaceutical manufacturer, Defective product, Adequacy of warning, Causation, Causing loss of consortium. Consortium. Parent and Child, Consortium. Federal Preemption. Witness, Expert. Evidence, Expert opinion, Qualification of expert witness. Damages, Tort, Future damages, Future earning capacity, Conscious pain and suffering, Loss of consortium
Sanchez	U.S.	SCOTUS	13-1249	5/23/14	Amicus Cert. Brief	Seeking further appellate review of the First Circuit's decision, the brief argues that the courts of appeals are conflicted over if, how, and when to apply the doctrine of equitable tolling to actions brought against federally-deemed employees which actions ought to have been (but were not) brought under the Federal Tort Claims Act (FTCA). In the Third, Seventh, and Ninth	On October 6, 2014, the first day of the Term, the Court denied plaintiff's petition for a writ of certiorari to the First Circuit.	Equitable tolling; statute of limitations; Federal Tort Claims Act

History of MATA's Amicus Committee filings

						Circuits equitable tolling applies to such actions dismissed on jurisdictional grounds. But in the First, as well as the Fourth and Eighth Circuits, the doctrine is only available in extraordinary instances. The Second Circuit is undecided but leaning toward applying the doctrine and the Tenth Circuit never applies it to such cases. The issue needs clarity.		
Auto Flat	Hanover Ins.	SJC	SJC – 11477	4/23/14	Amicus Brief	The issue here was whether an insured is entitled to recover multiple damages where, after the insured litigates a claim under G.L. c, 93A, § 11 for wrongful denial of coverage but before trial, the insurer fully reimburses the insured's losses, with interest and attorneys fees, such that, allegedly, there is no longer any "actual damages."	An insured may pursue a G.L. c. 93A, §11 claim against its insurer even, after litigation ensued, the insurer paid all of the damages. That amount would offset any damages awarded by the court. Without proof of "willful or knowing" violation, only single damages would be in order, in which case the amount accepted would be the damages, and the insured takes nothing. Had the insurer simply answered the complaint and tendered the amount with its Answer, and the insured had accepted it, there would have been no 93A claim at all.	Damages under 93A;
Roes	Children's Hospital	SJC	SJC – 11533	3/26/14	Amicus brief	Plaintiffs are a group of victims of a pedophile who, before he abused them, had worked for the defendant. Despite the defendant allegedly knowing of his evil ways it neglected to inform his new employer – where he went to work and ultimately abused the plaintiffs – of his sordid past.	Dismissal affirmed	Duty; Jurisdiction
Rose	Highway Equipment Co.	AC	2013-P-1215	2/20/14	Amicus Brief	In a products case the jury issues were negligence and breach of warranty. They found the defendant was negligent, plaintiff was more than 50% negligent, and that defendant had breached the warranty of merchantability. The issues on appeal were whether the defendant established plaintiff's subjective knowledge of the defect under the so-called *Correia* defense and whether the judge had erred reversibly when he charged the jury that was the implied warranty version of the contributory negligence defense.	The Appeals Court affirmed the judgment for the defendant, stating that proof of the "plaintiff's subjective knowledge of a product's defect need not be technically specific; 'it is enough to show that the plaintiff knew the product was defective in some way, rather than showing that it knew the technical elements of the defect.'" *Haglund v. Philip Morris Inc*., quoting *Cigna Ins. Co. v. Oy*	"*Correia* defense" or unreasonable use defense; products liability

History of MATA's Amicus Committee filings

							Saunatec, Ltd. The judge had instructed the jury it was the defendant's burden of proof to show that the plaintiff "knew of the product's defect and its danger" and explained that "prior to the accident, the plaintiff must have had knowledge of the product's defect, and the danger present, and must have proceeded to use the product with an appreciation of this known danger." This was a enough. As to the phrase "the implied warranty version in effect of the contributory negligence defense described earlier" that was likely meant to serve as an introductory signal to the jury, one that indicated that it was an affirmative defense, similar in general nature to the affirmative defense of comparative negligence that the judge had explained following the negligence charge.	
Wilkins	City of Haverhill	SJC	SJC – 11417	11/26/13	Amicus Brief	Based on his reading of G.L. c, 21, § 17C, the recreational use statue, Superior Court Judge Cornetta dismissed a case in which woman who had fallen on public school property as she was going in to attend her son's parent/teacher conference. The issue was whether her attending the conference was for an "educational purpose" as that term is used in the statute.	Reversed and remanded. The trial court	Recreational use statue
Gavin	Tewksbury Hospital	SJC	SJC – 11422	9/26/13	Amicus Brief	The trial court dismissed plaintiff's wrongful death claim under G. L. c. 258 which was otherwise timely and proper but fatally defective because it had not been made by the duly appointed representative of the estate. A divided panel of the Appeals Court and on further appellate review the SJC solicited input from *amici*. MATA argued that the Appeals Court put form over substance and that the appointment should "relate back" and to the presentment.	Vacated and remanded. The presentment was proper; the term "claimant" in G.L. c. 258, § 4 was not restricted to the legal entity, i.e. the personal representative of the estate.	Presentment under Chapter 258; estate;
Sheehan	Weaver	SJC	SJC-	9/5/13	Amicus	The issue was whether *McAllister v. Boston*	The statute imposes strict	Building; code violation

History of MATA's Amicus Committee filings

			11395		Brief	*Housing Authority* (1999) should be reconsidered in light of changes to G.L. c. 143, § 51. The case turned on the meaning of the word "building" in the statue.	liability on an owner or one in control of a "place of assembly, theater, special hall, public hall, factory, worship, manufacturing establishment or building" for damages caused by a violation of G.L. c. 143 and the Building Code. Overruling the footnote in McAllister, the SJC held that violation of § 51 applies to all buildings, and not only when one is fleeing a fire.	
Sanchez No. 60	U.S.	1st Circuit	No. 13-1333	7/1/13	Amicus Brief	Sanchez's wife had died in child birth after receiving substandard care from a community health clinic which, unbeknownst to him, employed doctors who had been deemed federal employees. Thinking he would be held to the three-year statute of limitation and not the Federal Tort Claims Act's shorter limitations period, Sanchez sued the doctors in state court. The U.S. Attorney removed the case and successfully moved to dismiss it based on the FTCA. Judge Gordon acknowledged that plaintiff had been caught in a "statute of limitations trap" but was bound by precedent. The appeal seeks to apply the concept of equitable tolling to vacate the dismissal and remand the case for trial.	While recognizing that deeming private doctors to be federal employees is a "trap for the unwary," the First Circuit affirmed, holding that the due diligence requirement for equitable tolling requires counsel to "make inquiry [of the putative defendants' potential federal status] (or, perhaps, simply sue within two-year limitations period of the FTCA.	Equitable tolling; statute of limitations
Mahoney	American Auto Ins. Co.	SJC	2012-P-00163	July 1, 2013	Amicus Committee letter	Superior Court Judge Chin denied coverage in the second of two cases arising out of a two-car crash. A divided panel of the Appeals Court affirmed.	Case settled before briefing and after MATA'S letter in support of FAR.	Coverage
Aleo	Toy's R Us	SJC	SJC – 11294	4/19/13	Co-signed Amicus Brief of AAJ	In this wrongful-death products-liability case which was tried to a Salem jury, they found for her estate and retuned an award of $2.6M in compensatory damages. Because they found there was gross negligence, they also awarded her $18M in punitive damages. The manufacturer appealed and both parries sought direct appellate review which the SJC granted.	The SJC held there was no error in the judge's evidentiary rulings or in permitting the plaintiff to argue that the product (a pool slide) was "illegal," and concluded that there was sufficient evidence to support the jury's findings of negligence, breach of warranty, and gross negligence. They also concluded that the award of punitive damages does not exceed constitutional limits.	Wrongful death; products liability; punitive damages
Golchin II	Liberty Mutual	SJC	SJC – 11305	3/27/13	Amicus Brief	This is the second time that the SJC has considered this case; the first was in SJC-10794, a case in which MATA filed an amicus in	The SJC held that the claimant is entitled to the Medpay benefits,	Medpay, medical expense, expense, incur, 'reasonable insured'

History of MATA's Amicus Committee filings

						December 2010. Again the issue presented was whether a claimant may seek medical expense benefits under the medical payments coverage (Medpay) of an auto policy where those expenses were covered and paid under a health-insurance policy. Defendant also argued that claimant never "incurred" any expenses for medical services within the meaning of the MedPay provisions because 211 Code Mass. Regs. § 52.12(8) (2008) prohibits medical service providers from billing patients for the charges of services covered by insurance, except for deductibles, copayments, or coinsurance.	notwithstanding the fact that the expenses were covered and paid under health-insurance policy. The auto policy only requires that there be expenses for medical services *sustained* as a result of bodily injuries in an accident by the vehicle or occupant; it does not say *who* must actually pay those expenses in order to trigger MedPay. This interpretation also represents "what an objectively reasonable insured, reading the relevant policy language, would expect to be covered."	
Cleber Coleta Dos Santos	Maria S. Coleta and Jose T. Coleta	SJC	SJC - 11188	1/7/13	Amicus Brief	Mr. Dos Santos got hurt when he tried to flip from a trampoline into a pool on property he rented from the defendant. He claimed that the landowner was negligent in putting the trampoline next to the pool and in failing to warn him of the danger of jumping from one into the other. The jury found for the defendant, the Appeals Court affirmed, further appellate review addressed the "open and obvious danger" rule.	SJC reversed. It held that a landowner had a duty to remedy an open and obvious danger where he had created and maintained that danger mindful that others would, as here, choose to encounter the condition despite the obvious risk of doing so.	Open and obvious danger
Willie Evans, As Executor of the Estate of Marie R. Evans	Lorillard Tobacco Company	SJC	SJC - 11179	11/30/12	Amicus Brief	In this wrongful death action brought by the executor of the estate of a woman who died from lung cancer caused by cigarettes manufactured by the defendant, the issues presented, among others, are: whether there was error in the award of prejudgment interest pursuant to G.L. c. 229, § 11, on the punitive damages portion of the award; whether the interest rate of 12% on the verdict, under G.L. c. 229, § 11 and the punitive damages are so excessive as to violate the Due Process Clause.	Judgment affirmed	Wrongful death; prejudgment interest
Lisa Klairmont and Michael Freeman, M.D.	Gainsboro Restaurant, Inc	SJC	SJC – 11154	11/2/12	Amicus Brief	Whether the wrongful death statute, G. L. c. 229, § 2, is the exclusive vehicle for awarding damages for a wrongful death; whether multiple damages and attorney's fees may be awarded in a wrongful death action based on violations of G.L. c 93A; whether a jury verdict in favor of defendants in a wrongful death action precludes a judge from awarding damages to plaintiffs for violations of G.L. c. 93A, based on the same facts. See *Specialized Technology Resources, Inc*. v. *JPS Elastomerics Corp*., 80 Mass. App. Ct. 841, 844-846 (2011).	The SJC agreed that the trial Judge could make a separate 93A finding, the jury verdict notwithstanding, but vacated the judgment and remanded the case for further findings on damages.	Wrongful death; 93A; causation

History of MATA's Amicus Committee filings

Diane P. Bolman	Plymouth Rock Assurance Corporation	Appeals Ct.	2011 - P -0237	7/12/12		An appeal from a corrected judgment of the Superior Court confirming an award following the arbitration of a claim by the plaintiff, Diane P. Bolman, as executrix of the estate of Natalie S. Parker, for damages against the defendant, Plymouth Rock Assurance Corporation (Plymouth Rock). The claim sought underinsured motorist benefits pursuant to a Massachusetts automobile insurance policy (the Plymouth Rock policy) issued to Parker	Pre-award Interest: Pre-award interest clearly is permitted by our case law, and such interest can be part of the damages a plaintiff "is legally entitled to recover" under G. L. c. 175, § 111D, inserted by St. 1959, c. 438, § 2. Reservation of Interest: Court concludes that the issue of pre-award interest properly was reserved because the reservation unambiguously was agreed to by the parties and the arbitrator.	Pre-award interest, arbitration
Edward Marcus	City of Newton & Others	SJC	SJC – 10984	5/7/12	Amicus Brief	Edward Marcus was injured during a softball game on a public field owned by the city of Newton (city). We consider the city's appeal, case was transferred from the Appeals Court on our own motion, from the denial of its motion for summary judgment, based on the ground that it was immune from suit pursuant to the recreational use statute, G. L. c. 21, § 17C. The city argues that the judge erred in denying its motion, and that it is entitled to immediate appellate review of the denial under the doctrine of present execution. Although we hold that the doctrine does not apply in the circumstances of this case, we nonetheless consider the merits of the city's appeal, and conclude the denial of its motion for summary judgment was appropriate.	City was not entitled under the doctrine of present execution to appeal immediately an interlocutory order denying its motion for summary judgment, where the plain text of the statute did not provide immunity from suit but only an exemption from liability for ordinary negligence. The judge properly denied the city's motion for summary judgment, where, in the circumstances (i.e., the city imposed a fee or charge on the entity that organized the softball league in which the plaintiff participated for the exclusive use of the field during reserved blocks of time; the entity paid the fee on behalf of its league players, including the plaintiff; and the plaintiff was injured while playing a game on the field during one of the reserved blocks of time), the city did not qualify, as a matter of law, for an exemption from liability for ordinary	Practice, Civil, Summary judgment, Interlocutory appeal, Execution. Governmental Immunity. Municipal Corporations, Governmental immunity. Negligence, Governmental immunity.

History of MATA's Amicus Committee filings

							negligence under the recreational use statute, G. L. c. 21, § 17C, given that the plaintiff was not participating in a recreational use of the city's property free of charge [; and given that there was no evidence in the summary judgment record that the fee charged was used to reimburse the city for marginal costs that it would not have incurred but for the league's particular use of the field during those reserved blocks of time.	
Rachel Juliano, Mark Juliano and Tracy Juliano	Peter Simpson and Jessica A. Simpson	SJC	SJC - 10843	8/24/11		Juliano and her parents filed a complaint in the Superior Court, initially naming only Dunbar and Peter Simpson as defendants but later adding others, including Jessica Simpson. The plaintiffs asserted that the defendants were liable on various claims under principles of common-law negligence. After a majority of counts against the Simpsons were dismissed on summary judgment, the plaintiffs amended their complaint to assert additional claims against Peter and Jessica. In relevant part, the plaintiffs alleged that Jessica was negligent for knowingly allowing Dunbar and other underage persons to possess alcohol on property under her control—conduct that the plaintiffs claimed violated G.L. c. 138, § 34 (statute). The Superior Court judge who had earlier granted the Simpsons' motion for summary judgment ruled, *sua sponte*, that the plaintiffs had presented insufficient evidence to support their allegations of social host liability. The judge dismissed the new claims and ordered entry of separate and final judgment on them, permitting this appeal to proceed while the claims against other defendants remain pending. See Mass. R. Civ. P. 54(b), 365 Mass. 820 (1974). The SJC granted the plaintiffs' application for direct appellate review of the dismissed social host liability claims against Jessica.	Judgment affirmed and remanded to trial court. SJC declined to expand the common-law duty of social hosts. Therefore, counts five and six of the plaintiffs' fifth amended complaint were properly dismissed. The matter is remanded to the Superior Court for further proceedings consistent with this opinion	Social host liability
Hatch, Dean F. and Mary L. Hatch No. 50	Trail King Industries, Inc.	1st Circuit	10-2153	3/17/11	Amicus Brief			Breach of Warranty; Personal Injury; Persons Injured; Duty of Care to Foreseeable Users; Product Liability

History of MATA's Amicus Committee filings

Joule, Inc.	Simons	SJC	SJC–10712	3/10/11	Appellate Brief	Former employer brought action against former employee for declaration that arbitration agreement was valid and binding on former employee, that she was required to submit to arbitration any claim against employer based upon facts alleged in Massachusetts Commission Against Discrimination (MCAD) complaint, and that she was precluded from acting as a litigant or party in any MCAD proceeding against former employer. The Superior Court Department, Suffolk County, Thomas E. Connolly, Paul E. Troy, JJ., denied former employer's motion to compel arbitration and stayed all further proceedings pending the outcome of MCAD proceeding. Former employer applied for direct appellate review which was granted.	(1) nothing in arbitration agreement precluded MCAD from proceeding with its investigation and resolution of employee's complaint; abrogating *Warfield v. Beth Israel Deaconess Med. Ctr., Inc.*, and (2) action was improperly stayed pending resolution of MCAD's investigation.	Arbitration; Employee/Employer; Massachusetts Commission Against Discrimination (MCAD); Discrimination; Civil Rights; Exclusivity; Alternative Dispute Resolution; Federal Arbitration Act (FAA);
Metropolitan Property and Casualty Insurance Company	Robert D. Morrison Jr., Brian Langelier and Meredith Langelier	SJC	SJC-10858	1/26/11	Amicus Brief	Homeowner's insurer brought declaratory judgment action, disclaiming any obligation to provide indemnity or a defense in underlying tort action based on injury sustained by police officer when insured resisted arrest and assaulted the officer. Insured counterclaimed, seeking declaration of coverage. After default judgment was entered against insured in underlying action, both insurer and insured moved for summary judgment. The Superior Court Department, Middlesex County, Bonnie H. MacLeod–Mancuso, J., entered summary judgment in favor of insurer, and declared that insurer had no duty to indemnify insured in the underlying tort action. Insured filed application for direct appellate review, which was granted.	(1) an insurer that has committed breach of its duty to defend is bound by factual allegations in underlying complaint as to indemnification where insured defaults and a default judgment enters; (2) "intentional and criminal acts" exclusion in policy would apply if insured intended to commit conduct that caused injury and if conduct was criminal; and (3) insured's guilty plea to resisting arrest and assault and battery did not negate insurer's duty to defend.	Insurance; Duty to Defend; Coverage, Liability Insurance; Conclusiveness and Effect of Prior Adjudication; Amounts Recoverable from Insurer; Risks and Losses; Intentional Acts or Injuries, Favoring Insureds or Beneficiaries; Disfavoring Insurers
Golchin, Diane	Liberty Mutual Insurance Co.	SJC	SJC-10794	12/21/10	Amicus Brief	Insured brought action against automobile insurer, alleging that, as a result of medical treatment for injuries that she had suffered in an automobile accident, she was entitled to payment of optional medical payment (MedPay) benefits pursuant to policy. Insurer alleged that insured was not entitled to MedPay benefits because she had already recovered payment for medical expenses through a separate health insurance policy. The Superior Court Department, Worcester County, C. Jeffrey Kinder, J., granted insurer's motion to dismiss, and insured appealed. The Appeals Court, 2010 WL 980426, affirmed.	(1) exhaustion of personal injury protection (PIP) benefits was sufficiently stated in documents outside pleadings; (2) Insurance Commissioner's bulletin did not have force of law and did not preclude insured's claim; (3) insurer could not take insured's health coverage into account when determining benefits; and (4) Division of Insurance regulations did not contain a general prohibition on	Insurance; Contracts and Policies; Rules of Construction; Coverage; Automobile Insurance; No–Fault Coverage, Medical Payments; Primary and excess insurance; Claims and Settlement Practices; Credits, Deductions, and Offsets; Settlement Duties, Settlement by First-Party Insurer

History of MATA's Amicus Committee filings

							double recoveries.	
Humphrey, Lena A. Administratrix of the Estate of Robert Humphrey	Florence Byron, Joanne Byron, and Byron & Byron	SJC	SJC-09449	12/1/10	Amicus Brief	Tenant's employee, who fell as he was descending the stairs, brought action against commercial landlord. The Superior Court Department, Plymouth County, Paul E. Troy, J., granted summary judgment to the landlord, and employee appealed.	Tenant had responsibility to keep the leased premises safe, as nothing in the lease imposed this responsibility on landlord.	Landlord and Tenant; Premises, and Enjoyment and Use Thereof; Injuries from Dangerous or Defective Condition; Nature and Extent of Landlord's Duty; Injuries to Employee of Tenant; Nuisances; Liability of Landlord to Tenant or His Employee
McGibbon, Michael	Ahmed Ebeid, M.D.	SJC	SJC-10767	7/29/10	Petition for Interlocutory Relief	Lawyer entered contingency fee agreement with client that was a car-accident victim and filed a med-mal claim. Attorney withdrew from representation for deterioration of the relationship and irreconcilable differences. The lower court found that the attorney could not withdraw from the contract for legal representation because the client did not agree to terminate the contract.		Contingency Fee; Specific performance; Withdrawing; Terminating representation; Hardship; Compelling a Lawyer To Pursue; Irreconcilable Differences; Attorney-Client Relationship
Papdopoulos	Target Corp.	SJC	SJC–10529	7/26/10	Appellate Brief	Pedestrian brought slip-and-fall action against parking lot owner and snow removal contractor. The Superior Court Department, Suffolk County, Merita A. Hopkins, J., granted defendants' motions for summary judgment. Pedestrian appealed, and the Appeals Court, 2009 WL 982133, affirmed. Pedestrian applied for further appellate review.	he Supreme Judicial Court, Gants, J., held that there is no distinction between natural and unnatural accumulations of snow and ice for purposes of a premises liability slip-and-fall claim; overruling *Aylward v. McCloskey*, 412 Mass. 77, *Sullivan v. Brookline*, 416 Mass. 825, *Karp v. Boott Mills*, 348 Mass. 768, and *O'Donoughue v. Moors*, 208 Mass. 473.	Slip-and-fall; Snow Removal; Parking Lot; Pedestrian; Accumulation of Snow and Ice; Safe or Dangerous Conditions; Negligence; Duty to Warn; Open and Obvious Doctrine; Premises Liability;
Law	Griffith	SJC	SJC–10463	7/20/10	???	Motorist filed negligence suit against driver of other vehicle, seeking to recover damages for injuries allegedly arising from automobile accident. The Superior Court Department, Middlesex County, Hiller B. Zobel, J., entered judgment, on jury verdict, for motorist, and awarded her $28,556.50. Motorist appealed. The Appeals Court, affirmed in part, vacated in part, and remanded. Driver filed application for further appellate review.	Granting application, the Supreme Judicial Court, Botsford, J., held that: (1) medical provider's bill was admissible on the question of the reasonable value of medical care for motorist's personal injuries, and (2) evidence of amounts actually paid to the provider was not admissible, but driver could show range of payments that provider accepted for types of services that motorist received.	Medical Care/Treatment; Medical Bill/Services; Payments; Documentary Evidence; Collateral Source Rule; Deterrence; Insurance; Reduction of Loss; Mitigation
Drumm, Jean	Viale	SJC	Appeals	4/27/10	Amicus	Employer and its workers' compensation insurer	The Appeals Court,	Workers' Compensation; Amount

History of MATA's Amicus Committee filings

A.	Florist, and Florists Mutual Assurance Co.		Court 2008-P-0051 F.A.R. 18776		Brief	appealed from a decision of the Industrial Accident Reviewing Board affirming the decision of an administrative judge and awarding employee double compensation.	Grainger, J., held that record did not support a determination that the employer's conduct attained a wanton and reckless disregard for safety that was quasi-criminal in nature, and as such, double compensation was not warranted.	and Period of Compensation; Increase or Reduction of Compensation; Misconduct; Employer's Misconduct; Failure to comply with safety statutes or orders
Conners, Janet	Northeast Hospital Corp., J. Marchese & Sons, Inc., William Charette, and William O'Hearn, d/b/a Bill and Bob General Contractors	Appeals Court	10-2153 02-P-59	3/17/10	Amicus Brief	Pedestrian brought negligence action against hospital, an employee, and two subcontractors, alleging slip and fall on accumulation of ice and snow in parking lot. The Superior Court Department, Essex County, Barbara J. Rouse, J., entered judgment on jury verdict finding hospital liable, but granted hospital's motion to reduce damages award under statute capping damages against charities. Pedestrian appealed.	The Supreme Judicial Court, Marshall, C.J., held that: (1) hospital was a "charity," and (2) snow removal directly accomplished its charitable purposes	Negligence; Slip and Fall; Ice; Snow; Snow Removal; Accumulation; Pedestrian; Capping Damages; Charities; Liability for Torts; Rights, Duties, and Liabilities of Charitable Societies and Trustees; Standard of Care, Reasonable and Ordinary
Sikorski No. 40		SJC	SJC-10481	12/11/09	Amicus Brief	Self-insured city appealed from decision of Industrial Accident Reviewing Board awarding workers' compensation benefits to teacher who was injured in skiing accident while acting as chaperone at ski trip for city high school's school-sponsored ski club. The appeal was transferred from the Appeals Court.	The Supreme Judicial Court, Cowin, J., held that teacher was acting in the course of her employment rather than merely engaging voluntarily in a recreational activity when she was injured, and thus, she was eligible for workers' compensation benefits. Affirmed.	Industrial Accident Reviewing Board; Workers' compensation; Accident; School trip; Chaperone; Recreation of employee; Course of employment.
Leavitt	Brockton Hosp.	SJC	SJC-10296	6/9/09	Amicus Brief ???	Police officer, who was injured in a traffic accident on his way to responding to an emergency call arising when a patient was struck by a vehicle while walking home from hospital, brought negligence action against hospital. The Superior Court Department, Plymouth County, Frank M. Gaziano, J., dismissed the action for failure to state a claim, and officer appealed.	After granting an application for direct appellate review, the Supreme Judicial Court, Marshall, C.J., held that: (1) hospital owed no duty to officer, and (2) officer's injuries were not caused by hospital. Affirmed.	Police officer; Traffic accident; Emergency; Negligence; Hospital; Negligence; Proximate cause
Foresta	Contributory Retirement Appeal Bd	SJC	SJC-10288	4/24/09	Amicus Brief	Claimant, an injured employee of the Massachusetts Turnpike Authority (MTA), appealed decision of the Contributory Retirement Appeal Board (CRAB), determining that he was not eligible for accidental disability retirement benefits. The Superior Court Department, Suffolk	After granting the application, the Supreme Judicial Court, Gants, J., held that claimant was not entitled to benefits. Affirmed.	Officers; Public Employees; Pension; Retirement; Benefits; Agents; Incidental benefits;

History of MATA's Amicus Committee filings

						County, Linda E. Giles, J., affirmed, and claimant filed application for direct appellate review.		
Sellers		SJC	SJC-10195	12/19/08	Amicus Brief	Workers' Compensation Trust Fund appealed decision of the Department of Industrial Accidents Reviewing Board requiring claimant's benefits to be calculated based on the combined wages of both claimant's insured employer and claimant's unlawfully uninsured employer. The Appeals Court, 71 Mass.App.Ct. 75, reversed and remanded.	After granting leave to obtain further appellate review, the Supreme Judicial Court, Marshall, C.J., held that claimant's benefits were required to be calculated based on his total average weekly wage, including wages received from insured employer. Affirmed	Workers' Compensation; Department of Industrial Accidents; Benefits; Earnings/Wages; Insured; Unlawfully uninsured; Employer/ Employee; Computation/ Calculation; Concurrent employment
Renzi	Paredes	SJC	SJC-10051	7/23/08	Amicus Brief	Administrator of patient who died of metastatic breast cancer brought wrongful death action predicated on medical negligence against internal medicine physician and radiologist. Following jury trial, the Superior Court Department, Essex County, Patrick J. Riley, J., entered judgment against both defendants.	Granting application for direct appellate review, the Supreme Judicial Court, Marshall, C.J., held that: (1) recovery for loss of chance of survival is appropriate when physician's breach of duty destroyed or diminished the patient's pre-negligence chance of survival to less than even, regardless of whether that pre-negligence chance was better than even or less than even; (2) a jury may find a defendant liable either for causing a patient's wrongful death, or for causing the patient's loss of a chance to survive, but not for both; (3) new trial on damages was required because jury questions and special verdict questions failed to employ the proportionate method for determining damages for loss of chance of survival; (4) digital images that were used as demonstrative aids were sufficiently authenticated and were admissible; and (5) defendants could be held jointly and severally liable. Affirmed in part, vacated in part, and remanded.	Administrator; Wrongful death; Medical negligence; Physician; Radiologist; Chance of survival; Damages; Digital images; Joint & several liability;
Matsuyama	Birnbaum	SJC	SJC-	7/23/08	Amicus	Executrix of patient's estate brought medical	Granting providers'	Executrix; Estate; Malpractice;

History of MATA's Amicus Committee filings

			09964		Brief	malpractice wrongful death action against health care providers, alleging a loss of chance of survival as result of misdiagnosing patient's cancer. The Superior Court Department, Norfolk County, Ernest B. Murphy, J., entered judgment on jury verdict awarding damages to estate for patient's pain and suffering and damages to patient's widow and son for patient's loss of chance.	application for direct appellate review, the Supreme Judicial Court, Marshall, C.J. held that: (1) plaintiff may recover for a loss of chance in a medical malpractice wrongful death action where the possibility of recovery was less than even prior to physician's tortious conduct; (2) plaintiff alleging loss of chance must prove by a preponderance of the evidence that physician's negligence caused likelihood of achieving a more favorable outcome to be diminished; (3) fact finder is required to undertake five-step series of calculations in deriving the damages for which a physician is liable under proportional damages method in a loss-of-chance case; (4) testimony by expert for patient's estate was sufficient to support findings that physician committed a breach of the standard of care and that, but for physician's breach of care, patient's chances of survival would have been greater; (5) proper test for causation in a loss-of-chance case concerning conduct of a single defendant is whether that conduct was the but-for cause of loss of chance; (6) special jury question did not force jury to find a loss of chance or preclude physician from arguing that there was no loss of a substantial chance of survival; and (7) instructions on gross negligence were warranted.	Wrongful death; Loss of chance of survival; Misdiagnosis; Pain and suffering; Proximate cause; Increased risk of harm; Diminished likelihood; Calculations; ; Increased risk of harm; Expert testimony; Medical testimony;

History of MATA's Amicus Committee filings

Moss		SJC	SJC-10056	6/30/08	Amicus Brief	Deceased employee's widow, who had been collecting dependent death benefits, appealed from decision of the Industrial Accident Reviewing Board which denied her claim for double benefits. The Supreme Judicial Court on its own initiative transferred the case from the Appeals Court.	(1) statutory establishment of prima facie evidence that a claim comes within the provision of the workers' compensation chapter when an employee has been rendered unable to testify by reason of injury or death occurring at the workplace does not establish prima facie evidence of the requirements for claim for double compensation; (2) evidence was sufficient to support findings that latch on truck's passenger door was securely fastened at time of fatal accident and that the door did not open during the accident as a result of any problem with the latch; (3) evidence was sufficient to support finding that neither truck's driver or company owner knew or had reason to know of facts which would lead a reasonable man to realize that his conduct not only created an unreasonable risk of bodily harm to another but also involved a high degree of probability that substantial harm would result; and (4) evidence was sufficient to support finding that truck's driver was not entrusted with or exercising powers of superintendence. Affirmed.	Dependent; Death benefits; Industrial Accident Reviewing Board; Double benefits; Workplace injury; Accident; Truck; Superintendence; Workers' compensation; Misconduct; Employer; Insurance; Employee
Iannacchino	Ford Motor Co.	SJC	SJC-10059	6/13/08	Amicus Brief	Owners of certain vehicle models filed class action against vehicle manufacturer and component part manufacturers, asserting claims including deceptive trade practices and breach of implied warranty. The Superior Court Department, Middlesex County, 2006 WL 4119642, Thayer Fremont-Smith, J., dismissed all counts as to vehicle manufacturer except breach of implied warranty and reported decision to Appeals Court.	(1) owners' deceptive trade practices claim did not adequately allege noncompliance with federal safety standards; (2) failure to adequately alleged noncompliance with those standards also warranted dismissal of breach of warranty claim;	Class action; Manufacturer; Deceptive trade practices; Breach of implied warranty; Federal safety standards; Motor vehicles; Consumer protection; Antitrust; Trade regulation; Misrepresentation; Reliance; Deception; Overpayment; Defective design; Rules Civ.Proc., Rules 8(a), 12(b)(6); 43A

History of MATA's Amicus Committee filings

							and (3) dismissal for failure to state a claim upon which relief may be granted does not require appearance, beyond a doubt, that plaintiff can prove no set of facts in support of claim that would entitle plaintiff to relief, abrogating *Nader v. Citron*, 372 Mass. 96, 360 N.E.2d 870.	M.G.L.A.
Wentworth, Cheryl D. as Administrator of the Estate of Timothy B. Wentworth, and Cheryl D. Wentworth	Henry C. Becker Custom Building, Ltd.	Appeals Court	SJC-10806	1/16/08	Amicus Brief	Legal representative of subcontractor's employee, who had been killed in explosion at general contractor's worksite, brought wrongful death action against contractor. Contractor alleged that its payment of workers' compensation claims on employee's behalf released it from representative's claims. The Superior Court Department, Essex County, Thomas R. Murtagh, J., entered summary judgment in favor of contractor, and representative appealed. The Appeals Court, 76 Mass.App.Ct. 507, reversed and remanded. General contractor filed application to obtain further appellate review which was granted.	The Supreme Judicial Court, Ireland, C.J., held that general contractor's payment of workers' compensation benefits did not release it from wrongful death claim brought by employee's legal representative.	Wrongful Death; Worker's Compensation Benefits; Release; Contractor; Employee; Failure to insure or to require insurance
Coombes	Florio	SJC	SJC-09869	12/10/07	Amicus Brief	Considered whether a physician owes a duty of care to someone other than his patient for harm caused by his failure to warn the patient of the effects of his treatment of that patient. The decedent, Kevin Coombes (Coombes), died of injuries he **[*184]** sustained when he was struck by an automobile driven by David Sacca. At the time of the accident Sacca was under the care of his physician, the defendant, Roland Florio. The plaintiff claims that the accident was caused when the side effects of the medication Dr. Florio prescribed caused Sacca to lose control of the automobile. The plaintiff sued Dr. Florio for negligence. [1] A judge in the Superior Court granted Dr. Florio's motion for summary judgment, on the ground that Dr. Florio owed no duty of care to anyone other than his own patient. The plaintiff appealed and we transferred the case on our own motion	Dr. Florio owes a duty of care to all those foreseeably put at risk by his failure to warn **[***3]** about the effects of the treatment he provides to his patients, I agree that this court should reverse the judgment of the Superior Court	Negligence; Doctor; Duty to warn; Foreseeability of harm; Causation; Doctor; Doctor-patient relationship; patient, doctor, side effects, medication, warning, owed, duty to warn, foreseeable, driving, warn, drive, special relationship, duty of care, prescribed, failure to warn, motor vehicle, prescription, owe, summary judgment, prescribed medications, physician-patient, foreseeably, reasonable care, physical harm,
Afarian No. 30	Mass. Elec. Co.	SJC	SJC-09873	5/30/07	Amicus Brief	Parents of passenger who died when vehicle struck utility pole brought wrongful death action, asserting claims for negligence, gross negligence, and willful or reckless conduct, relating to positioning of the utility pole along state highway, against electric utility and two	The Supreme Judicial Court, Greaney, J., held that: (1) the electric utility and the telephone companies did not owe duty of care regarding positioning of	pole, travel, driver, beer, utility pole, amend, alcohol, summary judgment, intoxicated, deviation, supermarket, telephone, highway, owed, ordinary course, foreseeable, placement, driving, foreseeability,

History of MATA's Amicus Committee filings

						telephone companies as joint owners of the utility pole, and asserting claims against store that was the alleged seller, to underage friend of intoxicated underage driver, of alcohol consumed by driver. The Superior Court Department, Suffolk County, S. Jane Haggerty, J., 2003 WL 25480636, granted summary judgment to electric utility and telephone companies, and the Superior Court Department, Nancy Staffier Holtz, J., 2004 WL 5031664, denied plaintiffs' motion to amend the complaint to add as defendant a supermarket that plaintiffs believed to be the actual seller of the alcohol. Plaintiffs appealed, and the appeal was transferred from the Appeals Court.	utility pole, and (2) plaintiffs were not entitled to amend the complaint. Affirmed.	traveling, underage, drunk drivers, passenger, collision, roadway, deviate, curve, front, wrongful death, legal duty; motor vehicles; foreseeability; defects.
Fletcher	Littleton	Appeals Court	2005 - - P1194	1/4/07	Amicus Brief	Tenants brought action against landlord, alleging, among other theories, a breach of the implied warranty of habitability in connection with a house fire that resulted in the death of three of their children. The Superior Court, Plymouth County,Charles J. Hely, J., entered judgment for landlord, and tenants appealed.	Use of knob-and-tube wiring with spray-in insulation in rental house did not constitute a per se violation of the warranty of habitability. Affirmed.	wiring, insulation, electrical, warranty of habitability, knob-and-tube, spray-in, sanitary codes, repairs, installation, theories of liability, building code, warranty, landlord, tenant, rental, heat, strict liability, code violations, amicus brief, light fixture, residential purposes, rise to liability, habitability, residential, appearing, sanitary, dwelling, fixtures, filled, rented
Richard K. Kerstgens		Mass. Dept. Ind. Acc.	Board No. 000590-96	5/22/06	Amicus Brief	The employee injured his back at work when he fell down a flight of stairs on January 3, 1996. He underwent surgery, but his unremitting pain kept him out of work. (Dec. 634.) In 1996, about six months after his industrial accident, the employee met and commenced a romantic relationship with Serenity Stearns. In early 2000, they were engaged and living together in his mother's summer home in New Hampshire, and Ms. Stearns was pregnant with their child. (Dec. 635.) As a result of the unbearable pain related to his work injury, and his unsoundness of mind, the employee committed suicide on February 8, 2000. (Dec. 636-637, 645- 646.) The employee's daughter was born on May 24, 2000. (Dec. 637.) Appealed administrative judge's decision denying her claim for § 31 death benefits.[FN4] The question of first impression is whether a daughter not conceived on the employee's injury date, but *in utero* at the time of her father's work-related death, may qualify as a dependent under the provisions of G. L. c. 152, § 32. The claimant attempted to establish dependency by utilizing the conclusive presumption in § 32(c). [FN5] The judge found § 32(c) inapplicable to the facts of the case.	Employee's daughter did not qualify as a dependent under that specific provision. That subsection confers the conclusive presumption of dependency on posthumous children conceived as of the date of the employee's work injury. There is nothing in the language of § 32(c) indicating that a child conceived in the time between the employee's work injury and the resulting death is conclusively presumed dependent. Case recommitted for findings on the issue of factual dependency "in part" under the last paragraph of§ 32.	Suicide; Dependent; Posthumous children; G. L. c. 152, § 32; Support; Pregnant; Industrial Accident Board

History of MATA's Amicus Committee filings

Pleva	P& F Brothers Industrial Corp	SJC	SJC-09602	3/9/06	Amicus Brief	Pleva initially brought suit against Pro-Tech Power, Inc. alone, with Counts for negligence and breach of warranty. His Second Amended Complaint added those same claims against P&F Brothers Industrial Corporation. He duly served P&F with process in July 1997 and a default entered in July 1998. After a default judgment entered, Pleva's case went to trial against Pro-Tech alone. The jury determined that Pro-Tech had done no wrong but that P&F's product was defective. They assessed Pleva's damages and the Court entered a $3 million default judgment against P&F on October 18, 1999 Two days later, its President claims, he "learned of the matter through Pro-Tech." The trial court Judge accordingly inferred that "P&F was monitoring [the case] and made a strategic decision not to respond." Consequently, the Court correctly refused to grant relief under Mass. R. Civ. P. 60 (b) (1), because P&F's neglect to answer was "due to its own carelessness." The inquiry should have ended there. Instead, the Court incorrectly considered and inexplicably granted relief under *4 Mass. R. Civ. P. 60(b)(6). Despite its Rule 60(b) (1) ruling, and despite recognizing that Rule 60(b) (6) "should not be used as an instrument for relief from deliberate choices which did not work out," the Court nonetheless granted relief based solely upon the purported "logical inconsistency" between the judgment against P&F and the finding of no causation against Pro-Tech.	(Brief filed, but case settled before argument)	Product liability; Manufacturer; Personal jurisdiction; Personal injury; Negligence; Breach of warranty; Joint and several liability; Distributor; Discovery
McCarty		SJC	SJC-09421	11/23/05	Amicus Brief	Employer and its insurer appealed from a decision of the Industrial Accident Reviewing Board which determined that fringe benefits must be included in determining unionized workers' compensation claimant's average weekly wages.	Transferring the appeal from the Appeals Court, the Supreme Judicial Court, Ireland, J., held that: (1) inclusion of fringe benefits in the determination of average weekly wages for a unionized employee working on an all-union public works project is required, and (2) employer and insurer did not having standing to raise equal protection claim. Affirmed.	Workers' compensation, fringe benefits, average weekly wages, public works project, insurer's, calculation, nonunion, wage rates, rates of wages, benefit plans, construction project, plain language, collective bargaining agreements, inclusion, package, earning, parity, injured employees, proposed interpretation, unemployment, injured worker, health insurance, pension plans, cash payments, anomalous results, supplementary, replacement, comparable, decrease, maximum
Clark, James G.	Beverly Health and Rehabilitation	SJC	SJC-08953	9/2/03	Amicus Brief	In wrongful death action, corporate health care providers sought protective order prohibiting counsel representing patient's estate from contacting providers' former employees on an ex	The Supreme Judicial Court, Greaney, J., held that "no-contact" rule of professional conduct did not prohibit	Attorney and Client; The Office of Attorney; Privileges, Disabilities, and Liabilities; Regulation of Professional Conduct; Relations,

History of MATA's Amicus Committee filings

	Services, Inc., Rebecca Reeve, as Personal Representative of the Estate of Henry M. Weiman, Carmen Anhorne, Beverly Enterprises, Inc., Beverly Enterprises-Massachusetts, Inc., Teresa L. Brosnihan, and Mary L. Davis					parte basis. The Superior Court, Suffolk County, Bohn, J., entered protective order. Estate unsuccessfully sought interlocutory relief in Appeals Court. A single justice of the Supreme Judicial Court, Cowin, J., granted relief from the orders, and reserved and reported the case	private contacts between estate's attorney and providers' former employees.	Dealings, or Communications with Witness, Juror, Judge, or Opponent; Standards, Canons, or Codes of Conduct
Fredette, Barbara A. Individually, and as Mother and Next of Friend of Cheval Tremblay and David J. Tremblay and Kevin B. Nugent as Guardian of David Tremblay AND Alexandra Fitzsimmons	A. Bruce Simpson AND Mini Coach of Boston, Inc.	SJC	08932 Appeals Court No. 2002-P-1550 AND 09008 Appeals Court No. 2003-P-0014	9/2/03	Amicus Brief	Workers' compensation claimant brought action against employer and co-employee, alleging that he was injured by exploding tire while repairing backhoe. After claimant settled with employer, the Superior Court Department, Norfolk County, Patrick F. Brady, J., granted summary judgment for co-employee. Claimant appealed.	The Supreme Judicial Court, Ireland, J., held that co-employee was acting in course of employment, and thus, had immunity under Workers' Compensation Act.	Workers' Compensation; Employee; Employer; Representative; Liable; Injured Persons; Third Party; Agents; Co-workers; Injury; Death; Effect of Act on Other Statutory or Common-Law Rights of Action and Defenses;
Lozoya, Ubaldo Sara Lozoya, and Osbaldo Lozoya	Diego Sanches, Statkus Engines, Ohio Casualty Group, Phillip McWaters d/b/a PDM Trucking,	Supreme Court of New Mexico	27,755	3/24/03		Plaintiffs who were traveling together at time of two separate automobile collisions brought negligence action in connection with those accidents, and one plaintiff's cohabitant asserted claim for loss of consortium. The District Court granted directed verdict in defendants' favor on loss of consortium claim and entered judgment pursuant to jury verdict that awarded damages in connection with first accident but not in connection with second accident. Plaintiffs appealed.	On certification from the Court of Appeals, the Supreme Court, Minzner, J., held that: (1) as matter of first impression, a claim for loss of consortium is not limited to married partners, but may be asserted by unmarried cohabitant who proves intimate familial relationship with victim; (2)	Marriage; Damages; Automobiles;

History of MATA's Amicus Committee filings

	and Scottsdale Insurance Co.						evidence supported existence of intimate familial relationship with respect to cohabitant's present claim for loss of consortium; (3) as to second accident, which involved a three-vehicle collision, evidence established that third driver who rear-ended middle car occupied by plaintiffs was negligent per se under traffic law; (4) evidence that one plaintiff's vehicle had been repossessed and foreclosure proceedings had been initiated on his house following accidents was properly excluded; and (5) jury award to one plaintiff of only $38,500 in unitemized damages in connection with first accident was not so unrelated to evidence as to shock the conscience.	
Keene, Dylan through his parents and next of friends, Kathleen and Robert Keene No. 20	Brigham and Women's Hospital, Inc.	SJC	08894 Appeals Court No. 2001-P-415	1/7/03	Amicus Brief	Minor brought medical malpractice action against hospital, seeking recovery for neonatal sepsis and meningitis that minor contracted as a newborn as alleged result of hospital's failure to administer antibiotics sooner than it did. Following pretrial hearing, the Superior Court Department, Norfolk County, Thomas E. Connolly, J., granted motion for default sanction against hospital and struck defense of charitable immunity. Subsequently, the Superior Court Department, Judith Fabricant, J., held hearing on the assessment of damages and entered damages award for minor. Both hospital and minor appealed. The Appeals Court, 56 Mass.App.Ct. 10, 775 N.E.2d 725, affirmed.	The Supreme Judicial Court granted leave for further appellate review. The Supreme Judicial Court, Greaney, J., held that: (1) fact that hospital did not, at time of order for production of records relating to newborn infant's care over a 20-hour period, have such records in its possession, custody, or control, justified imposition of a default sanction under doctrine of spoliation for failure to produce such records, and (2) trial judge lacked authority to strike statutory cap on damages recoverable against charitable organizations as a sanction for hospital's failure to produce records of care received by minor.	Charities; Construction, Administration, and Enforcement; Rights, Duties, and Liabilities of Charitable Societies and Trustees; Liability for Torts
Sharon	City of Newton	SJC	SJC-08671	6/10/02	Amicus Brief	Student who was injured while participating in a cheerleading practice at public school sued city,	(1) granting city's motion to amend its answer was not an	public policy, cheerleading, amend, sport, public school, minor child,

History of MATA's Amicus Committee filings

						alleging negligence and the negligent hiring and retention of cheerleading coach. The Superior Court Department, Middlesex County, Martha B. Sosman, J., granted city's motion to amend answer to add release as affirmative defense. Subsequently, the Superior Court Department, Leila R. Kern, J., granted city's motion for summary judgment.	abuse of discretion; (2) failure of student or her father to read and understand release which relieved city of any liability arising out of student's voluntary participation in cheerleading program did not avoid effects of release; (3) as a matter of first impression, although student repudiated release upon reaching age of majority, release, which student's father signed in his capacity as parent, remained valid; (4) enforcing releases signed by parent on behalf of student furthered public policy of encouraging youth athletic programs; and (5) student's participation in cheerleading program was adequate consideration for release.	extracurricular, summary judgment, athletic programs, causes of action, exculpatory, void, tort claims, years of age, extracurricular activity, pre-injury, parental, affirmative defense, ordinary negligence, municipality, nonprofit, ticket, matter of law, limitation of liability, age of majority, issues of material fact, unenforceable, encouragement, prerequisite, enforceable; School injury;
Hochen	Bobst Group, Inc.	1st Circuit	No. 00-1841.	5/16/02	Amicus Brief	Print worker, and administrator of estate of second worker, sued manufacturer of printing press to recover for injuries suffered by workers when press exploded, and asserting claims for products liability and negligence under Massachusetts law. The United States District Court for the District of Massachusetts, Douglas P. Woodlock, J., granted partial summary judgment to manufacturer. At trial on remaining claims, the District Court, Robert B. Collings, United States Magistrate Judge, excluded workers' expert's testimony, and granted judgment as matter of law to manufacturer. Workers appealed.	(1) workers failed to designate any expert testimony on purported design or manufacturing defects, or breaches of warranties in original design, manufacture, or construction of press; (2) district court did not abuse its discretion in excluding engineer's proposed expert testimony concerning manufacturer's upgrade of press; and (3) manufacturer had no duty to workers to synchronize electronic controls of press.	expert testimony, matter of law, voltage, explosion, infeed, web, technician, claims arising, electronic, repose, upgrade, signal, breach of warranty, summary judgment, electronic system, outfeed, scintilla of evidence, installation, tachometer, negligence claims, failure to warn, dryer, expert witness, synchronize, excluding, printing, deposition, causation, electronic controls, voir dire
Patriarca, Ellen L.	Center for Living and Working, Inc., et al.	SJC	SJC-08481	3/23/01	Amicus Brief	Employee brought action against corporation, its board of directors, and executive director for wrongful termination. Defendants filed motion for protective order seeking to bar employee from having ex parte contact with defendant's former employees. The Superior Court Department, Worcester County, Francis R. Fecteau, J., issued protective order. The Appeals Court, Charlotte A. Perretta, J., authorized interlocutory appeal. Upon grant of application for direct review.	The Supreme Judicial Court, Spina, J., held that: (1) all current and former employees were not represented for purposes of rule barring ex parte contact; (2) former employees of corporation were not represented; and (3) written confidentiality agreement	Trade and Business; Restriction of Competition; Wrongful Termination; Confidentiality Agreement; Professional Conduct; Relations, Dealings, or Communications with Witness, Juror, Judge, or Opponent.

History of MATA's Amicus Committee filings

							did not bar contact.	
Hoffman	Houghton Chemical Corp.	SJC	SJC-08401	7/19/01	Amicus Brief	Estates of deceased workers brought personal injury and wrongful death actions against manufacturers and suppliers of chemicals allegedly involved in explosion at ink manufacturing plant. The Superior Court Department, Middlesex County, Maria I. Lopez, J., entered judgments on jury verdicts in favor of defendants. Estates appealed.	(1) "Bulk transfer doctrine" was available as an affirmative defense to estates' products liability negligence claims; (2) "best position" language of bulk supplier doctrine instruction was not reversible error; (3) Occupational Safety and Health Administration (OSHA) regulations were relevant to standard of care employer owed to its workers to protect them from workplace hazards; and (4) judge properly declined to permit estates to capitalize on the fact that a supplier's safety manager did not testify.	Bulk, supplier, user, warning, duty to warn, intermediary, drum, manufacturer, chemical, failure to warn, warranty, sophisticated, purchaser, supplied, hazard, solvent, consumer, foreseeable, flammable, toluene, warn, empty, best position, reasonableness, industrial, breach of warranty, products liability, reasonable reliance, light-green, methanol; Wrongful death; Manufacturers; Explosion; Bulk supplier; hazards
Commonwealth	Ellis	SJC		4/14/99	Amicus Brief	Defendants who were indicted for insurance fraud moved to dismiss indictments or to disqualify Attorney General's office from prosecuting indictments on grounds that such office was not a disinterested prosecutor. The Superior Court Department, Worcester County, Robert H. Bohn, Jr., J., denied motion.	(1) Statutes providing for insurance company underwriting of insurance fraud investigations and prosecutions, and for referral of such cases to the Attorney General's office by an Insurance Fraud Bureau (IFB) financed by insurers, does not compromise disinterestedness of prosecutors so as to violate due process principles; and (2) defendants failed to demonstrate that statutes violated due process as applied to them.	Attorneys general, insurance fraud, prosecutor, insurer, disinterested, bureau, prosecutorial, indictment, appearance, funding, district attorney, fraudulent, workers' compensation, prosecuting, prosecute, constitutional rights, statutory schemes, investigator, bureaus, devote, rating, conflict of interest, process analysis, financial assistance, private interests, disqualify, personnel, impartial, evidentiary hearing, criminal contempt
McAllister	Boston Housing Authority	SJC		4/8/99	Amicus Brief	Tenant sued housing authority for injuries sustained in slip and fall on ice that had accumulated on exterior stairs of building. The Superior Court Department, Suffolk County, Margaret R. Hinkle, J., directed verdict for housing authority on claims for breach of implied warranty of habitability, breach of covenant of quiet enjoyment, and violation of lease, and entered judgment upon jury verdict for housing authority on negligence claim. Tenant appealed.	(1) jury's determination that housing authority was not negligent in removing ice from stairs precluded recovery on claims for violation of lease or breach of covenant of quiet enjoyment; (2) erroneous failure to introduce State sanitary and building codes into evidence was harmless; and (3) implied warranty of habitability did not apply to natural accumulation of ice	ice, snow, code provisions, warranty of habitability, completeness, verbal, work order, jurors, sanitary code, deposition testimony, lease, directed verdicts, new trial, deposition, introduce, evidence of negligence, building codes, sanitary, landlord, picture, quiet enjoyment, common areas, negligence claim, cross-examination, accumulation, stairs, rehabilitate, jury determination, defense counsel, circumstances surrounding

History of MATA's Amicus Committee filings

							and snow on building's exterior stairs	
Dominguez	Liberty Mut. Ins. Co.	SJC		3/3/99	Amicus Brief	Insured brought action against automobile insurer for refusing to pay personal injury protection (PIP) benefits in excess of $2,000 since the insured was covered by a health maintenance organization (HMO). The Municipal Court Department, Suffolk County, Raymond J. Dougan, J., entered summary judgment in favor of insurer. Insured appealed. The Municipal Court, Appellate Division, dismissed appeal. Insured appealed, and case was transferred.	The Supreme Judicial Court, Greaney, J., held that: (1) insured was not entitled to PIP benefits in excess of $2,000, and (2) denying these benefits did not violate equal protection clause.	Claimant, insurer, coverage, health insurance, injured party's, medical expenses, carrier, policyholder, personal injury, coordinate, provider, medical treatment, disability insurance, sentences, last sentence, automobile policy, policy of insurance, medical-related, compensated, sickness, dental, notice, automobile insurance, clear language, impose a duty, indemnified, no-fault, renew, motor vehicle, automobile accident
Pierce	Christmas Tree Shops, Inc.	SJC	SJC-07688	2/2/99	Amicus Brief	Injured plaintiff sued tort-feasor and health maintenance organization (HMO) perfected lien against plaintiff for medical expenses. After plaintiff and tort-feasor agreed on settlement, the Superior Court, Norfolk County, Elizabeth B. Donovan, J., ordered HMO to contribute to plaintiff's attorney's fees and costs. After granting HMO's application for direct appellate review	Abrams, J., held that HMO could not be required to pay any portion of plaintiff's fees and costs incurred in pursuing tort-feasor under medical lien statute.	Attorney's fees, tortfeasor, subrogation, lienholder, settlement, subscriber, equitable, injustice, hardship, insured's, health maintenance organization, underlying tort, required to pay, unambiguous, recovering, collected, silent, medical expenses, insurer
Premier Ins. Co. of Massachusetts	Furtado	SJC		12/15/98	Amicus Brief	Automobile liability insurer sought declaratory judgment on right to insist on release of insureds and to pay policy limits in absence of clear liability of both insureds. The Superior Court Department, Hampshire County, Wendie I. Gershengorn and Vieri Volterra, JJ., entered summary judgment in favor of accident victims' estates. Application for direct appeal was allowed.	The Supreme Judicial Court, Wilkins, C.J., held that insurer did not commit an unfair settlement practice by insisting on releases and refusing to pay the policy limits.	Policy limit, insured, reasonably clear, claimant, insurer's, unfair settlement practice, obligation to pay, motor vehicle, obliged to pay, duty to defend, insurance policy, interest-bearing, rule announced, per accident, underlying case, good faith, administratrix, counterclaim, declaration, coverage, commence, obliged, Unfair, settle, greatly
John F. Carr No. 10	Marjorie A. Howard, Administratrix [1]; New England Deaconess Hospital Corp.; Third-Party Defendant.	SJC	SJC-07473	1/22/98	Amicus Brief	Pedestrian sued psychiatric patient's estate for injuries sustained when patient jumped off hospital parking garage and landed on pedestrian, and estate filed third party claim against hospital seeking contribution, and for wrongful death. Pedestrian filed motion to compel hospital to produce incident reports regarding patient's death. The Superior Court Department, Suffolk County, Thomas E. Connolly, J., ordered incident reports produced for in cameral review. Hospital filed interlocutory appeal. Single justice of Appeals Court denied hospital's petition, and hospital sought review.	Single justice, O'Connor, J., reported matter to full Supreme Judicial Court. The Supreme Judicial Court, Fried, J., held that hospital produced sufficient evidence to show that incident reports were protected by medical peer review committee privilege, such that in cameral inspection was not warranted.	Peer, review committee, in camera, peer review, discovery, registration, privileged, medicine, work product, patient care, reporting, assurance, patient, review process, coordinator, statutory privilege, confidentiality, confidential, occurrence, reports required, subpoena,
Ellis		SJC	SJC-07457, SJC-07458	6/27/97	Amicus Brief	Attorneys were temporarily suspended by single justice of the Supreme Judicial Court, Abrams, J., from practice of law. Attorneys appealed.	The Supreme Judicial Court, Wilkins, C.J., held that suspensions were warranted for indictments against	suspension, temporary, indictment, disciplinary, issuance, search warrants, grand jury, probable cause, insurer, insurance fraud,

History of MATA's Amicus Committee filings

							attorneys and other facts that showed probability of ethical violations.	public interest, attorney-client, preponderance, firm
Clegg	Butler	SJC		3/12/97	Amicus Brief	Third-party claimant brought suit against tort-feasors' automobile insurer, alleging unfair settlement practices in violation of statute and seeking multiplication of damages under statute governing regulation of business practices for consumer protection. After third-party claimant settled personal injury claim with tortfeasors' primary automobile and excess insurers, bench trial was held on unfair settlement practices claims. The Superior Court, Middlesex County, Hiller B. Zobel, J., determined that auto insurer violated statute by failing to effectuate prompt, fair and equitable settlement of claim, entered judgment for claimant in amount of policy limits, and trebled judgment for willful and knowing violations. Cross-appeals were taken. The Supreme Judicial Court granted application for direct appellate review.	The Supreme Judicial Court, Fried, J., held that: (1) third-party claimant to automobile liability policy had statutory cause of action to recover against tortfeasor's insurer for failure to make timely settlement; (2) evidence supported determination that insurer violated duty to settle; and (3) because there was no judgment on underlying personal injury claim, which was eventually resolved by settlement, treble damages were limited to interest lost on money wrongfully withheld by insurer.	settlement, insurer's, claimant's, unfair, policy limit, demand letter, insured, reasonably clear, excess insurer, settlement practices, entry of judgment, effectuate, prompt, settlement offer, equitable, settle, primary insurer, tort claims, medical information, medical records, adversely affected, wrongfully, fault, settlement demand, investigator, arbitrator's, mediation, conclusions of law, recommended.
Murphy	Commissioner of Dept. of Indus. Accidents	SJC	S-6063	5/12/93	Amicus Brief	Workers' compensation claimant seeking to challenge administrative judge's denial of benefits sought declaration that statutory requirement that she file fee to proceed with counsel was unconstitutional, and moved for preliminary injunction precluding Department of Industrial Accidents from implementing and enforcing fee requirement. The Superior Court, Robert Malcolm Graham, J., denied the motion, and claimant petitioned for interlocutory relief. Single justice of the Appeals Court, Kenneth Laurence, J., granted relief and granted leave to take interlocutory appeal to full panel of Appeals Court.	After transferring the case on its own motion, the Supreme Judicial Court, Liacos, C.J., held that: (1) lack of live controversy would not preclude reaching merits of case, and (2) filing fee requirement violated state and federal constitutional equal protection guarantees.	Claimant, impartial, filing fee, classification, workers' compensation, rational basis, fee provisions, rationally, assistance of counsel, insurer, medical examination, frivolous appeals, medical examiner, examiner, equal protection, present case, standard of review, interlocutory, irrational, appearing, aggrieved, deter, injured workers, legislative purpose, pro se, industrial, predicate, infringe, rent, legislative classification
Royal-Globe Ins.	Theresa M. Craven	SJC		1/14/92	Amicus Brief	Automobile insurer sought declaratory judgment that it was not liable for uninsured motorist benefits due to insured's failure to give timely notice of hit-and-run accident. The Superior Court, Suffolk County, Elizabeth B. Donovan, J., granted summary judgment for insured, and appeal was taken.	(1) insured's notification to insurer of involvement in hit-and-run accident, given more than four months after accident and more than three months after insured's release from hospital, was not "prompt," as required to recover uninsured motorist benefits, and (2) insured's action to recover uninsured motorist benefits was action in contract for indemnification, subject to six-year limitations period	Notice, insured's, uninsured motorist, insurer, statute of limitations, personal injuries, disability, summary judgment, prompt, notify, limitations period, hit and run, practicable, matter of law, arbitration, undisputed, tortfeasor, promptly, intensive care, excused, contractual, subrogation, declaring, estoppel, estopped, subrogee, late notice, question of law, timely notice, prompt notice

History of MATA's Amicus Committee filings

							for contract actions, rather than three-year period for tort actions.	
Gagnon	Shoblom	SJC	No. Hd-5399	1/9/91	Amicus Brief	Appeal was taken from the order of the Superior Court, Hampden County, John F. Moriarty, J., which approved settlement of personal injury action brought by injured worker against third-party tort-feasor but reduced amount of attorney's contingent fee.	The Supreme Judicial Court, Nolan, J., held that court had no authority to reduce the fee, which no one challenged.	Settlement, fee agreement, insurer's, contingent, attorney's fee, reasonableness, recovered, woman's, personal injuries, truck.
Kszepka		SJC	No. in original	12/17/90	Amicus Brief	Worker sought review of decision of Industrial Accident Reviewing Board.	Greaney, J., held that lump-sum settlement may not affect another compensation award for different injury even if the insurer and worker in both awards are identical.	Settlement, shoulder, insurer, lump-sum, incapacity, lump sum, carriers, pain, single member, double recovery, workers' compensation, assigned.
Daly		SJC	SJC-4979	5/9/89	Amicus Brief	Workers' compensation insurer appealed decision of the Department of Industrial Accidents approving terms of settlement in claimant's third-party action.	(1) Insurer could be required to pay portion of contingency fee for claimant's attorney in third-party action, and (2) claimant was entitled to attorney fees and costs on appeal.	Insurer, settlement, attorney's fees, employee's attorney, reimbursement, unfair, compensation act, conflict of interest, legal fee, claimant, remedial, prevails, reply brief.
Anselmo	Reback	SJC	No. Br-4317	10/6/87	Amicus Brief	Appeal was taken from order of the Superior Court, Bristol County, George P. Ponte, J., which denied motion for preliminary findings that tape-recorded statement of deceased patient was admissible in malpractice action.	After ordering direct review on its own initiative, the Supreme Judicial Court, O'Connor, J., held that videotaped deposition taken by patient's attorney prior to filing suit in order to perpetuate her testimony was not admissible where defense counsel had not been given any notice of the taking of deposition.	Deposition, deceased person, declaration, notice, adverse parties, cross-examine, perpetuate, cross-examination, perpetuating, admissible, hearsay, good faith, personal knowledge, notaries public, own testimony, manner provided, perpetuation, video.
Morrissey	Peerless Ins. Co.	SJC	SJC - 4361	6/11/87	Amicus Brief	Insured brought action against automobile insurers to recover under uninsured motorist provisions for injuries sustained while operating regularly used, non-listed motorcycle. The Superior Court, Norfolk County, held that insured was entitled to recover uninsured motorist benefits, and insurer appealed.	The Supreme Judicial Court held that regular use exclusion precluded recovery of uninsured motorist benefits in excess of compulsory minimum amounts.	Coverage, underinsured, motorcycle, uninsured, motorist benefit, policy covering, per person, insurer, motor vehicle, motorist coverage, regular use, policy