



## EMPLOYER CAN BE SUED BY FORMER EMPLOYEE FOR POST-EMPLOYMENT RETALIATION

In *Psy-Ed Corp., et al. v. Klein & Schive v. Hirsch, et al.*, SJC-10722 (May 12, 2011), the Massachusetts Supreme Judicial Court relied on the broad remedial purposes of Massachusetts' anti-discrimination statute to hold that Sections 4(4) and (4A) of M.G.L. c. 151B, which prohibit retaliation and interference with a protected right under the statute, apply to post-employment conduct.

The MCAD filed a Brief of Amicus Curiae in the appeal arguing that retaliation and interference claims are not and should not be limited to current employees. In the *Schive* case, the Superior Court had concluded that an employer was liable for retaliation and interference with a former employee's protected right to file a charge of discrimination at the MCAD. The employer, upon learning that its former shareholder had filed an affidavit supportive of Schive in her MCAD case and that the MCAD had issued a probable cause finding in the matter, filed a multiple-count civil action against her that was determined to have no merit and to constitute both retaliation and abuse of process. In affirming the Superior Court's determination in the *Schive* matter that the employer's lawsuit against its former employee was retaliatory, the SJC held that both present and former employees are protected under M.G.L. c. 151B from such conduct by an employer or other person, even when it occurs after the employment relationship has terminated.

MCAD General Counsel Catherine Ziehl and Commission Counsel Simone R. Liebman filed the amicus brief in this case.