

# Susan E. Cohen

Partner

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## Practices

Alternative Dispute Resolution  
Professional Liability Litigation

## Bar Admissions

Commonwealth of  
Massachusetts

United States Court of Appeals  
for the First Circuit

United States Court of Federal  
Claims

United States District Court for  
the District of Massachusetts

## Education

Boston University, J.D., 1988

University of Massachusetts,  
B.A., *cum laude*, 1983

## Clerkships

New Hampshire Supreme Court,  
Justice William Batchelder, 1988  
– 1989

Nynex Information Resources,  
Litigation Law Clerk, 1986 – 1988

Silverman & Kudish, Law Clerk,  
1985 – 1986

## Overview

Susan is a partner in the firm’s Litigation Department, concentrating in the defense of professionals, including attorneys, accountants, real estate professionals, and others, as well as employment law and complex tort claims resulting in personal injury, wrongful death, and property damage. During over 30 years of practice, Susan has successfully handled hundreds of claims to advantageous resolution by agreement, dismissal, mediation, arbitration, and where necessary, trial and/or appeal to conclusion in state and federal courts. She also provides mediation and arbitration services for other parties’ disputes and mentors young lawyers in the business and practice of law.

Susan has represented professionals and corporations in claims arising out of public accountancy, legal services, employment and business practices, real estate transactions, bad faith claims, litigation, wrongful discharge, toxic torts, consumer and industrial products, asbestos, breast implants, food additives, and many other products. She has also represented property owners, managers, housing authorities, and municipalities in a variety of premises liability matters, including lead poisoning, negligent security, sexual abuse, construction, negligent supervision, slip and fall, and dram shop claims.

## Affiliations

- American Arbitration Association: Arbitrator, Mediator
- American Bar Association
- Boston Bar Association
- Defense Research Institute
- Frank J. Murray Inn of Court (President 2018-2020; Secretary 2016 – 2018; Board of Directors 2014 – 2016)
- Massachusetts Bar Association
- Massachusetts Board of Bar Examiners, Special Prosecutor

- Massachusetts Defense Lawyers Association
- Meeting House Childcare Association (President 2001 – 2002; Treasurer 2000 – 2001; Member, Board of Directors 1999 – 2000)
- Women’s Bar Association ADR Committee

## Articles & Seminars

Susan writes and lectures frequently to bar and professional groups, including national conferences of the American Bar Association and other national industry groups. Some recent examples are:

- Speaker, “Bench Meets Bar” panel of judges and senior trial attorneys speaking on keys to success in legal practice in and out of the courtroom along with personal anecdotes as to career trajectories and challenges. Boston University School of Law, 2019
- Television interview, “Legal Malpractice Claims and Defenses” on Discovering the Law television show Boston Community Public Access Television broadcast to Boston, Cambridge, Brookline, MA live and via replay on BNN, Vimeo, [www.discoverthelaw.com](http://www.discoverthelaw.com) and YouTube, 2019
- Speaker, “Avoiding Legal Malpractice Claims,” Massachusetts Bar Association, Feeding Your Legal Mind Lunch Series, 2018
- Ethics Commentator, “Hanging Your Shingle: Starting and Operating a Solo or Small Firm Practice,” MCLE Book, 1st Edition 2018
- Speaker, “Effective Mediation Advocacy,” Women’s Bar Association ADR and Women in the Courtroom Committees
- Speaker, Cyber Fraud: Ransomware and Business Email Compromise – How to Avoid Becoming a Victim and What to do if it Happens to You, New England Land Title Association (“NELTA”) Seminar
- Speaker, 19th Annual MCLE Real Estate Conference, Malpractice Claims: Common Claims in Residential Real Estate Transactions and How to Avoid Them
- Presenter, “Attorneys’ Duties Respecting Data: Security, Breach Reporting and Practical Solutions for Malpractice Avoidance,” Piling on: The Modern Lawyer’s Relationship with Data, Massachusetts Bar Association
- Lecturer, “Ethical Issues in Trial and Settlement©;” Judge, Trial Skill Class, National Institute for Trial Advocacy (NITA®)
- Presenter, “Causation: The “So What” Defense,” American Bar Association (“ABA”) National Legal Malpractice Conference, New Orleans
- Author, Law Governing Professionals’, Officers’ and Directors’ Liability  
52-3 Tort, Trial & Ins. L.J. 597 (2018)  
49 Tort, Trial & Ins. L.J. 377 (2013)  
48 Tort, Trial & Ins. L.J. 443 (2012)  
46 Tort, Trial & Ins. L.J. 546 (2011)  
45 Tort, Trial & Ins. L.J. 547 (2010)  
44 Tort, Trial & Ins. L.J. 679 (2009)  
41 Tort, Trial & Ins. L.J. 651 (2006)  
40 Tort, Trial & Ins. L.J. 705 (2005)

- Presenter, “A Pound of Cure: Claim Repair in Legal Malpractice claims©,” CNA Accountants and Lawyers Defense Network (ALADN)
- Faculty, “Effective Negotiation Techniques: Reaching Agreement Legal and Ethical Obligations of Insurers and Their Lawyers when Negotiating Claims©,” Swiss RE Insurance Co. (CE credits by TX, FL, NH, WY, OK; CLE credits by MO, KS, IL)
- Presenter, “How Carriers, Law Firms, and Defense Counsel Can Best Work Together to Reduce LPL Risks and Minimize Costs,” ACI, National Legal Malpractice Conference, New York
- Presenter, “Thriving in Challenging Times: A Law Practice Toolbox for Solos and Small Firms,” Boston Bar Association
- Presenter, “Managing the Client Relationship,” Boston Bar Association CLE Seminar
- Faculty, “Effective Mediation Techniques©,” CNA, Monitor Liability, Managers, GE Insurance Solutions, Lawyer’s Protector Plan and others (CE credits by TX, FL, NH; CLE credits by MO, GA, IL, CA, FL)
- Presenter, “Defense View of Initial Stages, Use of Evidence at Trial and Evaluation of Damages,” “Massachusetts Continuing Legal Education, Personal Injury Basics Seminar
- Presenter, “Practical Effects of Proposed SJC Rules Change to Require Attorneys to Report Malpractice Coverage Status,” Boston Bar Association Professional Liability Committee Seminar
- Presenter, “Introduction of Evidence at Trial,” “How to Take Depositions,” Massachusetts Continuing Legal Education Trial Practice Series
- “Common Problems in Residential Real Estate Practice”
- “A Guide to Defending Claims Against Owners and Managers of Residential Rental Properties and Related Coverage Issues”

## Representative Cases

- Successfully asserted Actual Innocence Doctrine to obtain immediate case dismissal of legal malpractice complaint relating to four year double jeopardy incarceration and 93A claims related to case billing; Westlaw at 2017 WL 563920 and *Massachusetts Lawyers’ Weekly* No. 09-041-17 (Ricciuti, J.)
- Obtained full case dismissal with cost order at trial on legal malpractice claims that attorneys failed to prevail below on claims that life insurance company wrongfully denied coverage based on the good health clause.
- Obtained summary judgment dismissal of legal malpractice claim based on three year statute of limitations despite continuing representation by establishing that plaintiff had knowledge of appreciable harm sufficient to prevent continuing representation doctrine from tolling the applicable statute of limitations.
- Obtained a defense verdict after the closing attorney/real estate title agent admitted liability for closing on and insuring over a residential real estate purchase with an open cloud on title (attorney/title agent real estate closing error – defense verdict).
- Obtained a directed verdict in a legal malpractice case wherein the attorney missed the statute of

limitations for filing an underlying nursing home negligence personal injury claim.

- Successfully defended lead attorney parties against a \$112 million malpractice counterclaim by defeating all legal malpractice claims and obtaining fee claims awards of approximately \$2.5 million (longest legal malpractice trial – defense verdict with fee awards).
- Succeeded in trying a liability case with disputed damages to a \$0 defense (faulty mortgage foreclosure – defense verdict).
- In a wrongful death case, successfully asserted claims that the Massachusetts Recreational Use Statute, which is usually advanced on behalf of city, town and government actors, should be applied to private property owner defendants in this case, and obtained a settlement wherein the client paid only \$30K to settle at mediation *before* the case was prepared for trial.
- Counseled and defended for-profit and nonprofit organizations on discrimination, retaliation, termination, breach of contract and compliance with various state and federal law governing the employment relationship.
- Successfully defended lead poisoning claims made against property owners, landlords, property managers and rent subsidy administrators.

## Awards

- *Super Lawyers* (2011-2022)
- “Top Women of Law,” *Massachusetts Lawyers Weekly* (2018)



## Interests

- Member, Leventhal Sidman JCC, Newton, MA (1994 – Present)
- Member, Temple Beth Avodah, Newton, MA (2002 – 2017)