

# Table of Contents

<b>1. Administrative and Municipal Law</b> .....	1-1
Introduction to Administrative Law .....	1-4
Legislative Update .....	1-4
LD129 Resolve Chapter 24.....	1-4
LD 310, An Act Regarding Indirect Lobbying .....	1-4
Law Court Cases .....	1-5
Land Use .....	1-5
Sovereign Immunity.....	1-6
Tax .....	1-7
Public Utilities .....	1-8
Superior Court Cases.....	1-9
Land Use .....	1-9
Eminent Domain/Procedure .....	1-10
Freedom of Access Act.....	1-10
Professional Licensing .....	1-11
Blank Note Pages .....	1-13

*Materials prepared by: Mary K. Kahl, Esq.*

<b>Municipal Law Review</b> .....	1-17
Maine Legislative Update .....	1-19
Case Law .....	1-29
Maine Law Court Decisions.....	1-29
Maine Superior Court Decisions.....	1-32
U.S. Supreme Court Decisions.....	1-35
U.S. Court Appeals, 1 <sup>st</sup> Circuit.....	1-36
Exhibit A – Memorandum of Decision .....	1-38
Blank Note Pages .....	1-41

*Materials prepared by: William S. Kelly, Esq. with the help of Kristin Collins, Esq.*

<b>2. Civil Procedure and Evidence</b> .....	2-1
Introduction.....	2-3
Evidence Cases .....	2-3
Expert Witnesses and Testimony .....	2-3
Prejudicial Potential vs. Probative Value .....	2-6
Hearsay .....	2-8
Form of Evidence: Effect of Certified Copies.....	2-9
Reputation Testimony: Reputation for Untruthfulness .....	2-9
Lawyer-Client Privilege.....	2-9
Civil Procedure Cases .....	2-15
Service of Process: Service by Publication.....	2-15
Statutes of Limitation.....	2-16
Contribution: Extinguishment of Contribution Claims .....	2-20
Motion Practice.....	2-20
Judgment.....	2-27
Courts and Jurisdiction.....	2-29
Appeals-Variou Issues.....	2-32
Recent Rule Changes .....	2-38
Appellate Rule Amendments .....	2-39
Blank Note Pages .....	2-51

*Materials prepared by: Bill D. Robitzek, Esq. and Paul F. Macri, Esq.*

<b>3. Corporate and Commercial Law</b> .....	3-1
Corporate Law Introduction .....	3-3
Case Law Developments .....	3-3
Legislative Developments .....	3-15
Blank Note Pages .....	3-17

*Materials prepared by: Gregory S. Fryer, Esq. with the assistance of Misti D. Munster, Esq. and Brian R. Patterson, Esq.*

<b>Commercial Law Introduction</b> .....	3-21
Case Law Developments .....	3-21
Legislative Developments .....	3-27
Blank Note Pages .....	3-33

*Materials prepared by: David L. Galgay, Esq. with the assistance of Misti D. Munster, Esq. and Brian R. Patterson, Esq.*

<b>4. Criminal Law</b> .....	4-1
U.S. Supreme Court .....	4-3
First Circuit .....	4-11
Law Court .....	4-19
PowerPoint Presentation .....	4-35
Blank Note Pages .....	4-61

*Materials prepared by: Donald W. Macomber, Esq.*

<b>Maine Criminal and Motor Vehicle Statutory Changes 2009</b> .....	4-65
Changes to Title 17-A .....	4-66
Changes to Title 29-A .....	4-76
Changes to Court Appointed Counsel System .....	4-79
Bureau of Motor Vehicles – New Rules on Ignition Interlock Devices .....	4-89
Blank Note Pages .....	4-105

*Materials prepared by: Walter F. McKee, Esq.*

<b>5. Elder Law</b> .....	5-1
MaineCare Medical Assistance Manual – New Edition August 2009 .....	5-3
Miscellaneous Attachments .....	5-15
PowerPoint Presentation .....	5-25
Blank Note Pages .....	5-33

*Materials prepared by: Mark J. Nale, Esq.*

Elder Law Review – Part 2 .....	5-37
Pending Rulemaking for MaineCare Estate Recovery Rules .....	5-37
Long-Term Care Partnership .....	5-37
Relevant Case Law .....	5-39
New POMS Section on Trusts .....	5-40
Update on Veterans Administration Pension Benefits .....	5-40
McKinney Decision on Elective Share .....	5-44
Blank Note Pages .....	5-63

*Materials prepared by: Martin C. Womer, Esq.*

<b>6. Employment Law I &amp; II: For the Beginning Practitioner and the More Experienced Practitioner</b> .....	6-1
New Maine Legislation .....	6-3
Other Maine Updates .....	6-6
Equal Employment Opportunity Commission (EEOC) Update .....	6-6
Other Federal Updates .....	6-7
New Case Law .....	6-8
U.S. Supreme Court .....	6-8
First Circuit .....	6-11
Maine Federal District Court .....	6-15
Maine Law Court .....	6-25
Blank Note Pages .....	6-31

*Materials prepared by: Annie-Marie L. Storey, Esq. and Frank T. McGuire, Esq..*

<b>7. Environmental Law</b> .....	7-1
Land .....	7-3
Site Location of Development Law .....	7-3
Natural Resources Protection Act / Wetlands .....	7-4
Stormwater Regulation .....	7-7
Municipal Land Use Regulations.....	7-10
Land Use Regulation Commission.....	7-13
Summary of Other Significant 2009 Land-Related Maine Legislation.....	7-14
Water.....	7-16
Fish Passage at Dams.....	7-16
Ocean Energy.....	7-18
Water Rights .....	7-19
Clean Water Act – <i>Entergy Corp. v. Riverkeeper, Inc.</i> .....	7-21
EPA Revisions to Oil SPCC Rule.....	7-22
Summary of Other Significant 2009 Water-Related Maine Legislation .....	7-23
Air .....	7-26
Greenhouse Gases.....	7-26
Maine DEP Implements BART .....	7-27
MACT Standards .....	7-28
Recently Adopted Maine DEP Air Regulations.....	7-29
Current/Upcoming Maine DEP Air Regulations.....	7-29
Summary of Other Significant 2009 Air-Related Maine Legislation.....	7-30
Remediation and Waste Management .....	7-32
Solid Waste .....	7-32
Hazardous Waste .....	7-34
Summary of Other Significant 2009 Waste-Management-Related Maine Legislation.....	7-36
Endangered Species .....	7-38
Federal Endangered Species Act.....	7-38
Federal Bald and Golden Eagle Act.....	7-42
Maine Endangered Species Act .....	7-42
Enforcement .....	7-43
State Enforcement.....	7-43
Federal Enforcement.....	7-43
Recent Enforcement Cases.....	7-44
PowerPoint Presentation .....	7-47
Blank Note Pages .....	7-61

*Materials prepared by: Matthew D. Manahan, Esq. and Brian M. Rayback, Esq.*

<b>8. Ethics/Professional Responsibility</b> .....	8-1
Research Resources Relating to the Rules of Professional Conduct .....	8-3
Current Maine Rules .....	8-3
ABA Model Rules.....	8-3
Other Research Resources .....	8-3
Comparison of New Maine Rules of Professional Conduct to Former Maine Code of Professional Responsibility and to ABA Model Rules of Professional Conduct.....	8-4
Introduction.....	8-4
Variances from the Former Maine Code.....	8-5
Variances from the ABA Model Rules .....	8-6
Consistency with the ABA Model and The Former Maine Code .....	8-8
PowerPoint Presentation .....	8-11
Blank Note Pages .....	8-35

*Materials prepared by: Clifford H. Ruprecht, Esq. and Nora Sosnoff, Esq.*

<b>9. Family Law</b> .....	9-1
Cases .....	9-3
Pension / Omitted Property .....	9-3
Pension / Social Security.....	9-4
DHHS – Substantiation of Abuse .....	9-5
Spousal Support – Modification.....	9-6
Spousal Support .....	9-7
Review of Magistrate’s Orders – Waiver / Equitable Estoppel / Standard of Review .....	9-8
Protection from Abuse Orders – Collateral Consequences .....	9-9
Non-Marital Property – Uniform Partnership Act .....	9-10
Non-Marital Property – Transfer Between Spouses.....	9-10
Relocation / Domestic Violence.....	9-11
Child Support.....	9-12
Child Support: Modification .....	9-13
Child Support / Substantially Equal Care .....	9-15
Finality of Judgment .....	9-16
Post-Judgment Motions.....	9-16
Guardianship Termination .....	9-16
Adoption .....	9-18
Jurisdiction: UCCJEA / PKPA: Child Support: DHHS .....	9-20
Constructive Trust.....	9-22
Contempt.....	9-22
Termination of Parental Rights/Child Protective Proceedings.....	9-23
Statutes .....	9-30
An Act to Allow the Award of Court Costs or Attorney’s Fees in Protection from Harassment Actions .....	9-30
An Act to Modify Child Support Enforcement Procedures and Requirements.....	9-30
An Act to Authorize a Court to Appoint a Parenting Coordinator to Assist in Domestic Relations Actions .....	9-30
An Act Concerning the Automatic Dissolution of Certain Marriages .....	9-35
An Act to Improve Child Support Collection Procedures by Changing the Process of Modifying a Child Support Order.....	9-35
An Act to Increase Child Support Collection by Expanding the New Hire Reporting Requirements .....	9-35
An Act to Increase the Evidentiary Standard Required to Establish a Guardianship.....	9-35
An Act to Adopt Amendments to the Uniform Interstate Family Support Act.....	9-35
Administrative Orders.....	9-35
Access to Social Security Numbers and Qualified Domestic Relations Orders (“QUADROS”), JB-09-2, Effective 4/1/09.....	9-35
Public Information and Confidentiality, JB-05-20 (A. 05-09), Effective 2/27/09 .....	9-36
Revised Court Fees Schedule and Document Management Proc., JB-06-26 (A. 08-09), Effective 7/31/09 .....	9-36
Family Division Rules.....	9-36
Forms	
Family Matter Summary Sheet - FM-002 (02/09) .....	9-38
Complaint for DV (w/children) - FM-004 (09/09).....	9-39
Complaint for DV (w/out children) - FM-005 (09/09).....	9-41
Complaint for Determination of Paternity, Parental Rights and Resp., Child Support - FM-006 (09/09) .....	9-42
Child Support Worksheet - FM-040 (02/09).....	9-44
Certificate in Lieu of Financial Statement - FM-042 (01/09) .....	9-46
Child Support Affidavit - FM-050 (02/09) .....	9-47
Motion to Modify - FM-062 (01/09).....	9-49
Forms - Continued	
Motion to Enforce - FM-070 (01/09) .....	9-52
Child Support Order - FM-132 (02/09).....	9-55
Immediate Income Withholding Order - FM-133 (02/09) .....	9-57
Social Security Number Confidential Disclosure Form - CV/CR/FM/PC-200 (02/09).....	9-58
Scheduling Order (Contempt) - FM-137 (02/09).....	9-59
Case Management Order - FM-138 (01/09).....	9-60
Family Matter Summons and Preliminary Injunction - FM-038 (01/09).....	9-63
Defendant’s Motion to Dissolve Temp. Order for Protection / Motion to Modify/Amend - PA-010 (08/09) .....	9-65
Plaintiff’s Pre-Judgment Motion to Dismiss Complaint - PA-012 (01/09).....	9-67

Forms In Use - Not Found on Websites

Deferral of Case Management Conference - FM-073 (01/09) .....	9-68
Scheduling Order on Post-Judgment Motion to Enforce - FM-076 (01/09) .....	9-69
Family Matter Scheduling Order - FM-072 (01/09) .....	9-70
Family Division Pretrial/Status Conference - FM0139 (01/09) .....	9-71
Important Warning .....	9-73
Blank Note Pages .....	9-75

*Materials prepared by: Kristin A. Gustafson, Esq.*

<b>10. Real Estate Law</b> .....	10-1
Introduction .....	10-3
Cases .....	10-3
Adverse Possession; Boundary Disputes; Quiet Title .....	10-3
Agreements, Deeds, and Covenants .....	10-3
Easements; Roads and Highways .....	10-4
Foreclosure and Mortgages .....	10-6
Implied Rights .....	10-6
Riparian Rights .....	10-7
Takings .....	10-7
Zoning and Land Use .....	10-8

*Materials prepared by: John A. Cunningham, Esq.*

<b>11. Torts and Insurance</b> .....	11-1
Insurance Coverage Developments .....	11-3
Liability Insurance Coverage Issues .....	11-3
Statutory Developments .....	11-13
Uninsured Motorist Coverage .....	11-15
Statutory Attachment – An Act to Ensure Adequate Insurance Coverage for Family Child Care Providers .....	11-17
Statutory Attachment – An Act Regarding Subrogation of Medical Payments Coverage .....	11-19
Blank Note Pages .....	11-21

*Materials prepared by: James D. Poliquin, Esq.*

<b>Developments in Maine Tort Law</b> .....	11-25
Introduction .....	11-25
Negligence Theories .....	11-25
Professional Liability .....	11-29
Strict Liability .....	11-33
Intentional Torts .....	11-35
Tortious Interference .....	11-37
Defamation .....	11-39
Other Tort Principles .....	11-42
Statutes of Limitations .....	11-45
Recent Statutory Modifications .....	11-45
Blank Note Pages .....	11-47

*Materials prepared by: Louise K. Thomas, Esq.*

<b>12. Trusts and Estates</b> .....	12-1
PowerPoint Presentation .....	12-3
Exhibit A – Retirement Plans .....	12-25
Exhibit B – Restrictions on Certain Payments from Retirement Plans .....	12-31
Blank Note Pages .....	12-33

*Materials prepared by: Richard J. Abbondanza, Esq.*

<b>13. Casemaker 2.1</b> .....	13-1
Online User Guide .....	13-3
Frequently asked Questions (FAQ) .....	13-23
Blank Note Pages .....	13-31

*Materials prepared by: Lawriter LLC*