

Peter Netburn, Kevin O'Connor and Michael Kinton Co-Author Article for Massachusetts Chapter of the Federal Bar Association's Winter 2020 Newsletter

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Peter Netburn, Kevin O'Connor and Michael Kinton authored an article entitled, "Collusive Consent Judgment that was not Subjected to a Judicial Reasonableness Review is not the Basis for a Chapter 93A Damages Award" published in the Massachusetts Chapter of the Federal Bar Association's Winter 2020 Newsletter and the Massachusetts Defense Lawyers Association's January/February 2021 Newsletter. The article focuses on the First Circuit's rejection of the appellant's argument in *Capitol Specialty Ins. Co. v. Higgins*, 953 F.3d 95 (1st Cir. 2020) that the stipulated consent judgment in the underlying tort case, which was neither reviewed nor endorsed by the court, should form the basis for a Chapter 93A damages award against the tortfeasor's liability insurer. Peter, Kevin and Michael conclude that courts in future cases applying Massachusetts law will not enforce underlying consent judgments against insurers unless there is a clear absence of collusion and there is evidence that a consent judgment was subject to judicial review with the opportunity for the insurer to participate.