

Design Professionals Roundtable Recap: *Boston University v. Clough Harbour*: Implications and Strategies for Design Professionals

September 2, 2025

On September 2, 2025, MG+M The Law Firm hosted a roundtable, “*Boston University v. Clough Harbour*: Implications and Strategies for Design Professionals.” Moderated by MG+M Partner [David Hatem](#), the panel featured Abbie Goodman (ACEC/MA), John Nunnari (AIA Massachusetts), Bill Edwards (Stantec), and MG+M Partners [Kelly Martin Malone](#) and [Howard Goldberg](#). Together, they explored the decision’s significant implications for design professionals and strategies for managing risk in this evolving landscape.

Key Takeaways

- + **Extended Liability Exposure**
The SJC ruled that contractual indemnification claims are not barred by the six-year statute of repose, significantly extending potential liability for design professionals.
- + **Contractual Risk Allocation Is Critical**
Indemnity provisions should be carefully aligned with professional liability insurance coverage. Recommended strategies include limiting indemnity to third-party claims, establishing explicit time limits, and including limitation of liability clauses.
- + **Practice Considerations**
Design professionals now face new challenges around document retention, reputational risk on public-use projects, and claims linked to inadequate owner maintenance.
- + **Insurance Implications**
Questions remain about how professional liability insurance will address claims decades after project completion, particularly for retired professionals and premium impacts.
- + **Contract Negotiation Challenges**
Owners may resist liability limits, placing additional pressure on design professionals to negotiate protections. Prime contract holders could face disproportionate exposure.
- + **Impact on Small and Emerging Firms**
The ruling may discourage participation by small, minority- and women-owned, and emerging design firms, potentially affecting equity goals.
- + **Legislative and Advocacy Efforts**
ACEC/MA, AIA Massachusetts, MG+M, and other stakeholders are actively pursuing legislative solutions to amend the statute of repose, with corrective legislation anticipated in the 2027–2028 session.

MG+M attorneys bring extensive experience advising design professionals nationwide on liability, insurance, and contractual risk. We work closely with clients to review and update contract provisions to manage long-tail liability risks, assess insurance coverage implications, develop tailored document retention and risk management strategies, and navigate contract negotiations with owners and subconsultants under this new legal framework. Our team is actively engaged with industry stakeholders and legislative advocacy efforts, ensuring clients are prepared to respond strategically to the evolving legal landscape.

For questions about how this decision may affect your business, please contact any of our presenters—[David Hatem](#), [Kelly Martin Malone](#), [Howard Goldberg](#), [Abbie Goodman](#) (ACEC/MA), [John Nunnari](#) (AIA Massachusetts), or [Bill Edwards](#) (Stantec).

Design Professionals Roundtable Recap: *Boston University v. Clough Harbour*: Implications and Strategies for Design Professionals

(Continued)



Stay tuned for upcoming roundtables and additional resources as we continue to support the design community with practical, industry-specific legal guidance.

For your reference and review, we've compiled the following important materials:

- + ["Massachusetts Supreme Judicial Court Rules Contractual Indemnification Claim Is Not Barred by the Statute of Repose: Implications for Design and Construction Professionals"](#) Authored by MG+M Partners David Hatem and Kelly Martin Malone and Associate Dillon Aisenberg (a version of this article was published in *Massachusetts Lawyers Weekly*)
- + [Amicus Brief on Behalf of ACEC/MA](#)
- + [Trustees of Boston University v. Clough, Harbour & Associates LLP](#), SJC No. 13685 Decision