

MASSACHUSETTS
PRACTICE SERIES™

Volume 17

Prima Facie Case

Proof and Defense

FIFTH EDITION

2017 Pocket Part
Issued in June 2017

By
RICHARD W. BISHOP
of the Massachusetts Bar

and
THOMAS B. MERRITT
of the Massachusetts Bar

Chapters 1 to 19



For Customer Assistance Call 1-800-328-4880

© 2017 Thomson Reuters

No part of this book may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without prior permission in writing from the publisher.

Corpus Juris Secundum; Federal Reporter; Federal Rules Decisions; Federal Supplement; United States Code Annotated; USCA; Westlaw; West's; West's Supreme Court Reporter; and Wright & Miller; Federal Practice and Procedure are registered trademarks of West Publishing Corp. in the U.S. Patent and Trademark Office.

KeyCite is a registered trademark of West Publishing Corp.

This publication was created to provide you with accurate and authoritative information concerning the subject matter covered; however, this publication was not necessarily prepared by persons licensed to practice law in a particular jurisdiction. The publisher is not engaged in rendering legal or other professional advice and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional.

PREFACE

The accompanying supplements to the late Richard W. Bishop's important work, *Prima Facie Case, Proof and Defense*, 5th Edition, incorporate the past year's significant developments in legislation, decisional law, and court rules. With this new material, I hope and expect that Mr. Bishop's four volumes of the Massachusetts Practice Series will continue to be a valuable resource for Massachusetts practitioners.

As co-author, I would welcome suggestions or criticism from users of the 2017 supplements.

Thomas B. Merritt
Littleton, New Hampshire
June 2017



THOMSON REUTERS
WESTLAW™

MOST PREFERRED ONLINE LEGAL RESEARCH SERVICE

Thomson Reuters Westlaw has been voted the #1 Best Online Legal Research vendor year-after-year by industry professionals. That's because we continually invest more than any other online legal research provider in our people and technology where it matters most. As a result, you find exactly what you need quickly and confidently.

- Build the strongest argument with the most comprehensive collection of legal content
- Deliver better results confidently with WestSearch®, the only search engine designed specifically for the law
- Rely on the most current version of the law with proprietary editorial enhancements
- Access your legal research anytime, anywhere with the free Westlaw apps

LEARN MORE: legalsolutions.com/westlaw

SIGN ON: westlaw.com

24/7 REFERENCE ATTORNEYS: 1-800-REF-ATTY (733-2889)

THOMSON REUTERS PROVIEW™

This title is one of many now available on your tablet as an eBook.

Take your research mobile. Powered by the Thomson Reuters ProView™ app, our eBooks deliver the same trusted content as your print resources, but in a compact, on-the-go format.

ProView eBooks are designed for the way you work. You can add your own notes and highlights to the text, and all of your annotations will transfer electronically to every new edition of your eBook.

You can also instantly verify primary authority with built-in links to WestlawNext® and KeyCite®, so you can be confident that you're accessing the most current and accurate information.

To find out more about ProView eBooks and available discounts, call 1-800-344-5009.

RELATED PRODUCTS

STATUTES AND COURT RULES

Massachusetts General Laws Annotated
Massachusetts Court Rules—State, Local and Federal
Kindregan's Massachusetts Domestic Relations Rules
and Statutes Annotated
United States Code Annotated

CASE LAW, REPORTERS, DIGESTS, ATTORNEY GENERAL OPINIONS

Massachusetts Digest
Massachusetts Law Finder
Northeastern Reporter

GENERAL LEGAL REFERENCES

Corpus Juris Secundum

MASSACHUSETTS DATABASES ON WESTLAW

Cases, General & Topical
Statutes and Index
Legislative Service
Legislative History & Bill Tracking
Administrative & Executive Materials
Court Rules
Jury Instructions & Jury Verdicts
Trial Court Filings
BNA Corporate Practice Portfolios
Workers' Compensation Materials Combined
Westlaw State Bulletins
West Legal Directory
Massachusetts Practice Series

CD-ROM

Massachusetts General Laws Annotated
Massachusetts Decisions
Massachusetts Digest CD-ROM Edition
Massachusetts Practice Series Premise CD-ROM
United States Code Annotated
West's Supreme Court Reporter
Federal Reporter, 1st, 2d, and 3d Series
Federal Supplement

PRIMA FACIE CASE—PROOF AND DEFENSE

Federal Rules Decisions

Wright & Miller, Federal Practice and Procedure

Topical CD-ROM Libraries

PRACTICE AND PROCEDURE

Kindregan, McBrien, and Kindregan, Family Law and Practice with Forms

Talty, Talty and Braunstein, Methods of Practice with Forms

Smith and Zobel, Rules Practice

Nolan and Henry, Civil Practice

Perlin and Blum, Procedural Forms Annotated

Randall and Franklin, Municipal Law and Practice

Savery, Corso and Harrington, Federal Civil Practice

Lauriat, McChesney, Gordon and Rainer, Discovery

Alperin, Summary of Basic Law

Bishop, Prima Facie Case—Proof and Defense

Finley and Scheffler, Massachusetts Motions in Limine

Carlson, Massachusetts Summary Judgment and Related Termination Motions

INSURANCE LAW

Comerford and Coven, Insurance Law

CRIMINAL LAW AND PRACTICE

Cypher, Criminal Practice and Procedure

Nolan and Sartorio, Criminal Law

Nadel and Witkin, Criminal Defense Motions

Lauriat, McChesney, Gordon and Rainer, Discovery

Bishop, Prima Facie Case—Proof and Defense

TRIAL AND APPELLATE PRACTICE

Nolan, Appellate Procedure

Flanagan and Carroll, Trial Practice

DAMAGES AND REMEDIES

Nolan and Sartorio, Equitable Remedies

Merritt, Consumer Law

Shapiro, Perlin and Connors, Collection Law,
Debtor/Creditor Practice, Procedure, Remedies

ADMINISTRATIVE LAW

Cella, Administrative Law and Practice

MUNICIPAL LAW

Randall and Franklin, Municipal Law and Practice

DOMESTIC RELATIONS

Kindregan, McBrien, and Kindregan, Family Law and Practice with Forms

Kindregan's, Massachusetts Domestic Relations Rules and Statutes Annotated

PERSONAL INJURY

RELATED PRODUCTS

Nolan and Sartorio, Tort Law

HEALTH LAW

Minehan and Kantrowitz, Mental Health Law

PROBATE AND JUVENILE LAW

Dunphy, Probate Law and Practice with Forms

Annino, Estate Planning with Forms

Ireland, Juvenile Law

Bloom and Margolis, Elder Law

BUSINESS ORGANIZATIONS

Polubinski, Business Corporations with Forms

Lemelman, Manual on Uniform Commercial Code

Lemelman, Uniform Commercial Code Forms Annotated

Shapiro, Perlin and Connors, Collection Law,
Debtor/Creditor Practice, Procedure, Remedies

Gilleran, The Law of Chapter 93A

EVIDENCE

Young, Pollets and Poreda, Evidence

Young, Pollets and Poreda, Evidentiary Standards

REAL ESTATE

Eno and Hovey, Real Estate Law with Forms

Daher and Chopp, Landlord and Tenant Law with Forms

LEGAL FORMS

West's Legal Forms, 2d

Hovey and Koenig, Legal Forms

Perlin and Blum, Procedural Forms Annotated

MOTOR VEHICLES

Kenny and Farris, Motor Vehicle Law and Practice
with Forms

Jones, Drunk Driving Defense

TAXATION

Van Dorn and Allen, Taxation

EMPLOYMENT AND LABOR LAW

Adkins, Batten, Moriearty, and Rubin, Employment Law

Adkins, Batten, Moriearty, and Rubin,
Employment Law Statutes and Regulations

Nason, Koziol and Wall, Workers' Compensation

Finn and Seich, Mediation and Arbitration

CONSUMER LAW

Merritt, Consumer Law

Gilleran, The Law of Chapter 93A

PROFESSIONAL MALPRACTICE

PRIMA FACIE CASE—PROOF AND DEFENSE

Jacobs and Laurence, Professional Malpractice

Thomson Reuters thanks you for subscribing to this product. Should you have any questions regarding this product please contact Customer Service at 1-800-328-4880 or by fax at 1-800-340-9378. If you would like to inquire about related publications or place an order, please contact us at 1-800-344-5009.



THOMSON REUTERS®

Thomson Reuters
610 Opperman Drive
Eagan, MN 55123

legalsolutions.thomsonreuters.com