# Minutes of the Annual Meeting
# Judges of the Superior Court
# June 29, 2007

A meeting of the Judges of the Superior Court was held, pursuant to notice, on Friday, June 29, 2007 commencing at 1:00 p.m. in the Grand Courtroom at Quinnipiac School of Law, 275 Mount Carmel Drive, Hamden, Connecticut.

Present: Chief Justice Rogers; Justices Borden, Katz, Vertefeuille, and Zarella; Senior Justice Sullivan; Appellate Court Judges DiPentima, Gruendel, Harper, Lavery, Lavine, McLachlan, and Schaller; Superior Court Judges Abrams, Adams, Agati, Alander, Arnold, Aurigemma, Baldwin, Beach, Bear, Bellis, Berger, Black, Blawie, Blue, Bozzuto, Brunetti, Burke, Calmar, Carroll, Clifford, Cohn, Conway, Corradino, Crawford, Cremins, Cronan, D'Addabbo, Dennis, Devine, Devlin, Dewey, Doherty, Dolan, Domnarski, Dooley, Downey, Driscoll, Dubay, Dyer, Elgo, Epstein, Espinosa, Eveleigh, Fasano, B. Fischer, J. Fischer, Frankel, Frazzini, Fuger, Gallagher, Gilligan, Ginocchio, Gleeson, Gold, Gordon, Graham, Graziani, Hadden, Handy, Harleston, Hauser, Hiller, Holden, Holzberg, Hudock, Iannotti, Jennings, Jones, Jongbloed, Kahn, B. Kaplan, J. Kaplan, Karazin, Kavanewsky, Keegan, Keller, Lager, Leheny, Levine, Licari, Lopez, Madin, Marano, Markle, Maronich, Martin, Matasavage, Mintz, Moore, Nadeau, O'Keefe, Olear, Pavia, Peck, Pickard, Pinkus, Pittman, Prescott, Quinn, Radcliffe, Randolph, Resha, Reynolds, Richards, Riley, Robaina, A. Robinson, R. Robinson, Roche, Rodriguez, Rubinow, A. Santos, Scarpellino, Scholl, Schuman, Sferrazza, Shaban, Sheldon, Shluger, Shortall, Silbert, Solomon, Stevens, Strackbein, Swienton, Tanzer, C. Taylor, M. Taylor, Thim, Thompson, Tierney, Trombley, Turner, Tyma, Vacchelli, Vitale, Ward, Wiese, Wilson, Winslow, Wolven; Senior Judges Koletsky and T. Sullivan.

Judge Lavery, Chief Court Administrator, called the meeting to order and welcomed the judges to the annual meeting. The first item on the agenda was the approval of the minutes of the last annual meeting held on June 26, 2006 and the minutes of the meeting held on December 19, 2006. Upon motion made and seconded, the minutes were approved unanimously.

Judge Lavery then introduced Chief Justice Rogers. The essence of the Chief Justice's remarks are as follows:

Good afternoon. As you all know, the past year has been one of great change for us. Many of these changes are represented in the recommendations from the Rules Committee, which you'll be voting on in a very short time.

A tremendous amount of work was put into these proposals. I personally want to thank Justice Zarella and the other judges on the Rules Committee for all the thought and energy that they devoted to crafting these proposals. I would urge you to adopt the recommendations presented by the committee and also approve the resolution that you've received.

Briefly, I would also like to summarize for you two of my top initiatives since becoming Chief Justice. The first is the Public Service and Trust Commission, which is chaired by Judge DiPentima. Let me start by saying it's an extremely ambitious undertaking and we know that. The commission's job is twofold: number one, to assess where we are in our stated mission, which is to resolve matters in a fair, timely, efficient, and open manner; and, number two, to create a strategic plan to assist the Judicial Branch in its mission.

These assessments will include examining perceptions of our state judicial system by the public who use the court and also hearing from those working within the branch on such issues as the physical and logistic accessibility of our courts, the fairness of treatment in all matters and as to all the people, and the efficiency and competence in Judicial Branch job performance.

We will call on our communities both inside and outside the branch to contribute to this project. We are planning on contracting with a researcher to conduct a survey of individuals who have used the court system. In addition we're planning on holding many fact-finding sessions to obtain input from various groups, including the judges. We will be asking you what resources you need in order for you to best serve the public. You'll play a critical role in this effort, and I hope that you'll enjoy the process.

The commission will rely on information gathered from the survey, the fact finding sessions, and public forums. It will then develop a strategic plan with both short-term and long-term concrete goals which will be implemented and, I can assure you, will be followed through on in the next couple of years.

I'm also focusing on diversity within the court system. I personally believe that we must assist in actively recruiting, from diverse communities, the men and women who may be interested in pursuing law careers within the court system. To achieve this goal, we began by meeting last week with chairpersons of the minority bar associations at the Supreme Court. I can tell you it was one of the most interesting meetings I've ever attended.

They will be developing a plan to assist us in recruiting new lawyers from diverse backgrounds. The plan will include organizing career fairs for next year at the state's three law schools. At the meeting we also discussed ways to make our bench more diverse. As you know, the Legislative and Executive Branches are charged with nominating and appointing our state judges; however, I again believe that the Judicial Branch can take a more active role in recruiting minority candidates as lawyers with the hope that they will someday decide that they would like to become a judge.

Again, I hope that you will continue to assist me by providing me with your frank suggestions and comments. As I mentioned during my ceremonial swearing in earlier this month, judges are not known for their "shrinking violet" qualities. I truly do enjoy hearing from you, and I'm confident that our collective effort will make a positive difference.

There is one last thing I'd like to say. I want to tell you what an honor it is to work with all of you. Until very recently, as you know, I was a trial judge. And I know from my own experience that you are among the most hardworking and committed individuals that I've ever had the pleasure of being associated with. You truly are on the front lines dealing with some of the most difficult cases that anyone can possibly imagine. And you're a credit to the judiciary both in Connecticut and nationwide. And I'm proud to call you my colleagues. Thank you.

At the conclusion of Chief Justice Rogers' remarks, Judge Lavery returned to the podium and began a review of the changes that have taken place in the judiciary since the last meeting. He noted that the terms of Judge Byrne and Judge O'Brien have expired. He also noted that Judge Bryant had resigned from the state judiciary and had been appointed to the federal district court for Connecticut.

He announced that Judges Susco and Scheinblum had elected senior status and that Judges Stengel and Mack had become state referees. The judges who will become state referees before the next annual meeting are Justice Borden, Judges T. Sullivan, Koletsky, Langenbach, Lavery and Levine.

Judge Quinn has been appointed the Deputy Chief Court Administrator and Judge Rogers has been appointed Chief Justice. The new judges are Judges Roche, Abrams, Vacchelli, Pavia and Madin.

Judge Lavery then spoke about the judges who have died since the last annual meeting. The essence of his remarks are as follows:

Hadley W. Austin. Hadley W. Austin served as a member of the Connecticut judiciary for 18 years. At the time of his death this past November he was a judge trial referee. Prior to being appointed to the bench he practiced law for 26 years and served as an Assistant United States Attorney from 1959 to 1963.

Judge Austin served his country honorably in the United States Navy for two terms of duty. He was a veteran of action in the Pacific during World War II. He was recalled to active duty during the Korean War serving on a destroyer escort. Judge Austin was an honors graduate at the University of Connecticut in New London and Storrs and he was awarded his juris doctorate from the University of Connecticut School of Law.

Ronald J. Fracasse. Ronald Fracasse was appointed to the Superior Court in 1979. Among his assignments he served as an administrative judge as well as presiding judge for civil

matters in New Haven. For several years he served on the Rules Committee of the Superior Court. A lawyer once described him as, "a judge who was courteous, qualified, and capable and never shied from taking on the difficult cases."

William B. Lewis. Bill Lewis served the Connecticut Superior Court for 24 years as a judge, senior judge, and judge trial referee. Prior to being appointed to the bench he practiced law for several years in his home town of Greenwich where he also served two terms as first selectmen. Bill Lewis was an alumnus of Notre Dame University and received his juris doctorate from Yale Law School. He also served three years as an officer in the United States Air Force. Judge Hudock, remembering his friend and colleague in a recent Stamford Advocate article said Bill was someone who loved his job and loved working with other judges. He thrived on it.

Norris O'Neill. Nick O'Neill was appointed a Superior Court judge in 1978 after practicing law for 26 years. Prior to being on the bench, Judge O'Neill served two terms as a state representative. The Newark, New Jersey, native served his country during World War II, as a member of the United States Army. He was the founding president of the Urban League of Greater Hartford and a member of its board of directors for several years. He was a member of the board of Neighborhood Legal Services and the United Way. He served on the board of the Community Council of the Capital Region and was its president for two years. Known among his friends and associates as Nick, he attended Brown University and received his law degree from Rutgers University.

Maurice J. Sponzo, affectionately known among all the judges as Mo. He died at the age of 92 last week. He became a national figure in 1981 when he served as a one-man grand jury investigating the highly publicized, Peter Riley case. The same year, Judge Sponzo was appointed Chief Court Administrator and remained in that position until his retirement in 1984. The Hartford native was a graduate of Hartford Public High School, the College of the Holy Cross, and the University of Connecticut School of Law. Mo served his country courageously from 1941 to 1946 as a member of the United States Army 81st infantry Wildcat Division, attaining the rank of captain.

When Judge Sponzo received the Connecticut Trial Lawyers Association judicial award in 1981, the award's citation read: "Ever mindful of the human dignity of all who appear before him and with full awareness of the power of the judiciary, Judge Maurice Sponzo displays a deep respect for the law and for those who practice it. Above all, he has the courage of his convictions and the fortitude to express them."

Joseph Sylvester. The Honorable Joseph Sylvester passed away in April this year. At the time of his death he was a judge trial referee serving at the Derby courthouse. He was appointed to the Superior Court in January of 1990. He served as the chief administrative judge for the judge trial referees. Prior to serving in the state court system, he was assistant state's attorney. He was a veteran of the United States Navy serving from 1946 to 1948.

Richard J. Tobin. Judge Tobin died in September, 2006. His son Jay Tobin of Killingworth remarked that, his father enjoyed helping and protecting people. He loved being a judge. Sometimes there were difficult decisions that had to be made, but he did that his whole life, so he didn't shy away from that. Judge Tobin was a native of Boston, a long time Red Sox

fan, a graduate of Boston College High School, Boston College, and Boston College Law School. He served his country as a captain of the United States Marines from 1953 to 1961, and he became a Superior Court judge in 1992 serving in Bridgeport and Stamford.

It is with deep regret that we have lost our colleagues and will ask for a moment of silence in respect of them.

Plaques of appreciation were awarded to the following judges in recognition of their Service to the branch: Justice Christine S. Vertefeuille, Administrative Judge for the Supreme and Appellate Courts, 2000 – 2006; Judge Barbara M. Quinn, Chief Administrative Judge for Juvenile Matters, 2005 – 2007; Judge Christine E. Keller, Administrative Judge for the Judicial District of Hartford 2005 – 2007 and Judge Stuart M. Schimelman, Administrative Judge for the Judicial District of New London, 2002 – 2007. Judge Schimelman received his plaque after the meeting, as he was unable to attend.

Judge Lavery then delivered some remarks on the status of various administrative matters he and his office are working on. The essence of those remarks are as follows:

Let me begin with an area that is of great importance to the judicial branch: the outlook for our budget. The budget year that concludes today and began on July 1, 2006, presented a few fiscal challenges for the branch, particularly with respect to constraints on our ability to hire a sufficient number of judicial marshals, court interpreters, and staff for our clerk's offices. I am sure you are familiar with these challenges. All of you labor daily with staffing levels that are well below what is required to insure the safety of judges, staff, members of the public, and the bar who utilize our buildings every day. All of you are working in courthouses where clerk's offices are so short staffed that it often takes weeks to file routine paperwork. All of you have had cases delayed because of a lack of court interpreter services.

Every function of the court system needs data entry people. Each year we are required by the legislature to make more information available and quickly. We need trained people to do this. And we don't get them very often. I firmly believe that these shortages cannot continue without serious consequences for the courts, including the need to re-examine where and how often courts may be in session if sufficient resources cannot be added.

With this in mind, my top priority for the FY 2008 and 2009 budget cycles has been and continues to be securing adequate resources to significantly increase core court staffing. Beginning with the submission of our budget last fall, and continuing with my testimony before the Appropriations Committee and my participation at various legislative committees, I have made it clear that our courts are in crisis and that we can no longer accept new responsibilities without being assured that our courts are adequately staffed.

I am pleased to report to you that, with the stalwart support of Senator Toni Harp, Representative Denise Merrill, and Representative Toni Walker, and with concurrence of Secretary Genuario of the Office of Policy and Management, the new biennial budget approved this week provides for an immediate increase of 70 positions for the courts, including 35 judicial marshals, 15 new court interpreters, and 20 additional staff for the clerk's office.

In fact, we are confident under the new budget, we will be able to hire and train four new classes of 35 marshals instead of two. In the coming biennium, we will make significant headway toward our goal of having 920 marshals, rather than the present situation in which the hiring of new staff barely offsets the number of marshals who leave the branch each month.

In addition, we intend to make the hiring of additional staff for clerk's offices a priority in the coming year. As I noted previously, the new budget adds 20 new clerk's office positions. We intend to supplement this with at least another 40 clerks to be hired within existing resources.

An additional prison-overcrowding probation initiative was enacted during the budget negotiations. A decision has been made to transfer, from the executive to the judicial branch, the funds generated from phone calls made by inmates in our state correctional facilities. The funds will be used to hire additional probation officers to staff technical violation units. The amount of funding associated with this initiative is in the $4 to $5 million category.

A serious problem with the victim compensation fund has also been addressed in the new budget. At present, the fund faces a $900,000 backlog in claims that have been approved, but are not paid. In addition the moneys appropriated for victim compensation have been about $600,000 below what is needed to pay the claims submitted each year. The irony of the situation is that the compensation fund in fact is flush with funds. However, the amount that can be spent from the fund is subject to legislative appropriation and the budget cap. If we did not receive an increased appropriation, we were prepared to reduce compensation levels for certain types of cases.

I brought this problem to the attention of the governor and the legislature, and thankfully they have increased the appropriation for the fund by an amount sufficient to cover the backlog of claims and future claim expectations.

I would like to turn now to a topic that relates both to the budget and legislation and is of great personal interest to me, the jurisdictional age for juvenile court. Legislation that was passed just yesterday will increase the age of juvenile jurisdiction to include 16 and 17 years old effective January 1, 2010. This legislation will have a substantial positive impact on the children and youth of our state.

It was passed as a result of the work of the Juvenile Jurisdiction Planning and Implementation Committee, which was cochaired by Senator Harp and Representative Walker. The committee worked diligently throughout the past year to address the myriad issues that raising the age entails. Because I care so passionately about children's issues, I actively participated on this committee along with Judge Quinn and a number of judicial branch staff from all our administrative divisions. Throughout the process I made it clear that the judicial branch supported the change, but the branch's support was contingent on the branch receiving the necessary funding and resources to successfully implement it.

I reminded them time and time again what happened to mental health 40 years ago when mental health was deinstitutionalized and was supposed to be handled by community mental healthcare. Unfortunately they forgot to fund it and mental health has had problems for years.

I live in the community of Newtown where the Garner prison is filled with folks with mental health problems, half of them who probably wouldn't be there if that mental health initiative 40 years ago was fully funded. And I pointed out time and time again to that committee that that failure has bothered me for the last 40 years, up to today, and that we, as a judicial branch, could not support any initiative that wasn't fully funded. I am happy to report the budget that was adopted by the General Assembly earlier this week provided funding to prepare for the influx of 16 and 17 year olds into juvenile matters.

This is a monumental undertaking for the branch. It will double the number of children going through juvenile court. In fact, we have estimated that when fully implemented the new cost to the branch will approach $4 million annually and affect virtually every aspect of the branch. To be ready for the age change, which is effective January 1, 2010, we have been given over $5 million in the first year of the biennium and fully $10.6 million in the second year to support 70 new probation staff, the creation of a new network of age-and gender-specific community-based programs and five additional judges.

I, on behalf of the branch, made a commitment that we would put the five new judges into our system, but train and put on experienced judges, when this new initiative takes place.

We intend to go back to the legislature next year for an additional hundred-plus positions that the courts must have to staff the regional court locations where these cases will be heard. I believe very strongly that this legislation will improve the lives of Connecticut's children and youth.

This legislation represents true progress for our state, progress that was made possible by the good work of Senator Harp and Representative Walker. It was a pleasure to have worked with them on this important issue. I also wish to thank Judge Quinn; William Carbone of CSSD; Joseph D'Alesio, Court Operations; Thomas Siconolfi of Administrative Services; Deborah Fuller, the liaison with the juvenile and FWSN committee; and Melissa Farley of external affairs, who, working as a team, developed a plan for the branch that the legislature approved and funded.

Another initiative related to youth involves new funding for community-based services to address families with service needs or FWSN cases. $3.5 million has been appropriated to the branch to support family support centers across the state, which will serve to address the need of FWSN children and divert them from the court process. In addition, this legislation allows for the placement of children who have been adjudicated as FWSNs and have violated court orders in a staff secure facility upon finding that that is in the least restrictive environment available. It also allows children who have been adjudicated as FWSNs and are in imminent risk of physical harm to be picked up and placed in a staff secure facility.

Both these provisions address the serious gap that would have been created by the prohibition against holding these FWSN children in detention, which goes into effect on October 1, 2007.

Although no new court facilities came on board in the past year, I can assure you that many significant projects are underway and will come to fruition in the coming years. These include the new Torrington courthouse, the addition to the Milford courthouse, and new criminal courts in Bridgeport and New Haven.

Torrington: The bond that contained the remaining $25 million needed to fully fund this long awaited Torrington courthouse. A site has been selected, the old Timkin headquarters in Torrington. The land will be purchased by the state this fall. And an RFP for design and development of the project is in the final stages and will be released shortly. A new courthouse should be a reality in 2010 or 2011.

The Milford courthouse annex: The Milford area is one of the state's fastest growing regions, and the existing courthouse, located adjacent to the town offices, is grossly insufficient to meet current and future case loads. We are moving forward to add a 30,000 square foot annex and parking structure onto the current courthouse.

A feasibility study has been completed, and the plan we think will work best incorporates the existing facility and a new annex on adjacent property that presently houses a postal facility with an adjacent parking garage.

Bridgeport and New Haven criminal matters courthouses: As all of you know, 121 Elm Street, New Haven, and Golden Hill in Bridgeport are two of our busiest and most outmoded criminal-matters courthouses. Neither building has the room, amenities, or potential to handle today's case loads, and both are in dire need of major renovation. Simply stated, both cities must have new criminal facilities as soon as possible to house both the JD and GA courts. This will free up the Church Street courthouse in New Haven and the Main Street courthouse in Bridgeport for civil, family, and housing cases.

To that end I have been working with Department of Public Works Commissioner Flemming, OPM Secretary Genuario, and the mayors of both communities to try to jump start these projects. I am pleased to tell you that I believe we now have a firm commitment to move forward with both of these courthouses. In fact, DPW will soon be hiring architectural firms to conduct feasibility studies for both projects, the first concrete step in a major state capital project. I am confident that we are now back on track in both New Haven and Bridgeport.

In the meantime, which of course will be several years, even under the best of circumstances, we will do everything possible to insure that the existing two courthouses remain functional and safe.

Finally, we put on our ten-year plan the New London courthouse: The New London/ Norwich area is another location in which the population and case load have grown to a point where existing court facilities are inadequate. The branch will make a request in the next budget for preliminary findings to begin planning for a new courthouse in New London or, at the very least, a major addition. This has been included in our ten-year capital plan for courthouses submitted to the secretary of policy and management.

I am pleased to report that the much delayed project of the Bridgeport juvenile matters courthouse and detention center is now fully under construction and will be completed in the early

fall of 2008. We also need new leased space for juvenile courthouses in the Middletown/ Meriden area, Norwalk, and Rockville.

On services for judges, research law clerks, I'd like to update you on some progress we have made that directly relates to you, as judges. In the fall of 2006, I appointed a committee of judges to review the delivery of legal research by law clerks and court officers with the goal of enhancing the legal research support that is provided to you.

A survey was sent to all the judges. We received 125 responses. In addition, other states were surveyed to examine how legal research support was provided. We found that very few states have a program as comprehensive as Connecticut. Based on the committee's work, changes to the delivery of legal research support will be implemented in the fall of 2007. You will be receiving these revised guidelines shortly.

In terms of training of judges, I can report to you that during the 2006/2007 academic year, 16 educational programs were offered to judges which included training on such topics as family support docket coverage, presettlement skills, and basic courses in civil, criminal, family, and juvenile matters. Additionally, in April and May, a prebench orientation program was conducted for the five newly appointed judges.

I am sure you will agree that the 2007 Connecticut Judge's Institute was a huge success. Through the hard work of Judge Munro and the education committee, 17 programs were held in which 28 judges served as faculty and authors for the recent case materials, and for this we thank them.

Jury instructions: Progress has been made in the area of jury instructions. The civil and criminal jury instruction committees chaired by Judge Pittman and Judge Mullarkey, respectively, are working diligently on expanding and revising the collection of jury instructions. It is anticipated that the collection of both civil and criminal instructions will be available in the fall of 2007.

JTR calendar coverage for family-support magistrates: I would like to thank the judges and judge trial referees who were trained to preside over child-support matters. I appreciate your willingness to assist by covering family support magistrate dockets when necessary. I have taken the training and intend to make myself available to cover these dockets in the next few months. Your assistance continues to be critically needed, as our attempt to increase the number of family support magistrates by two was not successful this year. I believe every judge should receive the family magistrate training because of the huge case load and the insufficient numbers of family support magistrates. Children and custodial parents need their child support and we need to help them get it.

Digital audio recording: Although I am not very technologically savvy, I certainly understand the importance of technology in the courts. I am pleased to report that by July, the judicial branch will have 98 courtrooms at 23 court locations equipped for digital audio recording, commonly known as FTR. Approximately 36 percent of the branch's courtrooms now have this technology. Funding is in place for an additional ten digital audio courtrooms in the next fiscal year.

Digital audio is used by court recording monitors to record proceedings. Judges are benefitting from faster courtroom playback, improved audio quality, and the capability to listen to previously recorded testimony from their chambers. All recordings are securely archived by the branch's information technology division. In addition, funds have been dedicated to expand the capacity of this archiving system.

Criminal dockets on the Internet: As part of our continuing effort to expand the information that is available on our website, last year we added criminal and motor vehicle case docket information. The information available for each case includes the defendant's name and year of birth, the docket number and court location, the arrest date and arresting agency, information concerning bail, and the current charges lodged in the case. We are in the process of making all pending criminal and motor vehicle cases and prior convictions available through the Internet.

Law libraries: As you may know, the judicial branch's website has received many awards over the years. This past year the law library's website was chosen from more than 3,500 court websites worldwide to be one of the ten top court websites for 2006 by the organization "Justice Served". It was determined that this law library site was worthy of a separate honor as best in its class. It was the first law library website to receive this honor. And I congratulate our folks who run our court law libraries.

Interpreter and translator services: As we continue to look at ways to improve the services that we provide, one important area is that of interpreter and translator services. We're now one of 38 states that belong to the National Center for State Court Interpreter Certification Consortium. The branch has been a member since 2001. And interpreters in all member jurisdictions must pass a series of standardized certification examinations. The judicial branch's interpreter and translator services unit continue to make impressive progress towards the goal of assigning only certified interpreters to courtroom proceedings.

And I mentioned earlier we received funding in the state budget for an additional 15 interpreters. This is not nearly enough, but at least it's some progress.

Domestic violence dockets: There are three new specialized domestic-violence dockets in the GA courts of New London, New Britain, and Norwalk. Domestic-violence dockets are based on a team concept which encourages vertical case management and judicial continuity. This team approach to case management is designed to ensure both offender accountability and victim safety.

The goal of the domestic-violence docket is to support victims of domestic violence and to redirect the behavior of offenders through court-monitored evidence based educational programs.

The centralization of processing small claims took place in May of 2006. Since that time all small claims matters are processed through the central office in Hartford. Matters that have been filed locally are forwarded to central office for handling, and staff from the central office are assigned to local courts to assist at hearings. The centralized small claims office was hampered by understaffing and a case load that grew from 72,000 to 90,000 a year when the damage amount increased a year ago from 3500 to 5,000. I am happy to report that the office has now succeeded in becoming current, although when the damage limit was increased, no new personnel were given to the branch for this very labor-intensive operation.

Judicial Marshals' academy: I am proud to announce we are in good standing for our second year with the commission on accreditation of law enforcement agencies. With the addition of commercial driver's license training mandated since last year, the preservice training program has expanded to 13 weeks.

As a result of the branch's diligent year long efforts to increase staffing needs, I am pleased to announce we have a judicial marshal class in training. This latest class will add 35 judicial marshals. Additional classes are planned with the next one being in September, 2007.

Judicial Detention reaccreditation: The branch's state-run judicial detention center system became the only detention system in the country to obtain dual reaccreditation by both the American Correctional Association and the National Commission on Correctional Healthcare. A new 84-bed detention center is under construction in Bridgeport and is scheduled to be completed in the fall of 2008. In addition, the expansion of the New Haven facility to include 6,000 additional square feet of recreational and educational space is to be completed in July.

The Connecticut judicial branch's community service power team was awarded the national community leadership award from the Special Olympics Committee in March and inducted into the Special Olympics hall of fame. The award is given to an organization that has made a significant impact in the Special Olympics through volunteer service or other volunteer support. The branch received the award for the thousands of hours that individuals in the court system donate to the Special Olympics as part of the judicial branch community service power team. Participating in this activity is a way for individuals who have been required as part of the sentence to do community service to learn about the reward of giving to others.

On the issue of capiases, this past year the chief court administrator's office was confronted with a growing problem. Our family support magistrates and judges, in their attempt to enforce court-ordered support obligations, are handcuffed by the inability to get capiases served. This inability is a great disservice to the State of Connecticut, its citizens, and especially to the children in need of support. I have worked with Support Enforcement Services and the State Marshal Commission to develop strategies aimed at increasing state marshal involvement and productivity in this arena.

Most recently I approved a temporary fee increase for the execution of child-support capiases, and yesterday I signed an extension of that. Now aware of the magnitude and seriousness of this problem, the judicial branch will continue to monitor the number of ordered and executed capiases and will continue to explore additional remedies to correct this problem. At the present time there are over 3500 unserved capiases representing $58 million in unpaid child support which is outstanding. This is wrong and must be corrected. And we need the cooperation of the executive and legislative branches to help us correct this problem.

I'd like to turn to a subject now that is of concern to all of us, the problem of attorneys who have personal issues that interfere with their professional lives. Lawyers are as vulnerable to personal and professional problems as anyone else. Competition, constant stress, long hours, high expectations can wear down even the most competent and energetic lawyer. This can lead to depression, stress, career problems, relationship issues, financial problems, or alcohol and substance abuse.

In order to address this problem, pursuant to legislation passed a few years ago, the judicial branch has contracted with Lawyers Concerned for Lawyers-Connecticut to administer an attorney assistance program. This organization, known as LCL-CT, helps lawyers identify substance abuse, gambling, and behavioral health problems in addition to helping with intervention and motivation to seek treatment. It also assists with referrals for treatment. It offers educational seminars on substance abuse and addiction and has put together a support network of attorneys in recovery.

LCL-CT has a hotline that's available 24 hours a day. They guarantee complete confidentiality to those who use their services. You will have found on your seat a brochure that describes the program in more detail and provides contact information. I would encourage you all to look at it and to consider passing this information along to anyone who you may believe will benefit from this service.

In conclusion I hope that I have given you a good picture of the past year of the branch and our needs for the future. I want to take this opportunity to thank all of you, my colleagues, for the wonderful cooperation you have given me since I became chief court administrator.

In my opinion we have the best trial court in the country. Our judges sit on all types of cases and perform well, no matter what the subject matter. The judicial branch has had some tough moments in the past year and a half, but there never was a doubt in my mind that, in Connecticut, we have the best judicial system in the country, thanks, to all of you.

Judge Lavery then introduced Justice Zarella who gave the report of the Rules Committee. He began the report by thanking the members of the committee, Judges Alexander, Pittman, Strackbein, Corradino, Dyer, Fasano, Pinkus and Thim for the extraordinary amount of work they did over the past year. He also thanked Attorney Carl E. Testo, Counsel to the Rules Committee, and his staff for their work in support of the committee.

Justice Zarella moved that the amendments to the Practice Book and the Code of Evidence which were mailed to the judges for use at the meeting be approved. Following a second to his motion, Justice Zarella commented on the proposed revisions. The essence of his comments are as follows:

The revisions to the Practice Book and to the Code of Evidence under consideration today were mailed to you earlier this month with a memorandum from me dated June 7, 2007. The proposed changes were the subject of a public hearing conducted by the Rules Committee in May.

Among the proposals in this packet are numerous revisions to the rules concerning cameras in the courtroom, which are based on the recommendations made by the Public Access Task Force.

In connection with these proposals, the Rules Committee undertook a comprehensive review of the rules, statutes, and policies of the 50 states and of the federal jurisdictions on this topic.

The proposed changes to the camera rules that are before you today include the following: a revision to Section 1-10 providing that personal computers may be used for note taking in a courtroom but that no other electronic devices shall be allowed in a courtroom unless otherwise authorized by a judicial authority or permitted by the rules proposed; new Section 1-10A which defines "media" to mean any person or entity that is regularly engaged in the gathering and dissemination of news and that is approved by the Office of the Chief Court Administrator; proposed new Section 1-10B, which provides that subject to limitations set forth in that section and in sections 1-11 through 1-11C there is a presumption that broadcasting, televising, recording, or photographing by the media of court proceedings and trials in the Superior Court will be allowed; Section 1-10B prohibits electronic coverage of certain proceedings such as juvenile matters, proceedings involving trade-secret proceedings, proceedings which must be closed to the public to comply with state law, and the jury selection process.

Proposed new Section 1-11A, which expands such electronic media coverage to arraignments on a case-by-case basis; proposed new Section 1-11B concerns media coverage of civil proceedings and trials and provides that the broadcasting, televising, recording, or photographing of civil proceedings and trials in the Superior Court by news media should be allowed, except as otherwise provided or limited in the rules. Any party, attorney, or witness or other interested person may object in advance to electronic coverage of a civil proceeding or trial if there exists a substantial reason to believe that such coverage will undermine the legal rights of a party or significantly compromise the safety of a witness or other interested person or impact significant privacy concerns. The judicial authority shall limit or preclude such electronic coverage only if there exists a compelling reason to do so, there are no reasonable alternatives to such limitation or preclusion, and such limitation or preclusion is no broader than necessary to protect the compelling interest at issue. If no one objects to electronic coverage of a proceeding or trial, the judicial authority shall schedule a hearing to consider limiting or precluding such coverage if the judge has a substantial reason to believe that the electronic coverage will undermine the legal rights of a party or significantly compromise the safety or significant privacy interests of a party, witness, or other interested person.

Proposed new Section 1-11C establishes a pilot program that broadens media coverage of criminal proceedings and trials in the Superior Court in a single judicial district, to be chosen by the chief court administrator. The broad nature and procedures applicable to such coverage are similar to those applicable to media coverage of civil proceedings and trials, as set forth in new Section 1-11B.

This section provides that the Rules Committee shall evaluate the efficacy of this pilot program at the end of a two-year period and shall receive recommendations from the Judicial Media Committee and other sources.

Other amendments in this packet that are proposed in light of the Public Access Task Force recommendations include proposed new Section 1 - 24, which provides for a record to be made of an off-site judicial proceeding and for such record to be available to the public. The judicial authority must also state on the record in open court by the next court day a summary of what occurred at such proceeding.

Revisions to Section 37-12, which permit public access to affidavits, including police reports used during a court hearing as the basis for a judicial determination regarding probable cause in cases where a defendant had been arrested without a warrant and has not been released from custody by the time of arraignment, and which provide a mechanism for a party to obtain an order sealing or limiting the disclosure of such documents for a limited period of time.

Also in this packet are Practice Book revisions that are based on proposals from the Connecticut Bar Association Task Force on Multijurisdictional Practice which were approved by the Connecticut Bar Association and submitted to the Committee for consideration. These changes include a revision to Rule 5.5 of the Rules of Professional Conduct, which is a variation of the ABA Model Rule 5.5 concerning the unauthorized practice of law in multijurisdictional practice.

Proposed new Section 2-15A, which provides for authorized house counsel. The purpose of this section is to clarify the status of house counsel as authorized house counsel and to confirm that such counsel are subject to regulation by the judges of the Superior Court notwithstanding any other provision of the rules related to admission to the bar.

This new section authorizes attorneys licensed to practice in jurisdictions other than Connecticut to be permitted to undertake certain limited, defined activities in Connecticut without the requirement of taking the bar examination, as long as those attorneys are exclusively employed by an organization. "Organization" is defined in the rules as a corporation, partnership, association, or other legal entity that is not itself engaged in the practice of law or rendering of legal services outside such organization, whether for a fee or otherwise, and does not charge or collect a fee for the representation or advice other than to entities comprising such organization for the activities of authorized house counsel.

And proposed new Section 2-44A, which defines the practice of law. This section establishes a clear definition of the practice of law and thereby makes it clear what is the unauthorized practice of law.

Also included in this packet are proposed revisions to the Rules of Professional Conduct which include revision to Rules 1.2 and 1.8 of the Rules of the Professional Conduct addressing the situation where an insured/client cannot be located despite diligent and good-faith efforts by both the lawyer and the insurer; a revision to the commentary to Rule 1.5 of the Rules of Professional Conduct providing that where assigned contingent fee arrangement is in accordance with General Statute Section 52-251c, the fee is presumed to be reasonable.

Revisions to Rule 1.15 of the Rules of Professional Conduct concerning IOLTA, which include a requirement that the entity that administers the IOLTA program provide for a dispute-resolution process for resolving disputes as to whether a bank, savings and loan association, or open-ended investment company is an "eligible" institution under the rule.

I will be recommending to you today that the revisions to this rule become effective on September 1, 2007.

A revision to Rule 7.4A of the Rules of Professional Conduct that adds child-welfare law to the field of law in which lawyers may be certified as specialists.

Other proposals in this packet include revisions to Section 2-8 concerning the qualifications for admission to the bar by examination; a revision to Section 2.27 concerning the disclosability of information obtained by the Statewide Grievance Committee from attorney registration forms; revisions to numerous sections of the attorney grievance rules concerning the grievance process and grievance records; a revision to Section 7-13 establishing a retention period for investigatory grand jury records; a revision to Section 13-3 and to various Practice Book forms concerning the discoverability of pretrial surveillance materials; and a revision to Section 25-26 to provide that upon or after the entry of judgment of a dissolution of marriage, dissolution of civil union, legal separation, or annulment, the judicial authority may order that a party seeking to modify a custody or visitation order or a parental responsibility plan must file a request for leave to do so accompanied by an affidavit setting forth a factual and legal basis for the modification. The rule currently provides that any motion for modification of a final custody or visitation order is required to be appended to a request for leave to file such motion.

Because of comments received from the bench, the bar, and the clerks concerning issues with the current rule, I will be recommending to you today that this proposed revision become effective on October 1, 2007, instead of January 1, 2008.

The proposals before you today also include revisions to the Code of Evidence which were recommended to the Rules Committee by the Code of Evidence Oversight Committee. These include a proposal to amend Section 8-3 to expand the hearsay exception to include statements made for the purpose of obtaining medical diagnoses; and a revision to Section 8-5 concerning prior inconsistent statements that incorporates case law developments, recognizing that prior statements can be recorded by means other than in writing, such as by audiotape, videotape, or other equally reliable medium.

Finally at the annual meeting last year, you voted pursuant to a recommendation by the Rules Committee to extend for a one-year period commencing October 1, 2006, Practice Book Section 1-10(b), which concerns the possession by attorneys of certain electronic devices in court facilities.

This provision had originally been adopted by you in June, 2005, for a period of one year from its effective date of October 1, 2005, unless terminated sooner or extended beyond that period by the judges, to enable an analysis of the effects of the revision to be made and reported to you.

At a recent meeting, the Rules Committee reviewed a report prepared by Attorney Richard P. Terbrusch concerning the effects of this provision in our courtrooms over the last year. A copy of that report was included in my mailing to you for this meeting.

The Rules Committee recommends that Section 1-10(b) be extended for another year without further amendment, and I will be making a motion to that effect.

At the conclusion of his report, Justice Zarella asked the judges if they had any questions.

Judge Graham rose to ask a question about the definition of the term "media" in proposed Section

1-10A. The question is "under the second part of the definition, which requires approval by the Office of the Chief Court Administrator, what criteria will be used by that office in determining which entities and persons are approved?" Justice Zarella offered the following response to the question.

Let me give you the thinking of the Rules Committee on that issue. And any member of the Rules Committee is free to add to it. The decision as to whether or not somebody is a member of the media was thought to be something that we would like to see uniform across the state and not subject to individual decisions by judges.

In order to encourage the uniformity, we thought that it would be more appropriate for the Office of the Chief Court Administrator to publish, on the Internet, what criteria they were going to apply in determining whether somebody was a member of the media, as defined by the limited definition that is contained in the rule.

In addition, we felt that it would be a more flexible mechanism to put in place in this sort of new time frame that we're entering. It would be more flexible because we only change rules once a year in general. And we thought that the Office of the Chief Court Administrator could respond by changing the definition of "media", or expanding it, in order to cover situations that we might miss in defining it in the rule. So there was the flexibility, plus the standardization, that we were looking to achieve in this section.

Judge Graham responded by asking whether we know today to what extent nontraditional media will be included within this definition. Justice Zarella responded that the only guidance the Rules Committee has given the Chief Court Administrator is that in order to meet the definition of "media", the entity must be regularly engaged in gathering and disseminating news. The essence of Judge Graham's comments are as follows:

I understand and certainly I think many of us walked in here today contemplating newspapers, for example. "Regularly engaged in the collection and dissemination of news" could easily be interpreted to anyone who maintains an Internet site where he collects and puts news on it, a blogger who goes to events with a video camera, places it on their Internet site, the local gadfly who has a cable access TV program on a weekly basis.

And my concern is this: It is one thing to have established TV media in a criminal courtroom where marshals are present and to rely on them to follow the rules we set forth, such as not focusing on the jury, turning the camera off during recesses, and not capturing items that are done in court outside of the presence of the jury, and not recording sidebar conferences. It is another thing to have that level of confidence with somebody who is a blogger, for example, in a civil courtroom where one does not have a marshal to assist one, but only a temporary assistant clerk and a monitor.

And I question how comfortable any of us would be in that situation. In candor, none of us knows how often we're going to see TV cameras in our courtroom. But I must suspect, based on my experience on civil trials, that it's going to be the nontraditional media coming in occasionally into civil cases and not the traditional media because of the nature of the cases.

Justice Zarella commented that he did not believe the proposed rules contemplated multiple facilities broadcasting a trial, but rather they contemplate a pooled arrangement where one entity is doing the broadcasting for all. He noted that the limitations on broadcasting by television cameras and on the number of still photographers contained in the rules don't eliminate bloggers from seeking to bring in computers and blogging from the courtroom.

Judge Graham noted that his question anticipates a situation involving the filming and recording of a civil trial where only one person or entity who is not part of the traditional media has an interest. He expressed concern that as a practical matter, there is no way for a trial judge in a civil courtroom to monitor whether such a person is following the rules the judges set forth such as, don't focus on the jurors faces, don't record a side bar conference and don't record things that occurred during a recess. The question is, do the proposed rules really contemplate the civil case of interest to one individual who qualifies under the definition, even if it's the local cable access TV?

Justice Zarella responded that he assumed a local access television station would qualify under the definition of "media" and would be able to come in if they regularly broadcast or cover news events. He noted that the judge is responsible for monitoring either the pool camera or the bloggers camera in every instance. The judge can set up rules and enforce them and there is flexibility in the proposed rules for the judge to enforce them.

Justice Zarella then recognized Judge Keller who raised a question, the essence of which is as follows:

Following up on the concern about or the ability to require the pooling so that only one camera would come in – and maybe I missed it, so I want to inquire: In Section 1-11B which is media coverage of civil proceedings, there is no provision similar to the provision in Section 1-11(f), which pertains to criminal proceedings that states that only one television camera

operator would be allowed, only one still camera photographer would be allowed in the media coverage of a criminal case. There's also a provision that the court can require pooling in the criminal sections.

But I couldn't find a provision in the civil section; although it talks in general about the court being allowed to limit coverage, it doesn't -- it isn't as specific as the criminal provision where it says that the court shall, if it feels it's necessary, require a pooling arrangement.

So my question is: That in a civil case, is it contemplated that the only way that the civil judge would be able to provide for a pooling arrangement would be to have to articulate a finding that that is a limitation that will be necessary in order to provide a fair and, you know, proper type of proceeding? Why were the civil judges not allowed to limit coverage to a pool or to limit coverage with one camera in the courtroom?

Because I can envision a situation where you have three major television stations all wanting a camera in a specific civil proceeding. And when you say that a judge without a marshal is supposed to watch those cameras and make sure they're all doing what they are supposed to or not doing what they're not supposed to do, I think that just becomes incredibly difficult for a lone judge whose major focus should be on the proceeding itself and not what's swirling on around it.

Having had some experience with media coverage of a very significant proceeding, I can't even begin to describe how distracting even photographers, still photographers, can be if there's more than one of them.

So I was just wondering why the committee didn't think that the civil judges should have the ability, without having to make and articulate the significant findings that are required about rights and compromising safety and all of that, to require just one pooled camera coverage.

Justice Zarella responded that he believed subsections (m) and (n) of Section 1-11B contemplated pool representatives in civil proceedings. Judge Keller stated that Section 1-11B (m) provides that pool representatives "should ordinarily be used", but it doesn't clearly state that the judge can make that decision. She stated that she believes the rule ought to clearly provide that the judge can make the decision. She queried whether the judge will have to comply with the provisions of Subsection (e) in order to make the decision that pool representatives be used. Justice Zarella responded that he believed subsection (m) and (n) of Section 1-11B gave the court discretion as to whether or not to require a pooling arrangement. Justice Zarella then recognized Judge Quinn who made the following comment:

The section on civil proceedings refers back to the limitations set forth in Section 1-10B. 1-10B also talks about sections in 1-11 through 1-11C, and I think it could be interpreted quite

reasonably in a civil case to incorporate the same standards and limitations in a criminal case. I realize it takes reading through the section, and certainly I don't know what's occurred on the Rules Committee. But our intent on the Public Assess Task Force was that those limitations would be incorporated by civil judges.

Justice Zarella agreed. He then recognized Judge Blue who made the following comment:

It seems to me the last two questions have shown a legitimate concern that's actually outside the four corners of the rules, and that is that in some underpersonneled courtrooms, and particularly civil courtrooms, there may not be adequate personnel to adequately implement the rules. And it seems to me that because this is a clear priority of the administration that the administration may want to think about having some sort of program to make personnel available on an as-needed basis when these problems arise.

Justice Zarella then recognized Judge Barall who offered a comment, the essence of which is as follows:

I was a little concerned about the rule related to the experimental criminal court process, where the burden falls to the objector in the event there's a media request.

I think that's not a good path to take. It would seem to me that the process should be concerned with the individual rather than the welfare in some respects of the television station. And if there's going to be a burden, it should be on the television station, although I don't think there needs to be a burden. I think the decision should be called by the judge handling the case. And I think it sets a precedent that's inappropriate.

I might note that this morning when I got up, I listened to the TV news .They announced that we're now dealing for the first time, with cameras in the courtroom, television cameras. But actually when I was presiding judge of Part A in Hartford we had the Manfredi case. That's about 20 years ago. So this is nothing new.

Judge Zarella recognized Judge Tanzer who commented as follows:

On Section 1-10B Subsection (d) page 45, I understand the reason for deleting the words "televising" and "photographing," the distinction between (b) and (d); however, given what we've heard about technology today, I have some concern about conferences involving counsel and their clients being televised, photographed. People with the capability of lip reading, that we may not be maintaining the confidentiality that we should maintain for those conferences. So that's my comment.

It seems as though it's allowing televising and photographing of conferences involving counsel and the trial bench -- the trial judge at the bench or involving counsel and their clients.

Justice Zarella responded that he did not believe that the Rules Committee intended to leave the words, "televising" and "photographing" out of Section 1-10B (d). He believes the intent was

to cover the same restriction provided in Section 1-10B (b) in Section 1-10B (d), but to separate out the particular element referred to in Section 1 -10B (d). Justice Borden commented that he believed this was a drafting oversight. He also suggested that the oversight may have been perpetuated from the old rules on this subject. He does not believe there was ever any intent to permit televising or photographing of the conferences referred to Section 1-10B (d), as opposed to anything else. Justice Zarella agreed.

Judge Pittman rose to agree and moved to add the words "televising" and "photographing" to Section 1-10 B (d). The motion was seconded and approved unanimously.

Justice Zarella recognized Judge Winslow, who noted the following:

On page 92 we have section 25-26 Subsection (g). And the existing rule says, Any motion for modification of the final custody or visitation order. The modification appears to apply only to custody orders and final judgment orders in dissolution or civil union matters as opposed to actions which are purely for custody and visitation, that is, unmarried parents. Was that intentional or was that also an oversight?

Justice Zarella responded that the comment had been made to him that the revised rule should have included Sections 25-3 and 25-4. He believes that the Rules Committee should take this matter up when it meets again in September. Judge Winslow noted that the present rule does not require that this be a judgment. It pertains to modification of any order. The proposed revision requires there to be a judgment. Justice Zarella agreed that the Rules Committee should look at these rules.

Judge Robaina was recognized and he commented as follows:

Most of the questions seem to be about the details and the specifics of the rule that's being proposed. And my question as I sit here is, I have not heard any discussion of any substance about the idea itself of allowing cameras in courtrooms. I have no idea as I sit here how many states have allowed this, under what circumstances it's been allowed, what the effect has been on jurors and litigants and parties and judges and lawyers. I know nothing as I sit here. And we're considering what is a monumental change in tradition. And I've never been mistaken for a traditionalist; however, we seem to be concentrating the discussion on the rules. And I think there is a very important question that comes before the rules, which is whether we should do this.

Justice Borden offered a response, the essence of which is as follows:

I think that's a very fair question. It was raised at last year's annual meeting when we talked about this whole subject. And I forget who it was, it might have been Judge Frazzini who said, Well, when are we going to have a debate about this? And I said, well, between now and the next meeting. I had assumed that people had been talking about it once these had been out. It's no secret that these were coming out both from the Task Force and, I think ultimately, from the Rules Committee.

But, nonetheless, it is a fair question. And so, since it really stems from an initiative that I started when I was exercising the powers of the Chief Justice, I'll try to give, in as brief a way as possible, the rationale for these.

It's really very simple. It is a big change. I don't have the facts about which jurisdictions do and which jurisdictions don't do this. I think it's more a question of, what should we do? What is the best policy? What is the right thing to do for the State of Connecticut?

The rationale for this change, for greater photographic and television access to the courts is, number one, we're part of the government. And the more the people see how we work, because we do such a good job in our courtrooms, the more the people will have greater trust and confidence in their judicial system.

As a subsidiary of that is a simple reality, and that is that in today's world, many people, and as the younger generation becomes more of the population and people my age become less, many, many people get their understanding of public events and the government through some sort of a screen, whether it's the television screen and, even now more through their computer or PC screen at home, don't even read the newspapers, don't even get newspaper subscriptions.

And since we are part of the people's government, it is a good thing, I think, to make ourselves available through the medium that most people use to understand what's going on in our courts and their courts.

I think the recent example of the televising of the Skakel proceeding is a good example of how wise the policy is. I think people saw it. People saw how orderly and seriously the system operates.

And I think generally the reaction from at least people who spoke to me about having seen it on CTN and maybe snippets on the more traditional networks was positive. And I think it will be positive and will help our judicial system.

Is it a change? Yes, it is a change. In response to Judge Barall's comment, it is a change in the sense that the presumption will now be, at least under a pilot program in the criminal field for two years to see how it operates and without a pilot program in the civil field, that there will be coverage unless there's a good reason not to have coverage.

So this is the time to have the debate, so be it. But that's the rationale for it. I hope I've made it clear. I hope I've stated it concisely. I'll be willing to answer any questions or any other members of the task force, Judge Quinn was a member. There are other members here.

And I hope that you will vote favorably on it. I think Chief Justice Rogers supports it. I think it's an important thing for us to do. I think it's the right thing to do. I think it's the wise thing to do. And I think that when we do it, we will be perceived ultimately in a much more positive light.

Not to say that we're not perceived in a positive light now, but I think that there is a perception that somehow we're doing things, you know, in secret and we're not open. It's a misperception, but the more that we can dispel that misperception in having more cameras in the courts to show how well we do our job will do a very good job in dispelling that misperception.

Justice Zarella remarked as follows:

My recollection is that there are ten states that either prohibit or severely restrict camera coverage in the courtrooms. After that it's difficult to say how the rules are interpreted in the individual states. The rules are so diverse. They're all over the place. There are different standards in different courts.

I think it's a fair statement to say the vast majority of states do allow some form of coverage.

And I think in the risky area that we're going into is the part of the program that is -- we're considering in the pilot program, because that's the part where we're going to implicate not only defendants' rights but victims' rights and witnesses'. Are we going to chill witnesses coming forward? And that part of the program is subject to the two-year study, so we're sort of feeling our way.

But we think that these rules are drafted with an eye towards the judge in the courtroom having the discretion to make sure that the playing field remains level in those trials.

Judge Karazin commented as follows:

I have to respond because Justice Borden alluded to the Skakel trial. I found general authority for us to regulate the control of the trial on page 48, the last section on page 48. It says, to evaluate prospective problems there's a mandatory meeting. At such conference the judge shall review these rules and set forth the conditions of coverage in accordance therewith.

We made several rules that don't appear here. One rule was the still camera could photograph only in the first two minutes when a witness took the stand so that we didn't have constant interference with clicking. Nothing in the rules provides for that; we created that.

We also had the rule that no photographs of any conferences or conversations between Mr. Skakel and the lawyers; because we all watch the baseball games and everybody goes to the mound with the mitts on their mouth so that nobody can read, you know, I'm going to throw it high and hard.

So under all the circumstances I think there's plenty of leeway in here for us to protect the rights of the litigants and to make the proper determinations. I wholeheartedly support these rules.

Justice Zarella recognized Judge Keller. The essence of her remarks are as follows:

That's getting back to my point on the civil rules. Because the section that Judge Karazin just referred to is only contained now in the rules pertaining to criminal proceedings.

And I know that there was an explanation that somehow you could extrapolate sections of the rule pertaining to civil also to criminal proceedings and, arguably, make some kind of inference or implication that it also applies to civil. But why can't we just make it a little clearer and have a section like that in the civil proceeding section and in the pilot program section?

And I would propose that we add the language that you see on page 49 under media coverage of arraignments where it says, "The judicial authority in its discretion may require pooling arrangements," to every one of those sections so that it's contained in all four so that I don't have to go through the weighing process simply to make sure that my courtroom is not going to turn into chaos. Because I don't think that it's unreasonable in most cases. And I don't know that you should have to subject it to the balancing provisions that you've put in the civil section when you want to consider requiring a pooling arrangement.

You know, in terms of thinking about people who have to testify and the protection of people who've been victims, we have as many victims who have to testify in many civil cases as we might have in criminal cases. So I don't think that you can just say, "Well, our real concerns have to do with those poor people and witnesses who have to give testimony in a criminal case." There's a lot of unwilling, poor, and seriously abused and mistreated people who are also going to be testifying in civil.

So I would like to make a motion, at the very least, that that sentence that's contained in Section 1-11A, "The judicial authority in its discretion may require pooling arrangements by the media," be added to Section 1-11, Section 1-11B, and to the section on the pilot criminal program, 1-11C. Because I don't think it's in there.

And I think that would make a lot of us feel a lot better, that we're not going to have, without having to make some kind of extraordinary balancing constitutional findings, we can simply say we don't want our courtrooms evolving into the Jerry Springer Show. And so that's my motion.

The motion was seconded and approved unanimously.

Justice Zarella recognized Judge Clifford who made the following comment:

I was on the Public Access Task Force. And obviously, as trial judges, most of us aren't thrilled about the concept of having a television camera viewing everything that we're doing in the courtroom.

Speaking as a criminal judge, I mean, most of us I think felt in general -- and this is no knock on civil -- that there wouldn't be such a demand for TV coverage of civil trials. But as a criminal judge, the feeling was, let's try it. And that's why it is a pilot program. Because none of us knows how it's going to be.

So if we do this in a site that's going to be selected, we do it for the two years, it's going to be evaluated through the Rules Committee -- I think through the Judicial Media Committee that has been formed, and we're going to end up speaking, I'm sure, with the judges in that particular site who did it, I think then we'll have more information.

Because then the next step will be to ask whether we continue it in regard to criminal cases or not? Because none of us know how it's going to be. And I think that was our compromise as part of the public access commission on the criminal side. I was not for it, but it's hard to oppose trying it. And I think that's why we agreed on the pilot program.

At the conclusion of Judge Clifford's remarks, Justice Zarella recognized Judge Sheldon who made the following comment:

This is a request for clarification on Section 1-11. Because there's a usage here that is parallel to a usage in the pre-existing Code of Judicial Conduct and our pre-existing rule on the subject.

In the first paragraph of the rule as it's written, the word "should" appears. And some have attempted to argue that the word "should" allows the court to exercise a discretion that goes beyond the limitations expressed in these rules. And I, among others, have interpreted should to mean "shall," as it means every other place that it's utilized in the Code of Judicial Conduct and in the pre-existing Rule 1-11 and 1-10.

And what I'd like to ask is whether it was the understanding of the Rules Committee, in coming forward with this, that the word "should" as it appears here means "shall" in the same sense that it has previously meant in the rules on television coverage. Or does it permit a discretion that goes beyond that suggested by these rules, which now would read "except as otherwise provided by this section"? Is there any "wiggle room," to use a term used before me in oral argument at that motion?

Justice Zarella responded as follows:

The concept that the Rules Committee was operating under was that the only change that was taking place in general on the criminal side, for all but the pilot program, was the addition of arraignments.

Judge Sheldon further remarked as follows:

So that if the preface to the pre-existing rule was prohibitory, except as allowed in the exceptions, this remains prohibitory, except in the manner spelled out in the rule by the intent of the Rules Committee?

Justice Zarella responded that that was his understanding.

Judge Scholl was then recognized and she asked the following question.

In the Rule 1-11 B Subsection (c) when it talks about any party, attorney, witness, or other interested person may object in advance of electronic coverage of a civil proceeding. My question was, how, when, and by whom will these interested parties or witnesses be notified of the request for media coverage and their right to object?

I'm thinking especially of a reluctant witness who may have no relationship with the parties or the attorneys involved, who may be subpoenaed in, reluctantly, to a case that may already be subject to media coverage. There's options in here about publishing notice of objections. My question was, how do we communicate to the people who have a right to object, a meaningful opportunity to do that in a meaningful way and time?

Justice Zarella responded that Section 1-11 B (n) requires a three day notice period if someone is interested in broadcasting the proceeding. There's a notice provision that is required to be given by the media if they are desirous of broadcasting. That, he presumed, would also be noticed to the attorneys who are going to be trying the case. They are all aware of which witnesses they are going to call. He doesn't see any burden placed on the court to specifically notify witnesses or others.

Judge Scholl responded that there isn't any burden on the attorneys to notify these parties either. Her concern is that there may be some third parties that may have some interest, that really aren't participants that may want to object, but yet they're never being told when they can object or that there is something to object to.

Judge Quinn responded as follows:

It was our discussion in the Task Force, and generally the administrative plan, that when you receive notice in a civil case of media interest that you could post that on our website, that there was media interest in a particular case and the case name; and we would evolve a methodology by which people might object, people who are not necessarily directly interested in the case, such as witnesses.

We would hope the practice then would take place that the lawyers would notify their witnesses, and we'd have a public information distribution system of these changes. Obviously there are a lot of questions of this type as to how we carry it out. But notice to unrelated parties we thought would have to happen by way of our website.

Justice Zarella suggested that when a judge received notice of a request for broadcast, the judge could order the attorneys to notify their witnesses of the request for broadcast and the time of objection.

He then recognized Judge Berger who pointed out differences between the provisions concerning the procedures for television operation in civil and criminal courtrooms. He commented that he saw no reason for the distinction and that they should be the same. Justice Zarella responded that the Rules Committee did not intend to change the rules regarding cameras in the courtroom for criminal proceedings other than to add a provision with regard to arraignments. The Task Force proposals received by the Rules Committee provided for and expanded coverage from what the current Practice Book had on the civil side. The Rules Committee did its best to draft civil rules to accommodate the desires of the committee members with regard to the recommendations of the Task Force.

Judge Berger asked what it means if there are provisions that apply to the criminal side and then are left out of the civil side. Justice Zarella responded that the civil rules were expanded in the Task Force to allow for a more liberal use of cameras in the courtroom than existed before.

Justice Zarella recognized Judge Gordon who questioned why the Rules Committee was recommending that the procedure outlined in Section 25-26 (g) would no longer be required in every case, but only in cases upon or after entry of final judgment. She explained that judges who are on the family side want to be able to oversee custody orders in some way because the system is often abused to the detriment of children. She made a motion that, Subsection (g) of 25-26 be changed to read that, "Upon or after entry of an order of custody, visitation, or parental responsibility plan in any action brought pursuant to Chapter 46B of the Connecticut General Statutes, that it shall then go on, that any further motion for modification of that order shall be appended."

The motion was seconded and Justice Zarella asked if there was discussion. Judge McLachlan raised a concern that the motion referred to Chapter 46 B of the Connecticut General Statutes and because of that the amendment may not accomplish the purpose for which it was intended. He noted the provision in Practice Books Section 25-3 and 25-4 are not the provisions that are set forth in Chapter 46 B of the General Statutes. Judge Gordon suggested that perhaps the rule should refer to "actions where parents of children live apart,"

Judge Swienton made the following comment:

The requests for leave never have been on *pendente lite* motions anyway. They're just on the final orders. And so the proposal I was thinking about was to add a provision that would add in after the word "annulment," "Or upon or after entry of a judgment or final order of custody and/or visitation for a petition filed pursuant to Practice Book 25-3 or Practice Book 25-4."

But I think what Justice Zarella said was we're not sure whether the applications for custody and visitation pursuant to 25-3 and 25-4 are final judgments or they're just orders. And so I think that maybe waiting until September, until someone's really had to take a look at this for the final proposal. I totally agree that it should pertain to both, but I think we need to be really clear as to whether or not they're orders, or in fact, they really are final judgments.

Justice Zarella responded that he had no philosophical reason not to do it, but he was concerned about doing something that would have unintended consequences. He stated that he would like to review the matter further, but if it was the sense of the group to amend it now, that's fine.

Judge Gordon stated that she would be glad to have her amendment amended. She noted that the cases that would be left out if the Rules Committee proposal passed represented pro se litigants and unrepresented people in a large proportion.

Judge Koletsky asked "If an appeal lies from a *pendente lite* order, why isn't it a judgment? He supported the adoption of the Rules Committee's proposed change and stated he believed the provision would apply to *pendete lite* orders as well as other orders.

Judge Zarella responded that he does not believe that the provisions of the Practice Book Section 25-26 (g) apply to *pendente lite* orders and he does not believe that this is the issue. He asked if Judge Gordon accepted Judge Swienton's amendment as a friendly amendment to her motion. Judge Gordon asked for the wording.

Judge Swienton responded, "The amendment would be after the word "annulment," or upon or after entry of a final order or judgment of custody and/or visitation for a petition filed pursuant to Practice Book 25-3 or Practice Book 25-4."

In response to a question from the floor she noted the amendment does not include *pendente lite.* Judge Gordon agreed to this amendment of her motion. Judge Bear asked whether the amendments put forth at this meeting had to go through the same process, which includes a public hearing, as the Rules Committee proposals did before they can be voted on by the judges.

Judge Zarella responded that he believed that the judges were free to amend the proposals of the Rules Committee without further public hearing. He then recognized Judge Blue who voiced concerns about voting on the amendments raised at the meeting with out more time to consider them.

Justice Zarella then recognized Judge Pinkus, a member of the Rules Committee and a judge who is currently sitting on family cases. The essence of his remarks concerning the amendments raised at this meeting to the Rules Committee proposals are as follows:

A few years ago the rules were amended so that you couldn't modify a custody or visitation judgment postjudgment without getting request for leave. That's because there were some people who were filing motion after motion after motion.

So a rule was passed that said because some people were abusing the system that everybody had to file a request for leave to modify their custody and visitation postjudgment. So in my view, it's throwing out the baby with the bath water when you did that.

So what happened is, if you got divorced in 1992 and you haven't been back to court until the year 2007, you had to file a request for leave. You had to serve it on the other party. If there was an objection, you had to have a probable cause hearing, at which time if probable cause was

found, you would have a hearing on the motion to modify. That was done. That's now done in every case. .

And it is a huge pain. The clerk's offices are going through a huge amount of paperwork. It is costing a fortune. I'm just giving Judge Blue some context. It is costing the state in service fee, because many of these cases require a fee waiver. It's costing the state a huge amount of money because there are two services required instead of one.

So the thought process that's involved here is that rather than require everybody who wants to modify their custody and visitation judgment, even when they have an agreement, because there's no provision here that says you can, even when you have an agreement, that instead of requiring everyone to file a request for leave, if there is an abusive filer, then in that event and that event only, the court can say, Wait a second, I'm sorry, but you can't file any future motions unless you have request for leave.

So that's what we're trying to change here. So what we're doing is, we're making it easier for most people to get back into court. And what we're doing here is, we're creating a mechanism to stop the abusers, not to stop everybody, but just the abusers. So this does, in fact, make the court system more open and an easier place to work.

Where I sit in New Britain now I've probably had a hundred of these in the last year. I've probably denied four, which meant that 96 people had to go through this process for no reason. The argument is, Well, gee, you signed four. Yes, I stopped four, but 96 people had to go through this process.

So the concept here is we're trying to streamline the system. The clerk's offices throughout the state uniformly hate the present system. The present system was well-intentioned, absolutely well-intentioned, but it is very difficult to follow.

So I firmly support the amendment and the amendment to the amendment because I think that it accomplishes what we all want to accomplish.

Well, what the amendment to the amendment provides is, in New Britain most of the people I deal with were never married in the first place. So we don't have dissolution of marriage, of civil union, or legal separation. We have a man and a woman who had a baby and they've been fighting over that child until that child is old enough to leave. Those are the cases that we have unfortunately.

So I think the amendment will deal with those cases, as well as the cases for dissolution of marriage, legal separation and annulment. So we're just including all of the cases where there's been a judgment involving custody and visitation. Hope that helps.

At the conclusion of Judge Pinkus' remarks, a judge rose to call the question. Justice Zarella asked if everyone understood the amendment that is presently on the floor. Judge Swienton rose and reiterated her proposed amendment as follows:

So in (g) it would read, Upon or after entry of a judgment of a dissolution of marriage, dissolution of civil union, legal separation, or annulment or upon or after entry of a judgment or final order of custody and/or visitation for a petition or petitions filed pursuant to Practice Book 25-3 and/or Practice Book 25-4, the judicial authority may order that any further motion for modification of a final custody or visitation order shall be appended with a request for leave...

Justice Zarella recognized Judge Solomon who asked for clarification as to whether the judges would take action regarding *pendente lite* issues at this time. Judge Gordon responded that they would not. Upon voice vote all judges voted for the motion to amend the Rules Committee's proposed revision of Practice Book 25-26 (g), with the exception of Judge Blue, who abstained.

Justice Zarella then recognized Judge Sheldon who noted that in Section 1-11 (j) of the amendments proposed by the Rules Committee, it states, "Except as provided by these rules established restrictions upon broadcasting, etc., in areas adjacent to the courtroom shall remain in full force."

He explained that at the beginning of the proposed rules, the language of the Practice Book which established those restrictions has been taken out. So it's a reference to nothing unless we restore a sentence that says the very thing that this rule purports to continue, which is on page 43. And it's the very first sentence after the bracket in Subsection (a).

Unless there's some other part of the rules that says the same thing, it seems to me that we have to restore that language there, in order for those sections to make sense.

Justice Zarella responded that the language also appears in Section 1-11 B (k). Judge Pittman, a member of the Rules Committee, rose to support Judge Sheldon's point, noting that proposed Section 1-11 (j) now refers to areas adjacent to the courtroom that were previously referred to in the rule that now no longer exists in the rule.

Judge Sheldon then made the following motion:

I then propose an amendment that the language of Subsection (j), on page 48 and a comparable amendment to each other subsection, that does exactly the same thing, to say, "Except as provided by these rules, broadcasting, televising, recording, and photographing in the areas

immediately adjacent to the courtroom during sessions of court or recesses between sessions shall be prohibited."

Justice Zarella noted and Judge Sheldon agreed that this proposed language was taken from Section 1-10, that is,

A judicial authority should prohibit broadcasting, televising, recording, or taking photographs in the areas immediately adjacent thereto or to the courtroom during sessions of court or recesses between sessions shall be prohibited.

The motion was seconded and so VOTED unanimously. Judge Cremins then made a motion to call the question. The motion pending was Justice Zarella's motion to approve the amendments to the Practice Book rules, proposed by the Rules Committee, as subsequently amended from the floor of the annual meeting. The motion to call the question was seconded and so VOTED unanimously.

The vote on Justice Zarella's motion to approve the amendments to the Practice Book rules, proposed by the Rules Committee, as subsequently amended from the floor of the annual meeting, was taken by written ballot. When the votes were tallied it was determined that the judges VOTED to approve the motion with 138 voting in favor, 5 in opposition and 8 abstaining.

Those voting to approve the motion were: Chief Justice Rogers; Justices Borden, Katz, Vertefeuille, Zarella and Schaller; Appellate Court Judges DiPentima, McLachlan, Harper, Lavine, Beach, Robinson and Lavery; Superior Court Judges Abrahms, Adams, Agati, Alander, Arnold, Aurigemma, Baldwin, Bear, Bellis, Berger, Black, Blawie, Blue, Bozzuto, Brunetti, Burke, Carroll, Clifford, Cohn, Conway, Corradino, Cremins, Cronan, D'Addabbo, Devine, Doherty, Dolan, Domnarski, Dooley, Driscoll, Dubay, Dyer, Elgo, Espinosa, Eveleigh, Fasano, Fischer, B., Fischer, J., Frankel, Frazzini, Fuger, Gallagher, Gilligan, Ginocchio, Gleeson, Gold, Graham, Graziani, Hadden, Harleston, Hiller, Holden, Hudock, Iannotti, Jennings, Jones, Jongbloed, Kahn, Kaplan, B., Kaplan, J., Karazin, Kavanewsky, Keegan, Keller, Lager, Licari, Lopez, Madin, Marano, Markle, Maronich, Matasavage, Mintz, Moore, O'Keefe, Olear, Pavia, Peck, Pickard, Pinkus, Pittman, Prescott, Quinn, Radcliffe, Randolph, Resha, Reynolds, Richards, Riley, Robinson, Roche, Rubinow, Santos, A., Scarpellino, Scholl, Schuman, Sferrazza, Shaban, Sheldon, Shortall, Silbert, Solomon, Stevens, Strackbein, Swienton, Tanzer, Taylor, C., Taylor, M., Thim, Thompson, Tierney, Trombley, Tyma, Vacchelli, Vitale, Ward, Wiese, Wilson, Winslow, Wolven, Kolesky, Leheny, Levine, Nadeau. Those voting in opposition to the motion were Superior Court Judges Devlin, Gordon, Martin, Robaina and Rodriguez. Those abstaining were Superior Court Judges Calmar, Crawford, Dennis, Dewey, Handy, Hauser, Turner and Sullivan, T.

Justice Zarella introduced the next motion.

I further move that the amendments as just adopted to Rule 1.15 of the Rules of Professional Conduct become effective on September 1, 2007, and that the requirement of Practice Book Section 1-9, that a rule not become effective less than 60 days after its promulgation be waived pursuant to the provisions of that section.

Second part.

I move that the amendment as just adopted to Practice Book section 25-26 become effective on October 1, 2007 (That's the amended provision); that the rest of the amendments to the Practice Book and the Code of Evidence, as just adopted, become effective on January 1, 2008, and that the Reporter of Judicial Decisions may make editorial changes to the amendments including changes in the section numbers; and that the provisions of Practice Book Section 1-10 be extended for one year commencing October 1, 2007.

The motion was seconded and voted unanimously. A copy of the Practice Book revisions adopted by the judges is attached as Appendix A.

Justice Zarella noted that he had circulated a proposed resolution to the judges for their consideration, for adoption at this meeting, via email at the end of the last week or the beginning of his week. It was subsequently amended based on some of the judges comments. He then commented on the resolution as follows:

This resolution comes to you by way of resolution rather than rule, frankly, because we were too late in the process of rule making in order to include it in your package this year. It has the support of the Chief Justice and of the Rules Committee, and I will read it for the record. "Resolved (1) That each year the Superior Court Rules Committee shall make itself available to meet with the members of the Judiciary Committee of the General Assembly (Judiciary Committee) as soon as practicable after the first Rules Committee meeting in September to advise the Judiciary Committee as to the Rule Committee's anticipated agenda for the upcoming year, (2) That as soon as practicable after the convening of each regular legislative session, the Chair of the Rules Committee shall invite the Senate and House Chairs and the Ranking Members of the Judiciary Committee, and such other members of that Committee as the Chairs may designate, to attend a meeting with the Rules Committee to confer and consult with respect to the rules of practice, pleadings, forms, and procedure for the Superior Court and with respect to legislation affecting the courts pending before or to be introduced in the General Assembly. (3) That the Chair of the Rules Committee shall forward to the Judiciary Committee for review and comment all proposed revisions to the Practice Book and to the Code of Evidence which the Rules Committee has decided to submit to a public hearing at least 35 days in advance of the public hearing thereon. If the Chair of the Rules Committee shall receive any comments from the Judiciary Committee with respect to such proposed revisions, he or she shall forward such comments to the members of the Rules Committee for their consideration in connection with the public hearing. (4) That the agendas and minutes of the Rules Committee meetings, any proposed revisions to the Practice Book and to the Code of Evidence which the Rules Committee has decided to submit to public hearing, any

comments by the Judiciary Committee with respect to such proposed revisions, and any proposed revisions that are adopted by the Superior Court judges shall be placed on the Judicial Branch website. (5) That the Superior Court Rules Committee shall consider submitting to the Superior Court judges for adoption a Practice Book rule incorporating appropriate provisions of this resolution; (6) that this policy shall become effective upon passage.

Justice Zarella's motion to approve the above resolution was seconded and so VOTED unanimously. At the conclusion of Justice Zarella's presentation, Judge Lavery returned to the podium to ask the judges to nominate four judges for election to the Rules Committee, in addition to the justice and judges appointed by the Chief Justice, pursuant to the vote of the judges at the 1996 annual meeting. The four judges elected will serve one year terms commencing July 1, 2007. The judges nominated Judges Pinkus, Pittman, Fasano and Dyer. The motion to elect these four judges to the Rules Committee for one year terms commencing July 1, 2007 was seconded and VOTED unanimously.

Judge Lavery then asked for the nomination of two judges whose names would be submitted to the Governor, from which one would be appointed for a term of four years, commencing December 1, 2007 on the Judicial Review Council to replace Judge Carroll whose term will expire this year.

A motion was made to submit the names of Judge Cremins and Judge Ginocchio to the Governor. The motion was seconded and so VOTED unanimously.

Judge Lavery then asked for a motion to approve the actions and recommendations of the Executive Committee, as noted in the minutes of the meeting of May 30, 2007, which were mailed to the judges before the meeting. The motion was made, duly seconded and so VOTED by all present with the exception of Judge Dyer who abstained with respect to those portions of the Executive Committee actions and recommendations pertaining to hiring or promotion of Judicial Branch personnel. A copy of the recommendations of the Executive Committee to the full bench which were adopted is attached as Appendix B.

Following the approval of the motion concerning the Executive Committee, Judge Lavery thanked Justice Zarella and the Rules Committee for their work. Judge Keller rose to thank Judge Handy for her work on the Judicial Review Council. Judge Lavery declared the annual meeting adjourned at 3:43 p.m.

Respectfully submitted,

Robert D. Coffey

Robert D. Coffey, Secretary

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