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MIHALAKOS, J., concurring in part and dissenting in part. I agree with the majority that the trial court improperly prohibited the plaintiff from discussing with third parties the subject matter of the transcript of the visitation hearing; however, I respectfully disagree with the majority's conclusion that the trial court properly prohibited the plaintiff from disseminating to third parties the transcript of that hearing.

The following facts are relevant to this discussion. In February, 2007, the plaintiff initiated a dissolution proceeding against the defendant. On November 17, 2008, the defendant filed a motion pursuant to General Statutes §§ 46b-11 and 46b-49 for a closed hearing and to seal the records relating to the custody and parenting issues being contested by the parties at that time. On November 25, 2008, the trial court, *Hon. Dennis F. Harrigan*, judge trial referee, held the visitation hearing and granted the defendant's motion, ordering that two motions and the exhibits attached thereto be sealed, the courtroom be closed to the public and the transcript of the proceedings that day be kept under seal.[1]

On April 26, 2010, the defendant filed a motion seeking an order that the plaintiff, in accordance with Judge Harrigan's order, not disseminate or disclose to any other individual the transcript of the November 25, 2008 hearing, nor discuss the contents of that transcript. On July 19, 2010, the trial court, *Shay, J.*, held a hearing on that motion. Judge Shay granted the defendant's motion for order and noted that Judge Harrigan's order was "simple" and "straightforward," and that he was "not expanding" Judge Harrigan's order but merely was "enforcing" it. Judge Shay ordered that any copies of the transcript that had been disseminated to third parties be returned to the attorney for the minor children. He also indicated that the parties were prohibited from talking about the subject matter of the transcript. This appeal followed.

Whether Judge Shay properly construed the order of Judge Harrigan is a question of law subject to plenary review. See *State* v. *Denya*, 294 Conn. 516, 529, 986 A.2d 260 (2010). "As a general rule, [orders and] judgments are to be construed in the same fashion as other written instruments. . . . The determinative factor is the intention of the court as gathered from all parts of the [order or] judgment. . . . The interpretation of [an order or] judgment may involve the circumstances surrounding [its] making . . . . Effect must be given to that which is clearly implied as well as to that which is expressed. . . . The [order or] judgment should admit of a consistent construction as a whole." (Internal quotation marks omitted.) *Chapman Lumber, Inc.* v. *Tager*, 288 Conn. 69, 91–92, 952 A.2d 1 (2008).

The conclusion of the majority that the parties are prohibited from disseminating the transcript of the visitation hearing is one reached through its analysis of § 46b-11, pursuant to which the defendant requested that Judge Harrigan seal the record of that hearing. Section 46b-11 provides in relevant part: "[T]he records and other papers in any family relations matter may be ordered by the court to be kept confidential and not to be open to inspection except upon order of the court or judge thereof for cause shown." Although it is unclear from the plain meaning of the statute whether the court may order the parties, or only court personnel, to keep the record "confidential," the majority has nonetheless concluded, through a single declarative statement, that the statute prohibited the parties from disseminating the visitation hearing transcript.

The majority offers its statutory construction of § 46b-11 as if it alone decides the issue; however, our standard of review clearly indicates that when construing a court order, "[*t*]*he determinative factor is the intention of the court as gathered from all parts of the* [*order or*] *judgment*." (Emphasis added; internal quotation marks omitted.) *Chapman Lumber, Inc.* v. *Tager*, supra, 288 Conn. 91. Even assuming that the majority's interpretation of § 46b-11 is valid, its statutory construction is of no moment here precisely because the intention of the court is determinative of the analysis under our standard of review.

If Judge Harrigan meant to prevent the *parties* from disseminating the record he should have specifically ordered such a result or imposed a gag order. He did neither of these. It is my view that Judge Harrigan not only impliedly but expressly conveyed his intention that the parties were not prohibited from disseminating the visitation hearing transcript.

Because we conclude that Judge Shay improperly interpreted Judge Harrigan's order to be a prohibition on the parties' ability to discuss the subject matter of the visitation hearing, then we must likewise conclude that Judge Harrigan did not intend to issue a prohibition on the parties' ability to disseminate the visitation hearing transcript. Inherent in a court's authority to impose a gag order is the nondissemination of the transcript of the courtroom proceeding. To not issue such a gag order and then to order that the parties cannot disseminate the transcript yields an inconsistent result. It is to say that one can freely discuss the subject matter of the hearing with anyone one chooses (since a gag order was not made) but that one cannot disseminate the transcript, even though such an order was not given. Judge Harrigan did not issue a gag order here, and, therefore, he did not intend to prevent the parties from disseminating the visitation hearing transcript.

Similarly, during the visitation hearing, Judge Harri-

gan expressly conveyed that he did not intend such a result. The defendant specifically asked Judge Harrigan to issue an order prohibiting the parties from disseminating his signed order, which was entered on a ten page portion of the transcript of that hearing. Judge Harrigan declined to grant the request during the following colloquy with counsel:

"[The Plaintiff's Counsel]: One question I have, Your Honor, is at some point could we get a copy of Your Honor's signed order?

"The Court: Once I get the transcript, I will have it reduced to a written order that I will sign. That will also be under seal but each of you will be entitled to it.

"[The Plaintiff's Counsel]: Okay.

"The Court: Does that satisfy you?

"[The Plaintiff's Counsel]: That's fine.

"[The Defendant's Counsel]: Except, Your Honor, may we have an order that that order that is signed remain with counsel and not be disseminated beyond counsel? That is the concern.

"[The Plaintiff's Counsel]: I think the parties are entitled to a copy of the order.

"The Court: Well, it is their case.

"[The Plaintiff's Counsel]: Absolutely.

"The Court: I can't control that but it seems to me that if they want to upset the apple cart at this late date, that is unfortunate. They are entitled to a copy of the order counsel. It is their case, like it or not."

It is impossible to reconcile Judge Harrigan's refusal to grant this request with the majority's position that he prohibited the parties from disseminating this transcript. Judge Harrigan had the opportunity at this juncture to specifically order that the parties could not disseminate the visitation hearing transcript. He chose not to. Instead, short of issuing such a prohibition, he merely acknowledged that it would be "unfortunate" if the parties disseminated the visitation hearing transcript and, in so doing, "upset the apple cart . . . ." The record is, moreover, bereft of a reasonable basis on which to conclude that Judge Harrigan intended otherwise. Contrary to our standard of review, the majority has fashioned a result inconsistent with Judge Harrigan's intention. Because Judge Harrigan did not issue a gag order and did not issue an order prohibiting the parties from disseminating the visitation hearing transcript in spite of the fact that such a request was made, his intention to seal the record only as it pertained to court personnel was unequivocal.

Accordingly, I would reverse the judgment of the trial court.

[1] The majority states that the order of Judge Harrigan granted the defendant's motion "that, in part . . . prohibited the plaintiff's dissemination of

the sealed transcript . . . .” My review of the order indicates no such language. On November 25, 2008, Judge Harrigan granted the defendant’s motion for closed hearing and records pendente lite, which stated in relevant part: “The [d]efendant respectfully moves the [c]ourt pursuant to . . . §§ 46b-11 and 46b-49, that the courtroom be closed, and the public and press be excluded from any portion of the proceeding . . . . The [d]efendant further moves that the records and other papers pertaining to the custody and parenting issues be kept confidential and not be open to inspection except by order of the [c]ourt for cause shown.”