

Judicial-Media Committee

Minutes of meeting on Sept. 26, 2016

Members present: Co-chairs Karen Florin and Judge Robert J. Devlin, Jr.; G. Claude Albert, Tom Appleby, Judge James M. Bentivegna, Linda J. Cimino, Attorney Joseph D. D'Alesio, Attorney Melissa A. Farley, Paul Giguere, Judge David P. Gold, Alaine Griffin, Judge Susan B. Handy, Judge Barbara Bailey Jongbloed, Attorney Pamela S. Meotti, Eric Parker, Chris Powell, Judge Elliot N. Solomon and Judge Dawne Westbrook. Also attending and speaking at the meeting were: Connecticut Broadcasters Association Vice President and WFSB General Manager Klarn DePalma, Hartford Courant Editor John Ferraro, Attorney Norm Pattis and Fox 61 Chief Engineer Mike Piskorski.

- I. Judge Devlin opened the meeting at 3:05 p.m.
- II. The committee approved the minutes from its meeting on March 14, 2016.
- III. The committee noted Attorney Alan Neigher's resignation from the group, and members thanked him for his work on the committee. Attorney Neigher had served since he was appointed by Justice David M. Borden in 2007.

Committee members also provided their memories and thoughts about Justice Borden, who died in August 2016. Judge Devlin noted Justice Borden's push to allow cameras in the courtroom and Mr. Albert said the Judicial-Media Committee would not have existed without Justice Borden, whom he described as greatly accelerating the Branch toward openness. Ms. Florin also cited Justice Borden's good work with the committee, and Mr. Powell said he always admired Justice Borden as a great judge even before Justice Borden got involved with opening up the courts.

- IV. Judge Handy, Ms. Florin and Mr. Parker provided updates on the recent Law School for Journalists held in April 2016 and the upcoming Journalism School for Judges in June 2017.
- V. Discussion Items:
 - 1) Klarn DePalma, vice president of the Connecticut Broadcasters Association and WFSB's general manager, addressed the committee regarding efforts the association is pursuing to reduce frivolous lawsuits against media organizations. Among them, he said, is the association's support of anti-SLAPP (Strategic Lawsuit Against Public Participation) legislation. Mr. Powell added that the Connecticut Council on Freedom of Information has met and endorsed this legislation, noting that an individual sued the *Journal Inquirer* last year for

reporting his conviction.

- 2) John Ferraro, editor at *The Hartford Courant*, addressed two issues that he asked the committee to consider reviewing. First, he asked whether the Judicial Branch and state hospitals could develop a policy to facilitate a media pool presence at hospital arraignments. He added that perhaps the Branch could poll hospitals to determine whether they would allow in the media. Judge Devlin thought that it would be a good start to check with the hospitals, and Mr. Albert suggested contacting the Connecticut Hospital Association.

Mr. Ferraro brought up a second issue involving the camera rules and sexual assault. Court rules do not allow photos or video of court proceedings where a defendant is charged with sexual assault. However, Mr. Ferraro asked whether a judge has the discretion to allow cameras in those proceedings where the victim of a sexual assault was killed. Ms. Florin added that it is almost like a defendant charged with sexual assault and murder is getting special treatment because cameras are not allowed in the court proceedings. Both Judge Devlin and Judge Handy said that the issue was one that would need to go before the Rules Committee for any change to occur.

The committee decided that a small workgroup would review camera rules in other states regarding sexual assault cases. The workgroup would also contact hospitals to ask whether hospitals would allow reporters to bring in cameras for hospital arraignments. Before the discussion concluded, Fox 61 Chief Engineer Mike Piskorski said he fully supported Mr. Ferraro's comments.

- VI. Judge Devlin and Attorney Norm Pattis debated the pros and cons of plea bargaining for the remainder of the meeting. Judge Devlin said that while plea bargaining is not ideal, it is necessary considering the number of criminal cases in state courts. More than 90 percent of cases are resolved through plea bargaining, he said, adding that one of the principle complaints about plea bargaining is that it is done in private. However, that is the only way to get all sides to speak frankly about the case, he explained. Judge Devlin also noted that there are often issues regarding victims' concerns about testifying, admissibility, etc., that go into plea bargaining.

Attorney Pattis said he wondered why the media doesn't insist on the right to be present during plea bargaining to increase transparency. He added, however, that from the standpoint of a lawyer, he/she would not want the media present. He proposed that when a case gets to trial, that the last, best offer is put into an envelope and then later used as a guide for sentencing, noting that the media

should find out what the last, best offer was. He added that while he hates plea bargaining, it is a necessary thorn in his side, so that he may provide options for his client. Attorney Pattis also asked what the harm would be to having more trials.

Several committee members participated in the discussion, including Ms. Griffin, who asked Judge Devlin whether he ever felt responsible for putting on the record what happened during a plea bargain. Judge Devlin answered that he definitely believes he has the responsibility to do that.

- VII. Before the meeting adjourned, Mr. Giguere said CT-N had not been allowed to plug its camera equipment into the court's audio system. Attorney D'Alesio said he would check on this.

The committee scheduled its next meeting for Monday, April 3, at 3 p.m. and adjourned at approximately 4:45 p.m.