

The judicial power of the state shall be vested in a
supreme court, AN APPELLATE COURT, a superior court,
and such lower courts as the general assembly shall,
from time to time, ordain and establish.

F O R E W O R D

Many people have contributed to the history and success of the Appellate Court. The Hartford County Bar Association arranged for the printing of our history. Its president, Attorney Steven M. Greenspan, and executive director, Janice L. Ambruso, were especially helpful. The Appellate Court's committee for the celebration consisted of Chief Judge William J. Lavery and Judges Anne C. Dranginis, Thomas A. Bishop and Antoinette L. Dupont. The history was written by Judge Dupont, with the assistance of Attorney Molly LeVan and Judge Ian McLachlan. Special thanks go to Attorneys Joseph D'Alesio, Jill Begemann and Chief Court Administrator, Judge Joseph H. Pellegrino. The following persons, not mentioned in the history or in the separate lists attached to the history, in alphabetical order, are part of the Court's history and deserve mention: Attorneys Michele Angers, Donald Dowling, Frank Drumm, Patricia Friedle, Gail Gieson, Louise Hallas, Emily Lebovitz, Kevin Loftus, Jamie Porter, and Barbara Rodgers; others include Marie DeCarlo, Cheryl Fraychak-Kanaple, Martine Halle Fusco, Robin McShane, Karen Netherton, Deborah Pakalnis, Ellen Prezch, Maggie Santangelo, Karen Viklinetz and Florence Weinstein.

A HISTORY OF THE APPELLATE COURT

On November 2, 1982, the voters of Connecticut approved a constitutional amendment providing for the establishment of the Connecticut Appellate Court. The legislation implementing the amendment was passed on June 28, 1983, effective July 1, 1983. Governor William O'Neill appointed the original five judges of the court on August 9, 1983. Their terms began on August 15, 1983, and the court heard its first cases on October 4, 1983. During the next twenty years, the new court would have an enormous impact on the process of hearing and deciding appeals in Connecticut. Many people participated in the creation of the court, and many others have contributed to its activities, procedures and decisions since then.

For several years prior to the passage of the constitutional amendment, John Speziale, as Chief Justice of the Connecticut Supreme

Court, had worked tirelessly in the effort to obtain an intermediate appellate court. Special credit also belongs to Maurice Sponzo, then Chief Court Administrator, and to the members of the Judiciary Committee of the state legislature who voted in 1981 in favor of the resolution to place the constitutional amendment on the ballot of November 1982. Others who were prominent in the court's history were the members of the legislative committee of the Connecticut Bar Association who drafted proposed legislation to implement the amendment. Without the initial support of these people, and Governor William O'Neill, there would be no Appellate Court. Nor, without the help of former Chief Justice Ellen A. Peters, would the court have become the dynamic institution that it is.

A constitutional amendment is not easily obtained. Article Twelfth of the Connecticut constitution, as

amended, requires an initial passage by the General Assembly of a proposed amendment by a three fourths majority of the total membership. If a three-fourths majority is obtained, the proposed amendment is placed on the ballot for the approval by the electors at the general election to be held in the next even-numbered year. In the event that a three-fourths vote of the membership of the General Assembly is not obtained, but a majority of the membership has voted in favor of the proposed amendment, the amendment is then resubmitted to the next legislature. Upon passage by at least a majority of the membership of the General Assembly, it is then presented to the electors at the general election to be held in the next even-numbered year. If a majority of the electors voting in the general election "shall have approved such amendment, the same shall be valid, to all intents and purposes, as a part of this [the] constitution."

In 1979, a resolution to approve an amendment to the constitution for the

establishment of the Appellate Court passed the state legislature by a majority of those voting rather than by three-fourths of the membership. The vote, therefore, was insufficient to place the amendment on the ballot for approval by the voters in November, 1980. In 1981, the resolution was again presented to the legislature. The resolution easily passed in the Senate. The House of Representatives, however, failed to pass it by a majority and it was only upon reconsideration, four days later, that it passed by 56 per cent of those representatives present and voting. The proposed amendment was then presented to the voters in the general election of 1982 and was approved by a majority of the general electorate, although, not by a three-fourths vote, which, luckily, was not required for passage. The amendment to the state constitution, thus, now provides that the "judicial power of the state shall be vested in a supreme court, an appellate court, a superior court and such lower courts as the General

Assembly shall, from time to time, ordain and establish."

From this uncertain and humble beginning, the Appellate Court has evolved from five judges in 1983 to ten judges in 2003. In addition to the regular sitting judges of the Court, legislation passed in 1995 gives the Court an ever-increasing judicial army of retired and senior judges of the Appellate Court and justices of the Supreme Court who sit on the court at the designation of the Chief Judge of the Appellate Court. As of September 1, 2003, eighteen judges and justices who are no longer full-time members of those courts have sat on Appellate Court panels. They have participated in 2,293 panels and 683 opinions have been authored by them.

The amendment of 1982 added only three little words to the constitution, "an Appellate Court" but those words would have a profound effect on the Connecticut appellate system. The need for the court was attested to by the seriousness and magnitude of the Supreme Court's backlog of pending

appeals at the time. In October of 1983, most appeals in civil cases had been pending on the Supreme Court's docket for two years or more without having been reached for oral argument.

In October of 1983, the Appellate Court began its first term with 215 cases that had been transferred to it from the Supreme Court. The Appellate Court also began its life with an additional twenty-six cases that had not yet been heard by the Appellate Session of the Superior Court. The Appellate Session was a statutory stop-gap for some appeals from nonconstitutional courts that then existed. The Appellate Session was rendered defunct in 1983 by the legislative terms that had created it and by the emergence of the Appellate Court as a constitutional court.

The first Chief Judge of the Appellate Court, Joseph Dannehy, had the formidable task of guiding the court during its infancy. In November 1984, Judge Dannehy was appointed to the Connecticut Supreme Court, and Antoinette L. Dupont became the next

Chief Judge. Her job was to reduce the docket of pending appeals, while maintaining the quality of the decisional output.

The original purpose of adding an intermediate constitutional court to the judicial spectrum was to alleviate the backlog in the Supreme Court, to provide appellate review to a larger number of litigants, to provide the bar with more published decisions relating to appellate motion practice, to reduce the time-lag between the filing of appeals and the publication of opinions, and to provide some litigants with a less expensive appellate procedure by eliminating the necessity of printed briefs.

The original legislation that implemented the Appellate Court's existence outlined the parameters of its jurisdiction.

An important provision in the legislation allowed the easy transfer of appeals between the Supreme and Appellate Courts at the option of the Supreme Court, except for cases concerning

redistricting. The Supreme Court no longer requires printed briefs, which facilitates transfers. After an appeal has been decided by the Appellate Court, the Supreme Court can certify it for further review, upon the petition of an aggrieved party or by the Appellate Court panel that decided the case, if three justices of the Supreme Court vote for certification.

The smooth working relationship between the two appellate courts, in addition to the easy transfer of appeals, is fostered by the commonality of the rules of practice and the sharing of the offices of the Staff Attorney, Chief Clerk, and the Reporter of Judicial Decisions. An important role in the court's life is played by the dedicated staff and leaders of those three offices.

The two courts strive to work together in many ways. A training program for the law clerks of both courts is conducted jointly in September. An extensive pre-argument settlement program includes cases pending in both courts. Under the leadership of a former

Supreme Court justice, Angelo Santaniello, the program enlists the help of the state judge trial referees who were formerly on the Supreme Court and the Appellate Court and some who were Superior Court judges. The program has captured the attention of other state appellate courts who have modeled similar programs in their states after Connecticut's program. The filing fee for both courts is the same. Communication between the two courts is encouraged and joint meetings are held from time to time to discuss common problems.

An intermediate appellate court can act as a proving ground for untried procedures to increase expeditiously the number of cases decided, without sacrificing the quality of the work product. If a new procedure works for an intermediate appellate court, it may also work for a senior appellate court. The Appellate Court has tried a number of innovative practices and has adopted many of them. Some of the practices have also been adopted by the

Supreme Court. Both courts now hear cases beginning in September, instead of October, and have a stand-by system to allow them to hear a substitute case when a case scheduled for argument is settled just prior to oral argument or unavoidably had to be reassigned.

In 1984, the Appellate Court instituted a special swearing-in ceremony, as members of the bar, for its law clerks in its own courtroom. Both courts now have special ceremonies to swear-in their law clerks as members of the bar of Connecticut. Both courts worked together to create an electronic bulletin board to distribute decisions without the delay associated with written publication in the Connecticut Law Journal.

Some of the innovative procedures used in the Appellate Court are the limitation of oral argument to twenty minutes per side, the institution of an oral waiver program to allow some cases to be decided on the briefs alone, and the summary disposition of some cases by placing them on a monthly sua

sponte motion calendar. The court also conducts an early intervention program to dispose of cases with procedural problems such as lack of a final judgment or lack of aggrievement. The Appellate Court carefully monitors appeals to track the progress of an appeal from the time of filing to oral argument, and maintains a daily report of caseload and other relevant statistics. The Court has fought for rules to allow sanctions to be imposed on those who transgress the rules or who file frivolous appeals and it vigorously has applied those rules. The Court engages in issue tracking and conducts a program to eliminate inter-panel decisional conflicts. The Court also conducts off-site oral argument of cases from its regular docket at Connecticut high schools. The sessions are held in the same way as they would be held in the Appellate Court's courtroom. Teachers and students are supplied with advance materials, including the briefs filed. Informational talks are held for the

students, after the arguments, with the counsel who argued the cases.

One major innovative undertaking of the Appellate Court has been the use of off-site synergy sessions for the members of the court. The judges of the Appellate Court early recognized the importance of collegiality. A collaborative relationship among the members of a court and a strengthening of that relationship enhances the decision-making skills of its members and increases communication and understanding among them. It is important that the judges view themselves as a cohesive group. Collegiality does not only involve civility, etiquette or courtesy. If the public is to respect the judiciary, the members of the judiciary must respect each other. Justice Sandra Day O'Connor speaks of that collegiality in her book, *The Majesty of the Law*. She writes, "It is important that we (the members of the Supreme Court) get along together so we can go along together."

The synergy meetings, originally funded by the members of the Appellate Court themselves, began in March, 1987. The Court held retreats in March and November of 1987, which helped its judges to balance excellence and efficiency and made the court more than the sum of its individual parts. In 1988, the court applied for and received grants from the State Justice Institute to hold two-day retreats devoted to exploring the culture of the court, our work habits, and to provide a forum for discussions between the judges and staff. Subsequent retreats, also financed by grants, focused on the relationship between the Supreme and Appellate Courts, and the relationship between the Appellate Court and the Superior Court.

In 1990, the Court applied for and obtained a grant that expanded the synergy program to include the Supreme Judicial Court and Appeals Court of Massachusetts and the Supreme Court of Rhode Island. Representatives from each court helped a committee of the Connecticut

Appellate Court to develop a program. Again, the focus of the meetings was common appellate concerns and goals. The courts were privileged to be addressed by Judges Thomas Meskill and Jon Newman of the United States Court of Appeals for the Second Circuit and United States Supreme Court Justice Stephen Breyer, then a judge of the United States Court of Appeals for the Third Circuit. Additional grant applications produced additional funds. The same format was expanded to include the Supreme Courts of Maine, New Hampshire and Vermont. Eventually, in 2000, the grants terminated, but the court continues to meet annually with the appellate courts of Rhode Island and Massachusetts.

The Appellate Court has established a number of traditions to maintain pride in the court and to foster collegiality. For eighteen years, an annual law clerks' dinner has been held to which all former and current law clerks and the Appellate Court Judges, and their guests, are invited. As the

number of former clerks has increased, so has attendance. In the last few years, approximately 100 people have attended each year.

An annual golf outing has been held since 1986. There is a traditional Supreme Court versus Appellate Court softball game, which has been played since 1987. There have been annual court picnics since 1984. A poster contest, depicting Appellate Court life, conducted since 1985, culminates in a luncheon for the members of the Staff Attorney's, Reporter's and Clerk's offices. The court also has sponsored a "doldrum" luncheon every February, since 1986, for law clerks and staff.

The Appellate Court is a newcomer to the constitutional judicial triad in Connecticut. The court's decisions and procedures show it to be feisty, aggressive and innovative. In just a scant score of years, its decisions have had a major impact on substantive law. The court, since March 2000 under the leadership of Chief Judge William Lavery, has had a role in building a

consistent, impressive body of law, and has done so, while achieving the original purpose of minimizing delay between the filing of an appeal and the publication of a decision.

On the occasion of the twentieth anniversary of the genesis of the court, all those who have had a part in the life of the court look back on its strengths and achievements. All of us look forward to helping the Connecticut judicial system maintain its position as a judicial leader among the states and to sustaining and broadening the Appellate Court's role in the dissemination of appellate justice in Connecticut.

Judges Who Have Served on the Appellate Court¹

1. Joseph F. Dannehy*
2. Robert J. Testo
3. T. Clark Hull
4. Antoinette L. Dupont*
5. David M. Borden
6. Daniel F. Spallone
7. John J. Daly
8. William C. Bieluch
9. Edward Y. O'Connell*
10. George D. Stoughton
11. Fleming L. Norcott, Jr.
12. Paul M. Foti
13. Burton J. Jacobson
14. William J. Lavery*
15. Sidney S. Landau
16. Albert W. Cretella, Jr.
17. Maxwell Heiman
18. Frederick A. Freedman
19. Barry R. Schaller
20. E. Eugene Spear
21. Francis X. Hennessy
22. William J. Sullivan
23. Joanne K. Kulawiz
24. Christine S. Vertefeuille
25. Socrates H. Mihalakos
26. Peter T. Zarella
27. Joseph H. Pellegrino
28. Anne C. Dranginis
29. Joseph P. Flynn
30. Thomas A. Bishop
31. Thomas G. West
32. Alexandra D. DiPentima
33. C. Ian McLachlan

¹Listed in order of appointment and seniority at the time of appointment. Source: Connecticut Reports and Connecticut Appellate Reports.

*Served as chief judge.

**Members of the 1981 Judiciary Committee
Who Voted in Favor of HJR 95²**

Senator Howard T. Owens, Jr.³
Representative Richard D. Tulisano⁴
Senator William E. Curry, Jr.
Representative Edward C. Krawiecki, Jr.
Representative Rosalind Berman
Representative Joseph Broder
Representative Ferdinando Del Percio
Representative John Wayne Fox
Representative Paul J. Garavel
Senator Clifton A. Leonhardt
Representative Peter M. Lerner
Representative Antonina B. Parker
Representative Catherine M. Parker
Representative Thomas D. Ritter
Representative Alan R. Schlesinger

²Source: voting sheet contained in the archives of the state library.

³Seconded the motion for adoption of the resolution.

⁴Moved that the resolution be adopted.

**MEMBERS OF THE CONNECTICUT BAR ASSOCIATION
INTERMEDIATE APPELLATE COURT COMMITTEE⁵**

Paul B. Altermatt
David Biklen
Ralph G. Elliot
Jack H. Evans, President of the Connecticut Bar Association
Robert A. Fuller
Maxwell Heiman, Chair**
Mark R. Kravitz
Robert C. Leuba
C. Ian McLachlan**
Geoffrey W. Nelson
Peter M. Ryan
James F. Stapleton

⁵Source: minutes of the committee's March 9, 1983 meeting.

**Later appointed to serve on the Appellate Court.