



**STATE OF CONNECTICUT
JUDICIAL BRANCH**

EXTERNAL AFFAIRS DIVISION

231 Capitol Avenue
Hartford, Connecticut 06106
(860) 757-2270 Fax (860) 757-2215

**Testimony of Deborah Fuller
Judiciary Committee Public Hearing
March 17, 2006**

Senate Bill 430, An Act Concerning Arbitration in Family Matters

Good afternoon. My name is Deborah Fuller and I appear before you today on behalf of the Judicial Branch to testify in support of **S. B. 430, *An Act Concerning Arbitration in Family Matters***, which was submitted as part of the Branch's legislative package.

This proposal would require that arbitrators who hear family matters be attorneys. As the Committee is aware, last year the Legislature passed language that, for the first time, allowed aspects of a dissolution of marriage case to be arbitrated. This was a very significant change. Prior to last year's legislation, Connecticut authorized arbitration only for civil matters, and it was used primarily for cases involving business relationships. Indeed, only about twelve jurisdictions allow arbitration in family matters. At the time the bill was being considered, the Judicial Branch expressed our belief that the language should require any person conducting these arbitrations to be an attorney, and the proponent of the legislation agreed. However, since the language did not contain any such requirement, legislative history on this point was needed. As the bill was brought out very close to the end of the session, however, there was not adequate time to amend the bill. The proponent, as part of the legislative history, did mention attorney arbitrators; however, we believe that it is prudent to make this clear in statute.

By way of background, arbitration is an alternative to the court hearing and trial processes. It is a process whereby parties appear before a neutral party - an arbitrator - to resolve issues that they otherwise would have resolved before the court. The arbitration is conducted much like a hearing or a trial, except that it is often less formal. Perhaps the most important distinction between an arbitration and a trial, however, is that an arbitrator's decision cannot be appealed, while the outcome of a trial can be appealed to a higher court.

The Branch feels strongly that the unique and complicated nature of family law makes it very important for the arbitrators who hear family matters to be attorneys. Not only are there a large number of family law statutes, there is a huge volume of case law, and it is essential that arbitrators hearing these matters be familiar with this body of law. Our state's Supreme and Appellate Courts have both taken the position that financial issues must be considered as an integral part of the whole mosaic of issues involved in any divorce proceeding. As former Chief Justice Peters wrote in Monroe v. Monroe, 177 Conn. 173 (1979), "Analogies drawn from commercial litigation fail to respond adequately to the situation of emotional trauma commonly associated with the irretrievable breakdown of a marriage." Certainly it is a matter of common sense that those who decide any of the myriad issues that are part of a divorce case, if they are not judges, must be attorneys who are familiar with this area of law. Arbitrators are not required to be licensed or to have any minimum qualifications.

For all of these reasons, I urge the Committee to act favorably on this proposal. Thank you for the opportunity to testify.