

TESTIMONY BEFORE THE JUDICIARY COMMITTEE ON FEBRUARY 8, 2008  
OF PATRICK J. WALL, HARWINTON PROBATE JUDGE

My name is Patrick J Wall. I am the Probate Judge for the District of Harwinton. I was elected in 1999 and I am now serving my third four year term.

I am also the Probate Judge, elected by the Probate Assembly, as their sole representative on the Council on Probate Judicial Conduct. I am now serving my second term on the Council. I am also currently the Litchfield County representative on the Executive Committee of the Probate Assembly.

On Tuesday of this week, by way of the Probate Court Compliance Report to the Judiciary Committee dated February 1, 2008, it first became known to me that it is the determination of the Probate Administrator that the facility at the Harwinton Probate Court is in non-compliance pursuant to CGS §45a-8.

Pursuant to the proposed regulations before you today, the Probate Administrator could make the further determination that the Harwinton Probate Court's cases should be reassigned or transferred to another "special assignment Judge" or another probate judge and recover all the expenses for such actions at my own personal expense.

As a member of the Council on Probate Judicial Conduct it was my expressed opinion that the proposed regulations before you concerning the creation of a "review panel" was not necessary since the independent body of the Council on Probate Judicial Conduct, consisting of five members, one Probate Judge, two laymen and an attorney appointed by the Governor and one Judge appointed by the Chief Justice would be the proper body to enforce the proposed regulations.

As a member of the Executive Committee for the Probate Assembly, I opposed portions of the regulations before you, particularly the regulations whereby a non-compliant Judge would be personally liable for the expenses for the Probate Administrator's actions. It was my opinion that such provisions are unconstitutional.

It is my opinion, that it is substantiated by the documents I have presented to this Committee, in response to the Probate Administrator's determination that the facilities at the Harwinton Probate Court are in non-compliance, that the Probate Administrator's determination are inaccurate and are in retaliation for my expressed opinion opposing the fore mentioned portions of the regulations. The facilities at the Harwinton Probate Court as to the Judge's separate office-hearing room are the same at both the Torrington and Litchfield Probate Courts.

I respectfully request that you review my submitted documents for some insight as to the Probate Administrator's intent and future utilization of the proposed regulations.

**PROBATE COURT**  
**District of Harwinton**

*Patrick J. Wall, Judge.*

100 Bentley Drive  
Harwinton, CT 06791  
Phone (860) 485-1403  
Fax (860) 485-0051

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Certified Mail, Return Receipt Requested  
7007 2680 0003 1912 6602

February 6, 2008

Hon. James J. Lawlor  
Probate Court Administrator  
186 Newington Road  
West Hartford, CT 06110

Dear Judge Lawlor:

I have received a copy of the February 1, 2008 Probate Court Compliance Report prepared by your office for the Judiciary Committee, and would like to clarify inaccurate information in the report with respect to Probate Court Compliance for the District of Harwinton.

Your enclosed "Note" in Exhibit 3 of the report states that for the Harwinton Probate Court, the "judge does not have a private office or an exclusive hearing room. No provisions have been made to bring facility into compliance. The clerk's service is limited to 3 days/ week."

As stated in your report, Section 10 of P.A. 07-184 requires the Probate Court Administrator to directly notify the judge and the chief executive officer of the town in the instance of non-compliance of the court facilities before October 1, of any year in which suitable facilities are not provided. The Harwinton Probate Court and Harwinton First Selectman Frank Charmonte have never received any notification, either verbally or in writing, indicating that Harwinton's facilities are in non-compliance.

On September 13, 2007, a court visit of the Harwinton Court facilities was conducted by Attorney Helen B. Bennet from the Office of the Probate Court Administrator. In Attorney Bennet's report which was received by the Harwinton Probate Court on October 3, 2007 and is enclosed with this letter, Attorney Bennet states that **with regard to the Court in Harwinton, "the facilities meet the statutory space requirements of Connecticut General Statutes Section 45a-8, inasmuch as the town has provided two rooms for the court; one for the clerk and a separate room which serves as the hearing room and a private space in which the judge can conduct judicial business."**

In addition, during the court visit, in conversation with my clerk, Kathleen Riley, Attorney Bennet confirmed that the Harwinton facilities meet the statutory requirements.

In a recorded meeting with you and Mr. Vinnie Russo at the Harwinton Court on October 18, 2007, where I was given less than 24 hours notice of the meeting, you did not mention to me that the Harwinton Court facilities were non-compliant.

Prior to the passage of P.A. 07-184, which mandated minimum hours of operation for the courts of probate, the Harwinton Court was open ten hours a week. In an effort to conform to the new standards, the Harwinton Probate Court is now open 20 hours per week five days a week. You stated in your report that the clerk's service is limited to three days a week. The Harwinton Probate Clerk actually works 18 out of the twenty hours required and is not limited but is available five days a week, from 8 a.m. until 5 p.m. Furthermore, both my home and my law office are less than one mile from the town hall with my home and law office telephone number provided on the court answering machine.

I am concerned that the issue of non-compliance and the Harwinton Probate Court is in response to:

1. My participation as a member of the Council on Probate Judicial Conduct on March 27, 2007, that resulted in your enclosed letter to the Council's legal counsel, Attorney Richard Banbury and his enclosed response; ( Please note that said letter was not produced with Council authority pursuant to FOI.)
2. My position as a member of the Executive Committee of the Probate Assembly in which I opposed portions of the proposed regulations now before the Judiciary Committee; and,
3. Our meeting of October 18, 2007, when I disagreed with you over your interpretation of Public Act 07-184 concerning minimum days of operation for the courts of probate, requiring the court to be opened five days a week four hours a day, in addition to my discussions with area legislators which resulted in the enclosed letters to you from State Senators Jonathan Harris and Thomas Colapietro, State Representative John Piscopo and Harwinton First Selectman Frank Charmonte, addressing your continuous efforts to modify the intent of P. A. 07-184.

The Harwinton Probate Court is committed to complying with statutory requirements, in addition to providing quality, compassionate service for the people of the Harwinton community. The facilities at the Harwinton Probate Court are not only well within the statutory minimum standards of CGS § 45a-8 but occupy the entire west back wing of the beautiful town hall of Harwinton with a separate room for the clerk and a separate room for the judge to conduct judicial business. The room also serves as a hearing room for at least twenty people and has a designated telephone line. In addition, the town hall has available a larger hearing room to accommodate an unusually large court hearing.

Please provide me with written confirmation within the next seven days, that you have addressed these errors and corrected the misinformation contained in the Probate Court Compliance Report so that the Judiciary Committee will have the corrected data before them, as they continue their efforts to assure the effectiveness and integrity of Connecticut's Probate Court System.

Respectfully Submitted,



Patrick J. Wall  
Judge, Harwinton Probate Court

cc: Frank Charmonte , First Selectman of Harwinton  
Judge Dianne E. Yamin, President Judge, Connecticut Probate Assembly  
State Senator Thomas A. Colapietro  
State Representative John E. Piscopo  
State Senator Jonathan A. Harris  
State Senator Andrew J. McDonald – Certified Mail 7007 2680 0003 1912 6589  
State Representative Michael P. Lawlor – Certified Mail 7007 2680 0003 1912 6596  
State Representative Arthur J. O'Neill  
State Senator John A. Kissel  
State Senator Andrew W. Roraback  
State Representative James Field Spallone  
State Senator Thomas J. Herlihy

### Exhibit 3 Probate Court Compliance

Court	Judge Hours	Town Hall Days/Hours	Clerk	Facility	Comply	Note
Harwinton	5/20	5/36	Y	N	N	Judge does not have a private office or an exclusive hearing room. No provisions have been made to bring facility into compliance. The clerk's service is limited to 3 days/week.
Hebron	5/20	5/39	Y	N	N	Facility is currently inadequate. No provisions have been made to bring facility into compliance.
Killingly	5/20	5/40	Y	Y	Y	Has expanded court hours and fully complies with the statutes.
Killingworth	5/20	5/35	Y	Y	Y	Has expanded court hours and fully complies with the statutes.
Ledyard	5/20	5/40	Y	Y	Y	Has expanded court hours and fully complies with the statutes.
Lyme	5/20	5/35	Y	Y	Y	Town has provided an expanded facility for the court.
Marlborough	5/22	5/40.5	Y	N	N	Office facility is inadequate. There is no separate office for the judge. No provisions have been made to bring facility into
New Canaan	5/40	5/37.5	Y	N	W	Town has agreed to provide an expanded facility.
New Fairfield	3/25.5	5/37.5 (Sat.)	Y	Y	W	Town has provided expanded facility for the court.
New Milford	5/30.5	5/40	Y	Y	Y	Has expanded court hours and fully complies with the statutes.
North Haven	5/36	5/40	Y	N	W	Town has agreed to provide expanded facilities for the court.
North Stonington	5/21	5/35	Y	N	W	Facility is shared with other town officials and the hearing room is not private. Town has agreed to provide adequate facilities.
NW Corner	4/28	4/24	Y	Y	Y	Town has agreed to consider expanded hours.
Oxford	4/22.5	4/36	Y	Y	W	4 hours are after 5 PM.
Plymouth	5/24	5/40	Y	Y	Y	Has expanded court hours and fully complies with the statutes.
Pomfret	5/20	4/35	Y	Y	W	Town has provided an expanded facility for the court. Arrangements have been made to allow for court access on Fridays when Town Hall is closed. 2 hours are after 5PM.
Putnam	5/20	5/35	Y	N	N	Facilities are inadequate. There is no separate office for judge. No provisions have been made to bring facility into compliance.
Roxbury	5/20	4/18	Y	Y	Y	Has expanded court hours and fully complies with the statutes.

## **Court Visit Report Probate Court, District of Harwinton**

**Date of visit: September 13, 2007**

**Present at visit: Clerk Kathleen Riley**

The Harwinton Probate Court serves the town of Harwinton which has a population of approximately 5,400. The weighted work load of the Harwinton Probate Court for 2006 was 344. The Court has recently increased its hours to 20 hours a week as required by P.A. 07-184: Tuesday through Thursday from 8:00 AM to 2:00 PM, and Mondays and Friday from 8:00AM to 9:00 AM. The court is staffed by one clerk. Hearings are held on Tuesdays through Thursdays. The clerk estimated that the court holds an average of 4 to 6 hearings per month in addition to streamlined estate matters.

### **Facilities**

The Harwinton Probate Court is located in the Harwinton Town Hall, which is in a campus like setting with other town buildings including the library and senior center. The facilities meet the statutory space requirements of Connecticut General Statutes Section 45a-8, inasmuch as the town has provided two rooms for the court; one for the clerk and a separate room which serves as the hearing room and a private space in which the judge can conduct judicial business.

The court shares a vault with the town clerk at the other end of the building which is well organized and adequate in size for present and future needs. Probate files are properly secured.

### **File Review**

A number of files of various types were selected at random for review. The review sought to determine whether appropriate procedures are followed, whether hearings and decrees are timely, and whether reasonable follow-up is conducted. The review revealed that the clerk does an excellent job managing files and ensuring that statutory procedures are met.

The clerk expressed concern that the list provided by Probate Administration of estates opened more than 18 months is inaccurate. It is evident that the clerk is conscientious and well-organized, resulting in a reduction of estates opened more than 18 months.

**OCT 03 2007**

### *Decedents' Estates and Trusts:*

The court utilizes the streamline procedure, setting the hearing request deadline two weeks from the date of the order, with decrees issued the day after the deadline. When the hearing has been waived, the decree is often entered on the day the application is received. Estate documents, e.g. inventories, tax returns, and accountings, are generally up-to-date. Copies of the Newspaper Notice to Creditors are found in the file.

### *Conservatorships:*

Current statutory requirements for the appointment of conservators are being met. Attorneys are appointed to represent respondents. The hearings are held in a timely manner. Medical evaluations are conducted within the 30-day period prior to the hearing with the exception of one file pulled at random. Annual Conservator Reports are on file and three year reviews are conducted.

### *Guardianships of the Mentally Retarded:*

The procedures for the appointment of a guardian of a person with mental retardation routinely follow statutory requirements and three-year reviews are being conducted. While Guardianships of the Mentally Retarded files are kept in same drawer as other matters, only the clerk has access to these confidential files.

### *Guardianships of the Estates of Minors:*

Restricted accounts are generally required by the court to protect the assets of the minor. It is recommended that the court also require evidence of deposit of guardianship funds into the court-approved account.

### *Children's Matters:*

There are only a few open children's matters in the court, including a temporary guardianship matter. The procedures and issues regarding the appointment and re-appointment of temporary guardians were discussed.

### **Recording**

The clerk does an excellent job staying current with recording. The recording is up to date with general microfilming complete through volume 34 page 326 and the confidential recording complete through volume 3 page 735. [Volumes hold approximately 1000 pages.] This represents a significant improvement since the last court visit in 2005.

## Summary

The Harwinton Probate Court is well-organized with a competent and conscientious clerk. The court offers effective service to the community.

As the court is aware, there were legislative changes in the 2007 session which present some challenges to the Harwinton Probate Court. Public Act 07-184 requires that the courts be open 20 hours a week, Monday through Friday. The court has made an effort to comply with this new statute, opening the court for an hour on Mondays and Fridays from 8:00 to 9:00 AM.

Date: September 17, 2007



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Helen B. Bennet  
Attorney



STATE OF CONNECTICUT  
OFFICE OF THE  
PROBATE COURT ADMINISTRATOR

JUDGE JAMES J. LAWLOR  
ADMINISTRATOR  
ATTORNEY THOMAS E. GAFFEY  
CHIEF COUNSEL  
HELEN B. BENNETT  
ATTORNEY  
DEBRA COHEN  
ATTORNEY

186 NEWINGTON ROAD  
WEST HARTFORD, CT 06110  
TEL (860) 231-2442  
FAX (860) 231-1055

March 28, 2007

Attorney Richard F. Banbury  
Rome, McGuigan, Sabanosh, P.C.  
One State Street  
Hartford, CT 06103

Dear Attorney Banbury:

Yesterday, you contacted me and requested that I be available to meet with the Council on Probate Judicial Conduct. I took your request to mean that business involving the Probate Court Administrator's Office and the Council was to be discussed. Nevertheless, I asked you to tell me the purpose of the meeting. Your answer was vague, but you referenced "two documents." I asked you to provide me with copies of them in order that I could prepare for the meeting. You assured me that you would. In fact, neither of the documents was delivered prior to the meeting. You presented them to me after I arrived and allowed me to read them while the committee observed me.

I believe that you withheld the letters from me intentionally, intending that I would be denied an opportunity to consider carefully their contents.

The letters were dated March 12, 2007, so you had ample time to send them along to me and in fact, to discuss them on the telephone. You chose instead to place me at a disadvantage, unprepared and appearing to be inadequate. I deeply resent your treatment. You failed in your initial promise and misled me with your response to my initial question. I believe that it was intentional on your part.

I am not willing to work with you in the future, as I do not trust you. Future communications with me should be written, and you should refrain from further contact with other members of my office staff.

Very truly yours,

James J. Lawlor  
Judge  
Probate Court Administrator

JJL:sd

cc: Honorable John C. Flanagan



STATE OF CONNECTICUT  
COUNCIL ON  
PROBATE JUDICIAL CONDUCT

RICHARD F. BANBURY, ESQ.  
EXECUTIVE DIRECTOR

ONE STATE STREET  
HARTFORD, CT 06103-3101  
(860) 549-1000  
FAX (860) 724-3921

April 9, 2007

**CONFIDENTIAL**

Honorable James J. Lawlor  
Probate Court Administrator  
186 Newington Road  
West Hartford, CT 06110

Dear Judge Lawlor:

This is in reference to your letter of March 28, 2007. Your facts are accurate, but your conclusions are not accurate. I contacted you on Monday, March 26th at the request of the Council, to invite you to spend some time with the Council at its scheduled meeting on the following day, March 27th. At that time, I advised you that the subject involved the statutory jurisdiction of the Council with reference to two letters which had been received by the Council. And I advised you that I would provide you with copies of those letters, or "documents" as noted in your letter. The first letter was correspondence from Judge Russell Kimes, dated March 12, 2007, which I forwarded to members of the Council on March 16, 2007. The second was an email from Judge Dianne Yamin, dated March 21, 2007, copies of which I presented to the Council at the beginning of our March 27th meeting. Since I had received both of these items as the attorney for the Council, I wanted to obtain permission from the Council before distributing copies to you or anyone else, although I did not anticipate any reluctance by the Council in that regard.

When I came up to see you on the morning of the meeting, there were three other people in your office and you and I did not have the opportunity at that time to speak further about your meeting with the Council. The Council then conducted an Investigative Hearing, and addressed other issues on its Agenda, until late in the morning, at which time I suggested to the Council that I ring upstairs to Sue in order to see if you were available to come downstairs. I was not thinking specifically at that time about the Kimes letter and the Yamin email. Although you had two opportunities to remind me about reviewing those items in advance of the meeting, when I first came up to your office and then when you initially came downstairs, you did not do so. Obviously I did not intentionally withhold the letters from you, or I would not have mentioned them to you in the first place. (Although your correspondence says that "the letters were dated March 12, 2007", Judge Yamin's email letter is dated March 21, 2007, at 5:32 p.m.).

Judge James J. Lawlor  
April 9, 2007  
Page 2

In retrospect, I should have received clearance from the Council and provided you with copies of those letters before you entered the library, and I regret not having done so. I have worked with the Council for twenty-seven years and have never been advised by any Probate Judge or other individual that he or she thought that I treated them unfairly. I take the principles of honesty and integrity very seriously and believe that my reputation in the professional community reflects those values.

Very truly yours,

Richard F. Banbury

RFB/sms  
(2302-7974/EJ7873)  
cc: Probate Council Members



**State of Connecticut**  
**GENERAL ASSEMBLY**  
**STATE CAPITOL**  
**HARTFORD, CONNECTICUT 06106-1591**

October 2, 2007

Judge James Lawlor  
Probate Court Administrator  
186 Newington Road  
West Hartford, CT 06110

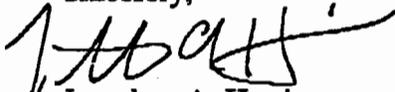
Dear Judge Lawlor,

We recently met with Probate Judge Charles Bauer of Burlington, a town we both represent. Judge Bauer informed us of your intention to require all probate courts to stay open five days per week. Judge Bauer feels that this would be unnecessary for his court and very costly for the taxpayers in Burlington, and we share his concerns. We have also heard that other small towns are facing a similar situation.

We have enclosed a letter from Representative James Spallone regarding this issue. We agree with Representative Spallone's assertion that the new law concerning probate courts does not require courts to be open five days per week.

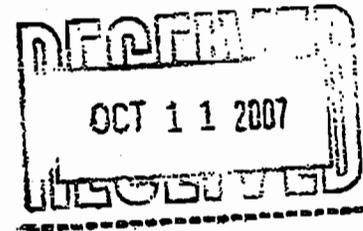
We hope that you will consider reversing your decision regarding hours of operation for probate courts. Please feel free to contact us if you would like to discuss this matter.

Sincerely,

  
Jonathan A. Harris  
State Senator  
Fifth District

  
John Piscopo  
State Representative  
76<sup>th</sup> District

CC: Judge Charles Bauer  
Judge Patrick Wall  
First Selectman Ted Scheidel





# State of Connecticut

## SENATE

STATE CAPITOL  
HARTFORD, CONNECTICUT 06106-1591

**SENATOR THOMAS A. COLAPIETRO**  
THIRTY-FIRST DISTRICT

19 DEWEY AVENUE  
TERRYVILLE, CONNECTICUT 06786  
TOLL FREE: 1-800-842-1420  
HARTFORD: (860) 240-0475

**DEPUTY MAJORITY LEADER**

**CHAIRMAN**  
GENERAL LAW COMMITTEE

**MEMBER**  
TRANSPORTATION COMMITTEE  
LEGISLATIVE MANAGEMENT COMMITTEE  
INTERNSHIP COMMITTEE

December 18, 2007

Judge James Lawlor  
Probate Court Administrator  
186 Newington Road  
West Hartford, CT 06110

Dear Judge Lawlor:

It has come to our attention that there is an issue with the hours of operations at probate courts in Connecticut. As you are well aware, Public Act 07-184 modified our existing statutes to require that all probate courts be open at least 20 hours a week. In recent conversations with local Probate Court Judges, you have interpreted this statute to mean that all probate courts must be open every day, Monday through Friday.

In the past two years the General Assembly has passed significant reform legislation in an effort to make our probate court system more efficient, more professional and more responsive to the needs of the public. Throughout this reform we heard from judges of small probate courts about concerns they had regarding the potential loss of their probate court in the process. During the negotiations on what became Public Act 07-184 it was made clear that the language in this act did not require that a probate court be open five days a week. The hourly requirements were agreed to because of the level of service it guaranteed to the public.

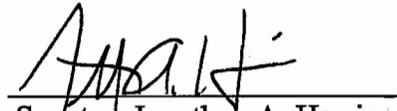
Throughout our process in the General Assembly of reforming the probate court system, we have relied on your judgment and opinions on how our probate courts can be improved and financially secured, while not seriously impeding the access our constituents have to probate courts. We hope that you will reconsider this interpretation of our new statute in a way more in keeping with the language of the

law.

Sincerely,

  
\_\_\_\_\_  
Senator Thomas A. Colapietro

  
\_\_\_\_\_  
Representative John Piscopo

  
\_\_\_\_\_  
Senator Jonathan A. Harris



## OFFICE OF THE FIRST SELECTMAN

October 23, 2007

Judge James J. Lawlor  
Probate Court Administrator  
186 Newington Road  
West Hartford, Ct. 06110

Dear Judge Lawlor,

The Town of Harwinton is well served by our Probate Court and our respected Probate Judge, Patrick Wall. Our Court is here to serve the residents of the Town of Harwinton, at the convenience of the residents. The Court is opened the amount of time required by statute five days a week. To my knowledge no one has been denied access to the Court or the Judge.

It has come to my attention that your office has directed our Court to stay open for at least four hours per day, five days a week. It is my understanding that the law requires that the Court be open for 20 hours per week, 5 days a week. The law does not dictate the number of hours per day the Court has to be opened. Local conditions should dictate hours of operation, which are best known at the local level. Making a Court stay open for a set amount of time if is not adequately serving the public is not a good use of our resources. Having an office open hours when there is no demand for the services defies logic.

Please be advised that we will comply with the law, as stated. If there are specific problems that arise regarding resident access I am sure Judge Wall will alter the times of operation that best serves them.

Sincerely yours,

  
Francis J. Chiamonte  
First Selectman

cc. Patrick Wall, Judge of Probate

## TOWN OF HARWINTON

100 BENTLEY DRIVE  
HARWINTON, CONNECTICUT 06791  
Tele: (860) 485-9051 • Fax: (860) 485-0051

Web Site:  
[www.harwinton.us](http://www.harwinton.us)

Email:  
[1stselectman@harwinton](mailto:1stselectman@harwinton)