

**TESTIMONY OF ATTORNEY JON L. SCHOENHORN CONCERNING THE
REAPPOINTMENT OF SUPERIOR COURT PATRICIA A. SWORDS
Judiciary Committee – Public Hearing Jan. 13, 2009**

Chairman McDonald, Chairman Lawlor and Distinguished Members of the Committee:

I am an attorney in private practice with concentration primarily in the field of litigation with an office located in Hartford. By way of background, I am certified by the National Board of Trial Advocacy in both criminal and civil litigation. I have been a member of the Connecticut Bar since 1982, and also retain membership in the bars of many other courts and jurisdictions. I am a former president of the Connecticut Criminal Defense Lawyers Association. I make this statement only on behalf of myself, although it is my understanding that others have written comments regarding this nomination.

It is with deep sadness and disappointment that I am publicly raising a voice of opposition to the reappointment of Patricia A. Swords as a Superior Court judge. I have never before raised my voice in opposition to a judicial appointment. Although I have witnessed many instances over the years since Judge Swords' appointment to the bench, where she demonstrated a lack of fairness towards litigants, primarily criminal defendants, as well as intemperate behavior towards parties and lawyers that would independently justify opposition to her nomination, I wish to address one particular occasion that, in my opinion, should disqualify her from reappointment.

On March 31, 2002, Hartford attorney M. Donald Cardwell, while under treatment for a brain tumor, suffered an unexpected seizure and collapsed unconscious, resulting in his hospitalization. He never regained consciousness, and was unable thereafter to participate in the practice of law. Attorney Cardwell was one of the most experienced Hartford County criminal defense lawyers and had practiced in that area for over 40 years. He was scheduled to commence trial before Judge Swords a few days later on April 4, 2002, on a very serious criminal matter in Manchester Superior Court. However, no one at Attorney Cardwell's firm learned of his serious medical condition until Monday, April 1st, 2002.

It is my understanding after discussing the matter with those involved, that the following day the defendant in the case appeared in court with an attorney from Mr. Cardwell's firm who had no prior trial experience. Although that associate had met the defendant two weeks earlier when a plea offer to Attorney Cardwell was extended (and rejected), this attorney knew little about the case, had developed NO professional relationship with the defendant, and lacked experience with criminal trials, let alone experience on a serious felony case. The defendant in the case, having no prior criminal record, was nevertheless facing up to 49 years in prison.

Over misgivings expressed on the record by the defendant himself, and despite the defendant's own request for a continuance to find a new lawyer, Judge Swords ordered jury selection to commence on April 4, 2002. The next day (April 5th), the defendant appeared in my office desperately seeking assistance in his case. I was particularly concerned that Judge Swords made no effort to canvass the defendant to determine if had agreed to proceed with an inexperienced lawyer with whom he had no prior attorney-client relationship.

Judiciary Committee
January 13, 2009

On Monday, April 8, 2002, I filed an appearance on behalf of the defendant and a motion for a continuance setting forth the facts stated above, as I understood them to be. I believe that the grounds for a brief continuance of approximately two weeks were compelling: Attorney Cardwell's condition prevented him from communicating anything – including his trial strategy – to anyone; the defendant had no relationship of trust with the associate and I agreed to keep the jurors that had been picked already. I appeared and argued my motion on April 9, 2002 before Judge Swords. The motion was denied and the case proceeded to trial the next day, with a hearing on a motion to suppress that I filed with the motion for continuance.

Ultimately the state's case collapsed during the questioning of one of its witnesses, and the matter was resolved before a different judge on pleas to two misdemeanors.

Nevertheless, it was my intention then, as it remains today, to bring Judge Swords's conduct to the attention of this Committee and to testify concerning same, as it bears directly on her qualifications and lack of fairness. I will provide copies of the relevant transcript excerpts from the 2002 criminal case to allow committee members to draw their own conclusions.

I have practiced in the area of criminal law for more than 26 years and have never believed that a judge's conduct was so unfair or so intemperate as to warrant a denial of reappointment. Patricia Swords is the exception. She was not a new judge in 2002, and had many years of experience as a State's Attorney before then, to realize that her actions were unreasonable.

I urge the Committee to vote no on Judge Swords' nomination.