

TESTIMONY OF MARY SUE JOHNSTON
BEFORE THE HOUSE JUDICIARY COMMITTEE
JUDICIAL REFORM ISSUES

November 18, 1994

I am Mary Sue Johnston of Armstrong County. Thank you for allowing me the opportunity to give my testimony on Judicial Reform Issues and the problems and abuses occurring in many of our courts in Pennsylvania.

My involvement in Judicial Reform began as a result of my domestic litigation that began in 1985 as I became aware of the irregularities and violations of the Pennsylvania Rules of Court and the law that occurred in my case. As soon as I was involved, I discovered there were many, many others across the state who felt as helpless as I was, women in particular but also men, who had become victims to the improprieties because the courts did not follow their own Rules or the Rules of the Supreme Court, and laws were not being adhered to by the attorneys and/or judges involved.

The "horror stories" of people who called and told me how the courts treated them followed a similar pattern. When they sought help from Legislators and other elected officials, they were told to file their complaints on the violations with the Judicial Inquiry and Review Board---now the Judicial Conduct Board-- but their complaints were routinely dismissed by the Board with the explanation that failure to follow court rules and procedures is a "legal error" and is not considered ethical misconduct.

Litigants are told they have to appeal these so-called "legal errors" for consideration by the Appellate Court rather than the Board. It is not "legal error" when documentation clearly shows that a judge or attorney knowingly and continually violates Supreme Court Rules, Local Rules or when there is criminal conduct. It is not "legal error" when there is criminal conduct such as:

TAMPERING WITH PUBLIC RECORDS AND INFORMATION (TRANSCRIPTS)
ABUSE OF PROCESS
PERJURY
COLLUSION WITH CONSPIRACY TO DEFRAUD
OBSTRUCTION OF JUSTICE
OFFICIAL OPPRESSION
FRAUD

Who decides what constitutes "legal error"? The new Judicial Board operates under the same principle of the former Judicial Inquiry and Review Board. The whole concept was to make it a two tier system where the complaints are still dismissed at the first level and it is still secret. All the new Judicial Conduct Board did was add more people at taxpayer expense. Some of the conduct complained of would put the average citizen in prison but there is no accountability by judges and attorneys.

Complaints filed with the Disciplinary Board of the Supreme Court are also routinely dismissed even when documented evidence has been given to warrant disciplinary action. This fact was recently pointed out in a letter to the Editor of the

Pittsburgh Post Gazette titled "How Bad Lawyers Stay Bad".

Ironically, this letter was sent in by an attorney----it seems even some of the attorneys are aware of the growing problems and want something to be done.

In 1989, I took complaints and documentation of numerous cases to my Representative, Timothy Pesci, and he responded by introducing Resolution #8 that called for a Task Force to be set up to investigate the violations and the injustices. In 1991, public hearings were held before the House Judiciary Committee and almost 40 people testified for three days how they were abused by the judicial system and how the laws and rules were being ignored by the courts. Three more days of hearings were held with judges and attorneys and other interested parties testifying. Although shocking testimony was given and documentation presented, the Task Force was never implemented.

There should have been a report and recommendation after these hearings to see what needed to be done and what steps should be taken to resolve these problems. However, Representative Caltagirone's office informed me a report and recommendation was not done. What was the purpose of these hearings in 1991 if nothing was done to set up a Task Force to investigate and resolve the problems??? Not only were the problems not resolved, litigants who testified found themselves in a more precarious position in their litigation for speaking up publicly about court abuses and violations.

People continued to complain and the Senate passed Resolution #43 in February 1994 that directed the Joint State Government Commission to study on an ongoing basis legislative proposals involving certain areas of domestic relations law. The problems are not exclusive to domestic relations cases and must be addressed as a whole. Also, the Task Force set up by Resolution #43 is composed basically of people on the Judiciary Committee who already know what the problems are from the testimonies given at the 1991 hearings on Resolution #8. If there is to be any meaningful reform, it is important for the Legislators to acknowledge that more laws will not correct the problems if judges and attorneys can continue to ignore and circumvent the existing laws and rules.

Conrad Arensberg is in charge of putting together this study and he informed me this will be an ongoing thing and is going to last for decades. It may take decades but I doubt there will be any continuity as to the testimony and the causes. I appreciate it takes time but while you are taking decades there are people who are losing large sums of money, their homes, their children and also their businesses----and all we have done to date will be lost in the shuffle.

On August 19, 1993, another concerned citizen and I met with a respected member of the Judiciary Committee seeking answers and solutions. He admitted it was an ugly mess that no one wants to deal with---that it was a cancer of the Judiciary. He arranged for us to meet with State Court Administrator Nancy Sobolevith

and members of her staff on September 8, 1993. I and two others attended this meeting with Nancy Sobolevitch and staff members Tom Darr, Director of Administration and Communications, and Timothy McVay, staff attorney. When we complained of the widespread violations of the Pennsylvania Rules of Court and Rules of Judicial Administration, Nancy Sobolevitch's response was "the rules are not black and white....it's the way of interpreting them".

We disagreed with her that the Rules of Court could be interpreted when they are very plain in their intent. One specific area we discussed was Judicial Rules of Administration with regard to the Supreme Court Rules Governing Court Reporting and Transcripts. Transcripts in Armstrong County were typed by attorneys' secretaries who were not present at the hearings and were not qualified court reporters in violation of both State rules and their own local rule (Exhibit #1). Home tape recorders were used to record the hearings and the tapes were destroyed after the transcripts were typed. The transcripts were never certified by the person who typed them---they were not legal verbatim transcripts that could be utilized in a higher court. Ms. Sobolevitch and her staff all agreed it was not acceptable for transcripts to be done this way. I am also aware of people in other counties with serious complaints about their transcripts.

After this meeting, a letter was sent to Nancy Sobolevitch on September 20, 1994 (Exhibit #2) requesting to know the progress of the issues we discussed and in view of the documented cases in Armstrong County of violations regarding court transcripts, we indicated she had an obligation to investigate how many hearings

in Armstrong County were conducted in this manner. Ms. Sobolevitch responded on September 28, 1993 (Exhibit #3) stating the Administrative Staff is not sufficiently staffed to engage in any in depth review even if such a review seemed appropriate.... that the Judicial Conduct Board and the Disciplinary Board are empowered to consider complaints and the appellate process is also available when actions by the lower court are not consistent with the law or proper procedures.

Ms. Sobolevitch's reply contradicted the information given to us by a Pennsylvania Supreme Court Justice who met with us on February 27, 1991 for the purpose of addressing our complaints of numerous violations of the Pennsylvania Rules of Court under the Unified Judicial System. The Justice told us at this meeting that if it was a vexatious and pervasive problem and applied in more than one case, it should be referred to the State Court Administrator's office who go out and investigate...that Nancy Sobolevitch was under him. Is Nancy Sobolevitch not there to respond to these formal complaints then? If that is not one of her functions, why isn't it???

Ms. Sobolevitch referred our complaints to the Pennsylvania Conference of State Trial Judges, and on January 10, 1994 we met with one of the Trial Judges of western Pennsylvania. He was to take this matter up at a meeting that was scheduled for February 1994 but we haven't been informed of what, if anything, has been done by the Trial Judges to address our complaints.

Recently, I urgently sought the help of my Representative, Timothy Pesci, as I had an upcoming hearing on August 15, 1994 and would be severely hindered in proceeding, especially as a pro se litigant, due to the many court violations from the onset of my case. Representative Pesci's office called Nancy Sobolevitch who told them it was necessary for me to write a letter to the President Judge listing all the violations in order for their office to act on it. I complied by writing a letter to President Judge Joseph A. Nickleach on August 10, 1994 (Exhibit #4). I also made a request in this letter for a copy of the tapes used to record the December 19, 1985 Master's hearing. Judge Nickleach's secretary informed me that they couldn't give me a copy of the tapes I requested as they were erased after the secretaries typed the transcript. The Master who presided at this hearing also verified this when he testified on November 9, 1994.

This Master's hearing was in violation of both Supreme Court Rules of Judicial Administration and Armstrong County local rules. I have to accept these violations are not unique to Armstrong County, and it is one sad commentary for our judicial system.

Marni Sommer, Assistant to the Court Administrator, sent me a letter on September 20, 1994 (Exhibit #5) asking me to keep her informed of the results of my August 15, 1994 hearing and also my request for copies of tapes. I replied to her letter on October 31, 1994 (Exhibit #6) and gave her the information she requested and again asked for a reply as to what action their office would take. Nancy Sobolevitch sent a three sentence reply stating "I regret to inform you that there is no further action

I can take in regards to your specific case"---and she wished me luck at my hearing that was coming up. (Exhibit #7 - 11/4/94 letter)

I am unaware of any action that Nancy Sobolevitch's office has taken in my case or anyone else's case where there have been legitimate complaints to her office. Why did her office mislead me into thinking their office would act on this matter if I sent the President Judge a letter and then do nothing? This is a perfect example of the run around not only I but others have gotten and how we are caused additional expense and time with nothing resolved. I would ask that this Committee answer the question many of us have tried to get an answer to:

WHO IS RESPONSIBLE FOR ENFORCING THE RULES AND
THE LAWS WHEN THEY ARE BLATANTLY VIOLATED?

Litigants no longer will accept that it is their responsibility to go through the appeals process when rules and the law are violated by the courts. The courts' failure to follow the rules and proper procedures violates a person's basic due process and Constitutional rights. Why should the litigant be burdened at great financial expense, time and the destruction of their lives and families when the courts have committed the violations and should be held accountable?

Even when they do go through the appeals process, more rules are broken to hinder them and many times their cases are never heard. Everyone tries to dismiss the problems by saying, "They're just disgruntled litigants". We're more than disgruntled... we're knowledgeable and we're fed up with the courts! Not only are we being abused by the courts, we have to pay them to abuse us!

I have not as yet responded to Nancy Sobolevitch's letter in which she wished me the best of luck at my hearing but would like her to know that luck was not with me. In fact, I was massacred. I believed cases were decided by facts, not luck. I was prevented from even presenting the facts of my case.... everything I said was irrelevant according to Judge Snyder. Most of the time it was irrelevant even before I had a chance to say it.

To inject some humor into this serious situation, I would like to refer to a hearing held on August 15, 1994. At this hearing, Judge Snyder told me they couldn't change civil procedures simply to enable someone not trained in the law to work outside the established rules of procedure of law and evidence and they were not going to depart from good established rules and evidence (Exhibit #8, Page 10, Lines 1 thru 7). But when I later cross examined Judge House about his failure to follow Court Rule 1910.11 and asked if he was exempt from this rule, his reply was that he did not say he was exempt but that they did not follow it because he felt it was something simply designed to be an assistance to the Court (Exhibit #8, Page 28, Line 25 and Page 29, Lines 1 thru 5). He testified conference reports were not routinely prepared...they simply dispensed with that...they did not have the personnel to handle things with that amount of formality (Exhibit #8, Page 28, Lines 2 thru 11). In other words, litigants must strictly adhere to the established rules but the courts can do whatever they want. And when the

courts do not follow the established rules, the litigant is shut out from being able to proceed properly within the system.

We keep hearing that the system is overloaded, that we need more judges. We don't need more judges added to the system at taxpayer expense----what we need are judges who adhere to the rules and the law and see that lawyers who practice before them are ethical to prevent extended litigation and cases churning in the courts.

I realize all of the problems that have gone unchecked for years will not be solved overnight. But on behalf of myself and others, I am making an urgent appeal to the Legislators to act promptly to set up some type of a select committee where people can get immediate relief when there is gross abuse by the courts. They should be able to get immediate help before they are forced into expensive and time consuming appeals through no fault of their own---the appeals process is of no help when you are losing everything you have and the damage can never be undone. Thousands of families across the state have already been destroyed by a system that is not held accountable.

Too much power was given to the Supreme Court in 1968 under Article V, Section 10 of the Pennsylvania Constitution, and this Article should be repealed so our three branches of government can work as intended.

In the meantime, local rules should be abolished---local rules are not submitted for public comments and in many instances conflict with state rules. For example, Westmoreland County

voided a state rule and replaced it with their own local rule. And Armstrong County had a local rule that required all divorce litigants to pay the Armstrong County Local Bar \$20.00 for their divorces---I have to question if this is even legal.

I am sure this Committee has heard many complaints regarding the use of Masters to act as judges in divorce. As one attorney testified at the 1991 hearings, divorce litigants are treated like second-class citizens---they have to pay for justice when no one else does. This discrimination against one segment of litigants should be considered unconstitutional and dealt with immediately.

My testimony touches only the surface. Instead of just consulting with each other, I would hope this committee will start consulting with the victims of the court who have in the past been ignored. They all have valuable input.

On September 27, 1994, over 200 people from all parts of the state went to Harrisburg and held a Press Conference and Rally for Judicial Reform. This problem will not go away. A Pandora's Box has been opened and it can no longer be business as usual.

I hope that this Committee will have heard testimony that I have given with sincerity. I feel I am not ever going to reap much benefit as the court system has already taken away nine years of my life and caused me irreparable harm, both personally and financially. But I hope the next generation will benefit if what I say is taken completely serious by this Committee and needed

corrections are made not to please judges but rather to protect and do what is right for the citizens of the Commonwealth... so there is justice for all with fair play to restore public confidence in our courts.

Respectfully Submitted,

Mary Sue Johnston

Mary Sue Johnston

R.C.P. 1132 Jury Trial, Alimony and Other Relief

L1132.1. Petition for Jury Trial. A petition for the allowance of a jury trial shall be filed within ten days after the action is at issue, unless the court upon a rule to show cause shall extend the time.

R.C.P. 1133 Hearing by the Court.

Appointment of Master

L1133.1. Hearings by the court shall be conducted as in actions in equity and equity rules shall be followed where applicable.

L1133.2. A master appointed by the court shall be a member of the Bar.

L1133.3. Before any certificate of appointment shall be issued by the Prothonotary of Armstrong County to any Master appointed by the Court of Common Pleas, there shall be deposited with the Prothonotary by the plaintiff for costs \$85.00 in uncontested cases and \$190.00 in contested cases.

L1133.4. When the case is heard by the master, the testimony shall be taken by a stenographer, who shall be sworn by the master, and a transcript of testimony shall be certified by the stenographer and by the Master.

L1133.5. Ten days written notice of the time and place of taking testimony shall be given by the master to the attorney for both parties. If there be no appearance for the defendant, the notice shall be given to him or her personally or by registered or certified mail. If service of notice is by registered or certified mail, a return

receipt of the same signed by the defendant shall be filed with the master's report together with a copy of the notice given. The master shall try to verify the signature of the defendant at the hearing.

If service cannot be made personally or by registered or certified mail, the master shall publish the notice in one newspaper of general circulation in the county once a week for three successive weeks; the last publication to be not less than ten days prior to the date set for the taking of the testimony. Proof of publication shall be filed with the master's report.

L1133.6. The master shall have the usual powers of a referee in equity in regard to the detention of witnesses for examination and the general course of the proceedings before him, but subject always to the direction and control of the Court. When objection is made to the competency or relevancy of testimony, the master shall rule thereon and an exception may be granted. If he sustains the objection the testimony shall nevertheless be heard.

L1133.7. The master shall file his report on the case within thirty days after the testimony is completed unless before the expiration of that time the court shall extend the time for the filing of the master's report.

L1133.8. Master's Report - Form - Contents.

In his report the master shall first state the date of his appointment, the notices given by him for holding meetings, the times and places of the meetings and those in attendance.

After the above preliminary statement, the master

File Copy

September 20, 1993

Ms. Nancy M. Sobolevitch
Court Administrator of Pennsylvania
1515 Market Street, Suite 1414
Philadelphia, PA 19102

Dear Ms. Sabolevitch,

As a follow up to our September 8, 1993 meeting in Mechanicsburg, I would like to know the progress of the issues we discussed.

The main issue that concerns me remains the Pennsylvania Rules of Court, which I have obtained and reviewed extensively. You stated at the meeting that the rules are not black and white...it's the way of interpreting them.

RE: Rule 127. CONSTRUCTION OF RULES. INTENT OF SUPREME COURT CONTROLS

(b) Every rule shall be construed, if possible, to give effect to all its provisions. When the words of a rule are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit.

I would like to use the following Rules as an example and please advise me if these Rules are not clear as to their intent:

Rule 5000.3	QUALIFICATIONS OF REPORTERS
Rule 5000.5	REQUESTS AND ORDERS FOR TRANSCRIPTS
Rule 5000.8	FORMAT OF TRANSCRIPT
Rule 5000.12	CERTIFICATION OF TRANSCRIPT; TRANSCRIPTION BY ANOTHER
Rule 5000.13	OWNERSHIP OF NOTES; SAFEGUARDING; RETENTION

Another area in which our opinions differ concerns the importance of a transcript. In the Glossary section of your Report of the Administrative Office, Pennsylvania Supreme Court 1991, page 131, the word " transcript" is defined as follows:

transcript - The official record of all of the testimony and events that occur during a trial or hearing.

It is my personal opinion that a transcript is the basic foundation for one's entire case and is very important.

EXHIBIT #2

When a transcript is not in compliance of the Rules this violates a person's due process rights. RE: Glossary Report of the Administrative Office, Pennsylvania Supreme Court 1991, page 121, the words, "equal protection of the law" is defined as follows:

equal protection of the law - The guarantee in the Fourteenth Amendment to the U.S. Constitution that all persons be treated equally by the law. Court decisions have established that this guarantee requires that courts be open to all persons on the same conditions, with like rules of evidence and modes of procedure; that persons be subject to no restrictions in the acquisition of property, the enjoyment of personal liberty, and the pursuit of happiness, which do not generally affect others; that persons are liable to no other or greater burdens than such are laid upon others; and that no different or greater punishment is enforced against them for a violation of the laws.

You stated at our meeting that a transcript has to be certified by a court reporter. When you were advised that there was no court reporter and the secretary of the attorney typed the transcript you all agreed that it was not acceptable for a secretary of the attorney to transcribe the testimony. We have six known documented cases where the Judicial Rules of Administration regarding court reporting and transcripts were violated. If six cases have been brought to light without an investigation, I question how many more exist. Therefore I feel you have a moral obligation as well as a professional obligation to investigate and determine how many hearings were conducted in this manner. (Armstrong County from 1980 to present)

There are many other Rules that are not being followed which are very plain in their intent. This is a pervasive problem state wide from what I have discovered through the network process. I have personally reviewed documentation of how litigants have lost large sums of money, their homes, their children and also their businesses. It is sad the price litigants must pay when the courts do not follow the rules.

Surely there has to be accountability by someone to see that this problem is corrected. It is also important that litigants have somewhere to go immediately when these violations occur so they are not subjected to the costly appeals process and protracted litigation through no fault of their own. The method we discussed regarding fines would be a great deterrent.

In closing I have one important question that I hope you can answer for me. Under the new Judicial Conduct Board will litigants be able to file a complaint when the Pennsylvania

Rules of Court are not followed? Under the old system (JIRB) Mr. William Arbuckle stated that failure to follow the Pennsylvania Rules of Court did not warrant disciplinary action. If this will be the case under the new Judicial Conduct Board can you tell me where litigants can get help when rules are violated which denies them their due process rights? I would also like an answer to this same question as it applies to the Disciplinary Board of the Supreme Court.

Your timely reply will be appreciated. I trust we will continue to keep the lines of communication open in order to resolve these serious problems.

Very truly yours,

Beverly Worthington-Henry
1257 Lakevue Drive
Winter Lake Estates
Butler, PA 16001

SUPREME COURT OF PENNSYLVANIA



ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS
5035 RITTER ROAD, SUITE 700
MECHANICSBURG, PENNSYLVANIA 17055
(717) 795-2000

NANCY M. SOBOLEVITCH
COURT ADMINISTRATOR
OF
PENNSYLVANIA

September 28, 1993

Beverly Worthington-Henry
1257 Lakevue Drive
Winter Lake Estates
Butler, Pennsylvania 16001

Dear Ms. Worthington-Henry:

I am responding to your September 20 letter concerning our meeting of September 8.

As you recall, I indicated at the close of our meeting that I would communicate with leaders of the State Conference of Trial Judges and the Supreme Court's Continuing Legal Education Board to suggest that they consider discussion of the types of procedural issues you raise in their curricula for judges and attorneys, respectively. These two actions I have taken. I also indicated that the Administrative Office is not sufficiently staffed to engage in any in-depth review, as you suggest, even if such a review seemed appropriate.

In answer to your final question, the newly-created Judicial Conduct Board is empowered to consider any complaints brought before it and to pass these cases along to the Court of Judicial Discipline should the Board deem the complaint meritorious. In similar fashion, this answer is also true of the Disciplinary Board.

As was noted during our meeting, the appellate review process itself is also available in situations where litigants believe actions by lower courts are not consistent with the law or proper procedures.

Sincerely,



Nancy M. Sobolevitch
Court Administrator of Pennsylvania

EXHIBIT #3

Mary Sue Johnston
165 Foreman Road
Freeport, PA 16229

August 10, 1994

Honorable Joseph A. Nickleach
President Judge
Armstrong County Court
Kittanning, PA 16201

Re: William David Johnston vs. Mary Sue Johnston
No. 1985-0278 Civil

Dear Judge Nickleach:

Please be advised that I am representing myself in the above captioned matter. A hearing is scheduled for Monday, August 15, 1994 at 10:00 A.M. in the Hearing Room, Third Floor, Armstrong County Courthouse, Kittanning.

By this letter, I am requesting copies of all the tapes for the following hearing that was presided over by Roger Mechling, Master:

- * December 19, 1985 Master's hearing regarding equitable distribution of marital assets and related matters.

The December 19, 1985 hearing was recorded with a tape recorder that Roger Mechling brought to this hearing in lieu of a court reporter. Enclosed are four blank cassette tapes. I will pick up the recorded tapes on Friday afternoon. If additional blank tapes are needed, I will provide them.

I have made every attempt over the past 8 years to get a LEGAL CERTIFIED VERBATIM TRANSCRIPT of this December 19, 1985 Master's hearing which is the basis for this case. I have discovered numerous violations of the Pennsylvania Rules of Court and the law that took place from the onset of this case which DENIED ME DUE PROCESS and caused me great harm---financially, physically and emotionally.

I have taken my concerns regarding these violations to Nancy Sobolevitsh, the State Court Administrator, both personally and through my State Representative, Timothy Pesci. Nancy Sobolevitsh recently advised Representative Pesci's office that it is necessary that I write the President Judge about the violations that have taken place before their office can act on this. I am therefore complying with the State Court Administrator's instructions and sending you a list of the violations.

EXHIBIT #4

Honorable Joseph A. Nickleach
Armstrong County Court

VIOLATIONS---No. 1985-0278 Civil

DOMESTIC RELATIONS

1. Refused to serve William David Johnston when I went to their office in May 1985 because "they did not want to embarrass him", in violation of Pa. R.C.P. 1910.2
2. Denise Brumbaugh of Domestic Relations notarized my signature on the incomplete Complaint for Support form on July 24, 1985 WITHOUT MY PRESENCE and without allowing me to complete the necessary information on the form they asked me to sign in May 1985. Domestic Relations then waited $2\frac{1}{2}$ months to schedule a support hearing for September 17, 1985 (by letter dated September 4, 1985).
3. Hearing Officer Norma Smith NEVER prepared a Conference Report at the conclusion of the September 17, 1985 support hearing as required by Pa. R.C.P. 1910.11 (e) and I was NEVER GIVEN INTERIM SUPPORT as required by Pa. R.C.P. 1910.11 (g)(2). This violation forced me to take lower support payments to be able to meet my basic everyday needs until a hearing denovo was scheduled by Norma Smith for December 4, 1985.
4. My support payments were handled by "special orders" through Judge House's office and I was forced to reinstate my support payments every two (2) months instead of being allowed continuous support until modified as provided by Pa. R.C.P. 1910.18. When I questioned the Domestic Relations office on this (Reni McCleary), she said she didn't know why the Judge didn't put my money to be paid through Domestic Relations on one order, that none of my orders came through Domestic Relations--they all came through the Judge's office".
5. I have repeatedly asked for a copy of the Conference Report of the September 17, 1985 support hearing before Hearing Officer Norma Smith and have repeatedly been denied a copy by the Domestic Relations office who told me "WE DON'T DO CONFERENCE REPORTS". My numerous requests to see my file in the Domestic Relations office have been denied and on May 5, 1994, I was advised by Cheryl Morris that she checked with Judge House and he said I could not see my domestic relations file as "these files are NOT FOR THE PUBLIC, not even the attorneys are permitted to see these files". In reply to my request for information from my file when Cheryl Morris told me they kept notes instead of preparing a Conference Report, Cheryl then admitted "THERE ARE NO NOTES, NO CONFERENCE REPORT, NO RECORD THAT THIS HEARING WAS EVEN HELD".

Honorable Joseph A. Nickleach
Armstrong County Court

MASTER'S HEARING--December 19, 1985

1. Roger Mechling, Master, never recorded a date with the Prothonotary's office when he scheduled the Master's hearing and proof of notice was never filed of record as required by Pa. R.C.P. 1920.51 (e). Nor did the Master's report dated August 1, 1986 show the manner of service of the master's hearing as required by Pa. R.C.P. 1920.53 (b)(ii).
2. I was given only ONE-HALF DAY'S NOTICE ORALLY of the master's hearing, giving me no time to have witnesses or prepare for this hearing.
3. Roger Mechling unlawfully brought a "malfunctioning" home tape recorder to record the testimony, which he ran by himself. There was NO COURT REPORTER PRESENT and the transcript of this hearing (which I was denied a copy of for over 20 months) WAS NEVER CERTIFIED by any court reporter in violation of Armstrong County Local Rule 1133.4 and Pa. Rules of Judicial Administration 5000.3 and 5000.12. The transcript was not in the proper format of 25 lines of material on each page in violation of Pa. Rule of Judicial Administration 5000.8.
4. Roger Mechling DESTROYED THE TAPES OF THIS HEARING 10 days after he sent a transcript to Attorney Rishor and Attorney Suckling with his letter dated February 4, 1986, BEFORE he filed the record, transcript, report and recommendation on August 1, 1986, OVER 150 DAYS LATE, in violation of Pa. Rules of Judicial Administration 5000.13 (a)(b) and Pa. R.C.P. 1920.53 (a)(1).
5. The Armstrong County Prothonotary's office denied my requests for a copy of the Master's report and recommendation. The only way I was able to get a copy was by another person, who was not involved in the case, going to the Prothonotary's office and getting a copy simply by asking for it. When I asked the Prothonotary's office why I could not have copies, they told me (after checking with the court administrator) "that no one could have copies as long as the case was still open". When I asked the Prothonotary's office for a copy of the transcript in my file, an employee said she would have to check with Judge House to see if they were permitted to give me a copy. After checking, she told me Judge House said I would have to go to my attorney for a copy who had already refused to furnish me with a copy. Gary Simone, Mr. Rishor's associate, told me "it's not wise for you to have a copy now".

Honorable Joseph A. Nickleach
Armstrong County Court

MASTER'S HEARING (Continued)

6. Roger Mechling gave "special instructions" at the Master's hearing "off the record" that he could only accept the valuation of all assets as of the separation date of May 1981 and used ONLY David Johnston's inventory and appraisement that was filed with the court giving ONLY 1981 valuations for all marital assets and did not include the value of each asset as of the date the action was commenced (1985) as required by Pa. R.C.P. 1920.33 (a)(4).
7. Roger Mechling allowed the attorneys, Kurt Rishor and David Suckling, to go "off the record" to determine the value of Valley National Bank stock in violation of Pa. R.C.P. 201 that requires agreements of attorneys relating to the business of the court to be in writing. By allowing the attorneys to go off the record and discuss this issue just between themselves, the Valley National Bank stocks were appraised at an incorrect valuation and \$66,000 worth of stock was incorrectly entered at the value of \$38,289, with the stock increasing dramatically to \$143,000 or more due to a merger between Valley National Bank and Union National Bank WHICH WAS KNOWN BEFORE THE MASTER'S HEARING.

Roger Mechling then awarded the marital home to me and awarded the Valley National Bank stock that was greatly undervalued to David Johnston allowing an unjust enrichment to David Johnston and denying me equitable distribution of marital assets by fraudulent means.

8. David Johnston failed to pay the taxes on the marital residence that were due and owing prior to the Master's hearing and were his responsibility to pay. He testified he paid the taxes and there was no debt against the home and did not disclose at the hearing the back taxes were not paid. I have been forced to pay all the back taxes, interest and penalties since 1985 to prevent foreclosure while this case has been in litigation even though David Johnston's name is still on the deed.

While this litigation was ongoing, the Master on this case, Roger Mechling, sold a home to William David Johnston for \$57,500, which was recorded on January 16, 1987. This case was still in litigation which is of itself a conflict of interest since all of this transpired before the February 17, 1987 Order of Court ruling on exceptions I took to the Master's award requesting that the marital home be sold and the Valley National Bank stock be equitably divided. David Johnston's attorney, David Suckling, also signed on this deed further compounding the impropriety and collusion since since this took place WITHOUT MY KNOWLEDGE while I was still waiting for the ruling on my exceptions to the Master's award. Violation of Judicial Canon 5C (1), Canon 1, Canon 2A, Canon 3A,C

Honorable Joseph A. Nickleach
Armstrong County Court

VIOLATIONS OCCURRING AFTER FEBRUARY 17, 1987 COURT ORDER

1. The February 17, 1987 Court Order was not mailed to me within the 30 day appeal period,
2. My attorney, Kurt Rishor, refused to file the necessary petitions I asked him to file to correct the violations of the court unless I paid him a large amount of money, even though I paid him a retainer fee that he told me would take me to the end of the case. And because I have not completed the final distribution of assets, Mr. Rishor has been harrassing me by sending me bills for the past 7 years that was and is the responsibility of David Johnston to pay (per Court Order).
3. Attorney William Schenck accepted \$790.00 to represent me and told me he was going to "open up the whole case". He never filed one paper with the court. I later discovered he was in collusion with my previous attorney, Kurt Rishor, and made an agreement with Kurt Rishor to keep him on the record without my knowledge or consent.
4. Armstrong County District Attorney George Kepple ordered me out of his office in a loud and threatening manner when I went to him for assistance and his Assistant District Attorney, Brad Hellien, gave erroneous information to the Disciplinary Board regarding my complaint. I found there was a conflict of interest for him to handle my complaint as the Master in my case, Roger Mechling, had been his Assistant District Attorney and served as the Treasurer for George Kepple's reelection.
5. Judge House allowed Attorney William Schenk to withdraw from my case on December 4, 1989 and left me in a vulnerable position without counsel at a crucial time in my case and without money to secure other counsel (since he would not rule on Bill Schenck returning my money as I asked). I was therefore forced to act pro se to protect my interests.
6. While I was acting pro se, Judge House signed two Petitions for Enforcement for David Suckling before they were filed with the Prothonotary's Office and without proof of service. Judge House heard the first petition for enforcement knowing full well I would not receive it before he heard it in order to be able to defend myself.
7. When I filed timely Objections to the Transcript of the December 19, 1985 hearing at the time I filed an appeal with the Superior Court, my objections were never taken care of by the Armstrong County court nor did any official court reporter certify the transcript for my appeal in violation of Rules of Appellate Procedure 1922 (c).

Honorable Joseph A. Nickleach
Armstrong County Court

Although the violations I have listed do not cover everything that has taken place and needs to be addressed, it clearly shows that this case was well orchestrated by persons who are sworn to uphold the law but utilized the judicial system to perpetuate a fraud on me. I have never completed the final distribution of assets as a great injustice has been committed by the system that is to protect citizens under the law, and the court and others have a duty and moral obligation to set this right.

With the Second Petition for Enforcement scheduled to be heard on August 15, 1994, I would like the record to show that I do not have equal protection of the law as I am without the benefit of counsel while David Johnston has had counsel to represent him throughout all proceedings. He has enjoyed the benefit of income producing marital assets and a high salaried job as Vice President of Merchants Bank while I was left with back taxes on the marital residence to pay, no health coverage and no pension.

In view of the above documented violations, a full investigation is warranted in this case and the court procedures being used in divorce litigations.

Sincerely,



Mary Sue Johnston
165 Foreman Road
Freeport, PA 16229

cc: Representative Timothy Pesci
cc: Nancy Sobolevitch, State Court Administrator
cc: Lieutenant Governor Mark Singel
cc: Chief Justice Robert N. C. Nix, Jr.
cc: Disciplinary Board of the Supreme Court
cc: Judicial Conduct Board
cc: Senator Stewart Greenleaf



ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS
1515 MARKET STREET, SUITE 1414
PHILADELPHIA, PENNSYLVANIA 19102
(215) 560-6300

NANCY M. SOBOLEVITCH
COURT ADMINISTRATOR
OF
PENNSYLVANIA

September 20, 1994

Mary Sue Johnston
165 Foreman Road
Freeport, PA 16229

Dear Ms. Johnston:

I am writing to follow-up on a letter that you sent to President Judge Nickleach on August 10, 1994, regarding your concerns about violations of the Pennsylvania Rules of Court. Please keep me informed as to the results of your hearing which was scheduled to be held on August 15, 1994, and as to the results of your requests for copies of the tapes from previous hearings.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marni J. Sommer".

MARNI J. SOMMER
Assistant To The Court Administrator

MJS:hs

EXHIBIT #5

Mary Sue Johnston
165 Foreman Road
Freeport, PA 16229

October 31, 1994

Administrative Office of
Pennsylvania Courts
1515 Market Street, Suite 1414
Philadelphia, PA 19102

Attention: Marni J. Sommer
Assistant To The Court Administrator

Re: William David Johnston vs. Mary Sue Johnston
No. 1985-0278 - Civil (Armstrong County)

Dear Marni:

In accordance with our phone conversation of today, October 31, 1994, and also your September 20, 1994 letter, I am sending you the information you requested relating to the outcome of the August 15, 1994 court hearing in the above captioned case as well as the results of my requests for copies of tapes.

The two issues that were scheduled to be heard on August 15, 1994 were my Motion for Recusal of Judge Roy A. House and plaintiff's Second Petition for Enforcement, with Judge Edwin L. Snyder presiding. However, Judge Snyder received a call in the afternoon the day before this hearing from David Suckling, attorney for Plaintiff William David Johnston, advising he had symptoms indicating some heart trouble and requested a continuance on the Second Petition for Enforcement. Therefore, only the Motion for Recusal was heard by Judge Snyder on August 15, 1994.

The outcome of the August 15, 1994 Recusal hearing was that Judge Snyder denied my Motion for Recusal of Judge House by Court Order dated August 15, 1994 and then Judge House recused himself by Order dated August 16, 1994. Both of these court orders were sent together to me by the Armstrong County Prothonotary's office.

Susan Davis, secretary to President Judge Joseph A. Nickleach, advised me on August 11, 1994 that they could not provide me with copies of the tapes of the December 19, 1985 Master's hearing as I requested in my August 10, 1994 letter to Judge Nickleach. I therefore had Roger Meehling served with a lawfully obtained subpoena on August 15, 1994 to produce the original audio tapes and complete transcribed record on August 26, 1994 for review and to preserve the record. Enclosed is a copy of this subpoena with the letter to Nancy Heilman that was filed with the Armstrong County Prothonotary's office on August 15, 1994, copies of which were sent to your office at the time I filed this.

EXHIBIT #6

Administrative Office of
Pennsylvania Courts
Attention: Marni J. Sommer

Roger Meehling failed to appear and failed to comply with the subpoena to produce the records. I therefore filed a Petition for Contempt of Court with the Armstrong County Prothonotary on September 14, 1994. A copy of this Petition for Contempt is enclosed.

A hearing has now been scheduled for November 9, 1994 as per the amended Court Order enclosed. I will be unable to protect and defend my interests and given due process regarding the Second Petition for Enforcement as I have been denied copies of the tapes and the complete transcribed record and have also been barred from seeing my file in the Domestic Relations office.

Representative Timothy Pesci's office informed me that Nancy Sobolevitch, State Court Administrator, advised them it was necessary for me to write a letter to Armstrong County President Judge Joseph A. Nickleach about the violations that have taken place before your office could act on this. I complied by writing to Judge Nickleach on August 10, 1994 (cc of this letter to your office).

There should be no further hearings in this case until the violations I have given to both your office and President Judge Joseph A. Nickleach have been acted on. Please advise me what action your office will take in this matter to guarantee me the means to protect both my property and due process rights so they are not jeopardized any further.

I will await your prompt reply to this letter since the hearing scheduled for November 9, 1994 is quickly approaching.

Sincerely,



Mary Sue Johnston

Enclosures

cc: Representative Timothy Pesci

SUPREME COURT OF PENNSYLVANIA



ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS
1515 MARKET STREET, SUITE 1414
PHILADELPHIA, PENNSYLVANIA 19102
(215) 560-6300

NANCY M. SOBOLEVITCH
COURT ADMINISTRATOR
OF
PENNSYLVANIA

November 4, 1994

Mary Sue Johnston
165 Foreman Road
Freeport, PA 16229

Dear Ms. Johnston:

I am writing in response to your letter of October 31, 1994. I regret to inform you that there is no further action that I can take in regards to your specific case. I wish you the best of luck at your hearing later this month.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nancy M. Sobolevitch".

NANCY M. SOBOLEVITCH
Court Administrator of Pennsylvania

NMS:mjs

EXHIBIT #7

Johnston vs. Johnston

- - -

1 IN THE COURT OF COMMON PLEAS OF ARMSTRONG COUNTY, PA
2 CIVIL DIVISION

3 * * *

4
5 WILLIAM DAVID JOHNSTON,

6 Plaintiff,

7 vs.

No. 1985-2787

8 MARY SUE JOHNSTON,

9 Defendant.

10 * * *

11 HEARD: Monday, August 15, 1994 at 10:00 a.m.

12 BEFORE: Senior Judge Edward L. Snyder,
13 Specially Presiding
14 Armstrong County Court House
Kittanning, PA

15 * * *

16 APPEARANCES:

17 On behalf of the Plaintiff: NOT PRESENT

18 On behalf of the Defendant: Mary Sue Johnston
19 165 Foreman Road
Freeport, PA 16229

20 * * *

21
22
23 STURDEVANT & WATT
24 Court Reporters
9 North Main Street
Greensburg, PA 15601
25 (412) 837-7550

EXHIBIT #8

Johnston vs. Johnston

I-N-D-E-X

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WITNESS:

Judge R.A. House

PAGE NO.

Direct Testimony by Judge House

20

Cross Exam. by Mrs. Johnston

27

Direct Testimony by Mrs. Johnston

38

* * *

- - -

1 proceed along with other matters that I'll come to.

2 THE COURT: Well, how does that relate to
3 his ability and impartiality in handling a petition for
4 enforcement, what relation is there?

5 MRS. JOHNSTON: Well, I feel he's been
6 bias throughout this case starting with Domestic
7 Relations by not providing me with the interim support
8 and grant it, it is Domestic Relations but they are under
9 his administration.

10 THE COURT: Then what you're saying is
11 that you allege bias on his part?

12 MRS. JOHNSTON: That's correct.

13 THE COURT: And you cite in support of
14 that bias what you just earlier referred to with respect
15 to your support complaint?

16 MRS. JOHNSTON: I also wrote Judge --

17 THE COURT: I'm asking you a question and
18 I would like you to answer. Is that right?

19 MRS. JOHNSTON: That's right.

20 THE COURT: Now, what else? You say he's
21 bias against you and you cite that as what?

22 MRS. JOHNSTON: You'll have to bear with
23 me because I am untrained in the law and --

24 THE COURT: I'm going to bear with you to
25 a reasonable extent, Mrs. Johnston, but I'm also going to

- - -

1 remind you that we can't change rules of evidence, we
2 can't change civil procedures simply to enable someone
3 not trained in the law to work outside of what the
4 established rules of procedures are of law and evidence.
5 So I'm going to be as reasonable as possible, but we're
6 not going to depart from good established rules with
7 respect to a proceeding of this kind. Okay. You go
8 ahead.

9 MRS. JOHNSTON: I wrote Judge House a
10 letter on October the 11th, asking for his help because I
11 was without any support at all because they wouldn't
12 enter an interim support letter. And it was only later
13 that I found out that there wasn't even a record of this
14 conference being held before the hearing officer. I
15 asked for a copy of the conference report. I was
16 informed that if I wanted a copy of the conference report
17 --

18 THE COURT: Okay. The question was about
19 bias. We have to keep in mind that there has to be
20 something in support of your motion for recusal which
21 would indicate that Judge House is bias against you or
22 has some conflict that would prevent him from sitting on
23 this as he has sat on all other matters involved in your
24 case.

25 MRS. JOHNSTON: Well, one of the big

- - -

1 grounds that you give.

2 MRS. JOHNSTON: The other thing is he has
3 hindered me from the beginning. I tried to get copies of
4 things I needed from the Prothonotary Office and I was
5 denied these copies. I couldn't get anything at first.
6 I couldn't get the Master's report, I asked for different
7 copies. I didn't understand why they wouldn't give them
8 to me. I, therefore, checked with another county to see
9 if their Prothonotary gave copies, they said there's no
10 problem, they're public records. So I called the state
11 prothonotary president --

12 THE COURT: You're complaining now about
13 not getting copies from the Prothonotary Office?

14 MRS. JOHNSTON: Well, no, there's more to
15 it. I called the state prothonotary president and she
16 called the Prothonotary Office in Armstrong County and
17 she was informed that the Armstrong County had a local
18 rule of Court under releasing copies of hearing of cases
19 still pending and that you can only get copies from your
20 attorney and they said that the Judge makes the rule.
21 Now, the point is those are public records, how can you
22 proceed on your case if you're not permitted to have
23 copies, I was denied copies for so many years. And if
24 Judge House ruled that nobody could have copies and
25 another time I, again, went in and the girl said she

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1 couldn't give me a copy of the transcript and she said
2 let me double check with Judge House and when she came
3 back she said, well, Judge House said you would have to
4 get that from your attorney. And I don't know, I feel
5 just by denying me my rights to have copies that I was
6 entitled to and needed to proceed on my case.

7 THE COURT: Is evidence of bias?

8 MRS. JOHNSTON: That's right.

9 THE COURT: I see. Anything else?

10 MRS. JOHNSTON: Yes, because I think it
11 was bias, when I finally did get --

12 THE COURT: Anything else?

13 MRS. JOHNSTON: Yes. When I finally did
14 get a copy of my Master's report because somebody else
15 went into the Porthonatory Office for me and just asked
16 for a copy and they gave it to her and told her that I
17 was in and caused a fuss because they wouldn't give me a
18 copy. So apparently I was treated with bias and
19 prejudice in that I was the only one that couldn't get
20 copies.

21 THE COURT: Anything else?

22 MRS. JOHNSTON: Well, I just feel he
23 should recuse himself.

24 THE COURT: I understand how you feel and
25 that's obvious from your motion. I'm looking for

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1 and also filed whatever reports are necessary under the
2 law. And I suggested to her then that she could obtain
3 those reports by applying to the proper officials. I do
4 not have any such records. On Friday of last week, I was
5 given an addendum to the motion of recusal, this is
6 addressed to Judge Nickleach and I'll not go into this,
7 much of it has nothing whatsoever to do with bias or
8 prejudice. I will note, however, that the Domestic
9 Relations section has never entered any orders. There
10 seem to have been some allegation here that orders were
11 -- special orders were handled through my office. Well,
12 I can state with equivocation that under no circumstances
13 was Mrs. Johnston's case handled any differently than any
14 other Domestic Relations case or support case that came
15 before the Court. But in any event, the Domestic
16 Relations section never entered any orders, all orders
17 are entered by the Court and are signed by the Court.

18 Mrs. Johnston is absolutely correct when she states
19 she was -- that I instructed the Domestic Relations
20 section not to permit litigants to examine the Domestic
21 Relations file, that is the internal file maintained in
22 the office. However, this decision on my part was not
23 limited to Mrs. Johnston's case, this was applied to
24 every support matter. She's also correct that conference
25 reports were not routinely prepared during the time

- - -

1 period in 1985, that she's complaining of and the reason
2 for that was that the -- if the Domestic Relations
3 Officer was unable to obtain an agreement to an order,
4 then the matter was automatically scheduled for hearing
5 before the Court. And so the matter of a conference
6 report which I deemed to be for the assistance of the
7 Court was dispensed with. Mrs. Johnston has also
8 complained that somehow or other I intervened with the
9 Porthonatory to prevent her from retaining a copy of the
10 Master's report and transcript. I have no specific
11 recollection of that, but I will say that if -- if that
12 was done, it was done because, Mrs. Johnston, by that
13 time, was proceeding as an indigent and was being
14 relieved of the payment of all costs. And we did have a
15 policy, not only in divorce cases such as hers -- as a
16 matter of fact, I wasn't aware specifically that it was
17 applied to in divorce cases, but we very often have this
18 same situation in criminal matters where a transcript has
19 been prepared and supplied to the Defendant's attorney
20 and the Defendant thereafter wishes to file something
21 further and wants a copy of the transcript. We have
22 routinely refused to provide those Defendants with an
23 additional transcript and have routinely required them to
24 go to their attorneys and obtain the transcripts that was
25 already prepared in their behalf.

- - -

1 herself and Mr. Johnston in the course of the support
2 proceedings and in the course of the divorce proceeding
3 and if she complains that I interrupted her, and she did
4 complain of that, during the course of arguments and so
5 on, it was because this Court clearly understood that she
6 could not go back and relitigate every -- every issue
7 between herself and her husband and that -- and that the
8 interruptions were an attempt by the Court to keep Mrs.
9 Johnston -- to keep Mrs. Johnston's arguments pertinent
10 to the issues which were actually before the Court. I
11 have nothing further.

12 THE COURT: Mrs. Johnston, do you have
13 questions that you wish to ask Judge House under oath?

14 JUDGE HOUSE: You have questions of me?

15 MRS. JOHNSTON: Give me a minute here.

16 Thank you.

17

18 CROSS-EXAMINATION

19 BY MRS. JOHNSTON:

20 Q There is one question. I have the Pennsylvania
21 Court book here and according to rule nineteen ten point
22 eleven which the mandatory comment under the rule for
23 1981, there was to be a conference report prepared if
24 nothing was decided at the end of a support hearing. So
25 I don't understand why they were not prepared and

1 possibly you could answer that for me?

2 A Because they were not routinely prepared. As I
3 indicated a moment ago --

4 Q But --

5 A -- the purpose of the conference report was to
6 provide to the Court some information so as to shorten
7 the time that might be necessary to conduct a hearing de
8 novo in the matter and we simply dispensed with that.
9 Here, we did not have the -- we did not have the
10 personnel to handle things in that -- with that amount of
11 formality. The Domestic Relations Office was chronically
12 overburden and understaffed and so we simply dispensed
13 with the conference report as an aid to the Court and the
14 Court conducted all hearings de novo, and I might add
15 that I don't see how the failure of the Court to have a
16 conference report in any way impunes the impartiality of
17 the Court.

18 Q Well, it left me in a situation that --

19 THE COURT: I'm going to limit your --

20 MRS. JOHNSTON: I understand. I have
21 another question to ask of him.

22 THE COURT: All right. Okay. A question,
23 all right.

24 BY MRS. JOHNSTON:

25 Q Are you saying then that this Court did not have to

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1 follow the Supreme Court rule nineteen ten point eleven,
2 that you were exempt from this rule?

3 A I did not say we were exempt, I said we did not
4 follow it because I felt it was something simply designed
5 to be an assistance to the Court.

6 Q You're saying that you never enter an interim
7 support and did not follow rules to allow support until a
8 de novo hearing was held?

9 A It's done now, it was not done during my tenure of
10 President Judge.

11 Q Are you aware that that should have been done as of
12 1981?

13 A That was not in the rule in 1981.

14 Q According to the rule book that I have, the --

15 A It was not in the rule in 1981. I believe that
16 portion of the rule was adopted in 1988, but I'm not
17 certain of that, '88 or '89.

18 Q Are you aware that there's no records of mine of a
19 support hearing ever being held? Does the Court not keep
20 a record to show what took place at all at a support
21 hearing?

22 A If you had a support hearing before the Court, Mrs.
23 Johnston, notes of testimony were taken. Now, there may
24 not have ever been a transcript of that hearing because
25 routinely we do not transcribe the notes of hearing from

- - -

1 the support hearing. However, I can assure you that your
2 hearing was on the record and notes of testimony were
3 taken and they still exist.

4 Q Are you aware that there are no notes of my
5 supports hearing?

6 A Are you referring to the support hearing before the
7 Domestic Relations?

8 Q Before Norma Smith, there would be no notes?

9 A There would be no notes.

10 Q There would be no records of what took place at
11 that hearing?

12 A No record. No record.

13 THE COURT: Let me ask is she a conference
14 hearing officer or a Master so to speak in that
15 proceeding?

16 JUDGE HOUSE: Mrs. Smith was the Domestic
17 Relations Officer.

18 THE COURT: Okay.

19 JUDGE HOUSE: And she and her assistant
20 acted as hearing officers for the purpose of conducting
21 conferences to attempt to arrive at agreed order. When
22 an agreed order could not be arrived at, they simply
23 terminated the conference at that point and scheduled the
24 matter before the Court.

25 THE COURT: On what we call a de novo

1 hearing, that is to say where there is no record that
2 comes up for the Domestic Relations Department for the
3 Court to review to see whether the order recommended by
4 the Domestic Relations Department should be entered or
5 modified or whatever on the basis of a record already
6 made with the Domestic Relations Department. In the
7 procedure here in Armstrong County as Judge House as
8 described it and as procedure in many, many counties that
9 I am aware of, at least where you have a conference
10 hearing officer and there's no negotiated support order
11 entered, then the matter, of course, comes before the
12 Court de novo. And there's no record made in that kind
13 of a situation at the Domestic Relations Office. There
14 is, of course, a record made before the Court but in
15 answer to your question, Mrs. Johnston, whether Judge
16 House was aware that there was no record in the Domestic
17 Relations Office, there would not be any records there
18 other than the conference reports which has previously
19 been discussed.

20 BY MRS. JOHNSTON:

21 Q Then you're saying there was no conference report
22 in 1985 or any record being done?

23 A They're done routinely now, but they were not at
24 that time.

25 Q Were they not required either, you're saying?

- - -

1 A I'm saying we did not have them.

2 Q Were they required?

3 A I'm not certain about the conference report whether
4 they were required by the rule in those days or not.

5 Assuming that it was, we still did not require it because
6 it was a document that was intended to aid the Court. It
7 was not a final document that in any way set the
8 parameters for a support order.

9 Q And as far as interim support, was that not
10 required in 1985?

11 A I say that it was not in that part of the order --
12 that part of the rule was not adopted until later.

13 Q Could you tell me what year that was adopted?

14 A I don't know, I just told you I'm not sure. I just
15 told you I don't know what year, I think it was '88 or
16 '89, but I'm not sure.

17 Q Back to the Prothonatary Office, was it normal for
18 everybody to have to go to their attorney to get copies
19 of what they wanted from their file?

20 A If they had been represented by counsel -- let me
21 preface that. You came to the Court or to the
22 Prothonatary Office as a pro se indigent party and you
23 wanted them to give you a copy of the transcript and the
24 Master's report and the Prothonatary did have standing
25 instructions that if a copy of a transcript had been

1 prepared earlier and had been given to that party's
2 attorney at a time when they were represented, then we
3 did require that they go to that attorney and obtain that
4 because that had already been provided and paid for.

5 Q Could you tell me how the Prothonatary Office when
6 I ask for any copy other than the transcript, just simply
7 maybe one or two copies, why they would not provide me,
8 why I would have to drive fifty miles or so, you know,
9 round trip to my attorney?

10 A I don't know what you're referring to now.

11 Q I wasn't permitted any copies. What I'm saying
12 even on a Master's report, in other words, I could not
13 get a copy of the Master's report and the only way I
14 could get it was to go to my attorney and get it.

15 A That's exactly what I'm saying to you.

16 Q How -- would you tell me how the Prothonatary
17 Office would decide, do they ask you when you go for a
18 copy, are you indigent, can you afford a copy?

19 A They would know from their records whether a copy
20 of this had been provided to your attorney. And if their
21 records indicated that, they would tell you to go get the
22 copy from him or her.

23 Q So in other words, they would check every time
24 somebody came in to the Prothonatary Office, they would
25 look through the files and decide --

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1 A They don't have to look through the files, they can
2 determine that from the dockets whether copies had been
3 provided to your attorney.

4 Q Well, then I'm assuming from what you are saying
5 that there are, and you can correct me if I'm wrong, that
6 only people who were not indigent could get copies from
7 their file?

8 A People who are not indigent will intend paying for
9 the copies.

10 Q I had intended to pay for the copies. So if I
11 intend to pay for the copies, am I still --

12 A Excuse me. Well, you apparently did not make that
13 known to the Prothonatary because there wouldn't have
14 been any problem in you obtaining copies if you were
15 willing to pay for them.

16 Q I was willing and they never asked so I just was
17 denied. That's what I'm trying to clarify, who is
18 entitled to copies from the Prothonatary Office, you're
19 telling me only if you have money to pay for them?

20 A Mrs. Johnston, everybody is entitled to copies of
21 public records, at least those that are in matters that
22 are -- in which they are a party to and at no time were
23 you -- was it ever -- were you ever denied something that
24 you didn't already have, you know, something that your
25 attorney has is something that you have and all that they

1 did was instruct you to go to your attorney for the thing
2 that you wished to have and that was a transcript of the
3 Master's Hearing.

4 Q I'm saying -- well, you're saying it would be
5 cheaper for me to drive fifty miles than to get a copy
6 and pay for it at the Porthonatory Office. I just
7 question that, I feel it's incorrect. I think everybody
8 is entitled to receive copies from their file whether
9 they're indigent, as long as they are willing to pay for
10 them and they never asked, they just flat out said we
11 can't give you copies.

12 A Mrs. Johnston, I'm not going to argue with you, but
13 this was clearly a cost saving device for the county
14 because the county must pick up the cost of providing
15 copies to indigent parties. So it was a policy of the
16 Court as long as I was President Judge and it didn't just
17 apply to you or to others in the position that you're in,
18 it also applied to all criminal Defendants who were
19 proceeding as indigent.

20 Q I did not --

21 A If there had been a transcript of their proceedings
22 prepared and given to their attorney at any time in the
23 past, they were required to solicit that attorney for
24 that transcript rather than ask the county to provide
25 another one at county expense.

- - -

1 Q I did not ask the county to pay the cost of the
2 copies I wanted.

3 A I would have no way of knowing that.

4 MRS. JOHNSTON: That's all the questions I
5 have.

6 THE COURT: Very well. Any further
7 testimony that you wish to present Judge House?

8 JUDGE HOUSE: No, I don't believe so.

9 THE COURT: Very well. You may step down.
10 Now, Mrs. Johnston, I have attempted to elicit your
11 position with respect to this motion and your grounds for
12 this motion without having you do this under oath from a
13 standpoint of testifying. Now, to the extent that Judge
14 House has addressed your various grounds for him to
15 recuse himself, he has, I believe, covered all of the
16 various grounds that you have alleged and starting with
17 the first ground, that is Mr. Suckling and Judge House
18 formerly law partners, he testified under oath that that
19 is not correct. They were not law partners and he's
20 described at length what their association was. I guess
21 to say there was no association other than they were on
22 the same floor of the same building. Now, if you have
23 evidence to the contrary or do you have testimony you
24 wish to present to the contrary, that is to say that they
25 were partners, well, you certainly have the opportunity