

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE

In re: Conduct of Supreme Court Justice Rolf Larsen

Stenographic record of hearing held in
Room 140, Main Capitol, Harrisburg,
Pennsylvania

Wednesday, April 20, 1994, 1:20 p.m.

SUBCOMMITTEE ON COURTS

Hon. Frank Dermody, Chairman, Subcommittee Chairman
Hon. Daniel Clark, Subcommittee Co-Chairman
Hon. Thomas Caltagirone, Chairman, Judiciary Committee
Hon. Jeffrey Piccola, Co-Chairman, Judiciary Committee
Hon. Gregory Fajt, Member
Hon. Michael Gruitza, Member
Hon. Babette Josephs, Member
Hon. Dennis O'Brien, Member
Hon. Chris Wogan, Member

Also Present:

Hon. Harold James	Hon. Tim Hennessey
Hon. Kathleen Manderino	Hon. Al Masland
Hon. Frank Yandresivits	Hon. Robert Reber, Jr.
Hon. Jerry Birmelin	Hon. Donald Snyder
Hon. Vincent Hughes	

Counsel Present:

John P. Moses, Special Counsel
J. Clayton Undercofler, Special Counsel
David R. Moffett, Special Counsel
Enid Stebbins, Esquire
William Andring, Counsel to Judiciary Committee
Richard Scott, Counsel to Judiciary Committee
Mary Woolley, Counsel to Judiciary Committee
Leslie Fields, Esquire, Counsel to Witness Lenzi

Staff Present:

David Krantz, Executive Director

Margaret Tracarico, Secretary

Karon Haring

Hugh Mallet

David Vandegrift

Thomas Andrews

Reported by:

Emily R. Clark, CM, RPR

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1 CHAIRMAN DERMODY: Good afternoon. I'm State
2 Representative Frank Dermody, and as chairman of the House
3 Subcommittee on Courts, I would like to welcome everyone here
4 today. The purpose of our hearings this week is to continue
5 the ongoing investigation into the conduct of Supreme Court
6 Justice Rolf Larsen, pursuant to House Resolution 205 and
7 House Rule 51.

8 At risk in these proceedings is public confidence
9 in the highest court of the Commonwealth, the Supreme Court of
10 Pennsylvania. The integrity and impartiality of the Supreme
11 Court have been brought into question. It is our job as the
12 Subcommittee on Courts to decide if there's been sufficient
13 evidence presented during our investigation, sufficient
14 evidence of misbehavior in office, that the full House of
15 Representatives should consider this matter.

16 The investigation undertaken by the subcommittee
17 has been advancing since November. Several thousand pages of
18 documents have been thoroughly examined by special counsel and
19 subcommittee members, and several witnesses have already been
20 interviewed. Today, we hope to hear from three additional
21 witnesses. These witnesses are called here today basically to
22 discuss the allocatur process in our Supreme Court and
23 problems that may have occurred with the allocatur process.

24 We have uncovered evidence that there is a
25 possibility that private interests were more accountable to

1 Justice Rolf Larsen than public interest and these allocatur
2 petitions were not handled in a fair and impartial manner.
3 Our investigation presented evidence that Justice Larsen
4 required his office staff to track petitions for allowance for
5 appeal in order to specially handle such petitions. Our
6 investigation has brought forth evidence that cases were
7 placed on a special list and tracked for Justice Larsen, not
8 because of the legal issues presented, but because the
9 attorneys were friends or political contractors.

10 Tomorrow, we had hoped that Justice Larsen would
11 appear before this committee. We have received word that he
12 will not. Tomorrow, the hearings will involve presentation
13 presented by counsel and a summary of the evidence for the
14 full Judiciary Committee and the summary of our
15 investigation.

16 And at this time, I would like to call our first
17 witness, Jamie Lenzi.

18 MS. FIELDS: May it please the Committee, Mr.
19 Chairman, my name is Leslie Fields. I'm here as counsel for
20 Jamie Lenzi, the witness.

21 CHAIRMAN DERMODY: What firm are you with?

22 MS. FIELDS: Costopoulos, Foster and Fields, sir.

23 CHAIRMAN DERMODY: And you're retained today; is
24 that correct?

25 MS. FIELDS: I am here today with this witness as

1 her counsel.

2 CHAIRMAN DERMODY: Please continue.

3 MS. FIELDS: We are prepared to proceed.

4 CHAIRMAN DERMODY: You're prepared to proceed?

5 MS. FIELDS: Yes, sir.

6 CHAIRMAN DERMODY: Before we begin, I would like
7 to swear in the witness.

8

9 JAMIE LENZI, called as a witness, being duly
10 sworn, was examined and testified, as follows:

11 BY CHAIRMAN DERMODY:

12 Q Would you please state your name for us and spell
13 your last name?

14 A My name is Jamie Lenzi, L-e-n-z-i.

15 Q And where do you live?

16 A I am currently living in Carnegie, Pennsylvania,
17 which is a suburb of Pittsburgh.

18 Q How are you currently employed?

19 A I'm employed by the Supreme Court of Pennsylvania
20 through Justice Larsen, but I was suspended as of November
21 30th from that position.

22 Q That's the date that Justice Larsen was also
23 suspended?

24 A I'm sorry, not suspended. Furloughed.

25 Q Do you understand that this investigation differs

1 from those conducted by the Attorney General and the Judicial
2 Inquiry and Review Board?

3 A Yes.

4 Q This House investigation is neither criminal nor
5 disciplinary, in a technical sense. It is independent of
6 those other proceedings, and the areas of inquiry are not
7 limited to those pursued by the Grand Jury or the --

8 A Yes, I understand.

9 Q But there is considerable overlap, so please bear
10 with us if we duplicate the testimony or you have already been
11 asked these questions before.

12 If at any time you wish a break, you wish to have
13 a break or need to consult with your lawyer, please let us
14 know and we'll try to accommodate you any way we can.

15 Are you currently employed?

16 A I'm furloughed.

17 Q You're furloughed?

18 A Furloughed from state service.

19 Q Are you practicing law at this time?

20 A No, I'm not practicing at the present time.

21 Q Would you please tell us about your educational
22 background?

23 A I went to the University of Pittsburgh for
24 undergraduate school, and I went to Capital University in
25 Columbus, Ohio, for law school. Did you want me to go back

1 further than that?

2 Q No, that's fine. When did you graduate from law
3 school?

4 A 1987.

5 Q And your employment since law school?

6 A I worked for Senior Judge William Cercone for six
7 months after law school, and then I went with Justice Larsen
8 in November of 1987.

9 Q That's Judge Cercone in the Court of Common Pleas
10 of Allegheny County?

11 A No. He's with the Superior Court of
12 Pennsylvania. I was a law clerk for Judge Cercone before
13 Justice Larsen.

14 Q You were hired in November of '87; is that
15 correct?

16 A November 16th, 1987.

17 Q At that time, how many full-time clerks did the
18 Justice employ?

19 A I believe he had -- I'll have to think for a
20 moment -- four clerks at that time. That would be four
21 inhouse clerks.

22 Q Inhouse full-time law clerks?

23 A Right.

24 Q How about staff, other staff?

25 A There would have been three secretaries.

1 Q And in November of '87, who were they, the three
2 secretaries?

3 A Barbara Roberts, Janice Uhler and Vera Freshwater.

4 Q Throughout your tenure, did the number of
5 full-time clerks remain the same?

6 A No. I believe we went to five at some point. I
7 don't recall when.

8 Q How about other staff, employed full-time?

9 A The Justice went down to two, a staff of two
10 secretaries, and I don't recall the time period for that,
11 either. So he increased the law clerk staff and decreased the
12 secretarial staff, and that was around the same period of
13 time, maybe 1990 or '91.

14 Q Could you please explain the scope of your duties
15 when you began working for Justice Larsen?

16 A I did legal research, wrote drafts of legal
17 opinions, allocaturs, counter reports. I had some
18 administrative duties with regard to the miscellaneous docket,
19 the JIRB docket, the disciplinary docket. And eventually, I
20 handled the senior judge program in conjunction with a clerk
21 from our administrative office, from Nancy Sobolevitch's
22 office.

23 Q Administrative Office of Courts?

24 A Courts, right.

25 Q Now, did you have all those duties when you

1 started working, or did they change over time?

2 A No, they changed. I mean, they increased over
3 time.

4 Q As the longer you were employed, the more duties
5 and responsibilities you incurred working with the Justice?

6 A Well, not more. They changed.

7 Q Were your responsibilities any different from
8 other law clerks'?

9 A Just in some small respects. I handled some of
10 the computer, administrative computer duties. That would
11 probably be about the only thing that I did that other clerks
12 didn't do. We all had basically the same job
13 responsibilities.

14 Q Would those be the same responsibilities you just
15 listed for us, that allocatur petitions? Did everybody take
16 care of the senior clerks, the senior judges, or was that
17 specifically your responsibility?

18 A That was, that would be the other job that was
19 specifically mine, because the Justice didn't have that
20 administrative responsibility for the court when I first
21 started working there. That job came to him later, maybe
22 around 1989, 1990.

23 Q Could you describe for us your relationship with
24 the clerks, how the clerks got along? Was it a professional
25 relationship?

1 A It was unremarkable. Friendly, professional, yes.

2 Q Were you friends with the other clerks? Were the
3 clerks, would they hang out together? What was the atmosphere
4 in the office?

5 A Did I socialize with them? After --

6 Q That type, yes.

7 A After work? Not -- occasionally. Very seldom.

8 Q Inside the office, though, during working hours,
9 you had a friendly, cordial relationship with the other
10 clerks?

11 A Oh, yes. Yes.

12 Q Did you work on matters jointly?

13 A We conferred often.

14 Q On specific cases?

15 A On everything. Informal conferences.

16 Q Did you discuss the daily operations of the
17 chambers with your fellow law clerks?

18 A You'll have to be more specific than that.

19 Q Anything going on the office, cases you were
20 working on, petitions of allocatur that you were working on?

21 A Yes. It was a very open office. People knew what
22 other clerks were working on. Usually got one case a month,
23 plus all of the peripheral matters. So yes, we knew what each
24 other were doing.

25 Q How would you describe your relationship to

1 Justice Larsen?

2 A I have a very close relationship with Justice
3 Larsen. He's a friend and a mentor.

4 Q You've described previously your relationship with
5 the Justice, "he's like a friend, father and brother to me."
6 Would that be a fair characterization of your relationship?

7 A Sure. Sure. He is the same age as my father, and
8 he was a father figure for me.

9 Q In your relationship with the other clerks, would
10 you ever have opportunities to discuss with them the
11 investigation into Judge Larsen's conduct, the various
12 investigations that have gone on, the JIRB investigation, the
13 Attorney General's investigation?

14 A Yes.

15 Q Were there some that you would talk to and some
16 that you wouldn't talk to? That is, were there some clerks
17 you felt comfortable discussing those matters with and others
18 you didn't?

19 A No. I felt comfortable talking with all of them.

20 Q What clerks were working during the time period?

21 A Well, which investigation are you referring to?
22 Because it started when I was hired. I would think that would
23 have been the 19 --

24 Q ' 87?

25 A Around there. What clerks would I discuss that

1 with?

2 Q Yes.

3 A All of them.

4 Q Who was employed there when you first started?

5 What other law clerks were there?

6 A The law clerks were Michael Lydon, Dale Walker,
7 Andy Schiffino and myself.

8 Q Did the complement of clerks change over the
9 years?

10 A Yes.

11 Q Michael Lydon would still be employed there at the
12 time you left?

13 A In '87?

14 Q He was employed in '87, correct?

15 A Yes.

16 Q When did he leave, do you recall?

17 A No. '90? I would be guessing.

18 Q When you left, who were the clerks when you were
19 furloughed, who was on the staff?

20 A Andy Schiffino, myself, Marsha Landers, Tchad Heil
21 and Ann Mendelson. And then Lorrie Albert, also. So my
22 answer to your first question was wrong. We had six clerks
23 when I left.

24 Q How was your relationship with the secretaries
25 that worked in the office?

1 A Similar to my relationship with the clerks. No
2 different at all.

3 Q Was it a cordial, friendly relationship?

4 A Yes. Yes.

5 Q Did you discuss cases you were working on with the
6 secretaries?

7 A In order to do business, yes.

8 Q Any more than others? Were you more friendly with
9 one of the members of the staff than others?

10 A I'm more friendly with Vera Freshwater. I was
11 more -- I mean, I am still her friend.

12 Q Do you have a type of relationship with the
13 secretaries that you would discuss the daily events, daily
14 things that happened in the office with the secretaries?

15 A Yes.

16 Q Would those discussions involve matters concerning
17 Justice Larsen?

18 A You'll have to be more specific. I mean, the easy
19 answer to that is yes, but --

20 Q Would you discuss disciplinary matters, problems
21 with the investigation, that is, with Justice Larsen,
22 involving Justice Larsen, with the secretaries?

23 A Yes.

24 Q Were there any secretaries at all that you would
25 not discuss those matters with?

1 A No.

2 Q Your relationship with Justice Larsen has,
3 throughout the course of the events since then has been
4 continuing to be a good, friendly, father-like father-type
5 relationship?

6 A Yes.

7 Q In the course of the events over the last few
8 years, have these investigations changed that relationship in
9 any way?

10 A No. No, it hasn't.

11 Q Was your relationship with Justice Larsen
12 different than other clerks, different than the relationship
13 he had with other clerks?

14 A The easy answer to that is yes. I think he had
15 different relationships with different people.

16 Q Would you consider yourself to be closer to
17 Justice Larsen than other law clerks that were employed at the
18 time you were there?

19 A No. I would say that I have -- our relationship
20 is different than his is with other law clerks.

21 Q How was it different?

22 A I don't -- we're all individuals so we all relate
23 to him differently. That's all I meant by that. I can't
24 really answer your question. Do you want me to say I'm his
25 favorite law clerk? Absolutely not. He has a close

1 relationship with other of the law clerks in the office.

2 Q Have you remained in contact with Justice Larsen
3 and his staff since you left the job?

4 A Yes. All staff?

5 Q And his staff?

6 A And his staff? Yes.

7 Q And some members of the staff you have remained in
8 contact with?

9 A Yes.

10 Q What members of the staff?

11 A I have remained in contact with Vera, Andy,
12 Marsha, Tchad, Ann, Lorrie, everyone. Everyone that --

13 Q Any of those that you haven't remained in contact
14 with since you've left the office, since you left the job?

15 A Which --

16 Q Which secretaries have you stayed in -- Vera you
17 stayed in touch with?

18 A Right.

19 Q Have you stayed in contact with Barbara Roberts,
20 for instance?

21 A No, I haven't.

22 Q Janice Uhler?

23 A No.

24 Q Michael Lydon?

25 A I see Michael occasionally at the Y. We both work

1 out at the YMCA so I have seen him on occasion.

2 Q Michael Streib?

3 A I see Michael Streib occasionally when I'm out at
4 happy hour, or on the street. He works in the same building
5 that I work in. We -- I run into Michael and his wife also in
6 the same manner. Pittsburgh is a small legal community.

7 Q I'm aware of that. In addition to the full-time
8 clerks and staff that Justice Larsen had, he also employed
9 part-time allocatur clerks; is that right?

10 A That's right.

11 Q What did the allocatur clerks do?

12 A They did some of our allocaturs.

13 Q What does that mean? Can you explain what they
14 did?

15 A They would review petitions for allowance of
16 appeal, answers to petitions for allowance of appeal, or
17 counter -- whatever they're called. And prepare a draft
18 opinion for Justice Larsen, which he reviews and edits and
19 changes, which he may pass off to us for further legal
20 research or modification. And they're shipped back and forth
21 to them.

22 Q They would be shipped back and forth between law
23 clerks?

24 A Between our office and the allocatur professors
25 that are from Duquesne.

1 Q The allocatur clerks were law professors at
2 Duquesne; is that correct?

3 A Yes.

4 Q Those petitions would be sent, those allocatur
5 petitions then would be sent to a part-time clerk, let's say,
6 at Duquesne, and they would then be returned to your office to
7 the Justice to review?

8 A For the Justice, yes. And then if he --
9 occasionally he had problems with them that he would have us
10 investigate.

11 Q And you and the law clerk may have the opportunity
12 to look at that petition after Justice Larsen had reviewed
13 it. Would that petition then be returned to the allocatur
14 clerk?

15 A At times, yes, if it wasn't right.

16 Q Did the allocatur clerks have a role in drafting
17 opinions on cases that were assigned to other justices?

18 A Could you say --

19 Q Where the initial opinion was prepared by another
20 Justice.

21 Q Did the allocatur professors have a role in
22 opinions, or allocatur opinions? Allocatur opinions --

23 Q Yes, on allocatur cases -- go ahead.

24 A Any cases? Argued cases?

25 Q These would be cases that would have been assigned

1 to another Justice.

2 A Oh.

3 Q Okay, allocatur, let's say allocatur cases
4 assigned to another justice?

5 A Right.

6 Q And there's an opinion, correct, circulated on
7 that particular case?

8 A Right.

9 Q Would at any time the allocatur clerks become
10 involved in those cases that were initially assigned to
11 another justice?

12 A Yes.

13 Q Could you explain that, how they became involved
14 in that process?

15 A If I were reviewing an allocatur from another
16 office that required a counter report or a counter allocatur
17 opinion, and the issue was a difficult issue that one of the
18 professors at Duquesne had an expertise in, I may call on him
19 for his expertise on that particular legal issue.

20 Q Do you know the names of the allocatur clerks that
21 were used or employed by Justice Larsen at the time you were
22 in Judge Larsen's office?

23 A I couldn't give -- I don't know that I could give
24 you an accurate list, but I could try.

25 Q Go ahead.

1 A They were a Professor Fisfis. There was a female
2 professor, her name escapes me right now. I know her, I've
3 met her. There were a few others that I met. If you say
4 their names, I could answer you yes or no.

5 Q Did Michael Streib serve as an allocatur clerk
6 after he left Judge Larsen's employ as a full-time clerk?

7 A Between 1987 and 1993 when I was furloughed, no.
8 Not to my knowledge.

9 Q Prior to that? Do you know, to your knowledge?

10 A I wouldn't know prior to that.

11 Q Based on your experience in the office, Professor
12 Fisfis, would his responsibilities include assigning allocatur
13 petitions to other professors at Duquesne law school?

14 A Yes.

15 Q So that a group of allocatur petitions would be
16 delivered or sent to Professor Fisfis?

17 A Right.

18 Q He would then be responsible then for distributing
19 to other law school professors; is that correct?

20 A That's right.

21 Q After a set of petitions was delivered to
22 Professor Fisfis and he distributed those to other professors
23 at the law school, your office would not, that is, Judge
24 Larsen's chambers would not be aware or know what law
25 professors received those petitions; is that right?

1 A If there was a reason for talking to the professor
2 who the case was assigned to, yes, we could get that
3 information from Fisfis. I mean, he knew where the cases
4 were. And we called on him often to determine, you know, to
5 talk to the professor who actually did the work.

6 Q If there was no reason or question --

7 A If the judge came and said, I have a problem with
8 this, I want you to talk to the allocatur professor that
9 prepared it and work out the problem with him, this is wrong,
10 then I would call Fisfis and say, who did it.

11 Q If there was no reason to, no problem cropped up,
12 there were no red flags, your office would not know what law
13 professor received those allocatur petitions; is that correct?

14 A No.

15 Q You would not have known?

16 A There was a -- yes, you would. You could know.

17 Q Right. Well, did Fisfis keep a list? And did you
18 examine the list in the chambers of where the cases went, once
19 Fisfis got them?

20 A Did we examine his lists on an ongoing basis?
21 No.

22 Q So it's possible that Professor Fisfis could
23 distribute cases, allocatur petitions to law professors at
24 Duquesne law school, and your chambers would not be aware of
25 which law professor wrote the allocatur opinion, correct?

- 1 A No. No.
- 2 Q Or had the allocatur opinion?
- 3 A No. We would be -- we would know that. We would
- 4 know that.
- 5 Q How would you know that?
- 6 A If we -- ask me the question again, because you're
- 7 driving at something, and if you -- I mean --
- 8 Q I'm asking the question. I'll try and lay it out
- 9 again.
- 10 A Okay.
- 11 Q If there's a group of petitions that would be
- 12 delivered to Professor Fisfis, correct, they would be
- 13 delivered to him for an allocatur opinion?
- 14 A Right.
- 15 Q He would have the responsibility, that is,
- 16 Professor Fisfis would have the responsibility or at times
- 17 did, in fact, distribute those cases to other law professors?
- 18 A Right.
- 19 Q You, that is, Judge Larsen's chambers would not be
- 20 aware necessarily of what professors received --
- 21 A Who had what?
- 22 Q Yes.
- 23 A Right.
- 24 Q What professor received the case.
- 25 A Right.

1 Q If there were no red flags, if there were no
2 problems, nobody called anybody's attention to any problems in
3 one of those opinions, your office would not know what law
4 professor at Duquesne wrote the allocatur opinion; is that
5 correct?

6 A I don't know how to answer that question. He had
7 certain allocatur professors who were experts in certain
8 fields, criminal law, family law. Normally that is -- and I'm
9 assuming this because I wasn't in charge of Professor Fisfis's
10 administrative duties, but he would assign certain cases to
11 certain professors in regard to their expertise. And you
12 could also tell what cases Fisfis worked on because the work
13 product, it was apparent by the work product, his writing, his
14 typing.

15 Q So you could, through style and --

16 A Right.

17 Q All right. But Fisfis didn't work on every
18 petition?

19 A Right, correct. I said that. I think there were
20 three of them during my tenure.

21 Q You mentioned that you don't know whether Michael
22 Streib served as an allocatur clerk while you were employed
23 with Justice Larsen; is that correct?

24 A No. He was not. He did not serve as an allocatur
25 clerk during my tenure. I said I didn't know prior to 1987

1 where --

2 Q Are you aware of Michael Streib ever preparing any
3 allocatur petitions after he left Judge Larsen's employ?

4 A No.

5 Q Would Justice Larsen ordinarily defer to the
6 assessments of the allocatur clerks on these cases?

7 A No, absolutely not. You all know him as well as I
8 do. There wouldn't be an allocatur in that office that was
9 his writing product that he didn't review.

10 Q Do you know an opinion ever being written by Mr.
11 Streib?

12 A No. Was he consulted on one? Possibly.

13 Q Possibly?

14 A He had -- I don't know. Did he write one while I
15 was there? Absolutely not.

16 CHAIRMAN DERMODY: Representative Clark?

17 BY CO-CHAIRMAN CLARK:

18 Q Ms. Lenzi, I have a few questions for you with
19 regard to Judge Larsen's relationship with other individuals.

20 You indicated that you were very close to Justice
21 Larsen?

22 A Yes.

23 Q Are you familiar with Justice Larsen's relationship
24 with a Leonard Mendelson?

25 A Yes.

1 Q Could you describe that relationship?

2 A They're friends.

3 Q How do you reach a conclusion that they were
4 friends?

5 A I know that he sends Mr. Mendelson and his wife
6 birthday greetings. Ann Mendelson is, was a former secretary
7 in our office. She went to law school, she's Mr. Mendelson's
8 daughter and she now works as a law clerk for us. I think I
9 mentioned her name earlier. So they, I think they've been
10 friends for some time.

11 Q Did you ever see Mr. Mendelson in the judge's
12 office or chambers?

13 A No.

14 Q Did you know whether Mr. Mendelson had ever called
15 the office or --

16 A He called quite often for his daughter. He had
17 lunch with her in the afternoons.

18 Q His daughter is Ann Mendelson?

19 A Right.

20 Q Do you know when she began working for Judge
21 Larsen?

22 A I'm going to take a guess that it was in 1991.
23 '92? I'm not sure.

24 Q And she started as a secretary?

25 A No, no, no. She worked as a secretary long before

1 she went to law school, and I couldn't give you the dates of
2 her employment back then. I wasn't around.

3 Q But in 1991, she came on as a law clerk?

4 A She came on as a law clerk, yes, and a very good
5 law clerk.

6 Q Do you know whether Justice Larsen consulted with
7 Leonard Mendelson about the JIRB proceedings or any other
8 legal matters that Justice Larsen may have been involved in?

9 A No.

10 Q No, you don't know? Or to your knowledge, he
11 didn't?

12 A No, I don't know the answer to your question. Did
13 I ever hear him or see him discussing the JIRB matters or
14 other legal matters with him?

15 Q That's correct.

16 A No.

17 Q Are you familiar with Judge Larsen's relationship
18 with S. Michael Streib?

19 A Yes.

20 Q And do you know what kind of relationship he had
21 with him?

22 A Yes. Michael was a former law clerk and he is
23 also a friend of Judge Larsen's.

24 Q And again, you characterize him as a friend, and
25 what leads you to that conclusion?

1 A I believe -- I was -- I believe Michael and his
2 wife Kelly, the first, one of the first times that I met him,
3 he came up to the office because they were going to be married
4 and the judge was going to perform the ceremony.

5 Q Do you know when Mr. Streib left as a law clerk?

6 A No.

7 Q Do you know whether Attorney Streib had
8 represented Judge Larsen in any of his legal proceedings?

9 A Not to my knowledge.

10 Q What about the things before the JIRB?

11 A You'll have to ask -- I don't think so. He was
12 represented -- in the JIRB proceeding during my tenure there?

13 Q Yes.

14 A He was represented by A. Charles Peruto from
15 Philadelphia, and I believe during an appeal by Mr. Sprague,
16 also, from Philadelphia.

17 Q Did Mr. Streib visit the judge's office?

18 A I told you about the one occasion when I saw him
19 up there.

20 Q That's correct. Were there other occasions when
21 you saw him up there?

22 A No.

23 Q What about phone calls?

24 A That I remember, no. Phone calls? Yes.

25 Q As often as Mendelson?

1 A I don't believe I was asked how often Leonard
2 Mendelson called the office.

3 Q But you indicated that he called frequently.

4 A I said to make lunch plans with his daughter. So
5 then I would have to answer your question, no, Mr. Streib
6 didn't call as often as Mr. Mendelson.

7 Q Thank you. Do you know if Judge Larsen was
8 familiar with or had a relationship with a Robert Daniels?

9 A No.

10 Q Do you ever recall Mr. Daniels visiting the
11 judge's office?

12 A No. I don't have a recollection of that.

13 Q Any phone calls that you're aware of that Mr.
14 Daniels made to Judge Larsen's office or chambers?

15 A Not with regard to Mr. Daniels, no.

16 Q Are you familiar with Judge Larsen's relationship
17 with Richard Gilardi?

18 A No, I'm not, sir.

19 Q No, you know of no relationship between Mr.
20 Gilardi and Justice Larsen?

21 A No. I don't have any knowledge of that.

22 Q Do you have any knowledge of any special attention
23 or particular attention that Judge Larsen paid to Leonard
24 Mendelson's cases that would come through your office?

25 A No. After Mr. Mendelson's daughter Ann came to

1 work with us, Justice Larsen paid attention to his cases that
2 came up for purposes of recusing himself, once she was
3 employed with our office.

4 Q As a law clerk in '91?

5 A Right. Correct.

6 Q Then there was a concerted effort made at that
7 point to make note of cases where Mr. Mendelson would appear?

8 A Yes.

9 Q That was the only purpose that you know of, that
10 the office would have taken note of those cases?

11 A Right.

12 Q Prior to Ms. Mendelson working as a law clerk in
13 1991, did Justice Larsen pay any particular attention to cases
14 in which Mr. Mendelson appeared in?

15 A No.

16 Q Do you know whether or not Judge Larsen was
17 concerned that any other justice may not be treating Leonard
18 Mendelson with fairness in cases that may have been brought
19 before the Supreme Court?

20 A I know about that because of the Grand Jury
21 proceeding, but prior to that, I had no knowledge of that.

22 Q What did you learn in the Grand Jury proceeding?

23 A I believe that Justice Larsen testified that he
24 was concerned about treatment by some of the other justices
25 where those --

1 Q That was Judge Larsen's testimony, not yours?

2 A Right. Right. I believe -- yeah.

3 Q Were you present when Justice Larsen testified in
4 front of the Grand Jury?

5 A No. He discussed his testimony upon his return --

6 Q And he upon his --

7 A -- and I remember him mentioning that.

8 Q Mr. Larsen reviewed his testimony with you after
9 he returned from his Grand Jury?

10 A No. He discussed it openly in the office, and I
11 recall him discussing that.

12 Q Did he call a meeting to discuss that?

13 A No.

14 Q Or how do you mean openly?

15 A No. He came back to the office, we asked him what
16 happened.

17 Q And he reviewed his testimony with you?

18 A He discussed his testimony with us.

19 Q Do you know how long he testified in front of the
20 Grand Jury?

21 A No. I believe he went up on two or three
22 occasions. I'm not real sure. I couldn't tell you the number
23 of hours.

24 Q Pardon?

25 A I couldn't tell you the number of hours.

1 Q But you do recall that he made a special effort to
2 bring this concern out when he --

3 A No. That's not what I said. You're
4 mischaracterizing what I'm saying. He came back from the
5 proceedings. We were interested in what occurred. And he
6 discussed what areas, what questions they asked and what his
7 answers were.

8 Q And you testified in front of the Grand Jury?

9 A Yes, I did.

10 Q Was that after Judge Larsen or before?

11 A My recollection is that it was -- I think he may
12 have gone once and then me and then he went again, but I'm
13 guessing.

14 Q Do you believe that there were any justices on the
15 Supreme Court which may have treated Leonard Mendelson
16 unfairly?

17 A I don't know.

18 CO-CHAIRMAN CLARK: Mr. Chairman, I have no
19 further questions.

20 CHAIRMAN DERMODY: Thank you, Representative
21 Clark.

22 I believe right now counsel would like to ask you
23 some questions. First will be John Moses, special counsel.

24 BY MR. MOSES:

25 Q Ms. Lenzi, I'm going to ask you some questions.

1 If you don't hear or understand any of my questions, please
2 tell me. Okay?

3 A Okay.

4 Q First, so that the record is clear, you are here
5 today represented by Attorney Fields, who is a partner in the
6 lawfirm of Kollas, Costopoulos, Foster and Fields; is that
7 correct?

8 A No, that's not. It's Costopoulos, Foster and
9 Fields.

10 Q Costopoulos, Foster and Fields?

11 A That's right.

12 Q And based on some prior discussions we had, that
13 you are prepared to answer whatever questions this committee
14 has for you today?

15 A Absolutely.

16 Q So you are no longer requesting any type of
17 legislative immunity which you heretofore requested?

18 A No.

19 Q To direct your attention first to law clerks, you
20 are familiar, of course, with Mickey Lydon?

21 A Um-hum, yes. Michael hired me.

22 Q And that's one of the areas I want to explore.
23 Mr. Lydon was with Justice Larsen for how long a period of
24 time?

25 A I have no idea. 14 years, 12 years. Somewhere

1 around there.

2 Q Would it be --

3 A More than a decade.

4 Q Would it be fair to characterize him as the chief
5 or top law clerk?

6 A Not in our office. Some of the other offices had
7 administrative law clerks, but that wouldn't be a fair
8 characterization.

9 Q It would not be a fair characterization? Was
10 there anyone that had more seniority than Mr. Lydon as a law
11 clerk?

12 A No. He was definitely the most senior.

13 Q So he was, you would characterize him as the most
14 senior but not the chief?

15 A There was no such designation in our office.

16 Q I understand. I understand there was no such
17 designation. Perhaps I should ask the question again.

18 Would that be a proper characterization, not
19 designation, but characterization of his role in the office as
20 the most senior law clerk?

21 A He was the most senior law clerk.

22 Q Would he be the law clerk that other clerks would
23 sometimes go to to ask various questions concerning
24 scheduling, concerning opinions, concerning employment
25 matters?

1 A Concerning opinions, yes. Those other two
2 matters, no, unless you can be more specific about what you
3 mean by scheduling and employment matters.

4 Q Well, if someone was unhappy with an assignment
5 they had received --

6 A No. You would go to the judge, Justice Larsen.

7 Q You would go to the judge?

8 A Yes.

9 Q Now, throughout your tenure there as a law clerk,
10 which was contemporary with that of Mr. Lydon, is it true that
11 Mr. Lydon and Justice Larsen enjoyed a good relationship with
12 each other?

13 A Yes.

14 Q You are not aware of any altercations or
15 confrontations or arguments that Mr. Lydon may have had with
16 Justice Larsen while you were both contemporaneously as his
17 law clerks?

18 A Can you ask that question again?

19 Q Sure. Do you recall any altercation or argument
20 or disagreement that you became aware of while you were a law
21 clerk along with Mr. Lydon, that is, altercation or
22 disagreement, between Mr. Lydon and Justice Larsen?

23 A Altercation, no. Disagreement, yes. And I forgot
24 the third --

25 Q That's okay. Disagreement about what?

1 A -- part of that. Disagreement about a way to
2 handle an issue in a case. Disagreement in regard to work
3 that they were doing.

4 Q But never any arguments on a personal basis?

5 A No. I wouldn't have any knowledge of that.

6 Q Would it be fair to say that your understanding
7 was they had a mutual respect for each other?

8 A Yes. I think people that have mutual respect for
9 each other disagree, though --

10 Q I understand.

11 A -- on occasion.

12 Q Just so I understand something, you indicated to
13 Mr. Clark that Justice Larsen reviewed or discussed, I'm
14 sorry, you chose the word discussed, his testimony with you
15 after he appeared before the Grand Jury.

16 A Yes.

17 Q Is it not true that Mr. Schiffino also discussed
18 his testimony with you after his appearance?

19 A Yes.

20 Q So that within your office, at least Justice
21 Larsen and Mr. Schiffino both discussed their grand jury
22 testimony with you after they appeared before the grand jury;
23 is that correct?

24 A Yes. And since this is being filmed, I would like
25 to make it clear that there's nothing wrong with a witness in

1 a grand jury proceeding discussing their testimony. There's
2 nothing sinister about that --

3 Q I just asked if --

4 A -- or criminally wrong.

5 Q -- that occurred.

6 A Yes, it did.

7 Q Did anyone else discuss their grand jury, did
8 anyone else in the office discuss their grand jury testimony
9 after their appearance?

10 A Did I discuss mine? Did Vera discuss hers?

11 Q My question was: Did anyone else in the office.

12 A Yes.

13 Q Who else discussed their grand jury testimony
14 after they appeared before the grand jury?

15 A I did.

16 Q Anyone else?

17 A Vera.

18 Q Vera Freshwater?

19 A Right.

20 Q And anyone else?

21 A No. Unless someone else was called that I'm
22 forgetting.

23 Q So that to the best of your recollection today, at
24 least Justice Larsen, Andy Schiffino, Vera Freshwater and
25 yourself discussed testimony of the grand jury, the testimony

1 given to the grand jury subsequent to your appearance before
2 the grand jury?

3 A Yes. It was a topic of interest in our office.

4 Q I'm sure it was.

5 A Yes.

6 Q The other law clerks that were employed by Justice
7 Larsen at the time he appeared before the Ninth Investigating
8 grand jury were whom?

9 A Marsha Landers, Tchad Heil, Lorrie Albert and Ann
10 Mendelson.

11 Q Now, Ann Mendelson was the daughter of Leonard
12 Mendelson; is that correct?

13 A Right.

14 Q And as a law clerk, do you know whether or not Mr.
15 Mendelson practiced before the Supreme Court of Pennsylvania
16 at a point in time when his daughter was a law clerk to
17 Justice Larsen?

18 A Practiced before the Supreme Court? Did he have a
19 petition, did he file a petition with the Supreme Court? It's
20 possible.

21 Q It's possible?

22 A Yes.

23 Q Do you know whether or not Justice Larsen
24 participated in any cases before the Supreme Court while his
25 daughter Ann was a law clerk?

1 A Do I know whether he participated in any cases --

2 Q No. Do you know whether or not he practiced, not
3 participated in any cases.

4 A I'm just not understanding --

5 Q I'll be happy to explain it to you.

6 A Let's take this a step back, because you're
7 getting upset with me.

8 Q I'm not getting upset.

9 A And I just don't understand your question.

10 Q As I indicated in the beginning, we want to be as
11 courteous as we can. If you don't hear or understand any
12 question, you tell me.

13 A Okay.

14 Q When I say practice before the Supreme Court, I
15 don't mean argued.

16 A Oh, okay.

17 Q I mean what all lawyers understand to be a
18 practice: File papers, make motions. And I'm asking you
19 whether or not it was true that there were applications filed,
20 motions filed, petitions for allocatur filed, by Mr.
21 Mendelson, with the Pennsylvania Supreme Court at a point in
22 time when his daughter Ann was Judge Larsen's law clerk?

23 A Did he file such petitions?

24 Q Yes.

25 A It is possible. I don't have any knowledge.

1 Q You don't know?

2 A Personal knowledge as to whether he filed papers
3 with us, argued a case, whether his lawfirm did.

4 Q Is the answer to my question, you don't know?

5 A I don't know.

6 Q Okay. Isn't true that you never received any
7 written memorandum from Justice Larsen indicating that if any
8 documents were filed by Mr. Mendelson, that he should be
9 notified of it immediately so that he could recuse himself?

10 A No. He would have told us that verbally.

11 Q The answer to my question is, isn't it true -- let
12 me ask the question again.

13 A Okay.

14 Q Isn't it true that you received no written
15 memorandum from Justice Larsen advising you that he wanted to
16 know if there were any cases before the Supreme Court handled
17 by Mr. Mendelson because he wanted to recuse himself?

18 A I never received any written memoranda from
19 Justice Larsen, particularly not -- I mean, he didn't write
20 memoranda to us. This is not a -- this was an open office, so
21 that's not even in the realm of possibility.

22 Q Open to whom?

23 A Open, in other words, he was in my office, I was
24 in his office, he was in other clerk's office. He didn't
25 communicate with his four or six law clerks by written

1 memoranda.

2 Q Did he ever advise you personally that he wanted
3 to know if there were any cases filed by Mr. Mendelson?

4 A Yes.

5 Q When did he tell you that?

6 A I don't know.

7 Q Did you ever tell him there were cases filed by
8 Mr. Mendelson?

9 A I may have.

10 Q Did you --

11 A If I ran across one, I would have informed him of
12 it.

13 Q Do you know if you did?

14 A No. I don't remember.

15 Q Now, isn't it true that one of your
16 responsibilities was that you were in charge of the JIRB
17 docket?

18 A The JIRB docket, yes. Yes.

19 Q And were you in charge of the JIRB dockets at that
20 point in time when Justice Larsen was filing various motions
21 with JIRB?

22 A For part of -- in 1987 when I started, no. That
23 job came to me at a later point in time --

24 Q And at that point in time?

25 A It came to me from a more senior law clerk to me.

1 Q And at that point in time, were there matters
2 involving Justice Larsen before JIRB when you were in charge
3 of the docket?

4 A Yes.

5 Q And did you continue to be in charge of the
6 docket, despite the fact that there were matters involving
7 Justice Larsen before JIRB?

8 A There were -- Judge Larsen's main reason for
9 assigning someone to specifically be concerned about the JIRB
10 docket --

11 Q I asked you if you were, and I think it calls for
12 a yes or no answer.

13 A Yes, and can I explain? Do you mind if I
14 explain?

15 Q You can take all the time you want to explain, but
16 would you please answer the question first.

17 A Yes.

18 Q So the answer to the question is yes, despite the
19 fact that Justice Larsen had matters pending before JIRB, you
20 as his law clerk, were in charge of the JIRB docket?

21 A Yes. Because Justice Larsen recused himself from
22 all JIRB matters. Therefore, if a pleading came in on a, and
23 the other six members of the court were going to rule on a
24 matter in a JIRB case, I would be responsible for preparing a
25 letter after consulting with him that, notifying the other

1 members of the court that he would not be participating in the
2 consideration or the decision that they were reaching.

3 Q And did you ever prepare such a letter on a
4 Mendelson case, in this open office?

5 A A Mendelson case is not a part of the JIRB docket.

6 Q I understand that. But I'm asking you if you ever
7 prepared such a written document for the Justice on any
8 Mendelson case?

9 A There's a possibility, but I don't have a present
10 recollection of it.

11 Q Now, just one last question about the process of
12 the allocatur petitions. It's my understanding, and you
13 correct me if I'm wrong, that Professor Fisfis would receive
14 all the allocatur petitions that were assigned to Justice
15 Larsen, that he would then distribute them to the various
16 professors at the law school that were working on petitions,
17 and that when that work was concluded, that then the work was
18 delivered back to Judge Larsen's office.

19 Is that an accurate understanding of how the
20 allocatur petitions got over to Duquesne law school?

21 A The majority of them. Not all of them. Yes.

22 Q Which ones did not get over there?

23 A When we didn't have other work to do, we took
24 allocaturs off of the pile to work on.

25 Q When you had work to do?

1 A No. When we didn't have -- say I was working on a
2 case and I was finished with it and I didn't have any other
3 responsibilities at the time. I would work on allocaturs.

4 I just wanted to make it clear that we also worked
5 on them in the office. In fact, when I started there, that
6 probably was one of my first assignments, was to pick up an
7 allocatur and prepare a draft allocatur opinion.

8 Q Just so I can follow up on Mr. Dermody's line of
9 questioning so that the record is clear, those petitions,
10 however, which were sent to Professor Fisfis at Duquesne law
11 school, he would then distribute to other professors without
12 advising the chambers of Justice Larsen as to what particular
13 professor had what particular allocatur file; isn't that true?

14 A Yes, that's right.

15 Q Okay. And your office would have no idea which
16 law professor was working on those allocatur petitions while
17 they were at the Duquesne law school?

18 A That's an unfair question.

19 Q Why is that?

20 A Because the suggestion is that he didn't know who
21 had what. And if he needed to know which clerk was working on
22 which case, he would know that.

23 Q Well, we're talking about publicly filed
24 documents, and all I want to get at are the facts. I don't
25 want to ask an unfair question. Let me repeat the question.

1 A Right.

2 Q Is it not true as a matter of fact that once the
3 allocatur petitions were delivered to Professor Fisfis at
4 Duquesne and he distributed them to the other professors, that
5 until they came back or unless somebody called up in the
6 meantime and had a question, but as a general course, the
7 chambers of Justice Larsen did not know which particular
8 professor at Duquesne was working on which particular
9 allocatur petition?

10 A Is that a fair assessment? No.

11 Q Is it factual? Is it factual that on a given
12 date, Judge Larsen's chamber would not know which professors
13 were working on which allocatur petitions?

14 A Yes.

15 Q Okay. Now, let me wrap up by simply asking, you
16 described the chambers as being open chambers, correct?

17 A Yes.

18 Q And collegiality between the law clerks, correct?

19 A Yes.

20 Q And collegiality between the secretaries?

21 A Yes.

22 Q And collegiality between the secretaries and the
23 law clerks and the Justice?

24 A Yes.

25 Q Now, with all of this openness and collegiality,

1 were you aware of the existence of a special Larsen list
2 maintained by secretaries in Judge Larsen's office?

3 A No.

4 Q So that while you described the office as open and
5 relationships collegial, there was no list that you were aware
6 of?

7 A What kind of list?

8 Q Any kind of list that had on it allocatur
9 information, information --

10 A Yes. We kept --

11 Q Let me finish my question, please.

12 A Okay.

13 Q Information about allocatur petitions on it that
14 were not assigned to Justice Larsen and kept on a small sheet
15 of paper by the secretaries? Were you aware of the existence
16 of such a list?

17 A Could you ask the question again? I lost you, and
18 it's my fault because I interrupted you. But could you start
19 over again?

20 Q Sure. I'll be happy to. In this atmosphere of
21 openness and collegiality, were you aware that the secretaries
22 were asked to surreptitiously maintain a list with various
23 case numbers on it and that they were maintained by the
24 secretaries? Were you aware of that?

25 A No.

1 MR. MOSES: Thank you.

2 CHAIRMAN DERMODY: We'll now have questions from
3 Special Counsel David Undercofler and David Moffitt. Mr.
4 Undercofler?

5 BY MR. UNDERCOFLER:

6 Q Good afternoon. I would like to just go back to a
7 piece of your testimony with regard to the announcement in
8 chambers by Justice Larsen with regard to Ann Mendelson's
9 employment. I believe you testified that at the time of her
10 employment, he brought to your attention, and I assume others
11 in chambers, that he wanted to be notified of any Mendelson
12 cases?

13 A He needed to be more sensitive to those cases once
14 she became employed, yes.

15 Q Do you recall, is that precisely what he said? I
16 mean, do you recall what you were instructed by Justice
17 Larsen?

18 A I was instructed also with regard to various other
19 recusal-sensitive matters, in addition to Ann Mendelson being
20 employed by the Justice and him being concerned.

21 Q And did that relate to Leonard Mendelson as well?

22 A To Leonard Mendelson's cases, yes.

23 Q What did he say? What did he tell you?

24 A That he needed to be shown anything that was filed
25 by Leonard Mendelson so that he could make a decision as to

1 whether to recuse or not in that case.

2 Q And that was because of Ann Mendelson and for
3 other reasons as well, you said?

4 A No. It was because she had become employed in our
5 office.

6 Q And did that signify a change in policy as you
7 understood it in the office?

8 A Well, as -- yes, because as his relationship with
9 various lawyers and so on changed, different people came on to
10 the recusal list. For instance, when he became -- he had a
11 relationship with A. Charles Peruto. Once he hired him as
12 counsel, then he would tell us to be sensitive to any cases
13 filed in the Supreme Court by A. Charles Peruto, because he
14 would have to review them to decide whether to recuse or not.
15 So it was in that same vein.

16 Q But I want to just focus on the announcement or
17 the statement with regard to Leonard Mendelson at the time of
18 Ann Mendelson's employment.

19 Did he give you any additional instructions at
20 that time with regard to Leonard Mendelson?

21 A No.

22 Q It was just with regard to her employment?

23 A And it wasn't an announcement.

24 Q What was it?

25 A It was a request. An additional duty.

1 Q And this was to you and to the other clerks as
2 well?

3 A Yes.

4 Q And to staff as well?

5 A Yes. And the names of those people that he would
6 have to be recusal-sensitive to changed during my six-year
7 tenure in the office.

8 Q Were they written down anyplace or were they just
9 remembered?

10 A No, they were known.

11 Q And back to my question, when he made this request
12 with regard to Leonard Mendelson in relationship to the
13 employment of Ann Mendelson, did that signify a change in
14 policy or procedure with regard to Leonard Mendelson cases?
15 Was he recusing from Leonard Mendelson cases prior to her
16 employment?

17 A No.

18 Q Now, when he made this request, did he limit it to
19 Leonard Mendelson as an individual? Or did he describe
20 Leonard Mendelson with regard to Leonard Mendelson and his
21 lawfirm and his law partners?

22 A I can only answer that question by telling you
23 that if I would have seen another -- if I would have seen the
24 Hollinshead Mendelson name come up, I would have brought it to
25 his attention, regardless of what lawyer had actually signed

1 the petition.

2 Q And just to clarify --

3 A So I don't recall whether he included the firm or
4 whether I would have -- I would have brought that to his
5 attention.

6 Q So you would have brought that to his attention,
7 but you're not certain whether or not he meant to define it as
8 including Leonard Mendelson's firm?

9 A I don't know. I don't know whether he defined it
10 that way.

11 Q Now, finally, with regard to this particular area,
12 did he make any distinction between consideration of allocatur
13 petitions versus consideration of appeals on merits in terms
14 of recusing? In other words, did he tell you that he wanted
15 to be notified with regard to recusal if it was an allocatur
16 petition filed, or if it was an appeal on the merits?

17 A No. He didn't describe any difference, but there
18 would have -- there may have been a difference.

19 Q Please explain.

20 A Well, when you read a stack of allocatur opinions
21 from other offices like this (indicating) --

22 Q Indicating about an inch thick?

23 A Right, at least an inch thick, sometimes more,
24 there may be occasion to take the papers out of the, the
25 original papers, original filings, out of the cabinet to look

1 into an issue further. And on those papers, you would notice
2 the attorneys' names. But if you didn't have, if a red flag
3 didn't come up when you read the opinion because of the issue
4 involved or something like that, you might slip past one that
5 involved a particular firm or a particular lawyer or a
6 particular individual. But with a case, that wouldn't be
7 possible.

8 Q Case being something on appeal?

9 A A case being something -- well --

10 Q Appeal on the merits?

11 A Well, an argued case.

12 Q So what you're saying, then, is that there might
13 have been an incident where there could have been a mistake is
14 when someone wouldn't have known who counsel was?

15 A Yes. Yes. I don't know exactly what you're
16 driving at.

17 Q I want to know whether or not Justice Larsen said,
18 please advise me on any argument cases or cases on appeal if
19 Leonard Mendelson is involved so that I can recuse, but it
20 doesn't make any difference with regard to the petitions for
21 allowance of them.

22 A No. He wouldn't have said that. He would have
23 said generally, please alert me to any matters that have
24 Leonard Mendelson's named on that come past you.

25 Q And I take it as an attorney, you would accept the

1 principle that a conflict, whether it was involved in an
2 appeal on the merits or an allocatur petition, would be just
3 as significant from a judge's point of view?

4 A Well, no. Recusal is a very esoteric thing, and I
5 -- no, I couldn't answer your question. I mean --

6 Q Suppose you had a case, this is a hypothetical,
7 now, Leonard Mendelson had a case and Justice Larsen voted to
8 grant allocatur or wrote a counter report in favor of
9 allocatur.

10 A Right.

11 Q And then later recused himself on the merits,
12 after allocatur was granted. Would you see that as a
13 conflict?

14 A No.

15 Q You would not?

16 A No. I've seen that happen. I've seen that
17 happen. I've seen seven justices come out to sit on a
18 particular case and then someone appears who before that time
19 hadn't been involved in the case, and I think one time five of
20 them got up and walked out. So it's not a static thing. It
21 changes.

22 Q But if the Justice knew that Leonard Mendelson was
23 counsel of record in both from the very beginning, from the
24 receipt of the allocatur petition, you would not see a
25 conflict if he voted to grant allocatur, exercised the

1 discretionary jurisdiction of the Supreme Court, and then
2 recused himself on the merits?

3 A No, I wouldn't see a conflict in that. It happens
4 all the time.

5 Q Knowingly?

6 A Yes.

7 Q Intentionally?

8 A No, not intentionally. It just happens.

9 Q Would intentionally make any difference if it's
10 not a conflict? Would it make any difference what your state
11 of mind was?

12 A I would have to know what the conflict was to
13 answer your question, to agree with you.

14 Q The conflict is to the Leonard Mendelson
15 relationship, based upon that instruction to you.

16 A Justice Larsen, based on the instruction, was,
17 once Ann Mendelson became employed by Justice Larsen. After
18 that, with regard to JIRB matters, absolutely, he recused on
19 everything, because he was being investigated by that board.

20 But as a rule, if I got a pleading from Leonard
21 Mendelson, would he recuse himself? Prior to the
22 announcement, prior to the discussion, prior to her coming to
23 our employ? No. Not necessarily.

24 Q After her employ, would it be inappropriate for
25 him to vote to grant allocatur on a Mendelson case?

1 A I don't know exactly what his motivations were for
2 feeling that there was a conflict after she became employed,
3 but as a rule, he doesn't quid pro quo recuse because of this
4 or because of that. He sees every matter and makes a decision
5 when he sees it or reads it.

6 With regard to the JIRB matters, I would be 99
7 percent sure that he would recuse on it. I would still send
8 him a little note and tell him to review it to see whether he
9 would or not. So it's his decision. So you can't really ask
10 me that question.

11 Q Let me ask you this question. I mean, you've now
12 been a law clerk for a number of years in the Supreme Court?

13 A Right.

14 Q So you're qualified as someone familiar with the
15 practice of the Supreme Court.

16 A I don't think so.

17 Q Would you agree with me that if you are a
18 petitioner for an allocatur, that the decision to get the
19 allocatur granted is a significant step in the appellate
20 process in the State of Pennsylvania?

21 A Yes.

22 Q And indeed, very few -- how many percent? About
23 10 percent of all allocatur petitions are granted; is that
24 correct?

25 A Right.

1 Q So that many appellants, many people wishing to
2 have the Supreme Court review their cases in this state, are
3 denied that right because the Supreme Court does not grant
4 discretionary jurisdiction to hear the appeal?

5 A Right.

6 Q So would you agree it is a significant step for
7 litigants in the State of Pennsylvania?

8 A Right.

9 Q Would you also agree with me that it should have
10 the same level of scrutiny with regard to conflicts of
11 interest by the judiciary, and not be considered lower in
12 priority or lower in significance as opposed to participation
13 in a case on which allocatur is granted on the merits or
14 decided?

15 A If it has lesser significance -- well, let me say
16 this. If you have a particular case that involved Justice
17 Larsen where he granted an allocatur and then recused himself
18 when the case was argued, you can investigate and I can bet
19 you can find a number of other justices where that has
20 occurred, also.

21 So if you're asking me whether their procedures
22 are fair or correct or proper or whether they prioritize
23 things carefully, I can't answer your question. Does it
24 happen? Is it possible? Yes.

25 Q Is it --

1 A So if it happened with him, it probably happened
2 with other justices.

3 Q You consider it excusable if it happens?

4 A Yes. Yes.

5 Q You consider it a mistake?

6 A It could be a mistake. It could be excusable for
7 a myriad of other reasons.

8 Q You agree that it's not appropriate judicial
9 practice to have that happen?

10 A No, I don't agree with that. I don't agree with
11 that at all.

12 MR. UNDERCOFLER: Thank you very much.

13 CHAIRMAN DERMODY: Mr. Moffitt?

14 BY MR. MOFFITT:

15 Q Ms. Lenzi, did Justice Larsen ever make you aware
16 of particular cases that he knew were coming into the Supreme
17 Court on petition for allowance of appeal so that you could
18 look for them and inform the judge that it might be
19 appropriate for him to exercise his right to recuse?

20 A Yes.

21 Q Do you remember the names of any of the particular
22 cases or the circumstances?

23 A Did he -- no. I'm sorry, the answer to your
24 question is no. Did he tell me the name of a particular
25 case? No.

1 Did he tell me the name of certain judges, I'm
2 sorry, lawyers who he had relationships with, legal
3 relationships with, issues that he was involved in litigation
4 with? Yes. And we all, all four of us or all six of us, knew
5 what those issues and who those individuals were.

6 Q Did Justice Larsen ever evidence prior knowledge
7 of a case coming before the Supreme Court where a recusal
8 issue would be raised? Let me give you an example. In your
9 grand jury testimony you gave an example of the cases that
10 would be brought to the Supreme Court that would involve the
11 Dickie McCamey lawfirm.

12 A Right.

13 Q And the reason was that the Dickie McCamey lawfirm
14 was at the time representing Justice Larsen. Did Justice
15 Larsen ever advise you that he knew, for example, that a
16 Dickie McCamey lawsuit was going to be filed in the Supreme
17 Court, please look out for it so that I can recuse myself or
18 at least consider whether I ought to recuse myself?

19 A No.

20 Q That never happened?

21 A No.

22 Q Did that ever happen in the case of any case
23 coming to the Supreme Court on allowance of appeal?

24 A Did he forewarn me of a case that was coming?

25 No. A particular case, no.

1 Q So that Justice Larsen never informed you, for
2 example, that Leonard Mendelson had told him that a case was
3 coming into the Supreme Court and that Justice Larsen might
4 want to consider recusing himself?

5 A No.

6 Q That never happened?

7 A Not to my recollection.

8 Q Did you ever become aware of whether Justice
9 Larsen was being represented by Leonard Mendelson in Judge
10 Larsen's personal matters?

11 A Do I remember him telling me that? No.

12 Q Did he ever tell you that Leonard Mendelson
13 represented him in a potential liable action against the
14 Rivers Club in Pittsburgh?

15 A Now that you have brought up a specific
16 circumstance, I have a recollection of that. I believe I read
17 the letter that was written to the Rivers Club by Leonard
18 Mendelson.

19 Q In general, did Justice Larsen have a practice of
20 recusing himself in cases brought to the Supreme Court by
21 attorneys that represented him in personal matters?

22 A It would depend on what time, whether it was
23 during -- usually during the time of their representation,
24 yes. It changed when they were no longer employed by him in
25 that respect.

1 Q However, during the pendency of their
2 representation of Justice Larsen, his practice, to your
3 understanding, was to recuse?

4 A Yes.

5 Q Would you say that was a bright-line rule for
6 Justice Larsen?

7 A What?

8 Q To recuse when a case would come to the Supreme
9 Court on a petition for allowance of appeal at such time that
10 he was being represented by one of the attorneys involved in
11 the case?

12 A It was a bright-line rule that a clerk who read
13 that a certain attorney was involved in a case would bring
14 that to his attention. It was not a bright-line rule as to
15 what his decision on recusal would be. You can't make -- you
16 can't answer a recusal question in a vacuum.

17 Q So now you're saying that, in fact, there was no
18 rule of recusing in cases where the attorney was currently
19 being represented by Justice Larsen?

20 A I've tried to make it clear that if you want to
21 ask him whether it was a bright-line rule that he recused in
22 those cases, you would be better to pose that question to
23 him. Did he do it as a rule? 90 percent of the time. But
24 not always.

25 MR. MOFFITT: I have nothing further.

1 CHAIRMAN DERMODY: Thank you.

2 BY CHAIRMAN DERMODY:

3 Q I have one question and then I would like to open
4 it up to the members, briefly, for some questions. Before I
5 do that, I'm going to ask the members to introduce
6 themselves. I have one question to follow up a little bit on
7 some of the previous questions.

8 You've testified to a very collegial type
9 atmosphere and open atmosphere in Judge Larsen's chambers; is
10 that correct?

11 A Yes.

12 Q You were friends with both the secretaries, the
13 staff and the law clerks?

14 A Yes.

15 Q Is that right? You've testified that you knew and
16 were friendly with Mickey Lydon and Dale Walker; is that
17 right?

18 A Right.

19 Q Mickey Lydon, Debbie Shatten, I believe, also?

20 A No.

21 Q Do you know her?

22 A I don't know her.

23 Q How about Janice Uhler and Barbara Roberts?

24 A I worked with both of those secretaries.

25 Q And you know them?

1 A Yes.

2 Q And they were part of this open, friendly office;
3 is that correct?

4 A Yes.

5 Q At least, taking Debbie Shatten out, though, but
6 would you have any reason to believe that they would lie about
7 instructions from Justice Larsen about tracking certain
8 allocatur petitions in the office?

9 A I can't assess their credibility. You're asking
10 me to assess their credibility?

11 Q No. I'm asking you if you have any reason to
12 believe, from your experience working with them in that office
13 and the atmosphere in that office, would they have any reason
14 to lie about Judge Larsen's instructions to them on keeping
15 track of certain allocatur petitions?

16 (Witness conferred with counsel.)

17 BY CHAIRMAN DERMODY:

18 Q Maybe I could rephrase it, if it helps. Do you
19 know of any known prejudices that would exist --

20 A Both of those secretaries left the office after he
21 became displeased with their work. So the collegiality, I
22 would assume, between Justice Larsen and those secretaries had
23 lessened, even though I know that he helped, he talked and
24 helped to -- helped them after they left the office.

25 Q After they left, he helped them work out --

1 A Yes.

2 Q And Mickey Lydon, you don't know of any problem?

3 A Excuse me?

4 Q Go ahead, I didn't mean to interrupt you.

5 A Any problems with Michael Lydon? Michael Lydon
6 left around the same time as Barbara Roberts. They were very,
7 very close friends. And it would, my answer would be the same
8 for him, too. He did not leave the office -- that was a
9 strange time for the relationship between Justice Larsen and
10 Barbara Roberts and Mickey, who were very close friends.

11 Q Are you aware of any conversations that Michael
12 Lydon had with Justice Larsen regarding the maintenance of an
13 allocatur list?

14 A No.

15 CHAIRMAN DERMODY: Thank you. There will be some
16 questions from members of the committee. I wondered if we
17 could ask members of the committee at this time who are
18 present here, if they would introduce themselves for the
19 record and state where they're from, starting from my left.

20 REPRESENTATIVE O'BRIEN: Dennis O'Brien from
21 Philadelphia County.

22 REPRESENTATIVE WOGAN: Chris Wogan from
23 Philadelphia County.

24 REPRESENTATIVE GRUITZA: Michael Gruitza, Mercer
25 County.

1 REPRESENTATIVE PICCOLA: Jeff Piccola, Dauphin
2 County.

3 REPRESENTATIVE CALTAGIRONE: Chairman Tom
4 Caltagirone, Berks County.

5 REPRESENTATIVE REBER: Bob Reber, Montgomery
6 County.

7 REPRESENTATIVE JAMES: Harold James, Philadelphia
8 County.

9 REPRESENTATIVE JOSEPHS: Babette Josephs,
10 Philadelphia County.

11 REPRESENTATIVE YANDRESIVITS: Frank Yandresivits,
12 Northampton County.

13 REPRESENTATIVE HENNESSEY: Tim Hennessey, Chester
14 County.

15 REPRESENTATIVE FAJT: Greg Fajt, Allegheny
16 County.

17 REPRESENTATIVE MANDERINO: Kathy Manderino,
18 Philadelphia County.

19 CHAIRMAN DERMODY: Representative Gruitza?

20 REPRESENTATIVE GRUITZA: Thank you, Mr. Chairman.

21 BY REPRESENTATIVE GRUITZA:

22 Q Ms. Lenzi, we got into some discussion earlier
23 about the procedure involving sending these allocaturs out to
24 Duquesne University where I guess there were professors
25 retained or under contract with the Supreme Court to handle

1 these?

2 A Yes. Most of the justices in Pittsburgh, at
3 least -- I can't account for the Philadelphia justices -- use
4 professors either from Pitt or Duquesne in that kind of
5 manner.

6 Q So the farming out, in other words, of this work,
7 was not unique to Justice Larsen's office?

8 A No.

9 Q This was something that was a practice in all --

10 A It was a practice before he assumed the bench and
11 it continues today.

12 Q Can you refresh my memory, how long were you with
13 the Justice?

14 A I was with him from 1987 until 1993, six years.

15 Q In that period of time, you described your
16 relationship as a good professional working relationship with
17 the Justice?

18 A Yes.

19 Q Did you in that period of time observe any
20 behavior on the Justice's part that you felt would
21 characterize him as unfit to serve on the Supreme Court?

22 A Absolutely not. He is an intelligent, sharp,
23 demanding individual, demanding boss.

24 Q Can I ask you this? In your capacity as a clerk,
25 did you have occasion to meet with other clerks who worked for

1 other justices? Or were you pretty much removed from --

2 A I traveled on occasion to Philadelphia and
3 Harrisburg for session so I met and know most, knew most of
4 the ones that were there while I was there.

5 Q In your meetings in the times when you would have
6 an opportunity to I would assume discuss legal issues and the
7 operations -- I guess I shouldn't assume that. Would you
8 perhaps discuss the operations of your particular offices?

9 A Yes. Yes.

10 Q Did it ever, at any time did it ever come to your
11 attention that certain procedures that were handled in your
12 office were handled differently than other offices?

13 A No.

14 Q Would it be your testimony, then, that the
15 procedures were pretty much standard in all of the offices?

16 A To a certain -- there were differences, but it was
17 basically the same.

18 Q At any time that you were employed as a clerk, was
19 any information ever brought to your attention concerning any
20 favoritism that may have been shown to attorneys or any
21 individuals with regard to the allocatur process?

22 A Absolutely not.

23 Q So that if any such lists would have been
24 discussed existed, they existed outside of your knowledge?

25 A Yes.

1 REPRESENTATIVE GRUITZA: That's all I have.

2 CHAIRMAN DERMODY: Chairman Piccola?

3 REPRESENTATIVE PICCOLA: Thank you, Mr. Chairman.

4 BY MR. PICCOLA:

5 Q Ms. Lenzi, I believe it was your testimony that
6 the office in which you were working for Justice Larsen was an
7 open office, that he would be in your office and the other
8 clerks' offices and you would be in his office. And I believe
9 you also said that the practice in the office was for the
10 judge not to send memoranda?

11 A Right.

12 Q For any purposes?

13 A Right.

14 Q But that he would give you oral instructions as to
15 names of lawyers or issues that you were to red-flag?

16 A Right.

17 Q I believe in response to Mr. Moffitt's question,
18 you indicated that when Justice Larsen was being represented
19 by counsel in outside legal matters, that the name of that
20 lawyer was given to you orally to red-flag?

21 A Yes.

22 Q And I think you also stated that when it came to I
23 believe allocatur petitions, that it was just, it was a
24 bright-line rule for you to red-flag those petitions for
25 allocatur from those lawyers?

1 A Yes.

2 Q But that in only about 90 percent of the cases did
3 Justice Larsen actually recuse himself on that allocatur
4 petition?

5 A I made up that number and it shouldn't have any
6 more significance for you than just the word most.

7 Q Most?

8 A He would -- right. But not all.

9 Q Okay. Did Justice Larsen in this open, collegial
10 atmosphere that you have described in this office, ever
11 discuss with you his philosophy for recusal? In other words,
12 what determined, did he ever discuss with you what determined
13 or what criteria made him decide to recuse himself in one case
14 where he was represented by a lawyer, and not to recuse
15 himself in another when he's being represented by the same
16 lawyer?

17 A The issue came up in the course of my employment
18 there, but I would have to know a set of facts to recall what
19 the conversation was or what his theory or his philosophy was.

20 Q Okay.

21 A Like if you brought a certain case up to me and I
22 had been through some kind of discussion with him on that,
23 then I would be able to tell you, but just --

24 Q I'll let it up to you. You describe a case that
25 came to the judge on allocatur, a case in which the lawyer

1 bringing the petition was his counsel in another matter, and
2 he decided either not to recuse himself, or to recuse himself,
3 and describe what his -- you name the case.

4 A I know that, for example, after A. Charles Peruto
5 was not involved in representing the Justice, his opinion on a
6 particular case that came before the court where he had signed
7 the papers or he was the attorney of record, may have
8 changed. He may have felt after a certain amount of time that
9 it wasn't necessary for him to recuse from that matter.

10 Q That's not the question that I'm posing to you,
11 Ms. Lenzi.

12 A I'm trying to understand the question.

13 Q Let me frame the scenario, because this is what
14 you said, and now maybe your testimony wasn't accurate, but
15 what you said, I believe, in answering Mr. Moffitt's question,
16 was that it was a bright-line rule for the law clerks to flag
17 cases where a particular lawyer who represented Justice Larsen
18 had filed a petition for allocatur, and that in every instance
19 that that came to your attention or another clerk's attention,
20 that that case would have been a flag for Justice Larsen.

21 A Right.

22 Q It was also your testimony that in response to his
23 question, that in most, you've now gone back from 90 percent,
24 but in most of those cases, he would recuse himself on the
25 allocatur petition, but that there were other cases where he

1 would not recuse himself.

2 I wanted to know where or when or if he ever
3 discussed with you his philosophy as to why in one set of
4 circumstances he would recuse himself and in another he would
5 not.

6 A No. I don't remember, then, whether -- I don't
7 remember a particular set of circumstances or a particular
8 case where he wouldn't. But I have to ask you this. Are you
9 saying -- is your question limited to the time that he is
10 employed, that lawyer is being retained by him?

11 Q For the purpose of this question, yes.

12 A I would have to say then his philosophy, and you
13 would have to ask him to get a more accurate answer, would be
14 to recuse in that instance.

15 Q Unless I misunderstood your answer to Mr. Moffitt,
16 he didn't always do that.

17 A No. I don't -- I'm not aware of all of the cases
18 that he ever recused himself on. And --

19 Q Are you aware of any case --

20 A You obviously have a case. If, I mean, the
21 committee has a case or counsel has a case --

22 Q I don't have a case. I'm trying to get at Judge
23 Larsen's philosophy as to why he would, or if you know what
24 his philosophy was --

25 A I don't know what his philosophy was with regard

1 to recusal. I mean, I can attempt to dance around that issue,
2 but to say it with particularity, no.

3 Q He never talked to you about what would constitute
4 a conflict of interest sufficient enough for him to recuse in
5 a case?

6 A Yes. We talked about it frequently when those
7 cases would come up.

8 Q Well, what did he say to you?

9 A I can't -- why did you give me this counter report
10 that involves a libel issue, you know I have a suit pending
11 against the Pittsburgh newspaper and the Philadelphia
12 newspaper that involves a libel issue. I recuse on these
13 issues. Well, maybe the issue wasn't so clear to me or, you
14 know. My case against the Pittsburgh and Philadelphia
15 newspapers may involve punitive damages, I can't rule on this
16 issue of punitive damages.

17 Q You've reversed the scenario. You're talking
18 about a case that you didn't flag. I'm talking about cases
19 that you did flag where the Justice was being --

20 A Where he may not?

21 Q Where the Justice was being represented by a
22 particular lawyer at the time that the petition for allocatur
23 was filed and you red-flagged it and he did not recuse
24 himself.

25 A I red-flagged a Sprague matter to him after

1 Sprague represented him in the appeal before the Supreme Court
2 with regard to the JIRB matter of 1987. He told me that he
3 didn't feel that he needed to recuse from that because the
4 appeal was concluded and the relationship of lawyer-client was
5 finished, and I red-flagged a case to him that he didn't
6 recuse on.

7 Q But it was his opinion at that time he wasn't
8 formally being represented by Mr. Sprague at that time?

9 A Yes. And I may have been wrong in red-flagging
10 that.

11 REPRESENTATIVE PICCOLA: I think you were right.
12 Thank you, Mr. Chairman.

13 CHAIRMAN DERMODY: Representative Reber?

14 REPRESENTATIVE REBER: Thank you, Mr. Chairman.

15 BY REPRESENTATIVE REBER:

16 Q In the course of your answering questions of
17 Counsel Moses, there was a line of questioning regarding the
18 existence of a list, and I believe the line of questioning
19 related around the existence of a list that was maintained or
20 kept or collated, whatever might be the word, by secretaries.

21 Is that correct, as to the specifics of the type
22 of list and the individuals or individual who might have kept
23 that list that you were referring to in your questioning with
24 Counsel Moses? A secretaries-kept list?

25 A Oh, secretaries, yes, they listed the allocators.

1 We had a chart.

2 Q I'm talking about a special preferential list for
3 cases that the judge might have been concerned with. And I
4 believe your answer was no, you were not aware of such a list,
5 if one existed?

6 A I was aware pretty much of everything that went on
7 in the office, and I was not aware of any list. I never saw
8 such a list, I never heard it hushed about over coffee talk.
9 As far as I'm concerned, such a list didn't exist.

10 Q Now, that would be both as to a written list or a
11 verbal memorialized type list? Or are we just talking about
12 the nonexistence of a written list?

13 A The nonexistence of a written list.

14 Q Now, to the best of your knowledge, was there the
15 nonexistence of a verbal list of cases that were otherwise
16 being considered by other justices that someone, whether it be
17 clerks or secretaries, may have been or were instructed to
18 track?

19 A I have -- that didn't exist.

20 Q You have no knowledge of that existence?

21 A I have no knowledge of such a list, as you
22 describe it.

23 Q My concern is that as I listen to the questioning
24 and the responses you gave to Counsel Moses' questions, it was
25 relative to the existence of a list that may or allegedly was

1 kept by a secretary or secretaries in the office.

2 A That's right.

3 Q Okay. My concern is now was there any list that
4 was kept by any law clerks in the office, to your knowledge?

5 A Not to my knowledge.

6 Q And that response, then, was that there were no
7 lists, to your knowledge, that were kept by anyone employed in
8 the office of Justice Larsen; is that correct?

9 A That's correct. That's my testimony.

10 Q Shifting gears somewhat but tracking the same
11 concern, were you aware of any discussions that the Justice
12 had, first of all, with you or any other law clerks,
13 concerning cases of particular attorneys that, and when I say
14 cases, of petitions for allowance of appeal, allocatur
15 petitions, that were before any other justices that were
16 solely within their discretion? Did the Justice ever have any
17 discussion with you or any of the law clerks concerning ones
18 that were not in your office?

19 A A list?

20 Q Did he have any discussions with you concerning
21 any particular cases that might have been with other justices
22 on an allocatur list?

23 A I apologize. You'll have to ask me the question
24 again, because you're saying list, and --

25 Q I'm concerned whether there was any verbal

1 discussions with you individually or with any clerks, to your
2 knowledge, of any concern that the Justice had, that Justice
3 Larsen had, concerning cases of any particular attorneys that
4 were pending before a justice other than himself on the
5 discretionary allocatur petitions that were pending with those
6 other justices?

7 A No.

8 Q Now, you mentioned at the outset that you
9 graduated from Capital Law School?

10 A Um-hum.

11 Q What year was that, '87?

12 A '87.

13 Q '87. And you were admitted to practice in
14 Pennsylvania, I assume --

15 A '87.

16 Q -- in the fall of '87 sometime.

17 A Right.

18 Q From that period of time, 1987 to the period of
19 time when you were furloughed, I believe was the terminology
20 you used, during that period of time, as an attorney with full
21 recognition of the rules of professional responsibility and
22 conduct both for attorneys and judges in the Commonwealth of
23 Pennsylvania, in your opinion, as an attorney, did you ever
24 see any conduct exhibited by the Justice that would have been
25 a breach of any of those particular rules?

1 A No.

2 REPRESENTATIVE REBER: Thank you.

3 Thank you, Mr. Chairman.

4 CHAIRMAN DERMODY: Representative Manderino?

5 REPRESENTATIVE MANDERINO: Thank you, Mr.

6 Chairman.

7 BY REPRESENTATIVE MANDERINO:

8 Q Ms. Lenzi, I'm Kathy Manderino from Philadelphia
9 County. I want to go back and follow up on the questioning
10 that Chairman Piccola started with regard to instances of, or
11 with regard to an example of red-flagging a case for the
12 Justice to consider whether or not to recuse himself.

13 I understand your testimony to be that you
14 remember a particular case where you red-flagged where
15 Attorney Sprague was involved, correct?

16 A Right. And I couldn't give you the name of the
17 case.

18 Q That's okay. But you do recall that it involved a
19 libel issue, correct?

20 A No. No. I'm sorry. No. It was an instance
21 where he was the attorney of record in a matter that was
22 before the Supreme Court.

23 Q Correct. And that the underlying issue in that
24 case was a libel issue?

25 A I think I went from one example to another, so I

1 may have misled you.

2 Q Okay. Let's start again, then. You do recall at
3 least on one instance, red-flagging a case that Attorney
4 Sprague from Philadelphia was involved in, correct?

5 A Right.

6 Q Do you recall what the case is, either by name or
7 subject matter?

8 A No, I don't.

9 Q Do you recall whether you had a discussion with
10 Justice Larsen about that Sprague case that you had flagged?

11 A Yes.

12 Q Do you recall the substance of that discussion?

13 A Yes.

14 Q What was the substance of that discussion?

15 A He felt that he was no -- that their
16 attorney-client relationship had concluded and that it wasn't
17 necessary for him to recuse on all Sprague matters, as a rule.

18 Q And so do you know in at least that particular
19 instance you are recalling, what the Justice did on the case
20 with regard to recusal or nonrecusal?

21 A I don't believe he recused.

22 Q Is that the only instance that you recall
23 red-flagging a case that Attorney Sprague was involved in?

24 A Yes. Where there was a -- yes.

25 Q During your tenure with Justice Larsen, regardless

1 of whether at the time he was represented or not by Attorney
2 Sprague, is that the only instance that you recall red-
3 flagging a Sprague case?

4 A Yes.

5 Q It's also my understanding that during your tenure
6 with the Justice, that he was at times represented by A.
7 Charles Peruto, Sr., I assume?

8 A That's right, Senior.

9 Q And is it my understanding that during the time
10 that he was represented by, the Justice was represented by A.
11 Charles Peruto, Sr., that Attorney Peruto was on alert for a
12 potential red-flag of any cases coming before the court?

13 A That's right.

14 Q Do you recall a specific instance in which you
15 would have red-flagged a case involving A. Charles Peruto,
16 Sr., to Justice Larsen?

17 A Yes.

18 Q What is that case by name or by circumstance, to
19 your recollection?

20 A I don't know it by name or circumstance.

21 Q Do you recall having any discussion with Justice
22 Larsen about that case?

23 A No.

24 Q Do you recall what Justice Larsen did in that case
25 with regard to whether he recused himself or not?

1 A He may or may not have, I don't have a
2 recollection of it.

3 Q Do you have a recollection of more than one case
4 involving A. Charles Peruto, Sr., during your tenure with the
5 judge, meaning red-flagging more than that, than the one
6 instance you are recalling?

7 A Oh. I probably red-flagged a number of A. Charles
8 Peruto cases.

9 Q Do you recall the circumstances of any of the
10 cases that you red-flagged, either by subject matter or by
11 case name?

12 A No.

13 Q Do you recall any discussions between yourself and
14 Justice Larsen about an A. Charles Peruto case?

15 A The substance of it, no.

16 Q What about the Justice's thinking with regard to
17 whether or not to recuse himself?

18 A No.

19 Q And do you know on any A. Charles Peruto, Sr.,
20 case, that you may have red-flagged, whether the Justice did
21 or did not recuse himself?

22 A I don't have a recollection of that.

23 Q It's my understanding from the prior testimony
24 that Mr. Mendelson was also, during your tenure in the office,
25 one of the attorneys that at times you may have red-flagged to

1 Justice Larsen a case coming before him, correct?

2 A Yes.

3 Q Do you recall a specific instance where you
4 red-flagged a case involving Mr. Mendelson for the Justice?

5 A No.

6 Q Do you recall any other specific names that, at
7 any point in time, names of attorneys who were practicing
8 before the Supreme Court at any time that you would have been
9 alerted for red-flagging the Justice on with regard the
10 recusal?

11 A Yes.

12 Q Can you tell us the names, other names that you
13 recall?

14 A From Dickie McCamey and Chilcote, Anderson I
15 believe is his name. And Judy Olson, also. She was counsel
16 of record in his libel case.

17 Q Was that Judy Olson?

18 A Judy Olson.

19 Q In addition to you believe a Mr. Anderson from
20 Dickie McCamey and Chilcote?

21 A Armstrong. Armstrong. I didn't want -- he's a
22 noted attorney and I don't want to get his name wrong, but
23 it's Dave Armstrong.

24 Q In addition to Mr. Armstrong and Ms. Olson, do you
25 recall any other specific names that you would have

1 red-flagged?

2 A You would have to give me a moment to think.

3 Q Okay. You want to take a moment?

4 A I'm wasting your time, because I'm drawing a blank
5 right now.

6 Q At this point in time, you recall two additional
7 names, Mr. Armstrong and Ms. Olson; is that my understanding?

8 A That's right.

9 Q With regard to Mr. Armstrong, do you ever recall
10 red-flagging a specific case to the Justice that involved Mr.
11 Armstrong?

12 A Yes.

13 Q Do you recall what that case was?

14 A No.

15 Q Do you recall any discussion with Justice Larsen
16 about that case?

17 A No.

18 Q And do you have any recollection of Judge Larsen's
19 decision in terms of to recuse or not to recuse with regard to
20 that case?

21 A No.

22 Q Do you have any recollection of red-flagging more
23 than one case of Mr. Armstrong's to Justice Larsen?

24 A Yes.

25 Q And do you have any specific recollection with

1 regard to any of those cases, in terms of their substance?

2 A I have no recollection as to their substance.

3 Q Do you have any recollection of any discussion
4 with Justice Larsen as to any of the cases involving Mr.
5 Armstrong?

6 A No.

7 Q And you have no recollection, am I correct in
8 assuming you have no recollection of Judge Larsen's decision
9 to recuse or not in any Armstrong case?

10 A Right.

11 Q Turning to Ms. Olson, do you have a recollection
12 of ever red-flagging a case involving Ms. Judy Olson?

13 A It's possible. I have no -- I guess -- yes.

14 Q In the case of red-flagging an Olson case, do you
15 recall what made you red-flag it, either the circumstances of
16 the case or the name of the case?

17 A I have no recollection of the substance.

18 Q Do you recall any discussion with Justice Larsen
19 with regard to the particular case involving Judy Olson?

20 A No.

21 Q And do you have any recollection of a discussion
22 or knowledge of whether he decided to recuse or not to recuse?

23 A No.

24 Q During the course of our questioning, have you
25 recalled any additional names of people who may have been on a

1 list that you, in your mind, that you would have red-flagged
2 to the Justice?

3 A Just generally the issues of libel.

4 Q Any other issues other than libel, that you
5 recall?

6 A There were some corporations or companies that I
7 don't recall the names of, also, that if they were to appear
8 in a pleading, they were to be red-flagged.

9 Q But at this time, you have no recollection of the
10 specific names of the corporation; is that correct?

11 A Right.

12 Q Just one more time, if we can, with regard to a
13 case involving the issue of libel. Do you have any
14 recollection of red-flagging a specific case regarding libel?

15 A Do I have a recollection of red-flagging a libel
16 case? Yes.

17 Q Do you have a recollection of the name of the case
18 or any of the attorneys involved in the cases?

19 A No.

20 Q And do you have any recollection of a discussion
21 with Justice Larsen about whether or not he should recuse
22 himself in the libel case?

23 A No.

24 Q I know by way of example you --

25 A Right.

1 Q You gave an example to Chairman Piccola. Now my
2 question is, by way of specific recollection, do you recall --

3 A No.

4 Q -- Judge Larsen's words with regard to his
5 thinking?

6 A No, I don't recall his words.

7 Q And do you recall his specific actions with regard
8 to recusal or nonrecusal?

9 A No.

10 Q Am I correct in understanding that at this point
11 in time, the specific attorneys, Mr. Peruto and Mr. Mendelson,
12 Mr. Sprague, Mr. Armstrong and Ms. Olson, are all of the
13 attorneys that you have a present recollection of being on
14 your list of people to red-flag?

15 A Right.

16 REPRESENTATIVE MANDERINO: I have no further
17 questions.

18 CHAIRMAN DERMODY: Thank you. We'll take a five-
19 minute break. We'll return in five minutes, and the witness
20 is excused. Thank you, Ms. Lenzi.

21 (Recess taken from 3:14 until 3:34 p.m.)

22 CHAIRMAN DERMODY: I call this hearing back to
23 order. The next witness is Janice Uhler.

24 Janice, will you please stand to be sworn in.
25

1 JANICE UHLER, called as a witness, being duly
2 sworn, was examined and testified, as follows:

3 BY CHAIRMAN DERMODY:

4 Q Janice, would you please state your name and spell
5 your last name?

6 A My name is Janice Uhler, U-h-l-e-r.

7 Q Janice, I would like to get a few things on the
8 record early. Now, you've previously testified in this matter
9 before the grand jury; is that correct?

10 A Yes.

11 Q And speak up, please, for us. And you testified
12 there pursuant to a subpoena that was issued by the grand
13 jury; is that correct?

14 A Yes.

15 Q And you're testifying here today also pursuant to
16 a subpoena; is that correct?

17 A Yes.

18 Q And we appreciate you coming in for us today.

19 A Thank you.

20 Q Janice, where do you live?

21 A I live in McKees Rocks, which is a suburb of
22 Pittsburgh.

23 Q And how are you currently employed? What do you
24 do?

25 A I'm a judicial secretary for Supreme Court Justice

1 Nicholas Papadacos.

2 Q When did you first start working for Justice
3 Larsen? You were a legal secretary for Justice Larsen; is
4 that right?

5 A Yes. I started working for Justice Larsen in 1963
6 when he was a practicing attorney.

7 Q You worked for him while he was a practicing
8 attorney as his legal secretary; is that correct?

9 A Yes.

10 Q And that was in 1963, '64?

11 A 1963, until 1971.

12 Q And did you stop working for him then?

13 A Yes.

14 Q And when did you begin working for him again?

15 A In 1983.

16 Q What was your position when you started working
17 for Justice Larsen again in 1983?

18 A A judicial secretary.

19 Q And what was Judge Larsen's position at that time?

20 A He was a Supreme Court Justice.

21 Q And when did you leave the employment with Justice
22 Larsen?

23 A 1991, October.

24 Q October 1991? When you were first hired by
25 Justice Larsen, do you recall what exactly your position was?

1 You were classified as a judicial secretary?

2 A Yes. The classification was one or two, and I
3 don't recall which. I think it was two being one and one
4 being two. And I think I was one.

5 Q So you think you were --

6 A I was number 2 secretary.

7 Q I think I got that right. You were a judicial
8 secretary, right?

9 A Yes.

10 Q We'll leave it at that.

11 A Okay.

12 Q How would you describe your relationship with
13 Justice Larsen at the time you started working for him in
14 1983?

15 A He was my friend. I knew him a long time. He
16 asked me to work for him again. He called me periodically
17 during the time that I wasn't working for him to see if I was
18 available to come back to work. I was raising my children at
19 the time. And in 1983, I was ready and he hired me.

20 Q Did you appear as a character witness for Justice
21 Larsen?

22 A Yes, I did.

23 Q Can you describe that to us?

24 A That was his first JIRB hearing. I testified on
25 behalf of his character.

1 Q And you left in 1991? You left his employment in
2 1991?

3 A Yes.

4 Q Would you be able to describe for us, or would you
5 describe for us how Justice Larsen ran his chambers, the
6 duties of the secretaries, what you did and your interaction
7 with the law clerks, that type of thing?

8 A Like Jamie Lenzi said, it was a very informal
9 office. And Justice Larsen rarely used his chambers. He
10 spent an awful lot of time in the outer office, in and out of
11 the law clerks' offices. He was very casual. It was a very
12 casual atmosphere.

13 Justice Larsen came to work at noon, usually. He
14 did most of his work at home in the evening so he slept in in
15 the mornings. So it was very casual and comfortable.
16 Everybody was friendly with everybody else.

17 As for socializing, it was minimal after-hours
18 socializing. It was a comfortable place to work.

19 Q At the time you were there, how many secretaries
20 were there?

21 A There were two secretaries including myself. And
22 law clerks you're going to ask me?

23 Q Yes.

24 A There were four law clerks and a position of a law
25 clerk that was a temporary position, usually reserved for new

1 lawyers just beginning. He would take them on for
2 experience.

3 Q In a temporary position?

4 A Yes, usually about a year.

5 Q With your relationship with the other secretary,
6 were there things going on, would you know what each other's
7 business was? Would you know what each other was doing?

8 A Yes, we did. It was important to Justice Larsen
9 to have the office run smoothly, so therefore, he wanted the
10 secretaries to do all things equally so that when one of the
11 secretaries weren't available, the office still would continue
12 to run smoothly and there would be no glitches or wait-till-
13 tomorrow's.

14 Q So in order to make it operate smoothly, each of
15 you had to know what the other one was doing in case one of
16 you wasn't there?

17 A Yes.

18 Q You've already started to describe a little bit
19 for us, I wonder if you would give us a little bit more detail
20 about Judge Larsen's work habits. You mentioned he came in at
21 noontime. Could you just elaborate on that a little bit, how
22 he worked through the day, when he would do his work, how that
23 would take place?

24 A That's hard to --

25 Q What time would he leave the office, for

1 instance? That type of thing.

2 A He was always there when I left for the day.

3 Q What time would you normally leave for the day?

4 A Four or four-thirty or five o'clock, depending on
5 when he -- depending on what he wanted our schedule to be. He
6 did change our schedules frequently. But he was always there
7 when I left at the end of the day.

8 Q When you say he did most of his work at home,
9 could you just elaborate a little bit more on that?

10 A His reading, opinions, allocatur, court-related
11 papers, he did all that research. Plus Justice Larsen is a
12 voracious reader. He subscribed to every magazine, just
13 about, that is in existence, and read all of them. So he did
14 all his reading, his work at home.

15 Q Could you describe for us generally what your
16 duties were, your secretarial duties were?

17 A I typed allocaturs. I typed opinions. I answered
18 the telephone. I kept a telephone log of calls coming in and
19 out. I took dictation. I ran errands.

20 Q When you say typed allocaturs, what do you mean?

21 A I typed the reports of the allocaturs that were
22 then circulated to the rest of the court for consideration.

23 Q Those would be the opinions that may have been
24 done by one of the allocatur clerks?

25 A Yes.

1 Q Or by one of the law clerks?

2 A It was awfully confusing. The opinions were
3 usually cases that were already argued in front of the court.
4 We called those allocatur opinions, or I mean, excuse me,
5 opinions. The allocaturs we referred to as reports, to keep
6 down the confusion between the two, or allocatur reports.

7 Q Could you describe for the committee the general
8 flow of paperwork through the office, particularly as it would
9 be for a petition for allocatur, after it was filed with the
10 prothonotary?

11 A After it was filed with the prothonotary, the
12 prothonotary would then assign the allocaturs to each
13 justice.

14 At the time I began my tenure with Justice Larsen,
15 it was being done a little bit differently. The allocaturs
16 were assigned out of Chief Justice Nix's office. But then it
17 changed, and I'm not sure of the year, it was in the mid '80s,
18 where each district assigned out the allocaturs and they would
19 do them in rotation down a seniority line.

20 The allocaturs would be then mailed, the
21 petitions, mailed or hand delivered, depending on if it were a
22 Western District case, they would be hand delivered. If it
23 came from the Middle District or the Eastern District, they
24 would be mailed overnight mail, or two-day ground.

25 We would receive them, open the package or box,

1 depending on how many there were. Shall I go on?

2 Q Sure.

3 A It usually was the secretary's duty to open the
4 boxes and/or envelopes. At that time, Justice Larsen, their
5 way of doing and keeping track was a chart board of incoming
6 allocatur. They were then separated.

7 Q Who had the chart board?

8 A The chart board was just kept in the conference
9 room on a table that was -- the spot was allocated for the
10 allocatur to be piled in and placed there.

11 Q These are Judge Larsen's allocatur petitions only,
12 right?

13 A Well, they were separated. When they came in the
14 box, we received copies of everybody's, all the justices'.
15 Justice Larsen's were set aside. The other justices' were put
16 in the file room for filing.

17 Judge Larsen's allocatur, which included the
18 record of -- so there were, it was an awful lot of stuff that
19 came, inches and inches.

20 Q The petition came with the record?

21 A The petition came, yes. They were usually
22 smaller.

23 Q That's the record from the trial below, correct?

24 A Yes. Yes. So we would chart down the date, case
25 number, the petitioner's name, and when it came in. And I was

1 instructed to call Professor Fisfis when we received any
2 allocatur, even if it were one in the box, or three, or ten,
3 I was to call him right away to tell him that there were
4 allocatur ready for pickup.

5 It was very important to Justice Larsen to keep
6 his allocatur burden moving. He was very current with his
7 allocatur, and he was insistent upon that.

8 I would call Professor Fisfis, and he would come
9 down at some point during the day and pick up the allocatur.
10 Professor Fisfis also was responsible for administering who
11 got what of the professors who were on the payroll of Justice
12 Larsen.

13 Q Professor Fisfis then got a batch of allocatur
14 petitions. It was his duty, his responsibility to spread them
15 around to the other professors who were currently employed by
16 Justice Larsen?

17 A Yes. And I can tell you who those professors
18 were. I know Jamie couldn't recall. Margaret Krasik was an
19 allocatur professor. Robert Barker, Professor Robert Barker.
20 The dean of the law school was for a time, and his name
21 escapes me.

22 Q Dean Sciullo?

23 A Dean Sciullo, yes. And Professor Fisfis.

24 Q What would happen after you got a report back from
25 Professor Fisfis or one of the other professors?

1 A They would usually come in a pack, the professor
2 would bring them down. They were usually already completed.
3 They were done. They were ready for circulation, typewritten
4 and everything. All we had to, we as secretaries would have
5 to add is the proposed denial or grant date onto the front
6 page of the report, and the back page.

7 Professor Fisfis handwrote his out, so we had to
8 type his. And that's how they would come back. Then I would
9 type, Barbara and I would type Professor Fisfis's and get that
10 all ready.

11 Before we put any date or made kind of changes to
12 the already-typed allocaturs, we would photocopy them and
13 leave them for Judge Larsen's review.

14 Q When you mentioned Barbara, you mean Barbara
15 Roberts, right?

16 A Barbara Roberts, yes.

17 Q After the Justice reviewed these petitions after
18 you typed up Professor Fisfis's, he had a chance to review
19 them, there was either approval, a granting of allocatur or a
20 denial of allocatur, what, they would then be circulated?

21 A Yes.

22 Q What would happen after that? If there was a
23 denial, what would happen? Let's say if Justice Larsen
24 decided to deny an allocatur petition?

25 A I will say that most of the allocaturs that came

1 back did have a proposed denial date, or a proposed grant.
2 They were both treated the same once I received them back. I
3 would just clean them up, put the dates in, and we would make
4 at that time copies for the justices, and we would mail them
5 to them.

6 We gave the allocatur a 30-day due date and that
7 was by request of then Justice McDermott. Shall I go on?

8 Q That's fine. Prior to the Justice receiving the
9 drafts back from the professors, the allocatur professors at
10 Duquesne University, can you just explain what you knew of his
11 involvement in the allocatur process before that? Was he
12 involved in the allocatur process? Did he have any contact
13 with the allocatur process?

14 A Justice Larsen?

15 Q Justice Larsen, prior to those reports coming back
16 to him?

17 A No.

18 Q Generally?

19 A No.

20 Q Can you explain to us what would happen if
21 allocatur petitions that were signed under chambers, out of
22 Judge Larsen's, what your job was for those cases?

23 A We allocated certain drawers in the file room for
24 each justice, and there and the reports -- excuse me -- the
25 papers that came in would be filed numerically in the

1 respective justice's drawer. When a report was circulated
2 from that particular justice, we would receive two copies.
3 One went to Justice Larsen and the other went in the file with
4 the papers.

5 When we received -- to step back a little bit,
6 when we received an envelope of allocaturs from other
7 justices, we requested two copies. I would separate them and
8 give one pile to Justice Larsen with his mail so he was
9 getting just allocaturs and nothing else. I would take the
10 other pile and I would file it with the respective papers and
11 then move that into another area.

12 Q The reports, the allocatur reports and the
13 positions of each justice on those reports of those, that were
14 circulated, they're not public record; is that correct?

15 A No, they're not. You're right.

16 Q Did you ever become aware of a list of allocatur
17 petitions that was being maintained by Barbara Roberts? I
18 want to just back up a minute.

19 On cases that were not assigned to Justice Larsen,
20 was there a list maintained of some of those cases that were
21 not assigned to him?

22 A Yes.

23 Q Can you describe that list to us and how that came
24 about?

25 A Shortly after my beginning to work there, Barbara

1 kept on her desk an index card with pencil-written numbers on
2 it, allocatur numbers, very vague. And I really can't recall
3 how she told me or how I became aware of it, because I can't
4 remember, but we were expected or she was expected to look for
5 that allocatur when it came in, when it was circulated, and it
6 was to be flagged for the Justice.

7 When her scribblings became too hard for me to
8 understand and I couldn't -- and she wasn't there and I
9 couldn't do what I wanted to do, I straightened it up a bit
10 and made it a little bit neater, and it became a list.

11 Q Did it contain all of the docket numbers or all
12 the cases that were assigned to Justice Larsen, this list?

13 A Sometimes there was just a number, sometimes there
14 was a name with a number, and sometimes there was just a
15 name. Sometimes the report was already circulated, and
16 sometimes the allocatur wasn't even assigned.

17 Q So sometimes you would get a case name or a docket
18 number to place on a list where the petition hadn't even come
19 from the prothonotary yet?

20 A Right.

21 Q The list or the docket numbers or the case names
22 that you received, they did not include all of the cases that
23 came; is that correct? That were not assigned to Justice
24 Larsen; is that right? These weren't all the cases that were
25 brought forth?

1 A I'm not quite sure I understand your question.

2 Q The docket numbers or the cases that you were
3 assigned, all right? That appeared on this list --

4 A No, they wouldn't appear on this list.

5 Q Right.

6 Q Janice, the cases we're talking about are cases
7 that were not assigned to Justice Larsen?

8 A Yes.

9 Q And these are names or docket numbers of cases
10 that were filed with the Supreme Court that were unassigned to
11 Justice Larsen; is that correct?

12 A Yes.

13 Q This list that was maintained did not include all
14 of the cases that were unassigned to Justice Larsen; is that
15 correct?

16 A Yes.

17 Q Did this list of names and/or docket numbers also
18 include some cases that were assigned to Justice Larsen?

19 A Not that I'm aware of.

20 Q The information, just to reiterate, also, the
21 information you received, that is, to assign the docket number
22 or case name to this list, would come from Justice Larsen even
23 before petition papers were received from the prothonotary?
24 Occasionally that would happen?

25 A Yes.

1 Q Did you receive any instructions from Justice
2 Larsen regarding these cases that were on this list?

3 A Just to bring his attention to them when they were
4 either filed or a report was circulated.

5 Q The list that was maintained with these docket
6 numbers and/or case names, would you consider this a special
7 list of cases?

8 A I don't know. I don't know that.

9 Q It was different from any other list that you
10 maintained; isn't that correct?

11 A I never kept any other list. And this was really
12 my list.

13 Q And you kept this list at the instruction of
14 Justice Larsen; is that right?

15 A Well, it was my way of remembering these cases.

16 Q After he told you to draw his --

17 A Yes.

18 Q -- attention to those cases?

19 A Yes. And he knew I had it.

20 Q He knew you had that list?

21 A Yes.

22 Q Mrs. Uhler, could you tell us approximately what
23 time period that you maintained this list?

24 A Well, it started in 1983, I would think, and
25 probably about 1989 it fizzled.

1 Q It fizzled?

2 A Um-hum.

3 Q What do you mean?

4 A Well, he wasn't giving me anything to put on the
5 list, and it served no purpose at all.

6 Q You at that point were not included in, the
7 Justice was not including you in that information; is that
8 right?

9 A Yes.

10 Q Were you removed from I guess being considered in
11 the inner circle at that time with Justice Larsen? Was that a
12 way to characterize it?

13 A I don't know. I don't know.

14 CHAIRMAN DERMODY: At this time Representative
15 Clark will have some questions for you.

16 Representative Clark?

17 BY CO-CHAIRMAN CLARK:

18 Q Mrs. Uhler, was there an incident that took place
19 that you can recall that may have caused this list to fizzle?

20 A Well, Justice Larsen knew that I had it, and he
21 told me to throw it away.

22 Q Do you know of anybody else in the office that
23 knew you had this list?

24 A Well, Barbara knew I had it. She referred to it.
25 I was the keeper of it, but she knew where it was so that when

1 I wasn't there, she could use it. Also, Vera Freshwater knew
2 that it was there and she used it, also, or followed it.

3 Q The three secretaries?

4 A Yes.

5 Q Did any of the law clerks know of this list or
6 follow the list or use the list?

7 A I think Michael Lydon might have known. I am
8 really not sure if the other law clerks knew of it. It wasn't
9 a secretive, secretive thing. I'm not quite sure if they knew
10 or not, I'm sorry.

11 Q You're not sure whether Mr. Lydon knew of this
12 list or discussed the list with Justice Larsen or not?

13 A Oh, I don't know that.

14 Q At this time what form did the list take? You
15 started out on a file card. By now what did this list --

16 A It was about that long (indicating), accordian
17 pleated.

18 Q Pardon?

19 A Accordion pleated, folded up so it fit in a file,
20 3x5 card file, just folded up. Taped pieces of paper extra on
21 it, made it, it was about that long (indicating).

22 Q And how were you told to dispose of the list?

23 A He just told me to throw it away. He was very
24 casual about it, just throw it away.

25 Q Now, my understanding is that there was a

1 procedure when an allocatur petition was assigned to Justice
2 Larsen, and he generally became aware of that matter after a
3 draft report came back from a Duquesne law professor; is that
4 correct?

5 A I don't understand. Please restate.

6 Q A petition for allocatur that was assigned to
7 Justice Larsen, he became first aware of that assignment when
8 a final report was given to him from one of the Duquesne law
9 professors?

10 A Yes, that is correct. Unless he looked at the
11 chart, which was always laying there in the conference room.
12 The chart did have names on it and numbers.

13 Q Then the other group of petitions that were
14 assigned to other judges, Justice Larsen may not or would not
15 have known about those petitions until a report came across
16 his desk from another justice?

17 A Correct.

18 Q And then there is this third group of petitions
19 which Judge Larsen knew about ahead of time that you put on
20 your accordian type sheet of paper?

21 A Correct.

22 Q Do you know where Judge Larsen got his information
23 on what numbers or names you should put on that list?

24 A No, I don't.

25 Q Now, this was a fairly open and congenial office,

1 I believe we can agree to?

2 A Um-hum.

3 Q How many separate offices were there? Did each
4 law clerk have an office?

5 A Yes, they did.

6 Q Conference room?

7 A Yes.

8 Q Each secretary have an office?

9 A No.

10 Q And then there was --

11 A There was a kitchen.

12 Q Then there was a kitchen, and Judge Larsen's
13 chambers?

14 A Yes.

15 Q Now, what was your relationship with Justice
16 Larsen? A friend, or how would you describe it?

17 A I knew him a long time and I considered him a
18 friend, and I believe he considered me a friend.

19 Q And he respected your work? I guess that's the
20 opinion I drew from the fact that he called you after 12 years
21 and asked you to come and work for him.

22 A I can't answer for him, though.

23 Q Thank you. Were you familiar if Justice Larsen
24 had any type of dealings or relationships with Michael Streib?

25 A He was a friend of Michael Streib's.

1 Q You characterize him as a friend?

2 A Um-hum.

3 Q What leads you to believe that they were friends?

4 A Well, Michael Streib worked for Justice Larsen in
5 the capacity of a law clerk.

6 Q Do you know when that was?

7 A It was before my time, so it probably was after
8 1977 and before 1983. So that's --

9 Q All right.

10 A And Michael Streib worked in the same building.
11 He worked for -- or he, his office was with Leonard
12 Mendelson's office, but I don't know if he had any connections
13 with Leonard Mendelson's firm. He called the office
14 frequently. I know that Justice Larsen respected him, and
15 Michael Streib respected Justice Larsen.

16 Q Would Mr. Streib visit chambers?

17 A Well, he did visit the chambers, but it seemed
18 like he was visiting Michael or Barbara, because he, too, had
19 a relationship with the two of them.

20 Q Then when he would come into the office, he
21 wouldn't go back into Judge Larsen's chambers; he would meet
22 with the clerks and secretaries out front?

23 A Yes.

24 Q And that's where Judge Larsen spent most of his
25 time, likewise?

1 A Yes.

2 Q Other than those calls and visits to the office,
3 do you know of any other relationship that Mr. Streib and
4 Judge Larsen had?

5 A No.

6 Q Are you familiar with Judge Larsen's relationship
7 with Leonard Mendelson?

8 A Just one of friendship.

9 Q And what made you believe that they were friends?

10 A Well, Mr. Mendelson and Mrs. Mendelson visited the
11 office on occasion. Justice Larsen recognized their
12 anniversaries and birthdays with gifts. Leonard and Emily
13 Mendelson had a happy 50th birthday party for Justice Larsen
14 when he turned 50. They were friends.

15 Q Did Mr. Mendelson call the office and talk to
16 Judge Larsen?

17 A Very rarely.

18 Q Did he visit the outer office or the chambers?

19 A Very rarely.

20 Q Their office, Mr. Mendelson's office was in the
21 same building with Judge Larsen's?

22 A Yes, sir.

23 Q Are you familiar with Judge Larsen's relationship
24 with Richard Gilardi?

25 A No, I'm not. And I only remember Mr. Gilardi

1 coming to the office one time that I can recall. The only
2 connection that I know of is that Barbara Roberts once worked
3 for Mr. Gilardi, and that's all I know.

4 Q The one visit he made, was that to the office or
5 to the chambers?

6 A It was to the office, in the secretarial area,
7 which is where the -- when you walk in the door, there's the
8 large secretarial area. And I remember him coming in and
9 being there, but I don't recall anything surrounding it. It
10 was very casual and short.

11 Q And are you familiar with Judge Larsen's
12 relationship with a Robert Daniels?

13 A Yes.

14 Q Can you describe that relationship?

15 A That, too, is one of friendship. Justice Larsen
16 recognized his birthday, and they were friends.

17 Q Were there phone calls to the office from Mr.
18 Daniels?

19 A Yes.

20 Q Were they frequent?

21 A Not any more than anybody else.

22 Q Any visits to the office with Mr. Daniels?

23 A I only remember one time in the nine years that I
24 worked for Justice Larsen that I saw Mr. Daniels in the
25 Pittsburgh office.

- 1 Q In the Pittsburgh office?
- 2 A Um-hum.
- 3 Q And was that in the outer office or the inner
4 office?
- 5 A It was the outer office.
- 6 CO-CHAIRMAN CLARK: I have no further questions,
7 thank you.
- 8 CHAIRMAN DERMODY: Mrs. Uhler, special counsel
9 Joseph Moses has a few questions for you. Mr. Moses?
- 10 BY MR. MOSES:
- 11 Q Mrs. Uhler, I want to get back to the list that
12 you described. That was not a list that was kept in the
13 general practice or operation of the office that was
14 circulated to other personnel or to other justices or to the
15 administrative offices, was it?
- 16 A No. But it wasn't a secretive thing.
- 17 Q Well, were you asked to get rid of it?
- 18 A Um-hum.
- 19 Q You have worked with him for many years, and I
20 understand how difficult it is for you to be here and to
21 answer these questions, but you who have worked with him for
22 all of those years, didn't you get an indication that this
23 list was to be kept quiet?
- 24 A Yes.
- 25 Q And this quiet list that you maintained was

1 maintained in your desk?

2 A Yes.

3 Q And when the list was to be destroyed, you were
4 instructed to take it out of your office to destroy it; is
5 that correct?

6 A Well, yes.

7 Q Now, one other area that I would like to explore
8 with you, if I could, Janice, and then I'll turn it over to
9 Republican counsel, the list that you had clearly contained
10 references in some instances to allocaturs which had not yet
11 been received by your chambers from the prothonotary's office;
12 isn't that correct?

13 A Yes.

14 Q So that there is the possibility that some of the
15 cases on that list that were given to you, before you knew
16 what the assignment was, may have been a case of Judge
17 Larsen's?

18 A Yes.

19 Q This list was initially maintained by Barbara
20 Roberts, correct?

21 A Yes.

22 Q And at some point in time, because of the
23 operation in the office and the changing personnel, as I
24 understand your testimony, you assumed the responsibility of
25 maintaining that list?

1 A Yes.

2 Q And all of the information that went onto this
3 special list was information you received directly from the
4 Justice himself; is that correct?

5 A Yes.

6 Q You received no information to be placed on this
7 special list from any other secretary, from any other law
8 clerk, just from Justice Larsen; is that correct?

9 A Yes.

10 Q And when Justice Larsen asked you to put
11 information on this list about a case which had not yet been
12 assigned by the prothonotary, you had no idea where he
13 received the information that the case was even filed, did
14 you?

15 A No.

16 Q But the information was obtained by him through
17 some source or some process other than that generally utilized
18 by your office; isn't that true?

19 A Yes.

20 Q Now, another thing that I would like to explore
21 with you and then we can move on, is your responsibility of
22 maintaining the list was to make sure that you called to Judge
23 Larsen's attention when there was some activity on a
24 particular case; isn't that true?

25 A Yes.

1 Q So that if something came in on a case that was
2 not assigned to him, it was your responsibility, either by
3 looking at the docket number on the list or the name on the
4 list, that you had to tell the Justice something had come in
5 on that case; isn't that true?

6 A Yes.

7 Q And if in a particular instance where a case may
8 have been assigned to Justice Larsen, and it was on your list
9 because he asked you to put it there before you even knew who
10 the prothonotary assigned it to, that would also be a case
11 that you would call to his attention when something happened,
12 because it was on your list?

13 A Yes.

14 Q Isn't it true that when cases on that list came up
15 for the final day of action, and you need three votes to get
16 allocatur, correct?

17 A Yes.

18 Q If a case came up that was on that special list
19 and it did not have three votes needed for allocatur, isn't it
20 true that there were occasions, and you would tell the judge,
21 hey, something's happening on this case, Justice, he would go
22 out and return, having secured the necessary votes to grant
23 the allowance of appeal?

24 A I'm going to ask you to repeat that question,
25 because it seems that you're stemming it from the list.

1 Q Were there occasions, as I understood your
2 testimony in the past, were there occasions when additional
3 votes were needed for a grant of allocatur and this was
4 brought to the attention of Justice Larsen, that he would
5 leave, physically leave the chambers, and then return to the
6 chambers, having secured the sufficient number of votes to
7 grant the allocatur?

8 A This is not related to the list at all. But yes,
9 that's true.

10 Q That's true. And I wasn't suggesting -- I'm sorry
11 if I misled you. I am suggesting that if in a particular
12 situation --

13 A One of his allocaturs that he proposed to grant
14 on.

15 Q He would go out and he would come back with the
16 votes?

17 A Um-hum.

18 Q Correct?

19 A Yes.

20 Q Okay. Now, this special list, he told you to get
21 rid of it, or words to that effect, in what you understood to
22 be a surreptitious manner and outside of the office, at a
23 point in time when there was a strain in the employment
24 relationship between you and the Justice, correct?

25 A Yes, you could call it a strain. It was a strain

1 I wasn't aware of.

2 Q If he wanted to, he could have said, give that
3 list to secretary so and so, or give that list to law clerk so
4 and so, but he didn't. At that point in time when there was a
5 strain in your relationship, he directed you to get rid of it
6 in a manner outside of the chambers; isn't that true?

7 A Yes, um-hum.

8 Q Let me try to refresh your recollection on one
9 final area. Are you aware of the fact that Barbara Roberts
10 became concerned about the existence of this list, this
11 special list, and told Michael Lydon about it?

12 A No.

13 Q Did you ever tell Michael Lydon about it?

14 A I may have. I really don't know. I have no
15 recollection.

16 Q So you don't know if Barbara told him or not?

17 A I really don't know.

18 Q But did you tell anybody in the office, other than
19 Vera and Barbara, about the existence of the list?

20 A I may have told Michael.

21 Q But you're not sure?

22 A I'm not sure, no.

23 Q And Michael would have been what we would commonly
24 characterize as the chief clerk there? He was, well, instead
25 of chief clerk, because the prior witness quarreled with that

1 characterization --

2 A I know.

3 Q He was at least --

4 A He was the chief clerk, and he was the one that
5 everyone went to.

6 Q Thank you.

7 A He had a rapport with the Justice. He was able to
8 speak to the Justice, reason with him. He was a fine
9 administrator.

10 Q Thank you. And you would find nothing unusual
11 about a secretary that had a particular moral problem about
12 something going on in the office, to go and see him and tell
13 him about it?

14 A Absolutely not.

15 Q So it would be something that you could understand
16 if Barbara Roberts were to testify that this list, special
17 list business got to her and she wasn't sure what to do, and
18 she went and talked to Mickey Lydon? You wouldn't find that
19 unusual?

20 A Not at all.

21 Q And when the Justice asked you to get rid of this
22 special list, you did that?

23 A Yes, I did.

24 Q And when he indicated to you to keep it quiet, you
25 did that, until you were subpoenaed before the grand jury?

1 A I did.

2 Q You did?

3 A Yes. Yes.

4 Q And when he asked you to do it outside of the
5 office, you did that, too?

6 A Um-hum.

7 Q I'm sorry we had to bring you here again, but
8 thank you very much, Janice.

9 A That's okay, you're welcome.

10 MR. MOSES: I have no further questions of this
11 witness, Mr. Chairman.

12 CHAIRMAN DERMODY: Thank you, Mr. Moses.

13 Mrs. Uhler, Counsel Moffitt has some questions for
14 you.

15 BY MR. MOFFITT:

16 Q Mrs. Uhler, did Justice Larsen ever express to you
17 why he was asking to you track cases on the special list?

18 A No.

19 Q Did you ever ask him why?

20 A No.

21 Q Was there a reason why you didn't ask him why?

22 A It wasn't my place to ask him.

23 Q Is it fair to say you did what you were told, and
24 you tried to do the best job of doing what you were told?

25 A Yes. Yes.

1 Q Mrs. Uhler, you testified that in about 1989, the
2 list fizzled out somewhat. During that period of time, to
3 your knowledge, was Justice Larsen still instructing the
4 secretaries to follow certain cases in the same manner as you
5 had followed the cases on the special list?

6 A I will say this. I'm not sure when the list
7 fizzled. I'm only guessing when I say '89. It seems to me
8 that's the place in time.

9 But to answer your question, yes. Because I
10 recall an incident where Vera was looking for a certain case,
11 and I helped her with it. Where she got her information, I
12 didn't ask her, and why, I didn't ask her. But it was evident
13 that she was tracking the case.

14 Q Was there any special method that was being used
15 to track the case?

16 A No. Actually, there were -- the way we're talking
17 here --

18 Q Apart from the special list, Mrs. Uhler?

19 A The way we're talking here it sounds so, you know,
20 terrible and wrong. But really, it was not anything out of
21 the ordinary. When he wanted anything brought to his
22 attention, we would retrieve the papers and put a sticker, one
23 of those yellow stickers on it and indicate that this is, you
24 wanted to see this when it came in, or whatever message, and
25 leave it in his mail pile. And more often than not, he would

1 glance at it or rifle through it and then hand it right back
2 and say, well, put this away. That was the procedure.

3 Q And is it true that in about the 1989 period, that
4 that responsibility shifted over, for the most part, to Vera
5 Freshwater?

6 A Yes. Yes.

7 Q Mrs. Uhler, do you know, as a general rule,
8 whether Justice Larsen wanted an appeal to be granted in most
9 of the cases that were on the special list?

10 A No. I haven't --

11 Q You don't know whether he desired that?

12 A No. I have no idea. It even appeared to me at
13 times when I was keeping this list that it was for naught,
14 that I didn't notice any action at all taken in any way to
15 make me suspect. So I did not think that it was anything out
16 of the ordinary, so I can't answer that for you.

17 Q Did you keep track of whether or not cases were
18 granted appeal or not, for cases on the special list?

19 A What I did on the list was if I just had a number,
20 and the matter was filed, I would see the name and I would add
21 the name to it to try and keep as complete a whatever -- to
22 keep it as complete as possible I would put down the proposed
23 disposition date, proposed denial or grant. And then if it
24 were, in fact, denied or granted, I would just put a red X
25 through it, which meant to me that I didn't have to do

1 anything more with it.

2 Q Mrs. Uhler, I'm going to give you the names of
3 some cases and I'm going to ask you whether or not you recall
4 those cases having been kept on the special list that you've
5 testified about today.

6 Do you recall a case called Buttermore versus
7 Allaquippa Hospital being on the special list?

8 A Yes.

9 Q Do you recall who the attorneys were in that case?

10 A No.

11 Q By the way were, attorneys' names ever included on
12 the special list?

13 A Never.

14 Q Do you recall a case called Zullo, Z-u-l-l-o?

15 A Yes.

16 Q Was that on the special list?

17 A Yes.

18 Q How about a case in which one of the parties'
19 names was Jo Vi Jo?

20 A Yes.

21 Q Was there also a case on the special list called
22 District Council 33?

23 A Yes.

24 Q You also recall a case on the special list in
25 which the plaintiff's name was Tiffany Gall?

1 A Yes.

2 Q That was on the special list?

3 A Yes.

4 Q With respect to any of these cases, do you recall
5 who the attorneys were in any of those cases?

6 A No. I would have no way of knowing that.

7 Q That was something that you wouldn't check on; is
8 that correct?

9 A Correct.

10 Q Was there also a case called Earl Miller?

11 A Yes.

12 Q And that was on the special list?

13 A Yes.

14 Q How about a case called Commonwealth versus Lowy?

15 A Yes.

16 Q Do you recall the spelling of the Lowy?

17 A L-o-w-y.

18 Q Was there a case on the list called Spencer versus

19 SEPTA?

20 A Yes.

21 Q Was there a case on the list called Estate of
22 Charles Hall?

23 A Yes.

24 Q Was there a case on the list called Pittsburgh
25 North?

1 A Yes.

2 Q Was there a case on the list called Franklin
3 Interiors versus Wall of Fame Management?

4 A Yes.

5 Q Was there a case on the list called Driscoll
6 versus Carpenters District Council of Western Pennsylvania?

7 A Yes.

8 Q Was there a case on the list called Levin versus
9 Barrish?

10 A Yes.

11 Q Is it true that you're not aware of who the
12 attorneys were in any of those cases?

13 A Yes, I don't know.

14 Q And you don't know that except for what you've
15 heard in the grand jury?

16 A I still don't know.

17 Q You still don't know?

18 A I still have no idea, except for Jo Vi Jo, I've
19 read that Michael Streib had something to do with that. I
20 believe I read that with all the news articles.

21 Q Do you recall Mr. Streib ever calling Judge
22 Larsen's office to inquire as to which justice a case had been
23 assigned to and if anything had been done on the petition for
24 allocatur?

25 A Yes. I vaguely recall that. It was a call to

1 me. He asked me.

2 Q You took that call?

3 A Um-hum.

4 Q Did you provide the information to Mr. Streib?

5 A I believe I did.

6 Q Was there any reason that you thought that would
7 be permissible?

8 A I really don't remember.

9 Q Did you do that because you knew of the nature of
10 Mr. Streib's relationship with Justice Larsen, that they were
11 friends?

12 A Well, I wouldn't have done it for anybody else,
13 probably not, and that's probably why. But I really don't
14 remember. But I do remember taking the call.

15 Q Do you understand at any time that Mr. Streib was
16 an attorney who had cases on the special list?

17 A No.

18 MR. UNDERCOFLER: Thank you, Mrs. Uhler.

19 CHAIRMAN DERMODY: Mr. Chairman? Representative
20 Hennessey?

21 REPRESENTATIVE HENNESSEY: Thank you, Mr.

22 Dermody.

23 BY REPRESENTATIVE HENNESSEY:

24 Q As I understand this list that was kept, first
25 Barbara kept it and then at some point you I guess inherited

1 it or started to take it over, and you fleshed it out by
2 putting it in some sort of order and then intermittently
3 adding names to correspond with the case numbers or case
4 numbers to correspond with the names?

5 A Yes.

6 Q When a case did come across your desk or come to
7 your attention that was on that list, and you brought that to
8 Judge Larsen's attention, can you tell us what happened as a
9 result of your conveying that information to Justice Larsen?

10 A As I said before, I would take the papers and put
11 a yellow sticker on it, indicating whatever it was, and
12 leaving it on his mail pile, or handing it to him, depending
13 on if he were there.

14 Q Now, when you put this yellow sticker on the
15 petition, did you identify it as coming from this list? What
16 would your note have said?

17 A I would indicate that you wanted this brought to
18 your attention when allocatur came in, and that's all I would
19 put.

20 Q This list was the only list that would have
21 generated that kind of a note from you to Justice Larsen?

22 A Well, no.

23 Q Tell us what else would.

24 A Whenever he had our allocaturs in the office, if
25 he didn't have enough votes to grant, I would do the same,

1 gumband it all together with a note and indicate that he only
2 had one joinder.

3 Q Was that the substance of your answer to the
4 question Mr. Moses asked, if he was trying to seek some
5 support for the grant of an allocatur that he wished to grant,
6 he would go out and leave his chambers and go to other
7 justices --

8 A Well, it wasn't always like that. If he
9 recommended a grant on an allocatur and he didn't receive
10 sufficient votes, he always wanted his attention brought to --
11 he wanted it brought to his attention before we as secretaries
12 would just dispose of the petition and deny it. He would
13 always want it brought to his attention. And that's how we
14 did it, with a sticker.

15 And sometimes he did leave the office. Sometimes
16 he would call his fellow justices. Sometimes he would just
17 look at the papers and hand it back and say, well, go ahead
18 and deny it. It just depended.

19 Q Just let it drop at that point?

20 A Yes.

21 Q So on those cases where you've been referring to
22 where he had thought that he might grant allocatur but didn't
23 get sufficient support, there were some instances when he
24 sought other support, and some instances where he simply let
25 it drop?

1 A Yes.

2 Q Now, referring back to the cases on the special
3 list that generated this notation, when you brought any of
4 those cases to his attention, was anything generated as a
5 result of your bringing those documents, that case to his
6 attention?

7 A Depending on what it was. If it were the papers
8 themselves, when I didn't have papers, or, if the allocatur
9 was circulated, or -- that would be it, either an allocatur or
10 the papers.

11 It always appeared to me that he was just tracking
12 cases. Just kind of tracking for what reason, I really don't
13 know. And those were the only two things that he would look
14 at, would be the papers or the report itself.

15 Q But after he looked at the papers or the report,
16 do you recall any instances when he asked for some sort of
17 response to those petitions or papers to be drawn? Or any
18 affirmative action that he took as a result of your bringing
19 this to his attention?

20 A I didn't ever see any action.

21 Q Would you have been the person to see action, if
22 there was going to be action generated as a result of steps --

23 A Probably not.

24 Q I'm sorry?

25 A Probably not, you're right. Probably not.

1 Q So if there was anything that was going to happen
2 as a result of your bringing it to his attention, that would
3 have been in the responsibility of some other person in the
4 office?

5 A If that were the case. I can't speculate on
6 that.

7 Q You were asked about a list of cases, 12 or 13 you
8 identified as having been on the list at one point or
9 another. Is that, to your recollection, a full compilation of
10 that list? Or is this something that grew and diminished in
11 size over the course of years?

12 A Yes, it grew and diminished in size. There may
13 have been more on there. Those are the names that I recall
14 that were on the list. I believe there were some that I
15 didn't recall that Mr. Moffitt asked of me.

16 And the reason that I recall them so vividly, the
17 names, that is, is that I -- you have to remember that this
18 was my list. I was the keeper of the list, and as it got
19 sloppy and messed up, I would fix it up and re-type it and
20 re-type it and re-type it. So the names did stick.

21 Q In trying to recall the names of the cases that
22 were on the list, were you ever able to recall any from your
23 recollection without being assisted? Or were the case names
24 suggested to you?

25 A No, sir, they weren't suggested to me. I do

1 remember the names.

2 Q I guess what I'm asking you is, there were other
3 names that apparently were on the list that you can't recall
4 now; is that right?

5 A Yes.

6 Q Since at some previous time you provided that
7 information to either Mr. Moffitt or anyone else on the panel,
8 have you recalled any additional case names?

9 A No, sir.

10 Q So you can't identify any other --

11 A There is just such a huge amount of stuff that
12 comes, paperwork, in the Supreme Court, and at the time when I
13 was tracking these cases, I would try to remember the names so
14 that when I was doing my filing, I didn't have to go out and
15 get this list and -- it was difficult enough just doing the
16 filing, let alone looking for names.

17 Q I'm just amazed you remember that many case
18 names.

19 Let me ask you a question to follow up on a
20 question you were asked about this call that you received from
21 Mr. Streib. When Mr. Streib called and asked about whether or
22 not any action had taken place on any of the cases --

23 A It was one case.

24 Q All right. Was that a case that was on this
25 special list?

1 A I don't know that.

2 Q You don't know?

3 A I don't know that.

4 Q At some point, I think you said it was around
5 1989, that this list fizzled. You first described it as
6 fizzled and then I think in other statements you indicated
7 that the Justice told you to throw it away, get rid of it.
8 There's been some indication that perhaps it was secretive.

9 Can you try to give us a real good clear sense
10 about what instruction you received? And I'm going to follow
11 up with a question about whether or not this list did, indeed,
12 fizzle, or simply changed hands, because I gather Vera
13 Freshwater later had some sort of list herself.

14 Let me just focus in, if I can, first, on the
15 fizzling of that list. How did it end, and what instructions
16 did you receive?

17 A I just wasn't getting anything from Justice Larsen
18 to put on the list. There was action taken on most all of the
19 cases that were on the list, and I had brought his attention
20 to them, and I didn't think that he wanted anything more from
21 me on it. It literally fizzled.

22 When he told me to throw it away, he was very
23 casual about it and said, just throw it away.

24 Q Let me just hone in on that a second. He didn't
25 ask you to destroy it or shred it?

1 A No.

2 Q He didn't ask you to give it to him?

3 A No. He didn't want it. He just said, throw it
4 away.

5 Q Were there any references to any other copies that
6 might be available and to get rid of any copies?

7 A No.

8 Q At some point in your testimony this afternoon,
9 you mentioned assisting Vera Freshwater in finding a
10 particular case. Was that a case that had appeared on this
11 list that you kept?

12 A I can't remember that. I just recall the incident
13 where I helped her, helped to find something for her. She
14 couldn't find it in the file room, and we looked and looked.
15 And I can't --

16 Q You can't relate that to being on this special
17 list or on any list?

18 A It was something that he wanted brought to his
19 attention. That was unusual. You know, out of the clear blue
20 sky he wouldn't ask to see papers. I mean, she had a number.
21 She had a number. I don't remember anything about it,
22 though. I helped her find it. And we earmarked it for the
23 Justice with a yellow sticker.

24 Q Was this number written down anywhere on an index
25 card or something?

1 A I don't know that.

2 Q Do you know where she got the number? Did she
3 tell you?

4 A I assume she got it from the Justice. I didn't
5 ask her.

6 Q You didn't ask her, and she didn't volunteer that
7 information?

8 A No.

9 Q I hope I'm not repeating these questions that you
10 might have been asked before, but let me try.

11 On this special list that you referred to, were
12 there any cases that you can identify from that list that
13 appeared they would fall short of an allocatur, the grant of
14 an allocatur, that the Justice asked you to let him know?

15 A I don't know that. I didn't really follow it.

16 REPRESENTATIVE HENNESSEY: I don't have any other
17 questions. Thank you very much.

18 CHAIRMAN DERMODY: Representative Josephs?

19 REPRESENTATIVE JOSEPHS: Thank you, Mr. Chairman.

20 BY REPRESENTATIVE JOSEPHS:

21 Q Mrs. Uhler, why did you leave Judge Larsen's
22 employment?

23 A He discharged me with no reason.

24 Q And in what year was that?

25 A 1991. It was September 30th.

1 Q And how long after the time that he asked you to
2 throw out the list was this, do you remember?

3 A You're asking me when? We're trying to pinpoint
4 that? '89 seems to -- '89 or '90 seems to be the year.

5 Q When you applied for work with Justice Papadakos,
6 did Justice Larsen give you a recommendation of any kind?

7 A I didn't ask for a recommendation, and I don't
8 think he had anything to do with my employment with the
9 Justice, although I don't know that for certain. Justice
10 Papadakos's chambers called me when they found out that I was
11 no longer working for Justice Larsen and asked if I was
12 interested in working. They were having a woman that was
13 having a baby and they weren't quite sure what she was going
14 to do. And I accepted the position and I'm still there. It's
15 almost three years.

16 Q Justice Papadakos and/or somebody in his office
17 were aware that you were discharged; is that true?

18 A Yes.

19 Q Let me go back to the throwing away of the list.
20 I understand from other questions and answers, that you took
21 the list outside of your office in order to throw it away; is
22 that true?

23 A Well, when he said to throw it away, I didn't
24 really want to throw it away because as with, you know, as
25 with anything, you throw it away and you need it the next day

1 or the day after. And I thought, well, he's going to ask for
2 it back again or need something from it. So I took it home
3 and I just kept it at home.

4 I do not have it now. I did throw it away, only
5 because I threw everything that I had away that I had brought
6 home from there.

7 Q Why did you throw everything away that you had
8 brought home from there?

9 A Well, it was very painful when Justice Larsen
10 discharged me. And I guess there was something therapeutic
11 about throwing anything that had to do with him away. But I
12 do want you to know that I'm not bitter or -- I'm trying to be
13 real honest here with everything. I'm uncomfortable with
14 having to talk about my tenure working with someone in that
15 close relationship. I don't like revealing things about the
16 people that you work with. I'm uncomfortable with that. But
17 that's when I threw it away.

18 Q I understand that, and I thank you for answering
19 the questions as clearly and for helping us to try and
20 understand the truth of that. Thank you very much.

21 REPRESENTATIVE JOSEPHS: Thank you, Mr. Chairman.

22 CHAIRMAN DERMODY: Representative Manderino? We
23 have to keep in mind that Mrs. Uhler has a plane at six
24 o'clock.

25 REPRESENTATIVE MANDERINO: Thank you for the

1 reminder, Mr. Chairman.

2 BY REPRESENTATIVE MANDERINO:

3 Q Ms. Uhler, my understanding is to the best of your
4 recollection, at least as far as you were involved with
5 keeping track of cases on your list or in some sort of
6 tracking format, that it went from about '83 to '89,
7 approximately six or so years?

8 A Um-hum.

9 Q In those six or so years, can you estimate how
10 many cases were tracked during those years?

11 A A rough estimation? 15.

12 Q So that the 10, I didn't count the numbers of
13 names that Attorney Moffitt asked you about, but so that the
14 names that you gave him were fairly -- how many names were on
15 that list? I didn't ask. There were 13 names on that list.
16 Was that fairly complete? There may be a couple more you're
17 leaving out, but is that the majority of the cases you tracked
18 throughout a six-year course of time?

19 A It would seem to be so, yes.

20 Q How long was your list that you kept stagnant, if
21 I can call it that, meaning no new things were coming on,
22 before the Justice actually asked you to throw the list away?

23 A I would say probably eight months to a year.

24 Q So that for eight months to a year, you were not
25 only -- well, let me ask it this way. For eight months to a

1 year, you were not getting new numbers or names to add to the
2 list?

3 A Correct.

4 Q You were also not getting any requests for
5 follow-up papers from the list?

6 A Correct.

7 Q And you were not finding any new matters that were
8 currently on your list that were now coming into the office?

9 A Yes.

10 Q And now that I understand at least the breadth of
11 what we're talking about, if we're talking about a list that
12 over the course of those years had somewhere around 15 or 16
13 names total, can you estimate, of those 15 or 16,
14 approximately how many of them hadn't yet come into the
15 office, meaning you had it on your list and you were waiting
16 to find it come into the office, versus how many of those as
17 soon as it came on your list, you were able to go to the file
18 cabinet and find the corresponding papers?

19 A I don't know. I can't answer that. It's a hard
20 one.

21 REPRESENTATIVE MANDERINO: Thank you very much.

22 CHAIRMAN DERMODY: Thank you, Mrs. Uhler.

23 MRS. UHLER: You're welcome.

24 CHAIRMAN DERMODY: We'll take about a five-minute
25 recess.

1 (Recess taken from 4:56 until 5:24 p.m.)

2 CHAIRMAN DERMODY: I call the hearing back to
3 order. Our next witness is Charles Johns.

4 Mr. Johns, will you please rise and be sworn in.
5

6 CHARLES W. JOHNS, called as a witness, being duly
7 sworn, was examined and testified, as follows:

8 BY CHAIRMAN DERMODY:

9 Q Sir, would you please state your name and spell
10 your last name?

11 A Charles W. Johns, it's J-o-h-n-s.

12 Q And how are you employed?

13 A I'm employed with the Supreme Court of
14 Pennsylvania.

15 Q What do you do for the Supreme Court of
16 Pennsylvania?

17 A I am the prothonotary of the Supreme Court.

18 Q Before you tell us what a prothonotary is -- I
19 guess Harry Truman wanted to know what it is, also -- maybe
20 you could tell us a little bit about your background,
21 educational background, please?

22 A Yes, sir. I was educated at Duquesne University
23 in Pittsburgh, undergraduate degree in liberal arts, having
24 graduated in 1965. Went into the Navy for three and a half
25 years, almost four years, being honorably discharged in

1 December 1968. Enrolled at Duquesne graduate school in
2 history, and pursued and obtained a master's degree in
3 history, and thereafter, taught for a year in high school in
4 Pittsburgh. And then went to law school at Duquesne
5 University, graduating in 1974.

6 Q When did you begin work with the Supreme Court of
7 Pennsylvania?

8 A I originally began employment with the Supreme
9 Court in January of 1980 as counsel to the court administrator
10 of Pennsylvania, and was in that position 10 and a half
11 years. And went from there to the Third Circuit Court of
12 Appeals as deputy circuit executive, and I intended and
13 thought that I would retire in the federal system. But not
14 long after I was there, the Supreme Court asked me if I would
15 return as prothonotary, and I did so, and I started as
16 prothonotary in January of 1991.

17 Q What is the prothonotary of the Supreme Court?

18 A As prothonotary, sir, I am clerk of the court's
19 officials records dealing with litigation and those matters
20 that it takes official jurisdiction of. We take care of the
21 records that are filed by lawyers, the dispositions thereof.
22 We take care of the admission of new attorneys to the
23 Commonwealth of Pennsylvania. We take care of the records
24 pertaining to the disciplinary measures taken against
25 attorneys. We preserve and maintain the records dealing with

1 rules and rule changes, appointments to committees and the
2 like.

3 Q Would you please explain to us the nature of the
4 Supreme Court's jurisdiction?

5 A Yes, sir. Its jurisdiction has both direct
6 jurisdiction and discretionary jurisdiction. Direct
7 jurisdiction occurs on the appellate docket, the appeals
8 docket, and that represents authority given by the legislature
9 for litigants to appeal from the Court of Common Pleas, or a
10 trial court, directly to the Supreme Court, such as in a
11 capital case, or, cases involving a challenge to the right of
12 public office, a quo warranto action. Or matters involving
13 attorney discipline matters come directly to the Supreme
14 Court. Also, you can have a direct appeal from Commonwealth
15 Court when that court's acting in its original jurisdiction.

16 Otherwise, review in the Supreme Court is
17 discretionary, and that's by what is called a petition for
18 allowance of appeal. That may be filed in accordance with
19 Chapter 11 of the Rules of Appellate Procedure.

20 Q And we've been discussing here, the petitions for
21 allowance of appeal, otherwise known as allocatur petitions;
22 is that right?

23 A Correct, yes, sir.

24 Q Approximately how many discretionary appeals,
25 allocatur, petitions for allowance of appeal, are filed with

1 the court each year?

2 A I did some review of past annual reports on
3 statistics, and it's always over 2,000. In 1993 there were
4 2,332 petitions for allowance of appeal filed. That was
5 1993. 1992 is 2,125; 1991, 2,128; 1990, 2,124 and so on.

6 Now, I would also like to say, Mr. Chairman, that
7 the court also gets petitions on its miscellaneous docket as
8 well, which total, and these are ancillary to matters already
9 docketed, some new matters, such as petitions to review bail,
10 things of that nature, and those total perhaps 1,500 annually.

11 Q Those ancillary matters would be discretionary
12 types of appeals, those bail petitions, those types of things
13 involving criminal cases?

14 A That's correct.

15 Q Can you give us a percentage of the number of
16 cases of petitions that are granted out of those over 2,000
17 cases that are filed?

18 A Yes, sir. I did some work with the calculator,
19 and in 1993, there was 7 and 3/4 percent of them were granted,
20 181 grants; 1992, it was 6 and 3/4 percent, 144 grants; 1991,
21 it was 12, over 12 percent, it was 263 grants; 1990, 11 and a
22 half percent, 246 grants; 1989 was over 10 percent; 1988,
23 almost 10 and a half percent; 1987, 12 percent. It's fairly
24 consistent.

25 Q And very difficult to get one granted.

1 A Correct, sir.

2 Q What's the effect of a denial for allowance of
3 appeal, what effect, if the court denies a discretionary
4 appeal?

5 A Unless the litigant has an issue and a
6 Constitutional basis to seek review in the United States
7 Supreme Court by way of a petition for certiorari, that would
8 end the litigation.

9 Q Could you explain for us the structure of the
10 prothonotary's office as it is today?

11 A Yes, sir. The prothonotary's office is situated
12 in three cities. The Eastern office is in Philadelphia,
13 located in City Hall. The Harrisburg office is located in the
14 main Capitol building on the fourth floor. And there is a
15 Western office that's located in Pittsburgh in the City-County
16 building.

17 Q Can you describe for us how petitions for
18 allowance for appeal are docketed and how that procedure
19 works?

20 A Yes, sir. A litigant will file, or come into the
21 office and present us with a petition for allowance of
22 appeal. There's a preliminary review done at the counter by a
23 clerk that is taking it in, and if it's preliminarily in
24 compliance with the rules, as the clerk is able to ascertain,
25 it would be file stamped, given a docket number.

1 Later that same day, it will be thoroughly gone
2 over again. In the Eastern office, that's done by the deputy
3 prothonotary, that is a lawyer, and it's looked at again for
4 purposes of compliance with the rules as well as timeliness.
5 Oftentimes you just can't see everything when they take it
6 over the counter and do it, and you would pick up things
7 subsequently in the second review.

8 Once, let's say, the petition is in compliance
9 with the Rules, then it's assigned at that point to a justice
10 at random and on a wheel basis. It's given to a clerk and
11 it's processed. What that means, there's a docket opened,
12 there's letters gone out to the both attorneys indicating what
13 the docket number is.

14 The opposing counsel is told that he has 14 days
15 under the rules to either file a brief in opposition or a
16 letter indicating no brief in opposition. The 14-day period,
17 we wait for 14 days plus 3 days for mailing under the rules.

18 On approximately the 17 or 18th day, the bundle of
19 information then would be distributed to court. Now, what
20 that consists of is there would be a transmittal sheet on top
21 of the papers showing the caption of the case, what is
22 appended thereto, petition and answer, reproduced record,
23 whatnot, who the assigned justice is, and that copy then is
24 distributed to all the justices.

25 Q If an allocatur petition is granted, are there any

1 other docketing numbers that are assigned at that point? Is
2 there a separate docket for those that are granted?

3 A Yes, sir.

4 Q Could you explain that to us and how that occurs?

5 A Yes, sir. In a given circumstance, we would
6 receive an order granting a petition for allowance of appeal
7 and we would immediately open an appeal docket, give it a
8 number and notify the parties, providing them with a certified
9 copy of the order, and indicate that we're ordering the
10 original record in the case, and at such time as we receive
11 it, we would issue a briefing schedule.

12 We immediately and simultaneously order the
13 original record from the court below. We receive it, we go
14 out with the briefing schedule to both parties.

15 The appellant, that's the proponent of the appeal,
16 is given 40 days under the Rules to file his brief and
17 record. The appellee is given 30 additional days. Once those
18 briefs are filed, ordinarily, then the case is made ready for
19 an argument list.

20 Q Let me just back up a little bit. The allocatur,
21 the docketing procedure from the time the original petition
22 for allowance of appeal is presented, and the allocation of
23 docketing numbers, et cetera, has that procedure changed at
24 all since you've become prothonotary?

25 A It has, sir.

1 Q Explain what those changes were.

2 A When I was appointed prothonotary, the procedure
3 was that the original petition for allowance of appeal was
4 distributed to the assigned justice, copies to the other
5 justices. There would be a disposition made. The order would
6 come back with the papers, ordinarily, and that involved
7 transmission of us mailing the paperwork out to them in the
8 first instance, and then having the papers mailed back to us.

9 I changed that, once our computer system was
10 operating, and I provide copies of all the petitions to the
11 justices now, and the original document is retained in the
12 filing office. The Order of grant or denial now is
13 electronically transmitted to the respective filing offices.

14 There's a period of reconsideration, there's seven
15 days the party is allowed, the aggrieved party is allowed to
16 petition for reconsideration. They may or may not. If they
17 do, then a petition is filed and it's sent off to court. The
18 court reconsiders whether or not their decision was correct in
19 the instance.

20 Once that's denied, then they can pitch the
21 papers, because they're only copies, and I, the filing office
22 retains the original record, and that was the change I
23 implemented.

24 Q When you made the changes, was there a change made
25 for the review of the timeliness of the petition for allowance

1 for appeal, that is, was it filed in the proper time period?

2 A Yes, sir.

3 Q And if there was, could you explain to us what
4 happened and why the change?

5 A Yes, sir. I did make some changes. The filing
6 offices, with the exception of the Philadelphia office, that
7 office previously had at least one lawyer on board. The other
8 two filing offices at no time had lawyers on board in either
9 Harrisburg or Pittsburgh. When I came on board, being spread
10 thin, one cannot review every petition for compliance with the
11 Rules as they should be and as a lawyer would review those
12 petitions. I instituted a process to try to tighten this up,
13 and I really didn't succeed until September of 1992, when I
14 have the present deputy prothonotary in Philadelphia, who was
15 hired. And he being a lawyer, an experienced lawyer, he
16 solved my problem for the biggest filing office volume-wise,
17 which was Philadelphia. Now I can look after more closely the
18 other two offices while he looks at compliance with respect to
19 the Philadelphia office.

20 Q What we're talking about here is if you're taking
21 an appeal from a Common Pleas Court case and you've been
22 denied, or the case is decided by the Superior Court, you have
23 30 days to appeal, correct?

24 A That's correct.

25 Q And you were having problems, as I understand it,

1 making sure that petitions that were filed and then even sent
2 out to justices, as timely filed, may not have been filed
3 within that 30-day period?

4 A That is correct, sir. Now, presently if we spot a
5 petition for allowance of appeal that is untimely, we write a
6 letter and send it back to the litigant. He's not out of
7 court. He can petition the Supreme Court to seek permission
8 to file it out of time, and I think that's part of my function
9 as a record keeper, that I get the litigation into focus,
10 whatever the status of it is at that given time.

11 If it's untimely, and the litigant comes back with
12 a petition for permission to appeal out-of-time, then
13 unquestionably the focus at that point is whether, under the
14 law, the court should grant him the right to file it. If they
15 do, then it's docketed on an allocatur docket. Then they look
16 at the merits. Whereas, before, it's liable to go to them as
17 something inadvertently which shouldn't have been to them.
18 With the amount of paper, they can't possibly look at
19 everything.

20 Q Before or up until 1992, you were not checking for
21 timeliness? Or was it just a haphazard?

22 A It wasn't as good as I had wanted it to be. And
23 part of the reason the court went back to a statewide
24 prothonotary was to get uniformity in procedures. And the
25 other two offices were not in synchronization with what

1 everyone was doing.

2 Q The procedures for assignment of allocatur
3 petitions to justices, has that been changed recently?

4 A In May of '90, that became a function of the
5 Office of Prothonotary, which was prior to me coming. But
6 that's when it occurred.

7 Q Before, the Chief Justice assigned them; is that
8 correct?

9 A Correct, sir.

10 Q And that change took place in 1990?

11 A Yes, sir.

12 Q And there was some testimony earlier in the day
13 that that change took place in the mid '80s, but that was
14 1990? We wanted to clear that up.

15 A It was 1990.

16 Q The effect of granting the petition for appeal
17 grants access to the Supreme Court, correct?

18 A Yes.

19 Q It is not a decision on the merits? Is what I'm
20 getting at. Is that correct?

21 A That's correct.

22 Q Can you explain to us, as best you can, what the
23 procedure is for deciding allocatur petitions, that is,
24 reports, counter reports, how that works with the court?

25 A Well, each justice's chambers operates the way the

1 justice wants it to. He's an elected official and he runs his
2 office the way he wishes.

3 The assignment comes in and the justice would give
4 it to someone to look up, to do a work-up on it, and there is
5 a report prepared and it's circulated. I do not receive
6 copies of those reports except only when a grant is given.
7 When the court grants a petition for allowance of appeal, then
8 my office receives a copy of that report.

9 When the case is made ready for argument, the
10 justices have the briefs, which they review, the record, they
11 have memos from the law clerks that they've asked to do a
12 work-up on the case, and then they have the allocatur report,
13 and it's all part of the bundle which they review.

14 On allocaturs that are denied, I do not receive
15 the allocatur report. I do not have them.

16 Q The prothonotary's office never sees the report on
17 the denial?

18 A That is correct, sir.

19 Q Three justices have to join in for the allowance
20 for an appeal to be granted; is that right?

21 A Yeah. Presumptively, the author would be
22 recommending a grant, so if he thought it should be granted,
23 then they need two others, making three, correct.

24 Q Are there any internal operating procedures
25 regarding the allocatur process and the granting or denying of

1 allocatur?

2 A Well, there are no written practices.

3 Q Are there any formal procedures?

4 A I know they have their way of doing things, and
5 it's oral, they're not written. But I can't speak to those
6 because that's not part of my office.

7 Q And that's up to each justice's chambers; is that
8 correct?

9 A That is correct, sir.

10 Q Can you describe for us at all the hold that that
11 process, whether a hold can be put on a petition? Are there
12 any formal procedures regarding holds on petitions for
13 allowance for appeal?

14 A Again, at this time there are no written
15 procedures. I know that allocaturs would be held, but that's
16 all I would know.

17 Q You would not know how long an allocatur petition
18 would be held?

19 A No, other than it's still open. I would know that
20 there's an open docket here and hasn't been disposed of.

21 Q Are you able to tell us how many votes are
22 required to grant an appeal on reconsideration?

23 A I don't know that, sir.

24 Q Are there any formal procedures or any rules
25 requiring --

1 A That would be, again, practice and procedure with
2 the court. There are no written procedures at this juncture.

3 Q None of the reports or counter reports that are
4 circulated between the justices' chambers are public record;
5 is that correct?

6 A That's correct, sir.

7 Q Are there any internal procedures or formal
8 procedures on recusal from the allocatur process?

9 A Well, there again, up to this point there's no
10 written procedures. After the filing office distributes an
11 allocatur to the court for disposition, the next thing the
12 filing office receives is an order, and the order is per
13 curiam, meaning by the court, and it will say -- let's assume
14 it says denied. Now, that's the only thing I know, and it
15 speaks for itself.

16 Oftentimes it has, it's not been uncommon, I
17 should say, that an order will come through with DNP, Justice
18 so and so DNP, did not participate. That's the phraseology.

19 Other times it's just simply a straight order and
20 I would get a telephone call followed by a memo saying that
21 order that went down inadvertently, I was to be DNP on that,
22 and the memo will be cc to all justices. That's authority for
23 me to issue the litigants a revised order. I don't change the
24 date, but I revise it showing denied, Justice so and so DNP.

25 Q I may have misunderstood. If you've gotten a

1 petition that was already been denied and then you get a
2 notice that a certain justice did not participate?

3 A That's correct. I would get a memo, more often
4 than not a memo from a justice saying, I noticed this order
5 went out and it should have reflected that I was DNP. But
6 there again, then I would make an appropriate correction.

7 When I initially receive it, it has to speak for
8 itself because I don't know what the vote is.

9 Q And if it's not on the cover sheet, you don't
10 know?

11 A That's correct, sir.

12 Q The same thing would go also if a petition was
13 granted; is that correct? The same information would be
14 transmitted to you, and if somebody did not participate, they
15 would indicate as you described?

16 A That's right, sir.

17 Q If a justice either recused himself or herself
18 from participating and didn't note it on the cover sheet,
19 there's no way you would know that; is that correct?

20 A Correct, sir.

21 Q And likewise, if one participated in a decision,
22 is it possible that that information would not be, the
23 prothonotary would not have that information?

24 A That's correct, sir.

25 Q If a justice did not participate in the case, the

1 procedure as you know it, although it isn't written and
2 formalized, is that that would be indicated on the cover sheet
3 with the DNP, correct?

4 A It would be on the order. If it was noted, it
5 would be on the order, yes, sir.

6 Q The process you just described by which the
7 prothonotary's office is notified whether or not a justice
8 recused him or herself from a case, that's been in place, is
9 in place currently, correct?

10 A Yes, sir.

11 Q And has been in place since you've been
12 prothonotary, correct?

13 A Yes, sir.

14 Q And as far as you know, that same procedure was in
15 effect before you became prothonotary?

16 A Yes, sir.

17 Q Just a few more questions that were on the list
18 and I would like to ask just a few questions.

19 We talked about a lack of internal formal written
20 operating procedures. We've talked about some of the problems
21 that you've run into, I think, or that have occurred, what I
22 would characterize as because of a lack of those internal
23 operating procedures.

24 Just in your opinion, do you think that internal
25 operating procedures regarding the allocatur process or

1 recusal process would be helpful to the Supreme Court in doing
2 your job and for the justices doing their jobs?

3 A Well, sir, not to evade your question, I know the
4 court is actively looking at all of our procedures to see how
5 we can tighten things up and make it function better.

6 One point I would make to you in response to your
7 question is in 1993, 2,300 petitions went out to the court,
8 along with another 1,500 ancillary petitions, plus the
9 appeals, plus we're dealing with the administrative aspect of
10 everything else. We're also getting back 2,000, 2,200 orders
11 on the allocatur, 1,500 orders on the miscellaneous docket
12 and the opinions on the appeals docket. That's a lot of
13 paperwork. And from my point of view, my office, the Office
14 of Prothonotary, is receiving upgraded electronic computers
15 which are necessary, but more importantly, we need a good
16 software system which would allow me to track the cases
17 better, give the court better reports so they can do their job
18 better, I think. That's one thing that I need.

19 Q Well, have steps been taken to get you the
20 software that you need to make this happen?

21 A Yes, sir.

22 Q What's been started?

23 A We have a legal systems office that has searched
24 out and accepted, or are looking at proposals from a company
25 to rewrite a good piece of software for us. And it's been put

1 in a budgetary request, lengthy commentary and a budget
2 request about this, yes.

3 Q Budgetary request made to the legislature?

4 A Yes, sir.

5 Q Of course, there has been recent computerization
6 done in the courts, you're a part of that, and this software
7 budget request is now before the legislature?

8 A Yes, sir.

9 Q You've testified, and we all know that the
10 allocatur process is not a public process. Could you testify
11 or do you have an opinion or are you taking any steps, is the
12 court taking any steps to make the allocatur process a public
13 process, to opening that procedure up?

14 A That, sir, I can't speak to. I know that they're
15 looking at all of our procedures, and we'll have to wait to
16 see what their recommendations are.

17 Q You don't specifically know whether they're
18 addressing the allocatur process or making the process public?

19 A I do not know whether that particular aspect is
20 being taken under consideration.

21 Q You've testified today about the need for updating
22 your computer systems, you've discussed today with us problems
23 that you've had with the various offices of the prothonotary,
24 one office is busier than others. Because of that, there were
25 problems with late petitions being sent out to the justices,

1 and the significant amount of cases, the amount of paperwork
2 that you have to deal with daily.

3 There's been some discussions about centralizing
4 the Supreme Court, that is, having a Supreme Court building in
5 Harrisburg where there would be a headquarters here for our
6 Supreme Court.

7 Do you have any thoughts whether that would be of
8 benefit to you doing your job and the justices being able to
9 do their job better? Particularly in light of the need for
10 the computerization and the need you discussed in your
11 budgetary requests for software here today, those types of
12 things? Would that be helpful?

13 A I don't know whether it would be helpful or not.
14 I've seen courts that are decentralized, i.e., have satellite
15 offices as we do. I've seen them centralized. I'm not sure
16 whether it's a benefit or not.

17 Q Would it help, with your interest in
18 computerization? And would it help in financing that cost?
19 It seems that you've determined or we had testimony that that
20 computerization would aid you and the justices.

21 A Yes, sir, no question about it.

22 Q Would the centralization help you in those
23 efforts?

24 A Quite possibly, but I couldn't say for sure, sir.

25 CHAIRMAN DERMODY: Thank you.

1 Chairman Clark?

2 BY CO-CHAIRMAN CLARK:

3 Q Mr. Johns, you indicated this software would help
4 you do what?

5 A It would allow better reports than what I'm able
6 to generate from the existing system that we have. I need a
7 network system. See, I can't --

8 Q What kind of reports?

9 A Well, for example, a lot of reports I have to do,
10 what I would like to do, which I do, and others I would like
11 to do, have to be manually generated, and that's labor
12 intensive.

13 Q What type of reports?

14 A The number of, let's say, allocaturs remaining in
15 chambers at any given time yet to be disposed of at any given
16 time. I've got to plan that out and virtually do it manually
17 in order to determine that number.

18 Q Why do you need that information?

19 A Well, I think it would be helpful to the court as
20 to how their disposition rate, whether they've fallen behind
21 in relation to the amount of cases being filed, or they're
22 staying current. I think that would be of interest to them.

23 Q But there's no time limitation on their handling
24 an allocatur petition?

25 A That's correct, sir. But with over 2,000 being

1 filed every year, they've got to be looked after. Otherwise,
2 we would have a build-up.

3 Q You believe they need to be prompted to move this
4 paper a little further?

5 A I don't use the term --

6 Q Reminded that there are so many petitions
7 outstanding? You know, we're spending peoples' money now, we
8 ought to get something for this.

9 A I understand, sir. I would say it would be
10 helpful from a management point of view, to know what the
11 numbers are, how many have been disposed of in a given month,
12 how many are incoming, how many of those are grants and so
13 forth. I just think it would be a good management tool.

14 Q You indicated that a review of all the procedures
15 is being done now, and who does that review?

16 A I know that the court is itself looking at various
17 areas to see if things can be done better.

18 Q When you say the court, you're indicating the
19 justices?

20 A Correct, sir, yes.

21 Q The ones who get the 2,500 petitions for
22 allocaturs and the 1,500 ancillary petitions, are now involved
23 in JIRB reports and reviewing themselves, they're now going to
24 have time to look into codifying their procedures?

25 A Yes, sir.

1 Q Are they seeking any outside advice on this from
2 the American Adjudicatory Society or the federal court
3 administrator's system or anyone like that?

4 A Quite possibly, but I don't know, sir.

5 Q That's secret, too?

6 A No. I'm just not involved in it.

7 Q Should you be involved in it?

8 A In terms of it affects my office, I have sent out
9 some recommendations in terms of the better piece of software
10 and so forth. I've done that, sir, yes.

11 Q So you're only interested in record keeping, not
12 the performance of the court?

13 A Well, that might be viewed as one in the same
14 thing. The record keeping is my function.

15 Q And you indicated that mailing and physically
16 handling all these papers, the many, many reams of papers that
17 you get, is also a problem that you have to manage?

18 A Yes, it is. I think we've managed well.

19 Q And then when you relate that to one location, the
20 prothonotary's office, one location for the Supreme Court
21 justices, would that help you ease the paper shifting and
22 shuffling?

23 A Obviously, distributing from one floor to the next
24 would be easier than distributing statewide, yes, sir.

25 CO-CHAIRMAN CLARK: Thank you. I have no further

1 questions.

2 CHAIRMAN DERMODY: Counsel Moses?

3 BY MR. MOSES:

4 Q Mr. Jones, my questions are going to be somewhat
5 limited, and let me say preliminarily I noted some defense on
6 your part before about the number of petitions, et cetera.
7 I'm sure that we can all acknowledge that the Supreme Court
8 does a lot of very good things and does them well.

9 I would like to zero in on an area that I think
10 needs some immediate attention, and then ask you one other
11 final question.

12 The Zdrale case is a case that you are familiar
13 with from reading the grand jury report?

14 A Yes, sir.

15 Q And Mr. Dermody has asked you some questions about
16 timeliness, and all I would like to do is to solidify the
17 record on that point.

18 It is my understanding that prior to your coming
19 to the Supreme Court, there was not a review of petitions for
20 allocatur in order to determine timeliness. There was merely
21 a review of the form of the petition; is that correct?

22 A I think that's correct.

23 Q So that at the time Zdrale was filed, it was not
24 the function of the Office of the Prothonotary to determine
25 whether or not the petition for allocatur was timely filed?

1 A I think that's correct.

2 Q And since you've gotten there, you've increased
3 the responsibility, or at least enlarged the scope of the
4 responsibility of the prothonotary to include a review to
5 determine, number one, if it meets the requirements of form,
6 and number two, if it meets the requirements of timeliness?

7 A Yes, sir.

8 Q So that will give us some enlightenment on the
9 developments in Zdrale as to what the process was at that
10 point in time, okay?

11 In your discussion with Mr. Dermody about what the
12 Office of the Prothonotary was, there was no mention of a
13 requirement of any kind by any justice to maintain a list of
14 cases that were either assigned or not assigned to him; is
15 that correct?

16 A Correct.

17 Q It is also correct to say that once you send the
18 documents to the justice's chambers, you and the public lose
19 sight of the process through which that paperwork goes; is
20 that correct?

21 A Yes, sir, that's correct.

22 Q Isn't it true that as a lawyer, it would be
23 inappropriate for a justice of the Supreme Court to maintain a
24 special list of cases that are not assigned to him on the
25 basis of who the lawyers or the litigants are?

1 A There would be no purpose for that.

2 Q There would be no good or legitimate purpose for
3 maintaining such a list, would there?

4 A No, sir.

5 MR. MOSES: I have no further questions.

6 BY MR. UNDERCOFLER:

7 Q Mr. Johns, this will be very quick. I just want
8 to clarify a point you raised with regard to the filing of an
9 allocatur petition. When I ask this question, if there's a
10 difference between today and, let's say, a period of time
11 involved in 1980s, would you just highlight those
12 differences?

13 My understanding is when an allocatur petition is
14 filed, it's filed with your office and then your office holds
15 it for a 14-day period; is that correct?

16 A That's correct. Plus three days for mailing of a
17 response. So we're talking about distribution occurring
18 probably the 18th or 19th day, depending on whether there's a
19 holiday in there or something like that, sir.

20 Q When is the number assigned?

21 A The number would be affixed once it's accepted.

22 Q And when would the judge be assigned?

23 A At that time, too.

24 Q Was that always the case, back in the '80s, when
25 the chief justice was making assignments?

1 A Sir, I can't speak to that.

2 Q And would there be any notification to the justice
3 or any other justice of the filing of the petition or the
4 assignment, the identity of the assignment prior to the
5 distribution 17 days after the filing of the petition?

6 A No, sir.

7 Q So that if a justice wanted to know that
8 information or thought that there might be something foul, the
9 justice would have to make an inquiry of your office?

10 A Yes, sir.

11 MR. UNDERCOFLER: Thanks very much.

12 CHAIRMAN DERMODY: Representative Fajt?

13 REPRESENTATIVE FAJT: Thank you, Mr. Chairman.

14 BY REPRESENTATIVE FAJT:

15 Q Mr. Johns, I wanted to zero in just on one point.
16 You were going through the percentages of petitions that
17 received, or percentages of the allocatur petitions that
18 received viewing, and I think that there was some drop-off in
19 the time frame around 1990 or '91 where it went from 12
20 percent down to somewhere around 6 percent.

21 Can you look back in your notes and go over those
22 numbers for me again, please?

23 A Yes, sir. I think you might be speaking 1992, the
24 percentage was 6 and 3/4 percent; '91 it was 12, over 12
25 percent; '90, 11 and a half percent; 1989, more than 10

1 percent.

2 Q Any reason for that drop-off? I mean, I consider
3 that as a percentage, of a percentage to be fairly
4 significant, dropping from 12 percent or 11 percent down to 6
5 and 3/4. Any reason, a change in court procedures or anything
6 like that that brought that on, to the best of your knowledge?

7 A I have no way of knowing why it dropped. There
8 was 144 grants. There were a total appeals of 270 that year.
9 The following year, 1993, total of appeals, that includes the
10 grants, there are 289.

11 Q What was the percentage in '93?

12 A 7 and 3/4 percent, sir.

13 REPRESENTATIVE FAJT: Thank you, Mr. Johns.

14 CHAIRMAN DERMODY: Representative Manderino?

15 REPRESENTATIVE MANDERINO: Thank you, Mr.

16 Chairman.

17 BY REPRESENTATIVE MANDERINO:

18 Q Let me just follow up on Representative Fajt's
19 questioning for a minute. In light of your past testimony,
20 it's my understanding that there's currently no way for you to
21 track the number of petitions that are kind of currently out
22 there in the system, meaning they've been filed with you and
23 forwarded to the court but not necessarily come back.

24 You don't have a tracking system for that; is that
25 what I understood?

1 A The computer system is not of the quality
2 necessary to do a lot of reporting with.

3 Q So that the number, the pure number of allocatur
4 petitions filed, at least for the four-year period that you
5 gave us, stayed relatively steady, increased slightly in '93?
6 It was just the number coming back from the court in terms of
7 specific grants or denials that at least Representative Fajt
8 has pointed out, there seems to be a bit of a change or a
9 drop-off?

10 A Correct.

11 Q So the rest of them are still out there in the
12 system somewhere?

13 A No, no. I wouldn't say -- do you mean --

14 Q No. Yes. I confused you. The numbers you gave
15 us, for example, 263 for 1991 versus 144 for 1992, those were
16 just those granted?

17 A Yes, ma'am.

18 Q And I guess my question is: Do we know whether
19 there were, in terms of the petitions that actually came back
20 to you with either granting or denial, do we know that there
21 have been fewer petitions that have come back to you with the
22 disposition one way or another? Or, are more denials as a
23 percentage of granting coming back in '92-'93 and perhaps this
24 year as this year carries on? Do you understand my question?

25 A I think so. Hopefully I haven't misunderstood

1 it.

2 The percentage of denials is greater than
3 percentage of grants. We're receiving in the neighborhood of
4 over 2,000 dispositions on allocaturs a year.

5 Q So your number of dispositions per year that
6 you're getting back didn't show a significant drop-off?

7 A That's right.

8 Q So what changed was the number of petitions
9 granted declined?

10 A That's correct.

11 Q Do you recall, Mr. Johns, what year Justice
12 McDermott passed away?

13 A It was in June of 1992, ma'am.

14 Q And when was the spot filled? Do you recall, from
15 June of '92, do you recall when Justice McDermott's spot was
16 filled?

17 A Justice Montemuro?

18 Q Yes.

19 A I think the Senate confirmed him in November of
20 '92, I believe so.

21 Q So we had a five-month period in 1992 where we
22 were working with six justices?

23 A Yes, ma'am.

24 Q And since I forgot what month in '92 Justice
25 Montemuro --

1 A My recollection, which might be failing me on this
2 point, I thought it was November of '92.

3 Q So since November of '92, we've been back to seven
4 justices on the court?

5 A Yes, ma'am.

6 Q So for the year, at least, 1993, that we have
7 numbers of 181 grants, that was with the full complement on
8 the court?

9 A Yes, ma'am.

10 Q My second line of questioning goes to something
11 that I don't quite understand that was explained about the
12 petition process. I know that with regard to a litigant and a
13 filing of a petition for allowance of appeal, that there are
14 time limits and time frames, and I think I understand from the
15 question and answer and my prior knowledge that there is no
16 time limit for which the justices, once the petition after the
17 18 or 19 days has come to them, for them to act or not. There
18 is no time limit, correct?

19 A That's right, ma'am.

20 Q So then my question is, we talked about this
21 concept of there being a hold on a particular case, and from
22 time to time you would know that there was a hold on a case.

23 My question is: How do you know there's a hold on
24 a case, when as a matter of course, you don't expect something
25 to come back in 60 days? I'm just not understanding something

1 here.

2 A Two ways, ma'am. I would periodically do checks
3 on older allocaturs that were still undisposed of, and I would
4 call chambers.

5 Q Do you sweep through and say, these are the ones I
6 have had on my list for 18 months, let me call and see what's
7 going on?

8 A I would sweep through ones that were still open
9 and call and check to see, to ensure that it was not
10 misplaced. Or, I might get a call from an attorney saying, my
11 petition for allowance of appeal has been up there for a
12 while, could you make sure it's not overlooked. And I tell
13 the attorneys, I can find out to ensure it's not in a crack.
14 That's all I can do, which I would make inquiry to find that
15 out. And I'll be told it's not in a crack.

16 Q Was there a particular cut-off point that you used
17 to make those initial inquiries? Meaning, in your mind, if it
18 was less than a year, would you assume, absent a call from a
19 particular attorney, that it was still in the process, but two
20 years would trigger your own inquiry?

21 A Well, initially, things were -- I've got things
22 organized better now than when I first came on board. And
23 now, we make periodic, random periodic checks. And I don't
24 believe there's anything in the Eastern office, I don't think
25 there's anything beyond 1992 pending now. At the risk of

1 being in error on that, my recollection could be failing, but
2 I make periodic checks in the Philadelphia office and
3 Harrisburg office and Pittsburgh office to ensure that things
4 are moving along.

5 Q And when you're doing checks, are you doing a kind
6 of random sampling? Or on all cases beyond this particular
7 date?

8 A All cases.

9 Q And so when you would find out that a particular
10 case was on hold, could you explain to me how you found that
11 out and what that means?

12 A Well, what I would find out is it's still open.
13 That's what I would find out, and it's not overlooked, it's
14 still open.

15 Q Essentially, every case that you haven't heard
16 back from one way or another is on hold; there wasn't a
17 special kind of category, subcategory of held cases?

18 A Not from my point of view, because I wouldn't know
19 the purpose. All I know is it's not disposed of.

20 REPRESENTATIVE MANDERINO: Thank you.

21 BY CHAIRMAN DERMODY:

22 Q Mr. Johns, just one thing. The hold category was
23 one that was described by the justices, correct? I mean, they
24 would put, quote, holds on petitions?

25 A Yes, sir.

1 Q You would have a docket or you would have a list
2 of cases where you didn't have a disposition, you wouldn't
3 know whether it was on hold or it was not taken care of for
4 whatever reason?

5 A That's correct, sir.

6 Q There wasn't a formal written internal procedure
7 saying, this is on hold?

8 A That's correct.

9 Q However, that was what the inner workings of the
10 court called it when a justice decided that for whatever
11 reason, they could hold it?

12 A That's correct, sir.

13 Q That could be for any length of time that justice
14 so desires; is that correct?

15 A Correct, sir.

16 CHAIRMAN DERMODY: Representative Hennessey?

17 BY REPRESENTATIVE HENNESSEY:

18 Q Mr. Johns, just a few questions. The rate that
19 you've given us, I guess I'll call it a success rate, the
20 percentage breakdown of cases that were granted compared to, I
21 think you're going to tell me that they were compared to the
22 number of cases that were actually filed?

23 A That's right, sir.

24 Q Has the number of cases that remain undecided,
25 changed significantly over the course of the last several

1 years?

2 A The number, yes. It's down. As I say, there are
3 only a few -- I don't think there's anything open beyond '92,
4 and there are only a few of those. And you can tell that by
5 the number of dispositions that we get back at the end of a
6 year. And it's well over, it's over 2,000. It's 2,100,
7 thereabouts.

8 Q In 1993, you said there were 2,332 cases filed and
9 183 allocaturs granted.

10 A 181, sir. Yes, sir.

11 Q 181, I'm sorry. Can you tell us how many of those
12 remain undecided, of that 2,332?

13 A Not as I speak. I would say '93, this is a
14 haphazard guess, but we're probably halfway through '93's.
15 We're probably somewhere around halfway through dispositions
16 on '93's at this juncture.

17 Q If there are any that remain undecided, and well,
18 there are some that remain undecided in '93, I guess what I'm
19 trying to get at is the number that you're comparing the 181
20 grants to would be a lesser number and the percentage would
21 rise if you factored out those that remain undecided?

22 A Yes. I think I see what you mean.

23 Q With regard to prior years, I'll take 1990, I
24 think you told me 11 and a half percent, and the number I
25 think was 246 compared to 2,124?

1 A That's right.

2 Q All right. Are those finalized figures? Or did
3 some of the grants this number 246 comes from, were they
4 orders that were related to 1989 or 1988 filings?

5 A It was probably a mixture, because you're
6 catching --

7 Q This percentage figure might be a little bit soft
8 because we don't really compare it to the particular calendar
9 year of the filing, right?

10 A That's right. Because you won't get that until
11 quite a ways -- for example, '93, quite a ways into '94 until
12 that's over with. You're absolutely right on that.

13 Q There's been some testimony about having knowledge
14 of both docket numbers or case names prior to the circulation
15 of an allocatur petition.

16 At the present time as you operate the system now,
17 would any justice have access to the name of a case or the
18 docketing number of a case prior to actual receipt in his
19 office of a copy of a petition for allocatur?

20 A No, sir.

21 Q Are there any computer links that the justices
22 would have access to, that they can scan cases as they're in
23 your computer but not yet received?

24 A No, sir. That's one of the inabilities of this
25 present system, it's not networked. Chambers could not call

1 up a docket, in other words, to view it in the prothonotary's
2 office. That cannot be done even as we speak today.

3 Q I realize you weren't employed in the period I
4 think from 1980 till 1989 or '90, at the Supreme Court, but
5 from your work there since that time, did you gain any
6 knowledge on how the system operated? And was there a
7 procedure whereby any justice in that time frame could get
8 access to that information before the petition for allocatur
9 was physically circulated?

10 A I couldn't answer that, sir. I don't know. I
11 never came across knowledge of that.

12 REPRESENTATIVE HENNESSEY: Nothing further. Thank
13 you.

14 BY CHAIRMAN DERMODY:

15 Q Mr. Johns, I believe you've testified, if an
16 attorney walks into the prothonotary's office in the Western
17 District or here in the Middle District and files an allocatur
18 petition, that petition is assigned a docket number; is it
19 not?

20 A It is, sir.

21 Q And it's assigned that number at the time it was
22 filed; is that correct?

23 A Yes, sir.

24 Q So the attorney who filed that docket would have
25 the docket number; would he not?

1 A He would know, yes.

2 Q He or she would know the docket number; is that
3 correct?

4 A That's correct. We send out, as I mentioned, once
5 it's processed, we send out notice to both litigants and the
6 lower court. They're copied on the letter.

7 Q So the lower court and maybe even the clerk of
8 courts?

9 A Yes. If we need a record, if it's one of those.

10 Q At the time of filing, the attorney would have
11 that information?

12 A He would, yes.

13 CHAIRMAN DERMODY: Thank you.

14 Any other questions?

15 (No audible response.)

16 CHAIRMAN DERMODY: Thank you, Mr. Johns. I
17 appreciate it.

18 We'll reconvene tomorrow morning at 10 a.m.

19 (Whereupon, the proceeding was adjourned at
20 6:25 p.m.)

21 * * * * *

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I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the within proceedings, and that this copy is a correct transcript of the same.

Emily R. Clark

Emily Clark, CP, CM
Registered Professional Reporter

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INVESTIGATION INTO CONDUCT OF JUSTICE LARSEN - - BACKGROUND

- **MAY 24, 1988**
JUSTICE LARSEN IS CHARGED BY THE JUDICIAL INQUIRY BOARD (“JIRB”) WITH VIOLATING ARTICLE V, SECTION 17(B) OF PENNSYLVANIA’S CONSTITUTION
- **JULY 17, 1991**
JIRB REPORTS FINDINGS TO THE PENNSYLVANIA SUPREME COURT
 - **JUSTICE LARSEN, ACTING WITHOUT IMPROPER MOTIVE, CREATED AN APPEARANCE OF IMPROPRIETY BY MEETING EX PARTE WITH JUDGE EUNICE ROSS IN MAY 1986 REGARDING A PENDING CASE**
 - **JIRB RECOMMENDED THAT JUSTICE LARSEN BE PUBLICLY REPRIMANDED**
- **OCTOBER 14, 1992**
BY 2-1 VOTE, PENNSYLVANIA SUPREME COURT DECIDES TO ADOPT JIRB’S RECOMMENDATION

- **NOVEMBER 24, 1992
AND DECEMBER 15, 1992**

JUSTICE LARSEN SEEKS RECONSIDERATION OF COURT'S DECISION AND FILES PETITIONS FOR RECUSAL OF JUSTICE ZAPPALA AND JUSTICE CAPPY, CHARGING CRIMINAL AND JUDICIAL MISCONDUCT

- **MARCH 1993**

NINTH STATEWIDE INVESTIGATING GRAND JURY BEGINS NINE-MONTH INQUIRY INTO JUSTICE LARSEN'S CHARGES

- **OCTOBER 1993**

GRAND JURY ISSUES PRESENTATION NO. 5 RECOMMENDING THAT CRIMINAL CHARGES BE BROUGHT AGAINST JUSTICE LARSEN

- **OCTOBER 29, 1993**

PENNSYLVANIA ATTORNEY GENERAL'S OFFICE BRINGS 27-COUNT CRIMINAL COMPLAINT AGAINST JUSTICE LARSEN ALLEGING CRIMINAL CONSPIRACY AND MULTIPLE VIOLATIONS OF THE CONTROLLED SUBSTANCES ACT 35 P.R. 780-113(a)(12), (14).

- **NOVEMBER 5, 1993**
 - GRAND JURY ISSUES REPORT NO. 1 FINDING:**
 - **FALSE SWEARING**
 - **JUSTICE LARSEN SYSTEMATICALLY MAINTAINED LIST OF PETITIONS FOR ALLOWANCE OF APPEAL TO BE AFFORDED SPECIAL HANDLING BY HIS STAFF**
 - **JUSTICE LARSEN REGULARLY OBTAINED PSYCHOTROPIC PRESCRIPTION DRUGS FOR HIS OWN USE BY CAUSING A PHYSICIAN TO ISSUE PRESCRIPTIONS FOR THE DRUGS IN THE NAMES OF MEMBERS OF JUSTICE LARSEN'S STAFF**

- **NOVEMBER 23, 1993**
 - HOUSE ADOPTS RESOLUTION NO. 205 AUTHORIZING INVESTIGATION INTO CONDUCT OF JUSTICE LARSEN TO DETERMINE WHETHER HE MAY BE LIABLE TO IMPEACHMENT.**

- **DECEMBER 3, 1993**
 - ORDER OF JUDGE THOMAS GATES GRANTING SUBCOMMITTEE ON COURTS' PETITION FOR DISCLOSURE OF GRAND JURY MATERIAL**

**DECEMBER, 1993 -
- APRIL, 1994**

**SUBCOMMITTEE ON COURTS CONDUCTS
FACTUAL INVESTIGATION OF JUSTICE
LARSEN'S CONDUCT AND LEGAL ANALYSIS OF
GROUND FOR IMPEACHMENT UNDER
PENNSYLVANIA'S CONSTITUTION**

• APRIL 9, 1994

**JUSTICE LARSEN IS FOUND GUILTY BY A JURY
ON TWO COUNTS OF CONSPIRACY AND
ACQUITTED ON REMAINING COUNTS**

• APRIL 11, 1994

**SUBCOMMITTEE ON COURTS' PRELIMINARY
REPORT IS RELEASED PUBLICLY**

• APRIL 14, 1994

**THROUGH COUNSEL, JUSTICE LARSEN
DECLINES INVITATION TO TESTIFY BEFORE
SUBCOMMITTEE ON COURTS**

• APRIL 20, 1994

**SUBCOMMITTEE HEARS ADDITIONAL
WITNESS TESTIMONY.**

• APRIL 21, 1994

**SPECIAL COUNSEL TO REPORT FINAL
FINDINGS AND RECOMMENDATIONS TO
SUBCOMMITTEE ON COURTS**

• APRIL 22, 1994

**SUBCOMMITTEE ON COURTS TO RECOMMEND
TO FULL JUDICIARY COMMITTEE WHETHER
IMPEACHMENT ACTION SHOULD BE TAKEN
AGAINST JUSTICE LARSEN**

ARTICLE VI, SECTION 6 OF PENNSYLVANIA'S CONSTITUTION

THE GOVERNOR AND ALL OTHER CIVIL OFFICERS SHALL BE LIABLE TO IMPEACHMENT FOR ANY MISBEHAVIOR IN OFFICE, BUT JUDGMENT IN SUCH CASES SHALL NOT EXTEND FURTHER THAN TO REMOVAL FROM OFFICE AND DISQUALIFICATION TO HOLD ANY OFFICE OF TRUST OR PROFIT UNDER THIS COMMONWEALTH. THE PERSON ACCUSED, WHETHER CONVICTED OR ACQUITTED, SHALL NEVERTHELESS BE LIABLE TO INDICTMENT, TRIAL , JUDGMENT AND PUNISHMENT ACCORDING TO LAW.

IMPEACHABLE MISCONDUCT BY A JUDICIAL OFFICER “MISBEHAVIOR IN OFFICE”

- **MISCONDUCT WHICH BRINGS THE COURTS INTO DISREPUTE, UNDERMINES PUBLIC CONFIDENCE IN THE INTEGRITY OR IMPARTIALITY OF THE COURT SYSTEM, OR BRINGS INTO SERIOUS QUESTION A JUSTICE’S FITNESS TO REMAIN IN OFFICE**
- **IMPEACHABLE MISCONDUCT MUST BE SERIOUS AND SUBSTANTIAL IN NATURE AND REASONABLY RELATED TO THE JUDGE OR JUSTICE**
- **IMPEACHABLE MISCONDUCT IS NOT LIMITED TO CRIMINAL OFFENSES**
- **AN INDIVIDUAL’S MISCONDUCT MAY BE CONSIDERED IN THE AGGREGATE IN DETERMINING HIS OR HER LIABILITY TO IMPEACHMENT**

IMPEACHABLE MISCONDUCT BY JUSTICE LARSEN

- AFFORDED SPECIAL HANDLING TO SELECTED PETITIONS FOR ALLOWANCE OF APPEAL TO FAVOR FRIENDS AND POLITICAL CONTRIBUTORS
- MADE RECKLESS, UNSUPPORTED ALLEGATIONS OF JUDICIAL AND CRIMINAL MISCONDUCT BY JUSTICE ZAPPALA AND JUSTICE CAPPY IN PETITIONS FOR RECUSAL
- MADE FALSE STATEMENTS UNDER OATH WHICH WERE INTENDED TO MISLEAD THE GRAND JURY REGARDING EX PARTE CONTACT WITH ATTORNEY ON PENDING ALLOCATUR PETITIONS
- PROVIDED INFORMATION REGARDING PENDING CASE IN EX PARTE MEETING WITH JUSTICE EUNICE ROSS CREATING APPEARANCE OF IMPROPRIETY
- USED OFFICE STAFF AND PERSONAL PHYSICIAN IN ARRANGEMENT TO OBTAIN PRESCRIPTION DRUGS BY FRAUDULENT MEANS

SCOPE AND NATURE OF EVIDENTIARY MATERIALS

- **GRAND JURY TRANSCRIPTS AND EXHIBITS**
- **INVESTIGATIVE INTERVIEW REPORTS**
- **SESSIONS WITH GRAND JURY INVESTIGATORS**
- **JIRB RECORD AND EXHIBITS**
- **CRIMINAL TRIAL RECORD**
- **ADDITIONAL WITNESS INTERVIEWS, DOCUMENT REQUESTS AND INVESTIGATION REGARDING CERTAIN KEY ISSUES**

AFFORDED SPECIAL HANDLING TO SELECTED PETITIONS FOR ALLOWANCE OF APPEAL BASED ON ATTORNEY INVOLVED

- **OVER 10-YEAR PERIOD, JUSTICE LARSEN REQUESTED HIS OFFICE STAFF TO TRACK CERTAIN PETITIONS FOR ALLOWANCE OF APPEAL FOR SPECIAL HANDLING, BASED ON ATTORNEY INVOLVED, NOT ISSUES PRESENTED.**
- **CASES WERE PLACED ON A SPECIAL LIST.**
- **THE ATTORNEYS INVOLVED WERE FRIENDS AND POLITICAL CONTRIBUTORS OF JUSTICE LARSEN.**
- **JUSTICE LARSEN AFFORDED SPECIAL HANDLING TO THE SPECIAL LIST CASES.**

JUSTICE LARSEN ABUSED HIS JUDICIAL DISCRETION, ACTED ON ACCOUNT OF PRIVATE INTERESTS AND FAILED TO ACT IN A FAIR AND IMPARTIAL MANNER WITH RESPECT TO APPEALS BEFORE THE SUPREME COURT.

SPECIAL ALLOCATUR LIST

Summary of Evidence that Justice Larsen Had His Staff Track Selected Allocatur Petitions Through the Allocatur Process; These Petitions Got Special Attention from Justice Larsen.

Barbara Roberts (Secretary)

Justice Larsen gave her small slips of paper or coversheets bearing allocatur docket numbers which were put on a list kept by Roberts, then by Uhler as list grew longer. Roberts was supposed to destroy the slips of paper. Justice Larsen demanded to see any incoming papers regarding listed cases immediately.

Janice Uhler (Secretary)

Uhler typed up the list. It included case name or number, and assigned justice. She was to alert Justice Larsen when a listed petition was filed, and to whom it was assigned. Vera Freshwater tracked cases after 1989, as Uhler was phased out. Cases on the list were X'ed out after grant/denial. Justice Larsen told her to "throw away" the list in 1989 or so.

Mickey Lydon (Law Clerk)

Saw the list in about 1986, learned that Justice Larsen was to be alerted as to activity on any listed case, confronted Justice Larsen.

Dale Walker (Law Clerk)

Uhler kept list of cases where Justice Larsen "wanted allocatur granted."

Justice Larsen

Admitted to grand jury instructing secretaries to track activity on certain cases, for innocent purposes. Gave them names of particular attorneys and told them to look out for their cases. Gave cases names if interesting issues were reported in newspapers. Never gave allocatur docket numbers to secretaries and asked them to alert him when the case arrived in the office. No knowledge of Uhler list.

Jamie Lenzi (Law Clerk)

No knowledge of practice of keeping special list of allocatur petitions for any purpose.

(Continuation of Exhibit)

Summary of Evidence that Justice Larsen Had His Staff Track Selected Allocatur Petitions Through the Allocatur Process; These Petitions Got Special Attention from Justice Larsen.

Vera Freshwater (Secretary)

Justice Larsen asked her to keep track of certain allocatur petitions. (He'd identify one or more a month.) She would pay special attention to whether there were enough votes for a grant. No knowledge of any special list or yellow post-its. Rather, she kept the petitions to be tracked on her desk.

Debbie Shatten (Law Clerk)

Acknowledges existence of list of allocatur docket numbers, not "absolutely sure" what purpose was.

Leonard Mendelson (Attorney)

May have alerted Justice Larsen to his cases coming up to Supreme Court so Justice Larsen could recuse. May have sent docket numbers.

Andrew Schiffino (Law Clerk)

No knowledge of list.

SPECIAL ALLOCATUR LIST

Summary of Evidence that Justice Larsen's Purpose in Having Selected Cases Tracked was to Give Special Attention to Cases Because of the Attorneys Involved

- **The Buttermore and Driscoll cases**
- **Relationship with attorney involved in each of 14 cases.**
- **Took affirmative steps to advance position advocated by these attorneys.**
- **Testimony of Barbara Roberts; Mickey Lydon; Dale Walker; Vera Freshwater**
- **Justice Larsen's requests to keep list hidden; to destroy the list.**
- **Justice Larsen's asserted reasons for tracking selected allocatur cases are not credible.**

**JUSTICE LARSEN'S RELATIONSHIP WITH
LEONARD MENDELSON AND S. MICHAEL STREIB**

DATE	NATURE OF RELATIONSHIP
1977	Mendelson acts as Justice Larsen's campaign treasurer; contributes \$1,500 and loans \$2,500 to the campaign.
1978-1981	Streib is law clerk for Justice Larsen.
Aug. 20, 1980 - June 30, 1981	Streib represents Justice Larsen in lawsuit against Parker Hunter, Inc., a stock brokerage firm. At binding arbitration hearing, panel including Mendelson awards \$56,538 to Justice Larsen.
Sept. 29, 1980 - Sept. 18, 1981	Streib represents Justice Larsen in lawsuit against Marshall Waddell, et al., obtaining \$35,000 settlement.
1981-present	Streib maintains legal office in Mendelson suite in 230 Grant Building; frequently assists Mendelson firm on cases handled by Mendelson firm; frequently is referred cases by Mendelson firm.
Nov. 1983 - Aug. 11, 1986	Mendelson represents Justice Larsen in Highpointe zoning dispute. No fees were paid.
Aug. 11, 1986	Mendelson withdraws his appearance and his niece, Carol Rosenbloom, a personal injury attorney with no real estate experience, enters appearance for Justice Larsen in Highpointe matter. No fees were paid.
1984	According to Judge Emil Narick, Justice Larsen seeks to influence Judge Narick regarding assignment of tax appeal cases in which Mendelson represents parties.
Sept. 9, 1985 - Jan. 31, 1986	Mendelson's daughter, Anne, is secretarial assistant to Justice Larsen.

**JUSTICE LARSEN'S RELATIONSHIP WITH
LEONARD MENDELSON AND S. MICHAEL STREIB**

DATE	NATURE OF RELATIONSHIP
Nov. 1985 - Jan. 1986	David Nixon of Mendelson firm represents Justice Larsen in connection with purchase of Lakewood Manor Associates, a limited partnership owning a 40-unit apartment building in Mercer County and an 11-unit apartment building in Altoona. Justice Larsen requests Nixon's bill to be sent on personal stationery, even though Mendelson firm ultimately receives \$500 fee.
Feb. 1984 - Aug. 1986	Mendelson represents Justice Larsen in tax assessment appeal relating to his condominium on Grandview Avenue. No fees were paid.
Aug. 1986-1990	Mendelson withdraws his appearance and Carol Rosenbloom picks up representation of Justice Larsen on condominium tax assessment matter. She was paid a \$100 retainer, but it was returned to Justice Larsen.
1990 - present	Michael Streib continues representation of Justice Larsen on condominium tax assessment appeal. He handled a 1990 conciliation and was paid nothing -- Justice Larsen took him out to dinner instead.
Dec. 12, 1985 - Mar. 7, 1988	Streib represents Justice Larsen as intervenor in zoning litigation relating to an application for a variance by Ralph St. Clair.
Oct. 20, 1987	Streib makes \$7,750 campaign contribution to Justice Larsen for 1987 retention election.
Sept. 13, 1988	Mendelson testifies for Justice Larsen before JIRB.
Apr. 21, 1989	Mendelson again testifies for Justice Larsen before JIRB.
Oct. 14, 1991 - Nov. 30, 1993	Anne Mendelson is employed as "research consultant" to Justice Larsen.

**JUSTICE LARSEN'S RELATIONSHIP WITH
LEONARD MENDELSON AND S. MICHAEL STREIB**

DATE	NATURE OF RELATIONSHIP
Nov. 15, 1991 - July 29, 1992	Mendelson represents Justice Larsen in potential libel action against Rivers Club. The matter is settled.

Special List Cases

<i>Case Name</i>	<i>Attorney</i>	<i>Attorney for</i>	<i>Docket Number, Petition Date</i>	<i>Recommendation of Assigned Justice</i>	<i>Larsen's Action on Petition</i>	<i>Disposition of Petition</i>	<i>Date</i>	<i>Argument Date</i>	<i>Disposition of Appeal</i>	<i>Date</i>	<i>Justice Larsen's Action on Merits</i>
Pittsburgh North	Mendelson	appellant	W.D. No. 202 4/3/85	Papadakos - D	Counter-report - G	granted	10/22/85	9/15/86	affirmed denial of delay compensation to appellant	4/6/87	Larsen did not participate after recommending grant
Franklin Interiors v. Wall of Fame Management	Glasser (Mendelson's firm)	appellant	W.D. No. 203 4/4/85	Larsen - G	--	granted	8/20/85	3/6/86	reversed in favor of appellants	6/23/86	Larsen joined court's opinion favoring Mendelson firm's position
Jo Vi Jo	Mendelson & Streib	appellant/plaintiff	W.D. No. 534 8/16/85	Hutchinson - PC Reversal. On reconsideration: Hutchinson - D	Joined in PC Reversal. On reconsideration - D	PC Reversal. On reconsideration, G, contrary to Mendelson's position.	1/28/86 1/6/87	 3/10/87	 No summary judgment for plaintiff; remanded for trial	 7/28/88	 Larsen joined in per curiam opinion against Mendelson's position
Tiffany Gall	Mendelson	appellants	W.D. No. 388 7/11/86	McDermott - D	Counter-report - G	granted	10/15/87	9/26/88	reversed in favor of appellants	3/3/89	Larsen joined in per curiam decision favoring Mendelson's position
Estate of Charles Hall	Mendelson	appellants	W.D. No. 400 7/21/86	Larsen - G	--	granted	12/15/86	9/22/87	reversed in part, denying appellees' claim for management fees	12/23/87	Larsen joined in per curiam opinion

Special List Cases

<i>Case Name</i>	<i>Attorney</i>	<i>Attorney for</i>	<i>Docket Number, Petition Date</i>	<i>Recommendation of Assigned Justice</i>	<i>Larsen's Action on Petition</i>	<i>Disposition of Petition</i>	<i>Date</i>	<i>Argument Date</i>	<i>Disposition of Appeal</i>	<i>Date</i>	<i>Justice Larsen's Action on Merits</i>
Earl Miller	Mendelson	appellants	W.D. No. 170 3/20/87	Hutchinson - G	Investigation continuing	granted	9/23/87	9/26/88	reversed in favor of appellants	3/3/89	Larsen joined in per curiam decision favoring Mendelson's position
Zullo	Mendelson	appellant	W.D. No. 62 1/29/88	Nix - D	Counter-report - G	granted	8/9/88	3/6/89	affirmed	6/5/89	Larsen recused himself after recommending grant
Lowy	Streib	appellant	W.D. No. 126 3/6/85	Flaherty - D	Counter-report - G	granted	8/23/85	3/7/86	appeal dismissed per curiam as "improvidently granted"	6/10/88	Larsen dissented, consistent with Streib's position
Buttermore	Gilardi	appellee	W.D. No. 579 12/10/87	Larsen - D	--	granted	6/28/88	3/8/89	reversed in part against appellee: release barred husband-plaintiff's claim	7/6/89	Larsen dissented, consistent with Gilardi's position
Driscoll	Gilardi	appellant	W.D. No. 79 2/8/88	McDermott - G	Voted G	granted	11/2/88	9/25/89	affirmed and remanded	8/24/90	Larsen joined in per curiam opinion against Gilardi's position
Levin	Daniels was party	appellant cross-appellee	E.D. No. 344 7/25/83 E.D. No. 381	Zappala - G	Did not participate in either petition.	granted cross-appeal granted	11/16/83 11/16/83	4/12/84 4/12/84	appellant's defense of lack of personal jurisdiction waived, required to certify accounts	9/4/84 9/4/84	Larsen did not participate

Special List Cases

<i>Case Name</i>	<i>Attorney</i>	<i>Attorney for</i>	<i>Docket Number; Petition Date</i>	<i>Recommendation of Assigned Justice</i>	<i>Larsen's Action on Petition</i>	<i>Disposition of Petition</i>	<i>Date</i>	<i>Argument Date</i>	<i>Disposition of Appeal</i>	<i>Date</i>	<i>Justice' Larsen's Action on Merits</i>
Reilly v. SEPTA	Daniels; Sprague on appeal	appellant	E.D. No. 404 6/84	Larsen - G	--	granted	10/1/84	10/30/84	reversed in favor of appellant - saved Daniels \$7 million verdict	11/8/84	Larsen joined in decision favoring Daniels
District Council 33	Daniels	appellants	E.D. No. 647 7/18/86	Larsen - G	--	granted	3/3/87	11/10/87	reversed and remanded in favor of appellants	2/26/88	Larsen joined in per curiam decision favoring Daniel's position
	Daniels	cross-appellees	E.D. No. 730	Larsen - D	--	cross-appeal denied	3/3/87				
Spencer v. SEPTA	Daniels	appellant	E.D. Misc. No. 152 (plenary) 11/17/88	Investigation continuing	Investigation continuing	granted	1/13/89	4/11/89	per curiam affirmance	10/31/90	Larsen dissented -- consistent with Daniels' position

SPECIAL ALLOCATUR LIST

JUSTICE LARSEN'S ASSERTED REASONS FOR TRACKING SELECTED ALLOCATUR PETITIONS

- **For recusal purposes**
- **To monitor alleged bias by Justice Flaherty against Leonard Mendelson and William Meehan**

SERS-11

SPECIAL ALLOCATUR LIST

RECUSAL PATTERN -- MENDELSON CASES IN SUPREME COURT

- **Participated in 22 cases; Recused in one case (after special list issue was raised in grand jury)**
- **In 6 cases, participated in allocatur process and recused on merits, after appeal was granted. (Wrote report or counter-report in 4 of these cases.)**
- **In Ralph Myers, recommended grant on petition pending when Mendelson was arbitrator in Justice Larsen's suit against stock brokers.**
- **Recommended grants in Pittsburgh North and Franklin Interiors, at time when Mendelson was Justice Larsen's unpaid attorney of record in Highpointe zoning cases, and condominium tax assessment appeal.**
- **Participated in Jo Vi Jo, Beil, Duquesne Club, Gall, Estate of Charles Hall, Reno, BAC. All were filed or pending at time when Mendelson was representing Justice Larsen in his personal legal matters.**
- **Mendelson testified that Justice Larsen recommended he transfer Highpointe and tax assessment cases to another attorney so that Justice Larsen could participate in Mendelson cases in Supreme Court.**
- **In each of the 22 cases in which Mendelson or his firm represented a party in the Supreme Court, allocatur was granted or denied in accordance with the position they advocated.**

Mendelson Cases Appealed to Supreme Court After 1976

Case Name	Attorney / Attorney for	Petition Date/ Docket Number	Disposition of Petition	Justice Larsen's Actions on Petition	Justice Larsen's Actions on Merits
Truck Terminal Realty Co. v. PennDot	Mendelson/ appellants	6/19/78 Allocatur WD No. 1638	Granted	Participated per docket	Did not participate -- Justice Larsen's decision favoring Mendelson as trial court judge had been reversed
Ralph Myers Contracting Corp. v. PennDot	Mendelson/ appellant	1/9/81 WD Misc. No. 6	Granted	Report - G	Joined decision in favor of Mendelson's position
Hazelwood Lumber Company v. Smallhoover	Mendelson/ appellant	12/4/81 WD Misc. No. 373	Granted	Participated per docket	Did not participate
Appeals of Chartiers Valley School Dist. from Assessment of Property of Conn. General Life Ins. Co., et al.	Mendelson/ appellants	7/22/82 Allocatur WD No. 179	Granted	Report - G	Did not participate
Pittsburgh North, Inc. v. PennDot	Mendelson/ appellant	4/3/85 Allocatur WD No. 202	Granted	Counter Report: G	Did not participate
Franklin Interiors v. Wall of Fame Management	Glaser (Mendelson's firm)/ appellant	4/4/85 Allocatur WD No. 203	Granted	Report: G	Joined court's opinion reversing in favor of Mendelson's position
Beil (Bell) v. Orbital Eng'g	Mendelson/ appellee	5/30/85 Allocatur WD No. 344	Denied	Participated per docket	-- --

Mendelson Cases Appealed to Supreme Court After 1976

Case Name	Attorney / Attorney for	Petition Date/ Docket Number	Disposition of Petition	Justice Larsen's Actions on Petition	Justice Larsen's Actions on Merits
Jo Vi Jo	Mendelson; Streib/ appellant	8/16/85 Allocatur WD No. 534	PC reversal	Joined in PC reversal	Joined per curiam decision against Mendelson's position
Appeal of Duquesne Club	Mendelson/ appellee	10/15/85 Allocatur WD No. 673	Denied	Participated per docket	-- --
Tiffany Gall	Mendelson/ appellant	7/11/86 Allocatur WD No. 388	Granted	Counter Report: G	Joined per curiam decision favoring Mendelson's position
Estate of Charles Hall	Mendelson/ appellants	7/21/86 Allocatur WD No. 400	Granted	Report: G	Joined per curiam Decision
Deer Creek Drainage Basin Authority v. Pacoma, Inc.	Mendelson/ appellee	9/4/86 Allocatur WD No. 481	Denied	Participated per docket	-- --
Earl Miller	Mendelson/ appellants	3/20/87 Allocatur WD No. 170	Granted	Participated per docket	Joined per curiam decision favoring Mendelson's position
Appeal of Municipality of Penn Hills and Penn Hills School District	Mendelson/ appellant	4/20/87 Allocatur WD No. 177	Granted	Participated per docket	Participated in decision against Mendelson's position

Mendelson Cases Appealed to Supreme Court After 1976

Case Name	Attorney / Attorney for	Petition Date/ Docket Number	Disposition of Petition	Justice Larsen's Actions on Petition	Justice Larsen's Actions on Merits
Connecticut General Life Ins. Co., et al. v. Chartiers Valley School Dist.	Mendelson/ appellant	1/20/88 Allocatur WD No. 37 & WD No. 39	Granted	Participated per docket	Did not participate
Zullo	Mendelson/ appellant	1/29/88 Allocatur WD No. 62	Granted	Counter Report: G	Did not participate
Shadyside Action Coalition v. Zoning Bd. of Adjustment of City of Pittsburgh	Mendelson/ appellee	5/25/88 Allocatur WD No. 286	Denied	Participated per docket	-- --
Appeal of City of Pittsburgh (a/k/a Appeal of Damian)	Mendelson/ appellee	6/1/88 Allocatur WD No. 301	Denied	Participated per docket	-- --
Township of Kennedy	Mendelson/ appellee	11/9/88 Allocatur WD No. 598	Denied	Participated per docket	-- --
BAC v. Millcreek Twp.	Delle Donne (Mendelson's firm)/appellant	3/8/91 Allocatur WD No. 127	Granted	Voted G	Did not participate due to suspension
Reno	Mendelson/ appellant	5/17/91 Allocatur WD No. 219	Granted	Report - G	Did not participate
Township of Kennedy	Geraghty (Mendelson's firm)/ appellee	8/10/92 Allocatur WD No. 101	Denied	Participated per docket	-- --
Allegheny West Civic Council	Mendelson/ appellee	8/16/93 Allocatur WD Nos. 463, 464, 465, 466	Pending	Did not participate	-- --

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROLF LARSEN,)	
)	
Plaintiff,)	
)	
v.)	Case No. GD 80-17428
)	
PARKER/HUNTER INCORPORATED,)	
and JOHN C. DALSON,)	
)	
Defendants)	

AWARD OF ARBITRATORS

The undersigned arbitrators hereby award damages in favor of Plaintiff and against Defendants in the sum of Fifty-six Thousand Five Hundred Thirty-eight (\$56,538.00) Dollars. Mr. Hardie dissents on the ground that there is no implied private right of action under §7 of the Securities Exchange Act of 1934 in this case. The sum of \$2,700.00 is to be paid by the Defendants to each of the arbitrators as arbitrators' fees herein.

DATED: June 26, 1981



 Howard A. Specter



 Leonard M. Mendelson



 James H. Hardie

Hollinshead and Mendelson

Attorneys at Law

230 Grant Building

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Telephone (412) 355-7070

E. D. Hollinshead, Jr.
Leonard M. Mendelson
William R. Grove, Jr.
David L. Nixon
Jay D. Glasser
Richard S. Ehmman
Andrea O. Griffith
Andrew Raynovich

August 11, 1986

Richard W. Gladstone, II, Esq.
ECKERT, SEAMANS, CHERIN & MELLOTT
42nd Floor, 600 Grant Street
Pittsburgh, PA 15219

Re: Rolf Larsen vs. Zoning Board of
Adjustment of the City of Pittsburgh, et al.
No. S.A. 387 of 1984

Dear Mr. Gladstone:

Enclosed please find a copy of the Praecipe to Withdraw Appearance which has been filed in the above-captioned matter on behalf of Rolf Larsen. I am withdrawing my appearance because Carol Rosenbloom's appearance has been entered on Mr. Larsen's behalf.

Very truly yours,



Leonard M. Mendelson

/mfg

Enclosure

cc: Joel P. Aaronson, Esq.
Dante P. Pellegrini, Esq.
Nicholas P. Cafardi, Esq.
Ira Weiss, Esq.
William Fahey, Esq.
John J. Zagari, Esq.
Carol S. Rosenbloom, Esq.
(all w/enc.)

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION

IN RE:)	
)	
APPEAL OF ROLF LARSEN FROM THE ACTION)	
OF THE BOARD OF PROPERTY ASSESSMENT,)	
APPEALS AND REVIEW OF ALLEGHENY COUNTY,)	CASE NO. GD84-13925
PENNSYLVANIA, OF PROPERTY SITUATE IN)	
THE 19TH WARD OF THE CITY OF PITTSBURGH)	

PRAECIPE TO WITHDRAW APPEARANCE

TO: JOHN P. JOYCE, PROTHONOTARY

Please withdraw my appearance as counsel for Rolf Larsen in the above-captioned case, an appearance on his behalf having been entered by other counsel.

Date: August 11, 1986


 LEONARD M. MENDELSON, ESQ.

SPECIAL ALLOCATUR LIST

JUSTICE LARSEN'S EXPLANATION THAT HE TRACKED CASES BECAUSE OF JUSTICE FLAHERTY'S ALLEGED BIAS AGAINST ATTORNEYS MENDELSON AND MEEHAN

- **No pattern of adverse votes by Flaherty in such cases as of 1983, or**
- **Illogical -- no reason to track allocatur docket actions to monitor adverse action on merits (appeal docket).**
- **Grand jury testimony or interviews of Mendelson, Meehan, Justice Flaherty, Justice Papadakos.**

Mendelson Cases Appealed to Supreme Court After 1976

Case Name	Attorney / Attorney for	Petition Date/ Docket Number	Disposition of Petition	Justice Larsen's Actions on Petition	Justice Larsen's Actions on Merits	Justice Flaherty's Actions on Merits
Truck Terminal Realty Co. v. PennDot	Mendelson/ appellants	6/19/78 Allocatur WD No. 1638	Granted	Participated per docket	Did not participate -- Justice Larsen's decision favoring Mendelson as trial court judge had been reversed	Not part of the court
Ralph Myers Contracting Corp. v. PennDot	Mendelson/ appellant	1/9/81 WD Misc. No. 6	Granted	Report - G	Joined decision in favor of Mendelson's position	Joined decision in favor of Mendelson's position
Hazelwood Lumber Company v. Smallhoover	Mendelson/ appellant	12/4/81 WD Misc. No. 373	Granted	Participated per docket	Did not participate	Joined decision in favor of Mendelson's position
Appeals of Chartiers Valley School Dist. from Assessment of Property of Conn. General Life Ins. Co., et al.	Mendelson/ appellants	7/22/82 Allocatur WD No. 179	Granted	Report - G	Did not participate	Joined per curiam decision dismissing appeal as improvidently granted
Pittsburgh North, Inc. v. PennDot	Mendelson/ appellant	4/3/85 Allocatur WD No. 202	Granted	Counter Report: G	Did not participate	Participated in decision against Mendelson's position
Franklin Interiors v. Wall of Fame Management	Glasser (Mendelson's firm)/ appellant	4/4/85 Allocatur WD No. 203	Granted	Report: G	Joined court's opinion reversing in favor of Mendelson's position	Joined court's opinion reversing in favor of Mendelson's position
Beil (Bell) v. Orbital Eng'g	Mendelson/ appellee	5/30/85 Allocatur WD No. 344	Denied	Participated per docket	-- --	-- --

Mendelson Cases Appealed to Supreme Court After 1976

Case Name	Attorney / Attorney for	Petition Date/ Docket Number	Disposition of Petition	Justice Larsen's Actions on Petition	Justice Larsen's Actions on Merits	Justice Flaherty's Actions on Merits
Jo Vi Jo	Mendelson; Streib/ appellant	8/16/85 Allocatur WD No. 534	PC reversal	Joined in PC reversal	Joined per curiam decision against Mendelson's position	Joined per curiam decision against Mendelson's position
Appeal of Duquesne Club	Mendelson/ appellee	10/15/85 Allocatur WD No. 673	Denied	Participated per docket	-- --	-- --
Tiffany Gall	Mendelson/ appellant	7/11/86 Allocatur WD No. 388	Granted	Counter Report: G	Joined per curiam decision favoring Mendelson's position	Joined per curiam decision favoring Mendelson's position
Estate of Charles Hall	Mendelson/ appellants	7/21/86 Allocatur WD No. 400	Granted	Report: G	Joined per curiam Decision	Joined per curiam Decision
Deer Creek Drainage Basin Authority v. Pacoma, Inc.	Mendelson/ appellee	9/4/86 Allocatur WD No. 481	Denied	Participated per docket	-- --	-- --
Earl Miller	Mendelson/ appellants	3/20/87 Allocatur WD No. 170	Granted	Participated per docket	Joined per curiam decision favoring Mendelson's position	Joined per curiam decision favoring Mendelson's position
Appeal of Municipality of Penn Hills and Penn Hills School District	Mendelson/ appellant	4/20/87 Allocatur WD No. 177	Granted	Participated per docket	Participated in decision against Mendelson's position	Participated in decision against Mendelson's position

Mendelson Cases Appealed to Supreme Court After 1976

Case Name	Attorney / Attorney for	Petition Date/ Docket Number	Disposition of Petition	Justice Larsen's Actions on Petition	Justice Larsen's Actions on Merits	Justice Flaherty's Actions on Merits
Connecticut General Life Ins. Co., et al. v. Chartiers Valley School Dist.	Mendelson/ appellant	1/20/88 Allocatur WD No. 37 & WD No. 39	Granted	Participated per docket	Did not participate	Participated in per curiam decision affirming lower court decision
Zullo	Mendelson/ appellant	1/29/88 Allocatur WD No. 62	Granted	Counter Report: G	Did not participate	Joined decision against Mendelson's position
Shadyside Action Coalition v. Zoning Bd. of Adjustment of City of Pittsburgh	Mendelson/ appellee	5/25/88 Allocatur WD No. 286	Denied	Participated per docket	-- --	-- --
Appeal of City of Pittsburgh (a/k/a Appeal of Damian)	Mendelson/ appellee	6/1/88 Allocatur WD No. 301	Denied	Participated per docket	-- --	-- --
Township of Kennedy	Mendelson/ appellee	11/9/88 Allocatur WD No. 598	Denied	Participated per docket	---	---
BAC v. Millcreek Twp.	Delle Donne (Mendelson's firm)/appellant	3/8/91 Allocatur WD No. 127	Granted	Voted G	Did not participate due to suspension	Joined decision against Mendelson's position
Reno	Mendelson/ appellant	5/17/91 Allocatur WD No. 219	Granted	Report - G	Did not participate	Joined per curiam decision dismissing appeal as having been improvidently granted
Township of Kennedy	Geraghty (Mendelson's firm)/ appellee	8/10/92 Allocatur WD No. 101	Denied	Participated per docket	---	---
Allegheny West Civic Council	Mendelson/ appellee	8/16/93 Allocatur WD Nos. 463, 464, 465, 466	Pending	Did not participate	---	---

Meehan Cases Appealed to Supreme Court After 1976

Case Name	Attorney / Attorney for	Petition Date/ Docket Number	Disposition of Petition	Larsen's Actions on Petition	Larsen's Actions on Merits	Flaherty's Actions on Merits
In re Reapportionment Plan for Pennsylvania General Assembly	Meehan/ appellant	10/26/81 ED Misc. No. 558	N/A (appeal as of right)	N/A	Dissented consistent with Meehan's position. Also noted he would grant reargument	Voted with majority affirming plan
In re Pinckney	Meehan/ appellee	3/8/87 Allocatur ED No. 369	Denied	Participated as per docket	-- --	-- --
City of Hazleton v. City Council of City of Hazleton	Meehan/ appellant	10/12/90 Allocatur ED No. 903	Granted	Participated as per docket	Voted with majority to affirm contrary to Meehan's position	Dissented -- would have reversed in favor of Meehan's position

* These cases were found on a WestLaw search and may not include all cases appealed to Supreme Court by Meehan

SERS-16

EX PARTE CONTACT WITH ATTORNEY ON PENDING ALLOCATUR PETITIONS

- **IN EARLY 1988, JUSTICE LARSEN ENCOURAGED AND ENGAGED IN IMPROPER EX PARTE CONTACT BY RICHARD GILARDI AT A TIME WHEN HE HAD TWO CASES INVOLVING PETITIONS FOR ALLOWANCE OF APPEAL PENDING BEFORE SUPREME COURT.**
- **GILARDI REQUESTED JUSTICE LARSEN TO PERSONALLY REVIEW PENDING PETITIONS, CONTRARY TO JUSTICE LARSEN'S ORDINARY PRACTICE.**
- **THE CASES BUTTERMORE AND DRISCOLL WERE PLACED ON SPECIAL LIST.**
- **JUSTICE LARSEN TOOK ACTION FAVORABLE TO GILARDI'S TWO PETITIONS FOR ALLOWANCE OF APPEAL.**

JUSTICE LARSEN FAILED TO ACT IN A FAIR AND IMPARTIAL MANNER WITH RESPECT TO ALL LITIGANTS SEEKING TO HAVE APPEALS HEARD BEFORE THE SUPREME COURT OF PENNSYLVANIA

yes

SUPREME COURT OF PENNSYLVANIA

WESTERN DISTRICT

CECELIA DRISCOLL and)

WILLIAM DAILEY,)

RESPONDENTS)

vs.)

CARPENTERS DISTRICT COUNCIL)
OF WESTERN PENNSYLVANIA and)
UNITED BROTHERHOOD OF)
CARPENTERS)

PETITIONERS)

NO.
ALLOCATUR DOCKET 1988

PETITION FOR ALLOWANCE OF APPEAL

Petition for Allowance of Appeal From the Judgment and Order of the Superior Court of Pennsylvania, No. 1673 Pittsburgh, 1986, dated January 11, 1988, which Reversed the Judgment and Order of the Court of Common Pleas of Allegheny County, Pennsylvania, at No. GD 85-10911, dated October 28, 1986.

Richard D. Gilardi, Esq
Ronald L. Gilardi, Esq.

GILARDI & COOPER

808 Grant Building
Pittsburgh, PA 15219
(412) 391-9779
Attorneys for Petitioners



Handwritten signature and date: 5/16/88 (93)

IN THE
SUPREME COURT OF PENNSYLVANIA
Western District

No

No. 579 W.D. Allocatur Docket 1987

JAMES J. BUTTERMORE and
ANN BUTTERMORE, his wife,

vs.

ALIQUIPPA HOSPITAL; MICHAEL ZERNICH, M.D.;
BEAVER COUNTY SPORTS MEDICINE, INC.;
DONALD KERR, R.P.T.; MICHAEL ZERNICH, M.D.
and DONALD KERR, R.P.T., t/d/b/a PHYSIOTHERAPY
and SPORTS MEDICINE CLINIC; RODNEY ALTMAN, M.D.
and WILLIAM DUMEYER, M.D.,

vs.

FRANCES E. MOSER,

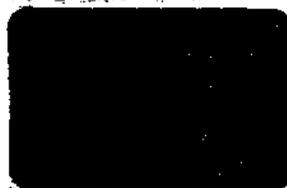
Petition of Michael Zernich, M.D., Donald Kerr, R.P.T.
and William Dumeyer, M.D.

PETITION FOR ALLOWANCE OF APPEAL

Petition for Allowance of Appeal from the Order of
November 10, 1987, of the Superior Court of Pennsylvania
Affirming the Order of March 27, 1986 of the Court of
Common Pleas of Beaver County, Pennsylvania, Civil
Division, at No. 1597 of 1983, in Trespass

John W. Jordan IV, Esquire
Pa. I.D. #17308
Grigsby, Gaca & Davies, P.C.
Attorneys for Petitioners
Michael Zernich, M.D.,
Donald Kerr, R.P.T. and
William Dumeyer, M.D.

One Gateway Center
Tenth Floor
Pittsburgh, PA 15222
(412) 281-0737



[Handwritten signature]
5/12/93

**FALSE STATEMENTS UNDER OATH INTENDED
TO MISLEAD GRAND JURY REGARDING EX
PARTE CONTACT WITH ATTORNEY ON
PENDING ALLOCATUR PETITIONS**

- **JUSTICE LARSEN, WHILE UNDER OATH TO TELL THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, DID KNOWINGLY AND CONTRARY TO THAT OATH MAKE FALSE STATEMENTS WHICH WERE INTENDED TO MISLEAD THE GRAND JURY**
- **JUSTICE LARSEN FALSELY STATED THAT HE NEVER DISCUSSED WITH RICHARD GILARDI, ESQUIRE, TWO PENDING PETITIONS FOR ALLOWANCE OF APPEAL IN WHICH GILARDI REPRESENTED A PARTY**
- **JUSTICE LARSEN FALSELY STATED THAT GILARDI NEVER DELIVERED TO HIS CHAMBERS THE COVER SHEETS FROM THE BUTTERMORE AND DRISCOLL PETITIONS FOR ALLOWANCE OF APPEAL**

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Q Has any attorney ever provided an allocatur docket number to you after papers were received in your office and alerted you to the fact that a particular case had been filed?

A Other than in the pleadings that are filed?

Q Other than in the pleadings.

A No.

Q Are you clear in that recollection?

A Yes.

Q In or about early 1988 do you recall that petitions for allowance of appeal were filed in two cases in which Mr. Gilardi represented a party, the cases being the Driscoll case and the Buttermore case?

A Well, I don't recall of my own recollection, but I have the file here.

Q Did Mr. Gilardi alert you in any fashion to the fact that these cases were being filed?

A No.

Q Did he alert you in any fashion to the fact that these cases had been filed?

1 A No.

2 Q Did you have any discussions with Mr.
3 Gilardi relating to these cases and the consideration
4 of these cases by the Pennsylvania Supreme Court?

5 A No.

6 Q Do you recall meeting with Mr. Gilardi in
7 your chambers in early 1988 and Mr. Gilardi telling
8 you that he had two interesting matters that were
9 before the court awaiting a decision on allocatur?

10 A No, I don't.

11 Q If such a conversation had occurred,
12 would you remember it?

13 A Yes.

14 Q In or about early 1988 do you recall Mr.
15 Gilardi asking you to personally read the allocatur
16 petitions in two matters that were before the court?

17 A No. He asked me one time to read a -- I
18 think it was a brief or an allocatur petition, or
19 something, or an opinion of an allocatur that had
20 been denied and he thought that it hadn't -- he
21 hadn't been treated correctly. In other words, he
22 thought that it should have been granted. And as an
23 academic matter, I read the matter over.

24 Q Do you remember the name of that case?

25 A No.

1 Q Was it Buttermore?

2 A No, no, Buttermore was granted.

3 Q Was it Driscoll?

4 A No, Driscoll was granted. It was a case
5 that was not granted.

6 Q Was that a case in which Mr. Gilardi was
7 the counsel?

8 A Yes.

9 Q And what was the issue in that case, if
10 you recall?

11 A I think it was a causation in workman's
12 compensation and he represented the employer and he
13 felt -- and he was wondering why it wasn't granted,
14 and I said I don't know. And it was -- the time was
15 over. I mean, there was no -- he couldn't file for
16 reconsideration, the time had passed. And he says,
17 would you look it over? And I said, yes. So he gave
18 me the papers and I looked it over and I told him
19 why.

20 Q And why was that?

21 A Well, because he had no basis in law.
22 There was -- his contention -- the lower court was
23 right, his contention was wrong.

24 Q If an attorney asked you to personally
25 review an allocatur petition at the time that it was

1 filed, that would have been asking you to treat the
2 case in other than the ordinary manner; isn't that
3 correct?

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10 Q Has that been your consistent practice?

11 A To what?

12 Q To refrain from handling cases in a
13 special manner?

14 A If you mean special manner in that a case
15 assumes a very interesting light, then I might put
16 more time in it, that gets special manner. If you're
17 saying I handled a case in a special manner to favor
18 somebody or to hurt somebody, that's incorrect.

19 Q No, I'm saying in response to a request
20 from an attorney.

21 A I haven't.

22 Q Did you personally review an allocatur
23 petition?

24 A No.

25 Q Do you recall an occasion in early 1988

1 when you requested that Mr. Gilardi provide you with
2 the allocatur docket numbers for two cases that he
3 had called to your attention and that were pending
4 before the court?

5 A That did not happen.

6 Q Do you recall an occasion in early 1988
7 or at any other time when Mr. Gilardi in fact
8 delivered to you the cover sheets from two allocatur
9 petitions so that you would be aware of the allocatur
10 docket numbers in two cases in which he was counsel?

11 A The only thing he ever delivered to me
12 was the allocatur that was not granted and he wanted
13 my opinion as to why it didn't get granted.

14 Q So your answer is no?

15 A That's correct, and I'm also telling you
16 the only thing he did deliver to me.

17 Q Mr. Gilardi never delivered to you the
18 cover sheet from an allocatur petition so that you
19 would be aware of the allocatur docket number in a
20 case in which he was counsel?

21 A That's correct.

22 Q And he never delivered an allocatur --
23 the cover sheet to an allocatur petition to you for
24 any other purpose?

25 A Yes, when he gave me the whole allocatur.

1 Q With the exception of the one case that
2 you've mentioned.

3 A Correct.

4 Q Which was not the Buttermore case?

5 A That's correct.

6 Q And was not the Driscoll case; is that
7 correct?

8 A Correct. In fact, in the Driscoll case,
9 the court unanimously voted against Gilardi's
10 position.

11 Q Have you reviewed the Driscoll case
12 before coming here today?

13 A Cursorily.

14 Q And it is correct that the court
15 unanimously voted against his merits position?

16 A That's correct.

17 Q But in the Driscoll case, Mr. Gilardi was
18 the petitioner; is that correct?

19 A Let me look. What's that number?

20 Q Of the Driscoll case?

21 A Yes.

22 Q The allocatur docket number is Number 79
23 in 1988.

24 A I'm sorry, what's your question?

25 Q In the Driscoll case, Mr. Gilardi

1 represented the petitioner who was requesting the
2 court to allow appeal on that particular case; is
3 that correct?

4 A Yes.

5 Q And the court in fact allowed appeal in
6 that particular case; is that correct?

7 A Yes.

8 Q And you voted for an allowance of appeal
9 in that particular case; is that correct?

10 A Justice McDermott circulated a
11 recommendation of a grant and I joined that
12 recommendation. I don't know who the third party was
13 that joined the recommendation.

14 Q Justice Larsen, let me put before you a
15 document that has been marked Grand Jury Exhibit
16 Number 96. If you don't mind, let me stand here as I
17 ask you questions about this document. This document
18 appears to be the cover sheet from an allocatur
19 petition in a case entitled Driscoll vs. Carpenter's
20 District Council; is that correct?

21 A Yes, that's the same.

22 Q Have you ever seen this document before?

23 A No.

24 Q Did you receive this cover sheet from Mr.
25 Gilardi in your chambers in early 1988?

1 A No.

2 Q Did you receive this document from Mr.
3 Gilardi at any other time?

4 A No.

5 Q You've never seen this document before?

6 A No.

7 Q Do you recall asking Mr. Gilardi to write
8 on this document the word yes to indicate the
9 position that he was asking the court to take with
10 respect to the allocatur in this particular case?

11 A No, I have no recollection of this at
12 all.

13 Q Putting before you a document that has
14 been marked Grand Jury Exhibit Number 97 for
15 identification, this appears to be the cover sheet to
16 a petition for allocatur in a case entitled
17 *Buttermore vs. Aliquippa Hospital, et al.* Have you
18 ever seen this document before?

19 A No.

20 Q Did Mr. Gilardi give you this document in
21 your chambers sometime in 1988?

22 A No.

23 Q Did you receive this document from Mr.
24 Gilardi at any other time or at any other place?

25 A No.

1 Q A minute ago you said that with respect
2 to the Driscoll cover sheet that you have no
3 recollection of it. Sitting here today, can you say
4 that you did not receive this document from Mr.
5 Gilardi?

6 A No, I've said that.

7 Q You're clear in that recollection?

8 A Yes.

9 Q With respect to the Buttermore petition,
10 do you recall asking Mr. Gilardi to write no on this
11 particular cover sheet in order to indicate the
12 position that he was asking the court to take with
13 respect to the allocatur in that particular case?

14 A No, I didn't ask him to write anything.
15 One would not have to ask somebody to write -- if
16 someone wanted a petition handled in their favor, all
17 you have to do is look and see who the appellant and
18 appellee is and who represents them.

19 Q Other than in connection with these two
20 cases, has there ever been an occasion where an
21 attorney has alerted you to a case prior to the case
22 being filed with the Pennsylvania Supreme Court?

23 A No.

24 Q Has there ever been an occasion when an
25 attorney has asked you to personally review --

PROVIDED INFORMATION REGARDING PENDING CASE IN EX PARTE MEETING CREATING APPEARANCE OF IMPROPRIETY

- **JUSTICE LARSEN INITIATED EX PARTE MEETING WITH JUDGE EUNICE ROSS OF ALLEGHENY COUNTY COURT OF COMMON PLEAS IN PENDING MATTER AND PROVIDED INFORMATION FROM UNDISCLOSED SOURCE POTENTIALLY BENEFICIAL TO A LITIGANT IN MATTER REPRESENTED BY FRIEND OF JUSTICE LARSEN.**
- **JUSTICE LARSEN DISREGARDED ACCEPTED CHANNELS OF COMMUNICATION IN PROVIDING INFORMATION EX PARTE TO JUDGE ROSS, RAISING APPEARANCE OF IMPROPRIETY WHICH COULD UNDERMINE PUBLIC CONFIDENCE IN THE JUDICIARY.**

JUSTICE LARSEN'S CONDUCT RAISED AN APPEARANCE OF IMPROPRIETY DETRIMENTAL TO THE PUBLIC'S CONFIDENCE IN THE JUDICIARY

RECKLESS, UNSUPPORTED ALLEGATIONS OF JUDICIAL AND CRIMINAL MISCONDUCT OF JUSTICE ZAPPALA AND JUSTICE CAPPY IN PETITIONS FOR RECUSAL

- **JUSTICE LARSEN DELIBERATELY MISUSED THE LEGAL PROCESS WHEN HE ACCUSED JUSTICE ZAPPALA AND JUSTICE CAPPY OF CRIMINAL AND JUDICIAL MISCONDUCT, IN AN ATTEMPT TO OBTAIN A REVERSAL OF HIS OWN REPRIMAND IN THE JIRB MATTER.**
- **JUSTICE LARSEN WAS UNABLE TO IDENTIFY REASONABLE FACTUAL BASES FOR MANY OF HIS ALLEGATIONS AGAINST JUSTICES ZAPPALA AND CAPPY IN HIS TESTIMONY BEFORE THE NINTH STATEWIDE INVESTIGATING GRAND JURY**
- **MANY OF JUSTICE LARSEN'S ALLEGATIONS WERE MADE IN BAD FAITH AND WITH RECKLESS DISREGARD FOR THE TRUTH.**

JUSTICE LARSEN'S CONDUCT UNDERMINES THE PUBLIC'S CONFIDENCE IN THE INTEGRITY OF THE COURT SYSTEM OF THE COMMONWEALTH, AND BRINGS THE COURT INTO DISREPUTE

INADEQUATE SUPPORT FOR ALLEGATIONS IN JUSTICE LARSEN'S PETITIONS

- **ANONYMOUS SOURCES**
- **OCTOBER 13, 1992 PRIVATE CONVERSATION WITH
JUSTICE ZAPPALA**
- **PRIVATE INVESTIGATOR , JOSEPH CARDUFF**
- **RUMORS**

**JUSTICE LARSEN PROVIDED GRAND JURY WITH INADEQUATE
SUPPORT FOR HIS ALLEGATIONS OF CRIMINAL AND JUDICIAL
MISCONDUCT AGAINST JUSTICE ZAPPALA AND JUSTICE CAPPY**

ALLEGATIONS MADE IN BAD FAITH AND WITH INADEQUATE SUPPORT

- **JUSTICE ZAPPALA RECEIVED KICKBACKS FOR DIRECTING BOND WORK TO HIS BROTHER'S UNDERWRITING FIRM, AND WAS BEING INVESTIGATED FOR THIS CONDUCT**
- **JUSTICE ZAPPALA MET EX PARTE WITH LITIGANTS IN THE PORT AUTHORITY AND PLRB CASES AND GUIDED THOSE MATTERS THROUGH SUPREME COURT IN A SPECIAL MANNER**
- **ATTORNEY JOHN DOHERTY ATTEMPTED TO SUBORN PERJURY BY NIKOLAI ZDRALE, AND WAS REWARDED BY JUSTICES ZAPPALA AND CAPPY FOR DOING SO BY APPOINTMENT TO THE POSITION OF CHIEF DISCIPLINARY COUNSEL**
- **JUSTICE CAPPY DELIBERATELY ENGINEERED THE RECONSIDERATION OF NIKOLAI ZDRALE'S "OUT-OF-TIME" PETITION IN THE APPEAL OF HIS CONVICTION FOR ATTEMPTED MURDER TO THE SUPREME COURT**
- **JUSTICE ZAPPALA COMMANDEERED A VEHICLE AND ATTEMPTED TO RUN HIM DOWN**

JUSTICE LARSEN USED HIS POSITION TO ENGAGE COURT EMPLOYEES IN ARRANGEMENT TO OBTAIN PRESCRIPTION DRUGS BY FRAUDULENT MEANS

- **WHILE A MEMBER OF THE SUPREME COURT, JUSTICE LARSEN REGULARLY OBTAINED PSYCHOTROPIC DRUGS BY CAUSING A PHYSICIAN TO ISSUE PRESCRIPTIONS IN NAMES OF SUPREME COURT STAFF MEMBERS.**
- **JUSTICE LARSEN INDUCED COURT EMPLOYEES TO PARTICIPATE IN AN ARRANGEMENT WHICH EXPOSED THEM TO POTENTIAL PROSECUTION UNDER PENNSYLVANIA'S CRIMINAL LAW.**
- **RESULTED IN JURY VERDICT OF GUILTY ON TWO FELONY CONSPIRACY COUNTS.**

**JUSTICE LARSEN'S CONDUCT BRINGS INTO SERIOUS QUESTION HIS
FITNESS TO REMAIN IN OFFICE**