

Ex. 3 Ex. A

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March 11, 2008

The Honorable Arthur J. Boylan
United States District Court
180 East Fifth Street
St. Paul, MN 55101

**Re: Three Angels Broadcasting Network, Inc. and Danny Lee Shelton vs.
Gailon Arthur Joy and Robert Pickle
Our File No. 24,681-D-002
Case No.: 0:08-mn-7**

Dear Honorable Arthur J. Boylan:

The above-entitled matter came before your Honor on Tuesday, March 4 upon 3ABN and Danny Shelton's Motion to Stay and Remit and Motion to Quash. At that time, we informed your Honor that two cross-discovery motions were already pending before the Honorable Magistrate Judge Timothy Hillman in the underlying case. A pending motion by Defendant Pickle sought an Order to Compel the production of documents Identified in Plaintiffs' 26(a)(1) Disclosures. A motion by Plaintiffs sought an Order for Protection that would prevent the discovery and/or dissemination of various sensitive and confidential business and personal financial information. Your Honor requested that Plaintiffs inform this Court of any determinations made on those matters by Magistrate Judge Hillman.

Both discovery motions in the underlying action were heard by Magistrate Judge Hillman on Friday, March 7, 2008 and various related orders were issued by that Court on Monday, March 10, 2008. As can be seen by his orders, copies of which are included for your Honor's reference, after striking certain of Defendant Pickle's pleadings, Magistrate Judge Hillman ordered the production of only those 26(a)(1) disclosure identified documents that were not confidential and denied Pickle's Motion to Compel in all other respects. In response to the Motion for Protective Order, the Court expressly authorized Plaintiffs to withhold all confidential documents referenced in their motion and invited the parties to submit proposed Orders for Protection, which the court will consider before entering a future order to govern the production of sensitive, confidential business and financial information. The parties have been asked to submit their proposed orders for protection by March 20, 2008.

March 11, 2008

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Plaintiffs believe that Magistrate Judge Hillman's prompt consideration and quick issuance of orders concerning the two discovery motions serves as additional, compelling evidence of that Court's familiarity with the facts and circumstances of the underlying case and with that Court's ability to quickly and deftly address the Motion to Quash Subpoena *Duces Tecum* currently under your Honor's advisement. By granting Plaintiffs' motion to Stay and Remit the Motion to Quash to the Jurisdiction of Judge F. Dennis Saylor and Magistrate Judge Timothy Hillman, this Court would be placing that discovery question with an engaged and well-versed authority.

Please feel free to contact me with any questions concerning the attached.

Sincerely;

JMH

cc: ~~Robert Pickle~~ (Via U.S. Mail)
Gailon Joy (Via U.S. Mail)

Ex. B

Exhibit B for Defendants' Reply to Plaintiffs' Response to Defendants' Motion to Forward Part of the Record consisted of the cover and pages 1–3 of Defendants' Motion to Stay or Hold in Abeyance Defendants' Appeals.

To conserve the resources of the ECF system, it is not refiled here since it is already part of the appellate record of this case.

Ex. C

Exhibit C for Defendants' Reply to Plaintiffs' Response to Defendants' Motion to Forward Part of the Record consisted of the cover and pages 1–8 of Appellees' Response to Appellants' Motion to Stay or Hold in Abeyance Their Appeal.

To conserve the resources of the ECF system, it is not refiled here since it is already part of the appellate record of this case.

No. 08-2457

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT**

**THREE ANGELS BROADCASTING NETWORK, INC.,
an Illinois Non-Profit Corporation; and
DANNY LEE SHELTON,**

Plaintiffs-Appellees,

v.

GAILON ARTHUR JOY; ROBERT PICKLE,

Defendants-Appellants.

On Appeal from the United States District Court
for the District of Massachusetts
Case No. 07-40098

**DESIGNATION OF APPENDIX AND ISSUES FOR REVIEW BY
APPELLANTS GAILON ARTHUR JOY AND ROBERT PICKLE**

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Respectfully submitted,

Dated: December 23, 2008

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CERTIFICATE OF SERVICE

I, Bob Pickle, hereby certify that on December 23, 2008, served copies of this Designation of Appendix and Issues to Review on the following parties by way of U.S. mail:

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/s/ Bob Pickle

Bob Pickle

THE SHORT CIRCUIT Ex. E

A QUARTERLY PUBLICATION BY AND FOR THE PEOPLE OF THE 1st CIRCUIT

Fall 2004



"[T]hings that looked so simple when I was an advocate suddenly don't seem so simple to me as a judge."

*Judge F. Dennis Saylor IV
U.S. District Court
for Massachusetts*

In Mass., successor to a senior judge takes his seat in court's central section

WORCESTER, Mass. – After nearly a year of political wrangling in Washington, D.C., and, to a lesser extent, here in Worcester, F. Dennis Saylor IV has been installed as presiding judge of the central section of the U.S. District Court for Massachusetts.

In what could be considered a rendition of musical chairs, Saylor replaces Judge Nathaniel M. Gorton, who, in 1992, became the first USDC judge assigned full-time to Worcester. Gorton is now sitting in Boston, in the seat held by Judge Robert E. Keeton. In March 2003, Keeton, then 83, announced that he would take senior status, thus creating the vacancy that Saylor, 49, has filled.

Appropriately enough, it was Keeton who administered the oath of office to Saylor in a quiet ceremony held June 15 in the chambers of Chief U.S. District Judge

William G. Young in the Boston federal courthouse. A formal investiture was scheduled for Sept. 29 in Worcester's Mechanics Hall.

The political standoff that delayed Senate confirmation of Saylor, first nominated on July 30, 2003, was the result of interparty disputes among members of the Senate Judiciary Committee, which has review authority over judicial nominations proposed by the president. Even as that controversy was unfolding, members of the Worcester bar were making known their displeasure at not having a central Massachusetts lawyer named to the judicial post. (Saylor practiced law in Boston for many years and resides in Weston.)

And U.S. Sen. Edward M. Kennedy, a member of the Judiciary Committee, while supportive of Saylor's nomination, was quoted

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Court of Appeals maps plan for continuity of operations Seen as 'template' for districts' courts

BOSTON – Chief Judge Michael Boudin of the 1st U.S. Circuit Court of Appeals has approved a continuity of operations plan, or COOP plan, outlining procedures that would ensure the ongoing operation of the court if the use of its headquarters building in Boston were to be "threatened or diminished."

The sweeping plan, adopted in May at a conference of court unit executives in Bretton Woods, N.H., would transfer the essential functions of the Court of Appeals to the Warren B. Rudman U.S. Courthouse in Concord, N.H., if a sudden emergency necessitated the evacuation of the John Joseph Moakley U.S. Courthouse in Boston.

Preparation of the plan by the Office of the Circuit Executive followed an Oct. 17, 2001, memorandum from the Administrative Office of the U.S. Courts and similarly timed presidential directives issued in the wake of the Sept. 11, 2001, attacks on the Pentagon in Washington, D.C., and the World Trade Center in New York, Circuit Executive Gary H. Wentz explained in submitting the OCE draft for approval.

While the plan covers only the functions of the Court of Appeals, it

What constitutes an emergency?

The continuity of operations plan envisions several scenarios, any one of which could be considered an emergency requiring activation of the COOP plan:

- total Boston disaster – requires complete evacuation of Boston courthouse for a prolonged period;
- courthouse uninhabitable – requires personnel to relocate;
- environmental problem in computer room or hardware failure – requires IT staff to take appropriate action but does not require movement of personnel; if the Boston servers were rendered inaccessible for an extended period of time, IT staff would arrange for users to gain access to the New Hampshire system from Boston.

is being circulated among court administrators within the districts of the 1st Circuit "for use as a template for developing their own [COOP procedures]," Susan J. Krueger, deputy circuit executive, said in a recent interview with *The Short Circuit*.

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Brownell caps 30 years of service wearing clerk's 'hat,' judge's robe

By BARBARA RABINOVITZ

PORTLAND, Maine – Thirty years into his career with the U.S. District Court for Maine, notably as its clerk and part-time magistrate judge, William S. Brownell might seem to be feeling he had accomplished all there was to be done in the way of court administration.

Not so, Brownell is quick to point out. The respect accorded him by the USDC judges, the dedication of his staff, and the court's emergence at the forefront of judicial technology all have made his work as challenging as it was when he began as deputy clerk on July 1, 1974, Brownell explained in a recent interview days after that 30th anniversary.

Then 28, he was one of five clerk's office employees in the court's Portland headquarters and 1½ in its central Maine division in Bangor; currently, there are 22 full-time staffers.

Growth in staff has not been the only change Brownell has observed – and fostered – over a quarter-century since he was promoted to clerk of court in 1979. Three other major developments have had a profound impact on federal court management in this district, he told *The Short Circuit*.

"Certainly automation is the biggest fundamental change in how we do business," Brownell said, recalling the paper files, mimeograph machines and "wet copies" that were the tools

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In his likeness



Photo by Susan M. Durst

Senior U.S. District Judge Gene Carter of Maine acknowledges the presentation of a bust in his honor during a July 16 ceremony at the federal courthouse in Portland. Carter was appointed to the court in July 1983 and assumed senior status in January 2003.

New MJ named for Rhode Island

PROVIDENCE, R.I. – If Lincoln D. Almond, Rhode Island’s newest U.S. magistrate judge, needed any inspiration for a career in public service, he did not have to look beyond the family home.

His father (of the same name) served as governor of the Ocean State from 1995-2003 and, before that, as U.S. attorney for the District of Rhode Island.

“My father set an example for me – that public service is a privilege and is to be served with the highest professional and ethical standards,” the younger Almond said in a recent interview.



LINCOLN D. ALMOND
‘Public service ... a privilege’

Eagerly anticipating his own career in federal public service, Almond described his judicial appointment as “a tremendous honor for me to join such a fine court [and] to join the federal court family.”

Almond, 41, replaces Robert W. Lovegreen, 65, who retired Sept. 1 after nearly 12 years as one of the district’s two full-time magistrate judges (David L. Martin being the other). Almond’s investiture is not his first and only introduction to the federal judiciary. After his law school graduation in 1988 (with high honors from the University of Connecticut), he served as a law clerk to USDC Judge Peter C. Dorsey in Connecticut.

“So I have some familiarity with the [court] system,” Almond said, adding, “I’m working diligently to hone my skills to take on this challenge.”

A lifelong resident of Rhode Island (he grew up in, for him, the aptly named Lincoln), Almond graduated from the University of Rhode Island in 1985 with a bachelor’s degree in accounting.

USDC/Mass. judge second to preside in Worcester

Continued from Page 1

last fall as saying that “the court needs greater gender and racial diversity, and I hope that future nominations will address this concern.”

But it was approbation, not reservations, that Saylor heard on June 2, the day after the Senate confirmed his judicial nomination by a vote of 89-0. Joseph D. Early Jr., president of the Worcester County Bar Association, said in the Worcester Telegram & Gazette that day: “We’re going to get behind Judge Saylor in any way that we can. ... We’re sure he’s going to do a great job.”

In an early-summer interview with *The Short Circuit*, Saylor, between observing trial proceedings in Gorton’s session in Boston and preparing to take on Gorton’s and his own caseload in Worcester, took time out to talk about the challenges of his new job and the experience he brings to it.

He was anticipating that his task would be made easier by the acceptance Gorton gained among local lawyers during his years in the central section, which handles cases involving parties in Worcester

County. “Having Judge Gorton go before me is a real benefit,” Saylor said. He also was looking forward to working with U.S. Magistrate Judge Charles B. Swartwood III, who sits in Worcester. “Judge Swartwood has an outstanding reputation among the members of the local bar,” he said.

A graduate of Northwestern University, where he earned a degree in journalism, and Harvard Law School, Saylor began his legal career as an associate for six years at the Boston law firm of Goodwin Procter. In 1987, he moved into the public sector as an assistant U.S. attorney in Massachusetts. In 1990, he relocated to Washington to become chief of staff to Robert S. Mueller III, then assistant attorney general in the criminal division of the U.S. Department of Justice and now director of the FBI. Three years later, he was back in Boston, this time as a partner at Goodwin Procter in the firm’s litigation department.

As a former prosecutor, civil litigator and criminal defense attorney, Saylor has worked both sides of the courtroom aisle. As a new judge, he concedes that the view from the

bench is vastly different from what an attorney observes from counsel’s table. “I haven’t judged any cases yet,” he noted, “but things that looked so simple when I was an advocate suddenly don’t seem so simple to me as a judge.”

No stranger to the federal trial and appellate courts in Boston, he said, “I have tried cases in front of most of the U.S. District Court judges in this district, and I have argued cases before the Court of Appeals.”

Asked if his undergraduate education in journalism would be of any value to him as a judge, Saylor did not discount that possibility. “I always prided myself on being a fairly clear writer, and studying journalism certainly contributed to that,” he said.

Might his journalism studies also contribute to a reputation for evenhandedness? In response, Saylor said he views his experience in prosecution and defense work as more of a factor in what he hopes, in any event, will be “a balanced approach to the bench.”

Clerk/MJ in Maine logs three decades of service

Continued from Page 1

of a court clerk’s trade 30 years ago. “All that has changed – for the better.”

Decentralization within the federal judiciary as a whole has been another improvement, “especially in the area of budget,” he said. “It has given each local court unit the opportunity to manage resources effectively.”

Thirdly, the role of the court unit executive has evolved, with that person “being recognized as a manager with decision-making authority and responsibilities,” Brownell said. “The job [of district court clerk] has grown with those responsibilities. It used to be managing the docket, pushing papers. ... But now we have the ability to structure our offices in a manner that fits our needs and the authority to manage large budgets and make significant spending decisions locally. That is absolutely a change for the better.”

The past three decades have also brought changes in the kinds of cases filed in federal court in Maine, according to Brownell, a native of New Jersey who moved to this state with his family when he was 15 and then went on to obtain his undergraduate and law degrees from the University of Maine.



WILLIAM S. BROWNELL
Marks career milestone

“Back then we had a lot more FELA and admiralty cases, and we were swamped with asbestos cases,” he said. “We’re seeing fewer of those cases and many more civil rights, employment discrimination cases. ... So the character of the civil caseload has changed.”

“On the criminal side, we used to have a lot of [cases involving] failure to file tax returns and the interstate transportation of stolen property. Now, of course, it’s more and more drug cases.”

As part-time magistrate judge since 1979, the same year he was named clerk, Brownell is one of

only two full-time clerks of court nationwide to also serve in a judicial capacity. When he took on that assignment, he remembers, “there were eight or 10 clerk/magistrates in the federal system. The thinking then was it would be efficient to have someone in the building if there was an arrest or a need for a search warrant, or for other reasons.”

This clerk of court acknowledged having to perform the duties of a magistrate judge several times a week, including emergency matters. “Often I’ve had federal agents come to my home with warrant applications in the middle of the night,” Brownell said, managing a smile at the thought.

How is it his work has had such lasting appeal for him? Brownell credited the USDC judges for having “always included me in issues of court governance,” his “very dedicated and knowledgeable” staff and numerous innovative national judicial-administration programs, in which the District of Maine has taken a leadership position, for keeping him smiling after all these years.

Barbara Rabinovitz is editor of The Short Circuit.



[Rhode Island news](#)

Urciuoli kept his job despite his expenses

An outside lawyer told the board of the Roger Williams Medical Center that its CEO, Robert A. Urciuoli, had billed the hospital for golf trips, family dinners and stays in luxury hotels.

01:00 AM EST on Sunday, January 1, 2006

BY MIKE STANTON
Journal Staff Writer

Seven years ago, the trustees of Roger Williams Medical Center faced a pivotal decision: whether to fire their longtime president, Robert A. Urciuoli, for abusing his expense account.

An internal review had discovered thousands of dollars of inappropriate or "highly questionable" expenses, including golf trips and family dinners and stays in luxurious hotels such as The Breakers in Palm Beach, Fla.

In addition, the review commissioned by trustees advised that Urciuoli "may have committed a serious fraud upon the hospital" when he billed \$5,998 for an eight-day sojourn to the Scottsdale Princess Resort in Arizona. He reported that he had attended a health-care conference -- but there was no conference.

Urciuoli conceded that there was no Arizona conference, but called it an honest mistake, compounded by "a bad error in judgment."

The Boston law firm hired to conduct the review rejected Urciuoli's explanation that some of the expenses were submitted by mistake, and laid out a host of criminal charges that had been lodged against other hospital executives for fraudulent cost reports, including attempted larceny and tax evasion.

The review, led by an ex-federal prosecutor, F. Dennis Saylor IV, urged the hospital's trustees to decide whether any "personnel action" should be taken regarding Urciuoli.

The hospital's trustees chose to keep Urciuoli, a decision that reverberates today.

Urciuoli and Roger Williams Medical Center, according to their lawyers, face possible indictment in a State House influence-peddling investigation of a former Rhode Island senator, John A. Celona.

It was Urciuoli who pressed reluctant hospital officials to hire Celona earlier in 1998, and who allegedly used Celona as an illicit State House fixer through 2003.

A federal grand jury, which has been looking into the case since the summer, is expected to reach a decision soon, lawyers for the hospital and Urciuoli say.

Federal guidelines say that prosecutors, in deciding whether to charge a corporation -- but not an individual -- may consider past conduct, including other criminal or civil actions.

"A corporation, like a natural person, is expected to learn from its mistakes," says a U.S. Department of Justice memo concerning corporate investigations.

When the board voted to keep Urciuoli, he agreed to repay \$16,000 in questionable expenses. Later, he reached a civil settlement with the Rhode Island attorney general in which he admitted he had been wrong and reimbursed the hospital \$85,000 for the cost of its internal investigation.

The hospital told the attorney general that it did not want to pursue criminal charges against Urciuoli.

An official from the attorney general's office says that the decision by the hospital's board not to fire Urciuoli made it more difficult to pursue a criminal investigation.

"It's awkward to charge someone with criminally defrauding the hospital when the hospital doesn't want to say it was defrauded," said Gerald Coyne, the deputy attorney general. "If they had fired him, it would have been easier to show that the hospital was the victim."

'Serious violations discovered'

In 1998, Philip O'Dowd, a doctor at Roger Williams Medical Center, was elected president of the medical staff and assumed a seat on the hospital's board of trustees.

As the medical staff's representative to the board, O'Dowd began to receive complaints from hospital employees regarding Urciuoli.

The employees complained that Urciuoli had charged personal expenses to the hospital, steered hospital contracts to friends, and improperly borrowed more than \$40,000 from the hospital against unused vacation time.

In January or February, according to a letter that O'Dowd wrote to his lawyer, summarizing the case, he went to Urciuoli seeking "clarification" of the allegations.

O'Dowd wrote that Urciuoli denied any wrongdoing. Then O'Dowd took his concerns to the board's executive committee.

On May 15, the executive committee hired Dennis Saylor, a partner in the Boston law firm Goodwin Procter and Hoar, to review the allegations.

On July 2, Saylor delivered an 87-page report summarizing his findings. The Providence Sunday Journal recently obtained a copy of that report.

The executive committee that received the report consisted of men who were leaders in Rhode Island business and politics.

Herbert Cummings, the chairman, was prominent in charitable endeavors and the retired president of Citizens Bank in Rhode Island. He also chaired the state airport authority, appointed by then-Gov. Lincoln

Almond.

Richard A. Licht was a former Rhode Island lieutenant governor, and a prominent lawyer.

Raymond Mancini ran a family business, Rhode Island Distributing, one of the state's biggest liquor distributors.

Edward C. Arditte was an executive at Textron.

Bradford Gorham was a lawyer, former state legislator and chairman of the Rhode Island Republican Party.

Raymond Murphy was an accountant with the Providence firm of Sullivan & Co.

O'Dowd wrote that he spoke to Cummings and Mancini. Both "stated that there were serious violations discovered and they would respond appropriately after time to digest the full report."

O'Dowd wrote that Gorham told him that the report had "sickened" him and ruined his Fourth of July holiday weekend.

"Why are you in a Lexus?"

The Saylor investigation focused on Urciuoli's style. As president of Roger Williams Medical Center since 1988, Bob Urciuoli was well-known in Rhode Island's political, business and social circles.

He was childhood friends with Joseph DeAngelis, the speaker of the Rhode Island House in the late 1980s and early 1990s. He became friends with DeAngelis' law partner and hospital trustee, Richard Licht, the former lieutenant governor, who represented Urciuoli's wife's family's real-estate interests. He was appointed by Governor Almond to the state Board of Higher Education. In 1997, he married Donna Paolino, the sister of former Providence mayor Joseph Paolino.

He won numerous community service awards and sat on several boards: the American Heart Association, the Rhode Island Kidney Foundation, Leadership R.I.

In 1998, he was paid \$576,000, including a one-time pension benefit of \$169,000. He and his wife renovated an East Side mansion, and honeymooned in Italy. He ate in fine restaurants and attended charity galas.

He belonged to private clubs, his bills there paid by the hospital: over the two-plus years examined by Saylor -- \$9,870 for the Aurora Club, \$7,787 for the University Club, \$5,620 for the Metacomet Country Club.

Nuala Pell, a former hospital trustee and the wife of former U.S. Sen. Claiborne Pell, said that Urciuoli was an efficient administrator, but she considered him too flashy.

"He bought the most expensive car," she recalled. "Our first meeting, I asked him, 'Why are you in a Lexus?' He replied, 'Why not?' He said that he needed that car."

Urciuoli told Saylor that it was part of his job to network -- at charitable functions, in fine restaurants, on the golf course. He was the hospital's public face, raising money for a nonprofit institution so that it could serve the community and the poor.

But many Roger Williams Medical Center employees told Saylor that they felt Urciuoli's expenses were "unduly extravagant," and that his "social schedule caused him to be frequently and unnecessarily absent from his duties."

They felt that "the business of the hospital and the morale of the employees suffered accordingly."

Saylor, in his report, cautioned that the public was sensitive to the "appearance or reality of inappropriate extravagance or luxury" at nonprofit institutions.

Urciuoli's employment contract permitted him to attend professional and educational meetings in the hospital's "best interest" and to incur "reasonable" expenses. But Saylor said that Urciuoli had gone too far.

"We have concluded that Mr. Urciuoli inappropriately used hospital funds for extended stays at resort hotels that should have been properly treated as personal vacations," the report said.

At least four times over the previous two winters, the report said, Urciuoli had traveled to a warm-weather resort for a conference or seminar. His wife accompanied him each time, and they stayed longer than the conference. Urciuoli never took any vacation days.

Saylor wrote that Urciuoli charged "substantial amounts to the hospital, including personal and family expenses."

In February 1997, Urciuoli spent 10 days at The Breakers in Palm Beach, Fla., with his then-fiancée, Donna Paolino. He attended a four-day leadership conference, and stayed at the hotel six extra days, all of which were charged to the hospital. The total cost of the trip was \$7,232.

Urciuoli told Saylor's team that he paid for his fiancée's plane ticket with his own money. Saylor concluded that her "meals and incidental expenses" were paid by the hospital.

Urciuoli said the extra travel days were needed, in part, to "settle in" after a "long flight." He said that he spent the extra time in Palm Beach "networking" with other CEOs who also stayed longer, and that he received faxes and conducted hospital business from the hotel.

He told Saylor that it was appropriate for his fiancée, or wife, to travel with him at hospital expense because her role was "significant to me and to the hospital." She was an "excellent corporate wife" -- cultivating potential hospital donors and "networking" in the business community.

Besides, he said, other executives brought their wives.

'When I arrived, I found out there was no conference'

Saylor disagreed. He wrote that it was not common, in his experience, for corporate spouses to travel at company expense. It was "difficult" to justify "a spouse's presence at an out-of-state resort hotel for long periods of time . . . as a legitimate corporate expense."

The following February, Urciuoli returned to The Breakers for the same four-day conference, with Paolino, who was then his wife, staying seven days. The total cost to the hospital: \$6,535.

Over two months in the winter of 1997, Saylor reported, Urciuoli submitted expenses from his 10-day stay in Palm Beach, Fla., for the conference; a 4-day golf trip to Hammock Dunes in Palm Coast, Fla.;

and an 8-day trip to Scottsdale, Ariz.

The Arizona trip proved more troubling to Saylor. Urciuoli stayed with his fiancée at the Scottsdale Princess Resort, and charged the hospital \$5,998, saying that he attended a conference, "Health Care Issues of the '90s."

When Saylor's investigators contacted the Scottsdale Princess to check the dates of the conference, "to our surprise, we were advised by the hotel that no such conference took place."

"If no such conference existed," Saylor wrote, "Mr. Urciuoli may have committed a serious fraud upon the hospital."

Paolino's daughters also made the trip. Urciuoli told Saylor that he used his frequent-flier miles to pay for their plane tickets and that he paid for their hotel room and their meals, all of which were charged to their room.

But Saylor found just one room-service charge to the girls' room, for \$23. He concluded "that the hospital paid for all other meals of the children during the trip." Urciuoli disputed that, saying that he put the daughters' meals on his personal credit card.

Urciuoli, in a written response to Saylor, said that he had been so consumed by his efforts to secure a merger with Columbia/HCA that when he booked the Scottsdale trip, he "believed" that there was a conference.

"When I arrived, I found out there was no conference," he wrote. "I decided to make the best of the situation, however, and did not want to disappoint my family by canceling the trip and heading home."

Instead, he said, he worked from his hotel room the entire stay.

In retrospect, he wrote Saylor, "I clearly made a bad error in judgment" by charging the trip to his corporate credit card.

Overall, Saylor wrote that the amount of money "charged to the hospital for the travel expenses of Urciuoli's wife and stepchildren cannot be stated precisely, but appears to be substantial."

'Informal presentations in the clubhouse'

Saylor looked at several golf trips that Urciuoli had taken over the previous 2 1/2 years, primarily to Florida.

As winter approached, the report said, "Mr. Urciuoli would telephone golf resorts in warm climates around the U.S. to inquire if they had any health care related conferences scheduled."

The report said that his golf companions included Joseph DeAngelis; Ted Almon, another friend and president of a hospital-supply company that has long done business with Roger Williams Medical Center; and executives from other Rhode Island hospitals.

Almon and Francis Deitz, president of Memorial Hospital in Pawtucket, told The Journal recently that they travel to Florida regularly with Urciuoli and James McGuirk, the hospital's lawyer, to golf. They said that they do discuss business -- including "informal presentations in the clubhouse at Hammock Dunes," says Almon -- but that they paid their own way.

After one such trip, the Saylor report notes, Almon sent Urciuoli a letter requesting reimbursement for golf and other expenses at Hammock Dunes as the "3rd Annual Rhode Island Health Care Strategic Planning Forum."

The total charge to the hospital was \$440, including a \$79 restaurant bill at Salt Water Cowboys.

"Mr. Urciuoli has justified these travel expenses as 'strategic planning sessions' and necessary for business," Saylor wrote. "He stated that golf was only 'incidental' to these meetings and that a great deal of work was accomplished in these sessions."

Saylor rejected Urciuoli's argument.

"While it is no doubt true that some degree of 'networking' occurs on such occasions, most, if not all, the participants in his out-of-state golf trips are from Providence and are well known to Mr. Urciuoli," Saylor wrote.

"Almost without exception, it is difficult to view these trips as anything but personal vacation, which should not have been charged to the hospital and which should have been charged to Mr. Urciuoli's vacation time."

Saylor also looked at a side trip that Urciuoli made to an exclusive New Jersey golf course while he was in Philadelphia for a physicians' conference. Urciuoli described the golf outing to the Pine Valley Country Club, in Clementon, N.J., as a chance to escape the "stress and strain" of his position.

Saylor also mentioned Urciuoli's trip to the 1997 Super Bowl in New Orleans, when the New England Patriots played the Green Bay Packers. Urciuoli charged some meals and his \$984 plane fare to the hospital, but not his hotel.

He reported that he discussed a possible merger with the chief executive of Columbia/HCA and two Providence lawyers who represented the hospital, including former Gov. Phil Noel. He also lobbied then-Providence Mayor Vincent A. Cianci Jr., who was also in New Orleans trying to woo the Patriots to Providence, to support the Columbia/HCA merger.

Urciuoli, wrote Saylor, said that he "spent a lot of quality time with the Mayor."

'The extended Paolino family'

Saylor and his team documented at least \$4,300 in personal meal and entertainment expenses, including \$2,850 for family dinners.

For example, the autumn prior to the investigation, Urciuoli had charged the hospital \$568 for a dinner meeting at the Capital Grille in Chestnut Hill, Mass., with Boston University medical staff, to discuss affiliating with Roger Williams.

But the dinner was with his fiancée's daughter, a freshman at Boston College, other family members, and a BC priest.

Urciuoli acknowledged the mistake, but said that the dinner was still a legitimate business expense. He told Saylor that the BC priest had been helpful to his stepdaughter following her uncle's death, and that members of "the extended Paolino family" who attended the dinner had donated money to Roger

Williams for a hospital conference room in the uncle's memory.

That dinner expense showed that "even in times of personal crisis I am still looking out for the interest of the hospital," Urciuoli wrote Saylor.

Urciuoli also submitted a \$543 expense for a business dinner with doctors at Capriccio in Providence -- the same date that his calendar noted a birthday dinner for his fiancée.

In a span of about two weeks in July 1997, Urciuoli charged two birthday dinners for his two future stepdaughters at the Clarke Cooke House in Newport. The total: \$1,599.

Urciuoli told Saylor that some of the family charges may have been "a mistake."

There was confusion over the stepdaughters' birthday dinners, Urciuoli said, because he was busy that summer lobbying state legislators to approve the merger of Roger Williams with Columbia/HCA.

He referred to the first dinner as "the birthday dinner from hell," according to the report, explaining that he "spent most of the evening downstairs with legislators while his family was upstairs."

Saylor concluded "the charging of these expenses to the hospital was not through inadvertence or neglect . . . furthermore, the frequency and size of these expenses strongly suggest that they were not charged to the hospital by mistake."

The lawyer's report identified another 162 charges on Urciuoli's corporate American Express card, totaling \$29,649, as "highly questionable," many involving meals and golf tournaments.

"It appears that many of the meals in question were primarily social in nature, rather than business-related," the report said. Saylor also said that "the justification and/or documentation for many of these items is non-existent or slight," making it impossible to determine the full amount of money that had been improperly charged to Roger Williams.

"Furthermore, the fact that Mr. Urciuoli has clearly charged personal expenses to the hospital on other occasions makes it difficult to give the benefit of the doubt in all respects."

Saylor wrote that Urciuoli's arguments that he accomplished a lot of business at restaurants and golf courses had "some merit" -- but that Urciuoli's "prominence in the community, and the demands of his position, do not justify the charging of personal expenditures to the hospital."

'Board approved loan'

Saylor also concluded that Urciuoli "appeared to have violated hospital policy" by failing to make payments on loans from the hospital.

In December 1996, Urciuoli borrowed \$44,000 against 350 hours of unused vacation time. A year later, at the end of 1997, he repaid the loan, then renewed it for the same amount.

Also in late 1997, Urciuoli borrowed another \$45,000. This loan was not secured by unused vacation time, but simply marked as a "board approved loan."

All three loans were interest-free, but hospital policy required employees to make periodic payments on loans. Urciuoli did not. He told Saylor that he was unaware of the requirement.

Urciuoli told Saylor that he needed the money in connection with the purchase and renovation of his new house with his new wife.

In the spring of 1997, Urciuoli received an "emergency" loan of \$5,000, against unused vacation time, which he said he needed to pay for work at his house. He repaid the loan one week later, through a payroll deduction, but hospital records recorded the \$5,000 payroll deduction as a charitable donation to the United Way.

Since donations are tax-deductible, Saylor called the circumstances surrounding repayment of the loan "troublesome," and concluded that it "may raise an inference of tax fraud to outside auditors or regulators."

Saylor wrote that Urciuoli said he couldn't remember if he took a tax deduction for the \$5,000, and Saylor did not review Urciuoli's personal tax returns. Urciuoli later wrote Saylor that the problem was a clerical mistake by others.

"It is not accurate or true that I arranged to take an improper tax deduction," wrote Urciuoli.

'An unusual degree of favoritism'

Finally, Saylor and his team reviewed vendor contracts at Roger Williams, and found "no evidence of illegality (such as a kickback) or improper self-dealing or conflict of interest."

The report said that Urciuoli clearly socialized with some vendors, and that he had "also appeared to exhibit an unusual degree of favoritism" toward a copier company seeking the hospital's business.

However, his employment agreement gave him "full discretionary authority" over such matters, Saylor concluded.

The consultant to the copier company, IKON, was Thomas F. Fay, the former chief justice of the Rhode Island Supreme Court. Fay had resigned in 1993 after an investigation into irregularities at the court, leading to his conviction on corruption charges involving the handling of court funds.

Saylor's report said that Fay, working for IKON, had introduced Urciuoli to IKON's Rhode Island head, Robert Ferland, and that Urciuoli subsequently traveled to Nantucket with Ferland, drawings funds from the hospital's petty cash fund for the trip.

IKON bid on the job, and Saylor found evidence that Urciuoli shared information regarding the other bids with IKON, having his secretary fax a spreadsheet to IKON.

"Mr. Urciuoli does not deny this, and maintains that it was good business practice to do so because he was able to lower the bids this way," the report said.

Fay and representatives from IKON did not return repeated calls for comment. The hospital did not say whether IKON got the copier contract.

In light of concerns by several employees that contracts were awarded based on friendships and personal connections rather than merit, Saylor said that the matter "deserves management attention, but is outside the scope of this report."

In his overall conclusions, Saylor recommended that the board tighten its oversight and require Urciuoli to

repay any hospital funds that had been used for personal expenses.

Saylor urged the board to consider whether it should take any "personnel action."

"We expressly decline to make any recommendation as to that issue," Saylor continued, "absent specific direction to do so from the board."

Urciuoli's fate was now in the hands of his board of trustees.

'He was contrite'

Saylor's report, delivered to the executive committee in July 1998 led to a debate.

"We discussed this and deliberated at great length the issue of Bob's future at the hospital," said Richard Licht, the former lieutenant governor and one of the committee members.

Licht said that the executive committee agreed unanimously that Urciuoli should be kept. In turn, he noted, Urciuoli agreed to repay the hospital for his personal expenses, whether he agreed with Saylor's conclusions or not.

The hospital said in a recent statement to The Journal that members of the executive committee "sat with" Saylor and agreed that Urciuoli should repay \$16,000. But the hospital did not elaborate on how they arrived at that number; Saylor had identified at least \$33,000 in questionable expenses.

Licht said that there were "a host of reasons" for keeping Urciuoli.

His leadership was important in helping the hospital cope with federal Medicare cuts and explore possible mergers.

"Bob had 30 years at Roger Williams," said Licht. "This was the only place he'd ever worked. I felt that, over that 30 years, he had done a good job. . . . Then, you have to look at how he comported himself during the investigation. . . . He was professional, contrite, cordial. He wasn't angry or overly defensive. He was contrite that he had put the hospital through all this."

Bradford Gorham, another member of the executive committee, said in a recent interview that the committee didn't fire Urciuoli because it "was worried about the hospital's reputation."

"What would you have done? We had a difficult financial situation. We were trying to issue bonds to make some improvements. The timing was very bad."

On Aug. 27, 1998, the board met to decide Urciuoli's fate.

Instead of giving the trustees copies of Saylor's report, the executive committee presented an oral summary.

O'Dowd, who was present, challenged the executive committee's presentation.

"In my opinion virtually all of the employee allegations against Mr. Urciuoli were understated or misrepresented by the EC of the board in an attempt to represent it as clearing Mr. Urciuoli of any serious charges," O'Dowd wrote in his recollection of events.

O'Dowd wrote that when he asked Saylor whether he had discovered evidence of fraud, Saylor answered "yes." At that point, members of the executive committee, particularly Licht, challenged Saylor, arguing that he couldn't know whether Urciuoli "simply had lapses of memory" when he charged personal expenses to the hospital.

Licht recalls that Saylor said there might be fraud, "if you could prove intent beyond a reasonable doubt."

Licht says that he then asked Saylor, "Wouldn't it be extremely difficult to prove intent beyond a reasonable doubt?"

And Saylor "agreed that it would be a challenge."

Two other board members who attended the meeting, Gorham and Nuala Pell, both recall Saylor saying that he had found evidence of possible fraud.

Saylor, who is now a federal judge in Worcester, Mass., did not respond to repeated requests for comment.

There was also some debate during the meeting about the executive committee's decision to withhold Saylor's written report from the trustees.

Licht defended the committee's decision.

"We were very concerned about confidentiality," Licht told The Journal. "We were in the midst of merger talks. And we wanted to protect the attorney-client privilege. Candidly, we felt that if we shared the full report with the board, it wouldn't be kept confidential."

Brad Gorham said he had argued that the executive committee should show the report to the board. But none of committee's other five members -- Cummings, Licht, Mancini, Murphy or Arditte -- agreed.

"I very strongly said that the report should be distributed," he said. "But they were worried about confidentiality. They were worried that the hospital's reputation would be damaged."

Russell W. Field Jr., a retired businessman and board member, said in a recent interview that it was "inappropriate" for the executive committee not to show Saylor's report to the trustees.

Nuala Pell, the wife of former U.S. Sen. Claiborne Pell, said that she was "surprised that we weren't allowed to see the full report. I thought it was very odd. I couldn't understand why they wouldn't show it to us."

After the discussion, the executive committee urged the board to adopt its recommendation that Urciuoli be retained and repay the \$16,000, and that some internal reforms be adopted.

Pell said that the recommendation was presented to the board as "a fait accompli" -- that "the guy was caught, but he paid it back, and he had done a good job."

"Urciuoli obviously used his position for his personal advantage," said Pell. "I felt that he should have been fired. I didn't get into it [the debate] as much as I should have. It was clear during the discussion that most of the board felt the other way. I just sat there, fairly quietly, then voted with the minority."

The board voted to accept the executive committee's recommendation, 13 to 3, with one abstention. The

three negative votes were cast by Pell, Field and O'Dowd.

'We were trying to put this behind us'

Following the board's decision in 1998, O'Dowd went to the Rhode Island attorney general. State prosecutors launched a criminal investigation.

Thirty doctors petitioned the board, expressing "puzzlement" that Urciuoli hadn't been fired and asking that he be suspended until the attorney general completed his investigation.

The board noted their concern, but did not suspend Urciuoli. During this same time period, Urciuoli received a new three-year contract, one that guaranteed him 30 months severance pay if he were fired. According to public records, he was paid \$507,000 in compensation and benefits from Oct. 1, 2000, to Sept. 30, 2001, \$394,000 the next year and \$419,000 for the year after that.

Cummings told the attorney general that the hospital did not wish to press criminal charges, a sentiment shared by most board members, according to Licht.

"We were trying to put this behind us and move forward," said Licht.

Sheldon Whitehouse, who became attorney general in January 1999, and his deputy, Gerry Coyne, said in recent interviews that they asked the hospital for Saylor's report, but the hospital refused, citing attorney-client privilege.

"Even with a grand jury subpoena, it would have been difficult to pierce the privilege," said Coyne, who remains the deputy AG. "The hospital wasn't the target of the investigation -- Urciuoli was."

Instead, the hospital arranged for Saylor to meet with the attorney general's staff. But without the report, said Coyne, their ability to gain information by asking the right questions was limited.

"In retrospect," he said, "I wish we had the report."

The attorney general's office did have financial records documenting Urciuoli's expenses.

The Urciuoli case was reviewed by George Page, a career prosecutor who was in charge of the office's intake unit, which assesses new cases. He was assisted by an auditor, Al Gregoire. The two men concluded that there was not enough evidence to prove criminal intent.

Whitehouse said in an interview that he was not satisfied. He referred the matter to his office's civil lawyers, who have jurisdiction over charitable institutions.

That led to an agreement in March 2000. Urciuoli agreed to write a letter to the hospital's board, in which he admitted that he had been "wrong" to spend the \$16,000 he had repaid two years earlier on personal travel, meals and entertainment. He also agreed to repay Roger Williams \$85,000 -- money it had spent on Saylor's investigation.

O'Dowd, who by now had left Roger Williams, was not happy with Whitehouse for not going forward with a criminal case. In a meeting in late 1999, he gave the attorney general a list of five former hospital employees with knowledge about the matters under investigation who had not been questioned by state authorities.

He wrote Whitehouse a memo, voicing concern that there could be "a perception of political influence," given Urciuoli's ties to the Paolino family and the Paolinos' prominence in Democratic political campaigns, "should Mr. Urciuoli escape this investigation with minimal harm."

Whitehouse, who acknowledges that Joseph Paolino and Richard Licht have been campaign contributors, dismissed O'Dowd's concerns. He says that nobody sought to exert their political influence, and that it would have been "stupid" to try.

"I made sure that the best people were involved, that the process in the office was scrupulously followed," said Whitehouse, who left office in 2002 to run for governor and is now a candidate for the U.S. Senate.

"That's true in every case, but especially in one with political connections like that. . . . I'm comfortable that the process was extremely fair and independent and that, after the dust had settled, that it was a beneficial result."

Ultimately, Coyne said, it was difficult to charge Urciuoli with a crime when his purported victim -- Roger Williams Medical Center -- had decided not to fire him.

"If they keep him, what does that do to us and our case?" said Coyne. "If the board doesn't get rid of him, how do we claim that the hospital was the victim of a crime?"

Russell Field, one of the three board members who voted against Urciuoli, said in a recent interview that he should have been fired.

"The reason I voted against it was that it didn't smell right," said Field. "When a person does something wrong, particularly an executive, I lose faith in that person. Bob Urciuoli was an excellent hospital administrator, but when these other things came to light, my support winnowed. These things were most inappropriate, and he should not have been retained."

After the board's 1998 decision, some hospital administrators resigned in protest, among them the nursing supervisor, Catherine D. Walsh. In an interview with The Journal, she criticized the board for letting Urciuoli off with "a slap on the wrist."

"That's not what I got into health care for," said Walsh, who recently retired as vice president of patient care at Chicago Mercy Hospital. "Urciuoli was taking family outings, golf trips. C'mon! Here we are, looking to find any money we can for health care. What is this nonsense?"

Informed of Walsh's criticism, Licht recently responded, "We made sure the money was paid back." He criticized her and others who quit as part of a "disgruntled" faction that wanted Urciuoli fired so that they could take control of the hospital.

"The executive committee has diverse political views and styles, and yet we came to a unanimous decision," said Licht. "And we made a recommendation to a board that is also very diverse, and the vote was 14 to 3 to 1."

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PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

Vol. 150

WASHINGTON, TUESDAY, JUNE 1, 2004

No. 74

House of Representatives

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. UPTON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,

June 1, 2004.

I hereby appoint the Honorable FRED UPTON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend John Roller, Pastor Emeritus, St. Thomas Becket Parish, Mt. Prospect, Illinois, offered the following prayer:

God and Father of us all, You are the primary cause of our joy, the reason for our hope, and the source of our peace. We believe that in You we live and move and have our being.

Filled with confidence, we bring our needs before You, for You are a shepherd who leads us and a light who guides us. Moreover, You are our God who loves us, whose hand is so discernibly present in everything we are and do.

Loving Father, we may be very good at coming to You and asking. Help us to be just as prompt in thanking You for Your gifts, many of which we receive without asking or even being aware.

Once again, in this past weekend of remembrance, we have been made so keenly aware that Your hand has always been upon us. You have blessed us with citizenship in this powerful and potentially great Nation; the call to sit in deliberation as part of this notable Congress; and the awareness that we are all Your chosen sons and daugh-

ters. Always we are the recipients of Your love which we will never fully comprehend.

For all of Your gifts, loving Father, we beg You to accept our humble and heartfelt gratitude.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Colorado (Mr. BEAUPREZ) come forward and lead the House in the Pledge of Allegiance.

Mr. BEAUPREZ led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate insists upon its amendment to the bill (H.R. 3550) "An Act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. INHOFE, Mr. WARNER, Mr. BOND, Mr. VOINOVICH, Mr. GRASSLEY, Mr. HATCH, Mr. NICKLES, Mr. LOTT, Mr. SHELBY, Mr. MCCAIN, Mr. MCCONNELL, Mr. JEFFORDS, Mr. REID, Mr. GRAHAM of Florida, Mr. LIEBERMAN, Mrs. BOXER, Mr. DASCHLE, Mr. HOLLINGS, Mr. SARBANES, Mr. BAUCUS, and Mr. CONRAD, to be the conferees on the part of the Senate.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, Speaker Pro Tempore THORNBERRY signed the following enrolled bill on Monday, May 24, 2004:

S. 2092, to assist the participation of Taiwan in the World Health Organization.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 21, 2004.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on April 21, 2004 at 1:16 p.m.:

That the Senate passed without amendment H. Con. Res. 409.

That the Senate passed without amendment H. Con. Res. 423.

With best wishes, I am
Sincerely,

JEFF TRANDAH,
Clerk of the House.

MEDICARE-APPROVED PRESCRIPTION DRUG DISCOUNT CARDS

(Mr. BEAUPREZ asked and was given permission to address the House for 1 minute.)

Mr. BEAUPREZ. Mr. Speaker, today is a good day for America's senior citizens, as the Medicare-approved prescription drug discount cards hit the streets across the country.

From this day forward, seniors will no longer have to pay full retail price for their life-saving drugs.

This symbol represents the time of day during the House proceedings, e.g., 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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H3543

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF F. DENNIS SAYLOR, IV

Mr. KENNEDY. Madam President, I welcome the action of the leadership in taking up the nomination of Dennis Saylor to the United States District Court for the District of Massachusetts. I urge the Senate to confirm him.

Mr. Saylor has received impressive support from a broad spectrum of leaders of the bar. They are confident of his ability, his good judgment, and his fairness. I am confident he will be a distinguished member of the court.

Mr. Saylor has past experience in the executive branch. I am confident he understands the importance of the independence of the judicial branch.

He is currently a partner at the highly respected law firm of Goodwin Procter in Boston, where he joined as an associate after graduating from Harvard Law School in 1981. He later served as an assistant U.S. attorney in Boston. From 1990 to 1993, he served as the chief of staff of the Assistant Attorney General, Robert Mueller, in the criminal division of the Department of Justice, providing litigation and policy advice, and served as a liaison with Congress and outside organizations.

He returned to Goodwin Procter as a partner in the litigation department and currently specializes in white-collar criminal defense cases and other complex legal issues involving individuals and corporations.

His impressive background, legal expertise, and experience make him well qualified for this position and inspire confidence that he will be a judge in which Massachusetts will take pride.

The Federal district supreme court in Massachusetts is one of the most efficient and effective district courts in the country, and its judges are highly regarded and respected. It dispenses justice fairly and takes seriously its role as part of an independent branch of our government. I am sure Mr. Saylor will contribute to the distinguished work of this court. I urge the Senate to approve his nomination.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The journal clerk proceeded to call the roll.

Mr. LEVIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF F. DENNIS SAYLOR IV TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS

The PRESIDING OFFICER. Under the previous order, the Senate will now

go into executive session and proceed to the nomination of F. Dennis Saylor IV, of Massachusetts, which the clerk will report.

The journal clerk read the nomination of F. Dennis Saylor IV, of Massachusetts, to be U.S. District Judge for the District of Massachusetts.

Mr. HATCH. Mr. President, I am pleased to speak in support of F. Dennis Saylor, nominated to the United States District Court for the District of Massachusetts.

Mr. Saylor is a highly regarded litigator with a history of public service. Upon graduating from Harvard Law School, Mr. Saylor joined the law firm of Goodwin Procter where he worked for several years before joining the United States Attorney's Office for the District of Massachusetts.

He left his Assistant U.S. Attorney position in 1990 to serve as the Special Counsel and Chief of Staff to the Assistant Attorney General here in Washington, D.C. In 1993, Mr. Saylor re-joined Goodwin Procter as a partner where he remains to this day.

This highly respected attorney has focused much of his professional career on criminal matters, however—as his record illustrates—he has distinguished himself on the civil side as well.

Mr. Saylor will bring 20 years of legal experience and sharp acumen to the Federal bench. I urge my colleagues to join me in supporting his nomination.

Mr. LEAHY. Mr. President, today, we vote to confirm another district court nominee of President Bush, Frank Dennis Saylor, IV, to the U.S. District Court for the District of Massachusetts. Mr. Saylor is a partner at the firm of Procter Goodwin. He is supported by both of his home-State Senators, who deserve much credit for his confirmation today.

Today's confirmation will make the 77th judge confirmed this Congress and the 177th judicial nominee named by this President to be confirmed by the Senate. We confirmed 100 in the 17 months that Democrats led the Senate. We are now confirming the 77th in the other 24 months that have transpired during this most divisive presidency.

With 77 judicial confirmations this Congress, the Senate has confirmed more Federal judges than were confirmed during the entire 2 years of 1995 and 1996, when Republicans controlled the Senate and President Clinton was in the White House. It also exceeds the two-year total for the last 2 years of the Clinton administration in 1999 and 2000, when Republicans controlled the Senate. So, we have exceeded the totals for the last two Congresses leading up to presidential elections.

With 177 total confirmations for President Bush in 3½ years, the Senate has confirmed more lifetime judicial appointees of this President than were allowed to be confirmed in President Clinton's entire term from 1997 through 2000. We have already surpassed the number of judicial confirmations during President Reagan's entire term

from 1981 through 1984, and he is acknowledged to have appointed more Federal judges than any other President in our history.

Democratic support for the confirmation of Mr. Saylor, an active Republican who was championed by Republican Governor Mitt Romney for the bench, is yet another example of our extraordinary cooperation. Mr. Saylor's Republican credentials are not in doubt—he was even on some short lists for Bush Administration Executive Branch positions. We take into account his experience and his career as a litigator who has served as both a Federal prosecutor and a defender of those accused of crimes.

I congratulate Mr. Saylor, his wife, Catherine Adams Fiske, who is an attorney with the Environment and Natural Resources Division of the Department of Justice, and their family on his confirmation today.

While this confirmation is another demonstration of good faith and cooperation by Democratic Senators, we, again, see partisan Republicans seeking confrontation. Last week, the President used his recess appointment powers to place Republicans on what should be bipartisan boards and commissions. A good example is the U.S. Parole Commission. While Isaac Fullwood's nomination is being bottled up by Republicans, the President proceeds to recess appoint Deborah Spagnoli. In addition, the President has yet to follow through on Democratic recommendations to long-standing vacancies on the U.S. Sentencing Commission. This week Republicans on the Judiciary Committee will end the short-lived cooperation on judicial nominations and force votes and hearings on controversial nominees, apparently in response to pressure from the right wing of the Republican Party. Republicans are insisting that the Committee break with tradition and proceed on judicial nominees opposed by home-state Senators.

Thus, while this nomination marks historic progress in Democratic Senators' cooperation with the White House, partisan Republicans refuse to take yes for an answer and insist on ignoring the progress that we have made. We have treated President Bush's judicial nominees far more fairly than Republicans treated President Clinton's. Still, no good deed we do goes unpunished.

Mr. LEVIN. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of F. Dennis Saylor IV, of Massachusetts, to be U.S. District Judge for the District of Massachusetts. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Kentucky (Mr.

**GOODWIN
PROCTER**



**F. Dennis Saylor of Goodwin Procter
Named United States District Judge for
District of Massachusetts**

CONTACT US

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06.02.04

BOSTON, June 2, 2004 — Goodwin Procter LLP today announced that F. Dennis Saylor, 48, a partner of the firm, was confirmed by the United States Senate to be a United States District Judge for the District of Massachusetts. Saylor fills the vacancy created by the retirement of U.S. District Court Judge Robert E. Keeton.

“We are delighted that Dennis has been appointed to this prestigious position,” said Regina M. Pisa, chairman and managing partner, Goodwin Procter LLP. “Dennis has been with the firm for more than 20 years and has contributed immeasurably to its success. We are confident that he will make an outstanding federal judge and wish him the best of luck in his new role.”

Saylor joined Goodwin Procter in 1981 as an associate in the litigation department. He left the firm in 1987 to serve as an assistant U.S. attorney in the District of Massachusetts until 1990. From 1990-1993, he served as special counsel and chief of staff to the Assistant Attorney General-Criminal Division of the U.S. Department of Justice in Washington, D.C. He returned to Goodwin Procter in 1993 as a partner in the litigation department, specializing in white collar criminal defense, corporate internal investigations, complex business and financial litigation, as well as civil litigation.

Saylor earned a B.S.J. from the Medill School of Journalism at Northwestern University and a J.D. from Harvard University.

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June 4, 2008

VIA FAX & U.S. MAIL

Mr. Robert Pickle
1354 County Highway 21
Halstad, MN 56548

Gailon Arthur Joy
P.O. Box 1425
Sterling, MA 01564-1425


**Re: Three Angels Broadcasting Network, Inc. and Danny Lee Shelton vs.
Gailon Arthur Joy and Robert Pickle
Court Docket No. 07-40098-FDS
Our File No. 24,681-D-002**

Dear Mr. Pickle and Mr. Joy:

In light of Mr. Pickle's letter faxed to me on June 3, 2008 and the fact that there is a 2:30 meeting at my office I would like to attend, I am proposing that we move our good faith meet and confer teleconference up an hour, from 2:00 p.m. (CDT) to 1:00 p.m. (CDT) to allow more time to meet. Please let me know if you are unavailable for this rescheduling.

Also, when you call, please dial the firm's general number (612) 337-6100 and ask for Greg Simpson.

Sincerely,



Jerrie M. Hayes

JMH/gkh

Ex. J

1300 Washington Square
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June 4, 2008

VIA FAX & U.S. MAIL

Mr. Robert Pickle
1354 County Highway 21
Halstad, MN 56548

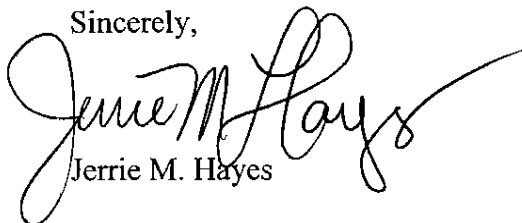
Gailon Arthur Joy
P.O. Box 1425
Sterling, MA 01564-1425

**Re: Three Angels Broadcasting Network, Inc. and Danny Lee Shelton vs.
Gailon Arthur Joy and Robert Pickle
Court Docket No. 07-40098-FDS
Our File No. 24,681-D-002**

Gentlemen:

We have set up a teleconference bridge for tomorrow's conclusion to our meet and confer meeting. We will be meeting at 11:00 a.m. (CDT), Thursday, June 5, 2008. The dial-in number is 1-800-423-1988 and the pass-code is 1248914.

Sincerely,



Jerrie M. Hayes

JMH/gkh

cc: Greg Simpson (via e-mail)
Gerald Duffy (via e-mail)

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**UNITED STATES DISTRICT COURT
 DISTRICT OF MASSACHUSETTS**
 John Joseph Moakley U.S. Courthouse
 1 Courthouse Way - Suite 2300
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