

1 THE ASSOCIATION OF THE FEDERAL BAR

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5 STATE OF NEW JERSEY

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8 The Twenty-Ninth Annual Dinner

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10 COMMEMORATING

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12 THE

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14 WILLIAM J. BRENNAN, JR.

15

16 AWARD

17

18 Mayfair Farms

19 West Orange, New Jersey

20 June 9, 2005

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25 Reported by: Stanley B. Rizman, CSR

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<p>1 MR. MADERER: Good evening. On 2 behalf of the Association of the Federal Bar of 3 the State of New Jersey, I would like to welcome 4 you to our 29th Annual William J. Brennan, Jr. 5 Award Dinner. 6 We are so gratified that a record 7 number, some 600, have joined us tonight to honor 8 our two recipients, Judge Joseph E. Irenas and 9 Chief Judge John W. Bissell. 10 (Applause.) 11 MR. MADERER: And to congratulate our 12 incoming President, Joseph A. Hayden, Jr. 13 (Applause.) 14 MR. MADERER: I'm also delighted to 15 report that although our colleague and friend, 16 Bruce I. Goldstein, still has a lawyer's mind, he 17 no longer has a lawyer's heart. Bruce -- you see, 18 Bruce received a heart transplant eleven days ago 19 and is already home revising my briefs. 20 (Applause.) 21 MR. MADERER: I know you join me in 22 wishing Bruce a complete and speedy recovery. 23 (Applause.) 24 MR. MADERER: We are pleased to 25 welcome Deborah Fennelly, a senior attorney with</p>	<p>2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>1 recognize. I give you all of Irving Berlin's 2 words and music tonight. 3 ("God Bless America" is sung by Ms. 4 Fennelly as follows): 5 "As the storm clouds gather far 6 across the sea, let us swear allegiance to a land 7 that's free. Let us all be grateful for a land so 8 fair as we raise our voices in a solemn prayer. 9 "God Bless America, land that I love, 10 stand beside her and guide her through the night 11 with the light from above. 12 "From the mountains to the prairies 13 to the oceans white with foam, God Bless America, 14 my home, sweet home. 15 "Oh, God Bless America, my home sweet 16 home." 17 (Applause.) 18 MR. MADERER: Deborah Fennelly, thank 19 you so much. 20 At this time -- at this time of the 21 program -- at this time of the program it is 22 customary to acknowledge -- if we could continue. 23 Thank you. That's not the end of the 24 program. 25 (Laughter.)</p>
<p>1 Legal Services of New Jersey, who will sing God 2 Bless America. 3 Deborah Fennelly. I know Deborah is 4 here because I saw her. Here she is. Deborah 5 Fennelly. 6 MS. FENNELLY: Thank you, Bill. 7 Good evening. I want to thank 8 everybody for allowing me to come. 9 When Ginny called me and asked me if 10 I was free tonight to sing God Bless America, I 11 said, "Absolutely. It is one of my favorite 12 songs." 13 When I heard who the distinguished 14 honorees were tonight, one of whom I actually 15 performed with on the stage, I said "Absolutely" 16 again. But I went home and I actually looked at 17 the music because a long time ago I was asked to 18 sing the Star Spangled Banner and I screwed up the 19 words because I thought I knew it. 20 As I was looking at it I thought, 21 nobody ever does the verse. I looked at the words 22 and I thought the verse is actually more 23 meaningful to me now than the last time I sang it. 24 So if you will indulge me. Feel free 25 to join in when you get to the point that you</p>	<p>3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>1 MR. MADERER: At this time of the 2 program it is customary to acknowledge the 3 presence of the many judges and public officials 4 here tonight. But since you each know who you 5 are, we will forego that custom and let me just 6 say we acknowledge you. 7 (Applause.) 8 MR. MADERER: The Association's 9 scholarship program for New Jersey Law School 10 students is named after a giant in the New Jersey 11 bar, John J. Barry. 12 (Applause.) 13 MR. MADERER: Along with many of you, 14 including Judge Maryanne Trump Barry who is here 15 tonight, I had the privilege of working with John 16 in the U.S. Attorney's office during the 1970s. 17 During his extraordinary tenure in public service 18 and for years thereafter in private practice, 19 Jack -- John was and, indeed, remains today the 20 pre-eminent appellate attorney appearing before 21 the Court of Appeals for the Third Circuit. 22 John is both a former President of 23 the Association as well as a Brennan Award 24 honoree. It is a fitting tribute to John that our 25 annual scholarship is given in his memory.</p>

<p>1 I would ask that this year's three 2 scholarship recipients stand as I call their names 3 and their school. 4 Amanda Lanham, Editor-in-Chief of the 5 Law School at Rutgers Camden. 6 (Applause.) 7 MR. MADERER: David Reiner, Articles 8 Editor of the Law Journal at Rutgers Newark. 9 (Applause.) 10 MR. MADERER: And Michael McGuire, 11 Comments Editor of the Law Journal at Seton Hall. 12 Please join me in congratulating 13 them. 14 (Applause.) 15 MR. MADERER: Did Joe Hayden show up 16 tonight? 17 (Laughter.) 18 (Applause.) 19 MR. HAYDEN: Hello, everyone. 20 It is a pleasure and a privilege for 21 me to give this Proclamation of Merit to Bill 22 Maderer for his services to our organization. 23 Most of you probably know Bill as one 24 of the most accomplished civil litigators in our 25 state who has a very hectic practice.</p>	<p>6 1 (Applause.) 2 MR. MADERER: Thank you very much. 3 Thank you for those very kind comments. 4 Just very briefly. I just want to 5 thank all the members of the Board of Trustees 6 including our President-Elect, Joe Hayden, our 7 Advisory Board and, in particular, our Executive 8 Director, Ginny Whipple Berkner, for all of your 9 support this year. And a special thanks to Chief 10 Judge Bissell for leading our Court with such 11 congeniality during his tenure as Chief. 12 (Applause.) 13 MR. MADERER: About 15 years ago 14 Bruce and I received a call from a client who said 15 that the State Police were on his property with a 16 back hoe trying to locate a 55-gallon drum stuffed 17 with the body of his girl friend's former 18 boyfriend. After the drum was found and after we 19 toyed with the idea for about 30 seconds that we 20 would handle the case, we knew who we had to call. 21 Joe Hayden. 22 For 30 years Joe has been on 23 everyone's very short list as one of the premier 24 criminal defense attorneys in the state. It is so 25 appropriate that he will be our Association's next</p>
<p>7 1 When he assumed the duties as being 2 our President, he had to juggle both his practice 3 and his duties of the presidency. About five or 4 six months into his presidency the managing 5 partner of his firm, Bruce Goldstein, who we 6 talked about today, had a major medical problem, a 7 cardiac problem, and Bill then had to handle 8 enormous responsibilities in his firm, managerial 9 responsibilities, and the pressures and duties of 10 our Association. 11 And the good news is not only did 12 Bill handle all of the responsibilities in his 13 workmanlike fashion, but as we've heard about 14 Bruce, he's had a successful heart transplant, 15 heart transplant. They expect him to be well and 16 he will certainly be back with us next year. 17 (Applause.) 18 MR. HAYDEN: So, Bill, on behalf of 19 the Association, allow me to give you this 20 Proclamation of Merit and gratitude from us for 21 conduct and service above and beyond the call of 22 duty. I'll say it again. "Above and beyond the 23 call of duty." 24 Thank you so much. 25 MR. MADERER: Thanks, Joe.</p>	<p>9 1 President. 2 Also, as many of you know, Judge 3 Bissell will be retiring from the Court in the 4 fall. He will be ably succeeded as Chief Judge by 5 Judge Garrett E. Brown, Jr., who will administer 6 the oath of office to Joe. 7 Judge Brown. 8 (Applause.) 9 JUDGE BROWN: Thank you, Bill. 10 In Bill's usual meticulous fashion, 11 he gave me the oath because, as he reminded me, I 12 don't have to swear Joe to tell the truth -- we 13 all know he does. I don't have to swear him in as 14 an attorney. It was many years ago. There is a 15 new oath here and I'm delighted to administer it 16 right now. 17 Joe, do you solemnly swear that you 18 will support the Constitution of the United States 19 and the goals and missions of the Association of 20 the Federal Bar of the State of New Jersey and 21 that you will faithfully, impartially and justly 22 perform all the duties of the office according to 23 the best of your ability? 24 MR. HAYDEN: I do. 25 JUDGE BROWN: Congratulations.</p>

<p>1 (Applause.)</p> <p>2 MR. HAYDEN: You know, it is one of</p> <p>3 the singular honors of my life to be here as the</p> <p>4 21st President of this organization which is such</p> <p>5 a vital part of the federal family. I pledge to</p> <p>6 attempt to utilize every amount of effort in my</p> <p>7 body to continue on in the same tradition of</p> <p>8 ethics and professionalism of the men and women</p> <p>9 whom I follow. And I would like to thank for</p> <p>10 their support my wife Katherine, my daughter</p> <p>11 Katherine, my sister and brother-in-law who are</p> <p>12 here and my friend, partner and mentor, Justin</p> <p>13 Walder.</p> <p>14 (Applause.)</p> <p>15 MR. HAYDEN: And I feel compelled to</p> <p>16 mention somebody who is not here but who has been</p> <p>17 mentioned already. And that is my friend, John</p> <p>18 Barry. John and I tried cases together. And when</p> <p>19 I lost, he used to bail me out on appeal.</p> <p>20 That case that Billy Maderer just</p> <p>21 mentioned, the Grino case, the body-in-the-barrel</p> <p>22 case out in Somerset County. John got a reversal</p> <p>23 on appeal.</p> <p>24 But it was John Barry who asked me to</p> <p>25 come to this organization and John Barry who</p>	<p>10</p> <p>1 I also would like to advise our</p> <p>2 membership that we also intend to speak out</p> <p>3 against unwarranted attacks on the federal</p> <p>4 judiciary and unwarranted attempts to interfere</p> <p>5 with the separation of powers and the independence</p> <p>6 of the judiciary.</p> <p>7 (Applause.)</p> <p>8 MR. HAYDEN: We will not be a rubber</p> <p>9 stamp for anyone, but an attack on the</p> <p>10 independence of the judiciary at the end of the</p> <p>11 day is an attack on the rule of law and it is in</p> <p>12 the interest of lawyers to make sure there is not</p> <p>13 an attack on the rule of law.</p> <p>14 I invite each of you if you have any</p> <p>15 ideas as to how to do it, what forum to do it --</p> <p>16 but, certainly, I believe if we look around this</p> <p>17 room with 600 lawyers, that we may as a body and</p> <p>18 institution be a better vehicle to fight against</p> <p>19 unwarranted attacks than an individual Article III</p> <p>20 judge standing alone. And when appropriate, we</p> <p>21 intend to do it.</p> <p>22 (Applause.)</p> <p>23 MR. HAYDEN: All right. We now get</p> <p>24 to the high point of this dinner. And that is the</p> <p>25 giving of the Brennan Award.</p>
<p>11</p> <p>1 sponsored me as a Trustee and John Barry who asked</p> <p>2 me to run programs. And but for John Barry, I</p> <p>3 wouldn't be standing here tonight. And I would</p> <p>4 like to acknowledge it and say I miss John a lot,</p> <p>5 but particularly I miss him tonight.</p> <p>6 (Applause.)</p> <p>7 MR. HAYDEN: We intend to have an</p> <p>8 active year this year. And I would reach out to</p> <p>9 all of the attorneys, and mainly the new</p> <p>10 attorneys, to try to get involved.</p> <p>11 Of course, we will have our annual</p> <p>12 conference in the spring. We'll have this</p> <p>13 showcase Brennan Award Dinner in June. But we've</p> <p>14 also started the tradition of having a substantive</p> <p>15 seminar touching on federal practice in the fall.</p> <p>16 Judge Hedges has made the wonderful</p> <p>17 suggestion, perhaps we should have it on e-mail</p> <p>18 discovery, electronic discovery and the Federal</p> <p>19 Practice. Perhaps we could have it on something</p> <p>20 else. But we'll have one in North Jersey and one</p> <p>21 in South Jersey.</p> <p>22 I invite people to make suggestions.</p> <p>23 It will be a pick-and-shovel seminar for pick-and-</p> <p>24 shovel lawyers who intend to go to federal court</p> <p>25 and want to practice in the highest tradition.</p>	<p>13</p> <p>1 Our organization for the longest time</p> <p>2 has given awards at our annual dinner to the</p> <p>3 lawyer or jurist who has shown a level of</p> <p>4 professional excellence in the tradition of</p> <p>5 Justice Brennan. This year we have two</p> <p>6 outstanding individuals who received these awards</p> <p>7 who are members of the bench; Judge Joseph Irenas</p> <p>8 and Judge John Bissell. And our organization is</p> <p>9 honored.</p> <p>10 (Applause.)</p> <p>11 MR. HAYDEN: Without further ado, I</p> <p>12 would like to ask Drew Berry, who is the Managing</p> <p>13 Director of McCarter &amp; English, who was, as the</p> <p>14 God of coincidence has it, a classmate of Judge</p> <p>15 Bissell and a classmate of Judge Irenas at</p> <p>16 Princeton and is also one of the finest trial</p> <p>17 lawyers in the State of New Jersey to give the</p> <p>18 award and presentation to Judge Irenas.</p> <p>19 (Applause.)</p> <p>20 MR. BERRY: Joe Hayden became a great</p> <p>21 success notwithstanding hyperbole.</p> <p>22 Distinguished members of the bench</p> <p>23 and Bar, family friends, Joe and Nancy, Joey</p> <p>24 O'Donnell and the extended Irenas family.</p> <p>25 At some point in the last couple of</p>

<p>1 years my life as a work-a-day practicing lawyer 2 morphed into playing Boswell to Joe Irenas' Dr. 3 Johnson. I did not expect our eminent jurist to 4 have such a Cher-like retirement tour. Nor did I 5 expect to be the designated chronicler of the 6 journey.</p> <p>7 First my encomiam in 34 Rutgers Law 8 Journal, the issue partly devoted to Joe's career, 9 then the formal remarks when Joe received the 10 Gerry award, the highest judicial honor bestowed 11 in the Southern District of New Jersey.</p> <p>12 (Laughter.)</p> <p>13 MR. BERRY: And now we have -- and 14 now we have this tonight. And Bill Maderer is 15 saying "For God's sake. Four and a half minutes 16 and I'll kill you." And he's the lame duck.</p> <p>17 Judge Irenas probably thinks if this 18 thing continues to happen that sooner or later I'm 19 bound to slip up and say something seriously nice 20 about him. Think again.</p> <p>21 So, yes, we recognize that Judge 22 Irenas, according to today's Westlaw printout, has 23 written 301 opinions as a district judge and, yes, 24 they cover an incredibly wide variety of 25 substantive and procedural legal issues. Over all</p>	<p>14</p> <p>1 Exasperating, funny, challenging, 2 maybe even maddening, but never, ever boring. 3 If it is of any comfort to the 4 Circuit and District judges here, the protean 5 personality you've had the pleasure of working 6 with since 1992 had previously spent 26 years and 7 I know enlightening, instructing, cajoling, 8 haranguing and generally helping to drag the 9 largest and oldest law firm in New Jersey into the 10 20th Century.</p> <p>11 When Joe went on the bench, courtesy 12 of Congressman Rinaldo's assurances to Senator 13 Lautenberg that Irenas was a Jewish name and not a 14 Greek name, McCarter &amp; English made absolutely 15 sure that the firm's three-year retirement payout 16 was punctiliously made, thus maintaining the 17 automatic disqualification from his hearing our 18 cases. Until Joe mooted the issue by becoming a 19 client, we had even thought about continuing some 20 payments just to purchase our continued immunity 21 status. But not, I hasten to add, because we 22 feared the quality of justice that Joe would mete 23 out. It was just, as lawyers practicing north of 24 the Raritan River, it was the 8 a.m. status 25 conferences and settlement conferences in Camden,</p>
<p>15</p> <p>1 of which our not falsely modest honoree claims 2 apparent mastery. And the same Westlaw printout 3 reveals 17 opinions when sitting by designation, 4 Judge Irenas either wrote or joined in opinions of 5 the Circuit.</p> <p>6 It is an ill-kept secret, however -- 7 that Joe regarded his service on the Circuit not 8 so much as a matter of professional honor as it 9 was an opportunity to confront, up close and 10 personally, some of the opaque thinkers who in the 11 past might have had the effrontery to criticize 12 or, worse yet, reverse District Judge Irenas.</p> <p>13 Joe's wide and deep knowledge of the 14 law, impressive in its output, has even led some 15 of the more spirited members of the District Court 16 within the Circuit, although perhaps not within 17 the District, to deliberately insert in draft 18 opinions footnotes which really had very little to 19 do with the opinion they were writing, but were 20 designed to criticize an Irenas opinion and they 21 usually got the response they were expecting to 22 get.</p> <p>23 No one, no judge, no lawyer, could 24 ever fairly complain that life around Judge Irenas 25 was boring.</p>	<p>17</p> <p>1 New Jersey we were buying our way out of. 2 Without pitching Joe into the 3 proverbial hogshead of treacle, let me simply note 4 now that Joe was and is a brilliant generalist or 5 perhaps a brilliant serial specialist as both a 6 lawyer and a judge. Joe's had to weather some 7 storms, but he has achieved greatly in the law. 8 And he has had the enormous good fortune of 9 patient support from his high school sweetheart 10 and wife of lots of years and his kids.</p> <p>11 With apologies to those of you who 12 have heard this story, many of you have not, I 13 close with the true tale of Joe and the big 14 overcoat. Roscoe Pound, as perhaps known to some 15 old fogies like me and to some younger fogies who 16 are students of American legal history, was a 17 towering figure in U.S. legal education largely in 18 the first half of the 20th Century. His 19 scholarship focused on the connection between 20 judicial decisions and social conditions. He was 21 Dean of the Harvard Law School from 1916 to 1936. 22 He remained affiliated with the Law School until 23 his death in 1964.</p> <p>24 Even into his nineties Dean Pound was 25 a handsome man, a large man of ample girth.</p>

<p>1 His bequests included a bequest of 2 his overcoat to be given to a -- I quote from the 3 testamentary document -- "deserving student whom 4 it would fit." 5 (Laughter.) 6 MR. BERRY: Joe was the deserving 7 student and it turned out to fit in many, many 8 more ways than one. I'm honored to present this 9 year's Brennan Award to my longest and oldest 10 continuous friend, Joseph Irenas. 11 (Applause.) 12 JUDGE IRENAS: Ex-President Bill 13 Maderer, I have a bone to pick with you. When you 14 asked me who was going to introduce me, I said 15 "Barry, Maryanne Trump Barry." 16 (Laughter.) 17 JUDGE IRENAS: I didn't say "Berry." 18 And for reasons that should now be 19 obvious. 20 (Laughter.) 21 JUDGE IRENAS: Although I admit I 22 will be looking for the hogshead of treacle, I 23 thought that was one of Sam Alito's opinions. 24 (Laughter.) 25 JUDGE IRENAS: But what do I know?</p>	<p>1 For those of you old enough to have 2 been following the news in the late 1940s and the 3 1950s, you may recall that the demons de jour were 4 communists. Not the kind who hung out in Russia 5 or Eastern Europe, but the American kind who were 6 clandestine members of the party or its 7 sympathizers, busy infiltrating government, 8 especially the State Department and the Armed 9 Forces, Hollywood and other revered American 10 institutions. 11 Suspect individuals were hauled 12 before Congressional Committees to be questioned 13 about their communist affiliations, sympathies and 14 friends. Many invoked their right not to testify 15 under the Fifth Amendment. It was a spectacle 16 seen often on the new medium of television and 17 reported on the front page of the newspapers. 18 A Senator from Wisconsin, Joseph 19 McCarthy, gave his name to the phenomenon known as 20 "McCarthyism." 21 Are you following this, Drew? 22 MR. BERRY: No. 23 JUDGE IRENAS: By now you are 24 probably wondering what all of this has to do with 25 Justice Brennan who during this period was</p>
<p>1 Let me start from the beginning. 2 Past President, Mr. Maderer, President-Elect Joe 3 Hayden, wherever you may be. My classmate and 4 co-honoree and my Chief, Jack Bissell, Judges 5 galore, distinguished members of the Bar, friends 6 and family. 7 When Justice Brennan was interviewed 8 by a reporter following his appointment to the 9 Supreme Court he said -- and I quote -- "I 10 consider myself a mule entered in the Kentucky 11 Derby. I don't expect to distinguish myself, but 12 I do expect to benefit from the association." 13 Although history certainly proved him 14 wrong, in some way Justice Brennan's comments 15 mirrored my own feelings about receipt of an honor 16 in his name. At times it seems that every era 17 selects targets who politicians and others find 18 profit in demonizing. The hallmark of 19 demonization is an overreaction to the actual harm 20 and a disregard for legal or Constitutional 21 safeguards. 22 Sad to say but in our times, as Joe 23 Hayden so eloquently said, activist judges appear 24 to be the demon of choice, at least among some in 25 government and the media.</p>	<p>1 distinguishing himself as a member of the New 2 Jersey judiciary. First as Assignment Judge in 3 Hudson County. Then as an Appellate Division 4 Judge and then in 1952 as a member of the New 5 Jersey Supreme Court. 6 He may have been enjoying the 7 cloistered life of an Appellate Judge, but he 8 would not ignore a perceived injustice. In 1954, 9 not inappropriately, Justice Brennan was asked to 10 address the charitable Irish Society of Boston on 11 St. Patrick's Day. As he noted, "I spoke of 12 certain things going on that were reminiscent of 13 the Salem witch hunts." 14 The following year he spoke to an 15 audience in Monmouth County regarding the 16 invocation of the Fifth Amendment by witnesses 17 before Congress. 18 And he said, "Frankness with 19 ourselves must compel the acknowledgement that our 20 resentment towards those who invoked its 21 protection led us into a toleration of some of the 22 very abuses which brought the privilege into being 23 so many centuries ago. The abuses took on a 24 modern dress. It is true not the rack and the 25 screw, but the distorted version of happenings at</p>

<p>22</p> <p>1 secret hearings released to the press, the shouted</p> <p>2 epithet of the hapless and helpless witness. That</p> <p>3 path brings us perilously close to destroying</p> <p>4 liberty in liberty's name."</p> <p>5 As Justice Brennan later noted,</p> <p>6 "Those weren't the only times I paid my respects</p> <p>7 to Senator McCarthy." And Joe McCarthy was</p> <p>8 listening and he did not like what he heard.</p> <p>9 When, in 1956, President Eisenhower</p> <p>10 gave Justice Brennan a recess appointment to the</p> <p>11 Supreme Court of the United States, Senator</p> <p>12 McCarthy issued a statement that Brennan was</p> <p>13 supremely unfit for appointment to the Supreme</p> <p>14 Court.</p> <p>15 Brennan's confirmation hearing before</p> <p>16 the Senate Judiciary Committee did not take place</p> <p>17 until four months after Brennan was a sitting</p> <p>18 Justice.</p> <p>19 Although not a member of the</p> <p>20 Judiciary Committee, McCarthy requested and was</p> <p>21 granted not only the right to sit with the</p> <p>22 Committee during its hearings, but also to ask</p> <p>23 questions of the nominee Justice.</p> <p>24 "Do you mean to tell me that you</p> <p>25 don't think the most important thing we can</p>	<p>24</p> <p>1 notwithstanding my inability to give her any</p> <p>2 meaningful information, it has been a pleasure to</p> <p>3 share some of those details with you.</p> <p>4 With the passage of almost 50 years</p> <p>5 it may be easy to forget that Brennan demonstrated</p> <p>6 real courage in publicly criticizing Senator</p> <p>7 McCarthy. He had a large following and it would</p> <p>8 have been easy and tempting for a public figure,</p> <p>9 particularly a sitting New Jersey Supreme Court</p> <p>10 Justice, to stay out of the line of fire.</p> <p>11 One can only hope that just as</p> <p>12 McCarthyism flamed across the sky like a Roman</p> <p>13 candle and then disappeared that the current</p> <p>14 effort to demonize judges and others will meet a</p> <p>15 similar fate.</p> <p>16 New Jersey Bar leaders and state and</p> <p>17 federal judges, including my co-honoree and</p> <p>18 classmate, Chief Judge Jack Bissell, and, of</p> <p>19 course, Joe Hayden earlier today, have risen to</p> <p>20 counter the assault on the judiciary. We owe them</p> <p>21 a debt of gratitude.</p> <p>22 And I also owe debts of gratitude to</p> <p>23 more people than I can possibly mention tonight.</p> <p>24 After what you have heard, I don't know if I agree</p> <p>25 with this next sentence, but Drew Berry and my</p>
<p>23</p> <p>1 possibly do is route out communists wherever they</p> <p>2 are? Do you approve of Congressional</p> <p>3 investigations and exposures of communism?"</p> <p>4 Of course, Justice Brennan had the</p> <p>5 perfect answer. While he agreed generally to the</p> <p>6 importance of Congressional investigations, his</p> <p>7 show stopper was that as a sitting Justice of the</p> <p>8 Supreme Court, his oath of office barred him from</p> <p>9 commenting on matters which might appear before</p> <p>10 him.</p> <p>11 He was confirmed with one predictable</p> <p>12 negative vote.</p> <p>13 Unfortunately, Justice Brennan's</p> <p>14 nomination and confirmation seem effortless when</p> <p>15 compared to the battle royales of recent years and</p> <p>16 I suspect months or years to come.</p> <p>17 Much of the historical material I</p> <p>18 recounted actually comes from a lengthy profile of</p> <p>19 Justice Brennan written by Nat Hentoff in the New</p> <p>20 Yorker magazine. When I read it more than 15</p> <p>21 years ago, Brennan's strength of character stuck</p> <p>22 in my mind even if the passage of time had dimmed</p> <p>23 my recollection of the historical details.</p> <p>24 With the help of a friendly librarian</p> <p>25 who was able to retrieve the article,</p>	<p>25</p> <p>1 friends at McCarter &amp; English made practicing law</p> <p>2 for more than a quarter of a century a true</p> <p>3 pleasure.</p> <p>4 Now, Justice Brennan probably would</p> <p>5 have had seen some irony in mention of the</p> <p>6 McCarters at a ceremony giving an award in his</p> <p>7 name. Brennan's father, a union official and a</p> <p>8 Newark city Commissioner, often did battle with</p> <p>9 one Thomas McCarter, Jr., a former 19th Century</p> <p>10 partner in the firm who later was the founder and</p> <p>11 head of Public Service.</p> <p>12 As Justice Brennan, himself, noted</p> <p>13 about his father's union -- this is a quote from</p> <p>14 Justice Brennan -- "They were up against a company</p> <p>15 owned by a family that you might say had a</p> <p>16 monopoly on the whole state. It was like a</p> <p>17 company state. One brother headed the biggest</p> <p>18 bank. Another was in charge of the gas and</p> <p>19 electric companies and the third had been Attorney</p> <p>20 General and," I might add, "a senior partner as</p> <p>21 McCarter &amp; English."</p> <p>22 I suspect Drew wishes it were still</p> <p>23 that way, don't you, Drew?</p> <p>24 (Laughter.)</p> <p>25 JUDGE IRENAS: Sorry, it's not to be.</p>

<p>1 The Association of the Federal Bar of 2 the State of New Jersey has done everything 3 possible to make this evening a special occasion 4 for which I am most grateful. I'm only sorry that 5 William Brennan, III, could not have been here 6 with us this evening to share the moment. 7 In 13 years as a judge I've enjoyed 8 the association with two secretaries, two 9 courtroom deputies, two court reporters, 26 law 10 clerks and countless interns. They have supported 11 me, inspired me and, most importantly, tolerated 12 me. 13 Words really can't express what you 14 have all meant to me. My special thanks to my two 15 current law clerks who are here sitting at the 16 McCarter &amp; English table. Don't believe any of 17 them. 18 I am delighted that my daughter, my 19 son and my grandson are all here to join me on 20 this memorable occasion. Sometimes they help me 21 through life's rough spots; sometimes they "are" 22 life's rough spots. 23 (Laughter.) 24 JUDGE IRENAS: At all times their 25 love and support nourishes me and gives me the</p>	<p>26 27 28 29 1 Irenas. 2 It is our custom and practice that 3 the honoree has the ability to pick who the 4 presenter will be. Judge Bissell is a very wise 5 man because it was Judge Bissell's decision to ask 6 his predecessor, who is respected, beloved and one 7 of the most socially gracious and caring people I 8 have ever met, former Chief Judge Anne E. 9 Thompson, to make the presentation. 10 (Applause.) 11 JUDGE THOMPSON: Thank you, Joe. 12 Distinguished members and guests all. 13 I am honored and, quite frankly, touched to be 14 able to present this year's William J. Brennan 15 Award to Chief Judge John Bissell. I can think of 16 no one who more richly deserves this tribute. 17 Anyone who knows Judge Bissell would 18 say that he personifies the warmth, humanity, zest 19 for life and humility that Justice Brennan so 20 memorably exhibited. 21 I met Judge Bissell almost 40 years 22 ago when he and I were studying for the New Jersey 23 Bar examination. He had graduated from Exeter 24 Academy, Princeton University, the University of 25 Virginia Law School and was clerking for District</p>
<p>1 strength to carry on. 2 Now, many of you have heard this next 3 story once or several times before. I don't care. 4 You're just going have to hear it again. 5 (Laughter.) 6 JUDGE IRENAS: Some 54 years ago on 7 the first day of the sixth grade in the Elizabeth 8 public schools, a very poor school district for 9 very poor people, there weren't enough textbooks 10 to go around and the students had to share. 11 I was paired with one Nancy Jacknow 12 who, to this day, claimed that she had to slow 13 down so I could catch up. I've been trying to 14 catch up ever since. We have been married 43 15 years. 16 Her advice, if not always followed, 17 her compassion, if not always emulated, and her 18 love, always reciprocated, has sustained me on 19 this long journey together. May the journey 20 continue for years to come. 21 Thank each and every one of you for 22 coming here to join me on this very special 23 occasion. 24 (Applause.) 25 MR. HAYDEN: Congratulations, Judge</p>	<p>26 27 28 29 1 Judge Arthur S. Lane. Both of us were commuting 2 by train from Trenton to Newark two or three times 3 a week to attend an ICIE Bar Review course taught 4 at Rutgers Law School. 5 We became good buddies. It was the 6 year 1965 and I was quite pregnant with my first 7 child. Looking back on it now, Jack and I were 8 probably a most unlikely couple making our way 9 along Raymond Boulevard in Newark night after 10 night. 11 (Laughter and applause.) 12 JUDGE THOMPSON: We met again in 1983 13 when President Ronald Reagan appointed Judge 14 Bissell to the U.S. District Court. During the 15 interim years he had served as an Assistant United 16 States Attorney, garnering the U.S. Attorney 17 General's Meritorious Service Award in 1971. 18 He had become an associate and later 19 a partner at the Morristown law firm of Pitney, 20 Hardin &amp; Kipp. He had been appointed a judge of 21 the Essex County District Court, later a judge of 22 the New Jersey Superior Court. 23 In his personal life he had forged an 24 enviably beautiful marriage with Caroline, better 25 known as "Carly," Bissell and become the father of</p>



<p>1 two lovely girls, Megan and Katie.</p> <p>2 And now 22 years have passed since he</p> <p>3 joined the bench of the U.S. District Court. He</p> <p>4 has performed in an exemplary way and we, his</p> <p>5 colleagues, have been enriched by his presence.</p> <p>6 He has been our court rule master to whom everyone</p> <p>7 turned for his meticulous, thorough knowledge of</p> <p>8 the court rules.</p> <p>9 He published scholarly opinions. He</p> <p>10 gave substantive lectures on such subjects as</p> <p>11 Megan's law and the separation of powers.</p> <p>12 Judge Bissell was to be the model of</p> <p>13 the high-minded New England gentleman, warm and</p> <p>14 friendly but totally unpretentious. He was always</p> <p>15 upbeat and articulate. Popular not just with</p> <p>16 some, but with all of the judges. He and I had a</p> <p>17 particularly close relationship and I feel lucky</p> <p>18 to be able to count him as a friend.</p> <p>19 A couple of years ago he gave a</p> <p>20 lecture at the Law Center for the Commission on</p> <p>21 Professionalism Awards ceremony. He drew</p> <p>22 parallels between good sportsmanship in athletics</p> <p>23 and the civility and respect that judges ask for</p> <p>24 and colleagues expect from members of the Bar. He</p> <p>25 analyzed the sportsmanship ideal and criticized</p>	<p>30</p> <p>1 that has been an inspiration for the entire</p> <p>2 profession. When a delegation of Judges from</p> <p>3 Russia was hosted by our Court several years ago,</p> <p>4 Chief Judge Bissell shone as the ideal ambassador</p> <p>5 of good will and diplomacy.</p> <p>6 We, Judge Bissell's colleagues, will</p> <p>7 sorely miss him for his talent, his</p> <p>8 thoughtfulness, his zest for life and for his</p> <p>9 independence.</p> <p>10 Furthermore, he has demonstrated how</p> <p>11 a person can felicitously combine the roles of</p> <p>12 professional, a proud father and grandfather, a</p> <p>13 devoted husband and a member of the community</p> <p>14 without shortchanging any aspect of these role</p> <p>15 responsibilities.</p> <p>16 He was a man who got in there with a</p> <p>17 hammer and saw finishing his basement in his</p> <p>18 Montclair home. He was the man who could</p> <p>19 cheerfully sing with a community barber shop</p> <p>20 chorus. He was the man who could don his skates</p> <p>21 and referee ice hockey games with such distinction</p> <p>22 that he was recently made a member of the Board of</p> <p>23 Directors of the National Association of Sports</p> <p>24 Officials.</p> <p>25 This is truly a man in full and we</p>
<p>31</p> <p>1 the showy displays and posturing sometimes engaged</p> <p>2 in by professional athletes such as the dance in</p> <p>3 the end zone after the touchdown.</p> <p>4 Here is a note that I wrote to him</p> <p>5 right after that speech:</p> <p>6 "Dear Jack: Fine speech, but what's</p> <p>7 wrong with dancin' in the end zone?</p> <p>8 "AET."</p> <p>9 (Laughter.)</p> <p>10 JUDGE THOMPSON: By return mail on</p> <p>11 the same piece of paper came the ready reply:</p> <p>12 "To: AET.</p> <p>13 From: JWB.</p> <p>14 Nothin' if you're at a rock concert."</p> <p>15 And then he drew a head with hair</p> <p>16 standing all over.</p> <p>17 (Laughter.)</p> <p>18 JUDGE THOMPSON: As Chief Judge,</p> <p>19 Judge Bissell has served with unique equanimity</p> <p>20 and eloquence. He reached out to the Bar in</p> <p>21 remarkable ways to enlist its participation in</p> <p>22 numerous initiatives under consideration by the</p> <p>23 Court.</p> <p>24 With his upbeat, contagious energy he</p> <p>25 promoted an extraordinary Bench-Bar partnership</p>	<p>33</p> <p>1 cherish him at the same time that we honor him.</p> <p>2 Judge Bissell quoted the great</p> <p>3 American poet, Robert Frost, also from New</p> <p>4 Hampshire, when he announced that he would be</p> <p>5 leaving the Court September 1 of this year. "I</p> <p>6 have promises to keep and miles to go before I</p> <p>7 sleep."</p> <p>8 Knowing this is Judge Bissell's</p> <p>9 favorite poet, I found another oft-quoted poem by</p> <p>10 Robert Frost called "Birches," which perhaps</p> <p>11 portrays the imagery of swinging on birch tree</p> <p>12 branches as maybe a metaphor for navigating the</p> <p>13 perplexities of life's journey, a feat Judge</p> <p>14 Bissell has performed so well. And I quote:</p> <p>15 "Earth's the right place for love. I don't know</p> <p>16 where it's likely to go better. I'd like to go by</p> <p>17 climbing a birch tree and climb black branches up</p> <p>18 a snow white trunk toward heaven till the tree</p> <p>19 could bear no more but dipped its top and set me</p> <p>20 down again. That would be good both going and</p> <p>21 coming back. One could do worse than be a swinger</p> <p>22 of birches."</p> <p>23 On behalf of the Association of the</p> <p>24 Federal Bar, I am privileged to present to Chief</p> <p>25 Judge John Bissell the William J. Brennan Award</p>

<p>1 for the year 2005 with the respect and the esteem 2 of this entire assemblage and the affection and 3 best wishes of our beloved profession. 4 (Applause.) 5 CHIEF JUDGE BISSELL: Never in all my 6 life -- wow, Anne, don't do that to me. 7 It is no accident that Judge Thompson 8 preceded me to this podium four years ago as an 9 honoree and recipient herself. There has been no 10 more gracious lady, no more better ambassador for 11 everything that this Court means and everything 12 that a judge should be than my colleague, Anne E. 13 Thompson, and I would ask that you would join me 14 in saluting her not only for that ill-deserved 15 accolade, but also for her dedicated service to 16 this Court. 17 (Applause.) 18 CHIEF JUDGE BISSELL: Like Joe, I owe 19 everything to the support of my family that has 20 allowed me to pursue this dream for so many years. 21 My wife Carlee, who is here this 22 evening -- and the way I saw her work the house, 23 my guess is just about everybody here has met her 24 in the course of the evening. 25 My daughter Megan, a brilliant</p>	<p>34 1 Although we met on several occasions 2 thereafter, I best remember my first meeting with 3 our revered Justice William J. Brennan, Jr. in the 4 spring of 1967. Six months into my tenure at the 5 firm of Pitney, Hardin &amp; Kipp I was introduced to 6 Justice Brennan at my first firm dinner, later 7 known affectionately as "The Pitney Prom." He, a 8 former partner of the firm, had been invited as a 9 special guest to celebrate the 10th anniversary of 10 his appointment to the U.S. Supreme Court. 11 As this black tie evening progressed 12 at Newark's elegant Essex Club, I found myself in 13 a game of five-card draw with the Justice on my 14 left and the firm's senior partner, the imposing 15 Donald B. Kipp, on my right. They had been 16 friends since their days at Harvard Law School in 17 the early 1930s. 18 Caught between a rock and a hard 19 place and realizing that too much success in this 20 poker game could have a serious adverse effect on 21 my career at the firm, I folded, shall we say, 22 early and often. 23 When I shared these anxious moments 24 with him years later at Third Circuit Judicial 25 Conferences now Bill Brennan, as he insisted I</p>
<p>35 1 professional in the securities industry in New 2 York of whom I am as proud as anybody could 3 possibly be. And a very special treat here, 4 Carlee's mother is with us this evening almost 5 kind of by accident, on her way from Maine to 6 Florida -- Florida to Maine -- I'm sorry, Bobbi, I 7 got it mixed up -- for the summer. 8 And I am so pleased that she, perhaps 9 for about the first time, is able to share in some 10 of the experiences and some of the aura, I guess, 11 of what this is all about and what I've been all 12 about at least professionally. And, yes, Bobbi, I 13 got that dead birch tree down up there at your 14 house, so the place will look just fine when you 15 get there. Okay? 16 I'd like also, if I might, as Joe 17 did, to share a few reminiscences about Justice as 18 well because this really is about him. 19 If you take a look, for instance, at 20 the list of distinguished honorees, many of whom 21 are here, you have to think about that and you 22 say: You know, it is not just about us; it's 23 about him. This award is not named after him by 24 accident. So if you'll indulge me, I'll share a 25 few of those thoughts with you.</p>	<p>37 1 call him, with a characteristic twinkle in his 2 eye, complimented me for being judicious so long 3 before I had become judicial. 4 (Laughter.) 5 CHIEF JUDGE BISSELL: While this is a 6 night for such reflections, it is also a night in 7 which I wish to present a tribute to this 8 extraordinary Justice, one of the greatest our 9 Supreme Court has ever known. 10 Justice William J. Brennan, Jr. has 11 left us a legacy of opinions honoring the 12 individual rights of our citizens that is 13 unparalleled in American jurisprudence. I 14 believe, however, that his most durable 15 contribution may be found in his approach to the 16 interpretation and application of the United 17 States Constitution in our day. 18 Openly critical of the facile 19 historicism exercised by those fixated on the 20 search only for the original intent of the 21 framers, Justice Brennan recognized that our 22 short, generally-phrased Constitution must remain 23 sufficiently flexible to serve the needs of the 24 present. 25 It might be said that his philosophy</p>

<p>1 is somewhat in decline, particularly when one 2 considers the views of several present members of 3 the U.S. Supreme Court.</p> <p>4 But whatever approach one endorses, 5 it is most important that the debate be preserved 6 and continue.</p> <p>7 Justice Brennan did not mince words 8 in his reflection of the original-intent 9 philosophy. In a speech at Georgetown University 10 on October 12th, 1985 he stated -- and I apologize 11 for the length of this quote, but he said it a lot 12 better than I could. And I quote.</p> <p>13 "There are those who find legitimacy 14 in fidelity to what they call 'the intentions of 15 the framers.' In its most doctrinaire incarnation 16 this view demands that Justices discern exactly 17 what the framers thought about the question under 18 consideration and simply follow that intention in 19 resolving the case before them. It is a view that 20 feigns self-effacing deference to the specific 21 judgments of those who forged our original social 22 compact, but in truth it is little more than 23 arrogance cloaked in humility.</p> <p>24 "It is arrogant to pretend that from 25 our vantage we can gauge accurately the intent of</p>	<p>38</p> <p>1 Constitution in the only way we can as Twentieth 2 Century Americans. We look to the history of the 3 time of framing and to the intervening history of 4 interpretation, but the ultimate question must be 5 what do the words of the text mean in our time. 6 For the genius of the Constitution rests not in 7 any static meaning it might have had in a world 8 that is dead and gone, but in the adaptability of 9 its great principles to cope with current problems 10 and current needs.</p> <p>11 "What the Constitutional fundamentals 12 meant to the wisdom of other times cannot be the 13 measure of the vision of our time. Similarly, 14 what those fundamentals mean for us our 15 descendants will learn cannot be the measure of 16 vision in their time. This realization is not a 17 novel one of my own creation."</p> <p>18 This, by the way, was quite a 19 revelation to me.</p> <p>20 Continuing with the article, "To 21 quote from one of the opinions of our Court, Weems 22 versus United States, written nearly a century 23 ago" [in 1910.] Listen to this.]</p> <p>24 "Time works changes, breaks into 25 existent new conditions and purposes. Therefore,</p>
<p>39</p> <p>1 the framers on application of principle to 2 specific contemporary questions. All too often 3 sources of potential enlightenment such as records 4 of the ratification debates provide sparse or 5 ambiguous evidence of original intention. Apart 6 from the problematic nature of the sources, our 7 distance of two centuries cannot but work as a 8 prism refracting all that we perceive.</p> <p>9 "Those who would restrict claims of 10 right to the values of 1789 specifically 11 articulated in the Constitution turn a blind eye 12 to social progress and eschew adaption of 13 over-arching principles to changes of social 14 circumstance.</p> <p>15 The Justice then proceeded in the 16 very same speech to articulate his approach. I 17 quote again.</p> <p>18 "The framers discerned fundamental 19 principles through struggles against particular 20 malefactions of the Crown. The struggle shapes of 21 particular contours of the articulated principles 22 but our acceptance of the fundamental principles 23 has not and should not bind us to those precise, 24 at times, anachronistic contours.</p> <p>25 "Current Justices read the</p>	<p>40</p> <p>1 a principle, to be vital, must be capable of wider 2 application than the mischief which gave it birth. 3 This is peculiarly true of Constitutions. In the 4 application of a Constitution, therefore, our 5 contemplation cannot be only of what has been but 6 of what may be."</p> <p>7 That concludes my quote from the 8 Weems case.</p> <p>9 Continuing with Justice Brennan's own 10 comments, briefly.</p> <p>11 "Interpretation must account for the 12 transformative purpose of the text.</p> <p>13 "Our Constitution was not intended to 14 preserve a preexisting society but to make a new 15 one, to put in place new principles that the prior 16 political community had not sufficiently 17 recognized." Close quote.</p> <p>18 You might expect that I agree with 19 Justice Brennan's approach and, if so, you'd be 20 right. Those who searched so doggedly for the 21 intent of the framers failed to appreciate that a 22 sizable segment of that intent was a vision for a 23 society that would outlast their time on earth for 24 centuries to come.</p> <p>25 The leading contributors to the text</p>
<p>41</p> <p>1 a principle, to be vital, must be capable of wider 2 application than the mischief which gave it birth. 3 This is peculiarly true of Constitutions. In the 4 application of a Constitution, therefore, our 5 contemplation cannot be only of what has been but 6 of what may be."</p> <p>7 That concludes my quote from the 8 Weems case.</p> <p>9 Continuing with Justice Brennan's own 10 comments, briefly.</p> <p>11 "Interpretation must account for the 12 transformative purpose of the text.</p> <p>13 "Our Constitution was not intended to 14 preserve a preexisting society but to make a new 15 one, to put in place new principles that the prior 16 political community had not sufficiently 17 recognized." Close quote.</p> <p>18 You might expect that I agree with 19 Justice Brennan's approach and, if so, you'd be 20 right. Those who searched so doggedly for the 21 intent of the framers failed to appreciate that a 22 sizable segment of that intent was a vision for a 23 society that would outlast their time on earth for 24 centuries to come.</p> <p>25 The leading contributors to the text</p>	<p>41</p> <p>1 a principle, to be vital, must be capable of wider 2 application than the mischief which gave it birth. 3 This is peculiarly true of Constitutions. In the 4 application of a Constitution, therefore, our 5 contemplation cannot be only of what has been but 6 of what may be."</p> <p>7 That concludes my quote from the 8 Weems case.</p> <p>9 Continuing with Justice Brennan's own 10 comments, briefly.</p> <p>11 "Interpretation must account for the 12 transformative purpose of the text.</p> <p>13 "Our Constitution was not intended to 14 preserve a preexisting society but to make a new 15 one, to put in place new principles that the prior 16 political community had not sufficiently 17 recognized." Close quote.</p> <p>18 You might expect that I agree with 19 Justice Brennan's approach and, if so, you'd be 20 right. Those who searched so doggedly for the 21 intent of the framers failed to appreciate that a 22 sizable segment of that intent was a vision for a 23 society that would outlast their time on earth for 24 centuries to come.</p> <p>25 The leading contributors to the text</p>

<p>of the Constitution and the Bill of Rights were well-educated in the Classics, particularly the enduring societies of Athenian democracy and the Roman Republic, models in large measure for this noble American experiment. While they could not and did not attempt to predict the numerous developments of the 19th, 20th and 21st Centuries, the framers surely hoped that the Constitution and its first ten amendments would serve as a blueprint for American society long into the future.</p> <p>The brief, general and arguably ambiguous language of the document reflects the framer's appreciation for the breadth of circumstances to which it might apply in the distant future.</p> <p>Indeed, the very inclusion of a process to generate additional amendments demonstrates their vision that this Constitution would be a document for the ages.</p> <p>Justice Brennan understood these elements of vision and foresight. I submit that those searching strictly for original intent limited in scope to an 18th Century society have failed to understand them.</p>	<p style="text-align: right;">42</p> <p>1 (Applause.)</p> <p>2 - - -</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">44</p>
<p style="text-align: right;">43</p> <p>Most importantly, Justice Brennan's perceptions and his peerless articulation of his Constitutional philosophy will keep this debate alive, as it should be, for many years to come.</p> <p>So to Bill Brennan I say, if once again we could sit down at the poker table and you were in the hand I might not fold early and often out of anxiety about my career, but I'd think twice about betting against you. A man of passionate commitment to principle, you never bluffed. The pot's yours, my friend.</p> <p>Thank you very much.</p> <p>(Applause.)</p> <p>MR. HAYDEN: Congratulations, Judge Bissell. You chose wisely in your mentor.</p> <p>I would not want to sum up right now after Judge Thompson summed up even if I had the facts.</p> <p>That concludes the formal part of our program. We thank everybody for your attention and your courtesy during the somewhat lengthy but meritorious program. Enjoy the company and the collegiality of the people here. And anybody who wants to get involved, please get involved.</p> <p>Thank you, everybody.</p>	<p style="text-align: right;">45</p> <p>1</p> <p>2 CERTIFICATE</p> <p>3</p> <p>4</p> <p>5 I, STANLEY B. RIZMAN, a Notary Public</p> <p>6 and Certified Shorthand Reporter of the State of</p> <p>7 New Jersey, do hereby certify that the foregoing</p> <p>8 is a true and accurate transcript of the</p> <p>9 proceedings as taken stenographically by me at the</p> <p>10 time, place and on the date hereinbefore set</p> <p>11 forth.</p> <p>12</p> <p>13</p> <p>14 STANLEY B. RIZMAN, C.S.R.</p> <p>15 Certificate No. X100304</p> <p>16 Notary Public of New Jersey</p> <p>17 My Commission expires February 14, 2010</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25 Dated: June 22, 2005</p>

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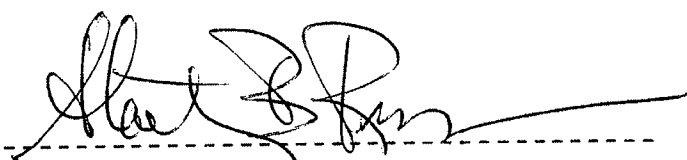
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5 CERTIFICATE OF OFFICER  
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8 I CERTIFY that the foregoing is a true  
9 and accurate transcript of the testimony and  
10 proceedings as reported stenographically by me at  
11 the time, place and on the date as hereinbefore set  
12 forth.

13 I DO FURTHER CERTIFY that I am neither  
14 a relative nor employee nor attorney or counsel of  
15 any of the parties to this action, and that I am  
16 neither a relative nor employee of such attorney or  
17 counsel, and that I am not financially interested in  
18 the action.

19  
20   
21 STANLEY B. RIZMAN, C.S.R.  
22 Certificate No. X100304  
23 Notary Public of New Jersey  
24 My Commission expires February 14, 2010  
25

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15 any of the parties to this action, and that I am  
16 neither a relative nor employee of such attorney or  
17 counsel, and that I am not financially interested in  
18 the action.

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21 STANLEY B. RIZMAN, C.S.R.  
22 Certificate No. X100304  
23 Notary Public of New Jersey  
24 My Commission expires February 14, 2010  
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