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SPECIAL SESSION OF THE SUPERIOR COURT
OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

IN THE MATTER OF:)
)
Ceremony of Investiture) October 24, 1985
)
of) Superior Courtroom No. 301
) Public Building
HON. JOHN E. BABIARZ, JR.) Wilmington, Delaware
)
As an Associate Judge of) 3:00 o'clock p.m.
)
the Superior Court)

PRESIDING: HON. ALBERT J. STIFTEL, PRESIDENT JUDGE
SUPERIOR COURT OF DELAWARE

SITTING: HON. ANDREW D. CHRISTIE, CHIEF JUSTICE
SUPREME COURT OF DELAWARE

HON. ROBERT C. O'HARA, ASSOCIATE JUDGE
SUPERIOR COURT OF DELAWARE

PRESENT: HON. MICHAEL N. CASTLE, GOVERNOR
STATE OF DELAWARE

JOSEPH M. KWIATKOWSKI, ESQUIRE, PRESIDENT-ELECT
DELAWARE BAR ASSOCIATION

JAMES ERISMAN, ESQUIRE

O. FRANCIS BIONDI, ESQUIRE, FORMER PRESIDENT
DELAWARE BAR ASSOCIATION

And others.

Thursday, October 24, 1985
3:00 o'clock p.m.
Courtroom No. 301

(The Bailiff opened the Court.)

JUDGE STIFTEL: Welcome to this Special Session of the Superior Court. Please stand for the invocation by Father Robert Kenny of the St. Francis deSales.

FATHER KENNEY: Let us pray. O God, Eternal Judge, just as you heard the plea of the Psalmist David for wisdom and knowledge because of his trust in your commands, humbly we beseech you that the work Judge Babiarz now undertakes, be ever worthy to be carried by the hands of the holy angels to your throne in heaven.

Give to him not only the wisdom and knowledge needed for one in such a position of trust and responsibility but also never let him lose sight of his daily dependence upon you the Supreme and Eternal Judge.

That these happy results may be hoped for and realized during his tenure on the Bench, take away all inequity and spirit of pride; fill his being with a spirit of humility and fear of the Lord in ministering justice and in upholding the laws of our beloved America.

We ask this of You, our God, for Judge Babiarz and for all of our Judges. Amen.

JUDGE STIFTEL: Thank you, Father. First, I want to thank Governor Castle who is here, Senators and the Representatives, those present and absent who made this occasion possible. Also, I want to thank the many persons from the Bar and the judiciary who worked so hard for this day; people like Chief Justice Herrmann, Henry Herndon, Frank Biondi, Victor Battaglia, Ned Carpenter and Judge Vincent Bifferato and so on and on.

Today John, Jr. will be the twelfth senior judge, tomorrow Bill Chandler will be number thirteen. John's lovely wife, Linda, is here and their three children; Lisa, 17, a freshman at Delaware; Julia, 16, a senior at A.I. duPont High -- raise your hands so we can see -- Amanda is a fourth grader at A.I. duPont Middle School. John started out as a boy on November 13, 1941, in this city where his father, John, Sr., became Mayor years later. John was baptised on December 7, 1941, one hour before the Japanese hit Pearl Harbor. When the family got home from the church, they heard the news.

Both Johns graduated from the University of Delaware at different times; old John in 1937, young John in 1963. Both were outstanding students.

Long ago, Collins J. Seitz, the former Mayor's college contemporary, told me how bright John, Sr. was in college. Young John was a Phi Kappa Phi in his junior year and a Phi Beta Kappa

at graduation. I figured as much, because young John was admitted into the Harvard Law School from which he graduated in 1966. The last Harvard man we had on this Court was Bill Quillen. They got one in Chancery last week, Jack Jacobs. We've had a Yale man for some time, Clarence Taylor.

When John was real young, his dad took him to the Blue Rock baseball games often. You won't believe this, but I am told that after he ate four or five hot dogs and sampled all the other food items, of all of the vendors, John was ready to go home, normally around the fifth inning.

He learned to fish and loved it. Someone told me, as a kid, he stuffed one then put it on the wall. He still loves to fish and operates his motorboat and sailboat when he can.

John graduated from Chirst Our King. He was the 1959 class valedictorian at Salesianum. Judge Bifferato has the list of all the Judges who graduated from Sallies, it includes: Him, Justice Duffy, Justice Walsh, Judge Poppiti and Judge Gebelein. He recites it the first Friday of each month.

When John was a junior in High School, he dreamed of becoming a lawyer. He realized his ambition when he was admitted to the Delaware Bar in 1966. He became a Superior Court law clerk in 1966, preceding Vice Chancellor Jack Jacobs, 1967, and Vincent Poppiti,

1970. This clerkship may become one of the qualifications for being considered for the Judiciary.

John was always in "high gear" when he worked for us. He works hard at everything he does. This habit will carry over.

Up until the time of this appointment, John was the President of the Delaware Trial Lawyers Association. This is an organization that has done some remarkable things. Jim Erisman, succeeding President and former President of DTLA, will tell you about John and the DTLA and maybe the "big verdicts".

Before we hear from Jim, we will hear from Joseph M. Kwiatkowski, President-Elect of the Delaware Bar Association; and then from O. Francis Biondi, former President of the Delaware Bar, the most important person in John's professional life, will give us a detailed accounting of their association.

But before all this, he has to be sworn into office. This will be done by Chief Justice Christie. I will now call on Chief Justice Christie for his remarks and to administer the oath of office to the new Judge.

When the oath of office is being administered by Chief Justice Christie, I respectfully request that all of the audience stand.

Mrs. Babiarz, John's wife, will hold the Bible for the

administration of the oath and Judge O'Hara will place the judicial robe on Judge Babiarz at the appropriate time, and then Judge Babiarz will take a seat on the stand.

CHIEF JUSTICE CHRISTIE: It will be a great pleasure to swear in John E. Babiarz, Jr., as a Judge of the Superior Court. The Superior Court is fortunate in having Judge Babiarz as its newest judge because he is well qualified by education, temperament and experience for this position.

Furthermore, for almost twenty years Judge Babiarz has been familiarizing himself with the functions of the court; first as a law clerk and then as an attorney in active practice before the court. The Governor has chosen well and the State Senate has acted wisely.

Judge Babiarz also is fortunate, because he was selected for the post from a remarkably long list of capable and available attorneys, all of whom would have liked to serve as a Judge of the Superior Court.

After having served myself as a Superior Court judge for more than a quarter of a century, I can state from personal experience that Judge Babiarz is fortunate in this appointment for many reasons.

First of all, Superior Court is at the very center of the Delaware court system. There is no other trial court in the state

which handles such a wide variety of challenging and interesting trials, and also appeals. It is an important and intermediate appellate court.

Secondly, there is an outstanding spirit of teamwork and judicial camaraderie in the Superior Court which has been fostered through the years by the distinguished President Judges of that court, such as President Judge Terry, President Judge Duffy and Judge Stiftel. One judge of the Superior Court may obtain an immediate phone conference with another judge at any time, no matter how busy that judge may be. Help with legal and with procedural problems is literally only a phone call away in this Court. The judges of our Superior Court help each other and they work together.

Judge Babiarz today joins a new partnership, a judicial partnership. He will find it to be the finest kind of partnership, not only because of those with whom he will serve on the Superior Court, but also because there is no need at the end of the year to decide how the profits and bonuses will be divided. I am sure Judge Babiarz will be a credit to his new callings.

And now, I will ask Mrs. Babiarz to come forward and hold the Bible for the administration of the oath.

I will read to you, but you must face the stand so the folks that are here to watch can see. So turn towards the people

that are assembled.

John E. Babiarz, Jr., are you prepared to take the solemn oath of office as a Judge of the Superior Court of the State of Delaware?

JUDGE BABIARZ: I am.

CHIEF JUSTICE CHRISTY: Please repeat after me: I, John E. Babiarz, Jr. . . .

JUDGE BABIARZ: I, John E. Babiarz, Jr. . . .

CHIEF JUSTICE CHRISTY: . . . do solemnly swear . . .

JUDGE BABIARZ: . . . do solemnly swear . . .

CHIEF JUSTICE CHRISTY: . . . that I will support the Constitution of the United States . . .

JUDGE BABIARZ: . . . that I will support the Constitution of the United States . . .

CHIEF JUSTICE CHRISTY: . . . and the Constitution of the State of Delaware . . .

JUDGE BABIARZ: . . . and the Constitution of the State of Delaware . . .

CHIEF JUSTICE CHRISTY: . . . and that I will faithfully discharge . . .

JUDGE BABIARZ: . . . and that I will faithfully discharge

. . .

CHIEF JUSTICE CHRISTY: . . . the duties of the office . . .

JUDGE BABIARZ: . . . the duties of the office . . .

CHIEF JUSTICE CHRISTY: . . . of a judge of the Superior Court of the State of Delaware . . .

JUDGE BABIARZ: . . . of a judge of the Superior Court of the State of Delaware . . .

CHIEF JUSTICE CHRISTY: . . . according to the best of my ability.

JUDGE BABIARZ: . . . according to the best of my ability.

CHIEF JUSTICE CHRISTY: Congratulations, sir.

JUDGE BABIARZ: Thank you, Mr. Chief Justice.

(Thereupon, Judge John E. Babiarz, Jr. was robed by Superior Court Judge Robert C. O'Hara.)

JUDGE STIFTEL: Very well, you may be seated. We are so happy to have you together here to make it possible, and I don't know if he wants to get up and say a few words; we didn't ask him to be prepared for such.

Would you say a few words for us, Governor?

GOVERNOR CASTLE: Well, thank you, Chief Judge Mark Twain -- excuse me, Chief Judge Stiftel, I appreciate that.

Chief Justice Christy and the other judges and our new Judge, John Babiarz, I am pleased to be here and I learned as a

politician, you should always be prepared to say something just in case, and I hadn't prepared anything, but it is always in your mind it might happen and I am delighted to say something.

First of all, and it was said by Judge Stiftel before me and that is -- and excuse me, by Chief Justice Christy before me, and that was that John Babiarz was selected from a rather significant panel of extraordinarily qualified individuals, some of whom are probably in this room today, and he was selected because he is an outstanding person and from an outstanding family in Delaware, and I am convinced and delighted that he is joining the Judiciary of the State of Delaware.

But I will go a step beyond that, because everybody always knows these things about Judge Babiarz today, and say something else. This completes, today and tomorrow when Bill Chandler becomes the thirteenth judge of the Superior Court, a series of selections which, by happenstance, fell upon me during the course of my first six or seven months in office to perform. I think I spent half of my time in the judicial nominating commission and going over resumes of various individuals who wanted to be judges, and then finally making the necessary selections. Those selections have been made, they go from the very top as our new chief justice, to a series of clerks in the State of Delaware. And I happen to be one who sort of meddled in the

practice of law before he became too emerged in politics, and I have dealt with many of the judges who are sitting here today and many of the other judges who have since gone from the State of Delaware, and I have had highest respect for these individuals who are willing to leave the practice of law, whatever else they are doing, put it all aside to become judges in our state. And I have the highest individual respect for these people who have joined our Judiciary and I will tell you, with the addition of the seven or so judges that we have been able to appoint and have confirmed in the last few months, that Delaware has gone from the place of having, perhaps one of the best Judiciaries in the country to having the best Judiciary in the Country of America. If you could see the clerks, four or five Beta Kappa's, that we are dealing with the best law schools, exemplary legal records, you would realize what we have accomplished in the state and it makes it a lot better for this great turnout today, for all the people in the State of Delaware who might, some chance, have to go before the court, be it civil or criminal, whatever it may be, and for all the different corporations and businesses which have looked at Delaware as a home, as a place to either do business or to come to for some reason or another, because they know now when they come to Delaware they will be dealing with fairness, dealing with intelligence and the best judicial system that we think can be put together. And I am very

proud of that and I am very proud of all the individuals here. So to you, John, and to all the Judges of the State of Delaware, I offer my congratulations.

JUDGE STIFTEL: Thank you, very much, Governor. Welcome home to the place where you practiced so successfully.

I will now call on Joseph M. Kwiatkowski, Esquire, who is supporting six schools as the President-Elect of the Delaware Bar Association, and a close friend of the new Judge.

MR. KWIATKOWSKI: Governor Castle, Chief Justice Christy, President Judge Stiftel and Judge O'Hara, Judge Babiarez, distinguished members of the Judiciary and General Assembly, guests, friends and family of John E. Babiarez, Jr.

In behalf of all, I am please to participate at this investiture and to welcome and congratulate our new Judge upon his ascending to the Judiciary and becoming an Associate Judge of the Delaware Superior Court. To you, John, the Bar extends its sincerest best wishes for a fulfilling, happy and rewarding tenure on the Bench.

Upon learning of his appointment to the court, the comments of members of the Bar were uniform. A man is donning a black robe who is intelligent, experienced as a trial attorney, well versed in legislative matters, who will give to all appearing before him fair

treatment. He knows and appreciates the difficulties of clients and the day to day burdens and satisfactions of practicing law.

As a lawyer, John has experienced the view from the top as a partner of the outstanding law firm of Morris, Nichols, Arsht & Tunnell with its corporate clientele. But, he has also been a "King Street" lawyer who, as Biondi and Babiarz, practiced from a first floor office with no view at all. He learned how to deal with man's day to day legal problems and how to handle and advise even the "walk in" clientele.

It is interesting to note that at the time Biondi and Babiarz joined Morris, Nichols, our local newspaper reported that Morris, Nichols merged into Biondi and Babiarz but would retain the firm name of Morris, Nichols, Arsht & Tunnell.

Judge Babiarz will treat the corporate executive and each and every person with the same concern, dignity and compassion owed by one human being to another.

Over the years, practicing attorneys and others have strived for a good relationship between the judicial and legislative branches of our state government. The trust and confidence of our State Senate in John was expressed in the favorable twenty-one to zero confirmation vote, a shutout. Over the years his candor and skill in his meetings with legislators have caused legislative reforms

in tort law which have been both scholarly and humanitarian. He understands the roles and functions of the Judiciary and the Legislature and will bring both bodies closer together.

Not having a John Babiarz in public office would be the same as not having a Walsh or Balick on the Bench or practicing as a Delaware attorney.

Having lived in a household and being exposed to a Mayor's constituency complaining about the garbage not having been collected, Judge Babiarz will remember to be patient, tolerant and under control, especially when criticized for rendering an unpopular, but proper decision. Judge Leonard Hand said "nothing worse than a lawless judge -- is a timid judge".

John E. Babiarz, Jr. respects the law and shall not be timid. He will choose justice and fairness each and every time in matters which may not be popular. Our Superior Court has traditionally been distinguished for courage. It takes courage to be a Trial Court Judge with its workload and responsibilities.

Judges are frequently the objects of unfair attacks and cannot respond. We, of the Bar, must correct fiction with fact, to answer any falsehood with truth and thus preserve an heirloom for the future, that is a judicial system administered by capable men and women trained in the law who are committed to justice.

In the accepted greeting of his and my ancestors, Judge John E. Babiarz, Jr., may I wish you "sto lat"; that is may you live one hundred years. Thank you.

JUDGE STIFTEL: Now we have reached James Erisman, Esquire, I mentioned that he was present. He was instrumental in getting rid of the Guest Statute when a driver/owner used to ask his friends to be my guest, now they say "be my plaintiff".

MR. ERISMAN: May it please the Court, Mr. Chief Justice, Governor Castle, President Judge Stiftel, Associate Judges of the Superior Court, Father Kenny, other members of the Judiciary, members of the General Assembly, Linda, Lisa, Julia and Mandy, Mr. & Mrs. Babiarz, Sr. and friends, today I have a unique opportunity which comes along only rarely, if at all, in one's legal career. And that is, the opportunity to say something candid about a Judge without fear of incurring a series of adverse rulings or some other painful malady.

John and I go back a long way and, in fact, much farther than either of us cares to remember. And at least it seems to become true or more true each year when we look in the mirror and I see, for me, my hair gets grayer and grayer and for him, thinner and thinner.

You know, we went to college together and we were fraternity brothers. After law school we returned here to Wilmington, where

we were raised and took the bar. And I believe that we suffered the same agonizing experience that most everyone in this room suffered awaiting the results of the bar exam. But I remember that I perceived at that time that perhaps John was agonizing somewhat less, because he had the benefit of that great Harvard Law School education.

Upon admission to the Bar and then private practice, we both, again began our career in private practice in much the same way. As King Street working lawyers, we were members of the King Street working bar. And John stayed in that capacity until a few years ago when he decided to try the ivory tower and see what that was like. But it's occurred to me since then that perhaps he missed King Street so much that the reason for becoming a Superior Court judge was because of its location.

But no matter the location of his practice, John was and is a trial lawyer in the true sense of that word.

He is held in high regard by the men and women of the Delaware Trial Lawyers Association, and just a week ago he submitted his resignation. Even in retirement, I was somewhat surprised of his great powers of persuasion because for reasons still unexplained to me which I can't figure out, he was able to convince me to step into his place and fill out his term.

But there was a sense of loss felt by the members of DTLA

upon John's resignation. But that was quickly out-weighted by the gain we knew that we would all have and that our system of justice would have by John's ascendancy to the Bench.

As a trial lawyer, he has experienced delight and the reward of successfully preparing and trying a lawsuit, as well as the humbling heartache of defeat. And by watching him put together a case for trial, we learn what we need to know about our commitment to our clients and our profession.

At one time, and I don't know that records like this are kept, I believe that John had achieved for his client at the time the highest single verdict award in a personal injury case in this state. Now that record has since been broken, but it was a mountain that John had climbed and John recognized, I think, along the way that he was not able to achieve for his clients a full measure of justice in certain areas of the law, and so simultaneously he turned his attention to the General Assembly and the legislative halls of Dover.

So that he brings to the Bench not just the skills of a great lawyer, he brings to the Bench great political acumen. I think that the recent and welcome history of the improved relations between the Bench and the members of the General Assembly will only be improved as John takes his seat on the Superior Court, and both the

Bench and the General Assembly will be better for it.

He understands partisan politics and he understands non-partisan politics, as well. And although he achieved great prominence in his own political party, he has always supported the legislation that has tended to improve the lot of the citizens of this state and it mattered not which side of the aisle sponsored it.

In the political arena he has been a master of the art of compromise, using it where necessary. But he has refused to compromise when it has been wrong to do so.

You know his considerable efforts in the last four years has begun to bring Delaware into the mainstream of twentieth century jurisprudence. He was the architect of our new wrongful death bill which, for the first time, recognizes that the death of a loved one creates a loss that is more than just economic. And he worked hard lobbying for the repeal of the Guest Statute, harder than I did, because he recognizes that special privilege in the law, no matter where it exists, is always unfair and unjust.

And as DTLA's Legislative Chairman, he successfully directed the effort to bring comparative negligence to Delaware, thereby removing us, this state out of that small group of remaining states of maybe four or five states now that continue to resist the change or the need for change in the law to conform to societal

needs.

In thinking about my remarks today, it became pretty clear to me what the impetus for John's great skills as a lawyer and in the political arena; and it is this, John accepts and he likes people as they are and he is unpretentious and he is comfortable with himself. And these traits are seen most often in his great sense of humor. Approximately two months ago, maybe somewhat less, when Governor Castle publically announced the appointment of John to the Bench, John was called by a friend who said "I think the Governor made a great choice", and John's reply, chuckling was "Me too".

But I can tell you that he meant that, and John meant it because he is aware and he knows what his skills are and he knows that as a Superior Court Judge that is the best way that he make his service to the public good. And he did so because all of us who practice our profession in Superior Court know that that is the only place in the State of Delaware where the rights and the responsibilities of the clients we represent are determined by that great expression of democracy, trial by jury.

Simply put, John is ideally suited for the job by his scholarship, his temperament, his demeanor and his experience. He is an integrated man. He typifies the stuff of which great judges are made. He will be thoughtful and prompt and decisive in his

rulings. He speaks his mind and he insists on the untarnished truth.

In thinking about John's appointment, the words of Benjamin Cardozo came to mind: "The process of justice is never finished, and today, as in the past, it calls for the bravest and the best".

And that is exactly what we are getting here in Delaware with John's appointment to the Superior Court. Thank you.

JUDGE STIFTEL: Thank you, very much, John. I now call on O. Francis Biondi, former President of the Delaware Bar, for his remarks.

MR. BIONDI: May it please the Court, Chief Justice, President Judge Stiftel, Judge O'Hara, Judge Babiarz, Governor Castle, other distinguished members of the Judiciary, members of the Bar, family and friends of John all.

The first thing I want to indicate is to the King Street working lawyers, Mr. Kwiatkowski and Mr. Erisman, I have discovered that the walk-in clientele knows how to use the elevators.

It is a pleasure to address you on this happy occasion of the investiture of a new Superior Court Judge, a gathering in the great tradition of the Delaware Bar. And it is particularly a pleasure to do so when the appointment is to a newly created judgeship in this court, the first since 1972, and the Judge is a long-time friend and colleague.

Although, I must tell you that the loss of a colleague of some eighteen years and a partner of some fourteen years is somewhat bittersweet. John and I began practicing together in 1967 when it was the law offices of O. Francis Biondi became my partner in 1971 of Biondi and Babiarz and he won that great victory Jim Erisman referred to and it became Biondi and Babiarz, P.A. on the recommendation of our tax attorneys. We know, as Joe Kwiatkowski has pointed out, absorbed Morris, Nichols, Arsht and Tunnell.

I would like to add my thanks today, as Judge Stiftel has, to the members of the General Assembly, those who are present, those who are not, and to Governor Castle for recognizing that the Superior Court was indeed a court in crisis in creating two new -- and I might say long overdue judgeships. In doing this, following the enactment of long overdue compensation increases. I also have a confession to make, I spent a little time, along with a host of others, selling the C. J. Herrmann party line that higher judicial salaries would attract quality candidates to the Judiciary. However, I must tell you that I underestimated the strength of that argument. After losing three members of the firm, I am now convinced.

Judge Stiftel has pointed out that John Babiarz is a native son, that he was born and raised in Wilmington, attended

Christ our King Schools, Salesianum and what seems to be the factory for judges, as I view the number that has been cited here, and the University of Delaware.

I might point out that what the CIA didn't find out and didn't tell Judge Stiftel about Christ Our King was that at that institution he was a classmate of Secretary of State Michael Harkins and went into school with Minority Leader Bob Gilligan. Pity the poor Sisters.

I would also note that Gilligan seems to be out of his assigned seat here today. Judge Bifferato made a novena praying for rain and then for Mr. Gilligan to sit right under this spot in the courtroom where it rains in frequently. But he seems to be out of his seat, Judge, I am sorry about that.

John is also a native son of this court, of course having started here a law clerk.

This is, of course, a very happy and memorable occasion for all of his family; for Linda, his wife, she and John have just two days ago celebrated their twentieth anniversary. Happy anniversary, Linda, and I hope you remembered it, Judge. For Lisa, Julia and Mandy, for John and Adele, his proud parents; for Francis, his brother and also a colleague at the Bar and his wife, Joyce and for Tom Whalen, Linda's father.

When I was preparing these remarks, I thought about all we have read and heard and know about the special place in Delaware's history that the fact that Delaware history is so rich with the tradition of families whose descendants for generations have served the public of this state. And I think it is heartwarming to see that this tradition is being carried on by the descendants of immigrants of the not too distant past.

John, Jr. continues a tradition of public service begun by John, Sr., many of you know as the Mayor. He also served as Register in Chancery and Clerk of the Orphan Court under Collins Seitz, Chief Clerk of the House of Representative, President of the Wilmington City Council. And he was a two time Mayor of the City of Wilmington in the turbulent sixty's, an office he served with courage and foresight, despite the handicap of having a very young, useful city solicitor.

Chief Justice Christy has spoken a little about the Superior Court and its importance in the civil and criminal justice system. We lawyers describe the court as a court of original jurisdiction in serious criminal and most civil cases, those not involving equity; it is a trial court.

We know, also, that it is an appellate court for review of decisions of administrative and regulatory agencies. This court hears

appeals from fifty boards and agencies of this state, including the Industrial Accident Board and Unemployment Insurance Appeals Board and the various boards regulating the professions and businesses in the state and responsible for protecting the health, safety and environment.

But this description that we usually hear from lawyers is altogether too dry and inadequate. This court is the court where the dramas and tragedies of everyday life are played out. It is the heart of the criminal justice system where the rights of the individual defendant and need to protect the public must be balanced, and where the judge must suffer what Justice Quillen so aptly described as the "agony of sentencing", too often followed by unjust criticism and where the maxim of justice delayed is justice denied, for both the accused and the public comes home to rest.

It is the court where the injured or employed workman appeals his cause and where the injured plaintiff brings his claim and literally the economic survival of families hangs in the balance.

Finally, it is also the court where Delaware businesses and industries must bring most of their conflicts with each other. Over the years, this court has been an important forum for commercial litigation of national significance involving major corporations and substantial issues, and it will likely be of critical importance in

the future as the financial services industry takes hold in this state.

It is also, unfortunately, the court where the frequent criticism of the time and expense involved in litigation sometimes most sharply focussed, while a litigious society constantly increases the caseload.

It is the court where the judge must not only declare the law, but where there is also a jury which must be both educated to the process and instructed in the law.

What an awesome responsibility and an often thankless job. There are no crowds of lawyers representing corporations, investment bankers and arbitrageurs and the financial press gathered to hear its opinion announced. Indeed, the number of its published opinions have declined in recent years by the crisis created by the long-standing need for additional judges, and the priority given to criminal cases and the consequent developing civil backlog.

I think you all agree with me that the Superior Court plays a central, important, complex and difficult role at the heart of the civil and criminal justice system. It is a role which this court has filled in exemplary fashion in spite of being understaffed for many of the last fifteen years. It has done so with able, dedicated judges who continue a tradition of excellence, a tradition which has seen the

legendary names of Delaware jurisprudence serve this court as trial judges: Harrington, Layton, Bayard, Gilpin, Comegys, Houston, Lore, Pennewell, Richards, Duffy, Wooley, Rodney, Pierson, Spruance, to name a few at random who have served in the past.

Judge Stiftel has indicated that maybe being a law clerk in this court is a prequalification for becoming a judge. I have noted that the last four chief justices of the Delaware Supreme Court have been Judge of the Superior Court: Charles L. Terry, Jr.; Daniel F. Wolcott; Daniel L. Hermann, and of course, Chief Justice Andrew G. Christie.

I think this fact, alone attests to the important work of this court and the great quality of its Judiciary. John, today, joins this great tradition and he undertakes a difficult and challenging role. I think he comes to the Bench with great promise and in outlining the elements of that promise, I will keep in mind that this is not a canonization.

The record shows that in his nineteen years at the Bar, Judge Babiarz has established a reputation as a lawyer of superior analytical skills with a matching gift for communicating his views in both oral and written brief.

This court is a trial court, and Judge Babiarz is a trial lawyer of extraordinary ability and broad experience. He has argued

and tried hundreds of cases in every court of this state, from the Magistrate Court, Municipal Court, Alderman's Court. As a matter of fact, not within the last two weeks he defended a small plaintiff's claim in Magistrate Court 13. I told you that they can still use the elevators. He also has tried cases in the Court of Common Pleas, the Family Court, the Court of Chancery, this Court; has argued before the Supreme Court, tried and argued cases in the Federal District Court in the Third Circuit Court of Appeals, not to mention numerous Boards of Adjustment, City and County Councils. I think he has missed only the Kent County Court of Common Pleas.

In these various courts he has also worked in many, many areas of the law; criminal law, personal injury and property damage, labor, commercial law, corporate law, banking, insurance, real estate and many others. And perhaps most significant, he has done so on all sides of all issues. Oh, yes, I forgot to mention cable television, which reminds me that there appears to be some unfinished business left by the Judge, and also, election law disputes. I have neglected to mention the Board of Canvass, where he has defended worthy and noble voters and candidates from scurrilous attacks by the opposition and most successfully, I might note.

In all of these endeavors, you know his reputation; it is one of competence, integrity, independence of thought, fairness and

justness. And in all of these endeavors, he's also had a unique opportunity to learn and understand the problems of what Jim Erisman referred to as the working Bar or working King Street Bar, and the Bar in general. He comes to this Bench from one of the largest firms in the state, but he spent many years with one of the smallest firms in the state, him and I. He has demonstrated leadership with the Delaware Trial Lawyers Association and his political leadership has been cited by Jim Erisman, I think; you get things done -- as described by Jim Erisman, which I will not repeat -- by first of all demonstrating that you are a man of your word, you know what you are doing and that you must first have a reputation for competence and integrity. And I think John's success in that area is a measure of those qualities.

I probably have touched upon a lot of things everybody else has and you are, no doubt, well aware of those qualities I have touched on briefly. But you may not be aware of, unless you have practiced law with him for eighteen years or have known him personally is, a few other qualities; his overriding concern for people, his understanding and compassion, his dedication to his clients, his sensitivity to community concerns and his warmth, generosity and loyalty.

He will bring many qualities, great qualities to this Bench,

but none more important than these and in retrospect, these qualities were there from the very beginning and I always knew that it was only a question of time when he would spend his life on the Bench.

John will also bring good fellowship to the Bench and an ironic sense of humor in victory and defeat. John is always good for a laugh. Somebody pointed out, I think it was Judge Stiftel, that he loves to fish. Again, the CIA did its usually lousy job, they forgot to tell Judge Stiftel the title of John's boat. It is officially titled the "Saint John", which shows that John's not perfect, he is a poor biblical scholar. Every kid at Christ Our King knows that Saint Peter was the fisherman who pulled in the fish.

In closing, Your Honor, your colleagues at the firm, your colleagues at the Bar will miss you, and I will especially miss you. We have toasted many a victory and drowned a few losses over the years. But we are confident that now the people of Delaware will be enriched by your service on this Bench. Good luck.

JUDGE STIFTEL: You heard when Mr. Biondi said "there is another court that is Supreme, but we are Superior". We have reached young John, and I suppose, having been former President of DTLA we will probably have to disqualify him for at least one week in any negligence cases in which there is a defendant.

Young John, would you say something, please.

JUDGE BABIARZ: Thank you, Judge Stiftel. I have listened to the salutations of the other speakers, and I would like to get it right for my salutation. Mayor Babiarez, Governor Castle, Chief Justice Christy, members of the General Assembly, Judges, colleagues and above all I include everybody here, friends.

What else are you going to name your boat if you practice with the godfather. I am pleased and very humble that all of you could come and share this happy occasion with me. My mother and father are here and they are entitled to share in it for having provided a home that was where the family was paramount and where public service was a way of life. And my family, my wife and my children deserve to share in this for the love and affection that they have provided me and the safe haven from all of the trials and tribulations of a sometimes hectic law practice and Frank Biondi is certainly entitled to share in this for nineteen exhilarating years of law practice where I learned that the public interest is always involved in private representation.

And each of you also has a share in my celebration for the happy and intense personal and professional relationships that I have enjoyed with you over the years.

This is, I think by my count, the twelfth judicial installation since early May. Those installations have involved virtually

every court in this state, and there are two more in prospect; one, certainly tomorrow and hopefully we will have an installation in the United States District Court before too long.

But the courts involved in these installations have been Supreme Court and Superior Court, Court of Chancery, Family Court, Court of Common Pleas in Sussex County, the United States District Court, the Third Circuit Court of Appeals, and I haven't even counted several installations in the first line of justice in our state, the Justice of the Peace Court. And I am proud to be a member of that assemblage.

Now, during all of those installations, some of them have been private and some of them have been attended by ceremonies such as this, a lot has been said about the goals of courts and goals of judges who are going on these courts, and I subscribe to all of those goals wholeheartedly and without reservation.

I am particularly gratefully to Frank Biondi for pointing out the great heritage of this court. I hope that I can meet the challenge of becoming a part of it, but I know that I can do that only with the assistance of the people in this room.

As this day approached, however, I found that my thoughts were more occupied with retrospection and reminiscence than with visions of momentous decisions and great opinions. As Frank said,

about two weeks ago I appeared in Justice of the Peace Court 13 for my last trial. Nineteen years ago I appeared in Justice of the Peace Court 13 for my first trial, so the circle has closed, and that circle circumscribes a legal career in which people, more than cases are the highlights for me.

As I thought about going on the Superior Court Bench and as I sat here listening to the kind remarks of everyone, I had to think back to a young man I represented maybe ten or twelve or fifteen years ago who was charged with an extremely serious crime. He was within a few millimeters of being convicted of an offense that would have netted him ten years in jail without possibility of probation or parole. Somehow, using a wisdom that was beyond me, the prosecutor and the judge in that case gave this young man a break and was allowed to plead to a lesser offense and after proving himself was granted probation. I have followed that young man since the nine, ten, fifteen years ago and he's become a productive and valuable and contributing member of this society.

At the same time, I have to think of another young fellow I represented, again going back a few years, and that was on a series of minor, but increasingly serious offenses, and I was successful enough to get him a break every time. He is now serving life for murder because he got too many breaks. I think of the victim of that

crime, that last crime, and I pray to God that I have the wisdom somewhere to distinguish one circumstance from another when the agonizing sentencing decision is upon me sometime in the very near future.

I also think back to a young man I represented ten or twelve years ago, the case has been eluded to as a money case, but I don't look at it as a money case; devastating, catastrophic injuries. The judgment of this court allow that young man to be cared for for the rest of his life in the proper manner and relieved his family of an impossible burden.

And I think to the commercial cases that have been eluded to here; the commercial cases all have people behind them. I think of the family businesses that were threatened with extreme distress or possibly even ruined because of an unjust claim against them or for a just claim that couldn't be collected but wasn't paid. All of those cases involved people.

The abstract concepts of law have importance only insofar as they serve to improve the human condition.

And finally, my thoughts as I sat up here thinking about what else I might say, turned to the lawyers. I can see by the clock that I have been a Judge for about forty-two or forty-three minutes and I still remember what it was like to be a lawyer. It

is a tough process and I know the emotional energy and all types of energy that is expended in getting ready for any case. The only phrase that comes to mind, and it is trite but it is so true and so vivid is the phrase from the wide world of sports, "the thrill of victory and the agony of defeat". I have known both and shortly I am going to play some small part in inflicting one or the other on some of you in this audience.

The victors need no solace and I can think of no one to soften the blow of an unsuccessful litigation. To those of you who will suffer defeat at my hands, I can only tell you that this Judge has suffered it too.

I thank you all for coming by and I genuinely look forward to seeing you all in court in the best sense of that phrase. Thank you.

JUDGE STIFTEL: I just want to mention that we have here today Mr. Chandler, who will become a judge tomorrow in Sussex of Sullivan County. He will be the thirteenth. Please stand and let everybody in New Castle County see you.

Now Father Robert Kenney will give the Benediction. Please stand.

FATHER KENNEY: Look favorable, O Lord, upon the prayer we offer at the end of this expression of judicial solidarity and protect

our courts from all harm. You are the giver of peace and lover of charity, grant therefore, Lord, that we stay as we are this day, united among ourselves in perfect union with your holy will.

Our desire for temporal glory you have graciously fulfilled, now stretch forth your hand, Lord, as we leave this happy gathering and increase our eternal riches and we ask this in God's name. Amen.

JUDGE STIFTEL: These proceedings are now at an end. You may come forward and greet John and his family.

I understand some refreshments are downstairs. Thank you, again Governor and everyone for coming. Thank you, Chief Justice.

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(Thereupon, the investiture proceedings were concluded at 4:10 o'clock p.m.)

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