ADMINISTRATIVE DIRECTIVE NO. 161

This 22nd day of February, 2007,

IT APPEARS THAT:

(1) In honor of former President Gerald R. Ford and in remembrance of his life and service to the Nation, Governor Minner declared a State holiday on Tuesday, January 2, 2007, and ordered that public facilities of the State subject to Executive Branch authority be closed on that date. Governor Minner issued Executive Order No. 94 declaring this legal holiday, pursuant to Merit Rule 5.1.1 on Friday, December 29, 2006. The Judicial Branch did not receive notice that Executive Branch merit employees would not be required to work on January 2, 2007 until 3:35 pm on Friday, December 29th.

(2) Given that the intervening days between December 29th and January 2nd were not workdays, the Judicial Branch recognized that there was insufficient time to provide notice of any court closure to those scheduled for Court proceedings on January 2nd. The Chief Justice, in consultation with the Presiding Judges, weighed the inconvenience to the public and likelihood for confusion and case delays caused by last minute changes to court schedules against the desire to honor the memory of President Ford, and determined that the Courts could not close on January 2, 2007. Court proceedings were, therefore, held as previously scheduled. The need for adequate public notice was important as, unlike closures resulting from weather-related emergencies, it would not be intuitively obvious to the public that the courts would be closed on January 2, 2007.

(3) The Judicial Branch recognizes that, because of our Branch's decision not to close on January 2, 2007, court employees covered by the State merit system worked a regularly scheduled day, without additional consideration, while other State merit employees did not. In addition, although all court employees, whether merit or not, must work according to the Judicial Branch's schedule, merit employees who work within the Judicial Branch perceive particular difficulties when they are required to work on days that other merit employees in the State are not required to work.

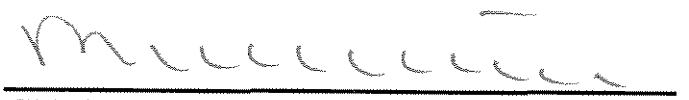
NOW, THEREFORE, IT IS DIRECTED, with the unanimous approval of the members of the Supreme Court, pursuant to Delaware Constitution, Art. IV, § 13 (1), that:

(1) The Judicial Branch will honor the memory of President Gerald R. Ford by recognizing July 14, 2007, the birthday of the late President Ford. It is the practice established in Merit Rule 5.1.2. that when an official legal holiday falls on a Saturday, the immediately proceeding business day serves as the holiday. Thus, since July 14, 2007 falls on a Saturday, Friday, July 13, 2007 will be treated as a compensatory day for January 2, 2007 for all Judicial Branch employees, without diminution in pay, unless the Presiding Judge of a court or the supervisor of a Judicial Branch office determines that the services of any employee are essential on that date for pressing judicial business of that court or office. In those cases, the court employees who work on July 13th will receive the usual additional consideration offered for any employee working on a declared holiday. Any Judicial Branch employee who did not work on January 2, 2007 will not be eligible for this compensatory day.

(2) By providing substantial advance notice of this decision, it is our intent that the Judicial Branch, its Courts and clients will have sufficient time to plan for this closure, thereby preventing any inconvenience to litigants, victims, witnesses, jurors, lawyers and our other clients we are privileged to serve, as well as forestalling case delays caused by rescheduling that often occur with abrupt, precipitous court closings.

(3) This proclamation of July 13, 2007 as a Judicial Branch compensatory day, in remembrance of the late President Ford, results from unique and unusual circumstances, which, we trust, are unlikely to reoccur.

BY THE COURT:



Chief Justice Myron T. Steele

c: The Honorable Ruth Ann Minner
The Honorable Randy J. Holland
The Honorable Carolyn Berger
The Honorable Jack B. Jacobs
The Honorable Henry duPont Ridgely
Counsel to the Governor
Members of the Judicial Conference
The Honorable Joseph R. Biden, III
The Honorable Lawrence Sullivan
Patricia Griffin, State Court Administrator
Court Administrators
Clerk of Supreme Court
Budget Director
Chair of Senate Judiciary Committee
Chair of House Judiciary Committee