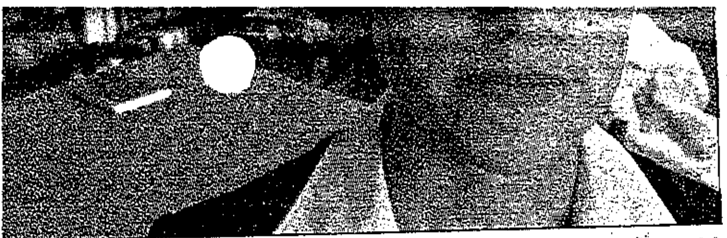


ping' the children the system was designed to protect, said staff attorney at the Center for Children's Advocacy. 'The public orneys who show up unprepared and haven't met their clients. about youth living in shelters for months.'

ering In Silence

ents say closed on hearings only eedings' flaws

A SIEGEL
ne Staff Writer

ident of the Juvenile al Lawyers Association, h attorney Sue of numerous instances stem has failed the chil- to protect.
r lips are sealed.
ld protection system in awed," Cousineau pro- neys involved aren't even ut what's happening—to share the brokenness of the system."

Under proposed legislation, they would- n't have to. The public could witness the courts' failings—and successes—for themselves. Proponents of opening child protection court proceedings to the public, like Cousineau, are poised to submit to the 2005 General Assembly an improved version of the bill that failed to pass in 2004.

Sponsored by the Center for Children's Advocacy at the University of Connecticut School of Law, the open courts legislation gives courts guidance on how to balance the privacy rights of people appearing in the court with the need to increase the public's understanding of child-protection cases, CCA staff attorney Christina D. Ghio explained.

■ See **CLOSED** on PAGE 6

Problems persist for ieged now-former Stamford pro. utor Michael Colombo. With his verbal tirades against public defenders in the G.A. 1 courthouse already well-documented, Colombo now stands accused of representing defendants while still an employee of the state Division of Criminal Justice.

Colombo has a different account. Now resigned from the state's attorney office in Stamford, he said he was constructively ... on with the personal injury and criminal defense firm of DiScala, DiScala & Papcsy in Norwalk in mid-January.

MICHAEL COLOMBO

"I didn't do anything unethical," Colombo maintained in an interview last week. "I didn't start representing clients until I notified [the

■ See **COLOMBO** on PAGE 14

Thomas B. Scheffey

Assistant Public Defender Mark Rademacher argued to the state Supreme Court that jailed New London lawyer Beth Carpenter was denied a fair trial.

Murder Appeal: Mental Health Was At Issue

Judge should have allowed doctor testimony

By THOMAS B. SCHEFFEY
Law Tribune Staff Writer

It's one of the most baffling issues in the 2002 murder conspiracy trial of New London lawyer Beth Ann Carpenter.

She claimed that her lover and boss, attorney Haiman Clein, was acting on his own when he hired a client/hit man to kill

■ See **CARPENTER** on PAGE 14

Family
s child protection ds calibrated tools s under stress who ation—not a con- hild-abuse blacklist, y.

8 The Practice
For the Nonprofit Pro Bono Institute, recruiting lawyers to volunteer their time isn't the problem. What it needs help with is reaching out to nonprofits that don't know it exists.

11 Government & Agencies
Considering the trickle down cost to hospitals, one might think they would man the barricades next to advocacy groups fighting to keep Medicaid in place. But they're not.

22 Closing Arguments
We're told the current system of reconfirming judges depoliticizes the process, but that's true only to the extent that there is no process. In the end, the only thing that's left is politics.

ĿCUTION & DEFENSE

Carpenter Challenges Hearsay Evidence

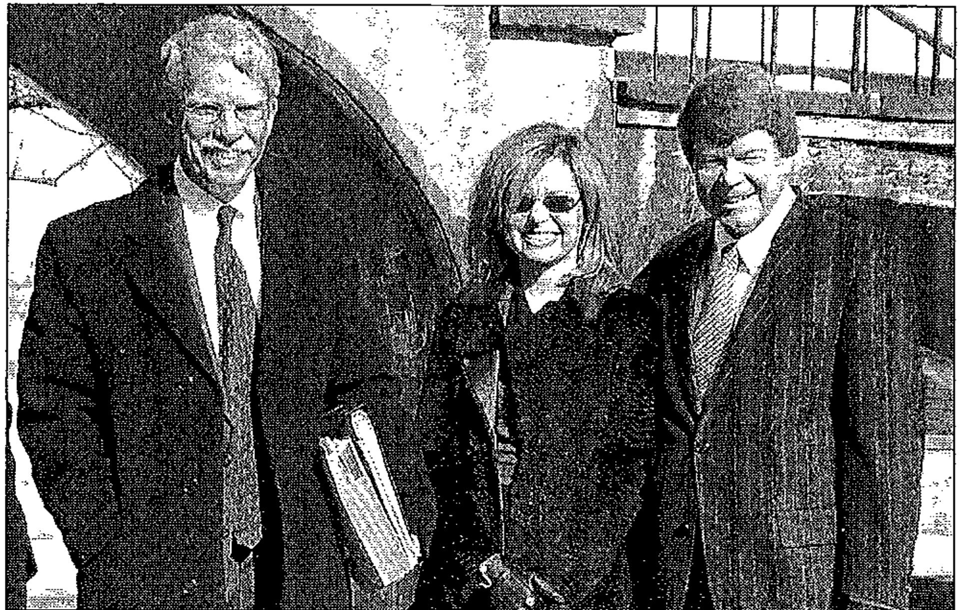
■ From **MURDER** on PAGE 1

Carpenter's brother-in-law Anson "Buzz" Clinton, to impress her and cement their relationship in 1994. Carpenter was stunned and horrified, she testified, when she learned of Buzz's death, but inexplicably continued her stormy affair with Clein for another 18 months.

Out of the presence of the jury, Carpenter's special public defenders, Hugh F. Keefe and Tara Knight, had argued strenuously, to New London Superior Court Judge Robert J. Devlin Jr., to allow expert testimony about abusive co-dependent relationships from neuropsychologist Robert Novelly, drawing on recent research. Devlin refused to allow it, on grounds Novelly hadn't tested Carpenter and Clein to determine if their personalities fit the syndrome, and because it would confuse the jury.

On Feb. 7, Assistant Public Defender Mark Rademacher argued to the state Supreme Court that the exclusion of that testimony so violated Carpenter's Sixth Amendment right to put on a full and adequate defense that she deserved a new trial.

New London State's Attorney Kevin T. Kane countered that no diagnostic testing is needed to lay a foundation for battered spouse syndrome or battered child syndrome "because the battering is in evidence in those cases." He said that, without such tests, all that Novelly could testify is that the Clein-Carpenter relationship was 'consistent' with the codependency syndrome, "which is meaningless," Kane asserted.



Thomas B. Scheffey

New London State's Attorney Kevin T. Kane, left, photographed with Beth Carpenter's trial lawyers Tara Knight and Hugh Keefe, argued that the evidence in question was only admitted to prove motive, and therefore wasn't barred by the hearsay rule.

Justice Joette Katz took exception. "Why isn't it enough to testify that the behavior is 'consistent' with the personality [traits of the syndrome], she asked. Kane conceded that would have evidentiary value, retracting his use of "meaningless."

Justice Richard N. Palmer asked Rademacher, during his rebuttal, whether the defense had at least explained the codependency syndrome during closing arguments. Rademacher answered, "They were unable to, because there's nothing in the record to support it—it's just not persuasive without the syndrome evidence."

Keefe and Knight attended the Feb. 7 arguments. Keefe is a partner in New Haven's Lynch, Traub, Keefe and Errante.

■ See **NEXT PAGE**

Colombo: Unpaid Leave Forced Resignation

■ From **EMBATTLED** on PAGE 1

Division of Criminal Justice]. Three weeks went by and I didn't hear from them." Colombo said it would have been unethical, as an attorney, to default on his student loan payments as the result of having no paycheck.

Bethany attorney Norman Pattis, who is representing Colombo in a state Commission on Human Rights and Opportunities complaint against the criminal justice division and the Division of Public Defender Services, said a settlement agreement was being worked out between Colombo and his superiors after Colombo was placed on paid leave in July. "I don't think he double-dipped," Pattis said. "He was constructively discharged," Pattis said.

John Russotto, deputy chief state's attorney in

Michael Colombo claims he didn't start

came only after months of being subjected to repeated ridicule by Bothwell, Assistant Public Defender Thomas J. Wynne Jr., special public defender Wayne Keeney and Jessica Macho, a social worker who works in the public defender's office. In his affidavit, Colombo contends he is dyslexic and being treated for Adult Attention Deficit Disorder, both of which were the basis for much of the alleged harassment.

"I really don't know what's going on," Colombo said last week of the settlement talks. "First there was a deal in place, now there isn't."

Colombo said he is entitled to back pay, sick time and vacation time. He claims the Division of Criminal Justice withheld his pay to force him to resign. He also maintained that he was offered positions within the criminal justice division, in Rocky Hill and

Knight's with Knight, Conway & Cerritelli, also in New Haven. Afterward, Knight explained, "We wanted the jury to understand that people who have codependent relationship syndrome stay in these crazy relationships and don't know how to extricate themselves—it's not just as simple as saying, 'You're intelligent, get out of it.' We really felt that was a huge point that the jury wasn't able to hear."

Harmful Hearsay?

During Carpenter's trial, Keefe objected to much of the state's evidence on grounds it was hearsay—even double or triple hearsay. In March of last year, the U.S. Supreme Court gave those defense objections more weight. In *Crawford v. Washington*, it reversed its 1980 ruling in *Ohio v. Roberts*. The latter decision had allowed "testimonial" hearsay from an unavailable declarant, so long as the evidence falls into a solid hearsay exception or has "particularized guarantees of trustworthiness." But now, a defendant's right to confront witnesses' testimonial evidence is stripped of such modern loopholes. In light of *Crawford*, it is "the right of confrontation at common law, admitting only those exceptions established at the time of the founding."

In March of last year, the U.S. Supreme Court gave defense objections more weight.

Rademacher identified four elements of the state's case that he argued were inadmissible hearsay. A detailed report by the state Department of Children and Families, admitted under the business records exception to the hearsay rule, is precisely the type of "testimonial" evidence now forbidden by *Crawford*, Rademacher argued. So was an affidavit prepared by Beth Carpenter's mother to gain temporary custody of her daughter Kim's child, Rebecca, when everyone quoted in it, except Buzz Clinton, of course, was available for questioning and could have been cross-examined.

Devlin, over defense objections, allowed Dee Clinton, Buzz's mother, to testify that Buzz told her of his plan to move to Arizona with his step-daughter Rebecca. This was allowed in to show Beth Carpenter's state of mind, but she wasn't present when it was said. "The state asked the jury to make the highly speculative inference that Kim told Mrs. Carpenter who told [Beth Carpenter]," Rademacher argued in his brief. "Inexplicably, the court admitted it."

Beth Carpenter's mother's written account of a phone conversation with Buzz Clinton, recounting his insulting behavior and threats to get a court order to keep her away from Rebecca, and even to force her off the road if he saw her, were more prejudicial than probative, Rademacher contended. It implied Beth Carpenter knew and shared her mother's animosity towards Buzz, and in a case so dependent on motive, he said, admitting such improper evidence deprived Beth Carpenter of a fair trial.

Kane contended that none of the alleged hearsay was admitted to prove the truth of what was asserted, only to prove motive, and therefore wasn't barred by the hearsay rule. ■

Judge Sets May 11 Death Date For Michael Ross

Clifford names DBH stalwart as competency counsel

By MATT APUZZO
Associated Press Writer

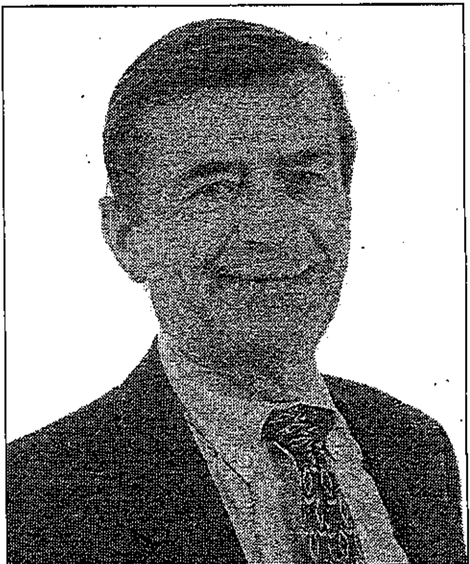
A New London Superior Court judge last week set May 11 as the new execution date for serial killer Michael Ross.

Judge Patrick Clifford also appointed a special counsel to investigate claims that Ross is incompetent to end his appeals and wants to be executed. The special counsel—Hartford defense attorney Thomas Groark—was appointed to eliminate a conflict of interest between Ross and his defense attorney T.R. Paulding.

Paulding will stay on the case to support Ross in his quest for execution. Groark's job will be to take the counter position and argue that Ross is not mentally competent. Ross' execution has been postponed four times in the last month.

"This is the ideal resolution of the dilemma I was in and the dilemma the court system was in. This allows me to do what I was hired to do, which is represent Michael Ross," Paulding said.

Paulding asked for the final delay on Jan. 29 just hours after U.S. District Judge Robert Chatigny chastised him for helping Ross end his appeals. Chatigny threatened to take Paulding's law license if it was proven that Ross accepted death because of deplorable conditions on death row.



Contributed Photo

Special Counsel Thomas Groark's job will be to argue that Ross is not mentally competent.

Ross has admitted killing eight young women in Connecticut and New York in the 1980s. He would be the first person executed in New England in 45 years.

A message seeking comment was left at Groark's office. His wife, Eunice Groark, was the lieutenant governor under Gov. Lowell P. Weicker Jr. in the early 1990s. ■

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Roster of Neutrals
also includes: