

Court ruling disappoints Winsted's LaVoie

By WILL TACY
Register Citizen Staff

WINSTED — Community Law-
yer Charlene LaVoie yesterday
said she was disappointed with a
Litchfield Superior Court judge's
decision to dismiss a 1991 lawsuit
her office brought against the se-
lectmen.

But LaVoie, who prepared and
presented the suit on behalf of
a now resident Patricia Mills, said
she does not feel the judge's de-
cision in any way clears the air.
The suit challenged the Board of
Selectmen's 1991 decision to grant
a retiring police officer Francis J.
O'Neill, a current selectman, a
supplemental retirement pay-
ment.

Superior Court Judge Walter M.
Pickett Jr. last week granted the
town's request for a summary
judgment on the case. The grant-
ing of a summary judgment
means the case is dismissed
without having gone to trial.
Therefore, LaVoie pointed out, the
merits of the case were never
heard.

The town's legal counsel in the
matter, former Town Attorney
Stephen O. Allaire, filed the mo-
tion for summary judgment last
month, challenging the case on a
technical matter. A hearing on
the motion and the validity of the
technical challenge was held Oct.
4. Pickett's decision was delivered
three days later.

"My client and I are certainly
disappointed in the decision,"
LaVoie said. "And we're even
more disappointed that the town
government chooses to operate in
this way: that is, the (town) clerk
(William Riska) not doing his
clearly stated duty to allow the
people to petition."

One portion of the suit, asking
for a court order restricting se-
lectmen from paying non-
contracted bonuses, compensa-
tion, benefits or other types of
payments to any municipal em-
ployee was dismissed by Pickett
in 1992. What remained in litiga-
tion was a request for a court
order directing town officials to
honor a 1991 petition for a town

meeting on the controversial
payment to O'Neill.

A 360-signature petition calling
for a town meeting to consider the
selectmen's decision to grant
O'Neill a \$10,000 retirement
payment was circulated and filed
at the town clerk's office in 1991.

However, that petition was
never certified by Town Clerk
William T. Riska. And it is this
fact that Allaire's motion for
summary judgment was built
around. If there is no certified
petition, there is nothing for the
court to order the selectmen to
honor, the motion argued.

Riska has been authorized for
failing to certify the petition. And
LaVoie yesterday said she will

have to consider whether there is
action to be brought on that issue
alone.

"The court didn't address
whether the clerk should have
done what he did. That question
will have to be addressed in an-
other manner," LaVoie said.

"There was no way we imagined
for a moment that an elected
town official would not do his job
as stated in the charter. I'm going
to review the options and decide."

The portion of the charter
LaVoie cites states:

"The petition shall be filed with
the Town Clerk, who shall within
fifteen (15) days or within such

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time period as may be set by the
Connecticut General Statutes de-
termine whether the petition and
affidavits to be sufficient by
comparing the names of the elec-
tors appearing thereon with the
latest effective official list of the
Registrar of Voters." The charter
goes on to state: "If the Town
Clerk determines the petition and
the affidavits to be sufficient, said
Town Clerk shall so certify said
petition to the Board of Selectmen
at its next regular meeting."

Riska has consistently said he
treated the 1991 petition as he has
all others — calling the town at-
torney to get an opinion before
taking any action. Riska said he
contacted the town attorney, Al-

aire, and was told not to certify
the petition.

Pickett's ruling was delivered
without a memorandum of deci-
sion, which would have explained
the judge's reasons for dismissing
the case. Even if a written deci-
sion had been released, it would
not have been concerned with el-
ther the merits of the case or the
question of whether Riska acted
properly in declining to certify the
petition.

LaVoie yesterday said there are
"several ways" to address both
issues. Beyond saying that she
would consider the options and
discuss them with her client and
other interested parties, LaVoie
declined to say whether she would
initiate any further action.