

Minutes
Civil Commission
Monday, March 9, 2015
2:00 p.m.

Those in attendance: Hon. Patrick L. Carroll III (ex officio), Hon. Elliot N. Solomon (ex officio), Hon. Linda K. Lager (chair), Hon. James W. Abrams, Hon. Barbara N. Bellis, Hon. Marshall K. Berger, Jr., Hon. Aaron Ment; Hon. Mark H. Taylor, Atty. David M. Belt, Atty. James A. Budinetz,, Atty. Robert J. Chomiak, Atty. Joseph D. D'Alesio (ex officio), Atty. Michael J. Dorney, Atty. Ralph J. Monaco, Atty. Jonathan Orleans, Atty. Rosemarie Paine, Atty. Rick Roberts; Atty. Paul A. Slager, Atty. Alinor C. Sterling, Atty. William Sweeney; Atty. Martha Triplett, Atty. William P. Yelenak, and Atty. Angelo A. Ziotas.

- I. Welcome – Judge Lager called the meeting to order at 2:09 p.m.
- II. Approval of Minutes – Upon motion by Attorney Sweeney and second by Atty. Ziotas, the minutes of the meeting of December 8, 2014 were unanimously approved.
- III. Subcommittee Reports
 - A. Prescreening jurors – Judge Abrams reported that the subcommittee had met on January 12, 2015. The group broke into subcommittees to (1) develop a written juror questionnaire; (2) draft a template into which specifics can be entered for prescreening jurors; and (3) juror questions relating to hardship and familiarity with parties/counsel. The due date for submitting the materials developed is the end of March, and the subcommittee will meet by May 1st, and have something for the June meeting of the Civil Commission. The subcommittee hopes that developing these templates/forms and having them vetted and approved by the Civil Commission will result in more judges using the prescreening options.
 - B. Discovery- Judge Lager reported that Atty. Cooney had asked to step down as the chair of the Discovery Subcommittee because of too many other commitments. Atty. Yelenak will be the new chair of the subcommittee. Atty. Yelenak and the subcommittee will take up the list of open agenda items. Any additional discovery issues can be sent to Atty. Yelenak.
- IV. Workgroup on Civil Rules and Statutes – Judge Berger reported on proposals being discussed and drafted by the workgroup. He first discussed the proposal to revise Practice Book section 13-14 by specifically adding language to codify the decision in Yeager v. Alvarez, 302 Conn 772 (2011). Currently, under the offer of compromise statute, an offer can be filed prior to the completion of discovery, resulting in a party having incomplete information without there being any intentional or bad faith withholding of information, as was the case in Yeager. However, the proposal is a start. The workgroup will have the draft for the commission to review and discuss at the June meeting.

Judge Lager directed the commission's attention to the statistics on the numbers of offers of compromise filed by either plaintiffs or defendants in the various types of cases. The statistics are a snapshot of specific case types that were pending on March 2, 2015. After a brief discussion, the commission moved on to the next item the workgroup was proposing.

Judge Berger reported on a workgroup proposal to eliminate the request for extension of time and extend the time for responding to interrogatories and requests for production to sixty days. The workgroup had discussed keeping a thirty-day deadline for filing objections, but the consensus was to keep the same deadline for responses and objections. The workgroup is also revising the section on objections to production requests in Section 13-10 and requiring a party responding to discovery requests provide copies to *all* parties. The group is also revising Section 17-45 to eliminate the request for extension of time and extend the time to respond to a motion for summary judgment.

The workgroup is also working on the proposal from Atty. Michael Menapace for a rule to permit the subpoena of documents from a third party witness without noticing a deposition. This process is permitted by the Federal Rules of Civil Procedure (Rule 45), and it would be helpful to have a similar rule in state practice.

Judge Berger reported that the workgroup also briefly discussed the adoption of the federal rules. The subject has come up multiple times over the years. Thirty-five states have adopted the federal rules: some have adopted them in their entirety; others have adopted a modified version. Atty. Dorney reported that the Civil Commission had looked into this in the early 2000s and received materials from around the country. States that tried to combine existing rules with the federal court rules ended up with something very complicated. It may be better to adopt the federal rules and make a few changes to deal with some things like the joint trial memorandum by local rules.

Atty. Ziotas indicated that the CTLA prefers state court rules and procedures and would not favor the adoption of the federal rules. He mentioned the slide presentation he had done as part of the Kravitz Symposium and said he would send the presentation to the commission members.

The discussion included concerns about the impact of adopting the federal rules on Connecticut lawyers; the potential cost of training for law firms, court personnel and judges; the need for legislative change; the reasons for looking at this option; the preference of some lawyers for the state courts, the archaic nature of some of the state court rules, and the lack of a body of law about the state court rules.

Judge Lager suggested that perhaps the better course would be to look at revising rather than replacing the state court rules. Any additional comments from the members of the commission can be sent to Judge Berger.

Judge Berger also reported that the workgroup has a proposal revising rules on special defenses, changing the PJR process, and bringing the service of process statutes into the modern world.

- V. New Business – Judge Lager reported that individual calendaring had begun in Bridgeport as of February 15, 2015. It will begin in New Haven in July, and in Hartford around October. Individual calendaring will be in every district by the end of this calendar year. The consensus was that individual calendaring seemed to be working well so far.
- VI. Next Meeting – The next meeting is June 1, 2015.

The meeting adjourned at 3:35 p.m.