

**MINUTES
CIVIL COMMISSION
APRIL 19, 2010**

The Civil Commission met in room 4B at 225 Spring Street, Wethersfield, CT on Monday April 19, 2010 at 2:00 P.M.

Members in attendance were: Hon. Barbara M. Quinn, Hon. Patrick L. Carroll III, Hon. Marshall K. Berger, Jr., Hon. Linda K. Lager, Attorney Joseph D. D'Alesio, Attorney Charles A. DeLuca, Attorney Michael J. Dorney, Attorney Kevin R. Murphy, Attorney Edward M. Sheehy, Attorney Richard A. Silver, Attorney William J. Sweeney, Attorney Frederic S. Ury and Attorney William P. Yelenak.

1. Welcoming Remarks and Call to Order: Judge Quinn called the meeting to order at 1:15 p.m. and suggested that the committee try to meet on a quarterly basis.
2. Approval of December 11, 2008 minutes: Upon motion and second, the minutes were unanimously approved.
3. Case Processing Subcommittee Report: Judge Berger reported that this subcommittee met April 27, 2009. After discussion, the subcommittee came up with some proposals, which were sent out to all presiding judges. Based upon the feedback and the work of the Committee on Uniformity, which was looking at the same issues, the subcommittee decided to disband on September 15, 2009.
4. Discovery Subcommittee Report: Attorney DeLuca, Chair of the subcommittee, handed out to the Commission members a written list of the subcommittee's proposals and suggestions and reported on each of the items.
 - Proposal 1 - The subcommittee is proposing a rule that would provide for the use of Special Masters to supervise the discovery process at the discretion of the Judicial Authority. This proposed rule is similar to the existing Federal Rule 53. This rule was originally proposed in connection with electronic discovery, and Judge Hiller had asked that it be expanded to cover all discovery issues. Discussion ensued as to the potential for the rule to: relieve the court from dealing with intensive and time-consuming discovery disputes; result in enormous costs; and the possibility of attorneys volunteering to serve as special masters. A motion was made and seconded to adopt the proposal regarding Special Masters. Further discussion ensued regarding the costs, the allocation of the fees between the parties, the application of the rule to various types of cases, and the authority of the court to issue an order regarding the payment of the special master's fees. After discussion, it was decided that this proposal should be tabled to permit revisions to address some of the issues raised, including when the remedy is available, the types of cases in which it might be used, and criteria for apportioning costs, for example. Attorney DeLuca and the subcommittee will work on the research and revisions per the discussion.
 - Proposal 2 – The subcommittee endorsed the proposed rules concerning electronic discovery, which have been presented by Judge Quinn and the Civil Commission to the Rules Committee.
 - Proposal 3 - Judge Quinn suggested that it would be good to move forward with this proposal about deposition transcripts. The subcommittee will draft a

proposed amendment to P.B. Rule 13-30(j) to provide that each party in a case pay for its own copy of deposition transcripts or any electronic record of the deposition.

- Proposal 4 and 5 – No action was required by the Commission since these two proposals endorse an existing amendment to P.B. Section 13-27(a) and an existing discovery and deposition dispute order.
 - Proposal 6 – Upon motion and second, the Commission voted unanimously to approve the proposal to eliminate the P.B. requirement that a party responding to interrogatories attach a cover sheet to the response.
 - Proposal 7 – This proposal suggests the consideration of including in the standard interrogatories questions raised by the “Medicare, Medicaid, and SCHIP Extension Act of 2007.” After discussion, it was determined that the subcommittee should draft specific language for an interrogatory. Attorney DeLuca and the subcommittee will draft language and report back.
 - Proposal 8 – This proposal includes a number of possible changes to the discovery dispute resolution process, including some that are currently in effect. Options for telephone discovery conferences currently exist and opportunities for utilizing video conferencing are also being developed.
 - Proposal 9 – This proposal suggests the consideration of a rule containing limitations on the duration of a deposition. After a brief discussion, the Commission agreed to discuss this proposal at length at a future meeting.
5. Proposed Revisions to General Statutes: Judge Berger provided a handout of proposed revisions to the general statutes to the Commission members. Members discussed the various proposals: a proposal to eliminate the requirement that a return date be on a Tuesday, a proposal that the process be returned at least six days before the return date, a proposal to revise CGS §52-72(a) on amendment of civil process to allow any proper amendment upon payment of taxable costs and a proposal to repeal CGS §52-92 regarding demurrers. After discussion, the Commission agreed that these proposals for revisions to the statutes would have the support of the private bar. Judge Quinn will make these proposals part of the Judicial Branch’s legislative package next year.

After discussion, the proposal to amend CGS §52-64 to allow the service of process by an incarcerated person against the state (or its division, agencies, employees, boards, etc.) to be done by certified mail or by delivery through interdepartmental mail and the proposal to amend that CGS §52-259(b) to allow the court discretion in granting a fee waiver in the case of a frivolous matter were determined to be issues for the Judicial Branch, not for the Civil Commission.

6. Attaching Exhibits to Complaints: The proposal to amend Practice Book Section 10-29 to emphasize that plaintiffs should not serve lengthy exhibits as part of the complaint. If they do so, no costs will be taxed for the service of documents beyond two pages. After discussion, Judge Berger agreed to redraft the proposed revision and bring it back to the Commission.
7. Pleading review and reform was not discussed specifically at this meeting.

8. Judgment files: After brief discussion regarding the elimination of judgment files, the Commission members determined that they would benefit from input from appellate counsel/members. This item will be placed on Agenda for the next meeting, and Attorney Gallagher will be asked to provide information on the use of these judgment files in cases that are appealed.
9. Social Security and Medicaid Liens: This item was briefly discussed in connection with developing a standard interrogatory. (Proposal 7 above)
10. Statewide Standing Orders: There was a brief discussion regarding the current standing orders and the need to hear from counsel as to things that could make them more useful. It was noted that the Standing Orders are in the Practice Book and available on the Judicial website. There was also a brief discussion concerning the Judicial Performance Evaluation Program questionnaires and pilot programs that are in development. The question was raised as to the possible use of Judicial Performance Evaluation Program questionnaires in mediation matters.

Judge Quinn suggested that the next meeting of the Commission be held in September 2010. Members of the Commission are invited to call with items for the Agenda.

The meeting adjourned at 3:07 pm.