

MINUTES
CIVIL COMMISSION

225 Spring Street, fourth floor, room 4B
Wethersfield, CT

The Civil Commission met in room 4B at 225 Spring Street, Wethersfield, CT on Monday, September 12, 2011.

Members in attendance were: Hon. Patrick L. Carroll III, Hon. Barbara N. Bellis, Hon. Marshall K. Berger, Jr., Hon. Arthur A. Hiller (by teleconference), Hon. Robert L. Holzberg, Hon. Linda K. Lager (chair), Hon. John Pickard, Attorney Victor A. Bolden, Attorney David W. Cooney, Attorney Joseph D. D'Alesio, Attorney Charles A. DeLuca, Attorney Michael J. Dorney, Attorney Deborah Etlinger, Attorney Keith Bradoc Gallant, Attorney Joseph A. Mengacci, Attorney Kevin R. Murphy, Attorney Catherine Smith Nietzel, Attorney Jonathan B. Orleans, Attorney Louis R. Pepe, Attorney Richard A. Roberts, Attorney Edward Maum Sheehy, Attorney William J. Sweeney, Attorney Martha Triplett, and Attorney William Yelenak.

1. Welcoming Remarks and Call to Order – The meeting was called to order by Judge Carroll at 2:05p.m.
2. Introduction of New Members – Judge Lager recognized the new members of the Commission and asked all the members to introduce themselves. In addition to members of the bench, the Commission includes representatives from the three bar groups (Connecticut Bar Association, Connecticut Trial Lawyer's Association and the Connecticut Defense Lawyer's Association), personal injury lawyers, insurance defense, commercial litigators, mediation and arbitration, lawyers with a federal litigation practice, corporation counsel and lawyers from small, medium and large firm. Judge Lager noted that the breadth of experience and backgrounds permits the Civil Commission to function as a great incubator for the development of changes and improvements in the civil system and practice book rules and provides a broad basis for communicating concerns, issues and recommendations to the bench and the bar.
3. Approval of June 6, 2011 minutes – Upon motion and second, the minutes of the June 6, 2011 meeting were approved unanimously.
4. Legislative Update - Attorney Tais Ericson provided a brief update of new legislation that might impact civil practice. Judge Carroll briefly discussed the budget and the tremendous impact of reductions in hours of temporary assistant clerks, temporary monitors and judge trial referees, as well as of retirements of some of the Branch's most experienced and talented people, and the Branch's limited ability to fill the positions. The Branch is open to any suggestions or recommendations that members of the Commission may have. Judge Lager reminded the Commission that staff reductions may increase the time for processing civil orders, for example, and asked the members to share with the bar things they could do to make processing more efficient, such as including the requested date in an order on a motion for extension of time and bringing a courtesy copy of a motion to the arguable short calendar. Judge Bellis also suggested that when e-filing, attorneys should fill in the additional description field to provide judges and clerks with more information.
5. Extension of Time Working Group – Judge Berger reported that the group will meet this fall, and look at the rules on time to plead and time to respond to discovery to determine a means of streamlining the process and reducing the number of motions for extensions of time that are calendared. This group will also look at the provision of P.B. Sec. 11-13, and

other practice book rules. The members are Judges Berger and Bellis, and Attorneys Smith Nietzel, Orleans, and Sweeney.

6. Discovery - Standardizing Definitions and Instructions - Attorney DeLuca suggested that the Commission consider drafting a new proposed rule to address the problems that occur in cases with multiple parties, each filing discovery requests to which a wide range of general instructions and definitions are attached. Most of these instructions and definitions go beyond the requirements of the Practice Book, and result in objections to the instructions and definitions and objections to the discovery request itself. Attorney DeLuca is suggesting that the discovery subcommittee look at the federal definitions and come up with five or six additional sensible and useful definitions to be used in the state court.

After a brief discussion, a motion was made by Attorney DeLuca and seconded by Judge Berger. Moved that: The discovery subcommittee should be reconstituted to: (1) examine a rule change that would expand the definitions and terms for purposes of discovery and limit the definition section of discovery to definitions contained in the rule are contained in the rule; and (2) consider whether there should be instructions for non-standard discovery. The motion was unanimously approved.

The members of the newly reconstituted subcommittee, still chaired by Attorney DeLuca, are Attorneys Cooney, Roberts, Dorney, Murphy, Orleans, Sheehy and Silver. The subcommittee will report back at the next meeting of the Commission.

7. Rules- Judge Lager reminded the commission that any proposed draft rules, in a final format, including a rationale for the proposal, need to be ready by the end of the year in order to be considered and acted on by the Rules Committee. Judge Bellis, a member of the Rules Committee, explained that it meets on a monthly basis from September to May, but proposals submitted from March to May are less likely to get to the judges at the June annual meeting because there is not enough time to discuss them.

Judge Lager asked that anyone who has a proposal for a rule change or a new rule send the proposal to Attorney Ericson by October 15, 2011 so that it can be put on the agenda and circulated for the December 5, 2011 meeting. She noted that changes needed to conform a rule to new statutes are generally done by the staff.

Judge Bellis asked if the commission had ever addressed the issue of objections to IMEs. The Commission has looked at the issue in the past, but there was a problem with the language of the statute. It may be time to revisit the issue.

Attorney Orleans asked about the procedures for marking short calendar matters. It was explained that the system permits any one with an appearance in the case to mark any motion on the calendar even if it is not your motion Judge Bellis pointed out that with electronic marking, attorneys can view the markings history and see whether, by whom and when a motion was marked.

8. Meeting location & dates

The Commission will continue to meet in Wethersfield. If anyone is unable to make it to the meeting, a video conference or teleconference from other locations can be arranged by contacting Attorney Ericson a few days prior to the meeting.

The upcoming meeting dates are December 5, 2011, March 12, 2012 and June 4, 2012. It was mentioned that the June 4th meeting is the same day as the CTLA annual meeting, so efforts will be made to reschedule the June meeting.

9. New Business – Attorney DeLuca asked about the frequency of group voir dire in the districts statewide. This item will put on the agenda for discussion at the next meeting.

Judge Berger said that lawyers should know that judges are indoctrinating jurors to avoid electronic research and communications. The order for selected jurors about Internet use and electronic communication was once again mentioned. Judge Lager mentioned the video on the voir dire process is being updated and will include comment about the prohibitions on internet research and electronic communications.

Attorney Cooney mentioned the variations in civil jury selection in different districts and noted that having a judge assigned to a case at the beginning of jury selection and available to introduce the case and rule on issues is beneficial. Judge Lager will discuss this issue with the civil presiding judges.

Discussion then ensued on certain logistical issues in certain judicial districts. Judge Carroll reiterated that if any problem or issue arises, the attorney should contact the chief court administrator's office as soon as it happens so that it can be addressed.

Judge Lager asked for any suggestions about ways to keep the lines of communication open between the bench and the bar and invited members of the bar to contact her if there were any issues.

The meeting then adjourned at 3:27 p.m.