

**MINUTES**  
**Civil Commission**  
**September 25, 2007**

The Civil Commission met in Conference Room 204 at 225 Spring Street in Wethersfield on Tuesday, September 25, 2007 from 1:00 p.m. to 3:45 p.m.

Members in attendance were: Judge Barbara M. Quinn; Judge Patrick L. Carroll, III; Judge Arthur A. Hiller; Judge Marshall K. Berger, Jr.; Judge Robert L. Holzberg; Judge Linda K. Lager; Judge Richard A. Robinson; Attorneys Joseph D. D'Alesio; Michael J. Dorney; Frank H. Finch, Jr.; William F. Gallagher; Robert L. Hirtle; Joseph A. Mengacci; Kevin R. Murphy; Catherine Smith Nietzel; Jonathan B. Orleans; Edward Maum Sheehy; Michael A. Stratton; William J. Sweeney; Frederic S. Ury and William P. Yelenak.

Guests: Judge Douglas C. Mintz  
Attorney Thomas Chapman  
Attorney Susan Connors

Agenda:

Welcoming Remarks and Call to Order. The Honorable Arthur A. Hiller called the meeting to order at 1:15 p.m. Judge Hiller indicated that the meeting would consist of a quick update on certain topics and then the Commission would participate in a focus group to identify trends that will affect the Branch over the next 3-5 years, the impact of each trend, and possible strategies.

1. Report on Mediation Proposal. Since the Commission meeting of May 23 and the initial discussion of this proposal as presented in Judge Jonathan E. Silbert's letter of April 16, 2007, the concept has been reviewed with members of the American Board of Trial Advocates (ABOTA). Judge Hiller indicated that several ideas were discussed with the primary focus on making mediation timelier and easily accessible. One thought was to have several of the judges, who are the most frequently requested by the Bar, assigned to a large judicial district where there would be more flexibility in scheduling mediation on short notice. The assistance of the Presiding Judges would be required in order to make these judges available for last-minute mediation sessions.

Another thought was to encourage the attorneys to utilize more of the fifty-six judge volunteers on the list of mediators in hopes that they would develop a trust in more than the same three or four individuals always selected.

2. Update on E-Discovery. Judge Hiller indicated that Attorney Deluca has obtained materials on e-discovery and the *Uniform Rules Relating to Discovery of Electronically Stored Information* adopted by the National Conference of Commissioners on Uniform State Laws. He further indicated that Attorney

Deluca is in the process of reviewing these materials and hopes to have a report for the Commission's next meeting. (The following materials were previously distributed to Commission members: *Amendments to the Federal Rules of Civil Procedure That Deal with E-Discovery*, *Excerpt from Paper Delivered by Charles A. Deluca - Zubalake and Electronic Discovery*, *Practice Book Section 13-9*, Los Angeles County Bar Association Website article, and the *Uniform Rules Relating to Discovery of Electronically Stored Information*.)

3. Report on Class Action Committee. Judge Hiller noted that a committee of volunteer attorneys has been formed to review the rules governing class actions and to draft proposed recommendations. The Chair is former Judge Beverly J. Hodgson. The minutes of the June 18, 2007 meeting were distributed. Judge Hiller indicated that Attorney Sullivan hoped to have a proposal available by the end of this year. He further indicated that it could then be forwarded to the Rules Committee next year.
4. Update on Fact/Notice Pleading Rule. (This topic followed agenda item 5.) Judge Hiller indicated that the Rules Committee wanted additional information. Attorney Gallagher questioned as to whether they wanted background information. He indicated that the proposed rule originated with the Standing Committee on the Courts and explained its purpose. Attorney Dorney indicated that a document had been prepared that included commentaries. Judge Hiller asked that a copy be given to Attorney D'Alesio; he noted that Judge Quinn would then submit it to the Rules Committee. Attorney Dorney indicated that it had been previously submitted and then resubmitted again in May 2005.
5. Proposed Revision of Default Rules. (This topic followed agenda item 3.) Judge Hiller indicated that the Rules Committee looked at the proposed revisions to the default rules yesterday and that a follow-up meeting is necessary to more fully explain the number of filings and the savings which may be achieved by this proposal.

Attorney Margaret George explained the proposed changes to the rules and further indicated that the current process is time-consuming for the clerks. She explained that approximately 17,500 Motions for Default - Failure to Appear and 16,000 Motions for Default - Failure to Plead were filed in calendar year 2006 and that statewide 35% of the Motions for Default - Failure to Appear were unnecessary.

6. Other Business. None.
7. Trend Analysis. The Commission moved to the large conference room (4B) on the 4<sup>th</sup> floor. Attorney D'Alesio explained the purpose of the focus group and the process that would be followed. He noted that Attorney Ury would contact the bar associations to obtain their input and that Judge Mintz would conduct a judges' focus group.

The meeting was adjourned at 3:45 p.m.