

**MINUTES
CIVIL COMMISSION
DECEMBER 11, 2008**

The Civil Commission met in the Supreme Court Attorney's Conference room at 231 Capitol Avenue in Hartford on Thursday, December 11, 2008 at 1:00 P.M.

Members in attendance were: Hon. Barbara Quinn, Hon. Marshall K. Berger, Jr., Hon. Dennis G. Eveleigh, Hon. Arthur A. Hiller, Hon. Linda K. Lager, Hon. Richard A. Robinson, Attorney Joseph D. D'Alesio, Attorney Charles A. DeLuca, Attorney William F. Gallagher, Attorney Robert L. Hirtle, Attorney Kevin R. Murphy, Attorney Catherine Smith Nietzel, Attorney Louis R. Pepe, Attorney Edward Maum Sheehy, Attorney Richard A. Silver, Attorney William J. Sweeney, and Attorney Frederic S. Ury.

Judge Hiller called the meeting to order at 1:15 p.m.

1. Approval of minutes of October 22, 2008 – The first item on the agenda was the approval of the minutes. Upon motion and second, the minutes were unanimously approved.
2. – 3. Revisions to proposed amendments and rules on electronically stored information (ESI) and Draft of proposed rule on the appointment of special masters in the discovery process – These two items were discussed together. At the last meeting of the Commission, Attorney DeLuca had been asked to expand the concept of a special master in connection with electronically stored information to apply to discovery in general. He presented a rule that had been drafted based on a review of Federal Rule 53, the Connecticut General Statutes and Practice Book Sec. 19-19. Written comments had been submitted by Atty. George Royster and Hon. Robert Holzberg and discussion ensued regarding various concerns with a rule for appointing special masters, including the authority for the court to order fees for a special master, the frequency of requests for special masters, the inherent power of the court to make an appointment of a special master, appropriate cases for the appointment of special masters, the necessity for a special master in discovery cases at all, the allocation of fees of the special master, voluntary or mandatory appointment of a special master, and potential abuse of the special master process. A brief discussion ensued regarding the imposition of sanctions by the court and the nature and consequences of sanctions for the court and the attorney. This discussion was found to be a separate issue that could be raised by a member for discussion at another meeting.

After extensive discussion, a motion was made by Attorney Gallagher and second by Attorney DeLuca to table the proposed rule and have Attorneys Gallagher and Hirtle to prepare and submit memoranda concerning the authority of the court to order the payment of special masters' fees before the next meeting of the Civil Commission. The motion was passed unanimously.

4. Update on status of proposed rules submitted by the foreclosure committee – Judge Hiller reported that the Rules Committee has not yet acted on the proposed rule changes. The Bench-Bar Foreclosure Committee will be meeting December 19th and will report to the Rules Committee which will consider the rule changes next year. Other foreclosure changes as recommended by the Bench-Bar Foreclosure Committee are already in progress.

Judge Quinn introduced the Honorable Dennis Eveleigh, who took the place of Judge Joseph Pellegrino.

5. Update on the subcommittee to study the formation of an advisory committee on rules – Judge Quinn reported that a working committee, which included representatives from the civil, criminal practice, family and juvenile commissions, work group and task force, met on December 10, 2008. The group came to a consensus that more transparency in the rule-making process was needed and that the existing groups in these areas should have more input in the rule-making process and a means of providing that input on the rules earlier in the process. The subcommittee will meet again to consider a procedure or format for providing this input.
6. Overview of implementation process – Attorney Joseph D'Alesio reported that the Strategic Plan implementation process includes both existing and new committees, multiple subcommittees and currently includes 28 initiatives in this first phase. He provided an overview of the initiatives currently in progress in each of the goal areas and noted that the information regarding the Strategic Plan is on the Branch website.
7. Discussion of Public Service and Trust Commission implementation initiative issues – Judge Quinn introduced the Case Management (Civil) initiative from the Strategic Plan which has been referred to the Commission. The issues in the initiative generally fall into four categories: discovery, case processing, foreclosure, and the development of special dockets. Judge Quinn suggested that subcommittees may be a more appropriate way to deal with these topics. Members in attendance then signed up to participate on one of the subcommittees. Judge Quinn will send out information regarding subcommittee assignments and the chairs of each subcommittee. Subcommittees will then meet to discuss issues to be addressed and how to address them. The subcommittees will report to the full Commission, which will then make recommendations to the chief court administrator and the Chief Justice.

Judge Hiller adjourned the meeting at 2:32 pm.