

**MINUTES OF THE
BENCH – BAR FORECLOSURE COMMITTEE MEETING
THURSDAY JANUARY 8, 2009**

Handouts to Committee Members: Agenda; Draft of Minutes of June 18, 2008 meeting; information re Foreclosure Mediation Program, various foreclosure forms, proposed draft of property Short Calendar notice, proposed draft of Practice Book Rule changes.

Members in attendance: Hon. Douglas C. Mintz, Chair, Attorney Adam L. Bendett, Attorney Denis R. Caron, Attorney Thomas J. Farrell, Attorney Robert F. Frankel, Attorney Peggy George, Attorney Edward P. Jurkiewicz, Attorney Leanne M. Larson, Attorney Richard M. Leibert, Attorney Eugene S. Melchionne, Attorney Geoffrey Kent Mine, Attorney Raphael L. Podolsky, Attorney Sarah Poriss, Attorney Therese Servas, Hon. Richard A. Robinson, Hon. Theodore R. Tyma, Attorney Thomas W. Witherspoon.

Guest: Roberta Palmer, Foreclosure Mediation Program Manager

The Hon. Douglas C. Mintz, Chair called the meeting to order at 2:36 p.m.

1. Report on Foreclosure Mediation Program - Roberta Palmer presented to the Committee information on the current status of the Foreclosure Mediation Program, including information on the number of cases eligible for mediation, the number of requests filed and the results of the mediations.
2. Approval of Minutes of June 18, 2008 Meeting - Motions to approve the minutes of the June 18, 2008 meeting were made and the minutes were approved.
3. Report on Standing Orders and Forms – The committee members discussed various standing orders, questions that had been raised regarding the standing orders and forms and the need for some technical corrections to the forms. The Committee recommended that a form for supplemental judgment be developed and referred to Judge Hiller, Chief Administrative Judge, Civil, for further approval.
4. Applications for Committee – After discussion, the Committee recommended that all attorneys requesting to be on the foreclosure committee lists be required to take a course regarding the committee's responsibilities and procedures. It was further recommended that all attorneys who have not previously conducted a foreclosure sale be required to attend a foreclosure auction to observe the proceedings before being added to a foreclosure committee list.

5. Forms –

JD-CV-103 You Are Being Sued and You Are In Danger of Losing Your Property. Some discussion about the information included on the form and possible changes. It was decided that the form should remain as it is for the present time. If other changes are required in the future, then will review entire form.

Sales Agreement (JD-CV-88) – After a brief discussion, the Committee unanimously approved a motion to change item 2 to read “on or before thirty days after approval of the sale, the Buyer paying the seller the additional amount of _____(\$_____) in cash or by certified check, and”, subject to plain language changes, if necessary. Also unanimously approved, a change to item 4.a. which should read “that the sale is to be free and clear of the lien being foreclosed and of all subsequent claims, the holders of which are bound by this action, but subject to all prior interests and subject to building, building line and zoning regulations of the town where the property is situated and any and all provisions of any public or private law; and”.

Execution of Ejectment (JD-CV-30) – Committee members are to review this form for possible changes to be discussed at the next meeting.

6. Short Calendar – After a brief discussion it was recommended that the proposed draft language of the committee be substituted for the current language on the property short calendar under “Additional Information” and the MERS information would be deleted from the notice.

7. Proposed Rules Changes –

§ 17-4 Setting Aside or Opening Judgments – After discussion regarding the further revisions to the rule, a motion was made and by unanimous vote the Committee recommends that the change to P.B. § 17-4 not be adopted.

§ 10-12 Service of Pleading and Other Papers; Responsibility of Counsel or Pro Se Party; Documents and Persons to be Served – The committee discussed issues concerning the responsibilities of parties, notice requirements, mailing, objections to the mediation request. A motion was made and seconded that the Foreclosure Mediation Request form be amended to require certification only to the plaintiff and that § 10-12 be amended to reflect this requirement. The motion was approved by a unanimous vote.

§ 3-3 Form and Signing of Appearance – It was suggested that the rule be changed to permit the Request for Mediation form to also constitute the appearance of the defendant filing the request instead of requiring a separate appearance form to be filed. After some discussion, a motion was made to add “and Appearance” to the title of the Foreclosure Mediation Request form and to add other appropriate language indicating that the request shall also be the appearance in the case. Judge Robinson abstained from voting on the motion; all other members present at the meeting unanimously approved the motion.

§ 17-20 Motion for Default and Nonsuit For Failure to Appear – With regard to the proposed change to subsection (b) the committee discussed the

time period for defaults and calendaring of motions for judgments and the reopening of the default upon the filing of an appearance. A motion was made not to approve the proposed revision. With the exception of Attorney Podolsky the members unanimously approved the motion.

The committee then discussed the proposed revision to suspend the time requirements regarding defaults under the mediation period has expired or otherwise terminated. A motion to approve this proposed revision was made and seconded. Attorneys Podolsky, Poriss and Melchionne were in favor of the motion; Judge Robinson abstained; Judge Mintz, Attorney Bendett, Attorney Caron, Attorney Farrell, Attorney Frankel, Attorney George, Attorney Jurkiewicz, Attorney Larson, Attorney Leibert, Attorney Mine, Attorney Servas, Judge Tyma, and Attorney Witherspoon were opposed to the motion.

Judge Mintz suggested that the Bench – Bar Foreclosure Committee have another meeting in June 2009, or before if necessary.

A motion was made that the meeting be adjourned. The motion was seconded and passed.

Meeting adjourned at 4:40 P.M.