

**MINUTES OF THE  
BENCH – BAR FORECLOSURE COMMITTEE MEETING  
TUESDAY JUNE 16, 2009**

Handouts to Committee Members: Agenda; Draft of Minutes of January 8, 2009 meeting; draft forms re Supplemental Judgment, various foreclosure forms with suggested revisions, letter of Attorney Skaats, Letter of Attorney Bendett, Letter of Attorney Gordon

Members in attendance: Hon. Douglas C. Mintz, Chair, Hon. Salvatore Agati, Attorney Ronald M. Bender, Attorney Adam L. Bendett, Attorney Jessica Braus, Attorney Denis R. Caron, Attorney Thomas J. Farrell, Attorney Robert F. Frankel, Hon. Samuel Freed, Attorney Keith Fuller, Attorney Peggy George, Hon. Arthur A. Hiller, Attorney Edward P. Jurkiewicz, Attorney Leanne M. Larson, Attorney Richard M. Leibert, Hon. Barry C. Pinkus, Attorney Raphael L. Podolsky, Attorney Sarah Poriss, Attorney Thomas W. Witherspoon, Attorney Louis C. Zowine.

Guest: Roberta Palmer, Foreclosure Mediation Program Manager

The Hon. Douglas C. Mintz, Chair called the meeting to order at 2:03 p.m.

1. Approval of Minutes of January 8, 2009 Meeting - Motions to approve the minutes of the January 8, 2009 meeting were made and the minutes were approved.
2. Report on Foreclosure Mediation Program - Roberta Palmer informed the committee of proposed new legislation and expected changes to the foreclosure mediation program. She also presented an update on 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.
3. Setting of Law Days – Judge Mintz began a discussion about the setting of Law Days when entering a judgment of strict foreclosure and whether there should be uniformity in the courts. Discussion focused on the Monday or Tuesday scheduling of short calendar motions and when attorneys file motions to open a judgment of foreclosure. It was suggested that if the law day was set for a Tuesday, that any motion to open could be a write-in for the Monday Short Calendar. Committee members noted, however, that often motions are filed at the last opportunity to file and must be dealt with immediately. No consensus was reached; the committee decided to leave any issue concerning law days for another time. It was suggested that courtroom clerks be requested to alert the court to legal holidays when law days are being entered.

In connection with motions to open a judgment, proposed amendment to Practice Book Rule 17-4 was mentioned. Committee members expressed concerns with motions to open that could be filed the day before a sale and a possible stay preventing the sale from going forward. Reference was made to the case of *First Connecticut Capital, LLC, et al. v. Homes of Westport, LLC, et al.*, 112 Conn.App. 750 (2009). The Committee determined that a subcommittee should look into a solution to this type of problem. Attorney Dennis Caron agreed to chair a subcommittee and Attorneys Frankel, Milne and Podolsky agreed to be members of the subcommittee.

4. Forms – Attorney Peggy George presented the Committee with two proposed drafts of a motion for supplemental judgment where no proceeds are paid into court. The members decided to review the proposed drafts and report back to the committee at a later date.

Various other forms were presented with suggested changes. After discussion the following changes are to be made:

- Foreclosure By Sale Committee Report (JD-CV-75)

When advertising begins on judicial website, add a new item between #6 and #7 to state “Posted the foreclosure sale notice on the Judicial website on (date)”; Item #8 change the word “publication” to “newspaper”; Item #9 change to read “Notice provided to the (name of newspaper); Item 10 to state “Confirmed the receipt of Notice with the (name of newspaper); Item 11 to state “Instructions to the appraiser on \_\_\_\_\_”; correction numbering as to items numbered 16; the second Item #16 should state “Received \_\_\_\_\_ inquiries from interested parties to date of sale.” Also, on page 3, under list of Exhibits change Item B to state “Copy of Advertisement(s)” and under Bills add “M. Title Search”.

- Foreclosure Worksheet (JD-CV-77)

The present Item #4 should be moved below Equity and the Total should indicate the addition of lines 2 and 3. The items to be renumbered accordingly. At bottom of page add a further question “E. Has plaintiff’s counsel been notified?”

- Uniform Procedures for Foreclosure Judgment Presentation Instructions (JD-CV-78)

At the end of Item #3 add “C.G.S. § 8-256ee”.

- Foreclosure By Sale Standing Orders (JD-Cv-79)

Items #10 will need changes when begin advertising on Judicial website.

- Foreclosure By Sale Fact Sheet – Notice to Bidders (JD-CV-80)

Add below the amount of the deposit the following: “The Committee must collect all deposit checks from bidders when bidders register to bid.” Change last sentence of that paragraph to state “The successful bidder will be required to endorse the check to the Clerk of the Superior Court at the conclusion of the auction.”

- Uniform Procedures for Foreclosure By Sale Matters Instructions to Committee (JD-CV-81)

Will need changes when advertising on Judicial website begins.

- Foreclosure Return of Sale – With Proceeds (JD-CV-98)  
Add to Item #3.b. “Said amount has been paid into Court on (date).”
- You are Being Sued and You Are In Danger of Losing Your Property (JD-CV-103)

This form should still be served. This form should be on top of the foreclosure mediation notice to homeowner. Change language at bottom to read “Read the papers under this notice”.

- Uniform Foreclosure Standing Orders (JD-CV-104)  
In Item #E change the word “cover” to “top”.

The committee also suggested that the foreclosure advertisement contain a notice that the bidder should have the check made payable to himself or herself.

- Proposal by Attorney Skaats – Copies of recorded Certificates of Merger or Name Change Certificates.

Committee members discussed whether information is available and what would be required to show the chain of title. A recommendation was made that an addition be made to the Standing Orders requiring an affidavit showing compliance with C.G.S. 47-12.

5. Advertising Foreclosure Sales on the Judicial Website – Attorney Peggy George demonstrated the Foreclosure By Sale Advertising Program that is being developed to post foreclosure sale advertisements on the Judicial website.

6. New Standing Order Request – Attorney Adam Bendett presented his request in accordance with the letter provided at the meeting. Members discussed various concerns regarding recording of assignments, lis pendens, land records, foreclosure action to foreclose condo fee lien and notice to other mortgagees. Members questioning whether these concerns will affect the title to the property and whether there should be a rule change or standing order to address this. Judge Mintz suggested that a subcommittee be formed to further discuss this matter. Attorney Leanne Larson is to chair the subcommittee. Other members to include Attorney Bendett, Attorney Caron, Attorney Bender and Attorney Matthew Perlstein.

7. Foreclosure Procedure – Change Request – Attorney A. Reynolds Gordon addressed the Committee regarding various changes in the foreclosure by sale procedures. Discussion ensued regarding advertising, title search, inspection of property, deposit at sale and environmental inspection. Members agreed that many of these concerns are being dealt with or there are avenues for addressing these issues.

Judge Mintz suggested that the Bench – Bar Foreclosure Committee have another meeting in September or October 2009.

A motion was made that the meeting be adjourned. The motion was seconded and passed. Meeting adjourned at 5:06 P.M.