

**MINUTES OF THE
BENCH – BAR FORECLOSURE COMMITTEE MEETING
FRIDAY, OCTOBER 29, 2010**

Handouts to Committee Members: Agenda; Draft of Minutes of May 14, 2010 meeting; copy of proposed Practice Book Rule changes, copy of Mortgage Foreclosure Standing Order Federal Loss Mitigation Programs and Affidavit .

Members in attendance: Hon. Douglas C. Mintz, Chair, Attorney Ronald M. Bender, Attorney Adam L. Bendett, Attorney Jessica L. Braus, Attorney Denis R. Caron, Attorney Robert F. Frankel, Attorney Keith Fuller, Attorney Jeffrey S. Gentes, Attorney Peggy George, Attorney Richard M. Leibert, Attorney Eugene S. Melchionne, Attorney Geoffrey Kent Milne, Attorney Raphael L. Podolsky, Attorney Sarah Poriss, Hon. Richard Robinson, Attorney Gary P. Sklaver, Attorney Thomas W. Witherspoon, Jr., Attorney Louis C. Zowine.

The Hon. Douglas C. Mintz, Chair called the meeting to order at 10:02 a.m.

1. Approval of Minutes of May 14, 2010 Meeting - Motion to approve the minutes of the May 14, 2010 meeting was made and the minutes were approved.
2. Proposed Rule Changes – Effective January 1, 2011 - Judge Mintz informed the members that there were proposed changes to several Practice Book rules in accordance with the Standing Orders re Federal Loss Mitigation Programs. He asked for input as to the necessity of the changes and proposed wording of the changes. Discussion ensued as to the need to incorporate the Standing Orders into the Practice Book, the purpose of having Standing Orders and the power of the Chief Court Administrator to promulgate Standing Orders. A motion was made and seconded that the Practice Book sections not be amended. The motion was unanimously approved.
3. Problems with Foreclosure Documentation – Attorney Gentes began the discussion seeking clarification on what is expected to happen when there are problems with the foreclosure documents. Question whether the procedure is to file a motion to open and then a new affidavit of debt. Discussion of issues included why a motion would be filed, effect on title and title insurability, and the limitations of the power of the court to open the judgment after the law day has passed or more than four months after the date of judgment. Court reviews on a case by case basis. Otherwise, it may require legislative action.
4. Federal Loss Mitigation Affidavit – Began with an update from Roberta Palmer, Manager of the Foreclosure Mediation Program, regarding the current statistics for the Foreclosure Mediations. Charts provided to the committee

indicate that currently 63% of homeowners who are involved in the mediation program stay in their homes.

Discussion then ensued about the mediation process, length of the mediation period and how the lenders look at various options for the homeowner and the paperwork involved. It was noted that there are stringent requirements with regard to the Loss Mitigation Programs. Attorney Bendett requested that a subcommittee be formed to review and propose changes to the Federal Loss Mitigation Affidavit (form JD-CL-114) to make it easier for the servicers to complete. Judge Mintz asked Attorney Bendett to Chair the subcommittee and attorneys Gentes, Leibert, Frankel and Braus agreed to be members. Judge Mintz also asked Roberta Palmer, Manager of the Foreclosure Mediation Program and Daniel Horwitch, Esq. of Judicial Legal Services, to assist the subcommittee with the review.

5. Reasonableness of time to file Motions for Approval of Sale – Attorney George reported that she had received an inquiry regarding the foreclosure by sale procedures recommendation that the committee file the motion for approval of the sale and deed by the Wednesday after the sale (JD-CV-81). The concern was whether this timeframe is clear enough or if a more definitive procedure was necessary. Members discussed the reason for the recommendation and amount of time the committee needed to compile the documents from the sale and file them with the court. Members determined that if it was not a problem for the committees, there was not a need to change the recommendation. Discussion then turned to the advertising and whether there should be a requirement to include a picture in the advertisement posted on the Judicial website as most of the inquiries regarding the sales are due to the ad posted on the Judicial website. Questions arose as to whether there could be a link to the appraisal in the court file or to various public sites that have pictures of properties. Another concern raised was whether it was beneficial to place a sign on the property. It was determined that these issues be tabled until more information is provided. Attorney George to obtain more information for presentation at the next meeting.

6. Foreclosure Property Addresses searchable on Judicial website – Attorney George reported that the posting of the property address on the case information page in foreclosure cases is on the schedule of features to add, but it may not be finalized until two years from now. Members discussed pros and cons of having addresses displayed on the website. Members also noted that it would be beneficial to have the law day and sale date displayed, as well, as it is important to know when title is transferred. It was asked whether there may be an interim method of providing this information. Attorney George is to check into this and invite someone from information technology to the next meeting.

7. Extend Time to Close After Sale Approved by Court – Attorney Zowine suggested that the amount of time to conduct the closing after the sale has been approved be increased from 30 days to 40 days. He referred to a situation where

the buyer had to obtain a mortgage to purchase the property. Members discussed various issues with allowing a greater amount of time to close after approval of the sale. Attorney Frankel suggested that something might be incorporated into the standing orders and further suggested that a subcommittee be formed to review the standing orders and propose necessary updates. Judge Mintz asked Attorney Frankel to chair a subcommittee and attorneys Zowine, Milne and Bendett agreed to be members.

Judge Mintz suggested that the next meeting of the Committee be set for sometime in January 2011 and that the subcommittees be ready to report at that time.

A motion was made that the meeting be adjourned. The motion was seconded and passed. Meeting adjourned at 12:06 P.M.