

BENCH-BAR FORECLOSURE COMMITTEE MEETING
Wednesday, April 30, 2025 – 3:30 PM
via Microsoft Teams

Attendees: Hon. Mark T. Altermatt, Hon. Andrew W. Roraback, Hon. Walter M. Spader, Jr., Attorney George P. Generas, III., Attorney Jeffrey S. Gentes, Attorney James A.R. Pocklington, Attorney Maria Salatto-Gilhuly, Attorney Rebecca R. Schmitt, and Attorney Jenna N. Sternberg

Excused: Hon. Claudia A. Baio, Chair

*Only audio can be heard during this committee meeting. We apologize as we were experiencing technical difficulties with video.

1. Call to order

Attorney Schmitt called the meeting to order at 3:05 p.m.

2. Approval of Minutes of January 29, 2025, Meeting

Upon motion by Attorney Pocklington, seconded by Attorney Salatto-Gilhuly, and carried unanimously, the draft minutes of the January 29, 2025, as amended to correct a scrivener's error, were approved. Judge Spader abstained.

3. Old business

a. Outstanding Recommendations

i. Motions to Substitute

Court Operations implemented the recommended procedure in mid-March and informed all the clerks' offices. There was an issue in Bridgeport where the clerk removed the attorney's appearance for the original plaintiff and did not enter the attorney's appearance for the substituted plaintiff. Attorney Schmitt will follow up with the Bridgeport Judicial District. Contact Attorney Schmitt if there are any other issues with implementation in a district.

ii. Timing of Supplemental Judgment

The recommendation was adopted and the update is being made to the JD-CV-79 to insert the recommended language. The form is pending with Legal. Attorney Schmitt will notify the Committee when the revised form is posted on the Judicial Branch's website. The clerks will also be notified.

b. Discussion re: Holding sales at the property

Discussion was bifurcated to discuss two aspects, the sign on the property, and where the sale should be held.

i. Sign on the property

Discussion continued regarding the placement of a sign on a property where there is an appearing defendant, versus where there is a non-appearing defendant. Attorney Gentes expressed concern that the sign on the property is embarrassing to homeowners. Attorney Pocklington mentioned that sometimes the sign on the property is the first time someone realizes there is a foreclosure case. The sign also notifies the public of the availability of the property for sale.

Could create a carve out in certain situations. The sign requirement is already waived for condo sales. Attorney Pocklington suggested a clear standing order with a waiver upon request. Concern that waiving the sign requirement across the board for all appearing defendants may impact the defendant's option to maximize the sale proceeds. Discussion about where to draw the line. Attorney Gentes mentioned that homeowners can seek unemployment relief, but they don't because there is no notice. Without notice of the right to waive the sign it may not be exercised.

We don't have the data in Connecticut to be able to tell if we are yielding better value on foreclosure sales, as compared to other states. Per Attorney Gentes, two thirds of the successful bidders are the plaintiff. Third party bidders are above where they've been in the past year or two, because of the extremely low supply. That number is not much different from those states that do foreclosure sales by default. Attorney Pocklington cautioned looking at those types of numbers in this niche area due to cases where sales are required, which may skewer the numbers.

Judge Spader noted that the third-party bidders are the same bidders in other cases and are finding out about the sale from the Judicial Branch's website. However, the sign is useful to the court in notifying non-appearing defendants of the pendency of a case. Sometimes the court will order a sign to go up even earlier, to try to get the homeowner's attention before the committee fees and costs begin to accrue.

Judge Roraback suggested incorporating the sign in the court's orders. Could stay the posting of a sign for three weeks and allow the homeowner to file something with the court. Appreciates that this may be adding an extra step of complexity.

Another suggestion was to have the committee be responsible for obtaining consent to post a sign. Attorney Generas was concerned that this would cause more committee fees. He has no issue with the sign being waived since the goal of the sign is to benefit the homeowner and get more interest in the sale.

Judge Roraback suggested a modification of what is contained on the sign and to perhaps mass produce a standard sign. That would serve to notify the homeowner and lessen the cost of the sign. Judge Spader noted that this doesn't solve the humanitarian side of the issue.

Attorney Pocklington suggested a form to opt out of the sign. Attorney Schmitt mentioned that any form should be an official Judicial publication. It doesn't sound like it would be a complicated form and it would allow for tracking.

The committee is on the same page that the sign is useful for non-appearing defendants. Attorney Gentes would prefer an opt in, as opposed to an opt out.

The recommendation is that form be created to opt out of having a sign. This would allow us to gather data about whether the sign requirement is a good idea. Attorney Schmitt explained that the form would not be heavy lift for Court Operations. It sounds like it would be a one-page form and would be vetted by legal. It would have its own docket legend for statistical purposes.

Motion by Attorney Pocklington that we make no changes as to signs for non-appearing parties. However, we create a process by which an appearing homeowner may elect to request to opt out of a sign being placed as part of a judgment of foreclosure by sale through a to be drafted Judicial form. Motion seconded by Attorney Generas, carried unanimously.

ii. Sale at the Property

Attorney Gentes provided background information. Connecticut is one of only two states that holds sales at the property. Other states hold them at the courthouse. Vermont holds them at the curb. Does not appear to require a statutory change. There is a concern that there would be issues beyond the scope of the committee, like the liability of the Judicial Branch. Attorney Schmitt mentioned that if a recommendation comes

out of this committee it will be vetted and reviewed by administration and legal.

Discussion tabled until the July 30, 2025 meeting.

4. New Business

a. Committee Rates

Different rates are being charged throughout the state. Judge Altermatt had looked at some varying rates in his district and a decision was made to create a separate item for this.

Judge Altermatt asked other judges what rates they were awarding. Tolland and New London are lower than what Putnam has traditionally awarded. Need to determine what is reasonable under the circumstances, but rates going from \$200-\$300. Some firms are asking for more.

Attorney Pocklington suggested a survey of the Judicial Districts to see what the going rate is and why. Some of those rates are holdovers from judges who are no longer on the bench. He would then suggest a further amendment to the JD-CV-79 form with the rate information posted, even if it isn't uniform. Judge Altermatt suggested the form also include information on the typical number of hours for a sale.

Attorney Schmitt suggested that the recommendation would be that Judge Bellis conduct a poll and determine what the request is and what could be shared with the committee. Court Operations would not poll judges and their practices without input from Judge Bellis. Judge Spader suggested that we leave the issue of whether to make a request and what that request should be to Judge Baio.

b. Defaults after publication – Passed to July 30, 2025, meeting.

5. Other Business

Attorney Generas' firm has had issues in several different courts where defendants' motions to open have been granted immediately upon filing, without an opportunity for the plaintiff to respond. Many times the defendants file the motion to open with a caseflow request and indicate consent, when they haven't contacted the plaintiff's office. In Hartford the clerk has been sending emails to plaintiff and asking that they file within a day or two. However, some courts are granting motions within an hour or two. Attorney Pocklington echoed the concerns and mentioned that generally, when it is the lender requesting the motion to open it is usually in the interest of all parties. However, when a homeowner is asking, there is a higher likelihood that the plaintiff will be opposed or that it will be harmful to another party's interests.

It is appropriate for the court to rule on motions to open that are the day before the sale, however, where there is no emergency, the plaintiff would appreciate the time to respond.

Judge Spader mentioned that this topic may not be the business of the Committee, but he will make his colleagues in other districts aware of the issue. Judge Altermatt suggested that plaintiff bring it to the court's attention through motion practice. The item will remain on the agenda as new business for the next meeting, to include Judge Baio in the resolution.

6. Next Meeting

- a. July 30, 2025, at 3:30 p.m.

7. Adjourn

The meeting adjourned at 4:32 p.m.