

**Bench-Bar  
Centralized Small Claims Committee  
Meeting Minutes  
January 9, 2009 – 10:00 a.m.**

**Members in Attendance:**

Honorable James W. Abrams, Magistrate Elaine Braffman, Attorney Marshall R. Collins, Magistrate Sydney W. Elkin, Attorney Natalie K. Erickson, Attorney Joanne S. Faulkner, Attorney Maureen P. Finn, Attorney Kevin R. Hennessy, Attorney Nancy L. Kierstead, Attorney Karen Lahey, Attorney Stacey Manware, Attorney Adam Olshan, Attorney Raphael Podolsky, Attorney Sarah Poriss, Attorney William G. Reveley, Magistrate Michael Ross, Attorney Kenneth Rozich, Attorney Richard A. Terry

The meeting was called to order at 10:14 a.m.

**Opening Remarks**

Honorable James W. Abrams

1. The committee reviewed the draft of recommendations submitted by the three subcommittees: Subcommittee on Legal Issues, Subcommittee on Operational Process and Subcommittee of Access and Quality of Service. These recommendations were presented in the form of a draft entitled Report of the Bench/Bar Small Claims Committee dated January 9, 2009.

Attorney Faulkner highlighted some of the recommendations of the Subcommittee on Legal Issues, which included but were not limited to: defendant should receive notice regardless of whether or not he files an appearance, adopt a Small Claims judgment checklist for magistrates and strengthening some provisions in the Notice of Judgment.

Attorney Finn provided an overview of the recommendations of the Subcommittee on Operational Process. Some of these suggestions included: E-filing for Small Claims, three complaints against a magistrate should trigger monitoring of that magistrate, schedule large filers on a specific day and preclude entry of default on a case for a minimum of 20 minutes after the calendar is called.

A discussion ensued regarding the definition and use of the term ‘charge-off’. It was explained that once a consumer stops making payments, the bank is required to charge-off the principle balance. This is a federal standard. The term charge-off is consistent with the IRS form 1099-C. Judge Abrams asked the committee to determine if the term charge-off is appropriate language to be used in the Practice Book. The committee should decide on this within the next 30 days.

Concerns were expressed regarding unreliable data being dumped into the Small Claims system. Clarification was provided regarding this. Though converting to E-filing, Small claims will continue to retain a paper file which will include documentation to support electronic information supplied.

Judge Abrams reported on recommendations of the Subcommittee on Access and Quality of Service.

All agreed that there needs to be clarification for magistrates and attorneys regarding \$1000 exemptions.

A question arose regarding the Subcommittee on Access and Quality of Services' suggestion to have a magistrate checklist. This issue has already been referred to Legal Services for review.

A question also arose regarding whether the Judicial Branch can mandate magistrates to use the opening remarks. It was stated that the Judicial Branch can mandate magistrates to do so.

2. A discussion ensued regarding changes that should be made to the Report of the Bench/Bar Small Claims Committee dated January 9, 2009. The committee recommended changes to the wording of some portions of this report.

The following changes should be made the report under recommendations from the Subcommittee on Legal Issues: On page nine, paragraph one of the report, 'additional costs claimed' should be replaced with 'additional damages claimed'. On page nine, paragraph two, 'any interest is calculated' should be replaced with 'additional interest is calculated'.

The following changes should be made to the report under recommendations from the Subcommittee on Operational Process: On page 12, paragraph one of the report 'allow entry fees' should be replaced with 'allow all fees'. In the same paragraph, 'paid by credit card and/or develop' should be replaced with 'paid by credit card and develop'. Also on page nine in the last paragraph, the phrase 'upon filing and fast-track them for processing' should be replaced with 'upon filing and fast-track them for processing or housing cases should be returned to Housing Sessions'.

With respect to page 9 of the report, concerning recommendation number 17, it was suggested that the Subcommittee on Legal Services Issues' recommendation be worded so as to indicate that the workgroups of the committee made a suggestion that judgment should be entered when a case has met the conditions listed on the Small Claims Judgment Checklist for

Magistrates. Judge Abrams asked that this idea be submitted to the committee in order for the committee to vote on it at the next meeting.

Attorney Kierstead will go through the report and make sure that none of the recommendations of the subcommittees have been omitted from the report. She will then follow-up with the committee.

Attorney Finn provided the committee with a handout entitled Other Proposed Changes to the Practice Book Rules Not Yet Included. This handout includes proposed changes to the following Practice Book Sections: 24-8, 24-17, 24-20A and 24-33.

The committee discussed the second recommendation from the Subcommittee on Legal Issues, found on page 3 of the report. Committee members presented the pros and cons of accepting the recommendation to have the plaintiff, verses the court clerk serve the defendant. Judge Abrams moved to table this issue. Attorney Lahey seconded the Motion to Table.

Discussion ensued regarding how this issue would be affected if the committee ruled in favor of tabling the issue.

The following members voted in favor of the Motion to Table: Magistrate Braffman, Attorney Collins, Magistrate Elkin, Attorney Hennessey, Attorney Lahey, Attorney Olshan, Attorney Reveley, and Attorney Terry.

The following members voted in opposition to the Motion to Table: Attorney Erickson, Attorney Faulkner, Attorney Finn, Attorney Kierstead, Attorney Podolsky, Attorney Poriss, and Magistrate Ross.

The motion was tabled.

3. Judge Abrams asked the committee to review the introduction of the Report of the Bench/Bar Small Claims Committee to determine if they had any specific issues regarding the way it is currently worded. If there are any issues, the committee members were asked to communicate regarding these issues via email. A suggestion was made that the introduction include recognition and commendation for the Bench-Bar Centralized Small Claims Committee's efforts to fix the problems of the Small Claims Court.
4. The next meeting is scheduled for March 3, 2009 at 2:00 p.m.
5. The meeting was adjourned at 11:49 a.m.