

**(Draft) Minutes
Commission on Civil Court Alternative Dispute Resolution (ADR)
November 9, 2011
9:30 AM
225 Spring Street
Wethersfield, CT**

A meeting of the Commission on Civil Court Alternative Dispute Resolution was held at 225 Spring Street, Wethersfield, CT in room 4B at 9:30 AM

Members present: Hon. Linda K. Lager (Chair), Attorney Christopher Bernard, Attorney David W. Cooney, Attorney Timothy S. Fisher, Professor Carolyn Wilkes Kaas, Hon. Aaron Ment, Attorney David A. Reif

At 9:48 AM Judge Lager called the meeting to order.

Agenda Items

1. Welcome by Judge Lager

Judge Lager welcomed the commission members to the meeting.

II. Approval of Minutes

The minutes of the September 19, 2011 meeting were unanimously approved.

III. Vote on Subcommittee Recommendations

Judge Lager informed the members that 7 absentee ballots had been submitted and that she would advise the members of the votes as recorded on those absentee ballots.

The voting process for the members attending the meeting began with the recommendations of the Utilization Subcommittee.

Utilization Subcommittee

Judge Lager read Professor Stark's opening statement and his comments from his absentee ballot. The members were advised of the vote tally from the absentee ballots. After brief discussion the members unanimously voted in favor of all the recommendations of the Utilization Subcommittee.

Delivery Subcommittee

Judge Lager informed the members of Professor Stark's comments on the criteria for the ADR process, as well the comments of Judge Dooley from their absentee ballots. The members were advised of the vote tally from the absentee ballots.

Vote on Recommendation I – Criteria for ADR Process. After a brief discussion concerning the Delivery subcommittee’s recommendation on the criteria for ADR process, the members voted unanimously to approve it.

Members discussed concerns with the recommendations about confidentiality set forth in A.8. and B.6. Confidentiality is addressed by the statutes so if this provision was removed from the recommendations, the parties to the action could agree to what is confidential. A motion was made to table the vote on recommendations A.8. and B.6. with the members who submitted absentee ballots to be asked to reconsider these recommendations and revote at the next meeting. All were in favor of the motion. Professor Kaas is to submit information from the Task Force to Judge Lager.

Discussion began regarding recommendation A.4., that the ADR provider be a non-attorney. Members were concerned with the perception of the relationships between the people involved and whether the parties perceive that they are receiving a fair neutral provider. There is a need for the provider to disclose and recuse, if necessary, and to provide information to the parties. A motion was made to table the vote on A.4. All were in favor of the motion.

After brief discussion of A.7. the members determined that the language in the Executive Summary for A.7. should be changed to be consistent with the language on page 5 of the full subcommittee report.

Vote on Recommendation A

1. All in favor
2. All in favor
3. All in favor
4. tabled
5. 6 in favor, 1 abstained
6. All in favor
7. 5 in favor, 1 opposed, 1 abstained
8. tabled

Vote on Recommendation B

- 1 through 5 All in favor; in #5, the word provider should be changed to neutral
6. tabled

Vote on Recommendation C

- 1 through 5 All in favor; in #4 both sentences should state “provider or neutral”.

Vote on Recommendation D

Brief discussion regarding “code of conduct”. A motion was made to amend the language of D.2. and 3. to “standards of conduct”. All in favor of the motion.

All in favor of recommendations D.1 through D.4 as amended.

Vote on Recommendation II.

A motion was made to change the word “alternative” to “supplement” in A.2. All were in favor of the motion.

A motion was made to add a subsection C to this recommendation regarding using private ADR providers. It was suggested that this motion be tabled until the full Commission meets. All were in favor of tabling the motion. Attorney Fisher is to present the language for the subsection to Judge Lager.

It was agreed that in #4 the word “neutrals” should be substituted for “providers” .

Vote on II. A. and B. – All in favor.

Training Subcommittee

Judge Lager informed the members of the votes by absentee ballot. Brief discussion followed.

Vote: I through V – All in favor.

Evaluation Subcommittee

Judge Lager informed the members of the votes by absentee ballot. After a brief discussion, it was determined that “and neutrals” should be inserted after “ADR program” in Recommendation I, and that the word “providers” should be changed to “neutrals” in Recommendation III. A.

Vote: I through IV – All in favor.

4. Next Steps

Additional information as discussed in this meeting to be submitted within two weeks. The draft of the final report will be distributed during the week of December 12th. The final meeting of the Commission is scheduled for December 19, 2011 at 2:00 PM in Wethersfield. It is important for all of the members to attend so that all recommendations can be finalized and voted upon again.

5. Other Business

Judge Lager noted that on November 8, 2011 she had received an email with an attachment from Bill Logue which indicated it had also been e-mailed to all the members of the Commission.

6. Adjournment

Motion to adjourn. Meeting adjourned at 11:48 AM.

DRAFT