

Minutes of the Meeting
Rules Committee
February 23, 2009

On Monday, February 23, 2009, the Rules Committee met in the Attorneys' Conference Room from 2:00 p.m. to 4:54 p.m.

Members in attendance were:

HON. PETER T. ZARELLA, CHAIR
HON. BARBARA N. BELLIS
HON. THOMAS J. CORRADINO
HON. JACK W. FISCHER
HON. C. IAN MCLACHLAN
HON. LESLIE I. OLEAR
HON. ANTONIO C. ROBAINA
HON. JANE S. SCHOLL
HON. MICHAEL R. SHELDON

Also in attendance were Carl E. Testo, Counsel to the Rules Committee, and Attorney Denise Poncini of Legal Services.

Agenda

1. The members of the Committee who were present at the January 26, 2009 meeting unanimously approved the minutes of that meeting.
2. The Committee considered proposals submitted by Judge Barbara M. Quinn, Chief Court Administrator, on behalf of the Civil Commission to amend the discovery rules concerning electronically stored information; comments by Judge Barbara Bellis concerning the proposals; and Uniform Rules Relating to Discovery of Electronically Stored Information, submitted by Uniform State Law Commissioner David Biklen.

At the Committee's request, Attorneys Charles DeLuca and David Reif addressed the Committee concerning these proposals.

After discussion, the Rules Committee members agreed to discuss with other judges whether rules are needed in this area and Judge Scholl agreed to solicit the opinions of the complex litigation judges.

3. The Committee considered proposals submitted by Judge Barbara M. Quinn on behalf of the Committee on Judicial Information Policies, to amend Sections 11-20A and 25-59A to streamline the process for removing personal identifying information from a court file when it has been inappropriately filed, and to adopt new Section 4-7 with regard to the omission or redaction of personal identifying information in court records in civil and family matters.

At the Rules Committee's request, Judge Marshall Berger addressed the Committee concerning these proposals.

The Committee asked why the proposals do not apply to criminal matters. Judge Berger stated that there is a subcommittee of the Committee on Judicial Information Policies that is dealing with criminal matters and that he will bring this to their attention.

The Rules Committee expressed concern that the proposals do not apply to exhibits, do not include sanctions for noncompliance and do not require parties to certify that the filed document complies with the requirement of these sections. Judge Berger stated that, if the Rules Committee wishes, his committee can add such provisions to the proposals.

4. The Committee considered proposals submitted on behalf of the Criminal Practice Commission by Judge Patrick L. Carroll, III, Deputy Chief Court Administrator, regarding the release of certain information, including law enforcement reports, affidavits and statements, by the prosecuting authority in a criminal prosecution.

During its discussion of the matter, the Committee raised several issues concerning the proposals. Justice Zarella agreed to request Judge Carroll to ask a prosecutor and a defense attorney from the Criminal Practice Commission to attend the March Rules Committee meeting to address the Committee concerning this matter.

5. The Committee tabled to its September meeting a proposal by Attorney James H. Lee to amend Section 2-64 concerning the procedure by which attorneys are appointed trustees to close the law practices of deceased attorneys and comments received by the Committee concerning this proposal.

6. The Committee tabled to its September meeting a proposed new rule submitted by the undersigned at the Committee's request providing for an automatic stay of proceedings in matters claimed to foreclosure mediation.

7. The Committee continued its consideration of an excerpt from U.S. Law Week concerning rules adopted in Nevada and Kansas that require lawyers to disclose on their

registration forms whether they maintain malpractice insurance; a memo and materials prepared at the Committee's request by Attorney Kathleen B. Wood concerning the ABA rule and the rules of other jurisdictions on this topic; comments received from the CBA and other local bar associations concerning this topic; and proposed Practice Book revisions submitted by Statewide Bar Counsel Michael Bowler to require attorneys to certify on their annual registration form whether they carry professional liability insurance.

After discussion, the Committee unanimously denied the proposal.

8. The Committee put over to its March meeting consideration of a proposal submitted by Judge Pellegrino on behalf of the Civil Commission to amend the civil pleading rules; a proposal by Attorney Edward Maum Sheehy to amend the summary judgment rules; and a memo from Judge Corradino concerning the request to revise. Judge Scholl stated that she would forward to the Committee for consideration at the March meeting a memo addressing issues raised by Judge Corradino in his memo.

9. Judge Sheldon distributed to the Committee a memo concerning a letter from Attorney Martin Zeldis, Chief of Legal Services for the Office of Chief Public Defender. In his letter, Attorney Zeldis raises due process issues with regard to Sections 23-41 and 23-42 concerning habeas corpus rules that address appointed trial counsel's efforts to withdraw from a habeas corpus action when counsel believes that the action is without merit.

Judge Sheldon stated that he would submit rules revisions concerning this matter to the Committee for consideration.

Respectfully submitted,



Carl E. Testo
Counsel to the Rules Committee