

Minutes
JUDGES' ADVISORY COMMITTEE ON E-FILING
225 Spring St, Wethersfield, 4th Floor Room 4B

February 25, 2011 - 9:30 AM – 12:00 Noon

Committee members in attendance: Hon. Barbara Quinn, Hon. Patrick Carroll (chair), Hon. Barbara Bellis, Hon. Marshall Berger, Joseph D. D'Alesio, Esq., Hon. Linda K. Lager, and Hon. Aaron Ment

Staff in attendance: Elizabeth Bickley, P.J. Deak, Lucio DeLuca, Tais Ericson, Melissa Farley, Daniel Horwitch, Nancy Kierstead and Alice Mastrony

1. Welcome – Judge Carroll called the meeting to order at 9:30 AM.
2. Update - Administrative Appeals – Judge Carroll provided an update on the proposed rules on administrative appeals. These rules have been endorsed by the Planning & Zoning Section of the Connecticut Bar and sent to Judge Quinn for submission to the Rules Committee. The proposed rules changes are critically important and Judge Quinn and Judge Carroll will be meeting with Justice Eveleigh to discuss the proposed rules
3. Update - Rule Change Proposal – Attorney Horwitch discussed the proposed rule changes that were developed by a work group at the direction of this committee. The work group reviewed Chapters 1 – 25 of the Practice Book and compiled a list of rules and proposed changes that would reflect the continued existence of paper and paper files but accommodate electronic filing and electronic files. The proposed rules were circulated last month, but some changes have been made since then. Section 11-1 was revised in response to concerns expressed by the family division. After discussion, it was suggested that the rule be revised further by making subsection (3) applicable to all case types except for civil, but continue to make it applicable to housing and small claims cases. Attorney Horwitch will revise the rule as suggested.

Section 17-20 was revised to include language that became effective January 1, 2011. Section 17-27 was added to the list of proposed rules. Attorney Horwitch also reported that revisions to Section 24-29 permitting electronic notice in small claims cases is on the Rules Committee agenda for Monday.

A revision to Section 3-8 of the Practice Book concerning in place of appearances was proposed. The rule currently allows ten days for the filing of an objection, although an in place of appearance removes the existing appearance immediately. This proposal attempts to address that situation. After discussion, it was decided that Judge Lager would raise the question of in place of appearances with the Civil Commission. The revision may delete reference to a time limit for filing an objection. In response to concerns expressed regarding the withdrawal of an appearance and how the represented party can make objections to that withdrawal, Attorney Horwitch will look at the rule and report back to the Committee.

4. Update - Rule Change Proposal 4-7, 11-20B – See discussion under item 13.
5. Update on judge training – Judge Bellis reported that training of judges is continuing as new judges are appointed or assigned to civil. Lucio DeLuca reported that Judge Bellis and Judge Support Services staff have developed seven training videos that are available on the judges' secure website. The Committee viewed a brief demonstration of one of the training videos.

Judge Bellis mentioned several other matters that have been addressed or raised in the past few months. In connection with ADR, Lisa Gordon, who is with Court Operations and handles ADR requests and scheduling, now has access to the workflow queue. Problems with short calendar prep notes have eased, but a few items remain a concern. It can be difficult for a judge to tell if another judge is working on something in a file from a prior short calendar, so it would be helpful if the clerks made a note of that information in the calendar prep. Also, with electronic files, it is easy to miss a matter on the calendar, so clerks should notify the judge if he or she has not ruled on all their motions by sending a workflow queue item to the judge. This recommendation went out in the E-News in the past, but Attorney Ericson will remind the clerks' offices of this item.

Judge Bellis also said that some judges had asked about opening the workflow queue up to legal research so that judges could use it to communicate with the law clerks. After discussion, including the broad access to the information in the queue, the Committee decided that the workflow queue would not be used to transmit information or requests to Legal Research.

6. Update equipment for ADR programs – This agenda item was initially passed, but was taken up subsequently. Lucio DeLuca reported that an ADR attorney asked to have access to the electronic file. As a result of that inquiry, Judge Support Services has done an assessment of Hartford and Bridgeport to determine how this access can be provided. There are various issues, including electrical connections, data ports, and computer equipment. Currently Judge Support Services has about fifteen laptops that could be used for this purpose, but some of the computers may not support Windows 7, which could present a problem when the Branch license expires. After discussion, the Committee directed that a pilot program be developed for Hartford and Bridgeport.
7. Updates – Edison and E-filing Projects - Attorney Kierstead provided information on the development of time standards for processing filings in clerks' offices, including statistics. Both centrally and in the clerk's office, it is possible to keep track of processing and ensure that items are being handled in a timely manner. For example, 95% of judges orders are processed within five days, and 84% are processed on the same day. 72% of dispositions are coded within one day and 46% are actually coded on the same day. 60% of calendar filings are on a calendar within ten days of filing.

Electronic filing and case processing has provided an opportunity for greater quality control and accountability, which assists in the identification of training needs or problems. It has also resulted in the reduction of phone calls, mail and cash register processing in clerks' offices. This reduction allows the redirection of staff and resources to other areas, such as family court.

Discussion ensued on other changes that have taken place as a result of and concurrent with electronic filing and case management. Discussion included future discussion of changes that may be needed to clerk's office job descriptions and hires, how and by whom processes are handled, cross-training of staff, the dramatic increase in self-represented parties and the accompanying loss of contact between clerks and attorneys, and the need for more computers in clerks' offices for use by the public.

P.J. Deak provided information on the status of the Edison project. About a year ago the process of restructuring support for Edison began, and in a brief time, the transition has been accomplished with the exception of one phase – moving the database to the same place as the e-filing database. The process was big, complicated, and successful.

He also reported that the timeline for the e-filing project, which originally went to April 2012, may require the addition of a few months.

Judge Berger asked about the status e-filing in the appellate system and the possible interaction between the appellate system and the trial courts. Judge Lager also mentioned inquiries from lawyers about e-filing items with the appellate court. Beth Bickley reported that the appellate system is completely compatible with the trial court system, and is being built on the same platform. Judge Carroll has discussed this with the Chief Justice and further discussions will be taking place next week.

8. Family Individual Calendar Function (Schedule for Build) - P.J. Deak reported that Judge Munro heads a committee working on reorganizing family case management. They were interested in having a means of creating individual dockets for judges. This mechanism would be created as part of getting off CATER, since CATER currently has a function that allows the assignment of cases to one judge at a time. The question is should this be added to the things that are built to get off CATER in 2012 or should it be built more quickly for family purposes?

Discussion ensued including the availability of some tools that can be used by caseload to implement individual assignments, how automatic assignment of cases reduces the chances for manipulation, the possibility of using prefixes to do individual assignments, and policy issues associated with mechanizing the assignment of cases. It was decided that there should be further discussion of this concept at the next meeting of this Committee, and there should be no expediting of this project at this time. Judge Quinn will convey the decision to Judge Munro.

9. Global Court Schedule Download – Beth Bickley reported that in early December, she was contacted by a firm in Bridgeport asking to purchase a download of all docket and calendar data together with all case information for each docket so the attorney could develop a program for attorneys' smart phones that would allow them to find any case they had at any time. The request raised several issues, including the amount of effort it would take to get that data to them on all case types (not just Civil), how to provide the data continuously, and how to charge for the data. Discussion ensued, including the possibility of the Branch's developing this capability and the need to focus on e-filing at this time. The decision was that this data cannot be provided at this time.
10. E-Filing Medical Records & IME Reports – Since the changes to the expert disclosure rule, Practice Book § 13-4, some attorneys are filing IME reports and medical records. Judge Bellis would like to come up with a proposal for the Rules Committee such as "Medical reports themselves should not be filed, but they should only be referenced."

Judge Berger pointed out that this is part of a larger question – keeping exhibits out of the pleadings. He had proposed a revision to the statutes regarding the serving of exhibits. Attorney Farley will look into the status of that proposal.

Discussion ensued as to how to address the electronic filing of these reports. Judge Lager suggested including personal medical information in the definition of personal identifying information. Judge Berger suggested that the definition should be expanded to included financial information as well.

Attorney Horwitch will look at section 13-4 and draft a proposed revision.

11. System Outages / Tech Alerts – Judge Bellis and Beth Bickley will work together to develop language to inform judges and staff of any system outages, giving consideration to the possibility of providing separate messages for judges and staff.

12. 120 Day Decision Report – This report has not been working well in either civil or family. The report was originally developed to assist the judges, but there are many other ways of keeping track of cases and deadlines now. Discussion ensued as to the accuracy of the data, the use of the system, the need to have a system in place, and the time involved for staff in entering data in an unused and unreliable function. After discussion, the decision was to leave the function in place for the time being. Absent a clear indication from the judges as to its utility and its accuracy, it may be eliminated.
13. P.B. 11-20B/4-7 Personal Identifying Info Form – The Committee on Judicial Information Policy had drafted and approved a rule and a form for use in protecting personal identifying information that was necessary based upon judicial order, statute or rule. That draft was referred to this Committee for review and further action. In addition, a comprehensive policy on access to court records needs to be developed. A small working group, including judges and technical people will meet to review the existing draft and form and look at the development of an access policy.

Judge Berger asked if were possible to have documents filed electronically and sealed upon filing. If a specific type of document that is always sealed upon filing can be identified, it would be possible to create a function that would seal it upon filing.

Attorney Horwitch raised the question about whether the clerk's office staff should provide information over the phone that would be available at the courthouse but is not available online. The question that usually comes in over the phone is a request to verify the birth date of a particular defendant in a criminal/motor vehicle case. The discussion included the public nature of court files and the information in those files, whether information like birth dates is necessarily public, the difficulties with redacting a paper file, the inclusion of personal identifying information about witnesses or victims, for example, in police reports that are in the court file, the requests from the media, prospective employers, or credit check companies, whether there is any obligation to provide this information over the phone, and the risks of providing this information over the phone. After discussion, it was decided that a work group should be formed to consider the issues and make a recommendation.

14. Update - Excluded Attorneys – The majority of excluded attorneys are attorneys who do not litigate or file with the courts. Last July, all exclusions granted to attorneys who had pending cases were reviewed at the direction of the Chief Court Administrator. As result of that review, exclusions were removed for some attorneys and temporary extensions of the exclusion were granted to other attorneys to allow them to address equipment and training needs. Several attorneys are now requesting that their exclusions be continued indefinitely. The attorneys each have in excess of thirty pending cases. The decision of the Committee was that the exclusions should not be continued indefinitely, but a temporary exclusion would be granted to permit them to prepare to e-file. A letter will be sent to each of these attorneys by Judge Carroll.

The Committee also decided that small claims magistrates should be required to file electronically. In addition, the Committee decided that foreclosure Committees should also be required to file electronically, including all documents filed with the court.

15. Motion for Self-Rep Access to E-Filing – A self-represented party moved to obtain access to e-filing, but his motion was denied. It was felt that the Judges' Advisory Committee should be made aware of this motion. Self-represented parties can file documents by fax, mark motions by telephone, and arrange to receive copies of all documents filed by other parties by electronic means as well. Access to civil self-represented parties will be provided next year.

16. Standardizing System Generated Forms - P.J. Deak reported that the civil/family business process team in conjunction with JIS and Legal has put together a template to standardize forms. The standardization of forms will make it easier to automate the forms in the future, which will benefit self-represented parties in e-filing. The template has been approved by Legal Services and the e-filing Steering Committee. Once the court is off CATER, they will be implemented. It will be necessary to revisit the order portion of the form in the future.
17. Retention of Original Bonds – The question of what the clerks should be doing with original bonds was addressed. People file the paper bond with the clerk, and currently the E-Services Procedures and Technical Standards state that paper documents will be destroyed after being scanned into an electronic image unless a SASE is included with the filing. After discussion, the Committee decided that because of the unique nature of bonds, if they are filed on paper, the bond will be held until the case is over and the return of the bond is requested. Attorney Horwitch will re-draft the proposed section of the E-Services Procedures and Technical Standards.

Attorney Horwitch noted that the only place on the Branch's website where individuals are informed that paper documents submitted without a SASE will be destroyed is in the P&TS. He suggested that self-represented parties are not likely to read the P&TS and, therefore, are not likely to know that their documents will be destroyed unless they are accompanied by a SASE. Judge Quinn stated that a more prominent location on the Branch's website should be found to post such information.

Judge Bellis asked about developing a way to make a judge aware that there are other documents being held separate from the file. Judge Lager then raised the specific question about lodged documents and how they are handling. Attorney Kierstead and Attorney Ericson will investigate the handling of lodged documents.

18. Court Notices (P.B. § 7-5 and C.G.S. § 51-53) - Attorney Ericson apprised the committee about judicial notices that were sent to counsel referencing an electronic order available online, rather than containing the order itself. Legal Services said that the notice had to be the order itself, not a statement that the order is available for viewing online.

Beth Bickley then discussed the replication in the electronic case management system of notices in CATER, specifically docket number notifications and status of appearance notices, that are generated each time there is a change in appearance information. The mailing cost for these notices is between \$50,000 and \$60,000 per year. If it were possible to place the onus for providing notice on the filer of the appearance, it would be a saving in terms of mailing costs and in terms of resources in developing the function for these notices. The Committee decided that replication of the docket number notice is unnecessary since that information is immediately available to anyone online. Attorney Horwitch will work on drafting a proposed amendment to Section 3-4 of the Practice Book to require certification of appearances by the filer.

19. Motion for Request for Telephonic/Video Hearing – P.J. Deak asked if there should be a specific legend code for the motion to request a telephonic/video hearing. After discussion, the Committee decided that the motion should be filed as a caseflow request.

The meeting adjourned at 12:15 PM.