

Minutes
Judges' Advisory Committee on E-Filing
January 31, 2022

The Judges' Advisory Committee on E-Filing met remotely via Microsoft Teams on January 31, 2022. The meeting was live streamed to the public on YouTube.

Those in attendance: Hon. Patrick L. Carroll III (chair); Hon. Elizabeth Bozzuto; Hon. James W. Abrams; Hon. Michael A. Albis; Hon. Lisa Kelly Morgan; Hon. Barbara N. Bellis; Hon. Linda K. Lager

Staff also in attendance: Tais C. Ericson; Melissa Farley; Lucio DeLuca; Paul Hartan; Krista Hess; Joseph Del Ciampo; P.J. Deak; Johanna Greenfield; Cheryl Halford; Nancy McGann; Dan Grabowski; Luke Petruzzello; Diby Kundu; Reny Mathew; Rebecca Schmitt; Damon Goldstein

The meeting was called to order at 12:03 pm by Judge Carroll.

I. Welcome & Acceptance of Minutes from 10/01/2019

A motion was made by Judge Bellis and seconded by Judge Abrams to approve the minutes from the meeting held on October 1, 2019. The motion passed by a vote of 6-0 with Judge Morgan abstaining.

II. Update: Developing Policy/Procedure re: Destruction of Electronic Records

At the Committee's October 1, 2019 meeting, the Branch was in the process of applying for a grant from the State Justice Institute. The Branch succeeded in obtaining the grant and contracted with the National Center for State Courts who was the successful bidder. The NCSC conducted a study and produced their final report on December 29, 2021.

A group of individuals is being assembled to review the report and discuss steps for implementation of the NCSC's recommendations.

III. Rules Committee: PB 7-17 – Electronic Filings after 5:00 pm

This proposal was submitted by the CBA Litigation Section to the Rules Committee and referred to this Committee for consideration. The proposal seeks to modify the Connecticut Rules of Practice to allow electronic filings until 11:59 pm to be deemed filed that same business day. Under the current rule, any filing submitted after 5:00 pm is deemed filed on the next business day.

It is the collective recollection of the long-time members of the Committee that the topic of filing deadlines was very carefully considered when E-Filing was just beginning. A conscious decision was made at that time that filings would be processed only if they were submitted by the close of business. The Committee did not want to confer a strategic or tactical edge to electronic filers. The Committee's consensus is that nothing has changed and that there is no need to make a change. It is also the position of Court Operations that no change to the filing deadline is needed.

This proposal will be referred back to the Rules Committee with a brief notation that the matter was considered by the Judges' Advisory Committee on E-filing back at the start of E-Filing and that there should be no change to the existing rule.

IV. Rules Committee: PB 7-10/7-11 – Summary Process Cases

This proposal was submitted by Greater Hartford Legal Aid, Connecticut Legal Services, New Haven Legal Assistance Association, and Statewide Legal Services to the Rules Committee and referred to this Committee for consideration. The proposal seeks to amend Practice Book Sections 7-10 and 7-11 regarding retention and destruction of summary process records to minimize the adverse consequences of the misuse of summary process records for purposes for which they are not intended.

The Committee received an email and comprehensive information regarding this proposal from Attorney Giovanna Shay of Greater Hartford Legal Aid. Attorney Shay wanted to bring to the Committee's attention the upcoming release of a report on February 8 about the disparate impact of eviction filings on women of color.

Judge Carroll noted that this Committee has never really addressed issues of substantive public policy. The issue of records retention is handled by the Office of the Chief Court Administrator and, prior to E-Filing, was a budgetary and space concern. In this instance, E-Filing considerations are not as critical as public policy concerns. On an issue such as this, the Branch defers to public policy makers.

The consensus of the Committee is that this proposal is not within its jurisdiction. There is no way for the Committee to solicit input from the public and this Committee has not weighed in on issues of records retention in the past. Court Operations is in agreement and further notes concerns about treating a certain subset of cases differently than another.

This proposal will be referred back to the Rules Committee with a notation indicating that the matter was discussed by the Judges' Advisory Committee on E-filing and the consensus is that the Committee does not deal with issues of public policy and record retention.

V. Filing Motion for Removal to Federal Court prior to Return of Electronic Case

An editorial in the December 6, 2019 edition of the *Connecticut Law Tribune* proposed that a defendant be permitted to file a notice of removal to federal court, in accordance with section 14-46 of the Federal Rules, on paper instead of filing it in E-Filing.

The only time a defendant could have an issue filing a notice of removal in E-Filing is with cases where the return date is more than 30 days out. To this point, the issue has come up in 4 cases.

A proposal was made by Court Operations that there be a bifurcated process for the filing notices of removal to federal court. The notice could be filed on paper only when the case has not yet been returned to court and be filed in E-Filing at all other times. This would create a process that would not be overly burdensome on clerks' offices.

In order to accomplish any change, the Procedures and Technical Standards Document for E-Filing would first need to be updated. P.J. Deak will submit draft language to the Committee for its consideration.

Judge Morgan suggested that this may be a problem more suited for the Federal Rules Committee. She also raised concerns about clerks' offices needing to keep the notices of removal filed on paper where no file exists. A technical solution to this problem would be hard because there would be no file to do anything with in E-Filing. Judge Albis suggested that when a case is returned to court that the party who filed a notice of removal on paper be required to then file the notice in E-Filing. Judge Morgan also suggested that the clerk provide a date-stamped copy to the filer of any notice to remove filed on paper.

Judge Carroll asked that this agenda item be added to the agenda for this Committee's next meeting for an update.

VI. CV/FA System: Accomplishments & Upcoming Releases

P.J. Deak reported to the members of the Committee about recent and upcoming releases having to do with the CV/FA System.

a. Recent Releases

- i. Legal notices by web publication
- ii. Paperless TROs/CPOs
- iii. Electronic exhibits
- iv. UIFSA Hague cases
- v. Electronic transcript requests
- vi. Ability of parties to request e-file access by email
- vii. Ability of parties to view pleadings in their family cases without filing an appearance
- viii. Technology security/sustainability upgrades
- ix. Update/streamline help pages, quick cards, and manuals

b. Upcoming Releases

- i. Family support magistrate orders – data sharing with DSS
- ii. Family case data sharing with CSSD
- iii. Addition of tracks and judge assignments in family cases in Edison
- iv. Enhanced Edison-Microsoft Teams functionality
- v. Migration of Edison to .net
- vi. Enhance automation of access requests
- vii. Digital signage software

VII. Status: Letters filed by Litigants in Family Cases

Following the last meeting of this Committee, Judge Bellis had drafted and sent to Legal Services proposed language to be submitted to the Rules Committee that would add an additional sentence to Practice Book Section 4-1(a). The additional language would indicate that any paper document filed subsequent to the complaint would not be placed in the court file.

There was a discussion about the importance of having a Caseflow Request form to handle requests that might otherwise be filed by a self-represented party in letter form. Judge Albis indicated that since the Committee last met a Caseflow Requested form has been created for use in family matters. The form was created largely because of needs arising out of the COVID-19 pandemic and new Pathways system of family case management.

The Committee discussed whether it would be preferable to amend the Procedures and Technical Standards Document for E-Filing instead of pursuing a rule change. Judge Bellis' feeling is that a rule change would be the "gold standard".

Judge Bellis will continue to work on language that can be proposed to the Rules Committee for their consideration.

In closing, Judge Carroll wanted to express the Committee's gratitude for the many, varied, indispensable, and long-time contributions of the following individuals.

- Hon. Marshal K. Berger, Jr.
- Hon. Linda K. Lager
- Hon. Aaron Ment
- Don Turnbull

Judge Carroll also welcomed Judge Morgan as the Committee's newest member. He also welcomed Lucio Deluca as Don Turnbull's successor and Diby Kundu as a new IT representative to the Advisory Committee.

The meeting was adjourned by Judge Carroll at 1:03 pm.