

Minutes of the Meeting
Rules Committee
September 15, 2008

On Monday, September 15, 2008 the Rules Committee met in the Attorneys' Conference Room from 2:00 p.m. to 3:23 p.m.

Members in attendance were:

HON. PETER T. ZARELLA, CHAIR
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

Judge Barbara N. Bellis was not in attendance at this meeting.

Also in attendance was Carl E. Testo, Counsel to the Rules Committee.

Agenda

1. The members of the Committee who were present for the June 2 and June 11, 2008 meetings unanimously approved the minutes of the meeting held on June 11, 2008 and unanimously approved with revisions the minutes of the meeting held on June 2, 2008.

2. The Committee approved the following meeting schedule:

Monday, October 20	-	2:00 p.m. Meeting with Judiciary Committee 3:00 p.m. Rules Committee Meeting
Monday, November 24	-	2:00 p.m.
Monday, December 15	-	2:00 p.m.
Monday, January 26	-	1:00 p.m. Meeting with Judiciary Committee 2:00 p.m. Rules Committee Meeting

Monday, February 23 - 2:00 p.m.
Monday, March 30 - 2:00 p.m.
Monday, June 1 - 10:00 a.m. Public Hearing and Rules Committee Meeting

3. Justice Zarella discussed with the Committee a meeting he had with the deans of the law schools of Yale, the University of Connecticut and Quinnipiac University (Deans Harold Koh, Jeremy Paul, and Bradley Saxton) concerning their proposal for a new rule permitting a full-time employee of an accredited Connecticut law school who is a member of the bar of a reciprocal or non-reciprocal state or territory to be admitted to the Connecticut bar without examination and without regard to that employee's prior years of practice. Also at that meeting were members of the Connecticut Bar Association's Task Force on Multi-jurisdictional Practice (Attorneys Peter Costas, Carl Porto, Ernest Lorimer, Jack Kennedy, and Mark Dubois) and the undersigned.

Justice Zarella stated that as a result of that meeting the deans are working with a Connecticut Bar Association task force concerning their proposal.

Judge Sheldon noted that he is not aware of anyone ever supervising students in a Connecticut clinical program who was not admitted to the Connecticut bar. He also stated that he believes that senior administrative staff of these law schools should not come under the proposed rule.

4. The Committee considered a proposal by Attorney James F. Sullivan to amend the rules concerning class actions and a report of the Civil Task Force concerning this matter, including a proposal by the Task Force to amend the class action rules.

Judge Sheldon advised the Committee that the Civil Task Force submitted its report and proposals because it believed that Connecticut's rules do not measure up to the federal rules in this area. He suggested that experts on this topic from the Task Force be asked to address the Rules Committee on this proposal.

The Rules Committee agreed with this suggestion and Justice Zarella stated that he would invite some Task Force members to attend the October or November Rules Committee meeting and discuss this matter.

5. The Committee considered a proposal submitted by Attorney Roberta Friedman on behalf of the Connecticut Council for Divorce Mediation to allow potential parties to actions in divorce, legal separation, civil union, custody, or parenting plans the option of filing as joint petitioners rather than as adversaries.

After discussion, the Committee determined that legislation would be required before the change requested by Attorney Friedman could be implemented.

Justice Zarella agreed to write a letter to her advising her of this.

6. The Committee considered uniform rules relating to discovery of electronically stored information, submitted by Attorney David D. Biklen on behalf of the Uniform State Laws Commissioners.

Several members of the Committee questioned why our current discovery rules were not sufficient to deal with the discovery of electronically stored information.

After discussion, the Committee decided to refer the proposal to the Civil Task Force for review and a recommendation.

7. The Committee discussed a proposal submitted by Attorney Tara Knight on behalf of the Connecticut Criminal Defense Lawyers Association to amend Sections 37-2 and 40-11.

The Committee noted that they had referred this matter to the Criminal Commission.

8. The Committee considered a memorandum from Attorney Shawn Council commenting on Section 3-9 (c) concerning withdrawals of appearances in certain family matters, Sections 2-44 and 2-46 concerning the suspension or disbarment of attorneys, and the procedure followed in connection with the filing of affidavits of debt and foreclosure complaints.

With regard to her issue concerning Section 3-9 (c), the Committee asked the undersigned to find out from Court Operations how this procedure is being handled administratively by the clerks and whether it is being handled uniformly across the state.

With regard to her issue concerning Section 2-46, which provides for the suspension of an attorney who is a delinquent child support obligor, the Committee asked the undersigned to find out whether this is a statutory requirement and to inquire of the Statewide Bar Counsel whether attorneys have been suspended under this rule.

With regard to her issue concerning private mortgage insurance, the Committee referred the matter to Judge Mintz's Bench-Bar Foreclosure Committee for consideration.

9. Justice Zarella discussed with the Committee the proposed revisions to the Code of Judicial Conduct submitted by Justice Barry R. Schaller on behalf of the Judicial Code Committee.

Justice Zarella had forwarded the proposal, which is a rewrite of the Code of Judicial Conduct that is based upon the Model Code adopted by the ABA, to the Superior Court judges for review and comment. Justice Zarella also asked the Judges Association for input.

To date, Justice Zarella has received comments from Justices David M. Borden and Ellen A. Peters and from Judge Jon C. Blue.

At the Committee's request, the undersigned will forward to it a composite of the Judicial Code Committee's notes concerning their proposed revisions to the Code.

10. At prior meetings the Committee considered a letter from Mr. Adam Rivera, a law student, seeking interpretation of the meaning of the phrase "at least two semesters of credit" as used in Section 3-16 (a) (2) concerning legal interns.

Mr. Rivera's issue is that his law school has interpreted this phrase to mean two full-time semesters of credit. He is a part-time student at the school and believes that the phrase should apply to part-time as well as to full-time semesters. He had asked the Rules Committee for an interpretation of this rule.

Because the Rules Committee does not render interpretative opinions concerning Practice Book provisions, it forwarded this inquiry to the Legal Internship Committee, but to date has not received a response.

After discussion, Judge Sheldon noted that the law school should be able to certify students in Mr. Rivera's position. He will contact the law school in question and submit to the Rules Committee a proposed revision to the rule.

11. At its February 25, 2008 meeting, the Rules Committee continued its consideration of a proposal by the Civil Commission to amend the civil pleading rules. Attorneys Gallagher and Dorney, who participated in the development of the Commission's proposal, attended that meeting and addressed the Rules Committee concerning it. During the discussion following their presentation, there was agreement that the real problem that gave rise to the proposal is abuse by attorneys of the request to revise. It was suggested that that problem be addressed instead of making the sweeping changes set forth in the proposal. Following the discussion, the Rules

Committee decided that it would make further changes to the Commission's proposal and forward those changes to the Commission.

At this meeting, Judges Corradino, Olear, Scholl and Fischer agreed to draft revisions to the rules concerning requests to revise for submission to the Rules Committee.

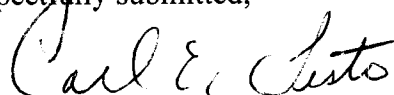
12. The Committee considered a request by Attorneys Wesley Horton and Kim Knox on behalf of West Publishing Company for permission to reprint the Practice Book commentaries and amendment notes in the West Practice Books Annotated.

After discussion, the Committee decided to recommend to the Commission on Official Legal Publications that the request be approved with certain conditions.

13. Justice Zarella discussed with the Committee a proposal he received from Attorney Raphael Podolsky to amend various Practice Book rules in light of Sections 15 through 20 of P.A. 08-176 concerning foreclosure mediation.

Justice Zarella stated that he gave the proposal to Joseph D'Alesio who will forward it to Judge Mintz's Bench-Bar Foreclosure Committee for review and comment.

Respectfully submitted,



Carl E. Testo
Counsel to the Rules Committee

CET:cf