

**Bench-Bar
Centralized Small Claims Steering Committee**

**Meeting Minutes
March 3, 2009 – 2:00 p.m.**

Members in Attendance:

Honorable Barbara M. Quinn, Honorable Patrick L. Carroll, III., Honorable James Abrams, Honorable Clarence Jones, Attorney Elaine Braffman, Attorney Marshall R. Collins, Attorney Joseph DelCiampo, Attorney Joseph D. D'Alesio, Attorney Sydney W. Elkin, Attorney Maureen P. Finn, Attorney Kevin R. Hennessy, Attorney Nancy L. Kierstead, Attorney Karen Lahey, Attorney Stacey Manware, Attorney Adam Olshan, Attorney Joseph J. Patchen, Attorney Robert Peat, Attorney Raphael Podolsky, Attorney Sarah Poriss, Attorney William G. Reveley, Attorney Kenneth Rozich, Attorney Richard A. Terry

Welcome & Opening Remarks

Judge Clarence Jones, Chairperson began the meeting of the full committee at 2:15 p.m. Judge Jones began by thanking the full committee and three subcommittees for all their hard work and time.

Discussed:

There were five outstanding issues/recommendations that the full committee had on the agenda to vote on.

1. (Legal Issues Recommendation #18):

Require the institution of the proposed 'Small Claims Judgment Checklist' for Magistrates which sets forth a tickler series of questions for Magistrates to review and verify before judgment is rendered. The use of the Checklist helps ensure that expected standards for evidence are being met and that the public can be confident that they are being served with consistency and fairness. (The checklist is attached as Appendix B).

TO BE VOTED ON: *Incorporate plaintiff default cases in which the plaintiff fully provides all information required by checklist, the working group suggests that judgment would ordinarily be entered for the amount claimed unless facts and/or circumstances lead the magistrate to believe that the matters should be set down for hearing or the claim dismissed.*

All present agreed yes to add this to the list of recommendations and the checklist sample, Appendix B was approved.

2. (Legal Issues Recommendation #23):

Include an item in the judgment checklist for magistrates to consider (a) knowingly bringing suit beyond the statute of limitations, (b) failing to verify the defendant's address, (c) using an address at which the defendant is known not to reside, (d) failing to report to the judicial authority that a mailing was returned by the U.S. Postal Service as undeliverable, (e) filing improper attorney's fee or interest claims, and (f) failing to file an appropriate military affidavit.

TO BE VOTED ON: *There is belief there was consensus around this and that the group agreed to strike this and to instead require that magistrates be better educated regarding PB Section 24-33's and \$100 discretionary costs section.*

All present agreed yes to add this to the list of recommendations, except for Magistrate Braffman opposed.

3. (Operational Process Recommendation #9):

Small Claims is not a court of record nor are appeals permitted from small claims judgments. Magistrates should meet appropriate standards in regard to fairness, legal knowledge and ability, and decorum. The complaint process should be reviewed and standardized.

TO BE VOTED ON: *The receipt of three formal complaints, in a twelve month period against a magistrate shall trigger a review process in which a reviewing party will observe a magistrate at a docket of at least ten matters. The review is to be conducted using a pre-approved checklist. Nothing, however, prohibits any review process from taking place in response to any single complaint. (language added in red)*

This was voted on and all present agreed yes to add this to the list of recommendations.

4. (Operational Process Recommendation #10):

Non-attorney volume filers cannot participate in bulk e-filing.

TO BE VOTED ON: *Provide a user number or other mechanism so non-attorneys can participate in bulk e-filing. (language added in red)*

This was voted on and all present agreed yes to add this to the list of recommendations.

5. (Operational Process Recommendation #11):

There is a need for an improved categorization and management of cases that are not yet fully disposed but do not need a future court event.

TO BE VOTED ON: *Create a settled but not withdrawn list so these cases can be kept off the active dockets but managed to a complete disposition by withdrawal or dismissal.*

This was voted on and all present agreed yes to add this to the list of recommendations

***Also added on to the agenda to be voted on:** Motion to take the service proposal off the table by Judge James Abrams. Magistrate Sydney Elkin seconded that motion.

Attorney Raphael Podolsky made a Motion to Suspend the Rules for the purpose of discussing the service issue for ten minutes prior to taking the vote. Attorney Adam Olshan and Attorney Sarah Poriss seconded his motion.

Vote re: discussion

In favor: Honorable Barbara Quinn, Honorable Patrick Carroll, Honorable James Abrams, Honorable Clarence Jones, Attorney Joseph D. D'Alesio, Attorney Elaine Braffman, Attorney Sydney Elkin, Attorney Maureen Finn, Attorney Nancy Kierstead, Attorney Adam Olshan, Attorney Raphael Podolsky, Attorney Sarah Poriss

Opposed: Attorney Marshall Collins, Attorney Kevin Hennessy, Attorney Karen Lahey, Attorney Adam Olshan, Attorney Joseph Patchen, Attorney Robert Peat, Attorney William Reveley, Attorney Kenneth Rozich, Attorney Richard Terry

Discussion ensued.

Attorney Raphael Podolsky made a Motion to withdraw suspension of rules. Attorney Elkin seconded his motion.

Attorney Podolsky made a Motion to report no recommendation, but the committees report will reflect both sides of the discussion. Attorney Collins seconded this motion.

Attorney Marshall Collins made the Motion to have a recommendation that housing cases be removed to housing when there is a housing session available. Attorney Kevin Hennessy seconded that motion.

In favor: Attorney Elaine Braffman, Attorney Marshall Collins, Attorney Sydney Elkin, Attorney Kevin Hennessy, Attorney Karen Lahey, Attorney Adam Olshan, Attorney Joseph J. Patchen, Attorney Robert Peat, Attorney Sarah Poriss, Attorney William G. Reveley, Attorney Kenneth Rozich, Attorney Richard Terry

Opposed: Honorable Barbara Quinn, Honorable Patrick Carroll, Honorable Clarence Jones, Attorney Joseph D. D'Alesio, Attorney Maureen Finn, Attorney Nancy Kierstead

Adjournment

The meeting was adjourned at 4:15 p.m.

Recorder: Janet-Marie Harris, Court Planner I, Court Operations