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Connecticut Foreclosure Bench Bar Committee: Agendas and Minutes 2007-2024

This PDF contains the agendas and minutes of the Connecticut Foreclosure Bench Bar Committee meetings from 2007 to 2024. The committee, composed of judges, attorneys, and judicial branch employees, was tasked with addressing the challenges posed by the subprime mortgage crisis and its impact on foreclosure cases in Connecticut. These primary sources offer valuable insights into the committee's discussions, decisions, and actions during this critical period, shedding light on potential conflicts of interest, procedural improvements, and initiatives to ensure fair and efficient handling of foreclosure cases. By reviewing these documents, readers can gain a comprehensive understanding of the committee's work and draw their own conclusions about its effectiveness in navigating the complexities of foreclosure law and its impact on all parties involved. Many litigants, defendants, and others believe that the foreclosure mills of HUNT LEIBERT JACOBSON, P.C., now MCCALLA RAYMER LEIBERT PIERCE, and Bendett & McHugh, P.C., and BROCK & SCOTT STRENGTHENING OPERATIONS AND PRESENCE IN THE NEW ENGLAND STATES WITH THE ADDITION OF BENDETT & MCHUGH have benefited from their extra cozy relationship they formed with the Connecticut Judicial Branch.

FORECLOSURE COMMITTEE MEETING
Thursday, October 25, 2007 – 2:00 PM
Attorneys' Conference Room
231 Capitol Avenue
Hartford, CT

AGENDA

1. Welcome – Judge Mintz
2. Introduction of Members
3. Discussion of Mission of the Committee – Judge Mintz
4. Review of Proposed Standing Orders – Judge Mintz
5. Advertising Demonstration – Cathy Lapollo and Peggy George
6. Future Topics
7. Adjourn

FBT CV- S : SUPERIOR COURT
 : JUDICIAL DISTRICT OF FAIRFIELD
VS. : AT BRIDGEPORT
 : (DATE)

Hon. _____, Judge

Fair Market value of the premises entered pursuant to Affidavit and Report of Appraiser
_____ filed on _____, as set forth below:

Appraiser: _____.

DRAFT ORDER AND STANDING ORDER VERSIONS WITHOUT WEBPOST INFO.

Return of appraiser: per Standing Orders.

Sale Date: _____ at 12:00 p.m. on the premises.

Inspection: per Standing Orders.

Deposit in the amount of: per Standing Orders.

Advertisement: _____ on the 2 successive Fridays immediately preceding the sale (/ / & / /).

Sign (3' x 2'): per Standing Orders.

The committee shall not incur fees or expenses until 45 days prior to sale per Standing Orders.

Plaintiff may fax its bid to the committee.

Plaintiff is to send to the Defendants notice via regular and certified mail with return receipt to be filed with the Court.

STANDING ORDERS

1. Committee will be appointed by the Court from a list of approved attorneys maintained by the clerk's office. The committee should only be on the court list where their principal office is located. This appointment is an individual appointment. Appointment requirements include participation in the foreclosure committee mentoring program.
2. The committee is to familiarize themselves with the *Uniform Procedures for Foreclosure by Sale Matters* (JD-CV-81) and the committee shall use court approved forms where applicable.
3. Sale will take place at 12:00 noon on the premises.
4. Inspection will occur from 10:00 a.m. to 12:00 noon on the date of sale unless otherwise designated.
5. The deposit is 10% of the fair market value as found by the Court. The deposit is waived for the plaintiff unless requested otherwise. The deposit shall not be waived for any other party. The deposit is to be paid by either bank or certified check. The committee shall collect the deposit instrument from the potential bidder at the time the bidder registers to bid. Purchaser is to close within 30 days of the Court's approval of the committee deed. The deposit shall be forfeited if the purchaser fails to close within 30 days of the approval of the committee deed.
6. Advertisement is to be published twice in a newspaper as directed by the Court.
7. The sign is to be placed on the premises not less than 20 nor more than 30 days prior to the sale. The committee is not required to place a sign where the subject property is a condominium.
8. The size of the sign is to be 3 feet wide and 2 feet high and must contain the following statement:
DO NOT REMOVE; VIOLATION SUBJECT TO PUNISHMENT BY THE COURT.
9. Cost of the sign is not to exceed the amount authorized by the Court including preparation, erection and photograph for inclusion in committee report.
10. Committee is authorized to replace the sign once without court approval, provided the sign can be erected at least ten days prior to the sale. **DO NOT ERECT THE SIGN YOURSELF.**
11. A disinterested appraiser will be appointed and will, under oath, appraise the property and make return of the appraisal to the Clerk of the Court at least seven days prior to the sale. The Court will appoint this appraiser from an approved list.
12. Committee is to obtain liability insurance for the date of the sale in the amount of \$1,000,000.00. The premium shall not exceed \$250.00.
13. Except for filing an appearance, if the sale is more than two months in the future, the committee should incur no fees or expenses until 45 days prior to the sale. The committee shall obtain a title search of the subject property immediately upon commencement of the period that they can incur expenses.
14. If the sale is cancelled for any reason after publication or erection of the sign, a written announcement of cancellation should be posted at the property location. The committee is to remain on site in that event for a reasonable period of time.

DRAFT ORDER AND STANDING ORDER VERSIONS WITHOUT WEBPOST INFO.

15. The Plaintiff via certified mail, return receipt requested, is to send a letter per Court order to the nonappearing defendant owner of the equity, which must contain the following: A.) Clearly state at the beginning that the letter is being sent at the direction of the Court; B.) State the results of the foreclosure judgment; C.) Inform the nonappearing equity owner that he/she/they risk loss of the equity if he/she/they fail to take steps to protect that equity **AND THAT HE/SHE/THEY SHOULD CHECK WITH THE COURT AFTER THE SALE TO LEARN IF THERE IS ANY MONEY THAT IS DISTRIBUTABLE TO HIM/HER/THEM**; D.) State that the nonappearing party should either file his/her own appearance or have an attorney file one on his/her behalf in order to protect his/her/their interest in the equity. A copy of the letter and the return receipt must be sent to the Clerk of the Court. **NO SALE WILL BE APPROVED OR FUNDS DISBURSED WITHOUT PROOF OF MAILING.**
16. The sale is subject to any and all liens choate and inchoate which are prior in right to the encumbrance being foreclosed.
17. The Plaintiff will provide the committee with the appraisal report no later than 2 weeks prior to the first posting date.
18. The Plaintiff, only, may submit a bid to the committee by fax on or before 5:00 p.m. the day before the sale. If the Plaintiff is the high bidder by fax, it is required to execute the *Bond for Deed* within 5 business days of the auction.
19. At the time judgment is entered, the Plaintiff shall provide a copy of the note for the court file.

By Order of the Court

_____, J.

**DRAFT
MINUTES OF THE
BENCH - BAR FORECLOSURE COMMITTEE MEETING
THURSDAY, OCTOBER 25, 2007**

The first meeting of the Bench - Bar Foreclosure Committee was held in the Supreme Court Attorneys' Conference Room at 231 Capitol Avenue in Hartford on Thursday October 25, 2007 from 2:00 to 4:05 p.m.

Members in attendance: Hon. Douglas C. Mintz, Hon. Salvatore C. Agati, Attorney Ronald M. Bender, Attorney Jessica L. Braus, Attorney Denis R. Caron, Attorney Thomas J. Farrell, Attorney Robert F. Frankel, Hon. Samuel Freed, Attorney Keith K. Fuller, Attorney Peggy George, Hon. Robert G. Gilligan, Hon. Arthur A. Hiller, Catherine Lapollo, Attorney Leanne M. Larson, Attorney Richard M. Leibert, Attorney Geoffrey Kent Milne, Hon. Patty Jenkins Pittman, Attorney Raphael L. Podolsky, Attorney Sarah Poriss, Hon. Richard A. Robinson, Attorney Therese Servas, Hon. Theodore R. Tyma, Attorney Thomas W. Witherspoon and Attorney Louis C. Zowine

1. Welcome

The Hon. Douglas C. Mintz welcomed the members to the first meeting of the Committee at 2:06 p.m. and presented statistics illustrating the increasing number of foreclosure cases filed statewide. He explained that the increase in the number of cases puts pressure on the courts and extends beyond the courtroom to town offices. He further indicated the importance of protecting the property title.

2. Introduction of Members

The members of the Committee introduced themselves.

3. Discussion of Mission of the Committee

Judge Mintz informed the members that the mission of the Committee is to review the procedures and practices in foreclosure cases in order to provide uniformity so that parties are aware of what will occur when they appear in court. The committee is not charged with looking at substantive law, only procedures. The following

documents were distributed for review by the committee: Number of Foreclosures Added By Location – Three Court Years, Draft Order and Standing Order Versions without Webpost Info., Foreclosure By Sale Standing Orders (present version) – form JD-CV-79, and Proposal for Advertising Foreclosure Sales on the Judicial Branch Website.

4. Review of Proposed Standing Orders

Copies of the current standing orders and the proposed changes were given to the members. Judge Tyma explained that these changes were arrived at through discussions with various people who saw a need for uniformity with regard to the procedures for foreclosures by sale. Judge Mintz stated that the aim is to try to keep the costs down.

A discussion of the proposed changes to the standing orders ensued. As a result it was decided that further discussion was necessary on such items as the amount of deposit by bidder at sale, what to do if there is a federal tax lien, advertising in newspaper, title search, and amount allowed for committee fees.

5. Advertising Demonstration

Cathy Lapollo presented a PowerPoint presentation on the concept outlined in Judge Pittman's document entitled *Proposal for Advertising Foreclosure Sales on the Judicial Branch Website*. Members were generally receptive to the idea of advertising in this manner; some members expressed concerns while others offered suggestions for further discussion.

6. Future Topics

Judge Mintz inquired of the Committee as to areas requiring discussion. It was agreed that further meetings are necessary and should be scheduled frequently. Judge Mintz requested that any suggestions for the standing orders be submitted to him.

The next meeting of the Committee is scheduled for Thursday, December 6, 2007 at 2:00 p.m. in conference room 4 B, 225 Spring Street, Wethersfield, CT.

The meeting was adjourned at 4:05 p.m.

FORECLOSURE COMMITTEE MEETING
Thursday, December 6, 2007 - 2:00 P.M.
Room 4C
225 Spring Street
Wethersfield, CT

AGENDA

1. Welcome - Judge Mintz
2. Introduction of New Members
3. Approval of Minutes of October 25, 2007 Meeting
4. Designation of Sub-Committees
 - A. Short Calendar
 - B. Committees
 - C. Supplemental Judgments
 - D. Other
5. Review of Proposed Standing Orders
6. Certificate of Discharge for Federal Tax Liens
7. New Business
8. Adjourn

**MINUTES OF THE
BENCH – BAR FORECLOSURE COMMITTEE MEETING
THURSDAY DECEMBER 6, 2007**

Handouts to Committee Members: Agenda, Draft of Minutes of Oct. 25, 2007 meeting, Article from *Wall Street Journal* entitled “Judges Tackle ‘Foreclosure Mills’”, Letter of Dec. 1, 2007 to Judge **Mintz** from Attorney Samuel Chester, copy of Ohio Federal Court decision submitted to Judge **Mintz** by Louis Roman, Letter to Judge **Mintz** from Attorney Joanne S. Faulkner dated Nov. 26, 2007, Letter to Judge **Mintz** from Attorney Jessica Braus dated Oct. 30, 2007, print-out of email from **Attorney Rich Leibert** to Judge **Mintz** and Attorney Frankel dated Dec. 5, 2007, print-out of email from Attorney Thomas Witherspoon to Judge **Mintz** dated Nov. 27, 2007, “Changes to Foreclosure Procedures – Sklaver” dated Dec. 5, 2007, information regarding requesting a Certificate of Discharge From Federal Tax Lien submitted by Attorney Louis Zowine, Proposed Changes to Foreclosure By Sale Standing Orders submitted by Attorney Robert Frankel dated Nov. 22, 2007, copy of current Foreclosure By Sale Standing Orders JD-CV-79 Rev. 3-03, proposed Draft Order and Standing Order Versions Without Webpost Info. of Court Operations committee.

Members in attendance: Hon. Douglas C. **Mintz**, Attorney Gregory F. Arcaro, Attorney Ronald M. Bender, **Attorney Adam L. Bendett**, Attorney Jessica L. Braus, Attorney Denis R. Caron, Attorney Thomas J. Farrell, Attorney Robert F. Frankel, Hon. Samuel Freed, Attorney Keith K. Fuller, Attorney Peggy George, Hon. Arthur A. Hiller, Attorney Edward P. Jurkiewicz, Attorney Leanne M. Larson, **Attorney Richard M. Leibert**, Attorney Eugene S. Melchionne, Attorney Geoffrey Kent Milne, Attorney Raphael L. Podolsky, Attorney Sarah Poriss, Hon. Richard A. Robinson, Attorney Therese Servas, Attorney Gary P. Sklaver, Hon. Theodore R. Tyma, Attorney Thomas W. Witherspoon, Attorney Louis C. Zowine

1. The Hon. Douglas C. **Mintz** welcomed the members to the meeting at 2:00 p.m. and provided the members with a folder containing all of the handouts.
2. All members introduced themselves.
3. Motions to approve the minutes of the October 25, 2007 meeting were made and the minutes were approved.
4. Designation of Sub-Committees:
Judge **Mintz** suggested that the committee break-up into subcommittees to be more manageable and productive. Judge **Mintz** suggested that there be subcommittees for Short Calendar, Committees, and Supplemental Judgment with 9 people on each sub-committee with a judge as chair of the sub-committee. Upon

requesting suggestions for other sub-committees discussion ensued and the members approved a further sub-committee entitled "Process Committee". Sign-up sheets for each sub-committee were circulated to the members and returned to Judge Mintz.

5. Review of Proposed Standing Orders

Attorney Robert Frankel explained his suggested changes for the standing orders to the committee. Discussion ensued and all agreed the standing orders and other suggested forms should be dealt with by the sub-committee.

6. Certificate of Discharge For Federal Tax Liens

After discussion regarding federal tax liens, US right of redemption and various issues it was decided that this topic should be referred to the Short Calendar sub-committee.

7. New Business

It was suggested that a computer form be developed for Supplemental Judgment that would automatically calculate the various costs, interest amount and fees.

The foreclosure advertising committee will be meeting next week regarding the design for advertising foreclosure sales on the judicial website.

Judge Mintz will set up another date for the Bench – Bar Foreclosure Committee to meet after the sub-committees have a chance to meet. The Judicial Conference room in Wethersfield is available for sub-committee meetings, however, it must be reserved as early as possible in order to guarantee availability.

Meeting adjourned at 3:24 P.M.

AGENDA

BENCH – BAR FORECLOSURE COMMITTEE MEETING

**JUNE 18, 2008 at 2:00 pm
Attorney Conference Room
231 Capitol Avenue
Hartford, CT 06106**

1. Welcome – Judge **Mintz**, Chair
2. Approval of Minutes of December 6, 2007 Meeting
3. Reports from Subcommittees
 - a. Process Subcommittee – Judge Pinkus, Chair
 - b. Committee Subcommittee – Judge Agati, Chair
 - c. Short Calendar Subcommittee – Judge Tyma, Chair
 - d. Supplemental Judgment Subcommittee – Judge **Mintz**, Chair
4. Presentation of Foreclosure Mediation Program – Tais Ericson
5. Review of proposal for Notice of Judgment of Foreclosure for use by court clerks
– Peggy George
6. New Business

**MINUTES OF THE
BENCH – BAR FORECLOSURE COMMITTEE MEETING
WEDNESDAY JUNE 18, 2008**

Handouts to Committee Members: Agenda; Draft of Minutes of December 6, 2007 meeting; Recommendations of Process Subcommittee with Notice and proposed language re Motion to Open Judgment; “Committee” Subcommittee Recommended Revised Uniform Procedures and forms for committees; Recommendations of Short Calendar Subcommittee with proposed revisions to Standing Orders; Recommendations from Supplemental Judgment Subcommittee re calculation of debt and documents needed by the court; information re Foreclosure Mediation Program; proposed form for notice of judgment of foreclosure.

Members in attendance: Hon. Douglas C. Mintz, Chair, Hon. Salvatore C. Agati, Attorney Adam L. Bendett, Attorney Jessica L. Braus, Attorney Denis R. Caron, Attorney Thomas J. Farrell, Attorney Robert F. Frankel, Hon. Samuel Freed, Attorney Keith K. Fuller, Attorney Peggy George, Hon. Arthur A. Hiller, Attorney Leanne M. Larson, Attorney Richard M. Leibert, Attorney Eugene S. Melchionne, Attorney Geoffrey Kent Milne, Hon. Barry Pinkus, Attorney Raphael L. Podolsky, Attorney Sarah Poriss, Hon. Richard A. Robinson, Hon. Theodore R. Tyma, Attorney Thomas W. Witherspoon, Attorney Louis C. Zowine

Guest: Tais Ericson, Deputy Director, Civil

1. The Hon. Douglas C. Mintz, Chair, welcomed the members to the meeting at 2:06 p.m. Judge Mintz thanked the Judges for chairing the subcommittees, as well as all of the members for their time and effort. The members were each given a folder containing all of the handouts. Judge Mintz informed the committee that the recommendations of the subcommittees should be reviewed and voted on during the meeting. All agreed recommendations would then be provided to Hon. Arthur Hiller for further action. All members introduced themselves.

2. Motions to approve the minutes of the December 6, 2007 meeting were made and the minutes were approved.

3. Reports of Sub-Committees:

a. Process Subcommittee, Hon. Barry Pinkus, Chair

Judge Pinkus reported that the Process Subcommittee has 8 recommendations:

- A Notice, in accordance with the handout, to be attached to the top of the summons and complaint. In light of the Mediation Program, this notice would probably be the second attachment. This notice is intended to give

notice to the defendant due to the competing forces between bankers' and debtors' groups. A Standing Order should require this form be attached to the Summons and Complaint.

- Recommend that the language in the attached proposal be adopted for Motions to Open Judgment to allow for automatic granting of the motion. Judge Pinkus pointed out that the Rules Committee has finished its sessions for 2007-2008.
- Recommend that the pleadings be certified to appearing and non-appearing parties. This will require a rule change.
- Recommend that a motion for judgment not be filed before 30 days after the return date. Requires a rule change.
- Recommend that the statement of debt be made more explicit.
- Recommend that there be a rule change to allow 10 days to respond before a motion for default is filed.
- Recommend that the property address in a foreclosure be displayed on the case detail page in the computer system.
- Recommend that anyone be able to view documents that have been electronically filed.

Judge Pinkus made a motion that these recommendations of the Process Subcommittee be adopted.

Discussion regarding the recommendations ensued.

Pros and cons of having the property address shown on the case detail page were discussed.

It was suggested that rule changes be expedited so that these matters be dealt with sooner.

It was suggested that there be General Standing Orders and Standing Orders for Foreclosures By Sale.

The language for a Motion to Open Judgment should be the same as the standing order. Motion to amend the language was made and the language adopted.

With regard to the third recommendation, the language should be amended to state "That all pleadings be certified to all owners of the equity, borrowers and guarantors whether appearing or non-appearing." A motion to amend the language was made and the amendment approved.

Discussion proceeded regarding the notice to attach to the complaint. It was questioned whether the notice should be attached to residential foreclosures or all foreclosures. Members suggested that the notice could be used with regard to tax, sewer and municipal liens as well and, therefore, it should be kept simple so as not to confuse. The purpose is to alert people that they risk losing their property.

A motion was made that the notice be attached to the front of the summons and complaint and that it be attached to all foreclosure actions. Motion seconded and approved. Thereafter, it was suggested that the words "if this foreclosure involves your home" be added to the fourth paragraph of the notice as well as the paragraph in the textbox on the form. A motion to amend the language was made and approved.

The committee further discussed where the notices should be attached and the legislative intent with regard to the mediation notice being attached to the front of the complaint. Judge Mintz stated that the Chief Court Administrator could have policy as to how the notices should be attached to the complaint.

b. Committee Subcommittee – Hon. Salvatore Agati, Chair

Review of Uniform Procedures - The purpose of the revisions to the uniform procedures is to clarify the situations that must be addressed by Motions for Advice and to inform the committee of the foreclosure by sale process. One amendment that is needed is to change “Bond for Deed” to “Sales Agreement” in the Auction paragraph.

The members also discussed the need to fax or email the bid for the sale to the committee for sale. It was questioned whether the committee should be required to provide a cell phone number or if that would be a problem. It was suggested that the committee could provide a cell phone number to a bidder upon request. The members also discussed what should happen if a bankruptcy is filed. It was suggested that something be put back in the standing orders, as there was previously, to direct the committee on how to respond to bankruptcy filings.

Motion for Advice – approved.

Plaintiff Bid at Foreclosure Sale – approved.

Bond for Deed – Change to “Sales Agreement”. The acknowledgment was taken out and the witness lines should also be taken out. Also on page 3, the next to last paragraph, the word “shall” should be changed to “may”. It was also agreed that the Chair of this Committee has the right to correct all scrivener’s errors.

Motion for Possession – Change “Bond for Deed” to “Sales Agreement” and delete the end of paragraph 2. after “subject premises”.

Motion for Approval of Committee Sale, etc. – approved.

Return of Sale-No Proceeds – approved.

Return of Sale – approved.

Motion was made to approve the Committee Subcommittee’s recommendations. Motion was seconded and passed.

c. Short Calendar Subcommittee – Hon. Theodore Tyma, Chair

Standing Orders – Comments:

There was a question as to the meaning of “full” title search; it is not a well defined term. It was suggested that the wording be changed to “title search in accordance with the Standards of Title of the CBA.”

In item #6, the first two sentences should be deleted; should be in appraiser section. Should be in Foreclosure By Sale Standing Orders instead of the General Standing Orders. This should also apply to the last three paragraphs on page 3. Further suggestion is that the appraisal be returned 10 days before the sale, instead of 7 days. Members approved this.

Members also discussed the deposit amount. Not all members agree that it should be 10% of the fair market value based on whether or not it is a subsequent encumbrancer who is foreclosing a lien. Judge Pinkus stated that

this situation is allowed for by “unless otherwise ordered”; the court could order a different deposit amount.

In paragraph 11, it was suggested that “cluster housing” be replaced with “unless the property is a stand alone building unit in a common interest community”. It was agreed that the Judges’ committee could further amend this language.

In paragraph 13, the word “photograph” should be corrected to “photographing”.

As to paragraph 15, insurance by committee for sale, it was questioned whether the insurance should be limited to the day of the sale and whether the premium would be the same if the insurance commenced when the sign was placed on the property. Attorney Caron said that he would check into this.

Item #16 shall be amended to state “Upon request of the plaintiff, the committee shall provide the plaintiff with the committee’s estimated fees and costs no later than two business days after such request.”

In item #17, the phrase “Unless authorized by the plaintiff,” shall be added before “[t]he committee shall not disclose plaintiff’s written bid . . .” The last sentence of the paragraph shall be deleted.

Item #18 – add “on the date of the sale” to the end of the first sentence.

Add a new #19 stating – “If the committee receives notice of bankruptcy prior to the sale, the plaintiff’s attorney must be notified.”

The previous #19 becomes #20 and should be changed to state “The high bidder/purchaser must close no sooner than 21 days but not later than 30 days from the date of the Court’s approval of the committee sale. Also, that the deposit “may” be forfeited instead of “shall” be forfeited.

The members agreed that the last four paragraphs should be moved to General Standing Orders, if used.

Judge Tyma made a motion that the Standing Orders as modified, and without the last four paragraphs, be approved. Motion seconded and passed.

Judge Tyma made a further motion that the remaining four paragraphs be included in General Standing Orders.

The members discussed and agreed to delete the original paragraph #22 from the Standing Orders. The motion regarding the remainder of the rules passed.

d. Supplemental Judgment Subcommittee – Hon. Douglas Mintz, Chair
Members reviewed the proposals set forth in the handout. It was suggested that the language regarding insurance premiums be changed to “up to the date of the committee conveyance.”

It was also suggested that the affidavit of debt list any amounts for repairs to the property for preservation.

A motion was made to approve the recommendations for Supplemental Judgment. Motion was seconded and passed.

4. Introduction of Foreclosure Mediation Program – Tais Ericson

Tais Ericson presented an overview of Public Act 08-176 and the plans for implementation of the Foreclosure Mediation Program.

5. Peggy George presented a brief overview of a proposed form for Notice of Judgment of Foreclosure By Sale and Notice of Judgment of Strict Foreclosure.

Judge **Mintz** suggested that the Bench – Bar Foreclosure Committee have another meeting in September 2008. In the meantime the recommendations of the Bench – Bar Foreclosure Committee will be referred to Judge Hiller for further consideration.

Judge Pinkus made a motion that the meeting be adjourned. The motion was seconded and passed.

Meeting adjourned at 5:02 P.M.

BENCH-BAR FORECLOSURE COMMITTEE MEETING

JANUARY 8, 2009 AT 2:30 P.M.

Room 4B

225 Spring Street

Wethersfield, CT

AGENDA

1. Report on Foreclosure Mediation Program Roberta Palmer
2. Approval of Minutes of June 18, 2008 Meeting Judge Mintz
3. Report on Standing Orders and Forms
4. Applications for Committees
5. Forms
 - JD-CV-103 Notice
 - Sales Agreement JD-CV-88
 - Execution of Ejectment JD-CV-30
 - Emergency Mortgage Assistance
5. Short Calendar
6. Proposed rule changes submitted by Attorney Rafie Podolsky

**MINUTES OF THE
BENCH – BAR FORECLOSURE COMMITTEE MEETING
THURSDAY JANUARY 8, 2009**

Handouts to Committee Members: Agenda; Draft of Minutes of June 18, 2008 meeting; information re Foreclosure Mediation Program, various foreclosure forms, proposed draft of property Short Calendar notice, proposed draft of Practice Book Rule changes.

Members in attendance: Hon. Douglas C. Mintz, Chair, Attorney Adam L. Bendett, Attorney Denis R. Caron, Attorney Thomas J. Farrell, Attorney Robert F. Frankel, Attorney Peggy George, Attorney Edward P. Jurkiewicz, Attorney Leanne M. Larson, Attorney Richard M. Leibert, Attorney Eugene S. Melchionne, Attorney Geoffrey Kent Mine, Attorney Raphael L. Podolsky, Attorney Sarah Poriss, Attorney Therese Servas, Hon. Richard A. Robinson, Hon. Theodore R. Tyma, Attorney Thomas W. Witherspoon.

Guest: Roberta Palmer, Foreclosure Mediation Program Manager

The Hon. Douglas C. Mintz, Chair called the meeting to order at 2:36 p.m.

1. Report on Foreclosure Mediation Program - Roberta Palmer presented to the Committee information on the current status of the Foreclosure Mediation Program, including information on the number of cases eligible for mediation, the number of requests filed and the results of the mediations.
2. Approval of Minutes of June 18, 2008 Meeting - Motions to approve the minutes of the June 18, 2008 meeting were made and the minutes were approved.
3. Report on Standing Orders and Forms – The committee members discussed various standing orders, questions that had been raised regarding the standing orders and forms and the need for some technical corrections to the forms. The Committee recommended that a form for supplemental judgment be developed and referred to Judge Hiller, Chief Administrative Judge, Civil, for further approval.
4. Applications for Committee – After discussion, the Committee recommended that all attorneys requesting to be on the foreclosure committee lists be required to take a course regarding the committee's responsibilities and procedures. It was further recommended that all attorneys who have not previously conducted a foreclosure sale be required to attend a foreclosure auction to observe the proceedings before being added to a foreclosure committee list.

5. Forms –

JD-CV-103 You Are Being Sued and You Are In Danger of Losing Your Property. Some discussion about the information included on the form and possible changes. It was decided that the form should remain as it is for the present time. If other changes are required in the future, then will review entire form.

Sales Agreement (JD-CV-88) – After a brief discussion, the Committee unanimously approved a motion to change item 2 to read “on or before thirty days after approval of the sale, the Buyer paying the seller the additional amount of _____ (\$ _____) in cash or by certified check, and”, subject to plain language changes, if necessary. Also unanimously approved, a change to item 4.a. which should read “that the sale is to be free and clear of the lien being foreclosed and of all subsequent claims, the holders of which are bound by this action, but subject to all prior interests and subject to building, building line and zoning regulations of the town where the property is situated and any and all provisions of any public or private law; and”.

Execution of Ejectment (JD-CV-30) – Committee members are to review this form for possible changes to be discussed at the next meeting.

6. Short Calendar – After a brief discussion it was recommended that the proposed draft language of the committee be substituted for the current language on the property short calendar under “Additional Information” and the MERS information would be deleted from the notice.

7. Proposed Rules Changes –

§ 17-4 Setting Aside or Opening Judgments – After discussion regarding the further revisions to the rule, a motion was made and by unanimous vote the Committee recommends that the change to P.B. § 17-4 not be adopted.

§ 10-12 Service of Pleading and Other Papers; Responsibility of Counsel or Pro Se Party; Documents and Persons to be Served – The committee discussed issues concerning the responsibilities of parties, notice requirements, mailing, objections to the mediation request. A motion was made and seconded that the Foreclosure Mediation Request form be amended to require certification only to the plaintiff and that § 10-12 be amended to reflect this requirement. The motion was approved by a unanimous vote.

§ 3-3 Form and Signing of Appearance – It was suggested that the rule be changed to permit the Request for Mediation form to also constitute the appearance of the defendant filing the request instead of requiring a separate appearance form to be filed. After some discussion, a motion was made to add “and Appearance” to the title of the Foreclosure Mediation Request form and to add other appropriate language indicating that the request shall also be the appearance in the case. Judge Robinson abstained from voting on the motion; all other members present at the meeting unanimously approved the motion.

§ 17-20 Motion for Default and Nonsuit For Failure to Appear – With regard to the proposed change to subsection (b) the committee discussed the

time period for defaults and calendaring of motions for judgments and the reopening of the default upon the filing of an appearance. A motion was made not to approve the proposed revision. With the exception of Attorney Podolsky the members unanimously approved the motion.

The committee then discussed the proposed revision to suspend the time requirements regarding defaults under the mediation period has expired or otherwise terminated. A motion to approve this proposed revision was made and seconded. Attorneys Podolsky, Poriss and Melchionne were in favor of the motion; Judge Robinson abstained; Judge Mintz, Attorney Bendett, Attorney Caron, Attorney Farrell, Attorney Frankel, Attorney George, Attorney Jurkiewicz, Attorney Larson, Attorney Leibert, Attorney Mine, Attorney Servas, Judge Tyma, and Attorney Witherspoon were opposed to the motion.

Judge Mintz suggested that the Bench – Bar Foreclosure Committee have another meeting in June 2009, or before if necessary.

A motion was made that the meeting be adjourned. The motion was seconded and passed.

Meeting adjourned at 4:40 P.M.

BENCH-BAR FORECLOSURE COMMITTEE MEETING

**JUNE 16, 2009
2:00 P.M.
225 Spring Street
Wethersfield, CT 06109**

AGENDA

1. Approval of Minutes of January 9, 2009 Meeting
2. Foreclosure Mediation – Roberta Palmer
3. Setting of Law Days – Judge **Mintz**
4. Forms – Peggy George

Motion for Supplemental Judgment Form

Effect of Substitute Senate Bill #948 on Forms

Effect of web advertising on Forms

Procedural request of Attorney Skaats

5. Advertising Foreclosure Sales on the Judicial Website – Peggy George
6. New Standing Order Request – **Adam Bendett**
7. Foreclosure Procedure - Change Request – A. Reynolds Gordon, Esq.

**MINUTES OF THE
BENCH – BAR FORECLOSURE COMMITTEE MEETING
TUESDAY JUNE 16, 2009**

Handouts to Committee Members: Agenda; Draft of Minutes of January 8, 2009 meeting; draft forms re Supplemental Judgment, various foreclosure forms with suggested revisions, letter of Attorney Skaats, Letter of Attorney Bendett, Letter of Attorney Gordon

Members in attendance: Hon. Douglas C. Mintz, Chair, Hon. Salvatore Agati, Attorney Ronald M. Bender, Attorney Adam L. Bendett, Attorney Jessica Braus, Attorney Denis R. Caron, Attorney Thomas J. Farrell, Attorney Robert F. Frankel, Hon. Samuel Freed, Attorney Keith Fuller, Attorney Peggy George, Hon. Arthur A. Hiller, Attorney Edward P. Jurkiewicz, Attorney Leanne M. Larson, Attorney Richard M. Leibert, Hon. Barry C. Pinkus, Attorney Raphael L. Podolsky, Attorney Sarah Poriss, Attorney Thomas W. Witherspoon, Attorney Louis C. Zowine.

Guest: Roberta Palmer, Foreclosure Mediation Program Manager

The Hon. Douglas C. Mintz, Chair called the meeting to order at 2:03 p.m.

1. Approval of Minutes of January 8, 2009 Meeting - Motions to approve the minutes of the January 8, 2009 meeting were made and the minutes were approved.
2. Report on Foreclosure Mediation Program - Roberta Palmer informed the committee of proposed new legislation and expected changes to the foreclosure mediation program. She also presented an update on the Foreclosure Mediation Program, including information on the number of cases eligible for mediation, the number of requests filed and the results of the mediations.
3. Setting of Law Days – Judge Mintz began a discussion about the setting of Law Days when entering a judgment of strict foreclosure and whether there should be uniformity in the courts. Discussion focused on the Monday or Tuesday scheduling of short calendar motions and when attorneys file motions to open a judgment of foreclosure. It was suggested that if the law day was set for a Tuesday, that any motion to open could be a write-in for the Monday Short Calendar. Committee members noted, however, that often motions are filed at the last opportunity to file and must be dealt with immediately. No consensus was reached; the committee decided to leave any issue concerning law days for another time. It was suggested that courtroom clerks be requested to alert the court to legal holidays when law days are being entered.

In connection with motions to open a judgment, proposed amendment to Practice Book Rule 17-4 was mentioned. Committee members expressed concerns with motions to open that could be filed the day before a sale and a possible stay preventing the sale from going forward. Reference was made to the case of *First Connecticut Capital, LLC, et al. v. Homes of Westport, LLC, et al.*, 112 Conn.App. 750 (2009). The Committee determined that a subcommittee should look into a solution to this type of problem. Attorney Dennis Caron agreed to chair a subcommittee and Attorneys Frankel, Milne and Podolsky agreed to be members of the subcommittee.

4. Forms – Attorney Peggy George presented the Committee with two proposed drafts of a motion for supplemental judgment where no proceeds are paid into court. The members decided to review the proposed drafts and report back to the committee at a later date.

Various other forms were presented with suggested changes. After discussion the following changes are to be made:

- Foreclosure By Sale Committee Report (JD-CV-75)

When advertising begins on judicial website, add a new item between #6 and #7 to state “Posted the foreclosure sale notice on the Judicial website on (date)”; Item #8 change the word “publication” to “newspaper”; Item #9 change to read “Notice provided to the (name of newspaper); Item 10 to state “Confirmed the receipt of Notice with the (name of newspaper); Item 11 to state “Instructions to the appraiser on _____”; correction numbering as to items numbered 16; the second Item #16 should state “Received _____ inquiries from interested parties to date of sale.” Also, on page 3, under list of Exhibits change Item B to state “Copy of Advertisement(s)” and under Bills add “M. Title Search”.

- Foreclosure Worksheet (JD-CV-77)

The present Item #4 should be moved below Equity and the Total should indicate the addition of lines 2 and 3. The items to be renumbered accordingly. At bottom of page add a further question “E. Has plaintiff’s counsel been notified?”

- Uniform Procedures for Foreclosure Judgment Presentation Instructions (JD-CV-78)

At the end of Item #3 add “C.G.S. § 8-256ee”.

- Foreclosure By Sale Standing Orders (JD-Cv-79)

Items #10 will need changes when begin advertising on Judicial website.

- Foreclosure By Sale Fact Sheet – Notice to Bidders (JD-CV-80)

Add below the amount of the deposit the following: “The Committee must collect all deposit checks from bidders when bidders register to bid.” Change last sentence of that paragraph to state “The successful bidder will be required to endorse the check to the Clerk of the Superior Court at the conclusion of the auction.”

- Uniform Procedures for Foreclosure By Sale Matters Instructions to Committee (JD-CV-81)

Will need changes when advertising on Judicial website begins.

- Foreclosure Return of Sale – With Proceeds (JD-CV-98)
Add to Item #3.b. “Said amount has been paid into Court on (date).”
- You are Being Sued and You Are In Danger of Losing Your Property (JD-CV-103)

This form should still be served. This form should be on top of the foreclosure mediation notice to homeowner. Change language at bottom to read “Read the papers under this notice”.

- Uniform Foreclosure Standing Orders (JD-CV-104)
In Item #E change the word “cover” to “top”.

The committee also suggested that the foreclosure advertisement contain a notice that the bidder should have the check made payable to himself or herself.

- Proposal by Attorney Skaats – Copies of recorded Certificates of Merger or Name Change Certificates.

Committee members discussed whether information is available and what would be required to show the chain of title. A recommendation was made that an addition be made to the Standing Orders requiring an affidavit showing compliance with C.G.S. 47-12.

5. Advertising Foreclosure Sales on the Judicial Website – Attorney Peggy George demonstrated the Foreclosure By Sale Advertising Program that is being developed to post foreclosure sale advertisements on the Judicial website.

6. New Standing Order Request – Attorney Adam Bendett presented his request in accordance with the letter provided at the meeting. Members discussed various concerns regarding recording of assignments, lis pendens, land records, foreclosure action to foreclose condo fee lien and notice to other mortgagees. Members questioning whether these concerns will affect the title to the property and whether there should be a rule change or standing order to address this. Judge Mintz suggested that a subcommittee be formed to further discuss this matter. Attorney Leanne Larson is to chair the subcommittee. Other members to include Attorney Bendett, Attorney Caron, Attorney Bender and Attorney Matthew Perlstein.

7. Foreclosure Procedure – Change Request – Attorney A. Reynolds Gordon addressed the Committee regarding various changes in the foreclosure by sale procedures. Discussion ensued regarding advertising, title search, inspection of property, deposit at sale and environmental inspection. Members agreed that many of these concerns are being dealt with or there are avenues for addressing these issues.

Judge Mintz suggested that the Bench – Bar Foreclosure Committee have another meeting in September or October 2009.

A motion was made that the meeting be adjourned. The motion was seconded and passed. Meeting adjourned at 5:06 P.M.

BENCH-BAR FORECLOSURE COMMITTEE MEETING

**SEPTEMBER 30, 2009
2:00 P.M. Room 4B
225 Spring Street
Wethersfield, CT 06109**

AGENDA

1. Approval of Minutes of June 16, 2009 Meeting
2. Subcommittee Reports
 - Attorney Caron – Re Motions to Open Judgment
 - Leanne Larson – Notice to Attorneys re Recording Assignments, Lis Pendens, etc.
3. Forms – Motion for Supplemental Judgment Form
4. Legislative Proposal by Connecticut Association of Realtors, Inc.
5. Standing Order changes re E-filing and Advertising
6. HB 6802 §114 Real Property Conveyance Tax
7. PA 09-144 An Act Concerning Neighborhood Protection
8. Certification question – Letter of 9-23-09 – Attorney Bendett
9. Advertising Quick Card for Committees

**MINUTES OF THE
BENCH – BAR FORECLOSURE COMMITTEE MEETING
WEDNESDAY, SEPTEMBER 30, 2009**

Handouts to Committee Members: Agenda; Draft of Minutes of June 16, 2009 meeting; memos from subcommittees; draft forms re Supplemental Judgment, legislative proposal from Connecticut Association of Realtors; notice regarding changes to foreclosure standing orders and procedures; §114 of HB 6802; copy of PA09-144; letter request of Attorney Bendett; Quick Cards for foreclosure advertising.

Members in attendance: Hon. Douglas C. Mintz, Chair, Hon. Salvatore Agati, Attorney Ronald M. Bender, Attorney Adam L. Bendett, Attorney Thomas J. Farrell, Attorney Robert F. Frankel, Hon. Samuel Freed, Attorney Peggy George, Attorney Edward P. Jurkiewicz, Attorney Richard M. Leibert, Attorney Raphael L. Podolsky, Attorney Sarah Poriss, Hon. Richard A. Robinson, Attorney Louis C. Zowine.

The Hon. Douglas C. Mintz, Chair called the meeting to order at 2:06 p.m.

1. Approval of Minutes of June 16, 2009 Meeting - Motion to approve the minutes of the June 16, 2009 meeting was made and the minutes were approved.

2. Subcommittee Reports –

Attorney Caron's memo regarding motions to open judgment was presented to the members. Attorney Frankel, a subcommittee member, reported that the subcommittee had not reached a consensus at this point. A motion was made and seconded that no action be taken at this time and that the subcommittee continue to meet. The motion was unanimously approved. The subcommittee is to have a face to face meeting and report back to the full committee.

Attorney Larson's proposals regarding notices to attorneys re recording assignments, etc. was presented to the members. Discussion ensued regarding who would have to send the notice, when notice has to be sent, the responsibility of the lender and balancing the equities. A motion was made that proposal number 1 of the subcommittee be submitted by this committee as a change to the Standing Orders. All members in attendance voted in favor of the motion except Attorney Farrell who opposed the motion. A further motion was made and unanimously approved to have the subcommittee continue working and send a further proposal to the full committee.

3. Forms – Supplemental Judgment – No Proceeds

Attorney Peggy George presented the Committee with two proposed drafts of a motion for supplemental judgment where no proceeds are paid into court. The members discussed the difference between the two forms, inclusion of costs, need for an affidavit of debt, post-judgment advances, possibility of including conveyance tax in the form, need for court to make findings, language regarding a deficiency judgment. A motion was made and seconded that the form be referred to Judicial Legal Services to come up with a proposal for the committee to review. The motion was unanimously approved.

4. Legislative Proposal by Connecticut Association of Realtors, Inc.

Judge **Mintz** informed the members that this could be discussed, however, this committee will not take action on legislative proposals. The members briefly discussed the proposal.

5. Standing Order changes re E-filing and Advertising -

Attorney Peggy George gave a brief overview of the changes to the Standing Orders in connection with efilng and foreclosure advertising on the judicial website.

6. Certification Question (agenda item #8) –

Attorney Adam Bendett presented his request in accordance with the letter provided at the meeting. Members discussed whether certification is needed for certain documents and whether the certification is always necessary when efilng those documents. This issue will have to be reviewed with the person in charge of efilng.

7. HB 6802 §114 Real Property Conveyance Tax –

The committee members engaged in discussion as to who is responsible for paying the conveyance tax, definition of seller, if tax comes out of the proceeds of sale or from the successful bidder, whether there could be a standing order or rule to order something that the statute doesn't address. Also discussed, was whether separate checks could be delivered at the sale or whether the court clerk could issue a check for the conveyance tax from the proceeds of sale, what if no proceeds of sale.

It was proposed that a subcommittee be formed to review the new law. The subcommittee members are Attorney Robert Frankel, Chair, Hon. Douglas Mintz, Attorney Richard Leibert, Attorney Louis Zowine and Attorney Adam Bendett. The subcommittee is to come up with a recommendation by January 1, 2010. A motion was made and seconded that the subcommittee be authorized to act. All members in attendance approved, with the exception of Attorney Podolsky who abstained. (Judge Agati was not in attendance for this motion).

8. PA09-144 An Act Concerning Neighborhood Protection

A copy of the new law was provided to the members. No further discussion.

9. Advertising Quick Card for Committees –

Attorney Peggy George distributed a copy of the Quick Card containing instructions for committees on how to post a foreclosure advertisement on the Judicial website and asked that any comments be submitted to her.

Judge Mintz suggested that the Bench – Bar Foreclosure Committee have quarterly meetings

A motion was made that the meeting be adjourned. The motion was seconded and passed. Meeting adjourned at 4:30 P.M.

BENCH-BAR FORECLOSURE COMMITTEE MEETING

MAY 14, 2010

**2:00 P.M. Room 4B
225 Spring Street
Wethersfield, CT 06109**

AGENDA

1. Approval of Minutes of September 30, 2009 Meeting
2. Guest Speaker – Attorney Julie Turbert

Re IRS Liens and Discharge Procedures
3. Amendment of Committee Report to include calculation of conveyance tax
4. Discussion of FMP

- Standing Orders
5. Status Conferences – via telephone
6. Motion for Supplemental Judgment form
7. Foreclosure Advertising on Judicial website
8. USPS Electronic Signature on Return Receipt

**MINUTES OF THE
BENCH – BAR FORECLOSURE COMMITTEE MEETING
FRIDAY, MAY 14, 2010**

Handouts to Committee Members: Agenda; Draft of Minutes of September 30, 2009 meeting; copy of Committee Report form JD-CV-75 with addition re conveyance tax; copy of Attorney Bendett's proposed Standing Order; Standing Order forms (JD-CV-79 and JD-CV-104); Legal Services Memo dated May 12, 2010 re RRR.

Members in attendance: Hon. Douglas C. Mintz, Chair, Hon. Salvatore Agati, Attorney Ronald M. Bender, Attorney Adam L. Bendett, Attorney Jessica L. Braus, Attorney Denis R. Caron, Attorney Thomas J. Farrell, Attorney Robert F. Frankel, Attorney Keith Fuller, Attorney Jeffrey S. Gentes, Attorney Peggy George, Attorney Richard M. Leibert, Attorney Geoffrey Kent Milne, Hon. Barry Pinkus, Attorney Raphael L. Podolsky, Attorney Sarah Poriss, Attorney Thomas W. Witherspoon, Attorney Louis C. Zowine.

The Hon. Douglas C. Mintz, Chair called the meeting to order at 2:02 p.m.

1. Approval of Minutes of September 30, 2009 Meeting - Motion to approve the minutes of the September 30, 2009 meeting was made and the minutes were approved.

2. Guest Speaker – US Attorney Julie Turbert – IRS Liens and Discharge Procedures

Attorney Turbert provided the committee members with IRS Publication 783 (Rev. 3-2005) regarding the procedures for obtaining a Certificate of Discharge of Property from Federal Tax Lien. She reviewed the process and the benefits of obtaining the discharge. A brief question and answer session followed her presentation.

3. Amendment of Committee Report to include calculation of conveyance tax

A copy of the Committee Report, as revised to include the calculation of the conveyance tax, was provided to the committee members. Discussion ensued regarding various problems in calculating the tax. It was suggested that a checkbox be added to the form for indicating that the buyer is exempt from the conveyance tax.

4. Discussion of Foreclosure Mediation Program

Roberta Palmer, Manager of the Foreclosure Mediation Program began a discussion of concerns surrounding the mediation sessions. Various concerns include the obtaining of information from homeowners for lenders in a timely manner and the need to update that information at a later time, privacy laws regarding reinstatement figures, length of time it takes to mediate, interpretation of the mediation standing orders and filing of motion to terminate the mediation. Members were given Roberta Palmer's phone number so that any problems can be discussed directly with her. It was noted that the Foreclosure Mediation Program figures indicate that 60% of the homeowners going through the mediation process are staying in their homes.

Standing Orders Discussed

Adam Bendett addressed the issue of notice to a non-appearing first mortgagee in a condo foreclosure action. He provided the members with a re-draft of the proposed standing order. After a brief discussion a motion was made to table this issue. All were in favor.

5. Status conferences via telephone

There was a request that status conferences concerning foreclosure cases be by telephone. After a brief discussion it was determined that the cases referred to were older cases that the various courts were checking on the status of the proceedings. Therefore, it was determined that whether this could be done by phone or not was up to each particular court; however, a hearing on the record is probably required.

6. Motion for Supplemental Judgment Form

A motion was made to table this issue. All were in favor.

7. Foreclosure Advertising on the Judicial Website

Comments regarding the advertising were solicited from the members. It was suggested that the committees should be encouraged to upload pictures to the advertisements and that the courts should authorize the committee to go to the property to take a picture. It was noted that the costs for advertising in the newspapers has decreased. It was also suggested that we look into having different language available for the posting of an ad for partition actions.

8. USPS Electronic Signature on Return Receipt

A copy of a Legal Services memo regarding various statutes and practice book rules that refer to "return receipt requested" was provided to the committee

members. The interpretation of these statutes and rules is within the discretion of the judicial authority.

A motion was made that the meeting be adjourned. The motion was seconded and passed. Meeting adjourned at 3:52 P.M.

BENCH-BAR FORECLOSURE COMMITTEE MEETING

October 29, 2010

**10:00 A.M. Room 4B
225 Spring Street
Wethersfield, CT 06109**

AGENDA

1. Approval of Minutes of May 14, 2010 Meeting
2. Proposed Rule Changes – Effective January 1, 2011 – Judge **Mintz**
3. Problems with Foreclosure Documentation – Atty Melchionne
4. Federal Loss Mitigation Affidavit- **Atty Bendett**
5. Reasonableness of time to file Motions for Approval of Sale – Atty George
6. Foreclosure Property Addresses searchable on judicial website – Atty George
7. Extend time to close after sale approved by Court – Atty Zowine

**MINUTES OF THE
BENCH – BAR FORECLOSURE COMMITTEE MEETING
FRIDAY, OCTOBER 29, 2010**

Handouts to Committee Members: Agenda; Draft of Minutes of May 14, 2010 meeting; copy of proposed Practice Book Rule changes, copy of Mortgage Foreclosure Standing Order Federal Loss Mitigation Programs and Affidavit .

Members in attendance: Hon. Douglas C. **Mintz**, Chair, Attorney Ronald M. Bender, **Attorney Adam L. Bendett**, Attorney Jessica L. Braus, Attorney Denis R. Caron, Attorney Robert F. Frankel, Attorney Keith Fuller, Attorney Jeffrey S. Gentes, Attorney Peggy George, **Attorney Richard M. Leibert**, Attorney Eugene S. Melchionne, Attorney Geoffrey Kent Milne, Attorney Raphael L. Podolsky, Attorney Sarah Poriss, Hon. Richard Robinson, Attorney Gary P. Sklaver, Attorney Thomas W. Witherspoon, Jr., Attorney Louis C. Zowine.

The Hon. Douglas C. **Mintz**, Chair called the meeting to order at 10:02 a.m.

1. Approval of Minutes of May 14, 2010 Meeting - Motion to approve the minutes of the May 14, 2010 meeting was made and the minutes were approved.
2. Proposed Rule Changes – Effective January 1, 2011 - Judge **Mintz** informed the members that there were proposed changes to several Practice Book rules in accordance with the Standing Orders re Federal Loss Mitigation Programs. He asked for input as to the necessity of the changes and proposed wording of the changes. Discussion ensued as to the need to incorporate the Standing Orders into the Practice Book, the purpose of having Standing Orders and the power of the Chief Court Administrator to promulgate Standing Orders. A motion was made and seconded that the Practice Book sections not be amended. The motion was unanimously approved.
3. Problems with Foreclosure Documentation – Attorney Gentes began the discussion seeking clarification on what is expected to happen when there are problems with the foreclosure documents. Question whether the procedure is to file a motion to open and then a new affidavit of debt. Discussion of issues included why a motion would be filed, effect on title and title insurability, and the limitations of the power of the court to open the judgment after the law day has passed or more than four months after the date of judgment. Court reviews on a case by case basis. Otherwise, it may require legislative action.
4. Federal Loss Mitigation Affidavit – Began with an update from Roberta Palmer, Manager of the Foreclosure Mediation Program, regarding the current statistics for the Foreclosure Mediations. Charts provided to the committee

indicate that currently 63% of homeowners who are involved in the mediation program stay in their homes.

Discussion then ensued about the mediation process, length of the mediation period and how the lenders look at various options for the homeowner and the paperwork involved. It was noted that there are stringent requirements with regard to the Loss Mitigation Programs. Attorney Bendett requested that a subcommittee be formed to review and propose changes to the Federal Loss Mitigation Affidavit (form JD-CL-114) to make it easier for the servicers to complete. Judge Mintz asked Attorney Bendett to Chair the subcommittee and attorneys Gentes, Leibert, Frankel and Braus agreed to be members. Judge Mintz also asked Roberta Palmer, Manager of the Foreclosure Mediation Program and Daniel Horwitch, Esq. of Judicial Legal Services, to assist the subcommittee with the review.

5. Reasonableness of time to file Motions for Approval of Sale – Attorney George reported that she had received an inquiry regarding the foreclosure by sale procedures recommendation that the committee file the motion for approval of the sale and deed by the Wednesday after the sale (JD-CV-81). The concern was whether this timeframe is clear enough or if a more definitive procedure was necessary. Members discussed the reason for the recommendation and amount of time the committee needed to compile the documents from the sale and file them with the court. Members determined that if it was not a problem for the committees, there was not a need to change the recommendation. Discussion then turned to the advertising and whether there should be a requirement to include a picture in the advertisement posted on the Judicial website as most of the inquiries regarding the sales are due to the ad posted on the Judicial website. Questions arose as to whether there could be a link to the appraisal in the court file or to various public sites that have pictures of properties. Another concern raised was whether it was beneficial to place a sign on the property. It was determined that these issues be tabled until more information is provided. Attorney George to obtain more information for presentation at the next meeting.

6. Foreclosure Property Addresses searchable on Judicial website – Attorney George reported that the posting of the property address on the case information page in foreclosure cases is on the schedule of features to add, but it may not be finalized until two years from now. Members discussed pros and cons of having addresses displayed on the website. Members also noted that it would be beneficial to have the law day and sale date displayed, as well, as it is important to know when title is transferred. It was asked whether there may be an interim method of providing this information. Attorney George is to check into this and invite someone from information technology to the next meeting.

7. Extend Time to Close After Sale Approved by Court – Attorney Zowine suggested that the amount of time to conduct the closing after the sale has been approved be increased from 30 days to 40 days. He referred to a situation where

the buyer had to obtain a mortgage to purchase the property. Members discussed various issues with allowing a greater amount of time to close after approval of the sale. Attorney Frankel suggested that something might be incorporated into the standing orders and further suggested that a subcommittee be formed to review the standing orders and propose necessary updates. Judge Mintz asked Attorney Frankel to chair a subcommittee and attorneys Zowine, Milne and Bendett agreed to be members.

Judge Mintz suggested that the next meeting of the Committee be set for sometime in January 2011 and that the subcommittees be ready to report at that time.

A motion was made that the meeting be adjourned. The motion was seconded and passed. Meeting adjourned at 12:06 P.M.

BENCH-BAR FORECLOSURE COMMITTEE MEETING

July 15, 2011

**2:00 P.M. Room 204
225 Spring Street
Wethersfield, CT 06109**

AGENDA

1. Approval of Minutes of October 29, 2010 Meeting
2. CHFA Program Update – Mary Jane Kononchik
3. Foreclosure Mediation Program Update – Roberta Palmer
4. New Haven Volunteer Attorney Program for foreclosures – Krista Hess
5. Subcommittee Report – Foreclosure By Sale Standing Orders – Atty Frankel
6. Subcommittee Report - Federal Loss Mitigation Affidavit- Atty Bendett
7. Foreclosure Ad Posting & Editing Tutorials – Atty George
8. Supplemental Judgment form – Atty George

**MINUTES OF THE
BENCH – BAR FORECLOSURE COMMITTEE MEETING
FRIDAY, JULY 15, 2011**

Handouts to Committee Members: Agenda; Draft of Minutes of October 29, 2010 meeting; copy of PA11-201 §§ 1-4, copy of proposed changes to JD-CV-75; copies of Affidavit Federal Loss Mitigation Programs – current version and subcommittee's proposed revised version.

Members in attendance: Hon. Douglas C. Mintz, Chair, Attorney Ronald M. Bender, Attorney Adam L. Bendett, Attorney Jessica L. Braus, Attorney Denis R. Caron, Attorney Thomas Farrell, Attorney Robert F. Frankel, Attorney Jeffrey S. Gentes, Attorney Peggy George, Attorney Richard M. Leibert, Attorney Eugene S. Melchionne, Attorney Geoffrey Kent Milne, Hon. Richard A. Robinson, Attorney Gary P. Sklaver, Attorney Thomas W. Witherspoon, Jr., Attorney Louis C. Zowine.

The Hon. Douglas C. Mintz, Chair called the meeting to order at 2:00 PM.

1. Approval of Minutes of Oct. 29, 2010 Meeting - Motion to approve the minutes of the Oct. 29, 2010 meeting was made and the minutes were approved.
2. CHFA Program Update - Carol DeRosa updated the members regarding the Emergency Mortgage Assistance, Federal Emergency Homeowner's Loan, Connecticut Families, and the HERO programs.
3. Foreclosure Mediation Program update – Roberta Palmer updated the members with regard to the Foreclosure Mediation Program in the court. Roberta also reviewed the changes to the program pursuant to PA11-201.
4. New Haven Volunteer Attorney Program for Foreclosures – Krista Hess reported on the new volunteer attorney program that has begun at the New Haven Judicial District.
5. Subcommittee Report – Foreclosure By Sale Standing Orders – Attorney Frankel reported that although a formal meeting of the subcommittee did not take place, the members through email arrived at some suggested changes to the Committee Report, form JD-CV-75, as follows: change #2 to “Reviewed the court file on the judicial website or at the court on (date); add a new #5 “Drafted the notice for the website and posted it on (date)” and renumber others accordingly; change the current #8 to “Prepared the foreclosure sale notice and emailed or faxed to (name of newspaper) on (date)”; substitute for numbers 9 and 10, “Received confirmation of receipt of notice from the (name of

newspaper)”; add a new “C. Confirmation of online advertisement” and a new “O. Appraisal” to the Exhibits and Bills section on page 2; renumber the other items accordingly; add a standard certification to parties.

A motion was made and seconded to make these suggested changes to the form. All in favor.

6. Subcommittee Report - Federal Loss Mitigation Affidavit – Attorney Bendett reported that the subcommittee met and discussed various revisions to the Affidavit, including adding the property address to the affidavit, adding a check box to state that plaintiff does not participate in the programs, split into “not eligible” and “didn’t qualify” sections for each program with instruction to fill out if above reasons don’t apply. Attorney Bendett suggested, however, that the current form should remain. The members discussed the possible changes and the reasons. A motion was made and seconded to table the changes to the form. All were in favor. Discussion continued with respect to changes in the standing orders regarding when the Affidavit should be filed with the court. It was suggested that it be filed at a different point in the litigation process; however, the statute requires that certain requirements be met before a foreclosure action can be commenced. After further discussion, committee members determined the possible revision of the form should be referred back to the subcommittee for further review. Attorney Caron can also join the subcommittee.

5. Foreclosure Ad Posting and Editing Tutorials – Attorney George informed the committee that tutorials for how to post and edit a foreclosure advertisement on the website will be added to the E-Services resources in the near future.

6. Supplemental Judgment Form – Attorney George suggested that the committee once again consider the proposed forms for Supplemental Judgment that had previously been discussed.

Judge Mintz suggested that the next meeting of the Committee be set for sometime in October 2011.

A motion was made that the meeting be adjourned. The motion was seconded and passed. Meeting adjourned at 3:50 P.M.

BENCH-BAR FORECLOSURE COMMITTEE MEETING

October 6, 2011

**2:00 P.M. Room 4B
225 Spring Street
Wethersfield, CT 06109**

AGENDA

1. Approval of Minutes of July 15, 2011 Meeting
2. Foreclosure Mediation Program Update – Roberta Palmer
3. Subcommittee Report - Federal Loss Mitigation Affidavit- **Atty Bendett**
4. Draft of Revisions to Uniform Foreclosure Mediation Standing Orders – Atty George
5. Highlights of PA11-201 – Atty George
6. Discussion: Should judges adjudicate disputes over attorney's fees and costs between plaintiff and defendant once the foreclosure is commenced but before it goes to judgment? – Atty Zowine

**MINUTES OF THE
BENCH – BAR FORECLOSURE COMMITTEE MEETING
THURSDAY OCTOBER 6, 2011**

Handouts to Committee Members: Agenda; Draft of Minutes of July 15, 2011 meeting; Statistics on FMP; copies of Affidavit Federal Loss Mitigation Programs – subcommittee’s proposed revised versions; proposed draft of Uniform Foreclosure Mediation Standing Orders.

Members in attendance: Hon. Douglas C. Mintz, Chair, Hon. James Abrams, Hon. Salvatore Agati, Attorney Adam L. Bendett, Attorney Jessica L. Braus, Attorney Thomas Farrell, Attorney Robert F. Frankel, Attorney Jeffrey S. Gentes, Attorney Peggy George, Attorney Robin Golden, Hon. Lisa Morgan Kelly, Attorney Leanne M. Larson, Attorney Richard M. Leibert, Attorney Sarah Poriss, Attorney Gary P. Sklaver, Attorney Louis C. Zowine.

The Hon. Douglas C. Mintz, Chair called the meeting to order at 2:00 PM. New members were welcomed.

1. Approval of Minutes of July 15, 2011 Meeting - Motion to approve the minutes of the July 15, 2011 meeting was made and the minutes were approved.
2. Foreclosure Mediation Program update – Roberta Palmer updated the members with regard to the Foreclosure Mediation Program in the court and provided the members with statistical information summaries.
3. Subcommittee Report - Federal Loss Mitigation Affidavit – Attorney Bendett reported that the subcommittee met and discussed various revisions to the Affidavit that was proposed at the last Bench-Bar Foreclosure Committee Meeting. After discussion by the subcommittee members they decided to recommend to the full committee the previous proposed version of the form because it was more specific. A few additional changes were recommended to that proposed version: after docket number, add “if assigned”; after return date, add “if assigned”, remove the address box for the affiant at the top of the page; for the signature at the end, add a box to fill in the address where signed; for the notary signature at the end, remove “Clerk, Deputy Clerk, Commissioner of Superior Court”; in the opening statement for number 5, have check boxes for “is” and “is not” to be sure this section is completed. Adam also reported that there had been discussion among the subcommittee members regarding a statement indicating that a review was pending. Also, the unemployment program provision had been taken out, but now that it has been increased to 12 months, it should be determined whether appropriate to put it back in.

A motion was made to adopt the 9-2-11 4-page draft with the added suggested revisions and subject to the addition of the unemployment program. Motion was seconded.

Discussion ensued regarding how new language would be approved.

The motion was amended to delegate to the subcommittee the approval of the new language with approval thereafter by Judge **Mintz**.

Further discussion ensued regarding the “review pending” provision and the purpose of the form.

The motion was further amended to have the places on the form regarding “review pending” emphasized.

Committee voted: all members in attendance in favor, except **Attorney Bendett** and Attorney Braus.

Attorneys Bendett and Gentes to draft the new language and circulate the new draft form to the subcommittee members for approval; then to Judge **Mintz** for approval.

4. Draft of Revisions to Uniform Foreclosure Mediation Standing Orders – Attorney George presented a revised draft of the Uniform Foreclosure Mediation Standing Orders which included requirements as established by PA11-201. Members discussed whether it is necessary to include legislative requirements in standing orders.

A motion was made to table the proposed revision. Vote: all in favor.

5. Highlights of PA11-201 – Attorney George reviewed the pertinent changes to the foreclosure procedures and the mediation program promulgated by PA11-201 including a review of the forms that were developed in accordance with the legislation.

6. Discussion: should judges adjudicate disputes over attorney’s fees and costs between plaintiff and defendant once the foreclosure is commenced but before it goes to judgment? - Attorney Zowine explained circumstances surrounding cases involving large fee amounts to be paid when a defendant is seeking a reinstatement or payoff of the loan. Issue of fee amounts brought before the court; no cases on the issue. Attorney Zowine believes a court should address these matters as a court of equity.

The committee members were uncomfortable giving an opinion on this topic.

Judge **Mintz** suggested that the next meeting of the Committee be set for sometime after the first of the new year.

A motion was made that the meeting be adjourned. The motion was seconded and passed. Meeting adjourned at 4:00 P.M.

BENCH-BAR FORECLOSURE COMMITTEE MEETING

April 13, 2012

**2:00 P.M. Room 4B
225 Spring Street
Wethersfield, CT 06109**

AGENDA

1. Approval of Minutes of October 6, 2011 Meeting
2. Motions to Open Judgment – First CT v. Homes of Westport issue – Judge **Mintz**
3. Mediations Scheduling (Allowing Attorney Firms to appear for consecutive mediations) – **Attorney Leibert**
4. Utilizing HopeLoanPort <https://www.hopeloanportal.org/> for Mediations – **Attorney Leibert**
5. Letter to Senator Looney re C.G.S. § 49-17 – Attorney Caron
6. Letter re Proposed Standing Order Regarding “Investor Restrictions” – Attorney Gentes

**MINUTES OF THE
BENCH – BAR FORECLOSURE COMMITTEE MEETING
Friday April 13, 2012**

Handouts to Committee Members: Agenda; Draft of Minutes of October 6, 2011 meeting; sample order; info re Hope Loan Port; Attorney Caron's letter to Sen. Looney; information re Investor Restrictions.

Members in attendance: Hon. Douglas C. Mintz, Chair, Hon. James Abrams, Attorney Adam L. Bendett, Attorney Jessica L. Braus, Attorney Denis Caron, Attorney Robert F. Frankel, Attorney Keith Fuller, Attorney Jeffrey S. Gentes, Hon. Lisa K. Morgan, Attorney Richard M. Leibert, Attorney Geoffrey Milne, Ms. Roberta Palmer, Attorney Sarah Poriss, Hon. Antonio Robaina, Hon. Mark Taylor, Attorney Thomas W. Witherspoon.

The Hon. Douglas C. Mintz, Chair called the meeting to order at 2:06 PM.

1. Approval of Minutes of October 6, 2011 Meeting - Motion to approve the minutes of the October 6, 2011 meeting was made and the minutes were approved.
2. Motions to Open Judgment – Judge Mintz gave a summary of the First CT v. Homes of Westport case. Members discussed the problems that arise with a judgment of foreclosure by sale versus a judgment of strict foreclosure. Some suggested solutions were also discussed. The existing subcommittee should meet to discuss a possible rule change. The subcommittee is to meet and report back at the next meeting of the full committee. Attorney Bendett shall be included as a member of the subcommittee.
3. Mediations Scheduling – Roberta Palmer gave an overview of how mediations are scheduled in the foreclosure cases. After discussing the possibility of how consecutive mediations could be scheduled for law firms, the members decided it was not workable.
4. Utilizing HopeLoanPort for Mediations – Attorney Leibert presented the members with information about HopeLoanPort. Documents would be sent through an on-line portal to avoid missed documents; everyone can see the same documents. Roberta Palmer gave an overview of the experience at the Department of Banking. Some discussion regarding confidentiality. Attorney Leibert is considering a pilot program for his office.
5. Letter to Sen. Looney re C.G.S. § 49-17 – Attorney Caron presented the members with an overview of the statute. Members discussed the problems with

implementing the statute, the issues with P.B. Rule §6-3, the proposed bill repealing the statute and a possible solution. Attorney Caron's subcommittee re Motions to Open Judgment is to meet to discuss this and propose a possible rule change.

6. Letter re Proposed Standing Order Regarding "Investor Restrictions" – Jeff Gentes outlined the problem with investor restrictions as set forth in the letter. A motion was made to table the matter. The motion was withdrawn. No further discussion. Attorney Gentes proposed that a subcommittee be formed to discuss the issue. Attorney Gentes is to chair a subcommittee with Attorneys Milne, Bendett, Leibert and Roberta Palmer as members.

A motion was made that the meeting be adjourned. The motion was seconded and passed. Meeting adjourned at 3:15 P.M.

BENCH-BAR FORECLOSURE COMMITTEE MEETING

August 29, 2012

**2:00 P.M. Room 4B
225 Spring Street
Wethersfield, CT 06109**

AGENDA

- | | |
|---------------------------------------------------------|--------------------|
| 1. Approval of Minutes of April 13, 2012 Meeting | Judge Mintz |
| 2. Subcommittee re Motions to Open Judgment - Report | Attorney Caron |
| 3. Subcommittee re Investor Restrictions – Report | Attorney Gentes |
| 4. Practice Book 17-4(2) Issues – Opening for Mediation | Attorney Frankel |
| 5. C.G.S. § 49-15 (b) Issues When Bankruptcy Filed | Attorney Frankel |
| 6. Changes to foreclosure forms | Attorney George |

**MINUTES OF THE
BENCH – BAR FORECLOSURE COMMITTEE MEETING
Wednesday August 29, 2012**

Handouts to Committee Members: Agenda; Draft of Minutes of April 13, 2012 meeting; proposals re Practice Book §§ 61-11 and 6-3, report of Investor Restrictions Subcommittee.

Members in attendance: Hon. Douglas C. Mintz, Chair, Attorney Adam L. Bendett, Attorney Denis R. Caron, Attorney Robert F. Frankel, Attorney Jeffrey S. Gentes, Attorney Peggy George, Attorney Robin Golden, Attorney Leanne Larson, Attorney Richard M. Leibert, Attorney Eugene S. Melchionne, Hon. Lisa K. Morgan, Ms. Roberta Palmer, Attorney Raphael L. Podolsky, Attorney Sarah Poriss, Attorney Gary Sklaver, Hon. Mark Taylor, Attorney Louis C. Zowine.

The meeting was called to order at 2:11 PM.

1. Approval of Minutes of April 13, 2012 Meeting - Motion to approve the minutes of the April 13, 2012 meeting was made and the minutes were approved.

2. Subcommittee re Motions to Open Judgment – Report – Attorney Caron reported on the issues discussed by the subcommittee. The subcommittee proposed that Practice Book § 61-11 be amended to add new subsections (f) and (g) which would allow a foreclosure sale to go forward when a motion to open judgment is denied; however, approval of the sale is not to be heard by the court until after the expiration of the appeal period. Also, the court is not to vacate the automatic stay following the denial of the motion to open judgment.

After discussion, the full committee recommended the following changes to the proposed subsection (g):

- Subsection (g), line 4, remove “or allowance of fees or expenses”
- Subsection (g), line 6, after “motion to open or reopen the judgment” add “without an appeal having been filed”
- Subsection (g), add to end “during such appeal period”.

A motion was made that the proposed amendment to PB § 61-11, with the recommended changes, be submitted to the Rules Committee. Motion seconded.

After further discussion, it was recommended that changes be made to subsection (f) as follows:

- line 2, “that defendant” should be changed to “any defendant”
- line 4, “filed by such defendant owner if such defendant owner” should be changed to “filed by any defendant owner if the moving defendant owner”.

Committee voted: all in favor with exception of one member abstaining – Attorney George.

The committee then discussed the subcommittee's proposed amendment to Practice Book § 6-3. The amendment would allow the Certificate of Judgment issued by the clerk to be used in C.G.S. § 49-17 cases. After discussion, the committee members suggested changing the last sentence to "The certificate of judgment shall constitute a decree of foreclosure for purposes of compliance with the requirements of said statute."

A motion was made that the proposed amendment to PB § 6-3, with the recommended change, be submitted to the Rules Committee. Motion seconded. Vote: All in favor.

3. Subcommittee re Investor Restrictions - Report – Attorney Gentes reported that the implications of investor restrictions is that a modification of the mortgage cannot be effected because of an investor restriction. The subcommittee had concerns as to how this could be addressed – whether a standing order was appropriate or if there was a need for a rule by the Rules Committee or if redress should be sought through legislation.

A motion was made that the Bench-Bar Foreclosure Committee recommend to the Judicial Branch that the proposed order be adopted as a standing order. Members questioned how often this is an issue and whether more data could be obtained. Data is to be obtained from mediators during the next month to find out how often an investor restriction is an issue.

A motion was made to table this matter until further data is available. Motion seconded. All members in favor, except two – Ms. Palmer and Attorney Sklaver.

4. Practice Book 17-4(2) Issues – Opening for Mediation –

5. C.G.S. § 49-15(b) Issues When Bankruptcy Filed –

Attorney Frankel explained the need for a change to rule 17-4(2) because of the requirement that the judicial authority enter a judgment of dismissal if a motion to open has been granted and a withdrawal is not filed or a judgment is not thereafter entered within 120 days. Frequently, there is a situation where the judgment is opened and referred to mediation which takes longer than the 120 day period allowed. Therefore, this rule should be amended to permit the mediation to take place. C.G.S. § 49-15(b) is also an issue when a bankruptcy is filed.

Judge Mintz requested that Attorney Frankel now chair the Motions to Open Judgment Subcommittee so that these issues could be discussed. The subcommittee to report back at a Bench-Bar Foreclosure Committee Meeting in October.

6. Changes to Foreclosure Forms – Attorney George reported that she reviewed the judicial foreclosure forms for necessary changes in connection with electronic filing. In particular changes are needed on forms JD-CV-78, JD-CV-75 and JD-CV-74. Attorney George will draft changes and circulate to committee members for review.

A motion was made that the meeting be adjourned. The motion was seconded and passed. Meeting adjourned at 4:10 P.M.

AGENDA
BENCH-BAR FORECLOSURE COMMITTEE

JULY 26, 2013
2:00 P.M.
Room 4B
225 Spring Street, Wethersfield, CT

- | | |
|-----------------------------------------------------------------------|---------------------|
| 1. Welcome | Judge Mintz |
| 2. Proposed Revision to PB § 17-45
Re Motions for Summary Judgment | Judge Taylor |
| 3. Investor Restrictions Subcommittee | Jeff Gentes |
| 4. Uniform Mediation Standing Orders | Adam Bendett |
| 5. Practice Book Rule 61-11 Revision, Eff. 10-1-13 | Judge Mintz |
| 6. PA 13-156 – Condo Fees – Priority | Peggy George |
| 7. PA 13-276 – Priority of Liens | Peggy George |
| 8. PA 13-136 – Foreclosure Mediation | Nancy McGann |

**MINUTES OF THE
BENCH – BAR FORECLOSURE COMMITTEE MEETING
Friday, July 26, 2013**

Members in attendance: Hon. Douglas C. Mintz, Chair, Hon. James Abrams, Attorney Adam L. Bendett, Attorney Jessica Braus, Attorney Denis R. Caron, Attorney Robert F. Frankel, Attorney Jeffrey S. Gentes, Attorney Peggy George, Attorney Robin Golden, Attorney Eugene S. Melchionne, Attorney Geoffrey Milne, Hon. Lisa K. Morgan, Ms. Roberta Palmer, Attorney Sarah Poriss, Hon. Richard A. Robinson, Attorney Gary Sklaver, Hon. Mark Taylor, Attorney Louis C. Zowine.

The meeting was called to order at 2:01 PM.

1. Welcome – Members and guests, Nancy McGann, Manager of the Foreclosure Mediation Program, and Cheryl Halford, Court Planner in charge of the Foreclosure Volunteer Attorney Program, introduced themselves.
2. Proposed Revision to PB § 17-45 Re Motions for Summary Judgment – The committee was asked by the Civil Commission to discuss whether the proposed changes to this rule should apply to foreclosure cases. The proposed changes to the rules were explained – that the rule would require that a Statement of Undisputed Material Facts be filed with the motion for summary judgment and that a party opposing the motion would have 45 days to file opposing documents which would have to include a Statement of Disputed Material Facts. The members discussed the frequency of motions for summary judgment, whether a motion for summary judgment is needed in many actions, the timeframes allowed for filings in foreclosure actions that are different from other civil actions, the delay necessitated by summary judgment motions and the number of cases with self-represented parties. Members discussed whether the existing rule should apply to foreclosure actions or whether a variation of the new proposal should apply. It was decided that a subcommittee should meet to prepare a proposal for the fall meeting of the Civil Commission. Judge Taylor will chair the subcommittee and Attorneys Caron, Frankel, Milne, Bendett, Gentes and Poriss will be members of the subcommittee.
3. Investor Restrictions Subcommittee – Attorney Gentes submitted to the members a report of the Investor Restrictions Subcommittee. Attorney Gentes reported that there have been 20 cases where this has been an issue, however, forty percent of the claims resulted in someone keeping the home. Investor restrictions also seem to be less of a problem now. There is also a new report form for the mediator with information about loss mitigation. The Committee

determined that it would be best not to do anything at this point, but to keep watch to see if any issues.

4. Uniform Mediation Standing Orders – Attorney Bendett provided members with a suggested change to the Uniform Mediation Standing Orders regarding the need to provide information on the amount that must be paid in order to satisfy the full obligation of the loan. Members discussed how important this information is and whether it is needed for every mediation session, whether it is necessary to update costs and fees that are incurred along the way and whether they meaningfully impact the mediation. Also discussed the changes to the statute and having less mediation sessions after Oct. 1st and the importance of having accurate information. Question whether this Standing Order needs to be changed to reflect the new statute. The Committee decided to have this discussed by a subcommittee and report back at the next meeting. Attorney Frankel will chair the subcommittee and Attorneys Bendett, Milne, Zowine and others who are interested will be members of the subcommittee.

5. Practice Book Rule 61-11 Revision, Eff. 10-1-13 – Judge Mintz reported that new sections (g) and (h) are being added to P.B. Rule § 61-11, effective October 1, 2013 to address the perpetual motion issue. For judgments of strict foreclosure if there have been two prior motions to open denied, no automatic stay shall arise upon the court's denial of any subsequent contested motion by the same party. For judgments of foreclosure by sale, the sale shall go forward if a motion to open was denied less than 20 days prior to the sale date; however a motion for approval of the sale shall not be filed until the expiration of the appeal period following the denial of the motion without an appeal having been filed.

6. PA 13-156 Condo Fees – Priority – Attorney George highlighted the statutory changes. The condo fee priority is now nine months instead of six months, but excludes late fees, interest or fines. Attorney's fees for enforcing the lien, however, can be included in the priority. Effective October 1, 2013, an association must provide a written notice to the holders of all security interests 60 days prior to commencing an action to foreclose a lien. Also effective October 1, 2013, any assessments and related attorney's fees and costs that are owed by a mortgagor and paid by a mortgagee are part of the debt due the mortgagee or lienor.

7. PA 13-276 Priority of Liens – Attorney George highlighted the statutory changes. Effective October 1, 2013, §5 of the public act provides that in tax assessment appeals, where the court finds there has been an overpayment, the court must enter judgment for the whole amount of such overpayment less any lien recording fees incurred under sections 7-34a and 12-176. §7 of the public act, effective October 1, 2013, provides that where the municipality has approved an abatement of taxes, the lien shall have the same precedence as tax liens under § 12-172. And, pursuant to § 42 of the public act, effective as of July 11,

2013, C.G.S. § 49-31r was amended with regard to when the municipality must provide the judicial form regarding community-based resources to a homeowner.

8. PA 13-136 – Foreclosure Mediation – Attorney Nancy McGann gave a presentation on the changes this new legislation has made to the Foreclosure Mediation Program. See Handout attached.

Next meeting to be on September 12, 2013 at 2:00 PM in Wethersfield.
Subcommittees to report to full committee then.

A motion was made that the meeting be adjourned. The motion was seconded and passed. Meeting adjourned at 4:15 P.M.

For July 26, 2013 Bench-Bar Foreclosure Committee Meeting

RE: Uniform Mediation Standing Orders

Change D from

The Plaintiff's attorney must bring to each mediation session an updated itemization of all fees and costs including any other charges and attorneys fees requested that must be paid in order to satisfy the full obligations of the loan and an itemization of all overdue amounts causing the loan to be in default.

To

The Plaintiff's attorney must bring to the initial mediation session (if not provided in accordance with Public Act 13-136), and to each mediation session upon request, an itemized statement of the amount required to reinstate the loan, which shall include an itemization of all attorney's fees and costs.

Adam L. Bendett, Esquire

REPORT TO BENCH-BAR FORECLOSURE COMMITTEE

Following its creation at the April 13, 2012 meeting of the Bench-Bar Foreclosure Committee, the Investor Restrictions Subcommittee met twice regarding both (1) the proposed Standing Order contained in the April 9, 2012 letter to Judge **Mintz** from 32 members of the bar (including four members of the Committee), and (2) the power of the Judicial Branch to adopt such a Standing Order. The Subcommittee resolved to report its findings to the full Committee so that the Committee could review the issues at hand before next steps were taken. The Subcommittee is prepared to discuss these issues in greater detail at the August 29, 2012 Committee meeting.

I. Proposed Standing Order

The Subcommittee reviewed the proposed Standing Order for, among other things, the need for such an Order, compatibility with foreclosing parties' rights, existing statutory requirements and court rules, the issues attendant to self-represented parties facing foreclosure, and compliance burdens on plaintiffs. Based on the discussion, proponents of the measure revised the order proposed in the April 9 letter, as follows:

If the Plaintiff claims that workout options for the mortgagor are materially restricted by the loan's investor or similar entity, the Plaintiff shall, if the Plaintiff or its agent participates in a federal loss mitigation program, (a) provide the document containing such restriction and any amendments thereto to the mortgagor in connection with mediation, (b) while the matter is in mediation, promptly notify the mortgagor if the restriction is eliminated or amended in a manner that could reasonably and materially affect the mediation, and (c) if such federal loss mitigation program requires participants to solicit loan investors for waivers of workout restrictions, produce evidence of such solicitation with respect to the mortgagor. The court may order that any documents so produced shall be designated as confidential following motion by the mediator or the Plaintiff and good cause shown.

If neither the Plaintiff nor its agent participates in a federal loss mitigation program, then provisions of documentation concerning any such restriction may be ordered by the court upon motion of the mediator or the Defendant and good cause shown. Any document so produced pursuant to such a motion shall be designated as confidential among the parties unless the Defendant can show good cause for it to be otherwise designated.

The Subcommittee was unable to reach a consensus or recommendation regarding the necessity and the suitability of the revised proposed Standing Order, and returns the issue to the full Bench-Bar Committee.

2. Means of Adopting Such a Requirement

Were the Bench-Bar Committee to recommend adoption of such a requirement, the Subcommittee's members identified three possible approaches for its implementation: (a) a Standing Order adopted by the Judicial Branch; (b) changing the Practice Book through the Rules Committee; or (c) statutory change via the legislature. The Subcommittee was unable to reach a consensus or recommendation regarding the best approach, and returns the issue to the full Bench-Bar Committee.

Bench-Bar Foreclosure Committee
July 26, 2013

What's New?
PA 13-136 (eff. 7/15/13)

Section 1: (*§ 49-31 k*)

- **Definitions**
 - ❖ Mortgagor
 - ❖ Mortgagee
 - ❖ Objectives of the Mediation Program
 - ❖ Ability to Mediate (cf. settlement authority)

Section 2: (*§ 49-31 l*)

- **Return Dates from 7/1/08 – 6/30/09**
 - ❖ Eliminates 25 day limit for filing appearance/mediation requests
 - ❖ Extends FMP to 6/30/14 (*§49-31 l (b)(4)*)
- **Prior to Mediation/The Pre-Mediation Process**
 - ❖ Bifurcation of the process by return date
 - a. 10/1/11 – 9/30/13: Service of existing Mediation Information Form (JD-CV-125); M'gor returns to counsel w/in 15 days of initial mediation session with supporting docs (*§49-31 l(b)*)
 - b. 10/1/13 – 6/30/14: Pre-mediation process (*§49-31 l(c)(4)*)
 - New Mediation Information Form served
 - Assignment to mediation; notice w/ electronic mail address
 - Electronic delivery of docs/forms/info
 - Meeting(s) with mediator
 - Facilitate/confirm document transmission
 - Pre-mediation report
 - Determination regarding mediation
 - Petitions for good cause (mistake/misunderstanding or change in circumstances)
 - ❖ Specifically authorizes filing answer, special defenses, counterclaims without breaking 8 mo. litigation hold (*§ 49-31 l(c)(6)*)
 - ❖ Court referrals at any time for good cause (*§ 49-31 l(c)(5)*)
 - a. Parties likely to benefit or change in circumstances
 - b. Participation in pre-mediation w/ court established deadlines (return dates on/after 10/1/13)

Section 3: (§ 49-31 m)

- Makes explicit that mediation addresses disposition options such as short sales and deeds-in-lieu
- Amends to provide that mediators have a duty to be unbiased and cannot give legal advice

Section 4: (§ 49-31 n)

- **Mediation** (§ 49-31 n)
 - ❖ Mediation period defined (§ 49-31 n(b)(1) and n(c)(1))
 - ❖ Who appears (§49-31 n(b)(2) and n(c)(2))
 - a. Represented borrowers
 - b. Multiple SRP borrowers
 - c. Non-borrower spouses
 - d. Personal appearances excused for disability/significant hardship
 - ❖ Ability to Mediate (§49-31 n(b)(2)) and n(c)(2))
 - ❖ Time to respond to requests/explanation of denials
 - ❖ Requests for additional/missing information in writing
 - ❖ Mediator Reports (JD-CV-89 rev. 7/13)
 - ❖ Supplemental Information by Party (JD-CV-133) w/in 5 business days
- **Sanctions** (§49-31 n(b)(2) and n(c)(2))
 - ❖ Intentional conduct/pattern or practice by party or counsel
 - ❖ Proportional to conduct/consistent with objectives of mediation
 - ❖ Examples
- **Extensions of the Mediation Period** (§49-31 n(b)(9) and n(c)(9))
 - ❖ Time for filing – 15 days
 - ❖ Who may file
 - ❖ One per motion/request
 - ❖ Extensions - agreement highly probable
 - ❖ Extensions – conduct inconsistent with objectives
 - ❖ Extension by agreement w/out hearing
 - ❖ Orders- 20 days from filing of motion/request with articulation
 - ❖ No judgment may enter if motion/request pending
 - ❖ Cases pending as of 10/1/13:
 - a. 3 or fewer sessions = no sessions held
 - b. 4 or more sessions = move to terminate or extend; otherwise mediation period concludes after 3rd session post 10/1/13

- **Reporting Requirements** (§ 49-31 n(d))
 - ❖ By 2/14/14: Summary of data from 7/1/13 – 12/31/13
 - ❖ By 2/14/15: Summary of data from 7/1/13 – 12/31/14

Section 5: (New)

- **Expedited Foreclosures**
 - ❖ Proof by clear and convincing evidence
 - ❖ Use of affidavit
 - ❖ Not occupied by M'gor, tenant or other occupant
 - ❖ 3 or more of the 7 listed conditions exist
 - ❖ Not available if under construction, seasonal, or subject to quiet title action/other ownership dispute

AGENDA
BENCH-BAR FORECLOSURE COMMITTEE

September 12, 2013
2:00 P.M.
Room 4B
225 Spring Street, Wethersfield, CT

- | | |
|-------------------------------------------------------------------------------------------------|--------------------|
| 1. Welcome and Announcements | Judge Mintz |
| 2. Approval of Meeting Minutes of 7-26-13
and 8-29-12 | Judge Mintz |
| 3. Subcommittee re Proposed Revision to
PB § 17-45 Re Motions for Summary Judgment
Report | Judge Taylor |
| 4. Subcommittee re Uniform Mediation Standing
Orders - Report | Attorney Frankel |

MINUTES OF THE
BENCH-BAR FORECLOSURE COMMITTEE MEETING
Thursday, September 12, 2013

Members in attendance: Hon. Douglas C. Mintz, Chair, Attorney Adam L. Bendett, Attorney Denis R. Caron, Attorney Robert F. Frankel, Attorney Jeffrey S. Gentes, Attorney Peggy George, Attorney Leanne Larson, Attorney Richard M. Leibert, Attorney Geoffrey Milne, Attorney Raphael L. Podolsky, Attorney Sarah Poriss, Hon. Antonio C. Robaina, Attorney Jenna N. Sternberg, Hon. Mark Taylor, Attorney Thomas C. Witherspoon, Attorney Louis C. Zowine.

Meeting was called to order at 2:07 PM.

1. Welcome and Announcements – Judge Mintz informed the members of the passing of Attorney Ronald Bender. Judge Mintz also announced changes to the membership of the committee, welcoming new member Jenna Sternberg.
2. Approval of Meeting Minutes of 7-26-13 and 8-29-12 – The Minutes of the August 29, 2012 and the July 26, 2013 meetings were unanimously approved.
3. Subcommittee re Proposed Revision to PB § 17-45 Re Motions for Summary Judgment – Judge Taylor reported the discussion of the subcommittee. A proposed draft, excluding actions to foreclose a mortgage on real estate from the proposed revision to Practice Book Rule 17-45 was provided to the members. It was recommended that this proposal be given to the Civil Commission. All members were in favor of this proposal. The draft is to be forwarded to the Civil Commission.
4. Subcommittee re Uniform Mediation Standing Orders – Attorney Frankel reported that the subcommittee recommends to eliminate paragraph A and first sentence of C because they are covered by the new statutory provisions of PA 13-136. The subcommittee reviewed paragraphs B, D and E and recommend leaving them in place. Members voted and unanimously approved these changes. Judge Mintz then referred Attorney Nancy McGann's proposal to the subcommittee. Attorney Podolsky is added to the membership of that subcommittee.

Meeting adjourned at 2:42 PM

AGENDA
BENCH-BAR FORECLOSURE COMMITTEE

July 25, 2014
2:00 P.M.
Room 4B
225 Spring Street, Wethersfield, CT

- | | |
|----------------------------------------------------------------------------------------------------------------|-------------------------|
| 1. Welcome | Judge Mintz |
| 2. Approval of Meeting Minutes of 9-12-13 | Judge Mintz |
| 3. Effect of Wells Fargo Bank, N.A. v. Melahn
148 Conn. App. 1 | Attorney Caron |
| 4. Supplemental Judgment | Attorney George |
| 5. Foreclosure by Market Sale - PA 14-84 | Attorney George |
| 6. Loss Mitigation Affidavit - PA 14-84 | Attorney Leibert |
| 7. Mediations – scheduling outside of statute | Judge Taylor |
| 8. Address of Property in Complaint and
appearance date for FMP on Summons | Attorney Gentes |
| 9. Committee Fees Stayed because of Bankruptcy
Equity One, Inc. v. Thomas J. Shivers,
150 Conn. App. 745 | Judge Mintz |

MINUTES OF THE
BENCH-BAR FORECLOSURE COMMITTEE MEETING
Friday, July 25, 2014

Members in attendance: Hon. Douglas C. Mintz, Chair, Attorney Adam L. Bendett, Attorney Denis R. Caron, Attorney Robert F. Frankel, Attorney Jeffrey S. Gentes, Attorney Peggy George, Attorney Richard M. Leibert, Ms. Nancy McGann, Attorney Eugene S. Melchionne, Attorney Geoffrey Milne, Attorney Raphael L. Podolsky, Attorney Jenna N. Sternberg, Hon. Mark Taylor, Attorney Thomas C. Witherspoon, Attorney Louis C. Zowine.

Meeting was called to order at 2:10 PM.

1. Welcome and Announcements – Judge Mintz welcomed the members to the meeting.
2. Approval of Meeting Minutes of 9-12-13 – The Minutes of the September 12, 2013 meeting were unanimously approved.
3. Effect of Wells Fargo Bank, N.A. v. Melahn – Attorney Denis Caron outlined the facts of the case and the decision of the Appellate Court. He then explained that a title company has to evaluate the title to property based on the public record. In this instance, from the court file everything appears to be in order; however, if the judgment is opened, there could be a title problem. The question here is what are the consequences of non-compliance with the notice requirements set forth in the standing orders. Discussion followed which pointed out that the standing order regarding notice to non-appearing owners of the equity applies to both judgments of strict foreclosure and foreclosure by sale; therefore, any change needs to apply to both. The standing order has a purpose that needs to be considered. The Committee decided to refer this issue to the Standing Order Review Subcommittee. Attorney Caron requested that he be added as a member of that subcommittee.
4. Supplemental Judgment – Attorney George requested that the form proposed in November 2009 be considered for implementation as a judicial form for Supplemental Judgment when the plaintiff is the purchaser of property at a foreclosure sale. After some discussion the members suggested that the expenses of the plaintiff include additional items such as taxes advanced and insurance advanced. It was agreed that

a line for “Other Expenses” be added. In the motion section of the form, it was requested that the word “plaintiff” in the 4th bulleted paragraph be changed to “Committee”. It was also suggested that the order page be labeled “proposed order” because the judges now use templates in e-filing to prepare orders and would not be signing the order submitted by the plaintiff. A proposed order, however, would assist the court. The certification section would also have to be updated to reflect the current rule.

With these changes, the Committee recommended that the form be submitted for approval as a judicial form.

5. Foreclosure By Market Sale – PA 14-84 – Attorney George reviewed the provisions of this new public act which is effective January 1, 2015. The members discussed the various concerns about federal liens, junior lienholders, that foreclosure by market sale is not available at any point in the foreclosure action, who seeks payment of expenses for the buyer if a junior lienholder buys the property, and ratification of the sale.
6. Loss Mitigation Affidavit – PA 14-84 – Attorney Leibert submitted a proposed Amended Loss Mitigation Affidavit for review. Attorneys Leibert, Bendett and Gentes drafted the proposed amended affidavit to include the affidavit required by PA 14-84 regarding the notice to the mortgagor of the option of foreclosure by market sale. After a brief discussion, a motion was made and seconded that the form as amended be submitted for approval, effective January 1, 2015.
7. Mediations – Scheduling Outside of Statute – Judge Taylor asked the members if there were any concerns regarding referral of matters to the Foreclosure Mediation Program pursuant to the court’s equitable powers. The members indicated that there were no concerns.
8. Address of Property in Complaint and Appearance date for FMP on Summons – Attorney Gentes suggested that the property address could be more explicitly set out in the foreclosure complaint. Should there be a standing order for this? He also suggested that the civil summons be amended to include information about having 15 days to file an appearance for FMP matters. Discussion about the summons raised concern that adding this information to the summons could confuse parties in other civil actions, causing delays in filing a timely appearance; also, there are other forms directing mortgagors about the time-frame

within which an appearance may be filed if eligible for the Foreclosure Mediation Program.

9. Committee Fees Stayed because of Bankruptcy – Members discussed the issue of how to handle committee fees not yet approved by the court when a bankruptcy stay is in effect. Various procedures in the bankruptcy court were discussed as well. A recommendation for addition to the standing orders was made. The Committee refers this issue to the Standing Orders Review Subcommittee for further consideration.

Attorney Leibert also mentioned that there may be a need to have a standing order requiring committees for foreclosures by sale to have malpractice insurance. This issue was also referred to the Standing Orders Review Subcommittee.

Meeting adjourned at 3:53 PM



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CT SAVIN

Connecticut Judicial Branch

Bench-Bar Foreclosure Committee

- [Committee Members](#)
 - [Meeting Notice](#)
 - [Agenda and Minutes](#)
 - [Public Service and Trust Commission](#)
 - [Press Release - Chief Justice Rogers Appoints Bench-Bar Foreclosure Committee](#)
- Bench-Bar Foreclosure Subcommittees:
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Committee Members

Honorable Claudia A. Baio, Chair
Honorable James W. Abrams
Honorable Andrew W. Roraback
Honorable Walter M. Spader, Jr.

Attorney George P. Generas, III
Attorney Jeffrey S. Gentes
Attorney James A. R. Pocklington
Attorney Maria Salatto-Gilhuly
Attorney Rebecca Schmitt
Attorney Jenna M. Sternberg

Meeting Notice: The next meeting of the Bench-Bar Foreclosure Committee is scheduled for **Wednesday, April 24, 2024, at 3:00 p.m. via Microsoft Teams**. If you would like to attend and need an accommodation under the [Americans with Disabilities Act](#), please e-mail Rebecca.Schmitt@jud.ct.gov.

Agendas and Minutes:

Date	Agenda	Minutes
April 24, 2024		
January 31, 2024	Agenda	
November 30, 2023	Agenda	Minutes
September 26, 2023	Agenda	Minutes
August 29, 2023	Agenda	Minutes
July 25, 2014	Agenda	Minutes - Draft
September 12, 2013	Agenda	Minutes
July 26, 2013	Agenda	Minutes
October 4, 2012 CANCELLED		
August 29, 2012	Agenda	Minutes
April 13, 2012	Agenda	Minutes
October 6, 2011	Agenda	Minutes
July 15, 2011	Agenda	Minutes
October 29, 2010	Agenda	Minutes
May 14, 2010	Agenda	Minutes
September 30, 2009	Agenda	Minutes
June 16, 2009	Agenda	Minutes
January 8, 2009	Agenda	Minutes

June 18, 2008	Agenda	Minutes
December 6, 2007	Agenda	Minutes
October 25, 2007	Agenda Proposed Standing Orders	Minutes

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BENCH-BAR FORECLOSURE COMMITTEE MEETING
Tuesday, August 29, 2023 – 4:00 PM
Convened virtually via Microsoft Teams

AGENDA

1. Welcome – Judge Baio
 - a. Call to order
2. Introduction of Members
3. Discussion of Mission of the Committee – Judge Baio
4. Discussion of setting meeting schedule
 - a. Quarterly?
5. Discussion of Future Topics
 - a. Foreclosure standing orders
6. Adjourn

Minutes of the Bench-Bar Foreclosure Committee Meeting

Meeting held August 29, 2023, from 4:00 p.m. -4:46 p.m., via Microsoft Teams

Members in attendance: Hon. Claudia A. Baio, Chair, Hon. James W. Abrams, Hon. Lisa K. Morgan, Hon. Andrew W. Roraback, Hon. Walter M. Spader, Jr., Attorney George P. Generas, III, Attorney Jeffrey S. Gentes, Attorney James A. Pocklington, Attorney Maria Salatto-Gilhuly, Attorney Rebecca R. Schmitt, and Attorney Jenna M. Sternberg

1. Welcome

Judge Baio welcomed the members to the reactivated Bench-Bar Foreclosure Committee.

2. Introduction of Members

The members of the Committee introduced themselves.

3. Discussion of Mission of the Committee

Judge Baio informed the members that the mission of the Committee, as set forth when the committee was established, is to promote cooperation between the bench and the bar and to address current practices in the courts, regarding foreclosure cases, and to make recommendations on ways to improve those procedures and practices.

Discussion of setting meeting schedule

Judge Baio suggested starting with quarterly meetings so the Committee members will know what dates to set aside and have some consistency. The Committee was amendable to a quarterly schedule. The next meeting will be scheduled sooner following this preliminary introductory meeting, and then with a quarterly meeting schedule. If, at a future date, subcommittees are created a new schedule could be discussed. The last time this Committee met was in 2014. There was more evolution coming down from the Federal government, which necessitated having more frequent meetings and several subcommittees. The last minutes indicate that this Committee was heavily involved in reviewing the standing orders. This Committee will need to determine, which, if any of these subcommittees, or others, may be appropriate. Prior subcommittees included:

- Process Subcommittee
- Supplemental Judgment Subcommittee
- Committee Subcommittee
- Short Calendar Subcommittee
- Subcommittee re Investor Restrictions
- Subcommittee re Motions to Open Judgment
- Subcommittee re Real Estate Conveyance Tax
- Subcommittee re Recording of Documents and Notice to Mortgagees
- Summary Judgment

- Federal Loss Mitigation Affidavit Review
- Standing Orders Review

4. Discussion of Future Topics

Judge Baio suggested starting with a review of the foreclosure standing orders and exploring consistency, to the extent possible, across the state.

Judge Morgan suggested that something be posted on the Branch's website to explain how the foreclosure dockets are handled in each of the districts. There have been issues raised with the standing orders and short calendar notices. It would be helpful to let people know whether foreclosure hearings are held remotely, or in person. There was committee consensus on this issue and the plan to address it.

Attorney Gentes suggested that the remote versus in person nature of proceedings be reviewed for a uniform policy.

Attorney Schmitt reported that in conjunction with the new term, Judge Bozzuto and Judge Bellis are coordinating a review of the civil standing orders, including the foreclosure standing orders. This Committee was heavily involved in prior standing orders and input from the Committee could be taken into consideration to document practices.

Attorney Pocklington mentioned that many courts have different notices, as far as scheduling. It would be helpful to practitioners to know the practice across the state, or note what the differences are. The committee concurred, noting the benefit for self represented parties also and to resolve for the parties some confusion to know whether or not to go to Court, practitioners' confusion by the short calendar process and scheduling in the different districts.

Judge Baio reminded the Committee that the Committee's role is to determine whether there are recommendations to be made. This starts with the Committee making a valid recommendation to the administration to review. The suggestion that we come up with some sort of way of posting how the various dockets are handled, in conjunction with the standing order review, is something that would be helpful and a good starting point for the Committee. Attorney Pocklington suggested that the Committee also review how to deal with the process, rather than the technology, which the Branch has done a good job documenting.

Timeline for standing orders is as soon as possible, within the limitations of staffing and availability. Attorney Schmitt will let Judge Bellis know that the Committee has discussed undertaking a review and whether the Committee needs a meeting sooner, rather than later. The review is a separate undertaking from the Committee. The understanding is that this Committee was heavily involved in the initial drafts of the standing orders and

Judge Bellis would be open to any feedback provided. Attorney Schmitt can discuss the matter with Judge Bellis and report back.

Judge Morgan volunteered to work with Attorney Schmitt and interface with Judge Bellis to address the foreclosure short calendar notices, and report back to this committee. Judge Abrams moved to make Judge Morgan point person on the matters discussed, Attorney Pocklington seconded the motion. There was no discussion. The motion passed unanimously.

Attorney Schmitt clarified the difference between standing orders, short calendar notices, and JDNOs.

For the next meeting, Committee members should consider what, if any, subcommittees may be beneficial.

The next meeting of the Committee will be scheduled for a date in late September and then proceed quarterly.

Upon motion to adjourn from Judge Spader, seconded by Judge Abrams and carried unanimously, the meeting was adjourned at 4:46 p.m.

BENCH-BAR FORECLOSURE COMMITTEE MEETING
Tuesday, September 26, 2023 – 3:30 PM
Convened virtually via Microsoft Teams

AGENDA

1. Call to order
2. Approval of Minutes of August 29, 2023, Meeting
3. Old business
 - a. Discussion of first topics to undertake (Foreclosure standing orders, notices)
 - b. Consideration of possible subcommittees? Now or wait?
4. New Business
5. Set Meeting Schedule
6. Adjourn

Minutes of the Bench-Bar Foreclosure Committee Meeting
Meeting held September 26, 2023, from 3:30 p.m. -4:15 p.m., via Microsoft Teams

Members in attendance: Hon. Claudia A. Baio, Chair, Hon. James W. Abrams, Hon. Lisa K. Morgan, Hon. Andrew W. Roraback, Attorney George P. Generas, III, Attorney Jeffrey S. Gentes, Attorney James A.R. Pocklington, Attorney Maria Salatto-Gilhuly, Attorney Rebecca R. Schmitt, and Attorney Jenna M. Sternberg

Excused: Hon. Walter M. Spader, Jr.

1. Call to order

Judge Baio called the meeting to order.

2. Approval of Minutes

Upon motion by Attorney Pocklington, seconded by Attorney Salatto-Gilhuly, and carried unanimously, the draft minutes of the August 29, 2023 meeting were approved.

3. Old business

a. Discussion of first topics to undertake (Foreclosure standing orders, notices)

Agreement to await Judge Bellis' update of the foreclosure calendar notice and the foreclosure standing orders, prior to undertaking a review. Attorney Schmitt will provide the updated calendar notices to Judge Baio, once they are live, for circulation to the group.

b. Consideration of possible subcommittees? Now or wait?

Suggestion that subcommittees should occur organically, and the committee should wait for a need to arise was consensus. Per Judge Baio, the constitution of the committee is small enough that it can address matters as they arise. Some topics of interest for the committee to address mentioned were motions to open, short calendar, and standing orders. With remote matters, many things are different and should be addressed.

4. New Business

Attorney Pocklington suggested that Judicial add something on the screen for remote foreclosure dockets, so people know they are in the right place as they wait. The committee discussed and agreed to suggest an immediate, low-tech solution, with the clerk sharing a screen to display a message to advise parties that they are in the foreclosure short calendar for the particular J.D. Currently, non-Judicial participants are automatically placed into a waiting room until a Judicial participant joins the meeting. Some clerks already arrive early to address this issue, but it is not uniform. The recommendation is that the clerks be advised to appear at least fifteen minutes prior to the docket to let people into the remote courtroom space and answer questions. The committee agreed that this suggestion should be submitted to Judicial for review.

The committee discussed possible issues for future agendas. Judge Roraback suggested for a future agenda having an informal discussion where practitioners can make suggestions to judges and judges can make suggestions to practitioners. Quality of life improvement suggestions to be sent to Attorney Schmitt to compile and circulate to the committee for consideration in advance of the meeting. The list will be reviewed in advance of our next meeting and added as an agenda item. E.G., Attorney Pocklington mentioned the possibility of auto withdrawing appearances for committees. Judge Roraback would like to know if someone is occupying the premises.

Attorney Pocklington raised bankruptcy as an issue. Due to CARES Act Forbearances, there is a possibility that files may be in bankruptcy for longer than people may think. Consider whether the current model that we use to notify the court and parties that a file is impacted by bankruptcy stay is sufficient. The Practice Book provision is an older one and differs from jurisdiction to jurisdiction, depending upon how an individual court monitors it. Judge Morgan motioned that the committee investigate whether it is possible to flag in Edison if there is a pending bankruptcy proceeding, seconded by Judge Abrams, and carried unanimously.

5. Set Meeting Schedule

The next meeting of the Committee will be scheduled for a date in mid-November and then proceed quarterly.

6. Adjourn

Upon motion to adjourn from Judge Roraback, seconded by Attorney Generas, and carried unanimously, the meeting was adjourned at 4:15 p.m.

BENCH-BAR FORECLOSURE COMMITTEE MEETING
Thursday, November 30, 2023 – 3:00 PM
Convened virtually via Microsoft Teams

AGENDA

1. Call to order
2. Approval of Minutes of September 26, 2023, Meeting
3. Old business
 - a. Property Calendar Notice
 - b. Foreclosure Standing Order
 - c. Quality of Life Improvement Suggestions
 - d. Select dates/times for quarterly meetings
4. New Business
5. Adjourn

Minutes of the Bench-Bar Foreclosure Committee Meeting
Meeting held November 30, 2023, from 3:00 p.m. -3:32 p.m., via Microsoft Teams

Members in Attendance: Hon. James W. Abrams, Hon. Walter M. Spader, Jr., Hon. Andrew W. Roraback, Attorney George P. Generas, III, Attorney Jeffrey S. Gentes, Attorney James A.R. Pocklington, Attorney Maria Salatto-Gilhuly, Attorney Rebecca R. Schmitt, and Attorney Jenna M. Sternberg

Excused: Hon. Claudia A. Baio, Chair

1. Call to order

Attorney Schmitt called the meeting to order.

2. Approval of Minutes

Attorney Gentes noticed that there is a scrivener's error, related to Attorney Pocklington's name in the attendance. Attorney Pocklington's full name is James A.R. Pocklington. Attorney Schmitt will have Attorney Pocklington's name updated on the Judicial Branch's website. Attorney Gentes requested that the minutes from September 26, 2023, be amended to correct the scrivener's error. Upon motion by Attorney Gentes, seconded by Attorney Pocklington, and carried unanimously, the amended minutes of the September 26, 2023, meeting were approved. Judge Spader abstained.

3. Old business

a. Property Calendar Notice

Attorney Gentes asked how the Committee would make any recommendations or commentary on the updated calendar notice and the standing order. Attorney Schmitt explained that any formal recommendations that come out of this Committee will be sent to Judge Bellis, prior to being forwarded to Judge Bozzuto. Feedback and improvements can be formally submitted for consideration. Members can submit any proposed suggestions prior to the next meeting.

b. Foreclosure Standing Order

Attorney Schmitt mentioned that the language in the updated standing order referencing the Loss Mitigation Affidavit requirement is a holdover from the prior standing order. Authority for this requirement exists in a few other places, but Legal is undertaking a review to see if the language can be removed without consequences. Committee members with any concerns will circulate their comments in writing to the Committee chair for consideration prior to the next meeting.

c. Quality of Life Improvement Suggestion

Any received will be pared down to a bulleted list and circulated to the Committee for discussion at the next meeting. Further suggestions should be emailed to Attorney Schmitt.

- d. Select dates/times for quarterly meetings.

Attorney Gentes suggested Wednesdays. The Committee agreed on the following schedule:

- 1/31/2023 at 3:00
- 4/24/2024 at 3:00
- 7/31/2024 at 3:00
- 10/30/2024 at 3:00

4. New Business

- a. Judge Roraback encountered an instance where counsel in a foreclosure was paid by the engagement, not the hour, resulting in there being no hourly breakdown of fees. Per Judge Abrams, this is not a new issue. Fees by the engagement came up several years ago and the fee used to be consistent with the general amount, or less than what was billed hourly for most cases. This wasn't the case in the instance Judge Roraback encountered. The fee itself was over the average amount. The bigger firms seem to be more consistent with their fees and some of the smaller firms seem to be testing what reasonableness is. There was discussion regarding this fee arrangement and some suggestion that the engagement fee structure is from Fannie and Freddie, who control third party fees. In terms of the below block payment baseline, generally have no issue. Usually lower than general amount, starting with a baseline and then adding in additional fees. The discussion included from the larger firm perspective, certain things may be done on a per event basis (ex. motion to substitute, mediation session), if the event falls outside of the blocked fee. The only time Attorney Pocklington's firm bills hourly is for litigation. Scrutiny of "by engagement" fee structures is cyclical and comes under review every few years. It was suggested that if the judge sees a firm that isn't more active in foreclosures engaging in this fee structure, it may require more scrutiny. Some firms run into larger amounts for files that take years of litigation, otherwise the fees are usually around the same amount for foreclosures. They will break down the fees but will also mention that they are based upon block fees. This type of fee is standard at this point.
- b. Judge Spader following up on the prior minutes and asked if there is anything in the computer system to flag bankruptcy files. Attorney Schmitt responded that there isn't anything currently in Edison. It is a formal recommendation of this Committee to pursue this, and Judge Baio will submit the recommendation to the proper channels. Should be able report at the next meeting.

5. Adjourn

Upon motion to adjourn from Judge Abrams, seconded by Judge Roraback, and carried unanimously, the meeting was adjourned at 3:32 p.m.

BENCH-BAR FORECLOSURE COMMITTEE MEETING
Wednesday, January 31, 2024 – 3:00 PM
Convened virtually via Microsoft Teams

AGENDA

1. Call to order
2. Approval of Minutes of November 30, 2023, Meeting
3. Old business
 - a. Property calendar notice
 - b. Foreclosure standing order
 - c. Quality of life improvement suggestions
 - d. Status of proposals to the Branch
4. New Business
5. Adjourn