

MINUTES OF THE  
COMMITTEE ON JUDICIAL INFORMATION POLICY

October 13, 2009

The Committee on Judicial Information Policy met in The Learning Center, Room 707 at 99 East River Drive, East Hartford, Connecticut.

Those attending: Judge Marshall Berger, Ms. Elizabeth Bickley, Justice David Borden, Atty. Janice Calvi, Judge Patrick Carroll, Atty. Jorene Couture, Atty. Joseph D'Alesio, Mr. P.J. Deak, Atty. Daniel Horwitch, Atty. Nancy Kierstead, Professor Elizabeth Marsh, Atty. Louis Pace, Judge Joseph Pellegrino (chair), Atty. Norman Roberts, Atty. Kevin Shay and Mr. Donald Turnbull.

The meeting was called to order at 2:05 PM.

1. Review and approval of minutes – The year on the draft minutes was corrected. Upon motion and second, the corrected minutes were approved unanimously.

Judge Carroll then briefly addressed the committee members about the expectations of the Chief Justice of the committee for the future, particularly in connection with the expansion of e-filing and the greater availability of electronic records. The work of this committee impacts the work the Branch is doing on e-filing and access to court records pursuant to the implementation of the recommendations of the Public Service and Trust Commission.

2. Update on rules effective January 1, 2010 – Judge Berger provided an update on the rules recommended by the committee. The new rules and amendments to three other existing rules were approved by the Judges at their annual meeting and will become effective on January 1, 2010. Judge Berger pointed out the change to Sec. 4-2 (b) which states that attorneys' signatures on pleadings certify that they are in compliance with the new rule on eliminating or redacting personal identifying information.

Discussion about the obligation of clerks or judges to redact information emphasized that the onus is on the filer to redact information, not on the clerk or the judge. Clerks and judges will not review pleadings to determine whether they include personal identifying information.

A brief discussion ensued regarding publicizing this new rule. An email will be sent out to bar associations, including the CBA, chairs of committees of the CBA who do collections work as well as local bar associations. Publicizing the rule is crucial because these rule changes are a first step to protecting personal identifying information as access to electronically filed documents is expanded.

3. Policy on Access to Court Records – The committee directed its attention to the draft policy on access to court records that had been developed by the Public Access Task Force based on the model policy drafted by the National Center for State Courts. The group discussed administrative records and how they fit into the proposed policy. Would they be mentioned and excluded, since they are subject to disclosure for other reasons (i.e., Freedom of Information and the G.A. 7 case)? Should they not be included in a policy on access to court records at all? Would adding commentary be helpful?

Discussion also ensued on other aspects of the definition of court records. At the next meeting, once the committee has reviewed the entire policy, members can discuss all of this in greater detail. One of the options suggested is to eliminate (b) (4) and put the bracket with a note explaining the absence of administrative records in this definition but indicating that administrative records as defined in GA 7

are also accessible to the public. Other options can be discussed at the next meeting, when the committee will review the policy on a line-by-line basis.

4. Personal identifying information or other confidential information required for adjudicative purposes – The next item was a discussion of how to protect personal identifying or other confidential information that is necessary in a court file. Discussion ensued as to the necessity for a rule providing for the submission of a confidential/sensitive data form. Many states have this type of form to permit the redaction of such information in the documents themselves while providing the court with access to the information in a non-public document. Attorney Roberts reported that the family subcommittee on forms had found that information such as social security numbers and dates of birth are required for certain federal databases in connection with support enforcement.

A subcommittee, chaired by Attorney Horwitch, and including Attorney Norman Roberts, Ms. Dalia Panke and Mr. Donald Turnbull, will look at the proposed rule and draft a form.

This rule came out of this committee, which decided what information is to be protected and we are now talking about a way to protect it. Look at other forms that are in use in other jurisdictions.

5. Education on remote electronic access to court records – A discussion ensued about providing remote electronic access to court records. Judge Carroll indicated that the consensus of the Judges' Advisory Committee is that remote electronic access for all is most likely be provided. This committee and the Judges' Advisory Committee will work together on this aspect of developing an overall access policy on court records. Ideally, as the new rule requiring filers to eliminate or redact personal identifying information from filings takes effect, personal information will be less of an issue. The committee discussed various aspects of access to files: any rationale for making family cases less accessible; alternatives to remote public access (i.e., courthouse kiosks to provide remote access from the courthouse); providing greater access to litigants or attorneys than that provided to the general public; policy considerations in making court files less accessible to some people than to others; continuing risks of identity theft and the need to protect court files and litigants from data mining; advantages of remote public access in connection with relieving the burden on understaffed clerk's offices; any policy on the bulk distribution of files; the possibility of fees as a means of discouraging data mining; and options for protecting against data mining. As the committee continues its analysis, it will also identify the goal in providing electronic access, which will impact any policy on access to files.

At the next meeting, Ms. Beth Bickley will provide the committee with information on ways that JIS can prevent data miners from accessing information in court files.

6. Future Meetings – The next meeting of this committee will be December 15, 2009 at 2:00 PM.

Upon motion and second, the meeting adjourned at 3:25 PM.