

Judicial-Media Committee

Minutes of meeting on October 19, 2009

Present: Claude Albert, Judge Douglas Lavine, co-chairs; Tom Appleby, Melissa Bailey, Joe D'Alesio, Judge Nina Elgo, Melissa Farley, Karen Florin, Chuck Howard, Judge Barbara Jongbloed, Ken Margolfo, Morgan McGinley, Chris Powell, Tom Scheffey, Judge Barry Stevens and Dave Ward.

Staff: Rhonda Stearley-Hebert, Heather Collins

I. Open meeting

Judge Lavine opened the meeting at 2:45 p.m. and introduced Melissa Bailey, the committee's newest member. He cited the good work of the committee and Ms. Bailey's affiliation with the online media in his opening remarks.

II. Minutes

The committee unanimously approved the minutes from its meeting on Sept. 14, 2009.

III. Discussion and vote on Pilot Program Committee report

Ms. Bailey raised and committee members discussed the issue of individuals with still cameras being able to use the video function on their cameras. They also discussed how submitting requests via the Judicial Branch web site might work, if that process is developed in the future.

Mr. Ward praised the work of the Pilot Program Committee and said its work represents a great step forward. Mr. Albert said he seconded those sentiments.

Attorney Howard suggested that the committee might want to recommend that any prospective rule refer to "video cameras" rather than television cameras. This recommendation would reflect the fact that this technology is used by all news media, particularly web site-based news organizations. However, committee members also stressed that the suggestion is not intended to supplant a TV camera with another medium's video camera. Ms. Farley added that guidelines in place give precedence to TV cameras for video because 1) the quality of the video taken by a TV station is better; and 2) a TV station has the ability to distribute onsite to members of a pool. With that in mind, the committee then unanimously voted to ask that any prospective rule refer to "video cameras" rather than "television cameras."

Committee members then unanimously approved the report and recommendations of the Pilot Program Committee, which was co-chaired by Mr. Appleby and Judge Clifford. Judge Lavine said the committee did tremendous work. He added that he and Mr. Albert would now send a letter to Judge Barbara Quinn, chief court administrator, and Chief Justice Chase T. Rogers, explaining that the full Judicial-Media Committee has approved the report and recommendations.

IV. Audio recordings of court proceedings: discussion and vote on the following motions proposed by Mr. Albert and Judge Lavine:

1) The Judicial-Media Committee recommends that Practice Book Section 1-10(a) be amended to read: “Personal computers may be used for note-taking in a courtroom. *Members of the media, as defined by Practice Book 1-10A, may use audio recording devices for note-taking in a courtroom, subject to the limitations in Practice Book Section 1-10B.* If the judicial authority finds that the use of computers or audio recording devices is disruptive of the court proceeding, it may limit such use. No other electronic devices shall be used in a courtroom unless authorized by a judicial authority or permitted by these rules.

2) The Judicial-Media Committee recommends that the Practice Book rules and/or guidelines authorized by the Chief Court Administrator for electronic devices in the courtroom provided that for good cause only, a judge may permit members of the public who are neither litigants nor members of the recognized media to make audio recordings of a court proceeding, subject to conditions to be established by the court. Any such decision shall not be appealable.

3) Subject to Practice Book Sections 1-10B(b), there shall be no audio recordings of court proceedings in the superior court except as authorized by a judicial authority. In exercising its authority to determine whether to allow audio recordings, the court shall consider whether the requester is a member of the media as defined by Practice Book Sections 1-10A. [The judicial authority may authorize audio recordings only with or without the requirements as provided by Practice Book Section 1-11 – 1-11C]. Any such decision shall not be appealable. The only official transcript of the court proceedings will be that prepared by the court reporter or monitor. (Judge Stevens provided this language).

4) The Judicial-Media Committee recommends that the rules and/or guidelines for electronic devices in courtrooms should state that the only official transcript and/or audio tape of the proceeding will be that prepared by the court reporter or monitor.

Before the discussion began, Judge Lavine asked Attorney D’Alesio to report on a recent development. Attorney D’Alesio told the committee that the Chief Justice – as a result of the Judicial Branch’s strategic plan – has formed a committee to review all aspects of court reporters and monitors. One area that will be examined, he said, is making available at a very reasonable rate audio recordings of court proceedings. Mr. Albert, who is a member of the new committee, added that he also would like the committee to discuss the possibility of providing a live feed.

Committee members focused their discussion on Recommendations 1 & 2. Judge Stevens asked Judge Lavine what he meant by the phrase “good cause” in No. 2; Judge Lavine responded that the phrasing is a compromise, so that a mere request alone is not good

cause. Mr. McGinley asked why such wording was necessary if the decision is at the discretion of the judge. Judge Stevens answered that, to a judge, there is a big difference between good cause and at the discretion of the judge. Good cause requires identifying a use that is something more than the ordinary, he explained.

Judge Lavine added that the judges' paramount concern is the need to maintain control of the courtroom when there are people who want to disrupt the proceedings. A secondary concern is people not knowing that they are being taped.

Attorney Howard said he believes there should be a written application to audiotape court proceedings and that there should be some rules regarding what should not be recorded. None of those issues are addressed in Recommendation No. 2, he said, and having the requirement of "good cause" would be no different than having specific rules in place.

Judge Elgo added that she is comfortable with the phrase "good cause," because the issue of control in the courtroom is so important.

Mr. Albert asked whether there was any objection to recommending that litigants be included in the committee's recommendation. He added that limiting the recommendation to note-taking would make for a much simpler process. Judge Stevens responded that if Recommendation No. 1 is limited to note-taking, he believes that litigants could be included.

Judge Lavine asked what happens if someone then wants to put audio on the radio. Mr. Albert then asked members of the media who are on the committee whether they would be comfortable with the note-taking limitation.

Mr. Scheffey said the question for the media is whether a timely, accurate recording of the proceeding is available. Mr. Ward added that he's on the fence; that if his camera in court is turned off per the judge's order but his reporter has taped notes, then he wants to support the reporter. Mr. Appleby asked why would the media cross the line with a tape recorder but not with the camera? If the media agree to the rule, then they need to live by it, he said. Mr. Ward added that it's a difficult issue; that is, to have something in electronic form and to not be able to use it.

Mr. McGinley said he had a hard time making a distinction between reading notes over the air but you can't broadcast audio from court. Why wouldn't the media be allowed to broadcast? he added.

Under those circumstances, the media could put in a request under the pilot program, Mr. Albert answered. Mr. Appleby added that the report prepared by the Pilot Program Committee is the result of compromise. Allowing audio recording is saying this is another tool for the media to use, he said. He added that he's willing to take that step if it gets him some of what the media want.

If Recommendation No. 1 is approved, Attorney Howard said, nothing is in there that would require that the judge receive notice. Upon Mr. Albert's recommendation, the committee then focused its discussion on Recommendation No. 1

The goal of Recommendation No. 1, Judge Lavine said, is to increase the accuracy of reporting and make note-taking easier for the reporter. He also said he thinks it would be fair to add language to Recommendation No. 1 that the court would receive notice, and he proposed that motion, which was seconded.

Mr. Albert said he wanted to make sure that the media was comfortable with the limitation regarding note-taking only, because he didn't want to make a commitment and then not follow through on it.

The amended Recommendation No. 1 was:

The Judicial-Media Committee recommends that Practice Book Section 1-10(a) be amended to read: Personal computers may be used for note-taking in a courtroom. *Members of the media as defined by Practice Book Section 1-10A, may use audio recording devices in a courtroom for note-taking only, subject to the limitations in Practice Book Section 1-10B, upon notice to the court.* If the judicial authority finds that the use of computers *or audio recording devices* is disruptive of the court proceeding, it may limit such use. No other electronic devices shall be used in a courtroom unless authorized by a judicial authority or permitted by these rules.

The committee unanimously approved the motion. Committee members unanimously approved tabling Recommendations 2, 3 & 4.

V. Schedule next meeting; adjourn

The committee scheduled its next meeting for Monday, February 8, at 3 p.m. at WFSB in Rocky Hill.

Committee members adjourned at 4:40 p.m.