

COMMITTEE ON CIVIL PRACTICE LAWS AND RULES

MINUTES OF THE TELECONFERENCE MEETING

DECEMBER 5, 1997

MEETING called to order at 1:05 p.m.

PARTICIPANTS: Paul Aloe, Harry Mooney, J. David Burke, Joe Einstein, David Ferstendig, Jim Gacioch, Sharon Gerstman, David Hamm, James Hartman, Richard Laudor, Maurice Chayt, Jill Nagy, Hon. Michael Stallman, Robert Knapp, Ray Bragar, Matthew Wild, James Blair, Louis Cristo, Steven Critelli, Hon. Myriam J. Altman.

1. The first item discussed was the proposal to repeal the present CPLR 8303-a sections regarding sanctions and enact a single section incorporating Uniform Rule 130.1. After discussion, the Committee agreed that Paul should ascertain OCA's position regarding this proposal. If it approves, Jim Gacioch will write a supporting memorandum. In the event OCA disapproves, we will not go forward with this proposal.
2. The Committee unanimously approved Paul Aloe's proposal to enact CPLR 4548 which tracks FRE 408 which affords protection to discussions that take place during settlement negotiations.
3. Harry Mooney's proposal for service of process upon LLC's, PLLC's, LLP's and LP's was approved unanimously.
4. David Hamm's proposal for the establishment of a pharmacy privilege was deferred to our January meeting. Richard Laudor will research whether this privilege exists in other states.
5. We unanimously approved Sharon Gerstman's revisions to her Election Law/Commencement by Filing proposal.
6. We also unanimously approved Sharon's proposal to amend CPLR 306-b by renumbering it as Subdivision (a) of CPLR 306-a and adding the provision that an action will be deemed dismissed unless within one year proof of service has been filed.
7. Matthew Wild pointed out that Domestic Relations Law, Section 236B defines marital property as all property acquired before the commencement of an action. He explained that some defendants are unduly prejudiced where the plaintiff commences the action by filing but delays in serving the summons. Matt and Sharon will consider this problem and report at our next meeting.
8. The last item discussed was our motion practice bill. Paul informed us that OCA opposes the bill because it believes it will adversely affect Standard and Goals. After discussion, it was agreed that we would work with OCA on a pilot program using our proposal. Joe Einstein, Paul Aloe and Sharon Gerstman will work with OCA on this program.

The conference concluded at 3:00 p.m.