

Equitable Distribution Committee Minutes
Telephonic meeting held Friday, August 22, 2008
12:00 p.m. to 12:40 p.m.

I. Call to Order: Co-Chairs Nicole Goetz and Susan Savard were present and called the meeting to Order.

II. Attendance:

Committee members in attendance were Nicole Goetz, Susan Savard, Belinda Lazzara, David Garfinkel, Douglas Greenbaum, Jeffrey Conner, John Foster, Sheena Benjamin-Wise, Carrie Arvine and Odette Bendeck. All members in attendance had received the proposed statutory language.

III. Discussion:

John Foster suggested that the statutory language include a presumption. Susan Savard read the first draft of the proposed statutory language and explained that the drafting committee believed it to be too cumbersome and that the intent was to keep the new language as simple as possible.

Nicole Goetz discussed the research involved as well as *Urp v. Urp*. She advised that the Second District is moving toward imposition of statutory interest, which may create a conflict within the Districts. Florida research on this issue was discussed.

John Foster suggested that the proposed statutory language concerning the premise creates a rebuttable presumption. A discussion ensued relating to the burden of proof required to overcome the presumption and whether language should be included in the proposed statute in this regard, or whether requiring findings of fact would be sufficient. The necessity for additional statutory factors concerning overcoming the presumption was also discussed and rejected as it would be difficult to identify all possibilities which may arise.

David Garfinkel advised that the proposed statutory language closely tracks the language of the existing statute with respect to the "premise" issue.

John Foster voiced Dori Forster Morales' concerns relating to the "commercially reasonable" interest and whether the proposed statute should be revised to include an actual calculation, such as prime rate plus, or IRS short term rate. David Garfinkel noted that to do so would not give the court discretion under the facts of any given case.

A discussion was held concerning a change to the proposed language from “impose” to requiring in the first sentence, and the consensus was that this revision should be made.

Following motion by Nicole Goetz, seconded by Susan Savard, the proposed statutory amendment was approved by the committee. The amendment will be forwarded to the Legislation Subcommittee for the equitable distribution statute for further comment and possible revision.

Meeting adjourned at 12:40 p.m.