



Uniform Law Commission

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UNIFORM LAW FOUNDATION

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From: Michael Getty
To: Study Committee on Mareva Injunctions
Date: October 14, 2009

Colleagues:

Thank you for agreeing to serve on the Study Committee on Mareva Injunctions. I write both to welcome you to the committee and inform you of the plans for the initial work of the committee. Attached is a copy of the committee roster.

Set forth below is the action of the Scope and Program and Executive Committees in establishing the Study Committee:

- **Mareva Injunctions**
(ABA International Law Section) – Scope Liaison Barry Hawkins

Commissioner Hawkins addressed this proposal to appoint a study committee to consider the viability of a uniform state law addressing “Mareva” injunctions (also known as freezing orders). A Mareva injunction is a court order preventing a defendant from transferring assets until the outcome of an associated lawsuit is decided. Executive Director Sebert reported that the ABA International Law Section created a task force to investigate this issue, and this proposal is a result of the work of that task force. The project was discussed at the fall 2008 meeting of the JEB on International Law, and the ULC International Legal Developments Committee has recommended that a study committee on this project be formed. After discussion, the Committee on Scope and Program agreed to recommend the formation of a study committee.

The Committee on Scope and Program approved the following resolution:

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a study committee on freezing orders – court orders preventing a defendant from transferring assets until the outcome of an associated lawsuit is decided – be formed.

At its meeting of July 13, 2009, the Executive Committee approved this revised resolution:

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a study committee be formed to examine the feasibility of drafting an act on “Mareva” injunctions (also known as freezing orders), as proposed by the ABA International Law Section.

John Sebert and I believe that the work of the study committee will require the consideration of potentially complex civil procedure and due process issues, and that the study committee needs an experienced and knowledgeable reporter. We are fortunate that Dean John Carroll of Samford University, Cumberland School of Law, has agreed to take on this role. His biographical sketch is attached, and his contact information is on the committee roster.

Before becoming dean in 2001, John served for fourteen years as a United States Magistrate Judge in the Northern District of Alabama, and he currently teaches complex litigation. The combination of Dean Carroll's judicial experience and his broad knowledge of complex litigation provide precisely the breadth and depth of knowledge that John Sebert and I were seeking in a reporter. You also may recall that Dean Carroll served as reporter for the Drafting Committee on the Uniform Rules Relating to the Discovery of Electronically Stored Information, and he did an excellent job in that role.

Dean Carroll, John Sebert, and I had a conference call last week and agreed on the following plans for the initial work of the study committee:

- Dean Carroll will work over the remainder of this calendar year to provide further research on the civil procedure and due process issues that might be raised by the proposal, and to identify the issues or other matters that a uniform or model act on Mareva injunctions might cover. Dean Carroll indicates that this memorandum will be ready for distribution to the Study Committee in early January, 2010.
- After the memorandum is distributed, we will have at least one conference call in late January to discuss the memorandum and to identify any additional matters on which research should be undertaken.
- John Sebert and other members of his staff will begin identifying entities that should be invited to participate in the work of the Study Committee as observers. Any of you who have suggestions as to observers should send that information to John and to me. It will be most helpful if you could send the name and contact information of an individual associated with the entity, if possible, so that we have a specific contact within the organization whom we can add to the Study Committee roster as an observer.

Attached are a variety of documents related to the work of the Study Committee:

- The proposal, which was submitted by a task force of the ABA Section of International Law that Steve Richman chaired (Steve is now a Section Advisor to the Study Committee from the International Law Section);
- The Report to the Council of the International Law Section on this matter;
- An Appendix to the Report listing relevant statutes and rules in the various states; and
- An narrative on the subject prepared by Steve Richman.

I look forward to working with you on this project. We will be in touch when we have further to report, but in the meantime please contact me if you have suggestions or questions about the work of the Study Committee.

Best regards,

Michael Brennan Getty
Chair, ULC Study Committee on Mareva Injunctions