

Minutes of Meeting
Civil Commission Workgroup on Civil Rules and Statutes
March 10, 2014
12:00 noon

Those attending: Hon. Barbara Bellis, Hon. Marshal Berger, Attorney Jonathan Orleans, Attorney Catherine Nietzel, Attorney Alinor Sterling, and Attorney William Sweeney.

1. Welcome – Judge Berger welcomed the group and discussed the goals of today’s meeting.
2. Discussion of recognizance rules and statutes – continued – The group looked at the revised draft of the recognizance rules. The group had a lengthy discussion on revising the rule to eliminate the requirement as part of the case initiation process. Concern was raised that eliminating the requirement and replacing it with the option to move for a court order directing the plaintiff or the defendant to provide a bond or recognizance for costs would result in an influx of motions for bond or recognizance. After the discussion, the group agreed to provide a copy of the proposed changes to the Civil Commission and discuss it at the next Civil Commission meeting in June.

The workgroup then looked at the proposed revisions to Section 11-12 on Motions to Reargue. The group decided to:

Change the title and contents of the section to refer to a “Motion to Reconsider or Reargue.” Many of the motions filed with the courts currently are taken on the papers and considered by the judicial authority, without oral argument. Changing the language will be more inclusive. Subsection (a) will also be revised to incorporate the new language. In addition the commentary will explain why this change was made. Several other revisions will be made, including a listing of some of the appropriate reasons for filing a motion to reargue or reconsider. Those grounds include material factual errors or inconsistencies within the decision, overlooking a principle of law that would have a controlling effect on the decision, any changes in the law occurring after the decision is made, or a ruling by the trial court on an issue that was not addressed by the parties. (See Klewin case: 282 Conn. 54)

The group then talked about a provision in Sec. 11-13 that requires a filer to note on the first page of a pleading that the matter has been assigned for trial. This section was revised to exclude electronically-filed reclaim slip. The group discussed requiring filers to include the date of the scheduled trial on the first page of the filing once such date has been assigned. The group also discussed changing references to judges to “judicial authority” to be consistent with other rules.

The group then briefly talked about the summary judgment proposals. Judge Berger suggested that the workgroup consider spending some time reviewing the comments and attempting to draft a revised proposal that addresses the concerns of the bar. This rule revision will require considerable discussion and input from various interested groups. It may be wise to look at what is done in other states as well. It might also make sense to look at how many motions for summary judgment go up on appeal and see how many are upheld. The group will discuss this at a future meeting.

3. Review and Discussion of draft of rules on special defenses – Discussion ensued about the proposed revisions to the special defense. It was suggested that continuing course of conduct, identifiable victim and imminent harm should be added to the items that must be pleaded specially.
4. The next meeting should be longer to allow in depth discussion of these proposals.

The meeting adjourned at 2:30 PM.