

Minutes
Civil Commission - Work Group on Civil Rules and Statutes
225 Spring Street, Room 204
Wethersfield, CT

Monday, September 10, 2012
11:30 AM

In attendance: Hon. Barbara N. Bellis; Hon. Marshall K. Berger, Jr.; Attorney Catherine Smith Nietzel; Attorney Jonathan B. Orleans; and Attorney William J. Sweeney

The workgroup discussed a variety of proposals.

The group discussed the utility of requests to revise, the possibility of adding a good faith conferral requirement into the rule, the use of a motion to strike, and the omnibus motion as an alternative to these motions and requests. A long and spirited discussion ensued. The result of the discussion was that the motion to strike should remain, but in accordance with a prior proposal, the time frame for filing a responsive pleading will be extended. The request to revise will remain without any change at this time. Finally, the omnibus motion proposal will not be re-submitted at this time. Judge Berger briefly talked about the upcoming individual calendaring project, including the general outline of how it would work. The consensus was that it would be best to hold off on a major change to the pleadings like the omnibus motion proposal to allow the judges and the bar to acclimate to individual calendaring. In a year or so, the group can consider the omnibus motion again.

Amending 17-44 to track Local R. Civ. Proc. 56(a) – The group reviewed the proposal for amending the summary judgment process that had been originally proposed to the Rules Committee in 2003. After review and discussion, the consensus was that the rule should be submitted to the Civil Commission for their input and then resubmitted to the Rules Committee.

The issue of scrapping the return date will remain on the back burner for now. Its elimination requires more sweeping changes than the group can address for now.

The group then discussed the proposed revisions to the rules on Motions to Strike and Motions to Dismiss. The proposals originally included the filing of an objection and memorandum in opposition, but after discussion, the group agreed to eliminate the objection and provide for the filing a memorandum of law in opposition only. After discussion regarding the language about an evidentiary hearing, the group agreed to eliminate that section from the Motion to Strike since no evidentiary hearing would be permitted under the rules. In Sec. 10-30, the language will be revised to eliminate refer to an “evidentiary hearing required” and to include a requirement that any party asking for an evidentiary hearing shall file a request with the court. Anything “indicated” on a pleading would not be seen by the clerk or the court until the day of the short calendar now that pleadings are filed electronically. Therefore, a form to request an evidentiary hearing regarding a motion to dismiss will be drafted and a party seeking a hearing will be required to file the form at or about the time of filing the motion. The request would be queued to the clerk and caseflow to schedule a hearing.

The group next discussed the time for pleading set out in Practice Book section 10-8. The consensus was that the time allowed should be extended thirty days for subsequent pleadings.

The group then discussed looking at Practice Book sections 10-50 through 10-57, 10-63 – 10-65 and 10-72 through 10-75. Each of these sections contains language, some or all of which is not easily understood. Some sections of the Practice Book may no longer be needed. The question to be decided is whether this is a task that the work group and the commission as a whole should take on. If the decision is to take this task on, it will be necessary to proceed with caution and expand the group to be sure that the people who have familiarity with these more arcane provisions are at the table to discuss them, including judges and attorneys. This question will be discussed further. Judge Berger will bring it up at the Civil Commission meeting this afternoon.

At the next meeting, the group agreed to look at special defenses, Sec. 10-57 and Sec. 10-63.