

Draft Minutes  
Civil Commission  
Work Group on Civil Rules and Statutes  
225 Spring Street, Room 206  
Wethersfield, CT  
Monday, March 30, 2015  
12:30 PM

Those attending: Hon. Barbara Bellis, Hon. Marshall Berger; Atty. David Belt; Atty. Alinor Sterling, and Atty. William Sweeney.

1. Welcome – The meeting was called to order at 12:35 p.m. The group first discussed proposing a change to the small claims rules dealing with establishing pleading deadlines for small claims cases that are transferred to the Superior Court. Pleading deadlines in Superior Court cases key off the return date. However, when a case is transferred from small claims, no return date exists, resulting in confusion on when pleadings must be filed and when a motion for default is appropriate. After discussion, the consensus was to propose adding language to Section 24-21 regarding the date from which pleading deadlines would be computed.

The workgroup also discussed the difference between the small claims rules and the rules in Superior Court regarding the ability of a corporation to appear as a self-represented party.

2. Approval of Minutes – January 16, 2015; February 23, 2015 and March 9, 2015 – The draft minutes were approved unanimously.
3. Discuss Revised Draft on Extension of Time (Motions and Requests) – The group discussed the revised drafts of sections 13-7, 13-8, 13-10 and 17-45. The group approved of the changes, with the following additional revisions: (1) delete the phrase “after the judicial authority ruling” from Section 13-8 (b); and (2) reducing the time for calendaring of a motion for summary judgment to from the originally proposed sixty days to forty-five days in Section 17-45 (a) and in the commentary. Making the time forty-five days is consistent with the calendaring of motions to strike and motions to dismiss.
4. Discuss Revised Draft of Sec. 13-14 and Commentary – Yeager v. Alvarez – The group extensively discussed the proposal to revise Sec. 13-14 of the Practice Book. Discussion included the operative date of any amended offer of compromise for purposes of computing interest; whether there is discretion in the calculation of interest; whether the calculation should be based upon the time of the filing of an amendment; any inherent authority of the a judge to make the amendment “nunc pro tunc”; and whether the bad faith should be a factor. Some proposed language was: (1) The judicial authority shall have the power to set the effective of the amendment, including the authority to set it retrospectively; (2) The judicial authority shall also set the effective date of the amended offer of compromise/date from which the interest will run; or (2) If the judicial authority

allows the amendment of an offer of compromise outside of the eighteen month period, interest shall run from the original offer of compromise.”

Alinor offered to come up with some alternative language on this issue.

The group then briefly discussed the state and federal discovery processes with respect to the resolution of objections, good faith affidavits, and motions for order of compliance.

5. Discuss Draft of Special Defenses – The group then discussed the proposed draft revising the special defenses, including the inability to waive subject matter jurisdiction (i.e., standing to sue, statute of limitations); questions on pleading of independent contractor/agency; whether superseding cause should be a special defense; the underlying issue with requiring the defendant to plead additional special defenses because of the shifting of the burden of proof; and the impact on the type of evidence a defendant can or cannot bring in at trial. It may be worthwhile to do some legal research on the assumption of the burden of proof before going any further. It might be best to address this underlying issue, rather than attempting to come up with an exhaustive list of defenses that must be pleaded specially. Discussion will continue on this.
6. General Discussion of Federal Rules vs. State Court Rules – The group discussed briefly the concept of adopting the federal rules or some portions of the federal rules. The consensus was that this option would be difficult to accomplish.
7. Discuss proposal on obtaining documents from a third-party without a deposition – Tabled for the next meeting.

The meeting adjourned at 3:10 p.m.