

Minutes
CIVIL COMMISSION
Work Group on Civil Rules and Statutes
225 Spring Street, Room 204, Wethersfield, CT
Thursday, October 30, 2014

Those in attendance: Hon. Barbara N. Bellis, Hon. Marshall K. Berger, Jr., Atty. Catherine Nietzel, Atty. Jonathan Orleans and Atty. Alinor Sterling

1. Welcome and call to order – The meeting was called to order at 12:10 p.m.
2. Proposal to create a rule to facilitate obtaining documents from a non-party witness without a deposition – The group discussed the proposal and agreed that such a rule should be drafted and presented to the Civil Commission. Atty. Orleans will provide the group with information on the federal rule/statutory authority for this process.
3. Proposal to amend the rules to explicitly allow the filing of reply memoranda – After discussion, the group agreed to draft a rule modeled on the federal rule permitting the proponent of a motion to file a reply memorandum limited to ten pages unless otherwise ordered by the judicial authority within fourteen days.
4. Service of Process by e-mail on corporations and LLCs (C.G.S. Sec. 52-64(a)) – The group discussed the proposal, and suggested that the statute regarding the appointment of an agent for service of process include waiver of service language. The statutes on service of process on corporations and foreign corporations should be amended to include service of process by e-mail on the registered agent for service. If limited liability corporations are required to maintain a registered agent for service of process, email service of process as an option will also be added.
5. Offer of Compromise (C.G.S. Sec. 52-192a; P.B. Sec. 17-11 – 17-18) – The work group discussed the purpose of the offer of compromise statute and rule - to encourage an early settlement of a case before the parties incur potentially unnecessary costs and expenses – and whether the current process is working. Discussion included whether different types of cases might need to be handled differently, the different perspectives of the plaintiff and defense bars on this statute and rule, whether some of the problems could be addressed by changing the statutory interest rate to tie it to some prevailing rate, if the time for a defendant to respond could or should be tied to the disclosure of experts, and whether language could be included to explicitly provide for an extension of the time to accept an offer of compromise. They discussed the Yeager vs. Alvarez case in which the Supreme Court discussed the striking of an offer of compromise as a sanction when one party deprives another of “material information sought through discovery” or provides misinformation. A proposal to add this type of sanction to Practice Book section 13-14 (b) will be drafted, and possible language to add to 17-12, 17-14A, 17-15 and Sec. 52-192a and 52-193.
6. Application for Commission to Take Foreign Depositions – This item was not discussed and will be included on the agenda for the next meeting.
7. Prejudgment Remedy statutes (C.G.S. 52-278a – 52-278n) – This item was not discussed and will be included on the agenda for the next meeting.

The meeting adjourned at 3:10 PM.