

Draft Minutes
Civil Commission Workgroup on Civil Rules and Statutes
225 Spring Street, Room 206
Wethersfield, CT
Tuesday, June 21, 2016 at 1:00 p.m.

Those in attendance: Hon. Marshall Berger, Attorney Catherine Nietzel, Attorney Jonathan Orleans (by phone), Attorney Alinor Sterling and Attorney William Sweeney.

The meeting was called to order at 1:05 p.m.

1. Approval of Minutes – This agenda item was deferred to a subsequent meeting of the workgroup.
2. Discussion on special defense sections – This item was passed.
3. Discussion on Sec. 13-2 – Scope of Discovery – Extensive discussion took place regarding the proposal that was drafted as a result of a recommendation from the Committee on Discovery and Expedited Litigation. One of the charges of the committee was to address the increasing costs of litigation, particularly with respect to discovery. There was extensive discussion on this proposal, including the proposed placement of this provision in the rule on scope of discovery, whether the rule switches the burden to the propounding party, whether the person objecting to the discovery has the initial burden, whether the “burden” will really matter in general, whether the proposal makes discovery more restrictive than it is now, and whether it would be better to wait to see how the proportionality process works in federal court.

The proposal will go to the Civil Commission, and the workgroup members can express their positions to the full commission.

4. Discussion of revision to Sec. 13-31 – Use of Deposition Testimony – Discussions took place on proposed revisions to Sec. 13-31(2) to clarify the use of a deposition. The proposed language after discussion is the following (see underlined language below)

The deposition of any physician, psychologist, chiropractor, natureopathic physician, osteopathic physician or dentist licensed under the provisions of the General Statutes and disclosed as an expert witness under Section 13-4 in connection with treatment or an opinion on the standard of care may be received in evidence in lieu of the appearance of such witness at the trial or hearing whether or not the person is available to testify in person at the trial or hearing.

The workgroup will discuss the proposal again at its next meeting before referring it to the Civil Commission.

5. Discussion of proposed revision of Sec. 52-64 – Service of process on state – The group discussed the proposed revisions to this statute and to the statute on service of process on corporations.
6. Other business – In the course of discussion proportionality and discovery, several proposals were made. The first proposal was to add “subject to the provisions of Section 13-2 through 13-5” to the rules on objections to interrogatories (Sec. 13-8) and requests for production (Sec. 13-10). A second proposal was to eliminate Sec. 13-16 on orders by a judge because it is no longer relevant. A third proposal is to add language to the first sentence of Sec. 13-15 to clarify that the duty to disclose exists when there has been an objection and partial compliance: “...including partial compliance subject to an objection or made notwithstanding an objection.” These proposals will be submitted to the Civil Commission.

The meeting adjourned at 3:00 p.m.