

Minutes of the Meeting
Rules Committee
Monday, May 18, 2015

On Monday, May 18, 2015, at 2:00 p.m. the Rules Committee conducted a public hearing in the Supreme Court courtroom to receive comments concerning proposed revisions to the Practice Book and, pursuant to subsection (c) of Section 51-14 of the Connecticut General Statutes, to receive comments on any proposed new rule or change in an existing rule that any member of the public deemed desirable. At the conclusion of the public hearing, the Committee met in the Supreme Court courtroom from 2:52 p.m. to 3:30 p.m.

Members in attendance were:

HON. DENNIS G. EVELEIGH, CHAIR
HON. MARSHALL K. BERGER, JR.
HON. WILLIAM H. BRIGHT, JR.
HON. HENRY S. COHN
HON. ROBERT L. GENUARIO
HON. MARY E. SOMMER
HON. ROBIN L. WILSON
HON. ROBERT E. YOUNG

Also in attendance were Joseph J. Del Ciampo, Counsel to the Rules Committee, and Attorneys Denise K. Poncini and Lori A. Petruzzelli of the Judicial Branch's Legal Services Unit. The Honorable Jon M. Alander was not in attendance at this meeting.

1. The Committee unanimously approved the minutes of the meeting held on March 16, 2015.

2. The Committee considered comments from Judge Robert J. Devlin, Jr., Chief Administrative Judge, Criminal Division on the proposal to amend Section 7-19 to provide a mechanism for self-represented parties in criminal cases to obtain court issued subpoenas for necessary witnesses.

After discussion, the Committee unanimously adopted the proposal to amend Section 7-19 as further amended by the Committee, as set forth in Appendix A attached to these minutes.

3. The Committee considered comments by Attorney Richard Tenenbaum, Connecticut Legal Services, on proposed revisions to Sections 17-30 and 17-53 concerning summary process.

After discussion, the Committee decided that no further action regarding those comments was necessary and the revisions as proposed would be recommended to the judges for adoption.

4. The Committee considered comments by Mr. Stephen Williams on proposed new Section 2-47B concerning restrictions on the activities of deactivated attorneys.

After discussion, the Committee decided that no further action as a result of those comments was necessary and the revisions as proposed would be recommended to the judges for adoption.

5. The Committee considered comments on behalf of the Mortgage Foreclosure Litigation Clinic and the Landlord-Tenant Clinic at Yale Law School, comments by Attorney Steven Eppler-Epstein, Executive Director, Connecticut Legal Services, and remarks by Attorney Russell London at the Public Hearing on proposed revisions to Section 3-8 concerning limited appearances.

After discussion, the Committee decided that no further action as a result of those comments was necessary and the revisions as proposed would be recommended to the judges for adoption.

6. The Committee considered comments by Mark Sargent on form JD-FM-227, *Orders of Duties and Fees – Counsel or Guardian Ad Litem for Minor Child or Children*.

After discussion, the Committee decided to refer the matter to Judge Bozzuto, Chief Administrative Judge, Family Division for review and comment.

7. The Committee considered a proposal by Hon. Patrick L. Carroll III, Chief Court Administrator, to amend Section 17-32 to allow defaults for failure to plead to be set aside automatically by operation of law rather than by the clerk.

After discussion, the Committee unanimously voted to approve the amendment to Section 17-32 as proposed, as set forth in Appendix B attached to

these minutes. The Committee further voted to recommend to the judges that Section 1-9(b), requiring the proposed revision to the rules or a summary thereof be published in the Connecticut Law Journal with a notice stating the time when, the place where and the manner in which interested persons may present their views thereon, be waived and that the rule be adopted expeditiously.

8. The Committee considered the comments of all other individuals who testified at the public hearing and determined that no further action was required of the committee based on those comments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph J. Del Ciampo". The signature is written in a cursive style with some loops and flourishes.

Joseph J. Del Ciampo
Counsel to the Rules Committee

Appendix A (051815)

Sec. 7-19. Issuing Subpoenas for Witnesses on Behalf of Self-Represented Litigants

Self-represented litigants seeking to compel the attendance of necessary witnesses in connection with the hearing of any [civil] matter[, including matters scheduled on short calendar or special proceeding lists or for trial,] shall file an application to have the clerk of the court issue subpoenas for that purpose. The clerk, after verifying the scheduling of the matter [short calendar hearing, special proceeding or trial], shall present the application to the judge before whom the matter is scheduled for hearing, or the administrative judge or any judge designated by the administrative judge if the matter has not been scheduled before a specific judge, which judge shall conduct an ex parte review of the application and may direct or deny the issuance of subpoenas as such judge deems warranted under the circumstances, keeping in mind the nature of the scheduled hearing and future opportunities for examination of witnesses, as may be appropriate. If an application is denied in whole or in part, the applicant may request a hearing which shall be scheduled by the court.

COMMENTARY: The changes to this section expands the applicability of the section to any matter and comport with State v. Nowacki, 155 Conn. App. 758 (2015). Also, if an application is denied, the applicant may request a hearing which must be scheduled by the court.

Appendix B (051815)

Sec. 17-32. Where Defendant is in Default for Failure to Plead

(a) Where a defendant is in default for failure to plead pursuant to Section 10-8, the plaintiff may file a written motion for default which shall be acted on by the clerk not less than seven days from the filing of the motion, without placement on the short calendar.

(b) If a party who has been defaulted under this section files an answer before a judgment after default has been rendered by the judicial authority, [the clerk shall set aside the default.] the default shall automatically be set aside by operation of law unless [If] a claim for a hearing in damages or a motion for judgment has been filed. If a claim for a hearing in damages or a motion for judgment has been filed, the default may be set aside only by the judicial authority. A claim for a hearing in damages or motion for judgment shall not be filed before the expiration of fifteen days from the date of notice of issuance of the default under this subsection.

COMMENTARY: The revision to this rule is intended to incorporate the language of Section 17-20 on setting aside a default for failure to appear in order to make the setting aside of a default for failure to plead more efficient.