

On Monday, January 11, 2016, the Rules Committee met in the Supreme Court courtroom from 2:00 p.m. to 2:59 p.m.

Members in attendance were:

HON. DENNIS G. EVELEIGH, CHAIR
HON. JON M. ALANDER
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.

1. The Committee unanimously approved the minutes of the meeting held on December 14, 2015, as amended.

2. The Committee considered a proposal by Attorney Katharine Casaubon on behalf of the Legal Specialization Screening Committee (LSSC) to amend LSSC Regulations to require the filing of applications electronically.

After discussion, the Committee unanimously voted to approve the proposal which, pursuant to Rule 7.4B(c)(3) of the Rules of Professional Conduct, is effective when approved by the Rules Committee.

3. The Committee considered a proposal by Judge Bozzuto for new Practice Book Section 25-5B and a proposed revision to Section 25-34 to implement the provisions of Public Act 15-7, *An Act Concerning Nonadversarial Dissolution of Marriage*.

After discussion, the Committee unanimously voted to submit to public hearing the proposed new Section 25-5B and the revision to Section 25-34, as set forth in Appendix A. attached to these minutes.

4. The Committee considered a revised Proposal by Attorneys Ury, Pepe and

Morizio for Minimum Continuing Legal Education (MCLE) (draft dated 12-30-15) and frequently asked questions (draft dated 10-30-15); the positions of the Connecticut Bar Association, the Fairfield County Bar Association's Committee on MCLE, and the Hartford County Bar Association's Committee on MCLE concerning the MCLE proposal submitted by Attorneys Ury, Pepe and Morizio; comments from Attorney Michael H. Agranoff, Attorney Diane Duhaime, Attorney David Griffin, Attorney Arnold Rutkin, and Attorney David Griffin on behalf of the Family Law Section of the CBA regarding the MCLE proposal; comments from Judge Carroll concerning exemptions from MCLE; research from Judicial Branch Legal Services concerning exemptions from the requirements of MCLE; and a fifty state survey by Judicial Branch Legal Services concerning MCLE Quality Standards.

Attorney Ury was present and addressed the Committee concerning the proposal.

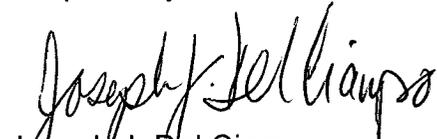
After discussion, the Committee voted to submit to public hearing the proposed MCLE rules, as set forth in Appendix B attached to these minutes. Judge Young voted in opposition; all other Committee members voted to submit the proposal to public hearing.

5. The Committee unanimously voted to reschedule the following two Rules Committee meetings:

The February 8, 2016 meeting was rescheduled to February 22, 2016 at 2pm

The March 14, 2016 meeting was rescheduled to March 21, 2016 at 2pm.

Respectfully submitted,



Joseph J. Del Ciampo
Counsel to the Rules Committee

Attachments

Appendix A (011116)

(NEW) Sec. 25-5B. Automatic Orders upon Filing of Joint Petition –Nonadversarial Divorce

The following automatic orders shall apply to both petitioners, upon the filing of the joint petition for nonadversarial divorce. An automatic order shall not apply if there is a prior, contradictory order of a judicial authority. The automatic orders shall be effective with regard to the petitioners upon filing of the joint petition and shall remain in place until further order of a judicial authority:

(1) Neither petitioner shall sell, transfer, exchange, assign, remove, or in any way dispose of, without the consent of the other petitioner in writing, or an order of a judicial authority, any property, except in the usual course of business or for customary and usual household expenses or for reasonable attorney's fees in connection with this action.

(2) Neither petitioner shall conceal any property.

(3) Neither petitioner shall encumber without the consent of the other petitioner, in writing, or an order of a judicial authority, any property except in the usual course of business or for customary and usual household expenses or for reasonable attorney's fees in connection with this action.

(4) Neither petitioner shall cause any asset, or portion thereof, co-owned or held in joint name, to become held in his or her name solely without the consent of the other petitioner, in writing, or an order of the judicial authority.

(5) Neither petitioner shall incur unreasonable debts hereafter, including, but not limited to, further encumbering any assets, or unreasonably using credit cards or cash advances against credit cards.

(6) Neither petitioner shall cause the other petitioner to be removed from any medical, hospital and dental insurance coverage, and each petitioner shall maintain the existing medical, hospital and dental insurance coverage in full force and effect.

(7) Neither petitioner shall change the beneficiaries of any existing life insurance policies, and each petitioner shall maintain the existing life insurance, automobile insurance, or renters insurance policies in full force and effect.

(8) If the petitioners are living together on the date of of these orders, neither petitioner may deny the other petitioner use of the current primary residence of the petitioners, without order of a judicial authority. This provision shall not apply if there is a prior, contradictory order of a judicial authority.

(9) The petitioners shall each complete and exchange sworn financial statements substantially in accordance with a form prescribed by the chief court administrator and file the financial statement with the joint petition. The petitioners may thereafter enter and submit to the court a stipulated interim order allocating income and expenses.

The automatic orders of a judicial authority as enumerated above shall be attached immediately following the petitioners' joint petition for nonadversarial divorce and shall set forth the following language in bold letters:

Failure to obey these orders may be punishable by contempt of court. If you object to or seek modification of these orders during the pendency of the action, you have the right to a hearing before a judge within a reasonable time.

The clerk shall not accept for filing any joint petition for nonadversarial divorce that does not comply with this subsection.

COMMENTARY: This proposed new rule is consistent with the nonadversarial divorce provisions of No. 15-7 of the 2015 Public Acts.

Sec. 25-34. Procedure for Short Calendar

(a) With the exception of matters governed by Chapter 13 or a motion to waive the statutory time period in an uncontested dissolution of marriage or legal separation case under No. 15-7 of the 2015 Public Acts, oral argument on any motion or the presentation of testimony thereon shall be allowed if the appearing parties have followed administrative policies for marking the motion ready and for screening with family services. Oral argument and the presentation of testimony on motions made under Chapter 13 are at the discretion of the judicial authority.

(b) Any such motion filed to waive the statutory time period in an uncontested dissolution of marriage or legal separation case will not be placed on the short calendar. The clerk shall bring the motion as soon as practicable to either the judicial authority assigned to hear the case, or, if a judicial authority has not yet been assigned, to the

presiding judicial authority for a ruling on the papers. If granted, the uncontested dissolution or legal separation is to be scheduled in accordance with the request of the parties to the degree that such request can be accommodated, including scheduling the matter on the same day that the motion is granted.

[(b)] (c) If the judicial authority has determined that oral argument or the presentation of testimony is necessary on a motion made under Chapter 13, the judicial authority shall set the matter for oral argument or testimony on a short calendar date or other date as determined by the judicial authority.

[(c)] (d) If the judicial authority has determined that oral argument or the presentation of testimony is necessary on a motion made under Chapter 13 and has not set it down on a hearing date, the movant may reclaim the motion within thirty days of the date the motion appeared on the calendar.

[(d)] (e) If the matter will require more than one hour of court time, it may be specifically assigned for a date certain.

[(e)] (f) Failure to appear and present argument on the date set by the judicial authority shall constitute a waiver of the right to argue unless the judicial authority orders otherwise. Unless for good cause shown, no motion may be reclaimed after a period of three months from the date of filing. This subsection shall not apply to those motions where counsel appeared on the date set by the judicial authority and entered into a scheduling order for discovery, depositions and a date certain for hearing.

COMMENTARY: This proposed revision is consistent with Section 5 of No. 15-7 of the 2015 Public Acts.

Appendix B (011116)

(NEW) Sec. 2-27A. Minimum Continuing Legal Education

(a) On an annual basis, each attorney admitted in Connecticut shall certify, on the registration form required by Section 2-27 (d), that the attorney has completed in the last calendar year no less than twelve credit hours of appropriate continuing legal education, at least two hours of which shall be in ethics/professionalism. The ethics and professionalism components may be integrated with other courses. This rule shall apply to all attorneys except the following:

(1) Judges and senior judges of the supreme, appellate or superior courts, judge trial referees, family support magistrates, family support magistrate referees, federal judges, federal magistrate judges, federal administrative law judges or federal bankruptcy judges;

(2) Attorneys who are disbarred, resigned pursuant to Section 2-52, on inactive status pursuant to Section 2-56 et seq., or retired pursuant to Sections 2-55 or 2-55A;

(3) Attorneys who are serving on active duty in the armed forces of the United States for more than six months in such year;

(4) Attorneys for the calendar year in which they are admitted;

(5) Attorneys who, for good cause shown, have been granted temporary or permanent exempt status by the statewide grievance committee.

(b) Attorneys may satisfy the required hours of continuing education:

(1) By attending legal education courses provided by any local, state or special interest bar association in this state or regional or national bar associations recognized in this state or another state (hereinafter referred to as "bar association"); any private or government legal employer; any court of this or any other state; any organization whose program or course has been reviewed and approved by any bar association or organization which has been established in any state to certify and approve continuing legal education courses; and any other non-profit or for-profit legal education providers, including law schools and other appropriate continuing legal education providers, and including courses remotely presented by video conference, webcasts, webinars, or the like by said providers.

(2) By self-study of appropriate programs or courses directly related to substantive or procedural law or related topics, including professional responsibility, legal ethics, or law office management and prepared by those continuing legal education providers in subsection (b) (1). Said self-study may include viewing and listening to all manner of communication, including, but not limited to, video or audio recordings or taking online legal courses. The selection of self-study courses or programs shall be consistent with the objective of this rule, which is to maintain and enhance the skill level, knowledge, ethics and competence of the attorney and shall comply with the minimum quality standards set forth in subsection (c) (6).

(3) By publishing articles in legal publications that have as their primary goal the enhancement of competence in the legal profession, including, without limitation, substantive and procedural law, ethics, law practice management and professionalism.

(4) By teaching legal seminars and courses, including the participation on panel discussions as a speaker or moderator.

(5) By serving as a full-time faculty member at a law school accredited by the American Bar Association, in which case, such attorney will be credited with meeting the minimum continuing legal education requirements set forth herein.

(6) By serving as a part time or adjunct faculty member at a law school accredited by the American Bar Association, in which case, such attorney will be credited with meeting the minimum continuing legal education requirements set forth herein at the rate of one hour for each hour of classroom instruction.

(c) Credit Computation:

(1) Credit for any of the above activities shall be based on the actual instruction time, which may include lecture, panel discussion, and question and answer periods. Self-study credit shall be based on the reading time or running time of the selected materials or program.

(2) Credit for attorneys preparing for and presenting legal seminars, courses or programs shall be based on one hour of credit for each two hours of preparation. A maximum of six hours of credit may be credited for preparation of a single program. Credit for presentation shall be on an hour for hour basis. Credit may not be earned more than once for the same course given during a twelve month period.

(3) Credit for the writing and publication of articles shall be based on the actual drafting time required. Each article may be counted only one time for credit.

(4) Continuing legal education courses ordered pursuant to Section 2-37 (a) (5) or any court order of discipline shall not count as credit towards an attorney's obligation under this section.

(5) Attorneys may carry forward no more than two credit hours in excess of the current annual continuing legal education requirement to be applied to the following year's continuing legal education requirement.

(6) To be eligible for continuing legal education credit, the course or activity must: (A) have significant intellectual or practical content designed to increase or maintain the attorney's professional competence and skills as a lawyer; (B) constitute an organized program of learning dealing with matters directly related to legal subjects and the legal profession; and (C) be conducted by an individual or group qualified by practical or academic experience.

(d) Attorneys shall retain records to prove compliance with this rule for a period of seven years.

(e) Violation of this section shall constitute misconduct.

(f) Unless it is determined that the violation of this section was wilful, a non-compliant attorney must be given at least 60 days to comply with this section before he or she is subject to any discipline.

(g) A Minimum Continuing Legal Education Commission (the "Commission") shall be established by the Judicial Branch and shall be composed of four superior court judges and four attorneys admitted to practice in this state, all of whom shall be appointed by the Chief Justice of the Supreme Court or his or her designee and who shall serve without compensation. The charge of the Commission will be to provide advice regarding the application and interpretation of this rule and to assist with its implementation, including, but not limited to, the development of a list of frequently asked questions and other documents to assist the members of the bar to meet the requirements of this rule.

COMMENTARY: It is the intention of this rule to provide attorneys with relevant and useful continuing legal education covering the broadest spectrum of substantive,

procedural, ethical and professional subject matter at the lowest cost reasonably feasible and with the least amount of supervision, structure and reporting requirements, which will aid in the development, enhancement and maintenance of the legal knowledge and skills of practicing attorneys and will facilitate the delivery of competent legal services to the public.

The rule also permits an attorney to design his or her own course of study. The law is constantly evolving and attorneys, like all other professionals, are expected to keep abreast of changes in the profession and the law if they are to provide competent representation.

Subsection (a) provides that Connecticut attorneys must complete twelve credit hours of continuing legal education per calendar year. Subsection (a) also lists those Connecticut attorneys, who are exempt from compliance, including, among others: judges, senior judges, attorneys serving in the military, new attorneys during the year in which they are admitted to practice, and those who obtain an exempt status for good cause shown. The subsection also provides an exemption for attorneys who are disbarred, resigned, on inactive status due to disability, or are retired. There is no exemption for attorneys who are suspended or on administrative suspension.

Subsection (d) requires an attorney to maintain adequate records of compliance. For continuing legal education courses, a certificate of attendance shall be sufficient proof of compliance. For self-study, a contemporaneous log identifying and describing the course listened to or watched and listing the date and time the course was taken, as well as a copy of the syllabus or outline of the course materials, if available, and, when appropriate, a certificate from the course provider, shall be sufficient proof of compliance. For any other form of continuing legal education, a file including a log of the time spent and drafts of the prepared material shall provide sufficient proof of compliance.