

Minutes of the Meeting
Rules Committee of the Superior Court
Monday, January 11, 2021

On January 11, 2021, the Rules Committee of the Superior Court met using Microsoft Teams from 2:01 p.m. to 3:09 p.m.

Members of the Committee in attendance were:

HON. ANDREW J. McDONALD, CHAIR
HON. HOLLY ABERY-WETSTONE
HON. BARBARA N. BELLIS
HON. SUSAN QUINN COBB
HON. JOHN B. FARLEY
HON. ALEX V. HERNANDEZ
HON. TAMMY T. NGUYEN-O'DOWD
HON. ANTHONY D. TRUGLIA JR.

Also in attendance were Joseph J. Del Ciampo, Counsel to the Rules Committee; Lori Petruzzelli, Counsel, Legal Services; and Shanna O'Donnell, Research Attorney, Legal Services. Judge Sheila M. Prats was absent.

1. The Committee approved the minutes of the meeting held on December 14, 2020, with a revision to numbered paragraph three on page two to insert the word "Association" after "Connecticut Defense Lawyers". Judge Bellis abstained.

2. The Committee considered a proposal from Senator Looney, Senator Winfield, and Representative Stafstrom concerning pre-trial discovery procedure in criminal matters and subsequent revised proposals from the subcommittee (RC ID # 2019-014).

Counsel conveyed a message from Judge Gold requesting that the matter be tabled to allow additional time for Judge Gold to confer with Senator Looney, Senator Winfield, and Representative Stafstrom.

After discussion, the Committee tabled the matter until the February meeting.

3. The Committee considered a proposal from Judge Stevens to amend Section 13-14 of the Connecticut Practice Book regarding the issuance of orders for non-suit or default for discovery violations, and a subsequent revised proposal submitted by Judge Stevens, Stephanie Roberge of the Connecticut Trial Lawyers Association, and Erika Amarante of the Connecticut Defense Lawyers Association (RC ID #2020-010).

Judge Stevens, Attorney Amarante, and Attorney Roberge were present and addressed the committee regarding this proposal.

After discussion, the Committee voted unanimously to modify the proposal to delete “as a remedy of last resort” after the word “default” in subparagraph (b) (5). The Committee then voted unanimously to submit to public hearing the amendments to Section 13-14 of the Practice Book, as set forth in Appendix A to these minutes.

4. The Committee considered a proposal from Attorney Megan Wade to adopt the American Bar Association's Rule of Professional Conduct 8.4 (g), regarding harassing or discriminatory conduct, and substitute proposal from the Connecticut Bar Association concerning Proposed Amended Rule 8.4 (7) (RC ID # 2020-012).

After discussion, the Committee tabled the matter and instructed Counsel to form a working group to draft a revised proposal that would address the concerns of Statewide Bar Counsel Michael Bowler and potential issues with enforcement and interpretation of the proposed rule, to be comprised of Marcy Stovall of the Connecticut Bar Association, Attorney Bowler, Director Del Ciampo, and whomever from the Connecticut Bar Association or other bar associations and others that Director Del Ciampo felt necessary.

5. The Committee considered proposals from Techo Kim to adopt a code of conduct for judicial employees; to form an independent body to investigate complaints of court clerk misconduct; and to create rules to distinguish which clerk responsibilities are judicial and which are ministerial (RC ID # 2020-020).

After discussion, the Committee tabled this proposal and referred it to the Office of the Chief Court Administrator for review of the proposal and discussion with various departments concerning human resources and labor organization issues.

6. The Committee considered a proposal from Judge Albis to amend Sections 3-1 and 3-3 concerning appearances to add requirements related to email addresses (RC ID # 2020-021).

Judge Albis and Attorney Giovanna Shay of Greater Hartford Legal Aid were present and addressed the Committee concerning this proposal.

After discussion, the Committee voted unanimously to submit to public hearing the amendments to Sections 3-1 and 3-3 of the Practice Book, as set forth in Appendix B to these minutes.

7. The Committee considered a proposal from Judge Albis to amend various Practice Book sections to reflect a new process for family matters (RC ID # 2020-023).

Judge Albis was present and addressed the Committee concerning this proposal.

After discussion, the Committee tabled this matter and referred it to the Connecticut Bar Association Family Law Section and the American Academy of Matrimonial Lawyers for comments.

8. The Committee considered a notice from Judge Conway, pursuant to Section 1-9C, of an order removing the suspension of requirements and deadlines in Section 35a-21 concerning appeals in child protection matters (RC ID #2020-024).

After discussion, the Committee took no action on this notice.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Joseph J. Del Ciampo".

Joseph J. Del Ciampo
Counsel to the Rules Committee

APPENDIX A

(01-11-2021)

Sec. 13-14. Order for Compliance; Failure To Answer or Comply with Order

(a) If any party has failed to answer interrogatories or to answer them fairly, or has intentionally answered them falsely or in a manner calculated to mislead, or has failed to respond to requests for production or for disclosure of the existence and contents of an insurance policy or the limits thereof, or has failed to submit to a physical or mental examination, or has failed to comply with a discovery order made pursuant to Section 13-13, or has failed to comply with the provisions of Section 13-15, or has failed to appear and testify at a deposition duly noticed pursuant to this chapter, or has failed otherwise substantially to comply with any other discovery order made pursuant to Sections 13-6 through 13-11, the judicial authority may, on motion, make such order proportional to the noncompliance as the ends of justice require.

(b) Such orders may include the following:

(1) [The entry of a nonsuit or default against the party failing to comply] An order of compliance;

(2) The award to the discovering party of the costs of the motion, including a reasonable attorney's fee;

(3) The entry of an order that the matters regarding which the discovery was sought or other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(4) The entry of an order prohibiting the party who has failed to comply from introducing designated matters in evidence;

(5) [If the party failing to comply is the plaintiff, the entry of a judgment of dismissal] An order of dismissal, nonsuit or default.

(c) The failure to comply as described in this section may not be excused on the ground that the discovery is objectionable unless written objection as authorized by Sections 13-6 through 13-11 has been filed.

(d) The failure to comply as described in this section shall be excused and the judicial authority may not impose sanctions on a party for failure to provide information, including electronically stored information, lost as the result of the routine, good-faith operation of a system or process in the absence of a showing of intentional actions designed to avoid known preservation obligations.

COMMENTARY: The changes to this section are intended to conform to appellate precedent. An order of compliance or other order under this section must be proportional to the noncompliance.

Appendix B
(011121)

Sec. 3-1. Appearance for Plaintiff on Writ or Complaint in Civil and Family Cases

When a writ has been signed by an attorney at law admitted to practice in the courts of this state, such writ shall contain the attorney's name, juris number, mailing address, [and] telephone number, and email address, all of which shall be typed or printed on the writ, and the attorney's appearance shall be entered for the plaintiff, unless such attorney by endorsement on the writ shall otherwise direct, or unless such attorney shall type or print on the writ the name, address, juris number, [and] telephone number, and email address of the professional corporation or firm, of which such attorney shall be a member, entering its appearance for the plaintiff. The signature on the complaint of any person proceeding without the assistance of counsel pursuant to Section 8-1 shall be deemed to constitute the self-represented appearance of such party, who shall be required to type or print on the writ the party's name, mailing address, telephone number, and email address.

COMMENTARY: These changes will facilitate the scheduling of remote proceedings, which requires the court to email a Microsoft Teams link to the participants.

Sec. 3-3. Form and Signing of Appearance

(a) Except as otherwise provided in subsection (b), each appearance shall: (1) be filed on Judicial Branch form JD-CL-12, (2) include the name and number of the case, the

name of the court location to which it is returnable and the date, (3) be legibly signed by the individual preparing the appearance with the individual's own name and (4) state the party or parties for whom the appearance is being entered and the official (with position or department, if desired), firm, professional corporation or individual whose appearance is being entered, together with the juris number assigned thereto, if any, the mailing address, [and the] telephone number and email address.

(b) Each limited appearance pursuant to Section 3-8 (b) shall: (1) be filed on Judicial Branch form JD-CL-121; (2) include the name and number of the case, the name of the court location to which it is returnable and the date; (3) be legibly signed by the individual preparing the appearance with the individual's own name; and (4) state the party or parties for whom the appearance is being entered and the official (with position or department, if desired), firm, professional corporation or individual whose appearance is being entered, together with the juris number assigned thereto if any, the mailing address, [and the] telephone number and email address; (5) define the proceeding or event for which the lawyer is appearing; and (6) state that the attorney named on the limited appearance is available for service of process only for those matters described on the limited appearance. All pleadings, motions, or other documents served on the limited appearance attorney shall also be served in the same manner on the party for whom the limited appearance was filed. For all other matters, service must be made on the party instead of the attorney who filed the limited appearance, unless otherwise ordered by court.

(c) This section does not apply to appearances entered pursuant to Section 3-1.

COMMENTARY: These changes will facilitate the scheduling of remote proceedings, which requires the court to email a Microsoft Teams link to the participants.