

November 19, 2007

Minutes of the Meeting  
Rules Committee  
November 19, 2007

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On Monday, November 19, 2007 the Rules Committee met in the Attorneys' Conference Room from 2:00 p.m. to 3:47 p.m.

Members in attendance were:

HON. PETER T. ZARELLA, CHAIR  
HON. THOMAS J. CORRADINO  
HON. RICHARD W. DYER  
HON. ROLAND D. FASANO  
HON. BARRY C. PINKUS  
HON. PATTY JENKINS PITTMAN  
HON. RICHARD A. ROBINSON  
HON. MICHAEL R. SHELDON

Judge C. Ian McLachlan was not in attendance at this meeting.

Also in attendance was Carl E. Testo, Counsel to the Rules Committee.

Agenda

1. The Committee approved the minutes of the meeting held on October 29, 2007.
2. The Committee considered a submission from Judge Kari A. Dooley concerning an inconsistency between C.G.S. § 46b-138b and Practice Book Section 30a-6.

The Committee tabled this matter until the juvenile rules proposals are submitted to the Rules Committee by the Juvenile Task Force.

3. The Committee considered a proposal by Attorney Joseph J. Del Ciampo to amend Practice Book Sections 17-14 and 17-18 in light of Section 16 of Public Act 07-141.

After discussion, the Committee further amended the proposed revision to Section 17-18 and unanimously voted to submit to public hearing the revisions to Sections 17-14 and 17-18 as set forth in Appendix A attached hereto.

4. At a prior meeting the Rules Committee referred to the Civil Division Task Force for review and a recommendation a proposal by Judge Douglas C. Mintz concerning depositions of physicians for discovery purposes.

At this meeting the Committee considered Judge Mintz's proposal and the report of the Task Force which concluded that the rule should be left as it is unless a significant problem is presented and that discovery problems can be resolved with the assistance of the court.

After discussion, the Committee, by a vote of seven to one, voted to deny the proposal.

5. The Committee tabled to its January meeting a proposal by Greater Hartford Legal Aid to amend Rule 1.14 of the Rules of Professional Conduct in light of recent changes in Connecticut's conservatorship laws.

6. At a prior meeting the Committee considered a proposal by Ms. Maureen Teachmen that the retention schedule under Practice Book Section 7-10 for withdrawals and dismissals of medical malpractice cases be extended from one year after termination or the rendition of judgment to seven to ten years. The Committee decided at that meeting to refer the proposal for comment to Joseph D. D'Alesio, Executive Director of Court Operations.

At this meeting the Committee considered Attorney D'Alesio's response and unanimously voted to deny the proposal.

7. The Rules Committee continued its consideration of a proposal submitted by Judge Joseph H. Pellegrino on behalf of the Civil Commission to amend the civil pleading rules.

The Committee decided that members from the Civil Commission should address the Rules Committee concerning this proposal. Justice Zarella agreed to ask Judge Marshall K. Berger, Jr. for the names of the Commission members who played major roles in the proposal's development.

8. At its September, 2006 meeting, the Rules Committee considered a proposal by Judge Lloyd Cutsumpas to amend the rules concerning withdrawals of appearance to include guardians ad litem and referred it to the Family and Juvenile Justice Sections of the CBA for a recommendation. To date, neither of these Sections has responded.

After discussion, the Committee unanimously voted to deny the proposal.

9. At prior meetings the Committee considered a letter from Mr. Adam Rivera, a law student, seeking interpretation of the meaning of the phrase "at least two semesters of credit" as used in Practice Book Section 3-16(a)(2). Because the Rules Committee does not render interpretive opinions concerning Practice Book provisions, it forwarded this inquiry to the Legal Internship Committee for whatever action it deems appropriate.

At this meeting, Justice Zarella advised the Rules Committee that he contacted the chair

of the Legal Internship Committee concerning this matter, who advised him that that committee will report to the Rules Committee on this by the end of the year. The Rules Committee thereupon tabled this matter.

10. The Committee continued its consideration of a proposal by the Civil Rules Task Force to amend Practice Book Section 13-4 concerning the discovery of experts.

Attorney Steven Ecker will address the Rules Committee concerning this proposal at its next meeting. Attorney Ecker was a member of the Civil Rules Task Force at the time the rule was proposed.

Respectfully submitted,

Carl E. Testo  
Counsel to the Rules Committee

CET:pt  
Attachments

**APPENDIX A** (11-19-07 mins)

**Sec. 17-14. Offer of Compromise by Plaintiff; How Made**

After commencement of any civil action based upon contract or seeking the recovery of money damages, whether or not other relief is sought, the plaintiff may, not earlier than one hundred eighty days after service of process is made upon the defendant in such action but not later than thirty days before the commencement of jury selection in a jury trial or the commencement of evidence in a court trial, file with the clerk of the court a written offer of compromise signed by the plaintiff or the plaintiff's attorney, directed to the defendant or the defendant's attorney, offering to settle the claim underlying the action for a sum certain. For the purposes of this section, such plaintiff includes a counterclaim plaintiff under General Statutes § 8-132. The plaintiff shall give notice of such offer of compromise to the defendant's attorney, or if the defendant is not represented by an attorney, to the defendant.

COMMENTARY

The changes to this section are intended to adopt the provisions of General Statutes § 52-192a(a) as amended by Public Act 07-141 § 16.

**Sec. 17-18. —Judgment where Plaintiff Recovers an Amount Equal to or Greater than Offer**

After trial the judicial authority shall examine the record to determine whether the plaintiff made an offer of compromise which the defendant failed to accept. If the judicial authority ascertains from the record that the plaintiff has recovered an amount equal to or greater than the sum certain specified in that plaintiff's offer of compromise, the judicial authority shall add to the amount so recovered 8 percent annual interest on said amount[.]. In the case of a counterclaim plaintiff under General Statutes § 8-132 the judicial authority shall add to the amount so recovered 8 percent annual interest on the difference between the amount so recovered and the sum certain specified in the counterclaim plaintiff's offer of compromise computed as provided in General Statutes § 52-192a[.]. The judicial authority may award reasonable attorney's fees in an amount not to exceed \$350, and shall render judgment accordingly. Nothing in this section shall be interpreted to abrogate the contractual rights of any party concerning the recovery of attorney's fees in accordance with the provisions of any written contract between the parties to the action.

COMMENTARY: The changes to this section are intended to adopt the provisions of General Statutes § 52-192a(c) as amended by Public Act 07-141 §16.