

Minutes of the Meeting
Rules Committee
May 21, 2012

On Monday, May 21, 2012, at 10:00 a.m. the Rules Committee conducted a public hearing in the Supreme Court courtroom to receive comments concerning proposed revisions to the Practice Book. At the conclusion of the public hearing the Committee met in the Supreme Court from 11:16 a.m. to 12:11 p.m.

Members in attendance were:

HON. DENNIS G. EVELEIGH, CHAIR
HON. BARBARA N. BELLIS
HON. JULIETT L. CRAWFORD
HON. RICHARD W. DYER
HON. MAUREEN M. KEEGAN
HON. ELIOT D. PRESCOTT
HON. MICHAEL R. SHELDON
HON. CARL E. TAYLOR

The Honorable William M. Bright, Jr. was not in attendance at this meeting.

Also in attendance were Carl E. Testo, Counsel to the Rules Committee, and Attorneys Denise K. Poncini and Joseph J. Del Ciampo of the Judicial Branch's Legal Services Unit.

1. The Committee unanimously approved the minutes of the March 22, 2012, meeting.
2. At its March meeting the Rules Committee unanimously voted to recommend that Attorney Jeffrey Low be appointed vice chair of the Legal Specialization Screening Committee (LSSC) if he is willing to serve in that capacity.

At this meeting, Attorney Del Ciampo reported that he discussed this with Attorney Low, who agreed to accept the Rules Committee's designation of him as vice chair of the LSSC.

3. The Committee considered comments from Judge Jane Scholl with regard to the proposed revisions to Sections 3-8 and 3-9 concerning appearances for represented parties.

The Committee agreed that Section 3-9 should be further amended to provide that an attorney or party whose appearance is deemed to have been withdrawn may file an appearance for the limited purpose of filing an objection to the in-lieu-of appearance.

After discussion, the Committee unanimously voted to further amend the proposed

revision to Section 3-9 as set forth in Appendix A attached hereto.

4. The Committee considered a proposal by Attorney Nancy A. Porter to further amend the proposed revision to Section 26-2 (b), concerning attendance at hearings in certain juvenile matters, in light of Section 7 of Public Act 11-240.

After discussion, the Committee unanimously voted to further amend the proposed revision to Section 26-2(b) as set forth in Appendix B attached hereto.

5. The Committee considered a proposal by Christopher G. Blanchard, staff attorney for the Judicial Branch Client Security Fund, to amend the commentary to the proposed revision to Section 2-70 to provide that it is the intent of the change that the additional \$75.00 reinstatement fee be assessed for each year the attorney has failed to pay the fee and has been administratively suspended. This would make clear that, for example, if an attorney failed to pay the client security fund fee for three consecutive years, he or she would have to pay a reinstatement fee of \$225.

After discussion, the Committee unanimously voted not to make this change to the commentary.

6. The Committee considered proposals that were submitted at the March, 2012, Supreme Court Public Hearing on Rules and referred by the Supreme Court to the Rules Committee:

- (a) Letter from Attorney Adam Olshan, President of the Connecticut Creditor Bar Association, concerning limited appearances.
- (b) Material submitted at the Supreme Court Public Hearing by anonymous individuals concerning various rules of practice.
- (c) Letters from Jacqueline Ivel, Collection Manager of Standard Oil of Connecticut, Inc., and Attorney Russell London concerning post judgment interest.
- (d) Letter from Ms. Elizabeth Richter concerning the family rules.

After discussion, the Committee unanimously voted to forward Items (a) and (c) to the Civil Commission for their information and to take no action on Items (b) and (d).

7. The Committee considered a letter from Attorney Keith Bradoc Gallant, President of the Connecticut Bar Association, concerning the proposed amendment to Rule 7.4A of the Rules of Professional Conduct that would add elder law as a field of law in which attorneys may be certified as specialists.

In his letter Attorney Gallant states that the CBA Estates and Probate Section has raised concerns about the expansive nature of the definition of elder law that is proposed in the rule and for that reason the House of Delegates voted to withdraw its authorization of support for that definition, although the CBA supports the addition of elder law as a specialty. He further states that the CBA Estates and Probate Section and the Elder Law Section are working together on a definition that would be acceptable to both sections and that the CBA intends to submit to the Rules Committee for consideration the definition eventually agreed upon by the two sections.

After discussion, the Committee unanimously voted to withdraw its proposed amendment to Rule 7.4A of the Rules of Professional Conduct and to table the matter for consideration in the fall.

8. The Committee noted comments by Attorney Priya Morganstern, Director, Hartford Program Pro Bono Partnership, Inc., Attorney Mark A. Nordstrom, Sr. Labor and Employment Law Counsel, General Electric Company, and Attorney Janice J. Chiaretto, Executive Director of Statewide Legal Services of Connecticut, Inc., concerning the proposed revisions to Rule 5.5 of the Rules of Professional Conduct and Practice Book Section 2-15A, which permit authorized house counsel to provide pro bono legal services in this state under certain circumstances.

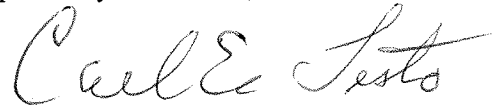
9. The Committee considered the public hearing testimony of Attorney Joseph Chiarelli concerning the proposed amendment to Section 25-61, which provides that counsel for the party or child being evaluated shall not initiate contact with the evaluator, unless the court orders otherwise, until the evaluation is filed with the clerk.

After discussion, the Committee unanimously voted to withdraw its proposed amendment to Section 25-61 and to table the matter for consideration in the fall.

10. The Committee considered testimony given at the public hearing by Attorney David Atkins in which he suggested a further amendment to the proposed revision to Rule 7.2 of the Rules of Professional Conduct concerning internet advertising.

After discussion, the Committee unanimously voted not to further amend the proposal.

Respectfully submitted,

A handwritten signature in cursive script that reads "Carl E. Testo".

Carl E. Testo
Counsel to the Rules Committee

CET:pt
Attachments

APPENDIX A (052112 mins)

Sec. 3-9. Withdrawal of Appearance; Duration of Appearance

(a) An attorney or party whose appearance has been filed shall be deemed to have withdrawn such appearance upon failure to file a written objection within ten days after written notice has been given or mailed to such attorney or party that a new appearance has been filed in place of the appearance of such attorney or party in accordance with Section 3-8. An attorney or party whose appearance is deemed to have been withdrawn may file an appearance for the limited purpose of filing an objection to the in-lieu-of appearance.

(b) An attorney may withdraw his or her appearance for a party or parties in any action after the appearance of other counsel representing the same party or parties has been entered. An application for withdrawal in accordance with this subsection shall state that such an appearance has been entered and that such party or parties are being represented by such other counsel at the time of the application. Such an application may be granted by the clerk as of course, if such an appearance by other counsel has been entered.

(c) All appearances of counsel shall be deemed to have been withdrawn 180 days after the entry of judgment in any action seeking a dissolution of marriage or civil union, annulment, or legal separation, provided no appeal shall have been taken. In the event of an appeal or the filing of a motion to open a judgment within such 180 days, all appearances of counsel shall be deemed to have been withdrawn after final judgment on such appeal or motion or within 180 days after the entry of the original judgment, whichever is later. Nothing herein shall preclude or prevent any attorney from filing a motion to withdraw with leave of the court during that period subsequent to the entry of judgment. In the absence of a specific withdrawal, counsel will continue of record for all postjudgment purposes until 180 days have elapsed from the entry of judgment or, in the event an appeal or a motion to open a judgment is filed within such 180 day period, until final judgment on that appeal or determination of that motion, whichever is later.

(d) Except as provided in subsections (a), (b) and (c), no attorney shall withdraw his or her appearance after it has been entered upon the record of the court without the leave of the court.

(e) All appearances in juvenile matters shall be deemed to continue during the period of delinquency probation, family with service needs supervision, or any commitment to the commissioner of the department of children and families or protective supervision. An attorney appointed by the chief public defender to represent a parent in a pending neglect or uncared for proceeding shall continue to represent the parent for any subsequent petition to terminate parental rights if the parent appears at the first hearing on the termination petition and qualifies for appointed

counsel, unless the attorney files a motion to withdraw pursuant to Section 3-10 that is granted by the judicial authority or the parent requests a new attorney. The attorney shall represent the client in connection with appeals, subject to Section 35a-20, and with motions for review of permanency plans, revocations or postjudgment motions and shall have access to any documents filed in court. The attorney for the child shall continue to represent the child in all proceedings relating to the child, including termination of parental rights and during the period until final adoption following termination of parental rights.

COMMENTARY: The above changes are made to be consistent with the change in Section 3-8 that eliminates the ten day limit for a party or attorney to file an objection to being replaced by an in lieu of appearance.

APPENDIX B (052112 mins)

Sec. [30a-6A. —]26-2 Persons in Attendance at Hearings

(a) Except as provided in subsection (b) of this section, [A]any judge hearing a juvenile matter, may during such hearing, exclude from the courtroom in which such hearing is held any person whose presence is, in the court's opinion, not necessary, except that in delinquency proceedings, any victim shall not be excluded unless, after hearing from the parties and the victim and for good cause shown, which shall be clearly and specifically stated on the record, the judge orders otherwise.

(b) Any judge hearing a juvenile matter, in which a child is alleged to be uncared for, neglected or abused or in which a child is the subject of a petition for termination of parental rights, may permit any person whom the court finds has a legitimate interest in the hearing or the work of the court to attend such hearing. Such person may include a party, foster parent, relative related to the child by blood or marriage, service provider or any person or representative of any agency, entity or association, including a representative of the news media. The court may, as a condition of participation, for the child's safety and protection and for good cause shown, prohibit any person or representative of any agency, entity or association, including a representative of the news media, who is present in court from further disclosing any information that would identify the child, the custodian or caretaker of the child or the members of the child's family involved in the hearing.

COMMENTARY: The above revisions are made so that the rule is consistent with § 30 of P.A. 11-51.

Because the above revision broadens the scope of the rule, it has been given a new number so that it will appear in Chapter 26 of the juvenile rules. The title of that chapter will be changed from "Definitions" to "General Provisions."