

Minutes of the Meeting  
Rules Committee  
November 18, 2013

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On Monday, November 18, 2013, the Rules Committee met in the Supreme Court courtroom from 2:00 p.m. to 3:13 p.m.

Members in attendance were:

HON. DENNIS G. EVELEIGH, CHAIR  
HON. MARSHALL K. BERGER, JR.  
HON. WILLIAM M. BRIGHT, JR.  
HON. HENRY S. COHN  
HON. KARI A. DOOLEY  
HON. NINA F. ELGO  
HON. ROBIN L. WILSON  
HON. ROBERT E. YOUNG

The Honorable Jon M. Alander was not in attendance at this meeting. The Honorable Robin L. Wilson joined the meeting in progress, as noted.

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

1. The Committee unanimously approved the minutes of the meeting held on October 21, 2013. Judge Wilson was not present for this vote.

2. The Committee considered a proposal by Patricia King, Chief Disciplinary Counsel, and Michael Bowler, Statewide Bar Counsel, to amend Sections 2-40 and 2-41 concerning discipline of attorneys. Attorney Bowler was present and addressed the Committee concerning this proposal. Judge Wilson arrived during the discussion of this matter.

After discussion, the proposal was tabled to enable Attorney Bowler to redraft it in accordance with the discussion at the meeting.

3. The Committee considered a proposal from Timothy Fisher, Dean, UConn Law School, on behalf of three Connecticut Law Schools to amend Section 2-13 to ease admission by waiver of faculty members at accredited law schools in Connecticut and it considered a letter from Kathleen B. Harrington, Deputy Director, Attorney Services, on behalf of the Connecticut Bar Examining Committee. Dean Fisher and Attorney Harrington were present and addressed the Committee concerning this proposal.

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After discussion, the proposal was tabled to the December meeting.

4. The Committee considered a proposal by Judge Henry Cohn to amend Section 14-7A (effective on January 1, 2014) to remove the requirement of a recognizance when an administrative appeal is served by mail.

After discussion, the Committee referred the proposal to the Civil Commission for comment.

5. The Committee considered a proposal by Attorney Joseph J. Del Ciampo to amend Section 8-2 of the Practice Book to make that section consistent with General Statutes Section 52-259b as amended by Public Act 13-310.

After discussion, the Committee voted, with Judge Berger abstaining, to submit to public hearing the amendment to Section 8-2, as set forth in Appendix A attached to these minutes.

6. The Committee considered a proposal by Attorney Paul Ruszczyk (Small Claim Magistrate) regarding Section 24-24 and its 2011 Commentary.

After discussion, the Committee voted to send a letter to Attorney Ruszczyk and to all magistrates directing them to the portion of the *Explanatory Notes* in the Practice Book which explains that commentaries to the rules are not adopted by the judges. The Committee also voted to request that Judge Linda K. Lager, Chief Administrative Judge, Civil Division, post this information on line.

7. The Committee considered proposals by the National Board of Legal Specialty Certification to add Civil Pretrial Practice and Social Security Disability Advocacy to Rule 7.4A of the Rules of Professional Conduct as fields of law in which attorneys may be certified as specialists, and it considered comments thereon from the Connecticut Bar Association.

After discussion, the Committee unanimously voted to reject the proposals.

8. The Committee considered a proposal by Judge Bernadette Conway, Chief Administrative Judge for Juvenile Matters, to amend the Practice Book by removing all references to “youth in crisis” to be consistent with the General Statutes.

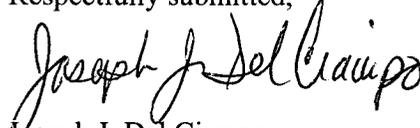
After discussion, the Committee tabled the proposal to enable the undersigned to submit the appropriate section revisions to the Committee for its consideration at its December meeting.

9. The Committee considered a proposal by Judge Douglas C. Mintz of the Bench/Bar Foreclosure Committee, to amend Section 6-3 to allow the certificate of judgment issued by the clerk to be used in cases under C.G.S. § 49-17, comments thereon by Attorney Dennis Caron,

and a redraft of the proposal.

After discussion, the Committee tabled the proposal to its December meeting and referred the redraft to Judge Mintz and Attorney Caron for their review and invited them to attend the December meeting or to submit comments to the Committee in writing.

Respectfully submitted,

A handwritten signature in black ink that reads "Joseph J. Del Ciampo". The signature is written in a cursive, flowing style.

Joseph J. Del Ciampo  
Counsel to the Rules Committee

## Appendix A (111813)

### Sec. 8-2. Waiver of Court Fees and Costs

(a) Prior to the commencement of an action, or at any time during its pendency, a party may file with the clerk of the court in which the action is pending, or in which the party intends to return a writ, summons and complaint, an application for waiver of fees payable to the court and for payment by the state of the costs of service of process. The application shall set forth the facts which are the basis of the claim for waiver and for payment by the state of any costs of service of process; a statement of the applicant's current income, expenses, assets and liabilities; pertinent records of employment, gross earnings, gross wages and all other income; and the specific fees and costs of service of process sought to be waived or paid by the state and the amount of each. The application and any representations shall be supported by an affidavit of the applicant to the truth of the facts recited.

(b) The clerk with whom such an application is filed shall refer it to the court of which he or she is clerk. If the court finds that a party is indigent and unable to pay a fee or fees payable to the court or to pay the cost of service of process, the court shall waive such fee or fees and the cost of service of process shall be paid by the state.

(c) There shall be a rebuttable presumption that a person is indigent and unable to pay a fee or fees or the cost of service of process if (1) such person receives public assistance or (2) such person's income after taxes, mandatory wage deductions and child care expenses is one hundred twenty-five per cent or less of the federal poverty level. For purposes of this subsection, "public assistance" includes, but is not limited to, state administered general assistance, temporary family assistance, aid to the aged, blind and disabled, food stamps and supplemental security income. (d) Nothing in this section shall preclude the court from finding that a person whose income does not meet the criteria of subsection (c) of this section is indigent and unable to pay a fee or fees or the cost of service of process. If an application for the waiver of the payment of a fee or fees or the cost of service of process is denied, the court clerk shall, upon the request of the applicant, schedule a hearing on the application.

(d) Nothing in this section shall preclude the court from (1) finding that a person whose income does not meet the criteria of subsection (c) of this section is indigent and unable to pay a fee or fees or the cost of service of process, or (2) denying an application for the waiver of the payment of a fee or fees or the cost of service of process when the court finds that (A) the applicant has repeatedly filed actions with respect to the same or similar matters, (B) such filings establish an extended pattern of frivolous filings that have been without merit, (C) the application sought is in connection with an action before the court that is consistent with the

applicant's previous pattern of frivolous filings, and (D) the granting of such application would constitute a flagrant misuse of Judicial Branch resources.

If an application for the waiver of the payment of a fee or fees or the cost of service of process is denied, the court clerk shall, upon the request of the applicant, schedule a hearing on the application. Nothing in this section shall affect the inherent authority of the court to manage its docket.

COMMENTARY: The revisions to this section are consistent with the provisions of General Statutes Section 52-259b as amended by Public Act 13-310.