

Minutes of the Meeting
Rules Committee of the Superior Court
Monday, February 6, 2023

On February 6, 2023, the Rules Committee met in person and, simultaneously, by way of Microsoft Teams from 2:00 p.m. to 2:45 p.m.

Members in attendance were:

HON. ANDREW J. McDONALD, CHAIR
HON. COURTNEY M. CHAPLIN
HON. JOHN B. FARLEY
HON. STEPHANIE A. MCLAUGHLIN
HON. TAMMY T. NGUYEN-O'DOWD
HON. W. GLEN PIERSON
HON. SHEILA M. PRATS
HON. ELIZABETH J. STEWART

Also in attendance were Joseph J. Del Ciampo, Counsel to the Rules Committee, James T. O'Connor, Assistant Counsel to the Rules Committee, and Lori Petruzzelli, Assistant Counsel to the Rules Committee. Judge Alex V. Hernandez was absent.

1. The Committee approved the minutes of the meeting held on January 9, 2023, with no revisions. Judge McLaughlin abstained from voting.

2. The Committee considered a proposal from the Connecticut Sentencing Commission to amend Practice Book Section 38-8 to expand the cash bail option (RC ID # 2023-001).

Judge Robin Pavia, Chair of the Connecticut Sentencing Commission, and Attorney Alex Tsarkov, Executive Director of the Connecticut Sentencing Commission, were present and addressed the Committee on this matter.

After discussion, the Committee tabled this proposal until its March meeting and referred it to Court Operations for review and comment.

3. The Committee considered a proposal from Legal Services Associations to amend Practice Book Section 7-10 and 7-11 regarding retention and destruction of summary process records (RC ID # 2021-023).

Attorney Giovanna Shay was present and addressed the Committee on this matter.

After discussion, the Committee tabled this proposal and asked Attorney Shay to send Counsel a copy of the language for An Act Concerning Summary Process Records discussed by the Housing Committee at its January 17, 2023, meeting once it is ready, and then this matter will be placed back on the agenda.

4. The Committee considered a proposal from Attorney Joshua Goodbaum to amend the Practice Book to eliminate the requirement that sealed original printed deposition transcripts be provided to the party requesting the deposition and filed with the court (RC ID # 2022-011).

Denise Mancini, Vice President of the Connecticut Court Reporters Association, was present and addressed the Committee on this matter.

After discussion, the Committee voted unanimously to send to public hearing the proposed amendments to Section 13-30, as set forth in Appendix A, attached to these minutes.

5. The Committee considered a proposal from Judge Elizabeth Stewart to amend Practice Book Section 17-51 to explicitly permit the entry of summary judgment based on a defense when that defense only affects part of a claim (RC ID # 2022-020).

Judge Stewart addressed the Committee on this matter.

After discussion, the Committee tabled this proposal and asked Judge Stewart to inform Counsel when this matter is ready to be placed back on the agenda.

6. The Committee considered a proposal from the Connecticut Bar Association to amend Practice Book Section 2-27A to allow attorneys to earn up to four hours per year of MCLE credit by judging mock trials or moot courts at the undergraduate, high school, or middle school levels, in addition to those at the law school level (RC ID # 2023-002).

Attorney Jonathan Weiner and Attorney Christopher Slack were present and addressed the Committee on this matter.

After discussion, the Committee tabled this proposal to its March meeting and referred it to the MCLE Commission for review and comment.

Respectfully submitted,

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

Joseph J. Del Ciampo
Counsel to the Rules Committee

APPENDIX A

(020623)

Sec. 13-30. —Deposition Procedure

(a) Examination and cross-examination of deponents may proceed as permitted at trial. The officer before whom the deposition is to be taken shall put the deponent on oath and shall personally, or by someone acting under the officer's direction, record the testimony of the deponent. The testimony shall be taken stenographically or recorded by any other means authorized in accordance with Section 13-27 (f). If the testimony is taken stenographically, it shall be transcribed at the request of one of the parties.

(b) All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. Every objection raised during a deposition shall be stated succinctly and framed so as not to suggest an answer to the deponent and, at the request of the questioning attorney, shall include a clear statement as to any defect in form or other basis of error or irregularity. A person may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation directed by the court, or to present a motion under subsection (c) of this section. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition and the party shall transmit the questions to the officer, who shall propound them to the witness and record the answers verbatim.

(c) At any time during the taking of the deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending may order the officer conducting the examination forthwith to cease taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in Section 13-5. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending.

(d) If requested by the deponent or any party, when the testimony is fully transcribed the deposition shall be submitted to the deponent for examination and shall be read to or by the deponent. Any changes in form or substance which the deponent desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the deponent for making them. The deposition shall then be signed by the deponent certifying that the deposition is a true record of the deponent's testimony, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the deponent within thirty days after its submission to the deponent, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the deponent or the fact of the refusal or failure to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless, on a motion to suppress under Section 13-31 (c) (4), the judicial authority holds that the reasons given for the refusal or failure to sign require rejection of the deposition in whole or in part.

(e) The person recording the testimony shall certify on the deposition that the witness was duly sworn by the person, that the deposition is a true record of the testimony given by the deponent, whether each adverse party or his agent was present, and whether each adverse party or his agent was notified, and such person shall also certify the reason for taking the deposition. The person shall then [securely seal the deposition in an envelope endorsed with the title of the action, the address of the court where it is to be used and marked "Deposition of (here insert the name of the deponent),"] cause a watermark or other indicia of origin to be added to the deposition and shall then promptly deliver it to the party at whose request it was taken and give to all other parties a notice that the deposition has been transcribed and so delivered. The party at whose request the deposition was taken shall file the [sealed] deposition with the court at the time of trial.

(f) Documents and things produced for inspection during the examination of the deponent, shall, upon the request of a party, be marked for identification and annexed to and returned with the deposition, and may be inspected and copied by any party, except that (1) the person producing the materials may substitute copies to be marked for identification, if the person affords to all parties fair opportunity to verify the copies by comparison with the originals, and (2) if the person producing the materials requests their return, the officer shall mark them, give each party an opportunity to inspect and copy them, and return them to the person producing them, and the materials may then be used in the same manner as if annexed to and returned with the deposition to the court, pending final disposition of the case.

(g) The parties may stipulate in writing and file with the court, or the court may upon motion order, that a deposition be taken by telephone, videoconference, or other

remote electronic means. For the purposes of Sections 13-26 through 13-29 and this section, such a deposition is deemed taken at the place where the deponent is to answer questions. Except as otherwise provided in this subsection, the rules governing the practice, procedures and use of depositions shall apply to remote electronic means depositions. The following additional rules, unless otherwise agreed in writing by the parties or ordered by the court, shall apply to depositions taken by remote electronic means:

(1) The deponent shall be in the presence of the officer administering the oath and recording the deposition.

(2) Any exhibits or other demonstrative evidence to be presented to the deponent by any party at the deposition shall be provided to the officer administering the oath and all other parties prior to the deposition.

(3) Nothing in subsection (g) shall prohibit any party from being with the deponent during the deposition, at that party's expense; provided, however, that a party attending a deposition shall give written notice of that party's intention to appear at the deposition to all other parties within a reasonable time prior to the deposition.

(4) The party at whose instance the remote electronic means deposition is taken shall pay all costs of the remote electronic means deposition for the transmission from the location of the deponent and one site for participation of counsel located in the judicial district where the case is pending together with the cost of the stenographic, video or other electronic record. The cost of participation in a remote electronic means deposition

from any other location shall be paid by the party or parties participating from such other location.

(h) Notwithstanding this section, a deposition may be attended by any party by remote electronic means even if the party noticing the deposition does not elect to use remote electronic means if (1) a party desiring to attend by remote electronic means provides written notice of such intention to all parties in either the notice of deposition or a notice served in the same manner as a notice of deposition and (2) if the party electing to participate by remote electronic means is not the party noticing the deposition, such party pays all costs associated with implementing such remote electronic participation by that party.

(i) Nothing contained in any provision providing for the use of remote electronic means depositions shall prohibit any party from securing a representative to be present at the location where the deponent is located to report on the record any events which occur in that location which might not otherwise be transmitted and/or recorded by the electronic means utilized.

(j) The party on whose behalf a deposition is taken shall bear the cost of the original transcript, and any permanent electronic record including audio or videotape. Any party or the deponent may obtain a copy of the deposition transcript and permanent electronic record including audio or videotape at its own expense.