

Minutes of the Meeting  
Rules Committee of the Superior Court  
Monday, October 17, 2022

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On October 17, 2022, the Rules Committee met using Microsoft Teams from 2:00 p.m. to 3:03 p.m.

Members in attendance were:

HON. ANDREW J. McDONALD, CHAIR  
HON. COURTNEY M. CHAPLIN  
HON. JOHN B. FARLEY  
HON. ALEX V. HERNANDEZ  
HON. STEPHANIE A. MCLAUGHLIN  
HON. TAMMY T. NGUYEN-O'DOWD  
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 W. Glen Pierson was absent.

1. The Committee approved the minutes of the meeting held on September 12, 2022, with no revisions.

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

After discussion, the Committee tabled this proposal until the February meeting.

3. The Committee considered a proposal from the Advisory Committee on Appellate Rules concerning Rule 2.11 of the Code of Judicial Conduct. (RC ID # 2022-006).

Judge Eliot Prescott was present and addressed the Committee on this matter.

After discussion, the Committee tabled this proposal until the November meeting to give Justice McDonald an opportunity to discuss this matter with Justice D'Auria.

4. The Committee considered a proposal from Judge James Abrams to replace the civil portion of the Practice Book with the Federal Rules of Civil Procedure (RC ID # 2022-009).

Judge Abrams was present and addressed the Committee on this matter.

After discussion, the Committee tabled this proposal indefinitely and asked Judge Abrams to refer this matter to the Connecticut Bar Association, Connecticut Defense Lawyers Association, and Connecticut Trial Lawyers Association, and report back to the Committee if deemed appropriate.

5. The Committee considered a proposal from Attorney Joshua Goodbaum to amend the Practice Book to eliminate the requirement for "original" printed deposition transcripts and to permit service of civil complaints by consent (RC ID # 2022-011).

Attorney Goodbaum was present and addressed the Committee on this matter.

After discussion, the Committee tabled this proposal until the November meeting and referred it to the Connecticut Court Reporter's Association for questions about whether transcripts can be watermarked. The Committee also asked Attorney Goodbaum to get feedback from the legislature on the issue of service of civil complaints by consent and to report back to the Committee if deemed appropriate.

6. The Committee considered a proposal from the Client Security Fund Committee to amend Practice Book Section 2-79 (d) to change the way past due fee notices are sent to attorneys, from certified mail as presently required, to first class mail and email (RC ID # 2022-013).

Attorneys Kathleen Harrington, Christopher Blanchard, and Elizabeth Rowe were present and addressed the Committee on this matter.

After discussion, the Committee voted unanimously to submit to public hearing the proposal to amend Practice Book Section 2-79 (d) to change the way past due fee notices are sent to attorneys, as set forth in Appendix A, attached to these minutes.

7. The Committee considered a proposal from Chief Administrative Judge Dawne Westbrook for a new Practice Book Rule that establishes the procedure applicable to motions for post-termination visitation filed within the context of the termination proceeding (RC ID # 2022-014).

Judge Westbrook was present and addressed the committee on this matter.

After discussion, the Committee voted unanimously to submit to public hearing the proposal for a new Practice Book Rule that establishes the procedure applicable to motions for post-termination visitation filed within the context of the termination proceeding, as set for in Appendix B, attached to these minutes.

8. The Committee considered a proposal from the Freedom of Information Commission to adopt a new rule regarding the transfer of in camera records from FOIC to the trial court in administrative appeals of FOIC decisions (RC ID # 2022-017).

After discussion, the Committee tabled this proposal until the November meeting to give Attorney Colleen Murphy, Executive Director of the FOIC, an opportunity to attend the meeting and address the Committee on this matter.

9. The Committee considered a proposal from Assistant Counsel Lori Petruzzelli to conform various rules and forms to Public Acts 2021, No. 21-18, § 1, codified at General Statutes (Supp. 2022) § 31-275d (RC ID # 2022-018).

Counsel and Attorney Petruzzelli addressed the Committee on this matter.

After discussion, the Committee decided that the matter will be implemented as a technical amendment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph J. Del Ciampo". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Joseph J. Del Ciampo  
Counsel to the Rules Committee

## APPENDIX A

(101722)

### **Sec. 2-79. —Enforcement of Payment of Fee**

(a) The client security fund committee shall send a notice to each attorney who has not paid the client security fund fee pursuant to Section 2-70 of these rules that the attorney's license to practice law in this state may be administratively suspended unless within sixty days from the date of such notice the client security fund committee receives from such attorney proof that he or she has either paid the fee or is exempt from such payment. If the client security fund committee does not receive such proof within the time required, it shall cause a second notice to be sent to the attorney advising the attorney that he or she will be referred to the superior court for an administrative suspension of the attorney's license to practice law in this state unless within thirty days from the date of the notice proof of the payment of the fee or exemption is received. The client security fund committee shall submit to the clerk of the superior court for the Hartford Judicial District a list of attorneys who did not provide proof of payment or exemption, within thirty days after the date of the second notice. Upon order of the court, the attorneys so listed and referred to the clerk shall be deemed administratively suspended from the practice of law in this state until such time as payment of the fee and the reinstatement fee assessed pursuant to Section 2-70 is made, which suspension shall be effective upon publication of the list in the Connecticut Law Journal. An administrative suspension of an attorney for failure to pay the client security fund fee shall not be considered discipline, but an attorney who is placed on administrative suspension for such

failure shall be ineligible to practice law as an attorney admitted to practice in this state and shall not be considered in good standing pursuant to Section 2-65 of these rules until such time as the fee and reinstatement fee are paid. An attorney aggrieved by an order placing the attorney on administrative suspension for failing to pay the client security fund fee may make an application to the superior court to have the order vacated, by filing the application with the superior court for the Hartford Judicial District within thirty days of the date that the order is published, and mailing a copy of the same by certified mail, return receipt requested, to the office of the client security fund committee. The application shall set forth the reasons why the application should be granted. The court shall schedule a hearing on the application, which shall be limited to whether good cause exists to vacate the suspension order.

(b) If a judge, judge trial referee, state referee, family support magistrate or workers' compensation commissioner has not paid the client security fund fee, the office of the chief court administrator shall send a notice to such person that he or she will be referred to the judicial review council unless within sixty days from the date of such notice the office of the chief court administrator receives from such person proof that he or she has either paid the fee or is exempt from such payment. If the office of the chief court administrator does not receive such proof within the time required, it shall refer such person to the judicial review council.

(c) Family support referees shall be subject to the provisions of subsection (a) herein until such time as they come within the jurisdiction of the judicial review council, when they will be subject to the provisions of subsection (b).

(d) The notices required by this section shall be mailed [sent by certified mail, return receipt requested or with electronic delivery confirmation] to the last address registered by the attorney and sent by email to the last email address registered by the attorney pursuant to Section 2-26 and Section 2-27 (d), and mailed to the home address of the judge, judge trial referee, state referee, family support magistrate, family support referee or workers' compensation commissioner.

COMMENTARY: The changes to this section remove the requirement that the notices required shall be sent by certified mail, return receipt requested or with electronic delivery confirmation and in place thereof, allow those notices to be mailed and sent by email to the registered attorney, and mailed to the home address of the judge or other judicial authority or commissioner.

## **APPENDIX B**

(101722)

### **(NEW) Sec. 35a-24. Motions for Post-Termination Visitation**

(a) Whenever any party seeks an order for post-termination visitation in the context of the termination of parental rights proceeding, the movant shall file a motion in accordance with Section 34a-1.

(b) The judicial authority shall hold an evidentiary hearing to determine whether such an order is necessary or appropriate to secure the welfare, protection, proper care and suitable support of a child.

(c) Upon motion of any party or upon its own motion, the judicial authority may consolidate the hearing on the motion for post-termination visitation with the termination of parental rights trial.

(d) The moving party shall have the burden of proving that post-termination visits are necessary or appropriate to secure the welfare, protection, proper care and suitable support of a child.

(e) In deciding whether to order post-termination visitation, the judicial authority may consider: the wishes of the child; the expressed interests of the birth parent; the frequency and quality of visitation between the child and birth parent prior to the termination of the parent's parental rights; the strength of the emotional bond between the child and the birth parent; any interference with present custodial arrangements; any impact on the adoption prospects for the child; and any other factors the judicial authority finds relevant and material.



COMMENTARY 2022: The proposed rule adopts the procedure applicable to motions for post-termination visitation filed in the context of the termination of parental rights proceeding filed pursuant to general Statutes 46b-121 (b) (1). These requirements have been established by our Supreme Court in *In re Ava W.*, 336 Conn. 545, 248 A.3d 675 (2020) (S.C. 20465), and *In re Annessa J.*, 343 Conn. 642, \_ A.3d \_ (2022) (S.C. 20614). In *In re Annessa J.*, the Court clarified that the applicable legal standard pursuant to Section 46b-121 (b) (1) is not the traditional best interests of the child but, rather, that the granting of post-termination visitation must be necessary or appropriate to secure the welfare, protection, proper care and suitable support of the child. The Court further concluded that the "necessary or appropriate standard is purposefully more stringent than the best interest of the child standard, as the trial court must find that post-termination visitation is necessary or appropriate- meaning proper-to secure the child's welfare." *Id.*, 674. With regard to the substitution of the term "appropriate" to the term "proper," the Court explained that it was warranted because the "term necessary, when used in this context, has one fixed meaning: Impossible to be otherwise ... indispensable; requisite; [or] essential. ... [and] given the fact that the preceding word in the standard is necessary, we choose to adopt a definition of appropriate that aligns with the more exacting term, necessary, [i.e.,] proper." (Internal citations omitted; internal quotation marks omitted.) *Id.*, 674-75.