

Minutes of the Meeting  
Rules Committee  
November 20, 2008

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On Thursday, 20, 2008 the Rules Committee met in the Attorneys' Conference Room  
from 10:00 a.m. to 12:56 p.m.

Members in attendance were:

HON. PETER T. ZARELLA, CHAIR  
HON. BARBARA N. BELLIS  
HON. THOMAS J. CORRADINO  
HON. JACK W. FISCHER  
HON. C. IAN MCLACHLAN  
HON. LESLIE I. OLEAR  
HON. ANTONIO C. ROBAINA  
HON. JANE S. SCHOLL  
HON. MICHAEL R. SHELDON

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

Agenda

1. The members of the Committee who were present for the October 20, 2008 meeting  
unanimously approved the minutes of that meeting.

2. The Committee continued its consideration of an excerpt from U.S. Law Week  
concerning rules adopted in Nevada and Kansas that require lawyers to disclose on their  
registration forms whether they maintain malpractice insurance and a memo and materials  
prepared at the Committee's request by Attorney Kathleen B. Wood concerning the ABA rule  
and the rules of other jurisdictions on this topic.

After discussion, the Committee decided, with Judge Olear opposed, to forward the  
materials that are before the Rules Committee on this topic to the local bar associations in this  
state for comment. The Rules Committee had already received comments from the CBA  
concerning this matter.

The Committee thereupon tabled this matter.

3. The Committee considered a proposal submitted by Attorney Livia D. Barndollar,

President of the Connecticut Bar Association, to amend Rule 6.1 of the Rules of Professional Conduct to require lawyers in Connecticut to report on an annual basis whether and to what extent they have provided pro bono legal services pursuant to that rule.

After discussion, the Committee unanimously denied the proposal.

4. The Committee considered proposed revisions to the foreclosure rules, submitted by Judge Barbara M. Quinn, Chief Court Administrator, on behalf of the Bench/Bar Foreclosure Committee.

The Rules Committee raised some issues concerning the proposal and tabled the matter. Justice Zarella agreed to discuss these issues with Judge Douglas C. Mintz, who chairs the Bench/Bar Foreclosure Committee.

5. The Committee considered proposals submitted by Attorney Rafael Podolsky to amend various rules in light of Sections 15 through 20 of Public Act 08-176, concerning foreclosure mediation. Justice Zarella had previously given the proposals to Joseph D'Alesio, Executive Director of Court Operations, to forward to Judge Mintz's Bench/Bar Foreclosure Committee for review and comment.

Justice Zarella noted that the Bench/Bar Foreclosure Committee had not yet commented on Attorney Podolsky's proposals. He agreed to discuss the proposals with Judges Quinn and Mintz and, if necessary, to draft rules revisions based on certain of the proposals.

The Committee thereupon tabled this matter.

6. After discussion, the Committee tabled a proposal by Attorney Nicholas Cimmino to amend Section 17-20 in light of Section 16 (b) (1) of Public Act 08-176, concerning foreclosure mediation.

7. 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 Section 3-16 (a) (2) concerning legal interns. Mr. Rivera's issue is that his law school interprets this phrase to mean two full-time semesters of credit. He is a part-time student at the school and believes that the phrase should apply to part-time as well as to full-time semesters. He had asked the Rules Committee for an interpretation of this rule. Because the Rules Committee does not render interpretative opinions concerning Practice Book provisions, it had forwarded this inquiry to the Legal Internship Committee, but did not receive a response.

At the Rules Committee's September 15, 2008 meeting, Judge Sheldon noted that the law school should be able to certify students in Mr. Rivera's position. He agreed to contact the law school in question and submit a proposed revision to the rule to the Rules Committee.

At this meeting, Judge Sheldon reported that he contacted representatives of Connecticut's three law schools to elicit their reactions to his proposal that the term "two semesters of credit," as used in Practice Book Section 3-16 be defined as "two semesters of credits in a three or four year course of legal studies." All three representatives agreed that the change would be appropriate, since the essential introduction of law students to legal culture and analysis which occurs in the first year of a four-year program is indistinguishable from that provided in the first year of a three-year program. The standard course in evidence law, which is not required for certification under our legal internship rule, is not offered until the second year of a three-year program. Furthermore, the most important feature of any student practice rule is the kind and quality of supervision the student must be given when performing legal work there under. He stated that, since this proposal would not modify the supervision requirements currently in the rule, it is acceptable to each of the law school representatives with whom he spoke.

After discussion, the Rules Committee unanimously voted to submit to public hearing the revision to Section 3-16 as set forth in Appendix A attached hereto.

8. The Rules Committee considered a proposal from Attorney General Richard Blumenthal to amend Section 1-10 to allow paralegals or other staff assisting attorneys to bring into court facilities electronic equipment available to assist them in presenting their cases in court, such as portable computers, personal digital assistance and other electronic devices for note taking or for the storage and presentation of records and other forms of evidence.

The Rules Committee noted that Section 1-10 has already been revised to provide that the possession and use of electronic devices in court facilities are subject to policies promulgated by the Chief Court Administrator. Pursuant to the policies so promulgated, any person may bring such electronic devices into a courthouse and that such devices may be used in a courtroom if permitted by the judge or other judicial authority or by court rules.

The Committee asked the undersigned to advise the Attorney General of this change.

9. The Committee considered a letter from the American Bar Association to Senior Associate Justice David M. Borden concerning the ABA Model Court Rule on provision of legal

services following determination of major disaster.

Judge Sheldon advised the Committee that several states, including Indiana, have developed benchbooks concerning the handling of court business in the event of a disaster. He will forward a copy of the benchbook to the Rules Committee members.

Judges McLachlan, Sheldon and Fischer agreed to be a subcommittee on this topic.

10. At prior meetings the Rules Committee considered a proposal by the Civil Commission to amend the civil pleading rules. The Committee determined that the real problem that gave rise to the proposal is abuse by attorneys of the request to revise. It was suggested that that problem be addressed instead of making the sweeping changes set forth in the proposal. The Committee decided that it would make further changes to the Commission's proposal and forward those changes to the Commission. Judges Corradino, Olear, Scholl and Fischer agreed to draft revisions to the rules concerning requests to revise and submit them to the Rules Committee.

At this meeting, the Committee considered a proposed revision to Section 10-35 submitted to them by Judge Corradino. After discussion, the subcommittee agreed to revise the proposal and submit it for consideration at a future meeting.

11. The Committee considered a memo from Attorney Nancy A. Porter with regard to Section 1 of Public Act 08-67 concerning the protection of family violence victims in family relations matters. The act expands the circumstances under which a litigant may testify outside the courtroom and the types of technology that a litigant may use to provide testimony.

After discussion, the Committee asked the undersigned to submit for consideration at a future meeting a proposed new rule based on Section 1 of the act with changes suggested by the Committee and a proposed commentary to the rule that discusses the types of proceedings to which the rule would not apply.

12. The Committee considered a proposal by Judges Michael Sheldon and Carl Schuman to amend Section 42-12 concerning voir dire examination.

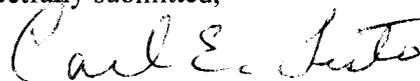
After discussion, the Committee unanimously voted to submit to public hearing the revision to Section 42-12 as set forth in Appendix B attached hereto.

13. The Committee considered a proposal submitted by Attorney Christopher Blanchard

on behalf of the Client Security Fund Committee to amend Section 2-65 to make payment of the annual client security fund fee a condition of an attorney's good standing in Connecticut.

After discussion, the Committee unanimously voted to submit to public hearing the revision to Section 2-65 as set forth in Appendix C attached hereto.

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 (11-20-08 mins)**

**Sec. 3-16. —Requirements and Limitations**

(a) In order to appear pursuant to these rules, the legal intern must:

(1) be certified by a law school approved by the American Bar Association or by the state bar examining committee of the superior court;

(2) have completed legal studies amounting to at least two semesters of credit in a three- or four-year course of legal studies, or the equivalent if the school is on some basis other than a semester basis except that the dean may certify a student under this section who has completed less than two semesters of credit or the equivalent to enable that student to participate in a faculty supervised law school clinical program;

(3) be certified by the dean of his or her law school as being of good character and competent legal ability;

(4) be introduced to the court in which he or she is appearing by an attorney admitted to practice in that court;

(5) comply with the provisions of Section 3-21 if enrolled in a law school outside the state of Connecticut.

(b) A legal intern may not be employed or compensated directly by a client for services rendered. This section shall not prevent an attorney, legal aid bureau, law school, public defender agency or the state from compensating an eligible intern.

COMMENTARY: The essential introduction of law students to legal culture and analysis which occurs in the first year of a four-year program is indistinguishable from that provided in the first year of a three-year program. The standard course in evidence law, which is not required for certification under the legal internship rule, is not offered until the second year of a three-year program. The most important feature of any student practice rule is the kind and quality of supervision the student must be given when performing legal work there under. This change would not modify the supervision requirements currently in the rule.

## APPENDIX B (11-20-08 mins)

### Sec. 42-12. – Voir Dire Examination

Each party shall have the right to examine, personally or by counsel, each juror outside the presence of other prospective jurors as to qualifications to sit as a juror in the action, or as to interest, if any, in the subject matter of the action, or as to relations with the parties thereto. If the judicial authority before whom such examination is held is of the opinion from such examination that any juror would be unable to render a fair and impartial verdict, such juror shall be excused by the judicial authority from any further service upon the panel, or in such action, as the judicial authority determines. The judicial authority shall not abridge the right of such examination [shall not be abridged] by requiring counsel or the defendant to put questions [to be put] to any juror in writing and [submitted] submit them in advance of the commencement of the trial.

COMMENTARY: The reason for the above change arises from the fact that recently defense counsel have taken the position that the provision bars the court from submitting a written questionnaire to the jurors as part of its prescreening function. The court's prescreening authority, however, is well settled. See, e.g., *State v. Faust*, 237 Conn. 454, 462-63 (1996); General Statutes sec. 51-217a (b); Practice Book Sec. 42-11. Use of a written questionnaire by the court saves time for the court, counsel, and jurors, preserves peremptory challenges for counsel, provides additional information about jurors and, in general, makes jury selection much easier. The new language effectuates more clearly the intent of the provision, which was to prevent the court from requiring counsel to use written questionnaires, rather than prevent the court from using its own questionnaire.

**APPENDIX C (11-20-08 mins)**

**Sec. 2-65. Good Standing of Attorney**

An attorney is in good standing in this state if the attorney has been admitted to the bar of this state, has registered with the statewide grievance committee in compliance with Section 2-27 (d), has complied with Section 2-70, and is not under suspension, on inactive status, disbarred, or resigned from the bar.

COMMENTARY: The above change makes compliance with Section 2-70, which is the rule regarding payment of the annual client security fund fee, a condition of an attorney's "good standing" in Connecticut. The change stems from a concern that, in its current form, Section 2-65 permits attorneys to obtain certificates of good standing even if they are delinquent in payment of the annual client security fund fee.